

Struggles with activism: NGO engagements with land tenure reform in post-apartheid South Africa*

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ABSTRACT

In 2004, a long-awaited piece of post-apartheid legislation, the Communal Land Rights Act – to reform the land tenure of those living in the former ‘homelands’ of South Africa – was passed into law unanimously by parliament. This unanimity, however, conceals the extent to which the process towards this moment was deeply contested. Exploring the efforts by land sector NGOs to secure legitimacy in their engagements with this process reveals the extent to which wider power relations and contestations have determined their positioning. Those within the non-governmental land sector who opposed the legislation pitted themselves against African National Congress politicians and high-profile traditional leaders. However, the adoption of a Mamdani-inspired discourse to contest such politics and oppose the proposed legislation contributed to re-inscribing narrow readings of knowledge considered to be legitimate. Their engagements were also shaped by changes in the NGO sector. Reduced funding for land sector NGOs and an increasingly ambivalent relationship between them and government contributed to contestations between NGOs and among people working within them. Their strategic engagements in such wider and internal politics influenced both the frames within which such policy change could be debated and the ways in which individuals working for NGOs consequently positioned themselves in relation to their constituents.

* I would like to thank Ian Scoones, Barbara Oomen, Linda Waldman, Phil Woodhouse and Roy Maconachie for their comments and guidance in relation to earlier versions of this work, as well as two anonymous referees for their comments. I would also like to gratefully acknowledge the support of an ESRC Studentship (Institute of Development Studies, PTA-030-2003-00356) and Fellowship (Institute of Development Policy and Management, PTA-026-27-1924).

INTRODUCTION

This paper considers the non-governmental land sector (NGLS) in post-apartheid South Africa, and its engagements with debates over the reform of tenure in the former 'homelands' of the country after the advent of democracy in 1994. Such debates culminated with the passing of a piece of legislation, the Communal Land Rights Act (CLARA), in 2004. CLARA was passed unanimously by the South African Parliament months before the country's third democratic elections. But the legislation pitted different groups against each other, including government bureaucrats, African National Congress (ANC) politicians, traditional leaders in the former 'homelands', human rights lawyers, rural women, and land sector and gender activists. Exploring such engagements reveals the extent to which wider power relations and contestations between and amongst NGOs have shaped their positioning in engaging with policy change. Many accounts have considered how development agencies and NGOs have constructed discourses of development that have 'produced' particular identities and marginalised difference (Ferguson 1994; Robins 2001), and this analysis contributes to such accounts. However, it also considers differentiation between land sector NGOs themselves, and between actors within them, and how such on-going contestations have contributed to constructing particular discourses and shaping practice. This, in turn, has produced particular readings of legitimate knowledge and has influenced the accepted identities of those they claim to represent.

After South Africa's first democratic elections in 1994, dramatic political change influenced the relations between land sector NGOs, amongst people working within them, and between them and their constituents. The country's second democratic elections in 1999 also ushered in far-reaching change. A new Minister for Land and Agriculture was appointed, who replaced many staff members of the Department for Land Affairs (DLA) and shelved its existing plans for tenure reform. For many within the NGLS, the period after 1999 became defined by their perceived exclusion. Meanwhile, relations between NGOs within the land sector suffered, with conflicts between individuals within the NGLS coming to the fore; discourses of race and gender, liberalism and radicalism became linked with struggles over activist capital. In this context, the government's new plans for tenure reform were tabled. While high-profile traditional leaders appeared to be privileged in the reforms, the NGLS complained of its marginalisation. In response, in attempting to strategically contest CLARA at the level of policy, many land sector NGOs adopted a Mamdani-inspired anti-chieftaincy discourse which had strong historical

resonance within the activist sector (see Mamdani 1996). The adoption of this discourse, however, not only delineated NGOs' engagements with policy, but also shaped their specific engagements with their constituents. This paper argues that positioning 'tradition' within a binary discourse of 'undemocratic chiefs' versus their 'democratic other' excludes more nuanced understandings of an everyday, negotiated, often contested, reality in which the attainment of 'democracy' is unequal.

While analysis here principally focuses on the engagements of the NGLS, it draws on twelve months qualitative fieldwork undertaken in 2005–6, considering the engagement of different groupings in the policy process relating to CLARA (Fortin 2008). This included over 135 interviews, focusing on key participants in the policy processes of land tenure reform over the ten years between 1994 and 2004, as well as on those who would be the subjects of the reforms. It also involved archival research and textual analysis. Many insights were developed through ethnographic research at different individuals' places of work, including four months fieldwork in Limpopo Province, undertaking research in one village in the former Gazankulu homeland and with staff at Nkuzi Development Association, an NGO working predominantly in that province.

The first section of this paper describes the 'homelands', their construction under apartheid and the ambivalent role of chiefs in this project. The second section discusses the engagement of high-profile traditional leaders with politics, focusing on the period of South Africa's post-1994 transition. This locates the politics aroused by reforms adopted after the advent of democracy in 1994 to deal with land tenure in the homelands – the focus of the following section. These three sections contextualise the subsequent analysis of changing relations within the NGLS after 1994 until 2004, when CLARA was passed into law, and how these shaped the NGLS response to CLARA. This analysis, however, is foregrounded with a brief discussion of the theoretical frames the paper draws upon and contributes to. The final two sections of the paper explore the ways in which the adoption of that discourse produced 'legitimate' identities and marginalised others.

THE HOMELANDS AND CHIEFS

Inequality in South Africa is stark, having its roots in thousands of laws passed by the former apartheid regime. Its policy of 'separate development' was pursued principally through the creation and minimal sustenance of the former 'homelands', with their powers of rule and administration of land delegated to chiefs with jurisdiction over particular

areas (Evans 1997; Hendricks 1990). Although the 'homelands' make up just 13% of the land area of the country, in 2001 it was estimated that 19,050,159 people lived in 'rural areas' of the country (Statistics SA 2002).¹ Moreover, in 1997 it was estimated that more than 73% of those living in such areas were living in 'poverty' (MWPDP 1997).

By 1994 there were ten South African homelands, four of which were 'independent'. Under apartheid, they were to provide a 'home' for the people who lived there, as well as all the other people from the same 'tribe' living elsewhere in South Africa. They also became a 'dumping ground' for millions of people who were removed from 'black spots' and farms in 'white' South Africa (Hendricks 1990; James 2007; Murray 1992). Others living on land that was defined as being for a different 'tribe' were also forcibly removed across the 'border' (Harries 1989). Given the small proportion of the country taken up by the homelands, and the growing numbers of people living there, many of these areas became increasingly overcrowded (Evans 1997).

