

MOZAMBIQUE

Julian Quan,

**'Recent Developments in Land Policy in Southern Africa: a review for DFID',
Natural Resources Institute, Chatham, June 1997.**

Lessons learnt

- Risk of re-establishing dualistic land tenure system which other countries now struggling to overcome.
- Need to regulate processes of designation of commercial land and allocation and performance of private concessions; future allocation should be subject to assessment of pre-existing customary rights and socio-economic impacts.
- Extent of overlapping and competing land claims will require investment in dispute resolution mechanisms and local capacity development.
- Advocacy support to defend smallholder land rights will be essential and will require increases in NGO capacity.
- Place of gender rights in customary law and interactions of inheritance law and customary practice require further study.
- Need for regional and provincial studies of land occupation and monitoring systems, which should take holistic approach and not approach customary, private and public sectors separately, as in Malawi.
- Possibility of donor funded resettlement scheme to accommodate residents of overcrowded, ethnically similar and adjacent areas of Malawi might be investigated.

AWEPA (European Parliamentarians for Southern Africa),
Mozambique Peace Process Bulletin, 19, (Ed. Joseph Hanlon), September 1997.

Peasants gained significant new rights in land law approved in July 1997 by parliament. In response to active lobbying by civil society, parliament made three key changes to draft law submitted by government which increase rights of women, give greater role to traditional leaders and partly restrict way Council of Ministers can give permission for land use. Last two changes reversed revisions which Council had made in bill last year before submitting it to parliament. Both involved compromises between government and parliament which will require further new legislation next year. Land law drafted and revised many times over two year period as part of wide consultation in one of most open and democratic processes in many years in Mozambique.

Two largest organisations representing peasants, ORAM (Associação Rural de Ajuda Mútua, Rural Organisation for Mutual Help) and UNAC (União Nacional de Camponêses, National Peasants Union), described new law as 'good' and a 'victory for peasants'. Lorena Manguane of ORAM said 'the old law was written in offices without an understanding of peasants; the new law was written by the people and responds to our reality.' ORAM and UNAC intend to publicise new law as widely as possible and stress importance of telling peasants they are supposed to be consulted before any titles granting use rights (effectively leases) issued to others over land near theirs. Conceicao Quadros, technical director of the Land Commission, said law would be translated into local languages to help make it more accessible to local people. She also stressed importance of NGOs in making peasants aware of their rights to remain on land they occupy.

Under the new land law:

- Land remains property of the state; communities, individuals and companies only gain use rights (leases).
- Use rights can be transferred but cannot be sold or mortgaged.
- Use rights are gained by occupancy or by grant by the state of lease of up to 100 years.
- Formal title documents showing right to use land can be issued not just to individuals and companies, but also to communities and groups.
- Communities or individuals occupying land for more than 10 years acquire permanent rights to use that land and do not require title documents.
- Courts must accept verbal evidence from community members about occupancy. (Verbal testimony restricted under old law, which gave absolute preference to paper titles. This clearly worked against peasants.)
- Titles for use cannot be issued on land already occupied by others.
- Titles for use rights only issued if there is a development plan; titles issued provisionally for two years and made permanent (for up to 100 years) only if projected development is being carried out.

New law defines a 'local community' as 'a group of families or individuals that has the aim of safeguarding common interests through the protection of living areas, farming areas whether cultivated or fallow, forests, sites of cultural importance, pasture, water sources, and areas of expansion.' Local communities can have use and occupancy rights and be issued collective titles. Before any title issued, 'local communities must be consulted to confirm that the area is free and has no occupants'. 'In rural areas, local communities

participate in: a) management of natural resources, b) resolution of conflicts, c) the titling process, d) the identification and definition of the limits of the land they occupy.'

Law subject to more than a week of intensive debate in parliament. Renamo opposed bill because it continued state ownership of land and limited role of 'traditional' authorities. Constitution and new law prevent private ownership and mortgaging of land. Instead people have 'use rights', permanent for individuals and communities already in occupation and for home-owners. People and companies can apply for up to 100 year leases to use other 'unused' land. Frelimo's position is that privatising land would lead to landlessness. In general peasant associations backed Frelimo and opposed land privatisation. Frelimo made major concessions to peasant and Renamo demands. Draft law already strengthened position of women by stressing equality of men and women on land titles. Council justified its removal of references to 'customary' law on grounds that 'traditional practice discriminates against women'. Peasant organisations and trade unions present during entire debate. Lobbyists gained more rights for women and more power for traditional authority. On inheritance rights, parliament added clause saying inheritance must be 'independent of sex.' New clause of 'customary practices' says they cannot be 'contrary to the constitution' which guarantees equality before the law.

Under the old law and regulations, position of who could grant titles to use land (leases) confused, leading to conflicting titles and delays in issuing titles. Parliament imposed even tighter allocation restrictions than proposed by the Land Commission:

- in urban areas, land use requests are dealt with by new municipal presidents (mayors) or district administrators;
- use of non-urban land up to 1000 hectares can be authorised by a provincial governor, but the local community must be consulted;
- between 1000 and 10,000 ha, use can be authorised by Minister of Agriculture and Fishing, but relevant governor and local communities must be consulted;
- Council of Ministers approves uses above 10,000 ha, but restriction imposed by parliament is that this can only be done as part of agreed land use plan and principles for defining and approving land use plans must be defined in new law to be submitted to parliament.

Frelimo parliamentary deputies had wanted big land grants to be approved by parliament, but ministers rejected this. Compromise is that the Council retains right to make deals with foreign investors and grants to themselves and their families, but will need to be much more transparent in future.

Several ministries and agencies and Land Commission already discussing how to draw up new law on land use plans. Seems likely that initial proposals will demand some sort of community partnership. Further NGO lobbying needed on that issue. Draft law may go to parliament in final session of 1998. Parliament added clause requiring new law be brought forward setting out 'representation mechanisms of local communities with respect to use rights.' May be done late next year, and will be controversial because it must deal with 'traditional authorities'.

Consultation an issue for regulations accompanying any new law. Consultation mechanisms already hottest issue in discussion of regulations. 'How can we give real power to the peasants, who cannot forever be dependent on foreign NGOs with money to defend them?'

We need a system which peasants can use to defend themselves' comments Ossemene. Three other issues will be important in regulations:

- ORAM wants much less bureaucratic and expensive way for peasants to register land titles. Getting an individual title costs at least MT 5m (\$500), better used by a poor family as investment in the farm, and takes several years.
- New law calls for 'identification and definition of the limits of land occupied' by rural communities and officials see this as way of using cheaper mapping methods to protect peasant land. But peasant organisers want regulations to ensure this does not result in peasants being squeezed into tiny reserves.
- Many applications are for huge tracts of land and involve grandiose plans. Officials want to ensure that applicants must prove they have the money to carry out plans and that only as much land is granted as is necessary for the project. Hunting or tourism project might get full land use title only for land on which it is to build its buildings and get more restricted permission to use other areas for tourists.

War and flight of millions of refugees plus confused process of issuing titles means there will be many conflicts in coming years between different people claiming right to use land. New law clarifies position in several ways. Confirms rights of peasants occupying land, insists they must be consulted in issuing of any new titles and ensures court must take into account oral testimony of peasant's land occupancy. Latter important because under old law paper title took total precedence. New law does not nullify titles issued improperly on land already occupied by someone else but ORAM hopes to reverse some of these by demanding that titles be revoked when land not developed according to plan under which it was granted. Argues that lot of land been registered by high officials speculatively in past few years, in expectation that government would cave in to American pressure and privatise land and they could then sell on their titles. Now they cannot sell and carry out false development promises, so titles will soon become invalid. Where there are genuine conflicts, cases will go to court. Conceicao Quadros says courts will give heavy weight to antiquity of rights, and if a peasant can show he was living in a place when title granted to someone else, court will probably allow peasant to stay. ORAM says main issue is 'spirit of the new law' which gives more rights to peasant occupiers. Feel this has shifted legal balance and will lead to more attempts at negotiated settlements.

Particularly complex issue is land occupied by refugees, who after decade or more in new place do not want to go back to what was once 'home'. New law gives full rights to people who occupy land for ten years 'in good faith', but Quadros notes that 'refugees know that every tree and piece of land has an owner, and that they were borrowing land from someone else, so they are not there 'in good faith'.' If previous occupant fled country, they may have a claim, but if previous occupant simply moved to nearest city and tried to return at end of the war, refugees may need to move. In many places people claim rights they do not have. Letters from officials are not titles. Some have requested land concessions and used application as evidence of 'right' to use the land. This 'precarious' occupation has no standing in court, so even where peasants been pushed off land, they may have right to reclaim it.

There have been massive requests for land concessions, but so far few been granted. Study by Greg Myers and Julieta Eliseu showed that in Zambezia in the past decade, 3.8 million hectares applied for - one-third of entire province and two-thirds of all arable and forest land. But titles only been granted on 50,477 ha. Some confusion about applications and

grants. Myers and others head their charts 'Land Concessions' and refer to applications in that way in their reports. That leads casual reader to think these are grants or titles and some huge numbers have been repeated in international press. But small print shows they are only applications, not actual grants. But size of applications has worried peasant leaders. ORAM Zambezia representative Lourenco Duvane noted that many applications are for very large tracts of land and made by a tiny handful of companies and individuals. Applications for over 100 ha, which total at least 2.5m ha, made by only 350 individuals and companies. If granted this could mean '0.1% of the families controlling 40% of the arable land in Zambezia.'

When law came before parliament, successful push by peasant organisations to put 'traditional authorities' and 'customary law' back in. Final version contains ingenious compromise. Specifies that rules for inheritance must not discriminate by sex; under 'customary law' women (even widows) often cannot inherit. Gives occupancy rights to individuals and groups occupying land 'according to customary norms and practices that are not contrary to the constitution' which means customary law will need to shift to avoid discrimination. Requires that local communities 'participate' in a range of issues, and that in doing so local communities may use 'customary norms and practices'. But parliament's demand for a new law setting out 'the representation mechanisms of local communities' will force some sort of legal statement on 'traditional authorities'. UNAC, ORAM and the Land Commission discussing some kind of community land committee, rather than a single individual. This would allow involvement of several respected local leaders. But door open for two kinds of major disputes within a community as to who is rightful leader and boundary disputes between leaders.

Joseph Hanlon,

Supporting Peasants in their Fight to Defend their Land,

Report to Christian Aid, November 1995.

1975 constitution and 1979 land law did not recognise customary law. Land improvements could be sold, but not the land itself. Smallholders could obtain title, but costly to do so. Worked well until coming of market forces 1989, when land gained value and huge land rush ensued - 5m ha since 1986. Old law defined occupation as only the land being cultivated, ignoring the extensive nature of traditional farming.

Western-style 1990 constitution replaced 1975 one. In 9 months of debate, peasants critical of proposed privatisation of land, fearing it would lead to landlessness and that best land would be sold to rich farmers and big estates. Government backed them on this. Established Land Commission June 1995, which drafted new land policy, approved by Council of Ministers September. Lays down 4 categories of land: commercial (where infrastructure can be bought and sold), communal (where traditional rights will determine access), protected areas (parks, beaches), virgin land (available for development). Not made clear which areas fit into which category. An attempt to reduce land disputes, simplify land administration and attract more foreign investment. Rejects privatisation, accepts ban on land mortgages and sale. Bottom line is all land should continue to be vested in the state, but recognises customary law and role of traditional leaders in land allocation, and allows transfer of land use titles between national companies and individuals. Recommends

demarcation and registration (including by lineage group or clan) of peasant land, so that anyone wanting to buy land would have to negotiate with local community.

New policy controversial: keeps state ownership and grants of 50-year renewable leases; land mortgages will remain illegal. This goes against World Bank and USA pressure to privatise land and allow mortgages as simplest form of rural credit. Peasant leaders had opposed this on grounds that privatisation will lead to landlessness. Also controversial because of separation of communal and commercial land.

In commercial land, present complex leasing system to continue and peasants will have to form associations to gain leases to protect their interests. Leases can be transferred and improvements mortgaged and sold. But in 'new' communal areas, traditional law will prevail and leases cannot be transferred - the first time customary law and traditional chiefs have been recognised. Women's groups worried that customary law denies them right to control or inherit land.

Found position not as bad as feared. Thousands of peasants have registered leases, especially as part of associations. Helped by peasant associations and green zone offices. When peasants defended land, they usually won, but too often they moved without a fight. Biggest problem on former state farms, occupied by peasants during war, but now being forced to move by foreign companies.

Much of debate will be about how decisions are taken as to what land is communal and what commercial, and what happens in communal areas.

Paulo Cuinica,

'Participation of Civil Society in Land Policy Development',

Southern and Eastern Africa Regional Conference on Experiences, Perspectives and Strategies on Land Reform and Land Rights in Rural and Urban Settings, Johannesburg, June 1996.

ORAM (Rural Association of Mutual Support) established 1993 to support peasants in registering land and legalising associations. ORAM and UNAC (National Union of Peasants), former wing of Frelimo, appointed by NGO forum, Link, to take seats in Land Commission. Not easy to act inside Commission, so ran joint programme of dissemination of draft land law, which came out 17 January 1996. Covered 9/10 provinces collecting opinions of peasants. They said no to privatisation of land and demanded participation in community land management. ORAM denounced draft land law of 24 May 1996, which ignored peasant contributions. Comforting that Commission made significant changes in draft presented at National Land Conference, Maputo, 5-7 June 1996. Held great cultural festival just before Conference, which reactivated media discussion and involved MPs, government officials, community and traditional leaders. Plan to continue actions during and after land law approved with focus on civic education and awareness.

JoAnn McGregor,

'Staking their Claims: Land Disputes in Southern Mozambique',

Land Tenure Centre, University of Wisconsin, Madison, LTC Paper 158 (Madison: LTC, 1997).

Looks at land disputes 1992-5 Matutuine and Namaacha Districts, near Maputo. Though private sector claims beginning to be staked on paper, other conflicts predominated. Post-war drought, high unemployment in Maputo, contracting opportunities in South Africa led to insecurity and competition over land. Unemployed labour migrants, urban youth and demobilised soldiers attracted to burgeoning and largely unregulated trades of charcoal burning, fishing, hunting and palm wine tapping. These immigrants came into conflict with returning locals in bitter disputes which often focused primarily on trees, fish and game rather than land per se. Attempts to regulate resource exploitation constrained by inadequacy and corruptibility of fiscal controls, by armed groups and crisis of authority at local level.

Henry G. West and Gregory W. Myers,

'A Piece of Land in a Land of Peace? State Farm Divestiture in Mozambique',

Journal of Modern African Studies, 34, 1996, 27-51.

Over 20m ha granted in concessions by January 1994. Traditional authorities denied any role in distribution of land by Frelimo. At 4th party congress, Frelimo said it was shifting attention to family sector but unable to realise this and unable to decide whether to introduce private rights in land and/or proceed with titling and registration as means to secure land tenure rights. Government did not know why state farms had failed. Without decision from central government, many state farms closed spontaneously because they couldn't afford to operate. Recipients of land those with money or well connected; smallholders excluded. Conflict and uncertainty will plague these lands for years and productivity, investment, ecological sustainability will be undermined.

Lomaco (Lonrho) granted monopoly rights to buy cotton over 1.4m ha Montepuez, Cabo Delgado. Described as dono de Montepuez. Its privileges strikingly resemble those in colonial times. Great confusion over status of rights to land acquired, transferred and lost, thus undermining tenure security, investment, productivity, food safeguards and ecological sustainability. Can state give up power? Recent years of chaotic and corrupt transactions over land have severely damaged chances for positive transformations in short term. New forms of power have developed deep roots, will not be easily dislodged.

