

Land Reform in South Africa 1994 - 2000: Some Reflections from KwaZulu-Natal

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Meshack Khosa – requested presentation – land reform in South Africa

Understand: students traveled throughout South Africa, wide range of experiences. Gather that there has been some emphasis on natural resource management and rural development.

Intention to give an overview of land policy and its implementation in a specific site in KwaZulu-Natal – relate this to trip tomorrow to Lake St Lucia where similar processes have taken place. Political and historical taste of recent events in the province.

Context of Bredell, Zimbabwe – recent newspaper articles emphasising the issue. Government focus on housing (delivery significant) not on land per se.

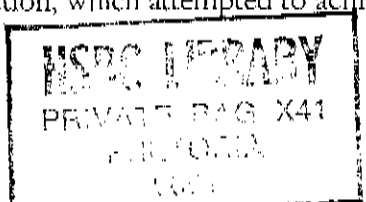
1. INTRODUCTION

South African history can be seen in terms of a continual process of land dispossession beginning with the first European settlement in 1652 through to the racial policies of colonialism and *apartheid*. – Obvious to casual observation.

In order to remedy the stark effects of past deprivation and meet land demand in a post-*apartheid* dispensation, a land policy was formulated by the national government Department of Land Affairs (DLA) in the period 1994 to 1997. Land reform has been intended to serve as a crucial part of the transition after the formal end of *apartheid* through the redress of the racial imbalance in landholding, by developing the agricultural sector and by improving the livelihoods of the poor

The land reform programme, as the central thrust of the land policy, was comprised of the three components of land restitution, land redistribution and tenure reform. These were provided for in the South African Constitution, which attempted to achieve balance

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between the protection of existing property rights on the one hand and constitutional guarantees of land reform on the other hand (Republic of South Africa, Act 108 of 1996: Section 25).

Land restitution has been the most high profile and politically charged component of the land reform policy (De Wet, 1997: 357). The Constitution and the Restitution of Land Rights Act, 22 of 1994 both provided for the priority treatment for 'any person or community' who was dispossessed of their land after 1913 (the date of the Natives Land Act) as a result of racially discriminatory legislation and practice (DLA, 1997a: xi). The policy intended to restore the original inhabitants or their descendants to their land or to provide 'just and equitable compensation' through a Land Claims Court and Commission (DLA, 1997a: xi).

Justice, historical redress, equity

Land redistribution was intended to be the leading edge of the land reform programme (Furner & Ibsen, 2000: v). It aimed 'to provide the disadvantaged, the landless poor, labour tenants, farm workers and emerging farmers with access to land for residential and productive purposes in order to improve their livelihoods and quality of life' (DLA 1997a: 9; 38). Land redistribution has taken place on the basis of voluntary transactions between 'willing-buyers' and 'willing-sellers', a term used in South Africa to describe the government's assistance to beneficiary households to enter the land market.

The government has in general not been the buyer or owner of land as it has rather played a 'facilitative role' by assisting 'in the purchase of privately-owned land, by making one-off land acquisition grants of R16, 000 available for households with a joint monthly

income of less than R1, 500 and by supporting and financing the required planning process' (DLA, 1997a: 38).

In 2000, DLA produced a new redistribution policy under the new Minister Thoko Didiza who replaced Derek Hanekom. The Integrated Programme of Land Redistribution and Agricultural Development (LRAD) explicitly intends that beneficiaries should be able to make a living as farmers on land which previously belonged almost exclusively to whites.

Economic development, deracialisation, efficiency

Tenure reform was intended to remove the discriminatory imbalance between the secure and clearly administered individual property rights that whites have enjoyed, and the insecure and often corruptly administered land ownership system that prevail in the former homelands or *bantustans* (Turner & Ibsen, 2000: v). Tenure reform intended to effect real rights for the rural and urban poor through a rights-based approach that involves upgrading or formalising entire systems of land holding and forms of land ownership into legally enforceable rights to land (DLA 1997a: 60).

Equity and production

3. POLICY FAILURE

Land reform has, however, made limited progress after seven years of policy formation and implementation. Despite expectations that it would lay the foundations for socio-economic upliftment, particularly for the rural poor, many of the original objectives had

not been met. These included an original undertaking in the Reconstruction and Development Programme (RDP) of 1994, which provided a set of guidelines and principles for the evolving land policy, to redistribute thirty percent of agricultural land within five years and to make land reform the central and driving force of rural development. To date less than two percent of such land has been redistributed.

