

Land reform and sustainable development in South Africa's Eastern Cape province

Edited by Edward Lahiff

Research
report
no. 14



SCHOOL
of
GOVERNMENT
UNIVERSITY OF THE WESTERN CAPE



Research report no. 14

Land reform and sustainable livelihoods in South Africa's Eastern Cape province

Edward Lahiff



Programme for Land
and Agrarian Studies
October 2002

Land reform and sustainable livelihoods in South Africa's Eastern Cape province
Edward Lahiff

Published by the Programme for Land and Agrarian Studies, School of Government,
University of the Western Cape, Private Bag X17, Bellville, 7535, Cape Town.
Tel: +27 21 959 3733. Fax: +27 21 959 3732. E-mail: plaas@uwc.ac.za
Website: www.uwc.ac.za/plaas

An output of the Sustainable Livelihoods in Southern Africa: Governance, institutions and policy processes (SLSA) project. SLSA is funded by the UK Department for International Development (DFID) and co-ordinated by the Institute of Development Studies, University of Sussex (UK), in co-operation with researchers from the Overseas Development Institute (UK), IUCN (Mozambique), Eduardo Mondlane University (Mozambique), the University of Zimbabwe, and PLAAS (University of the Western Cape, South Africa).

Programme for Land and Agrarian Studies Research report no. 14

ISBN 1-86808-568-6

October 2002

All rights reserved. No part of this publication may be reproduced or transmitted, in any form or means, without prior permission from the publisher or the author.

Copy editor: Stephen Heyns

Cover photograph: Mdudwa Village, Eastern Cape, composite image of photos taken by Zolile Ntshona and Edward Lahiff

Layout: Rosie Campbell

Maps: Anne Westoby

Typeset in Times

Reproduction: House of Colours

Printing: Hansa Reproprint

Contents

List of boxes, figures and tables	iii
Abbreviations and acronyms	iii
Organisations consulted during this study	iv
Acknowledgements	v
Chapter 1: Introduction	1
Chapter 2: Land and livelihoods in the Eastern Cape	5
Chapter 3: Land reform policy	9
Chapter 4: Land reform in the Eastern Cape	12
Chapter 5: Restitution	15
Eastern Cape innovations in restitution policy	17
The Chatha restitution claim	19
Forestry claims	20
Restitution claims on nature reserves	22
Chapter 6: Redistribution	24
Gasela	27
Magwa Tea Estate	28
Lambasi Farm	30
Chapter 7: Tenure reform	33
Chapter 8: Local government-led land reform	36
Chapter 9: Land reform and sustainable livelihoods	39
The poor and development processes	39
Local service providers	41
Local government	42
Provincial government	43
Holistic and strategic direction	44
Chapter 10: Conclusion	46
References	48



List of boxes, figures and tables

Figure 1: South Africa's nine provinces	2
Figure 2: The former Transkei and Ciskei	3
Box 1: 14 products of the Eastern Cape DLA	13
Box 2: Eastern Cape restitution claims at 31 March 2001 and 31 March 2002	16
Box 3: Eight lessons from Gasela	28
Box 4: Six governance requirements for sustainable livelihoods	40
Table 1: Forestry claims	21
Table 2: Redistribution projects in the Eastern Cape by year and type of project 1995–2002	25

Abbreviations and acronyms

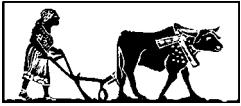
ADC	Amatola District Council
ADM	Amatole District Municipality
ANC	African National Congress
BRC	Border Rural Committee
CBO	community-based organisation
Contralesa	Congress of Traditional Leaders of South Africa
CPA	communal property association
CPC	community production centre
CRLR	Commission on Restitution of Land Rights
DEAT	Department of Environmental Affairs and Tourism
DFID	Department for International Development (of the UK government)
DLA	Department of Land Affairs
DOA	Department of Agriculture
DWAF	Department of Water Affairs and Forestry
Ecarp	Eastern Cape Agricultural Research Project
ECSECC	Eastern Cape Socio-Economic Consultative Council
Esta	Extension of Security of Tenure Act
Gear	Growth, Employment and Redistribution (macroeconomic framework)
GTZ	Deutsche Gesellschaft für Technische Zusammenarbeit
ha	hectare(s)
IDP	integrated development plan
ISRDS	Integrated Sustainable Rural Development Strategy
LDO	land development objective
LRAD	Land Redistribution for Agricultural Development
LRSP	Land Reform and Settlement Plan
NGO	non-governmental organisation
PDLA	provincial office of the Department of Land Affairs
PTO	permission-to-occupy
RLCC	Regional Land Claims Commission
SDI	Spatial Development Initiative
SLAG	Settlement/Land Acquisition Grant



SSDP Settlement Support and Development Planning
Tralso Transkei Rural Services Organisation
Tracor Transkei Development Corporation

Organisations consulted during the study

Amatole District Municipality, East London
Border Rural Committee, East London
Department of Agriculture, Bisho
Department of Land Affairs, East London
Department of Provincial Treasury, Economic Affairs, Environment and Tourism, Bisho
Department of Public Works, Bisho
Department of Water Affairs and Forestry, King William's Town
Farm Africa, Umtata
Independent Development Trust, Lambasi
Ingquza Local Municipality, Flagstaff
Land Bank, East London
Legal Resources Centre, Durban
Magwa Workers Co-operative, Magwa
Office of the Premier, Bisho
OR Tambo District Municipality, Umtata
Regional Land Claims Commission, East London
Rural Livelihoods (RuLiv) Project, Bisho
Transkei Rural Services Organisation (Tralso), Umtata
Xopozo tribal authority, Siphaheni



Acknowledgements

This report forms part of the Sustainable Livelihoods in Southern Africa Project, a research collaboration between PLAAS and the Institute of Development Studies, Sussex University, with partner organisations in Zimbabwe and Mozam-

bique. Funding was provided by the UK's Department for International Development. The author wishes to express his appreciation to the funder, to the many people in the Eastern Cape and elsewhere who contributed to this study, and to Zolile Ntshona for his assistance in the field.



Chapter 1: Introduction

The Eastern Cape is one of the nine provinces of South Africa, located in the south-east of the country along the Indian Ocean seaboard. The area was a site of prolonged struggle between native peoples, principally Xhosa-speakers, and European colonists throughout the eighteen and nineteenth centuries, which saw the defeat and subjugation of the African chieftaincies and the loss of the majority of territory to white settlers.

In the twentieth century, under policies of segregation and apartheid, the Eastern Cape was divided territorially into zones of 'white' occupation, which formed part of the Republic of South Africa, and the native reserves (later 'African homelands', or bantustans) of Transkei and Ciskei, which for a time achieved the dubious status of 'independent republics'. The separation of people along racial lines, as in the rest of South Africa, was accompanied by massive forced removal of African, Indian and coloured people, widespread dispossession of land and other property, and severe curtailment of social, economic and political rights. The result was one of the most unequal societies in the world, with a relatively small white minority enjoying high standards of living and the great majority of the black population consigned to a life of extreme exploitation and poverty (May, Woolard & Klasen 2000:26).

The transition to democracy in 1994, and the coming to power of a government led by the African National Congress (ANC), has only begun to reverse this legacy. Landlessness, vulnerability, unemployment, lack of basic services and, above all, poverty, remain central to the lives of the majority of the population of the Eastern Cape. While considerable progress has been made in many areas of social policy – such as provision of water, electricity and housing – especially in

urban areas, the 'deep rural' areas of the former Ciskei and, most especially, the former Transkei, have presented enormous challenges to the reform policies introduced by the state since 1994. Opportunities for migrant labour to the mining and industrial sectors, on which the area has long depended, have fallen dramatically in recent years, and many local sources of employment, notably in the public sector, are also shedding jobs. Declining opportunities for formal employment have forced many households to turn to informal activities to obtain a livelihood, including an increased dependency on traditional land-based activities.

This paper focuses on one area of government policy – land reform – looking at the institutional forms that have been developed as part of that policy, the strategies being applied to implement it, the linkages between it and other areas of policy, and the achievements of the policy to date. In doing so, it seeks to understand the impact of land reform policy on the livelihood opportunities of the rural poor. This is done through a detailed study of land reform policy in the Eastern Cape province, with a particular emphasis on the former 'homeland' areas of Ciskei and Transkei.

The study begins by looking at the importance of small-scale land-based activities – principally cropping, livestock and gathering of wild resources – to rural



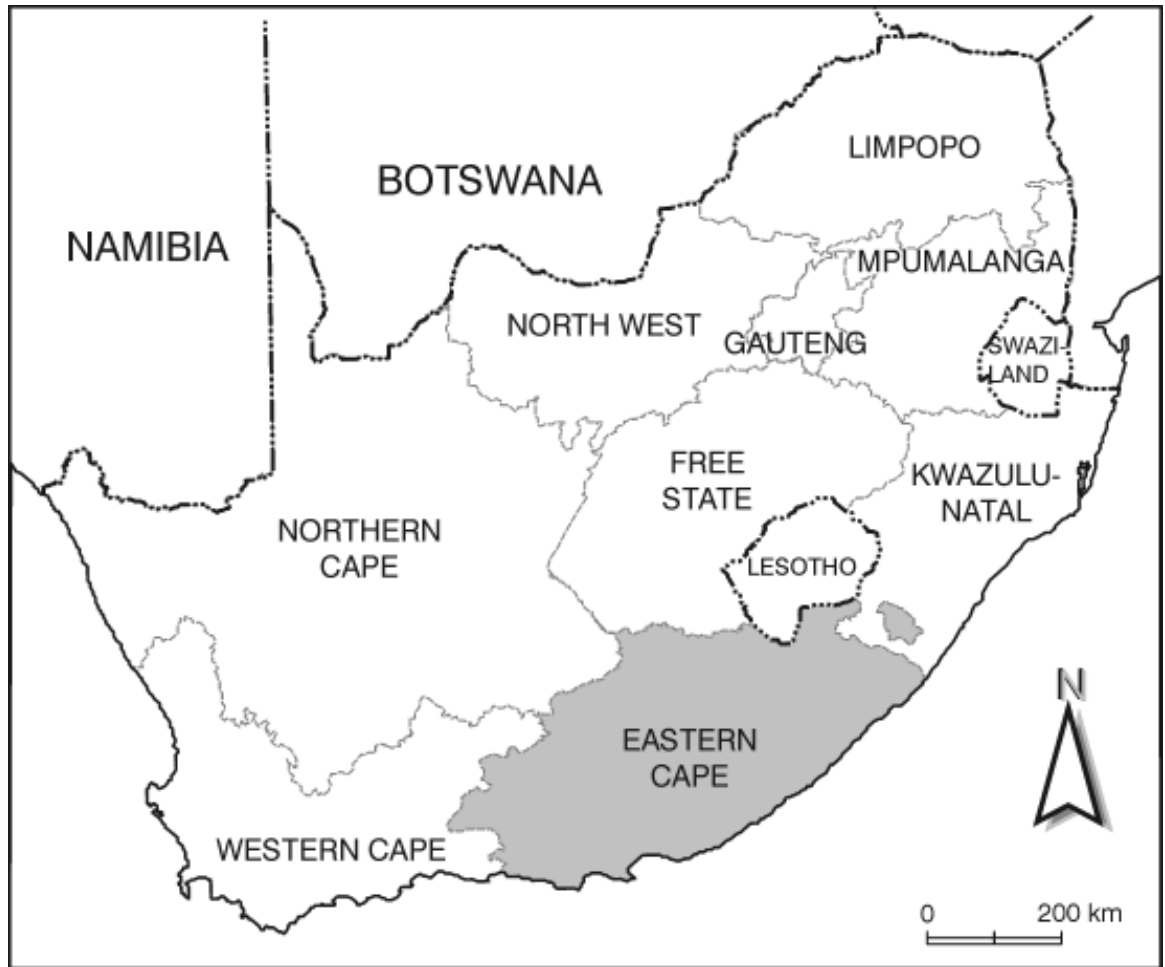
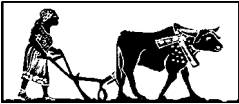


Figure 1: South Africa's nine provinces



livelihoods in the Eastern Cape. It then looks at the policies that have been put in place by the state to improve access to land, and the rights people enjoy over land, particularly in terms of the Land Reform Programme of the Department of Land Affairs. In the final section, a six-part framework developed by Goldman is used to assess the land reform policy in the Eastern Cape from a sustainable livelihoods perspective.

A key aim of the study was to develop an understanding of how land reform policy, which is formulated largely at the national level, is shaped to suit conditions prevailing in the Eastern Cape, and the implications of this for sustainable rural livelihoods. This required close study of the institutions responsible for implementation, and especially the linkages between institutions at national, provincial and local levels.

The study is based primarily on interviews conducted with representatives of the main governmental and non-governmental organisations involved with land reform in the Eastern Cape, a review of policy documents and, to a lesser extent, interviews with intended beneficiaries of land reform policy. Research was conducted in the Eastern Cape between January 2001 and June 2002.

The key questions addressed by the study are as follows:

- What 'version' of land reform policy is being implemented in the Eastern Cape?
- What institutional arrangements underpin land reform in the Eastern Cape?
- How does land reform contribute to sustainable rural livelihoods?
- What lessons does the Eastern Cape experience offer?

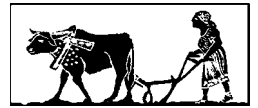
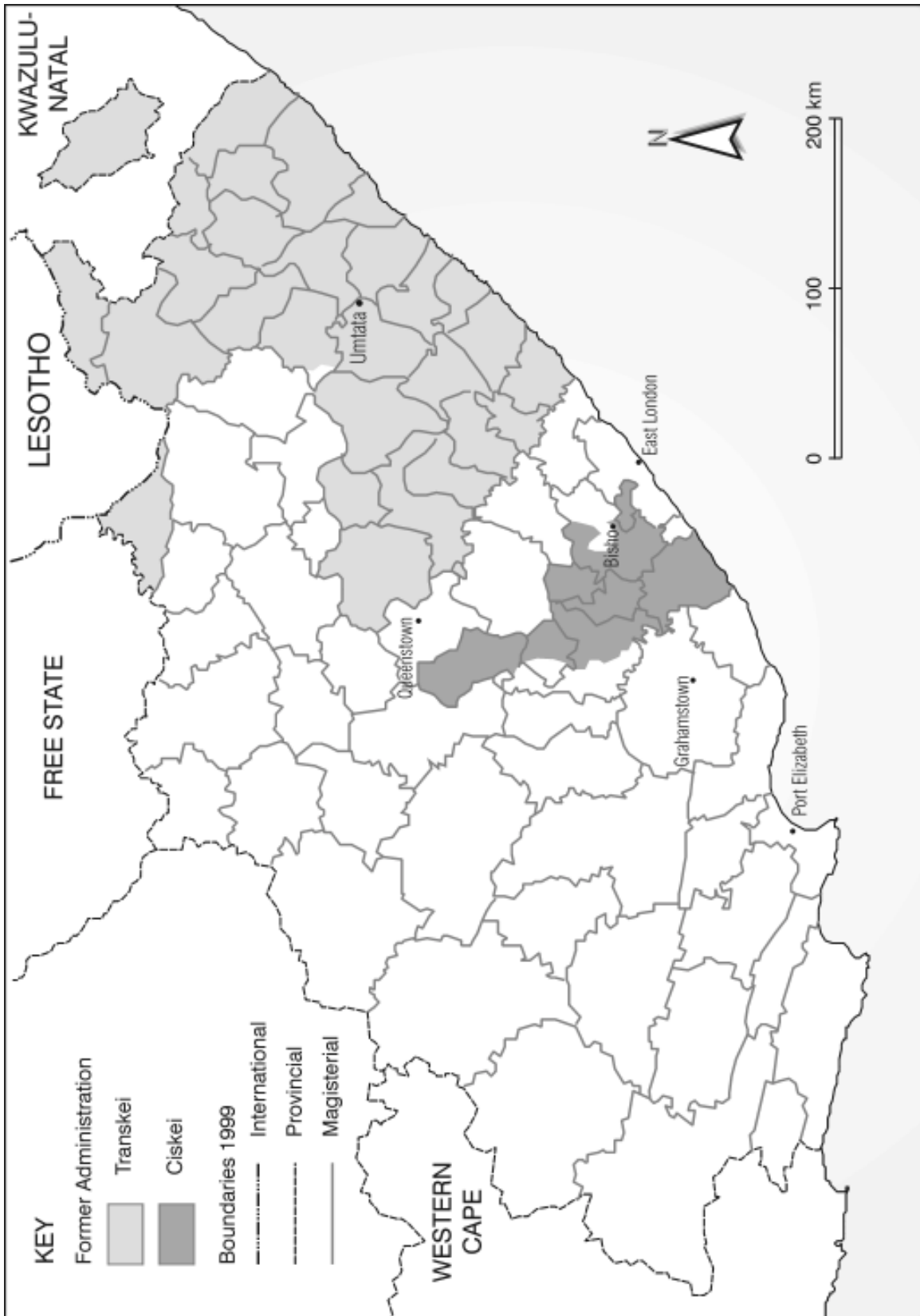
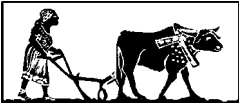


Figure 2: The former Transkei and Ciskei

Not all aspects of land reform policy, and not all areas of the Eastern Cape, are treated in equal detail. The emphasis throughout has been on the impact of land reform in the former homelands. Particular attention is paid to the Wild Coast district of the former Transkei, where related research is underway as part of the wider Sustainable Livelihoods in Southern Africa project, but examples are also drawn from former Ciskei and from former 'white'

commercial farming areas. Attention is paid to all three 'legs' of the state's land reform programme – restitution, redistribution and tenure reform – but not all elements within these programmes are covered. Missing from this study is any discussion of reforms related to the tenure rights of farm workers and farm residents in areas outside the former homelands, and restitution of land in urban areas.



