

Summary of Key Findings from the National Evictions Survey



social surveys
AFRICA





Photographs taken by Jurgen Schadeberg



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Background

Looking at farm dweller evictions in South Africa, we should never forget the history of colonial and apartheid-era land dispossession that has contributed to creating the situation we still have to deal with today.

“It is nearly impossible to attach a figure to the total number of evictions taking place”

Parliamentary Portfolio Committee, 2000

“There are very few statistics available to assess the advancement and protection of human rights in farming communities”

South African Human Rights Commission, 2003

Struggles for liberation all included demands for the land question to be dealt with. Famously, the Freedom Charter adopted in 1955 said, “The land shall be shared among those who work it!” It is farm workers and farm dwellers who work the land, but they have not yet got their share.

The Surplus People’s Project found in 1983 that 3.5 million people had been forcibly removed in the previous 23 years (1960-1983). Of these, the largest group – 1.1 million people – were removed from white farms.

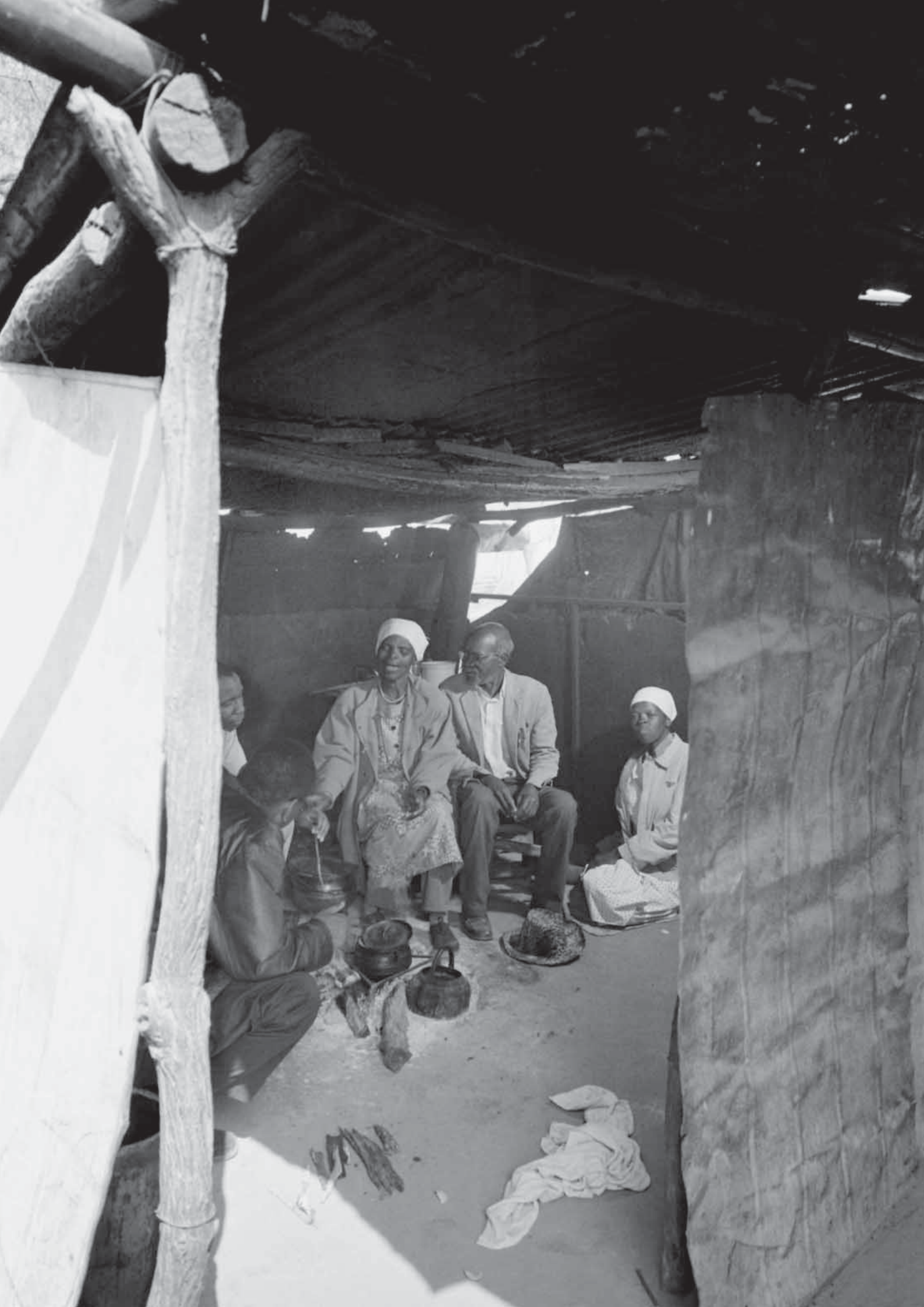
According to the 2001 census, 2.9 million black South Africans still live on farms owned by other, mostly white, owners. A range of reports from organisations such as the South African Human Rights Commission (SAHRC) have documented the human rights abuses they experience, including evictions.

