



**ANNUAL RAYMOND MHLABA MEMORIAL LECTURE, DELIVERED AT THE
NELSON MANDELA METROPOLITAN UNIVERSITY, PORT ELIZABETH.**

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**BALANCING THE COMPLEXITIES OF INTEGRATED LAND
REFORM FOR SUSTAINABLE DEVELOPMENT:
WHAT IS TO BE DONE?**

Prologue

“Raymond Mhlaba is one of the most committed comrades I had the honour to know and work with in the many years of the liberation struggle. What marks him above all in my memory is the absolute honesty and integrity of the man”.
Nelson Mandela in the Foreword to Oom Ray’s Autobiography “Reminiscing from Rwanda and Uganda.”

On the occasion of the death of Oom Ray’s, his comrade and friend, Madiba, said, *“his passing away removes from us one of the real stalwarts of our Movement, a person who in his life and work embodied the highest values our struggle stood for and strove towards”.*

Oom Ray vividly remembered his grandfather saying to him:

“Mzukulwana, abelungu ngoo Sathana. Basixutha owona mhlaba wethu utyebileyo” (my grandson, the settlers are devils, they robbed us of our fertile lands). This was in reference to the land, in the Fort Beaufort district, where the Mhlaba family and other Xhosa people, under the reign of Inkosi Maqoma kaNgqika, were forced off during the final wars of dispossession by the British under Harry Smith. His grandfather vowed that the day would come when amaXhosa would rise to reclaim their land.

This was not the story of the Mhlaba family only. It was the story of all black South Africans, as nostalgically reflected by Ebrahim Rhoda in his book “From Slavery to Citizenship: A walk through the history of a Strand community”. In a section with the apt title “The memory lives on”, he writes (pp 30 – 31):

“Today in 2011, quite a few of my schoolmates have passed on, but the memories of those years where we lived happily together will remain.

True, the rows of houses in Fagan, Faure, Terhoeven, Market and Wesley Streets have made way for businesses, parking lots, open squares and high rise buildings, but the memories of those who lived there will live on... To keep these memories alive, Yusuf Abrahams, the principal of Macassar Senior Secondary, in conjunction with the Heritage Committee of the Strand Moslem Council, initiated the idea of drawing a map to indicate where our families were staying before the Group Areas (Act) forcefully removed us... To complement the work of Yusuf Abrahams, an attempt is herewith made to record all this detail for posterity, with little stories in between. Where possible pictures will be used to identify the streets where our families were staying”.

“Oom Ray was not at Lilies Farm when his fellow Rivonia Trialists were arrested on the farm. He was arrested later on. When the legal team and his Comrades advised

him to plead innocence on that basis, he refused, saying he fully associated himself with his Comrades' actions. He knew that, if found guilty as charged, they faced the death penalty. But he was prepared to die with his Comrades. Oom Ray was not a leader. He was a follower; a loyal and selfless one!" Reverend Mcebisi Xundu

1 Introduction and context

The history of White colonial land dispossession commenced long before the passing of the Natives Land Act of 1913. While the initial part of land dispossession began with the annexation and division of territory, over time, legislation was passed by both Afrikaners and the British, ultimately aimed at dislodging African people from their land and consolidating areas of White settlement. At the time of the enactment of the Natives Land Act of 1913, the foundation had already been laid for spatial segregation through land dispossession.

The devastating impact of colonialism, as well as the 1913 Natives Land Act, was widely commented on by African leaders and intellectuals of the time. In this regard, Sol Plaatjie, in vigorously opposing the Natives Land Act of 1913 wrote, *"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"*. Dr John Langalibalele Dube, founding President of the African National Congress, wrote, *"There are only one million of you and there are about six millions of us; and one million of you have three fourths of the land, and six millions of us have one fourth of the land. That is not fair In asking (for more land) I do not think we are asking for charity; we have contributed to the development of South Africa with our labour ... we have done our share in that respect, and in the matter of taxation, both direct and indirect.... The black ox has nowhere to feed, and the white ox has all the pastures ... I am sorry if I cannot make that clear to you"*.

