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ARTICLE

PRACTICALITIES OF THE NATIONAL DEVELOPMENT PLAN: PROSPECTS AND CHALLENGES, USING THE RURAL ECONOMY AS A CASE STUDY

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ABSTRACT

The National Development Plan 2030 (NDP) is arguably South Africa's widest and most inclusive plan for economic and social development since 1994. It is evidence of the urgent need for development in South Africa, although its political will is yet to be determined. A test of the NDP's strength is whether it can implement development beyond the document using existing state institutions and structures. This article argues that the NDP may be a prudent plan for South Africa to become a democratic developmental state. However, the plan fails to mention critical factors in its chapters that will affect the strength and achievability of the plan. The chapter on the rural economy is evidence of this major flaw of the plan as it fails to mention the role of women in the rural economy and the critical factor of traditional leadership and governance (TLG) in a meaningful way that will establish the connection between the two. Ultimately, the NDP does not recognise the interface between women, rural development and TLG, and this flaw will lead to complications in the implementation of the NDP unless it is clarified, refined and asserted.

Keywords: development, rural, women, National Development Plan, traditional leadership and governance

INTRODUCTION

The National Development Plan 2030 (NDP) (RSA 2012) is South Africa's plan for economic growth and social change which aims to push South Africa into a stable economic and social agenda by the year 2030 using a developmental state framework.

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It identifies the current problem as slow economic growth which contributes to unemployment, poverty and inequality. The NDP further claims that the solution is to increase economic growth and build the capabilities of individuals, communities and the state, to ensure that the state is able to fulfil its constitutional mandates, safeguard against external economic threats and create social cohesion. With chapters that address major areas of economy and society, the NDP asserts itself as a key policy document for South Africa's future.

But the real test of the NDP's strength is whether it can implement development beyond the document using the state's existing institutions and structures. This article will argue that the NDP fails to mention critical factors in its chapters that will affect the strength and achievability of the plan. The chapter on the rural economy is evidence of this flaw in the plan.

The methodology used for the article is a close and critical reading of the NDP and legislation, as well as the use of empirical studies about the experiences of women in rural South Africa. There are two elements to this methodology. The first element is a critical engagement with the NDP's aims and its ability to communicate this in a way that considers the actual factors involved in the implementation of changes in the rural economy. The second element is to read the chapter on the rural economy with practical considerations about its implementation using empirical studies that detail the experiences of women in the rural economy.

One justification for using this methodology is that a critical reading of the plan should encourage more debate and engagement with the plan. The NDP was broadly accepted in Parliament in 2012, and it is sometimes mentioned by various government departments which claim to use the plan as their blue print for policy action. But the plan lacks substantive academic discussion.

Another justification for using this methodology is to test and establish whether the goals, facts and experiences of various target groups all communicate and engage with each other in the plan, with the aim of implementing the plan effectively.

The article is organised into two sections. The first section will discuss three broad themes that lay the foundation for an understanding of the arguments being made in the second section, namely, public policy, the developmental state and traditional leadership and governance (TLG). The second section will deal directly with the interface between growing the rural economy, women in the rural economy and TLG.

PUBLIC POLICY IN SOUTH AFRICA

Review of public policymaking in South Africa

Public policymaking in democratic South Africa has produced mixed results: on the one hand, policymaking has been necessary for building the democratic state; but on the other hand, this process has involved the entrenchment of powerful policymaking

clusters; the continuation of colonial and apartheid modes of governance; and the lack of participatory democracy within affected communities.

Between 1994 and 2000/2001, a range of new policies were created in many areas of South African politics and economy. Madue (2008: 197) describes this period as the 'policy development and review era'. The following period, 2002 to 2006, is known as the 'implementation period' (Madue 2008: 197), wherein these new policies were implemented. The policymaking era was necessary to undo apartheid legislation and was symbolic of social and political shifts in the country. However, the results of this policymaking period and its subsequent implementation era have been mixed.

Roux (2002: 418) acknowledges that democratic policymaking took place 'amidst transformation, change and globalisation'. As such, some of the 'influencing factors' over public policy included 'international relations and trends … public needs and aspirations … [and] party political dynamics' (Roux 2002: 425). Thus, South Africa's public policy had to meet both national demands and global standards of policymaking (Roux 2002: 431–432), following the end of the country's isolation after apartheid.

Booysen (2001: 127) identifies that although the steps of policymaking are conventionally recognised as agenda setting, formulation, adoption, implementation, review and evaluation, policymaking in South Africa does not always follow these steps. Rather, it is driven by powerful clusters which determine the steps to be followed (Booysen 2001). Policymaking in South Africa is dominated by 'political and executive initiative in, and control over, most stages of the policy process, as well as the continuous role of senior policy bureaucrats in most stages of the process' (Booysen 2001: 126). There are three clusters, as illustrated in Figure 1.