Recognising these and other land-related problems, the new Constitution of South Africa required the government to implement a land reform programme, including tenure reform. The Constitution specifically says in section 26 that “no one may be evicted from their home, or have their home demolished, without an order of court.”

The land reform programme implemented since 1994 aimed to deal with the land issue and included new legislation to deal with farm tenure, notably the Extension of Security of Tenure Act (ESTA) and the Land Reform (Labour Tenants) Act (LTA).

Programmes are being implemented by the Department of Land Affairs (DLA) and various NGOs (including the Rural Legal Trust and National Farm Dweller Programme) to try and give effect to these new laws. However, it has been impossible to properly assess the impact of these interventions as there has been no adequate data available.

A number of reports have confirmed the lack of adequate information on this issue.

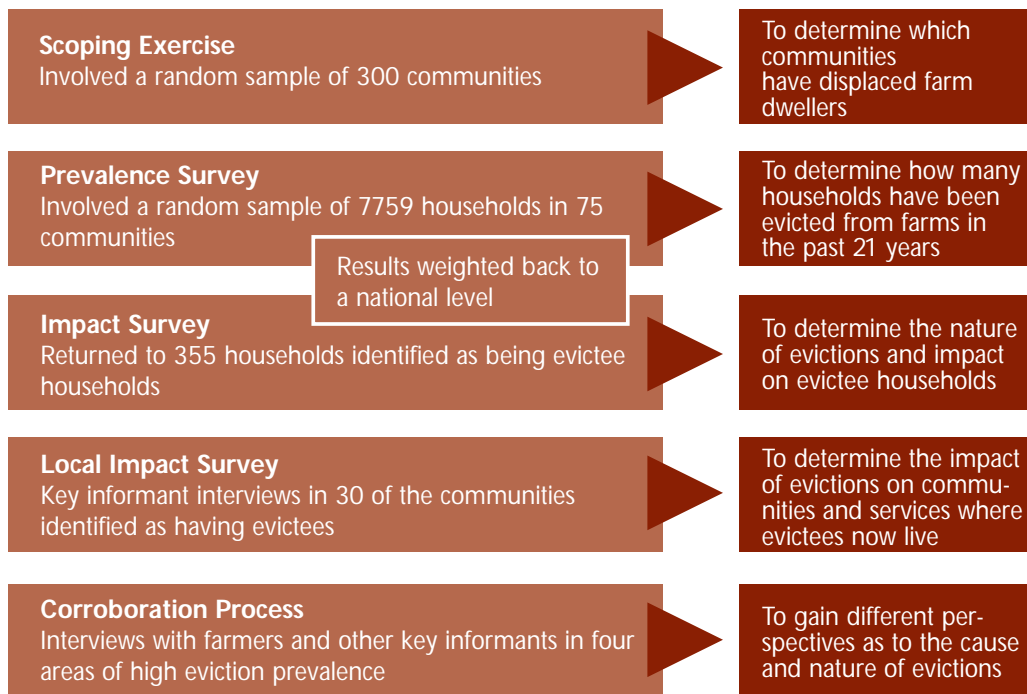


Description of the study

The overall objective of the study was to obtain accurate information on the extent, nature and impact of evictions from farms and for this to be used in developing future legislative and programmatic interventions.

Study approach

Social Surveys developed an innovative methodology to establish credible figures and information on the extent and impact of evictions. The diagram below summarises the key components of the study approach.



A key challenge of a quantitative survey methodology such as this is the development of an appropriate, nationally representative sampling frame. Statistics South Africa's Census 2001 data was used as a basis for developing a geographically referenced sampling frame. All settlements in the country were clustered, through statistical analysis, according to a set of variables – human, physical, social and financial capital – into different community types. The communities sampled were randomly selected within each of the settlement types. This ensured that:

- The survey covered the full range of the very different settlements in South Africa;
- Settlement types most likely to be displacement areas for farm dwellers could be identified;
- The information from the survey could be weighted back to establish national figures per settlement type and for the country as a whole; and
- The sample frame can be used for future monitoring of evictions.

