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**THE 2011 GREEN PAPER ON LAND REFORM: OPPORTUNITIES  
AND CHALLENGES - THE NATIONAL AFRICAN FARMERS  
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## **THE 2011 GREEN PAPER ON LAND REFORM: OPPORTUNITIES AND CHALLENGES - THE NATIONAL AFRICAN FARMERS UNION (NAFU SA)**

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### **1 National African Farmers' Union (NAFU SA): background information**

The National African Farmers' Union (NAFU SA) was established in 1991 with the aim of creating a "home" for thousands of black farmers who had previously been excluded from mainstream agriculture. At the time of its formation there was no farmer organisation operating at national level in South Africa.

#### **1.1 Mission**

NAFU SA therefore represents the aspirations of those who had been disadvantaged, neglected and marginalised.<sup>1</sup> As far as the politics of agricultural reform is concerned, NAFU SA takes as its responsibility to ensure that the agricultural sector is equally accessible to all farmers, irrespective of size, colour, geo-physical location or type of land tenure under which any agricultural activity takes place.

NAFU SA's ideological approach to land and agrarian reforms compliments in varied ways the three inter-related principles of the *Green Paper on Land Reform*, namely: de-racialising the rural economy, democratic and equitable land allocation and use, and a sustained production discipline for food security. These principles are embedded within NAFU SA's broad approach and aims as enunciated below:<sup>2</sup>

- to lobby for policy reforms aimed at leveling the field in all agricultural matters with particular reference to land acquisition, agricultural funding, market access and public policy;

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<sup>1</sup> Agricultural Digest 2005-2006 [www.nda.agric.za](http://www.nda.agric.za)

<sup>2</sup> Agricultural Digest 2005-2006 [www.nda.agric.za](http://www.nda.agric.za)

- to lobby for the provision of appropriate services e.g. extension, marketing and credit to members;
- to identify, quantify and address the needs of members;
- to facilitate the provision of training;
- to empower women and young people to participate fully in farming activities.

## **2 The land reform question: brief overview**

Based on the aforementioned background of NAFU SA, our contribution to the debate on the *Green Paper* is acutely cognisant of our history and the need to engender expansive reforms aimed at de-racialising our rural economy. Land acquisition by force or by legal proclamation not only preceded the whittling away of other rights, but also made possible the further contraction of rights due to the denial of security offered by access to land.

The struggle over land was fundamentally a struggle of rights related to ownership, control, or access and use of land. Apartheid, like the generic colonial situation, was a form of oppression based on differential allocation of citizenship rights on the basis of race. Land was therefore the main arena in which rights were abrogated and thereafter other components of grand apartheid were built on this dispossession.

Consequent to this history, in post-1994 the new democratic state formulated land and agrarian policies that would fundamentally alter the skewed relations of production, property rights and their attendant uneven patterns of poverty. However, these policies were also meant to create enabling political and economic conditions that would spur economic prosperity, alleviate deepening poverty, enhance confidence in land markets, create equitable outcomes regarding land ownership, deal with historic injustices and create sustainable outcomes pertaining to the use of land based natural resources. The policy-broad agenda to enforce a progressive social and economic transformation in rural South Africa created a

constitutionally sanctioned three-pronged programme of land reform namely restitution, tenure reform and redistribution.<sup>3</sup>

In sync with the *Constitution* and the Reconstruction and Development Programme (RDP), the formulation of policies and laws on land reform was done and consolidated in April 1997 when the South African *White Paper on Land Policy*<sup>4</sup> was published. The 1997 *White Paper on Land Policy* aptly articulates a series of outcomes ranging from dealing with questions of redress, equity, security of tenure, nation building and national reconciliation and sustainable land use patterns.<sup>5</sup> The *White Paper on Land Policy*<sup>6</sup> further notes that:

We envisage a land reform which results in a rural landscape consisting of small, medium and large farms; one which promotes both equity and efficiency through a combined agrarian and industrial strategy in which land reform is a spark to the engine of growth.

From a policy perspective, the provisions of the 1997 *White Paper* were largely expansive and from the outset created an overburdened expectation that land reform was able to accord redress on the one hand, while conterminously dealing with the crisis of underdevelopment and economic growth on the other. Despite the acknowledgement in principle of the linkages between land and agrarian reform to rural development and poverty alleviation, the implementation of the policy in South Africa was in the previous past narrowly confined to transfer of land, often exemplified by the ubiquitous statistical target of 30%. Notwithstanding the noble goal of such a target, engendering agrarian transformation remains one of the Achilles heels of our rural transformation agenda.

18 years into South Africa's democracy, changing the apartheid social geography through a programme of land reform has proven a mammoth task for the state. Despite the "negotiated and reconciliatory" framework that underpinned the

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<sup>3</sup> Kariuki "CRDP".

<sup>4</sup> DLA *White Paper*.

<sup>5</sup> DLA *White Paper* 18

<sup>6</sup> DLA *White Paper* 19

constitutional and institutional framework of land reform, rural transformation and development as an attribute of a successful land and agrarian reform leaves much to be desired. The transformation and progressive growth of South African agriculture has not materialised as expected. Indeed, the dual character of our agriculture, namely large-scale capital-intensive farms and an under-developed small scale/subsistence farm sector, exemplifies the levels of structural inequalities that we must overcome within the agricultural sector. Creating opportunities for black commercial farmers to integrate within the value chain (upstream and downstream) of South Africa's agricultural system should indeed be the optimal goal that should inform our rural agenda in advancing transformation.

It is becoming increasingly clear that the developmental goals of land reform cannot be achieved within the current institutional framework, fiscal and human resources, and the support infrastructure that is in place. A new paradigm of land and agrarian transformation is required to engender substantive transformation in the agricultural sector and to create more opportunities for the growth of black commercial farmers. Such a paradigm should seek to overhaul the land administrative system, regulate aspects of market transactions within the framework of land reform and the law, and institute enabling amendments in some of the existing legislative frameworks (eg enabling subdivision of the agricultural Act, imposing restrictions on land use conversion, etc). These reforms should be accompanied by the development of enabling economic frameworks that stimulate the growth of agricultural development.

