

UMHLABA Wethu15



A bulletin tracking land reform in South Africa

INTRODUCTION



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An emerging and increasingly more prominent debate amid the considerations of a new White Paper, following the Green Paper process, which will set the legal framework for land reform and agrarian transformation, is whether or not land reform is still a necessity. If not, how do we reverse the unequal land-holding patterns in South Africa? We have yet to see large-scale redistribution of land and a far more equal land outfit. The land-reform programme made limited progress. The Willing Buyer Willing Seller (WBWS) approach, among others, had largely been blamed. Given the insignificant land transfers under the land-reform programmes, the market is clearly not addressing the landlessness and insecure tenure of black people. What the evidence suggests is that the market allows for the de-racialisation of the better-off and creates a more equal 'elitist' landed group, but the WBWS cannot be made to work in favour of the poor.

Some analysts suggest that we have managed to exchange more land between whites and blacks via a vibrant land market and that the WBWS approach is in fact working, albeit outside the official parameters of the state's land-reform programme – see article by agricultural economist and academic, Prof Johann Kirsten, University of Pretoria, (UP). Some argue that this reasoning is fundamentally flawed and respond by saying that the current track record of land reform is falling short of the constitutional commitment to transform property rights more fundamentally – see response by South African land expert and academic, Dr Edward Lahiff, University College Cork, Ireland.

Yet, despite subtle and blatant critique against land reform, it remains an impor-

tant aspect of social and economic transformation in South Africa, both as a means of redressing past injustices as well as alleviating the pressing problems of poverty and inequality in rural areas. Prof Ben Cousins – DST/NRF Chair in Poverty, Land and Agrarian Studies at the University of the Western Cape (UWC) offers policy suggestions away from the market-based land-reform approach and suggests alternative considerations, such as targeted land acquisition and expropriation.

While the National Reference Group (NAREG), the forum facilitated by the Department of Rural Development and Land Reform (DRDLR) to develop the Green Paper on Land Reform, haphazardly discusses policy options for finalisation in September 2012, we have to question whether we really are using the opportunity well enough to debate a new, workable land-reform policy framework or if we are pushing on through to have vague words on paper that does not thoroughly assess and debate all aspects of land reform, and which solicits fresh evidence-based perspectives in an inclusive platform that will allow an efficient policy framework for agrarian transformation.

Meanwhile, communities who stood to be affected and civil society organisations (CSOs) continue to advocate against the Traditional Courts Bill (TCB). In August after calls for the withdrawal of the Bill it has now been reintroduce in the National Council of Provinces and further Provincial hearings commenced. The bill is set to affirm the recognition of the traditional justice system and to legislate the structure and functioning of traditional courts in line with

constitutional imperatives and values. Yet, it fundamentally undermined democracy and constitutional rights and values and, during public hearings earlier in the year, communities came out strongly against the bill, with most provinces rejecting it. The Alliance for Rural Democracy (ARD), a network of civil organisations, now calls for

a participatory public process with the inclusion of ordinary rural people in conceptualising and drafting new legislation to replace the TCB.

Thank you to all who contributed to this edition of *Umhla ba Wethu*. We share information on current research projects, use-

ful new publications, and past and upcoming events. Please participate by sharing your news and opinions, relevant project and research engagements and events, and interesting topics relevant to rural debates.

Karin Kleinbooi, Editor

LAND REDISTRIBUTION: PART OF A WIDER AGRARIAN REFORM STRATEGY

Very little land transfer is evident from the government's redistribution programme. To shift this will require changing the market-based land-reform strategy, implementing the strategic use of expropriation and real political determination to ensure land redistribution – as part of a wider agrarian reform strategy – alters skewed land-holding patterns in South Africa.

Market-based Land Reform

There is general consensus that land reform is in trouble. Yet there is polarisation, not agreement, on what the reasons for this are and how they can be addressed.

Disagreements between different groups and interests are particularly acute in relation to the WBWS approach, which is blamed for the slow pace of land transfer. These differences are reflected in diverse positions: The ANC Youth League (ANCYL), for instance, calls for the seizure of land without compensation. Lawyers point out that the constitution does not allow the state to expropriate land for land reform. Some radicals argue that the clause requiring 'just and equitable compensation' should be removed. These calls make white farmers feel threatened and in turn they suggest national food security is at risk, while economists warn that uncertain property rights constrain investment and growth.

Certainly market-based land reform and large-scale expropriation are not the only options. Both are problematic and alternatives are needed. It is disappointing that the ANC's policy proposals fail to set these out

coherently or build on long-standing internal discussions in the DRDLR and in lively public debates. Positive initiatives and alternatives have emerged from research and reflection on experience, but these are rarely considered.

Expropriation as a Carrot-and-stick Approach

Expropriation is currently a prominent headline, yet expropriation without compensation is politically not feasible at present and the ANC is unlikely to consider it in the foreseeable future. This is partly because the ANC is a multi-class alliance that includes property-owning capitalists and a growing middle class, and partly because of fears that large-scale confiscation of property would endanger both agricultural production and capital investment.

Expropriation with compensation at less than market value is allowed by the constitution, which specifies that a range of factors can be taken into account, including the current use of the property, its history of acquisition and use, the level of state investment and subsidy in its acquisition and improvement, and the purpose of expropriation. In practice, however, it is unlikely that the prices paid for expropriated land would be much lower than 85–90% of market value. However, with the current capacity of a weak and unskilled government department, large-scale expropriation with compensation at or below market value is also highly unlikely. It would lead to drawn-out court challenges and antagonise the

commercial farmers whom the government is trying to entice as strategic partners and mentors for land-reform beneficiaries.

