

# AFRA



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Representatives from Natal land claiming communities at the national community meeting.

## *ACLA's last chance*

**T**hirty-eight land claiming communities, at their fourth national meeting, issued an ultimatum to FW de Klerk to act on land restoration or face a renewed reoccupation campaign.

"Will we now have to wait another 30 years to get back our land? Would it not be better if we elected people from our own communities to see De Klerk and to tell him we are taking back our

land?" asked a community representative at the meeting on November 14 and 15 1992.

When representatives at the meeting looked back on what had happened over the past year around land restoration, they found that not a single community who had notified the Advisory Commission on Land Allocation (ACLA) had yet heard anything from ACLA or the government

about what would happen to their claim.

At their last national meeting in February 1992, communities decided to cooperate with ACLA, on certain conditions, despite its limitations. Cooperation with ACLA was seen as a way to test how serious the government was about land restoration.

In reviewing their experiences with ACLA almost one year later,

representatives said there had to be a change in emphasis in the strategy to get back their land. They said they had little confidence in ACLA as a mechanism to speedily restore land. In addition, the government was selling and transferring state land under ACLA's nose and ACLA did not seem to be able to do anything.

The government was also still removing people, such as the Khosis community of the northern Cape, at the very time when such communities were making land claims.

In discussion, community representatives came up with several suggestions, among others, the need to:

- address the government's transfer of state land to homeland governments
- give ACLA a definite time in which to respond to claims already brought to its attention. The meeting said that if the state president does not reach a final decision about submissions he has received from ACLA by January 30 1993, then communities will have no choice but to embark on other strategies by March 1 1993.
- look at another mechanism to get back land, such as, a democratically elected People's Land Claims Commission
- involve other groups in communities' struggle to get back their land

Out of these discussions, the representatives present at the meeting drew up resolutions and also decided to send a letter of demand to FW de Klerk. (*see side box*)

### **Statement To The Honourable State President Re: The Advisory Commission On Land Allocation (ACLA) From The Fourth National Meeting Of Communities Claiming Land**

We, the undersigned 38 communities met at our fourth National Community Workshop on Land Restoration on the 14th and 15th November 1992.

This meeting comes nine months after we decided to engage with the Advisory Commission on Land Allocation (ACLA). At the time, we expressed our reservations about ACLA, as it is only an advisory body and has no power to make decisions, its recommendations are secret and it consists of appointees of the state president, none of whom were selected by us. Nonetheless, ACLA encouraged us to try and use the Commission and we have done so.

We have been sorely disappointed. Twenty-five communities known to us have written to ACLA, informing them that they have land claims that need to be addressed. Seventeen of these communities are present at this meeting. Ten communities have submitted detailed submissions to ACLA. Only three of these communities have had hearings, and none have received their land back. Instead, the government is transferring land to the corrupt bantustans.

In the light of this situation, we have very little patience left with ACLA. If the state president does not reach a final decision on the submissions that have been received by his Commission by the 30th January 1993, we will have no choice but to embark on other strategies by the 1st March 1993.

One option is to reoccupy the land from which we were forcibly removed by the apartheid government. Another option we are considering is to appoint a People's Land Claims Commission, which will be elected through a democratic process.

We also feel it is our duty to inform and warn the government that if it proceeds with unilateral transfers of state land to the corrupt bantustans, it is inevitable that people like ourselves will feel that we have no choice but to also take unilateral action. In this case, reoccupations will be inevitable.

Signed by the communities of:

**Roosboom, Charlestown, Crimen, Alcockspruit, Camden, Vaalkop, Compensation, Baynesfield, AmaHlubi, Majeng, Kono, Metsi-Matale, Khosis, Bojelakgomo, Gathlose, Dithakwaneng, Schmitsdrift, Mogopa, Moletele, Barolong, Magokgoane, Bakubung, Tsetse, Mampuru, Doornkop, Masha, Drakensberg Farmers/Mogane, Blesbokfontein, Herschel, Hankey, Tsitsikamma, Mcleantown, Thornhill, Zweledinga, Stutterheim (Kwasidenge), Potsdam, Elandskloof, Riemvasmaak.**

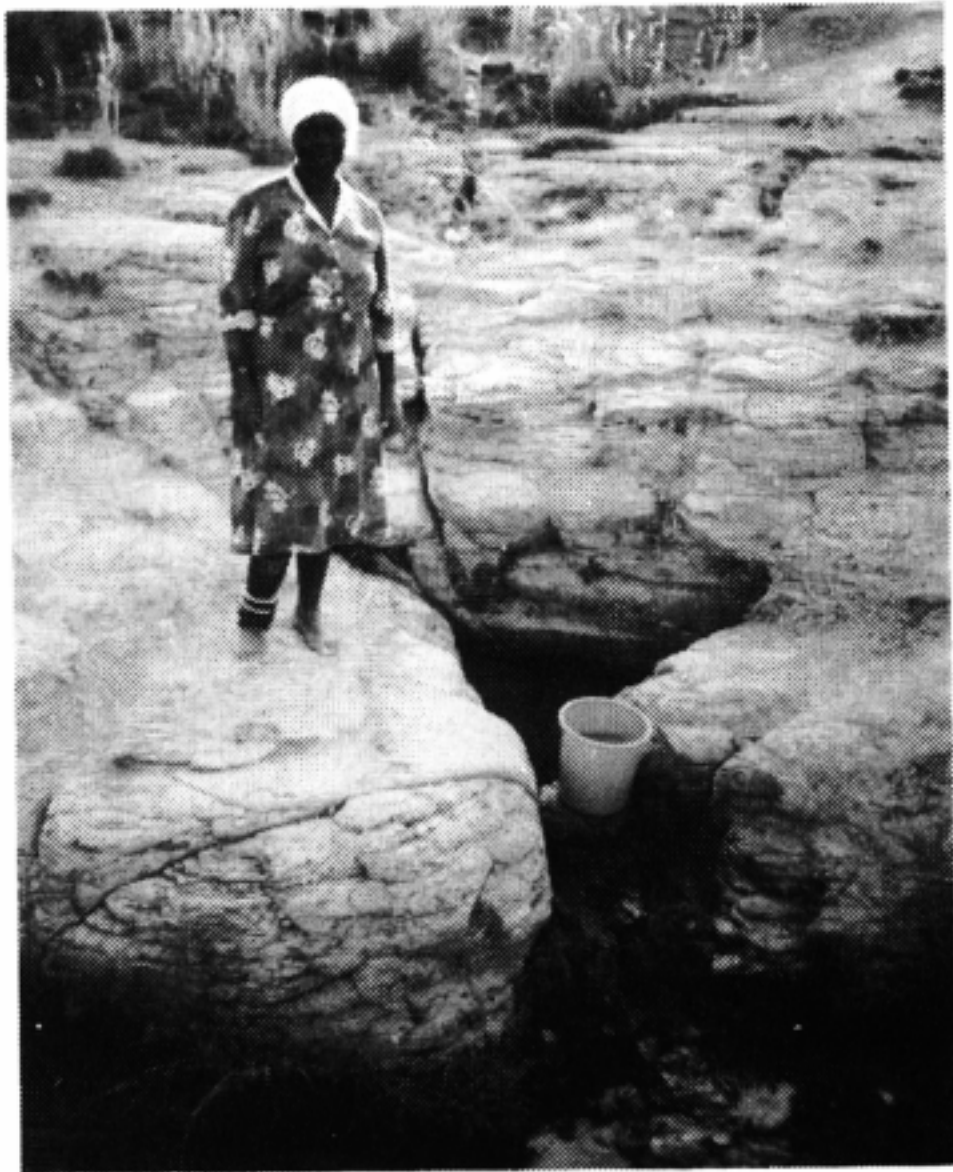


# IDT funding problems

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THE Independent Development Trust (IDT) is a funding agency set up mainly to provide funding to non-government and community based organisations for development projects. Recently, the IDT set up a special fund for drought relief projects. But there seems to be problems in the Natal midlands around who has been getting access to these funds and how projects have been started.

