



SP II talk

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THE GREAT LAND DEBATE



UNPACKING THE
LAND DEBATE

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“And in all those escapes he could not help being astonished by the beauty of this land that was not his. He ... fingered its earth for food, clung to its banks to lap water and tried not to love it. On nights when the sky was personal, weak with the weight of its own stars, he made himself not love it. Its graveyards and its low-lying rivers. Or just a house - solitary under a chinaberry tree; maybe a mule tethered and the light hitting its hide just so. Anything could stir him and he tried hard not to love it.”

-Paul D, *Beloved*

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EDITOR'S NOTE

BY GERSHWIN WANNEBURG

A rare voice emerges in Bafana Nzimande's article on the recent land hearings in KwaZulu-Natal. Margaret Nsimbi was present at the hearings and told Bafana about her struggle as a woman to acquire land.

In this edition of SPII Talk, Nsimbi helps us understand the disastrous human consequences of a failing land reform programme.

Nsimbi, a 56-year-old domestic worker, talks about how she has been forced to live like a vagrant. To have no home in the place of your birth seems like a perverse trick of history, especially when your livelihood is derived from creating a comfortable home for others.

Also consider the fact that KwaZulu-Natal, with its lush, expansive hills, is a sterile hunting ground for so many. At the same time it's been appropriated by wealthy land barons whose fortunes were built on vast sugar plantations and cattle ranches.

KwaZulu-Natal is also the region where King Goodwill Zwelithini presides over 3 million hectares of land vested with the Ingonyama Trust.

Sergio Ben offers a haunting story about the dredges that have remained in a community that once thrived on the outskirts of Cape Town. If you search Woodstock on the internet, you will find a lot of information about the crime and filth that have taken over the suburb. But you won't find much about the people whose homes, mosques and corner stores have made way for trendy cafes and apartment blocks. Paving-paradise-for-a-parking-lot is a narrative known the world over. But then again, I thought we were different.

Like Margaret Nsimbi, the people of Woodstock have no soil to claim and certainly no plot to plant their roots. Land reform should encompass both rural and urban spaces. These stories are in sharp contrast to the brash politics

surrounding land reform, especially of late. They illustrate the brutal human cost of the politics of indifference.

Even though the EFF's methods and motives may be questionable, their anger and impatience reflect the views of many marginalised South Africans, who have watched from the sideline as they were rapidly pushed further and further from the centre of the economy and deeper and deeper into poverty.

This kind of dislocation is what happens when politicians are more interested in shouting the loudest to secure power. The voices on the ground are silenced and their lives are trampled on. It's not as if we haven't experienced it before.

The fact that we are still at the research stage of this vital issue is telling of how successive post-1994 administrations have mishandled redress.

In this edition, Wits academics Jackie Dugard and Nompumelelo Seme assess the ANC's recent pronouncements on land expropriation without compensation. The ruling party has presented this step as a panacea for the country's stalling land programme and resolved to amend the constitution in order to reverse the situation.

Dugard and Seme argue that the ANC's efforts are misplaced. Read what the two have to say about what section 25 of the constitution actually says. The question we are left with is: what's really behind this latter-day push to fix land reform? SPII director Isobel Frye has tried to read the minds of our leaders. It's obvious that the ANC has its sights on next year's elections, but how will it all play out for those who are still seeking a home in the country of their birth?

LESSONS IN LAND DISPOSSESSION

ISOBEL FRYE

August is celebrated as Women's Month in South Africa. We commemorate the historic march in 1956, when tens of thousands of women of all classes and races marched to Pretoria to protest the restriction of movement of black people in general, and black women in particular, under the pass laws. Women's collective action asserted their humanity in the face of a system that would be deemed a crime against humanity by a 1973 United Nations International Convention.