Scale of evictions

The most important finding has been to quantify for the first time the number of evictions that have taken place. It was found that almost 1.7 million people were evicted from farms in the last 21 years and a total of 3.7 million people were displaced from farms (see table below). The number of people displaced from farms includes those evicted and others who left out of their own choice. Many of those found in this study to have left of their own choice made this choice due to difficult circumstance on the farm; however these are not counted as evictees. People were only considered evicted if there was some direct action of the owner or person in charge that forced the farm dweller to leave the farm against their will.

Some farm dwellers left one farm to resettle on another farm. The total number of people off farms completely, whether evicted or not, has serious implications for development and planning, both for settlements where they end up and in farming areas. One of the greatest concerns arising from these figures is the continuation, even increase, in the number of evictions taking place post-apartheid.

Total number of people displaced and evicted		
	Displaced from farms	Evicted from farms
1984 to end 1993	1,832,341	737,114
1994 to end 2004	2,351,086	942,303
Total	4,183,427	1,679,417
Now on other farms	467,808	93,060
Permanently off farms	3,715,619	1,586,357



Eviction trends

The table on the next page shows how many evictions occurred each year and the percentage of all evictions that occurred per year. It is useful to see the evictions against the background of employment trends on farms (see table below). The highest number of evictions occurred during 1984 and 1992, which seems to correspond with periods of severe drought. The next highest number of evictions was in 2003 when the sectoral determination for agriculture, in terms of the Basic Conditions of Employment Act, came into effect, setting a minimum wage for farm workers, among other provisions.

Farm employment trends (source Statistics South Africa)				
	1986	1991	1996	2002
Regular employees	816,660	702,323	610,000	481,375
Casual employees	534,781	413,239	304,000	459,445
Total paid employees	1,351,441	1,115,562	914,000	940,820



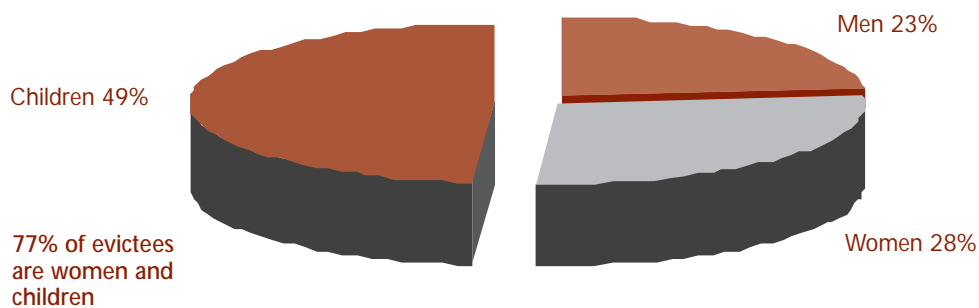
The percentage and number of evictions found to have occurred each year			
Year	% of evictees	No. evictees	Context
1984	9.5%	159,545	This follows an extended drought from 1982-84
1985	3.3%	55,421	
1986	5.9%	99,086	
1987	2.1%	35,268	
1988	2.9%	48,703	
1989	3.8%	63,818	
1990	4.1%	68,856	
1991	1.1%	18,474	
1992	10.7%	179,698	Severe drought 1991-92
1993	0.4%	6,718	Farms recover, one of the few years where there was an increase in farm employment.
1994	7.4%	129,315	Political uncertainty, trade liberalisation (SA joined GATT in 1993), and Restitution of Land Rights Act
1995	5.0%	83,971	New Labour Relations Act (LRA) comes into effect
1996	6.8%	114,200	Land Reform (Labour Tenants) Act (LTA)
1997	7.7%	126 196	Extension of Security of Tenure Act (ESTA) and new Basic Conditions of Employment Act
1998	3.8%	63,818	
1999	5.4%	90,689	
2000	3.4%	57,100	
2001	1.5%	25,191	
2002	3.6%	60,459	
2003	8.2%	1 37,712	Sectoral determination for agriculture including a minimum wage
2004	3.4%	57,100	

Who is being evicted?

The evictees are black South Africans. At the time of the evictions, 49% of evictees were children, raising questions about the protection of children's rights. Women are also more vulnerable to eviction.

