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Gender, land tenure, law and rural development in South Africa

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The officially declared development objectives in South Africa include poverty alleviation, greater efficiency of and employment creation in agricultural production. Analysing the actual land tenure rights of rural women in South Africa using criteria deduced from the economic theory of law , this paper will show that at least the 60-70% women headed rural households in the ex-Homeland regions are still severely disadvantaged. Both, legal uncertainty as well as the political economy are major reasons for this. Modern law is attempting to improve the situation, yet, mechanisms for local conflict solution still need to be created and a new balance found between the inefficiencies of modern law (”phantom law”) and the gender inequality in autochthonous land tenure.

Keywords: South Africa, land tenure, gender, law, land reform.

Introduction

Just now we heard what contribution theories of institutional change can make to explain the effect of property rights reform processes on agricultural and rural development. The choice of empirical data presented in this paper, is based on the criteria institutional economics and the economy of law offer for the choice of efficient legal instruments in agrarian reforms. Apart from political and market forces it also recognises the specific influence of bureaucratic and collective mechanisms (BUCHANAN, COASE, BEHRENS). In general, however, it is purposefully empirically oriented.
In summary the officially declared development objectives for South Africa are democratisation and maximum participation in development, the mobilisation of national resources, economic growth and the alleviation of poverty, a large part of which is rural (GÖLER VON RAVENSBURG, N. 1999, p.201 et seq.). Generally speaking SA is also a good example of a society which is trying to include gender issues into its institutional reform processes. However, this proves somewhat difficult with regard to rural development and the land reform process. In these areas it is particularly difficult to avoid agency and moral hazard problems, because there is a special need to balance modern economic and political interests with indigenous norms and values. This brief paper will outline the most crucial elements of the wider institutional environment which currently still inhibit greater gender equality in resource tenure (rather than all the elements of the South African land reform (restitution, redistribution, new property and user regimes)).

Land tenure, poverty and agricultural production

About 40% of the African population of South Africa still live in the ex homeland regions. There, 60-70 per cent of households are headed by women, whose husbands either live permanently in town or have separated completely from them (MAY, J. et al 1994, p.9). 37 per cent of these households are considered ultra-poor, in other words have less than a monthly DM 50 or daily US$ 1 (FAO definition) at their disposal and are thus reliant on subsistence agriculture. In rural areas between 61 and 75 per cent of all children are said to face existential short comings. Most rural homeland households live of a mix of wage labour, pensions, urban transmittances and subsistence production. **Commercial farmers**, that is to

say farmers selling produce, represent a minority. As agricultural credit is still difficult to obtain and usually does not get granted unless individual ownership can be proven by title deed they must invest money earned in towns into the purchase of breeding stock, agricultural machinery and improvements.
Male migration, scarcity of land and unilateral sales by chiefs have led to widespread withdrawal of traditional land use rights, where the land was not harvested at least once a year. Also most men prefer to informally let "their" land and animals to other male relatives or community members rather than to their wives (SIMKINS, CH. 1990, p.4). In 1995 the percentage of rural dwellers without access to agricultural land was estimated on average at 74 per cent (MINISTRY IN THE OFFICE OF THE PRESIDENT 1995, p.19). Of those with access to land only about 45% hold registered permissions to occupy or private property, the rest relies on unrecorded traditional use rights. The majority of landless households are likely to be women headed households. Extensive research has also shown that the poorest households in S.A. are also endowed with the smallest lands if any and usually have least access to irrigation water (MBONGWA, M.M. 1984, p.81).
Female commercial farmers normally are only to be found where externally funded development programmes have promoted this actively. However, women usually do not participate in such programmes at the same rate with which they make up the population of any given area, because their use rights are frequently not sufficiently secure.
On the other hand, an extensive research project conducted in the Northern Province (MOKOENA, M.R., MEKURIA, M. AND NGQALWENI, M. 1997, p.66) showed, that female commercial farmers on average achieve twice as high a maize harvest per hectare and four times the agricultural income compared to their male colleagues, while their non-agricultural income averages only a third of that of male farmers. Women farmers employ about 25% less labour, take out fewer loans and usually work 2,4 hectare compared to 13,4 hectare for men. (Similar results have been obtained in other Southern African countries)

