RETURN TO THE LAND

As negotiations for a non-racial South Africa get under way, communities which have suffered forced removals, one of the harshest policies of apartheid, are insisting that they be allowed to return to their original land. They want the injustice of apartheid policy to be undone.

In some cases, communities are trying to occupy their original land. The idea of re-occupation of land may seem like radical action. However, a community’s decision to return to their land typically comes after a long process, after all other means of reclaiming it have been exhausted.

The characteristic pattern of forced removal was either to move people against their will, or deceive them into moving by making promises which were invariably broken later. Between 1960 and 1982, over 614 000 black people were removed from 'black spots' in terms of the National Party’s homeland consolidation policy. Many of these people owned their land by holding title deeds, while others although without title, had been residing on land for decades.
Communities were removed to barren resettlement areas which were part of or later incorporated into the bantustans. Yet over the years since the removal many communities have never lost their desire to rebuild their homes and lives by going back to their land. Communities have continued to bury their dead on their original land and regularly visit the graves of their ancestors buried there.

Many communities have tried by all legal means to return. They have been prepared to negotiate with a succession of Government officials about their return. But eventually they have become frustrated by long delays or simple Government refusal to discuss the issues. After trying the road of lawyers, petitions and innumerable requests for meetings, they now feel that in the present climate of negotiations, their demands, too, should receive speedy attention. The sheer economic pressure to escape the harsh conditions of the resettlement areas gives their desire to return to the land they used to farm greater urgency. No longer prepared to wait, they often take a well-considered decision that their only option is to re-occupy their land.

The current legal and political context influences the decision to move back. When the Government started talking about lifting the racial provisions of the Land Acts and engaging in some kind of land reform, there were high hopes that some of the worst wrongs that apartheid inflicted on blacks who owned and occupied land in “white” South Africa would be addressed. These hopes were rudely dashed. The Government’s White Paper on Land Reform, published in March 1991, unequivocally rejected restoration of land to the victims of forced removals. It claimed that it was “impractical” and “difficult”. The only way in which black people are going to get land is by paying market prices. After years of destitution caused by forced removals, very few black communities are in a position to buy back the land. What is more, they do not see why they should buy land which they regard as having been stolen from them by the Government. Given the Government’s refusal to address restoration, many communities felt that their only chance was to occupy the land and make their claim known in this way.

In response to an outcry about the new provisions of the the proposed land legislation, the Government did adapt its position slightly. In the redrafted “Abolition of Racially Based Land Measures Act” passed in June 1991, the Government has set up an Advisory Commission on Land Allocation (ACLA) which may deal with some claims to land. But there is still no recognition of the right of restoration and it is not yet clear whether any communities will get land back by this means. There is more about the land commission and land claims procedures in a later section of this publication (see page 8.)

Restoration struggles in the Transvaal

The communities themselves are not just passive victims of Government policies. They have been taking action and forcing the Government to respond to the issues. Below is a summary of recent development in the Transvaal communities (with which TRAC works) which are trying to reclaim land:

BAROLONG

The Barolong tribe occupied their land, Matloang (near Potchefstroom), since the nineteenth century. The Government tried from 1967 to remove the community and finally succeeded in moving them to Rooigrond in Bophuthatswana in 1974. Each household was given R18-50 in compensation for their houses which were demolished during the removal. Their land was transferred to the ownership of the Potchefstroom Town Council. Despite promises that the move was only temporary, nothing has ever been done to address their claim to their ancestral land.

Every year, they were granted permission for a limited time over Christmas to clean the graves of their ancestors. When they were granted this permission in 1990, anxiety that the Government
would never restore their land with the newly formed land policy based on free market principles, made the community decide to remain on the land. Their attempted return was unsuccessful. After ten days on the land, the committee members spear-heading the re-occupation were all arrested on charges of trespass. Finally, charges were dropped in an out-of-court agreement, in return for an undertaking not to return to the land without permission.

GOEDGEVONDEN

The community of Goedgevonden was invited by the local authorities to settle on trust land in the Venterdorp district in the Western Transvaal in 1947. The community lived and farmed the land for thirty-one years, and came to regard it as theirs. Had they been white, they would indeed have owned the land by the law of prescription. Since they were black, living under an apartheid system, they were removed from the place which had become their home, to land 200 km away. In 1983, the farms onto which they had been moved were incorporated into Bophuthatswana, without any consultation. Since then, three quarters of the land promised to them has been taken over by Mangope for development purposes.

