



THE ROLE OF LAND REGISTERS IN THE EXPROPRIATION OF URBAN LAND IN SOUTH AFRICA

*Calvin Nengomasha and Dr. Pauline Adebayo

University of KwaZulu-Natal, School of Built Environment and Development Studies, South Africa

ARTICLE INFO

Article History:

Received 28th October, 2018
Received in revised form
07th November, 2018
Accepted 09th December, 2018
Published online 30th January, 2019

Key Words:

Land administration,
Land registers, Land reform, Expropriation,
Affordable urban residential land, South
Africa.

ABSTRACT

Scholars often lament that urban areas in post-apartheid South Africa are beset by a shortage of affordable urban residential land and informal settlements. This shortage will never be addressed through market-based land reforms. The redistribution process is criticised for being slow and ineffective; the state cannot afford to purchase urban land at the high prices demanded by landowners and the scale of support needed to deliver land to the majority who are poor is not fiscally sustainable. Two decades after the 1996 market-led land reforms, the arguments most often adduced to justify the 'willing-seller-willing-buyer' approach appear unsound. Hence, solutions to the redistributive challenge that are being suggested in the current national debate on land reform include newly mooted ideas around expropriation without compensation. The paper uses desktop research to explore the role that registers on landownership, land value and land-use can play in the redistribution of urban land. As a background, the paper uses the lack of detailed parcel-based land registers to motivate for an integrated land register at municipality level. The paper concludes by making recommendations that are less focused on technical policy solutions but more on creating an urban land administration system that is socially credible and functional.

Copyright © 2019, Calvin Nengomasha and Pauline Adebayo. This is an open access article distributed under the Creative Commons Attribution License, which permits unrestricted use, distribution, and reproduction in any medium, provided the original work is properly cited.

Citation: Calvin Nengomasha and Dr. Pauline Adebayo, 2019. "The role of land registers in the expropriation of urban land in South Africa", *International Journal of Development Research*, 9, (01), 25201-25207.

INTRODUCTION

In the last century, two great events which built on the already existing land dispossession of the colonial period, brought about major changes to land policy that had an impact on urban land ownership in South Africa. The first event was when the Nationalist Party came to power and apartheid was established in 1948. In the wake of the Nationalist take-over, all urban land owned by the non-white population was appropriated by the state for white settlement and industrial development. The second major event was when South Africa implemented land reforms after 1996 that were intended to redistribute urban land, reform tenure arrangements and restore land rights appropriated after 1913. Although very limited changes in the ownership of agricultural land occurred, the market-led land reform programme led to no meaningful changes in urban land ownership (Walker, 2017; Fourie, 2000). The liberal political reforms of the 1990s that gave Africans the right to occupy land outside of native reserves led to a rapid rise in the scale of African urbanisation. Over a period of 20 years from 1990 to 2010, the level of urbanisation

rose from 52% to 62% (SAIRR, 2011) and at this rate it is projected that by 2020 about 70% of South Africans will be living in urban areas (Stats, 2011). Yet, in the period from 1990 to 2010, individual ownership of urban land remained highly skewed in favour of the white minority who held 67% of all urban land compared with the 7% held by the relatively African majority (Walker and Dubb, 2012). Hence, the liberal political reforms that were expected to usher in democratic approaches to land policy development and land redistribution are failing to go far enough to benefit the urban majority who were poor (African Union *et al.*, 2010). As more Africans continue to push into urban areas, urban land becomes more and more scarce and increasingly expensive. Thus, urban areas in South Africa remain beacons of racialised inequality of land ownership and, perversely, it appears as though the unintended consequence of the post-1994 land policy is the preservation of highly unequal landownership patterns. This suggests that the focus of the current debate on the expropriation of land without compensation should be on urban land alongside agriculture land. The marginalisation of the urban poor from land and housing markets has exposed the major challenges of giving the market a *carte blanche* role in the redistribution of land and land-related resources. As a result, the market-led system used to determine the price of land or the compensation

*Corresponding author: Calvin Nengomasha

University of KwaZulu-Natal, School of Built Environment and Development Studies, South Africa.

to be paid for land identified for expropriation is increasingly challenged by political parties such as the Economic Freedom Fighters (EFF) who are demanding for the expropriation of land without compensation. Therefore, new approaches are needed because market-led strategies have failed to redistribute urban land equitably to the urban poor. Such market failure has fanned an increase in the 'hostile takeover' and 'clandestine subdivision' of urban land and informal settlement on urban land reserved for business activity or held by absentee owners (Siegel, 2013). Hence, the EFF, and belatedly the ANC, are engaging the citizenry in a national debate on the expropriation of land without compensation in response to the failure of market-led land reforms. The foundation for the argument for the expropriation of urban land without compensation is based on the history of dispossession and discriminatory practices of land administration that are discussed in section 2.

