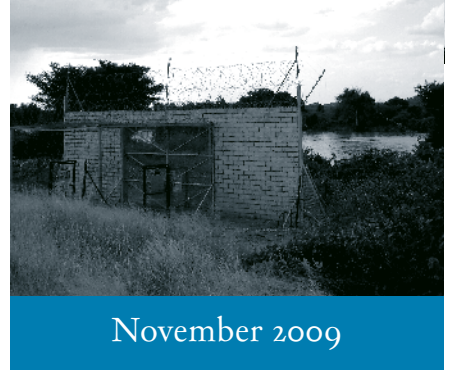


# UMHLABA

## Wethu 9



November 2009

A bulletin tracking land reform in South Africa

**PLAAS**

Institute for Poverty, Land and Agrarian Studies



## IN THIS EDITION

- WATER AND LAND IN RURAL DEVELOPMENT
- LAND REFORM UPDATE • RESTITUTION SUMMARY • DELIVERY TARGETS FOR IMPROVED WATER ALLOCATION • ARTICULATING WATER AND LAND REFORM • GAPS IN WATER REFORM
- WATER ACCESS AND SOURCES ALONG THE CAPE WEST COAST
- DEMOCRATISATION OF WATER MANAGEMENT INSTITUTIONS • WATER FOR GROWTH AND DEVELOPMENT • POLICY UPDATES • KEY POLICY CHALLENGES FOR RURAL DEVELOPMENT • NEW PUBLICATIONS • RESEARCH UPDATES
- EVENTS • NEWS

## RESOURCES AND RIGHTS: WATER AND LAND IN RURAL DEVELOPMENT

The slow pace of reform has been compounded by the way land and water reform has been separated into inflexible and watertight compartments. The institutional shifts after the 2009 elections have provided opportunities to look at complementary elements of rural development, in particular balancing access to land and water and the strategies and actions that are needed to secure primary rights to both.

Both the Department of Water and Environmental Affairs (DWEA) and the Department of Rural Development and Land Reform (DRDLR) acknowledge the importance of water reform jointly with land reform. What does integrated planning and management of land and water resources mean? What kind of land and water policy framework do we need to support small producers and land-hungry rural communities? And what kind of institutional framework is appropriate to discontinue the disjuncture between land and water reform?

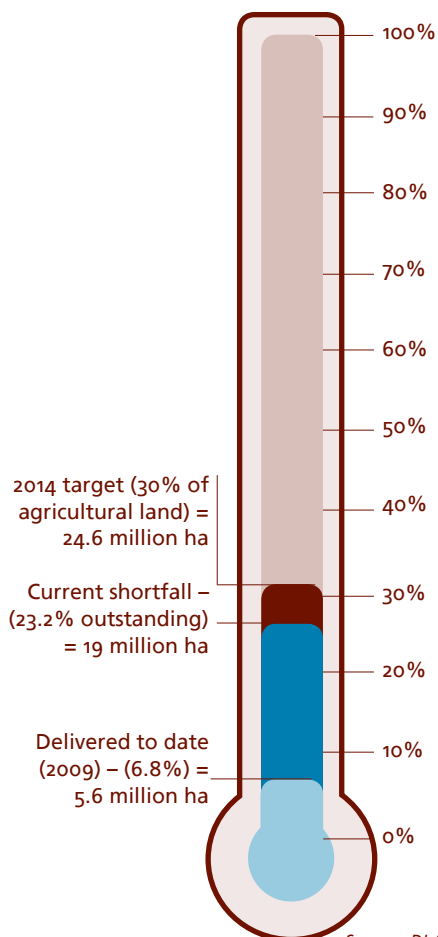
Both water and land are national responsibilities and perhaps the development and support of local institutions to manage

rights and resources need greater attention. While the Comprehensive Rural Development Strategy (CRDS) promotes a more integrated delivery approach it is hoped that, along with the urgency to speed up the delivery of resources such as land and water to poor rural communities, strengthened rights will not be neglected. This bulletin investigates and highlights the importance of integrating water and land reform and the realisation of substantive rights to these resources in an agrarian context.

This edition is dedicated to Barbara Tapela, who ended her tenure at PLAAS at the end of September 2009 to join the African Centre for Water Research (ACWR), a legal, policy and capacity-building consultancy with the focus on transboundary water resources management in Africa. Barbara committed most of her time to research in support of pro-poor agrarian change and in highlighting the challenges of water reform. She is currently finalising a PhD entitled *Livelihood impacts of commercialisation in emerging small-scale irrigation schemes in the Olifants Catchment Area of South Africa*. We wish her all the best!

