

S 338,968 SEC

2018 (NO'S 86 - 101)

SECOND CARNEGIE INQUIRY INTO POVERTY
AND DEVELOPMENT IN SOUTHERN AFRICA

86-101

Population relocation and the law:
Social engineering on a
vast scale

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Carnegie Conference Paper No.86

Cape Town

13 - 19 April 1984

ISBN 0 7992 0807 8

POPULATION RELOCATION AND THE LAW/

SOCIAL ENGINEERING ON A VAST SCALE

"Awaking on Friday morning, 20th June 1913, the South African native found himself, not actually a slave, but a pariah in the land of his birth" Sol Plaatje in Native Life in South Africa ⁽¹⁾.

INTRODUCTION

Seventy years later, a member of the Magopa community, which has recently been relocated, commented: "Movement is a way of life in South Africa."

The meaning of this statement can be more fully appreciated by an examination of the legislation which governs the lives of black South Africans and forms the basis of the policy of separate development or Apartheid. Central to this policy is state control over the movement, place of residence and place of work of black people in South Africa. This control has been achieved principally through the enactment and active enforcement of a host of statutes and accompanying subordinate legislation and has resulted in inter alia the uprooting and forcible relocation of well over three and a half million people between the years 1960 and 1982.

In the most comprehensive document on population relocation namely the "Surplus People Project Report", it was estimated that the number of blacks removed between 1960 and 1982 in the following categories was:-

1 129,000	Farm removals
614,000	Black spot removal and consolidations of homelands

730,000	Urban relocation
834,000	Group Areas Act (2)

The same report estimates that a further 1,765,000 people are to be moved, of which over 1 million are persons to be affected by black spot removals and homeland consolidation. A further 184,000 are under threat of removal in terms of the relocations of urban areas (3).

These figures and the dry legal language of the statutes does not capture the extent of the human emotional, dispossession and suffering consequent in population relocation. The destruction of building and possessions people have invested their lives in building and maintaining, hungry children in desolate settlement camps, the despair of the old, the helplessness resignation of the young; and the communities divided and at war amongst themselves.

The vast majority of those who have been or are affected by this social engineering are black. It is no coincidence that they are black, for blacks are debarred from participating in the local and the central government that enacts these laws and enforces the regulations that govern these removals.

This paper will examine the laws that facilitate this population relocation. After a few introductory points concerning the Apartheid policy, an attempt will be made to explain the legislation which divides up South Africa into various categories of land. The focus of the paper will then shift to an analysis of the different types of relocation and the laws in terms of which these removals are affected. The final section raises additional issues relevant to an understanding of resettlement and the law.

Since, resettlement is a necessary consequence of the policy of separate development. It is appropriate to briefly explain that policy, and in particular the central institution of that policy - the homelands.

THE POLICY OF SEPARATE DEVELOPMENT

From the beginning of South Africa's constitutional history, blacks have been disenfranchised and debarred from participating in central and local government. The creation of the Union of South Africa in 1910 was achieved on the basis of a constitution that excluded from the franchise all but white men and a very small percentage of coloured and African men in the Cape Province⁽⁴⁾. By 1956 white women had been given the vote while the formerly qualified black and "coloured" men in the Cape had been removed from the common voters roll⁽⁵⁾.

In a different legislative development, introduced in the Land Acts of 1913 and consolidated in 1936⁽⁶⁾ (see below), blacks were deprived of their right to lease, own or farm land on their own account, and even to squat on land, if such land was outside of the reserves. These reserves were the remnants of South Africa which had not been assumed by conquest or treaty by white settlers, and which had been set aside for black occupation during the nineteenth century at a time when white settlers had appropriated most of the land in South Africa. These reserves constituted little over 13% of the land and were supposed to cater for the land ownership rights of 70% of the population of South Africa⁽⁷⁾. The economic function of the reserves was to provide the rural end of the migrant labour equation. The reserves provided, however inadequately, a subsistence economy for the individual migrant's family, while also maintaining traditional tribal structures which provided a crude form of social welfare. Central government was therefore absolved from responsibility for the latter while employers needed only to pay migrant employees an amount which was sufficient to sustain a single worker, and not an amount necessary to sustain an entire household. In time the pass law system and have been superimposed on this geographical division so as to structure and supervise migrant labour and access to

the white urban areas and to jobs.

When the Nationalist Party came to ~~power~~ in 1948, it was faced with a situation of increasing industrialization and urbanization, demands by blacks for a ^{share} in the political and economic structure and the ~~collapse~~ of the reserve economies. The Government responded ^{with} the policy of "Separate Development", a policy in ^{which} the reserves were to play an increasingly important political role. The policy of separate development represented a ^{marriage} of the geographical and political divisions outlined above.

After 1948, the racial categories in ^{South} Africa were complemented with an ethnic idiom. ~~The~~ Nationalist Party informed South Africa that blacks ~~did not~~ constitute a single racial category - they were composed ^{of} 8 discrete ethnic nations (subsequently two more have ^{been} discovered). The reserves were elevated to the ^{'solution'} to black political aspirations. For each ethnic "nation" there would be accorded a political homeland (formerly the ~~reserves~~) where blacks could freely and fully exercise their political rights. The corollary was that they could not ~~expect~~ and would never be entitled to exercise such rights in ^{the} South Africa. Thus, already eight million people tied to ^{the} Transkei, Ciskei, Bophutatswana and Venda, have become ^{foreigners} in their own land by the simple expedient of making the homelands to which they are said to belong, or in which they are compelled to live, nominally independent (8).

Political pressures and economic considerations have forced some concessions to the extent that a small percentage of African "permanent urban residents" are to be recognised. Such "permanent urban residents" are to be ~~the~~ "insiders" so far as access to employment and housing in the cities is concerned, but will remain outsiders still as far as political rights go.

Besides the fact that this policy is an ineffective substitute for full political rights in the areas where blacks live and work, and that it has been imposed from above without the consent of the majority of South Africans to whom it is directed, there are a number of geographical and other factors which have necessitated a high degree of forceful state intervention. In the first place separate development is a political policy and does not affect the economic and historical realities. Thus blacks do not live in discrete, homelands such homelands have had to be actively shaped and the physical separations of blacks and whites enforced. Secondly the underdeveloped and impoverished state of the reserves means that blacks have to seek employment in the rest of South Africa to sustain themselves. Forced population removals, primarily through population relocation and the increasingly stringent application of influx control, and thus central pillars of Separate Development/Apartheid. The general direction in which Africans have been removed, has been out of the white urban and rural areas, and into the homelands, which have become the dumping grounds for the elderly, the sick, the unemployed, women, the youth, and those who are "politically undesirable". Between the years 1960 and 1980, the percentage of the total African population living in the homelands rose from 39,5% to 54%⁽⁹⁾.

