

IN THE HIGH COURT OF SOUTH AFRICA  
(EASTERN CAPE DIVISION, MAKHANDA)

CASE NO:

In the matter between:

ANGELINA MATSHEKE First Applicant

AND SIXTEEN OTHERS

Second to Seventeenth Applicant

and

THE MINISTER OF AGRICULTURE,  
LAND REFORM AND RURAL DEVELOPMENT

First Respondent

AND SIX OTHERS

Second to Seventh Respondents

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THE "HISTORY AFFIDAVIT"

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I, the undersigned,

ROSALIE ANNE KINGWILL

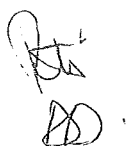
do hereby make oath and say that:

I INTRODUCTION

1. I am an adult female independent researcher, a historian with particular expertise in land histories and land reform in South Africa. I reside at Unit 4, Bloomfield Court, 37 Chelmsford Road, Vredehoek, Cape Town.



2. The facts contained in this affidavit fall within my own personal knowledge and belief, save where the contrary appears from the context. To the extent that this affidavit contains expressions of opinion, I submit that I am properly qualified to express such opinions as an expert in the field.
3. I hold a Bachelor's degree in History and Psychology and an Honours degree in History from the University of Cape Town, and a PHD in Land and Agrarian Studies from the University of the Western Cape. From the mid-1980s, I spent three decades researching land histories and land related issues in the Eastern Cape, developing a deep understanding of the land histories of the former Transkei and Ciskei. Since 2014, I have continued my research holding positions at the Land and Accountability Research Centre at the University of Cape Town and Poverty, Land and Agrarian Studies at the University of the Western Cape.
4. In the early 1980s I undertook detailed documentary and archival research on land administration in the Glen Grey district, which historically included the Gwatyu block of land, about which the applicants' case is concerned.
5. In the late 1990s and early 2000s, I did specific research auditing the status of land holding in Gwatyu for the then Department of Land Affairs, which I discuss in more detail below.
6. I attach my curriculum vitae marked, **RK1**. I respectfully submit that I am qualified to provide expert evidence on the land history of Gwatyu.

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7. I have read the affidavit of the first applicant Angelina Matsheke and confirm the contents as it pertains to me.
8. This affidavit serves two purposes:
9. It provides the details of the history of Gwatyu, as explained in the main affidavit at paragraphs 12 and 13;
10. It relates the context and details of the first land rights enquiry that I conducted with Mr Monty Roodt in the late 1990s and early 2000s.
11. In providing the general history of Gwatyu I draw both on my own knowledge as one of the authors of the 2001 Land Rights Audit for Gwatyu<sup>1</sup>, and on the best available historical research on the area as reflected in the bibliography that I attach marked, RK2.

## II THE HISTORY OF GWATYU

12. I set out the history of Gwatyu in four time periods:
13. The early history up to 1883;
14. The period from 1883 to 1978; and
15. The period from 1978 to 1994.

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<sup>1</sup> Rosalie Kingwill & Monty Roodt (2000) 'Social Land Audit of the Gwatyu Block of farms, Cofimvaba district, Eastern Cape', Department of Land Affairs, Eastern Cape Land Reform Office.



16. The period from 1995 to 2001
17. I am advised that the supporting affidavit of Thembakazi Matsheke addresses the interactions between the applicants and the government from 1994 to the present.
18. I begin with a brief overview of the history of Gwatyu.

#### Overview

19. The area now known as Gwatyu was occupied and used by a number of successive inhabitants, first as frontier zone between abaThembu and Khoesan groupings and later as a frontier zone between abaThembu and colonial settlers and authorities. After African inhabitants were evicted from Gwatyu in 1878 and replaced by white owners, it was 'returned' to African use and occupation a century later in 1976 as part of the newly 'independent' Transkei. Under the politically fraught circumstances of the late twentieth century, it has become the object of contested claims by various African claimants.
20. Gwatyu was once part of a region known to early European colonists as Bushmanland, sparsely populated by mobile Khoesan hunting bands.
21. It lay beyond the Cape colonial sphere of influence during the eighteenth century, which at that time was still restricted to the area south-west of the Kei River.

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22. The Khoesan were driven to the margins due to competition for the same land by black and white agro-pastoralists. They were first displaced by various Thembu clans who were moving south-westwards.
23. There was limited land for expansion to the south due to the colonial advance and the successive closing of the south-western frontiers. The colonial frontier moved steadily closer to the Kei River surrounding which were also independent African clans and tribes moving steadily south-westwards (see Maps 1 - 2).
24. The effects of ongoing changes in demographics, authority, land use and control resulted in cascading instability and conflict where different groupings came into contact and vied for power on the new north-eastern frontier surrounding the Kei River
25. Colonial farmers and trekboers south of the Kei were land-hungry and their movements north-eastwards were followed by pro-colonial agents and administrators, backed by military power. They reached the southern surrounds of the Great Kei River in the 1820s and then began moving north of the Stormberg and the Swart Kei.
26. This resulted in a turbulent north-eastern frontier zone straddling the Kei River and its tributaries given that the region was already occupied by independent tribes, mainly some groupings of the abaThembu moving southwards.
27. It was in these highly unstable conditions that a powerful offshoot of the Thembu paramountcy, the Tshatshu clan, came to occupy a key position on the

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north-eastern frontier under succeeding Chiefs, Bawana, Tshatshu and Gungubele.

