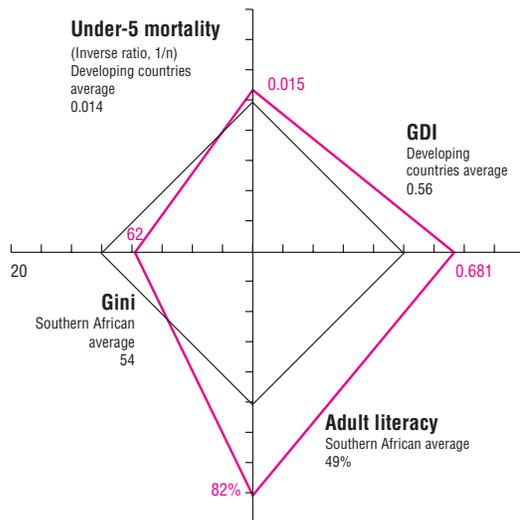


S O U T H A F R I C A

R E P O R T



The Equity Diamond: National values in terracotta compared to regional ones in blue.

Land distribution and tenancy is one of the major sources of inequality in South Africa, but now at least the ability and contribution of farm dwellers in South Africa is recognised by the state, and this is an indication that their lives are about to change for the better.

Of the 40 million people living in South Africa, 76% is black. Approximately 58% of black South Africans live in former Bantustans. Women comprise 55% of the total adult population of this country and 69% live in rural areas.

Land policies in South Africa were used as a political economic tool by the architects of apartheid. This was backed by a policy of controlling the movement of farm labourers so

THE LAND

as to guarantee the supply of cheap black labour to white farmers.

RESTITUTION AND EQUITY

Repression of land struggles took the visible form of removals in the 1960's, 70's and 80's. Though the post-apartheid government has acknowledged the previous injustices and oppression of past land dispossessions, the process of redress is so slow that people are starting to lose hope.

The process of claiming land requires that forms be filled in and delivered to the Land Claims Commissioner. Then communities may wait for years for their claims to reach the Land Claims Court. Out of 16,670 restitution cases lodged at the Land Claims Commission, only 48 have reached the Land Claims Court.

Churches and government departments are also guilty of having land initially belonging to communities. The South African Defence Force is one such department which owns vast pieces of land across the country. During this year's parliamentary defence review, Defence Minister Joe Modise claimed that the «*outdated military equipment and the severity of the amount cut on our budget will disrupt defence functions*». He was expressing concern about a R4.1 billion cut from the defence budget. But while the Minister pleads for more money for his department, a number of communities are concerned about the slow process of restitution, particularly the South African Defence Force's (SANDF) reluctance to let go of their land.

The government's restitution process is supposed to ensure that people who were forcibly removed from their land get it back or be given equivalent reparation where restitution is not feasible. **SANDF is guilty of clinging tightly to land confiscated from people during the apartheid era.** Of the 217,038 ha they have given away since 1986, only 86,862 ha was returned to original owners. The remaining 130,176 ha was given to the Departments of Conservation and Agriculture and other government departments. Currently 488,879 ha of land is in the hands of SANDF and 9 restitution claims are lodged against SANDF.

SANDF claims to be committed to resolving land claims through a negotiated settlement, using the Land Claims Court only as a last resort. Yet communities' attempts to bring SANDF to negotiations have failed – frustration and harassment are experiences they encounter as they battle to get their land back.

The British army and other SADC countries recently joined SANDF in Lohattha battle school in a war exercise called Operation Ocean Wave. **There is no ocean near the battle school!** The 135,000 ha battle school is one of many army bases 'owned' by SANDF. Even the British army commended the abundance of space SANDF has in Lohattha.

This land is claimed by three communities, two of whom – Gathlose and Maremane – were forcibly removed during the apartheid era in 1978. The third community, the Khosis (classified as coloureds during the apartheid era) remained on the land. Their livestock is often killed by stray missiles during military exercises, and people are supposed to lock themselves indoors for a week to avoid being hit. The Gathlose and Maremane communities were moved from the land where their livestock flourished and multiplied and were dumped in Kuruman, a semi-desert in the then Bophuthatswana homeland. Later SANDF accommodated some Afrikaner farmers in other parts for grazing purposes.

The communities' attempts to hold peaceful protests always end up in hostility and confrontation from the military, from being bundled into military trucks and taken to police stations, to going through long interrogation processes. Howling children and women are not exempt from harassment.