Robin Palmer,

'The Context of Land Management and Reform in Southern Africa',

Royal Institution of Chartered Surveyors, Conference on Our Common Estate: Land Policy in Southern Africa, London, November 1994.

Unlike Zimbabwe, land reform was never an issue of nationalist rhetoric in Mozambique, nor was there, before the recent election, any political will to resolve it. In a manner reminiscent of colonial times, huge, unregulated concessions have been granted and there is *grande confusão* over land title in a country whose population has been severely dislocated

by civil war. As the millions of refugees and internally displaced started going home over the past two years, they often found that the land they had once occupied had been given away - to people themselves displaced by war, to demobilised soldiers being pensioned off, to former Portuguese settlers returning from South Africa, or to foreign companies attracted by the offer of cheap land for agriculture, mining, hunting or tourism. The latter are likely to have paid bribes to officials whose salaries have become worthless. A year ago it was conservatively estimated that 3 million hectares (of 18 million considered suitable for agriculture) had been sold, mostly in the more strategically located and densely populated areas, such as the various corridors and green zones. No one in government has been tracking these concessions, which have resulted in overlapping and conflicting claims to land. Many smallholders have been pushed off their land or forced to become tenant labourers or sharecroppers. This is a potentially explosive situation which the new government will need to confront. A few small NGOs have been trying to help people to secure title to land, but in a context in which titles are not worth the paper they are written on, that is an all but fruitless task. An Oxfam report from April 1994 stated:

As the political future becomes more uncertain for many of those in positions of authority, the trend for legally dubious and commercially lucrative sales of vast concessions for cotton or other (usually cash crop) exploitation by so-called joint ventures, continues. This has obvious ramifications for land tenure issues, for environmental impact, and natural resource management. It also holds the seeds for a return to the kind of share cropping or tenant labouring which could be the most 'efficient' way for such concerns to operate.

The issue is likely to be politically volatile in the not too distant future.

Rachel Waterhouse,

**'Gender Relations and The Allocation and Control of Land and Agricultural Resources in Ndixe Village: A Case Study of Ndixe Village, Marracuene District, Maputo Province, Southern Mozambique',
Report to Action Aid, March 1997.**

Traditional system still operates widely. Land inherited from fathers to sons, so men enjoy continuous security of tenure. Married women depend on husband's families for access to land. Vulnerable to husband's death or desertion. Region marked by male labour migration to mines of South Africa. Peasant agriculture became heavily dependent on cash income e.g. to pay for animal traction or hired labour, to buy seeds. Loss of male labour meant women became involved in virtually all agricultural tasks, including tree felling and cattle handling. But migrants on contract were obliged to return home so had vested interest in ploughing resources back into agriculture, thus partly compensating for loss of labour.

Five years after peace accord many families still in process of gradual, cautious return. Agriculture been heavily decapitalised so few can expand former holdings. Peasant farmers at serious risk of losing their land unless they have written 'land use title deed' proving usufruct rights. None have this. Competition for land involves wide variety of interests including mining, energy, tourism and industry and urban constructors. Competition for agricultural land centered on most fertile areas best served by water and infrastructure and within easy reach of markets.

Currently Ndixe residents have little protection against outsiders wanting to occupy their land so are at serious risk of losing their land rights. Majority had little if any information regarding their formal land rights when this research began.

Agriculture became heavily decapitalised. Local farmers lost almost entire livestock, equipment, tools and homes. Fruit trees burned and forest depleted. Since 1987, gradual breakdown of migrant labour system to South Africa paralleled by heavy losses in urban job market with serious implications for household economies. Two fundamental problems facing post war agriculture: lack of labour power and cash to buy inputs. Post war, only 5 residents (all men) possess any cattle and quite unable to meet demand for plough hire. Only one local farmer possesses a cart. Very few families have achieved marketable surplus.

Socio-economic status intimately bound up with gender relationships. Constant factor is women's reproductive and productive labour. In every household women provide basic labour needed for family survival. Men's contribution more highly variable. Under current conditions differential economic status of rural households depends substantially on the variable in-put of men. This not timeless constant, but result of current context.

Post-war agriculture heavily decapitalised. Most families face serious shortage of labour power and capital, so withdrawal of male labour may be critical. Changed economic circumstances have shifted gender division of labour. In times of stability, men's labour and capital in-put supplement reproductive and productive labour of women. In times of crisis withdrawal of their contribution presents serious obstacle to household security.

Policy measures which could help to alleviate this include: initiatives to reduce labour shortage in agriculture, e.g. through cattle restocking programmes which benefit women and men; other labour-saving initiatives which reduce burden of reproductive labour, e.g. improved access to water sources and storage facilities; initiatives which help to raise income from agriculture, e.g. through raising agricultural productivity (by raising value of the yield from cultivated land).

Apparent that foundations on which different gender roles historically established and maintained have altered significantly. System of gender roles and relationships which once sustained social equilibrium been destabilised. Economic and social ties which bound migrant labourers to families in the village have weakened. Loss of wage-earning opportunities has had a negative impact on women and men. Men who cannot find regular employment unable to fulfill traditional role as providers of cash and fixed capital assets.

Policy aimed at promoting men's contribution to rural economy could include: initiatives to improve agricultural productivity and access to markets; facilitating access to credit; supporting livestock restocking; initiatives to protect and manage forest in sustainable way; support to better organisation of logging and charcoal burning business.

Obstacle of women's lack of inheritance rights under traditional law compounded by fact that no cash credit available and markets not easily accessible.

Elements of policy aimed to support women in efforts to improve livelihoods could include: promoting women's de facto inheritance rights; facilitating their access to credit, education and training; promoting their participation in leadership roles; supporting initiatives to increase productivity in agriculture and reduce labour burden of tasks undertaken by women; enabling women to access optional family planning and child-care facilities. All should be accompanied by awareness-raising and education on issues concerned.

Empowering community to know, defend and assert their land rights should be top priority. Should involve civic education and awareness-raising. Research has been accompanied by preliminary efforts to begin process of awareness-raising about the land law, national land policy and real external context of competition for land. Need to enable community to ensure fair and transparent system of local land management. At present weaker members vulnerable, their position could be strengthened through establishment of local land management body in which the interests of all formally recognised, with women fairly represented. These key steps towards empowering local community to defend their land rights by title deed or other means. Ideally carried out by national peasants' associations. Benefits would include long term empowerment and capacity building.

Security of land tenure could be significantly enhanced if community members acquired title deed providing legal protection against external competition. But acquiring them has proved extremely problematic despite donor support and alleged approval of government institutions. In practice channels often obstructed. Legislation under review. Not clear what legal options will exist in registering community lands even in near future. Government reserves right to revoke land-use title deeds when it wishes. Strongly recommended that any attempt to acquire land titles be preceded by consciousness-raising programme accompanied by advocacy work and lobbying activities at national level.

Mozambique - Land and Women

Individual titles extremely costly, often takes years to complete. Alternative co-titles only being issued to legally constituted co-operatives and associations. Process of registering an association also costly and time consuming. Despite efforts over last few years of national organisations and foreign donors to assist peasant associations in acquiring land titles, few have been issued with them. Proved especially hard to acquire for economically contested or well-situated land. Now possible to acquire collective title for community as a whole but no existing precedent, so exciting but risky avenue to follow.

Rural communities confront shifting context of liberalisation, growing competition for land and ongoing review of national land legislation. Peasant farmers so far marginalised in this process as more powerful actors stake claims on most fertile and best serviced lands. Little in current bill to suggest peasant farmers adequately protected against impoverishment. In latest draft, original proposal that communities be granted collective land rights reduced to idea of co-titling, with very different implications.

Advocacy work in favour of protecting peasant land rights and women's rights should lobby Government and international creditors and donors to defend collective land rights of peasant communities. Process of titling or co-titling has proved inadequate and ineffective. Recent debate centered on 'giving back power to traditional authorities'; could further polarise power in countryside, with poorest and most vulnerable groups, mostly women, being disenfranchised. Advocacy should promote creation of democratic land management bodies and target and involve national peasants' organisations.

Michel Chossudovsky, .
'Exporting Apartheid: Mozambique and Beyond',
Southern Africa Report, 12, 2, February 1997, 3-7.

Right wing Afrikaner Freedom Front of General Viljoen plans to develop 'Food Corridor' from Angola to Mozambique. Afrikaner agri-business to extend its grip into neighbouring countries with large scale investments in commercial farming, food processing and eco-tourism. Afrikaner unions of Orange Free State and Eastern Transvaal are partners; objective is to set up white-owned farms beyond South Africa.

Food Corridor does not mean food for local people; peasants will lose their land; smallholders will become farm labourers or tenants on large plantations owned by Boers. Umbrella South African Chamber for Agricultural Development (SACADA) - Freedom Front initiative has political backing of ANC and blessing of Mandela. Viljoen argued that settling Afrikaner farmers would stimulate economies of neighbouring states, provide food and employment for locals and so stem flow of illegal immigrants into South Africa. Viljoen held meetings on Afrikaner agricultural investments with representatives of the EU, UN and other donor agencies. EU has provided money to SACADA from development package earmarked by Brussels for Reconstruction and Development Programme.

Pretoria negotiating with several African governments on behalf of SACADA and Freedom Front. ANC government anxious to facilitate expansion of corporate agri-business into neighbouring countries. Mandela has asked Tanzanian government to accept Afrikaner farmers to help develop its agricultural sector. SACADA approached 12 countries interested in white South African farmers. They have generally welcomed inflow of Afrikaner investments. Liberalisation of trade and investment tends to support this extension of Afrikaner business interests throughout region.

Food Corridor will displace pre-existing agricultural system and lead to increased poverty in countryside. Could potentially uproot and displace small farmers over an extensive territory. Under proposed scheme, millions of hectares of best farmland to be handed over to South African agri-business. Boers will manage large scale commercial farms using rural people as labour tenants or seasonal agricultural workers. Majority of rural people will be caged into small territorial enclaves constituting labour reserves for large agri-business. Peasant communities which practice shifting cultivation and pastoralists will be prosecuted for encroaching on lands earmarked for commercial farming, often without their prior knowledge.

SACADA plans to invest in Mozambique, Zaire, Zambia and Angola; Mozambique the test case. Chissano and Mandela signed agreement May 1996 granting rights to Afrikaner agri-business to develop investments in at least 6 provinces covering concessions of some 8 million hectares.

In Niassa, best agricultural land will be leased in concession to Afrikaners for 50 years at token price of \$0.15 per hectare per annum. Through establishment of Mosagrius (joint venture company), SACADA now firmly established in fertile Lugenda valley. But Boers also have eyes on agricultural areas along Zambezi and Limpopo rivers and on road and railway facilities linking Lichinga to deep sea port of Nacala. In initial

stage of agreement, concessionary areas handed over to SACADA in 1996 to be settled by some 500 Afrikaner farmers. Number of white settlers in concessionary areas in Niassa likely to be small. Available infrastructure will be handed over including several state owned farms, Lichinga Technical College, the Agricultural Research Station, eventually the government's seed producing facilities (SEMOC).

Niassa rural communities occupying Afrikaner concessionary areas to be regrouped into rural townships along roads close to fields so farm workers can go back and forth. Will constitute reserves of cheap labour for the farms with wages substantially lower than in South Africa. Under Mosagrius agreement Mozambican government responsible for dealing with land disputes and ensuring expropriation of peasant lands. SACADA scheme likely to suck up portion of state's meagre health and education budget. Authorities to support provision of western-style health services and create 'sanitary environment' for Afrikaner settlers. Autonomous territory, state within a state, being developed in Niassa, with Mosagrius (overriding national and provincial governments) sole authority concerning utilisation rights of land in its concessionary areas and constituting a de facto parallel government.

Under disguise of foreign aid, western donors contributing to extension of apartheid system into neighbouring countries.

AWEPA (European Parliamentarians for Southern Africa),
Mozambique Peace Process Bulletin, 19, (Ed. Joseph Hanlon), September 1997.

Conflicts in Niassa following South African violations of Mosagrius agreement present first test of the new land law. July 1977 two South African families arrived in Sanga district and one in Majune. They occupied peasant land and evicted local farmers, showing maps issued by SACADA. Peasants complained to local chiefs, who informed district administrators, who told governor. Mid-August, Governor Aires Bonafacio Aly went to Sanga and Majune where he said presence of the South Africans was total violation of the agreement. He ordered immediate halt to land clearing and to any further settlements.

Annex to Mosagrius agreement signed 6 May 1996 by SACADA and variety of Mozambican parties, including Celena Cossa, president of the União Nacional de Camponêses (UNAC), promises Mosagrius 100,000 ha in Sanga, 100,000 ha in the Rio Lugenda valley (mainly Majune district), and 20,000 ha along Lake Niassa for eco-tourism. But stresses these areas still to be defined 'jointly with representatives of the government, Mosagrius and local authorities and people' and must be land not occupied under 'customary rights'. Governor spelled this out in public meetings last year in Majune and Sanga. People complained when they saw these promises breached. Whole set of agreements and laws broken. Land supposed to be demarcated and given to Mosagrius, which then allocates it on basis of specific development plans and with requirement that for each three South African families, there must be one from local farmers group AAGICONI (Associação Agro-Industrial e Commercial do Niassa).

SACADA accused of violating these norms by sending farmers to settle without plans and without consulting either Mosagrius or Mozambican government officials, and of

taking best land before giving any to Mozambican partners. Commitment of Mosagrius was to open up more remote land; instead South Africans trying to take land close to the road and nearer to provincial capital Lichinga, precisely areas already occupied by local people.

Yet South Africans not unpopular. When governor wanted to force a family in Majune to leave Niassa, people said they had nothing against the family, simply wanted them to move to unoccupied land. They had not objected to several other families settling on land local people considered unoccupied. Local people have unrealistically high hopes that South Africans will promote development, bring jobs, provide marketing facilities for local production which cannot now be sold, offer help to local farmers. Already 300 people hired for land clearing, though complaints they are being paid below minimum wage. Mozambicans at all level expect Afrikaaner farmers to integrate into local community. So far has not happened, with South Africans apparently trying to set up self-sufficient enclaves similar to Portuguese colonial settlements of 50 years ago.

Emergency team from Dinageca (Direcção Nacional de Geografia e Cadastro) expected Niassa mid-September to spend month mapping out land occupied by communities in areas requested by Mosagrius. Team to include local people as well as social scientists to help people identify land they see as theirs. This will be first test of new land law definition of 'local community', of community consultation and participation, and concept defined in law of 'identifying and defining the limits of land occupied by local communities'. Definition of local community is broad, including 'areas for expansion.' Officials stress they want local communities to think to future, not just for population growth but also to more modern farming methods when families may want 10ha instead of 2ha they use now. Nucleo da Terra da Niassa, group of NGOs active in the province, will also be monitoring brigade to ensure that peasant voices are heard.

Olaf Tataryn Juergensen and Hartmut Pereira Krugman,
'Paradise Lost? A Blueprint for Niassa',
Southern Africa Report, 12, 2, February 1997, 8-11.

Majune District, Niassa, designated as location for first wave of South African families. Arrived June 1996. Isolated district with plenty of surface water and unoccupied land. Within Niassa widespread consensus that Boers will bring jobs, schools, health posts etc. These services will draw migrants from main population centres in southern half of district, having potentially negative effects on gender division of labour in household. As settlement area does not receive adequate and timely precipitation, might be necessary to divert Lugenda river. Could have far reaching consequence, as river flows through heart of province and is important source of food and drinking water during dry season.

