



Municipal commonage

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The Municipal Commonage Programme of the Department of Land Affairs (DLA) aims to enable poor residents to access commonage lands in order to supplement incomes and enhance food security. New commonage accounted for 31% of all land transferred within the redistribution programme by the end of 2002. However, DLA's budget for the period 2003–2005 allocates a mere 3% of budget to this programme. Situations of open access, domination by local elites and land degradation are experienced in many commonage projects. However, this is not unusual – such situations are common in a number of land reform programmes. Commonage, with the built-in involvement of the public institution of local government and its regulatory framework, may have a greater chance of success than other forms of land holding. Improved commonage rights allocation processes in Namaqualand and the Hantam-Karoo districts are ensuring sound commonage management and increasingly secure livelihood benefits are delivered to beneficiaries.

The term 'municipal commonage' refers to land granted by the state to towns for the use and benefit of the town's residents. In South Africa commonages were originally granted to municipalities by the state at the time of the formal establishment of towns during the 1800s. **Traditional commonage** was granted free of charge. Stringent title deed conditions restricted the sale of the land and ensured that it was set aside for public use and benefit.

Segregated urban development ensured that commonage was a public amenity for white residents to keep animals for slaughter, draught animals and milking cows, and for town development. An elaborate system for commonage management, including detailed provision for the allocation and administration of rights to use commonage, was developed and maintained over many decades. From around the 1950s municipalities stopped making the land available to the general public and began to lease it to commercial farmers.

Municipal commonage was recognised by post-1994 policy makers as a ready opportunity for land reform. It was not necessary to acquire additional land at great expense. What was done on scale for the benefit of white residents during the 1800s and first half of the 1900s could now be done for poorer, black residents previously excluded from municipal commonage. The White Paper on South African Land Policy outlined the way in which municipal commonage could, and should, play a role within a larger land reform:

In large parts of the country, in small rural towns and settlements, poor people need to gain access to grazing land and small arable/garden areas in order to supplement their income and to enhance household food security. The Department of Land Affairs will encourage local authorities to develop the conditions that will enable poor residents to access existing

commonage, currently used for other purposes. Further, the Department will provide funds to enable resource-poor municipalities to acquire additional land for this purpose [our emphasis] (DLA 1997:28).

DLA's policy to guide its municipal commonage land reform programme enables public funds to be used to buy additional land from private owners and transfer this to municipalities. Municipalities may also apply for money to improve infrastructure on its commonage. The programme promotes a broad range of land uses including food gardens, cultivation, grazing, eco-tourism and the collection of wood fuel and other veld products.

New commonage thus refers to commonage purchased from private owners after 1994 as part of South Africa's land reform. Title deed conditions attached to this land are similar to those those applied to traditional commonage, but include a special emphasis on the poor.

Achievements of the programme

The commonage programme accounts for the greatest transfer of land attributable to any one programme within the land redistribution programme to date. According to DLA figures, at the end of 2002, 1 348 940ha had been transferred within land redistribution. Of this 420 812ha (31%) can be attributed to the commonage programme.

Substantial regional variation exists between provinces: 74% of the land transferred through the commonage programme, namely 312 777ha, was transferred within the Namaqualand district – an extensive rangeland area with low carrying capacity. Commonage constituted 67% of all the land redistributed in the Northern Cape, while no new commonage has been acquired in Limpopo and KwaZulu-Natal.

A total of 3 407 households, 4% of all land reform beneficiary households, have benefited from the 420 812ha of new commonage, suggesting an average of some 123ha per household. If Namaqualand is excluded from the figures, each household has access to an average of 41ha, enough to sustain five small livestock units per household. This appears negligible, but is higher than land accessed per household in other land redistribution programmes and is a crucial addition to the subsistence of poor households.

DLA has no statistics on the amount of traditional commonage that has been made available for land reform beneficiaries, and the department has not actively tackled this aspect of the programme. In the Northern Cape, the combined efforts of municipalities and small farmer associations, with support from non-governmental organisations, have resulted in black residents gaining access to 17 393ha of the 26 063ha of traditional commonage.

Concern with the delivery of commonage projects has been around issues of land management. Commonage projects have been beset by problems associated with the exclusion of women and the poor, non-payment of user fees, land degradation, and benefit being restricted to the

few who manage to gain access. However, this picture is beginning to shift in the Hantam-Karoo region and Namaqualand, where land rights are now being effectively allocated and administered, resulting in sound commonage land management.

The status of commonage in land reform

The acquisition and transfer of new commonage land to municipalities picked up momentum from 1998 but appears to have been de-emphasised as a type of land reform since the 2000 ministerial review of land reform. The past two years have seen a sharp decline in new commonage, which has accounted for only 2% of the extent of land redistributed during 2002. The Medium Term Expenditure Framework (MTEF) budget guidelines for 2003–2005 allocate only R13 million to commonage, which is 3% of the total budget for land reform.

