



CISKEI POSITION PAPER TO CODESA WORKING GROUP 4
ON THE RSA LAND MORATORIUM AS IT RELATES TO
COMPENSATORY LAND ISSUES WITHIN THE REPUBLIC OF
CISKEI.

1. Compensatory Land

Compensatory land, within the context of the Republic of Ciskei, refers to title deed land purchased by the South African Government for transfer to the Republic of Ciskei. Such land is given a number and referred to as a Released Area. Following purchase the land was handed over to the South African Development Trust for administration until such time as the land was incorporated into Ciskei. Land as compensation is defined, as such, for a number of different reasons:

- 1.1 Where it was felt expedient by the South African Government, certain communities from both rural and urban environments who were residing on land within the borders of South Africa were removed and resettled on other land adjoining Ciskei. This practice was prevalent during the period 1975-1978.
- 1.2 Where the South African Government had decided to incorporate certain areas of land, which had been under the jurisdiction of Ciskei, into another self-governing or national state. Communities were given the right to opt in regard to their future administration within the jurisdiction of Ciskei or the other state involved. In these cases the R S A Government provided land and resettled the communities concerned in areas adjoining Ciskei (1975/76).
- 1.3 Where it had been jointly agreed between the Republics of South Africa and Ciskei and embodied in the Independence Agreement of 1981, certain communities, currently residing on land separate from the main part of Ciskei but under the jurisdiction of Ciskei, would be given land adjoining Ciskei and resettled there. These areas would then be incorporated into Ciskei. Following completion of the resettlement programmes, the areas which had previously been part of Ciskei would be excised therefrom and incorporated as part of the Republic of South Africa.

In every case the communities concerned were informed by the South African Government that they would be given land of a size equal or more than they had previously held. They would be provided with the infrastructure and social services equal or better than they had previously enjoyed. In no case would they be "worse off" than in their original areas of abode.

2. It is within the context of those various definitions of compensatory land that the Ciskei Government presents this position paper on the grounds that not all the agreed conditions have been fulfilled, particularly those relating to the release of land areas. Ciskei further maintains that the Land Moratorium, enacted by South Africa and Codesa cannot be used where it will be to the disadvantage of established communities who had been promised that their full entitlement to land would be fulfilled. The following case histories are applicable under the various definitions of compensatory land.

2.1 Families ex Humansdorp (Definition 1.1)

Some 508 families living on farms in the Humansdorp area, near Port Elizabeth were moved from this area to land adjoining Keiskammahoek which, in 1977/78 did not form part of Ciskei. The total area of land occupied by these families amounted to 6123 hectares. The area of land, used for their resettlement amounted to 3678 hectares which had formed the commonage area of Keiskammahoek part of which had already been utilised, under prior rights, for grazing purposes. The actual land which was available to the Humansdorp families was some 2500 hectares leaving a shortfall of 3600 hectares. This shortfall was brought to the notice of the South African Government at a Bilateral Ministerial meeting in 1989. A Task Team was appointed to look into the matter and confirmation was given that the facts, as stated, were correct. The Ciskei Government identified two suitable areas, either of which could be bought out and transferred, as compensation to the families. However all further considerations of this and other claims were brought to a halt in 1990 pending the issue of the White Paper on Land Reforms which led to the repeal of the Land Acts

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of 1913 and 1936 in 1991. As the matter now stands, Ciskei maintains that this community has been disadvantaged by an amount of 3600 hectares of land. If the land area could not be purchased then some alternative compensation should have been offered to the community concerned. No further action has been taken by South Africa to redress this situation.