NAMIBIA

**Government of the Republic of Namibia,
National Land Policy (Windhoek 1997).**

First draft January 1996 by Social Science Division Multi-disciplinary Research Centre, University of Namibia. Public consultation June-December 1996. This amended in Government, whose 12 May draft omitted key paragraphs on community tenure and ownership. Approved in principle by Cabinet 30 April 1997. Referred July to Cabinet Committee on Lands and Social Issues to iron out discrepancies with Communal Land Bill before submitted to Cabinet for final approval August. Will then be circulated to public for comment. Will precede tabling of Communal Land Bill. Minister of Lands says Policy and Bill will introduce numerous flexible, non-discriminatory and secure land tenure systems. Ministry cautious to prevent privatisation of communal land as this would in long run cause many people to become destitute. Need to put new structures in place such as Regional Land Board and Land Use and Environment Board to facilitate land reform in communal areas.

Policy says many concerns about land. Many poor people have no official rights to urban land on which they're trying to live. Serious lack of urban and regional planning capacity. Concerns about lack of clear policy and structures for land allocation and management. Clear steps need to be taken in communal areas to remove uncertainty about legitimate access and rights to land and ways in which land administered. In some areas this done by Traditional Authorities, elsewhere no clear or broadly accepted authority. Growing tension between those fencing large areas for private use and majority who are excluded. Some communities feel threatened by expansion into their areas of other communities or individuals.

Under Constitution, women accorded same land rights as men. Every widow entitled to maintain land rights she enjoyed during spouse's lifetime. Urban drift with 35% population now living in urban areas and demanding land. Number of different types of secure title to be introduced urgently. At present only 2 land registries, Windhoek and Rehoboth. Necessary to increase and decentralise capacity. Should be established where volume of transactions dictates. To ensure existing urban land fully utilised, future alienations to be subject to development requirement within specified period.

Forthcoming Land Bill to vest authority over communal land in Regional Land Boards. All customary and common law land rights to remain valid until converted to other forms of tenure endorsed by this policy. Land administration should primarily be responsibility of land using communities at local level through democratically constituted Land Boards responsible for survey, allocation and registration of all approved forms of land title in areas of jurisdiction. Bill will transfer all authority over and rights to communal land from traditional leaders to Regional Land Boards, which may appoint them as their agents to perform land administration. This to be principal means of land administration at local level for some years. No abrupt change in practice or de facto authority in communal areas, but all actions of traditional authorities on land matters subject to appeal to Land Board. Traditional authorities will continue to verify land claims and confirm in writing that there are no objections to allocation of land to specified individual. Also assist Land Boards in resolution of land disputes under customary law. Will also play advisory role through Council of Traditional Leaders to be established.

Conversion of parts of communal areas to freehold tenure not deemed to be advisable. Its advantages often exaggerated and can be enjoyed through other forms of land rights if these properly recognised in law and by financial institutions. Not necessary to convert to freehold to redress 'weaknesses' in communal tenure systems. Opening up communal land to freehold market would jeopardise security and current land rights of many rural people, especially the poor.

Secure, inheritable and time unlimited certificate of rights to be introduced for customary uses such as residential purposes and subsistence farming. Not transferable except with consent of Regional Land Board. 30-50 year leases to be introduced in rural areas, primarily for business purposes. Rural Permission to Occupy government land to be phased out as new structure becomes operative. Registration of all forms of rights not to be compulsory because it would impose undue costs.

Dual grazing rights to be prohibited. People with exclusive access to grazing land not to be allowed to maintain access to communal grazing land, except with permission of communities. In rural areas only freehold and leasehold title to be bought and sold. For transfer of other forms of title, payment just to cover administrative costs.

Tax of freehold agricultural land to discourage individuals holding excessive areas. Need for careful national and local consultation prior to introduction of any land tax or resource user fees. Restitution of land rights abrogated by colonial and South African authorities will not form part of land policy.

Land for redistribution to be bought by Government from freehold sector either through right of first refusal or compulsory acquisition of excessive or underused land. Land to be redistributed to Namibians provided they do not already have adequate land holdings or other means of subsistence. Priority given to those who will use land for production. Will try to procure land near communal areas to relieve pressure on cultivated and grazing land. Under Agricultural (Commercial) Land Reform Act, freehold land in excess of 2 economic units may be compulsorily acquired for redistribution. Land Boards to be authorised to take similar measures against holders of other informal or formal land rights when their holdings deemed to be in excess of those required for normally profitable production. Act also provides for compulsory acquisition of abandoned or underused land.

Government will investigate possibility of programme to transfer large commercial herd owners from communal areas to commercial farms to relieve grazing pressure in communal areas. Any such programme would exclude dual grazing rights. Non citizens not to be allowed to buy or have rights to agricultural land for over 10 years (this removed by Government). Non citizens can only obtain land rights for hunting or tourism if Regional Land Board satisfied it will generate significant economic benefits for Namibians. Land policy to promote environmentally sustainable land use at all times. Limits to be placed on farmers wishing to subdivide and fragment commercial farm land. Only to be allowed to broaden access to land and where provision made for maintenance of farming units of economically viable size.

Land to which individuals or groups have formal rights may be fenced or enclosed subject to appropriate spatial planning and consultation with users or neighbouring land. Under forthcoming legislation, enclosure of other land to be construed as unlawful abrogation of rights and will be an offence. Before fencing approved, must be demonstrated that enough land remains available for other users at present and in foreseeable future. Unrealistic to suppose that illegal fencing which is spreading rapidly across communal areas will be removed even if new law passed. After establishment of Regional Land Boards, all those who have fenced land to be given 2 years to negotiate proper rights to this land with Boards. After 2 years, all fenced land to which legal rights not awarded will be considered illegally occupied.

Barney Karuombe,

'Land Reform in Namibia',

Southern African Regional Conference on Land, Labour and Food Security, Darwendale, Zimbabwe, April 1997. Published in *Land Update*, 59, June 1997, 6-7.

Pressure from NGOs led to May 1996 draft National Land Policy which aims to provide adequate land for the landless and to coordinate access to and control over land at all levels following integrated land use planning techniques. NANGOF (Namibian NGO Forum) held consultative workshops, following which position paper released December 1996. Commercial land, mainly freehold, covers 44% of Namibia. 6,300 farms belong to some 4,200 mainly white farmers. NANGOF urged government to redefine poor as the landless or those with little or insufficient access to land and those not in formal employment. NLP needs to be gender sensitive. Communal tenure must be principle tenure for management of grazing. NANGOF in total support of establishment of Community Land Trusts to secure communal tenure rights in rural and urban areas. Government allocation of N\$20m for redistribution insufficient. Land allocation process very undefined.

Martin Adams,

'Options for Land Reform in Namibia',

Land Use Policy, 10, 3, July 1993, 191-6.

Arguments about land reform in Namibia, as elsewhere in Southern Africa, tend to be about the redistribution of formerly white-owned freehold ranches to black people in general, rather than to the landless. The winners in newly independent Namibia are the black elite. Their position is reinforced by the belief that the environmentally sound way to manage the land is to subdivide it into ranches because traditional open-range pastoralism is environmentally destructive. This point of view, which is at variance with an increasingly large body of research, is sustained by the conservative political leadership who are the immediate beneficiaries of this policy.

David Simon,

Land, Environment and Development in Post Independence Namibia (London: The Royal Institution of Chartered Surveyors, 1995).

Land can be for speculation and power, not just productive capacity. Perpetuation - in Zimbabwe, Namibia, now South Africa - of colonial myth that commercial tenure is desirable and should be striven for and communal lands are in present state because people can't use them productively or care for them properly. Different forms of tenure may be better suited to different agro-ecological zones, so not appropriate to have single master plan for land reform and redistribution. Almost half population live in former Ovamboland in north. Commercial farming does not ensure sustainable use of land - prime ranching area suffering from sheet erosion and bush encroachment (40%) - classic symptoms of overgrazing and inappropriate use.

In communal lands of north, a creeping privatisation is happening with monetisation of former tributes in cattle, confusion over both how rights to land are allocated and control of cattle roaming over roads and other communal lands. No adequate land allocation or management system.

New political elite paying chiefs for right to fence land, from a few ha to 5-8,000 ha. Vast areas of communal land being lost to individual farms. They graze their cattle in remaining communal lands during wet and early dry seasons then, when that land denuded, move cattle behind fences where they survive better. Poorer farmers now have less land and have lost access routes to water sources and seasonal grazing.

Nothing much happened on land reform since 1991 conference, though series of technical committees appointed. But pressures for action from unemployed and landless ex-guerrillas and communal farmers who have lost out. First Bill on commercial land tabled September, passed November 1994, became law March 1995. Contains much imprecision, not clear it will mean much in practice. Establishes Land Reform Advisory Committee; says how state can acquire land; restriction on foreigners acquiring more than 10 year leases; establishes Land Tribunal to arbitrate, provision for new land tax. Second bill, on communal lands, to follow 1995/6.

Donna Pankhurst,

'Towards Reconciliation of the Land Issue in Namibia: Identifying the Possible, Assessing the Probable',

Development and Change, 26, 1995, 551-85.

Case against major land reform overstated and inaccurate. Could undertake major land reform. Conservatism because of prevalence of colonial intellectual legacy. Ignoring lessons from other countries, e.g. resettlement in Zimbabwe. Land classifications made before independence marry measurements and soil type with type of *commercial* farming thought to be most suitable and therefore cannot say what is feasible under different farming systems.

Donna Pankhurst,

'Unravelling the Myths: Land Tenure, Agriculture and Land Reform in Independent Namibia',

Seminar on Land Tenure and Tenurial Reform in Africa, London School of Economics, May 1996.

Now finished research on Namibia, written fuller articles, in *Development and Change* and 'Similar but Different? Assessing the Reserve Economy Legacy of Namibia', *Journal of Southern African Studies*, 22, 1996, 405-20. Latter tries to compare Namibia with neighbours as discourse in Namibia often assumes country is unique. Also fuller *A Resolvable Conflict?: The Politics of Land in Namibia*, University of Bradford, Department of Peace Studies, Peace Research Report 36, Bradford, January 1996.

Namibia has varied ecology and political history so any agrarian reform must take account of these complexities. This sometimes used as excuse for arguing we can't learn from elsewhere. Highly inequitable society, including *within* communal areas.

Lots of accusations that government officials have an interest in the status quo; some truth in this. Tendency within state bureaucracy to accept set of myths about how commercial farming functions because of perceived need not to antagonise commercial farmers. Case for change within communal areas extremely urgent, but very hard to tackle. In Zimbabwe, practice of customary law very varied and often technically illegal. In Namibia, unlike elsewhere, no attempt in the past to codify customary law, so few general principles. Land tenure is reflection of local politics - how local leaders have adapted, or not adapted, laws. Complicated by extent of pastoralism - issue of 'management of the commons'. Definitely entrenched interests in communal areas. State happy to leave matters to local communities.

Most commercial 'farms' are (sheep or game) ranches, often huge. It gets wetter as you go north so the size of ranches diminishes. There are pockets of arable land and a small rainfed sector in the north. The commercial sector does not produce the bulk of the country's food, nor is it a major export earner. It is regarded as very inefficient, even by the commercial farmers' union. But it does provide 15% of formal sector employment, often in semi-servile conditions. Some people still paid in kind. Often only 3 people working on a ranch.

Communal areas on the margins of the country, in the driest, most inhospitable places. Predominantly pastoral. Rely on remittances a great deal. One of the few countries to have pensions. Some fertile land in communal areas in the north, SWAPO's heartland, where half the population lives. People have lived here since before colonisation. A complex situation in north with some individual tenure, some freehold, some leasehold. Operation of communal tenure often seen as unfair. Abuse of traditional responsibilities and powers. This northern land constitutes a real challenge because so differentiated. Dramatic expansion of enclosure (i.e. land theft) - fencing off private ranches and depriving people of access to communal grazing.

Range of serious problems and a general agreement of need to do something. A less constraining constitution than Zimbabwe's. Government has removed subsidies to commercial farming. Agriculture and Lands are separate ministries. 1991 radical occasion of land conference, including poor people. Good research before conference. Established better data base. But no clout.

Land Reform Act dealing with commercial agriculture not very effective. Communal area legislation doesn't tackle land in use, only not in use - with an eye to future demand for individual ranches, which would be leased through the state. Calculations of size of such ranches based on inaccurate guesses about economic units, carrying capacity and alleged minimum size of a ranch, itself based on colonial notion of a desirable income.

Set of myths around the environment. Arguments very polarised, politicised, irrational. This makes examination of much of the written material complex. Commercial farmers active in putting forward view that Namibia has a very fragile environment and that any change in use is *almost* certain to be for the worse. But commercial farmers also admit that they 'destroyed' much land through bush encroachment or range depletion by a particular system of ranching because of lack of rotation of animals. So, they argue, if a sophisticated, modern system can't manage it well, what hope for the traditional African? Mythologies concerning African insensitivity to environmental management. But the problem arises when they are put under constraints. Attempts in the north to research the strengths of African systems. Problems arose because of the lack of movement during the war and abuses by traditional rulers. The rules no longer operate. So simple condemnations of communal systems for causing environmental damage are out of line. Also argued that individual ranches are better, but when individual ranches are established within communal areas, they are not good for the environment. Need to beware of settler ideology.

Argument that if you disrupt the commercial sector you will undermine food security, exports, jobs. This seen to be ineffective in Zimbabwe by 1990. These arguments never justified in Namibia, but are still made strongly. Resettlement of ranches can enable land to carry 5-10 times its current population. No learning in Namibia that these old arguments are incorrect. Contrary to local beliefs, you *can* learn lessons from *parts* of Zimbabwe - resettlement schemes. No investigations into this. Also preference for large, modern units of production over small and difficult (for government) to manage ones. This clinging to myths is even more extreme in the case of pastoralism.

Role of international donors. Namibian officials said no point in arguing for radical land reform because international donors wouldn't support it. Seen as *fait accompli*. But even World Bank is now open to seeing changes in Zimbabwe and South Africa. It accepts that in Zimbabwe there are 3m ha which could be transferred from the commercial sector with no loss of output. World Bank now sees the advantages of communal tenure, more flexible than it believed earlier.

A range of options. Land resettlement not a solution to all the problems. More research needed on commercial farming sector. Individual ranches have terrible history of failure. Enclosures leading to individual ranches are dangerous.

Discussion. Learning from experience of other countries is not straightforward; interpretations from other countries are *strongly contested*. Spoke to very committed officials who accepted constraints that were part of myths. Only parts of Zimbabwe story of resettlement have been put across. NEPRO looked at Zimbabwe Model A and concluded it would be affordable for Namibia. No economic justification for ruling out resettlement. Breakdown of local agreements about how to manage land. Assumption that whenever there is environmental change, it's all doom and gloom. In fact 'destroyed' areas often

regenerate. Lack of capacity within civil service and hostility to reform. New people are in a minority. These myths perpetuated through the civil service. Lessons here for South Africa. Political issues are often clouded in technical, environmental or legal issues.

Andrew Corbett,

'Land Reform in Namibia since Independence',

Southern and Eastern Africa Regional Conference on Experiences, Perspectives and Strategies on Land Reform and Land Rights in Rural and Urban Settings, Johannesburg, June 1996.

At independence general expectation of meaningful land redistribution but slow progress. In communal areas, clear steps need to be taken to remove uncertainty about legitimate access and rights to land and ways in which land is administered. Strong lobby arguing against Ministry of Agriculture's pushing for freehold in communal areas. Argued that advantages of freehold (mortgage and security) often exaggerated and can be enjoyed through other forms of land rights. Would jeopardise security and current land rights of many rural people, especially the poor.

