

Political-economy of land governance in a democratic South Africa

Private interests vis-à-vis rural communities in tribal settlements

M A Mamabolo

University of Limpopo
South Africa

J P Tsheola

University of Limpopo
South Africa

ABSTRACT

Under the nuance environment of a shift from government to governance, the liberationist-democratic dispensation together with the constitutional guarantees of property ownership meant that multiple actors, inclusive of private commercial interests, would partake in the land reform processes. As a result, large tracks of land that previously produced crops for food were turned into nature reserves in order to escape the anticipated reforms as part of the protected areas under the United Nations conventions, thereby undermining the possibility of rural communities in tribal settlements accessing productive arable lands. In essence, there is evidence that the construct of governance under South Africa's democratic experimentation is steeply infused with the virtues of private rather than public ownership as well as contestations of efficacy at the expense of public good of formerly disadvantaged tribal settlement communities. To that extent, the dearth of governance of communal land is central to the lapse of its productivity relative to that contracted to private commercial interests. This article corroborates the notion that the broader political-economy of governance is inherently biased against poor communities at the local scale of rural tribal settlements. The states experimenting with democratic dispensation, following years of colonialism and apartheid such as South Africa, have inevitably appeared to collude in establishing liberal constitutional and institutional frameworks that favour the private interests at the expense of the general citizenry. This article argues, instead, that a democratic South Africa's



land reform institutional frameworks together with the liberationist constitutional governance have accentuated, let alone papering over, the longstanding political-economy inequities that were founded of racial spatialisation.

INTRODUCTION

Post-apartheid South Africa has unsuccessfully fiddled with land reform, through the tenure, redistribution and restitution aspects, that has caused serious discontent among the poor African rural communities (Bennett 2013; Sebola & Tsheola 2014; Khoza 2016), which are simultaneously confronted with apparently conflictual governance systems of the modern and traditional systems. Democratisation has meant that communities that were subjected to tribal authorities under apartheid were now expected to participate in liberationist democratic processes of governance (Bennett 2013). Whereas the right to property ownership, inclusive of land, is enshrined in section 25 of the *Constitution of the Republic of South Africa*, 1996 (RSA 1996a; du Plessis 2011; Keke 2011; Claassens 2014; Loate 2014), governance thereof in rural settlements became protracted largely due to the existing tribal authority ownership structures. Thus, the escalation in illegal occupation of land across South Africa strengthened popular perceptions the state may ultimately be coerced to emulate the Zimbabwean land policy wherein land grabbing of productive farms without compensation was legitimised (Allison 2012; Moyo 2015).

Under the nuance environment of a shift from government to governance, the liberationist-democratic dispensation together with the constitutional guarantees of property ownership meant that multiple actors, inclusive of private commercial interests, would partake in the land reform processes. As a result, large tracks of land that previously produced crops for food were turned into nature reserves in order to escape the anticipated reforms as part of the protected areas under the United Nations conventions. In essence, there is evidence that the construct of governance under South Africa's democratic experimentation is steeply infused with the virtues of private rather than public ownership as well as contestations of efficacy at the expense of social good of formerly disadvantaged tribal settlement communities. To that extent, the dearth of governance of communal land is central to the lapse of its productivity relative to that contracted to private commercial interests. This article corroborates the notion that the broader political-economy of governance is inherently biased against poor communities at the local scale of rural tribal settlements. The states experimenting with democratic dispensation, following years of colonialism and apartheid such as South Africa, have inevitably appeared to collude in establishing constitutional and institutional frameworks that favour the private interests at the expense of the citizenry.

Whereas the willing-buyer, willing-seller compensated for the former land owners (Lahiff 2007, 2009), governance of communal lands through Community Property Association (CPA) was itself alien, leading to confusion that saw the state calling for the return of the processed land by 2006 (Sebola & Tsheola 2014; RSA 2015). In general, communal lands appear to be marginal whilst that under private commercial interests remained highly productive (Khoza 2016). This reality could conveniently be interpreted in a politically-uninformed way that

would impute an association of race with economic efficacies. Moreover, rural communities who own land have uniformly left it lying fallow or leased it to private commercial interests (Lahiff 2007, 2009; Khoza 2016). This article argues, instead, that a democratic South Africa's land reform institutional frameworks together with the liberationist constitutional governance have merely papered over the longstanding political-economy inequities that were founded of racial spatialisation.

