



## About this data story

Colonial and apartheid land dispossession in South Africa was the most extensive of any country in sub-saharan Africa. When the hugely unequal distribution of land was enshrined in law in 1913 there were just nine million people living in South Africa. Today the population stands at 60 million.

The land reform programme initiated after the transition to democracy in 1994, has failed to fundamentally redraw the landscape and enable equitable access to land. In consequence, the unresolved land question remains a critical thread in the country's colonial and post-colonial history and the pressure to access land grows daily in both urban and rural areas.

Land dispossession is inextricably bound up with the history of mining in South Africa. The discovery of diamonds, gold, coal and diverse other minerals was the primary driver of the

South African economy, with impacts that resonated throughout the region. All, except for three countries in the current Southern African Development Community exported labour to the South African mines. In the contemporary era the exploitation of new mineral resources has increasingly centred on impoverished rural areas which formed part of the former 'homelands' - land designed for specific ethnic groups during the apartheid era. In these areas land tenure remains insecure and traditional authorities are empowered to enter into land deals with outside parties.

This creates the possibilities of a **double dispossession** where poor and vulnerable rural households, historically exploited through the migrant labour system, and governed by apartheid sanctioned Bantu Authorities, may lose the little that they have been able to retain, as they are displaced by mining activity and experience the environmental impacts of living in close proximity to mines.

This Land Portal Data story seeks to connect the past with the present. The story has six episodes which you can navigate as you please. The first three episodes narrate the story of land dispossession across different historical periods. Subsequent episodes examine the history and impacts of mining.

## Episode 1

Provides a short **overview of colonial land** dispossession prior to 1900

## Episode 2

Focuses on **land law and segregation** between 1900 - 1948

## Episode 3

Focuses on the **apartheid era** characterised by forced removals and the attempted creation of 'ethnic homelands'

## Episode 4

Focuses on **mining**, highlighting key changes in the industry

## Episode 5

Focuses on the possibility of a **mining-led double dispossession** in the former homelands

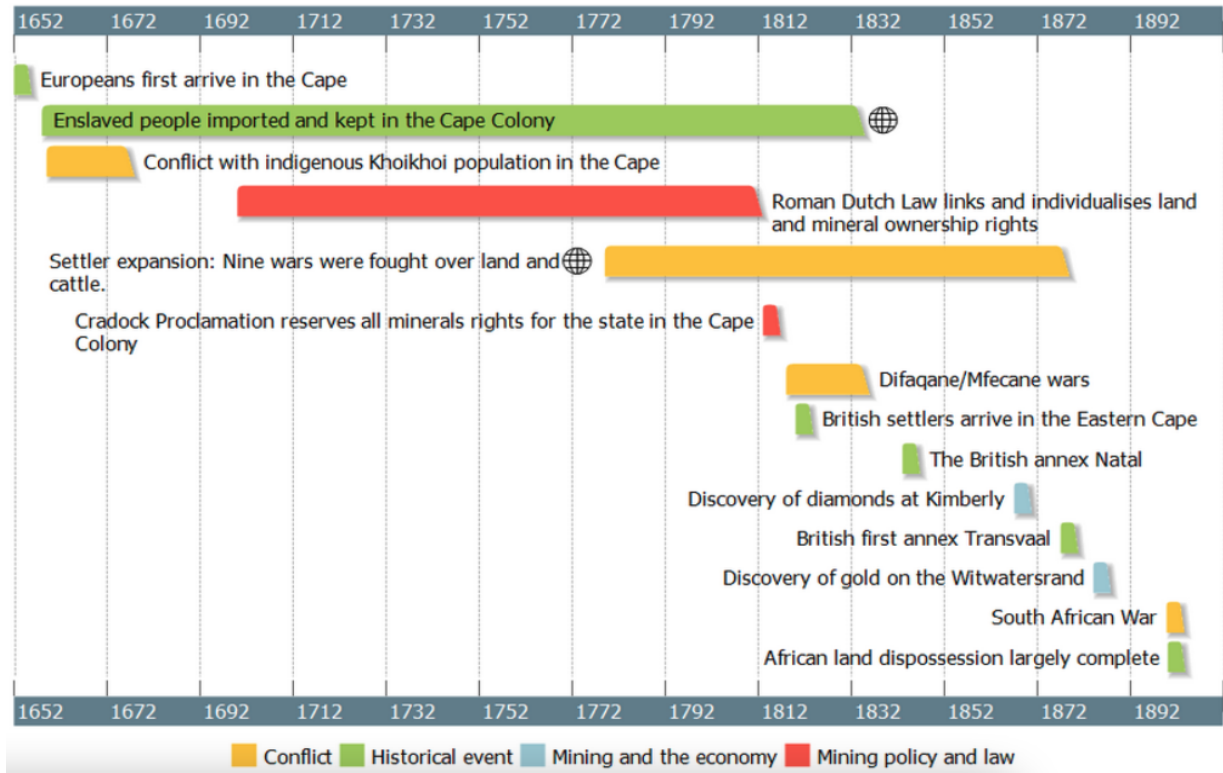
## Episode 6

Explores **three case studies** to illustrate the threat of double dispossession in practice

## Conclusion

Highlights the **complexities** which emerge and cautions against the temptation to create a single, simple story.

