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Transforming Labour Tenants

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The best laid plans of mice and men
Gang aft agley.
Robert Burns, *To a Mouse*

The Land Reform (Labour Tenants) Act, > 1996.

In 1996, Parliament approved the Land Reform (Labour Tenants) Act of 1996 despite vocal opposition to some of its key provisions from the Natal and South African white agricultural unions.[1] The objectives of the Act are twofold:

> *To provide for security of tenure of labour tenants and those persons occupying or using land as a result of their association with labour tenants;*

and

> *to provide for the acquisition of land and rights in land by labour tenants; ...*

It sought to protect the rights of labour tenants to existing rural livelihoods and to create new ways for them to acquire land for smallholder farming.

Labour tenancy contracts embody a range of obligations and expectations, implicit as well as explicit, on the part of the owner of the land, their tenants and the members of the tenants' families on whom the burden of providing labour has often fallen. Contracts vary in their terms from farm to farm, and from district to district, and have changed significantly over time. Labour tenancy arrangements have different meanings for the parties involved. What for the farmer is a way to secure a supply of labour is for the tenant a means of acquiring land and keeping cattle.

Attempts to transform labour tenants into wage workers, or to restrict their access to grazing or the number of cattle they may keep, have been a repeated source of bitter contention. The rights of landowners to use their property as they choose and to decide who may have access to it, and on what terms, conflict with the claims of workers, tenants, and their families to a place to live and to land to grow crops and graze animals.

Labour tenants have always been vulnerable to eviction. They depend, like most farm workers, on their employers for a place for their families to live. They also keep stock on the farmers' land and may have nowhere else to graze it. If they are evicted from the farm, they lose their access not only to a source of income but to land and housing, their ability to keep cattle and their capacity to maintain a homestead for their families. Over the last hundred years, huge numbers of tenants have been turned off the farms where they lived and worked, with their families and their cattle, as a consequence of state policies and of the decisions

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1 *Farmer's Weekly* 26 Jan 1996, also 10 Nov, 1 Dec 1995, p. 31; NAU (1995): *NAUNLU* Dec 1995, Jan 1996; also *Weekly Mail and Guardian* 30 June-13 July 1995.

of the farmers who employed them or of those who had acquired the property on which they lived. Increasingly the options facing evicted tenants in town, in the former 'reserves', and in the countryside, became fewer and harsher as a result of rising unemployment, intense overcrowding in the 'reserves' and reductions of labour employed and resident on farms..

The prospects of democratic elections led to a new wave of evictions in the 1990s. Tenants, and former tenants, looked to the new government to secure their rights to land and somewhere to live and to restore their access to the farms from which they had been evicted. Some farmers decided to clear their land of tenants before political changes could allow the tenants to make a claim to the land on which they lived and worked. In 1992, farm labour tenants marched to the police station at Colenso, Natal to protest against evictions. Derek Hanekom pledged, before the 1994 elections, that the new government led by the African National Congress of South Africa (ANC) would refuse to validate evictions.[2]

Conflicts escalated, particularly in the Colenso and Weenen districts of Kwazulu/ Natal and the Piet Retief district in Mpumalanga. Some farmers evicted tenants, impounded their cattle and burned down some homesteads; farmers were threatened with invasions of their land, cattle were hamstrung, fences were cut, and there were several murders of whites living on farms (*Weekly Mail* 30 June-6 July, 1995). Farmers organisations were slow to respond to calls for a moratorium on evictions which, in any case, could offer only a temporary restraint which would not be legally binding.[3] Legislative intervention was urgent, indeed overdue. The 1996 Act finally limited the rights of farmers to evict tenants as from 2 June 1995, the date of publication of the original Bill.

Act > of 1996 makes specific provision to allow labour tenants to benefit from land reform. There are good reasons for finding ways to include labour tenants in plans to transfer ownership of, and rights in, land, previously reserved for whites, to blacks. Labour tenants have experience of managing their own stock and of working on commercial farms. In areas where labour tenancy continues to flourish, they are often among the most skilled and experienced workers. Without explicit mechanisms for securing access to land for labour tenants and farm workers, they may find themselves losing their access to livelihoods and land if the farms on which they live and work are transferred to new black (or white) owners.

The question is to what extent the Land Reform (Labour Tenants) Act will realise its objectives and what unintended consequences may follow. Will the Act, in

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2 *AFRA Newsletter* October 1992, cited SAIRR (1994: 228); SAIRR (1992: 391), (1994: 228); *Weekly Mail and Guardian* 22-28 July 1994; *Beeld* 7 Mar 1995, 5 Mar 1996, cited *Perspektief* 10-16 Mar 1995, 4-10 Mar 1996; *Sowetan* 17,24,25 Oct 1995, cited *Perspektief* 16-19 Oct 1995.

3 *AFRA News* April 1993 (cited SAIRR 1994: 228-9), Jan-Feb 1994, May-June 1995, citing Derek Hanekom, Minister of Land Affairs; *Land Update* Feb 1994; *Sowetan* 6 Mar 1995, cited *Perspektief* 10-16 Mar 1995; *Farmer's Weekly* 3 Nov 1995.

conjunction with other land reform legislations improve the access of labour tenants to enhanced rural livelihoods?

Constructing labour tenancy

Labour tenancy, like capital (Marx 1973: 932), is not a thing but a social relation. Or rather, it refers to complexes of social relations which vary from case to case and which change over time. These relations operate within, and sometimes against, frameworks of legal regulation. To that extent, they are shaped in accordance with the ways in which policy-makers construct their understandings of labour tenancy.

The *Memorandum on the Objects of the Land Reform (Labour Tenants) Act, 1996* tells us that

> *Labour tenancy is a semi-feudal relationship between a landowner and a labour tenant in terms of which the labour tenant is obliged to provide free, or virtually free, labour in exchange for the right to occupy and use a portion of farming land. In its classic form the labour tenant does not involve any exchange of cash. The farmer does not give wages to the people working for him or her; their terms of payment are negotiated around the size of the lands they may plough and the number of livestock they may keep.*

On this interpretation, labour tenancy is evidently an exploitative relic of the apartheid system which ought to be abolished.

The *Memorandum* goes on to say:

> *There is general agreement, including from organised agriculture, that the system of labour tenancy is archaic and inequitable.*

It should presumably be replaced by more 'modern' social relations: wage labour for cash payment or family farming by peasant smallholders while, in the meantime, conferring rights on remaining labour tenants.