28. The amaTshatshu had crossed southwards over the Kei River into territory fast falling under colonial control, from where, in the turmoil of war and fragile alliances, they were evicted as a result of having joined the amaRharhabe (western Xhosa) against the British in the Eighth Frontier War from 1850-53, during which Maphasa died.
29. The land occupied by amaTshatshu (and other minor Thembu clans) was officially declared 'confiscated land' (or land they had 'forfeited'), suggestive of punitive action consequent on their anti-colonial and pro-traditionalist stance (see Map 2 in paragraph 76).
30. On the conclusion of war, a new colonial district named Queenstown was established on this 'confiscated' land by the Cape colonial Governor, Sir George Cathcart, as a centre of trade and administration on the north-eastern frontier.
31. The evicted abaThembu were relocated to the area between the Swart and Wit Kei Rivers including the Staalklip, Pauline, Gwatyu, Xelana and Madikana areas. These localities were incorporated as crown land into a demarcated 'location' (reserve) known as the Tambookie Location, (previously referred to as Nonese's location) which included Gwatyu, forming part of the newly created district of Queenstown.

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32. The relocation included the remnants of the amaTshatshu who settled on the Gwatyu stream at the confluence of the Swart and Wit Kei (see Map 2 in paragraph 76).
33. A large proportion of displaced black families or groups in the wider region resorted to the protection of mission stations or became workers on white-owned farms and businesses and for the state administration.
34. From the 1850s to the 1870s the colonial government made more and more inroads into traditional powers of the 'colonial' Thembu in Tambookieland, who were thence regarded as British subjects, for example, by co-opting Chiefs as salaried headmen, granting farms to the elites to induce loyalty, and introducing taxation — all aimed at undermining chiefly autonomy and causing great disaffection among the amaTshatshu and other Thembu clans.
35. Tensions mounted in the 1870s and, as a result of their role in the last or Ninth Frontier War of 1877-78, the amaTshatshu were again forced out of their lands on the Gwatyu, and their land there was surveyed and reallocated to white farmers.
36. The amaTshatshu were scattered to surrounding areas as marginalised communities, including to Cofimvaba and Engcobo, while the bulk of the location to the north of Gwatyu became a black reserve demarcated as a district of the Cape Colony known as Glen Grey district (see Map 4 in paragraph 112).
37. The greater Queenstown region formed part of what later became known as the 'Border Corridor' or 'the Border', referring to a stretch of predominantly

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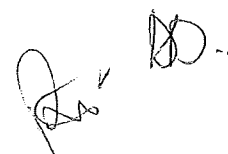
white-owned farms or mission stations situated between the Transkei and Ciskei reserves ('homelands') straddling the Great Kei.

38. The sequence of forced removals of the amaTshatshu was consistent with the colonial government's desire to obliterate the amaTshatshu as an acknowledged ethnic group or 'tribe' as punishment for their resistance to colonial rule. 'Tshatshu' as an ethnic identifier was officially prohibited after the Eighth Frontier War.
39. Some scholars have called the ongoing destruction of the amaTshatshu social system by colonial forces as 'ethnocide'.<sup>2</sup> The amaTshatshu have nevertheless throughout the twentieth century retained a strong sense of ethnic identity despite their territorial displacement.
40. The Transkei government finally recognised the amaTshatshu's century-long mission for a recognised chieftaincy that was persistently refused before. In 2010, the post-apartheid government recognised the AmaTshatshu Traditional Authority (now Council) and in 2013 Mncedisi Gungubele (praise name: Aah! Jongulundi) was formally installed at the Gwatyu Great Place or *Komkhulu* on the farm Fordyce.<sup>3</sup>
41. The amaTshatshu as a community lodged a land claim in terms of the Restitution of Land Rights Act of 1994, not only to Gwatyu but virtually the "the

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<sup>2</sup> Anne Mager (2013) 'Colonial Conquest and the Tambookie Frontier: The Story of Maphasa, c. 1830–1853', 253.

<sup>3</sup> Anne Mager (2018) *The House of Tshatshu*, xi; Rosalie Kingwill & Monty Roodt (2000) Social Land Audit of the Gwatyu Block of farms', 6, 18.



whole of the Western Thembuland".<sup>4</sup> The Commission on Restitution of Land Rights (RLCC) rejected the claim as it did not meet the conditions of the Restitution Act (Act 22 of 1994) with regard to timespan of removal or dispossession after June 1913.

