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### Rural poverty in the Eastern Cape Province: Legacy of apartheid or consequence of contemporary segregationism?

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# Rural poverty in the Eastern Cape Province: Legacy of apartheid or consequence of contemporary segregationism?

Ashley Westaway

*Poverty in South Africa in general has not declined since 1994, and it is particularly severe in the former Bantustans. This paper discusses two important issues related to rural poverty in the Eastern Cape Province. It questions the applicability of the notion of legacy to explain recent trends in rural poverty and constructs an argument that explains these trends in relation to post-1994 segregationism. It argues that the notion of legacy is not useful in explaining why rural poverty remains entrenched, long after 1994. Rural poverty today cannot be explained as something left behind after the end of apartheid, because its causes and drivers are the same now in 2012 as they were in 1970. The continuity between the pre- and post-1994 periods is best described by exploring and understanding post-1994 policy decisions and power configurations as an expression of contemporary segregationism.*

**Keywords:** rural poverty; legacy; segregationism; Bantustan

## 1. Introduction

On 31 May 2010, South Africa turned 100 years old. In the normal course of events, this occasion would have been marked by pomp and ceremony, patriotism and flag-waving. Given South Africa's history, one might have expected the nation to celebrate in a variety of ways: the white far-right taking to the streets on horseback, draped in the old Transvaal flag, white liberals staying at home and proposing a toast to Jan Smuts, the ruling ANC making statements of reconciliation and inclusivity, the left deploring the incomplete success of the liberation struggle, and so on. But this was not the case. The day passed without public acknowledgement, except to note that it marked 11 days to go before kick-off. South Africa's concerns in 2010 had nothing to do with the nature and history of this nation-state, and everything to do with the FIFA World Cup. Why is this so? Very crudely, it is because prevailing opinion would have it that the New South Africa was born in an instant, without history, in 1994.

I would argue otherwise. A basic assertion of this paper is that segregationism was a foundation stone of South Africa at the moment of its creation in 1910, and that it remains of foundational importance today, 100 years later. I use the term 'segregation' in its classic sense, to refer not to racism per se, but rather to the reservation of certain portions of the landholdings of a nation-state for particular racial groupings, and the governing of these reservations in specific ways.<sup>1</sup> To re-state the basic assertion, I

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<sup>1</sup>This understanding of segregation, namely as a technique of domination based on the assertion of a particular relationship between territory and citizenship, is situated within a body of historiography in which Ashforth, Evans, Crais and Dubow are notable contributors.

concur with the overall thesis of Mahmood Mamdani, who describes 1994 as having institutionalised de-racialisation, but not democratisation (Mamdani, 1996). That is to say, those portions of the country (particularly the Eastern Cape) that were reserved for designated African groups in terms of the 1913 Land Act, are still, after 1994, governed distinctly and differently from the rest of South Africa. The people of Port Elizabeth, Grahamstown and East London – black and white – are governed by rights, democracy and development. The people of Keiskammahoek, Cofimvaba and Lusikisiki – all black – are governed by custom, tradition and welfare.

The case is made in three parts. First I present a snapshot of life in the Eastern Cape Province today. This is a bleak picture, especially as it pertains to the former Bantustan areas of the Ciskei and Transkei. I then briefly explain the crisis. To do this, I return to the birth of the nation-state in 1910 and highlight the primacy of land reservation and segregationism in this process. Finally, I outline the way segregationism has been inherited and deployed by the post-1994 government.

## 2. Eastern Cape snapshot

The Eastern Cape was demarcated in 1994, as a separate part of the former, much larger, Cape Province. The eastern half contains two former Bantustans, the Transkei and Ciskei, while the western half falls within former white South Africa, the former Cape Provincial Administration areas. In this snapshot I compare and contrast life in the eastern half with that of the western half.<sup>2</sup> The basic income statistics, the latest available being from 2005/06, tell a tale all on their own:

- General poverty: The average monthly household income in the Eastern Cape was R1756.<sup>3</sup>
- West/east: The further west a household, the better off it was (Nelson Mandela Metro, R2438), and the further east a household, the poorer it was (Alfred Nzo District, R1240).
- Male/female: Male-headed households earned significantly more (R2100) than female-headed households (R1400).
- Rural/urban: Rural households earned far less than urban households (R1276, as compared with R2357).
- Seventy-three per cent of the rural people in the Eastern Cape were living on less than R300 per month in 2005/06, and more than half of them on less than R220 per month. The average rural income was R255 per month, which is well below the poverty line drawn by the Presidency in 2008.