An alternative consideration in some circumstances is the targeted acquisition of land in a specific location, and expropriation could form part of a 'carrot-and-stick approach' to landowners. In relation to land-restitution claims – as distinct from redistribution – expropriation is the most effective way to resolve disputes over compensation and settle the claim as quickly as possible. It should thus be implemented much more widely. Therefore, reintroducing the Expropriation Bill of 2008 (which was later abandoned) to amend and align the 1975 Expropriation Act with the constitution is now crucial.

Finding a Winning Combination: Valuer-general, Proactive Land Acquisition, Area-based Planning and Effective Support

If land for redistribution continues to be acquired through the Proactive Land Acquisition Strategy (PLAS), then the weaknesses of the WSWB approach need to be addressed urgently. These include spatially fragmented land acquisition, a lack of attention to how support services will be delivered to beneficiaries, inexperienced officials approving purchases of poor-quality land, collusion between land sellers and officials to purchase at higher prices than are justified, and bureaucratic delays that



lead to sellers seeking alternative buyers. We need government to be a much more effective buyer of land. It requires the development of relevant in-house skills and expertise, including inland valuation. The establishment of the office of a valuer-general, as proposed in the draft Green Paper of 2010, is a positive step. The central thrust of an alternative approach should combine proactive land acquisition with area-based planning for both transfer and post-transfer support. It should be aimed at concentrated land purchases in zones of opportunity and need. Acquisition should have a clear spatial focus, and it requires identifying areas where demand for land is high and good land is available. Participatory planning would include processes in which demand is matched with supply and landowners are encouraged to put their land on the market at a fair price. Moreover, this would also require addressing the weaknesses of the current proactive land acquisition strategy,

which fails to provide tenure security and which is also subject to elite capture.

Additionally, as ANC proposals suggest, giving the government the right of first refusal of land offered for sale and to set land ceilings are other mechanisms to assist land acquisition, but these will work best when used selectively with area-based land reform, rather than in a blanket fashion. Areas where proactive acquisition and concentrated land purchase have worked well include Elliot in the Eastern Cape and Besters in KwaZulu-Natal, where the proportion of transferred farmland quickly reached 20–30% of the total. Unfortunately, in these cases, land transfers have not been matched by effective support services – the other significant component of effective land reform – another key issue not adequately addressed in ANC proposals. For this alternative approach to work, three enabling conditions are required:

- In the first, the government must bring in the requisite skills and expertise, not

only for canny land purchasing but also for effective spatial planning and agricultural support services.

- The second is a budget large enough to transfer land on a significant scale and support its new owners in establishing productive enterprises. Land reform's budget has never exceeded 1% of the national budget and quadrupling it is eminently affordable.
- This brings us to the third and crucial condition: sufficient political will to implement large-scale land redistribution.

To ensure its sustainability, it would have to form part of a wider agrarian reform strategy to reconfigure the highly skewed agrarian structure inherited from apartheid and to create market opportunities for new farmers. Does the ruling party have the political will to embark on serious agrarian reform? That is the real question facing the ANC in Mangaung.

Prof Ben Cousins, DST/INRF Chair in Poverty, Land and Agrarian Studies, UWC

THE WILLING BUYER WILLING SELLER PRINCIPLE HAS IN FACT MOVED US CLOSER TO THE 30% LAND REDISTRIBUTION TARGET

Following Prof Johann Kirsten's analysis of all deed transfers between 1994 and 1996 in two provinces where he established that private transactions by black individuals far exceeded the number of transactions supported by the government programme (see his paper in Agrekon, 1996), he recently accessed details from grass roots efforts to establish the extent of black landownership in certain provinces. From these numbers he concludes that outside the land-reform programme, land equity is far greater than acknowledged.

The ANC policy conference in June 2012 resulted in heated debates and arguments about lagging land reform and how to radically speed it up. Once again, the party

blamed the slow pace of land reform on the various land-reform initiatives, such as the WBWS principle. Unfortunately, these arguments are based on limited facts and statistics.

My argument is that this critique on the slow pace of land reform is far too harsh on the ANC. The ruling party should actually be congratulated with the good progress with land transferred from white to black ownership. Evidence suggests that South Africa is actually very close to reaching the target of distributing 30% of the country's agricultural land by 2014. At the speed of current acquisitions by the state through PLAS and private transactions, as well as by completing existing redistribution and restitution

projects, it is likely that we will reach, if not exceed, the 30% target by 2014. Based on the results of a number of studies on private land transactions and the recent land reform and land restitution numbers presented by Minister Gugile Nkwinti in his budget speech of May 2012, it could be argued that in excess of 25% of formerly white-owned agricultural land is today black owned. Part of this number can be drawn from empirical studies of private and government-assisted land transactions but it would have been far easier to confirm had the DRDLR and the Department of Agriculture, Fisheries and Forestry (DAFF) not dragged their heels on implementing a full-scale audit of land-ownership for the last three years.

How do these numbers add up? In 1994, South Africa had about 82 million ha of white-owned agricultural land. That is when the ANC made the promise to redistribute 30% of this land (24.6 million ha) to the previously disadvantaged by 2014. Up to the end of 2009, when the last formal statistics were released by the DRDLR, the government had acquired 6.7 million ha of that land, which equals approximately 26% of the 24.6 million ha target. Since 2009, more land has been redistributed through land-reform and land-restitution programmes, which brought the total to 7.95 million ha by May 2012. This number does not include the monetary compensation chosen by some land claimants since the department is still working on translating the amounts paid for financial compensation into hectares. Without taking into account monetary compensation, the government has redistributed 9.7% of white-owned agricultural land to date.