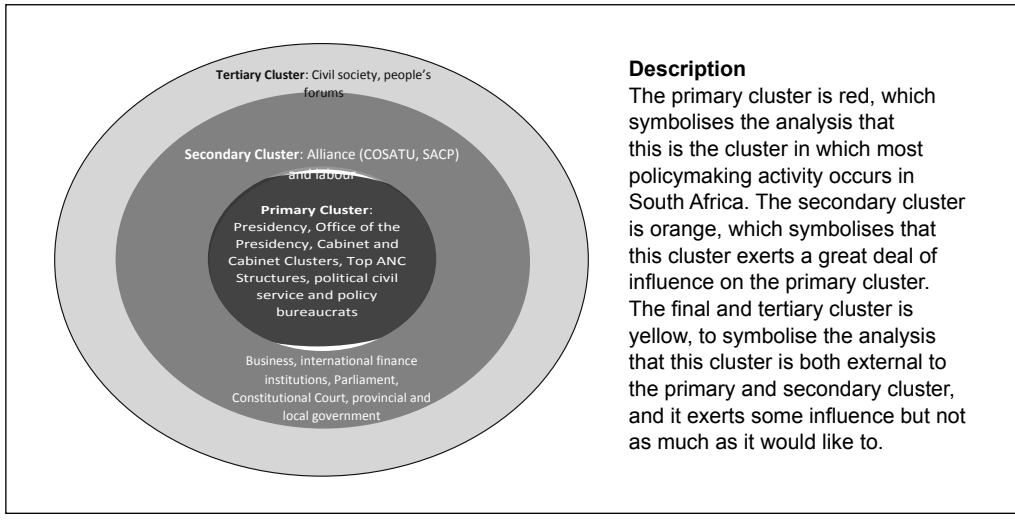

Figure 1: Illustration of policymaking clusters in South Africa
Source: author's own depiction, based on research by Booysen (2001).

The primary cluster is the most powerful one because it directs and coordinates policy through strong structures that formulate and implement policy (Booysen 2001: 132–133). The political ties within this cluster ensure that agreed policies are expedited (Booysen 2001: 134), and its 'gatekeepers' (Booysen 2001: 135) oversee the policymaking process.

In the secondary cluster, Parliament is supposed to generate policy but, 'patterns in policymaking … indicate executive centric trends' (Booysen 2001: 137), whereby even in Parliament, the African National Congress's (ANC) representative structures overshadow parliamentarians (Booysen 2001: 137). Therefore, the Constitutional Court fulfils a vital role as a check and balance on the relationship between Parliament and political power (Booysen 2001: 138).

The Alliance – which refers to the ANC, the Congress of South African Trade Unions (COSATU) and the South African Communist Party (SACP) – in the secondary cluster is a significant part of policymaking (Booysen 2001: 136) because COSATU and the SACP represent the poor and the working class, which are the 'backbone of the ANC support base' (Booysen 2001: 136). But COSATU and the SACP are sometimes 'overruled' (Booysen 2001: 136) within the Alliance to accommodate business and international finance organisations (IFOs). However, since the split in COSATU in 2015 and the rise of the Economic Freedom Fighters (EFF), who also claim to defend the poor and the working class, it remains to be seen which groups will enter and leave the secondary cluster of policymaking.

The tertiary cluster includes non-governmental organisations (NGOs) and grassroots organisations. Booysen (2001: 139) notes that people's forums in particular, 'constitute core aspects of needs assessment and implementation strategies, rather than being forums for the initiation of policy'.

Booysen's (2001) analysis focuses mostly on the way in which the governing party carries out policymaking, as opposed to the structures that influence this process. The latter point is emphasised by Picard and Mogale (2015: 4), who argue that executive centric trends of policymaking, which they refer to as 'top-down policymaking', were a strong feature of apartheid modes of governance that continued under former President Thabo Mbeki and current President Jacob Zuma. This link between modes of governance should be read with caution though, as the causes could be different under the various eras and presidencies.

Apart from the entrenchment of powerful clusters and modes of governance, Kondlo (2011) points to the lack of participatory democracy in policymaking. Kondlo (2011: 924) proposes that communities should be 'co-originators and co-authors' of public policies, especially policies that affect them. This is because well-written public policy fails to be implemented successfully when the affected communities are not involved in the policymaking process (Kondlo 2011: 924), what Kondlo (2011: 923) terms a 'public performance crisis'.

The case study used by Kondlo (2011: 929–931) to supplement this argument is that of the Toleni Community in the Eastern Cape and the implementation of the Restitution of Land Rights Act (No. 22 of 1994). There are a few lessons to be learnt from the public performance crisis that this community experienced: (1) public policy cannot always be driven by politics (Kondlo 2011: 929); (2) there must be extensive engagement with the community whom the policy will affect; and (3) there should be resources and means made available to facilitate this engagement. For instance, some of the consultations about the policy were held in parts of Toleni to which community members could not travel because they did not have transport (Kondlo 2011: 930).

