Land Issues in the Eastern Cape

Border Rural Committee and East Cape Agricultural Research Project
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Land Issues in the Eastern Cape

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Abstract

This paper provides an overview and discussion of land issues in the Eastern Cape. The paper argues that there are two distinct sets of land issues facing the former homelands of Ciskei and Transkei, and the former Cape Province areas. The paper addressed land reform and the application of the Communal Land Rights Act. The Land Redistribution for Agricultural Development programme is shown to transfer land for food production rather than for settlement and seen as a departure from a pro-poor-rights approach to land reform as is the Proactive Land Acquisition Strategy. Equity schemes are identified as problematic as tenure security is rarely entrenched in them. The Extension of Security of Tenure Act is reviewed with particular focus on evictions and the enormous increase in the number of game farms. Farm workers are poorly housed, with little or no sanitation. The minimum wage has not increased rural prosperity as many employers charge their workforce for firewood and grazing. Because the former homelands of the Ciskei and Transkei had been subjected to Betterment Planning, rural populations were unable to access to major post-apartheid land reform legislation until 2004, since when claimants have been allowed to register land claims and the Vulamasango Singene has developed. The Cata Project is described in detail as an example of successful betterment redress. The reform of systems of tenure and landholding are needed, as is support and mentoring of successful claimants. A comprehensive database of land reform projects is also required.
Abbreviations:

ABP  Area-Based Planning
ADM  Amatole District Municipality
BRC  Border Rural Committee
CPA  Cape Provincial Administration
CLARA  Communal Land Rights Act
DLA  Department of Land Affairs
DALA  Department of Agriculture and Land Affairs
DoL  Department of Labour
ECARP  East Cape Agricultural Research Project
ESTA  Extension of Security of Tenure Act
FHISER  Fort Hare Institute of Social and Economic Research
GDS  Growth and Development Strategy
IDP  Integrated Development Plan
IRDS  Integrated Rural Development Strategy
LRAD  Land Redistribution for Agricultural Development
LRSP  Land Reform and Settlement Plan
MEC  Member of the Executive Committee
MIG  Municipal Infrastructure Grants
NGO  Non-Government Organisation
PGDP  Provincial Growth and Development Plan
PLAAS  Programme for Land and Agrarian Studies
PLAS  Proactive Land Acquisition Strategy
PLRO  Provincial Land Reform Office
PSC  Project Steering Committees
PTO  Permission to Occupy
SD  Sectoral Determination
SSO  Standard Settlement Offer
UWC  University of the Western Cape

Terminology:

Vulamasango Singene (isiXhosa) - reopen for betterment
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1. Introduction

The Eastern Cape is often characterised as a ‘rural province’. This designation automatically puts the focus on issues of land. To some extent, there are two fairly discrete sets of land issues facing the province, one pertaining to the former Cape Provincial Administration (CPA) areas and the other relating to the former homelands.

The CPA areas are largely privately owned, and there is a range of commercial activities being pursued on this land. Most of the farming is medium to large scale. Some of the key issues here are land use, land redistribution policy, and the position of farm workers and dwellers (relating to the provisions of the Extension of Security of Tenure Act 1997). Since 2003 a sectoral determination for agriculture was introduced which regulates working terms and conditions of service on farms and prescribes a minimum wage for the sector. Farm workers’ and dwellers’ access to land, their land use practices and tenure security have been altered negatively with the introduction of the sectoral determination and labour laws generally. The minimum wage cannot be seen as a panacea to the poverty trap of farm workers. As will be shown, it is only one anti-poverty mechanism amongst others. It should be noted that analysis of the situation of farm dwellers is hampered by a lack of research data.

The homeland areas are largely state owned, and they are utilised according to a kind of communal tenure system. Usually, commentators regard the lack of cadastral clarity as a major impediment to development in these areas. This assertion is debatable, given that people in these areas experience a relatively high degree of tenure security. Rather, the main problem is poverty. In this context, the Vulamasango Singene campaign has emerged as the most significant land-related process taking place in these areas.

Land reform is a national competence, that is, the constitution assigns the national sphere of government with responsibility for land reform policy and implementation. Since the mid 1990s, the Department of Land Affairs has maintained a stable policy framework. This is generally referred to as its ‘three-legged programme’, comprising restitution, redistribution and tenure reform. Each of these components of the programme aims to address a particular legacy of apartheid. The restitution programme aims to address the legacy of apartheid dispossession, the redistribution programme aims to address skewed ownership of land (the infamous 87:13 ratio), and the tenure programme aims to accord black people secure rights to land that they managed to occupy in spite of apartheid.

The Restitution of Land Rights Act governs the restitution process, which was the first piece of legislation to be passed by the democratically elected parliament. The legislation stipulated that those who had been dispossessed of land rights after 1913 in terms of racially-based law or practice, without receiving adequate compensation,
had a right to lodge claims for the restitution of these land rights before 1998. (If one failed to lodge a claim by that date, one would forgo one’s right to restitution.) The initial institutional focus in the restitution programme was the Land Claims Court. However in 1999, the legal route to settling claims was de-emphasised, in favour of an administrative route. This route relies on the work of the Land Claims Commission. Initially an independent body, this institution was incorporated into the Department of Land Affairs in 1999. Since these changes, the pace of settling claims has picked up dramatically. By 2007, about 72000 claims had been settled, with only about 5000 outstanding. Government has indicated that it wants the restitution programme to be complete by 2008.

The tenure reform component of government’s land reform programme is its most diffuse; to some extent it is still a work-in-progress. Tenure insecurity (whether de facto or de jure) is experienced in a wide variety of situations, each of which has required a particular solution. These ‘solutions’ have been put in place over a protracted period; the Labour Tenants (Land Reform) Act was passed in early 1996, whereas the Communal Land Rights Act (CLARA) was only passed in 2004 (and the Regulations for this legislation are yet to be finalised). During this period, there was a fairly fundamental re-think on some fundamental issues. In relation to the Eastern Cape Province, the most important pieces of legislation are the Extension of Security of Tenure Act (ESTA), the Communal Property Associations Act and CLARA.

Because of the discreteness of the two sets of land issues outlined above, the paper will be presented in two parts. Part one will look at the former CPA areas, with a particular focus on the plight of farm-dwellers.

Part two will look at the former homeland areas, where poverty and under-development are pervasive. Part three will contain a consolidated conclusion and list of recommendations.

2. Former CPA Areas

Land and agrarian issues are essentially tied in with issues related to rural labour market restructuring in post-apartheid South Africa. They continue to be contested and highly politicised in rural areas because the focus has been on redistributing land for economic reasons and the development of a black commercial farming sector. The productive capacity of land together with the vital role it plays in reproducing labour have not been earnestly examined or taken seriously in the design and implementation of the land reform programme. Land acquisition has therefore been narrowly linked with agricultural development and economic growth. For viable economic growth in rural areas the obstacles to people participating in the rural economy must be addressed and removed. Access to land to meet the wide and varied needs of rural communities, and access to basic services must be available at a faster pace. The problems around the land reform programme are fuelled by:
1. The slow pace of land redistribution – less than 3% of land has been redistributed nationally, raising questions about the government meeting its target to redistribute 30% of land by 2014.
2. The plight of farm workers and dwellers who continue to live under conditions embedded in the previous political dispensation.
3. The neo-liberal framework of land reform, which relies on the market to redistribute land. This framework encourages the continuation of the racially skewed land ownership patterns. It cements the disjuncture between the supply of and demand for land in the countryside.

The government’s market led land reform programme outlines three mechanisms for farm workers and dwellers to access land. Of these the Land Redistribution for Agricultural Development (LRAD) programme has the explicit focus on distributing land. The Extension of Tenure Security Act (1997) is more concerned with regulating the terms and conditions of tenure for farm workers and dwellers residing on another’s property, and with detailing the procedures for evictions. Joint Ventures or equity schemes is another land redistributive means, which the Department of Land Affairs (DLA) has introduced. However, the links between equity schemes and land access and ownership for farm workers and dwellers are not clear. Related to equity schemes is AgriBEE. Both these instruments have a strong economic component that at times overshadows land rights and needs. This has thus far been the case with equity schemes where projects have been approved without land transfers.

What is the impact of these various policies on farm workers and dwellers and their ability to improve their standards of living? This section seeks to address this question. In so doing, it sheds light on the socio-economic conditions of farm workers and dwellers. The information is drawn from ECARP’s various research programmes on land access and land use, tenure conditions and game farms, evictions of farm workers and dwellers, and the sectoral determination for the agricultural sector.

Section Two provides a brief outline of the provisions of LRAD and ESTA. The next section deals with evictions to show how ineffective ESTA is in protecting tenure rights on commercial farms. In section four information on game farms and its effects on farm workers and dwellers are briefly discussed. The following section provides information on living conditions of farm workers and dwellers on commercial farms. Section six provides an analysis of the minimum wage for farm workers with respect to improving or changing poor living conditions on farms.

2.1 The Land Reform Programme

LRAD

The redistribution programme is an aspect of the land reform programme. It is premised on the neo-liberal framework of the market, which takes as its principle
the notion of the willing-buyer willing-seller. LRAD has three sub-programmes or components:

Agricultural development where the intention is to make land available to people who want to farm. Settlement where land will be made available for settlement purposes. Non-agricultural enterprises, which entails providing land for non-agricultural activities such as tourism. (Ministry for Agriculture and Land Affairs, 2002: pgs 2 & 4).

The redistribution strategy makes provisions for grants on a sliding scale based on the contribution of the participant. These grants vary from R20 000.00 to R100 000.00. The types of projects that LRAD provides for are varied.

