

UMHLABA Wethu 5



June 2008

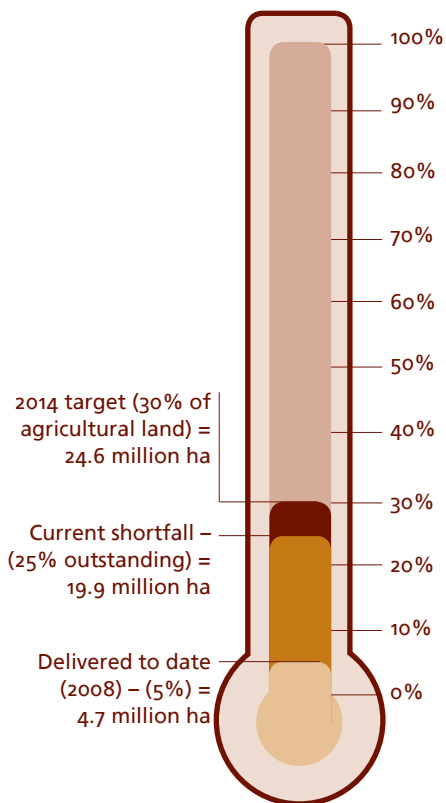
A quarterly bulletin tracking land reform in South Africa



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LAND BAROMETER



Rate of delivery needed:

In order for DLA to meet the target of 30% by 2014, an annual delivery of 3.6 million ha is needed – approximately 1.1 million ha short of delivery of land in the past 15 years.

Source: Department of Land Affairs, February 2008

The Programme for Land and Agrarian Studies (PLAAS) is pleased to re-introduce *Umhlaba Wethu*, a quarterly bulletin on issues of land and agrarian reform in South Africa.

Since 2005, public debate has focused increasingly on the contribution of land reform to agrarian reform. According to the Strategic Plan for 2008 to 2011 of the Department of Land Affairs (DLA), the Minister of Agriculture and Land Affairs, Lulu Xingwana, announced a 14-point strategic plan for rural development and the speeding up of land reform. She further pronounced that negotiations for land will be capped at six months, after which expropriation will commence. December 2007 saw the ANC adopting a resolution on rural development, land reform and agrarian change.

These shifts on the side of policy makers reflect a rethinking of land reform located within a wider agrarian context and are an indication that the stakes are up. Whether this could be regarded as an opportunity to address land reform in the broader context of economic transformation and

rural development remains to be seen and we have to wait and see if it will really translate into access to land for the (rural) poor. The current reality of land reform reflects continued bottlenecks in the implementation of the land reform programme. We continue to see slow and fragmented **redistribution** of land, the extension (yet again) of the deadline to settle **restitution** claims, and continued controversy in addressing **tenure reform** in communal areas.

In this edition, alongside regular updates, we feature an opinion on the direction of land reform after the **ANC's policy conference in Polokwane** in December 2007 and reflect on what it means for implementation and delivery; a breakdown of the **land reform budget**; and we unpack the origins of the **30% delivery target**.

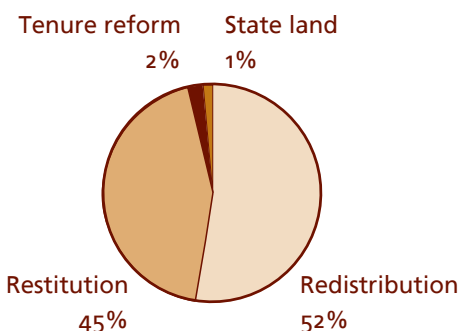
This bulletin reflects a wide range of opinions and we thank those organisations and individuals that made submissions to this issue. Your inputs are invaluable and make *Umhlaba Wethu* the collective platform it was intended to be.

Karin Kleinboo

LAND REFORM SUMMARY (AS AT 28 FEBRUARY 2008)

- 2.2 million ha of land were distributed under the redistribution programme
- 1.9 million ha of land were restored (or earmarked for restoration) under the restitution programme
- 103 800 ha of land transferred under the tenure reform programme
- 47 600 ha of state land was transferred

Percentage of land delivered by project type at 28 February 2008



Source: DLA, February 2008

RESTITUTION SUMMARY

- By 31 March 2008, the official restitution deadline set by the President, 94% of the claims that were lodged had been settled.
- The bulk of outstanding claims remain the rural claims.
- No new deadline for the completion of claims has been set since the above deadline has passed, however, the restitution budget effectively suggests a deadline of 2012.
- No official announcement has been made on the lifespan of the Commission on the Restitution of Land Rights (CRLR). It is unclear whether it will continue to exist until all claims are finalised, or whether it will be closed before then.