The current debates on the expropriation of land without compensation are being held across the country and the new options under consideration on land reform are being made by local authorities without the full facts. The existing land registers cannot provide detailed parcel-based spatial information that could aid the redistribution of urban land. At the same time, the fragmented land registers are recast as an opportunity that could lead to the design of an integrated up-to-date land register that would aid the expropriation of urban land without compensation and the design of a land redistribution programme which is simple, cheap, equitable and transparent. In this context, the paper proposes a series of arguments that are less focused on technical policy solutions but more on creating an integrated land register on land ownership, value and use in a way that efficiently, effectively and quickly grants land buyers, sellers and policy makers access to such data.

The History of Land Administration in South Africa: The dual land administration system in South Africa was established when Dutch and British settlers abolished the customary tenure system in favour of freehold and communal tenure systems. The freehold tenure system was imposed on land the settlers dispossessed from Africans between 1652 and 1913 while the communal tenure system was imposed on marginal land where Africans were resettled (McGaffin and Kihato, 2013; Feinstein, 2005; Lester, 1996). This European system changed the nature of land ownership and left no enforceable African claim to most land in South Africa (Feinstein, 2005; Lester, 1996). European settlers consolidated the gains of colonial land dispossession through various legislations such as the Native Reserve Location Act of 1902, Natives Land Act of 1913, Natives (Urban Areas) Act of 1923 and Native Trust and Land Act of 1936 that protected the disproportionate distribution of land ownership between different racial groups (Andreasson, 2006). Africans were allocated very small and unproductive communal plots of land in native reserves (Binswanger and Deininger, 1996; Keegan, 1996) that were a paltry 7.3 per cent of the national land area, even though they constituted two-thirds of the population (Feinstein, 2005; Bundy, 1988; Lewis, 1984). Even the Beaumont Commission appointed to identify land for African occupation acknowledged that land administration was not even-handed and the land allocated to Africans was inadequate (*ibid*). As a result, African landholding was begrudgingly increased to 13 per cent of the national land area by the 1936 Act, albeit with land in marginal rocky areas that were

unproductive and difficult to develop (Binswanger and Deininger, 1996). The strategy of creating native reserves was never meant to reserve land of adequate proportion and quality for African occupation (Feinstein, 2005). Instead it was designed as a tool of implementing the dual system of land administration and settlement planning that used peculiar by-laws to administer the land in native reserves and African townships. In this scheme, Africans were legally not allowed to acquire or lease any land outside of native reserves (Napier, 2009; Feinstein, 2005; Kirk, 1983), which is unfortunate because the communal tenure system in native reserves marginalised them from the land exchange process (Lester, 1996). However, the land Acts were not systematically enforced across the country prior to 1948 and Africans, Indians and Coloureds (AIC) managed to acquire freehold title to urban land in Cape Town, Durban, Johannesburg and Port Elizabeth (Feinberg and Horn, 2009; Lemon, 1991). The effects of the provision of the 1936 Act and the policy of Urban Residential Segregation were very far-reaching. The policy used tools such as dubious sanitation concerns and race-based land-use planning to appropriate urban land from AIC who were resident in locations designated as 'black spots' (Hall, 2004; Skelcher, 2003; Robinson, 1997). Africans and Indians who held legal title to prime urban land in Sophiatown and Newtown (Johannesburg), District Six and Ndabeni (Cape Town), Westville, Sea View, Malvern and Escombe (Durban) and South End (Port Elizabeth) were forcibly removed and relocated on the urban periphery to make way for white townships or business activities (Mather, 2002; Maharaj, 1997; Lester, 1996; Maylam, 1995; Lemon, 1991; Parnell, 1988a). The state together with the manufacturing industry appropriated urban land that was legally owned by Africans and Indians without paying any form of compensation (Christopher, 1997; Robinson, 1993; Scott, 1992; Parnell, 1988b). Such action by the apartheid-government paid no attention to the acute shortage of urban land among AIC and the segregated form of the apartheid and post-apartheid residential landscape testifies to the preferential allocation of urban land in favour of whites. The dual system of land administration kept registers for land in urban areas and commercial farms and excluded from the system, land in native reserves. Municipal officials even excluded from the register urban land where African townships were established through the 1986 policy of orderly urbanisation, arguing that Africans should be left alone to manage their 'locations'. Native Advisory Boards were delegated the responsibility to manage these 'locations' but they lacked the technical, financial, legal and human resources to generate and maintain a land register needed to support land management, land-use planning and decision-making (Atkinson, 2009). As a result, a dichotomy of land administration systems existed, where different areas were governed by different laws. The lack of a complete and consolidated urban land register created land administration challenges that are currently hindering land reform.