Since this paper involves an examination of those laws in terms of which vast numbers of people are reshuffled and rearranged on the South African checkerboard, it is necessary to examine in more detail the legal geography of South Africa, i.e. the legislation which divides the land into its various categories.

SOUTH AFRICA'S LEGAL GEOGRAPHY

Developments Prior to 1913: Freehold and Reserved Land

When the white settlers arrived in South Africa, they found that the indigenous population was scattered throughout South Africa, owning the land in the limited sense of ownership according to African custom. The next 250 years can best be described as a period of conquest and dispossession. Blacks surrendered their claims to independent possession of land through treaty and conquest. This land in turn became the property of settlers or the State or Crown in accordance with the notion of private property. In the latter part of the nineteenth century, the various colonial governments set aside, for a number of reasons, certain areas for the exclusive occupation of blacks. These reserved areas, which could not be further appropriated by settlers, were occupied communally and held in trust for the tribes living on the land. The important point to note, however, is that the ownership of these reserve areas was vested in the colonial government or more correctly, "the Crown". Indeed, all land in South Africa not held by private title deed was deemed to be Crown lands in terms of the formal annexation of the colonies. While this device had the advantage of providing for a mechanism of collective occupation of kind by a tribe (as opposed to an absolute right of ownership vesting in a chief) the tribesmen were to learn, many years later, that in the event of their removal, they would have no right to monetary compensation for the land, nor would they be entitled to compensatory land in exchange.

Parallel to these developments some blacks, for example those returning from employment in the mines or tribesmen who collectively pooled their cash resources, purchased land outside these reserves through conventional sales of land by settlers. Amongst the reasons for purchasing such land, were the absence of sufficient land in the reserves, and the desire

to escape the feudal relationships on whites' farms. Thus, for example, an elder in the Mogopa community, explained that his tribe, which had collectively pooled their resources in order to purchase land in the Ventersdorp district, had done so partly out of their belief that by owning land they would be able to escape the supervision of the settler administration, protect themselves from further dispossession, avoid the surrender of their surplus stock and grain to their white landlords, and be able to invest in the land for the progress of their community and future generations of the tribe. Apart from the private ownership of land, many blacks had contracts to rent land from white farmers. There were a rich variety of contractual arrangements in which blacks, farming on their own account would render to a landlord either a share of his crop, labour, or cash in return for the right of occupation. Furthermore it was common to allow blacks to squat on white land on the understanding that some of those squatters would make themselves available to enter short term contracts of service in the harvesting period. In this way the farmer would have access to seasonal labour.

SCHEDULED AND RELEASED LAND

The 1913 and 1936 Land Acts [] dramatically changed these developments. The 1913 Black Land Act⁽¹⁰⁾ scheduled the areas which had been reserved, and provided that henceforth no African could purchase or occupy independently land outside these reserves. The Act also prohibited whites from acquiring or occupying land in the reserves. These areas were referred to as "scheduled" land and consisted primarily of the reserves which had been set aside for the exclusive occupation of blacks prior to the Union of South Africa. It is important to note that these "scheduled areas" excluded extensive areas already owned and occupied by Africans. However, it was accepted by the Government of the time that further land would be added to this core reserved for the Africans in 1913.

The Development Trust and Land Act of 1936 set aside additional land that was to be added as "released" areas to that land which had been "scheduled" as reserves in 1913 ⁽¹¹⁾. The "scheduled" and "released" areas combined amounted to 13% of the total area of South Africa. The Act went on to establish the South African Native Trust as the registered owner and administrator of these areas ⁽¹²⁾. Thus all state-owned land in these "scheduled" and "released" areas vested in the Trust. The Act also provided for the control of labour tenants and "squatters" for it provided that all labour tenants and "squatters" had to be registered by the owner of the land which they were occupying if such land was in a white rural area ⁽¹³⁾. (Later on in the paper the elimination of labour tenancy and "squattling" will be discussed.) Furthermore the Act created machinery to vet the number of employees per farmer and enabled an officer to order such farmer to reduce the size of his labour force and to proceed with the ejection of the surplus. The effect of these two Acts ⁽¹⁴⁾ read together is to prohibit the presence of blacks outside the reserve areas unless they were qualified (ie they belonged to a tribe for which the land was held in trust; or they were the registered owner of the land; or farm workers; or registered labour tenants; or "squatters"; or were dependants of the above ⁽¹⁵⁾; or belonged to a specified category of persons who were entitled to exemption from the provisions of the Act. The persons entitled to such exemption include persons such as teachers, the very old or infirm, missionaries or ministers ⁽¹⁶⁾.

These Acts were justified as a protection for blacks. Their impact on blacks has been movingly described by Sol T. Plaatjie, who was then president of the South African Native Congress and who campaigned vigorously against the Act. He pointed out it was not possible to purchase land in the reserve areas, as such land was already occupied communally and was

inalienable by virtue of the fact that it was held in trust by the Crown. He described the the plight of many blacks who had lived on land prior to the arrival of settlers and were now compelled to trek with their cattle in a futile search for alternative land of which there was none nor could there be in law. The alternative was to become a servant for the white with whom the black had previously considered himself a partner. The importance of these Acts for the purposes of this paper is to note the distinction between the reserves (owned by the State for communal occupation of blacks) and land privately owned by blacks and the distinction between scheduled, released and the remaining land (white South Africa).

Prescribed/Non Prescribed Areas

The above-mentioned categories of land have been supplemented by the Influx Control Laws. The Urban Areas Act (18) draws a distinction between prescribed (urban) and non prescribed (rural) areas within white South Africa. The Act, as amended, makes provision for controlling the entry of Africans into the urban areas, and the residence of Africans in these areas. Read together with the Blacks (Abolition of Passes) Act (19), in terms of which blacks are required to carry reference books, a black may not be in a prescribed area unless he qualifies to be there. A black may qualify to be in an urban area by having the required endorsement in his reference book which endorsement he will obtain if he has a work seekers permit or is lawfully employed in the urban area, , or has acquired the right to live in the urban area because he was born there or has lived in the urban area and worked continuously there for 15 years, or because he has worked for 10 years for one employer (20).

Racially Segregated Urban Areas

The Group Areas Act (21) provides for the proclamation of segregated urban areas in which only members of particular race groups are allowed to live and conduct business. The Act is directed primarily against Indian and "coloured" people. This Act supplements the provisions of the Urban Areas Act which set aside (proclaims) 'townships' in which only blacks may live. Blacks in the prescribed areas may not live outside these proclaimed townships without permission.

The Homelands

Apart from these various divisions which categorize land for racial occupation and make residence in other areas conditional, the government has proclaimed certain areas as homelands/national states. In terms of the Promotion of Black Self Government Act (22) powers were given to Territorial, Regional and Tribal authorities within defined reserves. This was followed by a legislative development embodied in the National States Citizenship Act (23) and the National States Constitution Act (24). For the purposes of this paper it should be noted that while in the main the scheduled and released areas have been grafted into the homelands there are still a number of black spots and "badly situated land" (scheduled areas) which are outside the designated boundaries of a homeland/national state.

