A Learning Approach to Increasing the Security of Tenure of Poor and Vulnerable People

# REPORT ON LEAP SYMPOSIUM 2007

## LEARNING ABOUT PROMOTING TENURE SECURITY FOR THE POOR AND VULNERABLE

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www.leap.org.za

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# 1    Introduction

This report has the challenge of seeking to capture three days of dense, intense sharing and discussion. The symposium is part of ongoing learning that is built into Leap's approach, and should be viewed in that light. The report seeks to capture the essence of the symposium, and is geared towards the participants and to those practitioners who are interested in a learning approach to address tenure security.

## 1.1    Leap

**Leap** is a voluntary association that brings people together to work in a learning approach, to practically explore and recommend appropriate tenure arrangements in urban and rural contexts that:
- Increase the security of tenure for the poor and vulnerable, individuals and groups;
- Enhance peoples' livelihood strategies;
- Enable improved delivery and maintenance of basic services;
- Enable improved equitable access to local economic development by all sectors of society.

Currently, Leap has partnerships on joint projects with four NGOs: the Association for Water and Rural Development (AWARD), Community Agricultural Projects (CAP,) Zibambaleni and the Centre for Applied Legal Studies (CALs) The projects teams are made up of Leap team members, the partner NGO staff, plus other resource people, some of whom come from CBOs, NGOs or academic institutions.[1] Leap also has a long-standing relationship with AFRA, and newer ones with Afesis Corplan and with Development Action Group (DAG). Leap and its team members have also engaged in various ways with people knowledgeable about and involved in land and tenure work.

## 1.2    Objectives of the symposium

- To analyse what is emerging from early fieldwork in Leap projects and partnerships, in order to learn *from* and *between* projects, focusing on tenure in relation to a set of issues affecting poor people's livelihoods and local economic development in order to inform our research, our practice and our analysis.
- To identify needs, opportunities and strategies for engaging with policy, law and programmes of government.
- To establish a basis for collective learning over the life of the project.

**Process objectives**
1. To maximise the particular experiences, skills, talents and strengths of the diverse participants in the room.
2. To mirror Leap's culture, method and values in the way the workshop is run.

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[1] See the Leap website for comprehensive information on each project.

3. To balance time spent on in-depth feedback for each project report and overall analysis (i.e. contributing towards Leap's longer term goals of mapping the tenurial landscape in South Africa), informal learning and forward movement.

## 1.3  Participants

The relationships Leap has, described above, was the pool from which the participants of this learning event were drawn. All are concerned with tenure security and poor people, all have some link to Leap, while the range of experience and perspective is great. The majority of participants were drawn from the Leap Core Team and collaborative projects. Some additional participants were invited as resource persons, to engage and contribute to the collective reflection, bringing their wider experience and perspective to bear.[2]

## 1.4  The symposium programme

Beforehand the papers of the projects were sent out and the assumption was that the participants had read these. Each project was expected to present only key points and issues using a poster and/or PowerPoint. An assigned discussant was appointed to each project to synthesise the presentation, present their own viewpoint and kick-start the discussion and analysis.

On the first day, the three projects of longest duration presented. At the end of this day participants explored tools for cross analysis of projects. Day two started on urban projects, but since there is only one urban Leap partnership as yet (which only started quite recently), two other initiatives, one of which has been discussing a partnership project with Leap, also gave brief presentations in order to present a wider range of urban tenure issues. The agenda then moved to the Eastern Cape which encompasses a rural and an urban case, and closed with a rural, land reform project.

On the final day, six people presented prepared analyses of issues that had been emerging, covering three themes in order to finalise the symposium with a thematic and comparative synthesis of the key issues that had emerged.[3]

## 1.5  The report – a focus on reflection and outcomes

This report focuses on the analyses and synthesis that emerged during the final day. The case projects provided the content and context for the discussion and analysis. The case project reports are posted on the Leap website. A summary of presentations and the discussions are summarised in Appendix 3.

The key question was: *"What stage has been reached with the research in terms of comparative results across projects?"* There are some constraints to comparative analysis and insights because the project sites are different in many important respects. What emerged, however, were useful reflections on:

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[2] See appendix 1 for the complete list of participants and collaborative projects.
[3] See appendix 2 for the programme details.

- *What is Leap learning?*
- *What can projects reflect in reference to Leap's problem statement?*
- *What is the relevance of project processes, findings and outputs for project development and for advocacy?*

These questions raised issues for specific case projects, but in addition participants sought to resolve the more difficult task of looking across (comparatively) the projects. It transpired that Leap is looking at actual practices regarding land and tenure systems, and that projects are yielding a great variety of issues concerning actual practices. The extent to which Leap is still reflecting on methodology rather than content was striking, and much of the discussion focussed on the detail of what the appropriate research questions are or should be.

The diversity in orientation and emphasis amongst the participants became very clear from the responses to the project presentations and the discussions. There was much interaction and debate, and by no means always consensus. Some of the tensions identified are inherent to the Leap endeavour as they are built into the choice to be an action-research, collaborative programme, encompassing a wide range of tenure contexts with different legacies and involvements and which emphasises learning and building of grounded theory. In the report different voices and views are narrated. There is no attempt to come to conclusions, as this is not what the symposium attempted to reach.

The report is structured as follows:
- The capturing of the substantive content of the symposium starts with the **concepts and frameworks** we use in projects and for cross-project analysis.
- The report then turns to what was discussed and suggested regarding Leap's **approach, methods and tools**, and the focus was on methods that will allow for cross-project analysis. This section includes the reflections on using an action research approach.
- The next section captures the points made about **policy and engaging the state**.
- Section five is on the **findings** that emerged from reflecting on the case projects **and possible action agendas**.
- Then the agreed upon **actions forward** are set out.
- Finally the **conclusions** reflect on the event in relation to the objectives and summarises some key points.
- Appendix 3 summarises the case project and discussant inputs, and the main points of discussion that arose.

# 2 Concepts and frameworks

## 2.1 Words we use, terminology and meaning

Concepts encapsulate complex notions, and are shortcuts that are supposed to make things simpler, but can also make things more complicated. It is not necessary to reinvent the wheel, for acceptable definitions have been proposed. When it comes to terms and concepts it is not important that all agree on the same definition, but it is important to know what every one is talking about. Terms used in the reports and symposium, and mentioned as needing collective clarity are:
- social embeddedness
- security of tenure
- formality/informality
- customary/statutory
- legal/illegal
- livelihoods

A community of researchers or practitioners should be careful not to use ready-made concepts without clarity of meaning. By repeatedly using key words such as poverty reduction and sustainable development, these terms become hollow. It is appealing to rely on such words, but in Leap this trap is avoided.

People act and relate to each other in relation to valuable things. Those ways of thinking or acting in relation to valuable things are shaped by social relations. That is what **social embeddedness** means. The specific social relations that have been talked about are kinship, marriage, and residence. Those are crucial to understand in any (African) context. A shortcut often used is 'family'. It would be a mistake to assume family relationships are about harmony, for they also involve tensions, suspicions and conflict. This in turn leads to the question: what are the appropriate units of analysis and action? There was an exchange on the difference between household and family. In English, 'family' is used very loosely, meaning the nuclear or extended family. Analytically, it is important to be clear about the distinction. Family does not mean 'household', but it refers to the extended clan or group. In some contexts what are called cousins in English are in practice brothers and sisters; in other contexts only the so-called cousins on e.g. the father's side are considered brothers, but not the ones on the mother's side. It was rightfully pointed out that in our concern with advocacy it is insufficient to provide equal rights for spouses only, the rights of 'brothers and 'sisters' should also be considered. It is important to be aware of these distinctions in the African contexts. Family and household concern the cultural definition of social relations. It is not an a-social individual who owns this chair but a particularly socially formed and shaped person.

Struggles over land may also reflect **claims of authority** to make decisions about those valuables. People try to convert power into authority, and convert access into property, partly because it is about struggle for power.

There is a **difference between rights and claims**. The 'commons' should not be perceived as an original form of land – particular commons may be perceived as 'unassigned' land, open to interpretation and then become contested. Rather than seeing them as unclear, it is essential to look for who is making what claims.

It is useful to distinguish between **states and processes**. States means 'how things are' – regulations, rules, and patterns. People ask 'what is the pattern of claims to authority, etc'. Although this is different from processes it is not to say states are static; states can be in motion both in terms of social relations as well as concepts. Words for a woman at different stages in her life mean different things over time. The challenge for this type of research is how to bring together states and processes.

One of the Leap ways of analyzing whether tenure is secure is to verify whether the tenure is **getting clearer** and is **more certain**. A concern with this emphasis on 'clarity' – and the problematizing of lack of clarity – is that it leads to an analysis that suggests that ambiguity in itself is a problem, and thus if things were unambiguous they would function properly. However, processual accounts treat rules and regulations and institutional design as contingent, subject to power plays and interpretation; e.g. customary law is clearly more processual. Part of the problem arises when official policy says we 'just need to sort out the rules and procedures'. As a consequence from such a particular focus, an emphasis on clarity by Leap implies Leap is referring to a version of formalization (which it is not). Although individual tenure is one kind of formalization, there are also others. It will be more helpful to conceive of alternative formalizations that bridge the divide between formal-statutory and informal-customary. Plural or dual systems are not a problem in themselves. It is important to ask what the consequences are of 'better fit'? Is bridging the divide necessarily a good thing? These critical remarks are not meant to argue that rules and clarity are not important. But it is not a matter of either rules OR processes; it is always both. Ambiguity about tenure arrangements can definitely benefit the wealthy and the powerful; it benefits those best placed to exploit it.


## 2.2   The broader context

Since the start of Leap's work on case projects it has been emphasized that the local system must be understood in its context. The following views were expressed about this issue:

One area that might need more attention is demographics and its changes, including migration. A lot of the discourse at the symposium was concerned with quality, but the issue of 'quantity' has been insufficiently addressed. The rate of growth in metropolitan areas and smaller towns leads to questions. In addition, larger connections need to be made between the different case projects. What is stark in South Africa is an increase in migration in the post-apartheid area, including circular urban-rural migration and rural-rural migration. In urban areas there is much more rapid household formation than population growth. One of the questions arising concerns the impact of legislation on household formation.

To understand our particular contexts a better sense of the political setting is necessary. The character of the world we live in is a capitalist order and a capitalist economy. The context is one where we need to take seriously the trend toward individualization, commodification, dis-embedding, and the increasing prevalence of 'vernacular markets'. Some of these ideas should be treated with caution.

Some aspects of the wider context that need to be taken into consideration to enhance our understanding are high unemployment levels, reduced migrant remittances (neither traditional forms of activity nor jobs avail), rising levels of social grants, land-based livelihoods becoming highly constrained, farm employment is in sharp decline and there is increasing vulnerability due to HIV/AIDS. Resulting from diverse political processes, livelihoods have diversified seem to result in de-agrarianization, the question is what role is remaining for agriculture and whether ? Despite these trends, access to land and rights to land remain crucial for many as a range of livelihood strategies are still mainly aimed at survival.

There have been three ways of thinking about property rights in the African context. In the colonial system, there was a replacement paradigm (i.e modernise and replace customary systems) ; quickly that gave way to a notion of preserving the customary; that has given way in the past two decades, to a notion of adaptation of customary system. These days, the replacement paradigm is coming back into vogue. This is expressed by popularity with governments of the de Soto focus on private title.

## 2.3    Drawing on other work

In the comparisons across case projects, it might be useful look at property, private and public within the post-socialist literature. In other parts of the world academics and practitioners are struggling with similar ideas, and Leap may assume the responsibility of providing a broader perspective encompassing literature and experiences from elsewhere. A Ministry of Land does not have time to look at more than one-page memos.

There is a vast body of literature on tenure which needs to be critically analysed and synthesized, a task which falls upon researchers, as people in action do not have the latitude to do it. Research needs to identify trends and ongoing changes, and to anticipate what is going to happen, based on historical observation.

For example, the work by Christian Lund and Thomas Sickle is helpful – they use a simple four-point system to analyse access to common property. It becomes property by being recognized by authority. On one hand there is this continuous situation of access – on the other there are people, institutions, trying to convert power to authority. These processes are interlinked.

# 3 Approach, methods and tools

## 3.1 Introduction

The agreed approach to projects within Leap is that of action research. Each project has an <u>action agenda</u> building upon an issue or issues with which the partnering NGO is already engaged. Each project therefore has a <u>research agenda</u>. The latter encompasses the Leap objectives, linked to Leap's problem statements, which in essence seeks to better understand and articulate tenure arrangements in different contexts, to inform policy development based on these realities as well as the needs of poor and vulnerable people.

Leap has developed a foundation of concepts and frameworks, and tools for fieldwork utilised in Leap's previous work. Both the conceptual framework and the tools are adaptable for use in these projects.

During the symposium the following issues arose:
- Calls for more collective understanding of the meaning of some of Leap's terms and concepts;
- Questioning the usefulness or appropriateness of alternative terms, concepts and methods;
- Offering new methods for analysis and cross project comparison.