1. The food safety net project geared towards those who want to supplement household food security.

2. The equity scheme where participants can receive equity in a farm that is equivalent to the value of the grant including their own contribution.

3. Commercial farming on a large scale, known as production for markets.

4. Farming in communal areas, known in the LRAD programme as agriculture in communal areas. The focus here is on the provision of assistance to people who lack the means to engage in productive use of the land.

The land redistributive potential of LRAD for both farm workers and dwellers is directly contained in projects that fall under the food safety net and production for the markets. The emphasis thus far has been on transferring land for productive purposes and not for settlement. Government has therefore largely ignored the settlement component of LRAD. All farm workers, dwellers and other categories of unemployed people can, however, only access the food safety component because of their low financial base and subsequent low contribution. Their contribution in most instances has been through their labour. They therefore qualify for the lowest grant level of R20 000.00 per LRAD participant. In all projects were land has been transferred no post-land transfer support systems exist. DLA has always employed a technical and mechanical approach to land facilitation with no commitment to invest in people and their ability to make farming sustainable (Naidoo, 2004). The problems for LRAD participants are further compounded because of the lack of integration between the DLA and others such as the Departments of Agriculture and Housing. This approach marks a major departure from a pro-poor-rights based approach to land reform. As a direct lack of support small-scale farmers are unable to produce to full capacity.1

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1 ECARP’s documentation of the LRAD projects that the organisation has facilitated indicates the chronic lack of support for small-scale farmers. They lack the most basic equipment to farm to capacity. These include bush clearing implements, tractors, water, housing, services and infrastructure to support group ownership of the farm, among others. Facilitation of projects do not
In May 2006 the DLA revised its position on land redistribution through the LRAD programme to focus wholly and completely on transferring land for large-scale commercial farming. In response to the criticisms around the slow pace of land redistribution the DLA has framed the Proactive Land Acquisition Strategy (PLAS). PLAS, by its very nature and design, is a further move away from distributing land to the poor such as farm workers and dwellers. In terms of the new strategy the state will buy land, identify a small group or individual to lease the land, at a cost, for a period of about three years within which the tenant farmers must show that they are able to farm successfully. Should they fail to make a profit the land is taken away from them and a new tenant is identified. In line with the technocratic approach to land reform the DLA has no further obligation to the PLAS participants once the project has been finalised and the lease agreements signed. Given the low rates of literacy among farm workers PLAS will not suit their circumstances. The programme does not have as a priority the redistribution of land as the emphasis is on profitable commercial farming. It is not pro-poor because it is designed to suit those who have the financial resources and knowledge base to farm commercially. In the PLAS projects that are emerging in the province only a few farm workers are targeted as participants. Women workers and farm dwellers are not viewed as ‘suitable’ participants. This land reform component will lead to further differentiation between farm workers, farm dwellers and between males and females. Due to the fact that male workers are employed in key positions of the farm labour process and are treated as part of the core labour force they will often be prioritised in land reform projects of such nature.

There have been serious problems in the province, and nationally with respect to equity schemes in that implementation of such projects are not concomitant with land ownership and transfers. Mayson (2003, 18) notes, “few equity schemes include a tenure security component”. They also do not have any mechanisms for the DLA to ensure that tenure and labour rights are not being violated and where there have been transgressions of rights no form of redress is available. The infamous example in the Eastern Cape is the Kransdrift case, where vast amounts of monies were transferred to the farm owner without any substantive and positive rights to land for the farm workers. Despite the DLA’s claims that such schemes must contain a land transfer component (DLA, 2005a) no clear evidence of this exists in the province. Equity schemes play an important role in terms of the provincial DLA’s land reform agenda (Naidoo, 2005a). For example in July 2005 the Grant Approval Committee approved the release of LRAD grants to four equity projects totalling to R5 167 263 apply techniques to work through group dynamics and conflict. The land policies do not provide for simple dispute resolution mechanisms. These factors impede the success of the farming enterprise.

Although the LRAD policy makes special mention of farm dwellers, youth and women as beneficiaries of land reform initiatives this has not been applied uniformly in the province.

ECARP has detailed documentation of this project. Naidoo, L (2005) in an unpublished report provides an analysis of the project and the violations of land and tenure rights of beneficiaries since the inception of the project. The case remains unresolved despite the DLA’s knowledge of the developments.
According to DLA officials farmers are reluctant to agree to land redistribution, as they are uncertain of the economic performance of the venture. Instead they propose a waiting period of five years to assess how the business is performing before decisions of land transfers are made. However, even projects where five years have lapsed no land transfers to farm workers have taken place. There are many loopholes in the implementation of the policy which favour farmers and which compromises farm workers. The lessons from Kransdrift have not been drawn on, as there still is no form of protective mechanism to uphold, maintain, and advance the socio-economic rights of farm workers. For future equity schemes to work certain preconditions must exist to ensure that the power imbalance between participants are addressed, as the powerful farmer will continue to dominate the land reform participants (cf. Mayson, 2003: 22). Such schemes therefore necessitate appropriate design and implementation strategies, as well as constant monitoring by DLA project officials.

2.2 ESTA

The Extension of Security of Tenure Act (1997) (ESTA) was enacted to ensure that farm dwellers are not arbitrarily evicted and to facilitate long-term security and rights to land for farm workers and dwellers. The Act places rights and duties on both the occupiers and the farm owners and sets the procedures to be followed for an occupier to be evicted. It applies to all those living on farms and land zoned for agriculture. This also includes farm workers and their dependants as well as those who are not employed on the farms and not dependants of farm workers. ESTA allows for four things:

- Defines the tenure rights of occupiers.
- Places certain duties on these occupiers.
- States when and how an occupier can be evicted.
- Allows for occupiers to acquire long-term rights to land.

Objectives of the Act

- To regulate the conditions of residence on certain land.
- To regulate the conditions on and circumstances under which the right of persons to reside on land may be terminated.
- To regulate the conditions and circumstances under which persons, whose right of residence has been terminated, may be evicted from the land they occupy.
- To facilitate long-term security of land tenure for occupiers either on site or off site settlements, in terms of Sec.4 of the Act.

Chapter Two (s 4) of the Act provides guidelines of measures to facilitate the long-term security of tenure for occupiers. In so doing it makes provision for the Minister
of Land Affairs to release subsidies to enable planning and implementation of on-site and off-site developments. The Act explicitly states that subsidies will be made available “to enable occupiers, former occupiers and other persons who need long-term security of tenure to acquire land or rights in land”. However, this provision has yet to be realised for the many farm workers and dwellers that have been unlawfully evicted and those who continue to live under unstable tenure conditions on commercial farms. On the one hand, the Act provides for people to access long-term security. On the other hand, Chapter Two (s 4) also set down conditions that must apply before any subsidies are released. Conditions, such as “mutual accommodation of the interests” of occupiers and owners and the development of a plan which complies with the above point, among others, are often non-existent on commercial farms. A conflict of interest exists between the land needs of farmers and farm workers and dwellers. It is not possible to forge “a mutual accommodation of interests” between the parties.

Chapter Three of the Act states that: “an occupier shall not be denied or deprived of access to water, and that an occupier shall not be denied or deprived of access to educational or health services”. In the cases that ECARP is working with those who are evicted are denied access to water and have been deprived access to education and health facilities, in that the move has distanced them from both these facilities. The Act also states that where resettlement is inevitable, suitable alternative accommodation must be provided. The term suitable accommodation, in terms of the Act, refers to the fact that accommodation must be as suitable as the occupier’s present accommodation. It is clear that ESTA does not encourage the provision of alternative accommodation that is linked to redistribution of land and socio-economic redress. The nature of housing on commercial farms for workers and dwellers is often less than satisfactory. By stipulating that the alternative accommodation must be as suitable as the occupier’s present housing means that many people who are evicted off farms will continue to live in less than satisfactory houses. ESTA therefore fails to advance rural socio-economic redress in any way. The absence of meaningful compensation for evicted farm occupiers is clearly evident from ECARP’s research and documentation of cases. The central premise and provisions of most of ESTA provisions are dismissed and often impossible to enforce in an environment that is hostile to the rights of farm workers and dwellers.

Chapter Three of the Act (ss 5-7) lays down the rights and duties of farm workers and dwellers and farmers. In so doing the Act sets out the principles and values that should regulate the relationship between workers/dwellers and farmers. Included are:

1. Human dignity.
2. Freedom and security of the person.
3. Privacy.
5. Freedom of association.
However, farmers flagrantly disregard all of these principles. For all intents and purposes ESTA provisions and its spirit remain intangible for agricultural workers and their families. ECARP’s research and casework on ESTA violations are a clear reflection of this.

### 2.3 Evictions

The number of ESTA related cases ECARP has dealt with between 1998 and 2007 totals 187 and comprises of 1193 people who have either been unlawfully evicted or who are threatened with evictions (Mancam: 2007). The DLA has not provided any legal assistance to any of the affected people to challenge the violations and/or eviction. Legal services for farm workers and dwellers have been suspended by the DLA without providing clear reasons for this decision. The Department has been pursuing an alternate course through the Justice Centres and the Legal Aid Board for the provision of legal services for the past two to three years. There still is no finality on the matter.

Farmers’ transgressions of ESTA and tenure rights are not restricted to any particular farming sub-sector. This phenomenon is pervasive throughout the commercial agriculture sector. However, the sub-sector that is responsible for most ESTA violations is livestock. In this sub-sector disputes over grazing rights feature strongly. The other sub-sector where unlawful evictions take place, which change people’s lives in fundamental ways, and pose a constant and eminent threat to people’s tenure and livelihoods, is game farming.

