

Casting a long shadow:

The Natives Land Act of 1913 and its legacy

Colin Bundy

THE CENTENARY, in 2013, of the Natives Land Act was marked by a flurry of conferences, publications and exhibitions, including the superb collection of images now reflected in this book.¹

Why did the history of a hundred-year-old law command so much attention? Quite simply, because today's South Africa has important features that are legacies of the Land Act and its outcomes. Even though the legislation was passed a hundred years ago – and repealed in 1991 – its consequences still shape South Africa. The 1913 Land Act casts a long shadow that colours current patterns of poverty, inequality and marginalisation. It is inextricably linked with patriarchal and conservative forms of governance in the former 'homelands'. And it complicates contemporary programmes of land restitution and reform.

The centenary was unfortunately accompanied by any number of inaccurate claims – by government, in the media, and in popular parlance – that blurred the nature and significance of the Act. In particular, it kept being suggested that 1913 was *the* moment of dispossession; that the Act was *the* implement that stripped African people of their ancestral lands. This is just wrong. The Land Act was not a sudden departure, nor did it transform the countryside. It followed a long history of colonial conquest and dispossession; it codified and ratified various discriminatory practices established in colonies and Boer Republics; and in doing so, it welded racial discrimination into the social order of the new Union of South Africa. In order to understand the Act's core features, we need to recall how land alienation took place in British colonies and Boer republics before Union, and to realise that white ownership of the bulk of the land pre-dated the Land Act.

The frontier wars of the nineteenth century stripped African pastoralist farmers of some of their land, but not all of it. As important as land lost was land retained, and the terms of its retention. Conquered kingdoms and chiefdoms were not displaced and dispersed (as, by comparison, were native American peoples). They remained largely intact, although subject to colonial or republican rule. Their territories were recognised as the 'home' of conquered peoples, administered separately, and variously

styled as ‘reserves’ and ‘locations’. The old Zulu, Xhosa, Mthembu and Mpondo kingdoms in Natal and the Cape were reduced, but retained, as areas reserved for Africans. In the Boer Republics of the Orange Free State and Transvaal, Sotho, Venda, Tswana, Pedi and Tsonga polities were shoe-horned into smaller reserves.

Crucially, large numbers of Africans lived outside the reserves. Families (and sometimes whole communities) lived on land settled by their ancestors, even though such land was now owned by white farmers or land companies. And on those lands they ran livestock and raised grain as their parents had before them.

In return for access to land, peasant families and communities paid rent in three main forms.

- There were outright cash tenants (often referred to in the early twentieth century as squatters).
- There were peasants who farmed as share-croppers, paying their landlords in kind with a share of what they produced.
- Others – labour tenants – farmed their portion of a white-owned farm and paid rent in the form of a specified amount of labour, typically sixty or ninety days of the year, enabling the landlord to bring in his harvest.

In addition, a much smaller number of Africans living outside the reserves were those who had bought land. In some cases, land was bought by modernising peasant families, wealthy enough to seek individual tenure. More frequently – especially in Transvaal districts of Rustenburg, Pilanesberg and Pretoria – large tracts of land were acquired by African chiefs and the communities they headed.

The 1913 Act intervened in these relationships, in the interests of white farmers in the ex-Boer republics. How did it do so?

- White farmers, firstly, wanted to abolish ‘squatter locations’ – to put an end to Africans occupying whole farms as cash tenants. Farmers and legislators blamed the shortage of labour on ‘squatter locations’: and indeed, there was little incentive for such tenants to sell family labour to farmers.
- Secondly, particularly in the Orange Free State, white proprietors sought to outlaw share-cropping. Many Afrikaners in that province had been impoverished by the Second Anglo-Boer War, and resented the relative wealth of share-cropping families who returned from Lesotho with their flocks and herds at the end of war.

- Thirdly, white farmers had no wish to compete in the land market with Africans who could afford to buy farms. Accordingly, the Act said that no ‘native’ could ‘purchase, hire or in any other manner whatever acquire any land’ outside the scheduled reserves.

The Act impacted differently on the four provinces. Share-cropping was allowed to continue in Natal and the Transvaal, but in parts of the Orange Free State was proscribed with immediate effect. This clause precipitated the eviction of hundreds of black families from farms, wrenched from relative security as share-croppers to become fugitives, desperately searching for alternatives as they traipsed dusty roads on wagons or on foot. It was the plight of these families (a small minority of the total black tenantry) that Sol Plaatje described so vividly in his classic *Native Life in South Africa*² – and that shaped subsequent views of the impact of the Act. The Cape Province was exempt from the Act, as the ban on land purchase conflicted with the right of literate African men in that province to qualify for the vote by owning property.

The Land Act also provided for a commission to recommend to Parliament exactly which areas should be scheduled as reserves and which as ‘areas within which natives shall not be permitted to acquire or hire land’. This process led ultimately to the 1936 Native Trust and Land Act, which increased the area scheduled as reserves, and in return stripped Cape African men of the franchise. The area scheduled as reserves comprised 13% of the total area of the country, or about half of the land with enough rainfall to be regarded as arable.