The rural claims outstanding, as at 31 January 2008, are as follows:

Eastern Cape	557
Free State	99
Gauteng	0
KwaZulu-Natal	1751
Limpopo	684
Mpumalanga	864
North West	219
Northern Cape	225
Western Cape	599
Total	4998

Source: Commission on the Restitution of Land Rights, March 2008

‘WHERE MUST I FIND THE BENEFICIARIES?’ REFLECTIONS ON THE 30% TARGET

Given that the ‘30% target’ has served as the pre-eminent land reform target over the past decade and a half, one could be forgiven for imagining that it was etched on one of the tablets Moses brought down from Mount Sinai. But the origins of the target are much more pedestrian. In 1992, a team of local and international experts was convened by the World Bank on behalf of the ANC to consider agricultural issues for the forthcoming post-apartheid dispensation. Two members of this team focused on financial issues, including the cost implications of a future programme of redistributive land reform. For good measure, they considered three scenarios: a 10%, a 30%, and a 50% scenario. These were good round figures that captured the boundaries of what was thinkable at that time, that is, as shares of total commercial farmland that could be transferred to blacks within five years of the new government taking power. Calculations were made for each scenario. One could dismiss the high option of 50% because it was ‘out of sight’, and the 10% option because it was politically unacceptable. The 30% option was a reasonable compromise. That’s it.

A few observations. First, the ‘30% target’ was initially not a target at all, but an estimate constructed for purposes of predicting the financial needs of land reform. Second, as an estimate of the

potential delivery that could take place within five years (and one which in retrospect appears spectacularly naive), it was not intended as a long-term vision of what land reform should seek to accomplish. And third, it had no intrinsic rationale – it was not rooted, for example, in an understanding of landlessness or land demand.

Accelerating delivery is important, but to accelerate it for the sake of meeting the 30% target is problematic. In the words of one overworked provincial official tasked with supporting land redistribution, ‘Where must I find the beneficiaries?’ She was not suggesting there were no people wanting land, but rather that beneficiaries had become necessities for transferring hectares, rather than hectares being sourced to serve the needs of beneficiaries.

It is trite to point out that chasing the 30% target can compromise the quality or usefulness of land reform projects on the ground. Everyone knows that! But then, why are we still doing it? Why is every new land reform vehicle – not least the new Land and Agrarian Reform Project (LARP) – above all meant to assist in achieving the 30% target, no matter how few the beneficiaries or meagre the benefits?

Michael Aliber – senior researcher, PLAAS



LAND BUDGET UPDATE

This year's land budget (2008–09) contained some surprises. The big stories were:

- Restitution funding is slightly down for the second year in a row – by 7% from last year.
- In contrast, funds for 'land reform' (including redistribution and tenure reform) have leapt up 70%.
- DLA budget as a whole rose to R6.66 billion, up 19% from last year.

Restitution

Restitution did *not* get the windfall the Commission on the Restitution of Land Rights (CRLR) asked for. Instead, the funding for restitution declined in absolute terms to just over R3 billion this year and is due to fall further over the coming three years. The extension of budgets to 2012 confirms that restitution remains a long-term process. This suggests a continuation of the lifespan of the commission. The (shifting) deadlines for the settlement of all claims have been unrealistic and early closure of the commission would have probably

further delayed the process. With less than half of the claims on farmland settled, the extension seems sensible.