In a similar vein to Kondlo, Madue (2008: 200) identifies a 'discrepancy between policy and practice' – the 'policy gap' (Madue 2008: 197), which he attributes to the general difficulties that government has experienced since democracy in 1994. These difficulties are the 'contextual realities' (Madue 2008: 200) of addressing the needs of a wider population than the minority that was previously served during apartheid. Kondlo's analysis of the disjunction between policy and practice and Madue's critique of the policy gap are evident in the NDP's lack of engagement with the experiences of women in the rural economy.

The NDP as a public policy document

The NDP (RSA 2012) argues that policymaking in South Africa should be aware of external influences on the domestic economic and social processes within South Africa. The plan emphasises the consequences of the global financial crisis in 2008 which led to an 'increase in economic inequality globally and [gave] rise to a call for efficient market policies that also embrace principles of social justice' (RSA 2012: 75). This crisis is identified as a possible opportunity for South Africa and other emerging economies to 'become providers of capital, talent and innovation' (RSA 2012: 75); demographics, urbanisation, agricultural and infrastructural development are also mentioned as opportunities for growth (RSA 2012: 75). There are three objectives for policymaking in today's context, per the NDP (RSA 2012: 76), namely:

1. regulate and incentivise innovation;
2. capitalise on recent trends, like urbanisation; and
3. enhance the capacity to resolve conflicts and address challenges at a global level.

The first objective is an idea rooted in neoliberalism, which assumes that the more productive and efficient the economy is, the more wealth will be available to build and sustain a political economy. Capitalising on recent economic trends as a policy objective sounds ambiguous. It assumes that all recent economic trends, such as urbanisation, are positive, whereas urbanisation could be a result of the lack of real socio-economic opportunities in rural areas, which forces people to leave their homes in search of work.

The aim of the NDP (RSA 2012: 24) is 'to eliminate poverty and reduce inequality by 2030', and in so doing, 'to accelerate progress, deepen democracy and build a more inclusive society'. In order to do this, the NDP (RSA 2012: 27) sets 'three priorities', that are integral for the eradication of poverty and inequality:

1. Raising employment through faster economic growth;
2. Improving the quality of education, skills development and innovation; and
3. Building the capability of the state to play a developmental, transformative role.

The NDP's (RSA 2012: 24) strategy for achieving these priorities is, 'drawing on the energies of its [South African] people, growing an inclusive economy, building capabilities, enhancing the capacity of the state and promoting leadership and partnerships throughout society'. Reference to individual capabilities echoes the theory of the capabilities approach by Sen (2005: 152), who describes capabilities as, 'freedoms of particular kinds', which require positive actions by a state. The NDP (RSA 2012: 27) agrees with the capabilities approach when it states that, 'A developmental state builds the capabilities of people to improve their own lives, while intervening to correct historical inequalities.'

The NDP (RSA 2012: 25) has identified nine, 'primary challenges' in South Africa today, namely: unemployment; poor quality education for blacks; 'poorly-located, inadequate and under-maintained' infrastructure; lack of 'inclusive development' due to spatial difference caused by apartheid; an 'unsustainable resource intensive' economy; a burdened and low quality public health service; high corruption; and a 'divided society'. It is worth noting that the NDP (RSA 2012: 25) cautions that, 'National development has never been a linear process, nor can a development plan proceed in a straight line', and thus a 'multidimensional framework' is required for implementation.

Policy framework for the developmental state

The NDP (RSA 2012) asserts that it is a policy framework for building a developmental state and it is part of a trajectory of transformation and attempts at development in South Africa. This development was attempted through legislation that dealt firstly, with the rectification of historical apartheid exclusions, and secondly, sought to develop an inclusive economy. This legislation included: the Reconstruction and Development Programme (RDP) (RSA 1994); the Growth, Employment and Redistribution Policy (GEAR) (Department of Finance 1997); the Employment Equity Act (No. 55 of 1998; 'affirmative action') (Department of Labour 1998); the Accelerated and Shared Growth Initiative for South Africa (ASGISA) (RSA 2007); and the Broad Based Black Economic Empowerment Act (No. 53 of 2003) (RSA 2003a). However, whereas the latter legislation was aimed at reforming and restructuring parts of the economy, the NDP aims at change in the whole of South Africa, and is arguably the country's widest plan for economic and social development since 1994.