Myriad attempts to reformulate policy programmes in the last 18 years within the prevailing institutional and legislative framework have generated limited outcomes in the transformation of land and in the agrarian landscape of South Africa. In essence, the noble goals of rural transformation could not be actualised with the policy tools we deployed in this regard. In addition, these reforms were embedded within a disabling agricultural economy that could not nurture the sustainable growth of black commercial farmers.

Resultantly, the imprints of the *Natives Land Act 27* of 1913 are a constant and stubborn reminder of the "unfinished business" of our democratic project, which amongst others, must seek to reverse the legacy of apartheid's "accumulation by dispossession" that continues to underpin rural residents' struggle for social reproduction. As we marked the centenary of the 1913 *Land Act* in 2013, we must as a nation confront the question of rural transformation with utmost urgency as we seek to build an inclusive society devoid of our triple ills of underdevelopment - poverty, inequality and unemployment. Ending the structural marginalisation of rural economies predicated on a broad and effective programme of rural development that encapsulates on-farm and off-farm agricultural investment should inform our national development imperatives.

In consonance with the principles underpinning the 2011 *Green Paper*, namely de-racialising the rural economy, enforcing production discipline whilst engendering a democratic and equitable land allocation and use across race, class and gender is yet to be attained. As will be noted later in the article, the *Green Paper* proposes a paradigm shift that will facilitate significant changes in South Africa's tenure system and an enhanced land administration system.

Eighteen years into democracy, South Africa has managed to redistribute approximately 7% of arable land against an ambitious target of 30% by 2014. Redistributing 30% of land by the year 2014 is equivalent to about 24.6 million hectares. Post-settlement support has been inadequate, and the incorporation of new black farmers into the mainstream agricultural system has not been successful. Consequently, the noble vision of South Africa's Reconstruction and Development Programme (RDP) that envisioned land reform as a catalyst for rural development has not materialised. A major shift that has occurred from 1994-1999 and into the post-2000 period was the transition from a welfare-based land reform programme (pro-poor focus) to a commercial production-based land reform programme with a focus on de-racialising the agricultural sector and generating black commercial farmers.

Common problems such as inadequate support to beneficiaries, a hostile and liberalised agricultural economy, the inability to implement business plans, and an inadequate grant structure are some of the commonly cited factors that have encumbered the programme's success. This set of challenges created an impetus for the emergence of the 2005 Land Summit. In hindsight, the Land Summit attested to the general frustration that centers on the slow pace of land reform. The Summit called for a review of the willing-buyer, willing-seller principle and called for a much more pro-active approach by the government to land reform. Despite the political and rhetorical shifts noted in the trajectory of land reform debates, the structural and legal model remained largely unchanged.<sup>7</sup> However, current efforts as exemplified in the *Green Paper* are affirming signs that indeed the structural and legal model underpinning land reform must be changed for meaningful tenure reforms to be realised. In its current form, the progressive growth and development of our agricultural sector will not be realised.

### **3 The state of South African agriculture**

In South Africa, as in many other developing economies, the tourism-related business has become a leading industry, with agricultural production consequently on the decline,<sup>8</sup> resulting in commercial farmers turning to game farming. Therefore, the estimated 12 000 privately owned game farms in operation in South Africa<sup>9</sup> is a disconcerting figure, particularly when considering that statistics related to the industry are not centralised, but provincial, with some farms not recorded as game farms. In comparison, in 1993 "South Africa had approximately 3 357 exempted wildlife ranches", which by 2005 had increased to about "6 330 ranches" indicative of "a growth rate of about 6, 4% per year in exempted areas".<sup>10</sup> Similarly, Flack<sup>11</sup> propounds that about 500 000ha of land was converted from cattle to game farming

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<sup>7</sup> Kariuki "Land and Agrarian Transformation".

<sup>8</sup> Roussot 2005.

<sup>9</sup> Figures given in 2011 by Dr. Herman Els, CHASA President, in a telephone conversation with Ngobile Zulu - a researcher on game farming - and it has to be mentioned that these figures are a conservative estimate and the numbers could be larger.

<sup>10</sup> NAMC 2006.

<sup>11</sup> Flack 2002 *Magnum 77*.

land in 2002; which is a huge loss of agricultural land that goes to eco-tourism. This has wider implications for agricultural productivity, on rural development and on transformation of the agricultural sector to increase the number of black farmers. The effect on the latter is that, through claiming to be part of the conservation estate and adopting the mantra of "sustainable utilization", game farmers can hold on to their land without ceding power to government and land reform beneficiaries.

Several reasons can be propounded for the decline of agriculture in South Africa, some of which could be attributed to the transition in farming patterns against a wider context of rural development; increased rural unemployment in South Africa; and loss of skilled and experienced local white farmers who believe their expertise is not being appreciated and valued enough by the current government, and hence relocate to neighbouring African states. As a result the out-migration has contributed to the potential threat to agricultural production and food security. The rapid increase of white farmers turning to game farming adds to the losses in food production, which results in food imports to meet the country's domestic food needs. When considering this fact, the reality of food imports is not as far-fetched as one would think, especially considering that "in the nine years between 1993 and 2002, the number of commercial farming enterprises decreased from 57 980 to 45 818".<sup>12</sup>

Meanwhile, it has to be borne in mind that the South African economy is atypical of the rest of Africa because of its very strong commercial, mining, service, manufacturing and industrial sectors which make up 96,9% of GDP.<sup>13</sup> Thus it was not and is not entirely dependent on agriculture like some third world economies. With the current expansion in urbanisation, commercial agriculture has been waning from contributing about 20% of GDP in the 1920's to just 3.4% in 2004.<sup>14</sup>

One explanation for the above is that SA's agricultural subsidies are among the lowest internationally, having progressively dropped to about 4% compared with

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<sup>12</sup> Atkinson *Going for Broke* 55.