Various statutes institutionalised a system of customary law and granted chiefs jurisdiction over particular areas (Bennett 2008; Letsoalo 1987; van Kessel & Oomen 1997). For example, the 1951 Bantu Administration Act centralised control in the form of 'indirect rule' (Evans 1997; Mamdani 1996), reinforcing the power of the chiefs with the creation of 'Tribal Authorities'. Given the chiefs' mediation of the systems of apartheid control, many of them were extremely unpopular; their ability to gain acceptance by people living within their jurisdiction was circumscribed by their positions as mediators (Vail 1989). For example, it was the chiefs who were charged with overseeing the acquiescence of 'their people' to the immensely unpopular 'betterment' schemes (see e.g. de Wet 1989). Resistance to such schemes, which led to many rural revolts, 'went hand in hand with opposition to the establishment of Tribal Authorities' (Letsoalo 1987: 55). And, as Vail (1989: 18) recognised, 'for many involved in this struggle, land, and access to land, came to stand at the very centre of their consciousness'. And it was the chiefs who mediated access to land.

The impact of such a reinvigorated form of indirect rule, however, was ambivalent. As recognised by Delius (2008: 224), 'the image of systematic control conveyed by legislation and regulation belied the more complex realities on the ground'. While chiefs can be described as 'instruments of control' (*ibid.*: 231), the extent of power linked to such devolved authority cannot be taken for granted. This complicates Mamdani's (1996) thesis of 'decentralised despotism'. Although those people who dissociated from tribal authorities were subject to severe discrimination, tribal authorities

and chiefs had ‘an incentive to engineer, increase and consolidate their following for territorial gain’ (Wotshela 2004: 331). And so, ‘influential chiefs, government officials and other notable figures, of all political stripes, positioned themselves as regional brokers, channelling state resources into their localities’ (Gibbs 2009: 4).

After 1994, it is unsurprising that many of those who had benefited from the power relations under the homeland systems would endeavour to hold onto what power they had, until then, managed to access. While chiefs, or ‘traditional leaders’, as they were called in the new constitution, continued to be paid as bureaucrats by the post-apartheid government, power relations on the ground became increasingly contested with the introduction of local and provincial government. Such contestations were also played out in the bigger politics at a national level, with traditional leaders endeavouring, to a large extent successfully, to define framings of ‘tradition’ and ‘custom’ to support their continued authority over land in such areas. Meanwhile, there was a groundswell of opinion in activist circles against traditional leaders who were considered to be inherently undemocratic. Land tenure reform, to be taken on by CLARA, was one strand of the government’s post-apartheid land reform programme that was to run headlong into these related politics.

TRADITIONAL LEADERS AND THE ANC: POLITICAL MACHINATIONS

Since 1948, the apartheid National Party had seen traditional leaders as important intermediaries in garnering support (Evans 1997). However, the ANC’s relationship with traditional leaders had been patchier, and was further complicated by the emergence in 1987 of the Congress of Traditional Leaders of South Africa (CONTRALESAs) (Ntsebeza 2005; Oomen 2000; van Kessel & Oomen 1997). CONTRALESAs was formed by a number of ANC-aligned chiefs who had been brought together through the activities of ANC-aligned United Democratic Front (UDF) structures (Maloka 1996). This was ironic, given that just one year before, in 1986, the National Working Committee of the UDF had resolved that ‘tribal structures should be replaced with democratic organisations’ (van Kessel & Oomen 1997: 5). Nevertheless, the ANC quickly moved to support CONTRALESAs, despite criticism from ‘old guard ANC activists, intellectuals and rank and file members’ (*ibid.*: 7). And, with the ANC’s chief rival, the Inkatha Freedom Party (IFP), commanding extensive authority in the rural KwaZulu homeland, the ANC, with its long-standing urban bias, tried to use CONTRALESAs as its own lever into the homelands.

Since 1994, traditional leaders' most prominent spokesmen have figured prominently in politics within both the ANC and IFP, as well as through CONTRALESA. Moreover, they have managed to secure their greatest coups through closed-door meetings with the president and deputy president, through 'technical committees' and 'task teams', and other means (Oomen 2005). 'Traditionalist' and 'Africanist' discourses have been important in such political struggles for legitimacy. For example, in the negotiations over the interim constitution, CONTRALESA spearheaded a campaign over the exemption of customary law from gender equality provisions, and deployed such discourses to legitimise their position and delineate the boundaries and terms of the conflict (Walker 1994).

Although a constitutional compromise was forged between respecting tradition and gender equality in these negotiations, other battles continued to rage over provisions for local government in the homelands, with traditional leaders demanding that they 'continue' to be the local government in their areas of jurisdiction. For example, in response to one proposal, CONTRALESA, uniting with the IFP, threatened legal proceedings against the government, called for a boycott of the local government elections, and organised a march to Pretoria against the president (Maloka 1996; Ntsebeza 2005). In response to another, there were spectacular displays of traditional leaders brandishing traditional battle regalia, and 'ethnic' violence breaking out in opposition to the imposition of new borders in many rural areas (Oomen 2005). Such high-profile and controversial responses were successful not only in stalling the legislation, but also in leveraging the power of traditional leaders as a political force.

This was the context in which legislation to reform tenure in the former homelands came to be formulated. The precursor of CLARA, the Land Rights Bill (LRB), was first tabled in early 1999, adopting an approach to tenure reform that was to confirm, through statutory recognition, the status of existing *de facto* rights as property rights and thereby to grant people living in those areas legally recognised security of tenure. Although the proponents of this 'rights-based approach' to reform understood such a model to address a range of tenure-related problems,² of greatest political importance in this model of reform was that it would avoid the transfer of ownership or administration of the land to the 'chiefs', as leaders of their communities. While this was in line with land sector activists' espousal of 'democracy' and 'women's rights', it was nevertheless politically controversial given that it flew in the face of the 'traditional' lobby backing greater powers for the chieftaincy. Given the prominence of such issues in the 1999 general election, its timing – just before that

election – was unfortunate. The new president, Thabo Mbeki, appointed a new Minister for Land and Agriculture, who promptly withdrew the LRB. After doing so, she indicated her intentions in relation to communal land, coming down squarely in support of traditional leaders (see e.g. MALA 2000).

When in November 2001 the draft replacement bill, the Communal Land Rights Bill (CLRb), was ‘leaked’ at a government-convened tenure conference, it was greeted with dismay by a number of activists. It adopted a model of reform that would transfer ownership of the land to ‘African traditional communities’, with administration of land to be carried out by a ‘Land Administration Committee’ (LAC), including within it traditional leaders. For activists, traditional authorities were seen as an apartheid creation and inherently undemocratic. Moreover, again pitting ‘gender’ against ‘tradition’, the proposals were seen to ‘entrench ... the power of traditional leaders over land [which] was likely to reinforce patriarchal power relations and harden the terrain within which women struggle to access and retain land’ (Claassens & Ngubane 2008).

Such conflict in relation to tenure reform erupted at the same time as negotiations over local government reform and the continued roles of traditional leaders. These reforms were to be embodied in the White Paper on Traditional Leadership issued in July 2003. Following on from this, the Traditional Leadership and Governance Framework Bill was agreed in September 2003, coinciding with amendments to the CLRb. The provisions of the two Acts were tied together: if traditional authorities adopted the good governance requirements embodied in the TLGFB, they would administer the land in such areas; if not, they would not even be able to participate in such administration. Such a move was decried by many of CLARA’s critics as a ‘carrot and stick’ to traditional leaders.

