

Property of the People? Black Land buyers' Imaginings of Property Ownership, 1900-1994

by

Tara Mondesi Weinberg

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Doctoral Committee:

Professor Derek Peterson, Chair
Professor Adam Ashforth
Associate Professor Jatin Dua
Professor Deborah James, London School of Economics
Professor Rebecca Scott

Tara Mondesi Weinberg

taramw@umich.edu

ORCID iD: 0000-0002-3163-1169

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Dedication

To my parents, Di Cooper and Jon Weinberg, who set an example for practicing compassion and social change, and who proofread my chapters late at night.

To my granny, Pessa Weinberg, 95, and in memory of my grandpa Leslie Weinberg, my ouma Kitty Cooper and my zeida Hilman Cooper who cultivated my interest in law and my love of stories.

To the residents and land activists of Driefontein, Daggakraal, Mogopa, and beyond, who have fought for a more just world.

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Abstract

Since 1994, the South African government has grappled with a dilemma: how to undo the injustices of the past in a way that builds a more just and equal society. Land is at the heart of inequality in South Africa. Under colonialism and apartheid, the government forcibly removed millions of black people from their land. The African National Congress government's Land Restitution Program aims to restore land to those dispossessed of it. But it has made minimal progress. 'Property of the People' tackles questions at the heart of the land reform impasse: who defines the beneficiaries of land restitution, who defines what property ownership means, and how can a limited government program undo centuries of injustice. My thesis offers a historical account of how, between 1900-1994, black land purchasers in South Africa debated and imagined kinds of property that offered alternatives to the narrow categorizations envisioned by the apartheid state. It has relied on government and university archives, court records, vernacular language newspapers and co-building archives with land claimants, based on oral histories, documents and photographs kept by families, and minutes from women's church group meetings. Through the study of the collective land-holding schemes on three farms in the former Transvaal province — Daggakraal, Driefontein and Mogopa – it offers accounts of land buyers' economic strategies, social bonds and changing philosophies of land ownership, gender and law.

Chapter 1 Introduction

In 2016, at the start of this research project, I interviewed a land restitution claimant, Grace Mashaba, about land and belonging. Mashaba was from Barberton in the Mpumalanga province, where she was part of a group claim for land from which her family had been forcibly removed in 1967.¹ What at first appeared as a simple response to the post-1994 government's request for proof of previous dispossession in order to reclaim land, actually proved illustrative of the competing conceptions of property held by government officials and land claimants. In narrating her land claim, Mashaba went beyond the legal imperative to provide a genealogy of the property. She drew on her experiences organizing in farmworker associations, women's prayer groups and political organizations between 1960 and 1980 to legitimate her claim in terms recognized by official law (state-sanctioned law, such as legislation and courts), living customary law and by other community members.

Grace Mashaba's emphasis on popular recognition, in addition to legal recognition, points to claimants' skepticism of post-1994 legal opportunities, especially because the apartheid government had used official law to dismiss local forms of land tenure. Like other land claimants, Mashaba implies that the law as presently constituted in South Africa, conceived in colonial and apartheid systems aimed at undermining African society and bolstering white

¹ Grace Mashaba, interview by Tara Weinberg, 5 July, 2016, Johannesburg, South Africa. Mashaba sadly passed away in 2021.

authority, continues to suffer from insufficient attention paid to local forms of knowledge and legitimacy.

South African property law entrenches the superior status of individual title deeds as surety for loans and as a signifier of trustworthiness. Although legislation since 1994 has recognized ‘informal’ or ‘customary’ land rights, as well as collective property ownership in the form of Community Trusts and Communal Property Associations, very few government officials or lawyers enforce the protection of these rights. Property law in South Africa is overwhelmingly interpreted as conceiving of land as a material and economic asset, which obscures the political, social and spiritual ways in which people attach belonging to land. During the post-apartheid period, South African law has also buttressed the power of traditional leaders (chiefs) as decision-makers about property. An example is the Traditional Courts Bill of 2022, which many rural land activists argue locks people into the same reserve areas (derogatively called ‘Bantustans’) established during the apartheid period, and does not allow them to opt out of the authority of chiefs. In their support of chiefs, the government has seemingly re-enacted the colonial and apartheid-era binary of individual deeds for white people and communal land under chiefs for black people.

Redressing the immense injustices wrought by centuries of white rule has been a central aim of South Africa’s post-1994 government. Over centuries of white settlement, millions of black people were removed from their land by governments and white settlers, losing their homes, cattle, and various other assets crucial to sustainable living. Many found themselves unable to farm and were forced into wage work, often in cities and mining towns far removed from their families. Displacement thus also disrupted existing social networks, spiritual practices

and forms of authority, adding to the overall economic, social, political and psychological trauma of colonialism and apartheid.

The African National Congress (ANC) government's Land Restitution Program launched in 1994, promised to redress these past injustices by enabling black South Africans to reclaim their land. The government's land reform program has offered up a vision in which the country's land "belongs to all who live in it" – the majority of whom are black South Africans who have been marginalized from access to land.² However, the Land Restitution Program's vision of restoring property to "the people" is a fraught one. For starters, government officials have struggled to cope with the overwhelming volume of Restitution claims, with over 300,000 claims lodged as of 2022. In addition, the Land Restitution Program has been wracked by claims of favoritism. Initially proposed by the government as a means of democratizing land tenure in South Africa, many claimants argue that land reform has benefitted a small number of chiefs and other individuals whose social status has enabled them to claim land on behalf of groups (i.e., tribes, families, etc.), but use land for personal gain. The Land Restitution Program has been marked by a slow, technical and bureaucratic process, as well as a lack of oversight mechanisms to hold Program officials accountable. Uncertainties remain about who should own land that is redistributed and how new owners will develop it.

Nevertheless, lastly, and most crucial for this study, the Restitution Program has opened up new avenues for inhabitants relying on customary and other forms of local knowledge to contest the state's narrow framework of property law. Instead of existing as either private or communal property—a binary system of classifying land in Africa that has been critiqued by

² Constitution of the Republic of South Africa, 1996, Preamble.

legal historians and anthropologists—Restitution claimants’ testimonies reveal the variegated and historically-contingent ways South Africans view land.³

‘Property of the People’ traces this capacious history of land ownership over the course of the twentieth century via the study of black South Africans who bought land as groups. In focusing on land-buying ‘syndicates’ (companies) in South Africa’s former Transvaal province, I investigate how the legacies of previous land struggles impact post-apartheid land claims; what kind of land tenure arrangements black South Africans have developed on the ground; and who defined and now defines property law. One of my key concerns is how black South African landowners have negotiated land as a ‘belonging’ – as property – and also how they have negotiated their ‘sense of belonging’ in the context of a nation state and legal system that has for so long excluded them. In documenting this history of land claims, I argue that black South Africans were active participants in shaping the country’s law, capitalist development and its forms of authority.

³ Sally Falk Moore, *Law as Process: An Anthropological Approach* (London: Routledge & Kegan Paul, 1978); Katherine Verdery, *The Vanishing Hectare: Property and Value in Postsocialist Transylvania* (Ithaca: Cornell University Press, 2003); Tania Li, *Land’s End Capitalist Relations on an Indigenous Frontier* (Durham; London: Duke University Press, 2014).

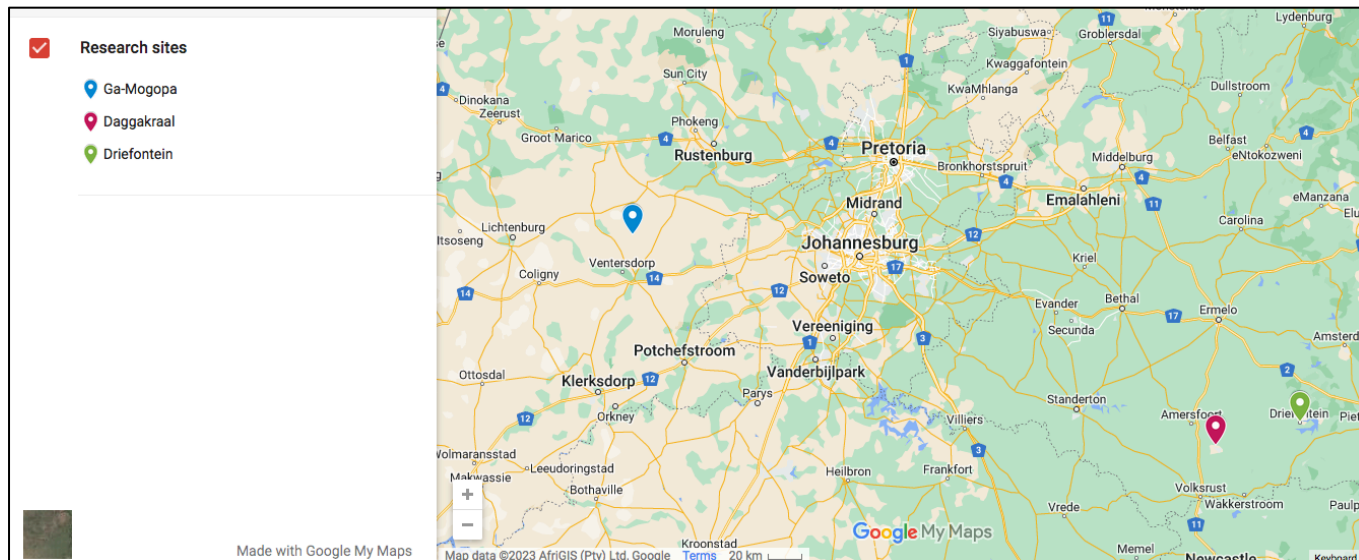


Figure 1: Map of research sites. Source: Google Maps.

I drop into specific moments and situations to examine the political purposes and conceptions of belonging underlying claims to land. I focus particularly on lawyer, businessman and politician Pixley ka Seme’s Native Farmers Association (hereafter, the Association), a land-buying syndicate comprising over 200 families, in order to explore property debates and practices circulating around South Africa. I study how – during two window periods of 1870-1913 and 1980-1994 – land buyers in Daggakraal, Driefontein and Mogopa found fertile grounds for their claims in the language of litigation. In the early twentieth century, black lawyers, intellectuals and farmers saw a platform for political liberation in land purchase and agricultural entrepreneurship. When they formed syndicates, land purchasers brought with them pre-existing social relations forged as mission-educated agriculturalists in Natal, sharecroppers in the Free State and labour tenants in the Transvaal. These credit practices enabled land buyers to imagine and sometimes implement a politics of collective land ownership.

In contrast, between 1913 and 1990, law formed the backbone of a segregated property and credit system. In this context, black South Africans often acquired land and credit via social

recognition outside the realm of formal property law, including via petitions for farming support (1920-1960), women's church groups (1970-1990) and struggles against forced removals (1980-1996). In the 1990s, black South Africans again found space within official law to imagine property collectives that offered an alternative to holding land under the control of chiefs.

This argument matters for several reasons. Neither legislation, such as the Land Restitution Act, nor redistribution of land alone can solve the South African land question. Implementing a viable land reform program benefits from turning, also, to traditions of political and economic thought on property and alternative land tenure practices. By tracing the history of collective property ownership between 1900 and 1994, 'Property of the People' offers a historical perspective on some of South Africa's current land reform problems. It explains how and why land claimants like Grace Mashaba have engaged in multiple strategies simultaneously, including those pursued inside and beyond the courts, to contest or affirm dominant expressions of property and authority. The testimonies of land claimants imply that the post-1994 land reform program would benefit from directing its resources towards the varied needs of land claimants, over its fealty to the narrow formulations of South African property law or to political elites such as chiefs. While it is not possible to draw a straight line between past ways of managing land and solutions to South Africa's post-1994 land reform impasse, E.P. Thompson reminds us that "a reminder of its [past economic and social relations] alternative needs, expectations and codes may renew our sense of our nature's range of possibilities."⁴

In both the apartheid and post-apartheid periods, chiefs (often with government support) have undermined collective forms of property ownership that do not enshrine them as the owners

⁴ Edward Palmer Thompson, *Customs in Common* (London: Merlin Books, 1991), 15.

of land.⁵ In media debates, policy circles, legislative chambers and court cases, chiefs have argued that Communal Property Associations and Community Trusts, for example, are illegitimate owners of property because they are not ‘customary.’ In ‘Property of the People’, I demonstrate that collective land holding entities are not just creatures of the post-1994 dispensation, nor were they merely imposed from above by government officials, lawyers and NGOs. The history of black South Africans who purchased and managed land as groups offers evidence of ideas, practices and customs about collective land ownership, without the control of chiefs. By examining the forms of land tenure that black South Africans developed as alternatives to the limited options available to them within the official legal system, ‘Property of the People’ nuances existing understandings of land claims and the law in South Africa, and opens new lines of inquiry into the processes of authority and community-making in the twentieth century.⁶

Attempts by South African land purchasers in the early twentieth century, and by land claimants in the late twentieth century, to translate local tenure systems into official law offers a particularly fruitful avenue for addressing the possibilities and limits of using the law to resolve problems of economic and racial inequality. Scholars, activists, and residents have rightly criticized South Africa’s post-1994 Land Restitution Program for failing to live up to the promise of a just and equitable property system. Few, however, have taken the next step of analyzing how

⁵ Sonwabile Mnwana and Gavin Capps, “‘No Chief Ever Bought a Piece of Land!’ Struggles over Property, Community and Mining in the Bakgatla-Ba-Kgafela Traditional Authority Area, North West Province,” Working Paper 3, Society, Work and Development Institute, University of the Witwatersrand, March 2015.

⁶ Moore, *Law as Process*; Verdery, *The Vanishing Hectare*; Aninka Claassens and Ben Cousins, eds., *Land, Power, and Custom: Controversies Generated by South Africa’s Communal Land Rights Act* (Athens, OH: Ohio University Press, 2008); Thomas Sikor and Christian Lund, “Access and Property: A Question of Power and Authority,” *Development and Change* 40, no. 1 (January 1, 2009): 1–22; Li, *Land’s End Capitalist Relations on an Indigenous Frontier*.

the process of claiming land reflects and contributes to the formation of new subjectivities. Law, in this sense, has effects beyond its role as a strategic tool. People's engagement with the law often has unintended consequences, including transforming the ways in which people understand themselves legally, politically, and morally.⁷ In the process of asserting land claims, South Africans have made and remade their communities, their laws and their relationship to the broader capitalist world. They have refigured not only their relationship to their land as belongings, but also their sense of belonging to land.

1.1 Land and race in South African historiography

1.1.1 The relationship between land dispossession and labor

The subject of land has animated debates both within and beyond South African academia. Historians have focused particularly on how land became a key arena in which a white minority established political and economy hegemony over South Africa's black majority. By the nineteenth century, wars of conquest had made African polities largely subject to colonial rule. British and Boer governments were in place across what is now South Africa. Settler histories of the nineteenth century, both British and Afrikaner, argued that European arrivals grafted innate qualities of industriousness, commercial aptitude and moral superiority onto South African conditions. In the view of most British colonial officials, such qualities called for a system of individual property that recognized how settlers had mixed their labor with the land.

⁷ Sally Engle Merry, *Colonizing Hawai'i: The Cultural Power of Law* (Princeton University Press, 2000); Derek R. Peterson, *Ethnic Patriotism and the East African Revival: A History of Dissent, C.1935-1972* (Cambridge University Press, 2012).

Meanwhile, settler histories portrayed African societies as static, traditional, and unproductive in their farming methods.

An example of settler histories of this kind is the *History of South Africa 1873-1884* (1919), in which G.M. Theal attempts to justify the British conquest of Xhosa-speakers' lands in the Cape, writing that the "inherent weakness" of Xhosa polities' "tribal government would cause them to disappear in the presence of a civilized power."⁸ Theal's eugenicist racial arguments formed one of many sources of authority for the segregationist and apartheid eras in the twentieth century.⁹ Settler histories in this vein are illustrative of what Karuna Mantena has called "alibis of empire" – in which colonial jurists like Henry Maine advocated the protection of African and South-Asian "customary traditions" as an "alibi" for the denial of property rights to colonial subjects.¹⁰

It was against this tradition of settler historiography that a "liberal" school of South African history emerged in the middle of the twentieth century. In contrast to settler histories, liberal scholars sought to include the stories and perspectives of black South Africans. The question motivating liberals was why anti-black racism had become the dominant feature of South African life. Liberal historians argued that the roots of white supremacy and racial land segregation could be located in successive "frontier" encounters between *trekboers* (descendants of Dutch settlers) and local inhabitants. In these frontier zones, *trekboers* met local inhabitants,

⁸ George McCall Theal, *History of South Africa from 1873 to 1884* (London: G. Allen & Unwin Ltd, 1919), 146.

⁹ Saul Dubow, *South Africa: Paradoxes in the Place of Race*, ed. Alison Bashford and Philippa Levine, vol. 1 (Oxford University Press, 2012); Sam Naidu, "Three Tales of Theal: Biography, History and Ethnography on the Eastern Frontier," *English in Africa* 39, no. 2 (2012): 51–68.

¹⁰ Karuna Mantena, *Alibis of Empire: Henry Maine and the Ends of Liberal Imperialism* (Princeton, N.J.: Princeton University Press, 2010).

and eschewed the possibility of cross-racial cooperation and economic upliftment of black people for the imposition of racially based acquisition of resources and labor. Liberal historians argued this pattern of segregation was interrupted by British colonization of South Africa in the late nineteenth century, where black people could buy property and participate in a qualified franchise. Monica Wilson, for example, highlights the work of late nineteenth-century mission stations, arguing that they sought to ease black people into a capitalist economy.¹¹ The implication was that Africans were on their way to becoming equal and accomplished participants in an industrializing South African economy until ideas about racial segregation began to win out—culminating in the election of the National Party in 1948.¹²

Liberal white scholars built upon (but rarely explicitly acknowledged) existing work by black liberals of the early twentieth century, including Sol Plaatje. In his novel *Mhudi*, Plaatje imagines a time on a Boer-Tswana frontier zone, before formal segregation, when an alternative future seemed possible.¹³ In this alternative future, black and white people would negotiate the way forward, and the 1913 Land Act would not be passed. Plaatje appealed to a universal humanism, arguing for black people’s access to citizenship and the capitalist economy on an equal footing with whites.¹⁴

¹¹ Monica Wilson, “The Growth of Peasant Communities,” in *The Oxford History of South Africa*, ed. Monica Wilson and Leonard L. Thompson, vol. 2 (Oxford: Oxford University Press, 1969), 49–101.

¹² Houghton, Hobart, “Economic Development, 1865-1965,” in *The Oxford History of South Africa*, ed. Monica Wilson and Leonard L. Thompson, vol. 2 (Oxford: Oxford University Press, 1969), 1–32.

¹³ Sol T. Plaatje, *Mhudi*, Modern Classics (Johannesburg: Penguin, 2005). Originally published in 1930.

¹⁴ Keith Breckenridge, “African Progressivism, Land and Law: Re-Reading Native Life in South Africa,” in *Sol Plaatje’s Native Life in South Africa: Past and Present*, ed. Brian Willan, Janet Remington, and Bhekizizwe Peterson (Johannesburg: Wits University Press, 2016); Jacob Dlamini, “Land and Belonging: On the Tomb Ya Ga Solomon Plaatje,” in *Sol Plaatje’s Native Life in South Africa: Past and Present*, ed. Brian Willan, Janet Remington, and Bhekizizwe Peterson (Johannesburg: Wits University Press, 2016).

Like the liberals, radical scholars were strongly influenced by the political milieu in which they were writing. South African historians had been radicalized by the apartheid government's repression of 1970s, as well as by the uprisings in Sharpeville in 1960 and Soweto in 1976. In identifying the rise of racial land segregation, materialist or Marxist historians of the 1970s and 80s attacked the liberal tradition of historiography. They argued that the growth of white supremacy and capitalism in South Africa was inextricably linked. Through a rich corpus of work on rural agrarian history, migrant labor and mining, these historians aimed to show that South African racism emerged with the arrival of British imperialism and the absorption of African societies into capitalist, industrialist modes of production (1850–1920).

Marxist historians made a key intervention by exposing the violence of colonialist and apartheid segregation measures, and identifying African resistance. One of the political implications of their work was that land segregation and inequality could be undone only if capitalism and racism were eliminated together. This approach continues to hold relevance in contemporary South African history and politics. One of the reasons for its longevity is the implication that if colonists could construct systems of segregation and white supremacy, then these systems could also be dismantled. For radical historians in South Africa, the potential for change could be kindled within the praxis of analyzing racial capitalism.

Cherryl Walker points out that by the time that radical historians were writing in the 1970s, South Africa's economic activity was skewed away from rural areas and toward urban industries (by the 1950s, manufacturing made up 23 percent of activity and the service sector 48 percent).¹⁵ Agriculture and mining, the mainstays of the economy (22 percent and 27 percent) at

¹⁵ Cherryl Walker, "The Land Question in South Africa: 1913 and Beyond," in *Oxford Research Encyclopedia of African History*, by Cherryl Walker (Oxford University Press, 2017); Wilson, "The Growth of Peasant Communities."

the start of the twentieth century, were down to 16 percent and 11 percent respectively. While the labor demands of mines and farms may have fallen, white-owned manufacturing and service enterprises still sought out favorable conditions to procure the labor of black workers. The demand for more workers in urban areas also led to heightened white paranoia over racial mixing and more stringent urban segregation measures. This context set the scene for Harold Wolpe and Martin Legassick's then radical arguments regarding a set of conditions specific to apartheid: the codependent relationship between the reserves and urban areas, the exploitation of migrant workers, the enrichment of white capital, and the segregation of the country into race zones.

Legassick argues that the segregation of South Africa into small reserves for black people and large swathes of good land in rural and urban areas for whites served the demands of mining and manufacturing under colonial and apartheid rule alike for cheap black labor.¹⁶ Wolpe argues that the 1913 Land Act and the 1936 Natives Trust and Land Act were passed so that the government could shore up the reserves as a labor pool in order to supply black workers to the mines.¹⁷ The Acts made it illegal for black people to own land outside of the reserves, and also prohibited the practice of labor tenancy. By the 1940s, mineworkers could not survive off the combination of their wages and small-scale farming in the reserves. This led to rapid urbanization as thousands of black South Africans moved to towns and cities in search of work that would sustain them. After the apartheid government came to power in 1948, it implemented further coercive measures (forced removals, pass laws, etc.) in an effort to keep black people in the reserves and tightly regulate their presence in urban areas.

¹⁶ Martin Legassick, "Legislation, Ideology and Economy in Post-1948 South Africa," *Journal of Southern African Studies* 1, no. 1 (1974): 5-35.

¹⁷ Harold Wolpe, "Capitalism and Cheap Labour-Power in South Africa: From Segregation to Apartheid," *Economy and Society* 1, no. 4 (1972): 425-56.

After Wolpe's interventions in 1972, a second generation of materialist historians of land segregation offered qualifications and critiques. Peter Delius and William Beinart argue that it is teleological to view the 1913 and 1936 Land Acts as mere precursors to segregation under apartheid.¹⁸ Adam Ashforth also challenges the teleological and monolithic way in which materialist scholars often described the South African nation state. He argues that successive commissions of inquiry illuminate how government officials sought, in an uneven way, to "unify systems of 'Native Administration' and solve problems of land, labor, and legitimation which were called the 'Native Question.'"¹⁹ Government officials' attempts to legitimize their racial governance project relied upon 'fact finding' commissions that shaped territorial segregation. Feminist historians, including Helen Bradford, Belinda Bozzoli, Mmantho Nkotsoe and Anne Mager, point out that Wolpe's argument obscures the role that black women's labor played in enabling the reproduction of the migrant labor system and the reserves / Bantustans.²⁰ Other scholars, including Laura Phillips, Shireen Ally, and Sekiba Lekgoathi, have also challenged Wolpe's top-down argument that the Bantustans were breeding grounds for those complicit with the apartheid state.²¹ In other words, land dispossession, segregation and legislation did not play out in precisely the way government officials intended.

¹⁸ William Beinart and Peter Delius, "The Historical Context and Legacy of the Natives Land Act of 1913," *Journal of Southern African Studies* 40, no. 4 (July 4, 2014): 667–88.

¹⁹ Adam Ashforth, "Lineaments of the Political Geography of State Formation in Twentieth-Century South Africa," *Journal of Historical Sociology* 10, no. 2 (1997), 102.

²⁰ Helen Bradford, "Women, Gender and Colonialism: Rethinking the History of the British Cape Colony and Its Frontier Zones, C. 1806-70," *The Journal of African History* 37, no. 3 (1996): 351–70; Belinda Bozzoli and Mmantho Nkotsoe, *Women of Phokeng: Consciousness, Life Strategy and Migrancy in South Africa, 1900-83* (Portsmouth, NH: James Currey, 1998); Anne Kelk Mager, *Gender and the Making of a South African Bantustan: A Social History of the Ciskei, 1945-1959* (Portsmouth, NH: Heinemann, 1999).

²¹ Laura Phillips, "History of South Africa's Bantustans," in *Oxford Research Encyclopedia of African History* (Oxford University Press, 2017); Shireen A. Ally and Arianna Lissoni, *New Histories of South Africa's Apartheid-Era Bantustans* (London; New York: Routledge, Taylor & Francis Group, 2017); Sekibakiba Peter Lekgoathi,

Colin Bundy's famous thesis on the rise and fall of the African peasantry in the Cape province offers an example of how some black farmers adapted very well to the advent of a capitalist economy. In the 1870s black land purchasers and peasant farmers formed associations to share ideas about farming and protect themselves as black entrepreneurs.²² In the Natal province, Norman Etherington documents the success of black sugarcane farmers, while Paul la Hausse explains the rapid growth of land purchasing, black owned agricultural cooperatives and saving societies aligned to elements of Zulu ethnic identity and to independent black churches in the 1890s.²³ Although African peasants initially adapted well to the incursion of European market forces (and a burgeoning economy), historians have argued the discovery of minerals in the 1870s marked the beginning of the African peasantry's decline.

However, in the Transvaal province where 'Property of the People' is focused, historians have suggested that a burgeoning class of medium-scale black farmers survived longer (or started later) than in the Cape and Natal. With the initial growth of the maize market between the 1860s and 1900, Boer and English-speaking 'Rand' farmers with access to credit, capital and joint stock companies were able to benefit most by farming on a large scale. Small-scale black farmers also profited from access to markets offered by the expanding capitalist economy.²⁴

"Ethnic Separatism or Cultural Preservation? Ndebele Radio under Apartheid, 1983-1994," *South African Historical Journal* 64, no. 1 (March 1, 2012): 59-80.

²² Colin Bundy, *Rise and Fall of the South African Peasantry*, 2nd edition (Cape Town: James Currey, 1988); Stefan Schirmer, "Re-Thinking Agricultural Development in South Africa: Black Commercial Farmers in the Nineteenth and Twentieth Centuries," *African Historical Review* 47, no. 1 (January 2, 2015): 48-75; Farieda Khan, *Rewriting South Africa's Conservation History - the Role of the Native Farmers Association* 4, vol. 20, 1994.

²³ Norman Etherington, "African Economic Experiments in Colonial Natal 1845-1880," *African Economic History*, no. 5 (1978): 1-15; Paul La Hausse, *Restless Identities: Signatures of Nationalism, Zulu Ethnicity, and History in the Lives of Petros Lamula (c. 1881-1948) and Lymon Maling (1889-c. 1936)* (University of Natal Press, 2000), 478.

²⁴ Faceza Ballim, "The Pre-History of South African 'Neo-Liberalism': The Rise and Fall of Co-Operative Farming on the Highveld," *Journal of Southern African Studies* 41, no. 6 (November 2, 2015): 1239-54.

Stefan Schirmer argues that some black farmers in the Transvaal could be defined as commercial, given that their practices were “based on modern forms of capital accumulation – i.e., expansion of capital, ability to make a profit and turn that profit back into capital.”²⁵

An important subset of the Marxist tradition of South African history was the ‘invention of tradition’ school. Scholars in this tradition argued that law formed the backbone of a segregated property system. Martin Chanock argues that the colonial and apartheid governments invented and solidified forms of customary land law that supported the despotic power of chiefs. Chanock points to the construction of the idea of an African tradition of “communal land tenure,” which conveniently allowed colonialists to suggest that because Africans had no conception of private property, they could be stripped of their land and confined to communal reserves, where they would be ruled by chiefs on behalf of the government.²⁶ Drawing on Terrence Ranger’s arguments about the concomitant invention of both European and African traditions, Chanock suggests that South African common law for white people developed in contradistinction to customary law for black people. While colonialists developed an ideology of European law in which private property was made superior, they froze African land tenure “in an imagined past.”²⁷ Hence, Chanock writes, a “customary veil has been drawn over national confiscation of rights.”²⁸

²⁵ Schirmer, “Re-Thinking Agricultural Development in South Africa.”, 51.

²⁶ Martin Chanock, “Paradigms, Policies, and Property: A Review of the Customary Law of Land Tenure,” in *Law in Colonial Africa*, ed. Kristin Mann and Richard Roberts, Social History of Africa (Portsmouth, NH: London: Heinemann Educational Books; James Currey, 1991).

²⁷ *Ibid*, 22.

²⁸ *Ibid*, 26.

Mahmood Mamdani expands on Chanock's argument to explain the role of chiefs in apartheid South Africa. He argues that the apartheid state created a bifurcated legal system, with common law for "modern" citizens (white settlers) on one hand, and "as many customary laws as there were said to be tribes" for "ethnic" subjects (black people), on the other.²⁹ During the colonial and Union regimes, governments in South Africa made chiefs presiding officers in customary courts and gave them the power to exercise force to carry out administrative functions such as tax collection or labor recruitment. This process was continued under apartheid, when chiefs were put on the government payroll. By making them answerable to the state, Mamdani argues, white administrators cut chiefs loose from the social networks of accountability that had kept a check on their authority in precolonial times.³⁰ This form of indirect rule, in which the government aimed to "rule natives through their own institutions" such as chiefs, Mamdani calls "decentralized despotism."³¹ While he acknowledges that customary land law was not entirely invented by colonial regimes, Mamdani argues that the "terms of contestation and institutional framework were heavily skewed in favor of state appointed customary authorities."³² Both Mamdani's and Chanock's work foregrounded the legacy of violence and inequality embedded in colonial legal engineering of land segregation. Their work emphasizes that although categories were invented, they had very real effects on people's lives.

²⁹ Mahmood Mamdani, *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism* (Princeton, N.J.: Princeton University Press, 1996), 122

³⁰ Ibid, 48; 122.

³¹ Ibid, 25.

³² Ibid, 22.

1.1.2 New directions in the South African historiography of land

The advent of democracy in 1994 and the dismantling of the political system of apartheid brought with it a new set of uncertainties about the practice of history – including its purpose, its relevance and its future. During the post-apartheid period, scholars have often focused on issues of complicity, ambiguity and uncertainty. They have responded to the work of liberal and radical historians, whom they argue reproduced epistemic binaries between colonized and colonizer, hegemony and agency, precolonial and colonial law, communal African land and individual European titles. In this schema, resistance and domination become stand-ins for the more complex ways in which colonial regimes and Africans have negotiated authority.³³ Within these narratives, there is little space for other stories of political imagination, like the forms of property black land purchasers debated, which I document in this dissertation. As Partha Chatterjee has argued, “if the rest of the world have to choose their imagined community from certain modular forms already made available to them by Europe and the West, what do they have left to imagine?”³⁴

Radical historians often sidelined black intellectuals, seeing them as members of an elite whose written petitions and political positions shared little with the mass of black South Africans.³⁵ They dismissed the arguments of Seme and his ilk as illustrative also of “false

³³ Frederick Cooper, “Conflict and Connection: Rethinking Colonial African History,” *The American Historical Review* 99, no. 5 (December 1994), 1532.

³⁴ Partha Chatterjee, “Whose Imagined Community?,” in *Mapping the Nation*, by Benedict Balakrishnan (Verso, 1996), 216.

³⁵ Breckenridge, “African Progressivism, Land and Law: Re-Reading Native Life in South Africa”; Arianna Lissoni, Noor Nieftagodien, and Shireen Ally, “Introduction: ‘Life after Thirty’ – A Critical Celebration,” *African Studies* 69, no. 1 (April 1, 2010): 1–12; Daniel R. Magaziner, *The Law and the Prophets: Black Consciousness in South Africa, 1968-1977* (Athens: Johannesburg: Ohio University Press, 2010).

consciousness.” Recent work on black intellectuals has produced some important insights that rebut this grand narrative in South African historiography. They have taken our understandings of land and segregation in a different direction from the classic historiography. They explore how black South Africans navigated, worked with, or subverted land-segregation measures in a way that was neither complicit nor necessarily resistant. Historians have also challenged the categories of landownership in a segregated South Africa: communal land, private property, quitrent tenure, land in trust, chiefs’ land, and Crown land. These legal categories fail to capture and indeed often obscure how black South Africans conceptualized, managed, and regulated land on the ground.

A recent political biography trend in South African history has foregrounded the importance of certain black politicians and intellectuals to the country’s political imaginaries and to the shaping of its laws. As Khwezi Mkhize points out, taking up the pen did not always preclude wielding the sword.³⁶ Catherine Burns, Clifton Crais, Isabel Hofmeyr, Paul Landau, Daniel Magaziner, Athambile Masola and Khumisho Moguerane, through their writing, have traced the history of how Africans – including women – have made and remade conceptions of belonging and political community through writing.³⁷ Clifton Crais argues that colonialism

³⁶ Khwezi Mkhize, “Citashe’s Apostrophe — ‘Zimkile! Mfo Wohlanga’: The Unfinished ‘Preface’ to an African Modernity,” *The Journal of Commonwealth Literature* 43, no. 1 (March 2008): 97–114.

³⁷ Catherine Burns, “Louisa Mvemve: A Woman’s Advice to the Public on the Cure of Various Diseases,” *Kronos*, no. 23 (1996): 108–34; Clifton C. Crais, *The Making of the Colonial Order: White Supremacy and Black Resistance in the Eastern Cape, 1770-1865* (Johannesburg: Wits University Press, 1992); Isabel Hofmeyr, *We Spend Our Years as a Tale That Is Told: Oral Storytelling, Literacy and Historical Narratives in the Changing Context of a Transvaal Chiefdom* (Portsmouth, N.H. : Johannesburg : London: James Currey, 1994); Paul S. Landau, *Popular Politics in the History of South Africa, 1400-1948* (New York: Cambridge University Press, 2013); Magaziner, *The Law and the Prophets*; Athambile Masola, “Abantu Besizwe: Historical and Biographical Writings, 1902–1944,” *English Academy Review* 28 (May 1, 2011): 102–4; Khumisho Ditebogo Moguerane, “A History of the Molemas, African Notables in South Africa, 1880s to 1920s” (PhD diss., Oxford University, 2014), <https://ora.ox.ac.uk/objects/uuid:be5284ad-37a1-4725-9a18-32f6746766b7>.

produced not only class and race divisions but also “structures of thought” such as notions of bounded languages and communities, which became inscribed in the everyday habits of Eastern Cape residents.³⁸ Khumisho Moguerane uses the archives of the Barolong chieftaincy, under the control of Silas Molema, to examine the relationships between black land buyers and their white tenants between 1885 and 1913.³⁹ She argues that “black landlordism subverted norms of white supremacy in the northern hinterlands, undermining the very ‘white’ consensus that ended the South African War (1899–1902).”⁴⁰

Biographies of Pixley ka Seme by Bongani Ngqulunga, John Dube by Heather Hughes, D.D.T. Jabavu by Catherine Higgs, Selby Msimang by Sibongiseni Mkhize, Sol Plaatje by Brian Willan, Steve Biko by Xolela Mangcu, as well as a volume on black lawyers by Tembeka Ngcukaitobi have paved the way for understanding major figures in South African liberation movements as complex and imperfect.⁴¹ Ngqulunga’s biography of Seme in particular has set the groundwork for my examination of Seme’s ambiguous position as a political leader – one whose

³⁸ Clifton C. Crais, *The Making of the Colonial Order: White Supremacy and Black Resistance in the Eastern Cape, 1770-1865* (Johannesburg: Wits University Press, 1992), 3; 12.

³⁹ Khumisho Moguerane, “Black Landlords, Their Tenants, and the Natives Land Act of 1913,” *Journal of Southern African Studies* 42, no. 2 (March 3, 2016): 243–66.

⁴⁰ Moguerane, “Black Landlords”, 246.

⁴¹ Bongani Ngqulunga, *The Man Who Founded the ANC: A Biography of Pixley Ka Isaka Seme* (Cape Town: Penguin Random House South Africa, 2017); Heather Hughes, *First President: A Life of John Dube, Founding President of the ANC* (Jacana Media, 2011); Catherine Higgs and Catherine Higgs, *The Ghost of Equality: The Public Lives of D.D.T. Jabavu of South Africa, 1885-1959* (Athens: Ohio University Press, 1997); Sibongiseni M. Mkhize, *A Political Biography of Selby Msimang: Principle and Pragmatism in the Liberation Struggle* (BestRed, 2019); Brian Willan, *Sol Plaatje, South African Nationalist, 1876-1932* (London: Heinemann, 1984); Xolela Mangcu, *Biko: A Life* (London: I.B.Tauris, 2014); Tembeka Ngcukaitobi, *The Land Is Ours: Black Lawyers and the Birth of Constitutionalism in South Africa* (Penguin, 2018).

legacy is marked by a mix of celebrated political and legal innovations, and exploitation of black South African land buyers and legal clients.⁴²

Historians have paid particular attention to historical actors who occupy posts that structurally position them as “cross-cultural brokers” between European colonial administrators and Africans.⁴³ This includes black lawyers, court interpreters, clerks or translators, who occupied liminal spaces in the schema of colonial power. They had the skills, resources and social capital to manipulate and sometimes transcend the roles that colonial administrators had designated for them.⁴⁴ These figures, like African township policemen in Jacob Dlamini’s *Native Nostalgia*, engaged in activities that brought them into conflict with institutions and individuals of authority that existed alongside, but were not (fully) part of colonial state apparatus. Like chiefs favored by systems of indirect rule, African intermediaries played a key role in shaping colonial legal orders.

In addition to political imagination, a key debate about land, race and the law in South African history has centered around gender. Helen Bradford argues that the liberal and Marxist historiography of the 1970s and 80s frequently “collapsed gender into those of class exploitation and national oppression.”⁴⁵ For example, in drawing attention to the constructed nature of

⁴² Ngqulunga, *The Man Who Founded the ANC*.

⁴³ Benjamin N. Lawrance, Emily Lynn Osborn, and Richard L. Roberts, eds., *Intermediaries, Interpreters, and Clerks: African Employees in the Making of Colonial Africa* (Madison, Wis: University of Wisconsin Press, 2006), 3.

Benjamin N. Lawrance, Emily Lynn Osborn, and Richard L. Roberts, *Intermediaries, Interpreters, and Clerks*:

⁴⁴ Ibid; Moses E. Ochonu, *Colonialism by Proxy: Hausa Imperial Agents and Middle Belt Consciousness in Nigeria* (Bloomington: Indiana University Press, 2014).

⁴⁵ Helen Bradford, “‘We Are Now the Men’: Women’s Beer Hall Protests in the Natal Countryside, 1929,” in *Class, Community and Conflict: South African Perspectives*, ed. Belinda Bozzoli (Johannesburg: Ravan Press, 1987), 292–323.

customary law, Chanock argues that colonialists entered into alliances with African men to cement forms of patriarchy and masculinity, and to implement legal codes that marginalized women.⁴⁶ While this may be true, Nafisa Essop Sheik and Liz Thornberry warn that “African men were far from a monolithic category.”⁴⁷ They tell stories of women whose actions in courts of law do not fall easily into the categories of either “victim” or “rebel.”⁴⁸ Writing on black women intellectuals, Athambile Masola, Makhozasana Xaba and Joel Cabrita argue that while these women were “elite” in the sense of being more educated than other black women, they were always still in precarious economic and social positions.⁴⁹ As anthropologist Nosipho Mngomezulu puts it, intellectuals like Regina Twala who owned property and were university educated were both the “exception and the rule.”⁵⁰ This scholarship has set the groundwork for examining the key roles that women have played in owning, managing and conceptualizing property law and land ownership.

⁴⁶ See also Helen Callaway, *Gender, Culture, and Empire: European Women in Colonial Nigeria* (Urbana: University of Illinois Press, 1987).

⁴⁷ Elizabeth Thornberry, “Virginity Testing, History, and the Nostalgia For Custom in Contemporary South Africa,” *African Studies Review* 58, no. 3 (December 2015): 133; Nafisa Essop Sheik, “African Marriage Regulation and the Remaking of Gendered Authority in Colonial Natal, 1843–1875,” *African Studies Review* 57, no. 02 (September 2014): 73–92.

⁴⁸ Brett Lindsay Shadle, *“Girl Cases”: Marriage and Colonialism in Gusiiland, Kenya, 1890-1970* (Portsmouth, NH: Heinemann, 2006), xxvii.

⁴⁹ Athambile Masola and Makhosazana Xaba, *Noni Jabavu: A Stranger at Home* (Cape Town: Tafelberg, 2023); Joel Cabrita, *Written Out: The Silencing of Regina Gelana Twala* (Athens, OH: Ohio University Press, 2023).

⁵⁰ Nosipho Mngomezulu and Joel Cabrita, “Remembering Regina Gelana Twala,” Pen South Africa: The Empty Chair, Season 7, accessed March 9, 2023, <https://pensouthafrica.co.za/s7e2-remembering-regina-gelana-twala/>.

1.2 Legal history and anthropology as a foundation for the study of property

The phenomenon of law seems to defy one simple description: is it a set of fixed rules, or cultural norms, or flexible processes, or maneuverable procedures, or a collection of social practices, or pronouncements made by a dominant authority institution (e.g., the sovereign, the king, the chief/s, the legislature, the elders)? The elusiveness of law has implications for how we study it: in legal codes, or in cultural traditions, or in courts (and then, which kind?), or in disputes, or in everyday practices. In ‘Property of the People’, my understanding of the law owes allegiance to earlier scholarship, which interprets law as not only government mandated laws but also customary laws, as well as changing norms and practices that form part of what Pierre Bourdieu calls “habitus.”⁵¹

Since the 1970s, legal historians and anthropologists of Africa have debated what the possibilities and limits are, of reconstructing everyday lives, political thought and battles over power through court cases. In the U.S. academy, scholars were responding to the legal history tradition established by William Hurst in the middle of the twentieth century (the ‘Wisconsin School’). Michael Grossberg argues that scholars were challenging the Wisconsin school’s emphasis on a “historically coherent view of law as a rational instrument that could be seized by a dominant middle class to achieve consensual economic goals.”⁵² The influence of critical race studies, literary analysis, feminist theory and cultural anthropology led scholars to argue that the Wisconsin school had missed the key point that law legitimizes power and wealth, operating as

⁵¹ Pierre Bourdieu, “The Force of Law: Toward a Sociology of the Juridical Field,” *The Hastings Law Journal* 38 (1977): 805-853.

⁵² Michael Grossberg, “Legal History and Social Science: Friedman’s ‘History of American Law,’ the Second Time Around,” ed. Lawrence M. Friedman, *Law & Social Inquiry* 13, no. 2 (1988): 366.

politics by other means.⁵³ Scholars also pointed out that the functionalist work of the Hurst school obscured the ways in which law has lives of its own.

By the time that U.S. based scholars Richard Roberts and Kristin Mann published their seminal African legal history volume, *Law in Colonial Africa* (1991), scholars were studying the law to write social histories of power, inequality and contestation.⁵⁴ From Hurst, they took on an emphasis on the rationality of historical subjects. But they also focused on law as a social and political phenomenon – an arena of struggle, in which battles over authority played out. In *Law in Colonial Africa*, historians were also writing against histories of colonial legal ‘enlightenment’ vs. local ‘tribal’ customs. This scholarship has revealed the social engineering behind colonial legal property regimes and foregrounded the legacy of colonial violence and inequality.

In response to the arguments made about the colonial construction of customary law by legal historians such as Martin Chanock, other scholars have emphasized the spaces for agency that Africans carved out within changing legal environments. Margaret Hay and Marcia Wright describe the strategies of enslaved women to use the liminal spaces offered by colonial law to their advantage (as well as forum shop in multiple legal registers).⁵⁵ Roberts and Mann argue that customary law opened up spaces to both reinforce and contest dominant power relations.⁵⁶ They felt that court records could offer rich insight into everyday life, including economic pressures, contestations over property, changing labor patterns, conjugal relations and religious practices.

⁵³ Grossberg, “Legal History and Social Science.”

⁵⁴ Kristin Mann and Richard Roberts, *Law in Colonial Africa* (Portsmouth, NH: Heinemann Educational Books, 1991).

⁵⁵ Margaret Jean. Hay and Marcia. Wright, *African Women & the Law: Historical Perspectives* (Boston: Boston University, 1982).

⁵⁶ Kristin Mann and Richard Roberts, *Law in Colonial Africa* (Heinemann Educational Books, 1991), 9.

African legal history was part of the pursuit within African history as a whole, for African voices and African political thought. Like oral histories, testimonies in court records seemed a treasure trove for access to Africans' perspectives. This goal felt imperative for scholars of colonialism, for whom legal sources offered a means to reconstruct the lives and social worlds of Africans, whose stories that been erased by colonial rule and colonial scholarship.

In addition to being shaped by debates on legal history more broadly, historians of the law in Africa were influenced by studies of the law in social anthropology. Like Bronislaw Malinowski and Max Gluckman, historians of Africa viewed law as a reflection of social dynamics. On the African continent, almost all legal systems involve aspects of legal pluralism. A key line of enquiry for legal historians has been whether colonial rule brought about a rupture in legal systems, transforming pre-existing law as well as the grounds on which people could make claims. Anthropologist Sally Falk Moore's approach to this question inspired legal historians writing on Africa in the 1980s and 1990s. Moore argues that the "changing circumstances of that community [whose law one is analyzing] are part of the content of its legal system."⁵⁷ She remarks that in colonial legal settings, "'laws' were the rules of the dominant [colonial] regime, 'custom' its [the regime's] term for the binding practices of localized subordinate peoples."⁵⁸ As Michel-Rolph Trouillot points out, this dichotomy between law and custom constructs an inferior "other" in comparison with industrial capitalist Europe.⁵⁹ Moore

⁵⁷ Moore, *Law as Process*, 278.

⁵⁸ *Ibid*, 15.

⁵⁹ Michel-Rolph Trouillot, "Anthropology and the Savage Slot: The Poetics and Politics of Otherness," in Michel-Rolph Trouillot, *Global Transformations* (Palgrave Macmillan, New York, 2003), 7–28.

ultimately maintains that it is analytically useful to maintain a distinction between laws enforced by the government, and laws enforced by other institutions of authority.

Moore argues that while colonial administrators on the African continent by the 1920s sought to create a dual legal system of colonial law and customary law, they were thwarted in doing so on a hegemonic level. Instead, what emerged was the product of “ongoing encounters between subordinate local political entities and dominant overarching ones.”⁶⁰ Moore argues that colonial administrators in Tanzania, for example, lacked the capacity, organization and unity of purpose to impose entirely hegemonic legal order.⁶¹ Similarly, historian Sara Berry’s study of struggles over land in colonial Ghana emphasizes that the power exercised by the formal legal system was often incoherent and inconsistent. This created situations of ambiguity, where Africans were able to contest the authority of those in power.⁶² Colonial law was a system that Europeans and Africans had roles in forging.⁶³

More recent scholarship in the field of legal history and anthropology has taken up Moore and Berry’s approach to law-making as an iterative process of contestation and negotiation. Christian Lund and Hastings Okoth-Ogendo argue that, mirroring land politics elsewhere, Africans have made claims to property as a means of asserting power and constituting communities, as well as claiming resources.⁶⁴ Writing on Ghana and Kenya respectively, they

⁶⁰ Sally Falk Moore, *Social Facts and Fabrications: “Customary” Law on Kilimanjaro, 1880-1980* (Cambridge Cambridge: Cambridge University Press, 1986), 299.

⁶¹ Moore, *Social Facts and Fabrications*.

⁶² Sara S. Berry, *No Condition Is Permanent: The Social Dynamics of Agrarian Change in Sub-Saharan Africa* (Madison, Wis: University of Wisconsin Press, 1993).

⁶³ Mann and Roberts, *Law in Colonial Africa*, 1991, 9.

⁶⁴ Christian Lund, “Rule and Rupture: State Formation through the Production of Property and Citizenship,” *DECH Development and Change* 47, no. 6 (2016): 1201.

emphasize that marginalized people have sought recognition of their land claims horizontally (via social networks) as well as vertically (government, courts, chiefs etc.).⁶⁵ This scholarship reiterates the crucial point that property is social; it is not just about ownership over a ‘thing.’

Lund’s work on land disputes in the north of Ghana is instructive in understanding the social and contingent nature of property. He argues that property is a key battleground for the assertion and contestation of state authority *and* that property claims only hold if institutions that carry social legitimacy – whether that is the state, local leaders, neighbors etc. – sanction them. At the same time the legitimacy of these institutions to enforce the law depends to some degree on whether people obey the property laws they have put in place.⁶⁶ For example, British colonial officials in Ghana found it inconvenient when they discovered that according to most customary laws and practices of the various acephalous polities in northern Ghana, earth priests rather than chiefs were responsible for land allocations. As a result, the British installed chiefs of their choosing and tasked them with the legal power to control who could access land. While the role of earth priests was made invisible by official law, they continued to play a role on the ground in decisions about land allocations and access throughout the colonial period. This suggests that the laws and the chiefs installed by the British lacked social legitimacy.

Writing on Botswana, Pauline Peters notes that social embeddedness should be the starting point, rather than the end point, in analyses of property.⁶⁷ Rosalie Kingwill builds on

⁶⁵ Berry, *No Condition Is Permanent*; Christian Lund, *Local Politics and the Dynamics of Property in Africa* (Cambridge: Cambridge University Press, 2010); Hastings Okoth-Ogendo, “The Nature of Land Rights under Indigenous Law in Africa,” in *Land, Power and Custom: Controversies Generated by South Africa’s Communal Land Rights Act*, ed. Aninka Claassens and Ben Cousins (Athens, OH: Ohio University Press, 2008), 95–108.

⁶⁶ Lund, *Local Politics and the Dynamics of Property in Africa*.

⁶⁷ Pauline E. Peters, “The Erosion of the Commons and the Emergence of Property: Problems for Social Analysis,” in *Property in Economic Context*, ed. Robert C. Hunt et al. (Lanham, MD: University Press of America, 1998).

Peters' work to point out that understanding what goes on inside the “black box” of property ownership in South Africa requires considering the differences between individuals and the various social units to which they belong – be they land-buying syndicates, women's church groups, Communal Property Associations or families.⁶⁸ This involves, for example, analyzing the power dynamics that develop between land purchasers, and the dynamics of inclusion and exclusion involved in the making of property ownership.

In studying the law outside the courtroom, recent scholarship has focused on several research loci. Two of the most important for this study has been work on legal “intermediaries” and the political economy of property and credit. Like historians of South Africa, historians of the law have examined how African intermediaries, equipped with an understanding of colonial as well as local laws and languages, helped Africans articulate their claims before colonial courts.⁶⁹ They were therefore engaged in developing the format and content of claims that colonial authorities would be likely to recognize. Focusing on these “middle” figures points to spaces obscured by the long-presumed dichotomy in African history between colonizers and colonized, collaborators and activists, and colonial invention and African resistance. Approaching histories of law and political imagination in Africa from this direction also intersects with a new wave of scholarship on property and credit in Asia, the Indian Ocean and Africa (though the latter is still nascent).⁷⁰

⁶⁸ Rosalie Anne Kingwill, “The Map Is Not the Territory: Law and Custom in ‘African Freehold’: A South African Case Study” (PhD diss., University of the Western Cape, 2013), 38.

⁶⁹ Lawrance, Osborn, and Roberts, *Intermediaries, Interpreters, and Clerks*.

⁷⁰ Fahad Ahmad Bishara, *A Sea of Debt: Law and Economic Life in the Western Indian Ocean, 1780-1950* (Cambridge, United Kingdom ; New York, NY USA: Cambridge University Press, 2017); Bianca Murillo, *Market Encounters: Consumer Cultures in Twentieth-Century Ghana* (Ohio University Press, 2017); Elizabeth Thornberry, “Procedure as Politics in the Cape Colony: The Career of Andrew Gontshi, 1880–1904,” *The Journal of African*

In her work on Parsi litigants and legal professionals in colonial India, Mitra Sharafi argues that just because Parsis became “consumers of colonial law” does not mean they automatically absorbed a colonial mentality about law.⁷¹ Although Parsis who engaged with the colonial legal system conceded at certain junctures to colonial frameworks of law, they then went to work using, amending, and at times deconstructing those frameworks.⁷²

In South Africa, as in India, the first generation of “struggle” historians tended to focus on lawyers as liberation leaders – Nelson Mandela being the most obvious example. In writing histories of nationalism and liberation movements in South Africa we may have missed other stories about the law. Sharafi’s work suggests the possibilities for writing histories of black lawyers in South Africa as “cultural intermediaries” who translated various forms of vernacular law into other forms of vernacular law and into colonial law – and also vice versa.⁷³

Another strategy in studying the capaciousness of people’s engagement with law, beyond the courtroom, has involved tracing credit, debt and investment networks across geographic and spatial delineations. Writing on East Africa and the Indian Ocean, Fahad Bishara argues that law developed concomitantly with commercial exchange in the Indian Ocean world and was also constitutive of wealth in that region.⁷⁴ Bishara tells a global story that moves beyond a core—

History 61, no. 3 (November 2020): 409–27; Bonny Ibhawoh, *Imperial Justice: Africans in Empire’s Court* (Oxford: Oxford University Press, 2013).

⁷¹ Mitra June Sharafi, *Law and Identity in Colonial South Asia: Parsi Legal Culture, 1772-1947* (New York, NY: Cambridge University Press, 2014), 4-5.

⁷² *Ibid*, 24.

⁷³ *Ibid*, 11.

⁷⁴ Bishara, *A Sea of Debt*, 13.

periphery model of imperialism to show the messy negotiations that took place across the Indian Ocean.

Parker Shipton illustrates how legal practices are tied to changes in economic value, social relations and political identity. In his work on mortgages in Kenya, Shipton argues that systems of credit and debt existed among Luo farmers before the advent of colonialism. Practices of borrowing and lending, and ideas of entrustment, have continued to play a key role in Luo political economy.⁷⁵ Over the course of the twentieth century, though, ruptures have occurred in the social relationships that informed Luo practices of credit. Luo landholders have suffered more land loss – and with this, been forced to mortgage not only their land but also their “ancestors.”⁷⁶

Writing on Somalian piracy, Jatin Dua argues that how people in the past made communities and managed property is not just a question of the moment of acquisition, when recognition of ownership is conferred by institutions of authority – the moment when property becomes “owned.”⁷⁷ It is also about the practical and technocratic ways in which people sustain, produce and build property and community before and after that moment of acquisition.⁷⁸ My research on the credit practices of black land purchasers has brought this point to the fore. Credit is intimately tied up with the relationships that precede and follow the moment in which land is

⁷⁵ Parker MacDonald Shipton, *Mortgaging the Ancestors: Ideologies of Attachment in Africa* (New Haven: Yale University Press, 2009), 16-17.

⁷⁶ *Ibid*, 162.

⁷⁷ Carol M. Rose, *Property and Persuasion: Essays on the History, Theory, and Rhetoric of Ownership* (Boulder, Colo.: Westview Press, 1994).

⁷⁸ Jatin Dua, *Captured at Sea: Piracy and Protection in the Indian Ocean* (Oakland, California: University of California Press, 2019).

bought. In ‘Property of the People’, I explore how credit networks are an important part of the story of land buying because the pooling of resources enabled a politics of collective land ownership. This was also a process that involved risk, although some land buying families made efforts to protect themselves by mobilizing their social and political connections, and by establishing a moral currency around who was considered trustworthy.

1.3 The history of land purchase in South Africa

In the nineteenth century, black South Africans had a variety of property forms and mapping systems (both spatial and social), including individual landownership. But these forms and ideas generally did not register within the vision of settler and colonial mapmakers.⁷⁹ Both the Boer (ZAR) and British governments emphasized a racialized division between two simplified property forms—private title deeds for white people versus “communal land” held by the Crown or government ostensibly for black people to use (known as Crown land).

Rosalie Kingwill points out that many colonial officials, as well as more recent scholars and policymakers have conflated ‘property’ with ‘private property’ in South Africa. She argues that the “effect [of this conflation] is that title in land has become closely identified with ideologies associated with liberal ‘possessive individualism’ of recent origin.”⁸⁰ By “recent origin”, Kingwill alludes to the English land enclosures of the 16th century, which narrowed the scope of private property to exclusive land ownership.

⁷⁹ Lindsay F. Braun, *Colonial Survey and Native Landscapes in Rural South Africa, 1850 - 1913: The Politics of Divided Space in the Cape and Transvaal* (BRILL, 2014).

⁸⁰ Peters, “The Erosion of the Commons and the Emergence of Property: Problems for Social Analysis,” 67

Building on E.P. Thompson’s work on English laws and customs, Pauline Peters argues that, “as the struggle for ascendancy between the rights of owners of private property and the rights to the commons mounted through the eighteenth century, it involved legislative and administrative changes by the Whig elite and shifts in definitions at law and in local custom.”⁸¹ These shifts in English law were exported to South Africa, where they fused with Roman Dutch Law, which also treated property as a one-to-one relationship to a “thing.”⁸² An important qualifier, which I elucidate in this dissertation, is that property owners with individual titles did not implement boundaries as exclusively as the law implied. This is evident in the land practices developed by members of the Native Farmers Association, who maintained common areas for grazing, communal equipment (such as mills and boreholes) and shared labor, even though, during the apartheid period, they understood themselves to be the owners of private titles. As scholars of colonialism and empire have argued, the legal categories imposed by colonial governments often obscure how people conceptualized, managed and regulated affairs on the ground.⁸³

The settler colonial governments attempted to condense black South Africans’ land-tenure realities into the rubric of communal land tenure—a kind of “commons” arrangement that was governed by chiefs, and above them, white Native Commissioners. In contrast to this story of chiefs’ authority, scholars like Ben Cousins have described land rights in communal tenure as ‘socially embedded’, meaning that individuals and families negotiate access, relative to others, to

⁸¹ Peters, “The Erosion of the Commons and the Emergence of Property: Problems for Social Analysis,” 67.

⁸² Hastings Okoth-Ogendo, “Some Issues of Theory in the Study of Tenure Relations in African Agriculture,” *Africa: Journal of the International African Institute* 59, no. 1 (1989): 6–17.

⁸³ Merry, *Colonizing Hawai’i*.

“common property resources such as grazing, forests and water.”⁸⁴ This is both unlike chiefs’ ownership over land *and* unlike private property rights in South African common law, which tends to involve a surveyed parcel of land and a person or legal entity who holds an exclusive title deed to that parcel.

In South Africa, the British administration drove the development of “land reservations” for black people between 1850 and 1913, rolling out technologies of surveying, mapping, and boundary making.⁸⁵ This move toward a simplified version of communal land in the name of protecting customs and traditions played out throughout British colonies in the late nineteenth century.⁸⁶ In South Africa it went hand in hand with the British administration’s appointment and protection of chiefs, who would carry out government policies on Crown land.

Like all governments, the British colonial administration was not monolithic. Although land was becoming more segregated, black farmers could legally own land in parts of the British South African colonies before the South African War (1899–1902). This legal option was extended to the country as a whole after the British won the war. However, in practice, African purchasers faced discrimination that made it hard to achieve an equal footing with white landowners. Hence, black individuals or groups would generally pay for land via a white-owned institution or white individual (often a mission station, lawyer, or politician). Following on from earlier colonial debates about chiefs being the “custodians” of “customary land,” government administrators also accepted some purchases made in the name of a “tribe,” with the chief as the sub-trustee and the Native Commissioner as the main trustee.

⁸⁴ Claassens and Cousins, *Land, Power, and Custom*, 129.

⁸⁵ Braun, *Colonial Survey and Native Landscapes in Rural South Africa, 1850 - 1913*.

⁸⁶ Mantena, *Alibis of Empire*; Berry, *No Condition Is Permanent*.

Between 1905, when black church minister Edward Tsewu set a legal precedent for black individuals to buy land in their own names, and 1913, when the notorious Natives Land Act was introduced, hundreds of black individuals and syndicates bought land in both urban and rural parts of the Transvaal.⁸⁷ A picture of landownership as a whole in 1913 reveals that black landowners who had purchased title deeds were already in the minority. Most African farmers lacked the funds, credit, legal services, and/or social and political networks to purchase land. Some also felt they should not have to buy land that, in their eyes, already belonged to them.⁸⁸ Those who were able to buy land were usually of high class and status relative to other black South Africans. In urban areas such as Evaton and Alexandra, near Johannesburg, and in rural areas such as Driefontein, Daggakraal and Mogopa in the Transvaal, the land buyers tended to come from one of two backgrounds: mission-educated intellectuals and theologians, and wealthy sharecroppers.

The Natives Land Act of 1913 made it illegal for black people to own land outside the reserves, except with the permission of the governor general. It also severely undermined the bargaining power of labor tenants. The Act set aside approximately 7 percent of the country's land for black people and 93 percent for white people (expanded in 1936 to 13 percent and 87 percent, respectively). Meanwhile, black people made up around 90% of the population and

⁸⁷ Harvey M. Feinberg, *Our Land, Our Life, Our Future: Black South African Challenges to Territorial Segregation, 1913-1948* (Pretoria, South Africa: Unisa Press, 2015); Philip Bonner and Noor Nieftagodien, *Alexandra: A History* (Johannesburg: Wits University Press, 2008); Vusumuzi "Vusi" Rodney Khumalo, "The African Struggle for Independence: A History of the Wilberforce Institute, Evaton 1905-1950s" (PhD diss., University of the Witwatersrand, 2018); Kingwill, "The Map Is Not the Territory." For a comparative example on individual titling amongst indigenous landowners in Indonesia, see Li, *Land's End Capitalist Relations on an Indigenous Frontier*. Li argues that, constrained by Indonesia's high rates of unemployment and by historical conditions that positioned them as subordinate to coastal dwellers, Lauje highlanders themselves initiated the enclosures process in an effort to prosper rather than merely endure.

⁸⁸ Michelle Hay, "Buying Naboth's Vineyard: The Challenges of Land Transfer Under the 1936 Native Trust and Land Act," *African Studies* 71, no. 3 (December 1, 2012): 361-79.

white people around 10%. Black people could not buy land in areas designated white, and vice versa. Peter Delius and William Beinart argue that most black people had already been dispossessed of their land by 1913, so the Act is simply part of the process of land alienation, rather than the root of it.⁸⁹ Nevertheless, the Land Act's attacks on black landowners and labor tenants played a significant role in crafting a more segregated country. Landowners and labor tenants alike would be pushed off land in areas designated as white as per the Land Act's proclamations.

Even more than the 1913 Land Act, the 1936 Natives Trust and Land Act almost wiped out the rights of black landowners, tenants, and squatters. The Act was passed ostensibly to create the South African Native Trust (SANT), which would buy up and add land to the reserves for African settlement. Black land buyers already owned much of the land that the SANT bought.⁹⁰ The 1936 Natives Trust and Land Act also established the Six Natives Rule, which shaped the options available for black people to obtain recognition of their landownership by the state. According to the rule, any group of more than six black people who had cooperated to purchase land had to constitute themselves as a tribe under a chief or they would lose their land.⁹¹ The aim of the legislation was to strip existing black landowners of legal recognition and to preempt further land purchases by black people. By elevating the role of chiefs inside and outside the reserves and undermining black people of all classes, the 1936 Act set in place a

⁸⁹ Beinart and Delius, "The Historical Context and Legacy of the Natives Land Act of 1913."

⁹⁰ Colin Murray, *Black Mountain: Land, Class, and Power in the Eastern Orange Free State, 1880s to 1980s* (Edinburgh: Edinburgh University Press for the International African Institute, 1992).

⁹¹ Christopher Mulaudzi and Stefan Schirmer, "Land Struggles in the twentieth Century," in *Mpumalanga History and Heritage*, ed. Peter Delius (Scottsville, South Africa: University of KwaZulu-Natal Press, 2007), 351-387.

reserve system that would come to characterize segregation in South Africa for the rest of the twentieth century.

A relatively small number of black individuals and groups continued to buy land outside the reserves after 1913 by obtaining permission from the governor general. Harvey Feinberg argues that between 1913 and 1936 Africans bought around 3,200 farms outside the reserves—more land than historians previously thought.⁹² Feinberg quantifies these numbers in reference to exceptions to the 1913 Land Act granted by the governor general. However, because he fails to account for black land buyers who had to buy the same land twice, or who transferred the same piece of land between family members, or whose land was foreclosed on account of unpaid debts, only to have it bought by another black family, his numbers are inflated. All of these incidents were common in Driefontein and Daggakraal in the Transvaal, where the Native Farmers Association bought land with the assistance of Pixley ka Isaka Seme in 1912.⁹³ The farmers who bought into the Association had come from the Transvaal, Free State, and Natal provinces, where they had sold cattle, saved money, and taken out loans in order to finance their land purchases.

Most land buying syndicates were created with the aim of making a living from large-scale farming. Daggakraal, Driefontein and Mogopa had good rains, fertile soil for crop production and were close to important market centers such as Johannesburg. Mogopa is a summer rainfall area, with an environment that suits the growing of grains, such as maize and sorghum (also known in the area by the Setswana word *mabele*). Like white farmers in the area,

⁹² Feinberg, *Our Land, Our Life, Our Future*.

⁹³ Exceptions are filed under *Transactions in Terms of Section 1 of Natives Land Act of 1913*, for the years 1913-1985, Decisions of the Executive Council (1910 – 1985), URU, National Archives, Pretoria, South Africa (hereafter National Archives).

black Mogopa residents focused on maize as their main sale crop. On a smaller scale than grains, they farmed livestock such as cattle, goats and chickens. Daggakraal and Driefontein is very dry in winter but very wet in the summer months, earning the name “the mist belt” from meteorologists and agricultural scientists. The wet conditions meant it was not as ideal for maize as Mogopa. As a result, white farmers in the area focused on sheep farming for wool production as their main source of income. Black farmers, however, grew maize and sorghum in small quantities. They also turned their attention to timber and livestock farming. Much later, in the 1970s, agricultural scientists developed strains of maize that were more resistance to mold from the wet conditions. Only then did white farmers start to cultivate maize in larger quantities in the region.