Sian Sullivan,

The "Communalization" of Former Commercial Farmland: Perspectives from Damaraland and Implications for Land Reform,

University of Namibia, Social Sciences Division, SSD Research Report 25, Windhoek, January 1996.

Summarises 1991 land reform conference and options discussed after. Also 1995 Agricultural (Commercial) Land Reform Act and proposed Communal Lands Bill. Perspectives of different interest groups.

Ben Fuller and Stephen Turner,

Resource Access and Range Land Management in Three Communal Areas of Namibia,

University of Namibia, Social Sciences Division, SSD Research Report 23, Windhoek, January 1996.

Reviews and summarises confusing heritage of land legislation. Traditional leaders widely referred to in range land management matters, though they have no legal authority. Government needs to publish adequate Communal Land Act, enabling rather than prescriptive. Issue of private fencing of communal lands been evaded for too long and requires urgent attention. Table of laws from 1915 on shows common theme of taking away powers over land and resources from traditional leaders and vesting them in various offices of state.

Ben Fuller and Sakaria Nghikembua with Tani Forbes Irving,
The Enclosure of Range Lands in the Eastern Oshikoto Region of Namibia,
University of Namibia, Social Sciences Division, SSD Research Report 24, Windhoek,
January 1996.

Enclosure of range lands in communal areas nearing crisis point. Lack of community based structures and overall land use plan to accommodate interests of large and small farmers. Increasing conflict between large and small farmers based on different perceptions of land use, farming practices and role of livestock in society. Simmering resentments. Need for government to promulgate Communal Land Act. Need to develop comprehensive set of policies about moving large communal farmers into commercial sector. Need for definite policy about Veterinary Cordon Fence and to expand market access to all farmers in North.

Martin Adams,
'Namibia: Land Reform - who will be the beneficiaries?',
Nigel Dudley, John Madeley and Sue Stolton (Eds), *Land is Life: Land Reform and Sustainable Agriculture* (London: Intermediate Technology Publications, 1992), 102-6.

1991 national land conference gave little attention to the landless, to farm labourers or war returnees. View that had most attention was that freehold farms should go to black farmers on financially favourable terms. In light of experience with pastoral settlement schemes elsewhere, neither subdivision of ranches into family livestock farms nor group or cooperative ranching likely to be viable options in Namibia. Agriculture employs 60% population but generates only 10% GDP. With mineral resources, Namibia much less dependent on white farmers or their agricultural exports, so can afford to be more even handed in land reform.

RWANDA

Catherine André and Jean-Philippe Platteau,
'Land Relations under unbearable Stress: Rwanda caught in the Malthusian Trap',
Seminar on Land Tenure and Tenurial Reform in Africa, London School of
Economics, May 1996.

Contrary to optimistic predictions, the accumulated evidence raises serious doubts about the effectiveness of land titling as a means to enhance agricultural growth and increase security of tenure. Land registration creates room for increased insecurity among the vulnerable, does not cause reversal of fragmentation nor lead to better allocation of land or improve access to credit. So people argue that the state should refrain from costly systematic land titling, instead concentrate on strengthening local capacities for management and settling disputes. Sympathetic to this flexible, evolutionary approach but when land pressures become too strong and there are no alternative outlets, no mechanisms can suppress tensions arising from land scarcity.

Case study from north-west Rwanda, where land pressure had reached such alarming proportions that customary land tenure system couldn't cope with challenges. What happens if no technical advance takes place and to institutions? Rwanda a fascinating case where something got blocked. Abrupt change and decline in many indicators. Number of explanations: the agricultural frontier (to the east) closed; the Zaire (Kivu) door closed; population growth at 3.5% remained very high; no escape valve in off-farm activities; no agricultural diversification attempted. Societies couldn't cope.

Did 1988 and 1993 surveys in purely Hutu area in north-west, Gisenyi, one of most fertile and densely populated regions. Focused on equity aspects. What happens to societies at such levels of population growth? Found many changes 1988-93. Came to conclusions radically different from those of World Bank.

Land distribution was very disquieting. Minuscule and fragmented parcels of land. Average 10 plots per household (which are households in Western sense). Percentage of quasi-landless rose from 36% to 45%. Median size of farms decreasing. Average size of farm per household decreasing less than average land available per person. Perceptible increase in number of people in each household. People staying with their parents because unable to get land to marry. Rise from 20% to 33% of boys aged 25-30 still living with parents, and from 71% to 100% for 20-25 year old boys. One might expect outside incomes to compensate. Village very favourably situated in this respect, with close links to the president. Does it help mitigate land pressures (as in Taiwan)? People try harder to get outside income. People who did this then acquired land. How do people acquire land? Increasingly over time through the market (31% to 41%), with inheritance becoming less important (67% to 54%). Elsewhere in Africa, inheritance dominates. Land market increasingly leading to inequalities.

Suggests land ownership depends more on ability to earn regular off-farm income and less on inherited wealth. Why do people sell land and who are they? 65% were distress sales including 30% for subsistence consumption (food and health), 17% for bribes and only 35% to promote efficiency. Generational conflicts with elder people keeping more land per person than younger ones and lands being passed down to younger generations shrinking.

The land market has developed at an amazing pace. Yet Rwandan law tried to protect people, forbidding sales unless seller retained 2 ha and buyer didn't already have 2 ha. Completely ineffective. All sales noticed here illegal! Large incidence of all sorts of conflicts - land disputes, conjugal tensions, non-fulfilment of contractual obligations, and thefts - leading to anger and violence. Generally resolved through customary channels or appeal to modern agencies. But in many of latter cases, losers compelled to sell land parcels to pay costs. At least half of conflicts arose from land problems. Erosion of mechanisms of social insurance. All this contradicts World Bank view that traditional systems were coping well with land conflicts.

Tendency to be more and more exclusive. A number of categories are very insecure: widows, returning migrants, orphans etc. These are insiders, not outsiders. People behave as though customary rules don't apply on privately owned land acquired via the market. Decline of customary marriages - two-thirds of households couldn't afford to pay dowry, and all children of such 'marriages' considered illegitimate and liable to become landless. People try to manipulate norms to suit their own interests. Used as pretext to deny access to land. Land conflicts within family core between fathers and sons most disquieting and socially disruptive. Old system has vanished. Formerly, on death of father land passed to eldest son who was expected to manage family assets, granting younger brothers enough land to subsist. But as land scarcity increased, now land divided equally among sons during a father's lifetime. Eldest son may resist this reduction of his role. Many lands being sold by fathers. Serious tensions developing because sons more and more pressurising fathers to give them land. Lots of conflicts and tensions. Passing of parents brings great relief. Parents keep land as savings because old system of getting family labour has vanished. Conflicts between brothers and sisters. Traditional system of giving land to sisters being disputed by brothers.

Evident that customary land arrangements heavily disputed, making land rights increasingly insecure especially for growing number of vulnerable categories. To counter threat of land withdrawal, people often sell land, which shifts problem of dispute onto the buyer. Collective survival and social peace under severe threat as early as 1988 because of extreme land scarcity and harsh reality of struggle for survival. More and more land disputes difficult to resolve. Atmosphere of fear and isolation, compounded by ominous rise of increasingly uncontrollable group of young delinquents.

Area heavily favoured by President Habyarimana, so had lots to lose from agreement reached in Tanzania. Was particularly involved in 1994 violence. Had always escaped Tutsi rule in colonial times. Land situation hadn't caused war but created tension. Lingering violence even *among* Hutus. People ready to seize any opportunity to change their predicament. Who were killed? Were they selectively chosen? Found 32 reported cases of killings (underestimate of true figure). There *was* selection. People killed were those who had large land holdings or were known trouble makers. First killed were either the old or the young who had lots of land but refused to distribute it. One-third of male over-50s killed. Provided chance to settle scores or reshuffle land.

Conclusions: local private innovations couldn't match population growth; public technical innovations lacking - need for either swift creation of non-agricultural incomes or measures to reduce fertility rates to relax pressure on land. (But Belgian Catholic ideology had been strongly anti-birth control). When no steps taken, society dropped into Malthusian trap and

fell prey to centrifugal tendencies that undermined basis of social life. Illusory to think formal private property rights or private title could have been solutions. Need decent employment for people. Land market activated without title; main argument for title is security, but records are never kept adequately. Needed wiser policies for agricultural research, off-farm activities and economic diversification.

Discussion: Teddy Brett (LSE): a brilliant paper. Fears we have not seen the end of conflict in Rwanda; new conflicts will arise from how old ones were handled. Problem of lack of out-migration and off-farm income becoming more general in Africa. People wouldn't be selling land if title didn't exist - not in law, but in other ways. This individualised land market operating within the customary sector is close to the way the World Bank would like people to act. (Compare mailo land in Uganda, where Madison Land Tenure Centre says the market is responsible for sub-division, but Rwanda shows this doesn't have to happen). More serious attempts must be paid to ways land rights are seen in traditional societies. De facto private land market operating. If you leave it to people, gender inequalities will continue. Statutory and customary law very intertwined - people use one or the other as it suits them.

Platteau: Belgians very strong on imposing subsistence crops with low value added possibilities. Their ideology of self-sufficiency discouraged export crops. This perpetuated by the NGO community. No real technical advice to peasants to diversify. Growing bananas a poor use of land. Lots of credit available in Rwanda, but people didn't go for it. Also no lack of money from donors.

Benoit Blarel,

'Tenure Security and Agricultural Production under Land Scarcity: The Case of Rwanda',

John W. Bruce and Shem E. Migot-Adholla (Eds), *Searching for Land Tenure Security in Africa* (Dubuque: Kendall/Hunt, 1994), 71-95.

Looks at land distribution, land tenure security and farm fragmentation. Based on 1988 farm surveys. Unequal land distribution. Increasing land scarcity has led to variety of alternative income earning strategies. Inheritance system unequal. Land purchases have increased over time. Non-market land transfers within extended families play important social safety net role. Absolute landlessness extremely rare. Describes evolution of indigenous tenures. This has largely evolved towards individualisation (62% surveyed farmers claim complete land rights, including right to sell) despite lack of registration and 1976 land decree restricting sales on non-registered land. Low incidence of land disputes suggests land tenure security fairly high. Need for titling and registration appears to be low, as opportunities for land investment low, tenure security not lacking and indigenous tenure systems seem to have adapted efficiently. So costs of registration likely to be much higher than any benefits. Fragmentation suited to Rwandan climatic and soil conditions, facilitates crop diversification, provides insurance against fluctuations in yield. So policy recommendation is not to impose consolidation. Rural communities showing remarkable ability to adjust to increasing land scarcity. Extent of control over land and its alienation by extended family and beneficial effects of this on land-scarce households strongly argue against absolute and indiscriminate privatisation of land which could lead to social destitution.

James K. Gasana,

'Factors of Ethnic Conflict in Rwanda and Instruments for a Durable Peace',
International Conference of Experts on Federalism against Ethnicity? Institutional,
Legal and Democratic Instruments to Prevent or Resolve Minority Conflicts, Basle,
September 1995.

Examines relationship between natural resource base and power relations and ethnic conflicts. Problem lies in centralised political control of natural resources rather than control by communities through a consensual land tenure. Sees striking precolonial, colonial and post-colonial similarities in nature of socio-ethnic tensions resulting from land and resource scarcity. Accumulation of land since 1970s by those in power, increasing inequalities and inability to meet minimum food requirements, appalling rural unemployment. Clear before October 1990 war that as result of inequitable land tenure and high population pressure, social explosion only a few years away.

Frank Place and Peter Hazell,

'Productivity Effects Of Indigenous Land Tenure Systems In Sub-Saharan Africa',
American Journal of Agricultural Economics, 75, February 1993, 10-19.

Uses household survey data from Ghana, Kenya, Rwanda to test if indigenous land rights systems are constraint on agricultural productivity. Rights which farmers hold over individual parcels of land vary widely and are in many cases surprisingly privatised. Yet, with few exceptions, land rights are not found to be a significant factor in determining investments in land improvements, use of inputs, access to credit, or the productivity of land. These results cast doubt on the need for ambitious land registration and titling programmes at this time.

Benoit Blarel, Peter Hazell, Frank Place, and John Quiggin,

'The Economics of Farm Fragmentation: Evidence from Ghana and Rwanda'
World Bank Economic Review, 6, 2, May 1992, 233-54.

Farm fragmentation, in which a household operates more than one separate parcel of land, is a common phenomenon in sub-Saharan Africa. Concerned by the perceived cost of fragmented as opposed to consolidated holdings, several countries have implemented land consolidation programmes. These interventions are said to overlook the benefits that land fragmentation can offer farmers in managing risk, in overcoming seasonal labour bottlenecks, and in better matching soil types with necessary food crops. Using household survey data from Ghana and Rwanda, the incidence and causes of fragmentation are discussed, and the relation between fragmentation and land productivity and risk reduction is analysed. Concludes that consolidation programmes are unlikely to lead to significant increases in land productivity and may actually make farmers worse off. Suggests that policy makers should focus instead on reducing the root causes of fragmentation: inefficiencies in land, labour and food markets.

Shem Migot-Adholla, Peter Hazell, Benoit Blarel, and Frank Place,
'Indigenous Land Rights Systems in Sub-Saharan Africa: A Constraint on Productivity?',
World Bank Economic Review, 5, 1991, 155-75.

Using cross-sectional evidence from Ghana, Kenya and Rwanda in 1987-8, examine whether indigenous land rights are constraint on productivity. Evidence provided supports hypothesis suggested by historical studies that African indigenous land rights systems have spontaneously evolved from systems of communal control towards individualised rights in response to increases in commercialisation and population pressure. Cross-sectional data on incidence of land improvements and on land yields provide little support for view that limitations under indigenous law on the right to transfer land are a constraint on productivity.

SOUTH AFRICA

Geoff Budlender,

'Current Initiatives on Land Tenure Reform in South Africa',
Seminar on Land Tenure and Tenurial Reform in Africa, London School of Economics, May 1996.

Prior to becoming Director-General, Department of Land Affairs, a month ago, had been attorney in Legal Resources Centre in Johannesburg. Comes from radical campaigning NGO background.

Communal tenure now often blamed for overcrowding instead of the apartheid land laws which caused it. African land is owned by the state, in effect nationalised. Occupied on permits - conditional and insecure. Land reform programme involves a new Land Claims Court because they didn't want to use the old courts.

Tenure reform must address current insecurity and inequality, resolve current disputes and unravel chaos of overlapping rights and conflicting claims. Need to build on what is there. Previous government tried in 1990s to individualise communal tenure, leading to corruption and dispossession of the most vulnerable. Lack of administrative capacity to support communal tenure, a complete breakdown of institutions, land disputes too difficult. Chiefs conservative. Will the new government take them on? A sensitive political question. Undeniable that chiefs enjoy a great deal of support in many areas.

Green Paper on Land Reform (February 1996) is pro rights and anti permits. Supports legally enforceable rights to land. Pro choice and anti imposition. Want to create an equality of options. Must be consistent with principles in the new constitution (May 1996), which specifically mentions tenure reform and will provide constitutional protection for land reform. It gives political weight to tenure reform, which is now a constitutional imperative. The consequences are likely to be striking. Have already seen it in the case of restitution, which is now off the political agenda and is no longer contested. Hopes this will also happen with tenure reform.