Although the strategic engagements by the NGLS in opposing the CLRb are the focus of this article, the context of these is clear: while those within the NGLS were lobbying the government to ‘scrap the CLRb’, consultation with and negotiations between high-profile traditional leaders and the ANC leadership were simultaneously going on in relation to local government reform and the continued roles of traditional leaders (Oomen 2005: 68).

THE POLITICS OF TENURE REFORM

‘Official’ customary law can be read as having defined the tenure system in the former homelands:³ it dictated how much land people living in such rural areas were to be allocated, how they were to live on that land, and

who was to administer it – namely chiefs (Cousins & Claassens 2004). While apartheid policy-makers relied on chiefs for information as to the content of customary law, they relied upon ‘tradition’ to imbue customary law with a certain legitimacy (Bennett 2008). In recognising the invention of tradition and myth and the construction of nations on forgeries, however, Evans (1997: 248, quoting Nixon 1993) warns against ignoring ‘the institutional solidity of their effects’; the ‘official’ version of customary tenure has had on-going influence (Oomen 2005).

Although many laws delegating powers of land administration and judicial functions continued to remain in place after the end of apartheid (*ibid.*), tenure arrangements within the homelands cannot be read off the statute books. As recognised by Berry (1992: 347), ‘indirect rule affected the management of resources by assigning property rights to social groups whose structures were subject to perennial contest’. Moreover, such perennial contest ‘within ever-fluctuating social and political settings’ determines a negotiated ‘living law’ (Oomen 2005: 203). That is, power relations are contested within rural societies, and cut through by gender, age, ethnicity, and wealth in all its different guises. Ultimately, it is this mishmash of legal arrangements and practice that stands to be reformed in such land reform legislation.

In order to position the responses of the NGLS to tenure reform policy, it is important to contextualise them amongst other louder voices within South Africa advocating particular forms of tenure reform and criticising the approach embodied in CLARA (e.g. Cousins & Claassens 2004). While such voices have been relatively unsuccessful in achieving political influence over the tenure policies that were eventually incorporated into law, their influence within the NGLS cannot be underestimated. Particularly prominent have been Cousins, the director of the Programme for Land and Agrarian Studies (PLAAS) at the University of the Western Cape, a small centre of activist researchers, and Claassens, an independent consultant. Both have been active in South African land issues for over thirty years. In leading opposition to CLARA, they secured R1million (£75,500) of funding from the UK Department for International Development (DfID) in July 2002 for a ‘community consultation, advocacy and lobbying project’ that also included a media strategy (the PLAAS/NLC project). This involved NGOs and their rural constituents from around the country participating in a series of workshops on the proposed CLRB, culminating in making submissions to Parliament’s Portfolio Committee on Land and Agriculture.

Prior to 1999, Cousins and Claassens had a significant influence over the model adopted in the Land Rights Bill (LRB) – Cousins in his capacity

as external consultant on government's Tenure Reform Core Group (TRCG) which was in existence from 1995 to 1998 and which worked on creating that model, and Claassens in her role as advisor to the minister over the same period and also as a member of the TRCG and then LRB drafting team. Both of them, together and separately, have been prolific in terms of their academic and policy publications setting out their extensive criticisms of CLARA (Claassens & Cousins 2008; Cousins 2005a, 2005b, 2007; Cousins & Claassens 2004, 2006).

Cousins and Claassens' analysis of the character of tenure in South Africa, its variety of forms and the implications of this for achieving security of tenure, particularly amongst vulnerable groups, has been extensive. Nevertheless, in their attempts to influence the political machinations between traditional leaders and the ANC in the final few months before CLARA was passed into law, other aspects of their analysis of the complexities and varieties of South Africa's land tenure were somewhat eclipsed.

For Cousins and Claassens, the principal *political* problem with CLARA is that it would 'replicate ... a problematic version of "custom"' (Cousins 2007: 308); the 'social embeddedness' of property should be recognised and secured through law only so far as doing so would not have this result. Instead, the answer is 'to vest land rights in individuals rather than in groups or institutions' (*ibid.*). Vesting land rights in groups or institutions was deemed a particularly unsatisfactory solution because it would bring to the fore the political decision: to whom or what should the rights be transferred? Given the growing political prominence of certain traditional leaders and their influence over the ANC at this time, it was likely that any response to this question would privilege them. Indeed, as indicated above, the response to this question embodied in CLARA was that the land should be transferred to 'African traditional communities' with administration of land to be carried out by a 'Land Administration Committee', including within it traditional leaders. For Cousins and Claassens, such a response was politically unacceptable. Traditional authorities, seen as an apartheid creation, were considered to be inherently undemocratic. Moreover, as argued by Claassens, most recently with Ngubane, CLARA would: 'entrench ... the power of traditional leaders over land [which] was likely to reinforce patriarchal power relations and harden the terrain within which women struggle to access and retain land ... [and] would entrench past discrimination against women by upgrading and formalising ... rights held exclusively by men' (Claassens & Ngubane 2008). The alternative solution, 'to vest land rights in individuals ... and to make socially legitimate existing occupation and

use, or *de facto* “rights”, Cousins (2007: 308) proposed, would be achieved through ‘legal recognition’. This was what was proposed in the LRB.

In criticising CLARA, Cousins appears to see such ‘problematic versions’ of tenure as contained within the legislation, rather than countenancing the possibility that they may actually already exist in practice, shaping and defining such *de facto* rights. However, the power of legislation to change socially embedded practice is uncertain; at best, legislative reforms are likely to be one factor amongst many that influence practice (Oomen 2005). In any case, legislative reforms that do not take into account the extent to which practice shapes social relations are likely simply to fail in achieving their desired goals.

While Cousins and Claassens were relatively unsuccessful in challenging the government in terms of the model of reform adopted in CLARA, they were influential within the NGLS. CLARA came to be debated at a time when the NGLS was weakened through its worsening relationship with government and on-going infighting centring on the National Land Committee (NLC), an umbrella organisation bringing together affiliated NGOs from around the country (see below). And so, it was the academic institution, PLAAS – or rather its director, Cousins, and consultant, Claassens – not the NLC, that put together a proposal for the PLAAS/NLC project. And Cousins and Claassens went on to drive this national project.

These sections set the stage for discussing the contestations within the NGLS in relation to the CLR. First, however, I will outline the theoretical frames through which those contestations in their engagement with these policy processes will be analysed.

POSITIONING NGOs IN THE ACTIVIST FIELD

Broad generalisations have been made not just about ‘civil society’, but also about the place of NGOs within it. However, as recognised by Ferguson (1994: 13) in respect of development agencies, there is an ongoing need to interrogate *how* control is exercised, *how* a structure is reproduced: that is, to consider the processes and struggles within the ‘black box’. Rather than making assumptions about the role of NGOs and their effect, this article contributes to a growing literature responding to this call (Fernando 2003; Mosse 2005; Nauta 2004). In order to better understand the struggles within and amongst South Africa’s NGLS after the advent of democracy and how these affected engagements with the policy process relating to tenure reform, I draw upon Bourdieu in conceptualising an

‘activist field’ within which NGOs and activists are positioned. ‘Activist’ implies a particular role for such supposedly, perhaps idealistically, non-state, non-market actors, and ‘field’ emphasises the extent to which this is constantly negotiated and contested by those operating within it. Its boundaries are also negotiated, being delineated by forms of immaterial and material resources or relations, or ‘capital’, considered to be valuable within it (Bourdieu & Wacquant 1992).