> *The aim of the Act is neither to promote nor to entrench the system, but to ensure that in the process of its transformation the basic human rights of all parties are protected under a stable legal system.*

The conception of labour tenancy set out in the Memorandum freezes into its frame a partial and outdated picture of a complex and changing set of social relations. Labour tenancy is represented as a relic of feudalism, an historical anomaly in a modern society, rather than as an integral feature of a capitalist economy (Corrigan 1977). It appears to be a stage in the transition to capitalism from slavery through servile to free wage labour whose passing can only be welcomed by 'progressive' opinion.

This account of labour tenancy accords with an image which 'progressive' farmers have sought to realise throughout the century:

> *a capitalist agriculture in which all the productive resources were the property of and put in motion under the organizing authority of the white employer of labour.* (Keegan 1987: 192).

Contrary to this ideal, labour tenancy fails to conform to the requirements of 'formally rational capital accounting' (Weber 1968: 161-4) in which labour, like other factors of production is freely available to the employer to be allocated to its most profitable use.

The Native Farm Labour Committee expressed this view in 1939 when it declared that labour tenancy

> *is now economically unsound; that it is out of place in areas where land values have risen and farming has become more intensive; and that it forms a wasteful distribution of labour.* (SA 1939: 11, also 12-13, 83; similarly SA 1932: 52-3, 186)

Only the resistance of 'natives who are owners of stock and have families to maintain' were holding back the 'disintegration of the system'. The Committee wished to increase the share of cash wages in remuneration and extend the period of tenancy.

> *The ultimate objective should be the gradual development of a class of full-time agricultural labourers.* (South Africa 1939: 15, also 11-15; similarly South Africa 1932: 52-8)

Alternatively, and somewhat more plausibly, labour tenancy might be represented, not as a survival of a feudal past but as an imperfect or incomplete form of proletarianisation, a stage along a line which goes from rent-tenancy through share-cropping to labour tenancy and ultimately to wage labour (Morris 1976, 1987, also Marcus 1989: 46-9, and the critiques by Hyslop 1992, Schirmer 1994: 5-12[4]). This view assumes that there is a necessary or logical progression from one form of contract between landowner and tenant to another. Evidence from over two millennia and different continents shows that large land-owners have typically combined the recruitment of waged with non-waged forms of labour and of resident with casual and seasonal labour and have used various tenancy arrangements to provide for the differences in skills and tasks and in the seasonal requirements of agricultural production. Farm labourers and members of their families, for their part, often combine different labour contracts and forms of tenancy or switch among them. Smallholders may derive the extra cash incomes they need to pay for the costs of farming and family consumption from wages earned on farms or in towns by members of their families. (Kanogo 1987, Keegan 1987, Banaji 1992, Williams 1994)

Both perspectives view labour tenancy primarily from the point of view of capital rather than of the concern of the tenant to secure their own access, however tenuous, to the land and the means, however limited, of providing for their own livelihoods. Conceptions of labour tenancy as 'archaic' provide policy-makers in the new, as in the old, state with a discourse, which they share with 'progressive' farmers, which agrees on the need to bring labour tenancy to an end, even if they disagree on how this should be done and what specific arrangements should take its place. Achieving this in practice has, hitherto, proved more difficult.

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[4] The same logic of transition to cash wages was outlined in 1947 by the Kenyan Labour Commissioner, Hyde-Clarke, cited Throup (1986: 105-6) and Kanogo (1987: 102).

The long history of regulating labour tenants

The "process of its transformation" has been under way for a long time. The Land Reform (Labour Tenants) Bill was put before Parliament just a hundred years after the passage of the Plakkerswet (Squatters Act) No. 4 of 1895 in the Orange Free State O.F.S., itself "designed to restate and tighten up the provisions of the law of 1881" (Keegan 1987: 58). Natal legislation goes back even further to Ordinance 2 of 1855.

Hitherto, legislation has sought to restrict Africans from gaining rights to land, to limit the numbers of tenants families resident on a farm, to secure the rights of landowners to a share of their labour time and to evict them, and finally to abolish labour tenancy altogether. The 1996 Act seeks to do the quite the opposite: to protect tenants from eviction and to secure their rights to land and to pave the way for its transformation.

Labour Tenancy in Nineteenth Century Natal

From the origins of the Colony of Natal, farmers sought to limit the land available to Africans not, initially, because they themselves lacked land but because they needed labour. Settlers, without the money to pay wages which would attract sufficient labour from the reserves, Crown lands and mission stations, had to look to Africans resident on the white farms. In order to ensure the availability of African labour and to share the supply out equitably among prospective employers, Ordinance 2 of 1855 prohibited residence of more than three African families on private land occupied by Europeans unless the owners gave the government full details of any additional families and African residence on Crown land and private land not occupied by Europeans (Welsh 1971: 195). The scarcity of labour, which the legislation was designed to address, ensured that it could not be implemented.

During the nineteenth-century, various mechanisms were used to secure labour for agriculture in Natal, including the importation of indentured workers from India, particularly in the sugar and wattle industries, the employment of African migrants from outside the colony, the recruitment by chiefs of forced labour (*isibalo*) for public works and the subordination of workers to the authority of their employers by a series of Masters and Servants Acts. Farmers sought, without much success, to restrict Africans from purchasing land, occupying the lands of missions, absentee owners or land companies, or migrating to find work on the Rand. (SA 1939: 55; Welsh 1971: 177-95; Slater 1980; Richardson 1986: 135-9; Lambert 1995: 94-101)

None of these measures met the needs of landowners in the midlands and northern districts of the Colony, who either rented land out to tenants or required them to provide labour from among their family in return for access to land. Land rental offered Africans the greatest scope to accumulate stock and use their time for their own production. Stock farmers could meet their need for summer and

winter grazing by acquiring land in different areas and allowing labour tenants to maintain homesteads on winter-grazing farms in return for supplying the farmers with labour from among their dependants. In northern Natal labour tenancy allowed Africans the opportunity to regain access to land from which they had been removed; labour tenants could accumulate cattle on stock farms and avoid *isibalo* and chiefly authority. Least desirable was employment in arable farming. Employers demanded more intensive labour just when tenants needed it most for their own production and were likely to restrict the number of stock they could keep; payment of wages was poor compensation for these and other costs. (Welsh 1971: 195-200; Lambert 1995: 12-16, 89-93).

Towards the end of the century, food production and state revenues in Natal came to depend more on settler farming and less on production by African homesteads. Landowners leased farms to whites or Indians who expected African residents to supply labour, restrict grazing and pay rents. Farmers were able to increase the number of tenants on a farm, to raise rents and to demand both rents and labour service from their tenants. Tenants and their cattle were vulnerable to evictions to make way for an expansion of white-owned herds or of arable or timber production. (Slater 1975; Lambert 1995: 89-93; SPP 1983: 28)

Between 1893 and 1897, African producers, in the reserves, on freehold or mission land or on white farms, suffered the successive consequences of locusts, severe drought and the rinderpest epizootic followed by East Coast (cattle) fever from 1906-1909. In 1893, Natal settlers acquired self-government and farmers were able to secure state support for themselves to the exclusion of Africans (Lambert 1985). The balance of power had begun to swing sharply in favour of settler landowners and against African tenants - though they proved better able to adapt to the changing demands of the rural economy than poor white farm tenants (Harris 1992).

