

**Racially motivated land dispossession in Gordonia:  
Memorial lecture on the 1913 Natives Land Act  
Kimberley, 15 April 2013**

**Dedicated to Aubrey Beukes**

It is a privilege and honour to give this talk to the Khoi-San indaba. I am not very good at protocol and I hope all protocol is observed. The topic I was given was the 1913 Natives Land Act and its implications for the Northern Cape. It is the 100<sup>th</sup> anniversary of the passage of the Land Act, a vicious piece of legislation passed by the then all-white parliament. I want to focus in on the Northern Cape, and on brown people, but let me begin with some more general remarks.

**The role of the Land Act**

The Land Act, in the finely crafted prose of a long-time colleague of mine, Colin Bundy, “codified, ratified and made nationally uniform various discriminatory practices established in colonies and Boer republics. It ‘froze’ land ownership into certain categories and debarred Africans from acquiring any further property outside specified ‘reserves’.”<sup>1</sup> It therefore prevented the growth of an African (or, as we shall see, brown) farming class.

It has become a symbol for the conquest and dispossession of the brown and black people of this country, eventually under the rule of the white minority regime of segregation and apartheid – which since 1994 has been replaced by our constitution-bound parliamentary democracy. Its legacy is an extreme racially-based inequality in land distribution.

Concerning the Land Act, Sol Plaatje, author and one-time Secretary General of the ANC, wrote in 1916 that “Awaking on Friday morning, June 20, 1913, the South African Native found himself, not actually a slave, but a pariah [outcast] in the land of his birth.” In the land of his birth, the “native”, had become a pariah, an outcast, an exile. The word denoting birthplace had been turned by the discourse of white power into a word denoting conquest and dispossession – designating the native as inferior.

The Land Act was passed in the name of racial segregation (later to be called apartheid). Together with later legislation the Act confirmed the right of the white conquering minority to ownership of some 87% of the land on which were developed highly productive commercial farms, and confined the ownership rights of the indigenous black majority to the remaining 13% -- the so-called “subsistence economy” -- which became overgrazed, eroded, and impoverished. That remained the situation until 1994.

The Land Act hastened the squeezing out of black migrants from the so-called “native reserves” to serve as cheap labour deep underground for the gold mining capitalists who dominated the economy from the late nineteenth century. It also encouraged the coercive transformation of black rent-paying peasants on colonized land into labour-tenants for capitalizing farmers.

At a recent Iziko museum forum on the Land Act I heard the Minister of Rural Development and Land Reform, Gugile Nkwinti, begin his talk by quoting from a pamphlet by D.I. Jones – an early leader of the Communist Party of South Africa – as

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<sup>1</sup> *Cape Times*, 23/1/2013

follows: “This, then is the function of the native territories, to serve as cheap breeding grounds for black labour – the repositories of the reserve army of native labour – sucking it in or letting it out according to the demands of industry. By means of these territories Capital is relieved of the obligation of paying wages to cover the cost to the labourer of reproducing his kind.”<sup>2</sup> Migrants were supposed to leave their wives behind, to cultivate the decaying fields, raise the children who herded the cattle on impoverished land, and look after the aged – most likely with mine-related diseases. Some courageous women abandoned the countryside to venture to the risky life in towns on their own.

Conquest, white occupation, legislation, and farmers coercion reduced blacks to servitude on settler-owned land as well. A recent land case before the Constitutional Court Land Court on a claim in Limpopo by people eventually dispossessed in 1969 gives – in careful legal language -- a small example:

“The individual applicants, most of whom bear the family name Maake, trace their uninterrupted family settlement on the Boomplaats land back to the mid-19th century.... [T]heir forebears enjoyed undisturbed indigenous rights to the land and exercised all the rights that came with it. ... the Zuid Afrikaans: Republiek granted the land to white owners during 1889.... The white owners took possession of the land, and compelled the inhabitants to become labour tenants....

“throughout the tenure of successive registered landowners, the applicants, as their ancestors did, continued to live on the land but as no more than labour tenants. They had to work for the registered owner or his appointee in order to live there. The inexorable result was that, by 1969, the title of the very descendants of the Maake people, had been whittled down to a vulnerable labour tenancy in relation to their ancestral land.” They were granted restitution.<sup>3</sup>

As the Minister knows, having been a student of Marion Lacey, foreign mine bosses and white settler farmers in post-Union South Africa competed for cheap labour and successive governments adjusted segregation to favour one or another – until the compromise of 1936 which also deprived Africans in the Cape of the vote.<sup>4</sup> Meanwhile mining and the state had combined to create the minerals-energy complex which still dominates our economy.<sup>5</sup>

## Deep imprint of Land Act

The imprint of the Land Act was and remains deep. Since 1994 it has been possible to transfer only 5% of land back to the dispossessed. This is largely because the white *baasskap* built over centuries, reinforced by the Land Act and government subsidies until the 1990s, and now increasingly corporatized, still controls rural life in the former ‘white’ areas.