1.4 The argument in brief

‘Property of the People’ explores traditions of political thought about collective property and the law. It charts how black land buyers in South Africa have formulated claims to land, as well as claims for legal and political recognition. I suggest that between 1900-1994, black land purchasers debated and imagined kinds of property that offered alternatives to the narrow categorizations envisioned by the apartheid state. Through land buying syndicates, black South Africans developed property law which challenged the colonial and apartheid governments’ policies, legislation and its track towards industrial racial capitalism.

The implications of this argument are two-fold. First, it offers a historical perspective on some of South Africa’s current land reform problems, particularly the role of chiefs. It suggests that as far back as the first decade of the twentieth century, black land purchasers challenged chiefs’ roles as the main decision-makers in land management, opting instead for land buyers’

committees in the example of Daggakraal and Driefontein. Land buyers' sense of belonging was rooted not primarily in ethnic identification but in the practice of building community around land purchase.

Furthermore, 'Property of the People' offers a commentary on the history of collective forms of property ownership, in a contemporary land reform context in which academics and government officials have been trouble-shooting the problems with Communal Property Associations and Community Trusts. My account of collective land buying syndicates offers insight into the conditions, contingencies, relationships and practices that enabled collective property ventures, while also pointing to how these collective projects were difficult and fraught. This may assist land reform initiatives in South Africa by offering examples of past practice. It also reiterates the point, made by many contemporary land activists, that South African government's current one-size-fits-all approach to land reform, in which all land is transformed into title deeds, or all land subsumed under chiefs, fails to account for the varied, local forms of land tenure that black South Africans have developed over the course of the twentieth century.

Second, 'Property of the People' builds on recent work in African and South African history to show that Africans were not bystanders to the development of capitalism during colonial times. Land buyers in the Native Farmers Association and Mogopa engaged with, contributed to and shaped property and credit markets. Many land buyers also challenged the views of leading black intellectuals and politicians at the time. In particular, they contested the kinds of liberal visions espoused by Pixley ka Seme and John Dube, regarding both the superiority of individual title deeds and its suitability only for a more well-off, educated group of

farmers. This points to land buyers' efforts to reconcile capitalist development in South Africa with struggles for participatory democracy and racially equitable wealth distribution.⁹⁴

In 'Property of the People' I investigate how, in addition to Seme, land buyers, translators, debt collectors, law agents, writers and church figures – women included – mediated and shaped the way law operated. The Native Farmers Association was part of Seme's wider project for political liberation via black entrepreneurship and economic self-reliance. Other land buyers who bought into the Association perhaps had a less ambitious project in mind, although still insurgent in the context of the time: to carve out space to thrive as large-scale farmers. Like Seme, they were figures who did not fit easily into the grand narratives of resistance or complicity with the governing regime. Some land buyers in Daggakraal, Driefontein and Mogopa were willing to strike a bargain with the government if it meant they would be provided with financial and infrastructural support for their syndicate's farming operations.

By illuminating these discursive and material practices that went into claiming land in South Africa, past and present, 'Property of the People' opens new avenues for examining political thought. It builds on interventions by historians like Steven Feierman, John Lonsdale and Emma Hunter, to argue that major changes in political thought are rooted in iterative ideas and practices over the longterm.⁹⁵ This intervention is particularly important in South Africa, where liberal and Marxist schools of historiography often dismissed intellectual history as the

⁹⁴ Willan, *Sol Plaatje, South African Nationalist, 1876-1932*; Brian Willan, *Sol Plaatje: Selected Writings* (Athens, Ohio: Ohio University Press, 1997); Joel Cabrita, *Text and Authority in the South African Nazaretha Church* (Cambridge University Press, 2014); Breckenridge, "African Progressivism, Land and Law: Re-Reading Native Life in South Africa"; Dlamini, "Land and Belonging: On the Tomb Ya Ga Solomon Plaatje."

⁹⁵ Steven M. Feierman, *Peasant Intellectuals: Anthropology and History in Tanzania* (Madison, Wis: University of Wisconsin Press, 1990); John Lonsdale, "The Moral Economy of Mau Mau: Wealth, Poverty and Civic Virtue in Kikuyu Political Thought," in *Unhappy Valley: Conflict in Kenya & Africa*, ed. Bruce Berman and John Lonsdale (J. Currey, 1992); Emma Hunter, *Political Thought and the Public Sphere in Tanzania: Freedom, Democracy and Citizenship in the Era of Decolonization* (Cambridge, UK: Cambridge University Press, 2015).

domain of colonial elites. It also goes beyond the recent biographical trend in South African historiography, to suggest that documenting land buyers' everyday engagement with questions of property and political community via newspapers, court records, letters and petitions are as important sources of political thought as the writings of figures like Seme.

One of the results of centering of land buyers' engagement with property law – and not just Seme's – is that it illuminates how lawyers and even government officials, such as Native Commissioners, abstracted much of their understanding of property law from the practice of land buyers. For example, Seme's vision for the Native Farmers Association built upon his familiarity of Natal land buying syndicates of the 1870s. Native Commissioners described property ownership in terms used by land buyers, such as “undivided shares”, rather than according to the letter of the law. This suggests that members of land buying syndicates established property law ‘from below’ – building from the ground up when state law was ill-fitting.

Official law tends to flatten understandings of local forms of land tenure and vernacular conceptions of property. Looking at the everyday practice and making of property law by land buyers allows us to see what the lens of official law does not: that syndicates like the Association were able to establish “twilight zones”, in which they created their own spheres of law.⁹⁶ Within these zones, the Association and its members used their social authority and economic clout to recognize and legitimize “deeds of sale” and “mortgages” which were registered in the Association's books, but not in government institutions.

⁹⁶ This term is borrowed from Christian Lund, who argues in the context of law in Indonesia, that “associations and organizations which do not appear at first sight to be political may also exercise political power and wield public authority” in the “twilight between the state and society.” Christian Lund, “Twilight Institutions: Public Authority and Local Politics in Africa,” *Development and Change* 37, no. 4 (July 2006): 686.

In this “twilight zone”, credit networks emerged as a key object of study for understanding the power dynamics and social bonds involved in land syndicates. Interviews, receipts and mortgage documents indicate how black farmers invested in informal credit networks, collective agricultural schemes and tenancy arrangements to retain land. Land buyers explained and practiced laws in ways that mobilized the socially embedded property relationships they had developed as farmers, sharecroppers and labor tenants in Transvaal, Natal and the Orange Free State – and that they had invested in anew through the Native Farmers Association.

By examining the forms of land tenure that black South Africans developed as alternatives to the limited options available to them within the official legal system, ‘Property of the People’ contributes to legal history and anthropology literature on the complex reality of local land tenure systems.⁹⁷ These interventions in studies of land tenure are vital in questioning development work that draws a straight line between individual title deeds and wealth accumulation.⁹⁸ They also challenge stereotypes of communal land tenure that originate in colonial officials’ understandings.

Historians have argued that women’s land ownership was eroded under apartheid, as government officials used distorted versions of customary law to limit landownership to men.⁹⁹ Focusing on land buyers’ estates, letters and oral histories brings to light that women were land buyers and farmers too. While feminist scholarship in Southern Africa recognizes women’s

⁹⁷ Moore, *Law as Process*; Verdery, *The Vanishing Hectare*; Claassens and Cousins, *Land, Power, and Custom*; Sikor and Lund, “Access and Property”; Li, *Land’s End Capitalist Relations on an Indigenous Frontier*.

⁹⁸ Such as the arguments put forward by Hernando De Soto, *The Other Path* (New York, NY: Basic Books, 2002).

⁹⁹ Martin Chanock, *The Making of South African Legal Culture 1902-1936: Fear, Favour and Prejudice* (Cambridge: Cambridge University Press, 2001).

practical roles in farming and resistance movements, it says little about how they conceptualized property. 'Property of the People' suggests that women's church groups acted as vital spaces where women could imagine larger roles for themselves in land ownership. Women leaders in Driefontein and Mogopa argue that they fought a decades long battle to gain access to land activism committees – and it was only when they did so, that the battle against their community's forced removal gained real strength. Together with NGOs and lawyers, women farmers and activists facilitated the emergence of more egalitarian property entities.

1.5 Methods and sources

There were hundreds of land buying syndicates set up by black South Africans in the early twentieth century. I explore property debates and practices circulating around South Africa through the lens of two of these syndicates. The first is black lawyer Pixley ka Seme's Native Farmers Association of Africa (Association), a land-buying syndicate comprising over 200 families of differing ethnic and linguistic backgrounds, on the farms of Daggakraal and Driefontein in the south-eastern Transvaal. The second syndicate I examine is Mogopa, where around 105 Sestwana-speaking families bought land in the Ventersdorp area of the north-western Transvaal.

Driefontein and Daggakraal make for a particularly interesting case study in that most of the descendants of the original Native Farmers Association land buyers still owned land there, as of 2022. It therefore offers the opportunity to study land buyers' ideas and practices over the course of a century. Many changes have occurred, which have influenced the Association's journey from its origins as a political endeavor for black land ownership and successful commercial farming at the start of the twentieth century, to a rural area in which most residents

express their lack of passion for politics, and survive off social grants rather than farming, at the end of that century. Daggakraal and Driefontein are unusual in that, unlike most descendants of land buyers, residents there managed to retain their land beyond 1994: the year that marked the end of apartheid as well as South Africa's first truly democratic elections.

Mogopa makes for a useful counterpoint to the Native Farmers Association, in that the land buyers there came from a more homogenous background. They came from the same part of the Orange Free State province, and all identified as Bakwena ba Mogopa. They moved to Mogopa with the intention of farming maize on a commercial scale. Mogopa is also more representative of the fates of land buying syndicates in South Africa, in that the residents there were forcibly removed in 1984. But like the land buyers involved in the Association, the Mogopa families built their vision of political community and identity around land purchase and farming in a new site. Again, as in Driefontein and Daggakraal, Mogopa residents' title deeds played an important role in their struggle against forced removals in the early 1980s.

A central challenge of this research has been the epistemological limits of official legal archives. In engaging with government legal archives, it became evident to me that the definitional work done in the legal records did not necessarily determine people's relationships to land. Instead, the government legal archive reflects the narrowing of options available in South African property law by putting the complicated and nuanced ways of being in the world into the container of legal practice. The materials were generally created by people who saw themselves as arbiters of legal doctrine and practice. As a result, government archives are often silent on the how black farmers conceptualized property, implemented forms of land ownership outside of government law and the role of women in these processes.

My way around the limits of government archives was informed by my understanding of law as existing not just in the realm of government and its courts, but also in sources generated by land buyers' material practices, social bonds and spiritual communities. In doing so, I draw on research strategies and methods developed by other scholars of the law in Africa. Sally Falk Moore suggested studying law as a "semi-autonomous social field." By "social field" Moore means an area of focus in which local sources of authority "generate rules and coerce or induce compliance to them" through an iterative process.¹⁰⁰ In the context of 'Property of the People', these sources of authority include land buying syndicates like the Association, chiefs' councils, land committees and church groups. The "semi-autonomous" aspect of Moore's study of law refers to the ways in which "social fields" are never isolated; they are always in conversation with the development and imposition of law and regulation from the government and other sources of authority.¹⁰¹ In this vein, I have read the archives of individuals and organizations against the government legal archive itself, including: departmental reports, commissions of inquiry, court records, deeds registry files and land buyers' estate files.¹⁰²

Part of the challenge in constructing a history of land buyers' political thought is also that historians do not have the ability to observe the court proceedings featured in the records, with all their non-verbal cues.¹⁰³ Furthermore, court cases are by their nature, outliers and sites of

¹⁰⁰ Moore, *Law as Process*, 57.

¹⁰¹ Moore, *Law as Process*, 58.

¹⁰² These records are scattered across the files of the Departments of Native Affairs or Administration (later called Bantu Affairs), Justice, Agriculture, Lands, Public Works and Economic Affairs at the national and provincial level. They include the offices of the various levels of the Courts, plus magistrates, the Governor General and Native Commissioners (later called Bantu Affairs Commissioners).

¹⁰³ Mann and Roberts, *Law in Colonial Africa*, 1991, 47.

conflict. Roberts and Mann emphasize the need to move beyond the model of “trouble cases”, which imply that the courts act to restore harmony when deviations occur. They stress the importance of examining the meaning of law “within and outside the courtroom”, as well as before and after the case.¹⁰⁴

Liz Thornberry argues that in order to understand the “broader social and intellectual world in which these ideas [discussed in court rooms] circulated”, it necessary to consult other kinds of sources.¹⁰⁵ This includes the letters and papers of land buyers like Seme, whose archives are scattered across universities in South Africa, the U.K. and the U.S. It also meant constructing a new archive on the subject of land buying collaboratively with residents of Daggakraal, Driefontein and Mogopa, as well as with land activists and NGO workers. I collected and scanned organizational, personal and family papers (including photographs and letters). The originals, as well as the copies of these documents, reside with residents in hardcopy and electronic form.

My previous work on land restitution at the Land and Accountability Research Centre at the University of Cape Town allowed me to continue building relationships with people who were the descendants of land purchases, tenants, lawyers, creditors, community leaders and land activists. From these interactions, the role of credit emerged as a route into understanding the power dynamics and social bonds embedded in land syndicates. Interviews, receipts and mortgage documents indicate how black farmers invested in informal credit networks, collective agricultural schemes and tenancy arrangements to retain land.

¹⁰⁴ Mann and Roberts, *Law in Colonial Africa*, 1991, 41; 46.

¹⁰⁵ Elizabeth Thornberry, *Colonizing Consent: Rape and Governance in South Africa's Eastern Cape* (Cambridge: Cambridge University Press, 2019), 27.

Oral history interviews also offer a window onto the key role that land claimants played in making political subjectivities and community identities. I conducted over 40 interviews with land buyers, activists, planners and NGO workers, as well as with government officials and lawyers. Like written sources, oral sources have their benefits and drawbacks. My approach to oral interviews draws on work by Karin Barber, who argues that instead of merely asking what really happened, historians should ask, how can we use oral sources to discern why and how people tell certain stories about the past?¹⁰⁶ In ‘Property of the People’, oral histories have helped to illuminate stories elided in government records, such as material practices around land use (for instance, agricultural methods, or how people built houses). They have also offered insight into how current claimants remember, rehearse or reject ways of claiming and managing land. While the government archives are silent on the role of women in land management, my oral histories point to how women land buyers were not only farmers and church leaders, but also ‘organic’ intellectuals who contributed significantly to visions of new kinds of property ownership that could exist in a post-apartheid context.¹⁰⁷

In constructing a picture of black land buyers’ farming fortunes, I relied on a combination of oral history interviews, documents from the Departments of Agriculture and Native Affairs, and agricultural census data from 1918 to 1974. There are a few issues with the census records to bear in mind. The first is that the genesis of the census reports themselves are linked to the growth of racialized forms of data collection.¹⁰⁸ While colonial governments had excluded

¹⁰⁶ Karin Barber, *The Anthropology of Texts, Persons and Publics: Oral and Written Culture in Africa and Beyond* (Cambridge: Cambridge University Press, 2007).

¹⁰⁷ Antonio Gramsci, *Selections from the Prison Notebooks*, ed. Quintin Hoare and Geoffrey Nowell Smith (New York: International Publishers Co, 1971).

¹⁰⁸ Keith Breckenridge argues that statistical sciences developed in South Africa in the mid-nineteenth century, under the influence of South African scientist Francis Galton. Galton’s work triggered statistical practices that influenced Social Darwinist racial eugenics. Keith Breckenridge, *Biometric State: The Global Politics of*

Africans from the realm of surveying, the apartheid government developed technologies to actively monitor black South Africans. In 1951, for example, the Census collected data on racial categories, using self-reporting, followed by photographs and invasive physical examinations (including the notorious pencil test).¹⁰⁹ The Census surveyed farmers across racial categories, but went into much greater detail recording white farmers' data. I have therefore relied on compiling data across a long period to obtain general trends, cross-referencing census records with Native Commissioners' reports and oral histories to sketch a picture of black farmers' outputs.¹¹⁰

1.6 Outline of the chapters

The first two chapters of 'Property of the People' examine the founding of the Native Farmers Association and the Mogopa land buying syndicate. In the first chapter, "No person is really a man who possesses no land of his own": Land buying Syndicates, Pixley ka Seme's vision and the Native Farmers Association of Africa (Association) in early twentieth century Transvaal, 1900-1915', I elucidate how black land buyers seized a brief window of time and political possibility to put forward their visions for land ownership and black liberation. I argue that the Native Farmers Association as a project was shaped significantly by Pixley ka Seme's political philosophy around individual land ownership as a praxis of imperial citizenship and a

Identification and Surveillance in South Africa, 1850 to the Present (Cambridge: Cambridge University Press, 2014, 28).

¹⁰⁹ Breckenridge, *Biometric State*, 169–70. The 'pencil test' was a racist and racial classification procedure used during the apartheid period. A government official would put a pencil in a person's hair and if it did not fall out, they were classified as black.

¹¹⁰ Charles Simkins, "Agricultural Production in the African Reserves of South Africa, 1918–1969," *Journal of Southern African Studies* 7, no. 2 (April 1981): 257.

demand for a protected space where black South Africans could thrive. But the Association was not Seme's vision alone. The project that Seme and the Association land buyers developed — including Seme's philosophy of individual title ownership — threatened the government and white farmers.

In the second chapter, 'Land bonds: Law, credit and making of collective property 1912-1925', I chart how credit networks served as the basis for land buyers to imagine and implement a version of collective property. I follow the Association's early years, as well as buyers' disillusionment with the syndicate's leadership. I argue that land buyers' pre-existing relationships of trust (or distrust) shaped who was considered worthy of membership of the land buying syndicate. The Association also came with its own risks, including lack of accountability from leaders, the exploitation of its members and its ability to reclaim their land if they could not keep up with their "mortgage" payments.

Also in the second chapter, I outline how land buyers in the Association imagined futures in which collective land ownership without a chief could be legally recognized. This challenged the colonial and apartheid government's binary of individual deeds for white people and communal land under chiefs for black people. Buyers' imaginaries are also important in the context of post-1994 battles over land, in which chiefs have tried to hold onto power they gained during the apartheid period by arguing that customary forms of land tenure have, since time immemorial, involved the authority of chiefs.

The third chapter, "Bargaining with the state:" black farmers' petitions for agricultural support, amidst white farmers' subsidies' follows the arc of land buyers' claims between the 1920s and 1970s. It focuses on how land buyers petitioned the state, in the context of a regime that sought to isolate them. Land buyers' petitions show their willingness to bargain with

government officials for support. At the same time that black land buying syndicates were trying to survive from farming, white farming cooperatives were being given unprecedented support by the state. This serves as a reminder that landownership was not, on its own, capable of realizing land buyers' imagined futures of becoming successful farmers independent of white employers. Access to credit, markets, farming infrastructure and protection of property were also essential. Partly in response to the state ignoring their petitions, land buyers changed the shape of their engagement with government officials. In the 1970s and 80s, they initiated protest actions, litigation and media coverage of their struggles in attempts to hold onto and make a living from their land. Women spearheaded the resistance to forced removals in Daggakraal, Driefontein and Mogopa.

The penultimate chapter, 'Land and God: Women's church groups organizing against forced removals, 1970-1990', takes up the thread of women's leadership around land matters. I argue that women in Daggakraal, Driefontein and Mogopa played pivotal roles in protecting land rights and in developing ideas about property ownership and management. Women's engagement in land matters was not new, but the 1970s brought with it a significant increase in women's decision-making power over the management and defense of land. Women's church groups, popularly known as *manyanos*, played an important role in this shift and acted as sites of political activism. Evidence of the vital roles that manyano women played in resisting forced removals, challenges the binary that scholars and activists have often described between the traditionalism and domesticity of church women and the radicalism of ANC women.

'Property of the People' concludes with, 'Forging Property from Struggle: The History of Communal Property Institutions in South Africa, 1980-1996'. The formal end of apartheid in 1994 ushered in another window period – the first since 1905-1913, when land buying syndicates

proliferated in the Transvaal. The 1994 moment offered the opportunity to imagine anew the possibilities of government-recognized forms of collective property ownership. Out of land buyers' struggles to defend their land and resist forced removals in the 1980s, emerged the resources and political will to forge property law that would more accurately meet the reality of black South Africans' circumstances, including an acknowledgement of their economic and political marginalization. Land buyers, lawyers and land activists developed Communal Property Associations largely from the ground up, based on their experiences and practices. But this was not a simple culmination of the Native Farmers Association members' visions. Collective property was – and remains – a fraught venture.

Chapter 2 “No person is really a man who possesses no land of his own”: Land Buying Syndicates, Pixley ka Seme’s Vision and the Native Farmers Association of Africa in Early Twentieth Century Transvaal, 1900-1915

Introduction

There is a common origin story that Daggakraal and Driefontein residents tell.¹¹¹ In 1911, a horse race took place on the land of white farmer Koos Groenewald in Daggakraal, a farming area in the Wakkerstroom district of the Transvaal province in South Africa, about 190 miles (300 km) away from Johannesburg. People from Daggakraal and the surrounds gathered to race their horses. Most of the farmers racing their horses were white, but there were a few black horse owners present. A crowd of around thirty people sat on wooden benches to watch. The volunteers let go of the rope in front of the horses to signal the start of the race. Two black horse owners looked on keenly. Lunyolo Ngwenya and his brother Ntshebe lived and worked in the Daggakraal area as labor tenants. They sold their labor to a white farmer in exchange for a piece of that farmer’s land. Through their sale of crops and livestock, they had been able to turn over a small profit. But winning a prize at a horse race like this could offer them an extra boost.

¹¹¹ Versions of this story have been recounted by several Daggakraal and Driefontein residents over the years. See for example J. Nkosi, ‘History of Daggakraal’, Report for the Transvaal Rural Action Committee, 1985, Transvaal Rural Action Committee Collection, AG2735, Historical Papers, University of the Witwatersrand, Johannesburg, South Africa (hereafter Wits Historical Papers); Mr. P. M. Ntshalintshali, interview by Driefontein Youth Group, Leslie Witz Collection, MCH93, University of the Western Cape-Robben Island Museum Mayibuye Archives, Cape Town, South Africa (hereafter Mayibuye Archives); Catherine Madlala, interview by Tara Weinberg, trans. Snehlanhla Ngidi, 25 February, 2019, Driefontein, South Africa. I have tried in vain to track down the government record of the Ngwenyas’ court case.

J. Nkosi and P.M. Ntshalintsha, both Driefontein residents, put their versions of this story on record in 1980s in interviews with the Transvaal Rural Action Committee and the Driefontein Youth Group respectively. Catherine Madlala, who was born in Daggakraal in 1945, also recounted the story of the horse race to me in an interview, as told to her by her grandparents. According to Madlala, unlike in England in 1911, owning a horse in South Africa at that time was not necessarily a sign of high status. Horses were a common form of transport used by farm owners, tenants and workers. Racing horses was a popular form of entertainment.¹¹² But like everything else in South African society, it was steeped in racism.

The story goes that when the winning horse crossed the line, the Ngwenya brothers cheered. Their horse had won. But the jeers of the white horse owners soon drowned out the Ngwenyas' celebration. The race officials refused to recognize the Ngwenyas' horse as the winner. When the Ngwenya brothers complained, two of the white horse owners beat them up so badly that they had to be hospitalized.

The Ngwenya brothers took their assailants to court for assault. The magistrate in the nearby town of Volksrust punished the white horse owners with a paltry fine of £3 and no imprisonment. The fine was barely enough to compensate the costs of the Ngwenya brothers' medical treatment, let alone make up for work lost as a result of their injuries. The Ngwenyas' brother-in-law was Alexander Dlamini, an educated man who had participated in the South African Native Convention (SANNC). The SANNC was a conference, organized in 1909, which brought together delegates to lobby the white government to meet the demands of black South Africans for the right to own land and vote in elections, among other things. Dlamini called on

¹¹² Catherine Madlala, interview, 25 February, 2019.

his friend and fellow political activist, the lawyer Pixley ka Isaka Seme, to help the brothers take their case further.

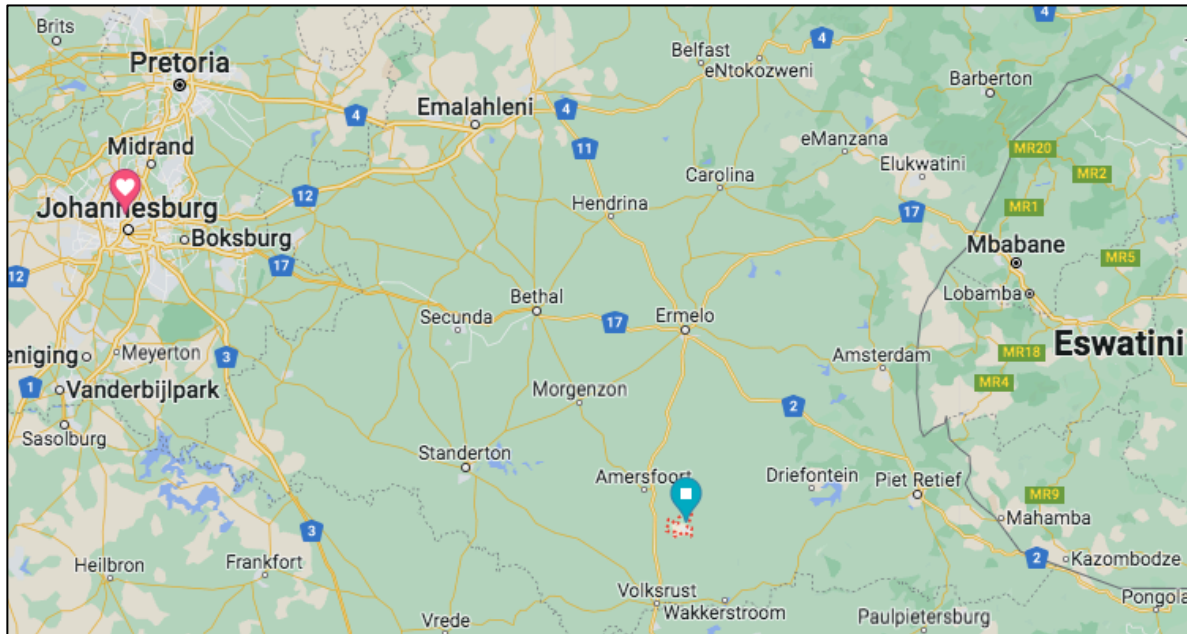


Figure 2: Map showing Daggakraal's location (blue pin) in relation to surrounding towns and Johannesburg (pink pin). Source: Google Maps.

In 1911, a delegation from Daggakraal travelled to Johannesburg to meet with Seme and encouraged him to return to Daggakraal with them. After visiting Daggakraal, Seme instituted further court proceedings on behalf of the Ngwenya brothers. In the High Court in Pretoria, interviewees suggest the court again favored the Ngwenyas, but they do not specify what the remedies provided were. According to Ntshalintshali's version of the horse race story, "this angered the white farmers and they decided to evict all the blacks who were staying in their farms."¹¹³ The Ngwenyas, who were labor tenants, also faced a threat of eviction. In order to help those evicted, Seme suggested that labor tenants and farmworkers pool their resources and

¹¹³ Ntshalintshali, interview.

buy farms in the Daggakraal and Driefontein area. In Nkosi's version of the story, Seme abandoned the court case in Pretoria. According to Nkosi, he "dropped the case in order to sue the magistrate who referred to him as a 'kaffir.'"¹¹⁴ Later after this happening, Seme who had become the 'Hero' advised the committee to raise money in order to buy themselves a 'Have.'"¹¹⁵ Seme suggested that if the brothers were to have a "haven" for racing horses, it could not be on white farmers' land.¹¹⁶

For Seme and the Ngwenyas, this was about far more than racing horses. It was about being able to take part in entertainment without the fear of racist bodily aggression. Most crucially, it was about how to overcome the reality that the security of black people's property – whether horses, homes or crops – were subject to the whims of white landowners. The only way out of this dependency relationship, Seme argued, was for the Ngwenya brothers – and other black farmers in the area – to buy their own land. Seme's plan was to create a company or "syndicate" (as it was known by black farmers and government officials), the Native Farmers' Association (Association), which could buy land for black people.¹¹⁷ Seme's syndicate was one

¹¹⁴ This word is a derogatory word, used during colonialism and apartheid to demean black people. With an awareness of this, I quote it here only in reference to the direct quotation from J. Nkosi.

¹¹⁵ Nkosi, 'History of Daggakraal'.

¹¹⁶ Seme himself was beaten up by white train passengers en route to Volksrust in 1912. He was traveling from Natal to Volksrust, presumably for business related to the Association and Daggakraal, when some white men threatened to throw him off the train because he had reserved and occupied a first-class cabin. In self-defense, Seme pulled out a revolver, and warned them not to attack him. The men later lodged a case against Seme for "pointing a revolver at some persons and that I behaved in a violent manner." Given that it was Seme's story against the men's, he was convinced he was going to be convicted and wrote to the newspaper *Ilanga Lase Natal* to state his case. Pixley ka Seme, 'Letter to the Rev. S.C. Pixley', *Ilanga Lase Natal*, 15 December, 1911.

¹¹⁷ Writing contemporaneously with the establishment of the Association and many other land buying syndicates in the Transvaal, William Bell, an attorney serving in the Supreme Courts of the Transvaal and Cape provinces, defined "syndicate" in South African law as "an association of persons formed for the purpose of carrying out some joint venture. The liability of the members of a syndicate may be limited by registration as a joint-stock company with limited liability." William Henry Somerset Bell, *South African Legal Dictionary: Containing Most of the English, Latin and Dutch Terms, Phrases and Maxims Used in Roman-Dutch and South African Legal Practice*;

of many that black land buyers around the country were forming in the early twentieth century.¹¹⁸



Figure 3: Thuthuka Ngwenya, descendent of Ntshebe and Lunyolo Ngwenya, with the house his great uncle Alexander Dlamini built in 1912: one of the first houses built in Daggakraal by Association land buyers. Photograph source: Tara Weinberg.

In this chapter I detail how Pixley ka Seme founded the Native Farmers' Association of Africa (Association), together with black land buyers from the Transvaal, Natal and Orange Free

Together with Definitions Occurring in the Statutes of the South African Colonies (African Book Company Ltd, 1910), 594.

Unlike companies, syndicates were not governed by a specific statute. My assumption is that the rules around syndicates were developed through case law. Many syndicates, including white-owned businesses, were also registered as companies under the Companies Act. However, the Association seems to be one of the few black-owned syndicates registered in this way.

¹¹⁸ For an example outside of the Transvaal, see John Tengo Jabavu's newspaper *Imvo Zabantsundu*, which mentions the growing role of land syndicates and mutual aid societies in the Eastern Cape and Natal. John Tengo Jabavu, 'Bathi iSouth African Mutual Improvement Society iyanda', *Imvo Zabantsundu*, 29 August, 1895.

State, and with credit from white businessman I.W. Schlesinger. I focus on Seme's approach to property law and land ownership, specifically how individual title deeds factored into his vision for an idealized black community. Seme played a central role in the Association but, like other lawyers, he built upon existing practices and norms around land purchase and land management. His ideas were abstracted from his experiences growing up amongst land buying syndicates in Natal, as well as his discussions with intellectuals and political activists during his studies in the U.S. and the U.K. They were also developed in conversation with black farmers who already lived in the Daggakraal area, such as Alexander Dlamini and the Ngwenya brothers (more on this in Chapter 3). The latter figures sought out Seme, not the other way around.

Furthermore, the debates about property law that developed within the Association were influenced by the network of lawyers, law clerks, legal intermediaries and creditors who were drawn to Daggakraal and Driefontein. These figures included Selby Msimang, who clerked for Seme in Volksrust, as well as Jonas Mloi, an Association land buyer who often represented the 'Daggakraal Natives Committee', a group of families that contested the kind of property law that Seme wished to implement within the Association. There were also white lawyers and creditors who benefitted from the Association's activities and clientele pool – in addition to Schlesinger, the major role players were lawyers Cyril Kershaw Barry and W.B. Schuurman in Wakkerstroom, A.C. Beck, Ben Boshoff and Fred Kleyn in Amersfoort. The work of these figures, taken together with that of Seme, helps broaden our understanding of black land buyers and lawyers' political visions in early twentieth century South Africa. It also suggests that the property law that residents developed in Daggakraal and Driefontein came as much from their material experiences, as from the legal language lawyers employed in conversation with them.

Gender played a significant role in Seme's vision of property ownership. Although Seme did not actively exclude women from purchasing land in the Association, records indicate that majority of the Association's deeds of sale were issued in the names of men. Seme's newspaper editorials and articles, through which he sought to draw a wider public into his land buying scheme, espoused a particular kind of masculinity. Writing that "no person is really a man who possesses no land of his own", an unknown writer (quote possibly Seme) for Seme's newspaper *Abantu Batho* called upon men to step up as heads of households and take on the challenge of purchasing individual title deeds for the benefit of future generations.¹¹⁹ The archives tend to record the role of men in debates and activities around property law. But the commentaries and practices of women intellectuals, political activists, church leaders and farmers offer a window into the role that they too played in the development of land-buying syndicates.

The Association is best understood in the context of other contemporaneous land-buying syndicates, particularly Mogopa, also in the Transvaal. In 1911, the same year that the Ngwenyas were racing their horses in Daggakraal, a group of black labor tenants and farm workers set off from the Heilbron district in the Orange Free State to seek out a piece of land to buy. Around 105 families pooled their resources to purchase the farm Swartrand near the town of Ventersdorp in South Africa's current North West province. They moved there with the intention of farming maize on a commercial scale (Chapter 3). Mogopa makes for an interesting counterpoint to the Association, in that the land buyers from Mogopa came from a more homogenous background. They were all Setswana speakers from the same part of the Orange Free State province, and all

¹¹⁹ "Ekuhambeni nasekumeni kwasesi kungwini akundoda apeleleyo indoda angenamhlaba onowayo." Unnamed writer, 'Umhlangano e Daggakraal', *Abantu Batho*, October 1912, Secretary of Native Affairs, NTS, 3439 56/308, National Archives of South Africa.

identified as Bakwena ba Mogopa. But like the land buyers involved in the Association, the Mogopa families built their vision of political community and identity around land purchase and farming in a new site.

The story of the Mogopa land purchase suggests this making of political identity around land purchase and the establishment of their own community, under their own leader. In 1868, *kgosi* (chief or headman) Thomas Madladi More and his followers had broken away from Bakwena ba Mogopa *kgosigolo* (paramount chief) Otto Mamogale More's group in the Orange Free State. While Mamogale More's group settled at Bethanie in the Transvaal, Thomas More's group continued to farm in what was then the Orange Free State province. Around 1905, the group was feeling the effects of tighter controls on black farmers, labor tenants and workers in the Orange Free State. They began scoping out alternative farming land. While Thomas More's group initially approached Mamogale More to see if they could settle in Bethanie, they decided against this. According to long-time Mogopa resident, Phillip More, Thomas More's reasoning for not settling in Bethanie was linked to lack of grazing land there, as well as a desire to govern their own affairs, away from Mamogale More.¹²⁰

Starting in this chapter, I argue that black farmers and lawyers in places like Daggakraal, Driefontein and Mogopa in rural South Africa developed imaginaries of property ownership that could offer alternatives to the narrow kinds of property law recognized by the state. Under colonialism and apartheid, successive, white-run governments sought to actively exclude black South Africans' land rights from legal recognition. For most of the twentieth century, the South

¹²⁰ Phillip More, interview by Tara Weinberg, 23 November, 2021, Mogopa, North West. Phillip More was born in Mogopa in 1941. He is the grandson of headman Thomas More. He was one of the leaders of the resistance to forced removals in the 1980s, and also in the reoccupation of land in Mogopa in 1989 (see Chapter 4). Since returning to Mogopa in 1989, he has continued to farm maize and livestock.

African state imposed a racialized legal division: chiefs and communal areas for black people; individual title deeds for whites. It was therefore extremely difficult for black South Africans to purchase land with accompanying title deeds. However, there was a window period in the early twentieth century in which black lawyers, intellectuals and farmers provided a platform for political liberation in land purchase, entrepreneurship and agricultural industrialism.

Seme ran the legal gauntlet thrown down by government officials and white farmers, so that the Association could acquire and retain title deeds to land in a context where it was difficult, and often legally forbidden after 1913, for black people to own land. Seme, and black land buyers in Driefontein, Daggakraal and Mogopa were able to exploit a window period between 1905 and 1913, in which some formal legal and credit options were open to black South Africans, which allowed them to register property in their own names or in the name of a group or “syndicate.” Church minister Edward Tsewu cracked open this legal window in 1905, when he won a case in the Supreme Court against the Registrar of Deeds to have land registered in his own name in the Transvaal. After Tsewu’s case and before the Natives Land Act was passed in 1913, there were greater possibilities for black South Africans to imagine a variety of property forms, including access to individual and collective forms of land ownership that did not fit the limiting options available in official law.

1.7 The context of the Association’s establishment

Seme's land buying scheme took place at a moment that is often lost in grand narratives of South African history. This was a moment when openings for black farmers to be prosperous seemed *possible*, albeit *difficult*. For most of the nineteenth century, black people living in the Cape and Natal (both British territories) were legally allowed to buy land. But land purchase by

black people was mostly outlawed in the Boer republics (also known as Zuid-Afrikaansche Republiek or Z.A.R), including the Orange Free State and the Transvaal.¹²¹ While black people could not purchase land in the Boer republics, land could be *granted* to them for services to the Z.A.R.¹²² One example of this is Stuurman's location (now known as KwaNgema), which is a piece of land near Driefontein in the former Transvaal.¹²³

Many land syndicates were founded in Natal between the 1840s and 1870s.¹²⁴ In several cases, including that of Edendale near Pietermaritzburg, black farmers – many of whom were Christian converts – initially bought land together with white missionaries. In the 1850s, black land buyers became aware that their property remained in the names of white missions and missionaries, and many left to purchase land as black-owned syndicates.¹²⁵ However, white settler farmers, who felt threatened by the early successes of black land buying syndicates, pressured the Natal government to introduce further restrictions on land purchase by black people. In the late 1870s, the rising prices of land made it more difficult for syndicates to acquire mortgages. In 1887, when the Natal government made Zululand properties available to purchase, it specifically excluded Africans from eligibility.¹²⁶ The dual legal system implemented in Natal, meant that white people were citizens under common law, while black people were subject to

¹²¹ Timothy J. Keegan, *Rural Transformations in Industrialising South Africa: The Southern Highveld to 1914* (Braamfontein, South Africa: Ravan Press, 1986), 85–86.

¹²² *Ibid.*, 76–77.

¹²³ Michael Grossberg, “Legal History and Social Science: Friedman’s ‘History of American Law,’ the Second Time Around,” ed. Lawrence M. Friedman, *Law & Social Inquiry* 13, no. 2 (1988): 359–83.

¹²⁴ Sheila M. Meintjes, “Edendale 1850-1906 : A Case Study of Rural Transformation and Class Formation in an African Mission in Natal.” (PhD diss., School of Oriental and African Studies (University of London), 1988), 121.

¹²⁵ *Ibid.*, 121.

¹²⁶ Etherington, “African Economic Experiments in Colonial Natal 1845-1880,” 8.

‘Native Law.’ This dichotomy meant it was difficult for black land buyers to transact in the colonial marketplace as equals with whites.¹²⁷

Meanwhile, in the Transvaal, the 1881 Pretoria Convention had made land purchase by black people possible but only through a trusteeship system.¹²⁸ Black individuals or groups would pay for land via a white-owned institution or white individual (often a mission station, lawyer or politician). When the British took over the Transvaal after the South African War in 1902, government administrators accepted some purchases that had already been made in the name of a “tribe”, with the chief as the sub-trustee, and the Native Commissioner as the main trustee. Gavin Capps argues that the main reason for this move of the government away from title deeds for black people and towards “tribal trusts”, was to use chiefs as an administrative short cut.¹²⁹ It was part of the constraints of colonial governance that Sara Berry has called “hegemony on a shoestring.”¹³⁰ For example, the Bakgatla ba Kgafela and Royal Bafokeng followed the “tribal trust” land acquisition route, initially acquiring property under the names of missionaries and later as “tribal trusts.”¹³¹

Due to settler pressure, in 1903 the government had barred Africans from buying Crown land anywhere in the country. It was *de jure* still possible for Africans to buy land from white individuals rather than the ‘Crown’, but this was tied up in legal red tape. The legal landscape

¹²⁷ Etherington, "African Economic Experiments", 8.

¹²⁸ Feinberg, *Our Land, Our Life, Our Future*.

¹²⁹ Gavin Capps, “Tribal-Landed Property: The Value of the Chieftaincy in Contemporary Africa,” *Journal of Agrarian Change* 16, no. 3 (July 1, 2016): 452–77.

¹³⁰ Berry, *No Condition Is Permanent*, 22.

¹³¹ Capps, “Tribal-Landed Property”; Bernard Mbenga and Andrew Manson, eds., *People of the Dew: A History of the Bafokeng of Rustenburg District, South Africa, from Early Times to 2000* (Auckland Park, South Africa: Jacana Media, 2011).

changed in 1905, when Minister Edward Tsewu of the African Methodist Episcopal Church won a case in the Transvaal Supreme Court, which made it possible for black people to register land in their own names. In the early 1900s, Tsewu founded the Iliso Lo Notenga (also known as the Transvaal Native Landowners Association).¹³² With the support of other African Methodist Episcopal Church members, Tsewu had purchased land on the farm Klipriviersoog in the Krugersdorp district in 1904. The Registrar of Deeds, however, refused to register a title in Tsewu's name.¹³³ A Trinidadian lawyer, Henry Sylvester Williams, represented Tsewu in the case.¹³⁴ The judge found in Tsewu's favor on the basis the Transvaal government had not followed the correct procedure to prohibit African land ownership.¹³⁵ Elizabeth Thornberry argues that since the case was decided on procedural grounds, it did not challenge "the basic framework of segregation."¹³⁶

Nevertheless, in the years that followed the case, many black land buyers, including those at Mogopa and in the Association, were able to purchase land thanks to the Tsewu case's precedent. Some thanked Tsewu specifically, in an article about the Association, which he wrote for the newspaper *Ilanga Lase Natal*. Some called upon Tsewu, one of the "big shot buyers"

¹³² Peter Limb, *The ANC's Early Years: Nation, Class and Place in South Africa before 1940* (Pretoria: Unisa Press, 2010), 79.

¹³³ Jacob Dlamini, "The Land and Its Languages: Edward Tsewu and the Pre-History of the 1913 Land Act," in *Land Divided, Land Restored: Land Reform in South Africa for the 21st Century*, ed. Ben Cousins and Cheryl Walker (Jacana Media, 2014).

¹³⁴ Williams was born in 1867 in Trinidad. He trained in England, where he interacted with South African intellectuals. He moved to South Africa in 1903 and was admitted to the Cape Bar that same year. He was the first black lawyer to be admitted. Ngcukaitobi, *The Land Is Ours*.

¹³⁵ Thornberry, "Procedure as Politics in the Cape Colony," 426; Dlamini, "The Land and Its Languages: Edward Tsewu and the Pre-History of the 1913 Land Act."

¹³⁶ Thornberry, "Procedure as Politics in the Cape Colony," 426

(“magugu amakulu”) to invest in his Association project, writing “Mfundisi Tsewu, you are a leader in fighting the closing of doors of our nation, for black people to buy land in Transvaal.”¹³⁷ Tsewu’s victory meant that after 1905 and before the notorious Natives Land Act in 1913, black land buyers in Transvaal were limited less by law, and more by whether they had the funds and connections to acquire land. Hence the ability to access credit and property was intertwined (Chapter 3).

Seme was part of a network of lawyers working on legal battles over land in the early twentieth century.¹³⁸ In addition to the Tsewu case, Henry Sylvester Williams helped a group of Sesotho speakers in the Free State lodge an ultimately unsuccessful petition for the return of their land.¹³⁹ Alfred Mangena also cut his teeth as a lawyer on cases revolving around land. He assisted Mfengu land claimants in Zimbabwe, who wished to have their land registered as individual titles.¹⁴⁰ Richard Msimang, who came from a family of land buyers in Edendale and Driefontein in Natal, was well-versed in manoeuvring around the South African property law system. He represented labour tenants, whose claims to land relied on a long history of land occupation, labour and investment, but many of whom were evicted around the time of the 1913 Land Act.¹⁴¹

¹³⁷ Pixley ka Seme, ‘The Native Landowners Association and Trust Co., of Africa Ltd.: Zemuka I’nkomo Magwala Indini!’, *Ilanga Lase Natal*, December 3, 1915. The original Zulu reads, “wena mkokeli omkulu wesizwe kulezindaba zokuvula amasango esizwe setu tina bantsundu tuba sithenge umhlaba kuleli lase Transvaal.”

¹³⁸ Ngcukaitobi, *The Land is Ours*.

¹³⁹ Ngcukaitobi, *The Land Is Ours*, 68-69.

¹⁴⁰ Ngcukaitobi, *The Land Is Ours*, 113.

¹⁴¹ Ngcukaitobi, *The Land Is Ours*, 135.

The existing literature on black land buyers suggests that syndicates like those in Daggakraal, Driefontein and Mogopa, financed their purchases through the sale of livestock and crops¹⁴², pooling savings from wage labour¹⁴³, and levies instituted by chiefs. The ‘tribal trust’ regime that Gavin Capps describes in relation to the Bakgatla ba Kgafela is one of the most well-documented examples of this kind of financing.¹⁴⁴ These factors all contributed to the funds required for land purchase. In most cases though, even when people did come together as collectives, they took out credit to buy land. Very few people – in the past, like nowadays – could buy a large property outright with one sum, even if they sold other assets or formed a savings club.

Deborah James argues that for much of the twentieth century, black South Africans were living under “credit apartheid.”¹⁴⁵ During the apartheid period (1948-1994), it was almost impossible for black South Africans to gain access to credit through formal avenues, such as banks. James argues that this led to a proliferation of informal credit practices, in the form of savings groups, stokvels, burial societies, moneylending, shop credit and pyramid schemes.¹⁴⁶

But during the period of 1905 to 1913, some formal credit options were still open to black South Africans. It is likely that banks, businesses and other intermediaries like lawyers

¹⁴² Tim Keegan, *Facing The Storm: Portraits Of Black Lives In Rural South Africa* (Athens: Ohio University Press, 1989). See Keegan on Mogopa and Klipgat.

¹⁴³ Ibid. See Keegan on Mathopestad.

¹⁴⁴ Capps, “Tribal-Landed Property”; Gavin Capps and Sonwabile Mnwana, “Claims from below: Platinum and the Politics of Land in the Bakgatla-Ba-Kgafela Traditional Authority Area,” *Review of African Political Economy* 42, no. 146 (October 2, 2015): 606–24.

¹⁴⁵ Deborah James, *Money from Nothing: Indebtedness and Aspiration in South Africa* (Stanford, California: Stanford University Press, 2014), 95. See also chapter 3 of this book.

¹⁴⁶ Ibid, 96.

(white and black) saw the window of opportunity in 1905 to encourage more black people into a formal credit economy – and make good money from that. Between 1908 and 1914, the average annual interest rates on mortgages for whites were between 6% and 8%.¹⁴⁷ For black land buyers, average rates were higher: between 8% and 10%. This is ironic considering that many land sellers at the time remarked that they would bank on black farmers being profitable more than white farmers.¹⁴⁸ During this early twentieth century period, banks lent to black land buyers in Evaton and Alexandra on the outskirts of Johannesburg.¹⁴⁹ The National Bank of South Africa gave bonds of £50 to syndicates of black farmers in Lichtenberg and Potchefstroom, also in the Transvaal.¹⁵⁰ Many more white companies and individuals offered loans to syndicates.¹⁵¹ I.W. Schlesinger was one of these white businessmen who saw an opportunity in lending to Seme and the Association.

Since access to credit was possible but limited, those who were able to buy land were usually of high class and status, relative to other black South Africans. In both urban areas like Evaton and rural areas like Driefontein, the land buyers tended to come from two backgrounds: either mission-educated farmers, intellectuals and theologians from Natal, or well-off sharecroppers from Free State and the Transvaal. The majority of black South Africans could not

¹⁴⁷ Keegan, *Rural Transformation*, 167.

¹⁴⁸ Keegan, *Facing the Storm*.

¹⁴⁹ Vusi Khumalo argues this too in relation to Evaton. Vusumuzi Rodney Khumalo, “From Plough to Entrepreneurship: A History of African Entrepreneurs in Evaton 1905-1960s” (master's thesis, University of the Witwatersrand, 2014), 69–70.

¹⁵⁰ W. H. Beaumont, *Report of the Natives Land Commission, Volume 2: Minutes of Evidence* (Cape Town: Cape Times Ltd., 1916), Natives Land Commission UG 19, National Library of South Africa, Cape Town, South Africa.

¹⁵¹ 1909-1913: Many bonds offered by individual whites, especially lawyers, missionaries and farmers (example: £600 to a syndicate in Zeerust, £1800 from George Alfred Robinson to Bapo chief, over £1000 also to Bakgatla from Jan H. Robbertse). W. H. Beaumont, *Report of the Natives Land Commission, Volume 2*, National Library.

afford to buy land and so they lived as rent-payers on land legally owned by white companies, individuals and the government (Crown land and the reserves). Since they did not hold title deeds, their rights to land went unrecognized by the formal legal system. They were therefore even more vulnerable to eviction than land buyers. It is only since 1994, that South Africa's legal system has recognized their land *claims* as land *ownership rights*.¹⁵²

The number of black South Africans who bought land was therefore small in relation to the rest of the population. As regulations on black land ownership tightened in Natal in the late nineteenth century, the syndicate was a model that black South Africans with some income to invest, were adopting in other parts of the country, particularly the Transvaal (now Limpopo, Mpumalanga, North West and Gauteng). Between 1905 and 1913, hundreds of black individuals and syndicates bought land in both urban and rural parts of the Transvaal. The Beaumont Commission (1916) and Stubbs Commission (1918) reports indicate that as of 1914, black individuals or syndicates owned about 27,305 morgen (21,844 hectares)¹⁵³ worth of land in the Transvaal, only 0.28% of the total land in that province. Black land buyers owned 8,151 morgen (6,520 hectares) in the Wakkerstroom district, with the Association's purchases making this the largest proportion of black-owned land in any Transvaal district.¹⁵⁴ These figures indicate the significant influence of the Association, in charting a model for syndicate purchase in the Transvaal.

¹⁵² Interim Protection of Informal Land Rights Act of 1996 (S. Afr.); *Alexkor Ltd and Another v Richtersveld Community and Others* 2004 (5) SA 460 (CC), 2003 CCT 19/03.

¹⁵³ Based on estimate, as per historian Peter Delius' work, that hectares multiplied by 1.25 = morgen. So, 1.25 morgen = 1 hectare. To give you a visual idea of the scale of the land held by black land purchasers, 1 hectare = nearly 1.5 soccer fields.

¹⁵⁴ Mulaudzi and Schirmer, "Land Struggles in the twentieth Century," 354.

1.8 Pixley ka Seme establishes the Association

The Association had a rocky start, economically and politically. Seme originally founded the company as the Native Farmers Association of South Africa in 1909 in Natal. It was registered under the Companies Act of 1909, which among other things, allowed for a company to enter into contracts with individuals or groups to sell and transfer property to them (as well as to lease land).¹⁵⁵ In this first iteration, the company's directors were all black men, among them Alexander Dlamini and Seme's brother, Marsh.¹⁵⁶ In order to finance the purchase of land, Seme took out a mortgage of £14,000 from the African Guarantee and Indemnity Company, owned by I.W. Schlesinger. Seme and the directors began casting around for land that could be purchased and then sold to black land buyers.

In 1911, Seme applied for a second loan from another of Schlesinger's companies: The Colonial Banking and Trust Company, to the tune of £1,300. Schlesinger agreed, but on condition the Native Farmers Association of South Africa move to Transvaal and that there be shadow white directors and shareholders. Given that Seme's company was struggling to pay off its existing loans and therefore in a weak position to negotiate, Seme agreed to Schlesinger's terms about the white directors. The move to the Transvaal was also prompted by Seme's awareness of laws in Natal, that were making life difficult for black-owned land buying

¹⁵⁵ *Memorandum of Association of the Native Farmers Association of Africa, Ltd.*, para 'O', 18 October 1912, NTS 3439 56-308, National Archives. The paragraph reads, regarding the objects of the Association, "to sell the whole or any part of the assets, property and undertaking of this Company for such consideration as the Company may deem fit...Also to let, mortgage, abandon, dispose of or otherwise deal with all or any part of this Company's property and rights."

¹⁵⁶ The full list of directors at the Association's founding in 1912 was as follows: Pixley ka Seme, Marsh Seme, Nsula Mazibuko, Absalom Nkozi, Ezra Nkosi, Andries Hlongwane and Alexander Dlamini. *Memorandum of Association of the Native Farmers Association of Africa, Ltd.*, 18 October 1912, NTS 3439 56-308, National Archives.

syndicates. So, in 1912, Seme re-registered his land buying company in the Transvaal as the Native Farmers Association of Africa. Seme gambled on being able to pay back the mortgages owed to Schlesinger by making the Association an economic success.

The story of the Association's largest single financier, Isidore William (I.W.) Schlesinger, is intertwined with Seme's. Schlesinger is best known for his financing of the cinema industry in South Africa. He founded the African Consolidated Theatres and African Film Productions Limited, which produced newsreels, films and radio programs between the 1910s and 1930s. Schlesinger was born in New York in 1871 and moved to Johannesburg in 1890s to serve as an employee of the U.S.-owned Equitable Insurance Company. He travelled all over the north of South Africa, selling life insurance policies to everyone from mine workers to Swazi chiefs.¹⁵⁷ In 1903, he set up the African Realty Trust, which bought up land and built housing in Johannesburg suburbs of Houghton, Killarney and Orange Grove. Some black families bought houses in the latter neighbourhood.¹⁵⁸ To serve his property buying clientele, Schlesinger ran his own mortgage bond and loan office. According to historian Neil Parsons, the "secret to his [Schlesinger's] success was giving salary earners an opportunity to buy their own homes on an instalment basis."¹⁵⁹ This was Schlesinger's model for African buyers too. When African Realty Trust loaned Seme funds to buy land in Daggakraal and Driefontein in 1911, the Association also took up the model of payment through instalments.

¹⁵⁷ Neil Parsons, *Black and White Bioscope: Making Movies in Africa, 1899 to 1925* (Hatfield, Pretoria, South Africa: Protea Book House, 2018).

¹⁵⁸ K.A. Eales, 'Administrative History', 1984, Zebediela Citrus Estates Records, Wits Historical Papers, A1724.

¹⁵⁹ Neil Parsons, *Black and White in Bioscope: Movies Made in Africa 1899 to 1925* (Pretoria, South Africa: Protea Books, 2018), 27.

In 1905, Schlesinger had bought the old J.B. Robinson Bank, renamed it Colonial Bank Trust Company of Africa and used it to offer savings accounts to black customers. In 1911, when Schlesinger extended a loan to Seme for the Association, the Colonial Bank Trust Company employed J.H. Langeni, a former teacher, to promote its business. Langeni penned several ads in prominent Zulu-language newspaper *iLanga lase Natal*, encouraging people to put their savings in the bank and obtain a good interest rate.¹⁶⁰ The bank also offered loans for black-run start-up businesses, of which the Association was one its most prominent clients.¹⁶¹ The period between 1911-1919 marked a brief window of confluence between Schlesinger’s economic interests and Seme’s vision for the Association. Evidence of Schlesinger’s exploitation of the Association land buyers suggests that his interest in the Association was to do more with a shared interest in profit, than a shared political vision.¹⁶²

¹⁶⁰ J.H. Langeni, ‘Londa imali yako ebange’, *Ilanga Lase Natal*, 26 January, 1912.

¹⁶¹ Schlesinger also owned several citrus farms, including Zebediela Citrus Estate. In 1917, Schlesinger’s African Realty Trust Company purchased a tract of land called Zebediela in the northern Transvaal, which had been home to SePedi and Ndebele-speaking farmers. The Zebediela Citrus Estate became notorious for its exploitative and brutal treatment of black workers. A Department of Native Affairs report in the late 1930s described the workers’ accommodation as “uncomfortable, insanitary and likely to become a disgrace if ever we had a serious outbreak of disease.” K.A. Eales, ‘Administrative History’, 1984, Zebediela Citrus Estates Records, Wits Historical Papers, A1724. In the 1960s, I.W. Schlesinger’s son Johnny sold the family’s South African assets – including Zebediela and the Association – to focus on the family’s European and North American investments.

¹⁶² Irvin Freeman, whose father was in business with Schlesinger in Johannesburg, remembers him as a “sly” businessman, who he believes was motivated by profit rather than altruism. He recounts that his father warned him not to trust Schlesinger. Irvin Freeman, interview by Tara Weinberg, 31 July, 2020, Cape Town, South Africa. I had the good fortune of meeting Freeman, as my grandmother Pessa Weinberg had befriended him at their old age home in Sea Point, during the pandemic and shared my research with him. Unfortunately, Freeman passed away later in 2020.



Figure 4: A portrait of Schiesinger (left) and a photograph of the Colonial Banking and Trust Company buildings (right).

The photograph caption in Zulu reads “put your money in the right bank.” Source: Schiesinger portrait from *By The Flight* magazine archive from Flightglobal, CC BY-SA 4.0, <https://commons.wikimedia.org/w/index.php?curid=10655714>;

Photograph of the bank from J.H. Langeni, ‘Londa imali yako ebange’, *Ilanga Lase Natal*, 26 January, 1912.

Schlesinger had offered the financial wherewithal, but it was the Ngwenya brothers’ horse-racing incident that introduced Seme to the possibility of Daggakraal as a site to begin realizing his company’s ambitions. The Ngwenya brothers brought the needs of labor tenants to Seme’s attention. As skilled farmers, he believed they could make a profit from farming if they owned their own land. The Ngwenyas knew one of the owners of Daggakraal, a white farmer named Willem Gouws. Descendants of the Ngenywa family believe it was easier for their grandparents and Seme to acquire land in the Daggakraal area because some white farmers felt they owed a debt of honour for the injury to the Ngwenya brothers that took place at the horse race.¹⁶³ They argue these bonds of indebtedness made Gouws more likely to sell. In addition to

¹⁶³ Thuthuka Ngwenya, interview by Tara Weinberg, 31 August 2019, Daggakraal, South Africa.

this groundwork set by the Ngwenya family, Seme found Daggakraal's location attractive. It sat at the crossroads of the Transvaal, Natal, and Orange Free State, making it a convenient point of transit for people in all three provinces. On April 12th, 1912, Gouws sold Daggakraal to Seme's Association for the sum of £14,000.¹⁶⁴ Seme used the loan from Schlesinger's African Guarantee and Indemnity Company to make payment. The deed of sale was signed over in the presence of Seme's friend and lawyer, Ben Boshoff. Boshoff was an Afrikaans lawyer from the nearby town of Amersfoort.¹⁶⁵ Boshoff did a huge amount of business in the region, with over one hundred black clients on his books.¹⁶⁶ Daggakraal became the Association's first purchase in the Transvaal.

Seme was aware of the economic, political and legal dynamics of the time. After the South African War, many Afrikaner farmers were struggling economically and looking to sell their property. This was particularly the case in the Newcastle and Klipriver areas near Driefontein and Daggakraal.¹⁶⁷ One such Afrikaner farmer was Willem Gouws. Another was C.A.M. Potgieter, who also owned portions of the farm Daggakraal.¹⁶⁸ When her father died,

¹⁶⁴ Ibid.

¹⁶⁵ There is little archival material on Boshoff's background. However, his grave is located in the old cemetery in Amersfoort (under "Bertrand Jacobus De Klerk (Ben) Boshoff, b. 10 June 1885, died 25 July 1954." He is listed in an account's ledger belonging to the firm of C.K. Barry and W.B. Schuurman's, as residing in Amersfoort. C.K. Barry and W.B. Schuurman, Accounts Ledgers (unpublished, 1903-1929), on file with Anton Roets, Wakkerstroom, South Africa.

¹⁶⁶ His cases and payments are listed in Barry and Schuurman, Accounts Ledgers.

¹⁶⁷ John Lambert, "African Reasons for Purchasing Land in Natal in the Late nineteenth, Early twentieth Centuries," *Kleio* 31, no. 1 (January 1, 1999): 50.

¹⁶⁸ Mrs. C.A.M. Potgieter had taken out a loan from the lawyers' firm of Barry and Schuurman in 1911, and had failed to repay her debt by 1912, the year before she sold her land to the Association. Barry and Schuurman, Accounts Ledger, 1911.

Potgieter sought to settle some of the family's debt by selling her portion of Daggakraal to the Association on the 6th of June 1914.¹⁶⁹

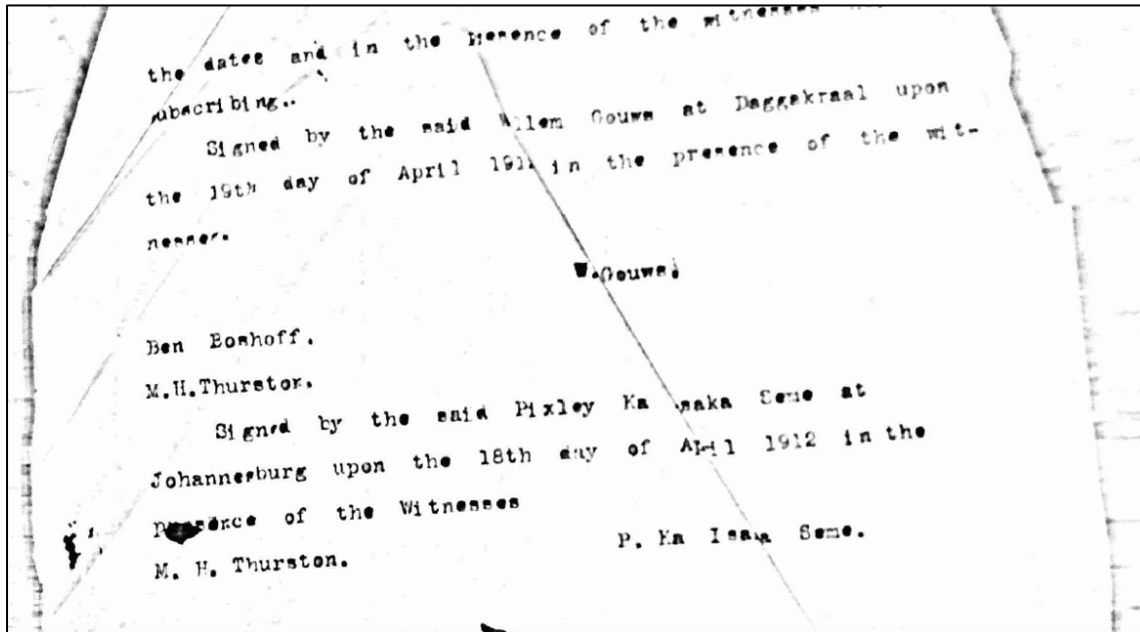


Figure 5: Deed of sale between Willem Gouws (seller of Daggakraal) and Seme, on behalf of the Association. 12 April, 1912. Source: Native Farmers Association of Africa, Ltd., NTS 3439 56-308, National Archives of South Africa.

¹⁶⁹ Bond charges listed on C.A.M. Potgieter's title deed at the time of the sale indicate that her family had not finished paying off their mortgage. Transfer from C.A.M. Potgieter to the Native Farmers Association of Africa, Deed no. 2911/1914, National Deeds Registry, Pretoria.

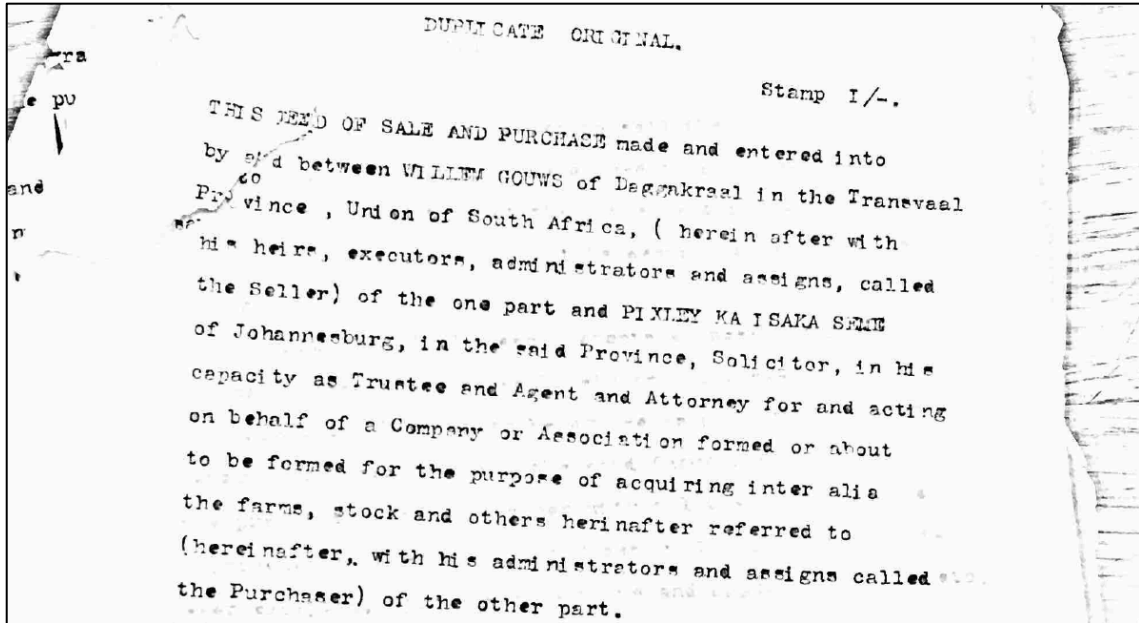


Figure 6: Deed of sale (signature page) between Willem Gouws (seller of Daggakraal) and Seme, on behalf of the Association. 12 April, 1912. Source: Native Farmers Association of Africa, Ltd., NTS 3439 56-308, National Archives.