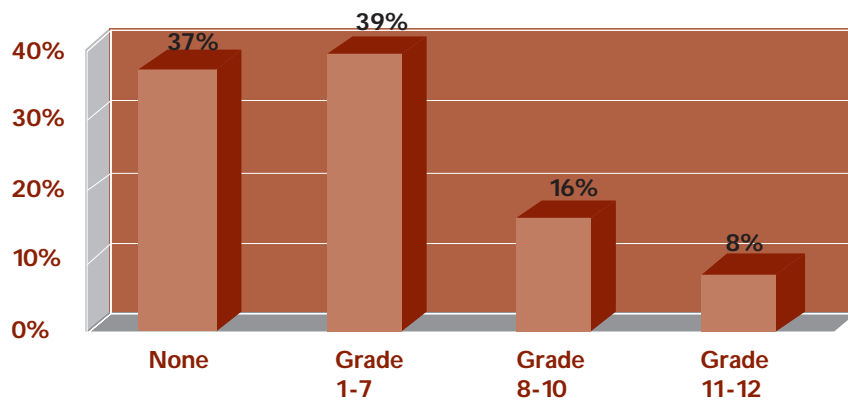
Almost all evictees have a very low level of education, with 37% having no education at all. A shocking 76% have not gone beyond primary school, leaving them functionally illiterate.

Men, women and children evicted from farms in past 21 years



The evictees are also extremely poor and even those who worked on the farms earned a pittance. Average wages for the men evicted remained less than R530 per month, even in the last five years. Women are even worse off, with an average wage income of only R332. These evictees lived in poverty on the farms and continue to live in poverty today. With little education and work experience limited to work on farms, it is very difficult for them to establish new lives of dignity in relocation settlements.

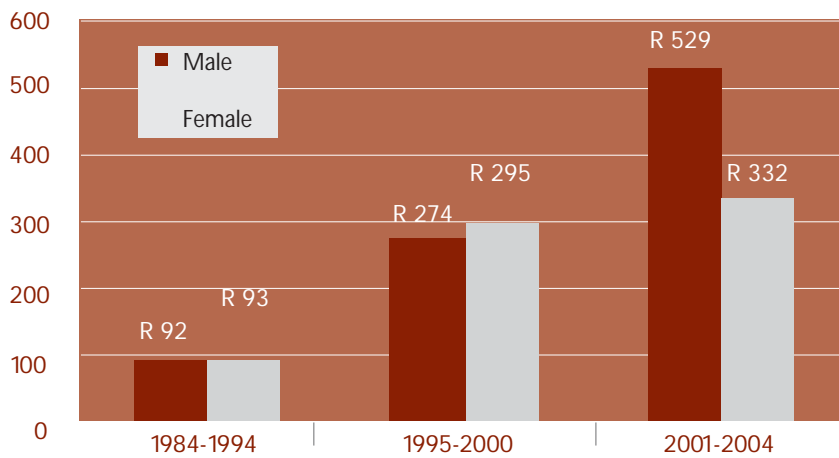
Education levels of adult evictees



Many of those evicted were long term occupiers on the farms they were evicted from. 58.5% of the adults had lived on the farm for more than ten years. In addition, 15% of the adults evicted were born on the farm and over 56% of evicted children were born on the farm.

Clearly many of those affected by evictions are not transient workers. They are families with long histories on the farm and sometimes even longer term connections with the areas, having also lived on neighbouring farms.

Average monthly incomes of full-time farm employees by gender



Women and children

“My husband was killed and I had to leave because the farmer did not want women without husbands or fathers that could work on the farm”

Evicted farm dweller

“He wanted my young kids to look after his goats and sheep and I refused so he beat me and said I had to get off the farm”

Evicted farm dweller

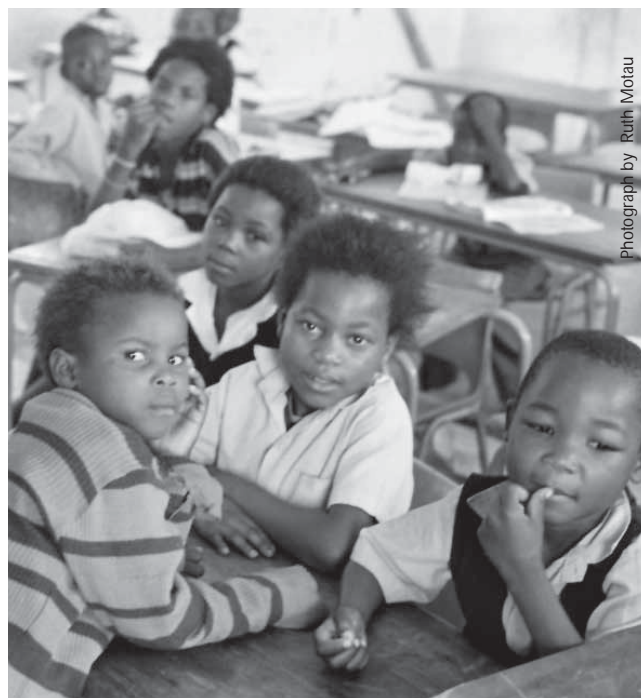
“The farmer wanted my brother to work for him after school and my father refused ... He stopped our food rations, he took our livestock and made life miserable and intolerable”

Evicted farm dweller

Women and children are the most vulnerable as they are often treated by land owners and the courts as secondary occupiers, allowed on farms only through their link with a male household member. When a man in a farm dweller household is fired or dies, the owner often uses this as a reason to evict the rest of the household.