**Table 1: Evictions and ESTA Violations according to farming sub-sectors.**

<table>
<thead>
<tr>
<th>Sub-sectors</th>
<th>No. of Farms</th>
<th>Type of Violations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Livestock</td>
<td>89</td>
<td>Threatened evictions; unlawful evictions; dwellers moved to less than favourable conditions; forced removal of livestock; forced reduction of livestock; poor quality alternative accommodation offered; reduced access to the farm and visitors not allowed.</td>
</tr>
<tr>
<td>Game</td>
<td>57</td>
<td>Threatened evictions; forced to sell livestock; forced reduction of livestock; dwellers cut off from water sources; dwellers threatened with enclosure within game farms if they don’t leave; access to food and fire- wood closed off; entry and exit points withdrawn.</td>
</tr>
<tr>
<td>Vegetable</td>
<td>17</td>
<td>Threatened with eviction; forced reduction of livestock.</td>
</tr>
<tr>
<td>Mohair/wool</td>
<td>8</td>
<td>Threatened eviction.</td>
</tr>
<tr>
<td>Dairy</td>
<td>6</td>
<td>Unlawful evictions.</td>
</tr>
<tr>
<td>Fruit</td>
<td>4</td>
<td>Threatened evictions; traditional ceremonies not allowed, water disconnected.</td>
</tr>
<tr>
<td>Smallholding</td>
<td>3</td>
<td>Threatened evictions; reduced access to land.</td>
</tr>
<tr>
<td>Pig</td>
<td>3</td>
<td>Threatened eviction; unlawfully evicted.</td>
</tr>
<tr>
<td>Livestock + game</td>
<td>2</td>
<td>Threatened evictions.</td>
</tr>
<tr>
<td>Produce/bottle</td>
<td>1</td>
<td>Threatened eviction.</td>
</tr>
</tbody>
</table>
2.4 Reasons for Violations

The sale of farms and their conversion to game farms.

The tendency to change to game farms not only results in evictions. Where landowners have been unsuccessful in evicting people, a deterioration in people’s living conditions and livelihood options result. Water sources are blocked off - people are forced to share water points with game animals. Access gates and points to the farms are closed off or made increasingly difficult to use. Workers and dwellers are forced to sell their livestock or are forced to reduce the number of their livestock. Farm dwellers related their experiences of being locked within confined boundaries resulting in restrictions on their movement on the farms. Access to graves is severely hindered. Game animals jump over fences and into the residential sites of farm workers and dwellers, leading to anxiety over the safety of life and limb.

Change in Ownership and Farming Operation.

When farms are sold the new owners attempt to evict workers and dwellers off the land without any consideration to alternatives. Farmers now prefer to rid their farms off all people and allow only those workers involved in the core farming operations accommodation on farms. Only in one case that ECARP is dealing with did the new owner provide a piece of land for the farm worker and his family.

Labour Disputes

When disputes over work related issues occur farmers attempt to forcefully evict workers and their families off the land, without following the requirements for a lawful eviction. When the Sectoral Determination No.8 was introduced which made it compulsory for farmers to pay their employees a minimum wage, many disputes arose with respect to deductions for housing, water, firewood, among others. When workers challenge farmers about unlawful deductions and reimbursement the former are unlawfully dismissed and evicted. Farmers insist that workers will receive monies as compensation for the unfair labour practice only after they move off the farms. Where farmers are unable to evict workers, the result is a deterioration in tenure conditions. For example, farmers go in and out of workers’ houses without getting permission from them. Farm workers and dwellers are forced to pay grazing fees of between R20 –R50 per head of livestock. Farmers unilaterally impose these fees.

When workers and dwellers are evicted from farms there is often no assistance provided to them in the form of alternative accommodation or in transporting people to relocation areas. In many instances people are forced to set up shacks in...
squatting settlements. These issues are elaborated on below. There is no integration between the various land reform policies to enable people with precarious living conditions to achieve long-term and positive rights to land. In other words ESTA operates in isolation from the LRAD policy.

Other contributing factors which lead to evictions and tenure rights violations are the conflict of interests that exists between farmers’ overriding concerns to remain economically profitable and workers’ and dwellers’ interests in securing basic services and needs such as housing and food security. Farmers want to maximise the use of their land in terms of their farming operations. The existence of people on the land who are not directly connected to the business and who require land for ploughing and grazing does not fit into farmers’ plans and motives. Other factors that contribute to ESTA violations include the fact that workers and dwellers and their families and farmers have to constantly negotiate around visitation times and length of visits and times to leave and return to the farm. Freedom of movement and association has become contested terrains between workers and dwellers and farmers despite the ESTA guarantees of such rights. Farm workers’ and dwellers’ right to practice traditional and religious ceremonies are made increasingly difficult and/or not allowed. Visitation and family rights are curtailed. On some farms visitors are not allowed at all and on others only women are allowed as farmers argue that men are thieves and troublemakers.

2.5 Effects of Evictions

ECARP’s research and documentation of the effects of evictions point to the renewed hardships that people face. Not only do they lose their jobs, they also lose their homes, their livestock and other possessions that are damaged when farmers demolish houses on the farms. In 22 cases documented by ECARP, people lived on average for 28 years on the farms. Nineteen of them had stayed on the farms for a period of between 14 and 70 years. Eight of the 22 were 60 years and older when they were evicted (Manganeng, 2005a, 18). The evictions took place after the promulgation of ESTA in 1997. They are unlawful in that the proper procedures as laid down on the Act were not followed. The rights of occupiers who are 60 years and older and who qualify for special rights, as defined in the Act were dismissed.

Eleven people were evicted as farms were in the process of being sold to the neighbouring game farm. In nine cases the evictions were linked to labour issues. In five cases people were evicted because they were no longer productive (the first one was pensioned, the second had poor eyesight, the third was injured and became permanently disabled, the fourth was retrenched, and the fifth became sick, went for an operation and was told to leave the farm or pay R150 a month as rent. He decided to leave the farm, as he could not afford to pay rent). One person was dismissed after arriving at work drunk and was then told to pack his belongings and leave the farm. Two workers were also evicted after disagreeing with the farmer over work intensity and poor wages. One worker was constructively dismissed from
work as a result of continuous beatings at work (Ibid, 19). Alternative accommodation was provided by farmers in three instances; in one case people acquired an RDP house from the Makana municipality after staying in a squatter camp for a lengthy period. The remaining people were forced to rent or set up shacks, or had to stay with friends and relatives. Only four people acquired alternate employment; seven rely on government grants (6 old age pension, 1 disability, and 1 Child Support Grant). The rest do not have any income (Ibid, 22). Cases similar to that of these 22 people are ubiquitous in the farming sector.

Policy intervention is needed to provide stronger impetus to the limited rights that ESTA provides for farm workers and dwellers. The arbitrary and unlawful evictions off commercial farms must be a grave concern for government as this phenomenon impacts on the ability of local district councils and municipalities to accommodate evicted farm workers and dwellers in towns. DLA should be playing a stronger role in enforcing ESTA provisions, and more significantly, in linking ESTA to land redistribution so that those who face evictions do not find themselves without livelihoods and proper accommodation, as in the 22 cases presented above.

2.6 Game Farms and Socio-economic Rights

Between 1996 and 2003, there were 178 game farms providing hunting facilities in the Makana area of the Eastern Cape. In June 2002 the number of LRAD projects for the entire Eastern Cape amounted to 42 totalling 18 624 ha. The total area of land designated as game farms specialising in hunting alone amounted to 372 880.38 ha. The trend is incongruent with one of the objectives of LRAD - to address South Africa’s racially skewed land ownership patterns. Correlations between the decline in traditional farming sub-sectors and the rise in game farms can be made. Mohair farming and wool production, which were once large sub-sectors in the region, dropped approximately 19% between 1995-1999. As it continues on a downward slide, game farming becomes a better option for farmers. As the Agricultural Research Council Animal Improvement Institute notes, “more and more cattle farms are either giving way to game or are at least combining cattle with game farming” (www.arc.agric.za). In the Makana and Ndlambe local municipalities the game farming and hunting industry has expanded unchecked by approximately 50-60 % over the last five years (ECARP, 2004). This has led to a major disjuncture between the supply of and demand for land. Proponents of game farming, such as Langholz and Kerley (2006) focus entirely on the economic and conservation spin offs of this type of farming with no regard for its impact on socio-economic rights of farm workers and dwellers. One of their claims is that wages are much higher in this sub-sector of farming than others. According to them the average wage bill per private game reserve they researched experienced a 32-fold increase – from R121, 145 to R3.87 million (Ibid, 4). It is necessary to pinpoint when these increases came into effect and if there are correlations with the introduction of the minimum wage for the farming sector in 2003. However, a narrow economic focus prevents a more comprehensive understanding of the effects that game farms have on rural livelihoods, land rights and socio-economic redress.
ECARP has been monitoring the effects of game farms in 15 cases. The number of households evicted off farms as a result of the conversion amounts to 116. The total number of farm occupiers affected by the conversion in the 15 cases amounts to 529. This figure, however, is not complete, as it reflects the number of people ECARP has access to and who sought intervention from the organisation, at the time of the changes. Many workers and dwellers left the farms and moved to other areas without seeking assistance and their details are not available. The total number of people affected by the changes in the 15 cases is, therefore, much higher. The number of farm workers who lost their jobs as a direct result of the game farms in the 15 cases is 75. Here again this figure is for those who ECARP had access to. This is therefore not the total number of workers who lost their jobs. The number of workers who were retrenched and dismissed as a result of game farms brings into question the labour absorption rate of game farms. Even a large farm such as Kwandwe was not able to employ many of the workers of the 20 farms that comprise the farm. Kwandwe employs 12 permanent workers and hires casual labour when necessary (ECARP, 2004). The generalised claims made by proponents of game farming, of the sub-sector’s ability to hire more labour than traditional forms of farming, must be rigorously questioned (Naidoo: 2005b). Moreover the quality of jobs and who fills them must be analysed to determine if the labour composition on game farms marks a break with the racially based organisation of the production process found on commercial farms. ECARP’s research into game farms shows that the racial division of labour continues as whites occupy skilled jobs and African farm workers are employed to perform unskilled jobs (interviews with farm workers, 2007).

