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Land Reform and Gender Equality in South Africa

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Abstract

According to bargaining models, control over land is an important determinant of power relations within a family, especially in agrarian societies. This thesis argues that the land reform in South Africa will not improve women's bargaining power much for several reasons: The government does not undertake enough measures to address the social structures and legal obstacles that women face when they try to obtain title to land through the reform. Since post-settlement support often fails to materialize, many women (and men) cannot use the land productively. Land is rarely given to women living in close relation to men. Also, since the male gets most of the property in case of divorce, control over land does not improve bargaining power much. The conclusion is therefore that the land reform will not improve gender equality much, if at all.

Keywords: South Africa, Land reform, Gender equality, Social structures.

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1 Introduction

1.1 Background

When the first democratic government was elected in South Africa in 1994 it inherited a country with substantial inequalities based on ethnicity and gender. In the apartheid era the white minority benefited at the expense of the African majority.¹ 61% of the Africans were poor while the corresponding number for the white population was one percent.² The Gini coefficient was 0.52 in 1995³, which indicates that the income was unevenly distributed. The whites controlled 80% of the farmland, while the Africans controlled less than 15%, which means that the whites had 37 times more land per capita than the Africans.⁴ Strong patriarchal structures prevail, especially in the rural areas. Many women are not seen as full-worthy citizens, and are represented in the society by their husband or a male relative.

In the campaign preceding the 1994 elections the African National Congress (ANC) gained considerable support with the campaign slogan "a better future for all". However, the injustices could not be eradicated overnight. Although the race laws have been abolished, there are still substantial inequalities in education, employment and wealth and the public expects the government to address these issues. One of the new government's first promises was that land taken over by the whites after 1913 would be returned to the ancestors of the original owners.

The Department of Land Affairs (DLA) was created in 1994 to administrate the land reform and one of its objectives was to redistribute 30% of the land to the non-white population. The DLA was also instructed to focus on gender inequalities when redistributing land. The government was clearly aware of the strong patriarchal structures in South Africa. It stated that "in other countries, gender neutral land reform policies and programmes have had a negative, rather than positive effect on gender equality. These issues must be addressed in the context of national and international developments."⁵

¹Of South Africa's population, 76% are African, 13% are White, 8.5% are Colored and 2.5% are Asian.

²DLA, *Monitoring and evaluating the quality of life and land reform beneficiaries: 1998/1999. Technical report prepared for the Departement of Land Affairs* (2000) p. 2

³Ibid.

⁴Wegerif, M. *A critical appraisal of South Africa's market-based land reform policy: The case of the Land Redistribution for Agricultural Development programme in Limpopo* (2004) p. 1

⁵DLA, *White paper on land policy* (1997) p. 22

1.2 Objectives

The main objective of this essay is to examine how the South African land reform could be expected to affect gender equality. More specifically, the design and implementation of the reform will be analysed to find out to what extent it will reach women and what consequences this will have for women's bargaining power and productivity. Other aspects, such as poverty reduction and economic growth, will be discussed briefly. One should keep in mind that gender equality is one of many objectives of the land reform in South Africa, and it is therefore possible that the government could regard the land reform as a success, even if the result is greater gender inequality, in terms of its other objectives.

1.3 Delimitations

Gender equality is a multidimensional concept, here defined as equality in rights, resources and voice.⁶ This thesis will mostly deal with women's resources. Apart from being an important source of income, ownership and control over land affect power relations between men and women. Since rights, resources and voice are interlinked, changes in women's resources are also likely to affect equality in rights and voice. These indirect effects will not be analysed in detail, but it is important to keep in mind that access to resources is not the only factor worth analysing when evaluating gender equality. It is possible that the land reform will change institutions, migration patterns, technology, politics etc, which will in turn affect the relations between men and women. This thesis will not try to analyse these possible effects.

1.4 Methodology and Data

It is difficult to use empirical results to draw any conclusions about the long-term effects of the land reform. Since not so much land has so far been transferred through the South African land reform, the effect it can have had so far on variables such as employment, poverty and production is limited. More importantly, the effect on many variables, e.g. children's years of schooling, takes a long time to emerge. Instead of studying the outcome, the design and implementation of

⁶This is the same definition that the World Bank uses.

the land reform will be analysed.

Many books and papers have been written on land reforms, and not so few of these have approached the issue from a gender perspective. From this material a theoretical framework will be constructed and from this base the South African case will be analysed. This study uses secondary data from surveys and research reports to obtain information about income, education, social structures, etc. The implementation of the land reform is then analysed from the perspective of the legal and social structures that exist in South Africa in order to estimate what impact the land reform will have on women's control over land and how this in turn will affect gender equality.

1.5 Outline of the Thesis

The next section deals with the theoretical issues concerning land reforms in general and women's access to land. Section three contains an overview of the situation in South Africa, including facts about the agriculture and the social structure in the rural areas. Section four describes the main features of the land reform in South Africa and how it is implemented. Section five analyses the impact the reform will have on gender equality. Effects on poverty and growth will be briefly discussed. Finally, section six contains the conclusions.

2 Theory of Land Reforms

2.1 Different Types of Reform and Why Reform is Needed

Governments in developing countries sometimes initiate land reforms in order to improve productivity in the agricultural sector, reduce poverty and/or allocate the land in a more equitable way. This is usually done by redistributing land and changing the laws that affect property rights and tenurial system.

2.1.1 Land Redistribution

A successful land reform can increase the productivity of land and labour. This could have several consequences such as reduced poverty and reduced urbanization. Empirical evidence suggests that small farms are more productive than large farms.⁷ How can this be explained? There is usually a correlation between the size of the farm and the legal status of those who cultivate the land. Small land plots tend to be cultivated by the landowners (and their families), whereas large plots tend to be cultivated using hired labour. It is this relationship that causes differences in productivity. So why is land more productive when it is cultivated by its owners than when it is cultivated by hired labour or tenants?

Tenancy, compared to working on own land, can reduce investments and reduce the amount of labour used to cultivate the plot. The arrangement could be such that the tenant pays a fixed rent and keeps all of the harvest, but if it is impossible to access the insurance market to handle the risk of a bad harvest, the tenants are more likely to accept sharecropping. This means that the tenant gets the right to cultivate the land, but must in return give the landowner a share of the harvest. With this agreement, there are no incentives to work efficiently since the tenant will not keep the full return of his labour. A tenant could invest in the land, for example through irrigating, and he would then improve the returns of his labour. He would not, however, reap the full value of this investment since he can only capture the value added to the land as long as he cultivates the land. If the land is sold, it is the landowner who will benefit from the investments made, since the market value of the farm is increased through the investment. Thus, tenure could

⁷Deininger, K. and Feder, G. *Land Institutions and Land Markets* (1998) p. 17

hamper investments, and the easier it is for the landlord to evict the tenant the less prone the tenant is to invest. Owned land can also be used as collateral and hence facilitate the access to credits, which in turn can be used for investments in the land.⁸ It thus seems plausible that tenancy, compared to working on own land, leads to reduced productivity of both labour and land. There are empirical studies that confirm this theory.⁹

If there exists unemployment because wages are above market equilibrium, then land that is cultivated by hired labour will employ less than the efficient amount of labour. The employer will stop hiring workers when the marginal revenue is equal to the wage. If a farming family owns the land, however, the family members will work on the land if the marginal revenue is higher than the expected return from looking for another job. The higher the unemployment, the lower the possibility of employment, and therefore the expected return of looking for another job is lower as well.¹⁰ Using hired labour to cultivate the land also imposes supervision costs, according to principal-agent theory. There are no supervision costs for those who work on their own land since they will reap the full benefit of their labour.¹¹

There are, on the other hand, economies of scale in agriculture that reward large farms. The larger the farm is, the more it can benefit from machinery, for example. Empirical studies show, however, that the economies of scale in *production* are rather few.¹² Some economies of scale exist in other areas, such as marketing or processing. The realization of these benefits does not require large-scale production, but could be achieved by cooperative marketing and processing. Thus it seems that there are considerable economical gains to be made for the society if the land was transferred from a few large landowners to a larger number of households that will cultivate the land themselves.

