

A 10-point plan to accelerate orderly land reform in South Africa

By [Professor Quinton Johnson](#)

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A more than 365-year history of [colonialism](#) and [apartheid](#) have indelibly affected land, heritage and human rights in South Africa.



Land reform remains a divisive subject 23 years after democracy in South Africa. Flickr

Among the vast array of discriminatory laws was the [Land Act of 1913](#) that spatially segregated people through land dispossession. It amplified the vast canyon of inequality, further shattered the social fabric of [communities](#) and radically compromised economic development of the black majority.

It was only after the [1994 democratic elections](#) that the vast majority of citizens could hope for constitutional restitution of their land.

Significant socio-economic advances have been made [since 1994](#), but several challenges need to be overcome as indicated by [recent trends](#). Much more needs to be done. This is particularly true when it comes to land distribution and restitution.

The 2013 state [land audit report](#) illustrates why. By 1994 about 87% of the land was owned by whites and only 13% by black people. By 2012 only 7.95 million hectares had been transferred to black owners through land reform. This represented only 7.5% of [formerly white-owned land](#).

Land reform was discussed with understandable intensity during the recent [National Policy Conference](#) of the governing African National Congress. Debates centred on whether land should be [expropriated without compensation](#).

It's within this context that a [National Forum](#) was established for dialogues on land reform. The National Forum is made up of a network of organisations that includes three universities, the [South African Human Rights Commission](#) and [Foundation for Human Rights](#).

The National Forum focused on whether it was possible to achieve effective land reform through [Section 25 of the South African Constitution](#), which deals with property rights. The National Forum also examined the bureaucratic, legal and

constitutional constraints that slow down land redistribution and restitution. It also explored the policy and legislative options necessary to address the complex challenges.

The National Forum concluded that South Africa's constitution doesn't stand in the way of land reform. However, it's clear that [political negligence](#) has fuelled undue bureaucracy, mismanagement and corruption, which have severely hampered meaningful land reform. It reached consensus on a 10-point plan for constitutionally accelerated land reform. The hope is that it can help break the long-standing impasse over land, and move the country toward radically inclusive socio-economic growth.

Accelerating land reform

Aspects of the 10-point plan include:

1. A human rights approach to land redistribution, grounded in the effective implementation of Section 25 of the Constitution. This could still guarantee a life of dignity, equality and freedom for all citizens.
2. Existing land reform legislation is not effectively implemented. The [Land Claims Commission](#) and [Land Claims Court](#), which were created through the [Restitution of Land Rights Act \(1994\)](#), have not been effective. Unnecessary bureaucratic bungling, significant corruption and limited expert skills have been exacerbated by cadre deployment. This is the practice of appointing party political loyalists to government positions irrespective of ability. In addition, these institutions have yet to be made more accessible and more representative.
3. The possibility of adopting further laws to accelerate land reform is not being used. This is the case even though Section 25(8) of the Constitution specifically indicates that it can be done.
4. The possibility of repealing existing legislation that's inconsistent with or hampering land reform is not being pursued. This should be rectified.
5. There is a need for national legislation on expropriation. A bill is before Parliament – the [Expropriation Bill](#) – but it's been introduced late and processed without urgency. The possibility of effecting appropriate amendments to the [1975 Expropriation Act](#) should also be considered.
6. There should be improved communication and coordination between various government departments. Currently, the location of relevant land reform mandates and competencies are spread across several departments. These should be aligned to accelerate the pace of the process.
7. A draft bill on cultural and spiritual access to land must be developed to enable citizens' access to cemeteries and related holy sites where their family members are buried.
8. The courts should pronounce on the meaning of "just and equitable" compensation in Section 25 of the Constitution, to provide for better definition and interpretation of this provision within the context of land reform.
9. [Communal Property Associations](#), community and traditional leader tensions must be resolved through meaningful engagement. Communication channels must be open, all role-players included and all relevant information made available to every stakeholder. Furthermore, all affected parties must be able to influence the decisions taken. In addition, skills training for officials dealing with land restitution is necessary, whilst an updated land audit is required.
10. There is need for a Land and Economy Convention, similar to the Convention for a Democratic South Africa ([CODESA](#)). This was held to negotiate the country's peaceful transition to democracy. A role for the new convention would be to address poverty, inequality and unemployment. The aim would be to restore citizens' dignity, strengthen the economy and advance democracy.

The National Forum envisions the 10-point plan being effected within the context of the country's [National Development Plan's Vision 2030](#). The plan was drawn up to provide a roadmap for the country to 2030. Its central aims are to reduce unemployment, poverty and inequality.

If land reform is realised, South Africa could present a more humane, just, peaceful, prosperous and democratic face to the world.

Key dialogue leaders at the National Forum were:

Retired Justice [Albie Sachs](#), [Professor Bongani Majola](#), [Professor Mathole Motshekga](#), [Advocate Leks Makua](#), [Retired Justice Johan van der Westhuizen](#), [Professor Frans Viljoen](#), [Victor Mavhidula](#), [Makgatho Motshekga](#), [Koogan Pillay](#), [Elson Kgaga](#) and [Advocate Hanif Vally](#).

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