

Part Two: by Mahmoud Issa

Writing a quick impression about a ten-day visit to South Africa may be a difficult task, especially if one seeks to do justice to a cause that goes back four centuries in history. It is not so difficult, however, for a Palestinian refugee who too has been deprived of his home and land for more than half a century. The resemblance between what happened in South Africa and what happened in Palestine is striking, although the actual history of these two countries is quite different.

The planting of a memorial tree for my village, Luyba (located in the Galilee), in Pretoria, South Africa by the Minister of Water Affairs and Forestry, Mr. Ronnie Kasrils, a South African Jew, is in itself an event with historical significance. The forest, which was planted on the debris of Luyba by a Jewish national organization is called South African Forest. The act of planting a tree accompanied by a plaque "renaming" the village to its original name is in itself part of the process of undoing the injustices that befell our own village in 1948.

The memorial reads as follows:

Luyba

Dedicated by the Honourable Minister
(Minister of Water Affairs and Forestry)

To the Palestinian village of Luyba upon whose ruins
a forest was built where cows were permitted to graze
but the displaced occupants are not allowed to return.

Meeting with the Landless People's Movement



Field visit to the township of Soweto

On 7 November 2003, shortly before we arrived in South Africa, the Landless People's Movement (LPM) held a demonstration urging people to boycott the upcoming national elections under the slogan: "No Land, No Vote!" The LPM accuse the government of reneging on its 1994 election promise to return land to those dispossessed under apartheid. "We were slaves under Apartheid and now we are still landless. Our land is sold to international

companies," says Samantha Hargreaves from the Landless People's Movement, which was established in 2001.

"They have a willing-buyer, willing-seller policy. But the poor don't have money to buy land," Mnisi, the LPM's Gauteng chairperson wrote in an article one day before the demonstration. "We want positive feedback within seven days. If our demands are not met we will take the land by force... We voted before, but our voices weren't heard." Samson Lesabe of Thembelihe, also from the LPM said: "I voted for Mandela because he cares for the people. But I won't vote for Thabo Mbeki's government. They can come and shoot me. I will die for my land."

The slow pace of land reform has fuelled anger among the rural and urban poor. Ten years after the end of Apartheid many black South Africans are still landless, still face evictions and human rights abuses on farms, and still suffer from insecure land tenure in their former homelands. The motto of the Landless People's Movement is: "Land Now! Organize and Unite." According to their Charter, the government must expropriate the land of absentee landlords, abusive farmers, indebted farmers, all unused or under-utilised land, and all land that is otherwise unproductive.

Chief Commissioner's version of the land story



Meeting with the Chief Commissioner in Pretoria

In Pretoria, Tozi Gwanya, Chief Commissioner on the Restitution of Land Rights, compared racism in the old South Africa with that in Israel. According to Gwanya, the problem in South Africa started in 1652 when the white settlers arrived and started taking the land from the blacks. Resistance from the black population intensified in the 1800s provoking the two colonial powers - the English and the Dutch Afrikaners - to unite and establish a unitary government in 1910. In 1913 they issued the Native Land Act giving exclusive rights in land to the white minority. The process of dispossession continued until the end of the Apartheid regime in the early 1990s.

One of the first acts of the post-Apartheid era was the adoption of legislation to undo the historical process of dispossession since 1913. According to Chief Commissioner Tozi, the black population initially did not trust the process. It was only through an act of Parliament and an amendment to the Constitution that people and communities were given more opportunities to reclaim their property. The Commissioner said that all forms of documentation should be used to settle property claims, including oral evidence, graves and family trees.

The Commissioner gave as an example a recent case where 6,000 hectares of land was transferred to black South Africans. The current white owners of the property meanwhile received 63,000,000 Rands (USD 10 million) in compensation. "Before expropriating the land, we should give the farmers a chance," said The Commissioner. "We decide where we buy the land. Where people have their graves we will buy the land." Many white farmers took the opportunity to sell their land to the government at market value, which NGOs claim is much higher than its actual worth. Many farmers who had gone bankrupt for other reasons, therefore, had an interest in selling their lands to the government for the purpose of land restitution.

I asked the Commissioner whether international donors, the World Bank, and other international actors had pressured South Africa to accept the 1994 compromise which led to the end of Apartheid but where the white minority still controls the economy, suggesting that the situation was somewhat similar to the Oslo accords which ended catastrophically with more confiscation of land, an apartheid wall, and the doubling of settlements. Commissioner Tozi stated that the international environment had been unfriendly and this had created a necessity for compromise.