## 3.2 Methods for analysis and cross project comparison

Cross project comparison is not simple – not everything can be compared and there is therefore a need to agree on the categories of what is most relevant for comparative purposes. What is it we are looking for?

The following are among the key aspects of the basic research questions:

<u>Access, rights and claims, control, authority, responsibility, and the processes involved in relation to these:</u>
- How people access land, and the importance of how this is different for different people (differentiation);
- A linked aspect is *who* controls the access to land;
- Issues around rights (or perhaps the term 'claims' might be more resonant with local understandings of rights) and benefits;[4]
- Responsibility and authority;
- The articulation of all these concerns with each other, i.e. their relational aspects;
- Processes of negotiation, dispute resolution, facilitation, development;
- Authority and agency: Who does what, with what authority, whether it concerns state actors, market actors, community / local actors.

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[4] Thinking about **claims** rather than **rights** may be interesting to explore in future.

Risk, security and vulnerability, in relation to tenure

Given the fact that tenure security has long been Leap's focus, it was somewhat surprising to note that in the symposium tenure security as a focus was less prevalent than expected, more attention was paid to the vulnerability and security of livelihoods in each project.

As a result, it was agreed that there is need to investigate vulnerability further, within and across the projects. The Leap problem statement notes that tenure security intersects with poverty, gender, HIV/AIDS; but at this stage, while these intersections are evident, the relationships between them are not clearly understood. However, it is important to reflect whether more research is needed to look at these questions, or whether a more focused reflection on existing evidence and findings would help to clarify these issues sufficiently. At this stage the Leap framework does not yet generate confidence in analysis and comparative analysis of what the project participants are seeing. Possibly a discussion about the development indicators for vulnerability would enable more meaningful analysis and comparison. The projects reflect a range of issues that exacerbate vulnerability, including, but going beyond, questions of gender and HIV/AIDS.
For example:

- Lack of water, access to markets, marriage[5], changing practices in terms of land allocation and systems of property.
- Should we worry about the status of women around land?
- HIV/AIDS is not being clearly revealed in projects: is this because it is not a priority in terms of land tenure? Unless this is explicitly raised in discussion, people in the communities we work in do not seem to recognize it as a relevant factor.
- If people are not responding to our questions on HIV/AIDS at the moment, should it be left aside or probed further?

To enable the comparative element, generic questions should be defined across projects and these comparisons should be more rigorous. Gender had already been identified, but also marriage emerged as a key issue in the symposium.

Several tools for analysis (or how to look) were presented and discussed at the symposium: Matrix, systems diagrams, continuums, and process mapping. Hereafter these will be described and discussed. Scenario planning might be of use in the future.


*3.2.1   The Matrix*

According to the matrix, tenure regimes can be analyzed using two critical axes; that of **access** and that of **control**. A slightly different way to describe this would be 'rights' and 'governance'.
- The axis of **access** describes people's access to land for a variety of purposes. It describes **which people have access to what kinds of property**.[6]
- The axis of **control** describes who makes the decisions. This is the governance axis.

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[5] This is relevant as it impacts on the status of women in the household and the rights they have in the household and beyond.
[6] Note that not all access is defined in terms of rights and therefore claims may be a more useful concept.

Distinguishing between access and control can help to identify a range of different land uses and different levels of control. In identifying the issues on the matrix, one can describe actual practices as well as the normative (the 'ideal') view how things are supposed to happen, and subsequently compare these. Other dimensions can be added to this matrix depending on what is important in a particular analysis, e.g. sustainable use, state policy, or compare the present to the past.

In the discussions at the symposium, people thought the matrix axes method might somewhat limited or constrained as it forces reality possibly too much into (pre-defined) boxes. It was suggested that the matrix could be seen as a heuristic method[7], it does not provide the full picture of tenure issues or final answer. It is useful as an initial mapping device to help identify important aspects to investigate and analyse in each project, which may otherwise be overlooked. The matrix can provide a potentially effective resource to improve comparisons across the projects and for unpacking tenure regimes.

## FIGURE 1: EXAMPLE OF CONSTRUCTING A MATRIX

Describe in each box who can access to resources/property and on what basis – who has control over this and who makes what decisions.

| Control ⇨ <br><br> Access ⇩ | Household | ibandla | iNduna | Tribal office. iNkosi | CDF | Municipality |
|---|---|---|---|---|---|---|
| Residential | 1. who has who has access and what basis control makes decision on | 2. | 3 | 4. | 5 | 6 |
| Arable | 7 | 8 | 9 | 10 | 11 | 12 |
| Business | | | | | | |
| Commons grazing | | | | | | |
| Trees | | | | | | |
| Clay | | | | | | |

While filling this matrix, one should look for connections between different aspects, and which of these appear as the important relationships.

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[7] A heuristic method implies enabling people to discover or learn something for themselves.

A third dimension was also tried by filling in the various boxes concerning, e.g. state recognition of claims, and of authority – which part of the state recognises what, and in what way?

### 3.2.2   The Systems Diagram

Systems diagrams are useful for understanding linkages, and therefore provide a tool for analysis, possibly after a matrix analysis. This is useful in case there are complex systems, which do not have simple cause-and-effect linkages. It can also be effective to work with a team to set out their understanding of 'how the world works'. In addition, a systems diagram can be employed to describe findings of projects. The story – or  narrative – is equally important; the diagram does not stand on its own, but it should help to capture a summary of key elements and how they interact. It is a useful tool for  looking at different possible future scenarios with stakeholders.

Some tips for the construction of a systems diagram:
- It is important to 'keep your eye on the ball' – i.e. what is the key question you are concerned with and keep referring to that, as it provides your point of reference.
- First talk about the context as you understand it as a team – this helps to identify 'driving forces' (V-STEEP aspects i.e.: values, social, technical, environmental, economic, political) – then talk about what is emerging as a 'story'.[8]
- Do not try to complete a systems diagram in one session – do some work as a team and one member develop it further for a next phase of joint work – expect a few sessions.
- The Craigieburn team found it useful to think about Rights (or claims) and Benefits, Responsibility and Authority.
- Identify key aspects on cards, and start to show the linkages between them.
- Question, discuss, move things around, until the team feels comfortable that the diagram is a useful reflection of what the research is telling you.
- You need to decide what aspect of the system to describe; it can be useful to work on different 'sub-systems', and then later pull a more simplified overall diagram together.

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[8] One way to discuss the context is to address the different V-STEEP aspects, i.e. values, social, technical, environmental, economic, political.
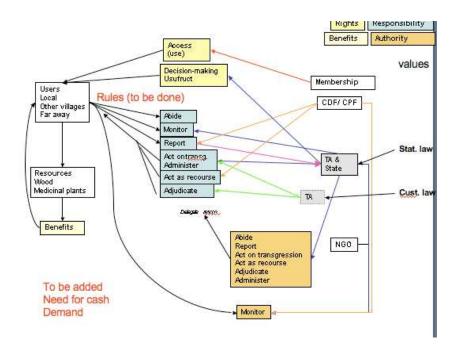
**FIGURE 2: CRAIGIEBURN SYSTEMS DIAGRAM**

### 3.2.3   The Tenure and Vulnerability Continuum

The Tenure and Vulnerability Continuum is conceptual device that is trying to do something different than the matrix. It is a descriptive and possibly a comparative device, along which different tenure arrangements can be located. Its usefulness is less in the investigate phase and more at the point when several projects are sufficiently well advanced to respond to Leap's central objective as it could provide a graphic way of capturing the multiple tenure arrangements in Leap projects. This will enable comparisons between projects.

Until now Leap has worked with a continuum, or horizontal axis, with the possibilities of different dualities at each end such as private/communal, formal/informal, official/local, registered/off register. In discussion a second, vertical axis (more vulnerable and more secure) was added to Leap's existing continuum, in order to facilitate comparative assessment as well as description. The vertical axis allows a focus on Leap's secondary objective, which concerns vulnerability. In addition to being able to plot different cases of tenure arrangements in relation to whether they are more official or less so, an assessment could also be added about whether people are more or less vulnerable. The second axis therefore implies that the continuum, now more properly described as a graph, can be utilized within a project (as well as across projects). So within a research site, some people or groups may be more secure and others more vulnerable.

In discussion change over time was added as well. The temporal dimension is thus a third consideration (in addition to the nature of tenure arrangements and vulnerability / security). Plotting over time would help to create a sense of movement and dynamics, in which case it would important to assess what factors contribute to change over time; what drivers move action.

This graph makes it clear that attention must be focused on the two quadrants that are on the 'vulnerability' side of the spectrum – it is not about whether the system is formal or informal but whether tenure is secure or vulnerable.



**FIGURE 3- TENURE AND VULNERBAILITY CONTINUUM**

It could be used to:
- Capture actual practice – capture cases *within* case projects.
- Note change over time and direction of change.
- Note factors and drivers.

### 3.2.4   Other points on methodology

It was suggested that in-depth research is an important complement to surveys, and should be an essential part of our method package. Pauline Peters suggested that it is necessary that the projects have people living in the project area to be observing.[9] She also warned

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[9] This touches again on the - sometimes delicate - balance between research and action. Prof. Peters call for people to be living in the project areas might also be interpreted as researchers living in the areas. It also refers to the question of where to draw the boundary at the research; how much research is needed before the action.

researchers to be cautious about focus groups, to be aware of their potential biases and limitations. As researchers we should be ready to see those things that will enable us to get to the nitty-gritty of what is going on.

A note of caution about focus groups:
- that people recognise such group sessions as unusual, and so will tend to orient themselves to what they think the organizers may want to hear;
- differentiation (income, wealth, ethnicity, etc) within a group will influence who speaks and what they say;
- asked about practices (what they do) people will often answer in terms of ideals or principles.

All these points contrast focus groups and indeed any formal interviews with fieldwork where one can observe in 'natural' settings (i.e. those that people are normally engaged in without any organization by outsiders), what people do, what they say, with whom they do x or y, with whom they speak or do not speak, etc etc. This does not mean that interviews and focus groups are without utility but it does mean that one must be cautious in their use. A problem with the embrace of focus groups and other 'rapid' methods by development practitioners is that some think they are finding the 'truth' in such ways.

In all case projects people are silent about HIV/AIDS – i.e. it is not a subject that crops up during research, and it is important to reflect on why that is. Any discourse is selective in what is examined or what not. The discourse of poverty tends to exclude wealth, which is another dangerous exclusion. On the one hand, there is the option of asking people. On the other hand, one can listen to what people are talking about in their everyday activities. When there are things that people are silent about, one has to pay attention, and see if that silence is relevant to the things one is trying to understand.

### 3.2.5 *Leap Methodology*

Leap developed methodology during prior work, mainly focusing on Communal Property Institutions, in earlier years. These methods continue to be used and refined in fieldwork in existing case projects, and has been shared between team members. Field methods can be found on the Leap website, and in project documents on that website.

## 3.3 Action Research

Leap asserts that it does its work through action research. However a tension has emerged between the aspects of **research** and of **action**. This is a genuine tension within the projects, and it may become one across the projects in future. The question is 'How much research is enough before taking action'? This is answered differently by different people. Hereafter different views are described as they emerged from the presentations and discussions.

Research is not neutral, because it entails value judgments, it relies on hypotheses, it involves selecting sources, setting research objectives and interpreting observations; none

of these 'actions' in research are neutral. Leap does not claim neutrality, for it defines itself as a social reformer and a facilitator, taking aboard the need for people to bridge research and action, to pass information from one arena to another, and to make research available to decision-makers.

The role of research in tenure and land policy is to identify basic mechanisms involved in tenure and land management, and to identify processes and dynamics. Rather than say 'you must do this', Leap may say 'if you take this action, you can expect this outcome' – for we can know what **not to do** based on past experience, even though we may not know what **to do**.

Research and practice need continuity, but the timeframe of research is not the timeframe of practice. Research funding institutions, government decision makers, politicians, they all think in terms of project time frames, i.e. 2-4 yrs. Any action on land will have effects developing for 10, 15 or more years. There is a gap between the timeframes of decision makers and of researchers.

Leap might want to think more about its choice of **strategies**: is it appropriate? is it feasible? what are the costs and risks? For example, the choice of litigation; there are costs and benefits to the way litigation might position Leap in reference to clients and opponents – and that may limit contact with our opponents.

Research in the advocacy mode is in contrast with research that may lead to advocacy and it is important to be aware of the differences. Research is always situated. What is the focus of our action? Tenure is our lead-in, but clearly it is entangled in other systems. Tenure/housing for the poor is set in a broader economic picture. Unless we understand why the situation is why it is, we will be misled. There may be other actions that would be more effective in remedying the problems we see. In the rural setting, addressing tenure is insufficient. A whole set of other actions are needed to build infrastructure, to bring development.

In action research be wary of the 'good guys vs the bad guys' as way of seeing– if our interest is in the poorest of the poor, yet we must be interested in the making of wealth, since poverty is the product of the wealth-making. Be cautious about targeting the poorest of the poor.