The Contradictions of Labour Tenancy 1900-1932

The Squatters Acts of 1895 in the Orange Free State, and the South African Republic, aimed to restrict the number of tenant families on any farm to five but could not be implemented against the large grain farmers who relied on the labour of tenant families. After the South African War, Afrikaner farmers and new English settlers alike had to look to black sharecroppers and labour tenants to acquire draught animals and labour. The British administration immediately set about creating the conditions for 'progressive' farming in the Orange River Colony by enforcing the anti-squatting laws but had to back away in 1904 in the face of opposition from land owning companies and the competition for labour (Keegan 1987: 58-74; for the Transvaal, see Trapido 1978, Krikler 1993).

The Natives Land Act 27 of 1913 incorporated the provisions of the 1895 Plakkerswet but only for the O.F.S. It sought to prevent Africans in Natal and the Transvaal from acquiring or hiring land or interests in land and limited legal forms of tenancy on white farms to labour-service of at least ninety days a year. Africans in the O.F.S. with large herds were forced to look for new pastures but both cash

and share tenancies continued in Natal and the Transvaal and, even in the O.F.S., farmers were not prevented from maintaining more than five families on their land. The 1913 Act did make it easier for farmers to impose more onerous terms on workers and their families. The seasonal struggles to secure, and to resist, control over African farm labour continued. (SA 1932: 185; Plaatje 1981; Keegan 1987: 182-91; Bradford 1987: 35-6; Murray 1992: 85-91; Harris 1991: 235; van Onselen 1996).

Social relations in the countryside were shaped by commercial conditions, by the demands for land and labour of different agricultural and livestock enterprises and the capacity of landowners and employers to recruit and control labour. African households in the white-owned farming districts were differentiated and stratified by variations in the assets, in cash and stock, and the labour power they controlled and in the forms of labour and tenancy contracts in which they were involved. Households themselves were divided along lines of gender and generation.

The typical form of labour tenancy in the northern districts of Natal, where it was the dominant labour relation, was an unwritten contract in which the head of an African homestead agreed to provide the labour of his mature sons - or, if he lacked sons or they were too young, his own - for six months and also very often the services of the women of his homestead. In return he got a place to build his homestead, arable land for each wife and grazing land for an agreed number of cattle. Tenants often distributed additional beasts by arranging to loan (*ukusisa*) them to tenants on other farms who kept them as their own stock. Wages during the period of labour service were low, usually between five and ten shillings a month if they were paid; higher wages were paid for working the remaining six months of the year. Tenants in thornveld districts, notably Weenen, often lived on 'labour farms' and in return they or their sons provided labour to the farmers' commercial farms. (McClendon 1995: 44; 1996; see SA 1932: 51)

Farmers who turned to more intensive production, for example dairying in Bergville and Klip River districts reduced the number of African stock and the areas allowed for arable cultivation. In the Umvoti district, tenants were removed to make way for woolled sheep and wattle trees. During the boom of 1927-28, wattle farmers sought to plant all the land available and to recruit labour for cash wages, drawing on their labour farms, on members of tenant families outside their obligatory six months and on migrant workers. (Bradford 1987: 188-95; Harris 1991: 215-36; McClendon 1995: 44-66) As the Chief Native Commissioner for Natal wrote in 1930, the expansion of dairy, wool and wattle production

> *renders the presence of labour tenants superfluous; indeed, every acre of land they occupy is of more value to the farmer than their labour.* (cited Bradford 1987: 192-3)

Labour tenancy arrangements were characterised by three linked contradictions. The tenant gained access to land but expected his sons to provide the labour. The more successful the farmer, the less land he could concede to his tenants.

The farmer exercised only partial and indirect control over the labour of his workers.

Young men who performed labour services sought more lucrative opportunities to earn wages in the six months when they were free of obligations to the farmer. They had every immediate incentive to remain in urban employment. Their fathers' ability to exercise authority over their sons, on whose labour they depended to retain their access to land, was underpinned by the fathers' ability to provide cattle to pay *lobola* (bridewealth). Reduction in their land and cattle weakened their control over their sons. Farmers could not legally require performance of services of the sons of the tenants with whom they had agreed a contract. Farmers complained that tenants were "inefficient, uncooperative and deliberately destructive" while tenants saw their work as "forced labour". (Bradford 1987: 51; also SA 1932: 56-7; Harris 1991: 221-3; McClendon 1995).

The most bitter conflicts in rural Natal were inspired in 1927 by the Industrial and Commercial Workers Union (ICU) in Umvoti district when farmers evicted tenants and sought to intensify labour to maximise the output of wattle bark and expand their sheep runs. Labour tenants were in the vanguard of rural resistance which was defeated in 1928 by the combination of drought and evictions which suited the interests of the 'progressive' farmers in clearing the land for intensive production and disciplining the labour force. (Bradford 1987: 186-212; see Harris 1991: 235).

Farmers, officials and economists all agreed that labour tenancy was inefficient and outdated but lacked the means to replace it.

> *Many prominent and progressive farmers have already endeavoured to introduce a system of cash wages in lieu of land, but without success ... the Native holds out for a piece of land which he may call his own.* (Neveling 1931: 32, cited Harris 1991: 221)

The fate of white agriculture could certainly not be left to the operations of labour, land and commodity markets all of which were to be redirected with state assistance to ensure the profitability of capitalist farming – in ways which allowed weaker white farmers to be left to seek employment in the towns (Harris 1992).

Reforming labour tenancy 1932-1960

The Native Economic Commission of 1930-1932 identified the conflict between the aims of the parties inherent in labour tenant contracts.

