

## **A CENTURY OF THE NOTORIUS 1913 LAND ACT.**

1. INTRODUCTION.
2. THE HISTORICAL ROOTS AND SIGNIFICANCE OF THE LAND ACT.
3. CONSEQUENCES OF THE LAND ACT.
4. THE LAND ACT AND 2013.
5. CONCLUSION.
6. REFERENCES.

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## **1. INTRODUCTION.**

The year 2013 represent a century since the passing of the diabolical Natives Land Act by the Union Parliament in 1913. Objects of the Act are stated as, “to make further provision as to the purchase and leasing of land by natives and other persons in the several parts of the Union and for other purposes in connection with the ownership and occupation of land by natives and other persons.” The Act was intended to legalise and legitimise into statute the massive land-robbery starting with settler colonialism itself and the wars of resistance and dispossession. For a period of 250 years the indigenous African people have been fighting spear in hand against mounted gunmen over land, cattle and freedom. The notorious Act was intended to make state law what had already been done by blood, death and sweat. The Act ensured that Africans lost ownership and control of their ancestral land to white settlers. It was intended to confirm what has been achieved with the defeat of the wars of resistance and dispossession. The Act was the cornerstone of separate development.

The ruling ANC articulates this point even better in its submission to the TRC that, “it is necessary to emphasise that formal apartheid was preceded by a sustained period of dispossession, denial and subordination. The process of colonial conquest in South Africa lasted for over two centuries; from the destruction of Khoisan communities in the seventeenth and eighteenth centuries, through the bloody century of warfare in the present day Eastern Cape Province, to the military defeats further north in the late nineteenth century. Modern South Africa was built on the foundations of conquered territories, captive peoples, scorched earth and shattered sovereignties.”(ANC.1996.p.21) How dastardly!

“From the time of the first white settlement, established by the Dutch East India Company over 300 years ago, the pattern was set for the ruthless exploitation of the black people of our country, the seizure of their lands and the enforced harnessing of their labour power. The Dutch made war on the Khoi people of the Cape, whom they contemptuously called ‘Hottentots’, and rejected their appeals for peace and friendship. The San people, the so-called ‘bushmen’, were all but exterminated. Slaves were imported from Malaya and elsewhere. White settlers gradually penetrated into the interior. They drove the indigenous people from the best farm lands and seized their cattle. They subdued them by armed conquest and forced them into their service- at first through direct slavery, later through a harsh system of pass laws and taxation.”(SACP.1989.p.13) This is how the land, cattle and freedom of the indigenous people was taken.

“Prior to colonial conquest, the indigenous peoples had developed their own independent culture and civilisation. They mined and smelted iron, copper and other metals and fashioned them into useful implements. Their system of extensive agriculture and livestock breeding was well-suited to the type of country and tools at their disposal. Private property in land was unknown, food and shelter were freely shared, even with strangers. But when the

colonists began their ceaseless acts of armed aggression, the African people resisted bravely to defend their cattle and their land from robbery and their people from enslavement. They took up the spear against the bullets of the invader with his horses and wagons.”(SACP.1989. p.13-14.) These are the historical roots and origins of colonialism of a special type, apartheid and the notorious 1913 Land Act.

## **2. THE HISTORICAL ROOTS AND SIGNIFICANCE OF THE LAND ACT.**

Essentially the Act was intended to legalise the land robbery that had been taking place in the country for a period of more than two centuries. Such dastardly robbery started with the systematic extermination of the Khoikhoi and San who had peopled the Cape for millennia. The white settlers initially related and battered with them, but they mistook their hospitality and ubuntu for cowardice and weakness. They attacked and decimated them with horrible brutality and inhumanity. They took their land, cattle, and livestock, and turned most into vagrants and slaves.