Policy shifts since 2000 have brought in ‘emergent farmers’ concerned with commercial production as a target group alongside ‘subsistence farmers’ in commonage projects. Thus, not only are there fewer resources for the commonage programme, but those resources are now split between poor and wealthier farmers. This reduced status for the commonage programme is ascribed by DLA to its non-performance in terms of livelihoods benefits and the new emphasis on the Land Redistribution for Agricultural Development (LRAD) programme, with its more commercial, private land holding focus as the locus for land reform delivery (Van der Merwe, pers. comm.).

Subsistence land use has shown itself to be an entirely separate form of agricultural land use, rather than a ‘micro’ form of commercial agriculture. Commonage users’ land needs include utilising commonage for fuel collection, to supplement income, to sell stock to pay for weddings and funerals, to hold stock for sons’ bridewealth, and for vegetable production for own consumption and sale. Attempts to ‘share’ the resource between groups with different aims are likely to result in struggles over land. These could squeeze out poor users, or result in frustration among ‘emergent’ farmers whose stock quality will suffer. The economic value of non-commercial land use should be recognised.

DLA’s assertion that its commonage programme has not performed well should be challenged. The programme has clearly performed in terms of land transfer. The breakdown in post-transfer land management typical of commonage is also seen in communal property associations which were established among restitution claimants and redistribution beneficiaries.

There is a widely held perception that land reform initiatives should result in transfer of land ownership. However, in most land reform projects, people do not own land themselves, they hold land jointly through a legal entity. In commonage, the municipality holds the land and should ensure that public support is provided for the allocation of rights to users and to the administration of rights. Users may be more secure in such a system than within a private land-owning legal entity where no legal framework for the administration and support of the land

Box 1: Who benefits? Women and commonage

Few female-headed households have benefited from land redistribution – about 8%. Based on limited available figures, it seems that women make up 16% of participants within seven commonage projects in the Karoo (Harris, pers. comm.).² The picture is rather bleak: it appears that commonage is failing to substantially benefit women.

Commonage projects are predominantly grazing projects from which women are politically and culturally excluded, partly because women do not have control over livestock. Food security projects like vegetable gardening have been more successful in proactively drawing in women as beneficiaries of the programme (Cartwright et al. 2002:8), though these have their own obstacles, such as the high cost of electricity for irrigation.³

Improving women’s livelihoods through commonage requires a multi-pronged approach. Allocation criteria stipulating women as beneficiaries need to be enforced. Investigations into women’s priority needs should inform the planning for commonage projects. Forms of subsidisation need to be explored, such as lower levies and subsidies on electrification for women-only group projects. The struggle for women’s access to grazing land needs support. At the heart of the matter lie the obstacles women encounter in accessing credit, and thus in acquiring livestock.

is in place. Any situation in which a group has access to land will only secure people's rights if a just allocation process is in place, as well as a system within which rights are defined and can be administered.

Rights administration

Projects emerging in the Northern Cape are beginning to show the relative ease with which the array of problems commonly associated with land reform projects may be resolved through proper rights allocation and administration, and effective land management.

There are three ways of organising access to commonage:

1. Leasing it out as a whole to a user, or group of users.
2. Making it available for a fee per stock unit with an agreement with each individual user.
3. Affording access to individuals, subject to certain rules and conditions, through commonage regulation.

Experience indicates that leasing commonage as a whole to an organisation of users with the user group responsible for the internal configuration of rights and fees (the model that was initially most frequently used) may not work.⁴ One non-complying member can cause the entire agreement to be cancelled. Lack of individual accountability, plus user group structures that seldom have the strength to control members, or are themselves dominated by local elites, result in the open access situation with which commonage has become associated.

A handful of municipalities have made commonage land available for a fee per stock unit, supported by an agreement with each individual user. This has led to a greater ability on the part of the municipality to enforce individual compliance than is the case with an organisation of users. For example, the DLA-acquired commonage land in Colesburg has been effectively managed, and the project is running smoothly with 15 farmers running ten head of cattle each (Kapp, pers. comm.).

Regulations have been used to manage commonage for well over 100 years. Contracts were very recently introduced as commonage was 'privatised' through commercial lease agreements. Most municipalities still have a set of grazing and pound regulations. In Namaqualand and the Karoo, rights are being administered, and land managed, under municipal commonage regulation. A critical factor is that fees are related to the costs borne by the municipality to administer and maintain the land. Users must agree to accept personal liability to the municipality per head of stock on the land. Commonage administration and management by regulation is tried and tested, and probably provides the most cost effective rights administration mechanism.

