

CONTINUITY AND CHANGE



Follow-up Inquiry into the progress of
farming communities since 2003

A Discussion Paper

Introduction

Labour relations between farmers and farm workers in the agricultural sector have always been unique. In the first instance, historically, the class of black and coloured farm workers in South Africa were deliberately created by the segregationist and apartheid regimes as a marginalised and super exploitable labour force.¹ Secondly, as a result of being historically excluded from the formal labour relations machinery until the 1990's, farmers developed their own labour relations system akin to their particular circumstances. Thirdly, this unique system evolved into social relations of production which was, and still is, based on strong bonds of paternalism. Some have argued that the paternalist employment relationship typifies a total institution in which they live as a community but one in which the farmer has extensive control over virtually every aspect of the farm worker's life. Others have argued that even though paternalism masked unequal power relationships, one needs to look deeper into the meanings and interpretations that both farmers and farm workers have attached to their system of social relations. There is an element of truth to all of these but the evolution of the agricultural sector after 1994 as a result of market deregulation, land reform and the formalisation of labour relations have altered the paternalist discourse in significant and contradictory ways.

Although the policy objectives around these legislative changes are laudable, it can be argued that the unintended consequence has created more strife and has left farmers more defensive and farm workers worse off. However, the change in the agricultural sector has also opened a space for the transformation of traditional paternalism into a form of social corporatism. Much however will depend on how policies are managed and integrated into a comprehensive strategy for the agricultural sector. At present no such comprehensive strategy exists.

Perhaps a reason why no comprehensive strategy exists is that although much of the literature on the political economy of agricultural sector in South Africa has explored the genesis of this unique employment relationship, it has not however properly understood the convoluted terrain of struggle between the farmer and farm worker in respect of the culture, forms of life and modes of practice which are constituted by paternalism.

The policy changes that did occur in the agricultural sector include the inclusion of farm workers into the Labour Relations Act of 1995, and the promulgation of legislation such as the Sectoral Determination for Farm Workers, Extension of Security of Tenure Act of 1997 and the Labour Tenants Act of 1996. From a purely commercial point of view, the abolition of many tax breaks and the promulgation of the Marketing of Agricultural Products Act of 1996 meant that farmers were increasingly pressured by both internal and external global forces in order to remain competitive. To a large extent these policies were designed to create equity, a more commercially viable agricultural sector and to protect the interests of both farm workers and farmers. The contradiction however is that farmers were forced to make use of labour saving technology to become more competitive whilst at the same time being expected by the state to provide the social welfare tab for farm workers. Furthermore, many, if not all, of these policies designed to protect the interests of farm workers and farmers have been difficult to implement and enforce in the agricultural sector.

Reports of forced evictions, violence and assaults and non compliance with the Sectoral Determination prompted the South African Human Rights Commission (Commission) to initiate and conduct an

inquiry into human rights violations in farming communities in 2003. The terms of reference of that inquiry was broad and focussed on the following:

- To investigate the incidence of human rights violations within the farming communities.
- Land rights and tenancy; safety and security and economic and social rights.
- Establish the underlying causes of violations of human rights in farming communities.
- To make findings and recommendations.

The Commission produced a comprehensive report after the inquiry with separate chapters of recommendations dealing with land rights; labour; safety and security; economic and social rights as well as a chapter dealing with general recommendations. However, despite its comprehensive nature and the human rights imperative for an inquiry and a report of such a magnitude, conditions on farms and relations between the farmer and farm worker have not changed very much. Organisations such as the Human Sciences Research Council² and the Nkuzi Development Association³ have in recent years highlighted, through research, the unending plight of farm workers in South Africa.

This has prompted the South African Human Rights Commission to conduct a follow-up to the initial inquiry of 2003 with three foci:

- Land tenure security.
- Labour Relations.
- Safety on farms.

