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**Communal Property  
Institutions Workshop  
27-29 November 2007  
Ladysmith Motel**

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**AFRA** Association For  
Rural Advancement

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## Background to the workshop

A motivation and a need for creating a platform for the CPI groups to come together and strategize around their strategies. There was an acknowledgement that there are not a lot of people who are speaking up about issues that CPI structures as well as communities are faced with. There are a number of communities that have been working with AFRA in the AFRA who have got their land back, but have since come back with a cry for help around different issues. This had led us to believe that there are issues in communities that go wrong post transfer and those must be articulated and brought to the public rather than be dealt with individually by the very limited resources that AFRA has.

A starting point then was for people under these communal property institutions to develop some dialogue amongst themselves so they can solidify their voices.

## Getting underway

### **Broad objective:**

Support the establishment of locally run land administration systems that highlight lessons and options for communal land administration processes that secure tenure and facilitate access to productive land for food

### **Expected outcomes of the dialogue**

We want to create a platform where people in the different Communal Property Institutions get together:

1. Share their different challenges with one another to promote dialogue as well as learning
2. Identify issues of common interest and begin to prioritise
3. Talk about joint collaborative efforts and initiatives on the identified issues of common interest

### **Participants**

Participating in the workshop were individuals from six (6) different Communal Property Institutions in different parts of the province. These were randomly selected from the ones we already have a long working relationship with to the ones that we do not have any relationship with at all. In the group there are people who are members of these CPI structures as well as ordinary community members.

### **Programme**

The process / programme ran over two days. It was designed to give time for a lot of in depth small group discussions on analysis relating to causes of problems.

The workshop started with introductions and the development of rules for how we behave ourselves in the workshop *ukuziphatha*. The facilitator briefly explained the purpose of the workshop as being about having a platform as different CPI structures to get to know each other but above that, to also reflect and analyze together on what

could be the causes of our challenges. Having gone into that analysis, then take another step forward into checking if there is anything that these strictures can do about what they are agreeing on as causes, and if so how?

The participants received a set of guiding questions beforehand so as to prepare for how they will introduce themselves to the broader group. Those questions were to give everyone a bit of background information in terms of who the community is as well as what their challenges are. That way they got to know each other. It also gave the facilitating team enough information to begin to identify common issues and problems from the different groups, thus developing problem statements. Those problem statements became themes for the focus of the discussions in the workshop.

## **Introduction of CPI structures**

### **Ekuphumuleni CPA**

We got the land back in 2004. We got information from the other communities who are our neighbours that had already got their land back, to also lodge our claims. This was in the midst of the Landmans abuses on the community members.

We liked this particular piece of land we are settled on because of its wealth and also because we thought it would best suit what we want to do on it. The trick about this area is that there are some parts of it that are good for other things and not so much others. For instance, in some areas you would find very fertile land for ploughing, in some there are forests, in some there is building sand and all these resources are very useful in their different ways. That was the reason the community decided to buy this land communally because we saw that if we were to go individually, there would be conflicts around which particular pieces of land each household gets. We then decided that we all want to benefit from all these resources.

Some of the challenges we are faced with are directly as a result of some of the community members that are not beneficiaries. During the time when we lodged our claims, there were some individuals in the community that did not want to be part of the processes. They tried to influence others not to co operate with regards to providing their identity documents for registering as well as attending meetings. Those people insinuated that the committee that was very active then wants to rob people of their money. There were also allegations that we are disrespecting the traditional authority 'Ubukhosi' as whatever land may or may not come back belongs to the traditional authority. These people have created divisions in the community as they have established their own structure that reports to the traditional authority.

The other biggest challenge is around our engagement with the municipality. From municipal councillor to the officials, it is very difficult to engage because if they are not questioning you about the ownership status of the farm and how it relates to the traditional authority, they are looking at which political party you are affiliated to. And that will determine whether or not you get any kind of service from them.

Question?

How do you handle those members of the community who excluded themselves from the processes?