Karin Kleinbooi, Editor

## LAND BAROMETER



## LAND REFORM UPDATE (AS AT SEPTEMBER 2009)

- A total of 3 million ha were delivered under the redistribution and tenure programme.
- The restitution programme transferred 2.6 million ha to land reform beneficiaries.
- The above figures include state land.
- In total the land reform programmes delivered 5.6 million ha since the 30% target was set in 1995.
- In a report to Parliament in November 2009, director-general Thozzi Gwanya acknowledged 49% of the land transferred was not being farmed effectively.
- The director-general also suggested the deadline for redistributing the remaining

19 million ha (23.2% of the total target of 30%) of agricultural land should be extended to 2025 since the 2014 deadline will not be met due to fiscal constraints.

- This would be the third time that the deadline will be shifted.

### Percentage of land delivered by programme



\* This pie chart includes state land.  
Source: DLDLR, September 2009

## RESTITUTION SUMMARY

Table 1: Rural claims outstanding as at 30 September 2009:

Province	Number of outstanding claims as at 30 September 2009	Total claims settled:	Dismissed claims:	Number of outstanding claims
Eastern Cape	522	5	2	515
Free State	28	3	5	20
Northern Cape	189	3	16	170
Gauteng	3	0	0	3
North West	195	2	0	193
KwaZulu-Natal	1652	10	0	1642
Limpopo	422	315	0	107
Mpumalanga	712	5	1	706
Western Cape	573	2	18	553
<b>Total</b>	<b>4296</b>	<b>345</b>	<b>42</b>	<b>3909</b>

Source CRLR, September 2009

- The number of rural claims outstanding is at 4 296 claims.
- In Limpopo – where in total 70% of the land was under claim – a substantial number of the outstanding claims have been settled since March 2009. There are now only 107 outstanding claims to be processed.
- A total number of 42 claims were dismissed across provinces.

## DELIVERY TARGETS FOR IMPROVED WATER ALLOCATION

- The DWEA sets out the following priorities to address the provinces' huge service delivery backlogs and to improve water allocation to land reform projects:
  - o Prioritize the licensing and water allocation to land reform projects:
    - 2009/10** – Limpopo and Eastern Cape
    - 2010/11** – KwaZulu-Natal and Northern Cape
    - 2011/12** – North West and Free State
- **2012/13** – Western Cape, Gauteng and Mpumalanga
- Currently, 15% of water use licences are allocated to historically disadvantaged individuals (HDIs) for irrigation purposes. The DWEA plans to address the backlog in issuing licences. In 2009/10 the DWEA set out to issue 20% of licences to HDIs. From 2010/11 they aim to increase delivery on licences by 5% per year to reach a 2013/14 target of 40% registered water use licences amongst historically disadvantaged communities.
- The licence application backlog for water rights stands at 1 800 licences. The DWEA aim to address all applications already in this backlog by 2011/12.
- The DWEA plans to review progress towards integrated water, rural development and land reform by 2013/14.

Source: DWEA, Strategic Plan 2009–2014

## ARTICULATING WATER AND LAND REFORM TO ADDRESS EQUITY AND PROMOTE RURAL DEVELOPMENT

*In South Africa, with the advent of democracy, both land and water institutions have undergone, and are still undergoing, reform measures, especially to address equity and promote rural development. However, despite the apparent inter-linkages of land and water in rural livelihoods and agricultural development,*

*the implementation of such reforms has been done separately.*

Water reform advocates the registration and licensing of all non-domestic water use. In terms of the National Water Act (1998), water should be governed in a decentralised manner where new institutions (Water User Associations – WUA, and Catchment

Management Agencies – CMA) are established to encourage user participation in decision making, efficiency and equity in water use. On the other hand, in the framework of land reform, through its restitution/redistribution programmes, people will get access to private land (in CPA, trust or CC form) and, with the



implementation of the Communal Land Rights Act of 2004 (CLaRA), communal lands are to be restructured, probably privatised.

Two major questions come to the fore. Does the separate implementation of the water and land reforms have implications for rural livelihoods and agricultural development, particularly regarding inconsistencies of water and land rights respectively? Would articulating the two reforms lead to improved opportunities to address equity and promote rural development?

Field work conducted on land reform farms of the Tzaneen region and on the communal small irrigation schemes of Nzhelele and Thabina highlighted not only the lack of coherence between the land and water reform programmes, it also showed the implementation constraints of the programmes individually. With regard to the land reform farms – with water reform not being effectively implemented – none belong to a WUA and subsequently none have water licences. The lack of water has hampered production – over 85% of the

farmers indicated inadequate water supply as their major constraint to farming. These farmers are dependent on borehole water (which is neither monitored nor measured). The situation is similar on the irrigation schemes: despite water reform being officially implemented in the two schemes and a WUA being established, there are still no water rights or licences used, nor has water supply and infrastructure improved.

