

**Revisiting the Political Economy of Land in South Africa:
Hernando de Soto, Property and Economic Development, 1860-
1920**

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Abstract

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Land ownership remains an important and contested issue in contemporary South African politics. Drawing inspiration from Hernando de Soto's work, especially his book, *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else* (2000), which sees equitable and private land ownership as a key factor for economic growth and development, this thesis details South Africa's own landed past in order to better understand its political present. Its central research question asks: What role did South Africa's land and agricultural policies from 1860-1920 play in the country's unequal development over time? This thesis traces historical transitions in land ownership patterns from the four weak and underdeveloped settler colonies (The Cape Colony, Natal, Orange Free State and the Zuid-Afrikaansche Republiek) to the rapidly industrialising, but racialised, South African state and the eventual emergence of white commercial farming by 1920. The thesis engages with a long heritage of South African historical writing on political economy as a central methodology, from its early liberal roots with W.M. Macmillan's writings on rural poverty in the 1920s, to more radical, neo-Marxist writings of the 1970s and 1980s. This thesis argues that the racialised land and labour policies from 1860-1920 produced a white oligarchy of landowners, which led to an unequal distribution of wealth over time and following De Soto, therefore inhibited economic growth and development. The thesis ultimately speaks to the validity of De Soto's work, as well as the importance of land and agricultural policies in South Africa today.

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Introduction

Land in contemporary South Africa remains a contentious political fault line in the young democracy. Within contemporary South African politics, demands for swift land reform to return land to black owners has taken centre stage in political discourse.¹ This issue, along with ongoing problems of poverty and inequality, continue to trouble the young democracy, creating deep divisions along partisan lines. In an article titled simply “EFF land dream: Turning South Africa into one big Bantustan — for the impoverishment of the people”,² journalist Sikonathi Mantshantsha discusses the policies on land reform of the Economic Freedom Fighters (EFF), currently South Africa’s third largest political party and ideologically occupying the extreme left of the political spectrum. Mantshantsha focuses on the EFF’s proposed policies of bringing all land in South Africa under state control, in order to build a socialist, developmental state. This, he believes, would cripple the economy and lead to land becoming dead capital, and laments it as an outdated ideology that left his home country, Zimbabwe, in ruins.

The land we left back home is, without any title deeds and security of ownership, useless as a currency for economic capital. For starters, I cannot sell any piece of the land to anybody. For they can always find another piece of land for a nominal fee from the chief. Thus the supply of land is unlimited. As such, it holds no economic value for those who possess it.³

For Mantshantsha and Julius Malema alike, land policies sit at the nexus upon which both the left and right in South Africa are prepared to fight bitterly for. These issues form the centre of this study, which seeks to understand the role private property has had in the creation of contemporary societal issues we face today. John Tosh explains that when we study the past, we can also think *with* history, looking at what narratives, events and changes led to our historical present.⁴ This study also thinks with history, with the central research of this paper asking what role did land ownership policies between 1860-1920 play in South Africa’s long-term economic development?

¹ A.O. Akinola, ‘Land reform in South Africa: An Appraisal’, *Africa Review* 10(1), 2018, pp. 1-16.

² S. Mantshantsha, 2019. <<https://www.dailymaverick.co.za/article/2019-12-16-eff-land-dream-turning-south-africa-into-one-big-bantustan-for-the-impoverishment-of-the-people/?>> Access: 15 January 2020.

³ S. Mantshantsha, 2019. <<https://www.dailymaverick.co.za/article/2019-12-16-eff-land-dream-turning-south-africa-into-one-big-bantustan-for-the-impoverishment-of-the-people/?>> Access: 15 January 2020.

⁴ J. Tosh, *Why History Matters*, p.7.

When looking at contemporary politics in South Africa, one has to look to the past to understand the peculiar case that is South Africa. As Bill Nasson summarises, “As we move ever further into post-apartheid history, we still do not have all the answers to what kind of country it has been, to say nothing of what it may become. The most difficult challenge, perhaps, may be finding the right questions.”⁵ When looking at the contemporary political debates around land in South Africa, this study seeks to add to the literature to better understand what kind of country South Africa was with regards to land ownership. This, at the very least, will help us understand how we got here, and what are the right questions to ask. With land taking such an important stage in South Africa’s contemporary politics, there is also much it can tell us about South Africa’s unequal development and race relations.

The rationale and motivation for this study came from my background in political science and International Relations (my honours degree was in International Relations). I was fascinated by the way in which political scientists engaged with historical trends. Doing a ‘history’ of a country and their political system is commonplace in political science, and scholars like Francis Fukuyama do not shy away from history in their analysis. Fukuyama’s grand histories are fascinating for beginning intellectual debate, even if they give scant recognition to the historiography of the countries they analyse. For example, Fukuyama devotes just two chapters to the difference between North America’s and South America’s economic fortunes in his recent book *Political Order and Political Decay* (2014).

Fukuyama writes: “In Latin America, there was also a dog that didn’t bark: the large-scale and continuous political violence that was so critical in shaping Western European states and national identity simply didn’t convulse the New World.”⁶ It was this kind of simple yet powerful statement about the past that I found intriguing. Fukuyama and Dr Soto offered a simple analysis of the way in which the world came to be today, something that a historian is naturally inclined to notice. It was during a module titled International Political Economy, that I stumbled across a popular work that was also based on the same kind of grand analysis that Fukuyama uses so well, in Hernando de Soto’s *The Mystery of Capital Why Capitalism Works in the West and Fails Everywhere Else* (2000). De Soto posits that wealthy Western nations and Japan were able, at some point in their past, to turn the majority of the land owned into private property in a way that the majority of the population could become property owners

⁵ B. Nasson, ‘How Abnormal is South Africa?’, *Quarterly Bulletin of the National Library of South Africa* 66 (1), 2012, pp. 40-50.

⁶ F. Fukuyama, *Political Order and Political Decay: From Prehuman Times to the French Revolution*, p.277.

and therefore, share in the country's wealth and development- as well as participate in creating more capital for reinvestment into the economy. A bold, interesting hypothesis that does not of course engage with each individual country's historiography, but rather looks at important legal interventions in the West that allowed the poor to become property owners as opposed to peasants on large estates owned by elites. De Soto deploys a simple hypothesis throughout his historical analysis of land utilisation in wealthy nations, that somewhere in every wealthy nation's past, there was a move towards an integrated private property system protected by law. Integrated property systems, the kind one would find in the West, is a legal property system where almost every acre of land in a state's territory is listed in title, where it can easily be bought and sold as an asset. This, he asserts, allowed private citizens to gain access to loans on their land, boosting economic activity.⁷

This understanding led me to look at my own country, South Africa. I did not want to do a sweeping survey of the country's landed past, and even if I did, it became increasingly clear that South Africa's delayed unification (only in 1910), competing colonies with divergent colonial ideologies, and a politically and numerically strong indigenous population meant that this would not be possible. This complicated and racialised past calls for a strong engagement with South African historiography and a revisiting of past insights in order to ask the correct questions on exactly what kind of landed past this country has. As Andro Linklater, in his book *Owning the Earth: The Transforming History of Land Ownership* (2013), states, "The idea of individual, exclusive ownership, not just of what can be carried or occupied, but of immovable, near-eternal earth, has proved to be the most destructive and creative cultural force in written history".⁸ This "destructive and creative cultural force" is analysed in South Africa, between 1860-1920, at a crucial point in the region's development from an agricultural backwater to its rapid industrialisation on the mines.

Therefore, to understand land ownership patterns and their implications for South Africa's economic development, the political economy of land is re-examined with De Soto's hypothesis as a departure point. Land is used as an important variable to explain the nexus between politics and economics and how South Africa developed into a regionally strong state in the 20th century, but one that is still plagued by inequality.

⁷ H. De Soto, *The Mystery of Capital Why Capitalism Works in the West and Fails Everywhere Else*, p. 109.

⁸ A. Linklater, *Owning the Earth: The Transforming History of Land Ownership*, p. 5.

Theoretical Foundation

Early on in this study, it became clear that for a study on land and development in South Africa's past to be done effectively, it would have to be well-versed in South African historiography. A grand narrative that does not engage with South African historiography would miss valuable insights and foundations that have already been established. neo-Marxist scholars wrote extensively on political economy, beginning in the 1970s and right until the late 1980s. Stanley Trapido, Harold Wolpe, Shula Marks and Martin Legassick added important insights into the nature of land, race, class, politics and economics in the South African past. These works from the materialist historical moment in South African historiography are important to revisit, although this study does not utilise a Marxist lens.⁹ Liberals too, provide important insights into the problems in the South African economy, beginning with the father of liberal historiography in South Africa, W. M. Macmillan, who early on in the 1920s began to see large structural problems within South Africa's economy that began with problems in the rural areas. His analysis, that saw rural poverty as a South African problem driving down wages for everyone, was an important historical insight that I elaborate on in Chapter 3. Both liberals and Marxists shared a core understanding that there were large structural problems within the South African economy that had developed over the last three centuries that needed to be addressed.

Later on in the 1970s and 1980s however, these two schools of thought would diverge significantly from this shared baseline of agreement, with writers clashing bitterly on the nature of South African history over the past three centuries, their political and economic present and as well as their aims and expectations for the future.¹⁰ As historians, we always write from the present. We cannot, of course, immerse ourselves in the past. As E.H. Carr explained in his classic *What is History?* (1961), history is a constant dialogue between the present and the past. In order understand the facts of history, one needs to also understand the historian and the context in which the history was written, with context determining what historians were looking for, and also, what facts they would find.¹¹ Neo-Marxist historians were writing in a

⁹ L. Witz & C. Rasool, 'Making Histories', *Kronos* 34 (1), 2008, pp. 6-15.

¹⁰ H.M. Wright, *The Burden of the Present: Liberal-radical controversy over Southern African History*, p.3.

¹¹ E.H. Carr, *What is History?*, p.75.

time of increasing labour unrest and the stubborn continuation of white minority rule, which they wanted to understand historically. They wanted to understand class relations in Southern African history, which is why labour, especially the creation of cheap black labour, features heavily in their work. Both neo-Marxists and liberals explained the problems of inequality in the South African economy as stemming from unequal and unfair land policies and saw that poverty in the towns was inextricably linked to poverty in the rural areas. This study is also not immune to the biased present, with land ownership now taking centre stage in contemporary South African politics,¹² I wanted to understand the nature of unequal land ownership and its effect on South Africa's economic development over time.

With the benefit of hindsight and the political present having shifted dramatically since the 1980s, the Marxist/liberal debate is no longer a dominant concern of South African historiography, and one can utilise insights from both these lenses during this study. Neo-Marxist writers themselves have also moved away from dogmatic interpretations of the South African past, as William Beinart explains in the introduction to a recent work: "There is no longer one 'school' of 'revisionist' or radical history, but most authors have shared an opposition to apartheid and a commitment to discovering the history of black people".¹³ Therefore, one can utilise both the work of Marxists and liberals such as Merle Lipton in understanding the South African past. The vast writing on South Africa's segregated past means that this study theoretically needs to traverse many different facets of South African historiography, which one will find peppered throughout the following chapters. Contemporary authors on land which the reader will find throughout this study are: Andro Linklater, who specialises on private property as a concept and its development, Luvuyo Wotshela, whose recent work on socio-political histories in the Eastern Cape and the former Transkei are most insightful, as well as Professor Lungisile Ntsebeza who has also written extensively on land reform in the Eastern Cape. Professor Johan Bergh's work on labour and land in the Transvaal in the 1800s is also used extensively throughout the study. One will find the work of Ben Cousins, who founded the Institute for Poverty, Land and Agrarian Studies in 1995 and has written extensively on land reform, also features throughout this literature study.

Methodology

¹² A.O. Akinola, 'Land reform in South Africa: An Appraisal', *Africa Review* 10(1), 2018, pp. 1-16.

¹³ Cited in: T. Simpson, 'The Historiographical Revolution in South Africa', Unpublished Paper, 2020, pp. 1-28.

This study began and remains a largely qualitative study, drawing from a diverse literature, ranging from theories on private property, capital and even cartography, whilst engaging with South African historiography throughout. This also reflects my own learning curve in creating and finishing this thesis, as I too learned about the nature of land and economics in the South African past. The reader will notice that this thesis is built very much from the ground up theoretically, tackling the very theoretical nature of what private property is and how it was exported as a concept and practice from Europe to Southern Africa with the arrival of European settlers. Later on, by chapter 3, this study engages more extensively with liberal and Marxist histories and the insights they give on the nature of rural poverty in the South African economy over time. These discussions are important, because as Harrison Wright correctly explains, “South Africa is unusual in the degree to which general social and political problems have persisted through long periods of time”.¹⁴ By the end of the study, the reader will notice that Wright’s analysis proves to be correct, and many of these social and political problems begin in the period of this study, 1860-1920. These discussions relied heavily on secondary sources, and throughout the thesis the reader will notice I use primary sources to ground the reader in the time period, and give the study further insight into historical events that were unfolding in South Africa at the time.

For example, I utilised Johan Bergh’s collection of Paul Kruger letters to understand what property looked like in the early Transvaal, his letters explained to me that property systems were well established there when he was a young man in the 1860s. When the thesis moved to cartography, I utilised maps from the time to understand what the physical landscape looked like, and practically, one can see how privately owned farms border with communally owned areas. These physical delineations give the reader a more visual and practical understanding into how land came to be occupied and changed into privately owned farms by Europeans. I was fortunate enough to get high definition copies of the Troye’s map of the Transvaal which was sent by the Library of Congress free of charge due to the rarity of the map and the fact I was using it for research purposes. By chapter 4, where the study engages with the Natives Land Act of 1913, I used Beinart and Delius’ analysis as a guide, complimented by newspaper clippings from the *Rand Daily Mail* during the period to understand how people saw, experienced and opposed the Act at the time. Sol Plaatje’s famous book *Native Life in South Africa Before and Since the European War and the Boer Rebellion* (1916), is used as an

¹⁴ H.M. Wright, *The Burden of the Present: Liberal-radical controversy over Southern African History*, p.3.

important resource. Plaatje, writing so soon after the act's implementation, can in many ways be seen as a primary source from the time itself. Therefore, the methodology utilised in this study is in many ways fit for purpose, designed in a way to make the period and the processes that unfold as clear and comprehensible as possible.

Literature Review

In order to answer the central research question of this study: what role did land policies between 1860-1920 play in South Africa's long-term economic development? This section details some of the important insights the literature on South Africa's economic and political past teaches us. Today, the country is seen as a regional power and a facilitator for opening up the rest of Africa for international companies, or at least South Africa likes to think of itself that way. Regionally, the country is simply more developed than its neighbours. Inland countries like Zimbabwe and Botswana rely on South Africa's road and port infrastructure for important commodities, and many companies set up their regional headquarters in either Cape Town or Johannesburg.¹⁵ South Africa is certainly a peculiar case in the region in terms of economic development, but it remains a country deeply divided. Hein Marais summarises this succinctly:

A wealthy country by continental standards, South Africa is also one of the most unequal societies on Earth. It has more luxury-car dealers than any country outside the industrialised north, yet almost half of its population lives in poverty and more than one third cannot find waged work.¹⁶

Land and capital in South Africa today reflect a situation where rural poverty and subsistence farming exist side by side with large commercial farms and an expanding agribusiness industry that has begun to expand regionally.¹⁷ Economic inequality between different race groups in South Africa is also reflected in the land ownership patterns in South Africa today. Although the share of agricultural land owned by black South Africans¹⁸ has increased from 14.9% in

¹⁵ S. Scholvin & P. Draper, 'The gateway to Africa? Geography and South Africa's role as an economic hinge joint between Africa and the world', *South African Journal of International Affairs* 19(3), 2012, pp. 381-400.

¹⁶ H. Marais, *South Africa Pushed to the Limit: The Political Economy of Change*, p. 7.

¹⁷ R. Hall & B. Cousins, 'Exporting contradictions: the expansion of South African agrarian capital within Africa', *Globalizations* 15(1), 2018, pp. 12-31.

¹⁸ Note to the reader: Throughout the course of this study one will note that I use the terms 'African' or 'Black' interchangeably to refer to South Africans that were discriminated against in terms of race policies on the basis of their skin colour. The only other racial term I use is the term 'Basters' to refer to a community that settled in the Northern Cape as a case study in Gordonias, as this is an unique Cape community of mixed ancestry and are referred to as 'Basters' in the literature.

1994 to 29.1% in 2016,¹⁹ these statistics reveal that the skewed patterns of land ownership between races in South Africa persists. The picture becomes even more complicated when one considers the multiple and diverse land tenure arrangements in South Africa, with the majority of South Africans existing outside of formal legal tenure of land.²⁰ Here, Mahmood's Mamdani's *Citizen and Subject Contemporary Africa and the Legacy of Late Colonialism* (1996), well known for his exploration of the relationship that developed between colonial subjects and governments, is particularly poignant in explaining how legal pluralism developed in colonial states. This is explored further in chapter one.

In this study I engage with a large existing body of literature on South Africa's political economy that was produced in the 1970s and 1980s. South African historiography engaged in rigorous academic debates under this theme, however, this dissertation argues that land ownership was mostly discussed with regards to its relationship to creating black cheap labour, as opposed to studying land tenure as a phenomenon in its own right. Revisiting the important works of Harold Wolpe, Stanley Trapido, Shula Marks and Martin Legassick reveal important insights into the creation of Southern Africa's peculiar, racialised political economy. Throughout this study, the reader will find that their histories provide an important foundation on which to understand the nature of class, race, labour and capital in the Southern African past. However, their work often touches on, but does not delve further into land tenure in South Africa, as their goal was to understand the result cheap labour had on the South African economy, not specifically to understand the processes that created private land tenure.

Land tenure, and access to land ownership, is often seen through the lens of racial inequality in these studies, and land is often discussed with regards to the problems of rural poverty in the reserves. Therefore, these works all provide an important foundation on which to develop the historiographical discussion on the importance of land policies in the Southern African past and to put this body of work into dialogue with the international studies of De Soto, Linklater and Fukuyama. By reading between the lines where land is discussed with regards to labour, there are still important insights that these scholars revealed about the nature of private property in Southern Africa development between 1860-1920, which have a bearing on international debates.

¹⁹ AgriSA, 2017. < <https://www.agrisa.co.za/coes> > Access: 17 November 2019.

²⁰ D. Hornby, L. Royston, R. Kingwill & B. Cousins. 'Introduction' in D. Hornby, L. Royston, R. Kingwill & B. Cousins (eds), *Untitled: Securing Land Tenure in Urban and Rural South Africa*, p. 8.

The initial literature review of this topic had to cover a large literature on political economy in South Africa, as well as the concept of private property. Books that I have found most useful are Andro Linklater's already mentioned *Owning the Earth: The transforming History of Land Ownership* (2013), which details the rise of private property around the world. Linklater is an important contributor because he painstakingly analyses private property as a phenomenon on its own, rather than as an inevitable consequence of modernisation. Linklater looks at private property's origins in England and details how it spread across the world from 1800 onwards. His detailed work therefore provides an important reference point from which to create an understanding of the phenomenon of private property and the consequences of its implementation across the globe. Francis Fukuyama's two-part book series, the *Origins of Political Order* (2011) and *Political Order and Political Decay* (2014) helped to shape my understanding of how political organisations can determine the way in which land is divided and codified as an exercise of political power. Private property is inherently linked to law, as its protection has to be upheld by legal institutions, which can only be formed by political power, which is what Fukuyama details in his extensive work on political order. For these reasons Fukuyama and Linklater both play an important role in the theoretical foundations of this study.

Fukuyama explains how political order manages the way in which land is utilised. Kingdom, tribal, feudal and kin relationships governed how land was utilised in non-Western settings prior to colonialism. Private property was part and parcel of colonial political institutions that were imposed on Africa and changed the political order and legal systems that Africans used to operate under. Fukuyama observes how "European colonial officials were convinced that economic development could not occur in the absence of modern property rights, that is, rights that were individual, alienable, and formally specified through the legal system".²¹ Europeans of course, were also motivated to introduce private property for their own self-interest, to exploit resources and farm without hindrance from the previous inhabitants and political structures than managed the land previously.²²

This was also the case in South Africa, and a brief overview of the literature on South Africa's economic history reveals a narrative that still leaves much to be desired in terms of understanding the role land played in South Africa's development. C.W. de Kiewiet's *A*

²¹ F. Fukuyama, *The Origins of Political Order: From Prehuman Times to the French Revolution*, p. 68.

²² F. Fukuyama, *The Origins of Political Order: From Prehuman Times to the French Revolution*, p. 68.

History of South Africa, Social And Economic (1941) and Charles Feinstein's *An Economic History of South Africa Conquest: Discrimination and Development* (2005) remain important books on South Africa's economic history. De Kiewiet's book is dated, (first published in 1941) and contains obvious biases that were present in white society at the time amongst liberal historians. However, the book remains useful with regards to its pioneering work as an integrated historical analysis of the political economy of South Africa as a whole. What is important to note here is that Marxists, for all their criticism of liberals who they argued did not focus enough on material concerns in Southern African history, are not the only ones who wrote on political economy.²³ Liberals, from missionary John Phillip in the 19th century, to W.M. Macmillan who De Kiewiet studied under, to Merle Lipton later in the 1970s and 1980s, also engaged with fundamental structural problems in the South African economy that was driving its archaic race policies. John Philip, early on in the 19th century already, advocated that Africans should be able to sell their produce and labour in a freer market and lamented draconian race policies that were emerging.²⁴ It is this liberal tradition that was picked up by Macmillan and later by his student De Kiewiet, whose seminal work was essentially a work on South Africa's political economy.

The liberal tradition saw white poverty as being inextricably linked to the problem of poverty as a whole in South Africa, as underdevelopment in the reserves was driving down wages for whites in the towns as Africans left the reserves seeking wage labour. It is important to draw from the insights of liberal historians as well as the Marxist revisionists to understand the phenomenon of land in Southern Africa's political and economic history in a more nuanced way. Looking principally at South Africa's economic past, a common theme that appears throughout the literature is that South Africa's economy was depressed before the mineral revolution, with wool being the most important export for South Africa due to the low capital requirements to get started in the semi-arid interior.²⁵ Commercial agriculture remained largely non-existent until the mineral revolution and it is accepted that minerals kickstarted capitalist development in South Africa. Only with foreign capital investment in the case of South Africa and Australia, did these economies move towards mineral and agricultural exports.²⁶

²³ M. Lipton, *Liberals, Marxists, and Nationalists: Competing Interpretation of South African History*, p. 9.

²⁴ M. Lipton, *Liberals, Marxists, and Nationalists: Competing Interpretation of South African History*, p. 9.

²⁵ L. Greyling, G. B. Magee & G. Verhoef, 'South Africa in the Australian mirror: per capita real GDP in the Cape Colony, Natal, Victoria and New South Wales 1861-1909', *Economic History Review* 69(3), 2016, pp. 893-914.

²⁶ L. Greyling, G. B. Magee & G. Verhoef, 'South Africa in the Australian mirror: per capita real GDP in the Cape Colony, Natal, Victoria and New South Wales 1861-1909', *Economic History Review* 69(3), 2016, pp. 893-914.

South Africa's land economy was depressed before the onset of the mineral revolution, which helped bring capital into South Africa. Agriculture in South Africa was beset with problems of intermittent rainfall, soil deficiencies, pests and diseases to begin with. Outside of gold and diamond mining, South Africa had little to offer in terms of skilled craftsmanship or manufacturing. By the turn of the 20th century, "South African agriculture remained inefficiently organized and barely mechanized at a time when the achievements of Australian agricultural technology had already been acknowledged internationally."²⁷ There were efforts to change the fortunes of the industry, which began in the late 1800s, with the first agricultural schools and experimental farms being introduced in the Cape colony in 1898. The slow process of installing windmills, fencing-off farms, digging boreholes and introducing mechanisation began to unfold.²⁸ However, when looking at the amount of people that got their subsistence from agriculture as opposed to its net value to the national income, the industry remained uncompetitive.

In 1936, the Van Eck commission noted that over 33% of the population got their subsistence from agriculture, but it only accounted for 12% of the national income²⁹, a disparity that the commission noted as "striking evidence of the unremunerative position of the farming industry".³⁰ The cure, many argued, was even more government subsidies and support for white farmers. Some economists disagreed with this, given the overall contribution agriculture made to the national income. In 1928, Professor Hubert Leppan, an agricultural economist from the Transvaal University College, who wrote four books on technical agriculture during his tenure at the college, went so far as to say that the constant desire to solve the poor white problem through more agricultural subsidies represented a "Land Fetish" that defied economic logic.³¹

One of the reasons for the poor performance of the agricultural industry was often accredited to Africans not utilising modern techniques in their farming.³² However, even a glance at the literature reveals that it is more likely that the industry took so long to improve because Africans were systematically forced out of commercial farming and into wage labour. There seemed to be little incentive to improve agricultural productivity in the reserves because in the

²⁷ L. Greyling, G. B. Magee & G. Verhoef, 'South Africa in the Australian mirror: per capita real GDP in the Cape Colony, Natal, Victoria and New South Wales 1861-1909', *Economic History Review* 69(3), 2016, pp. 893-914.

²⁸ C. H. Feinstein, *An Economic History of South Africa: Conquest Discrimination and Development*, p. 140.

²⁹ C. H. Feinstein, *An Economic History of South Africa: Conquest Discrimination and Development*, p. 140.

³⁰ Cited in: C. H. Feinstein, *An Economic History of South Africa: Conquest Discrimination and Development*, p. 138.

³¹ *Rand Daily Mail*, Johannesburg, 24 August 1928, p. 12.

³² H. Houghton & J Dagut, *Source Material on the South African Economy: 1860-1970*, 4th ed, p. 45.

event of such development Africans would then be less willing to enter wage labour.³³ Colin Bundy's *The Rise and Fall of the South African Peasantry* (1980) looks specifically at this issue, noting that black farmers were just as innovative and resilient as their white counterparts. This narrative was also useful in painting the black indigenous population as ineffective farmers compared to whites as wealthier black farmers and sharecroppers were often seen as a threat to white commercial farmers.³⁴

Bundy explains that in 1870 Africans were proving not only to be resilient in the face of continued European expansion, but also capable agriculturalists. Africans, especially in the Cape Colony, became effective agriculturalists, taking advantage of increasing demand for agricultural products that accompanied the mineral revolution. Bundy observes:

Moreover, for smaller numbers of Africans access to capital and to larger landholdings, and the successful adoption of new production techniques, among other factors, created a class of small commercial farmers and large peasants who, by any index, responded vigorously and effectively to new economic activities.³⁵

Bundy's work, which traces the rise and collapse of a competitive, African agricultural class of landowners and sharecroppers due to racist policies by the intrusive South African state, drew on the insights of several neo-Marxist scholars from as early as the 1970s. The vast differences that developed between the two population groups' ability to produce food had little to do with European farmers being intrinsically better at working the land. Martin Legassick provided a concrete example of this in a very interesting case study of a small Coloured farming community near what is today Upington in the Northern Cape, who created a successful rural economy on the Orange River. The group, who the government called "bastards" at the time, were granted land by the British Bechuanaland government in the 1870s, which was an uncultivated desert on the Orange river that white farmers were not interested in.³⁶ Legassick cites the Cape Parliamentary Papers in 1888:

In 1880 the country wherein the Bastards were invited to settle, was regarded as a worthless desert, and no one envied the people to whom it had been allotted. But all this now changed...Last season a patch of cleared ground not quite 100 yards by 300 yielded sixty-six muids of exceptionally fine wheat...This would give a yield of 37

³³ H. Wolpe, 'Capitalism and Cheap Labour-power in South Africa: From Segregation to Apartheid' *Economy and Society* 1(4), 1972, pp. 425-456.

³⁴ C. Bundy, *The Rise and Fall of the South African Peasantry*, p.134.

³⁵ C. Bundy, *The Rise and Fall of the South African Peasantry*, p. 67.

³⁶ M. Legassick, 'The Will of Abraham and Elizabeth September: The Struggle for Land in Gordonia, 1898-1995', *The Journal of South African History* 37(3), 1995, pp.371-418.

bushels the acre (English)...there are persons who now regard the Bastard settlers with jealousy, and look with envy upon the land their industry made so rich.³⁷

The community that settled in Gordonia were referred to in racial terms as Basters or Bastards, most likely a reference to their mixed ancestry. A ‘muid’ was equal to approximately 3 bushels of wheat. More practically, in 1889 the estimated harvest was 4000 bags of wheat.³⁸ In 1898 the Magistrate of a district near Gordonia, had far more disparaging remarks for the white farmers in the area, who had suffered from the rinderpest. “The [white] farmers are at last awakening to the fact that in order to progress it is necessary for them to turn their minds to irrigation and agriculture and not to be wholly dependent on their livestock”.³⁹ These sources from Legassick’s case study reinforce Bundy’s point, that black farmers were resilient and capable farmers in the face of colonialism. The farmers in Gordonia were also keen to become landowners and not just farmers, as this would help cement their claim to the land they were granted. Legassick explains that: “Although it was outside the Cape Colony, the Basters wanted their rights to private property land recognised by the Cape Government, against potential white claimants, and security of tenure in the case of annexation”.⁴⁰ This group of landowning, commercially successful, black farmers reveal that the black, rural peasantry in many places were moving towards becoming commercial farmers who were able to reinvest capital into the land. Although the residents at Gordonia did gain access to private land ownership, Legassick explains how over time, through policies and white incursion, land ownership was slowly transferred into white hands.

This is indicative of a larger problem in South Africa, where being able to become and remain a landowner was largely based on race, which meant that a large class of black landowners never materialised. As Legassick (1972) argued, apartheid was an extension of racialised policies that were already in place. One of the key aspects of a racialised state was to deny black inhabitants the right to land ownership, which affected their ability to become independent economic actors with access to capital. These policies, as well as a lack of investment into black agriculture, created economic backwaters in the reserves, which meant

³⁷ Cited in: M. Legassick, ‘The Will of Abraham and Elizabeth September: The Struggle for Land in Gordonia, 1898-1995’, *The Journal of South African History* 37(3), 1995, pp.371-418.

³⁸ M. Legassick, ‘The Will of Abraham and Elizabeth September: The Struggle for Land in Gordonia, 1898-1995’, *The Journal of South African History* 37(3), 1995, pp.371-418.

³⁹ Cited in: M. Legassick, ‘The Will of Abraham and Elizabeth September: The Struggle for Land in Gordonia, 1898-1995’, *The Journal of South African History* 37(3), 1995, pp.371-418.

⁴⁰ M. Legassick, ‘The Will of Abraham and Elizabeth September: The Struggle for Land in Gordonia, 1898-1995’, *The Journal of South African History* 37(3), 1995, pp.371-418.

that Africans had little option besides entering the workforce on the mines or other industrial areas in white towns, where they could not own property.⁴¹

With government policy failing to create black landowners and commercial farmers, the important sectors that would dominate South Africa's economy, gold and maize,⁴² were firmly in the control of white landowners and capitalists at the mines. The union between gold and maize was described by Stanley Trapido, who compared South Africa's labour market controls to that of the rapid development of the iron and rye industries in Prussia, writing of how "The well-known 'marriage of iron and rye', an alliance which succeeded in suppressing political freedom in its own economic interests, has its South African counterpart in the uneasy union of 'gold and maize'".⁴³ The union between gold and maize in the interior represented South Africa's peculiar path to industrialisation, that was heavily dependent on cheap, black labour. As Trapido emphasised, "Both mining and the (largely white) capitalist agriculture that it gave rise to depended on a low-wage regime."⁴⁴

Shula Marks made the point that land and minerals worked side by side as South Africa's economic development became increasingly unequal over time between black and white. She recognised how as "Important as the mineral discoveries were in the industrialisation and urbanisation of South Africa, in the late nineteenth century, the majority of South Africans, black and white, still earned their living on the land, though under rapidly changing circumstances".⁴⁵ Marks explained how minerals helped increase the value of the land, with some speculators buying land in the hopes that more minerals would be discovered. Farmers also benefitted from improved road and port infrastructure to sell their goods, as well as an increased demand for agricultural products.⁴⁶ Thus, the literature reveals that land occupies an important part of the story of South Africa's development alongside the discovery and mining of minerals.

⁴¹ H. Wolpe, 'Capitalism and Cheap Labour-power in South Africa: From Segregation to Apartheid' *Economy and Society* 1(4), 1972, pp. 425-456.