⁸Feder, G. and Feeney, D. *Land tenure and property rights: theory and implications for development policy* (1991)

⁹See for example Sen, A.K. *Market failure and control of labour power: towards an explanation of 'structure' and change in Indian agriculture* (1981)

¹⁰See for example Ray, D. *Development Economics* (1998).

¹¹Frisvold, G.B. *Does supervision matter? Some hypothesis tests using Indian farm-level data.* (1994)

¹²See for example Burgess, R. *Land, welfare and efficiency in rural China* (1997)

2.1.2 Legal Reform - Property Rights and Tenancy

There are two different kinds of land rights: individual and collective title to land. When given individual title to land, the owner has the right to do as he pleases with the land. He can sell it, rent it, use it as collateral, put it into productive use or just leave it alone if he likes, and he will reap the full benefits of any investment and labour put into the land. However, there are usually some restrictions in the property rights. Most governments reserve the right to expropriate the land for the benefit of the general good. To prevent the land from being owned by just a few large landowners, some governments have limited the amount of land that a person is allowed to own. The outcome of these regulations has frequently been that large landowners have donated the land to friends and relatives but maintained the de facto ownership.

The land can also be owned by a community, but in most cases it is still individually *cultivated*. Most of the times the community leaders decide who will have the right to use a certain plot of land. After a number of years the right to the plot is revoked and the land will be used by somebody else and the previous farmer is usually transferred to some other plot. This system can, if the community leaders are fair, ensure that everybody will be able to access some land. This will prevent the weakest groups in the community from falling into deep poverty.

The right to use the land given by the community can be quite secure, which will encourage investments in the land. Still, there are some factors that can reduce output from the land. Since the right is limited in time, and the land cannot be sold, investments could be hampered. Communal land cannot be used as collateral by the individual (since the bank needs to be able to turn collateral into liquid assets if the loan defaults), which makes it more difficult to access credits. Last, land cannot be sold to people, either within and outside the community, who can make the most use of it.¹³ In terms of efficiency, it seems plausible that individual cultivation and ownership will increase the output of the land, both in the short term (due to increased labour input) and in the long term (due to increased investments).¹⁴

If there is no market for insurances available, collective ownership can reduce the risk of some external disruptions. There are other motivations for communal ownership of land: economies

¹³Deininger, K. and Feder, G. *Land Institutions and Land Markets*. (1998) p. 10

¹⁴See for example Lin, J.Y. *Rural reforms and agricultural growth in China* (1992)

of scale in some aspects of marketing and externalities that require cooperation. Another benefit of communal land rights is that they might be less costly for the government to implement, especially in sparsely populated areas.

Now, if it is not possible to fully redistribute the land to small farmers in order to avoid tenancy, measures can be taken to increase the efficiency of tenancy. As we briefly mentioned before, the easier it is for a landlord to evict a tenant, the less likely the tenant is to make investments in the land. This principle is valid not only for tenancy but for all forms of agricultural production. There is evidence confirming the relationship between secure tenure and investments.¹⁵ Thus, a government could, through legislation, make it more difficult for a landlord to evict a tenant. This will make the tenancy more secure, which in turn will encourage investments. Furthermore, if property rights are unclear and disputed, investments and possibly even the amount of labour input will be hampered. Also, disputed property rights will probably make it difficult to buy and sell land, which in turn could eliminate the possibility of using land as collateral. Since the financial markets depend on collateral (and land is very suitable as collateral), there is a risk that the financial markets will be underdeveloped or absent if land cannot be used as collateral. Hence, if a legal reform clarifies the property rights of land, not only will investments be encouraged but there is also a chance that this could increase the efficiency of the financial markets, which in turn could have positive effects in other areas of the economy.

2.1.3 Arguments for Improving Women's Access to Land

Even if land is only given to men, women will arguably reap some of the benefits of a land reform anyway. If a family receives land in the reform, its overall welfare could increase and the women in the family will probably be better off, although not as much as the men. For example, they could be given a "job" on their land. As mentioned before, high unemployment in the country, caused by wages above market equilibrium, might have the effect that privately owned and cultivated land is farmed with a more efficient amount of labour than land cultivated by hired labour. So if their families are given title to land it is plausible that women will be given opportunities to increase the return of their labour by working on their family's land, especially if they are

¹⁵See for example Rozelle, S., Guo, L. and Brandt, L. *Land tenure, property rights, and productivity in China's agricultural sector* (1996)

discriminated against on the labour market (of course, there is no guarantee that the male head of the family will let them keep the fruits of their labour). However, there are a number of reasons for increasing gender equality in the access to land: children's and women's wellbeing could improve, desired demographic changes could come about and it could lead to empowerment of women. Increased gender equality in access to land could also affect the productivity of farms, but it is not clear if productivity would increase or decrease.

Women tend to spend more than men on food, health and education for their families, which in turn will have positive effects for the society.¹⁶ (The reason for this behaviour is perhaps not only altruistic, it could also be rational in terms of old age income security. Since women usually are younger than their husbands and tend to live longer, they will be more dependent on their children in old age.¹⁷) There are also reasons to believe that increased income for women can reduce the birth-rate in the country, since the opportunity cost of having children will increase.¹⁸ For countries struggling with very high fertility rates it could thus be of importance to improve women's economical situation.

Men own most of the land in most countries. A land reform could be one way to achieve a more equitable society. This has been accomplished in Costa Rica, where women's share of the land increased from 12% to 45% through a land reform.¹⁹ But does it really matter who owns the land in a family? This appears to be the case. Most economists reject the unitary model of the family, in which an altruistic decision-maker allocates goods to all the members of the family. To better describe decision-making within the family, new models, which to a varying degree contain bargaining elements, have been created. According to these models, individual property increases a person's fall-back position. The fall-back position is the utility a person will have if he or she declines cooperation, in this case seeking a divorce. In negotiations, it is not necessary to explicitly threaten with divorce as long as the counterpart realizes that this option exists. The better fall-back position someone has, the better outcome in negotiations could be expected. In agrarian societies, ownership and control over land is more important in negotiations than many

¹⁶IFPRI. *Women: Still the Key to Food and Nutrition Security* (2005) p. 3

¹⁷Quisumbing, A.R. and Maluccio, J.A. *Intrahousehold allocation and gender relations: new empirical evidence from four developing countries* (2000) p. 38

¹⁸Ray, D. *Development Economics* (1998) pp. 314.