It may be useful for some of the case projects to think of their research as a baseline. Where there is an excellent baseline, someone else can easily follow up in future.

It is not widely recognised that research is difficult to do well, and it takes years of experience – it is not the same as writing reports. A lot of research done by NGOs and government is of poor quality. Therefore it is worth considering the greater use of masters' students doing research theses working within NGOs, bringing the resources of their advisors, departments. Or for NGOs to form alliances with research institutions.

In South Africa researchers and practitioners tend to stay in separate boxes – there is a lot of negativity about research (from practitioners, officials, and community members and leaders). The two can, however, be integrated and supportive of each other.

The tension between wanting to move forward with solutions, and to take the time to understand current practice in the context is difficult to resolve. There are issues of timing – politics is very current and fast-moving; and about the management of how deep we go before taking action. It also relates to the question of 'how does government work'? There can be a strong impetus to move forward, and yet it is also important to pause, look deeper, and unpack relationships between land, tenure and development. But it needs to be seen to have relevance to the people (the NGO and the community members) Leap is working with. It is also important for Leap to make these links clear. It is a real issue in terms of Leap's forward planning and needs collective clarity sooner than later.

# 4 Policy and engaging the State

During the symposium, a number of times it was pointed out that the state is important to understand, just as we seek to understand 'communities'. As we seek to understand and engage in policy, we need to be informed at an appropriate level of complexity.

## 4.1 Notion and role of the state

It is imperative to understand the nature of the state and arrive at a considered opinion about the state. Thus, in talking about communal ownership within a market-driven property market, several issues such as who is responsible for monitoring, adjudicating, etc. come up and these are all related to the nature of the state. There are very different notions about the state, for example in terms of what is expected of the state. The one notion is a rights-driven notion. Another notion of the state is more concerned with issues related to customary practice and negotiation. These are two very different things. Is the state capable of this really sophisticated way of managing processes? Or is it much easier for the state to set down some clear procedures. In the early 1990s, there was a lot of discussion about a so-called 'rules-driven state' and a 'developmental state'. Understanding what the state is doing – or is trying to do – is important, for it informs expectations of the state.

The questions are these: What is the state actually doing, what could it potentially do, what could it appropriately do, and what does the state see as the problem? Do they define the problem correctly? The state is a big, abstract thing, but there are different departments, procedures, and ideas. To recognize the diversity within the state is important. From the case projects, we hear debates, for example about child support grants from the sate, which interesting to understand the way in which people define themselves in relationship to state programs. At the development level, such debates from 'common people' are often not heard, but as organisations practicing action-research we can draw attention to these issues. The state is many things, but one thing to keep in mind is that the state can be used by its representatives for private gain. Therefore it is critical to distinguish departments' procedures from their use or misuse by officials.

## 4.2 Policy, programme, and projects

Trying to connect between rural and urban, between policy and projects, and acknowledge the nature of the state in terms of ideology, politics, institutions, and practice, it is useful to make a distinction between policy, programme, and projects.
- The job of a project manager is to make the project work and be sustainable;
- Programmes are more about rules, which define issues around access, budgets, and are concerned not with sustainability but replicability. So, for example, trying to get a farm for that group of people may be a good project decision but a bad programme decision because it is not replicable.

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- The policy level is about outcomes, regulation, defining roles, delivery; it is very high level. At the policy level, we are dealing with uniformity, accessibility.

Related to these matters are issues concerning the economy that impact a range of things including tenure security. It is problematic that the state of South Africa says it is a developmental state, while in fact it is a state based on rules, which is what drives government and has fundamentally impacted the way it has delivered, and has delayed delivery.

Although within Leap and across the case projects there is a lot of knowledge about legal aspects, often much less is known about law outside our direct domain although it may impact on delivery. For example, what do we know about DORA? This piece of legislation is passed every year and shows what the budget allocations are. The knowledge related to Integrated Development Plans (IDPs), what the plans are, what the budgets are, is also relevant, as the state plays such a large role in delivery.

## 4.3    State and market

The South African state has embraced market-led development and trickle-down theory thoroughly. This explains for example the support for the brick factory in the Craigieburn project: capital investment is privileged to supply conditions that enable accumulation. There is ambiguity these days about the term 'development'. In addition, there is a more general debate in South Africa about the relationship between the state and the market.

## 4.4    State and development

South Africa has chosen for a massive social welfare provision, unusual in the African context. In South Africa, development means service provision and property development or development in terms of creating businesses. Someone suggested the whole idea of development is in shreds, that internationally it has simply become aid money utilized to fund business. Wealth creation in the capitalist system is contradictory; there are winners and losers in the politics of land, housing and service provision. In this developmental framework, there is inevitably politics. Therefore thinking strategically is of critical importance.

In principle, social policies ameliorate the living conditions of the 'losers' within the capitalistic system. In this affordability is a key issue and so is contestation around public provision and socio-economic rights. There are real contradictions within the policy framework.

## 4.5    Land policy

Security of tenure is debated: is it the precondition for capitalist accumulation or for protection of the vulnerable? This last intention lies behind the formalization of property

rights. Related problems are the inflexibility of the formal system in South Africa and unintended negative impacts.

The South African state wants to slough off responsibilities for provision, and by transferring land to tribes as is intended by the new Communal Land Rights Act (CLaRA), it illustrative of where the ownership paradigm might be problematic.

In our discussion we have laid the foundation for a discussion of what the alternatives might be to CLaRA. Through its link with traditional leadership it reinforces centralised powers of Traditional Authorities over land. Strategic partnerships on high-value land may involve deals between businessmen, chiefs, and government, with few benefits for local people. Other options might include statutory protection with flexible forms; strengthening institutional contexts; facilitated adaptation over time; minimalistically registering family members with interests and requiring family consent for key decisions. A key requirement has to be accountability, otherwise flexible systems will be captured by elites.

## 4.6   Advocacy

Leap will need to do advocacy planning: this involves generating an advocacy goal from which to go on to describe key activities, and who to cooperate with.

# 5 Findings and possible action agendas

## 5.1 Findings

On the final day the following comment is indicative of the collective feeling that the Leap work, and discussion about it, were rich and meaningful, and yet it is early days in terms of what Leap seeks to achieve: "Much emerged about how to do our work, but it is harder to say what we are actually finding."

The initial Leap problem statement emphasized searching for integration as well as recognition. From case projects we can argue for recognition, but integration remains an unsolved issue.

A lot was said about social relations, more than about tenure per se. This is interesting, as tenure is our focus.

From the presentations and subsequent discussions, it emerged that the findings of the different case projects are clear about where there is clarity and understanding and where there is uncertainty. Since the projects do action research, it is relevant to distinguish where uncertainty does not inhibit taking action and where that lack of clarity matters.

An additional issue is the question how property works in relation to social protection, which is contrasted with the notion of individualization. Many presentations noted how dynamic reality is and pointed to the nature of change.

The gaps in some of our research emerged: concerning vulnerability; how to observe and analyse the impact of the market, particularly its exclusionary impacts; and understanding wealth-making and hence the need to focus on wealth-making actors. Some of these additional points maybe more a reflection of the summarizing nature of the papers than a reflection in a general lack of understanding of these issues. In discussions it often became clear that the people involved were well aware of these.

Consequences are an important focus; in case projects findings are emerging about anticipated consequences and real consequences of policy. Projects can anticipate certain consequences of CLaRA for example, and are seeing the consequences of urban housing policy.

## 5.2 Actions

At this stage actions are taking place in different ways within projects. It was anticipated that there may be a joint action agenda regarding for example, policy emerging from looking at the various case projects. Most of the actions proposed during the symposium were towards improving and strengthening how Leap can work within, and especially across, projects.

When considering **action**, the participants in the symposium have reflected upon the gaps between law, policy and practice. Those gaps help to define where the action agenda is – within projects, and across projects). The idea which emerged is that mis-match may be a better way to see the gaps. In thinking about action, thinking is forced to come back to that mismatch between practices and the rules. Another mismatch is around supply and demand. In the gaps and mismatches there are areas for action. Sometimes things can be said about what **not to do.**

A different take on action is that what is significant is not so much a matter of things being unclear, but rather its important to focus on flexibility, and advocating for processes rather than rules. Therefore, an important focus should be on processes and flexibility.

The case projects can reveal misconceptions, and where problems are not phrased correctly, and from this an argument can be made for recognition of actual practice. There is potential action on highlighting this when it comes to new policy options.

Leap should take a stand and should be able to better define their roles and their actions as researchers – at least from this team – and they should be able to communicate this. Also, Leap should be cautious of the terminologies that are used. The teams should understand the environment in which their research projects are taking place, political, cultural, and economic, so that it informs their research work. The academic partners can be utilized to bring in literature which may help to reflect on case studies.

A concern is to verify the strategy for grooming new entrants to Leap; if someone wants to participate in Leap, what is the process to support learning around land tenure?

For meaningful action, it is important to manage the differences coming out in different research areas and to find unifying themes in diverse projects. From there, one can search for meaningful comparison across projects. One way to look for unifying principles is by looking for drivers of change in each project. Looking at markets in each could be another.


## 5.3    Urban – rural comparisons

Connections between rural and urban are very real, but in and across projects these connections are not yet being made sufficiently, let alone explicitly.

There is a need is to look at the urban-rural continuum, rather than the divide. This can be done using two different tools.[10] One is to look at dynamics being observed around land and tenure management. There are dynamics that are clearly specific to rural or to urban areas, yet other dynamics are found in both rural and urban. The main trend is a shift from the use value of land to the exchange value of land. These dynamics can be explained by the changing social and economic context. It will be helpful to think about the socio-

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[10] It might be an interesting research methodology to have rural-urban projects tracking individual people who are migrating.

economic functions of land, how these change and evolve, yet we should see it in terms of a continuum.

It is important to be aware of the danger of forcing categorizations upon our observations and findings? In addition, we do not want to impose a false polarization of the urban and the rural.

# 6    Actions forward

- Pick up on themes and hold a series more thematic interactions throughout 2008. Furthermore the participants want to work towards something that is bigger, bringing together NGOs and government. Access and control is an important unifying theme that will allow across project comparisons, analyses, and hopefully insights. Additional cross-project themes will be agreed upon during thematic meetings held through 2008.

- Develop a strategy around advocacy during 2008.

- Plan and raise funds for a larger event in early 2009, for findings from Leap projects, but also inviting other people to make presentations, bringing together NGOs and government.

- Develop a strategy for grooming and supporting the newer entrants to Leap.

- Engage with DAG on Hangklip, to look at how Leap can support the project.

- Surface the vulnerability issues in our projects more – there is probably a lot already in the work  that could be brought out, without more research. Some conceptual work may be required to develop indicators for vulnerability. On the one hand vulnerability could just be less security, using the indicators. But we should use another lens too, drawing on livelihoods or natural resources management or gender to consider the issue from different perspectives, and to deal with possible problems people raised with the indicators.[11] This was influenced by the additional axis added to the continuum, and by how difficult it was to synthesise the vulnerability problem statement issues.

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[11] This thinking was influenced by the additional axis added to the continuum (see 3.2.3), and the difficulties experienced while trying to synthesise the vulnerability problem statement issues.

# 7 Conclusion

## 7.1 Reflection in conclusion against the objectives

- The symposium succeeded in being an event in which there was learning from and between projects, from the range of fields, academic and activist experience of the participants. The learnings will inform the future Leap research, practices and the analyses.

- The group moved easily from considering the detail of case projects to a more general level of analysis. The high level of preparation, documentation and reflection in the projects facilitated this. The design and facilitation of the three days worked well.

- The value of working in both urban and rural contexts is not yet clear enough, and more is needed to explore and understand the connections.

- The basis for engagement in the policy and programming arena did not emerge as clearly as hoped on either content or approach, so this remains on the agenda.

## 7.2 To summarise key learnings for Leap

In the area of method
- There are new or emerging concepts and tools for understanding, for investigating and for analysis that are in use and are also emerging. These will be added to the Leap 'tool box'.
- There is recognition for the fact that Leap and its partners in the case projects need to move forward from the first collaboration around what we are learning, to develop more rigour and focus to enable comparisons. The areas to focus on are:
  - vulnerability
  - access/rights and control/authority (matrix)
  - rural and urban connections
  - understanding context: the state, the market, key drivers of the systems

In the area of findings
- The project teams are working in very different contexts and these contexts need to be set out more clearly and fully when we write our reports. Context of place and context of policy includes who the stakeholders are.

- We are finding complexity in the access, rights, authority, and embeddedness in social relationships. Case projects have started differently; this needs to be continued, while reminding ourselves that tenure and vulnerability are our foci. In the projects the contexts and actions differ, but in each, tenure is *in relation to something else*. The action aspect has a strong pull and this creates a tension with the common focus.

- We have added a layer of understanding to the Leap framework and this event affirmed that is was useful to keep working with that: that there are rules in three versions – official, idealized local and actual practice.

