

Working Paper 125

**Land Tenure and Economic Development in
Rural South Africa: Constraints and
Opportunities**

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1. Introduction

Tenure security has major implications for economic development in the former homelands of South Africa. Many of the areas referred to as ‘communal’ were deliberately created to further colonial policies. They were intended to serve as reservoirs for cheap migratory labour. People were forcibly moved to the ‘bantustans’ without reference to the wishes of the established inhabitants. There is a legacy of severe land pressure and land-related conflict, unsurpassed elsewhere in southern Africa. The area involved is shown on the accompanying map (Figure 2). About 2.4 million rural households or about 12.7 million people, 32% of the total population, are concentrated in about 13% of the country. Provinces with large rural populations in former homelands (Eastern Cape, KwaZulu Natal and Northern Province) have the highest level of poverty in the country (Box 1).

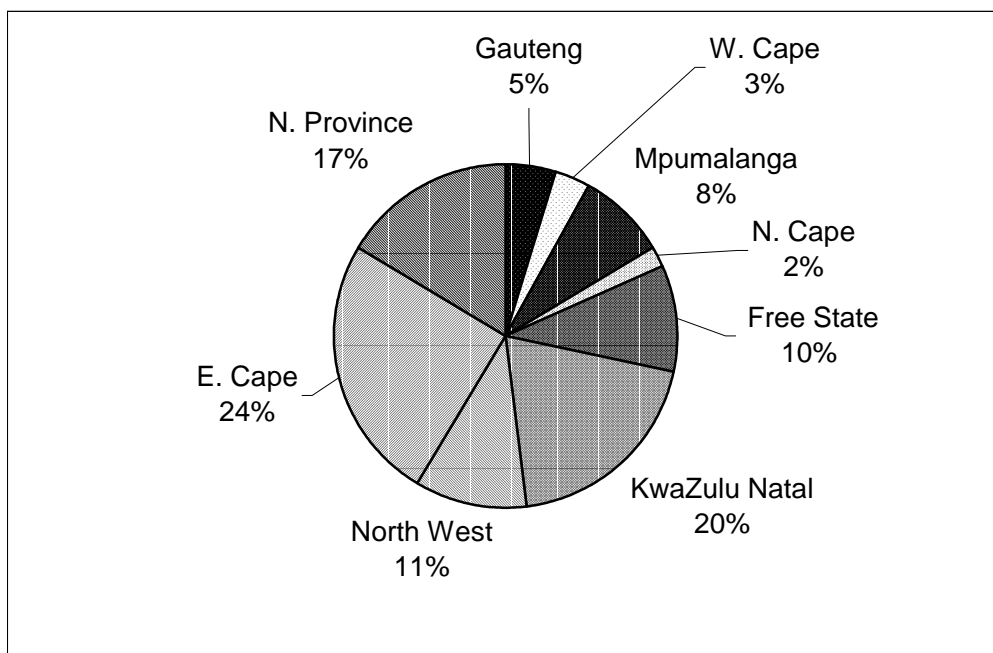
Box 1 Poverty and Inequality Study

The PIR shows that:

- 50% of the population are defined as poor using a South African poverty line equivalent to about US\$240 (R1500) per person per day;
- poverty is mainly rural – 72% of the poor live in rural areas, 71% of the rural population are poor (cf 28% in urban areas);
- 60% of female-headed households are poor;
- poverty is severest in those provinces containing the former homelands and is almost exactly proportional to the number of magisterial districts occupied by this category of land in each of the provinces.

Source: Poverty and Inequality in South Africa, Office of the Deputy President (1998)

Figure 1 Provincial shares of the poverty gap



Source: DFID (1999)

Figure 2 Former “homelands” in South Africa

2. Economic case for land tenure reform

Land tenure reform refers to a planned change in the terms and conditions on which land is held, used and transacted. A fundamental goal of tenure reform is to enhance people's land rights and thus provide tenure security (Box 2). This may be necessary in order to avoid the suffering and social instability caused by arbitrary or unfair evictions, landlessness, and the breakdown of local arrangements for managing common property resources. Tenure reform may be essential if rights holders are to manage their land resources, invest in the land and use it sustainably. Tenure reform can include confirmation in law of *de facto* land rights in order to verify and secure these rights for people who already have a demonstrable claim to the land and replace doubt and contention with positiveness and certainty and so inspire confidence and encourage investment and development.

Box 2 Land rights

Land rights may include one or more of the following:

- rights to occupy a homestead, to use land for crops, to make permanent improvements, to bury the dead, and to graze animals, have access for gathering fuel, fruits, grass, minerals etc.;
- rights to transact, give, mortgage, lease, rent and bequeath areas of exclusive use;
- rights to exclude others from the above-listed rights, at community and/or individual levels; and, linked to the above;
- rights to enforcement of legal and administrative provisions in order to protect the rights holder.

The nature and strength of property rights profoundly condition economic decision-making through their effects on people's expectations of a return on their investments of labour and capital. This is as true in rural settings in communal areas as in any other sector of the economy. This paper argues that tenure reform in the former homelands and South African Development Trust (SADT) areas will facilitate decisions and actions by rural households, government bodies, and the private sector. It will benefit rural livelihoods, facilitate infrastructure and service provision, and economic development. However, tenure reform by itself will not be enough. Land redistribution and tenure reform will have positive impacts on production and investment only when accompanied by access to inputs, credit, extension services and markets and when government takes other actions to stimulate investment.

2.1 The international tenure reform debate

Much of the current tenure reform debate is concerned with the so-called communal areas of Africa, and the indigenous areas of Latin America, Asia, and the Pacific region where customary communal systems exist side-by-side with private ownership. In recent years, the tenure reform debate has tended to focus narrowly on the merits, or otherwise, of converting informal traditional systems of communal rights into 'modern' formal systems by a process of adjudication and individual titling. This narrow view of tenure reform obscures opportunities for reforms which strengthen the land rights of local people and ensure that their land cannot be alienated or otherwise used without their consent, neither by government, nor by 'developers' or other third parties.

There are strong economic reasons for governments to underwrite tenure security. It has long been

recognised that secure land rights are a public good. In the absence of public enforcement, tenure security has to be obtained by socially inefficient (although, perhaps, individually optimal) investment in boundary fences and defensive actions to repel other claimants – as is found in ‘wild west’ situations and overcrowded informal settlements.

Whether the frame of reference for the system of land tenure is the community or the individual, there is widespread evidence that investment in tree planting, manuring, soil and water conservation and other farm improvements is more likely where individual family property rights are secure. Such investment does not necessarily depend on formal registered title, but on the rights holders’ confidence that society supports their entitlement to harvest the benefits of their investment and individual labour.

