

Land Reform: Challenges in a Former South African Homeland

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ABSTRACT This report concentrates on the major challenges for land reform in Qwaqwa, a former South African homeland. In order to understand the nature of these challenges, it is deemed necessary to provide a broad overview of land and tenure rights in South Africa and to give a historical perspective on Qwaqwa.

INTRODUCTION

Land reform had a high priority for the so-called Third World countries when they became de-colonized and independent. Attitudes in this regard, according to Mair (1984: 55), have been greatly influenced by the Marxist's view that poor and land-less peasants were exploited by colonial capital and rich, well-off landlords. The basic intention of land reform, therefore, is the raising of the standard of living through the redistribution of land.

South Africa developed its own paradigm (= apartheid) of how to deal with land tenure over decades and has an unmatched history in this regard. The Natives Land Act, 1913 (Act 27 of 1913)¹ and the Native Trust and Land Act, 1936 (Act 18 of 1936) were cornerstones of a system of white supremacy: The 1913 Act, for example, resulted in only 10 per cent of South Africa being reserved for Africans (the so-called Native Reserves / Bantustans / homelands) and was brought into force in order to subordinate the interests of African farmers to those of white farmers and to establish and sustain supplies of cheap African labour for (white) mining and related industries. The 1936 Act, on the other hand, gave powers to a Native Trust to purchase land in order to increase the size of the reserves.

The apartheid government denied Africans' property rights in "white" South Africa and re-

settled (by way of forced removals) more and more Africans in the reserves². The reserves soon became overcrowded (in human and animal populations) and underdeveloped in respect of resources and infrastructure (Slater, 1998: 2). The traditional system of African land tenure (a patriarchal, communal system which does not make provision for tenure rights for individual and women – cf. Jeppe, 1980), was enforced by the apartheid government in the reserves.

In response to the loss of millions of hectares of African farmland, the African National Congress (ANC) in its Freedom Charter of 1955 proposed that in South Africa those who worked the land should own it. In 1994 (after the first democratic elections) the ANC government's position on land was set out in their Reconstruction and Development Programme (RDP)³. This suggested that a national land reform programme should be the central, driving force of a programme for rural development⁴. Furthermore, it is suggested that any land reform programme must aim to support the poorest of the rural population and must recognise the specific difficulties women faced in obtaining land.

International experience has shown that land reform is a risky endeavour with unpredictable consequences and that different situations of land reform require idiosyncratic methods (Atkinson, 1998: 8). With reference to this, the purpose of this contribution is to focus on some of the challenges to land reform in Qwaqwa – one of the former South African reserves.

The data under discussion represent the findings of a multidisciplinary research team, which did research for the Department of Land Affairs: Free State on land reform in Qwaqwa during 1998. The Department of Anthropology; University of the Orange Free State was responsible for the management of the project. The research team

was requested to conduct research on people's views on the origin, nature and contents of land rights, their access to land, views on and support for land reform and demands for specific land needs.

Different techniques of data collection were used: Participatory Learning and Action (PLA)⁵, a socio-economic survey⁶, consultation by a legal expert⁷, workshops, interviews and literature studies. In order to ensure ownership of and responsibility for the project, a participatory approach was followed which, *inter alia*, maintains that the Qwaqwa Land Development Forum (QLDF), which represents a variety of local stakeholders, was re-activated. The QLDF was consulted regarding the planning of the project, while the findings and recommendations were discussed in workshops. Area Committees were also established in each research area to assist in the research and to ensure that local channels of communication were opened. Findings and recommendations were discussed in workshops with these committees and members of the communities. Research communities were selected in order to reflect a wide range of communities, land use types and distinct land tenure areas. Information provided by Cole (1997) served as criterion in this regard.

BACKGROUND TO QWAQWA

Some sense of the history of Qwaqwa is necessary in order to understand the situation in the late 1990s. Qwaqwa is located between Lesotho, the eastern Free State and KwaZulu-Natal ($\pm$ between 28°30'5" & 28°45'5" southern latitude and 28°40' & 29°0' eastern longitude). This area was occupied consecutively by San (Bushmen), the Kgolokwe of chief Oetsie (1838-1861), the Bakwena under Paulus Mopeli (1867-) and Koos Mota and his Batlokwa tribe (1875-). Today there are 10 tribes: 3 under the Batlokwa Paramount Chief and 7 under the Bakwena Paramount Chief (cf. Ross 1930 and Van Aswegen 1968 for more details on the early history).