DIFFERENT TYPES OF RELOCATION

Earlier on in this paper it was stated that the policy of Separate Development has had to be forcibly enforced, and that population relocation and influx control have been central to this enforcement. The Government has accordingly in the last two decades enacted a number of statutes, and has taken active

steps to enforce its policies. This section of the paper examines the different types of relocation, and the laws in terms of which these removals are effected.

Farm Labourers, Tenants, Labour Tenants, Squatters

In the period 1960-1980 the largest category of relocation was that of farm removals. During these years a total of 1 129 000 farm workers, labour tenants and "squatters" were uprooted and removed from "white" rural areas⁽²⁵⁾. Farm removals are the product of a complicated interaction of political and economic factors. Initially these evictions were primarily State-sponsored, but more recently they have been the result of private action (with or without State backing) by individual farmers. The latter process is a more gradual less dramatic whittling down of the number of Africans living and working on farms - a family here or there, but cumulatively amounting to thousands of people. There are a number of factors at work which can explain these processes:- the rationalization of white agriculture, including mechanization and the concentration of farming capital; political and security fears on the part of white farmers; the victimization of the elderly, the injured, the "unreliable", and the "cheeky" ; and State policy whereby all blacks are to be removed from white rural areas to the homelands unless they are registered farm workers.

The major piece of legislation regulating the residence of Africans in "white" rural areas is Chapter IV of the Development Trust and Land Act⁽²⁶⁾. Initially s 26 provided that no African may occupy land in a "white" rural area unless he was:- a registered owner of that land; or a member of a community for whom the land was held in trust; or a farm worker; or a registered labour tenant; or a registered "squatter"; or a dependent of any of the above. In terms of this section of the Act the owner of the land on which Africans reside unlawfully is liable for prosecution, as well as the

African resident who may also be summarily evicted by a Commissioner⁽²⁷⁾. However these provisions have been substantially altered in the last two decades so as to restrict the number of Africans who may "qualify" to live in the "white" rural areas.

Farm workers' right to reside on farmers' land is generally not only sanctioned by section 26 of the Act, but is also a term of their contract of employment. This right may also include a right to use a portion of the land for grazing or cultivation. Once the contract of employment is terminated, an ex-worker loses the right to his housing as the contract no longer exists. Furthermore, he ceases to qualify in terms of s 26 of the Trust Act as a person entitled to reside on white-owned land⁽²⁸⁾. If he continues to reside on the land he falls into the category of a "squatter". The Black Labour Control Boards have played an important part in the removal of farm workers in that these Boards have forced farmers to dismiss their workers over and above each farmer's immediate labour requirements⁽²⁹⁾.

Under the system of labour tenancy, an African family supplied the white land-owner with labour, generally for six months of the year, for a nominal or non-existent wage, in return for the right to graze some stock and cultivate some land on the farm, i.e. labour served as a form of land-rent. Initially in terms of s 26 of the Trust Act, all labour tenants had to be registered⁽³⁰⁾. Since the 1960s, however, there has been a gradual elimination of labour tenancy as the Government has issued proclamations proclaiming district after district as non-labour tenancy areas. Finally, in 1979, a proclamation outlawed labour tenancy in the whole of South Africa⁽³¹⁾.

Initially, in terms of s 26 of the Trust Act, all "squatters" had to be registered⁽³²⁾. In the strict sense the term "squatters" refers to families living on "white" farms without

working at all for the farmer. In most cases "squatters" are illegal, residing on land without the permission of the landowner or the sanction of the State. Subsequent provisions of the Trust Act have phased out the registration of "squatters" and in fact have effectively abolished the registration of "squatters". No further squatter licences were to be issued after 1969⁽³³⁾.

The above categories of people, former farm workers, labour tenants, and "squatters", have been and are being dealt with as "squatters", and are all persons who are not qualified to reside on white-owned land or indeed any land outside the homelands. By residing on such land they lay themselves open to one or more of the following:-

- (i) conviction under the Act for unlawfully being on white-owned land⁽³⁴⁾;
- (ii) removal by the authorities once they have been convicted⁽³⁵⁾;
- (iii) conviction under the Trespass Act for "entering and being upon property without the permission of the owner or lawful occupier"⁽³⁶⁾;
(Note that the Trespass Act was amended in 1983 to dramatically increase the penalty to a fine not exceeding R2 000, or imprisonment not exceeding 2 years. The definition of "trespass" has also been amended so that one may be guilty of trespass without being required to enter onto the land. This means that a person may be guilty of trespass simply on the basis that a landowner withdraws his previously given consent to be on the property)
- (iv) civil ejectment proceedings in terms of the common law;
- (v) summary ejectment proceedings in terms of Section 37 of the Trust Act⁽³⁷⁾;
- (vi) conviction under the Prevention of Illegal Squatting Act for "entering upon or remaining on any land or building without the permission of the owner"⁽³⁸⁾;

- (vii) summary ejection after conviction under the above Act⁽³⁹⁾;
- (viii) demolition without notice of his house and buildings
 - (a) by the owner of the land if such structure was built or occupied without his permission⁽⁴⁰⁾,
 - (b) by the authorities if the structure does not comply with the formal requirements for the building of such structures⁽⁴¹⁾.

Notwithstanding that this appears to be an overabundance of legislative weaponry, it is unfortunately not the complete arsenal. Should the authorities or the owner have issued any order, warrant, direction or notice under any law requiring any african to vacate or leave a place, then no-one may stay or suspend the execution of that order or removal of the african even when that order is invalid or bad in law. This invasion of the right to due process is confined to blacks only and contained in the Blacks Prohibition of Interdicts Act⁽⁴²⁾.

There is some relief in the fact that an African unlawfully or wrongfully evicted may be entitled to compensation⁽⁴³⁾.

Similar provisions exclude the power of the courts to stay an execution in the case of the Prohibition of Illegal Squatting Act⁽⁴⁴⁾. It should be mentioned that this particular Act has been directed in the main against urban squatter communities in the Western Cape, such as Crossroads, and more recently in the Transvaal (Grasmere).

The only provision for an African who has been displaced by any of the procedures laid down in the Trust Act because he has ceased to be qualified is that the Act places a duty on the administration to relocate such African into a scheduled area if evicted from occupation of land he could reasonably have expected to remain in. In all other circumstances the administration is merely under a duty to "endeavour" to relocate or place in employment an African who has been evicted. Where do these thousands of people removed from the

"white" rural areas go to? They are forced to settle, or forcibly resettled, in government instituted resettlement camps which are usually sited on Trust-owned land in the homelands. Out of desperation many choose to settle in "Black spots" or on other white-owned farms, and face the prospect of further resettlement. Hartebeesfontein, in the Transvaal, is one such example of a "closer settlement" camp where people removed from the "white" rural areas have been forced to "settle". This land is Trust-owned land, and will eventually be incorporated into Bophutatswana. Another example is Lonely Park, a "squatter" camp just outside Mmabatho, the capital of Bophutatswana. Here people evicted from farms in the Western Transvaal have been forced to "settle".