According to Williams (2014: 7), theoretically, the fundamental characteristics of the developmental state are: a state that prioritises economic growth, driven by an 'elite state bureaucracy'; an executive that can 'take initiative and operate effectively' with the legislature and the judiciary; a bureaucracy with the autonomy to 'control and command the implementation of industrial policy'; 'embedded autonomy' of institutions; and, 'a state with political will, power and capacity to discipline capital'. These characteristics shaped the success of the East Asian economies in the 1980s. However, Williams (2014: 8) points to four additional characteristics that can be added to this list for aspiring developmental states, as the world is now more complex, namely: (1) a shift from manufacturing to the knowledge and service sectors; (2) the rise of democracy which may provide 'new opportunities and challenges' for a developmental agenda; (3) an epistemic shift from concentrating on the economy to 'a more encompassing goal of social and human development'; and (4) an environmentally sustainable strategy to avert the ecological crisis created by development.

Fine (in Edigheji 2010) argues that South Africa was closer to becoming a developmental state in the past than it is now, as the state was in a position to drive development through its close relationship with private capital between the 1870s and 1970s during the mining boom. But instead of the state diversifying the economy beyond the Mineral and Energy Complex (MEC) (Edigheji 2010: 173), the state allowed accumulation and financialisation (Edigheji 2010: 175), which limited the scope for further development. This trend continues today and has led to South Africa being called a 'declaratory developmental state' (Williams 2014: 135) because it claims to be moving with a developmental agenda yet it continues to perpetuate the 'apartheid economy' (Williams 2014: 134) through the MEC. However, as discussed above, the NDP does identify an unsustainable resource intensive economy as one of the primary challenges in South Africa. The question is how the NDP will tackle this through to implementation.

Chapter 6 of the NDP: An integrated and inclusive rural economy

Chapter 6 of the NDP (RSA 2012: 217–234) outlines the plan for development of the rural economy. One of the key points outlined in the chapter is that the rural economy needs the creation of 'greater social, economic and political opportunities' in order for rural communities to fight poverty, which requires a 'land-reform and job-creation/ livelihood strategy' (RSA 2012: 217). Another key point is that the development strategy of the NDP (RSA 2012: 217) as a whole should 'Ensure quality access to basic services, health care, education and food security'; rural town planning should pay attention to the 'varying opportunities in each area'; and, 'rural governance', must be improved.

The chapter (RSA 2012: 218) identifies marginalisation of the poor as the main problem in rural areas, which can be resolved through the provision of 'access to resources (land water, education and skills), and improved rural infrastructure and other

government services'. It (RSA 2012: 218) then claims that the progress in the rural economy thus far has been the reduction of rural poverty from '70 percent in 1993 to 57 percent in 2008', through the expansion of the social grant system, and the migration of rural residents to urban areas. The chapter (RSA 2012: 218) also states that 95% of land claims for 'agricultural land' that have been submitted since 1994, 'have been settled'.

However, this statement of land restitution claims is currently being contradicted by the reopening of the land claims process in 2014 (Department of Rural Development and Land Reform 2014). Reopening the land claims process may complicate the NDP's plan to revive the rural economy.

In terms of job creation, the chapter has a table that illustrates how this can be achieved by illustrating how various target groups can be placed in employment in the rural economy. According to the table, concentration of job creation in the rural economy will yield both primary and secondary jobs depending on how the land is utilised over a certain period of time (RSA 2012: 220).

Interestingly, the chapter recognises two major hindrances in the improvement of the rural economy. Firstly, the implementation of the NDP in the rural economy; and secondly, land reform issues. Taking the first major hindrance, the NDP (RSA 2012: 220) recognises that 'Creating jobs in agriculture will not be easy. It will require credible programmes, sound implementation, significant resources and stronger institutions, such as agriculture departments in local and provincial government'.

The recognition that job creation in the rural economy requires political will and administrative institutions for policy action is reiterated throughout the NDP (RSA 2012: 295) with references to, 'urgent action' in the education sector; 'systematic response' (paraphrase; RSA 2012: 260) to the spatial inequalities in human settlements; in healthcare, 'effectively implemented, monitored and assessed' (RSA 2012: 337) policies; and building a capable and developmental state that, 'has the capacity to formulate and implement policies' that are in the national interest and uproot poverty and inequality (RSA 2012: 409). These statements express the need for intentional and effectual action. They also capture the same issues around policymaking that were discussed earlier, namely, implementation and the policy gap.

The second hindrance to land reform relates specifically to the fact that land restitution beneficiaries 'have not been able to settle on the land or use it productively … [because] they have lacked infrastructure, inputs and technical support' (RSA 2012: 221). This shows that land reform is not just about giving land back to its rightful owners; it is also about the provision of technical support to utilise the land. To its merit, the NDP recognises these issues as some of the factors that hinder a productive rural economy.

Traditional leadership and governance

Traditional leadership and governance (TLG) is highlighted in two ways in the NDP's chapter on the rural economy, through questions around the legitimacy of TLG and

through issues of land reform using TLG. The purpose of this section is to describe the methods and reasons used to legitimise TLG by examining the Traditional Leadership and Governance Framework (TLGF) Act (No. 41 of 2003), the Constitution (RSA 1996b) and the NDP. These documents show that although there is acknowledgement and legitimisation of the TLG to some extent, this legitimisation is practically complex. And this will lead to complications in the NDP's implementation unless clarified, refined and asserted.

