

100 Year Anniversary of the 1913 Land Act

Abstract

The Land Act of 1913 left Black South Africans to only seven percent of the available land in South Africa. After the 1994 democratic elections, the ANC developed a program for land reform, but has yet to be successful as there are still those settling claims for land today. In 2013, the 100 year anniversary of the 1913 Land Act saw new initiatives and proposed legislation to settle the issue of land reform and subsequently change the legacy of the 1913 Land Act.

Key Words

Land Act, land reform, ANC, restitution, redistribution, tenure, legislation, 100 year anniversary, umhlaba exhibit, land divided conference

Introduction

The [1913 Land Act](#) was a monumental piece of legislation, that dispossessed the majority of Black South African farmers and took away their rights to own or rent land outside of the reserves that initially made up only seven percent of the land (Feinberg 1993). Following the end of apartheid, the new government designed legislation to try to correct the effects of this devastating act, but as many have recently argued, these efforts met with only nominal success. With 2013's 100-year anniversary of the 1913 Land Act, South Africans are insistent to make the land reform that was set in place in 1994 achieve its goals, especially with the pending legislations of 2013 such as the Restitution of Land Rights Act Amendment Bill and the Expropriation Bill.

The 1913 Natives Land Act was catapulted by a series of different events. Dutch and English colonial settlements in the Cape led to a series of different wars with the Zulu and Xhosa, which led to colonial administrators' fixation on the question of how to manage African people (Feinberg 1993). By the time of the Union in 1910, which would promulgate the 1913 Land Act, the African population included a number of well-educated people with careers in medicine, law, and teaching, as well as a successful African peasantry. However, under the Union constitution, these Africans lacked political rights, being able to vote in the Cape Province only if they met specific income qualifications. They had little say in the promulgation of legislation such as the Land Act.

There are several different theories as to why the Land Act was successfully passed. Certain historians suggest that the mining industry considerably contributed to the passing of the act. Other general ideas are that poor whites were losing a considerable amount of money and thus wanted to limit the amount of land the Black South Africans were entitled to own. There is also strong evidence to support that the Native's Land Act was influenced greatly by the Free Orange State. This theory in particular is very peculiar because the Orange Free population included the smallest percentage of Africans on African-owned land (Feinberg 1993). This is significant because it illustrates just how little it took to make such an enormous impact to have the 1913 Natives Land Act signed into law.

The Natives Land Act of 1913 stipulated that no African could enter upon a transaction to own or lease any land outside of the reserves. This left Black South Africans a mere seven percent of the total land available, while the white South Africans were given the privilege to enjoy the majority of the land to flourish and prosper. The act furthermore stated that those aside from Africans are also prohibited from signing leases or transactions of purchase with Black

South Africans, meaning that white South Africans were required to comply with the regulations outlined in this act as well. The Land Act had an enormous impact on the Black South African population and their ways of life. Robert Msimang brought these struggles to life in 1913 *Specific Cases of Evictions and Hardships*, recording countless lists of families' dispossessed of their land. [Solomon Plaatje](#), a founder of the [African National Congress \(ANC\)](#), rode across South Africa on his bicycle to report specific cases of families that had lost their homes, and later wrote a book entitled *Native Life in South Africa*. Elderly women, very young children, and even single mothers were evicted with very little notice and left to fend for themselves in the cold with very little resources to get back on their feet (Plaatje 1916). The limitations on land also provided environmental issues for South Africans. Over populating soon led to overcrowding of the reserves, which made African living conditions all the more problematic.

The 1994 Democratic Elections and the Attempts at Land Reform

The 1994 democratic elections marked the end of the apartheid and the beginning of the ANC-led government. The land reform was divided into three parts: restitution, redistribution and tenure land reform. Under each of these parts are pieces of [legislation](#) that aim to bring South Africa closer to its goal of land reform.



Left: A few of the members of the ANC, including Solomon Plaatje, which led the government after the 1994 democratic election and developed a vision for land reform.
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The first part of the land reform is restitution. The most significant piece of legislation that began the process of land reform is the Restitution of Land Rights Act Bill. Initially signed into law by Nelson Mandela in 1994, the Restitution of Land Rights Act officially established the right to have a Land Claims Commission and a Land Claims Court, which were established in 1996. This commission and court would determine restitution rights to land as well as compensation under the 1913 Land Act up until the 1980s (Nixon 1994). The Land Claims Court would also deal with disputes out of laws such as the Extension of Security Tenure Act underneath the land tenure of the land reform. The Restitution of Land Rights Act Bill itself would allow up to five years for South Africans to submit their claims on land that was taken from them since 1913 (Restitution of Land Rights Act 1994). Hence, South Africans only had until 1999 to submit their claims. The Commission of Restitution of Land Rights was constituted in 1995 to hear these claims (Commission of Restitution of Land Rights). As of 1999, although 67,531 claims had been submitted, only 785 claims had been settled at a cost of R78 million (Restitution of Land Rights Amendment Fact Sheet). The Restitution of Land Rights Act was amended in 2003, which gave the Minister of Rural Development and Land Reform the power to expropriate land in return for restitution (Restitution of Land Rights Amendment Fact Sheet). This allowed for significant increases of land restitution, but the majority of this restitution has been urban, whereas the poor rural areas are still in need of restitution as well.