An important component of tenure security is the confidence with which one can transact one’s rights. In pre-capitalist societies, the transaction of property rights may be of limited importance. With population growth, specialisation and the incorporation of rural areas into market economies, the importance of being able to transact property rights can increase. So does the potential for distress sales and the loss of livelihoods. Market transactions can, however, include leasing and rental arrangements which need not lead to permanent alienation of land rights (Lawry, 1993).

Records of land ownership allow potential purchasers to verify the ownership status of land easily and reduce the costs associated with transactions. The growth of the property market made possible by the reduction in transaction costs has the potential to bring the number of efficiency-enhancing transactions to the optimum and to transfer more land (by sales or rental) from less productive to more productive uses. Recording of land rights need not require complex land survey, land transfer and centralised land registries as in modern economies.

Members of tightly-knit rural communities often try to restrict the scope of land transactions, in order to stop outsiders from taking control of their land; for example by insisting that the land itself cannot be bought or sold, only physical improvements such as housing. The group may insist on a procedure whereby outsiders have to be approved, and require new members to agree to abide by group rules for the use of common property. Communal tenure systems do, nonetheless, tend to move towards allowing individual members to transact within a larger land market. This has led to the conclusion that gradual adaptation of communal tenure over time, led by the rights holders, is more appropriate than governments attempting to replace customary systems with more ‘modern’ ones, whether individual titling or collective ownership (Bruce, 1993).

2.1.1 Land titling and agricultural production in Africa

In sub-Saharan Africa, a major dividing issue has been the relative merit of customary land tenure systems and those based on western concepts involving the registration of individual ownership. Since the late fifties, Kenya, more than any other country, has promoted the individualization of tenure through land titling in the former African reserves, on grounds of economic efficiency. These reforms aimed to transform land into a commodity that could be owned initially by clans, then families and eventually by individuals and could then be sold (alienated) without consultation with the wider group. The ‘Swynnerton Report’ (Kenya, 1954) sought to create a class of accumulating ‘yeoman farmers’ established on economic units by the consolidation and registration of land as freehold property,

prohibitions on further subdivision of land, the selective loosening of restrictions on African cultivation of cash crops and the provision of credit and extension. Beginning in Central Province, primarily as a response to the Mau Mau insurrection, these measures were applied to all the tribal agricultural areas of Kenya.

Research has established that the plan did not give rise to distinctive classes of yeoman farmers and did not have the positive impact on production as anticipated. High value cash crops were adopted by a wide range of farmers, not only on the farms of title holders. The statutory registration of title weakened the rights of access to land for women and tenants. Registration did not resolve disputes over land rights. It merely changed the rules by which they were prosecuted among men and between men and women. 'English tenure' downplayed the status and role of women as the actual users of land. Particularly vulnerable were unmarried women, divorcees and widows, who are ensured at least some user rights under traditional tenure systems. Further, the land registration process, which was designed for a sedentary mode of agriculture, marginalised pastoralists which lost access to key land resources during droughts. (Mackenzie, 1990; Nthia Njeru, 1991; Williams, 1996).

Studies by the Land Tenure Centre, principally in the former communal areas of Kenya, but also in Senegal, Somalia and Uganda, have failed to reveal a causal relationship between survey and registration of individual rights and investment in land improvements and on-farm productivity. It has been concluded that:

- in view of the generally depressed conditions of agriculture, in the absence of other possibilities for improvement, titling did not have a positive impact on farm production;
- giving weak titles, constrained by various conditions and prohibitions, did not have the anticipated incentive effects on title holders;
- much of the demand for titling arose from a wish to prevent the state giving the title to someone else; and
- even in a vital and market-oriented agriculture such as that of Kenya, other factors (e.g. land quality, farm size and market access) veiled the effects of titling (Bruce, 1996).

Platteau (1996) argues that, in cases where a significant relationship is found between enhanced investment and titling, this need not mean they are causally linked. Farmers may tend to register land parcels that benefit from comparatively high levels of investment. In other words, registration may not stimulate investment, but merely may be positively related to it.

As a result of these and related studies, the World Bank has revised the policy position adopted in its Land Reform Policy Paper (1975), namely that communal systems are a constraint to development and must be replaced by individual tenure. The Bank used to argue that, because land held under communal tenure could not be bought or sold, and therefore could not be mortgaged, communal systems impeded the flow of investment capital to agriculture and rural housing. Instead of recommending the abandonment of communal tenure systems in favour of subdivision and freehold, the Bank now recognizes that communal tenure systems can be a more cost effective way to increase tenure security and provide a limited basis for land transactions. Its tenure specialists acknowledge that there has been a tendency in Africa to underestimate the intrinsic importance of customary land tenure systems. Empirical evidence from Ghana, Rwanda and Kenya indicates that traditional tenure systems are flexible and responsive to changing economic conditions. Where population pressure and commercialization have increased, these systems can evolve from communal rights to systems of individual rights (Migot-Adholla et al., 1994) or to new configurations of communal and individual rights (Bruce, 1993), when the rights holders themselves decide that this is appropriate.

2.1.2 Putting the land titling issue in perspective in Africa

This recent recognition of the merits of communal systems of tenure by governments and donors should not downplay the developmental role of tenure reform nor assume that tenure change will inevitably work against the interests of the poor. Attempts at reform in Kenya, for example, were based on a narrow view of tenure options, i.e. communal versus individual. The belief that rural people are universally happy with communal systems and that legal confirmation of rights brings no benefits is certainly misplaced. In southern Africa, surveys in informal settlements on communal land challenge this view (see Box 3). So also does Hunt (1999) in a study of the impact of registration and titling in Eastern Province of Kenya, over a period of twenty years, in an area where some of the earlier research was done on the impact of individualization.

Box 3 Tenure and needs in informal settlements on communal land

Individual family needs include:

- assurance that they will not be evicted without compensation;
- ability to improve their house to protect themselves against weather, thieves etc.;
- assurance their children can inherit the property or that they can sell or otherwise transfer the property.

They need:

- to be able to use the property as collateral to borrow money;
- a reduction in property related disputes;
- properties to be serviced with such things as water, electricity and the upgrading of roads;
- an inexpensive and accessible system of administering property rights.

The government needs:

- a system that is nationally uniform and sustainable;
- a basis for implementing local taxation, land use and building control and for the provision of infrastructure;
- a flexible means of administering property rights, e.g. the ability to accommodate individual and group rights, the rights of the middle class, business and poor people;
- ability to deliver land titles to the people in an accessible and user friendly manner;
- ability to deliver land titles that are not perceived as inferior and can be upgraded to full freehold;
- ability to deliver social justice in relation to land reform and resource allocation.