To understand the dynamics and drivers of poverty today in the former Bantustans, it is instructive to consider income composition. By far the largest component of household income is welfare transfers. The past ten years have seen a significant expansion of the government's welfare programme, which covers the rural population more extensively than the urban. Welfare contributes substantially to the income of the poor, whereas wages do not. In 2006/07, only 16% of the rural population between the ages of 15 and 64 were employed. That is, 84% of this population were either unemployed or 'not economically active', which is often a euphemism for 'permanently unemployed', and the situation is undoubtedly more bleak now than in 2006/07, due to the 2008/09

<sup>2</sup>This snapshot is derived from three key sources of evidence: FHISER & DRA (2006), Bank & Kamman (2008) and Everatt & Smith (2008).

<sup>3</sup>At this date the exchange rate was approximately 1 US\$ – 6.3 ZAR.

global recession. In 2009, the South African economy shed over a million jobs, resulting in a decline in the employment rate from 45% to 41%. The recession in the country mainly affected the poor and marginalised (rather than the rich), so it is not inconceivable that the employment rate in rural areas has now dropped below 15%.<sup>4</sup> That is, for every 100 people between the ages of 15 and 64 in the former Bantustans, not even 15 earn income from a wage.

The other key point here is that unemployment in the former Bantustans is a very long-term condition. A typical life trajectory of a Bantustan resident, at least 55% of whom are females, is to start school at age six, leave at about 19 with a poor Grade 10 certificate, sink into permanent unemployment thereafter, and die between the ages of 50 and 60. For this reason, Seekings and Natrass identify a distinct underclass in South Africa (2006:271), and Adam describes a typical resident of a former Bantustan as a 'permanently marginalised outsider' (1990:47).

The average rural household does not have a single member who is employed, neither does it (any more) benefit from the remittance of wages earned in a city. In the early 1980s, remittance constituted a significant portion of average household income. But the development of the South African economy over the past two or so decades has not favoured semi- and un-skilled labourers. If there was some validity in referring to the Bantustan population as a 'displaced proletariat' in the 1970s, today this is nonsensical because only 5% of the population of the Ciskei and Transkei are currently active migrants (FHISER & DRA, 2006). Of the diminished number of migrants, 60% do not remit money to their homes at all. There is a widening and deepening chasm between the urban and the rural in South Africa. Fewer people migrate from the country to the city than did ten years ago, and less money is remitted from the city to the country.

The Ciskei and Transkei today are characterised by pervasive chronic poverty, low levels of economic activity, a dearth of employment opportunities, and high levels of dependency on welfare. Unsurprisingly therefore, rural households in these areas spend most of their income on food, and there is clear evidence of growing food insecurity, as measured by the number of meals consumed and the quantity and variety of foods eaten (FHISER & DRA, 2006). One might then ask what agriculture, the apparent mainstay of the rural economy, contributes to household income. Is this perhaps the panacea for rural families unable to make ends meet? The answer is 'No'. Over the past 60 years, at least, there has been a consistent, sustained de-agrarianisation of the former Bantustans. The situation is so serious that today only 1% of rural households derive an income from crop production and only 4% from livestock production (BRC, 2009).