The nature of land and tenure violations on game farms assumes many forms. Some examples:

1. The withdrawal of water - people have to share water points with game animals.
2. Limiting entry and exist points on farms.
3. Denying people free movement on the farm – preventing them from accessing important sources of food and wood for fuel.
4. Forceful reduction of the number of livestock.
5. Unilateral reduction of grazing lands.
6. Withdrawing lands for ploughing.
7. Cutting off water used for ploughed lands.
8. Unilateral imposition of grazing fees ranging from R20 –R50 per livestock.

The conversion of farms to game farming has to be closely monitored in order to understand its impact on:

a. rural livelihoods,
b. job security and losses,
c. on food security as traditional farming declines, and
d. on the government’s ability to redistribute land to landless people and those
living in over-crowded former homelands.

There also needs to be a thorough audit of all game farms in the Eastern Cape in order to fully understand the size of this industry, its contribution to the local economy and its future sustainability. Limiting the number of game farms and their future expansion should be seriously considered in light of the four factors outlined above. If game farms are to persist there must be clear guidelines available when the farm is either being set up or expanded to deal with farm workers and dwellers on the affected farms. A moratorium must be placed on evictions due to the changes in operation. Farmers must not be allowed to change workers and dwellers’ living conditions for the worse. It must be mandatory for farmers to consult fully and transparently with all workers and dwellers about the changes.

2.7 Living Conditions of Farm Workers and Dwellers

The statistics on farm workers are generally unreliable. No statistics are available for farm dwellers, although the DLA estimates that approximately 2.9 million people live on commercial farms and are dependant on wages of farm workers. Figures on farm dwellers for each province do not exist. Before the minimum wage was introduced the Department of Labour (DoL) conducted an investigation into the socio-economic conditions of farm workers. The DoL audit on farm workers’ living conditions illustrates a cycle of poverty more severe than in any other sector. The DoL audit found that only 25% of workers have indoor bathing facilities. Farm workers and dwellers continue to live in absolute and relative poverty. Poverty is defined here as the inability of individuals, households or communities to command sufficient resources to satisfy a socially acceptable minimum standard of living. Poverty indicators include food insecurity, insecure or no tenure rights to land, crowded and poor quality homes, usage of unsafe and inefficient forms of energy, lack of basic resources such as water and sanitary facilities, no educational and affordable health facilities, low paying jobs, unemployment and underemployment and low HDI levels.

ECARP’s research on the minimum wage shows the extent to which farm workers continue to live under poor conditions. Sixty five percent have no toilets, 84% have no electricity, and 86% do not have access to clean reliable sources of water. Just 11% have access to water, electricity and toilets plus an opening glass window in their houses (Naidoo, 2005c). Poor living conditions are a characteristic feature on commercial farms. On 72 farms, from Makana, Ndlambe and Sunday’s River municipalities, that participated in ECARP’s land and tenure rights research there are 785 households. A total of 1783 people live on these farms. Housing and the general living conditions on these farms are far from desirable. Major differences exist between farms in terms of the number of people living on farms and the number of households. The most densely populated farm has 92 people living in 18 households. The least populated farm has three people in three households (Manganeng: 2005b, pg. 8). Some correlation exits between the size of the farm population and the farming sub-sector. Labour intensive operations found on pineapple farms tend to be more densely populated while smallholdings and livestock farms requiring fewer
workers tend to be sparsely populated (Ibid). The tables presented below demonstrate the nature of housing and services of farm workers and dwellers.

Table 2: Housing Conditions

<table>
<thead>
<tr>
<th>Type of housing</th>
<th>No. of farms</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brick/cement housing</td>
<td>26</td>
</tr>
<tr>
<td>Mud and wattle</td>
<td>16</td>
</tr>
<tr>
<td>Zinc/corrugated iron</td>
<td>7</td>
</tr>
<tr>
<td>Brick/cement-Mud and wattle-Zinc</td>
<td>16</td>
</tr>
<tr>
<td>Zinc-mud and wattle</td>
<td>5</td>
</tr>
<tr>
<td>Concrete Slabs</td>
<td>2</td>
</tr>
</tbody>
</table>

Houses on 32 farms are either built out of mud and wattle; or a combination of bricks and mud and wattle. On 12 farms houses are made from either zinc and corrugated iron; or zinc and mud and wattle. On 26 farms people live in brick and cement houses. People living in these houses, however, complained about poor conditions especially leaking roofs. The quality of houses is influenced by a person's status as a worker on the farm. For example, all workers on one farm live in proper houses with flush toilets, while dwellers and pensioners live in rondavels with no toilets. On another farm workers live in the house occupied by the farmer while dwellers live smaller cement houses (Ibid, pg. 9). Access to housing is also differentiated along gender lines. The common practice is for male workers to acquire housing. Access to housing for women on farms is therefore tied to a male - either a husband, father, son or brother. The link between a job and a house on farms is made explicit in ESTA. Lawful dismissals, retrenchments and any other legitimate reason for job losses are substantive reasons for evictions. Women are given 12 months before a farmer can lawfully evict them when their husbands die while employed.

Table 3: Water Sources

<table>
<thead>
<tr>
<th>Water source</th>
<th>No. of farms</th>
</tr>
</thead>
<tbody>
<tr>
<td>River, Dam, Borehole, or Reservoir</td>
<td>32</td>
</tr>
<tr>
<td>Water Tanks</td>
<td>28</td>
</tr>
<tr>
<td>Taps</td>
<td>8</td>
</tr>
<tr>
<td>Other</td>
<td></td>
</tr>
<tr>
<td>Municipality</td>
<td>2</td>
</tr>
<tr>
<td>Steal water from other farms</td>
<td>2</td>
</tr>
</tbody>
</table>

On 32 farms people source water from rivers, dams, boreholes and reservoirs. People accessing water from rivers and dams are forced to share these sources with animals. On 28 farms people have water tanks. Taps with running water are available on only eight of the 72 farms. Municipalities provide water to farm workers and dwellers on only two farms.
Table 4: Sanitation facilities on farms

<table>
<thead>
<tr>
<th>Type of facility</th>
<th>No. of farms</th>
</tr>
</thead>
<tbody>
<tr>
<td>No toilets</td>
<td>35</td>
</tr>
<tr>
<td>Pit latrine</td>
<td>35</td>
</tr>
<tr>
<td>Flush toilets</td>
<td>2</td>
</tr>
</tbody>
</table>

Of the 72 farms people have no toilets on 35 farms. 35 have access to pit latrines. Flush toilets are available on just two farms. On many farms households have to share the ablution facilities. Eighty percent do not have indoor toilet facilities. There has been very little public debate and discussions about the provision of services and housing to farm workers and dwellers on commercial farms. The issue concerns the role of the state and farmers. Minimum wage stipulations lay down standards for housing on farms for farmers to make lawful deductions for accommodation. Only if the house meets these standards can deductions be made. However, there is no obligation on farmers to improve the living conditions for workers in their employ. While provisions are made for those employed on farms no provisions are made for dwellers that only reside on farms. The state is silent on its role when workers are dismissed or retrenched, or when workers and dwellers are evicted off the farm.

2.8 Minimum Wages for the Farming Sector

Section 50 of the Basic Conditions of Employment Act empowers the Minister of Labour to make sectoral determinations for workers in a range of particularly vulnerable sectors. Workers are deemed to be vulnerable for various reasons: high levels of worker exploitation within the sector; low levels of worker organisation or the absence of trade unions within the sector; and the exclusion of workers from wage regulating mechanisms. A sectoral determination can deal with a wide range of minimum terms and conditions of employment, but probably the most important is the introduction of minimum wages for the relevant sector and area. Before making a sectoral determination for a particular sector, the Minister must direct the Director-General of the Department of Labour to conduct the necessary investigation into that sector to enable the Employment Conditions Commission to carry out its duties. In advising the Minister, the Commission is required to consider certain criteria, which include the following: the ability of employers to carry out their business successfully; the alleviation of poverty; the cost of living; the likely impact of any proposed condition of employment or minimum wage on current employment or the creation of employment; the operation of small, medium or micro-enterprises and new enterprises; wage differentials and inequality; and the possible impact of any proposed conditions of employment on the health, safety and welfare of workers in the sector concerned.

In September 2001, an investigation into the working conditions and living standards of farm workers commissioned by the Department of Labour found that, of all workers in the formal economy, farm workers are the lowest paid. The average earnings for agricultural workers were R544 per month (Department of Labour,
Despite their low levels, agricultural wages remained vitally important to the welfare of rural households. It also found that farm workers generally do not receive any compensation for working overtime; some do not get annual leave; there is widespread employment of children of 14 years and younger; pregnant female workers do not get paid maternity leave since few are members of the Unemployment Insurance Fund; only one in four children on commercial farms has a secure source of food, and almost a third are at risk of hunger; farm workers have the lowest rates of literacy in the country; 33% of farm workers do not have formal education; there are stark gender differences in the allocation of employment benefits; and there is a cycle of debt, together with high interest rates, either to farm shops or directly to the farmer.

