

The Original Sin, 100@19: The South African 1913 Native Land Act's History and Impact

Vongai Z. Nyawo

Department of History, Midlands State University
Gweru, Zimbabwe
Corresponding author: vznyawo@gmail.com

Abstract

Africa at large suffered several discriminatory infamous acts that include notorious land acts which dispossessed black Africans of their land. In South Africa, the Natives Land Act of 1913 was the first major piece of segregation legislation passed by the Union Parliament, and remained a cornerstone of apartheid until the 1990s when it was replaced by the post-apartheid policy of land restitution. The Act decreed that only certain areas of the country could be owned by natives. These areas totaled only 13% of the entire land mass of the Union. The Act created a system of land tenure that deprived the majority of South Africa's inhabitants of the right to own land which had major socio-economic repercussions. The 1913 Land Act turned 100 on the 19th of June 2013 and saw 2 major conferences being held, one in Cape Town (called Land Divided Conference) and another in Addis Ababa, Ethiopia (under the theme 'Land Reform, Land Grabbing and Agricultural development in 21st Century Africa'), to reflect on the trajectory of an Act that came to be known as the original sin. The conferences were on the 19th of June 2013, the 19th year after the demise of apartheid which passed the Native Land Act on the 19th of June 1913. Through desktop, this paper set out to document the history of the 1913 Land Act in South Africa, analyse its impact on natives and examine how it has shaped issues of land to today. Findings are that the Act was the fulcrum of apartheid and its impact are far reaching.

"If we have no land to live on, we can be no people"
John Dube First ANC President, South Africa

Key words: Original Sin, Native, Land Act, Centenary, Impact, Apartheid, Dispossession

Introduction

2013 is a very important year in the Southern Africa in general and in history of land dispossessions in South Africa in particular. It marks the

centenary of the South African Land Act of 1913. The 100 years were marked by two landmark conferences both on the 19th of June 2013, the exact day the Union Parliament passed this legislation in 1913. One was in Cape Town (whose theme was Land, Race and Nation in South Africa: A century of dispossession 1913-2013 Conference). Another was at UNISA Addis Ababa, Ethiopia (Land Reform, Land Grabbing and Agricultural development in 21st Century Africa). The Department of Rural Development and Land Reform marked the centenary of this act under the theme 'Reversing the legacy of 1913 Native Land Act.' All this was to reflect on the trajectory of an Act that came to be known as the original sin, on which all other apartheid policies would be anchored.

Background

As South Africa commemorated a century since the enactment of the Native Land Act, attention was drawn to land reform and land restitution as measures of redress and reconciliation. How far has South Africa come in its efforts to redress the devastating effects of an Act that reserved 87% of South Africa's land exclusively for white ownership? Has enough been done to bind the wounds inflicted upon black people

by subsequent policies like the system of Bantustans?

The response, unfortunately, is no, there still is a very long way to go. The question is what has gone wrong in putting right the injustices of the past? South Africa is committed to Land Restitution and Land Reform as means to redress the injustices of the past, and tools for building a stronger rural economy into the future, but does the government have the capacity and the will power to deliver on its promises. Questions should be asked whether all people want to own land in rural South Africa, or would some prefer title deeds for urban properties which put them closer to economic opportunities? Do citizens living on communal land have a stake in the property they have lived on and farmed for generations? If not, why are they denied this right and what are their choices? What can be done to help emerging black farmers make economic successes of their enterprises, to redress the humiliation and disadvantage of being locked out of the rural economy for 100 years.

The Title

This research is entitled **the original sin, 100@19** because the 1913 Land Act, was the first discriminatory legislation that confirmed, in law, the

spoils of the wars of colonial dispossession in South Africa. It became one of the most important and far reaching pieces of legislation in South African history and a foundation stone of apartheid. The Natives Land Act of 1913, also known as The Bantu Land Act, 1913 or Black Land Act originated, laid ground, birthed, formed the basis, became the fulcrum, the pivot, the center, the anchor, it commenced, introduced as it were and started apartheid. This was a policy of segregation on racial grounds, meaning apartness or separateness. In Christian belief, the original sin is one that all people are born with, in this context, the 1913 Land Act is embedded in all pieces of discriminatory legislation that would follow it and that way it pops its ugly effects in all other discriminatory policies of apartheid.