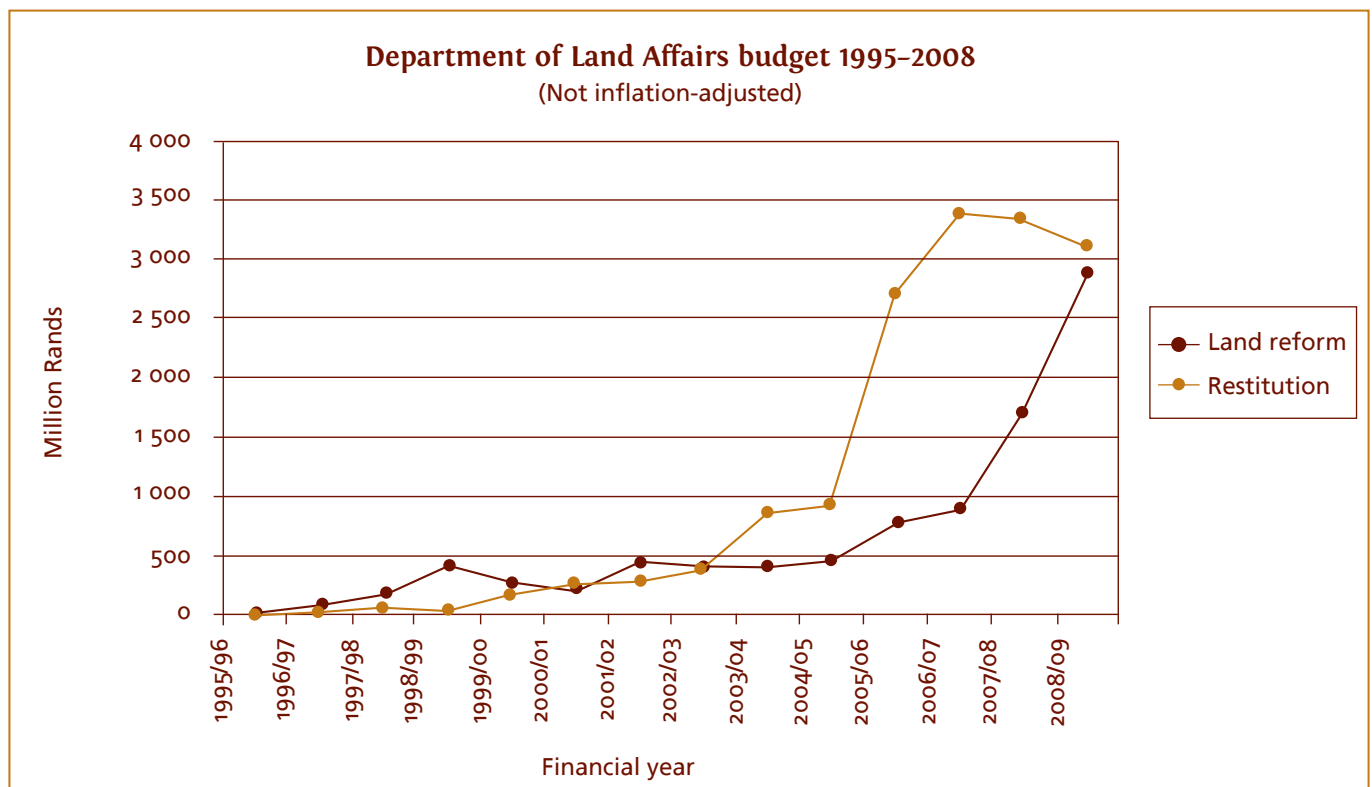
The approximately 5 000 remaining claims are expected to involve substantial cost and time – these are complex and large rural claims. The track record to date (if this is indicative) suggests that rural community claims have involved a capital cost in the region of R11.1 million on average each. In addition, money will be needed for the implementation of claims that have already been settled (that is, to buy land and pay for settlement and development on it). The existing financial commitments for restitution exceed the budget provision by several billion rand but future budgets will have to cover this, as well as the claims that are still to be settled. So the budgets allotted will not suffice.