We have always regarded them as part of us but they always disregard the rules that we set for ourselves when we got the land back. They undermine the leadership of the committee at all costs. We went so far as talking to the Department of Land Affairs about this they have done nothing to try and solve this.

**Nobamba Kathazo CPA**

We are located between Melmoth and Babanango; the community is made up of 64 households who were living on farms. When we heard about the land reform programme and how we could benefit, the community asked Mr. Ntombela to lodge the claim on their behalf. We negotiated with the white farm owners and eventually in 2002 the land was legally transferred to the CPA.

We live on a 4002 ha farm that we were already occupying as labour tenants. We wanted this area to reside on and also for our livestock. We wanted some sort of a structure that would come from the community to administer the land and not individual ownership because as the community we still wanted to maintain some control in terms of who comes in. We therefore chose a community structure in the form of a CPA.

One of the challenges we are dealing with is that the Department of Land Affairs does not follow up by way of checking how people are managing and what problems we are dealing with, with regards to land management. This department has the highest staff turnover ever and this is a very big problem because there is never any consistency with whoever is handling the issues of the community. At one time one goes to DLA to report this and speaks to a particular official but on the next visit you will be shown someone new and you have to start all over again, there is never any progress.

What is also challenging is the degree of no co-operation as well as division in the community. There are members of the community who have no respect whatsoever for our constitution as well as the community rules. What is even frustrating is that there are other CPA committee members who are also guilty of the same thing. We feel that the DLA did not do much in terms of training or even informing the community what it means to be legal owners of a property and also what responsibilities we each have to make it work. There are people in the community who are working with the 'izinduna' to allocate people on the farm without the knowledge or consent of the CPA. Those people that have been allocated 'illegally' in turn 'sell' their plots to other people who are not members of the community which is a total contradiction of the constitution. And it goes on and on.

Another dynamic here is that even the traditional authority itself is in conflict about what should happen on this farm. There is 'uNdunankulu' who is responsible for matters pertaining to the King "Isilo". This Ndunankulu does not necessarily report or work with the Inkosi Ntombela under whose jurisdiction this farm is. uNdunankulu is

the one responsible for all these illegal allocations. When we reported the matter to Inkosi Ntombela he reflected that he did not want to get involved for stress related purposes. When we report such activities to the police, they referred us back to Inkosi Ntombela.

The municipality has labelled the committee into a certain political party, which makes it very impossible to engage on issues pertaining to the development of the community. We have a major problem around access to water; all the dams have dried out, no proper road infrastructure. We are still waiting for the balance of the money that was used to purchase the farms from the government so that we can see what we can do. The fact that since the transfer of the land in 2002, and we still have not received those funds, is part of the challenge.

### **Ekuthuleni CPA**

Ekuthuleni farm is in Melmoth, made up of 224 households. The Ekuthuleni farm is about 1160 ha. This farm was owned and administered by the Lutherans as we were already residing on it under the missionaries.

We lodged our claim in 1996 but we have only just got ownership of the area in 2005. There are other members of the community who had not registered but we asked that they be part of the benefiting community. We explored a number of possibilities about how we want to hold our land. From individual titles to communal holding. What we were sure about; as the community is that we were looking for something that we could all afford so that it could be sustainable. The second thing is that we were not looking to change our farm into a 'location'. Therefore it meant we still wanted a way that would in which the community could control who becomes a member and who does not. We then opted for communal holding under a CPA.

In part our challenge is that the Department of Land Affairs does not co operate/ work with other government department when dealing with our claims. The problem then comes when the land has been transferred and the DLA now claims that their work is done and the rest we must sort ourselves. Other relevant government departments do not even know what a CPA is and let alone how to deal with service delivery issues that arise there.

Another challenge is that of the traditional authority. Amakhosi do not want to acknowledge that they, themselves do not have the land but the land belongs to the people/ communities. They like taking control of administration things that are not their responsibilities. To add to this, in the community there are people who are snakes and they align themselves to the actions of the Traditional Authority. This has created a lot of divisions in the community and in the process; no one pays any attention to the constitution.