The intention of the inquiry is not provide an exhaustive account of the conditions on farms but rather to understand and interrogate why continuity and change from the past exist side by side in the agricultural sector and what the necessary policy prescription should be. To do justice to such ambitions, it is suggested that the three foci of land tenure security; labour relations and safety on farms should be investigated within the context of the uniqueness of the labour relations that exist on farms. This implies looking through the practical lens of the political, economic and social relations that functions within a particular cultural milieu within the agricultural sector. In respect of farm workers, it also means moving beyond the legal framework as there is validity in the argument that the unequal power relations that exist in the agricultural sector results in the unequal access to the law. Therefore, there is just cause to move beyond the legal framework to an understanding of how it impacts on the social reality of many farm workers. Despite the good legislative intentions, the majority of farm workers still find it exceedingly to difficult to access the law and assert their constitutional rights. Therefore, the ordinary daily life experience of a farm worker remains one of social exclusion, marginalisation and alienation. In respect of farmers, one must be mindful that the rural order has undergone significant change since the 1990's and the trend towards market liberalisation and deregulation has put a price squeeze on farmers in which the share of labour and capital has declined.

Social Relations on Farms

The plight of farm workers is a complex one and the atypical nature of labour relations on farms is one that has its historical roots in 17th century slavery in South Africa. Numerous studies have shown that those who work on the farm are not only in an employment relationship with the farmer. Instead, they live together as a 'community' but it is a 'community' in which the farmer has extensive

control over practically every aspect of the farm worker's life, from his or her work, housing, access to medical facilities, food, electricity, water, education and to the movement and labour of the farm worker's children and spouse. Therefore, the struggle on farms was historically not limited to wages and working conditions but to housing, recreation, education, health and the rights of children and spouses living on the farm. Central to the atypical employment relationship on farms is the paternalist discourse that is not only based on the notion of the farm as family but also a discourse based on race. This has its historical roots in the emergence of agriculture in South Africa.

Agriculture in South Africa emerged from a semi-feudal system with the white landholder extracting rent from the squatter peasantry in the form of cash, kind or labour. As a result of the mineral industrial revolution in the late nineteenth century the social relations of production in agriculture underwent a transformation. In the process, the squatter peasantry was transformed into labour tenants.⁴ The basic features of this system 'were the giving of services for a certain period in the year to the farmer by the labour tenant and/or his family in return for the right to reside on the farmer's land to cultivate a portion of the land, and to graze his stock on the farm.'⁵ Integral to the system was that the unit of production was the family as opposed to the male representative. The Cape was the major exponent of this form of labour tenancy and between 1809 and 1856 a variety of ordinances and acts were passed to force a form of contractual servitude. The 1835 Ordinance, as an example, required ex-slaves to apprentice themselves to their previous owner. The later Master and Servants Ordinance of 1841 imposed compulsory registration for contracts and criminal sanctions for breach of contract by the servant and extended the maximum length of the contract from the 1835 Ordinance. Perhaps the greatest salvo in respect of the relations of production in the countryside was the Master and Servants Act of 1856 and the Natives Land Act of 1913, the purpose of which was to eradicate the growing sharecropping economy of the black peasantry that arose as a result of the continuous dispossession of land.

Despite the legislation, labour tenancy persisted and the creation and reproduction of labour tenancy only started to decline once agriculture became more commercialised and capital intensive in the 1970's. In its racially despotic form the labour tenant system emerged not as an extension of pre-capitalist relations of production but as an adaptation to deal with specific issues in the agricultural sector such as rising land values and a growing demand for labour. However, as the objective conditions of the agricultural sector changed, the labour tenant system was transformed and adapted to suit its new purpose as an agent of social control.

The labour tenant system today occurs in a radically adapted form. Although the legislation is conspicuous in its intention to draw a clear line between who is a farm worker and who is a labour tenant, the reality is far less so and the distinction is murky at best. In fact, the courts have resolved that each case must be decided on its own facts. Furthermore, the culture of racial paternalism, like the imposition of a legal system of labour tenancy in the late 19th and early 20th century, emerged as a revised form of social control. Its fluidity means that it now forms part of the subjective reality of both the farmer and farm worker. It is imprinted in their consciousness and has become part of their culture, part of their social reality. However, it also exists in contradictory ways, in part, as a form of social control and in another as a form of social capital.