Resettlement by Expropriation - "Black Spots"

"Black Spots" is a government-created term that is generally used to refer to African owned/freehold land which was purchased by Africans prior to the 1913 Land Act, and which land often lies outside the scheduled and released areas. People living on this land are uprooted and relocated, or are threatened with this state action, because this land falls within what are considered as the "white" rural areas. However the term "black spots" is also used to refer to African freehold land which falls within scheduled or released areas that are to be removed in terms of the Government's consolidation policy. "Black Spot" communities vary considerably in the size of land and population, as well as in the form of ownership. This may be either individual, syndicate or tribal, and may be vested in a few or many families. In addition to the landowners, there is generally a large number of tenants who rent residential and agricultural land from the owners.

In terms of the Development Trust and Land Act the Minister of Agriculture may expropriate land owned by an African or held in

trust for a tribal group of Africans or registered in the name of a deceased African, but only if this land is outside a scheduled or released area⁽⁴⁶⁾. In terms of the Expropriation Act the Minister of Agriculture may expropriate any land in the country subject to the proviso that it must be for "public purposes". It is in terms of this latter Act that African freehold land inside the scheduled and released areas may be expropriated. The differences between expropriation in terms of these two Acts are minimal in that the procedures for expropriation, as laid down in the Expropriation Act, are applicable in both situations⁽⁴⁸⁾. Thus, in general, the provisions concerning entry for the purposes of inspecting the property with a view to expropriation, the content of the notice of expropriation, and in claiming compensation are the same. However an important difference in procedure is that in terms of the Trust Act where a person whose land is being expropriated is not readily ascertainable notice may be served by posting up the notice at the Commissioner's office, the nearest Post Office, and on the door of a building on the land. A certificate by the Commissioner is conclusive proof that the above formalities have been complied with⁽⁴⁹⁾.

It is important to note that the inhabitants of African-owned land which is expropriated are entitled to choose monetary compensation or an exchange of land. In the case of privately owned land where more than 20 morgen is expropriated the African owner is entitled to exchange the land so expropriated for new land of an equal value⁽⁵⁰⁾. However, this does not apply to persons who own less than 20 morgen of the land (the Trust has a discretion to offer an exchange of land)⁽⁵¹⁾. This consideration is an important one in view of the absolute shortage of land in the homelands which is not already owned or occupied. In the normal course of events a person whose land is expropriated in terms of s 13(2) of the Trust Act would not be able to obtain or purchase new land with his compensation money. This is the case in any event with persons whose property is less than 20 morgen.

Furthermore, when dealing with freehold land it should be noted that many of the inhabitants of such land do not have a proprietary interest in the land itself, as they are only tenants. As tenants they are only entitled to compensation to the value of the improvements that they have made to the land (houses, trees etc.)⁽⁵²⁾.

Many of the people affected by removals are not in a position to challenge the offers of compensation and accordingly compensation has been low. Some examples of the compensation paid are:

Limehill (1969): 166 households received an average of R143 per household

Quapitela (1981): 69 households received an average of R516 per household⁽⁵³⁾.

It is important to note that in order to preserve the total amount allocated to blacks in South Africa, the Trust Act requires that the total quota of reserved land in any one province remains constant⁽⁵⁵⁾. Accordingly where 'badly situated land' or a 'black spot' situated in a scheduled or released area, is to be removed, and the land to revert to white ownership, then land of an equivalent pastoral or agricultural value must be added to the schedule in the province concerned. However, this peremptory requirement, which must take place in the very same proclamation in which land is exised in the schedule, does not mean the community so settled is entitled to compensatory land of 'equivalent pastoral or agricultural value'. This requirement has nothing to do with compensation but it only concerned to maintain the total amount of land in the schedule. A tribe living on trust owned land may well be resettled in a resettlement camp while land of an equivalent pastoral value but hundreds of miles away, is added to the schedule. The second peremptory

requirement in excising ~~schedd~~ land from the schedule is that the approval of ~~Parliamnet~~ signified by a resolution is required (56).

Kwapitela is an example of a "black spot" removal in Natal. Kwapitela was an African owned farm in a "white" rural area - a "black spot" - on the foothills of the Drakensberg. It was bought by an African, and the land has been lived on by his descendants and their tenants ever since. There were in 1979 67 households living on the farm, most of them tenants. Although most households depended on the earnings of wage workers (over half of whom were employed locally), they also gained a vital supplement to their income from their land. The tenant households each had a plot which was large enough to enable them to grow crops. They also had access to common grazing land for their stock. People were fairly well-housed in wattle and daub buildings, and many families had made additional improvements to their homes. The land was well-watered with little soil erosion.

In September 1979, Government officials visited Kwapitela to inform the residents that the farm was to be bought by the Government, i.e. expropriated, because it was in a "white" area, and that the community could be moved shortly. It was almost a year later when Government agents numbered the buildings at Kwapitela. Yet another year later, in July 1981, Kwapitela was eliminated. Government officials, 80 trucks, and a crew of workers removed the people of Kwapitela, and what they could salvage of their property, to a resettlement camp cynically called Compensation. Compensation, 70 km from Kwapitela, was established in 1978 on Trust Land, as a relocation area for Kwapitela and another "black spot" in Natal. Each family was allocated a small site with a tin latrine and a one-room temporary tin hut. Compensation has no infrastructure, and is miles from any centre of employment, and there is no public transport to and from the camp. There are

no ploughing or grazing fields available, and the land is dry and dusty. Previous patterns of employment have been dislocated and yet the people have been thrown into a cash dependent situation. They were paid compensation in cash on their arrival in Compensation, but the compensation most households received was totally inadequate.

Apart from the severe adverse material considerations there are obviously other reasons why people resist removal. Resettlement is essentially removal on the basis of race. A particularly pertinent factor cited by members of such communities is the loss of South African citizenship in the case of removal to the Transkei, Ciskei, Venda or Bophutatswana. The implications of such loss of citizenship is that Africans become foreigners in South Africa. In terms of the National States Citizenship Act⁽⁵⁷⁾ every African in South Africa regardless of residence is a citizen of one or the other homelands. One may be allocated the citizenship of a homeland one has never seen on the criteria mentioned in the Act which include language, family history, birth and residence. Citizens of self governing but non-"independent" homelands retain their South African citizenship until such time as the territory to which they have been allocated accepts independence⁽⁵⁸⁾. The implications of this loss of citizenship can be drastic, for a "foreign" citizen is no longer considered a South African with a right to seek work in South Africa. The homeland citizen will also lose his potential to acquire s 10(1)(b) status, although he may retain such status if he possessed it prior to independence⁽⁵⁹⁾. Moreover in relation to influx control the South African Government can treat him administratively in deporting him instead of proceedings by way of the court as it would be required in the case of a South African citizen⁽⁶⁰⁾.