Such bloody land and cattle robbery continued in the wars of resistance and dispossession against the AmaXhosa under Sandile, Makana, Cungwa, Hintsa, Ngqika, Sirhili, Ndlambe and Maqoma, and proceeded against the Basotho of King Moshoshe, the Bataung under Moletsane, the Batlokwa under Sekonyela and Chieftainess Mmanthasi. Such bloodthirsty and trigger-happy scorched-earth land robbery proceeded against the AmaZulu under Dingane, Mpande, Cetshwayo and Dinizulu, and continued against the Batswana under Sekgoma(Bamangoato), Sechele(Bakwena), Gaseitsiwe(Bangwaketse) and Mogale Mogale(Bapo). It continued again AmaNdebele under Mzilikasi and Musi and the Bapedi under Sekwati and Sekhukhune.

After the discoveries of diamond in Griqualand-West in 1867 and subsequently of gold on the Reef in 1886, the wars of resistance and dispossession became even bloodier and more brutal. This could be seen in the war fought thereafter against AmaNdebele under Mokopane, Bahananwa under Mmaleboho, Bahlalerwa under Makgoba, AmaShangane under Ngungunyane and VhaVenda under Silwabusikhu Mphephu Ramabulana Makhado. The last of such wars to finish was fought in the Nkandla forests against Chief Bambatha Ka Zondi in 1906. The 1913 Land Act was directly intended to legalise this massive land and cattle robbery that started with colonisation itself.

As could be seen from the above elaboration, “the greatest impact on the evolution of the South African nation-state was made by European colonial settlement. On the one hand, colonialism interrupted internally-driven advancement of indigenous South Africa communities along the ladder of human development. It resulted in the subjugation of the African population, including the Khoi and the San who were subjected to genocidal campaigns, as well as Indian communities and slaves from Southeast Asia and other areas. On the other hand, the advanced industrial

base of the colonial powers which made such subjugation possible, introduced into the South Africa geographic entity the application of advanced forms of economic production and trade.”(ANC.2007.p.3.)

The other objective of the Land Act was to declare the indigenous African people landless. The original inhabitants of the land who settled on it centuries before the European settlers could set their foot on its shores, as could be seen with the Mapungubwe and Mapela ruins; and the BaPhalaborwa, Musina, Makgane and Gauteng mines, were rendered landless by the stroke of a pen. The original owners of the land for centuries were now landless people in their own Country. Through this Act 87% of the land was in the hands of the settler-colonialists.

Another objective of the Act was to legalise settler colonialism. Through this Act the settler colonialist were now ‘rightful’ and legal owners of the land acquired by force of arms, blood and death of the original owners. As the Morogoro Strategy and Tactics articulates, “the struggle for freedom and democracy in South Africa was essentially an anti-colonial struggle. Beginning in 1652, Dutch and British colonialists waged wars of conquest against the indigenous population, to usurp their land and its riches and to establish an outpost which would act as a source of natural resources, as a terrain of expansion and settlement, and as a market for their goods. Great Britain finally established its colonial authority over the full extent of South Africa at the end of the Anglo-Boer War of 1899-1902. African communities from the Cape to the Limpopo waged heroic resistance to colonial occupation. Despite being outgunned, they showed rare stoicism in many battles spanning over two and half centuries. However, their resistance was fragmented among and within various ethnic groups, and it could not stand the tide of superior armed force backed by a developed economic and political base of the imperial powers. The defeat of the Bambatha Rebellion in 1906 marked the end of the wars of resistance. Most of the white settlers resolved to make this country their home and, in their world view, an ‘independent’ extension of the colonial metropolis. This found formal expression in the establishment of the Union of South Africa in 1910, when Britain ceded political power to the white settler minority.”(ANC 1969. P.48.) These are the historical political and economic roots of the 1913 Land Act.