⁴² H. Wolpe, 'Capitalism and Cheap Labour-power in South Africa: From Segregation to Apartheid' *Economy and Society* 1(4), 1972, pp. 425-456.

⁴³ S. Trapido, 'South Africa in a Comparative Study of Industrialisation', *Journal of Development Studies*, 1970, pp. 309-320.

⁴⁴ R. Hall & B. Cousins, 'Exporting contradictions: the expansion of South African agrarian capital within Africa', *Globalizations* 15(1), 2018, pp. 12-31.

⁴⁵ S. Marks. 'Class, Culture and Consciousness in South Africa, 1880-1899' in R. Ross, A. N. Mager & B. Nasson (eds), *The Cambridge History of South Africa Volume 2 1885-1994*, p. 102.

⁴⁶ S. Marks. 'Class, Culture and Consciousness in South Africa, 1880-1899' in R. Ross, A. N. Mager & B. Nasson (eds), *The Cambridge History of South Africa Volume 2 1885-1994*, p. 102.

The windfall gold mining created for the economy was dual fold. It brought foreign capital into the interior for the first time, and as noted, it also raised the value of land and increased demand for agricultural products. Maize and gold were becoming the major employers and drivers of economic growth in South Africa, but the economic prosperity these industries created was also highly unequal over time. Unable to enter the property market in both the towns and rural areas, blacks had little opportunity to earn a living outside of wage labour in the mines or on commercial farms. As with the case study of Gordonia, being owners of agricultural land created a certain amount of economic independence, which would have tied blacks to labour on their own farms instead of becoming migrant labourers.

By applying De Soto's hypothesis to South Africa, I originally sought to simply understand the role land ownership played in South Africa's early economic development. It soon became clear that perhaps no other sector illustrated the peculiar nature of the intrusive South African state in the lives of ordinary South Africans quite as well as land ownership and agriculture did. Where De Soto's work focuses mostly on political and legal interventions in the West that allowed land to be transferred into private hands on a large scale, his work does not include the role race can play in these decisions, which is what makes South Africa a peculiar case. In the United States, De Soto discusses the importance of the 1862 Homestead Act which brought many European poor there into landed proprietary, enabling men to purchase 160 acres cheaply if they had already occupied it.⁴⁷

In Australia too, pro-poor politicians also began to bring European squatters into private property arrangements. One by one, the territories adopted pro-poor, pro-land ownership policies for the rural poor and white immigrants as they had done in the USA. Beginning with Victoria in 1860 and New South Wales in 1861, Selection Acts were passed that allowed for squatters to become property landowners. Stuart Macintyre explains that after several years of political battles: "Squatters could purchase cheaply up to 250 hectares of vacant Crown land or portions of runs held by pastoral leaseholders".⁴⁸ De Soto points to these legislative interventions as important contributors to long term economic development, which he compared to South America, where land remained locked in the hands of a landed elite and where no pro-poor policy intervention was forthcoming.⁴⁹ The problem, however, is that De

⁴⁷ H. De Soto, *The Mystery of Capital: Why Capitalism Works in the West and Fails Everywhere Else*, p.111.

⁴⁸ S. Macintyre, *A Concise History of Australia (3rd ed)*, p.97.

⁴⁹ K.L. Sokoloff & S.L. Engerman, 'Institutions, Factor Endowments, and Paths of Development in the New World', *Journal of Economic Perspectives*, 2000, pp. 217-232.

Soto chooses convenient case studies where the native populations had been almost completely decimated and no longer played a political role in those settler colonial states, which allows one to simply compare legislation between South America and the British dominions. In British dominions, poor European immigrants were given a chance to enter landed proprietary, which favoured economic development and created more equal societies over time, as opposed to their Spanish and Portuguese counterparts where large estate holders were able to cling onto political and economic power.⁵⁰ Initially, this study sought to take these case studies as comparisons further and discuss each in their own chapter. However, as I mentioned above, it became increasingly clear that South Africa on its own was too complex and would require almost the entire study to be devoted to it.

In the case of South Africa, the picture is far more complicated, because a large indigenous population remained a part of the story. This shows that political institutions play an important role in protecting worker's rights and ensuring access to land tenure. In South Africa, blacks were denied access to both, which chipped away at their economic independence. Harold Wolpe saw the South African state after 1910, and the four colonies that had preceded it, as governments that operated solely to secure white interests, and therefore did little to support black economic interests or concerns.⁵¹ With Africans being denied the vote, naturally white interests were the key focus during elections, which directly influenced policy. This created vast inequalities in the South African economy, which as Trapido observes, contributed to a peculiar Southern African industrialisation which relied heavily on cheap labour.⁵²

Therefore, South Africa does not share a similar landed history where native populations were almost wiped out and the division of land into private property became a simple legislative exercise. In South Africa, these exercises had to be carried out based solely on racial discrimination, purposefully choosing to push Africans to the periphery. This is essentially what separates South Africa from other settler colonies that are used in De Soto's hypothesis, which means that his case studies do lend more credibility to his argument than South Africa would. The South African case reveals that property rights can also be used as an extension of racial discrimination which can favour one group over another. However, although De Soto

⁵⁰ K.L. Sokoloff & S.L. Engerman, 'Institutions, Factor Endowments, and Paths of Development in the New World', *Journal of Economic Perspectives*, 2000, pp. 217-232.

⁵¹ H. Wolpe, 'Capitalism and Cheap Labour-power in South Africa: From Segregation to Apartheid' *Economy and Society* 1(4), 1972, pp. 425-456.

⁵² S. Trapido, 'South Africa in a Comparative Study of Industrialisation', *Journal of Development Studies* 7(3), 1970, pp. 309-320.

does not discuss race and property, he does lament property being unequally distributed in a country's past, which is essentially what happened in South Africa. William Beinart and Peter Delius, writing in 2014 but also referencing their earlier works from the 1980s, explain how the 1913 Land Act was designed specifically to manage the relationship between white landowners and black sharecroppers, stripping sharecroppers of any kind of legal protection in a move to deliberately favour white landowners. By 1913, the state sought to entrench what colonial occupation had already established, that large portions of land were to be held with title by whites, forcing Africans to sell their labour to white landowners. After 1913, it also became increasingly difficult for African sharecroppers to survive as legislation favoured white landowners.⁵³

Charles van Onselen's award-winning biography, *The Seed is Mine: The Life of Kas Maine, a South African Sharecropper 1894-1985* (1996), provides an important insight into the difficulties and historical complexities of African sharecroppers. The book follows Kas Maine's life, a black sharecropper who eked out a living on land he did not own. Van Onselen introduces the book by quoting Maine, who showed how white land ownership worked directly against black farmers: "The seed is mine. The ploughshares are mine. The span of oxen is mine. Everything is mine. Only the land is theirs".⁵⁴ Beinart and Delius also use van Onselen's book to help explain the complicated space that sharecroppers occupied. Although white farmers resisted African agriculture and the competition that it posed, they also at the same time often relied on sharecroppers because farmers on the Highveld, for example, could not afford the labour needed to farm large tracts of land. "Van Onselen, in his brief discussion of the Act in the south-western Transvaal, quotes Kas Maine as saying: ['sharecropping continued because many white farmers could not afford to pay their labourers cash wages']".⁵⁵

With white farm owners owning the land, they would often enter into agreements with black farmers to farm half of their land, because they often did not have the means to do so themselves. However, these arrangements had to be renewed each year, and if the owner saw it fit to cultivate the entire farm, black tenants would be evicted or forced to sell their labour.⁵⁶ Once again, this reveals that private ownership of land creates economic independence and

⁵³ W. Beinart & P. Delius, 'The Historical Context and Legacy of the Natives Land Act of 1913'. *Journal of Southern African Studies* 40 (4), 2014, pp. 667-688.

⁵⁴ C. van Onselen, *The Seed is Mine: The Life of Kas Maine, a South African Sharecropper 1894-1985*, p. V.

⁵⁵ W. Beinart & P. Delius, 'The Historical Context and Legacy of the Natives Land Act of 1913'. *Journal of Southern African Studies* 40 (4), 2014, pp. 667-688.

⁵⁶ C. Feinstein, *An Economic History of South Africa Conquest Discrimination and Development*, p. 137.

without it, black farmers could not become successful commercial farmers in most cases. Therefore, De Soto's hypothesis applied to South Africa reveals the fault lines between development and systematic underdevelopment based on race, with land ownership reflecting this. The complex nature of land ownership, communal land ownership in the African 'reserves,' as well as African sharecroppers mean that De Soto's hypothesis, when applied to South Africa, raises many important questions about the nature of land ownership and development.

What this literature review has shown is that individual land tenure is an important contributor to economic development. Chapters 4 and 5 reveal the economic turnaround for white farmers with state support after the South African war, and how important land tenure was in making sure individual farmers could succeed with access to capital. William Beinart also makes an interesting point that complicates De Soto's hypothesis further. With Pondoland's annexation in 1894 by the Cape Colony, the Glen Grey Act sought to radically rearrange the nature of African society that was now under its influence. One of the important provisions in the Act was that colonial authorities would encourage a change from communal ownership to individual land tenure. Beinart writes that "While underpinning a stable rural population, individual tenure would in time drive more people on to the labour market. Control of land distribution would be taken out of the hands of the chiefs and headmen".⁵⁷

This, however, did not come into practice in the way it was envisaged. Africans were naturally averse to suddenly moving to private land ownership on land they had occupied in different kin and clan arrangements for centuries. As Linklater informs us, private property is a destructive and creative force, which will break apart previous social arrangements with regards to land. Therefore, due to resistance and administrative difficulties, land tenure became optional in Pondoland.⁵⁸ The Pondoland example remains an interesting case study for the nature of land tenure in South Africa, and an example of the intrusive South African state into the affairs of Africans through 'native' administrators from the late 1800s onwards. In the case of Gordonias, where the 'Basters' that were offered land they did not occupy before, they were keen to get their land into title to secure it for themselves. However, in Pondoland, where Africans already occupied the land, the state moving towards private property did not hold the same appeal.

⁵⁷ W. Beinart, *The Political Economy of Pondoland, 1860-1930*, p. 43.

⁵⁸ W. Beinart, *The Political Economy of Pondoland, 1860-1930*, p. 43.

These examples around land ownership underpin the relationship between a white state and its African inhabitants, which was mostly conflictual and intrusive. As Marks explains, laws were designed to control African society, and land tenure was used as a means of control and social manipulation, rather than a tool to empower the rural poor. Marks argued that “Gender, sexuality and marriage, property and land tenure, succession and inheritance, as well as civil and criminal law were fundamental in these codifications”.⁵⁹ The fact that Pondoland did not move towards an integrated property system is an example of compromises between African society and the white state. In the case of Pondoland and other African ‘reserves’, individual land tenure was not implemented fully, and South Africa did not move towards an integrated property system. Ordinary Africans did not embrace land tenure in the reserves because the terms would have undermined traditional authority.

As Mamdani explains, Africans were already entitled to a piece of land in the reserves,⁶⁰ which meant that the trouble of registering and paying tax to create individual tenure made little sense. When black farmers sought to legitimately buy land outside of the reserves or increase the size of the land that they may have owned within the reserves, these moves were blocked by colonial authorities. If one looks at De Soto’s hypothesis, he looks at the importance of ordinary citizens being able to become landowners, and thus share in the country’s capital wealth. Thomas Piketty includes property as simply being a part of the share of the country’s total capital wealth, the only distinction he makes, is whether this land is held by private citizens or the state.⁶¹ If land is held privately, it is important in terms of equality over time that as many citizens as possible are allowed access to this capital resource, which is why the United States and Australia’s pro-poor legal interventions were so important, they allowed ordinary citizens a chance to increase their own wealth, and thus the country’s capital resources in terms of land were utilised more effectively. In South Africa, there were no such legal interventions. Large stretches of Southern Africa’s land came to be owned by a minority of white landowners and Africans were unable to increase their capital share of land, which meant that the country remained unequal over time, with economic gains from mineral resources and other economic windfalls being distributed highly unequally.

⁵⁹ S. Marks. ‘Class, Culture and Consciousness in South Africa, 1880-1899’ in R. Ross, A. N. Mager & B. Nasson (eds), *The Cambridge History of South Africa Volume 2 1885-1994*, p.104.

⁶⁰ M. Mamdani, *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism*, p. 219.

⁶¹ T. Piketty, 2014, *Capital in the Twenty-First Century*, p.82.

As Mahmood Mamdani stated clearly when discussing civil society in contemporary Africa, which I believe is also applicable to land tenure in South Africa, “one needs to move away from the assumption of a single generalizable moment and identify different and even contradictory moments in that historical flow”.⁶² There are instead contradictory *moments* where blacks also owned land and farmed commercially, and moments where this was reversed in favour of white ownership. Within South Africa’s historical flow, land tenure occupies a complicated space with important consequences for South Africa’s racialised political economy.

In conclusion, this review outlines several interesting points the literature on land in South Africa teaches us about the nature of the South African state. The following chapters will explain and elaborate on how land in South Africa became to distributed so unequally and the result this had on the country’s long-term economic development. During the period 1860-1920, the reader will notice there are no pro-poor legal interventions in terms of land ownership. Racist land policies that favoured white landownership and commercial agriculture in the former four colonies were woven into the foundation of the South African state by 1910, and what the reader will find during this period, and throughout this thesis, is the gradual proletarianisation and destruction of the African peasantry by 1920.

South African historiography offers a wealth of knowledge on the origins of labour and land relations in South Africa’s political economy which one can utilise to analyse private property in South Africa. The South African case seems to run contrary to De Soto’s neat narrative on the importance of private property with regards to capital development around the world. This study details how South Africa’s political institutions favoured one class over another based on race, which created a landed oligarchy that controlled the two most important sectors of the economy, mining and commercial agriculture. This oligarchy, based on race, utilised political institutions to ensure its longevity and consistently prevented democratic reforms that were needed to allow a greater number of South Africans a share in the country’s land capital. The study traces the creation of a landed, white elite and an African peasantry that were unable to become large landowners. Although this study critiques De Soto on his lack of engagement on race politics in terms of land in colonial Africa, his hypothesis is still confirmed to be true in terms of how important it is that the greatest number of people in a country are able to enter landed proprietary.

⁶² M. Mamdani, *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism*, p. 19.

Chapter Outline

Chapter one lays important theoretical foundations for the rest of this study and utilises Linklater's definition of private property as both a creative and destructive force in world history and applies it to the Southern African context. The chapter then briefly traces its gradual development in England and exportation to South Africa via colonisation. Understanding private property's implementation as being a political and legal exercise of power, this chapter then argues that in the South African and colonial context, one has to also understand the importance of legal pluralism and what the result this had on South Africa's private property systems.

Chapter two builds on the theoretical discussions in chapter one and discusses the role land surveyors and map surveyors played in creating and tracing private property in new territories in South Africa. This chapter argues that maps are important primary sources which add context to historical narratives of how private property was actually implemented by different colonial governments in Southern Africa. This chapter then expands on two case studies from the eastern and northern frontiers of the Cape Colony, Xhalanga and Gordonia respectively, detailing these communities experiences with private property and what these examples in colonial Africa teach us about private property in general.

The third chapter begins with important historiographical discussions on the nature of land and labour in Southern Africa, detailing how both early liberals such as W.M. Macmillan identified important structural problems within the South African economy. This section argues Marxist historians shared core understandings on the problems of rural poverty and race in Southern Africa. The chapter then argues that land and labour are inherently linked in Southern Africa's political and economic past, with land policies laying the he foundation for combative future race and labour relations in Southern Africa in the 20th century.

The fourth chapter begins with a discussion on De Soto's book and some of the critiques the book garnered and the validity of these critiques to this study. The chapter then details important developments on land in in Southern Africa from 1900-1913, culminating with the Natives Land Act in 1913, the most important legislative exercise on land implemented by the newly formed and increasingly powerful South African state. The chapter argues that the Act represents more continuity from the previous four colonies than change, with the Act being

more a holding statement of intent designed to promote and protect white interests in agriculture.

Chapter five begins with a final historical section on the rise of commercial agriculture in South Africa from 1913-1920, and then moves onto the conclusion of the study. The chapter argues that agricultural subsidies that began in the period of reconstruction created and cemented a white oligarchy on the land that began entrenched within the South African state. The important role agricultural subsidies and cooperatives played in creating a competitive, white commercial farming sector is seen as an important factor that should not be overlooked in South Africa's landed past. This chapter seeks to cement some of the conclusions made during the study regarding private property, linking back to South Africa today and lessons learnt. This chapter then looks briefly at the state of agriculture in South Africa today and what the past should teach us about a more inclusive way forward.

Chapter One:

‘A Creative and Destructive Force’: Private Property, Occupation and Political Institutions in South Africa.

This chapter outlines the origins of private property historically in Europe and its exportation to South Africa via European settlers and the political institutions that created private land tenure in South Africa. The way in which land is used, divided and mapped reflects who and what the political establishment deem as important at the time, and is ultimately an exercise of power. South Africa remains a curious case with its late union in 1910, with its preceding four colonies pursuing separate land policies before this point. From Kruger’s patronage in the Transvaal to the established British-style colony in the Cape, to what remained of traditional leadership structures in the reserves, South Africa on the surface appears to be an atypical colony. However, this chapter argues that South Africa is very much part of the norm in colonial Africa, with the British coastal colonies and Boer republics in the interior being very similar in terms of land policies that alienated Africans and utilised ‘reserves’ as a form of indirect rule, creating the precedent of legal pluralism in South Africa.

A Quiet Revolution

Private property and politics are inextricably linked. The assumed march towards private property in human history should not be seen to be a natural order of progression in societal development and should rather be seen as a phenomenon in its own right. Indeed, Fukuyama explores this phenomenon neatly noting “one of the biggest issues separating Right and Left since the French Revolution has been that of private property”.⁶³ Linklater also explores this concept, writing how “most inhabitants of the Western World live in a private property system and are consequently prejudiced in its favour”.⁶⁴ Going from Linklater’s conclusion, to jump ahead to the end of the story, it would appear that private property won out against communitarian ideals of shared land ownership and equality in many parts of the world today. Marx of course, saw private property as an extension of capitalist power and control that needed to come under the supervision of the state, and Rousseau, taking a more moral argument, saw

⁶³ F. Fukuyama, F. 2011. *The Origins of Political Order: From Prehuman Times to the French Revolution*, p. 64.

⁶⁴ A. Linklater, *Owning the Earth: The Transforming History of Land Ownership*, p. 5.

private property as the beginning of inequality in his *Discourse on Inequality*.⁶⁵ The move towards private property in the last 200 years has been a quiet revolution that has been both a destructive and creative force. Private property is inherently disruptive; only by pulling apart previous economic and social arrangements around the use of land can it come into existence. By tracing its introduction in non-Western settings such as South Africa, there is much this single phenomenon can reveal about the creation of the colonial state, as well as its impact on our legal and political systems today.

The idea of land being private is not altogether new, kinship and land were often related to one another throughout human history. Family-owned land was often private and not for the use of the entire community, especially strangers. This was tied to ancestry, where relatives were buried and there was a certain amount of privacy that was expected to be maintained.⁶⁶ Even to this day, Fukuyama describes how in Papua New Guinea, palm oil companies struggle to secure land for plantations as kin ownership of the land involves a complicated agreement with entire communities. Many feel that incorrect use of the land would be an insult to the spirits of their ancestors, reminding us of a time when land, kin and ancestors were all interlinked.⁶⁷ Agreements between feudal landlords and tenants in England and elsewhere in Europe also stipulated who could live and work the land, meaning that families could not simply occupy land wherever they wanted to.⁶⁸ There are ideas of romantic pasts where land was shared and utilised by all before the introduction of private property, but this is not entirely true in every setting. The one element that did change, however, was land being tied to the market as an asset that could be bought and sold, without regard for ancestry, culture or societal norms. As Linklater succinctly puts it, “The idea of individual, exclusive ownership, not just of what can be carried or occupied, but of immovable, near-eternal earth, has proved to be the most destructive and creative cultural force in written history”.⁶⁹

In England, this process unfolded slowly from the 1500s onwards and it too was disruptive and insensitive to traditional relationships between landlord and occupant. Lords who wanted to their land to themselves and seek a profit from it drove tenants off the land, which was a cause for concern as the amount of landless and unemployed grew. However, royal bills to stop the

⁶⁵ F. Fukuyama, F. 2011. *The Origins of Political Order: From Prehuman Times to the French Revolution*, p. 64.

⁶⁶ F. Fukuyama, F. 2011. *The Origins of Political Order: From Prehuman Times to the French Revolution*, p. 66.

⁶⁷ F. Fukuyama, F. 2011. *The Origins of Political Order: From Prehuman Times to the French Revolution*, p. 67.

⁶⁸ A. Linklater, *Owning the Earth: The Transforming History of Land Ownership*, p. 16.

⁶⁹ A. Linklater, *Owning the Earth: The Transforming History of Land Ownership*, p. 5.

enclosure of land were stopped in the House of Commons in 1547 by lawmakers.⁷⁰ The slow and quiet revolution of private land ownership won out gradually in parliament in England, with individuals being allowed to enclose their land in any way they saw fit. This historical phenomenon would repeat itself in Britain's colonies, except land would come into private ownership and 'tenants' (indigenous populations) were driven off the land at a far faster pace. European settlers, be they Dutch or British, were conditioned by historical developments in Europe to see land as an asset that could belong to a single individual, and with many immigrants not being landowners in Europe, they seized every opportunity they could to become landowners in the new colonies they settled in.

Private Land Ownership in Southern Africa

In the settler colonies of Southern Africa, the move towards private ownership of land was indeed a destructive and creative force. Before any kind of legal arrangements towards private property became entrenched in settler colonies, extra-legal and informal occupation by Europeans on large tracts of land took place. Due to a lack of legal precedent in these territories, with legal and political institutions still weak and in the process of creation, the law would have to follow occupation.⁷¹ In order for this to occur, indigenous populations were either decimated, displaced, or succumbed to becoming labourers on the land they used to occupy and utilise freely. This was first seen with European interactions with the San and Khoi in the Cape, and then with the amaXhosa on the Eastern frontier of the Cape colony.⁷² This trend would continue as Europeans pushed further into the interior. As emigrants from the Cape and Natal pushed on past the Vaal river from the 1830s, the priority for settlers was to occupy land and quell African resistance. As the historian Johan Bergh wrote, "The first priority for white settlers was to acquire and to safeguard land and labour for themselves".⁷³

This trend was not unique to South Africa, as landed proprietary relies first on occupation and then later political and legal control of land. The law that gives codified recognition to occupation on the ground, always follows the extra-legal occupation of it in the early days of settler colonial immigration. As noted, many of the immigrants from Europe were not wealthy

⁷⁰ A. Linklater, *Owning the Earth: The Transforming History of Land Ownership*, p. 19.

⁷¹ H. De Soto, *The Mystery of Capital: Why Capitalism Works in the West and Fails Everywhere Else*, p. 115.

⁷² R. Ross, *A Concise History of South Africa*, p. 27.

⁷³ J. Bergh, 'To Reserve to the Native Tribes Such Locations as They May Be Fairly Equitably Entitled To: The Transvaal Location Commission (1881-1899)', *South African Historical Journal* 54(1), 2005, pp. 1-15.

landowners, but rather the poorer working class who missed out on becoming landowners themselves in the quiet revolution towards private property. These immigrants were already socialised to see land as an asset as opposed to mere subsistence, and they too wanted an opportunity to become what they could not be in Europe. Settlers did not rewrite the way they understood landownership in the new territories they saw in front of them. To conquer, improve and own their own land was a burning desire for white settlers, as De Soto explains, “among these memories were notions of how to build and maintain communities, settle disputes, acquire land and construct government institutions”.⁷⁴ Patrick Wolfe, who specialises in settler colonial studies, explains this point further in his well-known article, *Settler colonialism and the Elimination of the Native* (2006). Wolfe terms the European desire to occupy a space and acquire land as ‘territoriality’, with territoriality leading to the decimation of many indigenous populations and their ways of life during settler colonialism’s expansion. Beyond the many ideologies that various European settlers have belonged to around the globe, territoriality has been the driving ideological and observable force behind the creation of settler colonial states.

Whatever settlers may say— and they generally have a lot to say—the primary motive for elimination is not race (or religion, ethnicity, grade of civilization, etc.) but access to territory. Territoriality is settler colonialism’s specific, irreducible element.⁷⁵

Territoriality and the desire to own land by individuals pushed the borders of early colonial occupation further than weak colonial governments alone could. From the borders of the Cape and Natal colonies emigrant Boers pushed the borders of what is now South Africa as far they possibly could from 1830 onwards. Once again, occupation and war would come first before political and legal institutions could be created. De Kiewiet, early on in 1941, recognised the Great Trek as not only a political movement, but also a movement for Europeans to gain access to land. “Each trek was an organised group of land-seekers, and the whole trek movement was like a great land association designed to give its members the freest access to the land and resources of the interior”.⁷⁶ Here, one is reminded of the Australian outback and what drove British immigrants into the interior to try their luck at pastoralism. Humphrey McQueen, writing about Australia’s white settlers, focused on the mentality of the colonial collective that

⁷⁴ H. De Soto, *The Mystery of Capital: Why Capitalism Works in the West and Fails Everywhere Else*, p. 114.

⁷⁵ P. Wolfe, ‘Settler colonialism and the elimination of the native’, *Journal of Genocide Research* 8(4), 2006, pp. 387-409.

⁷⁶ C.W. De Kiewiet, *A history of South Africa social and economic*, p.57.

drove men out from the original small, coastal enclaves into the interior. He described the mentality to own land as “dreams of escape into landed proprietorship”.⁷⁷

In South Africa, dreams of landed proprietorship meant that as Europeans pushed further inland in the 1800s, war and subsequent occupation became entrenched on the sub-continent. Between 1832 and 1879, this process intensified, with many independent African polities and their land occupied, which opened up land for new white farms in the interior and pushed Africans into the labour force on white farms or into impoverished reserves.⁷⁸ This was not a smooth process, with Africans responding to European incursions and claims on their land in many and varied ways. Africans in the Transvaal, for example, were able to purchase weapons via trade through Delagoa Bay and utilised mountainous terrain to resist further European encroachment. In 1869 for example, a total white retreat from Zoutpansberg was necessary.⁷⁹ Neo-Marxist scholars have detailed how land became concentrated in white hands with black labour being readily and cheaply available, which of course all worked to the benefit of future white commercial farmers. The reason so much effort was put into detailing this evolution by Marxist historians was to show that this was not the natural order of things, but rather, that this was the result of intentional actions by white in the 1800s to secure land and labour for themselves.

The introduction noted how neo-Marxist scholars in the 1970s and 1980s detailed this period as the beginning of the apartheid state and South Africa’s skewed development along racial lines. These histories by Legassick, Wolpe and Trapido are important for understanding cheap labour and the creation of surplus capital in South Africa in the mining and commercial farming sectors. Wolpe describes how colonial governments in South Africa, early on in their creation, operated as an instrument of white domination, and therefore did little to support black economic interests or concerns. His theories on cheap labour, include an important analysis on migrant labour which poured in from the impoverished reserves. Wolpe saw impoverishment in the reserves, or underdevelopment, as part of deliberate policy to drive down black wages which suited a capitalist elite.⁸⁰ Actions by white voters, who voted on their specific interests at election time, helped to create vast inequalities in the South African economy along racial lines. According to Trapido, these inequalities, caused by large disparities in wages paid to

⁷⁷ L. Veracini, *The Settler Colonial Present*, p.3.

⁷⁸ S. Trapido, ‘South Africa in a Comparative Study of Industrialisation’, *Journal of Development Studies* 7(3), 1970, pp. 309-320.

⁷⁹ J.S. Berg & F. Morton, *To Make Them Serve, The 1871 Transvaal Commission on African Labour*, p, 10.

⁸⁰ H. Wolpe, ‘Capitalism and Cheap Labour-power in South Africa: From Segregation to Apartheid’ *Economy and Society* 1(4), 1972, pp. 425-456.

different ethnic groups, formed an important part of Southern Africa's route to industrialisation, which relied heavily on cheap, African labour.⁸¹

These scholars laid a solid foundation from which to build our understanding of private property in South Africa. However, one should be careful to see private property and land ownership only in binary terms. The introduction used the example of Gordonia, which showed how the Coloured community there used private property to build a community with the land granted to them by the Cape Government. The introduction of landed proprietorship in South Africa would lead to curious results in this remote setting. This example, as well as examples of land ownership by African elites in Pondoland in the Eastern Cape, subverts the narrative that only whites entered into land tenure, however, they remain very much an exception in the overall story. By 1920, the land they did come to own would be inconsequential to the overall historical narrative. These two examples show that the history of land tenure is not without contradictions in Southern Africa, which also reveals its powerful force on societies, making it difficult to reject once it is introduced. However, within the reserves, communal land ownership still remained the dominant form of land ownership under indirect rule.

Neo-Marxist writers were mostly concerned with explaining the nature of white minority rule in South Africa and what had sustained it so late into the 20th century. With this goal in mind, their histories were focused on the impact of cheap black labour in South Africa and how it created surplus capital for white elites, and therefore land tenure as a phenomenon in its own right did not feature heavily in their works. When land was discussed, it was usually discussed in terms of occupation and Africans being forced into low wage labour with no political or union representation that would have worked to steadily improve worker conditions in the mines and commercial farms. However, looking at the nature of land tenure in South Africa can reveal other aspects of South Africa's political and economic past and its rapid industrialisation *vis-à-vis* its African counterparts.

British and Boer Understandings of Private Property

Looking at the creation of land tenure in South Africa's coastal British colonies and Boer Republics in the interior shows the foundations of what the South African state would become.

⁸¹ S. Trapido, 'South Africa in a Comparative Study of Industrialisation', *Journal of Development Studies* 7(3), 1970, pp. 309-320.

For all their differences, Boer and British alike both shared dreams of landed proprietorship in the region. Both the British colonies of the Cape and Natal on the coast and the Boer republics in the interior would create institutions that supported and legalised land ownership for Europeans. In the Transvaal (then the ZAR, *Zuid-Afrikaansche Republiek*/South African Republic), the independent Boer government saw land conquered from Africans as a tradable asset, and until the mineral revolution it was the only asset the republic had an abundance of. The earliest land registers in the Transvaal go back to 1842, with Paul Kruger being one of the earliest names on the register with a farm “on the Hexrivier”.⁸²

However, the way in which the Boers moved towards a private property system took a completely different route to that of the British. The British simply followed English common law, which had developed a legal system around the ownership of land since the 1500s, and this legal tradition was copied and pasted into a new geographical location in Southern Africa. The Boers, however, followed a different route to creating their own private property system. The historical legacy of this can be found in South African law today, where a plot of land is still referred to as an *Erf*, which is a derivative of a Dutch word which translates roughly into ‘inheritance’. Historically, *Erf* came from the Cape Colony prior to British occupation, where each male heir was entitled to 6000 acres of new land, which was a core reason for the continuous expansion of the colony, often against the wishes of the colonial authorities, who still had to ensure military protection for these far flung regions of the colony.⁸³ 6000 acres is an incredibly large farm in today’s terms, but farms of 3000 Morgen (approximately 6000 acres) were the average size of a farm in the Cape right into the early 19th century. Even in the Zuurveld, where relations between white settlers and the Xhosa had deteriorated rapidly, 3000 Morgen farms were the standard size.⁸⁴

The Great Trek exported this understanding of land to the interior of the country, where the only occupations available were hunting and cattle farming. The need to pass on land to heirs formed an important part of these simple Boer societies, where education and new economic opportunities remained low. Bequeathing a piece of land to the oldest son became a central and organising pillar of these early Boer settlements. This meant that private land became

⁸² Cited in J.S. Bergh, ‘S.J.P. Kruger and Landownership in the Transvaal’, *Historia* 59 (2), 2014, pp. 69-77.

⁸³ Personal Correspondence: Email Dr. J. Strachen- A.Harris 18 March 2020. Dr Jürgen Schraton is currently a postdoctoral fellow at the University of Pretoria, who presented a seminar on the legal traditions of private land ownership in Southern Africa. After the seminar I reached out to him regarding the word *Erf*, and its historical origins.