In the area of action
- The event helped us to see that the case projects are in different places around action. Some are stronger on action, others put more emphasis on research. This is a balance we need to strike and the balance will differ between projects and over time. It is important to be clear in each project on what the areas for action are.

- Clarity on the areas for action provides the basis for setting our advocacy agenda and strategy collectively.

- Collectively we need to be constructively critical, while reinforcing the track we are on and what our endeavour is.

# Appendix 1:    Participants and projects presented

*Those with * are Leap Core Team members*

| | |
|---|---|
| Msinga project | Makhosi Mweli*, Rauri Alcock, Gugu Mbatha, Ben Cousins |
| Muden project | Mbhe Mdlalose* |
| Craigieburn project | Tessa Cousins*, Sharon Pollard, Derick duToit, Chris Williams, Judith de Wolf |
| E Cape housing co-ops | Monty Narsoo*, Ronald Eglin |
| Hangberg | Helen Macgregor |
| Johannesburg Inner City | Lauren Royston*, Shereeza Sibanda, Stuart Wilson |
| Fingo Village | Rosalie Kingwill* |
| Gongolo – AFRA | Nompilo Ndlovu |
| External resource people | Warren Smit |
| | Pauline Peters |
| | Aninka Claassens |
| | Alain Durand-Lasserve |
| | Abueng Matlapeng |
| Facilitating | Michel Friedman |
| Recording | Alexis Jones |

| Project | NGOs | What the project is about…. |
|---|---|---|
| Mthembu Tribal Authority in the Weenen area, KwaZulu Natal | (CAP)/ Mdukutshani with Leap and Programme for Land and Agrarian Studies (PLAAS) | The project investigates the laws around land and natural resources and the distinction between local law and practice and national laws around land and local authority. The aim is to provide insight into local practices derived from customary systems of land tenure in a context where traditional social values are still very prevalent, albeit under pressure to change. |
| Muden, KwaZulu Natal Midlands | Zibambaleni with Leap | The project aims to strengthen the prospects for development on 15 farms that were transferred to beneficiaries of land redistribution. It seeks to identify land tenure interventions that will improve livelihoods on these farms and critically evaluate the impact of inappropriate tenure arrangements on sustainable livelihoods and access to services. |
| Craigieburn, a village in Bushbuckridge, Mpumalanga Province | Association for Water and Rural Development (AWARD) with Leap and The Rural Action Committee (TRAC) | Works with wetland users (mostly very poor women) and local structures to understand the local land and resource tenure systems and practices, as well as the legal and policy context for land tenure and natural resources management, in order to set up and support more effective natural resource management systems. |

| | | |
|---|---|---|
| Hangklip in Hout Bay, Cape Town, | Development Action Group (DAG) | Formal upgrading of a settlement with a long history. This will be a pilot project for the City of Cape town. The challenge is in facilitating an equitable, inclusive planning process, ensuring people are not displaced by titling, and by the market – given the gentrification of the area and increasing prices, and so exploring if there are any alternatives to individual title. |
| Three communities in and around East London, Eastern Cape | Afesis-corplan[12] | Reflects on its experience and learning over nine years from setting up housing cooperatives. These seek to offer an alternative tenure model to access affordable, quality housing, that is democratic and secure. Currently, this gets little to no support from local and provincial government. |
| Central Johannesburg: 'Bad Buildings' | Centre for Applied Legal Studies (CALS) and Inner City Resource Centre (ICRC) with Leap | Aims to propose appropriate and affordable land tenure arrangements and formal housing options for the poor in the inner city of Johannesburg in the context of evictions and urban regeneration. |
| Fingo Village Grahamstown, Rabula, Eastern Cape | Part of LEAP team members' MPhil, seeking to make it a partnership project in future with LRC | The project builds on aspects of existing research for academic purposes on land administration and family property in Fingo Village and Rabula. There is evidence of surviving customary practices in communities where freehold title was introduced 150 years ago, shedding valuable insight into local practices and understandings of land ownership in situations where titling is introduced. |
| Gongolo, in the Midlands of KwaZulu-Natal | Association For Rural Advancement (AFRA) | The labour tenants, occupiers and restitution claimants of Gongolo want their rights and land restored and protected by the Department of Land Affairs in this area. They have joined together to put together a community based plan for the area, which they can use to counteract that of the proposed Gongolo Wildlife Reserve, and to take back some control over the unfolding land reform process. |

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[12] There has been communal reflection with Afesis-corplan and Leap.

# Appendix 2:    Symposium Programme

General format for each project: 15minute poster presentation; 15minute discussant presentation; 1 hour for discussion of both project specific issues and cross cutting issues.

**DAY 1:**
Welcome and introduction
Joint input on KZN context (3 projects)
- Msinga case project
- Muden case project
- Craigieburn case project

2 groups tested different methodologies for analysing across projects:
(a) The 'Continuum/s' as a tool for describing multiple tenure arrangements (led by Lauren Roysten)
(b) The 'Matrix' as a tool for analysing access and power (led by Ben Cousins)
Reflection and discussion on integrating the ideas and on relevance for application to projects.

**DAY 2:**
Check in and revisit the analytic discussions from previous evening;
Posters/presentations on:
- Hout Bay informal settlement (Hangberg)
- East London housing co-operatives
- Johannesburg Inner City case project
- Fingo Village case project
- Gongolo case project
Braai and movie

**DAY 3:**
Check in – insights, feelings, comments etc.
Final sessions to round up discussion on key focus areas. The aim of each session was to focus on the implications of earlier discussions. Appointed synthesizers initiated each session:
- Methodology, action-research, concepts and what is emerging (Pauline Peters and Alain Durand-Lasserve)
- What are we saying about two problem statements on multiple tenure systems, and on vulnerability? Concepts revisited (Lauren Roysten and Makhosi Mweli)
- Law, policy and programmes – rural and urban (Ben Cousins and Monty Narsoo)

1:00 Close, lunch, departure.

# Appendix 3: Key points from case project presentations and discussions

Each presentation included some form of visual presentation. All but the two invited to do briefer presentations (i.e. Afesis Corplan and DAG) have a full paper which is available on the website.

## 1 Imithetho yomhlaba yaseMsinga: CAP-Leap project

### 1.1 Presentation highlights

The project is working a large area that has been under a traditional authority for a long time, and also adjoining it an area where people were working as labour tenants, and who have long regarded themselves as part of the tribe.

We must understand what is happening in family systems in order to understand property. In Zulu culture, a patrilineal system traces descent through the male line. Identity is created within the family/kinship network, with important spiritual dimensions. It is not only who you are, your living ancestors, but it is also ancestors tracing far back. This has huge implications for land. Land is allocated to family units, and when people describe systems like this as patriarchal, where men get allocated land and women access land through men, it is not really accurate.

There are changes occurring in the family systems. Processes around marriage and associated payments take some time, and women's status during these processes changes. Nowadays an increasing number of young women are having children while unmarried, or with not all the processes being completed. Land is starting to be allocated to some unmarried women – given in trust for the son who will bear the surname. Some women say that even women with daughters should be allocated land. People say it becomes a problem if women have children by more than one father, raising questions of 'whose surname' will be established on this land.

Looking at processes around land we see nested systems, with several institutions mediating decision-making, particularly the ibandla, a group of older men, also induna, who oversees some administrative procedures. A lot of demarcation of sites happens at local level among immediate neighbours; where there are conflicts they can be referred upwards to traditional councils.

The newly transformed traditional council has 40% of members elected; some are women who have been put on the council because they are responsible and active. They say women who have children (not necessarily sons) to support should get land allocations.

Labour tenant farms are being returned to the original owners through land reform programmes; there are issues as to the ownership of land. In communal areas, land is state-owned but actually is controlled by households. CLaRA proposes to transfer land from the state to a Land Administration Committee which might be the new Traditional Council.

Labour tenants want to protect their relatively privileged resource situation. Land reform introduces major dynamics for people in this landscape. There are differences between land administration in the two sites: in the land reform site, people are self-

allocating land, but also feeling that inconsistency is a problem; so the ibandla and induna are brought back in to oversee administration. ClaRA presumes that there will be consistent rules over a very large area.

## 1.2 Respondent highlights

A declining marriage rate has been noted for a long time in South Africa; however, single mothers being allocated land is new, maybe this has to do with changing power relations.

The question is; what are the underlying causes of changes in marriage and land allocation practices relating to gender? We need to interrogate the nature of single women's entitlements and married women's entitlements, beyond the statement that women's rights are given by her husband.

The changing practice where people are self-allocated land is interesting. A fascinating issue is the relationship between land status, authority, and capacity of authority to implement. There seems to be less capacity to exercise authority over common pool resources: Is that true and were there more controls before? Is change to do with weakening authority or less capacity? Does it have to do with withdrawal of government resources, such as supportive salaries? We should interrogate that assumption. Is it an actual change, and, if so, what factors have contributed to that change?

We talk about constitutive order being this issue of surnames. The questions is whether that is really <u>the</u> constitutive order or if there are other orders all operating – when people talk about getting land on basis of need. In other areas, it has gone from women with sons being allocated land to women with daughters being allocated land.

## 1.3 Discussion highlights

Instead of the household being one space on a piece of land, you are getting three-four smaller homes on the same piece of land – it is not making households smaller; it is just making them look different.

In the households we visited, we found more widows than we found 'properly' married women. As a widow you are supposed to be in mourning for three years, and you are not supposed to talk much, but there are always disputes around inheritance. The tribal system says that if you were properly married, it is your livestock, your property, your land. If you were not properly married, there is nothing we can do to give you the inheritance. It is therefore important to realize that it is more complex than 'are people getting married'? it is about following specific ceremonies. If you go back to your father's house, he will not accept a woman back, saying she has a different surname and must build 100 meters away.

In focus groups men said that from the man's point of view, there is an advantage to not paying *lobola*, children will inherit your surname anyway. For women, there are many disadvantages to not being married. There are child support grants but those will run out. It is however unclear what the 'balance sheet' for women is in terms of advantages and disadvantages of traditional marriage.

In the Setswana system what is being reproduced is a family, a lineage, in this case a patrilineage. The meaning of having family, having children, reproducing the lineage, and the need for cattle and land, are being separated. State packages based on need, affect the way people think about 'needs' and 'rights'. The state presents a different rationale for women to make the claim 'I have children to look after'.

The common view is that land allocation is done by the chief, which makes the chief de facto 'owner' of the land. This view is widespread in the literature and is incorrect, it is a colonial understanding. Allocation procedure is something people need to put in place to prevent disputes. Ibandla prevent people from doing things that will cause problems in the future. This is an administrative procedure, not the source of a right.

When we say men get rights and we call to give wives rights too, we fail to consider how access to land occurs as a family, and the rights of other family members beyond the couple.

## 2 Strengthening livelihoods analysis: Zibambeleni – Leap Project

### 2.1 Presentation highlights

Muden was one of the first land reform areas in KZN. Although the Muden community has regained land since 1996, nothing is happening so far to change the lives of people in that area. We want to find the main cause of the stagnation on farms.

78% of interviewed households live on less than R1000/month. 15% live on 1000-2000R/mo. Sources of livelihoods are mostly social grants: child support or HIV programs.

In looking at authorities and structures on/for the farms there are about five levels of authority. When we interviewed 5 levels of authority, there is no clear division of roles and responsibilities, which causes some confusion among community members.

The accepted norm is to go through the Trust/ CPA when you need a piece of land, but the Induna is involved in a ceremony first, and some people have gone through the Inkosi. It is interesting to note that newcomers were not allocated arable fields, only residential areas. Because of that, newcomers felt they were being discriminated against. There are fields that are lying there, but newcomers can not be allocated those because those fields belong to the ancestors.

Land management system: When you look at authority in homesteads, people knew their boundaries. They said that the head of the family is the one to make decisions in that household. There are also fields allocated to households. The head of family makes decisions concerning those fields. In regard to grazing land, those lands were communal areas where nobody is making management decisions. There are no systems per se that assist communities in managing communal land. Although people have firewood on some farms, women cut many trees. There is an agreement that certain kinds of trees should not be cut for firewood, but due to lack of electricity must cut trees for cooking. Conflict between men (prohibiting cutting) and women (who need to cut).

People say that white farmers had irrigation schemes, but that government is not supporting them to rehabilitate irrigation schemes, so they must wait for rain. People have some experience with agricultural cooperatives and no longer want to form that kind of relationship. Our lesson was that the way people perceive land as an asset is not uniform. Some want to use land in other ways than agriculture. Not all people in rural areas, especially young people, want to practice agriculture.

### 2.2 Respondent highlights

This case rests firmly within a framework of land redistribution to change power relations, to allow citizens to reassess former property regimes Paradox of these land reform transfers is they are made as private property to groups rather than individuals, leading to 'communal within private'. That is the setting we must evaluate.