The Land Act was a cornerstone of the consolidation in the making South Africa as a colony of a special type. “In the oppression, dispossession and exploitation of blacks, British imperialism and Afrikaner nationalism found common ground. This was the basis for the establishment of the Union of South Africa in 1910. In that year South Africa was established as a political entity with a centralised state power. These new national structures were based on the effects of centuries of colonial conquest and dispossession. They reproduced, in changed forms, the essential features of colonial domination that had existed before the Union of South Africa. The 1913 Land Act, confirming land ownership for the African majority to a tiny arid proportion of the country, legally entrenched and intensified the results of centuries of colonial land dispossession.”(SACP 1989.p.13-14.) The Act

was critical in the consolidation of colonialism of a special type within the territory of the Union of South Africa.

The 1913 Land Act was itself a worthy successor to a dastardly notorious piece of legislation passed in 1894 referred to as the Glen Grey Act. This ancestor of the Land Act removed all the communal land rights that the indigenous Africans had from time immemorial. It introduced individual tenure which limited the original rights that the people had to the land and forced many off their land. The 1913 Act was therefore an intensification in the taking away of rights of Africans to their land and rendering them landless and property-less sojourners in the land of their forefathers.

### **3. CONSEQUENCES OF THE LAND ACT.**

The 1913 Land Act had a number of both intended and unintended consequences. The formation of the ANC in 1912 was itself partly a consequence of the 1913 Land Act which was already been debated as a Bill in 1911. The formation of the ANC was therefore also a response to the proposed seizure of 87% of the indigenous land. The early African intellectuals, religious leaders and chiefs who met in Bloemfontein on 8 January 1912 were well aware of the impending Act that was to declare them landless in the land of their forefathers. "The Act which was rushed through Parliament under these circumstances was to have far-reaching effects, not only on economic development and the evolution of native policy, but also on the ideology of African nationalism as expressed by the National Congress."(Walshe.1970.p.44.) Sol Plaatjie captures the mood of the period well by saying, "awakening 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." However it is a historical fact that even without the promulgation of the Act the process of forming a Native National Congress for the entire territory of the Union of South Africa was on from as early as 1909. With and without the Land Act a National Native Congress was going to be formed in 1911, 1912 or 1913 after the White-only Union in 1910.

The Land Act was also the basis of a plethora of subsequent segregatory, divisive, exploitative and oppressive legislation. Once you had the Land Act in place you could now promulgate legislation to support and further implement it. That legislation included, the **Natives Urban Areas Act of 1923** which allowed local authorities to regulate and control the so-called influx of Africans from the reserves into the urban centres. This Act was further tightened by the **Black Urban Areas Consolidation Act of 1945**. The **Industrial Conciliation Act of 1924** prohibited the registration of Black trade unions. Black trade unions were emerging robustly with the ICU at the zenith of its power. The **Immorality Act of 1927** banned sexual relations between whites and blacks, which prohibition was extended to the coloureds and Asians in 1950. This Act was further tightened and extended through the **Prohibition of Mixed Marriages Act of 1950**.

The 1913 Land Act was itself tightened by the demonic **1936 Native Trust and Land Act** which declared rural areas settled by the Africans in reserves as trust land. It initiated a process of the betterment schemes and cattle culling mechanisms in African rural areas. It regulated evictions of the so-called undesirable Africans on so-called white-owned land.

The **Asiatic Land Tenure and Indian Representation Act of 1946** and the **Coloured Persons Settlement Act of 1946** were designed to deny Indian and Coloured people land and settlement rights. The **Group Areas Act of 1950** consolidated these Acts and ensured that there was a racial geography in the settlement and residential areas. White settlements would be near job opportunities in towns and cities, whilst African townships, Coloured and Indian locations would be designated farther away from mines, factories and town centres. Blacks would not be allowed to buy property or stay in white designated areas.

The **Prevention of Illegal Squatting Act of 1951** which severely dealt with the blacks who came to settle in towns was a further feather on the 1913 Land Act. The continuous process of proletarianisation of landless Africans led to their unstoppable urbanisation. These Africans came to settle in the environs of the urban centres no longer as migrants but as dwellers. There was massive overcrowding and the conditions were inhuman and despicable. Sofasonke Mpanza was a leader of the squatter movement that forcefully settled homeless Africans on land. He was a brave and fearless fighter. His work forced the white municipal councils to provide houses and accommodation to the urban squatters. Selope Thema also bought land for the homeless in Springs, which location came to be called Kwa-Thema to this day.