Unfortunately this position was supported by the Land Claims Court (LCC) in the *Die Landbou Navorsingraad v Klaasen* (LCC 83R/01) case. In this case, the LCC ruled that an eviction order against a member of the household seen as primary occupier can be used to evict other household members. In practice, the primary occupier is almost always seen to be a man. This ruling in effect denies other household members the right to defend themselves from eviction in court.

While still living on farms, 46,748 evicted children were also involved in child labour. Three quarters of the cases of child labour identified had occurred before 1994, indicating a substantial drop in this practice after 1994. A number of evictions occurred due to disputes over child labour on farms, such as situations where parents refused to allow their children to be involved in work on the farm.



Assistance received by farm dwellers

With low levels of education, lack of resources and little awareness of their rights, very few farm dwellers were able to get any assistance when they were evicted. One third of the evictees had no knowledge of their rights, while the other two thirds wanted some kind of assistance. Among those who wanted assistance, 26% wanted some kind of legal assistance or representation to assist in talking to the farmer. There is powerful evidence to suggest that many farm dwellers find it impossible to talk to the owner in order to take up any grievances. Other types of assistance the evictees wanted were financial and help in finding a place to stay.

One of the biggest problems seems to be that most farm dwellers (83% of those surveyed) simply do not know where they can go for assistance. The challenge is to ensure that there are services available – which is not the case in most areas – and that farm dwellers are aware of these services and able to access them. Currently, there is no such systematic support available for the implementation of tenure legislation.

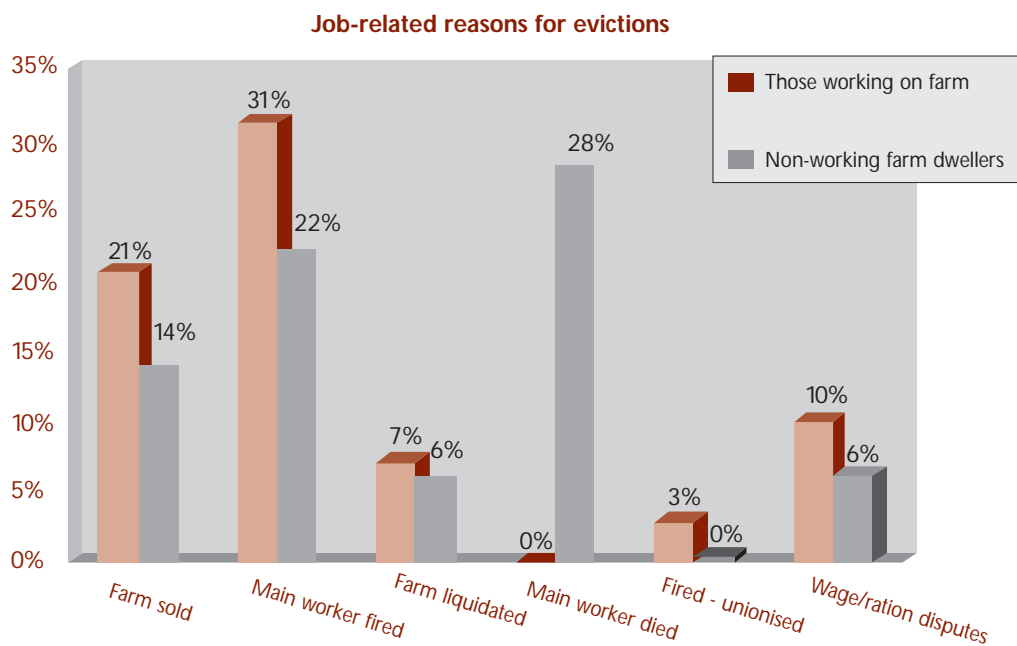
The very small number of evictees who had got some kind of assistance found the assistance unsatisfactory. In a number of cases, they reported that they had taken their problem to structures such as the police and Department of Labour, but nothing was done.



