LAND TENURE, LOCAL GOVERNMENT AND AGRICULTURAL DEVELOPMENT IN THE CISKEI

Introduction

This paper aims to consider the role of land tenure and of local government in relation to agricultural development in Ciskei. It is written against the background of two earlier articles published in **Reality** – those by Tapson (vol. 17 no. 5) and Cross (vol. 18 no. 2).

Tapson questions the view that "the conversion of all or part of the communally owned land in the homelands to freehold title.....is....a fundamental prerequisite before agriculture in the homelands can enter into a growth and production phase" (Tapson, 1984, p 3). While freehold title would allow for the formation of viable tracts of land, and would facilitate capital formation, it would also lead to the poor being dispossessed of their land, and would probably lead to farmers being burdened with severe debt problems. Moreover, Tapson argues, output on privately owned land in the homelands does not differ much from output on "traditional land", and it is not the case that private ownership always results in better conservation practices (p 4-5).

Tapson advocates the adoption of a leasehold system whereby all land will be returned "to the public domain, by freeing it from existing rights" (p 5). Regardless of de jure stipulations, "traditional land is viewed as being communally **owned** by the tribe that occupies it" (p 3), and so land would then be returned to the tribe to whom it "belongs **de facto**" (p 5) under Tapson's leasehold system. Land would then be rented out, with the rental going to the tribe "as the **de facto** landlord", and would be distributed "directly to the individual tribal families in equal portions" (p 5).

This kind of leasehold tenure would have the following advantages:

"1) Expedite the agglomeration of land into the hands of those with the resources and skill to make it productive2) Take cognisance of the needs of the poor and destitute, who have ineradicable tangible and intangible interests in the land

3) Prevent the permanent alienation of public property into the possession of a rich and powerful elite, and... the dispossession of the poorer sector

4) Maintain or improve the tangible benefit derived from the land by all levels of the population, without destroying the intangible benefits, mainly security

5) Create mechanisms for the proper use and protection of the public resource'' (p 5).

Cross (1984) replies to Tapson, arguing that while she agrees with his criticisms of freehold tenure, she does not accept that leasehold tenure will "deliver the goods" either – principally because "the perceived disadvantages of agriculture have little to do with tenure institutions or with the size of arable landholding available. Instead, they revolve around the kind of economic options that are viable at household level" (p 6). These options relate to the fact that "outlying rural districts for the most part suffer seriously from locational disadvantages in relation to agricultural production" and to the reality that "wage work is the economic base of rural homelands society" (p 5). Wage work also offers higher returns than cultivation, which involves high costs and high risks under homeland conditions (p 7).

Cross argues that in peri-urban areas of Kwa-Zulu, still operating under "indigenous tenure systems" (p 4), land rights in arable land are "essentially private" and transferable to people of the holder's choice (p 5). These tenure systems are able to "adapt very effectively to modern conditions", developing into "informal freehold systems" in response to demographic pressures and a rural economy focussed on wage labour, rather than agriculture (p 5). Prevailing tenure "recognizes the community land ethic and uses it to control some of the dangerous tendencies of laissez-faire freehold" (p 7) – although quite how, Cross does not say.

Land tenure reform will not supply the key to agricultural development, as providing farmers in the homelands with the incentives and guarantees that will encourage them to forsake migrant security for agricultural risk, and enable them to build up farms and "compete economically in a market already supplied by established producers" (p 5) would probably require "prohibitively expensive subsidies and insurance schemes" (p 5). Cross recommends a more low-key approach, where the focus should be encouraging "the emergence of a strong local-level economy whose households are self-sufficient" (p 7). Agriculture should be seen as one of the strategies by which households deploy their resources to optimum effect, realizing that the principal source of these resources derives from wage work. Attention should accordingly be given to "intensive forms of arable cultivation on relatively small plots", rather than to land tenure reform (p 8).

Tapson and Cross thus disagree about the nature of traditional tenure systems, and also about whether and how they should change. This may be because their research experience may relate to different areas and different types of land tenure. Cross' article relates mainly to peri-urban areas of Kwa Zulu which do not appear to have had Betterment Planning, while Tapson refers to "traditional land" in Zimbabwe and the Ciskei, although his article is about the homelands in general. Tapson does not mention Betterment Planning in his paper. The applicability of their respective accounts of land tenure will now be considered in relation to the Ciskei.

