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Working and living condition in contemporary South African farmlands: exploring the impacts of tenure reforms on farm workers and labour tenants, a study of Bethal district

Okpa, Michael Evalsam

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CHAPTER 1: INTRODUCTION

1.1 INTRODUCTION

Independent studies on farmlands have confirmed that people living and working on commercial farms in South Africa are the poorest in the country. According to the department of rural department and land reform, "…this group ranks the poorest in the nation in terms of numerous development indicators, including household income, literacy rates and nutritional status."[1] They are approximately three million farm workers and tenants on commercial farmlands who live under server insecurity of tenure and thus are faced with limited access to land (StatsSA, Agricultural survey 2011), with less than 15 per cent of them able to cultivate their own foods in certain provinces[2]. It must be understood that "insecurity of employment, tenure and livelihoods on farms has been shaped by historical processes" (Wisborg et al; 2013:6). There has been an alienation between the worker and the land they work, which is considered an economic assert. This insecurity of tenure is a direct effect of colonial and apartheid project of land dispossession, human degradation and exploitation that systematically destroyed the livelihoods of indigenous South Africans and transformed the majority into a pool of cheap labourers.

It must be understood that "the history of farm workers and current social and economic problems as a product of colonialism, segregation, apartheid, capitalist development, and the post-apartheid development thinking" (Atkinson; 2007:4). This is particularly true in their lived realities, made visible in the land and housing problem confronted by millions of South Africans. Many of the country's households "perhaps as many as three million … are living on what is regarded officially as inadequate shelter and it is these that constitute the target population of current housing policy" (DRDLR; 2013). It is no surprise that this targeted population is overwhelmingly black South Africans, due to this historical legacy of the apartheid regime. The socio-economic issues faced my many South Africans in the rural areas are characterised by high level of poverty. Communities in the rural areas "and farm

[1]Wegerif, M., Russel, B., & Grundling, I., 2005.Op.Cit.; Atkinson, D. Pienaar, D. &Zingel, J. 2004. "From on Farm to Own Farm". Report on a study commissioned by the Food and Agricultural Organization (FAO); HRSC: South Africa

[2]Mayende, G. 2004. The Challenge of Land Tenure Reform in South Africa. Issues, Problems and Prospects in, Roth, M, Nxasana, V, Sibanda, S and Yates, T. 2004.Finding Solutions Securing Rights. Lexis Nexis, Butterworths.

workers in particular, have a history of their human rights being abused and they are confronted with various social malpractices. Illegal evictions, unfair dismissal, unfair labour practices, assaults, rape and even murder"[3]. What is more worrying is that "some of these hardships endured by the poorest of the poor … are regarded as civil matters, hence we see the perpetrators are not significantly deterred and get off with a mere slap on the wrist"[4].

South Africa's agrarian and land question goes a long way into the history of colonialism itself. From the arrival of the white traders on the Cape in 1652, the later colonial conquest and dislodging of the natives, the consolidation of colonial control in these lands and a subsequent enactment of laws that rendered many natives landless, all sums up the dark story of dispossession and destitution which the natives faced in relation to land (especially) and other aspects of their lives and livelihoods. Thus, land dispossession robbed the people of their livelihood (peasant agriculture), their dignity as a community of people (destitution), and their power. The forces that connived to dispossess their land also turned them to under-paid wage labourers in the land of their birth. Hence, as the natives got poorer through different agents of disempowerment, "white settlers [the majority being commercial farmers]ended up legally appropriating more than 90 per cent of the land …" (Ntsebeza 2007:108). Furthermore, the Act "... confined the indigenous people to reserves in the remaining marginal portions of the land [and despite] increasing the size of land for African occupation in terms of the Land Laws of 1936, there was chronic shortage of land in these reserves" (Ntsebeza 2007: 108). Hence, "colonialism and apartheid systematically undermined African agriculture, white farmers, on the other hand, benefitted from substantial state subsidies" (Ntsebeza, 109).

Land dispossession history did not however begin with the passing of the Native Land Act of 1913. In practice, it began with the colonial era in the 17th century, and carried into the apartheid era. Nonetheless, most authors have considered the Great Trek – the migration of Dutch farmers into the interior of South Africa in 1652 – as the beginning of land dispossession (Daniels, 1989). The passing of legislations were used as a tactic method of dispossession. They were particularly used to advance economic growth for the white minority at the expense of the majority black population. These legislations included the 1884

[3] Farmworkers Voices: Reflections of Worker Conditions on South Africa farms. Online at: http://www.sawit.co.za/images/BAWSI_Farmworkers_3%20June.pdf (Accessed 22/01/2015)

[4] Farmworkers Voices: Reflections of Worker Conditions on South Africa farms. Online at: http://www.sawit.co.za/images/BAWSI_Farmworkers_3%20June.pdf (Accessed 22/01/2015)

Native Location Act (in the Cape Colony), the 1887 Squatter Laws Act, the 1894 Glen Grey Act, and the 1904 Master and Servant Ordinance, and a host of other legislations which "created cheap, abundant and disciplined supply of African labour while permitting whites to further solidify their dominance of all the economic resources of the developing nation" (Daniels, 1987: 334).

Beginning from the early 1990s, the government, led by the African National Congress (ANC) has sought to restructure the economy, particularly the agricultural sector, by transferring access to and land ownership from white to Africans (Hall, 2007). Thus, entrenched in section 25(4) of the 1996 Constitution of South Africa is the nation's priority to land reform. The land reform programme seeks to redress the injustices of the past particularly the racially-based land dispossession which was brutal for the black population and particularly for black farmers. The land reform programme addresses the unequal distribution of land ownership, and the need for security of tenure for all. It essentially encompasses land restitution, land redistribution, and tenure reform.

Tenure reform, which this study is anchored against, has been the most worrying area among the three components. It consists of two fundamental legislations: the Extension of Security of Tenure Act of 1997 and the Land Reform (Labour Tenants) Act of 1996. They were enacted to give effect to the principles set out in the 1997 White Paper regarding the right to secure tenure. Whereas ESTA was enacted particularly for farm workers, LTA was enacted for labour tenants. Both however aim to regulate the relation between land owners (particularly farmers), labour tenants, and farm workers. Since 2010, the government has tried to provide stronger tenure right for farm dweller (farm workers, including tenants residing and working on farmlands). This effort was made visible in the Draft Tenure Security Policy of 2010, the Draft Land Tenure Security Bill of 2011, and the Green Paper on Land Reform of 2011. And as recently as February 2014, the minister of Rural Development and Land Reform Gugile Nkwinti completed the final draft of the relative land rights proposal under the title "Strengthening the Relative Rights of People Working the Land". These have been attempts at consolidating ESTA and LTA, which indicate inadequacy of tenure security.

The Policy aims to promote and protect the relative rights of farm dwellers; to enhance the security of tenure of farm dwellers; to create conditions conducive to peaceful and

harmonious relations on farmland; and to sustain production discipline in the interest of food security[5]. While the objectives of the Bill – now defunct – was to consolidate and strengthen the interpretation and enforcement of ESTA and LTA which gives effect to the Constitution in relation to farm workers and farm dweller and also "to provide measures aimed at security of tenure, sustainable livelihoods and production discipline; to establish a land rights management board;…"[6]. One the other hand, the Green Paper on Land Reform identifies the land question as being fundamental and "that the long road necessarily starts with the crafting of a new pragmatic but fundamentally altered land tenure system for the country, [and that] not to do so would perpetuate the current social and economic fragmentation and underdevelopment" (Green Paper of Land Reform, 2011:2). Underlying this are the principles of "de-racialising the rural economy; democratic and equitable land allocation and use across race, gender and class; and a sustained production discipline for food security" (Green Paper of Land Reform, 2011:4). And according to the document, one the proposed policy on strengthening the Relative Rights of People Working the Land, its aim is to strengthen the position of both farm worker and the farmer as people working the land. It recognizes the vested interest in the land by both parties who went to improve their living condition by working on farmlands.[7] A detailed account of these interventions to strengthen tenure security and their relation to farm workers is discussed in chapter II.

On the whole, all three components of the programme is often criticised for being problematic and calls have been made to structurally amend it in order to effectively benefit those for whom it was intended. Among the many criticisms of the programme is the demand-led willing buyer, willing seller approach to redistribution which Levin and Weiner (1997) assert will fail to address the land needs of the poor and marginalised, the incompatibility of restitution and upholding property rights, backed up by the Property Clause in the Constitution, which minimizes the role of the government in expropriating land, as well as the cut-off date for restitution, and the many limitations of ESTA and LTA which

[5] Republic of South Africa, Department of Rural Development and Land Reform Draft tenure security policy (2010)

[6]Draft Land Tenure Security Bill, Department of Rural Development and Land Reform. online at: http://www.ruraldevelopment.gov.za/legislation-and-policies/file/142

[7]Final proposal on strengthening the Relative Rights of People Working the Land: Online at: http://db3sqepoi5n3s.cloudfront.net/files/140408strengthening_the_relative_rights_of_people_who_work_the_land_-_feb_2014.pdf (Accessed 1/09/2014)

has negatively affected the social relations between farmers, labour tenants and farm workers in most cases, and has undermined the rights to security of tenure. It was to this that Cousins inquired has these rights (to restitution and tenure reform) become real for "the majority of the rural population [who] depend on the efficacy of the right-based laws and programmes currently being …implemented" (1997:60) as a way of overcoming social, economic, and political deficiencies.

Agrarian history in South Africa therefore becomes topical especially when considering the interaction between farmers (predominantly white) and farm workers (almost entirely black) in a capitalist economy. As is the case in most developing countries, agricultural labour in South Africa is one characterised by subsistence wage, and labourers who are constantly exposed to tough and rigorous working and living conditions. Johnson and Schlemmer (1998) present a dual historic tradition which pictured the modern day farmer as one of both villain and hero. On the one hand, the farmer is seen "as a brutal oppressor, expropriating Africa land and employing African workers in conditions of virtual serfdom, paying them a pittance and inflicting brutal punishment upon them at will" (1998:2). It becomes vivid therefore that this particular epoch in the history of South Africa is vital in understanding any discourse around inequality, racial discrimination, political marginalisation, land expropriation, forced removals and indeed the poverty and hopelessness that pervades the story of the country with its multi-racial colouring. However, on the other tradition, the farmer is seen as a hero, one "whom the demands of management are more varied than in any other sector, since farming involves not only production management but also the management of workers communities and environment" (Johnson and Schlemmer, 1998:3).

The government has since 1994, implemented a number of tenure security policies and legislatives that aims to protect farm dweller. Nonetheless, there have been shortcomings in these measures which have serious negative implication for security of tenure on commercial farms. Despite the inventions made in recent year, farm workers and labour tenants protection have yet to be fully achieved. Their tenure insecurity continues to negatively affect their socio-economic development especially on white-owned commercial farms. This is an indicative that landholding in post-apartheid South Africa still reflect the practices, laws and policies of the apartheid era (Piennar and Kamkuemah, 2011). Consequently, this study finds bearing along these lines; the ambitious initiative of the land reform programme, with

specific reference to the tenure reform programme, from the perspective of the social relations that undergird farm owners and farm workers.

Hence, while tenure reform addresses land administration in communal areas and security of tenure for those living and working on white-owned farmlands, this work focuses on the later. It seeks to understand the concerns of farmer, farm workers, and labour tenants to farm tenure security – what they think about the current state of tenure reform, how it affects their relationship thereof, and what can be done to improve its limitations. It is important to understand that such limitations can lead to a breakdown of law and order in rural farming areas; and that solving wage disputes in the farming community alone is inadequate in understanding the socio-political, socio-economic and historical events on farms.

1.2 RESEARCH QUESTION

In South Africa, the interaction between farmers and their employees is a topic steeped in controversy. Wisborg et al; (2013) acknowledge that "the historical and contemporary reconstructions of agriculture and farms in South Africa have been the subject of historical and social studies debate" (2013:7). Unlike other sectors of production and employment, this is peculiar to the farming community since it traces its origins back to the colonial and apartheid era and deals particularly with land dispossession which South Africa is infamously known for, and as a consequence, Land Reform Programme which is aimed at redressing the injustices of the past. This research report is focused on answering the question:

Central Question

What are the reactions and concerns of farmers (landowner), farm workers[8] and labour tenants[9] with regard to the challenges of tenure security, with particular reference to farm tenure reform, and how might these reactions and concerns affect the social-relations that farmers and farm workers and/or labour tenants have?

[8]A farmworker in terms of the Land Reform (Labour Tenants) Act, 1996 (Act No. 3 of 1996) is one who is employed on a farm in terms of contract of employment which provides that in return for the labour which he or she provides to the owner or lessee of the farm, he or she shall be paid predominantly in cash or in some other form of remuneration, and not predominantly in the right to occupy and use land.

[9]A labour tenant in terms of the Land Reform (Labour Tenants) Act, 1996 (Act No. 3 of 1996) is one who is residing or has the right to reside on a farm, who has or has had the right to use cropping or grazing land on the farm or another farm of the owner, and in consideration of such right provides or has provided labour to the owner or lessee and whose parent or grandparent resided or resides on a farm and had the use of cropping or grazing land on such farm or another farm of the owner.

The central question revolves around subsidiary questions that amplify it. These are:

1. What are the levels of cooperation between farmers and farm workers and will reform in the farming community be participatory for the greater interest of all involved?
2. What are the prospects for an improved living and working conditions of farm workers?

1.3 PROBLEM STATEMENT AND JUSTIFICATION

Underlying the above questions is an acknowledgment that the current land reform programme (especially tenure reform) is deficient, and has not benefited those for whom it was intended. So what does this mean for farm workers, emerging black farmers, and farm dwellers as a distinct category, as well as for the agricultural sector which according to the most recent census provides the largest number of jobs in South Africa (StatsSA, Agricultural Survey 2011).

The colonial, and subsequently the apartheid project was the displacing of black farmers and as a result, "farm[s] have long been the locus of economic conflict" (Hall; 2003:3). Although other oppressive laws had been in place prior to 1913, it was the 1913 Native Land Act that brought the destitution of the oppressed to the fore. With the passing of this Act, many farm dwellers as well as peasant farmers became farm workers as their access to land was eroded. The Act rendered the tradition of sharecropping and the purchase or hiring of lands or farms in white owned territory illegal. Thus, in order to retain access to land outside the homeland (Bantustan), black producers had to settle for tenancy, a system which ultimately put them in what Cousins calls "slave labour, a power and paternalistic relation with white commercial farmers" (1997:59). This has been a source of tenure insecurity in farmlands. Such was the relationship that existed between white farmers (who controlled and managed the labour and lives of their workers) and farm-workers until the 1990s transition to democracy before which farmlands were largely autonomous from the rest of society.

With the transition to democracy, the Land Reform Programme was implemented to address the racial injustices of the pass, however, this has been criticised for failing to achieve what is promised (discussed in chapter 2). Cousins criticizes the land reform programme for been "minimalist, [based on] the compromises which were agreed in the negotiations preceding the 1994 elections. These [compromises he asserts, led to] the inclusion of a Property Clause in

the new Constitution…" (Cousins, 1997:60). The effect of this has been a market-based redistribution programme which some critics asserts will have a negative consequence for the landless poor and marginalised people of South Africa (Levin and Weiner 1997). The Clause also entails a selective land restitution programme; designed for those dispossessed after the promulgation of the 1913 Native Lands Act. And for tenure reform, which this work is specific about, this meant that the power of the state to expropriate private land would be limited. Together, these limitations slow the pace of land reform.

Despite the legislation that have been passed in order to protect the rights of those living on farms, and to secure the labour right of those who work on them, there has been little improvement in securing tenure rights as well as the poverty level of many farm dweller. What do these challenges mean for farm workers and labour tenants within the context of tenure security? ESTA in particular has not been able to transform the relations of power between farm workers and landowners (farmers). It has been "unable to overcome tensions between protecting property rights of farm owners and protecting the land interests of farm dwellers" (Naidoo, 2005:200) which is a consequence of the Willing buyer, Willing seller approach to land reform since itputs substantial power in the hands of the owner and allows him to fix the price of land at a market value.

Also, the pre-emptive evictions of occupiers by farmers (Hall, 2003; Rogier van den Brink et al, 2007) before the passing of ESTA and LTA have had negative impacts on employment trends in the agricultural sector since 1994. There has been a significant decline in farm jobs which provides employment for the majority of South African's rural population. This declining situation is heightened by the modernization of labour in the farming industry which has witnessed a growth in the casualization of labour and much investment in machinery in order to compliment the consolidation of farms for 'productivity' and also cut the cost of labour which seems like the only cost farmers can control, since new mechanized farms do not need to employ the workers from the more labour-intensive smaller farms which were acquired (Van Zly, Binswanger and Thirtle, 1995).

Casualization of labour on the other hand has fragmented the identity of being a farm worker as farm workers now have to sell their labour to off-farm employments in order to supplement the piecemeal wages derived from farm jobs. Whereas farmers have taken advantage of this trend and many no longer have to provide accommodation for farm workers, are increasingly living off-farms, in settlement or villages near the farms from

which they commute to work. The low level of unionization among farm workers has made this worst as they have little or no voice to make their needs heard. In situations where farm workers have tried to unionise, most farmers have often being obstacles to this formation as the Human Right Watch of 2011 in the fruit and wine industries showed.

These are some of the many challenges facing tenure reform in particular, and the agricultural sector in general, which continues to put tension on, and strain the social relations of farmers (landowners), farm worker, and labour tenants, and hence the rationale for the study. This point is accentuated in the 2001 Human Right Watch[10] report which focused on the abuses suffered by people living and working on farms, including those inflictions at the hands of farm owners and managers, and the outright failure of the state to deal with such abuses. It asserts that "farm owners and their representatives agree…that the failure to deliver on land reform is likely to exacerbate tensions between farm owners and their workers or tenants" (HRW, 2001:40) and also warms of a 'serious breakdown of law and order in the rural areas, as had happened in Zimbabwe, if the government did not speed up [and improve] land reform' (41). This report has since been criticised by the Transvaal Agricultural Union[11], for ignoring the fact that the land reform legislation "has been proven to be anti-white, therefore racist and biased" (TAU, 2001:12). A recurring theme in this critic however is the failure of socialist policies, which are linked to post-1994 policy and black communalism as opposed to capitalism. Nonetheless, in another recent Human Right Watch of 2011 on the abuses of farm workers in the Western Cape's fruit and wine industry, a similar concern was raised.

These must be understood within the context of the failure to adequately implement the core labour legislation which were extended to farm workers in the mid-1990s through the Labour Relations Act (66) of 1995 and the Basic Conditions of Employment Act (75) of 1997, as well as the legislations that make up tenure reform – ESTA and LTA. And although current interventions have since being made to consolidate ESTA and LTA through the Draft Land Tenure Security Bill and the Relative Land Rights Proposal which seeks to strengthen the interpretation and enforcement of ESTA and LTA and give effect to the Constitution in

[10]Human Rights Watch: Unequal Protection: The State response to violent crime on South African farms (Compiled by Manby B., 2001)

[11]TAU: Unwarranted accusations by Human Rights Watch(Agrarian response to the so-called violent human rights malpractices encountered on South African farms as reflected in the publication: Unequal protection: The States response to violent crimes on South African farms) (Compiled by Dr S.J. Kruger and J.P. Loggenberg)

relation to farm dweller, one thing is certain, ESTA and LTA has clearly tested the patience of farmers and farm workers alike because of their purported failure or slow implementation.

This study therefore explores, by understanding how those who make up the farming community react to the intricacies embedded in the tenure reform programme which form the third leg of the larger Land Reform Programme. It is only when we are able to understand from the point of view of farm workers, labour tenants, and farmers that we are better able to seek ways of improving the difficulties that has come to characterise the present tenure reform programme. The 2011 Green Paper on Land Reform refers to the failure of Land Reform in the rights and security of tenure of farm dwellers as "a total-system failure (TSF) rather than that of a single piece of legislation, e.g., Extension of Security of Tenure Act (ESTA)" (2011:10). With regards to farm workers, a total-system failure reflects in the "inadequate articulation of the policy and legislative regime to protect farm workers and dweller; poor implementation of existing policies and legislations by organs of the state; [and] weak enforcement of the legislation by the law-enforcement …" (Green Paper, 2011:10) among other failures. This point had already been raised by the Department of Land Affairs (DLA) when it confirms that

> *A major cause of instability in rural areas are the millions of people who live in insecure arrangements on land belonging to other people. They had and have simply no alternative place to live and no alternative means of survival. The evicted have nowhere else to go and suffer terrible hardships. The victims swell the ranks of the absolute landless and the destitute. They find themselves at the mercy of other landowners for refuge. If no mercy is shown, land invasion is an unavoidable outcome. Because the root cause of the problem of insecurity of tenure under these circumstances is a structural one it requires a structural solution (DLA 1997:33).*

Farm tenure has only "received some attention, largely due to widely reported evictions and violent incidents on farms, and the main focus of debate has been on addressing the impact of evictions, rather than on achieving long-term and secure right to land within commercial agricultural zone" (Lahiff, 2007:7). This should be understood within the context of the right-based approach to tenure reform which is devoid of a land redistributive component (DLA, 1997) and has "resulted in extreme overcrowding of land in black townships, the so-called homeland, and those areas of black-owned freehold land which managed to survive the onslaught of the [apartheid] state" (Cousins, 1997:62). This implies that a right-based approach to security of tenure whether as ESTA or LTA has often been devoid of substantive

development. For purpose of this work however, emphasis is placed on farm tenure and not on reform in the former homelands.

Importantly, it should be noted that this study is anchored on two categories of people that make up the farming community. On the one hand are farmers (landowners); on the other hand are farm workers and labour tenants. Consequently, this study explores the conditions of farmers and farm workers as well as the relations between them and the features of farmlands as a place of both employment and production. The study is carried out 18 years after the government introduced a number of legislations, aimed at increasing the security of long-term farm worker whose only community is known to be farmlands. The Land Reform (Labour Tenants) Act of 1996 granted labour tenants the right to buy a portion of the land in which they work with the help of government grants, mainly the Settlement/Land Acquisition Grant (SLAG). By its very creation, this Act has being perceived by some large commercial farmers and landowners as creating a spectre of division of their farmlands and importantly, their loss of control over farm security. On the other hand, the Extension of Security of Tenure Act of 1997 had in its own right made arbitrary evictions on farmlands illegal. It is therefore the trajectories of tenure reform programme and its impact on those directly concerned that this work aims to understand.

The reason behind the research question is therefore to understand what underpin the relationship of these categories of people within the farming community, by identifying particular concerns they faced in connection with the challenges or problems of ESTA and LTA. This already presupposes a certain kind of relationship as well as presupposes that such concerns tend to weaken this relationship. The Land Reform (labour tenants) Act has undoubtedly tested the patience of many farmers and farm workers alike which in turn influences their attitudes and relationship to one another. It is these attitudes and perspectives of these categories that this work aims to understand. The long-term goal of land reform programme according to the 2011 Green Paper on Land Reform is "de-racialising the rural economy; democratic and equitable land allocation and use across race, gender and class, [and creating] social cohesion and development"[12] within the farming community in South Africa. Undoubtedly, farmlands in South Africa have attracted special attention from those concerned with welfare and rights of farm workers and indeed farmers. In consonance with

[12]Green Paper on Land Reform, 2011 (Principles Underlying Land Reform)

this, the National Development Plan (NDP) calls for more research on the social relations of farmers and their employees when it asserts that:

> *The relationship between farmers and farm workers is difficult and needs to be far better to achieve agricultural expansion, higher employment and better living condition. The link between housing and employment on farms is a threat to normalising labour relations. As a result of this connection, farm workers are vulnerable to eviction if they demand better wages and working conditions, or try to get supplementary part-time work away from the farm.*[13]

This work examines the impact of labour and tenure reforms on those employed on commercial farmlands. It examines the difficulties with tenure security and the impact such difficulties has on weakening the relationship within the farming community, a point already stressed by Wegerif et al (2005) in their analysis of ESTA and LTA on the groups they are meant to protect. In the end, it is hoped that there will be more equality in land distribution, and that in the coming years, we will witness the emergence of more new black commercial farmers who have the right to cultivate in order feed both the nation and their rural families thereby pulling the majority of South African population out of poverty and starvation.

1.4 CHAPTER OUTLINE

This work is divided into four chapters, which includes an introductory chapter. It gives an overview of the study, as well as provides the research question, problem statement and justification for the work.

Chapter two is the literature review, which focuses on the South African agrarian question, and discusses the historical antecedent to land dispossession, beginning with the colonial conquest and subsequent legislations of land dispossession. This is followed by analyses of the 1913 Native Land Act. This history concludes with post-1994 legislations that seek to strengthen tenure security. A discussion on South African Land Reform Programme is followed. This section of the literature first discusses the Land Restitution and Land Distribution programmes, as well as their limitations and how these limitations affects farmworker and labour tenants. Tenure Reform is thereafter discussed as a separate section since it concerns itself more with the crux of this study. This section discusses ESTA and LTA, and their limitations, as well as new policies and interventions to security of tenure.

[13]National Development Plan 2030, executive summary. Chapter six (pdf) section on farmworker employment and labour relations. In this section, it makes the case for a more effective and speedy land reform programme – ESTA and LTA.

The Literature review concludes with discussions on perspectives on the crises in the agricultural sector by analysing labour relations and sociological perspectives on farmlands.

Chapter three is the methodology; it outlines how this work was undertaken.

Chapter four is a discussion on the case study. It gives a historical look on Bethal and its farms. This chapter deals with the 1950 potato boycott and the labour scandals which Bethal's farms are infamously known for. This gives a general idea for discussing Bethal as a case study and serves as an introduction to the research findings.

Chapter five analyses the fieldwork. It discusses the results and analysis of the case study. Since this work focuses on two categories of participants, this chapter has been divided into sub-sections. First is an analysis of the farmer's categories, this is followed by that of farm workers.

Chapter six concludes this work. It deals with the summary and findings, as well as areas for further research and concluding remarks.

CHAPTER II: LITERATURE REVIEW

2.1 INTRODUCTION

The arguments for land reform have often revolved around the concept of poverty reduction, equality, economic development, and political stability. The World Bank maintains that access to land remains a critical component "for people's survival in most developing countries where land is the primary means for generating livelihood" (World Bank, 2003: xix). Hence the reason for the land reform programme, undertaken by the South African government after its transition to democracy in order to addressing the infamous land dispossession, whose legacy continues to linger.

Land restitution, land distribution, and tenure reform are all part of the broader land reform programme that seeks to facilitate social transformation in South Africa, although each programme is aimed at addressing specific problems of racial land dispossession. Tenure reform is intended to remove the ill-administered landownership system that prevailed in the former homelands and on white-owned commercial farmland and the discriminatory imbalance between secure, strong and clearly administered individual or co-ownership property question of property rights involved debates centred on the manner in which restitution should take place. Thus trying to answer this question has been pitched against existing property rights (mainly of White land owners) characteristic of the property clause in the interim and consequent 1996 constitution.

This was the hub of the debate about restitutions and compensations based on the cut-off date. It is within the ambit of this debate that different issues emerged. This included the debate around the coexistence of the pledge to protect citizens' rights to property and the pledge to restore lands (or ensure land restitution) or adequate compensation to people and/or groups that have been certified to qualify for land restitution based on the cut-off date. According to Ntsebeza (2007), this is contradictory and the two cannot mix at all – although he acknowledges Ruth Hall's stance that the problem does not simply lie in this incompatibility but on the lack of political will to make restitution happen on the part of the politically compromised ANC-led post-apartheid Government of South Africa. However the fear of this incompatibility is vividly muted in Justice Chaskalson's averment thus:

> *What a bill of rights cannot afford to do ... is to protect private property with such zeal that it entrenches privilege. A major problem which any future*

> *South Africa government is bound to face will be the problem of poverty, of its alleviation and of the need for the country's wealth to be shared more equitably ... Should a bill of rights obstruct the government of the day when that direction is taken, should it make the urgent task of social or economic reform impossible or difficult to undertake, we shall have on our hands a crisis of the first order, endangering the bill of rights itself as a whole and the survival of constitutional government itself.*[14]

This was a concern or a dilemma facing the incoming 'majority' government within the transitional negotiations because of the imperative as much as possible bring restitution to victims of the policies of apartheid but at the same time to secure private property – already existing property rights – by means of the constitution. The property clause (Section 28) in the interim constitution meant that private property was upheld constitutionally and no one can deprive another of property outside the law and where expropriation by law would happen, this would only be for public purposes with market value compensations and paying attention to the histories of acquisition of such property.[15]

However the ANC negotiators were able to put in some clauses in the bill of rights that reduces the initial fear of the obstruction which the property clause in the bill of rights could cause for attempts at land restitution, redistribution or ever security of tenure in the future. This was the inclusion of the 'expropriation for public purposes' wherein compensation must not necessarily be based on market value but because of the need for land reform and for the public good. This inclusion was agreed upon after debates wherein the National Party (NP) negotiators were willing to compromise on the principle that compensation for expropriation of property would not necessarily be tied to market value. These were nevertheless legalistic in nature and to be prosecuted through the Land Claims Court.

The overall implication of the land tenure reform and particularly farm tenure cannot be overemphasised especially when situated within the socio-political and economic era wherein it emerged – the Natives land Act of 1913 and prior racially discriminatory legislatives. People living and working on many farms in South Africa are often considered the poorest in the country. Tenure reform which was meant to provide secure forms of land tenure and help resolve tenure disputes has been largely undermined by its application, interpretation and enforcement. Tenure rights have been undermined greatly by landowners' contempt for the law, which begs the question of enforcement. There has been an unfortunate and indeed "an

[14]Levine, R., Solomon, I., and Weiner, D: "Forced Removals and Land claims." In Levin, R and Weiner, D (eds.). *Community Perspectives on Land and Agrarian reform in South Africa.* Final Project Report: John D. and Catharine T. MacArthur Foundation. USA: Chicago, Illinois, 1994, p. 171.
[15]See Ntsebeza: 2007, p. 114-115.

unintended consequence of policy on farm dwellers' tenure tights [which] has been to increase farmers' incentive to evict, while poor enforcement has meant that they have been able to do so, in violation of the law …" (Hall, 2003:36). Furthermore, there has been little evidence to support the argument that tenure reform has contributed to improving the livelihoods of farm dwellers or rural poor. Although the legislation has in part achieved a relative success in preventing evictions and finalising the transfer of land to labour tenants. There still remain, nonetheless, opportunities to create new initiatives or improve existing initiatives that links land based livelihoods and farm tenure right. Present initiatives have often been weak, shaped by the interest of landowners.