Many of the struggles within the activist field are over attempts by NGOs to secure ‘legitimacy’ (Edwards & Hulme 1996). Rather than being ‘something which an NGO can objectively have’, Hudson (2001: 332) has pointed out that such “‘legitimacy’” is seen as a quality that may be ascribed to an NGO by actors coming from different viewpoints’. As recognised by Bourdieu (1990), in any field there will be contestations between individuals struggling for access to capital so as to secure their position within its hierarchy, ultimately for ‘symbolic capital’, or legitimacy. Within the activist field in South Africa, the extent to which individuals may be able to claim symbolic capital often depends on their activist or ‘struggle’ credentials – that is, the extent to which they were legitimately seen to be active opponents of apartheid. It might in turn depend upon their *habitus*, or ‘embodied history’ (*ibid.*: 56). But NGOs are in a difficult position, given that they act across and engage with others within a number of different fields at the same time. They may be struggling to gain legitimacy from others positioned within another field, such as for example the political field, in their engagements with policy processes. Such interactions will contribute to what Bourdieu calls a ‘field of power’ (Bourdieu & Wacquant 1992: 114). And the relations within this wider field of power will determine the extent of symbolic capital wielded by different individuals at any particular time. Given that forms of activist capital, however, may not be recognised by those positioned within this wider field, activists will have to adopt particular strategies of engagement in such relations.

In acting across different fields, activist land sector NGOs can be seen to be acting as bridges. They relate both to rural people, most of whom are marginalised in terms of their material reality and access to information but subject to immense inequalities of power and on-going contestation, and also to those in the government and in wider policy-making spheres. This mediating position gives them access to knowledge conceived within these two very different fields, and they often claim to use it in order to improve the lives of those who are marginalised. However, this is where the contradictions and source of so much conflict within the field lie. How can they strategise in positioning themselves in relation to the wider field

of power, at the same time as representing honestly the voices of their marginalised constituents?

So, while NGOs are uniquely positioned to fulfil this potential – ‘to add real insight to local grassroots *and* political strategies’ (Mitlin *et al.* 2007: 1714, my italics) – whether or not they do so will depend on the strategies they adopt, the relationships they choose to build, and the extent to which they manage to ‘help ... people see things differently’ (*ibid.*). Their engagement with people ‘on the ground’ is essential to their role: both in shaping the knowledge that informs the organisation’s positioning in policy debates, and also in legitimising their claimed position as mediating between the ‘local’ and the ‘national’ and influencing those debates. As recognised by Edwards and Hulme (1992), however, ‘the degree to which a strategy or mix of strategies compromises the logic by which legitimacy is claimed provides a useful test of whether organizational self-interest is [a] subordinating mission’ (quoted in Edwards 2008: 39).

CHANGING RELATIONS WITHIN THE NON-GOVERNMENTAL LAND SECTOR

Before the country’s first democratic elections, the NGLS predominantly comprised land sector NGOs affiliated to the umbrella ‘National Land Committee’ (NLC) and supported by the Legal Resources Centre (LRC), a public interest law firm prominent in the anti-apartheid struggle. For a long time, such organisations around the country had worked closely together in fighting forced removals from ‘black spots’ into the former ‘homelands’ (Abel 1995; James 2007; Nauta 2004). A number of dissident academics were also involved as researchers for the Surplus People’s Project (SPP), documenting forced removals around the country. NGOs that were set up during this time, with funding secured from overseas, formed relationships with particular ‘communities’ that had contested their forced removal. They were often run by left-leaning white middle-class activists (James 2007), and aligned themselves with the ideals of non-racialism and unity propounded by the opposition ANC-aligned UDF.

After the South African elections in 1994, the inclusion of the NGLS in the transition was taken for granted; democratisation was seen to be incomplete without ‘civil society’ – that is, those associations that participated in ‘the struggle’ – being involved in decision-making (Friedman & Reitzes 1996). However, this early transition period was marked by ambiguity for former non-governmental activists. In NGOs across the country, up to 60 % had left by 1997 (Habib & Taylor 1999: 79). For those

who remained, although former colleagues were now policy-makers, NGOs were left weak and understaffed. All these changes contributed to a 'deep identity crisis' (Heinrich 2001: 4): 'the ultimate goal of the anti-apartheid and liberal NGOs – that is democracy – had been achieved', replaced by disparate objectives (*ibid.*: 4, 5).

Although this 'new realism era' (Nauta 2004: 187) had forced a re-assessment of the relationship between the state and civil society for the NGLS, the second democratic elections in 1999 re-emphasised this. For many within the activist field, the period after 1999 was defined by their perceived exclusion. Changes in the DLA after 1999 also affected relations between NGOs, amongst people working within them, and between them and their constituents. Concern as to the extent to which NGOs were truly representative of their grass-roots constituents raised many others relating to their role and positioning. While the NLC had for a long time discussed the need to support a rural social movement, the 'launch' of such a movement, the Landless People's Movement (LPM), only happened in 2000 at the World Conference against Racism. The tensions that this created within the NLC, however, led to its eventual collapse.

As recognised by James (2007), the LPM was opposed to the ANC, adopting slogans such as 'No land, no vote'. Although many directors of the NLC's affiliates did not support the organisation having such a close relationship with government up to 1999, for some seeing their NGO supporting the emergence of such a social movement went beyond their radical positioning. Moreover, while land sector NGOs were under increasing pressure from the difficult funding environment, 'suspicions began to emerge about the way ... [the LPM] had been founded, the origin of its resources and its style of organisation' (*ibid.*: 218). Furthermore, it appeared that a small number of individuals working as staff within the NLC head office were assuming increasingly prominent positions within the LPM. For those individuals, however, the change in government in 1999 had brought to the fore exciting dialogues about their own positions in inspiring radical change, and trips were organised to Zimbabwe and to foster relations with other, more successful, land reform movements (Mngxitama 2006).

In this climate of penny-pinching for all NGOs in South Africa, the frustrations of both camps within the NLC were inflamed by financial concerns. Ideological accusations were fired in both directions and particular framings came to define the terms of the debate. The LPM became the target or, depending on one's position, the quarry or prize of the opposing camps.⁴ With such changes playing out in the hierarchy of the

activist field, this period was characterised by conflict between individuals within it struggling to maintain their position and influence.