2.2 Families ex Herschel District (Definition 1.2)

In 1975 the Herschel District of some 212679 hectares was one of the districts of Greater Ciskei and was administered by the Ciskei Government. With the impending declaration of the Republic of Transkei later in the year, the South African Government decided to incorporate Herschel into Transkei. Families in Herschel were given the option either to become Transkeians or to retain their identity and to be resettled on land adjoining Ciskei. Some 20 600 persons elected to be resettled. These included the administrative authorities of three tribes and some of their followers and a large number of members of another tribe. Some 31 000 hectares were made available in the area now known as Ntabethemba and the people were moved in 1976/77, by the South African Government. A further 24 000 hectares was promised as a second compensatory area and 21500 ha of this was incorporated into Ciskei in 1987 (1/7/87). Following complaints from these families that the amount of land given did not equate to that in Herschel, the Ciskei Government researched the matter. This research showed that the statement made by the Ntabethemba families was true. When equating that portion of the population moved to the total population of Herschel in 1975 it became evident that the area of 54000 hectares was not correct when related to the overall area of 212679 ha. The total area, which should have been made available on a hectare for hectare basis, was 69500 ha. This showed therefore that there was still a shortfall of 14500 ha.

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This shortfall was brought to the attention of the South African Government in 1985 but no action was taken until 1989 when the matter was brought to the attention of the Interstate Working Group (Task Team) which was appointed to examine Ciskei's outstanding land claims. As for the Humansdorp families, the RSA delegation conceded that there was a just claim but no further action has been taken even though suitable alternative areas have been identified.

The communities, who live in eight villages are almost wholly dependent on livestock (sheep and cattle) for their livelihood, due to the adverse climatic conditions. The lack therefore of these 14500 hectares has made a considerable economic impact on the families concerned. In view of this fact and that the promises made by RSA, that they would not be "worse off" if they moved from Herschel to Ntabethemba have not been fulfilled, has led to bringing this matter to Working Group 4.

2.3 Compensatory Land by Zulukama for loss of Released Area 59 (Def.1.2)

In terms of the then existing Land Act of 1936, the South African Government identified an area adjoining Hewu district in Ciskei for eventual incorporation into the tribal area of the Zulukama. Eleven farms were purchased in 1972, transferred to the administration of the South African Development Trust (SADT) and designated as Released Area 59, amounting to some 15000 ha of land. As the only existing tribe in the Hewu District, it was obvious that this land was destined for inclusion into this tribal area when population and livestock pressures incorporation. However, in 1975, the South African Government decided to incorporate the Ciskei District of Glen Grey into Transkei and the people were given the same option as those of Herschel. As the land in Released Area 59 was then owned by the South African Government, those families who opted to remain in Ciskei were settled on this land. By this action the Southern Zulukama communities effectively lost the eventual use of 15 000 ha. At present pressure on land in Zulukama has become so great that many families have now left the area and

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migrated to towns in Ciskei causing settlement problems. There seems therefore a genuine case for the Zulukama to be compensated by the provision of 15 000 hectares of land for the loss of RA59. The issue has been discussed bilaterally but no decision was reached due to the Land Moratorium.

2.4 Excised compensatory land (Definition 1.2)

Prior to the gazettelement and incorporation of the second compensatory area for the Herschel families at Ntabethemba which amounted to 24 000 ha, an area of 2500 ha comprising parts of the farms Keyspoort, Lower Groennek and Haslope Hills in Tarkastad District was retained and not transferred.

The purpose of this retention was to provide a road of access for white farmers living south of the Swart Kei river to reach Tarkastad without crossing into Ciskei. It is understood that this plan has now been shelved yet the excised land has not been handed over. This land was intended to provide extra grazing for the four rural communities in the AmaQwathi tribal area who adjoined this land. Loss of this land has severely hampered livestock development in the area and so reduced the income from livestock of the communities concerned.

2.5 Released Area 60 - Queenstown District - 14100 ha - (Def 1.3)

At the same time as Released Area 59 was identified and gazetted (Para 2.3) a further area of land, adjoining Hewu District, and comprising 12 farms was gazetted as Released Area 60. The intention at the time was obviously to incorporate this area into the Zulukama Tribal area of Hewu once population and livestock pressures on existing land became too great. In 1981, following the Independence of the Republic of Ciskei, it was agreed that part of RA 60 would be utilised for the resettlement of the communities of Lesseyton and Goshen (both areas of Greater Ciskei) thereafter these areas would be absorbed into the neighbouring state.