In response to criticism that the land reform process was not moving fast enough, The Commissioner said: "I said to the LPM, 'Go and educate the people first.' 'Go and make the land more productive.' We gave 799,000 hectares of land to the blacks. But it is embarrassing to say to you that sometimes some people will not work the land given to them."

Restitution is a rights based program

Driving five hours from Johannesburg, we met with Ruth Hall, an academic from Cape Town University, who has examined the deficiencies in the land restitution process and various solutions. We also attended a workshop on land reform conducted by the Programme for Land and Agrarian Studies in the University of Western Cape (PLAAS).

One of the main difficulties facing the land restitution process in South Africa, says Hall, has been the length of time required to settle claims. Out of the 36,488 claims involving more than half a million hectares settled by March 2003, only 185 were rural claims (PLAAS). It is also expensive. Rural claims cost about 10 million Rand per claim with urban claims running about 1 million Rand.

Hall pointed out that any restitution process must be clear about what rights can be restored. For example, restitution can involve more than just land. Should it also cover assets like housing and infrastructure or less tangible things like damage to social networks? Should it focus on restitution of rights or broader notions of development. Should the process cater to individual or community interests, or both? What happens when current owners are unwilling to sell the land? Are there mechanisms for enforcement?

According to Hall, "restitution in South Africa has not been adequately monitored." "It is important as a political symbol," she said, "but it is clear that political support is insufficient." Hall also said that the deadline for the resolution of claims was not achievable. "We cannot limit constitutional rights by law." In other cases military interference in land use led to further complications in the restitution process.

During a subsequent workshop with local activists, the question of land reform in Zimbabwe and the taking of land by force evoked emotional responses from local participants. Some doubted the sincerity of Robert Mugabe's reforms. "Why now, and not before?" commented one activist. Others felt that in South Africa, unlike Zimbabwe, NGOs and the balance of power would prevent land grabs by the dispossessed black majority, although they admitted that frustration is building up among the people.

Meeting with AFRA and the church land program in Kwazulu - Natal

"We find that the forces against us are global," said Mark, one of the members of the Association for Rural Advancement (AFRA) who we met in Kwazulu-Natal. "We should see the broader global struggle against neo-imperialism." Mark viewed the situations in Palestine and in South Africa as part of the same struggle against neo-imperialism. He saluted the Palestinian people in their struggle against occupation and dispossession of their land. Everywhere we went, local organizations in South Africa greeted us with the word *intifada*.

We also sent a message of solidarity to landless South Africans. Mangaliso, one of the landless members of the community, described the situation of the Magombato

family as symbolic of the problems landless South Africans are facing with white farmers. "They asked us to evict the dead people from the farm. One of our friends died two months ago and is buried there with his family." He told us how a farmer shot at one of his friends, and when the Association for Rural Advancement contacted the farmer to send a lawyer to settle the issue, the farmer answered: 'The lawyer who is coming should have a weapon with him, because I have weapon with me.'



Meeting with the Association for Rural Advancement (AFRA)

We also met with the Church Land program which is active in the restitution process. In South Africa some churches also participated in the dispossession of the black population. According to Graham, who works for the Church Land program, "church missionary programs and the colonial enterprise went hand in hand." The fact that churches did not keep records for rural lands, however, makes it difficult now to investigate claims to church properties. Nevertheless, churches should play a key role in the reconciliation process. "Land should not be a financial asset for the priests but a tool for reconciliation with the poor," said Graham. "We should avoid what we call now cheap reconciliation." In cases where a white farmer agrees to sell his land to the government, which is then returned to the original owner, there is no process to address historical reconciliation. The process is merely financial.

Other members of AFRA, like Sihle, restated that restitution is a rights based issue and that the property market should not play the main role in the process. Sihle supported the idea of expropriating the land if the claims are agreed upon. Some farmers are profiting from existing laws which make it possible to rezone their land for tourism, and therefore receive more financial compensation from the government. If you offer a poor man a cheque or a piece of land, he will take the cheque. "We think that financial compensation is not a good option for the people. Returning the land without development is not enough."

In the past black farm workers were bound to white farmer

according to old feudal relations. Today technology is replacing many farm workers. Mark argued that it is therefore necessary to change the policies of the African National Congress (ANC) from a reconstruction and development program (RDP) to a growth, employment and redistribution (GEAR) strategy. As Mark observed, however, the government prefers stability over radical reform. He also felt that although there is profound disappointment in the post-Apartheid era, although forced take overs of land, like those in Zimbabwe, are not yet likely to occur in South Africa.