Reasons for evictions

Over two thirds of evictions were work-related, whether the affected person was working on the farm or not (see table below). A number of reasons were reported, ranging from farms closing down to farm workers being dismissed or passing away. A large number of people, mostly women and children, are evicted as a result of the main breadwinner passing away. At a time of loss, these farm dwellers are also losing their homes and sources of income.

Other reasons for evictions include changes in land use, conflicts over access to services, disputes over child labour and farmers simply not wanting people living on the farm anymore.



Court-ordered evictions

Only 1% of the evictions involved any legal process. As the main intervention of the government to deal with evictions has been to enact new legislation, it is important to look at how that legislation is working and to explore why the courts are not being used.

All eviction orders issued in terms of ESTA in the magistrates courts need to be reviewed by the Land Claims Court (LCC). By the end of 2004, the LCC had reviewed 645 magistrates' court eviction orders since it was established. The LCC set aside approximately 25% of the eviction orders and confirmed about 75%.

The LCC has heard approximately 525 other ESTA and LTA cases, but not all of these are eviction cases. There is a problem that not very much information is kept or analysed at the LCC, making it a difficult task to establish the nature of the cases being heard without going through each of the files. There is also no record kept of the number of people affected by eviction orders and whether or not the people evicted had legal representation.

Organisations working with farm dwellers, such as the Rural Legal Trust, report that land owners are getting better at using ESTA to evict farm dwellers and this is almost always done with no alternative accommodation provided.

There is still a problem of legal representation for farm dwellers despite the Nkuzi judgement (case LCC 10/01), which found that indigent farm dwellers whose tenure is under threat are entitled to legal representation and the government has an obligation to ensure that this right is fulfilled. It was beyond the scope of this study to do an in-depth analysis of court cases, but with assistance from the Lawyers for Human Rights office in Stellenbosch, an assessment was made of eviction orders granted in the Worcester Magistrates Court. Seven eviction orders were granted in the Worcester court in the first four months of 2005 and confirmed on review by the LCC. It was found that six of the seven evictions were undefended default judgments. It was also found that letters from estate agents confirming availability of houses to rent are being used to argue that there is alternative accommodation available. Some of these letters referred to properties available for between R1,600 and R3,000 per month, far beyond the reach of the farm dwellers in question.

The one case assessed at Worcester where there was legal representation raised further questions as the farm dweller evicted was 70 years old and had lived on the farm for 38 years. It was a no-fault eviction and the farm dweller was moved from a four room house with an inside toilet to a three room house with an outside toilet. This ruling appears to be counter to the intentions of ESTA that creates stronger rights for occupiers who are over 60 or disabled and have lived on the farm for ten years or more. They are supposed to be able to stay for the rest of their lives, provided they do not violate the conditions of their occupation.

Farm dwellers have limited knowledge of their rights and, even more importantly, do not have or know where they can get assistance. The growing perception that one cannot get justice for farm dwellers from the courts also discourages farm dwellers and those assisting them from using the court processes.

“The growing perception that one cannot get justice for farm dwellers from the courts also discourages farm dwellers and those assisting them from using the court processes”

Impact of evictions

Circumstances immediately after evictions are often devastating until people can establish themselves in new settlements. There is no evidence of any kind of support being provided to assist people in this process. With almost no financial resources, little education and work experience limited to farm work, it is hard for evictees to establish reasonable livelihoods. The overwhelming majority of the evictees continue to live in poverty, even years after being evicted.

Evicted farm dwellers have to adapt to a different lifestyle off farms and also have to establish new social networks. This is helped to some extent by evictees going, when possible, to settlements where they have relatives or already know people, but there are signs that they struggle to integrate with the rest of the community. Many evictees, especially older people, also complain of the noise and overcrowding in the settlements where they end up.

In the long run, evictees may find themselves in settlements with better services such as schools, tap water, shops and electricity. Access to education came up as a very important issue for farm dwellers – the lack of access to education on farms was given as one of the reasons many evictees would not like to return to farms.

“People from farms come from a different social orientation and when they come here they have to learn a new way of living”

Ward councillor

Despite being in settlements where services are theoretically available, the evicted households often do not access these due to a lack of resources. The cost of services has become a burden to many evictees who benefited from services and the use of natural resources that were free or available as part of employment arrangements on farms. For example, 40% of households had access to firewood at no cost on the farm compared to only 10% afterwards. This means that households have to buy fuel such as wood, paraffin and coal because the majority have no electricity. For those who do have electricity, the cost is a problem – even in formal townships, only 39% of the evicted households use electricity for cooking and heating. This indicates the marginal position of evictees even in urban areas.

