

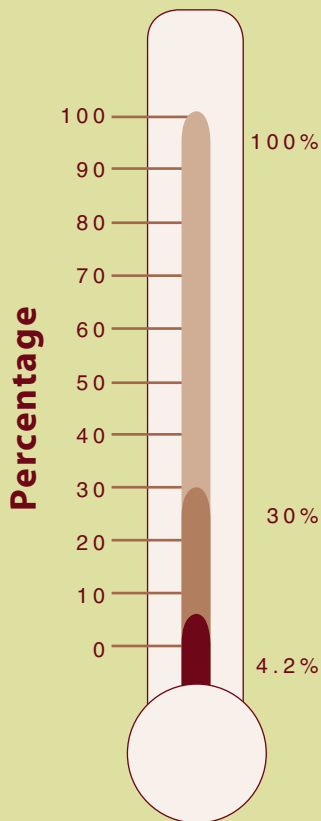


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UMHLABA WETHU

A quarterly bulletin tracking land reform in South Africa | December 2004

LAND BAROMETER



Redistribution

- Total commercial agricultural land
- Official target for 2015
- Delivered between 1994 and September 2004

Source: Minister of Agriculture and Land Affairs, 18 October 2004

Welcome

to the second issue of *Umhlaba Wethu*, the quarterly update on land and agrarian reform in South Africa from the Programme for Land and Agrarian Studies, based at the University of the Western Cape.

Recent months have seen considerable shifts in the debate around land reform in South Africa, although the pace of reform remains a major concern. In October, the National Assembly's Portfolio Committee on Agriculture and Land Affairs held public hearings on the pace of land reform. Submissions from a wide range of stakeholders highlighted the slow progress in areas such as redistribution and tenure reform, and the enormous challenge posed by rural restitution claims. Calls were made for a substantial increase in the budget available for land reform and for government to use its legal powers of expropriation. Read PLAAS's submission, which received widespread media attention, at www.uwc.ac.za/plaas and click through to other electronic documents from the hearings.

As ever, there is intense debate around the extent of land reform delivery and the interpretation of statistical information from various official sources. In this issue we present the latest data available from the Department of Land Affairs and the Minister of Agriculture and Land Affairs and offer some guidance on how they can be interpreted.

On the political front, the major development of recent months has been the launch of the South African Communist Party's (SACP) Red October

Campaign, with the theme of *Mawubuye umhlaba!* [Return the land]. The party's key demands include access to ownership and control of productive land by the landless workers and the poor, access to basic services and rights for farm-workers and their families, and a call for a National Land Summit (visit www.sacp.org.za for more details). This campaign represents the most significant intervention from within the African National Congress-Congress of South African Trade Unions-SACP Alliance in the land sector since 1994, and the first that seeks to mobilise rural people around the banner of land reform. While it is too early to speak of a shift in government thinking on land policy, the opening up of debate on land within the tripartite alliance is in itself a significant step.

Other developments over the past few months have included the launch of the draft Charter for Broad-based Black Economic Empowerment in Agriculture (AgriBEE), and the announcement of an investigation into land ownership by foreigners (see page 3).

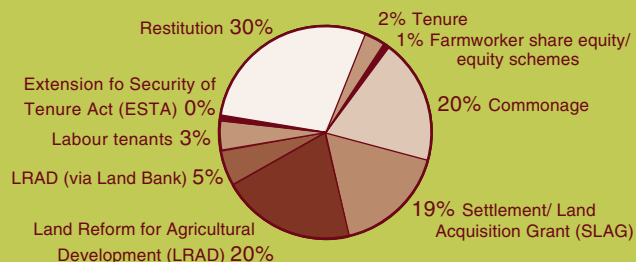
Finally, it has come to our attention that the Regional Land Claims Commission in the Eastern Cape recently launched a newsletter on restitution, also called *Umhlaba Wethu!* We apologise for any potential confusion.