In considerations of poverty, a narrow focus on income and financial assets obscures other determinants of deficiency and lack. It is therefore necessary to take cognisance of issues such as education, health, levels of service and infrastructure. On all these fronts, the situation in the Ciskei and Transkei is just as desperate as it is in the case of financial indicators. For example, about 33% of adults are functionally illiterate. This is hardly surprising, given that fewer than one in five has successfully completed secondary school (FHISER & DRA, 2006). The services that are the provinces' most important responsibilities are education and health, whereas municipal priorities are water and sanitation. One of the most stubborn myths about the so-called new South Africa is that it has successfully delivered water to the masses. The reality in the

<sup>4</sup>According to FHISER & DRA (2006), employment in the Amathole and OR Tambo Districts of the Eastern Cape was already less than 16% in 2006, before the recession.

Ciskei and Transkei is that two thirds of rural households do not have access to RDP-standard<sup>5</sup> water provision, nearly half of them use dam, river or spring water, and another 15% have to walk more than 200 metres to communal stand-pipes (FHISER & DRA, 2006). When it comes to sanitation the situation is possibly even more dire, with 52% of households relying on unventilated basic pit latrines and 34% having no toilet facilities at all. Crucially, recent surveys have found that levels of service delivery in most of the Ciskei and Transkei have declined over the past five years (Everatt & Smith, 2008).

Clearly South Africans do not still live in an apartheid-era state of emergency. Black South Africans are no longer burdened by the constant threat of racially defined forced removals; they no longer have to produce identity documents for fear of arrest or expulsion from the cities; they are no longer explicitly referred to as 'hewers of wood and drawers of water'. Yet, black rural South Africans still live in extreme poverty. In the Ciskei and Transkei they are now regarded as South African citizens, with the right to vote, but there is no place for them in the South African economy: they still depend on firewood for energy and the river for water. The reality is that, despite the significant expansion of the welfare system after 1994, poverty in these areas today is probably worse now than it was at the dawn of liberal democracy (Westaway, 2008:34). Referring back to the dark days of 1980s apartheid, Crais observes that in the former Bantustans today the 'state of emergency in fact continues' (2002:224).

While the state of emergency continues in Keiskammahoek, Cofimvaba and Lusikisiki, life continues to get better in the leafy suburbs of Walmer, Oatlands and Beacon Bay. As the poor in the former Bantustans have got poorer since 1994, so the rich in the cities have got richer (Seekings & Nattrass, 2006:3,4). Put another way, national income inequalities have worsened since 1994, with the Gini coefficient worsening from 0.64 to 0.69. The reality is that South Africa, despite being a middle income country, remains the most unequal society in the world.

To sum up the situation in the Ciskei and Transkei, the former Bantustans of the Eastern Cape Province:

- Most people living here survive below the poverty line.
- Household income is made up primarily of welfare transfers, while the contribution of employment, remittances and agriculture is negligible.
- The provision of education, health, water and sanitation infrastructure and services has been woefully inadequate.

Everatt and Smith have recently ascertained that the prevailing situation here is replicated across former Bantustan areas in other parts of South Africa (Everatt & Smith, 2008). They may aptly be described as 'non-places', 'social voids' or 'disaffected zones' – terms developed by Baudrillard in his elucidation of contemporary capitalism (1975).

The decline of these areas has occurred during a period of sustained national economic expansion, characterised by a massive increase in the public purse, and tremendous accumulation and consolidation of wealth by powerful city dwellers. Ciskei and

<sup>5</sup>The Reconstruction and Development Plan (RDP) was drawn up by the ANC in the run-up to the first democratic elections in 1994. It served as its election manifesto and had a significant influence on post-1994 government policy. It set benchmarks for reasonable electorate expectations of service delivery.

Transkei residents today are poor, unemployed, uneducated, sick, short of food and water, and obliged to relieve themselves in unhygienic and undignified conditions. The Cape Provincial Administration resident, by comparison, earns a much higher income, is more employable and more frequently employed, is better educated and has better access to basic services.