<sup>13</sup> ABSA 2003; CDE 2005; Van der Merwe and Saayman 2003 *Koedoe*.

<sup>14</sup> Carruthers 2008 *Trans R Soc S Afr* 4.



22% in US, 45% in EU, 5% in Japan and 1% in New Zealand. This, in particular, has led to the scenario where one of the BRICS member countries, Brazil, is exporting cheap chickens to South Africa, which has inevitably affected the local sector to such an extent that they have to downsize because they cannot compete with these subsidised imports.<sup>15</sup>

Moreover, net earnings from agriculture continue to drop in SA from R110 per hectare in 1990 to around R80 in 2000.<sup>16</sup> This situation is made worse by the cheap imports, some of which are re-routed to other countries as South African products, thus dealing a double blow to the domestic chicken farmers who can neither supply the domestic market, nor compete with these imports if they are also supplied to neighboring countries in Africa. The above developments have occurred in an environment where South African farmers have to make a living from their investments in the land.

### ***3.1 Migration of African farmers into the African continent***

While for the past two decades small numbers of South African farmers have moved to Mozambique, Zambia and several other countries, this trend seems to be undergoing both a quantitative and a qualitative shift. In the past, their migration was largely individual or in small groups. Currently, it is more centrally organised and coordinated, taking the form of large concessions for newly formed consortia and agribusinesses.<sup>17</sup>

South African businesses are not merely relocating elsewhere in the region, but are acquiring land as part of wider business strategies to extend South African value chains. The actors and interests involved, then, are not merely those of 'farmers', but of a wide range of private and public sector actors in South Africa and in 'host'

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<sup>15</sup> Talk Radio 702's discussion with concerned South African chicken farmers and their representatives – 23 July 2012 - John Robbie morning slot.

<sup>16</sup> Carruthers 2008 *Trans R Soc S Afr* 4.

<sup>17</sup> Hall *Next Great Trek* 2.

countries.<sup>18</sup> Over the years, the flight of white farmers from South Africa into other African countries has raised concern and interest within South Africa. For instance, it is reported that the Congo has handed over 80,000 hectares of arable land to a company owned and operated by 14 South African farmers. The project has since been declared as a 'presidential project', guaranteeing government support at the highest level. This is a huge endorsement of South African farmers who feel they are not appreciated and supported enough at home.<sup>19</sup>

According to the Food and Agricultural Organisation (FAO), of the 10 million hectares of arable land in the country, the Congolese only farm 2%, indicating that there is plenty of room for farming. According to Agri-South Africa, several farmers have been invited to farm in countries like Malawi, Mozambique, Uganda and Tanzania and that local farmers had been "invited to 26 countries in Africa over the past three years".<sup>20</sup> Finally, it is also estimated that there were between 800 and 1000 South African farmers elsewhere in Africa.

Ray Letcher, an established sugar cane farmer from KwaZulu-Natal with 54 years of farming experience, is an example of a South African sugar cane producer now farming in Zambia. In late 2004, the directors of MGM Farms Limited approached Letcher to take over management of its operation in Zambia. Letcher embraced the opportunity. "I wasn't ready to retire from farming and decided it was time to gain more experience and take on a new challenge."<sup>21</sup>

With reference to South African farmers in Zambia, Letcher felt that Zambia offers underused, highly productive land and South Africans can get a 99-year lease if they want to farm. Labour is abundant and governed by similar labour laws to South Africa. Therefore, for adventurous farmers like Letcher, Africa provides opportunities for farmers to reinvent themselves agriculturally. The fact that some regulations are

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<sup>18</sup> Hall *Next Great Trek 2*.

<sup>19</sup> [www.theafricareport.com](http://www.theafricareport.com).

<sup>20</sup> [www.theafricareport.com](http://www.theafricareport.com).

<sup>21</sup> [www.zambiawatchdog.com](http://www.zambiawatchdog.com).

similar to South Africa's, like Zambia's *Citizens Economic Empowerment Bill*, which was promulgated in 2007 and which resembles South Africa's BEE laws, makes it easier for farmers to adjust to similar institutional environments. On the other hand, some South African farmers have agricultural investments in other parts of Africa and because of that have found it easier to relocate to those parts. In addition, the South African government's tacit support for this emigration of white farmers is a factor pushing the latter to try farming outside South African borders. Zambia is one of the five countries South Africa is targeting to acquire land. Others include the Democratic Republic of Congo, Sudan, Angola and Uganda. Angola has offered two farms totalling 140 000 ha in a prime production area, and Uganda 1700 00 ha near Kampala.<sup>22</sup>

South Africa's Agriculture, Forestry and Fisheries Minister, Tina Joemat-Petterson, is spearheading a new drive to settle white farmers from South Africa throughout the African continent. As NAFU SA, we are not in support of this approach (a point I will return to later). Some African governments are actively courting South African farmers. One example given is that of Mozambique, where "64 000 ha of game farms in Mozambique have been allocated to South African farmers".<sup>23</sup> South Africa's white farmers have not limited themselves to Africa, but are even exploring overseas destinations like Georgia, seeing them as better farming investment destinations. A combination of factors, including the fear of crime, violence, labour costs and the threat to their livelihoods posed by land-reform policies, serve as building blocks for emigration. Similarly, the Georgian government's open invitation to South Africa's farmers to buy up land in the country cheaply in exchange for bringing their expertise and knowledge of modern farming methods has set some farmers casting their eyes on this new destination.<sup>24</sup>

NAFU SA believes that the flight of white farmers into the continent provides us with an opportunity to pause and contextualise the 'push and pull' factors underpinning

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<sup>22</sup> [www.theafricareport.com](http://www.theafricareport.com).

<sup>23</sup> De Jager 2011 [www.farmersweekly.co.za](http://www.farmersweekly.co.za).