Conceptualisation of Paternalism as a Culture

Paternalism on farms is very difficult to conceptualise due in part to its fluidity and heterogeneous nature and the way in which it has crept into the subjective realities of both farm workers and farmers. To quote Du Toit: *'Paternalism is not characterised by a single essential or unitary character. It exists nowhere but in its particular articulations, and the "family resemblances" and historical connections between them; and its component practices, discourses and institutions are subject to constant re-invention, mutation and re-articulation'*.⁶

Du Toit makes three salient points to the understanding paternalism on farms. Firstly, the notion of being 'part of a family' is an integral and genuine part of the world-views of both farmers and farm workers. In this respect, even though paternalism is an important form of social control its continuation cannot be explained exclusively in those terms. In other words, because it has become part of the consciousness and identity of farm workers, the maintenance of paternalism rests to a certain extent on their consent. Secondly, paternalism cannot be understood as an ideology as it is *'constitutive of the very identities involved in the contestation of power relations on the farm'*.⁷ Thirdly, paternalism on the farm has over the centuries laid the framework of legitimation and provides the rituals, institutional forms and vocabularies of power on the farm.

One can interpret paternalism on the farm in respect of a total institution, that is, the identity of the farm worker and the farmer is shaped and dominated by the historical 'rules' of farm life. This is certainly a good starting point but it still does not adequately explain the processes of legitimation, delegitimation, discursive practices on the farm and the evolutionary character of paternalism that somehow manages to maintain and reproduce the status quo. In other words, paternalism is a conception of an identity and a culture and the internalisation of that culture.

To quote Du Toit once again: *'To be a coloured farm dweller is to be continually defined in terms of one's lack of power, one's childlike status, one's dependence on the 'master' of the farm for almost every resource needed for survival'*.⁸

However, paternalism also plays a very important structural role. Its roots are deeply embedded not only in the consciousness of those affected by it but in the overall social structure of the farm. The paternalist discourse has also instituted racial domination in the form of what Michel Foucault calls micro- technologies of power in which racially coded practices form part of everyday farm life and therefore shapes the overall labour process.⁹ A further useful way of understanding and analysing the paternalist discourse is what Peter Berger defines as the dialectical interplay between the individual and the socio-cultural world.¹⁰ He defines culture as the reflection of the world as it is contained in the human consciousness. The dialectical interplay for Berger involves externalisation, objectivation and internalisation. Externalisation encompasses the world we create in the process of social exchange, which then becomes 'objective reality' because of the constant confirmation and reconfirmation in relation to social others (objectivation). The process of internalisation occurs when the individual not only comprehends the 'objective' socio-cultural world but also identifies with it and is shaped by it. The entire dialectic is very closely linked to the process of institutionalisation because it is where roles are mediated to such an extent that institutions not only regulate behaviour but controls human activity as well.

However, since the legislative changes the traditional paternalist culture has been modernised into what Atkinson defines as neo-paternalism.¹¹ The formalisation of labour relations on farms, land reform legislation and the pressures of the external global order has transformed the social relations on some of the farms into a cooperative management relationship. To a certain extent, one sees the transformation into traditional corporatism. This means that traditional paternalist bonds are changing and in many respects both farmers and farm workers are struggling to mediate this changing culture and identity. Many farmers still view the social relations on farms as a community relationship based on mutual dependency but at the same token they are faced with reality that the farm is an economic enterprise existing in a free market system. This has meant that social welfare benefits provided to farm workers as part of their total remuneration under the traditional paternalist system have given way to the formalisation of labour relations. However, nothing has replaced the lost social welfare benefits. This is not to suggest that paternalism in its pure racial form was not a form of social control and did not keep farm workers in a perpetual state of bondage. But, cultures are not static and in many ways it provided a form of social capital to both farmers and farm workers and is in a constant state of reinvention.

The Formalisation of Labour Relations

The Labour Relations Act (LRA) was passed by Parliament on 13th September 1995. For the first time farm workers were included but what seemed like a watershed at the time may have been premature.

At the core of LRA is the strong support for collective bargaining as the primary medium between workers and employers through creating a bargaining friendly environment. Unions who are considered to be sufficiently representative are granted statutory rights that include organisational rights, access to the employers' premises, meetings, ballots, stop-order facilities and leave for trade union office bearers. In addition, collective agreements are legally binding and enforceable by arbitration and there is a protected right to strike. However, the historical struggle of the trade union movement was located mainly in the secondary industry and this has resulted in a 'stable' industrial relationship between workers and employers. The consequence is that the LRA represents a compromise document between employers and trade unions who not only have a history of collective bargaining but who are sufficiently organised and powerful enough to make use of the provisions contained in the act. As a result of the compromise, the overall ambit of collective bargaining in the LRA is one that favours centralised collective bargaining. This represents a problem for the agricultural sector, as a history of collective bargaining traditionally does not exist.