How are we to account for this extreme contrast? It appears to be a clear case of the legacy of apartheid. The notion of legacy is useful for explaining a situation where there has been a dramatic break from the past, where one trajectory stops and another begins. If the people of the former Bantustans were less poor now, if economic activity was on the rise, if education levels were improving, and so on, then one could talk usefully about legacies. However, since fundamental apartheid trajectories have continued so comfortably beyond 1994, it is necessary to look to the present (as much as to the past) for an explanatory framework. Haitian historian Trouillot argues that the ‘so-called legacies of past horrors . . . are possible only because of [the renewal of practices of domination]. And that renewal occurs only in the present’ (1995:151). So, the notion of legacy is not a useful explanatory framework in this case. To put forward an alternative explanation, it is helpful rather to return to 1910, the moment when the persistent South African present was born.

### 3. The birth of South Africa

South Africa is not only a recent nation-state, it is also a recent idea. The name ‘South Africa’ was used with frequency only after the country had achieved responsible government in the 1870s, and it had no constitutional meaning before Union. The South African War of 1899–1902 allowed a consolidation of white interests, which was a precondition for Union. In the words of Saul Dubow: ‘A war that was at once fought *over* possession of the country’s riches, *by* what were to become South Africans, *in* what was to become South Africa, has surely to be understood as a war *for* South Africa, not only in the immediate sense of acquisition and control, but also in the forward-looking sense of making a new nation-state – in effect a “white man’s country”’ (2006:158, emphasis in the original). In the build-up to Union and during the first years of the new country, white South Africa remained divided. In this scenario, South Africanism was developed as the ideology that enabled whites to overcome their differences. It came to signify a broad form of patriotism to which both English and Afrikaans speakers could subscribe, involving belief in scientific and technical progress rather than adherence to a civilising set of morals and norms (Dubow, 2006:165,178). South Africanism was not only about the bringing together of Britons and Boers; it was a two-pronged population ploy, the second part of which was the separation, or segregation, of blacks and whites (Dubow, 2006:177).

From the turn of the century, science increasingly became the lens through which policy makers considered the pressing issue of the day, namely the native question. This question related to two interlinked challenges faced by aspirant white power: how to secure an adequate supply of cheap labour for the mining industry and how to govern the majority black population (Ashforth, 1990:23; Evans, 1997:13). The answer to the question was found in the concept of land reservation, first explained at the 1903 Inter-Colonial Customs Conference in Bloemfontein as follows: ‘the reservation by the State of land for the exclusive use and benefit of natives involves special obligations on their part to the State’ (Ashforth, 1990:27). This principle underpinned deliberations in the South African Native Affairs Commission

(SANAC), which was set up to address the issue definitively. The SANAC Report elaborated the reservation concept by developing an argument about the relationship between territory and citizenship.

The argument rested heavily on a particular understanding of customary tenure, namely that rights to indigenously held land were vested not in the indigenous peoples (either individually or collectively), but rather in the person of the chief (Cousins, 2007:297). With this foundation in place, the Commission developed its argument about the rights of 'natives' to reserved lands or 'homelands' as follows:

the 'Natives' have 'distinct rights' to the reserved lands because they were the 'ancestral lands held by their forefathers';

occupation of this land was 'traditionally' under conditions of 'communal tenure', which amounted to a form of group ownership with the 'Tribal Chief' administering the lands in 'trust' for the people;

through 'peaceful annexation', the 'Chiefs' transferred their sovereign rights to the Crown;

these chiefly rights stemmed from the ownership of the land and were thus embodied in a 'system' known as tribalism;

thus, the Crown, upon annexation, collected the full swag of rights and obligations previously possessed by the 'Chief' as sovereign. (Ashforth, 1990:36–7)

The SANAC report amounted to a sophisticated recommendation for the implementation of a system of segregation, founded on the practice of land reservation. By positing a particular relationship between territory and citizenship, the report fashioned what Ashforth calls the 'structure of legitimacy' that was characteristic of the 20th century South African state (1990:35).

1910 is the year in which South Africa was forged, as a Union. Not coincidentally, that was also the year in which the Department of Native Affairs was created. Three years later, the Union's parliament passed the Land Act, which formally ushered in segregation as the fundamental national policy. These developments – Union, Native Affairs, segregation – are best understood as constituting the birth of the South African nation, which I refer to as '1910'. This paper contends that the 1910 nation is still largely intact today. The changes that took place in 1994 rattled the 1910 nation-state but did not rock its foundations.

