

TRANSACTIONAL LOSS OF LAND THREATENING SUSTAINABLE DEVELOPMENT OF LIVELIHOODS IN THE URBAN MASERU

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ABSTRACT

This paper illuminates that traditional land tenure system gradually fading away in Lesotho affects livelihoods sustainability, particularly in urban Maseru (Figure 1). Traditional citizens never regarded land as a commodity. They owned land freely for both tenure and agriculture. Citizens entrusted chiefs with land administration. Nonetheless, with increasing urbanization, there is now a trend of land commoditization for transaction between individuals, companies and government mostly for occupation thus threatening urban livelihoods sustainability. Chiefs engaged in land-deal payments for consenting to statutory-leases for individual plots. They issue backdated documents/Form "C"s to by-pass 1979 Land Act prohibiting such land-allocations. Chiefs also authorize/stamp land-transferring-agreements/documents/monetary-sales between transferors/land-sellers and recipients/buyers for leases obtaining. Increasing commercialization of indigenous tenure as urban pressures intensify erodes sustainable development of livelihoods creating food insecurity. Subdivision and sale of land under communal tenure provide opportunities for commercial brokers to terminate customary land rights. Arguably, land is now commoditized allowing multiple-tenure-systems detrimental to livelihoods' sustainable development. Of the 120 households studied in two Maseru urban communities (figure 2), 82 percent in Sekamaneng and 67.5 percent in Motimposo initially had land under customary tenure but disposed off by selling/commoditization. Hence, such households are destitute. There is need for a comprehensive policy ensuring sustainable development of livelihoods.

Keywords: Transactional Loss of land, Sustainable development, Livelihoods, Land tenure, Urbanization, Commoditization, Food security.

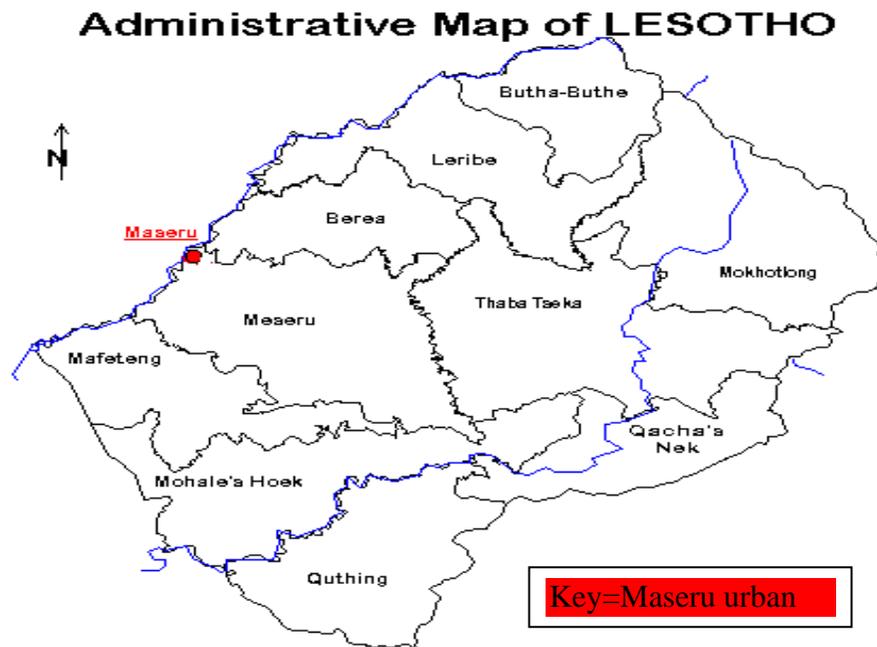
INTRODUCTION

This paper argues that transactional loss of land in Maseru urban communities like Sekamaneng and Motimposo (figure 2 above) has threatened sustainable development of livelihoods, particularly among the poor households. Previously, land was not a commodity and could not bear any price value, as its allocation was free to Basotho. However, with the increasing urbanization there is increasing commoditization of land where landholders dispose land in different ways through chiefs who consent such transactions or through brokers who engage in land deals purely for profit eroding their ownership and user rights to such land. As a result, many households are in great despair and destitution as they can no longer maintain sustainable development of livelihoods particularly food security. Urbanization promotes private tenure system mostly for

settlements erection and least for agricultural production thus threatening food security. These multiple tenure systems do not allow the sustainable development of livelihoods in Maseru (figure1).