The LRA grants all unions who can show sufficient representation statutory organisational rights. By implication this grants unions the right of access. If one analyses this in respect of farm workers, it

means that unions who do not have members on the farm do not have a right of access to recruit members and thereby obtain sufficient representivity. As the agricultural sector does not have a history of collective bargaining, a bargaining agent for farmers does not exist. In respect of farm workers, even though there are trade unions such as the Food and Allied Workers Union, less than 5% of all farm workers are unionised. There are also logistical difficulties and an extreme lack of resources that makes it very difficult for farm workers to access trade unions and become aware and utilise their organisational and labour rights. Organisational rights are obviously closely tied to collective bargaining and this can only be achieved once sufficient representivity is attained. Once this is attained, the trade union can conclude a collective agreement. However, collective bargaining is an alien concept in the agricultural sector and given that there is no statutory duty to collectively bargain in LRA, it makes it very difficult for both farmers and farm workers to properly utilise the legislation.

Land and land tenure

During the initial inquiry, land tenure security was a burning issue and in particular there were suggestions that legislation should be amended and that there should be greater access to legal representation. Since that inquiry, not much has been achieved in respect of critically interrogating legislation such as the Extension of Security of Tenure Act of 1997 and, as a result, the spate of illegal evictions continues unabated. In the context of constitutional land reform, tenure security is still the most neglected component in the land reform agenda and often what has been absent in discussions is the critical reflection of the most appropriate forms of land tenure to promote stable and long term access to land. It is submitted that this should be the point of departure in respect of understanding the land tenure conundrum in the agricultural sector.

Section 25 (6) of the Constitution provides that:

'a person or community whose tenure of land is legally insecure as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to tenure which is legally secure or to comparable redress.'

S 25 (6) therefore mandates the state to transform insecure tenure into legally protected and non-discriminatory tenure. Attaining security of tenure requires land tenure reform and therefore it is important to distinguish between these concepts.

In less legal terminology, land tenure consists of social relations and institutions governing access to,

and ownership of, land and natural resources.¹² It can also be defined in terms of a 'bundle of rights', that is, specific rights to do certain things with land or property. Land tenure rights may include:

- Rights to occupy a homestead, to use land for annual or perennial crops, to make permanent improvements, to bury the dead, and to make access for gathering fuel, wild fruit, etc.
- Rights to transact, give, mortgage, lease, rent and bequeath areas of exclusive use.
- Rights to exclude others from above listed rights.

Smith and Piennar have further deconstructed security of tenure as the quality of rights of the tenure holder in relation to the outside world.¹³ It refers to both the objective and subjective experience of the land rights holder and the attitude of others with regard to his or her tenure rights. This deconstruction is the crux of the matter and it is one that is embedded in the law of property. The lawful holdership of a right in land is a limited real right and hence entitlements stem from such a right in land. Depending on the nature of the right, such as freehold ownership, servitudes or usufructs the entitlements are:

- The right to occupy.
- The right to use.
- The right to bequeath to one's heirs.
- The right to transact.
- The right to mortgage the land.
- The right to exclude others.
- The right to benefits accruing from the land.

Smith and Pienaar¹⁴ further posit that the security of a tenure form (permits, leases, servitudes etc.) can be measured in terms of:

- Protection of the rights holder against interference by others, eviction and attachment.
- 'Transactability' and transferability and to promote investment for credit by banks.
- Certainty and durability.
- Respect for the status of the rights holder as individual and the institutional form of the tenure holder if it is a group or community.

In contrast, land tenure reform refers to a planned change in the terms and conditions of the legal basis of landholding. An example of land tenure reform would be a conversion of informal tenancy into formal property rights. The White Paper of 1997 cogently illustrated the complexity of land tenure reform by highlighting that:

'Land tenure reform is the most complex area of land reform. It aims to bring all people occupying land under a unitary, legally validated system of landholding. It will devise secure forms of land

tenure, help to resolve tenure disputes and provide alternatives for people who are displaced in the process.'