What follows is a historical background to the agrarian question, this section concerns itself with the European conquest and the 1913 Natives' Land Act of the apartheid government, and argues that this served the capitalist's interest by dividing the country between dominator and dominated. It begins which the antecedents to the 1913 Native Land Act, followed by an analysis of the Act and its impact on the black community, especially those living on farm lands. The section concludes with a discussion on post-1913 land dispossession – this last section concerns itself with how this history became post-1994 legacy in relation to tenure reform.

The historical account to the land question is followed by an analysis of the South African Land Reform Programme. It discusses the land restitution and redistribution programme with specific views on the role these programmes play in the land holding system, as well as their limitations and criticisms with regards to the people living and working on farmlands – how they affects farmers and farm workers alike.

Whereas Tenure Reform, which makes up the third principal sub-programme of the Land Reform Programme, is discussed as a category on its own since it relates more to this study. It begins with a definition of land tenure and then the South African Tenure Reform. What follows is a discussion on legislative Acts (LTA and ESTA) that constitute the South African Tenure Reform Programmes and their limitations. These limitations are still evident on farmlands and make it difficult to successfully implement the purpose of tenure reform. As a consequence of these weaknesses, these legislations have not been able to successfully address the living and working conditions on commercial farmlands. This begs the question of its application, interpretation and enforcement.

This chapter concludes with some perspectives on the crisis facing the agricultural sector, it looks particularly at labour relations on farmlands. It emphasises that there is a growing process of the modernisation of labour relations between farmers and their employees which started prior to the introduction of labour laws and can rightly be seen as a way of curtailing potential land claimants in the future. This has to do with the precariousness of labour that focuses on the increase in the use of temporary labour rather than permanents labour. But this is only part of the larger problem where there is a decline in the number of farm workers living on farmland. They are increasing living off farms, in settlements or villages nearby and commute a distance to work or are fetched by farmers. However, before the introduction of labour laws, "seasonal workers used to live on the farms while they worked, but increasing they are transported daily onto farms and then taken back to where they live at the end of the day. Even permanent workers are not immune to this trend …"(Greenburg, 2010:17). This trend has been one, among the many ways of dealing or reacting to tenure reform. Taken from this point of view, this should be seen as an attempt to reduce to number of future land claimants by farmers (employers).

2.2 HISTORICAL BACKGROUND OF SOUTH AFRICA'S AGRARIAN QUESTION

2.2.1 INTRODUCTION

Farmlands in South Africa have often been a source of conflict (Hall, 2003). This is premised on the fact that the colonial and subsequent apartheid project sought the capitalist project of property acquisition by displacing of indigenous people. Through repressive laws, black independent farmers lost their access to land which forced them into contractual arrangement with the dominant white farmers in order to have at least a minimal access to land. This situation did not occur in a vacuum or overnight. The eighteenth through the twentieth centuries witnessed the growth of capitalism, the primacy of class interest, and the rise of radical individualism that concerned itself with property acquisition by the minority and alienation by the majority.

2.2.2 HISTORICAL ANTECEDENT (PRE-1913)

It goes without saying that the 1913 Natives' Land Act was momentous in the history of South Africa in very many dimensions. This is however overstating the obvious since many

scholars have cited its emergence as the much needed boost in the entrenchment of the segregationist and capitalist quests of the white race in South Africa (Bundy 1990; Keegan 1985). This is based on the conceptualisation of the Act as being part of the broader attempt to implement a single "Native policy" for the Union of South Africa hence the legislations that preceded and followed its cue such as the squatting Laws, the pass Laws, and many more (Davenport 1991; Wickins 1981).

However, it is important to note that the history of land dispossession did not begin with the passing of the 1913 Native Land Act. Arguably, land dispossession in South Africa began with the *Great Trek* – the migration of Dutch cattle farmers into the interior of South Africa in the 1700s (Daniels, 1989). Dispossession of land spans years back to the expansion of Dutch colonial settlement in the Cape colony. While the initial part of land dispossession began with the annexation and division of territories, over time proclamations were made and laws were enacted by both British and Afrikaners to dislodge African people from their land while consolidating areas of white settlement. The process of dispossession started when the first white settlers arrived at the Cape in1652 and continued for approximately three centuries. In 1658, the first formal act of forced relocation in South Africa occurred when Jan van Riebeeck informed Khoi communities that they could no longer live west of the Salt and Liesbeek rivers (Levin, 1996). From then on, legislations, military conquest, and colonial settlement became the standard methods of dispossession.

Legislation was increasingly used as a method of dispossession. As the white agricultural sector grew in the mid-1800s, so did the demand for African labour. Several laws were passed that "allow[ed] for economic growth largely through the creation of a cheap, abundant and disciplined supply of African labour while permitting whites to further solidify their dominance of all the economic resources of the developing nation" (Daniels, 1987: 334). Accordingly, a tax policy designed to force Africans into wage labour by heavily taxing independent African tenants on farmland was introduced in 1860. This was followed by the 1884 Native Location Act in the Cape Colony and the 1887 Squatter Laws in the Transvaal. Nonetheless, a key legislation that laid down the foundation for a divided South Africa as the Glen Grey Act of 1894. Act was introduced in the Cape Colony to increase the supply of and control over African labour. In terms of the Glen Grey Act, migrants from "reserve "areas would provide labour, thus setting the foundation for separate development and the Apartheid policies that were to follow. Finally, it was the 1904 Masters and Servants Ordinance that

deprived black tenants of legal protection by defining them as servants instead of wage labourers. The Ordinance therefore established the legal basis for the process of forced removal and eviction of labour tenants and farm workers that continued for almost a century thereafter.

2.2.3 NATIVE LAND ACT OF 1913

With the creation of the Union of South Africa in 1910 and the coming to power of the South African Party, "a new era of vigorous and focussed government policies to inhibit the growth of the African peasantry was ushered in" (Bundy, 1979:242). The1913 Land Act rendered the tradition of sharecropping, squatting, and the purchasing or hiring of lands or farms in white owned territory (outside the reserves) illegal, which made the reserves the only place available for Africans legal occupation. This has been analysed as a concerted drive to eliminate black entrepreneurship, competition, and independence for cultural, political and economic reasons. It effectively "dispossessed millions of South Africans and immediately reduced African access to land by excluding over one-and-a-half million hectares of white owned land rented by Africans, as well as half a million hectares owned and occupied by Africans at the time" (Klug, 1996:391).

The 1913 Act was part of a bigger policy framework that included (among other measures) the Mines and Works Act of 1911 and the Native Labour Regulation Act of 1911 – both aimed at facilitating cheap labour to white enterprises (Wickens, 1981). Claassens upholds that "...intrinsic to the bigger policy framework was the ideology that Africans should be allowed in white areas only as servants and never as owners or independent producers" (1991: 43-44). It brought to the fore the sufferings of displaced and evicted black Africans – chiefs, farmers, their families and indeed the entire communities from what had been known to them as their ancestral home. In this situation where these people were tenants on white own lands or state land (Crown Lands), they continued their agricultural and livestock culture and many of them were independent farmers and entrepreneurs, and their relationship with the white land owners were relatively cordial and symbiotic until the enactment of the Natives' Land Act of 1913. In the Act was included a Schedule of Native Areas which incorporated all the African reserves that were created in the different provinces before the formation of the Act. This schedule "brought under the coverage of the Act about 22 million acres of land (just over 7 per cent of the South African territory) within the four provinces of the union" (Harvey; 1993:68).

It should be understood that the 1913 Natives' Land Act forms part of the broader attempt by the white colonisers to establish their dominance over the native black Africans as many authors have argued[16]. It therefore follows that the plethora of laws that preceded and antedated this particular piece of legislation – Squatter Laws, Pass Laws, Migratory Labour Laws, Influx Control Laws, etc. – were designed strategically to keep the white domineering system continuous especially in these different drives towards social engineering by means of legislations that increased inequalities between minority white settlers and the majority native black Africans (Bundy, 1990). This is even more vivid in Wickins' (1981) view that all of these laws share the same characteristics such as: bias towards assuring white enterprises of adequate supply of disciplined and inexpensive black labour; the aim of hampering the economic competition and social integration of Africans by restricting their access to skills, labour organisation and land; are generally resented by African opinion which was never directly consulted since they were mainly disenfranchised save in some relative franchise in the Cape of Good Hope.

Historically the relationship between native black Africans and the white settlers and land owners in relation to agriculture had revolved around squatting, sharecropping and rent tenancy. The land in traditional African societies were held communally but controlled by chiefs who allocated lands – including arable and grazing lands in accordance to the needs of the community. But this trend changed with the conquest of the European invaders as the availability of lands reduced and the traditional tenure system was distorted totally. This white conquest "greatly reduced the amount of land available for African use, and for farming communities used to shifting agriculture and regular transhumance ..."(Davenport and Hall, 1991:164), thus engendering a serious socio-economic precariousness for the native blacks. What followed therefore were widespread squatting, share cropping and labour tenancy, and as many natives had lost their lands based on the European conquest, they remained in some of the lands more as tenants – though independent – and squatters too, and established some rent paying arrangements with the white landowners. In certain cases,

[16]Murray, C. and Williams, G. (1999) Land and Freedom in South Africa. *Review of African Political Economy* 21(61): 315-324. Ntsebeza, L. 2007. "Land Redistribution in South Africa: the property clause revisited". In Ntsebeza, L., and Hall, R. *The Land Question in South Africa.* Cape Town: HSRC Press.

natives were able to buy, hire or take lease for farming lands using the different available payment arrangements.

Squatting, sharecropping and tenancy were therefore at the very core of the rapport between white landowners (even some white farmers) and the native black African farmers and entrepreneurs. It was a mutually beneficial arrangement initially especially in the Cape because the crops produced by the native farmers were shared with the land lords as tributes, rents, lease or purchase payments. Thus, native Africans were able to actively contribute to farming since the white landowners were predominantly herdsmen and hunters and not really farmers. Following this, Keegan highlighted thus:

> *Share cropping relations between white landlords and African tenants proliferated, especially after the Anglo-Boer War, when more and more lands in the erstwhile Boer Republic was taken up by new white settlers. Many white farmers without capital or access to labour turned to share cropping with black tenants, while white land companies and speculators, who had brought up much land, found black rent paying tenants a useful source of income. The truth was that the older white farming population was not very well equipped to meet the new internal market demands for foodstuff (Keegan, vi)*

This means that there was a burgeoning black farming enterprise which was becoming more and more successful, and with the rising trend came a commensurate feeling of envy, sensitivity, dread, socio-economic and political insecurity among the new generation of white farmers and landowners. This trend according to Bessie Head (1916, x) came into view because black farming was proving to be competitively successful as against white farming and there was a novel demand for a flow of cheap labour to the gold mines due to the industrialising economic status of the Union of South Africa. Davenport notes that in the event of the sporadic nature of squatting, sharecropping and tenancy the following successes of the black farmers, the emerging white farmers and business elites where concerned that the practices:

> *... militated against efficient commercial farming by threatening to overburden the soil and block the supply of [cheap] labour. [Thus] with the growth of urban markets and the flow of money into the region, land values had begun to rise. [And so a] ... new generation of white entrepreneur landowners had come into being, who desired to exclude the competition of the small holders, or considering that if the squatters there had to be, these should be whites and not blacks; the independent black peasantry should rather be drawn into the labour force [than draw people into labour]. (Davanport and Hall, 165)*

Thus, this heightened envious feeling among the white people in government and in business led to full scale lobby of political elites against this sharecropping arrangements and the

owning of lands by natives side by side whites. The end result of this agitation was the emergence of the Natives' Land Bill, and it is was in this mood that the parliament enacted the Natives Lands Act (No. 27) of 1913 – the act which prohibited different angles to black and white agricultural and economic rapport, and led to much greater socio-economic and political consequences in the years that followed.

Finally, although land dispossession did not begin with the 1913 Native Land Act, it profoundly made land dispossession the main policy of economic development – separate development.

2.2.4 IMPACTS OF THE NATIVES' LAND ACT OF 1913

From the foregoing, it cannot be disputed that historically, black South Africans underwent horrible ordeals as a result of the triumph of this piece of legislation which came in to force in June 1913. Some scholars reckon that it "created overnight a floating landless proletariat whose labour could be used and manipulated at will, and ensured that ownership of the land had finally and securely passed into the hands of the ruling white race" (Head; 1916: ix). This is as a result of certain negative externalities that it portended at that particular epoch in history and the broader framework of South African history from then onwards. Thus such issues as forced removals and evictions became strong possibilities; and landlessness, dispossessions, stock sales and losses, and the precariousness of labour burgeoned. These were certain possibilities as the Act provides incentives to (predominantly white) landowners to (forcibly) evict any tenant who refused to convert into labour service in the farms. The magistrates and other legal institutions laden with the mandate of providing alternative areas and lands offered little or no assistance in many cases of evictions that ensued as a result of the Act. This meant serious implications impacting negatively on the native black South Africans.

The prohibition of previous modes of farming and landowning arrangements such as purchasing, hiring and leasing in relation to squatting, share-cropping and even labour tenancy also had its impact for black Africans. In fact, the blacks suffered the brunt of these laws considering that they had less of the land – 7 per cent to 13 per cent – whereas they were much more populated. The reserves were definitely very small to house all the agricultural needs of the African populace, and even the lands allocated under the 1936 provisions in adherence to the recommendation of the Beaumont Commission, was deemed uninhabitable for humans and unsuitable for agriculture. In the light of this, Africans had only negative

options, one of which was to succumb to the will of the white landowners and be converted into wage labour forces in the farms.[17] It was thus argued that making share cropping illegal had:

> *... immediate and drastic consequences for the Bantu, especially in the Free State. Thousands of African families were driven off the white farms. For months they wandered, homeless and starving, until they were eventually absorbed as labour tenants (semi-serfs) on the farms or as labourers in the urban localities [preferably mines]. The land promised for evicted squatters was never provided.*[18]

An analysis of the impacts of this legislation in terms of the hopelessness, precariousness and insecurity that it engendered for the black Africans in South Africa is also explains the concept of land expropriation. Callinicos contends that

> *The expropriation of African people's land by British colonists and Afrikaner settlers ... undermined the communal mode of production among these people. African peasants, no longer able to support themselves and their dependants out of their own production, and forced by the imposition of hut and poll taxes to earn more cash, went to work in the mines. They were recruited as short-term contract labourers and paid low wages, which reflected the fact that production in the reserves set aside for Africans took part of the burden of reproducing labour power.*[19]

These issues are pointers to the extent to which the broader effect of this Act played out even many years after its launch and consolidation in 1936.

Importantly also, the impact of the Native Land Act is also acknowledged in its promotion of segregationist principles that led to separate development and thus a bimodal agricultural system or agricultural dualism. Accordingly "… the first has been the battery of repressive legislation to secure cheap agricultural labour power, and to release land for white agricultural development [and] the second aspect has been the establishment of infrastructure, supportive legislation and ultimately direct subsidisation for white agriculture" (Levin and Weiner; 1989:86). Indeed, the decades succeeding the 1913 Act was characterised by a large support for white agriculture by the state through greater subsidisation.

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[17] Johns, S: "Protest and Hope 1882-1934", in Karis, T and Carter, G (eds.), *From Protest to Challenge: A documentary history of African Politics in South Africa 1882-1964,* Vol I, Hoover Institution Press, California, 1972.

[18] Roux, E: *Time Longer than Rope: A history of the Black Man's struggle for freedom in South Africa*, Victor Gollancz, London, 1948, pp. 83.

[19] Callinicos, A: *South Africa: Between reform and revolution,* Bookmarks, England, 1988, p. 10-11.

This period also witnessed a rethinking the question of black agriculture in the reserve areas. Subsequently, an act which was closely related to the Native Land Act was the Bantu Trust and Land Act of 1936. This Act entailed that certain areas were released for black occupation (Letsoalo, 1987). The 1936 Land Act outlined plans for the reclamation and rehabilitation of the reserve areas. The implementation of the Act marked the beginning of the betterment policy (Levin and Weiner; 1989).

With regards to the reserves areas, the Tomlinson Commission was established with the purpose of creating a strategy against the backdrop of separate development. It sought to the development of "…a scheme for the rehabilitation of the native areas with the view to developing within them a social economic planning" (Letsoalo 1987). Black farmers lacked the technological skills for agricultural development within the apartheid bimodal agricultural system. As such, they were believed to be hazardous to the environment. Hence, among the Commission's obligation was the modernization of black farmers.

Equally, the commission believed that the betterment of black farmers could be achieved by upgrading infrastructure and land, as we as increased capital use for black farmers. Their betterment could also be facilitated by "relocating people to the villages in which land was allocated to residential, arable, grazing and woodland areas. The Commission estimated that about 50% of black South Africans would be rendered landless by betterment planning" (Letsolalo; 1987:60). Nonetheless, the government rejected the recommendation given by the Commission. Particularly, it rejected the recommendation of making more than half of the population within the reserves landless while at the same time continued with the betterment of the reserves. The apartheid government continued with its policies which heavily supported large-scale commercial white farmers over black emerging small-scale farmers.

Ultimately, the result of this dualistic agricultural system has meant an uneven development between white and black agricultural areas, and a "dominance of marginalised black agriculturalists with limited access to the means of production, in contrast with mechanised and productive large-scale white farms" (Levin and Weiner; 1989:90). Hence, the concentration and centralisation of capital in white agriculture has contributed to the landlessness of the majority of the black population by solidifying white control over limited arable land resources.

2.2.5 POST-1994 LEGISLATIONS

After the 1994 general elections, ANC led government began the process of Land Reform Programmes to redress the distorted possession of land which would provide a measure of security of tenure. This last section on the history of land dispossession looks at the different legislations that the government put in place to address the injustices of the past. Particularly it focuses on tenure reform legislations that were enacted to protect and strengthen the relative rights of those living and working on land which they were not registered as owners.

Prior to the 1994 elections, legislations that sort to increase tenure security for the majority of South Africans were already on ground. The first of this was the Abolition of Racially Based Land Measures Act (No: 108) of 1991. It was passed to repeal all legislative mechanisms that enforced a system of racially based residential areas.

Soon after was the Upgrading of Land Tenure Right Act (No: 112) of 1991. The Act provided for the upgrading and conversion into ownership of certain rights granted in respect of land; for the transfer of tribal land in full ownership to tribes; and for matters connected therewith. It aimed to upgrade various forms of limited land tenure rights, which were prevalent in the apartheid era and accorded lesser rights in land to the majority of South Africans (Carey and Pope, 2000).

The next piece of legislation in relation to tenure reform was the Communal Property Association Act (No: 28) of 1996. The Act makes provision for security of tenure within a communal property association. It aimed to provide a viable basis for landholding by communities. An important aspect of the Act is that is allows a community to organise itself into a juristic person for the sole purpose of acquiring, holding, and managing property on a basis agreed to by the members of a community in a written constitution. Hence, the CPAA deals with the rights of a community, but embodies the entitlements and protection in a new juristic person created in terms of the Act. It regulates tenure rights of members of a communal property association.

However, the CPAA has been criticised, among other things for its failure in defining clear parameters for membership in property associations[20]. This challenge is often encountered

[20] Lahiff "Tenure Arrangements and Support" in Hall (ed) Another Country-side (2009) 99; Cousins & Hornby "Adrift" in Piecemeal Reforms and Calls for Action 136.

when communal property associations form part of the restitution claims – this is, conflict can develop surrounding the legitimacy of including certain descendants that from part of the claimant community. Generally, these challenges revolve around uncertainty about the status of members, mismanagement of the land, and allocation of substantive rights. Additionally, since the tenure right of the community is embodies the entitlements and protection in a new juristic person – usually the traditional chief – there is often suspicion of elite capture. Hence, the Communal Property Association Amendment Bill, 2013 as passed to amend the CPAA, 1996, so as to redefine the kind of communities and persons to whom the provisions of the Act apply. It is further intended to clearly define the nature and substance of the report on communal property associations that has to be tabled in parliament[21].

Furthermore, the Communal Land Right Act (No: 11) of 2004 (CLARA) was intended to be a primary tool for the provision of legally secure tenure and comparable redress on communal lands. CLARA aimed to fulfil the provision in section 25(6) and 25(9) of the Constitution by transforming insecure "old order rights" into "new order rights" that are stronger and more secure (Pienaar, 2011: 108-133). These rights would then have been registered in the name of the communities or individuals who hold or occupy land communally. However, CLARA was declared unconstitutional by the constitutional court on account of it not enacted correctly as it merely replaced the indigenous law that regulates land occupation, use and administration.

Nonetheless, the most important piece of tenure reform legislation is the Land Reform (Labour Tenants) Act (No: 3) of 1996 and the Extension of Security of Tenure Act of 1997. Together, these legislations make up the Tenure Reform Programme which is a part of the broader Land Reform Programme. These Acts are discussed below as a section on its own since it deals directly with the research question. In addition to the aforementioned Acts, the Labour Relation Act (No: 66) of 1995 and the Basic Condition of Employment Act (No: 75) of 1997 were also enacted in order to protect farm workers labour working conditions.

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[21] Strategic Plan: Rural Development and Land Refrom 2014-2019. Online at: http://www.satgi.co.za/admin/upload/pdfs/DRDLR_Strat_Plan2014_19%20(1).pdf (Accessed 20/01/15)

The aforementioned legislations culminates in the Land Reform Programme, conceived as a means by which the state would redress the racial imbalance in landholding and secure land rights to the historically disadvantaged African population as well as promote rural development. The Bill of Rights, which forms a large part of the Constitution, places responsibility on the state to carry out this reform programme. It makes provision for the state to expropriate property in the public interest which is subject to a just and equitable compensation by the state.

2.3 LAND REFORM PROGGRAMME

2.3.1 LAND RESTITUTION

Just as the introduction to this section stated, land restitution was a huge issue during the country's negotiation and transition process and has remained a delicate socio-economic and political matter in South Africa – no thanks to the dark history of dispossession. Within the context of the Convention for a Democratic South Africa's (CODESA) negotiations, it did not also lose its importance although it never took centre stage. Ruth Hall asserts that, it "was initially conceived of by the ANC as the key land reform to be undertaken by a new democratic government …" (2004:655) to provide restitution or redress to black people majority of whom were dispossessed through forced removals characteristics of the oppressive and racially discriminative laws of the minority-led apartheid government. This initial intent however had to contend with other pressing political and economic matters that in the end influenced the land reform policy that was to be adopted by the soon to be ANC-led government as part of the negotiated settlement. Land restitution remained on the agenda however as one of the three key dimensions of the South African land reform programme – the other two being redistribution and the security of land tenure.

In terms of these negotiations a compromise was met upon what dimension(s) land restitutions would take – it should target the victims of forced removals and racially discriminatory laws dated back to 1913 – the year when the infamous but devastating Natives Land Act was promulgated (19 June 1913).[22] In this vein, land restitution became an intrinsic part of the interim 1993 constitution – emerging later on as the Restitution of Land Rights Act of 1994 which:

[22] Walker, C: "The Limits of Land Reform: Rethinking 'the Land Question." *Journal of Southern African Studies*, Vol. 31, No. 4, 2005.

> *... provides for priority treatment for those who lost their land after 1913 ... as a result of racially discriminatory legislation, and who were not fairly compensated (Government of South Africa, 1996a:36). This includes people expelled from 'black spots' (areas inhabited by black people, who often held freehold or other rights to the land, in what became 'white South Africa' after 1913) and people moved as a result of the Group Areas Act (which stipulated, inter alia, that members of different 'race groups' had to live in different parts of a town or city). (De Wet, 1997:357)*

This Restitution of Land Rights Act was promulgated in 1994 in terms of the interim constitution of the Republic of South Africa (Act 200 of 1993) and it endows entitlements for land restitution to persons and communities if:

> *... (a) such a person (or direct descendant of such a person) or community was dispossessed of such rights; and (b) such dispossession was effected under the purpose of furthering the object of any law, which would have been inconsistent with the prohibition of racial discrimination contained in section 8(2) of the Constitution Act 1993, had that section been in operation at the time of such dispossession.*[23]

In this vein a timeline was created as a benchmark for the appropriateness of restitution claims, and this is the cut-off date of 1913.

The compromise on the cut-off date for qualification of people and communities for land restitution for 1913 means that all lands dispossessed by means of the Natives Land Act 27 of 1913, the Development Trust and Land Act 18 of 1936, the Group Areas Act 41 of 1950 and the Black Communities Development Act 4 of 1984[24]and others that followed in this line of racially motivated dispossessions were open for restitution to people. It also meant that people who had lost their lands prior to the 1913 benchmark were not eligible for restitution, although they could be considered for other redistributive forms of the land reform policy.

The reasons for this 1913 cut-off date are based on a supposed but uncertain absence of written documentations prior to 1913 and the view that "permitting the process to reach back further ... would be inviting potentially conflicting ethnic claims on the part of dispossessed tribes..." (Roux, 2006:10). The implication of this argument is that there may not be in existence any single record of documentations that could verify people's claim to land prior to 1913. It also means that the fear of disputes emerging sporadically because of multiple claims to particular lands prompted the compromise for this cut-off date. While the claim of

[23]Dawood, Z: "Is Restitution in need of a remedy", Report Paper for the NLC, April 1998.
[24]Hall, R: *The politics of Land Reform in Post-Apartheid South Africa: A shift Terrain of Power, Actors and Discourses (DPhil Thesis).* St. Anthony's College, University of Oxford, 2010.

the lack of documentation falls short based on the view of historians like Feinberg (1995) whose opinion is that "deeds" are the best locations wherein find documentations of people's ownership claims to land prior to 1913, Roux goes further to see the arguments as overly simplistic. In Ntsebeza's (2007) view, the promulgation of the Natives Land Act of 1913 legalised the systematic colonial theft of black peoples' land and its peasant agricultural farming culture.

The Land Claim Court was tasked with the responsibility of adjudicating land claims. Certain targets were set in order to achieve this. These included a three year period to lodge a claim, set from 1995 to 1998; a five year period for the court to finalise all claims; and a ten year period for the implementation of all court orders. But international experience has shown that finalisation of land claims and implementation of restitution can be difficult and lengthy. A periodical evaluation of the process would therefore be necessary. This would include the development of measures to address any delays which may occurs and a review of the time frames. As recently as 2014, a review of the time frames was made. This led to the Restitution of Land Rights Amendment Act of 2014, which among other things, sets a new deadline for land claims to December 31, 2018. This gives potential land claimants up to five years to lodge a land claim. According to the *Mail and Guardian*, "only about 80 000 land restitution claims were lodged by the 1998 deadline and it is estimated that there are up to five times as many valid cases that can be brought by victims of apartheid-era removals"[25]. However, the Department of Rural Development and Land Reform states that, "approximately 8, 471 land claims that were lodged before the 1998 cut-off date have not yet been resolved, while others have only been settled in part"[26]. Nonetheless "as at 31 March 2014 a total of 77, 622 land claims had been settled by the commission on Restitution of Land Rights"[27] and while it did not give an exact estimate of how many farm workers benefited from this programme, it did however maintains that most of these settlements have

[25] President Zuma Signs Land Bill into Law. Online at: http://mg.co.za/article/2014-06-30-president-zuma-signs-land-bill-into-law (Accessed 1/09/2014)

[26] Citizens Manuel, Department of Rural Development and Land Reform. online at: http://www.ruraldevelopment.gov.za/publications/file/2677 (Accessed 21/01/2015

[27] Citizens Manuel, Department of Rural Development and Land Reform. online at: http://www.ruraldevelopment.gov.za/publications/file/2677 (Accessed 21/01/2015)

been in KwaZulu-Natal and Mpumalanga and farm dwellers including farm workers and labour tenants benefited[28].

Nonetheless, before it was passed into law, the Land Rights Amendment Act of 2014 was met with fierce opposition as opposition parties weighed in on the debate. The Democratic Alliance (DA) attempt to introduce additional amendment to the bill was blocked by the African National Congress majority vote. These amendments included "proceeding the new claim process with intensive national communication process ..., the window for lodging claims should be open for six months only [and] a deadline for six years must be set for the adjudication process to be completed"[29]. This debate is itself founded on the Constitution which makes provision for both the protection of rights and the restitution of land to those who were wrongly dispossessed on the land during the apartheid era.

On the whole, the restitution programme has however not been without its limitations especially in its relation to farm workers and labour tenants. It is important to ask the level at which the restitution programme has affected the lives of those working and living on farmlands. Have they in fact benefited from the programme, and what must be done to improve this if not. It should be stated that restitution has been disproportionate; little success had been achieved in farmlands, unlike the former homelands (Bantustans). Understandably, this is perhaps due to the fact that those living in the Bantustans bore a heavier weight of the apartheid system through forced removal. A study of LRAD project in Limpopo found that out of 251 beneficiaries, only a single one was a farm worker, residing on farmland (Wegerif et al, 2005).