However, these numbers exclude a large volume of private transactions where black individuals – including many ANC leaders – have bought farmland from white farmers. These transactions take place without assistance from the state and are therefore

not recorded in the land-reform statistics mentioned earlier. Since the deeds register does not classify the owner of the title deed according to their race, the actual figure of land owned by blacks is difficult to estimate. The only way this can be done is through a complex process of verification of actual ownership and the registered title deed. A number of studies across the country have been done in the absence of a formal land audit and the result from this grass roots verification process makes for interesting reading. In most cases, land owned by blacks ranges from 15–28% of all privately owned agricultural land in a municipality to as high as 40% in some instances. In KwaZulu-Natal, for example, we estimate that private-owned land makes up only 48.8% of the province and of the 2.4 million ha of private-owned land of which ownership has already been verified and crosschecked, a total of 957 000 ha or 39.8% are in the hands of black individuals or communities. If one adds traditional authorities, the Ingonyama Trust area and land owned by the state and its parastatals in KwaZulu-Natal, then white-owned land makes up only 24% of all land in the province that can currently be verified. These results are similar in provinces such as the North West and

Mpumalanga. In Mpumalanga the picture is even more dramatic with arable agricultural land formerly owned by white farmers now in the hands of large mining companies (some with black shareholding) making up 7.8% of the total area of the province. What is more important, is that the area under mining covers 13% of the best arable land in the province and is now lost to food production forever.

In essence, the argument presented here is that the facts about landownership are far more complex than are suggested by some of the views expressed in public in recent weeks and months. The ANC should therefore be brave enough to acknowledge that it has already achieved considerable success and that the policy is working despite inefficiencies and high prices paid as a result of wrong valuations and poor information. Minister Nkwinti recently listed a number of steps his department will take in the year to come to deal with these critical problems. If these are addressed, the process of land reform will be reached long before the target date.

Prof Johann Kirsten, Department of Agricultural Economics, Extension and Rural Development, UP

RESPONSE TO JOHANN KIRSTEN

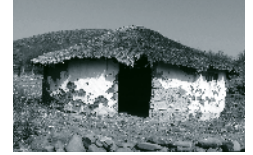
Johann Kirsten's article raises a number of points relevant to the debate surrounding the aims, modalities and impact of South Africa's land-reform programme. He correctly identifies a problem with the availability of reliable empirical information on landownership and the performance of the official land-reform programme. And, while he is keen to discuss increased black landownership – and the reduction in white-owned land – Kirsten says little about the socio-economic profile of new owners and the contribution of land transfers to meeting pressing goals of poverty alleviation, job creation and a more inclusive agricultural sector.

It is ironic for Prof Kirsten to congratulate the ANC government on what has been, to date, a highly problematic land-reform programme – inordinately expensive, yet still missing virtually all of its stated and implied targets in terms of areas transferred, poverty reduction, tenure security, job creation and revitalisation of the rural economy. The ANC must take prime responsibility for this poor performance, but we should not overlook the enthusiastic support provided by much of the agricultural establishment – including academics – for the disastrous WSWB approach.

While land acquisition by black individuals and communities – inside or outside the of-

ficial land-reform programme – may be significant in certain localities, it will come as a surprise to many South African rural workers that the re-allocation of white-owned land to date is anywhere close to 30%. I eagerly await the publication of the surveys Kirsten refers to which, hopefully, will not include a recommendation for a return to racial classification on official documents.

Targets for all aspects of land reform in South Africa have been notoriously slippery, but Kirsten's piece further confuses the picture by introducing a range of largely irrelevant issues: the monetary compensation awarded to restitution claimants, land owned by traditional authorities, the Ingonyama Trust



and the state in KwaZulu-Natal, mining land acquired from white farmers, etc. Such issues only serve to distract from the central question of how land redistribution can promote social and economic objectives.

The most significant issue raised by Prof Kirsten is the importance of private transactions that transfer land from white to black owners outside of the state's official land-reform programme. Such transactions can certainly be seen as part of the transition to a non-racial, democratic society – the question, however, is how these relate to a constitutional commitment to transform property rights more fundamentally. It hardly needs to be pointed out that the poor and dispossessed victims of apartheid are not generally in a position to engage in conventional purchases of land on the open market. Simple removal of overt legal discrimination is the narrowest (liberal) version of emancipation, and while the purchase of land by a tiny handful of the emerging black elite may represent progress of a sort, it falls far short of the popular conception of land reform as part of a truly transformational change in wealth and opportunities. A key role of the South African state – as accepted across most of the political spectrum – is, therefore, to use its policy instruments

and resources to assist those least able to help themselves and, in so doing, achieve the broadest possible social and economic development. Even the World Bank and its supporters in South Africa were clear in their design of a market-based land-reform programme that would assist those who would not otherwise be in a position to acquire land. The most conservative feature of this approach was the insistence on working within the existing market structures, which included compensation for existing landowners at full market value – thereby exceeding the requirements of the South African constitution for 'just and equitable' compensation while adding greatly to the cost and complexity of the programme. Unacceptable as this may be for many, it should not blind us to the radical potential of agrarian reform – the idea that the state must take responsibility for restructuring property relations and that this should be (largely) for the benefit of the relatively poor. Relying solely on the market would be a clear betrayal of this vision.

Whether intentional or otherwise, Johann Kirsten's piece gives support to the view that a 30% redistribution of land is somehow 'enough'. On the contrary, this figure

has never been more than an interim objective, with no special significance – indeed, in simple, demographic terms, a target closer to 80% black landownership might be more appropriate. It is necessary to look beyond such crude numerical targets, however, and consider how land reform – at whatever scale – can be used to further social and economic objectives.

It is important to acknowledge that the building of a democratic society and economy does not depend solely on intervention by the state, but can include a wide range of activities by private citizens and social groups, but this must not distract from the responsibility of targeted interventions to bring about broad-based and substantial change. Rather than being complacent about the success of current land-reform policies, it is time to start asking serious questions – of the ANC, land organisations and researchers among others – about why so little has been achieved in terms of job creation, land rights and transformation of the rural economy.