This month has been used to highlight the ongoing, systemic, dehumanising and brutal acts of violence and violation of women in our country. Marching under the name #TotalShutdown on 1 August, thousands of women protested the violation of women in South Africa, echoing the 1956 collective assertion of resistance and declaration of freedoms taken from women and people illegally, and seemingly without any accountability. There is a deep resonance in this dehumanisation of women with the pain of millions whose land was taken throughout our history. The initial 1913 Native Land Act was followed by successive legislation, including the 1923

Urban Areas Act, the 1936 Natives and Land Trust Act and the 1950 Group Areas Act. These acts of Parliament all sought to legitimise the dispossession of land and rights of movement in an action that was so absolute that we are still vexed by how to truly undo its consequences. However, the legislative roots of these laws were firmly planted, even earlier, by colonial ruler Cecil John Rhodes's Glen Grey Act of 1894, which had as its objective the dispossession of land, labour and the vote.

Territorial acts of dispossession had historic foundation as far back as the 1452 Papal Bull of Pope Nicholas V in the doctrine of *Terra Nullius* that developed into the colonial cloak of the Doctrine of Discovery. The papal bull was decreed a few decades ahead of Christopher Columbus and allowed for the subsequent dispossession of the land and rights of the indigenous people of the Americas, affirmed in the tragic case of *Johnson and Graham's Lessee* in the United States. The theft of the land of the Australian aborigines was done under the direction of the Doctrine of Discovery by the British.

"Without formal legal recognition of their land rights, communities struggle to protect their land from being allocated to outside investors."



At the heart of these doctrines was the theory that those from whom land and freedoms were stolen were not human. Their sovereignty became subjugated to the control and the whim of the conqueror.

These excursions into history are extremely necessary to understand what lies at the heart of the current South African discussions around land and women's freedoms. We cannot adequately begin to address the pain and understand how to compensate and restore until we can comprehend the magnitude and the consequences of saying to another that their humanity is of no consequence.

In respecting the duty that the constitution, with its roots in the Freedom Charter, lays on each of us, we must take up the task of undoing land dispossession. We must seek to understand how people can be compensated for the total destruction of communities and livelihoods, sacred spaces and dreams. We must understand that laws can be drawn to protect what is not rightfully gotten and must always be judged against the principles of natural justice.

In seeking to realise the right to inherent dignity that is inalienable to all, as affirmed in our constitution, we are obligated to "improve the quality of life of all citizens and free the potential of each person". That may be where the gap lies in the current administration's approach to land redress. The focus seems to be on targets, rather than people.

Successive ANC governments have made the same mistake, judging by past failures. And the consequences are dire, if not life and death. Recent research points out just how destructive it can be when land policies fail to prioritise people.

A report by the World Resources Institute shows that communities without title deeds face real dangers, including the loss of land to wealthy investors. The WRI points out that

indigenous and farming communities legally own just 10 percent of land on the planet, even though they occupy more than half of it.

"Without formal legal recognition of their land rights, communities struggle to protect their land from being allocated to outside investors," the WRI report said.

The report warns about the potential for land-related conflict in such a climate. We have already seen such flare-ups in Durban, where the Abahlali baseMjondolo movement has been at constant loggerheads with authorities in their fight for homes. Similar tensions have been sparked in Cape Town, as well as in Johannesburg, where the EFF has encouraged people to occupy land illegally. Laura Notess, one of the authors of the WRI report, writes in another article that the ripple effects go beyond economics.

Notess refers to a case in Peru, where a mining company moved a community to an area with paved streets, indoor plumbing and electricity. But those were cold comforts, she explains in an article published on intercontinentalcry.org.

Notess writes that three years later "residents complained of a lack of meaningful work and a loss of traditions. Rates of alcoholism rose, and in one year, four residents killed themselves by taking farming chemicals. According to one former farmer, the residents felt they were trapped 'in a cage where little animals are kept.'"

Our leaders have shown little sign that they understand such needs. Else, they wouldn't be scrambling as they currently are, after the fact. This publication contains a rundown of post-1994 land policies, each impervious to the real needs of people on the ground and none able to result in meaningful change. The latest proposal around land expropriation threatens to repeat that pattern.