Many thanks to our readers who have sent us contributions and wished us well with our new publication. The editorial team wishes all colleagues in the sector a wonderful 2005.

Land delivery

As 31 August 2004, a total of 3 457 662 million hectares has been delivered through the various land reform programmes. This is equivalent to 4.2% of total commercial agricultural land in 1994. The official target for redistribution is 30% of agricultural land by 2015. Land delivered, however, includes non-agricultural land (for example, protected areas) and land already under black occupation to which tenure has now been secured. It also includes close to 800 000ha of state land that was not included in some previous reports.

Figure 1: Land transfers by project type (in hectares) as at 31 August 2004



Source: Minister of Agriculture and Land Affairs, 18 October 2004

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PROGRAMME FOR LAND AND AGRARIAN STUDIES

Redistribution

Table 1: Land redistribution and tenure reform: land delivery 1994–2004

Year	No. of projects	Area of land (ha)	Area of land per project (ha)
1994	5	71 655.75	14 331.15
1995	12	26 905.02	2 242.08
1996	49	72 416.16	1 477.88
1997	97	142 336.14	1 467.38
1998	236	205 044.41	868.83
1999	156	245 481.32	1 573.60
2000	236	222 351.18	942.17
2001	400	249 302.12	623.26
2002	742	299 969.13	404.27
2003	502	158 668.02	316.07
2004 (until Sept)	251	183 625.18	731.57
TOTAL	2 686	1 877 754.42	699.09

Source: Minister of Agriculture and Land Affairs, 18 October 2004

Key points

- These figures represent an overall increase of 194 480ha, or 11.6%, on the figures for the period to the end of February 2004 (see *Umhlaba Wethu* 1).
- The total number of projects implemented in 2003 declined from the record level set in 2002, and appears to be set to decline further in 2004.
- The long-term decline in land area per project appears to have been reversed in 2004, when projects were, on average, more than double the 2003 size. The decline in land area per project has been associated with the shift from large group projects to smaller, often family-based, projects, with fewer beneficiaries per project.
- Available statistics combine measures of the number of beneficiary households with the number of individual beneficiaries, making it difficult to identify any definite trend or to say conclusively how many people have benefited. Nonetheless, it appears likely that the rise in land area per project for 2004 means that there is a significant increase in the land area delivered per household or individual.

Legal updates

Modder East squatters, Constitutional Court 2004. In May, the Supreme Court of Appeal (SCA) handed down judgment in the case of the Benoni farmer seeking to evict 40 000 occupiers from his land. The SCA found that the state had breached its constitutional obligations to both the landowner and the occupiers. The state subsequently appealed this judgment in the Constitutional Court, with the case being heard on 4 and 5 November 2004. The Court heard comprehensive arguments from all parties relating to the ambit of the constitutional duties of the state to both landowners and unlawful occupiers, with emphasis placed on the Section 7(2) duties of the state to 'respect, protect, promote and fulfil the rights in the Bill of Rights'. PLAAS, Nkuzi Development Association and the Community Law Centre were represented in the case as friends of the court. Judgment in this landmark case is eagerly awaited.

Foreign land ownership under scrutiny

In response to the growing debate on foreign land ownership in the country, Minister Didiza announced an investigation into foreign property ownership in South Africa in June. She appointed a panel of experts to look into increases in land and property prices, which Minister Didiza attributed to the greater buying power of foreigners. Prof Shadrack Gutto chairs the panel and other members are Joe Matthews (deputy chairperson), Danisa Baloyi, Adv Leah Gcabashe, Fred Hendricks, Dr Dirk Kotze, Bonile Jack, Mandla Mabuza, Cecil Morden and Adv Christine Qunta.

The panel is to report on the nature, scope and impact of the acquisition of and investment in South African land by foreigners and, in particular, to explore the extent to which the current lack of regulatory framework contributes to this. In addition, the panel is to consider and recommend effective legislative and non-legislative means that will enable the government to monitor and, if necessary, intervene to ensure compliance with the constitutional imperatives of ensuring equitable access to land among citizens. The report will include a scan of international practices of foreign land ownership and recommend the most suitable policy options for South Africa.