# Episode 1: Dispossession prior to 1900

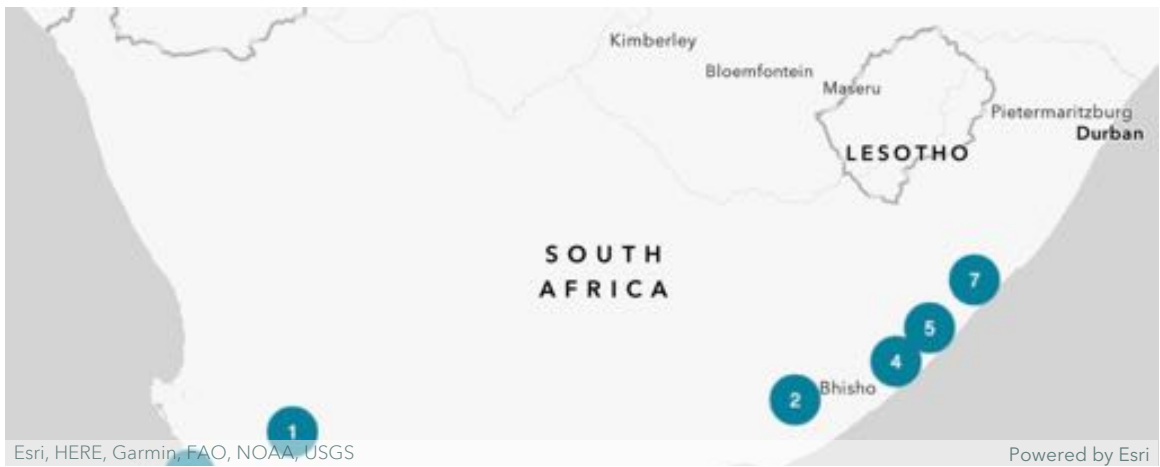


This timeline highlights how colonial conquest was completed in South Africa over a period of just less than 250 years.

Europeans first arrived at the Cape in 1652. Almost immediately there was conflict between Dutch settlers and the indigenous Khoikhoi and San populations.

Settler agriculture in the Cape depended on the import of enslaved people to provide labour. The imposition of Roman Dutch law provided the basis for the individualisation of settler land rights and, initially, surface and mineral rights were deemed to belong to the title holder.

Colonial law failed to recognise African property rights.



**1 1652**



As Europeans moved inland from the Cape, they displaced, hunted and killed or assimilated the Khoikhoi and the San inhabitants.

**2**



Their expansion up the eastern coastal region brought them into conflict with the Xhosa.

3



By the time the British took control over the Cape in 1806 ...

4



... there had already been three frontier wars fought between the Dutch settlers and the Xhosa.

**5** 1779 - 1894



Nine frontier wars were fought in which the Xhosa lost much of their territory, which was then incorporated into the Cape Colony.

**6** 1813





In the Cape colony the British took the first step towards state ownership of mineral rights with the Cradock Proclamation.

Contestation over ownership and benefits from mineral rights would become a constant feature throughout South African history.

Conflict in South Africa accelerated with the arrival of British settlers in what today is the Eastern Cape.

## 7 1843



Instability created by frontier wars, drought and mounting pressure on the land led to an 18 year period of social upheaval and inter-group warfare (1818-1835).

This period was known as the *mfecane* or the *difaqane* - terms which evoked the crushing, grinding and scattering associated

with conflict.

The impacts were felt across the land and on up into the subcontinent. This instability facilitated the British annexure of Natal in 1843.

## **Episode 2: 1900 - 1948**

### **Segregation and the Land Acts - Laying the foundations for apartheid**



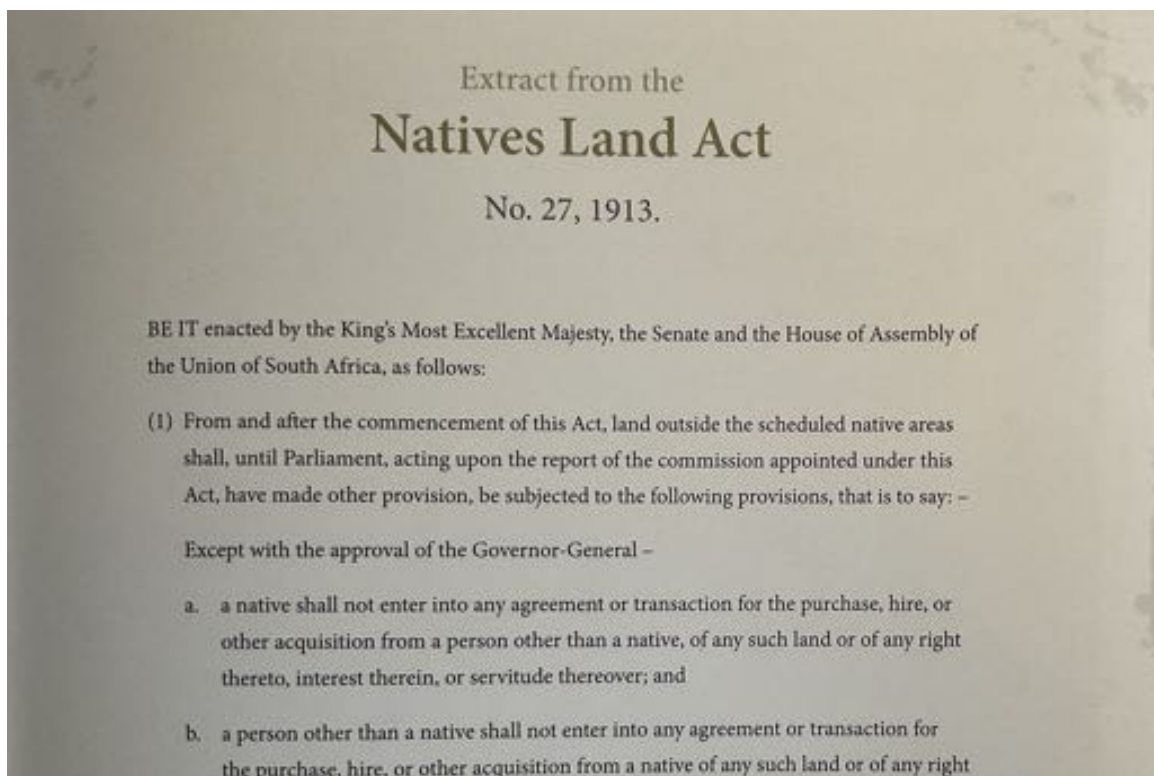
The foundations of apartheid were laid long before 1948. Subjugation, segregation and dispossession were defining features of the preceding colonial period.

In 1905, a report prepared by the South African Native Affairs Commission signposted policies to come. This report was strongly segregationist in its recommendations. It proposed different legal regimes governing white and black land ownership. It advocated for separate residential locations for black people living in urban areas. It

envisaged the removal of African sharecroppers and labour tenants from their land which had been taken into white ownership, or their retention as farm labour.