The reserves benefited the white ruling class in different ways. They created a physical and social space in which to contain large numbers of black people at minimal cost. No one expressed this purpose more succinctly than Godfrey Lagden, Milner’s Commissioner of Native Affairs in the Transvaal. Should the Transvaal (he was asked) eject Africans from the reserves and thrust them on to the labour market? No, he replied: ‘A man cannot go with his wife and children and his goods and chattels on to the labour market. He must have a dumping ground. Every rabbit has a warren where he can live and burrow and breed, and every native must have a warren too.’ Secondly, as migrant labour (especially to the mines) became entrenched, the reserves became the main supplier of migrant workers – who were cheaper to employ than men with their families living in urban areas.

It is worth reviewing, very briefly, the economic and social history of the reserves over the last century. Between the two world wars, conditions in the reserves were a source of concern to successive governments. Population pressures increased; in areas like the Ciskei, parts of the Transkei and Zululand, the land became eroded and overgrazed. Subsistence agriculture was carried out almost entirely on the

basis of communal tenure – small portions of land allocated for family use by chiefs and headmen – and was arduous work mainly in the hands of women. Even so, it appears that smallholder production (allowing for dips in times of drought) remained at fairly constant levels until the 1950s.

It was in the later decades of the last century that conditions in the reserves, or Bantustans, deteriorated significantly. It was in these decades that the spatial divides enacted in 1913 and its 1936 corollary became key to the Bantustan policy of the apartheid regime. This involved expanding forms of control over the population by compliant chiefs – the ‘Bantu Authorities’ of legislation – while insisting that it was in ethnically defined homelands that Africans properly belonged. Their ‘rights’ in the Bantustans was used to justify their exclusion from citizenship and rights in ‘white’ South Africa.

Policies of forced removals and ‘consolidation’ of the Bantustans were among the factors that increased population levels. The combination of overpopulation and falling levels of subsistence production has been described as a process of ‘de-agrarianisation’, inscribing the reserves as the least developed areas in the country. This reality is all too visible. Think of driving in – say – the Natal midlands at any time in the late twentieth century: the road is punctuated by imposing gates to stud farms and dairy herds, a landscape parsed by dams, green pastures and irrigated crops. Abruptly, the scenery is constructed of a different vocabulary, ruled by a harsh alternative social grammar. The car has entered KwaZulu. Children beg at the roadside; their mothers wield hoes among stunted maize stalks; straggling queues await wheezing buses at stops outside dingy stores. The shocking contrast was so familiar that it was all too often taken for granted.

The realities represented by such rural vignettes translated directly into indices of inequality, poverty and marginalisation. Social policy scholars have mapped contemporary South Africa using multiple indices of deprivation – income, jobs, education, living conditions, health, life expectancy and so on – revealing that the regions of the most extreme deprivation fit almost exactly the former boundaries of the Bantustans.³

But what of land outside the reserves, including – as we have seen – white-owned farms on which very large numbers of Africans resided? The 1913 Act altered social relations in the countryside very gradually. For the next 40 years, the number of Africans on white-owned rural land actually grew. The 1936 census revealed that 37% of the African population lived on farms (with 45% in the reserves and 1% in towns). Overwhelmingly, families living on white-owned land were tenants rather than wage labourers. Pockets of share-cropping persisted on the Highveld until the 1940s, even in the Orange

Free State. However, in that province, and also in Natal and the Transvaal, labour tenancy became the dominant form of tenure during the interwar years.

A minority of white farmers – perhaps one in ten in the interwar period – were capitalising and modernising. They wanted to replace tenancy with wage labour, thereby reducing the number of people living on their farms. Most white farmers, however, continued to depend on non-capitalist forms of labour, particularly labour tenants. Wherever labour tenancy existed, so did struggles between landlords and tenants over its terms. The farmers wanted more family members to work for more days each year; they wanted a bigger share of the surplus raised by the tenant peasantry; and they tried to cut back the amount of land available to tenants for grazing and cropping.

The real assault on labour tenants came in the 1950s and 1960s when the last vestiges of an independent African peasantry were swept away. State support for white farmers increased – and the key outcome was the mechanisation of production. The tractor proved to be the key weapon in the class struggle in the countryside: white farmers no longer relied on part-time work rendered by labour tenants; tenant families were no longer able to produce a surplus and cling to their way of life. Between 1947 and 1961, the number of tractors in use rose from 22 000 to 122 000 – and by 1980 to 300 000. Hundreds of thousands of labour tenants were evicted; Africans living on the farms were now poorly paid farm labourers.

And so, between 1960 and 1980 the proportion of the African population living in reserves increased from 39% to 53%, and those living on white-owned farms fell from 32% to 21%. The reserves played an important subsidiary role in the decades of high apartheid: they served as the receptacles for various categories of people deemed ‘surplus’ to requirements in cities and on white farms. They were also ‘dumping grounds’ where ‘discarded people’ were rehoused, as ‘black spots’ were cleared.⁴ Forced removals and rigid influx controls saw the black urban population fall from 29% to 26%. Water can indeed be made to flow uphill if the social engineers are sufficiently determined and ruthless.