Factors such as a lack of administrative capacity and high staff turnover, inappropriate mechanisms, a lack of co-ordination with other government departments and an inability to spend its budget resulting in reduced funding being made available by the treasury for 2001/2 have all contributed to the limited impact of the programme.

Whilst the limitations are extremely important to identify and understand, criticisms of the policy often underestimate the intractable tensions that often surround land in areas that have a recent history of conflict.

Intention to show this through an evaluation of the implementation of the land reform programme at Impendle in the KwaZulu-Natal Midlands. In essence, it is argued that policy planning sometimes becomes subverted by difficult and contradictory social realities, which attempt to defy, undermine or co-opt top-down interventions. In particular I explore the difficulties that arise from implementing land reform in the context of overlapping rights and conflicting interests.

4. LAND REFORM AT IMPENDLE STATE LAND

Show map one

Impendle State Land (henceforth Impendle) has proven to be volatile and highly complex in terms of social, political and economic conditions. A key issue at the site has been the interpretation of "state land" for land reform. Impendle consists of formerly privately owned farms, which were expropriated by the *apartheid* government for redistribution to the KwaZulu *bantustan*.

This was intended as part of *apartheid* planning to consolidate the *bantustan* into a "viable" entity. These 22 000 hectares of prime agricultural land were never transferred to KwaZulu and was therefore still held by the state at the time of the first democratic elections in 1994. Impendle was to be transferred via the market under the land reform process. The state, acting as 'willing seller', would enter into negotiations with beneficiaries who would use their grants to purchase the land.

However, before moving into the specific issues surrounding Impendle, it is important to understand some of the context of KwaZulu-Natal.

5. A CONCEPTUAL FRAMEWORK AROUND CONFLICT

The conflict that gave rise to the terrible violence within the province of Natal and the KwaZulu *bantustan* between Inkatha (later the Inkatha Freedom Party or IFP) and the African National Congress (ANC) and its internal allies from 1986 until its peak in 1993 provides the context within which land reform is being implemented in KwaZulu-Natal. The Impendle case study, situated in the Midlands, was situated in close proximity to some of the most extreme political violence between the ANC and IFP in the 1990s.

Although the region's long history of rural conflict has attracted a great deal of interest and speculation (see for example Minnaar, 1991), there is a general poverty of analysis of political violence, which relies mostly on short-term explanations (Mare and Hamilton, 1998: 124). Most studies of these conflicts rely heavily on oversimplified generalisations, such as "faction fighting", "tribal unrest" and "black on black" violence during the 1980s, and general speculation of the political battles between the IFP and ANC in the 1990s.

These labels remain superficial generalisations, which fail to capture the complexity of the specific material and political contexts in which tension originates and intensifies into open conflict and violence. The *isiZulu* term *Izimpi Zonibongo* is presented as a useful concept for understanding conflict, which translates into 'wars originating from disputes [over resources]' (Sithole, 1998). This open-ended concept allows for the possibility of a variety of stakeholders, issues and interests, which should be considered when analysing the diverse and complex factors contributing to conflict. Conflict has been caused by conditions such as material crisis, social dislocation and disintegration and a changing political economy.

This concept has informed the analysis surrounding the variety of stakeholders, issues and interests at Impendle, in particular the various claims to land.

5.1 POLITICAL CONFLICT IN KWAZULU-NATAL AND THE MIDLANDS

The political factors contributing to violence in KwaZulu-Natal are complex and diverse. The rivalry between, and the fight for territory and the control thereof, by the IFP and

the ANC has been a notable factor, as has the impact of *apartheid* forces undermining the path to democracy (Jeffrey, 1997: 6).

At the national level there has been a struggle to gain political power, which has spilled over into the provincial and regional level. These tensions, in turn, have been reflected at the local level, which have been exacerbated by poverty and struggles over resources such as land. These overlapping levels have created a tapestry of conflict as extreme poverty has fuelled battles for political and economic resources.

