

Rural tenants and land rights



A RECENT research project by AFRA indicates that there are between 190 000 and 250 000 rural tenants closely associated with elements of feudalistic labour tenancy living on white owned farms in KwaZulu-Natal.

This grouping represents the most marginalised and vulnerable sector in rural society. In KwaZulu-Natal more than 400 000 people have been evicted from white farms in the past 40 years. This pattern continues unabated in the new South Africa.

The Prevention of Illegal Squatting Act and the Trespass Act, as well as civil ejectment procedures are instruments at the disposal of landowners to enforce evictions. No protective tenure legislation exists, and

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although specific consideration has been given to this sector in the new land dispensation, their claim for rights is likely to be strongly contested by current property owners.

The major causes of eviction are the rapid expansion of commercial forestry, game farm operations and other changes in farming operations. When farms change hand, long established customary tenure contracts are normally terminated. More recently fears of land claims have prompted farmers to evict tenants in large numbers, particularly in the traditionally more conservative rural areas.

Evictions are often characterised by high degrees of conflict and violence, damage to property, extortionist cattle impounding and costly ejection procedures. The evictions are a major contributor to impoverishment and deteriorating human relations. The present situation is clearly an obstacle to the objectives of the reconstruction and development programme in rural KwaZulu-Natal.

For those already evicted, relief through the Restitution of Land Rights Act seems slight, despite most tenants' belief that they have a claim to the land on the basis of birth and generations of customary rights.

Some criteria of the restitution process could either exclude tenant claims or prove difficult to meet.

It is also not clear to what extent farm tenants could benefit from the proposed state-assisted land

redistribution programme, which will be limited to a pilot phase over the next few years, and is likely to look at disposable state land first.

For these reasons AFRA has specifically targeted farm tenants as a sector as part of our mission to give special emphasis to marginalised rural groups in the reconstruction and development programme.

A specific unit dealing with farm tenants has been developed within the organisation.

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Several options may form part of the solution towards tenure security for farm tenants, including:

- land claims
- negotiated leasehold agreements
- protective tenant legislation
- use rights (usufruct)
- state assisted land transfers
- share equity schemes
- long term share cropping contracts

Secure tenure is linked to long-term sustainable development, as access to land currently plays a crucial role for farm tenants in their household economy.

Land provides a source for securing household food self-sufficiency and a base from which risk spreading economic options are pursued, such as migrant labour and informal sector activities.

The keeping of livestock constitutes an important form of security and a basis for social and cultural identity.

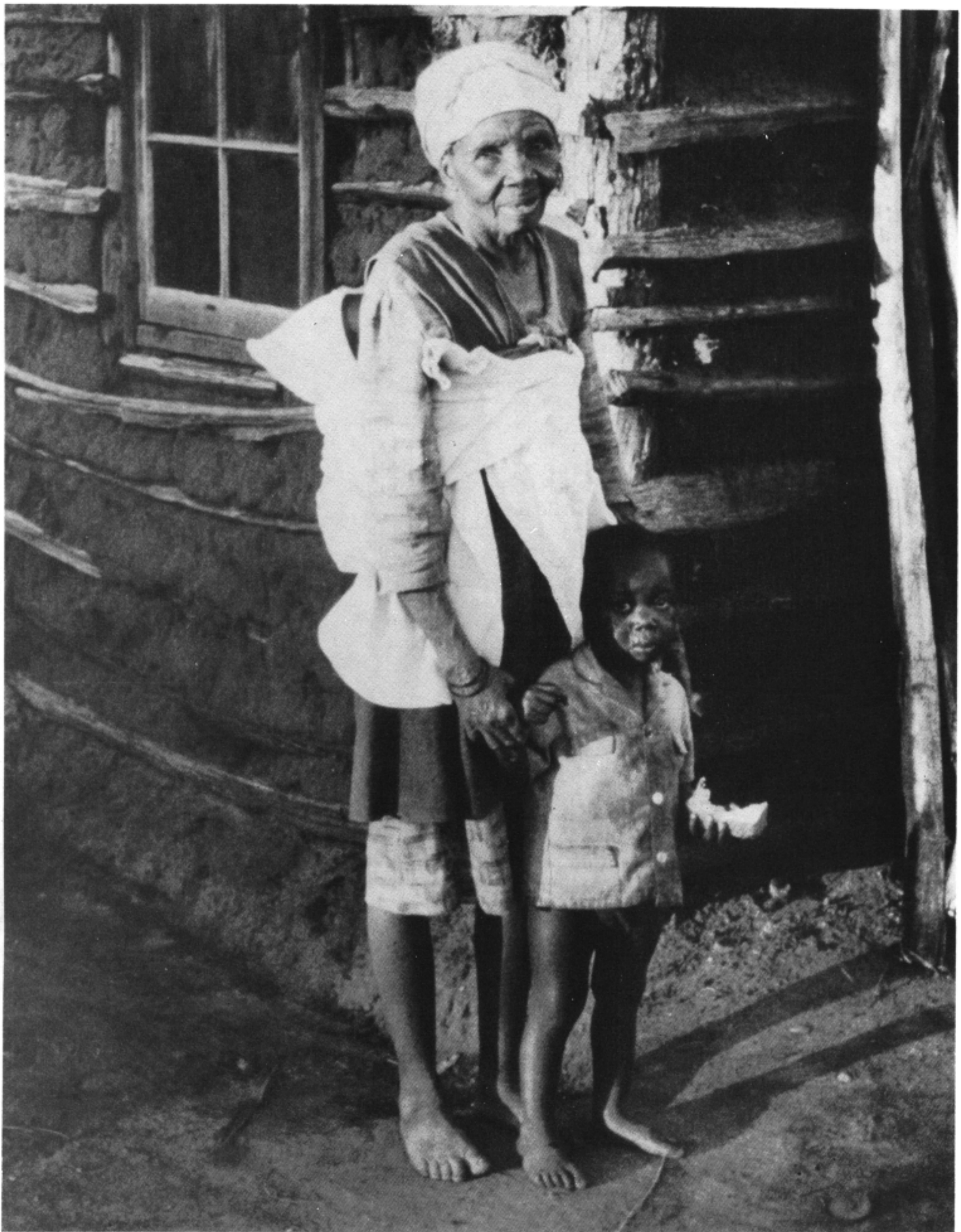
AFRA's work with rural tenants aimed to establish a precedent of rights for tenants, to carry out policy research on the problem of land access and secure tenure and to campaign for a moratorium on the evictions of labour tenants.