In an attempt to mediate the tug of war between the army and the communities, President Nelson Mandela made recommendations on how the dispute can be resolved. Amongst his recommendations he stated that SANDF should acknowledge that the communities are the rightful owners of the land, and that the military should agree to lease the land from the communities for military purposes on an indefinite basis. He also suggested that an adjacent part of land that is currently used by farmers for grazing be bought for the communities by the state.

Though the communities are willing to negotiate some of the President's recommendations, SANDF is yet to show willingness to discuss the proposals. So far they (SANDF) have claimed through the media that the communities were given R5¹ million as compensation, allegations the communities deny. The communities appointed a five member steering committee to try to negotiate but the only outcome has been the ferrying of community people across the country by SANDF for meetings. No progress has been «*We are tired of travelling without any positive outcomes, when the people give us a mandate to attend these meetings, they expect us to come back with something tangible*», complained Mr Boniface Mosiane, one of the community representatives.

Instead of working towards giving land back to the people,

SANDF has announced that Lohattha will soon be upgraded. Moreover, the opinion of the Northern Cape Provincial government poses an obstacle to the whole claim. According to the MEC for Agriculture, Nature Conservation and Land Reform in the Northern Cape Province, Mr Thabo Makweya, the military base is a major plus for the Province, communities and the country as a whole. «*The Northern Cape will strive to have the base as an asset to the community and to assist in putting the Province on the map*», he claimed.

This has raised eyebrows in the communities who have been sent from pillar to post in the past four years. Communities also question the government's commitment to land reform; if it is committed, why is SANDF allowed to carry on with the exercises? The restitution act clearly states that there should be no development or anything that will impede and delay the restitution process.

«*We thought the government we voted for will acknowledge and mend the wrongs done to us during apartheid era, but the minister does not even have the courtesy to meet with us to solve the problem.*» said Mr Josiah Gasehete one of community representatives.

EVICCTIONS, CONFISCATION AND SECURITY OF TENURE

Another aspect of the struggles of communities to regain their lands is the wretched conditions and insecurity of farm workers. The suffering of farm dwellers in South Africa contradicts and makes mockery of our new constitution. The right to a secure home and access to health facilities have yet to apply to the rural poor. Education seems to be not a right but a privilege to farm worker children, as their future lies in the hands of land-owning farmers.

Evictions, harassment and confiscation of belongings and livestock provoked concerned organisations to tackle the problem or to expose the real situation on farms. Laws restricting the movements of farm workers date back to 1856 when the Cape Masters Act was passed. This act called for compulsory registration of farm servants. The 1913 Natives Land Act was the beginning of laws that stripped the independence of labour tenants. The Natives Land Act eliminated independent sharecropping and rent tenancy in white owned areas. It is comparable to the 1951 Prevention of Squatting Act, which empowered the minister to remove blacks from public or privately owned land. These harsh laws, dating from 1856 to 1979, are the cause of squatting, bantustans and skewed land distribution. Farm workers bore the brunt of them.

Then came the release of the current South African President, Nelson Mandela, from prison, and the process towards democracy for South Africa began. When political parties start-

¹ R: Rand, South African currency.

ed campaigning for the 1994 elections, some of them approached farm workers and pleaded for their votes. Most farm workers tasted democracy on the side of the street, but because their hopes and aspirations were raised, they strongly believed that it would not be long until they would be reinstated in their homes. Yet four years later, the number of people who are forcibly removed from their homes is increasing daily. Squatting and exposure to an unhealthy environment is the reality for evicted families.

Late last year (1996), the National Land Committee launched a campaign aimed at exposing evictions and the white farmers' reluctance to acknowledge previous injustices. This pressurised the government to form a consultative process to deal with the eviction crisis. **In an attempt to accommodate all stakeholders, the government invited suggestions on how to combat the evictions and how farm dwellers – who deserve to have their rights recognised like any other South Africans – can be treated fairly. Farmers' unions, farm worker unions and the National Land Committee submitted their inputs and the Extension of Security of Tenure Bill was drafted.**

The first version of this law was published in February 1997. Intensive lobbying by farmers' organisations led to drastic changes in the bill. All clauses that seemed to acknowledge hardships endured by farm dwellers were scrapped, while clauses that allowed farmers to evict people at will remained intact. The farmers praised the new draft until August 28 when it was passed in parliament, this time with drastic new changes in favour of farm dwellers. The new bill states that all persons who have resided on a farm for more than 10 years and people over 60 years of age are exempt from eviction and have user rights.