The Act

The Act became law on the 19th of June 1913 limiting African land ownership to 7% of land mass which later increased to 13% through the 1936 Native Trust and Land Act of South Africa. It restricted black people from buying or occupying land except as employees of a white master. Accompanying this segregation was a colonial conception of property as an exclusive domain.

All South Africans would be familiar with signs such as 'Trespassers will be Prosecuted' or 'Whites only' or 'Natives are not allowed' or 'Danger Natives, Indians and Coloureds if you enter these premises you will be listed as missing. Armed guards shoot on sight, savage dogs devour the corpse, you have been warned.' It is against this backdrop that black people found themselves displaced in their own land hence Sol Plaatjie's famous quote that captures the mood in the atmosphere for the native just a day after the Act. "Awaking on Friday morning, June 20, 1913, the South African native found himself, not actually a slave, but a pariah in the land of his birth." (first ANC General secretary, who wrote, *Native Life in South Africa*.) Just after this Act, in the following week, 16 more discriminatory pieces of legislation were signed and then 8 and more and the 1913 Land Act is embedded in all those pieces of legislation that came after it as the original sin.

Mtshali Oswald's poetry

As years went by, with the South African natives enduring the dehumanising discrimination through these legislations made possible by the 1913 Land Act, one poet, Oswald Mtshali would write a seemingly simple and innocent poem

'Always a Suspect.' A cryptic poem oozing with sadness, mournful of the humiliation and dehumanisation of blacks at the hands of the minority white. Alvarez Pereyre captures this poem in his *Poetry of Commitment*, commenting on how the white men would not comprehend the power to galvanise blacks embedded in such poetry. Mtshali was lampooning or satirising the belief by white people that blacks sought to be in overalls all the time to show that they work for some white John. Also, the idea of carrying a pass by blacks as evidence of their existence, some kind of white man communicating with another white man, a mouth piece of the black man which gave rise to the Sharpeville crisis of March 1960 is highlighted in this poem.

The 1913 Natives Land Act helped to lay the groundwork for the apartheid policy of racial segregation in South Africa, introduced in 1948. A law passed 100 years ago severely restricting ownership of land for South Africa's majority black population continues to have a huge impact today, two decades after the end of apartheid. At a stroke, the passing of the Natives Land Act on 19 June 1913 saw the majority of South African land reserved for whites and blacks moved to reserves which too were to form a key part of the apartheid system (Thompson, 1970). They became the homelands in which

different tribal groups were forcibly settled, segregated and turned into cheap labour pools. (Bundy 1990)

The Concept of the original sin

The 1913 Native Land Act has been described as "Apartheid's original sin" and as "the start of a long century of injustice and racial economic exclusion" in South Africa. While these definitions are accurate, none seem capable of describing the extent and the consequences of this law, which bequeathed to South Africa a century of pain, suffering, despair and alienation. The 1913 Land Act's long, cold tentacles reached so far into the future that this law's effects are still felt today, 19 years after it was repealed (Reader's Digest, 1988). The 1913 Land Act was morally repugnant, it was a massive injustice on a nation's majority.

The Native Land Act was one of the first of an arsenal of laws passed by the colonial and apartheid governments to legislate black South Africans of all hues out of the formal economy of the country. After the 1913 Land Act came the 1936 Native Trust and Land Act, the Pegging Act of 1943, the 1946 Asiatic Land Tenure Act, Apartheid 1948, the Group Areas Act (Dodson, 2013) of 1950, the 1953 Bantu Education Act –and all formed part of a complex and far-reaching bureaucracy devoted to depriving

black South Africans of the right to participate fairly and equally in the economy. All these pieces of legislation had elements and traits of the 1913 Natives Land Act embedded in them. To begin with, if you must control a man start with the land on which they live, grow their food, bury their dead, like their living, graze their livestock, erect their houses, raise their families and draw their water.

These laws prevented black citizens from moving freely and unencumbered around the country of their birth; and from use of their talents and intellect towards realising their aspirations to live lives of their choosing (Muller, 1981). The Act remained a focal point of opposition for years to come and its ripples are felt even more today. The ANC had been formed in January 1920 but had not taken root until 1913 due to ethnic pulling and tagging. The 1913 Land Act brought the natives together regardless of whether one was Zulu, Xhosa, Sotho or Venda against this infamous and notorious Act (Platzky and Walker, 1985).