In setting a precedent for land rights, a variety of strategies were used, including a long term lease agreement (Ncunjane farm in Weenen), a sectional land purchase (Gannahoek farm in Colenso), and a land apportionment from Mondi (Mooibank farm in Vryheid).

The Mooibank case provided an important national precedent.

A temporary moratorium on the eviction of labour tenants was secured through a sub-committee of the Transitional Executive Council for the period leading up to the elections.

The history of labour tenancy is one of control and dispossession. In 1864 the Natal Native Trust was formed to supervise and administer land set aside for Africans in Natal. In 1891 the



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Natal Native Code was established, setting out rules for almost all aspects of life, including access to land and tenure.

The 1913 Land Act, the 1936 Native Land and Trust Act, the 1952 Native Law Amendment Act and the 1954 Amendment to the 1936 Act were all designed to create a rural labour supply by turning African squatters into labour tenants.

When there was a viable alternative to labour tenancy, many tenants fled. But increasingly the alternative became poor and crowded land in the reserves.

Despite their intentions, the amendments of the 1950s had the effect of discouraging labour tenancy and raising rural resistance to the system.

It took 21 years for the government to impose a technical and legislative ban on labour tenancy - an indication of the role the system filled in providing labour to white farmers and access to land for Africans.

The higher wages in the cities and mines were much more attractive to rural tenants, who found that short spells of migrant work could provide enough money to subsidise life in the rural areas for a year.

By 1959 the labour tenant system was neither providing enough labour for white farmers nor land for African tenants.