Dr Edward Lahiff, Lecturer in International Development, University College Cork, Ireland

SMALL-SCALE FARMERS IN THE SWELLENDAM LOCAL MUNICIPALITY, WESTERN CAPE PROVINCE

During 2011/12, the Trust for Community Outreach and Education (TCOE) and the Mawubuye Land Rights Forum carried out a survey among 99 women and men (self-identified) small-scale farmers in four rural towns (Swellendam, Barrydale, Suurbraak and Buffelsjag) in the Swellendam Local Municipality (SLM), which forms part of the Overberg District Municipality (ODM).

The study indicates that:

- There is a significant differentiation among these farmers, but they are playing a key role in the food security of

their households (93% of their households reported never going hungry and having a varied diet), and contributing to food security in their communities. This despite an almost total absence of government support, with less than 2% of land having been redistributed in the whole of the ODM and thus with limited access to land (51% have access to land less than 1 ha; only 16% have access to more than 5 ha; 52% access municipal commonage; and 39% use backyards) and a lack of water reform. This constant source of food for those using

land productively contrasts with previous findings among a random sample of town households (where 80% reported not having enough food).

- Land use varies according to town and gender, with a dominance of livestock farming mostly among males (Table 1). Crop production was quoted in different measures, thus not allowing quantification of total production. A group of four farmers in Suurbraak, for instance, produced a variety of vegetables which converted into R72 000; however only a

minority (2–12%) of crop farmers had a surplus to sell. Markets for livestock and crops are mainly within the communities.

- The most important sources of income remain state social welfare grants (in women farmers' income sources, the child support grant was included), regular employment and seasonal wages/casual work, with agricultural production contributing a modest 9%. Nevertheless, food production is reducing household poverty by freeing income to be spent on other necessities and this is a 'hidden' but significant contribution to the local economy that is not recognised by government.
- There is clearly potential for small-scale farmers to increase their contribution to local social and economic development. Government estimates that social grants bring approximately R2.8 million per month into the SLM district, most of which is spent on basic foods bought from local supermarkets and local food retailers. This indicates potential markets and additional incomes for small-scale farmers.
- Support from government is needed at different levels to increase farmers' con-

tributions to local social and economic development, for example, small-scale agro-processing, access to abattoirs and value-adding, with interventions taking cognisance of the differentiation and different needs among these farmers.

- One of the challenges facing small-scale farmers and other landless people includes greater organisational unity among the various forms of existing associations, which will increase their bargaining power as a pressure group to demand land agrarian reform, and for transformation of the rural economy.

Following the research, the TCOE and Mawubuye organised a public meeting to present the research results and brought together the farmers and relevant government representatives responsible for providing support to small-scale farmers, including local government, the DRDLR and the Department of Agriculture (DoA). The engagement emphasised the need for continued lobbying of structures, in particular around the lack of sufficient land and water, which is hindering agricultural production, and for the creation of an enabling environment to eliminate crippling incidents, such as livestock impounding, which is on

the increase and creating major setbacks to resource poor, small-scale farmers in the area. More discussions are needed around the municipality's constitutional mandate to make municipal commonages and appropriate infrastructure available to meet the needs of poor black town residents for agricultural purposes. While it was encouraging that this preliminary engagement with the DoA and the DRDLR indicated their willingness to work with us and the farmers, the need for more vigorous engagement in the near future is necessary.

This research forms part of a broader baseline survey on land and agricultural production in twelve municipalities in the Eastern Cape, KwaZulu-Natal, Limpopo and the Western Cape, which was carried out by Tshintsha Amakhaya, a learning platform made up of ten CSOs that support local community struggles in land and agrarian reform. The full TCOE report released in May 2012, entitled *Small-scale Farmers in the Swellendam Local Municipality, Western Cape Province*, is available at: <http://tcoe.org.za/archives/tcoe-annual-reports/53-tcoe-final-ta-report-3-may-2012.html>

Paula Cardoso, TCOE, Mowbray

Table 1: Livestock kept, live animals sold (in previous year) and estimated income

	Cattle	Sheep	Goats	Horses	Pigs	Chickens
Total kept	563	194	11	37	513	308
Sold live	162	89	0	11	132	2
Income (Rands)	R420 000	R29 753	0	R12 500	R108 420	R25

CHIEFS AND LAND REFORM: EXTENSION OF COMMUNAL LAND OR (DIS)EMPOWERMENT OF LAND BENEFICIARIES?

This initial research was a comparative study of two communities that were granted private game farms through the land-reform programme. It is part of an ongoing

research programme unpacking the social impacts of the conversion of farms to private game farms in the KwaZulu-Natal and Eastern Cape provinces. This research

highlights that in many cases such conversion has resulted in the forced relocation of farm dwellers from land that they had been living on for generations. It documents how



the land-reform programme has unfolded for some of the former farm dwellers who were evicted for the conversion of farms to private game farms, and brings a deeper understanding of what has come to be understood as community game farming in democratic South Africa. It further unpacks the social and political dynamics involved in the acquisition of private game farms by land-reform beneficiaries, particularly in cases involving chiefs.

Many cases involving chiefs and land reform reflects that tensions do exist between chiefs and Communal Property Associations (CPAs) in many parts of the country. For example, in relation to Limpopo, Mpumalanga and KwaZulu-Natal:

... many of these community claims are constituted as tribal claims, represented by tribal authorities; in these provinces the restitution programme is being harnessed without much debate to a resurgence of traditional leadership institutions and the extension of their authority over community land beyond the former Bantustans (Walker, 2008: 216).

In 2011, a visit to the Pilanesberg Nature Reserve in the North West Province again raised the disputes between land beneficiaries and the chief over the same piece of land, fuelled by fairly 'top-down' land-reform models of community nature conservation.

The main research findings emanating from the literature highlights that many land-reform projects which involve traditional communities, land beneficiaries, or the CPAs representing them, tend to have tensions with chiefs over the land acquired. This is particularly so in many cases of former labour tenant communities, particularly in KwaZulu-Natal. The history of labour tenancy in the province shows that allegiance to chiefs on the part of labour tenants was maintained to a considerable extent during colonialism and apartheid. The history of the province also shows that some chiefs have been instrumental in the creation of game farms and nature reserves

during the apartheid era, which resulted in major forced removals of people from communal land. Such removals took place parallel to those on labour tenant farms earmarked for 'nature conservation'.

