FINANCIAL
AND FISCAL
COMMISSION

*For an Equitable Sharing
of National Revenue*

Farm Evictions and their Impact on Local Municipalities

EXECUTIVE SUMMARY

Since 1994, government has introduced numerous laws, policies and initiatives to regulate and improve the situation and rights of farm dwellers and farm workers, who remain among the most vulnerable in society. However, unintended consequences have created a climate of uncertainty in the agricultural sector, exacerbated by the continued eviction of farm dwellers and workers from farms. The responsibility of caring for the evictees falls on rural municipalities, thereby creating an unfunded mandate. Municipalities have to use their own funds because currently the intergovernmental fiscal instruments do not cater for evictions. The Financial and Fiscal Commission (the Commission) examined the extent of the burden on rural municipalities and found that costs relating to evictions have increased over the years. In some cases, these costs are equal to 1% of the municipality's local government equitable share (LGES). The Commission recommends that the current disaster grant include (or cater for) eviction-related emergencies, and that government strengthen the coordination and implementation of existing programmes, targeting the increasing number of displaced farm workers and dwellers.

Policy Brief 10

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BACKGROUND

Despite the Extension of Security of Tenure Act (ESTA) (No. 62 of 1997), farm dwellers and workers remain among the most vulnerable in society and are at risk of being evicted from farms. In some instances, farmers relocate their workers to rural towns in order to avoid having to comply with legislation such as the ESTA. A recent Constitutional Court ruling[1] places the burden of dealing with this influx of people on municipalities. The Court ruled that, although the housing function is shared between the national and provincial government, local government is responsible for providing shelter and other services to the evictees.

Therefore, when workers are evicted from farms, the cost of providing services and caring for the destitute must come from the municipal budget. Yet rural municipalities are ill-equipped and have no budget for caring for the evictees, resulting in an unfunded mandate.

RESEARCH FINDINGS

As Figures 1 and 2 show, in 2014 and 2015, municipal hotspots (i.e. municipalities with 10 or more pending tenure security matters) were found in KwaZulu-Natal, Mpumalanga, Western Cape, Free State and Gauteng. The provinces containing municipalities with more than 20 pending disputes were KwaZulu-Natal, Mpumalanga and the Free State. In 2015, over half (52%) of all tenure security cases in South Africa concerned evictions, and of these, 48% were evictions and 4% illegal evictions. A third (32%) of all cases were threatened evictions, which might lead to either legal or illegal evictions.

Four municipalities had the highest number of hotspots: Dihlabeng, Emadlageni, Breede Valley and Emakhazeni. These municipalities spent between 0.1% and 1% of their local government equitable share (LGES) on costs related to caring for people evicted from farms. Between 2014 and 2016, Dihlabeng spent about R326,000 in total, including nearly R50,000 (R49,095.70) during the first two months of 2016. The final costs for 2016 are likely to be far higher than in 2015, if the trend of previous years continues. During the same period, Emadlangeni spent about R175,000 on evictee-related costs, or the equivalent of 0.4% of its LGES in 2011, 0.5% of its LGES in 2012 and 0.6% of its LGES in 2013 respectively.

Over five years (2012–2016), the Breede Valley municipality spent over four million rands (R4,146,164) on emergency housing, squatter/informal settlement control and legal services related to farm evictions. This expenditure represented 1% of the municipality's LGES every year between 2013 and 2015. Emakhazeni also spent the equivalent of 1% of its LGES in 2013 and in 2014, and spent R875,000 over five years (2012–2016).

