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The impact of land legislation on farm dweller evictions

Mntungwa, Dumisani

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DECLARATION

I declare that this thesis is my own unaided work. It is submitted for the degree of Master of Arts (Political Studies) in the University of the Witwatersrand, Johannesburg. It has not been submitted before any other degree or examination in any other university.

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Abstract

Eviction of farm dwellers by farmers and landowners in post-Apartheid South Africa has increased at an alarming rate. The consequences of being evicted can be devastating for the livelihood of farm dwellers as it is often accompanied by the loss of work, income and homes, the loss of access to land for food production, generating urban slums and displacement areas not within reach of municipal basic services as well as other negative effects such as the breakdown of family and social structures and disruptions to children's education. Plus land security is important for poor farm dwellers usage to produce their own food and complement low farm wages. The livelihood strategies of farm dwellers have been affected by the introduction of the 1997 Extension of Security tenure legislation, which aims at protecting and restoring the land rights of farm dwellers working in farms. Farmers and landowners responded to legislation reforms by evicting farm dwellers off their land. The ESTA legislation has not been implemented effectively and has failed to restore the land rights of evicted farm dwellers and protect those facing the risk of eviction. It has only served to disadvantage those it was supposed to protect. It is therefore important to protect those made worse off by legislation and identify factors keeping the poorest farm dwellers vulnerable and struggling to survive. The research would focus on the impact of the Extension of Security Tenure land legislation on farm dwellers evictions in selected areas of Mogale and Randfontein Local Municipalities under the Westrand region in Gauteng.

CONTENTS

ABBREVATION

ACKNOWLEDGEMENTS

1 INTRODUCTION

2 LITERATURE REVIEW

2.1 Land Security Tenure, Unemployment and Evictions

2.2 Mechanisation, Poor Market Conditions, Unemployment and Evictions

2.3 Post –Apartheid Government Accountability, Socio-Economic Inequity and Evictions

2.4 Inequality, Policy, Unemployment and Evictions

2.5 Continuities of the apartheid Legacy, increasing socio-economic inequality in post-Apartheid South Africa.

3 FARM LABOUR IN SOUTH AFRICA

3.1 Farm Labour in the New South Africa

3.2 The Agricultural Sector and Agricultural Employment before 1994

3.3 Legislation, Economic Developments and Employment in Agriculture Since 1994

3.3.1 Restitution of Land Rights Amendment Bill vs Traditional Courts Bill

3.3.2 Rates and Taxes

3.3.3 Labour Relations Act

3.3.4 Basic Conditions of Employment Act

3.3.5 Extension of Security Tenure Act

3.3.6 Employment Equity Act

3.3.7 Land Redistribution

3.3.7 Skills Development Act

4 RESEARCH: The Extension of Security Tenure Legislation and the Evictions of Farm Dwellers in Randfontein and Mogale City, Gauteng Province.

4.1 RESEARCH AREA

4.1.1 Gauteng Province

4.1.2 Mogale Area

4.1.3 Randfontein

4.1.4 JACSA my contact to the area and its population

4.2 METHODOLOGY

4.2.1 Formulation of Research topic and first approach

4.2.2 Data Gathering

4.2.3 Data Analysis

4.2.4 Data Reliability and Validity Possible Problems

III

4.3 FINDINGS
4.3.1 Orient Hills

4.3.2 Greenway Farm
4.3.3 Marolien Farm
4.3.4 Vlaaikop Farm
4.3.5 The Impact of land Legislation on the livelihoods of evicted farm dwellers
4.3.4.1 Education
4.3.4.2 Access to Infrastructure
4.3.4.3 Access to Transport
4.3.4.4 Employment Opportunities
4.3.4.5 Food Security
4.3.4.6 Social Grants
4.3.4.7 Health& HIV&AIDS
4.3.4.8 Domestic Violence and Prostitution
4.3.4.9 Housing and Relationship with Local Councillor
4.3.4.10 Attitudes towards Extension of Tenure and other land Legislation

5. CONCLUSION

REFERENCES
INTERVIEW REFERENCES

ABBREVATIONS

Agri-SA	Agriculture South Africa
BCEA	Basic Condition of Employment Act
CLRS	Centre for Rural Legal Studies
CSSR	Centre for Social Science Research, UCT
DFID	Department of International Development, UK
DOL	National Department of Labour
EEA	Employment Equity Act
ESTA	Extension of Security Tenure Act
HDI	Human Development Index
HRW	Human Rights Watch
HSRC	Human Science Research Council
JACSA	Justice Access Community of South Africa
IDS	Institute for Development Studies, Sussex
LRA	Labour Relations Act
LRAD	Land Redistribution and Agriculture Development
LTA	Land Tenure Act
NAD	National Agriculture Department
NGO	Non- Governmental Organisation
POPA	People Opposing People Abuse
NDA	Nkunzi Development Association
NLC	National Land Committee
SA	South Africa
SAHRC	South African Human Rights Council

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1 INTRODUCTION

South African farm dwellers working and living on farms are arguably one of the poorest and most vulnerable groups in the labour market. Generally these workers who are largely unskilled black labourers are uneducated and rely heavily on farm employment to secure land security tenure that is tied up upon farm employment. Even though farm wages are low, on-farm employment is crucial for farm workers as it is often accompanied by land security for farm dwellers residing on farms. Farm dwellers work and reside on the farms they work in together with their families. This means that there is a strong connection between farm employment and land security rights. A loss of employment is often associated with the risk of losing land security tenure leading to evictions. The main reason for evictions of farm dwellers relates to farm workers losing their jobs and this directly result in their eviction, together with their families. Being evicted can be devastating for farm dwellers as it is often accompanied by the loss of work and income, the loss of access to land for own production, the loss of homes, as well as other negative effects such as the breakdown of family and social structures and disruptions to children's education. Research studies have shown that evicted labour tenants settle illegally in informal settlements nearby farm areas where there is no access to government basic services such as water, electricity, health and education. Government intervention efforts aimed at providing basic services such as housing, water and electricity are hampered by the fact that after evictions, most displaced farm dwellers occupy private land illegally near urban areas that does not belong to the state. Plus section 25 enshrined in South Africa constitution guarantees rights to private ownership of land and its protection thereof. This then hinders government efforts toward providing basic services in private property unless the state purchases the land from the private owner. Post-Apartheid land, labour and policy reforms have accounted for a decline farm employment leading to farm evictions of farm dwellers.

Historically, legislation has racially determined access to land. As a result, South Africa has a very unequal land distribution system. During the Apartheid era legislation was used to gradually decrease the rights of Africans land ownership. The 1913 Land Act reserved less than 8% of the South African land area for black occupation while the remaining 92% was for white accumulation, ownership and use in South Africa's white dominant agricultural labour repressive sector. Since the end of apartheid, legislation has been enacted with a view to redistribute land to those previously forbidden by law to own land, restore their land rights, and improve their working conditions.

In 1997, the Extension of Security of Tenure Act was implemented in agriculture. This legislation forms part of the post-apartheid government's three pronged land reform programme which includes restitution, redistribution and tenure reform and aims to give security to people born and residing on farms, many of whom do not have an alternative living space. The basic part of this legislation is to protect farm dwellers from evictions. In reality the implementation of new laws aimed at protecting farm dweller security tenure has been opposed by farmers and landowners. New laws and policies have been alleged by some farmer unions, owners and labour analyst to decrease farm employment and deteriorated relations between farm owners and farm workers but worker unions, non-governmental organisations and government see them as a mile stone to help farm workers and thus call for more effective enforcement of legislation aimed at protecting farm workers.

Alongside the unintended disastrous outcomes of land reforms to farm dweller livelihood is the unintended consequence of new agricultural growth strategies implemented by post-apartheid government which have effectively dispossessed unskilled labour of economic opportunities continuing a trend towards more capital intensive agricultural production systems diminishing the need for unskilled labour and higher wages for those in employment. Land security tenure legislation is important towards restoring land rights for the poor but this should be accompanied by pro poor policies. As post-Apartheid South Africa integrates into the global economy it follows the same trajectory mapped out by other medium and high-income countries. New macro-economic policies push towards high production growth strategy in all economic sectors, including the agricultural sector. This influences a changing pattern of accumulation and strategies in the agricultural sector supported by government policy replacing labour intense agricultural strategies with new technological methods of production. Government focus is directed to high producing commercial farms with little regard to small scale farms. This results in small scale farms closing shop or increasing mechanisation, shedding unskilled labour leading to evictions and growing insecurity of tenure for farmworkers on small scale farms.

Macro-economic growth strategies and land reform are a highly ideologically charged topic and it is not my intention to enter this debate in my research. Rather, I want to distance myself from this and look at it from a different angle. The subject of this research thus is the impact of the extension of security tenure legislation or farm dweller evictions in farms.

For about three months in late 2013, I conducted qualitative research in the Westrand area in South Africa Gauteng Province. I concentrated on one displacement area and three separate farms where farm dwellers are constantly living under fear, intimidation and threat of being evicted. These are four

cases of people affected by the unintended consequences of land reform. The evictee's of Orient Hills are still awaiting for government to re-open land claim opportunity as part of the land restitution programme; the two families residing in Greenway farm facing daily threat of evictions and intimidation by the farm owners; the family in Brandvlie also facing constant threat, racism violence and intimidation by Marolien farm owner and lastly the family in Vlaaikop farm who are threatened with evictions by the new owner who herself benefited from the land redistribution programme of government after the previous white landlord sold the farm.

2 LITERATURE REVIEW

In this chapter I will highlight theoretical aspects that were important when refining the research and will later be important in evaluating my research findings. This chapter draws together issues of post-apartheid policy strategies, new accumulation patterns, inequality, the constitution and factors influencing democratic government in order to highlight the contribution of these factors in explaining the situation of farm dwellers. Each of these concepts and problems will then be linked to land security and the evictions of farm dwellers.

2.1 LAND SECURITY TENURE, UNEMPLOYMENT AND EVICTIONS

Land security tenure is generally seen as a way of protecting a person or community whose tenure of land is legally insecure as a result of past racially discriminatory laws and also a way to alleviate poverty, food security and increase access to land rights for the rural poor. Security of tenure guarantees poor rural farm dwellers access to land for purposes of their own food production. Tenure security is not only important in agricultural production but it also provides poor people with the means to equitably negotiate the diversification of their livelihoods and build up their capacity to undertake viable, alternative off-farm activities by using their land as collateral, renting it out or realizing its true value scale (IFAD 2010:7).

There are many disagreements amongst economist about the impact of security tenure legislation. The debate basically revolves around two opposing viewpoints relating to the impact of security tenure legislation towards the relationship between farm dwellers and farm owners. The first says that security tenure legislation is extremely harmful for farm owners leading to a deterioration of the relationship between farm owners and labour tenants, causing unemployment, evictions or replacing permanent workers with seasonal workers with no job security (Nkunzi 2005:7).Land owner representative organisations view the security tenure legislation as harmful towards those it intends to help.

The first view held by traditional agricultural economist maintains that the current land security tenure system constrains farmer innovation and investment in agricultural production generating food crises problems. According to Agri SA (2011) people residing on farms should ideally be able to become commercial farmers in their own right, no one should have an unfettered right to do commercial farming on land that belongs to someone else. That is so because the agricultural landowner has a limited and fragile resource at his/her disposal on which to conduct a business and ultimately produce food. If other people residing on the farm are also given rights to utilize the farm in competition with the landowner, it

will become very difficult, if not impossible, for the landowner to invest and keep farming profitably. It is a national priority that our country has profitable and productive commercial farms

Traditional economists further suggest that within recent years South Africa's agricultural sector is slightly less export-orientated now than it was in the 1970's and with the lowering of tariff's barriers across agricultural and food imports, South African producers (big and small) find themselves competing against cheap imports with producers from countries with low cost of production structures and which heavily subsidise their farmers so labour and land reform legislation such as minimum wages and security tenure further burdens already weakened South African farmers (Aliber and Maluleka 2013:21).

In strong opposition to this school of thought, the second sees security tenure legislation as important more especially in countries with high unequal asset distribution since there is a correlation between secure access to land and poverty levels in many rural areas across the globe. Research evidence shows that even small incremental gains in secure access to land tenure can have a significant impact in enhancing food security and increasing the resilience of poor rural people to external shocks (IFAD 2010:8); thus non-governmental organisations and government see them as a mile stone to help farm workers and thus call for more effective enforcement of legislation aimed at securing land rights for farm dwellers, preventing illegal evictions and protecting them from exploitation.

Of course, there are also academics and economists, who say that security tenure legislation can have good or bad consequences if not regulated; others argue that the promotion of exclusive, alienable and legally registered individual land rights is not always the best solution for the rural poor whilst others points out that security tenure results in increased deforestation for sustenance of the livelihoods of the rural poor (see for example IFAD 2010; 6 and Brain E 2010: 15). Their voices are, however suppressed in the debate about security tenure, where the liberal body of opinion goes along with the rejection of security tenure legislation and socialist are highly in favour of legislated and strictly enforced security tenure legislation. Despite a lot of debate and work around the topic, there is evidence that land security tenure is important towards restoring and preserving the livelihood strategies of farm dwellers. This necessitates a review of land tenure security threats and the implications this has for food security for the rural poor.

There are many factors that could offset the evictions of labour tenants predicted by the traditional economists. Usually farm owners will use employment to determine access to land rights for labour tenants, this mean unemployed farm dwellers would be evicted. This then necessitates government

support through policy mechanisms and measures that would focus on enhancing input factors in agricultural production which will yield increase in production for farmers, sustained income to farm workers, land and food security for labour tenants and rural poor, says the second school of thought.

Productivity growth (especially on smallholder farms) generates farm employment, decent wages and other income on and off the farm. By raising incomes and lowering the prices of staple foods, productivity growth also expands the ability of both the rural and the urban poor to buy food. These gains can translate into more public and private resources for investing in infrastructure, services, research, and social protection further advancing agricultural productivity, food security and human development. (Africa Human Development report 2012:65).

According to the second school, another factor that could offset the disemployment effects of security tenure legislation and create sustained employment in the agricultural sector would be government protection of local produce against cheap imports from countries with low cost production structures and other forms of competitive advantages through import substitution industrialisation. (Colistete 2009:3) says protection of industry should be kept at a high level, both to redress balance-of-payments imbalances and to foster import substitution of all ranges of goods which could be replaced by those of domestic production.

A rigid security tenure legislation that is not supported by measures that allay land security fears of farm owners is an obstacle for employment growth, food and land security for unskilled labour tenants. Government need to complement security tenure measures with policy support that would improve the market viability and profitability of farm agricultural producers.

The argument that land security tenure increases disinvestment in agricultural production has been challenged in a study commissioned by the International Fund for Agricultural development (IFAD2005) and the rights and recourse initiative (RARI 2005) a coalition of international, regional and community organizations engaged in conservation, research and development. They looked at current trends by first world government and large private corporations on land acquisition. They concluded that rising oil and food prices, increasing demand for food and energy, and subsidy are bringing about increased competition for land and encroachments onto marginal and forest areas, indigenous peoples' territories and common property resources. They labelled this trend potentially as the "the last global land grab". Further, the study showed that a number of governments are seeking land to buy or lease in developing countries in order to secure their supplies of food, feed and agrofuel production.

Public and private corporations and industrial groups are buying millions of hectares of land in Africa, Asia and Latin America to produce food or agrofuels. Investment banks and hedge funds are also buying vast tracts of agricultural land around the world. The speed at which demands for the

commercial utilisation of land is increasing erodes the ability of poor land users to continue accessing it. Therefore poor people with insecure tenure are the most vulnerable to being dispossessed and forced off their land.

Even when the land taken over are classified as idle or marginal it may provide a vital basis for the livelihoods of the poor, especially women, including through crop farming, herding, and collection of fuelwood and medicines. In many countries, large tracts of forest are being converted into commercial plantations, threatening both the ecosystems and the livelihoods of poor women and men dependent on their products and use for grazing.

Land security tenure legislation is important in protecting and restoring the land rights of labour tenants and farm dwellers. ESTA also protects workers that are no longer able to work because of medical reasons as well as long term occupier, defined as someone who has resided on a farm for more than 10 years and is over 60 years of age or who cannot provide labour to a land owner as a result of ill health, disability or injury. This Act ensures the land right for long term occupiers which may not be terminated unless they have, intentionally and unlawful harmed any other person occupying the land, intentionally damaged property of a farmer engaged in behaviour which threatens others occupying the land, assisted other unauthorised people to establish new dwellings on the farm breached a condition or term of their residence with which they are able to comply, but have not done so despite being given one month's notice to comply.

We can conclude therefore that contrary to what traditional economist and land owner representative organisation claim, land security tenure is of vital importance for sustaining the livelihoods of the rural, poor, which provide food security and justice. There is consensus on the need for land right protection, land distribution for the poor amongst all stakeholders but government intervention is central in enhancing the ground relations of famers and labour tenants through policy intervention that would assist in diminishing risks, fears and threat associated with security tenure legislation.

2.2 MECHANISATION, POOR MARKET CONDITIONS, UNEMPLOYMENT AND EVICTIONS

South Africa in recent years, has seen a shift in patterns of agricultural accumulation influenced by a trajectory followed by most developing countries where technical innovations replaces labour-intensive production techniques so that even a large fall in the price of labour is insufficient for labour intensive techniques to be maintained (Atkinson et al 2007: 55).

An embargo on the importation of heavy farming machinery was lifted in the mid-1990s, drastically changing the technology available, especially for large scale dry-land maize production. Where previously four or five tractor drivers would be needed to plough the fields and keep them weeded, with two assistants per tractor to maintain planters and ploughs, just one tractor was now able to plough larger fields in a shorter time. New large tractor, plough and planter technology has continued to improve so that one person can operate and maintain them. This has all been good for farm production but drivers and other workers have lost their jobs as they are no longer needed.

Van Zyl (1996: 5) says the agricultural sector's pattern for growth was affected, however, by distortions occasioned by persistent government intervention in its favour. These interventions led to excessive growth in farm size and mechanisation, and accelerated shedding of labour. (Da Gama 1970:82) reveals that efficiency is transforming the agricultural outlook. Modern methods, mechanisation, fertilisation, pesticides and improved seed strains are producing spectacular results. Branches of farming are becoming more intensive. The old extensive system, prodigal of land and resources, is being swept away. A recent development has been the move into farming of powerful companies who buy up farms and consolidate these into vast tracts, which are then profitably exploited, with all the economies which go with the size and centralisation.