> *The farmer looks at the question from the point of the* value *of the land; the Native of the* number *of his cattle. If the farmer insists on the reduction of the number of cattle, the Native considers that he is being unjustly treated. There is nothing unreasonable in the farmer's attitude in view of the fact that the land has risen in value; to the native the demand that he shall sell part of his stock in cold blood seems cruel and unjust. Frequently, he will ask for a "trekpass" rather than reduce the number of his cattle ...* (SA 1932: 55)

The Commission

recognized ... that it would not be practicable to abolish the system by legislation or administrative action or to substitute a universal system of cash labour on the farms, however desirable a change that might be. (SA 1932: 57)

It recommended that written contracts be compulsory and suggested an experiment in which the relation would be reduced to a common set of calculations; contracts would list both cash wages and the 'charge' for the land and grazing used by the tenant so that both farmers and tenant fully appreciated their costs and benefits.[5]

Farmers had a blunter solution to their labour supply problem:

compulsion on the Natives to accept farm work and the imposition of further restrictions upon the movements of those already so employed. (SA 1932: 81)

This, said the Commission, would only make farm work more unpopular than it was already. They did recommend the creation of "Labour Advisory Boards" in farming districts made up of magistrates, native commissioners and farmers and taking the advice of native chiefs and government labour bureaux which would register work seekers and applications for labourers without actually recruiting labour. (SA 1932: 81-82)

The 1937-39 Native Farm Labour Committee repeated these proposals. It, too, wished to encourage a shift towards greater reliance on cash payments. However, it recognised

That labour tenants represent a most valuable potential labour supply, which should be properly conserved, utilised and distributed to meet the reasonable requirements of a much larger number of farmers than at present. (SA 1939: 13)

Its recommendations would lay a basis for state direction of labour in later decades.

The Native Service Contract Act 34 of 1932 extended the existing measures of compulsion. It allowed African 'guardians' to bind their wards to labour tenant contracts and authorised whipping as a judicial punishment for breach of service contracts by African minors. It sought to require passes to restrict the movement and employment of African men and women resident on white farms. It make provision for a £5 tax on all adult men resident on farms who did not provide at least six months labour service. It provided for labour tenant contracts to be written and registered and limited to a maximum period of three years.

The draconian provisions of the 1932 Act did not succeed in bringing labour tenants and their sons under the control of farmers. The provisions for taxes were

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5 Mr Lucas argued that in a minority report that 'the Native can, when properly trained and when placed in circumstances in which he can exercise his ability, make a good farmer'. Cash rental of land by Africans might therefore be permitted, subject to their obeying 'conditions of proper use' (SA 1932: 205). Only in 1991 did government accept the idea of allowing 'emergent' farmers under government direction on 'white' land (Act 108 of 1991, discussed in Francis and Williams 1993, also Act 126 of 1993, discussed in Winkler 1994).

not proclaimed in any districts for fear of the consequent scale of evictions and disruption of the rural reserve army of labour. Tenants would not produce passes or sign written contracts. (McClendon 1995: 130-42; SA 1939: 13; also Lacey 1981: 169-82).

Chapter Four of the Native Trust and Land Act, 18 of 1936, provided for government to limit African residence on land in specific districts to registered landowners, their 'servants', registered tenants and registered squatters. Tenants and their dependants providing labour would be subject to masters and servants laws. Labour tenant control boards would limit the number of registered tenants, normally to five families per farm, presumed to be working for six months a year. The 1936 Act required the government to make adequate provision for accommodating evicted tenants.

When the state attempted to introduce these provisions in Lydenburg district in the eastern Transvaal (Mpumalanga), tenants resisted registration of the new uniform contracts, which farmers sought to raise to six months, and sought land and work on other farms in the district and outside it. Though smaller farmers stood to gain from the redistribution of the labour supply, it was the larger farmers, who could retain their own tenants by offering them more land, who were most determined to implement the provisions of the 1936 Act. The government rejected the farmers demand that Chapter Four be proclaimed throughout the province leaving the Native Affairs Department to deal with the consequences of evictions. This demand was to be repeated, without success, by the Native Farm Labour Committee of 1937-39 and, throughout the 1940s, by the South African Agricultural Union. (van der Horst 1971: 294; Morris 1977; 1979: 233-9; Schirmer 1994:104-139)

In 1954 the National Party government returned to the task of limiting 'squatters' and labour tenants. Act 42 of 1954 set up labour tenant control boards to register squatters, but only if they had been continuously resident since the 1936 Act, and tenants, who would only be permitted on farms where tenancy was already practised. Boards were empowered to investigate the numbers of labour tenant families on farms in their districts and, if appropriate (effectively where there were more than five resident tenant families), to require white farmers to show cause why their number should not reduced. The requirement to provide for evicted tenants was relaxed. While the new boards set about registering and regulating labour tenants, farmers in the eastern Transvaal took the opportunity to increase their demands for cash and labour on their tenants. (SAIRR 1953-54: 84-7; 1957-8: 166-7; Marcus 1989: 66-68; Schirmer 1994: 255-286)

The state had guaranteed grain prices and subsidised interest rates, thereby encouraging mechanisation and a sustained expansion of farm output which would continue to 1981. White farmers could replace the ox-ploughing skills of sharecroppers and tenants by purchasing tractors to cultivate as much land as they had available. During the 1950s, farmers continued to demand labour while becoming less tolerant of Africans tenants using ever more valuable land and evading their duty to provide labour to white farmers. Members of labour tenant

families avoided farm labour during the six months in which they were not contractually committed to farmers; so did Africans living in the 'reserves' and on freehold land.

In the mid-1950s, labour-tenants in one valley in the Natal Midlands worked for cash wages and some rations and were allowed the use of land for their own crops and for the grazing of a limited number of cattle and horses. The forms of wages, payments of cash advances, and access to other resources varied among the farms. Employers of labour-tenants (as opposed to wage labourers) avoided using the courts to discipline workers. The informal incentives and sanctions which they could exercise within a paternalistic relationship, underpinned by the threat of eviction, was far more effective (Loudon 1970: 80, 102-132).

> *The threat of eviction from the farm is ... one of the main sanctions used by the Whites in the control of their Black labourers. A family which is evicted loses more than its home on land occupied for generations by its ancestors; for the only farmers in the District who will engage evicted Africans are those who employ wage-labourers exclusively, and wage-labourers are not permitted to grow their own crops or graze cattle, and are usually housed in compounds without their families.* (Loudon 1970: 79)

Further north, tenants or their children continued to work for six month periods and, in some districts, to live on labour farms. Act 42 of 1954 was followed by evictions in Weenen and Babanango districts. A number of tenants were evicted in the Weenen district of Natal in 1955; after they lost their appeal, police were called in to deal with the ensuing 'unrest' (SAIRR 1954-55: 148-9; SPP 1983: 46-7; cf van Onselen 1996: 406-7).

Natal farmers pressed for the elimination of African freeholders in white areas but were averse to the purchase of land by the South African Native Trust to accommodate them. The Natal Agricultural Union repeatedly endorsed "the principle of full employment with appropriate annual leave on full pay" (1949 Annual Congress, cited SPP 1983: 45) but became nervous about the outcome when tenants left farms for reserves and towns rather than submit to registration and pass books which might tie them down to a specific farm and limit their access to land (Morris 1977; SPP 1983: 45-9; Marcus 1989: 68). Neither technological change, economic calculation, or state action eliminated labour tenancy. It continued to be the dominant form of labour contract in northern Natal and the eastern Transvaal throughout the 1950s.