On the land reform farms, none of the farmers interviewed were fully utilising their land, with more than 80% of the land lying fallow. In the irrigation schemes, 30% of the land is left fallow and only 44% of the farmers fully utilise their plots. Linking land to water reform might have a positive impact. Indeed, land reform farmers mentioned not being able to increase their activities or to rent out their surplus land as water was a problem on the farm and the absence of licences did not provide for better prospects. Seventy-six per cent of the farmers interviewed were in favour of privatising land, but only 23% of these were willing to lease their plots after

privatisation. Communal farmers value land sentimentally as some form of insurance, as a safety net, or as a structural part of their livelihood trajectory; very few view it as a productive asset. High costs of inputs, low return on agricultural investment and lack of market access limit potential benefits of water and land reform.

Although articulating land reform to water reform seems necessary – particularly for land reform beneficiaries – the lack of effective implementation of water reform remains an obstacle, constraining rural livelihoods and agricultural development. In addition, for it to address equity effectively and promote rural development, it seems necessary for the water/land reform to be linked to broader agrarian reforms, taking into consideration support services, market access and the overall rural, often multiple, livelihoods.

*Davison Saruchera and Ward Anseeuw (Postgraduate School of Agriculture and Rural Development (University of Pretoria & CIRAD), ARISE Project).*

## WIDENING GAPS IN WATER REFORM

*The Irrigation and Conservation of Water Act of 1912 linked water use to land ownership but, because of its discriminatory nature, and following South Africa's transition to a democracy, the National Water Act was enacted in 1998. It is more than ten years since this act has been promulgated. Nevertheless, the distribution of water and the ownership patterns of water rights in South Africa remain unequal and the overall picture has not changed significantly from the past.*

The President of the National African Farmers Union (NAFU), Motsepe Matlala, asked a critical question at a national workshop organised by the then Department of Water Affairs and Forestry on 26 March this year: 'What has really changed in South Africa's

water management for black farmers since 1994?' His question is pertinent. Large-scale farmers, who constitute 1.2% of rural households, use 95% of the rural water resources, and the gap has been widening even faster than before 1994. Successful implementation of irrigated land restitution and redistribution could start closing the gap in the longer term. However, as water flows, the gap in water distribution concerns all rural and peri-urban land where water can be turned into health, food and income, certainly nowadays and also in the future.

Perhaps the most important cause of the widening gap is the deafening silence on any significant water technology development agenda for the 'missing middle' small-scale farmers. Water technologies are

the arms with which to fight the WAR of Water Allocation Reform. Technologies for improved water use and re-use hold soil moisture, improve yields, allow for two or three high-value crops for year-round food and income, ensure animal health, foster tree growing and aquaculture, and enable a range of water-dependent small-scale enterprises. This is in addition to vital domestic uses. Nevertheless, in reality even piped supplies designed for domestic use only are often used for productive purposes, providing a quarter of poor households' incomes.

White farmers are well aware of the importance of infrastructure. They grew big thanks to a century of world-class financial, technical and institutional state

support for dams, irrigation schemes, private pumps, farm dams and water conservation technologies. They also increasingly benefitted from the growing private markets of irrigation equipment and skills. The apartheid government also invested in black smallholder irrigation. However, after 1994 state support to white irrigators dwindled, but much less drastically than for smallholder irrigators, who suddenly lost virtually all support. Many smallholder schemes collapsed and the recent revitalisation efforts are yet to produce results. Wherever small-scale farmers themselves invest in irrigation at the moment, it is almost in spite of government. The departments of Water Affairs and Forestry and of Agriculture undertook some laudable efforts to promote water harvesting at homesteads for food security, but these efforts are still too marginal in numbers and volumes to really redress the widening gap.

An important reason for the lack of water infrastructure in the development agenda is the ever-stronger emphasis of central government on the centrally-steered expansion of bulk water supplies to urban, energy and industrial water users. Since the 1970s, water is increasingly channelled from any feasible basin or country to these high-demand areas, especially the elevated plateau of Gauteng. Initially, this served the wealthy whites, but today it serves a larger and more representative urban constituency. Yet, as a result of government's general lack of vision for a more equitable agrarian economy, many urban-biased water resource managers persistently tend to perceive water for small-scale farming as wasting water for 'unproductive' uses.

The competition for public resources and water for small-scale farmers has become even harsher. A thirsty competing water user was identified in the 1970s: 'the environment'. Predominantly white hydrologists define its needs as up to a fifth

of all water resources. The new Act gives the Ecological Reserve the nation's highest priority, over poor rural and peri-urban blacks, who are the victims of dispossession of their water resources for over-abstraction by the white water economy, and who now suffer from real water scarcity. The Basic Human Needs Reserve with a similar priority may give a human face, but basic domestic use constitutes only 1 or 2% of the water resources, too tiny for the hydrological models.