This has given room for little rural transformation as "some of the most intractable, costly and potentially conflictual claims in the rural areas are yet to be addressed" (Hall, 2007:92). Desperation continues to loom for farm workers and farm dwellers as their "struggles have been obscure[d], overshadowed by the struggle for the city" (Murray and Williams, 1994:135). Their struggles for tenure security can only be understood in the context of the history of conquest and dispossession, of political exclusion, and of the socio-economic conditions of the lives. It was in this vein that Murray and Williams contend that "the

[28] Citizens Manuel, Department of Rural Development and Land Reform. online at: http://www.ruraldevelopment.gov.za/publications/file/2677 (Accessed 21/01/2015)

[29] Land Reform Bill Passed Against Political Ruckus. Online at: http://mg.co.za/article/2014-02-25-land-reform-bill-passed-against-political-ruckus (Accessed 1/09/2014).

problems and struggles of farm workers have to be recognised in their own rights, not subsumed under either the struggles of urban workers or the broad rubric of land reform and agrarian question" (1994:321).

Even where land has been restored in rural areas, there is often the problem of financing in order to make such land productive. According to a 2003 study from the Institute for Poverty, Land and Agrarian Studies (PLAAS), a community in poor Limpopo, like in most cases, had to enter a joint venture with commercial partners due to lack of capital in order to continue farming operations in commercial farmlands that had been restored or have leased out their land to previous owners (Hall, 2003). The restitution programme should therefore take into account the aftermath of restitution in poor rural communities. This is premised on the fact that it is one thing to restore right to land, and another thing to use such rights for the development of livelihoods. Walker (2005) makes accentuate this by maintaining that restituted rights to land may prove superficial if they cannot be used as a basis for development.

2.3.2 LAND REDISTRIBUTION

According to the White Paper on South African Land Policy, the purpose of this leg of the land reform programme is "to provide the poor with land for residential and productive purposes in order to improve their livelihoods" (DLA, 1997: ix). It also states that the programme is "of a land policy and land reform programme that contributes to reconciliation, stability, growth and development in an equitable and sustainable way" (DLA, 1997:7). In this way, it aims to assist groups such as the urban and rural poor, labour tenants, farm workers, the landless poor, and emerging black farmers. Broadly speaking, the aim of the Redistribution Programme include bringing about a more equitable distribution of land, to solve the problem of landlessness; contribute to political stability by reducing land related conflict as well as national reconciliation.

Like the restitution programme, land redistribution was equally influenced by the compromise that has made during the negotiation that saw the smooth and peaceful transition of a racially and politically divided country to a new democratic South Africa. Within the context of this negotiated settlement, it was "necessary to meet the redistributive demands of those in the liberation struggle and the poor in general, while not provoking a right wing back

lash, and avoiding the flight of capital and skill from the country" (Wegerif, 2004:9). This meant that land redistribution was to take a market-based or demand-led approach, with a limited role of the state.

The role of the state in the redistribution processes has been very crucial and precarious. As Stephen Greenberg and Ruth Hall both independently noted, the ANC had no clear or articulate policy strategy on land reforms, especially land redistribution.[30] Greenberg insists that the fall of socialism in Eastern Europe as well as the constant ideological bombardment from consultants working for big businesses summarily dismantled whatever ideological backbone the Organisation had especially in relation to radical policies on land redistribution.

The state was also influenced a great deal by the ideological position of international donor institutions especially the World Bank which scholars agreed predominantly shaped the land reform policy in South Africa. Thus, redistribution was not to be absolute, "its realization in practice is contingents on the current owner being a willing seller at the price offered or on the willingness..." (Hall, 2004:600). However, "[e]xpropriation [by the state] will be used as an instrument of last resort where urgent land needs cannot be met through free market transactions" (White Paper, 1997:39). Through this medium, land would be purchased at a market rate from landowners who agree to sell.

Weidman (2004) however contends that the three-part land reform programme was the brain child of the World Bank as well as the claim-based restitution process, and a redistribution regulated or determined by the market based willing buyer, willing seller paradigm with minimal state grant provision for land or property acquisition for poor black people who (though were also dispossessed of land) did not qualify for restitution but were considered for redistribution. The influence of the World Bank in recommending a 30 per cent redistribution programme within the first five years of transition must be in relation to market value – the consensus on the willing-buyer, willing-seller restoration paradigm – all points to the constrained policy choice especially in relation to land restitution. It is therefore important to understand the circumstances which necessitated a rather subtle approach with less urgency in radical land expropriation for redistribution because of the state's allegiance to the provision on the bill of rights and its nascent quest to promote a quasi-neoliberal development paradigm in post-independence South Africa.

[30] Hall, R: 2004, p. 656.

Since the role of the state had being limited, at best, it could only assist in the purchase of land by making land acquisition grant available to willing-buyers. A number of grants were created in this regard. One of such grants was the Settlement/Land Acquisition Grant (SLAG) which was "provided to assist families with an income of less than R1, 500 per month with land purchase. The poor were clearly the target group and poverty alleviation was a main objective" (Wegerif, 2004:11). Other grants included the Settlement Planning Grant, Grant for the Acquisition of Land for Municipal Commonage, the Settlement Planning Grant, and Grant for Determining Land Development Objectives. SLAG however became the main grant that assists poor black population in their quest for land ownership

However, the weaknesses of SLAG began to show when it proved to be deficient or weak, particularly in its creation of a black commercial farming sector. This led to a shift in the specifics of policy with particular reference to an emphasis on 'the importance of commercial farming as stimulus for rural economic growth'.[31]The concern for the creation of black commercial farmers saw the launch of a new programme – the Land Redistribution for Agricultural Development (LRAD) – which emphasized ensuring economic benefits from redistributed land, through the promotion of a black commercial farming sector. The Reconstruction and Development Programme (RDP) which became the manifesto for the ANC in its 1994 election campaign proposed a dramatic land transfer to all those who wish to produce incomes through farming in a more sustainable agricultural system. The LRAD is therefore meant to form a sub-programme and speed up land redistribution. It was created with the hope that it would achieve a number of objectives imperative to the land reform programme such as "contributing to the redistribution of 30 per cent of the country's agricultural land by 2015; decongesting overcrowded former homeland areas; expanding opportunities for women and young people who stay in rural areas; and improving nutrition and incomes of the rural poor who want to farm on any scale"[32]. People living on farmlands want access to land as well as access to jobs. Particularly, farm workers and former farmworkers have the potential to become commercial farmers due to the skills they have acquired from farming, but they often lack the capital to pursue such opportunities. The LRAD which has become a major means of land acquisition has helped in this regard and created a sector comprised of black farmers.

[31] J Kirsten in *Mail and Guardian* 2000-04-14

[32]Bradstock, A. Land Reform and Livelihoods in South Africa's Northern Cape Province. Online at: http://www.sciencedirect.com/science/article/pii/S0264837705000062 [accessed 11/25/2013]

However, the land redistribution programme has stopped short of what it was meant to achieve. Particularly, it has had little effect in improving the livelihoods of the rural population especially farm workers and labour tenants. Firstly, one of such limitations is the market-based land reform on which the concept of a willing buyer and willing seller rest has undoubtedly been highly flawed. At best, it puts a substantial power in the hands of the owner since he/she has the power to fix the price of land at a market value. Griffin et al upholds that "a major redistributive land reform is impossible if land transfer is based on free market prices" (2002:321). This approach to land reform has "not managed to involve the poor, nor [has it] reached the most capable beneficiaries" (Wegerif, 2004:8) including farm workers and labour tenants who are often considered the poorest in South Africa (Hall, 2004). The willing buyer/willing seller approach to land reform has only benefited current landowner (the majority of them being white commercial farmers), as it continues to protect their property rights, strongly backed by section 25 (1) of the constitution. Ntsebaza (2000) and Hendricks (2004) have both argued that the concept of a willing buyer and willing seller which to a large extent protect property rights of landowners legitimizes 'colonial land theft'. Land transfer should be for social needs and not left to be dictated by market forces.

Secondly, there is often a lack of capital to purchase or secure land. The DRDLR provides only a limited assistance through the Settlement/Land Acquisition Grant (SLAG) to labour tenants who right to exercise their right to claim land in terms of LTA. SLAG is criticised for being insufficient as "in some cases, this has pushed labour tenants to borrow money they are not able to repay" (Wegerif et al, 2005:36). This has pushed many deeper into poverty thereby defeating the aim of the redistribution programme.

Nonetheless, with the introduction of the Land Redistribution for Agricultural Development (LRAD) in 2001, there has been a substantial redistribution of land in rural areas. However, the LRAD was primarily launched to support commercial black farmers and has been the major means of land acquisition, and as a result the redistribution programme has been limited. The disproportionate shift in policy which emphasized the LRAD for commercial farming has been criticized for failing to address the needs of the poor majority of landless poor, and this widens the gap between the 'haves' and 'have nots'.[33]For the most part, redistribution did not consider farm workers needs for redistributive land as the core to addressing their tenure insecurity. It is criticised for its "inappropriate beneficiary selection

[33]Kariuki S. 'Land reform could widen the divide' in *Mail and Gaurdian*200-03-10. Ben Cousins also questions this policy shift in his '*Land reform at the crossroads: Who will benefit?*'

[and] lack of post-settlement support"[34] Analysis reveals a bias in favour of black emerging commercial farmers. The implicit assumption here is that 'bigger is better'. Whereas, people who want secure rights to land for settlement and as a base for their multiple livelihood strategies, a possible route out of rural poverty, are not catered for at all. Hall has called for "an alternative or a counterpart … to respond to the demands of those who are not in a position to invest in, or sustain the risk associated with, commercial enterprise" (Hall, 2007: 91) and those whose interest is to get land for residential purpose rather than agricultural purpose.

In 2006, the Proactive Land Acquisition Strategy (PLAS) was introduced to "acceleration the land redistribution process … improve the identification and selection of beneficiaries and the planning of land on which people would be settle; and ensure maximum productive use of land acquired"[35]. It acts as a tool to fast-track land redistribution based on land acquisition by the State, which pre-select beneficiaries on the basis of need. The land acquired is then allocated to approved beneficiaries on a leasehold basis for a period three years after which the leaser may be allowed to purchase it. The strategy targets "black people (Africans, Coloureds and Indians), groups that live in communal areas and black people with the necessary farming skills in urban areas, [and] people living under insecure tenure right"[36]. It focused on the State as a lead driver on the land redistribution process. Hence in this strategy, the State proactively targets land and matches this with the demand or need for land.

Nonetheless, a study from the Institute for Poverty, Land and Agrarian Studies (PLAAS) discussed the potential and limitations of PLAS. It concludes that "PLAS has potential to acquire more; there are no tools for identifying land on high agricultural potential areas; the land identification process compromised land allocation; and that the three years contract threatened investment"[37]. With regards to its weaknesses, Cousins maintains that "the

[34] The Potential and Limits of the Proactive Land Acquisition Strategy (PLAS): Land Reform Implementation in Gauteng Province of South Africa. Online at: http://www.plaas.org.za/ (Accessed 16/01/2015)

[35] Manual for the Implementation of the Proactive Land Acquisition Strategy. Online at: http://www.ruraldevelopment.gov.za/ (Accessed 10/01/2015)

[36] Manual for the Implementation of the Proactive Land Acquisition Strategy. Online at: http://www.ruraldevelopment.gov.za/ (Accessed 10/01/2015)

[37] The Potential and Limits of the Proactive Land Acquisition Strategy (PLAS): Land Reform Implementation in Gauteng Province of South Africa. Online at: http://www.plaas.org.za/ (Accessed 16/01/2015)

weaknesses of the current proactive land acquisition strategy…fails to provide tenure security and is subject to elite capture …"[38].

Arguably, the redistribution programme has not been adequately linked to the agrarian reform and as such has not reformed the rural economy. Particularly, farm workers and labour tenants continue to face the harshest conditions of poverty with a lack of basic services and access to land rights. It is in consonance with this that the ANC launched the Comprehensive Rural Development Programme (CRDP) in 2009 to strategically link the land and agrarian reform to farmworkers, labour tenants, and general, farm dwellers in order to build the potential for rural sustainable livelihoods. The CRDP would be discussed in detail later in this chapter.

2.4 LAND TENURE REFORM

It is instructive to first defined land tenure by way of an introduction before discussing the legislations that make up the South African tenure reform programme. Land tenure refers to the terms and conditions in which land is held, used and transacted. It refers to customary or legal rights which regulate ownership and control relating to land use (Wadie and Appah, 1981). Land tenure security, which tenure reform seeks to create, "is the individual's perception of his/her right to a piece of land on a continued basis, free from imposition or interference from outside, as well as the ability to reap the benefit of labour or capital invested in land, either in use or upon alienation" (Roth and Haase, 1998:1) Taken from this point of view, land tenure is a system which involves land rights and covers both obligations and entitlement to the holder.

2.4.1 SOUTH AFRICAN TENURE REFORM PROGRAMME

Tenure Reform has been considered the most complex area of the land reform programme. It aims to bring all people occupying land under a unitary legally validated system of landholding. It provides for secure forms of land tenure, help resolve tenure disputes and make awards to provide people with secure tenure. It aims to redress the discriminatory laws in terms of the nature of land rights held by black South Africans especially for those living

[38] Forceful land acquisitions not in SA's future if government increases efficiency
Online at: http://www.engineeringnews.co.za/article/forceful-land-acquisitions-not-in-sas-future-if-government-increases-efficiency-2012-08-10 (Accessed 16/01/2015)

on commercial farmlands as well as those living on former homelands. Legislations were passed in order to protect the rights of those working on farmlands as well as those tenanting farmland. These legislations are the Land Reform (Labour Tenants) Act, 1996 and the Extension of Security of Tenure Act, 1997 which taken together forms the Land Tenure Reform Programme and is the third leg of the larger South African Land Reform Programme. Whereas the Land Reform (Labour Tenants) Act, 1996 (Act No.3) provides for the protection of the rights of labour tenants and gives them the right to claim land, the Extension of Security of Tenure Act (ESTA), of 1997, aims to protect people who live on land with the consent of the owner or person in charge against unfair eviction and create long-term tenure security through on-or-off-site settlement assisted by a government grant and the landowner.

However, it is argued that the tenure reform programme has taken the slowest pace in all three areas of the land reform programme. The DLA, while not having accurate statistics, is of the view that "there is an increase in illegal evictions and a decrease in legal eviction"[39]. Organised agriculture has been opposed to ESTA although officially opposed to ESTA "their positions seems to differ from the mostly white farmers who make up and rank and file membership" (Hall, 2003:21). There is an inclination by government to attribute the slow pace of progress to high prices being demanded for land and resistance from landowners. Other studies have nonetheless attributed this to other factors including "a lack of political direction, bureaucratic inefficiency and a lack of mobilisation among the rural poor and landless themselves" (Hotel and West, 2007:5). Both LTA and ESTA will be discussed below and their limitations as it affect the tenure security of farm workers and labour tenants. What follows is a brief demographic description of South African farmlands.

2.4.2 THE LAND REFORM (LABOUR TENANTS) ACT

The Act (LTA) introduced legal procedures for the eviction of labour tenants (as defined by the Act) so that only the Land Claims Court could legally evict tenants. It aims to protect the tenure rights of existing labour tenants, as well as enabling land acquisition by tenants its objectives include, protecting existing tenure rights and redistributing land to tenants by means of grants. In terms of chapter three, a labour tenant or her/his successor may apply for a grant of:

[39]Dr.Sipho siphon Sibanda. "Land Reform and Poverty Alleviation and South Africa" http://www.sarpn.org/EventPapers/Land/20010604Sibanda.pdf [03/09/2013]

(a) The land, which he or she is entitled to occupy or use. (b) The land, which he or she or his or her family occupied or used during a period of five years prior to 1996 and of which he or she or his or her family was deprived contrary to the terms of agreement between the two parties. (c) Rights in land elsewhere on the farm or in the vicinity, which may have been proposed by the owner of the farm and (d) such servitudes of rights of access to water which are necessary for the exercise of the rights which he or she enjoys or has previously enjoyed as a labour tenant. (Williams, 1996)

In order to qualify as a labour tenant section one of the Act requires that a person,

a) Must stay or have a right to stay on a farm. b) Must have had cropping or grazing rights on the farm in (a) or another farm which belongs to the owner. In return for the cropping or grazing rights the person must have worked for the owner. c) Must have or must have had a parent or grandparent who had cropping and grazing rights on the farms mentioned in (b). This parent or grandparent must also have worked for these rights. (d) These requirements must have been met on June 2, 1995. (Hornby, 1998)

Initially the Labour Tenants Act placed the onus on farm dwellers to prove their labour tenancy. This resulted in an amendment, in late 1997, shifting the onus to landowners to prove that a labour tenant is a farm worker. Further conditions for evictions include a prohibition on the eviction of persons older than 65 or disabled persons who have nominated a successor and, the prohibition on the eviction of a person while an application to acquire rights in land in terms of Chapter three is pending.[40] The Act allows a labour tenant to appoint a successor and landowners may not unreasonably object to the person the tenant names to provide labour in her/his stead. In cases of death, labour tenant families may be given a period of twelvemonths before eviction.

In regards to land claims however, "a high proportion of tenants claims have been resolved by removing tenants from the farms they occupied and resettling them … on land purchased on their behalf by the state. In other cases, labour tenants have had to bring in outsiders in order to raise sufficient grants to purchase land they already occupy and use". (Hotel and West, 2007:25) This raises a particular concern since most land that was acquired on behalf labour tenants is yet to be subdivided. Hence, these labour tenants hold land collectively and tenure rights remain undefined and by implication are potentially insecure.

2.4.2.1 LIMITATIONS OF LAND REFORM (LABOUR TENANTS) ACT

The LTA has often disadvantaged labour tenants (who are also farm worker). This is a direct consequence of its implementation process. For instants, in order to qualify as a labour

[40]Land Claims Court of South Africa, Van Zydam v. Zulu, LCC 27/98, January 12 1998

tenant, the labour court judged that all four conditions (as mentioned above) had to be met. Hornby (1998) asserts that long-term first generation labour tenants (those without labour tenant parents or grandparents) were summarily excluded from the ambit of the Act. Many other groups are also excluded from the benefits of the LTA because of the narrow definition of labour tenants suggested by the Act and employed by the courts. Also, those who lost their labour tenancy status before June 1995 are not covered by the Act. Subsequent research has indicated that many labour tenants lost their status particularly in the period between 1990 and 1994, when political change made farmers apprehensive about the possibilities of land reform.[41]The NLC has pointed out those labour tenants who moved opportunistically or who were forced to move from farm to farm, are also excluded from the Act.

Furthermore the 1998 cut-off date to lodge land claim became problematic for a number of reasons, including the fact that the Department of Land Affairs (DLA) – Department of Rural development and Land Reform – did not conduct a publicity drive to generate awareness among labour tenants of their rights. It was only in 1999 that the DLA launched an information campaign, which brought approximately 3 000 new applications for the transfer of land rights to labour tenants.[42] As mentioned, the process of settling claims under the LTA has been extremely slow and largely ineffective. Since conflict has often risen between landowners and tenants in the process of tenure reform, interim mechanism for resolution have been put in place at district level specifically in Mpumalanga and KwaZulu-Natal.

Additionally, Gavin Williams points out that labour tenants are generally remunerated in terms of "right to occupy and use land" and not in cash wages. However, the LTA provides no way of measuring the value of "the right to occupy or use land" (Gavin, 1996). This value could be determined by the rental value of the land, the income generated from the land or even the grazing capacity of (or number of cattle on) the land. This implies that the LTA does not adequately address the complex social relations on South African farms. The serious nature of the eviction problem called for immediate action, which partly explains some of the inadequacies of the Act.

[41]Hornby D, "All we need is a piece of land", National Land Committee Investigation into the Current Status of Labour Tenancy, March 1998

[42]Turner S & Ibsen H, "Land and agrarian reform in South Africa: A Status Report", Occasional Paper Series, PLAAS, UWC, November, 2000, p. 26

A study of farmers and farm workers in Kwazulu-Natal showed that farmers placed land reform programme (especially tenure reform) as their third greatest concern or unease after insecurities on farms (crime and attacks) and declining services in rural areas. The study found that farmers feared division of their farms and loss of control over their farmlands with the implementation of labour legislations which had recently been passed at the time of the study. Such legislations made it difficult to cut back on labour, ESTA especially made evictions from commercial farms "all but impossible" (Johnson and Schlemmer, 2008:10). Their analyses showed that farm size, size of workforce and annual income made farmers consider themselves as vulnerable to tenure reform. This had a direct impact on employment trends in the agricultural sector. Many farmers had begun a process of rapid labour shedding prior to the implementation of the Land Reform (Labour Tenants) Act in order to get rid of potential land claimants under the new legislation.

Finally, many critics have argued that the legislation protects the rights of a limited number of labour tenants but, that in a situation of land scarcity, political change and high unemployment, the LTA may limit the opportunities open to others. Farmers may respond by not allowing families to reside (or keep cattle) on farms in order to avoid their classification as labour tenants, thereby reducing the livelihood options available to farm dwellers. And despite significant changes to the national land reform programme in 1999 and 2000, no new legislation was developed in an attempt to overcome the problems encountered during the implementation of the Labour Tenants Act.

2.4.3 EXTENSION OF SECURITY TENURE ACT (ACT 62 OF 1997)

The Extension of Security of Tenure Bill, contained in the 1997 White Paper on Land Reform in South Africa, was underpinned by four principles:

(a) The law should prevent arbitrary and unfair evictions. (b) Existing rights of ownership should be recognised and protected. (c) People who live on land belonging to other people should be guaranteed basic human rights and, (d) The law should promote long-term security either on the land where people are living at the moment or on other land.[43]

ESTA was the first "really contentious" land reform Act to be passed by the ANC-led government. The South African Agricultural Union and other representatives of white commercial agriculture were fundamentally opposed to the Act, arguing that the Act elevated

[43]Department of Land Affairs, White Paper on South African Land Policy, Pretoria, April 1997

tenant rights above ownership rights (Hall, 2004). The National Land Committee, and other representatives of farm workers and labour tenants, argued that the Act extended insufficient protection to farm workers and labour tenants and, in particular, did not address the needs of those already evicted or in the process of being evicted. According to the National Land Committee and some of its affiliates, the Act was a "charter for legal evictions rather than an effective shield for the disadvantaged" (Turner S & Ibsen H, 2000:25).

The Act aimed at preventing unfair evictions of farm workers. Section 19 of the Act legislate that local or regional court orders for eviction automatically need to be reviewed by the Land Claims Court. Section 9 of the Act contains the procedure for obtaining normal eviction orders, while the legal procedure to be followed during urgent evictions is set out in Section 15.Section 8 stipulates that employees/farm workers cannot be evicted prior to the settlement of labour disputes. Section 4 of the ESTA allows the Minister of Land Affairs to allocate grants for the purchase and/or development of land to ensure security of tenure for former or current farm workers. By the end of 1999, the majority of the grants provided involved people moving off farms and into townships rather than acquiring land on farms for productive or secure residential purposes.[44]

Other key elements of the Act include greater tenure security for persons over the age of 60who have lived on a farm for ten years or more, rights to land for grazing and cultivation and protection for farm workers' families. In cases where long-term employees die, for example, dependants may only be evicted after 12 months. Section 26 of the Act gives the Minister of Agriculture and Land Affairs the power to expropriate land for the purposes of on-farm or off-farm development projects.

2.4.3.1 LIMITATIONS OF EXTENSION OF SECURITY OF LAND TENURE ACT 62 OF 1997

ESTA has been criticised for three major reasons, this revolves around its implementation, enforcement, and the failure to publicise the Act. With regards to eviction, Cousins and Hall asserts that "the 'developmental' dimension of ESTA was most poorly implemented." (Cousins and Hall; 2011:14). These problems were exacerbated in a context where farm

[44]Lahiff E, "Land reform in South Africa: is it meeting the challenges?", Policy Brief, no.1, PLAAS, September 2001

workers remain isolated and have very limited access to the overburdened state legal aid services.

ESTA aimed to provide people who live on rural and per-urban land the protection from illegal evictions regardless of whether or not they are employed by the land owner. Nonetheless, although this makes it difficult to evict occupiers, evictions within the Act are however possible and illegal evictions have not been uncommon on commercial farm lands. A survey carried out by the Nkuzi Development Association and Survey concluded that about 940 000 people were evicted in the ten years from 1994 to 2003. Wegerif et al states that within this period, only about 1% of those evicted were done legally through a court order as prescribed by Section 26(3) of the Bill of Right (Wegerif et al, 2005). These evictions meant that occupiers lost access to assets such as their homes, livestock, and particularly their land. Wegerif et al (2005) concludes that more than 2 million farm dwellers had been displaced between 1994 after the transition to democracy to 2004.

Furthermore, the Act, in theory allows farm dwellers to apply for grants for on-farm or off-farm use – especially for housing purpose – and gives the Minister of land affairs the power to expropriate land for development. However in practice, neither of these measures has been used effectively to date (Cousins and Hall; 2011). Where grants have been provided, they usually have involved farm residents moving off farms and into townships rather than granting them agricultural land of their own or secure accommodation on farms where they work.[45]

Similarly, highlighting on farmers reaction to ESTA and how it affects labour tenants, Hall asserts that some farmers took "pre-emptive action by starting to evict occupiers before the law was passed" (2003:21). They saw/see ESTA as an "unwanted intrusion onto their land rather than a framework through which to find solutions that involve[d] coexistence on the land" (Umhlaba Development Services, 2002:19) between landowners (farmers) and occupier (farm workers and/or labour tenants). It is generally believed that evictions heightened in the years that preceded the promulgation of tenure and labour laws. This was due to a number of factors likes "farm sales, liquidation and changes in land use… as did cost price squeezes

[45] Cousins and Hall (2011, p14) point to widespread failure of the policy, a decade of fruitless policy review, ongoing evictions of farm-dwellers and a general shift away from the language of rights to one of productivity and economic efficiency.

experienced in industries such as the apply industry in the late 1990s" (Cousins and Hall; 2011:14)

Commercial farmers' association AgriSA, which predominately comprises of white farmers, has several objections to ESTA among which is an unwillingness to take on responsibilities for the extended families of employees – this in itself disrupts the right to family life. This view is also highlighted in Atkinson's (2007) study on the fate of farm workers in arid South Africa where she upholds a widespread agreement that ESTA has failed and in this regard, contributes to rupturing organic and inclusive social relations on farms – the family. This objection to ESTA is often seen as the bedrock for the eviction of teenage members of the family who are not employed on the farms where their parents work.

The Act is also limited because it only applies to farm workers who are still residing on farmland.[46] What this implies is that it fails to provide strategies that enable legally evicted farm dwellers access land after eviction. According to a 2005 report by the Ministry of Land and Agricultural Affairs, only 36 projects aimed at providing long-term tenure rights for farm dwellers were underway. This was to be done in the form of low-income housing or alternative means to secure their livelihoods. However, a limited number of projects at barely 36 suggest that only a minority of the total population of farm dwellers with insecure tenure rights have been resolved. This means that the majority of legally (or illegally) evicted tenants are left to look for alternative means themselves and this has always constituted a boarded on them. As a result of this trend, "comparing the number of people evicted to those who benefited from land reform, it is clear that many more black South Africans have lost their tenuous hold on land in the white farming areas since 1994, through evictions, than have gained land through land reform" (Cousins and Hall; 2011:14).

Naidoo makes a feminist case against ESTA, by stating that it creates a link between employment and the Right of residence of occupiers employed on farmland" (2011, 198). This link tends to increase the degree of precariousness especially among women and children. Women and children not employed on farmlands can out rightly be evicted twelvemonths after the head of the family (usually the husband) dies who was employed on

[46] Section 2(1) of the Extension of Security of Tenure Act 62 of 1997

the farm.[47] It follows that the farm dwellers "employment status is important in determining the extent of any farm dwellers" (Wegerif et al, 2005:68) tenure vulnerability.

Finally, it is imperative to ask why there is very little progress on securing long-term rights on commercial farms and why these rights to secure tenure has been harshly violated. These have been a result of numerous factors from policy design, structural constraints, unequal power relations on farms, and a general inequality. The failure or limitations of ESTA has led to scepticism among scholars about the transformative potential of imposing a right framework on farms tenure social cohesion. Since the Act secures the farmers' interest in the land and land ownership, it is argued that ESTA has failed to transform the relations of power on farmlands. This point of view is asserted by Naidoo when he states starts that "ESTA is unable to overcome tensions between protecting property rights of farm owners and protecting the land interests of farm dwellers" (2005:200). There is a disproportion in the balance of power, leaning more to the farm owner, premised on the fact that labour tenants have to seek permission to exercise their right on the farm. A study by Atkinson (2007) on farm workers brings this point of view to the fore when she discusses the ways in which ESTA had contributed to rupturing organic and inclusive social systems on commercial white farms. She depicts farm social relations as naturally cooperative and mutualistic, and argues that the international competitiveness of commercial farmers is a vital precondition to improving the situation of farm workers.

2.5 RECENT INTERVENTIONS TO LAND REFORM (TENURE REFORM)

The current intervention to tenure reform also overlaps other programmes – redistribution and restitution. These cover a wide range of programmes, plans, and institutional development designed to the overall land reform programme. Although there have been a number of interventions, three of such interventions are discussed here. Official documents from the Department of Rural Development and Land Reform are discussed in this section.

2.5.1 LAND RIGHT MANAGEMENT FACILITY

The Land Rights Management Facility (LRMF) was established in 2007, and in 2010 it expanded its mandate to include other land reform programmes particularly the Communal

[47] Section 8(5) of the Extension of Security of Tenure Act 62 of 1997

Property and Associations, and the restitution programme. Its objective was to provide legal advice and protect the land rights of vulnerable farm workers and farm dwellers[48]. It also to provides "legal representation and mediation services to claimants in terms of the Restitution of Land Right Act; and assistance and support to the Communal Property Associations in terms of the Communal Property Association Act"[49]. The LTA and ESTA provides for rights that could mainly be asserted through legal mechanism. Existing legal aid system could not adequately provide for civil litigation including litigation on land matters. And since the government had the legal obligation to provide legal assistance to persons working and living on farms and had no functional mechanism for this and government procurement systems were not geared to respond as quickly as matters of this nature required, hence was the need for the creation of the LRMF.