¹⁹Deere, C.D. and Leon, M. *Institutional Reform of Agriculture under Neoliberalism: The Impact of the Women's and Indigenous Movements* (2001)

other kinds of property.²⁰ As mentioned before, there can be other benefits that come along with title to land, such as access to credit markets and other services. These factors enhance the importance of land ownership in negotiations. There is also evidence that ownership of land reduces the risk of both physical and psychological domestic violence.²¹

The productivity of women's labour is likely to rise if they are given improved access to land, which could improve women's wellbeing. But it is likely that the productivity of men's labour will decrease when land is transferred from men to women. Whether the net effect on productivity will be positive or negative is difficult to predict, but there is an indication of a negative effect on productivity: If a land plot is controlled by a woman and another one is controlled by her husband, the family might allocate its productive resources inefficiently. For example, if the husband decides over how the family's resources are to be used, labour or purchased fertilizers could be applied only on the husband's plot. One study reports that production could be 10-20% less due to these inefficiencies.²²

2.2 Implementing a Reform

2.2.1 Why Cannot the Market Allocate Land Efficiently?

If smaller farms have a higher productivity per acre, one could expect many sales from large landowners to small farmers. In reality, in most developing countries it seems to be the other way around: the land is transferred from small landowners to large landowners. How can we explain that the market does not allocate land efficiently? One possible explanation is that the market price of land is higher than the present value of the returns from working on the land. This might happen when the credit market is not working properly. If it is difficult to obtain a loan without collateral for an investment, e.g. a college education, land could be used as collateral. In this case, the land has a higher value to the owner than just the present value of the returns from working on the land, since the owner will also consider the benefits of the loan for the college education. If the potential buyer of the land needs to borrow money to finance the purchase, he

²⁰ Agarwal, B. *"Bargaining" and gender relations: within and beyond the household* (1997) p. 18

²¹ Panda, P.K. *Rights-based strategies in the prevention of domestic violence* (2003)

²² Alderman, H., Hoddinott, J., Haddad, L. and Udry, C. *Gender differentials in farm productivity: implications for household efficiency and agricultural policy* (1995)

will have to use that land as collateral. He will thus not be able to use the land as collateral for another investment until he has repaid his first debt. Therefore the large landowner will value the land higher although the profit from farming the land is lower for him. Another explanation of why the market cannot allocate the land efficiently is that a credit market may not exist at all. This could make it impossible for poor farmers to finance a purchase of land.²³

The government can also play an important role in increasing the price of land over the present value of cultivating the land. If there is high inflation, one way of securing wealth is to invest it in land. There are also examples of credit subsidies and tax advantages that will increase wealthy people's wish to acquire land.

If farmers cannot access the insurance market they have to handle the risk in some other way. One option is to adopt a low return - low risk strategy. One such strategy is to sell land and seek cash-generating employment (maybe on the very same land). If there is no insurance mechanism against a poor harvest, we can expect to see a lot of poor people forced to sell their land in bad times to finance vital consumption, such as food and medicine. Unfortunately, in bad times land prices drop due to increased supply, and it is difficult to buy back the land when the prices are back to normal. These distress sales are more likely when communal tenure is abolished.²⁴ There are, however, examples of successful government funded insurance mechanisms that drastically reduce the amount of distress sales in times of poor harvests.²⁵

In many countries legal and social structures work against an equal distribution of land between men and women. It is not uncommon for men to receive all property in case of divorce. Sometimes women cannot inherit or even lack legal rights to property altogether. Even if the juridical system does not discriminate against women, the result can be the same if customary law dictates otherwise or if there are strong social norms dictating what is appropriate behaviour.

²³Binswanger, H.P., Deininger, K. and Feder, G. *Power, Distortions, Revolt And Reform In Agricultural Land Relations* (1995)

²⁴See for example Brockett, C. *Land, Power, and Poverty: Agrarian Transformation and Political Conflict in Central America* (1988)

²⁵Deininger, K. and Feder, G. *Land Institutions and Land Markets*. (1998) p. 21.

2.2.2 State Intervention

HOW TO OBTAIN THE LAND TO DISTRIBUTE

If the state does not own much land it must acquire land in order to have something to distribute. The government can choose to buy land on the open market, and hence pay the full market price for the land, or it can expropriate land without paying anything to the present owner. There are also possibilities between these extremes. For example, the government can force someone to sell his or her land for a symbolic value or a "fair price" that the government dictates.

Often in developing countries, a small elite owns the land. Sometimes the elite has much political influence. They will use their influence to prevent expropriation, which can make this option impossible. In other cases, however, there is a common belief that the elite has obtained the land in an unjust manner and therefore there is public support for expropriation, which makes this alternative more attractive. Nevertheless, when the government expropriates land and agricultural machinery, it debilitates the property rights. This could have serious consequences if people believe that this kind of government action might be repeated in the future. The outcome might be that people and foreign investors become more reluctant to invest in the agriculture, and possibly in other sectors of the economy as well.

If the government announces that it will expropriate land in the reform, it could cause productivity to fall in the short run. If the current landowners believe that their land might be expropriated, they will probably be disinclined to invest in their land. One way of reducing this problem is to implement the land reform as quickly as possible, so that these worries do not postpone investments for a long time. There is also evidence that in some countries, where there have been discussions about expropriating land and giving it to current tenants, the landlords seek to minimize the risk of expropriation by evicting the tenants and instead using machinery or hired labour to cultivate the land.²⁶ This obviously restricts the benefits provided by the land rental market.

On the other hand, if the government decides to pay full market price for the land, there is a risk that the reform will be quite expensive. Since a market driven reform would increase the

²⁶Binswanger, H.P., Deininger, K., and Feder, G. *Power, Distortions, Revolt And Reform In Agricultural Land Relations* (1995)

demand for land, the price of land could increase, making it even more expensive for the government. It is also quite possible that the elite would refuse to sell at any price, if owning land is their source of political or social influence. Under a willing-seller willing-buyer system, a government that wants to win the next election is likely to redistribute the cheapest land (probably land with low quality) to save money, at least if the public focus is to redistribute a certain amount of land rather than creating commercially viable farms.

TARGETING

An important issue is to decide who is to benefit from a reform. If the goal is to reduce poverty, the implementation usually aims to give land to poor people. The reform could thus be designed so that only people with an income lower than a specified amount, or uneducated people, are eligible for land through the reform.

However, the risk is that the criteria chosen could effectively select people that lack the skill or other resources needed to farm the land. It is plausible that the poorest people have no experience in agriculture and/or have no access to credit and other inputs. If this is not considered and dealt with, the goal of increased productivity seems incompatible with poverty reduction. Possibly, this could even prevent poverty reduction in the long run.

2.2.3 Reaching the Women

In some land reforms there have been legal obstacles for women to get title to land, but in many reforms no attention has been given to the question of gender equality. Either the policy makers have not been interested in gender issues, or they have assumed that men and women would benefit equally from a reform (which would be the case according to the unitary model of families). However, if gender is not carefully considered in a land reform, it is likely, as we shall see, that the reform will benefit women much less than men, or even reduce the wellbeing of women.

In the land reforms to date there is a clear pattern: most of the land has been transferred to men. In sub-Saharan African land reforms, most title to land is systematically given to male heads of households.²⁷ How could this happen if land reform was supposed to be gender neutral?

²⁷Jacobs, S. *Land reform: still a goal worth pursuing for rural women?* (2002) p. 1

In order to understand this, one has to consider the culture and social norms involved. Many sub-Saharan countries have a strong patriarchal structure. Men head most of the households and when land is distributed to families it is almost always the head of the family that gets the title to the land. Women could also face legal restrictions when trying to access the credit market, which effectively will keep women out of market-based land reforms where the receivers have to contribute part of the money. Another explanation is that social norms and lack of know-how have prevented women from applying for land. If, for example, it is not believed to be "good behaviour" for a woman to leave her children for a few days to go to a city where an application is made, this will probably affect to which extent women will apply for land. In addition, there is also the possibility that those who administrate the land allocation are not as gender neutral as the policy they are supposed to implement.