42. The farmdwellers living at Gwatyu today, including the applicants, are also descendants of formerly independent African groups or tribes who lost independent access to land on or near the north-eastern frontier over the course of the colonial advance that resulted in land dispossession and loss of autonomy.
43. The farmdwellers' predecessors are likely to have lost their foothold on the land during the same period as the displacement of the amaTshatshu, becoming labourers on white-owned farms. They too were victims of colonial dispossession.
44. Most of the farmdwellers are direct descendants of former farm workers on the farms in Gwatyu that were once owned by successive white owners.
45. The farmdwellers have, for the most part, continued to live virtually uninterruptedly on this same land as their predecessors since the white owners were expropriated in the 1970s to this day.
46. As farm workers they lived on farms as families and groups of families, and slowly their ethnic roots became loosened, if not forgotten. As such they

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<sup>4</sup> Media statement issued by the Chairperson of the Parliamentary Portfolio Committee on Agriculture, Land and Rural Development 3 February 2022 <https://www.parliament.gov.za/press-releases/media-statement-tshatshu-traditional-authority-claims-western-thembuland>

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became less strongly identified with their ethnic origins and more strongly identified with the particular farms on which they worked.

47. The farm workers often served the white owners intergenerationally as families and many can trace their roots across many generations to the same farm and identify as 'belonging' to that farm.
48. What we observed during our research in the area in 2001 is that as farm workers and later farmdwellers, the families and groups of families shared and continue to share mutual daily life experiences.
49. They developed strong social ties and networks on and between the farms, and developing a new form of social identity. They share similar norms and customs.
50. When we performed a land audit in the area in 2001, we found that apart from the farmdwellers, there are also so-called 'lessees' who either lived on the farms or employed people to look after the farms to which they claim ownership or had applied for ownership. They gained this status as a result of a policy by the Transkeian government to lease the land when Gwatyu became part of the Transkei. The exception was the farm Fordyce that was allocated to the newly recognised Gungubele Traditional Authority and to which the formerly unrecognised Tshatshu Chief, Chief Gungubele, moved, and still occupies.
51. The leases were in many cases allocated under direction of then 'president' Kaiser Matanzima, Chief of the Western Thembu. Some leases were awarded to well-connected politicians including Kaiser Matanzima himself, his brother,

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George, and other relations. Others were allocated to well-connected civil servants or businessmen.

52. The lessees were later the subject of scrutiny by official Commissions of Enquiry appointed by the post-apartheid government in the 1990s due to reported irregularities around leases on land that was earmarked for land reform.

53. Some lessees invested in farming assets to a greater or lesser extent, but generally minimally. Several were absentee landlords using the land as grazing for livestock under the care of the farmdwellers at the time of our research. They too were represented as a group by the Gwatyu Farmers Association.<sup>5</sup>

54. It is important to trace in more detail the historical underpinnings of the social composition of Gwatyu to illuminate the position that the applicants find themselves in today.

#### Early 1880s to 1883

55. The earliest inhabitants of the region surrounding Gwatyu, the Khoesan, were displaced by African agro-pastoralists, particularly various Thembu clans, and both the Khoesan and the vanguard of the abaThembu were in turn threatened

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<sup>5</sup> Rosalie Kingwill and Monty Roodt (2000) 'Social Land Audit of the Gwatyu Block of farms, Cofimvaba district, Eastern Cape'; Media statement issued by the Chairperson of the Parliamentary Portfolio Committee on Agriculture, Land and Rural Development 3 February 2022 <https://www.parliament.gov.za/press-releases/media-statement-tshatshu-traditional-authority-claims-western-thembuland>



by the northward expansion of the colonial borders towards and beyond the Great Kei River.

56. Bawana, son of a senior Thembu Chief, Tshatshu, crossed over the Tsomo River north of the Kei in the early 1820s with 3000 followers. He and his followers eventually settled on the lower Swart Kei River, a major tributary of the Kei River. Two minor Thembu Chiefs followed. They found themselves on the edge of colonial expansion to what became known as the north-eastern frontier.
57. Due to various inter-tribal pressures on the land, Bawana's son and heir, Chief Maphasa, crossed southwards in 1823 into the Windvogelberg west of the Kei and Swart Kei Rivers with around 1000 followers.<sup>6</sup> This was on the edges of the then Cape colonial frontier and trekboers had already moved north of the Stormberg mountains.<sup>7</sup>
58. In this region, the amaTshatshu under Maphasa got caught up in highly unstable political conditions that resulted in regular military encounters, strategic alliances and unequal treaties and conflicts that spilled into wars with the colonial government. These are also the two amaXhosa kingdoms (east and west) as well as the amaGqunukhwebe and other tribes west of the Kei.
59. Other Thembu groupings, including a branch of the paramountcy, also moved into the area, further complicating relationships west of the Kei, where

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<sup>6</sup> Anne Mager (2014) 'Gungubele and the Tambookie Location 1853–1877', 256.

<sup>7</sup> Elsie Wagenaar (1973) 'The Forgotten Frontier', i.



abaThembu population reached 45000 adults.<sup>8</sup> The amaMfengu were often intermediaries and beneficiaries of confiscated land in these ever-shifting frontiers of colonial expansion.