Atkinson (2007: 54) says commercial agriculture reached a landmark stage in the 1970s, when it became self-sufficient in terms of its labour needs. This phase was also associated with larger farm sizes, and a correspondingly smaller number of farms. This heralded a second phase of capitalist agricultural development, based on capitalist-intensive, mechanised production with more limited labour requirements. Farmers were more likely to evict squatter or family labour groups and to replace them with a less land-intensive wage labour system.

Binswanger (1996:24) confirms that these massive agriculture holdings enjoy compensatory programmes such as tax relief, producer subsidies in the form of subsidised credit, low interest rates, export subsidies and sometimes monopoly marketing or trading rights from government.

Today the South African agricultural sector faces challenges related to the disemployment effect of modern agricultural production methods. Even though the post-apartheid state has argued that macro-economic stability has been achieved, the structure of the economy has changed for the better and the basis for sustainable growth and poverty alleviation have been laid see (State of the Nation 2002, President Mbeki, SA).

The problem is that the increase in growth rates has been accompanied by joblessness. Natrass and Seekings (2005:146) suggests that capital productivity increase was expected to move hand to hand with employment instead the exact opposite took place and one of the contributing factors to this trend was developments in the labour market.

The failure of the new growth methods supported by government threatened the livelihood strategies of unskilled labour tenants, farm dwellers and rural poor. For farm dwellers, unemployment came with the loss of land rights for because of the positive correlation farm employment has with land tenure security on farms. This also created food security challenges for poor farm dwellers as they no longer able to use farm land for their own private produce and keeping livestock such as poultry and cows.

There are many factors that could offset the disemployment effects in the current agricultural sector and increase land security rights for labour tenants. Firstly, the revival of small scale farms through policy support by government. Kirsten (1968:560) in a paper correcting the negative perceptions associated with small farms, disputes the assertion that small scale farms are backward, non-productive, non-profitable, non-commercial, and financially not viable and do not contribute in the economy. Kirsten further suggests that even without economies of scale, the question remains whether size matters. Are larger farms more productive and/ or profitable than smaller ones, even if an argument cannot be made for superior technical efficiency? The answer to this is not clear. Policies are rarely scale neutral, and external economies of scale are a reality. While these tend to favour larger farms on the one hand, there are considerable transaction costs in the labour market, as well as supervision costs, that, on the other hand, favour smaller farms Kirsten (1998:565).

Kolhammar (2009:59) hence, the land reform program is not working at the pace one would hope. Land reform has created job losses and has not sufficiently and effectively addressed the needs of farm workers and dweller. Instead land reform focuses on redistribution of land for agricultural purposes. The much broader and more complex nature is the need the need for adequate protection, jobs, housing for farm dwellers and reviving of small-scale agriculture farm holdings.

A study commissioned by Van Schalkwyk, Groenewald, Fraser, Obi and Tilburg (2012: 63) on unlocking markets to smallholders recommends the need for integrating smallholder agricultural producers into the mainstream of national economies, especially in developing countries and accessibility to the markets. The study suggests that with enhanced market access, smallholder agriculture has the potential to commercialise and contribute towards food security and poverty alleviation through food price reduction and employment creation for unskilled farm dwellers.

In addition, efficient smallholder agriculture leads to increased incomes and promotes equitable distribution of income, creates backward and forward linkages necessary for economic growth. The study identifies that the major challenges facing smallholder agricultural growth are closely associated with lack of marketing knowledge and opportunities, calling for market orientated interventions. In marketing, the smallholder agricultural sector still resembles past Apartheid legacy, where the sector has difficulties in marketing produce through formal channels.

Government policy must change from the formation of so called equity schemes because of its disemployment effects of farm dwellers, is government policy supporting the formation of so called equity schemes. According to Conway (2011:59) a particular challenge facing farm workers is the formation of equity schemes. Commercial farmers, often those who are struggling to remain commercially viable, may apply to the state land reform programme to turn their farms into equity schemes or trust farms. Farmers can then access grants to make workers shareholders on the farms. The schemes are in the main designed by consultants without an adequate process to address the existing skewed power relations, leaving workers ill-informed of their rights and ill equipped to serve on decision-making structures such as Board of Directors. Thus workers become token stakeholders. Often these same shareholders/part owners are dismissed and evicted from the farms and leave with no compensation or recourse to seek legal address. After many cases of abuse of equity schemes, a moratorium was placed on the programme, but it has been lifted recently.

Privatisation of state assets associated with neo-liberal fiscal policies pursued by the ANC government has also contributed towards forced evictions, job loss and food security threatening the livelihoods of farm workers. The privatisation of the forestry industries has had huge impact on rural farm workers. According to Conway (2011: 157) forestry industry privatisation has severely compromised workers employment and tenure conditions. Commercial plantations have been leased to business corporations and indigenous forest transferred to SANParks, both of which are clear that they are in the business of trees and not of housing people. Workers housed in forestry settlements for generations (where they were originally forced to live to be 24 hour guards for fires) have established vibrant communities, and now face retrenchment and relocation to urban townships despite the fact that they live on state land which is a so called priority for redistribution. The negotiations around the privatisation process took place with unions in the workplace, thus excluding the women whose lives and futures were intrinsically affected. The struggle for secure tenure and the transfer of the settlements under jurisdiction of local authorities has been an intense and protracted process. While there have been some victories, with a number of settlements now transferred to the relevant local government rentals there has also been

shutting off access roads and incentives of employment offered to those who relocate. Entire communities face the threat of relocation, like the farmworkers who lost their jobs during the conversion process.

Deregulation and International competition has also had a disemployment effect of farm dwellers. In 1994 local markets, in particular the grain markets were deregulated. Subsidies and protections were removed, but farmers were expected to compete with overseas producers who still received subsidies. Declining maize prices, coupled with increasing input cost and international competition, have had serious impact on the economics of large scale dry land farming. In a study commissioned by Nkunzi Development association and Social surveys (2005: 82) reveals that high input cost, of which labour Is one element, coupled with lower profits margins because of opening of trade within international markets have made farming a tricky economic balancing exercise. Farmers faced with economic pressures find that labour is one of the few cost elements in the production system that can be more easily manipulated.

Nkunzi Development association and Social Surveys (2005: 82) study also reveals perspectives held by commercial farmers contributing to the drop in the demand for intensive labour in commercial farms. Farmers in Bloekomspruit farms in Gauteng Sedibeng Region, who are producers of maize, no longer require many workers because of increased mechanisation techniques employed. In the early 1990's, increases in the effectiveness of chemical weed killers had greatly diminished the need for labour. Also the availability of large equipment's and improved technology, especially of large tractors, plough and planters led to the loss of more jobs. These farmers used to employ a large number of workers, mostly women to collect maize dropped during mechanical harvesting. However they no longer do this due to the combination of the high risk of labour and low profits on maize.

In general South African grain producing farmers has suffered severe pressures from rising input cost and poor market conditions triggered by the deregulation and removal of subsidies to farmers. This coupled with the implementation of labour and land legislations such as the Minimum wages and Extension to security of tenure legislation were reason for farmers to shed labour intensive jobs and change the use of land from grain farming to animal and game farming. These types of farms employ fewer people and the rest and most people lose their jobs and become evicted. The new trend of large companies purchasing small farms to achieve economies of scale which then increase mechanisation and introduce enormous tractors and other machinery further diminished the employ of intensive labourers.

Krug 2001:8, 22; Katerere 2002:29) maintains that the conversion of farms from agricultural production to game farming and tourist ventures has caused job losses and evictions of farm dwellers. South Africa has approximately 6.6million hectares or 5.6% of the land, falling within public protected areas and parks. A further 7% of the country is estimated to be used for game ranching. Game and tourism operations generally require less labour than other forms of production and it is often work that farm workers with levels of education are poorly equipped to perform.

2.3 POST-APARTHEID GOVERNMENT ACCOUNTABILITY, SOCIO ECONOMIC INEQUITY AND EVICTIONS

In theory the support for democratic governance from the three tiers of government in post-Apartheid South African society is unanimous. However in practice the enthusiasm is far less strong than the theory. Democracy is said to be government of the people by the people. The prospect of democracy in South Africa raised expectations amongst the black majority that the dispossessed would be able to return to their land. According to (Hall et al 2003:1) the terms of how South Africa political transition was negotiated constrained how this could happen, Despite calls for a radical restructuring of social relations in the countryside, the constitutional negotiations on the protection of property rights, and on the economy more broadly, ensured that land reform would be pursued within the framework of a market-led land reform model, as advocated by the World Bank and implemented in countries such as Brazil, Colombia and Zimbabwe Hall.

Democratic government in South Africa will be under threat if it continues failing to address the socioeconomic needs of the majority and previously disenfranchised. If democratic government is unable to address the countries socio-economic inequities including provision of basic services including water and sanitation, health, housing, education, effective land redistribution democratic failure is inevitable. A feature that has described post-apartheid government is its inability to take into account and consult the poor citizens of the country. In general post-Apartheid government consultation and accountability have favoured more organised or sophisticated elite forms of organisation, overlooking the role that the majority pro poor plays in securing the government term of office.

This lack of consultation and accommodation of the views of the poor has resulted in a mismatch between what government delivers and the actual socio-economic needs of the poor resulting in huge social unrest for delivery. According to Friedman (2012:61), it is not controversial in much of the mainstream debate to note that both government effectiveness and priorities since democracy's advent in South Africa have been determined by weak accountability. Holding government to account is a

product of three forces, namely political connection, strength of organization and the competiveness of electoral politics.

As far as the political factor is concerned, Freidman, (2012: 62) argues that the ANC government is more likely account to its alliance partner or social interest ally Congress of the South African trade union (COSATU) than to the poor or its large rural women constituency base. This does not mean that COSATU gets everything that its wants from government. But it does mean that COSATU'S actual or anticipated reaction to government policies and practices is a reality that ANC politicians and government officials must take into account.

Strength of the organization accountability; the African National Congress (ANC) might feel compelled like it has done over the years to adopt policies that suits capital and big business at the expense of the poor. For instance, government endorsed the labour brokering system under the guise of a more flexible labour market to appease capital. The consequences of job flexibility have brought additional challenges for the rural poor, who are dependent on farm labour to sustain their livelihood strategies.

According to (Conway: 2007:21), with the strengthening of tenure rights farm owners have evicted workers and are reluctant to house workers. Commercial farmers now opt to source casual workers. The general trend is that workers wait at pick up points in the townships where farmers pick them up in large trucks and drop them off after work. These workers are usually employed on a daily (or sometimes weekly basis) without contracts or benefits and with no relationship between workers and employers. Workers are very vulnerable as principles of no work/ no pay usually, apply meaning employers are not bound to pay for sick leave, rain days, public holidays and so on. There are high levels of non-adherence to labour legislation and limited or no enforcement from the Department of labour, aggravated by the lack of effective unions in the sector.

This drastic lack of accountability has led to the implementation of policy that has further exploited the less skilled and vulnerable and certainly does not complement the needs of the rural poor. Despite government Batho Pele or People first slogan advocating for more accountable and transparent government in practice this has been honoured in breach by government policy makers.

According to (Scott 1998:165), internationally grandiose plans designed by high minded government in isolation of the needs and realities of the society which they govern, have repeatedly produced costly failures. This is evident in the South Africa agricultural sector after government policy supported capital intensive means of production forcing a huge drop in the need for labour. Mechanisation of the

agriculture sector in the 1980s and 1990s to the present has seen fewer people employed. The inability to ensure public participation by the democratic government in South Africa at all spheres of government has resulted in what (Friedman: 2012:62) captures as a constant gap between grassroots citizens needs and wants on the one hand and policy on the other.

Since the accountability and consultation to the citizens strengthens democracy, it is of paramount importance that post-Apartheid democratic government improves its consultation and accountability especially towards the poor and needy citizens of the country to avoid fruitless expenditure and strengthen its legitimacy in the eyes of the people of South Africa. Government needs to strengthen dialogue with landowners and also create awareness of legislation such as the Extension of Security Tenure that is meant to protect and restore the dignity of the poor farm dwellers.

2.4 INEQUALITY, POLICY, UNEMPLOYMENT, AND EVICTIONS IN SOUTH AFRICA

Seekings and Natrass in 2005 conduct a very interesting and detailed study analysing the trends of inequality in South Africa tracing it from the mid twentieth century to the early twenty first century. The study reveals the basis on which inequality shifted from race to class in the last decade of the twentieth century. According to this study, this shift was cushioned and brought about by public policy adopted by post –apartheid state. By and large the study argues that formal deracialisation of public policy did not reduce the actual disadvantages experienced by the poor. The fundamental continuity in patterns of the advantaged (the rich whites) and disadvantaged (the poor blacks) resulted from underlying continuities in public policy or post-apartheid distributional regime. In simple terms the continued and sustained inequality and social ills affecting the poor blacks in South Africa even after apartheid was very much of the making of democratic government macro-economic policies that has led South Africa into becoming the most unequal society in the world. In other words, problems in South Africa were not because of rigid labour laws or high wages as suggested by the former Minister of Finance and President Mbeki, but were a result to unequal distribution of wealth cemented by government policies.

The strategy shift towards a more capital and high skill labour market economy by the government to increase and sustain growth, was thwarted by skill shortages which also acted as a constraint in economic growth. The strategy shift also had dire implications for the unskilled workers especially in mining and agriculture. In South Africa over the years commercial agriculture accounted for a considerable share of unskilled jobs in the country as a whole (Seeking's & Natrass 2005:352). The shift towards a more skilled labour market resulted in job losses for unskilled farm dwellers.

After apartheid, many black households comprised unskilled labourers who were either farmer workers, miners or domestic workers. Government policy makers should have capitalised on this and supported the growth of unskilled employment in the agriculture and mining sector.

But the post-apartheid job distributional regime proved to be disastrous for the rural poor because policies contributed towards agricultural unemployment and deagrarianisation. Farm workers continued to be evicted from commercial farms in large numbers and there was no major programme to resettle families onto small-holdings, so these largely unskilled families were pushed into the most disadvantaged positions in a labour market characterised by massive unemployment (Seekings & Natrass 2005: 353)

As earlier noted in the work done by Simbi and Aliber (2000:69), post-apartheid evictions were created by unintended consequences of policies and legislation intended to provide socio-economic relief for the pro-poor (Seekings and Natrass 2005: 353).

How did this happen? The focus and strategy of democratic government in agriculture was centred on the liberalisation and deregulation of agriculture products and markets. While agricultural product markets were deregulated agricultural labour was being regulated. Labour legislation was applied to the commercial farming sector, together with statutory minimum wages and social insurance as alluded to earlier in this paper. Security of tenure, in terms of access to land and housing, was provided by the Extension of Tenure security Act of 1997.

(Seekings & Natrass 2005: 353) All of these were intended to protect the working poor, the effect might have been the opposite. Landowners evicted farm workers in anticipation of the 1997 tenure legislation and thereafter continued to reduce the labour force residents on farms. Labour legislation also prompted employers to reduce their labour requirements, leading to rising capital intensity. This could be achieved in various ways, including changing crop patterns, shifting from crop to livestock, or converting agricultural land into game farming. Permanent employment was widely replaced by part-time or seasonal employment.

A new trend has seen farmers outsourcing labour-intensive activities. Growing agricultural production, in part a response to export opportunities raised the demand for skilled labour with the demand for unskilled labour continuing to fall off. The consequences of policy, land and labour legislation further impoverished the rural poor, diminishing their livelihoods including access to farm accommodation and other paternalistic benefits.

The unintended land, labour and policy reforms generated a new form of farm worker, living in informal settlements with no access to basic services surrounding agricultural towns, seasonal workers with no job security (see for example, Du Toit 2003 and Cairncross).

Whilst it cannot be disputed that macro-economic policy objectives should be geared towards realising high economic growth rate, giving government the muscle to adequately address the societal social ills of unemployment, illiteracy, abject poverty, deteriorating health and inequality. However If policy does not serve its objectives, in order words, if public policy worsens the plight of the poor and disadvantaged it supposed to provide relief too, then there is something wrong with the policy itself.

The warning by Francis (2000:53) becomes even more relevant and worth revisiting, while the new government retains a large degree of goodwill, it should be aware that policy and legislation failure would have serious consequences for the rural people. If policy initiatives worsen tension between farm dwellers and land owners, then the policy itself would be part of the problem.

Post-apartheid policy makers totally missed the plot, given the historical background with long history of racial determination of skills development secured by Apartheid racist policies such as the 1911, Mines and Work Act No 12 which included various regulations which gave "white workers a monopoly of skilled operations" (see Thompson 1990: 167). Given that commercial agriculture holds much potential for unskilled employment, the argument that shifting the economy to capital skilled for higher growth rates lacked hindsight and was disastrous to the rural poor.

Natrass & Seekings (2005:450) also explore the shift from racial inequality to interracial inequality. This again was also triggered by government policy whereas post-apartheid government policies has been successful towards up scaling the economic prospects and providing more opportunities towards the urban black middle class to the exclusion of the blacks in the rural areas.

Opportunities were concentrated in the urban areas, while the Bantustans served as dumping grounds where unemployed could be geographically isolated and thus more easily controlled politically (see Seekings and Natrass (2005: 341) Although deracialisation covered labour-market policies, public education, and social welfare policies, the major emphasis was on the promotion of a black economic elite and middle class.

In essence even though the racial composition of upper income deciles changed with more black in high paying jobs, this was of little consequence for either poverty or overall inequality in South Africa's rural areas.

Evidently post-democratic policies have only served in creating a upper black middle class, with opportunities strengthening the critique of Black Economic Empowerment claiming that BEE entailed enrichment of the few. Black economic empowerment is an issue for the black middle class and big business. For big business it was a politically defensive strategy, not a growth enhancing one, and for the black middle class it was a state-subsidised enrichment strategy. For ordinary folks or the poor BEE was not really an issue.
(Moeletsi Mbeki, see Business day 10 February), states that BEE is all about taking political leaders and politically connected people and giving them assets which, in the first instance, they don't know how to manage and this does not add value. You are faced with the threat of undermining value by taking assets from people who were managing them and giving them to people who cannot manage them. BEE thus creates a class of idle rich ANC politicos.