Implicit in the statement is the development of a new system of land holding, land rights and forms of ownership. Within the White Paper of 1997 are six guiding principles for land tenure reform:

1. Tenure reform must move towards...the transformation of all 'permit based' and subservient forms of land rights into legally enforceable rights to land.
2. Tenure reform must build a unitary non-racial system of land rights for all South Africans.
3. Tenure reform must allow people to choose the tenure system which is appropriate to their circumstances.
4. All tenure systems must be consistent with the Constitution's commitment to basic human rights and equality.
5. In order to deliver security of tenure a rights based approach has been adopted.
6. New tenure systems and laws should be brought in line with reality as it exists on the ground and in practice.

However, much of the land tenure legislation is more procedural than proactive and this calls for a greater analysis in respect of how legislation should create tenure that is legally secure and stable. For example, are there benefits to the registration of fragmented land use-rights? The current significance of land tenure legislation resides in raising weak and insecure land rights above the threshold of minimum recognition and protection but it is clear that it needs to go beyond that to ensure the legal basis of landholding

The Extension of Security of Tenure Act 62 of 1997 (ESTA)

The Extension of Security of Tenure Act 62 of 1997 was passed to protect 'occupiers' who live on rural or peri-urban land which belongs to another person and who on the 4 February 1997 or thereafter had consent or another right in law to do so.¹⁵ One of the intentions of the Act is to provide security of tenure to farm workers who are not afforded protection in terms of the Land Reform Act 3 of 1996 as they do not qualify as labour tenants. An analysis of ESTA reveals that it provides security of tenure through securing those rights enjoyed by occupiers and protects them against arbitrary evictions.

To a large extent it is a procedural document. Firstly, S 3 of ESTA accords occupiers a secure legal right to continue to live on and use the land they occupy. This is supplemented by S 6 of the Act which sets out the rights and duties of occupiers. To this extent occupiers have the right to reside on and use land where they have consent of the landowner or the person in charge. They also have

the right of access to services agreed upon, such as water, electricity and sanitation and may not be denied access to educational or health services. Secondly, in the interests of fairness, S 6 also places duties on occupiers and in this way the Act helps to regulate the relationship between owners and occupiers. Accordingly, S 6 (3) provides that an occupier may not unlawfully damage the property of the owner or cause harm to other occupiers. The occupier may further not help other persons to set up new dwellings without the authority of the landowner. Thirdly, Chapter IV of ESTA places specific requirements for the termination for the right of residence and it is clear that the intention of the legislature is to provide clear procedural guidelines so as to prevent disputes and, in the absence of prevention, to standardise procedures such that it is substantively fair. Chapter V of ESTA also makes provision for dispute resolution procedures before a dispute reaches court. In respect of S 9 (1) an occupier may only be evicted in terms of an order of court issued under the Act and such an eviction is subject to the procedures and conditions laid out in S 9 (2). In respect of protection against evictions, S 8 (4) of ESTA provides strong protection to an occupier who has resided on the land for ten years or longer and has reached the age of sixty years or is an employee or former employee of the owner and can no longer render service due to disability. These occupiers are considered long-term occupiers and have the right to continue to live on the land for the rest of their lives.

However progressive ESTA appears to be, Atkinson makes some salient points on the difficulties in interpreting certain provisions. For example, what should count as 'suitable accommodation' or a fundamental breach in terms of the Act? Given that ESTA is more procedural than proactive it does not elevate weak insecure rights above the minimum threshold that would be required for secure tenure. Effectively, as long as farmers follow the correct procedures evictions can take place legally. A huge burden for farmers is the inconvenience and effort to seek legal evictions through the courts. The consequence of this is that farmers either choose to circumvent the law or no longer provide accommodation to farm workers. It has also discouraged farmers from creating jobs.

As an illustration of the former, the South African Human Rights Commission conducted farm visits in the North West Province in 2005 in collaboration with the Department of Labour.