Policies and laws were put in place during this period with far reaching implications for African land rights and the exploitation of minerals.

The Land Settlement Act of 1912 reserved ownership of all mineral rights for the state, which also authorised the right to mine.



## The 1913 Natives Land Act

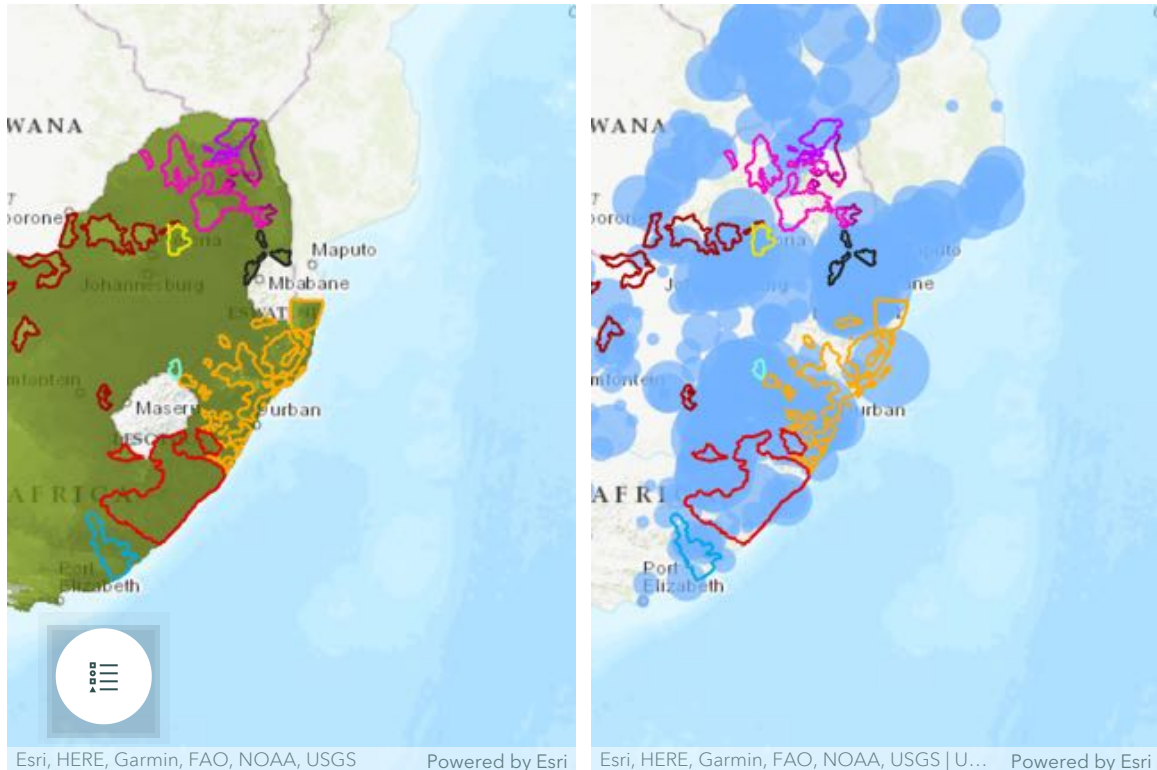
The Act included a “Schedule of Native Areas” which listed all African reserves comprising 22 million ha – just over 7% of South African territory. It had different impacts across the country:

- It sought to make sharecropping and labour tenancy in some provinces illegal
- It sought to prevent Africans from buying land outside areas scheduled for exclusive African

ownership

- It put in place a Commission to recommend additional land which could be added to the schedule of reserves

The Natives Land Act gave legal force to a long history of discriminatory practices developed over many years by British and Boer administrations.



## Dispossession and land capability

From a land use capability perspective, much of the land reserved for Africans fell within the eastern coastal strip with higher rainfall and greater arable potential (Bundy, 2015). Just 12% of South Africa is arable land while 69% is suitable for grazing. (WWF, 2009)

Subsequent legislation in 1936 sought to add land to the scheduled reserves. The resulting land holding arrangements laid the basis for the creation of 'ethnic homelands' based on the

residual core of African polities and kingdoms subjugated in the 19th century.

*Move the slider to compare increasing grazing capacity and rainfall. Click on grazing capacity and weather stations where rainfall was recorded to display the livestock unit per hectare or the recorded rainfall respectively.*



## Laying the ground for 'ethnic homelands'

The 1936 Native Trust and Land Act added land to the reserves scheduled in 1913 to 13% of the total land area of South Africa.

In 1936 the population of South Africa was 9.6 million people:

- 69% African 6.6 million
- 21% European 2.0 million
- 10% Asiatic and 'Coloured' 1 million

The **interactive map** indicates the officially recognised areas for African occupation.

In practice, however, many African people continued to live outside the reserves, either on land which had been taken by whites, or on land which they had purchased themselves.

People living on land outside the scheduled areas became the targets for forced removals which gathered momentum after 1948.

### **Episode 3: The apartheid era 1948 - 1994**

The apartheid era was characterised by forced removals, tight control over urban access, employment through the migrant labour system and the consolidation of the apartheid vision of African people being forced to become 'citizens' of 'independent homelands'.



### **Forced removals: 1950's - 1970's**

At least 3.5 million people were removed during this period.