The community has written numerous letters to the authorities, asking for the restoration of their land. The Government always refused to meet them, claiming they were now “citizens of another country” (i.e. Bophuthatswana). Frustrated by this unwillingness to talk, and fearful that the new “land reform” measures would forever make it impossible to get back their land, the community decided in April this year to re-occupy Goedgevonden.

The reaction from the white community was swift and harsh. Venterdorp is in the heart of a conservative white maize-growing farming area, and hosts the headquarters of the ultra-right Afrikaaner Weerstands Beweging (AWB — Afrikaaner Resistance Movement). Tensions ran high between the community, the
Government and the ultra-right wing. The AWB threatened to remove "these squatters" if the Government did not. Two thousand white farmers from all over the Transvaal gathered on a neighbouring farm, and then attacked the community. Only after they had rampaged through the settlement and destroyed 15 shacks were they stopped by police. Three farmers were injured in the fighting with the police. The Government then brought two court cases against the people of Goedgevonden — one was for trespass, and the other was an application together with seven white farmers who had temporary leases on Goedgevonden, for an eviction order to remove the community.

The Government and the seven white farmers won the eviction order in the Supreme Court, but the community was given leave to appeal. They are allowed to remain on the farm, and therefore have won a substantial amount of time, perhaps a year, until the appeal case.

The resolution of the Goedgevonden crisis has become a major political issue. The Government has established a "task group" to seek a resolution to the situation. It wants to solve the problem on technicist basis. The Government officials see land use and agricultural potential as the basis on which to resolve the problem. While the good use of agricultural land is an important consideration, the roots of the conflict are obviously political, and the only just solution will be one which reverses the injustice done to the Goedgevonden people.

Such a solution is possible. The land is owned by the State, and could be returned after the termination of the temporary leases of the white farmers. The farmers concerned all have their

Mrs. Segopole stands amongst the ruins of her shack after the AWB attacked the community of Goedgevonden.  

Pic: Legal Resources Centre, Pretoria
own farms, and only use Goedgevonden for additional grazing. The community used the land productively for thirty-one years, and feel they could do so again. All they need is for the land which apartheid denied them of to be returned.

**BAKUBUNG BA MONNAKGOTLA**

The Bakubung tribe had occupied their ancestral near Derby in the Western Transvaal since the 1830s. Transfer of the title deed to the tribe was legalised in the 1880s. It remained in their possession until the land was expropriated by the South African Government on the 10th May 1967. The removal was a violent process which involved the destruction of their village, the arrest for “trespass” of 10 leading members of the tribe, and co-operation between Government officials and an appointed chieftainess. The removal was completed by 1969, the final move occurring when the leadership of the community was still in jail:

The Bakubung ba Monnakgotla were removed to Ledig near Sun City in Bophuthatswana. They were offered four farms as compensatory land, but were only allowed to occupy two of them. Although this land was supposed to be held in trust for them by President Mangope of Bophuthatswana, part of it was transferred without their knowledge to Sun City and the Pilanesberg Nature Reserve.

For over twenty years, the tribe has written letters and memoranda to the South African authorities. The Government has never responded to their claim for the restoration of their original land. Today the land remains in State hands, as South African Development Trust land and is being leased to a white farmer.

Since the Government removed the racial restrictions contained in the old Land Acts, but still upholds in law the expropriation of their land, the community now feels that they must return to their land by any means possible. If the Advisory Commission on Land Allocation proposed by the Government were able to give them back their land, the Bakubung would be happy to apply for restoration through it. If it cannot, however, their only option may be to re-occupy their land.

**DOORNKOOP**

Doorkop is a farm just outside Middelburg, 170 km North East of Johannesburg, from which a community of an estimated 20 000 people was moved in 1974. A group of Pedi-speaking people had acquired the title deed for that land in 1920 when they purchased the farm from missionaries. Over time, more and more people came to settle on the land from surrounding areas as white farmers evicted blacks from their properties. In 1974 the Government claimed that the area was a “slum” and ordered its removal. Despite resistance and protest, Government trucks loaded up all residents and shipped them off to the homeland of Lebowa. Minimal compensation was paid out to some individuals for the destruction of their houses, but the loss of their land was never properly compensated. The Government set aside a portion of land for them in Lebowa, held in trust for all Doorkop people by a chief not recognised by for the Doorkop people. Their fertile freehold land close to the industrial centre of Middelburg was “exchanged” for barren, overcrowded trust land a 100km away in Lebowa.