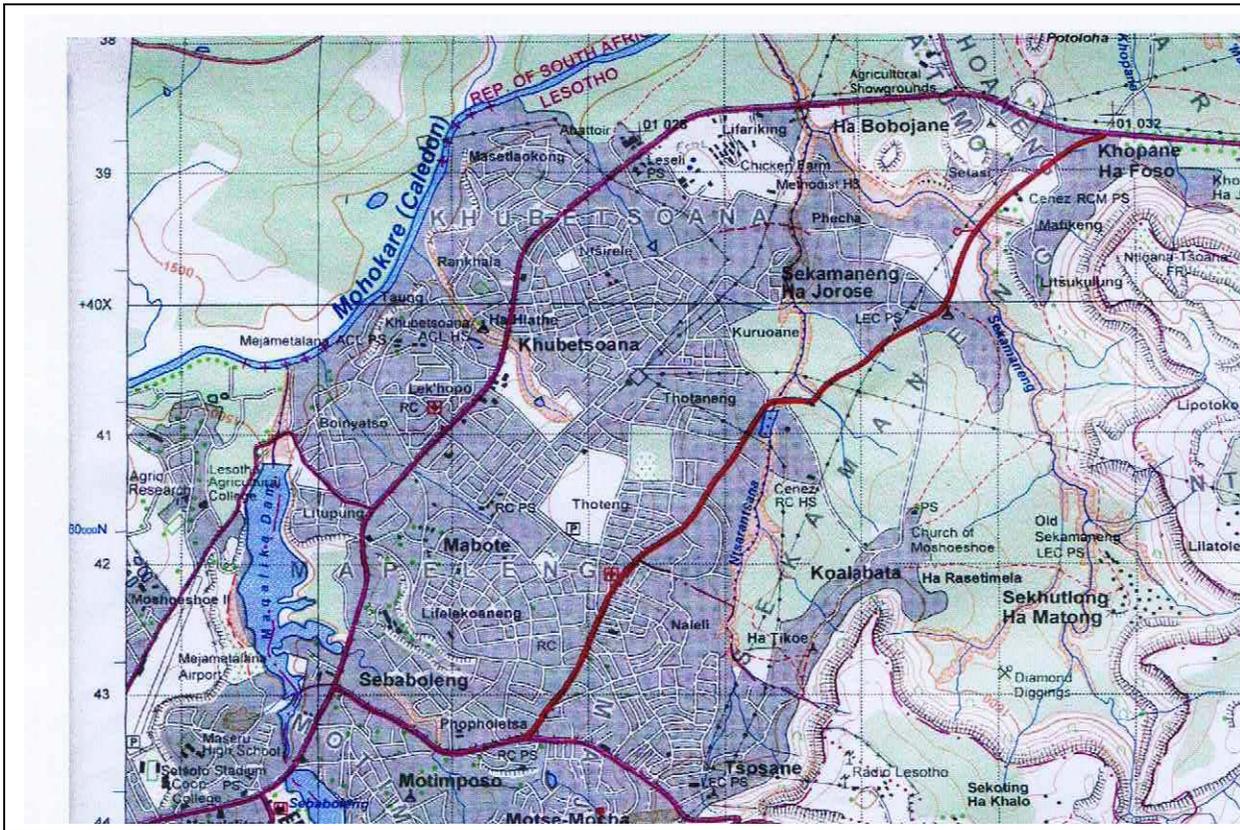
The paper presents first the methodological approach to the analysis of land tenure and sustainable livelihoods in Maseru. Second, the paper focuses on the background to land ownership in Africa including Lesotho. Third, it examines the land administration repercussions on livelihoods from the nineteenth century. Fourth, it discusses the research findings, then, lastly conclusions and recommendations.

Figure 1:



Source: Government of Lesotho Profile, 2010.

Figure 2: Motimposo and Sekamaneng in the Maseru urban



Source: Government of Lesotho Profile, 2010.

METHODOLOGY

The basic premise in our methodological approach is the importance of combining quantitative and qualitative analysis of sustainable livelihoods development as influenced by urbanization and transactional land deals in Maseru. Employing qualitative methodologies was beneficial as it often allows explanation behind observed outcome; probe motivations underlying observed behaviour; suggest the direction of causality; assess the validity of quantitative results; better understand conceptual categories such as the household, land deals, etc.; and facilitate analysis of locally meaningful categories of social differentiation (Kanbur and Schaffer, 2007).