Abolishing labour tenancy 1960-1990

In 1960, the (du Toit) Commission of Inquiry into the European Occupancy of Rural Areas reported with alarm that the number of whites in rural areas had declined while the African population of the platteland had doubled in the previous thirty years. It recommended strict enforcement of Chapter Four of the 1936 Act and a progressive tax on farms that were not occupied by whites. The following year the (Nel) committee condemned the labour tenancy system and particularly the practice of requiring minor children to undertake labour service – leaving the

heads of families to work on their own account or even in urban areas. It recommended abolition of the system within seven years. Resident heads of families should become full-time farm workers or be removed to African areas. Labour tenant control boards should become labour control boards with wider remits (SAIRR 1959-60: 198-9; 1961: 216-7).

The tightening of controls on the movement of Africans into urban areas would continue to ensure farmers of their labour supplies. Abolition of labour tenancy would be combined with the attempts to remove surplus Africans from the white rural areas altogether rather than just to redirect their labour among farmers (Marcus 1989: 83). Mechanisation and rising productivity in the period after 1965 made it possible for combine these objectives. However, the 'beswarting van die platteland' (blackening of the countryside) continued as government policies encouraged consolidation of white farms – exemplified by the Sub-division of Agricultural Land Act 70 of 1970 (Lipton 1985: 95-6). Despite extensive removals of Africans from their homes in the white farming areas to their 'homelands', the number of Africans resident on the platteland, legally or otherwise, continued to increase through the1970s (Simkins 1981, cited SPP 1983: 79).

The Nel Committee's recommendations were embodied in Act 42 of 1964. Contracts were limited to three years, only one year if not explicitly specified; tenants could be evicted with three months notice, subject to the right to cultivate, reap and remove standing crops, and only one month in the case of any breach of contract. Only Africans over 15 years of age who themselves entered a contract could be required to provide labour service. The minister could proclaim that labour tenants could not longer be employed in specific districts. (SAIRR 1964: 248-250)

Labour control boards in each district first acted to limit the number of registered labour tenants to their existing levels and then, from 1966, to proclaim the abolition of labour tenancy and refuse to register contracts. In 1970, government announced a moratorium on new tenancy contracts which meant that, by 1973, labour tenancy had been legally ended everywhere outside Natal where it was finally 'abolished' on 30 August 1980. Even after the removals of the 1970s, an estimated 175,000 tenant farmers (and their families) remained in northern Natal. In practice, the transition from labour tenancy to full-time wage employwent proved more difficult to accomplish than planners expected. (SAIRR 1967: 124-5, 1969: 101-4; 1979: 237; 1980: 455; Marcus 1989: 80-86)

In 1969, Weenen, the heart of the 'labour farm' system was one of the first districts in Natal to be proclaimed. Tenants were unwilling to accept full-time contracts even when they were offered cash wages of R12 as compared to their previous cash wage of R6 a month. Those who refused to accept new contracts and leave farms were prosecuted as illegal squatters. Tenants huts were burned and their cattle impounded. Many had to dispose of their cattle to white farmers at very low prices. Tenants from Weenen were moved to resettlement camps and into the already overcrowded and notoriously conflict-ridden Msinga district. From there, tenants, or their cattle, returned illegally to the farms of the Weenen district,

causing new conflicts, often with new owners who had acquired land for cattle or, more recently, game ranching. Evictions and resistance continued in the district to the 1990s. The creation of a land reform pilot project in Weenen creates new demands for and conflicts over who should now have the opportunity to reclaim land. (SAIRR 1969: 102-3, 1970: 11; SPP 1983: 72-4; Kockott 1993)

The Natal Agricultural Union again drew back in alarm at the consequences of the attempt to eliminate labour tenancy. In 1970, the NAU declared

> *This union accepts the ideal of full-time employment of farm labour. In moving towards this goal it has, though, to deal with facts not theories.* (*NAUNLU* 1970, cited SPP 1983: 74; also 75)

Tenants left the farms rather than accept full-time employment and farmers again found themselves short of labour. In the mid 1970s, some farmers went back to labour tenant contracts when they found that they could not recruit reliable and competent workers for cash wages alone (Muil 1976, cited Lipton 1985: 90; author's discussion with Elandslaagte farmers, Jan 1996).

Tenants' resistance was widespread but localised and suppressed where necessary by "soldiers, police and their dogs" (SPP 1983: 76). State policies strengthened the capacity of farmers to limit tenants access to arable land and grazing, whether they continued to work for six months a year or on full-time contracts. Tenants could delay evictions and reverse them by returning to the land from which they had been removed. But tenants could not "prevent the evictions when both the local farmer and the local authorities were agreed on the necessity or inevitability of enforcing them." (SPP 1983: 77)

In the early 1980s, labour tenancy appeared to have come to end, surviving only in limited 'pockets' - notably the 'thornveld' areas such as Weenen where the state had been so determined to eliminate it (SPP 1983: 77). The balance of arrangements had changed on many farms towards full-time work and with tenants having less land and fewer cattle which were subject to stricter conditions. Large numbers of labour tenants were among the hundreds of thousands of people evicted from rural Natal to resettlement sites in and around the Kwazulu bantustan. Even the Surplus People's Project report accepted that

> *Overall, however, the labour tenant system has now been replaced by a full-time, wage system in Natal. ... Thousands and thousands of farm people have been transformed into a landless proletariat as a result.* (SPP 1983: 78)

This announcement of its demise proved premature. In 1986, Chapter Four of Act 18 of 1936 was repealed as part of the Abolition of Influx Control Act 68 of 1986. Labour tenancy was again legal. Its legacy and the claims of labour tenants and former labour tenants would pose major dilemmas for the new South African government.

Why has labour tenancy survived all attempts to eliminate it?

The repeated attempts by farmers and the state to subordinate labour tenants to their direction and the state's sustained assaults on labour tenants since the

1950s disrupted the lives of rural people and reduced their access to land and stock. Removals left many former tenants destitute without access to adequate land for cultivation or stock or opportunities for employment and contributed to the overcrowding, competition for resources and political violence in Kwazulu/ Natal. Damaging as their effects were, the assaults on the lives and livelihoods of labour tenants and their families often failed to achieve their objectives and were only partially successful in generalising a system of full-time, wage labour.