The interesting aspect about the farms was the use of the same labour relations service to draw up the employment contracts for the workers. An analysis of the contracts at both farms revealed a clause that attempted to circumvent the law and terminated the employment relationship when the farm worker turned 60 years old. Such a clause was specifically included to protect the farmer from the farm worker invoking the Extension of Security Act of 1997. The clause stipulated that

the employment contract will terminate *by aftrede van die werknemer op 60-jarige ouderdom*. This means that when the farm worker reaches the age of sixty he/she is forced to 'retire' in terms of the contract. On the face of it this does not seem to represent a problem, but, when considered in terms of ESTA it has huge significance. Section 4 of ESTA provides for the following:

The right of residence of an occupier who has resided on the land in question or any other land belonging to the owner for ten years and has-

(a) has reached the age of 60 years; or

(b) is an employee or former employee of an owner or person in charge, and as a result of ill health, injury or disability is unable to supply labour to the owner or person in charge,

may not be terminated unless that occupier has committed a breach contemplated in section 10 (1)(a), (b) or c:

ESTA therefore provides a right of residence to those who fulfil criteria as set out above and the right of residence to the occupiers may not be terminated unless such an occupier has acted in a way that constitutes a breach of the relationship with the owner of the land to the extent that it is not practically possible to remedy. Occupiers therefore have a personal servitude over the land that terminates upon death of the occupier. Therefore, when the clause is considered in respect of S 4 of ESTA it becomes clear that the reason for the clause is to circumvent the provisions of ESTA that seek to protect the interests and rights of farm workers.

A further contentious issue in terms of ESTA and which causes a concern to farmers is section 6 (4) which provides that *'any person shall have the right to visit or maintain his or her family graves on the land which belongs to another person, subject to any reasonable condition imposed by the owner or person in charge of such land in order to safeguard life or property or to prevent the undue disruption of work on the land.'* Prior to the promulgation of ESTA this right was traditionally afforded to farm workers as part of the paternalist social relations¹⁶ but many farmers have now abolished the system of allowing burials and instead have asserted their ownership rights in terms of property law.

Section 25 of the Constitution provides for the acknowledgement of different rights in property. The property clause not only recognises and protects ownership but also other rights in immovable property. Therefore, the property clause and its enabling legislation represent a break from the common law ownership paradigm. In respect of land tenure, the purpose of legislation such as ESTA is to transform the law in order to improve the security of tenure and the value of previously disregarded and unprotected land rights. This is quite significant as it attempts to eradicate the

distinction between ownership and registerable real rights and other forms of land tenure that are traditionally considered weak and insecure. Land tenure legislation is however more procedural than proactive and this calls for a greater analysis in respect of the benefits of the registration of fragmented land use-rights to make these rights stronger. However, one must not forget that the purpose of the property clause is to ensure a just and equitable balance between the interest of private property holders and the public interest in the control and regulation of the use of property. Without any comprehensive policy that deals with issues specific to the agricultural sector the probability is that farmers will continue to assert their legal rights as private property holders and farm workers will bear the brunt of weak and insecure rights.

Safety on Farms

The farming community has been plagued by farm attacks for many years and some have argued that the attacks on farming communities were motivated by a particular political agenda. It did seem that attacks increased after 1990 and according to available statistics there were 6122 attacks between 1991 and 2001 resulting in the fatality of 1254 persons.¹⁷ The increasing levels of crime prompted the Minister of Safety and Security to appoint a Committee of Inquiry into farm attacks to inquire into the state of attacks and to determine the motives and factors behind the attacks and to make recommendations on their findings.

Incidence of Crime

According to statistics collected by the Crime Information Analysis Centre and the National Operational Coordinating Committee, farm attacks increased from 327 incidents in 1991 to 1011 incidents in 2001.¹⁸ However, it is questionable how reliable these statistics are as it was only from 2001 that a real effort was made to collect proper statistics on farm attacks. In terms of statistics collected by the South African Police Service, there were 1069 incidents of crime during the 2001/2002 financial year and this decreased to 903 incidents in 2002/2003 financial year.¹⁹ Reports have correctly reflected a 24.8% increase of incidents of crime if the 2005/2006 and 2006/2007 figures are compared but if one examines the statistics between the 2001/2002 and 2005/2006 financial years then it shows a consistent decrease in the incidents of crime. Statistically, it is possible that the 2006/2007 figures represent an outlier. Similarly, the total number of murders has also decreased consistently over the same period with the highest at 140 murders during the 2001/2002 financial year to 86 in the 2006/2007 financial year.