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SECTION 25 EXPROPRIATION UNPACKED: A LEGAL ANALYSIS OF THE ANC'S CALL FOR EXPROPRIATION WITHOUT COMPENSATION

JACKIE DUGARD & NOMPUMELELO SEME

On 31 July, in the midst of public hearings on land expropriation convened by the National Assembly's Constitutional Review Committee, President Cyril Ramaphosa announced the ANC's decision to pursue expropriation without compensation. Regardless of the motivation for the announcement itself, the rationale behind the ANC's move to champion a more radical programme of land redistribution is obvious: while there are no accurate data on land ownership and redistribution, 25 years into our democratic dispensation, it is painfully clear that land ownership patterns are nowhere near racially or gender-representative. The reasons for the aggregate failure of land ownership redistribution (along with other forms of land reform), are complex and have been widely debated. Some commentators point to a lack of implementation by the government (and particularly the ANC) of transformative policies and programmes and others suggest the Constitution is to blame.

At the heart of public discussion about land has been contestation over **section 25** of the Constitution, often popularly cast as inhibiting the project of land redistribution through its assumed reliance on paying market value to historical dispossessors of land; and a 'willing buyer, willing seller' approach to expropriation. From a legal perspective, both of these assumptions reflect a misunderstanding, possibly exacerbated by a conflation between the law on the one hand, and political will and/or policy implementation on the other hand. The confusion might also be related to a continued reliance on the Expropriation Act which, as a pre-constitutional piece of legislation, references both a willing buyer, willing seller and market value approach (an amendment to the Expropriation Act that aligns it to the Constitution was approved by Parliament in May 2016 but was sent back to Parliament by then President Zuma to clarify the process for passing the bill). Yet, as the Constitutional Court has clarified in cases such as *Du Toit v Minister of Transport*, to the extent that

the Expropriation Act is not in line with the Constitution, the Constitution must prevail.

As we highlight, the Constitution provides a clear framework for transformation of the land regime, including for the expropriation of land with very little or possibly no compensation in appropriate circumstances. Regarding market value, **section 25(2)** of the Constitution establishes that property can be expropriated only in terms of a law of general application –

- a. *for a public purpose or in the public interest; and*
- b. *subject to compensation, the amount of which and the time and manner of payment of which have either been agreed to by those affected or decided or approved by a court.*

Section 25(4)(a) specifies that the '*public interest*' includes '*the nation's commitment to land reform, and to reforms to bring about equitable access to all of South Africa's natural resources*'. Thus expropriation to advance land redistribution (and restitution) is explicitly covered.

Section 25(2)(b) suggests that the issue of compensation must be deliberated between the landowner and the state. However, it has been conclusively established by the Constitutional Court (in the 2011 case, *Haffejee NO v eThekweni Municipality*) that, while it is ideal for the amount, time and manner of compensation to be established prior to the expropriation, this is not necessary. In other words, a landowner may not hold up an impending expropriation by arguing over the price being offered.

It is also clear from **section 25(3)(a-e)** of the Constitution that market value is simply one of a range of (inexhaustive) factors (including use of the property, history of acquisition, extent of direct state investment and subsidy, and purpose of the expropriation) to be considered when deciding how much

compensation to award in cases of expropriation. Accordingly, market value might be one of the factors considered but, following proper consideration of all the other factors, the final amount could be substantially lower than market value and could even be close to zero.

This is because the guiding principle in **section 25(3)** is to achieve just and equitable compensation rather than market value compensation. This means that, even if sometimes market value is often a useful starting point in deciding the amount of compensation, a court can award below-market value compensation in the public interest. So, for example, according to the formulation of **section 25(3)**, where the property had been egregiously dispossessed, was not currently used for food crops, had benefitted from substantial state subsidies under apartheid, and where the expropriation would result in the

restitution of the land to a community of farmers, compensation might be extremely low, or even nought.

Intriguingly, **section 25(8)** of the Constitution states: *'No provision of this section may impede the state from taking legislative and other measures to achieve land, water and related reform, in order to redress the results of past racial discrimination, provided that any departure from the provisions of this section is in accordance with the provisions of section 36(1).'* This provision indicates that, to the extent that the existing clauses of **section 25** become an outright impediment to necessary social transformation (a position we suggest we are far away from since in expropriation and restitution practice we have not yet tested the limits of **section 25**), any departure from any of the provisions of **section 25** could be deemed constitutional if found *'reasonable and justifiable in an open and*

democratic society based on human dignity, equality and freedom ...'