Why were successive governments unable to abolish an 'archaic' relation of production? Despite the general worsening of the terms of contracts, tenants preferred to work on farms which allowed them access, however limited, to land and to the opportunity to keep stock. Farmers, and their organisations, generally supported the principle of eliminating tenancy arrangements which restricted their authority over their land and their workforce. They opposed abolition in practice when they found themselves unable to recruit labour or, more particularly, workers with the necessary skills and commitment to the job on any other terms. It is hardly surprising that workers on stock farms should wish to own their own cattle.

Contrary to 'progressive' opinion, labour tenancy contracts are not vestiges of 'feudalism' or of distortions peculiar to the apartheid system but are features of large-scale, commercial farms in numerous countries over many centuries. They have often been integral to the development of capitalist farming and can provide tenants with a small measure of independence which is lacking for farm workers employed only for wages and on-farm housing. It is not the nature of the contract or its economic irrationality which makes labour tenancy objectionable but the exploitative terms of some contracts (unless, following Marx, 1970: 22-23, the whole system of wage labour is to be abolished but that is not on the political agenda).

For farmers, labour tenancy provided a means for recruiting labour which was available at and for the appropriate season without having to advance cash wages all year round or at lower costs in cash than would be required to hire the same workers for wages alone. At the same time, they had to make some of their land available to tenants either on their own farms or elsewhere (on so-called 'labour farms'). As the cost of land and returns to its use increased, farmers sought to increase the period of service required and to impose tighter limits on the rights of resident labourers to plough land and on the number of stock they can keep or even to replace tenancy with wage contracts.

For the labourers, tenancy provided a means of securing access to land and the right to keep stock in return for which they and their dependants provided labour, with or without cash payment. Hence the historical reluctance of tenants to accept contracts which excluded them from keeping stock or growing crops. In South Africa, as in Kenya (Kanogo 1987), the most bitter rural conflicts arose out of attempts to force labour tenants to become wage earners.

On the Highveld, sharecropping continued, until the 1950s, to provide skilled African farmers with livelihoods that allowed them a significant degree of

independence and opportunities to accumulate. It enabled landowners to acquire the skills, and plough teams, of African producers and to extend cultivation on their own land with low initial outlays of cash and no need to direct production, while sharing the risks of arable farming in a drought-prone environment. State support helped farmers to buy tractors and gave them every incentive to expand their holdings and extend the area they used for cultivation and for grazing their own stock and to manage its use under their own direction.

As in the case of labour tenancy, economic calculations and technical change were not sufficient to eliminate sharecropping. That required the political campaigns and state interventions of the 1950s to remove so blatant a challenge to the white man's exclusive domain over his land (van Onselen 1996: 368-407). Nor has sharecropping been dispatched for ever from the Highveld. In the 1990s, former farm workers in possession of second-hand tractors, ploughed for shares of the crop on the land of white and black landowners in the North-West province (Francis 1995).

Whereas farmers want to have unrestricted control over the use of their land, labour tenants would prefer to have unfettered access to arable and grazing land without any obligations for them, or their families, to provide labour in return and with no restrictions on the number of stock they can keep. However, if former tenants are to succeed as farmers, they not only need enough land on which to plant their crops and graze their stock but a source of cash income to contribute to their families' living expenses and to meet the monetary costs of agricultural production. Labour tenants and their dependants generally preferred to earn additional incomes other than on farms. Since the abolition of influx control in 1986, it is the shortage of urban employment opportunities and the desire to retain a rural residence rather than government controls on the movement of people from rural to urban areas which has limited these opportunities.

Rural people don't need land instead of jobs or jobs rather than land. They need both land and jobs, not least when land resources are limited and agriculture and livestock or vulnerable to droughts and floods. In the present situation, in which land is scarce and, for many people, jobs are scarcer, there are likely to be more people wanting to take up labour tenancy contracts in those areas in which the institution continues to be widespread than opportunities to do so. Labour tenancy is likely to provide more people with access to livelihoods and a place to live on the white-owned farms than is production based on wage labour with a small core of permanent employees supplemented by seasonal or casual workers. What consequences will the Land Reform (Labour Tenants) Act have for the access to land and livelihoods of existing and prospective labour tenants?

What will the Land Reform (Labour Tenants) Act, > of 1996 do for labour tenants?

Act > of 1996 is designed to meet the demands of labour tenants that they be entitled to a place to live and land to cultivate and graze stock. It does so, firstly by protecting labour tenants from eviction without good reasons and, secondly, by

providing a means for them to acquire ownership of land which they have lived on or cultivated.

There is a tension between these two objectives. The first, by conferring rights of tenants, tends to entrench labour tenancy. The second is designed to create a way of replacing it. In future, farm workers are expected to be full-time employees protected (as labour tenants will be) by the provisions of the Agricultural Labour Amendment Act 50 of 1994 (CRLS 1994) and other labour legislation; labour tenants will have the alternative of cultivating their own land rather than having to work for others. Labour tenants have long resisted full-time employment without access to land and may well (depending how access to land is valued) be materially better off than wage labourers in similar districts (*NAUNLU* Jan-Feb 1996). Tenants who acquire their own land may not earn enough from the cultivation of their own plots and from their stock to provide for their families without the addition of a cash wage. Continuation of labour tenancy, protected against eviction, may therefore appear to be the preferable option for many farm tenants.

For the purposes of Act 7 of 1996, a 'labour tenant' is defined narrowly to distinguish tenants from farm workers and is limited to those whose parents or grandparents were labour tenants not necessarily on the same farm. People whose parents or grandparents were not 'labour tenants' are therefore not able to take advantage of its provisions though they may well expect to do so.

Unlike farm workers, 'labour tenants' are remunerated "predominantly in the right to occupy and use land" rather than "in cash or some other form of remuneration" [1 (ix), (xi)][6]. However, the Act provides no way of measuring the value of "the right to occupy and use land". Is it the opportunity cost to the farmer as defined by the rental value of the land? Or is it the value of that land to the tenant which might be surmised to be lower, if it generates a lower cash return to the tenant than to the farmer, or higher, taking into account the multiplicity of values which tenants seek to realise by keeping cattle.

For those who are regarded as 'labour tenants', the Act creates a heritable right to "occupy and use that part of the farm" which they occupied on 2 June 1995. Land owners may not "unreasonably" object to the named successor to a labour tenant or to the person the tenant names to provide labour in their stead [2 (2); 3 (3), (4), (5); 4 (1), (2)].

The Act implies that labour tenants have a right to occupy and to use a specific part of the farm rather than, as may be the case, be allowed to graze a specific number of stock on the farm without being accorded a specific areas of land. Indeed, good grazing practice may dictate that tenants share in the grazing area of the farm rather than confine their cattle to a specific area. Nor is it easy to compute, as required, the relative hardship to the owner (or lessee) as against the tenant in cases regarding relocation or eviction [8 (2)]

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6 References in square brackets are to Clauses of Act > of 1996.