RACIAL SPATIALISATION AND THE POLITICAL-ECONOMY OF GOVERNANCE

South Africa is a deeply divided society, hence violence and crime are unleashed among the population itself. The divisions in South Africa have been configured through spatiality wherein blacks were generally confined to reserves, where land is of marginal productivity. That limiting spatial racialisation allowed for large tracks of commercial lands being placed in the control of the minority population of exclusively whites. This landscape template of exclusionism came to be intricately correlated with infrastructure resources and services. As a result, the current governance challenges in communal lands is intricately intertwined with the limitations in infrastructure resources and services. Four themes have been predominant in the conception of the African Renaissance, and they are: emancipation of suppressed or disadvantaged groups in society (for example, women, minorities and youth); a reaffirmation and increased inter-exchange of African cultures; sustainable economic development; and, broadening, deepening and sustenance of democracy (Vale & Maseko 1998; Van Amerom & Buscher 2005). The fifth relates to regional cooperation and it is interlinked with African Renaissance roots in pan-Africanism. Governance of land reform for empowerment of rural communities in South Africa, which is devoid of the pan-Africanist roots, would inevitably fail, given the depth of tradition in tribal settlements. It is this context that should provide a template for the analyses of the predicament in which the colonially-created and apartheid-sustained racially exclusionary landscape and political-economy is tacitly sustained through the constitutional and institutional frameworks as well as the informal processes of governance under South Africa's liberationist-democratic experimentation that has virtually side-lined the tribal settlement traditions, value systems, virtues and beliefs. The dearth of modernised infrastructure resources and services in rural areas conclusively demonstrate that the political-economy of exclusionism, which is biased against the rural communities in respect of land reform, is inextricably frozen and hardened.

Africa's modernisation challenges are eloquently captured by Frans Pienaar, Chairperson of the Inyatsi Construction Group Holdings, who mourns the decline in infrastructure development as well as the substandard quality of products (cited in Wilkinson 2016). The rush towards modernisation has been ubiquitous and, to some extent, inevitable for developing countries under the process of globalisation (Emirullah & Ezam 2014; Tshombe & Molokwane 2016). There is universal acceptance that infrastructure improvements are fundamental to the enhancement of societal development prospects (Croucamp & Malan 2016; Wilkinson 2016). As Pienaar points out, reliance on outdated modes of governance is blamed for stalling delivery of modernised infrastructure for development (James, Wilkinson & Mavuso 2016; Wilkinson 2016). However, the dearth of governance of pertinent



infrastructure development has meant that the majority of developing countries, especially in Africa, have remained in a vicious cycle of planning devoid of attendant implementation (James *et al.* 2016; Wilkinson 2016). Accordingly, Pienaar points to “a lack of capacity in government and professional structures tasked to implement infrastructure projects ... (as) one of the main challenges facing the construction industry in Africa” (cited in Wilkinson 2016: 53) and, by direct implication, modernisation and development. South Africa too has continued to encounter such challenges.

The hegemonic mode of modernisation and development involves connectivity through globalisation, which can be simultaneously exploitative and productive. Connectivity refers to the ability to access the national electricity grid, transport, information and/or social network as required (James 2016). To this extent, connectivity is fundamental to the national capacity to plan, establish and govern modernised infrastructure for development. Hence, according to the sales director of Ruckus Wireless Sub-Saharan Africa, Riaan Graham, “connectivity will play an integral role in infrastructure and socioeconomic development” (cited in James 2016:50). For example, Wi-Fi is “fundamental to infrastructure development” because it enables connectivity (Graham cited in James 2016:50); and, access to such facilities is intrinsically associated with the pre-existing spatial inequalities, thereby allowing for the sustenance, if not extension, of the societal disparities. For this reason, pursuit of governance informality of the party-state-society interactionism enforces apartheid legacies under the current liberationist democratic experimentation in South Africa.

Indeed, improved infrastructure “such as Internet cafes, connected libraries and electrified households” to recharge mobile devices is central to modernised planning and governance (cited in James 2016:50). The majority of the population in South Africa, especially those in rural settlement where fixed-line connectivity is virtually absent have relied on mobile devices. However, it is also true that Wi-Fi coverage in South Africa is not necessarily pervasive, inclusive of the urban areas and townships where the majority of users of mobile devices reside (James 2016). Furthermore, South Africa has not invested in efforts to provide pervasive Wi-Fi coverage, amidst the known high limiting costs of broadband solutions (James 2016). It will most certainly take long-term planning to incorporate Wi-Fi solutions into rural construction plans; in fact, it should be difficult to foresee such planning taking shape because of the depth and severity of poverty in rural settlements. South Africa’s rural populations are preoccupied with the pressing requirement to earn a living, rather than being concerned with connectivity or the absence thereof. It can therefore be envisaged that the connectivity of urban informal, rural and township settlements in South Africa, which are home to the largest majority of the population, would not have connectivity access to either the costly broadband solutions or Wi-Fi coverage in the foreseeable future. Even where state intervention could introduce Wi-Fi coverage, there would remain protracted problems of device “compatibility with the building design and aesthetics”, load density, signal strength and coverage adequacy (Graham cited in James 2016:50). Additionally, there are significant environmental hostilities that may imperil communication devices and compromise network performance (James 2016). Thus, inappropriately planned implementation of infrastructure plans would not be realistic for rural and urban informal settlements as well as for most townships. Even where the connectivity is manually improved, household environments would remain a limiting factor for societal modernisation and development. Furthermore, the hope to create an oasis of modernised infrastructure would not transform societal culture

in respect of governance which is largely informal and subservient to the governing party and state patronage. It would be virtually unrealistic to expect rural and urban informal settlements as well as townships to afford the necessary site inspections required for designing adequate access points and blanket carrier-grade coverage (James 2016).