Why Natives Land Act

White farmers didn't want to compete with black farmers over land prices. White farmers needed labour and the pre-1913 situation presented insufficient amounts of it. The 1913 Act did not aim to move black people off commercial farms but to keep them

there as workers rather than tenants, wrote historians William Beinart and Peter Delius in the *Mail & Guardian* 2013/06/10. This concept could be labeled the belonging with the farm idea. In some areas, black families were able to continue living on white farmers' lands and paying rent via sharecropping or occasional labour. But in the 50s and 60s, the state stepped up support for white farmers and the resulting mechanisation led to the eviction of hundreds of thousands of tenants (Collins, Robert and Burns, 2007). Those left became the farm labourers whose future struggles would go on to dominate headlines in 2012 and 2013 (*Business Day*, 22/01/2013).

The 1913 Act (No. 27 of 1913) was, however, also designed to control the forms of tenancy allowed in the white-owned areas (Davenport, 1991). An increasing proportion of white landowners wanted fuller control over their land. African sharecroppers, who cultivated white-owned land and, in return, shared a portion of the harvest with the landowner, lost out significantly.

Blacks were made pariahs in the land of their own birth. John Dube, the first president of the ANC (then called the South African Native National Congress or SANNC), had told an African audience in 1912 that "if we

have no land to live on, we can be no people". Unsurprisingly, opposition to the Act amongst the African population, when it came to pass, was marked.

The Impact of the 1913 Natives Land Act

The Act formed an important part of the system of apartheid and is of importance for both legal and historical reasons. It meant no access to land by blacks as well as having to carry documents of existence in form of passes. The Act was also a legal sanction for colonial alienation. Even in modern South Africa, the division and access to land remains utterly racialised, fracturing the nation into opposing identities of white ownership and black dispossession. Imagining a unitary South African nation in the face of these ongoing colonial land divisions is extraordinarily difficult. Questions on whether South Africa has lessons to learn from its neighbor north of the Limpopo, Zimbabwe, with regard the land question have also been asked. Resolving the land question is crucial to resolving the nation question in South Africa. The South African Land Reform Programme has to all intents and purposes been a flopnik, if I may borrow Premier Nikita Kruschev of the Soviet Union's cold war lexicon. The South African three pillar strategy of Restitution, Redistribution and

Tenure Reform has not yielded beyond 6 % of success in redistributing land (Nyawo 2012).

The Act, directly and indirectly, formed the basis for a massive and intensified campaign of forced removals by the apartheid government such as in Sophia Town. The effect of the Act was to outlaw at least two of the forms of tenancy which had been practised on such a wide scale by African farmers – rental tenancy and share cropping. Labour tenancy, at least in certain areas, persisted. This led to displacement of these classes of tenants on a massive scale, a displacement which has been described as a mass removal to nowhere because the commission had yet to report on, let alone provide, the land to be set aside to absorb those displaced by the Act.

Without the Natives Land Act of 1913, would South Africa have experienced the horror of Marikana or the upheaval of the Western Cape farm workers' strikes? Bundy (2014) suggests that the 1913 Land Act had a powerful relevance to both events, because the 1913 law and its consequences still shape rural South Africa. The 1913 Act had consequences that pervade South African society to this day. For one, it bequeathed the poverty of contemporary Limpopo, Mpumalanga, rural KwaZulu-Natal and the Eastern Cape, Bundy suggests.

For another, it set into motion the migrant labour system that would one day lead us to the door of Marikana. Migrant labour system has also robbed families of staying with their loved ones, those who dared follow their fathers or brothers to eGoli ended up at the periphery of Johannesburg in some small-tin or plastic house. But despite this, South Africa has yet to see the sustained political organising of rural people. According to a Rhodes University Politics lecturer, Richard Pithouse, there has never been a rural movement, or sustained rural struggles, in the same way that there has been a trade union movement since the 1970s or ongoing urban struggles since the 1980s.