Removal by Decree

A disturbing development is the use the Government has made of Section 5 of the Black Administration Act, to remove the Magopa community. Section 5 of the Black Administration Act of 1927 empowers the State President, by simple notice, to order that any tribe, portion of a tribe, black community or black move from any place to any other place or to any district or province within the Republic and shall not at any time thereafter return to the place from which the withdrawal has been made⁽⁶¹⁾. Any African who neglects or refuses to comply with such an order will be guilty of an offence, and any Commissioner or Magistrate may, upon such conviction, take necessary steps to ensure compliance with the order. However, in the case of a tribe living on scheduled or released land there is a little more protection in that if the tribe refuses to leave their land, the Minister has to obtain a resolution of Parliament approving their removal before the removal order can be put into effect.

This provision grants the Government an extraordinary power, and the provision has been made progressively more drastic over the years. In various amendments to the Act, the right to make representation or the right to stay the execution by way of court proceedings have been specifically removed. This provision makes no allowance for the payment of compensation or for the determination of such compensation. In effect, it does not expropriate the land from the people, rather it leaves their rights of ownership intact but denies the people ordered to remove the right to occupy the land they own. The use of this section to effect removals is comparatively new, for it was previously used to banish individuals or sections of a tribe for political reasons.

The Bakwena ba Magopa tribe had bought the farms in the Ventersdorp district in the beginning of this century. Subsequently, ownership of the land was transferred from the paramount chief of the Bakwena to the Minister of Native Affairs to hold in trust for this tribe. The land was agriculturally suitable and watered, and over the years the community had made many improvements which included the building of schools and clinics. In 1981 dissatisfaction arose in the community over their headman, but attempts to depose him were obstructed by the Government which has taken the exclusive power to appoint chiefs and headmen. It seemed more than coincidence that immediately afterwards the tribe was informed that their headman had agreed that the tribe be removed from Magopa to Pachsdraai. From mid-1982 to mid-1983, the Government harrassed the community, and removed community facilities in an attempt to force the people to move to Pachsdraai, without the Government having to resort to the use of brute force. (see below 'Voluntary' Removals). However, the tribe resisted removal, and therefore in November 1983 the magistrate announced that the tribe had been ordered by the State President to move to Pachsdraai and never to return to their farms, in terms of section 5 of the Black Administration Act⁽⁶¹⁾. The tribe was determined to set this order aside and appealed to the Supreme Court. The issue raised in the appeal was whether parliamentary authorization could be secured only after the tribe had refused to move, in order to enable Parliament to consider the reasons for refusal, or whether it was possible for Parliament, as had in fact happened in this case, to pass a resolution eight years previously, and in which resolution Parliament did not specify where the tribe was to be moved to. This appeal failed, and the situation reached deadlock, with the Magopa people refusing to be removed to Pachsdraai. A few days after leave to appeal was refused, but before the tribe had exhausted the further appeal procedures,, the area was cordoned off by a unit of the South African

Police, and the area declared an 'operational zone'. The inhabitants were confined to their houses, while Government officials and police removed the families one by one. The villagers and their belongings were loaded into GG trucks and buses, and forcibly removed to Pachsdraai. Pachsdraai is considered unsuitable agriculturally although the Government had erected schools there at considerable expense.. It is land which is Trust-owned, and which is to be incorporated into Bophutatswana. However, many of the Magopa people have refused to settle in Pachsdraai, and have independently moved again, with the help of various organizations, to their original tribal lands in Bethanie. Although within Bophutatswana, it offers the people slightly better material conditions. More pertinently it is the only area to which they have access and may live outside the control of their unpopular headman who is to remain in Pachsdraai.

Homeland Consolidation and the Removal of "Badly Situated" Areas

Consolidation is the Government term used to describe the policy, developed in the 1970's, to reduce the number of separate, isolated pieces of land making up the various homelands. It is part of the process of turning these areas into "independent national states". As a result of this policy, a number of pieces of Trust-owned land within the scheduled or released areas have been deproclaimed. These areas are referred to by the Government as "badly situated areas". Usually these areas are not situated close to the boundaries of any of the homelands and therefore cannot be incorporated into the homelands. The people living in such "badly situated areas" outside the designated homeland borders have been removed to within homeland boundaries by means of this deproclamation. A second consequence of this consolidation policy, is that land which is within the homelands has been excized, resulting in removals to redrafted boundaries. A third possibility is that Trust-owned land, if

it is sufficiently close to the border of a homeland, has been incorporated into the homeland, resulting in a change of the political status of the people occupying such land. In other words, the people are not removed, but rather, the boundary of the homeland is redrawn, and the people affected lose their South African citizenship (See earlier on).

Concerning the first possibility mentioned in the above paragraph, State-owned land within scheduled and released areas is owned by the Development Trust. ^{See} Such land is held in trust for the African population as a whole ^{and} not for the particular people who live on the land ⁽⁶⁴⁾. Regardless of previous history or length of occupation, they thus have no special claim to right of occupation or exploitation of the mineral or other resources of such land. Their legal status is analagous to that of tenants of the Development Trust, and the Trust has ownership of the land, including mineral rights.

In terms of the Trust Act, Trust owned land may be resumed by the State, with the consent of both Houses of Parliament, but any African who suffers damage as a result thereof is entitled to compensation⁽⁶⁵⁾. However, in the event of resettlement, Africans living on such land are not entitled to monetary compensation for the land itself; neither are they entitled to compensatory land in exchange (as they would be if they held the land by virtue of freehold title⁽⁶⁶⁾). Nor is the tribe entitled to compensation for any income derived from any activity on the land, whether it be mining or any other activity. However, compensation for all improvements must be paid to any person who has sustained any damages by reason of such resumption⁽⁶⁷⁾.

Concerning the second possibility, where the area to be expropriated is not only scheduled or released, but is also within the areas defined by ministerial proclamation as the area under the jurisdiction of a legislative assembly, then the

Government will also be required to alter the boundaries of such legislative assembly. Although this may be done by ministerial proclamation it does require consultation (but not necessarily agreement) with the executive counsel of the area concerned. Failure to so consult can and has resulted in a proclamation being struck down⁽⁶⁸⁾. This was what was in issue in the Ingwavuma case.

Reserve 4, near Richards Bay, is an example of a scheduled area that was excized from KwaZulu by proclamation. This area was one of the most favourable in this homeland, with its high rainfall, sub-tropical crops, and forest plantations. The 300 families are to be removed to a dry bushveld resettlement area called Ntambanana.

