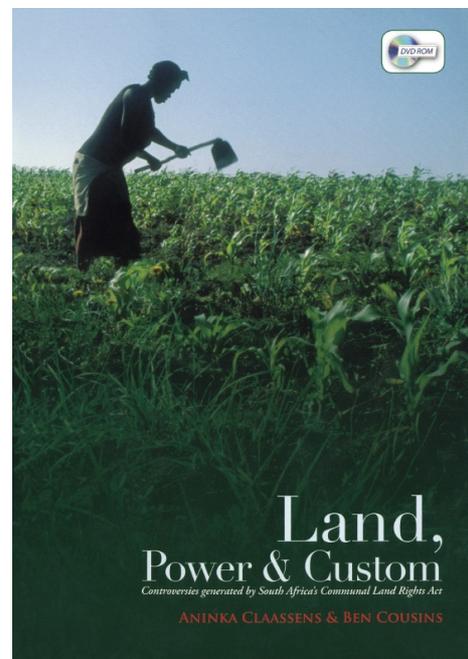


Land, Power and Custom

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About this Publication:

Land is a burning issue in South Africa, as in Africa more widely. One particularly controversial aspect is the reform of communal land tenure, which impacts on power and gender relations. The relevant legislation in South Africa is the Communal Land Rights Act of 2004, which aims to secure the land rights of people living in communal areas.

Land, Power & Custom: Controversies generated by South Africa's Communal Land Rights Act is a joint project with the Legal Resources Centre (LRC) which has long been involved in litigation concerning land rights in rural areas. It combines chapters written by experts in the fields of land tenure, customary law, history and land reform, and detailed case studies collected from rural communities. The book discusses and explains the impact that provisions of the Act will have on current problems, and the danger that it will introduce new forms of conflict and instability. Many of the chapters argue that the Act entrenches key distortions that derive from colonialism and apartheid.

The chapters are relevant to debates about land tenure taking place throughout Africa and other parts of the world. It will be of great interest to students of customary law and land law, sociology and political science, legal practitioners and development workers engaged with land issues.

The book includes a DVD-ROM containing over 3 000 pages of related material, including current and historical legislation affecting communal land and affidavits by rural applicants, state officials and traditional leaders in pending litigation concerning land rights and chiefly power.

Contents Include:

Part 1: Introduction

Chapter 1 Contextualising the controversies: dilemmas of communal tenure reform in post-apartheid South Africa (by Ben Cousins)

Chapter 3 Tagging the Bill, gagging the provinces: the Communal Land Rights Act in Parliament (by Christina Murray and Richard Stacey)

Part 3: Land rights and customary law

Chapter 4 The nature of land rights under indigenous law in Africa (by HWO Okoth-Ogendo)

Chapter 5 Characterising 'communal' tenure: nested systems and flexible boundaries (by Ben Cousins)

Chapter 6 'Official' vs 'living' customary law: dilemmas of description and recognition (by Tom Bennett)

Chapter 7 Women, land and power: the impact of the Communal Land Rights Act (by Aninka Claassens and Sizani Ngubane)

Chapter 8 Custom-building freehold title: the impact of family values on historical ownership in the Eastern Cape (by Rosalie Kingwill)

Part 4: Traditional leaders, power and land rights

Chapter 9 Contested terrain: land rights and chiefly power in historical perspective (by Peter Delius)

Chapter 10 Chiefs and the ANC in South Africa: the reconstruction of tradition? (by Lungisile Ntsebeza)

Chapter 11 Power, accountability and apartheid borders: the impact of recent laws on struggles over land rights (by Aninka Claassens)

Part 5: Case studies

Chapter 12 The Kalkfontein land purchases: eighty years on and still struggling for ownership (by Aninka Claassens and Durkje Gilfillan)

Chapter 13 Stealing restitution and selling land allocations: Dixie, Mayaeyane and Makuleke (by Aninka Claassens with Moray Hathorn)

Part 6: Conclusion

Chapter 14 Customary law and zones of chiefly sovereignty: the impact of government policy on whose voices prevail in the making and changing of customary law (by Aninka Claassens)

DVD Rom content

Pleadings in *Tongoane and others v The Minister of Agriculture and Land Affairs and Others*

(TPD 11678/06, set down for argument in the Pretoria High Court in October 2008) - The full set of pleadings is included so that readers have easy access to the answering affidavits of the state, its experts and the respondent traditional leaders.

- The application
- The respondents' answering papers
- The applicants replying papers
- Notices, bundles and interlocutory application

Legislation

- The Traditional Leadership and Governance Framework Act (41 of 2004) and Provincial laws enacted pursuant to it
- Current legislation relevant to Land Tenure Rights in the Reserves and former homeland areas
- Previous (historical) legislation - that has since been repealed. These old laws are an important resource for historians and social scientists
- Relevant Bills currently before Parliament (as at July 2008) plus draft regulations for the Communal Land Rights Act - which potentially impact on tenure, power relations or land administration

Parliamentary Submissions to the Land Affairs Portfolio Committee concerning the Communal Land Rights Bill 2002-2003

- Submissions by national & provincial organisations and institutions
- Submissions by community based groupings

Relevant journal articles

Other Documents relevant to Chapters 13 & 14

Of Interest and Benefit to:

Students and lecturers in law, African Studies, history, sociology, political science and rural development, as well as NGOs and developers working in the field of land reform.