The people of Doorkop have since become scattered across the Transvaal, but many are still determined to get back to their farm. The issue of who has legitimate claim to the land will be a question the community must consider, since both land owning and tenant families were removed in 1974. At this stage, the core of the Homecoming Committee is comprised of the descendants of land owners.

From 1974 to 1991, the farm remained vacant, owned by the Government but hardly utilised. In 1985 it was leased to the SAP for training purposes. In June 1991, the community noticed that buildings were being erected on the site. This has alarmed them, especially when the Government’s Advisory Commission explicitly
excludes Government land that has “been developed” from the terms of the commission. Repeated enquiries from the community’s lawyers finally brought a letter from the Government assuring them that no “further development” would be undertaken.

MOGOPA

The forced removal of the Mogopa people was the last removal of a “black spot” under the homeland consolidation policy and one of the most vicious. The community held full title deed to two farms in the Venterdsorp district in the Western Transvaal. They had lived there since 1912. Although title deeds belonging to white farmers are considered sacrosanct in law, black title, by contrast, was not honoured. Despite their clearly stated opposition to the removal, the Mogopa community were loaded onto trucks at gun-point and moved to Pacheldraai in the far Western Transvaal in February 1984.

Not willing to stay in the dumping ground the Government had chosen for them, they spent years moving from place to place. They tried to negotiate with several senior Cabinet Ministers about their return. In 1987 they won a Supreme Court case declaring their removal illegal, but before they could return, the land was expropriated. When they started to return to the farm anyway without permission from 1988, they were charged with trespass, and an eviction order was granted against them. The case went on appeal, and the Appellate Division ordered the Government to negotiate the matter. The negotiations took nine months, but eventually, the Government agreed that the people could remain on the land, that they could start ploughing and rebuilding their community. The return of their title deed is now only a matter of time.

With their return, the Mogopa community faces new challenges. They lost everything in the forced removal — all their cattle, houses, churches, boreholes, schools, tractors and ploughs. The community needs to redevelop itself physically almost from scratch. At the same time, the community has changed through the process of removal. There is no longer a headman running the affairs of Mogopa, but an elected committee, the former headman having been discredited by collaboration with the Government in the removal.

Many questions are arising: How should they plough in future — communally or individually? And who will they accept assistance from? The Department of Development Aid insists on being involved in planning Mogopa’s development. The Development Bank of Southern Africa is interested in helping. Funders as diverse as USAID, Coca-Cola and 3M have helped the community at various stages of their struggle. How will the community ensure that it determines the direction of development at Mogopa?

MAGOGOANE

In 1914, the 59 original owners of Magogoane came together from all over the Orange Free State to buy a farm in the Western Transvaal. The farm had plentiful water, well-tended forests, even a primary school and thriving production of cattle and maize. The community had good relations with the neighbouring white farmers.

In 1965, Magogoane was declared a “black spot”. Government officials started putting pressure on the community to move, and showed them alternative land. The community resisted this pressure until 1978. At that time, the Government simply announced the date when the trucks would arrive. There seemed to be nothing more the community could do. On the 13th September 1978, the trucks arrived and the people were taken to Ramatlabama, near Mafikeng in Bophuthatswana. Soon after they arrived, they found out that they were living under the rule of the Bophuthatswana homeland Government.

The land owners were given compensation for the land, but not their houses. They were each paid compensation for their land, R12 000 each in 1980-82. But the disruption caused by the removal can never be compensated. Later the land was sold to three white farmers.
The Magogoane people want to return to their land. The compensation paid, and the fact that their land does not belong to the state but to white farmers who now have a vested interest in it, are obstacles to their return. Yet the compensation paid to them never enabled them to buy equivalent land. They were never able to plough at Ramatlabama as they had at Magogoane. The community never agreed to be moved, the Government was simply too powerful to be resisted. Magogoane remains the land of their ancestors, and the land where many of them were born. They claim the Government cheated them in 1978. Now that the De Klerk Government says that it has changed, the people of Magogoane want to see if the Government will act differently. It is more than a question of words — will the Government undo the damage that was done in the years of National Party rule?

