

The Current Status of Land Rights in the Transkeian Territories of South Africa

Chris Williams-Wynn (South Africa)

Key words: Access to land; Informal settlements; Security of tenure; Communal land, land administration

SUMMARY

There is very little formal documented record of land occupation or land rights in the communal areas of the Republic of South Africa. As a result, members of traditional communities create their own informal yet recognised exclusivity and right of use through the erection of fences and hedges around their homesteads. Previous research undertaken by this author concluded that the vast majority of members of traditional communities in South Africa want documented proof that links them (as individuals) to the land that they were born to share.

Some attempts were made historically to give rights to land in areas that were part of what was then known as the Transkeian Territories. General plans of the quitrent sites were surveyed by government surveyors and approved by the Surveyor-General and formal quitrent title deeds were registered in the Deeds Registry Offices. However, as the years progressed, government officials resettled many of the holders of quitrent titles into villages; others moved off their land to find employment; “permissions to occupy” were issued to new occupants by a resident magistrate and traditional authorities allocated sites to their subjects. Without any consideration of documented land rights, the state forcibly removed people from outside the communal area and relocated them on the communal land; the state also constructed schools, hospitals, dams, nature reserves and roads. All of this resulted in a disaster for the formal documented land rights system that had been initiated in the Transkeian Territories.

This paper therefore looks at the current status of all forms of land rights, both formal and informal, and seeks to attempt to make proposals on how to recover from the disaster and satisfy the desires of the people.