In a parallel process, the Department of Land Affairs is compiling a comprehensive audit of all forms of land ownership in the country, including foreign ownership. Members of the public have been invited to make submissions to hearings which are due to take place on 2 and 3 December 2004. The panel is due to hand a preliminary report to the Minister in January 2005 and to finalise its report by March 2005.

Research updates

National eviction survey underway

Organisations working with farm dwellers continue to deal with cases of evictions, legal and illegal, and serious abuses of the rights of farm dwellers. Reports of the South African Human Rights Commission (SAHRC) on conditions on farms and the fulfilment of land-related rights continue to identify the abuse of farm workers' and farm dwellers' rights as a serious problem. Despite anecdotal evidence on evictions and serious violations of human rights, there has been no data available on the extent of the problem. This is about to change. A national survey to establish the scale and impact of evictions from farms is now underway across South Africa. The project, implemented by Nkuzi Development Association and Social Surveys, aims to establish for the first time how many people have been evicted from farms.

Nkuzi and Social Surveys completed a substantial pilot project earlier this year

to test the survey methodology. The pilot study included a scoping exercise in ten areas of Limpopo and Gauteng. Five of the areas were surveyed using a short questionnaire to establish the incidence of evictions from farms and a longer questionnaire was used to establish the impact of those evictions on the livelihoods of those evicted. The areas surveyed included rural villages, an informal settlement and a formal township. A total of 468 households were interviewed using the incidence questionnaire, and 25 using the impact questionnaire. It has become clear from the pilot that the methodology is sound and enough evictees were identified to confirm the need for a survey of this nature.

The methodology was refined, based on learning from the pilot and feedback from the project reference group. A scoping exercise was done in 300 areas randomly selected from a sample-frame of more than

20 000 communities covering the whole of South Africa. The scoping exercise obtained information from key informants to assess the likelihood of people from farms being resident in those communities. It revealed that there were people displaced from farms in more than 80% of the areas surveyed. Surveying is now being carried out in 50 of these areas to establish how many people are from farms and how many of them have been evicted.

The final report of the national eviction survey is scheduled to be released in May 2005. The aim is for information obtained in the survey to inform future debates, legislative amendments and the design of programmes dealing with farm dwellers.

Marc Wegerif, Nkuzi Development Association (marc@nkuzi.org.za)

Researchers are invited to announce their research projects here.

Restitution

Table 2: Settled land restitution claims by province as at 31 August 2004

Province	Claims	Households	Hectares	Land cost (R)	Total award (R)
Eastern Cape	15 886	40 358	45 738	204 526 881	868 450 250
Free State	1 674	3 442	45 748	16 909 206	55 800 449
Gauteng	11 932	11 748	3 555	62 537 367	616 080 815
KwaZulu-Natal	10 551	26 307	187 583	487 986 253	998 480 348
Limpopo	1 314	19 886	121 466	236 061 308	373 350 135
Mpumalanga	1 546	20 973	97 983	377 785 091	514 597 858
North West	2 498	13 822	71 484	93 992 542	256 158 485
Northern Cape	1 792	5 564	233 634	69 753 602	146 564 827
Western Cape	9 457	12 685	3 101	8 096 187	384 854 965
Total	56 650	154 785	810 292	1 557 648 437	4 214 338 132

Source: Minister of Agriculture and Land Affairs, 18 October 2004

Key points

- The provincial composition of the total number of claims has been substantially altered since February 2004. There has been a dramatic *downward* revision of the number of hectares transferred in Mpumalanga from 240 014ha in February to 97 938ha in September (see *Umhlaba Wethu* 1). The Commission on the Restitution of Land Rights has indicated that this may have been due

to a typographical error in the February figures. In five provinces the reported number of hectares transferred has gone up, notably Limpopo (up by 66 891ha), KwaZulu-Natal (up by 55 204ha) and the Eastern Cape (up by 17 400ha). The fact that the overall total remains the same suggests that neither the provincial nor the national figures are entirely reliable.