In March 2003 the sectoral determination (SD) number 8 came into effect for the agricultural sector. SD 8 was set for a three-year cycle that ended on 28 February 2006. This determination applied to the employment of all workers in farming sectors “including primary and secondary agriculture, mixed farming, horticulture, aqua farming and the farming of animal products or field crops” (s.1(2)). Domestic workers and security guards working on farms were also included in the definition of a farm worker. SD 8 made it compulsory for every farm worker to have written particulars of employment. This included a job description as well as terms and conditions of service. Ordinary hours of work were 45 hours a week, and any additional work was considered overtime and had to be remunerated at one-and-a-half times the ordinary rate. Overtime plus the ordinary hours of work could not exceed 60 hours a week or 12 hours a day. The maximum overtime allowed in a week was 15 hours. Farm workers were entitled to 21 days of annual leave, 36 days sick leave for a cycle of three years, four months maternity leave, and three days family responsibility leave per annum. Ten per cent of a worker’s wage may be deducted for accommodation and rations. However, the house must at least be 30m², have a durable and waterproof roof, electricity, a toilet, and a tap must be available inside or close to the house. Sectoral Determination No. 13, which replaced SD 8 on 1 March 2006, retains all these provisions. SD 13 introduces a single wage system by 2008 thereby dissolving the geographical divide between Area A and Area B.

Table 5: Sectoral Determination 8 Minimum Wages for Farm Workers

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Hourly rate</td>
<td>R4.10</td>
<td>R4.47</td>
<td>R4.87</td>
</tr>
<tr>
<td>Monthly rate</td>
<td>R800</td>
<td>R871.58</td>
<td>R949.58</td>
</tr>
<tr>
<td>AREA B</td>
<td>Hourly rate</td>
<td>R3.33</td>
<td>R3.66</td>
</tr>
<tr>
<td>Monthly rate</td>
<td>R650</td>
<td>R713.65</td>
<td>R785.79</td>
</tr>
</tbody>
</table>

(Source: Department of Labour, 2003-6).
Minimum wages were set according to municipalities, with some classified as Area A and others as Area B. Area A covers municipalities in which the average household income was more than R24 000 per annum in Census ’96, whereas Area B contains those municipalities where the average household income was less than R24 000 (in Naidoo, et al, forthcoming). The introduction of SD 8 brought some improvement in working conditions and wages for some farm workers. While wages have increased, there was still widespread non-compliance with the wage rates set in SD 8. The research shows that SD 8 was not being complied with in its entirety. Farmers disregarded important provisions of the determination, such as the issuing of proper pay-slips to workers, payment for overtime and Sunday or public holiday work, and deductions from wages. The level of compliance varied between and within farms in relation to the type of work, sub-sectors, gender, type of employment relationship (i.e. permanent, seasonal or temporary), and geographical area (Ibid).

The figure above depicts changes in farm worker wages with reference to SD 8. ECARP conducted research on the impact of SD 8 on wages between April 2003 and December 2005. A stratified sample of 608 workers was interviewed. The sample was stratified in terms of gender, employment status, job categories, sub-sectors and geographical area. Three hundred and seventy three men were interviewed, of which 195 were employed on farms in Area A and 178 were from Area B. The overall number of women interviewed was 235. Of this total 99 were from Area A and 136 were from Area B. Of the 608 workers interviewed, 585 were monthly paid and 23
were paid on an hourly or daily basis. Almost 27% of the workers in the sample earned less than R400 a month before the minimum wage was introduced. This figure declined to about 10% after the minimum wage was introduced in 2003. Almost 60% of the workers interviewed earned less than R600 per month before the introduction of the minimum wage. The number of workers earning R650 and above increased from 17.5% before March 2003 to 52.6% after March 2003. The number of workers earning R800 and above increased from only 5.9% before March 2003 to 22.1% after March 2003. The minimum wage has therefore led to a significant rise in gross monthly wages. This aggregation, however, hides important variations in sub-sectoral wage levels. Further research is required for a deeper understanding of the impact of the minimum wage on rural labour markets and sub-sectors.

The impact of the minimum wage on alleviating poverty and the ability of workers to secure land and basic services is highly unlikely given the low base of the minimum wage and the extent to which basic services are lacking. Actual wages are affected by deductions made from workers’ wages for grazing fees, wood and water as farmers attempt to adjust to the statutory wage regulation. ESTA provides for deductions for grazing fees based on negotiations between workers/dwellers and farmers. Farmers are now entitled to deduct 10% from wages for wood and water provided deductions are not made for accommodation. Deductions for wood, water and livestock combined will exceed the 10% stipulation of the sectoral determination. A minimum wage can never be the sole policy to eradicate poverty linked with low pay. Minimum wages are simply one, relatively modest instrument in any comprehensive multi-pronged attack on poverty.

Farm workers often do not have pension or provident funds or other fringe benefits, which would supplement gross wages. These provisions largely depend on the product market and competitive advantages of a farm. It would therefore be erroneous for policy makers to assume that the sectoral determination will enable farm workers to improve their quality and standard of living. Farm workers are completely reliant on wages; they do not have any asset base to provide them and their families with a security net. Even though the minimum wage has produced a rise in wages further research is required to understand how effective or ineffective it is in light of rises in food and fuel prices. Moreover the actual earning of workers may erode as farmers implement cost-saving mechanisms, over time, to accommodate the minimum wage and increases to the minimum. The situation of dwellers not employed is dire as they are often employed as seasonal or casual workers, or have to rely on maintenance grants and pensions. The peculiarities of both sectors would have to be accounted for when formulating poverty alleviation strategies.
3 The Former Homelands

This section considers issues facing the province, and the extent to which the government frameworks have been effective in addressing the key land-related issues in the province.

3.1 Redistribution

The problem that redistribution seeks to address is the racially skewed nature of land ownership in South Africa, commonly summarized as the ratio 87:13. There are two sides to this problem:

- 87 – the challenge here is to facilitate the transfer of land in former white SA into black ownership
- 13 – the challenge here is to release the pressure on the former homelands, through a relocation of people and livestock into former white SA.

The primary tool through which government seeks to redistribute land is the LRAD grant. There is much criticism of the inability of LRAD to facilitate the transfer of land in former white SA into black ownership, in such a way that the land can be effectively utilized. This is a weakness that needs to be addressed. Equally, we need to point out that LRAD is incapable of addressing the overcrowding problem in the former homelands, in any way. That is, it is incapable of facilitating the movement of emerging farmers off the over-stressed land of the homelands, onto suitable land that is situated in areas that are better suited to commercial agriculture.

The successful implementation of LRAD would contribute to:

- addressing South Africa’s skewed land ownership situation,
- de-racialising the agricultural sector,
- de-congesting the homelands, to the benefit of established communities there.

The reasons that LRAD is incapable of effecting this outcome include the following:

- The amount of finance available through LRAD is inadequate for land purchase, let alone wholesale relocation.
- It is difficult for people living inside the homelands to identify land outside the homelands.
- It is not easy for emergent farmers to organize themselves into a commercial group.
- There are inadequate mechanisms for post-transfer support.

It seems that a new approach will have to be conceptualised and implemented in order to deal with the legacy of the homelands. Such an approach will need to bear the following issues in mind, amongst others:

- Identify emergent farmers (from homeland areas)
• Build effective institutions comprising emergent farmers
• Identify and acquire land to be transferred to these institutions
• Align government programmes to ensure adequate co-ordination of delivery mechanisms.

It should also be noted that government is attempting to introduce a more coherent approach to redistribution policy to improve the viability of redistribution projects. The term that has been given to the proposal is Area-Based Planning (ABP). Interestingly, one of the policy precedents of ABP was an experiment conducted in the Amatole District from 1999 – 2003, known as the ‘Land Reform and Settlement Plan’ (LRSP). This plan was an attempt to integrate land redistribution and tenure upgrading into the municipal Integrated Development Plan (IDP). In 2002 the Programme for Land and Agrarian Studies (PLAAS) at UWC conducted an evaluation of the LRSP. The main findings of this study are presented below.

1. LRSP marks a major step forward for involvement by local government in land reform, and should be seen as a form of policy experiment.
2. LRSP was developed and implemented during a period of major change and uncertainty within local government, which has had implications for the programme.
3. There is a lack of fit between the objectives of the LRSP and established land reform policy and practice.
4. LRSP represents the latest in a long series of government interventions around land and livelihoods, not all of them positive, and local struggles over resources, many of them long-standing. The implementation of the plan needs to be understood in the context of the long and often bitter history of places such as Mgwali and Gasela. This creates particular challenges in attempting to evaluate the impact of a particular programme of this kind.
5. LRSP was a considered and creative response to real land and livelihood needs in the sub-district, as expressed in various public processes, making innovative use of available funding from different sources.
6. ADM continues to suffer from very limited capacity in the area of land reform.
7. Support from the Department of Land Affairs (DLA) has been key to the launch of the LRSP, but has not been sufficient in terms of follow-up, policy guidance and specialist input.
8. The Provincial Department of Agriculture and Land Affairs (DALA) has not been adequately involved in either the land or livelihoods aspects of the plan.
9. A wide range of role-players was involved in the formulation of the LRSP, but the initial momentum has not been maintained throughout the implementation phase.
10. The preparation of the LRSP document itself and the various Zone Plans was a major exercise in participatory local planning, which provided a comprehensive overview of local problems and opportunities.
11. Acquisition and redistribution of land is a key objective of land reform in South Africa. Redistribution of land, whether from private or public ownership, has been notably absent in most LRSP projects. This raises
important questions about the nature of the programme, and its ability to impact on livelihoods.

12. Tenure upgrading within the LRSP has largely involved upgrading PTOs to title deeds, as in the case of Mgwali.

13. Selection of beneficiaries has emerged as a contentious issue in a number of cases.

14. Transfer of land ownership to occupiers has come after all other necessary steps, such as land acquisition and township establishment, have been taken.