Even if women are given title to land, it is important not to jump to conclusions about the final results. First of all there is a difference between legal ownership of land and control over the same. It is not uncommon that men ignore the legal rights of women, especially within the family if the cultural norms dictate that the man should be head of the family. A woman's legal rights are especially vulnerable if she is separated from her husband (through divorce, widowhood or if she is deserted). It is also common that legal systems or local customs prevent women from inheriting land and other property, so that even if women receive much land in a reform, most of that land might be owned by men after some time. Second, there is no guarantee that the new owners of the land will benefit at all from the land. There are many hazards on the way from obtaining land to generating income from it. If the new owners lack knowledge, seed, credit, access to market or any other vital component, then there will not be any economical benefit for the owners, and thus no reinforcement of bargaining positions. But even if the land does not generate monetary income it is still possible that it could contribute to the nutrition of the family. Third, one must consider that the effects of a land reform will not affect all women in the same way. Those women that do become landowners might be better off, but what about those that will remain landless? In many developing countries there are no social security systems, but old customs make sure that women have certain welfare. Drastic changes in the economy can put an end to these customs, which could have devastating consequences for many women. Quite

often women have customary rights to cultivate some specific land. If that part of the land is privatized and given to someone else, the women will probably lose their rights to cultivate it. Hence, privatization might in some cases actually remove some of the benefits that women have earlier enjoyed. Since it is difficult to reach the poor women, the design and implementation of a land reform must be considered so that it fits the cultural norms and practices that affect women's control of land.

3 The Context of South Africa

3.1 Historical Background of the Reform

When the white man came to the part of Africa that later would become South Africa, he created a society based upon substantial inequality between the white man and the native population. Later, when South Africa became independent from British rule in 1910, the new government continued the systematic oppression of the African and coloured people. In the Natives Land Act of June 1913, the Africans, at that time 2/3 of the population, were confined to "native reserves" that made up 7% of the land. Africans were not allowed to establish new farming activities outside these reserves, and most of the African farmers outside these areas were transferred to the reserves between 1950-1990. The Whites dictated the rules inside the reserves, imposing maximum holding sizes and restrictions on land transactions. Commercial agriculture within the reserves was very difficult. In 1936 the Natives Land Act law was slightly relaxed and extended the "native reserves" to 13% of the land, but it also prohibited people from buying land within the reserves. Labour laws, which favoured White workers, combined with capital subsidies contributed to many evictions of African workers from White farms. As a consequence, African small-scale commercial farming has been almost extinct for many decades.

One of the reasons behind the strict regulations was to eliminate competition from African farms. Another reason was that the white governments wanted to force Africans into waged labour in mines and on white-owned farms. During the Second World War, South Africa was quickly industrialized and factories in the cities demanded labour, and thus many African and Coloured people moved into the cities. At the same time the ANC stepped up their non-violent actions that made the rulers concerned. The white population reacted to this by creating the apartheid system in 1948. In the following decades, the opposition to the apartheid system was intensified as the ANC initiated violent resistance. The apartheid system was weakened in the late 1980s and the first free and equal elections were held in 1994. The ANC won an overwhelming victory and Nelson Mandela was elected president. The discriminatory laws were quickly revoked and the new constitution clearly states equality between races and sexes.

When South Africa became a democracy, the African majority were disproportionately poor

and landless. The poverty rate was one percent for the Whites and 61 percent for the Africans and the Whites owned 37 times more land per capita than the Africans.²⁸ Land reform was one of the ANC's important demands during the apartheid era. During the struggle, the ANC had close connections to the Soviet Union and the left wing of the organisation was strong. Most people within the ANC wanted to expropriate land from the whites and give it to the Africans. But when the Soviet Union fell in the 1991, leaders in the ANC became much more market friendly. It was also feared that expropriation would be counterproductive in the reconciliation process and eventually it was decided that the reform should not expropriate land but rather rely on willing sellers. This decision angered many Africans and is still often questioned.

3.2 Social Structures

Although the constitution prohibits discrimination against women, strong patriarchal structures and customs prevail and dictate the conditions under which African men and women live.²⁹ In order to understand the dynamics of rural South Africa, it is important to consider the authority of traditional leaders and customary law. Most villages have a king who has some authority over the local community. He has power in local matters, such as distributing communal land. The traditional authority and customary law is recognized in the constitution, but the constitution is supreme in case of conflict.³⁰

Traditionally, the woman's role is to take care of the house and the children. This involves collecting wood and water, and making sure that the children are well nourished. The man is the head of the household and represents the family in the society. His responsibility is to provide for the family. The oldest son will take over as the head of the family when the man dies. There are therefore few nuclear households headed by women.

There is a tradition in South Africa that a bride-wealth must be paid to the bride's family before marriage. The size of the bride-wealth depends on, among other things, the bride's education. After the wedding, the bride becomes a part of the groom's family. Customary law

²⁸DLA, *Monitoring and evaluating the quality of life and land reform beneficiaries: 1998/1999. Technical report prepared for the Departement of Land Affairs* (2000) p. 2

²⁹In this section, only the African social structures are discussed, if not otherwise stated. Colored, White and Indian cultures differ from the African culture, but since the land reform focuses on African people, other groups are not discussed here.

³⁰Constitution of the Republic of South Africa, chapter 12

considers women as minors, and civil law accepted this until 1988. Thus, a woman who was married according to customary law before 1988 is today considered a legal minor also in the civil law. This means that she cannot formally own property, including land. As a consequence, her access to land is usually mediated through a male household head; a husband, son, brother or other male relative. She usually must have the consent of her parents if she wants to divorce since the bride-wealth must be repaid. After a divorce, she has no legal claim against the husband's estate and it is quite uncommon that the woman obtains custody of the children. If her husband dies, the property will be inherited by male heirs only, unless the husband has written a will that states otherwise. Therefore, a widow without male children is particularly vulnerable since the land she has worked on will often be taken over by her parents-in-law or her late husband's brothers. Women who are married after 1988 have equal rights according to civil law, but the old customs still persist in many parts of the country.³¹

Ownership of land is an important source of power, both in the community and within the household. Access to and control over land raises the status of the individual and creates personal autonomy. The power of the chiefs in the community comes from the threat of withdrawing the use rights of land and the same power structure is evident within the household, where the man can threaten to withdraw the woman's right to use land if he so wishes. Thus, the more land a woman owns and controls, the stronger her bargaining position is in the household, even if cash income is better than increased food production when it comes to bargaining power. It has been found that African families in South Africa in which women had relatively many assets at the time of marriage spent more money on children's education. The pattern was not as strong in South Africa as in other developing countries (or even compared to the Indian population in South Africa), which has led researchers to the conclusion that bargaining in African families was not as prominent as in many other developing countries.³² Another interpretation of these results is that women's assets do not improve bargaining positions much since, according to customary law, all property is given to the husband in case of divorce. Thus, the threat of divorce will not be as important in South Africa as in other countries.

³¹UNICEF and NCRC, *Women and children in South Africa: a situation analysis* (1993)

³²Quisumbing, A.R. and Maluccio, J.A. *Intrahousehold allocation and gender relations: new empirical evidence from four developing countries* (2000) p. 38

At the household-level, women are normally the caretakers but do not possess formal control over decision-making. Married women with poor legal rights have thus been unable to exercise control over the proceeds or products of the land and their own labour. Furthermore, those who do not have rights to land, usually women and young men, are not seen as full members of the community and may therefore not access public resources and participate in public debates. African women generally have a very low self-esteem and are unwilling to challenge men's authority. Some women who have claimed their rights have faced violent opposition.³³

Moreover, many women are afraid that men will vigorously defend their dominant position in the society and within the household. This fear is sometimes justified, as men withdraw economic benefits or even turn to violence when women try to obtain land.³⁴ Poor rural people, especially women, hesitate to go to the city and approach formal government. They are afraid of being rejected because they are not important enough. In many villages, a woman applying for land is regarded as self-important or as bad mannered.