The Land Administration Challenge: The acute shortage of affordable urban land is strongly linked in several ways with the poor system of land administration. The shortage persists as a result of the land administration system that is failing to manage land distribution, land tenure and land utilisation. The land tenure problem is prevalent in urban South Africa where land rights held by whites are considered to have been acquired through undemocratic means and are therefore illegitimate. Hence, land rights are constantly undermined by

informal land 'acquisition' and exchange practices (McGaffin and Kihato, 2013) that make it difficult to implement land tenure reform because the legitimacy of the land tenure system is contested. Informal land 'acquisition' and exchange practices result in the loss of the dimension of tenure conferred by and recorded in the urban land administration system. For example, the confusion that is created in respect of urban land occupied by informal settlements results in unsure title and multi-layers of informal transfers and inheritances based on ownership of doubtful validity. The lack of secure tenure increases the threat of eviction and relocation of the squatters. Instead of devising a unified and comprehensive model of urban land management, the state acts as a spectator of land allocation and decision-making on land-use (Mkhize, 2015). Informal urban land transactions are an indicator of failure by the land administration system to redistribute urban land for low-income housing. The land distribution problem is evident from the highly unequal landholdings that result from land appropriation and the inefficiencies and segregatory tendencies of the land market. The majority of urban land in South Africa is in the hands of a few wealthy individuals and private firms who often withhold urban land in strategic locations from the market for speculative reasons. The speculative behaviour of these private individuals and firms who have a monopoly on landownership pushes up urban land prices and denies low-income households the opportunity to access urban land near work opportunities (Payne, 1999). The behaviour of these private actors leads to the land utilisation problem, which manifests when the urban poor deliberately build settlements on urban land reserved for commercial, industrial and recreational use in violation of land-use zoning schemes. The land utilisation problem arises from the relative lag in the supply of urban land for low-income housing development. The urban land administration system fails to balance the supply of urban land for high-income residential, industrial and commercial uses with the supply of affordable urban land for low-income housing by implementing sensible restrictions on the speculative behaviour of private landowners (Napier, 2009). In order to resolve these three problems, the ANC-government initiated a state sponsored land reform programme that is differentiated in three ways. Firstly, land reform sought to restore historical land rights to urban land appropriated for white settlement and business activities. Secondly, land reform sought to address tenure rights of indentured farm labourers and sharecrop farmers with adverse possession rights to land. Thirdly, the reforms were intended to redistribute urban land to the landless. All the reforms are meant to expropriate land with compensation and under the guidelines of a 'willing-seller-willing-buyer' approach.

Expropriation of Urban Land After 1996

Expropriation with Compensation: In the past two decades, the approach used to expropriate urban land relied heavily on the payment of compensation to the affected owners. The amount of compensation to be paid is determined in consideration of the market value and current use of the land. However, there is no consensus on the general criteria for fixing the amount of compensation or the methods used to derive the value of compensation for the land identified for expropriation (Lahiff, 2007; 2005). The market-led land reforms face major challenges that arise in part due to disagreements on the market value to be paid as compensation because current landholdings are contested. The post-1994 land reforms managed to transfer only a limited amount of

urban land to Africans. The Land Audit Report (2017) reveals that only 7% of urban land in the country is held by Africans (DoRDLR, 2017) who constitute 60% of the urban population (StatsSA, 2017). Even though land restitution has succeeded in settling all land claims in urban areas (Lahiff and Li, 2012), land redistribution and tenure reform are excruciatingly slow. The unequal landholding among different racial groups remains unresolved and the ANC-government struggles to develop a coherent and effective strategy to redistribute urban land to the millions of urban residents who lack shelter. The state struggles to redistribute urban land in ways that strengthen social justice and reverse race-based land allocation, deep inequalities and persistent poverty. The failure to redistribute urban land at scale to Africans over the past two decades is perceived by Hornby *et al* (2017) as a failure of the 'willing-seller-willing-buyer' approach to land reform.