60. Under Chief Maphasa the amaTshatshu developed into a powerful and influential chieftaincy with a strongly traditionalist social system. As the recognised senior Chief in the area, Maphasa was forced into uncomfortable obligations to, and treaties with, the colonial authorities with which he eventually could not remain compliant. When he got involved in the Eighth Frontier War of 1950-53 in support of the amaRharhabe Xhosa (a particularly violent war), he was labelled a rebel and threat to the colony.
61. After the war, the British abandoned the treaty system and forced Maphasa (and other Chiefs) to take an oath “recognising British authority, acknowledging the superiority of British culture and promising to accept its civilising mission”.<sup>9</sup>
62. Maphasa died<sup>10</sup> toward the end of the war leaving his minor heir, Gungubele, as Chief under Regent Yiliswa. They were deported back over the Kei River. Their former land was determined ‘forfeited’ and officially designated ‘confiscated land’ on which a cordon of white settlers were established on 1,500

<sup>8</sup> Anne Mager (2013) ‘Gungubele and the Tambookie Location 1853–1877’, 261.

<sup>9</sup> Anne Mager & Phiko Velelo *The House of Tshatshu* (2018), 49.

<sup>10</sup> The cause of death has not been conclusively established though many rumours of poisoning by assassination within his ranks circulated for which traditional punishment was duly meted, while other sources suggested a heart attack, see Anne Mager (2013) ‘Colonial Conquest and the Tambookie Frontier: The Story of Maphasa, c. 1830–1853’, 268; and Anne Mager and Phiko Velelo (2018) *The House of Tshatshu*, 55-56. Michael Spicer (1978) asserts ‘he was killed’, ‘The War of Ngcayecibi 1877-78’, 186.

morgen farms in quitrent title as a defensive barrier west of the Swart Kei <sup>11</sup>  
(see map 1 in paragraph 63).

63. In addition to being forced to forfeit their land, the amaTshatshu were stripped of all official recognition, along with attempted obliteration of their ethnic identity. The were words of the colonial governor, Sir George Cathcart were emblematic:

*The name and independence of the tribe of Mapassa will cease ... I have broken up and banished his tribe, and forfeited his land. The wreck of his tribe have mixed and merged into other tribes.*<sup>12</sup>

Map 1 The Colonial South-western Frontier in 1833 showing the confiscated land of the amaTshatshu

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<sup>11</sup> Anne Mager (2013) 'Gungubele and the Tambookie Location 1853–1877, 252

<sup>12</sup> Anne Mager (2013) 'Gungubele and the Tambookie Location 1853–1877, 252

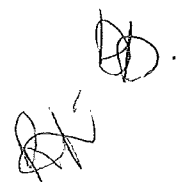


66. The Tambookie location thus became a new frontier settlement that expanded the north eastern frontier eastwards over the Kei. It now fell within the boundaries of the colony within a new colonial district of Queenstown named after the newly established town of Queenstown.
67. Queenstown was established on land confiscated from the amaTshatshu and other Thembu groupings and became the seat of a new magistracy on the north-eastern frontier, sometimes called the "Tambookie" frontier. It became the colonial headquarters of the regional civil, administrative and military authority. Most of the land in the district was reserved for white settler farmers.
68. Queenstown thereafter became a bulwark of white settler expansionism in the region east and west of the Kei River and its tributary, the Black or Swart Kei, bolstered by the appointment of a Resident Magistrate and Civil Commissioner.
69. Most of the land was apportioned to white famers on newly surveyed farms who were served by Queenstown as an agricultural and administrative centre, though many black inhabitants had refused to move after the war.<sup>13</sup> The town became the centre of an emerging market economy and the core from which colonial control over the region was tightened.
70. The Tambookie Location was very large, 250,000 morgen (215,000 ha) in extent, running north for about 110 km from the confluence of the Swart and Wit Kei river and stretching about 50 km from east to west.<sup>14</sup> The scope of authority of Nonesi and agent Warner was ambiguous and undefined. The

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<sup>13</sup> Michael Spicer (1978) 'The War of Ngcayecibi 1877-78', 187.

<sup>14</sup> Anne Mager (2014) 'Gungubele and the Tambookie Location 1853-1877, 1159.



colonial government had limited capacity to expand its administrative machinery and customary law largely prevailed.<sup>15</sup>

71. Many inhabitants of 'Tambookieland' participated in these commercial and labour markets to raise cash income to pay new taxes and invest in cattle. The latter were critical for social reproduction of customary lifestyles for which cattle exchanges were crucial. There was also a significant, if relatively small, number of emerging black commercial farmers from the location who actively engaged in commercial activity.<sup>16</sup>
72. For administrative purposes, the Tambookie location superintendent, J.C. Warner, divided the Tambookie location into sub-locations allocated to four Thembu clans – the amaTshatshu, amaNdungwana, amaHala and amaGcina. Nonesi, the regent for the paramount Chief of the abaThembu lived in the Hala section, and close by was Warner's residence.<sup>17</sup> The surviving group of amaTshatshu under Yiliswa were in the southern section (see Maps 2 in paragraph 76 and 3 in paragraph 81).
73. The land in the Location was regarded as high potential arable and pastoral land, well-watered by streams despite its ruggedness, and was highly coveted by the white farmers in the Queenstown district. This was a cause of constant tension between settlers, colonial authorities and the African inhabitants. The

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<sup>15</sup> Richard Bouch (1993) 'Glen Grey before Cecil Rhodes', 3.

<sup>16</sup> Richard Bouch (1993) 'Glen Grey before Cecil Rhodes', 4, 6.