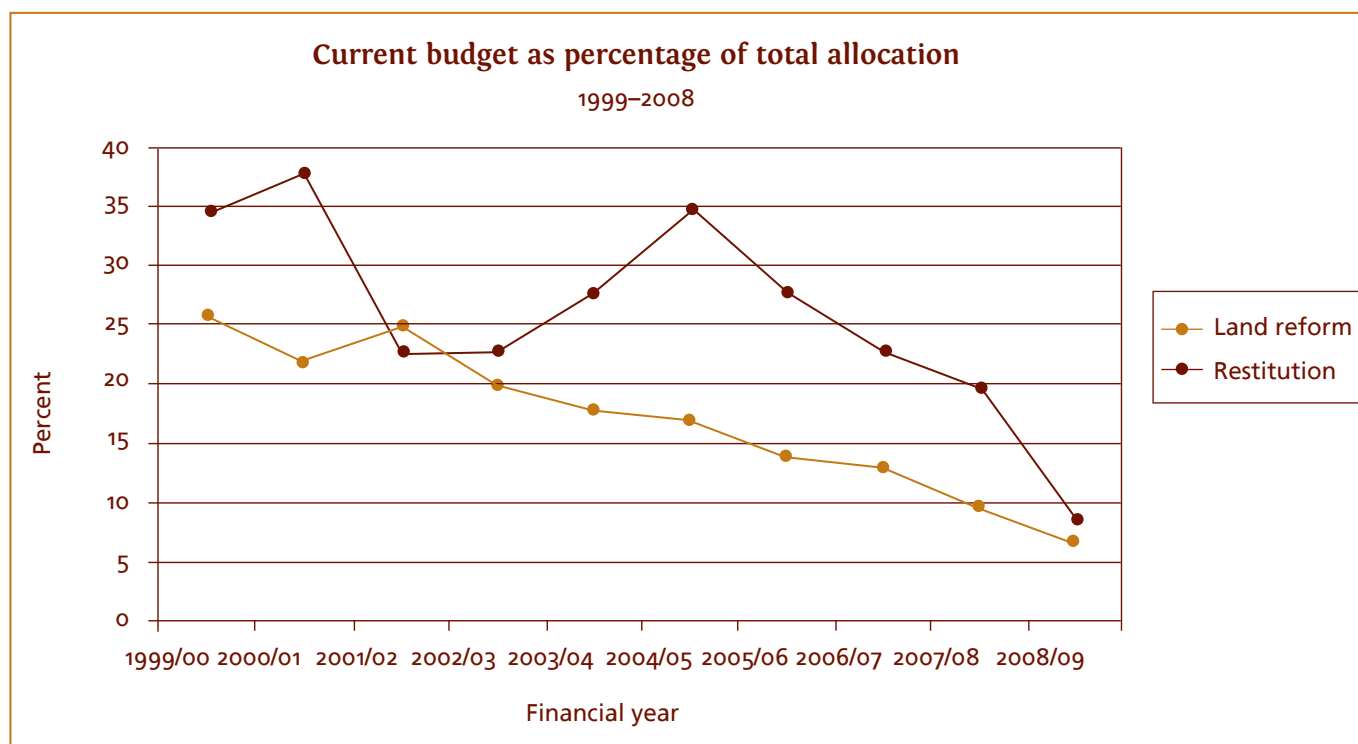
Land redistribution and tenure reform

Funds for redistribution and tenure reform have risen dramatically this year, with a

94% growth in the capital budget for land acquisition. A further change, which started last year, is the substantial shift in the *type* of funds, from household grants to money for direct purchase of land by the state. This year, R853 million is allocated for DLA to buy land itself. Funds for applicants to buy land are rising more slowly to R1.7 billion, suggesting the state itself is planning to become a bigger player in the land market. It also begs the question about how resources will be rationed and how the state will decide who gets what of the land it has bought – a question of equity.

In terms of tenure reform, a small allocation of under R30 million a year for the Communal Land Rights Act (CLRA) suggests that its implementation will start, but not be scaled up during the coming three years. This is the only dedicated budget for tenure reform. In contrast, the reform of farm tenure has no ring-fenced budget. While protecting and securing farm tenure rights arguably requires skilled and specialised staff, DLA posts dedicated to farm dweller issues have been phased out.





1. What can this budget buy?

More land but not enough. Land acquisition can be scaled up, but will still *not* meet the targets in DLA’s Strategic Plan for 2008 to 2011. By its own estimate, the total allocation could potentially buy 1.7 million ha at average land prices, and it cannot be expected that state land can make up the shortfall between the targets set and the budgets provided.