Chapter 2: Land and livelihoods in the Eastern Cape

The Eastern Cape covers an area of 169 875km² and has a population of approximately 6.3 million people. The great majority of the population are Xhosa speakers, with minorities speaking Afrikaans, English and Sotho; 65% of the population is classified as rural. The most densely populated districts are those of the former Transkei, reaching as high as 92.9 persons per square kilometre in the former Kei District.

The Eastern Cape is, by most indicators, the province with the highest incidence of poverty in South Africa: it has the lowest mean monthly household expenditure, and 48% of the population are classified as living in poverty. The great majority of the poor are located in the former Ciskei and Transkei, and poverty is particularly pronounced among black, rural and female-headed households (ECSECC 2000:5).

Approximately 10 million ha of land (59% of the province) is in the hands of 6 500 white commercial farmers, employing approximately 70 000 farmworkers (ECSECC 2000:8). This land is used (in descending order of importance) for sheep, beef cattle, mixed farming, dairy cattle and vegetable production. With the exception of urban areas such as East London, Port Elizabeth and Grahamstown, the remainder is largely composed of the former homelands of Ciskei and Transkei.

The area that was to become the Ciskei was first demarcated as a 'native reserve' within the British-controlled Cape Colony in late 1870s, and the Transkeian Territories (Transkei proper, Tembuland, Pondoland and parts of Griqualand East) were incorporated into the Colony between 1875 and 1900 (Thompson 1995:75). After a century of border changes and

'homeland consolidation', Ciskei grew to an area of approximately 800 000ha and the Transkei to approximately 4 280 000ha (Charton 1980; Robertson 1990). The Transkei became a separately-administered territory within the Republic of South Africa in 1963, with a Legislative Assembly dominated by unelected chiefs. In 1976 it was the first of the so-called homelands to be declared 'independent'. Ciskei became a self-governing territory in 1972, and was declared 'independent' in 1981.

In Transkei in the early twentieth century, colonial authorities divided land into 'tribal' administrative areas, set aside for African occupation under the system of indirect rule (based on chiefs and headmen), and towns and resort areas reserved for whites (Kepe 2001:10). From the 1950s, a policy of 'betterment', or villagisation, was introduced, ostensibly as a means of controlling rangeland degradation in communal areas; it redefined land use patterns by dividing areas into residential, arable and grazing land (De Wet 1995). Residents were forcibly moved to new residential sites and many lost ploughing fields and grazing land in the process. Opposition to betterment and to the introduction of Bantu (Tribal) Authorities, Bantu education, and the imposition of unpopular chiefs and headmen, were among the factors that led to the so-called



Pondoland revolt (Mbeki 1984:119). Outbreaks of violence occurred from 1958 in Bizana, Lusikisiki and Flagstaff as rural people protested against chief Botha Sigcau's efforts to push through apartheid policies in the reserves. Major clashes occurred in June 1960 at Ngquza Hill, between Lusikisiki and Bizana, when eleven people were killed by police. A state of emergency was declared throughout the Transkei, thousands were arrested and many sentenced to jail or to death, although only a small number of executions were carried out.

From the early 1960s to the late 1980s, Xhosa-speaking people from throughout the Western and Eastern Cape, and other parts of the country, were forcibly resettled in the Ciskei and Transkei. Writing in the mid-1980s, Platzky and Walker had this to say of forced removals in the area:

By far the most important movement of people has been from the white rural areas – off the white-owned farms – into the Ciskei. However, other forms of relocation were evident too. When the Transkei took 'independence' in 1976 thousands of people fled from the Herschel and Glen Grey districts to the promised land of the Ciskei, where they still wait at Thornhill, Zweledinga and Oxtou for land and facilities. In 1981 the Ciskei took 'independence' stripping two million people of their South African citizenship. Seven black spots in the corridor between Ciskei and Transkei are due to be moved shortly as part of the consolidation of Ciskei ... Over the past twenty years the government has established that it has moved 80,000 people out of Duncan village, an African area in East London, to Mdantsane (Platzky & Walker 1985:55–6).

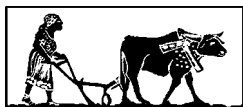
Overall, Platzky and Walker estimated that 401 000 forced removals took place in the Eastern Cape between 1960 and 1983, plus an unknown number in terms of the Groups Areas Act. Categories of removals

included farms, black spots, homeland consolidation, urban areas and informal settlements (Platzky & Walker 1985:10).

The forced removal of people into the homelands, the resulting overcrowding, the out-migration of labour, the lack of economic development or investment and the chronic poverty of the people resulted in enormous pressure on the natural resource base and the inability of most people to obtain a livelihood from the soil. This problem is not new, and closely followed the loss of territory to the colonists and the highly exploitative incorporation of African labour into the white-controlled economy. Bundy (1979:221–9) outlines the fall in agricultural production and the rise in poverty, paralleling the rise in migrant labour, in the Transkei throughout the first half of the twentieth century. The Eastern Cape was traditionally the greatest supplier of labour to the Witwatersrand, the majority of which went to the goldfields, although men from Pondoland also migrated to the Natal sugar fields (Southall 1982:78).

Detailed information on land-holding within all of the former homelands is very limited. Many people with rights to arable land are not using their land, many people are cultivating land to which they have no formal rights, and substantial amounts of cultivation take place on people's residential plots. The great majority of land in the homelands is held under some form of communal tenure (Lahiff 2000b). Other tenurial forms include freehold land held by individuals and groups, including church missions, and state land, but these account for relatively small areas.

Various estimates suggest that the total arable land in the homelands generally is only sufficient to provide each household (averaging six persons) with approximately one hectare, but this figure varies considerably between homelands (Cobbett 1987:66; Tapson 1990:566; Lahiff 2000a:16). Obviously, this represents only the potential distribution, whereas in fact, a substantial proportion of households are



landless or near landless. While no precise figures are available for landlessness in the homelands, estimates of 40–50% of households are commonly cited (Bembridge 1990:18; Levin & Weiner 1991:92).

Studies from the Transkei over the past 20 years suggest that 50–60% of households enjoy some access to arable land (Hendricks 1990:88; McAllister 1989:351). Beinart (1992:186) estimates that up to 60 000 land-holders may exist in the Transkei, mainly in the coastal districts, 'who until recently have been making a reasonably successful effort to sustain production in difficult circumstances', combining farming with local employment and small businesses.

Drawing on work by Baskin and others for the Second Carnegie Inquiry, Wilson and Ramphele (1989:40) summarised the position in the Transkei as follows:

Throughout the Transkei, the degree of landless falls generally within the range of 20 to 30 per cent. But a survey in the south-west Transkei found that 42 per cent of the households had no arable plots. In this sample, 29 per cent had vegetable plots only, 19 had arable land only; 40 had both arable land and vegetable plots; 13 had neither. In another part of the Transkei 41 per cent had no arable fields; and 25 had neither fields nor cattle.

In Ciskei, De Wet and McAllister (1983) draw on the findings of the Keiskammahoek Rural Survey to show a decline in arable land-holding per household in the Chatha valley from an average of 1.72ha per household in 1949 to 0.43ha in 1981, largely as a result of 'betterment', while the proportion of households without land jumped from 10% to 40%. In a study of two villages in the Peddie district, Steyn (1988:243) found that 93% of households had access to arable land: average holdings were 1.4ha and 1.1ha respectively, and less than 1% of households had more than 2ha of arable land. People with grazing rights are, by and large, those with arable rights also, although not every

household with grazing rights actually keeps livestock, and many without formal rights do so.

Since the creation of the African reserves in the late nineteenth and early twentieth centuries, most of their inhabitants have been able to obtain only a part of their livelihood from agriculture. Moll (1988:5), speaks of 'a general economic collapse' in the reserves from about 1930, with a severe decline in maize yields and in numbers of sheep and cattle. Simkins (1981:262) takes a similar position, but argues that the main drop in per capita food output occurred only with the massive influx of population to the homelands after 1955.

Local studies from throughout Transkei suggest that livestock farming remains widespread, albeit with wide variations between households and regions (Heron 1991; Hendricks 1990; Southall 1982). It would appear that somewhere between a quarter and a half of households own cattle, and the great majority of herds are less than ten head. Few households own herds of 50 cattle or more. Small stock – sheep and goats – are probably owned by slightly more households, but average herd sizes are not substantially greater. Beinart (1992:182), reviewing the findings of ten local and regional studies in the Transkei, summarises the situation thus:

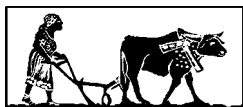
in districts as varied as Matatiele, Tsolo, Port St Johns and Bizana, quite similar figures emerge through the period from the late 1970s for the percentage of households with cattle (about 50 per cent) and the percentage with 10 or more (between 10 and 15).

A similar pattern is apparent in Ciskei. In two villages in the Peddie district, Steyn (1988:314) found that approximately two-thirds and one-third of households owned cattle, respectively, with average herd sizes of 6.4 and 4.0. In addition, between a third and a quarter of households owned sheep (average flock sizes of 19.3 and 21.4), while over half (57% and 56%) owned goats (average herd sizes of 10.8 and



17.3). Somewhat higher figures are reported by Bembridge (1987:118) for the Keiskamma district, where 71% of households kept cattle and the average herd size amongst the study sample was 6.9 head. Over two-thirds of cattle herds (69%) were smaller than 8 head, which Bembridge considers to be the minimum number necessary for the 'primary needs of survival and subsistence', namely the supply of food products and draught power. Considerably fewer households kept goats (36%) and sheep (25%); average herd size for goats was 13 head, and for sheep, 21.

Detailed studies of livelihoods in the homelands show that most households depend on multiple sources of income, of which agriculture generally contributes a relatively minor part compared to wages and pensions. (May, Rogerson & Vaughan 2000:234). Most studies show that wages (migrant and non-migrant) are the most important source of income for households in the homelands, and it would appear that the importance of wages has steadily increased over recent decades (Rogers 1976:59; Natrass & Natrass 1990:526). Most studies show that between 60% and 80% of income is obtained from wages, with between a third and a half of this coming from migrant remittances. Pensions are the second most important source of cash income, contributing between about 10% and 20% of average household income. Estimates of agricultural income, in terms of both cash sales and produce consumed within the producing household, show the greatest variability, but most studies put it at between 10% and



25% of average household income, of which the greater part is accounted for by direct consumption. Long-term research at Shixini by McAllister (2000:17), suggests that difficulties with measurement of maize yields have led to a consistent underestimation of the productivity of farming households in the Transkei and that many rural households are effectively self-sufficient in their staple food. Recent work by Shackleton, Shackleton and Cousins (2001:593) also challenges the conventional view, suggesting that the majority of household income in the rural areas comes from land-based activities: 'land-based livelihood strategies are clearly more important than is usually recognised, especially in direct provisioning (sometimes called 'subsistence') and as part of the rural safety net'. Overall, the available evidence suggests that, while agriculture may not be the principal source of livelihood for the great majority of households in the homelands, it does provide an important supplementary income for a substantial proportion, albeit with a high degree of differentiation between households. Access to land, even relatively small plots, forests or communal grazing, allows households to maintain a diversified livelihood strategy that may include wage employment, pensions, agricultural production (for consumption or sale), and the keeping of livestock as a form of investment, which together enhances their ability to obtain a livelihood under difficult conditions.

Chapter 3: Land reform policy

Since 1994, South Africa has embarked on an ambitious programme of land reform, designed to redress the grave racial imbalance in land holding and secure the land rights of historically disadvantaged people. The Constitution of the Republic of South Africa sets out the legal basis for land reform, particularly in the Bill of Rights. Section 25, the so-called property clause, allows for expropriation of property only in terms of 'a law of general application', for a public purpose or in the public interest, subject to just and equitable compensation; section 25(4) states that 'the public interest includes the nation's commitment to land reform, and to reforms to bring about equitable access to all South Africa's natural resources'.

Subsequent sub-sections place a clear responsibility on the state to carry out land and related reforms and grant specific rights to victims of past discrimination:

25 (5) The state must take reasonable legislative and other measures, within its available resources, to foster conditions which enable citizens to gain access to land on an equitable basis.

25 (6) A person or community whose tenure of land is legally insecure as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to tenure which is legally secure or to comparable redress.

25 (7) A person or community dispossessed of property after 19 June 1913 as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to restitution of that property or to equitable redress.

25 (8) No provision of this section may impede the state from taking

legislative and other measures to achieve land, water and related reform, in order to redress the results of past racial discrimination...

Since 1994, land reform has been pursued under three broad policy headings:

- restitution, which provides relief for certain categories of victims of forced dispossession
- redistribution, a system of discretionary grants that assists certain categories of people to purchase land from private owners or the state
- tenure reform, intended to secure and extend the tenure rights of the victims of past discriminatory practices.

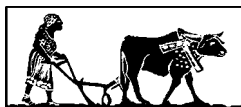
The legal basis for **restitution** was created under the Restitution of Land Rights Act, 1994 (Act 22 of 1994), which provides for the restitution of land rights to persons or groups dispossessed for the purposes of furthering the objects of racially-based discriminatory legislation or practices after 19 June 1913. The Commission on Restitution of Land Rights (CRLR) was established under a Chief Land Claims Commissioner and six regional commissioners. In terms of the



Constitution, the Commission is an independent body, but in practice it falls under the control of the Director-General of the Department of Land Affairs (DLA) and the Minister of Land Affairs. A special court, the Land Claims Court, with powers equivalent to those of the High Court, was also established to deal with land claims and other land-related matters. Legally, all restitution claims are against the state, rather than against current landowners. Provision is made for three broad categories of relief for claimants: restoration of the land under claim, granting of alternative land, or financial compensation.

The cut-off date for lodgement of restitution claims was 31 December 1998, by which date a total of 68 878 claims had been officially lodged, including both individual, family and community claims in urban and rural areas. By January 2002, 29 421 claims, representing 59 498 people, had been settled at a total direct cost of R1.347 million; a total of 406 120ha of land had been restored and R938 million paid in financial compensation (CRLR 2002).

The aim of the **redistribution** programme is 'the redistribution of land to the landless poor, labour tenants, farm workers and emerging farmers for residential and productive use, to improve their livelihoods and quality of life' (DLA 1997:36). To date, this has been achieved mainly through the provision of the Settlement/Land Acquisition Grant (SLAG), a grant of R16 000 supplied to qualifying households with an income of less than R1 500 per month. Since 2001, a new programme, Land Redistribution for Agricultural Development (LRAD) has been introduced with the explicit aim of promoting commercially-oriented agriculture. While LRAD retains the market-based, demand-led approach of previous policies, it requires an 'own contribution' of R5 000 or more (in cash or kind), on the basis of which applicants can qualify for grants of between R20 000 and R100 000. The income limit that applies under SLAG does not apply under LRAD.



Most redistribution projects to date have involved groups of applicants pooling their grants to buy formerly white-owned farms for commercial agricultural purposes. Less commonly, groups of farmworkers have used the grant to purchase equity shares in existing farming enterprises. A separate grant, the Grant for the Acquisition of Municipal Commonage, has also been made available to municipalities wishing to provide communal land for use (typically grazing) by the urban poor. By the end of 2001, a total of 834 redistribution projects had been implemented or approved nationwide, involving 96 000 households and 1 006 135ha of land (DLA 2001). The legal basis for redistribution remains the Provision of Certain Land for Settlement Act, 1993 (Act 126 of 1993), which was amended in 1998 and is now titled the Provision of Land and Assistance Act.