In seeking to open up the tenure reform debate, Diana Hunt criticizes the tendency to generalise on the basis of a limited number of case studies and the selective interpretation of the evidence. She states, for example, that politico-economic analysis is used to predict abuse of the land titling process, but rarely to demonstrate how customary tenure systems may also be manipulated by elites. She questions whether the published evidence justifies the broadly negative tenor of the conclusions, given the range of land use conditions and problems, and of land use opportunities that prevail in different parts of the sub-continent. On the basis of her primary survey evidence from Mbeere, Eastern Province, Kenya (a low potential, sparsely populated area), she argues that the effects of titling can be expected to vary according to the compatibility of both pre-existing and new land tenure systems with potential innovations in farm technology. The impact of titling on the distribution of land ownership will depend on the adjudication criteria adopted, the survey and registration procedures and the advice and assistance available to the people affected.

In any case, land titling must be seen as only one element of tenure reform. In Botswana, indigenous tenure systems have been relatively successfully integrated with a modern and democratic system of land administration. The land tenure policy which has been pursued by Botswana has been one of careful change, responding to particular needs with specific tenure innovations (Dickson, 1990; Mathuba, 1991). In tribal areas, people can acquire statutory rights (e.g. customary land grant, common law lease) to parcels of land, the location and area of which are recorded by the land boards against the name of the rights holder (see Box 4).

Box 4 Botswana's customary land tenure system

In 1968, the Tribal Land Act was enacted to improve land administration. It provided for the establishment of representative Land Boards and transferred all the land-related powers of Chiefs to these boards. The functions of the boards include the allocation of land; imposing restrictions on the use of land; authorising change of use and transfer; and the resolution of land disputes. Tribal land belongs to the people. Individuals are granted rights to use some parts of the land. It may be held by the Lands Boards, or by individuals or groups as customary grants, or under leasehold. The land may also be allocated to the state for public purposes. Although land holders do not 'own' land, they have exclusive rights to their holdings which can be fenced to exclude others. Grazing land and land not yet allocated to anybody is used communally. The Land Boards grant land rights under both customary and common law.

The holders of *customary rights* for residential and ploughing purposes enjoy a variety of rights which are indefinite, exclusive or inheritable. Those granted customary rights are entitled to a certificate of *customary land grant*. According to the Act, once these rights are acquired they cannot be cancelled for any unjust cause.

Common law leases for non-customary land use are limited in time and subject to eventual reversion to the community. They can be registered under the Deeds Registry Act and are mortgageable and therefore transferable without the Land Board's consent. Common law leases are granted for 99 years for residential purposes, for 50+50 years for commercial and industrial purposes in villages; and for commercial grazing and ploughing land.

Key changes which have been introduced since 1968 include:

- the exclusion of other people's animals after harvesting and the fencing of arable lands;
- relaxation of the restrictions on land allocation to allow independent allocation of land to all adults;
- the charging of a price (agreed between the seller and buyer) for transfer of developed land;
- the introduction of common law residential leases for citizens, for foreign investors (50 yrs), and for commercial grazing (50+50 yrs), for commercial arable farming (15+15 yrs).

Despite popular perceptions to the contrary, tenure reforms proposed for the former homelands and ex SADT land in South Africa do not involve compulsory survey and land titling nor do they assume individualization of tenure. The confusion arises because the debate about tenure systems in South Africa has tended to be polarised ideologically between advocates of market-led growth and those who believe that traditional institutions are always best able to provide the framework for sustainable land use. The tenure policy set out in the White Paper on South African Land Policy (DLA, 1997a) represents a middle road between these countervailing positions. Neither rigid customary tenure nor private land ownership can provide a general solution to the land tenure problems of the ex-homelands. Customary forms of tenure are not inflexible. Where urbanisation and market development have led to increasing land values, systems of land holding are becoming highly individualised. In this situation, tenure reform through the voluntary registration of transactions would be a step beyond customary

practice.

Poverty is understood not only in terms of low income and consumption, but also in relation to people's ability to cater for their basic needs and their opportunities for personal and social development. Capital assets, including finance, land, natural resources and social capital, determine their ability to meet those needs. Women, especially single women and those without wider kin-group support, children, and families of retrenched migrant workers are the most vulnerable. Membership of kin groups provide essential support to those in extreme poverty reduction. Where financial resources are absent, social capital can provide a number of livelihood opportunities, including customary access to land and natural resources for farm production and opportunities for paid work. Land access is actively facilitated by a whole range of customary transactions including land borrowing, sharecropping, pledging and gifts. These arrangements are particularly important for the poor. In a time of economic recession and the retrenchment of mine workers, secure access to land and natural resources is vital. Hence the importance of governments helping to sustain customary land tenure by reforms which clarify rights and benefits. While individual freehold tenure has been fully protected in law and in practice, communal systems of land rights have suffered from lack of legal protection and administrative support, especially in southern Africa, Zimbabwe, Namibia, Swaziland, South Africa (Adams et al., 1999).

3. The status of tenure in the former homelands

Under apartheid laws, persons deemed ‘black’ in South Africa were prevented from retaining and/or acquiring rights in the land which was set aside for persons regarded as ‘white’. At the same time, land which was provided in the crowded homelands was granted on limited and precarious permits subject to administrative discretion. Black people were placed under the jurisdiction of ‘chiefs’. The dual system of land rights introduced under colonial and apartheid governments continues to prevail. Laws involving arbitrary racial distinctions have been repealed, but land in the former homelands continues to be registered in the name of the State. Apartheid laws which gave widespread powers to chiefs and tribal authorities in terms not only of land administration, but also judicial and government functions, have still to be repealed. The present laws applying to former homeland areas contain a mix of ownership and governance functions. This derives from the system of trusteeship which located the state as both the owner and the administrator of land.

Most of the former homelands are registered as ‘state land’. However, in places, particular groups and tribes have strong underlying rights (e.g. through the purchase of land or through historical occupation), which were not registered in their name because of discriminatory laws. Because these underlying rights may be disregarded by officials, there are long-standing disputes between provincial and local governments and traditional leaders about who owns and therefore controls the land. Traditional leaders complain that local government initiatives undermine pre-existing land rights, while councillors complain that tribal leaders block development so as to ensure that their authority remains intact. In the process, the views of the rural poor are ignored. Occupants are not treated as decision makers on land which they have occupied for decades.

An additional problem which is leading to severe tension and incipient violence in many communal areas is the severe overcrowding resulting from forced resettlement under apartheid and from the eviction of farm workers and farm dwellers (which was widespread in the apartheid era but has continued in the 1990s). This has led to overlapping rights, since the original occupants, with strong underlying rights, have had to accommodate ‘refugees’ who have often subsequently obtained rights as tenants or as permit holders. This leads to an acute dilemma for tenure reform: strengthening the rights of the original occupants could lead to the eviction of later arrivals; an unintended consequence. This has been threatened in places like Phokeng and Driefontein, affecting tens of thousands of households. (The effects of overcrowding and overlapping rights on social stability are explored further in section 3.2, along with a detailed case study of Mgwali in the Eastern Cape).