<sup>17</sup> Anne Mager (2014) 'Gungubele and the Tambookie Location 1853–1877', 1161.



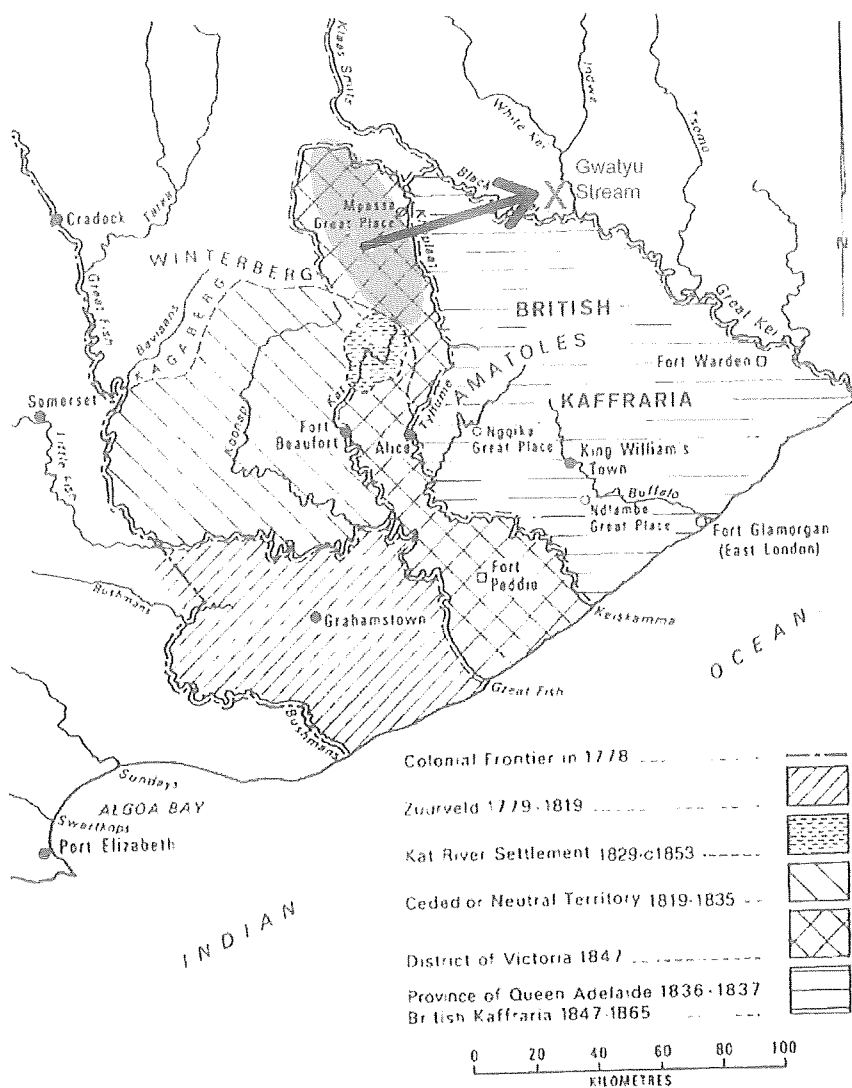
number of whites in the Tambookie Location was, however, small, “with fewer than a dozen administrators and traders”.<sup>18</sup>

74. The amaTshatshu under Regent Yiliswa in the Tambookie Location were mainly located on the Gwatyu Stream, near the confluence of the Swart Kei and the White Kei (another tributary of the Kei running north-south). This explains historical references to the amaTshatshu living “on the Gwatyu”, later evolving into the name ‘Gwatyu’ as a place-marker for the wider area.
75. Yiliswa established the royal kraal on a plateau above the Gwatyu River, from where Gungubele “on top of a steep hill with a good view of the surrounding countryside”<sup>19</sup> later held sway over the amaTshatshu when he was installed by his followers as Chief in 1862, albeit unrecognised by the colonial authorities.
76. Map 2 The Closing of the South-western colonial Frontier by 1865

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<sup>18</sup> Richard Bouch (1993) ‘Glen Grey before Cecil Rhodes’, 3.

<sup>19</sup> Anne Mager (2014) ‘Gungubele and the Tambookie Location 1853–1877’, 1170; Anne Mager & Phiko Velelo (2018) *The House of Tshatshu*, 65.



Source: Adapted from Alan Lester (1998) 'Settlers, the State and Colonial Power: The Colonization of Queen Adelaide Province, 1834-37' *The Journal of African History*, 222<sup>20</sup>

77. In 1858 Tambookieland was "in turmoil" due to the Great Cattle Killing episode, some clans siding with, and others opposing, the millenarian prophecy of Mhlakaza. Against the advice of some of her advisers, but encouraged by others, Yiliswa supported the believers. This contributed to a famine that

<sup>20</sup> Alan Lester (1998) 'Settlers, the State and Colonial Power', 221-245.

