

Land is not a Utopia for the dispossessed

To realise economic empowerment, the land commission in South Africa has to consider other options too, writes Bernadette Atuahene.

The Constitution mandates equitable redress for individuals and communities from whom colonial and apartheid-era governments, under racially discriminatory laws and practices, took land after 1913.

The Commission on Restitution of Land Rights has provided equitable redress for dispossessed populations either by giving them financial compensation or by buying land for them from current owners. The function of equitable redress is not only to compensate past victims for financial losses, but also to empower South Africa's black majority economically.

Many recent discussions have focused on the failure of the willing buyer, willing seller policy to provide land to people dispossessed from rural areas.

But 80% of all claims filed with the commission were those of individuals and families forcibly removed from urban areas. The commission settled 70% of these claims through financial compensation. Its job was to ensure that these financial awards contributed to the larger social goal of reconciliation. Had these awards had a long-term economic impact, they would have addressed the ingredient woefully missing in the reconciliation process – economic empowerment.

The commission paid the vast majority of claimants using a “standard settlement offer” ranging from R17 000 to R60 000. This neither reflected the current market value of the properties from which black people were forcibly removed nor did it reflect the properties' market value at the time of the forced removals. Despite the commission paying fairly low settlements, it initially strongly encouraged claimants to accept financial compensation because it had resolved very few claims from 1995 to 1999 and so, from 2000 to 2008, was under extreme pressure to settle claims rapidly.

Time-consuming process

Whereas transferring land was a complicated, time-consuming process, the distribution of financial compensation was far less complex and quicker. But the commission changed gear around 2007. It began to place less emphasis on the financial compensation option and favoured land transfer, partly because its dominant institutional belief was that, overall, financial compensation had absolutely no long-term economic benefits for recipients. For example, a commission official in the Western Cape regional office stated that “financial compensation is not having an effect. We will assist with payment in the morning and, in the evening, everyone is in the bottle store. They don't know what to do with the money.”

Based on anecdotal information, commission officials concluded that financial compensation had no long-term economic benefits and failed to contribute to the nation's goal of economic transformation.

In 2008 I conducted 80 semistructured interviews with claimants who received financial compensation. The results contradicted the commission's empirically untested conclusion. For 30% of respondents, financial compensation had a substantial economic impact: the

majority spent their award on improving their current home and thus increased the value of their primary asset.

Regardless, the commission has indirectly taken the choice of financial compensation away from the remaining claimants and is persuading them to opt for land transfer. One commission official shared his personal experience with the commission's post-2007 policy of de-emphasising financial compensation: "Now we don't encourage it. Before, in the options workshop, we presented all options comprehensively. But we realised people want quick cash, so we now present development comprehensively. When we talk about financial compensation, we run quickly through it."

But it does not make sense to limit claimants' choices to land transfer when the available evidence suggests that the commission's attempts to transfer land have largely failed. Transferring land to individuals and communities takes an extremely long time. Tragically, while claimants wait, the people most affected by the forced evictions are dying. People are losing faith in the process and becoming disillusioned. Land prices are steadily rising, which decreases the amount of land the commission can buy with its limited budget. Also, even when the commission has transferred land to communities, in many cases the land is either underused or lying fallow.

Because the commission has limited capacity to transfer land, it must find ways to make financial compensation more effective instead of, in practice, removing it as an option. To do this, I would argue that the commission should consider distributing vouchers in lieu of cash to ensure that financial awards have a long-term, systematic economic impact. For example, if the commission wants to promote home improvements, a person entitled to a R20 000 financial award should have the option of instead receiving a R30000 voucher to buy building materials from a source partnered with the commission.

Financial awards

Likewise, if the commission wants to encourage claimants to use their financial awards to improve their human capital, it could offer a 25% increase in the award if the commission makes payments directly to qualifying educational or training institutions.

The commission could make financial counsellors available who would assist claimants to choose which would be the best cash and in-kind options for them. The key is to give them the choice and to motivate, but not force, them to use their financial awards in a way that would have a lasting economic impact.

The downside of these recommendations is that providing a creative range of choices for claimants will not change the skewed land ownership patterns of South Africa.

But, because 80% of the claims filed with the commission were for forced removals from urban rather than rural areas, perhaps it is more appropriate for the other two prongs of the land reform process – land redistribution and tenure reform — to bear the full weight of correcting the severe imbalance.

The racially motivated evictions carried out under the colonial and apartheid-era regimes severely violated the human rights of millions of South Africans. Families were economically hobbled and invaluable social bonds were destroyed. The tears of these families have wet the pages of history and made them heavy with despair.

To its credit, the commission has used financial compensation as one mechanism to try to wipe away these tears. Its efforts to date have been noble, but there is much work to be done.

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