The violence first emerged in 1985 between supporters of Inkatha (later the IFP) and the United Democratic Front (UDF), and later the unbanned ANC. Between then and 1998 over 12 000 people were killed in the province. Although the more recent levels and number of fatalities were far lower than in previous years, the political violence had reached a level in September 1998 where it could be 'officially classified as a war' (Sunday Tribune, 20 September 1998).

The 1994 general election established the ANC in power in South Africa with a majority of 248 out of 400 National Assembly seats and strong control in seven out of nine provinces. The IFP were, however, confirmed as the leaders of the KwaZulu-Natal Provincial Legislature with 50.32 percent of all votes in the province.

Greater Impendle can be regarded as a traditional IFP stronghold, a status confirmed by the election results of 1994. In early 1996, however, the ANC began to make small inroads of support in the area (Goodenough, 1998: 1).

An ANC branch was set up in Nzinga, which lies to the north west of Impendle village in the Nxamalala Tribal Authority area. This situation remained peaceful until the ANC leader in the nearby town of Richmond, Sifiso Nkabinde, was expelled from his party under allegations of collusion with the *apartheid* forces. One of the two joint ANC leaders in the Impendle area, Ernest Nzimande, resigned in protest at the expulsion and joined the IFP. Tensions mounted between him and Russel Ngubo, the remaining ANC leader, until Nzimande was killed in 1997. Mangosuthu Buthelezi, leader of the IFP, suggested that the assassination was linked to Nzimande's intention to reveal the 'systematic assassination of IFP leaders' in the Impendle area in the run-up to the 1996 elections (Goodenough, 1998: 2).

The IFP believed that the ANC was intent on 'destabilising' the areas around Impendle and Bulwer (Jeffrey, 1997: 649). In December 1995, the IFP Impendle constituency chairperson, Mgudelani Madlala was murdered at a meeting at the Nxamalala Tribal Court. The IFP claimed that Madlala's murder was 'the latest in a series of political assassinations' in an area where 'almost the entire IFP leadership had been slain' (Mail and Guardian, 8 December 1995). In January 1996, IFP leader and *iNkosi* of the Zashuke, Nyanga Ngubane survived an ambush at Stoffelton near Impendle while on his way to a meeting at Himeville.

Consequently media reports frequently identified the Impendle region as an area of intermittent unrest after the 1996 local government elections. The close proximity of the volatile town of Richmond, where 80 people were killed between April 1997 and September 1998 allowed instability, in the form of refugees or killings, to spill over to the Impendle area.

In September 1998, the approaching second national election had led to a steady increase in tension across the province. The provincial wings of both the ANC and IFP were engaged in a struggle for power, especially as control of the province was not a foregone conclusion. The political violence did not, however, reach the levels of the 1994 elections.

Although the IFP lost ground to the ANC in the Provincial Legislature, the main support of the party still came from the 'poorer, more rural, more likely to be illiterate, less informed and generally socially disadvantaged' groups (Johnson, 1999) that were largely based in the former *bantustan* or *AmaKhosi* areas. This was true for the areas surrounding the land reform farms, as the 'Impendle valleys' remained 'a volatile patchwork of fiefdoms aligned to the Inkatha Freedom Party' (Mail and Guardian, 21 July 1999; Mail and Guardian, 20 August 1999).

Despite overtures between the political parties towards a peaceful settlement and a "coalition government" after the 1999 elections, stability was not a foregone conclusion. In October 1999, the ANC called for a summit between itself and the IFP to cement ongoing efforts to establish lasting peace in the province. This peace process has been challenged on several occasions by IFP "hard-liners" throughout 1999/2000 who felt threatened of being submerged in an ANC alliance and by proposals from the Demarcation Commission that intended to restructure local government in rural areas.

From this discussion it is clear that the Impendle area has been embroiled in the struggle for political and personal power in KwaZulu-Natal. One underlying reason for the conflict has been the struggle over the future of the *AmaKhosi*.

5.2 UNDERLYING TENSIONS: THE STATUS OF THE AMAKHOSI

The political rivalry in KwaZulu-Natal has been reflected in the political debate about the future of the *Amakhosi*. This emanates from a contradiction enshrined in the Constitution: the recognition of an hereditary patriarchal system along with a bill of rights that is based on elected representative government. With a third of South Africa's 18 million voters living in rural areas, traditional leaders have played a critical role in shaping the country's political future as "gatekeepers" to these constituencies.