The Water Allocation Reform clearly intends to reverse these inequities. In 2008, after fierce internal debates, the strategy stated that by 2024, 60% of allocatable water (i.e. remaining water resources after deducting the Ecological and Human Reserves, international obligations, and strategic uses like Eskom) should be in black hands, equally divided between men and women. As had always been the case for land reform, distribution targets finally took precedence over productivity considerations – if such contradictions exist at all.

But can the WAR achieve its ambitious goals? Again, even the WAR is weak on a pro-active infrastructure development agenda. Moreover, the vested users can easily twist the new legal system introduced by the National Water Act of 1998. The Act nationalises all water resources and prescribes licence applications for all new water uses. For existing uses, the pre-1998 plural patchwork of lawful water uses continues to be lawful – a mix encompassing the earlier riparian rights, private groundwater rights, government water control areas, certain permits, and customary or informal water law in the former homelands. But the latter are largely ignored, let alone recognised as customary land tenure. Existing lawful water uses can be converted into licences through water trade. White farmers with land under claim immediately exploited this legal option by selling water for a good price, stripping

the land of its precious water resources. This practice is now prohibited and is enforced by better collaboration between the departments of Water Affairs and Land Affairs.

Government's primary goal with licensing is regulation, e.g. for registration, payment, ceilings of water use, pollution prevention, and to implement Broad Based Black Economic Empowerment (BBBEE) conditions. However, the administrative and legalistic burdens of this legal system are immense and enforcement capacities weak. Large-scale users who fill in the application form to obtain first-class entitlements to the nation's resource have started to accuse the former DWAF of delays in processing. Their lawyers quarrel about the precise interpretation of BBBEE conditions. Or they do not submit a form at all, anticipating that they can get away with arguing that their past investments in water infrastructure create at least some employment.

In licence systems, the millions of micro-scale users (so-called Schedule One users) are exempted from licence applications because of the logistical burdens for government. Thus, not of their own fault, their legal status becomes one of a secondary residual category. It would only take the stroke of a pen to prioritise Schedule One uses by law. The minister could also swiftly issue priority General Authorisations to tens of thousands of larger-scale water users with 2–20 hectares, for example. Such measures could encourage small-scale water users to make their own investments in infrastructure development and enable them to take bank loans. However, without government champions, from the 'domestic' and 'productive' sectors alike, to boost infrastructure development for small-scale water users, the prospects of achieving the WAR targets remain gloomy.

*Barbara van Koppen, International Water Management Institute, SA*



# WATER ACCESS AND SOURCES ALONG THE CAPE WEST COAST

The West Coast District of the Western Cape province (or Cape West Coast) is a remarkably diverse and changing geographic space. Many generations of coastal communities in the region have been making a living from fishing. But traditions of small-scale fishing now face a sustainability crisis, partly ignited by policies to privatise marine resources and the actions of powerful fishing corporations.

For inland households further away from settlements along the coastline with the Atlantic Ocean, crop and livestock farming remain vital livelihood activities. Yet the interior rural landscape is largely arid. Rainfall is erratic in winter while a harsh, desert-like heat prevails during the long summer. Water is thus a critical resource to these communities. An interesting question arises: How do farming households access water for various livelihood activities? In 2008, the Surplus People Project (SPP) gathered primary evidence from more than 600 households (mainly farm workers and small-scale farmers) across the region, and offers insightful answers to this question. It is worth thinking through some of these research findings.

Cape West Coast households use water inside the home and for a range of agricultural activities. Water is often used as an indicator of the agro-ecological

potential or natural resource base of a location for farming. In the final analysis, access to water which is safe for human consumption is the core determinant of human wellbeing and survival. Table 2 displays how households rate their access to water for farming and household use on a scale ranging from 'very easy access' to 'no access'. A substantial percentage of households (87.5%) enjoy 'easy' access to water for use inside the household. The fairly high number of households (above 50%) reporting 'no access' for crop and livestock farming must be interpreted with caution. Where households do not engage in farming on an extensive scale, they are unlikely to access water for this specific land-use. Testing the reverse effect of water access on the willingness to farm is interesting, but did not form part of the survey.

Table 3 gives a picture of water access from a slightly different perspective, focusing on different municipal districts. It shows experiences of reduced water supply due to direct quantity and pricing restrictions, here called 'water rationing'. A substantial percentage of households across all municipal districts reportedly experienced no substantial level of water rationing. Ranking districts according to percentage of households who did not experience

any rationing shows that the Cederberg reported about 80% of 'no' water rationing, followed by Berg River (78%) and then Matzikama (68%). The highest percentage of households that reported water rationing was in Matzikama district (22.7%), which is the far northern zone of the Cape West Coast. Water supply critically depends on what happens upstream along the Olifants River and the Clanwilliam Dam. In the Cederberg, where the main dam serving the region is located, 18% of households report some form of water rationing. The lowest incidents were reported in Berg River (11.7%) south of Cederberg.