Thus, if the ANC (or any political party in power) wants to prioritise the expropriation of land, the Constitution already provides a conducive framework for this. And if it wants to move away from its current practice of paying full market value on a 'willing buyer, willing seller basis', it should try using **section 25** to its full transformative potential. Indeed, what is needed much more than a constitutional amendment is coherent political direction and effective implementation of land reform mandates.

**Dugard is an associate professor at the School of Law at Wits University. Seme is a lecturer at the Wits School of Law.*

This is an updated version of an article that was first published in Business Day on 29 January 2018.

25 PROPERTY

1. No one may be deprived of property except in terms of law of general application, and no law may permit arbitrary deprivation of property.
2. Property may be expropriated only in terms of law of general application—
 - (a) for a public purpose or in the public interest; and
 - (b) subject to compensation, the amount of which and the time and manner of payment of which have either been agreed to by those affected or decided or approved by a court.
3. The amount of the compensation and the time and manner of payment must be just and equitable, reflecting an equitable balance between the public interest and the interests of those affected, having regard to all relevant circumstances, including—
 - (a) the current use of the property;
 - (b) the history of the acquisition and use of the property;
 - (c) the market value of the property;
 - (d) the extent of direct state investment and subsidy in the acquisition and beneficial capital improvement of the property; and
 - (e) the purpose of the expropriation.
- (4) For the purposes of this section—
 - (a) the public interest includes the nation's commitment to land reform, and to reforms to bring about equitable access to all South Africa's natural resources; and
 - (b) property is not limited to land.
- (5) The state must take reasonable legislative and other measures, within its available resources, to foster conditions which enable citizens to gain access to land on an equitable basis.
- (6) A person or community whose tenure of land is legally insecure as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to tenure which is legally secure or to comparable redress.

25 PROPERTY

- (7) A person or community dispossessed of property after 19 June 1913 as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to restitution of that property or to equitable redress.
- (8) No provision of this section may impede the state from taking legislative and other measures to achieve land, water and related reform, in order to redress the results of past racial discrimination, provided that any departure from the provisions of this section is in accordance with the provisions of section 36(1).
- (9) Parliament must enact the legislation referred to in subsection (6).

HOW DID WE GET HERE?

A TIMELINE OF LAND REFORM POLICIES SINCE 1994*

THE MANDELA PRESIDENCY 1994 - 1999

1996

After broad consultation with activists and communities, a Green Paper on land policy was released in 1996, followed by a White Paper in 1997.

1996

The Land Reform (Labour Tenants) Act of 1996 allowed tenants and former tenants to secure land tenure and acquisition.

THE MBEKI AND MOTLANTHE PRESIDENCIES: 1999 - 2009

2004

During this period, the focus turned from the needs of the poor to emerging black commercial farmers.

The Land Redistribution and Agricultural Development Programme (LRAD) and Comprehensive Agricultural Support Programme (CASP) replaced earlier policy.

The World Bank-supported LRAD offered grants for land acquisition and development ranging from R20,000 to R100,000.

In 2004 Minister Thoko Didiza oversaw the passage of the Communal Land Rights Act (CLARA) which sought to transfer state-owned land to traditional councils under chiefs, based on boundaries drawn up in the apartheid era. CLARA was seen as a compromise to traditional leaders, who possessed no formal powers at local government level. The law was vehemently opposed by activists and was scrapped by the Constitutional Court on procedural grounds in 2010.

THE ZUMA PRESIDENCY: 2009 - 2016

2009

The Department of Rural Development and Land Reform (DRDLR) was created under Minister Gugile Nkwinti.

2009

In 2009 the Comprehensive Rural Development Programme (CRDP) was created to target wards where severe poverty is entrenched. The programme entails training community members to be gainfully employed in a range of micro-projects.

WHERE TO FROM HERE?

There are four long-term scenarios for land reform policy in South Africa, according to a think-tank convened by the Vumelana Advisory Fund and Reos Partners.

1. *Connection and capture* is about politically connected elites who drive land reform for their own benefit. As traditional leaders gain more formal recognition from the state and greater control of land in communal areas, some use this power to promote social, cultural and ecological connectedness. Many enter into shady business deals or sell land to outsiders. Other elites who benefit from land reform include unaccountable leaders in communal property institutions and business people who receive land through redistribution.