The IFP has fashioned itself as the vanguard of traditional leadership and a number of KwaZulu-Natal *Amakhosi* occupy influential positions in the party. The IFP have been thus able to consolidate their power with support from the majority of the 286 *Amakhosi* that control most of rural KwaZulu-Natal (Griggs, 1997: 5). They have passed legislation that reinforces the position of *Amakhosi*, as the success of IFP politics is predicated/based on maintaining traditional present authority structures - within which rural people remain subjected to the rule of "traditional leaders.

Mangosuthu Buthelezi is currently the leader of both the IFP and the KwaZulu-Natal House of Traditional Leaders¹. Buthelezi's capacity as an *iNkosi* and member of the royal family allow him to assume both positions. Another indication of the interconnected social relations between the IFP and *Amakhosi* is the position of *iNkosi* Nyanga Ngubane of the Zashuke Tribal authority, which neighbours Impendle. He has been a central IFP leader in the Impendle area having being part of the KwaZulu government in the 1980s. After the IFP election victory in KwaZulu-Natal, he became Member of the Executive

¹ The function of the House is to promote the role of traditional authorities 'within a democratic constitutional dispensation' to enhance unity amongst traditional communities, and to advise government on all matters relating to traditional leadership and customary law (SAIRR, 1998: 481).

Council (MEC) for the politically powerful portfolios of Traditional and Environmental Affairs and Safety and Security.

Before the second elections in 1999, Nyanga Ngubane was listed second on the IFP provincial list after Lionel Mtshali and has acted in the capacity of premier in Mtshali's absence in 2000, indicating the strength of his support both within his district and within the IFP political structures.

His role as MEC for Traditional Affairs placed him in a strategically central position of the party, as evidenced by the proceedings and debates of the provincial government (Provincial Legislature, 1998) and frequent media reports.

The status of *AmaKhos*i within local government structures has remained a primary source of political tension in South Africa since 1994. This tension led to the postponement of the local elections in KwaZulu-Natal in 1996, largely as a result of IFP and *AmaKhos*i agitation for their status to be clarified. The IFP believed that as the *AmaKhos*i were central to traditional structures of authority in the rural areas they could serve as primary components of local government. The ANC were largely opposed to this belief in KwaZulu-Natal and demanded democratically elected councils that would consult with traditional leadership. A compromise was ultimately reached to allow the elections to be held. This compromise was a commitment by the ANC national government to engage with traditional authorities on their future role. This ambiguous situation is still outstanding.

Show map two

5.3 THE AMAKHOSI AT IMPENDLE

The *AmaKhos*i at Impendle regarded the state land as a means of alleviating land pressure, of combating poverty and as a way to consolidate their jurisdiction.

In the period prior to 1994, the Impendle farms were intended for the settlement of "Zulu farmers" as part of the process of creating more economically viable *bantustans*. The predecessors of the Provincial Department of Agriculture (PDA), namely the KwaZulu Department of Agriculture, were concerned that the traditional communities would not accept the establishment of "outsiders" as commercial farmers on what was regarded as historically tribal land. Pressure was placed on the ex-labour tenants, who were resident of the farms, to move away from Impendle either to traditional areas under the jurisdiction of an *AmaKhos*i or further afield. This pressure was exacerbated when stock theft and raiding increased on Impendle in 1991 (Dolny, 1994: 5).

Some residents claimed to be attacked by people from KwaZulu and had consequently pleaded with Pretoria to be incorporated within South Africa and not the *bantustan* (Dolny, 1994: 17). The fact that several homesteads were destroyed on Impendle, may be interpreted as a strategy to "clear" the land for the extension of tribal areas. Many residents were scattered and moved away due to the instability in 1991 and were living as refugees in Pietermaritzburg (Dolny, 1994: 17). This conflict was repeated throughout the 1990s, as communities in the wider Impendle area were reportedly troubled by "faction fighting" that revolved around controlling economic and political resources (Daily News, 24 February 1999).