The **Bantu Authorities Act of 1951** initiated the establishment of Bantustans in the reserves by introducing the tribal, regional and territorial authorities system a forerunner to the Bantustans. The epic rural resistance of Ga-Matlala, Witzieshoek, Zeerust, Pondoland, Zululand, Thembuland and Sekhukhuneland were partly a response to this descendant of the Land Act.

The strangely titled, **Natives Abolition of Passes and Co-ordination of Documents Act of 1952** extended the existing pass system and further tightened it to compel all Africans above 16 years of age to carry a pass at all times. It criminalised the non possession of a pass, regulated the movement of Africans and declared urban areas lily-white. The pass system was intensified even further through the **Native Laws Amendment Act of 1952**. Forced removals of black settlements from areas regarded as 'black spots' in white areas and suitable only for white settlement were enforced through the **Black Resettlement Act of 1954**. This Act was to lead to the subsequent forced removals in District Six, Sophiatown and Cato Manor.

The **Transkei Constitution Act of 1963** was designed to give the first Bantustan so-called independence. This was to be succeeded in the

subsequent years by the Bophuthatswana, Venda and Ciskei Acts of a similar kind. There was also the establishment of so-called self-governing bantu territories in Lebowa, Gazankulu, Qwaqwa, KaNgwane, KwaNdebele and KwaZulu, which had their own pseudo-parliaments and miniature replicas of laws and cabinets. The intention was to create dummy toy-telephones in the reserves based on the 1913 Land Act and particularly to stem the tide of urban movement by Africans in the rural areas. This implementation of the Bantu Authorities Act was further consolidated through the **Bantu Homelands Citizenship Act of 1970**, the **Bantu Homeland Constitution Act of 1971**, **Self-governing Territories Constitution Act of 1971** and the **Black Affairs Administration Act of 1971**. All these laws were designed to make Africans citizens of their own rural reserves not of the Republic of South Africa. There was also the aborted attempt to establish black urban town councils. The 1913 Land Act laid a basis for this balkanisation of the country, handing the best and most land to white settlers and giving the arid and least parts of the country to the indigenous Africans. It was a foundation stone on which all other subsequent legislation dealing with land was based. This is the most diabolical policy world over!

All these various pieces of legislation were also a direct response to the resistance struggles of the Black people. Each law responded to the particular content and context of the freedom struggle and its intensity. Whether it was the anti-pass campaigns, the urban squatter movement, the rural uprisings, the anti-forced removals, strikes, boycotts, marches, demonstrations and stay-aways the regime responded with even more ferocious legislation to stem the tide of the struggle.

Almost all the early freedom songs were about the land, such as *Thina sizwe isemnyama sikhalela izwe lakithi elathathwa ngabamhlophe maba uyeke umhlaba wethu*(we the black nation are fighting for our land which has been taken by the whites, let them leave our land); *Sikhalela izwe lakithi lona elathathwa ngamagalanjane, uMzulu-Mxhosa-Mosotho hlanganani*(we are crying for our land taken by the treacherous people Mzulu, Mxhosa, Mosotho let's unite); *iAfrika mayibuye*(let Africa return); and *iAfrika izwelethu*(Africa is our land.)

The Apartheid system which got solid consolidation in the 1948 white-only General Elections was also another. As could be seen from the previous paragraphs legislation passed post-1948 further entrenched the Africans' loss of 87% of the land and consolidated its ownership, possession and control in the hands of the white settler minority.