**From the Diagnostic Report on Land Reform in South Africa, a commissioned report for the High-Level Panel on the assessment of key legislation and the acceleration of fundamental change, an initiative of the Parliament of South Africa*

By the Institute for Poverty, Land and Agrarian Studies, University of the Western Cape September 2016

Source: www.parliament.gov.za

1997 - 1999

The Extension of Security of Tenure Act of 1997 protected farmworkers from arbitrary evictions.

By March 1999 less than 1% of private farmland had been transferred.

Communal Property Associations (CPAs) allowed groups to acquire redistributed land. Many CPAs have since flopped. Communities have complained about a lack of government support for CPAs as well as corruption affecting their functioning.

During this period agricultural policies and land reform were separated. Agricultural policies were focused on abolishing state subsidies previously granted to white farmers, but little attention was given to black farmers.

2005

A National Land Summit held in 2005 agreed on a review of 'willing seller, willing buyer' policy after persistent complaints about bureaucratic red tape and failed land reform projects. The summit resolved to pursue an expanded use of expropriation, and a proactive role for the state. These resolutions gave birth to several new policy drives, including area-based planning, a proactive land acquisition strategy, a draft Expropriation Bill, and reports on foreign land ownership, land ceilings and land taxes.

2007

In 2007 the ANC called for an integrated approach to rural development, land reform and agrarian change at its national conference in Polokwane. However, little changed on the ground, including the unabated evictions suffered by farmworkers. The lack of change was blamed on a lack of political will and poor implementation of legislation like the Labour Tenants Act. In addition, area-based planning was led by consultants, rather than local government or the department itself, whereas pro-active land acquisition amounted to the state buying farms and leasing them for three to five years. The Comprehensive Agricultural Support Programme (CASP) ended up benefiting a minority of big farmers.

2009

Government set a target of redistributing 30% of agricultural land to black farmers by 2014, translating to an average annual transfer of 1.64 million hectares. By September 2009 government reported that in 15 years a total of 3.04 million hectares had been transferred to 185,858 beneficiaries through redistribution.

Land restitution made significant headway. Around 1.5 million restitution beneficiaries received 2.64 million hectares.

2013

The State Land Lease and Disposal Policy (SLLDP) of 2013 applies to farms acquired through a proactive land acquisition strategy (PLAS), which has replaced the LRAD programme.

It identifies four categories of beneficiaries:

- A. households with no or very limited access to land;
- B. small-scale farmers farming mainly for subsistence and selling some produce locally;
- C. medium-scale farmers already farming commercially but constrained by insufficient land;
- D. large-scale commercial farmers with potential to grow but disadvantaged by location and farm size.

2014

The Restitution of Land Rights Amendment Act of 2014 extended land claims by five years, raising fears that it could create further backlogs in the system.

2016

A new Expropriation Bill was approved by parliament in 2016. The legislation aims to align existing laws with the constitution by allowing compensation that is below market value, but is 'just and equitable'. The Act allows for oversight of expropriation processes by the courts, important when the levels of compensation on offer by the state are disputed.

2. *Market power and concentration* is about the increasing role of the private sector in changing the racial complexion of ownership, but without addressing questions of agrarian reform and rural development, resulting in a concentration trend of fewer, larger land owners and producers evident most clearly in the agricultural sector. Land reform is driven by partnerships between private sector organisations and beneficiaries.

3. *Occupation and confiscation* is the story about the deepening of hardship and hunger, which creates impetus for the emergence of landless people's movements. Land reform is driven from below by the landless through illegal invasion and occupation. The inevitability of their actions is later recognised through legal confiscation.

4. *Hard bargaining and compromise* is a story about pragmatic and inclusive policies, which allow for the accommodation of multiple needs and interests, with a pro-poor orientation. Land reform is driven by considered regulation via a combination of both carrot and stick policies, primarily oriented to benefit the poor.

THE LAND HEARINGS

A CASE STUDY

BAFANA NZIMANDE

Domestic worker *Margaret Nsimbi* arranged with her employer to give her a day off so she could join the multitudes who attended hearings on the proposed amendment of Section 25 of the constitution.