Urban Relocation

Mention was made, in the above section, of a third possibility concerning the Government's consolidation policy, namely the excizing of land occupied by an African community from "white" South Africa, and incorporating this land into a nearby homeland by the simple expedient of redrawing the homeland boundary. The Government's programme of urban relocation involves a very similar exercise. African townships in prescribed areas may be deproclaimed in terms of the Black Urban Areas Act⁽⁶⁹⁾, and incorporated into the nearest homeland by redrawing that homeland's boundary around the urban township. In this way, for example, in 1977 some 200 000 people in Kwa-Mashu township in Durban lost their section 10 rights and were transferred into "commuters" by a few strokes of the pen⁽⁷⁰⁾. A recent example of such a township is Lamontville, also in the Durban area. By assigning such townships to the homelands, Africans are in effect removed out of "white" South Africa, with all the attendant consequences, but without physically removing them.

The other form of urban relocation involves the deproclamation from (71), and the physical removal of African townships within prescribed areas, into new dormitory townships in the homelands. These African people become "commuters" - people living in the homelands, but travelling daily to work in "white" urban industrial centres. This is precisely what has happened in the case of Badplaas. The Badplaas township is to be resettled/removed to a neighbouring homeland, namely kaNgwane.

Group Areas Removals

The Group Areas Act (72), yet another statutory provision used to effect population removal, has been directly mainly but not exclusively against coloureds and Indians. In areas such as Johannesburg, for example, there is a section of the police force charged with monitoring and policing the Group Areas Act. In recent times their energies have been directed towards the eviction and prosecution of blacks, "coloureds" and Indians who have occupied, with the permission of landlords, previously empty flat space in Johannesburg. This tenancy must be seen in the light of the absolute housing shortage in the "coloured"-Indian areas and in the black townships. Theoretically there is the possibility of obtaining a permit to live in a group area designated for members of another racial group. However in practice such permits will not be issued even where there is available housing in a white area and the landlord has agreed to let such accommodation to the applicant.

Other Types of Relocation

A further type of removal results from the implementation of infrastructural development schemes, such as dams and roads. An example of this is the Woodstock Dam now being built near

Bergville in Natal. 3000 people were removed from the Upper Tugela Location and surrounding freehold areas to make way for the dam, part of the function of which will be to generate power. In most cases those who have been removed obtain the least benefit from such infrastructural developments⁽⁷³⁾.

Strategic reasons have also resulted in removals. Thus, for example, some 3500 people have been moved to make way for the missile testing range near St. Lucia⁽⁷⁴⁾. The clearing of strategically sensitive border areas in the Transvaal, the Northern Cape, and Natal, have also led to a number of removals. Finally, mention needs to be made of directly political removals in terms of section 5 of the Black Administration Act⁽⁷⁵⁾ (see earlier on), and removals due to the institution of "Betterment Schemes" in the homelands.

Influx Control

Influx control is often cited as the most aggravating feature of apartheid society. Influx control involves not only the pervasive restriction on the freedom of movement of blacks but also the source of daily harassment and fear. In 1982 approximately 206,022 people were arrested for influx control offences⁽⁷⁶⁾. In the period 1970 to 1974 well over 500 000 persons were arrested annually. Although many of these offences do not deal directly with resettlement (offences such as failing to produce a reference book or violation of the curfew which exists in most South African cities) it is clear that influx control is a mechanism of relocating or removing the people from the urban areas where they work or live to the rural areas. It is also the means of enforcing the physical separation of the races which resettlement to the homelands and the homelands themselves establish. A large proportion of the people arrested are held in custody and many of those convicted serve imprisonment terms to which they are sentenced. Apart from the convictions, infractions of the influx control laws

may lead to deportation. One measure which needs particular mention is section 29 of the Urban Act ⁽⁷⁷⁾, in terms of which a magistrate after holding an enquiry, may order the removal of a black who is found to be "idle and undesirable". The intention of such a measure is to provide for the deportation of blacks, even those who have acquired the rights to live in the urban areas, who are no longer productively ministering to the needs of the white man.

Despite the consequences of conviction in the pass courts less than one out of five hundred accused are legally represented⁽⁷⁸⁾. The legal procedure in the Commissioners Courts has been criticised extensively for not complying with the minimum standards of due process⁽⁷⁹⁾. The rate of conviction in a Commissioner's Court can be as high as one to two minutes per conviction⁽⁸⁰⁾.

Influx control can however play a more direct role in removals. In the case of Bethal where the Government is attempting to remove the township to an area within a homeland there have been attempts to cancel summarily the section 10(1)(a) status of the township residents. The effect of such cancellation is to prohibit the continued residence in the township by such blacks. Other Acts have also been used recently to facilitate stricter influx control, namely the Trespass Act (see earlier on)⁽⁸¹⁾, and through administrative means whereby Africans are deported back to the homelands (see earlier on)⁽⁸²⁾.

FURTHER ASPECTS OF POPULATION RELOCATION

Resettlement Camps

"Wood was abundant at Kwapitela. Now we buy wood instead of food and so we go hungry."

This final section of the paper will briefly consider a number of issues related to resettlement and the law, the first being the conditions experienced by people who have been removed. The Minister of Co-operation and Development has claimed there are minimum standards in the provision of land and facilities to people who have been uprooted and relocated. However the provision of such facilities is entirely discretionary and is not laid down in any law or enforceable regulation. In fact people have been resettled in areas where facilities are distinctly substandard. The victims of farm removals, "black spot" removals, and the Government's consolidation policy, have been resettled in what is termed "closer resettlement camps". In these camps, people are provided with temporary accommodation, namely a one-room tin hut and a pit latrine, and they are expected to build their own permanent houses. The land is generally poor and dry, and people have no land for growing crops, and there are no grazing facilities for cattle and livestock. Facilities such as shops, schools, clinics, roads and an adequate water supply are often absent or far away. Employment opportunities within the relocation areas themselves are minimal. Because of the loss of supplementary subsistence from agriculture, these people are dependent on migrant labour as their only source of income. Finally, compensation is more often than not inadequate to cover the costs of replacing the property and buildings expropriated.

However, a number of other points need to be stressed in this context. The first is that the issues in relocation are more far reaching than the adverse material conditions people are

subjected to. Resettlement dispossesses people not only of their land and houses, but as stated above, it also dispossesses them of their South African citizenship, their claim to full political rights, and adversely affects their access to jobs and services within South Africa. Relocation results in long term damaging social and psychological effects on victim communities and individuals. Relocation is not only a process of dispossession, but is also one of political disorganization of these communities.