Since a woman will leave her family and join her husband's family when she gets married (which means that her parents cannot reap any benefits from the investment in her education), it has been argued that families are disinclined to invest in their daughters' education.³⁵ Quisumbing and Maluccio complement this argument with their somewhat surprising finding that mothers promote their sons' education while the fathers promote their daughters' education.³⁶ One explanation for this is that since women depends more on their children in old age and since the daughters leave the family at marriage, it is more rational for mothers to invest in their son's education. Since the fathers control the family's assets, they will benefit more from high bride-wealths, and are thus more prone to invest in their daughter's education. Hence, if African women obtain title to land, their bargaining-power will increase and one could expect more investments in male children's education. In some cases, daughters could actually get less education if their mother's bargaining power increases.

Men and women use the land in different ways. Men are more profit-driven and more prone

³³UWC Gender equity unit, and SARDC-WIDSAA, *Beyond inequalities: Women in South Africa*. (1997) p. 30

³⁴Cross, C. and Hornby, D. *Opportunities and Obstacles to Women's Land Access in South Africa*. (2002) p. 29

³⁵UWC Gender equity unit, and SARDC-WIDSAA, *Beyond inequalities: Women in South Africa*. (1997) p. 31

³⁶Quisumbing, A.R. and Maluccio, J.A. *Intrahousehold allocation and gender relations: new empirical evidence from four developing countries* (2000) p. 38

to seek credit in order to invest, while women tend to be risk averse and prioritize direct food yields which are less profitable than cash-crops. One explanation for this fact is that it is the women's job to put food on the table. Another explanation is that it is not socially acceptable for women to cultivate certain crops. In the past, women often worked on fields away from the homes, but now more of the women cultivate on smaller gardens close to the house. The reason for this is that there has been an increase in theft of livestock, which has reduced the draught power of the households. Moreover, since children who used to help with the agriculture now go to school, women have to compensate for the lost labour. This is achieved by cultivating small gardens close to the homes in order to reduce the time moving to and from their plots.

Since women are supposed to take care of the home, it is difficult for them to find employment on farms or to become sharecropping tenants. A woman whose husband is a tenant or labourer at a commercial farm has only a secondary right to the house in which she lives and the garden she cultivates. If her husband is evicted from the farm the woman has no independent right to stay. Women are also more likely to be unemployed than men, and more men than women are employed at commercial farms. Men are often employed full time and women are more often casual and seasonal workers.³⁷ Generally, women are paid much less than men, even for the same job.³⁸

Despite this rather bleak picture, there are some indications that the status of African women is increasing. Between 1970 and 1996, the fertility rate of South African women fell from 6.8 to 3.5 children per woman, which could possibly be an indication of increased status of women.³⁹ It should also be noted that 33% of the parliamentarians are women as a consequence of the ANC's decision to adopt a 30% quota on its party list. Only eleven countries in the world have a higher share of women in the parliament.⁴⁰

³⁷ Statistics South Africa, *Census of commercial agriculture 2002: Financial and production statistics* (2005) p. 11

³⁸ MERG, *Making democracy work: a framework for macroeconomic growth in South Africa* (1993)

³⁹ Moultrie, T.A., Timæus, I.M. *Trends in South African fertility between 1970 and 1998* (2002) p. 60

⁴⁰ International IDEA and Stockholm University, *Global Database of Quotas for Women* (2005)

3.3 South Africa's Rural Areas Before the Reform

The white agriculture sector was heavily supported by the government during the apartheid era. The support came in different forms: subsidized production and interest rates, tax concessions on agricultural investments and support of output prices above border parity. The motives behind this were a desire to become self-sufficient in food production and to raise the income for white farmers, which was accomplished. The commercial white farms became very large and used capital-intensive production technologies. Although the agriculture sector could not be described as very inefficient, there was room for efficiency gains.⁴¹ When the ANC came to power they embarked on a liberalization policy that removed most of the privileges given to the white agricultural sector. This resulted in bankruptcy for many farms and falling land prices.⁴²

In the crowded "native reserves", where most of the African farmers are confined, the administration of land rights has not been well managed. The result of this is confusion over land rights. Some people who have lived on land for generations may find that they are not the legal owner of that land and that they lack Permission to Occupy certificates (PTOs) to the land on which they live.

The poverty rate is 29% in urban areas and 71% in non-urban areas.⁴³ The unemployment rate is about 25%.⁴⁴

The agricultural sector is thus characterized by a racial division where a few whites have large, capital intensive commercial farms, many with financial problems, and the Africans having small farms, mostly producing for the family needs or the local market. The unemployment rate in rural areas is high and wages are low. Hence it appears as if economical efficiencies could be realized, according to the theory, if land was transferred from the whites to the Africans. However, it is important to remember that the theory also requires the markets to function properly in order to obtain higher productivity.

⁴¹World Bank, *South African agriculture: structure, performance and options for the future* (1994)

⁴²The market value of commercial agricultural assets fell by 29.1% between 1993 and 2002 according to Statistics South Africa, *Census of commercial agriculture 2002: Financial and production statistics* (2005) p. 8.

⁴³DLA, *Monitoring and evaluating the quality of life and land reform beneficiaries: 1998/1999. Technical report prepared for the Departement of Land Affairs* (2000) p. 2

⁴⁴CIA, *The World Factbook* (2005)

4 The Land Reform in South Africa

4.1 Design of the Land Reform

The South African government has stated that "the reality is that the poor and the landless are not in a position to acquire land at market prices without assistance from the state. This is because the market price of land usually includes a premium, over and above the capitalized value of agricultural profits."⁴⁵ The government must therefore intervene to address the market failure. The government's goals are to deal with the injustices of racially based land dispossession in the 20th century, remove the racial components in tenure laws, foster national reconciliation and stability, reduce poverty and contribute to economic growth. At the same time, women's interests must be considered. Initially, all this was supposed to be achieved by transferring 30% of the commercial agricultural land to the non-white population by the year 2000. It soon became obvious that the reform needed much more time, so hopes are now that the reform will be finished by the year 2015. The Department of Land Affairs (DLA) was set up in 1994 to handle the land reform. The DLA was instructed to train its officials in a way that would enable them to undertake a gender analysis, develop mechanisms to ensure women's participation in projects, give special attention to women's access to financial and support services and make sure that the monitoring and evaluation tools are gender sensitive. In order to promote gender equality through the reform, the government realized that there was also a need for legal reforms as well, including marriage, inheritance and customary law.⁴⁶

4.1.1 The Three Pillars of the Land Reform

The reform consists of three programmes: land restitution, land redistribution and tenure reform. The three programmes are required according to the constitution.⁴⁷ The first two involve transferring of land rights whereas the tenure reform seeks to clarify legal rights to land and to a lesser extent involves the transfer of land rights. It should be noted that all three programmes share gender equity as an objective.⁴⁸

⁴⁵DLA, *White paper on land policy* (1997) p. 22

⁴⁶Ibid. p. 51

⁴⁷Constitution of the Republic of South Africa, chapter 2, section 25

⁴⁸DLA, *White paper on land policy* (1997) p. 52

RESTITUTION

The government is obliged to address the unjust dispossession of African land during the 20th century.⁴⁹ Only land that was taken since 19 June 1913, when the Native Land Act was promulgated, is considered in the restitution programme. It was decided that forced removals earlier in the history should not be addressed in the programme, since it was believed that such an attempt would be too complicated and would prolong the reconciliation process. In order to be qualified for the restitution, a claimant has to show that he or she was dispossessed of a right in land as a result of racially discriminatory laws or practices, and that just and equitable compensation was not paid. It is also possible to log a claim on behalf of a deceased family member.

