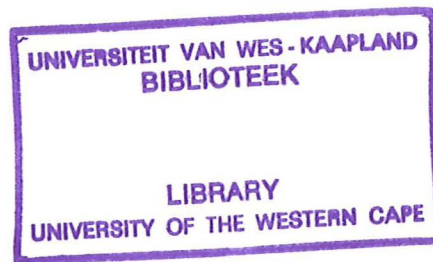


AFRICAN PERSPECTIVES ON
THE LAND QUESTION:
THE NATIVE LAWS COMMISSION 1883


MöSHè EDWARD SWARTZ

UNIVERSITY of the
WESTERN CAPE



A MINI-THESIS PRESENTED IN PARTIAL FULFILMENT OF THE
REQUIREMENTS FOR THE DEGREE OF MASTER OF ARTS
(SOCIAL DEVELOPMENT)
AT THE UNIVERSITY OF THE WESTERN CAPE

PROMOTOR: *PROF. M. LEGASSICK*

CONTENTS

CHAPTER 1: INTRODUCTION	1
1.1 Background and Motivation	1
1.2 Purpose of Study	2
1.3 The importance of the Native Laws Commission, 1883	3
1.4 Method of Study	4
1.5 Structure of Study	5
1.6 Limits of Study	6
BIBLIOGRAPHY	8
CHAPTER TWO: CONTACT WITH COLONISTS	10
2.1 Ama-Gqunukwebe: In the vanguard of Ama-Xhosa	10
2.2 The Deliberate Dispossession of Ama-Xhosa	13
2.3 The 1820 Settlers	14
2.4 Foreigners in their own land	17
BIBLIOGRAPHY	23
CHAPTER THREE: AFRICAN PERSPECTIVES ON LAND	25
3.1 Introduction	25
3.1.1 Introduction to Individual Tenure	26
3.2 The Aim of the Barry Commission	29
3.2.1 Method of Work	30

AN ANALYSIS OF RESPONSES TO QUESTIONS PERTAINING TO LAND	30
1.A DASHE'S EVIDENCE	30
1.B TOTO, METU, NGQABA, TSHUKA, DASHE AND ZONKE'S EVIDENCE	31
1.C TOTO, METU, NGQABA, TSHUKA, AND DASHE'S CONTINUED EVIDENCE	35
1.D KAULELA, PHAHLA, JOHN NJOKWENI, LIWANA NJOKWENI, DARBY NJOKWENI, JOHN NGWEKAZI, NYANISA, DAVID MATOMELA, MXEKELWANE AND BENJAMIN TEMBU'S EVIDENCE	39
2.A CHIEF WILLIAM SHAW KAMA AND HIS COUNCILLORS' (TELE MAGAMA THOMAS, DAVID SOLOMON, NQWABE, MJOKILE, MAKENA AND OTHERS) EVIDENCE	41
2.B NATHANIEL MHALA'S EVIDENCE	46
2.C ZULU, XAYIMPI, POMBANI PATENI, ZONDANI, KLAAS DONDOLA, MATSHOBA, SOKABA, MATHISNGELA, MQUZANA, LISHUHA, BUGE, GOZA, NYINGIZA, NTONGA AND OTHERS	46
2.D PETRUS MAHONGA AND SAM SIGENU'S EVIDENCE	48
3.A MANKAYI RENGA'S EVIDENCE	48
3.B MATANZIMA AND NDARAL'S EVIDENCE	49
3.1.B MGUDLWA, MANGELE, SANDILE, VENA, SIGIDI, SITONGA, NGENGANA, MENDELA, TSHECILE, MABETHA, SILO, QOTI, MABANDLA	51
3.C REV. WILLIAM SIGENU'S EVIDENCE	53
3.D PARAMOUNT CHIEF NGANGELIZWE AND HIS HEADMEN'S EVIDENCE	53
3.E MAKI, SIGIDI, NGCWELESHE, SIPIKI, TETYANA, TAUTI, PETSHANA, NOMATYE, NDESI, MHALA, MOSES, POSWA	55
4.A VELDTMAN, NAGIDA, JAMES GANGENI, STEPHANUS SANGA, MAKINANA, DINISO, MOKI, JOHN SADLA, FALENI, QUENKA AND PAMLA'S EVIDENCE	57
4.B ZALALA, TANGA AND GEORGE'S EVIDENCE	58

5.	CETYWAYO'S EVIDENCE	59
	BIBLIOGRAPHY	63
CHAPTER FOUR: THE COMMISSION'S MAIN IMPRESSIONS AND THEOPHILUS SHEPSTONE'S VIEWS		64
4.1	INTRODUCTION	64
4.2	The commission's main conclusion	64
4.3	Shepstone's views	68
4.3.1	On land tenure	72
	BIBLIOGRAPHY	82
CHAPTER FIVE: CONCLUSION		84
5.1	The concept of community	88
5.2	Afrocentredness or afrocentricity	92
	BIBLIOGRAPHY	95



CHAPTER ONE

INTRODUCTION

1.1 BACKGROUND AND MOTIVATION

Both Am-Xhosa and the European farmers, being pastoralists "the search for land and grass was (their) first principle", notes Walker (1928). When they met, they differed fundamentally on the "vital matter of landholding". So different were their perspectives, that Lekhehla (1955) suggested, as far as the treaties were concerned: "The Native Chiefs either did not understand the implications of the border treaties, or if they did, never intended to respect such treaties" (p.21). Hopper (1980) says the tension between the Europeans and the Africans on the land issue emanated from the fact that "Xhosa expansion" and "colonial expansion" processes were entirely different. While Am-Xhosa expanded in order to "preserve their political integrity" colonists were driven by an economic dynamic they expanded because land was necessary to accommodate growth (1980:261).

Davenport (1974) also puts land at the core of the tension between Europeans and Africans. He illustrates this by focusing briefly on Chungwa's evidence before the Select Committee on Aborigines (British Settlements) 1836. Before this Committee Chungwa testified that the "great reason" for much of their grievances "is the land". This competition for land suggests Giliomee, was "exacerbated by conflicting views about landholding". While the Europeans considered a certain demarcated area as belonging to them. Am-Xhosa saw land as "communal property" (1979:296). There are numerous such observations that have been

taken. For example Wolton (1947), like Giliomee noted: "The land was owned by the tribe collectively".

The "tension between the two land ethics, traditional and Western", was also the theme of papers presented in the workshop hosted by the Institute for a Democratic Alternative for South Africa in the Western Cape in 1990. But having noted the importance of understanding (also) the African view, these papers did not give any evidence or serious attention to what the African perspective on landholding is. Davis and Corder put it that in this regard Davenports work is "exhaustive" enough. But on closer examination Davenport also does not give in-depth attention to the African Perspective. In **The Right to Land** (1974) one would have expected this, but Davenport relies heavily on the views of Sir Theophilus Shepstone "a white expert's interpretation of African custom in the matter of landholding". Davenport chose Shepstone's views "in preference to statements by the African witnesses to the Barry Commission" (Native Laws Commission 1883), because he found it more "comprehensive" (1974:34).

1.2 PURPOSE OF STUDY

This study is aimed at examining the African's views on the land question as presented by themselves before the 1883 Native Laws and Customs Commission. It is hoped that by focusing on such early African perspectives on the land question, these perspectives will provide a basis for evaluating the desirability of whatever results from the present land reform processes in South Africa.

1.3 THE IMPORTANCE OF THE NATIVE LAWS COMMISSION, 1883

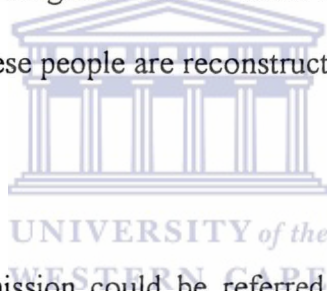
From the point of view of planning, an examination of the African evidence before the Barry Commission is important. Race as a basis for planning will fade into oblivion as South Africa gropes towards democracy, even in land-reform. The importance of this Commission



It is the realization that rules also have ethical and normative aspects that importance will therefore have to be laid on the philosophical foundations upon which our land reform strategies will need to be based. The Cape Native Laws Commission of 1883 will help us recognize some ethically sound or adequate philosophical foundations on which land reform in South Africa should be based.

1.4 METHOD OF STUDY

This study is essentially an inquiry into how people experienced and interpreted certain phenomena. The researcher has thus no access to the phenomena for direct observation. Nevertheless, the data under investigation can be taken as responses by the people who experienced the phenomena. These people are reconstructing the phenomena for us, albeit a century later.



The method used by the Commission could be referred to as the *survey method* (and specifically as the *personal interview*, as the respondents were asked questions in a face to face interpersonal role situation) (Nachmias and Nachmias, 1981:188).

Because this study does not involve the researcher in the "interpersonal role situation" - the researcher being removed "from the set of interactions, events or behaviour being investigated, it thus uses unobtrusive measures as a method of research". As Nachmias explained "public archival documents" such as those this study is investigating "represent

an unobtrusive measure because the conditions leading to their production are not influenced by an intruding researcher" (Nachmias, 1981:190).

Of greater importance in this study is the analysis and interpretation of responses. "Analysis" as Patton (1980:268) puts it "is the process of bringing order to the data. . .", while "interpretation involves attaching meaning and significance to the analysis". No research can be complete without the stage involving evaluation: making judgements about and assigning value to what has been analyzed.

1.5 STRUCTURE OF STUDY

The first chapter will be an introduction that covers the background, purpose and importance of the study.



Chapter Two is devoted to a brief discussion of the contact between Am-Xhosa and the colonists, and the relations subsequent to this contact.

In the third chapter, which is the main section of the study, the evidences of Africans before the Barry Commission are visited and analyzed in order to establish their orientation or perspectives to land.

The fourth chapter analyses both the Commission's general conclusions in its Report and a white "expert's" point of view (that of Theophilus Shepstone) on African landholding. These are then contrasted with the results of an African academic's research amongst Africans on

the issue of chiefs, which are seen as central to the African holding of land, and to African landholding in general.

The final chapter, Chapter Five, looks at the assent of the African poet and writer, Krune Mqhayi, and that of other African writers, to the views expressed by the Africans before the Barry Commission.

1.6 LIMITS TO THE STUDY

The Barry Commission's work was basically conducted in the Eastern Cape. As such, this study will be limited to an examination of the perspectives of Am-Xhosa. Am-Xhosa were indeed in the vanguard of the Westward expansion by the Africans and the Eastern Cape is "geographically and historically. . . on the frontier. . . politically it is where the government's Bantustan policy was first tested..." (Hutmacher, 1980:1-9).

Though the Commission commenced its work in 1881 and finished in 1883, we are going to look in Chapter Two at the period of the initial contact of colonists with Am-Xhosa, which many writers believe to have been around the middle of the eighteenth century. Furthermore we will also examine the relations that happened during the Xhosa-European conflict up to the Eighth War.

Additional commentary on the African perspective to land issues will also be sought, but this will be limited to those of African themselves, for example Krune Mqhayi, J.H. Soga and Alf Ngeni.

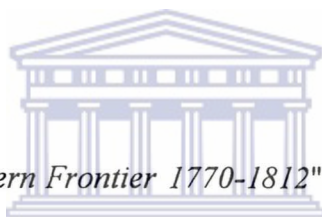


BIBLIOGRAPHY

DAVENPORT, T.R.M. 1991. South Africa: A Modern History. Fourth Edition. London: Macmillan.

DAVENPORT, T.R.M. 1974. The Right to Land. Cape Town: David Philip.

DAVIS, D. & M. CORDER, 1990. "*Restructuring the Rural Economy: Legal Issues*" in De Klerk, M. (ed), 1991. A Harvest of Discontent: The Land Question in South Africa. Cape Town: IDASA.



GILIOMEER, H. 1979. "*The Eastern Frontier 1770-1812*" in Elphick, R. & H. Giliomeer (eds), The Shaping of South African Society, 1652-1820. Cape Town: Longman.

WESTERN CAPE

HOPPER, J.A. 1980. Xhosa-Colonial Relations 1770-1803. Yale: Yale University.

HUTMACHER, B. 1980. In Black and White: Voices of Apartheid. London: Junction Books.

LEKHELA, S. MC D. M. 1955. An Historical Survey of Native Land Settlement in South Africa. Pretoria: Unisa.

NACHMIAS, C. & D. NACHMIAS, 1981. Research Methods in the Social Sciences.

London: Edward Arnold.

PATTON, M.Q. 1980. Qualitative Evaluation Methods. London: Sage.

SOGA, J.H. (N.D.), The Ama-Xhosa Life and Customs. Lovedale: Lovedale Press.

WALKER, E.A. 1928. A History of South Africa. London: Longmans.

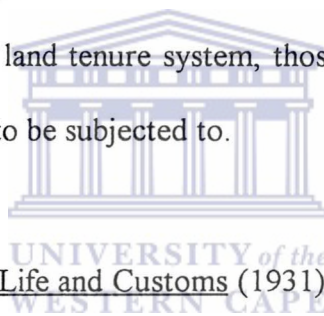


CHAPTER TWO

CONTACT WITH THE COLONISTS

2.1 AMAGQUNUKWEBE: IN THE VANGUARD OF AMA-XHOSA

In discussing the Westward expansion of Ama-Xhosa, one is bound to have to discuss the AmaGqunukwebe who some Ama-Xhosa tend to doubt as being Ama-Xhosa, and some writers, like Walker, would prefer to call "semi-Xhosa" (1950:90-97). For the purpose of this investigation, the discussion of AmaGqunukwebe is important, not only in showing how far the Westward expansion had gone when Ama-Xhosa came into contact with colonists, but also in showing what type of land tenure system, those peoples who came under the sovereignty of Ama-Xhosa, were to be subjected to.



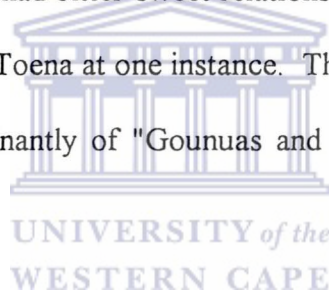
J.H. Soga, in his work Ama-Xhosa Life and Customs (1931), asserts that Ama-Xhosa tribes that first came into contact with Europeans at the Fish River, at about the middle of the Eighteenth century, were Amantinde, Ama-Gwali, Ama-Mbelu, and ImiDonge. It is ImiDonge, according to NGani (1965) who received and were passed by AmaGqunukwebe who were advancing Westward.

Walker (1956:97), also, gives an account of "a boundary commission" that "reported that Boer families were moving about just within the Colony and that others were between the Gamtoos and Fish Rivers for beyond the most distant loan-places, paying no rent for their

farms and carrying barter with the Xhosa vanguard of the advancing Bantu. . ." This was around 1737.

The Swedish Botanist, Andries Sparrman notes that Chief Toena of the Hoengeiqua tribe - a Khoi-Khoi tribe - was trading around the Sundays River area, even aiding trekboer in capturing the San-Toena, and his tribe had a great quantity of cattle that attracted the boers. Furthermore, Chief Toena at the "zenith of his power. . . received the colonists with an uncommon degree of pride and arrogance" (1975:32).

In the early 1760's the Hoengeiqua had bitter-sweet relations with another tribe called Ama-Gqunukwebe, who had captured Toena at one instance. The Hoengeique were, according to Sparrman, consisting predominantly of "Gounuas and Bastard Caffers" as well as a number of "true Caffers".



In his version, J.H. Soga (1931), relates that Ama-Gqunukwebe are regarded by Ama-Xhosa as of alien origin, not of true Xhosa stock. Their origin can be traced back to Kwane, a servant of chief Tshiwo who ruled Ama-Xhosa at about 1685 on the West side of the Umtata River.