Adam, Slabbert and Moodley, 1997:202, the wealth of the whites in South Africa was achieved through apartheid exploitation. By endorsing a similar black selfishness, new black elite merely continues what is seen as the same shameless greed by hook or by crook. As soon as Apartheid was abolished in South Africa, the expectation amongst the disenfranchished who had been disadvantaged by the Apartheid system was that government would implement pro poor policies that would provide the basis for eradication of inequality, restore the dignity of Africans especially those in the rural areas and embark of a state led redistribution programme that would ensure the distribution of wealth to all equally. What then transpires to the current day is a capitalist post-Apartheid government under democratic rule serving the interest of old Apartheid capitalist and new black elites through legislations such as Black Economic Empowerment and elite serving macro-economic policies. There is no real desire to redistribute wealth and economic opportunity to the previously disenfranchised and needy.

Alexandra explains this by saying, the real mistake of the Apartheid capitalist and then ruling class was that they had misread the willingness and ability of the ANC leadership to accept neo-liberal orthodoxy. As soon as the self-introspection process was concluded under the guise of the peaceful South African negotiation process, the romance flourished between those that had once chastised Apartheid as irreformable and those behind Apartheid. (Alexandra, 2002: 49).

This situation has accounted for the post-Apartheid small black elite class formation of those closer to the ruling political elites creating untold black on black tensions between the new small elite class and the forgotten masses. This patron-client involving old and new capitalists has been supported by the state apparatus with post-apartheid economic policy and legislations enacted to flourish and protect this

relationship, cementing continued uneven patterns of wealth and opportunity redistribution in post-Apartheid South Africa.

However post-Apartheid state rhetoric defending the unequal redistribution patterns suggests that government has done well in terms of redistribution, pointing to huge state expenditure directed towards the poor. The expenditure pointed out here is not in form of direct cash income to the poor but in the form of indirect government benefits such as investment in health, education etc,that is, the provision of free education, health and social grants to senior citizens, disability grants and foster care. The quality of this redistribution towards the poor can be critiqued with tangible examples, the recent shortage of text books in schools, open toilets, classroom conditions, shortage of medication in local clinics and hospitals, teacher absenteeism.

It is unlikely, however, that the quality of schooling improved dramatically, and the shift in spending toward the poor in this regard is probably somewhat misleading. Teachers in schools in poor areas remained inadequately qualified; many taught badly, some were often absent. In short, at least, the major beneficiaries of increased educational spending were teachers who are not poor not the students sitting in their classes. (Seekings and Natrass, 2005: 359).

Though there are no comprehensive indicators of the quality of education that can be matched with data concerning spending, there is abundant evidence that the quality of education varied considerably from urban to rural farm areas where it is very poor, with learners coming from urban slums or labour tenants displacement areas still experiencing transport challenges making it impossible to go to school. Overall, government policy has not succeeded in being pro poor. Farm workers have experienced continued retrenchment and dispossession, despite supposedly new policy and legislation reforms. Land reform has not benefited the poor significantly (see Seeekings & Natrass 2005). The reforms that have been implemented have generally been to the benefit of a constituency that was already relatively advantaged. In this crucial sector, the post-apartheid distributional regime has not resulted in improved livelihoods for the poor.

2.5 CONTINUTITIES OF THE APARTHEID LEGACY, INCREASING SOCIO-ECONOMIC INEQUALITY IN POST-APARTHEID SOUTH AFRICA

In South Africa, reform processes in the early 1990's included making a range of pieces of labour legislation such as the Basic Conditions of Employment Act, Unemployment Insurance Act also applicable to farm workers for the first time. The property clause and post-apartheid land reform programmes were intensively debated in Codesa that had amongst other challenges to deal with the

situation of farm dwellers. While this was happening, changes to the South African landscape led to the opening up of new international trade opportunities which increased the pressure for continued liberalisation in the agricultural sector as South Africa became part of the of the International trade agreements such as the General Agreement of Trade and Tariffs deal which was concluded in 1994 (see Wegerief, Russel and Grundling 2005: 30). The interim Constitution that emerged from the 1993 negotiation process protected existing property rights but also required the government to deal with land issues. Already at this stage three prone difficulties were created for farm dwellers.

Firstly the constitution provided a legal framework protecting property rights for people who gained access to land through dispossessing others under apartheid, Secondly South African political transition brought about increased liberalisation of the agricultural sector and exposed local producers to international competition and Lastly the land reform process was going to be undertaken under the framework of a constitution that already protected the property rights of people that illegally obtained the land.

How worthy is this document of misperceived respect? If the South African constitution is not simply reducible to those aspect within it that promotes human rights, regular elections, non-racialism, nation building and pluralism, to what extent can it be argued that it has not resulted in strengthening the Apartheid legacy, continuities with the past. In other words how much has the South African Constitution contributed towards deepening socio-economic and racial inequality in post-Apartheid South Africa.

The 1996 Constitution required government to deal with land issues by drafting of land reform legislation to give those with insecure tenure as a result of past racially discriminatory laws or practices secure tenure or comparable redress (see Wegerief, Russel and Grundling 2005: 31).

There is a sense of double standards with the South African Constitution. Section 26 of the Constitution says that everyone has the right to access adequate housing and says that no one may be evicted from their home without a court order and no legislation may permit arbitrary evictions. The intensions behind this clause is clear, its aims to protect and restore land rights for the previously disenfranchised in the case blacks South Africans. At the back of this, section 25 of the constitution guarantees private property rights which protect and restore land rights to those that got the land through dispossessing others. This constitutional contradiction has prohibited effective land reform and redistribution in post-apartheid South Africa and has formed the bases for all the land problems facing the country.

Essentially section 25 of the constitution has only served to embrace the legacies of Apartheid. With such a constitutional provisions, it means that land reform would be negotiated on the terms, conditions and leisure of the white landowners. To constitutionally permit apartheid land beneficiaries to keep control of land and natural assets which they unlawfully occupied without any legislation radically compelling them to redistribute except the willing buyer willing seller policy shows lack of commitment to redistribute at all. Land redistribution and redress cannot be realised under the current environment. How can the socio-economic gap and proper redistribution of wealth be ever achieved if it is legally prohibited? How can democracy a system that stresses upon equality in all aspect be successful when it is suffocated by democratic institutions representing equality such as the very constitution, which is regarded as supreme. For example there have been a number of issues and concerns with the constitutional land restitution process leading to many claimants to accept money over land because of the long drawn out process and delays over the process. There has also been concerns about the inadequacy of the compensation and off course the background issue there is why is land restitution so expensive and there we have look at the recent Manamana claim in Mpumalanga where government paid close to a billion rand for one land claim and basically that money went to compensating white people who has managed to own that land during apartheid. Another thing people have raised concerns of why should the people who managed to seize the land get market value compensation when we got nothing like that when we were deprived of the land. People have said there is a kind of double standards with the land restitution process double standards of how the disposed were treated when they lost the land compared to how the compensation is measured in relation to paying existing or current owners.

According to (Conway 2011:21), ownership and control of land, mines and major industries in post-Apartheid South Africa not only remains concentrated in the hands of a handful of capitalist as in the past and ownership of major economic activities has been systematically transferred to foreign capitals, either directly or through the liberalized stock exchange. Which class have benefitted the most with the flight of South African profits produced in a land monopoly benefitting the previous owners. How has post-Apartheid democratic government assisted in worsening economic fortunes for the previously disenfranchised as far as their policy contributions has been concerned.

According Marais 1998: 169, the Growth Economic and Redistribution policy of 1996 called for the gradual complete removal of exchange controls. Foreign investors would gain easier access to domestic credit with wholly foreign owned firms able to borrow up to 100 per cent of shareholder equity. The steady abandonment of financial controls effectively rendered a strategy such as GEAR hostage to the vagaries of finance capital. By allowing the uncontrolled penetration of domestic financial markets

by foreign capital and encouraging the migration of local capital, patterns of investment were to be swept out of the ambit of government policy.

With section 25 of the constitution enabling private ownership and determination also backed up by relaxed exchange controls granted by democratic government through GEAR, the country profits produced on this land and wealth were easily taken offshore and not redistributed for the benefit of all. It is reported that mining and finance South African corporations including Anglo-American, BHP Billton, Old Mutual, SAB and liberty moved ten billions of rands offshore listing them as foreign companies.

The negative consequence of this massive capital flight of South African profits and wealth was that the wealth that could have been redistributed by government and channelled towards reducing high socio-economic inequalities persisting in post- Apartheid South Africa has been exported beyond government reach or control. With companies allowed to export profits made locally, capitalist were not compelled to reinvest this wealth in terms of improving the basic conditions for unskilled mine workers or investing more in wages to improve the socio-economic conditions and wellbeing of employees in the mining sector.

The above has led to post-apartheid democratic atrocities similar to the ones occurred during the Apartheid period. In Lonmin Mine in Marikana, 34 mine workers were killed and a further 78 injured in a protest action for better conditions of service and improved wages. A situation no one had imagined could prevail in a democratic context under the guide of a former liberation movement (ANC) which has a reputation in the struggle against human right abuses.

Analysing the increase in socio-economic inequality in the post-Apartheid democratic state, it also worth looking at how initiatives and practices designed for discontinuing the legacy of Apartheid and improving socio-economic equality have in turn worsened the very conditions they were meant to expunge, leading to huge community mass protest on service delivery that has mirrored the ones of the 1980s in Apartheid South Africa.

Delivery of Basic social services to the previously disenfranchised communities and the poor in general has been thwarted by mass tender corruption and fraud in all spheres of government. The democratic State's objective behind channelling huge expenditure towards social services is to provide social relief and eradicate the Apartheid legacy for the disempowered and poor communities in general.

Land redistribution has been a disaster. There is a new corruption trend that involves using of state resources to illegally benefit from sale of land for human settlements through the willing buyer and willing seller. Increasingly municipalities are buying land doubt for human settlements at inflated prices

from connected people who buy land and sell it double the price back to government. It is reported that a director at the Alfred Nzo municipality in the Eastern Cape has been arrested for allegedly defrauding his employer of R12.5 million. "He allegedly facilitated the awarding of a tender to install electricity in surrounding villages to a certain company … the winning company, in turn, appointed the director's own company as a sub-contractor for the project," Hawks spokesperson Captain Paul Ramaloko said. No electricity has been installed in the villages in and around the municipality, situated in Mbizana in the Eastern Cape, said Ramaloko. The main contractor allegedly channelled over R12 million into the director's company bank account (see City press, May 10:2013.)

Democratic South Africa has been met by violent community protest and demonstrations from poor communities for basic services. Unethical, improper and fraudulent practices have worsened the plight of the poor in post-Apartheid democratic South Africa perpetuating increased socio-economic inequalities twenty years after democracy. The hardest hit of all this mismanagement has been the rural poor and evicted farm dwellers seeking to find employment in urban informal settlements. Such acts of greed, self-enrichment and public fund embezzlement have been common features of the post-Apartheid South Africa especially in the public service. Twenty years after democracy there are communities that are still not electrified with open toilets and no access to clean water like in the Mpumalanga province. Service delivery protest has become a form of public participation and real democracy for the poor.

Government procurement has become a nightmare in post democratic society. High capital Government tenders have been channeled by the emerging senior black bureaucrats in control to close friends and family with questionable companies certificates, all in the name of Black Economic empowerment, resulting in a lack of accountability and shoddy workmanship and more often pocketing millions of rands without even doing or completing the job. The black bureaucrat in charge with vested interest would then cover in and cook reports. No doubt the poorest of the poor has had to be patient while affected the worst.

According to (Adam, Slabbert and Moodley, 1997:203), this is what went through President Mbeki mind when he flew over a squatter settlement, there is an enormous amount of patience among the people in those shacks. These acts of greed go against the noble African communitarian ideals of Ubuntu, of giving back and looking after the needy by the empowered which is a moral duty in a African context. The endemic corruption that has tormented the public sector in post-Apartheid South Africa has been accompanied a growing black elite class with close political ties with senior bureaucrats and politicians.

This black bureaucratic embourgeoisment in the public sector, together with the emerging black business elite figures has coincided with increased socio-economic inequality amongst the poor even worse, than in Apartheid. As Seekings and Natrass 2005:336 suggest, post-Apartheid meant improved opportunities for some and not for all. Overall inequality widened because of continued unequal distribution. The prospect of Land redistribution in South Africa will never be realised unless the South African Constitution is changed to enable land reform objectives to be realised.

3 FARM LABOUR IN SOUTH AFRICA

The history of farm labour in South Africa is a history of repression, land dispossession exploitation and expropriation, but also a patron-client relationship between those in control, essentially the owners of land, the patron and their subjects, those who work on the land the clients. This history of abuse, exploitation, and denial of human rights has left deep scars in South Africa's countryside, which the country is still battling with.

Land dispossession was a key feature of racism under colonial rule and apartheid in South Africa. More than 3.5 million people were forcibly removed in the period 1960 to 1983 alone, through homeland consolidation, removals from 'black spots' and the Group Areas Act. One result of massive dispossession is the concentration of poverty in South Africa's rural areas, Where about 70% of the population lives below the poverty line. The prospect of democracy in the 1990s raised expectations that the dispossessed would be able to return to their land, but the terms on which political transition was negotiated constrained how this could happen. Despite calls for a radical restructuring of social relations in the countryside, the constitutional negotiations on the protection of property rights, and on the economy more broadly, ensured that land reform would be pursued within the framework of a market-led land reform model, as advocated by the World Bank and implemented in countries such as Brazil, Colombia and Zimbabwe.(Hall)

In the following I will first present the current state of farm labour. Then I will outline the developments in South Africa agriculture from the late 19th century on to 1994, which affected farmers and farm workers. Thirdly, I will have a closer look at the developments and the legislation that was put in place since the transition to democracy in 1994, with more focus given to discussion around the Extension of Security tenure that was legislated in 1997, and the impact it had on labour tenants which is the focal point of my research.

3.1 FARM LABOUR IN THE NEW SOUTH AFRICA

Labour in commercial agriculture still constitutes the most important formal sector employment in rural areas. Over a million people work on farms and according to official estimates about nine million people live on farms (NDA 2001:1-2). Despite land and labour policies in place there has been little to no improvement in poverty levels for South African farm workers and farm dwellers since the transition to democracy in 1994. Expectations of rural development, increased job opportunities, better wages and working conditions, and access to land raised for farm workers and farm dwellers by the democratisation process in the 1990s have up to now largely failed to materialise (see for example Carte Blanche 2003; Mngxitima 2001).

3.2 THE ARGRICULTURAL SECTOR AND LEGISLATION BEFORE 1994

Before the advent of discriminatory laws at the end of the 19th century (Glen Grey Act of 1894), the black commercial agricultural sector was viable and successful. Black South farmers benefited from the gold and diamond boom that correlated with higher demand for their products. The most convincing evidence of this success can be found in the unusual measures taken to discriminate against these farmers (World Bank 1994: v). The policies since the formation of the Union were characterised by the suppression of Africans in all economic aspect including agriculture with its eventual isolation from 20th century mainstream agriculture (World Bank 1994: v).The idea behind these policies was to suppress all agricultural economic opportunities for Africans and forced them to becoming agricultural labourers.

This began the transition of Africans from independent small-scale farming and tenant farming to sharecropping and eventually to wage labour in the first half of the 20th century. The legislation extensively supported white farmers who were taking up commercial agriculture (Francis 2002:20). The Natives Land Act of 1913 and the Native Trust and Land Act of 1936 laid down the present reality of unequal land distribution as it prohibited land ownership by Africans outside the reserves. The reserve area, which was extended from 7% to 14% in 1936, was not big enough to hold the majority of black South Africans and did not leave enough space for viable farming options. Other legislations such as the Marketing Act of 1937, which was extended in 1968, cushioned agricultural pricing and distribution systems well into the 1990s.

The logic behind cutting off Africans from other sources of income was to generate labour surplus for the large scale farming sector and the mines, which were growing and demanding more labour in the first half of the 20th century. The Masters and Servants Acts of 1911 and 1932 were passed, which prohibited the breaking of contracts, changing of employer or even assigning other family members to

other employers. This was also enforced by the modification of the Native Regulation Act of 1911, which established labour bureaus where all African workers had to register. They were then not allowed to change their 'occupation', say from farm worker to industrial worker. The apartheid government, which was in power from 1948 on, did not change these laws substantially but enforced them and put a coherent support system for white commercial farmers in place. The Prison Act made it possible for cheap prison labour to be used on white commercial farmers and the Pass Laws severely constricted movements of the black South African majority. The Land Subdivision Act of 1970 was also geared to furthering the development of large scale farming only.

All of these regulations were not put into place immediately and were not totally enforced. This led some African farmers to be able to resist even well into the 60s and 70s, for example tenant farming, despite being prohited since the 1960s, never entirely disappeared. However by the time of South African transition to democracy the African family farming sector had all but disappeared with African peasants turned to wage workers on large farms, in mines and in secondary industries (Mbongwa, Van den Brink & Van Zyl 1996:57).

With the advent of farming technology in South Africa during the 1950s, farm employment briefly rose as more land could be made arable, but declined dramatically in the mid-1960s. This was owing to technological development and innovations as well as the growth in farm sizes. Gradually the need for labour intensive farming was undermined by the increased mechanisation which ushered in more capital intensive modes of production and was supported by the government which, in the 1970s, supported large scale white farmers with cheap credits and tax exemptions. Mechanisation in agriculture has even targeted the horticultural sub-sector which is traditionally labour intensive and needs more labour than farming with field crops and livestock farming. Schrimer (2004) suggest this might have prompted increased mechanisation by farmers even though it might have decreased productivity. He argues that farmers substituted labour intensive modes of production with more mechanisation because they were unsatisfied with labour relations and opted to have more control of the labour force by reducing it.

Basically, agricultural policy was mainly geared towards national food sufficiency and increasing the income of white farmers in the 20th century. In 1980s, however, policy changed with limited liberalisation and deregulation. The cut back in support to white farmers and adverse weather conditions such as the 1982-1985 drought led to greater market orientation in the sector. This period saw a decrease in capital intensive production coinciding with the rise of farm employment. However, this only made a dent into

the overall declining trend, and from 1987 on employment started to deteriorate again. The limitations on labour movement were lifted in the mid-1980s and in the early 1990s the Land Acts and Group Areas Act were abolished, allowing for non-racial, individual land ownership everywhere in the country.