The LRMF has three main components, "The first two components deal with legal representation and mediation services while the third one is the Call Centre. The Call Centre is designed to increase access to Departmental services and for people to report any land rights violation, particularly illegal evictions."[50] In order to achieve this, the LRMF had two components: the Legal Services Project (LSP) which provides legal representation to farm dwellers that are facing eviction or the threat of eviction and "facilitate[s] redress for the poor and marginalised persons through legal processes and forums such as courts" (Mahomed, 2010:5). The other component of LRMF is the National Land Mediation Panel (NLMP) which assists in providing a viable land tenure assistance programme.

While this facility has achieved a few successes, more still has to be done. In a 2014 briefing by the DRDLR, the minister stated that within the period of 2009 to 2014, a total of 139 mediation cases had been submitted; 106 had been closed; 42 were successful; 64 unsuccessful; and 24 pending[51].

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[48]Lahiff E "Land reform in South Africa: A status report" (2008) *PLAAS Research Report No 38* 1-42 at 4 www.plaas.org.za/pubs/rr/PLAAS_RR38_Lahiff.pdf (accessed 15/06/2014)

[49] Land Rights Management Facility: briefing by Department of Rural Development & Land Reform. online at: **http://www.pmg.org.za/node/47820** (Accessed 19/01/2015)

[50]The Land Right Management Facility Online at http://www.ruraldevelopment.gov.za/hotlines/eviction-hotline#.U-4hWPmSxRk (accessed 15/08/2014)

[51] Land Rights Management Facility: briefing by Department of Rural Development & Land Reform. online at: **http://www.pmg.org.za/node/47820** (Accessed 19/01/2015)

2.5.2 THE RECAPITALISATION AND DEVELOPMENT PROGRAMME

The Recapitalisation and Development Programme (RADP), established in 2009 is another of such interventions. This programme applies to all emerging farmers needing support. According to the DRDLR, "the policy seeks to provide black emerging farmers with the social and economic infrastructure and basic resources required to run successful agricultural business[52]". With regards to tenure security, "ESTA is applicable to the RADP because it enjoins the minster to allocate funds for development related to farm dweller that are living in insecure tenure" (Department of Rural Development and Land Reform, 2011:12).

Among the many achievements of the programme is that it makes provision for the struggle of farm workers in relation to their security of tenure by undertaking a co-management strategy. By this strategy, tenure security of farm workers and labour tenants are secured through share equity schemes. The RDCP asserts that "through co-management certain entitlements, duties and responsibilities shall be placed on occupiers [as defined in by ESTA] and labour tenants [as defined by LTA] to play an active role in ensuring that their right of tenure to the land is earned and their rights can be defended"[53]. As such, it seeks to contribute towards the achievement of land reform objectives by roping in private sector participation in land reform through equity sharing in the enterprises.

Similarly, in light of the 1997 White Paper which described share equity schemes as "a partnership with the private sector, [and] represents a well balanced mix of farming systems, flourishing agricultural sector and secure tenure of all stakeholders" (1997:23). The RDCP also undertakes this strategy. In relation to tenure reform, "the farm-worker equity-share scheme provides worker-shareholders with housing which strengthens their tenure security by protecting them against losing both their homes and jobs if the scheme fails" (Knight and Lyne 2002:367).

The programme also makes provision for emerging black farmers, particularly farm workers who which to transition to independent small-scale farmers. However, it also acknowledges the challenges they face in this process of transition. Highlighting some of its challenges, a

[52] Policy for the recapitalization and development programme for the department of rural development and land reform 23 July 2013. Online at: http://www.dla.gov.za/phocadownload/Policies/rdp_23july2013.pdf (Accessed 01/09/2014)

[53] Policy for the recapitalization and development programme for the department of rural development and land reform 23 July 2013. Online at: http://www.dla.gov.za/phocadownload/Policies/rdp_23july2013.pdf (Accessed 01/09/2014)

2013 three-year review of the programme, asserts that emerging black farmers' "exclusion from dynamic markets emanates from the current economic and historical perspective, they are neither economically efficient in their production system for successful integration into the mainstream agribusiness, nor were they politically empowered in the past to commercialise their production.[54]"

2.5.3 COMPREHENSIVE RURAL DEVELOPMENT PROGRAMME

The last intervention to be discussed is the Comprehensive Rural Development Programme (CRDP), adopted in 2009 and serves as a policy trajectory for the DRDLR. It is aimed at ensuring that rural communities are mobilised so that they can contribute in the improvement of their quality of life, through government support[55]. It was established as an all-encompassing strategy that is intended to create social cohesion and development of rural areas. Its establishment is premised on the three pillars of land reform, agrarian transformation and rural development. This programme concerns itself with rural and agrarian development, in relation to the overall policies of land reform in order to ensure an effective implementation of its objectives.

With regards to the specifics of tenure reform and how it affects farm workers and labour tenants issues, the CRDP aims to

> *increase the pace of tenure reform by fast-tracking the settlement of labour tenant claims, especially in KwaZulu-Natal and Mpumalanga; facilitating secure access to land by farm dwellers; dealing effectively and promptly with illegal evictions; protecting the land rights of farm workers and creating decent jobs on farms; establishing agri-villages for local economic development on farms; providing basic needs for farm dwellers, such as water, sanitation, electricity and housing; and providing support and capacity building to farm dwellers.*[56]

CRDP is therefore meant to tackle social issues which have become almost synonymous with rural areas. Underlying the programme is agrarian transformation especially within the

[54] Three Years Review of Recapitalization And Development Programme. Online at: http://www.ruraldevelopment.gov.za/phocadownload/land-reform/radp/september2013_radp_mid_term.pdf (accessed 19/01/2015)

[55]Department of Rural Development and Land Reform *Annual report 2010-2011* (2010) 13.Republic of South Africa

[56]Department of Rural Development and Land Reform *Comprehensive rural development programme* (2009).Republic of South Africa.

context of food security. Hence its objectives include increased agricultural production, self-reliance of rural communities, sustainable use of natural resources, local economic development, and improved rural livelihood.

2.6 CURRENT INTERVENTIONS TO TENURE SECURITY

The above limitations or challenges in the implementation of tenure reform – its legislations and policies – explain why a review of the land tenure system especially reform on farmland was required. Amendments have been proposed to the current tenure security legislatives. This saw the launch of the Draft Land Tenure Security Policy, 2010 and the Draft Land Tenure Security Bill, 2011 which seeks to consolidate ESTA and LTA. As recently as February 2014, the minister of Rural Development and Land Reform Gugile Nkwinti completed the final draft of relative land rights proposal under the "Final Policy Proposals on Strengthening the Relative Rights of People Working the Land", which seeks to protect and promote the relative rights of people working the land. In essence, although the Bill and the relative land rights proposal both seeks to protect security of tenure, the later has raised more criticisms especially from agricultural organisations like Agri-SA and opposition parties particularly the Democratic Alliance (DA). The objectives of the Policy, the Bill, and the relative land rights proposal are discusses below.

2.6.1 LAND TENURE SECURITY POLICY 2010

The drafting of the policy was premised in the limitations or challenges of ESTA, as well as other socio-economic, political, and legal consideration. Particularly, it was drafted due to the skewed patterns of landholding and untenable power relations which have not yet been dealt with effectively[57]. The policy aims to promote and protect the relative rights of farm dwellers; to enhance the security of tenure of farm dwellers; to create conditions conducive to peaceful and harmonious relations on farmland; and to sustain production discipline in the interest of food security[58]. In this way, underlying the policy was the urgent need for rural development. Hence, it makes the link with the Comprehensive Rural Development

[57] Pienaar and Kamkuemah 2011 Stell LR 724-741; Cousins and Hall 2011 www.plaas.org.za.

[58] Republic of South Africa, Department of Rural Development and Land Reform Draft tenure security policy (2010)

Programme (CRDP) since it not only addresses tenure security but also addresses land administration systems, agrarian reform, and land management.

The policy highlights that the current tenure security systems on commercial farms are negatively affected by inadequate responses too complaints; institutional weakness in law enforcement; ineffective monitoring systems; an adversarial legal system; scaled-down activities of social movement; and inadequate legal representation[59]. It was to this end that the policy proposed the establishment of the Land Right Management Board to act pro-actively in relation to evictions and redress the lack of tenure security on farmland. Equally, the policy makes provision for alternative dispute resolution mechanisms and a register of interests on farms[60].

Furthermore, the policy addresses the issue of housing and employment of farm workers. Traditionally, the tenancy of farm workers has been tied to their employment contract. This has often meant that the loss of a job or the death of a farm workers leads to eviction of the entire family. The policy maintains that this situation can only be solved if access to land and housing is not link to employment contracts of farm workers[61]. In this way, farm workers would be able to exercise their tenure rights separately without invoking their employment contracts and their dependents would have independent rights to access to land or housing.

Finally, in a situation of a legal eviction, the policy suggests the provision of alternative accommodation in the form of agri-villages. These agri-villages could be in the form of large farms or several farms acquired through the sale or donation which will be given to farm workers grouping who could initially be the title deed holders of the land[62]. This means that farm workers and farm dwellers in general will not be made homeless if being evicted from the houses they currently tenant on farmlands.

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[59] Republic of South Africa, Department of Rural Development and Land Reform Draft tenure security policy (2010) 9.

[60] Republic of South Africa, Department of Rural Development and Land Reform Draft tenure security policy (2010) 10. See Pienaar JM & Kamkuemah A "Farm land and tenure security: New policy and legislative developments" (2011) 22 Stellenbosch Law Review 724- 741 at 730

[61] Republic of South Africa, Department of Rural Development and Land Reform Draft tenure security policy (2010) 10.

[62] Republic of South Africa, Department of Rural Development and Land Reform Draft tenure security policy (2010) 8.

2.6.2 DRAFT LAND TENURE SECURITY BILL, 2011

The objectives of the Bill are to consolidate and strengthen the interpretation and enforcement of ESTA and LTA which gives effect to the Constitution in relation to farm dwellers. Particularly, it seeks to

> *… provide for the continued protection of rights of persons who live and work on farms; to provide support framework for sustainable livelihoods of persons who live and work on farms; to provide for State assistance in the settlement of interested and affected persons on alternative land; To provide measures aimed at security of tenure, sustainable livelihoods and production discipline; to establish a land rights management board;…*[63]

The need for this consolidation is premised on the overlapping regulations of ESTA and LTA and the fact that secured tenure requires an effective land administrative system with a clear and concise content. In essence, it combines the current tenure security laws into a single legislation that deals with all matter relating to tenure security on farms. It is expected to depart from the existing laws in to fundamental ways by,

> *Creating an independent form of tenure security for farm dwellers by altering the nature and content of rights of people living on farms, specifically by creating a category of non-evictable occupiers. [And by] overhauling the administrative and legal mechanism for enforce these rights, and develop…alternative dispute resolution … mechanism as the primary means of averting or responding to evictions. (Hall, 2003:34)*

One of the purposes of this consolidation is therefore to improve tenure security on farms by changing and restructuring power relations on farms while at the same time addressing the limitations identified in ESTA and LTA. Although the Bill covers and protects persons currently covered under ESTA and LTA, it however retains the claims for the acquisition of ownership and other rights in land under LTA[64].

Unlike the category of persons who are covered under ESTA and LTA, the Bill is broadly formulated and it affords protection and strengthened tenure to different categories of persons. The Bill covers a broad category of persons, namely those who reside on the farms; those working on the farms; persons associated with persons residing or working on farms;

[63]Draft Land Tenure Security Bill, Department of Rural Development and Land Reform. online at: http://www.ruraldevelopment.gov.za/legislation-and-policies/file/142

[64]Clause 5(1) of the Draft Land Tenure Security Bill 2010. See also Pienaar JM &Kamkuemah A "Farm land and tenure security: New policy and legislative developments" (2011) 22 *Stellenbosch Law Review* 724- 741 at 730.

farm owners and authorised agents; and persons who have consent to reside on farmland. This reduces misunderstanding and misinterpretation regarding the persons covered and protected by the Bill. The major challenge of ESTA was that it did not include an occupier's family members in the definition of the term "occupier". Such an omission subjected spouses and dependants to evictions and less protection from ESTA provisions. However, consolidating ESTA and LTA into a single legislative measure does not automatically make the process of tenure reform on farmland simple. This process can be made more complex due to the fact that the Bill makes identical provisions for two different categories of persons, namely farm workers and labour tenants who both reside on farmland but have different circumstances.

With regard to improving tenure security on farmland, the Bill sets out the conditions and circumstances for lawful evictions. Clause 20 of the Bill provides that no eviction may render persons affected homeless or vulnerable to the violation of other human rights. This clause implies that the farm owner may not evict farm dwellers without alternative accommodation, which might lead to a lengthy and expensive process. Pienaar asserts that "a sensible application of this clause requires a lot of pro-active conduct, for example an investigation has to be done to determine the availability of alternative accommodation as well as sufficient support and other mechanisms to provide the required suitable accommodation" (2011:734). This makes the eviction process much simpler and it makes it easier for the land owner if alternative accommodation is available.

Finally, the idea to de-link the right to reside on farmland and employment contracts increases tenure security on farmland and reduces uncertainty regarding tenure rights[65]. Furthermore, de-linking employment and residence makes the process of eviction simpler as labour legislation is side-stepped and only formal eviction proceedings have to be lodged[66]. This implies that farm dwellers are provided with housing irrespective of where they specifically provide labour, as long as it relates to farmland. As such it does not necessarily mean that if a person's employment contract is terminated, his or her right to housing is also terminated. However, the bill "remains unresolved and lack of clarity exists in civil society on it current status."[67]

[65]Memorandum on the objects of the Land Tenure Security Bill, 2010.
[66]The Draft Land Tenure Security Bill 2010, (clause 22). Pienaar JM &Kamkuemah A "Farm land and tenure security: New policy and legislative developments" (2011) 22 *Stellenbosch Law Review* 724- 741, p734
[67]PLAAS Special Edition: Reintroducing the Contentious Traditional Courts Bill: Online at:. http://www.plaas.org.za/sites/default/files/publications-pdf/UW%2014.pdf (Accessed 20/01/2015)

2.6.3 POLICY PROPOSAL ON STRENGTHENING THE RELATIVE RIGHTS OF PEOPLE WORKING THE LAND

The Proposal finds its legitimacy within the context of sections 25, 26, 27, and 36 of the 1996 Constitution; the Freedom Charter (FC); the National Development Plan (NDP); and the Agenda 21 of the United Nations, and equally the 2011 Green Paper on Land Reform as well as the Comprehensive Rural Development Plan (CRDP) and the National Development Plan (NDP).

In setting out the framework for land reform, sections 25, 26, 27 and 36 of the Constitution reads that:

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

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

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

This framework compels the state to spare no effort in addressing land reforms and racial disparity and inequity in land ownership by South Africans. Hence, section 36(1) of the constitution limits the rights in the Bill of Rights by stating that:

"the right in the Bill of Rights may be limited only in terms of law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom taking into account (a) the nature of the right; (b) the importance of purposes of the limitation; (c) the nature and extent of the limitation; (d) the relation between the limitation and its purpose; and (e) less restrictive means to achieve the purpose."

Furthermore, whereas clause 3 and 4 of the FC states that "The people shall share the country's wealth" and "the land shall be shared among those who work it" respectively, the NDP states that since 1994, the main challenge for rural development has been the marginalisation of the poor, with many rural areas and households trapped in a vicious cycle of poverty. As such, a major component of the NDP's development strategy is the "ensure

access to basic services, food security and the empowerment of farm workers" (NDP, 219). It further asserts that the "relationship between farmers and farm workers is difficult and needs to be far better to achieve agricultural expansion, higher employment and better living conditions" (NDP, 233).

According to the document, the proposed policy is meant to strengthen the position of both farm worker and the farmer as people working the land. It recognizes the vested interest in the land by both parties who went to improve their living condition by working on farmlands. However since, "The legal rights of these two important actors, in so far as they relate to the farm, are historically not equal … [the] policy proposal introduces a new system of substantively recognizing the relative contributions of the farmer and the farm worker to the development of the farm as well as the integrality of their relative rights on the land …[68]".

A major component of the Proposal is to amend Section 16 of the LTA. The amendment would allow for the ownership of land by labour tenants – land currently tenanted. It would equally allow the Minister of the DRDLR to invoke the expanded LTA provision in Section 16 to allow the reopening of land claims by labour tenants. It is hoped that in this way, they will be able to acquire a certain amount of share on the land in which they live and work. The proposed legislation therefore seeks to rekindle "the class of black which was deliberately and systematically destroyed by the 1913 Natives Land Act, reinforced by other subsequent pieces of legislation enacted by successive colonial and apartheid regimes". However, what is most worrying and thus being criticized here is that if the legislation is implemented, it will force farm owners to relinquish 50% of their land to be shared amongst farm workers. The draft legislation reads:

> *The regime being proposed here is based on the relative contribution of each category of people to the development of defined land portions or farm units. The historical owner of the land automatically retains 50% of the land, while the labourers on the land assumes ownership of the remaining 50%, proportional to their contribution to the development of the land, based on the number of years they had worked on the land.*[69]

[68]Final proposal on strengthening the Relative Rights of People Working the Land: Online at: http://db3sqepoi5n3s.cloudfront.net/files/140408strengthening_the_relative_rights_of_people_who_work_the_land_-_feb_2014.pdf (Accessed 1/09/2014)

[69]Final proposal on strengthening the Relative Rights of People Working the Land: Online at: http://db3sqepoi5n3s.cloudfront.net/files/140408strengthening_the_relative_rights_of_people_who_work_the_land_-_feb_2014.pdf (Accessed 1/09/2014)

This has raised concerns from both the right and left of the political spectrum, and some analysts as well, who have warned that this would have a negative impact on food security and investment in the agricultural sector. In his rejection of the proposal, Agri-SA president Johannes Moller envisioned a decreased investment in agriculture because people will not be sure about 50 per cent of their rights[70]. While the Democratic Alliance welcome the idea of turning farm workers into land owners as a step in the right direction, its leader Helen Zille maintains that the proposed legislation goes against the National Development Plan (NDP) because "it removes the willing buyer willing seller principle, and places the development funds in the hands of a government that has so far failed to run any state-owned enterprise efficiently or productively"[71].

However, Trade Union Federation COSATU supports the government's intention to force cooperation between all parties in the farming community – farmers and farm workers alike. COSATU in the Western Cape Provincial Secretary Tony Ehrenreich maintains that those organizations that opposed the proposal were in fact the drivers of "racist agendas, adding that farm workers and the country has been more than patient with these racist farmers who seek to exclude black interest on the farms and victimize workers for demanding justice in Agriculture"[72]. He asserts that the proposal is the only way to avoid a war in the agricultural sector. However, those to support or oppose the proposal have been given until April, 2015 before it is passed into law or law.

The proposal has been criticized on three counts in a press release by the Women on Farm Project which largely reflects the concerns of many critics. Firstly, it questions the issue of land ownership, stating that it does not fundamentally address this even if tenure is addressed by providing shares in land "in many respects, the proposed policy is an updated version of the existing flawed shared equality scheme, which largely benefited farm owners more than farm workers and farm dwellers, and saw farmers having the controlling decision-making

[70]Government Should Follow NPD On Land Reform, Say DA. Online at: http://www.sabreakingnews.co.za/2014/06/24/government-should-follow-ndp-on-land-reform-says-da/ (Accessed 31/07/2014)
[71] Government Should Follow NDP On Land Reform, Says DA. Online at: http://www.sabreakingnews.co.za/2014/06/24/government-should-follow-ndp-on-land-reform-says-da/ (Accessed 31/07/2014)

[72]New Land Reform Policy Or War in Agri-sector – Cosatu. Online at: http://www.sabreakingnews.co.za/2014/06/24/new-land-reform-policy-or-war-in-agri-sector-cosatu/ (Accessed 31/07/2014)

power"[73]. Even though the proposal has attempted to overcome this by including government official in farm-level decision-making, the DRDLR often lack the capacity and resources to effectively monitor evictions and share equity schemes.

Secondly, it is argued that women, who make up a large part of seasonal workers would not benefit from the proposal since according to the proposal a worker need to have worked for ten years or over to benefit. As such, "since most women are seasonally employed, with most permanent workers being men, women seasonal workers will not receive any of the proposed benefits. They will only receive benefits indirectly if they are married to a man with a long service". This in itself perpetuates their vulnerability since they become dependent on the male partner for housing on farms.

Finally, there is the fear that the proposed legislation will lead to pre-emptive dismissals and evictions as was the case prior to the LTA. There is a strong likelihood that farmers will retrench, dismiss and even evict farm workers just before they reach the required ten years of diligent work. The consequence of this trend will ultimately be an increase in the casualization of farm labour and hence tenure insecurity.

2.7 PERSPECTIVE ON THE CRISIS IN THE AGRICULTURE SECTOR

It must be understood that "insecurity of employment, tenure and livelihoods on farms has been shaped by historical processes" (Wisborg et al; 2013:6). The twentieth century witnessed a modernisation of the agricultural sector – especially farming – with the introduction of protectionist policy by the state, technological changes, and subsidies which promoted high levels of farm employment. However, from the 1970s mechanisation, deregulation and reduces subsidies started to cause a reduction in employment in the sector (Mbongwa, Vink, Van Zyl and Thirtle 2000). This historical process has left its legacy in post-apartheid South Africa, characterised not only by a bimodal agricultural system but also by an unequal relation within (white) commercial farms where farm workers and labour tenants are faced with the harshest reality of poverty in the mist of agrarian wealth. Nonetheless, the agricultural sector has undergone a rapid restructuring since the end of

[73] Press Release: new land reform proposal won't work for women farm workers. Online at: http://www.wfp.org.za/news.html (Accessed 01/10/2014)

apartheid and while there have been some improvement in the living and working condition of farm workers, there have also been cases where it has been all but successful.

These are the crises post-apartheid South Africa is facing which has in turn had an adverse impact on the socio-economic conditions of farm workers. It is felt mostly in the disputed labour regime in the farming sector – the mechanisation and casualization of farm labour, as well as farm consolidation, both leading to a drop in rural/farm employment as an immediate consequence; and low unionisation of farm workers. Although these crises are found throughout the world, especially in countries where agriculture and access to land plays a huge part in generating income, it is particularly intense in South Africa.

The social and economic plights of farm workers in South Africa are a product of colonialism, segregation, apartheid, capitalist development, and the post-apartheid development thinking. This section therefore discusses the crisis faced by the agricultural sector, beginning from the disputed labour regime in the farming sector to the social relation that underpins farmers and farm workers social cohesion.

2.7.1 LABOUR RELATIONS

Post-apartheid South Africa's labour regime – labour availability, quality and provision of skills, labour market flexibility, and industrial relation – from the labour court to the sectoral determinations are facing great challenges. Independents research has confirmed a growing process of the modernisation of labour relations across all sectors of the economy. The agriculture sector has not being immune to this trend. Indeed there has been a decline in farm employment which may be seen as a way of curtailing potential land claimants in the future. This has to do with the casualization, and thus precariousness of labour that focuses on the increase in the use of temporary labour rather than permanents labour which has led to fragmenting the identity of being a farm worker. With the removal of subsidies and trade protection, as well as the removal of centralized marketing boards, farmers have had to adjust to this deregulated market. Casualization of labour and hence reducing labour is a risk strategy they seem to have adopted. Casualization has not only led to lower wages and benefits for workers; it has also increased the ratio of unpaid to paid labour, and the intensification of work. Farm workers are forced to take up off-farm employment; they are faced with a situation where they must diversify their livelihoods in order to make ends meet.

The proliferation of labour brokers who often exploit desperate people in need of work has made things worse (Atkinson, 2007 and Greenburg, 2010). Farm workers face the same conditions as those in other sectors; they "are often paid below the minimum wage, receive fewer benefits and are unsure about who employs them"[74]. And many farmers have taken advantage of this trend; many no longer have to provide accommodation for farm workers. In addition to this, hiring on a causal basis drives wages low. It goes without saying, that South Africa's rural area is defined by extreme poverty, deprivation, and oppression. Farm workers have had to bear the brunt of this widespread racism, intimidation and humiliation. It was within this context that the 1959 "Potato Boycott" in Mpumalanga was carried out, which for many shared the symbolic status with other memorable events of the apartheid. Similar to this is the recent 2013 farm workers strike in the Western Cape wherein for the first time in decades farm workers rose to demand better living and working condition. According Shawn Hattingh, an educator at the International Labour Research and Information, this strike was historic and "it's no coincidence that it happened directly after Marikana… it radicalised people, even among farm workers… seeing workers stand up and fight, may have had an impact"[75]. This unprecedented strike led to farm worker's determination increased by 52% in the minimum wage, effective from March 1, 2013[76]. That is, a R105 daily minimum. However, the Bureau for Food and Agricultural Policy report found that "…even a wage of R105 a day would be insufficient to meet the nutritional needs of a family of four with two earners"[77]. Hence, it is imperative to provide decent livelihoods for farm workers, who make up the majority of rural South Africa.

Cosatu's Western Cape secretary Tony Ehrenreich demanded a total restricting of South Africa's agricultural industry, saying that "since the minimum daily wage of R105 was

[74] Not All Peachy on Farm Jobs Front. Online at: http://mg.co.za/article/2013-08-16-00-not-all-peachy-on-farm-jobs-front (Accessed 20/01/2015)

[75] Farmworkers' strike: No silver bullet for rural unrest. Online at: http://mg.co.za/article/2013-01-15-no-silver-bullet-for-rural-unrest (Accessed 20/01/2015)

[76] Not All Peachy on Farm Jobs Front. Online at: http://mg.co.za/article/2013-08-16-00-not-all-peachy-on-farm-jobs-front (Accessed 20/01/2015)

[77] Not All Peachy on Farm Jobs Front. Online at: http://mg.co.za/article/2013-08-16-00-not-all-peachy-on-farm-jobs-front (Accessed 20/01/2015)

introduced …farmers did everything they could to make workers' lives difficult"[78]. He said this after the Deputy President Cyril Ramaphosa announced a moratorium which immediately bans legal and illegal farm evictions. Marius Fransman, chairperson of the Western Cape had in late 2014 called for a moratorium on what he calls the "mass evictions of farm workers"[79] in parts of the Western Cape. Cosatu maintains that the evictions were the unintended consequence of land reform proposals announced recently by the Minister of DRDLR which proposed long-term farm workers should be given a 50% equity share of farms on which they currently work in order to speed up land reform. This point of view has been reaffirmed by the Andries du Toit, director of PLAAS, "several experts, including me, warmed that the 50% policy is likely to lead to large-scale evictions; that it could be happening is not a surprise"[80] Deputy president of AgriSA Theo de Jager said the moratorium announced by the deputy president will create an "impossible situation" on farms. He maintains that this would also led to further job losses in the farming industry. According to him, "if the government wants [farmers] to create millions of jobs, they can now forget about it"[81].

However, this is only part of the larger problem where there is a decline in the number of farm workers living on farmland. They are increasing living off farms, in settlements or villages nearby and commute a distance to work or are fetched by farmers. Before the introduction of labour laws, "seasonal workers used to live on the farms while they worked, but increasing they are transported daily onto farms and then taken back to where they live at the end of the day. Even permanent workers are not immune to this trend …"(Greenburg, 2010:17). This trend has been one, among the many ways of dealing or reacting to tenure reform. Taken from this point of view, this should be seen as an attempt to reduce to number of future land claimants by farmers (employers).What is worrying about this trend is that it has increased the number of jobless rural residents. Rogier van den Brink et al (2007) maintains that "employment in commercial agriculture declined, from about 1.1 million in

[78] Ramaphosa orders ban on farm evictions. Online at: http://www.citypress.co.za/politics/ramaphosa-orders-ban-farm-evictions/ (Accessed 20/01/201)

[79] Western Cape ANC laments 'mass eviction' of farm workers. Online at: http://www.sabc.co.za/news/a/e736980045b9106a8be98b90ca3f4715/W-Cape-ANC-laments-mass-eviction-of-farm-workers-20140510 (Accessed 20/01/2015)

[80] Ramaphosa orders ban on farm evictions. Online at: http://www.citypress.co.za/politics/ramaphosa-orders-ban-farm-evictions/ (Accessed 20/01/201)

[81] Ramaphosa orders ban on farm evictions. Online at: http://www.citypress.co.za/politics/ramaphosa-orders-ban-farm-evictions/ (Accessed 20/01/201)

1995 to 0.9 million in 2003, or about 10 per cent of total employment" (2007:166). They suggest two possible explanations for this decline. On the one hand, the legacies of apartheid often strain labour relations between farm owners and farm worker in the commercial farm area as "expansion of agriculture means expansion of the labour force and this is accompanied by increased supervision – not a preferred option for white farmers" (2007:196). On the other hand, and most importantly, they suggest that the post-1994 legislations (ESTA and LTA) which protect farm workers and labour tenants from illegal evictions often resulted in commercial farmer's pre-emptive expulsion of this category of farm dwellers.

Related to the modernization of labour is the consolidation of farms, and investment in agricultural machinery – prompted by the rising cost of labour which has threatened to put the country's rural workforce out of job. The 2011 agricultural survey by StatsSA showed that "the number of people employed in the commercial farming sector decreased by 5, 1% from 866, 455 employees in 2010 to 821, 967 employees in 2011" (StatsSA 2011: iv) Farmers are looking to cut back on the expenses they can control, and with the availability of machines to do most of the manual work on farms, the cost of labour seems like the only apparent cost farmers can control. Undoubtedly, mechanization has led to significant farm productivity for large farms. Farm consolidation is one reason for mechanization. Farm enlargements increase the potentials for economies of scale – they create the opportunity to lower the average cost of production[82]. Nonetheless, consolidation has had an adverse impact of farm employment the new mechanized farms do not need to employ the workers from the more labour-intensive smaller farms which were acquired (Van Zly, Binswanger and Thirtle, 1995). Although De Klerk (1985) suggest that the decline in farm employment has compensated for the rise in industrial employment - especially through mining, construction and manufacturing, as well as domestic work for women – it has nonetheless put the rural population out of jobs. In his report, De Klerk (1895) found that while seasonal workers bore the brunt of mechanization, permanent workers were not directly affected by consolidation.