In this way, rural communities in South Africa are tacitly excluded from the processes of modernisation and development, implying that when they access land, they are already locked into a subsistence, rather than commercial, mode of farming. Collectively, common prosperity and social harmony constitute another fundamental attribute of governance, which is peaceful development. The latter is an “inevitable prerequisite” (Jinping 2014:14) of progressive governance itself because it infuses activism among the citizenry on civic affairs through, among other things, openness, transparency, cooperation, commonality of interest and shared progress. In leadership, therefore, a governing party has to create these conditions in order that society may experience happiness, stability, legality, order and peaceful life. An environment that consists of these prerequisites is decisive in providing enablers for performance of “productive forces and relations of production, the economic base and superstructure” (Jinping 2014:15) as well as peaceable party, state and society triad interactionism. A society in such conditions would be characterised by innovation and creation of knowledge, rather than inaccurate emulation and corruption. Such a society would have ensured that the modernisation project and state capitalism are steeply characterised by (South) Africanism and *Ubuntu* philosophy, hence this article invokes the notion of African Renaissance and pan-Africanism. Watson (2009:151) stresses the “dangers of ... inappropriate ‘borrowing’ of ideas across contexts”. Linked to inaccurate emulation is the observation that “Capacity to deliver is also dependent on a reasonably functioning economy and a sufficient flow of resources to implementing bodies” (Watson 2009:189). As a result, the subtext that public-private partnership (PPPs) presents a panacea for resources mobilisation and implementation of infrastructure plans has gained currency. The reverence for PPPs in a democratic South Africa presents extraordinary challenges for governance of rural communal lands because of the contradictory nature of motives underlying the private and public interests.

Governance entails interplay of institutions and actors in decision-making; and, local institutions are designed to provide for “more effective decision-making in the management of and access” (Thondhlana, Shackleton & Blynnaut 2015:121) to infrastructure resources and services. That is, governance equally involves mediation of “participation in decision-making, information dissemination, transparency, trust and accountability, power relations, divergent interests and unequal access” to resources (Thondhlana *et al.* 2015:121). In crafting governance institutions, it is important to ensure inclusivity of multiple actors and local institutions that allow for public participation in decision-making as well as access to infrastructure and resources. Local institutions need to be effective in encouraging participatory public discourses that ensure “transparency, legitimacy, social justice, building trust and distributing costs and risks more equitably among actors” for democratic governance (Mwakaje *et al.* 2013 cited in Thondhlana *et al.* 2015:121). Tribal settlements in South Africa consists of communities that are steeped with tradition and respect of traditional authority as subjects; and, the expectation that they could already participate in Western-grown democratic institutions implied that they could shed their culture, tradition, virtues, values and institutions overnight.

Thondhlana *et al.* (2015:128) conclude that whereas institutional landscapes for governance are themselves complex with unequal power relations, the degree of their complexity is exacerbated by *the diversity of actors* with different and, sometimes, divergent and contradictory, interests. In case of settlements that promote the “principles of inclusivity, fairness and participation decisions, local institutions are more often than not restrictive and do not promote participation of all actors” (Thondhlana *et al.* 2015:128). It is in this context that the subject of governance is so topical during 2016 when South Africa conducts its local government elections. Whereas notions of elections may give an appearance of equality and credence to democratic constitutionalism, the party that controls the state continues to command “more power than the local community actors” (Davies & White 2012 cited in Thondhlana *et al.* 2015:128) because governance is value-laden. To this extent, the multiple actors in governance access power through their relationship with the governing party and state. However, it is equally true that the rural communities within tribal settlements would not have shaped the decision-making processes of governance, inclusive of that for land reform, compared to the influence that the urban elite wield.

Notwithstanding the acceptance of one-person, one-vote across South Africa, power relations in governance are themselves multifaceted because there is no singularity of power (Buscher & Dietz 2005; Thondhlana *et al.* 2015; Croucamp & Malan 2016). According to Arts (2003 cited in Buscher & Dietz 2005:5), there are at least three faces of power in global governance: *Decisional Power*; *Discursive Power*; and, *Regulatory Power* (Buscher & Dietz 2005:5). Decisional Power involves “policy making and political influence”; Discursive Power refers “to the framing of discourses”; and, Regulatory Power relates “to rule-making and institution building” (Arts 2003:13 cited in Buscher & Dietz 2005:5). Whereas decisional power “relates to the ability to influence decisions that determine actions and outcomes in the public sphere”, regulatory power involves “standard setting, whereby a standard is defined as an expertise-based voluntary rule on organisational regulations, structures and/or procedures” (Arts 2003:27 cited in Buscher & Dietz 2005:5). In the recent era, some wealthy non-state actors have used their human, financial and technical resources to establish *direct political access* to policy and decision-making. However, regulatory power of non-state actors is non-enforcing (Givens 2013; Thondhlana *et al.* 2015; Croucamp & Malan 2016). To this extent, non-state actors often use their wealth to seek for direct influence on the state policy and decision making (Givens 2013; Thondhlana *et al.* 2015; Croucamp & Malan 2016); and, rural communities in tribal settlements do not command any of these capabilities. In fact, wealthy actors, including the private commercial interests always have their way because when non-state actors impose standards, non-compliance becomes virtually difficult even in the absence of state regulation (Givens 2013; Thondhlana *et al.* 2015; Croucamp & Malan 2016). This observation defines the predicament of land reform governance for rural communities in South Africa’s tribal settlements.