In Until 1993 farm workers were not protected by any labour laws, did not have the right to any formal labour representative organisation, with their employment rights left at the discretion of white farmers who had unlimited rights to dismissals and evictions. Civil liberties were basically non-existent and the police were often uncooperative in supporting the rights of farm worker (CRLS 1994). Since 1993, there has been a move to protect the legal rights of farm workers. Farm workers were included in the Basic Conditions of Employment Act (BCEA) of 1993 the extension of security tenure (ESTA) of 1997 that was meant to prevent illegal evictions of labour tenants, the Agricultural labour Act and Labour Relations Act of 1994.

The new legislation only succeeded marginally in improving efficiency in the sector which was highly indebted by the end of the decade, with many farms succumbing to bankruptcy during the 80s. The adverse weather conditions in the early 90s causing floods put farmers under more stress and a huge government hand out as drought relief in 1992 was used to write off many of these debts. The previous extension of agriculture to low yielding and marginal cropping areas further harmed the sector, reducing the work force. This, coupled with political upheavals and the economic uncertainty about the future of white-owned farms, played a role in causing renewed layoffs (World Bank 1994; Williams 1996:225).

The GDP share of agriculture in the 1920s was around 20per cent and declined to 4.7 percent in 1991, with high growth in the 1960s but much slower in the 1970s and 1980s. 95 percent of this share was produced by the large scale commercial sector. This is, of course not surprising given the fact that approximately 86 percent of South Africa's agricultural land is held by the white sector. About 29 per cent of the rural population lives in this area, whereas the rest is crowded into the remaining (former) homeland area of 17.1 million hectares (World Bank 1994: iv).

According to Aliber (2001:36), agriculture employment peaked in 1968-1970 at approximately 1,6million employees in commercial agriculture and was on a steady decrease since then. In 1993 just above 1 million agriculture jobs still existed. This is a decline of almost about 37,5 percent, which has been as much a result of mechanisation and technological advancement as the reactions of farmers to perceived economic and political risks (Schirmer 2000:149).

3.3 LEGISLATION, ECONOMIC DEVELOPMENTS, EMPLOYMENT AND EVICTIONS IN AGRICULTURE SINCE 1994

Since the advent of the New South Africa in 1994, several reform processes have taken place in the agricultural sector aimed at reversing discriminatory legislation, improving participation and entrance of huge agriculture producers in line with government new macroeconomic policy, liberalising and deregulating the sector.

According to the (NAD 2001:5) some of the policy and legislation reforms brought about positive and some negative outcomes. The new government promoted and still promotes export led growth, trade liberalisation and new land and labour legislation as part of a policy of social transformation (Barrientos & Kritzinger 2004:84). The changes that happened as listed by the Department of Agriculture's Strategic plan for South African Agriculture (NAD 2001:5) are;

- Deregulation of marketing of agricultural products
- Changes in the fiscal treatment of agricultural (among others the abolition of certain tax concessions)
- Reduction in direct budgetary expenditure on the sector
- Trade policy reform (among others tarrification of farm commodities and general liberalisation of trade in farm producers)
- Institutional reform of the governance of agriculture
- Application of labour legislation to the agricultural sector
- Land reform (restitution, redistribution and tenure reform programmes)

For the purpose of this research, I will mainly focus in the very last feature. But in order to understand the whole agricultural situation I will give an overview on what impact all these changes had.

Most parts of the agriculture sector have managed fairly well and the agricultural sector is considered to be healthier now in the post-deregulation era than it was before (for example DoL 2001b). However many farmers have become vulnerable to international shocks, unstable weather conditions, a worsening debt situation and changes in the terms of trade (NAD 2001: 5-6). In the late 1990s the devalued Rand was in favour of South Africa exporters. Over the years, however, the rand has strengthened along with other market developments, causing lower incomes from export earnings.

This decrease in earnings has affected some of the agricultural sectors in particular the tobacco farmers who have suffered huge losses resulting in them opting to producing less risky crops which requires less capital and labour input. Adverse weather conditions have also been a factor leading most producers in scaling down production, triggering farm unemployment and increasing farming debt. The consequence of scaling down production leads to reducing the workforce and this on its own, threatens the tenure security of labour tenants who rely on their labour to secure living space for them and their families.

The responses to changes and challenges in market conditions, global competition, land and labour legislation have led to different strategies being adopted by different farms, within and between sectors and regions (Barrientos & Kritzinger 2004:87). There has been a reduction in farm employment and an increase in efforts to formalise employment relations on farms as a part of modernisation efforts in anticipation of the extension of labour and land legislation to agriculture (Kritizinger & Voster 1997:125).

"Many farmers and agribusiness have successfully implemented programmes of rationalisation, cost cutting, improved labour management and cost-effectiveness as part of a strategy to reduce production cost'. (NDA 2001:12) "South Africans farmers are confronted with cheap competition and are forced to lower the process of their products. As a consequence, they must reduce production costs (like labour) in order to be able to withstand this competition" (CRLS 2003:5).

Also, pressures of globalisation and market realities have lead to an increased casualisation of farm work. In some areas the use of contractors has risen strikingly (Barrientos & Kritzinger 2004). For the purpose of this research, it useful to explore how the global market conditions has had an impact which is negative towards the livelihoods of farm dwellers. The advent of labour flexibility which is also a current phenomenon in South Africa political economy and a hugely contested ideological position has impacted ordinary farm workers. Seasonal contract workers have less job security and the extension of Security Tenure legislation of 1997 put great emphasis on employment as a condition for tenure security unless the worker has stayed from the farm more than ten years.

As a result of enforced competition by the liberalisation of South African agriculture, farm workers employment has become increasingly insecure. Many workers have lost their jobs and among those who have kept their jobs, many are now employed on a contractual basis, as casual or seasonal workers (CRLS 2003:5).

Expectedly, the response to new land and labour legislations and new market realities prompted farmers to reduce their labour workforce leading to the evictions of labour tenants. This also led to more urban migration of rural dwellers seeking employment opportunities in urban city areas, posed new challenges for municipal councils and resurfaced the debate around property rights as most new displacement areas occupied by evicted labour tenants with no access to basic services from the municipality belonged to private people. This also meant that retiring or leaving workers are not replaced and the workforce is thus reduced overtime.

Simbi and Aliber (2000:28) found that there will be high reliance on a skilled permanent work force to use the new implements and chemicals. The necessity for casual and seasonal work will decrease with the developments of these technologies.

Permanent employment is shrinking to become the domain of a relatively small core skilled workers and foremen. Seasonal workers are being made redundant by the agricultural machinery and chemical processes that are affecting ever more aspects of the production cycle (Simbi & Aliber 2000; 30).

In 1999, the Agricultural Union Agri-SA said, the relative cost of labour had risen and was hindering agricultural growth (Nofal 1999). These cost trends according to the Union were not as a result of a singular Act or development but a combination of new labour and land legislation. Together, the Basic Conditions of Employment Act, the Labour Relations Act, the Employment Equity Act and the Security of Tenure Act have led to the reduction of the labour force on South African farms to half of it's of its size in just four years. Stringent enforcements of this legislation will obviously accelerate this trend. Imposing land legislation for the protection of farm dwellers would likely be self-defeating for government as farmers may feel threatened and move in quickly to evict less skilled surplus workers.

According to a survey by the Landbouweekbald (2004, May 21), only 5,8 percent of farmers think that land laws such as the Land Tenancy Act are helpful in expanding the workforce on farms and only 37,5 percent think that minimum wages mean a better life for farm workers.

Kritzinger (2002,559) maintains that new land and labour legislation has not only resulted in increased anxiety about a large labour force, but was also "a driving force behind farmers more recent attempts to house their wage labour in nearby villages and towns" owing to recent legal developments and uncertainty over their position. In general white farmers seem to be reluctant to further invest in farming. Also the developments of nearby states such as Zimbabwe and Namibia of land expropriations are

casting their shadows over the agricultural sector in South Africa. In addition the spate of criminal farm attacks resulting in farm murders is furthering already existing anxieties and preventing more positive attitudes towards government new policies in the sector.

The study by (Simbi and Aliber 2000: 2) suggest that collective decision to shed permanent workers is in large a measure driven by non-economic consideration, including above all i) fear of losing control of one's land to resident farm workers due to new (and possible future) legislations; and ii) a sense that, because of democracy and a commitment by the state to safeguard human rights, farm workers are more difficult to manage than they were prior to 1994'.

A challenge with regards to implementing new land legislation is monitoring their enforcement. It is important for workers to know their rights, but this does not ensure that their rights are actually respected. Since the Extension of Security Tenure legislation was put in place, illegal evictions have increased. This is evident when analysing court cases and case still being investigated by the police. Clearly there is a backlog in enforcement and the monitoring mechanism is not used to its free potential.

New land legislation is highly welcomed and valued by farm dwellers and their labour representatives but the problem as identified by CLRS in 1994 still applies. If parties see the new legislation as something to fight rather to use to the benefit of the sector, the consequences for all are likely to be negative but where labour relations practices are good and farm workers are treated fairly, it is unlikely that new legislation will cause much disruption (CRLS 1994:3).
However in cases where the latter is not achieved, this could lead to tension that could undermine working relations plus heighten insecurity of farm workers and counter the intentions of the new legislation. Francis (2000:53) warns that while the new government retains a large degree of goodwill, it should be aware that failure in this area would have serious consequences for the rural people and its rural support.
I will now look at post-apartheid legislation that have had an impacted upon on farm labour and land security affecting farm dwellers.

3.3.1 Restitution of Land Rights Amendment vs Traditional Courts Bill

The Restitution of Land Rights Act of 1994 is a legal process through which people can make claims for the restoration of rights to land they lost after 19 June 1913, due to racially discriminatory laws and

practices. If the claims are successful, deserving people can be settled with the return of land or an alternative form of compensation. In 1994 amendments were made to this legislation to give increased powers of expropriation to the Minister of Rural Development and Land Reform. This has raised serious concerns for farmers. Farmers responded to this amendment by evicting people from their land, believing that having black people living on their land might make them more vulnerable to land claims.

In January 2013, Parliament announced the Restitution of land Rights Amendment Bill. The proposed amendment to the Restitution of Land Rights Act of 2014 seeks to extend the date for lodging a claim for restitution to December 2018, a further extension of five years. The original Act provided that a claim for restitution of rights in land must be lodged no later than 31 December 1998. Due to the challenge encountered in the application of the restitution programmes, this provision excluded certain categories of claimants such as those who could not lodge claims by cut-off date of 31 December 1998 and those whose land was dispossessed before 1913. The Bill, amongst others, also aims to criminalise lodgement of fraudulent claims and further regulate the appointments of judges of the Land Claims.

The importance of this extension is critical to further restoring Land rights of rural farm dwellers. However, there are two new set of challenges presenting potential threats to claimants whose land rights has been restored by the Restitution Act. Firstly the bill opens floodgates for traditional leaders to claim vast swathes of land, which they could control and rule as their personal land. This creates tensions between the people and traditional leaders over land ownership. Traditional leaders claim that any land that people win should be under tribal ownership not under individual or group based ownership. This on its own presents serious consequences for land insecurity to farm dwellers especially women. This bill is also affected by the Traditional Courts bill which is before parliament and that gives extraordinary powers to traditional leaders to order force labour, to confiscate land rights and to expel people from their land. The Restitution Amendment Bill needs to be seen in the context of the Traditional Court Bill and if traditional leaders get Restitution land and get title to land in the former Bantustans it really going to exacerbate the problems that farm women complain about in relation to the Traditional Court Bill.

Secondly the Restitution bill initially provided is that the right to restitution would be subject to whether people use the land productively; there was an outcry on this especially by the Congress of the South African Trade Unions (Cosatu) asking who is going to decide whether people use their land productively. That criterion was moved from the initial Act but it is still there in the policies that underpin the bill and those policies really provide that you can't get any subsidies to help you move back to your

land unless you prove that you are going to utilise the land productively. The problem with making right to restitution conditional on productive use is that it undermines the fact that it is a constitutionally guaranteed right designed to provide redress for past discrimination not focusing on food security. Obviously there is a need to care about food security but to cobble that on to restitution would be a way of undermining people's right to land restitution.

3.3.2 Rates and Taxes

With the creation of municipal districts, farm owners have now become subject to the municipal systems act providing municipalities with the right to evaluate and impose rates on properties, including those in rural and farming areas. In July 2009, the new property values of Mogale City Municipality came into effect and a new system of rates and taxes be levied on farmers and landowners. In view of these developments, farmers and landowners have reacted angrily to this and, as expected, farm dwellers residing in farm precinct have become victims of these new regulations. In light of this legislation, farmers have evicted farm dwellers from their farms claiming that government should use the money received from the revenue collected from rates and taxes to provide these people with alternative accommodation.

According to Transvaal Agricultural Union of South Africa representing farmers and landowners, the country's 3-million taxpayers should take the example of the more than 280 ratepayers' associations countrywide and declare legal disputes with corrupt local governments; thus allowing their rates to be legally diverted to supervised trust accounts where this money can then be legally used to fix failing infrastructures with their own contractor-experts without any ANC-officials getting their greedy hands on the money or the contracts

3.3.3 LRA

When the new Labour Relations Act was introduced in 1995 there was no special provision for farm workers but they have since been included in the Act, which covers all South African formal economic sectors. It provides

- for the introduction of elected work councils to internally participate in labour decisions,
- the right to strike for all employees, if they follow correct procedures, and the protection against dismissals;
- valid reasons and procedures for dismissal are set out, e.g. prior notification and warnings;

- more explicit rights for trade unions, but still they are allowed on farms, only if they are already "sufficiently represented" there and if the farmer is informed;
- for dispute resolution through the Commission for Conciliation Mediation and Arbitration (CCMA);
- for collective bargaining (DoL 1995).

However this legislation is ambiguous and much scepticism and uncertainty amongst farm workers labour representative's bodies still persist.

- For instance it gives an explicit right for trade unionism in farms as long as they are sufficiently represented but the sufficiently representation requirement itself is unclear;
- And the legislation does not spell out how farm labour representative organisation engage, recruit, organise and meet with their constituencies since access to the farms is controlled by the farmers, making it difficult to conduct union work.
- The Act also stipulates the establishment of statutory councils, who are responsible for centralised bargaining and can only be established, where 30 per cent of the workers are represented by a trade union. Due to the reason given above, the difficulty in recruiting and organising members is coupled with the fear amongst labour tenants of losing their jobs and places to stay this is unlikely to be achieved. Collective bargaining thus seems unlikely to take place in the South African agricultural sector in the near future.
- Again the scope for workplace forums/committees is extremely limited, as only a very marginal proportion of farms employ more than 100 workers (2 per cent according to Taylor 1996).

According to (Taylor 1996) many farm workers will effectively be unrepresented in court in case of an arbitration proceeding.

3.3.4 BCEA

In 1992 farm workers were also included in the Basic Conditions of Employment Act of 1983. Basically the BCEA puts labour relations under a regulatory framework. It prescribes and regulates the working times, leave, employment contract and prohibits child and forced labour. It also lays out procedures for ending employment contracts, prescribes how records have to be kept and how wages have to be paid out. The BCEA has been designed for the protection of labour against any unscrupulous acts and exploitation.

"There are a number of important differences between the old and the new Basic Conditions of Employment Acts. The new Act casts its protective net more widely than the old Act, it provides for more favourable conditions for employees in general, and it allows for more flexibility around working hours in particular" (Taylor 1998a: 5-6).

Compliance with the BCEA has been registered as a concern by organised labour stating that it increased administrative work of recording increases the cost to labour.

3.3.5 ESTA

The Extension of Security of Tenure Act (ESTA) was implemented in 1997. Its main purpose is to give security to people residing on farms, many of whom do not have an alternative living space. It was also geared to protect labour tenants against illegal evictions emanating from the anxiety farmers had in the early 1990's concerning the upcoming land reform programmes. This legislation was important in protecting the land rights of poor labour tenants against illegal evictions off the land of their birth. The law, in conjunction with other the land reform programmes that includes land restitution and land redistribution is also aimed at bringing back the smallholder farming rights of African labour tenants. Unfortunately, this law like other land and labour legislation has had some rather adverse effects, as many farmers – in response geared up evictions of labour tenants and farm dwellers on their farms.

ESTA proclaims that no person should be evicted from that she or he has permission to be living on, without a court order. The Act applies in all rural areas anywhere outside a proclaimed township and creates a procedure to be followed when applying for an order to evict people. Those who have lived on a farm for more than ten years and are over 60 years old or unable to work due to a disability are allowed to stay on the farm for the rest of their lives, unless they breach conditions defined in ESTA or in the agreement in terms of which they live or stay on the farm. In practice many people continue to be illegally evicted by owners who resort to extra-judicial means such as threats and intimidation
In 2003, the SAHRC found that court ordered evictions are a small percentage of all evictions and concluded that there is widespread non-compliance with ESTA (SAHRC 2003:177).

ESTA requires in terms of Section 9, notice of an intended eviction application to be served on the local municipality and the Department of Rural Development and Land Reform. However, the Department has no clear policy or procedure for how it responds to these notices. ESTA also requires that under some circumstances, occupiers should be given alternative accommodation if they are to be evicted.

Importantly in some cases, if a farm dweller right of occupation on land is deemed to have been due to their employment on the farm, their resignation from work or dismissals through proper procedures under the labour Relation Act is grounds for eviction. This has been held by courts to be the case, regardless of any longer history of occupation on the land by the farm dweller that in some cases predated the employment arrangement.

The Land Tenants Act as amended in 2000 provides labour tenants the same procedural rights as other land occupiers in terms of ESTA. This Act provided a time-limited opportunity for labour tenants to claim ownership of the land that they occupied and used. By the March 2001 closing date, some 20 400 claims were lodged and by June 2005, only 175 of these claims had been settled (DLA &NDA2005:61). One of the obstacles to labour tenants gaining ownership of land through Labour Tenants Act is the difficulty in proving that they are indeed labour tenants in terms of the Act. The LTA requires that any persons claiming to be labour tenants or providing labour to the owner of the land in return for the use of land, access to land being primary remuneration received from labour or their parents, grandparents had been labour tenants in the farm. These factors are quite difficult and expensive to prove in a court of law.