The Transvaal communities met with communities from other regions of South Africa who are also engaged in the struggle for the restoration of land. In March 1991, 13 communities met to respond to the Government’s White Paper on Land Reform and accompanying bills. In September 1991, a second national workshop was held, this time focusing particularly on the Government’s proposed Advisory Commission on Land Allocation.

At the March workshop, the communities rejected the proposed legislation and sent a delegation to parliament to make an appeal for restoration question to be included in the legislation. They organised a national day of protest when landless people held placard demonstrations in the centre of some of the major cities. Some of
the communities gave the Government a deadline by which they should satisfactorily respond, or the communities would take the law into their own hands and return. The dates set came and went, with no response from the Government on the principle of restoration. In April, Geogevorden in the Transvaal occupied their land, and communities from Crimen and Charlstown in Natal, and Maclean-town in the Border region were arrested and charged for trespassing during their unsuccessful reoccupation attempts. (The National Land Committee’s Land Update No. 8, May 1991 contains a fuller report).

In June 1991, the Government responded to various representations about the White Paper and Bills with a new Act that contained, among other things, provision for the Advisory Commission on Land Allocation. Communities from Natal and the Transvaal met in their regions during July and August to discuss these proposals. They criticised many aspects of the commission and decided that they must take joint action.

At a meeting of 6 communities from the Transvaal in August, delegates spoke about their hopes and fears about the Government’s Advisory Commission on Land Allocation:

(We are unhappy about the proposed commission because) ... "There is no proper consultation or participation of the victims of forced removals."

"... while farmers are misusing our land while the commission is considering the issues. They are poisoning our land with chemicals. While this commission is working, all the activities and development/changes to our land must stop unless it benefits the community and the community agrees to the development."

"We had a lot of knowledge about farming which was disrupted by the forced removals. We want the Government to listen to our system of farming. We need our land back, and we need agricultural support from the Government to re-establish farming."

The second national workshop saw communities from the Western Cape joining those from the Transvaal, Natal and Border regions. The meeting rejected the Government’s proposed Advisory Commission, as having no power, being unrepresentative of their interests, and not addressing their claim for restoration. In its place, they called for a representative commission which would have the power to give them their land back.

The communities requested a meeting with President De Klerk to urge him to take their concerns seriously. Community delegations held two meetings with the Minister of Agricultural Development, Jacob de Villiers to outline their problems with the ACLA. At the first meeting in October, the community delegates and their legal representative felt that the government was prepared to listen. It was decided that the Minister would take the community proposals back to the cabinet, and the communities would discuss the names of people they felt should sit on the Commission. However, at a follow-up meeting at the end of October, a deadlock was reached. The government was given no response to the demand for a commission with decision-making powers. In addition, Minister de Villiers refused to divulge any names of the government’s candidates who are to comprise the Commission. At the time of writing the communities are considering national actions to highlight the land restoration issue because the government refuses to recognise the legitimacy of their demands.

Land Claims Court

Who owns a piece of land is a complex issue. Both blacks and whites have deep emotional ties to the land. Any one piece of land in South Africa may be claimed by several groups of people. Those claims need to be carefully weighed, and arbitrated with the wisdom of a Solomon by a land claims court. Such a court must have real powers to adjudicate claims. Its
White farmers in the Western Transvaal – they claim the land because they paid money for a title deed. Black farmers have another basis for their claims.  

Pic: The Star

decisions must be legally binding and there must be a right of appeal built into the system.

For such a Court to succeed, it must represent those who are the victims of apartheid’s unjust laws. Its terms of reference need to be broad so as to be most sensitive to the needs of the landless people of this country.

The present proposal in the Abolition of Racially Based Land Measures Act for the establishment of an Advisory Commission on Land Allocation does not meet these criteria. The fundamental criticisms of it are:

* it does not have any power to make decisions, it merely makes recommendations to the State President once a year;

* it does not recognise the principle of restoration;

* the commission is unrepresentative, its composition being determined by the State President and thus will be viewed with suspicion by communities who have been dispossessed by the same Government;

“We want a Land Commission to be elected, so that we can be properly represented on it,” said delegates at a Transvaal workshop in August 1991.