Governance, rather than government, accommodates the multiplicity of actors with diversity of interests and inequities in power relations. Governance differ from government largely due to the former’s placement of premium on collectivism, formal and informal as well as private and public, that steers “mechanisms to make demands, frame goals, issue directives, pursue policies and generate compliance” (Rosenau 2001:1, cited in Buscher & Dietz 2005:4), which are entrenched in seemingly permanent inequities. Government,

consisting of *formal systems of rule or steering mechanisms*, places the state as the central actor with paramount power and authority whereas governance involves a central stage that is occupied by a *plethora of actors* with diversity of alliances and varied degrees of power and authority (Buscher & Dietz 2005:4). Whereas the shift from government to governance implied consideration of multiple actors beyond the state, that transformation did not necessarily impose equitable power nor authority for all actors (Buscher & Dietz 2005; Givens 2013; Thondhlana *et al.* 2015; Croucamp & Malan 2016). Instead, the shift meant that the role of state and its relations to party and society were altered; and, the poor rural communities in South Africa's tribal settlements continue to be undermined and marginalised.

That is, with the shift from government to governance, the state was not necessarily obliterated; instead, it became a public polity of contestations among multiple actors. Thus, the state has tended to be increasingly unable to exercise strong unilateral governance due to the pressures exerted by both global and local actors, who are themselves intrinsically contradictory. As globalisation and localisation accelerated, political, economic, cultural and, in some cases, religious, boundaries became increasingly *virtual and permeable* with the result that multiple actors gained the "reach and capability ... to intervene in and to influence a wide range of processes all over the globe" (Buscher & Dietz 2005:5). In the past twenty years or so, coincident with South Africa's democratisation, a multiplicity of global and local actors emerged and colluded, sometimes with the state, to paradoxically "rival the state's centrality in governance" (Rosenau 1997 cited in Buscher & Dietz 2005:5). For these reasons, the South African state's pronouncements on popular policies such as land reform and so on have largely remained pipedreams. However, the state has continued to be relevant in governance; and, a diversity of power, mediated formally and informally by the governing party through the state, has become diffusely spread among a range of actors (Buscher & Dietz 2005; Givens, 2013; Thondhlana *et al.* 2015; Croucamp & Malan, 2016) at the expense of national public good and the poor rural communities within tribal settlements.

Whereas the five key ingredients of successful governance, inclusiveness, fairness, participation and legitimacy, transparency and accountability are consistently retorted by the South African state, governance arrangements for land reform within tribal settlements do not "create the opportunity for all interested actors to participate and influence decision-making" (Thondhlana *et al.* 2015:121-122, 121). Violent protests in the context of having elected local government democratically, largely synonymous with urbanity, could mean that there are limitations on the opportunities to influence decision-making. Also, governance has to ensure that "a bias-free decision-making process exists" in order that views of all actors may be respected and addressed (Thondhlana *et al.* 2015:121); and, that is not applicable to South Africa's tribal settlements. That is, governance entails authentic participation of all actors, whose views are considered; and, this virtue is absent in land reform institutions, networks and frameworks. Indeed, the CPA model has conclusively demonstrated that decision-making processes have not been *visible* and information was never fully disseminated to all actors; hence, the excitement of receiving land was immediately followed by despondence and absenteeism. Finally, governance arrangements should clearly show the responsibilities of different actors and demonstrate how decision makers would be held responsible to all actors; and, this requirement was never met in South Africa's land reform.

One of the multiple dimensions of governance is collective leadership; and, this phenomenon does consist of “path, theory and system” (Jinping 2014:9). The path provides the “the will to reach the goal, the theory offers a guide to action, and the system provides fundamental guarantees” (Jinping 2014:9). Governance has to synthesise *successful experience in practice into theories*, use them *to guide new practices* whilst simultaneously *incorporating effective principles and policies* into party, state and national societal systems (Jinping 2014:9). As interactionism theory would posit, the specialness of governance is “in the intrinsic interaction between the way of realising the goal, guide to action and fundamental guarantee” (Jinping 2014:9). Modernisation project that delivers a *better life for all* would remain a pipedream if the governance path does not situate the central task of human development in the nexus of the multiplicity of actors for multifaceted progress and power relations, which involve the economic, political, cultural, social, ecological and such other forms. To draw from the Chinese model, a democratic South Africa’s governing party should have asked what is the *banner of unity, endeavour and victory* that would ensure that there is full societal “confidence in the path, theory and system” (Jinping 2014:8, 9) of South Africa’s state capitalism that creams public resources on behalf of the private financial interests largely through public-private partnerships, neopatrimonialism and state capture (Pitcher *et al.* 2009; Emirullah & Ezam 2014; Tshombe & Molokwane 2016). Perhaps, the question is whether there is any South Africanism?