A CHANGING CONTEXT OF OPPOSITION: RESPONSES TO
TENURE REFORM

Tenure reform in the homelands clearly touched on many issues about which anti-apartheid activists cared passionately. As indicated above, in the late 1980s there was a groundswell of opinion within the UDF, and similarly aligned land sector activist circles, against any perpetuation of the support of chiefs by the government. As recognised by van Kessel and Oomen (1997: 3), ‘grievances against the authoritarian rule and frequent misappropriation by the chief’ were similarly widespread amongst inhabitants of rural areas (Ntsebeza 2005). Nevertheless, while youth movements campaigned in such areas against the institution of the chieftaincy, ‘with few exceptions, [they] did not succeed in building a broad alliance around [such] campaigns’ (van Kessel & Oomen, 1997: 3; see also Delius 2008: 231). But for UDF activists such leaders were seen to have been appointed by the apartheid governments, and as an extended arm of an illegitimate state (Lahiff 2003).

Very few individuals within government, or those who stayed within the NGLS after 1994, were themselves from the former ‘homelands’. Generally amongst those who came from such an NGO background in the early 1990s, knowledge of the ‘homelands’ and the nature of the ‘insecurity’ of tenure within such areas was gained from their experience of those communities who had been unsuccessful in opposing forced removal into them. Understanding tenure in the former ‘homelands’ for those whose *habitus* was not shaped by growing up in such a context was not easy. The politics relating to the stark inequalities in land holding and the restoration of stolen land rights as a result of the forced removals, dealt with in the redistribution and restitution programmes respectively, was easier to grasp politically. Nevertheless, tenure reform had been incorporated into the constitution (Constitution 1996, s. 25(6)) and, as a result, the government was constitutionally mandated to adopt legislation that would provide ‘tenure which is legally secure or ... comparable redress’. The NGLS, in turn, had to respond to whatever it came up with.

After 1994, those at the forefront of policy-making within the DLA included a number of white activists who had been actively involved in the former SPP, the LRC and the ANC. They embraced a human rights-oriented agenda in embarking upon an ambitious programme of land reform that was to include three aspects. First, redistribution was to redress

the appalling racial inequality in land ownership that was apartheid's legacy. Second, the restitution programme was to involve passing legislation to provide people or communities who had been dispossessed of their property as a result of past racially discriminatory laws and practices after 1913 with restitution of their property or redress. Third, the land tenure reform programme also required the DLA to pass legislation to provide people whose tenure of land was legally insecure as a result of similarly discriminatory laws or practices with legally secure tenure or redress. Legislation to reform land tenure throughout the former homelands was not passed into law until CLARA was adopted in 2004. However tenure insecurity might generally be defined, this third programme of tenure reform was to cover only 'legal insecurity', that is, land on which people lived but which they could not be said to legally own.

As discussed above, a 'rights-based approach' to tenure reform in the homelands was initially formulated in the late 1990s, embodied in the LRB. After the LRB had been shelved, the government's revised plans for tenure reform were not made public until the 2001 government-convened Tenure Conference. This conference was a turning point for a number of reasons. For the NGO network, however, the 'turning point' did not relate to tenure at all. It was here that 'the fissures started to grow more obvious' (interview, former NLC employee, 19.12.2005); the conflicts between different individuals and factions within the activist field became more pronounced.

CITIZENS AND SUBJECTS: A DISCOURSE OF OPPOSITION

Struggles within the activist field in the post-1999 period to a certain extent displaced the issues of tenure reform from the agenda. Nevertheless, many land sector NGOs did get involved with the PLAAS/NLC project and ended up rallying in opposition to CLARA. About the time of the CLRBB going through its parliamentary hearings, the media widely reported on civil society organisations strategically combining to form a 'coalition' to speak out with one voice in opposition to the CLRBB, conjuring up a picture of the coalition's outrage at the betrayal of democracy by government as a result of the bill's transfer of unprecedented power to traditional leaders to the detriment of women. But this picture of a coherent coalition all speaking with one voice conceals a much more heterogeneous grouping. To a certain extent, this misleading picture was the result of a strategic compromise by those within the activist field to come together in their opposition to the bill. But that such diversity could

be interpreted as speaking on the issues with ‘one voice’ also resulted from the discourse that framed the coalition’s opposition to the bill.

Nkuzi Development Association was one of the NGOs that joined the ‘coalition’ opposing CLARA. It made a submission to Parliament’s Portfolio Committee and called for the bill’s rejection. Nkuzi’s (2003) submission begins by setting out its central thesis:

Mamdani shows in his book *Citizen and Subject* that the traditional authority structures as they are now in South Africa, and many other parts of Africa, are a construct of the colonial regimes specifically established to solve the ‘native problem’ through indirect rule and what Mamdani describes as ‘decentralised despotism’ ... An essential characteristic of the decentralised despotism is the ‘clenched fist’ of the chief who combines legislative, judicial, administrative and policing powers in one institution and even in one person.

Building democracy in South Africa requires the dismantling of the bifurcated state, overcoming the tribalisation of rural citizens, and ending the subjugation of rural people to the ‘clenched fist’ rule of chiefs and farm owners. Rural people need to be allowed to participate as full citizens in the modern democratic state with the separation of the legislative, judicial and executive powers, just as the Constitution requires. A key test of any new tenure legislation must be the extent to which it contributes to this process.

The tone of the submission is uncompromising in its view of the chieftaincy. From this starting point, traditional leaders are per se undemocratic – only elected leaders are democratic – and so any recognition of their current role in land administration is unacceptable. The unassailability of the constitution is brought in here to support the legitimacy of these views. This approach renders the issues black and white (using the words critically), the undemocratic chiefs in the former homelands and the democratic elected leaders in the rest of the country.⁵ But in doing so, it pushes out questions of nuance about the status of ‘subjects’. As Oomen (2005: 39) argues:

What Mamdani’s dualistic analysis fails to recognise is the wide variety of local power configurations, structures of rule and degrees of democratisation that occurred as a result of segregationist policies ... While traditional leaders were given large powers on paper, these, in practice, had to be exercised within the confines drawn by the bureaucracy. This created differences in the degree of popular political participation in traditional authority areas, and thus in the degree to which people were citizens or subjects.

So when it comes to reform, it is a question of ‘away with the old’ and ‘in with the new’, anything less being unacceptable. However, this also pushes out questions of nuance about the nature and extent of the form of democracy that is to be created in its place.

Questions can be asked of such systems both in the former homelands *and* in the accepted institutions of the state operating in the rest of the country. Bourdieu (1990: 68) saw *doxa* as being ‘the relationship of immediate adherence that is established in practice between a *habitus* and a field to which it is attuned, the pre-verbal taking-for-granted of the world that flows from practical sense’. Combining ‘legislative, judicial, administrative and policing powers in one institution and even in one person’ is counterposed with the ‘separation of powers’, the pillar of a democratic state, here accepted as common sense or *doxa*. But such clear-cut political models *also* limit the questions which can be asked that might challenge the extent of democracy which the current formal and legalised political and even democratically legitimised land system achieves. There are, moreover, other rarely challenged aspects of the ‘democratic state’ relating to property ownership, such as racially defined and gendered inequality institutionalised through property and upheld in the ‘rule of law’ that CLARA, in meeting the constitutional imperative of dealing discretely with ‘tenure reform’, would not address. To be fair to Nkuzi’s submission, it does call for ‘a national debate’ that ‘should not be limited to dealing with communal areas, but deal with land tenure for the country as a whole’. Nevertheless, as seen in many media reports at the time, the undemocratic chieftaincy model, while being apparently radical and progressive, is discursively powerful in limiting or concealing such questions.

