

# AFRICAN RURAL LAND-TENURE REFORM

## 1. ROUNDING OFF THE DISCUSSION

Since the September 1984 issue *Reality* has been host to a debate on issues raised by proposals for reforming African land tenure in the homelands. It was initiated by our reprinting of a paper by Professor David Tapson of the University of Fort Hare. In it he critically assessed arguments for freehold tenure (having noted that the Swart Commission Report (1983) had made "lucid" proposals along these lines for the Ciskei). Tapson concluded that the best-available arguments for freehold were unconvincing and proposed a leasehold scheme with rental incomes accruing to the local community.

In March 1985 Catherine Cross from the Centre for Applied Social Sciences at the University of Natal responded to Tapson's proposals, referring to them as "collective leasehold" (i.e. the landlord is in some sense collective, not the tenants). She accepted his critical stance in relation to freehold while noting that in the areas of KwaZulu with which she was familiar "prevailing tenure appears to be moving steadily toward a condition which is close to freehold, but which recognizes the community land ethic and uses it to control some of the dangerous tendencies of laissez-faire freehold tenure" (p. 7). As regards the leasehold proposals she was sceptical because she saw the real binding constraints on homeland agriculture as not involving the tenure system. Reforming that system would not therefore by itself produce a profitable commercial agriculture. The promised rental incomes would not actually accrue to rural families who would however have suffered a loss of control over land and hence a reduction in their scope for devising individual household strategies for survival and improvement. Her own proposals were really for "stabilizing prevailing tenure" in its evolutionary forms. (It is not possible to go into more detail in this introduction and not really necessary since Catherine Cross returns to the question in her contribution in this issue).

Leon Louw of the Free Market Foundation, a member of the Swart Commission and involved in economic policy formulation in the Ciskei, wrote a response to Tapson and Cross in the May 1985 issue. He stood by the Swart Commission Report freehold recommendations but insisted that their **local option** and **non-coercive** character should be emphasised. The attack on freehold deriving from the belief that poor rural dwellers would be 'separated' from their land which would pass into large agglomerations he rebutted by arguing that subdivision was as much a land-market reality as agglomeration. Moreover he claimed that it was a form of "paternalistic injustice" to deny to people the right to transfer from rural landholding to an urban way-of-life by selling up their rural assets. Against Tapson and Cross he pressed the point that it was not clear what they were in favour of. In particular, should rights to hold and use land (whatever the institutional

context in which they were exercised) be able to be exchanged (i.e. sold and leased), mortgaged and inherited? Might a member of one of Tapson's "collective landlords", for instance, "transact" his right to share in land rents in these ways? If so, then at least on the land-holding side (as distinct from land-using) his right had much in common with ordinary freehold. Since Cross apparently approved of the evolution of traditional tenure in the direction of incorporating such rights of transaction of land (or land-rights) he felt that her position was not clearly distinguishable from that of freehold.

Without having access to the Louw article Chris de Wet of the Department of Anthropology at Rhodes University contributed a piece to the special July 1985 issue of *Reality* which dealt mainly with the Eastern Cape. In his discussion de Wet concerned himself with land tenure, local government and agricultural development in the Ciskei – and commented on the articles by Tapson and Cross in that context. He endorsed Cross's view that the introduction of leasehold-rental schemes would run into feasibility problems since the constraints on agricultural production are not fundamentally concerned with the tenure system. He emphasised the additional point that one is unlikely to have "efficient and corruption-free administration of the rent" by the tribal authorities in the Ciskei. These bodies are not always efficient, are not obliged to be fully responsive to their constituents, are seen as being "in the pocket" of the Ciskei Government and are likely to have their power over ordinary citizens strengthened by their increased role in land administration. De Wet did see a niche for agricultural development based on freehold tenure in the released areas – which consist of previously white-owned farms now incorporated from South Africa into the Ciskei.

In this issue we carry a substantial reply to Leon Louw by Catherine Cross. In it she claims that freehold tenure when applied in underdeveloped rural areas "jams up solid" and does not promote access by efficient producers. She also takes issue with Louw's account of the classical land system and provides a more detailed description of the "informal freehold" that is evolving in some areas. She then turns to the question of alternative approaches to **land-based** development and sketches some of the requirements that new land-tenure legislation must meet if it is to support the type of rural development she proposes.

This article by Cross was made available to other contributors to the debate and final comments were called for. We carry in this issue short responses by Tapson and Louw. We are now bringing this particular debate among our contributors to a close, but we should be happy to publish reactions to the issues from the wider circle of our readers.