⁸⁴ E.A. Walker, *A History of Southern Africa*, p.155.

synonymous with *Erve*, or inheritance.⁸⁵ The word, although Dutch in origin, took on a completely different colonial meaning in Southern Africa, and signifies the importance of land in Boer society. From these early roots, the word was found in the re-introduction of Roman Dutch Law in the Boer Colonies after 1864, where the word took on a similar meaning as a plot of land in English common law. What remains remarkable about the word, is that its origin was completely different to that of the English understanding and developed in a completely unique colonial context separate from the Dutch mainland. Yet when it comes to private property becoming entrenched in law, there was no difference between an English plot of land or a Boer *erf*, hence the word still being found in South African law. This reveals the power of private property over historical time and change. The Boers sought to create a completely independent political and legal space apart from the British, but their understanding of private property soon looked no different in British common law.

From private property being a guarantee of land inheritance from father to son in early Trek Boer society, private property moved towards becoming a part of a codified legal system in the independent Boer republics. The Transvaal government would often hand out farms as a form of payment for salaries and other services rendered to the state, because the cash-strapped new republic did not have the means to pay for these transactions.⁸⁶ Historian Peter Delius observed how “The fledging state, unable to finance military expeditions or the barest essentials of civil administration, used land as the basis of a number of financial manipulations”.⁸⁷ In fact, the entire Transvaal economy prior to the mineral revolution was secured only to the land itself. *Mandaaten*, or government bonds, issued as early 1857, were secured only to government-owned farmland. These bonds were essentially designed to serve as currency for the young republic, backed by actual farms which was the only resource the Transvaal had plenty of before the discovery of gold. However, the bonds often traded for less than what they were supposedly worth in land and many resorted to simple bartering instead.⁸⁸

In 1868, the amount of farms that were secured against the paper currency that was being utilised reached 1,431. In Zoutpansberg, 511 farms, totalling 987 400 morgen (or 845 905.58 hectares today), were set aside and these farms were sold periodically at £100 each. These

⁸⁵ Personal Correspondence: Email Dr. J. Strachen- A.Harris 18 March 2020.

⁸⁶ J.S. Bergh, ‘To Reserve to the Native Tribes Such Locations as They May Be Fairly Equitably Entitled To: The Transvaal Location Commission (1881-1899)’, *South African Historical Journal* 54 (1), 2005, pp. 1-15.

⁸⁷ P. Delius, ‘The Land Belongs to Us: The Pedi Polity, The Boers and the British in the Nineteenth Century Transvaal’, p. 148.

⁸⁸ P. Delius, ‘The Land Belongs to Us: The Pedi Polity, The Boers and the British in the Nineteenth Century Transvaal’, p. 148.

measures led to increased pressure to secure title to land and played an important role in companies and individuals owning large tracts of land in the Northern and Eastern Transvaal in the 1870s.⁸⁹ Using land in lieu of currency signifies the inability of a government to finance its projects via taxation. Even in Zimbabwe today, the government has offered land as compensation as it struggles to foot a US \$3.5 Billion compensation bill for farmers that were dispossessed during Robert Mugabe's infamous land reform programmes of the early 2000s. It appears that simply returning land to farmers that want it, is a lot easier and cheaper way of settling the problem.⁹⁰ This move by Zimbabwe, although it may change, as policies often do in the unstable Southern African country, give us a modern example of the historical ZAR. A government that is essentially bankrupt, using its land as means to solve its financial woes.

The historian Johan Bergh wrote that "An analysis of farm transactions for the districts of Pretoria and Rustenburg in the 1860s and 1870s reveals for example, that no fewer than 14 companies were involved in at least 80 farm transactions, and four banks were negotiating at least 20 transactions".⁹¹ This was indeed a peculiar situation, where a newly-formed colonial settler state, not dissimilar to many seen elsewhere in the world during this period, financed itself almost entirely off the land alone. This was only possible because land was seen as a tradable asset, which until the discovery of gold, made the Transvaal rich in land and poor in capital. Even the young Paul Kruger, writing in 1858 to the state president and executive, was a man in debt, due to the number of farms he owned. He petitioned: "With all humble respect I request your Exc. to give me leave for a period of two years, while I am in great monetary problems because of my considerable debts, to the amount of 3000 Rds- for which I have already been summonsed at various times".⁹² The reason Kruger was so indebted was he had to pay transfer duties for the farms granted to him by the state as well as the full price for the ones he had purchased himself.⁹³ Kruger was the landowner of several farms by 1858, achieving what his father in the Cape had been unable to do before the Great Trek. Through his own purchases as well as being paid in land by the state, he would go on to own at least 27

⁸⁹ P. Delius, 'The Land Belongs to Us: The Pedi Polity, The Boers and the British in the Nineteenth Century Transvaal', p. 148.

⁹⁰ F. Mahomed, 4 September 2020, < <https://www.dailymaverick.co.za/article/2020-09-04-zimbabwe-unable-to-pay-billions-to-former-white-commercial-farmers-offers-land-instead/> > access: 4 September 2020.

⁹¹ J.S. Bergh, 'To Reserve to the Native Tribes Such Locations as They May Be Fairly Equitably Entitled To: The Transvaal Location Commission (1881-1899)', *South African Historical Journal* 54(1), 2005, pp. 1-15.

⁹² Letter written by S.J.P. Kruger, Commandant, Pretoria, to the State President and Executive Council, 15 September 1858. Cited in J.S. Bergh, *Paul Kruger Speeches and Correspondence 1850-1904*, p.25.

⁹³ J.S. Bergh, 'S.J.P. Kruger and Landownership in the Transvaal', *Historia* 59(2), 2014, pp. 69-77.

farms by 1877.⁹⁴ The transfer fees, which were amounts owed for farms purchased, together with the cost of the general upkeep of the farms created Kruger's financial problems.

However, these financial difficulties would ease as he was able to sell some of the farms he had purchased and acquired from the Transvaal government at a profit. In 1891, he also bought a farm east of Johannesburg where he gained a considerable rental income, as well as royalties from people prospecting for coal, gold and other minerals on the property.⁹⁵ Land, it appears, was a costly enterprise to enter into in the beginning, but could also return large profits over time, especially with the discovery of gold and coal in the Transvaal, which increased economic activity and injected capital into the region. In the independent Transvaal and British colonies, land tenure followed quickly after occupation and, as Peter Delius explains, land tenure played a vital part in propping up the entire financial system of the Transvaal government prior to the mineral revolution on the Witwatersrand. The ambitious Boer republics had ensured that by 1860, land tenure had reached deep into the interior of the sub-continent, pushing into the Northern and Eastern Transvaal.

Legal Pluralism and Political Institutions in South Africa

The previous section discussed how private property is both a destructive and creative force, detailing briefly its slow emergence in Europe and its rapid importation to Africa via colonisation. Securing land tenure for British immigrants in every colony they ended up in was an important part of Britain's colonial ideology. As much as the Boers resented British rule and influence, land tenure was something that they took with them into the interior. Boer republics in the interior carved up land and utilised it as a tradable asset to pay both salaries and finance projects, cementing land tenure in both the British colonies and independent Boer republics. Institutionally, therefore, both British and Boer had the same policies on land ownership, but their African subjects did not, which created as early as 1860 a system of legal pluralism that has not been resolved to this day, with private land tenure and communal or extra-legal land arrangements existing side by side in South Africa.⁹⁶

⁹⁴ J.S. Bergh, 'S.J.P. Kruger and Landownership in the Transvaal', *Historia* 59(2), 2014, pp. 69-77.

⁹⁵ J.S. Bergh, 'S.J.P. Kruger and Landownership in the Transvaal', *Historia* 59(2), 2014, pp. 69-77.

⁹⁶ D. Hornby, L. Royston, R. Kingwill & B. Cousins. 'Introduction' in D. Hornby, L. Royston, R. Kingwill & B. Cousins (eds), *Untitled: Securing Land Tenure in Urban and Rural South Africa*, p. 8.

Africans would either find themselves under the direct rule of colonial governments when working in cities or on farms, or under the indirect rule of African chiefs, but in either regard, Africans seldom gained access to land tenure. In the Transvaal for example, Africans could not register land in their own name, and had to utilise a ‘trustee’ system, where missionaries or other whites would register the land for them. This was cemented during the British occupation of the Transvaal (1877-81).⁹⁷ Indirect rule in colonial Africa gave rise to two systems of law existing side by side in one state political system, which is commonly referred to as legal pluralism. Rosine Tchatchoua-Djomo, who specialises in rural development and agriculture in Africa, defines legal pluralism neatly as: “the intersection of legal, political and social science; it refers to the coexistence of multiple normative or institutional orders and their overlap within a given social setting”.⁹⁸

Legal pluralism was the result of institutional pluralism, where two different forms of political power existed within one colonial territory. In South Africa, British and Boer political institutions guided more land being brought into tenure for whites by 1860, but in the ‘reserves’, traditional authority still governed the way in which land was utilised. This situation played itself out in other colonies in Africa too. For example, in Burundi, the *Mwami*, or king, would govern land and natural resources through decentralised systems of governance involving patrilineal clans and local chiefs. One could gain access to more land through consultation of the various authorities, making land tied inextricably to political authority, culture, society and memory.⁹⁹

Land ownership by European foreigners would have to intersect this entire system in order to create private property in a new, African space. This process, common throughout colonisation in Africa, disrupted local memory as place names changed and land moved from being owned only by the community, to being owned by white settlers too. Celebrated Kenyan novelist and historian Ngugi wa Thiongo, well known for books such as *Decolonising the Mind The Politics of Language in African Literature* (1986), describes the problem of colonial authorities

⁹⁷ J.S. Bergh & H.M. Feinberg, ‘Trusteeship and Black Land Ownership in the Transvaal During the Nineteenth and Twentieth Centuries’, *Kleio* 36(1), 2004, pp. 170-193.

⁹⁸ R. Tchatchoua-Djomo, ‘Improving local land governance? Exploring the linkages between land governance reforms, institutional pluralism and tenure security in Burundi’, *The Journal of Legal Pluralism and Unofficial Law* 50(1), 2018, pp. 31-55.

⁹⁹ R. Tchatchoua-Djomo, ‘Improving local land governance? Exploring the linkages between land governance reforms, institutional pluralism and tenure security in Burundi’, *The Journal of Legal Pluralism and Unofficial Law* 50(1), 2018, pp. 31-55.

changing the names of places as an ‘induced amnesia’,¹⁰⁰ that Africans were subjected to. Wa Thiongo explains that this ‘induced amnesia’ is the result of conquering colonisers attempting to remake the spaces and people they conquered into a replica of themselves and the world they understood. These efforts were all designed to control territories they knew little about.¹⁰¹ Land once it is occupied and renamed by Europeans, can no longer serve African polities in the same way, which disrupts memory and undermines African authority.

The problem was that indigenous Africans remained, and not all the land could possibly be occupied. Africans needed somewhere to stay and subsist, which was often termed ‘The Native Problem’ in colonial discourse. Adam Ashforth, a Professor in Afro-American and African Studies at the University of Michigan, explores how colonial and apartheid governments sought to define and solve the ‘Native Question’ through commissions of inquiry. In his book, *The politics of official discourse in twentieth-century South Africa* (1990), Ashforth explains that colonial governments went to great lengths via their commissions to speak for the ‘natives’ with these commissions ultimately influencing policy. One of the most important points for discussion of the South African Native Affairs Commission (1903-1905) after the conclusion of the South African War, was the issue of territorial separation between “Europeans and Natives”, as well as solving the problem of chronic shortages of labour to the mines.¹⁰² In many ways, this commission would inform increasingly draconian segregationist legislation leading up to and after Union in 1910.

None of these commissions sought to radically reorganise South African society, especially with regards to giving Africans access to more land. Most of the solutions to ‘the native question’, were really not solutions at all with regards to solving rural poverty in the reserves. The solution most often sought was to push Africans into spaces not occupied by Europeans and leave or insert tribal authorities to rule over these areas indirectly for them, making their well-being less of their direct concern.¹⁰³ This created the complicated phenomenon of legal pluralism, with European land tenure existing in some spaces within a colonial territory but not others, which further fragmented African authority and memory. This essentially created three systems of land ownership whereas before there was only one, namely: land tenure,

¹⁰⁰ N. Wa Thiongo, *Something Torn and New: An African Renaissance*, p. 12.

¹⁰¹ N. Wa Thiongo, *Something Torn and New: An African Renaissance*, p. 12.

¹⁰² A. Ashforth, *The politics of official discourse in twentieth-century South Africa*, p. 28.

¹⁰³ M. Mamdani, *Citizen and Subject Contemporary Africa and the Legacy of Late Colonialism*, p. 4.

government-owned land and customary land ownership.¹⁰⁴ However, the borders of this arrangement were certainly not clear, with elements of each existing within each other.

Pre-Union Natal provides the best example of indirect rule in Southern Africa. Colonial policy in Natal was heavily influenced by Sir Theophilus Shepstone, who served as Diplomatic Agent to the Native Tribes and Secretary for Native Affairs in Natal between 1845 and 1875. Arriving in South Africa as a young man as part of the 1820 settlers, Shepstone's worldview was shaped heavily by the Frontier Wars in the Eastern Cape where he served as a Xhosa translator for the British authorities.¹⁰⁵ An eyewitness to the violence, chaos and brutality of border wars between the British military and the Xhosa tribes on the Eastern frontier, Shepstone envisioned a different British colonial policy in Natal, one that would avoid outright annexation. The 'Shepstonian' system of colonial governance for which he became known for, consisted of policies designed to create a stable, political order between coloniser and colonised. During this period, his policies saw the implementation of:

...the allocation of reserved lands for African tribal occupation; the recognition of customary law; administration through acceptable traditional authorities; the exemption of Christian Africans from customary law; and the attempt to prevent permanent African urbanization through the institution of a *togt* labour system.¹⁰⁶

Shepstone had little desire to experiment with individual land tenure for Africans in Natal. He spent much of his career preventing land grabs by white settlers which would compromise the relationships between himself and the local African chiefs.¹⁰⁷ As Shula Marks explains, the forces of colonisation were weak in Natal, and the pre-capitalist modes of agricultural production were strong. Instead of fully colonising Natal and risking unnecessary war, it was more expedient to simply apply the hut tax (calculated simply on the amount of houses in a African family homestead) without a major restructuring of African society.¹⁰⁸

¹⁰⁴ R. Tchatchoua-Djomo, 'Improving local land governance? Exploring the linkages between land governance reforms, institutional pluralism and tenure security in Burundi', *The Journal of Legal Pluralism and Unofficial Law* 50(1), 2018, pp. 31-55.

¹⁰⁵ J. Guy, 'An Accommodation of Patriarchs: Theophilus Shepstone and the Foundations of the System of Native Administration in Natal', *Journal of Natal and Zulu History* 32(1), 2018, pp.81-99.

¹⁰⁶ S. Marks, 'Natal, The Zulu Royal Family And The Ideology Of Segregation' in W. Beinart & S. Dubow (eds.) *Segregation and Apartheid in the Twentieth-Century*, p.94.

¹⁰⁷ J. Guy, 'An Accommodation of Patriarchs: Theophilus Shepstone and the Foundations of the System of Native Administration in Natal', *Journal of Natal and Zulu History* 32(1), 2018, pp.81-99.

¹⁰⁸ S. Marks, 'Natal, The Zulu Royal Family And The Ideology Of Segregation' in W. Beinart & S. Dubow (eds.) *Segregation and Apartheid in the Twentieth-Century*, p.94.

Even with war eventually breaking out in Natal and Zululand's eventual annexation in 1879, the Colony did not want to take on the costs of directly administrating the territory. War worked only to crush the military strength of the Zulu state and the removal of the stubborn Zulu king. Local chiefs however, were left in their original place under indirect rule.¹⁰⁹ In the Cape Colony, where the forces of colonisation were stronger, the Glen Grey Act implemented after Pondoland's annexation in 1894 sought to rearrange the nature of African society that was now under its influence. One of the important provisions in the Act was that colonial authorities would encourage a change from communal ownership to individual land tenure. Beinart observed how "while underpinning a stable rural population, individual tenure would in time drive more people on to the labour market. Control of land distribution would be taken out of the hands of the chiefs and headmen".¹¹⁰

In the Eastern Cape, land tenure for Africans was closely tied to the process of colonisation itself, and did not offer to give Africans access to more land, but rather divided up the land they already lived on into private tenure. As early as 1853, the "Cape Colonial administration had begun to exercise a liberal practice by extending franchise rights to a small minority of qualified African men. Those who held property in land and buildings worth £25 or received an annual salary of £50 qualified for the franchise."¹¹¹ However, from these small experiments with land tenure for Africans, the Glen Grey Act sought to reorder African society on a much larger scale once Pondoland was annexed by the Cape Colony. Instituting land tenure in areas that still remained largely under African control were designed to disrupt the power local chiefs had. It is little wonder that Africans resisted these incursions into their final vestiges of African traditional authority in the Eastern Cape. Therefore, due to resistance and administrative difficulties, land tenure became optional in Pondoland.¹¹²

These examples show that South Africa, with its system of legal pluralism that developed, has far more in common institutionally with its African neighbours who were also colonised, than with other British dominions outside of Africa and Spanish colonies in the Americas. The 'reserves' were essentially part of indirect rule, utilised to make everyone seem like a minority in the larger state which was controlled by white colonial administrations.¹¹³ Territorial

¹⁰⁹ S. Marks, 'Natal, The Zulu Royal Family And The Ideology Of Segregation' in W. Beinart & S. Dubow (eds.) *Segregation and Apartheid in the Twentieth-Century*, p.96.

¹¹⁰ W. Beinart, *The Political Economy of Pondoland, 1860-1930*, p. 43.

¹¹¹ L. Wotshela, *Capricious Patronage and Captive Land: A Socio-political History of Resettlement and Change in South Africa's Eastern Cape, 1960 to 2005*, p.39.

¹¹² W. Beinart, *The Political Economy of Pondoland, 1860-1930*, p. 43.

¹¹³ M. Mamdani, *Citizen and Subject Contemporary Africa and the Legacy of Late Colonialism*, p. 19.

separation between whites and blacks was often utilised to maintain control of the majority of the population, which made tribal authorities an integral part of the problematic colonial state, a legacy which remains to this day. Many see Shepstone's policies of indirect rule in Natal, which began the process of delineating African and European areas, as an important precursor to 20th century segregation in South Africa.¹¹⁴ These policies, however, subverted traditional authority. Stubborn chiefs and kings were simply removed when their actions ran contrary to colonial government dictates, with compliant leaders inserted. Mamdani argues that this became a subtle form of authoritarian rule, or 'decentralised despotism'.¹¹⁵

Therefore, although vestiges of traditional rule remained, the intrusive colonial state remained an influential force in the affairs of Africans. Mamdani observed that "Natives may [have been] territorially separated from whites, but native institutions were slowly but surely giving way to an alien institutional mould".¹¹⁶ As Fukuyama summarises succinctly: "Mahmood Mamdani argues that the Europeans deliberately empowered a class of rapacious African Big Men, who could tyrannize their fellow tribesmen in a totally non-traditional way as a consequence of the Europeans desire to create a system of modern property rights."¹¹⁷ An example of the corrupted and sometimes authoritative forms indirect rule could take, comes from Pondoland again. Africans co-opted into the colonial state formed an African elite in the 'reserve' that was annexed by the Cape Colony. The historian Luvuyo Wotshela writes how:

Alongside explicit conquest... the colonial order also systematically created and drew in an African elite under its apparatus of control. This emerging group responded to new opportunities within the colonial state, including the acquisition of land on an individual tenure basis.¹¹⁸

Leading up to the Glen Grey Act in 1894, eligible Africans were able to come into possession of a number of freehold farms that dotted the countryside west of Port Elizabeth.¹¹⁹ Legal pluralism and indirect rule here illustrates that land ownership did not always remain

¹¹⁴ S.Marks, 'Natal, The Zulu Royal Family And The Ideology Of Segregation' in W. Beinart & S. Dubow (eds.) *Segregation and Apartheid in the Twentieth-Century*, p.94.

¹¹⁵ M. Mamdani, *Citizen and Subject Contemporary Africa and the Legacy of Late Colonialism*, p. 56.

¹¹⁶ M. Mamdani, *Citizen and Subject Contemporary Africa and the Legacy of Late Colonialism*, p. 6.

¹¹⁷ F. Fukuyama, *The Origins of Political Order: From Prehuman Times to the French Revolution*, p. 69.

¹¹⁸ L. Wotshela, 'Quitrent Tenure and the Village System in the Former Ciskei Region of the Eastern Cape: Implications for Contemporary Land Reform of a Century of Social Change', *Journal of Southern African Studies* 40(4), 2014, pp. 727–744.

¹¹⁹ L. Wotshela, 'Quitrent Tenure and the Village System in the Former Ciskei Region of the Eastern Cape: Implications for Contemporary Land Reform of a Century of Social Change', *Journal of Southern African Studies* 40(4), 2014, pp. 727–744.

‘communal’ in the reserves, and African authorities certainly did not take on a pure African institutional model, as they were continuously influenced by the intrusive colonial state and market which needed African labour.

In the introduction I also discussed the Baster landowning community in Gordonia, near what is Uppington today on the Orange river, which created a successful farming community on land they were granted by the Cape Government on land undesired by whites.¹²⁰ Although considered ‘Basters’ by the colonial government, they had no desire to enter into communal property arrangements. Soon after the land was granted in the mid-1880s, plots and *erven* were laid down in a part of the country that had never known private property before by the Baster community.¹²¹ Land tenure ultimately has to suit the needs of the community or it will naturally be rejected. If a community can utilise the land effectively without the trouble of creating individual ownership then many will opt to maintain communal ownership. The Basters were given unrestricted permission to divide the land in tenure for farming. With the land unoccupied and seemingly undesirable, private ownership for each family was the most logical way for a new community to settle peacefully and prevent future encroachment by whites.¹²² In the Eastern Cape, land tenure was being introduced in a rigid way which did not allow individual occupants to expand the size of their plot or give the rights to their land to anyone besides the first born son.¹²³ Experiments with land tenure for Africans in the annexed Eastern Cape were not implemented in a way that would improve rural poverty for ordinary subsistence farmers. Wealthier farmers could not extend their plot size, nor could they bequeath their land to whoever they wanted. Land tenure also meant paying regular taxes along with an initial surveyor’s fee,¹²⁴ whilst having no support in terms of seeds, equipment, training or subsidies. These were all important impediments that worked against Africans moving into commercial agriculture, which meant that there were little economic opportunities outside of wage labour in the towns.

¹²⁰ M. Legassick, ‘The Will of Abraham and Elizabeth September: The Struggle for Land in Gordonia, 1898-1995’, *The Journal of South African History* 37(3), 1995, pp.371-418.

¹²¹ M. Legassick, ‘The Will of Abraham and Elizabeth September: The Struggle for Land in Gordonia, 1898-1995’, *The Journal of South African History* 37(3), 1995, pp.371-418.

¹²² M. Legassick, ‘The Will of Abraham and Elizabeth September: The Struggle for Land in Gordonia, 1898-1995’, *The Journal of South African History* 37(3), 1995, pp.371-418.

¹²³ L. Wotshela, ‘Quitrent Tenure and the Village System in the Former Ciskei Region of the Eastern Cape: Implications for Contemporary Land Reform of a Century of Social Change’, *Journal of Southern African Studies* 40(4), 2014, pp. 727–744.

¹²⁴ L. Wotshela, ‘Quitrent Tenure and the Village System in the Former Ciskei Region of the Eastern Cape: Implications for Contemporary Land Reform of a Century of Social Change’, *Journal of Southern African Studies* 40(4), 2014, pp. 727–744.

One of the results of indirect rule in the reserves was that land became an important form of control for African rulers in the reserves, with the majority of Africans only having access to limited land via tribal and kin relationships, which was very seldom recognised by the overarching colonial state. In South Africa, from 1860 onwards with the creation of African ‘reserves’, migrants would have a right or privilege to use land when they returned from working on mines or commercial farms, even if it was just a small patch of ground or access to grazing areas, but this land was also tied to tribal authority and designed to reinforce tribal identity. Mamdani observes that “Inasmuch as a customary right was understood, claimed, and defended as a tribal right, notions of the customary overlapped with and reinforced an ethnic identity”.¹²⁵

What Mamdani touches on here is far more relevant to the South African context than comparisons between institutional structures in other British dominions outside of Africa and Latin America, and it explains why land ownership, even to this day, remains so complicated in South Africa. Where the borders of the ‘reserves’ began, tribal authority was in theory, supposed to reign supreme. However, very little remained untouched by colonial governments even within these ‘reserves’, which would later find themselves within the border of one unified state by 1910. As opportunities for commercial agriculture for Africans became more limited in the reserves, the South African state expected and promoted cheap migrant labour to pour in from the reserves to service the growing industrial economy and white commercial farms with the onset of the mineral revolution from the late 19th century onwards.¹²⁶

Conclusion

Therefore, what this chapter has explored is the complex introduction of land tenure in South Africa that followed very much along colonial lines in the way it did in much of colonial Africa. The Boer republics, although certainly a unique phenomenon in colonial Africa, were not institutionally different in the way they managed land and created indirect rule and reserves. Land tenure and legal pluralism’s introduction in South Africa is full of complexities and contradictory moments that reveal a fascinating history that unfolded. From land trusteeship for black owners in the Transvaal, to some Africans elites coming to own land in Pondoland, and the ‘Baster’ community insisting on land tenure in Gordonias, one can see that private property exists as an important force that accompanies colonial conquest and dispossession.

¹²⁵ M. Mamdani, *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism*, p. 220.

¹²⁶ S. Trapido, ‘South Africa in a Comparative Study of Industrialisation’, *Journal of Development Studies* 7(3), 1970, pp. 309-320.

This chapter outlined some of theoretical foundations of private property and institutions that governed its implementation from England in the 1500s, to the system's exportation to South Africa as a colony. The chapter also detailed how Boer incursions into the interior opened up large tracts of land into private property in the interior for the first time and discussed how this land was used and traded to finance the independent ZAR. Indirect rule in the reserves via African traditional authorities created a system of legal pluralism in which land was owned both individually and communally early on in South Africa's four colonies, a system that was mimicked in many other places in colonial Africa, making South Africa part of the 'norm' in colonial Africa. The chapter concluded with some examples of how Africans also entered into private property and how these trends reveal a complicated and, at times, a contradictory past which reveals the many fault lines colonisation created. The next chapter seeks to take this theoretical foundation further and looks to mapping and cartography in the process of creating private property in South Africa during the 1800s. This is coupled with case studies on the Eastern and Northern frontier of the Cape colony in the late 1800s and the lessons these black communities can teach us about private property, development and race relations.

Chapter Two:

Mapping Private Property in Southern Africa- Cartography on the Cape's Frontiers.

Chapter one detailed the emergence of private property as a creative and destructive force that was imported to South Africa via colonisation. The chapter was designed to explain the nature of how private property worked, and its complicated and at times, contradictory, past which show the many fault lines colonisation created in South African society. Chapter two incorporates more primary sources in the form of maps from late 19th century to give the reader a more practical sense of what private property looked like in Southern Africa during this important, expansive period by European settlers in various parts of the region. This chapter begins with a discussion of historical geography and the use of maps by historians, using some examples of maps from the Cape Colony and the Transvaal and what they teach us about the nature of private property in Southern Africa during this period. The discussion then moves on to discuss two case studies of private property ownership by Africans from the eastern and northern frontiers of the Cape Colony in the late 1800s. This chapter argues that maps from the late 1800s and the case studies at Gordonia and Xhalanga reveal a larger problem of Africans not being able to enter into private property on any significant scale, with various colonial governments operating only to secure land for white oligarchy in the countryside.

Foundations

Mapping is of course, an old human activity. The ancient and diverse practise was found across so many different cultures because of its obvious practical uses; from finding buried treasures to delineating borders of states. The practice became culturally significant and more important the more complex societies became. Cartography as both a science and practice exploded in early modern Europe with the onset of the age of exploration, and as fiscal, dynastic, military and imperial needs became more sophisticated, so did the art of cartography.¹²⁷ Maps are, in essence, meant to be taken at face value as a factual and visual relay of information, which makes them interesting to study as sources from the colonial era. Their reputation as “unbiased

¹²⁷ N. Etherington. 'Introduction', in N. Etherington (ed.), *Mapping Colonial Conquest Australia and Southern Africa*, p. 1.

and neutral sources of information in the world”,¹²⁸ means that they give us valuable insights into how people in the past saw the physical landscape, as well the people who lived on it.

This chapter intends to utilise colonial maps as visual sources that add important insights into how private property accompanied European settlers in Southern Africa. Alan Lester, who specialises in historical geography and is well known for his work on imperial networks that connected the British empire both materially and ideologically, explains that historical geography has evolved from being a relatively discrete discipline of its own, to more of an interdisciplinary enterprise.¹²⁹ Lester explains that historical geography is difficult to define, due to its multidisciplinary nature and the large scope of its research, which includes: “investigating the associations among and between space, place, landscape, territory, identity and memory”,¹³⁰ as well as “analysing the symbolic and material effects of cartography”.¹³¹ Lester explains that historical geography is difficult to define and can be comprised of many different elements, with cartography being one of many.

With historical geography being comprised of so many different elements, I certainly would not consider the first half of this chapter to be a piece of writing on historical geography, but rather, one that uses maps from the late 19th century to give the reader a more visual understanding of private property in Southern Africa during this period. For this reason, and bearing in mind the nature of the study, the section does not delve into theoretical discussions on space, place and cartography in 19th century Southern Africa. There is also little precedent from which to do so, as Jane Carruthers, emeritus professor at the University of South Africa and environmental historian, explains: “To date, however, South African historiography lacks any synthetic analysis of cartography or geography”.¹³² Therefore, a simple history of the maps and discussions on what they teach us about private property in Southern Africa will suffice.

Older maps can be large and unwieldy to use, but fortunately many libraries have created electronic versions of these old maps which one can utilise as visual sources. Norman Etherington makes the important point that historians can utilise maps, (especially neatly

¹²⁸ P.J. Stickler, ‘Invisible Towns: A Case Study in the Cartography of South Africa’, *GeoJournal* 22(3), 1990, pp. 329-333.

¹²⁹ A. Lester, ‘Introduction: Historical Geographies of Southern Africa’, *Journal of Southern African Studies* 29 (3), 2003, pp. 1-22.

¹³⁰ A. Lester, ‘Introduction: Historical Geographies of Southern Africa’, *Journal of Southern African Studies* 29 (3), 2003, pp. 1-22.

¹³¹ A. Lester, ‘Introduction: Historical Geographies of Southern Africa’, *Journal of Southern African Studies* 29 (3), 2003, pp. 1-22.

¹³² J. Carruthers, ‘Friedrich Jeppe: Mapping the Transvaal c. 1850-1899’, *Journal of Southern African Studies* 29 (4), 2003, pp. 955-975.

cropped maps) as pictures, or simple visual sources.¹³³ Although cartography as a technology had advanced much by the late 1800s, it was still an expensive and time consuming practice. Cartographers made a living from creating maps, which had to be as reliable as possible for the governments or companies which commissioned them.¹³⁴ These maps also tell much about who had the power and resources to produce maps, which meant that many people, especially Africans, were left unmapped, or merely shown on the periphery of maps.¹³⁵ In post-colonial and now decolonial discourse, maps have an infamous heritage. One is immediately reminded of the Scramble for Africa, where maps played an integral role in dividing the continent, in Europe's most significant powerplay in Africa. Maps defined where colonial territorial boundaries arbitrarily began and ended, laying the foundations of new states with little regard for indigenous Africans who lived where lines of states were being drawn in Berlin.¹³⁶ With this in mind, local maps from within the arbitrary borders of colonial states show snapshots in time of early settler farms, gridlock towns and how they bordered with areas that remained under African tribal authority that utilised communal property ownership.

Colonial Space and Cartography

Mapping played an important role in creating visible territories and borders for settlers to use, "In many ways cartography configured the 'imagined community' of a nation and placed it before an international audience in a scientifically acceptable way".¹³⁷ Maps also reveal towns that were planned in the interior and reveal farms and town *erven* being laid out, which signifies the introduction of private property in a new space in Southern Africa. The first priority for Europeans was to map hazardous coasts, and then, with settlement, begin mapping the unknown interiors.¹³⁸ The history of cartography in South Africa therefore follows the path of European settlement, which is why it forms a part of the discussion of private property and development in South Africa.

