

Of Kings, Chiefs and the complexities of Land Restitution: Preliminary thoughts on the Ingonyama Trust



GRAHAM DOMINY

is a former Archivist of South Africa who retired in March 2014. He has worked in and managed a variety of, archival, cultural and heritage institutions since the 1970s. He has studied extensively: obtaining his graduate and professional qualifications in South Africa (University of Natal and Pretoria), his MA in Ireland (University College Cork) and his PhD in the United Kingdom (at the Institute of Commonwealth Studies, University of London). He is a Research Fellow at the Helen Suzman Foundation.

The Parliamentary High Level Report into the thorny land question, presided over by one of the most mature and gentlemanly figures in South African politics, former President Kgalema Motlanthe, has raised predictable storms. One of the tempests is a royal one, as His Majesty, King Goodwill Zwelithini, has taken severe exception to the suggestion that the land under the control of the Ingonyama Trust should be treated any differently to land in any of the other former Bantustans, or to communal land; in other words that it should become state land.

King Zwelithini proclaimed that the land under the Ingonyama Trust, over which he presides, is, was, and always has been Zulu land. His Majesty called upon all loyal Zulus to step forth to defend their patrimony and uttered various other blood-curdling threats. So what is the land under the Ingonyama Trust and why is it so exceptional?



Firstly, the name of the trust is derived from the title "iNgonyama" which is one of the titles of the Zulu king. Secondly, the land falling under the trust is basically the territory of the former homeland of KwaZulu. In 1994, in the tense days leading up to the first democratic general election, the territory of KwaZulu was, through legislation passed by the KwaZulu Legislative Assembly, literally two days before democratic voting began on 27 April 1994, transferred to the control of the newly established Ingonyama Trust (Former Chief Minister Buthelezi claimed recently that this was the very last act of the KwaZulu Legislative Assembly). The legislation was rubber-stamped by State President FW de Klerk, as he was required to do with all legislation from subordinate legislatures, such as the parliaments of non-independent homelands. It should be noted that, at this stage of the transition process, the operations of the dying apartheid government were being overseen by the Transitional Executive Council, which meant that the ANC were already performing an oversight role and would, together with the welter of other matters on their political plates, have had sight and knowledge of the Ingonyama Trust matter.

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Essentially, the establishment of the Ingonyama Trust has been described as a bribe to entice the Chief Minister of KwaZulu and leader of the newly renamed Inkatha Freedom Party, Prince Mangosuthu Buthelezi, into participating in the first general elections. It worked and on 27 April 1994 millions of South Africans voted peacefully across the country, including in KwaZulu-Natal as the province had just become known. Dr Nkosazana Dlamini-Zuma, soon to become Minister of Health, who had been born in southern Natal in the foothills of the Drakensberg Mountains, made the apt point that KwaZulu-Natal was the only province with both a first name and a surname.

Let us look at the "first name" part of the province, first. KwaZulu was made up of various bits of land scattered across the province of Natal from the Mozambique and Swaziland borders to the north and from the Drakensberg mountains in the west, to the Indian Ocean coast in the east and to the Mtamvuna river, bordering the old homeland of the Transkei to the south. North of the Thukela river, in the heartland of the old Zulu Kingdom, KwaZulu occupied various large chunks of territory that had been left over "in trust" to the Zulu people, by the occupying Boers from the Transvaal and by British intruders from the Colony of Natal. The land excised from the control of the Zulu kings and various other traditional leaders was used for cattle farming by the Boers and for growing sugar by the British. Small fragments of land such as the Umfolozi and Hluhluwe Game Reserves were protected areas in which game, such as the rare white rhino, could roam in relative safety. They fell under the control of the then Natal Parks Board, head-quartered in Pietermaritzburg.

In the 1970s, in the heart of the remaining Zulu territory, near the Mfolozi River, Chief Minister Buthelezi began to rebuild a capital for KwaZulu, on the site of Ulundi, the capital of the last independent Zulu King Cetshwayo. Ulundi had been burned down by the British in 1879 at the end of the Anglo-Zulu War and its reconstruction by Buthelezi was an act of powerful symbolism.

However, KwaZulu was an artificial creation and the homeland's territories south of the Thukela River were comprised of what had been known as "Native

"Locations" established by the British colonial government of Natal in the 1840s and 1850s. Many of the inhabitants of these areas were refugees from the Zulu Kingdom, or inhabitants of old Natal who had never fully acknowledged Zulu paramountcy. They preferred to lead their lives under, initially vague, British suzerainty rather than under stricter Zulu royal control. One of the most prominent of these was Princess Mawa, a sister of the founder of the Zulu royal dynasty, King Senzangakhona, and aunt to kings Shaka, Dingane and Mpande. She moved south of the Thukela river in the early 1840s with several thousand followers and many more thousand head of cattle. King Mpande contacted the new Secretary for Native Affairs in Natal, Theophilus Shepstone, more interested in the return of his cattle than in the return of his auntie.

Nations cannot prosper or reduce economic vulnerability if they fail to secure water supplies and sanitation systems, if businesses are left without reliable electricity, if transport becomes congested in cities or if telecommunications lags behind digital opportunities.

Shepstone had barely found a chair for his new desk let alone established his authority in the rudimentary colonial administration, so a young army officer from Fort Napier was sent to Zululand as a British emissary to the Zulu king. Shepstone began hammering out his location system for Natal's African population. These areas, many of them inhabited by opponents of the dominant Zulu factions north of the Thukela, such as Mawa, only became part of KwaZulu over a century and a quarter later.