The market-led approach does not make sense economically and politically and its failure is due to a number of reasons. Firstly, the reform strategies narrowly focus on addressing the supply-side constraints of the market and ignore the financial constraints of the majority of individual households and the state. The prices of urban land in strategic locations often increase faster than incomes of the urban poor and reach levels that are unaffordable. The institutional arrangements that paved the way for land redistribution did not create conditions that enable low-income households to purchase urban land without state support. At the same time, these households have few alternative ways to access urban land since public financial support is limited and has to be spread thinly to cover as many beneficiaries as possible. Secondly, the land redistribution strategy has turned out to be a half-hearted attempt to implement the social redistributive resolutions enshrined in the Freedom Charter. The ANC-government appears to be reluctant to expropriate urban land without compensation for fear of provoking a market backlash or causing harm to the economy and threatening food security. Such concerns create a web of disincentives that frequently make it impossible to build political consensus at the local level regarding the expropriation of urban land without compensation. Hence, the idea of expropriation without compensation is consistently marginalised from the land reform agenda of the ANC, even though the acute shortage of affordable urban land and the resulting clandestine subdivisions justify an urgent need for new approaches of redistributing urban land (Walker, 2005). The discontent with market-led land redistribution has, in turn, resulted in a growing erosion of confidence in the ability of the ANC-government to resolve the acute shortage of affordable urban land as a guarantee of political and socio-economic stability (Walker, 2005). The failure to redistribute urban land at a price the urban poor can afford has contributed to an increase in the scale of brazen land invasions, clandestine subdivisions and informal settlement in later years. This physical expression of need for affordable urban land for low-income housing strengthens the current argument for expropriation of urban land without compensation. This argument is currently on the political agenda as a result of public calls by the EFF for mass mobilisation and invasion of vacant urban land to compel the government to expropriate land without compensation.

Expropriation without Compensation

The 2018 Constitutional Review: On 27 February 2018, the legislative and executive branches of the Republic of South

Africa made a landmark decision to review Section 25 of the Constitution to expropriate urban land without compensation (Parliament Deb 27 February 2018). In his State of the Nation Address, President Cyril Ramaphosa said expropriation of land without compensation must be done in a manner that posed no harm to the economy and improved food security (Parliament Deb 16 February 2018). The exact meaning and mechanics of how this could be done or what land could be targeted for expropriation is yet to be clarified. The president's statement appears to suggest that expropriation of land without compensation maintains a bias towards agrarian reform. While few, if any, would not criticise the ANC-government for waiting almost eight months after the resolution on expropriation of land without compensation was taken to outline the direction the policy review process would take, the president has not explicitly stated what vacant urban land is to be expropriated for low-income housing purposes, despite widespread anxiety over policy uncertainty. The lack of clarity in this policy review process has stirred a heated national debate on expropriation as political parties, civic society, citizens, white farmers and business leaders anticipate either meaningful land reform or the collapse of the market economy. The national debate has brought to prominence different arguments on the expropriation of urban land without compensation. These arguments use current socio-economic conditions to advance different options on the expropriation of urban land. In particular, business leaders and landowners prefer to maintain the policy on expropriation of urban land subject to market compensation while those without land propose expropriation without compensation. The divergence in the proposals indicates that the argument on the expropriation of urban land without compensation is understood from two different contexts. Firstly, the institutional setting on which expropriation is being discussed by the legislature, NGOs and CBOs centres on the democratic allocation of rights to land. Secondly, the substantive issues on human rights, social justice and economic development around which expropriation is being discussed seek to implement land reforms that are socially credible and economically empower the poor. More importantly, the legislative changes to allow the expropriation of urban land without compensation are being debated in three main contexts:

- As a constitutional issue seeking a balance between public and private interests,
- The impact of tenure security on housing and economic development, and
- As a right to housing issue in relation to human rights and social justice.

The proposed legislative changes to allow the expropriation of urban land without compensation are driven by mounting social resistance to compensate beneficiaries of pre-1994 land dispossession, increasing land invasions and social resistance to market-led land redistribution. The issue that prompts social mobilisation against market-led land redistribution is the always unresolved historical claims to land. Motivations for expropriation without compensation are often driven, firstly, by reasons associated with affordability challenges, which unfortunately are ignored in the main arguments of current discussions on land expropriation. Secondly, they are driven by the argument that historical tenure rights that Africans lost through colonial dispossession have to be recognised and restored before beneficiaries of land dispossession could make any claim for compensation. These two reasons create a wide

rift between the landowners and the land-seekers who cannot agree on the market value of compensation for land identified for expropriation. The debate on the expropriation of urban land is clouded by misrepresentation of facts and lack of data on land ownership, land value and land-use. Sadly, few contributions to the public debate are informed by accurate evidence and thus, commentators who are poorly informed often misrepresent the extent of the land challenge. Their arguments on the expropriation of urban land are misplaced due to a lack of reliable up-to-date registers on land ownership, value and utilisation.