How the municipal councilors work in the community is a mystery. They do not engage and communicate with the CPA when they have projects or initiatives that could benefit the community. In some instances, they have used the CPA land to house projects that do not even belong to the community, things that are designed to

benefit neighboring communities. When we asked our councilor about this, he said he has approval from the Inkosi, but he is also a member of the CPA committee.

### **Siyathuthuka CPA**

Our farm is about 1867 ha that was transferred to the CPA in 2003. There are over a hundred families that benefited on this. We were already residing on the farm when we lodged a claim. There were those that did not want to be registered or allow the use of the identity documents because they were claiming that the land belongs to the inkosi and never to the people, those made up only just seven families. Another reason why we lodged the claim with the department is that we did not have a good relationship with the white farm owner who was very difficult and thus making our lives as well as our tenure very unsafe.

We chose to hold this land communally because we believe in living together as a community. We saw that individual titles would promote the level of crime and that people would be bringing all the

After the land transfer, the Inkosi came to officiate izinduna who will be its eyes and ears on the farm. These izinduna caused a lot of conflict in the community and also in confusing people with regards to what we as the CPA structure can and cannot do. We fought this and even went to the department of land affairs but with no concrete success.

The department of land affairs has not yet released our development money and this is such a problem now since some members of the community are spreading allegations that we as the committee have benefited personally from those funds. Those that are aligned to the traditional authority since the councilor is also in that camp access whatever development is available from the municipality.

Seeing that we will not get any help from the government, we decided to meet with other similar structures around the Melmoth area.

### **Mthethwa Trust**

We were living on typical traditional land. There were white businessman who came with a proposal to build a dam right where we were residing. With that came a proposal to relocate us to a neighboring farm, on condition that we would be owners of that farm and we will have our own title deed. The inkosi agreed with their proposal and encouraged us to accept as he kept on saying if we move we would be recognized owners of that land, with our very own title deed.

Eventually we succumbed to the pressure and the land was transferred into a Trust. Then the problems started when we wanted the title deed and the farm manager together with the Inkosi do not want to hand that over to us. We started seeing the inkosi through the izinduna, allocating people on this farm, people that are not part of

us. The response we got on questioning that was, the inkosi will do what it pleases on their land.

Up until now we still have not gotten our title deed even though we know that the trust was registered in our names. One of the instructions we got from the traditional authority was that we should re elect the trustees so that she can rightfully take the chairmanship of that committee. We do not want to do that because this is our land. She sold us to the white business people with no guarantees that they will eventually get us alternative land, pushing us to take this opportunity of being owners but now she wants to take that away from us.

She is allocating people on our fields / ploughing area and even on the graves. For every allocation she is asking for a fee from those people, which means that she is making money at our expense.

### **Charlestown**

Our area is about 8000 ha spread over 8 farms. There are about 1100 families that benefited from this. These are the families that were forcibly removed during the apartheid times. We then lodged a restitution claim, and the land was given back to the community in 2003.

The community chose to go for the CPA because we want all the community members to have a say into what is happening in the community. One of the challenges now is that some of the people that were chosen by the community to sit in the CPA structure went behind the community's back and registered a Trust. In doing that they also changed the constitution that the community had agreed on which talked to some of the fundamental principles of how they want to live and what they want to do on those farms they got.

This has resulted in a number of challenges that the community has to deal with. This trust is operating strictly like the business with individuals that are the trustees having no regard for the community at all. The communities' livestock do not have areas on which to graze, if they are found on the new farms (trust land), which is supposed to be community land, the trust impounds them. This then means the owners of those must have money to release those from the impound in Utrecht. There are businesses operating on these farms, which the community does not benefit from. There is no development in the community, whatever grants money that was available for development the trust members used for their own personal benefits.

We have been to different people and even government departments themselves to ask for assistance and a solution to this problem, but all in vein. We do not know what to do anymore. As a last resort we reported our matter to the members of parliament at an imbizo and they have since commissioned a research into the facts and the validity of our situations. We do not even know if that will begin to address some of our issues as the community.

## Problem Statements

Newsprint ##

### Traditional Authorities

- Traditional Authority systems "Amakhosi" like to assert their authority and control on places that are community owned and administered by CPI structures.

