



**SURPLUS
PEOPLE
PROJECT**

**Submission to the South African Human Rights Commission
Public Hearings To Assess The Progress Made in terms of
Land Tenure Security, Safety and Labour Relations in
Farming Communities Since 2003**

31 August 2007

1. Introduction

Surplus People Project (SPP) is a Non Governmental Organization (NGO) that facilitates land and agrarian reform in the Western and Northern Cape. SPP's main objective is to work towards the transformation of rural areas to ensure that poor black women and men gain access to, ownership of land, and natural and productive resources to improve their socio economic condition.

We believe that agrarian reform is not possible or sustainable if it is not accompanied by comprehensive agricultural reform i.e. an agricultural reform that seeks to empower farm dwellers/workers to ensure that agrarian reform contributes towards the development of the rural economy. The resolution of the agrarian question in South Africa is critical to address the increasing problem of poverty, unemployment, rural underdevelopment and displacement.

The problems faced by the "farming communities" are embedded in the neo liberal economic framework and the market driven land reform policies of the current state. In our view the neo liberal economy and reform in agriculture are generating new forms of dispossession and human rights violations. Fred Hendricks (2004) reminds us that "the political legitimacy of the state franchise, and other civil and political rights enshrined in the constitution, exist alongside with continual and extreme inequality and land is merely one of the indices of inequality"¹. Thus the rights enshrined in the constitution and other legislation to protect farm dwellers/workers is being undermined by the prevailing economic system. Pro poor land and agrarian reform are critical to address the problem of rural poverty, inequality and rural displacement.

Our submission will highlight the structural or systemic problem facing farming communities and present brief case studies as evidence. We hope that the issues highlighted by our submission would be considered by the commission's deliberations and inquiry.

¹ Hendricks, F, 2004. Does the South African Constitution Legitimize Colonial Land Alienation.

2. Agrarian Reform – Agricultural Restructuring

Agrarian reform in this context does not refer to the physical redistribution of land but the radical transformation of rural relations. It is important to note that agrarian reform indubitably implies human rights. “ It is increasingly recognized that land rights and agrarian reform are often central to the realization of human rights. The fulfillment of various economic, social and cultural rights show a direct relationship to land, such as the right to food, the right to housing, the right to an adequate standard of living, the right to culture, the rights of indigenous peoples and others”².

In South Africa the market driven policies is increasingly undermining land and agricultural reform. Whilst land reform policies were being implemented the state introduced policy measures that facilitated the restructuring of agriculture. South African Scholars and activist Oupa Lehurele argues that restructuring refers to the process of reorganization of the relations of production and distribution by the ruling classes in an attempt to make the existing social system more functional and more efficient.

In agriculture there was a thorough process of neo liberal reforms that rapidly change the structure of the countryside. This resulted in the almost complete liberalization in South African agriculture. Thus it is important for us to briefly highlight the current structure of commercial agriculture that in our view is responsible for generating the myriad of problems faced by the “farming communities”. Research commissioned by SPP indicates that the main features of commercial agriculture are: production for markets, especially global markets, maximizing returns (profits) on invested capital; and the employment of wage labour. Thus the profit motive is central to commercial agriculture within South Africa. Land reform is being implemented without democratizing the countryside. It is our contention that most of the human rights violations are linked to the neo liberal restructuring within agriculture. Moreover the lack of transformation in agriculture has further entrenched the unequal power relations.

A succinct analysis of the agricultural sector would accentuate the above-mentioned points. In this regard we want to highlight two important points relevant to the agricultural sector: firstly increased concentration of land and employment structure. According to official data farms have decreased from 120 000 farm units to approximately 46 000 farming units. This is directly related to the concentration of land (farms) in the hands of fewer private owners and agribusiness.

Agricultural employment is the second important point directly related to the condition of “farming communities”. Employment on farms has become over the last period increasingly casualized. Table 1 shows that the casual workers have been replacing permanent or regular workers at a rapid rate.

² Danilo Turk (1990) quoted in Violations of Peasants Human Rights. A Report on cases and patterns of violence 2006. Annual Report. La Via Campesina.