However, soon after 1994, Land Reform (Labour Tenants) Act 3 of 1996 provided tenure rights to labour tenants and enabled them to apply to acquire full ownership of the land they already resided on (in many cases for generations) and used. In many cases this has been perceived and appeared to be undermining the legitimacy of chiefs-by-law, and has resulted in chiefs challenging CPAs and, in some cases, fining chairpersons of CPAs. In some instances, leaders of CPAs have been publicly insulted by chiefs over disputes regarding 'delivered land'. Most of these issues remain unresolved, and some have been portrayed by the media as hindering rural development. The real issue revolves around power dynamics and polemic perceptions about what constitutes rural development and who should benefit from it. The land beneficiaries who are often descendants of labour tenants, or had been labour tenants themselves, question the sudden interest of chiefs on former labour tenant farms, because very little was done by the chiefs to challenge the oppressive labour tenant settings during and after the apartheid period.

The above dynamics are best reflected in what is now known as the Ngome Community Game Reserve, a former labour (tenant) farm converted to a game farm in 1974, where many labour tenant families were evicted and only a handful of households were retained for their labour on what was then known as Bhambatha's Kraal Game Ranch. The name Bhambatha was chosen as a 'money-spinner' by the former landowner, as Bhambatha remains a hero in 'battlefields tourism'. This was ironic because that those removed were Bhambatha's people, only a generation younger. Nonetheless, soon after 1994, the then-Zondi chief and other men in the community formed a trust and lodged a land claim on various adjoin-

ing farms, including Bhambatha's Kraal Game Ranch. Most of the land claimed was labour tenant farms. The land beneficiaries, made up of former labour tenants and their descendants, were incorporated into a significantly large group with over 500 people, a process often termed as 'forced collectivisation' in land literature. This is how the former labour tenants were swallowed into this massive land claim. The Ngome Community Land Trust and the chief openly encouraged all land beneficiaries to buy into the idea of the conversion of Bhambatha's Kraal Game Ranch into the Ngome Community Game Reserve in 1997. Huge sums of funds were pumped into the community game reserve and these increased in the 2000s, which also saw the demotion of the first trust on allegations of corruption. At the time, the trust was accused of mismanagement of community funds in the region of R3.8 million. A new trust was formed and grants that had been frozen as a result of the corruption allegations were released. The bulk of the money was invested in the construction of a lodge and the erection of a new fence, which cost about R76 million. However, the new fence was later cut by land beneficiaries in protest for grazing rights inside the Ngome Community Game Reserve. The fence was cut before and at the time of research in 2010.

In elevating the voices of farm dwellers, particularly those who feel oppressed by rural elites, this was a telling narrative from one of the interviewees:

Write this down. I [anonymous] am not benefiting from the game reserve and have given up on ever receiving any benefits. It has been here for years and years, I'm turning grey now. Previously it benefited abelungu (the whites), that is before the land was transferred to black people. Back then the previous owners benefited from hunters and so did the staff, depending on what [was] offered to them by the hunters. At the end of the hunting season the previous owners would slaughter a cow for them, and in

some cases make some offerings of any form. But they did not say it was revenue from the game reserve that made such offerings possible. This was so when the game reserve was still under white control. But since its transfer to black ownership, I do not see anything positive ... [T]he lodge remains unutilised – it was built by funding of the Ngome community. We have not seen any benefits! I have not seen any benefits, for example, there is no structure such as a clinic that was constructed through funding that came from the game reserve. Nor is there a school, nor preschool built. It is a community game reserve by name ... But nobody can say: 'Look my son, here are the trousers I purchased with money I received from the game reserve, here is the house built in courtesy of the game reserve and look at what I have done for my child, with the help of the game reserve'. The game reserve has not helped me in any way; it has not purchased a sack of maize meal for my household. The game reserve is in operation, hunters come and go, but we do not know what happens to the money.

Ngome community member, June 2010

Moreover, it turned out that the construction of the lodge is not even suitable for the type of hunting clientele that the reserve is currently serving. One of the hunters interviewed on 7 August 2010 in the Ngome Community Game Reserve had the following to say about the newly constructed lodge:

Most of the guys ... would be quite happy to put their tent in the bush. They don't want a luxury lodge. They don't want to stay in a place like that lodge over there [pointing to the newly constructed lodge]. They would rather be able to stay simple [sic] – sit around a fire at night and hear the jackals and not hear a generator making electricity.

Hunting client, Ngome Community Game Reserve, August 2010

The research findings from the Ngome case highlight the lack of tangible benefits for land beneficiaries emanating from community game farms, and evidence suggests that should the situation be left unchanged it may give rise to invasion by land beneficiaries themselves. Such tension is attributable to various factors, including the eviction of the remaining former labour tenant households who survived the 1974 eviction. The eviction of households from the Ngome Community Game Reserve in 2003 reflects a different case of new forced removals for 'nature conservation' and adds to the number of cases of farm evictions in the democratic era, particularly those orchestrated by black people against fellow black people – a dynamic which has received attention in land literature. In the Ngome case, resentment towards the trust and the chieftaincy is exacerbated by inequalities such as the explicit exclusion from grazing rights in the community game reserve, while the royal family enjoys exclusive grazing rights inside the Ngome Community Game Reserve. Such inequalities may have contributed in the cutting of the fence mentioned above:

.... the law set by abuntu [black people] tends to be difficult. Most of the time umuntu [indirectly referring to the chief] does not do things transparently – he wants to be the only one benefiting. You see, cattle are not allowed to graze in the game reserve – but the chief's cattle have access inside the game reserve. But ours are not allowed in.