Legitimacy of TLG

Chapter 12 of the Constitution (RSA 1996b: 1331(24)) is evidence of attempts to legitimise TLG; and the fact that the Constitution acknowledges the role of traditional leadership and says that it is informed by customary law, which underpins the 'institution, status and role of traditional leadership', and which is subject to the Constitution and other relevant legislation.

It is important to note that customary law can be qualified and should not be assumed. In the landmark judgement of Van Breda vs Jacobs[1] (Constitutional Court of South Africa 2008; Department of Justice and Constitutional Development 2015), it was decided that customary law can be qualified by four factors, namely: a custom must be a reasonable practice; it should have existed for a long time; the relevant community must continually observe the practice; and the substance of the practice must be clear and certain (Shilubana vs Namitwa Case CCT 03/07 [2008] ZACC 9). If public policy is to have meaningful engagement with people and communities that customary law affects, it must be aware of details such as this.

The TLGF Act (RSA 2003b: 2) has tried to establish a legal basis for TLG in democratic South Africa, and states that, 'the state must respect, protect and promote the institution' of TLG, as well as 'provide [TLG with] appropriate support and capacity building'). The TLGF Act (RSA 2003b: 8, 10) also describes how traditional communities are recognised and the establishment of traditional councils. Traditional councils should have 30 members, one third of which should be women, and comprise both traditional leaders and elected members of their traditional community (RSA 2003b: 10).

But despite the TLGF Act's stipulations, the Centre for Law and Society's (2013) Rural Women's Action Research Programme found that traditional councils had not met the requirements for traditional councils by 2005, nor by the extended deadline of 2011, thereby questioning the very legitimacy of traditional councils, through which TLG exercises its power. Furthermore, 'where traditional councils do consist of 40% elected members, the gender composition requirements have often not been met' (Centre for Law and Society 2013: 4). The latter highlights the fact that women are often excluded from governance structures that affect them in rural communities.

Land reform using TLG

According to the NDP (RSA 2012: 222), 'The focus should be on cooperating with traditional leaders to secure tenured irrigable land supported by fully defined property rights. This will allow for development and give prospective financiers and investors the security they require'. The NDP is clear in the statement that one way in which land can be redistributed and used efficiently in rural areas, is through the trusteeship of traditional leaders. This type of policymaking is generally consistent with the government's relationship with TLG – a relationship in which the role of TLG is continually strengthened[2] and legitimised, despite persistent questions[3] about how this relationship will work for the benefit of rural residents. It is worrying that the NDP believes that rural land will be safest in the hands of TLG.

Steinberg (2015) argues that this confidence in TLG is precisely what Mahmood Mamdani warned against when he claimed that, 'in their struggle to deracialise the civilised laws of Europe in the cities, South Africans will be blindsided to the continuation of despotic rule in the countryside'. Steinberg (2015) goes on to argue that the calls for decolonising African spaces[4] do not go far enough into the rural areas, which is the heart of where government is strengthening its rule through TLG. If Steinberg's argument, and others like it, are considered, the NDP should not think that TLG is the safest administrator of rural land in South Africa. This is because such a policy echoes what Mamdani, Steinberg and others argue – that the state continues to further its own goals through TLG structures at the expense of rural residents.

INTERFACE BETWEEN WOMEN, THE RURAL ECONOMY AND TRADITIONAL LEADERSHIP AND GOVERNANCE

Inequality of women in rural South Africa

The experiences of women in rural areas and economies are directly related to their perceived status as unequal to men, based on different interpretations of customary law. Therefore, there needs to be a discussion about this inequality between women and men in rural areas as it is reflected in the policymaking gap of the NDP.

Claassens (2014b: 761) argues that both the Constitution and TLG in rural areas continue to 'entrench the geographical division of South Africa into two separate legal zones'. This means that residents of rural areas are subject to both the Constitution and different laws within their communities. While there may not be anything intrinsically wrong with customary law, Claassens (2014b: 762) argues that the *type* of customary law practised in rural areas is not always accepted in rural communities. Rather, the type that is enforced tends to, 'reiterate and bolster colonial and apartheid notions of unilateral chiefly power that are fundamentally at odds with the interpretation of customary law as embodying broadly held societal values' (Claassens 2014b: 762). As a result of distorted customary law women in rural areas are abused and oppressed in various ways.

According to Mann (2000: 12), Ubuntu refers to a 'fundamental belief in the communal way of life of traditional African communities, where individual rights were seen in the context of the whole: family and community'. Mann (2000: 13) argues that Ubuntu is one cultural practice that has been distorted and used to oppress women by esteeming communal interests above those of the individual women concerned. Such cultural practices tend to mask 'inequality under the guise of group interests, [and] women and children, lacking a say in the articulation of those interests are certain to be disadvantaged' (Mann 2000: 13). Again, there may not be anything intrinsically wrong with the practice of Ubuntu, but its interpretations must be checked against the rights of women.