Another factor complicating post-transition attempts to dismantle the apartheid map is the complex and unstructured nature of the legislation governing the former homelands, much of which has yet to be repealed. Remnants of the old Bantu Areas Land Regulations, Proclamation No. R188 of 1969 are still in place. In each of the former homelands, land is administered by different laws and authorities. Generally, the systems of administration and record keeping have broken down and threaten a general collapse in rural governance. This collapse includes loss of records, doubts as to which laws apply and the unauthorised issue of permits and other documents. The lack of clarity about the status of tenure inhibits investment, whether by outsiders or those who live in the area. Because of the uncertainty as to who has rights and who can take decisions, both government and private sector projects are stalled or slowed.

Studies of land rights and land administration in the former homeland areas demonstrate the increasing

breakdown of such customary management arrangements.

The consensus is that at present, there is a complex and often dysfunctional mixture of old and new institutions and practices. People are often confused about the real extent and nature of their rights or about what institutions and laws affect them. Matters are further clouded by local and national political conflicts over land management rights and roles in the communal areas. The corruption by former regimes often persists in new forms to pervert land allocation and management. (Turner, 1998: 11).

All these features lead to the inescapable conclusion that insecurity of tenure in the communal areas is real and widespread. However, it is also true that in many areas people do enjoy day-to-day *de facto* tenure security and do not express great anxiety about their long term future on the land. Many existing systems, often 'informal' in the sense that they are not recognised by law, work reasonably well. However, evidence from the large number of tenure problem cases brought before the DLA (Cousins, 1999) is that the underlying problems emerge strongly when development planning begins or investment projects are proposed. In addition, there are chronic problems of inefficient land use and ineffective management of common property resources due to the lack of clarity in relation to rights.

Thus we can characterise tenure insecurity in communal areas as comprising:

- a relatively small number of *high profile* cases where tensions or conflict have emerged or development is clearly stalled; these are now increasing in number as local level development planning begins;
- a chronic, *low-profile* condition in which lack of certainty and weak legal status constrains the land-based livelihoods of the majority.

The cost to society of taking no action to resolve these problems is considered to be very high. Measures in the proposed land rights legislation (e.g. the legal protection of informal land rights; clarification of tenure rules; decentralisation of land administration and conflict resolution; placing legal control over land rights in the hands of the *de facto* rights holders at local level; and the strengthening of the land rights of women) would have a positive impact on the economy through security of tenure over land and other natural resources.

The fact that some systems and institutions operating at local level do appear to have legitimacy and confer a degree of security is good news for government, since it means that tenure reform in these areas can build on these institutional foundations. This would allow for the evolutionary adaptation-by-choice model of tenure reform to be implemented at a much lower cost than if an ambitious 'replacement' model were to be pursued.

The proposed land rights legislation is a far-reaching attempt to tackle an important underlying cause of rural poverty, namely the prevailing uncertainty about the rights of those who occupy and use the land. Table 1 shows how the reforms proposed can underpin investment (a) by rural households, (b) by government at different levels, and (c) by the private sector.

3.1 Economic constraints imposed on rural households in the former homelands

The impact of the 1913 Land Act on African farming in South Africa was fundamentally disabling. In

Table 1 Ways in which the proposed land rights legislation can contribute to economic development through tenure security

TENURE REFORM	DECISIONS	ACTIVITIES AND PROCESSES	BENEFITS
TENURE SECURITY ON EXISTING LAND AND ON ADDITIONAL LAND VIA COMPENSATORY REDRESS	RURAL HOUSEHOLDS	<ul style="list-style-type: none"> • increased production of agricultural goods (marketed and directly consumed) • increased but better managed use of natural resources for: <ul style="list-style-type: none"> - household provisioning (food and fuel) - medicinal plants - craft production - building • local economic development via SMMEs • reduced levels of conflict and greater social stability • greater equity in the distribution of benefits 	Rural Livelihoods <ul style="list-style-type: none"> • more income (monetary and non monetary) • reduced vulnerability • improved food security • increased health and well being • more sustainable use of natural resources
	GOVERNMENT	<ul style="list-style-type: none"> • provision of infrastructure • provision of services • public works (e.g. Land Care & Work for Water) • development projects (e.g. housing) • grants and subsidies to the rural poor 	Economic Growth and Development <ul style="list-style-type: none"> • increased production and income • increased markets for consumer goods • increased backward and forward linkages between rural and other sectors
	PRIVATE SECTOR	<ul style="list-style-type: none"> • investment in rural areas: <ul style="list-style-type: none"> • SDIs • Ecotourism • forestry • agricultural projects • goods and services for local economic development (e.g. agri-inputs) 	

the latter part of the nineteenth century, African family farming was viable and successful in responding to the increased demand for agricultural products from the mining towns (Mbongwa et al., 1996). Family farms supplied the major towns of the colony of Natal with grain and exported the surplus to Cape Town. In 1860, over 83% of the nearly half million hectares of white-owned land was farmed by African tenants. African owner-operated or tenant farming proved to be as efficient as large-scale settler farming based on hired labour. African farmers adopted new agricultural technologies, entered new industries and out competed large-scale settler farming in some of the emerging agricultural markets. Settlers argued that because of labour shortages, they could not compete with their African counterparts who had lower costs. Competition from black transporters of agricultural produce was also deemed unfair by white transporters.

During this period, the accumulation of capital and wealth by African farmers caused the Native Affairs Commission to comment that Africans were becoming wealthy, independent and difficult to govern. Critical to this success was the inability of a weak state to intervene in factor markets and the implicit support for African farming from land companies and big landowners who earned rents from African tenant farmers. All this changed when on June 20, 1913, the Natives Land Act segregated Africans and Europeans on a territorial basis by designating about 8% of the country's farm land as reserves which became the only areas that could legally be farmed by Africans. Immediately, the Government of the day had created surplus labour for the mines and the white agricultural sector. At a stroke, it had also eliminated competition from black farmers.

Although African farming survived in the so-called native reserves, its viability has been steadily eroded by over-crowding, ill-judged betterment schemes and increasing uncertainty over land rights. Studies by the Agricultural and Rural Development Research Institute in the Eastern Cape have shown that productive small farmers have faced increasing difficulties in leasing unused land (Wim von Averbek, ARDRI, reported by Rosalie Kingwill). Rights holders are no longer willing to lease arable land for fear of not getting it back. There is an increasing area of potentially productive land which is therefore not put to use. Lima Rural Development Foundation (1999) report that, in former KwaZulu, up to 70% of available arable land may lie fallow as the rights holders are unable or unwilling to farm it. A similar situation is reported from the former homeland areas absorbed by Northern Province and North West Province. For other research data see May (1996) for Kwazulu-Natal, Turner (1998) for Herschel and Matatiele, Baber (1996) for Sekukhuneland, DRA (1995) for Kwazulu, Bophutatswana and Transkei.