Lots of new legislation. Communal Property Associations Act (1996) creates new legal institution, a communal property association, through which groups may hold property on communal basis. A tension here between it being appropriate for the state to require conformity with democratic principles versus the need for sensitivity to local practices. If seen as imposition, will be ignored; government has limited capacity for enforcement.

Interim Protection of Informal Land Rights Bill before parliament to protect people who are not really owners nor have any security though they may think they do. Trying to protect people against dispossession pending tenure reform. Will last until end 1997.

Land records are not accurate, though they are better in urban (c.70% accurate) than rural areas. So need for rights enquiry to establish who are rightful owners of individual land. Land often held by family but permits in name of the head of household, who could transfer the land. 'Family title' is current buzzword, but has real problems. Difficult to devise legally workable formula.

Similar problems in communal land with concept of 'trusteeship'. Progressive chiefs group agree that chiefs hold land on people's behalf. No support for *imposing* individualisation of

tribal land. Government under pressure from community groups saying we want land. It is sympathetic, but not sure how to respond.

People should have enforceable rights. This is both politically correct and will enable people to hold government to its promises. Now developing a rights based approach to unravel the chaos in rural areas. Need to open up options at the local level. A 2 year pilot programme - send people out to do enquiries and make decisions. Making rules on the basis of this experience. Being managed by Tenure Reform Core Group, with people from government and NGOs. Already established difficulty of instituting land reform. Don't want expensive systems.

Underlying problem of how to deal with traditional systems sensitively. Non-prescriptive, but an element of prescription. Trying to straddle uneasy divide. Need for flexibility. Move from communal to individual tenure if people want this. Devoting energy, time and money to communal tenure, not from ideological commitment but because this was denied in the past.

Land reform about redistributing *rights* in land. Tenure reform at the heart of everything in land reform. Has to be sensitive to country's particular history in a context in which the government is being re-invented.

Discussion: Implication is that proposed reforms will lead to a major transformation of South African property law because of creating uniform land registry system. Why replace fragmented system with one protecting all systems? Will also affect women's political position in rural areas more generally. GB: not going for registration for registration's sake. Want single non-racial system because of past history. Goal is security of tenure and registration a means to that end. Agrees implications of land tenure process *are* dramatic. Will affect political power in a core way. Land reform a convenient tool to attack this, rather than a more frontal attack. Inheritance is a difficult problem and not my ministry, but Justice! Some decisions being made in courts. Not considering pre-1913 restitution claims. Nervousness by commercial farmers because of some attempts to raise this. Labour Tenants Bill meant there would be no new labour tenants created. Tenancy in general was a way of people getting access to land.

Capacity is very weak. Tremendous problems. DLA not a big department and needs to be organised better. Very weak centrally and, in a decentralised government, even weaker in the provinces. Can't spend all the money it has and is likely to come under increasing pressure because of this very slow progress. Advocacy: certainly need to form partnerships with land NGOs. They should be banging on the door, not simply being coopted into government. How to do that? Pressures are from the communal sector. They need to keep this pressure up. Relationship with NGOs needs to be restructured because things are different now. Was rung up by lawyer who was embarrassed because she was suing the government; but she should not have been. National Land Committee not lobbying enough, concentrating on the rhetoric of the property clause, rather than getting involved with test cases etc. Major thrust by World Bank 1993, but resistance by government to individual tenure. No current impact by World Bank felt in DLA, not been seen recently. Earlier high profile interventions much resented. Binswanger turned up in Columbia with South African model of land reform!

Great deal of openness in government now to listen to other experience. Government's main strength is that it knows it *doesn't* have the answers. Recognises need for quick action now before things solidify. Government decided a year ago it wasn't going to buy land. (But it has just acquired one big block of land from a company going into liquidation). Instead it was going to help people buy land with subsidies and start up grants (R15,000 = c.£2,000). This has been categorised as a market approach. Lots of problems re valuation. People acquiring land can be hoodwinked easily; they don't care when the money is coming from a third party. Government is in uncomfortable role of negotiating prices. Market value is a highly contentious issue. Hanekom insists on seeing each sale to look closely at market value. When a third party is involved (i.e. the state), market value becomes very difficult to determine.

Lots of encroachments. Farmers suspect DLA of encouraging this. A sort of cat and mouse game. Issues of mortgage and transfer very difficult, but can't be ducked. A very strong drive in urban areas towards individual freehold title. Some social housing, community schemes around Johannesburg, but very few. ANC had long ago accepted a compromise on property clause with National Party, later gave some of this away in return for NP concession on education. Final wording allows public need expropriation in context of land reform. Feels this is a workable solution. Departments of Lands and Agriculture not to merge, despite Derek Hanekom taking over Agriculture.

Zimbabwe's Land Commission recommends move from unitary system to appropriate range of systems. It rejects central government control over land. Abolition or ousting of chiefs in Tanzania and Zimbabwe failed. Need to learn from other experience. Family and household rights difficult. In Eritrea and Ethiopia, proposals moving towards individual rights *within* families. Need to look at resettlement models more closely. Lesson from Kenya being learned in Zimbabwe is that sons of white farmers don't stay in farming forever. South Africa should think about this.

**Government of South Africa, Department of Land Affairs,
Our Land: White Paper on South African Land Policy, Pretoria, April 1997.**

Sets out vision and implementation strategy for a land policy that is just, builds reconciliation and stability, contributes to economic growth, bolsters household welfare. Culmination of two and a half year process of policy development, consultation, lessons from early implementation. Green Paper on Land Policy (February 1996) distributed widely, written submissions solicited, over 30 workshops held. Responses and comments have guided Department of Land Affairs (DLA) to ensure land policy takes account of people's concerns, but counter proposals often difficult to reconcile and compromises had to be found.

In urban and rural environments land policy must deal with injustices, inequitable distribution, need for security of tenure, sustainable use of land, rapid release of land, need to record and register all rights and administer public land effectively. Case for government's land reform policy is to redress injustices of apartheid, foster national reconciliation and stability, underpin economic growth, improve household welfare and alleviate poverty. Programme comprises restitution, redistribution, tenure reform. Importance of local participation in decision making, gender equity, economic viability,

environmental sustainability in implementation of programmes. Government committed to land reform on willing-seller willing-buyer basis. Will provide grants and services to assist the needy with purchase of land, but not be directly involved in land purchase.

DLA facing severe shortage of trained personnel as demand increases for services. Other institutional issues relate to: rationalisation and integration of land administration and legislation of former homelands; establishment of transparent equitable system of public land management; involvement of affected communities in decisions; ensuring adequate post-settlement support; assisting majority of poor people to obtain credit.

Key issues facing land *restitution* are how to: ensure that rural and urban claimants dispossessed of land after 1913 receive restitution in form of land or other remedies; appropriate arrangements developed and implemented to respond to thousands of claims within time limits set; respond to claims in urban areas where land redeveloped and changed hands since claimants removed; ensure constructive participation of all.

Issues relevant to land *redistribution* include: how to respond appropriately to widely differing needs and aspirations for urban and rural land in equitable, affordable manner, while contributing to poverty alleviation and national economic growth; address urgent cases of landlessness which often result in land invasions; make available commonage for poor residents of rural towns wishing to supplement their incomes.

Tenure reform faced with major challenges of how to: upgrade variety of conditional land tenure arrangements restricting tenure security and investment opportunities of black South Africans; resolve overlapping, competing tenure rights of people forcibly removed and resettled on land to which others had prior rights; strengthen beneficial aspects of communal tenure systems yet bring about changes to practices which have resulted in erosion of tenure rights and degradation of natural resources; make government services available to communities which do not have secure rights to land on which a development is to take place; extend security of tenure to millions who live in insecure arrangements on land belonging to other people, especially in mainly white farming areas.

Until recently binding constraints on progress of the programme have been limited staff capacity and inadequate institutional infrastructure. As these problems overcome, delivery of land expected to be seriously constrained by an inadequate budget.

Purpose of *Land Redistribution Programme* is to provide the poor with land for residential and productive purposes to improve their livelihoods. Intended to assist urban and rural poor, farm workers, labour tenants, emergent farmers. Enables eligible individuals and groups to obtain Settlement/Land Acquisition Grant of maximum R15 000 per household for purchase of land directly from willing sellers, including the state. Priority given to the marginalised and women in need and projects which can be implemented quickly and demonstrate viability and sustainability. Government will ensure geographical spread of projects and diversity of project types. It will not give priority to those participating in land invasions, nor will threats of land invasions be rewarded by special treatment. Need for removal of legal restrictions on women's access to land, use of procedures promoting women's active participation in decision making, registration of land assets in names of beneficiary members, not solely of

household head. Farm workers and labour tenants singled out for special attention because of their insecurity. Partnerships with private sector will be supported which have potential to widen scope and efficiency of land reform process.

Purpose of *Land Restitution Programme* is to restore land and provide other remedies to people dispossessed by racially discriminatory legislation and practice. Policy based on Constitution and the Restitution of Land Rights Act, 22 of 1994. White Paper elaborates qualification criteria, forms of restitution, compensation, urban claims. A claim qualifies for investigation by Commission on Restitution of Land Rights provided claimant dispossessed after 19 June 1913 as result of racially discriminatory laws or practices or was not paid just, equitable compensation. Restitution can take form of: restoration of land from which claimants dispossessed; provision of alternative land; compensation; alternative relief; or priority access to government housing and land development programmes. State will compensate certain successful claimants in just, equitable way where restoration of land or other remedies not appropriate. Land owners whose land is expropriated to restore land to successful claimants will be compensated in just, equitable manner. To deal with multiple complications of anticipated urban restitution claims, claimants will be encouraged to form groups to submit and negotiate settlement of their claims jointly.

Land Tenure Reform Programme a particularly complex process. Must address difficult problems created in the past. Solutions may entail new systems of land holding, land rights and forms of ownership. May have far-reaching implications so policy has to be developed with extreme care. To ensure this, two year period set aside for consultation on tenure policy, implementation of test cases and preparation of legislation. In interim, number of measures introduced to deal with urgent and pressing matters. Separate Green Paper on Land Tenure Policy to be released end 1997. Principles guiding process are: tenure reform must move towards rights away from permits; build unitary non-racial system of land rights; allow people to choose system appropriate to their circumstances; all tenure systems must be consistent with Constitution's commitment to basic human rights and equality; rights based approach and principles have to be adopted which recognise vested rights; new tenure systems and laws should be brought in line with situations on the ground. Rights of affected land holders will be formalised only in response to requests. Programme of forced land titling will not be undertaken. Limited capacity within government to respond to urgent requests. Because there will be extensive areas where tenure reform may not take place for many years, interim measures being established entailing limited reform of regulations governing access to and control over land. In long run government committed to transfer of land in nominal ownership of the state to its real owners. In meantime, numerous local tenurial problems need to be overcome and administrative uncertainties addressed.

DLA offers set of grants applicable to restitution, redistribution, tenure reform. Settlement/Land Acquisition Grant of maximum R15 000 per beneficiary household used for land acquisition, enhancement of tenure rights, investments in internal infrastructure, home improvements. Grant for Acquisition of Land for Municipal Commonage to enable municipalities to acquire land to extend or create commonage for use of qualifying persons. Settlement Planning Grant to enlist services of planners and others to assist beneficiaries in preparing project proposals and settlement plans.

Grant for Determining Land Development Objectives provides for under-resourced local authorities to undertake strategic planning process. Grants intended to assist: landless people, especially women, wishing to gain access to land and settlement opportunities; farm workers and families wishing to improve settlement and tenure conditions; labour tenants and families wishing to acquire and improve land they hold or alternative land; residents wishing to secure and upgrade conditions of tenure; beneficiaries of Restitution Programme.

Prime purpose of land development policy is to facilitate release of appropriate public land for affordable housing, public services, productive and recreational purposes. In remote locations this involves upgrading services and infrastructure. Restructuring laws and institutions which supported apartheid's spatial and physical planning a complex task. To proceed effectively land development requires: coherent and integrated institutional, financial and legal framework; clearly defined responsibilities, roles and powers for planning and regulation at all levels of government; national land use planning and management system; capacity to involve people affected in planning and implementation.

Importance of integrated approach to delivery of land and support services, partnership arrangements with private sector, NGOs and CBOs, monitoring and evaluation system. DLA has undergone many structural changes since 1994. Now 3 branches: Deeds and Surveys, Land Reform Policy, Land Reform Implementation. Currently engaged in decentralisation process giving greatly enhanced functions and authority to Directors of 9 provincial offices. Effective delivery requires that DLA's provincial offices create widest possible implementation capacity. Delivery will require transformation from traditional state bureaucracy to one that is responsive, service oriented, adequately staffed with skilled personnel reflecting racial, gender and disability composition of population. Experience of past two years has demonstrated critical importance of establishing clear understanding between national and provincial governments of respective roles and responsibilities. Long-term success and sustainability of land reform programme to large extent dependent on ability of potential beneficiaries being able to access programme easily. This requires provision of services close to the local level. Building this capacity will be a long term process.

Government of South Africa, Department of Land Affairs,
Our Land: Green Paper on South African Land Policy, Pretoria, February 1996.

Government's case for land reform policy based on need to redress injustices of apartheid; foster national reconciliation and stability; underpin economic growth; improve household welfare and alleviate poverty. Land reform essential pre-condition for Reconstruction and Development Programme to succeed. 3 components to programme: redistribution, restitution, tenure reform.

Property rights clause in new Constitution (due by 9 May) subject of considerable public debate. Constitution should not prevent Government from effectively responding to demands and needs of the landless. Need for: rationalisation and integration of chaotic land administration and legislation of former homelands; creation of effective land delivery system; establishment of transparent and equitable system of public land management;

involvement of affected communities in land development decisions; tackling environmental problems resulting from landlessness and overcrowding.

Key challenges include: scale of forced removals; land invasions; access to credit for the poor; subdivision of agricultural land; possible land tax; how to strengthen beneficial aspects of communal tenure; how to respond to widely differing needs and aspirations for land in an equitable and affordable manner.

Redistribution. Intended to assist urban and rural poor, farm workers, labour tenants, women, entrepreneurs. Eligible individuals and groups to access Settlement/Land Acquisition Grant to maximum R15,000 per household to buy land from willing sellers, including the state. Priority to the marginalised, to needs of women, and projects with capacity to implement quickly and effectively, with geographical spread and diversity of project types. No priority to groups participating in land invasions. Need to remove legal restrictions on women's access to land and for registration of land assets in names of beneficiary household members, not just household head. Department of Land Affairs (DLA) to assist farm workers in settlement off-farm in agri-villages or towns or in range of schemes on farms where they're employed. Labour Tenants Bill provides for protection of existing land rights and use of Grants to enable labour tenants to buy land they use and occupy or alternative land.

Restitution. Intended to restore land to people dispossessed by discriminatory legislation since 1913 or not paid just and equitable compensation. Exceptional pre-1913 claims can be considered by Minister. Restitution, investigated by Commission of Restitution of Land Rights, can take form of restoration of original land, provision of alternative land, payment of compensation, combination of above or priority access to government housing and land development programmes. Land owners who are expropriated to be compensated. In urban areas claimants to be encouraged to form groups to make joint claims.

Tenure reform. Intended to extend security of tenure to all South Africans under diverse forms of tenure. Government committed to extension of registrable tenure rights to all landholders; legal recognition of communal and group tenure; decentralised administration of tenure; recognising clear role for traditional authorities in land administration; ending discrimination against women in land allocation and holding; reform of tenancy laws. DLA will institute interim protective measures to reduce tenure insecurity; set up mechanisms to investigate informal and overlapping land rights; undertake tenure reform projects to establish best practice; undertake further research; consult with stakeholders; mount national awareness campaign; scale delivery to a national programme within 2 years.