Whatever the rights administration mechanism, DLA commonage projects are all governed by a principle of co-management by users and the municipality. DLA policy provides that commonage management committees must be established for users to participate in setting up rules and regulations and managing projects. The commonage management structure should be one which best suits the project in question. These structures may be advisory, or be delegated full decision-making powers through the creation of a 'municipal entity' (a legally-established structure outside

of the municipality to which the municipality may delegate certain tasks).

Box 2: Getting it right

A number of measures characterise effective municipal commonage administration and management:

- ▶ Objective criteria are in place for identifying eligible users on a basis that affirms poor, female and previously disadvantaged residents.
- ▶ User identification and selection takes place through a transparent process (most projects begin in a mess because no procedure for selection and allocation of rights has been followed). The allocation of use rights may take place on a first-come, first-served basis or by means of a point or lottery system.
- ▶ Grazing agreements or regulations clearly determine what a user may or may not do on the land – for example whether the user may or may not live on it, the number of stock allowed, a prohibition on sub-leasing, and obligations such as fees payment, branding and vaccination of stock.
- ▶ A formula exists in terms of which the user fee per head of stock is determined. This must ensure that the expenses of administering and maintaining the land are met by user fees.
- ▶ A register of users that reflects stock numbers, payment and grazing agreement terms is maintained and certification or a contract is issued to users to prove what rights they hold.
- ▶ A system for rule-enforcement is in place to ensure that effective action is taken against rule breakers. This could include warnings, impoundment and possibly extinguishing the right.
- ▶ An institution to manage and maintain the land is in place. This could range from an informal advisory commonage committee through to a formally-constituted municipal entity.

An opportunity for local economic development

Municipalities are obliged to devise budget-linked plans for the use and development of commonage land as part of integrated development plans (IDPs). Few IDP processes have yet taken up land reform and commonage planning. Many local authorities still do not see land reform as part of their responsibility, given the demands for housing and service provision and the low levels of capacity at local level.

Many municipalities struggle with the opportunity costs of making existing commonage available to poor residents. In many cases, the income from the commercial lease of commonage is vital to the municipality. No DLA planning grant is provided for municipal commonage. To expect municipalities to develop land use plans for commonage

without additional state support is to saddle them with 'unfunded mandates'.

Municipal commonage fills a particular niche in South Africa's land reform programme. What it offers is a system of land holding, allocation and management, with paid officials and a regulatory framework that may make land accessible to the very poorest residents.

The commonage programme has been effective as a means of transferring land. With effective legal administrative and management arrangements in place, land use and livelihoods benefits can be achieved. DLA should bolster support to commonage to realise its notable potential as an economic resource for the poor.

Recommendations

DLA should promote poor black rural people's access to both 'traditional' and 'new' commonage, and further explore the value of subsistence uses of commonage land. For commonage to continue to play an important role in land reform and in local economic development, more resources are needed, both for the acquisition and the management of this public good. There are a number of current challenges in the programme that need to be debated and addressed.

- ▶ Local municipalities are the 'drivers' of commonage projects but need support from DLA and the Department of Provincial and Local Government. They need guidance on how commonage relates to IDPs and spatial development planning. They need resources for facilitation and planning to implement projects and provide ongoing land rights administration. As well as additional resources, support for municipalities should include updated guidelines and examples of contracts and regulations through which rights to commonage may be regulated.
 - ▶ No beneficiaries should be entitled to use commonage unless a process of selection and an agreement (by contract or regulation) has been concluded in terms of which individual users may use the land. This allocation and administration of rights is necessary if access to commonage is to result in sustainable improvements in people's livelihoods.
 - ▶ The interests of women and poor residents, as the identified target beneficiaries of land reform, should be emphasised in commonage projects. Mechanisms such as gender quotas and means-testing eligibility criteria should be explored. Access to credit for women to acquire livestock is an area that requires particular attention.
 - ▶ To ensure that policy reviews are informed by experience, DLA needs to invest in systems to monitor and evaluate both 'traditional' and 'new' municipal commonage and their impact on poverty reduction. These measures must be gender-disaggregated and capture the socio-economic profiles of those benefiting from access to commonage.
- More information on this study is available in the full PLAAS report (Anderson & Pienaar 2003).

Endnotes

- ¹ Megan Anderson is an independent social researcher and development consultant and Kobus Pienaar is an attorney at the Legal Resources Centre in Cape Town.
- ² 27 of the 174 commonage users in seven Karoo towns are women.
- ³ Women are involved in cultivation on the commonage in Britstown. In the Vredendal tomato project, at least in the initial year, 50% of those involved were women.
- ⁴ This is borne out in the early Namaqualand commonage projects, such as Pella, within the Free State projects discussed by Ndabula (no date), and in the Karoo, notably Emthanjeni and Colesburg's traditional commonage project.

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Key informants

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