¹³³ N. Etherington, *Genocide by Cartography: Secrets and lies in maps of the South-eastern African interior, 1830-1850* in D. Trigger & G. Griffiths (eds), *Disputed Territories Land, Culture and Identity in Settler Societies*, p. 207.

¹³⁴ J. Curruthers, 'Friedrich Jeppe: Mapping the Transvaal c. 1850-1899', *Journal of Southern African Studies* 29 (4), 2003, pp. 955-975.

¹³⁵ P.J. Stickler, 'Invisible Towns: A Case Study in the Cartography of South Africa', *GeoJournal* 22(3), 1990, pp. 329-333.

¹³⁶ N. Etherington. 'Introduction', in N. Etherington (ed.), *Mapping Colonial Conquest Australia and Southern Africa*, p.3.

¹³⁷ J. Curruthers, 'Cartographical Rivalries: Friedrich Jeppe and the Transvaal', in N. Etherington (ed.), *Mapping Colonial Conquest Australia and Southern Africa*, p. 103.

¹³⁸ N. Etherington. 'Introduction', in N. Etherington (ed.), *Mapping Colonial Conquest Australia and Southern Africa*, p.3.

While cartography, as mentioned earlier, always served a specific purpose, it also carried with it political significance. After colonial conquest, mapping followed as a means to assert control over territory. In the Eastern Cape, for example, historian Denver Webb notes how soon after soldiers had subdued African resistance, Royal Engineers followed, who surveyed, mapped, constructed fortifications and planned future towns.¹³⁹ This remains a continuous process, and a recent article by the BBC explains the importance of mapping unmapped areas in the Congo today: “Maps are the building blocks of economic development. Without accurate maps it's not just navigating from A to B that can be difficult - the essential tasks of proper planning for housing and infrastructure can be impossible.”¹⁴⁰ The point made here is important if one considers what it means in a colonial context. Europeans who were mapping these territories clearly intended to live, farm and trade in Southern Africa; they were there to stay. Mapping therefore, was a primary means by which colonial governments consolidated control, and the borders and territories they sought to represent were early expressions of an emerging colonial state. Lindsay Braun summarises colonial map-making as a “single representational process in the service of rendering territory legible to the coloniser”.¹⁴¹

This process was also utilised to try and disguise European unfamiliarity with the territory they now occupied and settled in. The designs of colonial maps are particularly interesting. Their designs were often brightly coloured, designed to look as exotic as possible. These bright designs were also picked up by Colin Bundy and William Beinart when they briefly discussed the Henkel's 1902 map of the Transkei in an introduction to a book titled: *Hidden Struggles in Rural South Africa. Politics and Popular movements in the Transkei* (1987). They note how the map was: “large, detailed and brightly coloured; ... the cartographical equivalent of the future tense, imbued with optimism and the promise of progress”.¹⁴² Colonial maps were an important part of colonisation and asserting control of these territories and what I read into these brightly coloured maps was that they were indeed designed to create a sense of optimism of ‘progress’ for the future, as well encourage immigration for young European men. This is in fact one of the few points in the literature where one can find neo-Marxist scholars engaging with cartography and the role of maps in settler colonialism and its role in land dispossession.

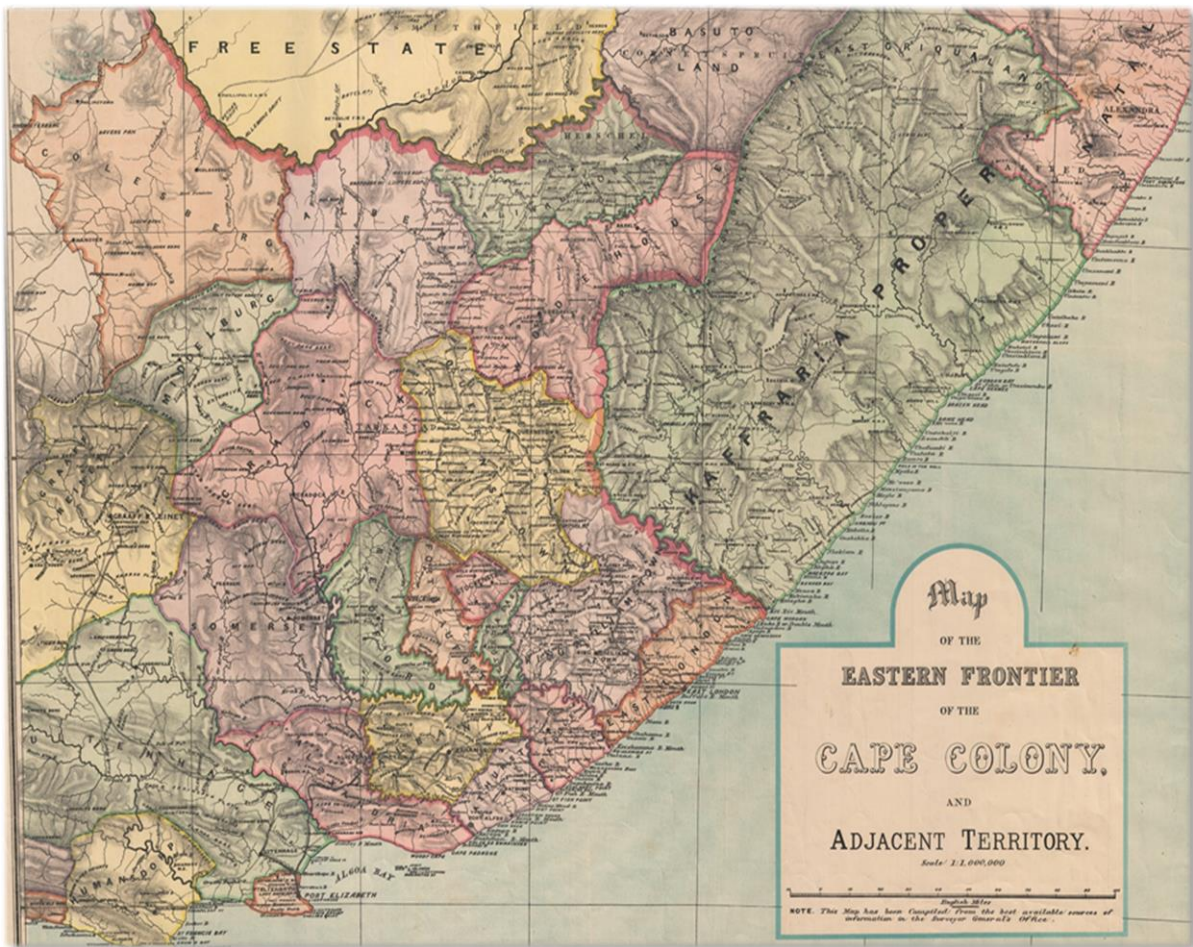
¹³⁹ D.A. Webb, ‘Lords of All They Surveyed? The Royal Engineers, Surveying, Mapping and Development in South Africa's Eastern Cape’, *African Historical Review* 45 (1), 2013, pp.22-45.

¹⁴⁰ S.Treanor & K. Prescott, 2020, <<https://www.bbc.com/news/business-52650856>>, Access: 3 July 2020.

¹⁴¹ Cited in: D.A. Webb, ‘Lords of All They Surveyed? The Royal Engineers, Surveying, Mapping and Development in South Africa's Eastern Cape’, *African Historical Review* 45 (1), 2013, pp.22-45.

¹⁴² C. Bundy & W. Beinart, *Hidden Struggles in Rural South Africa. Politics and Popular Movements in the Transkei and Eastern Cape 1890-1930*, p. 6.

As Bundy and Beinart note in the introduction of this work, neo-Marxist scholars focused more on the role of capital in the creation of an African proletariat and the reserves as a pool of labour for industry and commercial farms, noting that: “The reinterpretation of South Africa’s past by a generation of socialist scholars has tended to be somewhat perfunctory in its perception of rural affairs”.¹⁴³ Again, one can see the earlier 1878 ‘Map of the Cape Colony and Adjacent Territories’ shows a similar brightly coloured design. During this period, the Cape Colony is also expanding as it annexes more African territory, which is why their bright and colourful designs remain curious, almost as if to signify a sense of optimism for the future as Beinart and Bundy say.



- 1) 1878 Map of the Cape Colony and 1Adjacent Territories. Note on map: "This map has been compiled from the best available sources of information in the Surveyor General's Office" Projection not given. Bar scale in English miles.¹⁴⁴

¹⁴³ C. Bundy & W. Beinart, *Hidden Struggles in Rural South Africa. Politics and Popular Movements in the Transkei and Eastern Cape 1890-1930*, p. 2.

¹⁴⁴ ‘Map of the Cape Colony and Adjacent Territories’, 1878. Saul Solomon & Co, Steam Lithographers. Cape Town, 1878. < <https://digitalcollections.lib.uct.ac.za/african-historical-maps/>>. Access: 1 November 2020.

Although there is little information on this map in the UCT digital archives, what we do know is that it was produced by Saul Solomon's lithography company, Saul Solomon also served as a prominent liberal politician in the Cape Parliament. It is likely that Solomon's business and political interests merged in the creation of this map, and one is immediately drawn to the brightly coloured spaces depicted in this map- almost as if everything east of the Cape colony held promise, mystery and hopes of progress. The map was also drawn at a time of Eastern expansion by the Cape Colony, with several small-scale wars breaking out between the colony and Eastern Xhosa tribes, which would lead to the eventual annexation of Pondoland in 1894.¹⁴⁵

Due to the nature of settler colonialism and what European territorialism¹⁴⁶ meant for indigenous populations, these maps are not without their own problems. The 1878 map clearly puts its focus onto the territories in the Eastern Cape that were slowly coming into the control of the Cape Colony. It is what these maps reveal about their creators and their world view that helps us understand how private property came into being, and also practically, when and where we can see *erven* being carved out in Southern Africa. Today, one can also utilise the archival practice of "reading against the grain",¹⁴⁷ where one utilises records created by those in power to tell the story of those silenced or marginalised in the official record. Within these maps we can also find details of indigenous African communities at the time of initial European settlement, for example.

When studying early European settlement in Southern Africa, one needs only to follow the familiar grid of farms on a map to see the beginnings of private property in the region. Chapter one described how the need to prop up the Transvaal economy via government bonds secured by farms increased the need to put more land in the Northern and Eastern Transvaal into tenure. We can see the result this had on the region from colonial maps such as Jeppe's and Troye's maps of the Transvaal in the 1890s. The process of colonial mapping unfolded in many different areas of the colonial world. In the United States, for example, Thomas Jefferson's design of the grid to create republican farmers helped carve up the Western United States in a short amount of time.¹⁴⁸ Jefferson's grid, although not identical everywhere in the world, had its clear benefits. It made surveying farms easier, as well as assisting with their buying and

¹⁴⁵ W. Beinart, *The Political Economy of Pondoland, 1860-1930*, p. 43.

¹⁴⁶ Wolfe, 'Settler colonialism and the elimination of the native', *Journal of Genocide Research* 8(4), p. 388.

¹⁴⁷ M. Rizzo. 'Reading against the grain, finding the voices of the detained', *Museums & Social Issues A Journal of Reflective Discourse* 12 (1), 2017, pp. 26-32.

¹⁴⁸ A. Linklater, *Owning the Earth: The Transforming History of Land Ownership*, p. 219.

selling, essentially aiding the transformation of open land into privately owned, tradable assets.¹⁴⁹ The result of Jefferson's square, private, grid farms can still be seen in the Mid-west today, a testament to the longevity of private property once it is implemented.

However, the difference between the United States and South Africa, was that in the latter case the land was still occupied by resilient indigenous populations. As the historian Bill Nasson explains, "In other words, what distinguished it as a colonial territory of white settlement was that its indigenous inhabitants would neither die out nor be swamped. Numerically, they were always too strong and their bodies too resilient to be killed off."¹⁵⁰ The strength of South Africa's indigenous populations meant that creating private farms could not occur in the same fashion as it did in the American West. Some areas had to be designated specifically for African tribes, which the map below illustrates well. These populations, in order to earn a wage, would be encouraged to work on white commercial farms or on the mines, creating the foundations of the way South Africa's future commercial farming sector would work.¹⁵¹

Colonial maps of the interior took a long time to become accurate and detailed. By the 1890s, the mineral revolution and combative relations between British Colonies and the independent Boer republics meant that cartography had improved immensely. Friedrich Jeppe, a German immigrant and civil servant for the ZAR, worked on several maps from the 1860s improving mapping of the region. Like the young Paul Kruger, he was also paid in farms for much of his career.¹⁵² His most ambitious map was created in 1889, which spanned the entire Transvaal with close up inserts of the Witwatersrand gold fields, Pretoria, the Cape and all Mining leases. G.A.Troye improved Jeppe's 1889 map by making several corrections and enlarging it into six sheets. "Troye included farms as a patchwork overlay to the landscape, writing that he had wanted to show all the 'landed properties' in the Republic but that it had been 'utterly impossible to complete this task owing to a lack of sufficient reliable information'."¹⁵³ Troye's attempt to map landed properties in the Transvaal is what drew my attention to the uniqueness of the map. Although he admitted this was not impossible, his version of Jeppe's map is

¹⁴⁹ A. Linklater, *Owning the Earth: The Transforming History of Land Ownership*, p. 219.

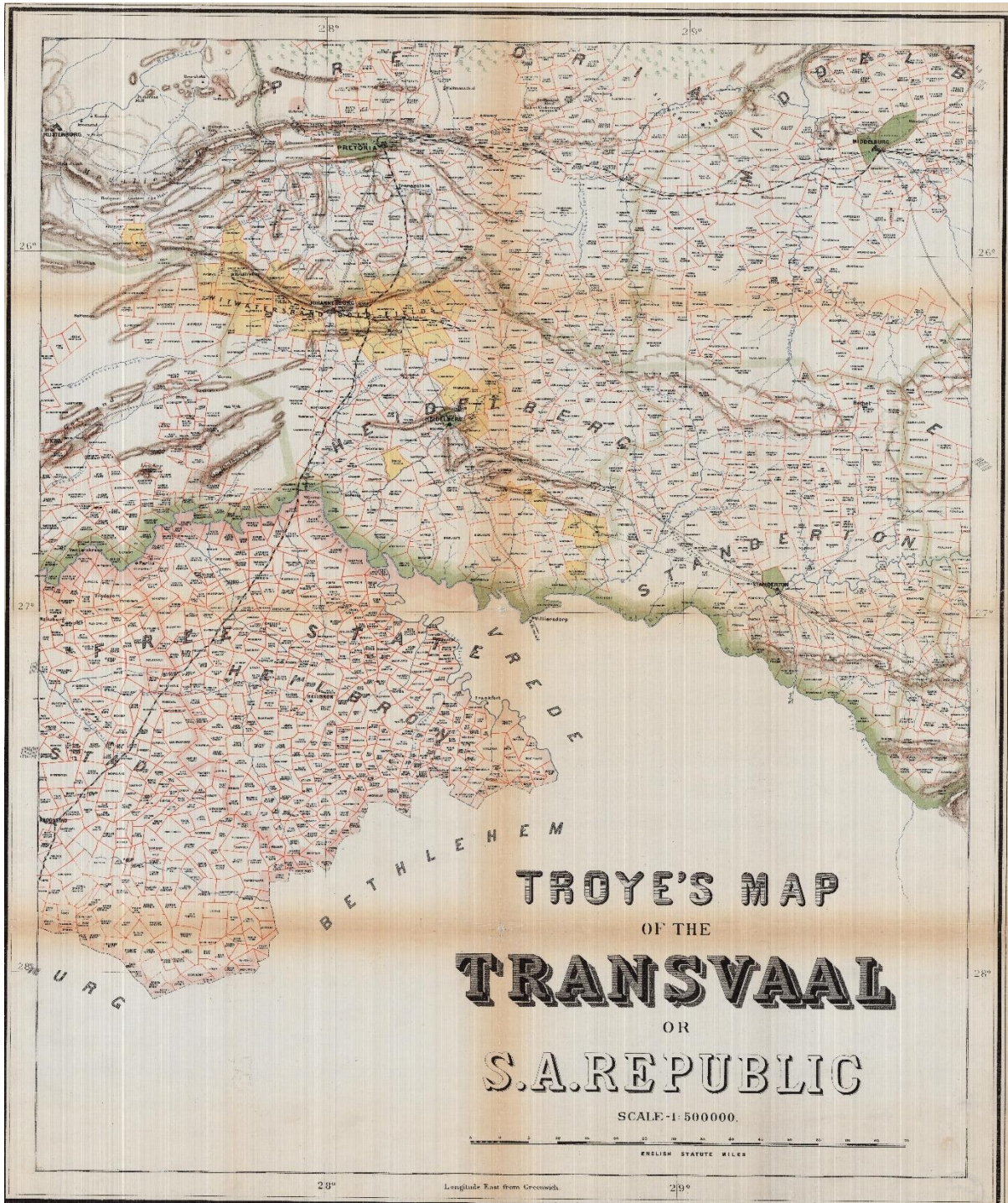
¹⁵⁰ B. Nasson, 'How Abnormal is South Africa?', *Quarterly Bulletin of the National Library of South Africa* 66 (1), 2012. pp. 40-50.

¹⁵¹ S. Trapido, 'South Africa in a Comparative Study of Industrialisation', *Journal of Development Studies* 7(3), 1970, pp. 309-320.

¹⁵² J. Curruthers, 'Friedrich Jeppe: Mapping the Transvaal c. 1850-1899', *Journal of Southern African Studies* 29 (4), 2003, pp. 955-975.

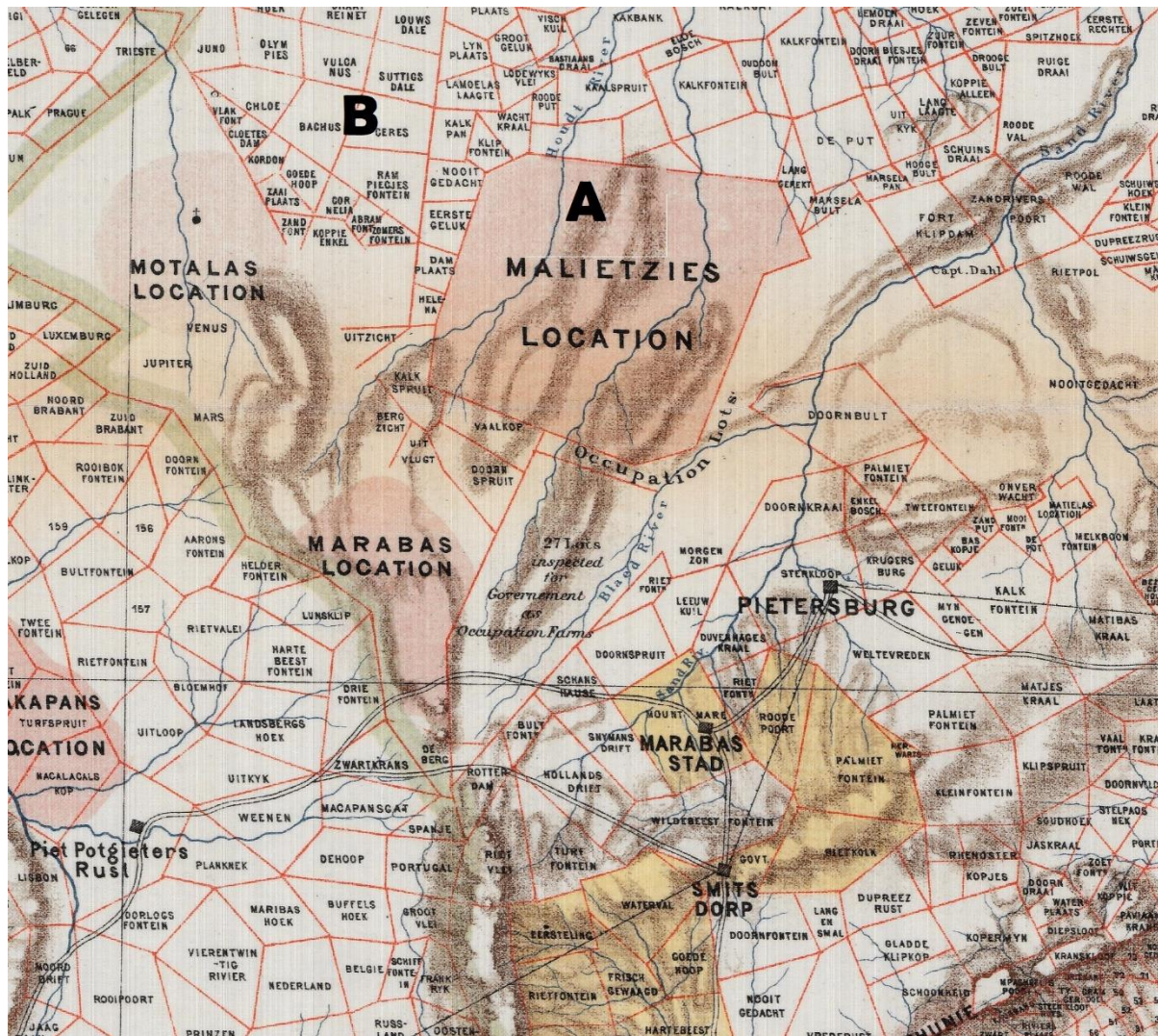
¹⁵³ J. Curruthers, 'Friedrich Jeppe: Mapping the Transvaal c. 1850-1899', *Journal of Southern African Studies* 29 (4), 2003, pp. 955-975.

remarkable in its attempt. Below you can see excerpts from high definition copies of the map that were sent to me from the Library of Congress in Washington:



2) Troye's Map of the Transvaal, 1892. Troye ambitiously added in landed Property to this Map. ¹⁵⁴

¹⁵⁴ Troye's Map of the Transvaal, 1892. Library of Congress, Washington.



3) An Extract from Troye's Map of the Town of Pietersburg (Now Polokwane) that Reveals the borders between Communally Owned Land by Africans, (Marked A) and Privately Owned Land by Europeans (Marked B).¹⁵⁵

. One can clearly see the areas demarcated for white farms and areas that are labelled simply as 'locations', which are essentially African reserves. In some instances, these locations were made up of land allocated by the Transvaal government to Africans who had assisted Afrikaners in their wars against other African tribes to secure the area, and are the result of colonial wars of dispossession. However, these locations were not immune to speculation and the Africans that lived there could not hold the land in tenure the way whites could.¹⁵⁶ From the literature and the Troye map, one can see that landownership in the Transvaal, as late as 1892, was complicated at best. The previous chapter discussed how Mamdani saw South Africa

¹⁵⁵ Excerpt from Troye's Map of the Transvaal, 1892. Library of Congress, Washington.

¹⁵⁶ J.S. Bergh & H.M. Feinberg, 'Trusteeship and Black Land Ownership in the Transvaal During the Nineteenth and Twentieth Centuries', *Kleio* 36(1), 2004, pp. 170-193.

as very much part of an African colonial norm, especially with regards to land ownership and race relations. One could argue that Mamdani's 'bifurcated state' can be seen spatially in this map, with two legal land systems bordering on one another, with control of African populations within the locations remaining under proxy tribal leadership, or what Mamdani terms "decentralised despotism".¹⁵⁷

Mamdani's work, published in 1996, has of course garnered much commentary and critique. A recent work by Michael Neocosmos, *Thinking Freedom in Africa* (2016), critiques some of the assumptions Mamdani made in *Citizen and Subject* (1996), no doubt because it has been so influential in the way many interpret problems with state building in post-colonial Africa. In particular, Neocosmos argues that "Ethnicity and culture, even under colonial domination, were not as rigid as Mamdani makes out, nor indeed as the authorities hoped. There were, and are, regular contradictions within tradition and some of these are popular-democratic in nature".¹⁵⁸ Neocosmos has a valid point; ethnicity, culture and tribal authority are difficult to define precisely prior to industrialisation in Southern Africa, as are the borders between private property and other forms of land ownership. However, Mamdani's overarching theory remains most insightful to describe what we find on the map- private property protected by colonial law and enforceable by colonial governments bordering unclear tribal authorities where land ownership remained far more ambiguous.

Adam Branch, writing on the twentieth anniversary of the release of *Citizen and Subject* (1996), raises an interesting point on one of the reasons Mamdani's work remains so important in African political discourse:

The book seeks the content of Africa's specificity by tackling head-on what is typically seen as the continent's irreconcilable internal difference: South Africa. Taking South Africa as part of Africa, the book argues, can best reveal what is common to the continent as a whole. Its unwavering commitment to bring South Africa back in, however, remains as uncommon today as it was twenty years ago.¹⁵⁹

Thus, Mamdani's purposeful insertion of South Africa into his narrative is an important reason why *Citizen and Subject* (1996) remains an important work to engage with. Mamdani has informed my own understanding of private property and legal pluralism in the history of South

¹⁵⁷ M. Mamdani, *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism*, p. 56.

¹⁵⁸ Cited in: M. Mamdani, 'Place, interest and political agency: some questions for Michael Neocosmos', *Social Dynamics* 45 (3), 2019, pp. 442-454.

¹⁵⁹ A. Branch, 2015, <<https://africasacountry.com/2015/12/mahmood-mamdani-citizen-and-subject-twenty-years-later>>, Access: 12 July 2020.

Africa, looking at this history as a typical African story, as opposed to a uniquely South African phenomenon. For this reason, Mamdani remains an important theoretical foundation when understanding the interplay between communal and individual property ownership.

Private Property on the Cape Periphery

The previous chapter and introduction discussed how white-owned private property in the 19th century began to encroach on African communal land. The next section details the introduction of private property on two peripheries of the Cape Colony, in the Northern and Eastern Cape. In the Eastern Cape, a complicated process began to unfold that muddied the waters between communal and private property ownership. As I discussed in the previous chapter, some Africans did come to own their own farms in the Eastern Cape under colonial quitrent systems. Quitrent systems, often used in the Cape, referred to a tax that had to be paid annually that was calculated on the value and size of the land. Today, quitrent would be similar to the taxes one pays to a municipality on landed properties. From 1850 in the Eastern Cape, a process began to emerge where white-owned farms began to encroach on African land, and within areas designated to Africans, loyal Africans were given land in tenure under a quitrent system.¹⁶⁰ In 2016, Professor Lungisile Ntsebeza and Dr Fani Ncapayi completed their research report to a high-level panel in parliament titled “Land reform in the Xhalanga district, Eastern Cape” which was used as a case study. Xhalanga is an area near Queenstown today.

¹⁶⁰ L. Wotshela, ‘Quitrent Tenure and the Village System in the Former Ciskei Region of the Eastern Cape: Implications for Contemporary Land Reform of a Century of Social Change’, *Journal of Southern African Studies* 40(4), 2014, pp. 727–744.



4) Physical Map of South Africa with Study Area in Red.¹⁶¹

The report also looked to this system as a complicated part of South Africa's landed past in the Eastern Cape, highlighting the complexities of private property in South Africa. They noted how:

Before the arrival of amaMfengu in Emigrant Thembuland in 1872, land was under the control of the chief and he was responsible for its allocation. The inhabitants were allocated land without any formal survey of land. This system of allocating land started to change with the arrival of amaMfengu. Some amaMfengu were, with the approval of the British Agent, E. Warner, allocated small farms.¹⁶²

The policy of introducing individual tenure for some Africans formed an important part of colonial policy and ideology, intended to reform and 'civilise' indigenous Africans, and to undermine the power of local chiefs. This decision was taken by colonial commissioners who were placed with the responsibility of administering Xhalanga after the outbreak of the small-scale "gun-war" in the area from 1880-1881.¹⁶³ Their recommendations to the Cape Parliament

¹⁶¹ Anon, 20 August 2020, <https://www.freeworldmaps.net/africa/southafrica/map.html>, Access: 20 August 2020.

¹⁶² L. Ntsebeza & F. Ncapayi, 'Land reform in the Xhalanga district, Eastern Cape (A case study appended to the report on land redistribution) A research report commissioned by the High Level Panel of Parliament', 2016, p.4.

¹⁶³ L. Ntsebeza & F. Ncapayi, 'Land reform in the Xhalanga district, Eastern Cape (A case study appended to the report on land redistribution) A research report commissioned by the High Level Panel of Parliament', 2016, p.4.

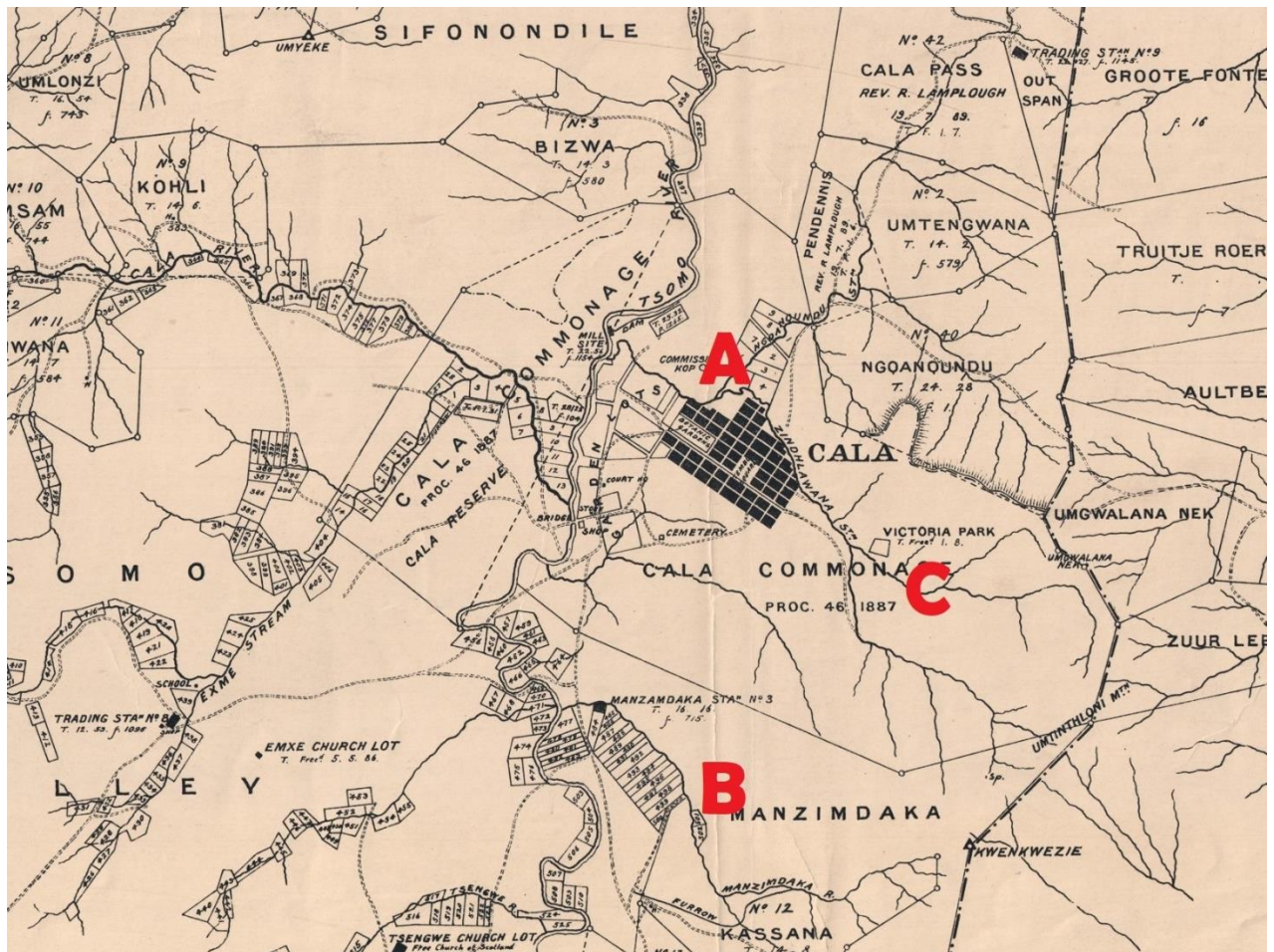
were: “As the Natives see the advantage of individual title, they will gradually fall into European ideas as to the ownership of land, and lasting peace and contentment as far as land matters are concerned will be secured”.¹⁶⁴ In 1883, the colonial commission in charge of Xhalanga decided to grant certificates of occupation to individual farmers. This was in line with the liberal policy of the Cape Government that had begun experimenting with granting land in tenure to Africans since 1853.¹⁶⁵ The situation grew more complicated with the passing of the far more ambitious Glen Grey Act in 1894 after the official annexation of Pondoland. Under the Glen Grey Act, each African was entitled to one plot of land between 4 and 5 morgen. However, the previous decision by the commission had committed to allowing loyalists as much as 15 morgen plots, putting them at a disadvantage under the Glen Grey Act.¹⁶⁶ These were still rather small plots of land, considering the large acreage white settlers had claimed right up until the early 1800s. The act, by limiting the amount of plots to one per person, also meant that wealthier African farmers could not acquire more land,¹⁶⁷ which inhibited their ability to move towards commercial farming. A map of the Xhalanga district from 1902 shows the result this haphazard approach to tenure had on the region:

¹⁶⁴ L. Ntsebeza & F. Ncapayi, ‘Land reform in the Xhalanga district, Eastern Cape (A case study appended to the report on land redistribution) A research report commissioned by the High Level Panel of Parliament’, 2016, p.6.