We have carried out a limited survey of 120 households in the two urban areas, Sekamaneng and Motimposo (figure 2) within the Maseru capital city (figure 1) with the goal of collecting data on key variables related to livelihoods sustainability. The survey gives an indication of the extent to which the areas under study are qualitatively representative of the livelihoods conditions in the city at large. In addition, it helps to establish patterns and regularities against which the qualitative information is measurable. We interviewed only poor households within each area, selected through purposeful sampling. Most interviews took one to one and a half hours. The chiefs of the two studied communities identified the key informant who chose all the households described as poor (landless, unemployed/lacking income, lacking basic necessities such as own

residential areas/housing/assets or proper housing, piped water, sanitation facilities, enough food and clothes, electricity and others locally considered as poverty indicators) within the local, national and global context.

GENERAL OVERVIEW ON LAND TENURE IN AFRICA INCLUDING LESOTHO

In most of sub-Saharan Africa and despite considerable variations, the pre-colonial land tenure was generally based on the concept that ownership of land was vested in a community (tribe, clan, lineage, family), the head of which held it in trust and administered it on behalf of the group's ancestors, its currently living members, and its members yet to be born. All adult members of the community had rights to use the land, although these user rights varied with status, gender and other community values. The head of the group had the right and responsibility to allocate unused land and arbitrate in disputes. Usufruct rights were inheritable. Variations in the system arose from political structures, types of agriculture and rules of succession and so on (Rakodi, 1997).

In urban settlements that existed before colonialism, indigenous occupants held land rights, originating with the king or paramount chief, who held the absolute rights in the land in trust, and descending to individuals via intermediate groups (Bruce, 1988). Each member of a rural community had a claim to as much land as he (usually) could farm or, in urban areas, as was his due, depending on seniority. There were varieties of secondary tenures, such as sharecropping or women's rights in their husband's land. Land allocated to an individual and his (or occasionally, in matrilineal societies, her) descendants under such usufruct tenure would be forfeited only if not productively used. Rights of occupancy might be subject to the payment of tribute or the rendering of other services (Acquaye and Asiama, 1986). Arrangements for accommodating non-members of the group existed in rural areas, for example tenancy, but prior approval of the group (typically the chief and elders) was needed (Bruce, 1988). Land was not, therefore, private property, control over and access to land were inextricably linked to socio-political relationships and land was not just a physical entity, but had symbolic or spiritual significance as the embodiment of a link between the generations (Aquaye and Asiama, 1986, Frishman, 198X and van Westen, 1990).

The indigenous system was adapted for use in urban areas. It provided access to urban land for group members of widely varying economic statuses, a means of administering the allocation and occupation of land, and a deterrent to the entry of land into the open market. However, claims to land were unequal between and within families, with the more powerful and/or wealthy being more likely to have their claims granted (Bruce, 1988). Commonly, urban administration was the responsibility of a traditional ruler, and cities were divided into quarters under the jurisdiction of sub-rulers with administrative roles including land allocation (Mabogunje, 1993). Arrangements evolved to deal with non-indigenes, for example traders and other migrants. In northern Nigeria, areas for northern Islamic non-indigenes (*Tudun Wada*) and southern migrants (*Sabon Gari*) were allocated land (O'Connor, 1983). Elsewhere, non-indigenous in-migrants were dealt with on an individual basis and greater ethnic mixing occurred as a result. Traditionally, a token payment of "drinks money" was made to the chief or other person responsible for land allocation. Land was not regarded as a commodity and this payment was not a "price" related to the value of the land. However, in places such as Kano, land had become scarce before the end of the nineteenth century and sales replaced its allocation that was without charge (Frishman, 1988).