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**I**T seems that by September 1992 only 9% of the IDT's drought relief funding had been allocated to non-government organisations (NGOs) in the midlands. Most of the remaining funding went to private consultants and the Natal Parks Board (NPB). Government agencies also appeared to have been able to play an important role in getting funding.

An important factor in the government agencies' ability to get hold of information and coordinate activities seems to be the role of the Joint Coordinating Centre (JCC) and Joint Services Boards (JSBs). In May this year, the JCC started a process to set up a regional water emergency committee. A meeting of 70 representatives from the KwaZulu government and NGOs decided at a JCC-convened meeting in June 1992 to coordinate their activities through the JSBs.

The JCCs and Local Coordinating Centres (LCCs) would play a supportive role, they also decided.

These mechanisms seem to have facilitated some agencies getting quicker access to funding. However, it seems that several NGOs and community organisations in the Natal midlands did not know of this process.

The process of drawing up funding motivations and their approval by the IDT in the Natal midlands has, in some cases, deviated from the criteria set by the IDT. In particular, the following practices raise serious concern:

- The speed with which IDT funding has been granted to some communities.
- The lack of adequate consultation with communities.
- The apparent lack of consideration for

organisational capacity in communities to plan, control, carry out and maintain projects.

- Capacity problems in implementing agencies.

These are errors that typically lead to the failure of disaster relief programmes throughout the world.

The following are examples of communities where AFRA works and where funding was approved from the IDT's drought relief programme. Each case study is evaluated in terms of the IDT criteria.

## Tembalihle

We were told by the IDT that funding for Tembalihle was approved on the basis of a motivation by the Natal Parks Board (NPB). In discussions with the NPB, it was reported that the whole motivation for this project

➔ to page 4

was drawn up in three days. A NPB worker approached one of the two indunas. With the induna, he helped draw up a list of needs of the community. The NPB drew up a budget, handed in a proposal and was granted funding. AFRA was asked to help the NPB to make contact with the community.

In discussions with the community, problems were raised with this and other aspects of this project. Some of their concerns were around how funding was secured. The community said that there were three groupings in the community. Two of these groupings have different tribal affiliations, with indunas representing the interests of the different tribes. In the past, there were some tensions in the community because of these different affiliations. The third grouping is the majority of the community who see themselves as a united community. The majority in the community were neither involved nor consulted in this proposal. They question how one induna could speak for the whole community. They also raise concerns about the NPB and say they are suspicious of them. We were told that the NPB evicted some people, now living in the area, from the Weenen Nature Reserve.

Community dynamics, community involvement in planning this project and community sensitivities seemingly were not considered by the IDT. There were also problems with the implementing agent and its poor contact with the community.

Through involvement in Tembalihle, AFRA was

asked by the NPB to assist in three other projects for which it has already secured funding. Their request seemed to indicate that the NPB lacked capacity to act as an implementing agent. Despite this weakness, it has still managed to secure at least R884 000 in IDT funding (39% of IDT funding of projects in the Natal Midlands).

### Cornfields

A proposal for funds was submitted to the IDT by the Natal Provincial Administration's Community Services. It seems that there was poor consultation with the community and the relationship between this agency and the community is weak. It seems that there was no investigation of financial management skills or capacity of the community to carry out the project. After the project was approved, AFRA was asked to replace Community Services as the implementing agency.

In discussions with the IDT consultants, they acknowledged problems in capacities of implementing agents and communities to carry out projects. In addressing these problems, the IDT asked AFRA to assist as a facilitating agent for 40 projects in Natal. This seems to indicate that some implementing agents in the region are having difficulties and that the IDT has limited contact with other NGOs in the region who could assist in this role.

## IDT criteria for programme support

THESE are some of the criteria formulated by the IDT for its drought relief programme at a facilitators' workshop in June 1992.

- All affected parties to be involved from the outset, including the identification of projects.
- Avoid strengthening any particular power group.
- Greater justice should be achieved and existing injustices should not be strengthened.
- Local implementing capacity should be built.
- Decision-making should be shared out within clear, agreed criteria, responsibilities and processes.
- Communities must be given enough information to make decisions.
- The efforts of all parties should be integrated (locally, regionally and nationally as appropriate).
- Projects should be well structured, including financial estimates, cash flows and institutional arrangements.
- Implementing agent to accept accountability to IDT to act according to agreed criteria.

On several occasions, the IDT has also stated its commitment to community empowerment and working mainly with community based organisations and NGOs.



# Land claims update

CAMDEN Farm and Compensation are two of 25 state-owned farms in the Impendle District. These farms are currently the subject of ACLA consideration.

## Camden Farm

In a letter written to ACLA, Robert Madlala on behalf of 23 families who are laying claim to Camden Farm, explained the community's concerns.

"I was born on Camden Farm 72 years ago. My father was born there as well. I believe our people were on Camden Farm long before any white people arrived.

"I went to school for one year only, then I started work on Camden Farm. Later I got married and raised a family.

"We did not get much money for working on Camden Farm. In 1988 I was earning R12 a month and some food. The main reason for our working on Camden Farm was so that we would be able to continue living on the land and practising agriculture. This carried on for many generations. We were part of Camden Farm.

"We were not rich but we were happy working on the farm. The owners were friendly and helpful. We ploughed, planted and had cattle on the farm. This is why I say we were on good terms with the Camden Farm owners. We were saddened and hurt when the last owner was brutally murdered, we think in 1986 or 1987. We still mourn his



Representatives from Compensation and Camden Farm at the national community meeting in November 1992. Back row, left to right: Mr R Mkhabela, Mr Madlala (Jnr), Mr Mhlophe. Front row, left to right: Mr T Mncwabe, Mr R Madlala

death. His death brought us sorrow and a lot of suffering.

"We do not know to whom the farm has belonged since his death. There were people leasing the farm and they enforced difficult conditions on us.

"The worst happened in June and July 1991, when we were attacked by people from across the river, from the neighbouring KwaZulu area. The identities of these people are known to us. After escaping from our attackers, they burnt our houses and most of our belongings were lost. The main person responsible for our attack is now in jail awaiting trial for murder and other cases and he has been refused bail.

"We are now scattered, although most of us are

living as refugees in Pietermaritzburg. We want to go back to Camden as soon as possible. We want to lead a normal life again.

"We appeal to the Commission to allocate the farm Camden to us because we regard it as our only home. We want to live on this farm under the government of South Africa. We cannot live there under KwaZulu."