Claassens (2014b: 765) provides some of the historical context behind the realities of recognising women's equal status granted by the democratic Constitution, saying that it opened up land restitution claims and as a result, 'women began to demand that residential sites be allocated to them on an equal basis with men'. But there was opposition to this from the Congress of Traditional Leaders of South Africa (Contralesa) and the Inkatha Freedom Party (IFP) to the extent that:

> During the constitutional negotiations they argued that the right to equality, *more particularly gender equality, had to be subject to customary law*, and challenged the final Constitution on the basis that it provided insufficient recognition to traditional leaders. Neither challenge was successful. (Claassens 2014b: 765; emphasis added)

This historical context shows that the fight for women's equality in rural South Africa is not only important for gender quality, but it is also a fight which has become politically charged. This adds a further dimension to the inequality between women and men in rural areas, as there may be political issues that are being fought at the expense of the equality, rights and access to land for women.

Experiences of women in rural areas and economies

Women face a lack of secure tenure on land in rural areas. This is due to 'forced evictions [by] commercial farmers, land loss and environmental damage as a result of mining, lack of support for women farmers, poor health and education services for rural people' (Hall 2013). The NDP (RSA 2012: 35) acknowledges that targeted action in certain areas of economy and society can change this situation: 'key priorities such as education or rural development will have the biggest impact on poor women', and 'Women make up a large percentage of the poor, particularly in rural areas. The NDP (RSA 2012: 43) takes gender – along with race and geographic location – into account, proposing a range of measures to advance women's equality'.

These statements show that the NDP is aware of some prevalent issues in the rural economy because it recognises some structural and demographic realities in rural areas. However, attention should also be given to the fact that land reform in South Africa has become increasingly urgent in the past few years with the reopening of the land claims

process, as described above. Land reform has also become a top item on the political agenda following the rise of the EFF (2014), which won one million votes in the party's first ever run in the 2014 election, partly on the mandate that if given power, they will restore land to many South Africans and without compensation to current land owners. It is not yet certain whether the EFF landed as many votes as it did because of this mandate, or for other reasons. But what is certain, is that a party whose mandate speaks directly to land reform in South Africa does not go unnoticed.

There are, however, deeper and underlying reasons for the insecurity of land tenure for women in rural areas. Cousins (2013) provides detailed empirical analysis of some of the customary practices that give rise to land insecurity for women, using the case study of Msinga in KwaZulu-Natal (KZN). The case study examines marriage patterns and the ways in which these affect women's security of land tenure and access to land in rural KZN.

According to Cousins (2013), marriage rates in Msinga are declining for various economic and social reasons, but the decline has worsened women's access to land in four ways. Firstly, the decline in *amalobolo* (bride wealth) marriages has led to many *ganile* marriages, where women's families only receive 'damages' or *inhlawulo* payments from women's partners for impregnating women outside of wedlock (Cousins 2013: 84). *Ganile* marriages increase the vulnerability of women in rural areas because they may be evicted by their partners' families from the rural land that they live on and use for subsistence (Cousins 2013: 88). Secondly, even where women are 'properly' married through *ilobolo*, they still do not have secure land rights if their husbands die. Instead, widows in Msinga have the following options:

> (a) remain on her deceased husband's land, holding it for her oldest son; (b) be taken as a wife by one of her deceased husband's brothers, a practice known as *ukungena*; (c) return to her father's home (which might be now headed by one of her brothers); (d) for women in compound homesteads … continue to reside with her husband's family; or (e) ask for land in her own right in her ex-husband's home area. (Cousins 2013: 90; emphasis added)

All these options rely on women's relationship to men, through marriage. Cousins (2013: 91) notes that the first option is one which is usually turned down by widows in Msinga because of the fear of contracting HIV through marriage to their deceased husband's brother. Also, why should they have to marry their deceased husband's brother?

Thirdly, divorced or estranged women may be able to claim rights and access to their estranged partner's land, but only if the women are believed to not have caused the breakdown of the relationship (Cousins 2013: 89). Even where these women are not thought to be in the wrong, claiming rights to this land is difficult (Cousins 2013: 89–90).

Fourthly, unmarried women may ask for land in their father's homestead or, in the father of their child/children's homestead; but this land is usually in male heirs' names and seems discretionary (Cousins 2013: 91–92).