It is also significant that the surrounding *AmaKhos*i areas have been strongly IFP, whilst the ex-labour tenants saw their interests as being better served under the ANC. Two organisations involved with the communities on Impendle confirmed this. PDA identified most of the Impendle residents as belonging to the ANC as known IFP supporters had moved off in the late 1980s (Tedder, 1994: 1; CTD, 1995: 17). The Association for Rural Advancement (AFRA), an NGO in KwaZulu-Natal who worked with land rights confirmed that the labour tenants were supporters of the ANC as 'their interests have never been with Ufundi', the capital of the IFP (Ntombela, 1999: pers. comm). Many of the Impendle residents understood their broader Constitutional rights through AFRA and were determined to retain their independence from the *AmaKhos*i.

Within this broader political context, the remainder of the paper will evaluate the various conflicts on the Impendle farms.

7. THE AMAQADI LAND CLAIM

The AmaQadi claim indicates the historical nature of many of the claims at Impendle, some of which dated back more than a century. This claim challenged the DLA at the beginning of its tenure in the "new" South Africa when Derek Hanekom, the Minister of Land Affairs, was mandated to begin resolving the land issue in the country and to create opportunities for economic development around land. Prior to the take over of Impendle by DLA in 1994, it was managed by the Department of Agriculture, which had targeted the farms for the resettlement of small-scale black farmers. This resettlement scheme had a long history dating back to the expropriation of the farms in the early 1980s when the *apartheid*-era Department of Development Aid initiated planning around the settlement of "Zulu farmers".

Shortly before the 1994 election, Deputy *iNkosi* Ngcobo of the AmaQadi anticipated the imminent changes in the dispensation and embarked upon a strategy to secure part of Impendle just before the new government took power. The basis of this claim was that white farmers had encroached on the AmaQadi's privately held land during the colonial period, which was subsequently purchased by the state in the 1980s. The AmaQadi were located on Nooitgedacht Farm, which lay between the two blocks of state land. In addition to this land, they believed that they held ownership rights to three-quarters of Impendle and other neighbouring land, which fell under other traditional leaders. They believed that these ownership rights dated to 1878 (Swart, 1994: 2).

The Department of Agriculture investigated this claim in the Pietermaritzburg Deeds Office, which revealed that the Natal Colonial Government had granted the farm under title to the AmaQadi in 1897 in order to separate two brothers who had been fighting for tribal leadership in the KwaNyuswa area outside Durban. Theophilus Shepstone, the Secretary for Native Affairs in Colonial Natal, had recognised the importance of maintaining the authority of existing chiefs for control of the "Native population" and therefore supported the "chiefdoms" of the colony (Lambert, 1995: 25). This policy was continued after his death in 1893 as a central feature of the political economy of Natal. As Ngcobo was the direct descendant of the removed brother, he was known as a deputy-*iNkosi* and reported to the full-*iNkosi* of the AmaQadi at KwaNyuswa.

The title deeds of the farms surrounding Nooitgedacht were traced to the 1860s when English settlers joined Boer farmers as part of colonial settlement of the Natal colony. Ngcobo was therefore informed that his claim was invalid according to the interim Constitution as restitution cases could only involve claims of racially based dispossession

after 1913. Ngcobo rejected this arguing that white farmers had put in the boundaries without his descendants being involved in the demarcation. He insisted that the AmaQadi would not be content with this decision and indicated that he wished to attend a meeting in Pretoria with the Minister of Land Affairs so that Hanekom could 'heal the wounds of apartheid' (Van Rooyen, 1995: 2).

The new government had a prerogative to deal with the claim as effectively as possible in order to implement their programme at Impendle. Hanekom attended two closed-door meetings with Ngcobo and finally persuaded him that the AmaQadi had no legitimate claim. An "Ethnological Investigation" into the history of the tribe and the DOA research established the position of the demarcation beacons of the AmaQadi area. Once these were shown to Ngcobo and having been assured by Hanekom that they would be accommodated under the DLA initiative to redistribute the Impendle farms, the AmaQadi withdrew their claim.

In the period after 1994, Impendle was conceptualised by DLA as being part of the redistribution component of the evolving land policy. State land was regarded as a potential key to unlocking agricultural development under redistribution, as well as being a resource to settle other land claims. This was intended to incorporate the ex-labour tenants on Impendle as rights holders to land on which they had lived for generations. However, the AmaQadi claim over-shadowed the redistribution process as they had been assured of being incorporated in the process.

