

AFRA



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Land restoration: first step to heal apartheid's scars

When the government scrapped the racist land laws, communities who lost their land through these Acts had no doubt that this land would be returned to them. Instead the government set up the Advisory Commission on Land Allocation (ACLA). ACLA came in response to severe criticism of the government's White Paper On Land Reform.

An attempt to channel demands for land justice, ACLA falls short of community demands for land restoration. ACLA does not accept the principle of restoration. Instead, its brief is limited to advising the state president about allocation of undeveloped state land, set aside in terms of the scrapped racist laws. In advising the state president, ACLA will take account of the needs of people who were disadvantaged through apartheid laws regarding land.

Despite its limitations, communities who are

part of the National Land Restoration campaign recently decided to test its ability to restore land. They have, nevertheless, placed certain conditions on their cooperation with ACLA. These are dealt with elsewhere in this newsletter.

But the establishment of ACLA is only one of the ways in which the government is trying to unilaterally "solve" the land question in South Africa.

Communities seeking land restoration will also have to confront government attempts to sell off state land which was acquired through the forced removals policy.

The sale of such land to individuals or companies is likely to complicate land restoration claims.

Although the government has given assurances that the sale of state land would be frozen, they twice tried to sell off land which forms part of the AmaHlubi's land restoration claim. The latest attempt to sell off this land came in February 1992. The

attempted sale was stopped through public protest. The chairperson of ACLA later called for a freeze on the sale of land to be reviewed by ACLA.

Another disturbing trend is the transfer of such state land to other agencies. Towards the beginning of April 1992, the government transferred 3 million hectares of this land to homeland governments and gave these the power to dispose of this land.

In the light of these developments, the struggle for land restitution to apartheid's victims becomes even more urgent.

In this issue:

- overview of the National Land Restoration Campaign
- ACLA
- profiles of Natal communities in the national campaign

The National Land Restoration Campaign: An Overview

COMMUNITIES who were victims of the forced removal policy of apartheid have launched a National Land Restoration Campaign in an effort to get back their land. Here, we look at what has been happening with the campaign.

March 1991

13 communities from Natal, the Transvaal and the Border Region meet to discuss their response to the government's White Paper on Land Reform and related land bills. They decide to reject the proposed laws and to send a delegation to parliament to appeal for land restoration to be included in any new land laws. They also decide to hold a national day of protest focussing on land issues. Placard demonstrations are held in some major cities. Communities give the government a deadline to respond to their proposals satisfactorily. There is no response by the deadline.

April, May 1991

Communities reoccupy their land - in the Transvaal, Goedgevonden is reoccupied; in Natal, Crimen and Charlestown; in the Border Region, Macleantown.

June 1991

Government responds to various representations made about its White Paper and land bills by



A Charlestown committee member arrested by police during the reoccupation of Charlestown in 1991

introducing the Abolition Of Racially Based Land Measures Act. This Act provides for the setting up of the Advisory Commission on Land Allocation (ACLA). ACLA is to look at reallocating undeveloped state owned land or land which the state could acquire for settlement.

August 1991

Natal communities (AmaHlubi, Crimen, Charlestown and Roosboom) meet to discuss the government's new measures regarding the land. They decide joint national action is needed.

September 1991

A second national meeting of land claiming communities is held. 19 communities from the Western Cape, Natal, Transvaal and Border Region meet and decide to reject ACLA in its present form. The main reason for rejection is because of ACLA's limited

terms of reference. The communities also decide to draw up a programme of action, elect a coordinating committee and to write an open letter to de Klerk.

On September 30, community representatives prepare to meet the government. They plan to put to government:

- their position on ACLA
- conditions upon which they will cooperate with ACLA

The say that ACLA must be constituted by representatives of the communities, be open to all affected communities, act speedily and make its recommendations and findings public. They also say the government must withdraw all charges against communities who tried to reclaim their land.

October 1991

Community representatives meet with the Minister of Public Works and Land Affairs and of Development. He



Reoccupation at Crimen in April 1991

agrees that communities should put forward the names of those they want to have serving on ACLA.

At a follow up meeting with the minister, community representatives give the government 5 names. The government approaches 2 of the 5. These 2 decline to serve on ACLA. The remaining 3 people are never approached.

Community representatives hold a second preparatory meeting before meeting the government. They decide to start a programme of action while negotiating with the government.