Table 4 shows information on the main source of water for household use and farming. A substantial percentage of households obtain their water for use inside the home and for home gardening from a dam. While 42% of households say they rely on dams for water, another 13% get their water from boreholes and 11% depend on a river for their water supply for household use. Approximately 37% of households draw their water from a dam for home gardening. There appears to be considerable variation in the water sources for crop and livestock farming. Crop farmers depend mainly on boreholes (9.4%) and dams (5.2%), whilst livestock farmers depend predominantly on dams (4.3%).

**Table 2: Water access by use**

	Household use		Home gardens		Crop farming		Livestock	
	No.	%	No.	%	No.	%	No.	%
Easy access	556	87.5	168	26.5	56	8.9	62	9.7
Difficult to access	43	6.8	16	2.5	23	3.6	18	2.9
No access	12	1.9	274	43.1	341	53.7	356	56.1
Total	611		458		420		436	

**Table 3: Is water ever rationed in this area?**

	Berg River		Cederberg		Matzikama	
	No.	%	No.	%	No.	%
Yes	28	11.7	28	18.3	55	22.7
No	188	78.3	123	80.4	165	68.2
Total	216		151		220	

In summary, rural households living in the Cape West Coast region have 'easy access' to water and obtain their water mainly from dams, boreholes and the Olifants River. Households enjoy easy access to water for use inside the home. Crop and livestock farmers, including some land reform beneficiaries, also appear to have relatively easy access

to water. The highest incidence of water rationing takes place in Matzikama. Factors such as distance from the main water source in the region, the Clanwilliam Dam, as well as underdeveloped water infrastructure could explain some water supply restrictions experienced by small-scale farmers in this area. The implications of the last finding for

rural livelihood sustainability and pro-poor water policies deserve further in-depth investigation.

*Peter Jacobs (HSRC/CEG) and Ephias Makaudze (UWCI/Economics) conducted this project on behalf of SPP in 2008. SPP released the full research report at a workshop on 20 July 2009.*

**Table 4: Main source of water by use type**

Source	Household use		Home gardens		Crop farming		Livestock	
	No.	%	No.	%	No.	%	No.	%
River	70	11	10	1.6	16	2.5	4	0.6
Dam	266	41.9	237	37.3	33	5.2	27	4.3
Borehole	83	13.1	11	1.7	60	9.4	3	0.5
Stream	3	0.5	–	–	–	–	3	0.5
Harvested rainwater	1	0.2	1	0.2	1	0.2	–	–
Other	24	3.8	11	1.7	6	0.9	4	0.6
Total	447		270		116		41	

## DEMOCRATISATION OF WATER MANAGEMENT INSTITUTIONS: OLIFANTS-DOORN WATER MANAGEMENT AREA CASE STUDY

*In 2007 the Surplus People Project conducted research to assess the newly established water management institutions in terms of the level of participation of previously disadvantaged people in decision making in the water management institutions, the extent to which they benefit from water reform and how much water is allocated to them.*

The distribution of water across race, class and gender has remained unequal since the promulgation of the National Water Act of 1998. The objective of the Act was to 'promote equitable access to water, redressing the past racial and gender discrimination and to promote the efficient, sustainable and beneficial use of water in the public interest', amongst other things. One of the key elements of this reform was the decentralisation of water management institutions with the establishment of catchment level water management institutions, Catchment Management Agencies (CMA) and, at a more local level,

Water Users Associations (WUA). In the Olifants-Doorn Water Management Area the process to usher in the establishment of the CMA has been put in motion and to date seven WUAs have been established.

The SPP study succinctly highlighted that these water management institutions (WUAs and CMAs) in their current form entrench gender, racial and class inequality. In essence, the power of the rural elite, agrarian capital and men are entrenched, whereas the participation of women, rural poor and small-scale farmers takes the form of tokenism and mere window-dressing. In the Olifants-Doorn Water Management Area more than 70% of the water resources are controlled by white commercial farmers and industry, although the water needs of the rural poor and small-scale farmers are rather high in the area. For example, in the Lower Olifants WUA a mere 11 hectares of water are available to small-scale farmers for distribution. The study found that previously disadvantaged individuals remain

well represented in these institutions, but the level of inclusion and participation is relatively low. Moreover, access to water is constrained by the lack of access to land. These findings point to a fundamental weakness in the transformation of these institutions, which relates to the democratisation of water management institutions and the democratic participation of the broader community in how the resource should be used and redistributed. In their current form, these water management institutions are likely to perpetuate the old power relations, where the rural elite and agrarian capital decide over such a vital resource as water without the broader participation of the community. These institutions are not accountable to the broader community and can make decisions on behalf of the entire community even if these affect them negatively. Thus, in essence, what we have is reform without democratisation.

