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COMMENT



How a government panel on land reform in South Africa is stuck in old ways

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ABSTRACT

The government Panel on land reform, headed by Dr. Vuyokazi Mahlati, presents an encompassing analysis of government programmes suggesting revised and new programmes to increase the speed of land reform. This note registers that improvement of local democracy is not a variable in the report. The note suggests that the Panel is stuck in old ways, in effect a centralised planning tradition and a heavily top down governing model. It suggests that developing local municipal and amakhosi democracy might seem a detour in land politics but might actually lead to a different and more effective land reform. Such land reform will favour more dignity, creativity and trust among people and a more fair modernisation of the South African economy.

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South Africa; land panel; land reform; centralised power and local democracy

1. Introduction

My (late) colleague Dag Osterberg once suggested that quite often taking a detour brings you more rapidly to your destination. That seems a valid suggestion to the Panel on land reform (Final report of the presidential advisory Panel on land reform and agriculture, 4 May 2019, for his Excellency the president of South Africa).

The report builds on research. It is encompassing, with many and detailed suggestions to the way forward in land reform. (The late) Dr. Vuyokazi Mahlati presented an outline, my five highlights: (1) Land inequality has its background in the historically brute expropriation of land by the colonisers. (2) The way forward is through “coordinated good governance, and capable and well-resourced institutions supported by skilled and capable officials who are focused and determined to implement policies for the benefit of the people” page V. (3) “A mixed tenure model is proposed, accommodating a continuum of rights from freehold and communal, as well as multilevel ownership arrangements” page V. (4) Reconciliation has not born fruit. (5) Private donations should come forward.

2. Land is not a commodity!

The Panel admits, as Karl Polanyi suggested long ago (*The great transformation* 1944), that land is not a normal commodity. Land is a stable, immovable, living base for much of all human, animal and plant life. Making land a market commodity, setting a price on a piece of land, makes access to land either hereditary or dependent on money. The stark difference between urban and rural development globally is therefore partly a product of investor interests. The Panel tries to find ways that basic land values can penetrate and marginalise its pecuniary values. Such values are permanent family homesteads, securing land for biodiversity, for industry and food production; women’s

better access to ownership of land; tenure security for workers and inhabitants; securing access to water in rural and urban areas; and land as carrier of cultural experiences and beliefs (See *SA Government land audits I and II*, 2015 and 2019). The Panel's findings, like many before it, is that redistribution of land between rich and poor in South Africa is slow and difficult.

3. Land reform has not worked

Despite the insight in the ontology of land, that land is a commodity only superficially, the Panel does not ask how financial power can service the many basic values of land. The Panel does try to evaluate the balance between state and market power, between liberalism and social democracy in South Africa. It suggests that more state and more social democracy might improve the relation between financial and popular substantive values in land. However, the Panel's focus is on government land programmes and their effects on peoples' habitats. The Panel acknowledges the post-apartheid governments' numerous programmes for land reform. We learn that they generally have not worked. (See list page 33). All the same, the Panel optimistically continues to suggest revised programmes for land reform, implemented by a somewhat reformed public administration.

The government has tested a dearth of programmes. What has changed? What has made it more likely that detailed programmes implemented by the same three-level South African government now will work? Looking back at the facts, the Panel suggests that the major historical change is the reduction of government power in land reform. The Panel's main suggestion is therefore: effective land reform is dependent on an increase of government power.

4. An anachronistic model

It is disconcerting that the Panel's revised programme suggestions seem to fit into a rather old-fashioned model of central government management. The assumption behind the model is that government can oversee in detail complex systems and make valid central decisions on activity within each ground element in the systems. On page 13, the Panel says there is a "lack of a national land-focused vision and plan: South Africa lacks a coordinated approach to dealing with all land for land reform purposes". On page 15, the Panel presents the idea of adding an overview of popular values to the central plan. "It is important to identify the values people have for the land in order to identify a central value system in terms of land". On page 40: "It should be noted that one of the largest drivers of land tenure insecurity in South Africa is the country's lack of a clear and comprehensive land administration system to achieve the goals of the National Development Plan".

5. African communalism – in a new presence?

It is interesting that the Panel refers to how amakhosi (inkosi king) argue for their collective democratic way of managing land. The Panel says:

They debunk the notion that they are undemocratic, or that they are imposed on communities. They readily provide details of their land management systems as well as of their African Parliament (ibandla/lekgotla, etc.) which are deeply rooted in African communalism. There is a strong feeling that there is a general lack of understanding of current and historical communal land tenure. As a result, pre-eminence has been given to individual land rights over communal rights, thus undermining the communal land tenure systems. (p. 35)

The Panel does not raise the rather obvious question: Perhaps "African communalism" can and should be a primary paradigm for land reform? Perhaps that would connect land reform closer to the dramatic land history in South Africa. Perhaps that would raise important debates

about participation in municipal elections – and debates about land holding in cities and on the large commercial farms. Maybe cooperation that is more communal and a redefinition of distribution of land space, tasks, costs, profits and tenure systems would emanate from such a programme. No doubt, communalism in land holding has been attempted, for example in CPAs (community property associations) and has proven difficult. The Panel does suggest that Government “accommodate forms of collective ownership” page V. However, maybe membership organisation of farms, where all workers and administrators have one vote each in general assemblies, is a valid alternative to an owner-employee model (David Ellerman, 1992 on economic democracy). Such organisation would make the large farms and companies more communal, more productive, giving all workers more dignity, more security, more responsibility and better remuneration. Maybe such democratic organisation might even move presently professional owners, farmers and farm administrators into African land- and community history, securing also their livelihoods and making life more socially pleasant. It can be noted that “African communalism” in all its forms in land holding fits well into the new democratic system in the country, where every person has both dignity and one vote. The new land and organisation democracy might then be a power at the local level, which might even eliminate patriarchy from “African communalism”.