Tenure reform is generally seen as the most neglected area of land reform to date, but it has the potential to impact on more people than all other land reform programmes combined. Tenure reform, in the current context, is general taken to mean the protection, or strengthening, of the rights of residents of privately-owned farms and state land, together with the reform of the system of communal tenure prevailing in the former homelands. Attempts to draft a law for the comprehensive reform of land rights and administration in communal areas (the so-called Land Rights Bill) were abandoned in mid-1999, and a second attempt beginning in late 2001 has led to the publication of a draft Communal Land Rights Bill in August 2002.

The principal legislative components of tenure reform to date are as follows:

- The Upgrading of Land Tenure Rights Act, 1991 (Act 112 of 1991) (as amended), which allows for the conversion of informal land rights into formal ownership (title deeds or deeds of grant).
- The Land Reform (Labour Tenants) Act, 1996 (Act 3 of 1996), which protects the land rights of labour tenants on

- privately-owned farms, and provides a process whereby such tenants can acquire full ownership of the land they occupy.
- The Extension of Security of Tenure Act, 1997 (Act 62 of 1997), which protects occupants of privately-owned farms from arbitrary eviction and provides mechanisms for the acquisition of long-term tenure security.
 - The Interim Protection of Informal Land Rights Act, 1996 (Act 31 of 1996), intended as a temporary measure to secure the rights of people occupying land without formal documentary rights, pending the introduction of more comprehensive reforms. In the absence of such legislation, the Act has been extended annually and remains in force.
 - The Communal Property Association Act, 1996 (Act 28 of 1996), which created a new legal mechanism whereby groups of people can acquire and hold land in common, with all the rights of full private ownership.
 - The Transformation of Certain Rural Areas Act, 1998 (Act 94 of 1998),

which provides for the repeal of the Rural Areas Act (Act 9 of 1987) that applied to the 23 so-called 'coloured reserves' in the Western Cape, Northern Cape, Eastern Cape and Free State.

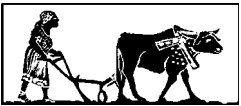
Land reform in South Africa since 1994, in all categories, has been painfully slow, the reasons for which remain the subject of intense debate. The one bright spot is the recent acceleration in the settlement of land claims, although the CRLR has been criticised for achieving this through 'cheque-book' solutions and the imposition of derisory settlements on some claimants. The new LRAD programme is gradually replacing SLAG as the principal means of redistribution, but it has yet to be seen how effective, and how inclusive, this will be. Substantial reform of land tenure, for the millions of households living on private farms and in the former homelands, has yet to get under way, but extensive debate is expected in the months ahead around the recently-published Communal Land Rights Bill.



Chapter 4: Land reform in the Eastern Cape

In the Eastern Cape, all aspects of land reform (with the possible exception of the labour tenants programme) have direct relevance and potentially major implications for millions of people. A total of 9 292 restitution claims have been lodged by people in urban and rural areas, in the former homelands and former white areas, some for substantial tracts of land.

There is widespread demand for redistribution, for purposes of residential settlements, agricultural projects and municipal commonage. The collapse of land administration systems in the former Ciskei and Transkei, ongoing uncertainty around the status of land rights in communal areas, and ongoing evictions from commercial farms combine to create a pressing need for tenure reform across all land types.



As in the rest of the country, two state institutions have been created to manage land reform – the Eastern Cape Regional Land Claims Commission (RLCC), responsible for the restitution programme, and the provincial office of the Department of Land Affairs (PDLA), responsible for all other aspects of land reform. Both of these have proved themselves to be effective and innovative in their implementation of land reform, and each has pioneered new processes that have impacted on national policy. The RLCC, in partnership with a local non-governmental organisation (NGO), has filled a major gap in policy around the settlement of so-called betterment claims, and has set up the first Settlement Support and Development Planning unit in the country to provide co-ordinated, long-term support to restitution beneficiaries. The PDLA – which offers a total of fourteen distinct ‘products’, or services (see Box 1) – has developed a close

working relationship with local government and other role players in the East London area, to the point where it has transferred a substantial portion of its budget and responsibilities for land reform to the district municipality (see below). PDLA has also, in the absence of comprehensive national policy on tenure reform in communal areas, attempted to broker interim solutions that will facilitate development on communal land, with mixed results.

Despite the many achievements of these institutions, however, land reform in the Eastern Cape faces many of the same challenges as elsewhere in the country, notably limited budgets, lack of policy direction in key areas, cumbersome internal procedures, inadequate co-operation between and within the different spheres of government (national, provincial and local), and constraints imposed by the national land reform policy itself.

A range of other institutions – governmental and non-governmental – are also involved in land reform in the Eastern Cape, to varying degrees. Several national government departments – the Department of Water Affairs and Forestry (DWAFF), the Department of Public Works, the Department of Environmental Affairs and Tourism (DEAT) and the Department of Defence are involved in their capacity as holders of large areas of land. Provincial

Box 1: 14 products of the Eastern Cape DLA

- Land development objectives (LDOs)
- Residential settlement and agricultural smallholdings
- Land title adjustments
- Commonage projects
- Small-scale agricultural projects
- Other redistribution projects
- Transformation of parastatals
- Forestry projects
- Equity share projects
- Extension of Security of Tenure Act
- State land management
- State land disposal
- Communal land administration
- Tenure projects

departments with a direct role in land reform are the Department of Agriculture (DOA), which is currently making state land available for redistribution to emerging black farmers and providing support services to land reform beneficiaries, and the Department of Provincial Treasury, Economic Affairs, Environment and Tourism, which is closely involved in negotiations around the future management of nature reserves being returned to former owners under the restitution programme. In the sphere of local government, engagement with land reform is largely at the level of the district municipalities (as opposed to the primary-level local municipalities), which includes making provision for land reform projects within integrated development plans, provision of infrastructure such as water and roads, and planning of resettlement areas to include housing, clinics, schools and other services. The state-owned Land Bank has, of late, began advising its black clients on the opportunities presented under LRAD and, along with PDLA, the Department of Agriculture and farmers' unions, sits on district assess-

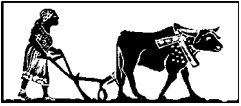
ment committees set up to approve LRAD projects.

NGOs and community-based organisations (CBOs) involved in land reform are not numerous, but make an important contribution to all aspects of the programme in the Eastern Cape. A marked disparity exists between the level of NGO activity in the former 'white' areas of the province and the former homeland areas of Ciskei and Transkei. Ciskei, with closer proximity to, and integration with, the urban-industrial heartland of the Eastern Cape is somewhat better off in this regard than Transkei, where the few NGOs based in the territory struggle to survive financially and to reach remote rural areas. The most prominent NGO in the land sector in the Eastern Cape is the Border Rural Committee (BRC), an affiliate of the National Land Committee based in East London. BRC operates largely within the area of the Amatola District Council (ADC), the area around East London, and is active in all aspects of land reform, including working directly with communities in an advocacy capacity and



undertaking implementation work on behalf of the PDLA and the RLCC. In the Transkei, the area with greatest need and lowest presence of NGOs, the Transkei Land Services Organisation (Tralso) has battled to overcome severe funding and management problems and has recently emerged as a vocal advocate for local needs and an able partner working with government agencies. The NGO Farm Africa opened an office in Umtata in 2001, but focuses on support to small farmers rather than on land reform. Other NGOs active in the land sector in the province include the Eastern Cape Agricultural Research Project (Ecarp), based in Grahamstown, which works mainly with residents of commercial farms in Albany district, and Calusa, an organisation that assists people in Sakhisizwe and Emalahleni municipal areas to access land for grazing and agricultural purposes under the redistribution programme.

A recurring theme throughout this research, raised by representatives of local communities, NGOs and government departments alike, was the very limited benefits that the land reform programme had so far delivered to residents of the former Transkei. Closely linked to this was widespread frustration at the limited capacity of the range of institutions operating in Transkei, including national, provincial and local spheres of government as well as NGOs, community-based structures and tribal authorities. PDLA officials stated that the department had not been very active in the former Transkei, mainly due to the lack



of policies or programmes relevant to the communal areas. During 2001 PDLA opened an office in Umtata, the former Transkei capital, which officials described as an indication of the department's commitment to tackling land administration issues in the former homelands, even in the absence of clear policy guidelines at the national level. By October 2001, PDLA was renamed as the Eastern Cape 'Land Reform Office', and had opened four district offices, in Port Elizabeth, East London, Queenstown and Umtata. Interviews with Tralso, the leading land sector NGO operating in Transkei, highlighted the institutional and resource constraints inherited from previous regimes. Particular mention was made of limited capacity of provincial and local government structures to implement post-transfer settlement support and service delivery. With regard to the Regional Land Claims Commission, there was a widespread impression in the research area that the commission had not allocated sufficient resources to Transkei, and indeed it would appear that just a few officials are responsible for processing restitution claims in that area. Unlike PDLA, the RLCC has not decentralised its operations beyond its East London headquarters.

The following sections will deal in turn with each major area of land reform policy in the Eastern Cape, outlining the key actors involved, the strategies adopted, progress with implementation, and the likely impact on livelihoods.

Chapter 5: Restitution

In 2001 the total number of restitution claims lodged in Eastern Cape was officially quoted as 9 292, out of a national total of 68 878 (13.5% of the national total). Of these, 804 (11% of the Eastern Cape total) were classified as rural and 6 588 as urban. (CRLR 2001:14).

Like other provinces, restitution in the Eastern Cape got off to a slow start over the period 1995–2000, but the rate of settlement of claims has improved greatly in the past two years. In May 2001, the Eastern Cape RLCC announced a five-year plan to fast-track land claims in the province, promising to settle about 2 000 claims per year. In order to boost its capacity, the RLCC has contracted the services of a range of NGOs and private sector organisations, including BRC and Tralso, to validate up to 4 000 outstanding claims (the first stage of the settlement process) by June 2002.

Among the highlights of restitution in the province to date have been the return of land to 800 Port Elizabeth families forcibly removed in the 1960s and 1970s, and a R233 million settlement in February 2002 for 6 500 former residents of East London's East Bank, who received a mix of alternative land and cash compensation. Important rural claims already settled include Chatha, Dwesa-Cwebe, Keiskammahoek and Makhoba, the latter being the first significant restitution case to date to provide land for production to people living in Transkei. Despite having proportionately less rural claims than most other provinces, the Eastern Cape, by March 2001, had managed to provide land to 63.6% of households in settled claims, while 36.4% received cash compensation. This compares favourably with the national picture of 61.2% of claimant households receiving land (CRLR 2001).

The validation process led to major revisions of the number of claims lodged,

nationally and provincially, and in the manner in which settled claims were calculated. A number of large group claims, such as East Bank (an urban claim in East London) were reclassified as multiple individual claims. By the end of March 2002, the official number of claims lodged in the Eastern Cape had risen from 9 292 to 14 745. Of these, 1 776 (12%) were classified as rural claims, and 12 979 (88%) as urban.

This 2001–02 financial year also saw a dramatic rise in the number of claims settled, area of land restored, total expenditure on restitution and other key indicators, as shown in Box 2. The Eastern Cape now leads all other provinces in the country in terms of these key indicators, with the exception of financial compensation in KwaZulu-Natal (due to a high number of urban claims settled by compensation) and hectares of land restored in the Northern Cape (due to a number of extensive restorations in semi-arid areas).

The two NGOs most involved with restitution in the Eastern Cape – Tralso and BRC – identified a strong commitment on the part of the RLCC to accelerate the settlement of claims in recent years, especially rural claims which, in their view, had been neglected up to recently in favour of urban claims. This commitment was closely associated with the appointment of the current Regional Land Claims Commissioner in July 1999. These NGOs also spoke of a new, positive relationship between themselves and the RLCC, as exemplified by the recent settlement of the Chatha claim (see below) and the



Box 2: Eastern Cape restitution claims at 31 March 2001 and 31 March 2002

Claims lodged	9 292	14 745
Claims settled	2 898	9 222
Hectares of land restored	7 029	27 101
Households awarded land	1 843	–
Land cost	R48.6 million	R94.1 million
Financial compensation awarded	R42.6 million	R225.2 million
Households awarded compensation	2 364	–
Total restitution beneficiaries	23 367	81 751
Total restitution cost	R91.3 million	R368.8 million

(Source: CRLR 2001; CRLR 2002)

involvement of NGOs in the validation campaign that began in the province on 1 July 2001.

While considerable progress has been made in the settling of urban claims, both in the Eastern Cape and nationally, largely by means of cash compensation, less progress has been with rural claims where restoration of land is demanded. This can, in part, be explained by the complexity of rural claims, in terms of the larger number of claimants per claim, the often-uncertain boundaries of the land in question, the relatively poor documentary evidence supporting many such claims and, not least, the challenge of acquiring land from existing owners and occupiers in order to restore it to successful claimants. While these factors help to explain why rural claims might take longer to settle than urban claims, there is a widespread perception among claimants and land sector NGOs that the state has actually prioritised, and committed most of its resources to, urban claims, perhaps due to pressure from the better organised and more vocal urban claimants or in order to be seen to be making headway in terms of numbers of

claims settled. Traloso estimates there are about 300 land claims in the whole of Transkei, but by the end of 2001 only one (Dwesa-Cwebe) had been settled. A small number of Transkei claims, such as Mkambati, North Pondoland (Bizana) and Caguba, have been prioritised by the RLCC for settlement during the year 2002–03.

The slow progress with rural claims has raised questions around the ability of the restitution process to impact positively on rural livelihoods. Cash compensation alone, as provided in the majority of claims settled to date, cannot, in the absence of a clear development strategy, be seen as contributing to the creation of sustainable livelihoods. Nonetheless, for many claimants who have established themselves in new homes, and for whom restoration of original land may not be feasible or desirable, cash remains the preferred, or perhaps the most accessible, form of compensation. It is in the rural areas, therefore, where the potential of a real transfer of land leading to a significant improvement in livelihood opportunities for the previously dispossessed should be greatest.



In practice, however, the picture is not so simple. Firstly, the cut-off date for restitution claims, June 1913, falls well after the colonial conquest of the Eastern Cape and the wave of dispossession of African lands that accompanied it. The bulk of claims in the Eastern Cape arise from the second great wave of dispossession and forced removals, under the apartheid policies of the 1950, 1960s and 1970s, which mainly affected people living in urban areas and so-called rural 'black spots' (black settlements in 'white' areas). On commercial farms, ongoing evictions of so-called 'squatters' continued throughout the twentieth century, but most such removals went unrecorded, former communities have now been scattered and destroyed, and such claims have not surfaced in large numbers. In the former homelands, outright dispossession of people on a large scale – with the exception of 'betterment' – did not take place. Rather, these areas suffered a continuous influx of people forcibly removed from other areas, and a consequent erosion of their effective land rights.

Nevertheless, a number of significant forms of dispossession did take place in the former homelands. One was the process of betterment, the forced villagisation of rural dwellers carried out throughout the homelands between the 1950s and 1970s, which led to destruction of houses, damage to property and the loss of much grazing and ploughing lands (De Wet 1995). In the early years of the restitution process (1994–98), it would appear that the RLCC did not consider betterment as a valid basis for restitution claims, which, along with widespread ignorance of the restitution process in rural areas, meant that only a small proportion of potential claims based on betterment were lodged prior to the deadline of 31 December 1998.

Another form of dispossession that has given rise to restitution claims in the former homelands was the excising of land from African communal areas for the creation of state forestry plantations, agricultural projects and nature reserves,

something which occurred in many parts of the Transkei between the 1920s and the 1960s. To these can be added removals of African users from municipal commo-nages, areas surrounding many former 'white' towns within what became the 'independent' homelands. Over much of the former homelands, and especially the Transkei, these are the only types of restitution claims that exist, and they present major challenges to the land reform programme and the enhancement of rural livelihoods.

Eastern Cape innovations in restitution policy

The Eastern Cape Regional Land Claims Commission has pioneered a number of innovations in restitution policy that not only address the pressing needs of claimants in the province but have broadened the scope of restitution policy nationally. Most notable amongst these have been the process leading up to the Restitution *Indaba* (summit) held in July 2000, the subsequent settlement of the Chatha betterment claim, and the establishment of a dedicated Settlement Support and Development Planning (SSDP) division within the RLCC. Of particular importance in all of these initiatives has been the strong links created between the RLCC and a range of NGOs and government structures, particularly local government.

