What People Want

Chris Williams-Wynn
Surveyor-General: Eastern Cape
East London
Republic of South Africa

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FIG WORKING WEEK
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Where is South Africa?

• 8,000 km due south of Sofia

Bulgaria

South Africa
South Africa

- Southern tip of Africa
- 9 provinces
- Just over 50 million people
- 122 million hectares of land

Introduction

- Fit-for-purpose Land Administration (Enemark et al):
  - “Sound land administration systems deliver a range of benefits to society in terms of: support of governance and the rule of law; alleviation of poverty; security of tenure; support of formal land markets; security of credit; support for land and property taxation; protection of state lands; management of land disputes; and improvement of land use planning and implementation.”

- People are more likely to invest in property if it is theirs!
- So why should the people living in the Communal Areas of South Africa not have a sound land administration system?
Argument in favour of Secure Land Tenure

- African writers: “Land ownership is associated with power”.
- Many convincing research papers:
  - Land occupants have greater incentive to invest resources into the land they own;
  - A necessary component of an effective land administration system;
  - Supports sustainable development; and
  - Creates value through trade and transfer of land!

Contrary considerations

- Some research has indicated:
  - Individual ownership decreases the security of tenure of the poorest occupants:
    - Poor are most vulnerable due to incapacity to repay any loan where the land was used to secure credit, and
    - Promotes capitalism at the expense of livelihood security for the poor.
  - Collective action is undermined (egoism vs. community)
  - Ownership does not work in all instances:
    - Lack of recognition by powers/illegitimate authority/corruption
South African Traditional Communities

- Historical racially based laws and practices:
  - Prevented members of Traditional communities from owning land or having documented land rights;
  - Confined to 15.5 million hectares of communal land (13% of total land).
- 15 million people (30%) perceive the communal area to be their home;
- Very few recorded land rights;
- Very little development; and
- Substantial dependency on the state.

Reason for the research

- Communal land has remained underdeveloped – “dead”;
- No formal land tenure is instituted and formalised.
- Yet, well-defined boundaries of fences or hedges surround most homesteads
  - Do they define some sort of exclusive use?
- Why retain an historic system that divides according to race?
- Question: do members of traditional communities in South Africa want documented land tenure rights?
Tyolomnqa, Eastern Cape

Qunu, Eastern Cape
Tsolo, Eastern Cape

Mount Frere, Eastern Cape
FIG Working Week 2015

Ladysmith, KwaZulu-Natal

Mseleni, KwaZulu-Natal
My research

• Two main questions:
  – “Why would Community Authorities and members want to convert their de facto land occupation into de jure land tenure?”
  – “If your family obtains a title deed to their land allocation, what would this mean to your family?”

• 717 respondents to my questionnaire

• According to survey research methods, it is considered a reasonable representation of the 15 million people who call traditional areas home.
Research Coverage

- Team of fieldworkers who came from traditional communities
- 13 communities
- 668 respondents from those communities
- 49 other individual respondents

My Results

Grouped into 21 broad answers

Why would Community Authorities and Members want to convert their de facto land occupation into de jure land tenure?

- Security of Tenure: 18
- Question of cost: 14
- Progress: 11
- Power: 10
- Ownership: 9
- Not wanted: 8
- Not answered: 7
- Negative connotations: 6
- Land rights: 5
- Land market: 5
- Knowledge: 4
- Key to many things: 4
- Happiness: 3
- Freedom: 3
- Exclusion: 2
- Don’t know: 2
- Despair: 2
- Democracy: 1
- Control: 1
- Access to finance: 1
Key findings

- 535 respondents (74.6%): indicated positive sentiment
- Further 158 respondents (22%): answers lacked understanding, but still indicated positive sentiments:
  - “happy”, “yes”, “freedom”, “excitement”, “democracy”
- 97 respondents (13.5%): gave no answer
- 15 respondents (2%): “don’t know”
- Only 49 respondents (6.8%): were against

Three additional issues

- 20 respondents (2.8%) did not want title deeds:
  - “oppression”; “expenses”; “end of tribal land”!
  - A small minority cannot be ignored
- 1 respondent (0.14%): notion of land market
- 1 respondent (0.14%): provide access to loan finance
One key difference

- 193 respondents (26.9%): title deed would provide ownership to the land they occupy;
  - Occupation ≠ ownership, but want to own!
- 123 respondents (17.2%): wanted proof, assurance or confirmation of their ownership
  - Occupation = ownership, but want document!
- Unintended difference?
- Clear distinction in the author’s mind!

Summary

- A documented land right would:
  - Provide proof to the owners of their inviolable rights,
  - Provide visible evidence of ownership,
  - Give security of title,
  - Bring permanence, protection and pride, and
  - Provide the owner of that right with an identity – a place of belonging and of self-worth.
Conclusion

• Do people want land rights?
• The people have spoken, and the answer is a definite:

“Yes”! “Amandla ngawethu!”

“Amandla ngawethu” is an isiXhosa phrase meaning “the power is ours”.