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followed thereafter, tragically making her and her followers more dependent on the local missionaries.<sup>21</sup>

78. During the 1850s through the 1860s the missionaries in Tambookieland and surrounds played an important role as intermediaries between the African inhabitants and colonial officialdom. They were seen as a source of protection against colonial predations and a means of gaining access resources and authority. Regent Yiliswa guardedly interacted with missionaries at a nearby Anglican mission.
79. New policies in the 1860s were executed to draw the Tambookieland Chiefs closer into the colonial net; first by making them salaried and then later by granting private farms to them in title. The Chiefs had requested farms but their aim was not to farm privately but to establish their followers on the farms in relative safety from colonial intervention and to maintain their power over their followers. However, the government's new policy from 1867 was to grant farms in individual title to selected elites to *undermine* chiefly autonomy and create a new class of loyal men. "*All the recipients were chiefs or headmen, but in some cases their status was derived from government instead of tradition*".<sup>22</sup>
80. Twenty farms were surveyed and allocated to prominent black leaders (see Map 3 in paragraph 81). Their status, as mentioned, derived from above by the colonial government as a tactic to dilute and repurpose the power of the Chiefs and inculcate European values around production and authority.

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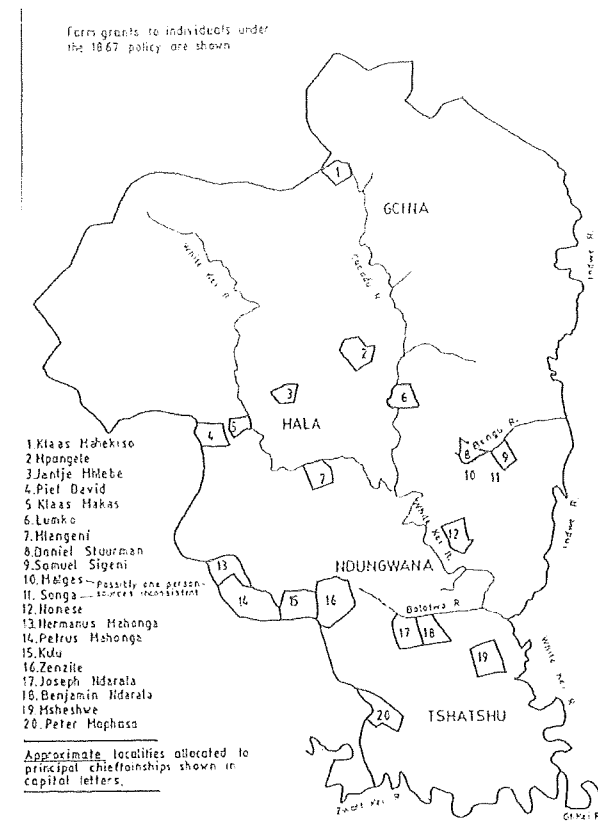
<sup>21</sup> Anne Mager (2014) 'Gungubele and the Tambookie Location 1853–1877', 1163.

<sup>22</sup> Richard Bouch (1993) 'Glen Grey before Cecil Rhodes', 6.



81. Gungubele's brother, Peter, was one recipient of such a farm in 1867. He was a convert and supporter of the Anglican mission, St Peters (see farm # 20, map 4 below). The farm was recovered by the state when he died in 1872.<sup>23</sup>

Map 3 The Tambookie Location showing farms granted to prominent black leaders



Source: Richard Bouch, Glen Grey before Cecil Rhodes, 7.

82. Gungubele came of age in 1862 and wished to be formally installed as Chief of the amaTshatshu. The Magistrate refused his request for formal chieftaincy

<sup>23</sup> Anne Mager (2014) 'Gungubele and the Tambookie Location 1853-1877', 1169.

status in line with the previous policy by Cathcart to obliterate the name of Tshatshu and Maphasa as a recognised title.<sup>24</sup>

83. Superintendent Warner's strategy was to devolve certain managerial powers to Chiefs and headmen as means of gaining control over governance in the location. The Magistrate was willing to appoint Gungubele as headman over the amaTshatshu families living in the Gwatyu section at the time, but not as a Chief.<sup>25</sup>
84. Gungubele was consequently appointed headman in charge of the 400 families living on the Gwatyu.<sup>26</sup> The colonial policy of appointing headmen was a source of abiding anger and resentment by Gungubele.
85. His ambition was to be recognised as heir to amaTshatshu chieftaincy and the transfer of hereditary authority from Yiliswa to himself. As a strong traditionalist, he bitterly resented colonial appointments of headmen.
86. In 1865 Colonial Secretary Richard Southey broke a period of relative calm in Tambookieland when he attempted to appease white farmers' ongoing calls for the land. He tried to induce the Chiefs in the location to cross over the Indwe River into confiscated land of the amaGcaleka. Gungubele and Nonesi refused to move.<sup>27</sup>

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<sup>24</sup> Anne Mager (2014), 'Gungubele and the Tambookie Location 1853–1877', 1168.

<sup>25</sup> Anne Mager & Phiko Velelo (2018) *The House of Tshatshu*, 87.

<sup>26</sup> Anne Mager (2014) 'Gungubele and the Tambookie Location 1853–1877', 1168.

<sup>27</sup> Anne Mager (2014) Gungubele and the Tambookie Location 1853-1877, 1168.