At a time when those evicted face increased costs, they are also less likely to have paid work. Just over 60% of evicted adults of working age were employed while on the farm, only 52.4% are employed in the settlements where they live now.

The majority of farm dwellers were involved in their own agricultural production when on the farms (see table). After the evictions, there was a substantial drop in this production. The reduction in the number of households with livestock reflects an unfortunate loss of agricultural assets. The households that do still have livestock also have less than they had on the farms. There has been a shift from people owning cattle on farms to being left now with poultry and other small stock such as goats.

Table showing farm dwellers' own production		
	Farm – prior to eviction	Off farm – after eviction
Households with livestock		
Yes	44.8%	9.3%
No	55.2%	90.7%
Households growing maize		
Yes	59.4%	26.7%
No	40.6%	73.3%
Households growing vegetables		
Yes	20.3%	31.0%
No	79.7%	69.0%

The reduction in the number of people growing maize, their staple food, is another reflection of the way in which evictions have forced black farmers out of production. Far fewer of the evicted households are now producing maize and they are generally also producing smaller amounts. The increase in the number of people growing vegetables may be positive, but also shows a move from farming to small-scale gardening.



Where are evictees now?

Over 67% of evicted farm dwellers have settled in and around urban centres with the largest numbers found in Gauteng and KwaZulu-Natal. These two provinces both have a high number of evictions and also attract evictees from other provinces due to the large urban centres that are perceived to offer greater job opportunities.

The largest number of evictees (48%) is found in townships, often living in the poorer sections of these townships, in backyard shacks and other informal dwellings. Informal settlements attracted 30% of evictees from farms, while villages in former homelands garnered another 14%. It is a concern that black farm dwellers are forced out of what have for decades been white farming areas and are only able to find a place to stay in crowded settlements that were allocated for black occupation during the apartheid era and before.

The movement of people described above is not surprising given that there is no planning or provision to accommodate people moving and being evicted from farms, and there are no new settlements being established in farming areas. The exodus of people from farming has implications for the sector in the long run, with possible shortages of labour and the continued concentration of land access and ownership into fewer hands.



Local impact

Communities where evictees end up are affected by the influx of new people. An average of 16,822 households have been evicted since 1994, all requiring housing and access to basic services such as water and sanitation. This is contributing to the expansion of informal settlements and overcrowding in existing settlements.

There is also an impact on government service delivery, in particular local government, with an extra strain on services that are often already stretched. Development plans are disrupted and delayed because planning cannot keep up with the influx of people and statistics on the scale of this influx are not available. The cost of providing RDP houses to evicted households alone would be more than R500 million per year, around 12% of the national housing programme budget.

Implications for land reform

There has been widespread acknowledgement, in particular at the Land Summit held in July 2005, that land reforms in South Africa are not going as fast or as well as they should. The findings of this study show that the limited achievements of the land reform programme are completely undermined by the continued dispossession of black people from the land through evictions from farms.

The table on page 21 shows the number of black households that have gained access to land or improved tenure security to land through the land reform programme from 1994 to July 2005 and the number evicted from farms. These figures are generous to the land reform programme as it is well known that not all those listed as beneficiaries are truly benefiting at this point. For example, many claimants in “settled” land claims have not yet gained access to the land due to transfers not having happened or factors such as conflicts within communities that have rendered projects dysfunctional.

The most important point is very clear: more black households have lost access to land through being evicted than have gained land through the land reform programme. Of equal concern is that very few farm dwellers are amongst those who are benefiting from the land reform programme. While there is no reliable national data on the extent to which farm dwellers have benefited from land claims or redistribution projects it has been found in a number of more

“We even have shacks in the open spaces where the children used to play... you cannot see where we used to walk – it is covered with shacks”

Professional nurse,
informal settlement

“We budget according to the statistics we have for one year and then the people move into the community and they were not included in the budget”

Clinic sister, urban
township



Comparing land reform benefits with eviction losses	
	Beneficiary households
Restitution No information on how many farm dwellers	90 282
Redistribution No information on how many farm dwellers	66 360
Tenure for farm dwellers (ESTA + LTA)	7 543
Total households that gained land or tenure security from land reform, up to July 2005	164 185
Farm dweller households evicted 1994 - 2004	199 611

qualitative studies that very few farm dwellers benefit from these programmes, despite the fact that many farm dwellers have farming experience. Most farm dwellers have worked on commercial farms and been involved in their own production. Just as importantly many farm dwellers have a real interest and affinity for the farm way of life.