Legislation seeks to draw clear lines through multiplex relations among owners, tenants, the families, their land and their stock or even to assume that the lines are clearly drawn. Where relations are more ambiguous than the legislation allows for, it may create new uncertainties as to who can exercise rights and what is the nature of those rights and may exclude from its provisions many people who expect to benefit and some of those who are intended to benefit from the new laws.

Protection of 'labour tenants' against eviction

Act > of 1996 recognises that labour tenants, as well as land owners, have rights, seeks to spell out what those rights are, and to regulate relations between land owners and labour tenants within a framework of due process of law. It entitles labour tenants to conditions of service no less favourable than those applicable to farm workers under the Basic Conditions of Employment Act 3 of 1983.

The Act allows labour tenants to be evicted only by an order of the Land Claims Court, on application solely of the owner, for breach of the "agreement between the parties" or an irremediable "material breach of the relationship" with due notice (other than in cases of real and imminent danger) and with due compensation [6, 7, 9, 10, 11, 15]. Tenants may be relocated for the owners' "own agricultural activities or for the purposes of any development which, in the opinion of the Court, is for the public benefit", again after payment of due compensation [8 (1), (3), (4)].

To the protection of the Court, the Act adds the intervention of the Department of Land whose designated officers have first to certify any waiver of rights by a labour tenant and who must be given due notice of any eviction and seek to settle the dispute between labour tenant and owner [3 (7); 11; 16 (2)].

At the same time, the Act introduces significant limits to the authority of landowners over the use of their property and over people resident on it and encumbers the property for future generations. Farmers will therefore be concerned to prevent anybody else from gaining or succeeding to such rights by becoming labour tenants and, especially, taking tenancies over from their parents in cases where the parents are not themselves children of labour tenants and are thus not protected by the Act. Farmers will be disinclined to allow farm workers to keep any cattle at all, lest this open the way to their acquiring rights as 'labour tenants'. The consequence of according rights to some may be to limit the opportunities open to others in a situation of land scarcity and high unemployment.

The impact of the legislation on labour tenancy is thus likely to be contradictory. By recognising the rights of a limited class of 'labour tenants' and making them heritable, it entrenches labour tenancy. At the same time, it may, in practice, prevent others, including children of 'first generation' labour tenants, from getting the chance to become labour tenants and limit them to wage contracts which,

ironically, has been the objective, never fully realised, of the previous hundred years of legislation.

Extending land reforms to labour tenants

Chapter III of the Act makes explicit provision for labour tenants to benefit from the government's land reform policy. It provides that

> *a labour tenant or his or her successor may apply for an award of*
> *(a) the land which he or she is entitled to occupy or use [as labour tenants]*
> *(b) the land which he or she or his or her family occupied or used during a period of five years prior to [1996] and of which he or she or his and her family was deprived contrary to the terms of an agreement between the parties*
> *(c) rights in land elsewhere on the farm or in the vicinity which may have been proposed by the owner of the farm; and*
> *(d) such servitudes of rights of access to water and of way which are necessary for the exercise of the rights which he or she enjoys or has previously enjoyed as a labour tenant* [16 (1)].

Earlier drafts of the Bill were firmer about the rights of tenants. The first said they "may acquire and register" and the second that they "may buy and register". The final formulation in the Act needs to be read in conjunction with the proposals contained in the *Land Affairs Green Paper* which sets the maximum value of grants for settlement and acquisition of land as well as infrastructural investment at R15,000 per beneficiary household (Land Affairs 1996: 27-8).

Labour tenants may take advantage of these subsidies to meet all or part of the cost of acquiring the land to which the Act entitles them and associated improvements. Alternatively, they may prefer to apply for a grant to acquire land and/or housing off or, possibly, on the farm under the arrangements outlined for farm workers. Their choice may depend on the priorities which the Department of Land Affairs attaches to these alternative uses in allocating the limited funds available for grants. Labour tenants are financially on a par with other claimants for land and housing, except that the Act creates procedures which give them access to the Land Claims Court. Unlike those asking for their property to be restored, labour tenants wishing to acquire land will have to purchase it and not be able to devote their R15,000 grant to other purposes.

Applications for the acquisition of lands and servitudes are made to the Director-General of the Department of Land Affairs. The Act makes provision for the owner to suggest alternative ways of meeting the claim: acquisition of the land claimed or of other land or payments in lieu of compensation. It allows for mediation or arbitration. Claims cannot be settled without either the agreement of the Director-General (or a designated official) of the Department of Land Affairs or an arbitrator appointed by the Land Claims Court or by an order of the Court, to which agreements and decisions must be submitted.

If the applicants' claim to the status of 'labour tenant' is challenged, it is referred to the Court. The court has wide powers to decide what land and servitudes are to be awarded to the tenant and what "just and equitable compensation as prescribed by the Constitution" is to be paid [22, 23 also 33]. The arbitrator and the Court are to take account of

> *the willingness of the owner of the affected land and the applicant to make a contribution, which is reasonable and within their respective capacities, to the settlement of the application in question.* [22 (5) (d)].

In coming to their decision the Arbitrator and the Court are to

> ... *have regard to*
> .. *the desirability of assisting labour tenants to establish themselves on farms on a viable and sustainable basis* ... [22 (5) (a)]

and the Minister, in determining the "amount or conditions of any advance or subsidy" shall

> *have regard* inter alia *to the desirability of assisting labour tenants to purchase land* ... [27]

The Land Reform (Labour Tenants) Act of 1996 appears to be designed to facilitate access by labour tenants to grants to acquire land for farming, either on the farms where they are resident or elsewhere. To what extent will it do so in practice?

The outcome of the Act is likely to be different for residents of 'labour farms' from residents of working commercial farms. Farmers are likely to be glad to give up ownership of the former and concerned only with the level of compensation and the way it is determined. Government grants may help pay for land which farmers might otherwise find difficult to sell because of the inability of any purchaser to evict residents, maintain fencing and protect stock. Farmers will still be able to draw on these settlements for seasonal labour by offering wages rather than by claiming labour service from tenants.

What will happen on commercial farms will depend on the attractiveness of rights to a limited area of land to labour tenants, relative to other alternatives, and on the willingness of farmers to assist the transfer of rights to land to their 'labour tenants'. The Act seeks to encourage cooperation and mediation between land owners and labour tenants, while providing for Court arbitration where agreement cannot be reached.