2. Can this budget be spent?

Across the board, there is *much* less money to do the job of land reform. Current budgets to staff and run the institutions responsible,

have fallen by 38% for restitution and 22% for the rest of land reform. This seems to be a matter of ‘spend more with less’. As DLA is known to suffer from weak capacity, vacant posts and high turnover, this is a major concern. Political attention should now focus on changing the ratio of capital to current budgets.

3. Do the land affairs and agriculture budgets tally?

The rise in funds for land acquisition is not matched by concomitant growth of agriculture budgets. While the budgets for the Comprehensive Agricultural Support Programme (CASP) increased over the past few years this is now to slow down. The Micro Finance Institutions of South

Africa (MAFISA) credit facility is in decline, and is only to be funded for the next two years. The main source of support for new farmers is the Livelihoods Development Support budget, which, in real terms, is static. The one piece of good news from the agriculture budget is provision for an extra 670 agricultural extension officers by 2011.

This year, the land budget shows a continuation of the chronic mismatch between the ambitious goals of land reform and the funds and institutional capacity devoted to it. There is substantially more money to spend, but much less to spend it with and if it were fully spent, it would not meet targets for land delivery.

Ruth Hall – senior researcher, PLAAS

Budget 2008/09 compared to last year’s budget (in millions)

Budget line	2007/08 allocation	2008/09 allocation	% change from previous year
Land Affairs total	5 600	6 659	+ 19%
Restitution			
Capital	2 997	2 893	- 3%
Current	328	204	- 38%
Restitution total	3 327	3 097	- 7%
Land reform (redistribution and tenure reform)			
Capital	1 350	2 620	+ 94%
Current	347	269	- 22%
Land reform total	1 696	2 888	+ 70%



POLOKWANE LAND RESOLUTION CREATES SPACE FOR STRUGGLE

The Polokwane resolution on rural development, land reform and agrarian change is a massive step forward, the main thrust of which breaks away from the failing market-based land reform programme we have had since 1994, and underlines the role of the state and social mobilisation in driving land reform. Its central pillars are:

- 'agrarian change... supporting subsistence food production, expanding the role and productivity of modern smallholder farming'
- the expansion of 'large-scale programmes to establish new smallholders and improve the productivity of existing small-scale and subsistence farmers'
- supporting the 'growth of rural market institutions' through the provision of infrastructure, the building of state-regulated institutions to support and promote market access and by helping rural communities and small farmers to undertake collective action as small producers, to establish smallholder associations, as well as co-operatives for production, input supply and marketing.

Many other provisions of the resolution are a genuine attempt to take on board community and civil society struggles against market-based land reform. The challenge for landless communities and civil society lies in how to exploit the space opened up by these progressive visions. For example, a rural NGO is now enabled by the resolution to demand from an ANC-run municipality to, 'lead the processes of development, land reform and agrarian change ... through the leadership of decentralised, participatory and people-centred programmes ... linked with wider development priorities'. This is in clear contrast to the current situation where many municipalities fail to integrate land reform in their plans, including the provision of basic services to farm dwellers on private farms.

Notwithstanding this progress, the land reform resolution, like other Polokwane resolutions, reflects ongoing battles within the ANC between various class interests and projects. For example, whilst putting emphasis on smallholders and poor rural dwellers, the same resolution also calls for the promotion of a capitalist black commercial farming class and also sustains the export-orientation of present commercial agriculture. So thousands of smallholders will be encouraged, promoted and supported to be integrated 'formal sector value chains' and markets as they exist without posing the need for structural transformation of the agrarian space as a whole. In fact, the resolution commits to 'maintaining a vibrant and competitive agricultural sector', a key code phrase which over the years has been used as the spearhead to protect the interests of agrarian capital. Indeed, these competing interests (of the landless, emergent farmers and agrarian capital) are a current reality that cannot be dismissed. At the same time, these interests should not be easily lumped into one contradictory resolution but require careful teasing and elaboration with a bias towards strengthening popular interests and forces. It is doubtful whether the ANC and the government have the capacity and orientation to do this.

Also absent in the resolutions are the notions of ecological sustainability of a transformed agricultural sector, a clear statement on oppressive gender relations in the country as a whole (but which get worsened in rural areas), a critical understanding of persisting remnants of undemocratic feudalism (mainly traditional leadership) and food sovereignty. These are critical elements of a transformed countryside.