6. Private ownership – a basic value also into the future

The Panel develops a large number of programme revisions and suggests some new institutions for implementing land reform, especially for land redistribution. The background idea in the Panel report is private ownership of land to everyone outside of communal arrangements. The ideal is sufficient for land owned by African small farmers and their families in rural areas and for individual homeowners on privately or publicly owned land in urban areas. Private ownership is a basic social value. However, in its individualised form it is a drastically insufficient principle in organising larger firms and farms in a rapidly modernising South African economy. In that world, there is a plethora of effective owner- and user relations to land firms and organisations in rapidly changing professional, commodity and cultural markets.

7. Life unfolds locally

Overall, the Panel finds that the land situation for Africans is dire.

The current legislative framework, underpinned by an insufficiently resilient and inefficient land administration system has yielded limited results in redressing the land issue. As a result, Africans remain ‘outsiders’ and ‘second-class’ citizens, in the country of their birth. The African majority is largely landless, and with minimal economic opportunity and security. (p. 42)

The Panel’s active and original attempts at improving government land reform programmes are relevant. The Panel underscores popular participation in the definition of government programmes. However, the focus is top-down, from new programmes through implementing agencies to change in land holdings.

Such an approach would allow the staff of the three organizations (DRDLR, CRLR, and DAFF) or the proposed Land and Agrarian Reform Agency (LARA) to focus on the acquisition of land, the approval of land acquisition and investment plans, and the supervision of financial management and implementation of the projects, thereby greatly relieving their capacity constraints. They would therefore be able to manage much larger groups of beneficiaries than they have thus far. (p. 50)

The Panel considers land reform a task for government, implemented through government agencies.

However, there is one institution the Panel does not offer attention: the municipalities and by implication, local democracies.

8. Municipal organisation

The South African Constitution secures the autonomy of the municipal level of government. Apartheid eliminated the municipal level in favour of direct management from central organs of state and police implementation locally. The establishment of municipal democratic authority since 1993 has been a gargantuan task, with mixed results. The South African government describes its administrative divisions as follows:

The primary administrative divisions of South Africa are the nine provinces. They are divided into metropolitan and district municipalities, with district municipalities divided into local municipalities. Metropolitan and local municipalities are divided into wards. A local municipality is governed by a municipal council elected by resident voters through a mixed member, proportional representation. In MMPR voters get two ballots, one for a local person the other for a political party. In elections, voters choose members to ward, to local municipality and district municipality. Ward councilors are elected directly (50%) and from party lists (50%). The executives in municipalities can be organized as plenary systems (all councilors with a mayor), in collective systems (an executive committee + mayor) or a mayoral system (mayor + an appointed committee).

The municipalities are thus a formally existing democratic structure at the local level in South Africa. Their presence and functionality vary. At that level people are formally assigned dignity, autonomy and responsibility, independent of any other status they might have. At the municipal level, the distance between people and land is the shortest. At the municipal and ward levels the knowledge of local land holdings and land needs are the most specific. Participation in local elections and politics is therefore of utmost relevance for the management of land in the relevant area.

9. Democracy at all levels

The Panel does not enter into a discussion of how participation and land administration at the local level, specifically in different areas of the country, can be improved. That participation must be an important input and a needed counterpart to central and provincial government administration of land. In certain areas, the relation between municipal power and the power of chiefs and populations in "African communalism" is important and contested. Democracy, inspired by the municipal system, might be a model for the inner structures of private organisations, industries and farms. Such communal private organisation may increase engagement, efficiency and stability. It could increase security of tenure, social equality and unity in existing organisations. The Panel does not offer the municipal sector or the task of democratic development of private organisations there a sentence.

10. People are subjects

The Panel reduces people in South Africa to objects of land reform. The opposite might or should be the task: to invite and support people to be the subjects of their organisations and the drivers of land reform. That mobilisation, which would perhaps be most efficient through thriving municipalities, would seem to be a condition for efficient land reform. Without that mobilisation the chance for a repeated round of government programmes managed by bureaucrats that often give priority to their own interests is large.

11. Conclusion

Local democracy might be a detour to land redistribution, but perhaps a real way forward. The management of the Apartheid administration was legalistic, managed from the top through powerful central bureaucracies and police locally. The Panel is deeply critical of the Apartheid state, but sorry to say, the model of a legally guided central administration with bureaucratic implementation, without sensibility for local democracy and peoples' status as active equals in organisations and

businesses, is still in place in the Panel's report. Municipal and organisation/business democracy might be a detour. It may require some popular power wielding. It would strengthen the outreach of private property. It might well lead to a more egalitarian and therefore more economically efficient South Africa.

Disclosure statement

No potential conflict of interest was reported by the author(s).