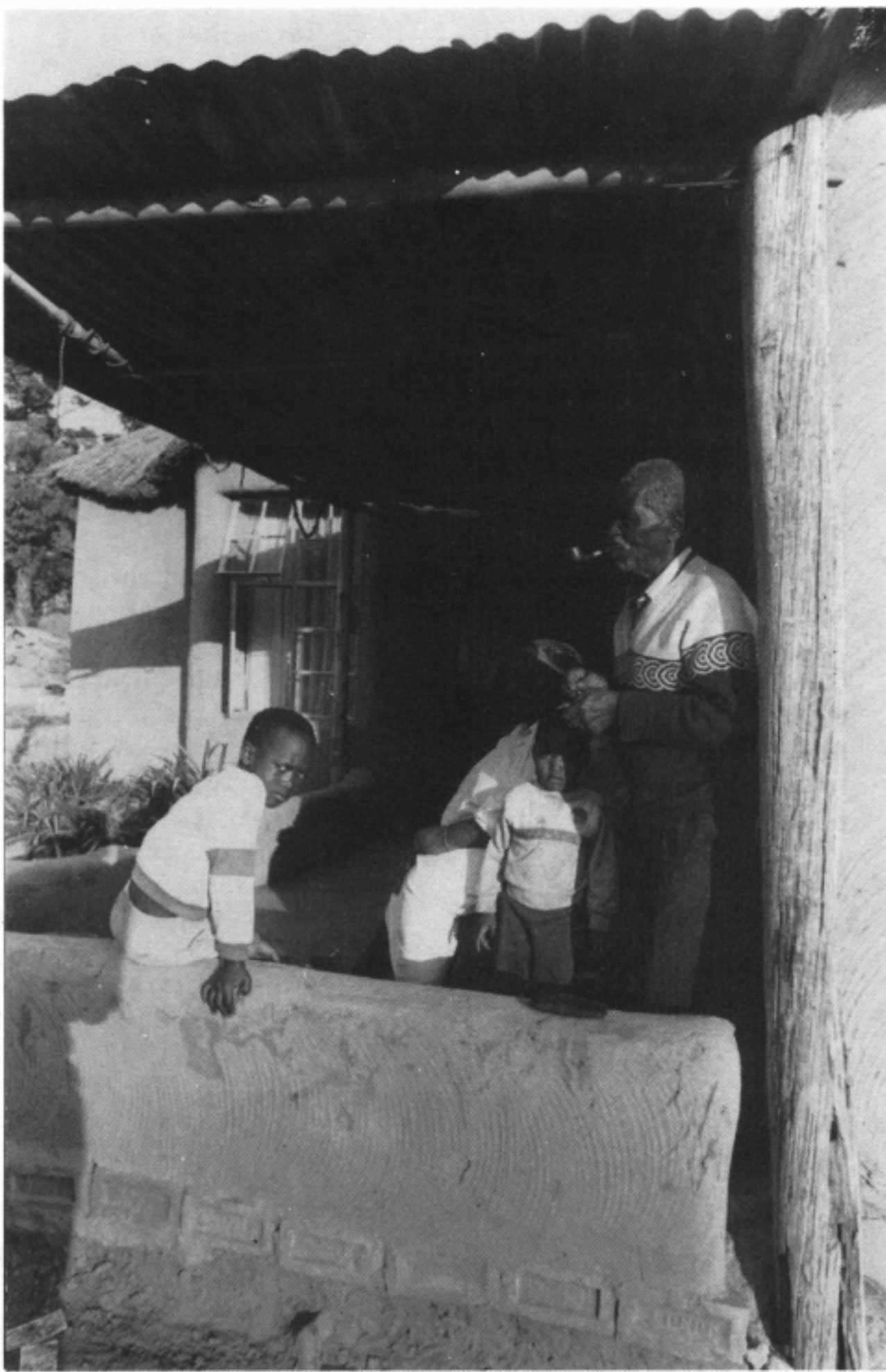
The Nel Committee was established to investigate the efficiency of labour tenancy and implications of abolishing it. The Committee recommended the complete abolition of labour tenancy by 1966. To achieve this goal, the Committee advised that appropriate legislation be passed.

The 1964 Bantu Laws Amendment Act was the result of the Committee's recommendations and included provisions to abolish labour tenancy in any area by simple proclamation. It also outlawed labour farms.

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Presently, it is difficult to distinguish between farmworkers, labour tenants and rural dwellers.



Addressing the loss of access to land is crucial, but it is important to start focusing on the factors which give rise to this loss and to examine how these can be addressed so that rural tenants are not increasingly marginalised.

As labour tenancy was discouraged and as commercial agriculture expanded, so labour tenancy adapted. The terms and conditions of waged agricultural labour and labour tenancy are often not significantly different.

In commercial agriculture the farmer pays a wage, provides food, housing, clothing and, in many cases, access to arable and grazing land.

Deductions are made from workers' wages for these services, so that at the end, the cash component which the worker gets is very small.

In terms of a common variant of labour tenancy, tenants would work on the farm for six months for a nominal amount of money, varying from 50c a month to R50 a month.

Some food was also provided and in some cases, protective clothing and overalls. Deductions were

made for these. Sometimes, the tenant paid nominal rent for a site on the farm or a stock grazing fee.

While the traditional exchange of labour for certain land rights still exists as a form of social relationship, it has become difficult to distinguish between farmworkers, labour tenants and rural dwellers.

Possibly, it is more useful to say that what we are talking about are rural dwellers without title to land, with precarious tenure, who are associated with agriculture and who have limited income, education and skills.

Rural tenants do not necessarily want title to land. They want secure tenure and land rights such as access to arable or grazing land or land for residential purposes and are often more concerned about infrastructure than they are with title or tenure to land.

From AFRA's own experience in working with rural tenant communities, "labour tenant" issues come into focus when tenants are evicted or lose access to land. This happens when land ownership changes or when the economic use of the land changes.

While addressing the loss of access to land is crucial, it is important to start focusing on the factors which give rise to this loss and to examine how these can be addressed so that rural tenants are not increasingly marginalised.