Among the Gounuqua tribe, Kwane hid condemned Ama-Xhosa wizards who through intermarriage with them produced Ama-Gqunukwebe. Soga puts the date of the rise of Ama-Gqunukwebe of about 1700.

Thurnberg, a University of Uppsala graduate and Sparrman's fellow-graduate, travelled the Cape interior from 1772. On his arrival at the "Gamtoos River" on September 22, he found "Hottentots and Caffers" living "promiscuously" and the real Caffraria "beginning several miles further up" (1986:11). He notes further that "The Caffres that lived here were taller than the Hottentots, more undaunted and valiant, better built, blacker and stronger" (1986:103).

Clearly then, by the early 1770's, in the Ama-Gqunukwebe, the Ama-Xhosa had already advanced and lived around the Gamtoos River, co-existing with Khoi-Khoi tribes.

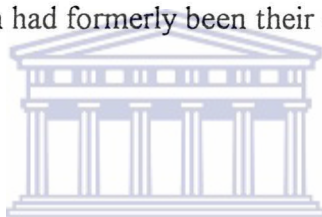
Molema (1963), too notes that by 1770, the Gamtoos River had been declared the Eastern frontier of the Cape Colony, but "five years later" this was pushed by Van Jaarsveld to the Great Fish River, thereby forcing Ama-Gqunukwebe from their land, precipitating a conflictual relationship with the house of Phalo.

From the first Euro-Xhosa war of 1779, at least up to the Fourth, the arena of conflict became the Zuurveld: the area between the Bushman and Great Fish Rivers. Ama-Xhosa roamed the Zuurveld regarding it as their own, Molema asserts "and the Dutch too" regarded it as their own territory.

Having won the Second 1789 War and being masters of the Zuurveld, the Ama-Xhosa went even further and crossed the Gamtoos River.

Peires (1981:54) also, notes that Ama-Xhosa claimed "prior occupation of the Zuurveld and they supplemented their case with allegations" of having bought the area twice.

Marais (1944) also notes that Van Plettenberg knew in his heart that the land he desired the Ama-Xhosa to vacate was rightfully theirs. There was no evidence that "either in 1778 or in the years immediately afterwards, an appreciable number of Boers were established in the Zuurveld". Marais goes on to argue that there was enough evidence to prove that the Zuurveld belonged to the Ama-Xhosa. Before the Heemraden in 1794, Captain Adriaan van Jaarsveld reasoned that "in order to get a lasting peace with the Kafirs, it would be best to give them back the Zuurveld which had formerly been their own land" (1944:6).



2.2 THE DELIBERATE DISPOSSESSION OF THE AMAXHOSA

When the Cape was finally taken over by the British in 1806, they had inherited the rest of the Euro-Xhosa wars. The Fourth War of 1811 like the others before it, was "due to the boundary question. . ." (Molema, 1963:100).

In 1811 Governor Cradock ordered Lieutenant-Colonel Graham to expell all Ama-Xhosa living West of the Great Fish River, writes Peires, "urging the expediency of destroying the Kaffer Kraals laying waste their gardens and fields and in fact totally removing any objects that could hold out to their Chiefs an inducement to revisit the regained territory". All this

had to be executed against "the savages in a way" Cradock hoped would "leave a lasting impression on their memories" (Peires, 1981:65).

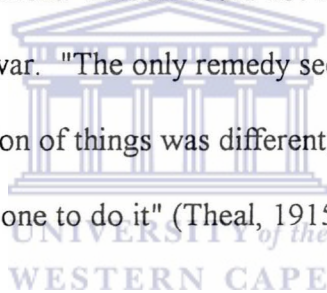
To Peires, then, the Fourth War was not precipitated "by a treacherous act on the part of the Xhosas" as Molema argues by pointing to the murder of Stockenstrom. The murder of Stockenstrom by Ama-Xhosa, like the murder of the elderly Chungwa by British troops, was a mark of atrocity committed by both sides during a war that was planned by the British. It was a war that was meant to expell Ama-Xhosa from the Zuurveld. Indeed, the Ama-Xhosa were "rejected and expelled" from the Zuurveld.

2.3 THE 1820 SETTLERS

The Ama-Xhosa may have been a constant threat to the Cape Colony and their being expelled from the Zuurveld may, as many writers argue, be connected with peace for the colony. There is however, strong evidence that the Europeans' desire to have the Ama-Xhosa evacuated from the region was based on self-aggrandizement and greed for its delicious climate and fertile soil. Crais (1992) is explicit that, charged with the "legacy of the Enlightenment", the British abolished the slave trade. When the Settlers were brought into the Eastern Frontier, it was both for security and economic reasons. The capitalism that could not benefit them in their motherland, it was hoped would see them through overseas, but it would be a capitalism of a racial kind (Legassick, 1993:333). To these two writers then, the emigration of the British Settlers amounted to an exportation of the liberal ethic and capitalism to South Africa.

As far back as the 28th July 1817, Lord Charles Somerset was hinting about a scheme to send out parties of working people, "steady and industrious mechanics and labourers" who "would produce wool, corn, tobacco and cotton" "for exportation" as Somerset believed (Theal, 1915:348). One draws the impression from Theal that the provision for defence against the Kafirs was of secondary importance to economic considerations in this scheme that was initiated by Earl Bathurst and "enthusiastically" favoured by Charles Somerset.

Another reason mentioned often, for the emigration of the 1820 Settlers, was the termination of Britain's long war with France. Among the workers of Britain after the war, there was great distress caused by unemployment. Britain could not furnish employment to the large numbers who were involved in the war. "The only remedy seemed to be emigration to other parts of the empire where the condition of things was different, where there was land without people or work to be done and no one to do it" (Theal, 1915:347).



The lands beyond the seas then, were hopefully, and often cited as land of opportunity. Somerset's despatch to Bathurst on 24 April of 1817, pointed to the Zuurveld as "the most beautiful and fertile part of this settlement. I know not how to give an idea of it unless by saying that it resembles a succession of parks from the Bushman River to the Great Fish River in which the most verdant carpet, Nature has planted in endless variety; the soil well adapted to cultivation is peculiarly fitted for cattle and pasturing" (in Hockley, 1957:15).

Godlonton (1835:2) supports this view: The country in which the settlers found themselves "was extremely pleasing to the eye; comprising in rich variety grassy knolls, wooded

ravines, and extensive plains richly studded with the elegant mimosa and a great variety of flowering shrubs; while the soil appeared well suited to the production of grain and to the support of a large number of sheep and cattle".

Thomas Pringle, the leader of the Scottish Party in the ship called *Brilliant* has the following record: "The whole scene was such as could not fail to impress deeply the most unconcerned spectator. To us, who had embarked all our worldly property and earthly prospects, our own future fortunes and the fate of our prosperity, in this enterprise, it was interesting and exciting to an intense degree" (1835:8).

In another dispatch to Bathurst, as Hockley stresses, Somerset did state that the scheme would "principally be one of frontier defense", but Bathurst took no action until the Fifth War broke out. Ama-Xhosa were driven out of the Zuurveld that was left depopulated; "it became evident that the gap would, of necessity, have to be filled by immigration from overseas" (Hockley, 1957:16).

At the end of 1819 within six months of the conclusion of the Fifth Euro-Xhosa War, twenty-one emigrant ships carrying not less than four thousand British settlers set sail. They were destined for "the land of milk and honey" - the Zuurveld.

About this event a conclusion that can be drawn is that the expulsion of the Ama-Xhosa from the Zuurveld was not only an economic answer for alleviating England of its unemployment burden. It was also a defense solution for the colonists of the Cape.

2.4 FOREIGNERS IN THEIR OWN LAND

In January of 1820, after the Fifth War, Donkin issued a proclamation, declaring the Keiskama River the Eastern boundary of the Colony. Now the whole of the neutral territory across the Fish became a new district called Albany. No Ama-Xhosa were to be allowed across the frontier without permits. Donkin entitled Field Cornets to arrest "Kaffers and Gonoquas" and take them to Grahamstown where they would be dealt with "according to instructions". Pringle illustrates the execution of Donkin's orders with the capture of a "Caffer woman, accompanied by a little girl of eight or ten years of age, and having an infant strapped on her back, . . . for crossing the line of demarcation without permission". Ama-Xhosa were now to enter the region with permission only and were to be given out in "servitude among the white inhabitants of this district" (1935:15).

Less than a year after the arrival of the settlers, despite the "rigid system of non-intercourse" laid down by the government, a mutual intercourse between the newcomers and the Africans developed. According to Godlonton (1835:131-133), an "active traffic commenced in ivory which was readily exchanged by the Kafirs for beads and other valueless articles of a like description". It was becoming clear by 1821 that it was futile for the government to stamp out such intercourse.

On the banks of the Keiskama River "a fair" was established through Sir R.S. Donkin's proclamation. Through this proclamation, Africans and colonists engaged legally in mutual barter, under restrictions such as article X: "*No person shall come to the market with fire-arms or ammunition*".

By 1834 this market had grown to a lucrative enterprise. "The African farmer on the border" had become a different type of person from that "portrayed some twenty years or thirty years ago", notes Godlonton. They were participating in the market on a par with their European counterparts (Godlonton, 1835:198).

Beginning Sunday, the 21st December 1834, this economic activity saw its devastation, the first victim of the Sixth War. The entire territory between the Great Fish River and the Kei was proclaimed a British sovereignty by Sir Benjamin Durban - a measure that was regarded as robbery by the Ama-Xhosa. A great number of chiefs now had come under British control and in a meeting that Colonel Smith opened by shouting "Long live our good King William the Fourth", he detailed all fundamental laws that they henceforth would have to obey: "to abjure from theft, murder, witchcraft, perjury, arson, rape and treason against their new King..." (Dracopoli, 1969:119).

In March 1838, while Colonel Smith was still at work in King Williamstown, Lord Glenelg's dispatch reached him. Lord Glenelg, in no uncertain terms, found the Ama-Xhosa justified in their invasion of the Colony as they were provoked by wrongs that gave them a reason to

enter war. Lord Glenelg believed "The Caffres were unavoidably converted by them into a nation of depredators". He therefore put it to Colonel Smith that "I cannot admit that the British sovereignty over the country between the Fish River and the Keiskama rests on any solid foundation of international law or justice" (Dracopoli, 1969:122).

What worried the settlers about retreat from the newly acquired territory was the possibility that "the sight of the Redcoats in retreat" would encourage the Ama-Xhosa to embark on another offensive. Hence their opposition to the reversal of the settlement.

But Stockenstrom, in a letter to Durban in October 1836, reasoned that "the Fingoes and Kaffirs, since they have become British subjects, plunder worse than ever they did before the war" (Dracopoli, 1969:131). He strongly believed that the ceded territory between the Fish and Keiskama Rivers should be returned to the Ama-Xhosa. The Great Fish River boundary was returned to the Ama-Xhosa. The Redcoats retreated across the Fish River and the Ama-Xhosa chiefs gained back their sovereignty.

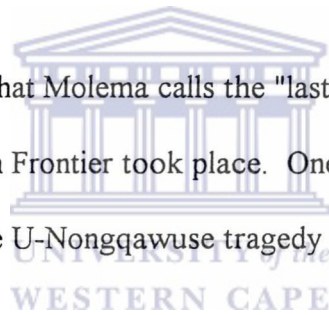
The abandonment of the province of Queen Adelaide, convinced many settlers, especially the dutch Boers, that their interests were of no significance to the British government. This was a major cause of the Great Trek. The trekking north of the Oranje River got into full swing between 1835 and 1845.

Beyond the Fish River frontier, the Ama-Xhosa chiefs were now bound by treaties entered into with Captain Stockenstrom. A new set of regulations dealing with, amongst other

issues, stolen cattle, touched their very economic and cultural system albeit "remorseless" (Legassick, 1993:345). Inroads were being made by this "treaty-system" into the African way of life as did the whole settler plan.

After Stockenström, Napier took over and reversed many of his treaties. Colonists, for example, were to be allowed to enter Ama-Xhosa land, in pursuit of their cattle, in small parties without having to be accompanied by any African police. Many changes were introduced without any consultation with the Ama-Xhosa chiefs. A slide towards the war of 1846 was started.

Between the Eighth and Ninth or what Molema calls the "last Euro-Xhosa War" two events that affected Africans in the Eastern Frontier took place. One was the arrival of Sir George Grey in 1854 and the other was the U-Nongqawuse tragedy of 1856.



Sir George Grey, who arrived after the terrible defeat of Ama-Xhosa in the Eighth War of 1850, engineered the Ama-Xhosa affairs in such a manner as to pacify them not by warring against them but by channelling their activities into other occupations.

The national suicide of Ama-Xhosa, the u-Nongqawuse event that took place two years after Grey's arrival was more terrible in its effect than any of the wars. Seventy-thousand Ama-Xhosa and more, died of starvation and their power was well-nigh totally broken.

Crais (1992:200) reasons that through his emphasis on education, Grey aimed at colonizing the mind of the Africans. But more than this, Grey "reconstructed" the political structure of the Ama-Xhosa society, as he believed that this would liberate the African people from the thralldom of Chieftainship. Bent on integrating Africans into the European way of life, he introduced the "village system": "while each village would have access to free commonage, Africans were to hold their land 'on the same terms on which land is held in the Colony by the white men'". He went on to introduce taxation on livestock and housing.

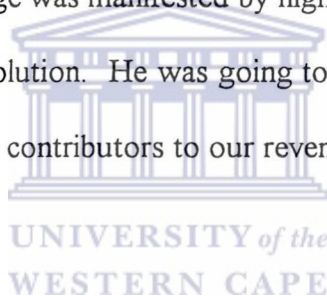
The great disappointment had helped Grey to drive starving thousands of Ama-Xhosa out of British Kaffraria. The evil "transportation" policy and contract labour functioned toward the fulfillment of his aim of equalizing the proportion of black and white in British Kaffraria.

But Grey calculated that though the districts of British Kaffraria were virtually emptied, though the country of Phatho, Maqoma, Mhala and Sandile may have shrunk in numbers, the boundaries remained the same. The principle of land tenure practised by the Ama-Xhosa would ensure that when the "transportees and contract labourers returned, they would all get their land back" (Peires, 1989:290). Desiring that this should be prevented, Grey worked toward putting a stop communal to land tenure. Individual land tenure would make it possible for the government to "control population influx and access to land".

Such a scheme effectively killed chieftdom, and reversed African social structure to the core. This was exactly in accordance with Grey's plan of "promoting the individual at the expense

of the chief" (Peires, 1989:290).

With the help of the Nongqawuse tragedy, the dream of the settlers and British rulers draw closer to reality: "free labour" is what they needed. Grey's system and reconstruction proved generous in this regard. The "insatiable need" for this commodity "made them hysterical advocates of the conquest and dispossession of the Xhosa" (Legassick, 1993:334). Research in the Cape in 1848 had produced a report of a scarcity of unskilled labour. In the Malmesbury district, the shortage was such that the damage caused through want of labour was estimated at some "thousand muids of corn" notes Peires. Fertile land was lying waste and the effects of the labour shortage was manifested by high wages and prices in the entire Cape. Sir George Grey had the solution. He was going to make the Ama-Xhosa "useful servants, consumers, of our goods, contributors to our revenue" (Peires, 1989:247).



BIBLIOGRAPHY

CRAIS, C. The Making of the Colonial Order. Johannesburg: Witwatersrand University Press.

DRACOPOLI, J.L. 1969. Sir Andries Stockenstrom - 1792: The Origins of the Racial Conflict in South Africa. Cape Town: Balkema.

GODLONTON, R. 1835. The Irruption of the Kaffir Hordes. Cape Town: Struik.

HOCKLEY, H.E. 1957. The Story of the British Settlers of 1820 in South Africa. Cape Town: Juta & Co.