¹⁶⁵ L. Wotshela, *Capricious Patronage and Captive Land a Socio-political History of Resettlement and Change in South Africa’s Eastern Cape, 1960 to 2005*, p.39.

¹⁶⁶ L. Ntsebeza & F. Ncapayi, ‘Land reform in the Xhalanga district, Eastern Cape (A case study appended to the report on land redistribution) A research report commissioned by the High Level Panel of Parliament’, 2016, p.9.

¹⁶⁷ L. Ntsebeza & F. Ncapayi, ‘Land reform in the Xhalanga district, Eastern Cape (A case study appended to the report on land redistribution) A research report commissioned by the High Level Panel of Parliament’, 2016, p.9.



5) Excerpt from 'Map of the Xhalanga District, part 2', 1902. UCT African Maps Collection.¹⁶⁸

- A- Plots of Land in Town (Seat of the Colonial Magistrate)
- B- Plots of land owned by Africans
- C- Communally owned Land (Commonage)

The familiar gridlock town of Cala, mostly occupied by white settlers, was added to the Xhalanga district in 1883. It was also the “seat of the magistracy, with Charles J. Levey, the former British Agent, as the first Resident Magistrate of the new Xhalanga district.”¹⁶⁹ This 1902 map is particularly helpful for highlighting the complexities of private land ownership and its relationship to colonial rule in Southern Africa. In this map alone, there are a number of interesting land arrangements that exist side by side. One can see of course gridlock houses in the town, then African owned individual plots of land in the countryside as well as a number of areas that exist as a commonage. A commonage differed slightly to communally owned land

¹⁶⁸ Excerpt from 'Map of the Xhalanga District, part 2', 1902. UCT African Maps Collection.

<https://digitalcollections.lib.uct.ac.za/collection/islandora-30006>. Access: 2 January 2020>.

¹⁶⁹ L. Ntsebeza & F. Ncapayi, 'Land reform in the Xhalanga district, Eastern Cape (A case study appended to the report on land redistribution) A research report commissioned by the High Level Panel of Parliament', 2016, p.6.

in that it remained under the control of the municipality but was often administered by African leaders. These areas were important for cattle to graze and needed to remain available for community members to utilise. What this single map of Cala, a small town in the rural Eastern Cape reveals, is the different land regimes that existed in the four settler colonies before Union. This area reveals the many compromises between settler authorities and African subjects, and why South Africa could not move to an integrated, individual property system.

By focusing specifically on private property in the Eastern Cape here, the map of Cala comes to life, which gives us an important tool in which to study historical land ownership patterns. This chapter is able to give new practical insights into Mamdani's theory on citizen and subject. To quote Mamdani again, "Natives may be territorially separated from whites, but native institutions were slowly but surely giving way to an alien institutional mould".¹⁷⁰ Neocosmos sees Mamdani as being overly state-centric in his understanding of historical problems that African states inherited, in that he sees the route of contemporary Africa's problems with governance rooted in bifurcation of the state.¹⁷¹ Once again, these critiques have weight depending on the viewpoint you wish to explain. Neocosmos' focus is on agency,¹⁷² while my focus is on land. Once again, in these discussions on land, Mamdani's bifurcated state as an overarching theory remains as a useful theoretical tool in which to ground an understanding of these complicated historical processes in Xhalanga and elsewhere in Southern Africa.

The African institutional model that existed prior to European conquest had been permanently altered by colonial officials, and with individual plots owned by Africans now dotting the countryside, it is clear that it would be impossible to completely reverse the phenomenon of private property once it was introduced. By 1911, the phenomenon could not be undone, which was reflected in a survey done under Proclamation 241 of 1911, which classified the people of Xhalanga into three classes of land ownership:

[1] The occupiers of allotments under the system of certificates of occupation, introduced in 1885-7, numbering 815, (called "occupiers");

[2] Hut-tax payers who are cultivating lands but hold no form of title whatsoever;

¹⁷⁰ M. Mamdani, *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism*, p. 6.

¹⁷¹ M. Mamdani, 'Place, interest and political agency: some questions for Michael Neocosmos', *Social Dynamics* 45 (3), 2019, pp. 442-454.

¹⁷² M. Mamdani, 'Place, interest and political agency: some questions for Michael Neocosmos', *Social Dynamics* 45 (3), 2019, pp. 442-454.

[3] Applicants for land (a) who pay hut-tax but cultivate no land, (b) sons of “occupiers” living with their parents but paying no tax.¹⁷³

These land categories reveal the extent to which land was linked to colonial control in South Africa. Here, instead of land being communally owned, we see that Africans were divided into three categories. Those who owned land they lived on with their children- but likely had little opportunities of expanding their plot size, those who paid hut tax to a colonial government they did not elect, and those who paid hut-tax but were not agriculturalists. Going into the 20th century, one can imagine that there were little opportunities for this society to reinvest capital into commercial agriculture, because there were so many constraints on rural development which this haphazard land system had created for ordinary Africans. Also, notice the importance tax played in this entire system, with everyone expected to pay taxes to the colonial administration. This most likely played an important role in the colonial administration’s efforts to designate who owned land and who was still responsible for hut tax, regardless of land title. By the 1930s, it was unsurprising that “it was becoming evident that overcrowding and overgrazing were having serious environmental and conservation effects on land in the Xhalanga district”.¹⁷⁴

The research of Ntsebeza and Ncapayi skips the years between 1910 and the 1930s, with proclamation of Union in 1910 and the 1913 Natives Land Act disregarded, which seems counter-intuitive considering how important these historical events were. In fact, when looking at historical works done on land from the late 1800s into the 20th century, the 1913 Natives Land Act is seldom looked at as a specific catalyst for change in land ownership patterns in a region. A clue as why this is the case can be found in Beinart’s and Delius’s observation that, “The 1913 Land Act was an interim measure to maintain the ‘status quo’ of land occupation and ownership, and it called for the establishment of a commission to ‘inquire and report on’ areas to be set aside (or ‘scheduled’) for Africans.”¹⁷⁵

¹⁷³ Cited in: L. Ntsebeza & F. Ncapayi, ‘Land reform in the Xhalanga district, Eastern Cape (A case study appended to the report on land redistribution) A research report commissioned by the High Level Panel of Parliament’, 2016, p.10.

¹⁷⁴ L. Ntsebeza & F. Ncapayi, ‘Land reform in the Xhalanga district, Eastern Cape (A case study appended to the report on land redistribution) A research report commissioned by the High Level Panel of Parliament’, 2016, p.10.

¹⁷⁵ W. Beinart & P. Delius, ‘The Historical Context and Legacy of the Natives Land Act of 1913’, *Journal of Southern African Studies* 40(4), 2014, pp. 667-688.

The Act stated that more land should be set aside for Africans, once the commission had gained clearer outlines for segregation. This process was only completed 23 years later, with the passing of the Natives Trust Land Act in 1936.¹⁷⁶ Beinart and Delius observe that “In many ways the Land Act of 1913 was a holding operation and a statement of intent about segregation on the land”.¹⁷⁷ In the Cape, due to the nature of land ownership being made available to some Africans, the Land Act had little immediate consequence.¹⁷⁸ Therefore in places such as Gordonia and Xhalanga, it did little to immediately change the way in which people owned, lived and worked on the land.

Lessons from Gordonia on the Northern Frontier

In the Northern Cape, however, another frontier would reveal a completely different case study with regards to private property in South Africa. I discussed Gordonia in the introduction and chapter one, which Martin Legassick studied extensively.



6) Physical Map of South Africa with Study Area in Red.¹⁷⁹

¹⁷⁶ W. Beinart & P. Delius, ‘The Historical Context and Legacy of the Natives Land Act of 1913’, *Journal of Southern African Studies* 40(4), 2014, pp. 667-688.

¹⁷⁷ W. Beinart & P. Delius, ‘The Historical Context and Legacy of the Natives Land Act of 1913’, *Journal of Southern African Studies* 40(4), 2014, pp. 667-688.

¹⁷⁸ L. Wotshela, *Capricious Patronage and Captive Land: A Socio-political History of Resettlement and Change in South Africa’s Eastern Cape, 1960 to 2005*, p.40.

¹⁷⁹ Anon, 20 August 2020, <https://www.freeworldmaps.net/africa/southafrica/map.html>, Access: 20 August 2020.

After the defeat of Korana chiefs in the renewed colonial-rebel war of 1878-9, the Prime Minister of the Cape Colony, Thomas Upington, decided to grant some Korana chiefs land North of the Orange River. The idea was to stabilise the very Northern part of the Cape Colony's border, in an area around what is now the town of Upington in the Northern Cape.¹⁸⁰ Leading up to the decision, the Reverend C.H.W. Schroeder had proposed that the Basters be granted land and not driven off completely, so that he could continue to work as a missionary in the area. Schroeder certainly was not the first missionary who advocated for greater freedoms to be granted to the Cape's Coloured communities. Missionaries such as the influential John Philip played an important role in advocating for greater rights to be extended to the Cape's Coloured populations the early 1800s, with the father of liberal historiography W.M. Macmillan often referring to Philip's writings in his own work.¹⁸¹ Schroeder's proposals proved to be successful, and by 1880, the decision had been made, with 300 families settling in the area along the Orange River.

Most of the families were Basters, a few whites and some remnants of Xhosa, Kora and San.¹⁸² It is little wonder that this strange scenario caught Legassick's attention. However, what is more fascinating for this study, is how these families came to own their own farms and land in the town that later became known as Upington, creating a successful agricultural community. Initially, it was decided that the new settlers would simply be given residency rights and not rights to full private ownership.¹⁸³ However, soon after the Basters had settled, they insisted on creating ownership of the land because they rightfully thought that it would give them greater guarantees against white intrusion. By the mid-1880s, this predominantly Baster community began laying down *erven* in a part of the country that had never known it before.¹⁸⁴

The differences between land ownership on the Eastern Frontier and Northern Frontier are stark because of the nature of how land was turned into private property. In the Eastern Cape, dense African populations already occupied and farmed the land in communal property arrangements, which made introducing private property cumbersome and did not have the full buy-in from

¹⁸⁰ M. Legassick, 'Hidden Histories of Gordonia Land Dispossession and Resistance in the Northern Cape, 1800-1990', p.31.

¹⁸¹ K. Smith, *The Changing Past: Trends in South African Historical Writing*, p.110.

¹⁸² M. Legassick, 'Hidden Histories of Gordonia, Land Dispossession and Resistance in the Northern Cape, 1800-1990', p. 32-35.

¹⁸³ M. Legassick, 'Hidden Histories of Gordonia, Land Dispossession and Resistance in the Northern Cape, 1800-1990', p. 32-35.

¹⁸⁴ M. Legassick, 'The Will of Abraham and Elizabeth September: The Struggle for Land in Gordonia, 1898-1995', *The Journal of South African History* 37(3), 1995, pp.371-418.

the local population. However, in Gordonia, the land was dry and could only be irrigated by the Orange River, making it wholly undesirable at first appearance to white settlers,¹⁸⁵ and unsuitable for sustaining dense indigenous populations. Its undesirable arid location, sparse population and disinterest from white settlers made Gordonia a unique place in the country where private property could be laid down in a familiar, gridlock manner by its Baster settlers. With the completion of an irrigation canal in 1887, the settlement began to produce exceptional-quality grain and oats, and fruit trees were planted for the future.¹⁸⁶ In addition to the completion of the canal in 1887, Gordonia was incorporated into British Bechuanaland in 1889, and these developments made the area increasingly attractive to white settlers. Legassick noted that “In 1899 the harvest in Gordonia was estimated at 4000 bags of wheat (1800 in Upington) and 2000 bags of mealies, with irrigation producing an eight- to tenfold yield”.¹⁸⁷ In 1891 the first census revealed that the population was made up of 735 whites, 1429 ‘aboriginal natives’ and 3,121 ‘other coloured persons’.¹⁸⁸

The impressive crop yield from 1899 came from a farming population dominated by Baster landowners, farming land that belonged to them. Gordonia shows that one cannot jump to the conclusion that all commercial farming was produced by whites or that private property always infringed on black-owned land. One is reminded of Colin Bundy’s work, who asserted that as early as 1870 a competent class of black agriculturalists were emerging in the Cape Colony who utilised new farming methods and gained access to larger pieces of land.¹⁸⁹ However, over time, farms began to systematically change ownership from blacks to whites. The driving force between blacks losing their private property was indebtedness to storekeepers, the introduction of alcohol stores and a combination of trickery and unfair dealing.¹⁹⁰ In 1907 there were still some wealthy Baster landowners, however, by 1920 the vast majority of fertile farms were in the hands of whites. The *Cape Argus* in 1923 commented on the issue: “Storekeepers pushed credit upon them, law agents got them involved in loans and litigation, and the brandy sellers

¹⁸⁵ M. Legassick, ‘The Will of Abraham and Elizabeth September: The Struggle for Land in Gordonia, 1898-1995’, *The Journal of South African History* 37(3), 1995, pp.371-418.

¹⁸⁶ M. Legassick, ‘Hidden Histories of Gordonia Land Dispossession and Resistance in the Northern Cape, 1800-1990’, p. 49.

¹⁸⁷ M. Legassick, ‘Hidden Histories of Gordonia Land Dispossession and Resistance in the Northern Cape, 1800-1990’, p. 52.

¹⁸⁸ Cited in: M. Legassick, ‘Hidden Histories of Gordonia Land Dispossession and Resistance in the Northern Cape, 1800-1990’, p. 52.

¹⁸⁹ C. Bundy, *The Rise and Fall of the South African Peasantry*, p. 67.

¹⁹⁰ M. Legassick, ‘Hidden Histories of Gordonia Land Dispossession and Resistance in the Northern Cape, 1800-1990’, p. 60.

further assisted their ruin. Downright fraud, such as getting a Burgher's signature on a deed of sale, represented to him as merely an option to buy his farm".¹⁹¹ By 1920, Basters were no longer the majority landowners in Gordonia, with only a few Baster landowners remaining.

What we can gather from Gordonia is that the ownership of private property was not the ultimate guarantee from society at large. Although this settlement proved to be initially successful for this black community, there were still many societal impediments that prevented upward social mobility for this group of people. Lack of education, lack of protection under the law against fraudulent deed transfers, white encroachment, and lack of support of any kind from the Cape government, meant that this group of people had little chance of long-term success. Therefore, introducing private property with defined *erven* began a process that was difficult to undo. However, that alone could not guarantee land rights of vulnerable communities, because once they had been bought, or swindled, out of their deeds, they had no recourse to live on the land as they once did.

De Soto sees the implementation of private property as a reform and goal to achieve on its own. However, the implementation of private property is the first step of many that are required to improve rural livelihoods. The Basters in Gordonia had access to their own privately owned land and the privileges that came with it, such as the ability to resist extra-legal claims on their land, but they were still vulnerable to racist policies that worked against their ability to succeed as an agricultural society as a whole. On its own, property can be sold if crops are poor, or new owners swindled out of their title deeds. Private property also was not easily or neatly imported into areas where communal land ownership had been the only form of landownership for centuries, where it was also tied to tribal authority, memory and culture. The haphazard approach British colonial authorities took to implementing private property in the Eastern Cape meant that it was bound to be an unsuccessful experiment, because on its own it could not reverse rural poverty. Case studies from the Northern and Eastern Cape are also the exception rather than the rule during this period, with white landowners remaining dominant. What these case studies remind us, is that private property remained largely a protected privilege for white settlers, which created a white oligarchy of landowners in both the towns and rural areas.

An oligarchy of elite landowners is exactly what De Soto laments is a problem that inhibits capital development for the majority of country's citizens. He stresses that integrated property

¹⁹¹ Cited in: M. Legassick, 'Hidden Histories of Gordonia Land Dispossession and Resistance in the Northern Cape, 1800-1990', p. 60.

systems are the important factors for ensuring equal growth opportunities over time. An integrated property system would be a single legal system where almost every acre in the country is registered as individually-owned land, and can be bought and sold as a common good.¹⁹² In South Africa, the white, landed oligarchy that developed meant that the country did not, and still has not, moved towards a fully integrated property system. Instead, one sees the emergence of a haphazard legal property system where there exist elements of both communal and individually owned land.

Conclusion

This chapter began with a discussion on the usefulness of maps for historians studying land ownership, and how maps which have the familiar grid- shaped farms can reveal when and where *erven* were being carved out on the subcontinent. Troye's 1892 map of the Transvaal as well as maps from Xhalanga reveal how private property was implemented in many parts of Southern Africa, bordering on areas designated for communal ownership with white settlers being the dominant landowners. This chapter also focused on two important case studies again, that of Gordonia in the Northern Cape and Xhalanga in the Eastern Cape, which explored private property owned by black South Africans. The chapter concluded that in both these vastly different areas of the country, private property on its own was not enough to help reduce rural poverty for black South Africans. Ultimately, these case studies speak to the larger trend in South Africa's landed past, where a white oligarchy of landowners emerged, with an integrated and fair property system unable to emerge. The next chapter looks forward to another important aspect of land in South Africa- its relation to labour. Land and labour have been discussed at various points in this study, especially when referencing important neo-Marxist scholars, but there is much discussion that still needs to be done on this aspect of land in South Africa.

¹⁹² H. de Soto, *The Mystery of Capital: How Capitalism works in the West and Fails Everywhere Else*, p. 192.

Chapter Three:

Land, Labour and Industrialisation in Southern Africa, 1860-1920

One of the key insights this study has revealed is that land and property cannot be studied as developmental factors on their own. A factor that often is mentioned almost simultaneously with unfair, racialised land policies is the phenomenon of cheap wage labour in South Africa's capitalist development. It would be amiss of this study when revisiting land under the theme of political economy in Southern Africa between 1860-1920, to overlook the important role that black, low wage labour played in South Africa's early and unequal development. This chapter delves into the political economy of land in Southern Africa between 1860-1920, and begins by revisiting some of the important historiographical assumptions neo-Marxist revisionists and liberals made regarding land in the political and economic past of Southern Africa. This chapter's key focus and question is what implication did industrialisation have on South Africa's land ownership during this period? Using land as a central departure point for this discussion, this chapter argues that South Africa's unique path to industrialisation, which relied on restricted land ownership for Africans and cheap labour, created highly unequal distribution of wealth into the 20th century.

Historiographical Foundations

In the introduction of this study, I mentioned briefly how neo-Marxist scholars delved into vigorous academic research and debate to explain the nature of cheap, black wage labour in South Africa. These efforts were to explain the nature and persistence of white minority rule in South Africa in the 1970s and 1980s and to understand the economic rationale of apartheid. Both liberals and Marxists wanted to historicise the impasse that had begun to emerge between the South African state and the rolling mass action by its citizens in defiance of apartheid. South African history, because of the inherent political crises that accompanied apartheid, had become increasingly political from the 1960s for both the left and the right. As South Africa became more isolated, Afrikaner historians such as F.A. van Jaarsveld sought to defend the *Volk* (Afrikaner people) as best they could through their writing. The Afrikaner trend in historical writing had grown since the late 1800s, with history becoming a source of solace and

inspiration, pitting the Afrikaner people against indigenous Africans and imperialist English.¹⁹³ These historians wrote specifically to propagate Afrikaner Nationalist myths, and Afrikaans universities were largely seen as bastions of support for National Party doctrine.¹⁹⁴ It is important to note, however, that Van Jaarsveld became decidedly less apologetic of Afrikaner histories by the 1980s, and was ultimately rejected by the Afrikaner institutions that once embraced him.¹⁹⁵ With Afrikaans universities being seen largely as bastions of apologist Afrikaner historiography, the left naturally felt more at home at English universities or overseas. Their writing sought to highlight the injustices of apartheid and historicise the political present to write against apartheid myths that were being propagated by the National Party.¹⁹⁶

By the 1970s and 1980s, neo-Marxist revisionist historians had gained ascendancy, with their materialist writings on class and exploitation in the South African past becoming the dominant trend in South African historical writing.¹⁹⁷ Their materialist approach to Southern African history looked at the nature of how the political economy of apartheid developed over time, and sought to trace apartheid's roots to decisions that were made early on by colonial authorities that had favoured the white minority to the point it had created large structural flaws in the South African economy. By focusing on the economics of exploitation and how this influenced political decisions, their work added significant insights into explaining white minority rule, although at times this focus on political economy became rather reductionist.¹⁹⁸

Colin Bundy and William Beinart (who themselves also wrote many pieces on political economy from a Marxist perspective) explain that neo-Marxist scholars primary emphasis in their writings on the South African past was to explain the incorporation of African societies into the capitalist economy and structures, the creation of a African proletariat and attempts by various colonial and apartheid governments to control these processes.¹⁹⁹ This specific focus

¹⁹³ K. Smith, *The Changing Past: Trends in South African Historical Writing*, p.63.

¹⁹⁴ F.A. Mouton, 'F A van Jaarsveld (1922–1995) — a flawed genius?', *African Historical Review* 27(1), 1995, pp.5-11.

¹⁹⁵ F.A. Mouton, 'F A van Jaarsveld (1922–1995) — a flawed genius?', *African Historical Review* 27(1), 1995, pp.5-11.

¹⁹⁶ N. Etherington, 'Postmodernism and South African History', *South African Review of Books* 44(1), 1996, pp. 28-41.

¹⁹⁷ P. Maylam, 'Dead Horses, the Baby and the Bathwater': 'Post-Theory' and the Historian's Practice', *South African Historical Journal* 42 (1), 2000, pp. 121-135.

¹⁹⁸ P. Maylam, 'Dead Horses, the Baby and the Bathwater': 'Post-Theory' and the Historian's Practice', *South African Historical Journal* 42 (1), 2000, pp. 121-135.

¹⁹⁹ C. Bundy & W. Beinart, *Hidden Struggles in Rural South Africa. Politics and Popular Movements in the Transkei and Eastern Cape 1890-1930*, p. 2.

meant that their writings on rural affairs were largely concerned on how African reserves became increasingly underdeveloped and served only to provide a pool of cheap, black labour for the mines and commercial farms.

Indeed, as Beinart and Bundy explain, their goal was to explain South Africa's political economy and race relations historically from a viewpoint of macro-economic structures, where capital and government worked to create an African proletariat. The white minority, therefore, were interpreted as agents of capital by their constant rent-seeking during elections,²⁰⁰ which led to increasingly draconian policies that denied Africans the ability to buy land, move freely and earn the same wages as whites. Rent-seeking usually refers to a group of people who lobby government policy for their own interests, which is why I use the word rent-seeking when referring to actions made by white voters. However, this is also a natural consequence of Africans being denied the vote, which meant that politicians petitioned only on white interests. Restrictions on land ownership played an important part in the South African economy because it denied Africans the ability to live and earn outside of cheap waged labour. As I mentioned briefly in the introduction, these histories focused heavily on labour and especially on how cheap black wage labour benefitted an exploitative capitalist class that aligned itself with colonial and apartheid governments, but not on property and its link to development as De Soto and Linklater encourage us to.

Harold Wolpe and Stanley Trapido both explained how in South Africa, blacks were denied access to both land tenure and worker protection under the law, which chipped away at their economic independence. What Wolpe observes is that the state in South Africa operated as an instrument of white domination, and therefore did little to support black economic interests or concerns.²⁰¹ With Africans being denied the ability to meaningfully participate in South African politics, white voters continued to vote for policies that cemented their immediate privileges in the South African economy. This created vast inequalities in the South African economy, which as Trapido observes, was an integral and unique feature of early industrialisation which relied on surplus capital accrued from cheap labour.²⁰² These histories, especially Trapido's article on industrialisation in Southern Africa, are incredibly insightful

²⁰⁰ H. Wolpe, 'Capitalism and Cheap Labour-power in South Africa: From Segregation to Apartheid' *Economy and Society* 1(4), 1972, pp. 425-456.

²⁰¹ H. Wolpe, 'Capitalism and Cheap Labour-power in South Africa: From Segregation to Apartheid' *Economy and Society* 1(4), 1972, pp. 425-456.

²⁰² S. Trapido, 'South Africa in a Comparative Study of Industrialisation', *Journal of Development Studies* 7(3), 1970, pp. 309-320.

and led to this study also focusing on the importance of labour in the story of Southern Africa's land and developmental history.

Paul Maylam, writing in 2000, discussed how works on political economy had grown out of fashion in South African historiography due to the turn towards postmodernism in the 1990s. He also notes that these works should not necessarily be disregarded noting how "the insights of materialist historiography have been too easily dismissed or discarded".²⁰³ The insights that one can gain from materialist historiography mean that revisiting these works can provide an important platform from which to build one's own argument, which is what this study has done throughout. The reason these works are influential in this study are their materialist approaches to land. Although these writers, especially early on in the shift towards neo-Marxist historiography in the 1970s, could at times be dogmatic in their view of capital and labour,²⁰⁴ their works dealt specifically with race relations and the nature of land ownership. In terms of South Africa's unique route to industrialisation, the point that surplus capital was predicated on cheap wages as opposed to agricultural surpluses, is an important neo-Marxist insight into South Africa's economic development.²⁰⁵

Neo-Marxist historians in South Africa essentially developed a new radical methodology based on race and class to answer old questions on the nature of industrialisation and segregation in the South African economy. Every society has had to deal with the consequences of urbanisation and inevitable societal change that comes with industrialisation. South Africa's peculiar path to industrialisation, fuelled by the world's largest gold reserves and cheap black labour, puzzled historians early on in South African historiography. The first to actually begin dissecting the nature of South African economy were liberals, beginning in the 1920s with W.M. Macmillan and his pupil C.W. de Kiewiet.²⁰⁶ Writing in an age of economic depression, resurgent Afrikaner nationalism under J.B.M. Hertzog's National Party and increasing white poverty, Macmillan and De Kiewiet began to look at the origin of these issues historically. Their analysis, in stark contrast to Afrikaner and settler histories, began to see these problems as South African problems and actively began to link the problem of white poverty in South Africa to problems in the South African economy as a whole.²⁰⁷ Although these histories were

²⁰³ P. Maylam, 'Dead Horses, the Baby and the Bathwater': 'Post-Theory' and the Historian's Practice', *South African Historical Journal* 42 (1), 2000, pp. 121-135.

²⁰⁴ T. Simpson, 'The Historiographical Revolution in South Africa' *Unpublished Paper*, 2020, pp. 1-28.

²⁰⁵ T. Simpson, 'The Historiographical Revolution in South Africa' *Unpublished Paper*, 2020, pp. 1-28.

²⁰⁶ K. Smith, *The Changing Past: Trends in South African Historical Writing*, p.104.

²⁰⁷ K. Smith, *The Changing Past: Trends in South African Historical Writing*, p.104.

still paternalistic and utilised racialised categories that saw African culture as inferior and in need of ‘civilization’, they began to actively incorporate black South Africans into their histories.²⁰⁸

Macmillan studied the slums of Johannesburg where many rural Afrikaners had found themselves largely destitute, and he began to link these slums to rural poverty in South Africa in general. Many rural Afrikaners, he argued, who had in previous generations regarded large farms and cheap labour as a birth right whilst living on farms isolated from markets, were ill-prepared to cope with the rapid changes industrialisation wrought. The transition to capitalism in these agrarian based economies had created a crisis for the rural poor as wealthier farmers moved to commercial farming.²⁰⁹ The problem of rural poverty was not just a problem of unskilled white Afrikaners struggling in the towns, but it was also linked to black rural poverty in the reserves. The historian Ken Smith comments: “But if in fact competition from cheap and unskilled black labour was a factor in the making of the Poor White, the answer was to improve the lot of the blacks, rather than to cry for the institution of colour bars”.²¹⁰ Macmillan, writing in 1929 and reflecting on his own his insights into the problems in the South African economy after 1913, explained the problems Africans faced:

Farming on ‘shares’, and the hiring or leasing of European land, are expressly forbidden to natives who cannot now legally make their homes on the farms except by rendering labour service. At the same time Native right to purchase land except with the express sanction of the government is heavily restricted- to areas that have not yet been defined.²¹¹

Macmillan summarised his position on how South Africa’s rural poverty was contributing to problems in the towns:

Land-hunger, *fons et origo mali*, [The source and origin of evil] has meant also that the more land Europeans superficially absorbed from the natives, the less they themselves are compelled to learn real agriculture. Now the wheel has come full circle, and the essence of the ‘Native’ Problem of to-day is that exodus of starving unskilled Poor Whites from the imperfectly developed European farms is brought into violent competition for unskilled labour with the still cheaper overflow of natives from farms and from congested ‘Reserves’.²¹²

²⁰⁸ K. Smith, *The Changing Past: Trends in South African Historical Writing*, p.104.

²⁰⁹ K. Smith, *The Changing: Past Trends in South African Historical Writing*, p.104.

²¹⁰ K. Smith, *The Changing: Past Trends in South African Historical Writing*, p.108.

²¹¹ W.M. Macmillan, *Bantu, Boer, and Briton: the making of the South African native problem*, p.313.

²¹² W.M. Macmillan, *Bantu, Boer, and Briton: the making of the South African native problem*, p.313 & 314.

I found Macmillan's insights here to be incredibly insightful for the time. Not only had South Africa's land policies in the past created an African proletariat that was over-reliant on wage labour, their inability to purchase more land and become producers themselves was creating inefficiencies in the agricultural sector, or as Macmillan calls them 'imperfectly developed farms'.²¹³ Whilst South Africa's four colonies had seemed to be over-reliant on cheap African labour right into the 20th century, Australia had seen important local inventions that greatly improved agricultural production and efficiency as early as 1850. Labour scarcity, as well as the relatively high price of labour in Australia, meant that Australian farmers had to constantly invent or improve agricultural machinery. Mclean explains that Australia's labour scarcity led to important innovations in its agricultural sector: "Agricultural mechanization was not just a response to labour scarcity and its relatively high price, but had other productivity-enhancing or cost-reducing benefits."²¹⁴ The average Australian farm worker, therefore, was far more efficient than their South African counterparts. This meant that paradoxically, cheap labour, instead helping the South African agricultural sector actually hindered its long-term growth. There were of course, wealthy farmers who were able to utilise African labour and large pieces of land to create wealth, but these remained an exceptional, white oligarchy. Macmillan's key point here was that South Africa's problems did not begin in the towns, they began in the rural areas. Overcrowding and poverty in the reserves, driven and exacerbated by land policies that restricted African landownership and agriculture, were driving down wages for unskilled white workers as Africans drifted towards the towns in search of wage labour.

These were important insights into the problems we today refer more often to as inequality. Macmillan felt that the cure to these ills lay in agrarian reform, but it needed to benefit rural Africans too if it was to solve the problem of poverty in the towns. De Kiewiet continued with these understandings, lamenting the fact that the South African economy had been designed in a way that led to increased African poverty. "White dependence on black labour was the most significant social and economic fact of the eighteenth and nineteenth century South Africa... [White society] set out deliberately to create a black proletariat".²¹⁵ De Kiewiet here, certainly does not seem far removed from Marxist historians. Robertson, writing in 1934 and who is considered more of a conservative than a liberal at the time, also linked restrictions on black

²¹³ W.M. Macmillan, *Bantu, Boer, and Briton: the making of the South African native problem*, p.313.

²¹⁴ I.W. Mclean, *Why Australia Prospered: The Shifting Sources of Economic Growth*, p.109.