The hearings were recently held at the Pietermaritzburg Hall in KwaZulu-Natal. Nsimbi was one of many who called on government to make changes to the constitution to allow for land expropriation without compensation.

The 56-year-old firmly believes that the ground she walks on was violently stolen from her great-grandfathers, and therefore it must be reclaimed.

Both men and women deserve to own land...

She believes land reform will help restore her dignity, a critical submission made by many black people supporting the amendment of the constitution. But Nsimbi's plea differs slightly from those made by the black majority in KwaZulu-Natal. Nsimbi says land expropriation must also target land under the custodianship of traditional leaders to ensure that both genders get an equal share of the ground if the proposed amendment goes through. "Traditional leaders discriminate against women. They don't want us to own the land. Government must take all the land and redistribute it fairly amongst us," said Nsimbi. "Both men and women deserve to own land but many traditional leaders behave as if land is only reserved for their male friends and family. This must stop. The land belongs to all of us."

Nsimbi became emotional when she

spoke about her late husband, who she says was the family breadwinner. She held back tears as she explained how she had to move from Mkhondeni because her home was destroyed. She feels her property wouldn't have been demolished if her husband were alive. Homes without strong males are easily targeted, she believes.

According to her, two years ago she managed to upgrade her single shack into a brick structure but "people were sent to destroy the house by the chief because I am a woman. Women are not allowed to own land in our area".

Now the single parent occasionally resides with her employer in Scottville. On her days off she goes back to relatives who have to periodically make space for

Many women, government structures and organisations are well aware of the loud voice from black women who say they also deserve to be land owners.

The Pietermaritzburg hearings were packed with hundreds, wearing a variety of political party colours. Police were stationed around the hall and they kept an eye on all the day's activities.

Parliament's Joint Constitutional Review Committee had a tough job on their hands as they had to constantly plead with the audience to practise tolerance and stop distracting those expressing different views.

Those who said the land under traditional leaders must be expropriated, like Nsimbi, were heckled by the rowdy



another head in their overcrowded homes. "There are times I wish I could remain at work, even on my days off, because I don't have a proper place to live. I am thankful to my relatives who always open their doors for me but I would also love to have my own place. Government must give us land," she said.

Nsimbi's case is not an isolated incident.

audience. "I've heard people say we can't farm and South Africa will be like Zimbabwe once we get the land but that is not the truth," said Nsimbi.

"Black people are the ones working at the farms. It's time we have ownership. We want the land for different purposes that will create jobs and restore our dignity as black people."

'THIS WAS YOUR GRANDFATHER'S FARM. I REALLY MISS STAYING HERE.'

SPII STAFFERS TELL US THEIR PERSONAL STORIES AROUND LAND

DELPHINE NGCONGO



Rural poor people are the ones most affected by the land issue; South Africa will have to review the land reform policy, which has to accommodate every one. In some rural places there are tribal authorities that assist the community but they do not have the right to land. Some rural places have a shortage of grazing camps, because land is privately owned, the schools and clinics are far from the people and they must walk long distances to healthcare facilities. Government works in numbers: if a village has a small number of people, they don't build schools and clinics, and this affects poor people a lot, because they must use their grant money to transport kids to school and buy food. If we had land of our own, we could build schools and clinics close to our homes.

In rural areas people survive by ploughing crops that they sell to make a living, but because of not having land, they are forced to buy food.

FORTUNATE MABUZA



There is no codified universal right to land in international human rights law — meaning land rights are not written into international law. This doesn't necessarily mean that a human right to land does not exist. While governments may not be keen to hear that they have legal obligations regarding land, I believe this particular right affects both employed and unemployed youth.

When ordinary people try to occupy land, we see Red Ants security guards kicking people out. In Gauteng especially, there is no land and due to rising living costs, people cannot qualify to buy houses or even land to own as it is so expensive. Land expropriation without compensation should be pursued without destabilising the agricultural sector, without endangering food security in our country and without undermining economic growth and job creation.