*Ricardo Jacobs, SPP*



## WATER FOR GROWTH AND DEVELOPMENT

The Department of Water and Environmental Affairs (DWEA, previously Department of Water Affairs and Forestry) launched its 'Water for Growth and Development Framework' (WfGD) on 2 March 2009. This framework places strong emphasis on the importance of water availability and water quality for economic activity. It promotes 'mainstreaming of water', and having water considered at the centre of planning decisions. The country has been growing at a tremendous pace, with existing and new economic activities all in need of more water of appropriate quality. Additionally, backlogs in water supply and sanitation were (and still are) being addressed, adding to the country's pressure on its water resources. The strategy that was developed acknowledges all these water uses and users.

The framework is a step in the right direction: land reform will not achieve its intended objectives if it is not closely linked to DWEA's Water Allocation Reform project and other water rights and water licensing activities. Motsepe Matlala of NAFU has also highlighted the issues of de-coupling of land rights and water rights (land access and water access were coupled until 1998, creating an unfair advantage to those owning land, i.e. mostly whites), and irrigation schemes in former homelands without water rights. However, also those not necessarily aiming for land rights, but still trying to improve their livelihoods, should not be forgotten: they need water for productive use, such as food gardening at community or home level.

*Geraldine Hochman, Mvula Trust*

### Contributing to improved livelihoods: The Mvula Trust's rainwater harvesting projects

The Mvula Trust is South Africa's largest water and sanitation NGO. The head office and policy unit is based in Johannesburg, and regional offices exist in Rustenburg, Polokwane, Bloemfontein, East London, Nelspruit, Durban and Empangeni. Besides implementation of water supply and sanitation infrastructure and associated health and hygiene awareness campaigns (mainly in rural areas), Mvula is also active in areas such as capacity building (particularly of community-based organisations and other civil society groups), water conservation, shaping and analysing policy, rainwater

harvesting and food gardening. Through these initiatives, Mvula aims to improve livelihoods, address food insecurity, and contribute to local economic development and rural development. Mvula's 'rainwater harvesting for productive use' projects (funded by DWEA) are currently being implemented in the North West and in several areas in Limpopo, and Mvula are trying to expand to more areas. The projects cover the building of infrastructure (underground rainwater harvesting tanks); institutional development at community level; training on nutrition, rainwater

harvesting and food gardening; provision of tools and/or seedlings; and interaction with the relevant government departments (e.g. Agriculture). By developing food gardens and much needed access to water, families' nutritional status improves, enhancing especially children's chances for a better life. Mvula's Policy Unit strives to include the rainwater harvesting lessons learned from the field into national and international policies and strategies on water, climate change adaptation and food security. See [www.mvula.org.za](http://www.mvula.org.za) for information on the Mvula Trust and/or its rainwater harvesting projects.

## POLICY UPDATES

The *Green Paper on National Strategic Planning* was presented to Parliament on 8 September 2009. The aim of this policy document is to create a national planning function to provide guidance on the

allocation of resources and to guide the development of departmental, sectoral, provincial and municipal plans. The Green Paper does not deal with substantive issues. It is envisaged that the NPC's task will be to

identify obstacles to policy implementation and to develop frameworks guiding regional planning and infrastructure investment in a national plan.

## KEY POLICY CHALLENGES FOR RURAL DEVELOPMENT: LAND, WATER AND TRADITIONAL LEADERS

*The renewed focus on rural development by the new administration has infused a lot of energy into the policy arena, creating opportunities for a rethink of some of the stagnant or inappropriate policies from the first fifteen years of South Africa's democracy. Three key cross sector policy areas, which would potentially enhance the policy space as the new rural development policy, are being developed. These areas include land tenure and land administration in the former homelands, linkages between land and water reform programmes, and clarification of the role of traditional leaders.*

### **Land tenure and land administration**

This is a perfect opportunity for the Department of Rural Development and Land Reform (DRDLR) to rethink some of the land reform policies that have not yielded desired results. While both redistribution and restitution have left much to be desired in terms of their development outcomes, another area of land reform which will require an overhaul is the land tenure arena. Land tenure is understood to be the terms in which land is being held, and land administration refers to a set of functions (juridical, regulatory, fiscal and enforcement) that enable land tenure systems to work.