87. Four Chiefs and followers took up the offer and crossed the Indwe: Matanzima, Ndarala, Gecelo and Stokwe, thus creating Emigrant Thembuland, now known as Western Thembuland. It became the heartland of the future 'president' of the Transkei, Kaiser Matanzima whose grandfather Raxoti Matanzima had agreed to move in defiance of the Great House.
88. This and many other intrusions into customary systems exacerbated Gungubele's mistrust of colonial authorities and missionaries, an attitude passed down from his predecessors — despite having a relatively good personal relationship with the genial missionary, Newton, at St Peters in the 1860s.<sup>28</sup>
89. A critical turning point in policy, according to Bouch<sup>29</sup>, was in 1867 when government made a firm commitment to individual tenure to undermine chiefly autonomy as a means to quell the unstable conditions on the north-east frontier, a policy that remained a loadstar in the Cape Colony and Cape Province right into the early 1920s when it was abandoned, thus taking a radically different route from the policy of trusteeship adopted in Natal and Zululand.
90. It is true that many Chiefs were requesting surveyed farms in Tambookieland, but it was to find a place of refuge for themselves to rule without interference from the administrative and legal interventions of the colonial authorities. These two approaches to the survey of farms, one to control the Chiefs and the other to escape from control, were directly at odds with each other and account for

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<sup>28</sup> Anne Mager (2014) 'Gungubele and the Tambookie Location 1853–1877', 1169-1170.

<sup>29</sup> Richard Bouch ((1993) 'Glen Grey before Cecil Rhodes', 5.



much of the resistance by Gungubele and his Councillors to the inroads to their authority made during the 1870s.

91. In 1870, the new Civil Commissioner and magistrate in Queenstown, Edward Judge, made further unwelcome interventions in Tambookieland, principally to make Chiefs accountable to government instead of their people, leading to increased tensions and eventually war, dispossession and annexation.
  
92. A Commission was appointed by the colonial government in 1870 to investigate land tenure and related matters in various black occupied areas under nominal colonial administration given the big inconsistencies in tenure and administration in these areas. For example, some farms were held on individual tenure and others in communal tenure under the Government headmen appointed by Judge.<sup>30</sup>
  
93. The commissioners recommended that the location be divided into blocks of 12000 to 16000 morgen, in turn subdivided into surveyed farms of roughly 2000 under government appointed headmen. Communal tenure would remain in force on these farms. This system aimed to erode traditional powers and was regarded as a provocation to the black leaders and their followers.<sup>31</sup>

<sup>30</sup> Michael Spicer (1978) 'The War of Ngcayecibi 1877-78', 187.

<sup>31</sup> Richard Bouch (1993) 'Glen Grey before Cecil Rhodes', 8. It is worth a detailed description: The Commission 'recommended that the entire location, except the individual title farms, be divided into blocks of 12000 to 16000 morgen, and that these be subdivided into surveyed farms of roughly 2000 morgen each. Communal tenure would remain in force on these farms, which would cover all of the location except the quitrent private farms already granted. Senior headmen on the large blocks, and headmen on the farms, would be responsible for reporting all entries into the location and for other matters of general administration. The commissioners believed that this way of enforcing control would be accepted by the people, particularly if use was made of headmen recognized by the people themselves. In 1870, the survey of the farms commenced and the northern half of the location was placed under the new magistracy of Wodehouse."

94. Judge basically ramped up these and previous attempts to control land administration by issuing title deeds to a limited number of well-to-do men in addition to surveying farms for commoners in customary tenure without title under headmen in a tiered system. Judge was intent on "modernising the location" centred around the idea of individual tenure, taxation and the appointment of headmen regardless of their standing in Thembu society.<sup>32</sup>
95. Surveying was completed in 1876 and the new system was implemented. Title holders were to be granted the status of headmen appointed by Judge, and a new system of taxation was to offset increasing administrative costs.
96. Gungubele "by this time the only traditional leader whose authority still approximated to old-style chieftainship, was especially irked at the way in which Judge appointed headmen to the blocks and farms".<sup>33</sup> He told Judge that only he as the Chief had the power to appoint headmen. He and his councillors and people opposed the authority of the headmen, even threatening physical resistance.<sup>34</sup>
97. Gungubele, as a recognised headman, was granted title to a farm in 1876, but he did not take it up. Instead, he wished to buy the land in the Swart Kei valley from which the amaTshatshu had been removed in the 1850s, still a source of bitterness.<sup>35</sup>

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<sup>32</sup> Richard Bouch (1993) 'Glen Grey before Cecil Rhodes', 5,8.

<sup>33</sup> Richard Bouch (1993) 'Glen Grey before Cecil Rhodes', 10.

<sup>34</sup> Michael Spicer (1987) 'The War of Ngcayecibi 1877-78', 187.

<sup>35</sup> Anne Mager and Phiko Velelo (2018) *The House of Tshatshu*, 98-99.