The Beaumont Commission followed in September 1913. It was granted two years to complete its work and report back to the government on its investigations into the availability of land, as well as defining boundaries for permanent territorial segregation between black and white people. In tabling its findings, the Commission recommended a limited increase in African areas. During the Commission's work, racial prejudice, which presumed White people's superiority over Black people, became evident. The Commissioner, for instance, recommended that the Kwelera-Mooiplaas area be allocated for Native occupation due to the fact that the area was characterized by *"poor soil with a steep and sour pasturage of limited extent ... Only a Kaffir, with his limited requirements could be expected to exist upon such terms"*. The Commissioner added that he did not consult with the *"natives"* in case they became *"aggressive and annoying to their European neighbours"*. It is this condescending attitude which Oom Ray's grandfather was expressing which, I

believe, ultimately shaped Oom Ray's political hopes and aspirations in advancing the liberation of our country!

As A.J. Christopher notes, "*the Native Land Act was officially conceived as a first stage in drawing a permanent line between Africans and non-Africans*". In essence, the Land Act became a critical edifice in the construction of a racially and spatially divided South Africa. Subsequent laws, such as the Urban Areas Act (1923), the Natives and Land Trust Act (1936) and the Group Areas Act (1950), reinforced land dispossession and segregation in the country. The shadows of these abominable laws remain evident even today, 20 years after the dawn of our democracy.

In December 1942, the conference of the African National Congress requested its President, Dr. A.B. Xuma, to appoint a committee to study the Atlantic Charter and draft a Bill of Rights to be presented to the Peace Conference at the end of the war. The committee, under the chairpersonship of Professor Z.K. Matthews, presented its report (titled: Africans' Claims in South Africa) to the annual conference of the African National Conference on 16 December 1943. It was unanimously adopted. The statement of the aspirations of the African people was one of the most important documents of the ANC. It was, however spurned by the racist regime.

Deneys Reitz, speaking on behalf of the Government to the African people, when he opened the sixth session of the Natives Representative Council in December, 1942, indicated that the freedoms vouchsafed to the peoples of the world in the Atlantic Charter were indicated for the African people as well. The Bill of Rights, forming part of the African Atlantic Charter of 1943, states the following:

LAND

We demand the right to an equal share in all the material resources of the country, and we urge:

- 1. That the present allocation of 12½% of the surface area to 7 000 000 Africans as against 87¼% to about 2 000 000 Europeans is unjust and contrary to the interest of South Africa, and therefore demand a fair redistribution of the land as a prerequisite for a just settlement of the land problem.*
- 2. That the right to own, buy, hire or lease and occupy land individually or collectively, both in rural and in urban areas is a fundamental right of citizenship, and therefore demand the repeal of the Native Land Act, the Native Trust and Land Act, the Natives Laws Amendment Act, and the Natives (Urban Areas) Act in so far as these laws abrogate that right.*
- 3. That African farmers require no less assistance for the State than that which is provided to European farmers, and therefore demand the same*

Land Bank facilities, State subsidies, and other privileges as are enjoyed by Europeans.

This is the legacy we must seek to redress. This is our moral responsibility. How long must the dispossessed remain landless without a place to call their own?

2 Complexities of integrated land reform

The broad context for all land reform is the Constitution and the law of the Republic, particularly sections 25, 26, 27 and 36 of the Constitution. Secondly, it is the Freedom Charter (FC), which declares that '*South Africa Belongs To All Who Live In It, Black And White!*' Thirdly, it is the National Development Plan (NDP). Lastly, it is Agenda 21 of the United Nations.

The tension to which these provisions are particularly pertinent, is on the one hand, the necessity to address historical land dispossession on the part of the majority, which could be absolute in most instances; and, extreme concentration of land ownership and control in a few hands, on the other. Ours is to mediate a '*just and equitable*' redistribution of land across these two disparate and potentially conflictual systems and patterns of land ownership and control.

We have simplified land reform into four functions or pillars, namely, restitution of land rights, land redistribution, land tenure reform and land development.

The principles underlying land reform, as set out in the Green Paper on Land Reform, are deracialising the rural economy, democratizing the allocation and use of land across gender, race and class, and, sustained production discipline for food security (and food sovereignty).