COMMUNAL LAND GOVERNANCE AND CHALLENGES IN THE SOUTH AFRICAN CONTEXT

The nature of land in South Africa is approached in many different ways with different jurisdictions. As a result, land administration also requires all sorts of rights, formal and/or informal, to be registered and administered through Communal Property Associations (CPA), trusts, non-profit organisations and close corporations (McCusker 2002; Barry 2009; Barry 2011; Van der Westhuizen 2013), established under the *Communal Property Associations Act 28 of 1996* (RSA 1996b). The *Rural Development and Land Reform 2014/2015* report also revealed that all the provinces in South Africa have registered CPAs, which have been embroiled in protracted land governance and administration problems (Pienaar 2009). The Department of Land Affairs has virtually attempted to manage land on behalf of the rural communities in tribal settlements, thereby denying them access to one of the key virtues of governance, as discussed in the preceding section. Land reform in tribal settlements continue to be afflicted by disputes between CPAs and interest groups within tribal settlements, thereby undermining the original goal of the policy (Du Plessis 2011). Loate (2014:2) have placed blame of the crisis of land reform governance in tribal settlements on alleged “ignorance” of traditional councils, absence of skills of the CPA members, lack of institutional support, dearth of operating capital and poor information management. To complicate this scenario, the state has not provided effective institutions of governance of land reform, opening scope for informalisation processes at the expense of the poor rural communities within tribal settlements. In a demonstration of the depth of the crisis of governance of land reform, the formal institutional frameworks have been shifted several times since 1994, whilst the constitutional provision for willing-seller, willing-buyer

remained unaltered. A brief overview of the institutional frameworks for land reform in a democratic South Africa should suffice.

LEGISLATIVE FRAMEWORKS FOR COMMUNAL LAND IN SOUTH AFRICA

South Africa has enacted legislation which “seeks to acknowledge and give some legal status to the ownership and management of land particularly on communal basis” (Bennett, Ainslie & Davis 2010:341). Among other pieces of legislation on communal land are the following, which are discussed in brief: *Constitution of the Republic of South Africa*, 1996 clearly states that no South African citizen should be deprived of property ownership except in terms of law of general application, and no constitutional law shall permit arbitrary deprivation of property ownership. Section 25(5) of the Constitution orders the state to take reasonable legislative and other measures, within its available resources, to put in place conditions which will enable the citizens to gain access to land on an equitable basis. Furthermore, section 25(6) obliges the state to address insecure land tenure of the people and communities caused by the apartheid discrimination (RSA 1996a; Du Plessis 2011; Claassens 2014; Loate 2014). Twenty years on, the majority of the population residing within tribal settlements continue to be deprived of land ownership of equitable productivity. Instead, the apartheid exposure to marginal lands has continued the racialised spatiality and political-economy. *Communal Property Associations Act*, 28 of 1996 which was intended to provide for the registration of CPAs and guidelines for their constitution. As Pienaar (2013) notes, the Act is founded on the philosophy of individualism, with the result that it places undue emphasis on western-grown corporate models of registration, at the expense of tribal customs of land tenure. *Communal Land Rights Act*, 11 of 2004 is aimed at providing legal security of tenure by transferring communal land to the most deserving citizens in compliance with section 25(6) of the Constitution of the Republic of South Africa. According to Keke (2011) and Cousins (2012), this Act is central to governance of land reform in South Africa.

According to Erlank (2014) the legislative frameworks on land reform in South Africa do not invoke support tribal settlement communities in terms of their developmental needs. To a large extent, the frameworks are overshadowed by liberationist-democratic political rhetoric and populism, which do not make for the creation of sustainable livelihoods and productive employment (Du Toit 2011; Erlank 2014). Evidently, the primary challenge with land reform in tribal settlements resides in its governance, which accords priority to commercial interests (Bennett *et al.* 2010; Agrawal & Benson 2011; Mulder 2011; Nicolson 2012; Claassens 2014; Loate 2014). The void in appropriate governance systems, networks, structures, institutions and frameworks has legitimised informal processes. Consequently, informalisation of governance has served to divert land resources into sizeable private commercial investments as prime sources of valuable development finance (Bennett *et al.* 2010; FAO 2010 Agrawal & Benson 2011; Mulder 2011; Nicolson 2012; Walker 2012; Claassens 2014; Loate 2014). By allowing the informalisation of governance of land reform, the state did not only cause a disservice to the poor communities within tribal settlements in South Africa, it also abrogated its responsibility of establishing formal constitutional and institutional frameworks, infused with Africanism and *Ubuntu*, for optimisation of the potential revenue endowed with land resources.