LEGASSICK, M. 1993. *The State, Racism, and the Rise of Capitalism in South African Historical Journal*. Volume 28.

MOLEMA, S.M. 1963. The Bantu Past and Present. Cape Town: Struik.

NGANI, A.Z. 1965. *Imfuduko in Intlabamkhosi: Izibongo Zesi-Xhosa*. Lovedale: Lovedale Press.

PEIRES, J.B. 1981. A History of the Xhosa from 1600-1850. Johannesburg: Rovnan Press.

PEIRES, J.B. 1989. The Dead Will Arise. Johannesburg: Rovnan Press.

PRINGLE, T. 1835. Narrative of a Resident in South Africa. Cape Town: Struik.

SOGA, J.H. 1930. Ama-Xhosa Life and Customs. Lovedale: Lovedale Press.

SPARRMAN, A. 1975. A Voyage to the Cape of Good Hope. Vol.2. Cape Town.

THEAL, G.M. 1915. History of Southern Africa from 1795-1872. Volume 1. Fourth Edition.



THURNBERG, C.P. 1986. Travels at the Cape of Good Hope 1772-1775. Cape Town: Van Riebeeck Society.

WALKER, E.A. 1956. A History of Southern Africa. London: Longmans.

CHAPTER THREE

AFRICAN PERSPECTIVES ON LAND

3.1 INTRODUCTION

This part of the work is the major area of this mini-thesis. It is first and foremost about arriving at the African views on land tenure.

The issue of land tenure among Africans is not simply about the type of ownership of the land (communal or freehold); for Africans as Letsoalo notes, the concept is multifaceted including the "question of poverty, lease, inheritance, accessibility and land use rights" (1987:1). Letsoalo here confirms that within an Afrocentric axiology (philosophy of judgements) the highest value is put in interpersonal relationships. There is preeminent value put on a human-centered orientation to living rather than an object or material orientation (Schiele, 1990:156). Land tenure then, when looked at by Africans, is not simply a "man-land" but a "man-man relationship" suggests Letsoalo. The Africans focus on community (this feature will be elaborated on in Chapter Five) stands in stark contrast to the capitalistic emphasis on subunits that creates internal differentiation in society. While capitalism was fundamentally rooted in liberal individualism, an African's self-identity is found and banked on contact with others. It is based on contact-awareness.

Before a discussion of the context in which the Commission was set up and also before we examine its actual work among Africans, let us look at how Africans got introduced to the settlers' capitalist tenure of land.

3.1.1 Introduction to Individual Tenure

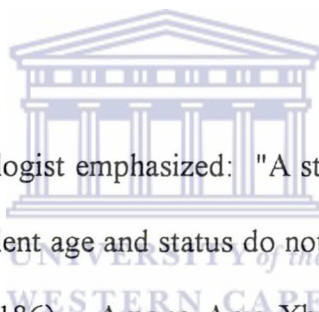
In his otherwise brilliant critique of Bundy's Rise and Fall of the South African Peasantry, Jack Lewis criticizes Harold Wolpe and Bundy of "missing" to note "the nature of stratification in pre-capitalist modes of production". They both "discerned", he criticizes, an "egalitarian" and "redistributive structure in which social classes and class conflict played no role" (1984:3). What Lewis drives at is the point that precapitalist units of production were "highly polarized" (p.4).

First of all let us examine the assertion that household (which according to him is not "umzi" but simply a "family"), was not the unit of production, but the homestead was. It is not really necessary to make the objection here but according to Ama-Xhosa both the household or the homestead are known as "umzi" (Kay 1833:118). But such an objection is too cosmetic for our present purpose. Whether "umzi" consisted of two huts or more, whether "it was seldom that a man with only one wife would be the head of his homestead" this did just not change the fact that the productive unit is the "family"- the household-one or more wives to a man. If a group of families chose to co-operate and thus to be more productive, it still does not alter the fact that "umzi" is the productive unit.

In fact the survey that Jack Lewis refers to does testify to this. Albeit small, "5.5. percent of the 1090 homesteads consisted of one household" (family p.5) and these were productive units in their own right. Indeed Monica Wilson assents: "Access to land for cultivation and pasture was a national right: every married man was entitled to a field... the underlying (but

rarely explicit) assumption was that every family was entitled to land, (197: 60-61) (emphasis mine).

Moving on, we come to ponder "stratification" in society. It is clear from a closer reading of Lewis' critique that what he reads into the differences in size of the production units amounts to polarization, and that subsequently Bundy missed to note the inherent "stratification" in the Xhosa society. But there seems to be an accepted view held by social scientists that "a society becomes stratified when some groups are excluded from access to strategic economic resources" (Southall 1978: 8). Amongst Ama-Xhosa all household had this right, this accers to land.



Morton Fried, a political anthropologist emphasized: "A stratified society is one in which members of the same sex and equivalent age and status do not have equal access to the basic resources that sustain life" (1967:186). Among Ama-Xhosa and Ama-Zulu, in the pre-colonial era, no bias maintaining an order serving a particular interest of a specific group existed in society. "The land is common", reads Sutherlands memoirs written in 1869 about "Magosses" (Ama-Xhosa), "in their intercourse with one another they are civil, polite,... they submit their disputes to the king,... they are much respected and beloved by their subjects" (1844:53).

With the advent of colonialism came social stratification among Africans. This is noted by Colin Bundy in his work *The Rise and Fall of the South African Peasantry* (1988:9). In

particular AmaMfengu has set themselves apart, "broken with their African neighbours" (Bundy, 1988:35) when they fought on the imperial side in several Euro-Xhosa wars, and were rewarded with land.

It is not surprising, and indeed the interviews conducted by the Barry Commission illustrates this, that AmaMfengu "were hastened along the path to fuller involvement in a capitalist economy..." (Bundy, 1988:34). Bundy notes that as early as 1840 AmaMfengu had been introduced into individual land tenure (1988:52).

Initially, individual land tenure was practised by dividing land into small allotments at an annual lease of £1. This scheme having failed George Grey introduced in a proclamation in 1858 the buying of Crown land by Africans of £1 an acre. Explaining individual tenure that was introduced to Africans, Soga (1933:334) reasons the lands held under title were those surveyed and held under an annual quitrent. "Failure to pay this places the owner in danger of having his title confiscated or cancelled."

"Another form of access to land" was where individuals "experienced rents and individual tenure on mission stations". The mission stations owned the land and the "faithful" or tenants, had to pay in "cash or kind". Besides this form, Bundy also mentions that some Africans leased "(for cash, kind or payment in labour, service or some combination of these) a portion of a white landholder's farm" (1988:52-54). The Commission on Native Laws and Customs (1883, Report and Proceedings; 127-8) does also assert to this condition: there

were Africans in the Albany division that rented land from settlers, paying up to £80 in rent annually.

As will be evident as we investigate African perspectives on land tenure, hunger for land was widespread among Africans. Having experienced land dispossession as a people, Africans were driven "within new contexts in which land could be granted by the authorities other than the chief" (Bundy, 1988:97), to seek land as individuals. As their way of life was being undermined and denigrated by colonists, individual Africans were compelled to seek, contrary to their tradition, some kind of security of tenure. In the several forms mentioned above, many got involved in individual tenure.

3.2 THE AIM OF THE BARRY COMMISSION

The Commission was set up to gather evidence on four subjects pertaining to Africans:

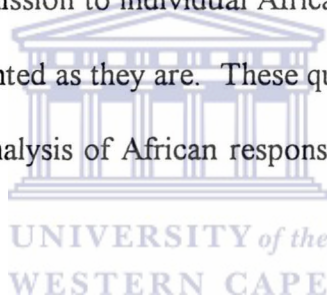
- (a) Civil and Criminal Law;
- (b) Native Marriages and the law of Succession;
- (c) Land tenure; and
- (d) Governments

It is against the background that "even before the addition of the British Kaffraria to the colony (formally incorporated in 1865), there were these who argued that the realities of the African condition should be accorded legal recognition, differential legislation accepted and an entirely separate administration created for Africans" (Saunders, 1978:6), that the work

of the Barry Commission commenced. But many were not comfortable with this view, since Acts that were rooted on it were felt to "run counter to the philosophy that law should not recognize race" notes Saunders. This implies that those Africans who remained subject to their system of land tenure while in the colony had "had special rights" (Saunders, 1978:6). By 1880, the Cape government, faced with "a large and complex question of a system of law and a form of government for" annexed territories, had to adopt John Merriman's motion that "a commission be appointed to tackle it" (Saunders, 1978:89).

3.2.1 Method of Work

The questions posed by the Commission to individual Africans and to groups of them, and the responses thereto will be presented as they are. These quotations will then be followed by comments intended to be an analysis of African responses to mainly, the issue of land tenure.



AN ANALYSIS OF RESPONSES TO QUESTIONS PERTAINING TO LAND

[Source of all oral responses: *Minutes of Evidence. Report
of the Native Laws and Customs Commission. 1883*]

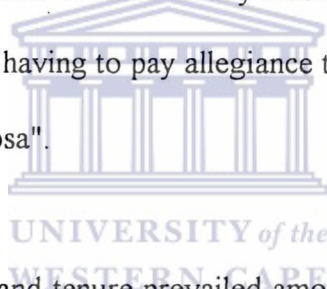
1.A DASHE'S EVIDENCE (pp. 79-82)

The Commissioners did not ask Dashe any questions that related to land. But perhaps the following allegation towards the close of his evidence will give a clue as to his attitudes

towards African institutions:

Now let me ask a question: Who is this chief called Government, and who is this chief called Xosa? Let us mention names and go back to old times. The place where this town stands was captured by a Kafir Chief from the Bushmen, and let me ask you if you know the chief of the Tembus, who gives one judgement one day and another judgement another day; but it is all your fault, and this has only been since the white men came among us. You must think that over. Our laws were perfect before your arrival.

Dashe's evidence can only suggest he abhorred the disruption brought upon African institutions by the colonial government. He here briefly illustrates the psychological trauma felt and experienced by the people in having to pay allegiance to two systems: that of "Chief Government" and that of "Chief Xosa".



Undoubtedly, whatever system of land tenure prevailed among the Africans, in his mind it was "perfect" before "your arrival".

1.B TOTO, METU, NGQABA, TSHUKA, DASHE, AND ZONKE'S EVIDENCE

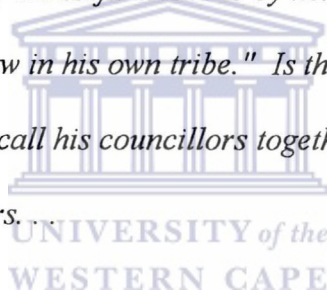
(pp.82-103)

These were men of the Ngqika tribe. Some of them like Toto who spoke much before the Commission were councillors to former Xhosa chiefs. (Toto was a councillor of Chief Stokwe, Eno's son.)

Again in this examination the Commission did not touch upon land issues. Nevertheless, about the Chief who is pivotal in the land issue among Africans, these men's evidence is very informative.

With them, the Commissioners had, and always made reference to Colonel Maclean's Compendium. This book was regarded by Europeans as some kind of a "Bible" of "Kafir Laws and Customs". Appendix B (pp.17-21), has a compilation from this compendium:

In the summary of Native Laws and Customs, compiled by Col. Maclean's Compendium, it is said that - *"The government of the Kafir tribes is by hereditary chieftainship, and the paramount chief is above all law in his own tribe."* *Is that right? - No; before a chief can talk a matter over he must call his councillors together, and then that matter must be talked over by the councillors.*



Further in the Compendium it is said that the paramount chief *"has the power of life and death, and is supposed to do no wrong"*. *Is that correct? - The chief can't kill anyone whom he chooses. . .*

Can the chief do wrong? - Yes, a chief can do wrong, and it often happens that when a chief does wrong he would be interfered with, and punished by having his favourite councillor, or prime minister, eaten up.

According to Tshuka's testimony (which was accepted as correct by the other witnesses) there were instances where a blundering chief would even be "assegaied". Tshuka went on to quote evidences of cases where councillors without proper consultation with all the others, were punished for giving wrong advice to the chief.

Such testimonies banish all claims that democracy is a foreign phenomenon in African culture. Contrary to what was claimed in the "compendium", the people had a choice when faced with a chief that was bent on acting against accepted customs and laws. Power belongs to the people. Said Tshuka:

" . . . the remedy of the people is to leave him and choose another chief, going to a subordinate chief of the same tribe and strengthening him. . . "

Commenting on the Summary of Native Government, Laws and Customs, which the Commission relied upon so much, J.Knox Bokwe from the Lovedale Institution of Education, also noted that "according to real and ancient Kafir custom" it is a "mistake "to say that the paramount chief "*is above law... (and does) no wrong*" (Appendix B:36).

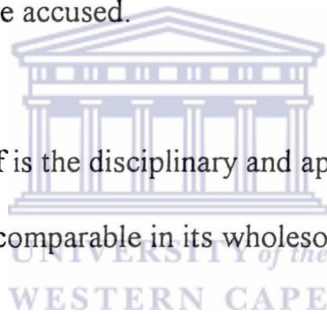
He went on to illustrate why such a perspective of chiefs is a distorted one: "On the day of appointment, that is, when the chief becomes of age (after circumcision), this is what he is told:

"These are your men, or people, who will have the privilege of answering you when you do wrong." (Abantu bako ngaba, abayakupendula wakona.)

These men who according to African democracy, the chief was never to take any decision without consulting, are amapakati. Any chief that persisted in pressing "any judgement adverse to theirs" would be accused of lacking "amasiko" and would be stoking civil war.

These men - *amapakati* - had one generally regarded as the greater of them all - the equivalent of a "prime minister" in a government. His "person and residence" provided a place of refuge to anyone escaping punishment, even the paramount chief dared not to approach his place to evict the accused. The chief pakati would then intercede and plead for mercy on behalf of the accused.

What we should never lose sight of is the disciplinary and appeal procedure that the nation had access to during dispute. It is comparable in its wholesomeness to any.



AmaXhosa has several tribes such as Ama-Ngquiko, Ama-Gcoleka, Ama-Ndlambe and Ama-Gqunukwebe. These tribes had their own chiefs who governed with the help of amapakati who were headmen in their own kraals. Amapakati in all kraals in a chief's division constituted a court and a government - that gave preliminary examinations to cases.

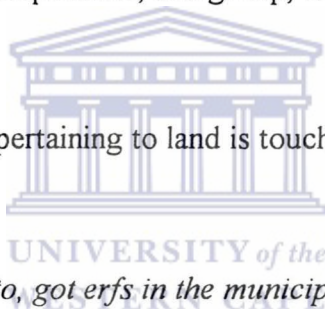
If in any kraal a headman's judgement was found unsatisfactory by complainants, they could go further and appeal to the chief of the division who would assemble all amapakati together

to hear the appeal. Should even this stage's judgement be found unsatisfactory, the paramount chief's help could be sought.

1.C TOTO, TSHUKA, METU, ZONKE AND NGQABA'S CONTINUED EVIDENCE

Four days later (on 19 September 1881), the Commission re-examined Toto, Tshuka, Metu, Zonke and Ngqaba - Dashe was not present. The examination of these men is the longest and the most comprehensive of any group of men examined by the commission. They were examined first for three consecutive days - 13-15 September. On the 16th September two African ministers of religion were examined, and then again from 17-20 September, this group, that of Toto's, was re-examined.

In this examination the chief's role pertaining to land is touched. (Source: pp.119-122)



Have you all of you, beside Toto, got erfs in the municipality of Alice? Yes.

What rents do you pay? We pay house rent - 10s, annual quitrent of 10s, water rates and road rates, each 3s.