This case, unfortunately, is not unique, but is a scenario that is played out repeatedly. A number of evaluations of CPAs and Trusts have been performed; LEAP had an intensive involvement in that process. All evaluations pointed to the irony of land passing into private property model and losing state support. Part of the equity project is to create a new class of farmers. Other problems arising from the privatization model are a lack of clarity about nature of rights and responsibilities. Whose rights? how do rights devolve? How are disputes between communal owners resolved? These sorts of situations lead to enormous uncertainty on level of administrative body and community, leading to paralysis and lack of service provision.

A general comment on this model of transfer: it has created isolated zones, move from Bantustans to an even less protected, more isolated situation. Another point is that land owners have reverted to traditional authority, ownership. Situation is that people revert towards that. That theme runs across all our papers. The general backdrop of the ineffectiveness of CPAs, unable to benefit from private property but subject to its dangers.

Would like more analysis on perceived lack of authority; on devolved powers, on tribal authorities, on their overlap with the Trusts. Is this an irregularity, or does it tell us something of broader import?

## 2.3    Discussion highlights
In the 1960s and 1970s black people were evicted and forced out of these farmlands into KwaZulu. Land reform allowed people to come back. People who return are linked but do not know each other. They agree to live under these structures, understanding that when land is transferred they will do their own thing. There is a resistance to government telling them to work together. People see themselves as ex-residents with rights to the land. This is important. People are not just rejecting working together, they are challenging the way government is conceiving of them and of rural areas

One tribe has decided to go to land reform farms and ask people if they want to join the tribe or not. Joining the tribe would involve certain rights and responsibilities, not joining would imply having no access to support from the tribe, but merely ignoring each other. There is a very volatile level of violence in these areas, the tribe works to quell factional irritations, you can not be protected if you are outside the tribe. The Trust and induna both allocating land does not work.

Residents appear to have rights to arable land and grazing land, and these rights are quite secure. This story is not about lack of clarity of rights, it is about competing institutions and overlapping jurisdictions for access to development. People play these off against each other.

We see the familiar process of newcomers being approved by neighbours, ratified by other systems of authority. People are moving to traditional, familiar systems of management, and of agriculture as well. If we analyze politics in that manner, it raises questions about CPAs: should they have been one option, rather than the only option?

We look at the complexities on the ground; and government often is a blunt instrument, it can not manage these complexities. We need analyses that help us understand the bureaucracy better and understand the people who influence outcomes.

One of the key issues is the capacity of the system to integrate newcomers. Another is the capacity of the system to make a shift from one type of land use and activities to another.

The government privatizing communal land by transferring the title is at the heart of communal land reform debate. Government is trying to absolve itself of providing the kind of (expensive) support it has provided in the past. You have to look at where the government is coming from and why it is using the old tribal authority structures – it is cost-saving.

# 3 Community based governance of wetlands: AWARD- Leap project

## 3.1 Presentation highlights

The key issue is wetland health and the proxy for this is wetland plant production. Our interest is the contribution to peoples' livelihoods. Decline in health of wetland = decline in livelihoods. We're looking at why its changing, and where the links are.

We focused on how local land administration/tenure systems work for three major uses – residential stands, fields, communal lands. On residential stands procedures and processes are very clear, with a strong role played by the traditional authority. For fields it is different: it is more fluid than residential stands, and traditional authorities play less of a role. In communal land, answers vary as to whose land that is: the inkosi's land, the community's, the government's. Rules around uses are known and described, but not enforced. Recently there is a new, high-value use of a brick factory. People are very unclear and often uncertain about e.g. where to go with their concerns around this brick factory. In addition, there are relatively new actors such as the municipality and developers.

Practitioners tend to prioritize things in simple cause/effect: 'Here is a problem; here is a solution'. However, in reality we live in complex environments with multiple drivers. The team presents a systems diagram as a tool to get the team talking and to interrogate the linkages. The narration of the boxes and the linkages is what is important.

One thing is deciding what to look at. We said to people is that we were looking at rights and responsibilities, authority and benefits. There are rights of access that users have, rights about decision making and rights to give usufruct to somebody else. Where do those rights derive from in Craigieburn? Access derives from membership. Membership derives from customary law (not statutory law). Our question was whether statutory law also gives people rights – what is its role?

Authority: when it comes to authority, there is the Traditional Authority (TA), there is the state (national, provincial and local government). The TA derive a lot of their authority from customary law, but also from statutory law. The TA and the state are actors who have authority to report on what is happening, to act on transgressions, to act as recourse, to adjudicate, and to administer. There is authority to monitor. Do authority and responsibility sit together? For ordinary citizens, there is a responsibility to abide by rules, responsibility to monitor, to report, but <u>not</u> to act on what is found.

Looking at some of the drivers to explain the behaviours, we asked what leads to compliance. People are not abiding by rules, they may be monitoring, but they're not reporting much. One reason for this people report as fear of witchcraft.

However, people have other responsibilities. When there is a conflict between them there is a responsibility to seek a negotiated outcome. One important driver is people's increasing need for cash. The high-value brick factory has brought in market forces.

## 3.2    Discussant highlights

The community is young – 30 years old – the rate of conversion of fields to houses has skyrocketed – 1000% in 10 years! In other parts of Africa, we have seen the same process, accompanied by modes of transfer such as rentals and sales. Why don't we see this here? Because this change is too recent? The stakes are not high enough? Is there a gender element? In Malawi, after 20 years, are we seeing management systems emerge. Here these systems may evolve quickly over the next 20-30 years.

The construction of *rights* is a term we use for legal purposes, but it is not necessarily one that people use – people use more flexible strategies of e.g. 'discussion'.

Questions for further research on these topics: dryland fields and wetland fields should be considered separately; explore the dynamic between cattle owners and croppers; Age dynamics should be explored.

Challenge the perception of 'commons' as an original form of land – we should treat these particular commons as 'unassigned' land, open to interpretation. Rather than seeing them as unclear, look for who is making what claims.

The TA administration will not tell people how their levies are used. What are the stakes, hidden benefits, kickbacks? Here power dynamics can be concretized.

Concerning the issues around witchcraft, it is important to be careful with terminology; witchcraft in English is negative; in Malawi, it is a way of assessing and moderating the actions of others. It is a delicate action, to do with morality; I would hesitate in trying to deal with it.

## 3.3    Discussion highlights

There is a problematizing of lack of clarity, and this analysis suggests that ambiguity is itself a problem; that if things were unambiguous they would function properly. However, part of the problem comes when official policy says we just need to sort out the rules and procedures. More processual accounts treat rules and regulations as contingent, subject to power plays and interpretation. Customary law is more clearly processual. This perspective can inform our suggestions for creating viable, effective local governance systems.

The brick factory is raising questions. How commercial developments are instituted, to whom benefits are secured. The devil is in the details.

What is customary law? Old codified versions of practices or the actual practice. What is statutory law? – when it brings in legislation that repeals older legislation? In the state, there is deep internal ambivalence as to what custom is. Levies is an example of complexity. There is contestation and people jockeying for position. People with specific agendas are manipulating this environment.

Many structures lay claim to having responsibility around natural resources, until there is a problem. Residents are confused about where those roles and responsibilities lie. Moving and shocking is that when the brick factory needed more land, they were digging up bones with a backhoe, and people were looking on, and said they had been paid R20 to give up their ancestral gravesites

Trying to understand the nature of the state and making a judgment about the state has come up. We have very different notions about the state: one is a rights-driven one, another is related to custom and negotiation. Is the state capable of a sophisticated way of managing process, or is it easier setting down clear procedures

The benefits in the systems diagram are structured around livelihoods and improving them. Noticing that markets are there, or not, forces us to engage with the important discourse of the day regarding how people can have access to the first economy. The assumption is often that for people to get out of poverty they need access to markets, to have the 'ability to pay'. There is a strong emphasis on incentivizing the private sector.

Looking at question of over time, different kinds of knowledge are acted out on one space. What are the continuities and discontinuities? What are the relationships between what happened in the past and what is happening now? The past does not completely go away. So how do we read the past in the present, in present policies, what is and is not invoked, how is the past reinvented, how we recognize new inventions from the past.


*The following two presentations did not write papers, and did not have discussants. Leap is not yet engaging in as many urban cases as it is rural case projects, and it was felt that these inputs would enrich the collective understanding, so we were not too rurally-biased in our thinking. The discussion came after both were presented.*


# 4      Hangklip – Hout Bay:DAG project

## 4.1      Presentation highlights
In 1956 the Group Areas Act resulted in fishing communities that were living in Hout Bay being moved into flats up on the side of the mountain (Hangklip)- all rentals, and mostly detached flats with some brick houses. First there was a spillover into backyards, then a large spillover into city-owned lands. It is a closed, socially-bounded community with strong social networks. These are 4th generation fishermen relying on the sea, now mostly 'poachers' collecting crayfish from the marine protected area. With an increase in poaching there is a decline in livelihoods and increase in vulnerability. People are starting to look at tourism and other options. The average income is R2,600 per month, so these are not poor, poor people – it is stratified, and some people are very wealthy. In 2006 the Hout Bay Civic Association approached the city to upgrade the settlement. Having first said it was impossible, they agreed to take it on. It took us until now to get a project plan approved.

DAG supported the election of a Project Steering Committee. There was lots of competition for power between political parties. We had about 400 people at the election of the committee and got good representation of both parties and various groupings in the committee. There is a high level of perceived security of tenure, people will say they own

the land although it is city-owned. People build with formal materials, and manage to overcome the technical challenges of living on a steep slope. The only city support is basic water and sanitation. 60% of households have their own toilets inside their home, there are high levels of self-provision. There is no direct correlation between income and incrementalism – it is linked to social networks.

There are very high densities of people – up to 3 families living in some flats. Plot sizes are very variable. Some people have 36 m sq; others have 200; this relates to length of stay and social connections, not size of family or income. One of the first things we did was update the register, linking household data to aerial photographs to get a geo-referenced dataset. We were seeing lots of sales transactions of bungalows. The city said 'no sales transactions'. The committee said that was inappropriate, there is a demand, and most buyers are from inside the community. What is purchased is joining the register. Once a bungalow is numbered it is numbered for good.

We have had discussions in workshops around registration of families where there are multiple households in one house. Tenants – there are large number of bungalows where the registered owner does not live in Hout Bay and rents out a bungalow. If you have not been living in Hout Bay, can you claim rights? If people own 2, 3, 4 bungalows, should you be forced to sell?

Regulations of extensions exist but can't be controlled by the committee.

Upcoming challenges:
- Facilitating an equitable, inclusive planning process, and ensuring people are not displaced by the market – given the gentrification of the area and increasing prices.
- Are there alternatives to individual title?
- Livelihoods – options around tourism, small business.
- Large number of female-headed households are dependent on fish factories, which are closing down. Protecting and rehabilitating natural environment. Freshwater springs, bordering park.
- Safety of children. Communal public-private open spaces. Question for DAG is what role can tenure play in enabling equitable, inclusive development

If we're successful in this will be the first *in situ* upgrade in Cape Town. We should think about upgrading much more seriously.

# 5    Cooperative Housing: Afesis Corplan

## 5.1    Presentation highlights

Afesis Corplan, based in East London, was one of the first organizations in the country to look at housing cooperatives – for some 8-9 yrs. Homeless people in need of housing come together and form a housing development cooperative. The number of people is about 1000. Whoever needs housing can join. This works on democratic principles of one person one vote. The job of the housing development cooperative is to look for and negotiate for funds for its members. All the time, people are joining.

When land becomes available, there is a two-tiered structure where the housing development corporation does not own the land but sets up property cooperatives, and 20-30 people are put in a block with common space in the middle with detached housing

around that. The outer boundary is registered in the deeds registry. Within the house people get allocated personal space, and can do what they want to upgrade/improve their unit. Housing units are allocated through a savings points systems. When people join the cooperative, while they're waiting for land to be found, they become members of a savings and credit cooperative, which administers their savings. Every month people save 30 R + get 1 point. There is a target they save towards – R2000 – that gets added to the government housing subsidy. A slightly larger structure gets built than the government subsidy alone would support.

When we started we were promoting a housing cooperative approach on the hypothesis of its benefits. The benefits lie in leveraging support from suppliers and the municipality, and getting a bigger house from the investment due to economies of scale. Also, we looked into the future and said, 'not only do we want to make these houses affordable for the people now, but we want to keep them affordable into the future'. The property owning cooperative set up is restricted equity – you can't sell shares to just anybody, it must be someone on the waiting list, and it must be at a certain price based on improvements you have made. Restrictions on property transfer keep this from being a market situation. This keeps the price down for people who are coming in from the waiting list. The question of inheritance is built into that as well.

We thought by cooperating you could create some kind of quality environment. Because you have control at the housing cooperative level you can prevent vandals from coming in, you can add play equipment and trees to common space. There is an argument you're taking responsibility away from the municipality, and so government is 'abandoning its responsibilities'. We have kept these blocks quite small and there are streets running around blocks and there is municipal space.

The sense of community: by working together you create a better sense of community. Because people have been involved in this process they get to know each other and create a sense of community.