NGOs STRATEGIC POSITIONING IN RELATION TO CLARA

Although many land sector NGOs opposed CLARA, the adoption of the anti-chieftaincy model by the ‘coalition’ marked the end of a progression away from the nuance with which different groups within the coalition approached the issues earlier in the debates. As time progressed towards the CLR’s passage through parliament, and the threat of losing the struggle with government grew, those participating in the coalition approached their opposition to the bill with increasing urgency and passion. In turn, the debates became framed in increasingly dichotomous terms and people became less able to choose their own positioning. Some groups did not subscribe to the model at all but, because it had come to frame the issues relating to the reforms, their opposition to the legislation, even if for other more nuanced reasons, was interpreted by others as automatically assuming the anti-chieftaincy model.

The adoption of the ‘anti-chieftaincy’ model to frame the debate was not opposed; but such opposition fell to be contested within that other maelstrom of activist politics that defined the terms according to which

opposition would be read. After the changes in government in 1999, the extent to which different individuals and NGOs could position themselves, or found themselves to be positioned by others, was not only called into question in relation to CLARA. In the context of conflicts within the NLC at the time, the extent to which individuals, maybe even NGOs, within the activist field could claim 'activist capital' had come to depend increasingly on how 'radical' or 'liberal' they claimed to be or were accused of being, linked variously to how they managed to position themselves in terms of class, politics, race or gender.

Claims or accusations of 'radicalism' came to be interpreted within a particular framing which in turn drew in other discourses. Accordingly, 'radicalism' became interpreted according to a narrative of 'black = radical', but this framing included assertions that radicalism was also constituted by 'in support of social movements' (and by extension the LPM), 'anti-NGOs', and 'anti-government'. This framing of 'radicalism' in turn involved the counterparts to such discourses so as to constitute its antithesis, that is, 'white = liberal' and so 'in opposition to social movements', 'pro-NGOs', and 'pro-government'. Therefore, being accused of subscribing to any one of these categories automatically draws in the other concomitant parts of the frame. So, the accusation 'all of these guys were experts, and these are white guys in the NLC network – as soon as you have an LPM that speaks for itself, their kind of prestige becomes questionable' (interview, former NLC employee, 13.1.2006) immediately explains that the 'white guys' have good reason to oppose the LPM. While, of course, there were not only 'white' people in the NLC network, or even on its board – splits became particularly prominent between NLC board members and employees – such factual niceties could only be deployed in attempts to undermine the integrality of the frames themselves. For example, the accusation that 'the office staff ... were self-serving in that they wanted to continue getting their overgenerous salaries' (interview, former NLC board member, 12.1.2006) puts the office staff into the 'liberal' camp and thereby undermines their own 'radical' positioning. In turn, the accusation that 'those leading the charge towards the rurally-poor-led-social-movements were extreme vanguardists – who were really driving it forward as individuals' (interview, former NLC employee, 7.12.05) undermines the unassailability of the position of those supporting social movements, by casting doubt on their relationship to, and therefore the integrity of, the 'social movement' in question.

While race became linked with struggles over activist capital, gender became somewhat displaced. In the first five years of government, with the pro-poor stance and gender awareness of activists, poor women had

become their representatives of choice. But with the government's substitution of race and historical disadvantage for poverty, need or gender (Walker 2005), for those wanting to influence policy, ensuring that the voices of 'the poor' and 'women' were heard by government appeared to be increasingly necessary. After the leader of the Rural Women's Movement moved into parliament in 1994, however, the movement became increasingly weak, and although 'gender' was incorporated into the land sector's interventions, this may have been as an uninterrogated 'add-on' (*ibid.*). And certainly, until the PLAAS/NLC project in relation to the CLRБ in 2003, the practices engendered by the land reform programme had not been subject to real scrutiny in terms of their impact on gender equality (Hargreaves & Meer 2000). Moreover, with the discourses of the African Renaissance linked with liberation, race became 'superior' as a criterion of those to be empowered, and for those who considered themselves to be more 'radical', a focus on 'women' did not go unchallenged.

These contestations affected different NGOs' engagements with policy reform in different ways. AFRA, based in KwaZulu-Natal, had been undertaking a tenure project since 1998, focusing on Ekuthuleni, a village outside the Ingonyama Trust land.⁵ Even though AFRA participated in the coalition ('in the end, we did all agree on "How do we go to Parliament to stop this Bill going through?"' (interview, AFRA director, 28.2.2006), the organisation did not actively adopt the undemocratic chieftaincy model:

The fundamental one [problem] was ... of the Traditional Authorities. The issue of whether they are democratic or not, for us, is not the issue. The issues are about what gives people secure tenure and one of the things that does that is a well-functioning tenure committee which is made up of a body of people who are constant, and the rules are clear so that they can administer it. If you're going to re-elect them every few years you can't expect that they will administer it well. If you compare it to something like the Deeds office, why would you want to re-elect them.

(*ibid.*)

In the height of the passion in the build-up to the Portfolio Committee hearings, holding to such a position was not easy; former allies fell out over it and those wanting to challenge the assumptions about traditional leaders were branded as 'conservative'. With activists, many of whom were white, some of whom were at the forefront in planning the 'coalition's' full frontal attack, not accepting positions outside the model, sensitivities and anger were inflamed. When it came to the Parliamentary hearings, AFRA did not in the end present its submission – a move that was explained

away by various rumours amongst those in other NGOs that in any case shed bad light on 'the decision'.

On-going contestations between and amongst NGOs have shaped their practices that in turn have produced particular readings of legitimate knowledge and shaped accepted identities of those they claim to represent. The word 'claim' is not used to undermine the perspectives of actors within NGOs, but to draw attention to the way that such representation is in itself a strategic action. Here, attention is drawn to the difficulties encountered in an attempt to represent issues that individuals at AFRA believed were most important to their constituents; doing so would have positioned them in a particular way. But not doing so similarly positioned them negatively, precisely because the issues they wished to represent posited knowledge that was not considered to be legitimate, and identities that were not acceptable within the terms of the debates.

FROM MEDIATING POLITICS TO THE POLITICS OF MEDIATION

Many individuals working for NGOs, for example those dealing with policy, work to position the NGO, and perhaps themselves, strategically in relation to the wider field of power. However, there are also many others, for example fieldworkers, whose everyday work is relatively unconnected with (albeit not unaffected by) that wider field of power: they are more involved with the politics of mediating the day-to-day conflicts and disputes that arise in their everyday work as fieldworkers. Although, through their employment, they may be positioned squarely within the activist field, their day-to-day relations with their constituents have more to do with the relations of power that structure the 'rural field'.

