

CURRENT POLICY PROCESSES & LEGISLATIVE REFORMS

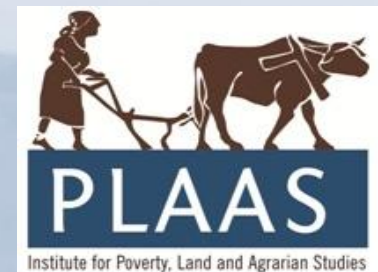
**STRATEGY WORKSHOP:
Strategic Civil Society Engagement in Rural Transformation
in South Africa**

**Institute for Poverty, Land and Agrarian Studies
In collaboration with the Foundation for Human Rights**

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INTRODUCTION

- Land reform policy and legislation suffered under negotiated terms in the run-up to SA's democracy
- Land & agricultural policies were initiated and continued to move in disparate directions
- Particular weaknesses resulted in policy hand-wringing and at times policy schizophrenia in a policy area that is critical to post apartheid rural transformation
- Current policy & legislation reinforce above negative trends i.e tenure security bill, CRDP, Green Paper & Recapitalisation
- Now centre-stage in policy speak; beyond land rights
 - clear acknowledgement that 'land reform' has failed
 - but vague policy direction



BACKGROUND TO TENURE IN SA

- Tenure reform remains the poor relation in land reform
- Tenure rights have been poorly enforced and are disconnected from any developmental vision
- Relatively large on-farm population, but continuous evictions & landowners through the fusion of the place of employment and of residence maintain control over the lives of workers & their families.
- Many workers are employed and live on ancestral land that they consider to be their own, particularly in the north & east of South Africa.
- Resulted in diverse conditions and terms of tenure
- Key Question: Why is security of tenure sidelined – why does government continue to prioritise certain tenure concerns at the expense of others?

TENURE SECURITY BILL: KEY POINTS (1)

- Stand to repeal ESTA and LTA.
- Is it aiming to stop evictions, or again regulate when and how evictions can happen.
- Some improvements – upholds tenure security for long-term farm occupiers; mention of sub-division and expropriation.
- Criticism varies; some calling for further restrictions and less onus on land owners; while others would prefer wider protection and clearly defined rights; fails to address the fundamental issue of **real** tenure security on farms.
- In the context of failed redistribution the Bill encourages agri-villages & weakens the form of security of tenure that is available to Labour Tenants in terms of the LTA.

TENURE SECURITY BILL: KEY POINTS (2)

- Vagueness of the Bill in terms of defining those it seeks to regulate i.e 'persons working on farms' & persons residing on farms'
- The Bill sets out complicated, onerous procedures – particularly pertaining to eviction.
- Some land rights advocates is of the opinion that procedures set out in the Bill also seem to favour landowners (i.e. land owners may make urgent application for the removal of any person residing on farm from land pending the outcome of proceedings for a final order)
- Bill mentions land owner agreements for temporary use and expropriation - practical realisation in the face of ongoing reluctance to use expropriation

TENURE SECURITY BILL: KEY POINTS (3)

- Shifting of responsibilities: Sec 25 of the Bill requires the submission of a joint plan concerning the provision of suitable alternative land for an evicted person.
- Such plan need to be provided by the Municipal Manager of the Local Municipality, land owner and the LRMB
 - It is unclear how it fits within the framework of the local government planning and budgeting process
 - Exclude the needs and input of the evicted person/s.
 - Unrealistic expectation that the Land Rights Management Board (consisting of in total 9 members) must affect the eviction and manage relocation throughout the entire country.
 - Land owners goodwill /strategic partnerships (??)
- Fears of rising evictions ahead of the TSB

TENURE SECURITY BILL: Process (4)

- Released on 24 December 2010
- Open for commentary until 28 February 2011
- Joint or individual submissions will be considered.

COMPREHENSIVE RURAL DEVELOPMENT PROGRAMME: KEY POINTS (1)

- *“The strategic objective of the CRDP is to facilitate integrated development and social cohesion through participatory approaches in partnership with all sectors of society.”*
- *“The CRDP must seek to bridge the false dichotomy between the urban and rural space.” (p. 9).*
 - Agrarian transformation
 - Rural development
 - Land reform

COMPREHENSIVE RURAL DEVELOPMENT PROGRAMME: KEY POINTS (2)

- The Department of Rural Development and Land Reform act as an **initiator, facilitator and coordinator and catalyst** in rural development interventions”
- Responsibility for development of rural areas has moved over time...
 - Dept Rural Development & Land Reform
 - Dept Provincial & Local Government
 - Presidency
 - Dept Land Affairs
 - ... and in the future, a rural development agency?

COMPREHENSIVE RURAL DEVELOPMENT PROGRAMME: KEY POINTS (3)

- Pilots: 15 pilots, mostly at ward level (21 wards)
- 3 phases from basic needs to entrepreneurship
- Phase 1:
 - an incubator or nursery stage of the programme – meeting basic human needs as driver;
- Phase 2:
 - the entrepreneurial development stage - relatively large scale infrastructure development as driver;
- Phase 3:
 - the emergence of industrial and financial sectors – driven by small, micro and medium enterprises & village markets

COMPREHENSIVE RURAL DEVELOPMENT PROGRAMME: KEY POINTS (3)

- Missing: The outside world: markets, cities, wealth
- Ward-level approach implies that rural underdevelopment originates from a services deficit and community fragmentation (need for cohesion)
- And so remediable through localised interventions – how will it be brought to scale & is budget appropriate?
- The effect appears to be perpetuated dualisms
 - DRDLR: ‘rural development’ for the 2nd economy (ex-Bantustans)
 - DAFF: ‘agricultural development’ for the 1st economy (+ ladders up)

TENURE REFORM IN THE CONTEXT OF RURAL DEVELOPMENT & TRANSFORMATION

- ‘...DEVELOPMENT REQUIRES SECURITY
...WHILE SECURITY IS IMPOSSIBLE
...WITHOUT DEVELOPMENT’ Duffield 2004
- What kind of tenure reform is necessary to affect rural transformation?
 - Creation of a class of non-evictable occupiers (??)
 - Registering servitudes
 - Strengthening options for long-term rights
 - Diluting rights in an ‘omnibus’ law
- What kind of development is necessary that will provide people with long-term tenure security both on and off-farm?
- The answers to these questions are not simple and straightforward
- Should be considered in terms of what is the wider vision for the future of farm dwellers and labour tenants, and their place in the agrarian system?