Voluntary Removals

The Government and in some cases the Press have drawn a misleading distinction between "voluntary" and forced removals. In fact what is referred to is the distinction between the active use of police, guns, bulldozers and muscle, as opposed to intimidation, rumour, co-optation of community leaders, the removal of communal facilities and similar direct forms of pressure. In the words of the Surplus People's Project Report such a distinction "is a cynical misrepresentation of the submission of rightless people to the dictates of a repressive minority government as a n act of positive choice"⁽⁸³⁾. In a situation where blacks do not possess political rights or freedom of movement there can be no talk of them exercising a free choice about being removed. There is no clearer case to illustrate this point than the case of the Mogopa.

Having imposed an unpopular former policeman on the tribe as their headman, the Department of Co-operation and Development proceeded to apply various forms of pressure to obtain the removal of the Mogopa tribe who had refused to follow their headman to the designated resettlement area. Amongst the pressures used were the demolition of churches, the demolition of the two schools built by the community, the demolition of the clinic, the removal of public transport, the threatened refusal to pay pensions, the refusal to endorse contracts and reference

books to enable people to obtain employment, the removal of water pumps providing fresh water, the refusal to impound cattle belonging to white farmers grazing on the tribal land, and various forms of disinformation. When these methods failed the tribe was ordered to move in terms of Section 5 of the Black Administration Act of 1927. When the tribe still refused to move the area was cordoned off by a unit of the South African Police. The inhabitants of the village were confined to their houses while individual families were removed. During this process and even after the police had cordoned the area off, the Press and the Government referred to those people who demolished their own houses and left the area so as to avoid being dumped in Pachsdraai, as persons who were leaving 'voluntarily'. Even a legal definition of 'voluntarily' requires a sense of a positive choice. Choice includes being able to choose whether to move or to stay.

In 1981, the Department of Co-operation and Development declared that it was moving away from the policy of forced removals and that indeed there would be no more forced removals. Yet the events at Mogopa and elsewhere reveal that this effectively means pressure just short of physical violence with the latter being threatened - and actually used as a last resort. For example, in Huhudi the authorities have prevented the township dwellers from improving their dwellings. They now claim that some of the houses must be demolished as they are decrepit and unsafe. In Driefontein the leader of the community was shot dead when he organised a meeting to discuss and oppose their intended removal, and the authorities had banned all meetings at Driefontein. At Kwangema the authorities insist on dealing with an unrepresentative figure who is not recognised by the Kwangema community. In other areas the Labour Bureaus will not recruit labour from certain badly situated areas or the local commissioner will not make

the endorsements which are necessary for the members of that community to obtain employment. Many of these tactics employed to induce persons to move 'voluntarily' are extra-legal and in some cases unlawful.

The Elimination of the Judicial Process and limited publicity

A number of examples have been given throughout this paper of the elimination of the judicial process in matters relating to relocation. The Black Prohibition of Interdicts Act⁽⁸⁴⁾, which has barred the courts from issuing a judicial stay of execution of an eviction order or warrant pending legal argument about the legality of this action. The Prevention of Illegal Squatting Act⁽⁸⁵⁾ has a provision which rules out the bringing of interdicts against demolitions and removals to be carried out in terms of this Act. The Admission of Persons to the Republic Act⁽⁸⁶⁾ facilitates the deportation of Africans from 'independent' homelands who are in South Africa without the necessary qualifications, i.e. the judicial process has been replaced by a purely administrative process⁽⁸⁷⁾.

The process of relocation has passed largely unrecorded, for a number of reasons. Firstly, much of what is happening is not considered 'newsworthy' by the commercial press. It needs a combination of crisis, proximity to the metropolitan areas, effective organization within the community, and the involvement of outside support groups, for removals to become public. However, the second, and more important, reason, is that information on removals is suppressed by the State. The extent of population removals in South Africa has been deliberately hidden from the public. Access to relocation areas and to threatened communities is often forbidden, and may be policed. Questions put to the Government in Parliament are often evaded, or answered only in the most general terms. Finally, there is the ominous new Laws on Co-operation and Development Amendment Act⁽⁸⁸⁾, which is likely to strengthen

this trend. It provides, inter alia, for "the preservation of secrecy in connection with matters dealt with by the Commission" of Co-operation and Development, and foremost amongst these matters is the question of consolidation of the homelands⁽⁸⁹⁾.

Lawyers and Resettlement

Providing legal assistance to persons facing resettlement is particularly difficult. In the first place, the issues are inevitably extremely complex. Any one case may involve issues of African customary law, laws governing the administration of blacks, laws governing ownership of land, laws which describe the qualifications for residence in various categories of land, constitutional law, laws governing expropriation and criminal law. Secondly, this is an area which is not fertile in human rights. The most basic rights to make representations, to seek relief from a court, or to negotiate have been deliberately excised and replaced with provisions which grant sweeping discretionary powers to the executive. Thirdly, some of the legal approaches to the problems may divide and undercut the cohesion in the community. Thus in relation to compensation there is a clear division between tenants and landowners of freehold property. In an informal settlement a distinction can be drawn between legal and illegal residents⁽⁹⁰⁾. Fourthly, legal-action can have damaging consequences for the organisation of a community unless the lawyers are sensitive to the need for democratic organisation and participation by the whole community in all decisions, including the decisions relating to whether or not legal suits are pursued. A lawyer insensitive to these needs may not see that his own lack of accountability, and the requirement that he pursue strategies good in law, may mean that he acts without the backing and the strength of a coherent organisation. In resettlement, it is clear that the law only has a limited part to play in protecting people against arbitrary use of power by officials

who are not accountable to the subjects they administer. Yet communities facing resettlement are too willing to believe that a court of law will rule in their favour. Not only is there the possibility of eventual despondency when legal action fails, but the community may cease to function as a community organising themselves, campaigning against the removal, if they leave their salvation to the lawyers.

Despite these very clear limitations to legal action, it can and does play a useful service role. At the very least, an understanding of the laws is essential to protect the victims of relocation against unscrupulous manipulation and to boost their sense of control and competence in dealing with government officials. In the majority of cases the people being moved are uneducated, poor, rural people who have limited or non-existent access to lawyers and are extremely vulnerable to manipulation by both officials and lawyers even those acting with the best of intentions. This is particularly the case at the present moment when the Government is attempting to force people to move without the use of direct violence. Legal action may also be used to negotiate time, publicity, and particularly, appropriate compensation for the victims of relocation. Although most legal victories are won on technicalities and amount to temporary victories only, it is important that lawyers assist communities to give expression to their choice to live where they wish - including the choice to stay where they presently live. If the government is to insist on removing people against their wishes and on the basis of race, then lawyers should not connive through passivity in the cheap and secretive performance of those policies. The proper financial and political price for the exercise of those powers should be paid.