Devising Reform Strategies without complete Land Registers: The debate on the expropriation of land without compensation came about as a result of the failure to redistribute land through market-led land reform. Various arguments by different stakeholders tend to cloud the discourse in political debates and speeches and public hearings on the expropriation of urban land without compensation. The stakeholders are motivating for expropriation of urban land without compensation based on statistical information on urban land ownership revealed in the 2017 land audit report. The parliamentary motion by the EFF to amend Section 25 of the Constitution cites the Audit as the source for the claim that Africans own less than 7% of urban land and less than 2% of farm land (Parliament Deb 25 February 2018). In the debate on the resolution, Gugile Nkwinti, Minister of Rural Development and Land Reform states that the land audit gives context to the resolution on the motion by the EFF through its revelation that whites privately hold 72% of all land, followed by Africans at 4%, coloureds at 15%, and Indians at 5% (Parliament Deb 27 February 2017). According to Thomas Walters, DA Shadow Minister of Rural Development and Land Reform, the audit reveals that whites privately hold 23.6% of agriculture land and 11.4% of urban land followed by Africans who hold 1.2% of agriculture land and 7% of urban land (Parliament Deb 27 February 2018). Such duplicitous presentation of 'facts' suggests the numbers in this report cannot be trusted. The lack of such accurate information on land allows much of the national debate on expropriation to be misinformed, which is a serious constraint on land policy reform.

The inconsistencies in the data on landownership presented by various stakeholders in this debate raises questions on their real motivation and agenda. It is evident that different agendas and interests are behind the manipulation of data to convince stakeholders to align with similar interests in land and make decisions that protect those interests. Stakeholders are taking advantage of inaccurate land registers to either motivate for or against expropriation without compensation. This challenge demonstrates that the availability of accurate and up-to-date registers on land tenure, land value and land-use is a necessary requirement for effective redistribution of urban land. However, urban municipalities in South Africa lack the technical, financial, legal and human resources to generate, maintain and integrate land registers needed to support land redistribution and management, land-use planning and decision-making (McGaffin and Kihato, 2013; Napier, 2009). Officials of urban municipalities are completely unequipped to identify who owns land of what size, value and use in their jurisdiction quickly and accurately, because the land registers are inadequate, incomplete, outdated and conflictual (McGaffin and Kihato, 2013; Napier, 2009). Little is known in detail about the distribution of landownership among the different groups of income, gender, race and ethnicity.

Although public agencies collect some data on the use, value and ownership of urban land, most of it is collected in a fragmented and *ad hoc* manner and when it does get published it is in anecdotal form and not of much use. As a result, officials only have the haziest of understandings of how well or how badly land reform is faring, and why. The lack of data on urban land limits the debate on ways of addressing land inequalities outside the market. Such a problem can be avoided if accurate and up-to-date land registers are available. The national and local government departments' woeful record keeping is partly to blame for the extant hazy understanding of the performance of land reform. But these departments are not the sole culprits. Consider two national land audits released in recent months by AgriSA and the government. Both are based on analysis of information derived from title deeds in the national registry. The last census of registered cadastre conducted in 2011 by StatsSA only reports on tenure status of urban land parcels, but does not distinguish urban land by size and value or ownership by race, gender and nationality. It is unknown precisely how much urban land has been privately purchased by Africans and how much has been acquired via land reform. The AgriSA land audit of 2017 concludes that land reform is close to transferring 30% of urban land to African ownership. Its methodology and most of its conclusions are fundamentally flawed based on the fact that the market has not redistributed urban land to Africans to the extent AgriSA claims. The land audit report released by the government in 2017 is also not particularly useful. It provides some evidence of continuing patterns of racial inequality in land ownership, but it cannot identify the racial, gender and nationality of the individuals, companies and trusts that own 90% of all land (Parliament Deb 24 August 2018). Neither of these audits are able to provide information on how many people have actually gained access to urban land through land reform. Such information, which is crucial for effective redistribution of urban land, simply does not exist. A few reports on micro aspects of these issues have been published, but they are not a substitute for systematic, comprehensive data collection. Similarly, case studies by academics cannot serve the wider purpose of guiding the debate on and planning for expropriation without compensation. In relation to the deeds registry data, there are vast discrepancies between official records for African landowners in urban areas and realities on the ground. Hornby *et al* (2017) estimates that close to 60% of all South Africans hold land or housing outside the formal system and the deeds registry reveals little or nothing about these realities. Such lack of accurate information would stymie attempts to expropriate urban land without compensation.