The Government has been saying to communities that they must be “calm” and patient. They should not act, or “take the law into their own hands”. They should wait until the commission is constituted and can hear their claim. But at the same time, the Government is proceeding with actions which clearly prejudice communities land claims. For example, there are still court actions pending against communities who have tried to reoccupy (eg. Roosboom,
Goedgevonden). Land that has stood vacant for years is now being “developed” which may disqualify it from the terms of the commission (Doornkop).

In response to a letter to one of the community lawyers, in which Minister Marais urged communities to stay calm until the commission had done its work, the delegates at a Transvaal workshop said:

“Minister Marais should not tell us “to be calm”. We will only be calm when we get our land back! We are dying with hunger now.”

Reflecting on restoration struggles

We have heard what has happened about land restoration in some Transvaal communities. The struggle for re-occupation is occuring against a background of land dispossession. The land question in South Africa is inextricably linked to political and economic considerations. In turn, communities’ return to their land can change economic realities, and also challenge Western conceptions of land ownership and productive agriculture.

DIFFERENT CONCEPTS OF LAND

The struggle for the land is not only to gain political and economic power, it is also about establishing a different understanding of the land. Many claims to the land are based on title deeds, but as often they are not. There are other values which give rise to claims which should be recognised.

People claim the land because they were born on it, because their ancestors are buried there, because they have farmed the land productively for many years and they know they can farm it well again in future, because they know this particular piece of land well and regard it as their home, and because the wrong that was done to them in the name of apartheid ideology must be reversed. A land occupation is sometimes shocking to white people who see it as an illegal act that infringes the sacrosanct rights attached to property ownership. Return to the land is a challenge to the Western concept of ownership, which regards money as the only basis on which land can be claimed, and requires a piece of paper (a title deed) as evidence. The African conception of ownership can be completely different. Thus the campaign for restoration throws into sharp relief the conflict between different conceptions of the land and of ownership.

Black rural communities are not saying that they want all the land for themselves, and will leave nothing for white farmers. Despite three centuries of dispossession, black farmers are still prepared to share the land with white farmers. It is only when the white farmers refuse to share that they forfeit their right to be part of a new distribution of land in South Africa.

IMPLICATIONS FOR LAND REFORM IN SOUTH AFRICA

The land question is already a political flashpoint. The present Government has now begun tampering with the land administration system, which it terms “land reform”. The proposals do not even come close to real land reform. The new land acts remove some of the worst manifestations of apartheid by abolishing racial restrictions on land ownership and establishing a free market in land. There is no attempt to redress the historical injustice of dispossession. Instead, the Government has made a lame appeal for people to “forget the past”.

Certainly, redressing past wrongs is not the only criterion for land reform. Land reform has to be considered from all angles - taking into account the economic and agricultural needs of the country, redressing past injustices, and sound environmental management. But an essential starting point will be to “level the playing field” by undoing some of the actions taking under apartheid laws. Black communities who owned or occupied land and who were dispossessed are struggling to achieve a real change in the distribution of land.
At the moment, the people who are returning are farmers, people who either had title to the land, or farmed trust land for a long time. They represent only the tip of the iceberg of land-hungry people in South Africa. Millions of tenants on black land, labour tenants, people in the overcrowded homelands and farmworkers also want land in South Africa. This raises the broader question of land redistribution in the country to those who have never been allowed to have land, which any serious attempt at land reform has to address.

RESTORATION AS A STARTING POINT FOR LAND REFORM

Land is a key productive resource and has potential to create wealth in any society. Throughout the history of South Africa, there has been conflict over access to land. This conflict has divided society into landowning and landless classes. Through colonisation, white people became owners of the land, and the African people the dispossessed. This division is being challenged by the communities who are returning to their land.

The process of dispossessing the African people of the land was already far advanced when apartheid policies were introduced. All the apartheid Government did was to codify well-established economic inequalities into racially biased laws. As a result of the dispossession of black people of South Africa of their land, and racist laws put in place to protect white farmers, the agricultural sector became a major political support base for the ruling class. The State protected and subsidised white farmers. Many of its policies over the past 40 years were designed to bolster economically marginal white farms.