On the one hand the land tenure policy framework has failed to provide workable tenure options for beneficiaries of the land reform programme after land transfer. On the other hand, land tenure systems and land administration systems in the former homeland areas have been left to break down from around 1990, deteriorating to a point where they are an impediment to economic development and investment in those areas. This situation is critical, given that the majority of rural people live in communal areas. Any serious attempt at addressing development in the former homeland areas will have to entail revitalisation of land tenure and land administration systems as a critical cornerstone in addressing development of those areas.

### **Linkages between land reform and water reform**

The second critical policy area that has historically not received the attention it deserves is the integration of land and water reform – two closely related policies grown in different boardrooms. The lack of this linkage has undermined both programmes, often resulting in 'dry' and unsustainable land reform projects. In charting a new

direction, policy makers now have an opportunity to align the land and water reform programmes at a policy and programme level. Both programmes constitute what could be considered the cornerstones of a rural development strategy. Addressing this integration requires leaders in the land and water sectors to establish joint think-tanks with a view to finding workable solutions that enhance both programmes, in pursuit of a sustainable rural development path.

### **Role of traditional leaders**

The third critical policy area that could potentially benefit from the new policy energy is finding a lasting solution to the question of the role of traditional leaders. While the institution of traditional leaders is entrenched in the constitution, their roles have not been clearly defined. Different provinces as well as national government have at different times taken different policy stances in this regard. This has resulted in a situation in which traditional leaders continue to perform unregulated land administration functions, outside any legal framework. They generally perform functions which would otherwise fall beyond the capacity of local government in its current configuration. The serious implications of this phenomenon are that the functions that traditional leaders are currently performing are not aligned to the planning and development functions of elected local government. This has resulted in a serious stand-off between these institutions. It is possible to redefine the role of traditional leadership without undermining the constitutional requirements for a democratic, participatory governance system. Finding a lasting compromise and/or solution to this issue will not be easy, but it will contribute to the stability of South Africa's democracy and enhance the local government model.

The critical test for the new administration, with all its good intent, is how cooperative governance principles are put into practice to find solutions to these critical issues. The DRDLR, the Department of Water and Environmental Affairs (DWEA) and the Department of Cooperative Governance and Traditional Affairs (DCGTA) need to find common platforms to address these issues, which are likely to be at the heart of rural development.

*Siyabu Manona, Umhlaba Consulting Group*





## NEW PUBLICATIONS

**Land, Liberation and Compromise in Southern Africa.** 2009. Chris Alden and Ward Anseeuw. London, Palgrave-Macmillan. This publication provides an informed analysis of the origins of a crisis which started in Zimbabwe and why it has had such a profound impact on both the land issue and democratic politics in the Southern African region. It provides a framework for understanding the volatility inherent in the politics of land and the political structure of Southern African post-independence states. The intimate links between the established political economy of settler colonialism, the transition to democracy and the concurrent fashioning of a liberal constitutional regime, all of which held tremendously important implications for attempts to embark on agrarian reform, are

crucial reasons why the Zimbabwean crisis impacted so profoundly on regional politics. Furthermore, infusing these conditions with rhetorical and substantive power are a host of regional narratives in Southern Africa – drawn from the settler state era, the liberation struggle itself and neo-liberal policies pursued after independence – which have shaped preferences and perspectives amongst elites, social groups and the wider population. By exposing the lingering contradictions in former settler states and the inexorable tensions between society's heightened expectations of liberation movements and the constitutional and ideological constraints which bind them to the past, the analysis contributes to the present debates around Mugabe, neo-imperialism and stability in the region.

## RESEARCH UPDATES

### **Water Rights in Informal Economies: South Africa**

This research was conducted in collaboration with the International Water Management Institute (IWMI) under the auspices of the Consultative Group for International Agricultural Research (CGIAR) Challenge Programme for Water and Food. The project spanned transboundary basins of the Volta and Limpopo rivers and embraced four African countries, namely Ghana, Burkina Faso, Mozambique and South Africa. The project examined formal and informal 'hydraulic property rights creation' in communities practising small-scale irrigation farming. Please contact Barbara Tapela at [btapela@acwr.co.za](mailto:btapela@acwr.co.za) for more information.

### **Joint Ventures in Smallholder Irrigation Schemes in Poverty Nodes of Limpopo Province**

This research investigates joint ventures (JV) between smallholder irrigation scheme landholders and commercially established strategic partners. These joint ventures were introduced to revitalise smallholder initiatives in South Africa. While some JV initiatives operate successfully in that both partners communicate positive and beneficial involvement (e.g. Taung in the Northern Cape and Oppermans Gronde in the Free State, amongst others), there are numerous schemes where plottolders are voicing concerns over meaningful involvement, transparency of contracting processes and of enterprise record-keeping, ongoing dependency and skills transfer. Contact Barbara Tapela at [btapela@acwr.co.za](mailto:btapela@acwr.co.za) for more information.

