



FW de Klerk
FOUNDATION

LAND AND PROPERTY OWNERSHIP: WE CAN'T REFORM WHAT WE DON'T KNOW

By Theuns Eloff: Executive Director, FW de Klerk Foundation

As the deadline looms for submissions on section 25 of the Constitution, it is increasingly clear that there is little information on that most critical of matters: who owns what land in South Africa. It is becoming ever more evident that in the absence of a credible baseline that is evidence-based, assumptions, counter-assumptions and narratives crafted based on incomplete information will prevail.

The Parliamentary motion on section 25 stated *“that black people own less than 2% of rural land, and less than 7% of urban land”*. This claim was subsequently reiterated by President Ramaphosa. The claim is based on the Department of Rural Development and Land Reform (DRDLR) Land Audit (Government Audit) that was published at the end of 2017. The math however, was highly problematic. The findings are that of the 3.2 million hectares of urban land, 722 667 hectares are individually owned. Of this total, whites own 49.5%, Africans 30.3%, coloureds 7.7%, Indians 2%, co-owners 2% and others 5%. The EFF refashioned the statistics by subdividing the number of hectares held individually by Africans into the grand total of all urban land (3.2 million hectares) and came to 7%. But by this same calculation, whites would own *“only 11%”* of urban land. On rural land, the Government Audit uses statistics from the Department of Agriculture, Forestry and Fisheries (DAFF) to point out that communal land (the old homeland areas) consists of 16 million hectares, and that individual land ownership of farms and agricultural holdings stand at 3.5%. It is clear that the above statement - that black rural land ownership amounts to 2% - is a blatant lie.

The bigger issue is: when will we know who owns what? The process of redress requires a studious effort to collate a body of data as a point of departure on which to build the appropriate apparatus.

President Ramaphosa will soon establish a panel to help plan and oversee a dramatically accelerated process of land reform. This is to be welcomed, as it is clear from the report of the High Level Panel (the so-called Motlanthe Report) that the relevant Department does not have the capacity or will to implement land reform properly. But - and this is a big but - this Panel will not be able to plan and oversee anything if they do not know how big the problem is. The foundational information, in this case, a land audit, is everything. Even the pursuance of the *“low-hanging fruit”* - in this case the 4 000 farms already in the State's hands - could give them a good place to start if this proposal resided within a larger framework of information about who owns what.

As to why this is necessary, let us briefly consider the two national land audits recently completed.

The first was commissioned by AgriSA and done by Agri Development Solutions (ADS). The AgriSA report focused exclusively on agricultural land, but to some extent also considered the bigger picture. They followed a *transactional approach*, recording the commercial land transactions registered in the Deeds Office, supplemented with data from Stats SA and



FW de Klerk
FOUNDATION

DAFF. The report states that South Africa consists of 122.8 million hectares, of which 29.2 million hectares (25%) consists of government land, urbanised land, industrial areas, mining land, privately-owned conservation areas and national parks. The total available agricultural land consists of 93.3 million hectares (76%). Government programmes for the purchasing of agricultural land yielded 2.2 million hectares, where private purchases by previously disadvantaged individuals amounted to 4.3 million hectares, with a total of 6.5 million hectares transferred since 2000. The report therefore shows that there was some progress in agricultural land reform - more so from the “market” than from the State. The main problem with the results of the AgriSA Report is that it focuses only on agricultural land and is by definition limited in its scope.

The second audit is the one published by the DRDLR in November 2017. Its methodology was to go the primary sources of data at the Deeds Office, the Surveyor-General, the Department of Home Affairs and Stats SA. It gives the number of landowners by “land parcel type”. It then deals with three types of land ownership (farms and agricultural holdings, erven, and sectional title) in terms of the individual landowners by race, gender and nationality.

There are, however, several serious problems with the Government Audit, amongst others:

- The first is a number of glaring inaccuracies and mistakes, especially in the executive summary. For instance, it is stated that “*individuals, companies and trusts own 89 523 044 hectares or 90% of the 114 223 276 hectares land*”. The correct number is actually 78.3%. When the subtotals of the types of ownership are combined, they also do not add up.
- The second problem is that the audit assumes certain numbers or does not explain them. When private land ownership is discussed, it jumps (with no explanation) from the 114.2 million hectares mentioned above, to a number of 93.956 million hectares. This presumes that the State owns 27.96 million hectares, a figure for which no explanation is given. In an even stranger way, when it gives tables for individual land ownership for farms and agricultural holdings, its numbers fall to 37 078 289 hectares - without any explanation. According to the report, of these 37.1 million hectares of land, whites own 72%, coloureds 15%, Indians 5% and Africans 4%. But this represents only 30.4% of all land, and only 39.4% of all privately-owned land.
- Thirdly, for the purposes of land reform, the audit leaves a number of questions unanswered. What is the size of state-owned land? Does this include communal land? What percentage of farms and agricultural holdings can and should be available for land reform?
- The audit makes no distinction between agricultural, urban and communal land. In one section it states that “Agricultural holdings and Farms” make up 111 million hectares (or 90.9%) of the country. This is clearly not correct.

What do we (sort of) know from the two audits?



FW de Klerk
FOUNDATION

- South Africa's total land mass is around 122.5 million hectares.
- State-owned land makes up 13.8 million hectares (AgriSA audit). This includes government departments, forests and national parks. In the 2013 Government Audit, this was put at 17 million hectares, but with no indication whether this includes communal land or not.
- Communal land (the former homelands and trust land) makes up between 16.32 million hectares (DAFF) and 18.037 million hectares (AgriSA).

What we still don't know after considering the two audits (and what is important for land reform) is disconcerting.

- What is the extent of agricultural land in South Africa? ADS say 97 million hectares, while the Government Audit puts it at 111 million hectares. Is part of the latter communal land used for agricultural purposes? We don't know.
- How many hectares of agricultural land are owned by individuals? The Government Audit puts this at only 37 million hectares, but no explanation is given for this figure.
- What is the real number of hectares owned by black South Africans? How much communal land do black South Africans have tenure on? How much of this could be converted to individual ownership? We do not know.
- How much state-owned land can be used for land reform? How many farms has the State bought or expropriated that could be available for black farmers? We do not know.
- How much land has the government already acquired for black farmers? And how many commercial transactions have taken place? What is the real total of land that went from white to black hands (including state-owned land) since 1994? AgriSA puts this at 11.3 million hectares. But is not even mentioned in the Government Audit. We therefore do not know.
- What is the breakdown of ownership of agricultural land in terms of use? The Government Audit talks about 13.9 million hectares that are cultivated and 97.5 million hectares that are "rangeland". But what percentage of this is owned by whom? We don't know.
- As the need for urban settlement and housing is clearly big, what is the amount of municipal land available for this? We don't know.

What is abundantly clear from the above, is that the glaring lack of data will continue to stymie a wholesome conversation about land reform and property rights in South Africa. The imperative for integrity of the numbers is key. It is incumbent on government to commission a land audit as a matter of urgency so that there can be consensus on what land is owned by whom. Any delay in this task will result in self-inflicted harm and crush the prospect of growing the economy and creating a cohesive society.