Indigenous tenure was therefore, evolving to deal with new developments even before the advent of colonial administration. However, pressures for change intensified firstly with the imposition of colonial rule and subsequently with the increased rates of population growth that succeeded independence. The increasing problems caused by the undocumented nature of land rights and transactions are underscored by the increasing commercialization of indigenous tenure as urban pressures intensify. Evidence has accumulated of traditional payments approximating more closely to prices and of landholders selling land without the consent of their kin. This seemed to be occurring both within pre-colonial settlements and on the outskirts of cities throughout the continent where peripheral land is held under communal tenure arrangements (Amis, 1990). In the area of communal tenure north of Lusaka, for instance, there was no evidence of payments made to chiefs until the late 1970s, when reports began to emerge of rentals paid for land reclaimed from farms by the chief or headmen. That also included payments to the chief for consenting to the issue of statutory leases for individual plots (Van den Berg, 1984). Similarly, Kironde and Rugaiganisa (1995) assert that there has been a market in land under customary tenure on the periphery of Dar es Salaam in the Eastern parts of Africa for decades. Wellings (1988) quotes similar evidence of chiefs in peri-urban areas in Lesotho terminating land rights, ostensibly to prevent overcrowding but in practice to sell plots. The subdivision and sale of land held under communal tenure have provided opportunities for the entry of brokers. In Burkina Faso, which is in West Africa, the traditional authorities sold land for urban development between 1960 and 1984, despite 1960 legislation that did not recognize their tenure rights (Bagre, Belemsagha, Guiebo and Kibtonre. 1995). In Bamako, Mali, since the late 1960s, traditional leaders had made the initial allocations of land in subdivisions, but, when these developed further, the leaders lost control over land and the remaining free land was appropriated by middlemen, who acted as intermediaries for rental housing developed by outside investors (van Westen, 1990). In Abidjan, customary owners of peripheral land sold it to intermediaries for illegal subdivision since the 1950s, retaining some of the land for themselves (Dubresson and Yapi-Diahou, 1988). Similar processes are described in Kinshasa (Caner and Girard, 1988) and on land belonging to the Lebou villagers of Cape-Vert (Navarro, 1988).

From the foregoing, it is apparent that access to land through customary tenure procedures did, in the past, enable low-income urban residents to obtain access to land without resorting to illegal occupation. As a result, squatting has been less extensive than in other parts of the world. The major problem faced by urban residents has been inadequate provision of infrastructure rather than access to land. However, the increasingly commercialized process by which land held under indigenous tenure is disposed of, the markets that are developing in such land, and the processes of house production with which they are associated indicate that the traditional responsibilities of community leaders are gradually giving way to profit-making land practices. Opportunities are being provided for brokers with purely commercial aims, and the process of illegal subdivision and house production on this land is increasingly resembling that of land held under forms of individual tenure (Rakodi, 1997). Lesotho has had similar experiences like other African countries exposed here.

LAND ADMINISTRATION REPERCUSSIONS ON LIVELIHOODS FROM THE NINETEENTH CENTURY

From the earlier times of the history of Lesotho, the period was 'feudal,' where chiefs allocated land. This did not mean that chiefs owned the land but in communal terms, they allocated land to newcomers seeking for access to land on behalf of those they led. Members of the community had a right to continue to have access to land only to the extent that they owed allegiance to those individuals and the whole community. To this political and patronizing condition were added economic

privileges to enhance the economic endowments of chiefs, which ensured their political control over their subjects. Over time, chiefs accumulated political power at the expense of the commoners. This resulted from the shortage of land and the economic conditions that emerged from the increase in the number of people competing for land. This had implications on who actually owns the land because chiefs acted as if they owned land without any challenge from their subjects. Chiefs, though, had a tendency to use their control over land to their economic benefit as early as the 1860s and towards the end of the nineteenth century, chiefs' view of land as their property was clearly demonstrated. By this time, another problem erupted compounding to the existing problems of land ownership. The number of chiefs proliferated as more Basotho sought for control of land even those who were not born in the royal families. This led to a series of chiefly disputes over land throughout Lesotho. Some of the disputes were expressed as private and individual concerns while some had community interest (Thabane, 2002:12).

These circumstances of increasing shortage of land, proliferation of chiefs and their growing regard of land as their private property did not change the relationship between the chiefs and the commoners. People continued to have access to land based on their allegiance to the chief though chiefs used this as a strategy to have more followers to enhance their political standing. The chief treated the commoners anyhow counting in the shortage of land making it difficult to find any alternative vacant land in another chief's territory. This strengthened chiefs' view of land as their property. This perception of chiefs as owners of land crystallized in the minds of both the commoners and chiefs, who became more oppressive under the 'traditional' or communal' land tenure system. This led to land disputes from as early as 1940 to 1994. Thus, the traditional land tenure system in Lesotho is arguably confused leading to this situation where any one can claim land ownership. Further compounding of the land-ownership problem/confusion is from the shortage of land, proliferation of chiefs and the consequent confusion of chiefs' territorial boundaries that resulted in armed conflicts, loss of life and destruction of property within the country. Same conflicts extended to a number of places along the border with South Africa between residents of South Africa and people from Lesotho over pastureland and livestock (Thabane 1998).