The Restitution *Indaba* was held in East London in July 2000, and emerged out of lengthy interaction between BRC and the RLCC around the question of how betterment claims should be treated. The *Indaba* was attended by representatives of a range of national and provincial bodies, including the national Department of Land Affairs, represented by the Director-General and other senior staff, the Commission for the Restitution of Land Rights, represented by the Chief Land Claims Commissioner, other regional land claims commissioners, and representatives of NGOs such as the National Land Committee and Legal Resources Centre.



The positive working relationship between BRC and the Eastern Cape RLCC was key to bringing this event about, but so too was the persistent championing of the Chatha case by BRC, often in the face of considerable official opposition. In the run-up to the Indaba, BRC was commissioned by the RLCC to develop proposals as to how such betterment claims could be settled. Central to these proposals was the argument that betterment should rightly be seen as a form of dispossession, and should therefore be covered by the definition contained within the Restitution of Land Rights Act; furthermore, that even where land was no longer available for restoration, communities that had been subjected to betterment could benefit from a comprehensive package of development assistance that might include individual compensation along with the provision of community services and infrastructure. These proposals were considered at the Indaba and were subsequently adopted as policy by the national CRLR and the Minister of Land Affairs. They also formed the basis for the final settlement of the Chatha claim, which is discussed in more detail below.



In line with a growing national trend, the Eastern Cape RLCC is taking an increasingly 'developmental' approach to settlement of restitution claims. This concept is generally used to indicate a focus on the longer-term prospects for successful claimants and attempts to use restitution awards as the basis for broad-based development, including the promotion of sustainable livelihoods. While considerable emphasis is given at the national level to the need to involve multiple role-players in provision of services to beneficiaries, and for restitution to deliver more than just land or cash compensation, this has not always been achieved in practice and many communities have seen minimal improvement in their lives following the settlement of their claims.

In order to address the problem of post-settlement support, the RLCC established the SSDP division, the first of its kind in the country. This unit works closely with

claimants before and after the settlement of their claims, collectively developing a comprehensive plan for the development of the area and identifying potential inputs by various government and non-governmental organisations. The division works closely with the RLCC communications team, and together they have been successful in forging links with government departments such as Water Affairs and Forestry, Agriculture and Land Affairs, district councils, municipalities, NGOs and various donor organisations:

The SSDP Division focussed on providing settlement support and development planning to individuals and communities in a number of projects throughout the province.

The need for post settlement support in projects has increased ... This has led to staff working as members of regional teams and the formulation of suitable and sustainable restitution packages in consultation with claimants. In conjunction with this, all affected state departments and other support organisations in the process must be involved ...

(CRLR 2001:17).

Examples given by the RLCC of activities undertaken, or facilitated, by SSDP include landuse planning, serviced site and housing plans, agricultural planning and infrastructural development – including water reticulation, stock dams, roads, electrification, telephones, fencing and creation of community assets such as schools, clinics and multi-purpose halls. While much of the work of SSDP involves developing the capacity of beneficiaries to manage the funds and other assets awarded to them, and linking them with agencies that can assist them in this, particular attention is also paid to accessing funding and assistance that goes beyond the usual restitution award. This includes negotiating with government departments such as education, health and agriculture, to make budgetary provision for such communities, accessing supplementary funds from a range of donor

organisations, and negotiating with local government structures to ensure that local development plans take account of, and where possible complement, the efforts of the RLCC and of beneficiaries themselves.

The Chatha restitution claim

Chatha village is situated in Keiskammahoek, in the area of jurisdiction of Amatole District Municipality (ADM). It has about 420 households and a population of approximately 2 520 people. The Chatha community was forcibly relocated in 1962 through implementation of the betterment policy of the apartheid government. Households lost their thatched huts and had their residential sites and arable land greatly reduced, thereby suffering a reduced capacity to obtain a livelihood from the land (CRLR 2001:18).

After 1994, the Chatha community wished to lodge a restitution claim for its lost land rights, but was at first deterred from doing so as the Eastern Cape RLCC felt that betterment was not a racially discriminatory practice and did not therefore fall under the Restitution of Land Rights Act. With help from BRC, the community challenged this, and succeeded in lodging a claim on behalf of 334 households directly with the Land Claims Court in December 1998.

In early 1999 DLA approached the applicants to suggest an 'out of court' negotiation process, as an important issue of principle was at stake that should be resolved through dialogue rather than be defined in the more adversarial arena of the courts. Negotiation began between the claimants, DLA and the RLCC and continued until the end of 1999. In January 2000, DLA and the RLCC prepared a formal 'mandate to negotiate' which captured the key outcomes of the negotiations and the claim was officially settled in October 2000. According to the Commission:

the Border Rural Committee ... played a leading role in empowering the Chatha community in the lodgement of its claim. This assistance

extended to the provision of help to the claimants in creating a development plan for the area (CRLR 2001).

Given that the claimants had established structures and grown accustomed to living in the resettlement areas of villages of Skafu, Nyanga and Ndlela, it was decided that restoration of the original land and a return to the pre-betterment settlement pattern were not possible or desirable. Acquisition of alternative land was also impractical as no suitable land was available in the immediate vicinity. Having ruled out land-based options, the negotiators opted for a package that balanced beneficial financial compensation with development support, consisting of three parts: financial compensation, development resources and upgrading of tenure on 2 852ha of existing communal grazing land to full (freehold) collective ownership. An amount of R12.5 million was agreed as cash compensation, equivalent to R31 697 per qualifying household, to be divided in two equal shares. Half the money (an amount of R15 848.75) was paid directly to each household family as financial compensation, while the other half (a total of R6.25 million) was pooled for community development purposes.

The detailed development plan for Chatha was prepared collectively by the RLCC, BRC and the Chatha community and, according to BRC, aims to ensure local-level co-ordination of various government departments and brokering-in of maximal state resources. All key governmental organisations, namely DWAF, DLA, the provincial Department of Agriculture and the then Amatola District Council, had to agree to the plan before it could obtain final approval. Three priority areas were identified – agriculture, forestry and infrastructure – and approximate budgets prepared for each. Negotiations were begun with the departments of Water Affairs and Forestry, Agriculture and Land Affairs, along with ADC, to develop detailed plans for implementation. In terms of institutional arrangements, it was agreed between the RLCC and the claimants that



the pooled share of the compensation would be administered and held by ADC, but would be released and used on the authority of the Chatha steering committee. Development is in the hands of a 12-person Project Steering Committee, comprising seven members of the community plus representatives of DLA, the provincial Department of Agriculture, RLCC, DWAf and ADC. BRC facilitated the process, arranged the first meeting of the committee and briefed it on the development plan.

On 23 July 2000 the community formally adopted the Chatha development plan, which proposed the following:

- Establishment of a Chatha Development Trust, comprised of residents, to manage the development process.
- Appointment of Amatole District Municipality to administer the community fund.
- Appointment of an Integrated Project Steering Committee, comprising representatives of the beneficiaries, relevant government departments, ADM and various service organisations. This committee is responsible for driving the process until the Chatha Development Trust is formally registered to take over the responsibility.
- The restitution award earmarked for community development will be used to leverage funding and other assistance from government departments and donors for the proposed development projects.

According to BRC, a highlight of this settlement has been the generation of considerable government interest in and commitment to the village. One of the consequences is that resources over and above the restitution award are being released, giving the Chatha community a unique opportunity to benefit from the attention and resources being directed towards it.

The precedent set by the Chatha claim was followed by the settlement of a second major betterment claim, at Keiskammahoek, in June 2002. The claim, affecting over 2 000 households in seven communities,

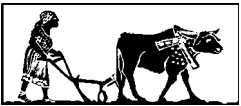
was settled at a cost of R102 million, half of which will go directly to claimants and half to a local development fund. As with the case of Chatha, the Keiskammahoek claim has been championed by BRC, and the settlement has drawn in a variety of roleplayers, including the Amahlati Local Municipality, the National Development Agency and the Land Bank.

Forestry claims

Many of the restitution claims made within the former homelands are on land used for state forests. The Eastern Cape has the great majority of forestry claims in the whole country, many of them in Transkei. The processing of restitution claims on forestry land has coincided with another major national-level government process, the so-called 'restructuring' (privatisation) of state forests. The Department of Water Affairs and Forestry and other role-players are under pressure from the National Treasury to accelerate this process, as state forests are estimated to cost the state R1 million a day to run. This has led to forestry claims being handled somewhat differently to other claims and, in the Eastern Cape, the establishment of a specialist Forestry Claims Unit within the RLCC in East London, the first of its kind in the country, supported by the United Kingdom's Department for International Development (DFID).

DWAf groups its forests into categories A, B and C. Category A has been prioritised for privatisation, Category C is likely to be handed over to community organisations or local government structures, and Category B will probably be divided between the two. As may be seen from Table 1, all of the category B and C claims, and over half of the category A claims, are in the Eastern Cape. The remaining category A claims are in Limpopo /Mpumalanga (50) and KwaZulu-Natal (22) (Gwanya 2000).

The first group of forests to be put out to tender by DWAf in the Eastern Cape is



the Transkei North package, centred on Kokstad, which involves approximately 330 000ha in all. In August 2001, a lease was signed with Singisi Forest Products, a consortium led by the Hans Merensky company, for 72 000 ha of forestry at a rental of R6 million per year. This money will initially be paid to the state, but will be held in trust for land claimants pending settlement of their claims on the forestry land. Singisi Forest Products includes among its shareholders, Singilanga Directorate Trust (10%), representing communities neighbouring the plantation areas, the National Empowerment Foundation (9%) and Safcol (6%). The company has adopted a policy to include empowerment criteria when outsourcing contracts, and has set a target that 25% of new procurement from within South Africa should be from businesses owned by previously disadvantaged individuals. The company has also established several initiatives to support small enterprise in the local community, including mushroom harvesting and processing, training women in sewing, and supporting a community coffin business. The company has also been involved in documenting and supporting land claims on plantation areas, and developing agreements with claimants (Ashley & Ntshona 2002).

Interviews with senior management in the RLCC and DWAF in the Eastern Cape suggest that there are important differences between the approach of these two organisations to forestry claims and privatisation. According to the RLCC, DWAF had 'a very limited view of development', prefer-

ring to make deals with large-scale investors, and claimants and surrounding communities are expected to fall into line. The RLCC stated that whereas DWAF sees its role as protecting the forests as a national economic asset, and promoting the interests of investors, the RLCC sees its role as protecting the rights of restitution claimants. This does not always make for an easy working relationship. The Forestry Land Management Unit established by DWAF, based in Pretoria, was criticised as taking little practical action to promote the interests of local people and of they working with a narrow interpretation of black empowerment that favours 'big, famous, black businesses' over poor local people. Nevertheless, Eastern Cape RLCC argues that it has pioneered close co-operation with DWAF, which has now been taken up by the national office of DLA.

Given the differing timescales at which forestry privatisation and restitution are proceeding, it would appear likely that many privatisation agreements will be finalised prior to the settlement of affected claims. Indeed, this would appear to be the deliberate policy of DWAF and to be implicitly (if reluctantly) accepted by other state institutions, including the RLCC. According to DWAF, any lease agreements entered into by the state, as the current landowner, will be taken over by claimants if and when they succeed with their restitution claim.

As part of the privatisation process, DWAF has attempted to create a number of avenues by which local people can share in the benefits. These include a so-called



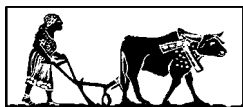
Table 1: Forestry claims

	National	Eastern Cape	Eastern Cape as % of national
Category A	152	80	53
Category B	39	39	100
Category C	98	98	100
TOTAL	289	217	75

black empowerment policy, in terms of which potential bidders must include black-owned enterprises as shareholders, and a 'community share' policy whereby communities living adjacent to forests, many of whom currently enjoy various usufruct rights, will receive benefits either in cash or kind. Restitution claimants effectively constitute a third constituency that must compete for a portion of the empowerment stake or the community share, but is not guaranteed either. Once a claim is successful, the claimants, in theory, stand to receive the full rental income negotiated between the state and the concession holder, but it is yet to be seen how this will work in practice.

The separation of the privatisation and restitution processes is leading to growing dissatisfaction among claimants, according to the RLCC Forestry Claims Unit. Claimants, it is said, feel they are entitled to the maximum possible benefits from the land they are claiming, and that privatisation should be delayed until restitution claims have been settled. This, it is believed, would allow the claimants (once they become the owners) to be fully involved in the negotiations around the use of 'their' land and in a much stronger bargaining position with regard to government and prospective contractors.

The push to privatise state forests that are the subject of restitution claims, and the potential exclusion of successful claimants from direct use of the land concerned, clearly raises serious questions around government priorities and commitment to sustainable livelihoods. The benefits accruing to successful claimants are likely to be limited to whatever rentals are agreed between the DWAF and private contractors, and whatever share of the black empowerment or community share components, if any, the claimants can secure. This approach precludes other options based on direct control of the land in question, either for forestry or other purposes, which may in the longer term be more beneficial and more sustainable both for the claimants themselves and for other poor communities in the areas concerned.



Restitution claims on nature reserves

Like the case of forestry, restitution claims on state-owned nature reserves constitute a significant proportion of land claims in Transkei and another situation where direct access to land may not be an outcome of successful claims. Claims on nature reserves include such well-known areas as Dwesa-Cwebe, Mkambati, Mt Thesiger, Silaka Nature Reserve and Hluleka (Kepe 2001:11). Of these, Dwesa-Cwebe is the only one to be settled to date, but others such as Mkambati are, according to the RLCC, close to settlement, and are likely to follow a similar route. This section looks at the main points of the Dwesa-Cwebe claim.

The area of Dwesa-Cwebe straddles the Mbashe River and includes distinct communities living on either side. The area was declared a protected forest at the turn of the twentieth century and residents were forcibly removed in the 1930s. Under the Transkei homeland administration, the area was declared a nature reserve and adjacent communities were denied the right to graze livestock or to gather firewood and other wild materials within the reserve (Fay & Palmer 2000:195). With the transition to democracy in 1994, the local communities lodged a restitution claim on the reserves and also engaged in direct action by driving their livestock into the reserves and harvesting wild materials. Throughout this period, and during the subsequent settlement of the claim, the claimants were supported by Traliso, which helped unite the disparate communities behind a single claim.

The Dwesa-Cwebe claim proved to be a test case for the RLCC and for DLA nationally, raising as it did far-reaching questions about who represented the community and, in the context of powerful tribal authorities and traditional leaders, to whom, or to what structure, ownership of the land should be restored. After nearly three years of inconclusive negotiations, the RLCC decided in February 1998 to submit the claim to the Land Claims Court.

The case was subsequently withdrawn from the court and eventually settled out of court in June 2001 (CRLR 2001:19).

The settlement agreement for Dwesa-Cwebe, involving as it did a wide range of stakeholders and a sensitive natural environment, has set the standard for what is likely to be series of similar settlements for nature reserves throughout the Eastern Cape. This complex agreement, which took nearly six years to produce, was the product of multiple negotiations between a wide range of stakeholders, including Eastern Cape Nature Conservation, the RLCC, the Department of Land Affairs, Amatole District Municipality, the claimants and the wider communities of Dwesa-Cwebe (not all of whom formed part of the claim).

The following are the key features of the settlement agreement (CRLR 2001:19):

- the State will hand over the two nature reserves of Dwesa and Cwebe to a trust representing the claimants
- the nature reserve will be managed jointly by the claimants and nature conservation authorities
- the claimants must benefit economically from the reserves in a meaningful way
- the claimants must be given access to marine resources adjacent to the reserves in accordance with applicable laws and regulations as well as any regulations that may be drawn up and adopted by the Joint Management Committee in this regard

- claimants will continue to reside on the land on which they presently reside and to which some of them were forcibly moved, and the land currently used as nature reserves should continue to be used as such
- the land presently occupied (outside of the reserve) will become the property of a specially-formed Communal Property Association.

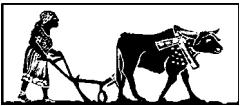
In terms of the agreement, a total of 5 283ha was restored in full ownership to the claimants, consisting of the Dwesa and Cwebe nature reserves, the Haven Hotel and a number of holiday cottages. The provincial Department of Economic and Environmental Affairs has agreed to lease the twin reserves for 21 years at a cost of R100 000 per year, to be paid in advance (that is, R2.1 million up front). The department has also agreed to waive any compensation for improvements to the Haven Hotel by the Transkei Development Corporation (Tracor). The claimants will be involved in the running of the reserves, and it is envisaged they will eventually take over management. They will be compensated R1.6 million for agreeing not to take physical occupation of the land and to preserve it as a protected conservation area. The 2 382 households involved in the claim will also receive a total of R10 576 080 in grants, to be paid to a trust for settlement planning, agricultural, educational and development projects, that will be managed by Amatole District Municipality on behalf of the claimants.