15. Given the complex system of land rights, and many unresolved land disputes, in the Amatole area, there is a pressing need to address land and livelihood issues in a holistic manner.

16. Overall, it would appear that agricultural (livelihoods) issues have not been prioritised within the LRSP.

More recently, PLAAS has conducted a broader study of the integration of land reform into IDPs. In the Eastern Cape, it sampled two district municipalities (Alfred Nzo and Chris Hani) and two local municipalities (Umzimvubu and Sakhisizwe). The findings are sobering. For example none of these municipality had conducted a land needs assessment, none of their IDPs contained information on outstanding redistribution applications, none included targets for redistribution, and none had acted as an agent for DLA. In other words, none of these municipalities had any interest or capacity in land redistribution. In other words, it will be very difficult for DLA to institutionalize a system of delivery that revolves around municipal processes and arrangements.

3.2 Betterment and Restitution

Betterment planning was implemented in the former homelands and other so-called black areas from the 1930s onwards, in an attempt to regulate these areas and control land usage. Under betterment, designated areas were divided into distinct land use zones - for residential, arable and grazing usage - and all people were forced to move into the demarcated residential zones. Furthermore, people were also dispossessed of arable and grazing land through the process of betterment. As Govan Mbeki wrote in the early 1960s:

*Those who were being pushed off the land were bitterly resentful. They forfeited the right to graze stock and had to abandon the one form of security to which they clung - the occupation of an arable plot with the right to share the common pasturage.*

(Mbeki, 95)

The most authoritative text on forced removals in South Africa is the Surplus People Project volumes that were published in 1983. According to these volumes "betterment has forcibly removed more people in more places with greater social consequences and provoking more resistance than any other category of forced removal in South Africa" *(Vol 2, p110).*
The specific number of people removed under betterment has not been quantified, but it is clear that it affected more than 1 300 000 South Africans *(Vol 1, p5). This is a minimum figure, and a conservative one at that - betterment could have removed up to 2 500 000 South Africans. Not only are the figures very high, it is also important to stress that betterment impacted exclusively on the most impoverished rural areas. In other words, betterment resulted in the removal of more people than any other type of apartheid dispossession, and those removed under betterment were the rural poor.

A research project, jointly funded by government and civil society organizations was conducted and it produced a quantum report on the number of households affected by betterment plans in the Eastern Cape. A summary of its findings is as follows:

- Number of affected households: Ciskei 30 000
- Value of dispossessed rights: Ciskei R1.35bn
- Number of affected households: Transkei 160 000
- Value of dispossessed rights: Transkei R7.2bn
- Total number of affected households: 190 000
- Total value of dispossessed rights R8.55bn

The land policy of the democratic government is spelt out in the DLA's 1997 White Paper on Land Reform. One of the most fundamental weaknesses of the policy was that it did not address the injustice or the legacy of betterment. Crucially, the White Paper argued that victims of betterment removals did not have valid restitution claims. Instead it proposed that

"The claims of those dispossessed under 'betterment' policies, which involved forced removal and loss of land rights for millions of inhabitants of the former Bantustans, should be addressed through tenure security programmes, land administration reform and land redistribution support programmes."

The Eastern Cape Land Claims Commission acted on the basis of government policy in general and its prejudicial treatment of victims of betterment dispossession specifically. Consequently, it arrived at a firm view that the Restitution of Land Rights Act only applied to former ‘white’ South Africa and not in the former homeland areas. This was communicated clearly to all Eastern Cape NGOs at a meeting arranged by the commission in November 1996. The following is extracted from the minutes of this meeting, which were prepared and distributed by the commission itself.

“the Restitution Act cannot be used in dealing with cases in the homelands. The Act addresses itself to laws that were designed to put people in the homelands, and not about when they were there.”

Therefore, communities in the former homeland areas were overlooked and
discarded during the lodgement phase of the restitution process. More specifically, they were ignored during the information dissemination campaigns (e.g. ‘Stake Your Claim’) undertaken during the period.

Not only did the commission proactively dissuade NGOs from facilitating the lodgement of betterment claims, it was also very quick to reject some of the very few claims that were lodged (well before the cut-off date of 31 December 1998). For example, the Eastern Cape Land Claims Commission rejected the claim of the Keiskammahoek Freeholder Association for the dispossession of rights to various commonages as a result of the implementation of betterment. This also had the effect of suppressing the lodgement of claims for dispossession effected through betterment. As a result, less than 1% of communities dispossessed by betterment in Ciskei and Transkei lodged their claims before the lodgement cut-off date. In other words, in this instance it is clear that the restitution policy framework of government failed the rural people of the Eastern portion of the province.

Government’s policy approach towards betterment dispossession amounted to 'second-class' treatment of betterment claimants, for a number of reasons, the most important of which are:

1. It denied that rural people in the former homelands held and were dispossessed of land rights in terms of racially discriminatory law and practice.
2. Consequently, it denied these people their right to restitution.
3. It redirected their claims to programmes that do not offer comparable benefits to restitution and that are hamstrung by conceptual and operational difficulties.

Thus it was necessary to devise and implement an advocacy strategy aimed at ensuring that victims of betterment dispossession are treated fairly and not denied their constitutional right to restitution.

In June 2002, various civil society organisations requested the Minister of land Affairs to accommodate betterment claimants within the restitution process by amending legislation to re-open the lodgement process. Various preparation meetings between these organisations and senior DLA and CRLR staff were held, culminating in a meeting between them and the Minister in Cape Town on 11 November 2003. The Minister agreed that betterment claimants were prejudiced during the pre-1998 lodgement period, but suggested that a solution to the problem be found in terms of Section 6(2)(b) of the Restitution of land Rights Act.

She set up a task team, comprising government and civil society to make detailed recommendations in this regard. The task team was to remain in place until the agreed upon solution to the question of betterment claims has been implemented. The task team met on several occasions in November/ December 2003 and eventually made the following recommendations which were approved on the 20th April 2004 by the former Minister of Land Affairs, Ms Thoko Didiza:

- “that betterment claimants in the Eastern Cape Province be permitted to lodge
special restitution claims over a six-month period that will commence as early as possible and feasible in 2004.

- that such claims be dealt with through an administrative process using Section 6(2)(b) of the Restitution of Land Rights Act”.

Since late 2005, affected communities have participated directly in the negotiations through their involvement in the task team. The community representatives are mandated by organised structures. Over 500 community organised in this regard (i.e. have elected committees in place), as part of a campaign known as ‘Vulamasango Singene’. The campaign has been taken forward with the support of the Tripartite Alliance in the Province.

During the period since its establishment the task team has made progress in the following areas:

1. Agreement on criteria for eligibility in the betterment redress programme. These criteria resemble those of the restitution programme; this is appropriate given that the purpose of the betterment redress programme to address the prejudicial exclusion of victims of betterment dispossession from the restitution programme.
2. The formulation and adoption of a claim form to be used in the process. Again, this form resembles the claim form used for the restitution programme, but it has been streamlined and includes a section on the development needs of the community. The latter will be useful because the betterment redress programme contains a significant development component.
3. Development mechanisms pertaining to the lodgement and processing of claims. The task team proposes that claims be lodged with the Eastern Cape Provincial Land Reform Office (PLRO), be settled through utilisation of a Standard Settlement Offer (SSO), and that they be settled per cluster. The exact scale of a ‘cluster’ still needs to be determined.

The task team has given considerable attention to the issue of the forms of compensation that will be accommodated and promoted by the betterment redress programme. At this stage there is agreement that development and land reform will be included, and the discussion about financial compensation has not yet been concluded. The development model has been formulated through drawing on the Cata experience. Because of its importance, we briefly outline this case before laying out the developmental compensation envisaged under the betterment redress programme.

3.3 Cata

Cata was the first betterment claim to be favourably resolved under the restitution programme. The manner in which the claim was settled was that 50% of the value of the dispossessed rights was paid out to the 334 affected families and the other 50%
was set aside for development. The Settlement Agreement appointed Amatole District Municipality as the ‘Administering Entity’ of the development resources. Further, it stipulated that “the parties hereby formally establish an Integrated Project Steering Committee to guide the implementation of this agreement. The steering committee shall have the decision-making authority and responsibility for the development in respect of the type of development and the funds to be allocated for such development.” Crucially, the agreement specified that a majority of members of the committee should come from the Cata community. More specifically, seven of the twelve members of the committee were drawn from the community and the other five represented relevant government departments (i.e. the Provincial Land Reform Office, the Regional Land Claims Commission, the Department of Agriculture and Land Affairs, the Department of Water Affairs and Forestry, and the Amatole District Municipality). The thinking behind this formulation was twofold:

- that the community should be in control of the development process (given that the financial resources stemmed from a rights-based process and therefore ‘belonged’ to the people); and
- that the development process should be integrated, at least across the sectors of agriculture, forestry and infrastructure. This integrated would be realised through the mechanism of the IPSC.

ADM conceptualised the development process in a systematic manner. That is, it defined situation analysis, planning and implementation as three distinct, sequential phases. The situation analysis and planning were undertaken in 2001 – 2003, with the assistance of a team of service providers. The planning process identified ‘local economic development’ as an additional sector that has potential to deliver sustainable growth. Within this sector, most proposed interventions related to tourism. The plan that was finalised in August 2003 comprised about thirty planned projects, costing a total of R31m. Since then, ADM has co-ordinated the implementation of the plan.