There is also evidence that irrigation schemes in the former homelands are operating at low levels of productivity due in part to the lack of clarity on land rights. Examples include Makathini, Stockenstrom, Shiloh, Keiskammahoek, Herzog, Zanyokwe, Horsehoe, Qamata, Tyefu and Taung (see van Averbek et al., 1998, for a discussion of schemes in the Eastern Cape).

Agricultural projects on state-held land are constrained by tenure problems. According to Oricho (1998), small farmer projects [on state land] are characterised by neglect of infrastructure, confusion over land rights, and under-utilisation. Over 30 of these projects are on tribal land. In some communal areas, there are tensions over mineral rights or benefits from mining (e.g. in Kraalhoek, Phokeng, Tlapa, Rantjie Lenyane, Mokope, Mphahlele, Gapila), and clearer land rights could resolve these conflicts – although here tenure reform would clearly have to be consistent with state policy with regard to mining rights more generally.

The land market in more densely populated parts is unregulated and open to exploitation by unscrupulous administrators and chiefs who are selling off communal land, bringing them into conflict

with adjacent city councils such as Nelspruit in Mpumalanga. Insecurity is greatest among those using land to generate income, especially among women. Profit-making from agriculture and small business activity are not clear rights. As soon as informal land markets become accepted, people with allocation authority move in on them. Such opportunities are most accessible to men with connections to power structures. Mounting uncertainty makes economic land use too risky to entertain for increasing numbers (Cross, 1997 and 1998).

Another critical issue is the large area of land in South Africa held as common property – the grazing areas, forests and woodlands, water catchments and fisheries which are used jointly by members of rural communities. As Shackleton et al. (1998b) have shown, resources on the commons make very important contributions to rural livelihoods. But some commons are slipping into ‘open access’ (Ainslie et al., 1996), and in many others management is far from optimal because of lack of clarity over land rights (Shackleton et al., 1998a; Cousins, 1996 and 1998). Tenure reform is needed to create a clear legal and institutional basis for decision making in common property regimes.

3.2 Rural instability arising from land tenure disputes

The impact of forcible resettlement has gone beyond the loss of assets. It has had a negative impact on social structures within the affected communities and has resulted in destructive power struggles and a mounting spiral of land-related disputes and killings.

For example, a study by the Border Rural Committee (1998) documents the current violent circumstances of one such community of some 8,000 people in the Mgwali area in the Eastern Cape (see Box 5). Here land allocated in the last century to long-established quitrent title holders was re-allocated through the issuing of permits to occupy (PTOs) to those forcibly removed. PTO holders were followed by a stream of evictees from neighbouring farms. In many cases, these have been taken in as tenants and servants or have occupied the commons belonging to quitrent holders. In the wake of the collapse of a successful community alliance between these various groups to resist forcible removals, the area is now characterised by simmering discontent. Economic and social progress in the area awaits the resolution of a number of problems:

- Overlapping rights and overcrowding resulting from influx of refugees from apartheid;
- Breakdown of land administration and uncertainty as to the legal status of land rights claimed by the various stakeholders;
- Decline in agricultural production;
- Breakdown of law and order and rural governance.

While it will take a lot more than land tenure reform to restore peace and hope to these areas, there is little doubt that poverty and land-related violence will spread further afield unless efforts are made to fill the void left by the collapse of land administration in the ex-homelands. The costs of taking no action will be measured in peoples lives.

Box 5 Mgwali, Eastern Cape

Mgwali Mission lies some 25 km from Stutterheim. The mission station was established in 1857 by the Church of Scotland. In 1873, Mgwali was incorporated into the Cape Colony as part of Kafraria and in the following year 152 residents were granted quitrent titles. The Native Location Act legalized the granting of individual lots and granted commonage rights. At the turn of the century, the population greatly increased, due to the eviction of farm workers from surrounding white-owned farms. Quitrenters commonly accepted the evictees as their tenants.

With the union government in 1910, policies shifted to indirect rule underpinned by the Land Act (1913), the Native Administration Act (1927) and the Land and Trust Act (1936). The last-named established the South African Native Trust which took control of all Crown land, including the commonage of Mgwali, hitherto administered by the quitrenters. Mgwali's Village Management Board was replaced by a tribal authority system.

The Prevention of Illegal Squatting Act (1951) resulted in more farm evictees moving to Mgwali. The Betterment Proclamation of 1939 further undermined land rights of residents. Mgwali was declared a betterment area in 1949. The policy was implemented in the 1960s by the tribal authority and government officials. Mgwali was villagised. Arable and grazing land were separated and fenced off. People residing close to arable land, most of whom were evictees from white farms, were allocated residential sites on what was commonage, fundamentally undermining quitrenters' rights to the commonage.

Post-betterment, about 120 sites were allocated on the commonage based on a new form of tenure, Permission to Occupy Certificates (PTOs), under the Bantu Areas Land Regulations, Proclamation No. 188 of 1969, with no arable lots and no access to grazing land provided to holders.

In the 1970s, Mgwali's administration was transferred to the 'independent state' of Ciskei. About 100 more PTOs were issued to tenants and to offspring of established quitrenters. The carving up of the commonage, coupled with increasing population and livestock numbers, created tremendous pressure on the land.

Mgwali was declared a 'black spot' in the 1960s and the community was faced with relocation to Frankfort in the former Ciskei. With quitrenters at the forefront of the struggle, tenants and PTO holders formed a united front against forced removal. This struggle also led to the ousting of the tribal authority and its replacement by the Mgwali Resident's Association (MRA) which took over the control of the administration of the area in the 1980s.

Through the 1970s and 1980s another category of people were allocated arable land and/or residential lots, without any form of documentation, by the Traditional Authority as well as by the MRA. Some of the lots that were allocated by MRA had been left by some of the people (quitrenters) that had moved to Frankfort.

For a brief period in the 1990s, the Department of Development Aid took over administration of Mgwali. These duties were later transferred to the Cape Provincial Administration under the Less Formal Township Establishment Act of 1995. Through this legislation a further 1,031 sites were approved by the Department of Housing and Local Government on 80 hectares of the commonage.

Source: Border Rural Committee (1998)

3.3 Economic constraints on government investment in development

Uncertainty regarding land ownership in the former homelands has discouraged both public and private investment in services. This has been a major impediment for the vast majority of people living in black rural areas who, as a result, have not qualified for the national housing subsidy. The proposed land rights legislation provides for the decentralisation of decision-making to rights holders and local-level structures. The law would clarify who can make decisions relating to such developments on state-owned communal land. It will set out the principles and procedures required and how the rights can be vested and registered.