Seme established the Association with the express purpose of buying up land from white people to sell and rent to black farmers.¹⁷⁰ The Association bought three large farms from white farmers in the Wakkerstroom district of the eastern Transvaal, in addition to Daggakraal: Driefontein, Driepan and Vlakplaats. These farms were all situated outside the ‘native reserves’ recommended by the Beaumont Commission of 1914. The purchase took place one year before the passing of South Africa’s 1913 Natives Land Act, which then made it much more difficult for black South Africans to own land in the form of titles. At the time of establishing the Association in the Transvaal in 1912, Seme was well aware of the push in parliament, led by General Hertzog, for a Land Act that would more stringently restrict black people’s ability to buy

¹⁷⁰ I owe much of my understanding of the Association to Bongani Ngqulunga’s insightful chapter on Daggakraal in Ngqulunga, *The Man Who Founded the ANC*.

land.¹⁷¹ Giving a speech as one of the founding members of the South African Native National Congress, also in 1912, Seme had warned, “We have discovered that in the land of our birth, Africans are treated as hewers of wood and drawers of water...we have called you therefore to this conference so that we can together devise ways and means of forming our national union for the purpose of creating national unity and defending our rights and privileges.”¹⁷² Seme saw the Association as a means to acquire and protect black South Africans’ land, in a context where the government, together with a growing class of white farmers sought to dispossess them of land and livelihoods.

Buying land in the context of legislation that actively excluded black people from land purchase meant the Association had to run a particularly hazardous legal gauntlet. Initially, government officials intended to undermine the Association by using the Squatters’ Law of 1895. The law stated that five or more black people could not live on white-owned farms unless they were issued a permit by the white owner to do so. Seme found a way around this by having Alexander Dlamini, in his capacity as Association secretary, issue passes to all those who resided on Association farms.¹⁷³ Next, the Department of Justice issued a report conceding that there were precedents for black individuals owning land in the form of titles, set in the case of *Edward Tsewu v The Registrar of Deeds* (1905).¹⁷⁴ However the report also argued that it was illegal for

¹⁷¹ Ngqulunga, *The Man Who Founded the ANC*, 129.

¹⁷² Pixley ka Seme, Speech at the founding of SANNC, 8 January, 1912, quoted in Richard Rive and Tim Couzens, ed. *Seme: The Founder on the ANC* (Johannesburg: Skotaville Publishers, 1991).

¹⁷³ Telegram from Pixley ka Seme to the Superintendent of Police at Volkrust, 12 August, 1912, NTS 3439 56-308, National Archives. The telegram states: “Alexander Dlamini is Secretary of the duly incorporated Company [Association] and is authorized by company to issue passes to Jita and other servants of company. Delaying him will cause damages for which... you may be responsible.”

¹⁷⁴ See Dlamini, “The Land and Its Languages: Edward Tsewu and the Pre-History of the 1913 Land Act.”.

black individuals to form groups to own land – in such situations they would be considered squatters. Only white owners could apply for permits for their squatters, and therefore Seme as a black person could not. But Seme had found a legal loophole when he registered the Association as a company. He argued that the Association was issuing squatters’ permits – not Seme in his personal capacity. The Department of Justice report admitted that the Squatters’ Law and other legislation at the time of the Association’s purchase did not contemplate ownership by "fictitious persona such as a company."¹⁷⁵ There was nothing in the law at the time against a black owned company like the Association having squatters. The Association had not – yet – been racialized in law.

Bongani Ngqulunga argues that it was partially in direct response to companies like the Association and legal strategies such as Seme’s that parliament rushed through the Natives Land Act in January of 1913.¹⁷⁶ The Act envisaged a redistribution of South African land: approximately 7 percent for black people and 93 percent for white people (expanded in 1936 to 13 percent and 87 percent, respectively). It effectively prohibited black people buying land from white people or in areas designated as “white.” It states, “a native shall not enter into any agreement or transaction for the purchase, hire, or other acquisition from a person other than a native.”¹⁷⁷

The 1913 Land Act also severely undermined the bargaining power of labor tenants. Peter Delius and William Beinart argue that most black people had already been dispossessed of

¹⁷⁵ Letter from Secretary for Justice to the Secretary for Native Affairs, 2 October 1912, NTS 3439 56/308, National Archives.

¹⁷⁶ Ngqulunga, *The Man Who Founded the ANC*, 129

¹⁷⁷ Natives Land Act 27 of 1913, § 1, a (S. Afr.).

their land by 1913, so the Act is simply part of the process of land alienation, rather than the root of it.¹⁷⁸ Nevertheless, the Land Act was a huge blow to the ambitions of black farmers and intellectuals, including those involved in the Association. Members of the Association's wider intellectual community spoke out against the Act, among them women intellectuals. As I discuss later (see also Chapters 5 and 6), women intellectuals (teachers, writers and poets), landowners and church activists participated actively in debates over land in South Africa, although their commentaries are rarely quoted alongside figures like Sol Plaatje and Pixley ka Seme. On the Natives Land Act, for example, Adelaide Tantsi lamented in a poem, 'Africa, My Native Land', published in English in *Ilanga Lase Natal* in 1913:

How beautiful are thy hills and thy dales!
I love they very atmosphere so sweet,
Thy trees adorn the landscape rough and steep
No other country in the whole world
could with thee compare.

It is here where our noble ancestors,
Experienced joys of dear ones and of home;
Where great and glorious kingdoms rose and fell
Where blood was shed to save thee, thou
dearest Land ever known;

But, Alas! their efforts, were all in vain,
For to-day others claim thee as their own;
No longer can their off-spring cherish thee
No land to call their own — but outcasts
in their own country!

Despair of thee I never, never will,
Struggle I must for freedom — God's great gift—
Till every drop of blood within my veins
Shall dry upon my troubled bones, oh

¹⁷⁸ Beinart and Delius, "The Historical Context and Legacy of the Natives Land Act of 1913."

thou Dearest Native Land!¹⁷⁹

Adelaide Tantsi studied at Inanda Seminary in Inanda, Natal in the late 1890s, while Seme was growing up in Inanda. She was also a contemporary of Charlotte Maxeke's at Wilberforce Institute in Ohio, from where she graduated in 1904. Tantsi's poem is written in the tradition of English landscape poetry of the time. Like Plaatje's petitions against the 1913 Land Act, Tantsi's poem is pitched at the sensibilities of those in power in Britain, as well as the English-Zulu *amakholwa* readership of *Ilanga Lase Natal*, many of whom had bought or intended to buy land.¹⁸⁰ Athambile Masola argues that Tantsi's poem also echoes some of the early language of African nationalism.¹⁸¹

Seme joined Tantsi and Plaatje in lambasting the 1913 Land Act. He also emphasized the urgency and importance of his Association project, as providing a safe haven for black land buyers in the context of the Act. In the September 1913 edition of *Abantu Batho*, Seme featured an article from the newspaper, *The Harrismith Chronicle*, about an elderly black couple, aged 119 and 98, who left Harrismith in the Orange Free State to start a new life in Daggakraal. In his capacity as editor, Seme added a commentary on the Chronicle's piece, encouraging those fleeing the effects of the 1913 Land Act, to join the Association:

¹⁷⁹ Adelaide Tantsi [later Dube, when she married Charles Dube], "Africa, My Native Land", *Ilanga Lase Natal*, October 1913. Copy in Margaret J. Daymond, Dorothy Driver, and Sheila Meintjes, *Women Writing Africa: The Southern Region* (New York: Feminist Press at CUNY, 2003), 161–63.

¹⁸⁰ For more on *Ilanga's* readership, see Hlonipha Mokoena, "An Assembly of Readers: Magera Fuze and His *Ilanga Lase Natal* Readers," *Journal of Southern African Studies* 35, no. 3 (2009): 595–607.

¹⁸¹ Athambile Masola, "Excavating Forgotten Histories in South Africa," September 24, 2018, <https://africasacountry.com/2020/02/excavating-forgotten-histories-in-south-africa>.

Our Native readers will be interested to know that the aged couple referred to in the above extract have been forced to give up land on which they have resided for generations through the operation of iniquitous Native Lands Act. How Shameful! The old people, we are however glad to remark, have not been turned off to wander. They have gone to Daggakraal – one of the rich farms in Wakkerstroom district owned by the Native Farmers’ Association of Africa, Ltd. – where they hold an interest in land. The native farmers have come by that land through the wisdom and foresight of Mr. P. ka I. Seme, a Native Solicitor of this city, who is the managing director of that Company.¹⁸²

Harvey Feinberg has documented that black people continued to buy land after the passing of the 1913 Land Act.¹⁸³ Indeed, hundreds of transactions between the Association and black land buyers were approved well into the 1950s. While it is true that land buying continued after 1913, it became more cumbersome and expensive. In many instances, black people were buying land from other black people in places like Daggakraal, so they were not necessarily making new land purchases outside of the reserve areas. This somewhat undermines Feinberg’s argument about the significance of ongoing land purchases by black people. When black farmers arrived at Daggakraal or Driefontein to buy land after 1913, every transaction that took place between the Association and a black land buyer, or between a black seller and land buyer, had to be approved by South Africa’s Governor General as an “exception” to the 1913 Act.¹⁸⁴ In order for land to officially change hands in Daggakraal and Driefontein, even via inheritance, families had to engage a long-winded and costly process.

¹⁸² Pixley ka Seme, “An Ancient Couple: Suffering under the Lands Act”, *Abantu Batho*, September 1913. Copy in Peter Limb, ed., *The People’s Paper: A Centenary History and Anthology of Abantu-Batho* (Johannesburg: Wits University Press, 2012), 346.

¹⁸³ Feinberg, *Our Land, Our Life, Our Future*.

¹⁸⁴ There are hundreds of these exceptions in the Association files in the archives. For more on the ‘exception’ policy, see Feinberg.

Perhaps because of the business it offered them with the turnover of land, creditors, lawyers and law clerks were drawn to Seme and his Association project like moths to a flame. Selby Msimang, brother to the lawyer Richard Msimang, arrived in Volksrust in 1913, to serve as Seme's rural law clerk. Although not qualified as a lawyer, Selby Msimang assisted the land buyers in Daggakraal and Driefontein, as well as labor tenants and farm workers, with "matters that did not require an appearance in court."¹⁸⁵ Msimang described feeling quite under prepared for all the matters that came before him. He befriended the local prosecutor by helping with interpretation, and would leverage this relationship to get cases dropped against Seme's clients.¹⁸⁶ He would also collect funds on Seme's behalf from land buyers in Daggakraal and Driefontein. Seme would not visit the Association's land for 6 months at a time, and then on arrival Msimang said they would spend all day "writing checks until the whole account closed" – or until Seme ran out of money to pay checks. Once a week, Msimang would summon Seme's longtime friend and business partner, Ben Boshoff, to argue cases in court. He also reported receiving assistance from Mahatma Gandhi, who would bring in his colleagues and friends.

Jonas Moloï was another key legal intermediary in Daggakraal and Driefontein. Moloï had arrived in Daggakraal in 1913, with a group of land buyers from Witzieshoek in the Orange Free State province. He had been present at the South African Native National Congress' founding in 1912, where he had met Seme and discussed his community's interest in buying land. Moloï served as a personal assistant to Chief Maitse Popo Moloï, from Witzieshoek, who also bought land in Daggakraal. He regularly acted as a letter-writer and representative for the

¹⁸⁵ Mkhize, *A Political Biography of Selby Msimang*, 24.

¹⁸⁶ Selby Msimang, interview by Tim Couzens, 2 July, 1977 and 3 July, 1977, Edendale South Africa, transcript Caa, Institute for Advanced Social Research, AG2738, Wits Historical Papers.

group from the Orange Free State, calling itself the ‘Daggakraal Natives Committee.’ Moloji often visited Seme’s Volksrust office, where he would hand over letters and payment instalments from Association members in Daggakraal. He also made claims on the Association for a salary as an “assistant” and “messenger.” In several court cases, including the *Sehlako* case in 1916 and a corruption case against Seme in 1923, Moloji acted as a legal intermediary by advocating on the community’s behalf via petitions and working with other lawyers to oppose Seme (see Chapter 3).

In 1915, the Volksrust office collapsed due to lack of funds – although Seme and Boshoff continued to travel to the region to provide ad-hoc advice to land buyers. This lacuna brought several more lawyers onto the scene. Like Seme and Boshoff, these lawyers did not only represent the land buyers in court. They also acted as credit intermediaries, receiving instalments from Association members, taking a cut and passing on the money (or sometimes not passing it on) to the Association. The network of lawyers included Cyril Kershaw Barry and W.B. Schuurman of Wakkerstroom, and Fred Kleyn and V.M.C. Beck of Amersfoort. After 1919, when Seme had been removed as the official Association director, these lawyers played a more active role as credit intermediaries (Chapter 3). This was the backdrop against which Seme and other Association members tried to carry out their visions for an idealized community of black farmers.

1.9 Seme’s vision for the Association

Pixley ka Seme believed that black South Africans’ economic and political success should be founded on a bedrock of land ownership, hard work and good education. With these elements in place, Seme argued, black South Africans would no longer be dependent on working

for white farmers, factory owners or mine owners to make a living. Seme had a vision for the Association that was grounded in a particular kind of liberal political thought.¹⁸⁷ He believed in “educating the native mind as to the importance of economic interests in land and the advantage of individual land tenure over and above communal or tribal tenure.”¹⁸⁸

Like Edward Tsewu, Seme “understood that individual tenure was a key marker of modern colonial society.”¹⁸⁹ Tsewu and Seme believed “that their own development as a social group was incomplete unless they, too, could buy and hold property in their own names.”¹⁹⁰ In the vein of John Locke, Seme believed that black farmers who mixed their labor with the land, were entitled to ownership of it. If white South Africa would not recognize this, he intended to set up a company that would.

1.9.1 The seedbed of Seme’s land buying vision

Pixley ka Isaka Seme had been born in 1881 and raised among Zulu-speaking *amakholwa* (Christian, educated) families, some of whom owned small farms in Natal. He grew up on the Inanda Mission Station (of the American Board of Missions) near Durban.¹⁹¹ His parents farmed

¹⁸⁷ What Keith Breckenridge argues can be understood as “African progressivism”, which involved appeals to the “global prerogatives of imperial citizenship as an antidote to racist innovations” combined with “bitter disappointment at the betrayals of the old promises of Victorian liberalism and the more immediate ones offered by social imperialists such as Joseph Chamberlain and Lord Alfred Milner during the South African War.” Breckenridge, “African Progressivism, Land and Law: Re-Reading Native Life in South Africa,” 175.

¹⁸⁸ *Memorandum and Articles of Native Landowners’ Association*, Article 3(b), Government Native Labour Bureau, GNLB 339 67/22, National Archives. Also quoted by Ngqulunga, 2017, 149. The Native Landowners’ Association was a company Seme established in Natal with similar aims to the Association.

¹⁸⁹ Dlamini, “The Land and Its Languages: Edward Tsewu and the Pre-History of the 1913 Land Act,” 13.

¹⁹⁰ *Ibid.*

¹⁹¹ Ngqulunga, *The Man Who Founded the ANC*, 11.

for subsistence but were not particularly well-off, in relation to other Natal peasant farmers.¹⁹² Missionaries at Inanda, like in other parts of Natal, encouraged industrial education, agriculture and individual property ownership amongst their converts. Missionaries argued that precolonial farming methods were not suitable for converts. As Meintjes put it, missionaries aimed to teach the “meaning of ‘work’. Pastoralism promoted idleness and agriculture, civilization.”¹⁹³ Scholars have argued that the colonial government of the 1880s viewed missions as a labor source for white-owned mines and farms. As Meintjes puts it, “mission education was to teach the dignity of labour and, above all, send their charges out to work for others.”¹⁹⁴ Growing up at Inanda, Seme would have been aware of this emphasis on a particular kind of Christian work ethic. Later, he would fuse that with philosophies of self-help, common amongst African-American church movements.

Many Inanda residents applied for exemption from “Native Law”, which meant they would not be subject to the “Native Code” of 1890, a codified version of customary law enforced in the chiefs’ and Native Commissioners’ courts. The newspaper, *Inkanyiso Yase Natal* featured articles by *Funamalungelo* (“Demand Rights”), an organization founded in 1887, to represent Africans who wished to be exempt from “Native Law.” Thornberry argues that members of *Funamalungelo* demanded to be exempt from both customary law and from any law applicable only to “natives.”¹⁹⁵ This required a compromise with the government: obtaining exemption

¹⁹² Ngqulunga, *The Man Who Founded the ANC*, 13.

¹⁹³ Meintjes, “Edendale 1850-1906,” 101.

¹⁹⁴ Meintjes, “Edendale 1850-1906,” 103-104.

¹⁹⁵ Elizabeth Thornberry, “Imagining ‘Native Law’: The Politics of Exemption in nineteenth-Century Natal” (Northeastern Workshop on Southern Africa, Zoom, October 2018), 11.

from native law also meant repudiating the practices of custom and customary law. They critiqued customary law as embodied in the “Native Code” as an example of Europeans having frozen “precolonial custom” in law. If some Africans who sought exemption wished to obtain the status of Europeans in law, while still maintaining customary practices, the state would not allow this.¹⁹⁶ In the Cape, exemption from native law was a prerequisite to the right to vote – but in Natal, by the 1890s white settlers had organized to close the door on the extension of political rights to Africans.¹⁹⁷

One of Pixley ka Seme’s brothers, Mbekwana Seme, applied for exemption in Natal in 1898, following on the example of his brother Marsh Seme. Mbekwana Seme described the exemption as “freedom of movement and comfort under English Law as applied to Europeans.”¹⁹⁸ In 1910, Pixley ka Seme too applied for an exemption, so that he could “acquire testimony rights over my future property and in the meantime to be able to enjoy and exercise the freedom of locomotion which the practice of my profession requires.”¹⁹⁹ Seme emphasized that he wanted to be able to acquire and transact property as if he was a “European” in the eyes of the law – in other words, exempt from legislation at the time of his writing, and in the future, which would limit his property rights on the basis of race. He also argued that, as a lawyer, he would be held back in his work if made subject to the kinds of pass laws imposed by “Native Law.” Seme equated his status as a man of “civilization” with being exempt from the application

¹⁹⁶ Thornberry, “Imagining ‘Native Law,’” 18

¹⁹⁷ Thornberry, “Imagining ‘Native Law,’” 12

¹⁹⁸ Ngqulunga, *The Man Who Founded the ANC*, 13.

¹⁹⁹ Ngqulunga, *The Man Who Founded the ANC*, 14.

of statutes applying specifically to Africans.²⁰⁰ For Seme, like other *amakholwa*, this kind of “civilization” paired with a denunciation of African custom, was also a pre-requisite for political rights, such as the vote.²⁰¹ There were interesting slippages. While arguing that he should be except from customary law, Seme recognized and sometimes sought to enforce customary laws and practices among his clients, such as Chief Moloji and his group from the Orange Free State (Chapter 3).

Seme came from a tradition of advocating for individual land ownership among black land buyers in Natal. One of the most famous examples is the community of Edendale near Pietermaritzburg. Many residents there were driven by principles of individual ownership, cultivating intensely via family labor, and landownership as a way of securing their status as respectable, well off, Christians.²⁰² They saw individual land ownership as a signifier of progress in society.²⁰³ Scholars have argued that individual land ownership also made strategic sense for *amakholwa* buyers, given that many members of the Edendale syndicate had arrived there as “refugees” in the aftermath of the Mfecane. Since they did not have wide-ranging access to labor from their extended families, as precolonial farmers had often relied upon, they found working on a smaller scale as individual families to be attractive.²⁰⁴

²⁰⁰ Pixley ka Seme, ‘Umhlangano e Daggakraal’, *Abantu Batho*, October 1912, NTS 3439 56/308, National Archives.

²⁰¹ Ngqulunga, *The Man Who Founded the ANC*, 9.

²⁰² Meintjes, “Edendale 1850-1906.”

²⁰³ Khumalo, “From Plough to Entrepreneurship.”

²⁰⁴ Lambert, “African Reasons for Purchasing Land in Natal in the Late nineteenth, Early twentieth Centuries,” 38.

Unlike the line pushed by many white missionaries, including Edendale's James Alistair, Edendale residents were interested in working for themselves rather than for others. Edendale landowners found resonance in ideas of Christian self-help. Many had interacted with other black intellectuals and preachers from across the Atlantic via the African Methodist Episcopal Church and the teachings of Garveyism.²⁰⁵ Some of the families that joined the Association had likely also been involved with other joint stock companies such as the Zulu Industrial Company and the 'Isivivane' ("Small Savings") Society.²⁰⁶ Through the Edendale connection they had come to know many lawyers, political leaders and intellectuals of the time, such as Seme, Richard and Selby Msimang, Alfred Mangena, and the Dube family. Edendale residents were also keen readers of newspapers like *iLanga lase Natal* (of which Dube was editor) and *Abantu Batho* (of which Seme was editor). Families heard about land buying opportunities in Daggakraal and Driefontein via these networks. Their voices, raised in praise of the Association and individual title, appear in letters to the editors of *Ilanga* or *Abantu Batho*.

Seme's experiences in the United States also shaped his approach to the politics of land ownership. With the assistance of Reverend S.C. Pixley of the Lindley Mission Church in Inanda, John Dube and other friends' financial assistance, Seme left for the Mount Hermon School in Massachusetts in 1897.²⁰⁷ Mount Hermon was a Christian boarding school, established

²⁰⁵ Hausse, *Restless Identities*; Lambert, "African Reasons for Purchasing Land in Natal in the Late nineteenth, Early twentieth Centuries," 33–35; Heather Hughes, "Doubly Elite: Exploring the Life of John Langelibalele Dube," *Journal of Southern African Studies* 27, no. 3 (September 1, 2001): 445–58, <https://doi.org/10.1080/13632430120074536>; Simangaliso Kumalo, "Meeting the Cowboy Turned Renegade Missionary: William Cullen Wilcox," *Studia Historiae Ecclesiasticae* 39 (August 2013): 337–52.

²⁰⁶ La Hausse, *Restless Identities*.

²⁰⁷ Christopher Saunders, "Pixley Seme: Towards a Biography," *South African Historical Journal* 25, no. 1 (November 1, 1991): 196–217.

with the founding premise “to provide a Christian education for boys of high purpose and limited means.”²⁰⁸ In the U.S., Seme found that his ideas resonated with Booker T. Washington’s philosophy of self-help for African Americans.²⁰⁹ Seme spent time with John and Nokutela Dube, who had a residence in New York, and who had themselves been attending Washington’s talks in the city.²¹⁰ During his time as a student at Columbia University (1902-1906), Seme read Booker T. Washington’s work and attended a conference in Atlanta, Georgia, ‘the National Negro Business League’, where Booker T. Washington was a key speaker.²¹¹ He later wrote, “I can never forget the great vision of national power which I saw at Atlanta.”²¹² He wrote to Booker T. Washington in 1906, telling him he was inspired by the Tuskegee school in Alabama, which emphasized industrial agricultural education. In a famous speech he delivered at Columbia in 1907, *The Regeneration of Africa*, Seme again emphasized the congruence of education, religion and agricultural productivity in his vision. Describing the African continent and the industry of Africans, Seme extolled, “already I seem to see her chains dissolved, her desert plains red with harvest, her Abyssinia and her Zululand the seats of science and religion...”²¹³ Seme continued to correspond with Washington when he moved to Oxford University in 1907.

In his interest in the application of Booker T. Washington’s ideas to South Africa, particularly around industrial education, Seme found common ground with the Dubes and the

²⁰⁸ Joseph R. Curry, “Mount Hermon from 1881-1971: An Historical Analysis of a Distinctive American Boarding School.” (PhD diss., University of Massachusetts Amherst, 1972).

²⁰⁹ Ngqulunga, *The Man Who Founded the ANC*, 152.

²¹⁰ Saunders, “Pixley Seme.”

²¹¹ Ngqulunga, *The Man Who Founded the ANC*.

²¹² Seme, “The African National Congress - Is It Dead?” (1932), quoted by Saunders, “Pixley Seme”, 201.

²¹³ Pixley Isaka ka Seme, “The Regeneration of Africa,” April 5, 1906, Columbia University, New York, South African History Online, <https://www.sahistory.org.za/archive/regeneration-africa-speech-pixley-seme-5-april-1906>.

Maxekes. John Dube, Nokutela Dube, Charlotte Maxeke (nee Many) and Marshall Maxeke all studied at Wilberforce College in Ohio around the turn of the century. With the help of the African Methodist Episcopal Church, the two couples set up institutions that would put industrial education into practice in South Africa – the Ohlange Institute in Natal and the Wilberforce Institute in the Transvaal.²¹⁴ The Dubes and Maxekes later became key supporters of Seme’s Association project.

As a law student at Oxford, Seme met the African American student Alain Locke, whose legacy is closely associated with the Black Renaissance in Harlem, New York. Seme developed a close friendship with Locke, with whom he gathered for the Cosmopolitan Club, a meeting of students from what were British colonies at the time, such as South Africa, Egypt and India. After they left Oxford, Seme and Locke regularly wrote to each other. Seme asked for Locke’s advice and assistance on a number of his projects in South Africa, and shared with him his ideas for agricultural education and land buying.²¹⁵

Seme returned to South Africa in 1910. Here he put into practice his learnings from Booker T. Washington, conversations with the Cosmopolitan Club, and his intellectual upbringing amongst land buyers in Natal. In 1911, at a meeting of the South African Native National Congress, Seme was vocal in proposing the establishment of agricultural colleges “to

²¹⁴ John Dube to Booker T. Washington, 21 September 1907, in Louis R. Harlan and Raymond W. Smock, eds., *The Booker T. Washington Papers*, vol. 9 (Urbana: University of Illinois Press, 1980), 338. See also James T. Campbell, *Songs of Zion: The African Methodist Episcopal Church in the United States and South Africa* (Chapel Hill: The University of North Carolina Press, 1998), 198.

²¹⁵ Ngqulunga, *The Man Who Founded in the ANC*.

train the natives in modern methods of agriculture”.²¹⁶ This focus on agricultural industry was something Seme was to invest in when he formed the Association.

In his support of industrial education, Seme was at odds with Sol Plaatje and John Tengo Jabavu, both of whom shared W.E.B. Du Bois’ critique of Booker T. Washington’s education program. As James Campbell notes, industrial education had its roots in the transition from slavery to wage labor in the U.S., with white employers and government officials seeking a means of disciplining black workers. Key tenets of industrial education were “self-control” and “moral discipline.”²¹⁷ Tembeka Ngcukaitobi argues that for Plaatje and Jabavu, “education for Africans did not have to carry an industrial slant, and they could aspire to be magistrates, judges, lawyers, bishops, ministers and evangelists, and school masters.”²¹⁸ Seme either did not agree, or he believed in education for those of a class and status worthy of such an aspiration, and industrial education for a lower class of people. Seme’s plan to buy land on such a large scale, and the more radical approaches to property taken by other Association land buyers, threatened the white establishment in South Africa.

Some additional context on Booker T. Washington’s life helps put the Tuskegee school in perspective, in relation to Seme’s Association. While earlier generations of historians had argued that Washington’s Tuskegee school exemplified his “accommodationist” approach to racial segregation, more recent historical research suggests that “behind the scenes Washington

²¹⁶ Quoted by Ngqulunga, *The Man Who Founded in the ANC*, Kindle, 1184.

²¹⁷ James T. Campbell, *Songs of Zion: The African Methodist Episcopal Church in the United States and South Africa* (Oxford University Press, 1995), 305. Campbell writes that Booker T. Washington “appeared to have perfected an approach [though perhaps unintended] that harmonized the demands of capitalist development, political stability and white supremacy.”

²¹⁸ Ngcukaitobi, *The Land Is Ours*, 31.

directed and raised funds for lawsuits that challenged Jim Crow.”²¹⁹ Washington funded litigation against railroad segregation, the exclusion of black Americans from juries and the case of *Giles v. Harris*, on voting rights. Washington’s support for legal initiatives that directly challenged the status quo on segregation suggest that he cannot be easily boxed into the binary of accommodationist. Like Seme, Washington’s political strategies were complex.

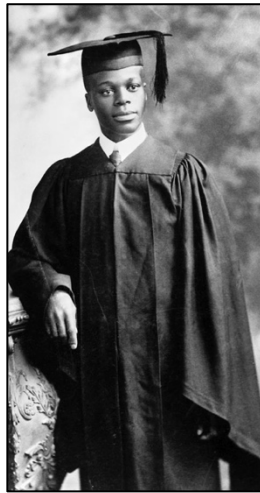


Figure 7: Pixley ka Seme as a student at Oxford University in 1906. Source: Bongani Ngqulunga, *The Man Who Founded the ANC* (Cape Town: Penguin Random House South Africa, 2017).

Seme was part of a milieu of intellectuals whom Isabel Hofmeyr has referred to as the “reading commonwealth”.²²⁰ This was a global network of newspaper editors, writers and publishers like Seme’s contemporaries Sol Plaatje, Alain Locke and Mahatma Gandhi, who made claims to Britain for recognition as citizens, and that they should be granted all the

²¹⁹ Richard H. Pildes, “Democracy, Anti-Democracy, and the Canon,” *Constitutional Commentary* 17, no. 2 (2000), 304.

²²⁰ Isabel Hofmeyr, *Gandhi’s Printing Press: Experiments in Slow Reading by Isabel Hofmeyr* (Harvard University Press, 2013), 8–9.

accompanying rights.²²¹ Hofmeyr argues that these figures “crystallized new lines of allegiance, belonging, and exclusion. People had to distinguish themselves from their colonial rulers” as well as “from their new ‘also colonized’ neighbors.”²²² While Gandhi’s ideas about who should qualify as rights-bearing citizens often excluded black Africans, Seme’s appeals to a “liberal universalism” were related to class and education.²²³ In a letter to Booker T. Washington in 1907, Seme had written he believed that “printing or the press is the greatest emancipator.”²²⁴ Seme also understood that using litigation and land purchase could aid the case black South Africans were making for themselves as “imperial citizens.”²²⁵

Seme and his contemporaries often wrote petitions directed to the British monarch or colonial officials in charge of South Africa’s affairs. In these petitions they appealed to Britain’s claim to moral superiority over the Boers. Keith Breckenridge argues Seme and Plaatje had in common a philosophical attitude he calls “native progressivism”, which aligned to a degree with

²²¹ It is very likely that Seme and Gandhi met in South Africa and exchanged notes on their work as lawyers, newspaper editors and farmers. In October 1903, Gandhi visited the town of Wakkerstroom, near Driefontein, to represent Hoosen Amod, an Indian shopkeeper. Amod had been trading in Wakkerstroom for about 10 years but the British stated after the war that Indians could only trade in demarcated zones. Hence Gandhi arrived to petition Chamberlain and demand that the local magistrate renew Amod’s license. The magistrate agreed verbally but never did so in reality. In 1909, Gandhi returned to the Driefontein and Daggakraal area. He was jailed in Volksrust for leading the Newcastle-Pretoria march. Karen Kotze, “Mahatma Gandhi fights for Wakkerstroom Shopkeeper”, *Wakkerstroom Gazette*, January 2019. In an interview, Seme’s Daggakraal clerk, Selby Msimang, noted that he sometimes called on Gandhi for assistance with cases at Seme’s law office (since he, Msimang was not registered as a lawyer) – this suggests Seme and Gandhi met and interacted, though I have not yet found correspondence between them. Msimang interview.

²²² Hofmeyr, *Gandhi’s Printing Press*, 8.

²²³ Hofmeyr, *Gandhi’s Printing Press*, 9; Sukanya Banerjee, *Becoming Imperial Citizens: Indians in the Late-Victorian Empire* (Durham NC: Duke University Press Books, 2010), 93.

²²⁴ Pixley ka Seme to Booker T. Washington, January 29, 1907, in Harlan and Smock, *The Booker T. Washington Papers*.

²²⁵ Hofmeyr, *Gandhi’s Printing Press*, 8-9.

South African white liberalism.²²⁶ However, Seme’s vision – like Plaatje’s and Gandhi’s, struck out against white liberalism’s embrace of biological racism, including the notion that black people were not ready to own private property.

1.9.2 Seme’s vision applied to the Association: individual title deeds and industrial education

For Seme, the seeds of empowerment could be sown by a combination of individual land ownership, education about agriculture and a common sense of purpose. In the same year that he founded the Association (1912), Seme founded the newspaper *Abantu Batho*. In an article in the newspaper in October 1912, an unnamed writer (again, possibly Seme) expresses the importance of regular meeting and debate to build a community among Association members. The writer describes a meeting of buyers at which the directors of the Association were appointed, on April 27th, 1912. While there were disagreements, the meeting demonstrated that, “in the Farmers’ Company [Association] no ill feeling arises from hot discussion.”²²⁷ This emphasis on robust debate further indicates that Seme sought to foster a community where sparring over ideas and practices was central. *Abantu Batho* and the Association were part of Seme’s attempt to create a political community marked by a vision of liberation through intellectual rigor, entrepreneurship and land ownership.

In the same 1912 article in *Abantu Batho*, the writer argues, as quoted earlier in this chapter, that “nowadays in civilization no person is really a man who possesses no land of his

²²⁶ Breckenridge, “African Progressivism, Land and Law: Re-Reading Native Life in South Africa.”

²²⁷ “Ngitanda nje ukubonisa ukuti lapo kulunywa izindabayile Kampene Yabalimi akuko ukuzwisana ubublungu ngamazwi alukuni yonke into ibajiswa kahle nje ngomo ya omnandi.” Unnamed author, ‘Umhlangano e Daggakraal’, *Abantu Batho*, October 1912, NTS 3439 56/308, National Archives.

own.”²²⁸ The writer calls upon African men to see their masculinity reflected in land purchase. With land ownership, a man can call himself “civilized.” The statement reflects Seme’s own arguments about the importance of land ownership to masculinity, which also appear in his later newspaper pieces. Seme’s emphasis on the role of men as leaders in the project for land purchase also squares with his attitude within the SANNC. At the founding of the SANNC in 1912, Seme proposed a constitution that would make only men full members of the Congress – this despite the fact that Charlotte Manyá Maxeke contributed to the founding of the SANNC. Women could serve as “honorary members” or “auxiliary members” in their capacity as “wives of the members of any affiliated [SANNC] branch or branches and other distinguished African ladies.”²²⁹ It was the duty of these “auxiliary members” to provide “shelter and entertainment for delegates to Congress.”²³⁰ It was not until the 1940s, that women could become full members of the SANNC.²³¹

Between 1912 and 1919, *Abantu Batho* engaged in a kind of rallying cry, attempting to bring the land buyers and a wider reading public into Seme’s vision of landownership-based empowerment. Seme sought buyers for his Association land buying scheme amongst “amakholwa” families in Natal. These families had purchased land in pockets around Natal, including in Newcastle and Edendale, or had been members of larger land buying syndicates near Ladysmith and Bergville. As peasant farmers, some had struggled to complete payment for

²²⁸ “Ekuhambeni nasekumeni kwasesi kungwini akundoda apeleleyo indoda angenamhlaba onowayo.” Unnamed author, ‘Umhlangano e Daggakraal’, *Abantu Batho*, October 1912, NTS 3439 56/308, National Archives.

²²⁹ Seme quoted by Ngqulunga, *The Man Who Founded the ANC*, 51.

²³⁰ Seme quoted by Ngqulunga, *The Man Who Founded the ANC*, 51.

²³¹ Limb, *The ANC’s Early Years*, 241; 243.

their land in Natal, so they sought a move elsewhere.²³² Seme's brothers, Marsh and Nompondo, argued they could not acquire enough grazing land in Natal. Marsh later joined Seme as one of the Association directors and moved his farming operations to Daggakraal.²³³

Upon leaving Natal, many black landowners moved to Evaton or Alexandra near Johannesburg, where they could buy land.²³⁴ Meanwhile, some moved to Daggakraal and Driefontein to join the Association. In 1912, the magistrate in Newcastle, Natal, complained about all the people leaving his district. He forbade black farmers from moving to Driefontein in the Transvaal, on the basis that the Association had too many "squatters" already.²³⁵ Many people – men and women – moved there regardless of the magistrate's objections.

In 1914, fellow SANNC leader and newspaper founder, John Dube, wrote an article in his newspaper *Ilanga Lase Natal*, extolling Daggakraal as a place of abundance. Dube describes a scene in which black schoolchildren played during their break, while black teachers prepared the lessons; black clergy preached to their churchgoers; black farmers ploughed the fields and black families reaped the rewards. Dube concludes that Daggakraal is proof that if "the black nation is given opportunities to build, and be good leaders, they thrive and make beautiful things."²³⁶ Dube shared Seme's belief, at least during this first decade of the twentieth century,

²³² Lambert notes that due to two economic depressions, in the 1860s and 1880s respectively, many land buyers struggled to meet their mortgage payments and had their land foreclosed. Lambert, "African Reasons for Purchasing Land," 47.

²³³ Ngqulunga, *The Man Who Founded the ANC*, 13; Mkhize, *A Political Biography of Selby Msimang*.

²³⁴ Khumalo, "From Plough to Entrepreneurship," 69-70.

²³⁵ Unnamed Magistrate of Newcastle, Natal, 'Mkungo wishes to reside on the farm Driefontein, Transvaal', 1912, Chief Native Commissioner, Natal province, CNC 87 1618/1912, Natal Archives, Pietermaritzburg Archives Repository, Pietermaritzburg, South Africa (hereafter Pietermaritzburg Archives).

²³⁶ John Dube, 'Lapo Kuhamba Kona uMafukuzela', *Abantu Batho*. Copy in *Ilanga Lase Natal*, 30 October, 1914.

that Africans should employ what historian Peter Limb describes as a “protestant work ethic” in order to succeed.²³⁷ Dube’s version of this work ethic, like Seme’s, was influenced by his engagement with Booker T. Washington’s philosophy of self-help.

In a 1915 article in *Abantu Batho* (republished in *Ilanga Lase Natal*), entitled “The Native Landowners Association and Trust Co., of Africa Ltd: ziyemuka izinkomo magwala ndini” (you cowards, you have lost your cattle)²³⁸, Seme argues that land is the root of the nation.²³⁹ In his article, Seme again echoes the arguments of Booker T. Washington, who wrote in a speech at Tuskegee in 1907, “One of the first essentials of life is being able to own a piece of property and a house. With few exceptions, a black man can own property anywhere in this country...In some parts of South Africa he is not permitted to own land.”²⁴⁰ “The Native Landowners Association,” Seme goes on to ask for people who are willing to take up his challenge.²⁴¹ He urges African men not to lose out on the opportunity to help themselves by purchasing land. He uses the notion of building (“ukwakwa”) to communicate the physical act of building houses and the metaphorical work required to build prosperous communities. He warns

²³⁷ Limb, *The ANC’s Early Years*, 95.

²³⁸ Pixley ka Seme, ‘The Native Landowners Association and Trust Co., of Africa Ltd: ziyemuka izinkomo magwala ndini’, *Abantu Batho*. Copy in *Ilanga Lase Natal*, 3 December, 1915.

²³⁹ Originally “umhlaba uvele uyindaba yesizwe.” Pixley ka Seme, ‘The Native Landowners Association and Trust Co., of Africa Ltd: ziyemuka izinkomo magwala ndini’, *Abantu Batho*. Copy in *Ilanga Lase Natal*, 3 December, 1915.

²⁴⁰ Booker T. Washington, “A Sunday Evening Talk”, January 13, 1907, Harlan and Smock, *The Booker T. Washington Papers*.

²⁴¹ Seme writes, “ngicela zindhlebe zamadoda ahlez’emi zini yawo” (I am asking for me who want to build their own houses”). Pixley ka Seme, ‘The Native Landowners Association and Trust Co., of Africa Ltd: ziyemuka izinkomo magwala ndini’, *Abantu Batho*. Copy in *Ilanga Lase Natal*, 3 December, 1915. The issue of *Abantu Batho* in which Seme’s article was originally printed has been lost in the historical record. It is only preserved through this reproduction in *Ilanga*.

that it is not possible to build a house that will stand on its own feet on white people's farms or in the reserves. Nor is it possible to succeed by farming only for one's own benefit, or only in Daggakraal; instead, land-buyers must invest in a company so as to change the country as a whole.²⁴² Seme invokes a common "us" who have lost land, enjoining his public to build structures that will put their children on the path to success.²⁴³

Seme also argues in his 1915 editorial that the work of buying land cannot belong to "Congress" (the South African Native National Congress) alone. For Seme, land buying is not only a matter of politics but also a matter of "business."²⁴⁴ Here Seme also sets out his views on the economic importance of individual titles, as the basis of wealth accumulation. He argues that if his vision succeeds, then "the children of land-buyers will lead us out of slavery." Individual titles, in South Africa's legal system, offer the owner the opportunity to narrow their circle of successors or heirs, in comparison with other, customary forms of property ownership, where the land could devolve to all members of the family.²⁴⁵

In his editorial, Seme equates land purchase with the status of an upstanding, educated man, and sees it as a signifier of a commitment to provide for one's family for generations to follow. Seme calls on his readers to join him for a conference where they will discuss how to

²⁴² Originally "kodwa kona lapo sebafake imbewu yokupakamisa umoya netemba lesizwe sonke." Pixley ka Seme, 'The Native Landowners Association and Trust Co., of Africa Ltd: ziyemuka izinkomo magwala ndini', *Abantu Batho*. Copy in *Ilanga Lase Natal*, 3 December, 1915.

²⁴³ Originally "tina esisibonisiwe ukuhamba kwomhlabati, masake izakiwo ezobeka abantwana betu ekukanyeni nasekupleni kwabo ezikatini ezizayo" Pixley ka Seme, 'The Native Landowners Association and Trust Co., of Africa Ltd: ziyemuka izinkomo magwala ndini', *Abantu Batho*. Copy in *Ilanga Lase Natal*, 3 December, 1915.

²⁴⁴ Pixley ka Seme, 'The Native Landowners Association and Trust Co., of Africa Ltd: ziyemuka izinkomo magwala ndini', *Abantu Batho*. Copy in *Ilanga Lase Natal*, 3 December, 1915.

²⁴⁵ William Beinart, Peter Delius, and Michelle Hay, *Rights to Land: A Guide to Tenure Upgrading and Restitution in South Africa* (Jacana Media, 2017), 16–17.

strengthen black people's land rights. He calls on "men with means" ("lamadoda anezibaya"), naming several chiefs (such as Chief Otto Mamogale More in Bethanie, who claimed Mogopa as his land) and reverends (among them, Edward Tsewu). However, unlike in the South African Native National Congress, women were not excluded from membership of the Association. The Association's Articles of Association, for example, specify that "words importing the masculine gender shall include females."²⁴⁶ Seme's list of around 25 "men with means" in his 1915 editorial, includes women who held political and economic sway.²⁴⁷ One of those that Seme names is Angelina Sophia Khumalo, who was involved with a women's mutual aid organization called the Daughters of Africa and was later to become John Dube's second wife. Ironically, it was Dube's first wife, Nokutela Dube, who bought land via the Association in 1916.²⁴⁸ Nokutela Dube was an intellectual, teacher and businesswoman, who had studied at Wilberforce Institute in Ohio and had founded the Ohlange Institute alongside John Dube. She bought land at Driefontein in the context of an estrangement with her husband.

Nevertheless, the majority of title deeds in Driefontein and Daggakraal were in the names of men. This follows the pattern of other areas where black people bought land. In Edendale in Natal, only about 11 of 250 listed landowners were women. However, the names on title deeds sometimes obscures the roles that women played in decisions about land and in debates about forms of property ownership, although women's comments on the matter are harder to locate in the archive. Men were often considered to hold customary authority over land and tended to be

²⁴⁶ "Articles of Association, The Native Farmers Association of Africa Ltd", 18 October, 1912, Office of the Registrar of Companies, NTS 3439 56-308, National Archives.

²⁴⁷ Pixley ka Seme, 'The Native Landowners Association and Trust Co., of Africa Ltd: ziyemuka izinkomo magwala ndini', *Abantu Batho*. Copy in *Ilanga Lase Natal*, 3 December, 1915.

²⁴⁸ Hughes, *First President*, 190.

more active in maize farming. However, in part because of the migrant labor system, women were de facto decision-makers about land rules, practices and disputes.²⁴⁹

Among commentators on land in local newspapers in the first two decades of the twentieth century were Adelaide Tantsi (whose poem I quoted earlier in reference to the 1913 Land Act) and the poet Nontsizi Mgqwetho. While Mgqwetho was initially sympathetic to the SANNC, by the 1920s she had distanced herself from them. She threw her political energy more strongly into the burgeoning *manyano* movement of women's church groups (Chapter 5).²⁵⁰ In 1924, Mgqwetho wrote the poem, 'Something's coming!', published in *Umteteli Wabantu*:

Something's coming!
We'd do well to buy land.
The government's made it crystal clear:
You'll do your cooking perched on branches.²⁵¹

1.9.3 From Driefontein, Natal to Driefontein, Transvaal

While many of those who were vociferous supporters of Seme's land buying scheme came from the ranks of 'amakholwa' (an educated class, who had some access to property and capital), there is evidence that less well-off farmers (likely people who had been sharecroppers or labor tenants) also joined the Association. Some of them were the tenants of black landowners in places like Edendale in Natal. In *Abantu Batho*, Seme argued that even small savings ("isivivane") could be harnessed to invest in the Association. He promised that he would work

²⁴⁹ Lydia Kompe, interview by Tara Weinberg and Terna Gyuse, 19 November, 2019, Tshimanyane, South Africa.

²⁵⁰ Limb, *The ANC's Early Years*, 244-5

²⁵¹ Nontsizi Mgqwetho, 'Something's coming!', *Umteteli Wabantu*, 26 January 1924.

on law that will protect black farmers' rights and allow them to access credit in the banks. In theory, Seme invited farmers across class and gender lines to join the Association. In practice, however, this contributed to tensions around the Association's vision for making property and making community.

One of these tensions appeared in community-hall style meetings held by Association land buyers. At these meetings, residents debated the form of property ownership they wished to pursue. Some buyers opposed Seme's vision for individual title deeds, instead suggesting a form of collective property ownership (see Chapter 3). Historian John Lambert argues that there were two common kinds of land buying in Natal in the second half of the nineteenth century, in addition to individual titles of the sort Seme proposed. First, there were chiefs who raised funds to buy land, sometimes by issuing levies. Some *amakholwa* participated in this process too, in the hope that having land in a chief's name would be an effective strategy for retaining land – although it also carried the very real risk of a chief acting in his or her own interests.²⁵² Second, there were group-based syndicates, although Lambert argues that these syndicates had to be registered in the names of a few people representing the whole. This inevitably led to conflicts down the line, as members without their names on the title had little recourse in official law.²⁵³

The establishment of a syndicate in Driefontein in Natal in 1867 most closely foreshadows the Association syndicate that black farmers built in Daggakraal and the other Driefontein in the Transvaal in 1912. With the assistance of a Wesleyan missionary from Ladysmith, Johannes Kumalo led a group from Edendale to purchase the farm in the Driefontein in Klip River: "I acquired the land when we were in great trouble [depression]. I met the fathers

²⁵² Lambert, "African Reasons for Purchasing Land," 44.

²⁵³ Lambert, "African Reasons for Purchasing Land," 49.

of these men who are with me today [at Driefontein], and we formed a company, and we obtained land in order to hide our heads in it.”²⁵⁴ Pietermaritzburg lawyer Kenneth Hathorn, who had worked with Edendale residents before, assisted Kumalo to draw up a Trust deed, with the Secretary of Native Affairs as trustee. This meant that although residents in Driefontein had bought their land, they remained beholden in the decisions they made about it to the government trustee. The trust deed system and involvement of Native Affairs officials distinguished the Natal Driefontein syndicate from the Association’s one. Seme’s project was particularly insurgent in the eyes of government officials because it specifically eschewed the Trust deed system and sought out an arrangement where black board members and landowners could call the shots. However, in practice, the Association’s reliance on white businessmen for credit, meant black farmers’ decision-making power remained limited.

The two Driefontein syndicates – in Natal and the Transvaal, 40 years apart in their founding – were quite similar in the land ownership forms they envisioned. In the Natal Driefontein in the 1870s, the buyers held land in “undivided shares.” In South African property law, undivided shares represented a form of individual title deed that was particularly common among Boer landowners in the nineteenth century but was also taken up by black landowners. Each landowner had a title deed which indicated an unsurveyed share in the same piece of land. When further landowners were added to the land ownership picture (via marriage, birth etc.), the land would be further divided into additional shares, all of which had to be registered in the Deeds Office.²⁵⁵ In practice, black landowners at Driefontein in Natal diverged from the law of

²⁵⁴ Kumalo, quoted by Meintjes, “Edendale 1850-1906,” 202.

²⁵⁵ Allan West, “Shares in Land,” LexisDigest, accessed April 2, 2023, <https://www.ghostdigest.com/articles/shares-in-land/54358>.

undivided shares. They managed their land as if they owned it as a collective, even though the title deeds for undivided shares were meant to represent individual interests.

Meintjes argues that the Driefontein, Natal syndicate's management of land marked an "entirely new form of land tenure and community organization."²⁵⁶ It represented a "synthesis of customary patterns of land holdings and the village mode established on mission stations." At Driefontein in Natal, there was a central commonage, shared large fields and individual plots. Like within the Association, the families who bought land at the Natal Driefontein created a committee to manage the administration of the land and handle disputes, including land transfers, inheritance and sales. The committee registered itself with the government as a "civil authority in the form of an *ibandla* or customary court, with one amongst the community elected to perform the duties of a headman."²⁵⁷ It also handled payment of taxes on behalf of the community.

Meintjes argues the Natal Driefontein collective venture entailed some of the same philosophical underpinnings that had been circulating in Edendale: a protective communal structure within which individual control over private resources could take place, aimed as a "buffer against discrimination and hostility of colonial society."²⁵⁸ After initial waves of purchase in Driefontein in the 1860s, people continued to buy land next to it (Kleinfontein in 1875 and Doornhoek in 1879). All of these syndicates had the same "trust deed" model and so are referred to in colonial archives as "Trust Farms". Meintjes notes that all three farms involved committees of land buyers and that these committees' AGMs continued at least into the 1980s. Natal Driefontein farmers initially did well economically. However, markets and legislation

²⁵⁶ Meintjes, "Edendale 1850-1906," 204.

²⁵⁷ Meintjes, "Edendale 1850-1906," 205.

²⁵⁸ Meintjes, "Edendale 1850-1906," 209.

skewed towards the benefit of white farmers meant that by the end of the nineteenth century, most black landowners in Natal had to rent their land to other African cultivators, including labour tenants, to survive. Many too, sought a move away from Natal to the new syndicates being set up in the Transvaal, such as the Association. When they moved, they brought knowledge of syndicates like the Natal Driefontein with them and infused them into the new Association.

Women residents of Driefontein, Natal, played an important role in political thought about land and agriculture in both Driefonteins. Cecilia Lillian Tshabalala was born in Driefontein, Natal in 1888 and educated at the American Zulu Mission, the Ohlange Institute and the Hampton Institute in the United States. In 1937, she founded the Daughters of Africa, an organization that was inspired in part by her experience with African American women's clubs. The Daughters of Africa supported women to start agricultural projects, vegetable gardens, *stokvels* (savings clubs – see Chapter 5) and small businesses. Bertha Mkhize, also of Driefontein, Natal, took up Tshabalala's mantle of the Daughters of Africa. Both Tshabalala and Mkhize were supported in their work by Angelina Dube (nee Khumalo) who too had grown up in Driefontein, Natal and had imbued the Ohlange Institute with some of the Driefontein syndicate's ideas around collective land ownership and agricultural production. Seme was familiar with syndicates like the one at Driefontein in Natal and would have understood that land buyers might seek to replicate something similar in the Transvaal.

1.10 Conclusion

“Horses are useless anyway, what can they do for you that cows and cars cannot?”

*Catherine Madlala, Daggakraal resident, when I asked her to tell me more about the significance of horses to people in Daggakraal in 2019.*²⁵⁹

While horses may no longer serve a useful function in Daggakraal and Driefontein for transport or farming, they continue to feature in stories that residents tell about how their ancestors bought the land they live on. The 1911 horse race case offers an example, early on in the life of the Association, of how Pixley ka Seme navigated the racist legal system of the time to the benefit of himself and his fellow land-buyers. It furthermore hints at Seme’s vision for the Association as not just a company but also an ideal community. Seme’s vision was to use the Association to build a prosperous, self-sufficient black community on a foundation of individual land rights and respect for traditional leaders. He imagined the project he pioneered in Daggakraal spreading throughout the country.

Seme’s attempts to realize his vision for the Association are expressed in his writings in newspapers and letters, his actions in the courts and his relationships with landowners, politicians, chiefs and financiers. The Association formed a crucial part of Seme’s vision for the political, economic and legal liberation of black South Africans through individual property ownership, self-help industries, Christian education and respect for traditional leaders. Black farmers from around the country bought into Seme and the Association’s land-buying project. But they did not necessarily buy into Seme’s vision. Families that joined the Association often

²⁵⁹ Catherine Madlala, interview by Tara Weinberg, trans. Snehlanhla Ngidi, 25 February, 2019, Driefontein, South Africa.

contested the notions of “community” that Seme had in mind. That is a subject for Chapter 2, in which I explore how Association land buyers developed a form of collective property ownership that relied upon trust built through pre-existing social networks, credit practices, share-cropping arrangements and forms of authority that allowed for decision-making at the level of individual families and the broader group.

Seme’s role in the Association disintegrated in a formal sense in 1919 when the Association was liquidated. But the ideas that Seme had set in motion remained. Daggakraal and the nearby farm Driefontein became a site for vociferous debates amongst black farmers, politicians, lawyers and intellectuals about property ownership. Seme and the Association land buyers had developed a property ownership scheme that the government considered dangerous. Seme demanded rights for black people, such as ownership of property via individual title deeds, that the government refused to permit. In the next chapter I explore how other Association land buyers challenged not only the government’s racialization of the institution of individual title deeds, but also the government’s broader edifice of property law.

Chapter 2 Land Bonds: Law, Credit and Black Land Buyers' Making of Collective Property Ownership, 1912-1925

2.1 Introduction

Inhlangano Yabalimi Abangabantu Base South Africa, Limited.

(Iboshwo ngemiteto Wezikampane Yase Natal).

I-HOVISI ELIKULU LIKU:

93 Anderson Street, Johannesburg.

ABAPATI (Directors.)

P. ka I. SEME (Chairman)	JOHN SIBEKO
ANDRIES HLONGWANA	LUCAS MAZIBUKO
LUCAS MAZIBUKO	SHI SEME
EZRA NKOSI	DAIMANE DHLAMINI
ABSLOM NKOSI	MFISHA NGWEYNA
SAMUEL SIBEKO	MBOSHWA TSHABALALA

Alexander Dhlamini: Secretary.

Amapulazi Asetengiwe :

Daggakraal, Driepan, ne Driefontein, (Onke Asosifundeni Sase Wakkerstroom).

LeKampane eyabantu abamnyama bodwa. Manje isite nge yaqeda, yatola ne *Taitete* Amapulazi amatatu (3) ayinyo ngo (ngobuhle) ezweni lonke lase Ntlatifani, ubukulu bawo zi 13 000 zama eka (acres). Kanye nalamapulazi (anezakiwe ezihle impela), kutengwe izivvu (izizlabhu) ezi 2,000 nezi nkomo zohlobo ezi 150. LeKampane ijilungisele ukutenga izwe, namapulazi pinapi lapa e South Africa itengele abantu abamnyama abatandayo ibanike ama Taitete apeleyo ezindawo ezitengiwe.

Um'meli WeKampane P. ka I. SEME, Esq. B.A.
 Attorney at Law, P.O. Box 1700,
 I Bhangwe LeKampane: Johannesburg The Colonial
 Banking and Trust Compy. of Africa, Limited, Cor
 Simmonds and Market Streets, Johannesburg

Figure 8 “Farms for Sale: This Association is prepared to buy lands or farms for black people anywhere in the whole of South Africa and to obtain certificates from the government.”²⁶⁰

²⁶⁰ “Inhlangano Yabalimi Abangabantu Base South Africa, Limited”, *Abantu Batho*, October, 1912. Copy in ‘Native Farmers Association’, Department of Native Affairs, NTS 3439 56-308, National Archives.

The advertisement also lists its directors as of October 1912 (Pixley ka Seme (Chairman), Andries Hlongwane, Lucas Mazibuko, Ezra Nkosi, Absolom Nkosi, Samuel Sibeko, John Sibeko, Ntsula Mazibuko, Marsh Seme, Daimane ‘Diamond’ Dlamini, Mfisha Ngweyina, Mboshwa Tshabalala and Alexander Dlamini (Secretary)). It goes on to state the three farms bought by the Association are Daggakraal, Driefontein and Driepan, comprising a total of 13,000 acres. The Association has also bought 2,000 sheep and 150 cattle. The advertisement specifies that “this Company is for black people only.” It encourages interested parties to write to Seme, or to visit the physical branch of Schlesinger’s Colonial Banking and Trust Company, which financed one of Seme’s mortgages when he bought the Association.

A 1912 advertisement in the newspaper *Abantu Batho*, run by lawyer and politician, Pixley ka Seme, carried as a headline the Zulu name of Seme's land buying company, the Native Farmers Association of South Africa, Ltd. ("Inhlangano Yabalimi Abangabantu Base South Africa, Limited.") Between 1912 and 1913, in the midst of an intensive advertising campaign via word of mouth and vernacular language newspapers like *Abantu Batho*, people flowed from all over South Africa onto the farms of Daggakraal and Driefontein in the Wakkerstroom district of the Transvaal province. Their intention was to buy land from the Native Farmers' Association.

The Association acted as an intermediary between black land buyers and the state. As discussed in Chapter 2, the Association was able to circumvent the 1913 Land Act, and sell land to black people because Seme had successfully argued that companies were not racialized in law. In general, it was extremely difficult for black South Africans to obtain title deeds after the 1913 Land Act, but the Association was one of the spaces in which they could do so. For the first decade of its existence, the Association was able to shield black purchasers from some of the government's racist legal infrastructure, by creating its own "twilight" system of title deeds and mortgages. By "twilight", I do not mean the Association operated in a way that was illicit or nefarious. In his work on land in northern Ghana, Christian Lund argues that "associations and organizations which do not appear at first sight to be political may also exercise political power and wield public authority" in the "twilight between the state and society."²⁶¹ The Association claimed in its advertisements (see above) that it could obtain "certificates" (that is, title deeds) from the government for black land buyers. The Association occupied a position of public

²⁶¹ Christian Lund, "Twilight Institutions: Public Authority and Local Politics in Africa," *Development and Change* 37, no. 4 (July 2006): 685–705.

authority in a “twilight” zone, through its purchase of large areas of land and its establishment of contracts that mirrored the work usually done by the state: issuing title deeds and regulating mortgages.

The land purchasers who bought into Seme’s syndicate did not necessarily buy into his vision of property and community. Seme’s vision for the Association was to create an idealized community of black farmers, founded on principles of individual land ownership, economic uplift and education. Together with his political contemporaries in South Africa (particularly Edward Tsewu, John Dube, Nokutela Dube, Selby Msimang and Charlotte Maxeke), Seme tried to enact his vision for political empowerment during a ‘window’ of opportunity (1905-1913) for black farmers and intellectuals (Chapter 2).

Some Association land buyers joined Seme in pursuing land ownership in the form of individual title deeds, where land parcels were partitioned out between families and registered in their names. Others saw an opening in the political, economic and legal contingencies of the time, to imagine, pursue and implement the option of holding land collectively. The forms of land ownership and management that these land buyers proposed were pragmatic, given that most could not afford land as individuals. Collective purchase also allowed people to avoid the kind of abuse of power that occurred when land was registered in the name of one or two representatives, such as when chiefs or missionaries acted as trustees.²⁶² Land buyers built a form of collective ownership upon the bedrock of their practices and social dynamics prior to joining the Association: as participants in other land buying syndicates, as peasant farmers, as labor

²⁶² Sheila M. Meintjes, “Edendale 1850-1906: A Case Study of Rural Transformation and Class Formation in an African Mission in Natal.” (PhD diss., School of Oriental and African Studies (University of London), 1988), 195–97; John Lambert, “African Reasons for Purchasing Land in Natal in the Late nineteenth, Early twentieth Centuries,” *Kleio* 31, no. 1 (January 1, 1999): 46.

tenants and farm workers, and as sharecroppers. Upon their arrival in Daggakraal and Driefontein, they negotiated these dynamics anew.

The imagined futures of these land buyers offer insight into how they challenged the government's narrow framing of property law as individual title deeds for white people and communal land under chiefs for black people. Association land buyers imagined futures in which their forms of collective land ownership would become legally recognized. While this legal recognition of collective land ownership did not come to pass, Association land buyers were somewhat able to implement their visions in practice. The Association land buyers departed in important respects from the official legal requirements regulating property ownership in both "divided" (surveyed individual title deeds) and "undivided shares" (unsurveyed individual title deeds). I analyze how Association land buyers built their own "twilight" system of property law, in the context of a South African legal system imbued with racial relations of dominance.

Land buyers' visions for collective ownership appear in court cases, estate files, petitions to government officials, letters to lawyers, creditors' account books and their descendants' oral history accounts. They are less visible in newspaper reports, given that many land buyers did not possess the literary and financial capital of Seme and his intellectual contemporaries. Divergent views about property amongst Association members came to the fore in a legal dispute between two land buyers, Molapisi Sehlako and Tys Dlamini. The court case, *Sehlako vs. Dlamini* (1918), highlights how Association members relied on local credit networks to forge forms of collective property ownership that did not rely on the decision-making power of chiefs. The case also offers insight into the criteria upon which Association members would be included in or excluded from this collective venture. Litigants and witnesses emphasized the importance of financial

reliability, a track-record of a good work ethic and consultation with the broader collective as signifiers of trust.

Around 200 families bought land through the Association. This makes it one of the largest land-buying syndicates in the Transvaal, where most comprised of between 5 and 20 families. People who bought land through the Association were usually of high class and status relative to other black South Africans. The majority of land buyers came from the provinces of Natal, the Orange Free State and the Transvaal. Many buyers had mission-educated, intellectual (*amakholwa*) backgrounds. They were small scale farmers as well as participants in political movements such as the SANNC and in the African language newspapers of the time. A significant group of land buyers came to Daggakraal from the Orange Free State province, where they had been skilled and relatively successful sharecroppers. Legislation against sharecropping, combined with poor treatment by white farm owners had forced sharecroppers to seek alternative options for farming. Other land buyers who joined the Association had been labor tenants or farm workers in areas close in proximity to Daggakraal and Driefontein, such as Ntshebe and Lunyolo Ngwenya (Chapter 1). Those who joined the Association project formed a new community that was heterogenous, in terms of place of origin, language and ethnic identification. In this context, land buyers fashioned their political identity as a new community around land purchase.

Evidence suggests that land buyers invested in networks with land buyers and lawyers to obtain mortgages that would enable them to buy and retain land in a context where it was extremely difficult for black South Africans to obtain credit through formal legal means like banks. For the first two decades of the Association's existence, account books show that most land buyers paid off their mortgages. This indicates that Association residents were able to keep

afloat financially. It also suggests they challenged government officials' attempts to crush indigenous forms of capitalism and exclude Africans from land transactions and loan finance.

Although Association members were already inserted into a capitalist economy, their practices of credit and indebtedness were not as abstracted from social relations as South Africa's legal system usually implied. Scholars have argued that by the first quarter of the twentieth century increasing commercialization of agriculture, together with financialization of land and mortgage markets, meant that state regulation had intensified. With regulation came more bureaucratic and abstract contractual arrangements, which created a distance between, on one hand, the social relationships that drove the process of property and credit norms, and on the other, the abstract concepts that informed jurisprudence about property.²⁶³

As Parker Shipton argues in his work on mortgaging in Kenya, credit and debt are "entrustments and obligations tapping into the very heart of cultural being"²⁶⁴ – a "fiduciary culture, with shared ways of thinking and acting that involve some sense of obligation."²⁶⁵ Shipton argues that debt and credit have always existed in Luo society, but not in such an abstracted way as colonial nineteenth century capitalist debt and credit. In relation to indebtedness among Luo-speakers in Kenya, Shipton argues that, "the deeper one looks into a rural economy, and into its social and cultural nature, the greater the role that borrowing and lending, and the trust and confidence on which they are built, appear to play in it."²⁶⁶ He goes on

²⁶³ Braun, *Colonial Survey and Native Landscapes in Rural South Africa, 1850 - 1913*.

²⁶⁴ Shipton, *Mortgaging the Ancestors*, 16.

²⁶⁵ Parker MacDonal Shipton, *The Nature of Entrustment: Intimacy, Exchange, and the Sacred in Africa* (New Haven: Yale University Press, 2007), xi.

²⁶⁶ Shipton, *Mortgaging the Ancestors*, 16.

to argue that “some of their local credits and debts carry deeper meanings for them than bank loans of cash, or cooperative loans of seed and fertilizer ever have. For they are not just economic credits and debts but entrustments and obligations tapping into the very heart (or liver, in the Luo conception) of their cultural being.”²⁶⁷ Writing on South Africa, Deborah James comes to a similar understanding, writing that “for the cultivator pastoralist whose lands were later to become South Africa, debt was a feature of life before the introduction of capitalist relations”, with bride wealth payments being the most obvious example of a non-monetized system of obligation.²⁶⁸

What is particular about debt in the modern capitalist context – and specifically, in the development of South Africa’s legal system in the nineteenth century – is that moral and social relationships get abstracted from the lenders’ and borrowers’ understandings of debt. As David Graeber writes that money can “turn morality into a matter of impersonal arithmetic – and by doing so, justify things that would otherwise seem outrageous.”²⁶⁹ This is applicable to the treatment of Association land buyers after I.W. Schlesinger took over the Association in 1919. A highly exploitative relationship emerged between Schlesinger as the creditor and director of the Association, and land buyers as the debtors. Schlesinger began to demand exorbitant additional payments from land buyers, or else threatened to evict them. In this context, the creditors and debtors either did not know each other, or ignored the social relations that underpinned the

²⁶⁷ Shipton, *Mortgaging the Ancestors*, 16.