To date, a community hall and new classrooms have been built, a wattle jungle has been transformed into a managed plantation, a community museum has been opened to the public, and many homestead permaculture gardens have been established. And there are numerous projects underway, including the resuscitation of a flood irrigation scheme, establishment of a new pine plantation, upgrading of roads and building of chalets. About R6 million has been spent, and about the same amount of additional money has been brokered in. That is, the balance in the Cata account is still around the R6m mark, and only marginally lower than its opening balance of about R6,75m in 2001. Through this economic activity, over 250 local work opportunities have been created and about R1,25m has been paid out in local wages. Given that only 44 community members had jobs at the time of the 2001 census, the Cata development process is deemed to be worthy of attention and replication. The structural arrangements that have underpinned the development process have maximised community participation and control. The key decision-making structure is a twelve-person project steering committee; seven of the twelve
(that is, the majority) are community representatives. Thus the Cata process amounts to a different approach to development compared to the norm. Most crucially, it is community-driven and government-supported (not the other way around), and it involves a comprehensive, integrated suite of interventions (not an ad hoc collection of disjointed, unsustainable projects).

These are the two characteristics are strongly reflected in the development model, as follows.

**Community control and structural arrangements for the planning and implementation of development**

The key principle is that developmental resources that emanate from rights-based processes should properly be regarded as belonging to the respective communities. The key question to answer is how do we ensure that the beneficiary communities control decision-making pertaining to the developmental resources?

The first challenge here is to ensure that the beneficiary communities are properly organised. That is, there is a need to facilitate the establishment of representative village-based structures, through democratic process. (For want of a better term, we call these ‘development committees’). These structures should be mandated to ensure participatory processes in the village in relation to development matters and to represent the interests of the community in engaging with external parties.

Secondly, there is a need to ensure that local representatives are given majority control of the decision-making structure set up to manage the development process. More specifically, the development committees should comprise the majority on project steering committees (PSCs) set up for each and every development process.

**Integration and Co-ordination**

The PSC is the overarching structure set up to manage the development process. It is crucial for the administering agent to identify key role-players, and to solicit their participation in the PSC. In this regard, the agent should consider all three spheres of government (i.e. national, provincial, local). In bringing the various role-players together into the co-ordinating structure, the administering agent should provide clarity about the roles and responsibilities of each. (This relates to their respective powers and functions, as organs of state.) At a general level, one of the overall roles of government is to give the community representatives sound advice, so that they make informed decisions about development priorities and projects.

Each committee will be set up to comprise the following institutions and stakeholders, amongst others:

- The Development Committees.
• The administering entity.
• The district and local municipalities (if not the administering entity).
• All relevant provincial and national government departments.
• The Department of Land Affairs.

Setting up an inclusive PSC is a necessary but not a sufficient condition for achieving integrated development. Another key prerequisite in this regard is to ensure an alignment of plans and priorities across government. For example, national government spearheads the implementation of the Integrated Rural Development Strategy, provincial government works in terms of its Provincial Growth and Development Plan (PGDP), and all municipalities are guided by their respective Integrated Development Plans (IDPs) (and more recently, Growth and Development Strategies, GDSs). It should be noted in this regard that village/cluster development plans should inform both local and district municipal IDPs. Crucially, where a municipality has planned proactively to implement a project in a locality, this should be implemented as planned, using municipal resources, not community resources. This approach will assist with the overall brokering challenge. Furthermore, there is a need to review the mechanisms that the provincial government uses to fund projects; there is a need to move toward a bottom-up model.

All efforts should be made to strengthen the process of brokering in supplementary resources. The key role-players in this regard are the various government departments that will participate in PSCs. Many of these departments have mechanisms to transfer resources to the poor. For example, the Department of Housing and Local Government provides rural housing subsidies, municipalities can access Municipal Infrastructure Grants (MIG), and the Department of Agriculture provides fencing, tractors and inputs. Also, the administering entity should attempt to facilitate the participation of private sector on reasonable terms, and government should mobilise the financial sector to come up with programmes that benefit the communities.

It should be assumed that agreements which settle claims lodged under the betterment redress programme would make provision for the transfer of communal land from the ownership of the state to the community itself. In order for such transfers to be possible, it will be necessary for communities to set up legal entities. Furthermore, as the owners of the land, the legal entities should be tasked to co-ordinate all development to be implemented on communally owned land. In order to assist the entities to perform their ownership and development responsibilities effectively, provision should be made for targeted capacity building.
This diagram represents the development model. It is comprised of three ‘layers’. At its centre is a set of relations that links the Department of Land Affairs to the beneficiary communities. These relations are shown though the solid line (denoting contractual relations), which connects DLA, to the administering entity, the coordinating structure, the community leadership and the entire beneficiary community. The second layer comprises all government institutions that have a role to play in the integrated development process. This involvement, which will be coordinated through the mechanism of the PSC, is shown through the dotted lines. The third layer is made up of the development frameworks in place in all three spheres of government. That is, national government has adopted ASGISA and IRDS as overarching policy frameworks that have a bearing on rural development, the Eastern Cape Government works in terms of its PGDP, and municipalities have their IDPs and GDPs. The development model implemented under the betterment redress programme will comply with and complement these policy frameworks.

The development model proposed here has the following advantages:

- Delivers integrated development
- Broad-based in its spatial coverage
- Enables the realisation of the socio-economic rights outlined in the Constitution
3.4 The land model

Outline of the model.

In the case of the betterment redress programme, the land model refers to the acquisition of alternative land (rather than to restoration). The reason for this is clear: restoration would amount to de-villagisation. That is, people would leave the homes that they have established in the last decades, and leave the albeit poor infrastructure in the betterment villages, and return to scattered sites that are undeveloped and unserviced. In short, this choice would not make developmental sense. (Exceptions to this generalisation can be contemplated. For example, in areas featuring fertile soils, a de-villagisation may be the best way to boost agricultural production. A problem with betterment planning is that it created prohibitive distances between residential and arable land. People cannot easily reach the lands and they are seldom able to secure the lands. Such problems would be addressed through de-villagisation).

Racially skewed ownership patterns, continue to characterise South Africa’s agrarian economy. Very little progress has been made in the challenge to de-racialise land ownership and participation in the agricultural sector. The betterment redress programme seeks to play a role in addressing this legacy of apartheid. The manner in which this will be done is to facilitate the identification of emergent farmers and their organisation into business entities, and to enable them to acquire land outside the Ciskei and Transkei. In other words, the programme will look to enable emerging farmers to break out of the over-crowded, under-resourced space of the former homelands, into more functional areas, better geared towards commercial agriculture.

Flexible application of the compensation options.

The betterment redress programme will allow for flexibility for different households within the same community/cluster to exercise different choices. More specifically, it will be set up to allow emergent farmers who want to acquire commercial land outside the former reserves to exercise this choice, without jeopardising the development preferences of other claimants. This is an issue that will require focused facilitation in the negotiation process and the run-up to signing settlement agreements. For example, in Komkulu there are 100 beneficiary households, and the SSO of R50 000 per household is applied. That is, the value of the settlement agreement is R5m. Of the 100 beneficiaries, 80 want a combination of developmental and financial compensation, and 20 families want to pursue commercial agriculture. Government specifies that a maximum of 50% of each family’s compensation can be paid as financial compensation.

The compensation would be divided as follows:

- Enables the practise of participatory democracy
Table 7: Division of compensation

<table>
<thead>
<tr>
<th></th>
<th>Development</th>
<th>Money</th>
<th>Land</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>80 beneficiaries</td>
<td>R2m</td>
<td>R2m</td>
<td></td>
<td>R4m</td>
</tr>
<tr>
<td>20 beneficiaries</td>
<td></td>
<td></td>
<td>R1m</td>
<td>R1m</td>
</tr>
<tr>
<td>Total: 100</td>
<td>R2m</td>
<td>R2m</td>
<td>R1m</td>
<td>R5m</td>
</tr>
</tbody>
</table>

Institutional Responsibility.

The PLRO is responsible for the redistribution programme in general, and LRAD in particular. It thus makes perfect sense for the office (together with its ABP SPV) to play a leading role in the implementation of this aspect of the settlement agreements. There will be a particular need for effective information management and generation pertaining to land identification and purchase. (Claimants cannot be expected to play the lead role here, as the land in question is outside the former homelands.)

Further, in the interests of sustainability, institutional mechanisms will need to be forged by the PLRO to ensure that relevant government departments (e.g. the Department of Agriculture) are pulled into processes of planning and implementing new agricultural enterprises.

Consideration of the compensation as part of ‘own contribution’.

In the case of the betterment redress programme, the PLRO will include the compensation as part of ‘own contribution’. In the case above, the office would regard the R50 000 per household as part of their contribution, and calculate the LRAD grant accordingly. These projects would be more viable than those funded solely by LRAD grants.

Further, it is suggested that government ensures that planning grants are made available to beneficiaries who opt for land acquisition to deal with the particular planning challenges involved in land parcels situated far from the place of residence of beneficiaries who will ultimately take transfer of the land.
This diagram represents the land model. It is comprised of three ‘layers’. At its centre is a set of relations that links the Department of Land Affairs to the claimants opting for the redistribution option. These relations are shown though the solid line (denoting contractual relations), which connects DLA, to the administering entity, the co-ordinating structure, the community legal entity and the claimants. The second layer comprises all government institutions that have a role to play in the integrated farming process. This involvement, which will be co-ordinated through the mechanism of the PSC, is shown through the dotted lines. The third layer is made up of the agricultural development frameworks in place in the national and provincial spheres of government. The land model implemented under the betterment redress programme will comply with and complement these policy frameworks.