Since the 1960s there have been 1 million evictions of blacks and browns each decade (each ten years) from the land – and this has continued even since democracy in 1994 at a similar rate. For farm dwellers who remain, insecurity of tenure is

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<sup>2</sup> He stated that he got the quotation from Martin Legassick and Harold Wolpe, “The Bantustans and Capital Accumulation in South Africa”, *Review of African Political Economy*, Volume 3, Number 7, Winter 1976.

<sup>3</sup> Dept of Land Affairs and others v. Goedgelegen Tropical Fruits (Pty) Ltd, Constitutional Court, March 8, June 6 2007, Case No CCT 69/08

<sup>4</sup> See Marion Lacey, *Working for Boroko: the origins of a coercive labour system in South Africa* (Ravan Press, 1981)

<sup>5</sup> Ben Fine and Zavareh Rustomjee, *The political economy of South Africa: from minerals-energy complex to industrialization* (Wits University Press, 1996)

widespread. (Between 1994 and 2004, for example, 2.35 million people were displaced from farms of which close to a million were evicted.)

The recent wave of farm strikes in the Western Cape was in fact a rebellion by semi-slaves against this system of white *baasskap*, now entrenched in global export markets. The workers' demands were not only for a minimum wage of R150 a day but for redistribution of the land. Hopefully the unionization and organization of farmworkers will now proceed without police and farmer harassment – so they can continue to struggle for decent wages and conditions and for redistributed land.

The migrant labour system still exists on the mines – as revealed in the tragic fact that many of the strikers murdered by police at Lonmin's platinum mine in Marikana near Rustenburg on 16 August last year were from Pondoland. The wave of mine strikes last year with demands for R12,500-R16,500 monthly wage was an attempt to break this continued cheap labour system, still serving mining super-profits, and now managed by labour brokers.

The powers of the system of unelected traditional authorities in the “reserves/bantustans” were a legacy of segregation/apartheid laws consequent on the Land Act. The beginnings of democratization of this system have been reversed over the past few years and traditional powers are being strengthened. Conferring tenure on land remains under their control.

The service delivery protests over the last 13 years, and the national crisis of housing (despite all the houses built since 1994) are a result of a wave of urbanization from the impoverished rural areas since the abolition of the pass laws and the advent of democracy – this torrent again a product of the unequal distribution of land ratified and frozen by the Land Act. In my view, the housing and even the unemployment crisis could be solved if the 6 million unemployed were trained by the state as bricklayers, plumbers, carpenters, electricians, building organisers, architects and put to work to build the continued backlog of housing of some millions.

### **Restitution: re-opening of land claims**

From the start the democratic government committed itself to restitution of those dispossessed of their land and homes since 1913. That process is continuing, at least until the 30% transfer target is achieved. I want to deal with two related aspects of the land restitution question. The first is the proposed alteration in the cutoff date. And, finally, my own experience of land restitution work.

In his speech in the debate on the State of the Nation address, the Minister repeated the announcement by the President, of the re-opening of the lodgement of land claims for those who could not claim during the first window of opportunity. This includes “the creation of exceptions to the 1913 Natives Land Acts for heritage sites, historic landmarks and opportunities for the descendants of the Khoi and San to claim.” □ □ He warned correctly that this decision would “require massive preparatory work” – including oral historical research -- which has commenced in earnest.”

I am sure those here, like myself, welcome this decision, which has been lobbied for by Khoisan spokespeople at the United Nations since the advent of democracy. At the same time the decision raised many questions and challenges. What are the geographical areas that could be subject to restitution claims? Who will be the beneficiaries?

Let me give one example. The “Big Hole” here in Kimberley – and indeed perhaps most if not the whole area of Kimberley is on the site of the previous farm Vooruitzicht which was under Griqua ownership before it was seized without

compensation and included in the British territory of Griqualand West in 1870. I have drafted a legal report on this question. At the time there was a dispute on which must ink and time was spent between the British and the Orange Free State over the area of and around Vooruitzicht, since the Free State also claimed to have taken it from Griqua ownership. Should Kimberley and indeed the whole of the then-Griqua territory now be restored to the Griqua? And if so, which Griqua? The British claim rested on the legacy of Andries Waterboer while the Free State claim rested on the legacy of Cornelius Kok. Moreover – to extend the argument -- the Griqua of Philippolis can claim they were driven from the area by the Free State in 1861 to Griqualand East and then once again dispossessed in Griqualand East in the 1890s. If there is a successful restitution claim by the Griqua, which individuals or families are entitled to benefit from it?