Preferably, the claimant, DLA and the present owner of the land in question negotiate a solution. The claimant can be given ownership of the land, another comparable land plot or financial compensation. The present owner will be compensated by the DLA. If no agreement is reached, the Land Claims Court has the option to expropriate the land and give the present owner a compensation which is just and equitable (interpreted by a court of law). If the decision is to return the land, the claimant can apply for a grant if extra working capital is needed in order to use the land productively.

It was decided that all claims had to be made before December 1998. The government initially set the goal to finalize all claims by 2003 and that the restitution programme in its entirety was to be implemented by 2008.

REDISTRIBUTION

In its effort to redistribute land more equally among racial groups and at the same time not jeopardize the reconciliation, the new government has chosen not to use expropriation as a tool to redistribute land. They have instead decided on a willing seller - willing buyer approach. However, "expropriation will be used as an instrument of last resort where urgent land needs cannot be met, for various reasons, through voluntary market transactions".⁵⁰ Initially, the redistribution programme gave a grant to a beneficiary of R 15,000 (close to 2,200 USD) for the purpose of

⁴⁹Constitution of the Republic of South Africa, chapter 2, section 25:7

⁵⁰DLA, *White paper on land policy* (1997) p. 41

acquiring land and working capital. The programme was aimed at poor people, so only those that had a monthly income of maximum R 1,500 were eligible for the grant. In 2000 the programme was modified to better assist the start-up of commercial farms. The new programme, called Land Redistribution for Agricultural Development (LRAD), introduced a matching grant mechanism. It requires the beneficiaries to make a contribution; the larger own contribution, the larger the government grant (from R 20,000 up to R 100,000). In order to receive the lowest grant, the beneficiary only has to promise to contribute with own labour, but in order to receive the highest amount, the beneficiaries have to contribute R 400,000. The own contribution can either be personal savings or borrowed money. People can form a so-called Communal Property Association (CPA) and apply for the grant as a group. DLA was aware of its limited capacity and therefore decided that "priority will be given to the marginalized and to the needs of women in particular", while "viability and sustainability of projects must be ensured".⁵¹ The redistribution programme also opens up for grants to farm workers, who can use the money to buy equities in their employer's farm.

TENURE REFORM

The purpose of the tenure reform is to improve the tenure security in South Africa. Persons with poor legal rights can apply for a grant, which they can use to secure, upgrade and register tenure rights. This is done by examining claims of ownership of land and recognizing de facto property rights. Title to land can be given to either individuals or a group, thereby allowing communities to obtain title to land that has been used by the community for a long time. The government promised to carefully analyze the consequences for women, since it was aware of the dangers in formalizing land rights: "... any process which formalizes current rights will often formalize women's exclusion from access to land."⁵²

New legislation has also emerged: the Common Property Associations Act allows group ownership of land. The Land Reform (Labour Tenants) Act improves the rights of labour tenants. In order to cancel a tenancy the owner of the land must now show proof of broken agreement, misbehaviour or that he or she has a very special need for the land. Only the Land Claims Court

⁵¹Ibid. p. 47

⁵²Ibid. p. 70

can evict a tenant.

4.1.2 Access to Credit and Other Inputs

The government grant was never meant to cover all initial expenses for a successful farming project. Normally, the entire grant is used to acquire a piece of land, which makes it necessarily to finance seeds, irrigation, fencing etc through other means. The matching grant mechanism is one way through which beneficiaries are encouraged to supply funds, acquired either through a formal loan at a financial institution, informal loan from neighbours or family, or through own savings. The government hopes to bring the private sector and NGOs into the projects. It is believed that if a private bank lends money to a project, the bank will make sure that the project is handled in an economical sound way, which in turn will increase the chance of success.

The Land Bank is a parastatal that contributes to rural development and stability, social upliftment and job creation. It has also the mandate to deracialise the agricultural sector through lending money to farmers. Most of the money it lends is acquired from the financial markets, only 10% comes from the bank's own resources.⁵³ It is controlled by the Ministry of Agriculture and is therefore an integrated part of the land reform, which means that money is often lent to LRAD projects. It is supposed to stand on its own financially, which means that it does not receive any support from the government, nor does it pay dividends to anybody. Any profit made by the bank is therefore invested into new projects.

Other post-settlement support is supposed to be supplied by the local government, especially the provincial Department of Agriculture.

4.2 Budget Allocation

In the first years the DLA was given less than 0.4% of the national budget. Many critics have seen this as an indication of lack of commitment by the government. However, before 2002, the DLA was not able to spend its whole budget. This implies that the DLA at that time suffered from a lack of capacity. It has since then increased its capacity and is now chronically under-funded. The funding has increased although much more is needed.

⁵³Mail&Guardian, *Land reform 'not about how much transferred'* (2005)

The provincial Departments of Agriculture have not seen any increased funding, vital in order to succeed with their assigned task of post-settlement support to land reform projects.

5 Impact of the Land Reform

The most obvious observation about the impact of the land reform is the speed, or rather lack of speed, with which the reform has progressed. By March 2004, only 2.9% of the total agricultural land had been transferred, falling hopelessly short of the target of 30%. In order to reach its target by 2015, the DLA must transfer, each year, about ten times more land than it does now. Therefore, it is reasonable to believe that the reform has not yet had a major impact on economic growth, poverty reduction or gender equality. However, the reform is now gaining momentum, owing much to the shift of focus to the LRAD-programme, which usually gives large grants to commercial farmers or CPAs. The restitution programme, which should have been finished by now, has also gained speed. By the end of 2004, 46,727 claims out of about 64,000 were settled.⁵⁴ However, most of these are urban claims involving only a few claimants. Most claims have not resulted in transfer of land; instead the DLA has compensated the claimants financially. The unsettled claims consist mainly of rural claims, involving many individuals per claim and are therefore more complicated and will take more time than urban settlements.

5.1 Poverty Reduction and Economic Growth

A weak part of the reform is the post-settlement support. Focus has been on the amount of land transferred and the people implementing the land reform have been criticised for not taking a holistic perspective on the issues. Inadequate synchronisation between the DLA and the financially weak provincial Departments of Agriculture has resulted in too little post-settlement support.⁵⁵ As a consequence, many attempts to start new commercial farms have failed. Some researchers maintain that it would have been better to organise the full responsibility of successful land transfers under one agency.

The DLA faces a dilemma: should it give less land to more people or should it give more land to less people? Since the initiation of the LRAD programme the latter alternative has been more frequent. The average amount of land that has been transferred through the LRAD is 88 hectares per person, whilst only 3 hectares per person is transferred to the poorest, outside the

⁵⁴Gumede, W. *Thabo Mbeki and the battle for the soul of the ANC*. (2005) p. 112

⁵⁵Hall, R., Jacobs, P. and Lahiff, E. *Evaluating land and agrarian reform in South Africa*. (2003) p. 13

LRAD-programme.