²⁶⁸ Deborah James, “Life and Debt: A View from the South,” *Economy and Society* 50, no. 1 (January 2, 2021): 39.

²⁶⁹ David Graeber, *Debt - Updated and Expanded: The First 5,000 Years* (Brooklyn: Melville House, 2014), 56.

Association enterprise in the first place. And so moral obligations became reduced to “debts”, where “our sense of morality and justice is reduced to the language of a business deal.”²⁷⁰

Old and new credit networks in Daggakraal and Driefontein initially made possible the pooling of risk that was necessary to get a collective land holding project off the ground, but issues of mistrust and inequality between creditors and debtors also shook the Association as a political community, making it more difficult to continue with a collective land ownership venture. Association members took out mortgages with an awareness of their social context. For example, members were aware that relations of trust were necessary to buy land as a collective. They relied on their connections with Association leaders to request and obtain deferment of their mortgage payments. However, when some families or the Association directors ran into debt, this caused a breakdown in the relationships of trust between the Association members. Such members – like Chief Moloji (who I discuss later, in the context of the case of *Sehlako vs. Dlamini*) – were considered risks and therefore excluded from some aspects of the property venture. Association members used the opportunities made available by the property markets and credit mechanisms of the early twentieth century. But they grappled with the extent to which dominant relations of power based on race would override the contractual arrangements, personal relationships and social networks they had invested in, in an attempt to secure their ownership of land.

Seme and the Association land buyers’ ideas about black empowerment, together with their legal acumen, threatened the Union government. Their actions in founding the Association were transgressive in the context of the government legislation and politics of the time. In particular, the proposal of black land buyers in the Association to own land as individuals, or as

²⁷⁰ Graeber, *Debt*, 55.

collectives without chiefs, challenged the government and most white settler farmers. Since the late nineteenth century, a leading school of thought amongst government officials was that black South Africans' land-tenure realities could be condensed into the rubric of communal land tenure—a kind of “commons” arrangement that was governed by chiefs, and above them, white Native Commissioners. The official government policy by 1913, to oppose black South Africans' individual and collective title deed ownership, and black land ownership as a whole outside the ‘reserves’, went hand in hand with the British administration’s appointment and protection of chiefs, who would carry out government policies on Crown land.

There had been debates amongst government officials, white politicians and lawyers as to whether to legally allow for individual title ownership for black South Africans. Some liberal British colonial thinkers, particularly missionaries, argued that colonial subjects should be granted rights to own land with title deeds.²⁷¹ However, by the second decade of the twentieth century, most government officials in South Africa settled on “tribal land tenure” as the only acceptable form of collective land holding for black people. The South African Native Affairs Commission (1903—1905), chaired by Sir Godfrey Lagden, set the foundation for this policy. Lagden’s recommendations informed government land politics for decades to follow, and found their fullest expression in the Native Trust and Land Act of 1936.²⁷² Lagden’s Commission claimed to find that chiefs, on behalf of their tribes, had exercised authority over land since time immemorial.²⁷³ As scholar Adam Ashforth argues, the Commission argued that Africans “had no

²⁷¹ Adam Ashforth, *The Politics of Official Discourse in Twentieth Century South Africa* (Oxford: Oxford University Press, 1990), 38.

²⁷² T. W. Bennett, “African Land – A History of Dispossession,” in *Southern Cross: Civil Law and Common Law in South Africa*, ed. Reinhard and Visser Daniel Zimmermann and Daniel Visser (Oxford University Press, 1996), 82.

²⁷³ The Commission states, “History and tradition bear eloquent testimony to the fact that this form of tenure [communal tenure] was admirably suited to the needs and habits of the aboriginal races; indeed it was originally the only possible form. It constituted a portion of the great tribal system under which land was administered by a Chief

rights [to land] prior to the political association [of the tribe].”²⁷⁴ Lagden aimed to deny Africans’ access to much of the capitalist economic activity that went with a modern legal system, such as buying property or taking out bank mortgages.

If black people could come together to buy land as groups, they could potentially acquire large swathes of the country’s land, which would make them less dependent on an income from white employers on farms, mines or factories. This was one of the hopes held by Seme and the Association land buyers. But government officials saw it as a threat. Many argued that as soon as some Africans claimed rights to citizenship and property outside the ambit of “tribal authority”, “difficulties would be encountered” in pushing black people into the wage labor force.²⁷⁵ Lagden’s report argues that “there will be many administrative and social difficulties created by the multiplication of a number of Native units scattered throughout a white population and owning the land of the country equally with them. Such a situation cannot fail to accentuate feelings of race prejudice and animosity, with unhappy results.”²⁷⁶

In their writings on land buying syndicates, government officials often wrote in a muddled way about the law of “undivided shares” or “undivided interests.” The *law* of “undivided shares” referred to an individual form of property ownership, in which landowners each had a share in an unsurveyed parcel of land. A listing of each owner’s share was recorded in

and his Councilors for the People.” Godfrey Yeatman Lagden, *Report of the South African Native Affairs Commission, 1903-1905* (London: H. M. Stationery office, Darling & son, ltd., 1905), 19.

²⁷⁴ Ashforth, *The Politics of Official Discourse*, 44.

²⁷⁵ Ashforth, *The Politics of Official Discourse*, 43.

²⁷⁶ Lagden, *Report of the South African Native Affairs Commission*, 25.

the deeds registry.²⁷⁷ The law of undivided shares made its way into South Africa via Roman Dutch law. However, the writings of Native Commissioners and lawyers, which misrepresent undivided shares as collective property ownership, indicate that it was a law that was often misunderstood by those in government.

For example during the Natives Land Commission in 1916, Commission chairperson William Beaumont recommended that “whole tribes occupying privately owned farms” (in other words land in chiefs’ names) should be allowed but “Natives acquiring and holding land in undivided interests, and thereby, in effect, extending tribal or communal occupation” should be barred.²⁷⁸ By “undivided interests”, Beaumont seems to be referencing not a government *law* but a *practice* of collective land ownership that developed amongst land buying syndicates, including within the Association. This practice is described in more detail throughout this chapter, based on records from the Native Farmers’ Association. In the late nineteenth and early twentieth century many black land buyers in syndicates asked the Deeds Registry to register their title deeds as “undivided shares”, largely because there were very few legal options for black people to own land.

Undivided shares were also common amongst poor whites, whose land would devolve to all their heirs in the case of succession. Government officials generally frowned upon undivided shares amongst white people, on the grounds that it was cumbersome and unproductive for land to pass on to an ever-increasing pool of descendants.²⁷⁹ For example, if a landowner with three

²⁷⁷ Deeds Registries Act 47 of 1937 (S. Afr.).

²⁷⁸ HW Beaumont, “Natives Land Commission Report Vol 1: Chairperson’s Report (1914-1916)” (Cape Times Limited, Government Printer, 1916), 6–7. See also Bennett, “African Land – A History of Dispossession,” 82.

²⁷⁹ “The Poor White in South Africa: The Carnegie Commission Report,” *The Round Table: The Commonwealth Journal of International Affairs* 23, no. 91 (June 1, 1933): 607.

children held 1/3 of an undivided share in a farm, and the landowner's decided that their three children would inherit their land in equal shares, the landowner's three children would each inherit 1/9 of an undivided share in the farm. After several generations or as more people were added to the landowning community, there would be thousands of shares.

2.2 The Sehlako case

A number of the voices raised in dissent against Seme's vision of land ownership in the Association emerge from the court case of *Tys Dlamini vs. Molapisi Sehlako* in 1918.²⁸⁰ Land buyers' testimonies in the case offer insight into the credit relationships that buttressed buyers' attempts to pursue a collective property venture. They indicate the bonds of trust upon which land buyers relied, as well as the fault lines of distrust, which made the Association project challenging. The case also offers insight into how the Association operated as an institution of public authority in a "twilight" zone between the government and the land buyers. It issued contracts that resembled title deeds and mortgages, but were not subject to the same government regulations as these legal documents were.

Molapisi Sehlako represented one of the families who bought into the Association's project. He was born in 1870 in Witzieshoek, a "native reserve" in the district of Harrismith, Free State province, later to become a portion of the 'Bantustan' of Qwa Qwa. Dowie Nzoyi, a long-time resident of Daggakraal, says the Witzieshoek group described themselves as "amakolokwe," signifying they were Sesotho speakers whose language and customs were widely

²⁸⁰ *Tys Dlamini vs Molapisi Sehlako*, 25 February 1918, Wakkerstroom Magistrate's court, NTS 3439 56/308, National Archives. This argument is also made by Bongani Ngqulunga, *The Man Who Founded the ANC: A Biography of Pixley Ka Isaka Seme* (Cape Town: Penguin Random House South Africa, 2017), Kindle, loc 2834.

influenced by Zulu.²⁸¹ As of 1911, the Witzieshoek reserve was home to 4,694 people, who occupied 41,842 morgen (33,474 hectares).²⁸² Sehlako came from a family of relatively well-off sharecroppers.²⁸³ A government official alluded to the relative success of sharecropping families in Witzieshoek and framed it as detrimental to white demands for labour: “there is a large amount of native labour in the district but natives find it so easy to make a living by ploughing on the half share that they are quite independent of the labour markets.”²⁸⁴

However, around the time of the 1913 Land Act, sharecroppers faced much greater pressures on their livelihoods. Among other restrictions, the Act made sharecropping illegal. This contributed to an exodus of sharecroppers from the Free State and into the Transvaal, where Edward Tsewu’s 1905 court case had made it possible for Africans to purchase land. They formed land buying groups and used their savings to buy land as syndicates.²⁸⁵ Free State sharecropper syndicates bought land in many parts of Transvaal, including Mogopa, Mathopestad, Klipgat and of course Daggakraal.²⁸⁶

Although ideas about the syndicate model were already circulating in the Free State province by the early twentieth century, it may have been Chief Maitse Popo Moloji and his

²⁸¹ Nzoyi notes that in Daggakraal 2 today, “their language is like Nguni-Sotho. Even if you don’t know Sesotho, listening to them you can hear certain things.” Dowie Nzoyi, interview by Tara Weinberg, 24 November 2019, Volksrust, South Africa.

²⁸² Harrismith Census, 1911, Secretary of Justice (1899 – 1966), JUS, Vol. 95, 1/566/11 (60), National Archives.

²⁸³ Estate of Lechela Molapisi Sehlako, 1965, Master of the Supreme Court, Pretoria. Estates (1873-1976), MHG 9139-67, National Archives.

²⁸⁴ Harrismith Census, 1911, Secretary of Justice (1899 – 1966), JUS, Vol. 95, 1/566/11 (60), National Archives.

²⁸⁵ Keegan, *Rural Transformations*, 57; Dr. Mabuya, interview by Tara Weinberg, 25 November 2019, Volksrust, South Africa.

²⁸⁶ Keegan, *Rural Transformation*, 76.

secretary Jonas Moloi's presence at a meeting with Seme at the formation of the SANNC in 1911 in Bloemfontein that made people in Witzieshoek aware of the Association's offer to purchase at Daggakraal.²⁸⁷ Jonas Moloi canvassed among the Witzieshoek community, seeking families who would be interested in joining the Association project. Molapisi Sehlako and his family answered Jonas' call. Together with about 25 other families from Witzieshoek, Sehlako bought land in Daggakraal in 1913.²⁸⁸

The Witzieshoek group were essentially a syndicate buying land within another syndicate, the Association. Also among the 25 land buyers was the family of Chief Moloi. Seme had been in discussion with members of the Witzieshoek group for several years and all 25 families had put money towards the group purchase price of £34,200. Seme asked the group as a whole to pay £2,000 on 5 February 1913, £3,700 on 15 July 1913, and then 10 annual instalments £2,850. A local church minister, Reverend Hill, flagged this as very large amounts of money.²⁸⁹ The Witzieshoek families reported that they each paid around £300 as initial down-payment in 1913, then another £200 in 1915 and then they planned to pay annual instalments of £10-20 over the next decade.²⁹⁰

²⁸⁷ Ngqulunga, *The Man Who Founded the ANC*, Kindle, loc 936.

²⁸⁸ Different figures are offered by various people in the court case. Seme alleges he asked Jonas Moloi to recruit 30 families, but that Jonas only recruited 14. Jonas, however, argues he brought 15 families initially, and then another 10 by the time the agreement was signed.

²⁸⁹ Amounts listed in letter from Attorney General of South Africa to the Secretary of Native Affairs, Pretoria, 'Sale of land by the Native Farmers Association of South Africa, Ltd', 20 February, 1917, NTS 3439 56-308, National Archives; W. Francis Hill, Letter to the Secretary of Native Affairs, Pretoria, 19 March 1916, NTS 3439 56-308, National Archives.

²⁹⁰ Testimony of Jonas Moloi in *Dlamini vs Sehlako*, 25 February 1918, Wakkerstroom Magistrate's court, NTS 3439 56/308, National Archives.

When the “moment of contract” arrived, Seme signed the deed of sale in the name of Chief Moloji alone, which was cause for concern by the group. Anthropologist Jatin Dua points out that “guarantees – of friendship, trustworthiness, and reputation” associated with existing social networks predate and undergird the “moment of contract.”²⁹¹ Moments of contract refer to instances, such as a court case or will, when social tensions make themselves visible to the people involved and to us as scholars. In the context of the Association, a moment of contract could be the signing of a deed of sale between groups of land buyers and the Association. The signing of a contract brings obligations of friendship, trust and reputation into contact with official law, as we see in the case of *Sehlako vs. Dlamini*. But these networks of trust (or distrust) are also entangled in the forms of (unofficial) law that land buyers develop.

In the *Sehlako vs. Dlamini* case, land buyers from Witzieshoek had a certain understanding of land arrangements that undergirded their relationships of trust between each other. Several Witzieshoek land buyers argued in their testimonies before the judge that they assumed that when Chief Moloji signed the deed of sale from the Association, he signed only as a representative of their syndicate, and not as a more important stakeholder than anyone else.²⁹² Seme argued that the group’s decision to divide the land amongst themselves was an internal arrangement, and he was not party to that. In his understanding, the land was held by Chief Moloji on behalf of his followers.

When Chief Moloji defaulted on one of his annual payment instalments, Seme and the Association declared that the whole Witzieshoek syndicate’s contract was broken, as Chief

²⁹¹ Jatin Dua, “Hijacked: Piracy and Economies of Protection in the Western Indian Ocean” 61, no. 3 (2019): 502.

²⁹² Testimony of Molapisi Sehlako in *Dlamini vs Sehlako*, 25 February 1918, Wakkerstroom Magistrate’s court, NTS 3439 56/308, National Archives.

Moloi had been the sole purchaser listed on the deed of sale. Everyone would forfeit their land. Chief Moloi later reflected, “we were not aware we bound ourselves to such a heavy burden.”²⁹³ Seme defended the Association’s decision by arguing that the residents were all members of Chief Moloi’s tribe, stating “I know that an individual member of a tribe has no right to land, there is no individual tenure.”²⁹⁴ Residents opposed this interpretation, arguing they had bought their land in the name of their group or syndicate, not in the name of Chief Moloi alone – and all the other group members had paid their annual instalments.

After a great deal of contestation, the Association agreed in 1916 to allow some individual members of the Witzieshoek group to obtain title to land in their own names, commensurate with what they had paid up to that point in mortgage instalments. The Association told them they would also need to pay an additional sum of £100 to secure the payments. Molapisi Sehlako, the main complainant in the court case referred to above, claims to have been one of these members who secured his land for the second time in 1916. The Association had meanwhile begun selling plots that had already been purchased and occupied by the Witzieshoek farmers to other people (mostly isiZulu and siSwati speakers who had come from Natal or other parts of the Transvaal). These plots were transferred into the names of individuals as divided rather than undivided shares. Tys Dlamini, who came from Natal, bought a plot during the Association’s second round of sales in 1917. The Association issued Dlamini a deed of sale to Plot 15 of Daggakraal 2 – the same plot to which Sehlako had earlier been issued a deed of sale. Since Sehlako was away at the time, Dlamini built a house on the plot. When Sehlako returned, a

²⁹³ Minutes of meeting between Witzieshoek group and Magistrate Ham, 23 August, 1922, NTS 3440 56/308, National Archives.

²⁹⁴ Seme’s affidavit, *Dlamini vs Sehlako*, Wakkerstroom Magistrate’s court, NTS 3439 56/308, National Archives.

dispute ensued between the two men. With Seme's backing, Tys Dlamini took Sehlako to court to argue that he, Dlamini, was the rightful owner of Plot 15 and not Sehlako.

In the Wakkerstroom Magistrate's court in February 1918, judgment was handed down in favour of Dlamini. The magistrate W.G. van E. Schoeman found that Sehlako must have known that Chief Moloji's actions had cancelled the rights he and the other Witzieshoek buyers had to land in Daggakraal. Therefore, Schoeman found that Dlamini was the rightful owner. Sehlako appealed this decision, taking the case to the Transvaal Supreme Court, also known as the Transvaal Court of Appeal.

Sehlako eventually won his case against Dlamini. The Transvaal Court of Appeal overturned the decision of the Magistrate's court and found in Sehlako's favour in May 1918. Judge J.P. De Villiers delivered a judgment that is patronizing in tone, stating that it is unclear that the "natives were genuinely consulted in the cancellation" of their land rights after Moloji defaulted on his payments. De Villiers found that Sehlako had "bona fide possession" ('real' rights to the property that were enforceable against anyone) whereas Dlamini only had "just ad rem" (right to the property in consultation with Sehlako, the bona fide possessor). The judge argued that Dlamini's right was not a right against the world; rather it was a right against the "registered purchaser", Sehlako. In a consenting judgment Judge Wessels found that even if Sehlako's rights had been dissolved by the cancellation of the deed of sale signed by Chief Moloji, Sehlako had still acquired ownership of the plot through other legal means, namely prescription or beneficial occupation (that is, he had used the land undisturbed for over five years).²⁹⁵ The judge's logic was that occupancy or possession alone (gained from an initial

²⁹⁵ Judgment in *Sehlako vs. Dlamini*, 15 May 1918, Transvaal Court of Appeal, NTS 3439 56/308, National Archives.

mortgage payment) did not give rise to ownership rights. Prescription or beneficial occupation conferred ownership rights on Sehlako.

The Sehlako case hints at the credit relationships that were at play in a collective land buying project like the Association. Sehlako bought six plots, each of around 10 morgen in size, owning a total area of 54 morgen.²⁹⁶ He testifies that he kept up with his annual instalments for Plot 15, which was the plot under dispute in the court case. By 1915, Sehlako argues he had paid off his mortgage on that plot.²⁹⁷ Jonas Moloji ratifies this testimony, saying that Sehlako paid him a total of £382 in 1915 for Plot 15.²⁹⁸ Sehlako went to visit family in the Free State province for a month and when came back, he found Dlamini on his land. While he paints a picture of his own excellent payment record, Sehlako makes Dlamini out to be untrustworthy in financial matters. He says the latter told him: “he had no money and had to go and work for money.”²⁹⁹ When Sehlako confronted him about the plot, Dlamini told Sehlako he was going away to work to raise money to sue the people who had incorrectly sold Sehlako’s plot to him.

The story that Jonas Moloji and Molapisi Sehlako tell in their testimonies is one of the Witzieshoek people relying on each other to sell stock, buy land and look out for each other. Of their group, they argue that Chief Moloji was out on a limb, by making decisions without consulting the rest of the group and by failing to pay his share. They also cast aspersions on

²⁹⁶ Testimony of Pixley ka Seme in *Dlamini vs Sehlako*, 25 February 1918, Wakkerstroom Magistrate’s Court, NTS 3439 56/308, National Archives.

²⁹⁷ Testimony of Molapisi Sehlako in *Dlamini vs Sehlako*, 25 February 1918, Wakkerstroom Magistrate’s Court, NTS 3439 56/308, National Archives.

²⁹⁸ Testimony of Jonas Moloji in *Dlamini vs Sehlako*, 25 February 1918, Wakkerstroom Magistrate’s Court, NTS 3439 56/308, National Archives.

²⁹⁹ Testimony of Molapisi Sehlako in *Dlamini vs Sehlako*, 25 February 1918, Wakkerstroom Magistrate’s court. NTS 3439 56/308, National Archives.

Dlamini's financial trustworthiness, a man not from Witzieshoek but from Natal. This was less about a division based on ethnic difference (both Sehlako and Dlamini spoke a version of isiZulu), and more based on the fact that Dlamini had not come from the same community as Sehlako in Witzieshoek and so did not share the kinship bonds formed through sharecropping that the Witzieshoek group had built.

Dlamini and his allies also sought to draw a line around who was worthy versus unworthy of owning land in Daggakraal. Andries Hlongwane, one of the Association Directors alongside Seme, indicated his financial trustworthiness by listing his achievements as a farmer in Daggakraal. As the owner of two plots, he says that in the past year he has produced and sold 80 bags of *mielies* (corn) (at 15 shillings a bag) and 20 bags of wheat (at 30 shillings a bag), earning a total of £90. Hlongwane also testifies that although Sehlako was financially sound in that he had paid all of his instalments for Plot 15, he was a violent character. Hlongwane and Dlamini say that when they tried to talk to Sehlako about the plot, he threatened to kill them. Like Seme, Hlongwane and Dlamini saw themselves as people who would talk through conflict. Their testimonies hark back to a 1912 editorial written in praise about Seme and the Association, which noted that while Association members had disagreements, "in the Farmers' Company [Association] no ill feeling arises from hot discussion."³⁰⁰ Hlongwane and Dlamini bought into Seme's vision of a community where verbal sparring was central.³⁰¹

³⁰⁰ "Ngitanda nje ukubonisa ukuti lapo kulunywa izindabayile Kampane Yabalimi akuko ukuzwisana ubublungu ngamazwi alukuni yonke into ibajiswa kahle nje ngomo ya omnandi." Unnamed author, 'Umhlangano e Daggakraal', *Abantu Batho*, October 1912. Copy in Native Farmers Association, NTS 3439 56/308, National Archives.

³⁰¹ Testimony of Andries Hlongwane in *Dlamini vs Sehlako*, 25 February 1918, Wakkerstroom Magistrate's Court, NTS 3439 56/308, National Archives.

Land buyers built relationships primarily around their identities as members of a new land purchasing community, rather than in relation to a particular ethnic or linguistic identity. This may be because people in this region had been scattered and migratory, unlike for example, parts of Natal, where inherited practices of land management were more likely to bind people together.³⁰² There was a multi-ethnic and multi-lingual character to the families already living in the Transvaal who made the move to Daggakraal and Driefontein. They spoke a mix of isiZulu, siSwati and Sesotho. This pre-existing diverse community in Daggakraal and Driefontein set the tone for the way people there would identify for years to come: as a community founded on self-help, land purchase and the making of something new, rather than through an origin story linked to ethnic identity. People were probably drawn to the Association in part because it offered the possibility of establishing a community built less on ethnic commonalities or chiefs and more on relationships of trust practiced through families, farming, educational and religious institutions. The fault lines that appeared within the Association therefore tended to take the forms of who could or could not demonstrate their financial trustworthiness, prowess as profitable farmers and members of an educated, civic community.

Comments by the Sehlako and Dlamini camps during their testimonies suggest that in order to build a collective property venture, some people were considered trustworthy and included, while others were marked as untrustworthy and excluded. Scholars have argued that all forms of property involve mechanisms of inclusion and exclusion. Katherine Verdery remarks in relation to her anthropological research on property relations in the Soviet Union, that even co-

³⁰² Hausse, *Restless Identities*, 3–4; Paul La Hausse, “So Who Was Elias Kuzwayo? Nationalism, Collaboration and the Picaresque in Natal,” *Cahiers d’études Africaines* 32 (January 1, 1992): 497, <https://doi.org/10.3406/cea.1992.1545>; Jill E. Kelly, *To Swim with Crocodiles: Land, Violence, and Belonging in South Africa, 1800-1996* (Michigan State University Press, 2018).

operative and collective forms of property, which governments intended to give expression to equitable distribution of wealth, were exclusionary towards certain groups. Collective property ownership and land purchase in the Association was no exception.³⁰³

2.3 The Association's "twilight" deeds and mortgages

Sehlako vs Dlamini also occasioned an investigation into the nature of property rights that the Association members acquired. When Seme bought land in Daggakraal and Driefontein on behalf of the Association, he did so with a loan from white property and cinema mogul, I.W. Schlesinger. The Association required interested parties to apply to purchase a portion of the land that Seme had acquired. The application form was a contract between the Association and the land buyer (Appendix A). It asked land buyers to specify which plot they were applying for and put down a deposit (which would be returned in the event of an unsuccessful application). If the application was successful, land buyers were issued 'deeds of sale.' This was a second contract, conferring on the bearer the possibility of "transfer of freehold title", once the land had been fully paid for (Appendix A).³⁰⁴ The land buyers were responsible for any costs that accompanied the transfer of land from the Association to the buyer, including fees charged by lawyers, surveyors, conveyancers, and the Deeds Office for the transfer. Upon the payment of

³⁰³ Verdery, *The Vanishing Hectare*.

³⁰⁴ 'Deed of Sale: The Native Farmers Association of Africa Ltd.: Specimen Copy', 18 October 1912. Copy in Native Farmers Association, NTS 3439 56-308, National Archives; 'Application for Purchase of Farm to the Native Farmers Association of Africa Ltd.: Specimen Copy', 18 October 1912. Copy in Native Farmers Association, NTS 3439 56-308, National Archives. See Appendix A.

the first instalment, land buyers became “entitled to immediate possession of the Land.”³⁰⁵ Deeds of sale were registered in the Association’s account books, but not in the government’s Deeds Registry. Note that “immediate possession” allowed for buyers to occupy the land but did not confer ownership. According to the Association’s contract, ownership would be granted only once all the mortgage payments were completed.

Families who joined the Association’s collective property project in Daggakraal and Driefontein bought one or more 10 morgen plots (around 8.5 hectares or 10.5 soccer pitches) for between £200 and £600 per plot. Land buyers put down a deposit and were encouraged to pay the rest to the Association via annual instalments. They paid these instalments to local leaders or Seme, who then passed the money on to lawyers the Association had employed to manage its finances, the firm of Barry and Schuurman. These lawyers took a cut from the payment and in turn paid Schlesinger, to repay the mortgage he had extended to Seme on behalf of the Association.

To fund the initial down payment for their land, families pooled their resources gleaned from previous farming ventures, sold their livestock or took employment with the Association itself as sales agents or messengers. As of 1926, messengers were paid between £1-5 per year.³⁰⁶ According to South Africa’s mortgage law, all mortgages had to be registered alongside the property in the Deeds Office. However, the ‘mortgages’ issued by the Association were contractual arrangements, rather than legal mortgages, as the Deeds Registry shows they were not recorded. Yet in many ways they mirrored legal mortgages, with the Association, rather than

³⁰⁵ ‘Deed of Sale: The Native Farmers Association of Africa Ltd.: Specimen Copy’, 18 October 1912. Copy in Native Farmers Association, NTS 3439 56-308, National Archives. See Appendix A.

the Deeds Office or government, being the authority that conferred recognition that a buyer's land would act as surety. The application forms and deeds of sale indicated that if a buyer failed to pay their instalments, they would forfeit their land to the Association.³⁰⁷

As I discuss in relation to the Sehlako case, there was a great deal of confusion amongst Association land buyers as to how their land purchases were registered. Some buyers from the Orange Free State province believed that they had bought as groups and that the titles would be in these group's names – as syndicates within the broader Association syndicate.³⁰⁸ As proponents of collective land ownership, they believed that each person would be registered as shareholder in Daggakraal farm as a whole, with a certificate to prove it. But other black farmers believed they were buying land from the Association in their own names, and that they would be issued title deeds reflecting their rights against the Union of South Africa.³⁰⁹ Instead, they had 'deed of sale' contracts registered with the Association (Appendix A). The small print on the application forms and deeds of sale documents noted that, "the company shall not be called upon to give transfer of property hereby sold until after the Year 1927."³¹⁰ It further warned that if legislation was introduced which prevented the transfer of land from the Association to black

³⁰⁷ The application form states, "Should I fail to pay any instalment of the purchase price when same shall fall due, then said "Deed of Sale" shall become null and void, and all payments made thereunder shall be forfeited to you [the Association] and remain your property ... and I shall have no further claim to such money. In that event, you shall also become entitled to the immediate possession of the property covered by said "Deed of Sale." 'Application for Purchase of Farm to the Native Farmers Association of Africa Ltd.: Specimen Copy', 18 October 1912. Copy in Native Farmers Association, NTS 3439 56-308, National Archives.

³⁰⁸ Testimony of Jonas Moloi in *Tys Dlamini vs. Molapisi Sehlako*, Wakkerstroom Magistrate's Court, 1918, NTS 3439 56/308, National Archives.

³⁰⁹ Francis Hill to Secretary of Native Affairs on 29 March, 1916, NTS 3439 56/308, National Archives.

³¹⁰ 'Application for Purchase of Farm to the Native Farmers Association of Africa Ltd.: Specimen Copy', 18 October 1912. Copy in Native Farmers Association, NTS 3439 56-308, National Archives, Appendix A.

land buyers, the Association would hold the land “in trust for myself [the buyer] and heirs in perpetuity.”³¹¹

Through its application forms, deeds of sale and instalment policies, the Association set up a “twilight” sphere of contractual arrangements that mirrored aspects of official law, particularly title deeds and mortgages. This meant these land buyers’ title deeds were contingent on the continued existence of the Association as a collective enterprise, and on the recognition of their rights by the Association leadership. If the Association failed or its leadership became unsympathetic, their claims to land could be called into question.

2.4 Land buyers’ visions of collective ownership

The *Sehlako* case highlights the divergent views about property ownership that were occurring within the Association, and in South Africa more broadly. Association land buyers from the Orange Free State, in particular, attempted to create forms of collective property ownership that mapped neither onto Seme’s nor the government’s scheme of land ownership for black farmers. Seme encouraged the black farmers involved in the Association to buy land from the company in the form of “divided” shares. This meant that each individual or family would buy a demarcated piece of land, either directly from the company, or as individuals within a group purchase. However, during the *Sehlako* case and at other times in the Association’s early years (1912-1920), many families in the Association stated their intention to buy land collectively and practice collective ownership. In meetings with lawyers, letters to government officials and testimonies in court cases, they asked to hold land in “undivided shares.” This was

³¹¹ ‘Application for Purchase of Farm to the Native Farmers Association of Africa Ltd.: Specimen Copy’, 18 October 1912. Copy in Native Farmers Association, NTS 3439 56-308, National Archives, Appendix A.

despite the fact that, according to legal doctrine, undivided shares was a form of co-ownership in relation to an individual title deed, rather than collective ownership.³¹²

A memorandum written by L. Ham, the magistrate of Wakkerstroom, to C.W. Cousins, the Secretary for Labour in 1925 offers insight into how many lawyers, government officials and land buyers conflated undivided shares with collective ownership of land. At the time, there was no formal legal mechanism other than a Trust for owning and managing land collectively. Ham refers to land held in undivided shares in general, and not only by black farmers, although he notes that black farmers more commonly registered their title deeds in this way. Ham would have been particularly familiar with the activities of the Association in his own district. He describes undivided shares as a form of regulated common property: “You will find very few farms in SA where there is a ‘group right’ and where it does exist, the parties generally regulate these rights amongst themselves.”³¹³ He goes on to describe a practice that was common to land buying syndicates, including Driefontein in Natal and Driefontein in the Transvaal. In this land management practice, landowners share portions of a farm. Over time and through negotiation, they beacon it off to mark out whose portion is whose.

Ham argues that “the maxim of the law [of undivided shares] is — no man can be enriched at the expense of another — and this maxim has received legal sanction in numerous decisions of the Supreme Court, both prior to and since Union.” Making an example of a farm neighbouring Driefontein called Stuurman’s Location, which was owned by black people via a grant from the British government for services during the South African War, Ham notes, “I

³¹² While collectivist in orientation, the families involved in the Association syndicate neither held direct links to the South African Communist Party, nor the Industrial and Commercial Workers Union.

³¹³ L. Ham to C.W. Cousins, ‘Undivided Shares and Taxation of Land: Memo by Ham - Magistrate’, 19 May 1925, Department of Lands (1882 – 1979), LDE Vol 1227 Ref 24505 Part 1, National Archives.

have only come across such rights in Native farms e.g., where Government gave a farm say to Stuurman and his descendants.” He contests his colleagues’ view that this collective form of ownership has undermined white employers’ ability to recruit black laborers: “I do not agree that the taproot of evil is the ‘undivided share’. The undivided share is certainly not a contributory cause of the flow [of laborers] from the land.”³¹⁴

The implementation of collective ownership on other black-owned Transvaal farms offers further insight into how land buying syndicates built their own norms around property management. The Ngakane family had clubbed together with 14 other families of sharecroppers to buy the farm Klipgat near Ventersdorp in 1913. Like the land buyers in Driefontein and Daggakraal, black farmers in Klipgat had bought land with Seme’s assistance.³¹⁵ Morobane Ngakane, whose parents bought land at Klipgat, stated that “as an undivided farm, everyone amongst us had the right to own it from one corner to the another.”³¹⁶ Ngakane described how “people there used to help each other when they cultivated their lands,” and practice a system of collective work called *letsema*, rather than hire laborers to work for them. They also shared a “harvesting machine generated by heat from coal to remove the grain from crops... they used to make a lot of profit.”³¹⁷ Ngakane described his youth at Klipgat with fondness. This makes it difficult to discern the problems that may have also existed within the Klipgat land project.

³¹⁴ Ibid.

³¹⁵ Morobane Ngakane interview by T.J. Matsetela, 6 June 1979, *Oral History Project of the African Studies Institute*, Institute for Advanced Social Research, AG2738 Aa4, Wits Historical Papers.

³¹⁶ Ibid. For more on Klipgat, see Susan Tilley and Ntombizabantu Nkazane, “Bakwena Ba Mare a Phogole (Klipgat) Community Restitution Claim,” *Research Report 28*, Programme for Land and Agrarian Studies, University of the Western Cape (August 2007).

³¹⁷ Tilley and Nkazane, “Bakwena ba Mare”.

Ngakane's memories of collective land ownership suggest a yearning for moments of possibility and visions for land ownership that had been repressed by the time Ngakane was interviewed in 1979.

In Daggakraal, Alexander Dlamini, one of the Association directors, was involved in drawing up early maps for the settlement. These maps indicate common areas for grazing cattle and accessing water (Figure 9).³¹⁸ Later maps, from the 1920s, also indicate cattle sheds, a cemetery and shared mills for processing maize and other crops (Figure 10).³¹⁹ In terms of the land ownership model that Alexander Dlamini envisioned, each family would have their own plot, which consisted of a residential section, a garden area for subsistence produce and a larger field for agriculture. Families shared the labor duties for farming, with women often playing a coordinating role, especially when men were away working other jobs.³²⁰ At the start of the Association project, decisions about who would be allocated which land were made by Seme and other Association leaders, such as Alexander Dlamini and Jonas Moloji, in consultation with land buyers. By the 1920s, land buyers in Daggakraal and Driefontein had established committees with representatives from several families, which handled disputes that arose between residents, helped develop norms about tenancy arrangements for land buyers who wished to rent out portions of their plots and also made decisions about converting some residential lands to farming land or vice versa.³²¹

³¹⁸ W.H. Molt, 'Blueprint for Daggakraal 2', Surveyor General's Map (S.G.) No. A 925/14. NTS 3440 56-308, National Archives. Drawn up with the help of Alexander Dlamini in 1913.

³¹⁹ 'Map of Daggakraal 2: The Native Farmers' Association Sale Plan 1922', NTS 56-308, National Archives.

³²⁰ Catherina Madlala, interview by Tara Weinberg, 25 February, 2019, Driefontein, South Africa; Dowie Nzoyi, interviewed by Tara Weinberg, Volksrust, 24 November, 2019.

³²¹ 'Memorandum by the Committee of Daggakraal Natives to His Worship The Native Commissioner For Wakkerstroom', 1920, NTS 3440 56-308, National Archives; Jane Vilakazi, interview by Tara Weinberg, 24

The form of collective property ownership that Association members articulated in Daggakraal and Driefontein combined the influences of ideas and practices of land management that families had brought with them from the Free State, Natal and Transvaal provinces. While the Witzieshoek group most explicitly advocated for collective ownership, this mechanism of ownership was familiar to people from all three provinces. Families from Natal found that it resonated with the land buying syndicates they had engaged with in places like Ladysmith in Natal since the 1860s, while Free State and Transvaal families felt that collective ownership best approximated the way they had managed land as sharecroppers. A collectivist system of this kind could only succeed with relationships of trust and a working set of land governance norms that could be used to hold people to account. Decades of farming together or alongside each other gave some groups of families a good base. Buying as a syndicate therefore enabled a certain kind of politics: a politics that carved out a co-operative way of financing and managing land in the context of a system of racial capitalism which tended to exclude them.

By buying into the Association, black farmers were building a kind of experiment in collective resource management. People went into the Association with particular ideas of how they sought to manage land, drawn from prior experience as sharecroppers, farmworkers or farmers on mission land. When they came together, they drew upon existing relations of trust, but also did work to maintain them and build new relationships with others who settled at Daggakraal and Driefontein.

November, 2018, Driefontein, South Africa; Siyabonga Matona, interview by Tara Weinberg, 24 November, 2019, Volksrust, South Africa.

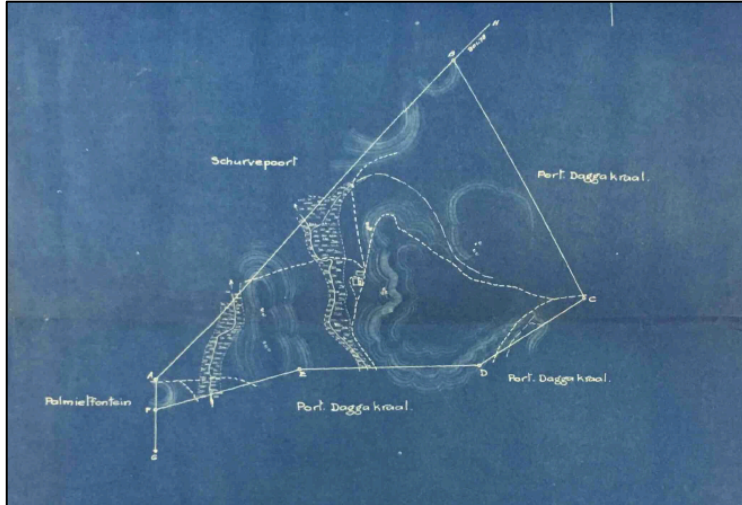


Figure 9: Blueprint for Daggakraal 2, drawn up with the help of Alexander Dlamini in 1913. Source: W.H. Molt, Surveyor General's Map, SG A 925/13, NTS 56-308, National Archives.

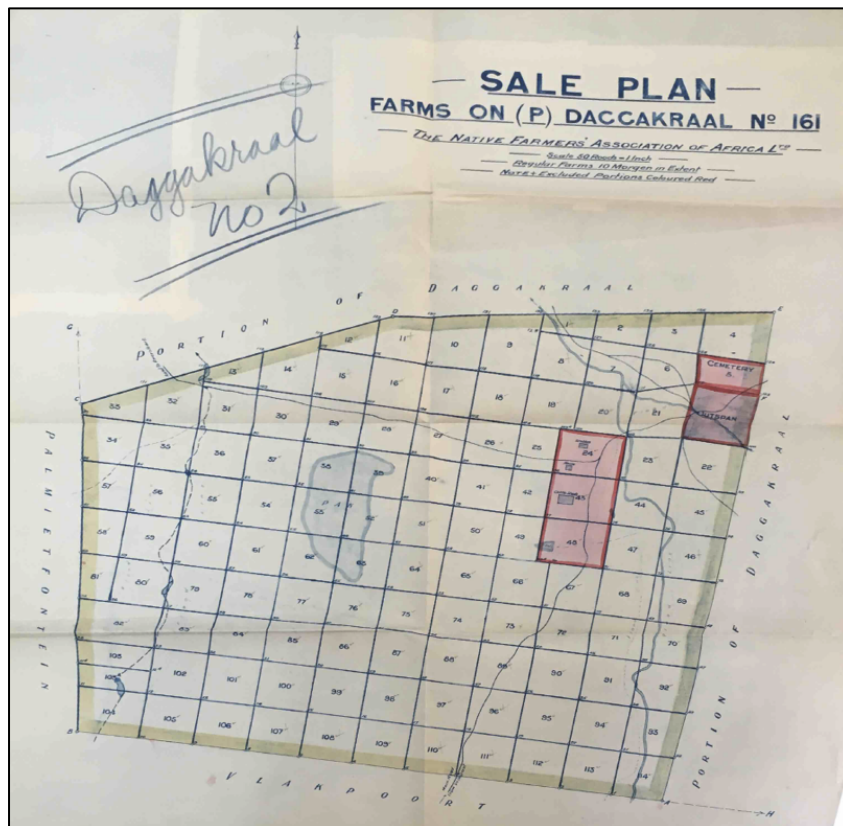


Figure 10: Map of Daggakraal 2 in 1922 showing numbered plots for each family of land buyers, plus shared areas colored in red. Source: The Native Farmers' Association Sale Plan, NTS 56-308, National Archives.

When the 25 families (at least 200 people) from Witzieshoek in the Orange Free State province arrived in Daggakraal 2 in 1913, they brought with them bonds of mutual obligation and aid established through decades of sharecropping. Sharecroppers were skilled farmers who shared the “risks and rewards” of farming with other sharecropping families and the white landowner.³²² They would offer some of their produce to the white landowner on whose farm they lived, in exchange for the right to use the land. Often sharecroppers lived on the lands of absentee white landlords, which suited them as they did not have to fix themselves to a place by paying rent. One could argue that they paid rent in kind. But the absence of a monetary relationship affected the kind of mutual obligations sharecroppers developed with others on the farm. When a family left a farm, often other families would follow. In this sense, when a group of families settled on a new farm, they assisted each other to set up anew and were linked together through bonds of kinship and labor.³²³

Many Free State sharecroppers found their bonds with white farm owners broken when these owners turned on them after the 1913 Land Act. In addition to making sharecropping illegal, the Land Act prioritized the needs of white farmers (so that they could rely less on sharecroppers). Later, in the 1930s, the government actively subsidized white farmers to strike a further blow to sharecropping (Chapter 4). But in 1913 already, the Land Act aimed to eradicate sharecropping economically and legally.³²⁴ This was a crucial factor that led families to move from the Free State to join the Association in the Transvaal, bringing with them the traditions of

³²² ‘Memorandum by the Committee of Daggakraal Natives to His Worship The Native Commissioner For Wakkerstroom’, 1920, NTS 3440 56-308, National Archives.

³²³ Charles van Onselen, *The Seed Is Mine: The Life of Kas Maine, a South African Sharecropper, 1894-1985* (New York: Hill and Wang, 1997), 78.

³²⁴ *Ibid.*, p. 68, 202.

property ownership common to them before. The Sehlako case suggests that Witzieshoek land buyers closed ranks, supporting in each other in making their mortgage payments. Chief Moloï was the exception in that group.

During the first two decades of the Association's existence, the account books point to most of the Witzieshoek land buyers paying off their mortgages. Sehlako's estate records, for example, indicate that he had paid off three of his six plots by 1941, and sold the other three over the course of his life.³²⁵ Witzieshoek land buyer Elias Dlamini had paid off his 10 morgen plot, worth £100 and had "no debts" upon his death in 1942.³²⁶ Similarly for Stephen Moloï, who owned three plots worth £400 combined.³²⁷ Church minister Samuel Lakaje paid off his plot worth £122 in 1936. He had also been paying into a burial society, who handled his funeral expenses.³²⁸

Since buyers usually paid between £200 and £600 per plot, the instalments that they owed must have been taxing, even if buyers were making a profit from farming in the Association's early years. Many families, such as Sehlako's, bought more than one plot and therefore had several simultaneous mortgages with the Association. By the mid-1920s, buyers were paying annual instalments of £10-15 per plot, and the interest owed if a buyer had missed a payment or two, could double that instalment amount. Land buyers had enough stored wealth,

³²⁵ Estate of Lechela Molapisi Sehlako, 1965, MHG 9139-67, National Archives. He died in 1965 at the age of 95.

³²⁶ Estate of Elias Dlamini, 1942, Native Commissioner's Records, Wakkerstroom: Natives: Civil and Criminal (1900-1901), KWN 1 7-42, National Archives.

³²⁷ Estate of Stephen Moloï, 1942, KWN 1 6-42, National Archives.

³²⁸ Estate of Samuel Lepota Lakaje, 1942, KWN 1 5-42, National Archives.

stock and profits in the early years of the Association to make payments. But they also relied on each other for support.

Land buyers who struggled to keep up their mortgage instalments sometimes borrowed funds from other land buyers. Elizabeth Tshabalala and Silas Christiaan Tshabalala from Witziesshoek, bought land at Vlakplaats, the Association farm neighboring Daggakraal, in 1913. They were given livestock by other family members, which they then sold to make their mortgage payments. Elizabeth Tshabalala testifies in an affidavit that she was adamant their plot should be paid off. She and Silas had married in community of property. If they failed to pay off their plot, she as the surviving spouse would not inherit the plot her husband had bought in his name.³²⁹

Other land buyers took out loans from lawyers in the vicinity. This was not a new practice. Black (and white) residents in the Daggakraal and Driefontein area had already been using the services of lawyers like C.K. Barry and W.B. Schuurman in Wakkerstroom, before the Association arrived in the area. Barry and Schuurman would later represent Sehlako in court in his case against Dlamini. The borrowing amounts the lawyers offered varied. Those to whom Barry and Schuurman's lent money in 1911 included Key Nyati, who borrowed 11 shillings, Maphooyan Khumalo, who borrowed £10 and Daniel (no last name given), a preacher, who borrowed £100. Few of those who borrowed money were able to pay off their loans that same year.³³⁰ The firm permitted buyers to pay over the course of several months or years. For

³²⁹ Estate of Silas Christiaan Tshabalala, 1940, KWM 2 2-40, National Archives.

³³⁰ C.K. Barry and W.B. Schuurman, Accounts Ledger, 1911, on file with Anton Roets, Wakkerstroom, South Africa.

example, a woman named Catrina (no last name given) paid some of the lawyers' fees up front, then paid the rest over the next 6-9 months.³³¹

However, this not just a rosy picture of bonds of trust. Daggakraal and Driefontein residents went to various length to make land buying and collective politics work. As already discussed, the Witzieshoek buyers thought of Chief Moloji as unaccountable to the collective because of as his financial practices, as well as his unwillingness to recognize their powers over land. But there were land buyers from Natal who also defaulted, not only on their mortgages to the Association but also on their loans to other black land buyers. Adolph Sello of Driefontein (originally of Natal), for example, borrowed money from at least nine other land buyers, including Babylon Dlamini, John Manana and Nicholas Khumalo. But at the time of his death in 1953, he still owed £70 to the Association for the plot he had purchased twenty years previously. His wife wrote to the Native Commissioner begging for some financial relief. They had lost the land on which they lived and were now indebted not only to other black residents of Driefontein, but also to the Association, the local pharmacy and a white moneylender.³³²

Barry and Schuurman handled the liquidation of most of the Witzieshoek buyers' estates, including Sehlako's. They usually did so with the help of Jonas Moloji, whom they paid for his services as a researcher and messenger. Barry and Schuurman (who were succeeded by their sons in the 1950s) took a solicitor's fee from families of between £4-9 per estate. They also charged the family for drawing up a death notice, advertising the death to creditors in local newspapers and contracting an accountant – usually to the tune of around £4. Thanks in large

³³¹ Ibid.

³³² Estate of Adolph David Sello, 1953, Landdros (Magistrate) and Native Commissioner Wakkerstroom, 1908-1911, LWN 217 1-4-2 (1-53), National Archives.

part to petitions from land buyers, as well as Jonas Moloï and Seme, Barry and Schuurman often allowed buyers to defer their instalments due to the Association, rather than evicting them from their land. However, this changed when Schlesinger took over the company from Seme in the 1920s. In Schlesinger's years as director, the relationship between creditors and borrowers became more abstracted from the social ties that had bound lawyers and buyers together in the Daggakraal and Driefontein area.³³³

2.5 Broken bonds

When the debate about land ownership within the Association arose, Seme was ambivalent about whether to allow collective ownership of the kind put forward by the Orange Free State land buyers. As a businessman, he wanted his clients' business and therefore was tempted to acquiesce to their demands. But as an intellectual and politician, he believed in political empowerment through individual property ownership. Furthermore, as a lawyer he felt it would undercut the Association's arguments for land rights in areas that the government had designated as "white", such as Daggakraal and Driefontein. If the syndicate proposed a form of land tenure which government officials saw as inferior (namely collective land holdings, rather than plots in the names of individuals, or even individual land ownership via unsurveyed or undivided shares), they could refuse to recognize land buyers' ownership of land in official law.³³⁴

³³³ C.K. Barry and W.B. Schuurman, Accounts Ledgers (unpublished, 1903-1929), on file with Anton Roets, Wakkerstroom, South Africa.

³³⁴ Ngqulunga, *The Man Who Founded the ANC*, 139.

Managing land and trust within a collective enterprise like a land buying syndicate was, and remains, highly fraught. In Klipgat for example, Ngakane pointed out that they installed a mechanism where the land could not be sold unless all 14 families agreed. One man had tried to cajole the other landowners to sell their joint land so that he could recoup a debt for a failed hotel business, but he had failed to secure the agreement. This example from Klipgat farm indicates how the collective entity protected families' ownership rights, but also excluded those who could no longer keep up financially. It also stands in contrast to the Sehlako case, where the Association cancelled 25 families' land ownership rights because one person, Chief Moloji, had failed to pay his mortgage. The other families had to rally together and take the matter to court to rebuild their collective.

While land buyers in the Association held title deeds in name of a family member, their land ownership was still subject to others' recognition, including by neighbours, community committees, the Association board of Directors, and government officials. Association members' ownership of land was therefore dependent somewhat on these institutions of authority. When one of these institutions of authority failed in the duty that Association members expected, it led to the breaking of bonds of social trust – and not only mortgage bonds.

This fracturing of trust is most obvious in the example of Chief Moloji's failure to pay his instalments for the land bought by the Witzieshoek group in Daggakraal. Crucially, the Sehlako case is also illustrative of the ways in which black land-buyers contested the categories imposed upon them by both the government and Seme. Many people living in Witzieshoek were sharecroppers who did not swear strong allegiance to chiefs. Some had ended up in the Free

State as a result of the Mfecane³³⁵, or because they had “voted with their feet” and left chiefs’ control.³³⁶ They did not view chiefs as the only owners of land.

There were several land buying syndicates who viewed traditional leaders in this light. For example, the Bakwena group had clubbed together to raise £590 for “undivided shares” in the farm Waaikraal near Rustenberg in the Transvaal province in the 1880s. In 1905, members of the group testified before the Natives Land Commission that their chief and headman had signed a document with a missionary giving them only servitude rights over their land, and not ownership. They remonstrated that the chief had not consulted them before signing this document. They also argued that the chief and headman had not contributed to the purchase, and therefore their rights in the farms’ undivided shares were questionable.³³⁷

During the ‘Stubbs Commission’ on Africans’ land access in 1918, Walter Francis Hill, a reverend with the Transvaal Mission Association, remarked to commissioner Ernest Thomas Stubbs, that the Witzieshoek group in Daggakraal “have broken away from tribal conditions and some have even lost their language. It would not be possible or just to expect them to go back to

³³⁵ As John Omer-Cooper summarizes, the Mfecane refers to “the process of political change and the accompanying wars and migrations which began in the area between the Thukela River and Delagoa Bay during the latter part of the eighteenth century. *Inter alia*, this process resulted in the emergence of the Swazi and Zulu kingdoms, the founding of the Gaza kingdom in southern Mozambique, and the migrations and state-building activities of the Ndebele and of the Maseko and Zwangendaba’s Ngoni.” John Omer-Cooper, “The Mfecane Survives Its Critics,” in *The Mfecane Aftermath: Reconstructive Debates in Southern African History*, ed. Carolyn Hamilton (Johannesburg: Wits University Press, 1995). The Mfecane has been a hotly debated process in South African historiography. Colonial historians often described it as the migration of people across South Africa and the depopulation of certain tracts of land as a result of the conquests of the Zulu kingdom. This was one of the narratives that settler historians used to justify white settler expansion. Several historians critique these narratives in Carolyn Hamilton, ed., *The Mfecane Aftermath: Reconstructive Debates in Southern African History* (Johannesburg: Wits University Press, 1995).

³³⁶ Keegan, *Rural Transformation*, 53.

³³⁷ Godfrey Yeatman Lagden, *Report by the Commissioner for Native Affairs: Relative to the Acquisition and Tenure of Land by Natives in the Transvaal* (Pretoria: Government Printer, 1904), 87.

tribal conditions.” Stubbs had argued that black farmers in the Transvaal who had moved there from the Free State should be “sent back to from whence they came.”³³⁸

The role of traditional leaders in land ownership matters has a more complex history in South Africa than this conversation between Hill and Stubbs implies. Historians have emphasized the role that chiefs have played in the implementation of land segregation under colonial, Union government rule and apartheid, particularly with regard to the reserves or ‘Bantustans’. Historians argue that colonial administrators in southern Africa were intimately involved in the construction of “traditions” that sustained colonial-era customary law and land segregation.³³⁹ Chanock points to the construction of the idea of an African tradition of “communal land tenure,” which conveniently allowed colonialists to suggest that because Africans had no conception of private property, they could be stripped of their land and confined to communal reserves, where they would be ruled by chiefs on behalf of the government.³⁴⁰

Other historians have modified this top-down invention-of-tradition model to explain the history of land segregation in South Africa. William Beinart argues that some chiefs took advantage of the options offered by the government to enrich themselves, including through a system of tribal levies. But other chiefs did not do so. Beinart argues that people were opposed to the government appointment of chiefs, but not always to chiefs per se.³⁴¹ Jill Kelly challenges the

³³⁸ W. H. Beaumont, *Report of the Natives Land Commission. Volume 2: Minutes of Evidence, Eastern Transvaal* (Cape Town: Cape Times Ltd., 1916), 25; 68, UG 32, National Library.

³³⁹ Martin. Chanock, *Law, Custom, and Social Order: The Colonial Experience in Malawi and Zambia* (Cambridge: Cambridge University Press, 1985); Chanock, “Paradigms, Policies, and Property: A Review of the Customary Law of Land Tenure”; Chanock, *The Making of South African Legal Culture 1902-1936*.

³⁴⁰ Chanock, “Paradigms.”

³⁴¹ William Beinart, “Beyond ‘Homelands’: Some Ideas about the History of African Rural Areas in South Africa,” *South African Historical Journal* 64, no. 1 (March 2012): 5–21.

binary proposition that chiefs were either “by the government” (imposed) or “by the people” (autochthonous) by showing that the reality sat somewhere in between in certain parts of Natal. She argues that the chieftaincy remained an important arena in which local struggles over power took place, despite its embroilment in government affairs.³⁴² In some parts of South Africa, chiefs had high levels of local accountability and remained popular. For example, in Mathopestad and Makuleke in the Transvaal, local chiefs led the resistance against forced removals. For this they were banished to distant ‘Bantustans’.

In Daggakraal and Driefontein, most evidence points to land buyers disputing the notion that chiefs were solely responsible for land matters. In the years following the South African War (1899-1902), and in the context of colonial debates about chiefs being the “custodians” of “customary land”, government administrators accepted some purchases made in the name of a “tribe,” with the chief as the sub-trustee and the Native Commissioner as the main trustee. Famous examples include the Bakgatla ba Kgafela and the Bafokeng in the Transvaal, who initially acquired property under the names of missionaries and later as “tribal trusts.”³⁴³ However, the people who bought land at Daggakraal did so in part so that they could avoid this kind of “trust” arrangement, and hold more decision-making power as a collective.

In his testimony before the court in the case of *Sehloko vs. Dlamini*, Jonas Moloï implies that Chief Moloï did not own Daggakraal. He says the Witzieshoek group pooled their resources gained from selling livestock and came together to select plots as individual families: “Maitse

³⁴² Kelly, *To Swim with Crocodiles*, xli.

³⁴³ Gavin Capps, “Tribal-Landed Property: The Value of the Chieftaincy in Contemporary Africa,” *Journal of Agrarian Change* 16, no. 3 (July 1, 2016): 452–77, <https://doi.org/10.1111/joac.12179>; Bernard Mbenga and Andrew Manson, eds., *People of the Dew: A History of the Bafokeng of Rustenburg District, South Africa, from Early Times to 2000* (Auckland, South Africa: Jacana Media, 2011), 85.

[Chief Moloji] had nothing to do with the selection of plots.” Jonas says that as a member of Chief Moloji’s tribe, “I know the native tribal customs” and “Daggakraal was not bought in the name of the chief, it was bought in the names of the 23-24 men— I was one of the men.” Jonas argues that the Association gave a receipt of sale to the group, of whom Chief Moloji was acting as representative. But everyone in the group understood this to mean that the land belonged to all those who pooled their resources, not just the chief. In his testimony, Sehlako added, “I went to Daggakraal to buy land for myself.”³⁴⁴ Zacharia Lakaje narrated his frustration with the contract being signed in Chief Moloji’s name, testifying that “in 1913, Jonas Moloji called us together, suggested we should buy land in the Transvaal. Those who agreed to buy were to pay £20 down to show their willingness to buy. These names were to be sent to Pretoria. However, now [Chief] Moloji says he has lost the money and that we will need to start afresh ... we now have to buy a plot of 10 morgen in extent at a yearly payment of £12 annual for 12 years.”³⁴⁵

Current residents of Daggakraal have also debated the role of chiefs in land ownership. Siyabonga Matona, whose great grandfather moved from Witzieshoek to Daggakraal in 1913, offers an account that agrees with Jonas Moloji and Zacharia Lakaje’s testimony above. His grandparents told him that Seme took three families on a tour of Daggakraal before they moved over there: the Mantonas, Lakages and Molois. Seme then told the group of three that, “‘you cannot come without a chief.’ So Moloji became the chief” to serve the strategic goal of acquiring the land in Daggakraal.³⁴⁶ In Matona’s grandparents’ eyes, this did not make Moloji the sole

³⁴⁴ Testimony of Molapisi Sehlako in *Dlamini vs Sehlako*, 25 February 1918, Wakkerstroom Magistrate’s Court, NTS 3439 56/308, National Archives.

³⁴⁵ Testimony of Zacharia Lakaje in *Dlamini vs Sehlako*, 25 February 1918, Wakkerstroom Magistrate’s Court, NTS 3439 56/308, National Archives.

³⁴⁶ Siyabonga Matona, interview by Tara Weinberg, 24 November, 2019, Volksrust, South Africa.

owner of the land that the group had bought. However, Lephoatoane Edward (“Eddie”) Moloi, descendent of Maitse Moloi, who occupies the current position of chief in Daggakraal, argues that his family held authority over land long before the move to Daggakraal in 1913.³⁴⁷

Seme’s approach in the case of *Sehlako vs. Dlamini* seems to contradict his earlier advocacy of individual land tenure. It also seems to contradict his letters two decades later to J.D. Rheinallt Jones, founder of the South African Institute of Race Relations. In a letter to Reinallt Jones in 1940, Seme argues that “land is not granted to a chief alone but also to his people.”³⁴⁸ Here are two possible (inter-linked) explanations for his actions. First, Seme was in favor of individual land tenure when it suited him financially, but when not, he resorted to a view of African land tenure common to colonial administrators and anthropologists of the time: communal tenure under a chief. Second, Seme was genuinely sympathetic to chiefs and believed them to be key role-players in his vision for building a united and prosperous movement. Seme was extremely close to the Swazi royal family and played a major role in mobilizing chiefs to join the ANC.³⁴⁹

Historian Hugh MacMillan argues that Seme did not see “tribes as an impediment to unity, but as the building blocks from which unity could be constructed.”³⁵⁰ Seme had specifically sought out Chief Maitse Moloi to join and promote his vision of the Association. For

³⁴⁷ Tshepo Moloi, interview by Tara Weinberg, 18 November, 2019, Johannesburg, South Africa. Moloi is a professor of Political Science and is also the cousin of Eddie Moloi.

³⁴⁸ Pixley ka Seme to J.D. Reinallt Jones, 1940, South African Institute of Race Relations (SAIRR), Part 1, AD843B, File 44 13b, 44.20.

³⁴⁹ See the chapter ‘The Swazi nation’s attorney’, in Ngqulunga, *The Man Who Founded the ANC*.

³⁵⁰ Hugh Macmillan, “A Nation Divided? The Swazi in Swaziland and the Transvaal, 1865-1986,” in *The Creation of Tribalism in Southern Africa*, ed. Leroy Vail (University of California Press, 1991), 295.

example, in 1915 Seme had recruited Chief Moloji to the board of *Abantu Batho*.³⁵¹ Like his ANC colleagues such as Sol Plaatje, Seme sometimes advocated for the acquisition of land in the names of chiefs. He did so not just because it was strategic to register land in the name of an entity recognized by the government (chiefs), but because he believed in the customary legitimacy of chiefs with regard to land functions. Seme privileged Chief Moloji, perhaps for convenience's sake, or perhaps because he believed in traditional leaders' powers over land. Either way, one of the reasons that many Association members lost their sense of trust in Seme as an Association leader was because of his failure to recognize the pre-existing land ownership practices that structured their relationships. Instead of vesting land ownership in traditional leaders on behalf of the collective, Association members proposed an alternative kind of collective ownership.

In the wake of the Sehlako case, residents of Daggakraal 2, from the Orange Free State and elsewhere, questioned not only the financial and social accountability of Chief Moloji, but also that of other leaders, especially Seme. In particular, residents were irked by the double payment for land that farmers like Sehlako had to make, in order to hold onto land after Moloji's defaulting on his payment had lost Daggakraal 2 for the Witzieshoek group. Catherine Madlala remembers her grandparents telling a story of betrayal by the Association syndicate of its members. She says her family were misled first by their own chief, Moloji, then by Seme, then later by Schlesinger and other moneylenders.³⁵² Her family had to buy their plot of land three times over: in 1913, when they arrived from Harrismith; in 1916 when the Association agreed to sell the plots initially signed in Chief Moloji's name to individual families and then again in

³⁵¹ Peter Limb, *The People's Paper*, 30.

³⁵² Catherine Madlala, interview by Tara Weinberg, 25 February, 2019, Driefontein, South Africa.

1923, by which time Schlesinger had taken over the Association from Seme and instituted yet another new agreement for land buyers.³⁵³ The multiple payments put Madlala's family into debt from which they are still struggling to recover today.

The Sehlako case drew Association members' attention to Seme's sometimes duplicitous legal and financial dealings with regard to their land rights but their grievances in fact went further back. In 1913, the Association bought the farm Daggakraal 2 from C.A.M. Potgieters for £11,000, thanks to a bond from one of I.W. Schlesinger's companies, the African Realty and Trust Company. The Association then sold it for £34,200 to the group from Witzieshoek, seeking to make a huge profit in the process.³⁵⁴ As relatively well-off stock-farmers, the Witzieshoek group was able to finance their deposit through the sale of livestock. They intended to continue farming with their remaining livestock, as well as focus on agriculture, to pay off the rest of their mortgage. It was a gamble. The Wakkerstroom magistrate, Mr Griffith, remarked early on that he foresaw this being a problem, as the stock were in poor condition after the journey.³⁵⁵ The fact that the Witzieshoek group were willing to sell some of their cattle – important not only for farming but also for bride wealth payments – is evidence of how much they valued and invested in the idea of buying of land.

In their frustration at Seme and Chief Moloji, a number of land buyers at Daggakraal 2 expressed their desire to opt out of the collective syndicates to which they had subscribed and instead hold land as individual families. Joas Mafokeng from Witzieshoek argued, "I paid more

³⁵³ 'Memo of Agreement', NTS 3440 56/308, National Archives.

³⁵⁴ Ngqulunga, *The Man Who Founded in the ANC*, Kindle, loc 2849.

³⁵⁵ Charles Griffith, Evidence on Wakkerstroom and Volksrust, 22 April, 1914, Natives Land Commission. and Sir W. H. Beaumont, *Report of the Natives Land Commission. Volume 2: Minutes of Evidence* (Cape Town: Cape Times Ltd., 1916), UG 22, National Library.

than my fair share.” He said he stopped paying instalments as he had noticed others had stopped paying after Chief Moloï forfeited the land. Alexander Dlamini and Andries Hlongwane were both previously members of the Association leadership. Dlamini remarked, “we could not decide whether to have individual or collective title but now Seme has done wrong by us.” Hlongwane added that “now we all want individual titles.”³⁵⁶ Some of the land buyers involved in Seme’s scheme wanted individual titles from the start, but others, like those in the Witzieshoek group, lobbied for individual titles only after they felt the bonds of trust that undergirded their collective title had been broken.

John Dube also distanced himself from the Association in the wake of the accusations against Seme. In 1917, he wrote to Edward Dower, the Secretary for Native Affairs, to clarify his association with the Association. He asked Dower to publicly apologize for a statement he made to a “deputation of Educated Natives”, in which he referred to Dube as an originator of the Association. Dube said he was not involved with a “Company that robs natives.” He acknowledged that he was “for a short time connected with the Native Farmers Association, employed by the Company only for 12 months and during my stay in it I have never transacted bad business.”³⁵⁷ It is clear that a person who was associated with the Association after the Sehlako case was painted as untrustworthy and possibly corrupt.

³⁵⁶ Zulu and siSwati speakers meet to discuss grievances with officials, 23 August 1922, NTS 3440 56/308, National Archives.

³⁵⁷ Letter from John Dube to Edward Dower, Secretary for Native Affairs, Pretoria, 14 November 1917, NTS 3439 56-308, National Archives. The letter is written on Alfred Mangena’s letterhead, but with his printed details crossed out and Dube’s inserted in pen. Dower responds to Dube about six weeks later and denies having said anything worth apologizing for.