PRODUCTIVE OF LAND LEASED TO PRIVATE CONTRACTORS

A significant proportion of land reform has resulted in conversion from farming to game reserves, which had serious implications on the aggregate impact that was intended. Tacitly, the 2013 South African State Land Lease and Disposal Policy basically seeks to lease state land, predominantly on a 30-year lease, renewable for a further 20 years, subject to evidence of “production discipline” (Hall 2014). Additionally, rental of state land is provided for on the basis of net turnover, 5% of which is payable to the state annually (Hall 2014). Evidently, communities in tribal settlements are inherently excluded from both lease and rental arrangements in favour of medium-scale and large-scale commercial farmers. These formal institutional frameworks confirm the state’s reverence to the constitutional provisions for willing-seller, willing-buyer, which have colluded to perpetuate the political-economy of land poverty in a democratic South Africa. The collapse of the CPA model has further aggravated the situation to suggest that private commercial ownership of land on behalf of the state provides for efficacy and productivity. As a result, some of the CPA owners have been tempted to lease their own land to private interests. The ZZ2 and Levubu Valley farm in the Limpopo Province, the Ceres and Riebeeck West in the Western Cape as well as the Langkloof Valley in the Eastern Cape are such examples (Erasmus 2009). These farms consist of some of the most productive lands in South Africa, producing tomatoes and fruits, among others, primarily for export purposes (Tolsi 2008; Venter 2013; Sebola & Tsheola 2014). The state too, has invested heavily in such leased farms because they deliver foreign exchange earnings. The communal lands in the tribal settlements are a virtual antithesis of the productivity profile of state lands leased to private commercial interests (Claassens & Cousins 2008; Argrawal & Benson 2011). Perhaps, it is unfair to even attempt a comparison because the former has been virtually run down into dysfunctional entities with deep-seated conflict, some hijacked as irregular family trusts (Lebert & Rohde 2007; Verhoog 2013; Evans 2015; Mmbengwa, Nyhodo, Myeki, Ngethu & Van Schalkwyk 2015; Timse 2015). By whatever prisms South Africa’s governance of land reform is examined, it would be clear that constitutional and institutional frameworks have colluded to legitimise private commercial interests above public good of the rural communities within tribal settlements.

Even with land reform, the state’s reverence for PPPs is evident and it is justified through a logic that assumes that deprived citizens stand to gain benefits. One of the arrangements involves farm worker share equity schemes in which land redistribution applicants are awarded grants to purchase equity and to become part of the farm management (Sebola & Tsheola 2014; Terblanche, Stevens & Sekgota 2014). The strategic partnership model involves the creation of an operating company which is partly owned by the community, whereas the strategic partnership balance model relates to agricultural land operating through a lease agreement wherein the present owner is expected to transfer skills and employ beneficiary communities (Sebola & Tsheola 2014; Terblanche *et al.* 2014). Finally, the out-grower schemes model provides for the linkages of small-scale farmers to an agro-processor (Sebola & Tsheola 2014; Terblanche *et al.* 2014). The heavy reliance on private commercial interests in post-apartheid South Africa, which hopes to deliver the dreams of *liberationist-democratic experimentation*, provides indisputable evidence that the formal constitutional and institutional frameworks of land reform governance are steeply tilted against the public socio-economic good of the rural communities within tribal settlements. Instead, the liberal

constitutional and democratic dispensation has sustained, if not exacerbated, the colonially-created and apartheid-inspired political-economy of racialised spatiality in a so-called “new” South Africa. After 22 years of democratic experimentation, South Africa’s governance of land reform can be accurately described through the metaphor of *old wine in new bottles*.

CONCLUSION AND RECOMMENDATIONS

This article demonstrates that the shift from government to governance, the liberationist-democratic dispensation and the liberal constitution, have seen so-called “new” South Africa reinserting the “same old lines in the sand” of a racialised spatiality of land reform inequities at the expense of tribal settlements. Constitutional guarantees of property ownership meant that multiple actors, inclusive of private commercial interests, would partake in the land reform processes that came to legitimise profit making over public good. With democratisation, large tracks of land that previously produced crops for food were turned into nature reserves in order to escape the anticipated reforms as part of the protected areas under the United Nations conventions, thereby undermining the possibility of rural communities in tribal settlements accessing productive arable lands. The article pointed to the construct of governance under South Africa’s democratic experimentation to highlight the infusion of virtues of private rather than public ownership as well as contestations of efficacy at the expense of social good of formerly disadvantaged tribal settlement communities. This article corroborates the notion that the broader political-economy of governance of land reform in a democratic South Africa is inherently biased against poor communities at the local scale of rural tribal settlements. The state has appeared to collude in establishing constitutional and institutional frameworks that favour the private interests at the expense of the citizenry. This article argues, instead, that a democratic South Africa’s land reform institutional frameworks together with the liberationist constitutional governance have merely papered over the longstanding political-economy inequities that were founded of racial spatialisation. For these reasons, the article recommends that the willing-seller, willing-buyer constitutional provision as well as the heavy reliance of specific institutional frameworks of land reform on efficacy for profiteering, be revised in order to infuse national public agenda of developmental transformation of the political-economy of racialised spatiality.