Are you satisfied with your holdings? We have been enclosed and see no means of getting out. Boundaries are made around us, and so we have to submit.

Is it not better to have these erfs than to live at your kraals? We like freedom better.

Would you like to go back to the old state of things under chiefs? Yes.

What benefit did you enjoy under chiefs? We had our freedom then.

But you were not free under your chiefs? He did not interfere with our rights to land.

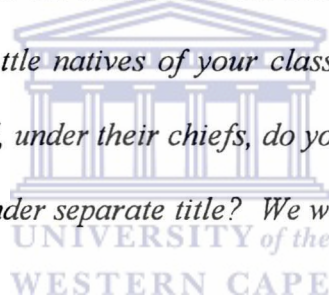
Do the people of your class have any objection to having their rights to land regulated by title deeds? It might be better if the pieces of land were larger, but we prefer our old system.

Suppose your piece of land were double the size it is, would not that please you? Yes, I would be better pleased with twelve acres than with six; but I do not like surveying not the titles.

You do not like the separate titles? I put up with individual titles because I am forced to do so; but if I could possibly avoid them, I would.

Is that the general feeling of your class with respect to titles? We all say this feeling is very widespread, it goes down to the women and the children. . .

If the Government were to settle natives of your class on a large tract of country, allowing them to live as they did, under their chiefs, do you think they would prefer that to each holding a piece of land under separate title? We would all prefer the old system.



Do you understand that when a man has a title it gives him such a right to the soil that neither the Government nor anyone else can deprive him of it, and that he can sell it if he has the opportunity? I do not understand that.

Why? Because the very first time I have not got ten shillings to pay my rent, they will say "Do not plough."

Who will tell you that? I saw that in Nqangatha's case and Thetshe's case; they had titles like mine. Nqangatsha bought ten acres of ground from Government at Keiskama, and in consequence of having to pay for this he was hard up, and he could not find



UNIVERSITY *of the*
WESTERN CAPE

What was so unacceptable to the African delegation was the fact that this right to the land under the individual title system could vanish overnight at the first instance of failing to pay rent which was in itself unacceptable to the Africans. African government and society was not maintained by paying this or that kind of tax. It is the wealth obtained from the land that was shared for the maintenance of public life.

Clifton Crais (1986) has not so long ago given a reminder about the Eastern Cape gentry, most of whom had arrived in 1819-1820 "as part of the colonial scheme to establish a belt of European settlement along the border with Kaffraria". These men came to the Cape having suffered economic and social losses at the wake of the Industrial Revolution. Being unable to participate competitively in manufacturing, they chose emigration to a country where they would perpetuate capitalist agriculture.



The many tragedies that befell AmaXhosa were welcomed by this gentry because their dream was nearing fulfillment. For example, the war of 1846-1847 brought about severe poverty on AmaXhosa. James Read (in Crais, 1986) complained to the Secretary to the Government that the settler inhabitants of the Kat River settlement (from which Maqoma was expelled) were inducing Africans "to dispose of their erfs at a very low price. . ." (p.139). The land was consistently described as "most fertile with water for irrigation in abundance" (Crais, 1992:79). Toto's evidence before the Commission that the individual title was harmful was not far-fetched. Toto had concrete evidence of how Africans suffered under Government taxation. Reverend James Read, himself, had noted that "the case of the taxing

of the place of the late Hermanus Matroos at £1 per head (being his own bona fide property), produced great irritation in the minds of his people (1852:XViii). In order to safeguard their property, Africans went to the extent of begging the Government for work "within the settlement". It was common knowledge that the government was dispossessing all who were not able to pay their quitrents or "seizing their cattle to the amount required" (Crais, 1986:139).

Toto's group before the Commission displayed an acute awareness of the suffering inflicted on Africans by individual land tenure. They might not have had any clue that the gentry of mostly British decent were banking their hopes on an interventionist state that would make it easy for them to surround their "fortified and enclosed manor-houses" with dispossessed "native foreigner" masses, so as to realize the dream that caused them to leave their motherland - private property - nevertheless they believed in their hearts that under "the old system", they had their freedom.

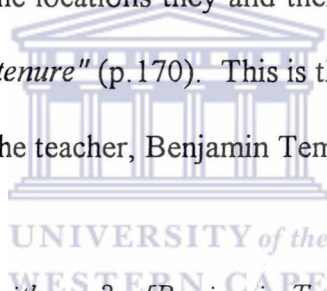
1.D KAULELA, PHAHLA, JOHN NJOKWENI, LIWANA NJOKWENI, DARBY NJOKWENI, JOHN NGWEKAZI, NYANISA, DAVID MATOMELA, MXEKELWANE AND BENJAMIN TEMBU'S EVIDENCE pp. 166-171

Kaulela and Phahla were two of the original signatories of a treaty entered into by Maitland with Fingo chiefs at Fort Paddie in 1845. This delegation consisted generally of the so-called "heathen" and Christian men, and it is quite clear that at least one of them, Tembu had received some education - he was a teacher.

What needs to be understood as we investigate these men's views is that they considered themselves not to be "Kafirs". They were a people who had "complained of the treatment they received from Kafirs" and preferred to be under British protection during the Mfecane persecutions of Tshaka.

According to them, their laws differed from those of the Xhosa tribe of Hintsa. Nevertheless on the question of land tenure in particular they were more satisfied with their own land tenure than with the European system.

Their tenure was realized within the locations they and their chiefs were placed in by the Europeans. They called it "*location tenure*" (p.170). This is the tenure they preferred above the European individual tenure as the teacher, Benjamin Tembu, explained:



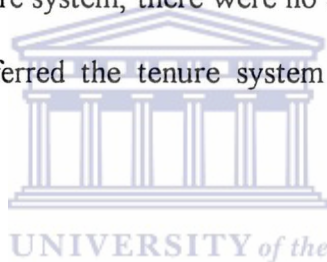
What was the system of tenure with you? [Benjamin Tembu] Locations were given to the heads of clans, and these were occupied by the people as the heads arranged. The sites of kraals were chosen in some instances by the men, in others by the headmen.

Do you prefer that to the individual tenure? We are satisfied with that tenure. But portion of the territory originally given us has been taken away, surveyed and sold to white men. Some portion of every location formerly granted to Fingo chiefs has been given to Europeans.

Were you not offered titles under individual tenure? There have been surveys of land apart from mission stations, but we have refused to take up title. The land is overcrowded as it is, and if cut up in erven, we could not live upon it at all.

Suppose every man who has a kraal and cultivated ground would get a title to such kraal and lands, would you like it, or would you prefer to have title to the locations? We prefer the location tenure.

What comes out so clearly from these Fingo men's evidence is that though they perceived themselves different from AmaXhosa, generally their culture and particularly in customs such as *ukulobola* and in their tenure system, there were no significant differences. Just as much as AmaXhosa "Kafirs" preferred the tenure system under chiefs, they too were satisfied with such a way of life.



2.A CHIEF WILLIAM SHAW KAMA AND HIS COUNCILLORS' (TELE MAGAMA, THOMAS DAVID, SOLOMON, NQWABE, MAJOKIE, McLEAN, MAKENA AND OTHERS) EVIDENCE pp. 235-240

Concerning the 1834-1835 war, Clifton Crais believes that it was a result of the spread of "European settlement into lands long held by Xhosa". Chiefs Xhosho (the son of Ngqika) Sandile and Tyali were in 1833 expelled from the "Neutral Territory" and such hostilities broke into open war in late 1834. All chiefs except the "Christian Gqunukwebe chiefs, Khama and Phato" were involved in the war (1992:115).

This is the son of Kama Chungwa who now appears before the Commission in this work.

In the 1834 invasion, Kama, the son of the great chief Chungwa, did not join. By taking such a stand Kama and his fellows (Phato and Kebe) had hoped, according to George Theal, that by "siding with the Europeans", they would "recover the territory between the Beka and Fish rivers, which was theirs before 1819." According to Siziwe Yekela (1988:38) this area is that between the Bhira and Mgwangqa rivers. These chiefs offered protection not only to the missionary and trader at Wesleyville but to any other white men who could get to their country (1893:14).

In September 1835, Phato, Kebe and Kama signed a treaty with the British according to which the land between the Fish and Buffalo rivers was assigned for their use. This land stretched from "the sea up to a line running from Kafir drift on the Fish River to Ford's drift on the Buffalo". This was their reward for the stand they had taken in the war of 1834; "the restoration", according to Theal "of their ancient possessions" (1893:41).

But by the time of the Seventh Xhosa war much of this land possessed by Kama had been lost to the Europeans again. In fact, after the war on 7 January 1848, in the presence of the fifteen African chiefs, Harry Smith illustrated the end of any former treaties entered into by "taking a sheet of paper in his hand '*Do you see this?*' he said"; tearing it, he threw all the pieces in the wind, "*There go the treaties!*", he exclaimed (Theal, 1893:315).

Kama, who again had favoured the Europeans in this war "was rewarded by having a

valuable tract of land some distance north of the Winterberg and within the new colonial boundary assigned to him." On his own request, Chief Kama requested to be removed from Kamastone, to "inhabit part of the lands forfeited by Gqika Kaffirs" (in Yekela, 1988:107). Kama was subsequently settled in the Middeldrift region with his sons, one of whom was William Shaw Kama.

At the time of the 1883 Commission, Kama occupied the piece of land the Government had granted to his father after the war of 1851. His son testified before the Commission.

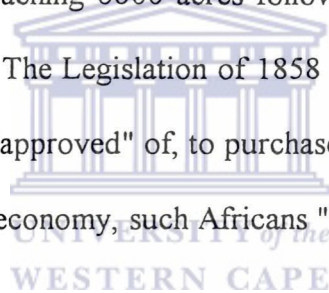
It will be remembered that crucial to Grey's plan of Europeanizing Africans was the westerning of the position of chiefs in traditional African society. The settling of immigrant Europeans in British Kaffraria who were to use Xhosa labour and civilize them through such contact was to complement Grey's master plan. The whole plan was to be accomplished in three stages: "the payment of the Chief in money, the placing of a white magistrate over the chief and the creation of a wedge between the chief and his councillors or headmen", notes Yekela (1988: 118-121).

It is in the placing of European magistrates - "men who command respect among natives" - alongside African chiefs, that Grey sought to "break down the great power of the chiefs.. ." and drive "a wedge between the chief and his councillors or headmen" (Yekela, 1988:

117-121). From Yekela's work it is evident that Grey, by carefully selecting Captain Reeve to be a special magistrate in Kama's district, was putting his plan to the test. The plan proved a success.

It is not surprising that Grey's plan worked well with Kama as the district he occupied was not his but rightfully belonged to other natives. He had very little choice, but to accept Grey's arrangements.

According to Crais (1993:213-214) Kama and his sons (one of whom was this William Shaw Kama) ended up with farms approaching 6000 acres following the shortage of land that resulted from the 1851-1853 war. The Legislation of 1858 permitted Africans like Kama, whose characters the government "approved" of, to purchase land under individual tenure. "On the wreckage" of pre-capitalist economy, such Africans "flourished" (Crais, 1992:213).



As we shall see in the following interview Kama's son liked the arrangement his father had entered into with the Europeans.

Are there any amongst you here who have such titles? Yes, Makama, Tele, Thomas David, Solomon.

Do you like it? Yes, we are satisfied with it, because it was done by our Chief Kama.

What do you pay for your erf? We pay ten shillings for the garden land, and two shillings and sixpence for the building plots, we also pay sixpence for a stand and ten shillings house duty.

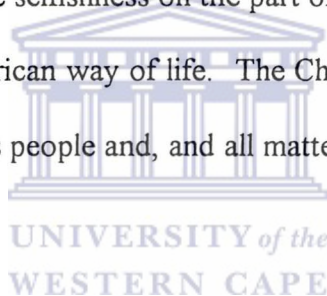
On further investigation, it transpired from the interview with Kama that his father had taken under his wing "Fingoes" to live on the land he was granted by the government in recognition of his service to it. These people did not enjoy individual land tenure as Kama and his company did:

Have they got quitrent? No.

Are you prepared to approve of their having titles if they wished it? No.

Why not? We have a title for the whole location. It gives the outside boundaries; we occupy within those boundaries; we are satisfied.

At face value this would appear to be selfishness on the part of Chief Kama. But it all really amounts to a preference for the African way of life. The Chief only should hold a title for his people. He is the guardian for his people and, and all matters touching his people should be addressed through him.



Hence the letter sent to Commissioner Dirk Barry "from the heads of the Chief Councillors":

What do you mean by it? Councillor: We sent this letter to ask that instructions sent us should be through the chief because it was our chief who brought us to the Government and we wish to ask that whatever matters are to be brought to us by the Government should be sent through the chief.

Kama, did you know of this letter? No.

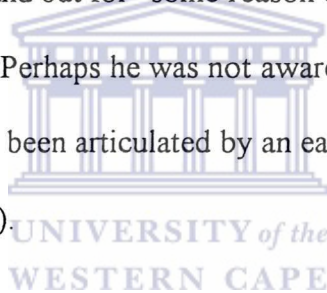
There is no clearer evidence of the vindication, by the people, of the African way of life.

2.B NATHANIEL MHALA'S EVIDENCE pp.256-260

This is Chief Mhala's son. He was educated at Zonnebloem college in Cape Town and was at the time of the Commission working as a clerk under a Mr Byrne, an attorney.

According to Nathaniel Mhala individual land tenure was a good thing for Africans, and "it would be a good thing to force it upon them" as "they do not see its advantages as clearly as we do" (p.260).

Mhala believed that Africans liked land but for "some reason of which I know nothing" they were not taking up individual titles. Perhaps he was not aware that he had already given the reasons, reasons which have already been articulated by an earlier African delegation: Toto and his fellows (See Document 1.C).



The reason was none other than the real fear that under the European system, Africans were in danger of losing as individuals their right to land to wealthier Europeans:

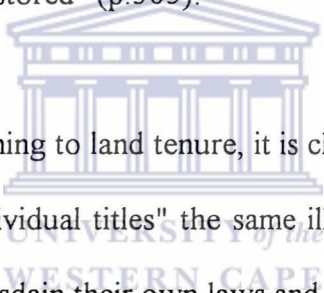
Would you allow them to sell their land to white people, or would it be better for their land to be inalienable? I think it would be best to be inalienable.

2.C ZULU, XAYIMPI, POMBANI, PATENI, ZONDANI, KLAAS DONDOLA, JAMES MATSHOBA, SAMUEL SOKABA, PETRUS MATSHINGELE, JOHN

MAQUTZANA, JOSHUA LISHUHA, JANTJE BUGE, HENDRIK GOZA, JAN NYINGIZA, UTONGA AND OTHERS pp.303

In this document we come to encounter men from the Oxkraal and Kamastone regions. According to their testimonies these "Fingo" men were once recipients of Government favours together with Kama who in several Xhosa wars against the Europeans, had never joined in the "invasions against the white men".

It is not surprising to find out that these men continued, in line with past co-operation relationships with the Europeans, to feel that: "we are for the Government, and cannot say that we wish our own laws to be restored" (p.305).



In coming to voice their views pertaining to land tenure, it is clear from Pombani's testimony that even they suffered under "individual titles" the same ill effects that Toto had earlier counted. These men continued to disdain their own laws and customs: "the Government is our chief"(p.306). "We trust the Government will be patient with us," said Pombani, "and give us a long time, because we are hard pushed."

Like Kama's Ama-Gqunukwebe where land was not their native territory but a gift from the government, these Fingos readily accepted individual title designed by the government as it promised them "inalienable" rights to the land. Deep in their hearts they resented losing even this government grant to the Europeans: "But if we admit Europeans to the location

any rich Dutchman might come and buy a piece of land and so drive us out for white men are always rich," said Poteni (p.306).