Who Owns the Land in the Ciskei?

What is important for my purposes, is that neither of the types of traditional tenure systems discussed by Tapson or Cross appear to be found in the Ciskei. They have been replaced by various forms of land tenure introduced by white governments. In terms of these new forms of land tenure (some of which have been in operation for longer than others, but none of which for less than fifty years), land is held in terms of individual certificates of occupation, or title deeds, which are legally granted, and can legally be confiscated by administrative officials whose authority overrides that of chiefs and headmen. (A discussion of the conditions relating to Freehold tenure, Quitrent tenure, Communal tenure, and South African Native Trust Land may be found in Mills and Wilson, 1952).

The process whereby land is held individually, subject always to conditions imposed by the Administration of the day, has been entrenched by the introduction of Betterment Planning, which has been applied throughout almost all of rural Ciskei. The Betterment Areas Proclamation_No. 116 of 1949 provides the Native Commissioner (latterly the Magistrate) with sweeping powers to plan land use in rural villages. In many cases, the application of these powers has led to the re-delimitation, and re-registration of individual arable holdings, as well as the re-delimitation of grazing and residential areas. Chiefs and headmen have been powerless to stop this process.

While de jure, land in the Ciskei may be individually held, subject to Magisterial control, the de facto situation may be different. The de facto situation in the Ciskei seems to come closer to Cross' model of "traditional land tenure" than to Tapson's. People talk about their land as being individually held, and as being specifically theirs. They talk about the history of their land, referring to previous holders of the land, and to their rights to inheritance of it. People have attempted, through the Magistrate, to remove headmen whom they saw as interfering with their rights to their land. Informal transfers of land have taken place in some areas - rather like Cross' informal freehold where land has changed hands without the change being officially registered. Some people have made material changes to their land, such as erecting fences and digging erosion ditches. All of these things seem to suggest that people see arable land as something which is individually held, and which, if they obey the law, cannot readily be taken away from them. It does not appear to be the case, as Tapson suggests, that "traditional land is viewed as being communally owned by the tribe that occupies it" (Tapson, 1984, p 3), or that "the land belongs de facto to the tribe" (p 5). Antrobus argues that in the case of the Tyhefu irrigation scheme, the company administering the scheme pays "profits" to the local tribal authority (Antrobus, 1982, p 7), but this is a somewhat exceptional arrangement.

Recent events suggest that the Ciskei Government may be moving towards a land tenure system which would place land under the control of the tribal authority within whose jurisdiction it falls. If this happens, then Tapson's idea of land belonging **de facto** to the tribe, may well become a reality.

In 1983, the Report of the Commission of Inquiry into the Economic Development of the Republic of Ciskei recommended that in tribally administered areas "Allottees should have the right to sell their allotments. These sales may be within or without the tribal authority's jurisdiction" (Lotter, 1984, p 107) and also recommended that "the tribal authorities must also be given the right to sell or lease land in addition to or as an alternative to allotment in the traditional manner. Such selling or leasing could be subject to any condition the tribal authorities chose . . . Besides the income from the selling or the leasing of the land . . . transfer duty could also be paid to the tribal authority" (p 108).

A newspaper report quotes Mr Leon Louw, director of the Free Market Foundation, and by all accounts a key adviser to President Sebe, as saying "Some of the tribal authorities have started selling and leasing land. Their approval of the programme was unanimous" (E.P. Herald, 18.4.1985).

If Tapson's idea of land as belonging to the tribe – or more accurately to the tribal authority – reflects the thinking and planning of the Ciskei Government, it would be as well to consider his arguments in favour of leasehold tenure. It should however be remembered that he has expressed himself as being in favour of leasehold, but not of freehold.

An Evaluation of Tapson's Proposal to Adopt Leasehold Tenure.