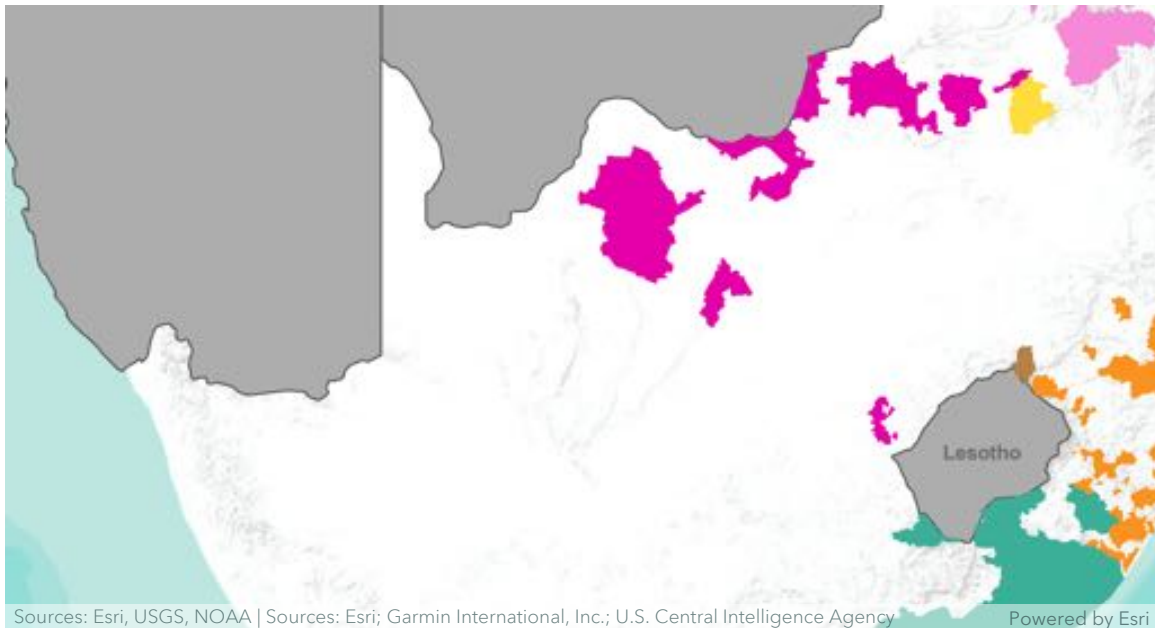
Different types of forced relocation included:

- Group Areas removals within urban areas
- 'Black spot' removals in which farms owned by African title holders were seized by the state and both owners and tenants forcibly relocated
- Removals of 'surplus people' from white owned farms to homeland areas
- Removals within the reserve/homeland areas due to villagisation and enforced land use controls known as 'betterment planning'



“The old labour reserves - set aside originally by the Land Act of 1913 - into which even more people (pushed off white-owned farms and so-called black spots) were packed during apartheid’s ethnic cleansing process and contain levels of poverty which do not simply happen to be there, nor did they emerge out of a clear blue sky. Poverty in the bantustans was generated by the dynamics of white-controlled South Africa’s industrialising process and it remains endemic in those areas now absorbed into the various provinces of the new South Africa”. (Wilson, 2011)





## The homeland system

Under this system there were four **nominally 'independent' homelands**, [⊕ Transkei](#),  
[⊕ Bophuthatswana](#), [⊕ Venda](#) and [⊕ Ciskei](#), and  
 six **'self governing' entities**,  
[⊕ Lebowa](#), [⊕ Gazankulu](#), [⊕ QwaQwa](#),  
[⊕ KwaZulu](#), [⊕ KwaNdebele](#) and [⊕ KaNgwane](#).

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*Click on the names of the homelands above to see their location in the map (highlighted in red)*

## Episode 4: Growth and change in the mining industry



When diamonds were discovered in 1867 and gold in 1886 this triggered a global rush of prospectors, investors and fortune seekers.

Just ten years after the discovery of gold one hundred thousand men were employed on the Witwatersrand goldfields, stimulating the development and growth of the city of Johannesburg.

Gold mining provided the impetus for industrialisation and was the central driver of the South African economy. Abundant sources of coal were exploited to generate electricity to power industrial growth.

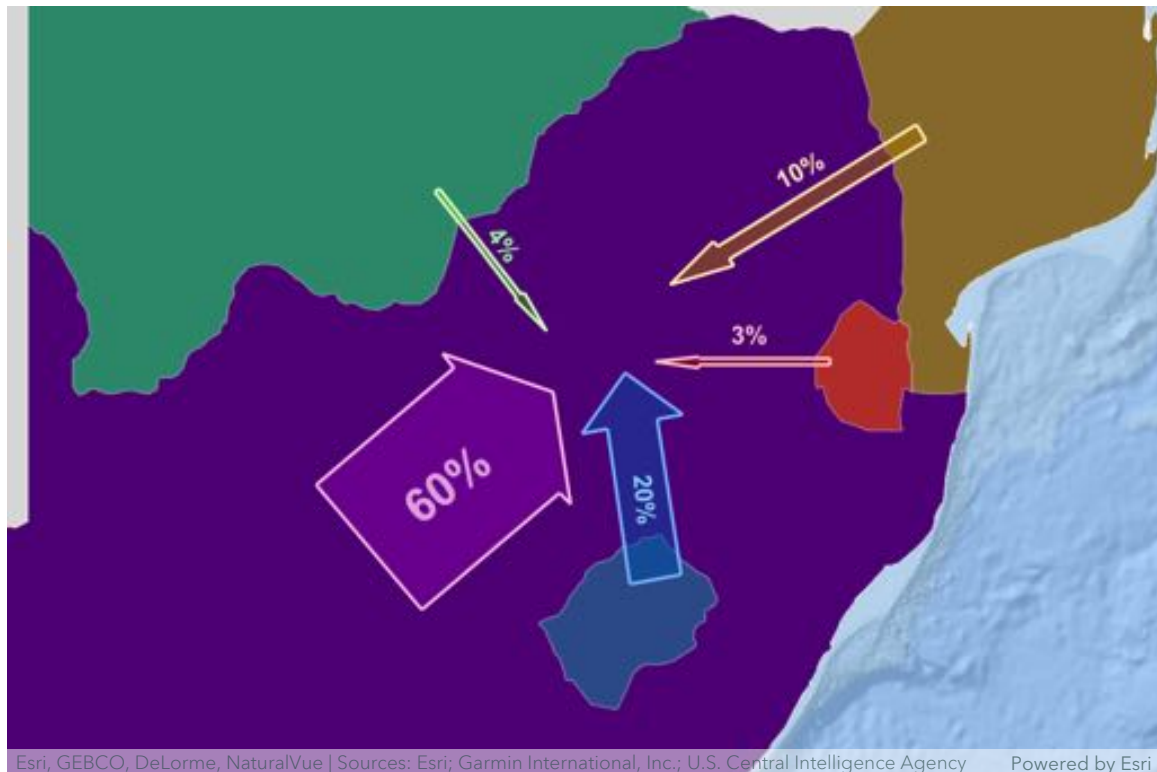


*What is so interesting and painful about South Africa's "development" is the extent to which the very processes that generated wealth in the economy simultaneously produced poverty and patterns of unemployment that still hobble South Africa as it struggles to democratize in the twenty-first century. (Wilson 2001)*

The Chamber of Mines recruited contract mine labour from across Southern Africa, with workers from the Eastern Cape, Lesotho and Mozambique predominating.