2.D PETRUS MAHONGA AND SAM SIGENU'S EVIDENCE pp.341-345

Both these men were "senior headmen" in their villages. They assisted Magistrate C.J. Warner at Glen Grey in the "management of Tembu affairs" (p.341). Both had farms "given to them" by the Government. Mahonga's was 2000 morgen and Sigenu's 1000 morgen. Both were satisfied with their titles as "there is no part in our Kafir life which can compare with our present condition" and did "not care to go back to the old life".

Such men are an illustration of those Africans who "flourished" "on the wreckage of pre-capitalist economy" (Crais, 1992:213). Both had people living under their charge on their farms, and being taught from their youth by the late Mr J.C. Warner, it was to them "a very great idea" to have them "adopt European manners and life". They were glad they "pleased him" (p.345).

3.A MANKAYI RENGA'S EVIDENCE pp.352-353

This landlord, like Mahonga and Sigenu above, had a farm with four villages in it. Having been faithful to the Government and his magistrates, he was happy to be under their good laws. Though he personally thought individual title was a "very good thing" he knew "there are many people", even the "men of intelligence" who lived on his farm "who would be greatly puzzled if they received it; they would not understand it".

3.B MATANZIMA AND NDARALA'S EVIDENCE pp.355-357

Matanzima, the son of paramount chief Mtikrakro, was one of the victims of Grey's plan as touched on in document 2.A.

The importance of Matanzima's testimony lies in the manner in which his authority as a chief was weakened as a result of a policy engineered by Grey against the Africans. The weakening of his powers took place during the governance of Sir Philip Wodehouse. Under the guise of protecting the "Bantu from European aggression" Wodehouse meant mainly the "management of Native Affairs".

Wodehouse adhered to the scheme of "civilizing the Kaffirs" "by weakening the relationship between the paramount chief and his people". As Matanzima points out here Wodehouse encouraged and recognized the independent authority of lesser chiefs. He encourage the segmentation of tribes and the migration of these to "strictly defined geographical areas, there to become even more civilized and thereby lose any potential which it might still possess for disturbing the tranquility of South Africa" (Van Otten, 1971:335-356).

Matanzima testified (pp.335-356):

"After this, Sir Philip Wodehouse said"; 'Any of us who choose to come across the Indwe, would have land allotted to us and might govern ourselves and be independent. I and three others, namely Gecele, Ndarala and Stokwe, volunteered and came over under these terms, Mr Warner accompanying us as an officer of the Government of our request.'

Once in his "locations" Matanzima received a salary of "£26 per annum", that was increased to £52 after about two years. It did not take long before he experienced difficulties with his sub-chiefs Falo and Sinqungati, who respected the resident magistrate Levey's authority more than they did Matanzima - who to them was a fellow servant of the government. The problems he had with such chiefs resulted in their respective areas being cut from his and they fell under the direct jurisdiction of Levey, the magistrate.

By the time of the Commission, Matanzima confessed that he was a lame duck under "Mr R.W. Stanford to whom I attribute my safety throughout the disturbances. . ." (p.356). Hence, he ended up following Kama's course:

" . . . I ask that my allowance should be increased to £120 per annum, and that a title be granted to myself and people for the land we occupy in the same manner as Kama obtained a title to his location in the Keiskama. In this I would also desire title to a farm for my own personal use" (p.356).

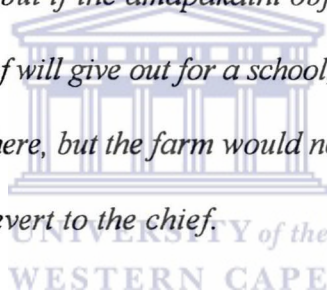
Ndarala had no alternative either:

"I have heard what Matanzima has said with regard to the land question, and wish to say that I would like title issued to me and my people on the same principle, with the object of securing the possession of the land belonging to us" (p.357).

3.1.B MGUDLWA, MANGELE, SANDILE, VENA, SIGIDI, SITONGA, NGCENGAMA, MENDELA, THOMAS TSHECILE, TEIS MABETHA, SILO, JOSEF EMANE, QOTI AND GEORGE MABANDLA'S EVIDENCE (pp.393-396)

Mgudlwa, a chief himself, opened this inquiry by vindication of the traditional African governance under chiefs, and the African laws and customs.

What is the native custom with regard to land tenure? According to native custom, the land belongs to the chief and is his property. He might sell the land if he were moving away with all his people. He could give leave to other people to settle on the land after consulting with the magistrate, but if the amapakathi objected, he would leave it alone. Cases do happen where the chief will give out for a school, or to a native for a farm, and he will allow the native to live there, but the farm would not be alienable, and if the man moved away, the land would revert to the chief.



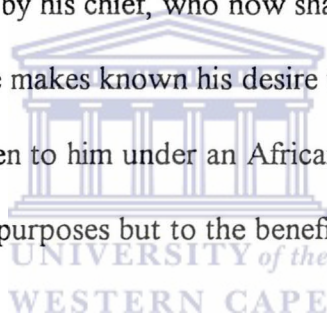
How are lands held in this district? The land here belongs to one person - the Chief Ngangelizwe - and I think so it ought to continue. I do not understand anything about land being held on individual tenure, or separately, by natives. I think the Tembu's would prefer remaining as they are.

Thomas Tshceli: *I can say nothing about what the chief says. I am the owner of a farm given to me by the Amaqwati Chief Sitonga, who is now here, and I would like to have title.*

Mangela: *I am living on the land which belongs to Dalasile. We Amaqwaties would like to live on the tribal tenures - the land being held by the chief for the people.*

What is obvious from the passage above is an apparent conflict of ideas regarding the holding of land.

On the one hand we have a chief, Mgundlwa vindicating the tribal tenure and being supported by a commoner, Mangele. On the other hand is Thomas Tshicile - a headman who was during this period enjoying privileges such as wages from the government. He obviously had a farm given to him by his chief, who now shared authority with the resident European magistrate. Tshicile here makes known his desire to hold individual title over the farm he never bought but was given to him under an African custom that would not allow him to use it for his individualistic purposes but to the benefit of the people.

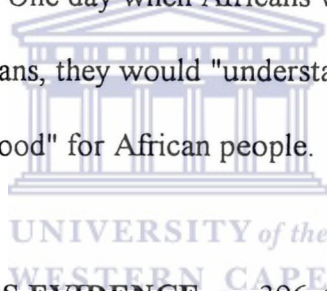


To Tshicile, a time would come when Africa would move out of the "darkness" of tribal tenure and ask for individual title and "therefore for the present we prefer being governed by our own laws" as expressed by Mgudlwa.

It is on hearing such contradictory sentiments that Chief Mgudlwa requested leave to go and "consult" - in true African tradition - with his people, to go and confirm that he did not express views which the people on the grassroots did not approve of.

On resuming, Mgudlwa said: *"After careful consideration, we say we are used to our customs. We have at different times called for missionaries and called for magistrates. We are now considering and trying to leave your laws. We do not yet understand them, and therefore we desire to be kept under our own present laws. The treatment we receive from our magistrates is good. . ."*

Of course it was well within Grey's master plan that magistrates were to be very diplomatic and "good" in winning over Africans to the European way of life. They had to be "good" in weakening the position of Chief Mgudlwa so that they would end up enjoying more respect than the traditional leaders. One day when Africans would have come to understand the plan behind laws of the Europeans, they would "understand" that the magistrate and the government's law are really not "good" for African people.



3.C REV. WILLIAM SIGENU'S EVIDENCE pp.396-402

There is nothing of significance that the Commission discussed with this missionary pertaining to the question of land. All that he mentioned is that in the whole of Pondoland, there is no such thing as "individual land tenure" among Ama-Mpondo.

3.D PARAMOUNT CHIEF NGANGELIZWE AND HIS HEADMEN'S EVIDENCE

pp.432-444

Paramount Chief Ngangelizwe was also, by the time of the Native Laws and Customs Commission, a British subject whose salary according to Major George Elliot, the Chief

Magistrate of Tembuland, was £200. This and the following passage serve to illustrate how much his paramountcy was reduced:

And before the government came into the country, if a man was dissatisfied what did he do? He appealed to Gongelizwe. If not satisfied with a small court, he appealed to a higher. That was in the old time; but at present in a case which is settled by a small chief, the man does not appeal to Ngangelizwe, but to the magistrate.

Pertaining to land, the Commission again heard that the land belongs to the great chief, who had no right to alienate it without consulting with the people.

Chief Ngangelizwe was by now living within boundaries determined with the Government. Even then he expressed fears that, more of the land he now possessed would fall in European hands.

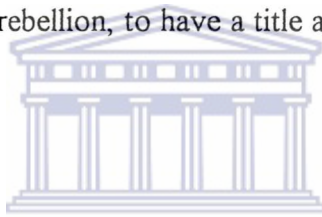
According to African custom Ngangelizwe was not allowed to sell any land, not even to Europeans:

And if the chief wanted to sell a portion of that land to an European farmer, for instance, could he do so? He could not sell the land, but he might allow the white man to occupy it as his subject.

And when the white man left that land he would also have no right to sell it as he was given it.

Ngangelizwe's request through Cutalele to the Commission was that the government should refrain from introducing individual title in his territory, even whites who would readily accept it were not allowed to "come and take it".

As a guarantee that what portion of land Ngangelizwe held would always remain his, a request was made concerning the entire territory including the parts left by "Ndukiswe, Dalasile and others, who went into rebellion, to have a title acknowledging our right to hold the land occupied by us".



3.E MAKI, SIGIDI, NGCWELESHE, SIPIKI, TETYANA, TAUTI, PETSHANA (brother of Smith Mhaza), NOMATYE, NDESI MHALA, JOHN MOSES, SMITH POSWA, AND ABOUT SIXTY HEADMEN AND NATIVES' EVIDENCE pp.464-468

It is not surprising that once more in this document we shall find conflicting perspectives on the issue of land holding. The perspectives that are pro-individual tenure are here expressed by two Fingoes, Smith Poswa and Jones. It will be remembered that the Fingoes were scattered among many tribes including Ama-Xhosa. As Dante explains: "These people who want individual title were men who came to ask for land to be given them." (p.487). Wherever they were they always regarded themselves not "Kafirs" and always preferred to

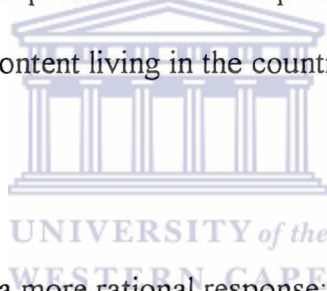
be under Government laws than African laws; this has already been touched upon in document I.D. Nevertheless, while still under their own chiefs, the Fingoes themselves preferred the tribal system of land holding.

Do you wish to say anything in regard to your occupation of land?

Smith Poswa: I say, on behalf of the school people, that we should like to receive individual title to our lands. I also say this on behalf of some Fingoes who are not Christians, but who wish to obtain individual title to land.

Cosani, Moses, Sigidi and Telgana expressed a different perspective:

John Moses, said: We are quite content living in the country as we are, and we don't like individual tenure.



Sigidi and Telgana went on to give a more rational response:

Sigidi said: We are pleased and contented where the government originally placed us here. We Kafirs do not like individual tenure. If we had a headman, he would be of no use amongst us if we had individual tenure.

So would be the position of their chiefs, Sigidi would imply. Telgana agreed with this:

Telgana said: If the country is cut into little bits we should die of starvation. We are headmen for government, and what should we have to look after if the country were cut

into little bits. Individual tenure is like a man with one wife; when his solitary wife dies, what is the good of him.

At least we have here a headman who understood clearly what individual tenure would do to their status in society. The European system was challenging the very basis of their society and all they were concerned about was their position as headmen and their "starvation". Small wonder that those who had specific farms allocated to them, like Thomas Tshicile in Document 3.F, and enjoyed some remuneration from the government, preferred to cling to them with the help of individual title, as they understood what the European plan was already doing to the authority of their Chiefs.

4.A VELDTMAN, NAGIDA, JAMES GANGENI, STEPHANUS SANGA, MAKINANA, DIMSO, MUKI, JOHN SADLA, FALENI, QUENKA, CHAS PAMLA'S EVIDENCE (and about seventy others, Fingo headmen and inhabitants of the Transkei called in) pp.475-482

This is also a group of Fingo men who voiced their sentiments for individual title:

"We want that an industrious man, who has shown marks of civilization and raised himself, should receive title" (p.480).

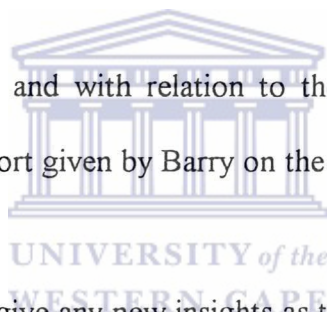
We have already seen in some of the pre-going documents how Fingos have tended to be pro-individual title and have sought the reason behind this.

However, once more these Fingoes show that they want their kind of individual tenure, a system of land holding that would not permit the owner to sell his land. The title has to be inalienable.

4.B ZALALA, TANGA, GEORE'S EVIDENCE (and other natives and headmen from Ngqamakwe) pp.484

In this meeting Barry, the President of the Commission, related to these Fingoes the views that had been expressed by the Veldtman-delegation above.

No specific questions were asked, and with relation to the land issue; Zalala and his company merely responded to the report given by Barry on the Veldtman-delegation's views.



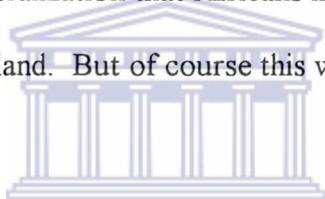
These Fingo men however, did not give any new insights as to why, like their fellows, they preferred individual tenure, and therefore no further analysis of their utterances is necessary. They all were happy with the authority exercised by the magistrate and were quite happy to live under Government's laws, while hoping for the preservation only for the best of the African laws.

They were men who "kept" their children "on account of Government, and for the benefit of Government".

5. CETYWAYO'S EVIDENCE pp.417-534

One of the longest evidences given by a single man before the Commission was that of Cetywayo - ex-king of AmaZulu on July 7, 1881. Though Cetywayo gave evidence on Africans living beyond the territory of our investigation, the bird's eye view he gives us on his people's perspectives on land appears not to be very different from those of the Africans under investigation in this work.

The apparent similarities that emerge between the largest two sections of the Black peoples of South Africa, AmaXhosa and AmaZulu, on the issue of land, as one looks at Cetywayo's evidence, could lead one to the generalization that Africans in South African fundamentally share no conflicting perspectives on land. But of course this would require a different study to confirm.



UNIVERSITY of the
WESTERN CAPE

What is your law as to land? To who does it belong, and how is it apportioned? The whole country belongs to the King, and different portions of it are inhabited by headmen, and smaller portions by common people. Who allots the land? The King.

Did John Dunn get any land from you or from the chiefs? No, the country did not belong to John Dunn, he only had leave to live on it.

From whom did he get that leave? The King.

Is that the same sort of leave you gave to your other subjects? Yes.

If John Dunn dies, what becomes of that land? It belongs to his eldest son.

The whole of that ground? Would not the other sons get a part of it? Yes, the first-born would have the greater part, and the younger sons get smaller parts.

It is clearly evident from Cetywayo's evidence that just as it is with AmaXhosa land tenure, it is intimately intertwined with inheritance, and that those two cannot be treated in isolation from each other.