Chapter 6: Redistribution

Redistribution projects, of various kinds, constitute the bulk of land reform activities carried out by the Eastern Cape provincial office of the Department of Land Affairs. By October 2001, PDLA had completed approximately 110 land reform projects (in all categories), spending approximately R100 million in capital budget, with another R100 million worth of projects in the pipeline.

DLA's capital budget for 2001/2002 is R58.5 million, which the Provincial Director suggests is only about one-third of the budget required to meet the land redistribution targets set by politicians. The director of Tralzo (Simukonda 2001) also argues that PDLA will require a greatly increased budget and improved staff capacity, for which there is currently no provision, if it is to meet its target of transferring 200 000ha per year. This represents almost four times the total amount of land approved for transfer in the province over the six-year period 1995–2001 (that is, less than 52 600ha in total).



Redistribution strategy in the province has, like elsewhere, focused mainly on groups of black people pooling their grants, and other resources, to purchase white-owned commercial farms. Most such projects are based on the creation of a communal property association (CPA), a relatively new form of legal entity that allows groups, democratically constituted in terms of a written constitution, to acquire property collectively. The CPA model does not require that land remains collectively owned after initial purchase, or that agricultural activities be carried out on a collective basis, but this has been the pattern up to recently. Since 2001, however, there has been a shift towards subdivision of land and more individual or household-based production, influenced by the problems experienced in many

collective enterprises, and a shift in policy towards a more private-entrepreneurial model of farming under the Land Redistribution for Agricultural Development programme.

Progress with redistribution in the Eastern Cape has accelerated greatly in the past year. In November 2001, ten farmers from Cala district in the Transkei received ownership of 14 farms in the Beeskraal area, comprising 4 800ha. Another project involving 10 000ha on the Umnga Flats in the Tsolo-Ugie area is also nearing completion. A proposal for the release of 13 000ha of state land in the Ongeluks area in Maluti was also reported to be awaiting ministerial approval. In February 2002, a R1.9 million community farming project was launched by Maasdorp-Jurishoek Community Property Association at Balfour. This involved 249 households living on state land in the Ciskei acquiring some state land and also purchasing private farms for olive and vegetable production. In June, 2002, the Masakhane Communal Property Association, representing 100 beneficiaries living on state-owned land at Cathcartvale, acquired title to 674ha using the Settlement/Land Acquisition Grant. According to figures supplied by the DLA (12 August 2002), a total of 151 redistribution projects have been approved for implementation in the Eastern Cape, including LRAD, commonage and SLAG projects (see Table 2). A majority of all land redistributed (59%)

has been for non-agricultural purposes (that is, settlement), with the rest divided into agricultural projects (under both SLAG and LRAD), share equity schemes (whereby employers buy shares in existing agricultural enterprises), and municipal commonage (land under the control of municipalities).

Probably the biggest challenges facing redistribution in the Eastern Cape are the acquisition of suitable land in appropriate locations and ensuring that beneficiaries obtain the support necessary to enable them to secure a livelihood. The shortage of appropriate land is a direct result of apartheid geography and the enforced distribution of the population into racial

zones. The great majority of the rural poor are located in the former homelands, often far from the nearest 'white' farms. While many have access to some land for grazing or cultivation purposes, it is rarely enough to provide a substantial contribution to household livelihoods and is typically far from markets and the necessary support services. It is these rural people (along with farmworkers) who are the obvious 'targets' for land redistribution, but relocating people over large distances to an uncertain future on new land, with the rupture of existing social and economic networks this implies, is something that is not viewed favourably either by the state or, as far as can be ascertained, by the bulk

Table 2: Redistribution projects in the Eastern Cape by year and type of project 1995–2002

Year/type	No. of projects	Households	Female-headed households	Hectares
1995	1	102		1 200
1996	5	430		3 973
1997	7	2 380		8 917
1998	13	4 959		15 583
1999	22	7 131		14 165
2000	30	13 114		17 114
2001	49	8 402		33 302
2002	17	227		5 881
Unspecified	7	2 176		994
Total	151	38 921		101 129
LRAD	42	517	99	18 624
Commonages	17	1 635		25 612
Share equity ¹²	9 369		12 230	
SLAG agriculture	40	1 865	624	22 483
SLAG settlement	29	22 986		11 746
SLAG agriculture and settlement	11	2 549	10	10 432
TOTAL	151	38 921	733	101 127

(Source: DLA, Pretoria)



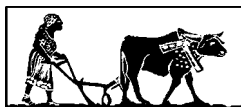
of the rural population. Thus, redistribution to date has largely been limited to people within commuting distance of commercial farms or a small minority of 'pioneers' willing to relocate to a new life. This problem is particularly acute in the Transkei, with its large territory and distances of up to 100km to the nearest 'white' farms. To compound the problem, the new LRAD grants are not available for production purposes in communal areas as there must be a land purchase involved in order to qualify.

In this context, land cannot be seen simply as an undifferentiated commodity. Rather, land with agricultural potential that is located close to areas of high population concentration takes on a special value. Thus, it is not surprising that commercial farms along the borders of the former Ciskei and the western border of Transkei have featured prominently in redistribution, an arrangement that seems to suit both buyers and sellers. The 'demand-led' approach to land reform taken by DLA has, up to now, prevented any systematic buying-up of land in strategically important areas, but has rather depended on numerous unco-ordinated negotiations between individual buyers and sellers. PLDA in the Eastern Cape, however, seems to have gone further than other provinces in assisting would-be buyers to find suitable land. This has included maintaining close contacts with the state-owned Land Bank, which processes large numbers of repossessed farms, as well as with estate agents and land-owners, and advising applicants about land that is available in their area.

Apart from privately owned farms in 'border' areas, the other category of strategically important land is state-owned (that is, uninhabited) land *within* the former homelands. In Transkei, this includes large tracts owned by the now-defunct parastatal Transkei Development Corporation, as well as the forestry land and nature reserves discussed above. While much of this land is the subject of restitution claims, large areas suitable for agriculture are not,

and the state has up to recently been reluctant to part with such land for redistribution purposes.

State-owned agricultural land in Ciskei and Transkei now falls largely under the control of the Eastern Cape Department of Agriculture. Interviews with senior DOA staff in early 2001 suggested that the department was not particularly interested in the land reform programme of DLA. Rather, it saw its role as protecting the economic value of agricultural land under its control and preventing it being squandered on 'sub-economic' (that is, subsistence) activities. State-owned agricultural land that has been disposed of since 1994 has, therefore, largely been transferred outside the land reform programme, going to better-off farmers who buy or lease from the state. Since 2001 there has been a closer working relationship between the provincial DOA and DLA in the Eastern Cape, largely as a result of the roles assigned to each by the national government under the LRAD programme. This has seen land reform grants being provided to some long-standing tenants on state land to enable them to buy out their holdings. The first handover of state-owned land under the Land Reform Programme was made by the Minister of Agriculture and Land Affairs at Port St Johns in May 2001, when title deeds were given to farmers who had been renting the land from the state for up to 20 years. Such tenants, however, are typically better-off farmers who acquired land under the former homeland system and are now consolidating their position. Such consolidation precludes wider debate about the socio-economic value of such strategically located land and its potential to promote rural livelihoods. In September 2001, the provincial Department of Agriculture announced plans to dispose of a further 10 000ha by sale or lease, using a newly delegated 'power of attorney' (*Daily Dispatch* 2001f). Part of this land was subsequently sold to a group of LRAD beneficiaries for a cattle farming project, while a smaller portion was restored to a group of restitution claimants.



Gasela

The case of the Gasela community in former Ciskei provides valuable lessons in both the problems and the opportunities associated with the redistribution programme, and land reform more generally. This case has been championed by the Border Rural Committee, which has worked with the community over a nine-year period. BRC has extensively documented this experience and used it to develop new ways of engaging with communities around land reform. Among the many lessons to emerge from this experience are the difficult position that NGOs can find themselves in when acting as intermediaries between communities and state agencies, and a shifting conceptualisation of the link between land rights, livelihoods and the development process.

Gasela is a community of 53 households living on a former white-owned farm near Stutterheim that was incorporated into the Ciskei in 1978 as part of homeland consolidation. The community resisted eviction from the farm in 1993 when it was leased to a white farmer by the then Ciskei government. This marked the first involvement of the community with BRC, which assisted them to resist eviction. In 1996 a land claim lodged by the Gasela community was rejected by the RLCC, presumably on the basis that the community had not actually been deprived of their land rights, and they were instead referred to the redistribution programme of DLA as a means of obtaining ownership of the land. In October 1996 BRC submitted a proposal for the transfer of the land to the Gasela community, along with a development plan for the land. This was at first supported by DLA, and by the local

Box 3: Eight lessons from Gasela

1. Poor, unskilled people can farm successfully on condition that they are provided with adequate start-up resources and consistent extension support.
2. In former homeland areas and on state land, the distinction between pre- and post-settlement phases is counter-productive. Programmes of livelihood enhancement should be designed and implemented before land transfer is effected.
3. In order to promote the enhancement of livelihoods, it is necessary to implement approaches that integrate all key land-related aspects, especially land tenure (including administration) and land-use planning. Limited success will be achieved if attention is paid to tenure while land use is ignored, and visa versa.
4. An integrated approach to development should be backed up by detailed methodologies that address all key challenges that must be met in order to maximise livelihoods.
5. If an organisation adopts the livelihood approach, it must be committed for the long haul.
6. It will be difficult to fast-track land redistribution without a clear and appropriate land policy in place. Dramatic shifts in policy create constraints to delivery and should be kept to a minimum if land redistribution is to be improved and fast-tracked.
7. The decentralisation of land reform implies that it is essential for NGOs to establish alliances and partnerships with key role-players in provincial and local government.
8. Land reform planning is most effectively co-ordinated at the level of district municipalities.

(Adapted from BRC (2001:29–31))



authority (ADC), which had included Gasela as a priority in terms of its integrated plan for the Stutterheim district, but was opposed by the provincial Department of Agriculture on the basis that the land-use plan was not economically viable. This, according to BRC, led to DLA losing interest in the project.

As a result, BRC adopted a new strategy, which it links to the rise of livelihoods thinking within the organisation. This strategy involved a shift from land rights to land use – or focusing on immediate livelihood issues rather than more abstract and longer-term rights issues – based on the perception that the informal land rights enjoyed by the community were actually quite strong and that the community faced no imminent threat of eviction. The community was thus encouraged to proceed with investing in and developing the land rather than wait for formalisation of its land rights. As a BRC document at the time explained:

Our new approach is innovative in that it promotes land utilisation prior to acquisition of land rights; indeed land utilisation is being used not only to improve people's livelihoods, but also to strengthen their claim to take transfer (BRC 2001:8).

The new approach promoted interim (informal) arrangements for land administration – including subdivision of land into family allotments – and provided practical support for a women's garden project.

On the basis of the success of this approach, and with support from Stutterheim municipality, BRC and the Gasela community embarked on a public campaign to persuade PDLA, ADC and DOA to proceed with the transfer of land. Eventually, in March 2001, the transfer was approved by the Provincial State Land Disposal Committee and forwarded to the Minister of Land Affairs for final approval.

The experience of Gasela has been summarised in a document prepared for the National Land Committee (BRC 2001). In this document, eight 'lessons' are identified, which have implications for redistribution more generally (see Box 3).

These are of great value not only because of the lengthy experience at Gasela, but because of the ability of BRC to capture that experience, to reflect on it, and to use it in order to develop more appropriate and effective strategies to bring about sustainable land reform.

Magwa Tea Estate

Within the former Transkei, substantial redistribution only began with the sell-off of state-owned agricultural land to incumbent tenants in June 2001. Prior to that, the only redistribution project within the territory was at Magwa Tea Estate. This project, and the adjacent Lambasi Farm project, provide valuable insight into the politics and thinking behind land reform and rural development in the area, and raise doubts about the compatibility of such thinking with the promotion of rural livelihoods.

Magwa Tea Estate was established in the mid-1960s on land allocated by the Paramount Chief of Eastern Pondoland, Botha Sigcau, at a time when the apartheid government was attempting to develop the former native reserves as distinct political and economic entities and reward compliant tribal chiefs with showpiece development projects. Violent resistance to 'betterment' and the creation of the tea estate broke out during the Pondoland revolt of 1960, but people were subsequently removed. In the decades that followed, Magwa was heavily subsidised by the Transkei government and later by the Eastern Cape provincial government. Kepe (2001:56) cites various sources to demonstrate that the tea venture suffered problems, including low winter temperatures, poor management, corruption, ongoing labour unrest and spiralling wage costs, which greatly affected its viability. After running at a loss for years, the company was liquidated along with other Eastern Cape parastatals in July 1997.

After liquidation, Magwa continued to operate under the Eastern Cape Agricultural Parastatals Restructuring



Authority. By this time, however, and despite its financial problems, Magwa had been identified as a developmental node for the Wild Coast Spatial Development Initiative (SDI). Towards the end of 1999, workers and management took Magwa out of liquidation through a process that involved the purchase of the movable assets and the factory, using land acquisition grants provided by DLA under its redistribution programme. A workers' co-operative and a management company (responsible for day-to-day operation of the estate) were formed, with all the workers and managers as equal shareholders. In all, DLA provided grants of approximately R10 million to workers and managers. A separate trust was formed to represent the interests of members of surrounding communities who claimed they had been removed from the land to make way for the plantation. The trust was to receive R120 000 per year, plus 30% of profits from the plantation, as a form of 'rent'.

The question of land rights at Magwa remains deeply confused. It would appear that no formal land claim was lodged by the dispossessed communities, seemingly because the removal had been classified as a form of betterment and the RLCC at the time did not consider betterment as a valid basis for a claim (Kepe 2001:56). Moreover, despite the use of millions of rands from DLA's 'redistribution' budget, no redistribution of land took place, and little effort has been made to clarify the tenure rights of the various stakeholders. Rather, the chaotic situation that prevailed throughout the days of the Transkei bantustan – when the state, the paramount chief and the local communities all claimed rights over the land – has continued.

By mid-2000, the problems that had plagued Magwa during the homeland era were back – workers were going unpaid, management was in crisis and allegations of corruption were rife (Kepe 2001:62; plus interviews with Magwa management and workers, April 2001). A major strike

occurred in May 2000, with workers complaining of corruption and mismanagement, similar to what had been experienced before the change of ownership (*Daily Dispatch* 2000a).

Despite evidence of continuing financial problems and questionable economic viability, DLA and the provincial government are publicly upbeat about the future of the co-operative, claiming that it will be in profit by 2003. The land remains state owned but, according to one newspaper report, DLA considers it to belong to the adjacent communities (*Daily Dispatch* 2001a). DLA claims that Magwa will start to share its profitability with the local community (the supposed landowners) within three years, either by paying rent or through some profit-sharing agreement. Such hopes are no doubt necessary in order to justify the enormous expenditure by DLA, but would appear to have little chance of becoming reality.

Why DLA would sink millions into rescuing a bankrupt state entity remains a matter for speculation. Government's fear of losing over 600 full-time jobs (and many more seasonal ones) in a job-starved rural area, and the possible political repercussions, is the most obvious explanation. Why the funding for such a bail-out should come from the land reform budget, however, especially given that no discernable land reform was involved, is more difficult to fathom. One possibility is the ready availability of funds, given the failure of DLA at the time to spend large portions of its budget, and the need for DLA to be seen to be achieving something in the former homelands. Similar bail-outs of failing state companies were also being proposed by DLA in other parts of the country at the time. It appears likely, however, that the pressure to use funds in this way originated outside DLA itself, either among local politicians who felt they had something to lose from the collapse of Magwa Tea, or from national political leaders. Pressure from the workers and local communities also played a part, but it



is difficult to determine through which channels they made this pressure felt, or why they were so successful. Even the choice of a workers' co-operative as a corporate model can be seen as an opportunistic move by the state which, prevented by its own free-market policies from investing directly in the company, rather hit upon the device of paying the subsidy to individual workers in the form of land reform grants. Thus, the state could be seen as having broken with the bad economic habits of the past and to be investing heavily in 'land reform', while the workers sacrificed their entitlement to a land reform grant in order to buy a temporary reprieve for an unsustainable enterprise and their own jobs.