Addressing matters of land reform were also important within the framing of a new constitution, under the [Government of National Unity](#) (1994-1996). Efforts to correct the impacts of the Land Act of 1913 are clear. Section 25 (7) explains that: “A person or community dispossessed of property after 19 June 1913 as a result of past racially discriminatory laws is entitled, to the extent provided by an Act of Parliament, either to restitution of that property or to

equitable redress.” (Constitution of the Republic of South Africa 1996). As this illustrates, the 1996 constitution includes other details of the land reform such as restitution, redistribution and land tenure, which was not previously addressed in the interim constitution of 1993.

The next section of the land reform is redistribution. The goal of land redistribution is to distribute land back to those who do not have land or have inadequate access to land. The government hoped that thirty percent of the land could be transferred to six hundred thousand smallholders of a price of only twenty one billion dollars by 2014 (Walker 2008). Such legislation such as The Land Reform (Labour Tenants) Act of 1996 was passed to help with issues such as redistribution. This act provided that a labor tenant can apply for acquisition of the land that they were residing in before they were evicted and states that tenants can only be evicted in a lawful way (The Land Reform (Labour Tenants) Act). The Settlement/Land Acquisition Grant (SLAG) was the main distribution method up until 1999. Under SLAG, the state would provide a subsidy of an equivalent \$2300 US dollars for the purposes of land acquisition and further security of tenure (Rugege 2004). However, this amount is too minuscule however for many South Africans to purchase back their land, especially with the increase in land price, and many groups of people pooled their grants together in order to buy land. This led to overcrowding of the land purchased and similarly a less productive use of the land as a result. The SLAG program ended in 2000, and subsequently, the government introduced the Land Redistribution for Agricultural Development (LRAD) in 2001. This program was different from SLAG because applicants did not have to be poor in order to receive a grant. LRAD is also different because applicants could receive a more substantial grant depending on how much they contribute in terms of money or labor (Rugege 2004).

The land tenure pillar is intended to provide tenure security for those living on land owned by another person or on communal land. The Labor Reform (Labour Tenants) Act and The Extension of Security Tenure are laws that protect South Africans from being unfairly evicted (Extension of Security Tenure 1997). The Labor Reform (Labour Tenants) Act provides that a tenant cannot be evicted except if a decision is made by the Land Claims Court, if a tenant refuses to provide enough labor, or if the tenant acts against the terms of their agreement with the owner of the land (Labor Reform (Labour Tenants) Act 1996). This Act, however, has generational requirements and only covers those whose parents or grandparents had land arrangements on a farm. The Extension of Security Tenure Act offers the same protections as the Labor Reform (Labour Tenants) Act, and covers people who do not fulfill all of the qualifications for the Labor Reform Tenants Act such as the generational requirement (Rugege 2004). In 2002, the draft Communal Land Rights Act was established and passed into law by President Mbeki in 2004 (Rugege). This act would make the security of tenure legal in South Africa, in order for efficient land utilization for about one third of South Africa's population.

Many contend that this legislation has been unsuccessful due to the inflating prices of land, the willing buyer willing seller method, and the move toward a more urban lifestyle by many Black South Africans. The 'willing seller, willing buyer' philosophy has been particularly detrimental to timely transfer of land. This principal originally meant that there were willing buyers and sellers in the market and that there would be equal transactions, or a win-win among those buying and selling in South Africa. However, this proved to be problematic as it gave farmers leeway to increase prices of land for what they were willing to sell. Therefore, in the 2013 State of the Nation Address, President Zuma promised that the government would alter this policy to "just and equitable compensation" (Zuma 2013). This considers factors such as the

market value of the property, the usage of the property, the history of the property and the interests of those affected (Walker 2005).

The government has thus been criticized for the slow progress of land restitution and for the restitution's high costs. Some commentators express concern that it could possibly face some similar results as Zimbabwe, whose strife around land reform left them with a crippled economy and an estimated 150,000 Black workers without jobs (Africa Research Institute 2013). However, Cheryl Walker suggests it is not so much that the government has not made any progress, but perhaps has set its standards too high (Walker 2008). The government hoped that through the restitution, redistribution and land tenure programs, a goal of delivering 30 per cent of the land could be achieved by 2014. However, these 1996 goals were very ambitious and the government continues to make adjustments in hopes of rectifying the legacy of the 1913 Natives Land Act.