A second meeting held with the minister on October 30 breaks down over ACLA's composition.

The minister tells the community representatives that cases against communities have been stopped. He says that other issues raised by the representatives will be decided by ACLA itself.

November 1991

The NLC is told who the government appointed ACLA members are. The names are made public 3 days later.

Community representatives meet to work out a response to ACLA's composition. They decide to:

- reject ACLA in its present form
- call for a change in ACLA membership and terms of reference
- approach the government and ACLA about these problems
- rally support from other organisations
- go ahead with their planned programme of action.

A third meeting is held with the government on November 30.

Community representatives hope to change the government's position, but this does not happen. The government remains set on ACLA remaining as it is. They also tell community representatives that submissions

have already been sent to ACLA by other communities.

Communities decide to stand firm regarding their decision about ACLA. They decide there will be no submissions until another national meeting of communities is held in February 1992. This meeting will review the situation. Before the meeting in February, regional meetings are held to prepare.

February 1992

Thirty communities from the Western Cape, Eastern Cape, Border Region, Northern Cape, Natal, Transvaal and Orange Free State meet.

After long discussion the meeting decides to work with ACLA, since it is the only available body through which they can submit claims. But they resolve to continue to use other avenues to secure their land rights. They resolve to work with ACLA on condition that:

- it accepts communities being assisted by their lawyers, land affairs experts and service structures
- all government files and information on people's claims be available to communities and their advisors
- ACLA make all its findings and hearings open to the public
- land restoration is not subject to any conditions except justice and redressing past wrongs
- if ACLA delays, communities will take other steps to get back their land.

Can the commission deliver?

WHEN the government said it was scrapping the Land Acts and Group Areas Act, many hoped that apartheid and its effects would start to crumble fast. But just how far the government wanted to go to redress apartheid's legacy became clear in its White Paper On Land Reform, published in March 1991. The White Paper said that land restoration would not be addressed. People were asked to forget about the past and to build a new South Africa. But how can people build in a situation where past injustices have not been addressed?

This was the question people who were removed from their homes or threatened with removals asked. These communities' rejection of the government's White Paper and proposed new land laws was answered with the Abolition Of Racially Based Land Measures Act. This Act provided for the establishment of an Advisory Commission on Land Allocation (ACLA), among other things. ACLA was the government's answer to demands for land restoration.

What can ACLA do?

ACLA cannot make decisions - it can only advise the state president. ACLA receives representations and then

makes recommendations to the state president about:

- undeveloped state owned land bought in terms of legislation which no longer exists or land which the state could now get for rural settlement
- how such land could be developed for agricultural or residential use, including what role the private sector could play in such development
- the criteria, procedure and closing dates for applications from people who want to settle on such land
- the basis upon which land allocations may be made in terms of people who were disadvantaged regarding land through apartheid laws

Once a year, in March, the commission must give the state president a report of its activities for the past year. The actual work of ACLA is done by a secretariat and other appointed officials.

Who's on the commission?

The state president appoints all the members of ACLA and also decides who the chairperson and vice-chairperson will be. Although communities working with the National Land Committee gave the government names of people they

thought should serve on the ACLA, the government failed to appoint any of these. Instead, they appointed:

- **Justice T van Reenen**, former acting Appeal Court judge (chair)
- **Professor Nic Olivier**, a former NP member of parliament (vice chair)
- **Professor Richard van der Ross**, former rector of the University of the Western Cape
- **Mr NJ Kotze**, former president of the South African Agricultural Union
- **Dr DC Krogh**, advisor to the president of the Reserve Bank
- **Professor Harriet Ngubane**, Social Anthropology head at the University of Cape Town
- **Bishop TW Ntongana**, from the South African Zionist Federation

Communities' criticisms of ACLA

Community criticisms of ACLA are mainly around its composition and terms of reference. They say it has no decision making power and can only make recommendations to the state president once a year. ACLA also does not recognise the principle of restoration and its membership is unrepresentative.



Reoccupation of Crimen in 1991. Will ACLA be able to address land restoration or will communities have to take other steps to get back their land?