Residents on commercial farms will be concerned with the costs of buying the land which will reduce the money available to them to spend on housing and infrastructure. Farmers and tenants or, failing agreement between them, the Land Claims Court will need to find ways of allocating rights to sites, arable land and grazing within the farms. For tenants who acquire land, it may prove more profitable to rent land to incomers for residential purposes, turning 'labour farms' into 'agro-villages' or even denser settlements.

Former labour tenants who wish to use the land which they acquire to earn a living from farming and stock raising will need access to sources of cash additional to what they produce and sell from their own farm. These are required to meet the multiplicity of expenditures on food, housing, education, medical facilities and other demands made of any family and also to finance the cash costs involved in cultivating the land and keeping livestock. They may therefore need to retain their employment and the wages and other benefits which they earn or find alternative employment. This will obviously depend on retaining the goodwill of the farmer. Otherwise, farming their land may prove too expensive for the beneficiaries of land reform and they may have to resort to renting it to other farmers, black or white, for grazing or as residential sites or selling it for cash. Farmers may circumvent the whole process by buying out the rights of their tenants, as allowed by the Act [18 (1)]. These options will not fulfil the objective of establishing labour tenants "on farms on a viable and sustainable basis."

Some farmers may see benefits in assisting their labour tenants to acquire their own land while retaining their employment on the farm. They may prefer to enable their tenants to acquire land elsewhere rather than lose control over parts of their farms. Labour tenancy, indeed labour farms, may take on new forms but within a rather different and more open-ended framework of rights and property relations.

Farmers will be concerned if land currently on or adjacent to their own farms is converted into a residential site exacerbating problems of fencing and control of grazing. If farmers feel themselves to be coerced into giving up land to labour tenants, they are likely to fence that land off and exclude their former tenants from access to services, such as dipping, and other resources which will be more effectively provided through informal exchanges than legal prescription.

Access to land off the farm will free former tenants, as it would other farm workers, from their dependence on the farmer for housing or a place to live. Since their rights to evict tenants are limiting, farmers may prefer to avoid providing housing or sites to tenants or workers and transferring the costs of accommodating their workers to the state and to the workers themselves. Farm villages may turn into rural slums vulnerable, like other dense rural settlement, to crime and violence. For some, farm residence may come to be the more attractive option.

Relations of labour tenancy have always involved compromises between the conflicting interests and objectives of farmers and labour tenants and practical cooperation between them. Act > of 1996 strengthens the bargaining position of existing tenants in their relations with farmers. Farmers and tenants also share a common interest in sustaining their claims to the land they occupy against the demands, and possible historic claims, for land for residence, cultivation and grazing of people, including former residents of white-owned farms, now living in overcrowded settlements near towns or in the former 'reserves'. This could encourage residents on farms to try to find imaginative ways of negotiating over their respective rights and of using their resources to greater mutual advantage.

Conclusion

The Land Reform (Labour Tenants) Act > of 1996 was passed in order to deal with the urgent problems of farm evictions and to realise a longer-term vision of allowing farm tenants to acquire their own land, unencumbered by the 'feudal' obligations of labour service. It seeks to confer rights on labour tenants whereas previous legislation sought to control labour tenants and reduce or even abolish the tenuous claims which they had to land. Both past and current legislation share an assumption that labour tenancy is a backward form of labour contract which should give way to full-time wage labour or production by farmers on their own land. In that sense, Act > of 1996 is the last in a long line of laws passed by South African parliaments to transform labour tenancy.

There was a clear and urgent need for labour tenants to be protected from eviction without good reason or due process of law. There are good reasons for enabling labour tenants to acquire land for farming and stock raising.

Chapter III of the Land Reform (Labour Tenants) Act seeks to include second-generation 'labour tenants' in the process of land reform proposed in the *Land Affairs Green Paper*, indeed to place them at the forefront of the reform. In practice, the intended beneficiaries of the Act will be constrained by the limited resources available to them for the purchase and improvement of land and the provision of housing and by the inadequacy of the areas occupied or used as labour tenants to provide an adequate livelihood without significant off-farm earnings. They may prefer to cash in their claims or rent or resell the land they acquire for farming, for grazing or for residential sites.

People employed as labour tenants whose parents were not so employed are not entitled to share in these benefits - though they may well expect to - and it is unlikely that their children will be allowed to get the opportunity to do so. Farmers will be inclined to ensure that anybody taking new employment is paid in wages in cash and not in the right to use land or keep stock whether the labourer prefers this or not. On the other hand, the legislation confers rights on tenants which may strengthen their hand in bargaining for more favourable conditions of employment – or termination of employment – with farmers.

The Land Reform (Labour Tenants) Act > of 1996 introduces new claims and possibilities and new uncertainties. It could well limit the opportunities for many rural people to gain access to land and the chance to keep their own stock by entering into labour tenancy contracts without providing sufficient resources to establish many others "on farms on a viable and sustainable basis".

The passage of the Act might encourage some farmers to renegotiate their relations with tenants in ways which better meet the primary concerns of both parties. This could give labour tenancy arrangements a new lease of life instead of replacing them by payment of cash wages or the settlement of former tenants on the land as independent smallholders.

The rural areas of Kwazulu/Natal - and of South Africa - are the product of a long, and often bitter, history of conquest, exclusion and compromise. They include diverse ecological regions among and within which many different crops and livestock are produced. Their production involves the co-operation of people, divided along lines of race, ethnicity, gender and generation, in complex relations with one another. It is therefore unlikely that any single way of organising the relations of production on the land will be appropriate for the country, or any province, as a whole or even for any region or district within it.

Such categories as labour tenancy, wage employment, peasant farming, sharecropping or capitalist production each cover a variety of arrangements, overlapping or combining with those characteristic of other categories (Williams, 1994). They can all enable producers to gain access to rural livelihoods. The terms on which they do so will be shaped, as it has been in the past, by the interactions of markets for commodities, labour and land and the political and legal contexts within which exchanges take place..

Labour tenancy has survived and revived in various parts of Kwazulu/Natal because it has allowed African producers a means of securing a place to live and a livelihood, while permitting them a limited measure of independence. Now that ownership and leasing of land is legally open to Africans in the former 'white' farming areas, labour tenancy, could provide producers a step on the way to more independent forms of production, as a rent or a share tenant or as an owner of land. Producers may wish to sustain tenancy contracts while separately acquiring additional land for cultivation, grazing or a family homestead. Legal bifurcation of the options into property-owning or wage labour will not accommodate the diverse arrangements required to suit the changing needs of African producers - and white and black landowners.

The last hundred and forty years of coercive legislation have failed to eliminate labour tenancy. Act > of 1996 may also fail to produce the results anticipated by Parliament and the Department of Land Affairs and may be unable to provide a viable framework to regulate the multiplex relationships involved in labour tenancy arrangements.

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