With regard to the ability of leasehold tenure to achieve the agglomeration of land into the hands of the capable, Tapson seems to assume that the chances of profitable agriculture will be sufficient to attract agricultural entrepreneurs. He suggests, however, that arable land should be leased to entrepreneurs for a period of three years at a time (Tapson, 1984, p 5). It is questionable whether a three-year period is long enough for a farmer to make sufficient profit to justify the capital investment he will have to make to build up the land, or long enough to enable him to secure the necessary capital loan.1

It is also questionable whether agriculture in the Ciskei is potentially profitable enough to attract entrepreneurs in the first place, who could otherwise employ their entrepreneurial talent more profitably in the urban sector. It seems that at the moment the Ciskei is unable to provide the infrastructure, in terms of roads, transport facilities, markets, credit, equipment and expertise, to make commercial agriculture viable in tribal authority areas (see de Wet 1982, and in press). Tracts of freehold land lie largely uncultivated, because the necessary back-up services are inadequate.

The ability of leasehold tenure to take account of the economic and security needs of the poor, assumes both a rent high enough to make a difference once it has been divided up into its many parts, as well as an efficient and corruption-free administration of the rent by the tribal authorities. As regards a high enough rent, Tapson argues that "the higher rentals are driven up by market forces, the better. Those paying rental may object, but income to the poorer sections will increase, and ... productivity will of necessity increase to meet the rentals" (Tapson, 1984, p 6). It does not seem likely that productivity will increase to meet increased rentals, when it is unable to come to terms with the infrastructural problems mentioned above, and also referred to by Cross. If the Ciskei farmer's ability to make a worthwhile profit is in doubt, then so must be his ability to pay the tribal authority a worthwhile rent.

Recent research suggests that tribal authorities are not always efficient bodies, able to be brought to account by their constituency (de Wet – field notes; Manona – forthcoming). They have limited powers and budgets, and they tend to consist largely of older men with limited education and little administrative skill. As they are constituted along traditional lines, they are not as subject to re-election procedures as various other administrative bodies. Tribal authorities encounter problems of legitimacy as, in view of their protected position, they are not always obliged to be responsive to their constituents – nor indeed, are they always able to be. They also tend to be seen as being in the pocket of the Ciskei Government. Tribal authorities are dependent upon the Ciskei Government for their budgetary allocations, and these allocations tend to

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reflect the limited funding the Government may be able to make available. Situations may well arise where rent received from land would not be used primarily for programmes to benefit the poor, but to keep the tribal authority solvent.2

Even if problems relating to administration of rent are overcome, it is still debatable just how much security people will continue to enjoy. Once individual land-holders have handed over their individual certificates of occupation or title deeds to their tribal authority, they may be said to have lost any effective control over their land. For one landholder to "claim back" his field, could threaten the economic viability of a consolidated holding, and it seems unlikely that the tribal authority would risk threatening the income of the community as a whole.

It is likewise not clear that leasehold tenure will prevent the permanent entrenchment of a landed elite, at the cost of a disposessed poorer section. Situations may arise where the tribal authority is effectively unable to dislodge its lessees. If, because of the current lack of agricultural infrastructure, relatively few entrepreneurs will be able to make substantial profits, the tribal authority may well have to take what lessees it can get, or keep, in order to pay its constituents their dues. In such circumstances, a buyer's market may well push down the rent lessees pay. The situation may also arise where a lessee is politically too powerful to dislodge, and where market-determined rates may accordingly not operate. It is not whether rent is paid or not that makes the difference between the permanent entrenchment of an elite and a situation where the lessors are not dispossessed of their land, but whether the lessors have the ability to determine rent and to discharge lessees.

Even where the market improves, and the tribal authority is able to control its lessees, people still are in danger of being effectively dispossessed. Inasmuch as the tribal authority enjoys a somewhat protected position, and also controls land transactions, its power over, rather than its responsiveness to its constituency, is likely to increase.

Use and Protection

Tapson argues that the proper use and protection of the public resource of land will arise from rational land planning and from the fact that "the tribe will be able to demand of the lessees that proper husbandry practices be adhered to" (p 6). While leasing of land may lead to lessees looking after the land, this does not necessarily follow. For lessees to be sufficiently motivated to conserve the land they lease, they must be satisfied that agriculture is profitable, and convinced that they will be dislodged if they abuse the land.