If one goes back further in time, the problems increase. The whole of the Western Cape and the Karoo was once the territory of South Africa's "first nations" the San and the Khoi. The Khoi were ravaged by smallpox introduced by Europeans, enserfed to settler farmers; the San were hunted down and slaughtered or imprisoned until they became objects of abusive racist scientific research at the end of the nineteenth century.<sup>6</sup> Khoi clans and San bands were undoubtedly dispossessed of their territory – including Cape Town and all the towns (built at water sources) of the region. Internationally, law now regards nomadism or transhumance as no barrier to restitution of indigenous rights to land. Who is entitled to claim restitution? What clans and bands can lay claim to which particular territories? Who can trace their direct descent from Khoi or San communities of the seventeenth, eighteenth, or even nineteenth centuries?

And, to take this further, if the cut-off date is to be earlier than 1913, then is it fair to concentrate on the Khoi and San at the expense of other African peoples? What about the dispossession from the Xhosa of the Zuurveld and most of the Ciskei from 1812 to the 1850s? What about the dispossession from the Basotho of the lands of the Eastern Free State? What about Swazi lands, Pedi lands, and so on and so on?

In implementing this decision, all parties must beware, in my view, of opening a Pandora's box. Eyes should be focused on the central task, reconciling the rectification of past injustices with securing a future of a fair and sustainable land redistribution in South Africa – based on cooperation, and that strengthens food sovereignty, the localization of control over food production and distribution. It will involve, as the ANC has pledged, abandoning the "willing-buyer-willing seller" principle. But concentration, in my view, should be on the fulfilling the needs of the poor and landless, and not on competing traditional jurisdictions.

## **Post-1913 dispossession in Gordonia**

Let us leave this challenging topic. Brown landowners and homeowners continued to be dispossessed through the twentieth century, after the implementation of the Natives Land Act. The most familiar of these evictions are those under the Group Areas Act of 1950 (with subsequent amendments) such as District Six, from 1966, where I researched restitution claims from both black and brown people for the

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<sup>6</sup> See Martin Legassick and Ciraj Rassool, *Skeletons in the Cupboard: South African museums and the trade in human remains, 1907-1917* (Iziko and McGregor Museums, 2000); Martin Legassick, "From prisoners to exhibits: representations of Bushmen in the Northern Cape, 1880-1900" in A. Coombes (ed) *Rethinking settler colonialism: history and memory in Australia, Canada, New Zealand and South Africa* (Manchester University Press, 2006)

Land Commission in 1999. The following year I also researched for the Commission claims by Africans evicted from Windermere and other areas of the Western Cape in the 1960s. My main work for the Land Commission, however has been in Gordonia, on urban evictions in Upington in the 1960s, and on the individual claims of the descendants of Baster farmer families that were dispossessed by whites mainly around 1913 to the 1920s. I have dedicated this lecture to the late Aubrey Beukes, who plunged me into the land question in Gordonia by introducing me to the late Gert September.

The evictions of Basters was not directly as the result of the Natives Land Act, which did not apply to coloureds. But it took place with the same motivations, to reduce brown people, no less than black, to landless labourers for white landowners – and thus impose segregation. “Basters”, of course, were persons of mixed racial descent, probably of ultimately white-slave or white-Khoisan origin. Baster pastoral farmers came from the south to join the Korana along the Orange river from at least the 1870s, and after the Korana were defeated by Cape Colonial forces in 1880 Baster occupation was confirmed by the establishment of three hundred families in the Gordonia settlement on the north bank of the Orange above the Augrabies Falls. The settlement was intended to ‘defend the frontier’ and act as a buffer for the Cape Colony against attacks from the interior.<sup>7</sup>

In the 1880s the settlement was administered by Baster field cornets and a Baster-dominated Committee of Management, who allocated land. Only Basters and those married to them were permitted to be landowners.<sup>8</sup> But in 1889 Gordonia became part of British Bechuanaland and from 1895 part of the Cape Province. As such the restrictions on land ownership were lifted: there was a so-called ‘free market’ in land. That was the beginning of the end for Baster landownership. From then on Gordonia was turned from a Baster area into a white racial zone where white farmers, having dispossessed Basters, could engage in commercial agriculture.