We strive to achieve two strategic objectives through land reform, namely, that all land reform farms are 100% productive in the short term; and, that the fledgling class of black commercial farmers, which was destroyed by the 1913 Natives Land Act, is rekindled.

3 Sustainable development

The United Nations ascribes effectiveness of "sustainability" to the following conditions:

- (a) Socio-cultural development: health, education and recreation;
- (b) Economic development;
- (c) Environmental development;

- (d) Institutional / political support; and,
- (e) Morality and aesthetic relational values.

The policy proposal on strengthening the relative rights of people working the land provides for sustainable human settlements. These settlements are designed to conform to the UN defined qualities in general; and, the three enablers listed below:

- (a) secure the residential tenure of the farm-dweller/worker;
- (b) enable him/her to sell his/her labour-power across the fence, without fear of eviction; and,
- (c) strengthen his/her bargaining power in advancing worker rights and improving his/her conditions of living.

For any fundamental social change to be sustainable it must be embedded in the hearts and minds of the people, because people are the motive force for history. This is eloquently expressed by our icon, Nelson Mandela, when he addressed a rally in Durban on the 25th of February 1994:

“Since my release, I have become more convinced than ever that the real makers of history are the ordinary men and women of our country. Their participation in every decision about the future is the only guarantee of true democracy and freedom.”

4 What is to be done?

Our ideological platform is the Freedom Charter, particularly Clauses 3 (The People Shall Share In The Country's Wealth!) and 4 (The Land Shall Be Shared Among Those Who Work It); and, the strategy is agrarian transformation, by which we mean rapid and fundamental change in the systems and patterns of ownership and control of land, livestock, cropping and community.

As part of its work towards the installation of our democratic dispensation, the ANC developed the **Ready To Govern** whose four pillars, are:

- a) to strive for the achievement of the right of all South Africans, as a whole, to political and economic self determination in a united South Africa;
- b) to overcome the legacy of inequality and injustice created by colonialism and apartheid, **in a swift progressive and principled way;**
- c) to develop a sustainable economy and state infrastructure that will progressively improve the quality of life of all South Africans;
- d) to encourage the flourishing of the feeling that South Africa belongs to all who live in it, to promote common loyalty to and pride in the country and to create a universal sense of freedom and security within its borders.

Agenda 21:

In 1988, in the Global Strategy for Shelter to the Year 2000, the "*fundamental obligation [of Governments] to protect and improve houses and neighborhoods, rather than damage or destroy them*" was recognized and adopted by the UN General Assembly in its Resolution 43/181.

Agenda 21 stated that "*People Shall Be Protected By Law Against Unfair Eviction From Their Homes and Land.*" In the Habitat Agenda, Governments committed themselves to "*protecting all people from, and providing legal protection and redress for, forced evictions that are contrary to the law, taking human rights into consideration; [and] when evictions are unavoidable, ensuring, as appropriate, that alternative suitable solutions are provided.*"

In carrying out all these strategic tasks, our tactical thrust is to pursue land reform with minimal or no disruption to food production and security. Yet, despite the need to sustain production discipline for food security, we should not paper over cracks. Nelson Mandela warns against that when he said, during his Budget Debate on the 18th of August, 1994:

"To present a facade of unity on each and every issue would be artificial, undemocratic and patently pretentious. The more these issues are aired and opened up for public debate, the better for the kind of democracy we seek to build. Handled within the bounds dictated by the interests of coherent and effective governance, such debate will definitely enrich our body politic. This applies equally to debate within parties about how to manage this novel experience."

The National Development Plan: Moving South Africa Forward!

Radical change must bring real benefits to working people and the poor across South Africa. The National Development Plan (NDP) provides a long term vision for accelerating development so that unemployment and inequality could be reduced, creating a more inclusive society.

The NDP is the road-map for our programmes; and its Chapter Six sets out the trajectory for rural economic transformation and development. The vision is rural areas that are spatially, socially and economically well integrated - across municipal, district and provincial and regional boundaries - where there is economic growth, food security and jobs as a result of agrarian transformation and infrastructure development programmes with improved access to basic services, health care and quality education.