- Despite no change in the area of land reported, total 'land cost'

has increased from R1 billion to R1.56 billion, or by over 50%. This suggests either a major revision of historical costs or provision for future land purchases.

- Total value of awards has increased dramatically over the period, from R3 billion to R4.2 billion. Non-land costs account for 54.4% of total awards for the seven months March–September 2004, and 63% of the total since 1994. Note that these figures exclude the operating costs of the commission.

Another small victory for labour tenants

Certain farmers in rural areas have used small claims courts to obtain judgments against labour tenants on their farms on the basis that they have been renting their farms to these people. In many cases, the labour tenants have lost cattle.

Ephraim Dladla and his family have been living on Bovenvallei farm in the Wakkerstroom area for over 20 years. Recently the farm owner obtained a judgment from the Volksrust Magistrate's Court that compelled Dladla to pay R3 180 for having used the land to graze his cattle. In terms of the judgment Dladla forfeited six head of cattle to the owner.

As a result of cases such as this, The Rural Action Committee of Mpumalanga (TRAC-MP) and the Legal Resources Centre (LRC) petitioned the Department of Justice and Constitutional Development to suspend all cases appearing before small claims courts involving labour tenants until the jurisdiction of the Small Claims Court and the interpretation of the Land Reform (Labour Tenants) Act is clarified. The department has agreed to instruct all regional and magistrate courts to refer all cases relating to labour tenants to the Land Claims Court for adjudication.

TRAC-MP said it is particularly pleased that the department has now stopped this type of court action and is committed to reviewing cases like that of Dladla. The organisation expressed the hope that cases such as these which create huge economic hardships for poor labour tenant families would cease.

(Contact Chris Williams at cjwilliams@trac.org.za)

'Victory is victory': The settlement of the Mkambati land claim

Thembela Kepe, PLAAS, tkepe@uwc.ac.za

For once, the undulating grassland landscape of Mkambati Nature Reserve on the Wild Coast was swarming with hundreds of people rather than antelope. The occasion was the official handover by Minister of Land Affairs and Agriculture Thoko Didiza of 17 400ha of land to the relatives of people who were forcibly removed from the area in 1920.

These reasons for such high interest in this particular claim are both social and ecological. The area is the heart of Eastern Pondoland, the home of Mpondo people, who until 1894 were the last remaining nation in the region to be annexed by the British. Through passive resistance, they survived the kind of hostile colonial takeover that was suffered by others. The residents of the area gained prominence between the late 1950s and the 1960s when they fiercely fought against state-imposed betterment planning and 'bantú authorities'. There were numerous conflicts between government and residents and between factions in the area over land rights. This has been cited as a key reason why the land claim process took so long to settle (1996–2004).

The area ranks as one of the top 'biodiversity hot spots' in the world, with numerous rare plants, many of which are endemic. Since about 1900, conservationists have

campaigning for strict conservation of this land. Government and many development agencies see Mkambati, a part of the economically depressed Wild Coast, as an area which holds much promise for economic development, particularly through ecotourism. Various land use proposals ranging from mining and a toll road on the one hand and the establishment of a massive conservation area on the other have been put forward. These proposals are currently generating heated debate between a range of stakeholders, including conservationists, traditional authorities, the private sector, government and politicians. To the local people, however, regaining land rights and having secure livelihoods appear to be the priority.