The solutions that are being proposed on the expropriation of urban land without compensation are therefore disparaged for relying on inaccurate information. For instance, ANC chairperson Gwede Mantashe was quoted by News24 on 2018-08-13 as saying the Constitution must be amended to require any white farmer who owns more than 12 000 hectares of land to hand over ownership of the rest of the land to the state without compensation (Mahlase, 2018). However, this proposal maintains a bias towards agrarian reform; government officials remain silent on what proposals are under consideration for urban land. If a 'land ceiling' is an option under consideration for rural land may be there should be one for urban land too, but the specified size of landholding may be significantly reduced. The state would then redistribute the expropriated land, prioritising Africans who are in greatest need of land for

settlement or farming. Without a complete and accurate record of the distribution of landownership, it is difficult to deduce how Mantashe calculated the 'land ceiling'. On such basis, AgriSA considers Mantashe's suggestion as irrational and not carefully considered, arguing that a 'land ceiling' would significantly undermine operations of the markets for land, housing and finance and cause production credit to become prohibitively expensive (*ibid*). Proposals on the ownership of land expropriated without compensation are still being debated by various stakeholders. The EFF prefers to hand over ownership of land to the state which would hold it in trust and redistribute it whenever there is a need. However, the ANC prefers to grant individual title to land immediately after it has been expropriated. How to acquire and transfer land, the focus of much current debate, is in any case the least difficult aspect of land reform. Larger challenges involve identifying well located urban land and targeting beneficiaries in the case of low-income housing. The acquisition and transfer of well-located urban land to targeted beneficiaries would be difficult and chaotic without complete and accurate land registers to guide the process and decision making. Much of the current debate on the expropriation of urban land without compensation is ill informed and fails to identify these challenges, which could derail land reform. More importantly, the lack of up-to-date registers on urban land is a key problem that must surely be placed high on the agenda of the government.

Problems associated with the land registry that are mentioned in the paper such as inconsistencies in the data on landownership, the lack of technical and human resources within municipalities to generate and maintain land registers can be addressed if the government establishes an independent research institution that could operate as a private firm or as a research centre within a university. This institution should have a clear mandate to conduct research on the ownership, value and use of land with the intention to create accurate, up-to-date and linked land registers. The proposed institution should assume the responsibility of creating and updating land records that national and local government departments struggle to maintain. The consideration to expropriate urban land is not intended to discard the rule of law altogether, the government needs to re-define the conditions under which it expects expropriation could be efficient, equitable, affordable and socially acceptable. Thus far, the debate on expropriation without compensation is taking place in a context that recognises the right to land and housing. If the current debate on amending section 25 of the Constitution to allow the expropriation of urban land without compensation succeeds, expropriation must strive to achieve social justice and fairness and guarantee the right to housing. Hence, the expropriation of urban land without compensation as a policy instrument has to be guided by land registers if the process is to adhere to tenets of social justice, fairness and the rule of law.

Conclusion

Based on the discussion presented above, one could conclude that expropriation of urban land subject to the payment of compensation determined by the market is beyond what the state can afford and the scale of support needed to deliver land to the majority who are poor is not fiscally sustainable. The redistribution of urban land without compensation is currently under consideration, but the debate on this option is being held across the country without the full facts on the extent of land

inequalities and affordability challenges faced by different racial, gender and ethnic groups. An effective solution to the urban land question in post-apartheid South Africa could only be found if strategies for the redistribution of urban land were informed by land registers on ownership, value and use. The discussion argues that the expropriation of urban land without compensation cannot be effectively implemented without linked and up-to-date land registers. The implication of this study is that land policy needed an urgent review if it was to be used as a platform for informing land redistribution, land-use planning and practice. Such a review is justified given that its neoliberal platform has proved inappropriate for addressing the urban land crisis in South Africa. But for this to occur there is an urgent need for reforms aimed at restructuring the urban land management system, regulating the land market and freeing affordable urban land for orderly human settlement. Further research is needed in the area of urban land ownership, land valuation, land-use and the restructuring of municipal land registers.