Currently, the Minister for Land Affairs, as trustee or nominal owner of the land, must be assured that certain basic conditions protecting the interests of existing rights holders are taken into account before agreeing to any developments which legally require the consent of the owner. Such developments include land transfers, subdivision, township establishment and any changes to the title deed of the land.

Serious delays have been caused by the over-centralization of these functions and by the lack of legal clarity on the part of provincial governments with respect to the procedures, particularly for housing developments, on land held in trust by the State. This uncertainty has caused innumerable delays and the return of unspent funds to the Treasury. At the same time, local self-help developments have been stalled while people await government-sponsored schemes to go ahead. In June 1998 in North West Province alone, housing projects valued at R90.5 million and involving 6080 sites were delayed awaiting 'land availability agreements'. Other examples include Taung, Matlala, Payne Location, Blaauwbosch, Pilane, Rantjie Lenyane, Makapanstad, Morokoleng, and Gillemburg (Cousins, 1999).

3.4 Constraints to private sector investment

Investment projects (agriculture, forestry, tourism and eco-tourism), part of the Spatial Development Initiatives (SDI's), have been delayed two years as a result of lack of legal clarity over land rights. In the absence of the over-arching tenure legislation, the delays have to be resolved through time-consuming, case-by-case investigation and negotiated agreement. Legislation is required to clarify procedures for the resolution of such land rights issues, who can make legally-binding decisions regarding the development of the land and where the benefits derived from development must go.

Attempts such as those made in the Tshezi area to implement the SDI programme have demonstrated how uncertainties relating to land rights renders delay investment indefinitely and leaves environmental problems unresolved (see Box 6). The SDI anchor projects were initially conceptualised as public-private partnerships founded on the expectation that the state would provide the private sector with tax concessions and/or preferential access to state assets such as land in return for the provision of infrastructure and other investment which would lead to local employment opportunities. This approach was premised on the assumption that the land was free of encumbrance or claims. However, in the Wild Coast and the Lubombo SDIs, consultations with local people revealed their strong claim to the land. This was coupled with a strong desire for investment on that land on condition that their land rights were recognised and upheld and that they would be able to enjoy some of the benefits (instead of being just landless employees). While local communities require the recognition of their land rights, potential

Box 6 The Tshezi Area and the Wild Coast Spatial Development Initiative (WCSDI)

The Tshezi area, about 11,000 hectares and with a population of about 15,000, lies to the east of Mqanduli along the Wild Coast and is under the jurisdiction of the Tshezi Tribal Authority. The area has long shown a high degree of social cohesion based on the notion of being one 'tribe' under a single administration. While there is a democratically-elected local government, the locus of power lies with the Tribal Authority. Relations between the two are tense.

The area is one of great natural beauty. Two holiday resorts, Coffee Bay and Hole-in-the-Wall, have a high tourism potential. About 48 residential sites were allocated with PTOs by the former Transkei Government with the endorsement of the tribal authority. In the same period, about 80 sites in Coffee Bay and 40 in Hole-in-the-Wall were laid out and surveyed for freehold tenure but, were not transferred. Ocean View hotel was on land which was surveyed and excised from the tribal land, but not transferred to an owner. There are numerous illegal cottages, which are currently the subject of an inquiry by the Heath Unit.

In order to preserve the natural beauty of the Wild Coast and realize its economic potential, development must take place according to a sustainable land use (Sullivan and Associates, 1996). A number of possible developments were identified by the WCSDI. These had a potential for building the local economy and providing business opportunities for local people. Proposed developments hinge on devising and introducing land tenure arrangements which provide security to investors and a stream of benefits to the local communities.

The law does not provide for local communities to receive direct financial income from land transactions (leases, sales, etc.) as the land is registered as state land. After long debates, the option of transferring the land to the ownership of the local community was agreed. The process of constituting a Communal Property Association was set in motion. Along the way, the tribal authority withdrew its support for the CPA process, which was perceived as a threat to the chieftaincy. Tension and conflict brewed. One of the villages closest to the resort areas (Lower Nenga) attempted to go it alone, perceiving itself as sole beneficiary of the SDI.

In 1998, at the height of the conflict, a significant number of illegal land allocations and occupations were noted within the coastal strip one kilometer of the high water mark. Unauthorised excavations, forest clearing and dumping of refuse on environmentally sensitive areas were becoming common. These activities are not only damaging to the natural resource base, but are depriving the community the opportunities for sustainable economic development.

Conclusion

- The issue of the allocation of benefits, derived from developments on land belonging to local people in the area, remains unresolved.
- The proposal of transferring the land to a CPA, in the absence of an alternative legal mechanism to confirm the land rights of local people, has divided the community.
- In the absence of any recognised system of land administration and waste management, speculative land development and environmental pollution is leading to the despoliation of the scenic resources of the Wild Coast area.

Source: Buiten and Ntsebeza (1998)

investors require the assurance that their investments will be secure. In the absence of an appropriate tenurial framework to encourage inward investment, the SDIs have been seriously stalled and have involved lengthy and inconclusive negotiations with vested interests at various levels in the tribal hierarchy.

Private sector investment projects in communal areas are not limited to SDIs. Other projects in which

shopping centres, ecotourism ventures, forestry and agricultural production have been proposed also encounter stumbling blocks caused by lack of clarity over land rights. Cases which have come onto the desks of DLA officials include the North East Cape forestry projects, ecotourism in Belfast, Makapanstad, and the QwaQwa National Park (Cousins, 1999).

4. Tenure reform measures required to overcome constraints to economic development

This section provides a very brief overview of tenure reform measures which are required to address the constraints to economic decision making in the communal areas which have been outlined above.

- People who occupy and use land in communal areas (where the state is registered as the owner) need to have the status of their informal rights legally confirmed, and to have those established practices and procedures (e.g. for land allocation and use), which are legitimate in the eyes of the rights holders themselves, recognised and recorded. Tenure reform programmes need to close the gap between the *de facto* realities and *de jure* status. This will create greater certainty for rights holders and for third parties which enter into economic transactions with them, and facilitate sharecropping and leasing of land which is not productively used at present.
- Rights are best vested in the land users, who have a clear interest in utilising resources for their own benefit, rather than in institutions (such as civics, or tribal authorities), which have often been hijacked by elites for personal gain.
- Tenure reform needs to address the administrative chaos in relation to land rights which currently prevails in the communal areas. Experience elsewhere in Africa suggests that this is done most effectively and cheaply by placing responsibility for day-to-day management in the hands of local-level decision-making structures. This facilitates decisions which are appropriate to the economic realities of the land users, which is seldom the case when these are made, for example by agricultural extension officials ('betterment' planning being a case in point). Tenure reform should also ensure that local structures remain accountable to the rights holders that they represent. Reforms should encourage the establishment or reconstitution of such structures where they do not exist or have become dysfunctional.
- Given a history of corruption in the allocation of land and profits from land development, it is important to provide rights holders with protection against such abuse, through recourse to the law, but also through having access to information on their rights. This would require support structures and mechanisms, provided mainly by government (although civil society also has an important role to play).
- Since women constitute the majority of economically active producers in rural areas, measures to strengthen women's access to land are crucial for economic development as well as for human rights.
- Tenure reform must provide for rights holders to make new tenure rules (e.g. to govern new kinds of land use, or to regulate relationships with outside investors), or to modify existing rules, since these may not be adequate when new economic opportunities or needs arise. Flexibility and choice is crucial so that tenure systems can evolve and adapt over time to changed circumstances.
- Reform measures must also facilitate rule-making by rights holders (or the confirmation of appropriate existing rules) in relation to improved management of common property resources.