Newsprint ##

### Lack of post settlement support

- There is no support of any form given to the CPI structures, with special reference to:
  - Legal support
  - Getting co operation and support from other govt departments such as, the municipality, SAPS, DLA/RLCC,

Newsprint ##

### Internal support

- There are a lot of divisions as well as no co-operation even from the community members themselves.
- There is no respect for procedures of application and allocation as well as respect and authority to the committee.

## Traditional Authorities

Amakhosi enjoy meddling in the businesses of the CPI structures because they see it as a way of strengthening their hold in the communities. One of the causes for this is that there is never really a process where in acknowledgement of the fact that there is a traditional authority system in the area where the CPI would be operating. A process whereby these institutions would be formally introduces to each other and confirm what ones responsibilities are in relation to the other. Just like how the traditional authority system operates with officiating the izinduna.

Even though this can never be admitted out in public, these community structures are put under immense pressures when it comes to defending their positions as well as their authority to the Amakhosi. This is not really intended to look down and disrespect that institution of "Ubukhosi" and so sometimes when a structure or and individual becomes assertive especially against this very own institution, it then becomes very complicated.

We do not always want to be at loggerheads with the Amakhosi but we want to claim back what is our right. That is the ownership of the farms we are living on as the different communities. The important factor here is that it looks as though ownership of land in any form is only valued and respected if it is with the traditional authority and not community structures like us. We always have to defend our existence and almost always have to negotiate how we function our duties as legal owners of properties.

The period of time that lapses between the lodging of the claim and the time to which it is eventually settled also impacts a lot on these situations. The community almost operates or functions in a vacuum, without any 'real' leadership and this then causes the neighboring communities to do as they please and also add to some of the frustrations that are also within the community. It almost seems as if there is a step missing there, and that should these kinds of situations happen then the department has a responsibility to inform the community of these delays and what they mean to the whole process. But even beyond that to also engage the concerned traditional authority structures around the pending claim of a certain area and the practical implications of an area being owned by a CPI.

### **Lack of post settlement support**

With land ownership, there are a lot of things that come into play, and some of those are of a legal nature and that is where the communities as well as these CPI structures are left to fend for themselves. These committees do not have access to any legal assistance should they want to enter into any agreements with stakeholders. What is totally forgotten on the side of the government here is that once the land belongs to the people it is when they really must be there to see the community through. In instances where as a result of the period between the lodging of the claim and the final settlement, there have been people that have been illegally allocated pieces of land in the community, how do we as community structures begin to work through those issues? Especially since we have heard that when a person has been settled for a number of years, they even acquire a certain status and therefore cannot be evicted just like that.

Whilst we as communities are busy engaging with the DLA processes and even then really struggling to find our way, other government departments are also not involved in this. The department of land affairs is running a one-man show and sometimes so caught up in this show that they even forget communities. This department forgets that the community has other needs besides those that they are addressing themselves and therefore do not use a holistic approach when engaging with people. At the end of the day, we need assistance from other departments and they do not even know what a CPA/TRUST is and let alone understanding how to deal with the issues we bring to them. There are no laws that say that the different government departments should not work together. We go and report cases of invaders and illegal occupants on our properties and the SAPS refers us to the 'Amakhosi' or better yet, they take a statement and do nothing about it

Situations on these community owned farms are deteriorating instead of them getting better. It is particularly worse in situations where there are business ventures on these properties, are which are also 'supposed' to be managed by these CPI structures. In a normal society a businessperson goes to business school but in these CPI communities there is just hope that by unforeseen miracle, business will flourish.

The municipal councilors and even the officials themselves do not bother about finding / getting to know the CPI structures in their areas and so this becomes a problem when we have to work with them. Sometimes we do go to IDP meetings, when we are fortunate enough to hear about them. Even when we are in those meetings no one entertains our issues in ways that would benefit us or even begin to solve our problems.