<sup>24</sup> Walker 2010 [www.independent.co.uk](http://www.independent.co.uk).

this process as a basis to reverse the 'push' factors that are leading to the current flight of farmers. We would like to emphasise the need to 'domesticate' these skills at home and to create enabling conditions that would 'arrest' this phenomenon of 'farmers exodus' into the continent, especially given the dire skills retention and transfer we need to infuse across the entire value chain of our agricultural system. Engendering land and agrarian reform should therefore be conceived as a 'collective enterprise' whose goal is the diversified and progressive growth of South Africa's agricultural sector.

Commercial farming in present day South Africa is proving to be a difficult enterprise in as far as optimal production and profitability is concerned. The de-regulation of South Africa's agricultural sector in the 1980s and 1990s through removal of subsidies, state controlled marketing boards, increases in prices of farming inputs, and removal of cheap credit and tax breaks, have substantially decreased profitability and optimal production thresholds that would permit sustainable production in the sector. In a context of land reform programmes (eg restitution) and laws such as the *Extension of Security of Tenure Act* 62 of 1997 (ESTA) that seek to regulate relations between farm owners and farm workers, commercial farming as an enterprise has experienced a sustained decrease as most farmers opt to exit the sector.<sup>25</sup>

### **3.2 The impact of legislation**

Some pieces of legislation, such as the *Basic Conditions of Employment Act* 75 of 1997, contributed to the decline of agriculture due to the reaction by some farmers as the regulation of farm labour became part of government policy through the enactment of this Act. Through regulating issues such as dismissals, sick leave and maternity leave and including retirement provisions; farmers' business transaction costs on the farms skyrocketed. Consequent to that, the introduction of minimum wages in the agricultural sector in 2002 added to the farmers' problems. This has

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<sup>25</sup> Hall *Next Great Trek*.

indeed become a push factor into other productive forms of land investment, like game farming, which requires seasonal labour and a limited number of employees as opposed to other agricultural forms. Consequent to the above, the enactment of the *Extension of Security of Tenure Act* 62 of 1997 served as a catalyst that brought a high uptake of game farming, which is considered to be less labour-intensive.<sup>26</sup> Such sweeping 'inalienable' rights given to tenants and farm workers has threatened white farmers' ownership and land use of their farms, leading to the switch to other land production farming techniques and the subsequent emigration of some farmers to other countries.<sup>27</sup>

### **3.3 Shift in farmers' thinking**

Commercial agricultural organisations are grappling to find a meaningful niche in the broader 'social order', which may explain the significance of these associations in the farming community and the authoritative position they wield in negotiations with the state.<sup>28</sup> Additionally, it can be said that since "agriculture has undergone deregulation, agribusinesses have been empowered in South Africa",<sup>29</sup> ensuring the simultaneous disempowering of agriculture. Following this line of thinking partly explains the failure of emerging new farmers, who, without government support, cannot make productive ends meet in a rapidly globalising competitive environment where commodities' prices are subject to the vagaries of the market economy which South Africa is open to. In saying this,<sup>30</sup>

The country's agricultural exports and net trade balances have declined precipitously in more recent years. The rate of growth in agricultural output has also slowed since the 1980s, largely as a result of a slowdown in the rate of growth in field crop production. Indeed, agricultural output growth in South Africa ... has lagged behind the rest of Africa in recent decades, even though the country's agricultural productivity growth has historically outpaced production.

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<sup>26</sup> Du Toit *Great South African Land Scandal* 168.

<sup>27</sup> Coleman 2011 in *Farmer's Weekly*.

<sup>28</sup> Fraser 2008 *Tijdschrift voor Economische en Sociale Geografie* 26.

<sup>29</sup> Fraser 2007 *Social & Cultural Geography* 841.

<sup>30</sup> Liebenberg and Pardey "South African Agricultural Production" 404-406.

#### 4 Post-2008 policy developments

Despite the flurry of policy formulation, land reform delivery has been way below the expected targets of 30% scheduled for 2014. By early 2008, several factors were converging that suggested that land reform (especially land redistribution) was moving up the political agenda and might be entering a dramatic new phase. Major questions remained, however, about the availability of resources, the capacity of state departments to deliver land on a greatly expanded scale and to address other gaps in policy such as post-settlement support and an effective anti-poverty strategy.<sup>31</sup> This concern found political expression under the aegis of rural development as land and agrarian development became subsumed under broader developmental goals. This realisation received tacit political support both within the public domain and in the policy statements that the ANC began to make in preparation for the 2009 general elections.

The National Policy Conference of the ANC, held in 2007, proposed a draft resolution on economic transformation to be considered for adoption at the 52nd National Conference in December. The draft resolution identified rural development, land reform and agrarian change as a critical pillar of South Africa's programme of economic transformation. The draft resolution further acknowledged that programmes of rural development, land reform and agrarian change must be integrated into a clear strategy that seeks to empower the poor, particularly those who already derive all or part of their livelihood from the exploitation of productive land.<sup>32</sup> These new areas of policy interests led to the inception of the Comprehensive Rural Development Programme (CRDP), which was formally launched on 17 August 2009 in Muyexe, Giyani, Limpopo.

The envisaged outcome of the process is the creation of "vibrant, equitable and sustainable rural communities".<sup>33</sup> The strategic objective of the CRDP is to "facilitate

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<sup>31</sup> Lahiff *Policy Brief 172*.

<sup>32</sup> Kariuki "CRDP".