Mentioning the British army and the locations brings us to another of the anomalies in the Ingonyama Trust. Visitors to Durban, especially those who remember flying in to the old Durban airport and those who arrived by sea, will have noticed that the Bluff peninsula protecting the southern side of the entrance to Durban harbour, is heavily vegetated for much of its length. This is because, as the colony of Natal was established, a young military officer, Lt Charles Gibb of the Royal Engineers, was ordered to demarcate and reserve lands necessary for the defence of the colony. In Pietermaritzburg, Gibb grabbed a large tract of land to the south-west of the Voortrekker core of the town and Fort Napier, the centre of British military power for more than seventy years was built there.

In Durban, it was obvious that the army needed to protect the entrance to the bay and the rudimentary harbour. Gibb reserved the end of the Point and at least half the Bluff for military purposes. Gun batteries and military communications equipment were positioned on the Bluff and were still actively used in World War II. Long after the war the South African military maintained a presence on the Bluff and may still do so. This is why the natural vegetation has remained relatively well preserved, right into the 21st Century, as commercial development has not been permitted.

But, wait, was the Bluff unpopulated land when the British army grabbed it and how does this relate to the Ingonyama Trust? The answer is no and we need to go back again to the early 19th Century. From the 1820s, British hunter-trader-adventurers established themselves on the shores of the Bay of Natal. While they had a dependent relationship with King Shaka, they also attracted and protected a growing number of refugees fleeing from the king's power. Many of these established themselves under a Chief Mnini on the Bluff. This was a good location for Mnini: he had a defensible position in case Shaka or Dingane attacked and the strange British were between him and the road to the Zulu kingdom. He also had enough land on which to graze cattle and access to the sea and the bay for

fishing and harvesting other bounty from the deep. He also traded actively and on fairly equal terms with the British settlers.

In 1838 the Voortrekkers proclaimed their Republiek Natalia and defeated King Dingane at the Battle of Blood River. Life in Durban, as the rudimentary settlement was becoming known, continued as normal. However, by 1842, the British governor of the Cape felt compelled to intervene as the Trekkers were attempting to make extravagant claims on land towards the Mzimvubu river, in what is now the Eastern Cape, and the delicate balance of power on the Cape Colony's eastern frontier was being threatened.

Captain Thomas Smith and a military force marched up the coast and took up their position on a sandy plain, known as "Itafa Amalinde" (the plain of the lookout) to the north of the bay of Port Natal. Clashes between the British intruders and the Trekkers broke out and Smith soon found himself besieged. As every white Natal school child was taught for most of the 19th and 20th centuries, the gallant Dick King (and his Zulu companion Ndongeni who was later written back into the narrative as the political climate began to change), rode from the Bay of Natal to Grahamstown to raise the alarm and gather a relief force to rescue Captain Smith.

What is less well known is that it was Chief Mnini and his followers who met Dick King and Ndongeni on the southern side of the bay and who covered their tracks so they could make a clean getaway from the Trekkers. Mnini had his herd boys drive his cattle over the route of the two horses to obscure their tracks. Andries Pretorius, the Trekker leader, suspected something was up and seized some of Mnini's cattle to be on the safe side.

However, the new colonial government did acknowledge his loyal services and established the "Umnini Trust" in the 1850s. This controlled an extensive area along the coast south of Amanzimtoti and the land remained in the hands of Mnini's descendants until it was incorporated into KwaZulu in the 1970s.

When the British returned by sea with military reinforcements backed up by a large warship thundering broadsides, the Trekkers retreated, the siege of what was known as the "Old Fort" was lifted, and Mnini enthusiastically claimed his cattle back with as many extra Trekker oxen as he could lay his hands on before the British stopped him.

Mnini was rewarded by being evicted from the Bluff so the British could garrison the entrance to the bay. However, the new colonial government did acknowledge his loyal services and established the "Umnini Trust" in the 1850s. This controlled an extensive area along the coast south of Amanzimtoti and the land remained in the hands of Mnini's descendants until it was incorporated into KwaZulu in the 1970s. Umgababa, in the heart of the area, was developed as the first "blacks-only" beach resort in Natal. In 1994, the Mnini Trust territory, as part of KwaZulu, became part of the territory that fell under the Ingonyama Trust, despite local protests.

As the democratically-elected government under President Nelson Mandela shook itself down in office in 1994, one of the first steps taken was to incorporate former homeland legislation into national, rather than provincial legislation. KwaZulu's Ingonyama Trust Act was one of the pieces of legislation affected. In 1997, the Ingonyama Act, which had been written in great haste, was amended and tidied up. Significantly the amended legislation allows for any lawful land reform programmes to apply to Ingonyama Trust land, after consultation with the



Ingonyama himself. In exercising his functions in terms of the act, the Ingonyama is also required not to infringe on existing rights or interests. So, over twenty years ago, unqualified control over the Ingonyama Trust land was diluted and somewhat circumscribed by the democratic parliament.

The complaints of the descendants of Chief Mnini that the Ingonyama Trust infringes on the rights given to them by the colonial grant in the 1850s should be taken seriously. As so often happens in this country, things are seldom what they seem.

Note: This is a tentative and preliminary piece of research and the topic is worthy of a far more detailed investigation. I gratefully acknowledge the assistance and comments of Professor Theuns Elof, Executive Director of the FW de Klerk Foundation who consulted former State President FW de Klerk and former Director General Dave Steward on my behalf. Nevertheless, I alone remain responsible for all opinions expressed herein and for any errors and omissions.