As seen in table 1, the amount of commercial farming units decreased 21% during these years.⁵⁶ Whether this development was a result of the removed subsidies or because few land reform projects resulted in commercially viable farms is hard to say. The expenditure structure also changed: the current expenditure increased by 42%, while capital expenditure decreased by 32%. This is coherent with the removal of capital subsidies, indicating a change away from capital-intensive production technologies. Employee's remuneration increased by 7%. However, total number of employees decreased 14% during these years (which could be the result of layoffs at failing farms). There is also a strong pattern of using casual and seasonal employees rather than regular employees. It is possible that the reason behind this was landowners' fear of forced selling (or expropriation as in Zimbabwe) of the land to the regular employees, as discussed in section 2.2.2.

Table 1: Commercial farms in South Africa, 1993 and 2002

	1993	2002	Change
Farming units	57,980	45,818	-21%
Regular employees	647,905	481,375	-26%
Casual and seasonal employees	445,360	459,445	3%
Employees' remuneration (at constant 2002 prices)	R 5,782 M	R 6,215 M	7%
Gross farming income (at constant 2002 prices)	R 38,813 M	R 53,329 M	37%
Current expenditure	R 29,671 M	R 42,092 M	42%
Capital expenditure	R 4,313 M	R 2,946 M	-32%
Market value of farming assets (at constant 2002 prices)	R 138,836 M	R 98,428 M	-29%
Farming debt (at constant 2002 prices)	R 31,738 M	R 30,857 M	-3%

Source: Census of commercial agriculture 2002, Statistics South Africa

In the 2001/2002 survey over beneficiaries of the land reform (hereafter referred to as the "Quality of Life-survey"), the authors state:

This report shows that very little agricultural production is happening in the projects surveyed, most of which were planned as agricultural projects. Some of the major constraints on production are insecure rights to land arising from weak legal entities operating without institutional support; a lack of production infrastructure, equipment, inputs and readily ac-

⁵⁶Statistics South Africa, *Census of commercial agriculture 2002: Financial and production statistics* (2005) p. 8

cessible markets; and the absence of extension advice and training to respond to participants' needs. There is a lack of clear policy on post-transfer support and this is urgently needed.⁵⁷

The DLA is fairly good at targeting the poor. In the same survey, the beneficiaries had generally low incomes or no income at all. 15% of the beneficiaries were unemployed, which is a quite small figure compared to more than 20% for the whole population. However, the family members of the beneficiaries were more likely to be unemployed. Therefore, it is possible that many beneficiaries or their family members have gotten opportunities to work on the acquired land. 61% of the beneficiaries had less than five years of education, 42% had never gone to school. Also, 58% of the family members did not have any farming experience.⁵⁸ It seems that although there are many poor beneficiaries, the poor seldom receive much funding, as mentioned above. Hall, Jacobs and Lahiff note that:

While a proportion of funding is supposed to be reserved for poor and middle-income households under LRAD, provincial project lists show that this is not happening in practice. Overall, applicants with substantial resources of their own and with access to loans are acquiring the bulk of funding and larger farming units.⁵⁹

In the Quality of Life-sample, a third of the land given to households was used for crop production. Some of the harvest was sold but most was consumed by the household itself. Slightly more than half of the community projects generated income, but almost 2/3 had never generated any profit. Also, the wages paid to full time workers on the CPAs was well below the mean wage for the agricultural sector.⁶⁰ Somewhat surprisingly, land was never used as collateral for formal loans given to households. Most of the loans were given without collateral, and when it was required, a house or other equipment was used as collateral. Most of the applications for formal loans were granted but still the respondents believed that the main problems for community projects were lack of working capital and access to credits.

⁵⁷DLA, *Monitoring and evaluating the quality of life and land reform beneficiaries: 2001/2002. Technical report prepared for the Department of Land Affairs, Directorate Monitoring and Evaluation* (2003) p. XXXI

⁵⁸Ibid. p. 34

⁵⁹Hall, R., Jacobs, P. and Lahiff, E. *Evaluating land and agrarian reform in South Africa*. (2003) p. 26

⁶⁰The Quality of Life survey reports median wages of R 119 per month. The mean wage in the agricultural sector is between R 500 and R 600, according to Hall, R., Kleinbooi, K. and Mvambo, N. *What land reform has meant and could mean to farm workers in South Africa Theme: Farm Workers and Land Reform in Southern Africa* (2001) p. 2

Since no mechanism has been put into effect to prevent distress sales in times of bad harvest, it is possible that any progress made in reducing poverty could quickly be wiped out. The law that prohibits a landowner from evicting a tenant does not seem to have any major effect since proper measures have not been taken to make sure that the law is followed.⁶¹

In conclusion, the land reform does not seem to have any major impact on poverty reduction. Moreover, a comparison between 1993 and 2002 reveals that the total number of employees on commercial farms has decreased by 14%, and those who are still employed are now less likely to receive a stable income through their work. Causes and consequences of this development need to be investigated more thoroughly, but it is possible that this has had a more severe impact on poverty than any benefits the land reform might have had.

5.2 Gender Equality

5.2.1 Ownership and Control Over Land

As seen in table 4, of the beneficiaries in the Quality of Life-survey, almost 40% were women. Unfortunately, there are no available statistics concerning *how much* land they have acquired through the land reform and to what extent they also control the same. 40% might sound much, but it is important to remember that the LRAD programme requires the beneficiary to contribute, and since women are generally poorer they are less likely to acquire a large grant. Furthermore, before a grant is given to a CPA, there are negotiations between the group and the DLA. Women must participate in these negotiations in order to make sure that they are not marginalised in the association. Since it is customary that men represent the family in the society, women are not likely to participate on equal terms. Hence, it is not very surprising that men are dominant in the management of the CPAs. This is true for all management committee positions, especially the most important positions such as chairperson, vice-chairperson, treasurer and production manager as seen in table 2.⁶²

⁶¹Sibanda, S. *Land Reform and Poverty Alleviation in South Africa* (2001) p. 4

⁶²DLA, *Monitoring and evaluating the quality of life and land reform beneficiaries: 2001/2002. Technical report prepared for the Department of Land Affairs, Directorate Monitoring and Evaluation* (2003) p. 179

Table 2: Gender of positions held on management committee

Position of management	n	% Female	% Male
Chairperson/CEO/Director	114	5.3	94.7
Vice-Chairperson/CEO/Director	94	23.4	76.6
Treasurer	94	39.4	60.6
Secretary	101	47.5	52.5
Vice-secretary	18	38.9	61.1
Production/enterprise manager	31	6.5	93.5
Coordinator/Organiser/Liaison officer	7	-	100.0
Trustee	4	-	100.0
Other managers	8	25.0	75.0
Additional member	39	30.8	69.2

Source: Quality of Life-survey, Department of Land Affairs

5.2.2 Possible Consequences for Women's Bargaining Power and Productivity

So how much has the bargaining power of these 40% female beneficiaries increased? Does it mean that women gain in relation to men in 40% of the cases, a ratio of 2:3? It can be observed that land is given to the family head in most of the cases. As seen in table 3, the vast majority of the beneficiary households that are headed by women are of non-nuclear structure. Using the figures in table 3, the probability that a given female-headed household also has a nuclear structure is 0.10. The corresponding figure for a given male-headed household is 0.74.