Changes in labour- and family-constitutions

While traditionally about 3/4 of the working time spent in subsistence agriculture was women's work (SOBAHLE, W.M.1982, p.61), rural women today frequently also seek paid employment or attempt to run informal business of the trade or service kind. Most rural women, however, have to rely on remittances or pensions and the little land for subsistence they can gain access to. Usually 6 or more persons live of one old-age pension or family grant.
The fundamentals of family constitutions have not necessarily changed due to the structural changes in land tenure and labour distribution. Even today the extended family is the base of South African society. This extended family lives together in a family compound (Homestead/Umazi). The father's house comprises all his adult sons, unmarried and recently married, including their wives and possibly children, even if the father himself and/or his sons are absent. The various wives of one male head of household each have their own houses to raise the minor children. Many single or divorced mothers return to their mother's home or leave their children there. The male head of household usually holds the family land and assigns his wives and adult sons different portions of the harvest. He also traditionally decides all conflicts between his different houses. He is liable to the outside world for all his family, allocates the work and represents the family in the traditional councils (HERON, G. S. 1990, p.162 et seq.). All age groups have strict roles according to gender, while progress into a new status or functional group (e.g. permission to start on own homestead) is governed by a mixture of age and experience. The only changes occur where single mothers cannot return. They either must find a new husband, migrate to the cities or rely on being tolerated as informal dwellers.

Control of power and participation in political processes

In the ex-homeland regions in particular authority structures are predominantly patrialineal, hierarchical and local (SCHAPERA, I. 1938/1970, p.23 et seq.). The oldest men have always played the decisive role in the spiritual and political hierarchy of the tribe. Only headmen and chiefs, the uncles in the male line and older brothers are being prepared for judicial and - closely connected - political roles (SCHAPERA, I. 1938, pp.280 and 284 / 1970, p.24). As a rule women cannot become headmen or chiefs.
Men and women since 1994 are guaranteed equal rights under the new South African Constitution. The political representation of women in legislative, executive and juridicative bodies at national and regional levels has been institutionalised exemplarily well in South Africa, but less so at local level.
During constitutional negotiations the strongest opposition to any far-reaching constitutional assurance for the role of chiefs came from the 'Commission for Gender Equity' (MOKGORO, Y. 1994, p.7 et seq.). It demanded that all their privileges be linked to significant reforms of autochthonous law particularly with regard to the legal status of women within this system and rural areas especially.
Yet, for a whole host of reasons, not the least of which was the might of Zulu opposition to the ANC and the real possibility of wide-spread blood-shed, traditional leaders have been able to insert themselves quite well into the final constitution (AMATO, R.1994, p.19). Customary law was put on par with modern Roman-Dutch law (i.a. with paragraph 211(2)) and customary courts were allowed to continue. All courts now must apply customary law when applicable and in accordance with the Constitution. Taken together with modern or as yet not abolished colonial or apartheid law governing traditional local government and customary law (DE VILLIERS, F. 1998) that created enormous potential for conflicts with the basic and human rights all South African citizens have been assured of by the same constitution. Thus further legislation specifically to deal with custom was envisaged.
Also, at local level, and that is where most of the agricultural land in the ex-homeland areas is being allocated, women's representation is still meagre (GTZ 1999). Even today headman and chiefs are prone to be elected into local governments. Apparently the electorate believes that this at least guarantees them a place to stay and the future existence of more or less efficient systems of social control. On the other hand, the number of unmarried or divorced women with children has grown enormously, meaning that a large part of the population is no longer represented in traditional structures still largely responsible for the allocation of land. Such women usually only have a right to the land their hut is built upon. Whether and how the sons of such women can gain access to land is different in different communities. In some places they cannot, other places they may only lease land, elsewhere they become fully integrated (SMALL, J., WINKLER, H. 1992).
This leads me to the aspect which I believe to be the most important one in regard to gender issues in the land tenure system of South Africa: the legal uncertainty for women living in traditionally governed areas with regard to

