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Weeks 31 - 32: Monday 27 July - Sunday, 11 August 2020

Our changing Covid-19 context

As of 10th August 2020, South Africa had 563 598 cumulative cases of Covid-19 with 10 671 fatalities. Gauteng has taken over from the Western Cape as the epicentre of the virus in South Africa. KwaZulu-Natal has now overtaken the Eastern Cape as the two other most affected provinces. According to the [TIPs Economy and Pandemic Tracker](#), new cases continued their downward trend in the past two weeks. As of 9th August, they were over 40% lower than at their peak in mid-July. However, because deaths typically have a three-week lag time from date of infection, fatalities have increased by over 50% in the last two weeks across the country.

Farm workers

GroundUp ([5 August 2020](#)) reports on the perennial problem of evictions from farms. At an online webinar organised by the NGO Women on Farms, evicted farmworkers spoke about the trauma of eviction and the many hardships they have faced including a lack of alternative and safe housing. This remains a stubborn systemic problem which the state has failed to address. Back in 2017 the report of the High-Level Panel noted that evictions have continued “despite laws that were meant to curtail them”.



The [HLP](#) found that:

Evictions, which require a court order, can only be achieved under two circumstances. Firstly, if the occupier breaches his contract of residence by causing unlawful damage to property or persons on the land, by intimidating and threatening other occupiers, and by assisting the unlawful occupation of private land. Secondly evictions are allowed if the relationship between employer and employee has collapsed and cannot be repaired. (Pp 288- 289)

The HLP also found that laws and provisions (ESTA Section 4) that require the Minister of Rural Development and Land Reform to provide independent land rights to farm workers (in on-farm and off farm settlements) are not complied with. The Department has acknowledged that implementation of ESTA has been undermined by “a total system failure”. It is this failure that has to be addressed if equitable solutions are to be found. Solution finding has to simultaneously engage to counter other factors which adversely impact on farm labour as a consequence of the rapidly changing global food and agricultural economic systems.

Evictions already have immense social impacts under ‘ordinary circumstances’. However, in the context of Covid 19, evicted households are placed at substantially increased risk. It has been convincingly [argued](#) that poverty and inequality in South Africa are “deeply racialised, gendered and spatialised”. Where people are evicted with no alternatives other than temporary accommodation in densely settled informal settlements, they are unable to socially distance. Inadequate access to water and sanitation increases the risk of infection and accelerated community transmission with impacts that stretch far beyond the local communities in question.

In a [case](#) currently before the Western Cape High Court, Advocate Pete Haythorn has asked that the Court order the Drakenstein municipality to report to it on the steps that it is taking to address the plight of evicted farmworkers.

 <p>06 AUGUST 2020 GROUNDUP</p> <h3>Court asked to oversee Drakenstein Municipality emergency housing plan</h3> <p>"The situation was allowed to continue for 20 years and those directly affected are particularly vulnerable", says advocate</p>	 <p>05 AUGUST 2020 GROUNDUP</p> <h3>Campaigns failing to stop farm evictions, say civil society organisations</h3> <p>Webinar highlights plight of women on farms, calls on President to honour promise</p> <p>FARM WORKERS</p>
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"The Municipality must be required to set out what steps it is taking to address the situation. In a report it should provide timelines so that it can be held to account, as to when those steps will be taken."

Such a measure can be seen as a mark of desperation. Overall while an increasingly common strategy, it remains questionable as to whether it is the function of the Courts to oversee the work of municipalities so as to ensure that they fulfil their constitutionally mandated functions. There is mounting evidence across the country where government departments and ministers been found to be in contempt of repeated court orders, without sanction or consequence. This highlights the depth of dysfunction undermining governance and service delivery across the country.

Food security

Xolisa Philip writing an op-ed in the business Maverick ([30 July 2020](#)) highlights the counterintuitive budget cuts outlined in the Ministry of Agriculture Land Reform and Rural Development's budget adjustment presentation to the Portfolio Committee in Parliament. This includes a total of R1.9 billion to be cut from the department's food security, land redistribution and restitution programmes. The remainder of the budget cuts impact on the AgriBEE fund which essentially means that transformation in the agricultural sector "will take a back seat". Philip also notes concerns about the plight of 40,000 small-scale farmers who applied for Covid 19 relief and whose applications were rejected.