A clause that permitted termination of employment as valid reason for eviction was scrapped. Only persons who violate their agreement with a farmer or who are a threat to other residents may be evicted. The farmer has to give proof of violation before the eviction.

Before this final amendment was added to the bill, farmers had used the termination of employment clause to their advantage by 'renewing' their permanent employees contracts (under previous law, people who had stayed more than 20 years on a farm could not be evicted). After evicting people who stood a chance of being protected by law, they would then re-employ them on short term contract basis as seasonal workers. The high level of illiteracy on farms worsened the situation because farm dwellers could not challenge eviction orders nor did they understand what they were charged with.

Our justice system did little to protect farm dwellers from farmers who applied for eviction orders. Farmers easily acquired eviction orders without being challenged, because the local courts were often linked to land owners through social and political ties. Sympathetic police were called in to speed the process by ensuring that farm dwellers left their homes. Now with the drastic changes in the bill, the court must be convinced that a farm dweller has actually contravened an agreement with a farmer before eviction is legal.

Research conducted by the Land Agricultural Centre

(LAPC) has shown that women contribute about 80% of agricultural labour, mainly as unpaid family labour. Widows and their children are the most vulnerable on South African farms. Farmers generally signed contracts with men. When the men died, their families' destinies were at the side of the road, regardless of how long a family may have lived on the farm and rendered services to the farmer.

The new bill protects all dependents. At least 12-month written notice must be issued before eviction and eviction cannot occur unless alternative accommodation is available. It is stated that the new accommodation has to suit the farm dweller's life style i.e. may not be less favourable than the occupier's previous situation. This includes access to land for agricultural use and services available to them prior to eviction.

A 78 year old man, Mr Solomon Mokoena, who was born on Deemster farm in the Free State province, is expected to seek a new home. *«I am already bones yet I am supposed to look for a new home»*, lamented Mr Mokoena during a farm dweller convention that was held in Bloemfontein to alert farm workers about their rights and how the new bill affects them. As he shuffled along the corridor he told of his hopes that the new bill will make it possible for them to go back home. There are 250 households (approximately 1,800 people) in the Free State who, like Mr Mokoena, have been evicted since July 1996. To date, more are following the same route as eviction orders are still issued on regular basis.

In the North West Province, 70 people have been evicted since February this year [1997]. Twenty-five households were evicted in Mpumalanga in July. This is just the tip of the iceberg according to monitoring in areas where NGOs and farm dweller unions operate.

The situation is made worse because farmers do not allow farm dwellers to attend rural conventions. *«Farmers say if we corrupt their employees we should not bring them back to their farms»*, said Phumeza Grootboom of Border Rural Committee (BRC), one of the organisations that joined hands with the Transkei Land Services Organisation (TRALSO) to ensure that farm dwellers make inputs to the bill. Hence field workers have had to come up with different reasons for organising workshops with farm workers.

Farmers have attempted to hold the government ransom with the argument that agriculture is a major economic sector in South Africa and should not be thrown into crisis, but this argument has failed. It has had the opposite effect of showing the major role that farm workers play. *«The only way I can make a living is through farming, I cannot think of doing anything else»*, said Mr John Mokgethea, who has been issued an eviction order for demanding a living wage. The eviction order he received with 63 other families is due to take effect soon and after working on a farm for 40 years, he has to seek a new home and other means of survival. Now the bill states that all those who have resided on a farm for more than 10 years and people over 60 years of age are exempt from evictions and have user rights.

It has taken sheer hard work and dedication to ensure that farm workers are regarded as the backbone of our econ-

omy today. It also took massive financial support and huge subsidies.

While organisations like the National Land Committee are preparing to empower farm dwellers by holding workshops and ensuring that they know their rights, the South African Farmers Union is not impressed by the outcome. With the exception of the Pan African Congress and the ANC, all political parties who were in the portfolio committee including the Inkatha Freedom

Party, Conservative Party, Freedom Front and the National Party opposed the bill. But while farmers and the political parties who back them are bitter about the changes, farm dwellers will be able to use the new bill to their benefit.

- National Land Committee