Women in family law and the law of persons

Within this wide field five aspects concerning the land rights of the married woman, the divorcee, the widow but also their children should be emphasised in particular.
1. Within autochthonous law South African women themselves have no right to turn to an **autochthonous court** (ALLOTT, A.N. 1968, p.131 and SCHAPERA, I. 1938b, p.284 / 1970b, p.48). They have to be represented by a husband or guardian. This has been confirmed by various colonial, apartheid and homeland laws of which some are, largely for administrative reasons, still on the statute books. The Black Administration Act (Act 38 of 1927 as amended up to Act 47 of 1997), for example, has not been repealed and in Chapter IV, para 11(b) it still limits the **personal status of a woman** in customary union to that of a minor.

According to several tribes' rules **divorces** are decided by the chief's court only (SCHAPERA, I. 1938b, p.284 / 1970b, p.48), while at the same time cases in which one or both parties are women do not go beyond the headman's court. Also there is hardly ever a court process while one of the parties is absent and appeal is never possible. That means that even a woman with a male intercessory hardly has a possibility to be divorced if her (absent) husband disagrees. And it also means that more and more couples living apart will produce illegitimate children with third partners.

2. Almost all traditional legal customs are based on the feeling of togetherness within the community (WÄHLER, K. 1988, p.646). Therefore autochthonous law is fairly well developed in regard to family relations while it remains weaker in contract law (RUBIN, L. 1965, p.199, LEWIN, J. 1947, p.105 and SCHAPERA, I. 1966, p.142-152 / 1970, p.201-209). This is one of the reasons why the **material security of women under autochthonous law** still depends largely on her belonging either to a family of origin or to her husband's homestead. In most South African tribes she does not have any claim to recompensation or material support unless she lives and works in either household (RUBIN, L. 1965, p.212). The existing land reform does not include any legislation which would change this (HULBERT, S. 1999, S.19).

3. In the countryside the payment of **bride wealth** is still widely practised even for modern law marriages (RUBIN, L. 1965, p.211). Bride wealth, however, besides its marriage constituting function also serves as testimony for claims which the elder generation gain from such a relationship (CURRIE, I. 1994, p.167 et seq.). When a marriage becomes divorced autochthonous law poses the question as to guilt: if a women files for a divorce the bride wealth must go back to the family of the husband and her parents not only lose these assets but also all further claims for support from their (former) son in law, that is to say might be deprived of their "pension".

4. Until very recently modern South African law denied recognition to polygamous unions thus also denying all but the first female partner those rights which women in modern monogamous marriages enjoyed. In case of divorce or **inheritance**, for example, a second wife and her children could only expect treatment according to autochthonous law, with the Native Administration Act and the Native Divorce Act of 1927 simply mitigating the worst. According to autochthonous law as a rule the oldest son from the first marriage, or, if he is deceased too, a well prescribed series of other male heirs (father, uncle etc.)(e.g. Tables of Succession, annexure 24 to Land Regulations Proclamation R 188 of 1969) acquires the power to use and control the inheritance. Their obligo to the widow(s) and other children is limited to rendering support as they see fit (RUBIN, L. 1965, p.211 and). The **Native Administration Act** at least gave the first wife a claim to the entire assets, while the **Native Divorce Act**, determined that in case of divorce she has a right to ask back whatever she brought with her into the marriage as well as half of the growth of assets. Secondary wives and their children, however, remained largely without rights and in many cases not even the primary wife could prove her claims because neither will nor ante-nuptial contract existed, or she did not want to insist because that would have meant to be directly opposed to her son.

5. Until 1984 all married women in South Africa, even white women, under modern personal law were largely the subject of their husband's control (ZIMMERMANN, R. 1983, p.86 and SINGH, D. 1990, p. 89) while property law did not even give them the status of a minor (ZIMMERMANN, R. 1983, p.87): even white married women could not without their husband's approval open a bank account in their own name, register a business or sign a leasehold or bond agreement. Nor could they claim *restitutio ad integrum*, that is to say had only limited or no claims for damages.