Zondi community member, June 2010

In conclusion, the research amplifies lessons about elitism and marginalisation in rural areas which are often exacerbated in land-reform projects. In most cases this is land outside conventional communal land, and therefore raises questions about the ownership of land acquired through land reform. This is a common encounter on former labour tenant farms now transferred back to the former labour tenants, where tensions between chiefs and CPAs are evident. The Ngome case magnifies the impact of imposed rural development models over com-

munities and the narrow conceptions of 'community' as united and egalitarian social formations free of social stratification. Laws or legislation affecting rural areas, particularly of land reform, should take the above social reality into serious consideration. But, more importantly, the lessons reflected by narratives from the research, which elevates the voices from affected communities, are their needs, challenges and the complexities they face in making land reform a constructive benefit as stated here by a land beneficiary:

Imfuyo [livestock] is [my] life my child. The game reserve must make way for livestock, because the game reserve is not beneficial. Recently we erected a fence, but people have cut it severely because they do not want the game reserve. I want livestock and an end to this [the game reserve], and we should build our households inside the game reserve. We should not be living like this! This place is like a township. My chickens compete with the neighbour's [chickens] for food, and this might lead to tensions between my neighbour and [myself]. In the past, when we were living inside the game reserve, we were separated by a considerable distance ... People have been removed from the game reserve and dumped among other people to make way for the game reserve. What was invisible will now be visible and what was hidden will be revealed because people have been oppressed ... some were dumped along the road, and their cattle are knocked down by passing vehicles.

Ngome community member, June 2010

Mnqobi Ngubane, PhD Research Intern, researching 'Supporting Smallholders into Commercial Agriculture', PLAAS, UWC



POLICY UPDATES

Spatial Planning and Land Use Management Bill [B14–2012]

The bill seeks to provide a single national and institutional framework for spatial planning and land-use management. The proposed Municipal Planning Tribunal which will take responsibility for the facilitation and enforcement of land use and development measures, once promulgated, will make municipalities the primary regulators of land use.

Labour Relations Amendment Bill [B16–2012] and Basic Conditions of Employment Amendment Bill [B15–2012]

Proposed amendments to the Labour Relations Act seek to strengthen the legal framework which ensures decent work and promotes sound labour relations in the labour market. The proposed amendments give specific attention to two key developments in the labour market: i) informalisation, that is, labour broking; and ii) casualisation and new provisions relating to fixed-term contracts and part-time employment are proposed as amendments. In addition, the Basic Conditions of Employment Bill seeks to bring the provisions regulating child labour in line with international standards,

and to strengthen the mechanisms for the enforcement of basic conditions of employment, including minimum wages.

Co-operatives Amendment Bill [B17–2012]

There's been a proliferation of cooperatives in the last number of years, as this was promoted as the preferred legal entity for the disbursement of government's development funding. Cooperatives have been seen by the government as a means of alleviating poverty and of promoting equity and greater participation of especially black, rural people in the economy. Evidently, however, many cooperatives merely exist as formal entities waiting for government support. And, while many of these institutions have a paper membership, they are either dysfunctional or not functional at all. This bill aims to regulate the cooperative sector, define the formation, registration, management and structure of cooperatives, as well as to provide for the establishment of an advisory board (a proposed cooperative development agency), which will set policies for the development of such enterprises. The bill also provides for the establishment of a cooperatives tribunal to deal with disputes and conflicts, and to assist with the enforcement and full compliance of the act.

Traditional Courts Bill [B1–2012]

The TCB is widely criticized and CSOs call for the scrapping of the bill in its entirety. The proposed law aims to replace the outdated Black Administration Act of 1927 as traditional courts are currently operating outside of its parameters, and the aim of the TCB was to bring traditional courts in line with the constitution and its values. However, civil society alliances raised widespread critique that the bill would give traditional leaders extensive, unmonitored powers to adjudicate matters of crime or civil wrong over people in their jurisdiction. Furthermore, it would entrench gender inequality and injustice, as most of the traditional leaders are men, and more than half of the rural population under their jurisdiction are women. Minister of Women, Children and People with Disabilities, Lulu Xingwana, raised official opposition based on discriminatory gender concerns with the bill. Yet, the bill continues its passage through the parliamentary machinery.

RESEARCH PROJECTS

Commercialisation of Land and 'Land Grabbing': Implications for Land Rights and Livelihoods in Southern Africa

This research project commenced in April 2012 and runs until March 2014. It critically investigates how land-based investments impact on land rights, how land users are responding and how governments and oth-

er authorities in the region are responding to, and promoting or opposing, this process. It works with local land users through local non-governmental organisations (NGOs) and other structures, both to document land deals and their effects and to develop recommendations for policy. It also works with regional institutions to take forward policy discussions in light of research findings and in line with the African Union's

(AU) guidelines on land policy. Activities and outcomes are aimed at supporting policy makers and CSOs with the information and capacity needed for evidence-based policy to promote good land governance in, as well as alternatives to, large-scale land acquisitions, so as to protect people living on public and customary lands in southern Africa from dispossession, and to enable them to shape decisions concerning the use

and transaction of their land. The empirical field-based research extends the geographic focus of the project over four countries in southern Africa (through partnerships between PLAAS and research institutions and NGOs), and regional trends and institutions as a whole. Contact project manager Prof Ruth Hall at rhall@plaas.org.za for further information.