Nicholas Haysom
Amanda Armstrong
March 1983

FOOTNOTES

- 1) Plaatje, S.T. (1982) "Native Life in South Africa", reprinted in Mutloatsi (ed) Reconstruction p118 Johannesburg, Ravan Press.
- 2) Surplus People Project (1983) "Forced Removals in South Africa", Durban Vol. 1 pg.6.
- 3) Ibid., Vol. 1 pg.8.
- 4) The South Africa Act of 1909.
- 5) See in this regard the Separate Representation of Voter Act No. 46 of 1951, as amended by the South Africa Act Amendment Act No 9 of 1956.
- 6) The Black Land Act No 27 of 1913
The Development Trust and Land Act No 18 of 1936.
- 7) Surplus People Project (1983) Vol. 1 pg.2.
- 8) See in this regard:
The Promotion of Black Self-Government Act No. 46 of 1959
The National States Citizenship Act No 26 of 1970
The National States Constitution Act No 21 of 1971
The Status Acts of each of the four "independent" homelands.
- 9) Simkins, C.E.W. (1981), "The distribution of the African population of South Africa by age, sex, and region type, 1960, 1970, 1980", Cape Town, SALDRU.
- 10) The Black Land Act No 27 of 1913, as amended by Act No 18 of 1936, and subsequent Acts. See in particular sections 1 and 8.
- 11) The Development Trust and Land Act No 18 of 1936, s 1 and 2.
- 12) Ibid. s 4,5,6,7,8 and 9.
- 13) Ibid. s 27 and 32.
- 14) Ibid. s 28 and 29.
- 15) Ibid. s 26.
- 16) Ibid. s 34.
- 17) Plaatje, S.T., (1982).
- 18) Th Black (Urban Areas) Consolidation Act No 25 of 1945.

- 19) The Blacks (Abolition of Passes and Co-ordination of Documents) Act No. 67 of 1952.
- 20) The proposed "Orderly Movement and Settlement of Black Persons Bill" will, if enacted, repeal the Black (Urban Areas) Consolidation Act No 25 of 1945.
- 21) The Group Areas Act No. 41 of 1950.
- 22) The Promotion of Black Self-Government Act No. 46 of 1959. This Act was the extension of the already existing Black Authorities Act No 68 of 1951.
- 23) The National States Citizenship Act No 26 of 1970.
- 24) The National States Constitution Act No 21 of 1971.
- 25) Surplus People Project (1983) Vol. 1 pg.6.
- 26) The Development Trust and Land Act No. 18 of 1936, Chapter IV sections 26 - 38.
- 27) Ibid. s 26 (bis).
- 28) Ibid. s 26.
- 29) Ibid. s 28 and s 29.
- 30) Ibid. s 26.
- 31) Proclamation 2089 Government Notice 6663 of 21/9/1979 set the 30/8/80 as the final expiry date for all labour tenant contracts.
- 32) The Development Trust and Land Act No 18 of 1936 s 26.
- 33) Ibid. s 32(3).
- 34) Ibid s 26.
- 35) Ibid s 26 (bis)
- 36) The Trespass Act No 6 of 1959 s 1.
- 37) The Development Trust and Land Act No 18 of 1936 s 37.
- 38) The Prevention of Illegal Squatting Act No 52 of 1951 s 1 and 2.
- 39) Ibid. s 3.
- 40) Ibid. s 3B(1)(a).

- 41) Ibid. s 3B(1)(c).
- 42) The Blacks(Prohibition of Interdicts)Act No 64 of 1956 s 2.
- 43) Ibid. s 4.
- 44) The Prevention of Illegal Squatting Act No 52 of 1951 s 4.
- 45) The Development Trust and Land Act No 18 of 1936 s 38.
- 46) Ibid. s 13(2).
- 47) The Expropriation Act No 63 of 1975 s 2.
- 48) The procedures for expropriation are laid down in the Expropriation Act No 63 of 1975 s 6 - 24. s 13(3) of the Development Trust and Land Act No 18 of 1936 provides that the provisions of s 6 - 24 of the Expropriation Act shall mutatis mutandis apply in respect of the expropriation of land in terms of s 13(2) of the Trust Act.
- 49) The Development Trust and Land Act No 18 of 1936 s 13(3).
- 50) Ibid. s 13(7).
- 51) Ibid. s 13(7) bis.
- 52) The Expropriation Act No 63 of 1975 s 12(1)(b).
- 53) SURplus People Project (1983) Vol. 1 pg.102-103.
- 54) AFRA Reports Nos. 6, 7 and 14, Pietermaritzburg.
- 55) The Development Trust and Land Act No 18 of 1936 s 10.
- 56) Ibid. s 3(b).
- 57) The National States Citizenship Act No 26 of 1970.
- 58) This is in terms of the various Acts conferring the status of independence on the homelands.
- 59) This interpretation is followed by the Department. However it is likely to be challenged shortly by the LRC.
- 60) People are deported in terms of the Admission of Persons to the Republic Act No 59 of 1972.
- 61) The Black Administration Act No. 38 of 1927 s 5.
- 62) Ibid.

- 63) The Black Prohibition of Interdicts Act No. 64 of 1956.
- 64) The Development Trust and Land Act No 18 of 1936's 6.
- 65) Ibid. s 18(1).
- 66) Ibid. s 13(7)
- 67) Ibid. s 18(1)
- 68) National States Constitution Act No 21 of 1977 s 1(2).
- 69) The Black (Urban Areas) Consolidation Act No 25 of 1945.
- 70) AFRA Report No 4, Pietermaritzburg.
- 71) This is in terms of the Black (Urban Areas) Consolidation Act No 25 of 1945.
- 72) The Group Areas Act No 41 of 1950.
- 73) Walker, c., (1982) "Forced Removals in Natal", Pietermaritzburg, AFRA pg.10.
- 74) Ibid.
- 75) The Black Administration Act No 38 of 1927 s 5.
- 76) RDM figures (week of 5th March)(pg 15).
- 77) The Black (Urban Areas) Consolidation Act No 25 of 1945 s 29.
- 78) R.E.Monama Is this Justice CALS 1983 p29.
- 79) *ibid.*
- 80) *ibid.*
- 81) The Trespass Act No 6 of 1959 s 1.
- 82) The Admission of Persons to the Republic Act No 59 of 1972.
- 83) Surplus People Project (1983), Vol? pg.??
- 84) The Black Prohibition of Interdict Act No 64 of 1956.
- 85) The Prevention of Illegal Squatting Act No 52 of 1951.
- 86) The Admission of Persons to the Republic Act No 59 of 1972.

- 87) Between August 1981 and December 1982 more than 4000 Transkeians were deported from the Western Cape under this procedure. Monama op cit p15.
- 88) The Laws on Co-operation and Development Amendment Act No 83 of 1982 s 1.
- 88) Walker, C., (1982) pg. 3.
- 90) Those without the appropriate qualifications to be in the urban areas are referred to as 'illegals'. Crossroads is an example of how such a distinction divided a community.