Interviews with Magwa management revealed that the grant from DLA was only sufficient to buy the company out of liquidation, with nothing over for much-needed investment in capital equipment. Since then, turnover of the enterprise has barely been sufficient to cover wages and other operating costs, with no reinvestment taking place. On top of this, the world price of tea is in long-term decline, and is already well below the cost of production at Magwa. The chances of achieving economic viability – with an inflated workforce, weak management, no investment capital, ageing plant stock and an unsellable product – would, therefore, appear to be remote. Kepe's (2001:62) conclusion is key:

it appears that Magwa Tea – unsuccessful from the outset – survived for political reasons Those who argued that Magwa could become a profitable private venture did so, it appears, in ignorance of the understanding that the project had been established as a job creation venture for the Mpondos. To be profitable and to provide good salaries, Magwa would have to lay off workers. DLA's motivation for a co-operative to be formed is therefore puzzling.

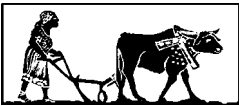
Subsequent to fieldwork for this study, it was reported in the press that Magwa was

once again facing a financial and management crisis, and was unable to pay its workers. According to the *Daily Dispatch* (2002b), 'Senior DLA officials are adamant that the last thing needed is another bail-out for the struggling plantation'.

Lambasi Farm

A similarly opportunistic approach to rural 'development' can be seen at Lambasi Farm, a former state farm on land adjacent to Magwa Tea Estate. Up to 1997, Lambasi Farm was run jointly by Magwa Tea Estate and Tracor, both of which went into liquidation in 1997. This project is not an official land reform project, but illustrates the type of thinking, and political opportunism, current in rural development thinking.

In 2000, the national Department of Public Works announced the formation of eleven community production centres (CPCs) throughout the country, one in each other province and three in the Eastern Cape. CPCs are special projects within the department's Community Based Public Works Programme, mostly involving the rehabilitation of large, homeland-era agricultural projects. The approach emphasises infrastructural development, with assumed economic benefits in terms of direct employment and provision of goods and services to surrounding communities. The projects being rehabilitated, at great expense, were mostly spectacular failures under the previous regime, and remarkably little debate has taken place about the wisdom of the current strategy. Also puzzling is how the Department of Public Works ended up with responsibility for promotion of agricultural projects and related rural enterprises. Nevertheless, Lambasi has emerged as a showcase project of the Minister of Public Works, Stella Sigcau, who originates from the area and who is closely related to the paramount chief, Botha Sigcau, (who provided the land for the farm in the 1960s), and the current paramount chief.



Lambasi covers the areas of Hombe, Mbotyi, Nkuzimbini, Manteko, Malangeni and Njombela. The project involves a poultry farm, cultivation of maize and beans, as well as construction of an access road and rehabilitation of the water supply and sanitation in the area. Upgrading of farm buildings, fencing, farm equipment and workshops has already been completed, four new broiler houses, a layer house, cash store and cottages have been built. Construction of a milling plant and electrification of the scheme are also well advanced. The project has been the recipient of generous state funding, but as yet has produced relatively little in terms of employment, business opportunities or other benefits. Lambasi, like the other CPCs, is being run by the Independent Development Trust, a state-funded body. Lambasi has also been declared a development node under the government's Integrated Sustainable Rural Development Strategy (ISRDS).

Reports vary as to the amount spent on the project and the number of jobs created – published estimates of costs range from R7.5 million to R25 million; in July 2001, 300 jobs were reported to have been created, although in October newspaper reports quoted government sources saying that they 'expected' up to 5 000 jobs to be created in the near future. Interviews with Lambasi management in August 2002 revealed that a total of 17 full-time positions had been created, and up to 600 people are employed on a seasonal basis. Although billed as a community-run project, Lambasi is effectively a state enterprise, entirely funded by a national government department and run by a state-appointed management company. Tensions have emerged between local institutions over control of the project, especially the allocation of jobs, and over the land on which the project is located. The former Lusikisiki council was reported to have been excluded from the initial planning of the project. Interviews with management at Lambasi suggested that a trust was to be set up in order to distribute any profits

among surrounding communities, although it was not clear what form it would take and who would be the beneficiaries. A project steering committee has also been established, which includes representatives of each of the seven surrounding administrative areas. Most of the committee members were employed by the project, but nonetheless complained of being excluded from key decisions.

Whatever the present and future problems facing the Lambasi farm project, it remains a strong favourite with the political elite. The project was launched by President Thabo Mbeki in November 2000. The following July, Minister Sigcau and Minister of Agriculture and Land Affairs Thoko Didiza visited Lambasi and joined in the harvesting of maize and beans. Three months later, Minister Sigcau was back again, this time in the company of the Foreign Affairs Minister of the Democratic Republic of the Congo. The Minister used the opportunity to make the puzzling announcement that 'in three to four years time the government plans to sell all CPCs back to the communities they serve' (*Daily Dispatch* 2001g).

While Lambasi is still in the early stages, the evidence so far suggests that it is on course to be a spectacular failure, in the tradition of numerous homeland-era projects of its kind. While there is undoubtedly a great need for development and creation of sustainable livelihood opportunities in the Lambasi area, this project is unlikely to meet that need. The project itself is not based on a considered analysis of local needs, but on the 'rehabilitation' (that is, rescue) of a failed homeland-era agricultural project, a drain down which vast sums of public money have already disappeared. The project has been initiated not by local actors, but by a central government department, which oversees every aspect of the project down to the appointment of management and of the board of trustees. Genuine local institutions, such as the traditional authorities and elected local government, have



at best a token involvement. The economic model used – centralised production, using a mix of capital-intensive methods and low-skilled local labour, under an amorphous management structure and based on

massive state subsidies – is deeply discredited, both in South Africa and internationally, and is unlikely to generate any of the promised benefits, in terms of employment, profitability or long-term sustainability.



Chapter 7: Tenure reform

Unlike restitution and redistribution, tenure reform has yet to emerge as a significant component of the South African land reform programme, particularly in the communal areas of the former homelands. Where tenure reform has taken place, it has largely focused on securing the rights of occupiers of state-owned farms on the margins of the former homelands, resettling farm residents to townships (effectively housing rather than land reform), or 'upgrading' tenure in informal peri-urban settlements. Tenure reform has yet to grapple effectively with the highly contentious issue of control of communal land.

In many ways, reform of communal tenure remains a latent issue, but has the potential to be a highly contentious one and a powerful element in rural development policy. As yet, however, it has yet to emerge as either. This can in large part be attributed to the ability of powerful interest groups, particularly the Congress of Traditional Leaders of South Africa (Contralesa) and its supporters in government, to keep it off the political agenda, or at least to minimise its impact. The impasse around reform of communal tenure in the Eastern Cape, therefore, is a product of the repeated failure to develop and implement appropriate policies at the national level, but there is little doubt that traditional leaders from the province have been among the principal actors in this drama. Tenure reform aimed at occupiers of commercial farms is, however, proceeding in those parts of the Eastern Cape outside of the former homelands, but this area of policy is not covered in this report.

The need for some sort of reform of the system of land rights and land administration in the communal areas is abundantly clear. Permission-to-occupy certificates (PTOs), which constitute many households' only proof of land rights, are now of little value, and no new ones can legally be

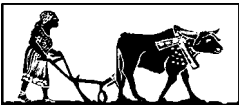
issued, while record keeping systems in magistrates' and tribal authority offices have generally broken down. This has created a legal and administrative vacuum that has allowed unscrupulous individuals to extend their landholdings at the expense of others and unscrupulous leaders to exploit communal land for personal gain. Uncertainty around the control and ownership of land also presents a major barrier to efforts to bring development to the communal area. Kepe (2001:76) argues that disputes around land were a primary factor behind the collapse of the Wild Coast SDI during the period 1996–1999. Indeed, disputes over present and future land tenure have featured in virtually all of the Transkei land reform initiatives mentioned here, including Dwesa-Cwebe, Magwa, Lambasi and Mkambati.

Much of land reform policy can be seen as addressing the injustices of the past by returning land from the historically privileged to the historically oppressed. This enjoys broad-based political support, at least at the rhetorical level, and its occasional opponents are generally seen as defending narrow self-interest. Reform of the system of communal tenure in the former homelands, however, while also addressing the historical legacy of inferior



rights for black people, does not fit neatly into the pattern of historical redress. Rather, it touches upon the matrix of rights within African communities and is seen by many traditional leaders as an attack on their powers and privileges. In an area such as Transkei, these powers and privileges centre around the control of land.

The enduring power of traditional leaders can be understood as the interplay of two key forces – the survival of elements, albeit greatly modified, of traditional African social and economic structures, and repeated interventions by the colonial and apartheid state to bolster the powers of chiefs and tribal authorities. This has left the traditional leaders (chiefs, headmen and their councillors) as the dominant political force within many rural communities, and in a strong position to articulate and promote their interests throughout the transition to democracy. The post-apartheid state – whether for principled or pragmatic reasons – has shown itself to be accommodating of the demands of traditional leaders and, despite the introduction of elected local government, has done little to undo the structures of 'indirect rule' bequeathed by the previous regime.



Proponents of tenure reform for communal areas are an amorphous group with little clear structure or political weight. Indeed, the case for tenure reform, or the direction such reform should take, has rarely been articulated from within the communal areas. Nonetheless, opposition to specific traditional leaders (but not necessarily to the overall system of traditional leadership or communal tenure) from within rural communities is widely reported (Ntsebeza 1999; Claasens 2001). Debates around tenure reform in the communal areas have therefore been largely of a technical nature, with academic researchers, government officials and others proposing a variety of solutions ranging from full individualisation to revamped systems of communal tenure based on local democracy. Abortive attempts were made in 1998 to prepare a

draft tenure reform Bill for the communal areas, but subsequent attempts in 2001–2002 did lead to the gazetting of the draft Communal Land Rights Bill on 14 August 2002. The first attempt to produce such a Bill appear to have failed through a combination of concerted opposition from traditional leaders and pre-election caution on the part of the ANC. The recently published draft Bill, which, at the time of writing had yet to receive widespread public reaction, would appear to represent a diminution of the role of traditional leaders, but whether this eventually translates into law, and into subsequent practice, remains to be seen.

At the outset of this research project, PDLA identified land administration in communal areas as one of the biggest challenges facing land reform in the province, and officials expressed frustration at the lack of clear national policy on this matter. Among the specific problems mentioned by PDLA were unofficial ('illegal') land demarcations in communal areas by tribal authorities and other civic bodies, unresolved boundary disputes between chiefs, which sometimes led to violent rivalries between communities, and the failure to resolve land tenure issues before launching the Wild Coast SDI.

On land administration, PDLA informed us at the outset that few policies were in place and there was minimal implementation or enforcement of regulations on land, forestry and wildlife in the communal areas. In the absence of clear policy on the future of communal land, SDI projects and other development schemes in the communal areas are being implemented on the basis of 30-year leases, signed by the Department of Land Affairs in terms of the State Land Disposal Act, following consultation with the rights holders (as stipulated by the Interim Protection of Informal Land Rights Act). Officials of PDLA indicated that they were eager to contribute to the reform of national policy on communal land, but at the time of interview (March 2001), no such process existed. Tralso, the leading land sector NGO in the former

Transkei, similarly argued that land tenure and administration in the former homelands is in 'a chaotic state', particularly in the Transkei, and has not been adequately addressed by government policy. The recent opening of a district office of DLA in Umtata was seen by both PDLA and Tralso as a positive step towards dealing with some of these issues.

Tenure reform is not widely perceived as the most important land issue in the Eastern Cape, and most rural dwellers and tribal authorities continue to muddle through on the basis of unwritten rights and community-level decision making that falls outside of any explicit government policy framework. This is largely because traditional land rights are not particularly vulnerable in areas like Transkei – evictions are virtually unknown and land

continues to be allocated to newly-formed households. The absence of reform, however, has major implications for the manner in which decisions around land are made within communities and for development initiatives of all kinds, whether initiated by external agencies (the state or private investors) or by local people themselves. The true costs of delayed or stalled tenure reform, therefore, is impossible to know, but must be reckoned, not in terms of evictions or feelings of insecurity, but in terms of the investment that never materialised, the development that never happened, the community project that never got off the ground.

Tenure reform does, however, feature prominently in the integrated approach to land reform being pioneered in the Amatole District, as discussed below.



Chapter 8: Local government-led land reform

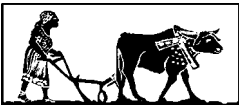
Since the launch of the South African land reform programme in the mid-1990s, there has been persistent criticism around the lack of integration between different aspects of the programme, and the lack of synergies between land reform and other government programmes, particularly those falling under the control of local government.

Since 1995, DLA in the Eastern Cape has attempted to work closely with local government, especially in those areas where DLA itself has been most active – the areas around East London, Port Elizabeth and Queenstown. These areas, including large portions of former ‘white’ South Africa, have a strong tradition of local government, a tradition that has contributed much to the effectiveness of these now-transformed institutions in the post-1994 democratic era. These areas also enjoy a sound revenue base, in the form of affluent communities, businesses and industries, and have been able to attract a high calibre of staff. In the former homeland areas, particularly the Transkei, there is no tradition of elected local government. Up to 1994, local services in these areas, in so far as they were provided at all, were under the control of highly inefficient government departments and unaccountable tribal authorities. Since 1995, local government, at both the municipality and the district level, has been slowly created from scratch, and only since December 2000 has it been extended to all areas of the former homelands. Simply creating the structures of local government has proved to be an enormous task, and the emerging institutions suffer from severe shortages of financial and human resources.

Up to 2000, the area surrounding East London, incorporating parts of the form

‘white’ South Africa and the former Ciskei, was under the jurisdiction of the Amatole District Council (a secondary council in terms of South Africa’s two-tier system of rural local government). In December 2000, as part of local government reorganisation, this area was extended and the council renamed the Amatole District Municipality. This council, with its headquarters in East London, has formed a close working relationship with PDLA to integrate land reform into its development activities. While similar forms of co-operation are beginning to emerge in other parts of the country, this relationship is certainly the most advanced in terms of its range of activities, the extent of detailed planning and the progress with implementation. This is taking land reform in a new direction and creating a valuable model for the rest of the country.

While many factors undoubtedly contribute to this successful co-operation, one that stands out is the close personal networks that link PDLA, ADM and BRC, the leading land sector NGO in the province, all based in East London. Both the Municipal Manager of ADM (up to mid-2002) and the Provincial Director of DLA, among other key players, are former employees of BRC. Moreover, BRC, unlike many other NGOs in the land sector, has put great emphasis on maintaining a close working relationship with various spheres of government, both in



terms of lobbying on behalf of its clients and carrying out work under contract to government bodies. While this dual role undoubtedly imposes strains in both areas of work, BRC has shown itself adept in managing these tensions while at the same time influencing the direction of land reform in the province (see Nauta 2001).

Like most other local government structures in the country, Amatole District Municipality (then Amatole District Council) completed its integrated development plan (IDP) in 1998–1999, a statutory planning document intended to provide a blueprint for development within its area of jurisdiction over a five-year period. Unlike most other councils, however, the ADC IDP placed considerable emphasis on land needs and the potential for land reform, something that was implied in the IDP process but was widely ignored in other areas. The attention given to land issues in Amatola can be attributed to a range of factors, including a sympathetic, committed and well-informed council that was already attuned to the land issues in its area, pressure from NGOs such as BRC, both at council and community level, and well-organised and articulate communities that were able to take full advantage of the public consultations that formed part of the IDP process.

Arising out of the public consultation process, ADC undertook the formulation of a 'Land Reform and Settlement Plan' (LRSP) for the Central Sub-Region of the council's area of jurisdiction, which comprises the six magisterial districts of East London, King William's Town, Komga, Stutterheim, Cathcart and Keiskammahoek. According to the LRSP document, 'This was done on the basis that the communities resident in this spatially defined area had identified the resolution of "land issues" and settlement needs as their top priority' (ADC 2000b). The LRSP was prepared by a multi-disciplinary team of consultants, under the supervision of a steering committee comprised of representatives of ADC, the local councils within the sub-region, PDLA, the provin-

cial Department of Agriculture, the provincial Department of Housing and Local Government, farmers' unions and BRC.

The purpose of the LRSP is to provide a comprehensive plan for the future development of land reform and settlement in the central sub-region. The plan will also give effect to the proposals outlined in the ADM's Integrated Development Plan by providing greater detail regarding the following broad goals:

- planning new settlements to meet the needs of landless and informal settlements
- densification of existing settlements (additional site requirements)
- upgrading of existing rural settlements (planning and surveying)
- upgrading of tenure (registration and conveyancing)
- housing programme (services and top structures).