During the 20th century, numerous governments around the world used their legal authority to set up distinct juristic situations, operating in parallel. In certain cases, such as the establishment of concentration camps, this involved the suspension of law. In other cases, such as the establishment of South Africa's Bantustans, it involved the construction of tailor-made juristic arrangements. These different cases are both instances of what is referred to in the literature as 'invoking states of exception'. Agamben uses the terms 'membership' and 'inclusion' to distinguish between those who live in exceptional and normal juridical terrains, respectively. In his words, '[M]embership always exceeds inclusion' (quoted in Baucom, 2005:187); members, such as Bantustan residents, are not included in the normal juridical terrain but are excluded from it, living as they do in a state of exception. These people therefore live what he calls 'bare life' (Agamben, 1998:171), and what Patterson calls 'social death' (quoted in Baucom, 2005:189).

The reserve or Bantustan is identified by Baucom as one of 'occidental modernity's classical spaces of exception' (2005:188), while Cabral describes it as 'the largest concentration camp mankind has ever known' (1973:41). Its inhabitants are an example of people who live outside normal legal parameters. For the Bantustan resident, social death or bare life is not temporary, it is the permanent norm.

#### 4. Contemporary segregationism

Having outlined the state of emergency currently unfolding in the Ciskei and Transkei – more than 15 years after the advent of liberal democracy – and having noted that the homelands were established as exceptional juridical terrains, in the moment of 1910, I now consider policy developments after 1994. I return to the question I posed earlier: to what extent did 1994 amount to a break with the past? I consider whether the last 15 years have been about undoing the legacy of colonialism and apartheid or about re-imagining and re-enforcing practices of segregationism, in a modern guise. More specifically, I consider whether the ANC government has attacked segregationism or assimilated it as a technique of power. This section of the paper establishes that large portions of the segregation system of governance in the Bantustans have been not only left intact but actually reinforced. It establishes this by using three sets of evidence, relating to economic modalities, governance and land reform.

Economic planning in the post-1994 period has been dominated by a spatial perspective. That is, decision-makers have used the map as the vital tool for making decisions about how, where and why economic investment should take place. They appear to assume that some geographic areas are more worthy of investment than others. In the South African situation, the consequences of selection and non-selection have been dramatic. Coega has received a huge amount of funding, compared with which the Ciskei has received very little. As Helliker has pointed out, this type of discriminatory spatial perspective reflects contemporary capitalism, which 'thrives on uneven development and social marginalisation' (2008:80). All spheres of government have embraced this thinking in their respective programmes and interventions. For example, municipalities rely on spatial concepts such as nodes and zones to determine resource flows. In the Eastern Cape, the provincial government and many municipalities have adopted a three-level, triangulated model of public investment. The large base of the triangle is referred to as 'addressing basic needs'. At the apex of the triangle, government targets 'focus areas'; this is about strategic investment, where returns are maximised (Amathole District Municipality, 2007:72). The spatial coherence and logic of municipal and provincial plans are fine-tuned through the formulation of Spatial Development Frameworks. So, the Eastern Cape Province and its constituent municipalities have been demarcated anew, into strategic and unstrategic areas. Similarly, national government has become obsessed with a spatial perspective, driven aggressively by the Presidency.

This has resulted in huge investments being channelled to Spatial Development Initiatives and Industrial Development Zones. Investment-type public resources are directed to these areas, whereas the large swathes of land falling outside them receive only welfare-type resources. As the Chris Hani Municipality (in the Eastern Cape) puts it in its IDP (Integrated Development Plan): 'In localities with low development potential, government spending, beyond basic services, should focus on providing social transfers,



human resource development and labour market intelligence to enable people to become more mobile and migrate, if they choose to, to localities that are more likely to provide sustainable employment or other economic opportunities' (2008:48).