The Act remained a focal point of opposition for years to come as the country moved towards democracy. In 1948, apartheid policy was formally adopted when the National Party (NP) took power. In 1950 The Group Areas Act was passed to segregate blacks and whites. The ANC responded with a civil disobedience campaign led by Nelson Mandela. In 1960, seventy black demonstrators are killed in the Sharpeville massacre. The ANC is banned and the ANC leader, Nelson Mandela is sentenced to life in prison. More than three million people are forced to resettle in homelands. The Soweto Uprising of 1976 claimed more than 600 people who are killed in clashes between black protesters and

security forces during an uprising which started over Bantu Education. The ANC is unbanned in 1990 and multi-party talks start and De Klerk repeals the remaining apartheid laws. International sanctions are lifted. In 1994, ANC wins the first non-racial elections in South Africa and Mandela becomes president.

In 1994 the ANC, now the majority party in South Africa's first democratically elected government, pledged to redistribute 30% of white-owned agricultural land to black farmers. By 2012 just a third of that figure had been met. In May 2013 Gugile Nkwinti, South Africa's Minister for Rural Development and Land Reform, announced plans to mark the centenary of the Natives Land Act with a call for the country to make a determined national effort to put that Act and its implications behind the nation. However, land remains an emotive issue in South Africa.

Strategies of Redress

A redress of the impact of the effects of the 1913 Land Act is needed and needed urgently. It is going to be a process and not an event and also, there cannot be a single solution to this. A number of strategies should be considered to successfully and systematically deal with the impact

of this Act. Overturning the Land Act's legacy requires confronting autocratic chiefly power and the denial of black land-ownership, writes Aninka Claasens (*Mail & Guardian*: 2013/ 06/ 20). But the ANC government has gone about this in a pretty strange way. "Its package of traditional leadership laws vests far-reaching, unilateral powers in chiefs, including apartheid-era appointees, while re-entrenching the deeply contested tribal boundaries of the former bantustans," says Claasens. Other methods which include the constitution, affirmative action, radical reforms, learning lessons from countries that have similar experiences and voting can also be considered.

Constitution

South Africa has had in place a three pillar strategy to deal with land issues on the fronts of: redistribution, restitution and tenure reform. Redistribution seeks to acquire land and redistribute it to formerly disadvantaged communities, to address imbalances in land ownership. The land need not have been the subject matter of a dispossession. Land tenure reform requires legislative measures to address insecure tenure which is the consequence of racial discrimination. Restitution places indigenous people back on their ancestral land (Nyawo 2012). Nyawo (2012) goes on to assess and measure the effectiveness of the

three pillar strategy and she observes that, for the most part, indigenous people to benefit through restitution opted for money packages that got chewed up and wasted sooner than the money had come, leaving the same people with no descent homes to show for it. Bottom line, the government of South Africa still has a lot of work and have to rethink, re-strategise on issues of land if any progress is to be made any time soon. The government has to demonstrate a strong will power that is supported by resources, both financial and human, that are channeled towards making a difference where delivery is concerned.

Conclusion

The legacy of the Natives Land Act has proven to be a perennial and enduring one. Remedies to address that legacy effectively have proven elusive. But the sheer scale of the injustice suffered by a people demands that the endeavor to find just solutions must continue. South Africa ignores that demand at its peril (Nyawo 2012).

In the year which marks the 100th anniversary of the Natives Land Act it is appropriate to reflect on whether the remedies afforded by the Constitution and the Restitution Act have proven adequate. As this paper is

written, there is a movement led by the youth who wear T-shirts labelled Mugabe hero of African Liberation or President Mugabe is the Greatest African Statesman in admiration of efforts by a son of Africa in redistributing land post independence. As things stand, it would seem that the post-apartheid government is not doing as much as it could to work past the legacy of the Natives Land Act. One hundred years after the Land Act denied black land ownership, the ANC government is supporting traditional leaders in upholding this tradition, according to Claasens who writes.

Now, as in the past, a ruling elite has reached for the law to bolster its contested authority and monopolise land and other resources at the expense of the poorest.

One can also conclude with a question that, in the face of a new scramble for Africa, largely through Sino-Africa relations and multi-lateral organisations that are grabbing land north and south where does South Africa stand in terms of addressing the land issue?

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