AFRA remained concerned about the AmaQadi's influence over the land redistribution process because the 'ex-labour tenants residing on Impendle were not accustomed to paying allegiance to a traditional authority and were not willing to adapt to a traditional

lifestyle' (Fornby and Ntombela, 1997: 8). Hanekom, however, insisted in 1994 that the needs of the AmaQadi had to be considered in future deliberations to ensure a peaceful settlement (Van Rooyen, 1995).

Ngcobo began to demand that the AmaQadi needs should be met through the allocation of seven of the Impendle farms. Five of these were to be used for agriculture for the entire tribe on a communal basis, one was to be designated to Ngcobo for his own commercial use and another for the development of sports fields, an airport, an hospital and for a business centre. DLA assured Ngcobo that his request would be assessed in light of the entire project but indicated that the people already on the land needed to be accommodated first in light of the land policy, which recognised occupation rights of people already on land.

Once the ex-labour tenants had been accommodated it was the intention of DLA to assist the AmaQadi with their land needs. However, a central concern of DLA was the undemocratic nature of tribal authority and the fact that it was not clear whose interests Ngcobo reflected: his own, those of members of the tribe, or those of members of the tribal council. In general, DLA was opposed to expanding tribal areas and therefore insisted on a democratically constituted legal entity to take ownership of redistributed land. DLA felt that such an institution at Impendle would accommodate the needs of all the potential beneficiaries of the redistribution. There were, however, reports of *AmaKhos*i resisting such entities elsewhere in KwaZulu-Natal (Cousins, 1996: 187) and of manipulating them to extend their jurisdiction by using their dominance over them. There was no guarantee that Ngcobo and his councillors would accept such an institution especially if it gave a powerful voice to outsiders.

Ngcobo enjoyed the support of Nyanga Ngubane of the neighbouring Zashuke Tribal Authority, which was seen as a potential complication by AFRA as the *iNkosi* could potentially use his influence in the provincial Cabinet to push through the AmaQadi demand for redistributed lands (Hornby and Ntombela, 1997: 8). DLA was therefore forced to proceed very carefully with redistribution as political allegiances could further complicate the process.

Hanekom gave an assurance to the AmaQadi that they would be accommodated in an attempt to diffuse a potentially volatile situation, as he was aware of the context of violence that was KwaZulu-Natal in 1994. He understood that it was better to diffuse the situation than to incite further conflict. Although this solved a short-term problem it was ultimately problematic for the provincial DLA, which now was obliged to accommodate the AmaQadi regardless of the existing rights on Impendle.

8. THE BHIDLA LAND CLAIM

The Bhidla land claim explores the restitution component of the land policy at Impendle, a claim that was to have far-reaching affects on the land reform farms and created a situation of potential conflict in the area that had to be carefully handled by DLA. The moment a land claim was gazetted, all alterations, improvements and land transactions were banned under the Restitution Act unless permission was obtained from the Land Claims Commissioner. This indicates that delays in finalising restitution cases potentially affected other land reform initiatives. The finalisation of the Impendle project depended on the Commission's decision on the Bhidla claim.

The Bhidla Tribal Authority approached DLA in June 1995 to challenge the AmaQadi's claim to a large area of Impendle. Their intention was to 'avoid confrontation in the future' over historical jurisdiction of the same land (Dlamini, 1995). Although it became clear that the AmaQadi claim was not in fact a restitution case according to the cut-off date of the 1913 Land Act, the commitments made by Hanekom to accommodate the group in future redistribution was seen as a threat by the Bhidla.

In June 1996, Dlamini wrote to DLA claiming that residents on Impendle and neighbouring commercial farms had been 'humiliated' by white farmers and been denied access to firewood and other natural resources whilst the farmers 'destroyed nature' themselves (Dlamini, 1996). He requested that DLA intervene immediately and help 'resolve the ownership' issue of both the state and commercial land. Apart from highlighting issues around access to natural resources and human rights abuses, the Bhidla also claimed ownership of these areas because they held the graves of their *AmaKbosi* and the 'accepted jurisdiction' of the workers residing on the neighbouring farms. The site of the graves is particularly important as traditional communities have a need to communicate with, give libations to and tend ancestral graves in order to secure health and freedom from ancestrally derived misfortune (James, 2000: 157). The possibility of violence was raised to add impetus to this claim (Dlamini, 1996).