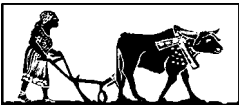
Three key components to the LRSP, and the activities related to each, are as follows (ADC 2000b):

- **Land tenure** – *granting secure tenure (preferably freehold title) to households in residential areas under local council control; working with DLA and Department of Agriculture to resolve and strengthen land rights on residential and agricultural land in communal areas; provision of agricultural land through municipal allotments or private sale; and assumption of responsibility for communal grazing lands (which should remain in state ownership).*
- **Land administration** – *engagement with DLA and Department of Agriculture to reform the system of land administration in communal areas; create clear links between land administration processes and local planning frameworks; develop local authority capacity to administer commonage land; strengthen land administration capacity with the DC [District Council] and local councils; facilitate a process of commonage*



management planning and establish commonage management committees as part of an integrated local planning process; establish commonage management planning as part of all future land reform projects; and prepare to delegate authority for communal areas once local planning and commonage management is in place.

- ***Spatial approaches to settlement development*** – the ADC aims to achieve functional separation between predominantly urban or peri-urban areas and predominantly agricultural areas; identification of three settlement models, viz. urban settlement, mixed land-use settlement, encompassing residential and productive land-use on larger plots, and small, medium and large commercial farming, where the principal land use is farming rather than settlement.



Funding of R33 million over two years has already been provided by DLA, and the programme is expected to benefit 12 000 households. Over R14 million was spent in the first financial year. Most of this was for housing development, but nine farms were acquired in the Komga, seven in Kubusie and four in Mgwala, with more to be purchased in Needs Camp and Kei Road. In February 2002, the ADM reported that it was struggling to meet the ambitious targets contained in the plan, and indicated it would approach DLA to provide

additional financial resources to the council to employ programme support personnel who will be fully dedicated to the programme.

While it is too early to judge the success of this innovative approach to land reform, the progress to date is certainly impressive and is already beginning to influence DLA and local government structures in other parts of the country. PDLA has a goal of transferring 50% of its budget to local government for implementation of land reform projects and says that it could also envisage transferring staff to local government structures to assist with implementation.

The strengths of the integrated approach to land reform as pioneered in the Amatole area can be summarised as:

- a clear focus on, and commitment to, land issues by the district council ('ownership' of the policy area)
- a thorough process of public consultation
- well-organised and articulate communities
- effective NGOs, with a clear vision of land reform, that can intervene with various structures and at various points in the process to maintain momentum
- availability of a range of technical skills both within the District Council and on contract from the private sector
- active participation by all key stakeholders: government (local, provincial and national), communities, NGOs, private sector and farmers' unions (both as landowners and as potential beneficiaries).

Chapter 9: Land reform and sustainable livelihoods

The link between land reform and sustainable rural livelihoods has not been adequately addressed at a policy level to date, although there are signs that it is being taken increasingly seriously by some actors. Early examples of 'chequebook restitution', and ill-founded redistribution projects such as *Magwa*, clearly lacked any concept of sustainable livelihoods.

These were examples of land reform (if indeed, they can be included under this definition), for its own sake, with little or no effort to link it to wider processes of development or to any long-term strategy. More recent developments, such as the Chatha restitution settlement, the creation of a Settlement Support and Development Planning division within the RLCC, and the close collaboration between PDLA and Amatole District Municipality around the Land Reform and Settlement Plan, suggest that concepts of integrated development and sustainability are now being taken seriously by key actors and are becoming gradually institutionalised.

Another critical factor in the 'maturation' of land reform policy in the Eastern Cape is the increasing capacity of NGOs and private sector companies in the land sector. This has allowed for a greater range of partnerships between government and non-government agencies which, while criticised from some quarters as 'creeping privatisation' of public services, has undoubtedly added much-needed capacity to embattled state agencies.

This section applies a modified version of Goldman's (2001) framework of governance requirements for sustainable livelihoods to land reform policy in the Eastern Cape. This framework can be summarised in the form of six governance

requirements, which operate at three levels – micro, meso and macro (see Box 4). This analysis departs slightly from Goldman's framework in that local and district municipalities are treated as a single (combined) form of local government, situated at the lower meso level, and the international dimension is not discussed.

For public policies to promote sustainable livelihoods successfully, Goldman argues, all of these levels must be present and functioning, with effectively linkages upwards and downwards between the various levels.

Participation of the poor

There can be little doubt, on the basis of the examples presented here, that the active and informed participation of the rural poor in their own development is a key factor in land reform in the Eastern Cape. Well-organised communities, capable of articulating their demands, contributing what resources they have at their disposal and able to hold government and other external agencies to account have been critical to the success of projects such as *Gasela* and the development of the Land Reform and Settlement Plan for the Central Sub-District of Amatole District Municipality. Equally important, however, have been the preparedness of government agencies to listen to, and work with, communities,



Box 4: Six governance requirements for sustainable livelihoods

Requirement	Level
<ul style="list-style-type: none"> poor people active and involved in managing their own development 	micro
<ul style="list-style-type: none"> active and dispersed network of local service providers (community-based, private sector and government) 	micro
<ul style="list-style-type: none"> local government services managed and co-ordinated effectively and responsively, and institutions held accountable 	lower meso
<ul style="list-style-type: none"> at level above primary local government (for example, district and province), capacity to provide support and supervision and strategic planning 	upper meso
<ul style="list-style-type: none"> centre providing holistic and strategic direction around poverty, redistribution, and oversight of development 	macro
<ul style="list-style-type: none"> international level strengthening capacity in-country to address poverty 	macro

and the presence of NGOs that have developed multi-faceted relationships with communities over many years and can provide a range of social and technical services in a manner that builds the capacity of communities to manage their own affairs.

In much of the Eastern Cape, however, especially in the former Transkei, many communities have not achieved the same degree of organisation and cohesion, and land reform initiatives have suffered greatly as a result. Lack of clarity around definition of 'communities', and disputes between rival groups, have greatly hampered the settlement of land claims, and other development initiatives, in areas such as Dwesa-Cwebe and Mkambati (Fay & Palmer 2000; Kepe 2001). Highly centralised decision-making processes that serve to exclude rural people look set to impact negatively on the livelihoods benefits arising from forestry privatisation. Rivalry between elected local government and tribal authorities, and the lack of effective community-based structures, has created space for highly top-down projects such as

Lambasi Farm, where key decisions are made within a central government department and hand-picked local 'representatives' are co-opted on to powerless 'management' structures.

Clearly there are limits to what the state, or other 'external' agencies, can do to build capacity within rural areas in order for people to participate more effectively in their own development. Nonetheless, it is essential that agencies working in deep rural areas such as Transkei do everything possible to support existing community-level initiatives and to encourage the formation of genuinely representative local structures. This is likely to impose further delays in the implementation of national and provincial policies in some rural areas, but such delay is unavoidable if sustainable development is to take place. There is also an enormous challenge to external agencies to listen to the demands of rural people, particularly of the very poor, and to resist the temptation to work only with local governance structures. Both elected councils and unelected traditional leaders are vying to assert their power within rural



areas and pursuing their own narrow institutional agendas, and are often willing to be co-opted to programmes imposed from provincial or national headquarters that offer few benefits to the rural poor.

Local service providers

Immediately preceding and following South Africa's first democratic elections of 1994, pressure for land reform was channelled largely through a handful of highly-politicised NGOs. With the creation of state institutions with similar goals, the land NGOs have lost much of their unique standing (along with many of their personnel) to the state sector, but have gained an environment that is largely favourable to modest reform. These developments have forced fundamental changes in the way NGOs operate, and not all have succeeded in adjusting to the new context. In the Eastern Cape over the last two years, one land NGO, the Eastern Cape Land Committee, based in Port Elizabeth, has closed down, and Traliso, based in Umtata, has gone through a major funding and personnel crisis.

The NGO success story in the province is undoubtedly BRC, which has, in recent years, been able to attract substantial donor funding, add a range of new services to its portfolio and build close working relationships with various state institutions, which in turn provide a further source of income. Within the Amatole District, BRC has been in a position to offer support services to a wide range of clients, ranging from detailed planning and facilitation in an area such as Gasela to one-off contacts with farm residents and others inquiring about their land rights or how to access a grant.

An active land reform programme in the East London, Queenstown, Grahamstown and Port Elizabeth areas has encouraged the emergence of a variety of private sector companies, many of them small consultancies, that are playing an increasingly important role in land matters. Unlike the NGOs, private companies do

not usually deal directly with rural communities in need of assistance, or intervene in emergency cases, but rather provide services under contract to PLDA or RLCC. These range from investigation of tenure rights or restitution claims to preparation of business plans for redistribution projects and technical advice on agricultural matters. Private companies are set to play a prominent role in the implementation of the Land Reform and Settlement Plan in the Central Sub-Region of Amatole District Municipality.

In the rest of the province, however, and especially in the former Transkei, the picture is very different. In many areas, neither NGOs or private companies have a presence, leaving communities and local government structures alike with little or no access to key skills and services. At the beginning of 2001 Traliso, the leading land sector NGO operating in Transkei, was reduced to just four staff, two of them volunteers, and could offer little in the way of services to rural communities. Since then, however, it has secured new funding, including a contract from the RLCC to validate land claims, but can still hope to serve only a small fraction of communities in its area of operation. Private sector companies in the land sector are virtually non-existent in Transkei and, is so far as they operate at all, generally do so from bases in East London or Durban, which creates serious problems of communications and effectiveness.

The absence of an active and dispersed network of local service providers in areas such as Transkei is undoubtedly a major barrier to implementation of land reform, and creating such a network will not be a quick or straightforward process. State institutions can favour local service providers where they exist, or exert pressure on others to open offices in remote areas, but given that many such providers are one- or two-person consultancies, this may not be feasible. Foreign donors and state agencies alike cannot afford to be complacent when land NGOs run into financial or



management problems. More creative ways should be found to encourage the creation of dynamic and accountable land sector NGOs in areas that are currently neglected if land reform and development are to reach the areas of greatest need.

Local government

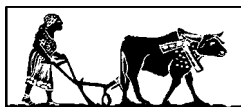
Enormous disparities exist between local government structures in the Eastern Cape. Land reform has not been a priority for most structures up to now, and has not even been considered by many. For the purposes of this discussion, local (primary) and district (secondary) municipalities will be discussed under one heading.

Well-established local government structures such as Amatole District Municipality, with experienced staff, a substantial revenue base and a range of successful programmes, have been able of late to take on 'non-traditional' functions such as land reform. Indeed, in terms of the Land Reform and Settlement Plan for the Central Sub-Region, land reform, which hardly featured in local government thinking up to recently, has become a key activity around which a range of other services and programmes – including water, housing and agricultural development – are now being organised. Such an approach, which links integrated delivery of services by a range of state institutions with productive activities, involves a range of private-sector and NGO participants, and is driven by close consultation with and participation by local communities, is probably the closest the Eastern Cape (and, indeed, South Africa), comes to a large-scale sustainable livelihoods programme.

Close involvement by local government, in both the planning and implementation stages, has also been a feature of other (relatively) successful land reform projects, including Chatha and Dwesa-Cwebe. These are in contrast to projects such as Lambasi, Magwa and Mkambati where local government has been relatively uninvolved or has become bogged down in disputes with rival

institutions. What is most notable about land reform projects in areas such as Pondoland is that they have proceeded outside of any clear local development plan and have not been integrated with other activities at a local level. Where local government is weak – in terms of skills, experience and financial resources – land reform tends not to be seen as a priority, and local government structures tend to be drawn into projects more as observers, or to provide a token local presence, rather than to give strategic direction.

The creation of effective and accountable local government in areas such as Transkei is clearly a mammoth task and is still in the earliest stages. Structures such as OR Tambo District Municipality and Ingquza Local Municipality are heavily focused on provision of 'traditional' local government services, such as water, roads and electricity, and have yet to address wider issues of local economic development or land reform (see Manor 2000; Ntshona & Lahiff 2001). They are also locked into a power struggle with traditional leaders within the communal areas, where control of land is one of the key areas of dispute. Given the enormous demands on these councils, operating as they do in some of the poorest areas of the country, their very limited capacity, and the absence of clear national policy on reform of communal land, it is perhaps not surprising that these councils steer clear of land issues. In the meantime, however, a range of 'external' institutions continue to promote a variety of very questionable land reform projects, of which Lambasi and Magwa are prime examples. The evidence of this study would suggest that major interventions by national government departments where local institutions are weak do not lead to well-designed, viable projects that promote sustainable livelihoods. They do, however, create opportunities for political patronage on a grand scale. Government line departments, such as Land Affairs and Public Works, may need to consider ways



to build capacity in local government, and in other local institutions, before proceeding with large projects in remote rural areas.

Provincial government

Land reform policy in the Eastern Cape is implemented largely by provincially-based representatives of national government institutions, namely PDLA and RLCC. Up to recently, co-operation between these institutions, both part of the same national Department of Land Affairs, and other national government departments active in the province, as well as with provincial and local government structures, has not been particularly close. Of late, however, it has been the policy of DLA to work more closely with other departments and other spheres of government, and the Eastern Cape would appear to be relatively well advanced in this regard. Nevertheless, the involvement of provincial-level structures in land reform to date has been very limited, and the capacity of such structures to provide support to local-level institutions is quite limited.

Interviews with provincial government departments, particularly the key departments of Agriculture and of Economic Affairs (now the Department of Provincial Treasury, Economic Affairs, Environment and Tourism) revealed a high level of ambivalence towards land reform, especially of the 'poverty alleviation' variety, and a preference for large commercially-oriented projects with the capacity to generate wage employment. The introduction of the LRAD programme, however, backed by the national Ministry of Agriculture and Land Affairs, has given a more greater role than hitherto to provincial departments of agriculture in the vetting and planning of redistribution projects, and would appear to be leading to greater willingness to provide services such as agricultural extension to land reform beneficiaries. In 2001 the Eastern Cape Department of Agriculture, for the first time, agreed to make state land available for purchase by land reform

beneficiaries, although it continues to dispose of other state land to the general public outside of the land reform programme.

Notably absent from provincial government policy is an overall development plan for the province that integrates land reform with wider socio-economic processes. The need for an integrated rural development strategy has been identified by the provincial government, and in 2000 the Eastern Cape Socio-Economic Consultative Council (ECSECC) was commissioned to prepare a draft Rural Development Framework Document (ECSECC 2000). This document highlights the urban and industrial focus of economic policy in the Eastern Cape and the lack of co-ordination between policies designed to address the needs of the rural poor:

In the absence of an integrated rural development strategy in the province, efforts to coordinate programmes which impact on rural development remain fragmented and partial. While the Provincial Growth and Development Strategy goes some way in creating a framework for integrated development planning and implementation, it is not sufficiently rural in focus ...

Government Departments have also been slow off the mark in internalising its logic, and are not sufficiently co-ordinating activities with other departments, other tiers of government, NGOs and other technical and financial institutions (ECSECC 2000:23).

It is indicative of the problems facing rural development in the Eastern Cape that the draft Rural Development Framework of 2000 has not, to date, been finalised or adopted as policy by the provincial government. One donor-funded initiative, however, does attempt to tackle rural development and promotion of sustainable livelihoods in an integrated manner. This is the Rural Livelihoods Programme, developed as a partnership between



ESCECC and the Policy, Planning and Research Branch in the office of the Premier, with technical advice and funding from the German technical assistance agency Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ). The Rural Livelihoods Programme is currently being implemented on a pilot basis (beginning in 2001) in a number of districts in Transkei.

Successful land reform projects in the Eastern Cape have tended to be those which have received a high degree of buy-in and support from a range of local, provincial and national institutions. In Transkei, however, land reform projects have, up to recently, received little or no support from the provincial level and, equally important, little or no support has been provided to the local institutions which should be in the best position to deliver services to end users. The Lambasi project appears to be proceeding with minimal involvement by the provincial Department of Agriculture, while at Dwesa-Cwebe the Department of Provincial Treasury, Economic Affairs, Environment and Tourism was reported to have been delaying for over a year on its commitment to pay rent in advance to the community trust in order to keep the nature reserve under provincial government control.

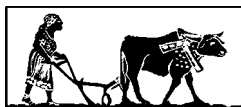
A good start has been made in forging links between the official institutions responsible for land reform policy and other spheres of government in the Eastern Cape. What still remains is for these national and provincial structures to implement substantial programmes of support to local-level institutions and land reform projects.

Holistic and strategic direction

The early years of South African land reform policy were marked by a lack of integration between the different aspects of land reform (that is, restitution, redistribution and tenure reform) and between land reform and wider processes of rural devel-

opment. A Rural Development Framework document released by DLA in May 1997 was widely ignored by government and has since been replaced by an Integrated Sustainable Rural Development Strategy. The ISRDS, launched in 2001, focuses largely on the achievement of synergies between government agencies in their routine functions and brings neither a new vision nor additional funding to the rural development sector. The ISRDS is conspicuously silent on land reform and is unlikely, in its present form, to contribute much in the way of strategic direction to rural development policy. The Spatial Development Initiatives launched in various parts of the country in recent years have also conspicuously failed to address land issues, as Kepe (2001) demonstrates with regard to the Wild Coast SDI, leading to major policy failures.