2.6 Credit: an epilogue

In 1919, creditor I.W. Schlesinger repossessed the Association after claiming it was in financial turmoil of Pixley ka Seme's making. Later in the 1920s, further complaints followed against Seme, his lawyer colleague Ben Boshoff and Witzieshoek intermediary, Jonas Moloji. Boshoff was an Afrikaans lawyer from Amersfoort near Daggakraal, who had helped Seme set up the Association.³⁵⁸ Jonas Moloji had been employed by the Association to collect mortgage payments and pass them on to the Association. Land buyers complained they had paid instalments to Seme, Boshoff and Jonas Moloji, for which they never received deeds of sale. In 1923, legal proceedings were launched against Seme and Boshoff for embezzlement.³⁵⁹ Along these lines, Seme's biographer Bongani Ngqulunga argues, "Seme's luck ran out in 1927 when he was charged and convicted for stealing £100 from Ndhlozi Manana, a black resident of the Wakkerstroom district. Justice Barry of the Supreme Court sentenced Seme to one year of hard labour, which was suspended when Seme agreed to pay a fine of £184."³⁶⁰ Accusations of corruption by black land buyers followed Seme throughout his career and eventually played a role in his being disbarred from practicing law.

Despite being brought into disrepute, Seme maintained contact with residents in the area, and still offered his services as a lawyer and creditor. From 1919 until at least the 1950s, other lawyers also continued to act as moneylenders and credit intermediaries, receiving instalments from Association members, taking a cut and passing on the money (or sometimes not) to the

³⁵⁸ There is little archival material on Boshoff's background. However, his grave is located in the old cemetery in Amersfoort (under "Bertrand Jacobus De Klerk (Ben) Boshoff, b. 10 June 1885, died 25 July 1954." He is listed in Barry and Schuurman's ledger as residing in Amersfoort.

³⁵⁹ 'Native Commissioner's Correspondence: 1924', NTS 3441 56/308, National Archives.

³⁶⁰ Ngqulunga, *The Man Who Founded in the ANC*, Kindle, loc 3051.

Association. The network of lawyers included C.K. Barry and W.B. Schuurman of Wakkerstroom, who handled Schlesinger's affairs in Wakkerstroom. Fred Kleyn, Ben Boshoff and V.M.C. Beck of Amersfoort also continued to be involved. For example, on December 12th, 1928, Schuurman bought plot 36 in Vlakplaats from Association and held it in Trust for Jonas Mothapeng until Mothapeng could afford to pay it off. Mothapeng gave Schuurman an initial down payment of £20 for safekeeping, which Schuurman put in a trust account for him. The Association as well as land buyers paid Barry and Schuurman's fee for this administrative work.³⁶¹ The community of black landowners was big business in the Wakkerstroom area.

After Seme left the Association, residents' distrust in the Association persisted. While Schlesinger and his bevy of creditors offered some protection for black land buyers in the Association, they also represented risk. In 1919, as Schlesinger was preparing to usurp Seme as director of the Association, records emerged in the public eye of Schlesinger's "unscrupulous business practices."³⁶² Ben Boshoff was at the time representing Zulu-speaking land buyers in Driefontein. He alleged that one of Schlesinger's companies had sold "certain plots at Orange Grove [in Johannesburg] to Natives...as being an excellent investment in the aggregate for 19,000 pounds, whereas municipal evaluation was only 5,000 pounds."³⁶³ Boshoff claimed

³⁶¹ Administrative fees are listed next to individual land buyers' names in the account books. C.K. Barry and W.B. Schuurman, Accounts Ledgers (unpublished, 1903-1929), on file with Anton Roets, Wakkerstroom, South Africa.

Barry's remuneration from the Native Farmers' Association is attested to in a letter from Barry to Schlesinger on 12 April 1939, on file with Nigel Mayson, Wakkerstroom, South Africa.

³⁶² G.A. Godley, Native Commissioner for Wakkerstroom, to the Secretary of Native Affairs, Pretoria, 'Sale of land to Natives on Farms 'Daggakraal' and 'Vlakplaats', 16 June 1919, NTS 3440 56/308, National Archives.

³⁶³ Ibid.

Schlesinger sold plots without “himself obtaining transfer of the property.” He warned of future exploitation by Schlesinger – a prediction that would indeed come to pass.

Some land buyers expressed their lack of confidence in the Association leadership by refusing to pay their annual mortgage instalments to Schlesinger. A letter from the ‘Daggakraal Natives Committee’ in 1920 notes, “the relation between the natives and the Native Farmers Association of Africa Limited has never been one of complete confidence, mutual trust and happiness.” It goes on to state that land buyers’ fear that the company would go into liquidation, “unsettles their desires to pay regularly and promptly.”³⁶⁴ The risk of this strategy was that Association lawyers might evict members who did not pay.

Along these lines, the Association regularly produced lists of people “in arrears”, documenting their attempts to chase down those who owed money. Many of those who owed were difficult to reach, since they lived in Johannesburg but kept a plot at Daggakraal or Driefontein.³⁶⁵ In 1929, V.M.C. Beck wrote to the Wakkerstroom Native Commissioner on behalf of various land buyers who had been served with eviction orders. He argued that many of his clients had good reason to delay payment. Most had suffered due to several drought-stricken seasons. Some, like Diamond Dlamini and Thomas Malindisa, were still owed money by the Association for services rendered to the company during Seme’s time in charge. Others like Paul Masuku claimed to have already paid what was due.³⁶⁶ As discussed earlier, land buyers’ situation was made precarious by the Association’s failure to issue title deeds to relevant

³⁶⁴ ‘Memorandum of the Committee of Daggakraal Natives to His Worship the Native Commissioner for Wakkerstroom’, NTS 3440 56/308m National Archives.

³⁶⁵ ‘Basotho and other payers in arrears’, 1924, NTS 3441 56/308, National Archives.

³⁶⁶ F. Glen Leary, Native Commissioner of Wakkerstroom to Native Commissioner of Johannesburg, 9 May, 1928, NTS 3441 56/308, National Archives.

families, even when they had paid off their mortgages. The majority of Daggakraal land portions were registered in the 1940s and 50s, despite the fact that most Association members had paid up by 1930. Lunyolo Ngwenya, for example, whose horse race many Daggakraal residents associate with the founding of the Association, paid off his mortgage at an earlier date but the deed was only transferred into his name upon his death in 1950.³⁶⁷

The Association responded to the claims made by Beck and the land buyers, arguing that the general problem was land buyers had failed to account for interest charged to them by the company. The Association directors therefore considered land buyers' claims on the Association for credit to be invalid. This despite the fact that the Association account books actually show evidence to the contrary. The company took a moral tone on the debt situation of the land buyers, implying buyers had been irresponsible and that their poverty was not the fault of the company. Schlesinger commented on Thomas Malindisa's situation that, "I have used every endeavor to get him to realize his obligations, but all to no avail, and he and no one else is to blame for his present position."³⁶⁸ As David Graeber and Deborah James point out, there is a long history of casting moral aspersions on debtors.

As mentioned, lack of trust in the Association may also have been due to the fact that the Association failed to transfer title deeds to residents even after they had paid off their mortgages. Further examples include Elias Dlamini, who died 1942, and who had paid his mortgage for his Driefontein plot and had "no debts." However, the executor of his estate (C.K. Barry) noted that the title deed for Dlamini's plot remained in the Association's name. The family had to pay an unanticipated conveyancing fee for the deed to be transferred first from the Association to Elias

³⁶⁷ Estate of Lunyolo Ngwenya, Daggakraal 90 HS, Deed no 7745/1950, National Deeds Registry.

³⁶⁸ 'Basotho and other payers in arrears', 1924, NTS 3441 56/308, National Archives.

Dlamini's name, and then into his heir's name.³⁶⁹ Mathanjana Nhleko's family experienced the same thing when he died in 1953. It seems that the Association only transferred land into buyers' names when they were pressured to do so during the tying up of a buyer's estate.³⁷⁰

David Graeber argues that debt arises from a situation in which there are two parties who are "potential equals but who are not currently in a state of equality" and "while debt remains unpaid, the logic of hierarchy takes hold. There is no reciprocity."³⁷¹ This argument is pertinent to understanding how the Association credit networks operated. While it is too definite to say no reciprocity was involved in the relationships between land buyers and their creditors, the point about inequality is an important one. White farmers in Orange Free State held the trump card in their relationship with sharecroppers, even though they relied on sharecroppers' produce. Seme too held the trump card over the Association land buyers. The buyers would not get the title deed handed to them until their debt to the Association was settled. At the same time though, Schlesinger held power over Seme. While Seme and Association's debts remained unpaid, all the buyers' land rights remained unsteady. And mortgages were not the only debts Seme had; he also had debts accrued from the hidden administrative costs of running a property company, such as land surveyors and deeds registry work.

Bonds of trust helped to ameliorate the inequalities between land buyers and their creditors to some degree. For instance, land buyers wrote to the Association, asking for

³⁶⁹ Estate of Elias Dlamini, 1942, KWN 1 7-42, National Archives.

³⁷⁰ Estate of Mathangana Nhleko, 1953, LWN 217 1-4-2 (1-53), National Archives.

³⁷¹ Graeber, *Debt*, 256-257.

extensions to pay the instalments they owed.³⁷² These extensions were often granted – but less so once Seme and black directors lost control of the company. Even under Seme’s control, extensions and leniency could not be counted upon, especially since the creditor – in this case Seme and Association – was itself in debt to Schlesinger and needed to recoup funds to avoid losing their land rights too. For example, in 1923 Seme was forced to give up land that his relatives lived on in Driefontein to Schlesinger’s Colonial Banking and Trust Company to cover a debt.³⁷³

Although businesspeople such as Schlesinger were open to selling land to black people, if it meant good business, officials in the Department of Native Affairs considered the Association to be anathema to their visions of tribal reserves for black people. In addition to seeing Seme as a problem, government blamed the nature of land buying syndicates. In highly paternalistic tones, they argued black farmers were ill equipped to navigate the risks of collective land-buying ventures. Most government officials also opposed black groups from taking out mortgages. They encouraged tribal trust regimes instead and installed a system of tribal levies in various parts of the Transvaal to enable tribal land purchase.³⁷⁴

Their views were strongly influenced by pressure from white farmers in districts like Wakkerstroom and Venterdorp, where black farmers had been doing relatively well from farming. Soon after the Association’s establishment in 1912, a group of eastern Transvaal

³⁷² C.K. Barry and W.B. Schuurman, *Accounts Ledgers* (unpublished, 1903-1929), on file with Anton Roets, Wakkerstroom, South Africa.

³⁷³ *Colonial Banking and Trust Company Limited Versus Pixley Ka Isaka Seme* (1923), Registrar of the Supreme Court of South Africa, Transvaal Provincial Division (1923-1928), TPD Vol 229, 177/1923, National Archives. Ngqulunga reveals that Seme was also in debt in relation to his personal properties. For example, he had not paid off his Sophiatown house. Ngqulunga, *The Man Who Founded the ANC*, Kindle, loc 3096.

³⁷⁴ Mbenga and Manson, *People of the Dew*, 94.

farmers met to issue a set of demands to J.B. Hertzog, then Minister of Justice. They wrote that it would be “highly undesirable and inimical to the interests of the White Population of South Africa” if the Association continued to buy land. Their particular worry was that the Association’s actions as a collectivist syndicate indicated an “organized start” and “would require only a very simple system of co-operation among the natives prompted by the educated natives in the country to enable them to acquire a large number of farms every year.”³⁷⁵ Ironically, although white farmers were threatened by the Association, they also recognized that the Association had bought Daggakraal at a higher price than white farmers were willing to pay. Clearly then, some white farmers were willing to do business with black farmers if it got them a good deal. Nevertheless, in this broader political context, black farmers’ requests for and practices of collective property illustrate an insurgent and often erased tradition of political thought about property.

In the 1920s and 30s, officials in the Department were favorably inclined towards collective buying and farming in the reserves but were opposed to it in the context of land buying syndicates. In his correspondence with the Chief Native Commissioner of Natal, the Chief Agricultural Officer of South Africa favorably cited an opinion piece from the newspaper *Forward*, in which the (white) author wrote, “[collective farming] is very much akin to the traditional Native view that land is the common property of the tribe...the pooled resources, no matter how meagre, would together with government assistance, create a husbandry which would allow for the maximum return and minimum loss of time to achieve a civilized standard of

³⁷⁵ Correspondence, Magistrate of Wakkeestroom, 3 September 1912, NTS 3439 56/308, National Archives.

life.”³⁷⁶ However, the author went on to nevertheless quote from the Natives Economic Commission (1930-1932) that collective land purchase should be forbidden “where land is not held by a tribe.”³⁷⁷

2.7 Conclusion

Within seven years of the Association’s existence, the bonds of trust that the Witzieshoek syndicate established had become broken to the point where many people felt the risk of the collective project outweighed the benefits. The space for credit access began to close down after 1913, limiting land buyers’ options and making it more difficult for those who had already bought land to successfully pay it off.³⁷⁸ In addition, lack of trust in Seme grew. This lack of trust deepened when Schlesinger took over the company from Seme in 1919. The archives show that a number of land buyers asked to opt out of a collective scheme and demanded individual title deeds instead. Many of them made this demand not necessarily because it met their reality of land tenure but because it seemed the best of a bad set of options available to them in official law.

This is not just a story of paths not taken. The visions of collective land ownership that people articulated during the window period between 1905 and 1913 remained important. Despite the eventual division of Driefontein and Daggakraal into individual title deeds, the Association makes for a fertile site through which to study the divergent visions amongst black

³⁷⁶ Author unknown, ‘Natives on the Land: Collective Farming Needed’, *Forward* (6 February 1942), Native Agriculture: Collective Farming (Crops), NTS 7410 368-327.

³⁷⁷ Ibid.

³⁷⁸ James, *Money from Nothing*, 95.

farmers around property ownership and community. When they came together to form new land-buying communities, land purchasers brought with them networks of credit and debt based on pre-existing social relations forged as mission-educated agriculturalists in Natal, sharecroppers in the Free State and labour tenants in the Transvaal. These credit practices enabled land buyers to imagine and sometimes implement a politics of collective land ownership.

The case of *Sehlako vs. Dlamini* suggests that land buyers advocated for a kind of communal or collective form of property ownership that did not privilege the decision-making power of chiefs. During the course of the case, land buyers sketched the nature of this collective ownership form. In addition to differing from legal mechanisms (whether official or customary) in which chiefs held ownership powers over land, land buyers also distinguished this ownership form from the individual title deeds Seme was proposing, which implied a one-to-one relationship between the buyer and their land.

While Association members did not want chiefs to own communal land collectively on their behalf, they did advocate for another kind of collective property ownership. Their ideas and practices about property drew upon Natal traditions of land buying syndicates and Free State sharecropper practices around pooling skills, labour and resources for land management and farming. Association land buyers, with their alternative political possibilities to chiefs' power over land and individual title deeds, ultimately went unrecognized by both Seme and the white establishment – and indeed, many scholars since.

The legal records – which indicate individual title deeds – often belie the ways in which people continued to farm collectively. As some property scholars have argued, law often obscures the network of social relations below its surface. While people held deeds in name of a family member, their land ownership was still subject to the social, economic and political bonds

they held with other members of the Association syndicate. In practice those who acquired land via Seme's Association often still did so via forms of collective land holding. These traditions of collective property ownership played out in Daggakraal and Driefontein in the decades that followed the Association's land purchase. They continued to animate how residents farmed, made decisions about land and organized politically, in a context where it became more and more difficult for people to turn their land ownership into economic benefit in the context of white commercial farming, racist legislation and the threat of forced removal.

Association farmers' visions of collective property ownership also matter in light of post-1994 debates about land reform and traditional leadership in South Africa. In 1994, the African National Congress (ANC) government implemented its land reform program, which provided black South Africans with a means to: claim back land from which they had been dispossessed as a result of racial discrimination; demand that the government redistribute land to black people as a way of tackling the country's unequal land distribution pattern, where white people benefitted disproportionately from land ownership; and for black land rights holders without individual title deeds to have their rights recognized under official law. However, land claimants argue land reform has benefitted a minority of elites, such as traditional leaders (also known as chiefs) who claim on behalf of groups but use land for personal gain. In parts of the country, traditional leaders have claimed ownership of land rich in mineral wealth. In attempting to justify enriching themselves, they have mobilized colonial-era historical accounts to argue that under customary law, land is held by chiefs. Community land activists have opposed this view, arguing the land should belong to the whole community. The arguments made by Driefontein and Daggakraal residents in the early twentieth century for collective ownership that would not be owned by

chiefs, indicates that there is a long history of black farmers owning land as alternative kinds of collectives to 'tribes'.

Chapter 3 “Bargaining with the state:” Black Farmers’ Petitions for Agricultural Support, Amidst White Farmers’ Subsidies, 1920s-1970s

3.1 Introduction

Together with Native Farmers Association (Association) founder, Pixley ka Seme, residents of Daggakraal and Driefontein envisioned becoming successful farmers, not needing to rely on working for white employers (Chapters 2 and 3). In the early twentieth century, black people had purchased land from the Association in Daggakraal and Driefontein in the Wakkerstroom district of the Transvaal province. Simultaneously, land-buying syndicates enabled black people to buy land in other parts of the Transvaal. Mogopa in the Ventersdorp district was one of these places. In Daggakraal, Driefontein and Mogopa, black residents purchased land with the intention of farming on a large scale. They had in mind a community of black land buyers, in which they would build their own infrastructure, run their own schools and churches, and manage their own affairs.

In the first two decades following Mogopa and the Association’s purchase of land (in 1911 and 1912 respectively), black farmers competed relatively well on the agricultural market. Mogopa is located in South Africa’s ‘maize triangle’, which is considered the most environmentally suitable part of the country for growing maize. Mogopa farmers initially did well in terms of maize and sorghum sales. In Daggakraal and Driefontein, which was (and remains) famous as a wool-producing area, black landowners focused on sheep farming, in addition to maize. However, by the 1930s, black farmers in Daggakraal, Driefontein and Mogopa

had seen their efforts so substantially undermined by government policy, legislation and support for competing white farmers, that they had largely given up on the vision of becoming independent farmers. In the 1930s, black land buyers shifted their aim from commercial to small-scale and subsistence farming, supplemented with wage labor.

The period between 1930 and 1970 was marked by more intense segregation from above, especially during the apartheid era (1948-1994). During this period, in the context of their declining fortunes, black landowners sought recognition in aid of their farming endeavors. I argue that black landowners maintained a commitment to certain norms and practices around authority over land ownership, while still engaging with government bureaucracies.³⁷⁹ I focus on Driefontein and Daggakraal residents' petitions for financial and infrastructural support from the government to aid their farming efforts.

Land buyers' petitions in the twentieth century followed a particular arc. Between 1905 (when Edward Tsewu's case set the precedent for black people to buy land) and 1919 (when Seme was ousted from the Association), Pixley ka Seme and his political and intellectual contemporaries often addressed petitions and letters to the British monarch or officials of the British government in the Cape. They positioned themselves as "imperial citizens" who should

³⁷⁹ Writing on the relationships between Native Americans and U.S. government officials, Justin Richland argues that Hopi First Nation people insisted on their sovereignty by accepting some of the state's terms of recognition, without conceding most of their authority over how they wished to identify. Justin B. Richland, *Cooperation without Submission: Indigenous Jurisdictions in Native Nation-US Engagements*, Chicago Series in Law and Society (Chicago, Illinois: University of Chicago Press, 2021), 4. In *The Cunning of Recognition*, Elizabeth Povinelli argues that in order to obtain redress for dispossession of their land rights, indigenous Australians have to make their land practices recognizable to the Australian state. But this process of recognition has a "cunning" to it, in that it forces indigenous claimants to bind themselves to the state's categories of indigeneity. For Povinelli, it is impossible for indigenous Australians to get recognition through the legal system, without also compromising their sovereignty. Unlike Povinelli's work, Richland's theory of "cooperation without submission" eschews the binary of opposition or submission to state power. His conceptual framework allows us to see the actions of black South African land buyers beyond a resistance-collaboration dichotomy. Elizabeth A. Povinelli, *The Cunning of Recognition: Indigenous Alterities and the Making of Australian Multiculturalism*, Politics, History, and Culture (Durham: Duke University Press, 2002).

be entitled to the same rights and privileges as British citizens (Chapter 2). They often wrote in an ingratiating tone, so as to present themselves as obedient and loyal citizens of the British empire and its political projects. They also appealed to British claims of moral superiority about their perceived democratic and just treatment of Africans, as set against the perceived violence of Boer governance.

Between 1920 and 1950, black land buyers continued to attempt to strike a bargain with the state, but on different terms. They had become disillusioned with earlier appeals by Seme to the British government and colonial administration. They had also witnessed the failure of these institutions to protect them from the racist laws, policies and actions embodied by the National Party's victory in 1948. Between the 1920s and 1950s, black land buyers targeted their petitions at officials in the Departments of Native Affairs and Agriculture. They asked the government for financial support and access to markets similar to that given to white farmers. In exchange, they offered to cooperate to some extent with the state's policy of reserves and Betterment planning. Land buyers' petitioning of the government for support did not necessarily mean buying wholesale into the state's desire to incorporate them into the reserves. In a flurry of petitions around support for farming, Association land buyers sought to make themselves legible to the state.

In Driefontein and Daggakraal, which had been a hotbed of legal activity and intellectual debate since Seme established the Association in 1912 (Chapter 2), petitions and petitioning became an important avenue of claim-making. However, government officials generally rejected the bargain that land buyers had put on the table. They remained threatened by the possibility of a successful class of black commercial farmers. Correspondence between government officials suggests that many believed that if they offered support to black farmers, they would deplete the

pool of cheap labor that white farmers, mining bosses and business owners demanded, and lose some of their rural, white voting base. Government officials responded to most petitions by telling residents that they were on their own, and that it was not the government's responsibility to assist them with farming infrastructure or access to markets. Since black farmers owned land privately in places like Daggakraal and Driefontein, the government did not offer financial support as it did in the reserves (even though financial support for reserve farmers came with problematic conditions such as Betterment planning). This policy had the effect of isolating black land buying syndicates.

In Mogopa, claim-making took a different route from Daggakraal and Driefontein. There, land buyers challenged government officials' plans to place them under the authority of Otto Mamogale More, a paramount chief (*kgosikolo*) in a reserve that was later to become the Bantustan of Bophuthatswana. Instead, they sought official recognition of their headman, Thomas More. For Mogopa residents, advocating for recognition of a headman meant neither submitting to the apartheid government's categories of tribalism, nor to its offer of Betterment planning. They charted a path in which they could emphasize their identity as landowners, while also seeking forms of state recognition and assistance that could aid their work as farmers. The Mogopa land buyers had been relatively prosperous sharecroppers in the Orange Free State. After purchasing land in the Ventersdorp area, they developed relationships with white farmers who could act as intermediaries for transacting with the local agricultural cooperative. Instead of seeking state recognition of their farming activities, they sought to remain under the radar.

Against the backdrop of the government's rejection of their petitions, black land buyers' farming incomes declined, and their rates of migrant labor increased. Partly because so many men were away from Daggakraal, Driefontein and Mogopa, women came to the forefront of

organizing around land. In the 1960s, 70s and 80s, land buyers transformed their strategies from petitions to physical protest action, media activism and taking the state to court. Women spear-headed land buyers' resistance to forced removals (Chapter 4).

Land buyers' strategies took account of the challenging political and economic climate for black farmers. At the same time that the government undermined black collective land holding projects like the Native Farmers Association (Association) and the land buying syndicate at Mogopa, it threw its weight behind white agricultural cooperatives. From the 1930s until the 1970s, cooperatives were the fulcrum of the agricultural economy in South Africa's Transvaal province. They played a central role in uplifting white farmers. In many instances, government support transformed small-scale farmers into commercial farmers. These farmers were also influential in bringing the Afrikaner nationalist political party, the National Party, to power in 1948. Agricultural cooperatives came about in large part due to pressure from white farmers and political conservatives who pushed for racially exclusionary state intervention.

The growth of white farming cooperatives skewed the maize industry heavily in favor of white farmers. Maize was the main agricultural product sold by black farmers who had bought land in Mogopa, Driefontein and Daggakraal. I focus on maize as a way into examining how black farmers in these areas navigated the state's agricultural price controls and its preferential treatment for white farmers. These dynamics in turn affected the way that black landowners managed their land, and navigated their identities as land buyers, especially in contrast to black farmers in the "native reserves." Unprecedented state support for white farmers also played a role in suppressing the class of black farmers that had survived in the Transvaal, a few decades

later than in the Cape province.³⁸⁰ This class of farmers were market oriented but had a limited capacity for capital investment.

The Marketing Act of 1937 enabled dedicated bureaucratic channels for white farmers to receive government support. The Act created the Maize Board and allowed for the registration of local maize cooperatives around the country. Via the Maize Board, the government became the arbiter of the maize price and the sole buyer and seller of all maize in the country. It artificially kept the South African maize industry afloat by fixing the price of agricultural produce, as well as providing white farmers with debt relief, subsidies and other kinds of support (such as agricultural extension officers, combating soil erosion and providing irrigation infrastructure). These measures protected farmers when South African maize exports failed to compete on the international market, particularly against cheaper maize from the United States and Argentina. They also protected white farmers from competition with relatively successful black farmers, like those in Mogopa, by excluding black farmers from cooperative membership – and therefore from buying and selling maize.

While the de jure rule was that black farmers could not be members of cooperatives, in practice they continued to farm and sell their produce, although this became more difficult and more expensive after the Marketing Act. For example, black land buyers in Mogopa worked via intermediaries in the Ventersdorp area. White farmer intermediaries bought Mogopa residents' produce, took a cut, sold it on to the cooperative and stored it in the cooperatives' silos in Venterdorp, giving the income from sales back to the farmers in Mogopa. Black farmers relied on their relationships with local white farmers sympathetic to their efforts or willing to do

³⁸⁰ Bundy, *Rise and Fall of the South African Peasantry*.

business with them. In Driefontein and Daggakraal, wool, rather than maize, was the main interest of surrounding white farmers. Nevertheless, black farmers seeking to sell their maize faced similar obstacles.

Daggakraal, Driefontein and Mogopa were situated outside of the “native reserves” established by the Union government, in which the government intended black people to live.³⁸¹ As discussed in Chapter 2, the 1913 Land Act made it illegal for black people to buy land outside of the reserves. Historians have described how, during the apartheid period, government officials intended the reserves to be self-sufficient enough not to drain the state’s coffers, but poor enough that black South Africans had to rely on working for white employers outside the reserves. By 1918, black residents in the reserves were able to meet only an estimated 45% of their subsistence demands from farming.³⁸²

In the 1930s, the Department of Native Affairs (after 1958, renamed the Department of Bantu Affairs) argued that in order to tackle the reserves’ inability to support their residents, they would be implementing a program called “Betterment planning.” Government officials refused to acknowledge that the economic situation in the reserves was as a result of the state’s racial segregation policies.³⁸³ They instead attributed the root causes of shortfalls in agricultural production to Africans’ “bad farming” methods and excess of cattle-ownership, which they

³⁸¹ After the South African War (1899-1902), the Union government was established in 1910 to unite provinces that had previously been under British rule (the Cape and Natal), with the provinces governed by the Zuid Afrikaansche Republiek (the Boer republics of Orange Free State and the Transvaal, which the descendants of Dutch settlers had occupied). See Introduction/Chapter 1.

³⁸² Jan C. Greyling, Nick Vink, and Van der Merwe, Emily, “Maize and Gold: South African Agriculture’s Transition from Suppression to Support (1886 – 1948),” in *Agricultural Development in the World Periphery: A Global Economic History Approach*, ed. Vicente Pinilla and Henry Willebald (Cham, Switzerland: Palgrave Macmillan, 2018), 188.

³⁸³ Chris de Wet, *Moving Together, Drifting Apart* (Johannesburg, South Africa: Witwatersrand University Press, 1995), 40; Ashforth, *The Politics of Official Discourse in Twentieth Century South Africa*.

argued had caused soil erosion.³⁸⁴ The Betterment program involved a string of coercive government interventions in agriculture, including compulsory dipping of cattle for diseases, limits on the number of livestock that residents could keep, and forced villagization. “Betterment planning” continued well into the 1960s but brought no quantifiable economic relief to residents. By the 1950s, reserve residents’ agricultural outputs met only an estimated 20% of their subsistence needs.³⁸⁵ Reserve residents across the country fiercely resisted Betterment, by, for example, boycotting dipping tanks and refusing to curtail their livestock numbers.³⁸⁶ They argued that Betterment was an assault on their “agricultural independence.”³⁸⁷

3.2 The fortunes of Association and Mogopa land buyers between 1920 and 1948

3.2.1 The backdrop to petitions

The first half of the twentieth century marked a transition to widespread white commercial farming in the Transvaal and a decline in fortunes for black land buyers who farmed for a living. The petitions launched by land buyers, for farming support from the government, took place against a backdrop of unprecedented state support for white farmers. New marketing boards, agricultural cooperatives and government subsidies bolstered white farmers’ initiatives at the

³⁸⁴ De Wet, *Moving Together*, 41.

³⁸⁵ Greyling et al, “Maize and Gold”, 188.

³⁸⁶ De Wet, *Moving Together*, 41; William Beinart and Colin Bundy, *Hidden Struggles in Rural South Africa* (Johannesburg: Ravan Press, 1987); Mager, *Gender and the Making of a South African Bantustan*, 73.

³⁸⁷ Peter Delius and Stefan Schirmer, “Soil Conservation in a Racially Ordered Society: South Africa 1930–1970,” *Journal of Southern African Studies* 26, no. 4 (December 1, 2000): 725.

same time that these farmers and mining bosses pushed for legislation that would suppress and exclude black landowners and farmers, in an effort to push them into the wage labor force.

One of the factors that made black farmers' livelihoods insecure, was the government's plans to incorporate land bought by black syndicates into the reserves. Between 1920 and 1940, government officials discussed plans to incorporate Daggakraal and Driefontein into the reserves, based on complaints from white farmers in the Wakkerstroom district. In their correspondence, officials cited white farmers' anxieties about the growth of the "native family" and increasing demands for land. A writer who named themselves, "Disgusted, Transvaal", wrote to the editor of *Farmers Weekly* in 1934 to demand more drastic action against black land buyers and sharecroppers, invoking the specter of labor shortages on white-owned farms.³⁸⁸ The writer also argued that black farmers' livestock were eroding the soil – another common refrain amongst white farmers. In response, an official agreed that sharecropping was "jeopardizing the success of its [the government's] European land settlement operation."³⁸⁹

The 1936 Natives Trust and Land Act had a major impact on black land buyers. First, it gave impetus to the idea of incorporating Daggakraal and Driefontein into the reserves.³⁹⁰ In 1936, a section of Daggakraal, as well as Vlakplaats – another of the farms that the Association

³⁸⁸ Author named "Disgusted, Transvaal", Letter to the Editor, *Farmers Weekly* (25 April, 1934). Copy in 'Destruction of Sharecropping', Department of Lands, LDE 1227 24527, National Archives.

³⁸⁹ Unknown government official, 'Question of Limiting the Number of Natives and native-owned Stock on Leased Government Holdings', addressed to Chief Clerk (date unknown), LDE 1227 24527, National Archives.

³⁹⁰ The 1936 Native Trust and Land Act required (albeit minimal) extension of the reserve areas, so many pieces of land that had been purchased by black land-buying syndicates (pejoratively called "black spots" by government officials) were sized up for incorporation.

had bought – were declared “released” areas.³⁹¹ This meant that Association residents would not necessarily be evicted, but would be stripped of their title deeds and placed under the administration of the Department of Native Affairs, who would own the land “in trust” for them. However, by the 1940s, plans for incorporation had been put on hold. This see-saw policy around incorporation added to the risks faced by Association farmers and made it difficult for them to plan for the future.

Property and credit moguls like Association director I.W. Schlesinger, however, were willing to do business with black people, if it contributed to their profits (Chapters 2 and 3). In fact, white landowners also often considered black farmers to be “more dependable with rent payments” than their white counterparts.³⁹² Schlesinger’s influence offered Association members some protection from being incorporated into the reserves. As a well-known businessman, with the ear of government officials, Schlesinger emphasized the importance of the Association to his business dealings. After the 1913 Land Act made it even more difficult for black people to buy land, Schlesinger noted that the business of selling land to black people remained profitable. Although agricultural profits declined between the 1930s and 1960s, the Association remained a thriving market in land sales. Most people who bought land after 1940, managed to pay off their debts to the Association over a period of a decade. Some paid in large amounts every few years, others in small amounts each year. For example, Josiah Moloji bought land in 1944 for the price

³⁹¹ Mr. Ramsay, Chief Native Commissioner, Northern Areas, to Secretary for Native Affairs, Pretoria, ‘Proposed subdivisions of portions of the farm Vlakplaats No 72, Amersfoort: 1) Skongwene Sibeko to Kate Tshabalala, 2) Joseph Maseko to Alfred Mnisi’, 18 October 1946, NTS 3442 56-308 Vol VII, National Archives.

³⁹² Ibid; See also Bundy, *Rise and Fall*, 1982.

of £100.76, with an interest rate that added a total of £32 to the original price by the time Moloi settled his debt in 1951.³⁹³

The second major impact of the 1936 Native Trust and Land Act on land purchasers, was its attack on labor tenancy and sharecropping. Not all white farmers were against sharecropping. Cash-poor white farmers (including those who leased, rather than owned their land) struggled to offer competitive wages to black workers and wrote to the Land Department saying they could not do without black sharecroppers.³⁹⁴ In the years following the 1936 Act, labor tenants and farm workers flooded into Driefontein and Daggakraal. Many were evicted by white farmers, and moved because the Association-run area was seen as an “oasis” for black farmers.³⁹⁵ Hundreds of tenants entered into agreements with land buyer families. The 10 morgen (8.5 hectare)³⁹⁶ plots that buyers had acquired in 1913 were slowly whittled away into smaller areas for each family. While many Association landowners took on tenants, this rent was very low and not enough to cover the owners’ debts.³⁹⁷ Tenants did compensate owners in other ways. They provided additional labor sometimes. They also offered protection by maintaining the presence of the landowner even when the owners were away, working elsewhere.³⁹⁸

³⁹³ Josiah Moloi, entry listed in C.K. Barry and W.B. Schuurman, *Accounts Ledgers* (unpublished, 1903-1929), on file with Anton Roets, Wakkerstroom, South Africa.

³⁹⁴ Correspondence, ‘Destruction of Sharecropping’ (date unknown), LDE 1227 24527, National Archives.

³⁹⁵ Beauty Mkhize, interview by Tara Weinberg, 25 November, 2018, Driefontein, South Africa.

³⁹⁶ As I explain in earlier chapters, the unit of measurement for land in the late nineteenth and early twentieth century was “morgen.” Records from the Deeds Registry in Pretoria show that government officials equated 1 morgen with 0.85 hectares.

³⁹⁷ Beauty Mkhize, interviewed by Tara Weinberg in Driefontein, 25 November, 2018, Driefontein, South Africa; Sibongile Mtshali, interview by Tara Weinberg, 18 August, 2019, Driefontein, South Africa.

³⁹⁸ Catherine Madlala, interview by Tara Weinberg, 24 November, 2018, Driefontein, South Africa.

Retaining land ownership was one battle for Association and Mogopa land buyers. Garnering an income from farming was another, sometimes more difficult one. Wakkerstroom is known by local farmers as the “mist belt” because of its wet, foggy climate.³⁹⁹ This meant the district was not ideal for farming maize. While black farmers in Driefontein and Daggakraal farmed some maize, sorghum, beans and sheep on a small scale, they also invested in timber for sale – a crop better suited to the climate.⁴⁰⁰ White farmers who operated near Driefontein and Daggakraal were primarily in the sheep business. The wool outputs in the Wakkerstroom district were the highest performing in the Transvaal. In the 1920s, for example, white farmers in the district produced a yearly average of around 1,175,000 tons of wool, out of a provincial average of 7,160,093 tons per year.⁴⁰¹ It was also Pixley ka Seme’s intention for the Association to produce wool. In 1912, he had purchased 2,000 sheep alongside other livestock from Daggakraal farm’s previous landowner, Willem Gouws. That year, Association landowners made around

³⁹⁹ Greyling et al, “Maize and Gold.” Also, when I visited Catherine Madlala in Driefontein, it was raining. She looked out the window and remarked, “There’s that rain again, and maize doesn’t grow well in wet conditions.” Catherine Madlala, interview by Tara Weinberg, February 25, 2019, Driefontein, South Africa.

⁴⁰⁰ One crop that the Daggakraal area became known for is, as its name suggests, *dagga* (the South African word for marijuana). In 1963 Elsina Mthembu was accused of cultivating marijuana amongst her maize. Mthembu took her case on appeal to the Transvaal Supreme Court. There she testified that her husband had planted the marijuana (for which he was already serving jail time) and that she had not realized the plant was dotted amongst her fields. She was acquitted in the Transvaal Supreme Court, on the basis that, as Judge Galgut put it, she was “carrying at that which she was obliged to do by normal tribal custom namely cultivate her husband’s land. There it seems quite clear that the State has not proved that she planted the dagga, or that she was attending to this dagga or that she was gathering this dagga. She was, as I have already stated, merely carrying out her tribal duties, and attending to her husband’s land.” *Elsina Mthembu vs The State*, 9 April 1963, Supreme Court of South Africa (Transvaal Provincial Division), Landdros (Magistrate) Wakkerstroom, Strafsuke (criminal cases) (1953-1963), LWM 225 32-1963, National Archives.

⁴⁰¹ Department of Statistics South Africa, *Agricultural census 1918* (Pretoria: Govt. Printer, 1950), <http://books.google.com/books?id=rDbvgWK4aIYC>. Wakkerstroom produced 2,350,000,000 pounds of wool – average between 1918 and 1923; Transvaal as a whole produced an average of 14,320,185,000 pounds between the same years.

£500 pounds in wool sales.⁴⁰² But this was not sustainable. The challenge for Association members from the 1930s onwards, was as much lack of access to markets, as it was to land and credit.

If the government's stick for poorer white farmers was the abolition of sharecropping, the carrot dangled in front of them was a package of financial support. From the 1920s onwards, the Departments of Land Affairs and Agriculture offered several perks through its land settlement scheme: they financed the building of homes, out-houses, boreholes, water pumps, fencing, livestock for ploughing purposes and agricultural implements. The state also wiped out many debts owned by white lease holding farmers. In a memorandum filed for the Department of Land in 1934, the author argued that government relief funds should decrease even poor white farmers' reliance on sharecropping: "the settlers have undoubtedly passed through a very trying period, but after so many years of advances, extensions of time to pay, capitalizations, and revaluations, it is considered they should now be more self-reliant."⁴⁰³

Historian Faeza Ballim argues that between the end of the South African War in 1902 and the Great Depression in 1929, the majority of government officials and bank managers in the Transvaal considered there to be a "poor white problem." Standard Bank reports from the 1930s show high levels of insolvency among small-scale white farmers.⁴⁰⁴ The Carnegie Commission

⁴⁰² Unknown author, 'Umhlangano e Daggakraal: Inhlango Yabalimi Abangabantu Base South Africa Limited' (Meeting at Daggakraal: The Native Farmers Association of South Africa Ltd), *Abantu Batho*, October 1912. Copy in the Department of Native Affairs, NTS 3439 56-308, National Archives.

⁴⁰³ Unknown government official, 'Question of Limiting the Number of Natives and native-owned Stock on Leased Government Holdings', addressed to Chief Clerk (date unknown), LDE 1227 24527, National Archives, Pretoria.

⁴⁰⁴ Faeza Ballim, "The Pre-History of South African 'Neo-Liberalism': The Rise and Fall of Co-Operative Farming on the Highveld," *Journal of Southern African Studies* 41, no. 6 (November 2, 2015): 1244; "The Poor White in South Africa: The Carnegie Commission Report," *The Round Table: The Commonwealth Journal of International Affairs* 23, no. 91 (June 1, 1933): 605–18.

of 1931, which looked into this matter, suggested that in order to lift white farmers out of poverty, state intervention was required to: standardize produce prices, create a “single channel marketing system” through marketing boards and attract farmers to cooperatives by offering subsidized seeds and equipment, as well as debt relief.⁴⁰⁵ The Marketing Act of 1937 got the ball rolling on precisely these recommendations, while further support for cooperatives accelerated this process during the apartheid period.

The Marketing Act provided support to white farmers through various avenues. It created agricultural marketing boards for most products including those most common in Daggakraal, Driefontein and Mogopa: maize, sorghum, wool and timber. These boards had agents in the form of local white cooperatives, which were the only institutions legally allowed to buy, sell or store produce.⁴⁰⁶ Each year the marketing boards would calculate and fix the prices of a product such as maize – both the price at which farmers would sell to the cooperatives, and the price at which consumers would buy. The aim was to allow producers to make a profit while also keeping the price of key foodstuffs cheap for consumers.⁴⁰⁷

⁴⁰⁵ Ibid.

⁴⁰⁶ Ja Groenewald, “The Agricultural Marketing Act: A Post - Mortem,” *South African Journal of Economics* 68, no. 3 (2000): 161–76.

⁴⁰⁷ Groenewald, “The Agricultural Marketing Act.” Wheat, the grain used to make bread, offers a good example of the Marketing Act’s racially exclusionary effects in action. During the 1930s-1950s, the marketing boards prioritized the production of cheap white bread, based largely on the argument that this was the staple of white South Africans. For example, if a loaf of bread cost R1 to produce, the marketing board would set the sale price at 80c. To make up for the shortfall, it would give subsidies to the producers at 20c per loaf produced. This dynamic often resulted in surplus produce, given that supply outstripped the demand of the domestic market. The Boards were responsible for removing surplus produce from the market and maintaining the price set for the year. The Act was accompanied by unprecedented investment in research and development around agriculture, manifesting, for example, in university research units looking into creating drought resistant crops, interventions around soil erosion and deploying agricultural extension officers to offer advice to farmers (Ben Stanwix, personal communication, 10 November, 2022).

At the same time that white farmers in the Transvaal were being given unprecedented support, black farmers were struggling. Oral history interviewees in Mogopa describe their great-grandparents making a profit from farming maize, sorghum and livestock between the time of their purchase of the farm Swartrand in 1911 and their purchase of the farm Hartesbeeslagte in 1931.⁴⁰⁸ The group put the funds accrued from farming operations, over £7,000, into the purchase of Hartesbeeslagte, so as to expand their maize and grazing fields.⁴⁰⁹

However, black farmers in Mogopa began to find it hard to make ends meet, even before the Marketing Act of 1937 came into force. For example, maize output on black owned farms and reserves in South Africa as a whole declined by 69% between 1923 and 1936.⁴¹⁰ On white owned farms, maize output remained stable during the same time period.⁴¹¹ After the maize cooperative boards took over the buying and selling of maize, black farmers struggled to find markets for their produce. Farming equipment was also heavily subsidized in cooperative shops and since they were excluded as members, black farmers had to rely on older ploughing methods with horses and oxen.

Agricultural census figures from the Wakkerstroom show modest average returns for crop farming. For example, black farmers there produced 430 tons of maize in 1936, compared

⁴⁰⁸ Phillip More, interview by Tara Weinberg, 23 November 2021, Mogopa, South Africa; Petrus Rampoe, interview by Tara Weinberg, 23 November 2021, Mogopa, South Africa.

⁴⁰⁹ Hartbeeslagte 146 IP, Deed no 1032/1931, National Deeds Registry, Pretoria.

⁴¹⁰ Between 1923 (799,302,000 pounds/399,651 tons of maize) and 1936 (247,217,000 pounds/123,609 tons).

⁴¹¹ Agricultural census reports: 1923: 2,835,328,000 pounds/1,417,664 tons and 1936: 2,480,717,000 pounds/1,240,359 tons. Department of Statistics South Africa, *Agricultural census 1923; 1936* (Pretoria: Govt. Printer, 1950), <http://books.google.com/books?id=rDbvgWK4aIYC>.

with white farmers' 44,794 tons of maize.⁴¹² As in Mogopa, farmers were cut out of the sales chain by white maize cooperatives. The Magistrate of Amersfoort near Daggakraal wrote that most Association members are working "on the reef and probably in the majority of cases they have left their families and relatives behind", an indication that "many of the male inhabitants are unable to make a living here and they are, therefore, forced to seek employment elsewhere, mainly in the industrial centers of the Union."⁴¹³

Further evidence of Association farmers' declining fortunes comes from their persistent letters to the Departments of Land, Agriculture and Native Affairs, petitioning for support in the form of boreholes, fencing and ploughing equipment. While the Department of Native Affairs had committed to providing (albeit non-consultative and problematic) support to black farmers in the reserves, they conveyed to black land buyers, who owned land privately, that they were on their own. The irony of this reasoning is stark in a context where privately owned white farms were offered plenty of support.⁴¹⁴

3.2.2 Land buyers' petitions for government support

Association members' petitions indicate a request for government support, without acquiescing to officials' desires to pigeonhole them into ethnic and tribal categories or incorporate them into reserves. Residents in Daggakraal and Driefontein had been steeped in the

⁴¹² Department of Statistics South Africa, *Agricultural census 1936* (Pretoria: Govt. Printer, 1950), <http://books.google.com/books?id=rDbvgWK4aIYC>. Original figures given as follows: black farmers produced 860,000 pounds of maize, to white farmers' 89,587,000 pounds.

⁴¹³ Magistrate of Amersfoort to Chief Native Commissioner, Pretoria, 15 Oct 1946, 'Proposed Sale - divisions of portions of the farm Vlakplaats No 72, Amersfoort', NTS 3442 56-308 Vol VII, National Archives.

⁴¹⁴ Groenewald, "The Agricultural Marketing Act."

culture of literacy and education that accompanied Seme's land buying project. Many of them mobilized the skills and resources derived from the political and intellectual culture of the Association, to write petitions. Some wrote in their own hand, and others on typewriters they had borrowed from colleagues in Johannesburg. Lawyers, legal intermediaries, messengers and letter-writers also played a crucial role in framing how Daggakraal and Driefontein residents made claims for land, state assistance and recognition.

Lawyer C.K. Barry regularly wrote directly to the Secretary for Native Affairs in Pretoria. Barry was employed by the Association as their main legal consultant. He was also paid by the land buyers to use his legal acumen to put forward their case. Barry's letters to government officials in the Departments of Native Affairs, Land and Agriculture imply a formality linked to the expected format of lawyer's letters. They also suggest a familiarity between Barry and the officials.

A common matter in which Barry became involved was subdivision of land. Association land buyers sought to subdivide their 10 morgen plots, so as to sell portions to other land buyers or rent out sections to tenants. While Association farmers had initially bought more than one 10 morgen plot in the 1910s and 1920s (usually around 6 plots, or 60 morgen), they aimed to sell off and subdivide their plots in the context of declining farming profits. Selling property or taking on tenants was a key means of revenue for landowners.

For example, Skongweni Sibeko approached the Association to subdivide and sell 3 morgen of his 10-morgen plot to Kate Tshabalala in 1946. The Association asked its lawyer, C.K. Barry, to send the request on to the Surveyor General. When the Surveyor General refused to approve the subdivision, C.K. Barry wrote to the Secretary for Native Affairs, "on behalf of

the natives protesting [the failure to grant subdivisions].”⁴¹⁵ Barry implored the officials to look kindly upon his request, writing “the matter is not only very important, but also very urgent, therefore I once again appeal to you for an early reply. I have the honour to be, Sir, your obedient servant, C.K. Barry.”⁴¹⁶

The Secretary, Mr. Young, rejected Barry’s request. He argued in his private notes that subdividing the land would create “slum conditions” but admitted that “since there is no law to support the Surveyor General’s refusal, the only remedy would be have one passed.”⁴¹⁷ The Chief Native Commissioner for the Northern Areas (including Wakkerstroom and Amersfoort) wrote that he is inclined to deny the request for subdivisions, as it would create a “precedent for township [conditions].”⁴¹⁸ In oral history interviews, residents of Daggakraal and Driefontein suggested that owners went ahead with renting to tenants, even in the absence of official sanction of subdivision.

Denial of farming support was one of the ways in which the government froze Association residents out of the possibility of becoming prosperous farmers. In 1946 and 1947, Zachariah Nkosi of Daggakraal asked for assistance with installing a borehole to service twenty

⁴¹⁵ C.K. Barry to the Secretary for Native Affairs, Pretoria, 22 Aug 1936, Wakkerstroom: Daggakraal and Vlakplaats, NTS 3442 56-308 Vol VII, National Archives.

⁴¹⁶ C.K. Barry to the Secretary for Native Affairs, Pretoria, 22 Aug 1936, Wakkerstroom: Daggakraal and Vlakplaats, NTS 3442 56-308 Vol VII, National Archives.

⁴¹⁷ Mr. Young, Secretary for Native Affairs, handwritten note scrawled on page 2 of a memorandum titled ‘Proposed subdivision of portions of the farm Vlakplaats No 72: District Amersfoort’, NTS 3442 56-308 Vol VII, National Archives.

⁴¹⁸ Mr. Ramsay, Chief Native Commissioner, Northern Areas, to the Secretary for Native Affairs, Pretoria, 18 Oct 1946, ‘Proposed Subdivision of portions of the farm Vlakplaats No 72’, NTS 3442 56-308 Vol VII, National Archives.

households who often have to walk “half a mile” for water.⁴¹⁹ Like Barry, Nkosi wrote directly to the Secretary for Native Affairs. Nkosi wrote in English, on a typewriter, from an address in Jeppestown, Johannesburg, where many migrant workers from Daggakraal and Driefontein lived.⁴²⁰ Being located in Johannesburg may also have provided easier access to a typewriter. Nkosi wrote formally and politely – a tone that was common to the petitions addressed by Association land buyers to government officials. He ended his letter with “I agree that I shall meet the borehole expences [sic], I shall be very much pleased if you could be so kind as to let me know per foot of boring... Yours obediently, (Sgd) Zachariah Nkosi.”⁴²¹ In his work on petitions in British colonial era Togo, Benjamin Lawrance argues that African petitioners and letter-writers often wrote in this “formulaic” and “obeisant” tone, in the hope that it would endear officials to accept their requests.

⁴¹⁹ Zachariah Nkosi, Daggakraal to Secretary for Native Affairs, Pretoria, 4 January 1947, Department of Bantu Affairs, Amersfoort, Chief Native Affairs Commissioner, Northern Areas (1904 – 1986), HKN 1-1-119 27N5-1-3, National Archives.

⁴²⁰ Ibid; Beauty Mkhize, interview by Tara Weinberg, 25 November 2018, Driefontein, South Africa.

⁴²¹ Zachariah Nkosi, Daggakraal to Secretary for Native Affairs, Pretoria, 4 January 1947, Department of Bantu Affairs, Amersfoort, HKN 1-1-119 27N5-1-3, National Archives.

No. 63a, Wolhuter, Street
Jeppestown,
Johannesburg.
4th January, 1947.

The Secretary,
Native Affairs Dept.,
P.O. Box 84,
Pretoria.

Sir,

re: our advice regarding water
boring machine.

With reference to your letter of the 3rd inst, whose contents were understood by me. the place of the proposed borehole is at Daggakraal No. 2 in the district of Amersfoort. The proposed borehole is at stand No. 112.

The borehole is required by me, because I am running a butchery business which requires water. Furthermore, a lot of people in the same locality are also in need of water; we usually walk half a mile to a place where water is drawn. Therefore, I thought it fit to have a borehole in our locality, as I feared we might get an accident through walking a long distance, to get water.

I agree that I shall meet the borehole expenses, I shall be very much pleased if you can be so kind as to let me know the per foot of boring; and further let me know as to when you will be prepared to come, so as to keep myself ready. The hole has never been dug before, and we have no previous knowledge of the presence of water in that place.

Yours obediently,

(Sgd) ZACHARIAH NKOSI.

Figure 11: Zachariah Nkosi's letter to the Secretary for Native Affairs, Pretoria, 4 January 1947. Source: Department of Bantu Affairs, Amersfoort, Chief Native Affairs Commissioner, Northern Areas (1904 – 1986), HKN 1-1-119 27N5-1-3, National Archives.

Government officials deliberated for several years but never answered Nkosi's request. Instead, he raised the funds to build the borehole himself.⁴²² In 1950, Maitse Popo Moloi wrote the Association's legal representative, C.K. Barry, to ask for funds to repair another borehole in

⁴²² Zachariah Nkosi, Daggakraal to Secretary for Native Affairs, Pretoria, 4 January 1947, Department of Bantu Affairs, Amersfoort, HKN 1-1-119 27N5-1-3, National Archives.

Daggakraal. Barry replied that this was “not the responsibility of the company.”⁴²³ He directed Moloji instead to write directly to the Chief Native Commissioner in Pietersberg to ask “politely” for funds, given that the Department of Native Affairs was contemplating incorporating Daggakraal into the reserves. He agreed to also write a letter to the Native Commissioner of the district, in support of Moloji’s request.

There is no copy of Moloji’s letter in the archives, but we know from the Department of Native Affairs that the Department rejected his request. The Secretary of Native Affairs told the Chief Native Commissioner that “as the land is held under title by natives, the department is not responsible for the provision or maintenance of water supplies on the above farm.”⁴²⁴ The other option, suggested the Chief Native Commissioner, was for the residents to organize themselves as a tribe under Chief Moloji, take a “tribal resolution” and then pay for the borehole repairs “at their own expensive”, via their “tribal fund.”⁴²⁵

Around 250 miles north-west of Daggakraal and Driefontein, land buyers in Mogopa petitioned the Department of Native Affairs not to be incorporated into the reserves. Officials in the Department of Native Affairs wanted Mogopa residents to fall under the authority of Otto Mamogale More, who was *kgosikolo* (paramount chief) of the larger Bakwena ba Mogopa group, based in Bethanie (around 95 miles away from Mogopa).⁴²⁶ The Mogopa land buyers on the other hand, wanted their land to be governed by a man they considered to be their own *kgosi*

⁴²³ C.K. Barry to Popo Maitse Moloji, 13 October 1950, HKN 1-1-119 27N5-1-3, National Archives, Pretoria.

⁴²⁴ Secretary for Native Affairs, Pretoria, to the Chief Native Commissioner, Pietersburg, 28 December, 1950, HKN 1-1-119 27N5-1-3, National Archives.

⁴²⁵ Ibid.

⁴²⁶ Kopano Kalvyn More, *Conversations with My Elders: A Remarkable Courage & Proud Legacy of Bakwena Ba Mogôpa* (Afriway Trading, 2019).

(chief or headman), Thomas Madladi More. Back in 1911, Thomas More had led his group from the Heilbron district of the Orange Free State to the farm Swartrand in the Transvaal. After buying Swartrand, Thomas More's group renamed it Mogopa. Thomas More's petition to be recognized as headman is not included in the records, but correspondence between the Native Commissioner of Ventersdorp (Mogopa's district) and the Chief Native Commissioner of the Transvaal indicates that his petition was approved in 1951. However, the Commissioner indicated the plan was still to incorporate Mogopa into a reserve.

Records from the National Deeds Registry (of title deeds) shed further light on how the Mogopa land buyers contested the government's and Otto Mamogale More's desire to incorporate the farms Swartrand and Hartesbeeslagte into the reserves, and under Otto Mamogale More's authority. On the 4th of October, 1916, Swartrand was signed over to Otto Mamogale More.⁴²⁷ The deed records note that Swartrand "belongs to the said Johannes Otto More Mamogale and the Bakwena Tribe, it having been purchased by the said Johannes Otto More Mamogale on behalf of the Bakwena Tribe, as well appear from the Deed of Sale entered into between the said Johannes Otto Mamogale, Chief of the Bakwena Tribe, acting for himself and as an Agent of certain of his Natives, and William Albert Edward Schultz [the seller]; but for reasons unknown the property was transferred into the name of the said Johannes Otto More Mamogale."⁴²⁸ Gavin Capps has documented similar cases in the Transvaal in which government

⁴²⁷ Swartrand 145 IP, Deed no 7530/1916, National Deeds Registry, Pretoria.

⁴²⁸ Swartrand 145 IP, Deed no 10391/1922, National Deeds Registry, Pretoria.

officials registered land buying syndicates' title deeds in the names of chiefs. He notes that this practice obscured the identity of the other land buyers.⁴²⁹

Mogopa land buyers were opposed to the title deeds to the farms being registered in Otto Mamogale More's name.⁴³⁰ In 1921, Mamogale More employed the conveyancer Charles William Clark to transfer the deed from his name into that of the Minister for Native Affairs, to hold the land "in trust" for the Bakwena ba Mogopa.⁴³¹ The other farm making up Mogopa, Hartebeeslagte, was also registered to the Minister of Native Affairs to be held in Trust for "Bakwena Ba-Magopa [sic] tribe of natives resident on the farm Zwartkop No 48, District Ventersdorp."⁴³² As I discuss later, the land was re-registered in the name of the Mogopa residents in the 1950s.

3.3 Land buyers' petitions during the apartheid period

3.3.1 White farming cooperatives freeze black farmers out of the market

After 1948, when the National Party was elected, the Marketing Act began to have a more powerful effect on cooperative membership and farming yields.⁴³³ That year, national

⁴²⁹ Gavin James Capps and London School of Economics and Political Science, "Tribal-Landed Property: The Political Economy of the BaFokeng Chieftancy, South Africa, 1837-1994." (PhD diss., London School of Economics and Political Science (University of London), 2010), Chapter 5.

⁴³⁰ Kopano More, personal communication, 1 December 2022.

⁴³¹ Swartrand 145 IP, Deed no 10391/1922, National Deeds Registry, Pretoria.

⁴³² Hartebeeslagte 146 IP, Deed no 1032/1931, National Deeds Registry, Pretoria.

⁴³³ Henry Bernstein, "How White Agriculture (Re)Positioned Itself for a 'New South Africa,'" *Critical Sociology* 22, no. 3 (October 1996): 15.

maize production hit a new high of 2.9 million tons.⁴³⁴ Between 1948 and 1952, the price of maize increased by a third. White farmers' maize outputs doubled in the period between 1948-1960.⁴³⁵ Meanwhile, production of maize for black farmers on both farms they owned and, in the reserves, declined. In the Transvaal province, black maize farmers produced 41% less in 1961 than they had in 1949.⁴³⁶

In the same era that the government made it unlawful for black people to buy land as collectives or as individuals, it poured support into white farming cooperatives. Ballim argues there was a “communal” nature to these Afrikaans cooperatives, where they made use of existing social relations to deal with debt, and get better deals on seeds and equipment.⁴³⁷ The irony of this ideological double-standard is interesting but not surprising, given the history of Afrikaans-speaking farmers' property dynamics. Lindsay Braun points out that the South African cadastral system came about by grafting from a mixture of Roman Dutch Law and the British title deeds system – and that nineteenth and early twentieth century Boer forms of property in the Transvaal often involved holding land as collectives (Chapter 3).⁴³⁸

⁴³⁴ Greyling et al, “Maize and Gold”.

⁴³⁵ Bernstein, “How White Agriculture (Re)Positioned Itself,” 17.

⁴³⁶ Department of Statistics South Africa, *Agricultural census 23 of 1949* (Pretoria: Govt. Printer, 1950), <http://books.google.com/books?id=rDbvgWK4aIYC>. The 1949 Census lists black farmers' agricultural output on land they owned and in the reserves as 589,747 bags of maize (at 200 lb. bags); Department of Statistics South Africa, *Agricultural census: Report on Agricultural and Pastoral Production and Sugar Cane, Timber and Wattle Plantations* (Pretoria: Govt. Printer, 1962), <http://books.google.com/books?id=rDbvgWK4aIYC>. The 1962 Census lists black farmers' agricultural output on land they owned and in the reserves as 348,412 bags of maize (at 200 lb. bags). The years in between show production amounts of around 400-500,000 bags, with a steady decline beginning in 1955. See also Charles Simkins, “Agricultural Production in the African Reserves of South Africa, 1918–1969,” *Journal of Southern African Studies* 7, no. 2 (April 1981): 256–83.

⁴³⁷ Faezza Ballim, “The Pre-History of South African ‘Neo-Liberalism,’” 1248.

⁴³⁸ Braun, *Colonial Survey and Native Landscapes in Rural South Africa, 1850 - 1913*; William Beinart, Peter Delius, and Stanley Trapido, eds., *Putting a Plough to the Ground: Accumulation and Dispossession in Rural South Africa, 1850-1930* (Johannesburg: Ravan Press, 1986), 3–4.

At a time when credit apartheid tightened the screws on black farmers, the Land Bank offered loans at favorable rates to white farmers. Local cooperatives administered these loans. They also ran heavily subsidized supply and equipment shops, which would only sell to cooperative members. Since black people were not admitted as members, they could not buy their goods (even though some shops wanted to sell to black people for revenue purposes).⁴³⁹ Bernstein argues that the Maize Board's monopoly had several effects that benefited white farmers: increased mechanization (which made farmers less reliant on black labor tenants and farm workers); improved maize varieties that could be adapted to places where white farmers had not previously invested in maize due to soil or climate issues (such as Wakkerstroom); the construction of modern silos and bulk handling facilities to be managed by cooperatives (the Venterdorp cooperative benefited from this in particular); and an avenue to dispose of surplus maize, facilitated by the government.⁴⁴⁰

Mogopa farmers found ways around the restrictions on their access to resources from the local maize cooperatives. Mogopa resident Phillip More remembers that, in order to get around the Venterdorp cooperatives' exclusion of black farmers, his parents hired the services of white people who had access to ploughing equipment such as tractors. From the 1950s to the 1980s, his family sold their produce to white intermediaries, for them to take to the Venterdorp mills and sell via the cooperatives.⁴⁴¹

⁴³⁹ Ballim, "The Pre-History of South African 'Neo-Liberalism,'" 1248.

⁴⁴⁰ Bernstein, "How White South Africa (Re)positioned Itself," 16-17.

⁴⁴¹ Phillip More, interview by Tara Weinberg, 23 November 2021, Mogopa, South Africa. Two photographers who were active in Mogopa in the 1970s and 80s, Paul Weinberg and Gille de Vlieg, corroborate More's view that it was common for black farmers to work via white farmer intermediaries to access cooperatives in the Transvaal during the apartheid period. Gille de Vlieg, personal communication, 21 December, 2022; Paul Weinberg, personal communication, 22 December, 2022. Charles van Onselen describes black sharecropper Kas Maine sending his maize to the South-Western Transvaal Agricultural Cooperative. Maine also obtained bags of maize on credit from

Meanwhile, in Driefontein and Daggakraal, farmers' production declined but there was an enormous demand for plots. When the apartheid government's laws narrowed black people's mobility, and their support for white agriculture began to take effect, many black labor tenants and farmworkers who lived on farms in the Wakkerstroom district, were evicted by their long-time employers. The growth in mechanization and decline in demand for labor were partly responsible for this shift. So too was the desire, albeit not new, of black farmers to seek out the possibility of land ownership or at least of better treatment by landowners.

In 1951, a 12-person committee made up of Driefontein landowners worked with Association lawyer Edward Gordon to buy out a local sheep farmer.⁴⁴² The committee collected R1 from every Association member, plus interested families living on the surrounding white-owned farms.⁴⁴³ The farm, called Joskop or Mbolwane, was incorporated into Driefontein under the Association and became known as New Stands. It offered the opportunity for a new wave of black land buyers to settle in Driefontein; it also offered the Association a chance for further property sales.

Oral history interviewees – owners and tenants alike – describe the 1950s as a time of plenty, relative to the 1980s. This may be in part because many were interviewed at a time when they were combatting the threat of forced removals and so they emphasized what they might lose. Phillemon Yende, who bought land at Driefontein New Stands in 1954, remarked, “This

the cooperative, thanks to a note from one of his white landlords, Koos Kloppe. Onselen, *The Seed Is Mine*, 188; 193.

⁴⁴² Phillimon Yende, interview by Leslie Witz, 5 November 1986, Driefontein, South Africa, Leslie Witz Archive MCH93, Mayibuye Archives. The committee members, according to Yende, were Jacob Dlamini, Victor Manqele, Mthabela, Abner Mkhize, Johan Manana, Mathew Manana, Luke Manana, Noah Ngwenya, Shede Mshololo, Sidwi, Magangani and J.B. Gamede.

⁴⁴³ Phillimon Yende, interview by Leslie Witz, 5 November 1986, Driefontein, South Africa, Leslie Witz Archive MCH93, Mayibuye Archives.

place is the place where I became wiser and improved, now I love it and I don't intend to move from here. I intend to die in it together with my generations and my children. And I'm still willing to progress and improve in this place.”⁴⁴⁴

Phillemon Yende’s parents had worked for a white farmer near Driefontein. Yende argues that it was his farming prowess that allowed him to pay off the mortgage and acquire several more plots to expand his farming operations in Driefontein: “I started to make a living on my own and feed my family with my own money; I cultivated everything that could be cultivated, I raised cows, milked them, and we would eat maas [fermented milk, with a yoghurt texture] and milk. I also raised chickens and we would eat the eggs and meat of those chickens, and pigs. I lived well that way and I liked it because it was within my abilities.”⁴⁴⁵ In 1958, the Driefontein community voted for Yende to build and operate a grain mill on their behalf. Given that black farmers were not legally allowed to use mills belonging to white farming cooperatives, Yende’s mill ran a vital service.

Zebulon Ndlangamandla and Stephen Maseko’s families also speak glowingly of their arrival in Driefontein. Both were tenant farmers to rented land from black landowners like Yende. Ndlangamandla moved from Bethal to Driefontein in 1956 and became a tenant of an Association member, Mr. Nkosi: “When I came here I loved the place. There was a difference [between] here and the location. Here you can raise cows, grow maize. The life here is better than the location.”⁴⁴⁶ Maseko’s family were labor tenants on a farm near Driefontein, owned by

⁴⁴⁴ Phillimon Yende, interview by Leslie Witz, 5 November 1986, Driefontein, South Africa, Leslie Witz Archive MCH93, Mayibuye Archives.

⁴⁴⁵ Ibid.

⁴⁴⁶ Zebulon Ndlangamandla, interview by unknown, 5 November 1986, Driefontein, South Africa, Leslie Witz Archive MCH93, Mayibuye Archives.