Since 1984 the **Matrimonial Property Act** (Act 88 of 1984) now guarantees women married under modern Christian law, full legal capacity and the use of household assets has become subject to (written) approval of both spouses (SINGH, D. 1990, p. 89 et seq. and SINGH, D. 1991, S.201). The weak status of women in traditional areas, however, is continuing as has be

shown empirically (MOKGORO, Y. 1994, p.7 et seq.). This concerns their land tenure rights but also those of their children and all the children born out of wedlock, regardless of whether private property, contractual leasehold, registered traditional use-rights or informal use-agreements are implied. Seeing the consequences in terms of poverty, NORTH's (1995, p.26 e.g.) explanation of such delay in the distributional efficiency of planned institutional change with the predominance of "**adaptive efficiency**" hardly seems satisfying.

Recent efforts to increase the effectivity of legal innovations

According to the constitution all women today have the choice as to whether they want to approach an autochthonous or modern court. Yet, while in the old Republic modern law has been the rule in modern courts for the last thirty or so years, the independent or self-governing homelands from the late Seventies to the early Nineties each fashioned their law of persons and family law differently and in such a way that it reflected parts of local custom. Meanwhile the autochthonous law, in other words the unwritten body of rules created by customary courts, has developed still further and in cases proves to be quite different from either modern statutory law. The new constitution, standing for "Re-unification" including in law, thus almost by necessity had to bring about new procedural and material uncertainties with regard to the choice of court (procedural) and the law to be applied (material).

In order to improve the material situation of women married under customary law, the **Recognition of Customary Marriages Act** (Act 120 of 1998) became law in December 1998. It is intended to further improve gender equality by outlining new criteria for the formal acceptance and registration of autochthonous marriages with modern courts. It puts any monogamous marriage on par with Christian marriages regard to property law in inheritance and divorce unless both spouses come to a different written agreement. A man having more than one wife at the commencement of the act **can**, one wishing to enter into a secondary marriage after the Act is passed **must** make an application to court to approve a written contract regulating the future matrimonial property system of all his marriages. In such cases the court has to assure that a division of matrimonial property is affected (Act No. 120 of 1998, Sec. 7(3) to 7 (7) and that all parties with sufficient interest are joined in the proceedings (Sec. 7(8)). The proprietary consequences of secondary marriages entered into before commencement of the Act, however, continue to be governed by customary law.

In early 1998 the Law Commission of South Africa began an interactive, internet supported process to find possibilities for harmonisation of the Common Law and the Indigenous Law. Together with representatives from the Gender Research Project, several law professors, the House of Traditional Leaders and the Zionist Church, it meanwhile came to the conclusions (LAW COMMISSION OF SOUTH AFRICA 1999, p. 107 et seq.) that courts cannot assume that current written versions of the law are a reliable expression of valid rules (op.cit Sec.10.29), that it is not feasible to restate South Africa's customary legal systems and that, in the light of the courts' general lack of expertise in customary law and the difficulty of proving new rules, the practice of calling locally selected assessors should be re-introduced (op.cit. Sec. 10.30). The Commission last month has further proposed a bill for the Application of Customary Law (LAW COMMISSION 1999, Annexure A, p.109 et seq.), which

- allows modern courts to apply customary law in civil suits only (Sec.2),
- proposes that any particular customary law is to be applied if all parties to the case agree on it or the nature, form and purpose of transaction, place of action, parties' way of life or the place of land forming the issue suggest that it be applied (Secs 3, 4 & 6),
- renders the application of customary law impossible in cases where a will or matrimonial agreement exists or a court finds unjust or unfair consequences if customary law was applied (Sec5),
- makes text books, expert as well as assessors opinion equally valid,

- proposes that the existing law of evidence, Black Administration Act and Government Notice R200 of 1987 are changed accordingly.