Table 1: Regular and Casual Farm workers, 1996 and 2002		
	1996	2002
Regular or Permanent workers	67%	51%
Casual or temporary	33%	49%
Source: Peter Jacobs June 2007		

The agricultural employment trends are directly related to the profit motive of commercial agriculture. This has also resulted in labour shedding. Neo liberal scholars often argue that labour shedding is related to labour legislation, particularly Sectoral Determination and the competitiveness of agriculture. In this regard the research³ currently conducted by SPP shows the following:

- Farming for profit is leaving more people food insecure and depressing living standards of the rural poor.
- Based on the Average rate of profit calculations, commercial farming remains profitable for a small number of agribusinesses.
- Wage rates in the agricultural sector are falling, while the composition in the agricultural work force is shifting towards casual or part time work in high value added commodities.
- The average rate of exploitation has intensified in the agricultural sector suggesting that higher profits are made on the backs of a small number of casual workers

In this regard the research suggests that the human rights violations, oppression and exploitation of farm dwellers and workers is not, as often suggested, as a result of brutal farmers or weak policy or legislation but related to the neo liberal agrarian structure. Reconciliation with neither farmers nor improved legislation would address the core problem of the wage – labour relationship. Improved legislation as is the case at this juncture would be subordinated to the vagaries of neo liberal agriculture.

Box 1

Case of Lea Baadjies and Adam Antonie

After more than two years of working and living on Riversong farm in Ceres, Lea Baadjies and Adam Antonie were evicted without a court order when the manager of the guest house on the farm, discarded their possessions on the side of the road in Citrusdal on Friday, 20 July 2007.

³ Peter Jacobs (forthcoming). Structural changes in Commercial Farming and Rural Poverty in South Africa – Revisiting a few conventional assumptions. Surplus People Project.

Lea and her husband came to Riversong farm to take care of her ailing father who worked on the farm. When her father died, she continued to live and work on Riversong farm, cleaning the chalets for which she and her sister in law were paid a loaf of bread, 25 kg sugar, a small tin of Kloof coffee, 25g tobacco and a box of matches. This meager food supply had to be shared by three households who all lived in one house. In addition to them receiving food, they were also paid with one litre of wine. According to the husband, Adam Antonie, both women frequently came home intoxicated and were unable to care for themselves or their families.

It was when Lea asked for a wage, instead of the in-kind payments, that their living arrangements came under threat and she was requested to leave the farm. When Lea and her husband came to visit her family in Allendale on 20 July 2007, about 15 km's outside Citrusdal, Era Pretorius allegedly followed them and discarded their possessions alongside the road. According to Lea and her husband, they were subjected to verbal abuse when they enquired about why they were evicted.

They are now effectively homeless and are dependant on the goodwill of their struggling families. This position is precarious as the owner of the farm, where the family is staying, have no obligation to accommodate the farm evictees.

As an interim arrangement, they received food parcels from the Cederberg Municipality but they cannot provide alternative housing as the farm workers were coming from another municipal area, the Koue Bokkeveld. It is virtually impossible to divorce the labour rights of farm workers from their tenure rights. Farmers tend to evict farm workers when they begin to make demands for improved wages, better working hours, etc.

Historically farm workers are vulnerable in this region. They are isolated, and have limited affiliation to trade unions or any other form of worker representation. The story of Lea Baadjies and her husband shows that the "dop" (tot) system is still continuing on farms, having a severe impact on both the health and family life of farm dwellers. This case also highlights the inadequacies of the Department of Labour to implement the minimum wage requirements of the Sectoral Determination. Various protest actions to highlight the need for labour inspectors to monitor labour conditions on farms and to intervene, has come to nothing, leaving farm workers unprotected from labour rights abuses.

The case above indicates that the restructuring in agriculture leads to new forms of displacements and dispossession with the state unable to effectively responding to the situation. Exploitation of workers forms the backbone of commercial agriculture in pursuit of profits. While we can clearly state that there is legislation in place to protect the labour rights of workers and tenure security of farm dwellers these pieces of legislation has proven weak against the current market forces.