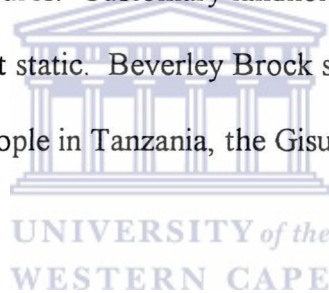
This very aspect of the relationship between inheritance and land cannot likewise be considered in isolation from "Ukulobola" since it is the first wife that has been paid "lobola" for in the African marriage system, whose son becomes the heir to land. It is this heir, according to Cetywayo, who allocates to his brothers their portions from what has been handed on from the father, as he "is *de jure et de facto* the owner of the father's property" (p.531).

From the above it should be clear that the African "concept of land tenure is very complex". Because of the complexity, it is hard to realize or understand the essence of it from a Western framework, note Deacon and Darkoh, and therefore suggest as does this work, that "in order to ascertain the concept and value of tenure certain cross-cultural factors must be considered" (1987:35-52).

For the reason that African land tenure cannot be understood remotely from their lives in

general or social intercourse, some attention will be devoted in the closing chapters to a discussion of some tenets of the African axiology that permeates their social life. Solely on the basis of this realization will it be concluded by suggesting that due attention should be paid to an Africentric paradigm whenever any serious attempt is made to understand the African world view.

Lastly, it needs to be emphasised, for the sake of avoiding accusations of overgeneralization, that just as much as there are various African peoples such as the Khoi, Ama-Xhosa and Ama-Zulu there was really not just one customary system of landholding. There was no rigid system that cut across their cultures. Customary landholding as Brock (1969:25) aptly noted, varied, and therefore was not static. Beverley Brock studied the customary systems of landholding among the Mbozi people in Tanzania, the Gisu in Bugisu, and Lango people in Uganda.



Among the Bugisu who had no chiefs, society was divided into clans. The individual could dispose of land as he wished, as the clan controlled rights of the use of land, while among the Lango one needed permission of the chief before settling in a village. "All members of a village have equal rights as regards cultivation, grazing and water rights" (p.8).

In the Mbozi system Brock notes, the headman, exercised delegated authority from the chief, and allocated land. The land was allocated to the head of the household for the exploitation

by his household. When the household became unacceptable to the community through accusations like sorcery, for example, the household would have to leave.

A common theme among all systems was : "access to land depends on one's acceptability as a member,... according to criteria of descent,... or character,... potentially a good neighbour and subject" (p.4).

The principle of human-centredness (the principle of community), were built in all these forms.



BIBLIOGRAPHY

BROCK, B. 1969. "Customary land tenure individualization' and agricultural development in Uganda". EAST AFRICAN JOURNAL OF DEVELOPMENT. Vol. II (2).

BUNDY, C. 1988. The Rise And Fall of South African Peasantry. Cape Town: David Phillip 2nd. Ed.

CRAIS, C.C. 1992. The Making of the Colonial Order: White supremacy and Black Resistance in the Eastern Cape, 1770-1865. New York: Witwatersrand University Press.

FRIED, M.H. 1967. The Evolution of Political Society. New York: Random House.

LETSOALO, C. 1987. Land Reform in South Africa: A Black Perspective. Johannesburg: Skotaville.

LEWIS, J. 1984. "The Rise and fall of the South African Peasantry: A critique and Reassessment. Journal of South African Studies. Vol. II.

SCHIELE, J.H. 1990. "Organizational Theory from an Afrocentric Perspective". Journal of Black Studies. Vol. 21 (2).

SOGA, J.H. 1931. The Ama-Xhosa life and Customs. Lovedale: Lovedale Press.

SOUTHALL, A.W. 1970. "Rank and Stratification among the Alur and other Nilotic Peoples: In A. Tuden and L. Plotnicov (eds.) Social Stratification in Africa. New York: Free Press.

SUTHERLAND, J. 1844. Memoir: Respecting the Kaffers, Hottentots and Bosjemans. Vol. I. Cape Town: Pike & Phillip.

THEAL G.M. 1893. History of South Africa: Since 1795. London: Allen & Unwin

WILSON, M.; THOMPSON. L. 1971. (eds.) Oxford History of South Africa. London: Oxford University Press.

YEKELA, D.S. 1988. The Life and Times of Kama Chungwa. M.A. Thesis (Rhodes University).

CHAPTER FOUR

THE COMMISSION'S MAIN IMPRESSIONS AND THEOPHILUS

SHEPSTONE'S VIEWS

4.1 In this chapter we briefly discuss the impressions gained by the Commission from its interviews among Africans. Secondly we will devote some attention to examining Theophilus Shepstone's main conclusion on African tenure of land, solely because of his extensive experience among the Africans.

4.2 THE COMMISSION'S MAIN CONCLUSION

(Report; pp.38-42)

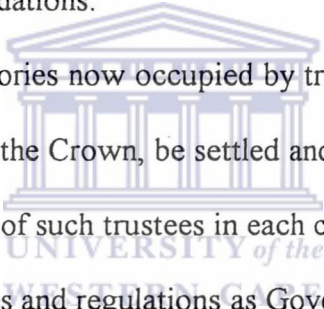
When looking, for example, at the Commission's conclusion in as far as the issue of inheritance is concerned, it is clear that it came to accept that reforms that go counter to traditional institutions have a minimal chance of success. So strong was this law as practised by Africans, that the Commission reasoned that the law of Inheritance and Succession, as understood by Africans, "will be followed by the Native population, whether it be ignored by the general law of the colony or not"(1883:38-39).

The Commission noted in its Report that since "a deep and ingrained prejudice in favour of" the African tenure has

been established by their "history and traditions", they are "unable to recommend that anything like a general system of dividing lands and securing rights of individuals by separate title deed should be decided on at present"(Report, 1883:40).

Yet having noted this reality the Commission, under the conviction that holding land under individual tenure was "the better system" went on to recommend specific arrangements to gradually introduce Africans to individual tenure and "supersede" the Native customs in the matter of land "at the earliest practicable period" (Report, 1883:40).

Here is a summary of its recommendations:

- 
1. "That the lands in the Territories now occupied by tribes or sections of tribes shall, by formal title deeds granted by the Crown, be settled and vested in Boards of Trustees nominated by Government, one of such trustees in each case being a chief or influential headman. . . subject to such rules and regulations as Government may fix. . .
 2. No Trustee or Trustees shall have any power of mortgage over lands held by tribal title. . . nor shall trustees have any power of alienation, or sale. . . except in the issue of individual titles . . . to natives only.
 5. The occupier of any kraal, garden or plot of land may lawfully sell his right of occupation . . . to any native approved by the chief or headman and the magistrate of the district.

8. The rights of occupation . . . shall be heritable, but shall not be alienable, otherwise than as by Subsection 5 provided.

10. When it shall be considered expedient to issue individual titles, . . . the title shall be, . . . with or without rights of grazing, according to custom.

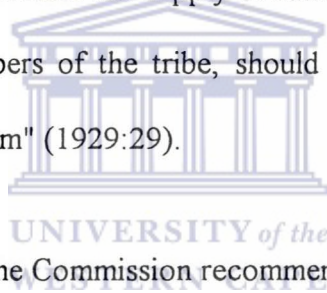
12. All individual titles shall be heritable but not transferable by purchase or sale, otherwise than between native and native.

These recommendations by the Commission were based on the assumption that the Africans were to be "emancipated" from their way of life. Being aware of the pivotal role chiefs played in African land tenure, these recommendations conscientiously aimed at attacking and annihilating this important institution. Boards of Trustees were recommended to subject Africans to rules and regulations fixed by the colonial government. Chiefs or headmen were to serve on these bodies to give them that extra air of legitimacy. The powers of the chiefs to allocate land were known to the Commission. They were now to be a responsibility of a board on which he was to be a little more than a rubber-stamping puppet. So insignificant was the chief that it did not really matter to the Commission whether he or his headmen sat on the board. His influence had to be done away with as it upheld customary life.

Wiggins (1929:26) notes, quite clearly that the Glen Grey Act (1894) was also meant to "deprive the chief of his power over land". She notes in particular that individual tenure was

included among its provisions as a way of destroying chieftaincy, to "replace chiefs by appointed salaried headmen" facilitated the success of the Glen Grey Act (Wiggins, 1929:27).

The communal tenure system was especially felt by the farmers of the Western Province who suffered from an inadequacy of labour. This commodity was supplied irregularly and tended to be "prohibitively expensive at harvest time" notes Wiggins (1929:27). The 1893 Commission that was appointed to inquire on labour supply reported that the tribal system was responsible for the "idleness" of Africans and hence had to be destroyed. "It was the *fixed idea* of people who wanted to increase the supply of native labour that the tribal system which provided land for all members of the tribe, should be weakened, and weakened especially in regard to its land system" (1929:29).



To further transform African life, the Commission recommended in, number 7, that "rights of occupation . . . may be granted by resident magistrates with the concurrence of the headmen to persons belonging to one or other of the native tribes (Report, 1883:41). Such a restriction, surely Alberti (1968) would have agreed, simply amounted to an attack and curtailment of African hospitality as he had experienced it. Africans were prone, as John Dunn and the Boers in Natal during Cetywayo's reign had tasted, to welcome strangers in their midst and favour them with the right to their land, irrespective of race.

As if individual tenure would be a voluntary choice made by the Africans who would be civilized enough to see its advantages, the Commission's recommendation that Africans

should be left to approach the resident magistrate whenever they wished to take it up is no different from what the Glen Grey Act provided. The Cape Parliament passed this Act knowing that communal tenure was to be destroyed and it provided for a "choice" to be made by Africans for individual title to simply assuage their own consciences. The parliament knew quite well about the labour shortage and what tribal tenure implied against it. To destroy their chiefs would render them rootless and insecure; the insecurity would lead them to take up individual titles. To pay some £3.10s for taking up title "was a very large expense for a native to undertake" (Wiggins, 1929:30). Africans would be forced to go look for work.

But these who did not take up titles could still remain idle in the reserves. To meet this problems the Glen Grey Act provided for cutting up available land into pieces that would not be increased. In time it was hoped it would be made difficult for more natives to be accommodated. Further, the Act made provision for the Labour Tax: 10/- per annum "on each male adult who had not been out of the district of work during a year. . ." (Wiggins, 1929:38).

What a choice!

4.3 SHEPSTONE'S VIEWS

In The Right to Land, Davenport regards Theophilus Shepstone's evidence before the Commission as "exhaustive"-enough "white-expert's-interpretation" of African custom in the matter of landholding.

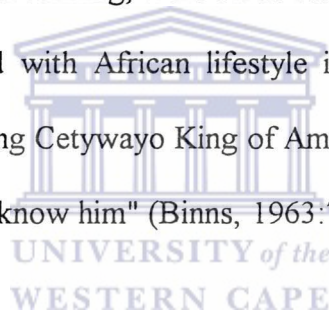
According to his own testimony, Shepstone's first knowledge of native tribes began in his childhood in the Eastern Cape region. He was the eldest son of Reverend William Shepstone, one of the founders of the Wesleyan missions in South Eastern Africa. Theophilus Shepstone migrated to South Africa with his parents in 1820 and three years after his birth, the Shepstones settled in Bathurst. Much of his boyhood was spent among the Gqunukwebe tribe and as a result he became "very proficient in the Native language as in his own mother tongue" (Uys, 1933:xi).

He was appointed at the end of 1834 when the sixth Xhosa-European war broke out, to be an interpreter by Harry Smith. At the conclusion of peace in 1835 he became "Diplomatic Agent" to the African tribes in the Cape Frontier - he was about eighteen years old. This man who had "had more or less to do with all the tribes from the Cape to the Limpopo, and even beyond" (1883:4), has been associated with the success of the "Location System" in Natal. Notes Brookes, "using judicious and tactful methods", Shepstone was, "without the use of a single Trooper, and without the loss of a single life" able to place 80 000 Africans in "fixed homes"(1924:28-29).

It was when Captain Jervis undertook an expedition to occupy Durban (1838-9) that "Somtsewu", as he was affectionately known among the Africans in the Peddie district, first set his foot in Durban. He was to become, later on "ruler in everything" over Natal "but in name for thirty years" (1845-75) (Brookes, 1924:20).

The "Location System" is believed by Brookes (1924:30) to have been "an insurance to save some parts of Natal for Europeans. . ." Those parts that were set aside for Africans to be crowded in, have been described as "the most barren , wild and broken parts of an exceedingly rugged and picturesque division of South Africa. . . and much of the land is not fitted for pasturage, but only for the habitation of the eagle and the baboon. . ." (Binns, 1963:30-31). On these locations the government intended to have Africans "collected, and governed by their own laws, through the medium of their own chiefs. . ." (Holden, 1963:176).

It is obvious that Shepstone through cunning, went on to establish himself as the "father of Africans in Natal". He interfered with African lifestyle in Zululand so much that he nominated and officiated in crowning Cetywayo King of AmaZulu, going on to "transform him that his own people would not know him" (Binns, 1963:70).



Assisted by, amongst others, Dr Stanger and Lieutenant Gibb, Shepstone sat aside such lands as were suitable for the Natives, and went on to "make that provision which was regarded as needful". The large tracts of country, thus selected, were such as Natives alone could use, being rugged and mountainous, and only fit for such people to occupy (Holden, 1963:177).

We may as well hasten to ask: "What kind of people were these?"

The answer is contained in the report of The Natal Native Commission of 1846-47, of which Shepstone himself was a member. It described Africans as follows: ". . . at once superstitious and warlike, their estimate of the value of human life is very low, . . . their

passions are easily inflamed . . . grown up in habits of such servile compliance with the wills of their despotic rulers. . . " (Brookes, 1924:27-29).

Indeed these may not necessarily have been his views, but the suggestion according to Welsh (1971:19), that "Shepstone had dominated" the commission brings him to a closer affinity with this report than anyone of its members. This assertion is supported further by his response to "an applicant" for African labour: The Natives of this District are savages and therefore fickle,... and their rules and actions cannot be judged of by the principles applicable to civilized men". (Welsh 1971:32).

It is easy for one to get befuddled by a man who would refuse later in 1852 to sign a report by a commission he was a part of which came to similar conclusions as the 1847 commission about the image of Africans. But why this refusal to sign the 1852 report? Was he suddenly repenting and being kinder to Africans? Welsh is quite generous in providing an answer in this regard. The Commission was critical of Shepstone on several points. Amongst these were that he was encouraging too large African settlements that encouraged "idle wandering" while there was a shortage for labour on white farms.

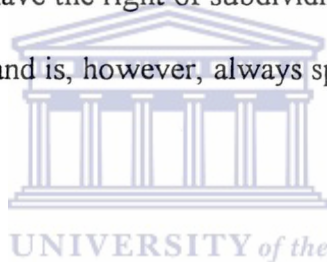
What comes out vividly when studying Welsh is the fact that Shepstone was bent on realising the eventual goal of exercising total control over Africans. Both the Commission and Shepstone had this ultimate goal in mind. This made him not much different from the Commission. All he was different about was his profound realization that African institutions were strong and that it would take cunning and stratagem to erode them. He

recommended, thus, that the chiefs be made to seem important while true power was to be shifted to whites "tribal independence would have to be forbidden at all cost." (Welsh 1971:112-113).

4.3.1 On Land-tenure

(Minutes of Evidence: pp.1-68)

What are the principles or rules governing land-tenure among the natives? - -I believe myself that the principle underlying all land-tenure among the native tribes is that the land belongs to the tribe, and that the chief has the right of giving occupation to it between the members of the tribe. The headmen, again, have the right of subdividing subject to any appeal a man may choose to make to the chief. Land is, however, always spoken of as the property of the chief.



*May the chief in any case disturb the rights of occupation granted to headmen or others? -
-I think so.*

Is the land in which the tribe is settled held in common? - -Yes.

*Would you recommend granting individual titles if the natives had no desire for them? - -No,
it would be unvalued and useless gift.*

In your opinion the great obstacle to the individual tenure system is the want of appreciation on the part of the natives of the value of their land? - -Yes, of personal property in land.