²¹⁵ Cited in: M. Lipton, *Liberals, Marxists, and Nationalists Competing Interpretation of South African History*, p. 10.

landholding as only serving the interest to create more land for white landowners and increase the supply of black labour.²¹⁶

These scholars show that there was a different path that could have been taken in South Africa's landed past. These were scholars who early on recognised the opportunities to seriously reform South Africa's rural sector for more than just the white landed elite, and in doing so, stem the tide of poor Africans seeking wage labour in the cities. It shows that the path to harder and more draconian forms of segregation were not merely accidents of history in a strange country, but rather conscious decisions made at consecutive historical junctures. As Harrison Wright explains, the liberal tradition advocated for further integration and the reduction of draconian policies and colour bars for Africans, which they believed were counter-intuitive to long-term economic growth:

But even as this movement increased its momentum in the twentieth century the Union government blocked the naturally integrative tendencies of economic growth and cultural inter-penetration by illiberal and unconstructive racial policies, as in the well-known 'Natives' Acts of 1913, 1923 and 1936.²¹⁷

One might wonder what the utility is of revisiting these works of the past, especially because they are so dated. However, these points speak accurately to what De Soto encourages us to understand in each country's economic past, a point where decisions were made on how land would be divided, who would own it, and whether or not it would be held in tenure by individuals. Leaning on the insights of South African historical writing is an important part of applying De Soto's analysis to the South African case. Liberals and even some conservatives could see early on that rural poverty was a South African problem that was being exacerbated by segregation and colour bars, which began, and were tied inextricably to, unequal land ownership patterns in the 1800s.

One can understand from the above discussion why Merle Lipton asserts that it is misleading to portray neo-Marxists as holding a monopoly on materialist explanations of the South African past. From the missionary John Phillip in the early 19th century, who advocated for blacks to be able to enter the market as free producers instead of labourers,²¹⁸ to Macmillan in the 1920s who began to see race relations as both a moral and economic issue, liberals never ignored the role of economics in their arguments. As historian Thula Simpson explains, with the benefit of

²¹⁶ M. Lipton, *Liberals, Marxists, and Nationalists Competing Interpretation of South African History*, p. 10.

²¹⁷ H.M. Wright, *The Burden of the Present: Liberal-radical controversy over Southern African History*, p.10.

²¹⁸ M. Lipton, *Liberals, Marxists, and Nationalists: Competing Interpretation of South African History*, p. 9.

hindsight, “We see that the radicals shared the basic assumptions of the liberals, differing principally regarding conclusions.”²¹⁹ Where liberals and radicals diverged, was that liberals saw the South African past as a gradual shift towards greater economic and cultural cooperation between races, only halted by nationalist, illiberal policies. The neo-Marxists, however, saw these relationships as being principally dominated by exploitative class relationships that had developed over time.²²⁰ However, both trends are important to this study in their analysis of rural poverty in the South African economy, which this study utilises to understand the importance of rural issues and land ownership in creating unequal classes over time based on race. Keeping these important understandings of rural poverty in mind and moving onto what is probably one of the important developments in South Africa’s political and economic past, the next section details what effect rapid industrialisation around the mines had on landownership and labour Southern Africa.

Mining, Industrialisation and Commercial Farming

To begin a discussion on land and labour in Southern Africa, one needs to have an overview of the socio-economic climate in which large-scale, white commercial agriculture began. Before the mineral revolution, the internal market for the produce of commercial farming was weak, with little opportunities or incentive to try and export goods from the interior. With the discovery of diamonds in Kimberly in 1868 and gold in the Witwatersrand in 1886, demand for maize, wheat, barley, oats and other agricultural products soared.²²¹ As we have seen, these opportunities were recognised by African peasant farmers, sharecroppers, tenants and landowners, “who responded vigorously to the agricultural opportunities brought about by the minerals industry”.²²²

John Hemming, the Civil Commissioner of Queenstown in the Eastern Cape, whilst touring Oxkraal and Kamastone noted in 1876 that:

Fruit trees being planted; whenever a stream of water could be made available, it had been let out and the soil cultivated as far as it could be irrigated; the slopes of the hills and even the summits of the mountains were cultivated whenever a plough could be

²¹⁹ T. Simpson, ‘The Historiographical Revolution in South Africa’, Unpublished Paper, 2020, pp. 1-28.

²²⁰ T. Simpson, ‘The Historiographical Revolution in South Africa’, Unpublished Paper, 2020, pp. 1-28.

²²¹ E. Mpofu, *The Labour History of South Africa in Source Materials 1806-1940*, p. 25.

²²² E. Mpofu, *The Labour History of South Africa in Source Materials 1806-1940*, p. 25.

introduced. The extent of the land turned over surprised me. I have not seen yet such a large area of cultivated land for years.²²³

This phenomenon occurred almost as a natural response to new trading opportunities that were presented to indigenous groups. Their labour was not yet being coerced into a commercial system that would systematically hinder and frustrate a commercial class of indigenous farmers. As Shula Marks also explains, the majority of black and white South Africans still earned their livelihoods off the land and would continue to do so, but the mineral revolution would rapidly change the environment and way in which this occurred.²²⁴ Before industrialisation, even with colonisation penetrating deep into the sub-continent, there were still no readily identifiable agricultural production relationships.²²⁵ In Natal, for example, absentee landlords were pervasive, and Shepstone estimated in 1874 (due to a lack of clear statistics) that six million acres of land was owned by whites and that five million were occupied by Africans.²²⁶ This shows that Africans, in both the reserves and as sharecroppers still had a fair amount of control over where they decided to sell their labour, and still had the option of working the land for themselves. Only by the late 1800s did these relationships begin to change into radical new forms of commercial production beginning on the Highveld as mining intensified.²²⁷

Between 1886 and 1900, the Witwatersrand industrialised at a rapid pace to meet the ever-expanding needs of the gold mining sector, changing with it land and labour relations in a short amount of time. I discussed in chapter one how private property took centuries to evolve in Europe, but within decades of European settlement private property as a phenomenon could be seen unfolding in Southern Africa. This process was also reflected in the rapid industrialisation on the Witwatersrand, where colonial governments responded quickly to the needs of industry and capital, especially in the form of securing cheap, black wage labour for the mining sector. Cheap African labour became one of the few places where colonial governments could raise capital. By ensuring Africans could provide cheap labour to create

²²³ Cited in: E. Mpfu, *The Labour History of South Africa in Source Materials 1806-1940*, p. 25.

²²⁴ S. Marks. 'Class, Culture and Consciousness in South Africa, 1880-1899' in R. Ross, A. N. Mager & B. Nasson (eds), *The Cambridge History of South Africa, Volume 2: 1885-1994*, p.102.

²²⁵ S. Trapido, 'South Africa in a Comparative Study of Industrialisation', *Journal of Development Studies* 7(3), 1970, pp. 309-320.

²²⁶ V.S. Harris, 'Land labour and Ideology: Government Land Policy and the Relations Between Africans and Whites on the Land in Northern Natal 1910-1936', p. 178.

²²⁷ S. Trapido, 'South Africa in a Comparative Study of Industrialisation', *Journal of Development Studies* 7(3), 1970, pp. 309-320.

surpluses in industry and emerging commercial farms, and simultaneously taxing Africans on those wages, cheap wage labour was an important tool for financing colonial governments. Award-winning historian, Charles van Onselen, explains this phenomenon succinctly in his latest book *The Night Trains* (2019):

One of the primary objectives of all colonial administrations was to mobilise indigenous peoples as a source of cheap wage labour that could be utilised for developing the infrastructure of a weak state or private enterprise, and to raise badly needed revenue from a black working class it was intent on creating by way of taxation.²²⁸

Africans owning and farming their own land, or farming in communal land relationships in the reserves, or working as sharecroppers, were able to subsist outside of wage labour. Sharecropping emerged out of necessity, as white farmers could not afford to pay direct wages for the labour of Africans to cultivate all their fields. Partnering with African tenants was common throughout the interior.²²⁹ Cultivating fields remained a labour-intensive process in South Africa and indeed in many places around the world. In the United States, farmers only began to utilise an array of different tractors after 1915 as the technology improved.²³⁰ Mining magnate and industrialist Sammy Marks experimented with an early steam plough on his Vaal River estate in the early 1890s, but his workers and Boer neighbours detested the impractical machine, which was supposed to plough through 16 inches of ground in any weather.²³¹ Only with state subsidies and support, as well the important establishment of the Land Bank in 1912 did white farmers move towards greater mechanisation and full-scale commercial farming.²³² The industry was still over-reliant on cheap African labour however, which stifled innovation and labour productivity.

Sharecropping arrangements, tenants and loose terms of labour agreements between farm owners and farm workers meant that there were no clearly identifiable formal labour relationships that one could easily point to before the turn of the 20th century. These relationships became more formalised and insidious as Africans were forced out of subsistence farming and into wage labour on the mines. This occurred alongside growing commercial farms

²²⁸ C. Van Onselen, *The Night Trains: Moving Mozambican Miners to and from the Witwatersrand Mines, Circa 1902–1955*, p.45.

²²⁹ W. Beinart & P. Delius, 'The Historical Context and Legacy of the Natives Land Act of 1913'. *Journal of Southern African Studies* 40 (4), 2014, pp. 667-688.

²³⁰ F. Jones, *Farm Powers and Tractors, Fifth Edition*, p. 17 & 19.

²³¹ Mendelsohn, *Sammy Marks: the Uncrowned King of the Transvaal*, p. 83.

²³² G.F. Ortman & R.P. King, 'Agricultural Cooperatives I: History, Theory and Problems', *Agrekon* 46(1), 2007, pp. 18-46.

which finally began to emerge with the demand and price for agricultural food increasing as people flocked to areas around the mines. Van Onselen's succinct analysis on the nature of wage labour in Southern Africa prior to its industrial revolution all point to the fact that colonial states in Southern Africa were weak. Low taxation, porous borders and a myriad of ethnic groups vying for limited resources all meant that industrialisation in Southern Africa relied almost entirely on profits in the mining sector that could not have been achieved without cheap black labour.

Hinderances to African Land Ownership

The general weakness of the colonial, racialised states in Southern Africa prior to the mineral revolution and their need to exact taxation from its African subjects, formed an important part of the rationale for preventing Africans from owning land and becoming commercial farmers on their own. This is often discussed in general terms, and it is often difficult to pinpoint exactly how colonial governments achieved this. A Master's thesis by V.S. Harris in 1984 titled "Land labour and Ideology: Government Land Policy and the Relations Between Africans and Whites on the Land in Northern Natal 1910-1936", is one of the best sources that details colonial policy in each colony instead of generalising about an imagined South Africa as a whole. In the Cape Colony, a series of location Acts between 1876 and 1909 imposed heavy taxes on non-labouring Africans and license fees on tenants.²³³ In the Free State, there was an outright prohibition of Africans purchasing land. In the Transvaal, which I have mentioned briefly, Africans from 1858 onwards could only purchase land through an intermediary such as a missionary or have it held in trust by the Commissioner of Native Affairs.²³⁴ In Natal, when parts of Zululand were opened up to purchase by the general public in 1887, Africans were prohibited from purchasing any plots of land. Harris here clearly shows that in every colony, land policies worked directly to prevent Africans from purchasing land and worked to ensure the demise of an independent African peasantry.²³⁵

²³³ V.S. Harris, 'Land labour and Ideology: Government Land Policy and the Relations Between Africans and Whites on the Land in Northern Natal 1910-1936', p. 178.

²³⁴ V.S. Harris, 'Land labour and Ideology: Government Land Policy and the Relations Between Africans and Whites on the Land in Northern Natal 1910-1936', p. 178.

²³⁵ V.S. Harris, 'Land labour and Ideology: Government Land Policy and the Relations Between Africans and Whites on the Land in Northern Natal 1910-1936', p. 179.

As far orthodox economic theory goes, most industrialised nations moved from peasant agriculture, to commercial agriculture, which then helped to fund industry. The American economic theorist and staunch anti-communist, Walt. W. Rostow, well-known for his book *The Stages of Economic Growth: A Non-Communist Manifesto* (1960) explained that industrialisation could be achieved when a self-sustaining sector of the economy continued to perform. To Rostow, this “Take-off”²³⁶ of industrialisation represented “A definitive social, political and cultural victory of those who would modernise the economy over those who would cling to the traditional society”.²³⁷ Rostow was only correct in one sense here with regards to South Africa, that the mines alone proved to be an industry that began industrialisation on the quiet escarpment of the Transvaal. Rostow also thought that industrialisation alone would help move the economy out of outdated forms of political control and lead to democratisation. However, Rostow’s theories had two important flaws: the first being the assumption that pre-existing society would simply give way in the face of economic ‘take-off’, and the second being that countries like China and Russia would not be able to maintain modern, industrialised economies without democracy.²³⁸ In Southern Africa, industrialisation did little to create a more liberal political landscape, and in fact, led to a hardening of more institutionalised forms of racial discrimination.²³⁹

According to Rostow, and orthodox liberal economic theory, major economic opportunities should naturally see a shift towards greater inclusion as the needs of business begin to force a shift away from archaic and draconian forms of governmental control. However, a key factor that was missing in the Southern African case was the equal opportunity to own private land. One can look comparatively at Norway, Sweden and Finland which were all late to industrialise, as an example. Faced with little natural endowments in terms of fertile agricultural land, these societies worked to ensure that rural poverty was eradicated slowly through rural banks, protection of individual land rights and support for peasants in the second half of the 19th century. Linklater writes how:

The rural poverty of Sweden, Norway, and, after independence in 1917, Finland ensured that their land revolutions took on a similar tendency toward cooperative capitalism. But, as in private property societies, they also enjoyed the incalculable

²³⁶ Cited in: A. Linklater, *Owning the Earth: The Transforming History of Land Ownership*, p. 327.

²³⁷ Cited in: A. Linklater, *Owning the Earth: The Transforming History of Land Ownership*, p. 327.

²³⁸ A. Linklater, *Owning the Earth: The Transforming History of Land Ownership*, p. 328.

²³⁹ H. Wolpe, ‘Capitalism and Cheap Labour-power in South Africa: From Segregation to Apartheid’ *Economy and Society* 1(4), 1972, pp. 425-456.

advantage of developing a set of rights around rural ownership prior to industrialisation.²⁴⁰

The problem in South Africa was that the ‘incalculable advantage’ of having rural property rights existed almost exclusively for white landowners. Both liberals and neo-Marxist revisionists focused more specifically on the contradictory nature of the colour bar, which neo-Marxists believed to be a form of class reproduction and control, and which liberals viewed as being an unnecessarily intervention in the economy.²⁴¹ However, liberals also saw these issues as part of larger contradictions that existed within the Southern African economy. Lipton argues that “It was not the case, as revisionists also claim, that liberals focused narrowly on the job bar and ignored other relevant aspects of apartheid, such as the restrictions on African land ownership and mobility aimed at increasing the supply of unskilled labour”.²⁴² As Lipton asserts, liberals did not ignore the issue of land with regards to racialised policies and low wages. The feedback loop between low wages and land policies, although acknowledged at different points in the literature by revisionists and liberals, seldom is the focal point of discussions on the origins of industrialisation in Southern Africa. However, where liberals and neo-Marxists diverge is on the nature of capital. Neo-Marxists saw capital as the key driving factor behind these archaic policies, as Bundy and Beinart argued, “It has meant that the reserves have been viewed largely in terms of their functionality to the developing capitalist system, as housing a reserve army of labour, or as exhibiting the scars of underdevelopment and impoverishment”.²⁴³

Neo-Marxist revisionists often utilised themes of development and underdevelopment in their vocabulary, joining a larger group of historians and social scientists that began to study underdevelopment in the third world.²⁴⁴ Saul Dubow explains that South African historians were trying to understand the nature of segregation and how South Africa’s economy really worked. Dubow saw segregation as more than a knee-jerk reaction by white authorities, but rather, that segregation represented a generalised response by the state and colonial authorities

²⁴⁰ A. Linklater, *Owning the Earth: The Transforming History of Land Ownership*, p. 327.

²⁴¹ M. Lipton, *Liberals, Marxists, and Nationalists: Competing Interpretation of South African History*, p. 36 & 37.

²⁴² M. Lipton, *Liberals, Marxists, and Nationalists: Competing Interpretation of South African History*, p. 37.

²⁴³ C. Bundy & W. Beinart, *Hidden Struggles in Rural South Africa: Politics and Popular Movements in the Transkei and Eastern Cape 1890-1930*, p.2.

²⁴⁴ R. Hunt Davis Jr., ‘Reviewed Work(s): The Burden of the Present: Liberal-Radical Controversy over Southern African History by Harrison M. Wright’, *The International Journal of African Historical Studies*, 12(2) 1979, pp. 277-282.

to the large changes industrialisation had wrought on the subcontinent.²⁴⁵ Dubow writes that segregation was “Specifically... intended to cope with the ecological and social collapse of the reserves, and the political threat posed by an uncontrolled and potentially uncontrollable African proletariat in the cities”.²⁴⁶ Here, he states that he differs slightly from those who believed segregation was in the first instance created in order to create ultra-cheap labour for industry and capital, but that it did ensure the long term needs of capital and industry.²⁴⁷

Although this study does not seek to delve further into these discussions on segregation, Dubow’s point is an important one, especially with regards to the collapse of viable economic opportunities in the reserves. What is clear, is that impoverishment in the reserves, Africans being unable to enter commercial farming and buy more land as well as earning lower wages than whites, formed the foundation of South Africa’s route to industrialisation. Industrialisation was no doubt fuelled and sustained by developments on the Witwatersrand, from 1886, where it became clear that every year this area of Southern Africa could provide the largest and most continuous supply of low-grade gold ore in the world.²⁴⁸

As speculators moved towards organised reef mining, the old agrarian- based economy in the Transvaal moved towards a more established industrial economy.²⁴⁹ This meant that industry around the mines created the environment in which commercial agriculture could begin to emerge, rather than agricultural surpluses providing the necessary capital for the take-off of commercial farming and secondary industry.²⁵⁰ The significance of this sequence is paramount to the history of land ownership patterns in South Africa because it brought about the conditions necessary for commercial agriculture to begin. As we have already established, before industry developed around the mines, there were little prospects for commercial agriculture developing in Southern Africa. This sheds light on Trapido’s thesis on the “alliance of gold and maize”,²⁵¹ which I mentioned briefly in the introduction, where one can see a positive feedback loop between the two industries. Industry created a market for commercial agriculture, and this

²⁴⁵ S. Dubow, *Racial Segregation and the Origins of Apartheid in South Africa, 1919-1936*, p.52.

²⁴⁶ S. Dubow, *Racial Segregation and the Origins of Apartheid in South Africa, 1919-1936*, p.52.

²⁴⁷ S. Dubow, *Racial Segregation and the Origins of Apartheid in South Africa, 1919-1936*, p.52.

²⁴⁸ C. van Onselen, *The Night Trains: Moving Mozambican Miners to and from the Witwatersrand Mines, Circa 1902–1955*p.28.

²⁴⁹ C. Van Onselen, *The Night Trains: Moving Mozambican Miners to and from the Witwatersrand Mines, Circa 1902–1955*, p.28.

²⁵⁰ B. Cousins, A. Dubb, D. Hornby & F. Mtero, ‘Social reproduction of ‘classes of labour’ in the rural areas of South Africa: contradictions and contestations’, *The Journal of Peasant Studies* 45 (5), 2018, pp. 1060-1085.

²⁵¹ S. Trapido, ‘South Africa in a Comparative Study of Industrialisation’, *Journal of Development Studies* 7(3), 1970, pp. 309-320.

demand was duly met, creating South Africa's commercial agricultural sector in the 20th century.

This process had a knock-on effect throughout Southern Africa, with Portuguese Mozambique being no exception. Authorities there, towards the end of the 19th century, began to pass draconian legislation to prevent “‘vagabondage’ arising from the end of slavery”.²⁵² This legislation was geared towards forcing Africans into wage labour which could be taxed by the colonial government, and it also had the dual effect of pushing Africans out of subsistence farming and self-sufficiency. Van Onselen observes how “Self-sufficient indigenous people, hitherto wholly reliant on subsistence farming on often marginally productive agricultural land, henceforth had a ‘moral and legal’ obligation to find waged employment”.²⁵³ Industrialisation brought about by the mineral revolution on the Witwatersrand reverberated across Southern Africa, quickly changing labour relationships on the sub-continent.

What these examples reveal is that Africans living in subsistence did not suit colonial governments as this would not help generate an income from their labour. Africans owning more of their own land also ran contrary to the needs of the capitalist colonial elite, as this would mean their labour would be tied up on their own land and thus would not be available for work on commercial farms or in industry. Here, Mamdani describes migrant labourers in Southern Africa as “free peasants”,²⁵⁴ who subsisted on a combination of small-scale farming in the reserves, and from minimal wage labour in urban centres.²⁵⁵ Customary rights to small pieces of land in the reserves did not ensure economic independence and only allowed for small scale subsistence agriculture, which reinforced African dependence on wage labour. This reveals a complicated nexus between land and labour in South Africa's early industrial political economy which makes it difficult to divorce one aspect from the other. This is summarised neatly in a recent article by Cousins *et al*:

African land dispossession (including of increasingly market orientated producers) provided extensive land resources to white landed property, and a general supply of African labour ‘cheapened’ by their partial survival through their own production in the reserves and as labour-tenants on white farms.²⁵⁶

²⁵² C. van Onselen, *The Night Trains: Moving Mozambican Miners to and from the Witwatersrand Mines, Circa 1902–1955*, p.47.

²⁵³ C. van Onselen, *The Night Trains: Moving Mozambican Miners to and from the Witwatersrand Mines, Circa 1902–1955*, p.47.

²⁵⁴ M. Mamdani, *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism*, p. 219.

²⁵⁵ M. Mamdani, *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism*, p. 219.

²⁵⁶ B. Cousins, A. Dubb, D. Hornby & F. Mtero, ‘Social reproduction of ‘classes of labour’ in the rural areas of South Africa: contradictions and contestations’, *The Journal of Peasant Studies* 45 (5), 2018, pp. 1060-1085.

These policies, later reinforced by large scale forced removals in rural areas during apartheid (estimated as many as 1.1 million Africans between 1960-1983),²⁵⁷ reveal a land system that worked on an entirely short-sighted logic. The land policies of the late 1800s, with the onset of the mineral revolution, denied Africans access to land and property in rural areas, and sowed the seeds for rural poverty in the reserves later on in the 20th century. The South African experiment with industrialisation fuelled by gold mining, supported by commercial agriculture and fuelled by black cheap wage labour only served to collapse agriculture and reproduce poverty in the reserves.²⁵⁸ The foundations of Southern Africa's rapid industrialisation were thus inherently unstable.

Whereas Sweden, Norway and Finland first worked to solve rural poverty in the late 19th century, and then moved towards secondary industry, capital in Southern Africa worked against its own long-term interest by constantly driving down wages for black workers. Although De Soto largely ignores issues of labour in his book, it is an area that his hypothesis can expand on, that repressive land ownership laws and repressive labour regimes go hand in hand. The inherently racist logic behind these policies created the foundations of a political economy that experienced both growth and industrialisation, but on a foundation that would ensure economic gains only increased inequality over time. The importance of land ownership laws and the labour regimes they supported cannot be overlooked in these conclusions.

Conclusion:

This chapter began with a historiographical discussion of some of the important understandings that both liberals and neo-Marxist revisionists provided with regards to land and labour in Southern Africa. This heritage of South African scholarship provides important insights into the central role of cheap, black wage labour and its detrimental relationship to land ownership. Africans being unable to purchase land outside of the reserves in all four colonies meant that within the impoverished reserves, Africans had little option but to enter wage labour, which formed the foundation of South Africa's route to industrialisation around the mines. The chapter concluded with some important insights into the nature of industrialisation in South

²⁵⁷ B. Cousins, A. Dubb, D. Hornby & F. Mtero, 'Social reproduction of 'classes of labour' in the rural areas of South Africa: contradictions and contestations', *The Journal of Peasant Studies* 45 (5), 2018, pp. 1060-1085.

²⁵⁸ B. Cousins, A. Dubb, D. Hornby & F. Mtero, 'Social reproduction of 'classes of labour' in the rural areas of South Africa: contradictions and contestations', *The Journal of Peasant Studies* 45 (5), 2018, pp. 1060-1085.

Africa and its link to land ownership patterns and the emergence of hard policies of segregation and later, apartheid. This all led to a foundation that made South Africa's economy increasingly unequal over time, whereas in Scandinavia rural concerns took the forefront of economic policies before industrialisation, which led to greater levels of equality in the 20th century. Rural issues therefore are an important part of the South African story, and the next chapter begins with comparisons between Australia and Argentina's economic fortunes, using this chapter as a foundation from which to compare the usefulness of De Soto's hypothesis.

Chapter Four:

Private Property, Hernando de Soto and a History of Land in South Africa, 1900-1913.

The previous chapter detailed the important interplay that existed between land and labour in Southern Africa, arguing that the mineral revolution cemented unequal land ownership practices and introduced clearer, more insidious labour policies into Southern Africa that favoured commercial farms and the mines. Chapter four moves towards the completion of this study by looking at Hernando de Soto's theories in more detail, grappling with some of his assumptions and their validity for South Africa. Much of this study has detailed a history of the late 19th century and the political and economic factors that led to South Africa's land ownership patterns entering the 20th century. Moving from an analysis of De Soto, this chapter seeks to build on these historical and theoretical foundations and detail a brief history of South Africa's land policies from 1900-1913. The aftermath of the South African War, reconstruction, the formation of Union and the 1913 Land Act will be discussed in this history of land in South Africa during this important period of the South African past.

De Soto's Detractors

Amongst policy makers, both global and local, De Soto's work has been well received. His work even found him a seat on many UN panels, including becoming co-chair of the High Level Commission on Legal Empowerment of the Poor.²⁵⁹ However, his bold and simple hypothesis has meant that he has also garnered a fair amount of criticism. Core to his assumptions is that land that is held outside of formal private ownership, "cannot readily be turned into capital, cannot be traded outside of narrow local circles where people know and trust each other, cannot be used as collateral for a loan and cannot be used as a share against an investment".²⁶⁰ Christopher Woodruff, an American economist and Professor of development economics at Oxford University, explains some of his scepticism regarding some

²⁵⁹ C. Nyamu-Musembi, 'De Soto and Land Relations in Rural Africa: breathing life into dead theories about property rights', 2007, *Third World Quarterly* 28 (8), pp. 1457-1478.

²⁶⁰ H. de Soto, *The Mystery of Capital: How Capitalism works in the West and Fails Everywhere Else*, p. 6.

of De Soto's arguments in a review of his book. According to Woodruff, De Soto's sole focus on land titling makes it "sound a little like a free lunch",²⁶¹ because titling has to be complimented by a broad range of judicial, political and economic reform in developing countries.²⁶² Celestine Nyamu-Musembi, who authored the book, *Breathing Life Into Dead Theories about Property Rights: De Soto and Land Relations in Rural Africa* (2006) explains that the case study chosen remains a vital part of the hypothesis, and Africa appears to be a particularly difficult continent to study the history of private property in due to the pervasiveness of legal pluralism.²⁶³ Extra legality, as De Soto terms it, and legal pluralism are different processes. The absence of state presence in a region does not mean an absence of political power or complete lawlessness. Nyamu-Musembi's research focuses on Kenya's land policies over the past 50 years, and details how in Kenya, local chiefs would be called in to resolve disputes between individual land owners.²⁶⁴ This is an example of legal pluralism, which is a result of the weak colonial state which had to incorporate traditional leadership into its structures in order to maintain control, a legacy that has remained after independence.²⁶⁵ With formal property and traditional authority going hand in hand, African case studies complicate neat understandings of how land tenure works.

Another reason Nyamu-Musembi critiques De Soto is the reason she believes that his work was so well received in UN development bodies. Nyamu-Musembi argues that De Soto's hypothesis, which advocates that the third world move into formal, state-recognised systems of private ownership in order to develop, means that elites can abscond from their responsibility to redress economic injustices of the past.²⁶⁶ Another problem is that there is little evidence that proves formalising tenure will give the poor immediate access to credit.²⁶⁷ Historically in South Africa, where Africans were able to acquire land in tenure, there is little evidence that

²⁶¹ C. Woodruff, 'Review of de Soto's *The Mystery of Capital*', 2001, *Journal of Economic Literature* Vol. XXXIX, pp.1215-1223.

²⁶² C. Woodruff, 'Review of de Soto's *The Mystery of Capital*', 2001, *Journal of Economic Literature* Vol. XXXIX, pp.1215-1223

²⁶³ C. Nyamu-Musembi, 'De Soto and Land Relations in Rural Africa: breathing life into dead theories about property rights', 2007, *Third World Quarterly* 28 (8), pp. 1457-1478.

²⁶⁴ C. Nyamu-Musembi, 'De Soto and Land Relations in Rural Africa: breathing life into dead theories about property rights', 2007, *Third World Quarterly* 28 (8), pp. 1457-1478.

²⁶⁵ L. Ntsebeza, *Democracy Compromised, Chiefs and the politics of the land in South Africa*, p.16.

²⁶⁶ C. Nyamu-Musembi, 'De Soto and Land Relations in Rural Africa: breathing life into dead theories about property rights', 2007, *Third World Quarterly* 28 (8), pp. 1457-1478.

²⁶⁷ B. Cousins, T. Cousins, D. Hornby, R. Kingwill, L. Royston & W. Smit, 'Will formalising property rights reduce poverty in South Africa's 'second economy'? Questioning the mythologies of Hernando de Soto', 2005, *PLAAS* 18 (1), pp.1-6.

they were able to gain access to credit. Where tenure is useful, even for the poor, is that it can help resolve border disputes between families.²⁶⁸

Property is a complicated social and political as well as economic phenomenon. Both Nyamu-Musembi and Cousins *et al* stress that this is an important missing part of De Soto's analysis. Nyamu-Musembi observes that "When formal title is introduced it does not drop into a regulatory vacuum; it finds itself in a dynamic social setting where local practices are continually adapting to accommodate competing and changing relations around property."²⁶⁹ Cousins *et al* take this further: "The entire legal and social complex around which notions of formal and informal property are constituted needs to be interrogated."²⁷⁰

As I discussed in the introduction, this kind of academic writing is in its nature not designed to be particular to every context, but rather seeks to illuminate grand trends in developmental history. As Woodruff also states in his review, De Soto injected a much-needed enthusiasm into discussions around property, but more importantly, "he has contributed to our understanding of developing economies by opening his eyes in the past".²⁷¹ *The Mystery of Capital* (2000) leads us to look at a country's developmental past and ask questions that stimulate discussion. Which countries moved towards private property early on in their history? What effect did this really have on their economic development over time? Which countries around the world today have the majority of their land held in formal tenure, and where on this spectrum is South Africa? These questions created the initial curiosity for this study, but the truth, as always, is far more complicated to warrant a simple historical answer to those questions.

It was De Soto's habit of looking to the past in his analysis that draws the interest of the historian. In his analysis of property, De Soto saw property systems as an overlooked, but potent, historical factor that acted as a catalyst towards capital creation. Legal property systems that listed almost every piece of land in the name of an owner who could then use the land as

²⁶⁸ C. Nyamu-Musembi, 'De Soto and Land Relations in Rural Africa: breathing life into dead theories about property rights', 2007, *Third World Quarterly* 28 (8), pp. 1457-1478.

²⁶⁹ C. Nyamu-Musembi, 'De Soto and Land Relations in Rural Africa: breathing life into dead theories about property rights', 2007, *Third World Quarterly* 28 (8), pp. 1457-1478.

²⁷⁰ B. Cousins, T. Cousins, D. Hornby, R. Kingwill, L. Royston & W. Smit, 'Will formalising property rights reduce poverty in South Africa's 'second economy'? Questioning the mythologies of Hernando de Soto', 2005, *PLAAS* 18 (1), pp.1-6.