- Tenure reform must provide for the resolution of conflicts over overlapping rights arising from enforced overcrowding. Procedures must ensure that those who, through no fault of their own, have the weaker rights are not dispossessed, but given access to alternative land. Overcrowding usually results in wasteful and unsustainable land use (e.g. high potential arable land being used for residential purposes). Often the provision of additional land will make good economic sense as well as providing a way to recognise and confirm existing rights to land.

5. Estimating the economic benefits of tenure reform

5.1 DLA-commissioned study by May et al. (1998)

In 1998, DLA commissioned a study of the economic impact of the proposed land rights legislation (May et al., 1998) which suggested that the main economic benefits of tenure reform derived from:

- the promotion of *farm and non-farm household production* (similar to decisions, actions by rural households in Table 1);
- improving delivery of *housing and infrastructure in urban and semi-urban areas* (similar to decisions by government in Table 1);
- facilitating investment in *Spatial Development Initiative projects* (similar to decisions by the private sector in Table 1);
- the *opportunity costs* imposed by the existing situation of tenure insecurity.

Valuing these benefits was problematic given the limitations of the available data (see Table 2).

Table 2 Estimates of the positive economic impacts of tenure reform

Benefit	Economic impact
Household farm production	R344 million per annum
Housing and urban development	R400 million for current projects
Spatial Development Initiatives	R500 million for current projects R40 million estimated return per annum
Opportunity costs	Difficult to estimate

Source: May et al. (1998: 27)

The estimates in Table 2 may seriously underestimate potential benefits, particularly in relation to household production, or what is perhaps more appropriately termed 'land-based livelihoods' (see below). It could be argued that housing and urban development falls largely outside the scope of the proposed legislation. On the other hand, the report did not collect data on rural housing or other government funded development programmes negatively affected by tenure uncertainties (e.g. public works programmes, Land Care, Working for Water). SDIs are, by their nature, concentrated in specific geographical areas. Their benefits will not accrue to the majority of the rural population. Numerous stalled private sector investments in tourism, forestry and agriculture on communal land, outside the SDI zones, were not included in the estimates.

5.2 The economic value of land-based livelihoods

Land-based livelihoods are composed of the following:

- cropping (dryland and irrigated crops, including homestead gardens)
- livestock production (for a variety of products)
- natural resources from the commons (e.g. water, clay, river sand, roots, bulbs, fruits, grass, shrubs, trees, honey, insects, wildlife) are harvested for a range of uses (e.g. as wild foods, fermented beverages, medicines, building materials, craft work materials, fuel, forage, etc).

All of these forms of production involve both direct use for household sustenance and exchange in local and more distant markets. Some outputs supply small or micro-enterprises in rural areas e.g. traders, hawkers, crafts, building, traditional healing practices.

5.2.1 Cropping

(a) Access to land

The conventional wisdom is that only about a quarter of rural households have access to land for cropping (SALDRU, 1994; May et al., 1998). Ardington and Lund's (1996) critique of the SALDRU data points out that this figure is 'influenced by the inclusion of a large number of peri-urban households in the rural sample, and it is questionable too on the grounds that only half...of those who reported income from agriculture claimed access to land'. Many studies in truly rural areas report much higher levels of access to land for cropping, especially when the productive (and often large) 'gardens' around homesteads are included.

Access to land in Nkandla in Kwazulu-Natal is universal (Ardington and Lund, 1996); in Mamone in Northern Province 82% of households have access, but this falls to 45% in Ramatlakane where 'betterment' planning has taken place (Baber, 1996); in Shixini in the Eastern Cape 92% have access (McAllister, 1998). Ardington and Lund comment:

“...[land] does provide critical support to poor families – most households in rural areas. Its importance for poverty alleviation and livelihood support should not be underestimated. Questionable urban-rural definitions and concentration on ‘main’ source of income results in the role of subsistence being undervalued” (1996: 55).

Recently released data from the 1997 Rural Survey carried out by Statistics South Africa, using a sample of 6,000 households in the former 'homelands', confirms that access to land is wider than previously thought. It is reported that 71% of households have access to land for farming, although about half of these have access to less than one hectare. This means that around 1.7 million households grow crops, mainly for their own use (Statistics SA, 1999).

(b) Crop yields

McAllister (1998) has recently provided a trenchant critique of questionnaire surveys as a method of investigating crop yields in black rural areas. He provides data on maize yields, in the Willowvale area

of the former Transkei, collected using in-depth ethnographic research methods and careful weighing of different kinds of maize, which shows levels of production (2–4 tonnes per ha) which are comparable with those of commercial farmers. This is in contrast to the findings of a large number of surveys in the former Transkei which have reported average yields ranging from 250 to 650 kg per ha.

Bromberger's research in KwaZulu-Natal in the 1980s, using careful sampling and measurement methods, corroborates these findings. Baber's (1996) research in a semi-arid zone, using similar methods, showed much lower yields, largely due to lower rainfall. McAllister comments:

“...studies based on careful though rough measurements of yields (rather than on a questionnaire) show that there is a lot more maize being produced in places like coastal Transkei and rural KwaZulu-Natal than is conventionally accepted...agriculture in the Transkei is not, as almost all commentators assume, ‘hopelessly unproductive’...what is remarkable is that they are able to achieve this without chemical fertilizers, insecticides and commercial seed, and despite a complete absence of state support and the severe constraints imposed by shortages of labour and implements” (1998: 47).

In most questionnaire-based studies, income from cropping is estimated by placing a value on reported crop yields. McAllister's critique of questionnaires thus suggests that cropping income is seriously underestimated. Qualitative research in Kwazulu-Natal (Chopra and Ross, 1995; Murphy, 1995, cited in May, 1996) lends support to this suggestion: poor households rate the contribution of home-grown food to consumption at between 25 and 45%, with an important seasonal dimension.