### **Internal support**

Communities are not working together as communities towards a common goal. Community members do not respect the rules that they set for themselves as well as the people they chose to be in these structures. There are a lot of divisions and the committee members are labeled negatively in the community. This has been especially influenced by the lack of evident progress in the community with regards to development infrastructure.

There is a lot of mistrust amongst community members and also directly targeted at members of these CPI structures. One of the major reasons for this is that as communities we do not understand what the concept of ownership means and with it, what are the responsibilities that each individual must maintain.

Also because of these direct conflict around who has superior powers of administration in instances where there are traditional authority structures, you would find that people are choosing to align with whoever will decide in their favor based on whatever their needs are at the time. And so you would find that there is so much fluidity that people are moving form Inkosi to the CPI structure at their own convenience as well as bias, more than what the procedure is. What is making these committees not assert themselves and command order in the face of this disorder is the fact they themselves are not confident enough in terms of how far their rights as well as their responsibilities go.

A lot of people in a community would easily listen and respect a stranger than their very own elected leader and that is the problem. When the CPA committee calls a meeting, community members would not prioritize that instead they will influence each other to not go to those meetings because 'those' people will not tell us what to do. Even the government does not give these structures the support as well as the respect it deserves which is quite difficult for the committee members to then turn around and demand that from the communities.

Another factor is that of the development money that the government enjoys keeping from the communities. It takes an awful lot of time for the government to release the money that was set aside for development to the community once the land has been transferred. This makes people lose their confidence on their leaders.

## Strategies for moving forward

### Newsprint ##

#### Group1

- To unite as the different CPI and together fight for our issues
- To identify and introduce ourselves to the municipalities as well our reasons for coming together.
- Engage with the department of justice with regards to the SAPS support as well as the legal aid board.

### Newsprint ##

#### Group2

- 'Imbumba' to unite as different community structures and speak as one voice
- We also need to organize with our communities locally.
- We need to have an open dialogue as a starting point with relevant govt departments re services and support.

### Newsprint ##

#### Group3

- To target the traditional Authority and engage around clarifying roles and responsibilities
- We need to create a space where we as CPI structure as well as communities constantly talk and learn from each other on identified issues.
- Make ourselves visible to other government departments.

What kept coming up in discussions was the need for going back to local communities and also reflecting these issues as things that must be kept alive there was also a need to open this discussion to include other structures that are also faced with these issues so that echoing each other's challenges, they can also learn from each other. This was at the acknowledgement that there is really no one talking about their issues and so it is up to them to make noise about them so that people would sit up and listen. It was also reflected that it is the right people that sit-up and listen and therefore stressing the need to strategize around interventions that would make the most impact.

## Way forward

This was the agreed process for moving forward.

Each community structure present in the workshop committed itself to keeping the issues alive by:

- Engaging with the community members on this
- Identifying other CPI structures around their areas that they could interest in joining in the struggle
- Work positively with each other as well as with AFRA on specific identified issues or campaigns

Each community structure then chose one member from those present who was tasked with the responsibility of liaison with AFRA on the progress as well as any communication. These were the people elected:

- R.S. Nzuzza
- Moses Ntombela
- William Mnyandu
- Smangele Mtshali
- M.Mthethwa
- J.Shabalala

The process suggests that in liaison and support from AFRA the identified individuals:

- Work to identify and engage other structures at their local level, co ordinate discussions amongst themselves on any progress or issues coming up.
- Facilitate and work with AFRA to convene a provincial gathering with broader representatives in which a concrete action plan will be mapped out.

## Evaluation

AFRA workshop team asked to excuse themselves while the workshop delegates talked amongst themselves with regards to what worked well and what did not in the process. If the workshop as a whole was in any way useful at all.

- It was a very enabling space for analyzing our issues and also very confirming to see that we are 'not alone'. We are also hopeful that we will keep the light burning
- Thank you AFRA for this opportunity, this was our first engagement with AFRA but we felt very welcome and possesses were very engaging and allowed for much needed discussions
- We are thankful for the level of respect for each other that was shown in this workshop and much appreciation to AFRA for making this happen.
- We hope for very useful and thought through actions after these very useful talks. Thank you AFRA.