3.5 Tenure Reform

The land tenure and administration situation in the former homelands is precarious. Although people are seldom placed under the threat of actual eviction, their tenure can hardly be described as secure. This is because the value of the land rights held is low and the extent of the rights is limited (e.g. they cannot be traded). There is not a
coherent land tenure system in South Africa; there are two distinct arrangements, one in former ‘white South Africa’ and the other in the former homelands. Private, individualized tenure predominates in the former. Here, the freehold system is buffered by sophisticated administrative capacity in both the private and public sectors (including surveyors, the Surveyor-General’s office, conveyancers, and the Deeds Registry). The system is regarded as one of the most advanced in the world. Alongside it, there is an informal, uneven and weak system of land tenure in the former homelands. Here, tenure is generally communalised, registration comes in the form of outdated PTOs, and administration is dealt with haphazardly (in some places by traditional authorities, in others by civics, in others by a variety of government institutions). It seems that a main interest of the government in this regard is to avoid incurring any additional costs; because the homelands are regarded as unsalvageable, government resists proposals to incur new costs, especially recurrent costs. The two tenure poles are a clear expression of the bifurcated South African state.

The PLAAS study referred to above looked at the extent to which municipalities played a role in the administration of communal tenure. None of the four Eastern Cape Municipalities that were sampled played any role in this regard. Moreover, none is able to respond to problems regarding communal land rights. To some extent, this lacuna is maintained/ tolerated as a sop to the traditional authorities, which wield authority over many aspects of land administration. In fact, in recent years (especially since the appointment of Nosimo Balindlela as Premier of the province) traditional authorities have been on the front foot. This is reflected in the recent decision to restore a number of chieftaincies (e.g. Mandela of the Madiba clan). Again, this is an expression of the bifurcated state: in the commercial areas, land is administered by municipalities; in the homelands, land is administered by unelected, unaccountable traditional authorities.

There was much debate about the Communal Land Rights Bill which has not yet ended because various parties are busy preparing a constitutional court challenge to the legislation, on grounds such as lack of adequate community consultation and discrimination against women. Pilot implementation of CLARA has commenced in Kwazulu-Natal. In the Eastern Cape, government has contracted a consortium (led by the Fort Hare Institute of Social and Economic Research (FHISER), which has been appointed to undertake preliminary research aimed at guiding any future implementation processes.

Finally, it should be noted that there is a contradiction between the stipulations of CLARA and the proposed betterment redress programme. Whereas the former envisages the transfer of land to land administration committees (which may be traditional councils), the latter proposes transfer to one or other legal entity (e.g. a communal property association or trust). As can be inferred, the latter suggestion is informed by the Cata experience.
4 Conclusion and Policy Recommendations

4.1 Conclusion

The conditions and poverty indicators of rural communities on white commercial farms and in the former ‘homelands’ in post- apartheid South Africa show that an unqualified reliance on market forces and the neoclassical economic view that the benefits of economic growth will ‘trickle down’ to the poor is not effective. The underlying institutional context of rural labour markets is still grounded to a large extent in the legacies of the past. This institutional discrimination has meant that the rural economy in South Africa remains strongly influenced by positions of power and influence that are embedded in apartheid. This places enormous constrains on the ability of poor people to participate meaningfully and productively in the labour market and economic growth of the province. Economic growth is negatively affected if human development remains low. The lack of access to financial, physical and human assets prevents poor people from participating effectively and productively in the economy. Increasing rural people’s access to the institutions that enable the social reproduction of labour and people’s productive capabilities is a crucial area and can only be achieved through stronger state intervention. A clear example is the countries of East Asia that experienced rapid economic growth due to interventionist government policies to achieve more equitable human resource development. Poverty reduction mechanisms must be interdisciplinary and involve inter-governmental departmental responses.

Improving and investing in human capital requires an overhaul of the traditional approaches to labour market restructuring. It requires a faster land redistribution programme based on the differentiated land needs and land-use patterns of rural people. The emphasis of land reform on large-scale commercial farming must be balanced with other land use needs and different forms of farming. There cannot be an assumption that LRAD and its various components will adequately address the land needs of the different groups of landless people. An alternate paradigm that is substantively different from the current framework is needed. A new conceptualisation of land redistribution must be premised on proper implementing mechanisms that depart from the technocratic and atomised strategies of DLA. An alternate framework to the current market based approach will include government interventions in the provision of housing and energy efficient means such as solar energy, wind power or biogas. It would involve the provision of educational facilities, on-going skills development and access to affordable health care facilities.

2.1 Recommendations

Higher prioritisation of agrarian reform and more appropriate instruments to achieve it. The PGDP highlights agriculture as one of the key sectors offering significant growth potential to the province. However, it is clear that this decision has not taken root in hearts and minds of the political leadership at provincial and
Land Issues in the Eastern Cape

municipal levels. This needs to be addressed. Further, it has also been established in this document that the policy instruments at the disposal of government are not well designed in relation to achieving the quality and quantity of agrarian reform required in the province. Therefore we suggest that key decision-makers in the province (headed by the MEC for Agriculture) should review the policy framework and make the necessary changes.

**Land Rights and Ownership**

The land needs and requirements of the various groups comprising people in the former homelands and those living and working on white commercial farms must be managed carefully to create a balance and to avoid a situation where the one group is prioritised over the other. Failure to do so could lead to people competing with each other for land. A new land reform and redistribution strategy requires serious research, debate and discussion to enable the formulation of a comprehensive, needs driven policy. For farm workers and dwellers land must be made available to:

- Secure housing and end the threat of evictions and precarious tenure status on commercial farms.
- Provide farm workers and dwellers with the means to secure food safety nets and supplement household food consumption.
- Provide the unemployed and underemployed with the productive and physical means to engage in small to medium scale farming.

The grant level must be revised to enable people with a very low financial base to access land without resorting to loans, and without forming too large a group. Suitable land redistribution facilitation techniques are required to ensure that beneficiaries are the lead agents and driving force of the project as opposed to the design agents.

**Land-use Support**

A clearer role and link for the Department of Agriculture in the land reform programme is needed. The role of the department in land reform projects is characterised by a lack of knowledge of projects and their business plans and inappropriate knowledge of land-use methods for small- and medium scale farming. Extension officers must be trained on alternative land use methods to large-scale commercial farming, on group dynamics and participatory methods of development planning and implementation.

**Provision of Housing, services and infrastructure**

Land redistribution must be linked to settlement requirements. The LRAD policy has this as a component but has not given it attention in land reform projects. The DLA will only provide land for settlement purposes if municipalities will provide housing and services. For example, the Makana municipality has consistently argued that it will not provide housing and services on privately owned land. They regard land
reform projects as private property. The departments of Land Affairs and Agriculture, Housing, Health, Education and Local Government should spearhead an inter-departmental desk to:

- Make land available for settlement and productive use.
- Provide affordable housing and services.
- Provide health care facilities in rural areas.
- Provide adult continuing education skills development,
- Provide for the educational requirements of children and youth in rural areas.

**Enhancing Agriculture’s contribution to the provincial economy**

Checks and monitoring mechanisms are needed to ensure that land is used for farming with traditional products as opposed to vast tracts of land used for game farming and tourism. Small-scale agricultural producers must be incorporated into the market by adding value to their products. This will stimulate job creation and backward and forward linkages with other parts of the economy in the province. This will entail programmes and initiatives to support processing plants for agricultural produce. This obviously will not be realised if there is no integration between the different government departments and between the different levels of government.

**Data Base on Land Reform Projects**

A comprehensive database of land reform projects and land transfers must be set up. The DLA has a rather rudimentary system that provides a breakdown of all projects in an unsystematic manner. The current system makes analysis of the progress of land reform against targets and according to gender or occupation (i.e. farm worker, dweller, township resident, etc.) impossible.

**Betterment Redress Programme**

The Betterment Redress Programme holds significant advantages for the people of the Eastern Cape. First and foremost, it ring-fences a considerable allocation of public resources for use in the Ciskei and Transkei. This is important because it contradicts the prevailing discourse, which holds that state spending in these areas should be limited to welfare. Without the Betterment Redress Programme, there is very little prospect of transformative state spending outside of specific, limited nodal areas in Ciskei and Transkei. Second, the programme is about more than just resources, it’s about the manner in which development is realised. Instead of relying on government process, which is determined and implemented without input from its recipients (end-users/ beneficiaries), the programme operates differently. Specifically, it places decision-making responsibility in the hands of the beneficiaries, and enables their participation in all phases and components of development. The model explicitly seeks to achieve broad-based empowerment. Third, the programme may assist the Department of Land Affairs to pioneer an approach to redistribution that meets the particular challenges presented by the homelands. This approach is compatible with and supplementary to the area-based programme (ABP) currently
being institutionalised in the Department of land Affairs. The Betterment Redress Programme will shortly be considered for approval by the national cabinet. Presumably, one of the factors that cabinet will consider in its deliberations is the extent to which Eastern Cape stakeholders are united in their support for the programme. At this point in time, there is inadequate support from key stakeholders including the provincial cabinet and organised business in the province. Perhaps ECSECC can play a role in bringing the key provincial stakeholders together to strengthen overall support for the programme.

Tenure Reform

In general we advocate a pragmatic approach to tenure reform in the former homeland areas. That is, we propose that tenure upgrading or formalisation only be undertaken in particular circumstances, especially when there is an imminent development process or when there is a threat to people’s security on the land. In such instances we propose a rights-enquiry, followed by the formalisation of tenure, using appropriate legislation. We do not propose extensive tenure reform processes in other situations. Rather, the emphasis should be on clarifying and strengthening land administration processes. In this regard, there is a need to ensure compliance with basic democratic norms and standards. There may well be a role for traditional authorities, but the definition of this role should not compromise people’s rights to fair, transparent administrative process.
References


Department of Labour.


ECSECC is a multi-stakeholder policy research and development planning organisation established in 1995. We are dedicated to evolving new forms of development cooperation between government, labour, organised business and developmental non-governmental organisations.

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