Nor is it necessarily the case that a tribal authority will elect to adopt a rational land-use plan. Inasmuch as the tribal authority will be the owner of its land, it will be at liberty to adopt any land-use plan it chooses, and it may find it most profitable to adopt a flexible plan, which is responsive to the requirements of its lessees, which may change over time. While this may lead to short-term income, it may not lead to the best husbandry of the land in the longer term.

Tapson suggests as a rational use of land, the division of the tribal authority's land into three categories: home gardens, commercial land, and grazing land. Home gardens of 0,1 hectare would be allocated "to each registered member of the community" (p 5), while arable land would be leased as previously discussed, and grazing land would be leased to cattle owners on an annual basis, with rentals being determined by "tenders on a per head basis" (p 5).

As Cross remarks, "The land reform plan which Tapson suggests is in many ways a revamped version of government betterment planning" (Cross, 1984, p 3). Apart from the leasehold aspect, the similarity to the land-use plan of Betterment Planning – which has already been implemented in the Ciskei – is striking.

Tapson states (personal communication) that he should not be interpreted as advocating Betterment Planning, or any other blanket application of a land-use programme. It would be for each tribal authority to determine its own land-use plan. His suggested plan is intended as merely that — a suggestion, and tribal authorities should be at liberty to accept or reject it. Inasmuch as his suggested land-use programme is thus not so central to his overall lease-hold programme, it is not necessary here to evaluate the possible costs and benefits of such a programme in the light of the experience of Betterment Planning.

Grazing particularly seems to raise potential problems in relation to conservation. Rotational grazing and the exclusion of cattle that are unlicensed to graze, will have to be enforced for grazing to be conserved. Betterment Planning has been unable to enforce rotational grazing when there is no charge for grazing. People paying for grazing will be even more disposed to find what they regard as the best grazing for their cattle. It also seems unlikely that rangers will be able to identify unlicensed cattle by sight, unless some disc is placed on licensed animals. It also seems unlikely that rangers, who live in the area in which they work, will be able to resist the pressures of face-to-face communities, and prevail upon people who are used to free grazing, to remove their unlicensed cattle. Rangers who were responsible to those people paying to graze their cattle, rather than to local authorities and local community pressure, might well provide a more effective service.

Tapson has argued for the importance of increasing the productivity of land, and suggested that the introduction of a charge for the use of the land, as in leasehold tenure, would secure that increase in productivity. From Tapson's perspective, land tenure seems to be the most important constraint on agricultural development, with the other constraints mentioned earlier, by Cross and myself, being seen as of lesser importance.

If Tapson's proposals for leasehold tenure do not deliver the benefits he anticipates (and I have suggested that I do not think that they will), it will be precisely because they have been unable to overcome those other constraints. Tapson's and my approach differ in terms of our weighting of these constraints. Land tenure reform by itself cannot overcome the political, bureaucratic and economic problems that have historically led to bottlenecks of finance, administration and services. Land tenure reform by itself cannot change the Ciskei's position in the wider South African economy.

The Ciskei Government is a fledgling bureaucracy, short on funds, expertise, administrative skills, and personnel. Its problems are compounded by a local government structure which, for reasons discussed above, operates with limited effectivity. I wish to argue that the current local government structure is a significant obstacle to agricultural development, and that it does not make sense to contemplate an agricultural policy based on free enterprise principles, without contemplating a local government structure that operates along similar lines. Commercial agriculture requires a local government structure that is professionally equipped and effectively obliged to respond to its constituents' needs.

Some suggestions for Agricultural Development in the Ciskei

Up to this point, discussion about the problems and prosprects of agricultural development has focussed on areas falling under the administration of tribal authorities. There are however other categories of land relevant to agricultural development, viz irrigation schemes, and released areas. Released areas consist of previously whiteowned farm areas which have been incorporated from South Africa into the Ciskei. There is valuable infrastructure in these areas in the form of developed farms and road networks, as well as electricity and telephone links. There is a very low population in these areas in comparison with the tribal authority areas. Some farms are deserted, while on other farms, the labourers of the former white farmers are still living there.