DLA to offer acquisition and planning grants in support of restitution, redistribution and tenure reform programmes.

Land development policy will establish procedures to facilitate release of appropriate land for affordable housing, public services, recreational and productive purposes. In remote unplanned settlements this will involve upgrading services and infrastructure after settlement has occurred. Restructuring old apartheid laws and institutions a complex task. Land development will require coherent and integrated institutional, financial and legal framework; clearly defined responsibilities, roles and powers for planning and regulation at all levels of government; national land use management system coordinated between

departments; capacity to involve people in planning and implementation. Database being established to detail all state and public land holdings, some of which could be released.

DLA committed to speeding up delivery of land reform through partnership with private and NGO sectors and rigorous monitoring and evaluation which will allow quick changes of policy. Longer term intention is for decentralised land administration, but this will take time to achieve. Government will provide, directly or indirectly, facilitation services to ensure prospective beneficiaries are supported to apply for appropriate assistance and dispute resolution services to provide conflict prevention and resolution skills amongst cross-section of participants in the land reform process.

Green Paper commits DLA to transformation process that will result in a more representative, flexible, service-oriented delivery system. A sound land policy one of preconditions for attainment of peace, reconciliation and stability, without which economic growth and secure livelihoods cannot be achieved. Effective land programmes will also contribute directly to increasing production and poverty alleviation.

Tessa Marcus, Kathy Eales and Adèle Wildschut,

Down to Earth: Land Demand in the New South Africa (Durban: Indicator Press and Land and Agriculture Policy Centre, 1996).

Based on land reform research programme by Land and Agriculture Policy Centre 1994-6. Undertaken to ensure voices of poor rural people heard before major policy decisions taken. First comprehensive study into land demand among dispossessed black South Africans. Data from over 60 sites in all 9 provinces. Unevenness of results a limitation on findings. Should be seen as work in progress, as contribution to ongoing debate. Looks at land demand and what people want land for, who wants land or is interested in land reform, at physical and social structural factors which affect land need and usage, at policy framework of Department of Land Affairs.

Found large demand for and interest in land in most parts of country. Most universal and immediate land need is for a place to live, but for substantial minority land has potential productive value. Most strongly organised are claims for restitution arising from dispossession. Conditions in countryside complex and diverse; people within same community fall into different categories. Most people want 1ha or less. Farm workers want residential land disentangled from conditions of employment. Labour tenants want security on the land. Strong demand for freehold title, especially for arable production. Surplus commodity and commercial producers need more land but also redress to labour, capital, supports, services. Importance of need for residential land in rural areas signifies extent to which poor people have lost their homes in countryside and degree to which majority are detached from commercial farming. Large section of rural population has little or no link with agricultural production.

Substantial number want land to farm. Women mainly want land for arable micro production, men for livestock. Gender mix more balanced on demand for land to farm for the market, though weighted in favour of men at larger end of the scale. People's interest in land also conditioned by astute understanding of other major constraints which affect ability to produce - water, capital, labour, access to markets. Need for,

interest in and use of land socially stratified. Greatest social cleavage is between those who have land (and other resources) and those who do not.

Greatest innovation in agricultural land management comes from corporate sector, particularly sugar and timber. Response of commercial farmers more mixed, some fear it. Traditional authorities more ambiguous, often find themselves in conflict with interests of the poor.

At all levels institutional capacity uneven and often weak. Most poor rural landless people have very low levels of organisation and minimal institutional support. This poses enormous challenge to land reform. If driven by demand, doubtful whether their needs will be heard or met. Urgent consideration needed to prevent only the rural elite from benefiting from land reform.

Even if land reform changes carried through optimally, given political, demographic and economic constraints they are unlikely to draw majority of rural dwellers into substantial agricultural production. Presents unique challenge. Land reform cannot simply focus on agricultural production, it must look beyond this.

Michael Lipton, Mike de Klerk, Frank Ellis and Merle Lipton (Eds),
Land, Labour and Livelihoods in Rural South Africa: Volume One, Western Cape; Volume Two: KwaZulu-Natal and Northern Province (Durban: Indicator Press, 1996).

Result of rural livelihoods project in Western Cape, KwaZulu Natal and Northern Provinces from 1993 to explore potential for creating additional livelihoods in agriculture and in rural non-farm sector. 31 chapters in 2 volumes.

Introduction by Liptons and Ellis asks what is nature of unemployment problem; what is potential of rural sector to contribute to livelihoods; is smaller, labour-intensive farming efficient and sustainable; is the state able and willing to carry out significant rural reform. South African agriculture in typical year accounts for only 5% GDP and 14% labour force compared to averages in comparable countries of 15% and 25%. Mind-set equates small with backwardness rather than efficient growth. Small farms normally far more livelihoods-intensive than large ones. Over 70% poor among 40% population classified as rural Africans. Unemployment now estimated at 33%. By 2025 workforce will have more than doubled present size. Half labour force is in urban and mining jobs. Hard to envisage significant rise in mine employment in coming decades.

Real growth based on expansion of small scale African farming will not be cheap; will need improved roads, electricity, sanitation, schooling as well as agricultural infrastructure. Big farmers operate with lots of capital and little labour, small farmers use family labour, more socially efficient, allocate more land to staple foods, use land productively for larger parts of the year, look for choices of technique that raise output per hectare by substituting labour for equipment. No one knows what will happen if opportunities opened for Africans to farm with larger share of land, water and other resources. Most of old agricultural establishment want to minimise reform and could be strengthened by an alliance with small elite of emerging black farmers. Many in government fear that smaller farms will damage agricultural output, surpluses and

exports. Serious capacity problems, lack of skills and expertise needed to help establish and nurture smaller scale producers. Additional measures needed to give black producers opportunity to compete with historically advantaged whites. Challenge is to define limited, manageable role for the state, including provision of a property rights regime helpful to emergence of small farmers, schools, clinics, roads.

Chapters provide beginnings of research needed to provide better basis for successful attack on rural poverty. Severe problems of poverty and unemployment unlikely to be solved simply through economic growth in formal urban economy. Wide range of alternative options for employment generation needs to be urgently pursued, including creation of rural livelihoods. Two reasons for believing rural economy could increase number of livelihoods: historical biases against small farming can now be reversed and international experience. Rural livelihoods will not provide panacea for unemployment but could help to reduce it.

Second 'qualifying' introduction by de Klerk is far more sceptical. One thing to declare superiority of small scale farming, quite another to operationalise it successfully. Need to locate policy for small scale farming within overall policy for rural reform. Small scale farming in main horticultural and field crops should be economically sustainable, but will probably not bring about expected increase in employment. May even involve some reduction. To date focus has been on land delivery, little attention to subsequent land use and support. Willing and active support of large farmers a prerequisite for success in small farmer settlement. Surprising fund of goodwill among established farmers and appreciation of importance of assisting disadvantaged, small scale new entrants. Need for nuanced approach to grants and subsidies and for more balanced perspective on land reform.

Scope for competitive new small scale commercial farming may be limited; evidence in this book at best mixed. In black rural areas most of strongest demands are for piped water, houses, secondary schools rather than land itself. Land reform only one component of agrarian reform, itself one component of rural reform. Will not do cause of rural reform any good to overemphasise redistribution at expense of other programmes which will benefit far larger number of rural residents. Plea to evaluate capabilities and limitations of small farms in much more practical way, for not burdening smallholdings with task of mopping up national unemployment and for giving other aspects of rural reform attention they deserve.

Charles Mather and Asghar Adelzadeh,

'Macroeconomic Strategies, Agriculture and Rural Poverty in Post-Apartheid South Africa',

Land and Agriculture Policy Centre (LAPC) Working Paper, Johannesburg, 1997

June 1996 post-apartheid macroeconomic blueprint, Gear: Growth, Employment and Redistribution Plan. Not very different from standard IMF/World Bank structural adjustment programme. 3/4 rural population living below poverty line so strategy must ultimately be judged on ability to redistribute wealth more equally and improve livelihoods of rural poor. People employed in agriculture declined from +1.5m 1970s to under 1m 1990s. Gear has impressive goals including 6% per annum growth and

creation of 400,000 jobs per annum by 2000. Based on transformation to a globally competitive, outward oriented economy and creation of stable environment for private investment. New emerging farmers will need to be prepared for rigours of neoliberal macroeconomic environment. Citrus farmers employ 100,000 workers, over 330,000 in deciduous fruit sector, many rural women. These less vulnerable to mechanisation, unlike maize, where there have been great losses, especially of casual and seasonal workers, many women.

In an open economy, high value food exporters will emerge as winners, but losers will be maize, wheat and oilseed farmers. Competing against maize and wheat imported from USA or EU will be extremely difficult given high subsidies they enjoy. WTO will allow these countries greater access to markets of developing countries to detriment of crop producers and workers. Dismantling of domestic subsidies and regulations since mid-1980s has made field crop farming in South Africa even more vulnerable to imports. In most years differences will allow US farmers to deliver wheat and animal feed to Cape Town at prices below production costs in South Africa. Considerable restructuring of maize, wheat, oilseed farming likely. Move to stock or game farming likely, but these require much less labour. Private investment likely to follow sectors with potential for export earning, while maize and wheat growing regions likely to experience job losses and decline.

Enormous political will for small scale black commercial farming, as in Liptons studies. But Gear's support will be temporary. High interest rates will put limitations on ability to borrow. Studies show that under structural adjustment in absence of state intervention, small scale farmers less likely to succeed in 'free market' environment while production and land get concentrated in fewer hands. Smallholders have not fared well under neoliberal economic environment; many fear same will happen in South Africa.

Rural land reform aimed at increasing efficiency of emerging farmers unlikely to reach poorest households and much more likely to assist farmers already earning part of income through farming and will probably increase rural differentiation. Even if it is targeted at the rural poor, doubtful if enough could be targeted to have a meaningful impact on rural poverty.

Gavin Williams,

'Plus ça change, plus c'est la même chose: Land and Agricultural Policies in South Africa'

Sustainable Land Reform Conference, Grahamstown, May 1997.

Since 1994 deregulation of agricultural markets has proceeded much faster than land reform. ANC victory proved crucial to economic liberalisation. Land reforms unlikely to transfer much land to poorest, least of all rural women. Process and achievement of reclaiming land expose divisions and raise issues over who should exercise authority over who may live on land, how it is to be allocated and to what uses put, thus opening up or suppressing conflicts of gender and generational interests. DLA only been able to spend fraction of limited sums allocated for land acquisition by pilot projects, thus undermining claim to further resources for redistribution. Large numbers

of farms available for purchase in the market but not necessarily where claimants wish to live. Demand for land most intense along borders of former Bantustans where farmers unable to resist encroachment, look to government to buy them out as previous regime did, and have upwardly revalued their land.

Obvious contradiction between aims of providing resources to rural poor and encouraging development of commercial production. First priority for most people wanting land is residential sites and gardens. Poor people acquiring land likely to use it for different purposes and combine it with other sources of income and security in struggle to provide livelihoods for families rather than farm it as economic enterprise. Murray in Free State shows beneficiaries of land allocation have been people able to finance purchase of land, repayment of loans etc from incomes from commercial activities and salaried employment. African traders and transporters have bought land along Lesotho border. KwaZulu-Natal and Eastern Cape pilot projects in areas where many dislocated, creating intense demand for land. Prospect of redistribution generated conflicts and pre-emptive land invasions. Project staff spent much time arbitrating conflicts. Pilots will not provide replicable models suitable for transfer elsewhere because plans have had to be adapted to changing circumstances and conflicting claims specific to areas, but do offer invaluable experience of complexities and pitfalls of managing land transfer and of limits to pace at which it can be accomplished. Because of state's limited funds and capacity, black people likely to get more rights in land through market transactions and corporate initiatives than through government programmes. State policies and land reform projects will affect who is able to decide which people will get access to land and for what purposes, though not necessarily in accordance with intentions of state policies.

Gavin Williams,

Seminar on Land Reform in South Africa, University of Oxford, 14 November 1996.

Lots of agricultural market liberalisation but not much land reform. Not much money for reform, not all of it spent. Agriculture marketing and land reform kept separate, except by 1993 World Bank report, which saw necessary connection. Consistent Bank agenda - political and economic liberalisation. Proposed radical land reform programme - redistribution of 30% in 5 years. (Final World Bank report expunged 'resettlement'. Some of thinkers now in DLA anti-World Bank loans, anti-resettlement). ANC took this up as target in RDP, but once in power began to back away and by 1995 had abandoned it. Land restitution going better. Relatively small number of communities who held these claims. Supported by National Land Committee, dominated by white-led NGOs, with lawyers playing dominant role.

Property clause in constitution 'public purpose' - what is it? Some merit in restriction, given what happened in Zimbabwe! Whatever land required will have to be paid for.

R15,000 land grant same as urban housing grant. Wanted to equalise them. People might want to spend R15,000 in variety of more productive ways than as leverage for getting loans to buy land. Lots of willing white settlers, not so many willing black buyers. Series of land pilot projects. Pilots not pilots for land reform, they *are* the land

reform. Need money to keep them afloat. To whom is the land to be allocated? Who is to decide and on what terms?

Land reform will happen within private sector e.g. expansion of smallholder sugar cane in KwaZulu, irrigated deciduous fruit industry in Western Cape (mostly Coloureds). Colin Murray's work in Free State shows land reform benefiting rich farmers (cf. Kenya telephone farmers).

Agricultural marketing reform. Goes back to 1985 record maize harvest. Followed by severe drought. Hard to sustain level of agriculture subsidies. Period of rising interest rates. Government less willing to subsidise farming. When subsidies dropped, those nearest markets wanted to sell direct to millers. 1992 Coetzee Commission said marketing monopolies outdated. Led to Bosman Committee designed to delay changes. 'Organised agriculture' didn't want to lose control of markets. 1994 last year Maize Marketing Board set all prices. Lots of maize produced. Wasn't stable. 1995 shortage, maize prices shot up. Argued imports could be brought in more cheaply.

All of these elements of change involve extension of patterns already established by 1994. Much institutional continuity. Delayed working out of policies which have been around since 1980s. Local considerations likely to override national ones. Tendency throughout Africa for people who have done well in farming to go into commerce and trading.

In South Africa you don't rely solely on farming because of ecological factors. As Murray argues, most likely people to benefit from land reform are those who can afford to buy land and get others to manage it.

Gavin Williams,

'Transforming Labour Tenants',

Michael Lipton, Frank Ellis and Merle Lipton (Eds), *Land, Labour and Livelihoods in Rural South Africa: Volume Two: KwaZulu-Natal and Northern Province* (Durban: Indicator Press, 1996), 215-37.

Bill an attempt to transform labour tenancy system. Measure overdue: widespread reports since 1990 of farmers evicting tenants in anticipation of such a Bill. Aims to provide for security of labour tenants and their acquisition of land and rights in land. Seen as inequitable, semi-feudal system, but over 100 years of legislation have failed to regulate or eliminate it because, despite worsening terms of contracts, tenants preferred to work on farms which gave them access to land and chance to keep stock. What for farmer is means of acquiring labour is for tenant means of acquiring land. So attempts to transform tenants into wage labourers have been source of bitter conflicts in past. Labour tenancy feature of large-scale commercial farms in many countries over many centuries. Often integral to development of capitalist farming and can provide tenants with small degree of independence lacking in farm workers.