Do you not think the influence of the chief has got something to do with this? - -No I don't. I think the notion that land is not a valuable personal property is an idea that they receive with their mother's milk, and is very difficult to get rid of.

Do you not think that if it were brought home to the mind of a native that he could acquire a piece of land, his right to which would not be interfered with by the headmen, that he would be encouraged to get hold of that piece of land and hold it? - -One would suppose that he would, but practically it is not so. I believe where individual titles have been given out in locations, even here, where the land is near this town and valuable, and the grantees have been in contact with civilization for more than forty years, they have not been taken up.

UNIVERSITY of the
WESTERN CAPE

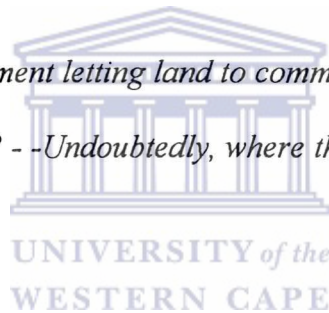
If the matter were brought prominently before them, and the question of expenses did not present itself, don't you think they may be induced to adopt the system of individual tenure? - -I think that if they really adopted the idea of the value of individual property in land they would not be deferred by the question of expenses. The absence of this idea, or its great weakness, makes them indifferent to it. They are a clever people, and argue well on most subjects, but they don't appreciate personal property in land as one would wish them to. I believe in Natal the natives differ very much in their mode of dealing with land? - -As regards the tribal land, they are much alike.

You don't seem to encourage the system of giving individuals titles to natives? - I do not wish to be considered as not wishing to encourage it. What I am afraid of is that if individual titles are given, too soon it will result in depriving them of land altogether.

If there are instances of our natives here having taken up titles, would you not regard that as a germ of civilization? - Certainly.

And would you not consider it so important that you would recommend the Government to foster it? - Yes.

Do you think the system of Government letting land to common people is an encroachment upon the prerogatives of the chiefs? - Undoubtedly, where that land has been looked upon as tribal land.



Is there not any service that the chief expects from his people in virtue of their holding land from him? - I don't think he expects any return for this.

Are they not bound to serve him in certain ways? - I think not, in consideration of holding or occupying land.

Nor to pay him anything? - No.

You say that one of the evils in connection with granting titles to natives, is that Europeans would almost immediately become owners of plots allocated? - -Yes.

That is because natives are improvident, soon get in debt and forfeit their land? - -It is only where they have learned by experience that they see the damage they run in mortgaging their lots.

Don't you think also that the surveying expenses are to the natives, an important item, and make them hesitate in taking up titles? - -My idea is that if a native really felt the value of land, the expense of survey would be no barrier to his acquiring it; the great object is to create in him a desire to purchase.

* * *



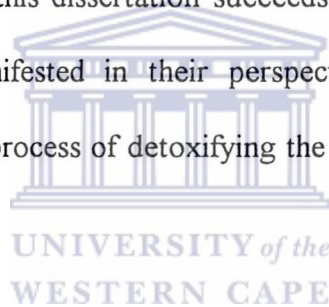
What strikes one clearly, and this is not surprising when reading Shepstone's interview, is his reasoning that "If you could get the native to pay for land, that would be a sign of course that they value it, but your difficulty is to get them to value it (p.63).

To him the mere fact that an African or anybody else is "given" and does not "pay for land" clearly denotes that Africans do not "value land". How simplistic!

This white "expert" here, is in typical imperialist fashion, pontificating his standards and is bent, as aptly show by Binns (1963) and Brookes (1924), to strip his subjects of their own identity and transfuse these inferior savages with his own model. Clearly his

conceptualization and operationalisation of "value" is limited to its market paradigm. Whereas, as the African historian Krune Mqhayi noted, land to Ama-Xhosa a part of his being, to Shepstone and his kind, it is just a commodity.

This linking of his standards "with innate qualities of excellence in intelligence, beauty and the right to rule other races" has been noted by Mgubane, (1989: 33) as paramount in imperialism. This tendency still lives on among Europeans: to control the African people's mind toward ossification of their egocentric mind-set. Europeans are opposed to seeing African judging themselves from their own context and perspective. This reality stares the African peoples in their face. If this dissertation succeeds in attracting attention to the African-centred mind-set as manifested in their perspective to land, it would have contributed to the sorely needed process of detoxifying the African mind of miseducation and dislocation.



It is therefore held in this dissertation that this mind-set is neither a fantasy nor utopian. It aims at projecting Africans as subjects in the story of mankind, rather than objects in western suzerainty.

Looking back at nineteenth century Europe one might find similarities between pre-industrial Africa and pre-industrial Europe. This in turn might lead one to assume that there really is nothing unique about African social intercourse and their axiology as judged from their

relation to land; that the principles based on this axiology were obtainable in pre-industrial Europe.

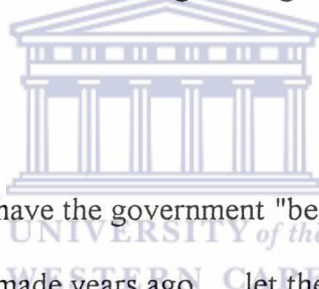
Indeed as many a historian has noted, picturesque English villages like Ama-Xhosa villages, had low thatched huts. In these English abodes peasants often lived in "scarcely hygienic conditions with their chicken, cows and pigs. In these one-roomed structures "mud and dirt abounded" (Flenley, 1936:319).

On deeper observation one sees deep social stratification among the English that never existed among Ama-Xhosa and their neighbouring Africans, like Ama-Zulu. As Flenley noted tribal organization was characterized among the English by a "landowning" rather than a landholding "nobility" free man who were bound to the land yet no slaves and its slaves (1936:317). Often land was granted to companions as a prize after conquest in battle rather than to all households in need thereof.

This indifference helps us understand why Shepstone was instrumental in crowding Africans, as Binns (1963) and Holden (1963) noted, in "exceedingly rugged and mountainous" tracts of country. This was his programme, far from protecting Africans from colonialist trickery. We have in an earlier Chapter noted that Africans were dispossessed of their land in order to fit into the Europeans' capitalist way of life that has proved so contrary to their life-world. Holden (1963:177) reasons and reminds us that Shepstone, this faithful servant of a colonial government, "thought that as a natural consequence" of putting

Africans into crowded reserves or "locations" "the want of labour would be severely felt; and this foreboding has been very sadly fulfilled". Shepstone, who felt that it was "evil" for Europeans "to perform the most menial services" owing to a scarcity of labour, had a great plan out of this "evil" (Holden, 1963:178).

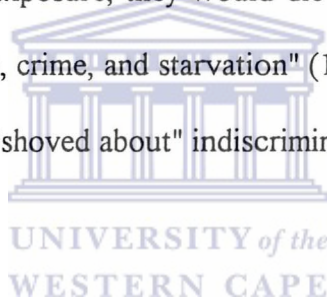
He was convinced that "the original plan for the government of the Kafir tribes was false in its consequences. It was, to govern them according to their own laws and usages, through the medium of their chiefs ... "He was happy to have to govern the Africans of Natal who were scattered, broken, powerless, ... " because in such a state they were "disposed to submit to any form of government under which the English might be pleased to place them; ..." (Holden, 1963:179).



His solution to this problem was to have the government "begin at the beginning, where the commencement ought to have been made years ago, ... let the government state in plain and distinct terms", reasoned Shepstone, "that the Kafir are British subjects, under British law, and subject to British institutions...". He continued describing his plan for a total annihilation of African institutions: "Let the Kafir Chiefs be set aside altogether; and let the Kafirs know we acknowledge no chief but the queen of England, ... Let it be known that her majesty is chief alone" (Holden, 1963:182).

Shepstone then was unflinchingly an imperialist doggedly interested in the success of Capitalism, irrespective of the disruption to African society. He was not interested and did

not care about African institutions, he aimed at destroying Chieftaincy and many African customs like "Ukulobola". Whatever was to be kept of the African institutions was to be adulterated to such an extent that it would be desecrated by the Africans themselves. It is in this frame of mind then that he took "possession" of Cetywayo, he became "his father" to the extent that "his own people would not know him" (Binns, 1963:70). It is such a transformation that Shepstone wanted to bring about in African land-tenure. Without chiefs and without land, Shepstone realized, Africans would have been left blind and naked, when separated from the institutions that cover and protect him. Polanyi articulated this situation beautifully: "Robbed of the protective covering of cultural institutions, human beings would perish from the effects of social exposure; they would die as the victims of acute social dislocation through vice, perversion, crime, and starvation" (1945:79). In this condition the African "labour power" would be "shoved about" indiscriminately between the farmers and the mining bosses.

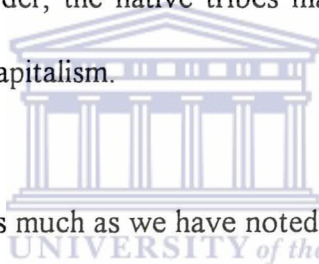


Wiggins (1929) also noted that the Cape Parliament was aware that the success of the Glen Grey Act depended on the destruction of the African institutions. What the white man was doing to the Africans he had already done in the eighteenth century to other white men for similar purposes, noted Polanyi; there had to be a "smashing up of social structure in order to extract the element of labour from them" (1945:166).

"As to 'titles'", he once wrote, "what do the Natives know or care about them? Nothing at all, ..." (Holden, 1963:202). It was not out of any respect for Africans and their way of life

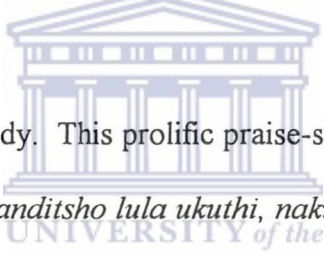
that he did not favour individual title, it was not to be wasted on them. They are to be put into reserves, in droves, under weakened Chiefs. They may continue under communal land tenure, but what good will it be, after all they are in a rugged country-side. All that is needed of them is their labour and having placed them in reserves, they are sure to deliver to us Europeans this commodity.

Shepstone was against individual title because it would result in totally depriving them of land altogether and turn them into dangerous vagabonds. He favoured keeping Africans in "locations" under magistrates as authorized heads or Chiefs of the tribe and under British law, so that "being reduced to order, the native tribes may become a useful ... people" (Holden, 1963:205) to European capitalism.



Lastly, it should be made plain that as much as we have noted that Shepstone did not respect African institutions, and sought in his heart to adulterate them, we need to note also that his claim, that Africans had no sense of value over land, is false, if not a misconception of the African sense of value in this regard. The very fact that Africans like Toto and Tshuka (Document 1) were so vehemently opposed to individual title was based on their understanding of the implications of losing a valuable resource such as land. Tshuka, Metu, Zonke and Ngqaba had held individual titles in the municipal district of Alice, but all were not satisfied using their land for production under that system and preferred to return to their own. There is certainly no evidence that it is holding land under Chieftaincy that amounts to a misuse thereof, as the Commission and Shepstone have tended to imply.

On the contrary, as Bundy emphasized, "the principal resource in Nguni society was land" (1988:21). This resource's importance as he notes, did not only lie in its value for subsistence "but also for recognition as members of a clan or tribe". Bundy here lends more testimony to the understanding of one of the tenets of African axiology: "contact with and awareness of environment and others within it" (Wilson, 1990:35). When we consider the general African orientation to social living in the final Chapter, we are going to propose that it is on its understanding that facets of African life, like land tenure need to be based. Bundy's recognition that as far as Africans are concerned: "If a man lost his land, he lost his membership in the community" (1988:21), should give one a clue as to the relationship Africans are engaged in with their environment, a human-centred relationship.



S.E. Krune Mqhayi assents with Bundy. This prolific praise-singer, poet, writer and African historian is specific: "*Kuma-Xhosa, manditsho lula ukuthi, nakuma-Afrika onke*" - ("amongst Ama-Xhosa and I should simply say amongst all Africans"), "*Umhlaba ... ibiyinto eyindyabo enkulu*" - ("land ... was a priceless thing"). Mqhayi thus not only acknowledges the perspectives expressed by Africans before the Commission, he rejects Shepstone's claim that Africans did not value land, with all its hypocrisy. And Ngani (1965:54) assents in his poem: "*Imfuduko*": "*Kungekho mhlaba aph'akukho Khaya, Kungekho Khaya K'akukho nokomwaba*" - without land there is no home, and without a home then there is no peace.

BIBLIOGRAPHY

BROOKS, E.M. 1924. The History of Native Policy in South Africa from 1830 to the Present Day. Pretoria.

BINNS, C.T. 1963. The Last Zulu King: The life of Cetywayo. London: Longmans.

BUNDY, C. 1988. The Rise and Fall of the South African Peasantry. Second Edition. Cape Town: David Philip.

FLENLEY, R. 1936. World History: The Growth of Western Civilization. Vol II. London: J.M. Dent & Sons.

HOLDEN, W.C. 1963. History of the Colony of Natal. Cape Town: C. Struik.

MAGUBANE, B.M. 1989. The Ties That Bind: African American Consciousness of Africa. New Jersey: Africa World Press.

NGANI. 1965. "Imfuduko" in Intlabamkhosi, Izibongo Zesi-Xhosa. Lovedale: Lovedale Press.

POLANYI, K. 1945. Origins of our Time: The Great Transformation. London: Victor Gollancz Ltd.

UYS, C.J. 1933. In the Era of Shepstone. Lovedale: Lovedale Press.

WELSH D. 1971. The Roots Of Segregation: Native Policy in Colonial Natal 1845-1910. Cape Town: OxfordUniversity Press.

WIGGINS, E. 1929. The Glen Grey Act and its effects upon the Native System of land tenure in Cape Colony and Transkeian Districts. M.A. Thesis. University of Cape Town.

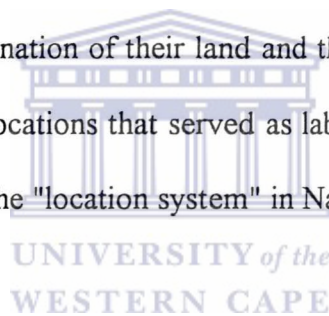
WILSON, B.M. 1990. "*The Black Orientation*" in Journal of Black Studies. Vol 21(1).



CHAPTER 5

CONCLUSION

This work was intended to identify a people's orientation or perspective toward the issue of land. An attempt has been made to show how, in the process of Westward expansion, Ama-Xhosa had absorbed several tribes (Sityana, 1978:67) and in the form of Ama-Gqunukwebe had spearheaded this expansion intermarrying and mingling with the Khoi peoples as noted by Ngani (1965:54) and Ncwana (1953:48-54). This expansion was halted when they made contact with colonists in the Cape Colony on the Eastern frontier resulting into several Euro-Xhosa wars that produced the alienation of their land and the subsequent crowding of the African people into reserves and locations that served as labour reservoirs. In the process the settlers occupied, as noted in the "location system" in Natal, the larger and more fertile tracts.



The alienation of their land and settlers to occupy it, the assault on Africa institutions like Chieftaincy, the building of Africans into "rugged" and mountainous" country-sides happened in order to subject the Africans to a particular mode of production that enriches a few at the expense of the majority. The Africans whole orientation to social life was hamstrung under several false and pretentious claims such as "civilizing" them in order to have them submit and succumb to a settler capitalist system that was antithetical to their own principles of living.

Grey, Wodehouse and Shepstone in their intercourse with Africans, and in particular on the question of landholding from which is a common origin of major ills besetting Africans- precipitated calculated degeneration in a people's social condition. Their principles, their tradition and history, were totally disregarded. That which was regarded as superior was imposed on Africans and became a cancer that gnawed at the very pillars of peace among men: capitalism.