In October 1996, Dlamini lodged an official claim with the Commission of Restitution of Land Rights for approximately 53 farms, seven of which fell within the East Block of Impendle, including the most densely populated areas. AFRA began negotiating with the Bhidla in an attempt to persuade them into taking the redistribution route as their claim affected members of ITF. AFRA feared that the claim would delay the redistribution process unnecessarily as they believed it would ultimately be unsuccessful.

In 1997, DLA consulted with Dlamini in order to explain the two options of acquiring land under the policy (AFRA, 1997). They were concerned about the time-consuming nature of restitution and attempted to persuade the tribe to apply for redistributed land. DLA believed that the stringent criteria of the Commission, particularly the 1913 cut-off date would negate the claim. As this was potentially confrontational, DLA argued that the redistribution route would be a better means of acquiring land in a negotiated settlement that would avoid conflict with other stakeholders. Dlamini, however, was intent on restitution, as the tribe believed their claim was justified and because they also probably stood to gain more territory from restitution than from a redistribution process. As DLA realised that the claim could delay the entire redistribution project for years, they requested the Commission to respond urgently despite the large backlog of cases in the province. The lodging of the claim proved to be a significant resource for the Bhidla to halt opposing land claims by other stakeholders.

The Department of Agriculture believed that the Bhidla would be unsuccessful because their investigation in 1994 confirmed the entire area as being owned by white settlers from the 1850s. Most of the claimed properties were surveyed as Crown Lands in 1850 for the purpose of granting them to colonial farmers. This challenged the Bhidla claim of dispossession in 1917, as it would have been unlikely that surveyed farms would have vested in the tribe 70 years after been demarcated. The PDA alluded to several colonial gravestones in the Byrne area, a major component of the Bhidla claim, which attested to white settlement of much of the area in the nineteenth century. The Commission confirmed this colonial settlement as the oral history of the Bhidla acknowledged that the 'whites came to Bulwer' in about the 1840s (Mzaliya, 1999: 3).

The Commission believed that the Bhidla could only claim individual secondary rights to these farms as members of the tribe would have worked or lived as beneficiary occupants on the farms rather than the tribe having primary or ownership rights under apartheid land legislation. This view was largely confirmed by the Commission's research, which verified that 'the evidence gathered' does not indicate that the tribe lost any rights in land' (Mzaliya, 1999). By July 2001, the Bhidla claim had not been conclusively resolved, as the Commission could not locate archival files in Pretoria, which contained details of the tribal history. These were needed to confirm dates of dispossession of the few remaining farms inconclusively researched. The rest had been verified as having been under private individual ownership by 1913.

The Bhidla case raises the issue that restitution could potentially be a damaging process unless managed extremely carefully by the Commission and DLA. Whilst the claimants waited for the processes to take their course, it was evident that the "wounds of apartheid and colonialism" were re-opened and fresh hopes raised for the Bhidla. If the claim was rejected, as is the likelihood of the Bhidla, a further sense of injustice could be engendered. This is especially important in KwaZulu-Natal as the DLA and the ANC central government could be seen to be the new perpetrators. If ex-labour tenants refused to acknowledge Dlamini and eventually gained rights to Impendle, this could deepen resentment and damage relations in the area. The Commission and DLA would have to take cognisance of these issues whilst considering the future of the area.

9. THE EX-LABOUR TENANTS CLAIMS

The following claims deal explicitly with the redistribution process on Impendle. DLA intended to accommodate the existing residents on the land reform farms through the redistribution process. However this was not a simple case of designating land to groups of like-minded people. DLA, challenged by severe capacity constraints, were forced to mediate and manage these overlapping claims as best they could.

It has been argued elsewhere that the structures for allocating land constitute 'an extended hierarchy of patron-client relations reaching from the [national] DLA through provincial officials via NGOs to Community Based Organisations to the rural people seeking access to land (Williams et al, 1998: 84). Although DLA targets the 'marginalised and the needs of women in particular', in practice benefits are more likely to go to those with 'literacy, money, transport, political contacts and the ability to submit and continue pressing their claims' (Murray, 1996; Williams et al, 1998: 84). Examples of this type of patron-client relationship have been evident on Impendle.