Famers have viewed ESTA as discouraging farmers from keeping labour tenants resulting in even stronger opposition from farmers to take in families (especially extended families) of their workers onto their land (Murray 2000: 140). The two prominent unions (Agri Sa and the Conservative Transvaal Agricultural Union) representing the interest of farmers and landowners have taken it upon themselves to educate their members about this legislation with a view to discouraging their members from further accommodating farm dwellers and labour tenants.

According to a research conducted by Simbi and Aliber (2000: 25) in the Northern Province, farmers perceive the ESTA to be responsible for a large decrease in employment. It not only discourages farmers from having people living on their property, it is even a reason for reducing the workforce as such. The law stipulates the procedures that have to be followed to evict people from their land, which can now only be done by an order from the magistrate's court. The strongest protection is given to those who resided on the farm prior to 4 February 1997 and to those staying there for more than 10 years (Taylor 1998b).
Labour representative have criticised the inability of ESTA to holistically protect all those that have been victims of illegal evictions prior 1994 to the implementation of the law. Rights for long-time residents are

deemed not to be strong enough and there is no specific tenure protection for women and children (Cosatu 1997).

Another shortcoming of ESTA is that its fails to create a procedure, through courts or other structures for farm dwellers to be able to get confirmation of their rights to land. They are left waiting to use the limited procedural rights afforded by the Act to defend themselves, if and when a landowner initiates an eviction process. Section 4 of ESTA empowers the Minister of Rural development and Land Reform to create long term tenure security for occupiers as defined in the Act and others, but this provision is hardly used. Without long term tenure security, farm dwellers continue to live as tenants on other peoples land and even where evictions are prevented, ongoing harassment is common.

Farmers and their organisation have viewed this legislation as one that would create additional housing cost for them in the long run. Farmers are opposed to this law, because it means that people not working for them anymore are taking up houses, and in order to take in new workers and allow them to live on the farm, new houses have to be built (Taylor 1998b: 5).

According to (Husy & Samson 2001:20) "Many instances are emerging where farmers are refusing to build or maintain new or additional houses due to concerns relating to the establishment of new rights by farm residents. Equally, it would appear that existing land access rights for farm workers are being eroded, while very few new or additional rights are being created"

Additional to the concern raised by farmers is the burden of going in and out of court to obtain an eviction court order. Farmers also argue that accommodating people on their farms devalues their property and jeopardises their chances of selling their property in future. Further complaints are that the more people there are living on a farm, the more range there is for conflict as well as illegal activities (such as shebeens or crops getting stolen from the fields). The latter is deemed especially high if the people merely live on the farm property, but "do not belong" to the farming enterprise.

As a consequence of all these problems, farmers are more reluctant to build new houses or to provide housing to newcomers, even if houses are available. Farmers perceive ESTA as a disincentive to invest in decent housing, as the law stipulates that alternative housing of the same standards has to be accessible if the residence is terminated. Hall thus observes that evictions are still taking place and there is little fear of consequences, as supervision is lacking (Hall, Kleinbooi & Mvambu 2001:4).

According to (Wegerief, Russul and Grundling 2005: 47) the primary weakness in the implementation of ESTA is that the responsibility has been left with farm dwellers to defend their own rights with no effective support. The Legal Aid Board (LAB) is the state institution responsible for the provision of legal

services for indigent people, but it has tended to prioritise criminal defence work. The LAB have in the past attended less to victims of evictions in terms of providing these people the support by providing them with advice and also giving legal advice and procedures as part of it responsibility. Therefore LAB has not made dedicated resources available for this type of work or developed systems that could reach farm dwellers, for which it is difficult to get to the towns where LAB Justice Centres are located.

Less than 10% of farm workers are unionised, and these unions tend to be weak and under-resourced. Farm dwellers who are not working are even more poorly organised, while the state has been largely reactive and has done little to create awareness amongst farm dwellers as to their rights (Hall 2003:9) This again proves correct the assertion that labour and tenure security legislation does not improve the lives of farm workers and farm dwellers, especially if not monitored and enforced by the state.

3.3.6 EEA

The Employment Equity Act of 1998 is intended to promote "equal opportunity and fair treatment in employment through the elimination of unfair discrimination; and to implement affirmative action measures to redress the disadvantages in employment experienced by designated groups, in order to ensure their equitable representation in all occupational categories and levels in the workforce" (DoL 1998a).

This Act is also protects against direct discrimination, the practise of giving women farmers less wages and few benefits than to men. This legislation also protects against indirect discrimination which seeks to prevent the practise of discriminating against women by not allowing them to do certain kinds of work and limiting them to jobs of less experience and value. Most women farm workers are accorded less benefits and lower wages because of their gender.

According to this Act, medical testing, HIV testing and psychological testing as a prerequisite of employment or among the work force are not permitted. Labour disputes must be referred to the CCMA, who will attempt to reconcile the dispute. If this fails the dispute may be referred to the Labour Court.

Affirmative action measures in the workplace include

- "measures to identify and eliminate employment barriers which adversely affect people from designated groups;
- measures to further diversity in the workplace;
- Measures to reasonably accommodate people from designated groups to ensure that they enjoy equal opportunities;

- measures to employ and develop people from designated groups and to implement appropriate training measures; and measures to ensure that suitably qualified people from designated groups are fairly represented on all occupational levels in the workplace" (Taylor 1999: 3).

According to (Orr & Goldman 2001), the EEA does not prescribe certain measures, "but rather encourages firms to develop targets appropriate to their conditions". The Act advocates for the drafting of an employment equity plan, with the participation of the employees, submitted to the Department of Labour and subsequently implemented. The Department of Labour is then responsible for monitoring compliance with the act and labour inspectors may issue compliance orders. If this fails to be effective, the Labour Court can fine the company in contravention up to R500 000 for the first offence and up to R900 000 for subsequent offences (Taylor 1999: 5).

According to Taylor (1999:5) in commercial agriculture, the underlying objectives behind this legislation is to assist women who "are significantly under-represented within the core of permanent workers" and on "job grades requiring greater skills", as women "have [in many cases] been denied access to training and skills development" (Taylor 1999: 5). This is to protect against the discrimination women in the workplace, from being subjects of less paid work without benefits.

According to (Taylor 1999: 5), "Some of the most important factors [for success of the legislation] involve a shift in thinking about traditional roles at the workplace and within society; the willingness to give women workers new opportunities at the workplace, and the willingness to provide significant support to women workers on a range of different levels" Again given the fact that this Act requires the submission of employment equity statistics to the Department of Labour by companies, in the commercial agricultural sector it might again create additional administrative duties already resented by farmers which can trigger reluctance to comply.

According to (Orr & Goldman 2001), "Where there is significant willingness and commitment to achieve affirmative action and a balanced union-employer relationship, such an approach could work well. However, in a situation where there is overt and covert resistance to equity and the elimination of unfair discrimination from management and low levels of meaningful participation from workers, the outcomes are not likely to be progressive".

3.3.7 LRAD

The Land Redistribution and Development Programme (LRAD), a Land Redistribution initiative by the Department of Rural Development and Land Reform aims to redistribute land to black farmers and farm workers as part of the National land reform programme which includes land restitution, land redistribution and land tenure reform. This programme is also aimed at helping emerging farmers, farm workers and labour tenants to acquire land of their own. However the challenges with this are the profitable usage of the land by farm workers and labour tenants after acquiring the land. Without business management and intense agricultural training there is little hope for this programme to be successful and achieve its objectives.

Under this programme, government subsidies would be much larger for African farmers investing other funds of their own; in other words, the larger subsidies would be given to farmers with funds of their own already (see Seekings & Natrass 2005). Again given that farm dwellers and labour tenants are poor people, they are unlikely to benefit from this legislation. Also of note since government explained this programme in terms of BEE and its objective to deracialise land ownership (see Greenburg 2003) this policy is not likely to be welcomed and supported by the farmers, who have come public against support of any BEE and Affirmative action initiatives.

Also a study of LRAD projects in Limpopo found that, out of 251 beneficiaries, only a single one was a farm worker. Further the study established that workers employed on the land acquired are paid far below the minimum wage (Wegerif, 2004: 37) Aside from not benefiting, farm dwellers and farm workers can be at risk from land reforms as they are displaced by new land owners and occupiers. The lack of focus on farm dwellers in the implementation of land redistribution programmes is unfortunate and surprising given that the intensions of all policies identifies them as primary beneficiaries.

(Williams 1996:216) has pointed out that where labour tenancy continues to flourish, farm workers are often amongst the most skilled and experienced workers. Despite this, land redistribution has not been accessible to farm dwellers. Farm dwellers also lack access to basic information such as the location of Depart of Rural Development and Land Reform offices and the Department has not taken proactive steps to reach farm workers or farm dwellers. What is also off concern is that, there is no guarantee that these new emerging farmers would solicit good working relations with farm dwellers or labour tenants including protecting and securing their land rights.

However in the light of intense global competition, new entrants to commercial agriculture are at a huge disadvantage. The lack of support to emerging farmers by government might prove to a problem and may lead to a loss of productivity or illegal fronting whereby despondent emerging farmers might lease out the land to the previous owners.

3.3.8 SDA

The Sectoral Determination Act for Agriculture was implemented in 2002 and the major part of this legislation, which is an addition to the BCEA of 1996, is the setting of a minimum wage for farm workers. The minimum wages are administered according to two different areas. In high yielding/more urban areas higher wages are administered. When implemented, the wage for low-yielding/more rural areas (Area B) was R650 and R800 in high-yielding/more urban areas (Area A). These are raised by 10 per cent each year, now standing at R 713,65 for Area B and R871,58 for Area A. Regulations on how this wage has to be paid out are set out as well. Deductions for payments in kind, e.g. for housing which has to be of a certain standard, and for food, are not allowed to exceed 10 per cent of the farm worker's wage. Exemption from the new legislation can be issued by the Department of Labour (DoL 2002a).

The main purpose of this legislation is "aimed at eradicating poverty, protecting the rights of vulnerable and and to prevent the exploitation of farm workers. This is a landmark legislation aimed at increasing the standards of living of farm workers as well as restoring their dignity. According to the report to the Department of Labour on Employment Conditions in South African Agriculture (DoL 2001b) the aims of implementing a minimum wage law in South African agriculture are

- to improve the conditions of employment,
- to reduce inequality between agriculture and the rest of the economy, and
- to reduce inequality within the agricultural sector and improve the situation of the worst off or most vulnerable.

However organised agricultural unions such as Free State Agriculture union (FSA) and Northern Cape Agricultural Union (NCAU), under Agri SA, predicted major massive retrenchments if certain provisions in the sectoral wage determination for agricultural was not changed and more consultation be expanded to organised agriculture. The then Minister of labour then Membathisi Mdladlana,, claims that "It is unacceptable for farmers and their organisations to threaten agricultural workers in order to score political points," News 24 (2003-02-06). Minister Mdladlana further warned farmers that any retrenchment of workers must be lawful and must comply not only with the provisions of the new Labour Law amendments and the Basic Conditions of Employment Act, but also with other relevant legislation, including the Extension of Security of Tenure Act (ESTA).

The opposition from farmers related to the opposition to zoning i.e. the division in high-yielding and low yielding areas, the 10% amount allowed to be deducted from workers' salaries for meals, housing, transport which farmers argued did not cover all their expenses and many refused to undertake

measures to keep their cost low as possible. This led to some farmers not complying with the regulations set out by the legislation at all and with others opting to shut down farm shops. This disadvantaged farm workers as generally farms are far away from shopping centers creating additional burdens and frustrations to the already disadvantaged farm workers. According to Grub (2005:64) deductions for housing and transport were the major cause of illegal strike at ZZ2, South Africa's biggest tomato producer in the Limpopo Province. As a result of these deductions, workers were left with a lower wage than they had been earning before the introduction of the Sectoral Determination. ZZ2 farm management responded by dismissing 1 102 mostly permanent workers and evicted them from the farm. This affected about 12000 family members and forced children to leave the farm school abruptly Grub (2005:64).

Again, this legislations just like the other previous legislation on agriculture, further shows lack of willingness, commitment and differences in opinion on strategies to improve the livelihoods and conditions of farm workers by responsible parties including government and farmers. On the ground the differing opinions between government and organised business has contributed to further undermining employer-employee relations culminating in a massive job losses and massive industrial action example the 2012 Western Cape strikes over minimum wages that completely shut down agricultural production for over a month.

4 RESEARCH: The Extension of Security Tenure Legislation, Evictions and the intimidation of farm dwellers in Randfontein and Mogale City, Gauteng Province

In the following I will first introduce Orient Hills informal settlement and Greenway farm located in Taralton an area under the Mogale City Municipality and the Marolien and Vlaaikop farms, under the Randfontein Municipality, where I did my research. All cases present a unique story related to forced evictions, intimidation and failures of land redistribution. I will then introduce the Justice Access Community of South Africa (JACSA), which is located in the area and through which I made my acquaintance with the location and its people. I will then explain my research methodology and cover possible problems in connection with the methodology. In the main section of this chapter my findings are introduced, beginning with the findings of each farm respectively. I will then proceed with linking the findings up with issues related to farm evictions and land insecurity. For this purpose ten sub-chapters will explore the different challenges and factors brought about by land insecurity and farm evictions.

4.1 RESEARCH AREA

4.1.1 Gauteng Province

The Gauteng Province is South Africa's smallest province (17 000 square kilometres), but also the wealthiest and most densely populated when compared with the other eight provinces. A fifth of the nation's population (8.8 million people) live in Gauteng, creating a land redistribution challenge for national and provincial authorities. The province generates 34% of South Africa's GDP, and 9% of the GDP of the entire African continent. Although the province is almost entirely urban (97% urbanised), it offers fertile land for agriculture, with South Africa's farming heartland, the "maize triangle", crossing into the province. The agriculture sector is important to the economy of Gauteng because most agricultural produce is consumed inside the province and the sector is responsible for the employ of a high number of unskilled labourers from within seeking employment opportunities and from neighbouring provinces.

4.1.2 Mogale Area

In this area, my research is focused on the victims of evictions now residing at the Orient Hills squatter camp and two families residing inside the Greenway farm living in constant threat and fear of being evicted by the farm management. The views of young people residing in the area are to be considered by a separate group interview session with them. JACSA and three Community Development Workers (Cdws) working in the area also participate in the interview sessions.

The Mogale City Local Municipality (MCLM) is part of the Westrand District, which covers an area of approximately 110 000 hectares, with Krugersdorp as the major CBD. The City incorporates the previously racially divided black and white areas of Kagiso, Munsieville, Rietvlaie, Heckport, Kroomdraai, Magalisberg, Muldersdrieft, Taralton, Azzadville, and Krugersdorp. The City otherwise known as the City of Human Origin is also home to the Cradle of Humankind a World Heritage Site. MCLM has the largest population estimated at 598 853 in the West Rand Region. The (MCLM) is twice the size of Randfontein and three times that of Westonaria. Mogale city have a strong agriculture sector. There is also mixed farming on offer in Mogale City that includes:

- Fruit orchards and vegetables;
- Flower farms that produce a good percentage of the flowers required in Gauteng;
- Instant lawn growers; and
- Animal farming, including chicken farms.

All the farms like the Greenway farm are within easy reach of the Joburg Market, Gauteng's biggest fresh produce market. Most farms in the area are small scale to medium in size and many rely on labour intensive products (vegetables, fruits and flower farms). The farmers are organised and represented by Agriforum a regional body affiliated to Agri-SA. With the creation of municipal districts, farm owners have now become subject to the national law providing municipalities with the right to evaluate and impose rates on properties, including those in rural and farming areas from 1 July 2009. This saw the formation of the Magalisberg Region Rate Payers Association representing farm owners across the municipality. This has also led to evictions of farm dwellers by landowners.

There is a number of pending restitution cases from some of the evictee's of Orient Hills awaiting the opening of the claiming period. Numerous land redistribution cases involving the purchase of land by the Mogale municipality for human settlements have already taken place and a further 55 people benefited from land redistribution through the support of LRAD and JACSA in Masakhane just after Magalisberg.

A few years after the South African transition to democracy, the city has seen an increase in numbers of landless people. This is owed primarily to evicted farm dwellers from surrounding farms, and due to in-migration of people from within and beyond the borders of South Africa seeking employment opportunities in nearby farms. The farm evictions have resulted in the mushrooming of different informal settlements in and around the Mogale area, occupied by former labour tenants and farm dweller with no housing alternative. Moss Sekobane, the chairperson of JACSA estimates that there are about 350 evictions cases in the area of Mogale that left around 420 people homeless and forced to

settle in nearby informal settlements such as Orient hills, Norman Brickwales, Video center, Alsida, Mayford , Shisa phama, Mulderdrift, Becaendan, Swaartkop/Malinini, Kroomdraai, Gamaogale, Heckport, Smock down, and Matsalapad. All these informal settlements are situated in remote areas without access to basic services from government, economic opportunities and transport. Most of their residents are poor and illiterate, relying on government grants and seasonal work provided from time to time in nearing farms. In all these areas access to economic opportunities and information is limited.

4.1.3 Randfontein Area.

In this area, my research would explore two separate cases of intimidation, unfair dismissals, violence, racism, power abuse against farm dwellers refusing to be evicted. The case of the family residing in the Marolien farm in Brandvlie as well the family living in Vlaaikop farm just outside of Randfontein will be explored. Both these families face evictions and are subjected to daily intimidation and live in constant fear.

The Randfontein Local Municipality (RLM) falls within the borders of the West Rand District Municipality, as one of the three local municipalities and it is part of the Gauteng Province. It is characterized by higher levels of unemployment and poverty and low level of education and income. The location of the Randfontein Local Municipality, like Mogale city, is adjacent to the North West Province and makes it more prone to immigration from this province. The total population of Randfontein Local Municipality is estimated to be at 149,286 by the local municipality.

There is a huge agricultural potential and opportunity in Randfontein. Most farms in Randfontein are small to medium size and rely largely on labour intensive products such as vegetables, animal farming including chicken and herbs plantation like the Marolien farm situated in Brandvlie about 8 kilometers away from the town Randfontein. Randfontein just like Mogale City, incorporates previously racially divided areas such as Westegeloor, Randfontein, Homelake, Greenhills, Heliknpark, Randgate, Culeborpark.