Right from the beginning, according to Murray (1998: 4), there was considerable poverty, an acute shortage of arable land, land erosion and congestion in Qwaqwa (as pointed out by the Beaumont Commission of 1913 and the

Natives' Economic Commission of 1932). The main reason for the aforesaid situation was the constant population influx, which started with the evictions of Africans (in terms of Act 27 of 1913) from white-owned land in the adjoining districts. Until 1970 the population increased steadily reaching 25 334 that year. Since then (in other words during the peak years of apartheid) the increase in population numbers has been dramatic. Although the South African government enlarged the area to 1 580 km² between 1970 and 1988 (a number of "white farms" were expropriated in terms of Proclamation R181 of 1984, Proclamation R216 of 1985 and Proclamation R131 of 1988)⁸, Qwaqwa's greatest dilemma is that the available land and the state of economic development could not accommodate or sustain the population: In 1985 there were 213020 people living in Qwaqwa which by 1991 grew by a further 130000, representing a growth rate of 4900% (Bonti-Ankomah, 1998: 7). It is estimated that the population density in 1991 was 725 persons per km², while residential density was between 5 to 14 units per km². In 1995 Krige estimated that Qwaqwa contained 13% of the Free State population on $\pm$ 1 per cent of the total surface land. By 1996 Qwaqwa had an estimated population of 554 872 people.

Apart from the influence of the political economy of apartheid, the following factors, according to Krige (1995), also contributed towards the population explosion during the 1990s: people returned following the retrenchments on the (gold) mines of the Free State; ex-farm workers preferred to migrate to Qwaqwa; and people in violence-stricken urban townships took refuge in Qwaqwa.

The massive population influx of the past three decades transformed Qwaqwa and had a decisive influence on livelihoods. A small, relatively rural population that was able to sustain a livelihood (albeit precarious) through arable cultivation and grazing of livestock was swamped by very large numbers of immigrants. The unemployment figure in Qwaqwa is particularly high; nearly 70 per cent of the people who are formally employed work outside of Qwaqwa; women (because of their participation in agriculture) are dominant in the work force within Qwaqwa; there are large proportions of children

and old people in Qwaqwa; agricultural areas were in the past encroached on by the newcomers, because they could not be accommodated in existing residential areas, and there is virtually no agricultural land left. Potential arable land for agriculture is estimated at 18 per cent of which $\pm$ 10 per cent is already occupied by informal settlements, while more than 80 per cent of the present vacant areas can only be utilized for extensive grazing (Van Zyl, 1998: 9).

CHALLENGES FOR LAND REFORM

According to Bonti-Ankomah (1998: 27) less than 0.5 per cent of the total available private land in the Free State has been redistributed to disadvantaged people since the land reform programme was implemented by government. Although it was not a specific objective to investigate why the redistribution of land is not being addressed in an effective way, the following factors contributed towards the problem in Qwaqwa and needs attention.

Different Land Tenure Systems

A variety of landowners and tenure systems where different processes of land reform are under way - can be identified in the "Old" and the "New" Qwaqwa. This unnecessarily contributes to a complex and difficult situation, while a unilateral tenure system will expedite land reform and should therefore be effected as soon as possible. The following examples can be given in this regard:

- Former state farms: This land is mainly targeted for redistribution and for the development of individual small-scale black farmers with title to individuals.
- Phuthadijhaba (TLC): Land in this case is owned by individual owners, and as the town is ringed on all sides by informal settlements, the pressures on land are high, and, associated with that land tenure, conflict is also high.
- Qwaqwa National Park: A land reform process has been started in the park and it has been agreed in principle that the tenure rights of the park residents should be safeguarded.
- "Old" Qwaqwa: The traditional land tenure system is one where the land is vested in the

tribe in communal ownership, and individual ownership cannot be obtained. The responsibility of allocating land is vested in the chief and a PTO to occupy the land (in other words use-rights) is issued to the (male) head of a household and is inherited unilineally. The communal areas are available (in principle) to all members of the tribe and are most often used for grazing purposes - cf. Sheddick (1953) and Strydom (1985) for detailed descriptions in this regard.