Besides its effect on farm employment, a question worth asking is: how can land or farm consolidation benefit those historically dispossessed of land, particularly emerging black farmers who are often smallholders? While the benefits of consolidation – productivity –

[82]De Klerk, Mike "Seasons That Will Never Return: The Impact of Farm Mechanization on Employment, Incomes and Population Distribution" Wits University: African Studies Institute. Online at: file:///I:/MA%20thesis%20material%202/mechanisation%20of%20farm%20work.pdf

cannot be denied, it must be acknowledged that not all small land plots and land fragmentation are problems by recognizing that, if asked about what kinds of assistance that could improve their small farm productivity, emerging black farmers are more likely to list such needs as improved inputs and agricultural extension as being more important than farm consolidation. This begs the question: is bigger really better for the country's agricultural sector? It appears that the space available for smallholders is diminishing as commercial farmers recognise the value of economies of scale at the expense of small and medium sized farms. The effect of this is the profitability for bigger player, while at the same time making agriculture unsustainable for small emerging farmers. This is important when understood within the context of the land reform programme and the NDP (2030) which identifies the sector as a key driver for job creation in the rural economy. To encourage those inclined to lease or sell their land for consolidation with another's parcel, the government must create alternative rural employment opportunities.

A final point on the crises in the agricultural sector is the inability to effectively unionise farm workers. They are "the most poorly organised workers in the country, with estimates of union density … in the Western Cape agricultural sector as low as tree per cent – compared to 30 per cent in the country's formal sector as a whole" (Human Right Watch; 2011:12). Most farm workers are not unionised and "because farm workers are dispersed among farms in areas that are often remote, farm workers as a class are invisible in society" (Atkinson, 2007:3). In refereeing to the 2013 farm workers strike in the Western Cape, former AgriSA chairperson and Democratic Alliance parliamentarian Lourie Bosman stated that "the majority of small-worker unions and civil society organisation have not have been effective in organising farm workers, because they say they do not have the money to visit far-flung farms"[83]. In its 2011 policy document, the Food and Allied Workers' Union (FAWU), which is an affiliate of Cosatu, acknowledges the challenges of unionising farm workers. The document "highlights the union's internal weaknesses, such as a lack of local knowledge of farming areas and a lack of proficiency in local language"[84].

But what is more worrying about the low level of unionising is that in cases where farm workers have tried to unionise, they have often encountered obstacles to union formation.

[83] Leaderless farm strike is 'organic'. Online at:http://mg.co.za/article/2012-11-16-00-leaderless-farm-strike-is-organic (Accessed 21/02/2015)

[84] Leaderless farm strike is 'organic'. Online at:http://mg.co.za/article/2012-11-16-00-leaderless-farm-strike-is-organic (Accessed 21/02/2015)

The 2011 Human Rights Watch report on the abuses in the fruit and wine industries of South Africa found that "farmers try to prevent union formation, despite its protection under the constitution and international law" (Human Right Watch, 2011:12). As a result, farm workers feared to join unions because of the thought of being discriminated by farmers at best, or being fired at worst.

According to a finding on the Sectoral Determination for agriculture (2002) by the Centre for Rural Legal Studies, less than 5% of farm workers in South Africa are unionised[85] many are illiterate and face the risk of eviction because they live on their employer's property. Husy and Samsodien have rightfully contended that "the low level of education and literacy in rural areas provide a formidable barrier for rural people in engaging with the state and with policy processes" (2001:13). A greater awareness of the legislation and a correct presentation of their labour right is therefore essential to improve the conditions of employment, quality of life, and security of tenure and employment. The poor enforcement of labour rights (particularly the labour relations Act (66) of 1995 and the basic conditions of employment act (75) of 1997) and tenancy laws (ESTA and LTA) has perpetuated a culture of paternalism of farms. The two major unions representing farm workers are the South African Agricultural, Plantation, and Allied Workers' Union (SAAPAWU) and the Food and Allied Workers' Union (FAWU), which are both affiliated to the Congress of South African Trades Union (COSATU). But even these unions have not much capacity, even on the most urgent matters affecting their members.

2.7.2 CONCEPTUAL PERSPECTIVES ON THE SOCIAL RELATIONS OF FARMERS AND FARM WORKERS

Most studies on farm relations have tended to present farm workers as victims, while farmers (mostly white) and the state as perpetrators. Although this has been true in a majority of cases, landownership by farmers and political discrimination by the state (mostly the apartheid state) whether covertly or overtly, does not necessarily exert absolute control on the lives on farm workers and farm dwellers in general. This is because as individuals, they can respond to or evade control. Two similar schools of thought can be used to supports this relation on farm – The subaltern school approach (Arnold, 1984) and structuration approach (Giddens, 1989). The subaltern approach argues that (farm) workers challenge the structure

[85]Preliminary Findings on the Sectoral Determination, Centre for Rural Legal Studies. Online at: http://www.crls.org.za/documents/Briefing%20paper%20sectoral%20determination.pdf

that exploits and oppress them. Scott refers to such a challenge or exercise of agency as 'weapons of the weak", a form of social disobedience through which the oppressed are able to extract resources to improve the livelihoods in agrarian class relations. For Scott, acts of resistance include sabotages, arson, and revenge. Nonetheless, these forms of resistance have been criticized for over emphasizing covert forms of resistance (Hart, 1991). The structuration approach on the other hand argues that structure and agency are interconnected and as a result, farm workers reshape the structure by challenging that which constrains them through the choices they make. This point of view is brought to the fore in Zamchiya's (2008) study which showed how farm workers in South Africa used their agency to increase their livelihoods. The recent 2013 farm workers is instructive, it demonstrated how farm workers transcended covert forms of resistance by engaging in an overt mass strike over the payment regime

The social relations on farms can also be viewed from the perspective of total institution and domestic governance as explained by Goffman (1961) and Foucault (1977). Goffman used this to analyse how surveillance was used in mental hospitals and prisons to provide regimentation and control over the lives of inmates. It was from this point of view that Nasson (1988) described farms in South Africa as "total institutions" seen in the way the lives and livelihoods of farm workers are regulated and dominated. This includes inter alia "highly unequal power relations …the place of employment [as] also the place of resistance …isolation from external influences and alternative sources of power and authority, and lack of protection by law and the state"[86]. Like total institution, domestic governance "describes how the living and working condition of … [are] regulated by the unilateral decisions of farm owners rather than by public procedures" this view was first used by Rutherford to describe farms in Zimbabwe but also fits the South African farm profile. It describes the absence of the public sphere on farms and the governance thereof which extends into the private sphere on farm workers. However, critics (Graaff, Louw& van der Merwe, 1990) have argued against the total institutions and domestic governance thesis, noting that there has never been absolute control of farm workers live and livelihoods by farmers or landowners; and that at present, thanks to trade union activities, civil society and the media, South African farms are open than usually thought of.

[86]P. Wisborg, R. Hall, S. Shirinda, P. Zamchiya. Farm workers and farm dwellers in Limpopo, South Africa.PLAAS paper. Online at: http://www.plaas.org.za/plaas-publication/farm-workers-%26dwellers [accessed 1/12/2013]

Paternalism is not new to farms in South Africa, Atkinson (2007) and a number of other historians on rural sociology writing on farm relations have often portrayed the relationship between farmer and worker as a patron-client relation. Such a relation places the 'client' in an unequal power relation. It is portrayed as a family-like community (Du Toit, 1993) "where relations of affinity and mutualism are combined with those of hierarchy, authority and male dominance. This legitimate[s] the master's rule and emphasise[s] the master's absolute and despotic power over the child, his worker" (1993:56). This rejects the exercise of individual agency and sees it as to threat to power relations as well as the harmonious social cohesion between farmers and their workers. Brian Ashley, director of the Alternative Information Development Centre maintains that it is unrealistic for farmers and farm workers to negotiate as equals. He asserts that "it underestimates the completely skewed power relations between farmers and workers[87]". This must be understood within the context of the longstanding feudal type of system that defines labour relations on many farms in South Africa. Johnson and Schlemmer's (1998) study found that a minority of farm workers were not sympathetic to the idea of buying land as inscribed by the LTA; they felt this would upset the farmer. They probably might as answered with 'we are fine the way we are', or "*onsverstaanmekaar* - we understand each other" as du Toit's (1993) study showed.

What the above discussed perspectives mean for tenure reform is that social relations and labour are highly shaped by the capitalist mode of production and through the control of capital. Total institutions, domestic governance, and paternalism, impedes successful tenure reform. The structuration point of view however highlights that workers are not just mere subjects or victims. They can also exercise their individual agency to resist control. These perspectives on the relations within the farming community underscore the central question of this work. That is, the complexities, intricacies and diversity of the condition and lives of farmworkers, labour tenants and the role played by farmers shaped by power relations but challenged and remoulded.

[87] Farmworkers' strike: No silver bullet for rural unrest. Online at: http://mg.co.za/article/2013-01-15-no-silver-bullet-for-rural-unrest (Accessed 20/01/2015)

2.8 CONCLUSION

South Africa's history is inevitably tied to the Native Land Act, 1913 which dispossessed indigenous South African's of their land, concerned as an economic asset for livelihoods. Those living in rural commercial farming areas faced the harshest result of the Act especially farm workers. This is because their residency have historically been connected to their place of employment and as such, unlike other sectors of production they are more at the mercy of their employer (the farmer) who controls not only their employment, nut also their lives. These social relations between farmers and farm workers have often been one of steeped in controversy and a debate of social studies.

With the advent of democracy, the government passed laws that seek to protect farm dwellers especially farm workers and labour tenants by securing their right of tenancy on those farms where they work and live. However, the current land reform programme – particularly tenure reform – has been deficient and has not benefited those it was intended. The above literature has shown the limitations and challenges of the land reform programme (LTA and ESTA), so what does this mean for farm workers, labour tenants and emerging black farmers as a distinct category and the general agricultural sector? The agricultural sector is providing a decreasing number of permanent jobs, without any significant improvement in the lives of farm workers and labour tenants who remain impoverished, disempowered, uneducated and subjected to violence and evictions. High unemployment rates, the absence of alternative economic opportunities plus an ineffective policing and legal systems in rural areas contributes to the dejected situation in which many farm workers and labour tenants find themselves.

In order to be effective therefore, the land reform programme – whether restitution, distribution, or tenure reform – must adopt a systematic approach. This means that policy debate on tenure reform has to take the view or rather, the concerns of those directly involved into account. This is what this study attempts to do – to understand how commercial farmers and farm workers, who are also labour tenants reacts to the intricacies embedded in the tenure reform programme , and the prospects for improvement thereof. Effectively implemented labour legislation could significantly improve the socio-economic situation of thousands of farm workers and labour tenants. It is, therefore, imperative to build the capacity of the Department Rural Development and Land Reform to enable the department to monitor

implementation and compliance with labour (or any other related) laws. There should also be fast and effective prosecution (whether through fines, or confiscation of land) of those employers who do not comply. It is important that other government departments (e.g. Agriculture) also become involved in monitoring, while the police force and legal services currently available in rural areas should be developed - i.e. not only expanded, but also receive adequate training.

With regards to farm tenure security, Hall et al (2003) suggests a participatory approach, one which involves "consultants, legal practitioners, farmers' associations, farm workers trade unions, rural social movement and participants in land reform projects"[88] as this will improve agricultural productivity in general. By this way, the interest of commercial farmers, farmworkers and labour tenants, the private sector, and the government are reached... An example of this can be found in Share-equity Scheme where farm workers acquire a legal and financial interest in a particular venture; they participate in decision making and at management level, and receive a share of the profits. Shared equity schemes has the potential of addressing poverty since they provide new entrants with on-going and immediate returns – beneficiaries of these schemes often do don't have to work for many years before they can establish their own small enterprises which generate profit for them, and with minimal capital they can again access to a farming operations that are already established and producing. Proponents for such an initiative have argued that these schemes meet the objectives of the land reform programme … by giving beneficiaries a meaningful stake in the economy (measured not in terms of hectares redistributed, but in terms of actual and potential income.[89] Nonetheless, share-equity scheme initiative has not however been always successful as there still remains the interplay of power relations to the detriment of farm worker, perpetrated by commercial farmers. Turners and Ibsen (2002) have argued that such a scheme afford contemptuous farmers an opportunity to re-capitalise their operations or, to access to cheap labour. This in its own right leave the long-term racially division of power of the rural economy relatively unchanged.

[88] Hall, R. Jacobs, P. Lahiff, E. (2003) Evaluating Land and Agrarian Reform in South Africa. Online at: http://www.plaas.org.za/sites/default/files/publications-pdf/ELARSA%2010.pdf (Accessed 20/01/2015)

[89]McKenzie C, "Providing access to commercial farming in the Western Cape: An analysis of the fiscal performance of alternative farm models", Land, Labour and Livelihoods Volume 1, Lipton M, Ellis F & Lipton M (Eds.), Indicator Press, December, 1996

Furthermore, there is an urgent need to alter the current power relations on commercial farms in order to discontinue evictions, violence, and paternalism. This would require a reduction on dependency on commercial large scale farmers by workers and labour talents. And for this to be effective, there need to be a disassociation or delinking of land and housing access – and other related socio-economic services – from employment contracts. Paternalism in farmlands makes it difficult for independence of labour tenants and farm workers. Because land owners (farmers) do not only manage production but also manages workers communities – where and how they live – workers are caught up in a virtuous circle that not only limits their workplace improvement, but also their private lives. Farm workers need independent access to land, while the conditions of labour tenancy contracts need to be regulated by appropriate legislation. The majority of farm workers still live on the farms on which they work, despite the fact that farm workers have expressed a clear need for access to residential land that is disengaged from their conditions of employment. Furthermore, power relations will not change until farm workers and labour tenants have knowledge of their rights, as well as easy access to legal institutions. A national farm workers' rights education programme is therefore recommended. Such a programme must also address the very different needs and concerns of temporary workers, and workers not living on farms.

Finally, it would be misleading to project the slow pace of farm tenure reform solely to farmers or landowners. Other factors must be taken into account, this includes a general lack of political will and direction by government, an ineffective bureaucracy, and importantly, a lack of mobilisation from those directly involved – the landless and farm dwellers, whether they are farm workers or labour tenants (going by their different definitions). A lack of mobilisation rightly parallels a lack of awareness of rights that farm dwellers have – no thanks to low level of education on farms, low level of unionisation of farm workers, as well as the physical isolation of those living on farms. Imperfect information is costly and the behaviour of people would differ markedly from what it would have been with perfect information. Most farm dwellers have yet to be informed of their rights, they do not know their rights and even if they did, they are for the most part unable to access such rights. More attention should be placed on the ways in which information on farm tenure rights can properly be dispersed. In this way, there is a balance of information between farm dwellers and landowners.

CHAPTER III: METHODOLOGY

3.1 INTRODUCTION

The above literature review provides relevant evidence to construct a research design in order to address the research question as unambiguously as possible. In this way, the research design connects the research question to data. Punch mentions that "design sits between the research question and the data, showing how the research question will connect to the data, and what tools and procedures to be used in answering them" (2000:52). There are fundamentally three main questions when undertaking a qualitative research, these are: Why the research? What to research about? How to undergo the research? (Remenyi, 1996). This chapter focuses on the "how" question – that is, how to undergo the research. This will be addressed sequentially by first discussing the case study, data collection, date analysis, sampling, and finally limitations, all of which forms the methodology.

3.2 CASE STUDY

For the purpose of this work, a single case study approach is used. The case study method is used in the event of a large amount of variables of interest, multiple sources of evidence, theoretical propositions to guide the collection and the analysis of data (Yin, 1994). This is hinged on the fact that it tries to explain, explore or describe a pattern of events or issues that may occur in different circumstances by using the examples or cases from few specific occurrences and making a subtle generalization about such trends. In this sense, it is said that case studies are descriptive and explanatory; their designs can be single or multiple-case studies; and their method of analysis can either be qualitative, quantitative, or both (Yin 1994; Tellis 1997). Within the context of this work, the method of analysis to be used is qualitative since it involves understanding how two categories of participants relate to the phenomena under study – tenure reform.

This research report discusses the case of Bethal, a farming town in Mpumalanga province, known for its production of maize, sunflower seeds, sorghum, rye and potatoes. It begins with the 1959 potatoes boycott as its starting point which puts the discussion within the perspective of social-relations in the farming community. Bethal, once seen relatively as a small and peaceful farm community has witnessed in recent years a growing tension within its agrarian community with cases of labour unrests and evictions. As such, this, together

with the richness of Bethal's agricultural economy; an easy accessibility to farmlands in the area under study; and Mpumalanga being one of the two provinces – along with KwaZulu-Natal – in which land claims has mostly been lodged, informs the rationale of focusing on Bethal as a case study. According to the Department of Rural Development and Land Reform, "approximately 8, 471 land claims [the majority coming from these provinces]that were lodged before the 1998 cut-off date have not yet been resolved, while others have only been settled in part"[90]. Nonetheless "as at 31 March 2014 a total of 77, 622 land claims had been settled by the commission on Restitution of Land Rights"[91] and most of these settlements have been in KwaZulu-Natal and Mpumalanga. Four farms within the area has been identified. These are Rusticana Holstein Dairy farm, Donkerhock farm and Blesbokspruit potatoes farm, and Dikkop farm. It is a peri-urban area, where agriculture, relative poverty and crime feature mostly in the rural countryside.

A case study method is therefore predominantly used in the event of a large amount of variables of interest, multiple sources of evidence, and theoretical propositions to guide the collection and the analysis of data (Yin, 1994). This is due to the fact that the method tries to explain, explore or describe a pattern of events or issues that may occur in different circumstances by using the examples or cases from few specific occurrences and making a subtle generalisation about such trends. In this sense, it is said that case studies might be explanatory, exploratory or descriptive (Yin, 1994; Tellis, 1997).

3.3 DATA COLLECTION

The gathering of data involved both documentary analysis and interviews. Relevant documents used were media statements, archival document, newspapers, periodicals, statistical records, research papers, and reports relating to the research question. The use of these documents was subject to the four requirements used in evaluating any data source in the social science which are "representativeness of data; adequacy of data; reliability of data; and validity of the interpretation" (Mariampolski and Hughes, 1978: 105).

[90] Citizens Manuel, Department of Rural Development and Land Reform. online at: http://www.ruraldevelopment.gov.za/publications/file/2677 (Accessed 21/01/2015

[91] Citizens Manuel, Department of Rural Development and Land Reform. online at: http://www.ruraldevelopment.gov.za/publications/file/2677 (Accessed 21/01/2015)

Furthermore, data on human research participants was gathered through qualitative semi-structured interviews. A qualitative approach is adopted rather than a quantitative survey since qualitative methods enables us "learn as much as we can about an event or development that we weren't there to see [and hence] … to learn about perceptions and reactions known only to those to whom they occurred" (Weiss 1995, 9-10) or those who are directly concerned with such an event or phenomenon – the intricacies of tenure reform programme in this case. Strauss and Corbin asserts that qualitative methods "attempts to uncover the nature of persons' experiences with a phenomenon, [it] can be used to uncover and understand what lies behind any phenomenon about which little is yet known, … [Or] used to gain novel and fresh slants on things about which quite a bit is already known" (1990, 19). Hence, this work is qualitative since the central research question attempts to investigate the perceptions of individuals within the farming community, distinguished by class, race, and ethnicity. A qualitative research method is therefore appropriate since it seeks to understand and explore the meaning individuals ascribe to a social phenomenon. In that way, it uses an inductive approach and focuses on how the individual perceives and gives meaning to the social problem under study.

Equally, it is qualitative since it does not only focus on experiences but also on ways or methods – seen fit by, especially but not limited to, members of the farming community – of addressing farm tenure reform. This best gives a generalized perspective of the sample used in relation to the research question. Mouton describes this method as "the best method to use when the social scientist is interested in collecting new data for describing a population too large to observe directly" (1986:73).

Written format questionnaires were used for individual interviews and separate questionnaires were prepared for farmers and farm workers. Since this work takes a qualitative approach, interviews were semi-structured in a way that gathers, as much as possible, the widest range of issues associated with the phenomenon under study. Weiss (1995) upholds that such method of interviewing helps the researcher understand what his/her participants are feeling, why they feel this way, and how they remember the event occurring. In this way, I was be able to know how tenure reform programme is interpreted by those with first-hand and second-hand experience of it, what they identify as problems and limitation, and the consequences they worry about thereof.

With regards to the interviewing process, prior arrangements were made for interviews which begin from the Bethal Farmer's Study Group as a gate for further interviews. Primarily, this means that potential participants were identified using this informal group of local farmers and employees within the areas understudy. More details on this group will be discussed in the sampling section.

3.4 DATA ANALYSIS

All research projects within and outside the social sciences involve the use and analysis of documents. Data collected from documents seeks to narrow the range of materials relevant to a particular research question. This helps to link the past with the present in order to build a workable theory for the future. Documentary analysis as defined by Gottschalk et al (1947) "is the process of critically examining the records and survival of the past" (1947:8) for use of the future. This involves "collection of probable sources of information, examination of these sources of information, either in whole or in part [and], analysis of the data collected through this process" (Marianmpolski, 1978:104). In addition to this, Blumer (1939) has identified certain criteria in the evaluation of data sources in the social sciences. These include representativeness of data; adequacy of data; validity of data; and validity of the interpretation. The documents used for this research report was therefore based on this process of evaluating.

Hence, since this work adopts a qualitative approach, I will be using the thematic analysis technique for qualitative data analysis. This method is used for "identifying, analysing and reporting patterns (themes) within data. It minimally organises and describes … data set in …detail" (Braun and Clarke, 2006:76). It involves the generating of codes that are thereof used for the grouping of common patterns or themes that emerged from interviews conducted. We code individual interviews by classifying and categorising pieces of data and thus assign a code to the piece of data. This will stand in for common themes in the interview (Babbie, 2008). It is best used for qualitative analysis. Babbie defines qualitative analysis as the "non-numerical examination and interpretation of observations, for the purpose of discovering underlying meanings and patterns of relationships" (2008:415). It is imperative that the researcher familiarises the theories that relates to the central research question and the theories that pertains to qualitative inquiry in order for a successful qualitative research to be achieved. These theories or theory refers to plausible relationship between concepts or sets of concepts (Babbie, 2008). Hence, for the purpose of this study, the thematic analysis technique

is because it is most appropriate in answering the research question by enabling me to identify concepts around which a workable theory can be built.

This technique is a code driven approach. As such, the data analysis entails looking for patterns that correlates in the data as this will enable the grouping and coding of certain patterns that have occurred. In order to adequately analyse data collected, raw materials will be reduced into concepts and themes, designed to stand in for categories. These categories will further be developed and finally integrated into a theory.

The contribution of thematic analysis in qualitative research of the social sciences is felt more in the areas in which very little research has been carried out. Although there are a number of research involving land tenure reform in South Africa, most research have tended to focus on communal tenure, little attention has been paid to farm tenure and the effect of such a reform on the category under study – the farming community – differentiated by age, race, and class and how this might affect (or not) their perception of rural sustainable development. For instance, does the perception of a farmer or farm worker of the apartheid regime differ from those of emerging farmers and recently employed farm worker? To what degree are their concerns in relation to land claims? And how might such-and-such concern weaken or strengthen the employer-employee relationship? If it does weakens and lead to tensions within the community, how might this lead to the breakdown of law and order? It is hoped that by using this technique which directly links macroscopic issues to the phenomenon under investigation a theory will be inductively built which adequately answers the research question. In order to link the theories derived from the literature review to the coding of the data, three themes have been identifies: economic, sustainability, and social.

3.5 SAMPLING

The population for this study was primarily farmers and their employees – eighteen years of age and above. Contacts were made with the Bethal Farmer's Study Group – an informal local farmers group - from which potential participants (aged eighteen and above) were identified. Bethal is a place known for a rather negative reputation of its farms. Murray (1997) examined the period of 1910 – 1950 that saw a growth of capitalist farming in the Bethal district. This period witnessed unprecedented evictions of a large scale as well as what was perceived to be labour scandals and maltreatment of workers by white farmers. By way of responding to these social conditions farm workers revolted which led to strain

relationship within the farming community. More importantly however, this had an effect of food production and distribution which was evident in the 1950 potatoes boycott. It was events of this nature that saw the establishment of this informal group. Thus, the Bethal Farmers Study Group, a locally bases organisation was created to deal with issues that concerns the local farming community of Bethal. It is a local and informal group with monthly meetings, aimed at addressing concerns relating to the agricultural economy of the town.

It was from this platform that I used selective methods of sampling – that is purposive and snowballing sampling. Whereas purposive sampling selects people of interest and excludes those who do not suit the purpose, 'snowball' effect occurs as referrals multiply at each step. Gall et al. states that the goal of purposeful sampling is "to select cases that are likely to be information-rich with respect to the purpose of the study" (1996:218). Thus, since this study is deals with tenure reform, it is expected that those involved in the design and implementation of the relevant policies constitute a rich source of information. As such, there was purposeful selection for the study, by excluding for example farm dwellers who are not employed as farm workers. The snow balling sampling also came in handy by getting a larger population for the study. My sample size for the work comprised of 30 respondents, 10 of which were farmers and 20 were farm workers from the area under study.

3.6 LIMITATIONS

Like all research report, this work was had its limitations, but possible solutions were made to curb this. Firstly, there was the issue of language barrier. I foresaw the difficulty of communication especially with the category of farm workers, but also of farmer. The area under study predominately speaks Afrikaans among the white farmers and black employees – black farm workers use this particularly as a medium of communication with their employers. The home language spoken by the majority of farm workers is Tshivenda and Setswana, with a minority speaking isiZulu and isiXhosa. However, measures were taken to avert or minimise this by getting an interpreter. Nonetheless, with interpretation comes a lot of limitations but these was reduced as much as possible.

There was also is the issue of homogeneity. Since the study group above mentioned acts as gateway to a wider population, it was not surprising that through snow balling, persons who shared similar outlook were the ones gotten for interviews. Nonetheless, as much as that did

occur, there was still no guarantee that all participants gotten for the research shared similar perspective. This in itself eliminated the issue of homogeneity.

Finally, there was the issue off accessibility. It goes without saying that accessing or trying to gather information about the farming community is difficult due to the nature of commercial agriculture in South Africa where the majority of farm workers are tenants on farms. As such, getting access to (white) farms becomes an issue, and being a foreigner in South Africa did not make matters any easier. This is where the Bethal Farmers Study group came in. But then still, not surprisingly though, there was the difficulty of getting information from farm workers without the permission of their employers. Permission to interview workers was gotten with the help of the ethics certificate from the Ethics Committee. At the start of fieldwork, I also got a clearance note from the local police department to ensure participants that this work was legit and purely for academic purpose.

3.7 ETHICAL CONSIDERATION

Although I did not see any ethical issues arising from this work, I obtained an ethics clearance from the Human Research Ethics Committee (HREC Non-Medical) prior to the fieldwork as required by the faculty as humanities and the school of social sciences. Additionally, since I used the Bethal Farmer's Study Group as a gateway having participants, I made appointments with some key officials to inform them about the research and scheduled appointments for interviews. Key ethical issues in this work involved confidentiality and anonymity of the respondents' views, their right and autonomy to say whatever information they are willing to share as well as taking percussion that whatever they say does not harm them in any way. They were told of their right to discontinue at any point they felt uneasy about the interview. Consent was both formal and informal.

Finally, in line with the requirements of the social science research methods, I tried to exercise a high degree of professionalism and ethical concerns among which was ensuring that security of raw-data was maintained by keeping all responses and any other confidential document under strong security and eventually destroying them after this report was completed.

3.8 CONCLUSION

The above discussion on tenure reform makes a claim for more research on the South African agricultural section in general and the relationship that underlies the principal agents within the sector in particular. As much as they are limitations with the tenure reform programme, such limitations will be evident in the relations of land owners and farm worker who are also labour tenants. The continuing trends in labour unrest, strike actions, illegal evictions and so on can rightly be trace to what has been noted as a slow or failed land reform programme and it is worth noting that solving labour issues alone is inadequate in understanding what really lies at the heart of the problems associated with the farming community in south Africa. More research on the social relations of farmers and farm workers is imperative, inter alia, to find success stories in order to replicate these approaches and methods to areas still struggling to build mutual cohesion.

This work argues for a platform for farmers and farm workers to dialogue on issues that concern them. This dialogue should serve as a way to avert potential straining of social relations. It equally argues that the role of the State must also be felt, that government should step up in effectively addressing issues that concerns its agricultural sector. It should take as its starting point an effective implementation of the land reform programme.

Furthermore, evictions and paternalism on farms will continue until we are ways of significantly changing relations of power in rural areas generally and on farms in particular. For this to be successful there is a need to reduce farm workers and labour tenants' dependency on large-scale commercial farmers. In order words, land and housing access should be delinked from employment contracts. Simply stated, what farm workers need is independent access land as well as labour tenancy arrangement being regulated by an appropriate (and different) legislation. There is also an imperative for farm workers and labour tenants to know their rights in order to change relations of power. Finally, it is hoped that by studying the case of Bethal, this will help increase research into this area of inquiry.

CHAPTER IV: CASE STUDY

4.1 A HISTORICAL PERSPECTIVE OF BETHAL'S FARMS

The history on farm labour in South Africa is wide-ranging and deals with various political, economic and social trajectories, and must be understood within the contest of the agrarian question. Whereas most research on South African farmlands with regards to farmers and farmworkers relationship have focused more on places like the Orange Free State and Kwazulu-Natal, it is equally important to examine regions where little research has been carried out but continues to experience the same situations prevalence in other regions and thus, the case of the farm town of Bethal in Mpumalanga.