Living and working conditions in the mining industry were notoriously harsh. An estimated 68 000 miners died in accidents between 1900 and 1990.

It has been calculated that a mineworker who spends 20 years working underground has one chance in 30 of being killed and a 50% chance of being permanently disabled.



By 1986, 315,000 black workers in the mines came from South Africa (60 %); 109,000 (20 %) from Lesotho; 58,000 (10 %) from Mozambique; and the remaining 54,000 from Botswana (4 %), Swaziland (3 %), and Malawi (4 %) (Wilson, 2001).

By 1990, gold contributed 31 % of total exports, while all minerals combined accounted for 48% of exports.

489 000 workers were employed. Black mineworkers' wages remained far below wages paid in manufacturing, although they were higher than those paid in agriculture.



Just prior to the democratic transition, the apartheid government passed the **Minerals Act in 1991**. It sought to transfer the right to prospect for and to mine those minerals that had previously been reserved exclusively for the State, to the mineral rights owner. This was in response to concerns that a democratically elected government could seek to nationalise the mines.

While gold was the high value mining commodity which dominated production in the 20th century, mining in recent times has shifted away from gold and into platinum group minerals with a different spatial footprint.

## **Episode 5: Double dispossession in the former homelands: 1994 - 2021**



South Africa was divided into **nine provinces** as part of the negotiated transition in 1994. Former homelands were incorporated into the provinces.

The South African Constitution recognised the institution, status and role of traditional leaders according to customary law which remained subject to the constitution.

The colonial and apartheid policies had created deep structural poverty and inequality in South Africa. This poverty was acute in the provinces containing the former homelands.

The tenure of people living in the former homelands has remained insecure. The Constitution recognised the right to tenure security and interim legislation was passed to protect rural people's land rights.



# Government Gazette

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## THE PRESIDENCY

No. 861

20 July 2004

The Communal Land Rights Act of 2004 (CLRA) sought to **transfer title deeds for land** in the former homeland from government to the community. It authorised traditional councils to represent rural communities as land administrators and to allocate land in communal areas.

This law was met with strong resistance. The CLRA was eventually struck down by the Constitutional Court in 2010 on procedural grounds. Subsequently the Communal Land Tenure Policy of September 2014 (CLTP) proposed the transfer of land in the former bantustans to Traditional Councils.

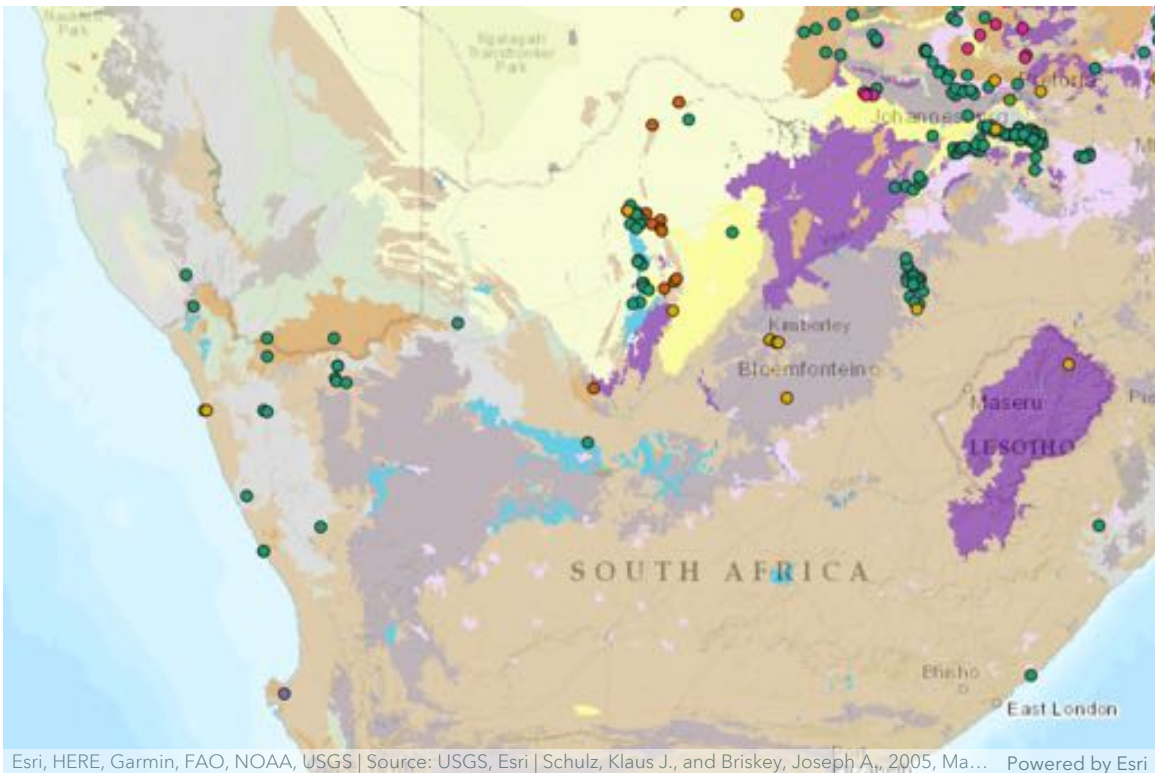
The Department of Rural Development and Land Reform (DRDLR) argued that Traditional Councils should obtain title deeds, while individuals and families occupying the land would get “institutional-use rights to parts of the land”.



Up until today Parliament has failed to pass a law to secure the tenure of people living in the former homelands. The only Protection has been the Interim protection of Informal land Rights Act which has to be renewed every year.