²⁷¹ C. Woodruff, 'Review of de Soto's *The Mystery of Capital*', 2001, *Journal of Economic Literature* Vol. XXXIX, pp.1215-1223.

collateral, according to De Soto, were no accidents of history- as these processes unfolded mostly silently over time. As De Soto writes:

The third reason why the process of formal property creation is difficult to grasp is that it is difficult to follow the thread of the story. The slow absorption of the practices, customs and norms of extralegals into formal law has been obscured by other historical events.²⁷²

However, it soon became clear during this study, that there was no way one could really engage with the South African past the way De Soto does in his case studies, because what remains important is the case studies you choose. When looking at the United States, De Soto points to the 1862 Homestead Act, which allowed every squatter to occupy land and claim it with title up to 160 acres. The Act represented the culmination of a long, bitter political struggle between elitists, who used the law to punish squatters, and those who favoured land ownership for poor immigrants and squatters.²⁷³ It is important to note that these were policies that were designed to help a class of landless poor whites, with slavery only being abolished a year after the Homestead Act was passed in the United States. Martin Luther King discussed this problem in an interview with veteran NBC reporter Sander Vanocur in Atlanta Georgia in 1967:

America freed the slaves in 1863 through the Emancipation Proclamation of Abraham Lincoln but gave the slaves no land or nothing in reality to get started on. At the same time, America was giving away millions of acres of land in the West and the Midwest, which meant that there was a willingness to give the white peasants from Europe an economic base.²⁷⁴

In Australia, almost the exact same process played out for white immigrants there, and remarkably, legal breakthroughs happened within a few years of each other. Most Australians wanted access to land, and how this crisis was resolved reveals a true test for the country's political institutions and democracy. Australia's legislatures changed from being elitist institutions, to institutions that could implement broad, pro-poor reform. For example, in 1858, "In New South Wales the Council's rejections of a land reform proposal provided the liberal premier with the justification to purge that nominee chamber of its diehard conservative

²⁷² H. de Soto, *The Mystery of Capital: How Capitalism works in the West and Fails Everywhere Else*, p. 113.

²⁷³ H. de Soto, *The Mystery of Capital: How Capitalism works in the West and Fails Everywhere Else*, p. 156.

²⁷⁴ Interview between Sander Vanocur and Martin Luther King, May 8, 1967, Atlanta Georgia. A.K. franklin, 27 August 2013, <<https://www.nbcnews.com/nightly-news/king-1967-my-dream-has-turned-nightmare-flna8C11013179>>, access: 14 September 2020.

members”.²⁷⁵ The land campaign in Australia envisaged a new Australia where squatters could turn the open interior into productive farms. The reformers were successful, and one by one the territories adopted pro-poor, pro-land ownership policies as they had done in the United States.

Beginning with Victoria in 1860 and New South Wales in 1861, Selection Acts were passed that allowed for squatters to become property landowners. According to Macintyre, “Squatters could purchase cheaply up to 250 hectares of vacant Crown land or portions of runs held by pastoral leaseholders”.²⁷⁶ These legal interventions certainly point to a shared past in these wealthy settler colonies where land was made available in tenure for white immigrants and the poor. The absence of land policies based solely on race in these case studies, are important to note once again. These interventions, which essentially gifted individuals with large stretches of land, helped to reduce inequality between an older, wealthy, and established landed class, and a poorer class of white immigrants and sharecroppers who did not have access to their own land.

These legal interventions were vital to curbing elite rent-seeking and building the rule of law in these settler colonies. The reason we know this, is the benefit of hindsight and comparison. Argentina was also a settler colony very similar to the United States and Australia in several important ways. The country had vast mineral and land resources, a steady stream of European immigration, and an indigenous population that declined significantly in political strength and numbers, leaving large stretches of land available for occupation by white immigrants.²⁷⁷ The country never moved towards legal interventions that would allow immigrants to claim land in tenure, and instead was plagued by local elites who hindered the move towards more inclusive forms of ownership for the poor and immigrants. These elites took the form of *Caudillos*, local politicians and military men who were able to rule regions that were almost autonomous, weakening the possibility of a strong unitary government that would be able to enforce property laws. An example of this was the infamous Juan Manuel Rosas, who became a powerful figure in Buenos Aires Province, amassing for himself a large fortune and ownership of large tracts of land.²⁷⁸ Whereas in the United States and Australia, the battle for land reform would take

²⁷⁵ Macintyre, *A Concise History of Australia* (3rd ed), p.97.

²⁷⁶ Macintyre, *A Concise History of Australia* (3rd ed), p.97.

²⁷⁷ C.H. Waisman, *Reversal of Development in Argentina Postwar Counterrevolutionary Policies and Their Structural Consequences*, p. 4.

²⁷⁸ S.C. Chambers, ‘New Nations and New Citizens: Political Culture in Nineteenth-century Mexico, Peru, and Argentina’ in T.H. Holloway (ed.), *A Companion to Latin American History*, p.244.

place at the polls with the election of liberal politicians who favoured the rural poor, immigrants and squatters, battles for change in Argentina would have to take place in the form of revolution.

De Soto's focus on the importance of private property in creating capital has certainly proved to be true in these cases. Looking back, we can see that both the United States and Australia utilised their vast land resources in a way that would allow the greatest amount of people access to private capital, resulting in greater levels of equality over time. Thomas Piketty, in his important work *Capital in the 21st Century* (2014), defines property simply as capital that can be added to sum of a country's wealth. The only distinction he makes, is whether this capital (property) is held privately or publicly.²⁷⁹ Therefore, if the majority of land in a country ends up in private tenure, it is important in terms of equality that this is done in a way that allows the greatest number of people to own a share of the land, and therefore, access to the country's share of capital wealth. The problem, however, as already noted, is that the above case studies have limited variables, such as large stretches of land, steady European immigration, and severely weakened indigenous populations in the face of colonisation. As I have discussed earlier, these case studies neglect important variables such as resistance and strength of indigenous groups that remained living on large stretches of land in the Southern African context. By looking at the past in the way De Soto does, and applying it to South Africa, one is left with more questions than answers.

When I sought to interrogate the landed past of South Africa in a way that De Soto does, seeking to answer developmental questions of the past, I immediately found several obstacles that needed to be overcome. The first, is that studying an economic past of Southern Africa immediately puts one onto a collision course with a vast work that has already been done in South African historiography. South Africa's heritage of historical writing provided key insights into the nature of land and economy in the South African past, and without engaging with those texts this study would have lacked key insights into the complex political, societal and legal developments that all affect how land was utilised.

As much as this study had to be fit for purpose when engaging with the South African past, De Soto also had to utilise grand narratives and simplifications in order to get a simple message across that could stimulate debate. This means his book had less room to engage with each country's historiography, but that does not mean we cannot use his hypothesis and utilise South

²⁷⁹ T. Piketty, 2014, *Capital in the Twenty-First Century*, p.82.

African historiography to study land in South Africa. As Cousins *et al* assert, property, both formal and informal, do have to be studied within their societal and historical context. Any good historical study on land should aim to simultaneously tackle historiography, legal history, political histories and societal processes around property over time. It is with these lessons in mind that this study tackles the second part of the period studied, 1900-1913.

South Africa's Land History, 1900-1913

This study has discussed various processes around land that developed from 1860-1900. To summarise briefly, the mineral revolution, which began in 1869 with the discovery of diamonds in Kimberly and accelerated rapidly with the discovery of gold in the Witwatersrand in 1886, rapidly changed the way in which people lived and worked the land in Southern Africa.²⁸⁰ In order to raise profits and produce much needed taxes for colonial governments, African labour was exploited via cheap wages, which were also taxed along with hut taxes in the reserves.²⁸¹ The industrial centres that developed around the mines created a market for local commercial agriculture. Africans responded to these opportunities in various ways, and from 1870 a new class of emerging African commercial farmers began to benefit from these opportunities. However, starting in the Free State in 1858,²⁸² each of the four colonies began to severely restrict Africans from purchasing land, cementing land ownership patterns in the favour of white farmers. Along with policies geared towards creating cheap African labour and a lack of state support that white farmers received, African commercial agriculture was unable to develop into the 20th century. With the turn of the century, several important events would shape the nature and eventual form of the young South African state, including the South African War, the subsequent reconstruction, the formation of Union, and the 1913 Land Act.

The South African War

²⁸⁰ S. Marks. 'Class, Culture and Consciousness in South Africa, 1880-1899' in R. Ross, A. N. Mager & B. Nasson (eds), *The Cambridge History of South Africa Volume 2 1885-1994*, p.102.

²⁸¹ C. Van Onselen, *The Night Trains: Moving Mozambican Miners to and from the Witwatersrand Mines, Circa 1902-1955*, p.45.

²⁸² V.S. Harris, 'Land labour and Ideology: Government Land Policy and the Relations Between Africans and Whites on the Land in Northern Natal 1910-1936', p. 178.

The South African War was, as many view, the inevitable culmination of 100 years of British domination and intervention in the region.²⁸³ Leading up to the war, Jan Smuts tried to drum up support for the anti-imperialist cause abroad, with a 100-page tract titled *Een Eeuw Van Onrecht* – ('A Century of Wrong'). The volume portrayed British rule as a bloodstained tyranny, and pinned the blame for tensions on the greedy mine-owning capitalists in the Transvaal who wanted to take advantage of the gold reserves.²⁸⁴ It laid bare century-old grievances between British and Boer, as well as imperialist and capitalist dreams of domination in Southern Africa. The aftermath of the war laid the foundation for the future South African state, which would make important and powerful legal decisions on land from 1913 onwards. Gold had begun to tie Southern Africa, despite Paul Kruger's best efforts, to international finance based in London. A powerful and confident class of mining capitalists embedded themselves into Southern Africa, influencing its politics and linking the country to the world's major financial centre in London.²⁸⁵ The needs of mining capitalism and imperial ambitions on the sub-continent are difficult to separate as different factors for outbreak of the war. Gold, and its importance to the world financial system at the time, and therefore the world superpower Britain, set the Boer republics on a collision course for war with imperial Britain.

The reasons for the war and the ruthless scorched earth policy utilised by Kitchener to win the war are well documented in South African historiography. This section does not seek to provide an alternative history of the war or its consequences, but rather to analyse it with regards to land ownership and labour relations after the war. One of the interesting dynamics that emerges is the strength of private property to endure the terrors of scorched earth. The farms may have been burnt, but the ownership and the boundaries remained largely unchanged after the war. The historian Jeremy Krickler explains that Africans often sided with the British against the Boers as a form of resistance against unfair power dynamics that existed between African tenants and farm workers and Boer landowners.²⁸⁶ Many assumed that with the defeat of the Boer armies and political power that there would be a change in land and labour relationships. This did not materialise in the way they had hoped. As Krickler writes:

²⁸³ S.Trapido, & I. Phimister, 'Imperialism, settler identities and colonial capitalism: The Hundred Year Origins of the 1899 South African War', 2008, *Historia*, 53(1), pp. 45-75.

²⁸⁴ M. Meredith, *Diamonds, Gold and War: The British, The Boers and The Making of the South African State* p.436.

²⁸⁵ S.Trapido & I. Phimister, 'Imperialism, settler identities and colonial capitalism: The hundred year origins of the 1899 South African War'. *Historia*, 53(1), 2008, pp. 45-75.

²⁸⁶ J. Krickler, 'Agrarian Class Struggle and the South African War', *Social History* 14 (2), 1989, pp. 151-176.

Many former farmworkers, in fact, believed that they were going to be given land at war's end. Officials in charge of black refugees were thus instructed to make such people 'clearly understand' that this was not the case and that they were not to 'delay their return to their former masters in the hopes [sic] of obtaining farms of their own.'²⁸⁷

It is well-known that peacetime negotiations focused explicitly on reconciliation between British and Boer, which led to African concerns being neglected, even though Chamberlain had decried the treatment of Africans in the Transvaal as a reason for intervention before the war.²⁸⁸ Issues around land ownership would no doubt have been a cause for greater hostility, and therefore, no radical changes in land ownership would be overseen by the new British administration of the Boer republics. Returning Boer farmers were even provided with seed, livestock, implements as well building utensils as a part of Milner's reconstruction.²⁸⁹ However, it soon became apparent that there would have to be a much larger effort by the new military government to support farmers in the aftermath of scorched earth. Many Boers had been uprooted from the rural land permanently, with many from rural areas drifting into urban areas in search of work, where their lack of skills proved to exacerbate the problem of white poverty in urban areas.²⁹⁰ In the rural areas, landowners did not return to the world as they had known it before. Labour from African tenants and workers was not guaranteed, and in many cases was outright refused. Krickler describes the case of D.J.E. Erasmus, when upon returning to his farm near Pretoria after the war, found that his tenants refused to work or leave the land he had left unattended for the duration of the war. Erasmus described the situation in a court of law in 1902, "The position is this. I, as owner, come back on my farm and the natives defy me. They refuse to work, they refuse to leave, and remain on [missing] the farm, and refuse to pay me anything for use and occupation of my farm".²⁹¹

D.J.E. Erasmus was not alone in encountering new resistance to old labour relationships that had existed between Boer landlords and their African tenants and workers. Many assumed the toppling of Boer political power and the swift ushering in of British military rule meant that previous tenant and labour relationships would be null and void under the new political leadership. After all, Africans on the ground had been utilised extensively by the British military during the war as agents against their Boer landlords for information and other services

²⁸⁷ J. Krickler, 'Agrarian Class Struggle and the South African War', *Social History* 14 (2), 1989, pp. 151-176.

²⁸⁸ M. Meredith, 'Diamonds, Gold and War: The British The Boers and the Making of South Africa', p. 473.

²⁸⁹ M. Meredith, 'Diamonds, Gold and War: The British The Boers and the Making of South Africa', p. 492.

²⁹⁰ M. Meredith, 'Diamonds, Gold and War: The British The Boers and the Making of South Africa', p. 495.

²⁹¹ J. Krickler, 'Agrarian Class Struggle and the South African War', *Social History* 14 (2), 1989, pp. 151-176.

useful to their campaigns in the interior.²⁹² Resentment against the Boers also increased due to actions taken by Boer commandos during the war, especially in the Transvaal. The Boers had openly admitted to killing captured armed Africans during the war, and at times unarmed Africans too.²⁹³ A British missionary named Canon Farmer wrote privately in 1901:

Of all who have suffered by the war, those who have endured the most & will receive the least sympathy, are the Natives in the country places of the Transvaal... they have welcomed British columns & when these columns have marched on they have been compelled to flee from the Boers, abandon most of their cattle & stuff & take refuge in the towns or fortified places or be killed.²⁹⁴

Resentment and mistrust between Boer (commandos) and (armed) Africans was especially prevalent in the Transvaal. Confrontation during the war was rare, however in one instance, a Boer commando was nearly wiped out by a Zulu attack.²⁹⁵ A common theme after the war was Africans seeking to gain land and renegotiate tenant relationships in the political vacuum that existed in the aftermath of the war. Robert Ross discusses how “In the West, [Transvaal] the Bakgatla removed all markers of property from the Pilanesberg and treated the area as tribal land”.²⁹⁶ Even Louis Botha, the prominent Boer commander and future Prime Minister of South Africa, found that when he returned to his farm in what is today Mpumalanga, Africans informed him that he no longer had authority there and better leave.²⁹⁷ Clearly, Africans had a far different future in mind to that of the white authorities after the war. Africans sought to reassert themselves and undo the forces of colonialism that no longer could enforce their authority. However, these victories were to be short-lived. The war smashed old loyalties, along with seriously undermining old tenant and worker relationships between Africans and Boer landowners in the rural areas. What remained, despite the destructive nature of the war, were the old lines of private property that had been carved out in the 19th century before the war began. Fences may have been torn down, farmhouses burnt, cattle stolen or killed, and African tenants may have refused to pay or labour for white owners, yet the old lines of private property remained. The South African war spoke to the resilience of private property once it had been implemented, with its uncanny ability to survive both war and regime change.

²⁹² J. Krickler, ‘Agrarian Class Struggle and the South African War’, *Social History* 14 (2), 1989, pp. 151-176.

²⁹³ T. Pakenham, *The Boer War*, p. 573.

²⁹⁴ Cited in T. Pakenham, *The Boer War*, p. 573.

²⁹⁵ R. Ross, *A Concise History of South Africa, Vol 2*, p. 80.

²⁹⁶ R. Ross, *A Concise History of South Africa, Vol 2*, p. 80.

²⁹⁷ R. Ross, *A Concise History of South Africa, Vol 2*, p. 80.

The incoming British administration had several problems that needed to be resolved in the rural countryside. Despite the devastation that scorched earth had caused, there were also inherent weaknesses in the agricultural sectors that needed to be addressed in South Africa as a whole. White *bywoners* (tenants), were becoming increasingly alienated from economic opportunity, with many abandoning the rural countryside, which was only exacerbated by the war.²⁹⁸ Both Lord Milner and Lord Selborne, who replaced Milner in late 1905, sought to reform the agricultural sector, especially in the two former Boer republics, to help solve the problem of the growing class of the white poor in the towns. There was a need to introduce technical skills and methods into the agricultural sector, as well as much needed capital investment. In order to reform the sector, Lord Selborne utilised two important interventions. The first was societal, and the second was financial and technical. Marks and Trapido observed how:

Lord Selborne, who replaced Milner as High Commissioner in 1905, proposed to cope with the disaffection of the poor, as well as that of the rural propertied, by attempting to revive at least a part of their previous class structure. In proposing a Land Bank he hoped to benefit the rural notables and to get them to accept the status quo.²⁹⁹

Selborne worked with the *Het Volk*, an Afrikaner rural interest group that had been formed in response to Milner's proposed Anglicisation of the former republics, to initiate these reforms. Selborne's continued support for the agricultural industry through financial and technical support, meant that *Het Volk* became a willing ally, marking a significant political and societal victory for him. These successes could not have been achieved without the important support veterinarians provided in terms of inoculating and quarantining cattle, as well as improved cultivation methods that were introduced. Marks and Trapido observe how although "these political and social successes... must be seen as preceding, [they] are not to be separated from the success of the botanist and the veterinary surgeon".³⁰⁰

The success of these agricultural reforms cemented land ownership patterns in the country and meant that any dreams Africans may have had of a new rural dispensation after the war were crushed. By 1908, with new seeds being sown, better preparation of the soil, as well as

²⁹⁸ S. Marks & S. Trapido, 'Lord Milner and the South African State', *History Workshop Journal* 8(1), 1979, pp. 50-80.

²⁹⁹ S. Marks & S. Trapido, 'Lord Milner and the South African State', *History Workshop Journal* 8(1), 1979, pp. 50-80.

³⁰⁰ S. Marks & S. Trapido, 'Lord Milner and the South African State', *History Workshop Journal* 8(1), 1979, pp. 50-80.

increased inoculation and quarantining of sick cattle, the agricultural industry started to produce a surplus of beef and maize. For the first time, the former republics sought export markets for their surpluses, marking a significant shift towards full-scale commercial agriculture.³⁰¹ White agriculture found its footing for the first time with state support, further alienating African sharecroppers and farmers. State support entrenched what had been unfolding since the early 1800s, a gradual concentration of the country's land resources into the hands of a white elite. Even amongst white Afrikaners, wealthier rural notables were targeted for state support whilst poorer, landless Afrikaners were forced to move to the towns in search of work. This in fact confirms De Soto's reasoning that equally distributed wealth needs to be led by government, and in South Africa, land policies purposefully created a landed, white oligarchy which benefitted from state subsidies, whilst Africans were forced out of the industry and unable to purchase more land.

What is significant about these developments is the continuity and change they represent. The large-scale political changes seemed to do little to change the way in which Africans were treated by the colonial authorities. In fact, the political strength that the march towards Union brought with it only seemed to alienate Africans and push their interests further away from the political and economic agenda of the future South African state. Land ownership patterns that developed in the 19th century were now enforceable by a stronger state, and a new commercial agriculture industry would only serve capital's interests more efficiently, representing a final blow to Africans participating in commercial agriculture as producers, as opposed to labourers.

Reconstruction and the Push to Union

Milner had his sights on reconstruction and the swift implementation of British power in the entirety of what was to become the South African state even before the war ended. His goals were simple yet ambitious: to settle English immigrants in the rural areas to even out the majority of Afrikaans speakers there, to rebuild the mining industry, and to swiftly transform the instruments of government.³⁰² In terms of cementing British authority, these moves came quite late in the colonial era for Britain. Milner's last goal, of improving and transforming the instruments of government, would be his most lasting legacy in South Africa. The South

³⁰¹ S. Marks & S. Trapido, 'Lord Milner and the South African State', *History Workshop Journal* 8(1), 1979, pp. 50-80.

³⁰² S. Dubow, 'Colonial Nationalism, the Milner Kindergarten and the Rise of 'South Africanism', 1902-10', *History Workshop Journal* 43 (1), 1997, pp. 53-85.

African state which emerged out of the ruins of war, was one that would become increasingly involved in the day to day lives of ordinary South Africans and cement the colonial and capitalist goals that had begun to unfold in the 19th century. Although Milner had sought to stamp British authority in all four colonies, it became clear by 1905 on the eve of his departure from South Africa that there would have to be far more compromise between the colonies than he had originally anticipated.³⁰³ With the election of liberals under Campbell-Bannerman in the house of commons in Britain in December 1905, hard-line imperialists suddenly found themselves out of fashion. The election of a liberal government meant that British officials were more open to allowing domestic politics to dictate matters in the four colonies, which opened up the Orange River Colony and the Transvaal to the election of pro-Boer politicians once again.³⁰⁴

In his efforts to rebuild the agriculture sectors in the previous republics, Milner's successor, Lord Selborne, saw that the best way to implement change was to secure bi-partisan support for his policies. His strategy was markedly different to that of Lord Milner, who saw compromise as spoiling the hard-fought victories of war. However, with Afrikaners organising themselves politically on partisan lines, from a practical point of view Selborne began to see that Union would require bi-partisan support.³⁰⁵ These developments meant that the move towards Union would not involve large scale reverses of land policies that had already developed in each colony in the late 1800s. The need to reconcile British and Boer interests in one union meant that white interests were once again placed on the highest agenda of all future decisions. Land, especially, was an issue politicians had to tread carefully on. With Africans denied the vote (except for some Africans in the Cape Colony), white interests on the land would take preference in any future laws made by the South African state.

One of the most important developments that emerged after the South African War is not change, but rather the continuity of land ownership patterns that had developed in the 1800s. Although the immediate devastation in the aftermath of the war may have encouraged Africans to defy old labour and tenant relationships with their white landlords, the need to reconcile white interests and the push to union meant that the status quo would be quickly restored. With

³⁰³ S. Dubow, 'Colonial Nationalism, the Milner Kindergarten and the Rise of 'South Africanism', 1902-10', *History Workshop Journal* 43 (1), 1997, pp. 53-85.

³⁰⁴ S. Dubow, 'Colonial Nationalism, the Milner Kindergarten and the Rise of 'South Africanism', 1902-10', *History Workshop Journal* 43 (1), 1997, pp. 53-85.

³⁰⁵ S. Dubow, 'Colonial Nationalism, the Milner Kindergarten and the Rise of 'South Africanism', 1902-10', *History Workshop Journal* 43 (1), 1997, pp. 53-85.

Afrikaners beginning to secure political objectives via the polls soon after the end of the war, many of Milner's original objectives for the reconstruction remained unfulfilled.³⁰⁶ However, the reconstruction period, which brought the former colonies into closer cooperation than ever before, formed the foundation of a powerful, bureaucratic South African state. In order to continue to profit and benefit empire, the mining industry required cheap and controlled African labour on a scale that could not be achieved with the political weakness of the former separate colonies.³⁰⁷ It is well established that the long-term needs of the mining industry were a driving factor behind the war. To cite Marks and Trapido again:

From the point of view of the Chamber of Mines, the weaknesses of the Kruger administration related to its inability to enforce controls over the drunkenness and desertion of the existing work force, to impose a uniform policy in terms of recruitment on the industry, and above all to lower the costs of the reproduction of both the white and to some extent the black working class.³⁰⁸

As Bill Nasson has reflected, one of the unique features of Southern African history is the unbroken presence of the South African state from 1910, which separates that country from its African neighbours. Nasson continues that “arguably, what does mark it as historically exceptional in Africa is something more than the apartheid experience. For a century, it has been the continuous, unbroken strength of its central state from the formation of Union in 1910”.³⁰⁹ There is little doubt that the South African state could not have emerged without the destruction and incorporation of the independent Boer republics.

However, Union still required several years of intense negotiations with several national conventions in 1908 and 1909, with Union finally coming into effect on May 31, 1910. In many ways the Union was an acceptance that socially and economically, union had already largely occurred. Union would also remove barriers between economic integration and resolve long-standing disputes between railway rates, as well as serving to connect the interior to ocean trade in a more efficient way.³¹⁰ Union of course also went against the wishes of the majority of the population, with only the Cape still keeping the franchise for a small percentage of Africans

³⁰⁶ S. Dubow, ‘Colonial Nationalism, the Milner Kindergarten and the Rise of ‘South Africanism’, 1902-10’, *History Workshop Journal* 43 (1), 1997, pp. 53-85.

³⁰⁷ S. Dubow, ‘Colonial Nationalism, the Milner Kindergarten and the Rise of ‘South Africanism’, 1902-10’, *History Workshop Journal* 43 (1), 1997, pp. 53-85.

³⁰⁸ S. Marks & S. Trapido, ‘Lord Milner and the South African State’, *History Workshop Journal* 8(1), 1979, pp. 50-80.

³⁰⁹ B. Nasson, ‘How Abnormal is South Africa?’, *Quarterly Bulletin of the National Library of South Africa* 66 (1), 2012. pp. 40-50.

³¹⁰ R. Ross, *A Concise History of South Africa*, Vol 2, p. 87.

who met the stringent requirements. Sol Plaatje explained in *Native Life in South Africa* (1916), the liberal ideals of the Cape, where Africans could own land and vote, were utterly suppressed within the new Union government.³¹¹ As he elaborated: “With the formation of the Union, the Imperial Government, for reasons which have never been satisfactorily explained, unreservedly handed over the Natives to the colonists, and these colonists, as a rule, are dominated by the Dutch Republican spirit.”³¹² As a result of the reconstruction, the new South African state was created to be a unitary state as opposed to a federal structure that some had envisaged,³¹³ making it difficult for the former colonies to veto national legislation. The 1913 Natives Land Act would be one of its most important pieces of legislation that would cement the status quo in the way land was owned in South Africa.

Continuity and Change: The 1913 Natives Land Act

In 2013, on the centenary of the passing of the Natives Land Act, there were a flurry of statements and articles published in remembrance of the act from various spheres of academia, government and civil society alike in South Africa. Beinart and Delius (2014) argued that the immediate effects of the act at the time were actually quite limited. The most important aspects of the act were to undermine black tenants on white-owned land, but even with legislation passed, the effects were slow to materialise.³¹⁴ In many ways the act was more a holding statement that sought to keep things the way they were, as opposed to an act that sought to radically change the way in which South Africans lived and worked on the land. To understand how South Africans lived, worked and owned land in South Africa it is necessary to examine land ownership patterns from the second half of the 19th century, as this study has partly done, because the Act did not radically change land ownership patterns overnight, but rather sought to entrench what had already materialised before Union in each of the former colonies.

According to Beinart and Delius, “The 1913 Land Act was an interim measure to maintain the ‘status quo’ of land occupation and ownership, and it called for the establishment of a commission to ‘inquire and report on’ areas to be set aside (or ‘scheduled’) for Africans.”³¹⁵

³¹¹ S. Plaatje, *Native Life in South Africa: Before and Since the European War and the Boer Rebellion*, p. 28.

³¹² S. Plaatje, *Native Life in South Africa: Before and Since the European War and the Boer Rebellion*, p. 29.

³¹³ R. Ross, *A Concise History of South Africa*, Vol 2, p. 90.

³¹⁴ W. Beinart & P. Delius, ‘The Historical Context and Legacy of the Natives Land Act of 1913’, *Journal of Southern African Studies* 40(4), 2014, pp. 667-688.

³¹⁵ W. Beinart & P. Delius, ‘The Historical Context and Legacy of the Natives Land Act of 1913’, *Journal of Southern African Studies* 40(4), 2014, pp. 667-688.

Substantiating the view of Beinart and Delius, the *Rand Daily Mail*, which I utilise as a primary source from the period, reported that during the second reading of the Act in parliament in 1917, Prime Minister Louis Botha explained that the Act was always meant to be temporary in nature, with a commission of enquiry supposed to report back in two years, but this was delayed by the outbreak of World War I.³¹⁶

Although not every farmer was willing to get rid of African tenants, who they had relied on for generations to work the land, politics in the Union was moving to force landowners to work the land themselves in designated white areas. As Sol Plaatje explained, one of the most controversial aspects of the passing of the Act was the forcing of African tenants off the land and Africans being prohibited from buying land in designated white areas. Plaatje continued:

The compliance of Parliament with this demand was the greatest Ministerial surrender to the Republican malcontents, resulting in the introduction and passage of the Natives' Land Act of 1913, inasmuch as the Act decreed, in the name of His Majesty the King, that pending the adoption of a report to be made by a commission, somewhere in the dim and unknown future, it shall be unlawful for Natives to buy or lease land, except in scheduled native areas.³¹⁷

Plaatje's book was one that utilised his skills as both an author and a politician, and it was designed first and foremost to appeal to the British public directly.³¹⁸ The beginning section of the book, which I draw mostly from, describes the events leading up to the passing of the Act and serves as an important history on the context in which the Act was passed. As Plaatje correctly explains in the above extract, one of the most damning features of the Act was that at some point in the future, Africans would be unable to purchase land in South Africa outside of designated native areas. Plaatje here explains the lull between the Act's initial passing and the actual implementation of the Act's more detrimental clauses, clauses that Louis Botha had to explain and defend in Parliament.

The outbreak of World War 1 was more likely a welcome distraction for Botha than the core reason for the Act's stipulations hanging in limbo for several years. As Sol Plaatje explained, Botha had to traverse a wide range of political interests who all had different visions of what the Act should entail.³¹⁹ Importantly, Botha also had to, in some regard, respect promises he

³¹⁶ *Rand Daily Mail*, Tuesday, March 13, 1917, p. 4

³¹⁷ S. Plaatje, *Native Life in South Africa: Before and Since the European War and the Boer Rebellion* p. 34.

³¹⁸ B. Willan, 'Native Life in South Africa: Writing, Publication, Reception', in J. Remington, B. Willan & B. Peterson (eds), *Sol Plaatje's Native Life in South Africa Past and Present*, p. 2.

³¹⁹ S. Plaatje, *Native Life in South Africa: Before and Since the European War and the Boer Rebellion*, p. 33.

had made to the British crown that the Natives Land Act would not be detrimental to indigenous South Africans. It appears that Botha was willing to let some of the more contentious stipulations of the Act remain in limbo, whilst waiting for the recommendations of the commission on land, which could buy him some time. This explains why Beinart and Delius explain the Act as being more of a holding statement, than being immediately enforced. In fact, the provisions of the Act would only be fully implemented in 1936 under Hertzog's Nationalists, in a completely different political climate after the Great Depression.³²⁰

The Act demarcated and made clear for the first time what were white farming areas and what were to be African reserves where communal land tenure would be practised. Although these delineations existed already, and can be seen on maps long before 1913, the 1913 Land Act legislated these divisions into law for the first time. It also barred Africans from purchasing land outside of the reserves.³²¹ However, as I explained in Chapter 3, these types of laws were already in place in the four colonies by the late 1800s. This meant that in effect, 87% of the land was to be considered white-owned land or areas, and 13% of the land was to be designated as African land where whites could no longer encroach on. At the time of the Act, only 7% of the land was actually designated to Africans and this was only increased to the full 13% in 1936.³²²

Defenders of the legislation could claim they were making more land available to Africans as opposed to taking land away. The real effect of the Act, it seems, was the legislative power it represented. Beinart and Delius explain that the Act was not designed to dislodge Africans on privately-owned land or still occupied in private tenure, but “Rather, the Act was designed to change the terms on which Africans could occupy white-owned land and to extend the areas reserved for Africans”.³²³ The direct impact of the Act was the greatest in the Orange Free State, where some well-capitalised farmers used the act to challenge sharecroppers. In the Transvaal, poorer farmers still relied on sharecroppers, with owners of larger estates circumventing the rules of the Act for some years after its implementation. In the Cape, the Act had almost no effect at all, due to the important legacy of African franchise from the 1800s.³²⁴

³²⁰ W. Beinart & P. Delius, ‘The Historical Context and Legacy of the Natives Land Act of 1913’, *Journal of Southern African Studies* 40(4), 2014, pp. 667-688.

³²¹ R. Ross, *A Concise History of South Africa, Vol 2*, p. 95.

³²² R. Ross, *A Concise History of South Africa, Vol 2*, p. 95.

³²³ W. Beinart & P. Delius, ‘The Historical Context and Legacy of the Natives Land Act of 1913’, *Journal of Southern African Studies* 40(4), 2014, pp. 667-688.