This section gives an over view of the area under study. Not much is known about farm relations in Bethal except its historical abusive labour practices and the 1959 "Potato Boycott" which for many shared the symbolic status with other memorable events of the apartheid era such as "Bantu Education, the Pass Laws, forced removals and land dispossession"[92] since these events brought to the fore the deep seated grievances of the destitute and represented freedom for all workers particularly farmworkers. The boycott was synonymous with slave labour, and notorious as the death trap for farmworkers who were exposed to extreme working conditions on farms. Together these events have a direct impact on the labour legislation which was enacted in the post-apartheid era in order to redress the injustices of the past.

Bethal is a place with reputation. It was named by the early Dutch settlers, after the wives of the owner of the farm which the town was later established – Eliza(bath) and (Al)ida. Its naming was also taken from a Biblical context meaning "the abode of God" (Murray, 1997). Nonetheless, this "abode of God" had come to represent a place of profane reality with a reputation of outright evil.

The district of Bethal is geographically located in what has now been called the maize-triangle area in the Eastern Transvaal Highveld because of its soil fertility. According to Murray (1997), it became one of the most productive farming regions in the country, thanks

[92]South African Government Information. More than 3 000 people attend Victim-Offender Dialogue http://www.info.gov.za/speech/DynamicAction?pageid=461&sid=32744&tid=92460 25/05/2013

to the development and growth of the early twentieth century commercial agriculture. Classified as intensive arable or an area suited for staple crop, it is known for its production of maize, potatoes, sunflower seeds, sorghum, and rye. In the 1950s, as is still the case, farming in most of South African farms was very labour intensive. Bethal had its share of this which, combined with other factors, gave it its profane reputation of labour abuse.

A discussion on Bethal farms would be incomplete without the contributions made by Gert Sibande whom the district municipality was named after. He was one of the three sons of a farm labour tenant, – the others being Shadrack and Nsibande – himself becoming a farm workers at the age of fifteen.[93] Like most farm workers seeking better working and living condition, he moved from one farm to other, never spending a year on farm particular farm. It was such relocations that brought him to Bethal in the 1930s where he later founded the Farm Workers' Association, aimed at protecting farm workers and labour tenants whose crops were being confiscated by white farmers. Conditions on the farms in Bethal in the 1950s were so barbaric, even medieval, that it became impossible for workers and activists to ignore their situation and, ultimately, it fell to peasant Gert Sibande to mobilise enough resistance to organise the potato boycott that would cripple the agricultural economy and earn international headlines. With little or no success in this, he later joined the African National Congress (ANC) and founded an ANC branch in Bethal (Suttner, 1987: 16). Sibande was later nicknamed "Lion of the East" due to the active role he played within the ANC and its alliance.

Although Sibande's struggle for farm workers in Bethal came to a halt, the deplorable working and living condition suffered by farm workers was however brought to the public for the first time by Michael Scott (1958) who described the conditions of farmworkers as that akin to slavery,

> *…it was to the economic interest of the owner [the farmer] to ensure the survival [of this system], and even training in some occupation to make provision for the housing and healthy upbringing. The compound labour system on the farms makes no attempt at any such provision. A man's life and the lives of his family are worth nothing. All that he is worth is the work which he can be made to put in his contract. If that undermines his health, or break up his family, or destroys his soul, that is not the concern of his employer. (1958: 179)*

[93]Obituary: GertSibande", Sechaba, 6, 1987: 31

This however did nothing to improve the condition of farm workers. An article was later published by Henry Nxumalo in *Drum*, an independent magazine, which highlighted the unfair treatment of farm workers in Bethal. This was the straw that broke the camel's back. Among the many allegations, the article claimed that the compound where workers were housed 'looked much like jail: they have high wells, they are dirty, and are often so close to a cattle kraal that [workers] breathe nearly the same air as the cattle" (Sampson; 2004:23). The then Minister of Native Affairs H.F. Verwoerd stated in parliament, in response to the article, that it was an unnecessary and unfounded attack by the magazine and that it was needless of investigation.[94] The article led to the sanctioning of inspection on Bethal's farms by a committee in 1952. The committee found that the article had indeed over exaggerated the conditions of farm workers in the district. It state that it was "a piece of dishonest journalism, in which allegations of bad conditions still existing are bolstered up by inaccurate reporting ..."[95] However, it also reported that there were malpractices of some kind on some farms that Nxumalo had pointed out, but that the article had nonetheless made an over exaggeration of what was really the case. It concluded the main reason for poor conditions of farms was the lack of financial capital by farmers to make the necessary improvements.

4.2 THE POTATO BOYCOTT OF 1959

The 1950 potato boycott was fuelled by the deep-seated anger and frustration of farm workers and labour tenants in the Bethal district. From time immemorial, farm workers in South Africa have been at the bottom of employment relations. They are not only faced with appalling wages, bad living conditions and precarious work, but also intimidation and humiliation. Indeed, life for workers in the rural areas has always been harsh. It was within this context that farm workers in Bethel rose, it was instigated in protest at the suffering that farm workers endured on farms and the coercive nature of the farm labour scheme[96].By the early 1950s, Bethal gained notoriety for farm labour abuse. Murray attributes its reputation of farm labour abuse to three factors:

[94]Sampson, A. Drum: the making of a magazine. 2004:23

[95]SAB, INL African Drum: Bethal Article, Report on Bathal Trip, April, 1952:8

[96]*Historical Papers Archives.University of the Witwatersrand.Scheme for the Employment of Petty Offenders in Non-prescribed Areas.*One of the central issues in the history of farm labour in South Africa has been that of state control in providing farmers with cheap and plentiful labour supply. It was this that led to the establishment of the farm labour scheme. The scheme established that police could arrest blacks for petty offences. They were then given a choice of being charged or accepting work on farms.

> *Firstly, commercial farmers in this area established "factories in the field" by contracting fulltime wage labourers who worked all year round in a highly productive and regulated environment. Secondly, the region was characterised by a constant appeal by farmers for more labour. Many of the farmers were not above illegally recruiting child labour and making extensive use of convicts. Most importantly, however, is that farmers in Bethal modelled their farms on the mines of the Witwatersrand. This saw the introduction of active recruiting of young men as farm labourers, housing them in barb-wired and heavily guarded compounds, and conferring on them an ideological subservience grounded in abusive treatment, inhumane living conditions and the exploitation of their fear (1997: 76-77).*

However, it is saddening to know that today; there are only few studies on black protests and boycotts in South Africa that mentions this event, or at best, they only make reference to it in passing. Much of what is known of Bethal and the Potato Boycott has come from Murray's *Factories in the Field* (1997), and Grobler's *A Decisive Cash?,* wherein he asserts that "the potato boycott can be seen as a form of protest that sought to place local grievances in the wider context of discriminatory practices against blacks" (1988:78). Other author who have discussed this are Billy Nair (2001) and, Holden and Mathabatha (2007) although they only mention it in passing.

Muller (2010) makes reference to the 1959 *New Age* paper in stating that "Robert Resha, an ANC activist called for a potato boycott at the ANC's national Anti-Pass Conference in Johannesburg"[97] [and] "a call was made to black people to withhold their purchasing power from particular retail establishments and specifically not to buy potatoes"[98]. The boycott was not an immediate success. Newspapers reported that blacks were still buying potatoes at the markets for some time after the embargo commenced[99]. However, the campaign began to gain momentum after several protest marches to markets in Johannesburg. Muller narrates that boycott supporters paraded the street, dressed in hessian sacks and potato necklaces around their necks, with banners saying "Potatoes are produced with slave labour" and "Don't eat potatoes – Don't buy chips" (Muller, 2010:92).

The then National Party (NP) downplayed the situation, by reporting that the parade drew only a few protesters and elicited little public support. And the highly conservative press,

[97]Muller, Cornelis Dealing with a Hot Potato: The Commemoration of the 1959 Potato Boycott. Historica 55, 2, Nov. 2010, pp. 76-98. Quoted in "Potato Boycott Launched", *New Age*, 4 June 1959, p 1; Karis and Gerhart (eds), C*hallenge and Violence*, p 292

[98]Muller, Cornelis Dealing with a Hot Potato. Quoted from: *Rand Daily Mail*,"ANC Call for Ban on Buying of Potatoes", 1 June 1959

[99]No Potato Boycott Here", *The Star*, 2 June 1959, p 5

notably *Die Transvaler*, reported that the boycott was having very little effect on markets (quoted by Muller, 2010). According to the Potato Board (Muller, 2010), the harvest quality of the season was poor and if there was indeed an oversupply it was not because blacks were withholding their purchasing power, but because there was an increase in second and third-rate spuds on the markets anyway. In highlighting its success however, the "New Age ...claim[ed] that there were signs that the embargo was spreading to Port Elizabeth (Muller, 2010:93) and far beyond.

Finally, on 31 August 1959 the ANC called off the boycott and Albert Luthuli, who was the ANC president at the time thanked all those who had taken part in the campaign, adding "I hope those white farmers of South Africa who are guilty of treating their African workers in atrocious ways will repent ... respect for moral standards of behaviour demands this of them" [100] (New Age, 1959:1). The ANC realised that the boycott had not changed farm labour conditions substantially; it did, however, unite people across South Africa in protesting for a common goal and purpose (New Age, 1959)

4.3 LESSONS LEARNT FROM THE BOYCOTT

Such atrocities of the past have left its lasting legacies, and continue to surface in contemporary South Africa. It was no wonder that in addressing the National Council of Province (Mpumalanga) on March 2013, the then deputy precedent (K. Motlanthe) brought to the House, the working and living conditions of farm workers in Bethal, where he started

> *It would be remiss of me not to recall the memory of the great 'Lion of the East' Gert Sibande, especially in this centenary year of the enactment of the Natives Land Act of 1913 which dispossessed people of their livelihoods and agricultural land, rendering them aliens in the land of their birth ... 66 years after Gert Sibande together with Ruth First, Joe Gqabi and Michael Scott exposed the exploitation of farm workers in Bethal, we still hear of evictions from farm such as Donkerhoek*[101]

This quote accentuates the need for more research on farm tenure and how this impacts farmers and their employees. It highlights the continuing trend of evictions from Bethal's farms such as Donkerhock and a further deteriorating work conditions on similar farms like

[100]Muller, Cornelis Dealing with a Hot Potato. Quoted in, *New Age* 3 September 1959
[101] Address to the National Council of Province 'taking Parliament to the People' by Deputy president KgalemaMatlanthe, Carolina , Mpumalanga. Available online at: http://www.presidency.gov.za/pebble.asp?relid=15071 accessed 11/12/2013

Rusticana Holstein Dairy farm. Sadly, this has been accompanied by or rather has correlated with a swift of violent on farms and smallholding in the region.

To many, this reinforces the land question. What people want is independence and respect for human dignity. The continuing paternalistic trend on farms plays a huge role on the social relations between farmers and farmworkers and it equally has a double effect of either enabling or disenabling the progress and success of farm tenure. This brings to the fore what the relationship within the farming community really entails. This relationship, usually unequal, is based along the lines on a patron-client relation as earlier discussed. Because the farmer, who in most cases is also the manager, does not only manage production but also his workers community, he is often seen as a hero rather than a villain. But such 'heroic' or patron-client relations has, for the most part, had a negative consequence for the success of farm tenure. Largely speaking, paternalism has been "based on an overt social inequality and because the junior partner in such unequal relationships voluntarily accepts and reinforces the paternalistic ethic" (Atkinson, 2007:91) it is often considered an offensive moral ethos. This implicitly begs the question of what farming as an institution actually entails. It is important to know the social relations between farmers and farmworkers within this institution and the features of farms as places of production and employment. As earlier discussed in the literature review, "total institutions and domestic governance", and "paternalism", which stresses hegemonic control over the private lives of workers have the potential of impeding a successful tenure reform.

Emerging black farmers in Bethal, like most other regions in South Africa, have been constrained by insecure tenure. The LTA however recognises that the predicament of farm workers and labour tenants to tenure reform has been the laws and practices that deny them secure tenure to their land while at the same time, strengthening the powers of landowners. According to the DLA (2002) about 19, 416 land claims had been lodged in 2001 which was the deadline. However, there was a halt in the implementation process, no thanks to political and institutional bureaucracies. Mpumalanga and KwaZulu-Natal provinces have been more successful in land claims by farm workers and labour (Hall, 2003) when compared to other provinces. This picture does not however speak of a success since both provinces have substantial population of farm dwellers than other provinces. Seen from a per applicant point of view, "few applicants have acquired land; where they have, it has been through the use of redistribution grants; evictions have continued;… the department started, and then stopped,

the issuing of notifications to landowners of claims on their land, in view of the legal challenges in court that this provoked" (Wisborg et al, 2013: 13). ESTA on the other hand has done little in preventing illegal eviction, and where evictions have been legal, it has done little to support the livelihoods of those evicted.

The Potato Boycott was both historical and in many cases heroic. One of the poorest sections of society finally rose up to fight for justice. The boycott, like many strikes in the agricultural sector was also successful in highlighting the appalling conditions facing the poor in the rural areas, and it probably changed the outlook of farm workers. As such, the strikes that have taken place on the farms and rural towns offer a great opportunity to begin to build a militant workers' movement in the rural areas. Certainly, there is a massive need for militant worker-controlled structures and radical directly democratic unions on the farms and in the rural towns that can fight for not only reforms, but eventually revolution.

CHAPTER V: RESULT AND ANALYSIS

5.1 INTRODUCTION

The goal of this study was to explore the reactions, as well as the concerns of farmers and farmworkers who are also labour tenants in terms of the Act – with regards the complexities embedded in the Tenure Reform Programme which makes up the third leg of the larger Land Reform Programme. It aimed to know the specifics of farm tenure reform that bother those within the farming community and how this might affect the social-relations they have. It is hoped that in this way, policies might be critiqued and the tenure reform strengthened. Concerns of farmers and farmworkers have long been well documented by renowned scholars like Hall (2003), Wegarif et al (2005), Atkinson (2007), and others working in the field of rural sociology – farm relations.

This work aimed to build on the already existing scholarly literature by getting a novel understanding of the concerns and reactions of farmers and farmworkers to the tenure reform programme. Using the farming town of Bethal in Mpumalanga as a case study, it was decided that four farms within the areas would be focused on in order to make the study doable. While this work focuses on farms in Bethal, it should be seen as a diminutive case of farms throughout the Republic. However, it is imperative that caution be taken in generalising the findings at municipal, provincial, or national level.

For the purpose of this study, a semi-structured questionnaire was used. Interviews were conducted face-to-face and later transcribed. Transcripts were analysed using a thematic analysis – a qualitative method used for "identifying, analysing and reposting patterns (or themes) within data" (Braun and Clarke; 2006). After analysis of interviews, a coding framework was devised. A total of 30 participants were interviewed – 10 farmers and 20 farmworkers – in order to get individual viewpoints, life situation and discourses that patterned to the South African Land Reform Programme – Tenure Reform. A total of four farms within Bethal were studied. These were: Rusticana Holstein Dairy farm, Blesbokspruit potatoes farm, Dikkop maize farm, and Donkerhock wheat farm.

Since this work uses a thematic approach for analysing, this chapter is structured in terms of the main themes which emerged from the interviews. The themes highlights a wide range of

aversive sociological states – social, economic, and sustainability – associated with tenure reform. The themes include:

- Social Relationship
- The labour Tenants Act
- Labour Tenancy
- Occupiers and Dependents
- Land Reform: Freehold Tenure or Communal Tenure
- Essentials for Livelihoods
- Beneficiaries of the Land Reform Programme.

These themes cut across both categories of participants – farmers and farmworkers.

Additionally, certain other variables were used in relation to the above themes; this includes income and turnover (R500, 000 less or more), duration of farming (five to ten years), and type of farms (dairy and cattle, potato, and fruits and vegetables). The chapter has been divided into two sub-sections. Whereas the first is an analysis of the farmer's categories, the second is that of farm workers. The following sections give an overview of the participants as well as the main themes and sub-themes that emerged from analysis of the interview transcripts.

5.2 PARTICIPANTS

The population for this study was primarily farmers and their employees – eighteen years of age and above. Contacts were made with the Bethal Farmer's Study Group – an informal local farmers group - from which potential participants (aged eighteen and above) were identified. The participants within the category of farmers were all middle aged male, with 50 years been the average age and they had been farming for a period that ranged between five to twenty years – those who have been farming for five to ten years were classified as new farmers. This period varied according to the type of farms they were engaged in, with potatoes farmers identified as the most experienced in farming, followed by dairy farming, and then maize and wheat. In the classification of farms, I asked farmers to state the principal activity of their farms and I classified them in accordingly. The most important sector was potatoes farming, followed by maize and wheat farming, and then dairy farming. The classification of annual income and turnover ranged between R500, 000 less or more.

Because the area studied was relatively small, income and turnover of farmers reflected as such.

Whereas, participants who made up the farmworkers category fell within the age range of 20 to 40 and the majority were men who were born either on farms or near farms and have lived most of their lives on such farms. None were born in urban areas or former homelands. This made them labour tenants as well in terms of the Labour Tenant Act. Most farmworkers intended to stay on the farms where they currently work after retirement. However, they also preferred working on another farm other than the current farm they worked. They probably did not consider the dilemma this posed.

On average, the dominant language spoken at home was Tshivenda and Setswana. However a minority spoke isiZulu and isiXhosa, mostly due to migration in search for job opportunity within the province. Others spoke Afrikaans, not as a home language but as a second language (mostly used for communication with the farmer). Be that as it may, English was fairly spoken and understood although it was hardly used as a language of communication. Not surprising, this stood as a barrier for interviewing. This limitation was curtailed with the help of a local interpreter. The highest education level attained by farmworkers was not surprisingly low, with primary education being the highest level attained by a few and the rest having no education. Most farmworkers interviewed were not aspiring to be farmers, especially the younger generation. Additionally, nearly a two-third had been farmworkers in the previous jobs, while others either worked in the informal economy of as domestic workers.

5.3 SUB-SECTION ONE (THEMES)

5.3.1 SOCIAL RELATIONSHIP WITH FARMWORKERS

Whereas Nasson (1988) has described South African farms as “total institutions” where the lives and livelihoods of farm workers are regulated and dominated by farmers, Goffman (1961) and Foucault (1977) on the other hand describes farms as a place of domestic governance which “describes how … living and working condition … [are] regulated by the unilateral decisions of farm owners rather than by public procedures.” This implies a highly

unequal power relation between farmers and farm workers which has in turn been a major source of tension with the farming community.

It was in regards to this that farmers were asked about their relationship with their workers. The responses were highly sceptical as most farmers answered in the positive. However, this question was relevant since it was important to see if farmworkers would respond in a similar way – that is, in response to the same farmer. Most farmers spoke with a positive response about their relationship with their employees. Interestingly, none thought that any of their workers was a troublemaker. Such positive responses were based on what they felt was a peaceful and corporative working condition between them and their employees. When asked why it was peaceful and corporative, responses varied from *mutual understanding*, *good communication*, *good working relationship*, and *treating such other fairly*. Some farmers mentioned long years of working with their employees as an added advantage for developing mutual understanding.

Another interesting point was that such positive responses varied across size of farm. Smallholders were more incline to describe their relationship with farmworkers as very good, whereas medium to large size farmers described their relationship as *fairly good, partially good,* or *just good.* It is more likely that due to the relatively small workforce, smallholders had a more personal relationship with their workers than did medium to large size farmers.

Some independent studies have found a great deal of tension between farmers and their employees. One of such studies is the 2011 Human Right Watch report *Unequal Production* which brought to the fore a constrained relationship between farmers and farmworkers that led to the unjust treatment of farmworkers by farmers and state agencies (the commandoes). On the contrary, this work found no hash treatment of farm workers by farmer. What was found was rather mutual cohesion between them. This is however not discrediting the human right watch report. In fact, farmers agreed to the fact that there are still a minority of farmers among them which such malpractices might still be found.

5.3.2 CLAIMING OF LAND WOULD LIKELY WEAKEN THE RELATIONSHIP OF FARMERS AND FARMWORKERS

The Land Tenant Act aims to protect the tenure rights of existing labour tenants (who may as well be farm workers), as well as enabling land acquisition by tenants its objectives include, protecting existing tenure rights and redistributing land to tenants by means of grants. Using an administered questionnaire, the reactions of farmers to the Land Reform (labour tenants) Act was put the test. Without concealing how they felt about it, majority had a strong sense of hostility towards the Act in general. In this regard, the question was:

"Under the labour tenancy legislation, farmers may be forced to sell part of their farm to labour tenants. Some farmers have raised concerns that under this legislation (and subsequent legislation that have followed), they will refuse to help tenants in the way they use to. Do you feel that such reactions are understandable?"

Seven of the ten commercial farmers interviewed felt it was perfectly understandable and sympathised with those who would take this position. They considered this possible perfectly understandably because "most farmers [especially those who only get their income from farm] see it as a plot by the state to take away their land"[102] This "… would include those who have worked on farms the longest or those who such a farms has been in the family for a long time."[103] This was not the general feeling among all those interviewed. A minority of participants felt it an extreme position to take and sympathized with labour tenants. Those who only started farming in the last five to ten years took a moderate stand to this and considered it an extreme position to take by farmers.

Importantly, turnover and income played a huge part in answering this question. The poorest of farmers with the smallest of workforce in this were more likely to sympathize with such extreme position of no longer helping labour tenants, whereas the richest and farmers with the most successful turnover felt that such positions were indeed too extreme to take.

Furthermore, it was noticeable that such resistance to this legislature was stronger among farmers who had labour tenants residing on their property than those who did not have

[102]Interview with the manager of Rusticana Holstein Dairy farm. 13/11/2013
[103]Interview with the owner of Rusticana Holstein Dairy farm. 13/11/2013

tenants. Resistance was greater among the potato, maize farmers than it was among dairy and wheat farmers who had a relatively little tenants on their farmstead. Such differences in opinion brought to the fore the value of historical tradition – that is, those who were historically involved in labour tenancy practice (especially potato and maize) were more likely to sympathise with such extreme position against the Act since tenancy was a critical issue among this type of farming.

This reinforces the question of property right which centres on the manner in which restitution would take place. Issues surrounding this include the debate around the coexistence of the pledge to protect citizens' rights to property and the pledge to restore lands (or ensure land restitution) or adequate compensation to people and/or groups that are eligible to claim land in terms of the Act. According to Ntsebeza (2007), this is contradictory and the two cannot mix at all. The property clause (Section 28) in the interim constitution meant that private property was upheld constitutionally and no one can deprive another of property outside the law and where expropriation by law would happen, this would only be for public purposes with market value compensations and paying attention to the histories of acquisition of such property.[104]

A follow-up question was asked, this time directly to the farmer and not what he thinks of other farmer's position. This was directed particularly to those who had labour tenants: ***if any of your labour tenants do indeed exercise their right to buy a piece of land on your farm, will you continue to assist them as you had previously done or assist them much less than before given the fact that they now own a land and are on their way to becoming (hopefully) commercial farmers sometime in the future?***

When the question was revised and asked directly, the answer seemed to shift. Four of the ten farmers interviewed said they will continue to assists such labour tenants who exercised their right to buy land, but only for a relatively short period of time – that is, until they can stand on both feet. Such help by farmers therefore was not to last a long time. On the other hand, the remaining six farmers took the stand of helping less or stop helping completely than they had previously done. Understandably, they felt it was no longer their responsibility to assist such tenants as they now saw them as near-independent farmers. What this implies is that

[104]See Ntsebeza: 2007, p. 114-115.

there is a high probability that the purchase of land by labour tenants would be accompanied by a deterioration of the existing relationship between farmers and their labour tenants including those who work for them.

Also, as was the case in the answer to the former question, those who had worked outside farms or who have other sources of income took a position of continuing to help labour tenants who actually exercised their right to buy a land. Equally those who had only recently started farming (five to ten years) were more of the opinion that they would continue to assist labour tenants who buy land, but only for a short period of time.

5.3.3 LABOUR TENANCY

On tenancy, I asked where farmers thought was more appropriate for their workers to live. Considering the fact in most countries unlike South Africa, farmworkers do no always reside on farmsteads. With the growth and development of commercial agriculture in the early twentieth century, Bethal and indeed the entire district, historically became one of the most productive farming regions in the country. As commercialising gathered momentum, the district witnessed labour shortage which meant that farmers had to rely on labour from the Reserves which were located far from the district. However, farmers "…were hesitant to accommodate labour tenants because agreement of this sort meant setting aside some of their land for resident African labour tenants and their families" (Murray; 1997: 84).

In answering this question of where farmworkers should live, farmers' opinion varied a great deal. Most of farmers took the stand that things should be left just the way there are at the moment. Others thought that it would be more appropriate and indeed convenient for farmworkers to own a piece of land if they met the criteria as legislated by the Labour Tenancy Act. A fewer considered that land should be set aside, near several commercial farms, but not on the farm itself, where all farmworkers can live as a community together and leave from there to work. In such communal living space, farmworkers could grow their own crops and raise cattle. However, they worried that due to the limited resources of would-be African farmers, there is a tendency that a once productive commercial agricultural land, when handed over to black ownership, would at best become subsistence and at worst unproductive. This they feared, if existing side by side with commercial productive land

would further lead to invasions for illegal grazing, stock theft, and even depredation of other kinds. One farmer is quoted as saying:

> *Frankly, I don't see a problem with the Act. And in my opinion, farmworkers can live on my property [farm] but preferable a land should be set near farms for them. My only worries is that … well, ok for instance this land [referring to his farm] is divided into two plots, and one is given to claimant [labour tenant or farmworker who exercises his/her right to claim land], it is already clear that because of their limited resources that plot will be left unproductive. And since it is beside a commercial and productive farm, there is the tendency of illegal invasion.*[105]

Nonetheless, an interesting point noticeable was that only one participant mentioned that "workers might not necessarily have land but should implement ways in which they can acquire wealth for retirement over the long-run."[106] Such means of accumulating wealth or resources would be, inter alia, investing in a provident fund or pension scheme. Such a medium is essential in ensuring the sustainable livelihoods for farmworkers. He was of the view that most land returned to individual or community since the insertion of the land reform programme has remained "unattended" to – by this he meant that such lands have been left unproductive, which reduces its agricultural gains.

This is particularly a worrying phenomenon and a crisis facing the agricultural sector. Recent years have seen a steady decline in the number of farm workers living on farmland. Most of them now live off farms and have to commute a distance to the farms in which they work. Traditionally and before law labour where introduced to farms, "seasonal workers used to live on the farms while they worked, but increasing they are transported daily onto farms and then taken back to where they live at the end of the day. Even permanent workers are not immune to this trend …"(Greenburg, 2010:17). This trend has been seen as a, among the many ways of dealing or reacting to tenure reform. Taken from this point of view, this should be seen as an attempt to reduce to number of future land claimants by farmers (employers). What is worrying about this trend is that it has the potential to increase the number of jobless rural residents.

Since land is undoubtedly considered an economic asset that can be handed down through generations, farmers who had worked on farms all their live, especially those who had inherited farms, displayed reluctance or less sympathy with the Labour Tenancy Act, stating

[105]Interview with a farmer on Blesbokspruit potatoes farm. 17/11/2013
[106] Interview with a farmer on ,Donkerhock farm. 29/11/2013

that things should have remained the way they were, prior to the formation and implementation of the Act. While newcomers to farming, those who had worked elsewhere and had only began farming in ten years or less showed better acceptance to the Act.

Income and turnover played a part in farmers' responses to the question of where they thought was most appropriate for farmworkers to live. It was expected that large-sized farmers would be more sympathetic with the Act, considering the fact that a reduction in the size of their farms would have little impact on their income, but this was surprisingly not the case. Whereas small-to-medium-sized farmers with annual turnover of R500, 000 or less were more inclined to say they thought it was better for farmworkers to own their own piece of land within the farms in which they work, large farmers on the other hand with turnover of R500, 000 and over were fairly opposed to the Act. Clearly, the Act had tested the patience of some large-sized farmers. It is very likely that interpersonal relationship had a role in the answering of this question. The larger the size of the farm, the lesser interpersonal relationship the farmer had with the workers and vice versa. Those with closer ties with their workers were more sympathetic to both the Act and the worker.

5.3.4 OCCUPIERS AND DEPENDENTS

I wanted to know how and who exactly farmers defined as occupiers, as there is often misunderstanding on the definition of an occupier or those dependent of farms. So I asked:

"There are problems surrounding the definition of an occupier – farmworker, labour tenants, or farm dweller – which has often been a source of dispute, and in some cases this leads to eviction. In your view, who should be best defined as an occupier?"[107]

From this question, it was clear that there is indeed little understanding of the definition of an occupier in terms of the Act. A general response was that "occupiers are all people who reside on my property [farmland] with my approval"[108] – the approval, or more technically,

[107]In terms of the Act, Extension of Security of Tenure Act defines an occupier as "person residing on land which belongs to another person, and who has or on 4 February 1997 or thereafter had consent or another right in law to do so. but excluding— (a) a labour tenant in terms of the Land Reform (Labour Tenants) Act, 1996 (Act No. 3 of 1996); and (b) a person using or intending to use the land in question mainly for industrial. mining, commercial or commercial farming purposes, but including a person who works the land himself or herself and does not employ any person who is not a member of his or her family; and (c) a person who has an income in excess of the prescribed amount; (xiii)" online at:

[108]Interview with the manager of RusticanaHolstain Dairy farm. 13/11/2013

consent of the landowner, usually farmers in this case. This particular answer, from the manager of Rusticana Hosltein Dairy farm is only partially true when considering the impact it has on gender relation and calls into question women's farm tenure right. To be sure, the meaning of consent was shown to be ambiguous as in most cases it ignored the consent that landowners gave to women and children residing on their farmland and prioritised consent to male household heads.