The question of land is one of the themes that dominated the political history of Lesotho in the nineteenth century. All the interaction between Basotho and European settlers; wars, correspondence and treaties, were over land and boundaries. One of the major considerations in the Basotho's preference to be colonized by the Cape or England as opposed to Natal was the fact that the Natal government not only destroyed the political institutions of those it ruled but also alienated them from their land. They divided the land where colonialists occupied the arable land and pushed the indigenous people to the marginal lands, a trend also observed throughout Africa by Elate (2004). The question of land consequently influenced the Lesotho's choice for the colonial master and therefore it influenced its colonial and post-colonial history to a greater extent (Thabane, 1998).

Given the fact that Basotho have often been described as an agricultural society and 80% of its population was rural in the past, land was regarded as a source of livelihood and life revolved around land. Here land was the source of food, pasture for animals and the bearer of materials needed for production of handicrafts. The ability of the Basotho to retain land was linked to their political independence. Wars fought and treaties signed with the foreigners on the question of land were with the understanding that land belongs to Basotho. The commonly used phrase to describe the land tenure system was- *the king*

holds land in trust of the whole nation. However, this pretext has never been clear in terms of ownership, right to access and the extent of such rights. This lack of clarity of who owns the land in Lesotho had a number of consequences (Thabane, 1998).

The period following the Lesotho's independence had grievances from the commoners complaining about the chiefs' abuse of their administration of land. These complaints included the chiefs' arbitrary refusal to allocate land and withdrawal of lands given to widows and old destitute women. Again, this was the period when international financial institutions' missions investigated the land tenure system in Lesotho. They concluded that the land tenure in Lesotho did not give potential agents of economic development/growth a security of tenure and needed to be changed to allow economic growth and foreign investments. The post-colonial government then enacted laws aimed at addressing these issues. These laws were aimed at decentralizing power and decision-making on land to the local level. They included the Land Procedure Act of 1967, The Land Husbandry Act 1969 and the Land Act 1973 which introduced the lease system giving the government greater control over land particularly urban areas.

The 1979 Land Act, which is the most important land law in Lesotho, introduced major reforms on land tenure: allocation, license and lease. These laws made it possible for the government to apportion land for foreign investors that gave them security of tenure in the name of economic development/growth. Powers of the chiefs diminished and those of the civil servants increased in land allocation. The 1997 Local Government Act further diminished the powers of the chiefs in land allocation through establishment of local authorities where chiefs only remained as ex-officio members in land allocating committees. These implications though significant, they affect a very limited section of the population while the majority still continue to have the relationship with the land within the context of the 'traditional' or 'communal' land tenure system both in rural and urban areas. However, regardless of these changes chiefs remain powerful in their capacity to allocate land regardless of these formulations (Thabane 1998 and Mokitimi 2006).

This has further fuelled tension between the government and the chiefs in their own traditional jurisdiction particularly in urban areas. People and their chiefs continue to allocate and transfer land in the areas regardless of the government decisions on such land. The traditional authorities still hold onto the completely customary land tenure era before 1979 Land Act that prohibited them from allocating land entirely but then required leases issuing in the urban areas and no longer Form "Cs". They still have according to such customary tenure, the authority over the land in their jurisdiction. Any developments regarding the law including the 1997 Local Government Act seem to be meaningless and do not apply in their context. This being the case, they render local governance a failure as they continue to operate in the past. Some of this land is the agricultural land whose owners arrange with chiefs to get backdated documents with allocation dates before 1979. That is backdated Form "Cs" whenever they sell it out. Chiefs used to issue such Form "Cs" before the 1979 Land Act, which institutionalized land allocation through a lease issuing only by the land allocating institutions like Lesotho Housing Corporation/LHC together with Lands Survey and Physical Planning/LSPP or the Maseru City Council/MCC in the city. Evidence shows that in many parts of Lesotho including Maseru land is being sold out, more so, in the course of increasing urbanization. Loss of this land by previous owners means loss of livelihood and consequently, poverty.