Total number of incidence per province²⁰

Province	2001/2002	2002/2003	2003/2004	2004/2005	2005/2006	2006/2007
Gauteng	313	245	188	216	215	338
KZN	130	83	119	73	59	82
MP	280	291	198	169	133	141
EC	76	36	43	26	46	14
WC	41	49	39	31	32	17
NC	10	12	7	11	11	2
NW	132	82	70	84	68	132
Limpopo	59	64	49	47	42	19
FS	28	41	60	37	30	49
Total	1069	903	773	694	636	794

Total number of murders per province²¹

Province	2001/2002	2002/2003	2003/2004	2004/2005	2005/2006	2006/2007
Gauteng	34	24	33	30	32	23
KZN	24	19	18	12	9	16
MP	23	21	9	14	2	14
EC	18	1	4	1	5	3
WC	10	7	4	4	11	3
NC	2	2	0	1	3	0
NW	17	14	4	3	8	10
Limpopo	7	9	7	9	12	1
FS	5	6	9	8	6	16
Total	140	103	88	82	88	86

This does seem to indicate that at least there is a stabilisation of incidents of violence in farming communities although one incident is already one too many. For the 2006/2007 financial year, the analysis conducted by the Crime Information Analysis Centre found that the motive in 90% of the acts of violence against farming communities was robbery. Similarly, in a study of

2 664 cases between 1998 to 2001, the Committee of Inquiry into Farm Attacks found robbery to be the motive in 89.3% of the cases and a political and racial motive in only 2% of the cases studied.²²

The study also found that rural crime was not unusually high when compared to residential crime, the perpetrators were not professional or highly organised, the perception by the perpetrators were that farmers are wealthy and that security measures on farms were inadequate which makes farms easy targets.

Rural Protection Plan

In late 1997 the Rural Protection Plan was launched, the object of which, was to encourage all role players in rural safety to work together in a coordinated manner and to engage in joint planning, action and monitoring to combat crime in the country's rural areas. The success of the plan varied from region to region but it was not as successful as initially envisaged. The Rural Protection Plan was replaced by Area Crime Combating Units and Sector Policing. It is not certain how well these strategies are currently working but it is certainly a good initiative and the statistics indicate that crime levels have been decreasing over last couple of years.

Safety on farms does not only constitute attacks from the outside but also include the health and safety conditions of farm workers within the working environment. This is just as important because despite the legal framework that serves to protect farm workers, there is a valid argument that the unequal power relations that exist in the agricultural sector results in the unequal access to the law. Therefore, there is just cause to move beyond the legal framework to an understanding of how the current legal framework impacts on the social reality of many farm workers. Consider, as an example, the death of a farm worker on 15 July 2007 on a farm in the North West Province. He was killed by a machine and it is alleged that farmer was non-compliant in respect of health and safety standards. In June 2007, News 24 reported that police in Mpumalanga may have to reinvestigate more than 100 cases following an allegation that the cases were originally thrown out of court due to complicity.²³ These two examples illustrate the apparent failure to protect the rights of farm workers in practice and very seldom is there any immediate relief. In respect of the vulnerability of farm workers, the stakes are so high that it could very well mean the end of their fragile livelihoods.

Conclusion

Social relations in the agricultural sector are complex and what may seem as disparate elements are all tightly interwoven through history into a unique system of employment relations. Despite the good intentions of legislation such as ESTA it may well have had the biggest impact on employment levels and in many respects has made the livelihoods of farm workers worse. Consideration of the farm as an economic enterprise must be taken into account and therefore it is quite possible that land tenure reform on its own may have adverse consequences for the creation of rural livelihoods. A way to ensure the protection and improvement in livelihoods of all farming communities is to reinforce the common interest in farming that both farmers and farm workers share. This can possibly be achieved through profit sharing schemes with the assistance and encouragement of the state through the provision of tax breaks or changes in the subsidy regime. In the current climate a development gap exists in the absence of a comprehensive rural policy that is able to deal with issues specific to the agricultural sector and that can bring all role players and government stakeholders together. This could also allow the government to counter the unintended consequences attached to the formalisation of labour relations and land reform.

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- ¹⁷ Report of the Committee of Inquiry into Farm Attacks. 2003.
- ¹⁸ Report of the Committee of Inquiry into Farm Attacks. 2003.
- ¹⁹ See tables below.
- ²⁰ Statistics sourced from SAPS crime statistics 2006/2007.
- ²¹ Statistics sourced from SAPS crime statistics 2006/2007.
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