Dispossession, Displacements and Evictions

Land reform in our considered opinion has failed farm dwellers. In essence farm dwellers and workers have been dislocated from land reform. In the Western Cape for example farm dwellers and workers have been restricted to share equity schemes

which dislocate them from land reform. These schemes in know way addresses the transfer of land ownership or the security of tenure of farm dwellers.

Box 2

Case of Griet and Thomas Engelbrecht

After more than three years of working and living on the farm Rooikrans in the *Citrusdal* area, Thomas and Griet Engelbrecht have to take their meager earthly possessions and leave the farm on the 19th of May 2007.

Their trouble started a year ago when the owner, Tony Sandall, fired Thomas and removed the family's furniture - like a common criminal - without their consent and moved another family into their house. They laid a criminal charge against the owner for an illegal eviction, and the owner was forced by a court order to take back the furniture - which he complied with. Despite a criminal charge laid by Thomas and Griet against the owner, the police did not take any action against the owner. Under normal circumstances, cases are investigated, and owners have been arrested for illegal evictions, which is a criminal offence.

Sandall was not going to be defeated by farmworkers and he began to make life unbearable for them. First he refused to give them work and then he refused to give transport to their eleven year old daughter so that she could go to the school forcing them to become migrants moving from one temporary job another, from one town to another, squatting from one hokkie to another. Every time they came back to the farm to live in their house, the conditions worsened because they could not even get work on the immediate surrounding farms. The owner used his networks to prevent them from getting employment. Although there was agreement by both the Minister of Agriculture and Land Affairs and the State President that the resolutions of the national land summit would be implemented, the displacement and evictions of the rural poor continue unabated.

According to Thomas and Griet, on Tuesday the 15th May, the magistrate in Clanwilliam informed them - in less than five minutes - that their furniture will be removed from the house.

Evictees did not have any legal representation. A judgement was granted without providing alternative accommodation to Thomas and Griet. The magistrate granted an eviction, without referring the case to the Land Claims Court.

The struggle and subsequent eviction of the Engelbrecht family has been typical of the general apathy the justice system and its guardians have for the rights of the rural poor.

The Case of Griet and Thomas demonstrates as the landless and the poor through countless submissions and protest action indicated that the Security of Tenure Act is not a viable piece of legislation to protect the rights and dignity of farm dwellers. A related problem is once the farm dwellers are evicted they are not absorbed by the local municipalities and are left to eke out a living on the margins of society. Legislation put in place to protect farm dwellers is ineffective and not enforced. The root of this problem lie with the market based economic and neo liberal agricultural system. This legislative and policy framework is not geared to address the systemic problems and needs faced by farm dwellers. This has been vividly demonstrated by the Nkuzi study that over a million farm dwellers has been evicted, dispossessed and displaced since our new democracy.

Conclusion and Recommendations

Agrarian reform is critical to resolve the systemic problems faced by farming communities. This has to be accompanied by intensive agricultural reform to reverse the neo liberal restructuring in agriculture. Whilst SPP is of the opinion that the public hearings is an important vehicle to highlight the problems faced by farm dwellers it needs to shift away from a restricted notion of human rights and address the core problem of South African farming communities. Agrarian reform should be regarded as a fundamental human right that should be guaranteed. The current macro economic framework and market based land reform policies stands in contradistinction to the objectives of pro poor agrarian reform. Evidence suggest that after 13 years of democracy 4% of agricultural land has been transferred and limited transformation has occurred within the agricultural sector.

Thus the Surplus People Project recommends:

- That pro poor agrarian reform dislocated from the market driven approach should be implemented.
- Agricultural reform should be a critical component of the agrarian reform policy
- A moratorium be placed on the eviction of farm dwellers until effective legislation have been developed in a participatory manner.
- A comprehensive enquiry is conducted into the commercial farming sector that in our view is responsible for new forms of dispossession and human rights violations.

These recommendations in our view are critical to change the unequal power relations between landowners and farm dwellers. It would also serve as a basis for a radical transformation of rural relations.

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