4.1.4 Justice Access Community of South Africa (JACSA), my contact to the area and its population.

The Justice Access Community of South Africa is a non-governmental organisation, which was established in 2010 and has no sponsor and is financed by no one. The Chairperson Mr. Sekobane has been working in the area since 2005 as a project officer for Land Access Movement of South Africa (LAMUSA), before being elected to its board for three years. He has also served as a provincial chairperson of Gauteng LAMUSA servicing structures across the province of Gauteng. Mr Sekobane left LAMUSA to work for Nkunzi Development association also as a project officer after being recommended by the Rural Legal Trust (RLT) which was financing Nkunzi. Nkunzi Development Association (NKA) was established in 1997. Their goals are to providing a range of support services to historically-disadvantaged communities wishing to improve their rights and access to land. Until 2010, NKA and Moss managed to develop a healthy relationship with farm owners in the Westrand, create relations between farm dwellers and farm owners and won a number of cases for illegally evicted farm dwellers and labour tenants. But when the Rural Legal Trust funding from government was stopped, Nkunzi had to let go of Mr Sekobane in 2010.

Mindful of the challenges facing rural farm dwellers and labour tenants in the Westrand, Moss Sekobane decided to form the Justice Access Community of South Africa (JACSA), which he chairs and is supported by a handful of volunteers servicing the Westrand. According to Moss Sekobane running an organisation without funding is difficult and requires passion for the people you serve and love for the work which you do. He is hopeful that his organisation will one day receive government or private funding or office assistance to be able to meet up with all the challenges presented by post-apartheid land reform.

JACSA has neither a working office nor tools. It relies on the relationship it has built with the locals. Despite not having resources, it services are highly recommended by the locals including most victims of illegal evictions seeking Land Restitutions, such as the Orient hills community, and those families facing the threat of eviction from farms on which they used to work and reside for many years. JACSA offers and empowers rural poor communities affected by evictions with information related to land reform policies and assists them in reclaiming their land rights. This includes setting up meetings with farm owners and farm dwellers with a view to reaching amicable solutions preventing illegal evictions and restoring land rights. Should the amicable solution route fail, JACSA then refers all cases of illegal eviction to the Lawyers for Human rights, who represent victims of illegal eviction free of charge in courts.

Problems in the area that JACSA has identified are:

- High illiteracy rates
- Access to education
- Sheebeens
- Racism

- Malnutrition (especially of children)
- Abject poverty
- Human rights abuse
- Unemployment especially of the young people
- Violence
- Crime
- Lack of economic opportunities
- Lack of early childhood development
- Primary and High School dropout
- Transport
- Access to health services
- Hiv & Aids
- Lack of recreational facilities

A feeding scheme provides hunger relief and provides the community of Orient Hills with daily meals. Community development workers and caregivers from non-governmental organisation visit the area to provide free and voluntary services, aid and counselling to HIV&Aids patients in the area. I am a public outreach officer with the Gauteng Legislature and conduct education workshops in the area. That is how I came to know the area and its inhabitants and developed an interest in their fate.

4.2 Methodology

4.2.1 Formulation of research and first approach

The formulation of my research was influenced by the desire to understand and learn more about the reasons behind the actions generating problems in the area by looking at how the Extension to Security Tenure legislation changed the life of farm dwellers. The evictions approach seemed ideal for this purpose. I began this journey by talking to Moss Sekobane and Community development workers working around the area, all of them were very supportive of the idea. They then assisted me a great deal with identifying the affected areas and also providing me with their network and contacts.

4.2.2 Data Gathering

Given that, the overall study objective of this project was to understand the reasons behind the actions referred to above, I decided to do a qualitative study to look closely in the reasons for farm dweller evictions. Qualitative research aims to understand, explain the reasons behind human behavior. In

addition it seeks to understand a given research problem or topic from the perspectives of the local population it involves (Yin 2011:7-10)

According to (Yin 2011:7-8) the distinctive features of qualitative research are (1) Studying the meaning of people's lives, under real-world conditions, (2) Representing the views and perspectives of the people (3) covering the contextual conditions within which people live, (4) Contributing insights into existing or emerging concepts that may help to explain human social behaviour; and (5) Striving to use multiple sources of evidence rather than relying on a single source alone. This type of research method is very useful when trying to understand reasons behind human behaviour or actions. Like all other resign designs, qualitative research has its strengths and weaknesses; for instance in this case, while receiving data from the meanings of a small group of participants is its strength, the possibility of generalisation or data findings being unique and relative to that few group of participant is its weaknesses.

For the purpose of this project, I used structured interviews with individual participants and semi-structured interviews with the groups. The group interviews assisted in increasing participation amongst participants and gave more focus and direction to the study and issues that need to be explored in depth. Group interviews do not discriminate against people who cannot read or write and they can encourage participation from people reluctant to be interviewed on their own or who feel they have nothing to say.(see Kitzinger1995:299).

Since the study focused on participants who were evicted and facing evictions, the approach used in each case had to be different. I concentrated my research on evicted farm dwellers and labour tenants as well as people facing the prospect of evictions and did not include farm and landowners as this could put some of my participants at risk.

Before engaging formally on the project, I had my own observations of the area and general conversations with random people about issues affecting my research area. The data obtained from the formal interview session complemented the information and perspective obtained from general conversations and observations. This is not to say however that I imposed the data obtained from my observations and general conversations on the research, but it did stimulate my interest in further wanting to study and understand the problems of the area in more detail. Observations has a special merit in complementing and contrasting data obtained practically from any other research methods and assist with eliminating self-desirable responses of individual or group interviews. Research requires that we go beyond the subjective and impressionistic, we need to be aware of and, if possible, eliminate

bias, we need to be systematic and open about our procedures so as to open them up for public scrutiny so that others may check the bases on which we reach conclusions (see Hannan 2006)

For this project, the data gathering process took almost the whole month. I began the process by doing site visits and drove around through the area. Given the recent violent service deliver protest against government in and around Gauteng and also considering safety the fact that I work for the public sector, it was in my own interest to scan the environment and consider safe and risk issues. However my JACSA contact in the area legitimised the purpose behind my engagements.

All the areas where I did my research are Setswana speaking areas. Moss Sekobane, the chairperson of JACSA assisted with some of the translation. I introduced myself and the intentions behind my research objectives. I outlined all the procedures and process that I have followed before conducting this research related to ethics. Moss and I guaranteed that all information would be confidential and anonymous, in case they agreed to participate on the project. I also explained the fact that I was not going to be speaking to any of the landlords or farm owners. I was then welcomed and we agreed on the dates to meet and do the interviews.

In total five group interviews sessions were arranged and conducted in the area of Orient Hills. All five interviews took place at a local shebeen. In all the group interviews, the chairperson of JACSA, as well as three Community Development Workers (cdws) working in the area was present assisting with translation. Before I began each interview session, I explained the aims of my project and guaranteed confidentiality. Each group interview was semi-structured and began with participants introducing themselves, stating where they were born, how long they have been staying in the area, why did they move to the area, their family status and living conditions. Then questions related to challenges in the area were also asked. There was also open time for discussions on any other business, questions and complaints. The group discussions took approximately an hour thirty minutes. I then did individual structured interview with a male shebeen owner, a local women activist and an official from and NGO called POPA (People opposing people abuse) which is a local feeding scheme that providing daily meals for all residents of Orient Hills squatter camp. The NGO also have caregivers that assist people living HIV&AIDS in the community. The Community Development Workers members are close to the NGO and they introduced me to the organisation. With the help of POPA and my own observations, I was able to get more insight into the socioeconomic issues and challenges faced by the area and its people.

Still in the Mogale area at Greenway farm, I had one interview with the two families living side by side in the farm precinct. Given that it was just two families group interviews were not possible. In these interviews I was accompanied and assisted with Moss Sekobane. The interviews lasted for about forty five minutes. Again, Moss Sekobane introduced me to the families and we both guaranteed to keep the information received from the interviews confidential and their identity would remain anonymous. Importantly, I emphasised that the farm owner was not going to be interviewed and he knew nothing about the study. The interview took place during lunch time during the week, as all family members from the two families are unemployed scheduling was not much of a problem. I did in-depth semi-structured interview with both families and allowed discussion to flourish for increased participation and I was also able to make my own observations. Moss Sekobane, who is well known and respected by the two families was part of the interviews and did all the translations. Even though the Cdw had shown interest in participating in the interview sessions, the family members disapproved of their participation.

In the Randfontein area, I had two separate interviews with two families living at different farms named Marolien farm and Vlaaikop farm. Again in both farms I did in-depth semi structured interview sessions with the family members as group interviewing was impossible. In all the interviews, I was accompanied by Moss Sekobane who introduced me to both families. We explained to both families about the project and guaranteed confidentiality of the information disclosed and that their identities would remain anonymous. Importantly I also explained to both families I was not going to inform the land and farm owners about our interviews. For the Vlaaikop farm, I also had informal conversations with police officers from the Randfontein police station. My efforts to get an interview with regional officials from the Department of Rural Development and Land Reform officials in Randfontein proved unsuccessful.

4.2.3 Data Analysis

All the data collected in the data gathering process need to be sorted out, analysed, evaluated and interpreted according to the context and circumstance in which the data was gathered.

My data include

- Group interviews with farm dwellers
- Group interviews with youth community members
- Individual interviews with families
- Individual interview with shebeen owner
- Individual interview with a women activist

- Informal conversations with JACSO Chairperson
- Informal conversations with representatives from POPA
- Informal conversations with Community Development workers
- Informal conversations with Officers from Randfontein Police Station
- Informal interviews with other people in the area
- Field notes and observations

After completion of my research interviews, I was left with a lot of data that need to be analysed and cross checked to ensure reliability, validity and consistency. This process necessitated an examination of similarities and differences in all the information obtained. This was achieved in during the interview process where I was able to establish consistency and relevance to a particular claim by comparing one interview with another. In this way I was then able to identify people who shared similar experiences, opinions and views. This process required thorough examination of my notes taken during the interviews and also carefully listening to the transcripts of the recordings.

4.2.4 Data Reliability and Validity Problems.

This research project did not interview land owners, farmer unions and farmers and relied heavily on data and information given by farm dwellers and the other participants could render the research findings biased and subjective questioning the reliability of the data findings. To circumvent such personal bias and subjectivity, I had to expand my sampling and get data from different levels and sources and objectively select the participants to be interviewed. Also the information received from informal conversations and my own observations helped to overcome information gaps.

In all the areas, low levels of service delivery from government have created a sense of resentment, distrust and unhealthy relations between the people and government especially with local councillors representing local government in the respective areas. In addition to this, my study and the interviews coincided with the year the country will have its national and provincial elections. I am known in the area as being a representative of the government provincial government and this could have easily led to misrepresentation of information or even the possibility of my work being viewed as part of some government programme or initiative. I needed to tread carefully on this issue to avoid compromising the reliability of my findings. Also because almost every household in the area are recipients of some form of government assistance through foster care and pension grants and so on there was the possibility

that participants would give data which they might think would best satisfy my objectives as a perceived representative of government in fear of losing further government support.

However because I was working side by side with Moss Sekobane who is trusted and respected in all the areas I did not experience trust problems. In all the interviews I was warmly welcomed and everyone wanted to participate honestly according to their own experiences. It was only in the case where I conducted interviews with the families, that they insisted that the community development workers should not be part of the interviews. According to my observation this was not related to issues of fear and trust but was an issue of not wanting too many people to be seen at the farm. In the Randfontein police station, I was also welcomed and the officers were willing to engage with me freely.

The presence of JACSA in the area which is well known because of the work it does in assisting and restoring land rights of the landless itself might influence the way the participants responded. However I did not pick that up at all in all the interviews which I have conducted, this couldn't have been the case because JACSA did not determine the areas of the study but provided an advisory and supporting role. In addition to this, according my understanding and our agreement, JACSA and the Community development workers were to remain objective and neutral throughout the study and this was something we always emphasised throughout.

4.3 Research Findings

In honouring my commitments given to all those that participated in the research, I will keep all identities anonymous. With constant intimidation, fear, threats of evictions faced by farm dwellers especially by those still living within the farm precincts they still agreed to talk to me and this shows how important these issues are to them and how much they wish their problems can be solved.

I will now proceed by describing each area separately as well as the responses obtained from the people in that area. After presenting the findings in the context of the separate areas, I will then relate the findings to the living conditions of the people in the area and the challenges they are faced with every day. For this purpose I will use all the data gathered during the data collection process.

4.3.1 Orient Hills

The Orient Hill is the biggest informal settlement Under the Mogale City Municipality. Most people living in the area were evicted from small farms around the area. It is essentially a displacement area of previous labour tenants or farm dwellers. The area also accommodates homeless people coming from

the North West province seeking employment opportunities in Gauteng as well as foreign National coming from Zimbabwe and other African countries also seeking to better their economic prospect. The Orient Hill area is privately owned and does not belong to the Municipality. The area is away from government services and does not even have a school, clinic or community hall. It cost R12 to go to Magalisberg the nearest town for house supplies and R13 to travel to Krugersdorp to access most government services. Most people in the area are unemployed, illiterate and do not have any formal educational qualification. Their main source of income is government grants and they are also assisted by the monthly food parcels they are handed by the Department of Social development as well as the feeding scheme that provide daily meals in the area. The trend is that most males living in the area wake up every morning to stand on the road crossings with the hope of finding some form of employment from nearby farms and this is something I have observed myself and was confirmed during the interviews.

Before Orient Hills became an informal settlement accommodating destitute people without land, it was a tourist stop owned by Mr Koefer, a business man. The Mr Koefer family decided to close the business in 1995 and left the land vacant. Since then, the land has been home for farm dwellers evicted from nearby farms with no other living alternative. The Orient hill land is still owned by the Koefer family. Before Mr Koefer passed on, he made attempts to get the municipality to purchase the land but this has not materialised up until today. Mr Koefer said if the land was not bought by the Municipality, he would donate the land to his church, who will then decide what must be done with the land.

Interviewee number 1 was an individual, structured interview with a former labour tenant who has stayed for fifteen years at Orient Hills. The interview was done in the presence of the man's wife who assisted him with remembering some of the things. The man was previously a labour tenant together with his wife and they both stayed on farm precinct where they were working at. The man is now a well-known local sheeben owner and we conducted the interview at his premises. He explained that he was living a much more comfortable life at the farm where he had an income, running water, electricity and safety compared to the current conditions under which he is living. He explains that the main reason for his eviction from the farm hold was when he lost his job and was then forced to leave the farm in 1998. The man conceded that they had healthy relations with the farm owner and had never experienced any problems before.

The wife even remembered that they usually had relatives coming over from Northwest to stay at the farm with them which the farm owner didn't have a problem with. The interviewee explains that they woke up one morning and they together with three other families were told they had to leave the farm

because there was no longer work for them. At the time of evictions the interviewee explained that his wife had two children that were born at the farm and went to a nearby farm school. The evictions process had a negative impact on the education of their children. Explaining the manner in which they were evicted, the man sobs and explains that they were told to go and bring back all the keys and vacate the house. There was no prior warning or process that was followed before they, together with other families, were evicted from the farm. The interviewee number 1 said they simply complied with the eviction because they didn't know of any law protecting them from illegal evictions and they couldn't complain because they didn't have any lease agreement or contract and also during that time evictions was a common process around the area of people relocating to Orient Hills. They then simply complied and left as the land owner was violent and threatened to take their belongings and burn them if they didn't move out.

As for the illegal shebeen business, the man acknowledges the business is illegal but says he is left with no choice. At the end of the day I need to provide for my family. He shows me four grandchildren and says all of these kids are now his responsibilities, after his daughter left them. The kids run around the shack as we speak.

Group Interview number 1, was conducted in the shebeen owned by individual interviewee number 1. Here I used a semi-structured interview. This was a big group comprised seven males and six females. None of the participants in the group know each other very well. They all had worked and lived on the farms for more than fifteen years before they were evicted. The group shared their different experiences about farm life before and pointed to the reasons why they were evicted. Most evictees in this group think the reason why they lost their jobs and were later evicted from the farms was because of the new agriculture production methods which rendered their labour redundant.

As one female participant put it, our farm owner purchased big machines which at first we thought were going to make our work easier, little did we know that the whole idea behind these machines was to replace us. The only people that benefited from the machines were a few males who could drive the machines and those given the opportunity to control them. The machines were just a disaster for women who were employed as pickers in the farms. Shortly after the machines were in operation many workers were then asked to come to work twice a week. The farmer then suddenly visited our living areas a lot but no one saw it coming that one day most of us will be asked to leave the farm altogether to find work some were else.

Those who stayed behind were the families of the male workers who were given the opportunity to learn to operate the machines and those who could drive. What was more painful to the workers was the new reality their kids were being introduced to having being born in the farms. This ushered a whole new change for not just the workers but their kids who were still at school. After evictions most people went to settle at nearby squatter camps with the hope that they would find a job elsewhere. Again with this group no participants knew about the Extension of Security Tenure legislation or any other land reform government initiatives. The first time they heard about such legislation was when they came to contact with the Nkunzi development association, but according to them they think it's too late go back and make any form of land claim.

Group Interview Number 2 was also a semi structured interview. This was also a big interview attended by 15 participants 10 Males and 5 Females. The group were asked to introduce themselves and share their personal experiences of farm life and what led to their displacement. In this group four participants revealed that their evictions came about when three nearby farms merged into form one big farm operation that specialised in producing carrots. The workers were told that their living area needed to be utilised and they have to move. The worker remembers that the last work which they did was to assist in fencing the farm and it was done by Males only who themselves were evicted afterwards. They voiced concerns and complaints over the graveyards sites of their families who were buried at the farm but were met with disrespect and violent threats and impatience by the new owners.

Even though we voted but we knew that freedom only existed in the townships not in a farm owned by a white men, when you told to go you must oblige otherwise something bad will happen to you. People lost faith and vacated the farms with their pots in their hands. What was more painful was that in the farm we had grazing land which we were able to cultivate for our won food security because there was ample space and the farmer didn't have a problem. Now we live in shacks and don't have any space to even put a food garden.