ERIQUE DOUWIE



Northern Cape is the biggest province in the country, with more than enough land for its tiny population. Unfortunately, it does not belong to the people who live there. The question that we need to ask is: why is our biggest province with the smallest population struggling in this country we call South Africa when it comes to land? The phrase "expropriation of land without compensation" has become like an anthem nationwide as people want to occupy land, sometimes even foreigners. Government is working on trying to change the constitution to speak directly to the challenges that are currently facing the country, but need to do this through the highest court in the country, which is the Constitutional Court. The land issue is closer to some than it is others, and this is a fact that can't be ignored or challenged. My grandfather used to own a farm in the Northern Cape between Prieska and Douglas. He vacated the land after the baas gave him a few rands that could not even sustain the family for more than a few months. Every time we used to go to Kimberley my grandmother would just point and say: "This was your grandfather's farm and I really miss staying here." When you talk about these things today, you're called racist by those who never experienced racism like the people do in the smaller towns and on farms.



Reclaim the City and Sea Point resident Thozama Adonisi at a picket to #StopTheSale of Tafelberg
Source: Reclaim the City. - <http://reclaimthecity.org.za/our-campaigns/>

WOODSTOCK: A JOURNAL OF DISPOSSESSION

SERGIO BEN

My name is Sergio Henry Ben and I wrote this on the bus home after a few errands in the Cape Town CBD on a Saturday.

Those familiar with Cape Town will know how small the city centre is and how its borders overlap so neatly, it soon becomes seamless and looking for buildings or streets or shops decades old is the only way to know where you are. It was a painful 30-minute ride. I remember it was winter but the sun came out to play early in the afternoon. I often wish it had remained overcast.

A monstrous crime was revealed. An entire civilisation was, and still is, being erased. Caught between dismay and rage, I gave life to a piece entitled 'Woodstock', a paean to the suburb I fell in love with when I was in my 20s, because it offered a freedom absent from my own environment, Kensington. Woodstock held such magnetic allure, offering the safety of being in a space inhabited and visited by like-minded people.

I met artists, other journalists, dancers, writers ... just about anybody "different". This helped me escape my family's suffocating, uppity middle-class attitudes. For a gay man still in the closet, this was pure air.

Woodstock is located about 1km outside the city, between Table Bay and Devil's Peak. It's either up-and-coming or on the decline, depending on where you sit on the social ladder. For some the decline began in the 1600s when the Dutch moved in and the Khoi were pushed out. For many of their descendants that erasure is still happening. In the 19th century Woodstock became the third-largest town in the country, thanks to a railway line that lured businesses and residents to the municipality.

One of Woodstock's many ironies is that the current era of dispossession is taking

place a stone's throw from District Six, where apartheid evictions left a wasteland of memories and communities. Many would say justice is dead, or its spirit is a cold thing, and hope is only for those who have some sort of financial means.

Look to Reclaim the City (RTC) and feel invigorated again. Look, learn and join the fight to free the spirit of justice enslaved to the whims of the wealthy. Find them on Facebook. They are ordinary, everyday people doing extraordinary work.

The following link leads to their latest skirmish with Woodstock landlords.

<https://www.facebook.com/ReclaimCT/videos/1283771825087452/>

An RTC member was recently targeted by her landlord. He broke down the security gate and forced his way into her home and demanded she leave. While she was at Woodstock Police Station, the landlord began dismantling her bathroom. Footage of the bathroom beggars belief. Thankfully, RTC members rallied in support and, armed with knowledge of human rights and the law, they harassed him off the premises. She has laid a charge with the police. If found guilty of the Prevention of Illegal Eviction from and Unlawful Occupation of Land (PIE) Act, the landlord's cruelty will cost him a hefty fine or two years in prison. I live in a deformed reality. Yes, the skies are very blue on sunny days. True, the beaches are spectacular. And yes, Cape Town is a verdant jewel during the winter rains. But JP Smith, bigwig at the City of Cape Town, has authorised the demolition of 25 000 homes in "informal settlements" since the start of the year. "Informal settlements" is just dolled up rubbish. It suggests that people **CHOOSE** to live in squalor.

Watch. Get angry. It's way overdue.