By 1887, from being regarded as a “worthless desert”, where (to quote a colonial official) “no one envied the people to whom it had been allotted” the Baster land along the Orange became highly prized (“all this is now changed”, he added) because of irrigation from the river, pioneered by the Baster farmer Abraham September in the early 1880s, and resulting in the building of the Upington canal.

But “Basters” were regarded with contempt by the white oligarchy of South Africa. In 1896, for example, Jan Smuts, later a Prime Minister revered by many, wrote endorsing views that the “half-caste” – the “Baster” - was “an outcast”. Basters introduced “an immoral and anti-social factor into the social life”. For Smuts the “intermixture of black and white in South Africa” was “in every way the darkest spot of our civilisation, the cancer which, unless arrested... will ultimately corrode and corrupt the very life-centres of our society”.<sup>9</sup> These, according to Smuts, were axiomatic and universal beliefs among white South Africans at the time. And, indeed, he was endorsing the views of Olive Schreiner, then regarded as a liberal and a scourge of mining magnate and landgrabber Cecil Rhodes. Such contempt, combined

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<sup>7</sup> M. Legassick, “The will of Abraham and Elizabeth September: the struggle for land in Gordonia, 1898-1995”, *Journal of African History*, 37, (1996), pp. 371-418. See also M. Legassick, *Research on land claims in Gordonia conducted for Northern Cape and Free State Commission on Restitution of Land Rights: Introduction and Background*, August 2012

<sup>8</sup> The first recorded list of landowners is in Cape Archives (CA) 1/UPT 5/1/1 [c. July 1889] List of payments made by owners of farms in the district of Gordonia on account of survey.

<sup>9</sup> In the *South African Telegraph*, 2/7/1896 in W. K. Hancock and J. van der Poel (eds), *Selections from the Smuts Papers*, Vol I, p. 121.

with the “envy” of poorer whites, led, with state collaboration, to the racist taking of Baster land.

A report by the Gordonia magistrate in 1895 states: “The native inhabitants of the district are the so-called Bastards. Under the former regime a number of these men acquired farms and other landed property, and are now practically independent. This fact has an unwholesome influence on the rest of the community who, as relatives, friends, or hangers on of landed proprietors, are disinclined to work, and are apt to take a somewhat false view of their position. Good servants are therefore extremely difficult to obtain in this district”<sup>10</sup> The answer was dispossession, to reduce many of the “Basters” to labourers, as was carried out by white farmers and supported by the white government.

In many cases this dispossession involved written fraud practised on behalf of the farmers by lawyers, in tacit collusion with local officials – often taking advantage of illiteracy. Today their dispossession by unlawful means is widespread in the memory of Basters. But their oral evidence has needed, to ensure restitution, to be corroborated and strengthened by convoluted documentation, including title and transfer deeds, estate papers, court cases etc, involving research by family and researchers for the Land Commission including visits to government archives, deeds offices, and so on. In the case of Boomplaats in Limpopo that I quoted earlier, similar considerations applied.

Regarding fraud, there is the case, for example, of land belonging to the September family. Considering the case of township erf 38 in Upington in the Land Claims Court the judge concluded that two Upington lawyers had misinformed the Master of the Kimberley High Court that Abraham September’s widow Elizabeth had left no estate when she died in April 1918. In fact erf 38 remained in her estate, because it had not been transferred to the heir named in Elizabeth and Abraham’s joint will. The Master should not have trusted this information from the lawyers and was neglectful of his duties, for racist reasons. The September descendants were entitled to restitution because of this.<sup>11</sup>

I have researched a number of such cases for the Land Commission, which are currently being vetted by them. While doing so, I have sometimes had the thought – “but what about the land claims of the Korana, whom the Basters supplanted – with British armed assistance in 1880?” But that, again, might be to open a Pandora’s box.

By 1921 259 Baster men from Gordonia – nearly half the Baster male population -- were signing a petition to the South African parliament protesting alienation of their land to whites.<sup>12</sup> This prompted the Minister of Lands to investigate the question of coloured land rights in the Free State and Northern Cape whereupon it emerged that policy was ambiguous. In theory there was no discrimination against them but in practice there was.<sup>13</sup> The Land Settlement Act of 1912 and the establishment of the Land Bank that year favoured white farmers. One C. J Davids had written to the Department of Lands in 1918 complaining that “no man with Black Blood in his veins [sic], never mind how many years this may trace back, is ...