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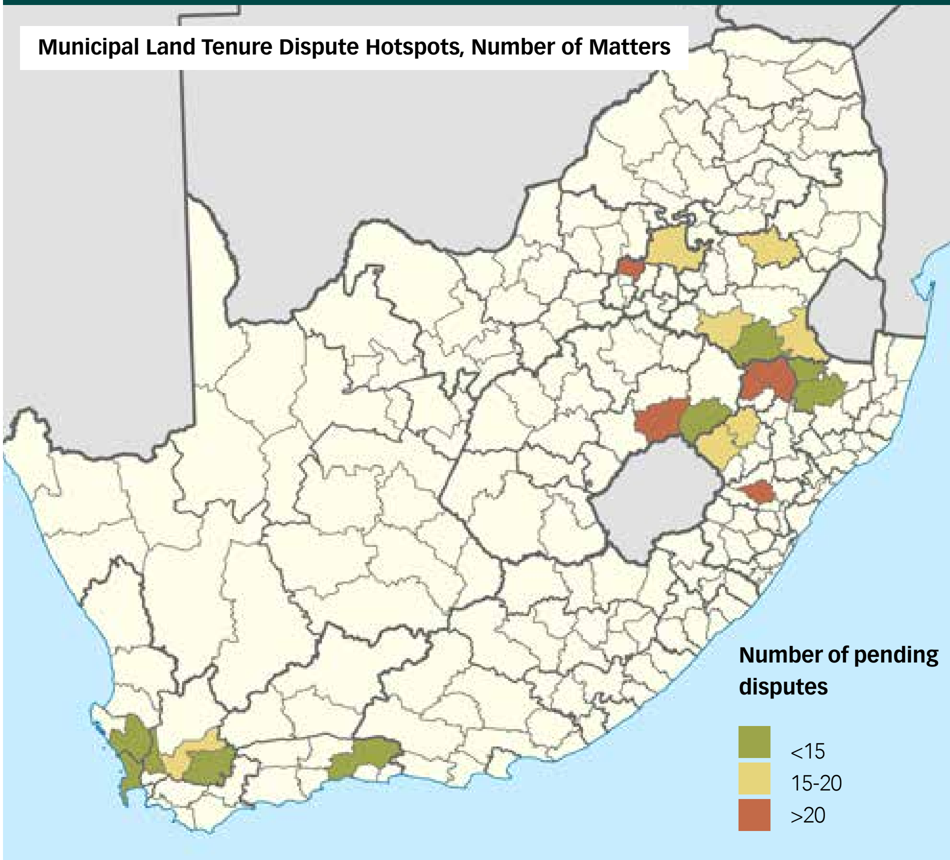
[1] City of Johannesburg Metropolitan Municipality v Blue Moonlight Properties 39 (Pty) Ltd and Another (CC) [2011] ZACC 33; 2012 (2) BCLR 150 (CC); 2012 (2) SA 104 (CC) (1 December 2011)

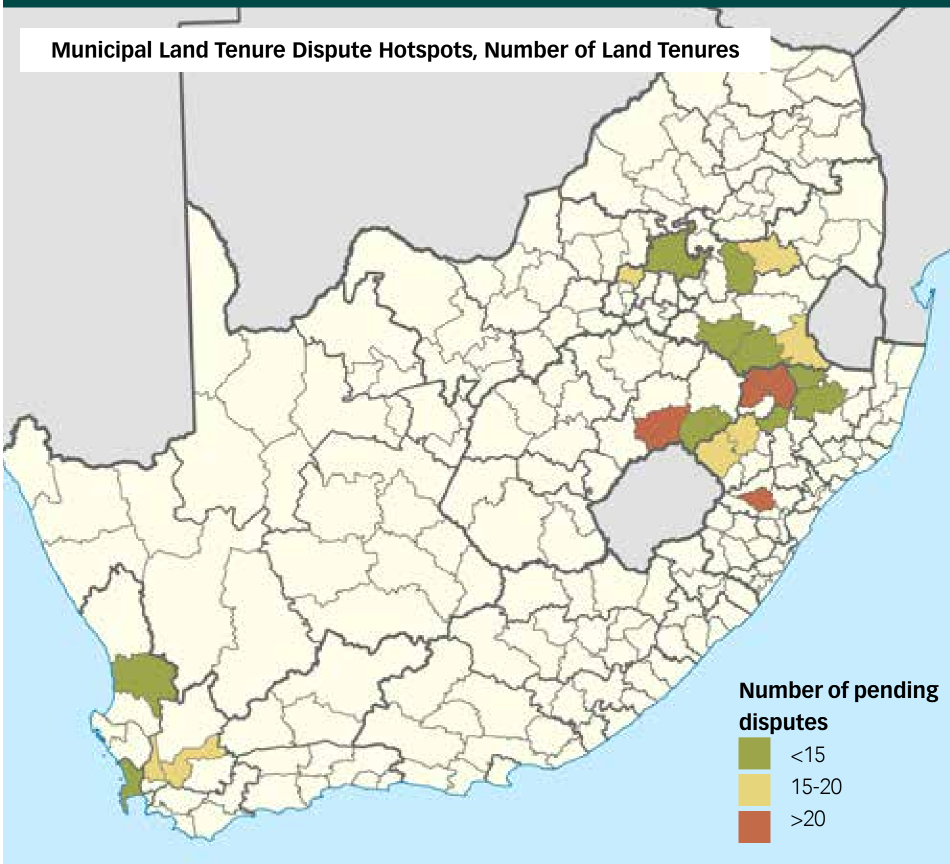
Figure 1. Municipal hotspots in South Africa (2014)