Table 3: Household structure by gender of household head (percent)

	Female-headed	Male-headed	Total
Nuclear structure	3.1	51.8	54.9
Non-nuclear structure	26.9	18.2	45.1
Total	30	70	100

Source: Calculated from Quality of Life-survey, Department of Land Affairs

Table 4: Gender profile of land grant beneficiaries (percent)

	Female-headed	Male-headed	Total
Male	4.5	55.7	60.2
Female	25.4	14.4	39.8
Total	29.9	70.1	100

Source: Calculated from Quality of Life-survey, Department of Land Affairs

Now, study table 4. Assuming that land ownership is useful in negotiations, the bargaining power of the 14.4% women who live in a male-headed household will increase. Analogously, the 4.5% males who live in female-headed households will also do better in negotiations. However, it is not reasonable to assume that giving grants to males living in male-headed households (and females living in female-headed households) will change the bargaining power balance between men and women. Since many families are of non-nuclear structure, there is not necessarily any bargaining in the family. For example, single men with no grown-up children fall into this category. This means that the figures 25.4% and 55.7% in table 4 must be adjusted in order to estimate how bargaining is affected. This is done in table 5, where the likelihood of a household being a nuclear family is multiplied with the two categories in table 4. Instead of the 2:3 ratio in favour of men, we now have a ratio of close to 1:3 in favour of men.⁶³

Table 5: Estimated likelihood of increase in bargaining power in families (percent)

Bargaining Power	Female-headed	Male-headed	Total
Male	4.5	41.2	45.7
Female	2.5	14.4	16.9

As noted in section 2.1.3, in order for land ownership to increase someone's chances in negotiations, there must be a credible threat (implicit or explicit) of leaving with the assets. There are reasons to believe that many women do not have this option. First, since it is customary that most (or all) possessions are given to the man in case of divorce, a woman must be prepared to fight for her rights, possibly in a court of law. It is likely that she will lose social status if she claims these rights. Second, some women's land might not be protected by law, even if it was given specifically to them: The mean age of the female beneficiary is 48.8 years⁶⁴, which means that the majority of women were probably married according to the customary law that was in effect until 1988.⁶⁵ Some of them were remarried after 1988, but many of them are probably considered legal minors since contracts entered before 1988 are recognized in civil law. This

⁶³This is a very rough calculation, only illustrating the importance of household structures for gender equality. The results should not be taken too seriously.

⁶⁴DLA, *Monitoring and evaluating the quality of life and land reform beneficiaries: 2001/2002. Technical report prepared for the Departement of Land Affairs, Directorate Monitoring and Evaluation* (2003) p. 28

⁶⁵The median age for women who married for the first time in 1996 was 28.2 years (according to Statistics South Africa, *Marriages and divorces 1996* (1998) p. 3). Assuming that this figure was not higher in 1988, the median age of the women who married for the first time in 1988 was 41 years when the Quality of Life study was made. So, if the mean age of the female beneficiaries was 48.8 years in the study, this would mean that most of those women were married before 1988 (if they were married at all, that is).

means that they lack legal rights to own property and that they cannot fight for their land in a court of law. However, since the land reform has developed very slowly, most of the land remains to be transferred, and as time goes by, female beneficiaries are more likely to be married after 1988.

It thus seems as if the land reform will not improve women's intrahousehold bargaining position much, at least not in the short run, but what about interhousehold relations? In the short run, the patriarchal traditional authority makes sure that women will have minimum access to land. In the long run, however, it seems as if women will gain if the traditional authority loses its power. Since authority over land is an important source of power, it appears as if one effective way to undermine the importance of traditional chiefs is to transform community-controlled land into private property. However, the government has not been willing to confront the traditional authority. Much of the land has been given to CPAs, which strengthens the traditional chiefs' positions.

What effects on women's productivity can be expected? Women in the Quality of Life-sample are more likely to be unemployed than men. Arguably, their productivity could increase through the acquired land since the option to work on the land should be valuable to them (see section 2.1.1). On the other hand, there are other obstacles that reduce the benefit of a grant: women in the Quality of Life-sample also have less farming experience and fewer agricultural tools such as ox ploughs and irrigation pumps. Furthermore, land given to married women is likely to have reduced output due to inefficient allocations of inputs in the woman's land compared to her husband's land (see section 2.1.3). Therefore, a grant will probably increase the productivity of women but not all the way up to the productivity of men.

6 Conclusions

The productivity of both land and labour can be increased if land is transferred from a few large landowners to small-scale farmers. Under certain circumstances, the market fails to allocate the land in the most efficient way, for example if the financial and insurance markets are underdeveloped or if the government has given tax benefits to land owners. A land reform could therefore have economic benefits. Women have not benefited much from earlier land reforms. Since ownership of land reinforces bargaining positions within the family, it is likely that a land reform will affect gender equality.

During the apartheid era in South Africa, many African people lost their land to the white people. The white farmers received large subventions from the government. As a result, most of the commercial farms were large and capital intensive. When the ANC came to power in 1994, the apartheid laws were abolished, but since most of the land was unjustly owned by whites, a land reform was quickly initiated in which one of the goals was to increase gender equality. The South African government has chosen not to expropriate land. Instead, it gives a grant to the beneficiary, who can buy land at market prices. In the newer LRAD-programme, the more money the beneficiary contributes him/herself, the larger is the government grant.

The reform has progressed very slowly from the beginning, although it seems to have picked up some speed recently. The government has been criticized for spending too little money on the reform, but more important is the fact that post-settlement support has too often failed to materialize. As a consequence, few land reform projects have been economically successful.

Strong patriarchal structures and customs discriminate against women in South Africa, where most of the villages are governed by traditional hierarchies. As a consequence, many women live under customary law which prohibits them from owning property. It is therefore not reasonable to believe that the land reform will be gender neutral just because there are no formal obstacles for women to participate in the reform. Although women are given special attention in the land reform, it is unlikely that the reform itself will do much to change the patriarchal customs. Since grants are often given to collectives that are ruled by traditional leaders, the social order is conserved. Thus, it is not very surprising that the most important management positions of the CPAs are held by men. 40% of the beneficiaries are females, but when an individual grant

is given to a woman, it is usually given to a woman in a family without a male head, which means that the grant rarely increases a woman's bargaining power within a family. Also, land obtained through the reform is perhaps not so important when it comes to bargaining for two reasons: First, since the land in many cases is not used productively as a result of absent post-settlement support, the value of the land is quite low. Second, since old customs still remain in many parts of the country, women rarely obtain any of the family's property in case of divorce. Some women lack legal rights to own property since the civil law does not apply to women who were married before 1989. In many cases, a woman's threat of taking the land in case of divorce is therefore not very credible.

Now, it is possible that the authorities have realized that since discriminating customs still prevail, giving grants to women living in male-headed families would have very little effect on gender equality in the long run. If it is not possible to quickly change social norms, the second best strategy might be to give grants to female-headed households. This will not affect gender equality within families, but the example of women who own land could lead other people to question the custom of treating women as minors. Perhaps the mere fact that one of the goals of the reform is to improve gender equality could put women's rights on the agenda and change the way people think. Still, it appears as if the government could improve the reform's effect on gender equality through the following choices:

- *Give grants only to individuals, not to groups.* Since men and women are not likely to participate in the CPAs on equal terms, land given to CPAs could possibly set existing gender roles in stone for many years to come.
- *Target married women who know their legal rights and who live in areas where the patriarchal structures are already weakened.* It appears as if grants would have the greatest impact on gender equality when they are given to married women who are aware of their legal rights. The government could choose to target these women, or at least inform the female beneficiaries of their legal rights and how to exercise these rights. In areas where social norms also allow girls to inherit, the grants could have a profound long-term effect. There probably exist more cost-effective means of achieving gender equality for other groups.

- *Pay special attention to the women's need for post settlement support.* Land given to women is likely to be less productive than land given to men, since women appear to have less access to agricultural tools. The DLA needs to be more attentive to women's needs in order to increase equality in resources.

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