Institutional Arrangements in Land Deals in Africa

PLAAS manages and coordinates the resource scarcity and alleviation bid entitled

Institutional Arrangements in Land Deals in Africa, which is supported by the Economic and Social Research Council. This project started in June 2012 and investigates institutional arrangements, focusing on structure of partnerships between investors and multiple local partners, to analyse implications for social differentiation and for poverty. It is distinct from other research which narrowly focuses on the incidence, scale and 'technical fixes' or procedural regulation of land deals. It has a five-fold focus investigating global drivers and resource scarcity; mapping land deals in Africa; historical ex-

periences; institutional arrangements; and livelihood impacts. The key question underlying the research is: 'Can, or how can, the new land investments driven by perceptions of rising global resource scarcity be used as opportunities to promote growth and reduce poverty and inequality in developing countries?'. This project is in collaboration with the University of Sussex (Ian Scoones), the University of Ghana (Dzodzi Tsikata), Moi University and the University of Zambia. Project manager Prof Ruth Hall can be contacted at rhall@plaas.org.za for more information.

NEW PUBLICATIONS

Recent Progress in Understanding Small-scale Fisheries in Southern Africa, Current Opinion in Environmental Sustainability 4(3): 338–343 (Isaacs, M, 2012)

The Food and Agriculture Organisation (FAO), World Bank, WorldFish Center, International Collective in Support of Fishworkers (ICFS), World Fisher Forum (WFF), international experts and researchers have all contributed to the recent progress in understanding small-scale fisheries. The Big Number Project (BNP) has reconfirmed the importance, scale and size of this sector. Hence, it is crucial that fisheries' governance and human rights-based approaches secure social and economic justice for small-scale fishers, and this should be in balance with environmental sustainability. This paper reviews recent progress in recognising and addressing issues in small-scale fisheries in southern Africa. Specifically, it asks what approaches, frameworks and concepts are driving the discussions and debates on small-scale fishing. Accessed in August 2012 at: <http://tinyurl.com/lykqr4go>

South Africa's Bantustans and The Dynamics of 'Decolonisation': Reflections on Writing Histories of the Homelands, South African Historical Journal 64(1): 117–137 (Evans, L, 2012)

From the late 1950s, as independent African

polities replaced formal colonial rule in Africa, South Africa's white minority regime set about its own policy of mimicry in the promotion of self-governing homelands, which were to be guided to full 'independence'. Scholarly study of South Africa's homelands has remained largely apart from accounts of decolonisation in Africa. An interpretation of South Africa's exceptional political path in the era of African decolonisation that has dominated literature has meant that important debates in African history, which might helpfully illuminate the South African case, have been neglected. In seeking inspiration for new histories of the homelands, this article looks beyond South Africa's borders to processes of and debates on decolonisation in Africa. Historical accounts of African decolonisation, particularly the work of Frederick Cooper, provide inspiration for ways of thinking about the making of Bantustan states, the production of power, the differentiated responses with which the Bantustan project was met across localities, classes, genders and generations and the range of alliances that this process forged. Accessed in August 2012 at: <http://tinyurl.com/8sk3ar5>

LDPI Working Paper 7: Agricultural Land Acquisition by Foreign Investors in Paki-

stan: Government Policy and Community Responses (Settle, A, 2012)

This paper explores the Pakistani government's 2009 agricultural investment policy package – a response to increasing foreign investor interest in agricultural land – and considers the likely implications for local communities. By analysing it pertaining to the categories of cultivated and uncultivated land, the paper explores possible consequences that peasant farming communities and grazing communities face. The findings point to an urgent need for the Pakistani government to address environmental and food security issues. Accessed in August 2012 at: <http://tinyurl.com/8sljzmf>

Joint Ventures in Agriculture: Lessons From Land Reform Projects in South Africa (Davis N; Lahiff E; Manenzhe T, 2012)

'Inclusive business models' have recently attracted renewed interest as part of wider debates about growing agricultural investment in developing countries. This report discusses joint ventures in South Africa's agricultural sector, where land-reform beneficiaries entered into a range of joint ventures with commercial partners. The specifics of South Africa's experience of inclusive business models are linked to its history and recent land-reform programme. It provides



a cautionary tale for international debates about inclusive business models, while also identifying more promising models that are now emerging. Accessed in August 2012 at: <http://tinyurl.com/8sljznh>

Water Research Commission Research Report: Social Water Scarcity and Water Use (Tapela, BN, 2012)

This research, undertaken by Barbara N Tapela of the African Centre for Water Research (and currently at PLAAS), highlights issues of 'social water scarcity' in South Africa, which refers to the construct of resource management determined by political, economic and social power dynamics. Since secure access to water is an integral part of people's multifaceted livelihoods, social water scarcity becomes most obvious at micro-levels, especially at community and household levels, where people perceive scarcity in terms of their inability to access the quantity and quality of water they need to meet their multiple-use requirements. People who are water scarce [sic] are usually aware of the power dynamics surrounding water access and see social water scarcity as an end-product of dominance by more powerful political, economic and social forces. Where such relations (and the related institutions) are seen as sub-optimal they mobilise their individual and collective livelihood assets to cope with water insecurity and/or engage institutions around the need for change. Although, in post-apartheid South Africa, the government has broadened access to water, many rural and informal urban dwellers still lack adequate, safe drinking water, often due to institutional ineptitude or the lack of access to formal housing. Besides the amplified strategy of social protest, people with poor access to water continue to develop coping and adaptive strategies. Accessed in August 2012 at: <http://tinyurl.com/gabt09g>

New issue of Journal of Peasant Studies 39 (3-4) 2012

The latest issue of the Journal of Peasant Studies 39 (3-4) is now available and the

contributions to this collection use the tools of agrarian political economy to explore the rapid growth and complex dynamics of large-scale land deals in recent years, with a special focus on the implications of big land deals for property and labour regimes, labour processes and structures of accumulation. Articles examine the implications of large land deals from an agrarian political economy perspective, explore the continuities and contrasts between historical and contemporary land grabs, and examine core debates around large- versus small-scale farming futures. This issue also unpacks the diverse contexts and causes of land grabbing today, and assesses the crisis narratives that frame the justifications for land deals, and the flaws in the argument around there being excess, empty or idle land available. Accessed in August 2012 at: <http://www.tandfonline.com/doi/abs/10.1080/03031853.2012.703334>