Even after those massive population shifts, 21% – or one in five – of Africans still lived on white-owned land. Since 1994, however, there has been a tragic rerun of earlier struggles over access to land. A dramatic demographic trend since 1994 has been the large-scale movement of Africans off farms owned by others (mainly whites). There are various estimates of the scale of such displacements. One research report has found that some 2.4 million people were displaced from farms between 1994 and 2004 – just more than 940 000 actually evicted, the rest because conditions on the farms had deteriorated so much.⁵

With these details noted, it may be useful to restate the main arguments being made here. The 1913 Natives Land Act took as its starting point a prior history of colonial dispossession. Its immediate purpose was to tighten the terms on which Africans could live on white-owned land, to restrict the bargaining power of a peasant tenantry.

Its longer-term effect was decisively to load the scales, historically, in favour of capitalist agriculture. More highly capitalised and ‘improving’ farmers found it easier, under the terms of the Act, to control all of their land; to reduce the ability of Africans to defend a relatively independent existence as smallholders; and to ensure that Africans on farms were there as labour tenants. Once labour tenancy lost its rationale in the face of the combine harvester and tractor, a majority of those left behind on the farms were poorly paid wage-earners. As farmers modernised and increased production, the inexorable long-term trend has been to fewer, larger farm units using more machines and less labour.

The other crucial outcome of the 1913 legislation was to create a fundamental legal distinction between two categories of land in South Africa: that scheduled as ‘native reserves’, and that owned by white farmers, companies and the state. In this way, the legislation – writes Ruth Hall – ‘was a starting point of a new era of political, economic and spatial dualism’ that remains largely intact today. The land scheduled as ‘reserves’ became Bantustans – and then ‘homelands’ and, in apartheid’s Orwellian logic, ‘self-governing states’.

Whatever they were called, the social reality of these densely inhabited rural slums was bleak. For a century, they served as launch platforms for migrancy and as dumping grounds for people evicted from farms and endorsed out of urban areas. Migrant labour from the reserves to the mines and to the cities became a central feature of South African life: think Marikana. While the ‘homelands’ policy created pockets of opportunity for chiefs and local bureaucrats, and a small layer of more successful agricultural producers, the majority of their inhabitants lived in grinding poverty. In condemning the reserves to stagnation, the Act has bequeathed the poverty of contemporary Limpopo, Mpumalanga, rural KwaZulu-Natal and the Eastern Cape.

Besides these socio-economic features of the reserves, their distinctive political character derived from the power delegated by the apartheid state to increasingly authoritarian and profoundly patriarchal chiefs and headmen, the ‘tribal authorities’ of apartheid rule. The negotiated settlement that ushered in the ‘new’ South Africa accommodated these ‘traditional’ authorities and customary

law to an extent that surprised many at the time. Ever since 1994, the ANC government has tilted increasingly towards their retention, perpetuating a dualist social order, and making it more difficult for the inhabitants of the former homelands to enjoy South African citizenship on equal terms with those living outside the constraints of chieftaincy.

The distorted pattern of property ownership, the realities of modern agri-business, and the persistence of rural poverty leave the government – and its critics – with real dilemmas. How is land reform conducted without affecting food supplies? Did the decision to limit land restitution claims to 1913 have the effect of confirming colonial land conquest – and thereby reduce the possibility of radical reforms? Should policy promote individual or communal tenure? To what extent are prospects for genuine improvement of living standards in the former ‘homelands’ inhibited by the powers exercised by ‘traditional’ authorities (including members of former Bantustan elites)? Does support for black emergent farmers lead to restructured property relations? And – for the rural poor – does land substitute for jobs on any significant scale? None of these questions is easily answered. That they loom so large is a crucial legacy of the Natives Land Act of 1913.

Colin Bundy has written extensively on South African rural history. This is an amended and amplified version of an essay which appeared in Issue 30 of *Amandla!* in April/May 2013.

ENDNOTES

- 1 See ‘Reflections on the 1913 Land Act and its Legacies, 1913–2013’, *Journal of Southern African Studies*, vol. 40, no. 4 (August 2014), with articles selected from 168 papers presented at the ‘Land Divided’ conference, University of Cape Town, South Africa, March 2013.
- 2 S T Plaatje, *Native Life in South Africa, Before and Since the European War and the Boer Rebellion* (London: P S King & Son, 1914).
- 3 See maps by M Noble and G Wright, *Social Indicators Research*, vol. 112, no. 1 (2013), p. 193.
- 4 Two classic accounts of these processes are L Platzky and C Walker, *The Surplus People: Forced Removals in South Africa* (Ravan Press, 1985) and C Desmond, *The Discarded People: An Account of African Resettlement in South Africa* (Harmondsworth: Penguin, 1971).
- 5 See M Wegerif et al, *Still searching for security: the reality of farm worker evictions in South Africa* (Nkuzi Development Association & Social Surveys, 2005).