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<sup>10</sup> J. Ashburnham in C7944 British Bechuanaland Reports, No 163, 1894-5 (1896), p. 45

<sup>11</sup> Jacobs NO versus the Department of Land Affairs and others (the “erf 38 case”), Land Claims Court, number SAAKNr LCC 120/1999

<sup>12</sup> Pretoria Archives (PA), LDE, 3953, 11106, “An den Achtbare Leden van het Parlement”, September 1919/May 1921

<sup>13</sup> M. Legassick, “The racial division of Gordonia, 1921-1930”, *Kronos*, 25, November 1998, pp. 152-186

allowed to buy or possess a farm” on the Kuruman river. “Furthermore any white man who is lawfully married [to a person with ‘Black Blood’] is also debarred.”<sup>14</sup>

The government’s response to the Baster petition was not to restore them their lost land but to impose small segregated areas in Gordonia on people now renamed “coloureds” and to leave the remainder for white occupation. The Minister of Land minuted that “the time has come... when the Government must determine whether it will set apart land exclusively for their [Basters] occupation and cultivation”.<sup>15</sup> Despite the legislation of reserves for Africans in the 1913 Land Act, the idea of “reserves” for coloureds was at the time unprecedented. It turned Basters from the self-defined people that they were in the nineteenth century into second-class “coloured” subjects. With them were joined the remnants of Korana, Khoi, San and others along the Orange River and in the Northern Cape.

Government imposition of segregation came in the form of the allocation of Ecksteenskuil on the Orange River as a coloured agricultural settlement (from 1923) and Mier in northern Gordonia as a coloured pastoral settlement (in 1930). The agricultural settlement was intended as a “centre... from which farm labour could be obtained”, in the words of an official commission of 1922. The post-1948 apartheid government later hardened the definition of these “reserves” and transferred them to administration by the Department for Coloured Affairs.

### **Post-1948 urban segregation in Upington**

After 1948, coloureds began to be segregated not only in the rural areas of Gordonia but also the urban areas.<sup>16</sup> There had been locations occupied by brown and black people in Upington since before the turn of the 20<sup>th</sup> century: the Upington location (moved to Blikkies in 1933), and Keidebees. In the 1920s neither location had a water supply. Huts were of reeds or paraffin tins and sacking. Sanitation in the Upington location consisted “of two trenches for excreta with a pole to sit upon which is filled up when out of use and a new one made.”<sup>17</sup> Such were urban conditions ninety years ago – and in some parts of our country not much improved conditions still obtain, though generally (but not universally) toilets are today enclosed.

In the 1940s there was increasing national government concern to segregate coloureds from blacks, with the specious argument that the laws permitted coloureds but prohibited blacks from purchasing liquor. This led to the idea that Upington and Keidebees should be replaced by **two** new locations, one for ‘coloureds’ and one for ‘natives’. However, a single new location for blacks, Paballelo, was promulgated in the 1950s. This new location tied in with implementation of the Group Areas Act. By March 1954 it had been decided that Brug Street would form the boundary between the white group area to the east and the non-white group area to the west. After 1958 the coloured inhabitants of Keidebees were forcibly removed to Blikkies and the Africans to Paballelo (as well as the African inhabitants of Blikkies being moved to Paballelo). Keidebees location was deproclaimed on 8 September 1967. Blikkies was absorbed into the coloured group area.

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<sup>14</sup> Pretoria Archives LDE 3953 11106 C.J. Davids, Ardath, Kuruman to Secretary of Lands, 29/8/1918

<sup>15</sup> M. Legassick, “The racial division of Gordonia”, p. 154.

<sup>16</sup> This section is based on M. Legassick, *Report on land claims for evictions from Keidebees and Blikkies locations, Upington*, for Commission on Restitution of Land Rights, 1999

<sup>17</sup> Pretoria Archives NTS 4169 28/313 Part I, W. M. Borchers, Report on the Locations at Upington, 23/1/1922

The residential separation of “coloureds” from the “Bantu” after 1948 not only in Upington but in Cape Town, and everywhere around the country, and the “Coloured preference” policy in the then-Cape Province has left an unfortunate legacy of mistrust which has still, in my view, to be fully overcome. In the present-day Northern Cape it seems however less present.

These evictions in Upington were the basis for individual claims to restitution, which I was asked by the Land Commission to research and which were subsequently granted. This research involved, through asking each claimant who their neighbours had been in Keidebees, constructing a table of its black and brown residents with their shack numbers and a site map of the layout of their homes in the settlement. After some years of absence I passed by the site of Keidebees on the road east out of Upington recently. It was still empty. The claimants have taken financial restitution. I believe that the site should be memorialised, in a similar way to what has happened regarding District Six.

Let me conclude here. I hope what I have said has been of some interest – even, in places, provocative. There is still a long way to go to secure justice, to end poverty, inequality and unemployment, on the land, in mining communities, and in the towns of our country – the unfortunate legacy, in part, of the Natives Land Act.

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