The Msinga case study adds to Mann's (2000: 15) point that customary practices limit women's access to land due to, 'underlying social values in the community, which determine which types of household are eligible to hold land rights'. The Msinga case study also adds to Emdon's (2014) evidence that customary law 'continually seek [s] to undermine women's authority and place land ownership in the hands of men'. It also leads women to use '"customary repertoires" of birth rights and customary rights to land' (Emdon 2014), by arguing that in the absence of male headed households, female headed households are, 'equal to sons and male heirs' (Emdon 2014), thereby challenging male primogeniture. But the reality is that women still have to rely on repertoires to assert their rights and access to land, instead of their claims to land being taken seriously as women.

Women's participation in the rural economy

Statistics South Africa (Stats SA) has helpful statistics on agriculture in South Africa; specifically, employment within the agricultural sector, participation according to population groups (Black African, Coloured, Indian/Asian and White population groups), heads of households and sex (female and male). While there are categories of sex apart from the female/male binary, Stats SA only measures according to this binary. But Stats SA (2016) has confirmed that the definition of 'agriculture' does 'not necessarily' include the rural economy, which makes the rural economy's activity difficult to measure. The invisibility of the rural economy, means that the participation of women in this economy is invisible too.

According to the General Household Survey (GHS) conducted by Stats SA (2015: 69), the provinces of Limpopo, KZN, Eastern Cape and Mpumalanga have the highest number of households 'involved in one or more agricultural production activity'.
The same GHS (Stats SA 2015: 181) showed that black African females disproportionately head households which are 'involved in one or more agricultural production [activities]' (see Table 1). This means that there are more black African females than black African males, and across all South African population groups, who participate in agricultural production. Again, it should be noted that this figure does not necessarily represent rural households, as such households are not counted in employment statistics, but their participation matters for rural economy policy and should thus be differentiated and understood.

Table 1: Number of households involved in one or more agricultural production activities, by province (2015)

Involved in agricultural production	Thousands									
	Western Cape	Eastern Cape	Northern Cape	Free State	KwaZulu-Natal	North West	Gauteng	Mpuma-langa	Limpopo	South Africa
Yes	73	575	40	163	555	139	153	343	669	2 710
No	1 698	1 147	279	738	2 185	1 070	4 504	854	860	13 335
Unspecified	4	6	*	4	6	6	32	14	4	77
Total	1 775	1663	320	906	2 747	1 215	4 690	1 211	1 532	16 122

Hart and Aliber (2010: 76) found that although government has initiatives to support women in the rural sector, these initiatives do not understand 'the diversity of needs and circumstances within the black farming sector, especially where these are determined by gender relationships'. Government supposes that this sector simply needs more technological inputs in order to be more productive, and these technological inputs tend to be outdated (Hart and Aliber 2010: 76). The model for providing technology in the rural sector, called 'transfer of technology [TOT]' (Hart and Aliber 2010: 76), involves pushing 'modern technology without paying careful attention to the diversity of the farmers they [the government] target'. Hart and Aliber (2010: 76) describe 'diversity' as

> factors that include the prevailing agro-ecological conditions (soil and micro climate diversity and water availability), variations in gender relationships and roles, as well as cultural roles and responsibilities, along with socio economic conditions that affect access to land and use of resources.

Moreover, 'this approach … does not consider the significance of gender and gender dynamics inherent in agricultural production' (Njoroge in Hart and Aliber 2010: 76). This means that women are being given tools that they either do not need or cannot utilise fully as these tools are universalised and not specialised. Hart and Aliber (2010: 78) go on to explain that government initiated gender mainstreaming in agriculture will be difficult because it needs to 'challenge structurally reinforced gender practices at all levels of society, including within Government structures'; and, that government's TOT model coupled with its 'minimal support to and engagement with female farmers' (Hart and Aliber 2010: 78) will not lead to gender mainstreaming in the rural economy.

Prospects and challenges for NDP policymaking

Chapter 6 of the NDP (RSA 2012) mentions women thrice: twice with regard to skills and capabilities and a third time regarding security of land tenure. The chapter also mentions TLG thrice: once in regard to the contestation with local government (RSA 2012: 219); a second time in relation to security of land tenure (RSA 2012: 222); and a third time in relation to issues around the authority of TLG. What the chapter does not do, however, is recognise the direct interface between women, development and TLG.

The first challenge for policymaking in the rural economy is that TLG fails to meet basic requirements for forming traditional councils – thereby rendering TLG structures illegitimate and exclusionary, as outlined above. If women are not included in TLG structures, their experiences and input in the rural economy is negated, and this means that such TLG structures cannot be said to be serious about development as they will exclude an integral part of the rural community in their decisions.

A second challenge for the NDP's assumptions about the rural economy is that it does not mention what type of administrative task TLG is supposed to fulfil in the rural economy. According to the TLGF Act (RSA 2003b), there are 14 ways in which TLG can function in rural areas, and TLG can fulfil at least three of these functions, namely, Land Administration, Agriculture and Economic Development. Thus, it would have been more productive for the NDP to mention these three functions as specific ways in which TLG can assist with the development of the rural economy. Furthermore, this would have established a narrow but focused ambit through which it could be seen how the NDP is serious about implementation through the coordination of existing policies, legislation and structures. Specifying the ways in which TLG is supposed to administer land and the rural economy might also foster accountability.