BIBLIOGRAPHY

- Agrawal, A. and Benson, C.S. 2011. Common Property theory and resource governance institutions: Strengthening explanations of multiple outcomes. *Environmental Conservation*, 38(02):199–210.
- Allison, S. 2012. African Land deals: Grab, grow and go? *Africa in Fact*, 6:14–17.
- Barry, M. 2009. Dysfunctional Communal Property Associations in South Africa: The Elandsbloof Case. FIG Working Week May 08–12, 2009, Surveyors Key Role in Accelerated Development, Eilat, Israel.
- Barry, M. 2011. Land restitution and communal property associations: The Elandsbloof case. *Land Use Policy*, 28:139–150.
- Bennett, J.E. 2013. Institutions and governance of communal rangelands in South Africa. *African Journal of Range & Forage Science*, 30(1&2):77–83.



- Bennett, J., Ainslie, A. and Davis, J. 2010. Fenced in: Common property struggles in the management of communal rangelands in central Eastern Cape Province, South Africa. *Land Use Policy*, 27:340–350.
- Buscher, B. and Dietz, T. 2005. Conjunctions of governance: The state and the conservation-development nexus in Southern Africa. *The Journal of Transdisciplinary Environmental Studies*, 4(2):1–15.
- Claassens, A. 2014. *Communal Land Property Rights and Traditional Leadership*. Johannesburg: University of the Witwatersrand.
- Claassens, A. and Cousins, B. 2008. *Land, Power and Custom, Controversies Generated by South Africa's Communal Land Rights Act*. <http://jutaacademic.co.za/products/land-power-and-custom#sthash.Zvaa46dG.dpuf> (Accessed: March 22, 2016).
- Cousins, B. 2012. Communal tenure reform and the politics of tradition. Paper presented on the Strategies to Overcome Poverty and Inequality, Towards Carnegie III, September 03–07, 2012, University of Cape Town, Cape Town, South Africa.
- Croucamp, P.A. and Malan, L.P. 2016. Public policy uncertainty, regime contexts and divestment: The case of South Africa. *African Journal of Public Affairs*, 9(2):62–71.
- Du Plessis, W.J. 2011. African indigenous land rights in a private ownership paradigm *Potchefstroom Electronic Law Journal*, 14(7):45–68.
- Du Toit, A. 2011. Comment on the newly released Green Paper on Land Reform, September 26, 2011. Programme for Land and Agrarian Studies (PLAAS), School of Government, University of the Western Cape, Cape Town, South Africa.
- Emirullah, C. and Azam, M. 2014. Examining public private partnerships in ASEAN countries: The role of investment climate. *Theoretical and Applied Economics*, XXI(2):69.
- Erasmus, G. 2009. A Green Revolution Launched at ZZ2. *Farmers' Weekly*, www.farmersweekly.co.za/article.aspx?...green-revolution-launched-at-ZZ2 (Accessed: June 23, 2016).
- Erlank, W. 2014. Green Paper on Land Reform: Overview and challenges. *Potchefstroom Electronic Law Journal*, 17(2):614–639.
- Evans, S. 2015. Dispute Over Land Pits Community against Chief. *Mail and Guardian*, <http://mg.co.za/article/2015-05-28-dispute-over-land-pits-community-against-chief> (Accessed: March 16, 2016).
- Food and Agriculture Organisation (FAO), 2010. *Africa's Changing Landscape: Securing Land Access for the Rural Poor*. Rome: FAO.
- Givens, D. 2013. Defining governance matters: A factor analytic assessment of governance institutions. *Journal of Comparative Economics*, 41:1026–1053.
- Hall, R. 2014. What's wrong with government's state land lease & disposal policy, and how can it be remedied? Programme for Land and Agrarian Studies (PLAAS), School of Government, University of the Western Cape, Cape Town, South Africa.
- James, N. 2016. Wireless connectivity fundamental to infrastructure development. *Engineering News*, 36(22):50.
- James, N., Wilkinson, R. and Mavuso, Z. 2016. Collaboration on infrastructure projects can yield economic growth. *Engineering News*, 36(22):48, 51.
- Jinping, X. 2014. *The Governance of China*. Beijing: Foreign Languages Press.
- Keke, A.A.N. 2011. *The Communal Land Rights Act and its Liberation Influence: Is the State Qualified to Regulate Indigenous Land Tenure Systems?* Cape Town: LandLawWatch, University of Cape Town.
- Khoza, A. 2016. *Do not Give Back your Land to White Farmers, KZN Premier*. <http://www.news24.com/SouthAfrica/News/do-not-give-back-your-land-to-white-farmers-kzn-premier-20160225> (Accessed: March 21, 2016).