At first communities working with the NLC refused to accept ACLA. This decision was reviewed at a national meeting of 30 land claiming communities in February 1992. At that meeting communities decided to cooperate with ACLA on the following conditions:

- ACLA would only be one of a number of ways for communities to get back their land and regain their land rights
- ACLA should accept communities' lawyers, experts on land affairs and service structures
- all ACLA hearings should be open and its findings should be made public
- land restoration should not be subject to any conditions

except justice and redressing past wrongs

- if there are delays by ACLA, communities will take other steps to regain their land rights
- ACLA should hear evidence near the areas where the affected community lives, so that the community can have access to the commission
- ACLA should accept submissions only from duly elected community representatives

Communities will begin to test ACLA's limits when they make their first submissions to the commission in the coming months.

Charlestown Committee Meets ACLA Officials

THE Bambisanani Bathengi Charlestown Association met with officials of the ACLA in March this year at a meeting called by the Development and Services Board.

Two important points were made clear to the ACLA officials. The first was that ACLA should hear representations only from elected representatives of communities that had lost their land through forced removal. The Bambisanani Bathengi Association successfully persuaded two people who accompanied the KwaZulu representative, but who were not part of the Charlestown community who were forcibly removed, to leave the meeting. The reason for asking for them to leave was that they were not part of the claim of the Charlestown community who had lost their land through forced removal.

The second important point was that issues of development should not be an obstacle to restoring land which had been lost through unjust means. The Bambisanani Bathengi set out the conditions upon which they would cooperate with ACLA (those agreed at the national meeting of land claiming communities in February 1992). They added that they would send ACLA a written submission of their land claim.

Who are the Natal communities in the national campaign?

THERE are about ten communities who AFRA is assisting with land claims in Natal. All of these are part of the National Land Restoration Campaign.

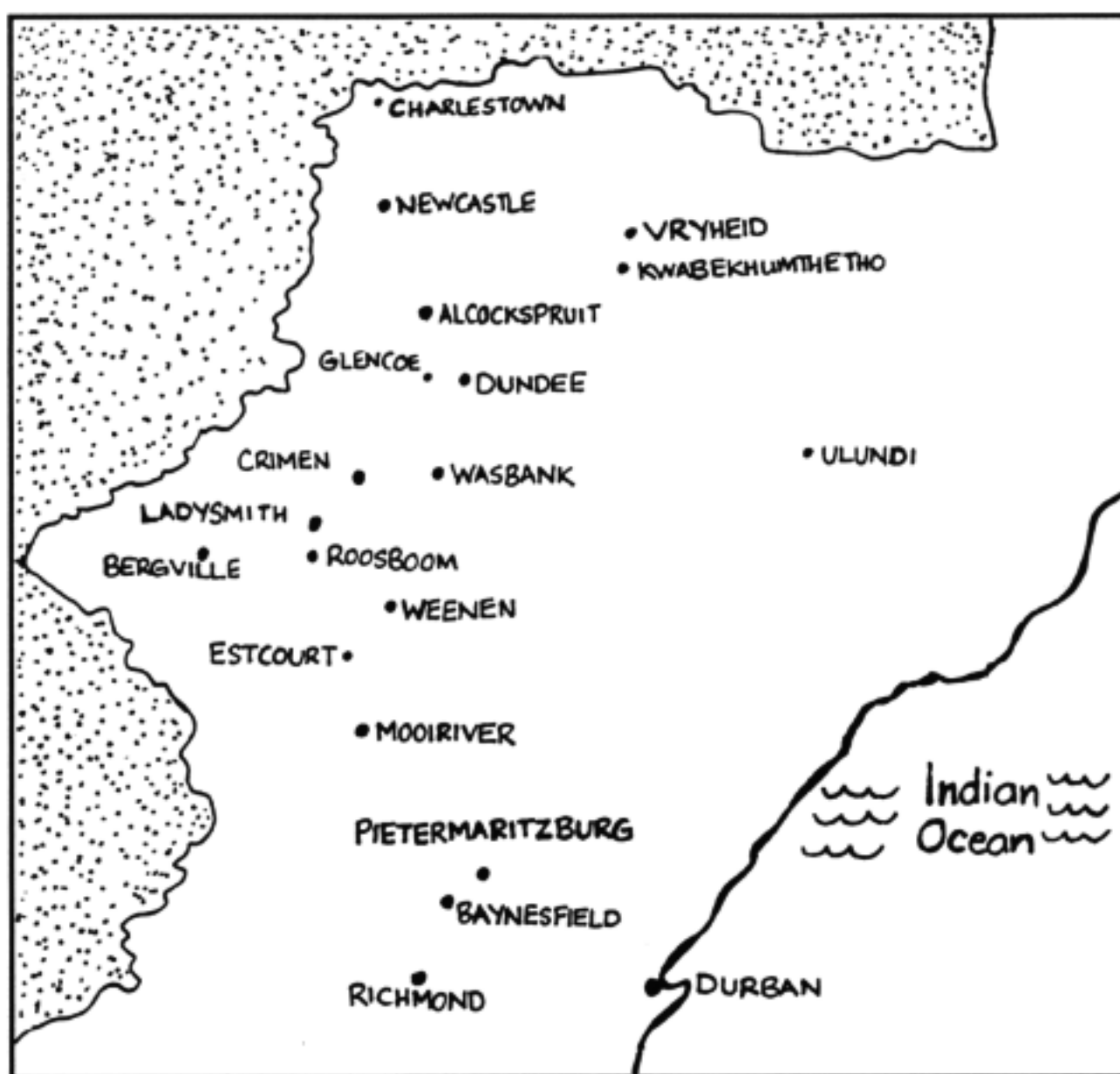
In previous newsletters, we carried profiles of those communities who have been part of the campaign for some time. These are Crimen, Charlestown and Roosboom.