The most important consequence of this hegemonic economic planning paradigm has been the further development of (strategic) urban areas and the continued underdevelopment of (unstrategic) rural areas. Consequently, it is hardly surprising that the elected government has not formulated or implemented a rural development strategy since 1994. It is incorrect to see the absence of a substantial rural development strategy or programme as a failure of government policy; it is better understood as a natural consequence of the spatial development perspective. It should be noted here that the prominence accorded to rural development in the Polokwane resolutions, and subsequent ANC manifesto,<sup>6</sup> has not resulted in a change in government priorities or programmes. To illustrate, the entire budget for rural development for 2010/11 was R256 million. With this budget, the Department of Rural Development and Land Reform was expected to drive pilot projects in selected localities such as Giyani, develop policy in line with lessons from these experiences, and facilitate and coordinate rural development across the country. The ANC can no longer reasonably continue to claim, as it did in the build-up to the 2009 election, that rural development is one of its top five priorities for the period 2009–2014. For the foreseeable future, rural development will remain chimerical.

In the matter of governance, the decade after 1994 was characterised by contestation between a progressive and a conservative bloc within the ANC. The former preached civil society and democratisation; the latter clung to so-called tradition and custom.<sup>7</sup> Only in 2004 did it become clear that the conservative forces had defeated the more progressive interests. The 2004 Traditional Leadership and Governance Framework Act (TLGFA) stipulates that traditional councils must be established in former Bantustan areas to operate alongside elected municipalities. Significantly, the TLGFA endorsed Tribal Authorities established by the 1951 Bantu Authorities Act 'as a foundation' for establishing Traditional Councils (Ntsebeza, 2006:14). Most of the members of these councils are unelected, drawn from traditional authorities and those appointed by them. Beall et al. are correct in their assertion that the TLGFA 'significantly entrenches the authority of traditional leaders, and means ... that legislation introduced in the 21st century will give perpetual life to a system of "indirect rule" dating back to the colonial era and ossified under apartheid' (2005:763). Or, as Crais puts it, the ANC government has renewed 'a tradition of rule' that began with conquest and continued in the 20th century during the eras of segregation and apartheid (2002:227). The Eastern Cape government has embraced the conservative turn by restoring a number of chieftaincies and re-instating the institution of headmanship. At the time of writing, it had recently increased the salaries of *iinkosana* (headmen, isiXhosa) from R2705 to R6700 per month. At a time when normal salary increases ranged from 7 to 9%, headmen's salaries rose by well over 100%.

The contents of a Traditional Courts Bill tabled for consideration in Parliament in May 2008 are further evidence of the extent to which traditional authorities have emerged as powerful over the recent period. The Bill was formulated to address some of the issues

<sup>6</sup>The ANC put forward five priority areas for 2009–2014: creation of decent work and sustainable livelihoods; education; health; rural development, food security and land reform; and the fight against crime and corruption. [www.anc.org.za/elections/2009/manifesto/manifesto.htm](http://www.anc.org.za/elections/2009/manifesto/manifesto.htm)

<sup>7</sup>For more in this regard, see Westaway (2008:165–7).

previously regulated by the infamous Black Administration Act of 1927 (now repealed), especially the exercise of customary justice in the former Bantustans. The continuities are starkly evident with regard to the composition of traditional courts, their geographic jurisdiction and their juridical powers. With regard to this last, the Bill accords traditional courts the powers to extract forced labour from offenders and strip them of customary rights to land and water. Further, it gives the rulings of traditional courts the same authority as those of the magistrates' courts (Joubert, 2008:3). If the bill is passed, it will fuse executive and judicial powers and put this power into the hands of unelected traditional leaders. It is exactly this fusion of power that characterised customary colonial power, as described by Mamdani: 'The administrative justice and the administrative coercion that were the sum and substance of [the chief's] authority lay behind a regime of extra-economic coercion, a regime that breathed life into a whole range of compulsions: forced labour, forced crops, forced sales, forced contributions, and forced removals' (1996:23).