Rural Resistance in South Africa: The Mpondo Revolts After Fifty Years (Kepe, T; Ntsebeza, L, 2012)

Much has been written about anti-apartheid resistance and its violent repression by security forces in urban areas, such as the Sharpeville massacre and the Soweto riots. But very little attention has been paid to resistance by rural people. The Mpondo Revolts, which began in the 1950s and reached a climax in 1960, rank among the most significant rural resistances in South Africa. The revolts were fought by Mpondo villagers who emphatically rejected the introduction of Bantu authorities and rural land-use planning that would mean the loss of their land. This volume presents a fresh understanding of the uprising, as well as its meaning and significance today, particularly relating to land, rural governance, party politics and the agency of the marginalised. Accessed in August 2012 at: http://www.uctpress.co.za/catalogue/itemdisplay.jsp?item_id=10036&adddest=true

Unlocking Markets to Smallholders: Lessons from South Africa (edited by Van

Schalkwyk, HD; Fraser, GCG; Obi, A; Van Tilburg, A, 2012)

This book assesses institutional, technical and market constraints and opportunities for smallholders, notably, emerging farmers in disadvantaged areas such as the former homelands of South Africa. Emerging farmers are previously disadvantaged black people who started or will start their business with the support of special government programs [sic]. Public support programs [sic], developed as part of the Black Economic Empowerment [BEE] strategy of the South African government, aim to improve the performance of emerging farmers by upgrading emerging farmers' skills and providing access to knowledge about agricultural and entrepreneurial practices. To become or to remain good farmers, emerging farmers also need access to suitable agricultural land and sufficient water for irrigation and feeding cattle, and they must be engaged in viable farming operations. Various factors need to be in place, such as marketing and service institutions to give credit for agricultural inputs and investments; input markets for farm machinery, farm implements, fertilizers [sic] and quality seeds; and accessible output markets for their end products. This book develops a policy framework and potential institutional responses to unlock the relevant markets for smallholders. Accessed in August 2012 at: <http://www.wageningenacademic.com/manager/handle/1875/2010>

Seasonality, Rural Livelihoods and Development (edited by Devereux, S; Sabates-Wheeler, R; Longhurst, R, 2011)

Seasonality is a severe constraint to sustainable rural livelihoods and a driver of poverty and hunger, with many poor people in developing countries ill equipped to cope with seasonal variations. Combined with climate change and other forms of development disruption, season variations can lead to drought, flood and consequences for agriculture, employment, food supply and the spread of disease. This book is the first systematic study of seasonality in over twenty years, and it aims to revive academic inter-

est and policy awareness of this crucial but neglected issue. Thematic chapters explore recent shifts with profound implications for seasonality, including climate change, HIV/AIDS, and social protection. Case study chapters explore seasonal dimensions of livelihoods in Africa (Ethiopia, Kenya, Malawi), Asia (Bangladesh, China, India), and Latin America (Peru). Other chapters assess policy responses to adverse seasonality, and the book also includes innovative tools for monitoring seasonality, which should enable more appropriate responses. Accessed in August 2012 at: <http://tinyurl.com/8sljz mh>

The Land Grabbers: The New Fight Over Who Owns the Earth (Pearce, F, 2012)

The Land Grabbers is a first-of-its-kind exposé that reveals the scale and the human

costs of the land grab, one of the most profound ethical, environmental, and economic issues facing the globalised world in the twenty-first century. The corporations, speculators and governments scooping up land cheap in the developing world claim that industrial-scale farming will help local economies. But Pearce's research reveals a far more troubling reality. While some mega-farms are ethically run, all too often poor farmers and cattle herders are evicted from ancestral lands or cut off from water sources. The good jobs promised by foreign capitalists and home governments alike fail to materialise. Hungry nations are being forced to export their food to the wealthy, and corporate potentates run fiefdoms oblivious to the country beyond their

fences. Over the next few decades, land grabbing may matter more, to more of the planet's people, than even climate change. It will affect who eats and who does not, who gets richer and who gets poorer, and whether agrarian societies can exist outside corporate control. It is the new battle over who owns the planet. Accessed in August 2012 at: <http://www.randomhouse.com/book/216574/the-land-grabbers-by-fred-pearce>

NEW APPOINTMENTS

On 1 June 2012 PLAAS launched its new website at www.plaas.org.za. The all-new look and feel also features a news section, www.plaas.org.za/news, where we regularly post news items on land reform, agrarian reform, land grabs, poverty, informal self-employment, etc. You can also opt in to receive news items by mail – just drop an email to plaasnews@plaas.org.za to find out more about the news list options.

Mr Sheldon Magardie was appointed Regional Director of the Legal Resources Centre (LRC) in the Cape Town office. (He took over from Acting Director William Kerfoot who held the position since February 2011.)

Ms Lesirela Letsebe, Project Coordinator of the LHR Security of Farmworkers Project, is now Head of Operations at LHR in Stellenbosch.

Ms Colette Solomons, Deputy Director at Women on Farms Project, is now Acting Di-

rector following the resignation of Ms Fatima Shabodien.

Mr Gavin Joachims, former Deputy Director at TCOE, has taken over as National Director from Ms Mercia Andrews.

Mr Langa Zita who was appointed in 2010 at DAFF and held the post of Director-General, was suspended in July 2012. Acting in this position is **Mr Sipho Ntombela**.

PLAAS obtained information for *Umhlaba Wethu* from a wide range of sources. Views expressed here do not necessarily reflect the views of PLAAS.



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Karin Kleinbooi, Institute for Poverty, Land and Agrarian Studies, School of Government, Faculty of Economic and Management Sciences, University of the Western Cape, Private Bag X17, Bellville, 7535, South Africa, Tel: +27 21 959 3733, Fax: +27 21 959 3732,

E-mail: kkleinbooi@plaas.org.za or visit our website:

www.plaas.org.za