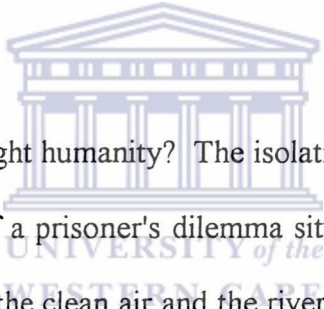
Whatever followed after the basic damage of land dispossession: the 1913 Land-Act, forced removals, Immorality Acts, separate development, the many faces of poverty, unemployment the claustrophobic conditions in and around our towns and cities- as highlighted so vividly by Wilson and Ramphela in their work: *Uprooting Poverty* (1989) were natural consequences.



The answer to all the social damage that has been done to Africans does not lie in a simplistic redistribution of resources and land in particular. There is a need for a reinvestigation of a paradigm that should inform whatever reconstruction and development that a new government embarks upon. Anyone, African or otherwise, who attempts to participate in this process without giving due regard to the paradigm that informs African tradition and principles is sure to make brothers.

As a basis for understanding why Africans rejected the settlers' capitalist individual tenure, let us briefly pay some attention to the general nature of capitalism and some illustrations of the African orientation to social intercourse.

This egocentric ethic is a worldview orientation that has a basis on a philosophy that treats individuals- whether it be private business- as separate, but equal social. This classic offspring of liberalism and its consequent laissez-faire capitalism has reached the zenith of its glory in the western world led by the United States. It justifies the empowering by individuals of their own lives. It is basically rooted in the seventeenth century, political thinker, Hobbes's philosophy: he states in his Leviathan that humans are naturally hostile and unfriendly. Everyone in the state of nature has an equal right to all natural resources given by Nature to all. But for him nature is really not some utopia where everyone, as held in earlier Communal theories, has equal access to wealth. There is, rather, competition for the same resources.



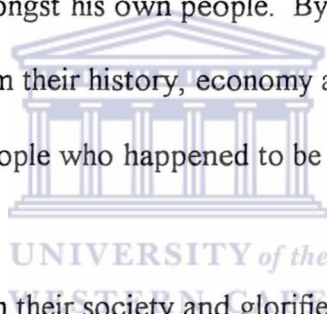
How far has this egocentrism brought humanity? The isolationism has brought humanity to the almost -too-late realization of a prisoner's dilemma situation of self destruction: any corporation or country may pollute the clean air and the rivers whether others do so or not. The individual good is the highest good.

Capitalism

Being founded on the basis of liberal individualism, capitalism's major characteristics is an "indifference to the social identities of the people" (Wood, 1988:5). Essentially because capitalism got to be applied within a colonial context by imperialists like Shepstone in South Africa the indigenous peoples' resources were confiscated and their values desecrated.

Capitalism in principle, can be applied with no regard to race, colour and gender. This is why it may continue in post-Apartheid South Africa. It is immaterial that it got applied by Europeans as there is no structured tendency toward racial inequality in capitalism.

When people's resources are taken away and when their values are hamstrung, they are put in a situation of exploitability. This is what imperialism does. Colonists alienated individuals from their society. African people were put in a situation of contactlessness when their institutions, such as chieftainship, were weakened. They became exploitable aliens in their own land, as illustrated by the disingenuous manner in which Shepstone turned Cetywayo into an alien amongst his own people. By taking away the land from the Africans, colonists were denying them their history, economy and culture and mercilessly put them at the mercies of a foreign people who happened to be white in colour.



Liberalism uproots individuals from their society and glorifies individualism, "... the escape of man into himself", "the severance of the self from the world", the "tearing apart of" "existential bindings and bonds", the "breaking free of all ontic otherness of things and lives (Buber, 1947:44). It is entirely self-interested in its reason and morality- "people act only if they judge something to be of benefit to themselves and their property (Sindima:1990).

On such a basis African life was not founded. It still reacts with revulsion against it. While African social living is not Capitalistic in its origin, it is neither collectivist.

While capitalism fosters individualism and thrives on it collectivism or communism negates

it and represses it. The collective is a group of people whose personal responsibility or freedom has been taken away by the group leadership who decides for the collective and whose decision is absolutely binding. Individuals are bundled, packed together, "armed and equipped in common" (Buber, 1947:31).

When Buber referred to collectivism, it was predominantly to communism and fascism in Europe as he knew it then. collectivism, as he observed, brought about a dictation to society and personality (Ben-Yosef, 1987:14). He believed that in its communistic way, Collectivism works to obliterate the past and tradition so that "a new order, built on the ruins of the old one" is put into place (1961:52).

5.1 THE CONCEPT OF COMMUNITY

One of the cornerstones of traditional African society is the concept of community. This according to Buber "is the being no longer side by side but **with** one another of a multitude of persons" (1947:31) and it is this that was known to Africans.

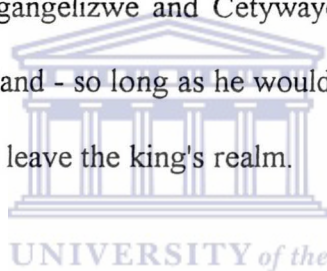
Mbiti (1970:141) expressed African "bondedness" of people in the dictum: "I am because we are, and since we are, therefore I am." Emphasis here is put on the relationship between the individual and his community. In this relationship the most important value is that the individual owes his existence to other people. Ama-Xhosa always believed: "*Umntu ngumntu ngabantu*" - a person is a person because of the other. Before individual human rights, it is a person's duty towards his fellow human beings that comes first. This does not

amount to a disregard of human rights. Shepstone before the Commission was aware that this mutual responsibility also protects individuals and their rights (Evidences, 1883:24). In the community, persons come to self-awareness and realize their responsibility to fellow humans. "All activity then becomes orientated toward fostering community life" (Sindima, 1990:199). Through many sayings such as the one quoted above and others such as "*Mutu umodzi susedzo denga*" (one head does not hold a roof), meaning that more than one beam is needed to keep the roof up, children are taught the concept of community amongst Africans.

It might seem too far-fetched to describe African life as based on the principle of community. Karl Polanyi asserts that it is in fact so. He noticed this principle as did Ludwig Alberti (1968). Notes Polanyi (1945:165) "the individual ... is not threatened by starvation unless the community as a whole is ..." and the absence of the threat of individuals suffering while society carries on indifferently made life in African societies "more humane than market economy".

Unlike communism and capitalism where collective or individual material wealth is the priority, in community "human understanding" comes first. Dickson Mungazi points out that from the beginning "the relationship between the Africans and Europeans were never good because the importance of human understanding was not a central factor in it" (1989:x). For Africans, axiology lies in interpersonal relationships rather than on a material orientation - "the acquisition of an object or material item would not take precedence over maintaining

and strengthening interpersonal ties" (Schiele, 1990:156). This point gets illuminated when considering that even when African kings had lost their land, the idea of peaceful co-existence with whites always was paramount in their thoughts. Land was to be held for the benefit of all, symbolically, by the chief - hence the rejection of individual title. Even when living within boundaries determined by the Government, (see Document 3-H) Paramount chief of Ama-Xhosa, Ngangelizwe would for the sake of good human relationship still plead for the inalienability of land and for the assurance that no more land would fall in the hands of whites who would subject it to the "individual title" system that would lead to the wholesale impoverishment of his people. So concerned were African kings with good interpersonal relationships that Ngangelizwe and Cetywayo in Zululand had no problem giving whites, such as John Dunn, land - so long as he would give it back to be used for the benefit of the people if he chose to leave the king's realm.

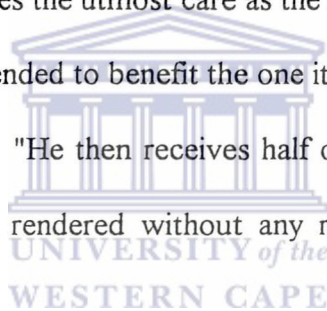


It is therefore, when reading African testimonies before the Barry Commission, with an understanding of the traditional African orientation towards society, that one can begin to realize what a disruption of African society individual holding of land would amount to.

Communal land tenure that has been so overwhelmingly vindicated by Africans before the Barry Commission should be understood as having been preferred as it was rooted in their axiology. Alberti, a former soldier and landdrost among Ama-Xhosa did also learn that social intercourse amongst them was based on the principle of community. "The Kaffir" he noted "gladly and willingly renders assistance to his neighbouring fellow-creatures, ... and

appears to feel the necessity for this powerful social tie deeply" (1968:77). Alberti noted a readiness to help strangers among Ama-Xhosa and he illustrates this with his own experience with Chief "Buchu" (1968:72).

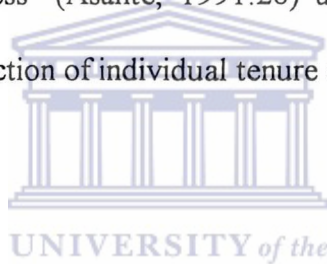
In their general economy he noted a general concern for one's fellow beings. "If someone is completely impoverished and asks for assistance, ... he is immediately provided with nourishment, ... the one who has less cattle than are necessary for the maintenance of his family, receives several cows on loan for two, three and more years..." (1968:77-78). There is to this day a saying among Ama-Xhosa that goes: "*Inkomo yeqoma yintsengwebeka*" - meaning, borrowed property deserves the utmost care as the lender might just appear at any moment to reclaim what he had intended to benefit the one it was lent to. The one who has plenty feels duty-bound to assist. "He then receives half of the calves from these cows, although such assistance is often rendered without any reward to the lender (Alberti, 1968:78).



We have already noted in the section on the principle of community that Karl Polanyi also noted how "humane" this characteristic made African society: "the absence of the threat of individual starvation "made their society" in a sense more human than market economy. "Under the Kraal-land system" noted Polanyi (1945:165) "destitution is impossible: whoever needs assistance receives it unquestioningly". Perhaps it is this recitation that made him long for such a life in his find work: **The Livelihood of Man (1977)**: "I have fully turned towards socialism which is no longer merely the cause of the working class but a matter of life and death, for all humanity".

5.2 AFROCENTREDNESS OR AFROCENTRICITY

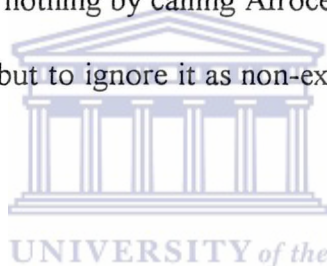
For convenient academic identification one is prone to give the general Africa orientation to social intercourse, (that has been identified in this work as socially very differently inclined than liberalism from which capitalism emanates) a label. It will be called Afrocenteredness or Afrocentricity. It is presented here not in an "oppositional edge which offers respite from the oppressive realities of daily life in a hostile dominant culture" (Ransby and Matthews, 1993:57) but as a basis to understand the suffering experienced by man in the hands of his fellow man. God forbids that I be perceived as using Afrocentricity in the manner that Ransby and Matthews accuse Asante of: a dogma or a "prescription" (1993:58). It is a "consciousness" (Asante, 1991:26) upon which Africans are to be understood to have based their rejection of individual tenure and resented the transformation to capitalism.



In the issue of landholding the Europeans used a paradigm that overlaps so little with the Afrocentric one. Colonist and indeed the Barry Commission were bent on rescuing, "emancipating" Africans from this paradigm and "civilizing" them. What arrogance! It is evident when examining the Commission's work and their impressions afterwards, that the fact that Africans were rejecting the settler capitalist individual title never raised any doubt in the mind of Shepstone and the Barry Commission about the correctness of their beliefs.

As already pointed out this work sought to identify a particular way of life. God forbid that this work be regarded as prescribing a solution that will be "true" for the African majority

in South Africa in the matter of landholding. This author holds the Rortyist view that one cannot justify one's beliefs to everybody. I have attempted to identify a problem in Euro-African relations and not to fantasize. I have attempted to argue that Afrocentricity is real not "true". I have attempted not to dictate but to secure a place for it in South African conversation. The idea of "truth" I believe will take us back to the evils of Apartheid and Nazism. It therefore should be avoided, because it is too confrontational. Afrocentricity has been identified not as a better or worse idea than liberalism. If Africa is indeed the salvation of the world as Robert Sobukwe believed (Karis and Carter, 1972:335), the world should be left free to choose this "salvation", as others are left free to live it. Its beauty should speak out for itself. This work will give nothing by calling Afrocentricity the goal that should be pursued in land settlement issues, but to ignore it as non-existent is dangerous, and indeed unacceptable.



It is perturbing to note that as Africans in South Africa, we share a common history of colonial domination with others elsewhere. In this experience there has emerged a host of missionary-educated elite. The historian David Chanaiwa (1985:198) has observed that missionaries who often depicted Africans as "benighted" and "savages", often produce miseducated and mislocated Africans who shared this colonial consciousness about their fellows (No less than two missionaries were in the Locations Commission of 1847 that painted a bestial picture of the African masses).

One cannot help but hope for the emergence in our Universities, of intellectuals strong-minded enough to open their academic departments to perspectives and view/points from

various parts of the globe not denying their participation of the Afrocentric perspective in scholarship and research.

As South Africa gropes towards democracy, an acknowledgment of Afrocentricity by policy-makers in all facets of South African living will not debase anybody, rather it will definitely lead to improved partial understandings. This will be in itself a reward in efforts to bring us closer to the universal human community, one step at a time.



BIBLIOGRAPHY

ALBERTI, L. 1968. Ludwig Alberti's Account of the tribal life and Customs of the Xhosa in 1807. Translated by William Fehr. Cape Town: Balkema.

ASANTE, M.K. 1991. Afrocentricity. New Jersey: Africa World Press.

BEN-YOSEF, I.D. 1987. "*Continuing Education in Critical Times with special reference to Martin Buber*" in South African Journal of Continuing education. Vol 1(1).

BUBER, M. 1947. Between Man and Man. London: Keegan Paul.

BUBER, M. 1961. Between Man and Man. London: Collins.

CHANAINWA, D. 1985. "African initiatives and resistance in Southern Africa". In A.A. Boahem (Ed). General history of Africa: Africa under colonial domination 1880-1935. Vol. II. California Heineman Educational Books Ltd. UNESCO.

KARIS, T. AND CARTER, G.M. 1972. From Protest to Challenge. Vol. II: Moderation and Militancy, 1937-1949. Hoover Institute.

MBITI, J. 1970. African Religions and Philosophy. New York: Double-Day.

MUNGAZI, D.A. 1989. The Struggle for Social Change in South Africa: Visions of Liberty. New York: Taylor and Frances.

NCWANA, K.K. 1953. Amanqakwana Nqeminombo Yezizwe Zase-Mbo. Lovedale; lovedale Press.

NGANI, A.Z. 1965. "*Imfuduko*" in Intlabamkhosi Izibongo Zesi-Xhosa. Lovedale: Lovedale Press.

RANSBY, B. AND MATTHEWS, T. 1993. Black popular culture and the transcendence of patriarchal illusions. Race and Class. Vol. 35 (1).

SCHIELE, J.H. 1990. "*Organizational Theory from an Afrocentric Perspectives*" in Journal of Black Studies. Vol. 21 (2).

SINDIMA, H. 1990. "*Liberalism and Black Culture*" in Journal of Black Studies. Vol. 21 (2).

SITYANA, A.S.M. 1978. Izixingaxi Zama-Xhosa. Umtata: Shuter and Shooter.
Welsh, D. 1971. The Roots of Segregation. Cape Town: Oxford University Press.

WILSON F. RAMPHELE M. 1989. Uprooting Poverty Cape Town: David Phillip.

WOOD, E.M. 1988. "*Capitalism and Human Emancipation*" in New Left Review. Jan-Feb. 1988.