Largely absent from the resolution is the notion of ongoing social struggles creating the necessary conditions for pro-poor structural transformation of the South African countryside. The critical political

conditions required include a clear analysis and grasp of the agrarian question by leading progressive political forces in our country, autonomous social agency of the rural poor, embedded autonomy of the state (which the notion of a developmental state potentially opens up space for), a wider process of structural transformation and pressure on agrarian capital. These conditions do not exist. There is therefore a need to focus on immediate battles without losing sight of other ongoing and long-term struggles.

In the coming period, there are three key battles for landless communities and civil society:

- the extent to which government, at all levels, acts and delivers on the significant changes in land reform and agricultural policies put forward by the resolution (including commitments to expropriation, security of tenure, evictions, provision of free basic services, etc.)
- the meaning given to, and interpretation of, key provisions and concepts used in the resolution given that these are not defined (these include rural development, agrarian change, and the transformation of social relations) – and so the ANC puts forward a very incomplete vision of what a transformed countryside will look like
- finding a way to work with the ANC, at all levels, to take forward and implement the progressive thrusts of the resolution.

Without these concerted immediate and ongoing struggles, even the progress of Polokwane may be rolled back and space will be more constrained to address other problems in ANC and government policies on land reform.

Mazibuko K. Jara – research associate, iKwezi Institute

POLICY UPDATES

A host of policy processes are underway. While some of these are long overdue and welcomed, mixed feelings within civil society are surfacing about the development of land reform policies in *ad hoc* ways and whether these will support a broader vision for land reform.

- The **Settlement and Implementation Support (SIS)** Strategy for land and agrarian reform in South Africa was launched by the Minister in February 2008. The strategy proposes reframing land reform as a joint programme of government in partnership with the private sector and civil society. The SIS provides a means of co-ordinating settlement and implementation support through rural services centres. DLA established a task team to (1) develop plans on how to implement the strategy and (2) examine how to integrate settlement and implementation support needs into the process of area-based planning recently introduced by the department.
- A review of the **White Paper on South African Land Policy** was announced after the National Land Summit into 2005 to (1) identify areas in the current document which should be amended and (2) set out key policy areas. It is still not entirely clear when the review is expected to go ahead. A consultation process with civil society was scheduled for late 2007 but this was not pursued.
- The **Land and Agrarian Reform Project (LARP)** forms part of the 24 presidential 'apex' priorities and is a co-operative programme of the Departments of Land Affairs and Agriculture. LARP proposes 'one-stop shop' service centres that are located close to farming and rural beneficiaries and sets targets to (a) redistribute 5 million ha of white-owned agricultural land to 10 000 new agricultural producers, (b) increase black entrepreneurs in the agribusiness industry by 10%, (c) create access to agricultural support services to the target groups, (d) increase agricultural production by 10–15% and (e) increase agricultural trade by 10–15% for the target groups.
- The **Land Rights Management Facility** was introduced as a new system of provision of legal services to farm dwellers. To date civil society through the Rural Legal Trust (RLT) has provided legal services to farm dwellers in the absence of such a service. This inability of the state to provide a civil litigation service to farm dwellers has widely been regarded as the neglect of these obligations by DLA. However, while a facility is needed, civil society has expressed concerns. (1) The private law firm Cheadle, Thompson & Haysom in Cape Town has been appointed to manage the facility, and in turn will appoint private attorneys throughout the country to represent farm dwellers in eviction and related human rights abuse cases – however, just representation and issues of conflict of interest in farming towns and rural areas where a majority of lawyers have been or are representing farmers in eviction cases, have not been considered; (2) The implementing of the 'judicare' model of legal representation while the prohibitively expensive nature of this model was precisely what led to the near demise of the Legal Aid Board (LAB), which abandoned this model for a Justice Centre model; (3) The nature and complexity of the work requires dedicated and sustainable resources in order for the department to leverage commitment and a sustainable service – is it not better to invest resources in developing these skills within DLA? This facility will be operational from June 2008 and a service toll-free number will be available to farm dwellers: 0800 007 095.
- The **Proactive Land Acquisition Strategy (PLAS)** enables the departments of Land Affairs, Agriculture and Provincial and Local Government to work together to pro-actively acquire agricultural land in terms of Act 126 [Section 10(a)]. Through this approach, the DLA is able to acquire land based on the market or through expropriation without attaching beneficiaries to such land. Some of the stated objectives of PLAS are (a) to ensure the acquisition of land in agricultural corridors and areas to meet the objectives of the Accelerated and Shared Growth Initiative of South Africa (ASGISA); (b) to improve the selection of beneficiaries and the planning of land on which people would be settled; and (c) to ensure effective use of land acquired.
- The **Panel of Experts on Foreign Ownership of Land (PEFOL)**, released its report in August 2007. No steps have been taken towards enacting these proposals in policy or law. The recommendations of the report include the following:
 - Compulsory disclosure of nationality, race and gender and other information
 - Special ministerial approval before disposal of land that is earmarked for land reform
 - An inter-ministerial oversight committee consisting of relevant departments to monitor foreign ownership of land and changes in land use
 - Prohibition of foreign (and national) ownership of land in restricted areas
 - Consideration of a limited temporary moratorium of approximately two years prohibiting the disposal of state land to foreigners
 - Consideration of medium- and long-term leasehold on public land as opposed to sales to foreigners.