### **Strategies to Support South African Smallholders as a Contribution to Government's Second Economy Strategy**

In 2008, PLAAS was commissioned by the Trade and Industrial Policy Secretariat (TIPS) to conduct a study of smallholders on behalf of the government's Second Economy Strategy. The study sought to identify the key elements of an implementable programme to support the South African smallholder sector. The core of the exercise entailed identifying successful smallholders active in different settings, and examining the factors that contribute to their success, whether these are personal, contextual, institutional, etc. The efficacy and relevance of different intervention and support strategies also came into focus. For the purposes of the study, a broad definition of 'agricultural smallholders' was assumed, inclusive of those who operate independently as well as those who farm in groups, and inclusive also of those for whom farming is mainly for subsistence purposes, as well as those whose orientation is mainly or purely commercial. The team included researchers from the University of Limpopo, the University of Fort Hare, Tshwane University of Technology, the Human Sciences Research Council, the University of North West, Church Agricultural Project, Umhlaba Consulting Group, and Phuhlisani Solutions. The study comprises two outputs, namely 'Volume 1: Situation Analysis, Fieldwork Findings, and Main Conclusions' and 'Volume 2: Case Studies'. Please contact Michael Aliber at [maliber@uwc.ac.za](mailto:maliber@uwc.ac.za) for more information.

## EVENTS

### The Governance and Small-scale Agriculture in Southern Africa Conference

This three-day conference will be hosted in Johannesburg by IDASA Economic Governance Programme from 9–11 November 2009. The aim of the conference is to discuss governance and public investment processes and how these are shaping small-scale agriculture in the region. Specifically, the meeting will focus on three themes: priorities for public investment in agriculture; trends in public expenditure on small-scale agriculture; and policy processes and stakeholder participation. The conference will provide a forum for stakeholders to identify constraints and opportunities in agriculture and draw interdisciplinary lessons and best practices. Please contact Leslie Nyagah at [Inyagah@idasa.org.za](mailto:Inyagah@idasa.org.za) about abstracts.

#### SEND SUGGESTIONS AND COMMENTS ON THIS PUBLICATION TO:

Karin Kleinbooi, Institute for Poverty Land and Agrarian Studies, School of Government, 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@uwc.ac.za](mailto:kkleinbooi@uwc.ac.za) or visit our website: [www.plaas.org.za](http://www.plaas.org.za)



Umhlaba Wethu is supported by:

**Austrian**  
**Development Cooperation**



A place of quality, a place to grow, from hope to action through knowledge

## NEWS

On Friday 30th October 2009 the **Gauteng High Court** found that 17 sections or sub-sections of the **Communal Land Rights Act** are unconstitutional and invalid. The court did not agree that the Act was incorrectly categorised and that therefore the incorrect procedure was followed in passing the Act. Neither did it agree that the Act effectively creates a fourth tier of government. The court found in favour of the applicants in relation to their arguments that the Act undermines the applicants' security of tenure. The applicants were awarded costs for five counsels. The order is referred to the Constitutional Court for confirmation.

### Network for Irrigation Research and Extension in Smallholder Agriculture (NIRESA) Workshop, Northern Cape, 13–15 October 2009

This workshop was convened by the South African Water Research Commission (WRC) and was facilitated by Jonathan Denison (Umhlaba Consulting Group) and Barbara Tapela (ACWR, formerly of PLAAS). This workshop focused on joint ventures (JVs) between smallholder irrigation scheme landholders and commercially established strategic partners, which have underpinned revitalisation initiatives in South Africa over the last five to ten years.

The objective was to look both at the fundamental development questions that underpin the JV strategy, as well as some of the specific elements of the JV contracts themselves. These contract clauses might be revised in future contracts to address plotters' concerns more efficiently, as well as responding to the development and sustainability issues in relation to smallholder irrigation schemes. The workshop brought together senior government officials and farmers, and aimed to inform future policy and practice directions. Please contact Barbara Tapela at [btapela@acwr.co.za](mailto:btapela@acwr.co.za) or Jonathan Denison at [jdenison@umhlabacg.co.za](mailto:jdenison@umhlabacg.co.za) for more information.

That **Department of Water and Environmental Affairs (DWEA**, previously Department of Water Affairs and Forestry) has a policy on '**Financial Support to Resource Poor Irrigation Farmers**'. It outlines the grants and subsidies that resource-poor farmers can apply for, and what they can be used for.

PLAAS obtained information for Umhlaba Wethu from a wide range of sources, including statistical information from the Department of Rural Development and Land Reform (DRDLR) and the Commission on Restitution of Land Rights (CRLR): <http://land.dla.gov.za>. Front cover photo by Barbara Tapela. Views expressed here do not necessarily reflect the views of PLAAS.