Bill extends benefits to limited category of second generation tenants. May be difficult to distinguish them from farm workers. Accords them heritable rights to occupy or use part of farm; limits conditions under which they can be evicted; regulates relations

between them and owners within legal framework. Reduces authority of landlords over property and encumbers property for future generations, so farmers likely to ensure no one else acquires such rights and prevent workers from keeping cattle.

Allows tenants to buy and register land they currently (2 June 1995) occupy or use as labour tenants (can now claim R15,000 grant). Farmers probably be willing to cede ownership of 'labour farms' if adequate price paid, and then hire seasonal wage labour.

Tenants who acquire land will need to find additional cash income so may prefer to cash in claims or resell land. This will not realise Bill's aim of 'assisting labour tenants to establish themselves on farms on a viable and sustainable basis'.

Rights only available to tenants whose parents were tenants on same farm. Others may well be prevented from remaining or becoming labour tenants and restricted to wage labour. So Bill may fail to reform practice along lines intended. Many expecting to benefit may find themselves excluded, thus exacerbating rural conflicts. Wider provisions of Bill need more extended consideration if they are to achieve objectives.

Comment by Geoff Budlender: Labour Tenants Act drafted in secret because afraid of whistle blowers in the Department. Then sprang 2 June 1995 deadline on everyone. But no proper follow up planned. DLA officials saw this as new government plan, nothing to do with them, and refused to implement it. Error was ignorance of how power works. Evictions are continuing, but no one knows scale of them.

Gavin Williams,

'Land Reform: What is it for?'

Workshop on Land Reform in the Western Cape, University of Stellenbosch, Department of Sociology, September 1995. Published in *Indicator*, 1995.

Different objectives of land reform may well be in conflict. On reallocation, who is to decide which people get access to what land and for which purposes? On restitution, who can make claims? Some were removed, but others removed themselves.

Draft Land Policy Principles envisages offering state grants to 'emergent' commercial farmers who can add their own financial contribution and get loans from commercial lenders. Policy with a long history and poor track record. Contract farming has proved more successful.

Gavin Williams,

'Setting the Agenda: A Critique of the World Bank's Rural Restructuring Programme for South Africa',

Journal of Southern African Studies, 22, 1996, 139-66.

Critique of presuppositions and recommendations in World Bank's *Options* paper (see Binswanger and Deininger below, p.220). Rests on misleading intellectual foundations. Not supported by evidence cited. Revived aspects of Swynnerton and Tomlinson reports.

Surprisingly small cost of land reform proposals depend on unrealistic assumptions are well beyond resources of new government.

Kenyan model for redistribution of land and reform of land tenure put forward as appropriate example for South Africa to follow. But successful expansion of smallholder production for export and local markets in 1960s and 1970s took place in ways and for reasons not anticipated by planners of land and land tenure reforms of 1950s and 1960s.

RDP committed ANC to transferring 30% white farming areas to black smallholders in 5 years. Figure came from World Bank's *Options* paper, launched at conference October 1993.

From February 1990 World Bank entered series of dialogues with prospective policy makers on housing and urban issues, education, health, land and agriculture and macro-economic strategy for the new South Africa. February 1992 issued report on agricultural sector. November series of studies on implications of international experience for agricultural policy and land reform presented at Royal Swazi Sun. August 1993 draft of further overview of South African agriculture. Bank recognised need to draw on local knowledge. Through Land and Agricultural Policy Centre (LAPC) funded series of reports, mainly by South Africans, designed to contribute to Rural Restructuring Programme. Over a hundred social scientists and lawyers, historians notably absent. *Options for Land Reform and Rural Restructuring* drew selectively on these papers and shifted direction of arguments. Presented as offering alternative policies, but World Bank directions clearly marked out. Many National Land Committee affiliates uneasy about process, might limit scope for South Africans to define their own policy agendas.

Options' guiding principle is political and economic liberalisation. At its heart a new agricultural pricing and marketing policy and a programme for land reform. Wishes to extend present policies of abolishing subsidies, removing current regulations and liberalising markets. Purpose is to set the agenda for policy debates.

In 1970s World Bank massively increased lending for agricultural and rural development projects. African farmers needed to be 'modernized and monetized'. Use of green revolution technologies costly and unsuccessful. By 1993 recognised that millions had been poured into misconceived programmes. See South Africa as means of redeeming Bank.

In Kenya, Swynnerton Report 1954 tried to create yeomen farmers employing labourers by consolidation and registration of land as freehold, prohibiting further subdivision, loosen restrictions on growing of high value commodities. Only conceivable because over 1m concentrated into villages by Emergency. Didn't give rise to distinctive yeomen and full-time labourers. High value cash crops adopted 1960s by wider range of farmers than expected. Registration weakened rights of access of women and tenants. Has not resolved disputes over land rights. Title not important for obtaining credit. Swynnerton's aim of expanding cash crop production realised in 1960s, but on greater scale and quite different conditions from those he envisaged - access to White Highlands generally and, in suitable highland areas, for dairy grade cattle, coffee, tea, pyrethrum. Outside highlands, families depend on remittances from migrants. World Bank identify Kenya model with key intentions of policy-makers - land transfer financed by state credit, land registration, credit and extension services.

Key dilemma facing any land reform proposals is need to reconcile historical claims to land with need to maintain production of crops and livestock for sale to towns and for export.

World Bank warn that without land reform there is danger of rural violence or even civil war. Not good enough to tinker at the margin, as in Zimbabwe, where land issue still unresolved. For South Africa Bank favours 'a major restructuring of the rural economy centred on significant land transfers and smaller scale agriculture production units.' Settlers to be selected on prior farming skills and ability to pay part of land cost. Could buy with credit relatively small plots, to which successful ones could add, unsuccessful could rent out, sell or take off-farm employment. Extension and marketing organised for settlement areas. Will not benefit poorest, who lack skills and resources to be successful.

In 1993 Bank revised 1992 paper in more radical direction to take on board issues raised by South Africans. Rather than individuals buying land, now saw resettled communities adopting range of options. Rather than tenants chosen for ability to pay, vouchers to buy land targeted to the poor. Continuing tensions and ambiguities.

Bank took on board National Land Committee campaign for legal measures to adjudicate claims for restitution by victims of forced removals and claims by evicted labour tenants and squatters to share of land they have cultivated. *Options* incorporated proposal by Heinz Klug that constitutional provisions protecting property rights be extended to allow expropriation in the public interest e.g. land for redistribution. *Options* identifies tension between desire to address welfare objectives through distribution of land and need to promote productive use of agricultural land.

Bank concerned to transfer land to those who will give primacy to the market rather than use land for variety of other purposes. Propose rural public works programme providing employment for those unable to benefit from land reform.

Cost of proposed redistribution would be much higher than suggested. World Bank insists its models are tentative and not intended to guide way beneficiaries use land or as targets driving the planning process; 'local control and beneficiary participation in the process of rural restructuring are paramount.' If models not used in planning and not financially realistic, what for? Purpose ideological, establish land reform programme has been investigated using tools of economic science and shown to be viable.

Seeks to square a number of circles: redistributing land and maintaining agricultural production; providing for the poor while settling people with resources to take up land and farm it commercially; setting up national programme, yet implementing it at the local level. Dilemmas not resolved. Programme separated land reform from broader issues confronting most rural people - land for land's sake won't address rural reconstruction requirements. ANC took up World Bank framework in its RDP. Department of Land Affairs took off from Bank proposals in setting up pilot land reform projects and planning land reform strategy.

But assumptions of World Bank models for transferring 30% medium-high quality land to 600,000 households with 5 years administratively and financially unrealistic. Programme scaled down to provision of cash grants of R15,000 to selected households. But these will

be seen as expense, not investment and cost to be minimised in face of competing claims on resources.

Matters of land and agricultural production always particular, never general. Effective policies need to recognise local differences, rather than be costly exercise in social engineering.

Chris de Wet,

Seminar on Resettlement in South Africa, University of Oxford, 20 November 1996.

Most past South African history of resettlement extremely negative - movement of black spots and betterment planning. Now trying to correct imbalance. Both blacks and whites will have to move. Danger of compounding errors of past. Thought people will choose to move and will gain land, but will they? People will be under pressure to move as a group to qualify for group compensation. But this comes with a price and undermines element of choice. R15,000 Land Acquisition Grant for household useless, so need to combine with others and become a group. Will they benefit economically? Not necessarily. Will carry a debt. Need resources, services, credit. Problems facing commercial farming will also face black farmers. Moving onto new land problematic. People respond in phases - adaptation, coping - people behave cautiously and avoid risks, leadership precarious, struggling to acquire footing. Then become more experimental in social and economic relations. Then become more in control in second generation. This the process that schemes which work go through. But people often don't achieve success.

When people move back from black spots problems of settling rights to land. What of those who don't return to the land? Inheritance problems. What of rights of tenants? Leadership crucial. Even before they were kicked off were dependent on migrant labour. Conscious effort needed to protect people in first few years.

If people buy white farm, this is new land, there is no 'before'. Likely to lead to conflict between older and younger. Wealthier will be keener to move. Leadership may be sucked away from those who stay behind. Crucial that people should be allowed to choose their own settlement patterns. People may have spent 40 years in betterment settlements. What if people have no prior links? First come, first served - will get first loans, best land, best access, services etc. Sometimes white farmers will redefine relationships with workers to protect themselves from 'outside'. What of black farm workers who move off land when other blacks move on? Not often considered. They have been isolated, with limited social contacts and very vulnerable.

Costs of justice and reconciliation? Language of unlimited good v. politics of limited goods. Leads to millenarianism. Very process seems to have inevitable cost that it will lead to new conflicts. Landless may even be worse off. Justice and reconciliation may work in differentiated way. Hierarchy of beneficiaries in all aspects of land reform. Land reform entrenches difference between landed and landless. Farm workers and first generation labour tenants will likely lose out.

How will political hierarchy work out on ground? Those with literacy, money, transport, time, can raise collateral, with political contacts. Would be better if all white farmers made new deal with workers and tenants on the land.

Men have controlled process in East Africa, even when women given title to land. Customary law v. gender equity - inbuilt contradiction in constitution. Efficiency v. equity. Want quick fixes. More urban than rural claims. Many more claims than can be granted. More urban than rural claims will fail. Lots of competing claims for land.

People don't want land to become full-time farmers, but as supplement. Pension of R450 per month per pensioner (white and black pensions equalised 1994). Becoming most important part of total income.

Don't touch land reform until you have effective local government working, but this in very poor situation in South Africa. Already backing down. 30% out of window, redistribution being qualified etc. People often only want 1ha or so - can't cope with more. Green Paper riven with ideological tensions, parts from World Bank, parts from NGOs, but better than White Paper on Rural Development - quite useless, doesn't engage in anything.

Colin Murray and Gavin Williams (Eds),

Land and Freedom in South Africa,

Special Issue of *Review of African Political Economy*, 21, 61, September 1994.

South African countryside highly disparate. Many land questions in new South Africa. More than a century of attempts to turn sharecropping peasants into labour tenants and then wage labourers. Labour tenancy survived its legal abolition.

Land reform not simply question of redistribution of land. Its outcome will also depend on restructuring complex chains of forward and backward linkages in interests of all farmers and consumers, not just large farmers, input and wholesale monopolies and supermarket giants.

RDP identifies a 'national land reform programme' as 'the central and driving force of a programme of rural development.' 2 aspects - redistribution and restitution, latter a priority. Envisages dramatic land reform programme to transfer land from inefficient white large farm sector to those who want to produce incomes in a more sustainable system. How can existing and prospective smallholders get access to resources and opportunities? People want land for variety of reasons and will change ways they use land as circumstances change.

World Bank's *Options* paper avoids term resettlement, in face of strong criticisms from authors of background papers, but difficult to see how moving 600,000 families over 5 years could be anything else. Has proved very expensive elsewhere. Vision of transferring 30% medium-high quality land to 600,000 farming households to create 2m farm livelihoods. 10 times scale of Kenyan and Zimbabwean redistribution programmes. ANC needed plausible land reform policy and *Options* provided basis for it.

Land reform pilot programmes have depended on intensive involvement of NGOs, so can't easily be replicated or generalised. Very expensive to assist small farmers. Things rarely turn out as intended.

Land questions also questions about gender relations, generational differences, labour and employment, access to markets, rural and urban and connections between the two, class formation, privilege and power.

Harald Winkler,

'Land Reform Strategy: New Methods of Control',

Review of African Political Economy, 21, 61, 1994, 445-8.

White establishment defines carrying capacity on particular model of good farming, high input, highly mechanised, built up with massive government subsidies. Assumes one family owns farm and employs wage labour. Given all inputs invested, number of livestock units per hectare arrived at. Figures treated as indisputable facts, but different farming systems could involve substantially different carrying capacity.

William Beinart,

'Farming Strategies, Land Availability and Prospects for Land Reform and Redistribution in South Africa',

Royal Institution of Chartered Surveyors, Conference on Our Common Estate: Land Policy in Southern Africa, London, November 1994.

Unclear how far new Government sees land reform as priority. 60-70% black population now urban. Lots of general statements. Lots of constraints. Political settlement enshrines existing property rights. Fact that agricultural land has to be paid for will make transfer slow, but should defuse opposition to land reform. Significant numbers of white farmers do want to sell land. More on land than it can sustain agriculturally.

Debates around extent to which present structure retained or subdivision into individual or communal ownership. Strong lobby for extension of communal ownership. Water structure created around individual farms, so difficult to cut into minute pieces. Cost of surveying a major constraint to sub-division. 1970 Land Subdivision Act - attempt to stop further sub-division - now being looked at. Very complex issue.

Land reform through market forces will be slow. 1991 land prices depressed, but not now. Prices for pastoral land going up fast. State hasn't thought through mix of land reforms it wants to achieve. Needs to decide how much should go to communal tenure soon. Restitution a very limited concept. Nothing to do with 3.5m people moved - they will have no rights in restituted land. Nor will people moved from urban areas. Community land claims. All ethnic. Potentially destructive. Every piece of land has multiple claims on it. Impossible to define which part of community has claim. Key areas are 'black spot' communities, c.0.5m mostly tenants, bought out or removed in 1960s and 1970s. Politically highly charged, centre of rural activism, fed into National Land Committee.

Brendan Pearce,

'A Critical Assessment of Land Reform in South Africa 1994-1996',
Southern and Eastern Africa Regional Conference on Experiences, Perspectives and
Strategies on Land Reform and Land Rights in Rural and Urban Settings,
Johannesburg, June 1996.

Land reform proving to be very complex and difficult process. Need for huge capacity to speed up implementation. Beneficiaries also have severe capacity gap. Strong urban bias means rural community voices not heard. Meagre budget for land reform indicates lack of commitment. National Land Committee wants comprehensive land reform to redress historical injustices, restructure power relations, alleviate rural poverty, contribute to economic growth. Potential for this restricted by current initiatives stressing market forces as chief mechanism for land redistribution. Government must be more interventionist. R15,000 payment negligible, whether as kick start mechanism or tool to leverage other finance. In contrast, white farmers get compensation at market value and so are real beneficiaries of land reform.

Ben Cousins,

A Role for Common Property Institutions in Land Redistribution Programmes in South Africa,
International Institute for Environment and Development, Gatekeeper Series 53,
(London: IIED, 1995).