## Compensation

Compensation is home to about 3 000 people who were

removed from "black spots" by the DDA. The people were removed from Himeville (Underberg District), Ladysmith, Weenen and other places in the Underberg District.

When the people were removed from these areas, the DDA allocated them plots at Compensation and also told them that they would get additional land from a state owned farm called Hilder Farm. This was to compensate for their loss of access to land for farming and firewood. However, when they were removed to Compensation, the tenant at Hilder Farm denied them access to the farm. Hilder Farm is now vacant. The people are now demanding that Hilder Farm come to them as promised and that they get security of tenure and tenure upgrading at Compensation. The area is currently divided into a freehold area and a closer settlement area.

The people want to decide who should administer the area themselves.

# Land claims court -

AS South Africa moves closer to a post-apartheid era, the debate around land reform become increasingly important. This is especially so since it appears that the government-appointed Advisory Commission on Land Allocation has so far been unable to speedily address land claims. The concept of a land claims court to settle land claims is one of the options for land reform. At a recent Five Freedoms Forum seminar held in Pietermaritzburg, this issue was discussed in some depth. Here we present the views of the three speakers on the question of a land claims court - a member of a land claiming community, a land rights specialist and a member of the Natal Agricultural Union.

*The Five Freedoms Forum was formed in 1988 as an independent body to mobilise against apartheid. Today it sees itself playing a facilitative role in working towards a new South Africa.*

## Horatius Mabaso - Alcockspruit Community



"PEOPLE who are claiming land are those who originally owned land.

Because of apartheid they lost their rights to that land. Many people have made claims to the government, but they have not been successful.

"The government has also appointed an Advisory Commission on Land Allocation (ACLA). People did not have hope in this Commission because they had problems with the way this Commission was formed, its powers and rights. But when this Commission started to operate, people gave in and said, let's try it because there is no other channel for our claims. Then, as time passed, people realised that their doubts about the Commission were justified.

"As the Commission was working, the government started to sell land, such as that of the Majeng community. People were also still being removed because of apartheid - by the same government that tells the outside world apartheid has disappeared. An example of this is the removal of the Khosis community.

"Now people have really lost hope in the Commission. We want to try other ways to get back our land. We realise that a mechanism such as a land claims court could help.

"From a land claims court we expect land to be given back to those who had land taken away from them. We also expect a land claims to accommodate the landless. It should consider people who are evicted from farms.

People who stay on farms, stay there for years in the hope that the place will belong to them. When it is decided they should move, where should they go. Are they not also citizens of South Africa? They deserve a place to stay.

"People who have more land than they need should have that land expropriated. We believe the land that we had should be returned because that land was taken through apartheid laws and by force, but we are not talking with guns.

"We also believe that the people who are part of such a land claims court should be trusted by the community. We do not believe they should be appointed by the government.

"A land claims court must be able to make final decisions



# land reform option

and must do its work quickly.

"We realise that ACLA is delaying communities getting back their land. While we are talking to ACLA, the government is selling land and giving land to the bantustans. These bantustans didn't put their case to ACLA but we are told to do so. When the government removed us, they didn't establish a commission. We were removed within 60 days. There was no commission, no court.

"We believe a land claims court is the only way to address the issues of land claims. The aspirations of the people cannot be suppressed indefinitely.

"Black people were not given the opportunity to be trained to use land - as a result of apartheid. And this lack of training should not be used as an obstacle to getting land.

"The government should see to it that communities who want land are able to use land well. We do not seek confrontation, but want to live in cooperation and have reconciliation. Therefore, those who have something must be prepared to work with and share with those who have nothing. If it carries on that people continue to have nothing, then we will have problems."

## Anninka Claassens Centre for Applied Legal Studies (CALS)



"IN broad terms, a land claims court would apply non-racial criteria and, when appropriate, would award restitution.

"A model of a land claims court, which has not yet been finalised, would work as follows. The claim would be started by people who believed they have a right to go to the land claims court. They would go to the commission and the commission would investigate the claim and decide whether it should go to the land claims court. The commission would decide this by looking at certain entry criteria.

"In the case of a claim based on forced removal, the commission would first ask if the people occupied the land for a substantial time before the removal. Secondly, the commission would determine whether the people were removed because of apartheid land policies. This would include people who could not enter into proper agreements or contracts because of apartheid. Finally, the commission would determine whether the claimants suffered a loss as a result of the removal

or whether they were compensated.

"People who were not removed but who are threatened with removal could also bring a claim. The commission would look at how long they had occupied the land and if the owner of the land opposed their getting secure tenure.

"So, the commission would decide if the claim goes to court on these criteria. If the commission decided that the claim should not go to the land claims court, then people bringing the claim could appeal to the court directly. If people are evicted before the land claims court hears their claim, then their case would have to go to the court. In most other cases, though, the commission would try to settle the claim through mediation.

"If it was decided that the claim would go to the land claims court, then the commission would ensure that nothing happened to the land while the claim was being made.

"After the case has been referred to the land claims court, the commission would notify all possible parties who might have a claim to the land being considered. This notice is important because a claim

## ▼ Land claims court -

on a piece of land would be heard only once.

"The commission would then help all the claimants to investigate ways of settling their claim. It would encourage the parties to reach a negotiated settlement. Various incentives would be built into the system to encourage this, for example, compensation.

"If settlement was reached through negotiation, then the commission would send a report of the outcome of this to the land claims court. The land claims court would then make decisions based on this report.

"If the parties were unable to settle through negotiation and a dispute was declared, the land claims court would take up the issue and would hear evidence from the parties. On the basis of this evidence the land claims court would make a decision and an award. In doing so, it would consider five criteria:

- length of time of physical occupancy
- birthright (a person born on the land should be favoured)
- investment (broadly defined)
- loss (including: financial loss resulting from removal, loss for the present owner of the land and impact of loss)
- social benefit

Title deeds are absent from the above criteria. This does not mean they would be completely ignored but they would not be the strongest case for land. This is because it is important for the land claims court that the claimants compete on an equal footing.

"In making its decision, the land claims court would act as a court of equity - it would balance different criteria (not giving particular weight to any one) to work out what is fairest. The court would have power to make a broad range of awards, for example, it could:

- award contested land in whole or part
- award compensation from the state
- provide funding to buy neighbouring land if such a possibility exists
- compensate people who were dispossessed as a result of an award made by the land claims court

"After a decision is announced, the parties may ask for review of this by the appellate division of the land claims court. However, the review process would have to be very quick.

"This is the model, but there are a number of remaining questions and problems:

- the land claims court needs funding - where will this come from?
- what will be the historical cut-off date for claims

- who should sit on the land claims court and who should sit on the commission? We believe the commission should be made up of people from different land related interest groups. The land claims court, we believe, should be chaired by a supreme court judge and be made up of four others - not necessarily lawyers.

From the work that has been done on the land claims court we can conclude two things:

- It is possible to have a workable land claims court.
- The land claims court would be limited to a small category of people (rural, African, dispossessed). There are obvious dangers to this. Unless there are other mechanisms for those not covered by the land claims court, they will try to use the land claims court.

"For the land claims court to have benefit, it must be introduced with or after other land reform measures. There must be a meaningful land reform process in place to handle the issue of landlessness. There must also be processes for people who need greater security of tenure and for compensation for Group Areas Act removals."