Here we look at communities who have joined more recently. Of these "newer" communities who AFRA is assisting with land claims, 2 are freehold areas, 1 is a mission area, 2 stem from historic communal claims and 2 involve labour tenants. These, and other communities who have been part of the land restoration campaign for some time, have been meeting together in workshops to plan a joint approach to getting back the land they believe is theirs.

▼ Freehold

Alcockspruit

This is a freehold area in the Newcastle District where about 88 landowners had individual title deeds which were confiscated from them. From 1969 to 1970 the government forcefully evicted people, moving most to Madadeni. People who were evicted recall the stability and quality of life at Alcockspruit before their



removal. "Alcockspruit was divided into land for residential purposes with little gardens, cultivation land and livestock camps with dips. We had three schools, the walls of which are still standing up till today." (The community-built schools were demolished when people were moved off the land).

"We got water from wells and the river. There were two community halls and proper roads. The place is near a railway station as well as the main road to Johannesburg." It is also near to a coal mine and the AECI factory, where people worked. "We want to return to our land - at the moment rented by the boers. We want to be united and form a strong organisation with other communities that work

with AFRA so that we can be able to return to our land as Alcockspruit community," they say.

Longlands and Meran

Wasbank is the nearest town to the desolate area of Vaalkop to where the people from Longlands and Meran were removed. "We come from a freehold community. We were removed from two different areas, one called Longlands and the other is Meran. We want these places from where we were moved.

"In 1967, the Development Trust, assisted by the Bantu Affairs Commissioner of Dundee, took us to Vaalkop and showed us the farm where we were going to be moved. The Development Trust

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expropriated our properties but took no trouble to see that we get title deeds for the compensatory properties. This has caused great problems. The chiefs and indunas of this place (Vaalkop) let their people graze on our land and when we say something about this they ignore us. This has resulted in tension. We are told that we are foreigners in this place.

"We lived a happy life while we staying on our own land (at Meran and Longlands). We had shops, our farms were fenced - the land for grazing and ploughing was fenced and easily identifiable. We had boreholes to provide us with water when streams were dry. We had tenants who were free to build their houses and had a right to plough and keep livestock as they liked. We enjoyed the life we were living. We assisted one another in times of difficulty like death. We never experienced stock theft, we did not lose our cattle, our fences were not cut..."

At the moment the farms from which the communities were expropriated are being used by white farmers.

▼ Historic Communal Claims

Amahlubi

Some of the land being claimed by the Amahlubi clan is on the farm, De Hoek, near Estcourt. The whole claim, however, involves thousands of hectares, spread over about 20 trust farms. The claim dates back to

1873 when the Hlubi chief clashed with the British government, then ruling Natal. The clash was over chief Langalibalele's refusal to have a firearm registered. This firearm was brought back from the diamond mines by one of the AmaHlubi who worked on the mines. During those days it was common for weapons to be given to diamond mineworkers in part payment of their wages. But in Natal the law said that an owner had to register a weapon and also get signed authority from the Governor. When Langalibalele refused to comply, the government sent soldiers to arrest him. He fled, taking his family and indunas with him, but was eventually arrested in 1873. Upon his arrest, he was charged with what amounted to rebellion and the AmaHlubi land of some 90 000 hectares was confiscated. The tribe became scattered. When this happened, Bishop Colenso, a close friend of Chief Langalibalele, advised the clan to buy their own land. They did this and at present they live in an area called Draycott which is just outside Estcourt. But the area is dry and cannot sustain the people living there. There is not enough arable land on which to farm.