WOODSTOCK

Woodstock. I've always admired you in passing. My business never really took me into the crook of your arm, your nests of gawk and wonder. How I loved your streets. I even ignored the rude winds screaming down your impossible and steep roads. I often just stared at you. At times I frowned. You were a collection of things ... people...

a hodgepodge... a zoo of visfrikkel and tickles and shitty traffic, stry en skel, baptism, janaaza, a dirty train station, that ghastly stretch between Argyle en ... jirre, I forgot again. Miskien Sussex, ja... kan net Sussex wees.

Woodstock, I've always admired you in passing. And now that admiration must stay where it can't hurt anymore, back in nostalgic days when fair was fair and when your heart was deep. Gairo was called Catherine before she met and tied her life to Moenier. Her sister is Lillian. And they can't stop crying. Sometimes they cry in rage and the tears burn their 70-plus skin.

At times they cry in grief and the water offered as desperate sacrifice to hope and justice burns the loss deeper and uglier. But they can't stop crying. It's the only way they can feel. Disinvited from history, herded away from a sense of belonging. Sentenced to suffer the deathless horror of never ever to have any meaning. If Mamma must see them now ... ag, perhaps it's for the best then.

Woodstock, you carried a spice that caused fires of such beautiful hunger and freedom in the stomach. This drug found nowhere else but on your hilly curves and startling loops, in corner cafes run by a Parker or a Patel, over cheap red and white wine shared by argumentative

activists and trade unionists and people who did this and that. Your athaan ... somehow the South-Easter hushes until the faithful far and wide hear your call guiding them to prayer. Palm Sunday processions from St Mary's, God's modest house. The stone unyielding as her beliefs. And so stern is her regard, she looked you straight in the eye when you passed.

Muslim families stand on the stoep to witness determined devotion ... not really understanding but loving your neighbour as you love yourself became precious ritual.

Woodstock, you were a troubled girl touched with a terrible mystique. To linger in your gaze was to sigh in surrender and see where the afternoon's adventure eventually let you rest tired feet. To reside in your allure was to be apart, and happily so. Visiting our mothers jailed in Lavis and Tafelsig and Eersterivier and Rocklands and Bonteheuwel and Heideveld and Kewtown se Blokke ... ma se lippe styf toe. Our airy-fairy liberal, often very un-Islamic and often very un-Christian view of life met with heavy sighs and sharp retorts.

And we'd get a gentle scolding to come back to the Lord or attend mosque more regularly when we leave ... usually with some money and a Shoprite sakkie bulging with groceries. Because of you, troubled girl with the cursed charm.



Bromwell Street Resident Jienen Fleurs addresses protesters at The Old Biscuit Mill on Saturday morning. Photo: Ashraf Hendricks. Source: Groundup - <https://www.groundup.org.za/article/woodstock-residents-occupy-old-biscuit-mill/>

**Sergio Henry Ben is a freelance journalist and editor, based in Observatory, Cape Town, and often clashes with white residents who seem to have forgotten SA had a general election in 1994.*

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SPII *Matters*

UPCOMING EVENTS

LAUNCH OF SPII SOCIO-ECONOMIC RIGHTS PROJECT'S LATEST PUBLICATIONS

SPII are hosting a panel discussion to celebrate the Launch of SPII Socio-Economic Rights Project's latest publications in partnership with the Foundation of Human Rights(FHR). The event will be hosted under the theme 'The Realisation of Socio-Economic Rights in a Time of Austerity'.

Dates: 17 August 2018 | **Place:** Johannesburg

DECENT STANDARD OF LIVING INDEX

This event has been postponed. Please contact advocacy@spii.org.za if you are interested in being kept abreast of developments.

NEW APPOINTMENT - **SACHA KNOX**, researcher.

Sacha has a great deal of experience working within development, civil society, and cultural organisations, as well as NGOs, both nationally and internationally, and has worked with research organisations such as The Human Sciences Research Council (HSRC), and the Africa Institute of South Africa (AISA), amongst others. Sacha holds a Masters Degree in Development Studies through the International Institute of Social Studies (ISS) in The Hague, Netherlands, and is currently undertaking a PhD, part-time, in Critical Diversity Studies. Sacha is firmly committed to the ideals and values of SPII and makes a highly capable and dynamic addition to the SPII team.

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Please contact Fortunate Mabuza at SPII should you wish to have any information about any of the pieces - Email: fortunate@spii.org.za



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