In engaging with politics, NGOs have to act strategically. Nevertheless, the deployment of particular discourses by NGOs in relation to their strategic positioning in policy debates may also influence the non-strategic practices of those within them. This section discusses how the unthinking deployment of the Mamdani-inspired discourse in the day-to-day work of mediation engaged in by NGO fieldworkers can reinscribe narrow readings of knowledge considered to be legitimate and accepted identities. In doing so, it draws upon a number of examples from fieldwork undertaken in Limpopo Province with Nkuzi Development Association.

Nkuzi was set up in 1998 and grew from just three people to having over twenty-five employees in 2005 operating out of four offices, including one in Pretoria dealing with 'policy'. While the NGO had no tenure project as such, many of its staff were from nearby 'rural areas' and therefore had an on-going experiential knowledge of tenure in those areas. But in their

capacity as Nkuzi staff, their contact with people living in those villages arose largely from their relations with groups which had lodged land restitution claims and with people seeking legal advice from Nkuzi's in-house lawyer.

One staff member of Nkuzi, 'A', had been involved with the organisation since the start, and proudly regaled me with tales of early sit-ins at the minister's office, protests against evictions, and stories of being 'tailed by the NIA [National Intelligence Agency]'. In addition to asserting such post-apartheid activist struggle credentials, he was also well-versed in the discourse of democracy and the law. He was undergoing advocacy training and dreamed of opening up his own law practice in one of the villages nearby where he lived. So that they would be easily translatable to the media, even to those working in the policy unit in Pretoria, A was used to fitting details of his everyday encounters within the wider discourses and politics shaping high-profile issues and cases that Nkuzi was engaged with, often acting as a spokesperson for Nkuzi in contacting and relaying local stories to the national media.

When I arrived at Nkuzi and told him what I was interested in, he made sure to tell me about the 'Communal Land Rights Act cases' that he was dealing with. Knowing that CLARA had not yet been implemented, I was unsure as to what these might be and accompanied him to a meeting to resolve a 'Communal Land Rights Act case'. The meeting was with the traditional leader and headman of Bungeni, a village at the edge of the former Gazankulu 'homeland', and a woman from the village. The headman had decided to allocate a stand for a garage between the woman's shop and the road, thereby blocking access for any potential customers to her shop. The meeting itself was resolved in her favour due to A's knowledge of a bye-law that, in any case, forbade building at the proposed proximity to the road. But this was a 'Communal Land Rights Act case' – showing that the Communal Land Rights Act would be 'a terrible thing if left to the chief' (personal communication, Nkuzi employee, 2.11.2005).

Although the adoption of such wider discourses may shape the ways in which individuals working within an NGO may approach the mediation of tenure problems, they will not necessarily displace the knowledge held by such people. Indeed, when we were talking about CLARA itself another time, A seemed to support the idea of some sort of committee comprising chiefs and elected community members, so long as there were clear rules devolving more power to the community and setting out clearly the obligations and rules that should govern them (interview, Nkuzi employee, 28.0.2005); ironically, both a 'LAC' and 'Community Rules' were

provisions of CLARA. But granting recognition only to those tenure problems arising from the actions of corrupt or wayward chiefs could limit the extent to which the complexity of tenure problems is brought to light.

Such complexity can be illustrated by a reference to another case. The PLAAS/NLC project carried out its first workshop in Mashamba, a village in the former Venda 'homeland'. But the neighbouring village of Chavani in the former Gazankulu, on the other side of the only paved road in the area which had formerly been the boundary between Venda and Gazankulu, was well known to Nkuzi because of its involvement in a number of restitution claims there. When I asked A about Mashamba, he claimed not to know much about it – it was not one of Nkuzi's 'communities'. However, according to the PLAAS Research Report, 'Community views on the Communal Land Rights Bill' (Claassens 2003: 28), there were specific reasons for choosing Mashamba as a location for the first workshop:

Mashamba village was chosen for the consultation site because of a serious tenure problem – a headman had entered into a contract with an investor in terms of which a large area of communal land had been fenced off as a potential game farm. This has restricted the community's rights to grazing, hunting and water on the land ... However, apparently neither the chief nor the community were adequately consulted about the contract, nor has any benefit emerged in the form of rent or jobs.

During my time in the area, this story had become a bit of a legend; many people were aware of it, but its key protagonists and story changed depending on the teller – the person selling the land was not a headman but a rich businessman living in Mashamba, or the person was indeed a headman but the sale had not been completed. The tenure problems in the area were complex, as were the changing dynamics of the chieftaincy. Apparently, however, it was not this problem that produced the 'teething problems' experienced in the workshop (*ibid.*). The people invited to the Mashamba workshop included people under both Mashamba Tribal Authority⁶ and Chavani Traditional Authority, but Nkuzi had only before had contact with Chavani, through supporting its restitution claims. One of those claims involved a group of people living in Chavani, under *Hosi* (Chief) X, who were claiming land falling within the area governed by Mashamba TA. Some six or seven years since submitting the claim, according to the claimants, the government had hardly embarked on dealing with the case and tensions between the two groups had heightened over this time. Since claiming the land, the PLAAS/NLC project workshop meeting was the first involvement of all interested parties, and there was

confusion amongst those present as to what the meeting was for. I spoke in depth to three people who had attended the meeting, two of whom had gone on to attend subsequent national meetings convened under the project. One of them told me about the confusion that was stirred up by the holding of the meeting:

They [the participants] accused the facilitators for being involved in settling the claim and Z, the uncle of *Hosi X* ... said to the facilitators ‘You people! Why don’t you stop those people from Mashamba to plough?’ There was a lot of tension. ... Some of the things people were putting as comments were ‘We don’t need this Bill because that land [where Mashamba is] belongs to us!’ and ‘Only our chiefs are governing us’ – because with the committee which must be nominated, people felt that it was going to take away their powers [of the chiefs]. ... When they talked about ‘Why now?’, we thought that the government were trying to run away from giving us land – how could they facilitate the [CLRB] without facilitating our claim? ... So the tension was in the whole workshop.

(interview, workshop participant, 20.11.2005)

Much of this tension had clearly been generated simply by convening a meeting that included people from two villages, one of which had an unresolved restitution claim over the land of the other. This problem was certainly relevant to any tenure reform: any confirmation of people’s current rights pursuant to land reform legislation, when it was in fact former rights that they were actively seeking to resecure, would not be welcome. But the ‘anti-chieftaincy’ approach of progressive land-sector activists had somewhat eclipsed these other complexities that were not only paramount in the minds of the workshop participants but actually threatened to disrupt the whole proceedings.