From the above referenced definition of an occupier, there is a distinction between what could be called a primary and secondary occupier. Whereas a primary occupier according to ESTA and the Land Claim Court (LCC) is one who resides on farms with the consent of the landowner, a secondary occupier – largely women and children – are other household members who reside there as a result of the primary occupier's residency, but are not considered occupiers in their one right. Since many female farmworkers are employed as seasonal workers (as would be seen in the farm workers section of this analysis), there is trend by farmers to define woman's tenant right as secondary. Hall mentions that this trend affects the "… pattern[s] in which woman access both employment and housing indirectly through their husbands or father" (2003:16), employed as permanent workers and primary occupancy. This limits the overall impact of ESTA since female farmworkers in seasonal employment are less likely to be recognised by the Act as occupiers in their own right.

The question: ***"How many families live on your farm that are neither farmworkers nor have the permission to use land, but live here anyway?"***, was asked in an attempt to understand the demographics of people dependent on farms, who are not employed as farmworkers but depend on farmland. They were also asked
"How many workers have changed over the past two to three years, which included permanent and seasonal workers – that is, if they had increased or decreased overtime?"

It was rather striking that the number of such families were disproportionate across income and turnover. Farmers with net turnover of R500, 000 and less had fewer of such dependent families, whereas farmers with turnover of R500, 000 and more had more dependent families on their farms. Thus, the burden of dependency was more on smallholders. This may be a consequence of the changes in the workforce. Not surprising, those farmers who had increased the number of their workers over the past two to three years had more and five of

such dependent families living on their farms, whereas farmers who had shed labour within this period had fewer than five of such families. This begs the question of tenancy rights for primary and secondary occupiers as earlier discussed since such families are for the most part dependant of the primary occupier. It follows that whenever there is labour shedding, such families are also going to decrease.

5.3.5 Land Reform: Freehold Tenure or Communal Tenure?

In an attempt to deepen the picture of what farmers thought about land reform programme (tenure reform), I asked if land reform should be for the many or for the few, taking into consideration that "if land reform is to accommodate the pressure of a large, poor rural population this can only happen if a relatively large number of people can benefit from it" (Johnson and Schlemmer, 1998:67)

"If land is transferred to black ownership, should such transfer be done in a freehold tenure fashion or communal tenure?"

The dominant argument has been the superiority of freehold tenure over communal tenure. However, the responds to this question was evenly distributed with one half saying that whole farms should be transferred to black ownership in a communal way while the other half of the sample opted for the balkanisation or division of farm lands into smaller pieces of land for each recipient. Although this question was asked on a general base, it was noticeable that farmers answered this question in relation to their personal farms. Turnover and net income, as well as farm size influenced the way farmers responded to this question. Potatoes farmers who, for the most part, had large farm size with net turnover of R500,000 and above were more inclined to say that farms should be subdivided into smaller plots for each recipient; this was not the case for smallholders with turnover of R500,000 and or less.

Those who favoured the division of farm lands argued in line with the ideology of a market economy by saying "it increased agricultural productivity for emerging black farmer"[109], "it enables them access micro credit and loans from agricultural financial institutions since such lands can act as collateral"[110] in cases where borrowers are unable to repay loans. On the other hand, they argued that communal tenure "… has the potential to revert the productive

[109]Interview with farmers on ,Donkerhock farm. 26/11/2013
[110]Interview with the manager of RusticanaHolstain Dairy farm. 13/11/2013

gains made so far in farming"[111]. By this they implied that communal tenure has the potential to develop into a subsistence kind of agriculture and to the contrary, individualisation (market oriented) would be more profitable as well as increase tenure security.

5.4 SUB-SECTION TWO (THEMES)

5.5.1 HIGHER WAGES NOT LAND, AS ESSENTIALS FOR LIVELIHOODS

Farm workers "are often paid below the minimum wage, receive fewer benefits and are unsure about who employs them."[112] It goes without saying, that South Africa's rural area is defined by extreme poverty, deprivation, and oppression. It is imperative therefore to provide decent livelihoods for farm workers, who make up the majority of rural South Africa. In order to know what farmworkers needed the most for a sustainable livelihood, I asked:

"What is/are the things that would most improve life for you and your dependents?"

The general answer to this question was striking. In a way it almost defeats the aim of the land reform programme. The Native Land Act of 1913 had made sharecropping illegal and replaced it with a system of labour tenancy "under which people were allowed access to some agricultural land in return for working half the time for the landowner. It reflected the determination of white farmers [and government] to destroy the obvious prosperity of many Africa peasant farmers" (Davies, 1990:3). As such, it would be expected that farm workers would want land of their own in order to become subsistence farmers and ultimately commercial farmers in the future, it was interesting to know that on the contrary what the majority of farm workers interviewed wanted was better wages not necessarily land.

It should be noted however that farmworkers have traditionally being paid in kind, and not a cash wage. Gavin Williams points out that labour tenants are generally remunerated in terms of "right to occupy and use land" and not in cash wages. However, the LTA provides no way of measuring the value of "the right to occupy or use land" (Gavin, 1996). Mostly, these non-cash payments have been in the form of fuel, food rations, and sometimes access to small

[111] Interview with farmers on ,Donkerhock farms. 26/11/2013

[112] Not All Peachy on Farm Jobs Front. Online at: http://mg.co.za/article/2013-08-16-00-not-all-peachy-on-farm-jobs-front (Accessed 20/01/2015)

plots of land to keep livestock and grow their crops. Even though this kind of non-cash payment is still widespread, "there has also being a marked shift towards case wages, which means in practice that most workers are worse off than before, as the cash component rarely makes up for the accompanying loss of non-cash wages" (Davies, 1990:13). When asked if they preferred payment simply in cash or to have some of their wage paid in food rations, cultivation rights or grazing rights, most farm workers preferred to be paid in monetary terms only. Age of workers did not play in part in answering this question but education and household composition did. Whereas the more schooled workers were more inclined to prefer payment partly in kind, the least schooled preferred to be paid in cash only. And whereas the more workers per household, the more favourable such workers were to prefer payment purely in cash.

Nonetheless, farm workers placed better wages in their present job as the most essential need for their sustainable livelihood, followed by land of their own to farm. This point was made true in the recent 2013 farm workers strike in the Western Cape wherein for the first time in decades farm workers rose to demand better living and working condition. The strike undoubtedly led to farm worker's determination increased by 52% (R105 daily minimum) in the minimum wage, effective from March 1, 2013[113]. This is not surprising because even where land has been restored in farming areas, there is often the problem of financing in order to make such land productive. According to a 2003 study from the Institute for Poverty, Land and Agrarian Studies (PLAAS), a community in poor Limpopo, like in most cases, had to enter a joint venture with commercial partners due to lack of capital in order to continue farming operations in commercial farmlands that had been restored or have leased out their land to previous owners (Hall, 2003).

Other priorities that followed ranged from more secure housing condition, more education for children on farms, more livestock, electricity, and a bakkie (truck) of their own. Farm workers see better wages as the best medium to improve their livelihoods. With better wages, it will be easier to access other priorities. Hence, for the most part, what the rural poor in general seek is firstly a secure place to live which includes land mostly for small scale cultivation of food crop, which gives them dignity as a people. Because of the high risk involved in full-time commercial farming (with a lack of financial capital), those who aspire

[113] Not All Peachy on Farm Jobs Front. Online at: http://mg.co.za/article/2013-08-16-00-not-all-peachy-on-farm-jobs-front (Accessed 20/01/2015)

to become commercial farmers are often hindered, unless the state comes to their assistance. This brings to light a major critique of the Land Redistribution for Agricultural Development (LRAD) which focused almost exclusively on the creation of a black commercial farming sector and neglects other multiple livelihood strategies, a possible route out of rural poverty. Hence, people who want secure rights to land for settlement and as a base for their multiple livelihood strategies, a possible route out of rural poverty, are not catered for at all. From the above literature, it is generally accepted that the redistribution programme has not been adequately linked to the agrarian reform and as such has not reformed the rural economy. Particularly, farm workers and labour tenants continue to face the harshest conditions of poverty with a lack of basic services and access to land rights.

In order to deepen the picture of those who placed land as their top priority, it is interesting to know that these workers' attitude towards their employers had to some extent shaped their responses to this question. Those workers who considered their relationship with the landowner – farmer – as very good were more inclined to preferred land in a traditional area under their chief, whereas this was not the case for those who regarded their relationship with the landowner as partially good. The reason for such responses may be that traditional workers with strong attachment to their traditional ruler were those most likely to form warm and deferential relationship with the farmer.

5.5.2 SOCIAL RELATIONSHIP WITH FARMERS

Just as farmers had described the relationship they had with farmworkers as positive, so did farmworkers speak highly of their relationship with the farmer. Again, such responses were very sceptical. The reason for this may be, among other things, that the timing and place of most of the interviews conducted did not allow the farmworker respondents to speak independently or without being biased against their opinion.[114] There was an overwhelming impression of a relatively peaceful relationship between these two categories of respondents.

[114]Most of the interviews conducted, of cause, had to be with the consent of the landowner. These interviews had to be in the early hours of the morning gathers, just before the started their days work. In most cases, the farmers were never too far from the place of interview. This might have being a reason farmworkers were more incline to speak in the positive.

Age and education level were also important variables in answering this question. Older workers aged 50 years and over were more inclined to describe their relationship with the farmer as very good, whereas much younger workers described their relationship as either good or fairly good. A reason for this may be that older workers have developed a stronger relationship with the farmer due to their longer time of working with the farmer. Most of these workers have worked the greater part of their lives on farms and as such have come to develop a family-like relationship with the farmer. Paternalism is not new to farms in South Africa, Atkinson (2007) and a number of other historians on rural sociology writing on farm relations have often portrayed the relationship between farmer and worker as a patron-client relation. Du Toit (1993) portrayed it as a family-like community "where relations of affinity and mutualism are combined with those of hierarchy, authority and male dominance. This legitimate[s] the master's rule and emphasise[s] the master's absolute and despotic power over the child, his worker" (1993:56). Those who described their relationship as "fairly good" based their reason for this on a reduction in/or no rations. This brings to the fore the fact that payment in kind is still an important factor in building social relationships within the farming community besides its economic value.

Those with some level of education (primary) described their relationship as very good, especially those who had completed primary level of school or those who spoke better English. Inter alia, the reason for this was that, the farmer usually communicated more information to this group of worker than he did with others. As sure, these "educated" workers were considered to be "mediator" between co-workers and the farmers in times of crisis. An important point to note in regards to this is the condition of education in many South African farms. David asserts that "the whole system of education on farms is designed not to open up opportunities, but to ensure a continuing supply of subservient labour" (1990:20). In the area understudy none of the schools were constructed by the state. With the exception of cases were outsiders were appointed, the farmer was the official manager and the burden of construction and management laid on him. Due to financial constrain or will, he could chose to shot down the school if he so decided which made them haphazardly run. Eight out of ten farm workers can neither read nor write which made interviewing difficult. What this implies is that a generation with minimal skills, doomed to a life of hard labour on farms emerges. It was not surprising therefore that those with longer period of schooling thought of their relationship with the farmer as very good.

5.5.3 THE LABOUT TENANTS ACT

One of the many limitations of the LTA is that the Department of Land Affairs (DLA) did not conduct a publicity drive to generate awareness among labour tenants of their rights. This limitation was brought to the fore as many labour tenants who were as well farmworkers knew little or nothing about their rights. To test this, I asked:

"Have you heard about The Land Reform (Labour Tenants) Act, 1996? And do you know what it is about?"

An overwhelming majority had heard about it but had no idea what exactly it aimed to achieve and this automatically reduced the chances of them exercising their rights. Even when it was explained that the Act gives some people who have the use of cropping land on farms or livestock the possibility of buying that land with the help of the government, there was a noticeable lack of enthusiasm about it as expected. However, some thought it was fairly good that they should now be about to buy the land which they presently tenanted or worked on. Arguably, it was a lack of awareness that caused this low level of enthusiasm among tenants and workers.

Another reason for this was that some preferred to work in a city sometime in the future, so the idea of buying a piece of land was not a top priority. A farm worker is quoted as "I like the idea of buying a land ….but farming is not really for me. I would like to leave to Joburg, Nelspruit, or some other city for a city job."[115] The attraction to the city job is a consequence of low wages in farming and the general conditions of farms. This quote reinforces a growing body of literature on livelihood strategies which argues that is it a wrong timing to pursue farm tenure in an economy that is dominated by industry where the rural poor are migrating to the cities in search of urban jobs. And thus, what the poor need are jobs and affordable housing, not necessarily land.

However, the demand for land by the landless cannot be overlooked. We can witness in recent past the illegal occupation of land, particularly "at Bradell outside Johannesburg, and Khayelitsha outside Cape Town [and] in parts of KwaZulu-Natal … where there have been reports of increases in encroachment by the landless on white commercial farmland" (Hall; 2004: 222). In such places of illegal occupation, they have established homes and in some

[115]Dumelo, a farmworker in on Dikkop farm. 17/11/2013

case, have begun subsistence crop production. The struggle for land can therefore not be devoid of the struggle for survival. As a general rule, farm dwellers in general – whether farm workers of labour tenants – have responded not only to land dispossession but also to jobs loses both in the agricultural and industrial sectors by articulating broader demands for livelihoods – demanding jobs alongside, rather than instead of, demands for land (Hart, 2002). Hall asserts that "the demand for land … is likely to be contingent on whether the poor see opportunities for themselves in a growing urban industrial economy" (2004: 223).

Nonetheless, level of education and age played a part in answering this question as those with completed primary schooling thought it was a very good idea whereas this was not the same for those with no education. It may be assumed that those with completed primary schooling envisioned the completion of secondary schooling sometime in the future which propelled them to thinking it was a good idea. Low level of awareness by a relatively educated workforce may therefore be considered a reason for the lack of sympathy for the Labour Tenant Act. Also, those worker who were aged 50 years and above were inclined to welcome the idea of buying a plot of land and become a peasant farmer than those in the youthful ages of 35 and below. Again, this could be linked to the idea of migrating to the city and leaving farming since the older generation had spent much of their lives already on farms and the prospect of getting a city job for them was rather slim due to their age.

Still on the question of ownership of land by farm worker (who are also labour tenants) who considered it a very good idea, reoccurring responses as to why they did consider it so varied from "getting a land of my own will become a farmer"[116], "it will enable me learn how to farm", "more space for livestock and vegetables"[117], "increase my money [income]". On the hand, the responses of those who did not place ownership of land as their top priority varied from "… increase my chances to crime"[118], apparently more land meant more income and more income meant you become a target for robbery or other crimes. Other stated a "lack of skill to owning a farm of my own"[119], "no money to actually purchase this land [and if they did, there will be little or no profit]"[120]. Other felt their relationship with the farmer would be jeopardized and "it would make him [the farmer] very upset so I better leave things the way

[116]Interview with a cross section of farmworkers inBlesbokspruit potatoes farm. 17/11/2013
[117]Interview with a cross section of farmworkers inBlesbokspruit potatoes farm. 17/11/2013
[118]Interview with a cross section of farmworkers inBlesbokspruit potatoes farm. 17/11/2013
[119]Interview with a cross section of farmworkers inBlesbokspruit potatoes farm. 17/11/2013
[120]Interview with a cross section of farmworkers inBlesbokspruit potatoes farm. 17/11/2013

they are because right now he provides for me and my family a lot".[121] Also, a few showed a nonchalant attitude towards the prospect of owning a land "in fact I don't really know if I really want a land"[122]. That is, not knowing the advantages or disadvantages of ownership of land.

5.5.4 LABOUR TENANCY

Just like I had asked the farmers where workers should live, I also asked were farmworkers thought was more appropriate for them to live, taking into consideration the fact that in most countries unlike South Africa, farm workers like themselves do no always reside on farmsteads. This question no doubt largely had to do with ESTA as it deals with security of tenure. In an attempt to put this question in perspective, two options were given around which worker could discuss where was most appropriate for them to live. These were: to live in a land which farm workers owned on the farm premises or to live in a land near the farm where they could leave to work from. It was interesting to know that, contrary to popular view, opinion to this question was almost evenly divided. This was unexpected as you would think that most, if not all; workers would want to own a piece of the land which they are currently tenanted. While some workers preferred to own a land where the presently tenanted, other thought it would be much better if they left the environment of the farm. This option was best considered because such farmworkers felt "... besides leaving the farms which we work, it would give on other opportunities to engage in other kinds of work to add to what we do here, because the pay here is not enough"[123].

Language also was a factor in answering this question. Workers were divided among a majority of those who spoke Tshivenda and Setswana, and a minority of isiXhosa and isiZulu speakers. It was noticeable that Tshivenda and Setswana speakers were more inclined to want land within the farm they are currently tenanted, this was not the case for the isiXhosa and isiZulu speakers. It is reasonable to conclude that this variation of opinions in relation to language is that unlike the Tshivenda and Setswana, isiXhosa and isiZulu speakers considered themselves far away from home. Hence, the idea of land ownership was less

[121]Interview with a cross section of farmworkers inBlesbokspruit potatoes farm. 17/11/2013
[122]Interview with a cross section of farmworkers inBlesbokspruit potatoes farm. 17/11/2013
[123]Interview with a farmworker on Dikkkop farm. 15/11/2013

appealing. Perhaps if this was to be asked in a predominantly Zulu speaking province like KwaZulu-Natal, the responses may have been the other way.

5.5.5 BENEFICIARIES OF THE LAND REFORM PROGRAMME

Without wanting to presuppose the obvious, I asked the closed-ended question:

"Who should benefit more from the land reform programme? Those living in the former Bantustans, now farming but however need more land or those living and working on white owned farms?"

Murray (1997) maintains that the entire Eastern Transvaal Highveld (which Bethal is located) was without Reserves and farmers were strongly against the creation of a reserve in the district. This means that majority of the farm workers in the district are not those who have lived in traditional African settlement. Bethal is geographically located in what has been called the maize-triangle area in the Eastern Transvaal Highveld which is far from concentrated pockets of African settlement. It was not surprising that many farm workers opted for people like themselves, tenanted and working on white farms should be the most beneficiaries of the land reform programme. Although a third option for "Both" – that is, option one and two – was not given, a few farm workers said that both groups of Africans should benefit equally from land reform with one respondent saying "we were all historically .. [dispossessed] … we should all benefit from the government [the policies of tenure reform]."[124]

Here again, the ages variable was also a factor with those aged 50 years and below more inclined to opt that farmworkers in white farms should be the greatest beneficiaries. It is reasonably perhaps to say this category of workers had more entrepreneurial spirit than those aged 50 years and above.

By wanting farmworkers like themselves to benefit more from the land reform, this question brought to the fore one of the many effects of the 1913 Native Land Act – that is, a lack of attachment to ancestral homes. It is important to note that although a majority of workers were indigenes of the area, not all came from the district). Some had come from neighbouring

[124]Interview with a farmworker on Blesbokspruit potatoes farm. 17/11/2013

provinces or were migrants from neighbouring countries who had come to fine work, or who – as an effect of the 1913 Act that made sharecropping and rent tenancy contract illegal – had come to such farms in "… desperate search for white farmers who might be prepared to break the law and take them on as rent tenants or sharecroppers" (Davies, 1990:3). This means that those who came into the district in search of job had little or no attachment to their homes of origin.

5.5.6 TENURE REFORM: FREEHOLD TENURE OR COMMUNAL TENURE?

Just as I had asked the farmer category if whole farm lands should be placed in black hands or if there should be subdivided so that recipients would have a plot each, I also asked to get workers opinion as well in order to deepen the picture.

"If land is transferred to black ownership, should such transfer be done in a freehold tenure fashion or communal tenure?"

The responses to this question were more market oriented. The idea of communal tenure, defined as a "system that combine individual/family rights to land and natural resources with group oversight and rules to keep land within the group," was received with little enthusiasm.[125] A particular and reoccurring reason for the low level of enthusiasm paralleled the low level of trust in traditional authority. This accentuates one of the many limitations of the larger land reform programme. It is argued that in all the areas of the South African land programme – including tenure reform – there is a tendency that advantages powerful interest groups including established white farmers, traditional authorities, and the market economy. This has had a strong negative consequence for rural communities and dispossessed groups and individual. With regards to traditional authority in South Africa, they have come to play a central role particularly in land administration and allocation. "In communal tenure systems, land ownership is defined in terms of user and not exclusive ownership rights. Generally, ownership is vested in the chief/traditional authority [who] acts as a "trustee" of the community's land and has the responsibility to distribute it."[126] It was no surprise hence that there was a low level of enthusiasm for communal tenure and a rather high acceptance for freehold tenure reform.

[125] http://www.fig.net/pub/fig_wb_2009/papers/trn/trn_1_cousins_ppt.pdf
[126] Weideman, Marinda. Land Reform, Equity And Growth In South Africa: AComparative Analysis. Unpublished PhD thesis

This is one of the challenges of the Communal Property Association Act of 1996. This piece of legislation deals with the tenure rights of a community, but embodies the entitlement and protection in a new juristic person created in terms of the Act. This juristic person is usually the traditional chief. In order words, there is a fear of elite capture in communal tenure. A further challenge is often encountered when communal property associations form part of the restitution claims – this is, conflict can develop surrounding the legitimacy of including certain descendants that from part of the claimant community. Generally, these challenges revolve around uncertainty about the status of members, mismanagement of the land, and allocation of substantive rights.

5.6 CONCLUSION

The goal of this chapter was to analyse how farmers and farmworkers who are residing on white owned farms reacted to the complexities embedded in the Tenure Reform Programme. Its aim was to know the concerns as well as the specifics of farm tenure reform that bothers these categories of people within the farming community, and perhaps how these concerns might affect their relationship. In order to achieve this, the chapter was divided into two parts that each focused on a pair of the category, stating with the class of farmers and then that of farmworkers. For the case study, a total of four farms within Bethal were studied. These were: Rusticana Holstein Dairy farm, Blesbokspruit potatoes farm, Dikkop maize farm, and Donkerhock wheat farm; and a total of 30 participants were interviewed comprising of 10 farmers and 20 farmworkers.

Summarising the result of the study will be set up against the subsidiary questions which amplified the central research question. To recap these questions: What does the success or failure of tenure reform mean to both farmers and farmworkers? What is to be expected of farm labour, will there be an increase in the casualization of farm labour and what effects does this have on future land claims? Is the idea of an unequal social relationship still comfortable among landowners? Will there be a cooperation of farmers and farmworkers as equals on a capitalist economy and will reform in the farming community be participatory for the interest of all those involved? Will there be an increase or deterioration in the living and working condition of farmworkers?

Arguable, from the analysis in chapter five, it can be concluded that the land question still plays a part in shaping the social relationship between farmers and their employees. With regards to social cohesion, this work found no hash treatment of farmworkers by farmers as both described their relationship as cordial and peaceful. Nonetheless, as might be expected, the size of farms plays a part in how farmers bonded with the farmworkers. In larger size farms, they was hard an interpersonal relationship. A close relationship of any sort was more with the higher ranked farm workers on such large farms. This was not the case in small to medium size farms where farmers knew their workers personally by their first names. Also this study found a relatively peaceful social cohesion within the farming community in the area under study; farmers agreed that there still exist a minority of right-wing farmers in which farm malpractices can still be found.

It was also found that this social cohesion can quickly be overturned. This is evident from the responses of farmers that it was understandable and sometimes perfectly understandable for farmers not to help farm workers who exercised their right to buy a portion of their farms in terms of the LTA. Farmers still consider this an act by the government to take away their land. Such resentment to the Act was strongest among farmers who had a long history of farming or who have inherited such farms from their forebears. Whereas those who had only recently started farming and those who have worked elsewhere other than farming were more sympathetic with the Act and felt it would be an extreme position taken by farmers to stop assisting eligible farmworkers who exercise their right to claim to a portion of their land. In the same vein, such resistance was strongest among potatoes and maize farmers since these farmers had more labour tenants than wheat and dairy farmers. What is implied in all of this is that there is a high probability that the purchase of land by qualified labour tenants and/or farmworkers will parallel a high drop in the social relationship between farmers and the labour tenants.

This feeds directly into farmers' opinion of where their workers should live – within or outside the farm. In this regard, farmer' opinion was even. However, an important point noticeable was that the reluctance of farmers to have their workers reside on within the farm might as was be a way of reducing future land claimants. But this might not always be the case as some farmers identified lack of capital as the reason they wanted their workers to live outside the farms. On the other hand, farmworkers opinion too varied on where the preferred to live but the majority preferred living within the farms, because, besides the fact that it gives them the opportunity to claim land sometime in the future, it was cheaper to afford and

save them time and money. Those who preferred off farm residence thought that it will give them the opportunity to engage in other source of employment to complement their farm wage.

While land still plays a huge part in improving the livelihoods of farmworkers, it was noticeable that this is not always the case for the majority of workers. What farmworkers need most is rather a better way of life which can only be achieved with better and higher wages. There has also been a decrease in the traditional payment in kind which supported cash payment. Also, the recently increase wage of R105 per day seems to have added little value to the R80 per day workers previously earned. Large scale farmers in most regions, especially maize farmers have long began mechanizing in order to put up with the ever increase demand for higher wages. It goes without saying that this has a direct effect on labour shedding and casualization.

Farmers' opinion as to whether tenure reform should be for the many or for the few. That is, if land should be transferred to black ownership, should it be balkanised into many pieces or should whole farms be transferred to black ownership. The fear of productive farms returning to multiple subsistence plots was ever present in the minds of farmers. This, together with their annual net income and size of farm shaped what they considered was the best way forward. Whereas large scale farmers felt that land should be subdivided in order to accommodate the pressure of the large scale rural population, small scale farmers took the opposite view. Additionally, those farmers who had reduced the number of their workforce within the past three years where more inclined to want whole farms transferred in bulk, while opinion varied among farmers who had increase the number of their workforce within the same period. On the other hand, farmworkers opinion on the same matter also varied, and this variation was felt more in the age difference of worker, with the much younger and older workers wanting whole farms to be transferred while the middle-age worker preferred the subdivision of farms.

Finally, while the summary and findings is made for the case study (Bethal), this might be seen as a diminutive picture of farms in South Africa. However, precaution should be taken in making a generalization within municipal, provincial and national level.

CHAPTER VI: CONCLUSION

The key element of this study was to probe the concerns of farmers and farm workers in South Africa against the backdrop of the land reform programme. The central question revolved around subsidiary questions which overlap. It enquired the level of co-operation between farmers and farm workers as well as the prospect for improving the living and working condition of farm workers.

Interactions within South Africa's farming community has historically been steeped in controversy, this is because farmers or more generally landowners control both employment and in most cases the personal lives of farm workers. A result of the intertwined relation between employment and livelihoods has been that the social relation between the farmer and farm worker is now inseparable from the land reform programme, particularly tenure reform. The apartheid regime sought the displacement of black farmers and subsequently farmlands have long become the locus of socio-economic conflict between landowners and occupiers as well as those who work the land.

Understanding this interaction between farmers, farm workers, and labour tenants is therefore important in order to fully understand South Africa's discourse of land expropriation, forced removals, racial discrimination, inequality, political marginalisation and the indeed, the deep seated poverty faced by millions of rural dwellers. The ultimate objective behind the Land Act of 1913 was that rather than establishing farmers, blacks should be servants or employees on farmlands. This resulted in a total annihilation of emerging commercial black farmers, forcing them into wage labourers on farms. Within this perspective then, farmers and farmworkers have, over time, come to have a unique kind of relationship that is different from other sectors of the economy.

The government's efforts to redress the injustices of the past through various polices and legislation have often been criticised as inadequate since little has been done to improve the tenure security of close to 2 – 3 million farm workers and labour tenure. Chapter II of this study examined the post-1994 legislation and brought the limitations of these legislation to the fore – it has been rather slow in delivering its intended benefits. The central aim of these legislation was to transform the rural economy and create or sustain social cohesion between land owners and occupiers as well as those who work the land. This however has largely been unchanged. The chapter also discussed the land reform programme. It showed the limitations

and challenges facing the three legs of the programme. Particularly with respect to the concerns of farmworkers, policy approach has limited redistribution because it fails to address the concerns of farm workers (see chapter 2). Most notable of these limitations is the market-based approach to redistribution which has had a negative consequence for the landless poor and marginalised millions of South African. Inequality has therefore been hardly addressed and as a result, South Africans for whom the programme was intended have been excluded from its benefits since they do not have the skills required nor the resources or capacity to meet the criteria for participating in such a demand-led land reform.

The LTA and ESTA were the main legislation passed to strengthen tenure security among labour tenants and farm workers respectively. As was discussed above, these have been limited in achieving their intended targets. The government have undertaken recent policies and legislation to address the current land holding system, in particular tenure reform. These among others includes the LRMF, RADP, and CRDP, the Draft Land Tenure Security Policy, 2010 and the Draft Land Tenure Security Bill, 2011, and the Policy Proposal on Strengthening the Relative Rights of People Working the Land; all of which seeks to strengthen the existing land reform programme – particularly the security of tenure on freehold commercial farms. However, there has been little improvement in securing tenure rights as well as in reducing poverty level of many farm dwellers.

Tenure reform programme has done very little in alleviating poverty. This is largely because an attempt at creating social cohesion, development of the rural economy and livelihoods has been delinked. A holistic strategy towards tenure reform is therefore imperative, which CRDP, if improperly implemented would achieve. In order words, a successful implementation of the CRDP, together with other recent interventions to tenure security are the preconditions necessary for the broader land reform programme to reduce poverty levels among farm workers. Securing tenure rights for farm workers must therefore be tied to programmes which aim to reduce poverty level among farm dwellers in general

The limitation of tenure reform lies mainly in the failure of to state. The power of the state to expropriate private land was limited in both ESTA and LTA. The state therefore has to play a more active role – a supply-led approach. This entails putting in large among of money into by buying land from white landowner and redistributing or selling the land to intended beneficiaries at a subsidised price in order to speed the land reform. However, even if every possible and permissible conditions were met, it would inevitable take time for a successful

class of new black farmers to emerge. It should also be mentioned here that neither the emergence of new black class of farmers nor the resolution of the problems of tenure security and land usage will quickly be solved. In the meanwhile, the country's agricultural system will continue to depend on white commercial farmers. The challenge to government is therefore to find a long-term strategy of how the land reform programme is to unfold which would be in the interest of both farmers and farm workers as per tenure reform.