In contrast, black farmers were deliberately discriminated against, and often forced off productive land. Apart from the forced removal and evictions of millions, black farmers were denied agricultural extention services, access to credit and marketing co-operatives.

In the last few years, the old alliance between the State and white farmers has been crumbling.

The State is no longer as committed to subsidising white agriculture; instead, its programme is to privatise and commercialise agriculture as part of its broader economic policy. The National Party has largely written off the white farmers as an indispensable political constituency.

At the same time, the return to their land by black farmers, and the demand for land from landless rural people, has challenged the National Party Government's willingness to change. These struggles are aimed at a most obvious target, the racist denial of land to black people. Their's is a demand for political justice, a reversal of recent historical wrongs. It is a demand to be allowed to farm productive land again. The demand is made most forcefully by the victims of forced removals. It is not harking back to ancient conflicts, its main aim is to undo the injustices of the last 40 years, i.e. the period that the present ruling party has been in power. As Paul Lepele, a black farmer who was removed from Magogoane in the Western Transvaal said: "I haven't had a chance to plough since the removal. My children do not know how to plough... Just because of the removal, we don't have an idea to plough".

The Government's response has tried to shift the debate onto a technical basis, seeking to determine land distribution on agricultural, economic grounds, the decisions to be made by committees of "experts". They want the historical issues to be simply forgotten, and to start with a clean slate. This is clearly impossible. You cannot simply wish away unpleasant realities which you yourself have created. As Geoff Budlender, a prominent land rights lawyer, has put it, the question the Government asks is "What is the least we have to give these people in order to satisfy them, so that we can get on with building the future?" With a starting point like that, there is little hope for a peaceful settlement of the land issue.

The separation of political claims for the land, and considerations of agricultural economics is a false one. Both political justice and agricultural productivity must be taken into account when it comes to land reform. The return to the land by victims of forced removals is only the starting
point for land reform. To “level the playing field”, the grossest of distortions made by the apartheid policies of the last 40 years need to be reversed. Once this has been done, discussions about land allocation and agricultural reform can begin.

The issues are further interrelated. The way in which the demand for restoration is addressed will set the parameters for land reform. Thereafter the questions of agricultural reform can be addressed: deciding to whom the land should be given, how it should be farmed in the future, what parts should be used for residential or agricultural use, and how to develop agriculture in a sustainable manner. But the aim of restitution cannot be simply to create a new class of black farmers. The forms of ownership and agricultural production need to change. True land reform in South Africa must involve both the redistribution of land and agricultural reform.

PUTTING LAND ON THE NEGOTIATING TABLE

The campaign of rural communities to return to land from which they were removed by apartheid is a political demand for justice. To realise this demand, the land issue must be part of the negotiations for a new South Africa. At the moment, it is only when the people try to occupy the land that the Government agrees to meet them. Thus communities who want to return to their land are now saying: “We were moved by force, and the only way we can return is by force, too.” This is often the only way in which the voice of landless rural people is heard. The direct community action of returning to their land can force the Government to consider the question of redistribution of land in the negotiating process.

In the past few months, the land question has moved to the centre of the political stage. The right-wing has chosen to base its anti-reform campaign on the land question. Across the Transvaal hinterland, the rallying cry of “Eie Volk, Eie Land” (own people, own land) has been used to mobilise thousands of angry white farmers who feel threatened by changes to the agricultur-al subsidisation system. The Government’s response to black communities re-occupation attempts is seen by the right-wing as the ultimate test of white solidarity. The crisis at Goedgevonden (see earlier in newsletter) near the town of Ventersdorp (a prominent right-wing headquarters) was the first high profile manifestation of this conflict. So far there has been no resolution, because the Goedgevonden matter is still in the hands of the courts pending an appeal. With the recent “battle of Ventersdorp” where the AWB tried to break up an NP meeting addressed by De Klerk, the disintegration of the old alliance between the State and white farmers is virtually complete.

The crisis precipitated by land occupations affords an opportunity to change social relations on the land. The challenge for South Africa now is to reorganise agriculture in the most economically viable way while offering dispossessed farmers favourable terms to re-establish themselves.