It is therefore suggested that current estimates of cropping incomes (from both sales and house consumption) can reasonably be doubled, i.e. May et al's (1998) estimate of R1089 per annum can be raised to R2178 per annum for households which crop, or an average of R1543 for all communal area households

(c) Livestock production

May et al's (1998) study did not consider the value of livestock production in estimating economic benefits. The bulk of the land area of the communal areas of South Africa is used as grazing, and there are a total of R4.25 million Large Stock Units in these areas. At a value of R1000 per LSU, the capital value of this communal herd would thus be around R4.2 billion.

Ownership is uneven and usually estimated at between 24% and 30% of households (May, 1996). There is considerable regional variation (e.g. McAllister, (1998) reports cattle ownership at 58% in Shixini; see also Beinart's, (1992) the data for the Transkei region).

A recent study by Shackleton et al. (1999b) in the Sand River catchment is the only one carried out in South Africa to date which has investigated in detail the full economic value of multiple function livestock herds. 24% of households were found to own cattle and 34% goats. The total net annual value of goods and services from livestock was estimated at R5000 per owning household for cattle and R415 for goats; it was R163 for non-owning households. This is equivalent to R1413 per annum across all households (or R77.7 million for the whole catchment) and R790 per ha.

These values include goods and services provided to cropping (manure and draught, together comprising about 14% of value), which must be deducted from aggregate household income to avoid double counting. The value of other goods and services is thus around R1215 across all households.

It is suggested that a value of R1200 per rural household per annum be estimated as the livelihood contribution in the communal areas.

(d) Natural resources from the commons

Shackleton et al. (1999a) report the findings of a study of the direct use values of woodland resources found on the commons in three villages in different communal areas. The range of resources used was wide, from 18 to 27. The ten most valuable resource uses across all three sites, in rank order, were: wild herbs/spinach, wood for household items, fuelwood, wild fruits, sand, grass hand brushes, insects for food, poles for fencing/kraals, thatch grass, and twig brushes. The mean economic value of all resources combined yielded a mean of R899 per person per year, or R75 per month.

Shackleton et al. compare these findings to four other recent studies, and calculate a mean value of R5584 per household per year, which is only marginally less than the equivalent of one pension per household. The sustainability of these values was not determined.

In an earlier study Shackleton (1996) argues that land use options need to be carefully considered if improved incomes and local economic development are desired. Further commercialisation could be both ecologically and economically sustainable.

Nevertheless, the threat of over exploitation and loss of natural woodland remains (Shackleton and Shackleton, 1997). On the other hand, the potentially positive impacts of greater commercialisation include increased household income, skills development, increased cash flow into the local economy, and greater appreciation for maintenance and management of natural woodlands.

The value of R5584 per household per annum is derived from a small number of case studies, and may be unrepresentative; therefore only half this amount is proposed in this assessment of the value of current land-based livelihoods.

It is suggested that a value of R2792 per household per annum be estimated as the livelihood contribution of common property resources other than grazing.

5.2.2 Aggregate values and their enhancement via tenure reform

The more realistic estimates of the contribution of agriculture and natural resources to land-based livelihoods in the communal areas of SA does not suggest that rural poverty is a myth, nor that rural people live richly off the land. Poverty undoubtedly does exist and is deepest in rural areas. However, the extent to which it is reduced by access to land and natural resources, as one component of diverse livelihoods, may be quite significant, particularly for the poorest households. If there were a more equitable distribution of productive land and livestock then it would surely be even greater.

Could effective rural development efforts, including the ‘necessary but not sufficient’ component of tenure reform, lead to a significant enhancement of land-based livelihoods and associated local

economic development? Experience in other African countries (e.g. Zimbabwe) suggests that real improvements in yields, productivity, incomes and human development indices are feasible in communal areas and resettlement schemes when appropriate policies and programmes are put in place (Kinsey, 1998).

May et al. (1998) report that econometric models show how marginal returns to land can rise substantially when finance is available. McAllister (1998) asserts that in Shixini in the former Transkei 'there is a large and widespread demand for inputs such as seed, fertilizer and fencing materials. The implications of this are that, given the right kind of support, household-based agriculture... would grow and flourish'. Shackleton (1996) argues that incomes from sustainable natural resource harvesting from the woodland commons could be increased substantially with improved methods of harvesting, processing and marketing.

These views lend support to the contention that in South Africa, an incremental enhancement of land-based livelihoods of the order of 15 to 20% of current values is technically and economically feasible. This would no doubt require the implementation of a range of complementary measures, including tenure reform, as envisaged in the Rural Development Framework (DLA, 1997b).

Table 3 shows that in the former homeland and SADT areas, increases in the aggregate value of these livelihood sources could amount to R2 billion (at 15% enhancement) and R2.66 billion (at 20% enhancement). Incremental enhancement implies that it would take several years before these values were achieved.

Table 3 Household and aggregate economic values of land-based livelihoods in communal areas (with a total population of 2.4 million households)

Component	Current value per household per annum	Current aggregate value per annum	Aggregate value enhanced by 15%	Aggregate value enhanced by 20%
1. Cropping	R1543	R3.70 billion	R4.26 billion	R4.44 billion
2. Livestock	R1200	R2.88 billion	R3.31 billion	R3.46 billion
3. Natural resource harvesting	R2792	R6.70 billion	R7.71 billion	R8.04 billion
Total	R5535	R13.28 billion	R15.28 billion	R15.94 billion

5.3 Overall economic benefits

The estimates of the potential economic impact of tenure reform discussed above are provisional, and only make sense when seen in their full context – that of a coordinated and well targeted rural development programme aimed at enhancing rural livelihoods in a sustainable manner. No estimates are available on the impact of tenure reform on a number of components of the model set out in Table 1 – e.g. local economic development via SMMEs (small, medium and micro enterprises), or the multiplier effects through the national economy. The focus has been on land-based livelihoods – which should be a major concern of any programme of land reform. What should be noted is that all of these

potential impacts are relevant for the other components of land reform as well (i.e. for rural land restitution projects and for land redistribution).

6. Conclusion: Weighing costs and benefits

McIntosh, Xaba and Associates (1998) estimate that the incremental operating costs of the proposed land rights legislation would level off at R108 million per year once the required personnel had been trained and the administrative systems had been put in place. These are far outweighed by the positive economic impacts estimated by May et al. (1998) and shown in Table 2. The estimates given here for the value of the potentially positive impacts of tenure reform on land-based livelihoods add force to this argument, although of course the costs of complementary rural development programmes would have to be added to the direct costs of implementing tenure reform for a realistic estimate of total costs to the state and society.

To these considerations must be added the costs of *not* undertaking tenure reform, as an essential component of comprehensive rural development; the entrenchment of rural poverty and the continued drain on society's resources that this would imply; and continued tension and instability in high conflict situations characterised by severe overcrowding and contested rights and claims. In our view, the provisional appraisal of potential economic benefits we have attempted here suggests strongly that tenure reform in the communal areas is well worth undertaking.

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