Beside the physical restoration of the claimed land for specified land uses only (namely conservation), and the compensation of R55 500 to each of the 326 households whose relatives were removed from Mkambati, the rest of the almost 6 000 households from the seven adjacent villages will also have a share in the total settlement amount of R44.5 million. Government envisages that most of the benefits to the seven villages will accrue from several investment projects, with ecotourism in Mkambati Nature Reserve being

the primary venture. The Eastern Cape Department of Economic Affairs, Environment and Tourism will enter into a 30-year lease agreement with private companies on behalf of a community trust for the development of the area. The government has also undertaken to assist the seven communities to develop land that falls outside the nature reserve for agriculture.

As Minister Didiza pointed out in her keynote address during the ceremony, the handover closes a chapter of a painful history, but opens another one – facing the challenges of working together to build sustainable livelihoods in the area. When the celebrations are over, the undertakings made by government, the private sector and local people will be tested. Clearly, the successful handover of Mkambati land is not about the well-executed ceremony; nor is it about the tens of millions of rands that will come into the area. It is really about justice for all – a difficult concept – and about ensuring that future generations will not point fingers at those who established the foundation of this venture, arguing that things should have been done differently. For many people who were present at the ceremony, however, it had been a long battle with many casualties. You could not blame them if at this stage they simply thought, 'victory is victory'.

Useful websites

- **The Brazil Landless Workers' Movement (MST)** represents hundreds of thousands of landless peasants www.mstbrazil.org/
- The **Land Research Action Network (LRAN)** hosts a website devoted to land reform struggles throughout the world: www.landaction.org
- **FIAN** (www.fian.org) and **La Via Campesina** (www.viacampesina.org) jointly co-ordinate the Global Campaign for Agrarian Reform which supports the struggles of landless and land-poor peoples around the globe.
- **The Oxfam land rights** resource bank is intended to raise greater awareness of land rights issues. It makes current information widely available, and provides a point of contact for key actors in Africa and elsewhere: www.oxfam.org.uk/landrights/
- **The United Nations Food and Agriculture Organisation** (www.fao.org) leads international efforts to defeat hunger.
- **Foodfirst** highlights solutions to the injustices that cause hunger: www.foodfirst.org
- Search for 'land policy and administration' on the **World Bank** webpage www.worldbank.org
- **LandNet Africa** provides information on land issues and land-related activities across Africa: www.landnet-africa.org
- **The International Land Coalition** (www.landcoalition.org) is a global alliance which works with the rural poor to increase access to resources, especially land.
- **The South African Communist Party** website www.sacp.org.za carries information on the Red October Campaign which focused on the challenges of land and agrarian reform in South Africa.
- **The Council for the Development of Social Science Research in Africa (Codesria) Multinational Working Group** is calling for research proposals on the theme 'Land in the Struggles for Citizenship, Democracy and Development in Africa' at www.codesria.org

Upcoming events

- **The Namaqualand Colloquium**, planned for 24–26 May 2005 in Springbok, Northern Cape brings social and natural scientists together to share, review and integrate research and to examine its implications for people's livelihoods and sustainable land use practices in the region. Contact Tessa Oliver at the University of the Western Cape: 021 959 3381 or toliver@uwc.ac.za.
- **The Department of Housing** is hosting public consultation meetings in Pretoria on 18 January and 15 February concerning the development of a housing policy for farm workers. Contact Tom Lebert at nhussein@worldonline.org
- **Surplus People Project (SPP)** hosts a seminar in February on its research report: *Why do the landless remain landless? And is expropriation the answer to the ills of land reform?* Contact Ndumi Gqomfa on ndumi@spp.org.za, telephone 021 448 5605.

Sources

- Commission on Restitution of Land Rights. 2004. Restitution statistics updated to 31 March 2004: <http://land.pwv.gov.za/restitution>
- Department of Land Affairs. 2004. Aggregate statistical information.
- Didiza, MT. 2004. *Presentation by Ms AT Didiza, Minister of Agriculture and Land Affairs, at the Public Hearings on the Pace of Land Reform in South Africa Convened by the Agriculture and Land Portfolio Committee*. 18 October 2004.

Please forward suggestions and comments on this publication to:

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