Inasmuch as the irrigation schemes in the Ciskei are already established, and areas for their possible expansion demarcated, I shall confine my suggestions to the tribal authority areas and the released areas. Since the circumstances in these two types of areas are significantly different, I suggest that different agricultural strategies should be developed for them.

i) Tribal Authority Areas

As has been argued above, it is not clear that land tenure is the major constraint on agricultural development in tribal authority areas, as the agricultural infrastructure that the Ciskei government is able to provide, does not seem adequate to provide the back-up which would enable commercial farming on consolidated tracts of land in the tribal authority areas.

Only as the Ciskei develops industrially and so becomes increasingly able to generate employment and income within its own borders, will it become able to supply and fund the infrastructural and institutional base necessary for successful commercial agriculture. This lessened dependence on South Africa will also mean that it will have greater command over the resources at its disposal, making for more stable and predictable financial planning.

Such growth will attract people from the rural areas to the developing industrial centres in the Ciskei, thereby alleviating the pressure on arable land. This will allow for consolidation of arable holdings to a commercially viable size at the same time as the structural constraints on commercial agriculture become progressively less as a result of economic growth.

Commercial agricultural development does not seem to take place in isolation from industrial development and the emergence of viable and representative local government structures. Commercial agriculture should thus be seen as the culmination of a process of increasing viability of an area like the Ciskei. Until the conditions necessary for successful commercial farming are present, land tenure reform by itself does not seem likely to result in the desired increase of productivity. The likely social and economic disruption will not be counterbalanced by adequate agricultural gains, or community income.

Agricultural development should rather be seen as a longterm project, related to the improvement of the quality of life of rural communities. As their general quality of life improves, so people will be able to commit more of their resources and energy to agriculture than at present.

Some possible starting points for improving rural communities' standard of living, which could also be of direct benefit to agriculture, are:

a) Improved access to water. This could involve the placing of a few windmills throughout rural residential areas, and the possible subsidization of water tanks for households able to afford them. This would save time spent on fetching water, promote health conditions and make limited irrigation of gardens possible. Such limited irrigation could be made more effective through the introduction of trench gardening.

b) Improved transport facilities. People would have access to a wider range of goods and services, both commercial and agricultural, at more competitive prices. Local markets, as well as social services such as hospitals and secondary schools, would also be more readily accessible.
c) Improved access to credit. The provision of credit facilities, whether for agricultural or other purposes, makes the planning of a household budget easier. People might pledge stock as collateral or might invest in savings clubs, or in tribal authority-managed credit organizations, where debts could be repaid by providing labour for tribal authority undertakings, such as repairing roads or fences.
d) Improved health services. A healthier community would be better able to study, earn and cultivate.

e) The provision of short, intensive training courses in optimal use of scarce agricultural resources, in trench gardening and other techniques of water utilization, and in household budget planning.

As these suggestions do not relate only to agriculture, the burden of their cost and organization would not fall only on the Department of Agriculture and Forestry, but would be spread more evenly throughout the Ciskei administration. Their successful implementation will require the Ciskei administration to make a substantial commitment to its rural constituency, and to mount this commitment as an inter-Departmental undertaking.

The investment by the Ciskei government in the meeting of the basic needs of its rural population should be seen as a long-term investment in the increasing economic viability of future generations. While the agricultural benefits of such a policy may take longer to materialize, the political benefits to the Ciskei leadership would be much more immediate, in the form of increased support and political stability.

ii) Released Areas

While it seems that planning for the released areas is in an advanced stage, Ciskei officials have stated that they cannot release any details until such planning has been finalized and approved. Let me then, in the spirit of free enterprise — and therefore debate — to which the Ciskei has committed itself, throw in my suggestions for the development of the released areas.

It seems that it is in the released areas, which had supported commercial agriculture before they were incorporated into the Ciskei, that the best chances exist for the re-establishment of commercial agriculture on a free-hold basis, within the forseeable future. The low population density, the existence of a fair amount of physical infrastructure, and the absence as yet, of an established form of local government, provide these areas with substantial benefits in relation to the tribal authority areas. The re-establishment of commercial agriculture will require the development of the necessary co-ordinating and administrative infrastructure. Such an infrastructure would have to provide for basic services such as roads, water, electricity, as well as for the establishment and running of farmers' co-operatives, marketing services, extension services and credit schemes. Such a system of local administration will cost money to maintain, as it will require the employment of staff with professional administrative engineering, agricultural and marketing skills as well as the servicing and development of physical infrastructure and equipment. Farmers will accordingly have to pay rates to this organization. Inasmuch as they pay rates, they will justifiably want to have a say in who runs the organisation.