Released Area 60 was therefore regarded as compensatory Land for the loss of Lesseyton and Goshen.

The policy of forced resettlements was discontinued in 1985 and no further action was taken to move the two communities concerned. The administration and control of Lesseyton and Goshen were taken over by the neighbouring state on 1 January 1986. The status of Released Area 60 then reverted to straight compensatory land for the loss of Lesseyton and Goshen and was to be utilised for relieving grazing pressure in Zulukama as well as for commercial economic farming on smaller units which would be sold to aspiring members of the Zulukama communities. Those units lay in proximity to the Swart Kei and Klipplaats rivers, many of them having limited irrigation potential. A joint planning exercise was carried out and almost completed before civil unrest resulted in a large number of families from the adjoining Ntabethemba area (Thornhill) moving on to the land and occupying parts of it. In February 1991 the Republic of Ciskei was informed that RA 60 would not be incorporated into Ciskei. The loss of this land to the Zulukama communities of which six villages would have benefited has done incalculable harm as economic prosperity of these villages has been affected and well as causing a great deal of bitter feeling over the fact that the land is not to be transferred and that other communities have benefited.

2.6 The Gwili-Gwili Community - Keiskammahoek District

In terms of the 1936 Land Act (since repealed) an area comprising the larger part of Keiskammahoek District was gazetted as Released Area 24. Much of the land in this area formed the upper catchment of the Keiskamma River was heavily forested (indigenous and planted) and adjoined Cathcart-Stutterheim Districts of the Border area of Cape Province. Included in Released Area 24 were two farms known as Fort Merriman which lay within the borders of Stutterheim District and constituted the upper catchment on the Kubusi River. During the period of self-government in Ciskei, RA 24 was incorporated into Ciskei with the exception of Fort Merriman which was

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retained by the SADT. The nearest community to this land, which was largely open grazing, was that of Gwili-gwili. The SADT issued summer grazing rights to this community. In the early 1970's it was decided to build a bulk water storage reservoir on the upper Kubusi (within the Fort Merriman properties) to provide a domestic water supply to the town of Stutterheim. Realising that this could affect Gwili-gwili's grazing rights, the SADT offered alternative land in Keiskammahoek District to this community. The community refused this land, as unsuitable for grazing. The SADT therefore fenced off the Gubu Dam site and continued to make the remainder available for grazing by the Gwili-gwili community. It should be stated here that because of the heavily afforested areas of Keiskammahoek District, Fort Merriman constituted the greater part of the communities summer grazing.

In 1988, by gazette notice, the SADT transferred the ownership of Fort Merriman to the Department of Forestry and Water Affairs. That Department has since impounded Gwili-gwili's livestock every time that they have grazed on Fort Merriman thus causing great hardship to the community by both the loss of grazing and monetary loss. This matter was raised bilaterally and alternative compensatory land was offered. These land areas were many kilometres away and could not be effectively utilised by the community. Indeed one of the properties already has a large rural village on it. There is therefore a good case for the Gwili-gwili community to be restored their grazing rights, since the Department concerned has not afforested Fort Merriman. The long term answer is however to excise the grazing areas of Fort Merriman and incorporate them into Ciskei as they are not being developed for afforestation nor is there any other suitable title deed properties nearby which could be used for compensation for the Gwili-gwili community. As the matter now stands, the Gwili-gwili community has lost the greater part of their grazing which has severely affected the economic viability of this community.

3. As can be seen from the foregoing case histories all the communities, with the exception of the Humansdorp

families, live in the Hewu District, Communities in this area are wholly dependent on a livelihood derived from livestock farming due to the adverse climatic conditions which militate against the growing of agricultural crops. Any loss of grazing land can have a disastrous effect on their economic viability and also leads to frustration, militancy and concomitant action. It is essential that these land issues which are adversely affected by the current Land Moratorium be considered as outside the definition of the Land Moratorium and that transfers of the land areas in question be attended to as a matter of urgency.

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Herewith Ciskei Position Paper -
WG 4 ON RSA LAND MORATORIUM

M. F. A. M.

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