In procedural terms, there is still some uncertainty, too. The Law Commission has also been charged with a project aimed at new legislation governing the role of traditional courts and the judicial function of traditional leaders (LAW COMMISSION OF SOUTH AFRICA 1999b). Apart from appeal processes to modern courts becoming possible, it also sees a need for e.g. representation of women in traditional courts, councillors to be elected, para-legals trained - i.a. in the provisions of the Bill of Rights - to become clerks in such courts and be commissioned with making summaries of evidence and judgements which can be substantially relied upon on appeal or review.

What else could be done?

The phenomenon that past institutions will continue to form the present collective character of societies (MILL), regardless of their inherent potential for change (TOYE, J. 1995, S.46 et seq.) is well recognised by proponents of institutional economics and the economic theory of law alike. The fact that this is particularly valid in pluralistic law societies political economists would subsume under the term "hierarchical ontology". This term was probably first coined by MÜHLMANN/ LLAYORA (1973, p.85). It serves to describe the tendency of social systems faced with rapid transformation of institutions not just to delay de facto implementation of such change but to find ways to revert to previous norms and circumstances. In the case of South Africa it is obvious: political economy has not allowed law makers to end the second class-citizenship of single mothers, widows and divorcees living in customary law communities at the same time as accepting what is after all one of the world's most modern democratic constitutions.

The problem of how to bring modern public law, e.g. land reform legislation, the Recognition of Customary Marriages Act etc., into line with autochthonous law is more difficult: economy of law teaches us that we need participative law making to make modern law effective, appropriate social institutions to make it efficient in the distributional sense and organisations (incl. bureaucracies) to limit moral hazard and agency problems. Most of this has been neglected when shaping the current land reform legislation. Although women can buy land, the legal uncertainty they face makes it unlikely that they can use it with the same cost-benefit ratio as men. That is to say, market mechanisms and entrepreneurial drive alone will not suffice. Additional affirmative action by bureaucracy and politicians is necessary, even more so, if one recognises that women face higher transaction costs in invoking modern law than most men (higher opportunity costs, less mobility). Also, current administrations can neither assure mechanisms for effective control nor an efficient implementation of innovation in land law.

Thus the current land reform in itself can do little to alleviate the plight of the poorest among rural people. I dare say, that if the effects all the commendable efforts made to restitute land lost since 1913 (Restitution of Land Rights Act 22 of 1994) and to secure the precarious land tenure situation of share-croppers, of informal tenants on white land, of farm workers and of squatter communities (Upgrading of Land Tenure Rights Act 112 of 1991, Land Reform (Labour Tenants) Act 3 of 1996, Communal Property Act 28 of 1996) were taken together, the number of people positively affected by them would hardly reach that of secondary wives and their children, the poorest of the poor.

Such a situation does not bode well for achieving the ambitious national goal of rendering rural poverty overcome by the year 2010, but will surely promote migration and probably even violence. The proposals for private law change and a new role for traditional courts made by the Law Commission are essential steps to rectify the situation of South African women living under customary law. At the same time, they could do much to create effective arbitration mechanisms at the local level where they belong. Yet, this is not enough. If it is

doubtful, as it must be, that traditional marriages will indeed be registered, such law can hardly be made effective if only para-legals get training in Human Rights, constitutional issues and conflict arbitration and not the traditional leaders. Also, effective legal information and advice services for women and socio-political education for the youth are desperately lacking. There are not enough NGOs active in the rural areas to cover them effectively. Other questions, too, persist. Will mediation and arbitration institutions developed locally and proving successful there find acceptance at higher levels of politics and bureaucracy? Can they be multiplied and if so, what criteria can be identified for their use? What could be new co-operative contracts with which to accommodate women's interests and increase their political participation? What paths of economic promotion could be chosen to support particularly single mothers such as to give them a chance to lease or buy land thereby strengthening their standing in the community such as to eventually become eligible for partaking in local decision making and local institutional development? All these questions need a lot more attention if the steps taken currently are to become fully effective in the long run.

References

LAW COMMISSION OF SOUTH AFRICA 1999b: Traditional Courts and the judicial function of traditional leaders, Discussion paper 82, Project 90: Harmonisation of the common law and the indigenous law, http://www.law.wits.ac.za/salc/discussn/tradleaderssum.html. 8.10.1999.