#### **4. THE LAND ACT AND 2013.**

In 2013 we must look back at the hundred years since this Act was passed particularly on the land restitution and redistribution work of the new democratic government since 1994. The centenary of the Land Act must give the Country and nation an opportunity to look back at progress already

done and work still need to be done in this regard. The centenary must be used to spur the Country and nation to redouble effort to undo the damage done by the 1913 Act. The Freedom Charter in 1955 proclaimed: "THE LAND SHALL BE SHARED AMONG THOSE WHO WORK IT. Restrictions of land ownership on racial basis shall be ended, and all the land re-divided amongst those who work it to banish famine and land hunger; The state shall help the peasants with implements, seed, tractors and dams to save the soil and assist the tillers; Freedom of movement shall be guaranteed to all who work on the land; All shall have the right to occupy land wherever they choose; and People shall not be robbed of their cattle, and forced labour and farm prisons shall be abolished."(FC. 1955.) How far are we from this dream? What progress have we made towards its attainment?

In 1994 the new democratic government passed the Restitution of Land Rights Act no. 22 of 1994. This Act must be fully implemented to achieve the objectives set out. One of the most progressive pieces of legislation in this regard is the Extension of Security of Tenure Act, which took into account the tenure of Blacks on white-owned land. President Jacob Zuma articulated the matter on the occasion of the ruling ANC's 101 anniversary rally as follows: "As outlined, the year 2013 marks the centenary of the 1913 Land Act. In 1994, we inherited this highly inequitable distribution of land ownership. Eighty seven percent of commercial arable land was owned by white farmers and businesses and 13 percent of arid land was in the hands of the African majority. We state categorically that the Land Act marked the beginning of all problems we face today, such as landlessness, poverty and inequality. Land was taken away from the African people in order to turn them into a cheap reservoir of labour. Overnight, people who had land and cattle suddenly had nothing, and lost their self-reliance, dignity and independence. This historical injustice must be addressed in order to complete our freedom."

"At the 52<sup>nd</sup> National Conference in Polokwane we committed ourselves to transfer thirty percent of the 82 million hectares of agricultural land which was white-owned in 1994 to black people by 2014. The ANC government is unlikely to meet this target given the slow pace of land reform. We have directed our government to urgently speed up the process through a variety of measures. The implementation of these measures will take into account the principles contained in the constitution in relation to land expropriation. We will replace the principle of 'wiling buyer, wiling seller' which has not sufficiently addressed the problem, with the 'just and equitable' principle when expropriating land for land reform purposes. In addition to what government has already done to implement land restitution programmes; our government will re-open the lodgement for claims and provide for the exception to the 1913 cut-off date to accommodate historical landmarks, heritage sites and descendants of the Khoi and San who lost their land long before 1913. The amendment to our laws will take effect this year. There will be special programmes to remember the injustices perpetrated under the 1913 Land Act. We appeal for cooperation between those needing land and those who need to release

land, both assisted by government, so that we can meet the targets we have set for distribution and restitution.”(ANC. 2013.) The struggle to give back stolen land must be intensified and victory must be made certain. The government, NGO’s, political parties and society as a whole must work together to achieve the objectives articulated in the freedom charter.

## **5. CONCLUSION.**

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This centenary must help to spur everyone to ensure that the next century is of a truly non-racial, non-sexist, united, democratic and prosperous South Africa. The task that must be done with all urgency demanded, is to redouble all efforts to reverse the legacy of this notorious piece of legislation. The ANC made this point abundantly clear in its 2013 January 8 NEC statement, “we meet 100 years since the promulgation of the 1913 Land Act, which dramatically robbed the indigenous people of our country 87 percent of their land, and turned them into pariahs and wanderers in the land of their birth.”(ANC. 2013.) A non-racial South Africa must be able to fully undo the damage done by the notorious 1913 Land Act through its land restitution and redistribution policies and programmes. That work is not done until the landless have land, the homeless have homes, the destitute have shelter and land-hunger is banished forever. That is the work that must be done. The centenary of the Land Act has added the necessary urgency to that work.

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