If the expansion of agricultural production envisaged in this plan takes place within the current structure of farming by merely expanding large scale commercial farming, the potential to create jobs is limited.

To expand agriculture and create 1 million jobs in the sector, the Commission makes the following recommendations:

- Substantially increase investment in water resource and irrigation infrastructure;
- Provide innovative market linkages;
- Linking farmers to existing markets is not enough;
- Create tenure security for communal farmers;
- Investigate different forms of financing;
- Greater support for innovative public-private partnerships;
- Increase and refocus investment in research and development for the agricultural sector;
- Improve and extend skills development in the agricultural sector, including entrepreneurship training;
- Investigate whether extension and other agricultural services are appropriately located at provincial level.

The National Planning Commissioner's proposed model for a workable and pragmatic land reform model is based on the following *principles*:

- Enable a more rapid transfer of agricultural land to black beneficiaries without distorting land markets or business confidence in the agribusiness sector;
- Ensure sustainable production on transferred land by making sure that human capabilities precede land transfer through incubators, learnership, mentoring apprenticeships and accelerated training in agriculture sciences;
- Establish monitoring institutions to protect land markets from opportunism, corruption and speculation;
- Bring land-transfer targets in line with fiscal and economic realities to ensure that land is successfully transferred;
- Offer white commercial farmers and organised industry bodies the opportunity to significantly contribute to the success of black farmers through mentorship, chain integration, preferential procurement and meaningful skills transfer.

It is furthermore proposed that each district municipality with commercial farming land in South Africa should convene a committee (the District Lands Committee) with all agricultural landowners in the district as well as key stakeholders such as the private sector (Commercial banks, agribusiness), the government (the national Department of Water Affairs and provincial departments that deal with rural development, land reform and agriculture) and government agencies (the Land Bank and the Agricultural Research Council).

The Committee will be responsible to identify 20% of the commercial agricultural land in the district and giving commercial farmers the option of assisting its transfer to black farmers. This can be done as follows:

- Identify land readily available from the following categories:
 - land already in the market;
 - land where the farmer is under severe financial pressure;
 - land held by an absentee landlord willing to exit; and
 - land in a deceased estate.

- Land will be bought by state at 50% of market value. The shortfall of the current owner will be made up by cash or in-kind contributions from the commercial farmers in the district who volunteer to participate.

- In exchange, commercial farmers will be protected from losing their land and gain black economic empowerment status.

- A stepped programme of financing should be created. This should include the involvement of National Treasury, the Land Bank as well as established white farmers. The model envisages that the cost of land reform be spread between all stakeholders. It also envisages new financial instruments being designed for the purpose of facilitating land reform. These could include 40-year mortgages at preferential rates for new entrants into the markets, as well as land bonds that white farmers and others could invest in.

Conclusion

Let me conclude by quoting from Andre Odendaal's book, *The FOUNDERS: The ORIGINS of the ANC and the STRUGGLE for DEMOCRACY in South Africa*, as he reflected on political representation of black South Africans in the law-making institutions in South Africa, during the 1910 general elections:

"All that remained to complete the composition of the South African parliament, after the general election of September 1910, was the announcement of the eight senators nominated by the cabinet. Thirty-two members of the Senate of forty had already been chosen by the Colonial Parliaments in their final sessions. Four of the nominated senators (the 'native senators') were to be chosen 'on the ground mainly of their thorough acquaintance... with the reasonable wants and wishes of the Coloured races in South Africa.'"

In the event, the final list of names of the eight nominated senators was announced on 13 October. The four chosen to represent black interests were WP Schreiner,

Colonel Stanford, JC Krogh and FR Moor. The choice of Schreiner was universally approved. (King) Dinuzulu spoke for many Africans when he told Schreiner: "*All my trust is on you.... May the Lord keep you, and give you power fearlessly to advocate the JUST AND EQUITABLE treatment of the Natives of South Africa.*"

Thus, the notion of justice and equity in redistributing national assets and resources among all South Africans was not invented by the founding fathers and mothers of our country's democratic constitution (s25). It was already the cry of black South Africans more than a century ago. WE DARE NOT LET THEM DOWN!!!

I Thank You.