<sup>33</sup> DRDLR *Framework Document 3*.

integrated development and social cohesion through participatory approaches in partnership with all sectors of society".<sup>34</sup> To achieve the broad objectives of rural development, the CRDP uses a three-pronged strategy, namely agrarian transformation, rural development and reform programme. The framework document stipulates a range of ambitious and very specific programme activities that make up each of the three pillars of the CRDP, namely agrarian reform, land reform and rural development.<sup>35</sup>

The CRDP is a welcome innovation given the fact that post-1994, rural development strategies have largely been informed by pro-poor growth strategies and sustainable livelihoods, as well as concepts of reality (eg poor, subsistence-farming women in a poverty-wracked agricultural landscape). While these frameworks had some systemic elements, in practice pro-poor interventions have tended to be conceptualised separately from broader growth and development strategies. As a result, rural pro-poor interventions have often focused only at the micro or community level.<sup>36</sup>

These limitations have led to calls for a significant review of current policies on land reform and restitution; a review of approaches to agrarian reform, including the role of commercial agriculture value chains and strategies to target smallholders; and better integration of land reform and use, agrarian reform, commercial agriculture and economic development.<sup>37</sup>

The recently published *Green Paper on Land Reform* (2011) seeks to address some of these elements, such as a single land tenure framework and a common land management system through a proposed Land Management Commission. However, the extent to which the *Green Paper* effectively addresses other critical elements, such as building strong linkages between land reform and economic development, and improving post-settlement support and extension services, is open to further

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<sup>34</sup> DRDLR *Framework Document 3*.

<sup>35</sup> Kariuki "CRDP".

<sup>36</sup> DBSA *Development Report 36*.

<sup>37</sup> DBSA *Development Report 3613-3614*.

scrutiny,<sup>38</sup> although the Department of Rural Development and Land Reform is at an advanced stage in formulating a *Green Paper on Rural Development*. The synergies between these two documents are expected to generate significant reforms that would trigger the growth of a reformed agricultural sector in South Africa.

The central theme with regard to rural development in South Africa as reflected in the New Growth Path (NGP), the *Green Paper on Land Reform* (2011), the Comprehensive Rural Development Programme (CRDP) and the National Development Plan (NDP), has been the need to dismantle the legacy of structural poverty and under-development. All four documents have as their central objective the need to dismantle apartheid spatial geography through the construction of a seamless web bridging the rural and urban economies. In pursuit of its theme on reversing rural marginalisation, the NDP envisions the need to re-integrate rural South Africa into mainstream economic development that would allow rural residents to share in the dividends of economic growth and development:<sup>39</sup>

By 2030, South Africa's rural communities should have greater opportunities to participate fully in the economic, social and political life of the country...Rural economies will be supported by agriculture, and where possible by mining, tourism, agro-processing and fisheries.

The role of agriculture as an employment-generating sector is paramount in this regard in advancing spatial defragmentation of our rural areas. Similar to the development provisions made in the *Green Paper* on shared economic growth, full employment and social cohesion, land reform within the context of the NDP is accorded the monumental task of ensuring that economic growth and integration is facilitated as an intended outcome of land and agrarian reform. Poverty alleviation and job creation<sup>40</sup> are therefore hallmarks that will measure the success of land reform. As the primary economic activity in rural areas, agriculture is estimated to have the potential to create close to 1 million new jobs by 2030, a significant contribution to the overall employment target.

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<sup>38</sup> DBSA *Development Report* 3613-3614.

<sup>39</sup> NPC 2011 [www.npconline.co.za](http://www.npconline.co.za) 196.

<sup>40</sup> NPC 2011 [www.npconline.co.za](http://www.npconline.co.za) 196.



However, the expansion of employment absorption through agricultural development must take into cognisance the enormous difficulties in which South Africa's agriculture lies embedded. For instance, one of the principal changes is the increasing concentration of farm ownership over time. In 1996, it was estimated that South Africa had 60 000 farm units. By 2002, this had reduced to 45 000 units.<sup>41</sup> A key trend showing rising inequality since 1994 is the consolidation of ownership of farm land into fewer hands.<sup>42</sup>

Alongside this consolidation of land parcels, another process of consolidation appears to be underway in the distribution of agricultural capital in primary production and upstream and downstream industries. In addition, input trends have changed as production has become more capital-intensive and less labour-intensive,<sup>43</sup> clearly notable in the decline of farm employment since 1994 to 2010. For instance, according to the census of commercial agriculture, the number of paid farm employees has decreased from 1 093 265 in 1993 to 770 993 in 2007.<sup>44</sup> Although agriculture is a diminishing sector, it is still a significant sector of the South African economy constituting the country's most labour-intensive export sector. The government has identified the agricultural value chain as one of the six key "job drivers" that are expected to lead to the creation of five million new jobs by 2020.

In addition, South African agriculture debt has increased steadily in the post-1994 period. The total farming debt increased from R18 184 billion in 1994 to R57 069 billion in 2010. The farming debt between 1994 and 2000 was owed mainly to the land and agriculture bank, commercial banks and farm co-operatives. From 2002 to 2010, farming debt was mainly owed to commercial banks, with up to 70% of farm debts owed to commercial banks in 2010.<sup>45</sup> The implication of such a precarious scenario facing South African agriculture is that any efforts to generate employment

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<sup>41</sup> Human Rights Watch 2011 [www.hrw.org](http://www.hrw.org) 25, Hall *Another Countryside* 134-135.

<sup>42</sup> Hall *Another Countryside* 134-135.

<sup>43</sup> Hall *Another Countryside* 134-135.

<sup>44</sup> *Abstract of Agricultural Statistics* (2011).

<sup>45</sup> *Abstract of Agricultural Statistics* (2011).

creation through investment in agriculture and expansion of agricultural production must be preceded by firstly dealing with the unresolved question of land ownership and distribution and secondly, the economic hardships commercial agriculture is facing and its consequent outcomes (eg land concentration etc).

In advancing these substantive reforms, the 2011 *Green Paper* proposes wide ranging institutional changes within the land reform sector.

## **5 The *Green Paper on Land Reform* (2011)**

The *Green Paper on Land Reform* of 2011 firmly acknowledges land and agrarian reform as a fundamental constituent to the democratisation process in a bid to resolve racial, gender and class contradictions in South Africa. Pursuant to this recognition, the *Green Paper* defines sovereignty in terms of land and implies that the debate about agrarian change, land reform, and rural development should and must begin with a frank discussion on land tenure relations if the apartheid spatial geography is to be dealt with. Thus, the need to provide security of tenure for all South Africans regardless of race, gender and class is considered a fundamental aspect of development.