Livestock production on communal rangeland likely to be central feature of land reform livelihood systems. Investing in small but multiple function herds has been important component of livelihood strategies of black migrant workers for most of century. Strong support for retention of communal tenure amongst rural people. Important to recognise that common property is viable regime with particular advantages in certain situations. Livestock herds within village economies often multi-purpose, so economic value often much higher than from commercial ranches. Good fit between ecological and socio-economic conditions of extensive livestock production in Africa and central features of common property regimes. Possibility of co-management of common pool resources between state and local level user groups. Direct state management has rarely worked well, but state has definite role to play in creating conditions for effective local management. Swift suggests follow principle of subsidiarity, administrative tasks should be carried out as near to level of actual users of resources as is compatible with efficiency and accountability. Offers possibility of more flexible institutional response to management needs of dynamic ecosystem. Conflicts over various dimensions of common property likely to surface in land redistribution programmes. These can largely be addressed by approaching common property problems with adequate understanding of central issues and making institutional development prime concern of development agencies. Reinforces need for approach to land reform which lends active support to local level processes of decision making and institution building. Some National Land Committee affiliates have begun to take up the practical challenge. Makes similar arguments in his 'Common Property Institutions and Land Reform in South Africa', *Development Southern Africa*, 12, 4, August 1995, 481-507.

G.M. Moor and W.L. Nieuwoudt,

'The Prospects for Improving Institutional Arrangements and Land Use in Southern Africa'
Development Southern Africa, 13, 1, February 1996, 67-77.

Largely about South Africa, some on the (failed) Zimbabwean resettlement experience. Land tenure debate controversial, with advocates of individual and communal ownership, and some arguing that tenure has limited effect on production and investment. Titling neither necessary nor sufficient condition for security of tenure and may have little bearing on how efficiently land farmed. Institutions governing use of communally held land do not provide individuals with economic incentives to invest and do not allocate scarce land efficiently. Proposed rural land reforms must facilitate evolution of institutions that ensure security of tenure and productive use of land. Where land acquired for redistribution and resettlement, preference should be given to emerging small scale commercial farmers, who should be granted secure and legally enforceable individual title. Any group ownership (e.g. trusts) must ensure exclusive rights of use so as to provide economic incentives and minimise free riding. Trusts can reduce problems of collective action and allow land to move to its most productive use through active rental markets, which will facilitate efficient allocation of resources without causing distress sales or loss of social security. Important that institutions be allowed to evolve internally in rural areas and that they facilitate evolution of secure property rights required by small farmers. Adaptive policies preferable to policies that replace communal rights with exclusive freehold title. Increasing security of urban property rights will decrease population pressures in communal areas. Land reform must be holistic.

R.A.A. Baber and W.L. Nieuwoudt,

'Economic Incentives in the Subsistence Areas of South Africa and the Need for Reform'
Development Southern Africa, 9, 2, May 1992, 153-68.

While land tenure reform within the subsistence areas of South Africa will not address fundamental black grievances about land inequality, it is essential that the agricultural land in these areas, and the land used for resettlement, be used in a productive and sustainable manner. Examines way in which discriminatory policies with respect to land tenure and public support, together with the high level of transaction costs under existing black tenure systems, have structured economic incentives within the subsistence areas, leading to the apparent under- and over-utilisation of arable and grazing land, respectively. Explores potential for formal private tenure to reduce the identified constraints, revealing a need for property institutions to be both impartially administered and well adapted to the particular needs and resource constraints at the community level. Proposes land tenure reforms which would enhance development and facilitate the redistribution of land.

Fanie Cloete,

'Comparative Lessons for Land Reform in South Africa',
Africa Insight, 22, 4, 1992, 249-58.

Presents overview of some relevant results achieved with land reform. Addresses experiences of Japan, India and China with land ownership; land reform models in Latin America and Africa: collectivisation in Tanzania and Ethiopia, state ownership and leasehold in Zambia and Zimbabwe, modernisation of indigenous land tenure in Botswana and private ownership in Kenya. Implications of these comparative land reform experiences for future land reform in South Africa discussed, including that individual private ownership seems to be a viable long term option for successful land reform.

WORLD BANK WRITERS

Johan van Zyl, Johann Kirsten and Hans P. Binswanger (Eds),

Agricultural Land Reform in South Africa: Politics, Markets and Mechanisms (Cape Town: Oxford University Press, 1996).

Collection of papers, including by World Bank writers, on South African land reform debates from 1991 onwards, many previously published in *World Development*, 21, 1993.

Hans P. Binswanger and Klaus Deininger,

'South African Land Policy: The Legacy of History and Current Options',
World Development, 21, 1993, 1451-75.

First presented at World Bank and UNDP workshop in Swaziland, 2-4 November 1992. In absence of economies of scale, large scale farms less efficient than peasant farms because they need costly, supervised, hired labour. Large farms usually have lower yields, output values and profits per hectare and use land less efficiently, degrade environment and generate less employment.

Land reform of large mechanised farms requires resettlement and input package including credit as peasants' assets too small. South Africa defined communal land right system in peasant areas very restrictively. Converting commercial sector to smaller farms is cheapest and fastest way to generate productive farm and non-farm employment on massive scale required.

South Africa has two options: rapid and massive redistribution of land, involving substantial resettlement from homelands onto land in commercial sector or decades of peasant insurrection, possibly civil war, combined with capital flight and economic decline.

Given complexity of existing land regulations and wide divergence in aspirations, a new land law, anchored in constitution, should include secure private ownership, more flexible communal tenure and government ownership of ecological reserves and national forests. Communal ownership based on constraint on sales to outsiders.

Claim for restitution can't be met by judicial means, but by market-assisted land reform, as in Kenya. Government should not buy or expropriate land, but land transferred from willing sellers to eligible beneficiaries, free to choose between (great variety of) communal tenure or private ownership. Financing from internal and external sources. Substantial and rapid market-led land reform and resettlement hold greatest, if not only, hope for peaceful development.

Robert E. Christiansen,

'Implementing Strategies for the Rural Economy: Lessons from Zimbabwe, Options for South Africa',

World Development, 21, 1993, 1549-66.

Public sector control of rural economy must be avoided, not good at anticipating or responding quickly to market conditions and decisions often politicised. Determination of agricultural prices and system of agricultural marketing should be as market oriented as possible, but not without some regulation. Price setting mechanism insufficiently flexible. Regulation and crop movement controls, especially on white maize, mainly served interests of urban millers.

South African need for land reform undeniable, but need to guard against high expectations about extent to which land policy can resolve problems. Available supply not sufficient to provide arable land to majority of those wanting it. Land reform should be multi-faceted and preserve best characteristics of commercial sector.

Bill H. Kinsey and Hans P. Binswanger,

'Characteristics and Performance of Resettlement Programs: A Review'.

World Development, 21, 1993, 1477-94.

Collective tenure a failure. Individual plots, with some common ownership of resources, work better. No clear advantage re ownership, usufruct or long leases, provided land rights clearly defined. Restrictions on land transfer always damaging; lead to conflict, land left idle, can't be enforced. Laws prohibiting subdivision counter-productive. Programmes need to be experimental. Governments must acquire land by purchase at market prices or by expropriation as part of reform programme. Because budgets tight, level of compensation required strongly influences scope of settlement programmes. Settlement schemes don't make good welfare programmes. Restrictions on settlers always negative.

Klaus Deininger and Hans P. Binswanger,

'Rent Seeking and the Development of Large-Scale Agriculture in Kenya, South Africa and Zimbabwe',

Economic Development and Cultural Change, 43, 1995, 493-522.

Historical study of large farm efficiency, rent seeking and potential for increases in agricultural productivity through policy reform and land redistribution. Rent seeking with aim of reducing profitability of small farm cultivation a major factor in making farming

based on large operational holdings economically feasible. Low productivity of smallholders thus a policy-induced phenomenon. Need for reversal of these policies.

Rent seeking prevalent not only in commodity markets, but in attempts to redistribute income, so has to be incorporated into analysis of production relations, with important consequences for design of land reform programmes.

Shamin Meer (Ed),

Women, Land and Authority: Perspectives from South Africa, (Cape Town and Oxford: David Philip and Oxfam, 1997).

Book produced by National Land Committee's Gender Task Group. Series of case studies conducted 1992-4.

- Policy makers should understand the complex and nuanced way in which gendered access to resources has been shaped.
- Women's experiences have often been shrouded in unrealistic and gender blind conceptualisations of the household and the community.
- Access to land without incomes will not get women very far: most women do not see full time farming as a possibility, rather farming is one of a range of livelihood strategies.
- Women do not enjoy secure access to land in their own right, but generally only as members of households or through husbands or male relatives.
- So single, widowed or divorced women are often dependent on the whim of a chief to decide about their rights to access and use.
- Some women are challenging the existing gender order, the power of patriarchy and the oppressive nature of much 'customary law' and demanding independent rights to land.
- Where households have fragmented, as in parts of South Africa, women are increasingly demanding independent rights to land.
- The introduction of a land market may threaten women's security of tenure.
- Women do not form a monolithic grouping.
- A land reform programme aimed at benefiting women as the 'poorest of the poor' needs to develop criteria for identifying who these women are and not fall into the trap of targeting all rural women as equally deserving.
- In one case a lack of formal legal barriers to women's ownership of land has not created a situation of gender equality.
- Women have different land needs, preferences and priorities to men.
- Women on farms are potentially inhibited from benefiting from land reform.

Shamin Meer,

'Gender and Land Rights: The Struggle over Resources in Post-Apartheid South Africa',

IDS Bulletin, 28, 1997, 133-44.

Argues that the goals of social justice, poverty alleviation and gender equality within the land reform programme are threatened by the government's neo-liberal macro-economic framework, by shortcomings in addressing gender and because rural women do not constitute an organised social force. Outlines key elements of the land reform programme and points to limitations arising from its market-based nature. Highlights innovative mechanisms within the programme aimed at involving women in land reform. These include the requirement of women's participation in land reform pilot programme structures and of gender equality within group ownership entities - the 'Community Property Associations'. However, the overall approach is to target women without adequately considering gender power relations. Suggests that while the state can play a significant role in providing an enabling framework, the key to advancing gender equality is women's organisation.

Organised white farmers react against land reform legislation. Estimated 250,000 farm workers retrenched 1989-mid 1993. Department of Land Affairs approach tends to address political problems with legal solutions. Inadequacy of this shown daily as white farmer interests challenge government, while voices of poor rural women and men, largely unorganised, illiterate, lacking information, not heard. DLA hampered by staff and skills shortages and institutional problems, especially challenge of reorienting staff inherited from the old regime. Role of government complex and crucial; tension between speedy delivery and gender equity. Land reform cannot be made conditional on ending patriarchal system in place for centuries. Government has role in ensuring information reaches intended beneficiaries, because with a demand driven basis, onus is on communities to approach relevant institution. This likely to privilege those with a head start, the literate and urban based over the illiterate and rural, men over women, Indian and Coloured over African. Men in communities often act as gatekeepers, preventing outsiders, including NGO fieldworkers, from reaching women. Even with necessary information, complex legal processes further disadvantage communities.

Liptons' promotion of small-scale agriculture, on basis of small family farm drawing on household labour, offering significant part time livelihoods ignores fact that while circular migration in search of urban jobs continues for rural men, rural women are by and large permanent rural dwellers, often the only ones around. Their mobility constrained, overburdened, and without proper health facilities, they are unlikely to represent the family labour necessary to make small-scale farming work in the way envisaged.

Government should support NGOs, which have critical role to play in democratising society. But former strong NGOs and women's organisations shadows of former selves, drained of most vibrant personnel and face declining resources as international NGOs withdraw support. NGOs face difficulties working out role with state. Uneasy relationship with former colleagues now in government. Women's organisations face similar problems.

Rural communities often marginalised in national discussion, rural women even more so because of male bias. Land reform and restructuring of agriculture take place under extremely conflictual circumstances, with needs of poor African women and men contested at every turn by still powerful and organised white farming sector. Women's rights to land threatened by chiefs, husbands, brothers and sons. At stake is not only an economic resource, but the power, privilege and status of white farmers, traditional authorities and men.

Cherryl Walker,

'Reconstructing Tradition: Women and Land Reform',

Paul B. Rich (Ed), *Reaction and Renewal in South Africa* (Basingstoke: Macmillan, 1996), 144-69.

Written end of 1994. Looks at tensions within new government between promises of gender equity and accommodating tradition, which is deeply patriarchal. Argues that they are ultimately incompatible. Likely that government will end up compromising on commitment to gender equity as it starts to deliver on reconstruction programme,

especially land reform - area where the clash is most apparent and where women likely to suffer consequences of patriarchal domination legitimised as tradition. Interim Constitution has clear endorsement of gender equality but gives ambiguous status to tradition, custom and traditional authority. Need for radical transformation of key institutions in rural society. What today is known as 'custom' or 'tradition' is in fact product of complex and dynamic history of contestation, cooption, reconstruction and invention, especially chieftainship and 'customary law'. 'Tradition' never pure or static, but dynamic and capable of being refashioned again to fit contemporary goal of non-sexist society. Under colonialism, chief became lowly state functionary, whose title, authority and income depended on approval of the centre. But his power to allocate land of crucial importance. Served interests of apartheid planners but will enormously complicate rural reconstruction programme of the new government. ANC and RDP show superficial and ultimately incoherent approach to women's disabilities and restructuring of gender relations. Consequence of this add-on approach is that it allows ANC to ignore contradiction between its commitment to gender inequality and its handling of claims of traditionalists, precisely because its understanding of gender not integrated into its thinking about society at large. By seeking to co-opt certain traditional rulers and undercut appeal of Inkhata, ANC has strengthened hands of male traditionalists within its own and other ranks.

RDP singles out women as key beneficiaries of agrarian reform and spells out customary tenure systems and matrimonial laws as chief blocks to women's access to land. Difficult to see how ANC proposes to dismantle these blocks and how far it will go in restructuring very real authority and power of traditional leaders in allocating land and running local government. ANC has treated 'women' and 'chiefs' in isolation and attempted to accommodate both in its broad church movement. But not possible to be everything to everyone. Need for democratisation of institution of chieftainship as matter of priority and for legislation empowering all women, regardless of marital status, to enjoy secure access to land in their own right. Enforcing this will require a Constitutional Court sensitive to gender equality.

SWAZILAND

Ruth Mamba,

'Land and Agrarian Reform in Swaziland',

Southern African Regional Conference on Land, Labour and Food Security, Darwendale, Zimbabwe, April 1997. Published in *Land Update*, 59, June 1997, 8-9.

70% population rural, engaged in agriculture. Increasing scarcity of land because of population pressures. Land divided between Private tenure (including Title Deed Land), Crown Land and Swazi Nation Land. Access to land a serious problem, especially for communities resettled to make way for commercial forestry, female headed households, squatters on farms. Great concern about increasing scale of unutilised land and absentee landlords. About 44% land Title Deed Land, held in perpetuity and may be inherited, usually owned by foreigners. Country's vision is to develop land use and allocation policy ensuring men and women have equal access and ownership opportunities and that land is utilised effectively. Hope to alleviate current dependency of women on male relatives for land ownership. No civil society organisations dealing with land issues; human rights organisations only vocal when farm dwellers evicted.

Laurel L. Rose,

The Politics of Harmony: Land Dispute Strategies in Swaziland (Cambridge: Cambridge University Press, 1992).

Analyses how traditional rural elites in Swaziland, as in other parts of Africa, use harmony ideologies to downplay and resolve land disputes. Such disputes could be used by foreign development agents or indigenous new elites as justification for implementing land tenure changes, including a reduction of traditional elites' power based upon land control. The focus is on the political, rather than the economic, dimensions of land tenure and disputes. Searches for links between individual concerns with land use rights and national concerns with land policy. Also examines gender and leadership issues associated with land, showing how women and new elites threaten land interests of men and traditional leaders.