Land Conflict

Land is a valuable, but scarce, asset in Qwaqwa that affects the everyday livelihood of the people. All the research reports reveal strong possibilities for land conflict, which has to do with power relations and struggles. Different types of conflict can be distinguished. Firstly, there is conflict between tribal chiefs (and/or headmen) and their subjects. Allegations were made of personal enrichment and nepotism by tribal chiefs (and/or headmen). It has to do mainly with the allocation of grazing and cultivation land, and the management of natural resources, most notably firewood, water, wild vegetables and medicinal plants. It must be borne in mind that natural resources are limited (water, for example, will only be sufficient until the year 2010) and are under severe pressure due to 100 per cent overgrazing and uncontrolled peri-urban sprawling (Van Zyl, 1998: 46). As a possible solution, the research suggests that the role of chiefs (and/or headmen) needs to be regulated, but not completely excluded in the rural areas, and that community members who need access to resources must have a say in allocations.

Secondly, there is conflict between the traditional leaders and the elected leaders of the Transitional Rural Council, especially regarding the allocation of residential sites and land earmarked for development. In order to integrate development planning, to determine service standards and to provide infrastructure, the aforesaid functions need to be placed squarely in the ambit of locally elected authorities.

Conflict, thirdly, also exists because different individuals/parties lay claim to the same portion of land. The removal of fences, the fact that not all boundaries have been surveyed, the

invasion of land by informal settlements and encroachments on agricultural land, including grazing areas, have made the issue of control of land a matter of urgency.

Individual Freehold Title

Under colonialism and apartheid, various restrictions were placed on the land rights of Africans. Not only were they prohibited from owning or leasing land in the so-called "white" areas, but even in the reserves their rights and interests were insecure. Major problems in this regard were the lack of adequate administration to support communal land rights and chiefs who claimed the power to alienate land to outsiders. The overwhelming concern of the research communities to have greater control over their own destiny must be seen against this background. The principal method by which they believe it can be achieved is by means of individual title deeds (freehold ownership). Many respondents regarded it as the first step to an independent way of existence. However, it cannot be assumed that the mere ownership of a title deed will necessarily bring security or economic progress. It remains, for example, to be seen - as long as "economic determinism is the final instance" - whether the poor, small landowner will keep his land:

- Financial institutions are unwilling to lend money for the purchase of properties in rural areas (mainly because people live below the affordability criteria that may be imposed on land as an asset to access credit).
- There is (given the apartheid history) no real formal land market in Qwaqwa. The PLA research showed that people want to take delivery of the land they live on at the moment, rather than indulge in the "luxury" of land market speculations. For this reason, it is not clear whether the land has any value beyond its immediate use as a residential site and provision of a social security and welfare net for retrenched and unemployable members of the household.

Property rights are basic human rights (i.e. to possess and enjoy the benefits of the land) that will help bring about social and political security and must be secured from arbitrary action of alienation by the state, private institu-

tions or any other body.

Traditional Constraints

Certain traditional impediments and practices prevent certain individual community members, especially women, from enjoying the basic human rights as provided by the South African Constitution. Traditional (i.e. patriarchal and communal) tenure systems, customary marriage and inheritance laws have restricted women's access to land. Equal rights in land for women are not only a constitutional obligation, but are essential for the redistribution of land in terms of socio-economic perspectives. Women are the ones faced with most of the hardship regarding the tilling, cultivation and utilization of the land and its resources, while they also shoulder the care of children, the old and the infirm, but without access to adequate social services and economic opportunities.

The majority of people who attended the research workshops were women, which emphasized their role and interest in land and economic matters. The beneficiaries of land reform projects could therefore not exclude women. However, the current land reform programme does not seem to be addressing gender issues in an effective way - women remain a hidden and disadvantaged category. From government statistics it seems that only 4 per cent of all beneficiary households, at all phases of the redistribution programme nationally, are headed by women (Bonti-Ankomah, 1998: 28).

Lack of Information

Mair (1984: 62) stresses the importance in land reform of access to sources of information. Significantly, most people in Qwaqwa had not heard of the government's land reform until the research actually began. In this regard, it must be borne in mind that, given the long history of the apartheid government's oppression and top-down style of governance, community members over the years have adopted a wait and see attitude and passive forms of resistance and are in general suspicious of government projects.