What seems likely to emerge is a type of organization far more like a divisional council than a tribal authority. It does not make sense to try to establish a professional agricultural community, required to respond to the market, and then to service it with a local authority system that is professionally and administratively not equipped to cater for the needs of its farmers and which is not fully subject to pressures of re-election. A commercial enterprise needs a form of local government geared along commercial, rather than traditional lines. This would in turn require the development, or re-activation of cognate authorities such as municipalities or magistracies, to perform functions not catered for by the divisional council type body. It would be logical for the Ciskei Government to extend its magisterial system to these areas.

Considerable funding would be needed to re-establish commercial agriculture in the released areas, both for the establishment of a divisional council type organization, and for the provision of necessary physical infrastructure, as well as to provide farmers with the credit needed to buy land and to establish themselves. The Ciskei Government would also probably have to subsidize the on-going costs of running the "divisional council", as such organizations in South Africa are usually not able to pay their own way from the contribution of their ratepayers.

A possible source of such funding could be the Development Bank of Southern Africa, which came into being in 1983. Among its stated objectives are "The promotion of economic development in its broadest sense in the less developed areas of the Southern African economic region; The reduction of imbalances in the levels of economic development in the various areas of the region; The promotion of investment of public and private capital, and the utilization of capital funds for developmental purposes; The provision of technical assistance and training" (Brand, 1984, p1).

For the Ciskei Government to attract the best available farmers to the released areas, it may be necessary to adopt a laissez-faire selection policy, in the sense that the best applicants would be selected, regardless of whether they were Ciskeian citizens or not, or black or not. If efficiency and productivity are to be taken as important goals, then the Ciskei Government may have to establish a compromise between economic goals and domestic political goals.

To say that at this moment there may be more skilled and experienced white farmers than black ones, is not to say that whites (or white farmers) are naturally superior to their black counterparts. It is merely to say that, given the relative fortunes of white and black agriculture in South Africa since (say) 1910, more white people who want to farm have had the opportunity to gain the necessary skill and experience required for successful commercial farming than have blacks.

Inasmuch as the Ciskei Government has publicly committed itself to non-racial policies, the development of a multi-racial farming community should not provide any insuperable administrative or legal problems. The Ciskei would be pioneering an exciting experiment designed to achieve both optimum productivity, and inter-racial cooperation.

I have suggested that commercial farming be developed in the released areas along freehold lines, for several reasons. For farmers to make a long-term commitment to commercial agriculture, they need both the security of tenure and the incentive provided by freehold. If farmers are to raise loans they have to be able to pledge some kind of security, which is usually that of privately owned assets, notably land. To ensure efficiency, farmers must be bound only by commercial considerations: if their land is controlled by an outside body, such as a tribal authority, they do not have the necessary entrepreneurial freedom. In the context of the released areas, freehold tenure will not involve the dispossession of the poor, as these areas are at present sparsely populated, largely by farm workers who do not hold rights to the land they occupy. These farm workers could well be taken up on the new farms and the citrus estates currently being established in parts of the released areas by the Ciskei Government.

The Ciskei Government's tax incentives are designed to promote industrial development and to create employment. If they achieve these goals, people will be attracted away from the crowded tribal authority areas, to the developing industrial centres, thereby alleviating pressure on arable land in rural areas. A stronger economy, together with a movement of people out of the rural areas, would provide a more realistic setting for commercial agriculture in the tribal authority areas. If this situation develops, we will be able to rethink the position of these areas more realistically in the light of agricultural and administrative experience gained in the released areas.

Footnotes:

- I am grateful to Michael Whisson for suggesting this last point about the ability to secure the necessary capital loan.
- 2) The Report of the Commission of Inquiry into the Economic Development of the Ciskei in fact suggests that "Besides the income from the selling or the leasing of the land – transfer duty could also be paid to the tribal authority" (Lotter, 1984, p 108).

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