LAW COMMISSION OF SOUTH AFRICA 1999: Report on the Harmonisation of the common law and indigenous law, Project 90, September 1999, http://www.law.wits.ac.za/salc/report/report.html. 8.10.1999.

ALLOTT, ANTONY N. 1968: African Law; in: Derrett, J., Duncan M. (Ed.): An Introduction to Legal Systems, London 1968, pp.131-156.

AMATO, R.1994: Understanding the new constitution - Everyone's guideline to the development and implications of the new South African Constitution, Cape Town.

BASSETT, ELLEN M. 1996: Land Tenure Reform in South Africa: Communal Property Associations, Affordability and the Problem of Corruption.

BEHRENS, P. 1986: Die ökonomischen Grundlagen des Rechts. Politische Ökonomie als rationale Jurisprudenz, Tübingen 1986.

CURRIE, IAIN 1994: The future of customary law: lessons from the lobolo debate; in: Bennett, T.W. et al.: Gender and the New South African Legal Order, (first published as Acta Juridica 1994), Faculty of Law, University of Cape Town.

DE VILLIERS, F. 1998: Selected South African Legislation on Customary Law and Traditional Authorities; Konrad-Adenauer-Stiftung: Occasional Paper, Johannesburg, December 1998.

GÖLER VON RAVENSBURG, NICOLE 1999: Kooperative Selbsthilfeorganisationen im ländlichen Südafrika, Rechtsrahmen und Entwicklungspotential aus kooperations- und institutionenökonomischer Sicht, Marburger Schriften zum Genossenschaftswesen Bd.93, Göttingen, 1999.

GTZ 1999: Dokumentation zum Fachgespräch "Gender in der kommunalen Entwicklungsplanung". 12.5.1999, Eschborn.

HERON, GAVIN STEWART 1990: Household, Production and the Organisation of Cooperative Labour in Shixini, Transkei, A Dissertation submitted to the Faculty of Arts, Rhodes University, Grahamstown for the Degree of Master of Arts, Grahamstown, January 1990.

HULBERT, S. 1999: A seed not sown: Prospects for agrarian reform in South Africa; in: BMZ: Land Policy - Tenure Rights in Development Cooperation, Challenges and Opportunities, spezial No.0002/January '99, Bonn, S.16-22.

INDICATOR SA 1995: Political Trends, Indicator SA Vol 12, No. 2 Autumn 1995, pp.23-28.

LEWIN, JULIUS 1947: Studies in African Native Law, Cape Town/Philadelphia/Oxford.

MAY, JULIAN, PERSAD, R., ATTWOOD, H., POSEL, D. 1994: Rural Poverty and Institutions; Land and Agricultural Policy Centre: Policy Paper Series No.7, Johannesburg, October 1994.

MBONGWA, MASIPHULA M. 1984: south africa: african rural development; Dr. Govan Mbeki Fund (Hrsg.), University of Amsterdam, The Netherlands.

MINISTRY IN THE OFFICE OF PRESIDENT 1995: Reconstruction and Development Programme: Key Indicators of Poverty in South Africa; An Analysis prepared for the Office of Reconstruction and Development Programme (RDP) by the World Bank, based on the South African Living Standards and Development Survey, coordinated by the Southern Africa Labour and Development Research Unit (SALDRU) at the University of Cape Town, October 1995.

MOKGORO, YVONNE 1994: Traditional Authority and Democracy in the Interim South African Constitution; in: Konrad-Adenauer-Stiftung: Occasional Papers, September 1994, Johannesburg, RSA, 1994, pp.3-10.

MOKOENA, M.R., MEKURIA, M. & NGQALENI, M 1997: Research Note: A Probit Analysis of Women Farmers' Access to Farm Land and Credit in the Northern Province; in: Agrekon, Vol. 36, No.1, March 1997, pp.66-72.

MOKOENA, M.R., MEKURIA, M. AND NGQALWENI, M. 1997: A Probit Analysis of Women Farmers' Access to Farm Land and Credit in the Northern Province; in: Agricultural Economics Association of South Africa (Publ.): Agrekon, Vol. 36 No.1, March 1997, Hatfield, S.A., S.66-72.