A third challenge for policymaking shown by the NDP, is that women are only recognised as economic actors. Of course this part of the plan focuses solely on the rural economy; but in practice, space should be made for the intersectionality of women's experiences. Policy should pay attention to the concerns and needs of rural women, and as expressed *by* rural women. The points of intersectionality should not be assumed. The NDP commissioners must approach rural women and find out what they need and design rural economy policy based on these needs.

A final challenge for policymaking shown by the NDP's lack of ability to identify the interface between women, development and TLG relates to the point about entrenched policymaking clusters discussed above. There needs to be a way in which the grip of a powerful policymaking cluster is loosened enough for it to recognise interfaces such as this one, and in so doing engage with those who policy is likely to affect the most. On the other hand, this grip needs to be more assertive in order to protect the rights of women in the rural economy. This is not just a problem with the NDP's policymaking, it is a general policymaking problem in South Africa.

How can the NDP tackle TLG structures and the interface between women, development and TLG? The NDP and its commissioners can begin by reviewing TLG

structures. This review process should be both a check on the legitimacy and practices of TLG. The legitimacy check should involve going over the legal requirements for the existence of TLG structures, such as traditional councils. If this is not done, we cannot be sure that there is agreement about the place of TLG or that TLG can be trusted to carry out legal mandates.

Implementation of the NDP relies on a clear articulation of how to effect change in a specific area, as well as clarity of purpose between the actors involved. Chapter 6 of the NDP (RSA 2012) the necessary articulation and clarity of purpose. In terms of the former, the chapter discusses the need to boost the rural economy and the positive consequences for both rural areas and the South African economy as a whole. But it does not clearly articulate that the equipping and inclusion of rural women for decision making is essential in this process. Where clarity of purpose is concerned, the chapter fails to even mention that women cannot be safe and productive in the rural economy if TLG continues to block their access to land.

The experiences of women in the rural economy show that they continue to be oppressed by different interpretations of customary laws and practices. Policymaking in the NDP needs to be more direct about this oppression and outline ways in which it can be eliminated. This is important because the building of the rural economy will only be successful to the extent that women's safety, integrity and livelihoods are not continuously threatened. In this way, the NDP fails to recognise that building an economy relies on protecting the individuals in that economy before any strategy can be implemented. And thus for as long as women are not protected, the rural economy will stagnate.

CONCLUSION

The NDP (RSA 2012) is not a perfect policymaking document, nor does it purport to be. Although the research has shown that the NDP does address the issues between women, development and TLG, it is impossible to change the NDP as it stands. What can still be changed, however, is the implementation of this section of the NDP. And this is true for other sections of the NDP which display the similar issue of contending groups and interests needing to be brought together in order for the plan to eventually work.

In order to bring these groups and interests together and get different policies around the NDP moving, the National Planning Commission and government need to consider the problematic nature of entrenched policymaking clusters; the imbalance between democratic constitutional governance and TLG; the intersectional experiences of women in the rural economy; and, the need to implement effective policy based on these experiences. The arguments about how to address the interface between women, development and TLG will continue to be hard lessons learned if the National Planning Commission and government do not find ways to coordinate groups, needs and changing times.

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NOTES

1. Reference to the case of Van Breda and Others vs Jacobs and Others 1921 AD 330, can be found at: Southern African Legal Information Institute. 2015. *Shilubana vs Namitwa, Case CCT 03/07 [2008] ZACC 9*. Retrieved from www.saflii.org/za/cases/ZACC/2008/9.pdf (accessed 13 October 2015); and Department of Justice and Constitutional Development. 2015. *African Charter on Human and People's Rights – Introduction to the South African legal system*. Retrieved from http://www.justice.gov.za/policy/african%20charter/afr-charter02.html (accessed 13 October 2015).
2. Further evidence of the strengthening and legitimisation of TLG in South Africa can be found in the TLGF Act (RSA 2003b). According to the Act, there are certain roles and functions which TLG may be responsible for, if the government were to allow this. These roles and functions include land administration and the administration of justice, which would be an extension of government, and some of them may be very useful in a country that was, and continues to be, spatially divided. However, the extent of these roles and functions is not clear – which leads to the impression that TLG and government could allow situations of abuse of power.
3. See Bell (2015) about the Constitutional Court disallowing traditional chiefs from being the main administrators of land in the North West. The government backed TLG's position that it should be able to administer the land.
4. Refer to popular student movements in South Africa in 2015, such as #RhodesMust Fall, #TransformWits and others, as well as the rise of the Economic Freedom Fighters, whose main contention in politics is land restitution without compensation to current owners of land, which Steinberg (2015) mentions briefly.

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