There have been problems in allocation processes. The sense of community has not really developed. There have been conflictual situations surrounding who should be living in those houses. Cooperation does deepen democracy; a cooperative is a democratic institution; people experience how to negotiate, hold elections, etc. It is a method of deepening democracy.

In short, summary lessons are that the housing development cooperative idea has lots of potential. You could have a situation that you allocate down to individual house level, and perhaps that is what many people would want. Experiences are at an early stage, we need other lessons from other projects looking at restrictions on household shares. These cooperatives were registered as cooperatives from the start. Some of the legal requisites are burdensome for groups just starting off. Can these groups evolve from less formalized groups? Savings is a good starting point.

There are political risks – the intervention of provincial politicians in projects destroyed the sense of community. One member said 'the political leaders have made us powerless'. We have been saying that people's realities are complex and our responses must be sophisticated. The model of cooperation here was quite complex; while we might have a complex understanding the bureaucracy could not understand it.

Then there are social risks- cooperatives are complex institutions, with complex contractual arrangements, disputes with minorities and dissidents. Initially they were a smaller group with a high level of social cohesion as they won the battle to get land, but then hundreds of people came into the group and social cohesion was not there anymore.

## 5.2    Discussion highlights
In both projects the desire to prevent market displacement in the future is at odds with the intention of housing as an asset. Investment and the increase in value is meant to be a good thing, but operates sometimes in ways to exclude. If the challenge is to keeping housing affordable in the future, we could usefully discuss the questions of rules around that.

Hangberg: the issue demonstrated is how the intervention by the municipality gave formal recognition. There are letters, documentation. I was fascinated to hear the point about consolidation and people's extension of their houses. I was curious to hear how social relations feature in that.

Cooperatives are themselves a market agent. We use the word restrictions but one could also use the word conditions. They're making action in the market conditional upon certain things. Are people willing to act as a unit? You have to abide by the rules of the cooperative. In the US there are several housing options that are similar. The question seems to be- 'under what conditions are people ready to work as a group'. Sometimes people are willing to act as a group to access land, but are less willing to continue in the group when land is secured.

With the Homeless People's Federation we would often start out in conversation with government and would end up in a political standoff due to issues around authority. Once people owned property together they would assert an area of independent control against the state. Sometimes you had abuse of power in the communal property institution, people would come to government for recourse, and that would be what government was waiting for. The property system is caught up in this environment and is very vulnerable.

If there is a strong family basis to social organization, at the very least to look at ensuring that properties are not registered in one household member's name, but to look at securing the rights of different kinds of people in the household and have some kind of consent process built into regulations.

In talking about Hout Bay and the question of property, we must describe agents in the market, not just the market as an impersonal force. In SA, we can't see the state as something distinct from the market. Government policy is to do development through the market, we saw this also in Craigieburn with the brick factory. How do you separate the so-called state from the so-called market? We should look at entanglement of state, community, private sector. We can fit the market into the framework of authority if we disaggregate the 'force' into 'agents'.

This dynamic happens in most countries today. Maybe the specificity of SA is that the policy implemented in the post-apartheid era postponed this discussion about the role of the poor in the market. The long-term trend in most countries is that land prices are increasing faster than incomes. This was not the case in SA previously. Now you are entering into the common global trend.

Who benefits from increases in municipal revenue? Some people would argue that this increases revenue for redistribution. There is normally a fight between the Housing

MEC and the one responsible for economic development whether to give housing in prime locations to the poor or to increase the rates base. It is almost impossible for organizations catering to the poor to access property in areas where property values have increased.

The affordability of cooperatives is crucial. The SA Housing framework does not take the part of the poor, many institutional costs are associated with the set up of a cooperative. What are the operational costs of the cooperative? Are they affordable/sustainable in the long term? What income group is targeted? Are those costs affordable to that group? The income of beneficiaries is below R3500 officially, but most earn below 1500. It is targeted at the poor. We are getting more involved in the people's housing process side of things, which is more on the housing development side, not the property owning cooperative side. Operating costs are a concern: when it comes to the housing property-owning cooperative, it is still early days, but voluntarism will have to play an important role for people to collect money, attend meetings, keep books. There will not be enough money to pay people to do property management, for example, which again, raises questions. On the thing about bargaining as a group, that is the benefit of this cooperative model. You do not need a cooperative, though. Other groups like the Homeless People's Federation have been able to engage at the top level, and other groups could buy collectively.

Hangberg: A private developer lives above Hangklip, and wants to develop, but can't access the site unless a road is opened. There is a question whether to open a road because it makes that top parcel of land attractive to development. The developer has an alliance with a community member who has become an estate agent. Some people out of desperation will take up that R120,000 they'll be offered for their property. When people are involved in construction themselves, they are less likely to sell than had it been built by a contractor. One hopes that through processes of development people will be less willing to sell.

# 6 Bad buildings in inner city Johannesburg: CALS Leap partnership

## 6.1 Presentation highlights

We move our focus now to Gauteng, to Joburg's inner city. This case hinges on the attempted eviction of a category of people living in the inner city in 'bad buildings'. San Jose is one such building, its14 floors, 129 units, and in the register we recently made, has 408 residents. There are a lot more buildings like this. Of 35, 000 buildings in the inner city, 235 are 'bad buildings': <1%. Of 230,000 residents, 67000 are in bad buildings – 29%. The inner city is a favorable location for transportation, access to social services, and economic opportunities; and is thus contested terrain. The City of Joburg's inner city development strategy raises the central question: What place is there for the poor? The city's strategy is to refurbish the buildings and sell them. But people are living there, and CALS came in when the city attempted to evict them.

The official definition of a bad building is multi-faceted –essentially a bad building is worth less than the rates and services owed on it. Categorization of bad buildings is (1) sectional title arrangements where over a period of time original owners left, rented, management structures collapsed, (2) converted industrial space, (3) abandoned buildings.

There are no formal housing options for the poor in the inner city. The land management issue is interesting. The official land management system captured in the City bylaws surrounding health and safety is absent – San Jose has no services, no water, no sanitation – but it was that framework the city evoked in trying to evict people. People have accessed water in the street and carry it to their apartments. The house rules address 5 issues– one of them in particular demonstrates power and authority, is that everyone participate in clean-up on Sunday bringing out garbage stored in plastic bags that people buy from the committee. It is a demonstration of the authority of the committee. That was a trigger for us to get a better understanding of the different interest groups within this building, which is not really a community. On the first floor people do their own clean up, not subscribing the authority of the committee. People on other floors accuse the committee of not having authority over the non-participants.

What is happening now is that people are not going to be evicted without alternatives. The city has agreed to put in chemical toilets, fire hydrants, and regular collection of refuse as an interim measure. By mid-February of 2008, the people of San Jose will be relocated to a building or buildings in Hillbrow. The city is developing a policy of moving people to temporary dormitory-style buildings with shared facilities until permanent housing is found.

The new housing framework talks about matching supply and demand. The relationship between these two things has not been worked out, but one of our key findings is that most people living in these bad buildings have no formal housing options in the inner city because no option exists that is affordable given their incomes.

Who are the people in these buildings? Because this paper has come out of a legal process asking how policies will apply to particular categories, it has not had detailed information on the people in these buildings. When we filed answering affidavits, we went through the property and interviewed every single person. We have half-page life histories, snapshots of what a person's circumstances were. Problem is, that was 3 years ago, and there were 150 tenants. There are now 408 people in San Jose; the population has gone up fourfold. We can typologize the inhabitants of a group of four residential properties on Joel Street in Berea into four types: migrant laborers with homesteads in rural areas who come to the city to work; these generally work as security guards, cleaners, earn 1000-2000r / mo. Then there are urban couples with young families, too poor and without broader networks, who have nowhere else to live, who have moved out of crowded conditions in the townships or otherwise have nowhere else to live. Then there are groups of young women thrown out by families/boyfriends when they got pregnant. Also there are significant numbers of elderly people in their 50s-60s, domestic workers who were found a place to live by their employers, and stayed on.

## 6.2    Discussant highlights

This case shows how access to urban land is linked to the issue of housing. Most urban land is used for commercial purposes – urban housing units are used for livelihood activities and home-based businesses – so we're talking residence and also about livelihoods. Market forces are strong in urban areas, and increasingly are the main driver shaping growth in SA towns and cities. The market is not an entity 'out there'; there are agents set up to proactively drive these initiatives (the Jo'burg Property Co would be one example) – such as inner city regeneration programs, and social housing policy targeting

the middle class. Informal settlement relocation displaces the poor to low-value land on the urban periphery. There is a shift away from public rental housing and the subsidization of rentals to seeing those forms of tenure as cost-recoverable. Rental or communal ownership is seen as not for the poor but for lower middle class, which can pay the costs. The paradox of subsidized housing on the urban periphery is that subsidization comes through rates rebates, service charge rebates; the whole framework of subsidization of private property which is not there for rental housing.

This paper highlights the importance of location (location in urban housing is almost everything).

Non-state-recognized tenure arrangements exist in urban areas. Parallel, interlinked systems exist – state-recognized tenure practices and non-state-recognized practices coexist and interact with each other.

Institutions that have emerged in San Jose are different from the practices and institutions we looked at yesterday in rural areas: which emerged over many generations and are well-established; those in San Jose are based on a former Body Corporate.

Informality is seen by the state as a loss of state control and this leads to the use of pejorative terms: state therefore relocates people to urban periphery and sees this as a solution despite the impacts on people's networks, livelihoods. The concern of the poor is access to livelihoods; the concern of state is regulation.

There are questions as to what is affordable and what is not. The crude calculation of 30% of income on housing leads to question of what housing affordability is. It is crucial that poor not be excluded from inner city areas, because they have the right to live near economic opportunities. Private sector development will have to include a proportion of low-income housing; the risk is that that housing will be aimed at the low middle class rather than the poor. Looking at different models of housing, like rooming accommodation, shared services, cooperatives and housing associations might suggest solutions to the problem of housing costs.

It is important to understand where residence in San Jose fits into the history or life cycle of those families. Who are the people in inner city areas who want rental housing? It is unlikely that they are all migrants from rural areas, as the generalization often is.

It is fascinating trying to understand informal tenure arrangements in urban areas. Much work has been done on informal settlements, but little has been done on inner city areas, so this study fills a valuable gap.

## 6.3    Discussion highlights

Lets be picky around what constitutes a family in the urban setting – I am looking at networks, spatially linked, which could be rural-urban networks. If people are to be provided temporary accommodation, are they given it unit-for unit (a group that occupies a unit gets a unit)? What consideration is given of different household entities? How do we address gender challenges across different configurations of gendered disadvantages? Consider the position of a woman who is married or in a relationship, and then the position of a woman who has been abandoned by her spouse. Myriads of configurations spring up. How do we talk about, and engage with this, when it comes to access to housing?

Inner city buildings are located on land that has a high value, and are inhabited by people who have low incomes. Seen that way, there is no choice but to remove people and

relocate them. The question is how it is done. Few countries find a solution to this challenge. You cannot keep a poor population in the inner city without that being subsidized – but how long can government afford to provide subsidies? This is contradictory with market forces. The challenge may be to find areas near the city centre, acceptable alternatives.

It is a political question. What has been referred to as subsidies can also be referred to as social provision. We often dive into the level of the particular case, but we need to understand the larger context, and to talk about the politics of public policy, and the direction that public policy has taken in South Africa. Understand the political economy on which development decisions are taken. 'Bad buildings' are interesting because the market abandoned them and created opportunity for the poor. Maybe these are 'good buildings', if the value of the building is lower than the value of services. It is the ideology of market value that is the problem here. Why do not we identify it as such?

Market mechanisms are market forces... I agree it is a political question. But when it comes to politics, you can only provide solutions that look at the long term. We can provide subsidies, we can provide welfare solutions that are in contradiction with market forces. But the trend is movement of the poor from the city centre to the outskirts. The main question for me is finding options to ensure these people have reasonable access to economic opportunities. The drive now is to recover these properties that have been abandoned.

The drive to recover those buildings has been driven by the state itself. The state woke up one day and formulated a policy to take possession of bad buildings and made a political decision about what it would do with those buildings. It could have created a massive public housing programme; instead, it is formed an alliance with private housing developers and has given them the biggest golden handshake I have seen. It was not the market; it was the state's urge to divest itself of what it saw as a huge social problem. The market did not displace the poor; state displaced the poor on behalf of the market.

The current trajectory is that it will carry on doing that. The municipality encourages the private sector to refurbish buildings for incentives. The bizarre issue about it is that the private sector is not demanding incentives, the opportunities become clear, and in fact the state should be executing its role, but here it is trying to play this clever game with the market. The ladder metaphor of policy discourse does not begin to engage with the people that are not on the ladder. A large percent of Joburg's population are not even on that ladder. There is a failure of housing policy to engage with that demand.