MÜHLMANN, W.E./ LLAYORA, R.L. 1973: Stummulus Siciliana. Ehre, Rang und soziale Schichtung in einer sizilianischen Agro-Stadt, Meisenheim am Glan.

NORTH, DOUGLASS C. 1995: The New Institutional Economics and Thrid World Development; in: Harriss, J., Hunter, J. und Lewis, C.M. (Eds.): The New Institutional Economics and Third World Development, Cambridge University Press, Routledge, London and New York 1995, pp.17-26.

RUBIN, LESLEY 1965: The Adaptation of Customary Family Law in South Africa; in: Kuper, H. & Kuper, L.: African Law: Adaptation and Development; University of California Press, Berkeley and Los Angeles, 1965, pp. 196-215, as well as Notes pp.253-257.

SCHAPERA, ISAAC 1938/1970: Courts and their Jurisdiction; in: Ders.: A Handbook of Tswana Law and Custom; Oxford University Press, Oxford 1938, pp.279-283 (2nd edition London 1955); re-print in: Cotran, E. & Rubin, N.N. (Eds.): Readings in African Law - Volume 1 (of 2); Cass Library of African Law No.6, London 1970, pp.23-25.

SCHAPERA, ISAAC 1938b/1970b: Initiation of Legal Proceedings; in: SCHAPERA, I:: A Handbook of Tswana Law and Custom; Oxford University Press, Oxford 1938, p. 283-287 (2nd edition London 1955); reprint in: Cotran, E. & Rubin, N.N. (Eds.): Readings in African Law - Volume 1 (of 2); Cass Library of African Law No.6, London 1970, pp.47-49.

SCHAPERA, ISAAC 1966/1970: Contract in Tswana Law; publ. in: Journal of African Law, Vol.9, No.3, 1966, pp.142-153; reprint in: Cotran, Eugene, Rubin, Neville N. (Eds.): Readings in African Law - Volume 1 (of 2); Cass Library of African Law No.6, London 1970, pp.201-209.

SHARP, JOHN 1994: A World Turned Upside Down - Households and Differentiation in a South African Bantustan in the 1980s; in: African studies, 53.1.94, pp.71-88.

SIMKINS, CHARLES 1990: Black Population, Employment and Incomes on Farms outside the Reserves Revisited; in: Vink, Nic, Fenyes, Tommy: The Rural Land Question: A Summary from an IDASA Workshop; Idasa Occasional Paper No 30, Cape Town, 1990, p.4.

SINGH, DIVYA 1990: Transactions unsanctioned - Protecting joint-estate property; in: Businessman's Law, Vol. 20, 1990, S.89-93.

SINGH, DIVYA 1991: Do until it dies: a critical examination of s 15 of the Matrimonial Property Act 88 of 1984; in: De Rebus, March 1991, pp. 199-203.

SMALL, JANET, WINKLER 1992: Botho Sechabeng - A feeling of community. A description of forms of tenure in Transvaal rural communities by the Transvaal Rural Action Committee, Johannesburg.

SOBAHLE, W.M.: Agricultural Practices in the Ciskei with Emphasis on the Human Factor; MA Thesis submitted to the Faculty of Arts, University of Fort Hare, December 1982.

TOYE, JOHN 1995: The New Institutional Economics and its implications for Development Theory; in: Harriss, J., Hunter, J. und Lewis, C.M. (Eds.): The New Institutional Economics and Third World Development, Cambridge University Press, Routledge, London and New York 1995, pp.49-68.

WÄHLER, KLAUS 1988: Die Rechtsordnungen des Fernen Ostens, Indiens, des Islam, Afrikas und Madagaskars in: Grasmann, Günther et al. (Hrsg.): Einführung in die großen Rechtssysteme der Gegenwart; Teil V. 2., deutsche Auflage, München 1988, S.545 - 658.

ZIMMERMANN, REINHARD 1983: Das römisch-holländische Recht in Südafrika - Einführung in die Grundlagen und usus hodiernus; Darmstadt.