Another of the individuals who had attended the Mashamba workshop, ‘B’, had gone on to participate in subsequent provincial and national meetings convened by the project, and had been flown to Cape Town to contribute to the submission to be made to parliament. B was a teacher, and proudly lent me a copy of his thesis that he had submitted towards his degree. It was on the history of the chieftaincy in his village of Mashamba – a history that was strongly contested by those villagers in Bokisi whose land claim was over much of the territory now making up Mashamba. He was softly spoken and thoughtful about the workshops and parliamentary process, and told me that he himself had been unhappy with the submission that they had made which was so strongly against the chiefs. The reason why he had agreed to the submission, however, was because he had felt that, in a group, you have to compromise: there had been one person in the group (now one of Nkuzi’s members of staff) who

spoke very strongly and cared very deeply about these things. He reflected:

There were a *lot* of these NGOs in Cape Town, and somehow they were all speaking with one voice. And they were very extreme. Maybe it is that where you have grown up somehow shapes you.

EF: Like growing up in Cape Town?

Yes! And like me, growing up here – maybe it somehow brainwashes you to think in some ways

(personal communication, Mashamba informant, 18.11.2006).

B's personal difficulties in reconciling the stand he took participating in drawing up the submission to parliament are perhaps, here, less important than simply recognising the extent to which the 'anti-chieftaincy' discourse pushed out more nuanced understandings of the chieftaincy in such areas.

Another staff member at Nkuzi, 'C', also often found himself engaging with politicians, government officials, land commissioners, activist academics, traditional leaders and village women's groups, seemingly equally at ease with them all. For him, the problem with CLARA was not the chiefs – they could potentially be a problem if they were corrupt and took bribes and that of course needed to be dealt with – but defining a community and territory in the first place. He had ample experience of dealing with restitution cases in which on-going disputes, sometimes years-long, had been rumbling on between 'communities' over defining their territorial boundaries that did not reflect the boundaries of property registered in the Deeds office. But adhering to an 'anti-chieftaincy' line in this context was just not possible; such a line failed to grapple with a reality that could not be ignored: 'The TA [Traditional Authority] is there. It has been there and is performing a role. You need to be careful about establishing structures. You currently have [Communal Property Associations] where TAs are involved ... That's what I see as a challenge – linkage with structures that existed before' (*ibid*).

Such knowledge contrasts with the 'anti-chieftaincy', Mamdani-inspired, discourse that was adopted by Nkuzi to try to further its strategic positioning in debates in relation to CLARA. As recognised by Robins (2003: 275), 'tradition, community and ethnicity, like nationalism, can be either emancipatory and progressive, or reactionary and exclusionary', but positioning 'tradition' within such a binary of 'undemocratic chiefs' versus the 'democratic other' excludes more nuanced understandings of an everyday, negotiated, often contested, reality that is unequal and messy in its democratic and undemocratic reach. Moreover, rather than

knowledge based on engagements between fieldworkers and constituents ‘on the ground’ shaping this NGO’s position in those debates, such a discourse has instead shaped, or sometimes merely complicated, the ‘everyday’ relations between some fieldworkers and their constituents.



As recognised above, one key question for NGOs is how to strategise their positioning in relation to the wider field of power, at the same time as representing honestly the voices of their marginalised constituents. In their strategic engagements with the policy process relating to CLARA, the adoption of a Mamdani-inspired anti-chieftaincy discourse to oppose the growing political salience of traditional leaders within national politics was understandable. It not only had strong historical resonance with an activist land sector, but also fitted with the more sophisticated analyses of certain vocal land tenure policy analysts who went on to drive a DFID-funded advocacy campaign in opposition to the draft legislation. Moreover, the discourse also went some way towards enabling them to present themselves as a coalition speaking with one voice against the government. This was no mean feat, given that CLARA came to be debated at a time that was characterised by immense conflict in the activist field, with discourses of race and gender, liberalism and radicalism drawn upon by actors struggling, often unsuccessfully, to position themselves within a changing hierarchy. Nevertheless, the adoption of the ‘anti-chieftaincy’ discourse by NGOs in order to position themselves strategically in relation to CLARA at the level of policy also displaced more nuanced knowledge of the tenure of people living in ‘rural areas’. Moreover, rather than knowledge of the messier reality of people living in ‘rural areas’ informing NGOs’ engagements with policy, engagements with people ‘on the ground’ were simply used to legitimise their positions. The ‘anti-chieftaincy’ discourse thus came to shape knowledge that was considered legitimate, and this then influenced the interactions of fieldworkers and their rural constituents.

This raises the key challenge of the activist field: to enable the articulation of different ways of thinking by people who share a different *habitus*. But there is a paradoxical tension in achieving this. Individuals within the activist field are relatively powerful in holding sufficient capital to participate in policy debates in South Africa, but enabling the articulation of such different ways of thinking may also challenge their legitimacy as people struggling to represent the ‘official version of the social world’. Individuals within the activist field struggle with others both within and

outside the field for symbolic capital to make such representations. As recognised by Bourdieu, a particular *doxa* or common sense exists whereby the structure, within which the material conditions of life are embedded but which is in fact arbitrary, is ‘misrecognised’ as ‘self-evidently correct’ (Mahar *et al.* 1990: 16). That is, within any particular field *not* everything can happen, in that its structure proposes possible questions which orient the activities that occur within the field, and renders others unaskable (Bourdieu 1990: 5). However, raising questions that are as yet unaskable within the activist field so as to challenge *doxa* may also challenge the power held by actors operating within and outside the field. But even if we were to deny this challenge, as recognised by Bourdieu (*ibid.*: 59), ‘undertakings of collective mobilization cannot succeed without a minimum of concordance between the *habitus* of the mobilizing agents ... and the dispositions of those who recognize themselves in their practices or words’.

In the formulation of reforms that are to improve the lives of millions of South Africans living in areas to be reformed, enabling such an articulation of an ‘alternative’ knowledge of tenure that will itself be contested may be the only way to shape solutions that are likely to have any purchase in promoting positive change in such areas.

NOTES

1. ‘Rural areas’ euphemistically describes the former ‘homelands’ (Oomen 2005), even though many of these areas have been described more accurately as encompassing a form of ‘displaced urbanisation’ (Murray 1992). This figure, however, includes areas outside the former homelands including those living on commercial farms – some 3 million people: in 2002, there were some 45,818 active commercial farming units (Statistics SA, Agricultural Census) which are likely to overlap with numbers of households. However, black labourers and their families also live on such farms: according to a survey undertaken by SSNDA 2005, 2.9 million black South Africans lived on such farms in 2001.

2. See e.g. sections of MWPD 1997 relating to tenure reform written by those who had contributed to the formulation of the LRB. See also Cousins 2002 and Claassens 2000 for analysis of the LRB in relation to their extensive research on South African tenure (in)security.

3. Bennett (2008: 138) refers to the distinction between ‘official’ customary law: ‘the body of rules created by the state and legal profession’; and ‘living’ law: ‘law actually observed by the people who created it’.

4. Following this long political struggle (James 2007), the NLC eventually closed its national offices in April 2005.

5. My interest in AFRA, one of the few land sector NGOs to have a long-standing tenure project, was inspired by an article (Alcock & Hornby 2004) that did not in any way subscribe to the ‘anti-chieftaincy’ model.

6. The smart new green road sign pointing to ‘Mashamba Tribal Authority’ belied the more politically correct version of ‘Traditional Authorities’ incorporated in the constitution.

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