³²⁴ L. Wotshela, *Capricious Patronage and Captive Land a Socio-political History of Resettlement and Change in South Africa's Eastern Cape, 1960 to 2005*, p.40.

Overall, it would take years before rules about squatting and sharecropping could create new rural realities.³²⁵

The passing of the Natives Land Act meant that processes that had been unfolding for decades were now cemented by the full force of the nascent South African state. Before this point, many areas existed in a state of flux, especially after the South African War as we have seen, where many Africans thought that their loss of land to white farmers could be reversed. It was this cementing of the status quo that made the Act significant, and was the cause for the beginning of a new wave of African resistance to the white colonial authorities.³²⁶ The Act also came at time of changing economic fortunes in the agricultural sector, changes that alongside the passing of the Native Land Act, would allow more white farmers to farm by themselves and further alienate the African peasantry. Lord Selborne's reforms and state interventions in the sector since the reconstruction had allowed farmers to become more competitive, with many finally moving towards commercial agriculture, which meant they relied less on African sharecroppers. The Land Bank established in 1912 had been particularly important in turning the fortunes of white farmers around.³²⁷

However, this is not to say that the Act was not immediately significant, nor that there was consensus among white South Africans that it was the right way to go. Reporting in the *Rand Daily Mail* at the time indicates that many white South Africans, especially liberal politicians and missionaries from rural constituencies and churches, felt that the Act was detrimental to the well-being of ordinary Africans. Rev. F. B. Bridgman, who opened the discussion on the Land Act at the Annual Business Meeting of the Transvaal Missionary Association on 10 September 1913, raised deep concerns about the nature of the Act. What Bridgman expressed was the loss of the liberal ideal that Africans could one day begin to own their own land in freehold and participate in the economy as equals. Bridgman observed that "The Native had always looked forward to securing land in freehold. That hope had been taken away. He found himself in the land of his birth simply hung in the air with no place he could rest his feet legally".³²⁸

³²⁵ W. Beinart & P. Delius, 'The Historical Context and Legacy of the Natives Land Act of 1913', *Journal of Southern African Studies* 40(4), 2014, pp. 667-688.

³²⁶ R. Ross, *A Concise History of South Africa, Vol 2*, p. 99.

³²⁷ R. Ross, *A Concise History of South Africa, Vol 2*, p. 98.

³²⁸ *Rand Daily Mail*, September 11, 1913 p.2.

Bridgman utilises emotive language, which was intended to sway his audience, especially when he said that Africans were “Absolutely at one in their opposition to the law”.³²⁹ Bridgman is speaking on behalf of African communities which had a myriad of different opinions and experiences across the country. Plaatje’s versions of events is far more informed on what was happening on the ground. He One of the most contentious stipulations of the Act was the prohibition of Africans being able to purchase more land in what was now delineated as ‘white areas’. Shortly before their famous deputation to the King of England over stipulations in the Natives Land Act, the *Rand Daily Mail* explained the position of John Dube and Dr Walter Rabusana:

At the same time, added Mr Dube, they were not anxious to go to England, and he was assured that they would not do so if the Prime Minister could give them an assurance that the Act would be suspended in respect of provisions as regards the purchase and hiring of land.³³⁰

One can see that the prohibition on purchasing and hiring of land for Africans remained one of the most contentious issues for prominent African leaders, with John Dube and Dr Rabusana ready to call off their deputation if Botha could repeal the prohibition of purchasing and leasing of land by Africans outside of scheduled areas. On 11 February 1916, a full three years later and in the midst of World War 1, the *Rand Daily Mail* reported on a crowded audience that gathered at the New Trades Hall in Rissik Street, where Rev. Father Hill lectured on the Natives Land Act. The article is particularly interesting, considering that the crowd would have consisted mostly of white South Africans, the majority of whom must have lived in and around Johannesburg and thus were hardly a rural constituency. Hill went on to explain what the Act meant in terms of actual land allocation between the races of South Africa:

Outside the scheduled areas, no native may henceforth buy or rent (whether in return for money or divided produce) land from anyone unless another native. Here again the Governor-General has discretion. Now in the Transvaal the total scheduled area at present is only 883 000 morgen. The area outside the scheduled portion is 32 149 000, ie. For the 1 250 000 native inhabitants of the Transvaal 883 000 morgen of land is set apart.³³¹

³²⁹ *Rand Daily Mail*, September 11, 1913 p.2.

³³⁰ *Rand Daily Mail*, May 16, 1914 p. 7.

³³¹ *Rand Daily Mail*, February 11, 1916 p. 8.

These draconian measures clearly were designed to protect and further promote a white, landed oligarchy. For the Union, this meant that “between three and four million people can occupy one-thirteenth of the Union, and something over (sic) 1 000 000 white people the other twelve-thirteenths.”³³² An important point which Hill also made was that although a future commission was as an important provision of the Act, parliament and the Prime Minister were under no obligation to take on whatever recommendations would be made by the commission.³³³ In 1917, now a full four years after its passing, the Act still remained contentious. A *Rand Daily Mail* report on the Prime Minister’s second reading of the Act in Parliament reveals that many parliamentarians were not ready to blindly accept the Act’s far-reaching provisions. Botha made it clear in the face of criticism from several politicians representing rural constituencies that the Natives Land Act of 1913 was intended to be a temporary measure because it took “away certain rights of the Natives”.³³⁴ However, Botha continued that although the commission was supposed to report back in two years of when the Act was passed, no one could have foreseen that World War 1 would have broken out and the toll the war effort would have on the young union, and that the bill should be moved to a select committee in which further amendments could be recommended.³³⁵

After Botha’s speech, Sir Thomas Smartt moved for an adjournment of the house for further consideration as “They were dealing with a matter of the greatest importance that had ever been dealt with by the house”.³³⁶ This is particularly interesting, considering the many decisions the house had taken during the course of war. What these newspaper articles over the period of four years reveal is that white South Africa was very much engaged with the Natives Land Act, and its implications were not taken lightly.

In terms of De Soto’s theory, which decries elites holding large tracts of land in Latin America, which meant fewer immigrants could gain access to the country’s share of capital wealth, the Natives Land Act was incredibly regressive. The Act actively defended an oligarchy of white landowners and prevented Africans from purchasing land in areas designated for whites. The state in South Africa had been successfully captured by white interests on the land, and the

³³² *Rand Daily Mail*, February 11, 1916 p. 8.

³³³ *Rand Daily Mail*, February 11, 1916 p. 8.

³³⁴ *Rand Daily Mail*, March 13, 1917, p. 4.

³³⁵ *Rand Daily Mail*, March 13, 1917, p. 4.

³³⁶ *Rand Daily Mail*, March 13, 1917, p. 4.

following fifth, and final, chapter details how agricultural subsidies created and cemented further inequalities in South Africa.

Conclusion

This chapter began with a discussion of De Soto and whether one could apply his hypothesis to South Africa as a case study. Legal pluralism, as well as South Africa's vast historiography mean that one can only use the lowest denominator of De Soto's assumptions- that studying property is an important part of understanding a country's developmental past. This chapter then moved onto a history of land in South Africa from 1900-1913, detailing the uncertainty after the war, reconstruction, the formation of Union and the 1913 Land Act. Reconstruction and incoming state support for the agricultural sector meant that African expectations of change were quickly crushed under the banner of reconciliation between white groups. With the status quo quickly restored in rural areas, the new century began with more continuity in terms of land ownership than change, which makes understanding the processes that developed in the 19th century so important. Union proved to be a powerful force in South Africa's past, with state power being used to bolster the agriculture sector, which made African sharecroppers more vulnerable than ever as white farmers were able to survive without them. The 1913 Land Act represented a legislative statement that sought to maintain the status quo indefinitely, and for the first time, land divisions were delineated and supported by the new and powerful, South African state. Newspaper articles and Sol Plaatje's important work reveal the complicated political environment in which the Act was passed, but what becomes clear is that Act represented a final blow to the independent African peasantry and entrenched a white oligarchy of landowners in South Africa.

Chapter Five:

The Rise of Commercial Agriculture, 1913-1920: Conclusions and Areas for Further Study

By way of conclusion of this thesis, this final chapter seeks to outline several key points. Firstly, the chapter begins with a short history of the development of commercial agriculture in South Africa after World War 1 until 1920. The rise of full-scale commercial agriculture in an increasingly powerful, but unequal and segregated state, represents a poignant conclusion from where this study began with the very first pieces of private property being staked out by whites in the Transvaal. The chapter then ties up several important conclusions that have been discussed throughout this study about the nature of private property, capital, development and inequality in South Africa's past. Finally, this chapter discuss some of the realistic restrictions of the scope of this study, areas for further study and analysis as well as my thoughts about the future.

Rising Commercial Agriculture, 1913-1920

The previous chapter detailed how during the aftermath of the South African War, the newly formed South African state began to make tangible contributions to white commercial agriculture, which helped alleviate white rural poverty. The surplus beef and maize being produced in the interior meant that for the first time, South Africa was truly moving away from subsistence agriculture. Private landownership, coupled with consistent state subsidies and support for farmers, proved to be an important way in which poor white farmers could escape poverty. This case study actually lends credibility to one aspect of De Soto's hypothesis, of the importance of land ownership and the ability of a strong rural economy to reduce poverty and create capital to boost economic development as a whole. However, as I have discussed, these opportunities were not made available to the whole population, and with the South African state choosing to only support one ethnic group over all others, the ability of land to create wealth was unlocked only for white farmers, which created deep inequalities in the country between races which we still see to this day.

With land ownership already favouring one class over another based on race, Africans were struggling to enter commercial agriculture. This class of landowners reminds us of Latin

America's unfair land distribution that favoured elites who used their power to prevent land reform from taking place. With Africans being denied the franchise except for a few landowners in the Cape, the newly formed South African state operated in a way that would maintain the status quo on the land into the 20th century. Agricultural subsidies both supported and entrenched a white oligarchy in the agricultural sector. This process accelerated with the formation of the Land Bank in 1912, and created the environment in which white agriculturalists could begin to transition into commercial agriculture, which reduced their dependence on African tenants and thus further alienated Africans from being able to participate in the industry.

At the passing of the Natives Land Act in 1913, agriculture contributed £60 000 000 to the South African economy, with manufacturing only contributing £15 000 000 (less than 5%) and mining contributing £87 000 000.³³⁷ As discussed in chapter four, the implementation of Lord Selborne's state interventions in the agricultural sector during the period of reconstruction played an important role in the sector's turnaround after the war, with the former republics producing a surplus of maize and beef for the first time in 1908.³³⁸ This turnaround after the South African War would not have been possible without the Agricultural Development Acts passed in 1904 and 1907 by the reconstruction government, which stipulated the provision of cheap credit and marketing assistance for white farmers. These acts, general state support and the changing fortunes of the industry after the South African War led to the amount of land being farmed by Europeans increasing more than fivefold from 85 000 acres in 1890, to 540 000 acres by 1909.³³⁹

One of Selborne's plans was also to create the Land Bank to assist commercial farmers with access to capital, something that was desperately needed in order to make the sector more competitive in the 20th century. Although the Land Bank was established in 1912, Selborne's initial interventions during the reconstruction period had created a strong precedent of strong state support for white, commercial agriculture in South Africa. After its creation, the bank immediately began to provide subsidized loans to commercial farmers, with agricultural cooperatives emerging from 1912. These cooperatives began to operate in a manner that had not been seen before in the South African agricultural sector, representing the final shift to

³³⁷ C.H. Feinstein, *An Economic History of South Africa: Conquest, Discrimination and Development*, p. 115.

³³⁸ S. Marks & S. Trapido, 'Lord Milner and the South African State', *History Workshop Journal* 8(1), 1979, pp. 50-80.

³³⁹ K. Deiniger & H.P. Binswanger, 'Rent Seeking and the Development of Large-Scale Agriculture in Kenya, South Africa, and Zimbabwe', *Economic Development and Cultural Change*, 43(3), 1995, pp. 1-30.

commercial agriculture. Cooperatives assisted with the purchase and sale of farm equipment, the purchase, sale, and storage of agricultural commodities as well as assisting farmers with transport services.³⁴⁰ Cooperatives also worked as financial intermediaries between the state-owned Land Bank and farmers.

The Land Bank used cooperatives as agents on the ground to provide farmers with loans, as well as using them to channel disaster funding to farmers in times of need.³⁴¹ The South African state and white capitalist interests in South Africa, were clearly never far apart. What the success of Selborne's interventions revealed was that the sector would require government support in order for a new class of white agricultural capitalists to develop. However, the South African state created a precedent, and white farmers would use their political power to continuously push for further subsidies. By 1967, "the amount spent on subsidizing about 100,000 white farmers was almost double the amount spent on education for more than 10 million Africans".³⁴²

One of the central tenants of the consolidation after the South African War was that of finding a reconciliation between white groups, and two sectors they each dominated: English capital in the mines, and Afrikaner agriculture in the interior.³⁴³ As I discussed in chapter four, Selborne found a willing ally in the influential Afrikaner organisation, *Het Volk*, after he began to support agriculture with state assistance.³⁴⁴ The Union of South Africa, was also very much a final union between Afrikaner landed interests in agriculture, and English capitalist interests in the mining sector. These processes, once they had unfolded found themselves twisted into the very fabric of the early unified South African state and created the environment from which racial segregation would begin to become entrenched.

³⁴⁰ G.F. Ortman & R.P. King, 'Agricultural Cooperatives I: History, Theory and Problems', *Agrekon* 46(1), 2007, pp. 18-46.

³⁴¹ G.F. Ortman & R.P. King, 'Agricultural Cooperatives I: History, Theory and Problems', *Agrekon* 46(1), 2007, pp. 18-46.

³⁴² K. Deiniger & H.P. Binswanger, 'Rent Seeking and the Development of Large-Scale Agriculture in Kenya, South Africa, and Zimbabwe', *Economic Development and Cultural Change*, 43(3), 1995, pp. 1-30.

³⁴³ H. Bernstein, 'How White Agriculture (Re)Positioned Itself for a 'New South Africa'', *Critical Sociology* 22(3), 1996, pp.1-36.

³⁴⁴ S. Marks & S. Trapido, 'Lord Milner and the South African State', *History Workshop Journal* 8(1), 1979, pp. 50-80.

Conclusions

In order to conclude this study, I think it best to reflect on its origins. The study was essentially a product of my own curiosity with De Soto's book, which remarkably has not waned too considerably during the creation of this study. His insistence on focusing on private property is ultimately what makes this study unique. As I mentioned in Chapter Two, when looking briefly at the map of Cala, looking at private property brought this old map to life by highlight the different land regimes in this small Eastern Cape town, which highlighted so many different historical processes around land that were unfolding. This is where the originality of the study resides and where this thesis adds new insight into old historical discussions on political economy in South African historiography.

The study was initially imagined to be a comparative one; I wanted to see on what 'scale' South Africa could be measured in terms of equitable land ownership. I imagined the country to be somewhere in between Australia, a settler colony based on an equitable share of land and capital for immigrants, and Argentina, a country where land and resources were tied to local elites who manipulated the political system to ensure their own privilege and survival. Liberal democracy seemed to be an important factor that determined which path a country would take, and whether or not pro-poor land policies would be implemented that would allow the greatest number of people a share of what Piketty terms the National Capital, in which he includes private property and land assets.³⁴⁵ As a settler colony, South Africa was fundamentally different. Its indigenous populations were too strong numerically and did not succumb to disease, which made the story that much more difficult to follow in many areas. Whereas in Australia one can point to the important political interventions in the 1860s that allowed squatters and immigrants to buy up crown land, I could not find one piece of legislation where one could say South Africa took one path over the other. Interesting case studies from the Cape colony reveal that it had the most liberal laws with regards to experimenting with land tenure for Africans, with land tenure being introduced for Africans as early as 1853.³⁴⁶

As we saw with Legassick's study of Gordonia in the Northern Cape, 'Basters' were given complete ownership of the land that was allotted to them on the Orange river, where they established a thriving agricultural community. The Cape Colony's experimentation with liberal ideas of land tenure for 'suitable' Africans, as paternal as their motivations were, were far more

³⁴⁵ T. Piketty, 2014, *Capital in the Twenty-First Century*, p.91.

³⁴⁶ L. Wotshela, *Capricious Patronage and Captive Land a Socio-political History of Resettlement and Change in South Africa's Eastern Cape, 1960 to 2005*, p.39.

progressive than land policies that forbade Africans from purchasing land outside of reserves outright. This legacy meant that Africans who owned land in the Cape in 1913 were largely unaffected by the Natives Land Act. This study found that land tenure is most useful in terms of securing land for individuals over time, as land tenure can survive regime change and even war, as it did during the destructive South African War. As resilient as land tenure is however, it is not completely immune to other societal factors. The very Bastards that I detailed as an interesting group of successful African landowners, were themselves eventually swindled out of their title deeds, with an uncaring government to protect them. As a legal process on its own, as I discussed in chapter one, Private Property is an incredibly powerful tool and when it is made available to as many people as possible, it allows for a greater number of people to share in the nation's capital wealth.

The story of private property in South Africa can be difficult to follow because until 1910, each of the four colonies pursued their own land policies, which chapter three discussed individually, albeit for the sake of this study, briefly. One of the benefits of this study beginning so early on, in 1860, was that it could detail developments in each of the four colonies before Union. Many of the histories one encounters on land usually discuss land in South Africa very generally with loose timelines and areas. This was frustrating to traverse at times, but it became clearer as this study approached 1913 that beginning the study earlier in 1860 was useful because it could show what had already developed in the colonies before the Land Act. This was why I supported Beinart and Delius³⁴⁷ in seeing the Act as largely a holding statement that cemented what had already transpired in each of the colonies.

I found Saul Dubow's work on the origins of segregation to be most useful in understanding South Africa's land policies. As he explained, segregation, which became cemented into separate development and hard boundaries between 'white' and 'black' areas in terms of land, developed over time. Most of the policies implemented by the white authorities were knee-jerk reactions to the rapid changes industrialisation had wrought,³⁴⁸ which also sought to maintain cheap labour as much as possible and prevent Africans from purchasing more land. What this study found to be one of the most important impacts of the Natives Land Act was that it sought to limit Africans legally purchasing more land. Dr John Dube and Dr Walter Rabusana as I

³⁴⁷ W. Beinart & P. Delius, 'The Historical Context and Legacy of the Natives Land Act of 1913', *Journal of Southern African Studies* 40(4), 2014, pp. 667-688.

³⁴⁸ S. Dubow, *Racial Segregation and the Origins of Apartheid in South Africa, 1919-1936*, p.52.

discussed in chapter four, were both willing to delay his deportation to the King of England if Louis Botha repealed only that aspect of the Act.³⁴⁹

Often throughout this study I referred to Bill Nasson's reflective article, "How Abnormal is South Africa?" (2012). When discussing how South Africa transitioned to liberal democracy in the face of overwhelming odds that sought to drag the country into a racial civil war, he says that South Africa "dared imagine"³⁵⁰ a different future that could escape from a racialised past. Liberals as early on as Macmillan in the 1920s could imagine a different future that allowed Africans a greater share of the country's national capital, which he felt would not hurt white workers but would actually help them by increasing the price of everyone's labour.³⁵¹ Even by 1913, with the Union becoming more established, policies were not simply rubber stamped and metered out. The Land Act's provisions were debated fiercely in parliament for four years, causing adjournments in parliament at a time when South Africa was fully invested in the war effort. At packed town hall meetings in Johannesburg white South Africans contemplated what the Act would mean for the country, whilst Sol Plaatje tried to drum up support in England with his important book. This period shows that this was an important turning point, one where the Act could have been repealed and the country could have taken a different path, one where Africans could have participated meaningfully and equally in the South African economy, even if it just meant that Africans could purchase land at its full price.

Along with the important texts and primary sources from the time period, these key insights came from engaging with South Africa's vast historiography on the nature of white minority rule. It is for this reason this study advocated that revisiting political economy was not only prudent but also necessary in order to understand South Africa's landed past. By chapter four, it became clearer that South Africa was closer to Argentina on an imaginary scale of land equality, dominated by a white oligarchy of landowners, who sought to simultaneously limit black ownership of land and ensure generous agricultural subsidies for themselves. Africans being denied the vote meant that the South African state was very much captured by white interests in mining and agriculture, with Afrikaner republican interests being placated by agricultural subsidies in the interior. Sol Plaatje especially lamented the fact that Afrikaner republican interests had taken over the South African state, with liberal ideals of landowning

³⁴⁹ *Rand Daily Mail*, Johannesburg, May 16, 1914, p. 7.

³⁵⁰ B. Nasson, 'How Abnormal is South Africa?', *Quarterly Bulletin of the National Library of South Africa* 66 (1), 2012pp. 40-50.

³⁵¹ K. Smith, *The Changing Past: Trends in South African Historical Writing*, p.108.

opportunities for all races being pushed to the wayside and increasingly irrelevant in mainstream white South African politics.³⁵²

Thoughts on the Future

It would be amiss to write about South Africa's landed past without considering a different path for the future. Demands for land reform in South Africa are unlikely to disappear as long as inequality remains a central feature of the South African economy and rural poverty for black South Africans persists. As Linklater explains, Che Guevara was a successful revolutionary because he based his campaigns on concerns peasants had around unfair land ownership. He himself was radicalised when he happened to be in Guatemala when the United States CIA (Central Intelligence Agency) orchestrated the overthrow of Jacobo Arbenz's democratically elected government, which sought to implement a land reform program that threatened the United Fruit Company's holdings.³⁵³ As Linklater writes, "What made Che Guevara an icon was that he seemed to embody the ingredient that always threatened to be absent from individual ownership, the hunger for social justice".³⁵⁴ This study has noted the importance of land tenure, and its usefulness over time which coupled with subsidies, can help create a strong agricultural sector. Without social justice, however, discussions on the need for land reform based on land tenure often seem hollow and even immoral. There has to be a very real engagement with the past in discussions on land reform in South Africa, because the South African past and even South African historiography has much to still teach us on the way forward. It is therefore fitting that with the lessons learnt from this historical study, that I briefly bring us to the present.

This thesis has been written during a pandemic and considerable political and economic uncertainty, a time in which the weakened and faltering South African state is struggling to traverse. As borders and businesses began to close in an effort to halt the spread of COVID-19, it became clear that everyone still needed to eat, and farmers were encouraged to continue their work and business as usual. The ability of a country's agriculture sector to continue to perform during times of crisis is vital, however, the sector is not immune to the uncertain times

³⁵² S. Plaatje, *Native Life in South Africa: Before and Since the European War and the Boer Rebellion*. p. 34.

³⁵³ A. Linklater, *Owning the Earth: The Transforming History of Land Ownership*, p. 359.

³⁵⁴ A. Linklater, *Owning the Earth: The Transforming History of Land Ownership*, p. 359.

the weakened South African state finds itself in. Corruption and maladministration plague the young democracy, and as political analyst Pieter du Toit laments, “South Africa has seen a decade of capture, but not a single successful high-profile prosecution related to the gutting of the state and annexation of publicly owned companies”.³⁵⁵ During this time of increased budgetary pressure, Tito Mboweni, the country’s finance minister allocated a mere R3 billion to the Land Bank, which along with the state electricity company Eskom, he said were “too important to fail”.³⁵⁶ The state electricity company, Eskom, continues to falter, with ‘load shedding’, or more accurately rolling black outs, still hindering the country’s productivity and economic growth. Yet, in the same financial year, Eskom and South African Airways were allocated R60 billion to continue to operate.³⁵⁷

When one considers the powerful impact that the Land Bank had on rural white South Africans soon after its establishment in 1912, one has to recognise how its loans and government subsidies after the South African war turned around the agricultural sector in a short space of time. With the war ending in 1902, and subsidies coming into effect in 1905, the interior colonies were looking to export beef and maize as soon as 1908.³⁵⁸ Subsidies and loans by the South African state were the reason a strong, white, commercial agricultural sector could develop, cementing Trapido’s “alliance of gold and maize”,³⁵⁹ that dominated the South African economy.

Today, a strong, black, commercial agricultural sector cannot emerge without similar investments by the state back into agriculture. In order to reverse rural poverty, farmers need to be bailed out, as opposed to billions wasted on bloated state-owned companies. It is always interesting to see old problems resurfacing as a historian. I discussed in chapter three that early liberals and radical historians shared a common belief that rural poverty, especially in the reserves, was one of the major problems within the South African economy. Within South Africa today, failures of land reform in rural areas has resulted in growing unemployment in rural areas, which means that more youth are drifting towards the towns in search of work. The

³⁵⁵ P. du Toit, 2020, < <https://www.news24.com/news24/analysis/sunday-insight-south-africa-harvesting-the-bitter-fruit-of-the-ancs-polokwane-revolution-20200726>>, Access: 27 July 2020.

³⁵⁶ Cited in: M. Merten, < <https://www.dailymaverick.co.za/article/2020-06-24-tito-mboweni-outlines-the-budget-to-weather-the-storm-covid-19-and-head-off-bankruptcy/#gsc.tab=0>>, Access: 26 July 2020.

³⁵⁷ T. Mboweni, 2020, < <https://www.gov.za/BudgetSpeech2020>>, Access: 27 July 2020.

³⁵⁸ S. Marks & S. Trapido, ‘Lord Milner and the South African State’, *History Workshop Journal* 8(1), 1979, pp. 50-80.

³⁵⁹ S. Trapido, ‘South Africa in a Comparative Study of Industrialisation’, *Journal of Development Studies* 7(3), 1970, pp. 309-320.

late Swiss economist Hans Bingswanger-Mkhize, who focused on agricultural economics in developing countries explained that in South Africa:

The rural employment rate has declined sharply, from 37.9% to 26%, which means that only 2.6 out of every 10 adults of working age are employed or working in agricultural or nonagricultural self-employment in the rural areas. The resulting reserve army of the rural unemployed reduces urban wages and increases urban unemployment.³⁶⁰

Here Bingswanger-Mkhize makes an interesting point, one that was made by Macmillan in the 1920s, that rural poverty needed to be addressed or else people would drift to the towns with little hope of finding stable employment and thus drive down wages for everyone. However, Bingswanger-Mkhize misreads the nature and purpose of agricultural subsidies, when he notes that reforms in the 1990s “eliminated all the privileges and subsidies that had been directed at commercial farmers in the apartheid regime, thereby in principle creating a level playing field for all types of farmers”.³⁶¹ The logic behind this was to shake inefficient white farmers who had only succeeded due to generous grants out of the system, which would create an environment in which black farmers could begin to emerge.³⁶²

However, there are major flaws not only in the implementation of agricultural policy post-1994, but also in the logic guiding it. In South Africa’s largely semi-arid climate, one cannot hope that a new class of confident black commercial farmers will emerge without sustained governmental support. Without subsidies, commercial agriculture would not have developed into the 20th century at all- the problem was not subsidies and state support, but rather that they were only made available to white farmers. The level playing field Bingswanger-Mkhize speaks of really means that the agricultural sector as a whole will not succeed in the 21st century. Already, we can see that these policies have had the opposite effect of what was intended. Market liberalisation merely meant that those who had already established themselves as commercial farmers could benefit from exporting to new overseas markets, as

³⁶⁰ H.P. Bingswanger-Mkhize, ‘From failure to success in South African land reform’, *African Journal of Agricultural and Resource Economics* 9(4), 2014, pp.253-269.

³⁶¹ H.P. Bingswanger-Mkhize, ‘From failure to success in South African land reform’, *African Journal of Agricultural and Resource Economics* 9(4), 2014, pp.253-269.

³⁶² A. Du Toit, ‘Explaining the Persistence of Rural Poverty in South Africa Expert Group Meeting on Eradicating Rural Poverty to Implement the 2030 Agenda for Sustainable Development’ *United Nations Economic Commission for Africa*, 2017, pp.1-11.

well as entrenching the oligarchies in fertilizers, agrochemicals, agricultural services and grain storage.³⁶³

This study has revealed that a larger amount of people gaining access to private property means a more equal share of the nation's capital wealth. Since 1994, more Africans have been able to purchase land themselves, without the help of government, which has led to more black ownership of agricultural land in South Africa.³⁶⁴ This is important because it allows people to buy the land they really want to farm, as opposed to being given land that may not be suitable for them. We should not underestimate the importance of black South Africans also being able to acquire more land on the market, as opposed to focusing exclusively on governmental projects to distribute land. As Cousins *et al* explain, individual tenure alone does not mean access to credit will suddenly become available to those who have gained access to private property.³⁶⁵ This is where the Land Bank, was historically, and could still be, an important intervention that could allow a greater number of black South Africans to buy land via low interest loans and also gain access to capital needed to invest in farm machinery and fertilizer.

Areas for Future Study

I mentioned briefly in the conclusion that this study initially sought to be more of a comparative study, looking at the nature of Argentina's and Australia's land ownership. Even with the little this study did engage with these two other country's land histories, there were keen insights that both provided. Argentina, especially, is of personal interest to me, due to the fragmented nature of the state and late unification and subjugation of local elites, or *caudillos*. When I engaged on the nature of labour in South Africa, which took me through South African historical writing, there were many questions that came to mind regarding Australia, and its labour history.

³⁶³ A. Du Toit, 'Explaining the Persistence of Rural Poverty in South Africa Expert Group Meeting on Eradicating Rural Poverty to Implement the 2030 Agenda for Sustainable Development' *United Nations Economic Commission for Africa*, 2017, pp.1-11.

³⁶⁴ W. Beinart, S. Mnwana & L. Wotshela, 'Land reform, rural inequality and agrarian change: the case of Isidenge, Stutterheim, Eastern Cape', *Transformation: Critical Perspectives on Southern Africa*, 102 (1), 2020, pp. 27-48.

³⁶⁵ B. Cousins, T.Cousins, D. Hornby, R.Kingwill, L. Royston & W. Smit, 'Will formalising property rights reduce poverty in South Africa's 'second economy'? Questioning the mythologies of Hernando de Soto', 2005, PLAAS 18 (1), pp.1-6.

Given that the continent's indigenous population was small to begin with and suffered immensely after European settlement, there were many questions as to who laboured on Australia's large farms, and if it was only Europeans, how their labour system worked. Whilst South Africa really only began to mechanise its agricultural industry in the early 20th century, Australia had seen important local inventions that helped boost labour productivity, instead of simply coercing more people into cheap wage labour on farms. Mclean sees as this an important part of Australia's developmental success: "Thus not only did the amount of machinery per worker in agriculture rise, but the technology embodied in the equipment was at the world frontier. Both contributed to increasing labour productivity".³⁶⁶ Whilst South Africa seemed to be focused on utilising African labour cheaply as possible, Australia had begun mechanisation far earlier. Therefore, there certainly is space for more comparative work on this topic.

The nature of this study, as a master's thesis with obvious limitations in terms of both time, scope and word limit meant that this study fit as much as it possibly could in regarding South Africa. Even with regards to South Africa, the study's period had to end in 1920, which was rather arbitrary but necessary simply in terms of the word limit. The nature of land ownership, being so heavily tied to political and economic developments meant that this was not an easy task, and I am sure the reader will find that this thesis touches on many different and complicated issues in the pursuit this single goal. Therefore, this study could easily be expanded in terms of its time frame and also its comparative analysis, incorporating other country's land histories for comparison as well as extending the period of study.

Finally, I believe a final word on Hernando de Soto's work is necessary. His work formed the inspiration for this study, and his book did breathe life into discussions about land, which I believe was his ultimate purpose and desire for *The Mystery of Capital* (2000). Looking at land tenure provided an important key in which to analyse the past, and although I did discuss some of the flaws in his work, many of his broad assumptions were proven to be true in the South African case. Looking at the past, in order to shape policy today, creates a unique perspective which I believe is one of the key strengths of De Soto's work, which I replicated in a small way. There were certainly moments in South Africa's past where the country could have taken a more prudent, just path with regards to its land policies. What I found most intriguing is that many ordinary South Africans at the time could see the pitfalls that the Natives Land Act for example, would create in the future. It reminds us that events were not inevitable in the past,

³⁶⁶ I.W. Mclean, *Why Australia Prospered: The Shifting Sources of Economic Growth*, p.109.

and they certainly are not inevitable today. We too have the same ability to debate, correct and implement good policy which can place us on a better path for the future. This of course, takes concerted effort and an endless commitment to democratic principles of governance.

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