The failure to address tenure security and to clarify the powers and authority of traditional leaders has created conditions ripe for elite pacts between mining companies, politically connected actors and local traditional leaders.

There have been highly unequal benefits derived from the exploitation of valuable minerals such as platinum found to occur in former homeland areas such as Lebowa and Bophutatswana.



As mining companies sought to access minerals in former homeland areas, they engaged primarily



with traditional leaders, as if they were the owners of the land.

It has been argued that the geopolitical location of platinum reserves within former Bophuthatswana and Lebowa “enable the major producers to sew up the rights... through favourable lease agreements” (Capps: 2015).

Mining companies have sought to incorporate “chiefs as junior partners” which has enabled them to “join the ranks of the BEE elite” (Ibid: 504).

In addition to platinum group metals, South Africa is amongst the top ten of global coal producers. Sixty percent of coal deposits are found in Mpumalanga province.

## Episode 6: Three case studies



The **three case studies** featured below highlight the social, ecological and economic impacts of

mining for people living in former homeland areas (*click on map icons*):

1. **Mogalakwena**
2. **Makhasaneni**
3. **Xolobeni**

In each case mining has either threatened or resulted in relocations of people from their homes. In some instances this was the third relocation households had been forced to make in less than a century, due to forced removals of different types.

In each case ...

- compensation ranged from non-existent to inadequate.
- local people have resisted their double dispossession.
- mining has created winners and losers and has become a potent source of violent conflict in mining affected communities.



## Case study #1: Mogalakwena platinum mine



Corporate view: Take a flight over Mogalakwena platinum mine

Mining commenced in 1993. The estimated productive life of the mine is 100 years (Anglo Platinum, 2012). Whilst Anglo Platinum has the mineral rights over the areas marked in the diagram, the surface rights belong to the government.

The mining companies took the position that negotiations over mining leases should be conducted with the senior traditional leader and the Mapela Traditional Authority, and that these institutions represented 'the tribe'.

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*You can zoom in and out of this map*



In 2008 Anglo Platinum reported that:

- Since 1993 it had leased certain portions of the farms Overysel, Zwartfontein and Vaalkop for the remaining economic life of the mine, in return for payment of an initial lump sum rental of R1 200 000 (1993 terms) and an annual rental (initially R5 000), escalating at 10% each year and now at R58 000.
- It had established a trust for community development whereby 0.75% (R95 million) of the mine's annual estimated operating costs for the remaining life of the mine was paid into the trust at net present value.

These payments will cease when the mine closes. They are paid to an account of the Local Magistrate Court for the benefit of the Mapela Tribal Authority and were calculated (which was minimal) on the agricultural potential of the land.

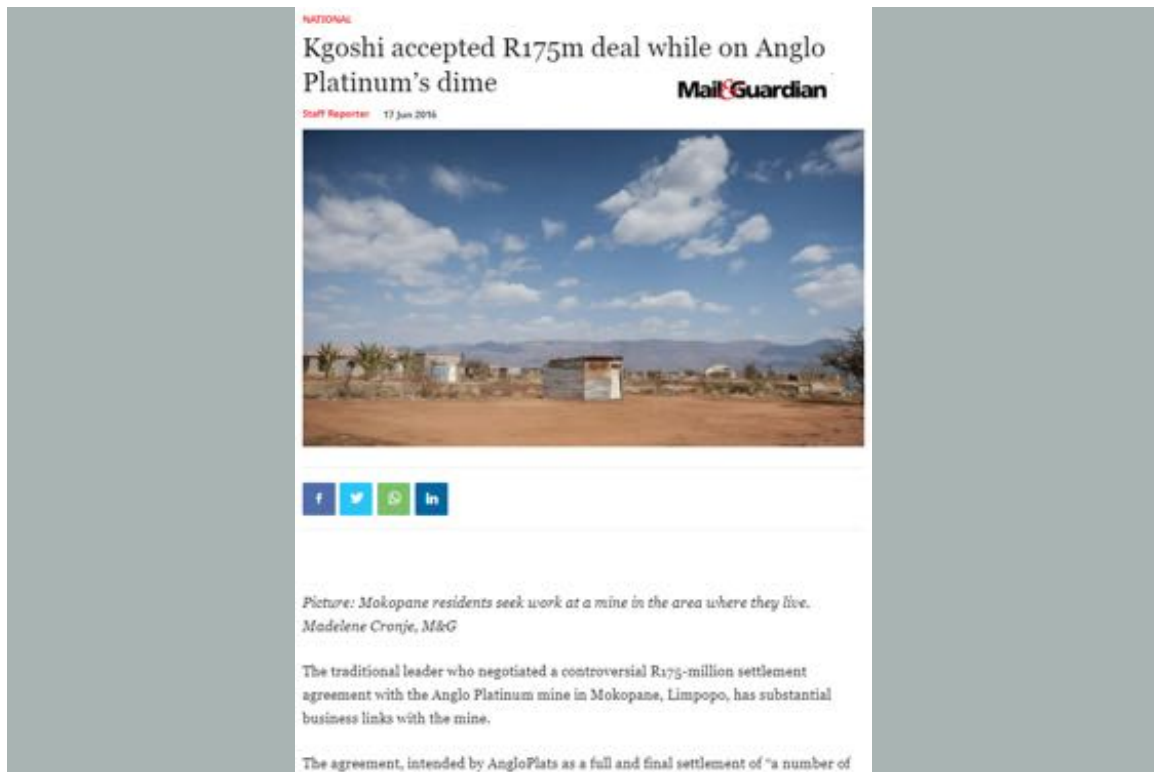
This lease gave PPL the exclusive right to the surface portions covered by the lease.