## William Mullins - President, Natal Agricultural Union (NAU)



"WE are willing to listen to other people's claims, if necessary. The most important human right is the right to a full stomach. Whatever process takes place must ensure that there is enough food production. And I ask that you see my presentation against this background.

"The NAU believes that there should be a judicial process, if necessary a land claims court. We also believe that all legal costs should be borne by the state, so that everyone can have access to this judicial process. Regarding this judicial process, we must bear the following in mind:

- How far back should we go in history? We believe that claims should not go further back than 1913, which we see as the start of racial landownership.
- Was there compensation when expropriation occurred? If there was, then it should have been market oriented. It is

important to remember that the 500 000 hectares of land available in Natal was expropriated from white farmers.

- Who qualifies to make a claim? Original landowners? How far down the family tree do you go?
- Which claimants have proof of legitimacy - who can prove that they possessed land?
- What will happen to the land once the claim is settled?

"The NAU recognises the rights of people who were expropriated under racial laws. We believe these claims must be addressed by a judicial process or land claims court. According to the NAU, farmworkers and labour tenants do not qualify as potential claimants. We don't recognise their right just because they have been living on the land.

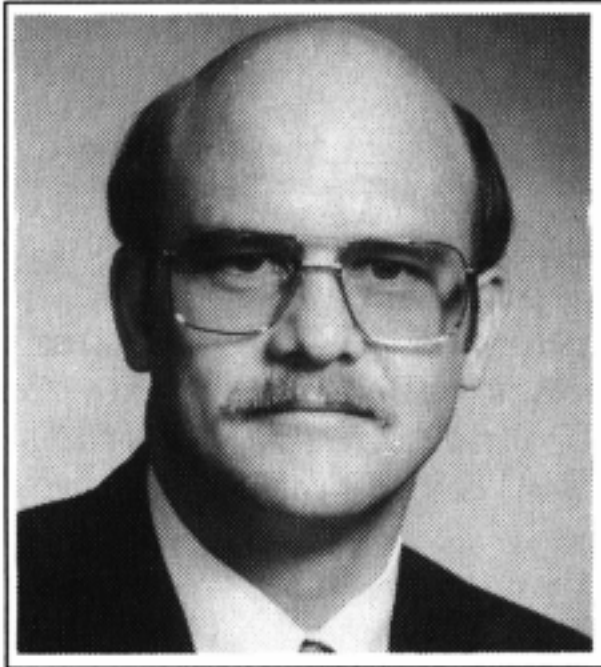
"We believe there is a bright future for the rural areas of Natal, provided we don't destroy the present infrastructure. We believe there is a place for the commercial farmer and the smaller farmer, who, through the free market system, will also develop into big commercial farmers in a few years time."

## Disposing of our future

A LAND claims court could play a key role in speedily addressing one of the main aspects of a future land reform process - land claims. But while debate continues around various options for land reform, the government is speedily implementing measures, which, if left unchecked, will severely limit future land reform possibilities. The government is aware that state land is one of the few categories of land which is relatively non-contentious and therefore most suited to meeting immediate and pressing land reform needs.

Besides pressing ahead with the current transfer of about 1.2 million hectares of state land to the homelands, the government transferred 3 million hectares of state land to the homelands in March this year. In addition, the government is quietly selling off state land. Examples of sales this year are:

- about 7 885 hectares of land in the Trichardtsdal District, near Lebowa
- about 6 000 hectares of land. The land is being claimed by the Majeng community.
- 1 759 properties in Cape Town, sold by the House of Representatives over the past year. The properties were originally bought from owners who were forced to move in terms of the Group Areas Act.



**"...the RSA and the self-governing territories will take co-responsibility in a political and administrative sense."**

AFRA interviewed Johan Scheepers, Deputy Minister of Regional and Land Affairs, on November 16 and 20 1992. Johan Scheepers was until recently Deputy Minister of Law and Order and Deputy Minister of Regional and Land Affairs. As Deputy Minister of Law and Order, he was chief coordinator of the State Security Council structures. He was recently relieved of his Law and Order portfolio. Since his transfer from Law and Order to land affairs exclusively, Johan Scheepers has been handling the government's current transfer of state land to joint homeland administration.

# 'Land access is

*When the government released its White Paper On Land Reform, it said that it could not accept the principle of restitution to victims of its past policies. In answer to dispossessed communities demand that their land be returned, the government established the Advisory Commission on Land Allocation (ACLA). The current land transfers to the homelands are said to be an attempt to compensate them for land which was lost in terms of apartheid policies. How do you explain these seemingly contradictory positions?*

The present agreements on joint administration through which land will be transferred to tribes, individuals, companies, etc. have not been negotiated in order to compensate for land which was lost in terms of apartheid policies, but to address serious backlogs in the development of black people in South Africa. Talks on land for the inhabitants of self-governing territories or on the development of the area take place with the governments and not with the inhabitants of such an area.

*What do you believe should be the role of an interim government on land issues?*

An interim government should determine and implement medium term strategy concerning land and address outstanding issues in the relative short time at its disposal. Broadening the right of access to land does not mean people receiving state land, but assisting people, as far as possible, to

become landowners within the free market system. The transfer of state land with regard to the Lebowa agreement, however, addressed the disparity in land ownership between white and non-white.

*On the Agenda programme on SATV on Sunday, November 8 1992, you indicated that the ANC is opposing the current land transfer plan because it has a particular political agenda. What, in your view is this agenda of the ANC's? Do you believe that the transfer plan will prevent the ANC from implementing this apparent political agenda? How?*

The political agenda of the ANC has on numerous occasions been spelled out by the ANC itself, namely, that a moratorium should be placed on the alienation of all state land. This will enable them to redistribute the land themselves in a new South Africa with the sole purpose of broadening their power base. The government is not making decisions around land in order to prevent the ANC from implementing its political agenda in a new South Africa. Government's sole purpose in its decision-making process regarding former SADT land is to address the development needs of black people in South Africa. Should the ANC implement their threat, namely that they will not honour the current agreements on SADT land, it will be their responsibility to explain the morality of their depriving act to the same



# my priority'

black people they claim to serve.

*On the same Agenda programme, you also said that you would not say where the land earmarked for transfer was because the ANC had already effected occupation of some land. Can you tell us where this has occurred in Natal?*

During recent discussions with KwaZulu concerning former SADT land this problem was brought to my attention. Full particulars will be given by the KwaZulu government on all SADT land concerned within the near future. Concerning the occupation of land by the ANC, full particulars can be obtained from the KwaZulu government.

*We have heard that agreement has been reached with five homeland governments over the land transfer plan, including the governments of Lebowa and Qwa Qwa. Who are the other three homeland governments? What is the nature of these agreements?*

Negotiations with Gazankulu, KwaNdebele and KaNgwane have been finalised. A full media statement will be released in this regard. KwaZulu has made proposals to the RSA government for consideration.

*Regarding former SADT land now under your department in Natal, the KwaZulu government has said that it believes title to this land should come to it. What is your view of this claim by the KwaZulu government?*

I conduct my negotiations directly with the KwaZulu government and not via the media. I state my viewpoint on their point of view during negotiations. I will state my viewpoint publicly when necessary on the condition that it does not hamper the present process of negotiations.