Johannes Bruwer, for twenty-four years. They moved to Driefontein in 1967, after Bruwer had imposed harsher restrictions on the tenants, demanding that they relinquish their livestock and not build further houses. Maseko became a tenant of Joshua Tshabalala in Driefontein Old Stand, who charged R12 per year. Maseko noted that although water was scarce, “what made me happy was that I had enough land to build and enough land to cultivate everything that is cultivated and my cow had enough land to graze on.”⁴⁴⁷

3.3.2 Association farmers’ petitions

Although oral history interviewees describe their farming activities in the 1950s with great pride, this was also an era marked by a continued decline in farming profits for Association members. Jacob Dlamini was a Driefontein land buyer and a member of a 12-person committee in charge of Driefontein’s affairs in the early 1950s.⁴⁴⁸ In 1952, on behalf of the Driefontein landowners, Dlamini engaged the services of Johannesburg lawyer Edward Gordon to ask the Secretary for Native Affairs, E.J.H. Yates, to pay for a fence to protect the local cemetery and school. Like C.K. Barry a decade earlier, Gordon had been appointed by Driefontein land buyers as an intermediary to handle their affairs with the government. Also, like Barry, Gordon had a direct line to the Secretary for Native Affairs. He wrote to Yates, imploring him to step in for the sake of Driefontein’s “school children.” In an indication of Driefontein residents’ continued emphasis on farming, despite the fact that most people no longer made a living from it, Gordon

⁴⁴⁷ Stephen Maseko, interview by Bongani Mkhize, 5 November 1986, Driefontein, South Africa, Leslie Witz Archive MCH93, Mayibuye Archives.

⁴⁴⁸ Phillimon Yende, interview by Leslie Witz, 5 November 1986, Driefontein, South Africa, Leslie Witz Archive, MCH93, Mayibuye Archives.

explained that “the children are to be allowed to cultivate a small portion of the school grounds, which would, unless fenced in, be destroyed by passers-by.”⁴⁴⁹

By the 1950s, most farmers in Driefontein and Daggakraal could not make a living from the land. A Department of Native Affairs memorandum on Driefontein and Daggakraal in 1954, argued that while the farms had plenty of water and were good for farming mielies, most men and young women worked in and around Johannesburg, returning only during the holidays. “This is a gathering place for old women and young children,” stated the memorandum about Daggakraal’s population of 2,250.⁴⁵⁰

The local agricultural cooperatives for orchards and timber, like those for maize, refused to buy from black farmers.⁴⁵¹ From the 1960s onwards, various commercial timber companies created plantations in the area surrounding Driefontein. These include PG Bison and Tafibra (chip board manufacturing), ACM WoodChem (glue manufacturing) and Mondi Packaging (paper mill). As of 2022, Mondi’s plantation is located just north of Driefontein (visible from the main road in the village), on the tar road from Piet Retief.⁴⁵² The plantation includes wattle (genus *acacia*), gum and pine trees. The economic success of Mondi’s plantation contrasts with the failed attempts of Driefontein residents to make a go of wattle farming in the 1950s.

⁴⁴⁹ Edward Gordon to E.J.H. Yates, ‘Re: Driefontein plots 331 District Wakkerstroom,’ NTS 3442 56-308, National Archives.

⁴⁵⁰ Committee (names unknown), Memorandum to the Minister of Native Affairs, ‘Van ‘n besoek aan ‘n aantal Naturelleplase in die kiesafdeling Wakkerstroom,’ (Translation: “From a visit to the native farms in the District Wakkerstroom”), 18 February 1954, NTS 3442 56-308, National Archives.

⁴⁵¹ Gille de Vlieg, ‘Report on Driefontein’, *Black Sash*, February 1983, Leslie Witz Archive, MCH93, 2.2.41, Mayibuye Archives.

⁴⁵² “Mondi Business Paper South Africa: Socio-Economic Assessment Report,” 2005, accessed January 20, 2023 https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwihvOSliI7-AhU1mmoFHbP3C58QFnoECAwQAQ&url=https%3A%2F%2Fwww.mondigroup.com%2Fmedia%2F7450%2Fmondi_seat_piet_retief.pdf&usq=AOvVaw3gl8UeXIP0HM-KdDRA4ffS, 8.

In 1955, Driefontein residents visited the Native Commissioner for Wakkerstroom in person to ask for assistance with increasing the scale of their wattle operations. Wattle bark was harvested mostly for its tannins, which were used to treat leather.⁴⁵³ In a responding memorandum, the Native Commissioner for Wakkerstroom, P.J. Fourie, wrote “the planting of wattle bark trees cannot be agreed. Most of the land does not lend itself to the planting of trees because the land is too shallow and rests on an old stone and slate layer. the area as a whole cannot be considered one of the best parts for planting wattle bark, and it would not be advisable to lead the natives in the direction of a marginal product.”⁴⁵⁴ Driefontein landowners became laborers on Mondi plantations, but not owners of the wattle industry. A Black Sash report from 1983 argues, “But because surrounding white farmers needed labor, the timber merchants stopped buying wood of Driefontein black residents. This was a cruel blow to black farmers who increasingly were forced to work on nearby farms and white-owned sawmills.”⁴⁵⁵

Petitions for assistance with farming from Association members continued thick and fast during the 1950s and 60s. Edward Jacob Zihali Hlongwane wrote to the newspaper *Farmers’ Weekly* in 1955 to explain the struggling state of farming affairs in Daggakraal (Figure 12). *Farmers’ Weekly* was an English language newspaper published in Bloemfontein in the Orange Free State Province. It served a primarily white readership. In his letter, Hlongwane referred to previous articles about black farmers, suggesting that he was a regular reader of the paper.

⁴⁵³ UCL Company (Pty) Ltd, “Wattle Extract Manufacturing: Mimosa Wattle Bark Extract,” accessed January 19, 2023, <https://www.ucl.co.za/business-units/wattle-extract-manufacturing.html>.

⁴⁵⁴ PJ Fourie, Native Commissioner of Wakkerstroom, Memorandum (in Afrikaans) to the Chief Native Commission, Pietersburg, 25 January 1955, NTS 3442 56-308, National Archives.

⁴⁵⁵ Gille de Vlieg, ‘Report on Driefontein’, *Black Sash*, February 1983, Leslie Witz Archive MCH93, 2.2.41, Mayibuye Archives.

Hlongwane framed his letter as an appeal for assistance from his fellow farmers. His decision to write to the newspaper rather than directly to the Department of Agriculture or Native Affairs implies that he saw himself as a member of a larger farming community. Hlongwane’s letter was hand-written in English and included a mix of formal and informal language. Hlongwane requested that his letter be published under his nickname, “Ngwalabutho”, meaning leader or pioneer in isiZulu. His choice of name hints at his identity as a leader of farmers in his area.

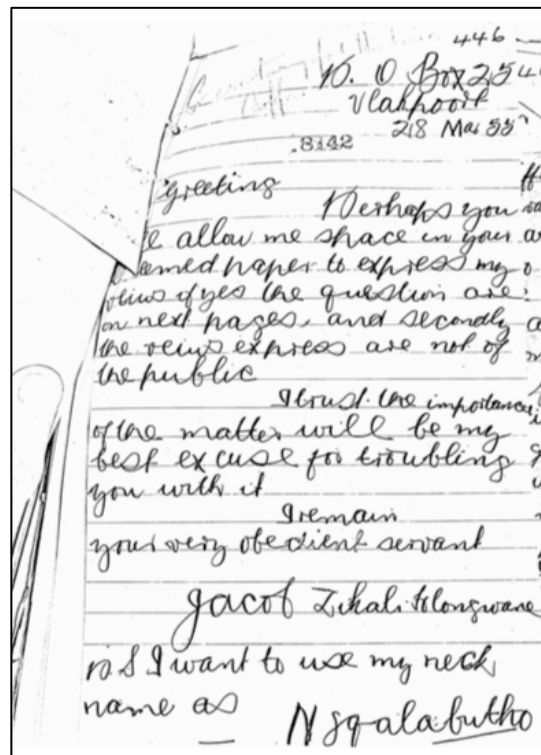


Figure 12: Hlongwane’s letter reads:

Greetings,

Perhaps you will allow me to share with you at your esteemed paper to express my views...I trust the importance of the matter will be my best excuse for troubling you with it.

*I remain your very obedient servant,
Jacob Zihlali Hlongwane*

*PS: I want to use my neck [sic] name as Ngqalabutho.*⁴⁵⁶

In his letter Hlongwane put a bargain on the table for government officials to consider. He expressed his support for Betterment planning in Daggakraal, if it meant residents there would receive some infrastructural assistance: “what steps can the area take so as to be under the soil conservation or to next to be under Betterment area?”⁴⁵⁷ Hlongwane also requested “some help with roads, streets” and asked for the latest maps of the area.

A clerk from the Department of Native Affairs picked up on Hlongwane’s letters in *Farmers’ Weekly*. He wrote back to Hlongwane, arguing that since the land is owned by the Association except where “allotments sold and transferred to the plot holders [he listed the number of plots as 230]”, the Department could not offer support. Instead, if Daggakraal residents wished to receive Betterment facilities, “they can ask the Magistrate to hold a tribal meeting at which they can pass a resolution which will then be sent to this office for attention...” and then they will also have to request to become a “scheduled area”, since Betterment only applies to the reserves.⁴⁵⁸

Esau Piet Pungwayo too argued that he would be willing to accept Betterment planning in return for recognition and approval of his demand in relation to his land. Pungwayo went into the office of the Native Commissioner in Amersfoort, whose jurisdiction covered Daggakraal and

⁴⁵⁶ Jacob Zihali Hlongwane to the Secretary for Native Affairs, 31 March 1955, NTS 3442 56-308, National Archives.

⁴⁵⁷ Jacob Zihali Hlongwane to the Secretary for Native Affairs, 31 March 1955, NTS 3442 56-308, National Archives.

⁴⁵⁸ Unnamed clerk in the Department of Native Affairs, to Jacob Zihali Hlongwane, undated, NTS 3442 56-308, National Archives.

Vlakplaats, another of the Association's farms. There he gave a formal statement, complete with fingerprint, in the presence of the Native Commissioner. The Native Commissioner's clerk recorded and translated Pungwayo's words. This makes it difficult to discern whether Pungwayo's willingness to accept Betterment was his own idea, or a suggestion from the Native Commissioner that pliancy might win over other government officials.

Pungwayo sought the Native Commissioner's help in writing to the Deeds Office. He wanted the Deeds Office to recognize that he owned a subdivided portion of a plot in Vlakplaats. Pungwayo argued that although he paid the purchase price a decade ago, he was still waiting for his 5 morgen plot to be registered in his name: "I am happy on the plot with my family, and am very anxious to keep the land."⁴⁵⁹

In his statement before the Native Commissioner, Pungwayo made a number of arguments in an attempt to indicate his worthiness for the plot: at age 62, he has recently retired from working for the Amersfoort Municipality, where he conscientiously cycled the 25 miles to work from Vlakplaats each day and earned £5 a month; he ploughs the entire 5 morgen of his land, and in a good year, with enough fertilizer, he can reap up to 60 bags of maize, 1.5 bags of beans, and a wagonload of pumpkins. He has 17 cattle and 2 horses, but not enough grazing land or fodder for them; he has made out a will to pass on the plot to a single heir, rather than allow it to devolve in undivided shares. Pungwayo added that he was "quite prepared to link up with the Bantu Authority if and when established in my area" and "accept the conditions in regard to this

⁴⁵⁹ Native Commissioner Amersfoort to Chief Native Commissioner, Pretoria, 'Voorgestelde Onderverdeling van Gedeelte Nr 96 van die plaas Vlakplaats', 13 July 1956, NTS 3442 56-308, National Archives.

land as follows...” He then listed his acceptance of some the typical Betterment provisions — combatting soil erosion, limitation of livestock, promoting conversation etc.⁴⁶⁰

Reflecting on Pungwayo’s visit, the Amersfoort Native Commissioner noted in his records that “normally, 5 morgens on the farm Vlakplaats cannot be considered an economic unit. However, this also applies to many of the 10 morgen plots, which contain little or no arable land. However, if one takes into account all the circumstances of this particular application, and measured according to native standards of life, I am inclined to support the application, and to recommend the application.”⁴⁶¹ The month after Pungwayo recorded his statement, he engaged the services of Barry and Schuurman’s firm. They addressed a letter directly to the Secretary for Native Affairs, imploring him to authorize the transfer to Pungwayo. In making their case, Barry and Schuurman also referred to Pungwayo’s long but ultimately successful efforts to raise the funds to pay for the transfer costs (mostly the surveyor’s fees): “The unfortunate part is that the parties in question had not the money at the time [that Pungwayo bought the land in 1941] and have been struggling all along to collect the necessary money for transfer and diagram costs. Now that they have been successful at last at this late stage in gathering money together for the purchase and now they are told that their application for subdivision has been refused.”⁴⁶²

Hlongwane and Pungwayo’s petitions for assistance in the form of soil erosion interventions goes against the grain of popular feeling towards the reserves and the Betterment programs. There was wide-spread popular resistance in the Transvaal, Eastern Cape and Natal to

⁴⁶⁰ Ibid.

⁴⁶¹ Ibid.

⁴⁶² Letter from Barry and Schuurman, quoted by Ross and Jacobsz Law Firm, ‘Approval diagram of Portion 123 (a portion of portion 96) of the farm Vlakplaats No. 72, Amersfoort,’ 30 August 1956, NTS 3442 56-308, National Archives.

both reserves and Betterment planning.⁴⁶³ In the 1930s, some reserve residents (especially chiefs and headmen) were initially in favor of Betterment, as officials from the Department of Native Affairs touted it as offering more land and more responsibilities for chiefs. But it soon became clear that the Betterment program would introduce provisions such as stock limits through coercion. As political activist Z.K. Matthews remarked in 1944, “a great deal of mischief has been caused in the Reserves by agricultural officers...who look at the work they have to do as merely a matter of cattle and soil and not people.”⁴⁶⁴

Hlongwane and Pungwayo’s willingness to accept Betterment planning (and in the latter’s case, also to accept incorporation into the reserves or Bantustans), if it meant recognition and financial assistance from the state, suggests how black farmers negotiated the limited options available to them to receive support, without submitting wholesale to the government’s policy of moving them to the reserves. Writing on similar kinds of petitions in colonial era Nigeria, historian Chima Korieh remarks that petitions often served as a form of “negotiation” and “bargaining with the state.”⁴⁶⁵

In the 1950s, the question of removals or incorporation into reserves arose again. Government records suggest that the new impetus for removals came from white-owned farms neighboring Daggakraal and Driefontein. Few Association members worked on surrounding white-owned farms, preferring instead to supplement their subsistence farming with work in

⁴⁶³ Peter Delius and Stefan Schirmer, “Soil Conservation in a Racially Ordered Society: South Africa 1930–1970,” *Journal of Southern African Studies* 26, no. 4 (December 1, 2000): 719–42; William Beinart and Colin Bundy, *Hidden Struggles in Rural South Africa* (Johannesburg: Ravan Press, 1987); Lauretta Ngcobo, *And They Didn’t Die* (New York: The Feminist Press at CUNY, 1999).

⁴⁶⁴ Z.K. Matthews, speaking at the South African Native Affairs Representative Council, 7th Session, August 1944, quoted by Delius and Schirmer, “Soil Erosion”, 726.

⁴⁶⁵ Chima J. Korieh, “‘May It Please Your Honor’: Letters of Petition as Historical Evidence in an African Colonial Context,” *History in Africa* 37 (2010): 89.

Johannesburg. Citing labor shortages, white farmers petitioned the government in 1954 to remove the residents of Daggakraal and Driefontein, and put in its place a planned town for farmworkers.⁴⁶⁶ Around the same time, black residents of the nearby village of Sterkfontein were forcibly removed. Native Commissioners told those who refused to move to the reserves that they could seek refuge in Driefontein. Commissioners also discussed amongst themselves that Driefontein might be next in line for removals but warned white farmers that relocating black residents to a town might not provide white farmers with the labor force they desired.⁴⁶⁷

In 1960, S.J. Maisela wrote a long letter to the Secretary for Bantu Affairs (previously called the Secretary for Native Affairs), on behalf of a group he referred to as the ‘Daggakraal Native Farmers Association.’ Ten men signed the letter as the committee behind Maisela, and many others still were listed as attendees at a community meeting, who approved Maisela’s idea to write to the Secretary. The list of names, which stretches across Zulu and Sesotho-speakers, suggests the involvement of many in Daggakraal in the act of petitioning – as well as of selecting petitions.

⁴⁶⁶ Committee (names unknown), Memorandum to the Minister of Native Affairs, ‘Van ‘n besoek aan ‘n aantal Naturelleplase in die kiesafdeling Wakkerstroom’ (Translation: “From a visit to the native farms in the District Wakkerstroom”), 18 February 1954, NTS 3442 56-308, National Archives.

⁴⁶⁷ Native Commissioner Amersfoort to Chief Native Commissioner, Pretoria, ‘Voorgestelde Onderverdeling van Gedeelte Nr 96 van die plaas Vlakplaats,’ 13 July 1956, Native Commissioner Amersfoort to Chief Native Commissioner, Pretoria, National Archives, Pretoria.

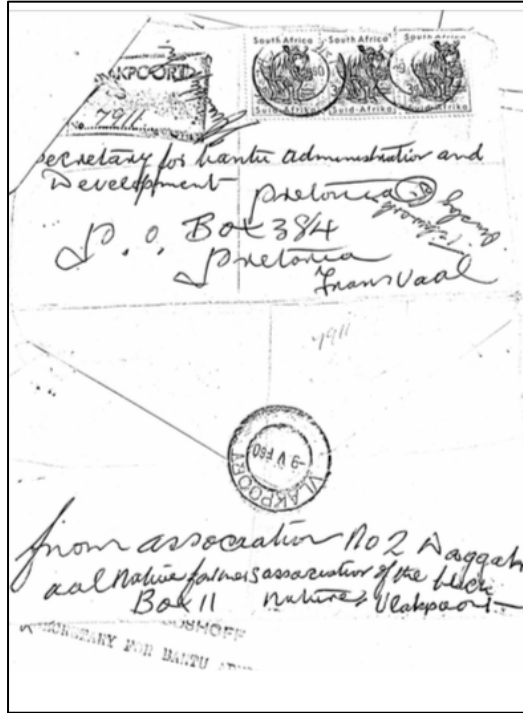


Figure 13: The envelope containing Maisela's letter to the Secretary for Bantu Affairs, 9 May 1960. Source: Native Farmers Association, NTS 3442 56-308, National Archives.

Maisela raised three issues. The first was the lack of clean water and another request for assistance with boreholes for Daggakraal. The second was to complain about Barry and Schuurman ignoring their requests for the Association to provide them with farming infrastructure. Maisela wrote:

We ask Pretoria to help us...our intention is not to take our solicitor against our masters without reason and asking them to give again...we may beseech our kings of the world holders... today we have received no reply from these official Barry and Schuurman and the Native Farmers Association of Africa Ltd...our Native Commissioner is very weak man. Please masters quickly we have no water.⁴⁶⁸

⁴⁶⁸ Daggakraal Native Farmers Association to the Secretary for Native Affairs, 9 May 1960, NTS 3442 56-308, National Archives.

The third issue that Maisela raised in his letter was that his group were neither willing to sell their land, nor to be moved. This final complaint was clearly in response to talk of relocating the people of Daggakraal and Driefontein to the reserves. Two years later, the Secretary for Bantu Affairs, W.A. Van de Merwe took up the thread of Maisela's letter. He conveyed to the Bantu Affairs Commissioner for the Transvaal province that he should deny all of Maisela's demands because "there are now prospects that the Bantu from the above-mentioned farm will soon be moved to a Bantu area."⁴⁶⁹ The threat of forced removal and incorporation later reappeared, with more violent effect, in the 1970s and 80s (Chapter 5).

3.3.3 Mogopa petitions

Like the Association land buyers, Mogopa residents refused to be incorporated into the Bantustans. In 1951, there was no longer a chief listed on the Department of Native Affairs payroll for Mogopa, which indicates that there was no government recognized chief in Mogopa at the time.⁴⁷⁰ But in 1955, Thomas More II was known to government officials as the headman of Mogopa.⁴⁷¹ Together with More, Mogopa residents again resisted falling under the authority of Chief David Mamogale (descendent of Otto Mamogale) in Bethanie. According to correspondence in the Department of Bantu Affairs, officials planned to incorporate Mogopa into

⁴⁶⁹ W.A. Van de Merwe, Secretary for Bantu Affairs to the Bantu Affairs Commissioner in Pietersburg, 23 June 1962, NTS 3442 56-308, National Archives.

⁴⁷⁰ List of "tribal authorities" ("stamowerheide") for the Potchefstroom District (which at the time included administrative information on Mogopa and the Ventersdorp area), 2 May 1951, addressed to the Under Secretary of Native Affairs, Ventersdorp Bantu Tribal Authorities, Bantu Authorities: Western Areas, NTS 9008 221-362(3), National Archives.

⁴⁷¹ 'Stigting van Bantoe-Owerhede: Bakwena ba Mogopa: Swartkop' (Translation: "State of Bantu Authorities: Bakwena ba Mogopa: Swartkop"), Native Commissioner of Ventersdorp to the Head Native Commissioner, Potchestroom, 20 May 1955, NTS 9008 221-362(3), National Archives.

the reserve (later ‘Bantustan’) of Bophuthatswana, which was established in 1961 under the Tswana Territorial Authority. Letters between government officials in 1961 indicate that while Thomas More recognized David Mamogale’s “great house” (a term used to refer to the *Kgosikolo*) in Bethanie, he argued that David Mamogale had nothing to do with the purchase nor the ownership of land at Mogopa.⁴⁷² Thomas More visited the Bantu Affairs Commissioner of Ventersdorp to inform him that his group had bought Swartkop independently of David Mamogale. He noted that if it brought Mogopa prosperity, they would be willing to consider Bantu Authorities, but they refused to submit to David Mamogale’s authority. He warned that any attempt to impose Mamogale or Bantu Authorities on the Mogopa residents would result in bitterness.⁴⁷³ When the forced removals occurred in Mogopa in 1984, the Department of Native Affairs had to expropriate Swartrand and Hartebeeslagte – evidence that the land was no longer in the name of the Minister.⁴⁷⁴

⁴⁷² Senior Information Officer at the Office of the Chief Bantu Affairs Commissioner, Potchestroom, to the Head Bantu Affairs Commissioner, ‘Bakwena ba Mogopa stam: Swartkol (Distrik Venterdorp)’ (Bakwena ba Mogopa tribe (District Ventersdorp), 8 May 1961, NTS 9008 221-362(3), National Archives. The letter says in Afrikaans: “Hy [Thomas More] erken dat die Groothuis die te Bethanie is, maar dat dit niks afdoen aan sy onafhanklikheid ni.” (Translation: He admits that the big house is the one at Bethanie, but that it does nothing to diminish his independence.)

⁴⁷³ Bantu Affairs Commissioner, Ventersdorp, to the Chief Bantu Affairs Commissioner, Potchestroom, ‘Bakwena ba Mogopa stam: Swartkop,’ 17 January 1961, NTS 9008 221-362(3), National Archives. The original Afrikaans text puts More’s meeting with the Ventersdorp Commissioner as follows: “Swartkop het nie stamowerheid aanvaar nie, ek vermoed dat dit vrees vir onderhoringheid aan Mamogale is wat verhinder dat hulle dit doen (Translation: Swartkop did not accept tribal authority, I suspect that it is fear of subordination to Mamogale that prevents them from doing so)... Van my kant is ek seker dat enige poging om die twee seksies te verenig sal misluk, die Swartkop stam is baie verbitterd teenoor Mamogale (Translation: For my part, I am sure that any attempt to unite the two sections will fail, the Swartkop tribe is very bitter towards Mamogale.)

⁴⁷⁴ Hartbeeslagte 146 IP, Deed no 1032/1931, National Deeds Registry, Pretoria. The back page of the title deed has a stamp from August 6, 1984 – around six months after the forced removal of the Mogopa residents – indicating that the properties have been expropriated by the Department of “Gemeenskapnaturrekeling” (Native Community Affairs, directly translated).

As with Chief Maitse Moloi in Daggakraal (Chapter 3), archival evidence suggests that Mogopa landowners saw Thomas More as a representative regarding their land, rather than as the sole owner. At a meeting attended by 396 Mogopa residents, David Mamogale and Rustenburg Bantu Affairs Commissioner, J.R. Thorpe at Swartrand in 1962, the residents asked to put on record “that land belonged to the tribe as a whole and Thomas More had been sent there merely to care for it and its people.”⁴⁷⁵ Mamogale spoke in favor of Bantu Authorities, calling it “a good wind, which would bring them progress.”

At the same meeting, the majority of Mogopa residents reiterated their rejection of Bantu Authorities, leading the Commissioner to remark that “in the three hour discussion that followed it was clear that there was a wall of prejudice against Bantu Authorities.”⁴⁷⁶ In particular, residents were against Betterment measures that might accompany Bantu Authorities, warning that they did not interfere with their agricultural practices. One speaker, Joshua Segale, had been a member of the Natives Representative Council. The Council was a body formed in 1937, made up of partly elected and partly government nominated black members, ostensibly to advise the government on matters relating to black South Africans.⁴⁷⁷ However, most scholars have viewed it as a symbolic institution, which government officials did not take seriously. At the meeting in Mogopa, Joshua Segale called for a signed resolution that, should the Commissioner

⁴⁷⁵ J.R. Thorpe, Bantu Affairs Commissioner, Rustenburg to the Chief Bantu Affairs Commissioner, Potchestroom, ‘Proposed Tribal or Regional Authority for the Bakwena ba Mogopa Tribe: Your endorsement of 29th October, 1962,’ 22 Nov 1962, NTS 9008 221-362-3, National Archives. In the letter Thorpe writes about a meeting he attended at Swartrand in the presence of 396 Mogopa residents as well as Lerothodi Mamogale, the Bakwena ba Mogopa *Kgosikolo* from Bethanie. National Archives, Pretoria.

⁴⁷⁶ J.R. Thorpe, Bantu Affairs Commissioner, Rustenburg to the Chief Bantu Affairs Commissioner, Potchestroom, ‘Proposed Tribal or Regional Authority for the Bakwena ba Mogopa Tribe: Your endorsement of 29th October, 1962,’ 22 Nov 1962, NTS 9008 221-362-3, National Archives.

⁴⁷⁷ “Pamphlet by Professor Z. K. Matthews,” November 1946, accessed January 20, 2023, <https://www.sahistory.org.za/archive/pamphlet-professor-z-k-matthews-published-november-1946>.

wish to return to discuss Bantu Authorities again, he could do so in “twenty to thirty years.”⁴⁷⁸ His resolution passed with resounding support. The message was a clear “no and don’t come back” to Bantu Authorities. But while Mogopa residents may have resisted incorporation, they continue to suffer the economic effects of their exclusion from the maize market.

3.4 Conclusion

The spaces where land purchase by black farmers was possible closed significantly during the apartheid period. Buying and selling of land continued within the Association, with some old members leaving and new members being incorporated. Driefontein and Daggakraal residents’ farming fortunes contrast strongly with that of white farmers in Wakkerstroom and other parts of the Transvaal, who received unprecedented levels of political and economic support from the government. While white agricultural cooperatives aimed to freeze black farmers out the market, de facto social relations meant it was still possible for black farmers to sell some of their produce – but at a cost.

In Daggakraal and Driefontein, for example, Schlesinger’s influence in government and business offered people there some measure of protection from being forcibly removed by the government and white farmers. They were wary of disturbing Schlesinger’s business operations within the Association. Although, some families lost their land for failure to pay their debts to Schlesinger. In the context of declining profits from agricultural production, Association residents went over Schlesinger’s head and petitioned the local magistrates and Native

⁴⁷⁸ J.R. Thorpe, Bantu Affairs Commissioner, Rustenberg to the Chief Bantu Affairs Commissioner, Potchestroom, ‘Proposed Tribal or Regional Authority for the Bakwena ba Mogopa Tribe: Your endorsement of 29th October, 1962,’ 22 Nov 1962, NTS 9008 221-362-3, National Archives.

Commissioners for assistance with farming infrastructure, agricultural equipment and subdivisions to allow for additional buyers and tenants.

In Mogopa, residents continued to stay on the land their families had bought in 1911 and share it amongst their heirs. During the apartheid period, their farming operations kept ticking over, in part thanks to relationships with local white farmers who could act as intermediaries. However, Mogopa farmers faced serious hardships from the 1950s onwards, when government support for white maize farmers made it impossible for black farmers to compete. They also resisted the government's attempts to incorporate them into the reserves, under the authority of Chief Mamogale in Bethanie. They succeeded in instead having their local leader Thomas More recognized in 1955. But in 1984, they were forcibly removed and fought a battle of attrition to win it back (Chapter 5).

With some government recognition in Daggakraal, Driefontein and Mogopa, came some support for farming and at least the ability to stay on their land, in a context where the odds were stacked against black landowners. The stability of being able to stay on their land gave farmers in this region some sense of certainty necessary to keep planting when the season came around. Residents had some sense of surety in their future on the land, until the threat – and reality – of forced removals arose again in the late 1970s (Chapter 5).

Chapter 4 Land and God: Women’s Church Groups Organizing Against Forced Removals, 1970-1990

4.1 Introduction: ‘Union’s the shield to ward off the white man’s arrows’

Perhaps your prayers move mountains,
Perhaps you’re familiar with knowledge
Deep as a fathomless sea—
Without the Union you’re simply nothing!

*Ungatandaza usunduze entaba
Umanyano lungeko akunto yanto
Ungafanelana unako nokwazi
Uligantyagantya nje njengamanzi*

Union for you’s a mighty stem,
Roots in the earth, touching the sky;
Right from the start, Union’s the shield
To ward off the white man’s arrows.

*Umanyano lululuhlu lwenu
Kwingcambu zomhlaba zising’Ezulwini
Kuqala nakupetela ngo Manyano
Zenizipepe nentolo zabelungu*

Figure 14: Nontsizi Mgqwetho, ‘Prayer Unions and Die-As-One’, Umteteli Wabantu, 6 July 1924.

Over the course of the twentieth century, black women in rural parts of South Africa played pivotal roles in developing ideas about property ownership. The umXhosa poet Nontsizi Mgqwetho, quoted above, wrote for the newspaper Umteteli Wabantu (‘The People’s Spokesperson’) in the 1920s, where she used her poetry to intervene in debates about black farmers buying land (Chapter 2).⁴⁷⁹ Half a century after Nontsizi Mgqwetho wrote her poetry, in the 1970s and 80s, women in the villages of Mogopa, Driefontein and Daggakraal in the Transvaal province of South Africa were at the forefront of the struggles to defend their land

⁴⁷⁹ “Something’s coming! We’d do well to buy land. The government’s made it crystal clear: You’ll do your cooking perched on branches.” Nontsizi Mgqwetho, “Something’s coming!”, *Umteteli Wabantu*, 26 January, 1924.

against the apartheid state's forced removals. Oral history interviews, as well as organization and family archives from these sites, imply that women's clubs allowed women to engage collectively with issues of farming, land management and credit practices regarding property.

In Mogopa, Christian women's prayer unions, popularly known by the isiXhosa term *manyanos*, were one of the key platforms from which women sought and won positions on local land committees in the 1980s that had previously been the purview of men. In Driefontein and Daggakraal, where there was a strong underground African National Congress (ANC) presence, there was more distance between *manyanos* and political organizing. While *manyanos* served as important spaces for spiritual, emotional and financial support, as well as caring for sick people, many church women drew a distinction between their work and that of women ANC cadres. Nevertheless, through the combination of underground organizing, land committees and *manyanos*, women played a leading role in organizing resistance against forced removals and strategizing to win back their land.

While the Setswana-speaking women of Mogopa may not have been reading Nontsizi Mqgwetho's poetry in the 1970s and 1980s, her words resonate with their actions. Mqgwetho argues in 'Prayer Unions and Die-As-One' that as individuals, mothers' prayers and knowledge can achieve little. She calls upon women to come together in a mother's union (in isiXhosa the word "manyano" (from the verb "to join")⁴⁸⁰ refers to both women's prayer unions and to the more abstract concept of "unity"). This was grounded in knowledge of the land (or earth, "umhlaba") and with an awareness of higher powers in the "sky" ("ezulwini" or "izulu" means both "sky" and "heaven" in isiXhosa). In a prayer union, women can "ward off the white man's

⁴⁸⁰ Beverley Haddad, "The Manyano Movement in South Africa: Site of Struggle, Survival, and Resistance," *Agenda: Empowering Women for Gender Equity*, no. 61 (2004): 4–13.

arrows.” In the wake of the forced removals at Mogopa in 1984, women formed a joint land committee, drawing on the membership of *manyanos* across Christian denominations. In the years that followed, they fought a war of attrition to gain a seat on hitherto male-dominated community leadership structures. In 1988, while singing hymns and saying prayers, they led the community of Mogopa to reoccupy the land from which the apartheid government had dispossessed them.

Black women’s prayer unions emerged at the start of the twentieth century, independently of white women missionaries’ church groups. Deborah Gaitskell dates the first *manyano* to 1907, when S. Gqosho of the Wesleyan Methodist Society in Potchefstroom founded a group where women could “pray together for their families and for the common unity and their sins.”⁴⁸¹ By 1940, there were around 45,000 *manyano* members within the Wesleyan Methodist Society. They developed uniforms through which to identify themselves, consisting of black skirts, red blouses with white sashes, and white hats. Women in other denominations developed similar prayer unions, known as ‘mother’s unions’ among Anglicans and *abasizikazi* among Lutherans.⁴⁸² In *manyano* meetings women preached, sang hymns, discussed the bible, ran saving schemes, exchanged skills and shared their experiences of motherhood.

Gaitskell argues that there was an attempt by white women missionaries to encourage and mold *manyano* women into the Victorian ideal of subservient, Christian wives and mothers. They emphasized “moral self-improvement ... duties of industry, honest, truthfulness,

⁴⁸¹ Deborah Gaitskell, “‘Power in Prayer and Service’: Women’s Christian Organisations,” in *Christianity in South Africa: A Political, Social, and Cultural History*, ed. Richard Elphick and Rodney Davenport (Oxford: University of California Press, 1998), 256.

⁴⁸² Dowie Nzoyi, interview by Tara Weinberg, 24 November, 2019, Volksrust, South Africa.

cleanliness and kindness...”⁴⁸³ White missionaries’ writings along these lines led some early scholars of *manyanos* to assume that black women’s prayer unions were training grounds for passivity and “devout domesticity.”⁴⁸⁴ Some ANC activists like Lillian Ngoyi too pigeon-holed *manyano* women as “those who wept over their burdens but did nothing apart from waiting for God.”⁴⁸⁵ Beverley Haddad suggests that Christianity offered women a “contradictory package”: an escape from “customary [patriarchal] restraints” but “firm incorporation into the patriarchy of Christian life.”⁴⁸⁶ She argues while there may be conservative gender roles within *manyanos*, they are also sites of struggle.

In a seminal article in 1996, historian Helen Bradford argued that in many South African liberal and Marxist historical accounts of land segregation and land struggles, scholars feature women primarily in terms of their supporting roles for men.⁴⁸⁷ In this critique, she takes aim at the work of Martin Legassick on labor and land on the Cape frontier, Jeff Peires on histories of Xhosa-speakers in the Eastern Cape and Andre Odendaal on the growth of a black middle class. However, even before Bradford’s critique, a handful of scholars had put women at the center of political history.⁴⁸⁸ Writing on *manyanos*, for example, Fatima Meer describes the women’s

⁴⁸³ Gaitskell, “Power in Prayer and Service”, 256.

⁴⁸⁴ For example, Mia Brandel-Syrier, *Black Woman in Search of God* (Lutter Worth Press, 1962). For the notion of “devout domesticity”, see Deborah Gaitskell, “Beyond ‘Devout Domesticity’: Five Female Mission Strategies in South Africa, 1907–1960,” *Transformation: An International Journal of Holistic Mission Studies* 16, no. 4 (October 1999): 127–35.

⁴⁸⁵ Gaitskell, “Power in Prayer and Service,” 254.

⁴⁸⁶ Haddad, “The Manyano Movement in South Africa.”

⁴⁸⁷ Helen Bradford, “Women, Gender and Colonialism: Rethinking the History of the British Cape Colony and Its Frontier Zones, C. 1806-70,” *The Journal of African History* 37, no. 3 (1996): 351–70.

⁴⁸⁸ Since the 2000s, there has been a mini boom in research on women political leaders and intellectuals, especially via biographical histories. See for example, Joel Cabrita, *Written Out: The Silencing of Regina Gelana Twala* (Athens, OH: Ohio University Press, 2023); Meghan Healy-Clancy, “Women and the Problem of Family in Early

church groups as “the most authentic [read: organic, in a Gramscian sense] African women’s organization, and it undergirds women’s activities in overtly political organizations.”⁴⁸⁹ Colin Bundy and William Beinart argue that *manyanos* served as a basis for broader political organizing, including the protests against pass laws in Bloemfontein in 1913. *Manyanos* also played an important role in galvanizing the ‘Die-Hard’ movement of the 1920s in Herschel in the Eastern Cape. Women staged boycotts of supermarkets in protest against the rising costs of food in 1922. Bundy and Beinart argue women were motivated in part by the loss of status they would suffer as Christians if they were unable to buy new clothes for religious events. Protests then shifted to boycotts of schools, which officials were using to carry out a new system of government land registration (and accompanying taxation). At their prayer meetings, women said they would “die together” for their cause, hence the name ‘Die-Hards’.⁴⁹⁰

Mogopa and Driefontein women came to the forefront of struggles against forced removals at a time of violent repression from the apartheid government. The 1970s and 80s were marked by an intensification of the government removal efforts, threats to people, their property and their livelihoods. There was also a proliferation of civil society uprisings country wide.⁴⁹¹ In 1973 there were mass worker strikes. In June 1976 the country exploded in black student protests, starting with the Soweto uprising. From the mid-1970s what became known as the

African Nationalist History and Historiography,” *South African Historical Journal* 64, no. 3 (September 1, 2012): 450–71; Zubeida Jaffer, *Beauty of the Heart: The Life and Times of Charlotte Mannya Maxeke* (Number10 Publishers, 2021); Athambile Masola and Makhosazana Xaba, *Noni Jabavu: A Stranger at Home* (Cape Town: Tafelberg, 2023).

⁴⁸⁹ Fatima Meer, 'Women in Apartheid Society' (*United Nations Centre Against Apartheid*, 1985), 20.

⁴⁹⁰ Beinart and Bundy, *Hidden Struggles in Rural South Africa*.

⁴⁹¹ Martin J. Murray, “The Popular Upsurge in South Africa, 1984-1986,” *Critical Sociology* 16, no. 1 (April 1, 1989): 55–74.

independent trade union movement grew, leading to the formation of the Congress of Trade Unions in 1985.⁴⁹² The war on South Africa's borders involving the apartheid army and South African liberation movements spiralled. In the face of increasing opposition to apartheid, States of Emergency were declared by the government in July 1985 and in 1986.⁴⁹³ The state's repression was perhaps also indicative of an insecure governance project, which was fracturing in the face of mass mobilization against apartheid, international sanctions and protests.

Prayer unions and women's groups facilitated the crucial roles that women played in organizing in defense of land in Mogopa, Driefontein and Daggakraal in the 1980s. *Manyanos* were political spaces, not necessarily in the sense of party politics or strike action, but in the way they allowed women to exercise and build power in relationship to their families, communities and the state. Within *manyanos*, women also discussed issues affecting their livelihoods and sense of belonging, including land. They shared knowledge about farming and land management practices. In the 1970s, according to many in Mogopa, Driefontein and Daggakraal, men were considered to hold customary authority over land.⁴⁹⁴ However, in part because of the effects of the migrant labor system in South Africa – a product of racial capitalism – women were de facto decision-makers about land rules, practices and disputes.

⁴⁹² Shamim Meer, "Community and Unions in Natal: From the 1973 Strikes to Independent Trade Unions," *South Africa Labour Bulletin*, 13 (3), 1988, 75-84.

⁴⁹³ Harold Wolpe, *Race, Class & the Apartheid State* (London: Currey, 1988).

⁴⁹⁴ Lydia Kompe, interview by Tara Weinberg and Terna Gyuse, 19 November, 2019, Tshimanyane, South Africa.



Figure 15: Map of Mogopa and Pachsdraai, the site of relocation. Source: Google Maps.

Mission education had played a vital part in the lives of many black land buyers in nineteenth and twentieth century rural South Africa, even though there was a complicated relationship between Christianity, churches and apartheid government. Some Afrikaner Reformed churches identified with the aims of Afrikaner nationalism and assisted it by ideologically justifying racial segregation.⁴⁹⁵ English-speaking churches also had racist entanglements to account for.

During the nineteenth and early twentieth century, many groups of black land purchasers bought land through white missionaries, since doing so themselves was legally and administratively challenging. Usually, black land purchasers believed missionaries would honor

⁴⁹⁵ Richard Elphick and Rodney Davenport, eds., *Christianity in South Africa: A Political, Social, and Cultural History* (Oxford: University of California Press, 1998).

their land ownership rights by also placing their names on the title deeds. This was rarely the case. For example, in 1905, members of the Bakwena group testified that they had bought half of the farm Waaihoek in 1879 in “undivided shares” by clubbing together and paying £590 for it. Unbeknownst to them, the missionary from the Hermansberg Mission Society had issued the group a servitude for access to grazing and water, instead of a title deed. He registered the title in his name.⁴⁹⁶ Deborah James charts a similar history regarding the Berlin Mission Society’s purchase of the farm Botshabelo.⁴⁹⁷ While it was common for missionaries to register titles in their names because it was difficult for black people to do so, there was a general lack of transparency and accountability from missionaries towards the people they claimed to be protecting.

As Mqgqwetho’s poetry about prayer unions indicates, there is a long tradition of churches as spaces for debate about land. Churches run by black people, independently of white missionaries, played a key role in land buying.⁴⁹⁸ For example, in 1905, African Methodist Episcopal Church minister Edward Tsewu set a legal precedent for black individuals to buy land in their own names in Evaton in the Transvaal (Chapter 2). In Natal, the Nazareth Church of South Africa was one of several independent black churches involved in land purchases. In 1913, labor tenant Isiah Shembe collected significant cash donations and used the funds to acquire land for his church.

⁴⁹⁶ Lagden, *Report by the Commissioner for Native Affairs: Relative to the Acquisition and Tenure of Land by Natives in the Transvaal*, 68.

⁴⁹⁷ Deborah James and Geoffrey Mphahle Nkadimeng, “The Land and the Word: Missions, African Christians, and the Claiming of Land in South Africa,” in *Orality, Literacy and Colonialism in Southern Africa*, ed. Jonathan Draper (Leiden: Society of Biblical Literature, 2003), 111–34.

⁴⁹⁸ James and Nkadimeng, “The Land and the Word: Missions, African Christians, and the Claiming of Land in South Africa.”

Shembe's aim was to acquire enough land for his congregants to be self-sufficient and participate in the capitalist economy on their own terms, rather than rely on wage work.⁴⁹⁹ The Nazareth Church operated as a religious institution, cash enterprise and landowner. But as the government cracked down on black land ownership between 1930-1950 and put the Church's land under threat, the Nazareth Church and Shembe developed an ambivalent relationship with government structures in an effort to secure recognition of its land rights.

In the 1980s, some priests, such as Beyers Naude and Desmond Tutu, played an important role in the anti-apartheid struggle. In 1984, the South African Council of Churches asked all its members to restore land that it had taken from black landowners.⁵⁰⁰ It also encouraged its clergy to assist communities like Mogopa and Driefontein, who were fighting against forced removals. In 1985, the ANC magazine *Sechaba* published an article, "Christianity and Revolution: A Battle Fought on Many Fronts", which invoked the story of Jesus to fortify followers to follow the "dangerous path of confronting violence...to open the way for a new society." In that same year, several clergy members, including Allan Boesak and Frank Chikane, published the 'Kairos' document, which stated that "God sides with the Oppressed."⁵⁰¹

The villages of Mogopa, Driefontein and Daggakraal had not been established by missionaries, nor had their land been bought under the auspices of a church. However, most residents were members of churches (Lutheran, Methodist or Anglican) and they called on the

⁴⁹⁹ Cabrita, *Text and Authority in the South African Nazaretha Church*; Lauren V. Jarvis, "A Chief Is a Chief by the Women? The Nazaretha Church, Gender and Traditional Authority in Mtunzini, South Africa, 1900-48," *The Journal of African History* 56, no. 1 (2015): 57-75.

⁵⁰⁰ Ibid.

⁵⁰¹ Quoted by Ineke van Kessel, *Beyond Our Wildest Dreams: The United Democratic Front and the Transformation of South Africa* (Charlottesville: University Press of Virginia, 2000), 7.

churches of which they were congregants to account for their actions. At a conference on ‘the Church and Land Rights’ in 1990, representatives from rural mission communities accused churches of being complicit in their forced removal. At Uitkyk near Mogopa, Sello Monyatsi argued that the Wesleyan Methodist Society Church, through which black residents had bought land, had sold residents’ title deeds in 1967 without consulting them.⁵⁰² Agnes Ditlhareng was a member of the Lutheran church in Mogopa, but noted that church officials there did little to support the residents in their struggles against forced removals.⁵⁰³ Regardless of disputes with specific churches, religion remained intertwined with movements towards making political community.

The role of *manyanos* in political activism was part of the inspiration for Laretta Ngcobo’s novel *And They Didn’t Die* (1990), in which Ngcobo dramatizes protests against government interventions in farming practices in the fictional village of Sabelweni in the ‘Bantustan’ of KwaZulu in the 1960s. In the novel, the main character is a woman called Jezile, who narrates the *manyano* as a space where “the companionship that allowed each and everyone some expression. Where young daughters-in-law had as much right as mothers-in-law; a place where each tumescent heart could pour out its vial of pain.”⁵⁰⁴ Ngcobo portrays Jezile and other women coming to political consciousness through their Thursday prayer meetings: “something had changed — they could not say when it changed. These women, who had, up until now, made

⁵⁰² Unnamed author, Report on the Church and Land Rights Conference, Johannesburg, 28 April, 1997, Transvaal Rural Action Committee (1980-1998), AG2735, 11 CHU, Wits Historical Papers.

⁵⁰³ Radikobo Phillip Ntsimane, “The Lutheran Churches’ Response to the Forced Removals in the Western Transvaal and Bophuthatswana (1968 - 1984)” (Master’s diss., Pietermaritzburg, University of KwaZulu-Natal, 1999), 210–11.

⁵⁰⁴ Ngcobo, *And They Didn’t Die*, 167.

decisions but waited for their husbands to give them the final go ahead, were not talking more about writing letters or the return of those men. They were making decisions and they were going to implement them.”⁵⁰⁵

More recent scholarship has argued that most of the literature on religion has overlooked how *manyanos* were also spaces where older, respectable ‘mothers’ exercised power. Deborah Gaitskell, Meghan Healy-Clancy and Lihle Ngcobozi have opened the way to rethinking the concept of ‘motherhood’ and the ‘private sphere’ in *manyanos*. Gaitskell argues that in early twentieth century Johannesburg, *manyanos*’ emphasis on motherhood did not denote passivity. Through their status as ‘respectable’ mothers, *manyano* women had the power to heal and care for sick people, raise money in situations where no family alone could cover costs of school fees or funerals, and sometimes resolve difficult relationships within families. Meghan Healy-Clancy suggests we see women’s “familial concerns” as political. Hence *manyanos* were political spaces – not only in the sense of directly organizing political action, such as the boycotts in Herschel, but also in the way these groups grappled with and often reshaped the politics of gender, family and nationalism.⁵⁰⁶ Furthermore, in the context of racist and segregationist measures, *manyano* women’s attempts to be ‘respectable’ mothers served as a critique of white assumptions about black people’s inferiority.⁵⁰⁷

Manyano women’s defense of their homes became the starting point for defense of their communities’ land against forced removals, and for articulation of new forms of collective

⁵⁰⁵ Ngcobo, *And They Didn’t Die*, 82.

⁵⁰⁶ Meghan Healy-Clancy, “Women and the Problem of Family in Early African Nationalist History and Historiography,” *South African Historical Journal* 64, no. 3 (September 1, 2012): 454.

⁵⁰⁷ Healy-Clancy, “Women and the Problem of Family,” 465.

property ownership. Healy-Clancy argues that first wave feminists often viewed the home, or the private sphere, as a place where women were continuously subject to patriarchal power.

Nomboniso Gasa points out that, under apartheid, black people's homes were under attack (for example, through forced removals, the migrant labor system, or legislation that regulated marital affairs). In this context, women's emphasis on the importance of the home – as a space of protection and privacy – was a political act. It was an act of demonstrating their power, rather than retreating from it.⁵⁰⁸ Lihle Ngcobozi argues that meetings in members' homes also allowed *manyano* women to process and respond to the everyday violence of apartheid. She writes that *manyanos* “held a critical space in the South African imagination of black womanhood, particularly where it intersects with ideals of motherhood and the expression of black women's voices outside state-centric confines.”⁵⁰⁹

The story of *manyanos* in Mogopa, Driefontein and Daggakraal, challenges the binary between *manyano* women and ANC struggle women. Women in these organizations sometimes overlapped (as in Mogopa), or if not, often worked in a way that was complementary, with *manyanos* providing spaces of support that enabled other forms of political action (as in Driefontein). This chapter builds on the work of Gaitskell, Healy-Clancy and Ngcobozi to argue that *manyanos* should be taken seriously as political spaces. Through *manyanos*, women organized against the actions of the apartheid state. They also reimagined gendered and familial roles in relation to land and property, as Ngcobozi argues, with “God as a partner in their struggles.”⁵¹⁰

⁵⁰⁸ Healy-Clancy, “Women and the Problem of Family,” 485.

⁵⁰⁹ Lihle Ngcobozi, *Mothers of the Nation: Manyano Women in South Africa* (Tafelberg, 2020), 5.

⁵¹⁰ Ngcobozi, *Mothers of the Nation*, 42

4.2 ‘Our songs and our prayers’: The forced removals at Mogopa

One night in 1988, a group of mostly older women began to sing a hymn in Setswana as they sat in a circle near the rubble of what had been the village of Mogopa. Armed police hovered around them. The hymn they sung was ‘Ke na le modisa’ (‘The Lord is my shepherd’). It is based on Psalm 23 of the King James Bible, which reads:

The Lord is my shepherd; I shall not want.
He maketh me to lie down in green pastures: he leadeth me beside the still waters.
He restoreth my soul: he leadeth me in the paths of righteousness for his name's sake.
Yea, though I walk through the valley of the shadow of death, I will fear no evil: for thou
art with me; thy rod and thy staff they comfort me.
Thou preparest a table before me in the presence of mine enemies: thou anointest my
head with oil; my cup runneth over.
Surely goodness and mercy shall follow me all the days of my life: and I will dwell in the
house of the Lord forever.

The elders in the circle, together with the rest of the Mogopa residents, had earlier been forcibly removed from their land in 1984. The South African Police Force, on the order of the apartheid government, had demolished their houses, schools, churches, granaries and wells. In 1988 the Mogopa residents had begun to re-occupy the land. Lydia Kompe worked for an NGO that supported communities resisting forced removals, the Transvaal Rural Action Committee (TRAC). She was sitting with the Mogopa elders that night in 1988. She remembers that prior to their land occupation, the Mogopa land committee had discussed that the police would have more difficulty removing elders than young people. They could more easily claim that young people were a threat. So, the committee arranged for young people to hide out in the hills overlooking Mogopa, from where they could keep an eye on what was going on.

The plan, Kompe explains, was that “when they [police] arrive, they'll find us elders, especially old women, seated, singing religious songs.”⁵¹¹ The hymn, *The Lord is My Shepherd*, is one of the hymns that was most popular amongst *manyano* groups.⁵¹² Phillip More, a leader of the fight against forced removals and for the reoccupation of Mogopa, feels that this particular hymn “opens the doors from God.”⁵¹³ Matshidiso Mabidikane, a *manyano* member born in 1929, who was amongst the elders sitting vigil that night, says *The Lord is My Shepherd* struck a chord with the dangerous reality of the situation the Mogopa residents were in.⁵¹⁴ As the police moved around with guns, the elders fortified themselves in the belief that God would protect them or at least comfort them, singing, “Yea, though I walk through the valley of the shadow of death, I will fear no evil: for thou art with me...” The police tried to hurry them away, but the group continued to sing, “Thou preparest a table before me in the presence of mine enemies...” Biblical commentators have interpreted this line as indicating an opportunity for believers to find peace, even in a situation in which they are being harassed.⁵¹⁵ At this point, the police shouted, “Stop!” But Kompe says a priest who was with them, Reverend Moatse, whispered, “‘Let’s pray.’ And then we started praying again very loud! ‘Oh, my good Lord! Help us to survive! We need to be in our land!’ We had closed our eyes so if they shoot us, we can’t see it. We didn’t open our eyes

⁵¹¹ Lydia Kompe, interview by Tara Weinberg and Terna Gyuse, 19 November, 2019, Tshimanyane, South Africa.

⁵¹² Anne Mokwena, interview by Tara Weinberg, 6 March 2021, via WhatsApp. ‘Ke na le modisa’ is Hymn 111 in the hymnbook *Difela tsa Sione* (Songs of Zion). Mokwena notes that two other very popular hymns amongst *manyanos* in the 1980s were Hymn 108, ‘Ha le mpotsa tshupo ya ka’ (‘If you ask me about my faith, I’ll tell you’) and Hymn 342, ‘O, mohua wa Modimo’ (Oh, God’s Grace’).

⁵¹³ Phillip More, interview by Tara Weinberg, 25 November, 2021, Mogopa, South Africa.

⁵¹⁴ Matshidiso Mabidikane, interview by Tara Weinberg, 25 November, 2021, Mogopa.

⁵¹⁵ Thomas Nelson, Ed Hindson, and Woodrow Kroll, *King James Version Bible Commentary* (Nashville, Tenn.: Thomas Nelson, 2005), 534.

until we said ‘Amen.’” When the group opened their eyes, they found that some of the police had gone back to their trucks and put away their guns. “Ha!” says Kompe, “Those are the strategies we would use in Mogopa. Our songs and our prayers.”⁵¹⁶

In Mogopa, prior to their eviction in 1984, residents were trying to make a go of farming maize on a large scale (Chapter 4). The residents were Setswana-speaking black farmers and descendants of relatively well-off farm workers and sharecroppers from the Orange Free State who had clubbed together to buy two farms near the town of Ventersdorp in the Transvaal (Chapter 2).⁵¹⁷ The finances required to purchase land had come from a combination of peasant farming, labor tenancy, working on diamond mines and relying on credit networks amongst themselves (Chapter 3).

The farmers who bought land at Mogopa were organized along clan lines. Each of the six clans had its own committee which oversaw decision-making about land management. While each family had their plot, these were held in ‘undivided’ shares rather than individual title deeds, meaning that the rights of each family to build, farm and graze on a plot were subject to discussion with their neighbors and the land committee.⁵¹⁸ When the families had initially bought land, they had needed an interlocutor who was highly literate to close the deal. They had nominated the Bakwena ba Mogopa *kgosikgolo* (paramount chief) Johannes Otto Mamogele

⁵¹⁶ Lydia Kompe, interview by Tara Weinberg and Terna Gyuse, 19 November, 2019, Tshimanyane, South Africa.

⁵¹⁷ Phillip More, Petrus Rampoe, Joseph Bikisha and Solomon Mabote, interview by Tara Weinberg, 23 November, 2021, Mogopa, South Africa.

⁵¹⁸ Phillip More, interview by Tshepo Moloi, 24 September, 2013, Mogopa, South Africa, Land Act Legacy Project, AL3294_B3.07.02, The South African History Archive; Andrew Pooe, interview by Nonhlanhla Ngwenya, 28 May 2013, Mogopa, South Africa, Land Act Legacy Project, AL3294_B3.08.02, The South African History Archive.

More for this purpose.⁵¹⁹ Residents of Mogopa who resisted the forced removals in the 1980s, say their parents spoke respectfully of the *kgosis* during the early decades of land purchase. This is particularly true of the headman Thomas More, and his son Noah, who handled land allocations in 1912.⁵²⁰

The Mogopa syndicate set their sight on the farms of Swartrand and Hartebeeslagte as a way to escape the harsh treatment they experienced working for white farmers in the Free State.⁵²¹ But not all labor tenants or sharecropper farmers could afford to purchase land. The majority of black South Africans did not have resources or connections to do so.⁵²² Over the course of the twentieth century, as a result of the government's attack on black labor tenants living on white farms, waves of evictees sought refuge as tenants of black landowners. The arrival of an increasing flow of tenants in Mogopa during the apartheid period led to crowding and made it more challenging to make a living from farming. While owners and tenants depended on each other for farm labor and protection of their land, they also clashed on certain issues. Owners saw themselves as superior in class and status. They usually excluded tenants from their community leadership structures.⁵²³

⁵¹⁹ Freddy Khunou, *Mountains of Spirit: The Story of the Royal Bakwena Ba Mogopa of the North West, South Africa* (Sandton, South Africa: Bookstorm, 2016), 117.

⁵²⁰ Phillip More, Petrus Rampoe, Joseph Bikisha and Solomon Mabote, interview by Tara Weinberg, 23 November 2021, Mogopa, South Africa.

⁵²¹ Phillip More, Petrus Rampoe, Joseph Bikisha and Solomon Mabote, interview by Tara Weinberg, 23 November 2021, Mogopa, South Africa.

⁵²² Deborah James and Geoffrey Nkadimeng, "'A Sentimental Attachment to the Neighbourhood': African Christians and Land Claims in South Africa," *Itinerario* 27, no. 3–4 (November 2003): 243–62.

⁵²³ Phillip More, interview by Tara Weinberg, 23 November, 2021, Mogopa, South Africa; Deborah James and Geoffrey Nkadimeng, "'A Sentimental Attachment to the Neighbourhood': African Christians and Land Claims in South Africa," *Itinerario* 27, no. 3–4 (November 2003): 243–62.

Despite declining outputs from maize farming, oral history interviewees described Mogopa in the 1950s as a “rich place to grow up with plenty of farming [beans, watermelon, maize and sorghum].”⁵²⁴ Phillip More says there was enough water for farming in the area and the community was rich in livestock (sheep, goats, cattle, horses and donkeys), with the latter three used for ploughing rather than meat or milk products.⁵²⁵ Only in the 1960s, did residents feel a marked change. It was during this time that many more women left Mogopa to work as migrant laborers in other places.⁵²⁶ Working as a migrant laborer did not mean leaving Mogopa long-term. Rather, people would work for parts of the year in cities like Johannesburg and then return to Mogopa for the planting and harvesting seasons. Others would accumulate funds through wage labor and then return to Mogopa to retire, to invest periodically in the land there.

⁵²⁴ Esther Segakweng, interview by Tshepo Moloi, 23 September 2013 Mogopa, South Africa, Land Act Legacy Project, AL3294_B3.07.02, The South African History Archive.

⁵²⁵ Phillip More, interview by Tara Weinberg, Mogopa, 23 November, 2021, Mogopa, South Africa.

⁵²⁶ Matshidiso Mabidikane, interview by Tara Weinberg, 25 November, 2021, Mogopa, South Africa.



Figure 16: Maize field in Mogopa, 1983. Source: Photograph by Gille De Vlieg, South African History Archive.

In the 1960s, government officials in the Department of Bantu Affairs exchanged correspondence about their intent to remove the people of Mogopa and put them under the authority of Mamogale More. At a community meeting in Mogopa in 1962, residents had roundly rejected Bantu Authorities by crafting a resolution that government officials should return in “20-30 years” to consult them again (Chapter 4). But their resolution was refuted by officials in the Department of Bantu Affairs. In a report a few months after the meeting, the Bantu Affairs Commissioner in Rustenburg, J.R. Thorpe, warned that they would show the residents of Mogopa that “the Government cannot be trifled with.”⁵²⁷

Between 1966 and 1967, most residents on Mogopa’s neighboring farm, Molote, were forcibly removed. Molote had also been bought by a company of black farmers in the early twentieth century. In 1969, a government notified the people of Mogopa that they too should

⁵²⁷ J.R. Thorpe, Bantu Affairs Commissioner, Rustenburg to the Chief Bantu Affairs Commissioner, Potchestroom, ‘Proposed Tribal or Regional Authority for the Bakwena ba Mogopa Tribe: Your endorsement of 29th October, 1962,’ 22 Nov 1962, NTS 9008 221-362-3, National Archives.

expect to be removed soon as there were plans to build a dam, which would flood their settlement. In 1973, Lucas Mangope, the Chief Minister of the Bantustan of Bophuthatswana, arrived in Mogopa to tell residents to move to the rural settlements of Barseba and Pachsdraai in Bophuthatswana. Under apartheid, Bophuthatswana was an area reserved for people designated as ethnically “Tswana.” Most Mogopa residents (around 400 families) refused, saying that “their grandparents bought this land for their children and their children as well for them to live on and that is why they did not want to move out of this place.”⁵²⁸ In addition to arguing that their purchase gave them rights to land, residents said that moving would destroy the farming economy that they had tried to maintain.⁵²⁹ However, some residents (about 200 people) decided to move to Bophuthatswana. The residents who stayed allege those who left were bribed but it is likely they were also scared of retribution if they refused.⁵³⁰

The government referred to Mogopa derogatively as a ‘black spot’, meaning a community of black landowners in areas the state had set aside for white farmers. By 1980, Mogopa consisted of around 420 families, several schools and shops, four churches and a medical clinic. In November 1983, Lucas Mangope’s Bantustan officials returned to inform the Mogopa residents that they should move voluntarily to the village of Pachsdraai in Bophuthatswana. New land awaited them there. If they refused, they would be forcibly removed.

⁵²⁸ Petrus Rampou, interview by Tshepo Moloi, 23 September 2013 Mogopa, South Africa, Land Act Legacy Project, AL3294_B3.07.02, The South African History Archive.

⁵²⁹ Petrus Rampou, interview by Tshepo Moloi, 23 September 2013 Mogopa, South Africa, Land Act Legacy Project, AL3294_B3.07.02, The South African History Archive.

⁵³⁰ Petrus Rampou, interview by Tshepo Moloi, 23 September 2013 Mogopa, South Africa, Land Act Legacy Project, AL3294_B3.07.02, The South African History Archive; Robbie More, interview by Tara Weinberg, 25 November, 2021, Mogopa, South Africa.

The Mogopa headman, Jacob More, told the officials that he would agree to the removal. He tried to persuade other residents to follow but most refused.

The land committees representing Mogopa convened to decide how to resist the removal. At this time, the committees were made up entirely of men. Through their networks as workers in Johannesburg, some of these men reached out to the attorney Fink Haysom to ask for help in litigating against the removal. Meanwhile, Rita Ndzanga, a political activist and Mogopa resident, contacted the Black Sash, a women's anti-apartheid organization, and its subsidiary, the Transvaal Rural Action Committee, about the situation in Mogopa. This marked the start of a more concerted women's movement in Mogopa.

Rita Ndzanga was a trade unionist and clandestine political activist for the African National Congress (ANC). Her parents, Isaac and Alina More, had left the Free State alongside other black farmers, to buy land in Mogopa in 1911. Ndzanga was born in 1933 in Mogopa and had spent most of her childhood and young adulthood moving between there and Sophiatown in Johannesburg. Like many land buyers in Mogopa, Daggakraal and Driefontein, Ndzanga's family had purchased land in both a rural farming area and the city.

Ndzanga's first experience of home eviction was in 1955, when at the age of 23, her family was forcibly removed from Sophiatown and split up. The pain of this eviction cultivated her sense of political awareness. The apartheid government saw Ndzanga as a threat because of her trade union organizing. Rita and Lawrence Ndzanga were detained several times during the 1960s and 70s, during which they were often interrogated and tortured. During one of these detentions, in 1977, Lawrence Ndzanga was killed by the security police. When Rita Ndzanga was released from prison, she continued to her secret work in the trade union movement and the ANC. In 1983, fieldworkers from the Transvaal Rural Action Committee, including Lydia

Kompe and Aninka Claassens arrived in Mogopa to support Rita Ndzanga and other residents resisting the forced removal plans.⁵³¹

Kompe and Mabidikane (a member of the Wesleyan Methodist Church in Mogopa) note that women were initially excluded from community leadership meetings about the removals. Or, even if allowed in to listen to meetings, Kompe says “we were supposed to sit on the floor with our feet closed.”⁵³² If a woman was called upon to speak, she had to do so while kneeling. Mabidikane underplays women’s involvement in land matters, saying a woman’s role was “just ploughing the farm fields, cultivating (especially weeding to get the fields ready for ploughing.) Then we would return home. We were doing nothing.”⁵³³ Kompe would spend a lot of time sleeping over in the houses of women in the areas she was organizing. At night, women would come together and strategize how to intervene in meetings. They would offload their issues in front of one another and talk deep into the night. Mabidikane says that the Mogopa women insisted that they have prayers at the start of each meeting. Together they formed an informal “women’s league.”⁵³⁴ Women’s houses were vital places from which to organize not only the defense of their living properties, but also their home Mogopa, against the threat of forced removal. They were also spaces from which women could have the power necessary to articulate the form of property ownership they would like to see.

⁵³¹ Shanthini Naidoo, “Farewell to a Feisty Legend and Spirited Human Being,” *Sunday Times*, 21 August, 2019, accessed January 3, 2023, <https://www.timeslive.co.za/sunday-times/opinion-and-analysis/insight/2022-08-21-farewell-to-a-feisty-legend-and-spirited-human-being/>.

⁵³² Lydia Kompe, interview by Tara Weinberg and Terna Gyuse, 19 November, 2019, Tshimanyane, South Africa.

⁵³³ Matshidiso Mabidikane, interview by Tara Weinberg, 25 November, 2021, Mogopa, South Africa.

⁵³⁴ Matshidiso Mabidikane, interview by Tara Weinberg, 25 November, 2021, Mogopa, South Africa.