Group Interview Number 3 was also a semi structured interview. This interview was attended by 11 participants 5 Males and 6 Females. Some participants in this group blame the way in which ESTA was implemented by government. The workers claim that everything was going well in their farm and workplace. Even though the pay was good but they had the benefit of the land and other basic services and the fact that their children were able to go to nearby farm school. According to the workers, the farm owner gave them an overnight notice and told all of the families living in his farm they should vacate the land and find alternative living space because the government wanted to regulate, control and take decisions over his land through new racist laws. The workers said that the famer did not

essentially fire them from work but told them to find alternative accommodation. According to these workers this was just a polite way of firing them because he knew they would not be able to afford to travel to and from work without transport assistance. The evictee's suggested that government implemented ESTA there at the top but did not make any effort to ensure that it works on the ground and actually support the people it's intended to protect.

According to my conversations with the officials from POPA the NGO who have been working in the area for a very long time providing daily free meals and also offering counselling for HIV&AIDS victims to community members, the impact of evictions has taken its toll on the local people.

Almost everyone in the area is unemployed and some do not even bother to look for even piece jobs, others do not have identity documents because they don't know when they were born. Social decay is rife amongst the adult community in the area, almost all the adults in the area are alcoholics who drink cheap home brewed alcohol produced in the shebeen. They don't even care about their kids. This is something I also observed during my time in the area.

Group Interview Number 4, was also a semi structured interview. This was also a big interview attended by 17 participants 12 Males and 5 Females The fourth group interview confirmed most of the issues that were alluded to above and even the modus operandi used by farm owners to evict farm dwellers. One male participant claimed that there is a former evicted labour tenant in every group of males standing along road stop signs, robots and outside farms, anxiously on the lookout for a white man driving a van seeking day workers. The evictee claims this is the current situation in farm employment. There is absolutely no permanent work and farmers do not want to provide accommodation for their employees. There is a new generation of farm workers with no job security and living in strategically positioned shacks settlements that are near the farms areas. Some of the evictees in this group revealed relocation has created female headed households. After evictions, some male were lucky to find employment in the Mines or in urban areas and never return. These Men left their wife's and children behind in the informal displacement settlements.

Looking at these accounts, there is no clear evidence that the Extension of Security Tenure Legislation was able to curb eviction and this raises serious questions about the effectiveness of implementation of the legislation, as well as the impact of government tenure reforms programme. The objectives of the security reform programme was designed for addressing inequalities between owners and occupiers by formalising informal rights, upgrading weak rights and setting in place restrictions and a clear legal

procedure to be followed by land owners when attempting to evict farm dwellers. On the basis on the findings of this study, the objectives are not being met.

The majority of the farm evictees did not appear to be aware of the EXTSA legislation during their evictions or have access to any legal recourse until Moss Sekobane of JACSA formally educated them on this piece of legislation protecting their land rights. It is therefore not surprising that none of these victims ever challenged their evictions. Overall the findings highlighted the need for government to educate farm dwellers about this legislation and also empower non-governmental organisations such as JACSA with the necessary resources to enable them to carry out this work at a ground level.

From all the conversations I had with the women and men, it seems that they see their evictions from the farms as the reason for their current adverse social conditions. Even though living conditions were not great in the farms it was better than what they are currently living under. According to the responses from group five, farm life provided wages, housing, water, electricity, and transport for our kids to schools, food security and credit. All these provisions were taken away when we lost our jobs and evicted from the farms. Even though the farmer was cruel sometimes but there were times where we had emergencies and we borrowed money from him and he will take it from our weekly wages. One participant from the group blames his evictions on the introduction of minimum wages. He says whether the intentions were good or bad, it took their jobs and benefits associated with farm employment away from them.

The last group interview comprised of only young people living in the area. All of them were born and raised up on the farms and attended farm schools. As expected of young people, the group was full of energy. This interview was attended by 15 Females and 9 Males. The group detailed the impact evictions had in their lives. This is something which I will cover later on. Importantly, the findings from this group presented an interesting dimension to my research related to land corruption and the deception of the poor to advance sectional interest of the ruling elite. The Youth of the area accuses the local councillor of corruption, deceiving their parents and benefiting at the expense of the destitute and poor.

The local councillor wants to use poor people of Orient to advance his own selfish interest. The councillor has a corrupt relationship with a housing developer owning a large piece of land and wants to use that land to build low cost bond houses around the area that is near Orient. The landowners and farmers around the same area have come out against building of any houses next to their properties including RDP houses. The ploy is to have the local councillor convincing the community of Orient hill to believing that the development is in their interest, so that the farmers and landowners resisting the development or the building of townships next to their farms would give in to the pressure exerted by

the community. At the end of all of this, our parents and the community of Orient hill won't benefit from nothing; they will just be used as has happened over the past years. The only person who would benefit is the developer and the councillor. There are lot of tension in the area as a result of this. The local councillor is not wanted by the residence of Orient hills which accuses him of corruption and abuse of power.

The above issue was confirmed by the interview, I had with a female local activist and my informal conversations I had with the community development workers. The women activist reveals that part of the reason the land has not been purchased from Mr Koefer's son is that the local councillor stand no chance to benefit from the sale of the land and that is why he is not pushing for the rural people to get decent shelter from government.

Until Koefer's son comes and meet the councillor the deal will never materialise. It works like that here says the women. If Koefer junior is not willing to give the councillor anything, there will be no land redistribution. For as long as Mr Koefer junior doesn't realise this, the local people will suffer or eventually be kicked out by Keofer junior. It is not about seeing the people restore their dignity it's about the benefit of the elites in Mogale city. Land redistribution can only happen if it is favoured by them (governing elite) showing me a newspaper article by farm weekly, whereby the municipality purchased an inflated land in Hekport for human settlement. The municipality purchased this land from a person someone who has just purchased the very same land from a white farmer at much lower price for half compared to what he sold the land to the municipality. The interview revealed that the land redistribution process is thwarted by such greed and act of corruption in the city council. Again this was something confirmed by JACSA. The interview with also revealed corruption related to the provision of water in the area. As per the Municipality, water is supposed to be provided every day to the community but the service provider provides people with water twice a week. As a result, the people in the area especially the Youth are at a disadvantage.

4.3.2 The Greenway farm

Greenway farms (PTY) LTD, located in the 'highveld' of Tarlton, Gauteng Province (about 75 km west of Johannesburg), South Africa, was established in 1992 when Vito Rugani & Vincent Sequeira went into partnership to merge their two separate farming operations. During this time they were general vegetable market gardeners, growing several types of vegetables for the South African National Fresh Produce Market.In 2000, they decided to revise their strategies. Due to the similarities in climate, they visited carrot producers in Australia. After the visit and after receiving some advice and mentorship from an Australian grower, they decided to specialize in carrot production.

Today Greenway farms are now leaders in hydro-cooled carrots in South-Africa. Greenway Farms carrots are marketed under the “RUGANI” brand. A Rugani carrot is a proudly South-African product, grown in the Highveld of Tarlton, Gauteng and Bokpoort, Limpopo. The farm has carefully selected these lands to ensure ideal growing conditions for their crops throughout the year.

Here at the Greenway farm live two families residing in the greenway farm precinct and in constant threat of evictions and intimidation by the farm supervisors. I began the interview by introducing myself and stating the objectives of my research. The interview was attended by four members of each family and I decide to a have a semi-structured interview because it was a big group. I was accompanied by Moss Sekobane in this interview whose organisation has been working with both families. According to the two families, there were a number of workers who worked and resided with their families at the farm. All those families have since succumbed to the pressures of intimidation, violence, threats and abuse and left the farm to stay in nearby informal settlements. The heads of both the families are both pensioners and have worked on the farms before and after it was merged for over 45, they were also part of the interviews.

A number of fellow workers which they started working together with at the most passed away and others were tired of being harassed after the merger and left the farm in 1998. The remains of those who passed away were buried in the farm. Today their grave sites have been destroyed to allow for plantations and expansion of the farm. I was shown the pictures of the gravesite and shown the place where they were buried. Even the grave sites of family members of the two families were also destroyed. Only two families reside in the farm today. The families say life is terrible on this farm. We are constantly harassed and asked when we are leaving the farm. In the past we use to have our own food gardens and livestock. The farmer supervisor has since destroyed our food gardens, threatened to kill our livestock and closed off the water supply for both families. No relative is allowed to visit these families or stay over for the night and we are not allowed to extend the house. One family member says that it is like we are in a prison institution or in the days of Apartheid,
The only reason we have survived evictions up till this far is because of the intervention by Moss Sekobane, who was able to schedule a meeting with the farm management and that intervention rescued us. We cannot be evicted says one of the daughter, we were born here and both our fathers are pensioners and long-time occupiers that have worked in the farm for so long. Whatever they do harassing us will not work and we turn a blind eye to it but at the end we are now in an empowered position because we understand our land rights. We will never give up this land. The family says after

the intervention by Moss Sekobane, the farm owner promised to get them land but they are sceptical of this because they don't trust the owner anymore.

This study does not support the view put by most farm owners that there were fewer disputes between farm owners and tenants and fewer evictions prior to the introduction of land and labour legislations such as ESTA and Minimum wages, claiming that it was these Acts that caused much of the subsequent tension between farm owners and farm dwellers. Though the number of evictions escalated after the introduction of land and labour legislation as witnessed in the findings in Orient Hill, there is no basis for concluding that evictions did not occur before the formal implementation of land and labour legislation. What is significant here is that there is a need for the state, in particular the rural development and land reform department, to strengthen its educational programme and direct it towards capacitating and protecting vulnerable labour tenant and rural dwellers that are always at risk of illegal evictions.

4.3.2 Marolein farm (Randfontein Municipality).

The interview in Marolein farm revealed another incident of violence, intimidation, and abuse against a family residing at the the Marolien farm precinct. Marolien is essentially a herbs plantation situated in the area called Brandvlie under the Randfontein Municipality. The findings of this interview expose another case of farm dweller victimisation as a result of the Extension to security of tenure legislation. Here I interview a woman and her husband living under daily victimisation and threat by the owner of the Marolien farm. The women was a supervisor at the Marolien farm before she was unfairly dismissed and had worked and stayed for over 10years at the farm. The woman explains how she was fired. In December 2012, the wife of the farm owner told her to inform the workers as the supervisor that the farm is closing for Christmas break and will be opening the following year on January 3, 2013. She duly complied with the instructions and told the fellow workers. In January 3, 2013, she went back to work only to find that workers that were not residing at the farm had started working a week before. She together with another five of her fellow colleagues were the only one's working and living on the farm and were asked to come back the following week to attend a disciplinary hearing. None of them were represented at the hearing by anyone and found them guilty and they were then fired on the spot. The following day, the farm owner visited all the five workers and told them he is giving them until weekend to vacate his premises. All the five workers who, ironically, have stayed and worked in the farm for 10years, resisted this and asked for time to look for alternative accommodation. This family then contacted JACSA who then met the farm owner. After this, the farm owner has since cut electricity and water in their homes. The family live in constant fear and from time to time, the wife of the farm owner

passes by and called them kaffirs asking them to leave their farm in order to accommodate new workers.

Moss Sekobane says one of the challenges his organisation has with ESTA legislation is that while it protects farm dwellers from illegal evictions, it however does not provide mechanism for farm dwellers to effectively defend themselves. At the end the evicted people are on their own facing a landlord who can afford legal protection.

4.3.4 Vlaaikop Farm (Randfontein Municipality)

Here in Vlaaikop farm about 10 kilometres away from Randfontein city centre, I interviewed a family that has lived on the farm for over 40 years. This family is now subject to daily intimidation, violence, abuse and threat from a new landowner who is a beneficiary of the Department of Rural Development and Land reform, the LRAD programme that seeks to redistribute commercial agricultural land to black emerging farmers. This is a big family and as soon as they see us, all adult members (seven of them) become part of the interview. Here I learn that the head of the family passed away whilst working on the same farm in 1977, when it was still owned by the previous white owner who sold the land to government. All of the adults in the family grew up working and living on the farm and none of them had the opportunity to go to school because they were working on the farms. The mother who is now a pensioner used to be a domestic worker for the previous landlord and raised almost all their kids. The eldest son in the family worked for 32 years in the farm was approached by the old landlord to work for them but resisted because he thought things would be much better given that the new landowners are black.

The family says the previous landlord was not a bad person though he had his times. Even when my father passed away in his farm, he assisted with everything and really showed ubuntu. Though the previous landlords used to threaten to evict us, he never acted upon his threat. When the previous landlord sold the farm, he called a meeting and instructed us of his decision and told us the new landlord would continue working with us. When the new landlord came at first in 2009, she called me and offered the eldest son the job. She told me she doesn't know much about farming and I should teach him on how things are done in this farm and told me he was told by the old landowner that he could rely on me. I worked for about two months for the new owner. The first month he paid me an amount we did not agree on and told me he would add to it. The second month, he added what was left of the first month wages. I saw that this would not end and I stopped. The next morning, I did go and he called the police and claimed that I had stolen from her farm. I was then detained at the Randfontein police station for three days without a charge. On the fourth day, the police officers asked for a bribe I told them I don't have money and they let me go. Then a couple of days after this happened, the

current land owner came and asked the family to sign papers claiming that he found them a land in a RDP house in a nearby location, which the family disapproved. The family says that the woman and her husband walk into their household and threaten them almost every week.

The family says ever since the new owner took the farm there have been no farming activity done on the land as was previously the case when the farm was owned by the old landlord. There is a nearby farmer who comes and collects dry grass and pays the new landowner. The family knows of this because it something that used to happen even when the former landowner was still in charge. The department officials know that there is no farming activity done by the new land owner because they come every three months to inspect the land, as part of the requirement of LRAD to check whether beneficiaries are profitably using the land. But nothing is done to reprimand the new owner. The family suspect there is a corrupt relation between the officials and the new owner. The family says the Department is also aware that they are facing the threat of evictions and daily intimidation but nothing is done to rebuke the current landlord. The family says, the farm used to be the family's main source of income, now most of the family members who were dependent on farm employment are not working with the exception of the eldest daughter who is employed as a domestic worker in town.

Moss Sekobane says, he has made attempts to engage the Department or rural development and land reform regional office in Randfontein on the issue. The Department said they cannot act until they study the report from their officials and up until today nothing has been done.

To survive the family have their own garden and livestock and the landowner has threatened to demolish their garden. I observe that the house garden is properly managed together with the livestock. They say there have advanced and extensive agricultural skills and experience, which they learned whilst working for the previous landlord. In this house everyone knows agriculture, it is our life. They were surprised that the State did not consider include them in the deal to partner with the current landlord and perhaps things would have turned out well for everyone. The family is disappointed by government lack of intervention into this case. They reveal that they cannot let go of the land easily, especially because the grave site of their forefathers are also in the same farm. For this family, the policies of the new government have not brought about change in their lives but it has further weakened their land rights and created poverty and unemployment. This family argues that if government policies are unfair and benefits the rich at the expense of the poor.

Moss Sekobane went and confronted the landowner accompanied by the two members of the family. He told the farm owner that he is representing this family and if the owner wants this family out of his farm, he needs to do it without undermining the EXSTA legislation. Though there are still tensions and evictions threats, the landowner however did not denythat the family had rights to the land and has since committed to call the Department to resolve the issue.

My informal conversation with the Randfontein police confirm that reported cases of intimidation and violence against farm dwellers and labour tenants is rampant them. However Because the farm areas are far away from the police station, most farm dwellers don't even bother in reporting these cases any more. Most of them are accused of theft and when you examine the case there is no substance. The police say that farm owners take advantage of the economic position of farm dwellers; they use them and just throw them away because most of them do not have means for any legal recourse. Unfortunately as the police we have to follow on reports and do our job but we feel for these people, government need to strengthen mechanism that secure their rights (Informal conversations with Randfontein Police).

4.3.5 The Impact of land legislation on the livelihoods of evicted farm dwellers.

Farmers have responded in a similar pattern to land legislation that upholds and restores land rights of farm dwellers. (see Wegerief, Russell & Grundling 2005: 42). Most farmers and landowners continue evicting farm dwellers off their land. The consequence of evictions comes with loss of jobs and income for farm dwellers. Farm dwellers lose their jobs, paternalistic advantages associating with working in a farm, income, water, houses and their children's education is disturbed. Farm employment is therefore an important part of farm workers livelihood strategies. Here I will attempt to look at how evictions have impacted the livelihood of farm dwellers.

4.3.5.1 Education.

Most labour tenants and farm dwellers who were evicted from farms stayed with their families. At the time of eviction, their children were still at primary and secondary school. The farmers and landowners did not consider this when evicting farm dwellers. During the interview I conducted with the youth of Orient (most of who were high school dropouts) the reason most of them gave for leaving school was that it was a long distance to go to school plus you can't go to school on an empty stomach. Their parents were not working anymore and there was no income in the house and they were then forced to go and look for work in order to contribute to the livelihoods of their households. Also the schools were far from their new informal displacement homes. They got tired of walking to school early in the morning

on an empty stomach and decided to leave school altogether. It was better whilst we were still living in the farms, schools were nearer and we could just walk plus in that time our parents were still employed and ensured that we woke up and went to school. Now our parents are not working and all they ever do is sit in this shebeen and drink whatever little they get from piece jobs.

It's really difficult for these kids to go to school, firstly at home their parents are drunk half the time and kids take advantage of this and start developing new habits. In this area it is normal for kids to drop out from primary school. The dropout rates are worse in high school as most of them fall victims of peer pressure. Here there is no childhood development here. The Department of Education in Gauteng know about the challenges faced by the young and kids in this area. The Department have since provided a bus transporting primary kids and high school kids to nearing schools. The transport system is not efficient, conducive and sometimes don't come at all. When it comes because of the distance between different informal settlements areas, learners are always late to school. (Informal conversation, with the community development workers). This is something I also observed whilst driving in the area on my way to work.

The Youth Group interview reveals that sometimes there are factors that force you to leave school. This place is not a conducive environment for any leaner. There are no basic services in this area, you wake up in the morning and there is no water and no electricity in your home. It becomes more difficult in winter when you can't even force yourself to bath with cold water and paraffin becomes so expensive around this time. We had hopes and dreams but everything and all those dreams were just shattered when our parents were evicted from the farms. Now we are uneducated and unemployed.