Creamer Media's Engineering News ([31 July 2020](#)) reports on how South Africa's National Solidarity fund is seeking to enhance its efforts to provide relief to those affected by the Covid 19 pandemic. According to the article the fund has set aside R175 million for the second phase of its food relief programme and is in the final stages of planning its food voucher rollout to both urban and rural

people in need. Simultaneously it is reported to be making preparations to roll out farming input vouchers to rural communities.

Again, the question remains whether a voucher system is the best way to go. Globally cash transfers are considered to be the most effective way to reach poor households – more effective than food distribution and less open ([although not immune](#)) to corruption. Direct cash transfers also limit the siphoning off of funds by middlemen, who take their slice along the fund transfer chain.

[Wandile Sihlobo](#) reiterates his argument that South Africa needs to refocus its vision of agricultural development based on chapter 6 of the National Development Plan, and that any future development must address underutilised land in communal areas and on land transferred through land reform. He advocates a private sector led model based on joint ventures which he argues is key to recovery and the rebuilding of a post Covid 19 economy. However the article fails to acknowledge the [negligible benefits](#) provided for land reform beneficiaries and farmworkers involved in joint venture partners to date. The lessons from the Covid 19 pandemic and the related threats of climate change suggest that new thinking is required across-the-board on sustainable food and production systems and the development of new inclusive business development models.

Minister Didiza recently presented to the African Union Agricultural Ministers [noting](#) that:

We should, while dealing with the immediate challenges visited upon us by COVID-19, also appreciate the window of opportunity that COVID-19 has provided for us to reimagine, reset and reposition our agriculture post this disaster.

Presenting at the same meeting Minister Patel recorded at the African continent imported agricultural products to the value of R1.14 trillion in 2019 and runs an agricultural trade deficit with the rest of the world of some R380 billion – a deficit that was projected to widen over the next 10 years.

African countries are learning the hard lesson that we cannot simply remain exporters of raw materials and importers of medical supplies and food products.

[Land governance and administration](#)



02 AUGUST 2020 MAIL & GUARDIAN

Ingonyama Trust Board moves to retrench staff

More than 50 workers at the Ingonyama Trust Board have been issued section 189 notices

LAND GOVERNANCE AND ADMINISTRATION



06 AUGUST 2020 IOL

Cape Town Deeds Office should move into the 21st century'

The Cape Town Deeds Office should move into the 21st century, according to the Western Cape Property Development Forum

LAND GOVERNANCE AND ADMINISTRATION

The Mail and Guardian ([2 August 2020](#)) reported on moves by the Ingonyama Trust Board to retrench 50 workers employed by the trust including both the CEO and the Chief Financial Officer, effectively rendering the trust without capacity to fulfil its functions. It seems as if this is an exercise in brinkmanship in response to government withholding of the Trust's budget allocation, due to its failure to submit its annual report, financial reports and performance planned by the end of the financial year. Perhaps it provides the opportunity to act on recommendations of government commissions to fundamentally review the legal mandate, operations and management of the ITB.

In response to multiple shutdowns of the Cape Town Deeds Office there have been calls to digitise deeds registration in South Africa "placing the deeds registration process on virtual platforms underpinned by block chain technology". ([IOL 6 August 2020](#)). According to critics in the property sector this would help to address the now substantial backlog of almost 12,000 unresolved transfers lodged between 12 May and 3 June 2020. This backlog can be expected to have risen further in the interim.

Restitution

In the past two weeks there have been numerous (and partially reported) stories on a [contested land claim](#) lodged by different clans of the Mamahule in 1996.



06 AUGUST 2020 BOSVELD REVIEW

Dalmada land invaders arrested; kept in custody

The stand-off between the current owner of the land and land claimants, who have built houses on the land, despite a High Court and Constitutional Court ruling that it was unlawful, has led to many charges and counter charges laid with the police, and both the owner as well as the claimants have approached the High Court again this year following unrest in the area.

RESTITUTION



30 JULY 2020 NEWS 24

Land battle: Polokwane mayor told us to occupy farm, home owners' association tells High Court

More than 200 residents who have since been declared illegal occupiers of a farm in Dalmada outside Polokwane, Limpopo, have launched a High Court application to force the private owner to surrender the land.

RESTITUTION

The case came before the [Constitutional Court](#) in 2017 and the Court Judgment provides some essential background on the matter, all of which points to fundamental problems with the land restitution process.