Prov	LM	Matters
FS	Maluti a Phofung	12
FS	Dihlabeng	53
GT	City of Tshwane	15
GT	Mogale City	15
KZN	eDumbe	11
KZN	Abaqulusi	12
KZN	Okhahlamba	16
KZN	Emnambithi/Ladysmith	20
KZN	uMngeni	25
KZN	Emadlangeni	38
KZN	Newcastle	59
MP	Pixley Ka seme	14
MP	Lekwa	15
MP	Emakhazeni	16
MP	Mkhondo	17
WC	Swartland	10
WC	City of Cape Town	11
WC	George	11
WC	Langeberg	14
WC	Drakenstein	14
WC	Breede Valley	20

Source: DRDLR (2014)

Figure 2. Municipal hotspots in South Africa (2015)



Prov	LM	Land Tenure
FS	Maluti a Phofung	10
FS	Dihlabeng	53
GT	City of Tshwane	11
GT	Mogale City	16
KZN	eDumbe	11
KZN	Endumeni	10
KZN	Abaqulusi	13
KZN	Okhahlamba	19
KZN	Emnambithi/Ladysmith	20
KZN	uMngeni	27
KZN	Emadlangeni	37
KZN	Newcastle	55
MP	Pixley Ka seme	11
MP	Lekwa	11
MP	Steve Tshewte	13
MP	Emakhazeni	17
MP	Mkhondo	20
WC	City of Cape Town	11
WC	Cederberg	10
WC	Drakenstein	17
WC	Breede Valley	20

Source: DRDLR (2015)

CONCLUSION

According to the legislation and recent court rulings, municipalities are responsible for caring for vulnerable evictees. The provision of shelter and other services for the evictees is not covered by a grant but must come out of the municipal budget, which creates an unfunded mandate. Such an unfunded mandate has a far greater impact on the finances of rural local municipalities than on metros (e.g. City of Johannesburg). Metros are financially better off than rural local municipalities, which collect less (sometimes no) own revenue and depend on grants for funding. To address the negative impact of farm evictions on rural municipalities' finances, the Commission makes the following recommendations:

- The current Municipal Disaster Grant should cater for eviction-related emergencies, using the same approach as for disasters.
- Government should strengthen the coordination and implementation of existing programmes targeted at displaced farm workers and dwellers. Farm evictees should be included among the beneficiaries for housing in rural towns, access to land for own production and agri-villages. The reporting of evictions should also be centralised and data collection improved.
- Stakeholders who should be involved in coordinating and implementing programmes are: the departments of rural development and land reform; agriculture, fisheries and forestry; home affairs; human settlements; cooperative governance and traditional affairs; and social development, as well as SAPS and municipalities.

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