The glue that held many of the Mogopa women's meetings together was their experience working in the church. In particular, they were members of prayer unions or *manyanos*. They would gather in these groups on Thursdays and Sundays to pray, care for sick people, distribute child-care responsibilities, organize savings for school fees or funerals, and discuss the affairs of their community. Claassens remembers that women's prayer groups were an essential resource of strength for people to draw on in their battle against removals.⁵³⁵ Mabidikane says the *manyanos* were a space of intergenerational dialogue, where young and older women, married and unmarried, came together to sing, pray and talk. At the end of a meeting, she said she felt members could "part ways in peace" as they had experienced "happiness" together.⁵³⁶

Motshabi Pooe, who was born in Mogopa in 1926, notes that there were four major churches in Mogopa when she was a child: the Anglican, African Methodist Episcopal, Wesleyan Methodist and Presbyterian churches. All the church services would be held in the same school building, so the churches would take it in turns to run services. Pooe jokes that she used to create variety by attending each service, rather than sticking to one church.⁵³⁷ By 1983, these four churches each had their own buildings, and had been joined also by the Roman Catholic Church and independent Zionist churches, most notably the St. John's Apostolic Faith Mission. Each church had its own women's prayer union which met in the homes of its members. Some residents indicated that, at the time of the removals, women from across

⁵³⁵ Aninka Claassens, interview by Tara Weinberg, 7 March, 2021, via Whatsapp.

⁵³⁶ Matshidiso Mabidikane, interviewed by Tara Weinberg, Mogopa, 25 November, 2021.

⁵³⁷ Motshabi Pooe, interview by Tshepo Moloi, 23 November, 2013, Mogopa, Land Act Legacy Project, AL3294_B3.09.02, The South African History Archive.

denominations met together in two main spaces: under a tree they called the “prayer tree” and in a church that women referred to as the “Roma” building, referring to the Roman Catholic Church.⁵³⁸ In 1983, key meetings about the pending removal were held in the “Roma church.”⁵³⁹

Using their prayer groups as a base, women in Mogopa created a women’s land committee to discuss the impending removals. Lydia Kompe notes that while she had an ambivalent relationship with religion, having grown up on a Lutheran mission station where the church had been unkind to her family, she encouraged women’s impulse to organize through their prayer groups. She would do so by facilitating rather than leading the women’s land committee meetings. She argues this was an effective strategy to encourage women to talk. Kompe says, “I’m also a rural woman, and I know the exclusion where I come from. So, it was not a strange thing to me. [Only on occasions] I would tell them what I think we should do to break this wall [men's leadership].”⁵⁴⁰

Various Mogopa residents describe these meetings as a turning point enabling women to take more of a leadership role. Later in 1983, when the struggle of the Mogopa residents against eviction was becoming well-known, Archbishop Desmond Tutu (himself a member of the Society of the Resurrection in the Anglican church) and other members of the South African

⁵³⁸ Matlakala ‘Yvonne’ Lucy Manamela, interview by Nonhlanhla Ngwenya, 24 September 2013, Mogopa, South Africa, Land Act Legacy Project, AL3294_B3.02.02, The South African History Archive; Esther Sekagweng, interview by Tshepo Moloi, 23 September 2013, Mogopa, South Africa, Land Act Legacy Project, AL3294_B3.11.02, The South African History Archive.

⁵³⁹ Petrus Rampoe and Phillip More, interviewed by Tara Weinberg, Mogopa, 25 November 2021.

⁵⁴⁰ Lydia Kompe, interviewed by Tara Weinberg and Terna Gyuse, Tshimanyane, South Africa, November, 2019.

Council of Churches joined the women for their prayer meetings under the “prayer tree.”⁵⁴¹ Male residents, including members of the clan committees, came to listen too.

Several Mogopa activists note that Tutu’s visits marked a defining moment for women’s involvement. Claassens remembers that Tutu took it in turns to call on people to lead prayers, saying “let a man pray,” then “let a woman pray,” and so on. Given that women had rarely spoken to general meetings in Mogopa, the event was striking. But it wasn’t just Tutu’s visit that made the difference. His words found an already fertile ground in Mogopa because women had been organizing through their church groups, discussing their role in farming and land ownership, and building trust amongst themselves. Kompe argues that the “door was open [for women] and now you won’t catch them!”⁵⁴²

One of the Mogopa vigils under the prayer tree took place on February 13, 1984 – the night before government trucks arrived to evict residents. Madshidiso Mabidikane remembers Bishop Tutu administering holy communion to the residents who had gathered there. Communion took the form of brown bread washed down with a “cooldrink.”⁵⁴³ Together, they reflected on how communion represented the body and blood of Jesus Christ, who instructed his disciples to consume wafers/bread and wine the night before he died on the cross. Remembering the sacrifice that Christ had made was a source of comfort, Mabidikane says. In taking the bread and drink, Mogopa residents also felt they received the strength of Christ to face trials and challenges that awaited them.

⁵⁴¹ Esther Sekagweng, interview by Tshepo Moloi, 23 September 2013, Mogopa, South Africa, Land Act Legacy Project, AL3294_B3.11.02, The South African History Archive.

⁵⁴² Lydia Kompe, interview by Tara Weinberg and Terna Gyuse, 19 November, 2019, Tshimanyane, South Africa.

⁵⁴³ In South African English, a cooldrink refers to what Americans call a softdrink or soda. Matshidiso Mabidikane, interview by Tara Weinberg, 25 November, 2021, Mogopa, South Africa.

Scholars and activists have categorized Bishop Tutu’s approach as “liberation theology”, a kind of activist Christianity that sought to empower oppressed people and support them in their quest for political liberation.⁵⁴⁴ This form of religious organizing played a vital role in the struggle against apartheid and is therefore viewed as overtly political. Yet *manyanos*’ involvement in the struggles against forced removals in places like Mogopa suggests another, less obvious form of religious community-building and political action.



Figure 17: Desmond Tutu at a vigil under the prayer tree in Mogopa, 1983. On his immediate right is a minister from the Dutch Reformed Church, and far-right, Reverend Peter Moatshe. Source: Photograph by Gille De Vlieg, South African History Archive.

⁵⁴⁴ Liberation theology is associated with a twentieth century theological movement in Latin America, particularly Brazil and Peru (strongly influenced by Gustavo Gutierrez). It is a theological practice focused on the needs and struggles of the poor. Christopher Rowland, “Liberation Theology,” in *The Oxford Handbook of Systematic Theology*, ed. Kathryn Tanner, John Webster, and Iain Torrance (Oxford University Press, 2007).



Figure 18: The prayer tree in Mogopa in 2022, next to the ruins of a home that was destroyed by a bulldozer during the forced removal in 1984. Source: Photograph by Tara Weinberg, 2022.

The vigils with Bishop Tutu brought plenty of international media attention to the plight of Mogopa residents.⁵⁴⁵ But they were ultimately unsuccessful in preventing removal. On Valentine's Day, government bulldozers moved in to force the people of Mogopa to move off their land. They flattened almost everything, leaving only one church standing.⁵⁴⁶ Esther Sekagweng describes the event in vivid detail: "They [the police] came around 3am and you would just see them and they had loudspeakers when they arrived at your house... The people

⁵⁴⁵ Allister Sparks, "Uprooted S. African Blacks Defiant," *Washington Post*, May 4, 1984, <https://www.washingtonpost.com/archive/politics/1984/05/04/uprooted-s-african-blacks-defiant/77efc795-851b-4c3c-bb16-64c104372554/>.

⁵⁴⁶ Matlakala 'Yvonne' Lucy Manamela, interview by Nonhlanhla Ngwenya, 24 September 2013, Mogopa, South Africa, Land Act Legacy Project, AL3294_B3.02.02, The South African History Archive.

from Mogopa had cows, goats and livestock and the white people [the neighboring farmers] had slaughtered the cows and they had made their braai's..."⁵⁴⁷

Phillip More says the police specifically chose to come at night, so that photographers who were gathered with the residents could not document the removals.⁵⁴⁸ Yvonne Manamela adds that the police and army were "packing our things for us and putting into boxes for us...as soon as they put your things away they would bulldoze your house down."⁵⁴⁹ Motshabi Pooe describes the horror of seeing the news of the removals on television. She was a domestic worker in Carltonville at the time: "the white people that I worked for called me and said, 'come and see they are moving you at home.'"⁵⁵⁰

⁵⁴⁷ Esther Sekagweng, interview by Tshepo Moloi, 23 September 2013, Mogopa, South Africa, Land Act Legacy Project, AL3294_B3.11.02, The South African History Archive.

⁵⁴⁸ Phillip More, interview by Tara Weinberg, 25 November, 2021, Mogopa, South Africa.

⁵⁴⁹ Matlakala 'Yvonne' Lucy Manamela, interview by Nonhlanhla Ngwenya, 24 September 2013, Mogopa, South Africa, Land Act Legacy Project, AL3294_B3.02.02, The South African History Archive.

⁵⁵⁰ Motshabi Pooe, interview by Tshepo Moloi, 23 November, 2013, Mogopa, Land Act Legacy Project, AL3294_B3.09.02, The South African History Archive.



Figure 19: A woman surveys the debris from a destroyed shop, while a police van passes during the removals in Mogopa in 1984. Source: Photograph by Gille De Vlieg, South African History Online.

The police brought with them two buses and thirty-five trucks, onto which they loaded residents and their possessions. Photographer Gille De Vlieg was working with the Black Sash in Mogopa at the time. She and fellow photographer Paul Weinberg intercepted the buses when they stopped in a town. She recalls, “People recognized us...they were sticking their hands out the window, saying ‘help us, help us. They are taking us away and we don’t know where we are going.’ I get emotional thinking about it.”⁵⁵¹ Residents had to leave most of their livestock behind, and their fields untended. The buses took people to Pachsdraai in Bophuthatswana. From there, people joined other refugees from Mogopa in Bethal, Barseba and Onderstepoort.

In 1985, the public interest law firms of the Legal Resources Centre and Cheadle, Thompson and Haysom had initiated litigation to have the government return Mogopa land to its residents. The Supreme Court handed down judgment in 1987, declaring the Mogopa removal “illegal.” However, the government had already cancelled the title deeds owned by Mogopa families and had other plans for their land. The Mogopa general land committee began

⁵⁵¹ Gille De Vlieg, interview by Tara Weinberg, 23 August, 2019, Johannesburg, South Africa.

negotiating with the government for the return of their land but officials refused to budge, instead only offering them titles at Onderstepoort.⁵⁵²



Figure 20: A Mogopa resident sits on the truck taking away his belongings during the Mogopa removal, 1984. Source: Photograph by Paul Weinberg.

4.3 Reclaiming Mogopa

Soon after the removals in Mogopa in 1984, women led the charge to win back residents' land. They would come together from the areas they had been scattered and all meet in Onderstepoort on Thursdays and Sundays. Each prayer meeting would begin with a hymn from a hymnbook called *Difela Tsa Sione* (Songs of Zion). Anne Mokwena, who was active in the Anglican church in Johannesburg, notes that this hymnbook was widely used amongst Sesotho,

⁵⁵² Tshepo Moloi, "Masibuyele Emasisimini: Legacies of the 1913 Land Act: Mogopa," South African History Archive, accessed April 3, 2021, <https://www.saha.org.za/landact1913/mogopa.htm>.

Setswana and Sepedi speakers across denominations.⁵⁵³ Yvonne Manamela of Mogopa says that when she and her friends got to their church meetings, “we would be strong and hope that God was with it and push...we combined a lot of ideas there.”⁵⁵⁴ Lydia Kompe remembers, “I tell you these women would pray with all their hearts! Even crying, praying, ‘God where are you to assist us. we want our land. We are sick in the new place. Beaten by scorpions and snakes.’”

The women’s land committee made deputations to the general Mogopa land committee (made up of men). Kompe explains that *manyano* women who were strong preachers were instrumental in the process of winning seats for women on the general committee. They were “bold women”, who they could push to the “front of the group to speak at the [general land committee meeting].” The women’s contingent formed an alliance with young people who had also been excluded from important meetings. Kompe argues, “in our culture if you don't have a wife then you don't attend *kgoro* [general meetings], so we were in the same pot. So, we forced our way onto the committee.”⁵⁵⁵ Four or five women made it onto the general land committee, comprising about half the group. Andrew Poee, who was a young man at the time of the forced removals in Mogopa, notes, “I remember some ladies who organized themselves moving around and also holding meetings, moving around and collecting donations from the very same community...their rule was visible...they played an important role in the decision making in organizing and meeting...”⁵⁵⁶

⁵⁵³ Anne Mokwena, interview by Tara Weinberg, 6 March 2021, via WhatsApp.

⁵⁵⁴ Matlakala ‘Yvonne’ Lucy Manamela, interview by Nonhlanhla Ngwenya, 28 May 2013, Mogopa, South Africa, Land Act Legacy Project, AL3294_B3.08.02, The South African History Archive.

⁵⁵⁵ Lydia Kompe, interview by Tara Weinberg and Terna Gyuse, 19 November, 2019, Tshimanyane, South Africa.

⁵⁵⁶ Andrew Poee, interview by Nonhlanhla Ngwenya, 24 September 2013, Mogopa, South Africa, Land Act Legacy Project, AL3294_B3.02.02, The South African History Archive.

In 1988, the Mogopa land committee went to ask the South African Minister for Co-Operation and Development, Gerrit Viljoen, for permission to clean the graves of their ancestors which had become overgrown back at Mogopa. By then, the balance of power in South Africa was shifting a little away from hardliners in the government, and so the Minister agreed, fearing a press scandal. Elders, led by women, went to clean the graves and set up shacks next to them at Mogopa. They set them up in an area they called ‘the mountain.’ When asked by police why they had set up shacks, the elders explained that the cleaning of the graves would take a while as it had been years since they had been removed. They needed somewhere to stay overnight to do the cleaning. This is how the first shacks were re-established. Yvonne Manamela recalls, “we had a plan that once they [the government] agree, we are going to bring the material to build our shacks here.”⁵⁵⁷ Phillip More adds that once people had reoccupied Mogopa, it was harder to move them again: “the people who are in – they can say ‘no’ [to the government].”⁵⁵⁸ Young people from Mogopa came with trucks paid for by the Black Sash to bring building materials by night. Others snuck into Mogopa by hiking over the mountains and therefore avoiding the police check points.⁵⁵⁹

Kompe says the strategy was to build up a settlement slowly: “Then we quietly started moving. We said let’s move a bit. We built our shacks slightly away from the graves. When questioned, we told the authorities that our ancestors said ‘you are making all this noise, clanging pots and pans, and smoke on top of us coming from burning wood and cow dung. Move away.’

⁵⁵⁷ Matlakala ‘Yvonne’ Lucy Manamela, interview by Nonhlanhla Ngwenya, 28 May 2013, Mogopa, South Africa, Land Act Legacy Project, AL3294_B3.08.02, The South African History Archive.

⁵⁵⁸ Phillip More, interview by Tara Weinberg, 25 November, 2021, Mogopa, South Africa.

⁵⁵⁹ Robbie More, interview by Tara Weinberg, 25 November, 2021, Mogopa, South Africa.

We said the ancestors were cross with us, so we moved.” The white police on duty reluctantly accepted, “maybe because they were confused by black people’s customs”, Kompe adds with a giggle. But that didn’t stop the police from hurling abuse at Mogopa residents who had resettled there. Mabidikane describes how a white policeman approached her while she was cooking near the graves and called her a “baboon.” The children of the police also swam in the community’s reservoir, despite it being their only source of drinking water.⁵⁶⁰

Next the group returned to the area where some of the main compounds had been and began building shacks there. The word spread to others who had been scattered and they began to trickle back to Mogopa. Kompe remembers Viljoen warning that he would send the police to remove them. When the police arrived to find Mogopa elders sitting in a circle that night and singing *The Lord Is My Shepherd*, and another hymn, *Joko ea hao e bo bebe* (‘Your burden is light’). Like *The Lord Is My Shepherd*, Madibikane says the hymn fortified and comforted residents, who sang:

Your burden is light,
It soothes my heart,
Faith to me is a shield,
That saves me from death...
Enemies have scattered,
Because you have saved me.
A sojourner never grows weary,
They are carried by the Lord.

Prior to the arrival of the police, the elders had gathered on the mountain and repeated a biblical passage they found particularly relevant to their story of dispossession. In an interview, Robbie More recited it by heart: “‘don’t move an old boundary mark that your ancestors set’ or ‘don’t take over land owned by orphans (Proverbs 22 section 4 verse 28).’” The group also

⁵⁶⁰ Matshidiso Mabidikane, interview by Tara Weinberg, 25 November 2021, Mogopa, South Africa.

conducted a holy communion ceremony, like the one on the night preceding their removal from Mogopa in 1984. This, they felt, amplified their prayers in the face of possible violence, by reminding them of Christ’s sacrifices and their own. Owing in large part to the organizing of Mogopa residents — particularly women — the government gave up on removing them again.



Figure 21: A woman from Mogopa speaks at a meeting in Barseba, 1985. Source: Photograph by Gille de Vlieg, South African History Archive.

4.4 Women’s struggles against eviction in Driefontein and Daggakraal

The rocks on this hill we’re scaling are heavy. But we’re determined, sitting on them, resting, and then tackling them again. So listen, women of the Prayer Union. When a rock is heavy, shove it aside.

Figure 22: Nontsizi Mgqwetho, ‘Women of the Prayer Unions. Listen!’, *Umteteli Wabantu*, 6 September, 1924.⁵⁶¹

⁵⁶¹ Jeff Opland notes there is a pun here — the name of the man Mgqwetho is arguing against is also the word for rock, so she is saying push on in difficult struggles, but also push men like him aside. Jeff Opland, *Nation’s Bounty: The Xhosa Poetry of Nontsizi Mgqwetho* (Johannesburg: Wits University Press, 2007), 465. This metaphor is also reminiscent of the famous South African women’s struggle slogan, “Wathint’ abafazi, wathint’ imbokodo” (“You strike a woman, you strike a rock.”)

Like Mogopa, Driefontein and Daggakraal were some of the few areas outside the reserves or ‘Bantustans’ (ethnically designated areas established by the state) that remained in the hands of black landowners late into the apartheid era. Government officials had generally ignored petitions by Daggakraal and Driefontein residents in the 1950s and 60s for farming support (Chapter 4). In correspondence amongst themselves, officials justified the decision not to assist residents on the basis that these farmers were ‘black spots’ that the state had earmarked for removal. In 1978, Beauty Mkhize heard from her husband, Saul Mkhize, that there were rumors the government planned to remove people from the villages of Driefontein and Daggakraal in the Transvaal province. The Mkhizes, together with around 1,500 other black families, owned 8.5 hectare⁵⁶² plots of land in the villages. Thousands of tenants also rented from the landowners, and so their homes too, were affected.

Beauty Mkhize recalls that in 1980, the government was “hot on evicting people from Driefontein.”⁵⁶³ They intended to remove residents to three different ‘Bantustans’: Zulu speakers to KwaZulu, SiSwati speakers to Kangwane and Sesotho speakers to QwaQwa. The area of the Transvaal in which Driefontein and Daggakraal are located is home to a heterogenous community, in terms of language and place of origin (Chapters 2-3). For this reason, residents recalled they were particularly disgusted with the plan to remove them and divide them up based on the government’s ethnic categories. Hugh MacMillan notes that “mourners at the funeral in 1983 of Saul Mkhize [Beauty Mkhize’s husband] told the press that they did not know whether

⁵⁶² Originally listed as 10 morgen, which I have translated into hectares. The more visual unit of measurement might be 10.5 full length soccer pitches.

⁵⁶³ Beauty Mkhize, interview by Tara Weinberg, November 25, 2018, Driefontein, South Africa.

they were Swazi or Zulu.”⁵⁶⁴ At a meeting in Daggakraal in 1983, 69-year-old resident Jane Tshabalala told the meeting “there was no place for chiefs in Daggakraal. Here people from different tribes are living happily together.”⁵⁶⁵

Some women were landowners and household heads in Driefontein and Daggakraal. Indeed when Seme put out a call for black farmers to join the Native Farmers Association, he appealed to specific businesswomen and intellectuals by name (Chapter 2).⁵⁶⁶ Estate records also reveal several women — mostly widows, but also some single women — with title deeds in their names.⁵⁶⁷ As in Mogopa, the growth of the migrant labor system meant that many women in Driefontein and Daggakraal had become de-facto heads of households, even if they did not have title deeds in their names. Many women, too, worked as migrants. Daggakraal resident Siyabonga Matona argues that “the history here is that most men went to Joburg to work whereas women made these clubs here in the rural areas.”⁵⁶⁸

However, again as in Mogopa, women in Driefontein were excluded from land management committees. Beauty Mkhize was a key figure in changing that. She grew up in Johannesburg, where she had experienced and participated in acts of protest and civil disobedience against the apartheid state. Mkhize was part of an underground ANC cell in

⁵⁶⁴ Macmillan, “A Nation Divided? The Swazi in Swaziland and the Transvaal, 1865-1986.”

⁵⁶⁵ Unknown author, “Leave us Alone, Say Residents”, *The Sowetan*, 1983, Leslie Witz Archive MCH93, 2.2.41, Mayibuye Archives.

⁵⁶⁶ Pixley ka Seme, ‘The Native Landowners Association and Trust Co., of Africa Ltd: ziyemuka izinkomo magwala ndini’, *Abantu Batho*, copy in *Ilanga Lase Natal*, 3 December, 1915.

⁵⁶⁷ For example, the estates of Anne Lakaje, 6 April 1925, NTS 3441 56-308; Elizabeth Tshabala, 12 December 1941, KWM 2 2-40; Jutaita Nkabinde, 20 June, 1945, KWN 1 2-44.

⁵⁶⁸ Siyabonga Matona, interview by Tara Weinberg, 24 November, 2019, Volksrust, South Africa.

Driefontein, together with her husband Saul Mkhize, landowners Jane Vilakazi, Kaizer Maseko, tenant Zebulon Ndlangamandla and shop-keeper Yunus Cajee. Ndlangamandla had cut his teeth as an activist working on a massive potato boycott among workers in the Transvaal town of Bethal in 1959. As the most experienced member of the cell, he was the person in Driefontein who gave out directives.

One of the Driefontein cell's main roles was to assist ANC activists in crossing the border into Swaziland. Schools and sports events were important sites where messages would be communicated.⁵⁶⁹ The only phone in town was located at Cajee's shop, so that was the main point of communication with other ANC cadres. The work was highly dangerous. Cajee's home was regularly ransacked by armed police, and Beauty and Saul Mkhize's son, Bongani, was beaten up by anti-ANC vigilantes.⁵⁷⁰

Alongside his ANC work, Saul Mkhize had mobilized a group of land buyers and tenants to form a "land committee" to resist impending forced removals. The land buyers succeeded in overthrowing the existing land committee, the 'Community Board', headed up by Mr. Yende and Mr. Msibi, men who were in favor of the move to the 'Bantustans.' They called the new committee the 'Council Board of Directors of Driefontein'. In January 1983, around 3,000 Driefontein residents gathered to elect members to the Council Board and chose Saul Mkhize as chairperson. Mkhize developed connections in Johannesburg, where he worked, with public interest lawyers, journalists and NGO activists. He played a major role in mobilizing these figures to advocate for the land rights of Driefontein residents.

⁵⁶⁹ Zebulon Ndlangamandla, interview by Aninka Claassens, 21 March, 2003, Driefontein, South Africa, on file with the author, Cape Town, South Africa.

⁵⁷⁰ Yunus Cajee, interview by Tara Weinberg, 27 February, 2019, Driefontein, South Africa.

On April 2, 1983, Saul Mkhize called a meeting of Driefontein residents at a school in the village. He had begun the meeting by telling people about possible impending removals. Two young white policemen arrived and told Saul to close the meeting. He declined. One of the policemen then shot Saul at point blank range, killing him on the spot. Beauty Mkhize believes the murder of her husband was the turning point in women's more active involvement as leaders in the struggle against forced removals. Land activist Lydia Kompe agrees, saying that "[Saul] Mkhize made a way for us, although his death was a bitter pill to drink."⁵⁷¹ His death galvanized the residents of Driefontein to dig their heels in and fight more fiercely against the forced removals. Phumzile Mlangeni adds that, before Saul Mkhize's death, she remembers women saying "'they're not right [the government] but what choice do we have [except to move]?"' "After Baba [Father] Mkhize's death, people realized he was right. They said, 'no, we're not moving.'"⁵⁷²

Saul Mkhize's death provoked a process of reflection for the residents of Driefontein, particularly on the land rights and decision-making schisms within their community. Landowners in Driefontein saw themselves as fuller members of the Association land buying community than their tenants. Since tenants did not share landowners' history of purchase, landowners excluded them from land committees. They also set various rules for tenants, such as allowing them to build mud but not brick houses. Zebulon Ndlangamandla, who was a tenant in Driefontein, recounts, "it was only after Mkhize's passing that ...we realized that the fight was not against

⁵⁷¹ Lydia Kompe, interview by Tara Weinberg and Terna Gyuse, 19 November, 2019, Tshimanyane, South Africa.

⁵⁷² Phumzile Mlangeni, interview by Tara Weinberg, 15 November, 2019, Alberton, South Africa.

each other but against the Apartheid government. That was the common enemy amongst us.”⁵⁷³

Women united with tenants and youth, both of whom had also been excluded from decisions about land, to force their way onto the Council Board.

Saul Mkhize’s death left a leadership vacuum, which was quickly filled by Beauty Mkhize. As in Mogopa, women in Driefontein held night vigils. Beauty Mkhize, Jane Vilakazi, Catherine Madlala and other women in Driefontein would spend a lot of time sleeping in each other’s houses. They shifted from being a mourning cohort in the aftermath of Saul’s death, to being involved in politics. At night, women would gather and strategize around how to intervene in Council Board meetings. They discussed that they were the ones on the front lines when the bulldozers approached, as men were often away working in the cities. They too were the guardians of subsistence farming on their plots. Beauty Mkhize made regular trips to Johannesburg, where she organized amongst Driefontein residents who lived in hostels there, continuing the work that Saul had done before. She worked closely with lawyers and community members to develop a legal strategy against eviction. She describes attending meetings while in mourning for Saul, wearing all black, as if “in a daze.”⁵⁷⁴

Zebulon Ndlangamandla describes how a group of tenants, youth and women, including Beauty, traveled through the night in 1983 to consult lawyer Geoff Budlender in Johannesburg. This was one of the factors that convinced the other members of the Council Board that women should join the leadership.⁵⁷⁵ Another key area around which women’s groups rallied was the

⁵⁷³ Zebulon Ndlangamandla, interview by Aninka Claassens, 21 March, 2003, Driefontein, South Africa, on file with the author, Cape Town, South Africa.

⁵⁷⁴ Beauty Mkhize, interview by Tara Weinberg, 29 November, 2018, Driefontein, South Africa.

⁵⁷⁵ Zebulon Ndlangamandla, interview by Aninka Claassens, 21 March, 2003, Driefontein, South Africa, on file with the author, Cape Town, South Africa.

issue of pensions. In 1983, 82-year-old widow Hilda Gamede sparked the pension movement. Gamede approached the Wakkerstroom magistrate, Mr. Prinsloo, to file for her pension pay-out. Prinsloo refused, telling her she didn't deserve a pension because she "could go and get married" and have her husband support her.⁵⁷⁶ With Transvaal Rural Action Committee and the Legal Resources Centre's assistance, several Driefontein women started a legal advice clinic in the village. Since the pensions issue was less directly about confronting the government regarding the forced removals, the legal clinic was an important place for many women to gather, organize and raise funds to help each other.

Religion was woven into people's everyday lives, and also found its way into their everyday political struggles. At Saul Mkhize's funeral, mourners sang a lament they had created to honor him, entitled "Msobothsheni Unezimanga" (Driefontein, you have surprised us).⁵⁷⁷ This song, together with the actions of *manyano* women, implies how politics and religion were not two separate spheres, but combined in the land struggles in Daggakraal and Driefontein.

⁵⁷⁶ "A 'Black Spot' Vows to Defy Pretoria Plan," *The New York Times*, March 6, 1983.

⁵⁷⁷ Msobothsheni was a name given to part of Driefontein.

<i>Futhi sisamanqele, sisasong' izandla Nqalokhu okwasivelela</i>	We are still surprised, we are still folding our hands with regards to what has befallen us
<i>Kazi leziyanyembezi zethu uthi zawelaphi na? Siyakubuz' ubobuy' usiphendele</i>	We wonder where you think our tears are falling?
<i>Kungani na?</i>	We are asking at some point you must answer us.
<i>Kunqeqhawe lamaqhawe</i>	Why?
<i>Elasishiya uSaul umfoka Mkhize (Zulu version)</i>	There is a hero among us who has left us, Saul Mkhize (English translation)

Figure 23: Song sung at Saul Mkhize's funeral.

After Saul Mkhize died, his brothers held meetings with Piet Koornhof, the Minister for Cooperation and Development, about the impending removal. They warned Koornhof of the biblical tale of Naboth's vineyard, in which Naboth's neighbor, King Ahab, coveted Naboth's land, saying "Let me have your vineyard to use for a vegetable garden, since it is close to my palace. In exchange I will give you a better vineyard or, if you prefer, I will pay you whatever it is worth." Naboth refused, saying "The Lord forbid that I should give you the inheritance of my ancestors."⁵⁷⁸ So Ahab framed Naboth for a crime, which led to the latter's stoning. In the aftermath, Ahab stole his land. According to the Bible, God then sent the following message to Elijah:

Go down to meet Ahab king of Israel, who rules in Samaria. He is now in Naboth's vineyard, where he has gone to take possession of it. Say to him, 'This is what the Lord says: Have you not murdered a man and seized his property?' Then say to him, 'This is

⁵⁷⁸ *King James Bible* (New International Version, 1973), 1 Kings 21.

what the Lord says: In the place where dogs licked up Naboth's blood, dogs will lick up your blood—yes, yours!⁵⁷⁹

Koornhof, himself trained to know the scriptures inside-out, was familiar with each section the brothers quoted. Geoff Budlender, who also attended the meeting, remembers that this scripture unnerved Koornof.⁵⁸⁰ To make their case, the Mkhize brothers had mobilized a biblical story about a powerful man seizing the rightful property of someone less powerful. Koornhof did not, yet listen to the brothers' requests. He claimed that removing the people of Driefontein was necessary to build a new dam.⁵⁸¹

In Driefontein, *manyanos* and political organizing mixed in a way that sometimes evoked tensions between women. Aninka Claassens remembers that while Beauty Mkhize sometimes spoke to *manyanos*, she was not particularly active in the church. Instead, Beauty and other women leaders met in their own homes or frequented shebeens (drinking taverns) to build camaraderie and plan political activities. Church and drinking are not always opposed (Lydia Kompe gives an example of a Minister on the mission station where she grew up, who encouraged combining the two). But mothers who drank were not generally thought of by *manyano* women as being particularly “respectable” Christians.

Phumzile Mlangeni offers some insight into the roles of *manyanos* in Driefontein. Her mother was active in a Lutheran Methodist group there. In addition to looking after children and managing savings clubs (*stokvels*) she would hold conversations to exchange tips on farming. Women would also look after each other's fields if other women were away. Mlangeni says her

⁵⁷⁹ *King James Bible*, 1 Kings 21.

⁵⁸⁰ Geoff Budlender, interview by Tara Weinberg, 30 May, 2019, Cape Town, South Africa.

⁵⁸¹ Geoff Budlender, interview by Tara Weinberg, 30 May, 2019, Cape Town, South Africa.

mother and her friend Sibongile Mtshali's mother joined together to look after land and fields. They never wanted to be in a situation where they had "no money" because their husbands were away, so they earned money from farming. Like Lydia Kompe, Mlangeni argues that women were important because if forced removals happened, women were going to be there when the bulldozers barreled down. Hence women would communicate news about removals via their Thursday prayer union meetings.⁵⁸²

Manyano women in Driefontein were careful to keep some distance from ANC activists like Beauty Mkhize. Mlangeni notes that her mother was "scared of politics in case it meant getting arrested and leaving their children alone."⁵⁸³ In 1970s and 80s, Mlangeni's association with the field of "politics" was that it was confrontational and highly dangerous. Anyone associated with political activism could be arrested, beaten, disappeared or killed – as had happened to Saul Mkhize and other Driefontein activists.

Anthropologist Deborah James makes a similar point about political allegiances in Doornkop, Transvaal, another area where black farmers had bought land before the 1913 Land Act. Residents there had been forcibly removed in 1976. During their struggles to reclaim their land in the late 1980s and early 1990s, James argues that while most Doornkop residents were clandestine supporters of the ANC, they did not directly identify themselves with the organization. Even after the ANC was unbanned in 1990, Doornkop residents preferred "to avoid dividing the community through admitting conflicting political allegiance", given that some landowners were members of other political parties like the Pan Africanist Congress (PAC) or

⁵⁸² Phumzile Mlangeni, interview by Tara Weinberg, 15 November, 2019, Alberton, South Africa.

⁵⁸³ Ibid.

the Azanian People's Organisation (AZAPO).⁵⁸⁴ James argues that landowners instead saw the church and members' identity as land-buyers as a unifying force. This resonates with the feelings of many *manyano* women in Driefontein.

While women in the *manyanos* may not have been involved in politics of the sort that Beauty Mkhize was, their work was political. For example, in 1985, women in Driefontein created a play to spread word about possible removals. They performed the play, *Usizi Nezinhlupheko* ('The way we are suffering'), at the Market Theatre in Johannesburg in 1986. The play meshed women's confessional connections with the call for protection of their land. It began with women singing a church song: "Nkosi Jesu uzungikhumbule embusweni wakho, Jesus remember me in the kingdom of God, remember me, remember me in the Kingdom of God."⁵⁸⁵ The South Africa public education journal *Learn and Teach* described the events of the play as follows in its 1986 issue:

The clerk at the magistrate's office goes to the *impimpi* Msibi and tells him to arrange a meeting with the people of Driefontein. He wants to talk to the people about moving from Driefontein.

When the people come together, Msibi tells the people that the magistrate says that they must move from Driefontein. Before he can finish, most of the women shout. "Asihambi – we are not moving!" And a small group shout: "Siyahamba – we are going!" The women start fighting with each other.

Two of the women start a dance called "Ukhamba" and the women drink beer and sing: "*Khulumela phansi kukhona izintatheli zizokuthathela* – don't talk loud. The *impimpis* can hear and take what you say." The women are showing how they used to live before their problems. They had a good life – dancing, drinking and living in peace."⁵⁸⁶

⁵⁸⁴ Deborah James, *Gaining Ground: "rights" and "Property" in South African Land Reform* (New York: Routledge-Cavendish, 2007), 72.

⁵⁸⁵ Unknown author, 'A play by the women of Driefontein,' *Learn and Teach* 3, 1 May, 1985.

⁵⁸⁶ Unknown author, 'A play by the women of Driefontein,' *Learn and Teach* 3, 1 May, 1985.

Residents in Driefontein described Msibi, like Yende, using the term *impimpi*, meaning government stooge or spy. Many residents in Driefontein saw Msibi as complicit in the government's attempts to remove them.

In Daggakraal, Dowie Nzoyi argues prayer unions were also vital. The Anglican church there, run by black ministers, played an important role in land acquisition and in adjudicating land affairs. Nzoyi notes that *manyanos* were particularly important for providing financial support, such as raising funds for children's education: "most of those doing well [financially], who have made it are women headed households, where there is a mother only. So these women's clubs are so important in kids getting educated."⁵⁸⁷

Back in Driefontein in 1985, Beauty Mkhize and Geoff Budlender met with Mr. Wilkins about the dam the government planned to build. In the two years since Saul's death, Mkhize had continued organizing amongst Driefontein residents, holding meetings, supporting their demands for pensions and watching them draw strength from women's church groups. Meanwhile, Budlender had been fighting the removal order in court. Mkhize recalls that, as she told Mr. Wilkins at their meeting, "If you are going to move us, then wake up my husband so he can come with us. If you cannot do that, tell me first so I can go and dig my grave next to my husband's." Two months later, Wilkins visited Driefontein for another meeting. He told Beauty Mkhize that they had decided they would no longer move Driefontein. Mkhize recounts, "Yhew it was raining so hard. You know they say when you are happy, it rains harder than when you are sad."⁵⁸⁸ That afternoon, she went to Saul's grave and whispered the good news to him. After

⁵⁸⁷ Dowie Nzoyi, interview by Tara Weinberg, 24 November, 2019, Volksrust, South Africa.

⁵⁸⁸ Beauty Mkhize, interview by Tara Weinberg, 29 November, 2018, Driefontein, South Africa.

nearly a decade of battles on the ground, in the press, in the courts and in the halls of government, the inhabitants of Driefontein were eventually granted a reprieve from eviction. Without the radical work of women, that might not have been possible.

4.5 Land and motherhood

Lydia Kompe argues that part of the reason that women were determined to lead on land issues was that, in the context of the migrant labor system in which men were often away, women became the de facto decision-makers about land issues. When the government's bulldozers came to demolish homes, it was mostly women and youth who were there to meet them. This meant that Rita Ndzanga, Lydia Kompe and Beauty Mkhize's organizing efforts found fertile ground amongst women. Another reason for women's leading role in the resistance to forced removals was the trust and confidence that women practiced in their *manyanos*. Deborah Gaitskell argues, "sociability" and "mutual support" were two key facets of *manyano* life that helped women to compensate for the sense of alienation they suffered as wage workers or the relatives of wage workers.⁵⁸⁹ It was easier to mobilize politically once women had done the groundwork of building a support network.

But *manyanos* not only served strategic importance as platforms from which to organize against the removals; they also reflected women's sense of themselves as mothers and their relationship to their homes. On 22 November 1986, women from various communities affected by forced removals in the Transvaal - Mogopa, Driefontein, Mathopetand, Brits, Braklaagte, among others - came together to discuss shared challenges at conference organized by the

⁵⁸⁹ Gaitskell, "Power in Prayer and Service": Women's Christian Organisations."

Transvaal Rural Action Committee. They compiled a list of demands to submit to the government, many of which were framed in terms of their positions as mothers. One of the demands read, “We demand an end to detentions and for the police and vigilantes to leave us in peace. Some of us have been detained, others have had our children taken from us by the police...people have been killed and homes destroyed. We demand that we mothers be left to live in peace with our children.”⁵⁹⁰

Catherine Madlala from Driefontein, who met the Mogopa women’s committee at the conference, identified with their issues. She explains that ANC activists, sewing groups and women’s clubs were in the habit of using her home as a base. Madlala said that although the people who frequented her home were not blood relatives, they “all grew up in this homestead during the time of apartheid rule.”⁵⁹¹ She shared with the Mogopa committee the sense of power articulated through motherhood. As Gaitskell and Ngcobozi have argued, *manyano* meetings at members’ homes challenged the usual binary between private sphere and public spheres. Women exercised authority through their home prayer meetings and shaped the politics of the struggles against forced removals. Their prayer meetings were not only spaces to strategize for the defense of their land; they were also spaces in which to reimagine their role in collective property ownership.

The mid-1980s to early 1990s marked a window period, like the time that the Association was founded, in which the possibilities for imagining new futures around property seemed possible. In Mogopa, Daggakraal and Driefontein women articulated demands that illustrated

⁵⁹⁰ Unknown author, ‘Unity in Struggle’, *Learn and Teach*, 1 December, 1986, *King James Bible*, 1 Kings 21.

⁵⁹¹ Catherine Madlala, interview by Tara Weinberg, trans. Snehlanhla Ngidi, February, 2019, Driefontein, South Africa.

they were envisaging what property dynamics would look like after their return to their land. These demands included the rights of all women to residential plots, including married women who would usually only have rights via their husbands or fathers. They also sought to strengthen the rights of widows, divorced women, unmarried women, children of non-residents, and bachelors to residential land.⁵⁹² Kompe argues, “we were fighting not only apartheid but also men who used “culture” as the argument that no women should own land.”⁵⁹³

In 1989, as the advent of democracy loomed, the apartheid government began to move away from its Bantustan consolidation model. It also transferred some land with title deeds to individual black smallholders. In 1990, the government established the Advisory Committee on Land Allocations to consult with communities like Mogopa who had lost land. The Provision of Certain Land for Settlement Act (1993) allowed the transitional government to redistribute land titles to claimants via Trusts.⁵⁹⁴ Under this act, residents of Mogopa were re-granted the title deeds to the farm Swartrand in the form of a Community Trust.

Collective land ownership is a challenging endeavor. The tensions that existed in Mogopa along gender and class lines, such as between owners and tenants, reappeared as the Trust began its operations (Chapter 6). Mogopa resident Piet Rampoe argued, “this Trust is not really in our hearts but we are only using it because it has our assets of our village.”⁵⁹⁵ He and other elders in

⁵⁹² Lydia Kompe, Beauty Mkhize, and Janet Small, *The Rural Women’s Movement: Holding the Knife on the Sharp Side* (Johannesburg: Transvaal Rural Action Committee, 1994).

⁵⁹³ Lydia Kompe, interview by Tara Weinberg and Terna Gyuse, 19 November, 2019, Tshimanyane, South Africa.

⁵⁹⁴ Peter Mokomele, interview by Tara Weinberg, 23 August, 2019, Johannesburg, South Africa.

⁵⁹⁵ Phillip More, Petrus Rampoe, Joseph Bikisha and Solomon Mabote, interview by Tara Weinberg, 23 November, 2021, Mogopa, South Africa.

Mogopa told me in oral history interviews that there had been problems relating to lack of accountability from the Trust, and lack of transparency around its monetary situation.

A similar process occurred in Driefontein, where the government offered additional land to the community to assist with issues of overcrowding and to offer some recompense for their suffering during the anti-forced removals struggles. Residents there established the Masihambisane Trust, with Beauty Mkhize on the first committee. Many of the questions that women had been working out through their *manyanos* – how to manage a joint financial venture, how to allocate resources, how to navigate complex intergenerational and class differences – would play out again in the context of the post-apartheid era, as Community Trusts and Community Property Associations tried to establish the property rules and practices of their group (Chapter 6).



Figure 24: Youth in Mogopa participate in a play that relives the struggles of the residents to reclaim their land, particularly the role of prayer unions, 1989. Source: Photograph by Gille De Vlieg, South African History Archive.

4.6 Conclusion

In many communities in the Transvaal, women led the struggles against the apartheid state's forced removals in the 1970s and 1980s. In Mogopa, black women's prayer unions served as a key platform from which to organize in defense of homes and land that residents there had held since their great grandparents had purchased it in 1910. As recent feminist scholarship has suggested, in the context of apartheid in which black South Africans' homes were under attack, *manyanos*' emphasis on the home as a space for meeting, praying and caring for family could be seen as a political act. *Manyanos* were spaces in which women could exercise and build power in relationship to their families, communities and the state. These groups also buttressed the work of women political organizers in Driefontein and Daggakraal.

In addition to serving as faith-based emotional and financial support groups, *manyanos* were also spaces in which women could reimagine their involvement in land ownership and land management. Some women in Mogopa indicated that the forced removals were only one of the "heavy rocks" (to use Mgqwetho's terminology) they had to shove aside; male leaders' exclusion of women from community leadership committees was another "heavy rock" that needed moving. Evidence from Mogopa, Driefontein and Daggakraal suggests that *manyanos* were an avenue through which people articulated ideas about property and community outside of more obvious channels of political organizing.

Chapter 5 Forging Property from Struggle: The History of Communal Property Institutions in South Africa, 1980-1996

5.1 Introduction

In 1996, two years after Nelson Mandela's African National Congress (ANC) government came to power in South Africa, workshops were being held all over the country to discuss how land reform could benefit groups who had been dispossessed of their land rights under colonialism, segregation and apartheid. One of these workshops took place in the Dithakwaneng Community, near the town of Vryburg in the North West Province. The workshop was run by the Association for Community and Rural Advancement (AnCRA) with the assistance of several NGOs in the Surplus People Project (SPP) network, including the Transvaal Rural Action Committee (TRAC) and the Association for Rural Advancement (AFRA). During the 1980s, these organizations played a key role in helping people in rural areas defend themselves against the apartheid government's forced removals.

After 1994, black South Africans who were dispossessed of land as a result of racial discrimination were entitled to lodge a claim through the Land Restitution Act. Participants at the Dithakwaneng workshop were the victims of forced removals. In 1996 they became land claimants who were workshopping new forms of property holding that would let them manage land as groups. In particular, they were debating collective land holding entities called Communal Property Associations (CPAs) and Community Trusts.

At the Dithakwaneng workshop, a facilitator from the Association for Community and

Rural Advancement, Peter Mokomele, encouraged the participants to grapple with ideas about land law. He elaborated that they should think about “rules governing societies (unwritten codes and how we have come to follow them).” Mokomele asked claimants to write down some rules they were aware of, and what happened if people violated these rules. The participants studied how the newly minted South African Constitution of 1996 was put together and discussed “how they [constitutions] hold us together in society.”⁵⁹⁶ The idea was to come up with a constitution for the CPA that would help bring the community of Dithakwaneng land claimants together. Disputes arose at the workshop between local organizing committees (for land security, schools and water) and traditional leaders, whom many land claimants associated with the corrupt Bantustan government of Bophuthatswana. Mokomele asked participants to think about how to write a constitution that would promote democratic leadership in their community, while acknowledging the fissures.

Two hundred kilometers to the northeast of Dithakwaneng, the community of Mogopa was establishing a Community Trust. While Mogopa residents had reoccupied their land in 1988 (Chapter 5), the title deeds were no longer formally in their names. When the residents of Mogopa had been forcibly removed, the government had expropriated their land. In the early 1990s, Mogopa became a test case for restitution of land. This was prior to the passing of the Land Restitution Act in 1994, which established a special commission and court to handle restitution claims. When the residents of Mogopa had been forcibly removed in 1984, they had lost not only their land but also their livelihoods and social networks. They had had to leave behind their agricultural fields and their livestock, as well as their homes, schools, churches,

⁵⁹⁶ Association for Community and Rural Advancement (AnCRA), *Case Study of Dithakwaneng Community* (1999), National Land Committee, NLC, K.7.3 AG3246, Wits Historical Papers.

clinics and graveyards. They also had to leave behind the mountain overlooking their land, which had become an important site of ancestral connection.

Redressing the pain of the forced removal was a challenging and complex endeavor. While land could be transferred, it was more difficult to restore all of the material and non-material wealth that the apartheid government had taken from Mogopa residents. Under the Provision of Certain Land for Settlement Act (1993), South Africa's transitional government legally transferred the farms of Swartrand and Hartebeeslagte back to the people of Mogopa.⁵⁹⁷ Mogopa residents formed a Community Trust to formally hold this land. The first Trust leadership drew upon the Mogopa land committee that had led the fight to win back their land in 1988. They drew also upon the leadership that the women's prayer unions had helped facilitate. The demands that women had made about women's land rights and the role of chiefs were incorporated into the constitution of the Trust.

Meanwhile, across the country in Driefontein, in the recently created province of Mpumalanga, another land transfer was taking place. The Council Board, a committee elected by the community of Driefontein, had signed a document to acknowledge that a new piece of land would be transferred to the community. Outside the office, people cheered and ululated. As in Dithakwaneng and Mogopa, the residents of Driefontein needed to develop a legal entity that could take transfer of this land. They chose a Community Trust. The title deed would be held by the Masihambisane Community Trust for the benefit of the Driefontein community to use for housing, farming, grazing or other purposes they desired.

The Driefontein residents were the descendants of black farmers who had bought Driefontein in 1912 via a company of land buyers, the Native Farmers Association (Association).

⁵⁹⁷ Peter Mokomele, interview by Tara Weinberg, 23 August, 2019, Johannesburg, South Africa.

In the early 1980s, the government earmarked Driefontein for removal. Mr. Yende, “a man who called himself a chief”⁵⁹⁸ agreed to the government’s plan and anticipated that he would receive a house in the area to which residents would be relocated in exchange for his cooperation in the removal. The Driefontein residents overthrew Yende’s leadership committee and elected the Council Board in its place. The Board led an ultimately successful battle against forced removals. Yet, in the years between 1912 and 1995, Driefontein had become so crowded that it was difficult for residents to exercise their land rights, particularly in terms of farming for a living (Chapter 4).

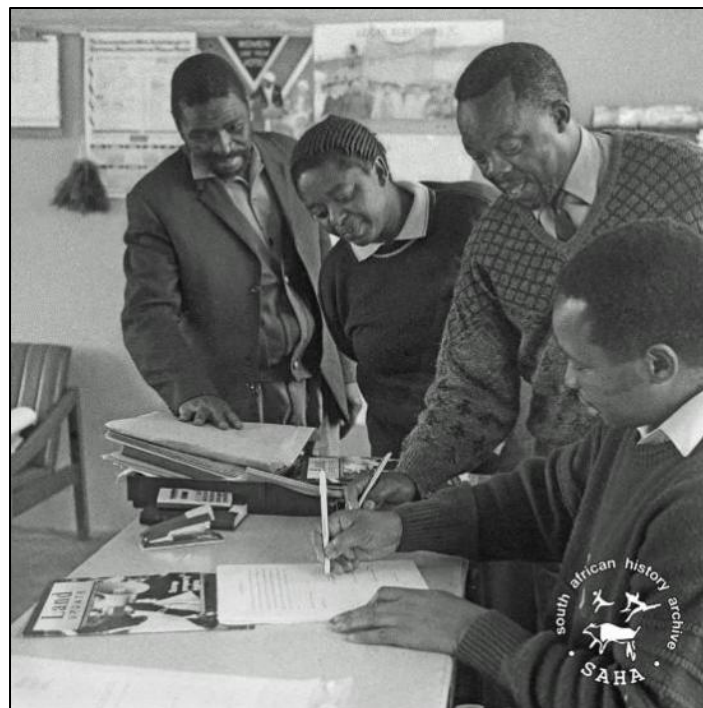


Figure 25: Members of the Driefontein Council Board, including Jane Vilakazi (second from left) sign for the transfer of additional land to Driefontein in 1995. Source: Photograph by Gille de Vlieg, South African History Archive.

⁵⁹⁸ Beauty Mkhize, interview by Tara Weinberg, 21 February, 2019, Driefontein.

People who had not been dispossessed, but whose fortunes had declined under apartheid, were entitled to apply for land under the government's Land Redistribution program. This program was introduced by the ANC government alongside its other programs of Land Restitution and Land Reform in 1994. Land restitution was targeted specifically at individuals or groups who had been forcibly removed or had been stripped of their land rights during the apartheid era (such as through evictions to or incorporation into the reserves or Bantustans, or through the effects of Betterment planning). Land tenure reform was for black South Africans who had held what the government had termed 'informal' or 'customary rights' to land during the apartheid period, and who wanted these recognized by government law. Land Redistribution aimed to correct for the unequal distribution of land and wealth in South Africa by redistributing land to those in need of it as a result of centuries of racial discrimination. The residents of Daggakraal and Driefontein had not been forcibly removed, nor had had 'informal' rights to land (their rights were represented in title deeds). But they had been excluded from state support, market access and a slew of other resources as a result of racial discrimination. They therefore qualified for additional land under this last category of land redistribution.

In this chapter I discuss the history of Communal Property Institutions (CPIs) in South Africa, especially the emergence of Communal Property Associations (CPAs). I trace how communities, land activists and lawyers forged new juristic entities for holding property collectively, in part through struggles against forced removals 'from below.' I expand my focus beyond Daggakraal, Driefontein and Mogopa to look at the broader legacies of black-owned farms in the Transvaal province (as of 1994, broken into the provinces of Gauteng, Mpumalanga, Limpopo and North West). This part of the country had a high number of black-owned farms – including Dithakwaneng, Mogopa and Driefontein – located in areas that the apartheid

government had set aside for white ownership. They were therefore earmarked for removal. Through a combination of archival work generated by NGOs over this period and oral history interviews with land claimants, activists, lawyers and government officials, I address how ideas of collective forms of property ownership came about legally, politically and socially.

CPI workshops like the one at Dithakwaneng, together with broader evidence, provide insight into how black land claimants were carving out alternatives to the reified and limiting conceptualizations of property entrenched during the apartheid period. Under colonialism and apartheid, South Africa's legal system played a significant role in constraining black people's ability to hold land. It also served to buttress the eviction of black South Africans from their land. This meant that for most of the twentieth century, 'lawfare' became an ineffective instrument for black South Africans to make claims on land.⁵⁹⁹ In this context, black South Africans often filtered their land claims through chiefs, some of whom were accountable to those that supported them, and others who were not.⁶⁰⁰

The time period after 1989, like the period between 1905 and 1913, offered a window of possibility for black South Africans to imagine a future in which they could be landowners and successful farmers. In the early twentieth century, Edward Tsewu and Pixley ka Seme had used loopholes in South African law to galvanize land buying movements in the Transvaal. Through their land purchases, Association members had attempted to practice a version of property law that allowed for collective land ownership and management. They had worked with lawyers,

⁵⁹⁹ Comaroff and Comaroff use the term 'lawfare' to refer to how people wage legal warfare in place of engaging in other, potent forms of insurgency such as strikes or land occupations. Jean. Comaroff and John L. Comaroff, *Law and Disorder in the Postcolony* (Chicago: University of Chicago Press, 2006).

⁶⁰⁰ Donna Hornby, "Becoming Visible on the Grid: Attempts to Secure Tenure at Ekuthuleni," in *Untitled: Securing Land Tenure in Urban and Rural South Africa*, ed. Rosalie Kingwill et al. (Pietermaritzburg, South Africa: University of KwaZulu-Natal Press, 2017); Beinart, Delius, and Hay, *Rights to Land*.

legal intermediaries and the Association in an effort to enable a politics of land purchase, and to obtain monetary support for farming.

In the late 1980s, the language of official law, which seemed accessible only to a minority of educated black South Africans for most of the twentieth century, had become a key language of poor and working-class black people. The law had become a vehicle not only for defending their interests but also articulating visions for a more just law of property. As the apartheid government started to negotiate with communities over land, lawyers, NGO workers and community activists workshopped legal entities through which land claimants could receive, hold and manage land as groups. They proposed CPIs as key alternatives to private property or to control by traditional leaders, especially in places where land claimants felt traditional leaders had been complicit in their removal, or attempted removal.

In 1994, after the ANC government came to power, the Land Restitution Act and its accompanying restitution program provided an explicit means through which individuals or groups dispossessed of land could claim it back. In 1996, the Communal Property Association (CPA) Act was passed, providing a mechanism that would allow people to hold property as a group. In implementing CPAs, land claimants engaged with the complex dynamics of property ownership, including property's propensity to include some while excluding others. Claimants foregrounded the importance of both official and social recognition of their land rights. They also raised the question of how individual title deeds could be balanced with family members' rights to land. As Christian Lund notes, "struggles over property and citizenship are as much about the scope and constitution of political authority as they are about access to resources and membership of a political community."⁶⁰¹ The story of how CPAs were made is therefore as

⁶⁰¹ Lund, "Rule and Rupture," 1201.

much about land claimants' visions for social and political community as it is about property. While CPAs and Community Trusts have their roots in the rural political activism of the late-apartheid period, they also draw on older traditions of political practice and thought around buying and managing land as a group. This chapter offers a history of collective forms of land ownership that has received limited attention in debates about land reform.

By 2019, 1,573 CPAs had been established across South Africa.⁶⁰² They have generally failed to live up to claimants' hopes for security of land tenure, economic prosperity and recognition of local or customary property rights.⁶⁰³ The Department of Rural Development and Land Reform (DRDLR) – previously the Department of Land Affairs (DLA) - has offered CPAs little support in the way of finance, capacity and land administration. There have been numerous disputes among CPA members. Traditional leaders have attacked CPAs, arguing that these institutions usurp their customary powers over land. They have also sought to capture CPAs. Yet despite these problems, CPAs are compelling institutions. As one of the few options available for land claimants to hold land collectively, they offer insight into the struggles over, and ideas about, property articulated by black South Africans in the 1980s and 1990s.

⁶⁰² Department of Rural Development and Land Reform, "Communal Property Associations Annual Report," 2019, <http://www.drddl.gov.za/sites>. Community Trusts are harder to quantify as they are registered with the Master of the High Court, and Trusts for the purpose of land reform are not distinguished from other Trusts.

⁶⁰³ Tessa Cousins and Donna Hornby, "Leaping the Fissures: Bridging the Gap between Paper and Real Practice in Setting Up Common Property Institutions in Land Reform in South Africa," in *Untitled: Securing Land Tenure in Urban and Rural South Africa*, ed. Rosalie Kingwill et al. (Pietermaritzburg, South Africa: University Of KwaZulu-Natal Press, 2017); "Report of the High Level Panel on the Assessment of Key Legislation and the Acceleration of Fundamental Change" (Parliament of the Republic of South Africa, November 2017); Office of the Presidency, Republic of South Africa, "Final Report of the Presidential Advisory Panel on Land Reform and Agriculture," May 4, 2019, https://www.gov.za/sites/default/files/gcis_document/201907/panelreportlandreform_0.pdf.

5.2 Battles against land dispossession: building property from struggle

During the apartheid era (1948-1990), white landowners and the South African government removed at least 3.5 million people from the land where they had been owners, tenants and farmworkers.⁶⁰⁴ The great majority were resettled in ethnically designated areas called ‘Bantustans’, which comprised only about 13 per cent of the country’s surface area. The largest category of people removed – 1.7 million – were those living on farms.⁶⁰⁵ This included farm tenants, who had retained some access to land on the white owned farms. Their rights were gradually diminished in legislation from the Natives Land Act of 1913 onwards. This Act did not immediately stop purchase by Africans but they were increasingly required to do through groups that identified with ‘tribes’.⁶⁰⁶ Purchase largely ended after the promulgation of the Native Trust and Land Act (1936), which also established the rule that any group of more than six black people who had cooperated to purchase land had to constitute themselves as a tribe under a chief; in order to retain the land they had bought, identification with a chief and ethnic identity became increasingly necessary.

Africans struggled with the upending of material and social worlds that accompanied displacement: many lost their homes, cattle, farmland and other assets. Many ended up in settlements located within ‘homeland’ boundaries that were dense in population yet far removed

⁶⁰⁴ Surplus People Project and Association for Rural Advancement, *Removals and the Law: Transcript of a Workshop Held in Grahamstown July 1982*. (South Africa: Surplus Peoples Project: Association of Rural Advancement, 1984).

⁶⁰⁵ Surplus People Project, *Removals and the Law*.

⁶⁰⁶ Christopher Mulaudzi and Stefan Schirmer, “Land Struggles in the twentieth Century,” in *Mpumalanga History and Heritage*, ed. Peter Delius (Scottsville, South Africa: University of KwaZulu-Natal Press, 2007); Harvey M. Feinberg, *Our Land, Our Life, Our Future: Black South African Challenges to Territorial Segregation, 1913-1948* (Pretoria, South Africa: Unisa Press, 2015).

from urban employment and services. Over 614,000 people were removed from ‘black spots.’⁶⁰⁷ Some of those moved found themselves located in areas administered by tribal authorities at a time when black South Africans as a whole were increasingly engaged in civil disobedience and protest, including rural associations opposed to incumbent chiefs.⁶⁰⁸

The Dithakwaneng residents, for example, were forcibly removed from their farms in 1973. Government officials considered Dithakwaneng land to be a ‘black spot.’ In 1973 bulldozers and tractors arrived to demolish their houses and residents were moved initially into the ‘Bantustan’ of Bophuthatswana set aside for people designated to be ethnically and linguistically Tswana. At that point, as in Driefontein and Mogopa, some residents of Dithakwaneng were still making a living off farming the land, but they were in the minority. Owing to the way in which their land access had been undercut over the years, most Dithakwaneng residents relied on a mix of farming and wage work (as farmworkers, domestic workers or mine workers). In Dithakwaneng, the chief Modiakoma Mahura helped resist the forced removals. But when the group was removed to Bophuthatswana, they were put under the jurisdiction of other chiefs whom they did not recognize. In the late 1980s, after hearing that land activists were taking up cases of forced removals in other parts of the Transvaal, Mahura and other residents enlisted the help of attorneys in Johannesburg to record the details of their eviction and look into forms of redress.⁶⁰⁹

⁶⁰⁷ Harald Winkler, “Direct Action to Restore Land,” *Work in Progress*, Southern African Research Service, no. 81 (April 1992), http://disa.ukzn.ac.za/sites/default/files/pdf_files/WpApr92.pdf.

⁶⁰⁸ Christina Murray and Catherine O’Regan, *No Place to Rest: Forced Removals and the Law in South Africa* (Cape Town: Oxford University Press Southern Africa, 1990).

⁶⁰⁹ Association for Community and Rural Advancement (AnCRA), *Case Study of Dithakwaneng Community* (1999), AG3246, K.7.3, Wits Historical Papers.

As the case of Dithakwaneng illustrates, land dispossession was not an event but a process. Within the areas reserved for Africans that became Bantustans, white administrators relied on the notion of communal land as ‘traditionally African’ and, although there were regional differences, attempted to codify land tenure in an increasingly national system.⁶¹⁰ In the Bantustans, chiefs, headmen and government officials had the powers to allocate land rights (but not title deeds) through the Permission to Occupy (PTO) system.⁶¹¹ Hence under apartheid South Africa’s property system took on a racialized division: chiefs and communal areas for black people; individual title deeds for whites. As Rosalie Kingwill argues, the two systems of land tenure reified customary land tenure *and* individual title deeds, belying the complex, messy and more diverse history and reality of land occupation on the ground.⁶¹²

Some chiefs played an important role in struggles against forced removals, such as in Dithakwaneng before the eviction. In certain places, traditional leaders received grassroots support for their functions in land affairs. For example, in Ekuthuleni in KwaZulu-Natal traditional leaders ratified land allocations that had been decided upon at other levels of the group or community.⁶¹³ In Ekuthuleni, land claimants forming a Communal Property Association desired a form of property holding that would allow traditional leaders to make key

⁶¹⁰ Catherine Cross, “Landholding Systems in African Rural Areas,” in *A Harvest of Discontent*, ed. M De Clerk (Cape Town: IDASA, 1991); Claassens and Cousins, *Land, Power, and Custom*.

⁶¹¹ Beinart, Delius, and Hay, *Rights to Land*.

⁶¹² Rosalie Anne Kingwill, “The Map Is Not the Territory: Law and Custom in ‘African Freehold’: A South African Case Study” (PhD diss., University of the Western Cape, 2013), 23.

⁶¹³ Rory Alcock and Donna Hornby, “Traditional Land Matters: A Look into Land Administration in Tribal Areas in KwaZulu-Natal,” *Occasional Paper*, Legal Entity Assessment Project, 2004.

decisions about land.⁶¹⁴ But there are other places where chiefs exercised their authority in unaccountable ways.⁶¹⁵ Both here and in areas outside the Bantustans, rural people organized themselves in ways *not* acknowledged, recognized or supported by the apartheid government's model of chiefly power and its dominant system of property.

As noted, in the 1980s, anti-eviction organizations drew in lawyers and activists who had cut their teeth working with public interest law initiatives such as the Legal Resources Centre (LRC) and the Black Sash.⁶¹⁶ Organizations like the Black Sash worked with lawyers to find loopholes in the law that might offer at least temporary reprieve from eviction.⁶¹⁷ Geoff Budlender was engaged in these strategies as a lawyer for the LRC during this period. He recalls that “The law wasn’t only unhelpful. It was fundamentally against us. The Black Administration Act was decisive (Section 5 stated that ‘the Governor General may order the removal of any tribe or portion thereof or any Native from any place to any other place within the Union.)” Budlender added that he “couldn’t figure out what to do. So I tempered my arrogance as a lawyer and learned from fieldworkers and from the clients. So, in Driefontein we litigated on pensions and the right to hold gatherings [not on land issues]. We tried to keep the other side busy and engaged, as this would allow time for people to mobilize.”⁶¹⁸

During the 1980s and 1990s, groups like Dithakwaneng were able to mobilize more openly. Many of them had been displaced as communities and conceived their claims and

⁶¹⁴ Hornby, “Becoming Visible on the Grid: Attempts to Secure Tenure at Ekuthuleni.”

⁶¹⁵ Beinart, Delius, and Hay, *Rights to Land*, 15–16.

⁶¹⁶ Mary Burton, *The Black Sash: Women for Justice and Peace* (Johannesburg: Jacana Media, 2015).\

⁶¹⁷ Burton, *The Black Sash*, 86.

⁶¹⁸ Geoff Budlender, interview by Tara Weinberg, 30 May, 2019, Cape Town, South Africa.

political organization collectively. When it became clear in the early 1990s that land restitution would become a reality, lawyers, land activists and claimants turned their attention towards the kind of property holdings that would facilitate community ownership of land. Communal Property Associations (CPAs) and Trusts seemed an especially good fit for contexts like Dithakwaneng, Daggakraal, Driefontein and Mogopa, where residents had originally bought land as collectives. CPAs and Trusts allowed full ownership of land through a title deed that was assigned to the community. The CPA Act offered the opportunity for people to shape official property arrangements in alignment with local land tenure systems rather than rely on rigid apartheid-era structures, such as allocation by civil servants and chiefs.

There were various indirect antecedents to the forms of collective organization that claimants established under CPAs and Community Trusts. These included committees established in earlier years for land purchase, religious-based groups like *manyanos*, and anti-eviction committees established in the 1980s. In Driefontein and neighboring Daggakraal, there was a long history of land ownership committees. When black farmers bought land there in 1912, they did so with the assistance of Pixley ka Isaka Seme's syndicate, the Native Farmers' Association (Association). The Association's Board, which would govern the affairs of the land-owning syndicate, was initially made up of black directors.⁶¹⁹ The Association's Articles of Association, written by Seme, set out in detail the procedures for how the syndicate would run, including nomination of board members, annual meetings, the quorum needed to make decisions and how the company's shares would be distributed (Chapter 1).⁶²⁰ As more black farmers

⁶¹⁹ Bongani Ngqulunga, *The Man Who Founded the ANC: A Biography of Pixley Ka Isaka Seme* (Cape Town: Penguin Random House South Africa, 2017).

⁶²⁰ National Farmers' Association Articles of Association, 18 October 1912, NTS 3439 56/308, National Archives.

arrived to buy land through Seme's scheme, further land committees emerged. The Daggakraal Natives Committee contested Seme's vision of individual title deeds. They requested the ability to hold the land collectively (Chapter 2).⁶²¹

In most land buying syndicates, including Driefontein, residents developed committees as well as norms for how land tenure and leadership processes should unfold. In the 1980s, the Driefontein Council Board of Directors coordinated resistance to forced removals. It also dealt with property disputes, managed requests for land or residential sites, and assisted with access to pensions and unemployment benefits.⁶²² The Board comprised a mixture of landowners (like Saul and Beauty Mkhize) and tenants (such as ANC activist Zebulon Ndlangamandla), and stalwart activists and youth. While the Board cut across class, gender and age divisions, tenants and women had had to fight their way into leadership positions – and even then, some tensions remained.⁶²³

The Driefontein Board had established a set of rules to bind their community long before the existence of Communal Property Association constitutions. They referred to these rules in isiZulu as *imithetho eyisisekelo*, translated as 'foundation rules'.⁶²⁴ The Driefontein 'foundation rules' acknowledged every resident's access to communal grazing areas and mills, and sought to regulate affairs between families, such as landowners and tenants, or newcomers and long-time residents. Driefontein landowner Catherine Madlala, who has lived in the area for half a century,

⁶²¹ Daggakraal Natives Memorandum to his Worship the Native Commissioner for Wakkerstroom, 1920, NTS 3440 56/308, National Archives.