There is a consensus amongst nearly everybody around housing prices in cities. Housing conditions of the poor are a symptom, not the cause. If you address the symptom you displace the problem and the symptom remains. In Rwanda there is a liberal land policy that will result in the eviction of 60% of the city population. We can not cope with poverty with subsidies; we need economic development. We live in a world where development is based on investment and investment is private. We must solve it now. We may nave negative consequences for the poor in the short term; let us protect people from the most adverse consequence in the short term, but let us encourage private investment. Rent control does not work very well; in many countries it had an adverse effect. The private sector in relation to housing is not all about land speculators or private developers. The private sector includes people who produce wealth. The question becomes how to redistribute this wealth to communities.

We need to look at the inner city has a whole: how people moved in, how they were left staying in those buildings, what caused the decay of the buildings. The blame is put on the tenants, but the government has let the inner city go since 1994. We have collapsed sectional title buildings, and buildings left by owners. Owners never maintained buildings but collected; when they realized buildings had gone down they left. The tenants can not move out because they call those places home. 95% of inner-city people are poor, but you can't see it, because they live 2-3 families in a unit. The reason people are there is that they were evicted from buildings and had nowhere to go, and had to move into those factories. We need to dig past the visible poor to discuss the invisible ones.

Since the political context is so important, one thing that is striking is when people talk about tenure forms and where to intervene, we have to look at interventions that assist the state to give up its responsibility. If there is this arrangement that is functionally secure, that upgrading initiative, does it not lead to this situation where everyone is looking to upgrade towards ownership, then the state says 'it is your responsibility'. If these buildings were owned by the state, it would be much more difficult for the state to evict people. What in the environment supports those people in their efforts to hang on. If its an ongoing contestation, we really have to look at contextual issues and how ownership is so symbolic.

# 7 Local innovation in securing land rights: Fingo Village and Rabula

## 7.1 Presentation highlights

Lilian Kate is regarded as the custodian of her family's property in Fingo Village. In terms of common law, her nephew Archibald inherits the property from Lilian's sister, in whose name title was registered. The family was relieved to find that property was still registered in the sister's name, as Archibald had suggested it had been transferred to him. The family's expectation was the Lilian would assume the custodian function upon her sister's death, and assume. Archibald who lives in Grahamstown realized his legal rights and served eviction notice on the family members, who are referred to as tenants. The family believes that Archibald intends to sell the property.

Two recent Constitutional Court judgments recognize the Constitution confers legal parity between common law and customary law and provides the potential for customary law to be recognized in cases such as this.

The case demonstrates a number of issues: most obviously, the cross-cutting tensions between three different legal constructs: common law, customary law, village norm. My research began as an investigation at an institutional level, but I was soon thrown into this world of family property and contestation over who should be the registered owner, and evictions affecting women and children abnormally.

There is a strong emphasis in South Africa on registration and deeds. We have other forms of protected rights, group rights, that reflect diversity – but all roads lead to the deeds registry office, a highly centralized system – one of the most sophisticated in the world. Through interviewing I discovered a new world of understanding property. In the two freehold areas I did my research, that were titled 150 years ago, I found not only differences between urban and rural contexts but also a common understanding of property. People in urban and rural contexts used the same words and ideas.

The historical issue is significant: Colonial governments picked up quickly that people were not updating registration but that titles were in an ancestor's name. This was happening at scale. There are old notices from the Surveyor General's office complaining about this through the 1920s. So a segregated system for registering black titles was developed. Black properties were removed from the registration system as if they did not have title (although title was still seen as valid and people could keep them up to date if they wanted). This system functioned smoothly, but now new forces are emerging that challenge it. In the historical view, they refer to this system as 'chaos'.

Of course, title confers the power to alienate the property. Families are sensitive to this and have developed protective mechanisms to minimize this risk. It is not through mortgaging that people are forced to sell, but through micro-lenders. The stories of eviction have been linked to a debt somewhere. There are questions as to why people are worried about putting tenants in their houses if they are not in possession of the house.

Some of the norms reveal that, contrary to fixedness that registration confers on ownership, systems in Fingo Village are organized around flexibility. There are boundaries, but people are regarded as having claims on property, and this is determined by membership in the family and also participation. People gain rights by participating in family events, contributing to family reproduction. Even if you live far away, you have to maintain links. Large rural plots of 1000 m squared have not been subdivided. The big properties are kept undivided because somebody in the family may make a claim to come and build. This is different from the idea of a single heir who may be anywhere in time and space coming to control of the property.

The norm that is developing is no longer gendered, and in fact is emphasizing female custodianship, as a protection against alienation of the property. The state wants to update titles in Title Adjustment Act; this had been done every generation before that due to other laws. People have to decide whose name they'll register property in. Many people say they'll register property in 'everyone's name'.

## 7.2    Discussant highlights

The historical perspective strikes me, and the capacity of the customary practice to survive changes – colonization, apartheid, post-apartheid. During each period, land administrative has been a key component of the governing policies (and still is). It shifts from social control to social relation. This paper demonstrates that tenure is a social relation and that political decisions have limited impact on social relations/ behaviours around access to land. The paper shows the limits of technical measures to correct the ambivalence of existing titles. This seems to be a hybrid form of ownership where customary forms continue to own a stake. What is interesting to me to bring to the paper is what is happening in other sub-Saharan African countries. In many countries there is a rigid answer that decides there is a single system, customary systems are excluded. On the other hand there are administrative practices that leave it up to communities' interpretation. SA answer suggests a sophisticated framework with appropriate legislation at local level with communities considered as juristic person – the question raised by this approach is the problem of enforcement. The other question raised is that of dispute/conflict resolution. Third question is, we can expect, jurisprudence will make the legal system more complicated over time, maybe until it is paralyzed.

Similarities between SA and other sub-Saharan African countries include the persistence of customary systems. Administrators frequently describe tenure as 'chaotic', and then try to remedy this 'chaos' through administrative procedures; it rarely works. In South Africa, the state plays an active role in land administrative, different from many other countries. There is a recognition of community rights, true in a limited number of countries. In SA the poor are better protected against forced evictions – role of NGOs, civil society organizations, legislation. This was a mystery for me when I first looked at your paper, is that people do not put emphasis on title as a protection. Where people want title it is where they want legal protection against eviction because they do not trust the government. It takes place where there is a high degree of commodification of land markets.

The question raised is how to deal with diversity in a sustainable way. Land administration practices characterized in the paper seems to be characteristic of a period of transition. What are the present trends? Your paper suggests trends around land markets, but what will come next. For how long is this system sustainable? The tenure system you describe is a tentative adaptation of customary practice to a new social, economic system marked by increasing demand for housing land, individualization of processes affecting communities, increasing social mobility. What works, what does not work, why?

A fascinating contradiction is that the paper suggests that communities adapt faster to change than government administration. Commodification of markets and increasing market pressures: there is a tension between social norms and legal power to transfer land. This generates tension in practice. How long will co-ownership survive market forces, pressure?

## 7.3     Discussion highlights

This is a very nice example of social embeddedness – this is a good demonstration of how property is a social relation. A comparative point: there is a pervasive basic model in thinking about social relations. The notion of ownership is an injustice to the complexity of the relationship. A trustee or a guardian excludes at a broader range, outside the family. The Bantu languages all have that same concept. That same basic concept underlies not only the family and the lineage but also the chief. The particular incumbent can flout that idea, but the chieftainships have respect because they embody this shape, this organization that is reproduced over generations and adapts and changes. This tendency for what is called private ownership becoming family ownership has been documented in West Africa. In Malawi many Malawians acquired estates; there are 10-50 ha estates that tend to revert within a generation to family property.

I am not sure this system could persist due to the commodification brought by land markets. There will be an attempt to formalize this system. When compared to West African countries, Fingo Village sounds a bit idealistic. It is an ideal view of how could or should the customary system work in a modern society, when compared to systems in West Africa where land is allocated and managed by a chief. It is a messy system; the same plot is sometimes allocated four times to four different persons. I am so surprised that so many people are so attached to tradition in dealing with land.

All systems of claims are exclusionary. This one is exclusionary. Families are redefined over time so that not everyone that was ever born is a member of the family. This internal mechanism of exclusion is more inclusionary than individual title.

The question raised is a challenge about complexity, diversity, and their long-term sustainability when commodification is under way. Attempts to avoid complexity by adopting 'simple', certain systems of registration such as individual title have not produced clarification, because the underlying systems of social relation arise and emerge. The complexity arises from the disjunctures between social practice and legal framework. These are locally specific and very diverse. Is there another response to this that makes sense? It might not be a system of titling but to create an alternative legal framework. If you try to codify custom and write rules to apply across a national territory you're likely to run into the same disjuncture between practice and rules, which leads to the option of protecting tenure under diverse systems, within which people have resources to plead to tribunals if they have to. Legal and institutional frameworks that allow for flexibility without trying to identify rights in terms of their formal content. We need to find a legal framework that recognizes family rights, which is not easy to do in a Western legal framework. That is the cutting edge.

I needed to share an example. In Alexandra, one of the other old freehold townships, in restitution issues came out about properties that were bought by families. Initially, there was pooling of resources among siblings to help each other purchase properties. 1994 restitution law states people can reclaim only if they are the direct descendent of the dispossessed. Nephews and nieces know their parents were involved in purchasing the property, but the law does not allow them to claim restitution.

The property is seen not as an asset but as a base for livelihood development with various generations on the same property. How many forms of documents will be needed to support this system? Death, marriage, birth certificates... That may be easy in Fingo Village but is not as easy elsewhere in places with less access. I see this as a problem in reference to the HIV-AIDS pandemic. In some places there will not be any documentation to back up people's claims in family disputes over property.

I think the fundamental tension is whether the system is durable or whether it is going to crack, and that seems to be the main question that is been posed. I can't easily see an answer to it. If left on its own, there is vociferous support at present for formalization. The irony of the apartheid state was protective mechanisms imposed by keeping things out of the mainstream, some of them mirroring customary mechanisms. With the removal of those protections, forced integration is a very powerful force. There is an attempt by the state to assert formalization. But it might just not have the capacity at all, in which case this stuff will continue churning in the background. Those who want private property can do so, but they do so at the risk of huge family disputes. There is some market penetration in Fingo Village, the number of properties that have gone through formal conveyancing. If LEAP and people like us were to play a role we can make these things visible, because the apartheid period made all these things invisible. Whenever I get an opportunity I speak to conveyancers, surveyors, professional people in government to make them aware of these systems. With a strong lobby I think it would be possible to get legal recognition for this phenomenon. When I began this research I was convinced that systems must be integrated. At the same time I do not like to stress difference. That is why I try to go through integration approach. There are limits to Western law and South Africa's particular title and registration system. Even some European systems would be more flexible than ours. This Roman Dutch system is a hard nut to crack. This is why the professionals protect it so much, because they say it is the best in the world.

The other issue raised now that has not come up is the issue of the professional and the technical side as actors in this – that whole systems that backs up, it is not just the state, it is the surveyors and conveyancers, it is part of a huge investment that makes the system work. Those actors have a role to play as stakeholders. Another system does not have that kind of certainty, and they are not comfortable with that.

The question that comes to me is where we start to define rural and urban. KwaZulu-Natal has a lot of these cows that wander in and out of rural areas. When we started this research we went to chiefs. When do you say this is where your tribal authority ends around a town? How do you start looking at this? The amakhosi said as soon as it was declared a township it is taken away from me, but as long as it is not declared a township, it is ours. Tribal authorities stay until a township manager is put in place by the state. Tribal authorities also have these conversations about the role of guardianship.

I think it is quite important, we're dealing with this kind of overlap, overlay. There were different grids placed on a single piece of land showing different claims on the same piece of land. First of all we have got wall-to-wall local authorities that cover the whole country. Then you have customary authorities that have certain, varying jurisdictions. You have both urban and rural in the same place, depending on what applies.

I am wondering what value there is in trying to compare some of the cases we have here. One of the important things is this issue of family systems of property. How do those things change? Is it related to location? Is it a rural or urban thing? Is it related to demand? Does demand put pressure on family systems? ... If you have identified exclusion, were there vulnerable groups in the way the family system of property was operating? What about exclusions? What happened to the son who thought he might inherit? What we have is a functional system – but what would cause it to collapse? One thing that is quite interesting is how the idea of sale operates differently. There is a social norm which some people seem to buy into against sale due to the meaning of land. In urban places we find lots of evidence of property changing hands. The question we are not asking in urban transactions, is, if property is changing hands, who is it changing hands amongst? If it is changing hands among family members, it is very different from another sort of transaction. Does commodification necessarily introduce individualization and privatization?

Another actor is the theoretical and analytical premises of property. Systems that do not conform to a particular vision were seen as chaotic, disorderly, in need of organizations. Are there other ways of thinking about these models? Fuzzy rights, which are family systems, are called fuzzy because they are multiple and overlapping. They are trying to re-envision links between the individual and the family, etc. There are others out there trying to find models, e.g. in Eastern Europe, and they might be more appropriate than the models you're looking at.