Amahlubi attempts to regain their ancestral land began as early as 1936. But up to now they have had no concrete response from the government. Recently, there were attempts to sell off some of the land under dispute. In

November 1991 public protest managed to halt a government attempt to auction off the De Hoek farm. Then, in March this year, the government again tried to auction it. However, the attempted public auction was stopped on instruction of the Minister of Land Affairs, Jacob de Villiers. This instruction followed a recommendation by the head of the Advisory Land Allocation Commission (ACLA) that the sale be stopped. More recently, the head of ACLA has called for a halt on the sale of all land which the Commission is to review.

Mdlalose (KwaBhekumthetho)

Situated about 22 km from Vryheid, the land under dispute encompasses about 5 000 acres. Historically, the land belonged to the Mdlalose Clan at the time of the arrival of the first whites. This was during Shaka's time. When the whites came, they took the land and turned it into farms.

Now the community says it wants to unite with other communities who are also struggling to get back their land.

▼ Labour Tenants

Baynesfield

The community, of about 100 families, were moved from the Baynesfield Farm in September 1974. Some were moved to Willowfontein in the Pietermaritzburg District, and others were scattered in different places such as Bulwer, Impendle, Richmond, Mid Illovo and

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the Vulindlela District. The farm is in the Richmond District.

Those who were removed from the farm tell of a will drawn up by the first owner, in which they were promised secure tenure. Now they are struggling to return to their ancestral lands.

"We lived on these farms long before the white people arrived. At a later stage, the farm came to be owned by Mr Baynes. He left it in his will that both black and white families should remain and stay on this farm.

"We were allowed to develop ourselves in this area. We were labour tenants. We paid tax/rent twice a year.

"Problems started in 1975 when the white people living on the farm started evicting the elderly and those who were no longer working on the farm. Now we are scattered in different areas as we had no place to go after being evicted from this farm.

"Before we were evicted from this farm, the land was divided into grazing land, forest and ploughing land. There was a dairy and school. We would like to continue with this process of development. We would also like to have a clinic, which we were already planning for before we were evicted."

The community who was evicted were using the land for subsistence farming and residential purposes and built a school there. Natural streams run through the area and there are forests and woodlot plantations.

Weenen

These labour tenants have suffered mass eviction since 1969. Weenen is one of the main areas in Natal where labour tenancy persisted, despite its legal abolition in the district in 1968. Under the labour tenant system, people provided labour for the farmers and this gave them the right to stay on the farms.

The first mass evictions in Weenen took place in 1969, when the abolition of labour tenancy came into practical effect. These evictions were followed by other large scale ones during the 1970s and 1980s. During May and June in 1989, large numbers of people were evicted from their homes in the Mngwenya Valley. Today, still, people are faced with the threat of removal from white-owned farms.

They want to go back to the land from which they were forcefully evicted and which they say is not being used properly now.

"These farms are not being used at the moment and they have not been developed," they say. We have held discussions with the NPA who said we must compile a programme of what specifically we want. We held a meeting at the Town Hall where we discussed this matter and also discussed the issue of the people living in tents. We want to return to those farms where we will be able to have land for cultivation as well as land for keeping our livestock. Schools and other things will follow later."

▼ Mission Land

Koenisberg

Koenisberg was communally bought and owned land. Near a mountain in the Newcastle District, it also had rivers and fountains, a forest and was suitable for cultivation and keeping livestock. The community built two schools - a lower primary and a higher primary.

Besides working the land, people worked in Newcastle and other towns. About 800 people (about 73 families) were removed from Koenisberg in 1967 and sent to Osizweni. The community wants to return to their land which they say was bought by their parents.

"Land was given to our parents by the British government. Later on our parents decided to buy the land, mainly because the land was subdivided by the government and given to white farmers. The community then decided to buy the land and were promised title deeds which we have not got up to now.

"We have united, held a meeting and formed a community committee. We also requested a lawyer to get us our deed of grant."

The land is currently administered by the Lutheran Church.

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