*Have you reached a settlement with KwaZulu over the former SADT land in Natal? If not, what have been the obstacles to reaching agreement? When can we expect to hear an announcement about the former SADT land in Natal?*

It is only fair, during the negotiations process, that suggestions under discussion only be made public after further consideration. This was my personal experience during negotiations on the establishment of the National Peace Accord and during CODESA. However, anyone can feel free to approach the KwaZulu government to determine their proposals, but the government is not prepared to breach that trust.

*Various groups have warned about the potential of increased violence if land is transferred to KwaZulu administration (joint or single). Do you believe the*

*potential for further violence around land exists in Natal? If so, how do you plan to minimise this?*

The government has set up various structures to deal with violence or potential violence, for example, the National Peace Committee (NPC), regional and local dispute resolution committees and the Goldstone Commission, that can be approached in this regard.

*You have refused to say where the land earmarked for transfer is exactly. Are you prepared to tell us what land in Natal is affected?*

These particulars are available from the Deeds Office in Pietermaritzburg, that falls under the Department of Regional and Land Affairs, and can be obtained by way of the usual procedures. It contains all the former SADT land within and surrounding KwaZulu.

*In your agreements with Lebowa and Qwa Qwa, land was transferred to companies and corporations. Does this involve transfer of ownership?*

Initially, yes, but under the condition that private ownership must be promoted on this land by the RSA and the self-governing territories concerned. This is one of the reasons why joint administration has been agreed to.

*In the case of land being transferred to tribes, will ownership be with the chief or with individuals in the tribes? Will ownership be communal or private individual ownership?*

Ownership will be with the tribe and not the chief. For that purpose tribes are in terms of act of parliament legal persons. It is up to the tribe concerned to decide whether and how they want to individualise ownership of their land. Because the RSA government is involved in the administration of the land concerned, it will promote individual ownership. Eventual individual ownership has been accepted by both Lebowa and Qwa Qwa.

*What will joint administration mean in practice? What is the motivation from the government for this?*

Joint administration will mean that:

- the land concerned will stay part of the RSA and will not form part of the self-governing territories
- the RSA and the self-governing territories will take co-responsibility in a political and administrative sense
- RSA laws will apply

Joint administration will serve as a mechanism to bring about accountability to the taxpayer, will prevent maladministration and ensure effective interim management, especially on a regional level.

I am surprised at the call for maintaining the status quo regarding SADT land. Sole

administration by self-governing territories is now being converted into joint administration on many parts of land.

*When will the agreements with the governments of Lebowa and Qwa Qwa come into effect?*

Working groups between self-governing territories and various departments of the RSA are at present determining finer details of the agreement, before implementation.

*The joint statements released by the South African and homeland governments with whom settlement has already been reached indicated that the agreements would be forwarded to ACLA. Will the whole agreements be considered by ACLA? What will be the procedure for ACLA considering these agreements?*

The whole agreements regarding Lebowa and Qwa Qwa have been referred to ACLA for consideration. With regard to the procedure that ACLA will follow, it is suggested that this question be directed to ACLA as it is an independent commission that determines its own rules in terms of the Act.

*The planned transfer was condemned by a wide range of groups (South African Agricultural Union, Democratic Party, etc). Despite your motivations for the transfer, there is now a deep conflict around this issue. At a time when reconciliation is so urgently*

*needed in our country, are you willing to consider another way to deal with the transfer of land?*

The only conflict that exists in this regard is the conflict that the ANC propagates in the media. The DP as well as the SAAU support the concept of joint administration albeit as an alternative solution to their proposals. By transferring former SADT land to individuals, tribes and companies, etc., the government is addressing the disparity in the black and white ratio in land ownership, endeavours to improve the quality of life of the people in South Africa and to allow them access to land as private owners. Through these actions, reconciliation in this country should be promoted and therefore the government does not consider any alternatives to handling this difficult matter.

*How do you think the problem of landlessness may be addressed in South Africa?*

The problem of landlessness can be addressed by broadening access to land to all people in South Africa. At present the Department of Regional and Land Affairs is giving urgent attention to this matter and a media release will soon be issued in this regard. Broad consultation will also be undertaken. The answer does, however, not lie with redistribution of land due to the impracticalities and financial implications that accompanies such a policy.



*What do you see as the main obstacles to solving the land question in South Africa and how do you see these being overcome?*

The main obstacle is the politicisation of the land issue and the instigation of violence regarding this matter by parties whose main concern is political power, instead of treating land as a development matter. These obstacles can be overcome by a process of consultation between interested parties whereby the development needs of deprived communities can be addressed, and not by political agendas of political parties and organisations.

*What is the likely future of your department?*

This department has a definite role to play in the present and future South Africa dealing with the land question. The possibility exists that it may, in future, develop into a fully fledged Department of Land Affairs as land matters are at present fragmented within different state departments.

*How do you see your political future? Are you willing to serve a democratically elected government as minister of land affairs?*

I am a politician and intend to stay one. Should I be asked to serve in a new democratically elected government, I will do so.

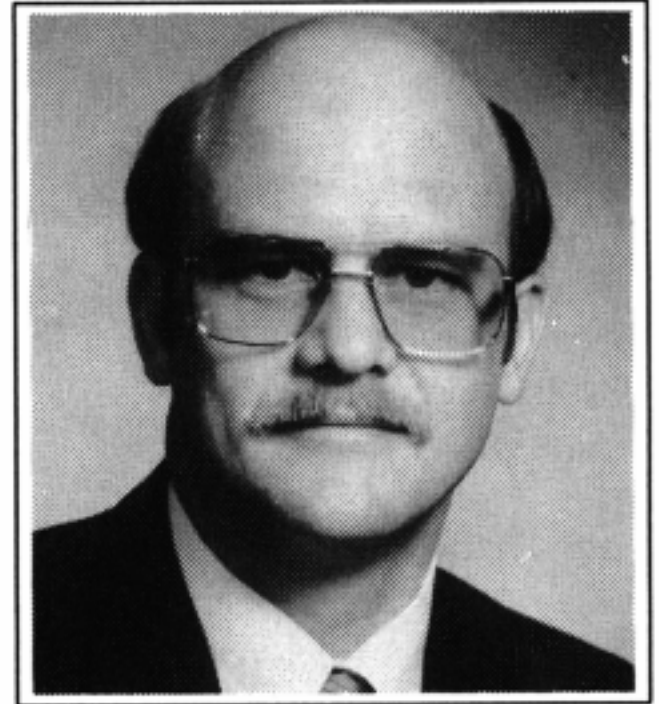
*The present Nationalist Party government (that you serve) has been responsible for forced removals and*

*various other measures that have caused much bitterness and pain amongst black communities. What is your government prepared to do to make up for this pain and suffering?*

A lot of wrong has been committed through the centuries and decades by different governments to different ethnic groups in South Africa - including the Afrikaner.

Pain and suffering due to forced removals must be addressed with empathy and in a responsible manner based on merit. The redistribution of land should not be seen as a solution. For this reason ACLA has been instituted to deal with claims in this regard while the broadening of access to land, especially to black people in South Africa, has a priority with me.

The transfer of former SADT land to tribes, individuals, etc., is but one of the responsible ways through which government is at present broadening access to land.



***"I am a politician and intend to stay one. Should I be asked to serve in a new democratically elected government, I will do so."***

# The struggle for return of title deeds

some original title holders  
who sent in their documents  
may have to wait another two  
to three years.