⁶²² Jane Vilakazi, interview by Tara Weinberg, 24 November, 2018, Driefontein, South Africa.

⁶²³ Aninka Claassens, "Umhlaba: Rural Land Struggles in Transvaal in the 1980s," *Transvaal Rural Action Committee*, November 1989, Transvaal Rural Action Committee, AG2375, Wits Historical Papers.

⁶²⁴ Aninka Claassens, interview by Tara Weinberg, 25 June, 2018, Cape Town, South Africa.

relates that residents developed rules for tenants' land use over the years, as issues arose. One of these rules was that tenants, who paid for use of a portion of a landowner's plot, were allowed to build only with mud as this was considered less permanent than brick. They were also not allowed to keep cattle, as space was limited.⁶²⁵ However, Madlala acknowledges that these rules were regularly broken, often with the consent of the landowners or the Council Board. Nevertheless, the rules were fundamental to the way that the community was organized and resisted forced removals.

The 1990s were a time of constitutional fervor in the land reform sector.⁶²⁶ Activist lawyers were involved in exciting legal innovations as they built the new South African constitution.⁶²⁷ In this context, people in Driefontein and elsewhere built on their prior struggles against forced removals to adapt their earlier rules and incorporate them into their new Trust boards or Communal Property Association constitutions. Land claimants were attuned to the changing political context. CPA workshops became a space for reformulating relationships with both official law and the government; claimants were keen that the government should solicit their advice to facilitate solutions that would best suit their needs. Land claimants' framing of their demands on the state post-1994 suggest that they believed they were entitled to the participatory process that democracy portends. The workshops became key spaces in which land reform policy and land tenure law were debated.⁶²⁸

⁶²⁵ Catherine Madlala, interview by Tara Weinberg, 25 February 2019, Driefontein, South Africa.

⁶²⁶ Cousins and Hornby, *Leaping the Fissures*.

⁶²⁷ Heinz Klug, *Constituting Democracy: Law, Globalism and South Africa's Political Reconstruction* (Cambridge University Press, 2000).

⁶²⁸ James, *Gaining Ground*; Cheryl Walker, *Landmarked: Land Claims and Land Restitution in South Africa* (Athens; Ohio University Press; Johannesburg: Jacana, 2008).

5.3 Creating a vision for property through Communal Property Associations (CPAs)

I discuss two inter-connected aspects of the vision for property law that land claimants articulated through CPA workshops: first, the importance of both social and legal recognition of their land rights; second, the challenges of balancing individual title deeds with family rights to land.

The Association for Rural Advancement (AFRA), formed in Natal in 1979, brought together lawyers, academics, progressive church leaders and liberal activists. Among the key figures were Peter Brown, John Aitchison, Ilan Lax, Cheryl Walker and Jean Ngubane.⁶²⁹ AFRA conducted research in rural Natal, collecting evidence on evictions of black landowners, labor tenants and farmworkers. AFRA worked with many land-buying syndicates in the Natal, most of which had purchased land between the 1860s and 1880s, thus predating the Association (Chapter 2). AFRA engaged the services of lawyers to stall or prevent evictions, and also supported people who were under threat of eviction in their efforts to mobilize.

In the early 1980s several more land-focused organizations emerged, taking up AFRA's model of action research, advocacy, litigation and solidarity-building, including: the Grahamstown Rural Committee (GRC) in the Eastern Cape, the Association for Community and Rural Advancement (AnCRA) and the Transvaal Rural Action Committee (TRAC). These organizations were closely linked to the Surplus People's Project (SPP), a Cape Town-based research center established in 1979, that sought to publicize and support struggles against forced

⁶²⁹ Chizuko Sato, "Casting a Voice for Rural Struggles during Apartheid: The Case of AFRA," *Institute of Developing Economies* 351 (2012): 36.

removals.⁶³⁰

In 1983, the Association for Rural Advancement in Natal and the Surplus People's Project convened a workshop to bring communities affected by removal together with lawyers and NGO workers. At the workshop, participants discussed how legal forms of struggle could work as part of a broader strategy.⁶³¹ The format for the workshop set the foundation for the workshops that were to follow, including CPA workshops. The workshop began with storytelling and case studies, inputs on various topics, and then a question-and-answer session where communities from different parts of the country compared their situations and strategies.

The Black Sash, a liberal anti-apartheid organization of mostly white women, founded the Transvaal Rural Action Committee (TRAC) in 1983. It initially employed Aninka Claassens, Marj Brown, Joanne Yawitch and Lydia Kompe.⁶³² TRAC worked together with the Legal Resources Centre to orchestrate litigation that might stall evictions, support local organizing efforts against forced removals and create a media storm about removals. Between 1983 and 1988, there were intense struggles against forced removals all over the Transvaal. In an interview Budlender recalled: "I had a steady flow of people coming to me from communities where they had been removed, as well as under threat of removal. Our work must have spread by word of mouth. That's how Saul Mkhize [from Driefontein] found me."⁶³³ In 1985, the provincial land NGOs came together to form the National Land Committee (NLC) that would play a very

⁶³⁰ Laurine Platzky and Cheryl Walker, *Surplus People: Forced Removals In South Africa* (Johannesburg: Ravan, 1985).

⁶³¹ Sato, *Casting a Voice*.

⁶³² Burton, *The Black Sash*, 93.

⁶³³ Geoff Budlender, interview by Tara Weinberg, 30 May, 2018, Cape Town, South Africa.

influential role in developing policy and law for the ANC's first Department of Land Affairs.

In 1989, when the apartheid government began to move away from its Bantustan consolidation model, it also transferred some land with title deeds to individual black smallholders. In 1990, the government established the Advisory Committee on Land Allocations to consult with communities who had lost land. By this point, a few communities had successfully won legal battles to have land returned to them. For example, the courts ratified the rights of the Mogopa community in the North West to reoccupy their land.⁶³⁴

Budlender and Latsky had written an influential paper in 1990, based on a Land Workshop held in Houwhoek, Western Cape, setting set out the laws that had led to racial discrimination in the land sector. They emphasized the importance of consultation with black communities in developing new laws that would be sensitive to both existing and new land rights.⁶³⁵ One week after the unbanning of the ANC in 1990, lawyers, the Transvaal Rural Action Committee and other land NGOs met with the ANC Land Committee to discuss future land law and policy. Derek Hanekom, the ANC government's first Minister of Land Affairs in 1994, remarks, "Soon after 1991, before legislation was in place, we were trying to work things out via the committees and groups that already existed. We knew there couldn't just be one piece of legislation. People say we were idealistic and maybe we were. But we were workshopping the way forward. Civil society was at the heart of constructing our new land reform system."⁶³⁶

These collective efforts led to the passing of the Provision of Certain Land for Settlement

⁶³⁴ Claassens, *Umhlaba*. See also Lydia Kompe, interview by Tara Weinberg, 18 November, 2018, Polokwane, South Africa.

⁶³⁵ Geoff Budlender and Johan Latsky, "Unravelling Rights to Land and to Agricultural Activity in Rural Race Zones," *South African Journal on Human Rights* 6, no. 2 (January 1, 1990): 155–77.

⁶³⁶ Derek Hanekom, interview by Tara Weinberg, 22 September, 2019, Johannesburg, South Africa.

Act (1993), which allowed the transitional government to redistribute land titles to claimants via Trusts. Hanekom recalled that the Surplus People's Project and National Land Committee networks played a key role in developing land policy and law for the new democratic government. He established a 'tenure reform core group', which comprised academics, land activists and fieldworkers: "In 1994 I brought people on board who were connected to the grassroots [land struggles]. People like Aninka Claassens, Geoff Budlender, Ben Cousins, Lydia Kompe and Sithe Gumbi."⁶³⁷ In 1994, Hanekom's Department steered through the Restitution of Land Rights Act. Claassens described how activists and lawyers who had been involved in anti-eviction work had to consider not only how to secure new land but to protect land rights once land had been redistributed. This led to the series of workshops and Claassens notes that many claimants in the south-eastern Transvaal wanted group-based land tenure systems. Lawyers were brought in to devise Communal Property Institutions that would best suit claimants' needs.⁶³⁸

Drafting the CPA Act between 1994 and 1996 brought up challenges that hit at the heart of land problems in South Africa, including how to recognize a range of local and customary land tenure forms, how to be specific enough to hold those in power accountable, and how to right the wrongs of the past in the context of a property system that seemed inherently unequal. CPA drafters often came up against the limits of the law in trying to figure out how legal processes could redress layered wrongs. Budlender, by then Director General of Land Affairs, notes that they considered collective (where every member of a community has access rights to land) to be impractical from an administrative point of view. This was even though existing traditions of political thought around collective land ownership and management stretched back

⁶³⁷ Ibid.

⁶³⁸ Aninka Claassens, interview by Tara Weinberg, 25 June, 2018, Cape Town, South Africa.

to land-buying syndicates of the early twentieth century (Chapters 2-3).

Individual title deeds remained a persuasive concept in South Africa's transition period. Budlender remembered that, "we did not consider overhauling the property system entirely ... we did have lengthy discussions with the Deeds Office about how to register land rights. But it was all still premised on an ownership model [recognized by the Deeds Office, i.e., title deeds]."⁶³⁹ Catherine Cross argued that in a context where the legal recognition of property was limited to title deeds as it was in South Africa, it was difficult to rally support for other, more local kinds of land tenure systems.⁶⁴⁰ Cross advocated for CPAs to be absorbed into the Deeds Office. Because of South Africa's rigid cadastral system, this would require the specific demarcating of the outer boundaries of each piece of land.

Lawyer Richard Rosenthal was instrumental in developing forms of community Trusts that land claimant groups could use to acquire and manage land. However, Rosenthal warned that Trusts lacked accountability because if community members had problems with the trustees, they needed to take a case to court and request the intervention of the Master of Trusts. This was too expensive and cumbersome for most rural communities. The legal team, including Henk Smith and Kobus Pienaar of the LRC, developed the idea of a CPA, as an alternative to a Trust. Budlender explained in an interview that there was vigorous debate regarding how specific the Act should be: "Rosenthal wanted very detailed rules to cover all eventualities. I thought a light touch with limited details was more practical. The problem is, if you have rules in the law, you will soon arrive at a situation where an entity does something illegal."

The final CPA Act reflects Budlender's approach, leaving it to each community to

⁶³⁹ Geoff Budlender, interview by Tara Weinberg, 30 May, 2018, Cape Town, South Africa.

⁶⁴⁰ Cross, "Land Holding Systems."

develop more specific provisions in their CPA constitution. Budlender reflects that “in the end neither was practical as we [Department of Land Affairs] lacked the resources to manage CPAs. Running even a light touch entity is complicated and expensive. In companies, they have resources put to manage that. In this kind of entity, it was a somewhat idealistic exercise, given our lack of capacity.”⁶⁴¹

Protagonists of CPAs were brainstorming ways to distinguish post-1994 landholding from the forms of tenure devised for black people by the apartheid regime. The draft policy framework on CPAs considered various forms of Communal Property Institutions (CPIs) including co-operatives, unit trusts, share block schemes, South African Development Trust (SADT) land and tribal trusts within South Africa, *kibbutzim* in Israel, and *Ujamaa* in Tanzania.⁶⁴² The CPI teams decided that South African Development Trust land and tribal trusts (which made chiefs trustees) should be discarded, as they were apartheid era property forms that perpetuated a bifurcated land tenure system between black and white people, as well as entrenched chiefs’ power.

Sithe Gumbi, land scholar and practitioner, and former Registrar of CPAs in the Department of Rural Development and Land Reform (DRDLR), says there has been debate about Trusts as opposed to CPAs since their inception in the early 1990s. Gumbi believes CPAs are a better vehicle for controlling conflict in land reform communities, because, unlike Trusts, they incorporate oversight mechanisms from the DRDLR. In Gumbi’s view, Trusts allowed for abuses of power by local elites, such as traditional leaders. While at the Association for Rural

⁶⁴¹ Geoff Budlender, interview by Tara Weinberg, 30 May, 2018, Cape Town, South Africa.

⁶⁴² Richard Rosenthal Consultancy, *Draft Policy Framework for Legislative Proposals on Communal Ownership*, 20 July 1994, Transvaal Rural Action Committee, AG2735, Wits Historical Papers.

Advancement, Gumbi had worked with land claimant groups who felt that traditional leaders had ‘sold them out’. CPAs could develop a form of land holding that kept traditional leaders’ role on land in check.⁶⁴³

CPAs were thus devised to provide land claimants with official legal recognition of their land rights as groups – in the form of title deeds in the name of the CPA. Social recognition of land rights was also an essential part of the creation and maintenance of this property form.⁶⁴⁴ In this sense, CPAs gave expression to some of the demands for collective property ownership that Association members from the Orange Free State back in 1916 in the case of *Sehlako vs. Dlamini* (Chapter 3). CPAs seemed to offer the opportunity to account for the risk involved in collective ventures such as Sehlako’s group’s land purchase.

Land workshop practitioner Peter Mokomele emphasized the importance placed in workshops on developing CPAs from the ground up: ‘as a facilitator, I cannot pronounce my own vision on the community’. Instead, he would guide land claimants by saying ‘the name CPA is new. But in terms of rules, it’s something you’ve always been doing. We want to embed the rules in established tradition. For example, when a person arrives in the village there is a process they must follow to acquire land’.⁶⁴⁵

When working for the Association for Community and Rural Advancement, Mokomele ran CPA workshops using a ‘Participatory Rural Appraisal’ approach, which drew on practices and funding from Germany. The first workshop would involve discussing the history of the community, such as memories of relationships that people had and how decisions about land

⁶⁴³ Sithe Gumbi, interview by Tara Weinberg, 24 January, 2020, via Skype.

⁶⁴⁴ Verdery, *The Vanishing Hectare*; Lund, “Rule and Rupture.”

⁶⁴⁵ Peter Mokomele, interview by Tara Weinberg, 23 August, 2019, Johannesburg, South Africa.

were taken. This included mapping out rights and relationships to land, which acted as a social verification of the land claimants. At the next workshop they would devise a ‘shopping list’ for what they wanted to do with the land: they would brainstorm a vision for the new land and community. He says this process was time-consuming, as in some situations “it had been twenty years or more since people were together. People would say ‘we used to live this way but how do we want to live now, given the experiences we’ve had?’”⁶⁴⁶

Donna Hornby explains how she and her colleagues from the Association for Rural Advancement engaged with land claimants in Ekuthuleni, KwaZulu-Natal in 1997 through a process that also foregrounded social understanding of land tenure.⁶⁴⁷ Residents in Ekuthuleni were seeking registration of their existing land rights through the land tenure reform program. Like Driefontein and Daggakraal, there’s was not a restitution claim). AFRA had been called in by the Department of Land Affairs to assist. AFRA fieldworkers began by walking around Ekuthuleni land with community leaders – in this case chiefs and headmen – asking who used which land for what purpose. They drew up a preliminary map of the area, marking all the layers of land rights (many of which were overlapping, such as shared grazing, or footpaths across residential areas). Over the next few months, various residents came to look at the map, talk to the AFRA team and make amendments. AFRA fieldworkers then took the map to every household in Ekuthuleni to get their input. What emerged was a map representing a collective social understanding of land rights in Ekuthuleni. They eventually decided that a CPA would be the closest fit to their tenure practices, although it was by no means perfect.

After the implementation of CPAs from 1996, a number of problems emerged. One of

⁶⁴⁶ Peter Mokomele, interview by Tara Weinberg, 23 August, 2019, Johannesburg, South Africa.

⁶⁴⁷ Hornby, “Becoming Visible on the Grid: Attempts to Secure Tenure at Ekuthuleni.”.

these was the tension between CPA committees and traditional leaders – particularly those chiefs who had been appointed by the apartheid government, and lacked local support. Mokomele believes that people held “traumas about traditional leaders and their roles in removals. So during our workshops these were also issues we would bring up before we can talk about the land plan.”⁶⁴⁸ Hanekom acknowledges that during his stint as Minister of Land Affairs he was reluctant to criticize abuse of power by traditional leaders, especially around election times when his party relied on them to mobilize the rural vote. He notes that “whether that’s the reality or the perceived reality is another thing, but a lot of us in ANC believed it to be real.”⁶⁴⁹

Rural social movements, such as the Land Access Movement of South Africa and the Alliance for Rural Democracy have argued that the government has put in place land policies and laws that serve the interests of traditional leaders (in the belief they can secure the rural vote). This was most clearly evident in the Communal Land Rights Act (CLRA), enacted just before the general elections in 2004. Many people from rural areas who testified at hearings for the Act argued that the Act would have undermined their security of land tenure because it gave traditional leaders and councils wide-ranging powers, including control over the occupation, use and administration of communal land.⁶⁵⁰

The traditional leader situation became even more complicated during Sithe Gumbi’s time as CPA Registrar between 2006 and 2013. When Gugile Nkwinti became Minister of the Department of Rural Development and Land Reform in 2009, he put pressure on Gumbi and

⁶⁴⁸ Peter Mokomele, interview by Tara Weinberg, 23 August, 2019, Johannesburg, South Africa.

⁶⁴⁹ Peter Mokomele, interview by Tara Weinberg, 23 August, 2019, Johannesburg, South Africa; Derek Hanekom, interview by Tara Weinberg, Johannesburg, 22 September, 2019, Johannesburg, South Africa.

⁶⁵⁰ Land and Accountability Research Centre, University of Cape Town, “Rural People Remain in Limbo Waiting for CLaRA’s Replacement,” *Custom Contested* (blog), May 16, 2013, <https://www.customcontested.co.za/rural-people-remain-in-limbo-waiting-for-claras-replacement/>.

other officials to favor Trusts over CPAs and to avoid establishing CPAs in places where traditional leaders existed.⁶⁵¹ Gumbi noted that based on his work in Association for Rural Advancement (as a fieldworker from 1990 to 1996), he feared that traditional leaders would wrest control of land via Trusts and this would be a problem in areas where traditional leaders had been complicit in forced removals.⁶⁵²

Regardless of this pressure, Gumbi tried to remain even-handed in his treatment of CPAs and traditional leaders. One example where these pressures came to a head was with the Bakgatla ba Kgafela CPA in North West province where the Bakgatla traditional council, particularly chief Nyalala Pilane, entered into business agreements with mining companies, ostensibly on behalf of their broader communities – but have siphoned off the royalties for themselves. Around 2008, Lulu Xingwana, then Minister of Agriculture and Land Affairs, instructed Gumbi to deregister the provisional Bakgatla CPA in favor of Pilane’s individual claim, even though Gumbi argued that the CPA was the option that the community had democratically selected. Due to the stand he took, Gumbi faced intimidation and pressure from individual traditional leaders and the Congress of Traditional Leaders. He had to have security escort him from his car in the parking lot to his office door.

In Daggakraal, there have also been tensions between traditional leaders and the Trust. Lephoatoane Edward Moloi argues that he and his traditional council should be officially recognized as holding authority over decisions about land in the area.⁶⁵³ He is a descendent of

⁶⁵¹ Land and Accountability Research Centre, “Struggle for Land Reform Goes beyond Bantustan and National Boundaries | Custom Contested,” *Custom Contested* (blog), February 3, 2014, https://www.customcontested.co.za/land_reform_cpas/.

⁶⁵² Sithe Gumbi, interview by Tara Weinberg, 24 January, 2020, via Skype.

⁶⁵³ Tshepo Moloi, interview by Tara Weinberg, 10 November, 2019, Johannesburg, South Africa.

chief Maitse Popo Moloi who moved to Daggakraal from Witzieshoek in the Orange Free State in 1912, with 25 other land-buying families (Chapter 3). The Trust has refuted Lephoatoane Edward Moloi's claims.⁶⁵⁴ Like Sehlako and other members of Moloi's land-buying group in the early twentieth century, Trust members have argued that the Moloi family may occupy roles as traditional leaders but neither own the land in Daggakraal nor have a special role to play in land management.⁶⁵⁵

Another major challenge was that CPAs required substantial human and material investment on the part of the government. Since 1994, land reform matters have made up only one per cent of South Africa's national budget. One of the CPA drafters, Kobus Pienaar, used the analogy of a car with no-one to service it.⁶⁵⁶ Mokomele remarked in an interview that in situations where people had been scattered during removals, and then came together to claim land, sometimes 'the only thing you have in common is the land. Everything else is different. So you can't be surprised if there's conflict. In certain communities especially you can see how apartheid divided people'. He referred to Schmidtsdrift in the Northern Cape, where the Group Areas Act had separated people into the category of 'Griquas' and 'Tswanas.' Mokomele

⁶⁵⁴ Jackie Twala, interview by Tara Weinberg, 24 November, 2019, Daggakraal, South Africa.

⁶⁵⁵ When I visited Daggakraal in November 2019, I intended to meet with Lephoatoane Edward Moloi. We had spoken on the phone in advance of my visit to set up a meeting. On my way to Daggakraal for the meeting, Moloi called to tell me he was sick and asked me to meet his brother instead. When I arrived at the Moloi family home behind the police station in Daggakraal to meet his brother (and 'advisors'), I was told that the interview could not proceed until I had informed various government departments, including the Ministry of Education, about my research. Moloi's brother also wanted me to notify the National and Local houses of traditional leaders. I was unable to proceed with the interviews due to this lack of trust between Moloi's family and myself. I later discovered that when I visited another resident in Daggakraal, the chief's people had secretly followed my movements. The chief called me a couple of days later and told me "my contacts tell me you visited Jackie Twala's house after the meeting. What is your business there?"

⁶⁵⁶ Kobus Pienaar, "Assessing Elements of CPAs: Working Paper" (Legal Resources Centre, 2003), on file with Henk Smith, Cape Town, South Africa.

reflected: “There could be two brothers, one classified “Griqua” and one “Tswana native”. These guys had constituted one community and didn’t see themselves as different but apartheid did. And so their kids did too, when they reunited decades later. How do you rebuild that old community for those who remember past bonds or build a new one with the youngsters?”⁶⁵⁷

In these situations of mistrust, constitutions were particularly tricky to devise. Even when there was good will, hidden dynamics would emerge. For instance, some people felt they had a right to lead in perpetuity as they had sacrificed a great deal in the struggle against apartheid. Mokomele said he would warn people “‘You are gonna fight.’ They’d say ‘No, we won’t!’ I said, ‘But just in case let’s put some rules and regulations down.’ We’d hammer out the constitution when people were still relaxed.”⁶⁵⁸

CPAs made the most sense in areas where residents had been bound together by a common struggle against forced removals, such as Driefontein. Land activist and Transvaal Rural Action Committee organizer Lydia Kompe argues “we had Driefontein in mind when we set up CPAs. Here was a community that had been organized for many years. They went from pillar to post until they reached a reprieve from removal. All this struggle brought them together.” Kompe believes that Driefontein residents had spent many years adapting and practicing norms – for governance and land tenure – that made sense for the dynamics in their community. She argues that their CPA drew from the earlier Council Board, ‘now legalized’: ‘you know at *kgotlas* we don’t write things down. Someone came up with this idea of a constitution for CPAs and Trusts, to write these agreements down. Every committee I worked with had its own agreement and rules. That’s why when we drew up the CPA Act, we thought,

⁶⁵⁷ Peter Mokomele, interview by Tara Weinberg, 23 August, 2019, Johannesburg, South Africa.

⁶⁵⁸ Ibid.

okay, we already have these sort of constitutions'.⁶⁵⁹

Official recognition of land rights is intimately tied up with social recognition. CPAs had a better chance of succeeding in places where residents had built practices and relationships of trust that preceded ownership. Budlender notes that: “All we knew were communities who had resisted forced removal or who had been removed. That was our universe”; ideally they needed more time and research. In many land reform situations, the focus is on the moment of ‘contract’ – when legislation comes into being or a title deed is transferred into the name of a Communal Property Institution.⁶⁶⁰ But this moment of legal ratification reflects pre-existing negotiations and power relations.

Deborah James and Cheryl Walker argue that land restitution as a concept in mainstream discourse homogenizes the history of land struggles in South Africa and that lawyers, activists and the new state were part of this process.⁶⁶¹ While that may be accurate in part, the evidence I have offered in this chapter shows that CPAs were not imposed in an entirely top-down fashion. Dispossessed communities and black landowners helped to forge the ideas that went into CPAs, drawing on their struggles against forced removals in the 1980s. Their priorities were reflected in the legal formalization of CPAs, which to some degree incorporated social recognition of their land rights.

⁶⁵⁹ Lydia Kompe, interview by Tara Weinberg, 18 November, 2018, Polokwane, South Africa.

⁶⁶⁰ Dua, *Captured at Sea*.

⁶⁶¹ Deborah James, “Hill of Thorns: Custom, Knowledge and the Reclaiming of a Lost Land in the New South Africa,” *Development and Change* 31, no. 3 (June 1, 2000): 629–49; Cheryl Walker, *Landmarked: Land Claims and Land Restitution in South Africa* (Athens; Johannesburg: Ohio University Press; Jacana, 2008).

5.4 Individual rights and family rights

One of the challenges that CPA creators and members faced from the outset was how to balance individual rights, family rights and the ownership powers of the CPA. Many land claimant groups agreed that, considering how many overlapping land rights existed between and within households, individual title deeds would be restrictive. In her work on quitrent landholders in the Eastern Cape province, Rosalie Kingwill has noted that families often avoided renewing the name on their title deeds, as it was more beneficial to have the deed in the name of a dead relative.⁶⁶² A living relative could sell off the land without consulting the family; a dead one could stand in for the broader family tree, making it harder for individual members to transact land without consultation.

However, although titles held by individuals would not fit the realities of most land claimants, they also realized that by transferring title to a CPA, the rights of households and individuals within those households would be elided.⁶⁶³ For example, while the CPA committee was supposed to be accountable to its members, there have been many instances of committees making decisions that enrich themselves and exclude other community members. Furthermore, promises of gender equality within the CPA have not always translated into women having a say about land issues within their own households.

Land activists responsible for the CPA property model in the early and mid-1990s – especially in NGOs – emphasized a more egalitarian distribution of wealth. A consultation group brought together by the Department of Land Affairs in 1994 to draft a policy framework on

⁶⁶² Kingwill, “The Map is not the Territory.”

⁶⁶³ Hornby, “Becoming visible on the grid.”

communal ownership argued that CPAs could balance the ‘broad public interest’ of land reform with the ‘narrower private interest of the community concerned, and its individual members.’ The CPA Act also envisioned the inclusion of all those with an interest in the land – such as labour tenants – within the boundaries of the claimant community.⁶⁶⁴

Neither the CPA Act of 1996, nor the Interim Protection of Informal Land Rights Act (IPILRA) of 1996, offered much assurance to individuals within the group. Legislators intended IPILRA to protect ownership, use, occupation and access rights to land in terms of customary laws and practices, beneficial occupation (also known as prescription) and land vested in the South African Development Trust, or a so-called self-governing territory, or the governments of the former Bantustans, or any other kind of Trust established by statute. IPILRA was only intended as temporary legislation that would provide a safety net to people who did not have land titles.⁶⁶⁵ IPILRA’s creators envisioned that land tenure reform legislation would follow to legally recognize informal land rights held according to ‘living’ customary and land tenure practices, so that they were on an equal footing with individual property titles.⁶⁶⁶ Such a law has not been passed. IPILRA has continued to exist, but the government lacks the capacity and often political will to enforce it, including in the context of CPAs.

The drafters of the CPA Act also underestimated the capacity of government officials to oversee and enforce land rights. The CPA Act considered the CPA ‘community’ to mean ‘a

⁶⁶⁴ “Work Programmes: Work plans 1991-1995”, National Land Committee Records, AG3246, Wits Historical Papers.

⁶⁶⁵ Aninka Claassens and Ben Cousins, eds., *Land, Power, and Custom: Controversies Generated by South Africa’s Communal Land Rights Act* (Athens, OH: Ohio University Press, 2008).

⁶⁶⁶ Hastings Okoth-Ogendo, “The Nature of Land Rights under Indigenous Law in Africa,” in *Land, Power and Custom: Controversies Generated by South Africa’s Communal Land Rights Act*, ed. Aninka Claassens and Ben Cousins (Athens, OH: Ohio University Press, 2008), 95–108.

group of persons, which wishes to have its rights to or in particular property determined by shared rules under a written constitution' (s1 (iv)). The CPA Act required that 'a member may not be excluded from access to or use of any part of the association's property which has been allocated for such member's exclusive or the communal use except in accordance with the procedures set out in the constitution' (s9 (1)(d)).⁶⁶⁷ However, the drafters envisaged that CPA constitutions would devise rules that were sensitive to each specific community.⁶⁶⁸ The CPA constitutions were to be imbued with the values being articulated in South Africa's broader constitution-making process, including (as the National Land Committee put it) 'non-racism, non-sexism, integrity, transparency, accountability and gender equality.'

When CPAs actually came into existence, workshops were held to discuss tensions between community and family rights.⁶⁶⁹ Claimants would draw up maps of their land and whose rights would be exercised where. But when they tried to implement these maps, they found little recourse in the law to help them. In order to counteract the marginalization of household rights, AFRA organized a piece of participatory theatre. Participants were asked to imagine that a CPA already existed. Who were all the role-players involved? What did they have rights to? What happened if rights clashed? How would they balance the CPA's powers to allocate land with those of traditional leaders? Did listing as CPA members entitle them to land rights? By workshopping these and related questions, residents of Ekuthuleni tried to translate their local land tenure dynamics into the vessel of a CPA. They decided the best mechanism would be a registry of rights within the CPA that could be overseen by the Department of Land

⁶⁶⁷ Communal Property Associations Act 28 of 1996 (S. Afr.).

⁶⁶⁸ Sithe Gumbi, interview by Tara Weinberg, 24 January, 2020, via Skype.

⁶⁶⁹ David Mayson and Rick de Satge, interview by Tara Weinberg, 21 February, 2019, Cape Town, South Africa.

Affairs.

However, it became clear the Department did not have the capacity – or authority - to oversee a registry of rights within CPAs like Ekuthuleni. Deborah James argues that with the lack of state support, the government effectively engaged in “privatising responsibility for development, social services and the adjudication of disputes.”⁶⁷⁰ And so, there remained a disjuncture between social and legal recognition, as well as individual and group rights.

A similar problem regarding lack of oversight existed within community trusts. The Master of High Court has jurisdiction over all trusts, including ones established for land reform. But the Master’s office has regularly reached out to land practitioners and NGOs for assistance, and warned that staff there have neither the capacity nor the understanding necessary to resolve disputes in land reform trusts.⁶⁷¹ The tensions that existed in Mogopa along gender and class lines, such as between owners and tenants, reappeared as the Trust began its operations. Mogopa resident Piet Rampoe argued, “this Trust is not really in our hearts, but we are only using it because it has our assets of our village.”⁶⁷² He and other elders in Mogopa told me in oral history interviews that there had been problems relating to lack of accountability from the Trust, and lack of transparency around its monetary situation.

Women in particular found it difficult to assert their rights to land within the family, and within the broader CPA. In many claimant communities, women fought for membership in their own names as well as positions of leadership on CPA committees. Kompe recounts how rural

⁶⁷⁰ Deborah James, “‘The Tragedy of the Private’: Owners, Communities and the State in South Africa’s Land Reform Programme,” in *Changing Properties of Property* (Berghahn Books, 2009), 243–68.

⁶⁷¹ Sithe Gumbi, interview by Tara Weinberg, 28 January 2022, Cape Town, South Africa.

⁶⁷² Phillip More, Petrus Rampoe, Joseph Bikisha and Solomon Mabote, interview by Tara Weinberg, 23 November, 2021, Mogopa, South Africa.

women's committees from all over the country came together to form the National Movement of Rural Women in 1990, to push for recognition.⁶⁷³

In Driefontein and Mogopa, women who had been excluded from leadership in the early 1980s fought their way onto committees like the Mogopa land committee, Driefontein Council Board and Masihambisane Trust. Beauty Mkhize, Jane Vilakazi, Catherine Madlala and others would come together at night and strategize how to intervene in meetings in Driefontein. As noted earlier, they argued that they were the ones on the front line when the bulldozers approached, as men were often away working in the cities. They were supported by *manyano* women, who raised funds to cover school expenses and discussed eviction issues at their Thursday meetings (Chapter 4). Women were the guardians of farming on their plots. They united with youth who had also often been excluded. By the early 1990s, they were at the forefront of decision-making about land in Driefontein and Mogopa. This gender equality came about through struggles and melded with the making of CPAs. But it remained challenging to implement in CPAs.

Most CPA workshops involved a mapping process, when participants were drawing up the boundaries of their community, literally and figuratively. In a workshop for the Putfontein CPA in Ramatlabama in the North West Province in 1996, most of the participants were the descendants of the original nineteenth-century purchasers.⁶⁷⁴ The participants decided that some people would be excluded from the reconstructed Putfontein 'community' – in this instance, labor tenants who had worked for the purchasers and would only be given grazing rights. The

⁶⁷³ Lydia Kompe, interview by Tara Weinberg, 18 November, 2018, Polokwane.

⁶⁷⁴ *Report of CPA Workshop Proceedings in Putfontein*, 1996, Transvaal Rural Action Committee, AG2735, 11CPA, Wits Historical Papers.

Putfontein group's decisions about the role of labor tenants reveals friction between the expectations held by some of the Putfontein land claimants and the inclusive model that activists had in mind for CPAs – in which also those in need of land and not only those seeking restitution should benefit from the process. Claimants came up against activists who argued CPAs should play a role in correcting the wrongs of South Africa's exclusionary property system as a whole.

Similar dynamics emerged elsewhere between historic land purchasers and their tenants.⁶⁷⁵ During the times that they were engaged in struggles against forced removals, owners and tenants formed a united front.⁶⁷⁶ As a Transvaal Rural Action Committee pamphlet warned in 1989, 'it is important to look beyond the romantic stories of rural struggles to the conflicts, divisions and inequalities in rural society. This is not a never-never job for after the revolution.'⁶⁷⁷ Hornby argues that it was difficult to resolve the 'contradiction between social reproduction and economic accumulation'; differentiation among land claimants manifested when the group considered not only how to hold land but also how to manage enterprises on the land.⁶⁷⁸

Conflicts bubbled to the surface between different kinds of land rights holders. In Driefontein residents partially resolved these tensions by looking to histories of struggle. The descendants of the land purchasers had individual plots. Once the eviction was stayed and the

⁶⁷⁵ Hornby, "Cattle, commercialisation and land reform"; James, "Hill of thorns."

⁶⁷⁶ Aninka Claassens, interview by Tara Weinberg, 25 June, 2018, Cape Town, South Africa; Donna Hornby, interview by Tara Weinberg, 26 June, 2018, via Skype.

⁶⁷⁷ Claassens, *Umhlaba*, 25.

⁶⁷⁸ Hornby, "Cattle, commercialisation and land reform," 53.

possibility emerged of getting new land, purchasers started evicting tenants.⁶⁷⁹ However, some intervened, including purchasers and said, ‘the tenants were part of the struggle against eviction — you cannot now evict them’.⁶⁸⁰ As land transfers became imminent through South Africa’s land reform process, landowners asserted their historical rights to ‘ownership’ while labor tenants had argued that their *struggles* had given them rights to land.⁶⁸¹ But without social recognition or capacity within the CPA Registrar’s Office, it was difficult to enforce tenants’ rights or to purchase additional land for them.

All forms of property involve mechanisms of inclusion and exclusion.⁶⁸² But title deeds in South Africa have a particularly strong habit of ‘cutting the network’ of relationships developed through social ties and common struggles.⁶⁸³ When putting the title deed in the name of a CPA, attempts were sometimes made to cut away at the network around the edges, leading to exclusion. Activists in Driefontein tried to deal with the disputes between land purchasers and tenants to broaden the ‘network’ and shape a form of property holding that was theoretically more inclusive than a replication of the older ownership rights. CPAs had to grapple with these tensions with uncertain outcomes. Some of the burden of creating a more equal society was in a sense placed on poorer rural families.

⁶⁷⁹ Claassens, *Umhlaba*, 25.

⁶⁸⁰ Beauty Mkhize, interview by Tara Weinberg, 21 February, 2019, Driefontein, South Africa.

⁶⁸¹ Hornby, “Cattle, commercialisation and land reform.”

⁶⁸² Verdery, *The vanishing hectare*.

⁶⁸³ The concept of “cutting the network” comes from Marilyn Strathern, “Cutting the Network,” *The Journal of the Royal Anthropological Institute* 2 (1996): 517–35.

5.5 Conclusion

During the 1980s and 1990s people involved in struggles against eviction in the rural areas sought out new forms of organization and property-holding that differed both from those available in the Bantustans and also from individual privately-owned smallholdings. CPAs emerged from the interaction between land claimants, lawyers and activists. Organizations such as Association for Rural Advancement, Association for Community and Rural Advancement and Transvaal Rural Action Committee ran workshops in which land claimants debated and practiced legal repertoires of claim-making. Together they workshopped strategies to shield people against evictions and articulate ideas about a national land tenure system that would govern how land would be transferred in a democratic South Africa. Their views drew on their varied experiences and their immediate practices as landholders – as well as arguments about redressing inequality in a democratic South Africa. They also echoed some of the imaginaries of collective property articulated by their ancestors who had purchased land in the early twentieth century.

During the implementation of land reform, the intensive workshops that occurred in places like Dithakwaneng and Ekuthuleni gradually fell away.⁶⁸⁴ The process of establishing a CPA increasingly involved limited engagement before land transfer and cut and paste constitutions. CPA members struggled to hold committees accountable and to make decisions about land use. Government officials found it difficult to understand tensions within CPAs and often assumed that traditional leaders held power over land. CPA members were in turn frustrated about the lack of support and sometimes thought that restitution and the CPA process failed to account for social recognition and tenure realities. The history of CPAs suggests that

⁶⁸⁴ Cousins and Hornby, *Leaping the fissures*.

contemporary South African property law, which has roots in colonial and apartheid systems that undermined African society and bolstered white authority, continues to pay insufficient attention to local forms of knowledge and legitimacy about property. More investment in and acknowledgement of the networks that comprise property forms like CPAs is critical if South Africa is to create a more equal property system and society.

Chapter 6 Conclusion

One evening in February of 2019, after interviewing a number of Driefontein elders, two friends and I strolled around the shops near Driefontein's taxi rank. The taxi rank is opposite a soccer field, where shop-owner and ANC underground activist, Yunus Cajee, coached youth in politics as well as sport. Cajee's general store, equipped with cooldrinks (sodas), bicycle wheels and other paraphernalia, sits next to a much larger Build-It, which sells materials for building homes. Between the Build-It and the Post Office, is a statue of Saul Mkhize, slain leader of the resistance against forced removals in 1983. Since 2015, Driefontein has been called Saul Mkhizeville in his honor – although most residents still refer to it as Driefontein. As I approached the taxi rank with two friends, we struck up conversation with a couple of women waiting for their transport. In response to their questions, we told them we were researching the history of Driefontein – the land purchases by Pixley ka Seme, the farming efforts of residents, the activism of women, and the struggles against forced removals in the 1980s, including Saul Mkhize's role. We asked what they thought of this history. One woman responded, ““Our community has a great history. But can we eat history?””⁶⁸⁵

This statement encapsulates many of the challenges and inequalities of Driefontein and other land buying areas – and also of South Africa as a whole. As of 2022, half the population of Driefontein are unemployed. Most residents live off social grants. It is generally a village of

⁶⁸⁵ Anonymous, interview by Tara Weinberg and Sne Ngidi, 24 February 2019, Driefontein, South Africa.

older people and very young people, as those in the age brackets in between have moved away to find work. The destructive legacy of centuries of racist violence, including in terms of land dispossession and segregation, continues to take its toll. Restoring ownership of land to black South Africans is not by itself capable of redressing the legacy of apartheid, unless it is accompanied by much broader structural change. The history of land buying communities illustrates how black South Africans made use of a window period in the early twentieth century to carve out spaces to purchase land, pay off their mortgages, make a go of farming as their main income and envision a future in which Africans could thrive.



Figure 26: Statue of Saul Mkhize in Driefontein/Saul Mkhizeville, Mpumalanga. Photograph Source: Tara Weinberg, 2019.



Figure 27: Driefontein soccer field, as seen from Yunus Cajee's shop. Photograph Source: Tara Weinberg, 2019.

Given that by the early twentieth century, colonial governments in British and Boer areas had already stripped many Africans of their land and land rights, black South Africans with the means to buy land were in a minority. Over the course of the twentieth century, several factors combined to make it even more difficult for black land buyers to hold onto their land, and impossible to make a living from farming. Land legislation, including the Natives Land Act in 1913, the Natives Trust and Land Act in 1936, and the pass laws, constrained the ability of black land purchasers to transact land and to move around the country freely. Massive support provided to white farmers between the 1930s and 1980s (including via subsidies, protected markets and racially exclusive produce boards), meant that black farmers could not compete on the market. Through waves of forced removals between the 1960s and 1990s, millions of black land buyers were evicted from their land.

While the residents of Daggakraal and Driefontein resisted forced removals and retained ownership of their land, residents there found themselves living in poverty. Transformations in the economic situation of the Native Farmers Association may have been set in motion in 1919, when I.W. Schlesinger used corruption charges to oust Seme from the Association leadership, with the help of sympathetic government officials. Schlesinger took over the company and made it another of his property businesses. He was aware that he could continue to make a profit from the Association, as black families who had the means to buy land were prevented from land purchase in most of the country. Yet, by the time Schlesinger's company passed to his son Johnny in 1949, it had become impossible for black farmers in Daggakraal and Driefontein to make a living from the land. By the 1980s, the land had become overcrowded, as people evicted from surrounding farms sought out the haven of Association land. In 1995, the Driefontein Council Board acquired additional land for the residents of the village. But ownership of land alone has not been enough to undo decades of undermining of farming.

Although ownership of land does not necessarily put food on the table, land purchase has been central to Daggakraal and Driefontein residents' sense of belonging throughout the twentieth century. When Pixley ka Seme established the Native Farmers Association in 1912, land purchase was paramount in his vision of a politically and economically powerful black society. He established the Association in the context of a wave of land purchases by black-owned syndicates across the Transvaal. The ideas Seme developed for land buying syndicates have their roots in his experiences growing up among land-buying syndicates in Natal, his conversations with black activists and intellectuals in the United States and United Kingdom, and his interactions with aspirant black commercial farmers in South Africa. Seme's vision for the Association, and his proposal for the kinds of property law it would implement, was not his

alone. Rather, it was derived from his dialectical engagement with past and ongoing practices around land ownership, as well as with the political thought of his contemporaries.

Not all the families who bought into Seme's Association scheme bought into the vision of community and individual property that he advanced. First, the version of individual title deeds they proposed did not necessarily map onto the notion of bounded plots held exclusively by an individual, which Seme proposed. Second, many Association land buyers contested Seme's argument that a self-sufficient black community should be built on a foundation of individual land rights and respect for traditional leaders. Land buyers at times tried to squeeze their own forms of collective property ownership into the narrow forms established by state and other major players like Seme. At other times, land claimants navigated financing and credit networks to acquire, hold onto, defend and manage land as collectives in ways that challenged official law. The Association too created its own set of legal norms – it occupied a “twilight” zone of authority, acting as an intermediary between black land buyers and the state. It mirrored government functions, such as registering title deeds and managing mortgages. Association land buyers developed their own ideas and practices around land ownership, even when official law served to flatten local forms of land tenure and vernacular conceptions of property.

Land buying projects established by Seme, the Association and Mogopa farmers threatened the government and white farmers. Black South Africans' demand to own title deeds was threatening partly because it was accompanied by the political stakes of the franchise. In the Cape province, property was one of the necessary qualifications to vote. An even greater fear of white farmers and mine-owners was that if black people bought land as syndicates, they could purchase much more than as individuals. Black farmers' skills, social networks and superior access to labor meant that they some could potentially outcompete some white farmers. This

challenged the racial capitalist project, which depended on black workers for its profits. Hence government officials and white employers implemented numerous maneuvers to undermine black land buyers, including exclusionary laws, the destabilization of leadership committees elected by residents, the appointment of chiefs favored by the government, and the isolation of black farmers from official lines of credit and infrastructural support.

Black farmers' losses and white farmers' gains between the 1930s and 1970s were linked to the government and white settlers' control of land, labor and markets. The alliance between the state and white farmers brought about unprecedented levels of market regulation and crippled an already struggling black farming community. In Henry Bernstein's words, "this intimacy of organized agriculture, political party, and state was the basis of the system of regulation that delivered a golden period of prosperity to white farmers in South Africa, especially those on the highveld [between 1937 and 1980]."⁶⁸⁶

In this context, land buyers in Daggakraal, Driefontein and Mogopa petitioned local lawyers and government officials at the provincial and national level for support for their farming business. Land buyers' petitions show their willingness to bargain with government officials for support. In Daggakraal and Driefontein, petitions echo earlier traditions of letter-writing and deputations to the British government, led by figures like Pixley ka Seme and Sol Plaatje, which laid claim to "imperial citizenship." In Mogopa, claim-making took a different route. There, land buyers challenged government officials' plans to place them under the authority of a chief they did not recognize. Mogopa land buyers charted a path in which they

⁶⁸⁶ Henry Bernstein, "How White Agriculture (Re)Positioned Itself for a 'New South Africa,'" *Critical Sociology* 22, no. 3 (October 1996), 16.

could emphasize their identity as landowners, while also seeking forms of state recognition and assistance that could aid their work as farmers.

When the apartheid government came to power in 1948, black land buyers doubled down on their claims to membership of a national farming community. In the 1950s, residents in Daggakraal and Driefontein read and wrote to the white-owned English-language magazine *Farmers' Weekly*, where they debated issues related to agriculture, farming infrastructure and development. But in response to land buyers' petitions, letters and newspaper pieces, government officials refused to bargain back. In the majority of their responses, officials in the Departments of Agriculture or Native Affairs, suggested that any support black land buyers needed for funding would require them to set up "tribal meetings" and start the process of seeking recognition as tribes who could be incorporated or moved to the reserves (later 'Bantustans'). There is no evidence that Association land buyers set up these "tribal meetings. Instead, the archives from this period suggest that they changed tack in way they laid claim to their land by taking up more direct forms of protest against the state.

During the apartheid era (1948-1994), the government listed all areas purchased by groups of black farmers as "black spots" – pockets of black-owned land surrounded by white-owned farms – and earmarked them for removal. When apartheid government officials ordered residents of Daggakraal, Driefontein and Mogopa to vacate their land in the early 1980s, residents refused. Empowered by the crucial organizing work of women's groups, especially prayer groups, residents waved their title deeds under officials' noses – literally, at meetings, in courtrooms – and figuratively, in newspaper reports and open letters. Residents insisted that they had title deeds, just like white people did.

In Mogopa, where women also led the battle against evictions, the government forcibly removed residents in 1984. Mogopa residents' sense of belonging around land purchase and farming was a vital motor behind their efforts to regain their land in 1989. In Daggakraal and Driefontein, the confluence of the larger political context in South Africa and the strategies of resisting forced removals, helped residents stay on their land.

The early to mid-1990s were a time of mass organizing efforts and democratic fervor, as South Africa transitioned to democratic, majority rule. When the African National Congress government came to power in 1994, it heralded a range of new laws that sought to undo the legacy of the past. Nelson Mandela appointed Derek Hanekom his new Minister of Land Affairs, giving him the mandate to draw on the expertise and experience of those who had been at the forefront of the struggles against forced removals. Off the back of these struggles, farmers' committees, women's groups, land activists, lawyers and NGOs forged new juristic entities (Communal Property Associations and Community Trusts) as well as new visions for a more equal South Africa. Communal Property Associations and Trusts offered people the opportunity to hold title deeds as groups – Trusts with a board of trustees and Communal Property Associations with elected leadership committees.

Through meetings and workshops, the descendants of land buyers joined others in developing ideas about a national land tenure system that would govern how land would be transferred in a democratic South Africa. Their views drew on their varied experiences and their immediate practices as landholders – as well as arguments about redressing inequality in a democratic South Africa. They also echoed some of the imaginaries of collective property articulated by their ancestors who had purchased land in the early twentieth century. While Trusts and Communal Property Associations have been applied widely to land reform cases, I

argue that they have been a more logical fit in areas where people had previously purchased land as groups. However, even in these instances, there have been problems with this system of group land ownership. There have been tensions, for example, between land buyers and their tenants, and between chiefs who claim ownership of syndicates' land. Measures of inclusion and exclusion, developed by land buyers in Daggakraal, Driefontein and Mogopa over the course of the twentieth century, continue to animate tensions in Communal Property Institutions.

While Daggakraal and Driefontein are exceptional in the sense that the descendants of land buyers there managed to retain it beyond 1994, they share many qualities with other land buying syndicates established in the early twentieth century. As in Mogopa, land buyers in Daggakraal and Driefontein forged a sense of belonging around land purchase, more than ethnic identity. Also like in Mogopa, the buyers were already skilled farmers who initially adapted well to the capitalist markets of the early twentieth century. Black land buyers were active participants in the development of property law, credit markets and the capitalist economy in South Africa. They grappled with and debated visions of capitalist development and political community, drawing their own boundaries around what an ideal economic and political project should look like.⁶⁸⁷

'Property of the People' has pointed to land buyers' imaginaries of collective property as evidence of how black South Africans' envisioned political possibilities that offered alternatives to racial capitalism, even under conditions of intense oppression. It has also focused on land buyers' social bonds and changing philosophies of land ownership, gender and law, which have often been forgotten in public and scholarly debates that foreground the material costs of land

⁶⁸⁷ Willan, *Sol Plaatje, South African Nationalist, 1876-1932*; Breckenridge, "African Progressivism, Land and Law: Re-Reading Native Life in South Africa"; Dlamini, "Land and Belonging: On the Tomb Ya Ga Solomon Plaatje."

dispossession. These understandings traditions of political thought were made possible by the methodological approach to center land buyers' accounts of their lives and their land, rather than focusing primarily on government records or the archives of figures like Seme.

In this dissertation I trouble the idea, sometimes put forward by land activists and scholars alike, that collective property marks a return to harmonious, co-operative way of being – linked to a romanticized version of a precolonial African past. Collective property ownership does not necessarily represent a lost tradition of thought and practice. Collective property belongs also to “futures” that land buyers continually imagined and remade, through their efforts to claim and defend their land.⁶⁸⁸ ‘Property of the People’ suggests that collective buying projects are difficult, tense and risky – but not impossible to achieve.

Through its account of past practices and ideas about property, ‘Property of the People’ contributes to understandings of how property, law and gender persist as major fault lines in post-apartheid South African society. In the years since the ANC government came to power in 1994, it has become clear that unraveling the legacy of land segregation in South Africa is a monumental and difficult task, and it is far from over. In the context of land reform in twenty-first century South Africa, the history of land buying syndicates suggests that legal ownership should not be the end goal but rather a part of the process of land reform. If we think only of the moment of acquisition when we think of land reform, then we limit our imaginaries of the kind of politics that people have produced around land. These are questions that are not just relevant to South Africa. They are about property – particularly collective property – writ large.

⁶⁸⁸ As David Harvey writes about ‘the commons’, “the common is not, therefore, something extant once upon a time that has since been lost, but something that, like the urban commons, is continuously being produced.” David Harvey, “The Future of the Commons,” *Radical History Review* 2011, no. 109 (January 1, 2011): 105.

Appendix

Appendix A Title Deeds

INSTALMENT FORM.

..... TO THE

Native Farmers' Association of Africa, Ltd.

JOHANNESBURG.

APPLICATION FOR PURCHASE OF FARM.

I, _____
(Write name in full.)

of _____
(Write accurate address.)

do hereby apply for the purchase of Plot No. _____ as shewn on the Company's Sale Plan,
being _____ Morgen in extent. Portion of the Farm _____
Acres

No. _____ in the District of _____, under the Terms and Conditions
of the Company's "Deed of Sale" to be issued to me.

I hereby agree that the purchase price shall be the sum of £ _____ (_____)

payable as follows:—

£ _____ (_____) in cash upon the signing of this application, and
the sum of £ _____ (_____) on or before the _____ day
of _____ in every year thereafter until the full purchase price shall have been paid.

I have paid to _____ £ _____

on condition that if this application is not accepted by the Company, this deposit shall be returned to me as provided in
Receipt No. _____

It is a condition of the said purchase that upon the payment of the whole of the instalments due under said
"Deed of Sale," TRANSFER OF THE FREEHOLD TITLE, except as may be hereinafter provided, shall be
given to me for the above Land subject to the reserve of all Trading Rights which remain with the Company and
that all costs of Transfer, including Transfer Duty, Survey Fees, Conveyancing, etc., etc., shall be borne by me.

I hereby reserve the right to sell and cede my interest in the said Land, provided all instalments have been
paid at the due date and the next instalment to fall due is paid. Such sale and cession, however, to be subject to
the laws and regulations as regards the "TRANSFER OF PROPERTY," and I hereby agree that the transfer of
Title shall be subject to such alterations of the Land Laws, whether by Act of Parliament or by regulations of the
office of the Registrar of Deeds, as may become operative prior to the payment of the full purchase price of said
land; and completion of Transfer.

I further agree to sign all necessary documents, and pay Government Transfer Dues, Rates and Taxes
whenever called upon to do so. Should I fail to pay any instalment of the purchase price when same shall fall due,
then said "Deed of Sale" shall become null and void, and all payments made thereunder shall be forfeited to you
and remain your property as "Rouwkoop" or as ascertained and liquidated damages for failure to comply with the
terms of the sale, and I shall have no further claim to such money. In that event, you shall also become entitled to
the immediate possession of the property covered by said "Deed of Sale."

Notwithstanding anything contained herein to the contrary, it is agreed that the Company shall not be called upon to give transfer of the property
hereby applied for until after the Year 1917. Further, should the Company be unable to give transfer of the property hereby applied for on account of
any law or Regulation which may now or hereafter be in force, then and in that event the Company shall hold the said property in trust for myself and
mine in perpetuity.

I hereby agree that this application and the said "Deed of Sale" shall constitute the entire Contract
between me and the above Company.

Dated at _____, 191_____

Signature of Purchaser _____
(Each Purchaser must sign his name.)

Signature of Agent _____

SPECIMEN COPY

Figure 28: Application form to purchase land via the Native Farmers Association, 1913. Source: Articles of Association, the Native Farmers' Association of Africa, Ltd., NTS 3439 56-308, National Archives.

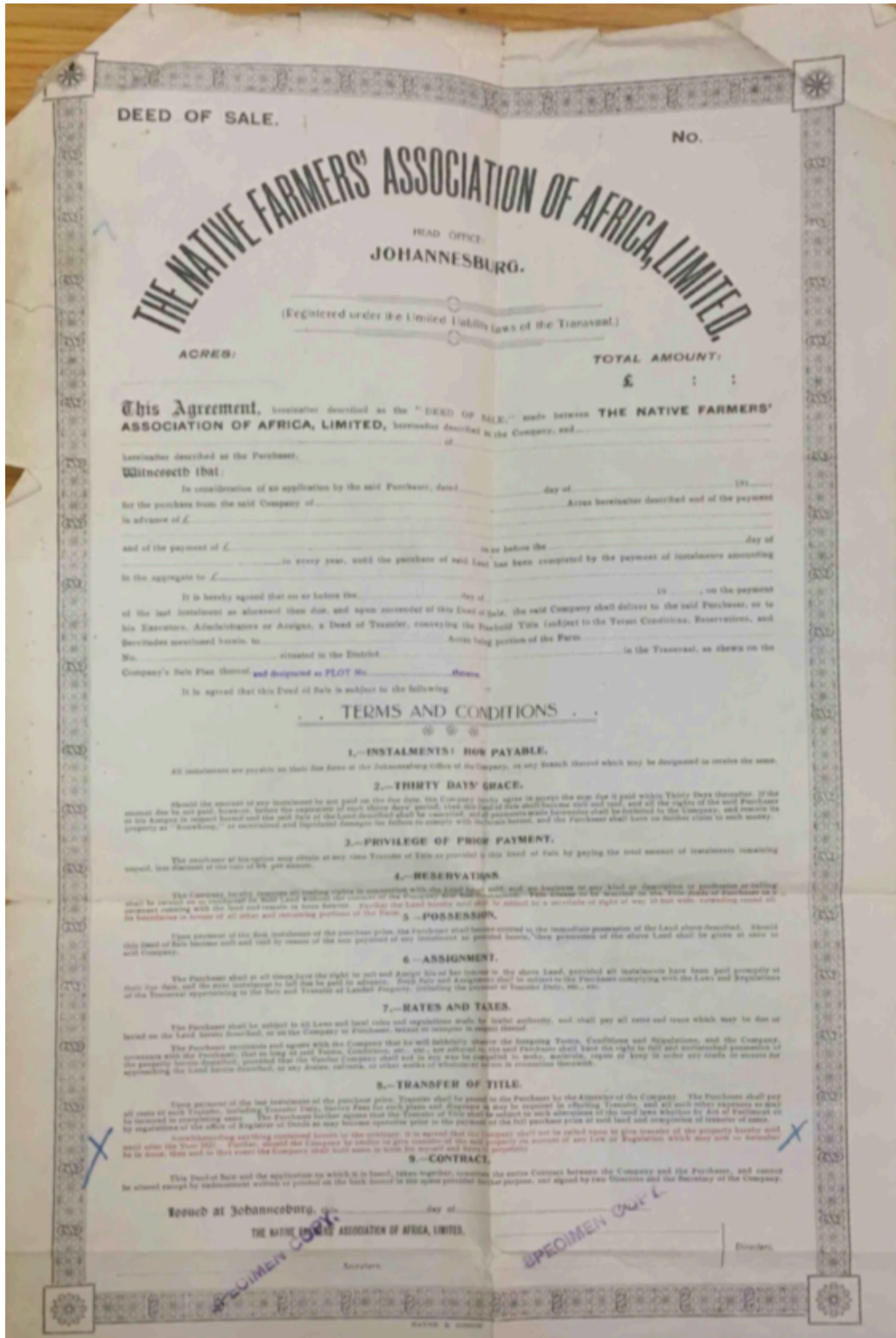


Figure 29: Deed of Sale (1913) issued by the Association to land buyers whose applications to purchase had been approved. Source: Articles of Association, the Native Farmers' Association of Africa, Ltd., NTS 3439 56-308, National Archives

FORM "D"

COPY.

NO.

The Native Farmers' Association of Africa, Limited.

HEAD OFFICE:
JOHANNESBURG.

(Incorporated in the Union of South Africa.)

TOTAL AMOUNT:
£ : :

MORGEN.

So. ROOD# **Deed of Sale**

Entered into between "THE NATIVE FARMERS' ASSOCIATION OF AFRICA, LIMITED," having its Head Office at Johannesburg, hereinafter called "The Seller," and

a Native, District Wakkesboom, hereinafter called the "Purchaser."

AND the Apperers declare:

That whereas the Purchaser has decided to exercise his right under and by virtue of Deed of Settlement entered into between the said "The Native Farmers' Association of Africa, Limited," of the one part and

of the other part, dated the day of to purchase the hereinafter mentioned property:

NOW THEREFORE the Apperers declare to have entered into the following contract of sale and purchase and on the hereinafter mentioned conditions and stipulations, to wit:

1. The Seller sells and the Purchaser declares to buy certain Plot(s) No. situated on portion of the farm square situated in the district of Wakkesboom, measuring morgen and acres and framed by surveyor in

2. The Purchase consideration to be paid by the Purchaser to the Seller for the said property is the sum of Sterling on account, and Sterling each, the first instalment the balance shall be paid by the Purchaser in ten equal yearly instalments of Sterling on account, and Sterling each, the first instalment being payable on the day of The said instalments shall bear interest at the rate of (7%) seven per cent. per annum reckoned from the date hereof, and shall be paid on the day of of each and every year until the whole of the purchase amount shall have been paid in full.

The Purchaser shall, however, have the right at any time prior to the above date to pay in full the balance of the purchase sum and interest then still owing, and in such case he shall be entitled to a reduction on the purchase price of the purchase sum still owing at the rate of (7%) seven per cent.

3. The Purchaser shall on signing hereof have the right to take, and thereafter shall give, full and undisturbed possession of the property purchased and said hereby, in case as the Purchaser shall have paid the balance of the purchase money with interest, the interest to the extent to which the Seller shall deliver to him, his heirs, executors, or assigns, title of the said property, subject to the terms, conditions, covenants and reservations hereinafter mentioned.

The Purchaser shall have the right to use as a road to the said portion (s) of the purchase sum advanced, together with interest thereon, to be drawn from the Seller, who shall be obliged to give, transfer to him of the property hereby sold, provided that the Purchaser shall simultaneously give to and in favour of the Seller a First Mortgage Bond specially binding the above-mentioned property hereby sold as security for the due payment of the balance and interest as aforesaid, and which Mortgage Bond shall be proved in the terms of and contain the conditions set forth in the form hereunto annexed, marked "B."

4. The property hereby sold:

(a) Shall be subject to the same rights and liabilities of whatever nature and description in favour of the Government of the Union of South Africa in respect of the Native Portions of the said portion(s) of the farm(s) District Wakkesboom, measuring morgen and acres and framed by surveyor in

(b) Shall be subject to a right of way or road (10) ten feet wide running along one or more of the boundaries of the property in and/or of the portion(s) of the said portion(s) of the farm(s) District Wakkesboom, measuring morgen and acres and framed by surveyor in

(c) Shall be entitled with other owners of this portion(s) of the said portion(s) of the farm(s) District Wakkesboom, measuring morgen and acres and framed by surveyor in

(d) Shall have in common with other owners of this portion(s) of the said portion(s) of the farm(s) District Wakkesboom, measuring morgen and acres and framed by surveyor in the right to use and enjoy for household and domestic purposes and for his cattle and animals, to a just and fair share of all waters available from streams, springs, or pans, situated, arising or flowing through the said portion(s) of the farm(s) District Wakkesboom, measuring morgen and acres and framed by surveyor in with right of access or way to such water for livestock and his cattle and animals at all times available from streams, springs, or pans, situated, arising or flowing through the said portion(s) of the farm(s) District Wakkesboom, measuring morgen and acres and framed by surveyor in

5. The Purchaser shall from date hereof be subject to all laws and local rules and regulations made by local authority in respect of the property hereby sold, and he shall pay all rates and taxes which may be due or levied on the said portion(s) of the farm(s) District Wakkesboom, measuring morgen and acres and framed by surveyor in

6. The Seller does not undertake nor shall it in any way be responsible for or compensated to make, maintain, repair or keep in order any roads or streets for approaching the Land herein described, or any drains, culverts, or other works of whatsoever nature in connection therewith.

7. The Purchaser shall be responsible for and shall pay all disbursements transfer and stamp duties and costs of Transfer, and in the event of his paying a Mortgage Bond as aforesaid, then also all costs incidental thereto.

8. All payments of instalments and interest shall be made at the Office of the Seller at Johannesburg, should the amount of any instalment or interest not be paid by the Purchaser on the due date or within a period of thirty days thereafter, then the Seller shall have the right without notice or process in law to declare this Deed of Sale as terminated and void and all the rights of the Purchaser or his Assigns, in respect hereof and of the said sale of the land described shall be cancelled, and all payments made hereunder shall be forfeited to the Seller, and shall remain the property of "The Association," or its successors and assigns, and the Purchaser shall have no further claim in such matter. On termination of the contract of sale as aforesaid, the Purchaser shall immediately vacate and give possession of the said property sold hereunder to the Seller.

9. All legal work in connection with the passing of Deeds of Transfer or Mortgage Bonds as aforesaid or arising out of this Agreement, shall be done and effected by Mr. Fred Klayn, Attorney-at-Law, Pretoria, who shall appoint Attorney C. K. Barry as his representative at Wakkesboom.

10. This Agreement shall be subject to the approval and ratification of the Minister for Native Affairs of the Union of South Africa.

This done and passed at Johannesburg on the day of 19

As Witnesses:

1. Director.

2. SECRETARY,
AFRICAN CONSOLIDATED INVESTMENTS CORPORATION, LTD.

for Seller.

This done and signed at on the day of 19

As Witnesses:

1. Purchaser.

2. Purchaser.

JOHANNESBURG

Figure 30: Example of a Deed of Sale (1916) issued by the Association to land buyers whose applications to purchase had been approved. Source: Native Farmers Association, NTS 3439 56/308, National Archives.

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GNLB	Government Native Labour Bureau (1904-1950)
HKN	Chief Native Affairs Commissioner, Northern Areas (1904 – 1986)
JUS	Secretary of Justice (1899 – 1966)
KWN	Native Commissioner's Records, Wakkerstroom: Natives: Civil and Criminal (1900-1901)
LDE	Department of Lands (1882 – 1979)
LWM	Landdros (Magistrate) Wakkerstroom, Strafsuke (Criminal Cases) (1953-1963)
LWN	Landdros (Magistrate) Wakkerstroom, 1908-1911
MHG	Master of the Supreme Court, Pretoria. Estates (1873-1976)
NTS	Secretary for Native Affairs
	3439 56/308 The Native Farmers Association of Africa Ltd.
	3440 56/308 The Native Farmers Association of Africa Ltd.
	3441 56/308 The Native Farmers Association of Africa Ltd.
	3442 56/308 Wakkerstroom: Daggakraal and Vlakplaats
	7410 368-327 Native Agriculture: Collective Farming (Crops)

9008 221-362(3) Bantu Authorities: Western Areas

TPD Registrar of the Supreme Court of South Africa, Transvaal
Provincial Division (1923-1928)

URU Decisions of the Executive Council (1910 – 1985)

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7745/1950 (Ngwenya estate)

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CNC Chief Native Commissioner, Natal province, 1893-1952

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AD843B South African Institute of Race Relations (SAIRR), Part 1 (1908-1962)

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