The broad developmental thrust of the *Green Paper* is evident in its invocation of concepts such as "shared growth and prosperity, full employment, relative income equality and cultural progress",<sup>46</sup> which the *Green Paper* is intended to achieve. A vision of land reform is underpinned by:<sup>47</sup>

A re-configured single, coherent *four-tier system of land tenure*, which ensures that all South Africans, particularly rural blacks, have a *reasonable access to land with secure rights*, in order to fulfill their basic needs for housing and productive livelihoods.

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<sup>46</sup> DRDLR *Green Paper* 3.

<sup>47</sup> DRDLR *Green Paper* 4.

Other key elements of this vision is the formulation of clearly defined property rights and *effective land use planning and regulatory systems* which promote optimal land utilisation in all areas and sectors; effectively administered rural and urban lands; and sustainable rural production systems.<sup>48</sup> This vision is underpinned by three key principles:

- (a) de-racialising the rural economy;
- (b) democratic and equitable land allocation and use across race, gender and class;
- (c) a sustained production discipline for food security.

A four tier tenure system is proposed, namely leasehold (owned by the state), freehold (privately owned), freehold with precarious tenure (foreign owned), and communal forms of tenure. In essence, the *Green Paper* proposes a paradigm shift in dealing with the question of land and agrarian transformation in South Africa. It intends to revamp the entire policy, institutional and legal infrastructure that has underpinned land and agrarian reform in the past 18 years.

The institutional focus placed on the *Green Paper* is indicative of the urgent need to augment State capacity to reform the land tenure system and boost state land administrative capacity to comprehensively undertake a programme of land and agrarian transformation. A state interventionist approach through a range of new institutions is proposed in order to strengthen land administrative systems in meeting its new objectives in developing and managing the multi-form of tenure systems proposed in the *Green Paper*.

The role of a democratic developmental state is paramount to increasing the pace and quantity of land acquisition and post-settlement support within an enabling agricultural economy. In this regard, the institutions proposed are: the Land Management Commission (LMC), whose aim it will be to enhance key functions of

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<sup>48</sup> DRDLR *Green Paper* 4.

land reform; the Office of the Valuer General, to independently value state land transactions (OVG); and the Land Rights Management Board (LRMB), to effectively adjudicate land rights disputes. These institutions will be formed under the aegis of the Department of Rural Development and Land Reform (DRDLR).

Of significance to our discussions and to NAFU SA is the extent to which the proposed tenure system will enhance the growth of South Africa's agriculture. I would therefore like to focus my attention on leasehold as a form of tenure system that can be used to advance the goals of agricultural reforms in the country.

## 6 Leaseholds

A land lease is an agreement where a landowner allows someone to use his property for a set period of time in exchange for periodic payments of money. For a long-term lease term, 99 years is intended to convey the idea that the lease runs for the life of the tenant as most individuals don't live longer than 99 years. There are several reasons why someone would want to enter into such a **long-term lease**. A person enters into a long-term lease to acquire the security of property ownership, which is theoretically indefinite, without actually having to purchase the property.<sup>49</sup>

The 99-year lease guarantee the rights holder a longer period of certainty to the extent that they want to finance whatever investments they are making. Lenders are also typically reluctant to finance leaseholds for fewer than 30 years, and thus a longer-term lease gives the lender reasonable guarantees of recouping their money in that given period. For owners, these leases offer a way to pass down their assets to their children, especially if it is prime land like commercial farms which have been successfully claimed, but where the occupier has agreed a leasing arrangement with the claimants.<sup>50</sup>

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<sup>49</sup> See Riddell "Agricultural Land Leases".

<sup>50</sup> See Fraser 2007 *Social & Cultural Geography*, Fraser 2008 *Tijdschrift voor Economische en Sociale Geografie*.

### **6.1 Case study: leases in Namibia**

The *Agricultural (Commercial) Land Reform Act 6 of 1995 (ACLRA)* also provides for the granting of 99-year leasehold rights to allocate farming units and subsequent registration of such lease agreements in the Deeds Office. The Act provides for the possibility to buy an allocation after five years, subject to certain conditions. In terms of the Act, however, these rights are circumscribed in so far as rights to assign, sublet, mortgage or in any way encumber a farming unit allocated by the MLR is subject to the written approval of the Minister. However, in a legal opinion, the office of the Attorney General expressed the view that a mortgage could be registered on any lease agreement registered in the Deeds Office.

### **6.2 Leasehold agreements in Namibia**

Two key developments that have a bearing on issuance of leaseholds and post-settlement of beneficiaries of resettlement programmes in Namibia:

1. In 2009, the signing of a memorandum of understanding between the Ministry of Lands and Resettlement (MLR) and Agribank in February. This agreement entails that each of these institutions will contribute N\$10 million (in total N\$20 million) annually to a special account which they would jointly establish, to be administered by Agribank, with the aim of ensuring that resettled farmers are able to acquire the equipment necessary to increase their agricultural production.
2. The ACLRA - the MLR commenced with issuing leasehold agreements to resettlement beneficiaries. The 99-year leasehold agreements will secure tenure for resettled farmers and enable them to access loans from Agribank, as well as commercial banks in the future.<sup>51</sup>

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<sup>51</sup> Odendaal and Werner 2010 [www.lalr.org.za](http://www.lalr.org.za).