The 100-Year Anniversary of the Land Act: Initiatives and Legislations

The 100 year anniversary of the 1913 Land Act in 2013 became an opportunity for both the government and other parties to raise awareness, challenge the legacy of the act, and propose with numerous new initiatives and legislation. Among the non-governmental initiatives there is the [South African History Archives 1913 Land Act Legacy Project](#). This project seeks to provide history and photography by Gille de Vllieg chronicling three communities in South Africa that were affected by the Land Act. These visual demonstrations flesh out the understandings of forced removals, resulting incorporations into homelands and the struggle that ensued for those forcibly relocated. Archival research will enable three oral historians to come up with important research questions. From here, these historians will conduct interviews in each

community and will ultimately produce a three-part report exploring topics such as women's role in the resistance, modes of divisions within communities, as well as the state and community tactics for resistance.

Two other initiatives that seek to educate the public about the history and the legacy of the Land Act and the land reform include the conference [Land Divided 2013](#), and the exhibit, [Umhlaba 1913-2012](#). *Land Divided 2013* was held at the University of Cape Town to provide information about the significance of the 1913 Land Act, especially with regards to its 100 year anniversary. The conference aimed to cover the events preceding the land act and the ecological challenges that South Africa faces today (Land Divided 2013). *Umhlaba 1913-2012* at the Iziko South African National Gallery in Cape Town sought to dissect the South African landscape, its meanings and its history, and how the land is used. *Umhlaba* focuses on the 1913 Land Act and its devastating effects with over 30 photographers and 12 different archives in order to truly understand the complexity of the land issue (Umhlaba Exhibition 2013).

There is also proposed new legislation regarding the Land Act such as the Expropriation Bill, the Valuation Bill, as well as an amendment to the Restitution of Land Rights Bill (Cieplak 2013). The Expropriation Bill, in which proposed updates have been made most recently in 2008 since 1975, aims to “align expropriation with the Constitution and to allow compensation for those whose land is being expropriated for the sake of public interest” (Expropriation Bill 2008). The bill has not yet been passed due to issues such as that the bill did not originally correlate with the Constitution. Hence, proposed updates to the bill have been to include matters such as assigning the court to make final decisions on matters such as compensation. Another piece of legislation is the Valuation Bill. This became effective in November 2013 and allows for the value of property to be decided by a “valuer-general” that also outlines the reasons for how

much a property owner shall be compensated if the land is to be expropriated for public purposes (Property Valuation Bill 2013). The Expropriation Bill and the Valuation Bill combined are pieces of legislations that promoters believe might help speed up the process of land transfer. The proposed amendment to the Restitution of Land Rights Bill, introduced in late 2013, suggests changes to the 1994 bill such as provisions for dealing with false claims and also proposes extending the date for making claims under restitution up until 2018 (Restitution of Land Rights Act Amendment 2013).

However, these bills have also been widely criticized. The Expropriation Bill as well as the Property Valuation Bill allow for the “willing buyer willing seller philosophy”, which in fact protects owners from having to sell their property. As concerns the Restitution of Land Rights Act Amendment to amend the Restitution of Land Rights Act of 1994, there are several still some 20,000 claims that have not yet been settled, and these transfers very well may be contingent on prices. Furthermore, the judges within the Land Claims Court are not required to have specialist knowledge on matters of land claims, which would harm the overall integrity of the Land Claims Court. Furthermore, the document has not ever included land dispossessed before 1913, such as the land taken by Khoi and San communities (Restitution of Land Act Fact Sheet 2013).

Although it has been a century since this devastating Land Act took place, there are very necessary factors that must be considered. South Africa cannot merely go by ‘shunting hectares.’ Those involved with the process of the land reform must also strive to align the land reform with economic reconstruction in South Africa (Cieplak 2013). Quickly transferring land back to those who want and rightfully deserve it by a deadline as previously desired will not solve the underlying issues of the struggle that is latent in this land issue. Issues such as

population growth, ecological constraints, and a changing economy must also be considered with new legislations of land reform (Walker 2013). The population and society that existed in 1913 has seen a significant change over the past 100 years. The agrarian society that comprised South Africa now hosts the majority of its population in urban and metropolitan areas. Transferring land back to those that lost their land might not be beneficial due to the fact that they might not necessarily earn enough money through farming.

The 100 year anniversary of the 1913 Natives Land Act is one that South Africa would like to remember as a year that signifies the change of the legacy of the Land Act. Although it is true that the original goal of transferring 30 percent of commercial land by the ANC is far from being achieved, there have been significant pieces of legislation that have increased the awareness of the land reform and improved the progression of the land reform itself. Legislation within the three-part land reform along with the recent initiatives and pending legislations of 2013 such as the Expropriation Bill, Property of Valuation Bill, and the Amendment to the Restitution of Land Rights Act are promising signs that the land reform is taking a step in the right direction.

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