Field Visits

We also made several field visits to see the land restitution and land reform process in action. Twista Majolla from Entabeni was awarded title to 156 hectares of land for eight families in 1996. Every family also received a government grant of 15,000 Rand. This was not enough, however, to buy trucks and equipment for the land.

In Tantluown (Greytown) we heard about a situation in 1997 where black farm workers were evicted by force because they participated in what local white farmers called an unlawful strike. The farmer's private police forced the people on trucks and dumped them off along the roadside. One member from the evicted families named Vousi said that 17 families received eviction orders from the Magistrate's office. Despite limited resources, the Association for Rural Advancement helped provide an attorney to represent the community. "People have the right, but we haven't the money," added Pen from AFRA. The court upheld the eviction and now the families are living on temporary alternative municipal land with little infrastructure, not unlike the early refugee camps for Palestinians. The new settlement is 17 km from their original farm.

"We are not allowed to use mud for construction because they said this place is temporary," said Vousi. Family members are now forced to look for work in nearby towns rather than working on the land. An entire day's earnings amount to no more than 10 to 25 Rand. "I am born there. Our grandparents graves are there. The farmers used to give us 10 Rand for our work from 6am to 4pm," said Vousi. "Here people die in greater numbers than before." When they arrived at the temporary settlement site the families were promised that they would be able to return to the farm in two weeks. Six years have now passed and they are still waiting.

In Rietvlei, previously known by black South Africans as Mbalani, we visited a community where an English land owner who held title to some 20,000 hectares of land had donated 1,250 hectares to 12 landless families.

"Closing the Gaps: from Protection to Durable Solutions for Palestinian Refugees"

Hosted by the al-Ahram Center for Strategic and Political Studies, Cairo

The Cairo Seminar is the third in a series of four seminars to be held in the framework of BADIL's Expert Forum on the Palestinian Refugee Question. This Expert Forum aims to convene legal experts, academic researchers, practitioners of refugee law, human rights activists and media workers, in order to examine obstacles to and strategies for rights-based solutions for Palestinian refugees.

The Cairo Seminar aims to further the debate and reach maximum consensus about strategies towards improving regional and international protection for Palestinian refugees. The seminar will carry out stocktaking of the existing protection regime, gaps, and measures to advance a more comprehensive protection regime in the Arab world in the context of a just and durable solution for Palestinian refugees that includes recognition and implementation of the right of return and right to housing and property restitution.

The Cairo Seminar is hosted by the Al-Ahram Center for Strategic and Political Studies and sponsored by Stichting Vluchteling/Netherlands, ICCO/Netherlands, Oxfam Solidarity/Belgium, and the Flemish Palestine Solidarity Committee.

Additional Seminars/BADIL Expert Forum are scheduled as following:

- Seminar 4: Obstacles to Implementation of Durable Solutions for Palestinian refugees, Palestine (1-4 July 2003)
- Closing Conference: Agenda to be determined (2005)

For more on the BADIL Expert Forum see the BADIL website: www.badil.org/Campaign/Expert_Forum.htm. Copies of working papers presented by the participants are available in electronic format on the website.

Looking at the land, however, there is little resemblance between the quality of land donated to the 12 families, which is mostly rocky, and that retained by the white land owner.

Our last visit was to the renamed town of Masithuthuke, which means, 'let us develop'. After the previous owner of the land passed away in 1997, the new owner began to harrass the black farm workers so as to evict them from the land. Following interference by AFRA on behalf of

the community, the black tenants finally received title to some of the land. Some 335 hectares is now owned by 13 families. The quality of the land, however, is also poor and rocky.

Both communities greeted and bid us farewell with songs, dance, and hospitality that reminded me of the hospitality in Palestinian refugee camps: those who have nothing are so often more generous, open and willing to sacrifice.

The Palestinian delegation joined in the folkloric dance with cheer and happiness in a sign of anticipation of the day that they too will repossess the titles and deeds to their lands.



For more information on the land reform and land restitution in South Africa visit the following websites:
- The National Land Committee-NLC, <http://www.nlc.co.za>
- The Association for Rural Advancement-AFRA, <http://www.afra.co.za>
- The Department of Land Affairs, <http://land.pwv.gov.za>

Visit to Tantown (Greytown), KwaZulu-Natal