### **6.3 What has been the experience with leaseholds?**

Before a leasehold is granted, and before any land registered, the OVG has to value the surveyed land. The Directorate of Resettlement, responsible for the allocation of resettlement units and issuing of leases, cannot process leasehold agreements without survey diagrams and valuation figures for each unit. The main reason for the delay in issuing the leasehold agreements is lack of capacity from the Directorate of Survey and Mapping and the Directorate of Valuation and Estate Management within the MLR. For instance in 2000, the two directorates had a workforce of 200, and by 2009 this number had decreased to around 50. The decrease was attributable largely to personnel taking up higher-paid employment in the private sector. Since the start of the resettlement programme, about 424 farms have been surveyed. By the end of 2009, only 50 beneficiaries had been registered and given their leaseholds.<sup>52</sup> This delay compromises on the rate at which leaseholds are granted to beneficiaries of the resettlement schemes because any farm unit has to be valued because the lease fee is determined from the valuation. The valuation determines the unit's market value or capital value, from which an annual lease amount is derived. Resettlement beneficiaries will be required to pay a lease fee of 5% of the market value per annum after the first five years. The lease fees received from the beneficiaries are deposited in the Land Acquisition and Development Fund (LADF).<sup>53</sup>

### **6.4 Limitations of the leasehold**

- The lessee has no option to purchase leased land - Section 47 of the ACLRA, which was amended by the *Agricultural (Commercial) Land Reform Amendment Act 13 of 2002*, gave resettlement beneficiaries the option to purchase the units leased from the State at a price equal to its capital value on condition that five years had elapsed since the commencement of the lease and that the lessee had complied with the terms and conditions of the lease. The amending Act has scrapped the option to purchase leased

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<sup>52</sup> Interview, Directorate of Resettlement, 25 November 2009.

<sup>53</sup> Odendaal and Werner 2010 [www.lalr.org.za](http://www.lalr.org.za).

resettlement land. This is because the state wants to retain and have control over land it has purchased for land reform purposes.

- The *Agreement of Lease* stipulates that land should be used for agricultural purposes such as livestock production.<sup>54</sup> It does not provide for alternative land uses such as game farming and charcoal production.
- In principle, financial institutions accept land as collateral as long as a leasehold is in place. At present, however, Agribank is not clear on what procedures to follow if a resettlement farmer defaults on repaying the loan. Repossessing land in the event of a farmer defaulting on his/her mortgage bond would certainly undermine the aims of the land reform process.
- The *Agreement of Lease* makes provision for married couples - including couples married under customary law and cohabitating couples - to be co-lessees of resettlement units. In the case of divorce or separation, it remains unclear who inherits the leasehold rights since as per the lease, a lessee cannot transfer the land to surviving children.<sup>55</sup>

## 7 Recommendations

Within the context of the *Green Paper*, it is our earnest hope that indeed the overhaul of South Africa's land administrative system will enhance state capacity to upscale land acquisition and augment state capacity to provide an enabling environment and support to land reform beneficiaries. This will indeed herald the dawn of a *new transformative agrarian order*, one that is able to reverse the unabated tide of rural-urban migration often occasioned by the inability of rural economies to enhance citizens' capabilities to eke out viable livelihoods from access to and ownership of agricultural resources. Spatial reconfiguration of our apartheid geography through a programme of land and agrarian transformation indulges us to think boldly and innovatively by establishing durable institutional and legal frameworks that allow us to give effect to our vision of rural transformation. Indeed, the limitations of our past reforms have enlightened us to move beyond a narrow

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<sup>54</sup> Agreement of Lease, 2009, 4.

<sup>55</sup> Odendaal and Werner 2010 [www.lalr.org.za](http://www.lalr.org.za).

programme of land redistribution to one that is aligned to the broader question of rural transformation.

In pursuit of this new and developmental approach, NAFU SA wishes to contribute to the debate on the *Green Paper* by raising three concluding points:

### **7.1 De-racialise land reform discourse**

From a historical point of view, NAFU SA has always championed the need to deracialise the agricultural sector through a set of legislation, programmes that would support the emergence of the black commercial farmers and other aspiring farmers. As a country we acknowledge that racially instigated laws and practices led to massive land dispossession of our people, for which the current programme of land reform is seeking to redress. However, over-emphasis of 'race' as a primary axis of reform can potentially compromise the exercise of creative innovations in dealing with the crisis of underdevelopment in rural South Africa. Indeed, the principle of 'deraciliating the rural economy', as noted in the *Green Paper*, must be commensurated with a simultaneous deracalisation of our policy discourse on land reform. As we begin to embrace multi-forms of tenure regimes, intra- and inter-racial dynamics that intersect with class, gender and regional disparities/specificities (eg communal tenure systems) exemplify the need to transcend restrictive racial binaries in our discussions on the land question. The extent to which 'race' has shaped debates on land reform is a concern I raised 8 years ago in 2004, responding to the then growing perceptions of the suitability of black farmers to succeed, and I quote:<sup>56</sup>

In the past 60 years many thousands of white farmers have failed miserably, not only because of climate and markets, but also the inability to farm and adapt to changing conditions. However, they are not judged on this. They are rightly judged on their successes. But black farmers are only judged on their failures. The farming ability of every black producer is predicted by the failures of the past, whereas the ability of a white farmer to farm is predicted by the success of the past.

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<sup>56</sup> Matlala 2004 *Farmers Weekly* 8.



Indeed, a paradigm shift is called for in changing the perceptions on failures and successes in South Africa's agricultural economy. For instance, the removal of subsidies and inadequate support to farmers has compromised the ability of new entrants into this sector to succeed. The success of land and agrarian transformation is predicated on an enabling agricultural economy that offers substantial financial and support regimes to farmers across its varied value chain.

### ***7.2 Enhance state capacity to initiate and successfully manage the envisaged reforms: closing the gulf between policy and implementation***

The *Green Paper* proposes a number of far-reaching reforms intended to enhance the land administrative system and other proposed institutions such as the OVG, the LRMB and the LMC. As NAFU SA we support the extensive overhaul of the institutional reforms, *but caution* that we should make a realistic institutional assessment of our capacity to absorb these expansive changes in a manner that advances the cause of reform and not stymie it. In developing new institutional configurations, we must ensure that effective rationalisation takes place, training/re-orientation of personnel, and re-engineering of the departmental systems and processes are undertaken speedily. In essence, we argue that these justifiable policy reforms must be strengthened through the development of an effective and efficient implementation programme that seeks to give effect to the vision and goals of the *Green Paper* reforms.