## Mining Impacts

A 2015 study conducted by SWOP, a research institute at Wits University, investigated the impact of mining on the livelihood, food security and environmental rights of the Langa Mapela community. This highlights:

- loss of land and livelihood opportunities as a consequence of mining activity;
- numerous environmental impacts which people experience from mining, including air pollution and damage from blasting;
- an ongoing problem of intermittent water supply and the failure to deliver basic services in the surrounding villages, which many people regard as being aggravated by mining activities;
- relocation of villages, which has resulted in the marginalisation of women and youth due to the way in which customary land rights were interpreted by the mine when determining compensation associated with relocation



The simmering discontent surrounding mining at Mogalakwena was amplified by reports that the local *kgoshi* or chief, who had negotiated a R175 million settlement agreement had been massively enriched through his association with the mining company.

This led to violent confrontations with the mine and the police, leading to the temporary closure of the mine.



In 2016 the **South African Human Rights Commission** responded to widespread protests in the mining sector. It published a report which found that:

- Government departments “systematically disregard key pieces of legislation”.
- No formal guidelines or oversight has been provided for the calculation of compensation and the finalisation of compensation agreements.
- Many mining companies appear to overlook or undervalue the sanctity and importance of grave relocations and that, despite strict regulatory requirements, unlawful grave relocations have been, and continue to be, conducted by a number of mining companies.
- There was “an immediate need to give effect to the internationally recognised precautionary principle in matters dealing with environmental protection”.



## Case study #2: Makhasaneni

Makhasaneni is a rural area in former KwaZulu on land held by the Ingonyama Trust.

The community of Makhasaneni had already experienced forced removals in the 1930's. They were forcibly removed from their homes on white owned land at eMagogogweni, after the land was designated to establish forestry plantations.

In 2011 they were threatened with a second removal – this time as a consequence of mining.

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*Zoom to the pin showing the valeys and hills of Makhasaneni*





In 2011, Jindal mining company arrived unannounced to establish whether the area had sufficient iron ore to justify mining. In the process, the villagers say, family graves, water streams and ploughing fields were destroyed and some livestock died from drinking chemical contaminated water.

*"We who live in the hills of Makhasaneni woke up one morning in mid-2011 to hear and see big machines arriving to drill in our fields, backyards, graveyards, grazing land, wetlands and rivers. It was the beginning of a nightmare that goes on to this day.*

*We are not against development, but the arbitrary decisions imposed on us mean that we are victims, not*

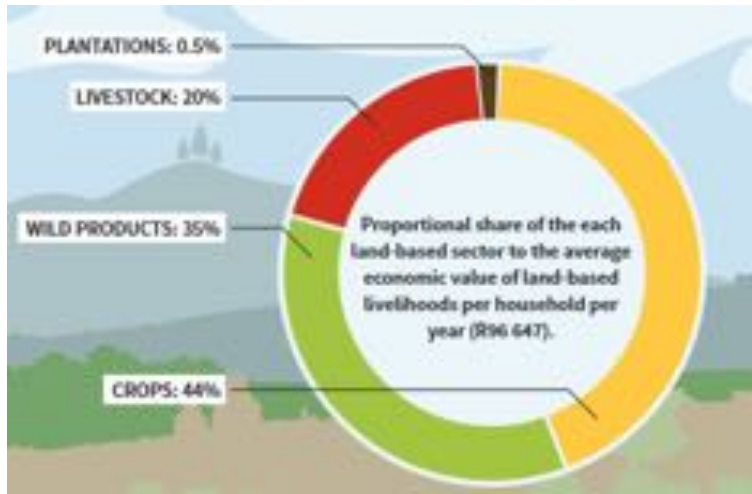
*beneficiaries of development. And now, under laws passed since 1994, we have graduated also to being "victims of democracy".*

*The struggles of the people in Makhaseneni have been recorded in the THIS LAND documentary.*



Where mining companies obtain the right to prospect and mine on communal land a number of key issues arise including:

- Whether the land rights holders have been adequately consulted and given informed consent.
- In cases where people will be relocated, how compensation for loss of land, housing and land based livelihoods will be calculated.
- Such compensation needs to be determined taking into account a holistic understanding of how communities use and rely on their land.

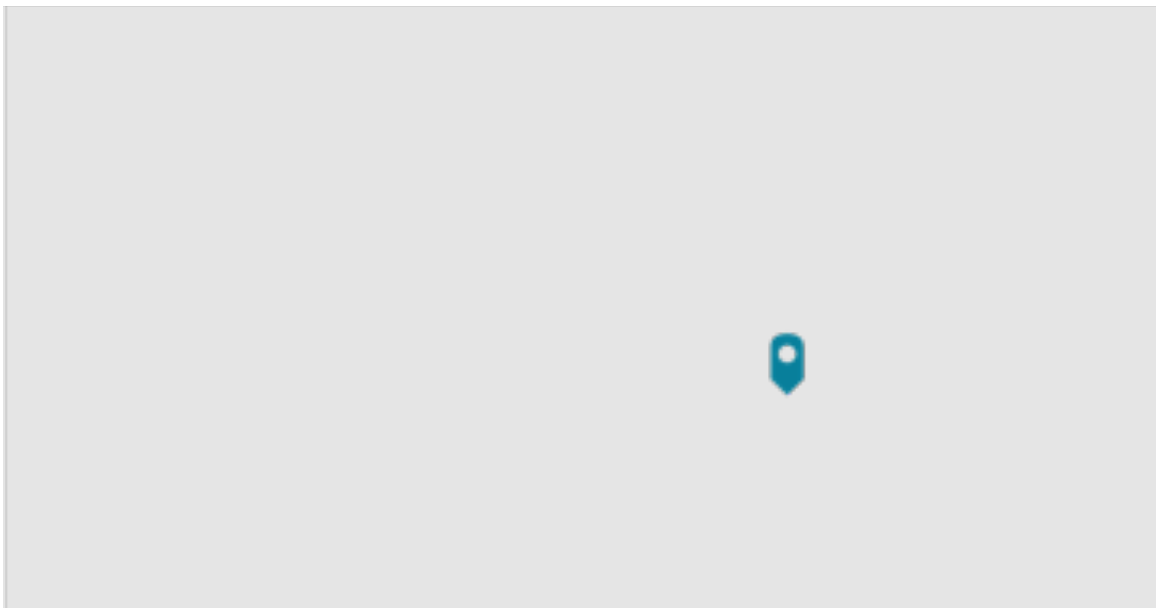


Graph from the report "Land-based livelihoods matter in Makhasaneni" by Shannon Herd Hoare, Ramabina Mahapa, Ncedo Mngqibisa.