REFERENCES

- African Union., African Development Bank., and Economic Commission for Africa. 2010. Land Policy in Africa: A Framework to Strengthen Land Rights, Enhance Productivity and Secure Livelihoods. Framework and Guidelines on Land Policy in Africa. Addis Ababa. Ethiopia.
- Andreasson, S. 2006. Stand and Deliver: Private Property and the Politics of Global Dispossession. *Political Studies*, Vol.54, pp.3-22.
- Atkinson, D. 2009. Patriarchalism and Paternalism in South African "Native Administration" in the 1950s. *Historia* Vol.54, Issue 1, pp 262-280.
- Binswanger, H.P, and Deininger, K. 1996. South African Land Policy: The Legacy of History and Current Options. In *Agricultural Reform in South Africa: Policies, Markets and Mechanisms*. Van Zyl, J., Kirsten, J., and Binswanger, H.P. 1996. Oxford.Oxford University Press.
- Bundy, C. 1988. *The Rise and Fall of the South African Peasantry*. London. James Currey.
- Christopher, A.J. 1987. Apartheid Planning in South Africa: The Case of Port Elizabeth. *The Geographical Journal*, Vol.153, No.2, pp.197.
- Department of Rural Development and Land Reform (DoRDLR). 2017. Land Audit Report. Vol.2 Pretoria. Government of the Republic of South Africa.
- Feinberg, H., and Horn, A. 2009. South African territorial segregation: New data on African farm purchases, 1913-1936. *Journal of African History*, pp.41-60.
- Feinstein, C.H. 2005. *An Economic History of South Africa: Conquest, Discrimination and Development*. New York. Cambridge University Press.
- Foley, C. 2009. Housing, Land, and Property Restitution Rights in Afghanistan. IN LECKIE, S. 2009. ed. *Housing, Land, and Property Rights in Post-Conflict United Nations and Other Peace Operations: A Comparative Survey And Proposal For Reform*. Cambridge. Cambridge University Press.
- Fourie, D. 2000. Land and the Cadastre in South Africa: Its History and Present Government Policy. Paper presented as a Guest Lecture at the International Institute of Aerospace Survey and Earth Sciences, Enschede, The Netherlands, 1st November, 2000.
- Hall, R. 2004. A Political economy of land reform in South Africa. *Review of African Political Economy*, Vol.31, No.100, pp.213-227.
- Hornby, D., Kingwill, R., Royston, L., and Cousins, B. 2017. Untitled: Securing Land Tenure in Urban and Rural South Africa. University of KwaZulu-Natal Press.
- Keegan, T. 1996. *Colonial South Africa and the Origins of the Racial Order*. Claremont, South Africa.David Philip Publishers (Pty) Ltd.
- Kirk, S.L. 1983. The 1949 Durban Riots: A Suggested Working Hypothesis. In *Natal, 1909-1961: A Collection of Papers on Developments in Natal in the Union Period*. Edited by Department Of Historical And Political Studies. Pietermaritzburg. University of Natal.
- Lahiff, E. 2005. From 'willing seller, willing buyer' to a people-driven land reform. Programme for Land and Agrarian Reform. Policy Brief No.17.
- Lahiff, E. 2007. 'Willing Buyer, Willing Seller': South Africa's Failed Experiment in Market-Led Agrarian Reform. *Third World Quarterly*, Vol.28, No.8, pp.1577-1597.
- Lahiff, E., and LI, G. 2012. Land Redistribution in South Africa: A Critical Review. WP 80874.Washington D.C.World Bank.
- Lemon, A. 1976. *Apartheid: A Geography of Separation*. England. Saxon House.
- Lemon, A. 1991. ed. *Homes Apart: South Africa's Segregated Cities*. Bloomington. Indiana University Press.
- Lemon, A. 1991. The apartheid city. IN LEMON, A. 1991. ed. *Homes Apart: South Africa's Segregated Cities*. Bloomington. Indiana University Press.
- Lemon, A., and COOK, G. 1994. South Africa. IN TARVER, J. 1994. ed. *Urbanisation in Africa: A Handbook*. London. Greenwood Press.
- Lemon, A.J. 1987. *Apartheid in Transition*. Aldershot.Gower.
- Lester, A. 1996. *From Colonisation to Democracy: A New Historical Geography of South Africa*. New York.Tauris Academic Studies.
- Lewis, J. 1984. The Rise and Fall of the South African Peasantry: A Critique and Reassessment. *Journal of Southern African Studies*, Vol.11, Issue 1, pp.1-24.
- Maharaj, B. 1997. Apartheid, Urban Segregation, and the Local State: Durban and the Group Areas Act in South Africa. *Urban Geography*, Vol.18, Issue 2, pp.135-154.
- Mahlase, M. (2018, August 15). Land expropriation: Here's how it could be implemented, says Mantashe. News24. <https://www.news24.com/SouthAfrica/News/land-expropriation-heres-how-it-could-be-implemented-says-mantashe-20180815>.
- Mather, C. 2002. The Changing Face of Land Reform in Post-Apartheid South Africa. *Geography*, Vol.87, No.4, pp.345-354.
- Maylam, P. 1995. Explaining the Apartheid City: 20 Years of South African Urban Historiography. *Journal of Southern African Studies*, Vol.21, No.1, pp.19-38.
- McGaffin, B., and Kihato, C.W. 2013. Defining Markets: A Set of Transactions between Actors. In *Trading Places: Accessing Land in African Cities*. Edited by Napier, M., Berrisford, S., Kihato, C.W., McGaffin, R., and Royston, L. South Africa. Urban Land Mark.
- Mkhize, N. 2015. The Politics of Urban Land and Ownership: Locating spatial transformation in the urban land question. In *The urban land paper series, vol 1*.Edited by South African Cities Network. South Africa.
- Napier, M. 2009. Making Urban Land Markets Work Better in South African Cities and Towns: Arguing the Basis for Access by the Poor. In *Urban Land Markets: Improving Land Management for Successful Urbanisation*. Edited by Lall, S.V., Freire, M., Yuen, B., and Helluin, J.New York. The World Bank.
- Ntsebeza, I., and HALL, R. 2007. *The Land Question in South Africa: The Challenge of Transformation and Redistribution*. Parliament Debate 16 February 2018. 2018. National Assembly Debates Motion on Land Expropriation. <https://www.>