Since the late 1990s, as this study has shown in the case of the Eastern Cape, aspects of land reform policy have begun to be integrated with other areas of policy, especially in terms of greater involvement of local government in land reform projects. Under LRAD, provincial departments of agriculture are also being drawn into policy design and support to beneficiaries, although continuing cuts in agricultural extension services negate much of the benefit of this involvement. What remains elusive, however, is a comprehensive rural development strategy that links land reform and rural livelihoods to national and sectoral economic policies. Macro economic planning, in the form of the government's Growth, Employment and Redistribution programme (Gear), tends to treat land reform as a drain on resources rather than as a basis for economic growth. National agricultural policy focuses overwhelmingly on large-scale enterprises producing for national and international markets, and for the small minority of black farmers capable of competing in such an environment. Thus, while implementation of land reform appears to be becoming more efficient, and involving more actors at the local



level, the crucial horizontal links to other areas of national policy have yet to be consolidated. A national policy vision that integrates land reform with poverty

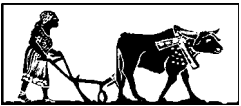
reduction, rural development and redistribution (in the wider, economic, sense) in a holistic manner has yet to emerge.



Chapter 10: Conclusion

Eight years into the transition to democracy in South Africa, land reform policy and the institutions associated with it continue to evolve and to address previously neglected areas. In the Eastern Cape, considerable progress has been made in the settlement of urban restitution claims, the redistribution of some former white-owned commercial farms and the formulation of integrated development plans for some rural areas.

Both the Department of Land Affairs and the Regional Land Claims Commission have shown themselves to be increasingly effective actors, developing close working relationships with a range of governmental and non-governmental agencies and contributing to the shaping of land reform policy at a national level. Civil society structures, too, have shown themselves willing and able to challenge government policy and demand the type of services that best suit their needs.



Nonetheless, major issues remain to be addressed, including the needs of people living in the 'deep rural' areas of the former Transkei, and particularly the reform of communal tenure.

The institutional framework for land reform in the Eastern Cape has not been particularly favourable to the promotion of sustainable livelihoods to date, although process are underway that seek to address this. While claiming to address livelihoods, alleviation of poverty and development of rural areas, the South African land reform programme has struggled to achieve this in practice, for various reasons. Particular programme areas, such as restitution, redistribution and tenure reform, have been developed and implemented largely in isolation from each other and have been poorly integrated into broader processes of rural development. This lack of integration can in turn be related to the lack of a comprehensive rural development strategy

at either provincial or national level. Over the past two years, both the Regional Land Claims Commission and the Department of Land Affairs in the Eastern Cape have sought to address these issues by creating close working relations with other government agencies and more careful planning of projects in ways that increasingly focus on livelihoods and sustainability.

Complex governmental structures present a major challenge to land reform policy, in terms of policy design, inter-institutional co-operation and accountability. The key institutions associated with land reform in the Eastern Cape are branches of a national government department and, as such, are not directly accountable to any institution within their area of operation. Major policy changes emanate largely from the centre, although provincial-level structures can at times influence national policy. While national government occasionally engages in public consultation around policy development, no effective mechanism exists, either through the political system or otherwise, to make land reform institutions accountable to their primary constituency, the rural poor and landless, or to give this constituency a meaningful voice within the policy-making process.

In addition to PDLA and RLCC, a range of other organisations are involved in land reform in the Eastern Cape and play a valuable role in shaping policy. In areas such as Amatole, local government has

facilitated the decentralisation of land reform to a new degree, with decision-making powers and budgets being put into the hands of local officials accountable to locally-elected public representatives. Such delegation of responsibility to multi-functional local government structures has also allowed for the integration of land reform with other key policy areas, such as water and housing, to a degree that was not possible under single-function line departments and provides a realistic basis for the promotion of sustainable livelihoods. Dynamic NGOs, well-organised and articulate local communities and a variety of service providers from the private sector also play a vital role in the more successful land reform initiatives in the province.

While considerable progress has been made in terms of land reform implementation and the development of a supportive institutional environment in some parts of the Eastern Cape, the same cannot be said of the 'deep rural' areas of the former homelands. Areas like Pondoland are not only remote from, and poorly served by, PDLA and the RLCC, but are also weak in other key regards. Many rural communities are loosely defined and poorly organised. Loyalties are commonly divided between two types of local government – elected local authorities and traditional leaders – both of which struggle to provide effective leadership to rural communities and to access key reform programmes. Elected local authorities, in particular, have been preoccupied with the establishment of new institutions and coming to grips with core local government functions, and have not so far managed to address 'new' issues

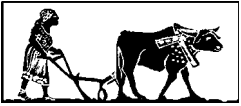
such as land. The failure of local government to take on board land issues, and the inability of many rural communities to give clear voice to their needs, has undoubtedly served to insulate institutions such as PDLA and RLCC from the desperate needs prevailing in areas such as Pondoland and ensured that resource allocation and the types of policies pursued continues to favour non-homeland areas.

Access to land continues to be a vital element in the livelihood strategies of millions of people in the Eastern Cape. Land reform policy has yet to impact on the lives of the vast majority of such people, or on the majority of those currently without secure land rights. Land policy, both provincially and nationally, has not to date been characterised by a strong livelihoods focus and even where this has been raised it is not yet clear how effective it will be in promoting sustainable livelihoods. A degree of delegation of powers to provincially-based structures such as PDLA and the RLCC has occurred, but within the context of a national government department that remains unaccountable to governmental or civil structures within the Eastern Cape. Decentralisation of responsibilities to provincial and local government has begun, to a very limited extent, but has not yet impacted on most of the Transkei. Major work remains to be done in order to integrate sustainable livelihoods approaches into South African land reform, and rural development policy more generally, and to create a decentralised institutional framework that is accountable to local people and responsive to their needs.



References

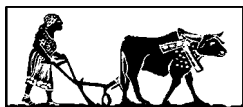
- ADC (Amatola District Council). 2000a. *Annual plan 2000/2001*. East London: ADC.
- ADC (Amatola District Council). 2000b. Central Sub-Region: Land reform and settlement plan. East London: ADC
- Ashley & Ntshona, 2002, *Transforming roles but not reality? Private sector and community involvement in tourism and forestry development on the Wild Coast, South Africa*. Sustainable Livelihoods in South Africa Paper 5. Brighton: Institute of Development Studies.
- Beinart, W. 1982. *The political economy of Pondoland 1860 to 1980*. Johannesburg: Ravan Press.
- Beinart, W. 1992. Transkeian smallholders and agrarian reform. *Journal of Contemporary African Studies*, 11(2).
- Bembridge, T. 1987. Successful irrigation: Requirements for successful irrigation projects with special reference to the Tyefu irrigation scheme. *Ciskei Agricultural Journal*, 2(5).
- Bembridge, T. 1990. Agricultural development in the developing areas of southern Africa. *Africa Insight*, 20(1).
- Bernstein, H. 1996. South Africa's agrarian question: Extreme and exceptional?, *Journal of Peasant Studies*, 23(2/3). (Special issue on the agrarian question in South Africa, edited by Henry Bernstein.)
- BRC (Border Rural Committee). 2001. *Gasela: An evaluation of the BRC intervention*. Unpublished document prepared for the National Land Committee, August 2001.
- Bundy, C. 1979. *The rise and fall of the South African peasantry*. London: Heinemann.
- Charton, N (ed). 1980. *Ciskei: Economics and politics of dependence in a South African homeland*. London: Croom Helm.
- Claasens, A. 2001. *'It is not easy to challenge a chief': Lessons from Rakgwadi*. Cape Town: Programme for Land and Agrarian Studies, University of the Western Cape. (Research report; no. 9.)
- Cobbett, M. 1987. The land question in South Africa: A preliminary assessment. *The South African Journal of Economics*, 55(1).
- CRLR (Commission on Restitution of Land Rights). 2001. *Annual report April 2000–March 2001*. Pretoria: CRLR.
- CRLR (Commission on Restitution of Land Rights). 2002. *Annual report April 2001–March 2002*. Pretoria: CRLR.
- Cross, C & Haines, R (eds). 1988. *Towards freehold: Options for land and development in South Africa's black rural areas*. Cape Town: Juta.
- Daily Dispatch*. 2000a. Tea estate workers continue strike. 13 May.
- Daily Dispatch*. 2000b. Production centre launched in Transkei. 27 November.
- Daily Dispatch*. 2001a. Magwa Tea well on road to recovery. 16 February.
- Daily Dispatch*. 2001b. Lambasi centre will be hub of agri activity. 13 April.
- Daily Dispatch*. 2001c. Dwesa, Cwebe land returned. 18 June.
- Daily Dispatch*. 2001d. Lambasi centre brings hope to hundreds. 13 July.
- Daily Dispatch*. 2001e. Communities to get Dwesa-Cwebe land. 14 September.
- Daily Dispatch*. 2001f. EC to sell, lease state land. 20 September.
- Daily Dispatch*. 2001g. Govt boost for T'kei farming. 26 October.
- Daily Dispatch*. 2002a. Great strides made in land reform in ADM. 7 February.
- Daily Dispatch*. 2002b. Magwa's poor yield may scupper R10.6m bail-out. 3 September.



- Daily Dispatch*. 2002c. Cathcartvale workers win land. 24 June.
- Daily Dispatch*. 2002d. Keiskammahoek claimants celebrate R102m settlement. 17 June.
- De Wet, C & McAllister, P. 1983. *Rural communities in transition: A study of the socio-economic and agricultural implications of agricultural betterment and development*. Grahamstown: Institute of Social and Economic Research. (Development studies working paper; no.16.)
- De Wet, C. 1995. *Moving together, drifting apart: Betterment planning and villagisation in a South African homeland*. Johannesburg: Witwatersrand University Press.
- Desmond, C. 1971. *The discarded people: An account of African resettlement*. London: Penguin.
- DLA (Department of Land Affairs). 1997. *White Paper on South African Land Policy*. Pretoria: DLA.
- DLA (Department of Land Affairs). 2001. *Media Briefing, Dr GP Mayende*. http://land.pwv.gov.za/news/2001/media_briefing.htm
- ECSECC (Eastern Cape Socio-Economic Consultative Council). 2000. *Rural development framework*. Draft document.
- Fay, D & Palmer, R. 2000. Prospects for redistribution of wealth through land reform in Dwesa-Cwebe, in *At the crossroads: Land and agrarian reform in South Africa into the 21st century*, edited by Ben Cousins. Cape Town/Johannesburg: Programme for Land and Agrarian Studies, University of the Western Cape/National Land Committee:194-210.
- Goldman, I. 2001. *Rights-based and sustainable livelihoods approaches: Divergences and convergences*. Unpublished paper.
- Gwanya, T. 2000. *Forestry land claims and the forestry restructuring process*. Paper presented to the Eastern Cape North Forestry Restructuring Workshop, 20-22 September 200, Ingeli Forest Lodge.
- Hendricks, F. 1990. *The pillars of apartheid: Land tenure, rural planning and the chieftaincy*. Uppsala: University of Uppsala.
- Heron, G. 1991. The household, economic differentiation and agricultural production in Shixini, Transkei. *Development Southern Africa*, 8(1).
- Horrell, M. 1973. *The African homelands of South Africa*. Johannesburg: South African Institute of Race Relations.
- Kepe, T. 2001. *Waking up from the dream: The pitfalls of 'fast track' development on the Wild Coast of South Africa*. Cape Town: Programme for Land and Agrarian Studies, University of the Western Cape. (Research report; no. 8)
- Lahiff, E. 2000a. *An apartheid oasis? Agriculture and rural livelihoods in Venda*. London: Frank Cass.
- Lahiff, E. 2000b. *Communal tenure in South Africa*. Johannesburg: National Land Committee.
- Lahiff, E. 2001. *Land reform in South Africa: Is it meeting the challenge?* Cape Town: Programme for Land and Agrarian Studies, University of the Western Cape. (Policy brief; no. 1.)
- Levin, R & Weiner, D. 1991. The agrarian question and the emergence of conflicting agricultural strategies in South Africa, in *Towards a new agrarian democratic order*, edited by S Matlhape and A Munz. Amsterdam: South Africa Economic Research and Training Project.
- Mail & Guardian*. 2000. State forest sale plans under fire. 5 May.
- Manor, J. 2000. *Local government in South Africa: Potential disaster despite genuine promise*. Unpublished paper, Institute of Development Studies, University of Sussex.
- May, J, Rogerson, C & Vaughan, A. 2000. Livelihoods and assets, in *Poverty and Inequality in South Africa: Meeting the challenge*, edited by Julian May. Cape Town/London/New York: David Philip/Zed.



- May, J, Woolard, I & Klasen, S. 2000. The nature and measurement of poverty and inequality, in in *Poverty and Inequality in South Africa: Meeting the challenge*, edited by Julian May. Cape Town/London/New York: David Philip/Zed.
- Mbeki, G. 1984. *South Africa: The peasants' revolt*. London: International Defence and Aid Fund for Southern Africa.
- McAllister, P. 1989. Resistance to 'betterment' in the Transkei: A case study from Willowvale district. *Journal of Southern African Studies*, 15(2).
- McAllister, P. 2000. *Maize yields in the Transkei: How productive is subsistence agriculture?* Cape Town: Programme for Land and Agrarian Studies, University of the Western Cape. (Land reform and agrarian change in southern Africa occasional paper; no. 14.)
- Mgwigwi, T. 1999. Finally, justice for betterment victims. *Land & Rural Digest*, January/February.
- Moll, T. 1988. *No blade of grass: Rural production and state intervention in Transkei, 1925-1960*. Cambridge: African Studies Centre.
- Natrass, N & Natrass, J. 1990. South Africa, the homelands and rural development. *Development Southern Africa*, 7(4).
- Nauta, W. 2001. *The implications of freedom: The changing role of land sector NGOs in a transforming South Africa*. Amsterdam: Vrije Universiteit.
- Ncapayi, F. 2001. *Land redistribution in rural areas: Examples from Sakhisizwe and Emalahleni municipalities*. Unpublished paper.
- Ntsebeza, L. 1999. *Land tenure reform, traditional authorities and rural local government in post-apartheid South Africa: Case studies from the Eastern Cape*. Cape Town: Programme for Land and Agrarian Studies, University of the Western Cape. (Research report; no. 3.)
- Ntshona & Lahiff 2002. *Rural development, institutional change and livelihoods in the Eastern Cape: A case study of Mdudwa Village*. Sustainable Livelihoods in Southern Africa Research Paper. Brighton: Institute of Development Studies.
- Ntshona, Z & Lahiff, E. 2001. *Natural resources and sustainable livelihoods in South Africa: Policy and institutional framework*. Cape Town: Programme for Land and Agrarian Studies, University of the Western Cape. (Sustainable Livelihoods in Southern Africa research briefing.)
- Platzky, L & Walker, C. 1985. *The surplus people: Forced removals in South Africa*. Johannesburg: Ravan.
- Robertson, M. 1990. Dividing the land: An introduction to apartheid land law, in *No place to rest: Forced removals and the law in South Africa*, edited by C Murray and C O'Regan. Cape Town: Oxford University Press.
- Rogers, B. 1976. *Divide and rule: South Africa's bantustans*. London: International Defence and Aid Fund for Southern Africa.
- Shackleton, C, Shackleton, S & Cousins, B. 2001. The role of land-based strategies in rural livelihoods: The contribution of arable production, animal husbandry and natural resource harvesting in communal areas of South Africa. *Development Southern Africa*, 18(5).
- Simkins, C. 1981. Agricultural production in the African reserves of South Africa, 1918-1969. *Journal of Southern African Studies*, 7(2).
- Simukonda, N. 2001. *Exploring critical land processes in the Eastern Cape*. Paper presented to the LEARN Public Policy Dialogue Seminar, 2nd October 2001, Bisho.
- Southall, R. 1982. *South Africa's Transkei: The political economy of an 'independent' bantustan*. London: Heinemann.
- Steyn, G. 1988. *A farming systems study of two rural areas in the Peddie District of Ciskei*. Unpublished DSc thesis, Faculty of Agriculture, University of Fort Hare.



Tapson, D. 1990. Rural development and the homelands. *Development Southern Africa*, 7(4).

Thompson, L. 1995. *A history of South Africa*. New Haven/London: Yale University Press.

Wilson, F & Ramphela, M. 1989. *Uprooting poverty: The South African challenge: Report for the Second Carnegie Inquiry into Poverty and Development in Southern Africa*. Cape Town: David Philip.