Methodologically, this work used a single case study, and for the data collection, it used the documentary analysis and qualitative research interview methods. It discussed the case of Bethal, a farm dweller community in Mpumalanga province. The sample size comprised of 30 respondents, 10 of which were farmers and 20 were farm workers and although not all farm workers acknowledged land as a top priority, many placed owning their own piece of land, which they currently tenant for agricultural purpose, as a priority. It is surely from their ranks that a future class of black commercial farmers will be drawn. What is needed therefore is a concerted effort and co-operation between government both at national and provincial level as well as a co-operation between farmers' unions to help foster the emergence of such a group.

Chapter V of this study shows that the barrier to this strategy lies not only in access to land and capital but also in education and training in a diverse range of skills development. Hence, it is in this area that such co-operation could most likely be brought to fruition. The result of the failed attempt to successfully implement ESTA and LTA, and the recent land related programmes has continued to put a strain on the social relations between farmers, farm workers and labour tenants as the analysis of chapter V showed. Nonetheless, a key outcome of the analysis undertaken was that there is some sort of mutual cohesion within the freehold commercial farming areas. Such cohesion was based on multiple reasons ranging from mutual understanding, good communication, good working relationship, and treating such other fairly. It was however also noticeable that this did not necessarily mean that farm workers were not being maltreated as other studies on farm relations showed. What this implies is that in redressing historical injustices, the government should approach tenure security with a strategy which incorporates the interests of all parties involved – that is farmers and farm workers as well as those who organisations who are overly opposed to structural reforms within the commercial farming areas. In order to be effective, there has to be an understanding between all the parties. Ultimately, they need to be a sense of commitment on the part of government, farmers and farm workers.

The analysis and findings also identified key issues that help understand why farm workers have had little success in benefiting from the existing land reform programme. Firstly, there is clearly a lack of information about the land reform programme, particularly on the part of farm workers with the majority of them unable to read or write. In order words, there is a lack of clarity about this piece of legislation especially with regards to the grants available for acquiring their own land. This strengthens the imbalance of power on farms.

The DRDLR has also been often criticised as weak in its attempt at implementing and enforcing the programmes setup to regress past injustices. Similarly, the judiciary system has done very little in responding to the demands of farm workers. This is mainly because of the bureaucratic red tape within government, which is compounded by the lack of staff capacity. The effective implementation of legislations passed in order to redress the injustices of the past can significantly improve the conditions of thousands of farm workers in South Africa. However, in order to achieve this, it is important that the DRDLR has the capacity to monitor implementation and compliance with the law. This also means effective prosecution of farmers who fail to comply with the law.

Thirdly, the above literature discussed the challenges facing this agricultural sector, particularly its disputed labour regime. What is worrying the most is the significant drop in farm employment which is a major source of livelihoods in rural areas. Farm labour is increasingly becoming 'casualised' and retrenchments becoming too often. The agricultural sector has become characterised by contract, seasonal, and outsourced labour and labour brokers and farmers have been quick on taking advantage it this. Prior to 1994, South Africa's farms where largely immune from labour legislations, however the introduction of labour legislation (the Basic Condition of Employment Act) was accompanied by labour shedding and a shift from permanent labour to temporary and seasonal labour. It must be mentioned however that the drop in farm employment is not influenced by labour legislation rather it must be understood with the agricultural sector's entry into the global competitive market as well as fears around the long term impact of land reform policies among farmers and landowner.

Finally as earlier noted, the land reform programme is thought to be a rather ambitious project. This is particularly visible in the insufficient budgets to undertake the programme. The allocated budget for land redistribution through the various grants as well as the Land Redistribution for Agricultural Development (LRAD) and for tenure rights are increasingly

declining. The budget for housing through the Reconstruction and Development Programme (RDP) which became the manifesto for the ANC in its 1994 election campaign is also declining with pressure to deliver.

In closing, it should be noted that this study, like all research had its limitations. Firstly, accessibility to farms was a major issue as attempting to gather information about the commercial farming community is difficult in South Africa where the majority of farm workers are tenants on farms. There was also the issue of homogeneity since the respondents were relatively small; hence it was noticeable to find respondents with similar views. Lastly, language was a barrier, and even though an interpreter was used, it is possible that some sentences may have been lost in translation.

BIBLIOGRAPHY

Arnold D (1984) Gramsci and Peasant Subalternity in India. *Journal of Peasant Studies* 11(4): 155–77

Ashley, C. and Maxwell S. 2001. "Rethinking Rural Development." *Development Policy Review* 19: 395-425.

Atkinson D (2007) *Going for broke: The fate of farm workers in arid South Africa*. Cape Town: Human Sciences Research Council

Blumer, Herbert. 1939. *Critique of Research in the Social Sciences: An Appraisal of Thomas and Znaniecki's The Polish Peasant In Europe and America.* New York: Social Science Research Council.

Bundy, C. 1990. "Land, Law and Power: Forced Removals in Historical context", in Murray, C and O'Regan, C (eds.) *No Place to rest: Forced Removals and the Law in South Africa,* Oxford University Press: Cape Town.

Bundy C. (1979) *The Rise and Fall of the South African Peasantry*. Heinemann: London,

Carey Miller DL & Pope A "Land reform in South Africa" (2000) 44 *Journal of African Law* 167-194 at 184.

Claassens A, "For whites only - land ownership in South Africa", in A Harvest of Discontent: The Land Question in South Africa, De Klerk M (Ed.), Idasa, Cape Town, 1991, p. 43 – 56

Cousin Ben and Hall Ruth (2011) *"Rights without Illusion: The Potential and Limits of Rights-Based Approaches to Securing Land Tenure in Rural South Africa"* PLAAS working Paper 18. University of the Western Cape, Cape Town, South Africa.

Daniels, Rudolph (1989) The Agrarian Land Question in South Africa in Its Historical Context, 1652-1988. *American Journal of Economics and Sociology* 48(2): 327-338

Davenport, T., Hall, R. 1981. *South Africa: A Modern History* (4th ed.), Macmillan, London, 1991

Debates of the Mpumalanga provincial legislature. 2012. Fourth session, fourth legislature of the province of Mpumalanga. Online at: http://www.mpuleg.gov.za/docs/hansard/2012/sitting031312.pdf [17/05/2013]

Department Of Agriculture, Forestry and Fisheries. Online at http://www.nda.agric.za/docs/statsinfo/Ab2012.pdf

Department of Rural Development and Land Reform "Green Paper on Land Reform 2011"

De Wet, C: "Land reform in South Africa: A vehicle for justice and reconciliation, or a source of further inequality and conflict?" *Development Southern Africa,* Vol. 14, No. 3, 1997, pp. 355-362, p. 357.

Du Toit A (1993) The micro-politics of paternalism: The discourses of management and resistance on South African fruit and wine farms. *Journal of Southern African Studies* 19(2): 314−36

Extension of Security of Tenure Act 62 of 1997

Gavin, Williams, "Transforming Labour Tenants", Land, Labour and Livelihoods, Volume 2, Lipton M, Ellis F, Lipton M (Eds.), Indicator Press, December 1996

Giddens A (1989) *Sociology*. Cambridge: Polity

Goffman E (1961) *Asylum: Essays on the social situation of mental patients and other inmates*. Harmondsworth: Penguin

Gottschalk, L., Kluckhohn, C., and Angell, R. 1947. *The Use of Personal Documents in History, Anthropology and Sociology*. New York: Social Science Research Council.

Graaff J, Louw W & van der Merwe M (1990) *Farm Schools in the Western Cape: A sociological analysis*. Stellenbosch: Research Unit for Sociology of Development, University of Stellenbosch

Greenberg, S. 2010. *Status Report on Land and Agricultural Policy in South Africa*. PLAAS Research Report 40.

Hall R (2003) *Farm tenure*. In R Hall (ed.) Evaluating land and agrarian reform in South Africa. Occasional Paper series, no. 3 Cape Town: Programme for Land and Agrarian Studies (PLAAS), University of the Western Cape

Hall, R. 2004. "Land Restitution in South Africa: Rights, Development, and the Restrained State." *Canadian Journal of African Studies*, Vol.38, No. 3, 2004, pp. 654-671.

Hall, R. 2007. "Transforming Rural South Africa? Taking Stock of Land Reform" In Ntsebeza, L. and Hall, R. *The Land Question in South Africa*. Cape Town: HSRC Press.

Harvey, Feinberg 1998. *"The 1913 Natives Land Act In South Africa: Politics, Race, And Segregation In The Early 20th Century." The international journal of African historical studies*, Vol. 26, No. 1, pp. 65-109

Head, B: "Forward", in Plaatje, S: *Native Life in South Africa*, Ravan Press, Johannesburg, 1916.

Hornby D, "All we need is a piece of land", National Land Committee Investigation into the Current Status of Labour Tenancy, March 1998

Jara, Mazubuko and Hall, Ruth, 2009. "What are the political parameters?" in Ruth Hall, ed. Another Countryside. Cape Town: Institute of Poverty, Land and Agrarian Studies

Johnson R.W. and Schlemmer L. *Farmers and farmworkers in Kwazulu-Natal*. Report of the Helen Suzman Foundation, December 1998.

Keegan, T. 1985. "Crisis and Catharsis in the development of Capitalism in South African Agriculture." *African Affairs*, Vol. 84, No. 336. pp. 371-398

Klug H, "Historical Claims on the Right to Restitution", Agricultural Land Reform in South Africa, Van Zyl J, Kirsten J & Binswanger H (Eds.), Oxford University Press, Cape Town, 1996, p. 391

Lahiff E, "Land reform in South Africa: is it meeting the challenges?" Policy Brief, no.1, PLAAS, September 2001

Land Claims Court of South Africa, Van Zydam v. Zulu, LCC 27/98, January 12 1998

Levin R.M, "Land Restitution, the Chieftancy and Territoriality: The case of the Mmaboi Land Claim in South Africa's Northern Province, Centre for African Studies, March 1996

Levin, Richard and Weiner Daniel, 1989 "The Agrarian Question and the Emergance of Conflicting Agricultural Strategies in South Africa", Edited and Compiled by: South Africa Economic Research and Training Project, Towards a New Agrarian Democratic Order. Pp, 85-117.

Letsoalo, M. 1987. Land Reform in South Africa: A Black Perspective. Johannesburg: Skotaville.

Mariampolski, H. and Hughes, D. 1978. "The Use of Personal Documents in Historical Sociology" in *American Sociologist* 13 (2): 104-113. .

Mbongwa M, Vink N, van Zyl J & Thirtle C (2000) *The agrarian structure and empowerment: The legacy*. London: Macmillan

Merton, Robert. 1938 "Social Structure and Anomie", in *American Sociological Review*, 3: 672-682

Mngxitama A (2001) "Farm Dwellers: Citizens Without Rights, The Unfinished National Question", paper presented at the Southern African Policy Research Network (SARPN) conference on Land Reform and Poverty Alleviation in Southern Africa, 4-5 June.

Murray, C. and Williams, G. (1999) Land and Freedom in South Africa. *Review of African Political Economy* 21(61): 315-324

Murray, M. J. 1989 "The Origin of Agrarian Capitalism in South Africa: A critique of the 'social history' perspective" in *Journal of Southern African Studies*, (15) 4: 645-665.

…… 1997 "Factories in the Fields: Capitalist Farming in the Bethal District" in Jeeves A. H. and Crush J. *White Farms, Black Labour: The State and Agrarian Change in Southern Africa, 1910-1950*. Pietermaritzburg: Heinemann.

Naidoo L "Poverty and insecurity of farm workers and dwellers in post-apartheid South Africa" in Hebinck P & Shackleton C (eds) *Reforming land and resource use in South Africa: Impact on livelihoods* (2011) 188-208.

Nasson B (1988) Bitter harvest: Farm schooling for black South Africans. *Perspectives in Education* 10(1): 84–6

National Planning Commission, RSA. *National Development Plan 2030: Our Future-Make it Happen.*

Ntsebeza, L. 2007. “Land Redistribution in South Africa: the property clause revisited”. In Ntsebeza, L., and Hall, R. *The Land Question in South Africa.* Cape Town: HSRC Press.

Plaatje, S: *Native Life in South Africa*, Ravan Press, Johannesburg, 1916.

Punch, Keith. *Developing Effective Research Proposals*. California: Sage.

Rogier, VDB, Thomas, G, and Binswanger, H. 2007. “Agricultural Land Redistribution in South africa: Towards Accelarated Implemention” In Ntsebeza, L and Hall, R. *The Land Question in South Africa.* Cape Town: HSRC Press

Roth, Michael and Haase. *Land Tenure Security and Agricultural Performance in South African.* 1998

Roux, T. (2006). “Land Restitution and Reconciliation in South Africa.”. *Paper presentation at a special event on Transitional Justice in South Africa*, (pp. 1-24). University of Cambridge.

Rutherford B (1997) Another side to rural Zimbabwe: Social constructs and the administration of farm workers in Urungwe District, 1940s. *Journal of Southern African Studies* 23(1): 107–26

Rutherford B (2001) *Working on the margins: Black workers, white farmers in postcolonial Zimbabwe*. Harare: Weaver

Statistics South Africa. *Agricultural Survey 2011*. Online from http://www.statssa.gov.za/Publications/P1101/P11012011.pdf [Accessed 23/04/2013]

Strauss, Anslem and Corbin, Juliet. 1990. “Basic Considerations” in *Basics of Qualitative Research: Grounded Theory Procedures and Techniques*. California: Sage. Pp. 17-27.

Turner S & Ibsen H, “Land and agrarian reform in South Africa: A Status Report”, Occasional Paper Series, PLAAS, UWC, November, 2000

Umhlaba Development Services. 2002. *An Evaluation of ESTA in the Eastern Province.* Unpublished report paper for the Border Rural Committee, June.

Walker, C. 2005. “The Limits of Land Reform: Rethinking the Land Question”. Journal of Southern African Studies. Vol. 9, pp. 4.

Wegerif, M. 2004. *A Critical Appraisal of South Africa’s Market-Based Land Reform Policy: The Case of the Land Redistribution for Agricultural Development (LRAD) Programme in Limpopo.* Research Report no. 19. Cape Town: Programme for Land and Agrarian Studies (PLAAS), University of the Western Cape.

Wegerif M, Russel B & Grundling I *Still searching for security: The reality of farm dwellers evictions in South Africa* (2005).

Wegerif, Marc, Bev Russell, and Irma Grundling,. 2005. *Summary of Key Findings from the National Evictions Survey.* Polokwane, South Africa: Nkuzi Development Association.

Weisheit, Ralph. and Wells, Edward. 1996. "Rural Crime and Justice, Implications for Theory and Research." *Crime and Delinquency* 42: 379-397.

Wickens P.L, "The Natives Land Act of 1913: A cautionary essay on simple explanations of complex change", South African Journal of Economics, Vol.49, 1981

Wickins, P. I: "The Natives Land Act of 1913: A Cautionary essay on simple explanations of complex change." SAJE, Vol. 49, No. 2.

Wisborg, P., Hall, R., Shirinda, S., Zamchiya, P. (2013) Farm workers and farm dwellers in Limpopo, South Africa. PLAAS paper. Online at: http://www.plaas.org.za/plaas-publication/farm-workers-%26dwellers [accessed 1/12/2013]

Yin, R. 1994. *Case study research: Design and methods* (2nd ed.). Beverly Hills, CA: Sage.

Zamchiya, P. (2009) Changing labour, land and social relations on commercial farms: A case study from Limpopo, South Africa. Unpublished MPhil Thesis. Cape Town: Institute of Poverty, Land and Agrarian Studies (PLAAS), University of the Western Cape

INTERNET SOURCES

Lahiff "Tenure Arrangements and Support" in Hall (ed) Another Country-side (2009) 99; Cousins & Hornby "Adrift" in Piecemeal Reforms and Calls for Action 136.

Strategic Plan: Rural Development and Land Refrom 2014-2019. Online at: http://www.satgi.co.za/admin/upload/pdfs/DRDLR_Strat_Plan2014_19%20(1).pdf (Accessed 20/01/15)

Land Rights Management Facility: briefing by Department of Rural Development & Land Reform. Online at: **http://www.pmg.org.za/node/47820** (Accessed 19/01/2015)

Three Years Review of Recapitalization And Development Programme. Online at: http://www.ruraldevelopment.gov.za/phocadownload/land-reform/radp/september2013_radp_mid_term.pdf (accessed 19/01/2015)

Not All Peachy on Farm Jobs Front. Online at: http://mg.co.za/article/2013-08-16-00-not-all-peachy-on-farm-jobs-front (Accessed 20/01/2015)

Farmworkers' strike: No silver bullet for rural unrest. Online at: http://mg.co.za/article/2013-01-15-no-silver-bullet-for-rural-unrest (Accessed 20/01/2015)

Ramaphosa orders ban on farm evictions. Online at: http://www.citypress.co.za/politics/ramaphosa-orders-ban-farm-evictions/ (Accessed 20/01/201)

Unions Warn of Farm Inversions. Online at: http://www.bdlive.co.za/national/2014/10/08/unions-warn-of-farm-invasions (Accessed 20/01/15)

Ramaphosa orders ban on farm evictions. Online at: http://www.citypress.co.za/politics/ramaphosa-orders-ban-farm-evictions/ (Accessed 20/01/201)

Western Cape ANC laments 'mass eviction' of farm workers. Online at: http://www.sabc.co.za/news/a/e736980045b9106a8be98b90ca3f4715/W-Cape-ANC-laments-mass-eviction-of-farm-workers-20140510 (Accessed 20/01/2015)

Farmworkers' strike: No silver bullet for rural unrest. Online at: http://mg.co.za/article/2013-01-15-no-silver-bullet-for-rural-unrest (Accessed 20/01/2015)

PLAAS Special Edition: Reintroducing the Contentious Traditional Courts Bill: Online at:. http://www.plaas.org.za/sites/default/files/publications-pdf/UW%2014.pdf (Accessed 20/01/2015)

Leaderless farm strike is 'organic'. Online at:http://mg.co.za/article/2012-11-16-00-leaderless-farm-strike-is-organic (Accessed 21/02/2015)

Hall, R. Jacobs, P. Lahiff, E. (2003) Evaluating Land and Agrarian Reform in South Africa. Online at: http://www.plaas.org.za/sites/default/files/publications-pdf/ELARSA%2010.pdf (Accessed 20/01/2015)

Farmworkers Voices: Reflections of Worker Conditions on South Africa farms. Online at: http://www.sawit.co.za/images/BAWSI_Farmworkers_3%20June.pdf (Accessed 22/01/2015)

Appendix 1

QUESTIONS FOR FARMERS

INSTRUCTION

This work is for my Master's research report; I would please like you to fill this as honestly as possible. It focuses on the agrarian and land question. The questionnaire is divided into two sections. Section A is structured while section B is semi-structured. I do not expect you to write your name anywhere on this questionnaire. Your contribution would be highly appreciated.

SECTION A

1. What is your age?
2. When did you/your family acquire this land?
   ……..
3. How long have you farmed here?
   ……
4. What is your highest level of education?
5. Have you worked elsewhere or have you always worked on farms?
6. Have you any child or relative to take over the farm after you?
7. Indicate how many workers have changed over the last three years. This is about permanent and seasonal workers.

Decreased by over 20%	
Decreased by 0 to 20 %	
Stayed the same	
Increased by 0 to 20%	
Increased by over 20%	

8. Does your workers on this farm have land which they have right to cultivate?
9. Does the farmworker get payslip showing deductions when he is paid?
10. Is the money paid the amount left after all deductions have been made?
11. If so, what were these deductions for?

	Yes	No
For goods bought from the farm		
To pay back a loan from the farmer		
As a rent for housing		
To pay for grazing of livestock		
To pay for pension fund		
To pay for any rations		
Any other deductions		

12. Do you lend money from time to time to the worker?

13. Here are some concerns that farmers speak of. How would you place them in order for yourself from one being the most concerned to seven being the least?

Stock and other theft	
Murder/rape	
Arson	
Difficulties with your workers	
Land invasion/squatting	
Land reform (labour tenancy, housing security on farms, etc.)	
Political violence or faction fighting	

14. How would you respond to the legal requirement for a minimum wage of R105 per day?
15. What would be your response to the government's law forbidding child labour for all children under the age of 15 and to restrict what sort of work may be done by those aged 15 to 18?
16. Under the Labour Tenancy Legislation, farmers may be forced to sell parts of their farm to labour tenants. Some farmers have raised concerns that under this legislation they will refuse to help such tenants in the ways they do now. Do you feel that such reactions are
17. How would you describe your relationship with your workers?
18. Please explain this relationship.

19. How many families live on your farm who does not work here and who do not have permission to use the land, but live here anyway?
20. The Land Reform Programme is often considered to be a source of tension between farmers and labour tenants, and sometimes farmworkers; do you think that we should encourage white farmers to leave to neighbouring countries?
21. Who do you think should receive priority from land reform and the transfer of land ownership from white to black?
22. If land needs to be transferred from white ownership to black ownership, is it better for whole farms to be placed in blacks hand and run on the same basis as now, or would it be better to sub-divide into many smaller pieces so that more people can each have a small piece of land?
23. Do you have any other source of income?

SECTION B

1. How many farmworkers do you have on this this farm?
2. Some commentators uphold the view that crime in the farming community can rightfully be traced to the overwarming tensions between new settlers of previously

white owned farms and farmworkers resident on such farms who for the most part are deprived access to land. What can you say about this, would you agree or disagree?

3. Do your workers have land which they have the right to cultivate?
4. In your opinion, to what extent has land reform reprogram (restitution, redistribution, and tenure reform) been successful?
5. Have you heard about The Land Reform (Labour Tenants) Act, 1996? And do you know what it is about?
6. The LRA provides for the protection of the rights of labour tenants and gives them the right to claim land. How successful do you think that has been?
7. In like manner, The Extension of Security of Tenure Act (ESTA), 1997, aims to protect people who live on land with the consent of the owner or persons in charge against unfair eviction and create long-term tenure security through on-or-off-site settlement assisted by the government grant and landowner. What do you think are the strengths and weaknesses of ESTA?
8. There are problems surrounding the definition of an occupier (farmworker, labour tenant, or farm dweller) which has often been a source of dispute, and in some cases evictions. The Land Claims Court (LCC) has distinguished between a primary occupier, who resides on the farm with the consent of the owner, other household members, who resides there as a result but are not considered occupiers in their own right and this raises a whole lot of issues land claim. Now in your view, who should best be defined as an occupier with rights?
9. Some experts in the field of rural sociology and criminology believe that poverty, unemployment, and crime usually correlate. In South Africa, the growing increase in youth unemployment in rural areas and easy accessibility to drugs and alcohol has added pressure to the already intense situation. Talk me through what you think about (if any) the correlation of poverty, unemployment, as well as unfair labour practices and crime in rural agrarian areas.
10. On a broad level, what particular crime problems do you think are associated with rural areas especially the farming community?
11. What better ways do you think rural problems can be solved? Because this obviously affects the agricultural sector and by implication, you as an individual.

Appendix 2

QUESTIONS FOR FARMWORKERS

INSTRUCTION

This work is for my Master's research report; I would please like you to fill this as honestly as possible. It focuses on the agrarian and land question. The questionnaire is divided into two sections. Section A is structured while section B is semi-structured. I do not expect you to write your name anywhere on this questionnaire. Your contribution would be highly appreciated. This research report asks the question:

What social-relations underpin farmers (landowner), farmworkers[127] and labour tenants[128] relationship with regards to tenure reforms? Asked differently, in what ways does the tenure reform programme affect the lives of these categories of people?

SECTION A

1. What is your age?
2. What is the highest level of education attained?
3. What is the dominant language spoken at home?

Afrikaans	English	isiNdebele	isiXhosa	isiZulu	Sesotho sa Leboa	Sesotho	Setswana	siSwati	Tshivenda

Xitsonga	Other languages

4. What is your household size and its composition?
5. What is the number of working persons in your household (18 years and above)?
6. What type of house do you live in?
7. Does your house have?

	Yes	No
Electricity		
Tap water		
Toilets (specify what type)		
Bathing and watching facilities		
A shed for animals		

[127] A farmworker in terms of the Land Reform (Labour Tenants) Act, 1996 (Act No. 3 of 1996) is one who is employed on a farm in terms of contract of employment which provides that in return for the labour which he or she provides to the owner or lessee of the farm, he or she shall be paid predominantly in cash or in some other form of remuneration, and not predominantly in the right to occupy and use land.

[128] A labour tenant in terms of the Land Reform (Labour Tenants) Act, 1996 (Act No. 3 of 1996) is one who is residing or has the right to reside on a farm, who has or has had the right to use cropping or grazing land on the farm or another farm of the owner, and in consideration of such right provides or has provided labour to the owner or lessee and whose parent or grandparent resided or resides on a farm and had the use of cropping or grazing land on such farm or another farm of the owner.

8. Where were you born?

   ……

9. Was this in an urban area, near an urban area, in a farm area, or in one of the former homelands?

Urban area	
Near an urban area	
Farm area	
Former homeland?	

10. What are the things that would most improve life for you and your family? (at least two)
    1. ……...
    2. ……

11. If land is mentioned, do you wish to

Own the land	
Rent the land	

12. If security is mention, what type of security?

Security of tenure over land	
Security of tenure over housing	
Security against crime	
Job security	
Other (specify)	

13. Where was your father buried? District and place/farm
    District ……..
    Place/farm …….
14. Where was your mother buried? District and place/farm
    District ……..
    Place/farm ……..

15. How long have you lived on this farm?
16. How long has your family lived on this farm?
17. Does your wife/husband work on this farm?
18. Does any of your children (18 and above) work on this farm?
19. Where do you intend to live when are too old to work?
20. Do you have land on this farm which your household have right to cultivate?
21. Do you have right to ask for land to be allocated to you?
22. Is any land already allocated to you?
23. Besides the dwelling you live in, do you have any other house?
24. Do you get a payslip every time you get paid?

25. What is the cash wage you received this last month? (using the minimum wage of R105 per day, it is calculated that on average R2625 will be a monthly cash wage)

Less than R2625	
R2625	
More than R2625	

26. Is this cash the amount left after any deductions were made?
27. If yes, what were these deductions for?

	Yes	No
For goods bought from the farm		
To pay back a loan from the farmer		
As a rent for housing		
To pay for grazing of livestock		
To pay for pension fund		
To pay for any rations		
Any other deductions		

28. Would you prefer to be paid simply in money or to have some of your wage paid in food or grazing rights or cultivation rights?
29. In the future, what would you wish to achieve most?

A job in a town or city with a regular wage	
Land of your own to farm	
To be sure that you can always live on this farm if you want to	
Better wages in your present job	
More cattle/sheep/goats in your present job	
Own a car/bakkie	
To have a modern house with modern facilities	
Other (specify)	

30. If land is mentioned as a priority, what kind of land do you prefer?

Land of you land in this district where you live	
Ownership of the land you presently use on this farm	
Adequate land rights in a traditional farming area allocated by a chief	
Ownership of more land on this farm that you presently use	
Other (specify)	

31. There is a law which gives some people who have the use of cropping land on farms or livestock the possibility of buying that land they use at the moment. The government says they will help them buy this land. Some people think this is a very good idea and other think it is very bad. That do you think?

Very good	
Fairly good	
Not so good	
Very bad	

32. If land needs to be transferred from white ownership to black ownership, is it better for whole farms to be placed in black hands and run on the same bases as now or would it be better to sub-divide the farms into many smaller pieces so that people can have a small piece of land each?

Whole farms	
Sub-divide	

33. The Land Reform Programme is often considered to be a source of tension between farmers and labour tenants, and sometimes farmworkers; do you think that we should encourage white farmers to leave to neighbouring countries?

Encouraged to leave	
Encouraged to stay	
Indifferent	

34. What do you consider is the best way of achieving a social cohesion within the farming community?

35. Who do you think should benefit most from land reform and the transfer of land ownership from white to black?

Africans living in the former homelands who already farm but need more land	
Africans already living and working on white farms	
Both	

SECTION B

1. How long have you lived and worked on this farm?
2. Does your family leave with you here, and if they do, are they also employed to work on this farm?
3. Some commentators uphold the view that crime in the farming community can rightfully be traced to the overwarming tensions between new settlers of previously white owned farms and farmworkers resident on such farms who for the most part are deprived access to land. What can you say about this, would you agree or disagree?

4. Have you heard about The Land Reform (Labour Tenants) Act, 1996? And do you know what it is about?
5. The LRA provides for the protection of the rights of labour tenants and gives them the right to claim land. How successful do you think that has been?

6. Also, The Extension of Security of Tenure Act (ESTA), 1997, aims to protect people who live on land with the consent of the owner or persons in charge against unfair eviction and create long-term tenure security through on-or-off-site settlement assisted by the government grant and landowner. What do you think are the strengths and weaknesses of ESTA?
7. The reaction by some farmers to ESTA has for the most part not always been positive. What can you say about the present condition within your workplace?
8. As a farmworker, what are the issues that would most likely improve your life [here I will probe deeper for land whether or not land is mentioned]
9. Do you wish to own or rent a land?
10. Some experts in the field of rural sociology and criminology believe that poverty, unemployment, and crime usually correlate. In South Africa, the growing increase in youth unemployment in rural areas and easy accessibility to drugs and alcohol has added pressure to the already intense situation. Talk me through what you think about (if any) the correlation of poverty, unemployment, as well as unfair labour practices and crime in rural agrarian areas.
11. On a broad level, what particular crime problems do you think are associated with rural areas especially the farming community?
12. What better ways do you think rural problems can be solved? Because this obviously affects the agricultural sector and by implication, you as an individual.