Furthermore, the emergence of the middle class in Lesotho and the neo-colonial character of the economy have prompted the emergence of a number of land tenure arrangements such as freehold in the urban areas, special arrangements for purposes of facilitating foreign investments and power of government to attach and use any land in the manner deems fit 'in national interests'. This has transferred most of the land to private holdings, which in most cases resell it at ridiculous prices affordable to only a few citizens thus giving richer foreigners preferential access over the citizens. This does not exclude the government on the land it holds in the name of the 'national interest' (Thabane, 1998:3). This being the case, the urban poor continue to invade the land through acquiring space through illegal land markets. Leduca (2000) argues that the experiences of 'victims' or subjects of state law and their reactions in creating alternative or 'revolutionary' spaces in an attempt to mitigate the often negative impacts on their exclusion from spaces of privileged consumption and activity often get ignored. As such Leduca sees the 'illegal urban development' as an outcome of the exclusion of the majority of urban residents from the legal or formal processes of accessing urban space (land) due to formal rules that tend to exclude sections of the Basotho community- especially women.

The loss of land and wealth, the increasing population and increasing demand for food forced the Basotho to seek for an alternative means of livelihood. Thus, with the declining economy based on agriculture, South Africa became an alternative source of livelihood for many able-bodied men and women from the Kingdom. Although a few Basotho engaged in craftwork producing some items for sale, such as pottery, weaving, manufacturing of leather goods and wooden implements etc, those were not developed further because they were to be replaced by imported European goods of similar nature but of better quality. In order to purchase those imported goods, Basotho needed money that could only be found from employment in the mines in South Africa further increasing labour migration (Khalapa Development Agency Report 2004 and Thabane, 2002) which had long started in the 1830s.

FINDINGS

According to this study's results, many households owned land mostly in Sekamaneng and Motimposo. Some 82 per cent of households in Sekamaneng and 67.5 per cent of households in Motimposo owned land. This land was mostly used for settlement while only one household in Sekamaneng had extra land for agricultural purposes. Most of the agricultural land had been sold out. According to the traditional land tenure system in Lesotho every citizen is entitled to land and this land was given freely. This partly explains why in the two communities peripheral to the city centre, we have a large number of people owning land, as these are the people who are born in the areas while some are immigrants who bought the land. One important thing to be noted mostly about Sekamaneng and Motimposo is that people who are original inhabitants had agricultural land that they had then sold out as urbanization increased and migrants were coming into their areas. Cases cited below indicate that transactional loss of land previously owned under traditional tenure has affected the development of sustainable livelihoods in these areas.

Mpho Class (46) born in Sekamaneng was no more dependent on agricultural production. The fields she used to plough are now turned into settlement areas since she sold such land to people who came into the area. She claimed she was not the only

person who had sold out land. Even people who had agricultural land and used to provide other piece-jobs during weeding seasons have sold it out to new settlers. Others also used to do sharecropping with people who had no land.

Pascal Sello (61) who lived in Sekamaneng since 1968 used to cultivate his land. Since 1980 when his area experienced population growth, he stopped cultivating his land and sold it to the immigrants from the countryside. This has impoverished his family and the whole community because even those who did not have land could survive from the same land as owners through labour they provided, paid either in cash or in kind or both.

Habofanoe Khoele (1947) Before 1980, we relied mostly on agriculture for our survival. I also worked in the mines and was able to support my family. However, I got retrenched in 1985. Thereafter I sold my agricultural land as I needed some income to survive. My parents also sold their land on which we depended too to newly settling people in the area. Today I have no means to survive; I rely on piece-jobs like gardening in my neighbours' homes. At times, I cannot find them so I have to starve; as no one can help me. I rely on myself only, nobody helps me.

Matsepo Sebotsa (74) who was living with her grandson claimed to be living on the agricultural land as her son bought it and built the house. But this was the land which used to provide a livelihood to the community in the past.

Mamosia Monts'o (1955) from Motimposo lived better in the past. She had land to cultivate and this land was feeding her household but later the land was sold out to people for settlements. She claimed to rely on selling locally brewed beer and on old-age pension earned by her husband from the government. She confessed that her household was dependent on the sale of beer, where she brewed beer three times a week, one brew after the other so that beer was available everyday. However, she indicated that this was a hand to mouth type of living because the money she generated buys food, she could not save it. Besides, she relies on rearing of pigs whose meat she sold and ate at the same time. In addition, she kept chicken which was just for household consumption.

Some of the respondents sold their land through the brokers. For example, **Mapoloko Lefaphana (56)** from Sekamaneng used to live on production from her fields. She had sold out her field by engaging the broker operating in Maseru. The field cost M/R120,000.00. She then finds it difficult to cope in her household, as she has to buy food. She is not employed. She has to struggle everyday for survival.