Teenage pregnancy is also rife in our area, almost every girl child has a baby in this area and those babies survive by government hand outs and child grants provided by government. There are no youth development centres, recreational activity or library in this area unlike in townships and town areas. The Local Municipality does not employ people coming from informal settlements, they are biased towards youth in the townships such as Kagiso and Munserville. Even if there are employment opportunities, they never reach the people in this area as you have to go to Krugersdorp in town which cost R15 single trip to access this information.

Government always encourages people to go to Further Educational Training Colleges to finish and further their studies but this is impossible to achieve. All Training colleges are based in Krugersdorp town and if both your parents are not working where would you get daily transport fares to go and study. There is no access to education when you leave in this area. The National Youth Development Agency (NYDA) offices are also far away and not within reach for us, as their offices are based in

townships like Kagiso. We have been raising this with the government and local councillor of the possibility of having a satellite office of the NYDA brought closer to us but this has not happen and we think it never will. Other youth in the area have resorted to crime, robbery, burglary and gangsterism and all sort of illegal things. They call themselves the Casanova gang and commit horrendous crimes especially when they are under the influence of illegal drug substances and alcohol.

Moss Sekobane says, most of the youth involved in crime are discouraged work seekers, and when things don't work out the livelihoods of other people in the area or on nearing farms are often adversely affected.

School attendance and access to better educational facilities is necessary to ensure that farm children have better opportunities than their parents did. (Wegerief, Russul and Grundling 2005: 137).

4.3.5.2 Access to infrastructure

Farm dweller displacement areas of Orient Hills, Norman Brickwales, Video center, Alsida, Mayford , Shisa phama, Muldersdrift, Becaendan, Swaartkop/Malinini, Kroomdraai, Gamaogale, Heckport, Smock down, and Matsalapad are located in the periphery outside the reach of government basic services and basic infrastructure. Most people residing in these areas are unemployed and unskilled former farm workers.

Access to infrastructure is an important component of any sustainable livelihood and in South Africa this tends to be directly linked to the type of settlement people live in. In many participatory poverty assessments it has been found that a lack of certain types of infrastructure is considered to be a core dimension of poverty. The impact of infrastructure varies from health implications associated with poor water quality and poor sanitation facilities, to the effects of time spent collecting fuels and water that may otherwise have been utilised for other more productive activities (DFID 1999).

In Orient Hill, Vlaaikop and Greenway, lack of access to services and facilities such as water, sanitation, energy and transport impacts negatively on the sustainability of the livelihoods of households. Most of the people living in these households live at a basic subsistence level with their access to infrastructure limited by lack of money and suffer the total exclusion of access to services by farm owners. For example despite the families living in Greenway and Vlaaikop farm still living on the farm precinct, they are excluded from access to water and electricity by the farm and landowners.

Diseases related to inadequate sanitation and poor hygiene are amongst the highest causes of morbidity and mortality in developing countries, especially amongst children under five years. (WHO&UNICEF 2001).

In the Orient Hill squatter camp, government have made make shift public toilets which are used by the whole community. These public toilets regularly are in a state of poor hygiene and poses health and safety problems especially for women and children in the area. It was much better in the farms as two families use to share one toilet, said one female participant. These were the three observations I made and the conclusion I drew form interacting with the participants, JACSO, CDW and the NGO POPA sanitation facilities which are supported by the study made by (Social Surveys and Nkunzi Development Association 2005: 116)

- Displacement settlement provide evictee households with less access to toilet facilities than they had on the farm
- Displacement settlement toilet facilities are unhygienic, undignified and unsafe
- No household have their own toilets facilities in displacement areas compared to the situation on the farms.

4.3.5.3 Access to Transport

There has been a significant improvement in public transportation to some evictees of Orient Hill compared to when they lived in the farm. The only challenge their access to public transportation is limited because they have no money. This however is significant, considering that some of the farm evictee's gave access to facilities as the key motivating factor for selecting Orient Hill settlement. It was also revealed by some participants in the findings that Orient hill informal settlement is the better located displacement area compared to other Informal's. According to these participants this is because Orient Hills is closer to the main road so it presents an opportunity to stand on the crossroads and wait for any employment for the day.

This was however not the case with families residing in Vlaaikop and Greenway farm. The two families complained a lot about the non-availability of transport and public facilities. Those households for whom relocation is motivated by the need for greater security of tenure generally tend to move to urban settlements. Those who move to rural areas select rural townships which also tend to have better access to housing and infrastructure with clearer tenure rights (Wegerief, Russul and Grundling 2005:95).

Although some farm evictee residing in Orient Hills said the evictions increased their access to transport, the problem raised by most participant interviewed in Orient is the high cost of public transport to reach government services. The high transportation cost was also a concern for the family living in Vlaaikop and Greenway farm. The only challenge with roads in the area is the number of fatal accidents on the public roads near Orient Hills, a lot of families have suffered losses of their children and members of their families because of road accidents. Because people can't afford taxi fares, some walk to the nearest town and are then victims of road accidents. Because of the high level of alcohol intake in the community some cross the roads when they are drunk and they get knocked by cars. (Informal conversation with Community Development Worker).

4.3.5.4 Employment opportunities

Most participants interviewed in Orient Hill revealed that ever since they lost their jobs in the farms, they have not been able to find another job since they stayed in Orient Hills except daily unstable piece jobs on other farms. This again shows the importance of farm employment to unskilled farm workers. In Vlaaikop farm, family members of the family that is facing evictions threats have not been able to find alternative employment elsewhere. The elder brother said they are afraid of finding employment as it would mean they would be away from their homes, and the new landowner to evict them whilst they away. Or evict them on the basis that they are working and can afford alternative accommodation elsewhere. The same logic is applied by the two family's members residing on Greenway Farms. This just shows how land security is important to all these families.

Research has shown that from an employment perspective, evictions have had a slightly more negative impact on those that moved to traditional rural areas with fewer adults being employed as compared to when they lived on the farm. The most highly affected group are those that moved to traditional rural areas where only a third of adults are employed. Interestingly, in comparison, slightly more of the adults that moved to informal rural and urban areas are employed than were employed while living on the farm.

Orient Hill can be regarded as a rural area and the possibilities of people finding permanent farm jobs in nearby farms are very slim because of farmer's reluctance to employ farm workers on a permanent basis avoiding to comply with new land and labour legislations. However, the possibility of finding seasonal work and one day piece jobs is there as revealed in the findings and a new generation farm workers living outside farm dwells and employed on a seasonal basis has emerged. One former farm dweller where all the interviews took place became fed up of looking for a job and started a shebeen business in order to support his family. He tells me he is left with no choice as he needs some form of

income to take care of his family. Though he is aware that what he is doing is against the law he continues. He revealed that the police often come and raid his shebeen but he bribes his way out. He also tells me that most of his customers are unemployed former farm dwellers who came to reside at Orient Hills because they were evicted from a farm. These are my customers and they drink here every day because there is no other shebeen in the area.

4.3.5.5 Food Security

One of the worst consequences evictions have had on farm dwellers is their implications for food security. Farm dwellers in farms had ample land and were granted permission to cultivate land and produce food for their own consumption. In other farms, they also had their owned livestock , kept chickens and were able to sustain their livelihoods apart from the low income they received from farm employment. The living space in rural areas is confined, restricted and crowded. Evictee's in the group interview conducted in Orient hill revealed that the farm was much better as it had some space for individual families to be able to grow food for their own consumption. Here we cannot even have a small garden because it is so crowded, new people move in every day. On the Farms we knew that even though farm wages were low we had the benefit of land that we used to compliment low wages. This finding corresponded with the responses received from the families at the Greenway and Vlaaikop farm. This affirms the importance of land security in farm dwellers. The NGO POPA says most people in the area cannot afford to buy food and they come to the feeding scheme every day as they are unable to have gardens because there is simply no space to grow anything because people are crowded.

4.3.5.6 Social Grants

All the families interviewed receive some form of government grants or assistance. Overall, evictee view government grants and social assistance as a primary source of income to help maintain and sustain their livelihoods. NGO POPA says most people in the area would not survive with government support. Because the area is privately owned, the government cannot take over and put services, though there is that argument about the area being dolomite. However government provide the community with water can that come twice a week. The youth in Orient says almost all babies of females that are high school dropouts in the area are recipient of government grants. This is a common trend, you leave school, you get a baby and receive a grant and life goes on.

4.3.5.7 Health and HIV/AIDS

HIV/AIDS is a serious issue in the Orient hill area. POPA says a high number of people in the area are on anti-retroviral treatment including the youth. Many orphaned child are left behind and are often cared for by other family members. We visit them and they come every day to the feeding scheme. POPA says the major challenge is that people on anti-retroviral as soon as they health becomes stable, they go back and drink alcohol at the shebeen and this worsen their condition. Because the place is dirty and has a lot of dust and the alcohol brewed at the local sheebeen there are numerous tuberculosis cases. Alcohol is a daily thing, I suppose because of stress related to not working and finding work, they keep drinking to drown their sorrows. Here it was revealed that even people who did not drink before when they were staying tin the farms are heavy drinkers today. (Infomal conversation with cdw). POPA says whether it is HIV&AIDS or poverty related illnesses that are nagging the community; it is often women who suffer the most. Here again women are at a disadvantage because men do not want to use condoms. We conduct workshops about HIV&AIDS and this is proving to be effective as more and more people come and collect condoms from us.

4.3.5.8 Domestic, Violence and Prostitution.

There are a number of incidences of domestic violence reported in the area. In my interview with one group in Orient, it was revealed that domestic violence is rife in the area. People drink a lot and they resort to all forms of bad behaviour when they reach at home, this is also owed to the poison that people drink in that shebeen. Most men just lose themselves and beat their wife's in their shacks accusing them on all sorts of things. There is a lot crime people are exposed to in the area. There is a youth gang called Casonova's and to be a member you have to take out blood from a community member. Some of the youth member's interviewed agreed that they have participated in crime though they have stopped. The target for these gangs is to rob nearby farms including workers working on those farms revealed by the group. The assumption is that if you work in the farm you are better off than those residing in the informal shacks. The Orient area is situated nearby the N14 road and a lot of trucks pass by this road. There group of girls just after Orient who are standing on these roads waiting for truck drivers to pick them up. I have also witnessed this in my own observation whilst driving around and this was confirmed by the community Development workers. These girls are high school drop outs and they are known in the community that they are prostitutes but they don't care and will ask you what you want them to do.

At the Greenway, Marolien and Vlaaikop farm. Here there is huge threat, violence, racism and intimidation. All the families live in constant fear. At any day, the landlord just walks in their homes

without notice and use vulgar offensive language in front of their children. This is traumatic and stressful and we live in constant fear. We don't know what to do anymore. The Marolien farm owner calls us kaffirs every time and point at our homes whenever he pass by. This is like jail, we can't even visit and go away for a long time because you don't know what will happen to your house when you away. All the family say, they never leave the house alone because they fear that the farmers or landowners will see this and take the opportunity to get inside their house and throw away everything outside. They cannot use their land effectively as was the case before because they are in fear that the landlord or farm owner won't take kindly to this

4.3.5.9 Housing and Relationship with Councillor

Most Evictee in the area does not have formal houses. They live on shack dwellings and are unemployed. All adults interviewed have formally registered for a government RDP house and are on the waiting list waiting to be allocated a house by the Mogale city Municipality. There are tense relationship between the community and the local councillor over the issue of housing. The community do not trust the councillor and accuse the councillor of corruption related to the Normand development. It is difficult for the councillor to have community meetings related to housing because of the breakdown of trust. All people who participated in the interview signalled they would want to move into their own government RDP houses. All signalled preferably in urban townships such as nearby Kagiso to increase their opportunity to find work. The current housing situation is devastating and appalling and on rainy days it is difficult, there is mud and the rain comes in the house. Some evictees prefer to get a RDP house than going back to the farm claiming that they do not want a repeat of what has happened and say RDP provides much more security to land.

4.3.5.10 Attitudes towards Extension of Security Tenure and other Land Legislation and the Government

Looking at the increasing number of farm dweller evictions in farms, it is much clear that Farmer unions are generally in opposition of government land legislation interventions in the farming sector that aims to restore the land rights and improve working conditions for farm dwellers. Farmer Unions have vehemently opposed ESTA and accused government of intervening in their land and undermining the principle of property rights as enshrined in the constitution. Farmers and landowners have used every opportunity to get rid of people residing on their land since the introduction of this legislation. According to Agri-SA, Clause 13(1) (a) provides that a farm owner may exercise any of his rights in terms of the Constitution and other laws, including the right to property. These rights include the owner's common law right to the exclusive use and enjoyment of his farm in whatever way he sees fit. This right is

irreconcilable with the farm residents' property rights in relation to the same farm. There is accordingly an inherent conflict between these provisions which is incapable of resolution. The Act does not say where the owner's rights end and the farm residents' rights begin and does not create any mechanism for making that determination.

The most common complaint is that farmers have to continue providing housing and services to farm workers who have been fired from work. They feel that this causes social problems and possess a security risk. Farm dwellers not working on farms are perceived by farmers as perpetrators of crime, often committed against other workers. Farmers do not see why they should be responsible for provision of housing and services for people who do not work for them. Farm invest in better houses to attract workers, but after the adoption of ESTA, there is no point in investing in housing if it is going to be used by people who are not working on the farms (see Wegerief, Russel and Grundling 2005: 85).

What increases the bitterness of farmers is that they do not see the same requirements placed on other businesses such as mines. They say it is too expensive to evict people through the legal processes. These factors causes resentment among farmers towards the law, since they feel that they have been unfairly singled out for attack and they feel their property rights as land owners are being infringed.

Agri-SA believes that ESTA is presently formulated is a source of conflict on many farms and court cases can be prohibitively expensive. Landowners experience problems with occupiers who exceed numbers of livestock agreed upon and who are sometimes aggressive towards the landowner and his family. It does not make sense, and is a recipe for conflict, to force people to live together on the same farm where the relationship has broken down.

All evictee's in Orient Hill did not know about this legislation, for example they know nothing about their residence rights according to ESTA or regulations concerning the one-time settlement grant, and if so they would not know how to enforce them. They only became aware of the existence of such legislation through the workshops they attended that was conducted by JACSO in the area. Most evictee's do not blame government for enacting such legislation but they have reservations for government inability to effectively implement this legislation and ensure their protection from farms.

Moss Sekobane says, since the provisions of ESTA and LTA are inextricably linked to continued employment on farms thereby compounding vulnerability of farm dwellers to eviction in both no-fault and fault based dismissals. JACSO therefore view ESTA and LTA legislative mechanism as effecting evictions rather than a means to protect and enforce substantive rights of occupiers on farms.

The families residing in Greenway, Marolien and Vlaaikop farm are aware of this Act by the assistance the received from JACSA. All families would like to see more government effectiveness with regards to implementing this Act, this include creating awareness and educating farm dwellers of their land rights. All the families say they would want to see more proactiveness by government and intervention to mediate tensions between farmers and farm owners.

5. CONCLUSION

The continuing dispossession of black people of land from the apartheid era well into the post-apartheid era is a shock and cause for great concern. More black people have been evicted from white farms in the first ten years of democracy than were evicted in the previous ten years under apartheid rule. The tenure insecurity of farm dwellers in South Africa today is a product of the colonial and apartheid history of the country. Post-Apartheid labour, land and policy have negatively impacted upon the livelihoods of farm dwellers despite the good intentions behind the objectives of those policies and legislation. Policy changes have effected new patterns of agricultural accumulation which has led to increased mechanisation diminishing the need for intensive labour. Post-apartheid land and labour legislation has increased land tenure insecurity and uncertainty amongst land and farm owners prompting them to evict farm dwellers and discouraging them to house in workers in their farms. Farm evictions have been disastrous towards the livelihoods strategies of farm dwellers. The research findings revealed that evicted farm dwellers have been worse off since they were evicted from the farms. They have lost all benefits that come with farm life including access to basic services. The research also showed that the Extension to Security Tenure Legislation have exposed farm dwellers to intimidation and illegal evictions. Government have been unable to effectively implement ESTA at the ground level.

It is clear that farm dwellers in the Westrand are caught up in a deprivation trap. Due to their powerlessness, isolation, poverty and illiterateness. They are isolated and unable to influence government policy because of their weak social standing in life. They are too illiterate and cannot interpret and understand laws that are meant to assist them. Government has not been able to create awareness and capacitate farm dwellers with information related to ESTA. The land redistribution LRAD programme of government has been manipulated and it has not benefitting farm dwellers and labour tenants. This programme have benefited the elite with close government ties, who themselves have evicted farm dwellers of the land received through government support.

Government need to support farm dwellers through policy and other measures. This necessitates the development of a strategy that would support the livelihood strategies of farm dwellers. Such a strategy has to consider all the livelihood strategies of farm dwellers including the revival and support of small scale farms because of the positive impact it has towards the livelihood strategies of farm dwellers because of its dependability largely on labour intensive methods in agricultural production.

This strategy should also focus on raising awareness of farmworkers rights. This necessitates government support of non-governmental Organisation working in this area, trying to protect farm dwellers from illegal evictions and restoring land rights for the landless. This would provide a huge step in addressing the power imbalances between farmers and farm workers, which is a major depressant of farm worker's quality of living. Government also need to have a dedicated legal aid board that prioritises issues of illegal evictions. This would entail having legal aid and government department responsible for land administration visible in areas accessible to farm dwellers.

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INTERVIEW REFERENCES

Orient Hills

Male Evictee 1, 20 June 2004

Orient Hills Group 1 (7 men, 6 women) 11 December 2014

Orient Hills Group 2 (10men, 5 women) 12 December 2014

Orient Hills Group 3 (6men, 5 women) 13 December 2014

Orient Hills Group 4 (12men, 5 women) 14 December 2014

Orient Hills Group 5 (15 Females, 9 Males) 15 December 2014

Orient Hills Woman Activist, 17 December 2014

Greenway Farm

Greenway Family, 12 December 2013

Marolien Family

Marolien Family, 13 December 2013

Vaaikop Family

Vlaaikop Family, 7 January 2013

Others

Moss Sekobane, 8 December 2013

Community Development Workers, 9 December 2013

POPA NGO, 13 December 2013

Randfontein Police Station, 7 January 2013