AFRA has been working closely with ex-labour tenants belonging to a community-based organisation situated on the land reform farms called the Impendle Tenants Forum (ITF). These members have benefited from immediate information about policy directives and opportunities, which have been available from the NGO field officials. Other resident groups of ex-labour tenants on the farms that were not members of ITF and did not have ready access to information provided by a patron such as AFRA were less able to respond and voiced resentment of the CBO. The implications of this unequal access to development resources and the distinct interests that fracture communities are important for the overall impact of the land policy at Impendle.

Through their connections with the AFRA land activists, ITF has been able to directly convey their arguments about the future allocation of the Impendle farms.

DLA realised that they were severely understaffed and lacked the capacity to effectively implement land reform at Impendle. They therefore appointed “development” consultants to resolve the impasse which had arisen. Having been charged with facilitating community participation to ‘avoid latent conflict’ in the development process, Metroplan Consultants sought in 1998 to set up dialogue with the various interest groups on Impendle (Martin, 1998). However, ITF informed Metroplan that they were opposed to the inclusion of other stakeholders in preparing a Development Framework, which sought to unravel the various overlapping claims to Impendle and to design a development plan for the farms. ITF demanded that others be accommodated only after their members had been settled onto allocated land. The CBO was suspicious of Metroplan, refused to accept their arguments about broad consultation and believed that the consultants were ‘making money out of their poverty’ (Ntombela, 1999: pers. comm.).

DLA met with ITF to attempt to resolve this issue. ITF informed DLA that they were ‘very concerned about the *AmaKhasi*’ and demanded that AFRA conduct the research, as they feared that Metroplan would marginalise them (Bhengu, 1998). They felt that they had been ‘discriminated against’ as the new research was highlighting alternative perspectives and consulting communities, such as the neighbouring tribal communities, that already possessed land. ITF argued that enough research had been done, and that ‘it was time for delivery’ (Bhengu, 1998). DLA persuaded ITF that other stakeholders needed to be accommodated by emphasising the potential for violence if there was no consultation.

There was evident differentiation within ITF itself as some members were able to dominate the organisation. A few ITF members, particularly the spokespersons, derived particular benefits from their positions as "gatekeepers" to the residents. The ITF spokesperson for one particular resident group was able to use his position to lobby for land that he claimed the original white owner had given to his father. Other leaders benefited extensively from training and capacity building workshops facilitated by AFRA and DLA. This perceived preferential treatment created significant resentment. In 1997, AFRA indicated concern about certain people dominating proceedings and questioned the democratic nature of some of the committees which were dominated by a few men (Hornby and Ntombela, 1997: 10).

10. CONCLUSIONS

I have attempted to indicate the myriad of tensions and overlapping claims between the resident groups on Impendle and the neighbouring communities, the divisions between ITF and non-members, and the differentiation within ITF itself. The redistribution of Impendle was fraught with legal and social problems as much of the land was already under use and occupied by rights holders protected by the overarching land policy. The experience of Impendle has shown that sorting out the competing and overlapping claims is a complex and lengthy process.

DLA was thus unable to redistribute the Impendle farms through the various components of the land policy. The redistribution process was not a straightforward allocation of land to resident occupants of the land, outside claimants of small-scale

commercial farmers. The overlapping claims to land, the dominance of individuals in a process that was intended to be democratic and participative, and threats of violence if groups were not accommodated created a convoluted target area for the implementation of the programme.

However, an understanding of these multiple overlapping claims and rights also indicates the profound difficulty of resolving the future land allocation of Impendle. The fact that these conflicting claims did not in fact result in violence can be seen as a success of the DLA to successfully keep a ring around the competing groups. This was done either deliberately or inadvertently due to a lack of capacity. As a result of capacity constraints and the complexity of implementing the land policy, DLA were forced to manage relations at Impendle as effectively as possible in order to facilitate land reform in the future rather than concentrate on the core business immediately. This “management” of the competing claims by carefully mediating between them over time whilst awaiting policy to come into line with reality and for capacity constraints to be addressed can be argued to be a success of the provincial DLA.

DLA has had to continue to take cognisance of broader political developments in the country, as debates around *AmaKhos* intensified and the government began to focus on the rapid delivery of development. DLA thus continued to need to clarify groups and individual territorial rights, adjudicate boundary disputes and engender an enabling environment for economic development and livelihood creation to occur.