The study pointed out the importance of ensuring that people are well informed about the process of land reform in general, as well as about the specific options available to them. Before

any final choices are given to people, they must be completely informed about all the legal and economic implications, as well as the benefits and the disadvantages of their decisions. Information will also ensure the participation of community members (especially women) in land reform programmes.

CONCLUSION

In an area like Qwaqwa (which is completely overpopulated and where there is, technically speaking, no open land available) there are no quick fix solutions for land reform. However, resolving land conflict, the upgrading of existing informal settlements and the co-ordination of the large number of role-players, which makes implementation extremely difficult, seem to be apparent starting points.

Land reform in itself will not bring about the much-needed solutions to economic problems and should therefore not be seen as an activity in isolation from other aspects of development. Although, until now, attempts to integrate land reform with other aspects of development have not been very successful in Qwaqwa, strategic planning on development, on a comprehensive urban planning policy, on the role of women and on land use are needed.

It is difficult to link the specific outcomes of a project (e.g. the use of redistributed land) with the project impact (the long-term effect of the project on the well-being of the beneficiaries as well as the broader community in which they live). Although land reform should be regarded holistically, one aspect that needs attention in Qwaqwa is community participation, which is not yet an established procedure.

NOTES

- 1 Terms such as "Native", "Bantu", "whites", etc. are used in their historical context and consequently the titles of acts are used as they were promulgated.
- 2 It is estimated that more than 3.5 million Africans were forcibly removed and relocated in the reserves between 1960 and 1980 (Bonti-Ankomah, 1998: 7).
- 3 The RDP can be described as an integrated socio-economic policy framework which seeks to mobilize the people and the country's resources toward the building of a democratic, non-racial and non-sexist future.
- 4 The South African land reform programme rests on three elements: land redistribution, land restitution and tenure reform.
- 5 The Free State Rural Committee (FSRUC) did the PLA work and the primary objectives were as follows:
 - To examine the various leasehold arrangements that have been arrived at, the land registration system and the administration of the same.
 - To look at ways in which protection in law can be given to communities to uphold their land rights. In this regard it was necessary to identify traditional, customary and legal impediments and practices that prevent certain community members, especially women, from having full and independent tenure rights.
 - To determine how to convert traditional, communal land use to individual ownership.
- 6 Dr W. F. van Zyl of the Department of Geography of the University of Qwaqwa (Uniqwa) conducted the socio-economic survey. The basic purposes were:
 - To collect statistical data on socio-economic conditions of households.
 - To provide information on the income, agricultural and livestock activities of households.
 - To collect data on present and future land access and needs, as well as perceptions on land reform.
- 7 Ms T. Strydom of the University of the Orange Free State was responsible for the Legal and Institutional Report. She investigated:
 - various land tenure options;
 - land allocation and control; and
 - The solving of conflicting interests.
- 8 The following areas were selected:
 - *Mabolela*: This is a formal settlement of densified mixed housing and falls under the authority of the Mabolela Tribal Council. It has an estimated population of 1 256 households, giving an estimated population of up to 6 280.
 - *Mphatlalatsane*: This is a semi-rural settlement in the extended Phuthaditjaba (the capital of Qwaqwa) and has an estimated population of 900 households.
 - *Ha Rankopane*: This is a peri-urban settlement of densified mixed housing in 'Old' Qwaqwa. The population is between 6 000 and 10 000 and part of the area has been invaded by informal occupation, which has created conflict amongst the different sections of the population.
 - *Mandela Park*: This is an informal urban settlement of an estimated 855 households (with a population of 4 275) in the south of the extended Phuthaditjaba. Settlement includes land allocation by the local government and the tribal authority, as well as informal occupation. There is substantial conflict between the different types of occupants, exacerbated by high densification, sub-standard housing and poor socio-economic conditions.
 - *Tsheseng*: This is a rural settlement in 'Old' Qwaqwa; it is situated in the area of jurisdiction of the Batlokwa Tribal Council, and is more traditional in nature.
- 9 This enlarged area is known as 'New' Qwaqwa, while the term 'Old' Qwaqwa refers to the original area that was established as a South Sotho homeland (in terms of Act 27 of 1913 and Act 18 of 1936) on a

48244 ha piece of land in the original district of Witsieshoek.

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