Some respondents also indicated that they sold out their land when they heard that the government was going to take it once their area becomes part of the city. **Malosia Litaba (69)** lived a good life in the past in that she engaged in agricultural productivity. She had land to cultivate but the government forced her to sell it by encroaching into the area without any compensation. She did not struggle for food before.

This means that the agricultural land was then permanently gone and the money they got from it was finished too leaving them dependent on unsustainable means of livelihood creating despair and destitution in these communities.

Those who had no land used to work for food or money in the fields and were surviving well. For instance, **Samuel Sebotsa (1956)** clearly indicated

Since the 1980s when people in this area began to sell their agricultural land life has ever become difficult for both owners of the land and those who had no land. They all survived on the land one way or the other. Those who had no land worked for those who had land and got something in return either cash or grain to survive. Some of us who had jobs are jobless today; we live a hand-to mouth type of life everyday.

(Interview, Samuel Sebotsa, January, 2009)

'Matsietsi Khatebe (birth date not known) who lived in Motimposo also maintained

In the past Motimposo had vast agricultural land and we used to work in those fields for weeding and would either get cash or food from the owners. However in the 1980s land started to disappear as a result of migrants who bought and occupied the land. Today Motimposo is an area with no land left idling, there are houses everywhere mostly houses for tenants (Malaene) build purely for commercial purposes by the owners of that land. That loss of agricultural land has made us to rely on cash economy where it is not easy to generate cash to buy commodities. For instance, since I am not working I have to fetch wild vegetables from people's gardens and sell them in order to get some money to survive. A few people sometimes assist me by giving little money and maize flour for us to eat at times of hardships (Interview, 'Matsietsi Khatebe, March, 2009).

The disposed land was providing livelihood to both households that owned the land and those that did not have any land. During farming seasons, people who had no land laboured for money and food grain from those who owned the land.

Others used to farm with those who had land as their livelihood. **Mokete Maritints'i (55)** used to engage in sharecropping with people who had fields in Sekamaneng. However, he could not continue with the sharecropping as fields were sold out to people who had built their homes. Mokete stated that the increasing settlements on the agricultural land have impoverished his family more because he has no alternative means of survival especially when there is no money in the family. But when land was there, he would not worry much about where to get food. This was also the experience of 'Mazulu. **'Mazulu Zulu (66)** had lived in Sekamaneng since 1968. In the past, she engaged in agriculture with those who had fields as she did not have any. She engaged in sharecropping. That time one could not struggle to get food because the produce was enough. Even those who had no fields could survive with the return from the labour they provided. Then life has become difficult as all the

fields they used to work on were sold out to new settlers. There are no jobs for us, even though we are old but we need money to survive.

These cases confirm loss of natural capital (land) that formed a critical part of people's livelihood. This means that with urbanization, loss of physical capital (land) by already poor households due to sale of land has increased destitution and poverty. These households can no longer uphold the development of sustainable livelihoods. This is similar to what has been happening throughout Africa where land was traditionally owned by households has been sold (Bagre et al., 1995; Dubresson and Yapi-Diahou, 1988; Caner and Girard, 1988 and Navarro, 1988).

CONCLUSION AND RECOMMENDATIONS

Land ownership automatically influences the household livelihood and in the case of Sekamaneng and Motimposo the development of sustainable livelihoods is non-achievable where there is permanent loss of land. Given that Basotho have often been described as an agricultural society and 80 percent of its population relies on agriculture, land was regarded as a source of livelihood and life revolved around land significantly. Here land was the source of food, pasture for animals and the bearer of materials needed for production of handicrafts but this has vanished in the context of Sekamaneng and Motimposo. The increasing problems caused by the commercialization of indigenous tenure as urban pressures intensify have left many households in great despair. Evidence indicated landholders having sold land in Sekamaneng and Motimposo communities and such households are unable to maintain the development of sustainable livelihoods. The market-oriented cash economy has allowed the bourgeoisies to acquire land from private owners under traditional tenure to resell it exorbitantly. It would be best to develop a policy that would accommodate the traditional land tenure and the free market oriented land system equitably at least to allow the development of sustainable livelihoods locally/nationally, particularly food production for the poor as well as economic growth. The development of sustainable livelihoods, particularly food security is fundamental to human life and sustainable development.

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