MATIWANE's Kop is a black freehold area about 25 km away from Ladysmith. The farm was bought between 1870 and 1880 by a syndicate of 120 people of the Shabalala Tribe. In 1914/5 the land was subdivided and title was vested in individuals.

In the late 1940s, the community started to receive threats of removal from the government. In 1978, the government announced that the Matiwane's Kop community would be removed within a year. In 1980 the government expropriated the land and took over ownership of it.

But despite the pressure on them to move, the people of Matiwane's Kop stood firm and refused to go. This steadfastness in the face of pressure paid off, when, after participating in a Natal Rural Freehold Communities Reprieval Campaign in June 1990, the Matiwane's Kop community won back their land rights. In June, shortly after the reprieval campaign was launched, the government announced that Matiwane's Kop, Cornfields, Tembalihle and Steincoalspruit were formally reprieved from the threat of removal.

Since then, the Matiwane's Kop community have been struggling to regain their title to the land which the government expropriated and was then forced to give back. Today the government still owns the land at Matiwane's Kop although it has promised to transfer title back onto the names of the original owners or their descendants.

Administration Act of 1927 meant that a Commissioner would be appointed to determine who are the heirs to the land, in cases where the original title deed holder has died. But in August 1992 the community was told that a Section 8 Commissioner could no longer be used, since the land in question now technically belonged to the state.

Instead of a Commissioner, people from the Department of Regional and Land Affairs hold meetings with families to try to find out who is the rightful heir. The Matiwane's Kop Committee must also be present to confirm that the person identified as the heir is actually the correct person. People who held title to the land when it was expropriated and who are still alive were told to fill in documents and to send these to the Department of Public Works.

Eight months later, the community is still seeing no sign of their title deeds being restored. Instead of the discredited DDA, the new Department of Regional and Land Affairs has become involved in Matiwane's Kop. And the promises continue, with the Department of Regional and Land Affairs now saying that some titles may be returned before Christmas. On the other hand, the Department of Public Works says that some original title holders who sent in their documents may have to wait another two to three years. Who knows...

At Matiwane's Kop, there are two categories of land claimants:

- those people who are readily identifiable and living and who held title to the land that was expropriated
- the next of kin of people have died or disappeared and in whose name the land was registered when it was expropriated

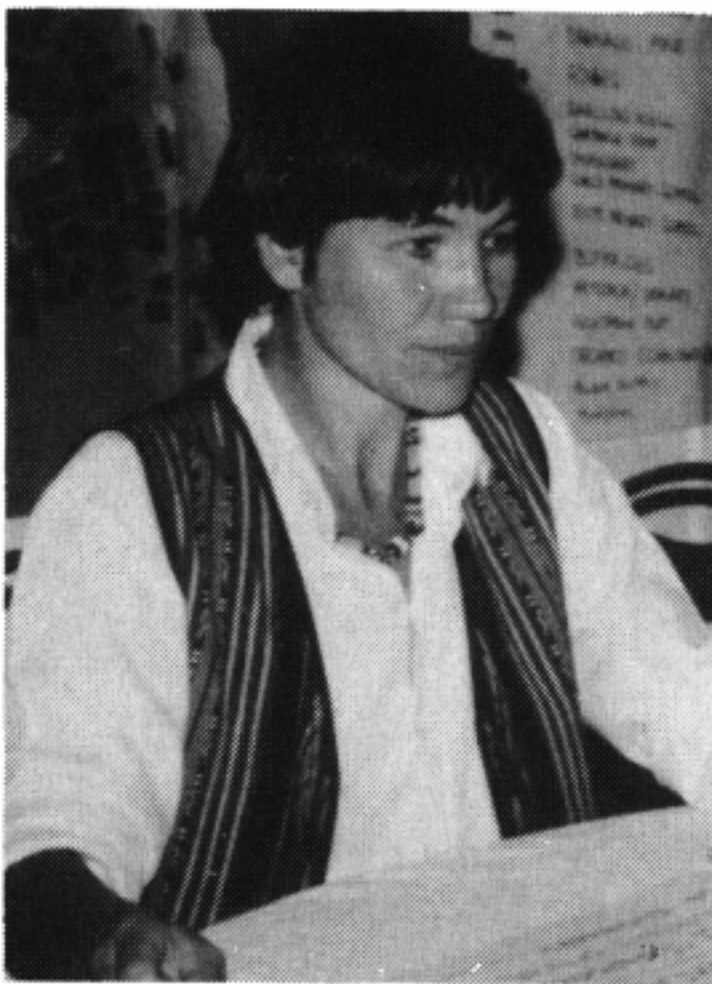
In March 1992, the now-extinct Department of Development Aid (DDA) told the Matiwane's Kop community that there were two options for them to choose from if they wanted their title deeds to their land returned. They could either choose to use Section 8 of the Black Administration Act of 1927 or the Land Titles Adjustment Act of 1979.

In April 1992, the community chose the Black Administration Act option because the Land Titles Adjustment Act was much more complicated. Use of Section 8 of the Black



# Networking in the Midlands

**THE Midlands Rural Development Network (Midnet) is made up of a core of 13 non-government and service organisations working in the Natal Midlands and north western Natal. Here Tessa Cousins, newly elected chairperson of the network tells us more about Midnet.**



"DISCUSSIONS between individuals about the need to network rural development NGOs in the Natal Midlands led to AFRA hosting people from a range of organisations at a weekend braai early in 1991. People came with their families, played volleyball and took some time out to discuss networking. We decided to come together like this on a Saturday every second month, each time being hosted by a different organisation. We could learn about one another's work in an informal setting, recognising that much successful networking is built on personal relationships.

Almost two years later, in September 1992, an expanded grouping adopted a constitution and elected an executive committee.

It is said that the way an organisation is born will shape it, and despite all its activity Midnet retains the open, friendly atmosphere of the first informal meetings. We have also kept to meeting every two months on a Saturday, each time at a different project.

About a year ago we recognised that we were becoming a formal body, and started work on a constitution. We started by drawing together our thinking on the aims and values we shared before deciding on what structures would best meet our needs. The major objective that emerged was the need to exchange ideas and information, to take us beyond the limitations of our skills and to enable us

to give more complete service to communities. We saw a need for an autonomous non-governmental grouping with the potential for policy input on regional matters. We sought common ground around our concern for rural underdevelopment, rather than placing as a prerequisite that we share ideology and perspective. Individuals from government or parastatal bodies do attend our bi-monthly meetings which are open. Individuals may also join as affiliate members, who can join in activities but do not have voting rights. This allows us to build relationships with people on the ground while retaining our base as an NGO body.

The structure is simple. There are bi-monthly general meetings and the three working groups we have meet as they see the need. The executive is made up seven members, each from a different member organisation, and it meets monthly.

In the past six months the network has been receiving increasing numbers requests for it to participate in initiatives. There is such a dearth of rural structures that those wishing to work with rural people or rural issues do not have many channels to go through. There is both opportunity and danger here for us. The benefits of wider networking and engagement are clear to all members, but equally the capacity of individuals and organisations is often

already fairly stretched. As we only meet as a network every second month, decision-making cannot be speedy. The existence of an executive committee does help in engaging with initiatives, but we feel it is important not to move beyond the membership, at the same time keeping a pace that facilitates stimulation and growth.