While the institution of traditional leadership has gathered strength over the past five years, in rural areas the fragile institution of municipalities has weakened. A 2009 municipal survey points to the widening disparities between municipalities in the former white South Africa and those in the former Bantustans (Municipal IQ, 2009). According to the survey, the weakest district municipality in the country is OR Tambo, the largest in the former Transkei. Twelve of the local municipalities falling within this area languish in the list of the worst 15% of municipalities in the country, with Mbashe coming dead last. As Oomen puts it, ours is a 'patchwork democracy' (quoted in Claassens, 2008:274).

There are three programmes of land reform in post-1994 South Africa: redistribution, restitution and tenure reform. Redistribution seeks to effect balance in land ownership between black and white. In the medium term it attempts to change the infamous 87 : 13 ratio to something closer to 60 : 40. The mechanism for achieving this is a state grant, which ranges from R20 000 to R100 000 per beneficiary. Since the adoption of the Land Redistribution for Agricultural Development (LRAD) Policy in 2000, as the primary mechanism for achieving redistribution, the former Bantustans have effectively been excluded from redistribution. Of the 349 LRAD projects in the Eastern Cape in 2007, only three were located in the former Transkei.

Restitution seeks to effect some measure of justice for black people who were dispossessed of land rights through racially discriminatory law or practice after 1913. Since 1994, most of the land reform budget has been spent on restitution. In 1996, the government said it saw the most significant type of forced removals to have been implemented after 1913, namely betterment dispossession, as falling outside the scope of the restitution process. Significantly, virtually all betterment schemes were implemented in the Bantustans. By stipulating that betterment was outside the scope of restitution, government effectively excluded people living in the former Bantustans from restitution.

Tenure reform aims to secure the land rights of those whose claim to land that they hold or occupy is weak as a result of racial prejudice. This has been the least resourced, most incoherent of the three programmes. A notable moment in the brief, inglorious saga of tenure reform was the passing into law of the Communal Land Rights Act (CLARA) in 2004. This law is archetypal post-1994 segregationism. The property system in former white South Africa is left untouched, while tenure in the former Bantustans is codified as second-class, inferior and insecure. The Act strengthened the property

power of the Minister and traditional authorities, and weakened the standing of individual rights-claimers, especially certain categories of women (such as divorcees and unmarried adult sisters). The fact that the Constitutional Court recently declared CLARA unconstitutional does not change the key point here, which is that the relatively well-resourced programmes of restitution and redistribution apply largely in former white South Africa, whereas the second-class tenure reform programme applies mainly in the former Bantustans.

Given the centrality of customary tenure to South African exceptionalism, that is segregationism, it is likely that there will be no progress in formulating, let alone implementing, any coherent and progressive tenure reform programme in the foreseeable future. It is inconceivable that this government, which now has such a settled, effective strategy of rural governance – revolving around welfare, chiefs and headmen, and apartheid-era custom – would tamper with its basis, namely a land tenure system that fosters dependency.

## 5. Conclusion

The deepening division between the former Bantustans and former South African areas – the entrenched and worsening so-called legacy of apartheid and segregationism – has come about only because of the renewal of practices of segregationism since 1994. That year did not signal a moment of discontinuity, it did not mark the end of one era and the beginning of another. The South Africa of 1910 comfortably survived the key outcomes of the negotiations that took place from late 1991 to late 1993, that can be summarised as the ‘New South Africa’. The year 1994 features in this narrative of South African history as a tragic twist in the tale – a chimera of freedom that has materialised as condemnation to the camp.

For former Bantustan residents, 1994 meant that they were no longer regarded as ‘extradomestic aliens’, as foreigners in the land of their birth, but they have not yet attained citizenship. Instead, they have now morphed into a variety of domestic tenant, or serf, entirely dependent for their survival and shelter on the goodwill and largesse of the welfare state and its various custodians of tradition and custom. In other words, 1994 meant that the Bantustan resident had changed, in the words of Baucom (2005:190), from one form of ‘haunting opposite of the citizen’ to another.

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