LEGISLATIVE UPDATE

An **Expropriation Bill** has been approved by Cabinet and is due to be tabled in Parliament this year. This Bill repeals the Expropriation Act 63 of 1975 and provides for the expropriation of property for both public purposes (for public infrastructure) and in the public interest (including for land reform). In addition, it sets out the procedures to be followed by expropriating

authorities and, unlike the current Act, stipulates that the compensation to be offered to owners need not be at market value, but must comply with the criteria in the Constitution, which include the current use of the property in question, the history of its acquisition, past state subsidies used in its improvement, and the purpose of the expropriation. The publication of the Bill

follows the publication in the Government Gazette of a draft **expropriation policy** by the Department of Public Works in November 2007. Neither the Bill nor the policy define a specific approach to determining what constitutes the 'public interest', nor the approach that will be taken to interpreting the criteria for compensation.

NEW APPOINTMENTS

- **Teresa Yates** was appointed director of Nkuzi Development Association in March 2008, succeeding Lucas Mufamadi, who has now joined the regional land claims commission in Limpopo.
- **Thozamile (Tozi) Gwanya**, formerly Chief Land Claims Commissioner, has been appointed to the post Director General of the DLA.
- **Blessing Mphela** took over the reigns as acting Chief Land Claims Commissioner.
- **Mduduzi Shabane** was appointed Deputy Director General of Land and Tenure Reform at DLA.
- **Michael Aliber**, an agricultural economist previously at the Human Science Research Council was appointed senior researcher at PLAAS in January 2008. He is based in Gauteng.
- **Ritu Verma**, an anthropologist, gender specialist and civil engineer joined PLAAS in February 2008 to work on gender and land tenure issues.

RESEARCH UPDATES

The following updates highlight current research projects of PLAAS but all researchers are invited to inform the sector of relevant research projects.

- *Farm dweller project.* This research investigates challenges in securing the tenure rights of farm dwellers, and the links between tenure security, livelihoods and social justice. The research will address the conditions that underpin (changes in) employment and tenure relations on farms, and will include the narratives of farm dwellers and farm owners and managers. The purpose is to generate field-based research from Limpopo and the Eastern Cape, to support policy and law reform proposals, where possible in collaboration with the Farm Dweller Campaign now being taken up in some provinces. Ruth Hall (rhall@uwc.ac.za)
- *Land Reform from Below: Decentralised Land Reform in Southern Africa.* This regional programme facilitates information sharing and debates amongst practitioners, policy makers and scholars to deepen the understanding of best practice in decentralised land reform in the southern Africa region. Karin Kleinbooi (kkleinbooi@uwc.ac.za)
- *Securing Women's Access to Land: Linking Research and Action.* PLAAS is coordinating a 30-month action research project with NGOs and/or CBOs through a small grants programme in southern Africa to reflect on practices that promote women's secure access to land, and to draw lessons for policy. Ritu Verma (rverma@uwc.ac.za)
- *In the Shadow of a Conflict: Impacts of Zimbabwe's Land Reform on Rural Poverty and Development in Mozambique, South Africa and Zambia.* This regional project, undertaken in collaboration with researchers in Mozambique and Zambia, aims to understand the wider repercussions of the Zimbabwean crisis and diaspora. In South Africa, the project will record the stories and narratives of migrant farm workers in Limpopo who are from Zimbabwe, how they came to be where they are, and also others' views of the impact of this migration on recipient communities. The hypothesis informing the project is that this movement of people has influenced social relations and the politics of land in communities where they are received. Philani Zamchiya (pzamchiya@uwc.ac.za)