As chairperson, I see this first year as a formalised network being important in laying good organisational foundations for the future. This we must do in the transparent, participative and steadily developmental manner which we have established as a mode comfortable to us. The initiatives we are being asked to participate in must be engaged with in a way that builds us and the value of our engagement. In this time of change and heavy demands my role is to facilitate our development in terms of the vision and values that Midnet members have expressed.

*Tessa Cousins farmed for 10 years. She then worked in development as an agriculturalist in Lesotho and later assisted an agricultural cooperative in Zululand. She says she became more focused on the organisation building aspects of development work during this time. In 1990/91 she worked in organisational development and training resources at the Institute of Natural Resources in Pietermaritzburg. It was from here that she became involved in the initial steps that led to the formation of Midnet. Since March this year she has been working for AFRA as the training and education coordinator.*



### Land in hands of SADF

THE South African Defence Force (SADF) is the fourth largest land controlling authority in South Africa. (*Work In Progress: Number 86 December 1992*)

### Ciskei may have misused drought money

THE steering committee of the Nutrition Development Programme refused to approve R6 million in drought relief to go to the Ciskei National Relief Fund. This was after the Ciskei Relief Fund failed to account for a grant of R1.25 million and also failed to show it was not linked to the Ciskei government. The fund is said to be a non-government organisation but was established by the Ciskei government. Nutrition Development Programme steering committee members said they were concerned that money allocated to the fund may have been channelled to Brigadier Oupa Gqozo's African Democratic Movement (ADM) and been used to recruit support.

The ADM general secretary denied links with the Ciskei National Relief Fund but confirmed that the ADM was running feeding schemes to gather followers. (*Weekly Mail: November 6-12 1992*)

### Homelands to administer R175 million in poverty relief

THE TBVC states and self-governing territories were allocated R175 million for administration of poverty relief programmes in their areas, said a spokesperson for the National Health Department. A total of R162 million had been allocated to 1 160 non-government organisations since April this year. This was out of a total of R440 million set aside for poverty relief aid since April 1992. The spokesperson said the poverty relief programme would continue in 1993/1994, with an increased budget of R454 million.

(*Business Day: November 6 1992*)

### Government says homelands should go

MINISTER of Constitutional Development, Roelf Meyer, rejected notions that the government wanted to retain the homeland system through regionalism in a new constitution. He said the constitution should identify and protect relevant functions of regions, whose boundaries could only be determined once there was clarity on regions' economic viability and what their functions would be. The boundaries of regions, he said, would not be those of the existing TBVC states. Acknowledging that the government's proposed regional government system had federal attributes, Meyer denied that the government was using federalism as a power base to protect minorities.



**Millions lack access to sanitation**

THE Water Research Commission says about 18 million people in South Africa (including the homelands) don't have access to proper sanitation. (*Institute of Race Relations: Fast Facts Number 11 November 1992*)

**ANC says no to land sales and transfers**

THE ANC warned that it would not feel obliged to honour attempts by the present government to restructure the economy and reallocate land before an interim government was in place. The ANC said that the transfer in October of 380 000 hectares of land to Lebowa and 52 000 hectares to Qwa Qwa could be reversed by a future ANC government. There should be a moratorium on the sale and transfer of all public land until an interim government is in place, the ANC said. (*The Citizen: November 4 1992*)

**Government buying friends, says Business Day**

"IN South Africa, the government offers land to loyal allies to ensure they remain loyal, or uses it in an attempt to purchase new favour. Aid for drought and development is handed to pals in central and homeland government bureaucracies for them to administer. Some is used to win the gratitude of future voters, or simply disappears from public view, and will presumably ensure a comfortable future for people likely to fall from favour when circumstances

change...All this will make the rest of us poorer, materially and spiritually. But the parasites of the old South Africa will continue to prosper." (*Business Day editorial: November 5 1992*)

**World Bank poised to invest in South Africa**

THE World Bank is currently carrying out studies on a wide range of issues in South Africa so that it will be able to move immediately once it could provide finance. Provision of finance would depend on the Bank being satisfied that consensus had been reached politically. When the Bank was comfortable with the political situation, World Bank finance would be made available only upon request by South Africa. Besides its current wide range of studies - particularly around education and urban development - the Bank was also planning a series of workshops on land, agriculture and housing. (*Natal Mercury: October 30 1992*)

**Labour laws to cover farmworkers**

THE Minister of Manpower agreed to promulgate the Basic Conditions of Employment Amendment Act (1992) and the Unemployment Insurance Act (1992) by early 1993. The minister's announcement followed several meetings with the Congress of South African Trade Unions (COSATU) and years of campaigning for the legislation to be extended to farmworkers and domestic workers.

**Sugar Association grant to KwaZulu Conservation**

THE South African Sugar Association has committed itself to granting R100 000 over the next four years to the KwaZulu Conservation Trust. The Trust is the fundraising arm of the KwaZulu Bureau of Natural Resources. The R100 000 will be used to build a lecture room at Ntinini Field Training Centre, near Babanango. (*Farmer's Weekly: November 6 1992*)

**Single industrial council for forestry?**

COSATU'S Paper, Printing, Wood And Allied Workers' Union (PPWAWU) is aiming to establish a single industrial council to cover the whole pulp and paper, forestry and chipboard industry. Major employers in the industry, among them Mondi and Sappi, attended a meeting where the union put forward its proposals. Although employers have not yet committed themselves to a single industrial council, the main stumbling block, says the union, is employers' demand that all 14 unions in the industry should indicate their support for PPWAWU's proposal. (*South African Labour Bulletin: November/ December 1992*)

**Black farmers buy state land**

THE Department of Agricultural Development Aid has approved applications from three black farmers to buy former state-owned farms. The applications of the farmers,

Messrs TG Komana, RR Mametja and MW Kgabo, were among 21 applications approved by the department for 7 885, 4107 hectares of land in the Trichardtsdal/Olfolaco District. The land was transferred from the Department of Public Works to the Department of Agricultural Development Aid in 1988 for the purpose of being "made available to the agricultural sector". Altogether there were 132 applications for the land, which had been divided into 21 "economically viable units". Commenting on the applications, the Department of Agricultural Development said the granting of state land was from an agricultural point of view and had been done on merit. The political affiliations of the applicants played no part in granting the land. (*Farmer's Weekly: August 14 1992*)

### **National Housing Forum launched**

THE National Housing Forum was launched on August 30 1992 to address ways of solving the housing crisis. The forum is made up of 16 organisations, among them the ANC, PAC, COSATU, IFP, IDT and Development Bank of South Africa (DBSA). The government pulled out of the forum last year on the ground that it believed problems should be discussed at CODESA. (*Work In Progress: Number 85 October 1992*)

### **Government sets up land policy commission**

THE Deputy Minister of Land and Regional Affairs, Johan Scheepers has announced that the government is to establish an Advisory Commission on Land Policy. In a statement, the Deputy Minister said the new body would not replace the existing Advisory Commission on Land Allocation, but would advise him on land reform, rural development and related issues. The members of the new commission would be appointed by the Deputy Minister and would be "representative as far as possible of the community," he said. The names of the commissioners have not yet been announced.