### ***7.3 We fully support the 99-year lease period***

The *Green Paper* affirms a statist discourse that equates national sovereignty to land ownership:<sup>57</sup>

National sovereignty is defined in terms of land. Even without it being enshrined in the country's supreme law, the Constitution, land is a national asset. This is where

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<sup>57</sup> DRDLR *Green Paper* 1.

the debate about agrarian change, land reform and rural development should, appropriately, begin.

Pursuant of this approach, as NAFU SA we advocate the 99 year lease as the basic tenure system to be adopted in South Africa. We propose detailed research be undertaken to assist in developing an appropriate leasehold tenure system that will facilitate capital investment inflows from the private sector (finance etc), whilst protecting land as a sovereign national asset. Land belongs to the people of South Africa and the state. As a finite asset, its protection in advancing our nation's sovereignty is of paramount importance. The example of Namibia's leasehold system is insightful in this regard.

#### ***7.4 Provide comprehensive agricultural support regimes and an enabling economic framework***

Land reform should form part of a policy for poverty reduction within a framework of rural development. Land resettlement should, therefore, be buttressed by the provision of infrastructure (eg roads, access to agricultural inputs and markets). However, the formulation and execution of land reform policy has been sector based and silo in approach. A normative gap identified thus far is that land reform was in the recent past narrowly conceived and implemented in isolation from other core development functions such as extension services and agricultural credit reforms.

Given the aforementioned, the misfit between land policy and rural development is most evident where land reform is pursued by a government primarily as a 'quasi-constitutional right' or a means of redressing past injustices, rather than as a basis for sustainable rural livelihoods that aim to redress gross racial imbalances in land ownership and access; recreating sustainable livelihoods on the land is infinitely more difficult.<sup>58</sup> For land reform to have a significant impact on poverty reduction, it must be part of a broader process of political, social and economic change, rather than a narrow intervention simply to redistribute land. The pace of land reform

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<sup>58</sup> IRIN 2009.[www.irinnews.org](http://www.irinnews.org).

cannot reasonably run ahead of advances in other related developments, especially the provision of infrastructure (water, power and communications) and technical support services to farmers.<sup>59</sup> Redressing past injustices and promoting rural development are different policy objectives that call for a more inclusive implementation of land reform programmes along with the provisioning of socio-economic infrastructure required for poverty alleviation.

Various initiatives have been undertaken to address the challenge of post-settlement support, such as the introduction of the Comprehensive Agricultural Support Programme (CASP) etc. However, we need to upscale and rationalise the provision of post-settlement support to land reform beneficiaries. The proposed *Green Paper on Rural Development*, which is yet to be released for public engagement, will hopefully augment the varied attempts Government has undertaken to provide support services to land reform beneficiaries and, more generally, rural development interventions. We need to implement extensive training programmes for our targeted beneficiaries of agrarian reform and where appropriate, change the overall economic orientation (eg reconsider subsidy systems for farmers) so as to facilitate their optimal production. With the current deregulated agricultural economy, which South Africa first undertook in the 1980s and 1990s, the liberalised agricultural sector compromises the sustainable growth of new entrants into agricultural production.

About 7 years ago in my capacity as the President of NAFU SA, I remarked as follows at the 2005 Land Summit. Its relevance to date remains compelling:<sup>60</sup>

... the major challenge of land reform is on the inability of small and upcoming farmers to participate at par with established corporate agriculture (both local and international) who dominate the agricultural value chain ... Our members ... have very little land, they face almost insurmountable obstacles in acquiring land, and when they do acquire land they find themselves so far outside the agricultural value chain that competitive production seems impossible. In addition to this, the

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<sup>59</sup> Moyo *Land Question*.

<sup>60</sup> National African Farmers President Mr Motsepe Matlala. Submission to the Land Summit 2005: 2.

survival of a small farmer, whether he is in fact black or white, has become ... irrelevant ... ultimately farming feels more like a punishment than a reward.

As reviewed earlier in the paper, reversing the current trend of white farmers' flight into the African continent necessitates that we reform the agricultural sector in order to retain farmers, and more importantly, skills. As NAFU SA, we are calling upon government to seize the current opportunities on reforms proposed by the *Green Paper*, to create certainty and progressive reforms that cater for all categories of farmers intent on remaining in farming. Indeed, this latter concern we raise is aptly captured in one of the three principles of the *Green Paper on Land Reform*, namely, attaining "a sustained production discipline" through the envisaged tenure reforms.

## **8 Conclusion**

In conclusion, we wish to express our sincere support for the government's commitment to overhaul the land and administrative system as espoused in the wide-ranging reforms it has proposed in the *Green Paper*. NAFU SA has participated in a number of the National Reference Groups (NAREG) meetings and we are encouraged at the participatory and inclusive framework that has defined this process thus far. The developmental approach taken in the *Green Paper on Land Reform* is indeed one that we welcome and we are certain will be replicated into future policy formulation processes.

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### List of abbreviations

ACLRA	Agricultural (Commercial) Land Reform Act
BEE	Black Economic Empowerment
BRICS	Brazil, Russia, India, China and South Africa
CASP	Comprehensive Agricultural Support Programme
CRDP	Comprehensive Rural Development Programme
DBSA	Development Bank of Southern Africa
DLA	Department of Land Affairs
DRDLR	Department of Rural Development and Land Reform
FAO	Food and Agricultural Organisation
GDP	Gross Domestic Product
IRIN	Integrated Regional Information Network
JASA	Journal of Southern African Studies
LADF	Land Acquisition and Development Fund
LMC	Land Management Commission
LRMB	Land Rights Management Board
MLR	Ministry of Lands and Resettlement
NAFU SA	National African Farmers' Union
NAREG	National Reference Groups

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NDP	National Development Plan
NGP	New Growth Path
NPC	National Planning Commission
OVG	Office of the Valuer General
RDP	Reconstruction and Development Programme
SAJIA	South African Journal of International Affairs
Trans R Soc S Afr	Transactions of the Royal Society of South Africa