Despite the bad experience many respondents had when they were evicted, over 27% still say they would prefer to live on farms. The reasons why evictees do not want to return to farms are not due to them being opposed to farm life as much as to the very poor treatment they received when on farms and the lack of services such as access to schools. Farm dwellers still on farms and many of those evicted would make logical beneficiaries for land reform, but instead they continue to be marginalised or ignored in programmes.

Farmer perspectives

Interviews were conducted with AgriSA and National African Farmers Union (NAFU) leadership, as well as with local farmers in four areas of high eviction prevalence in order to get their perspectives on the issue of evictions and why evictions may be happening. The local farmers spoken to were mostly members of AgriSA and the Transvaal Agricultural Union (TAU).

It emerged that decisions about farm workers and dwellers are made largely for economic reasons. This also seems to be confirmed by the eviction trends found in this survey. Labour on farms is one production cost that can be cut or reduced, especially given the low level of unionisation and inability of farm workers and dwellers to defend their rights.

Farmers generally do not want people who are not working on the farm to be on the farm. They bring no benefit to the farmer and are seen as a cost and risk factor, including a security risk that the farmer does not want to carry.

The main factors leading to a reduction in the work force on farms according to farmers are droughts, deregulation, international competition, and the minimum wage regulations. The loss of work on farms often leads to the eviction of the workers and their families.

New tenure and labour legislation is an additional cost and risk to farmers causing them to respond in order to maintain a viable business. A common response to the new laws since 1994 has been to reduce the number of full-time workers and the number of people living on farms, as well as limiting the number of new people coming onto farms. We should be cautious about blaming these trends entirely on legislation, though, as many of them are long term trends in agriculture and other sectors.

There were indications from some farmers that there may be future labour shortages due to an ageing work force, HIV/AIDS and fewer people living and growing up on farms. Youth who grow up in townships rarely have an interest in work on farms.

NAFU had a very different perspective from the white farmers spoken to. NAFU sees some farm dwellers as farmers in their own right and potential members. They believe there is a need to secure farm dwellers' rights and deal with the unequal power relations between farm dwellers and land owners.

Addressing the evictions crisis

The continued dispossession of people from the land is a crisis that cannot be allowed to continue. Key stakeholders in the sector all need to be involved in jointly searching for and implementing solutions to this situation.

We believe that dealing with the situation requires a multi-pronged approach including actions to:

- Tighten up legislation by, amongst other things, creating substantive rights in land for occupiers;
- Implement a well-resourced programme of information dissemination, support to farm dwellers and enforcement of the tenure laws; and
- Proactively create new, sustainable settlements in farming areas.

A key challenge that needs to be met is to find ways of separating tenure and employment rights.

There are immediate and achievable steps that should be taken now to improve the situation. The Constitution of South Africa makes it clear: "no one may be evicted from their home ... without an order of court." We must give effect to this immediately and further ensure that, when a matter does go to court, farm dwellers are given a fair hearing, which must include legal representation. While we seek longer term solutions, the organisations working to inform farm dwellers of their rights and defend those rights need to continue and be supported.

In the long run, we need to see the creation of a new dispensation in farming areas that includes commercial farms, small farms, space for new and emerging farmers, and new settlements for farm dwellers. Such new settlements must give farm dwellers homes of their own and new economic and production opportunities.



Black farm dwellers, living on farms that are still almost exclusively white owned, remain amongst the poorest and most vulnerable people in South African society, often becoming victims of eviction and other human rights abuses.

The National Evictions Survey identified farm dwellers who have been evicted from 1984 to 2004. The Survey has for the first time established how many farm dwellers have been evicted from farms in South Africa and explored the impact of these evictions.

The survey was an initiative of the Nkuzi Development Association and was implemented by Social Surveys, in partnership with Nkuzi.

After some years of preparation, including development and piloting of the methodology, the main field work was carried out from September 2004 into 2005.

The survey was made possible by the financial support of the Atlantic Philanthropies, the Foundation for Human Rights, the Open Society Foundation and USAID, with the co-operation of the Department of Land Affairs. The production of this summary version of the main findings was supported by the Foundation for Human Rights.

The full findings from the National Evictions Survey are available in the book *Still Searching for Security: The reality of farm dwellers evictions in South Africa*, written by Marc Wegerif, Bev Russell and Irma Grundling.

For further information contact

Nkuzi Development Association
Tel: 012-323 6417 or 015-297 6972
www.nkuzi.org.za

Social Surveys
Tel: 011-486 1025
www.socialsurveys.co.za

For assistance with eviction issues contact the
Rural Legal Trust
Tel: 011-403 4426
www.rlt.org.za

Designed by Limeblue: info@limeblue.co.za