### **Court rules against Majeng community**

THE Supreme Court has ruled against the Majeng community's request that the sale of some 6 000 hectares being claimed by the community be stopped. The court ruled in favour of the government, on the grounds that the land in question fell outside ACLA's brief.

The court ruling further calls into question the role of ACLA as a land restitution mechanism, and the government's commitment to land reform.

After the government repealed the Land Acts and Group Areas Act in 1991, the Majeng community asked the state president to return their land which had been expropriated. In response, the Minister of Regional and Land Affairs, Jacob de Villiers, publicly appealed to the community to take their

land claim to ACLA, who, he said, would deal fairly with them.

The Majeng community lodged their claim with ACLA. But before the claim could be heard, the government hurriedly sold off the land to six white farmers. Government officials persuaded the Kimberley Registrar of Deeds to rush through the sale on the basis that there was a danger of "squatters" occupying the land.

When the Majeng community heard about the sale, they asked the court for an order to halt the sale until ACLA had heard their claim.

The government opposed this application, on the grounds that the Majeng community's claim could not be heard by ACLA because the land fell outside the Commission's brief.

### **More transfer deals finalised**

THE Deputy Minister of Regional and Land Affairs said in November that he had finalised agreements around the transfer of state land with Gazankulu, KaNgwane and KwaNdebele. He had already concluded agreements with Qwa Qwa and Lebowa. Agreement with KwaZulu is still outstanding, although the KwaZulu government had made proposals to the government.



# They said it...

## Quotable quotes on land and development issues in 1992

### State Land Transfers

"We are not concerned about the government's stupidity in writing the White Paper and also making promises to us. We say the land was part of promises made to us and must come back to us."

KwaZulu Minister of Interior, Stephen Sithebe.

"The state has ample land available for restitution purposes. We believe this should not be disposed of before the legal claims have been answered."

the South African Agricultural Union's Hans van der Merwe.

"The transfers amount to nothing more than a crude and very transparent attempt to purchase or reward political support for the National Party Government's attempts to retain its hold on power via its 'regional/federal' programme. These transfers do not, as is implied by the government, resolve the issue of landlessness and redistribution. The ANC firmly calls for an immediate and comprehensive moratorium on the sale and transfer of all public land until an interim government is in place. The ANC wishes to place on record that it will not consider itself bound to honour any of these transactions."

ANC National Office.

### Department of Development Aid (DDA) Corruption Revelations



One the DDA's development projects - thousands of unused toilets.

"I wish to place on record my appreciation to thousands of officials who, with compassion and understanding, also towards the public, fulfilled this task diligently and effectively to the enhancement of development and growth." Minister of Regional and Land Affairs, Jacob de Villiers, after publication of the Pickard Commission's damning report of the DDA.

"Removals of black people from certain areas designated to be white, to areas designated to be black, became almost its primary function... True enough, the policy was sold on the basis that such removals (forced or voluntary) would be for the benefit and general betterment of the persons so moved. History has, however, shown that this was not always achieved... at the end of the day, the credibility of and respect for the Department had diminished to where the very community for which it was purported to exist and for whose interest it was supposed to care, had for the most part turned against it in rebellion."

Judge B Pickard, of the Pickard Commission of Inquiry into the DDA.

### Removals And Evictions

"I do not understand why we were taken away from Crimen. For many years after the removal nothing happened on the farm. In 1988 it was sold to a white farmer. But even now there is very little happening. Our houses, our schools and our church have been destroyed. I have never seen the grass grow so tall..."

Andries Radebe, 87 year old former resident of Crimen, speaking to AFRA fieldworkers. Radebe has taken his land claim to court.

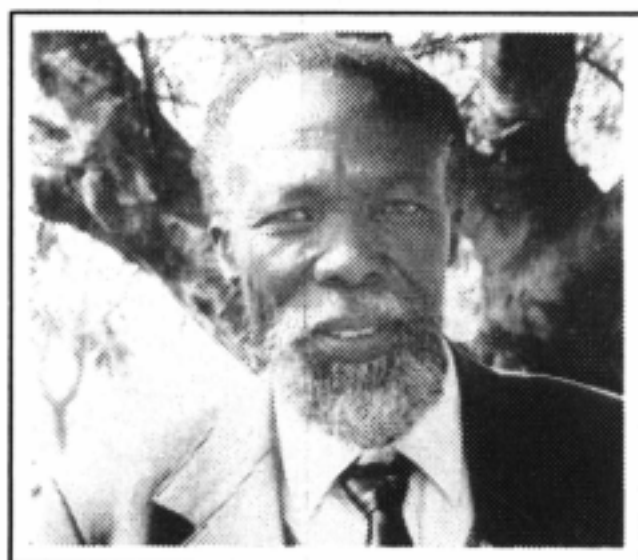
*They  
said it...*

in

**1992**

"We have not planned any follow up activities. We are waiting for a response from the government. We go to the SAP offices to see if there has been a response. The government has the power to stop evictions by an act of parliament. Only a democratically elected government can do this."

A rural tenant from the Colenso District, after participating in a protest march by tenants in the area to protest evictions from farms.



"When I tried to explain that the land was mine and that I didn't want to move, the reply was: 'Put that land on wheels and go with it'. We want restoration of our land - the land that was bought by our forefathers and for which we have title deeds."

Solomon Makhubu, 75 year old former resident of Charlestown, to ACLA at the Charlestown land claim hearing this year.

"When we were removed from Roosboom we thought the government was going to develop the land there. Instead, we saw livestock grazing on our land. Some of our land was even leased to white farmers."

Former resident of Roosboom, Agnes Sokhulu, at the ACLA hearing on the Roosboom community's land claim.

## **Homeland Government Corruption And Financial Mismanagement**

"To say I am totally blameless would be wrong. But it is impossible for anyone to have full knowledge of everything happening in the ambit of his portfolio. I can see no blame that could rest on any of the South African ministers that delivered a service before me, neither can I be held to blame for the findings of the commission."

Minister of Regional and Land Affairs, Jacob de Villiers after Chief Magistrate of Johannesburg, Oelof Meyer, recommended legal action against officials responsible for the Lebowa corruption.

"It is too much to expect clean administration to flow from the inherently corrupt and undemocratic system of the homeland, spawned by apartheid. It is also not surprising that the Minister of Regional and Land Affairs, Mr Jacob de Villiers, is 'not confident' that the same level of corruption is not rampant in other self-governing territories.

As in the Department of Development Aid financial debacle earlier this year, millions, if not billions, of taxpayers' money was squandered by government officials, consultants and contractors and little action

has been taken by the government to make amends. Instead, Mr de Villiers still heads the Department of Regional and Land Affairs and some officials who ran the DDA have been seconded to homelands like Lebowa...We demand:

- That the 380 000 hectares of land handed to the Lebowa administration last month be reincorporated into South Africa immediately. We believe this land belongs to all South Africans and should be returned to South African administration - not corrupt, self-interested homeland officials who have already shown themselves to be unfit for office.
- That the South African minister responsible for administering the homelands, Mr Jacob de Villiers and his deputy minister, Johan Scheepers, resign immediately. We believe he holds ultimate responsibility for the offenses committed by officials in Lebowa. His government has created the bantustan system, set up the Lebowa administration and continued to fund its activities."

National Land Committee.

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