Maybe in a naive way when we started with the housing cooperative concept, we were looking at it from a cascading decision-making point of view, where you have the city deciding where to locate a new development, housing development cooperative deciding where to locate clinics schools, at a block level, housing cooperative deciding what type of houses to build how, etc. At household level, households would decide what colour to paint, etc. At different spatial scales you have different institutions making decisions. This concept of family ownership brings in another level. You have the housing cooperative which goes straight down to the head of household. There was not an

institution of the household in the conceptualization. That insight is useful to the discussion.

This debate comes from our different understanding of the base of social change going on in rural and urban areas. We have been confronted with an unprecedented rate of individualization, not only in cities but in rural areas. Another misunderstanding is our perception of the rural-urban divide, which is not simply a matter of spatial division. When we try and anticipate the future situation, the only guide we have is history. Can we anticipate the customary land management system will survive the continuation of the changes of the past ten years? I can't imagine that people in Fingo Village will persist in co-ownership twenty years from now. We are in a period of accelerated social change and this will impact on community land rights and the rights approach.

# 8      Community Based Planning in Gongolo: AFRA

## 8.1      Presentation highlights

The Gongolo community is just outside Estcourt in KZN. People live on 16 farms that used to be commercial agricultural farms. People have divided themselves into 7 wards they call isigodi. The farms cross two district municipalities and fall across two tribal authorities, so how they identify themselves as a community is by these wards, not so much by the other divisions. If you ask them who forms part of the Gongolo community, they'll tell you it is the residents of these seven wards.

Residents of these wards are labour tenants who have been working on commercial farms. There are also 'new people' who have lived there 10-20 years. Beyond that, they say people in the wards are community members but also point to abandoned households of people still seen as part of the community. Those people have lodged a restitution claim. In some wards, some of these people have returned; others have not. People were put together into this grouping by a land reform bureaucratic decision.

There is an outbreak of conservation areas in KwaZulu-Natal. The owners of the 16 farms have decided to establish a game reserve, and to relocate the people. The farmers' group did a feasibility study which said that there was little agricultural activity in the area and that the game reserve would bring employment to the area. The people say they have rights on the land; they have lodged restitution and labour tenant claims with DLA, DoA.

Local residents want their right to the land established before any economic venture proceeds. Labour tenants and restitution claimants joined in a committee, which said it wanted to make a plan describing how they use the land for their livelihoods. That is how the idea of community-based planning began. We held workshops using a ward-by-ward approach, describing current land use, control of access, membership in the group, and authority structures. Across the wards the situations are similar though they differ in some details.

Most areas people pointed being for agricultural activities are areas that people were restricted from using by farmers – people continue not to use this land. Natural resources: women in particular use grass, wood, incema, sell them at pension payout points. People depend on pension and child support grants. There is great dependency on cash – people, largely, do not produce for home use, even by keeping a garden.

On some farms there are still white farmers or managers there, who had the power to allocate plots. Now things are changing -where owners have left, izinduna are taking on role of land allocation. This role is not accepted by all community members. There is self-allocation by community members, since there is no leader. One of the elders would say he has authority as the oldest. There are different authority structures are in place. There are two traditional authorities and there is a municipal councillor. People are hesitant to speak freely in meetings, but have decided to ally with a certain chief because he has helped people access things like boreholes. Apart from this there are individuals who take on authority based on involvement, for example, with DLA officials

The residents' community accepts that restitution claimants will return, but it is not clear how this will happen, since the quantity of land is limited, and they aspire to have 'as many livestock as possible'. The question is how to accommodate the claimants, given also that families have expanded.

There are issues between the DLA and the RLCC. They rarely hold meetings and update claimants, rarely discuss strategy themselves. The game reserve is an attractive thing to the municipality and people do not know whether meetings are being held behind their backs.

Some farm titles have been transferred, but no one knows who the trustees are. Properties have been vandalized since transfer last year but are not being used. It goes to show the lack of cooperation between the department and the communities.

## 8.2    Discussant highlights

This is a very difficult situation, and good luck. The document presented is more of a planning document than a research document. There is some key detail lacking in the paper, which AFRA may have. I would suggest that launching into a community planning process in the midst of such uncertainty may be premature and may cause problems. This offers an opportunity to try out a matrix in mapping the complexity in Gongolo.

Before we get to issues of claims and rights, there is a question who we're talking about: the labour tenants, the land claimants, and the land owners, as the key actors who have access or are seeking access to the land. Perhaps more detail is needed. The labour tenants are differentiated according to which *isigodi* they belong to. You also see some newcomers coming in. Then there are land claimants, some of whom are resident in rural areas, and some in urban areas. There is a disparity in numbers: some 100 families are resident and over 1000 families are claiming. Age is a key issue: youth and their interest in land. There will also be issues of gender and power. Describing current complexities before launching into a community planning process would be well-advised. The community is not a natural unit; it is being constructed in the process, and may fall apart along any of these lines of difference. Some landowners are present; some are absentees; they are united in trying to create the Gongolo Wildlife Reserve. Indunas from a different isigodi are playing a role; the paper also describes an individual allocating land; there is potential conflict. I have tried to map potential tensions and strains within the matrix. Between the claimant and the labour tenants the tension is well-described, which is making the construction of unified interests of the community problematic.

Another key player is the municipality, which should provide services. There are other institutional actors: DLA, RLCC. It is unclear what the attitude of DLA, RLCC is to the resolution of the labour tenant claims. AFRA is mediating tension between groups in the construction of a unified interest.

There is a process of trying to convert access to property to authority. There is this dynamic of the political party and the municipality. Perhaps these are about service provision, but perhaps they are about party politics. There is contestation of the different visions and versions of development here, which informs AFRA's effort to come up with a community plan. Whether you can proceed very far with that without sorting out some of these other tensions, I do not know.

My comment on the paper is that there is much more complexity here, I think, that maybe AFRA recognizes. You need to understand these complexities and these dynamics before going on as an actor.

## 8.3 Discussion highlights

Land use changes: when people opt for going the Gongolo Wildlife Refuge route, or if they choose to go the brick factory route, or to pursue other development options that are not available at this point – how do we deal with changes to the system? What do we say about those land use changes?

I do not actually like the language of land use because it is really technocratic and is code for a production system or business opportunity. Changing land use is a disguised way of saying that. If we are talking about constructing a wildlife reserve or putting up a brick factory, or, as mentioned, that people grow dagga on these farms, the question is, once again, whose interests are driving this land use change or the 'planning process'? Who is able to get what out of it? The state has a system to regulate land use change or natural resource use or establishment of business. As we saw in the brickworks case the regulation process is deeply flawed. And it is supposed to protect society. Regulation is always political. What kinds of influence are they using? I would rather see all these

through a political economy lens rather than a technocratic or rights-based lens, which are confusing to us.

I am interested in the farmers, because we have not heard anything about the farmers. There is a new discourse about environmental use of land all over Africa. To what extent are global environmental organizations like WWF or more localized ones involved in how this land is being used? They may not have direct material reasons, but they do promote a vision of a way land should be used.

There is an important set of issues that arise from what we are talking about, and that is that we need to start looking at the instruments of government. Many things in law or the processes around law that are sometimes ignored but can be useful when you start analysing where the gaps are and where people are in trouble. Often we are looking at a demand side because we are looking at needs. It would be useful to get a handle on supply, then we can do demand-driven supply negotiation.

Generally when we hear farmers talking about game farms it is as a back-up plan. The motivation is not biodiversity threats or most beneficial economic land use but is a way of keeping them safe from the blacks. This is the reason white farmers use among themselves to justify having a game farm. Behind the game reserves they carry on agricultural activities. But they feel protected by having this buffer of wildlife between them and black settlements. Generally the Commission will look at something like this is, they just want to settle as many claims as possible, they do not want to look at the sustainability of the plans.

Weenan is notorious for having game reserves starting in 1994 developed by white farmers to keep blacks out. They would put a fence around it and pay a security company to patrol, would have a legitimate reason to have people patrolling in 4x4s with guns. However, land reform has moved in. In this case farmers each sold their farm to the Gongolo Biosphere Reserve, which would then negotiate the future of the land. The Commission took this to court. Farmers say this land is a game reserve and therefore is worth R5000 (not R300) a hectare – despite the lack of any infrastructure. The underlying things with game reserve, it is not a environmental reserve, it is a hunting reserve, with a golf course, etc. It is a business so farmers can negotiate in a bloc with the Commission. Maybe that context will give us a better idea of what is happening.

We found that the LCC people, you get 1-10% people who want to return to the land. The rest prefer to stay in city and get a cash payout. Since Commission will not pay cash on rural claims, these people may side with the game reserve, which would give them an income.

Rauri and I were driving across this area and were discussing what an optimal production system would be on this land. The labour tenants scattered across the farm, some of them growing dagga. The land can't support 1000 more animals. Let them go on doing what they are doing. Just expropriate these farms at their current value and let them stay there.

As AFRA, the planning brings us to new ground. It is very complex and is work in progress, we are learning as we go. As pointed out, there are many complex tensions. As we see it, resolving those issues is part of a planning process. Really getting into order among themselves who the claimants are, what their rights are. It is confusing, because there are many unknown things – we do not know what government's time frames are. The committee themselves are realizing it is not that simple. The decision to unite as

restitution claimants and labour tenants as one committee is not simple. They do not agree on some issues. It is how, practically, these two groups can unite and create a vision representing a community and defining what that community is. We must acknowledge these things and work through them as we go along.

Looking across projects, I am struck by a need to look at this idea of the stakes and how high the stakes are. One thing is around the demand for land. In the inner city the demand is monstrous. Here, too, the demand compared to what is available is high. But this leads to another question about the stakes: what opportunities are there for action research? The mode of action research varies across the projects, and it would be good to think about this in detail. It is not just about how well-resourced projects are, but it is about what is going on in the projects. In Muden and Gongolo, there are restitution claims; in Johannesburg, there was an eviction; that means that you're already in advocacy mode, even before you do research.

It is an issue that we talk about and maybe need to talk about in a more strategic way, how much action research before action or advocacy? Often, we are trying to get all our ducks in a row, to try and understand, to look at key gaps, then someone else goes and builds a brick factory while we are sitting around.

You can't leave tourism out –it is linked to strategies people use to sustain their livelihoods. People do not even grow food around their homes. There is something there that allows people not even to farm a home garden. An attitude we see in Bushbuckridge is 'never stick your head out, because you'll get it chopped off'. Never appear to do better than others.

About people not doing gardening, I can't tell you why, but not a lot of people do farming, they have to go to Estcourt to buy cabbage. What they do is cultivate dagga, which gives them a bit of income, though they do not like to say that. It is convenient for them to say they do not garden because they do not have water, but it is a question of what will bring an income and income is brought by dagga more than vegetables

We tend to want to study communities we live with, but when you're engaging with a complex terrain, it is good to understand who the other actors are. AFRA needs to engage with the municipality, DLA – we also need to know more about these owners. White farmers in SA are completely unresearched. We need to know about them to 'know thy enemy'. Many labour tenant farms were farms where farmers did not farm but tenants were left there as a supply of labour for their other farms. How can we describe them without knowing about their land ownership? With the brick factory, who is really benefiting. This is what I mean by understanding the interests.

I do not know how much more savvy the Joburg Municipality is than a traditional leader. We have done three research projects with them and have sued them three times, and still they want to engage with us in research. Either they are really dumb, or through these interactions, CALS gains credibility as an actor. The municipality is not a monolithic entity; there are progressives and conservatives and you can make alliances with certain actors within an institution; it does not necessarily have to burn you; it just depends on how you do it. Part of being able to engage successfully depends on being seen as a serious research institution, not just somebody out to get headlines.

It looks like there is a point of commonality around the research we are doing. Do we need to describe the role-players we are dealing with before engaging in action? Categorizing of the various agents... How do we resist the temptation to vilify one or

another character? Is it possible to stand away from that before taking action? Where does an organization stand in reference to a complex environment of players. It defines your further role in the engagement, because you're frozen in alliance with certain role-players. It defines the nature of the research you're doing. How do you face that kind of identity issue we have to confront?

For the past 15 years there have been constant discussions on the role of NGOs. Obviously, we are choosing sides in a sense. So much is written about the role of NGOs. What is important is that in this context, for me what value LEAP adds in relation to our partners and other NGOs is two things: it makes the argument that you have got to be quite rigorous about information gathering, what kind of information you're gathering, how you understand that. It is not necessarily academic, but there is a demand for some kind of rigor in what we are doing. If we are doing that with sufficient rigor, why are we doing that? Is it to improve our understanding of intervention? To intervene in a way that expands the kind of service and support we can provide. That is the difference. Otherwise, CALS could go ahead and go through a number of court cases. They felt there was a need for people who would add value around the developmental aspects

Do you see yourselves as social reformers? Facilitators? When you take decisions that have policy dimensions you are making value judgments. The role of research in action is to identify mechanisms so that you can say, 'if you make this decision, you are likely to have this kind of consequence'. But if you look at the decisions that are going to be made you must be selective; you can't be neutral.