The Land and Accountability Research Centre commissioned research to assess the value of rural livelihoods in Makhasaneni.

For a while it seemed that Makhasaneni had successfully resisted the takeover of their land by the mine.

Mining group Jindal went into business rescue in June 2018, but by November 2019 the company had successfully implemented a business rescue plan and is pursuing mining opportunities in the Melmouth area once again. Its focus is now on the South block where people in other villages will face relocation.



### **Case study #3: Xolobeni**

In 2002, Mineral Sand Resources (MSR), a subsidiary of Australian company Mineral Commodities Ltd (MRC) applied to mine nine million tons of ilmenite, titanium-iron oxide, rutile, zircon, and leucoxene from a strip along the pristine Wild Coast in the former Transkei.

Against the will of the community, the traditional leader in the area agreed to the granting of the mining licence in exchange for a directorship in the mining company.

Mining rights were initially granted by the Department of Minerals and Energy in 2008, but were withdrawn in 2011, following local resistance by the Amadiba Crisis Committee with legal support from the Legal Resources Centre.

In March 2015, MRC filed another Mining Rights Application, through a subsidiary, Transworld Energy and Resources (TEM)

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*Zoom in the map to see the sand dunes near the ocean*



The application to mine has created deep divisions within the community. This has resulted in death threats and the assassination of those opposed to mining. In 2016 anti-mining activist Bazooka was shot outside his house.

For many years the South African government allowed mining rights to supersede land rights in the former homeland areas. The Amadiba Crisis Committee, with the support of human rights lawyers, have launched court actions to try and protect their rights.



In 2018 the Pretoria High Court ruled that mining developments can only take place with the full and informed consent of the Xolobeni community. If consent is not obtained, no mining may happen unless the state expropriates the land.

In a linked case the Constitutional Court has since ruled that IPILRA rights are Constitutional rights and must be upheld.

In a separate judgment Constitutional Court ruled that compensation has to be determined up front before mining has started and destroyed the value of the land. This means that mining houses will have to offer the people directly affected fair compensation package if they want them to consent to mining.



However, since then the state has passed the **Traditional and Khoisan Leadership Act**, which grants powers to traditional leaders that are in direct conflict with the principle of free prior and informed consent set out in IPILRA.

Section 24 of the Act states that:

(1) the national government and provincial governments may, through legislative or other measures, regulate partnerships and agreements as contemplated in this section.

(2) Kingship or queenship councils may enter into partnerships and agreements with each other, and with –

- (a) municipalities;
- (b) government departments; and
- (c) any other person, body or institution.

This section effectively means that the **traditional authority will be able to enter into agreements on behalf of communities, without obtaining their consent**. It provides for a system where the rights of individuals living under

traditional authorities are at the mercy of unelected traditional leaders.

## Conclusion

It has been strongly argued that the passing of the TKLA has reinscribed apartheid-created tribal boundaries and unequal relations of power.

This data story provides some of the background to the almost 19 million people living in former homeland areas where the TKLA is in force. These rural communities have intergenerational experience of:

- **Historical dispossession** through colonial conquest and the creation of reserves.
- **Loss of property, land and livelihoods during the apartheid period** through discriminatory legislation and forced removals affecting at least 3.5 million people.
- **Loss of land and livelihoods in the post-apartheid era** due to inequitable mining developments which promote elites at the expense of the poor majority.

## A complex story

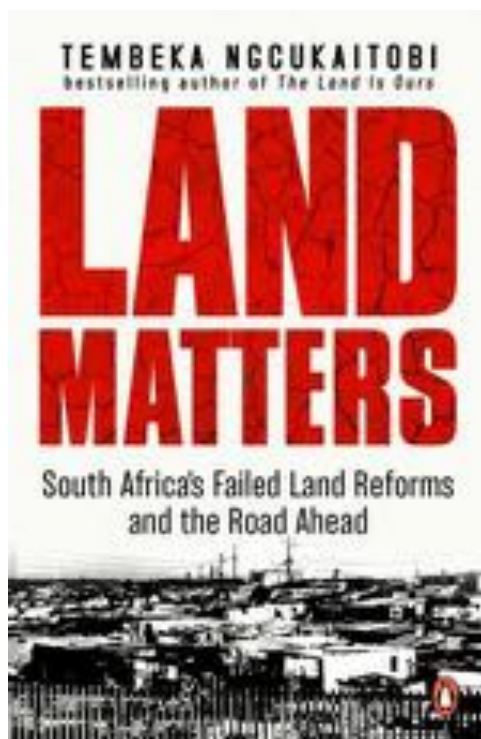
Current evidence suggests that mining in the former homeland areas has contributed to a double dispossession, undermining rural livelihoods for the majority, while creating wealth for the connected few and being a driver of long term environmental degradation.

A volatile combination of factors make the mining sector particularly contested. These include:



- South Africa's long history of land dispossession and marginalisation, particularly of rural people.
- The failure of the post-apartheid South African state to address the land question and bring about a more equitable society.
- The failure of the post-apartheid South African state to address the land question and bring about a more equitable society.
- The persistence of extraordinarily high levels of unemployment - South Africa's unemployment rate rose to 34.9% in the third quarter of 2021, up from 34.4% in the previous period. It was the highest rate of joblessness since comparable data began in 2008.

What we have still to find are equitable and sustainable approaches to mining which minimise environmental damage and climate change impacts, while giving meaningful voice and ensuring informed consent by mining affected communities, who are properly and equitably compensated where their lives and livelihoods are affected. At the same time the South African government needs to decisively address economic inequality and deeply skewed access to land.



Tembeka Ngcukaitobi has recently observed that:

*In forging ahead with the struggle for a just society, we always look back to understand the present. We remember the words of the novelist William Faulkner, who wrote: "The past is not dead. It is not even past."... We should remember where all this started. With land."*

**With land AND with mining.**

### **Citation & Sources**

**References**

[List of used sources](#)

**Suggested citation**

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Double dispossession? A  
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