EVENTS

- A network of NGOs across the region met on 21 April 2008 to further discussions to establish **Landnet Southern Africa**. The process was facilitated by Alexis Jones, a Mickey Leland International Hunger Fellow based at the Association for Rural Advancement (AFRA). Contact alexis@afra.co.za
- PLAAS held the first regional workshop on **Decentralised Land Reform** on 22–23 April 2008 in Gauteng, South Africa.
- MCA Planners appointed by the Provincial Land Reform Office (Western Cape) in July 2007 are developing an **area-based land sector plan** for the Cape Winelands, including its five constituent municipalities. The plan will set out a strategy to identify opportunities for land reform in rural areas and incorporates land reform into municipal planning, development and implementation. The process is nearing completion and continuing concerns are (1) the weak capacity and inadequate resources within both DLA and municipalities to implement land reform and (2) the difference of opinion over the mandate of municipalities to engage in land reform. The findings of the area-based plan for the Cape Winelands were presented at a meeting on 25 April and draft reports are available. Contact mcaplan@mweb.co.za
- In the Western Cape, Phuhlisani Solutions was contracted by the Provincial Department of Local Government and Housing in January 2008 to develop **SIS implementation guidelines** for the provision of effective settlement and implementation support to land reform projects in the province as a whole. Representatives of the commission, the Provincial Land Reform Office, the Provincial Department of Agriculture, other departments, spheres of government and civil society are involved in developing an outline of the content of the guidelines. Further discussions were held at a workshop on 18 April and draft guidelines are due to be completed before mid-year. Anyone wishing to participate in the process should contact Rick de Satgé at rick@phuhlisani.co.za
- PLAAS launched its small grants programme for action research on **Securing Women's Access to Land** in southern Africa with an inception workshop in Nairobi, Kenya from May 19–23 (in collaboration with the Makerere Institute for Social Research for Eastern Africa).
- Nkuzi Development Association launched an ongoing **Stop Evictions Campaign** in October 2007. The campaign is pressuring government to declare a moratorium on evictions. Regular workshops are held in Gauteng and Limpopo with farm dweller communities, providing information about rights and assisting communities to articulate the types of solutions they want in terms of tenure rights, security and access to land. Contact Teresa Yates on (012) 323-6417 for information on future events.

GENERAL NEWS

- In 2007 PLAAS opened an office in Makhado. The office has three resident researchers: Tshililo Manenzhe (contact person and office manager); Themba Maluleke and Shirhami Shirinda. Telefax: (015) 516-2418.
- The Free State Rural Development Association (FSRDA) has changed its acronym to FRUDASSO.
- On 2 April 2008 claimants, with the support of The Rural Action Committee (TRAC) in Mpumalanga, marched to the regional land claims commission over a contestation of verification of claimants and the subsequent denial of restitution rights of a large group who claim to be the rightful owners of *Tenbosch Restitution Claim*. This is the biggest land claim settled in South Africa to date with a total value of R1.1 billion, involving 32 387 ha of land. Contact Chris Williams on (013) 755-4324 for more information.
- In February 2008 DLA advertised the Communal Land Rights Act draft regulations for comment by 8 April 2008, and despite the court hearing in October 2008 which will address the constitutional challenge by various communities, public consultations were held on 15–16 April in Durban.

PLAAS obtained information for *Umhlaba Wethu* from a wide range of sources, including National Treasury and statistical information from the Department of Land Affairs (DLA) and the Commission on Restitution of Land Rights (CRLR): <http://land.pwv.gov.za>. Views expressed here do not necessarily reflect the views of PLAAS.

YOU CAN SEND YOUR SUGGESTIONS AND COMMENTS ON THIS PUBLICATION TO:

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