- Lahiff, E. 2007. Willing buyer, willing seller: South Africa's failed experiment in market-led agrarian reform. *Third World Quarterly*, 28(8):1577–1597.
- Lahiff, E. 2009. With what land rights? Tenure arrangements and support. In Hall, R. (ed.). *Another Countryside? Policy Options for Land and Agrarian Reform in South Africa*. Cape Town: Programme for Land and Agrarian Studies (PLAAS), University of the Western Cape, pp. 93–117.
- Lebert, T. and Rohade, R. 2007. Land reform and the new elite: Exclusion of the poor from communal land in Namaqualand, South Africa. *Journal of Arid Environments*, 70:818–833.
- Loate, L. 2014. Communal Land Tenure Policy: State Land Grabbing and the Coercive Use of Land to Create Voting Blocks. Cape Town: Programme for Land and Agrarian Studies (PLAAS), University of Western Cape.
- Mmbengwa, V., Nyondo, L., Ngethu, X. and Van Schalkwyk, H. 2015. Communal livestock farming in South Africa: Does this farming system create jobs for poverty stricken rural areas? *Sylvan*, 159(10):176–192.
- McCusker, B. 2002. The Impact of membership in communal property associations on livelihoods in the Northern Province, South Africa. *GeoJournal*, 56:113–122.
- Moyo, H. 2015. Zim's white farmers brace themselves for more land grabs. *Mail and Guardian*, <http://mg.co.za/article/2015-08-20-more-zim-farms-up-for-grabs> (Accessed: March 21, 2016).
- Mulder, M.B. 2011. Community rights conservation and contested land: The politics of natural resource governance in Africa. *Journal of Human Ecology*, 39:391–394.
- Nicolson, G. 2015. South Africa: Who controls the land anyway? *Daily Maverick*, <http://www.dailymaverick.co.za> (Accessed: March 14, 2016).
- Pienaar, G. Aspects of land administration in the context of good governance. *Potchefstroom Electronic Law Journal*, 12(2):15–54.
- Pienaar, G. 2013. Land reform security: The need for reliable land information. *The Journal of the Helen Suzman Foundation*, 70:20–27.
- Republic of South Africa (RSA). 1996a. *The Constitution of the Republic of South Africa*. Pretoria: Government Printers.
- Republic of South Africa (RSA). 1996b. *Communal Property Associations Act No. 28 of 1996*. Pretoria: Government Printers.
- Republic of South Africa (RSA). 2004. *Communal Land Rights Act No. 11 of 2004*. Pretoria: Government Printers.
- Republic of South Africa (RSA). 2015. *Rural Development and Land Reform: Communal Land Governance and Institutional Arrangements*. Pretoria: Government Printers.
- Sebola, M.P. and Tsheola, J.P. 2014. Economics of agricultural land restitution and redistribution in South Africa: Willing-seller, willing-buyer business imperatives versus socio-political transformation? *Journal of Human Ecology*, 46(2):113–123.
- Terblanche, S.E., Stevens, J.B. and Sekgota, M.G. 2014. A comparative analysis of two land reform models: The Mashishimale Farm Management Model and the Nkumbuleni Strategic Partnership Model, South Africa. *South African Journal of Agriculture Extension*, 42(2):81–102.
- Thondhlana, G., Shackleton, S. and Blignaut, J. 2015. Local institutions, actors, and natural resource governance in Kgalagadi Transfrontier Park and surrounds, South Africa. *Land Use Policy*, 47:121–129.
- Timse, T. 2015. Conflict erupts over Limpopo CPA control. *Mail and Guardian*, <http://mg.co.za/article/2015-08-10-bitter-conflict-erupts-over-limpopo-land-restitution> (Accessed: March 22, 2016).
- Tolsi, N. 2008. Where are all the farmers? *Mail and Guardian*, <http://mg.co.za/article/2008-05-19-where-are-all-the-farmers> (Accessed: June 23, 2016).

- Tshombe, L.M. and Molokwane, T. 2016. An analysis of public private partnership in Sub-Saharan Africa. *African Journal of Public Affairs*, 9(2):72–85.
- Vale, P. and Maseko, S. 1998. South Africa and African Renaissance. *International Affairs*, 74(2):271–288.
- Van Amerom, M. and Buscher, B. 2005. Peace parks in Southern Africa: Bringers of an African Renaissance. *Journal of Modern African Studies*, 43(2):1–24.
- Van der Westhuizen, C. 2013. You have no Right to own Land if you're Black or Rural. <http://thoughtleader.co.za/christivanderwesthuizen/2013/04/09/you-have-no-right-to-own-land-if-youre-black-and-rural/> (Accessed: March 21, 2016).
- Venter, I. 2013. Non-payment sparks strike on state farm. *Limpopo Mirror*, www.limpopomirror.co.za/.../nonpayment_sparks_strike_on_state_farm/17869 (Accessed: June 23, 2016).
- Verhoog, S.M. 2013. The politics of land deals: A comparative analysis of global land policies on large scale land acquisition. Paper presented at the “*Land Divided: Land and South African Society in 2013, in Comparative Perspective*” Conference, March 24–27, 2013, University of Cape Town, Cape Town, South Africa.
- Walker, C. 2012. Grounding “effective land reform” for 2030: Past, present and future considerations. Paper presented on the Strategies to Overcome Poverty and Inequality, Towards Carnegie III, September 03-07, 2012, University of Cape Town, Cape Town, South Africa.
- Watson, V. 2009. ‘The planned city sweeps the poor away ...’: Urban planning and 21st century urbanization. *Progress in Planning*, 72:151–193.
- Wilkinson, R. 2016. Improved project implementation will drive infrastructure growth. *Engineering News*, 36(22):53.