- parliament.gov.za/news/national-assembly-debates-motion-land-expropriation.
- Parliament Debate 24 August 2018. National Assembly Debates Motion on Land Expropriation. <https://www.parliament.gov.za/news/national-assembly-debates-motion-land-expropriation>.
- Parliament Debate 25 February 2018. National Assembly Debates Motion on Land Expropriation. <https://www.parliament.gov.za/news/national-assembly-debates-motion-land-expropriation>.
- Parliament Debate 27 February 2018. National Assembly Debates Motion on Land Expropriation. <https://www.parliament.gov.za/news/national-assembly-debates-motion-land-expropriation>.
- Parnell, S. 1988a. Racial Segregation In Johannesburg: The Slums Act 1934-1939. *South African Geographical Journal*, Vol.70, Issue 2, pp.112-126.
- Parnell, S. 1988b. Land Acquisition and the Changing Residential Face of Johannesburg, 1930-1955. *Area*, Vol.20, No.4, pp.307-314.
- Payne, G. 1999. Introduction. In *Making Common Ground: Public-Private Partnerships in Land for Housing*. Edited by Payne, G. London. Intermediate Technology Publications.
- Robinson, J. 1993. The Politics of Urban Form: Differential Citizenship and Township Formation in Port Elizabeth, 1925-1945. *Kronos: Journal of Cape History*, Issue 20, pp.44-65.
- Robinson, J. 1997. The geopolitics of South African cities States, citizens, territory. *Political Geography*, Vol. 16, No.5, pp.365-386.
- SAIRR. 2011. More People Living in Urban Areas than Ever Before. South African Institute of Race Relations. Retrieved from <https://irr.org.za/>
- Scott, D. 1992. The Destruction of Clairwood: A Case Study on Transformation of Commercial Living Space. In *The Apartheid City and Beyond: Urbanisation and Social Change in South Africa*. Edited by Smith, D.M. Johannesburg. Routledge.
- Skelcher, B. 2003. Apartheid and the Removal of Black Spots from Lake Bhangazi in Kwazulu-Natal, South Africa. Source: *Journal of Black Studies*, Vol.33, No.6, pp.761-783.
- Statista. 2018. South Africa: Urbanization from 2007 to 2017. <https://www.statista.com/statistics/455931/urbanization-in-south-africa/>
- StatsSA. 2011. 2011 Census. Statistics South Africa. http://www.statssa.gov.za/?page_id=3839
- StatsSA. 2017. Mid-year population estimates. Statistical Release P0302. <http://www.statssa.gov.za>
- Walker, C. 2005. The Limits to Land Reform: Rethinking 'the Land Question'. *Journal of Southern African Studies*, Vol.31, No.4, December 2005.
- Walker, C. 2017. The land question in South Africa: 1913 and beyond, *Oxford Research Encyclopaedias – African History*, DOI: 10.1093/acrefore/9780190277734.013.79
- Walker, C., and DUBB, A. 2012. The Distribution of Land in South Africa: An Overview. Institute for Poverty, Land, and Agrarian Studies (PLAAS). <http://www.plaas.org.za/sites/default/files/publications-pdf/No1%20Fact%20check%20web.pdf>