During May 1996 the second applicant, the Mamahule Community, together with the Mothiba, Tholongwe, Mothapo and Mojapelo communities, lodged claims in terms of the Restitution of Land Rights Act (Restitution Act) for the restitution of five farms in Limpopo Province. The farms included Kalkfontein 1001 LS (farm). A settlement agreement was drafted in accordance with the provisions of section 42D of the Restitution Act. The agreement was never signed as the second applicant approached the Land Claims Court to contest the beneficiaries in the claimants' verification list. That dispute remains unresolved by the Land Claims Court. Whilst resolution was pending, the community started demarcating and allocating plots on the farm.

This precipitated an application in the High Court of South Africa, Gauteng Division, Pretoria by the Minister of Rural Development and Land Reform (Minister) against the community. The Minister sought orders interdicting the demarcation and allocation of plots; declaring that the members of the community were unlawful occupiers as defined in PIE; and evicting the community from the farm. That application was settled, with the community making an undertaking to desist from their conduct. Notwithstanding this, the demarcation and allocation of plots continued.

The Constitutional Court Judgment (CCT179/16) [2017] declared that the Mamahule Communal Property Association, the Mamahule Community, the Mamahule Traditional Authority and Occupiers of the farm Kalkfontein 1001 LS are unlawful occupiers of the farm.

However, the back story to this case still remains frustratingly unclear and the question remains is how the dispute around the section 42D agreement remained unresolved for so long, leaving the door open to people occupying the land under claim.

This unresolved land claim has precipitated an increasingly [tense conflict](#) over the rights of access, occupation and illegal construction of houses on Kalkfontein 1001 LS. This property is also known as Ramathlodi Park, Mamahule or Morena Seaka View. The case is crying out for some in-depth research to establish the facts and to identify lessons for the restitution process.

Urban land

News reporting on our [urban land pages](#) continues to be dominated by the contestation between metro councils and people occupying land to construct shacks.



One story this week captures this best of all. Karabo Mafolo writing on land matters in the Daily Maverick ([7 August 2020](#)) delivers some of what we need to understand behind the headlines.

For five years, Nyameka Mantambo and her five children were backyard dwellers in Town 2 in Khayelitsha. When the Covid-19 lockdown was enforced in late March, she was unable to pay her monthly R500 rent. After she was evicted, Mantambo built a shack at Empolweni, on City-owned land. In April, when shacks were demolished there, she and the other residents were left homeless.

No neat binaries in this story of a woman with five children evicted from a backyard shack. Although evicted shack dwellers won a court case requiring the city to return their building materials, Mantambo never received her allocation as the materials distributed were captured by more powerful individuals. These same people then seek to extort R1000 from the woman to 'give' her a piece of land on which to rebuild.

A community leader subsequently sold her shack for R2500 elsewhere in Khayelitsha which Mantambo is paying off monthly. And yes, not everyone is out to steal and extort. Mantambo reports how people in eThembeni have helped her and her children with food and other needs.

The urban land struggles being waged across the country give new meaning to the statement 'when complex is as simple as it gets'. Mantambo's story and many others reported on our urban land

pages highlight the accelerating chasm which is opening up between national housing policy and the needs of poor South Africans to access land and livelihoods in the city.

[African land news](#)

A wide range of articles can be found on our [Africa land news](#) pages. These report on:

- The impact of Corona virus to limit the flow of [migrant remittances](#) to families in sub-Saharan Africa and thereby remove a critical source of income. Currently there is an estimated 23 percent decline in the flow of remittances into sub-Saharan Africa (SSA), which is expected to “heavily impact the livelihoods of households and countries that rely on them for food and other basic expenditures, such as health and education”.
- The use of [Participatory 3-Dimensional Modelling \(P3DM\)](#) to validate indigenous land rights in Kenya and investment in the second phase of [Kenya’s informal settlements improvement project](#) involving funding of US\$150 million by the World Bank.
- The mounting incidence of drought, rising temperatures and extreme weather events and their impact on livelihoods in [Lesotho](#).
- The approach of the newly elected government in Malawi to address [illegal land sales](#) facilitated by government officials and to provide affordable inputs to Malawian smallholder farmers.
- The increasing demands for both urban and rural land in Namibia to address the deeply [skewed patterns of land ownership](#) which remains within the country and the argument that Germany needs to step up and honour its responsibility to support national redress.
- Zimbabwe’s decision to pay US\$ 3.5 billion in compensation to evicted white farmers and the [responses](#) to this decision – including that of the [EFF](#) in South Africa.
- The [multiple pandemics](#) including rising levels of food insecurity and political repression in Zimbabwe where an estimated [60% of the population](#) are threatened by hunger.