98. In 1876 he identified the farm Mapassa Poort in his father's old territory which he purchased with a small deposit. He could not keep up with the subsequent payment, even with the contributions of his followers, and the farm was subsequently repossessed. All Tshatshu occupiers had to leave.<sup>36</sup>
99. The lack of mercy in the process of sequestration incited Gungubele to resentment and a great sense of injustice at colonial law and treatment by the authorities.<sup>37</sup> There had been a sensible compromise suggested by the Tambookie location agent, R. Driver, to swap the Transkei farm he had been granted in title for Mapassa Poort, but the authorities would not relent.<sup>38</sup>
100. Charles Brownlee, Secretary for Native Affairs from 1872 to 1878, found during a tour of the area in 1876 during a 'war scare', that the "Colonial Thembu" (i.e. amaTshatshu and others in the location) were the most disaffected. A focal point of dissatisfaction was found to be the erosion of the power of the amaTshatshu, and the contribution of the farm fiasco to the mistrust by the Tshatshu of the colonial government.<sup>39</sup>
101. According to Mager, at this point:

*Relations between the magistrate and the Tambookie location were deteriorating rapidly. Many who had received title to farms after the location was surveyed struggled to meet their quitrent payments ... The magistrate reported that on several occasions men had 'stood at their kraal gates with*

<sup>36</sup> Anne Mager and Phiko Velelo (2018) *The House of Tshatshu*, 10.

<sup>37</sup> Anne Mager and Phiko Velelo (2018) *The House of Tshatshu*, 1.

<sup>38</sup> Michael Spicer (1987) 'The War of Ngcayecibi 1877-78', 192.

<sup>39</sup> Michael Spicer (1978) 'The War of Ngcayecibi 1877-78', 188.

*assegais in their hands and dared the messengers to attach' their writs for debt. Everyone resented paying taxes and Gungubele seethed at the magistrate taking it upon himself to appoint headmen.<sup>40</sup>*

102. Beyond the frontier, war had broken out between Sarhili's amaGcaleka and the amaMfengu, triggering alliances. Almost everyone east and west of the Kei River was drawn into the fray. This confrontation was known as the Ninth Frontier War from 1877-1878.

*"Perceiving an opportunity to crush Sarhili, the colonial forces weighed in behind the amaMfengu. Colonial involvement in the conflict fuelled resentment among chiefs, who chafed under the yoke of magistrates. In the Tambookie location, Gungubele and Mfanta<sup>41</sup> readied themselves and waited to be called by Sandile, chief of the amaNgqika, Maphasa's old ally."<sup>42</sup>*

103. Rumours that Gungubele was about to join forces with Sarhili intensified, despite evidence that, unlike his councillors, he was actually loathe for war or rebellion. However, tensions mounted and after various conflicts and incidents, the colonial forces attacked his stronghold in 1877 when Commissioner Hemmings marched with his troops to the Gwatyu.

<sup>40</sup> Anne Mager (2014) 'Gungubele and the Tambookie Location 1853–1877', 1171.

<sup>41</sup> Mfanta was chief of the Left-hand House of the Thembu paramountcy who opted to remain in Glen Grey.

<sup>42</sup> Anne Mager (2014) 'Gungubele and the Tambookie Location 1853–1877', 1172.

104. This was followed in early 1878 by Commandant Griffith of the Frontier Armed and Mounted Police whose forces attacked Gungubele's stronghold with 1,200 men. Violent and bloody confrontations laid waste to the Gwatyu.
105. Gungubele, along with three other Chiefs in colonial territory, was convicted of treason and sentenced to death, which was then commuted to life imprisonment on Robben Island, which he served for ten years.
106. Gwatyu was excised from Glen Grey and later surveyed into farms granted to white purchasers, a situation that was only reversed a century later.
107. Gungubele was released in 1888 as an amnesty on the occasion of Queen Victoria's Jubilee. He was taken to Qhitsi, Cofimvaba, where the Thembu Paramount, Ngangelizwe, was to take responsibility for him. He died there in 1925.
108. On his release he found the remaining amaTshatshu had dispersed, having taken refuge on the fringes of various communities, marginalised and impoverished, but their allegiance to the Tshatshu identity remained strong to this day. He applied to regain the farm granted to him in Gwatyu in 1876, but his request was refused on the grounds that the farm had been allocated to him before the annexation of Emigrant Thembuland and the title was forfeited.<sup>43</sup>
109. The actions of the local Cape colonial authorities in the Ninth Frontier War were met with unfavourable opinion in some of the higher echelons of the British colonial hierarchy. General Sir Arthur Cunynghame, the Queen's Commander

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<sup>43</sup> Anne Mager & Phiko Velelo (2018) *The House of Tshatshu*, 112.

in Chief in South Africa, declared that Hemming did not have the authority to declare war and should be brought to book.

110. *Gongobella [sic] was a British subject, residing within the jurisdiction of the courts of law, and if he had committed any act against the laws of the colony, there were proper methods of procedure; but it is not tolerable that any resident magistrate should be given carte-blanche to lead a warlike expedition against any person who has not successfully obeyed his command to capture and deliver up wrongdoers, or who, under a false impression, has taken suitable measures to repel an anticipated attack. In all that Gongobella [sic] did, there is nothing to indicate any disloyalty against government, and it is the purest tyranny of might to crush him to pieces on the first paltry excuse.*<sup>44</sup>

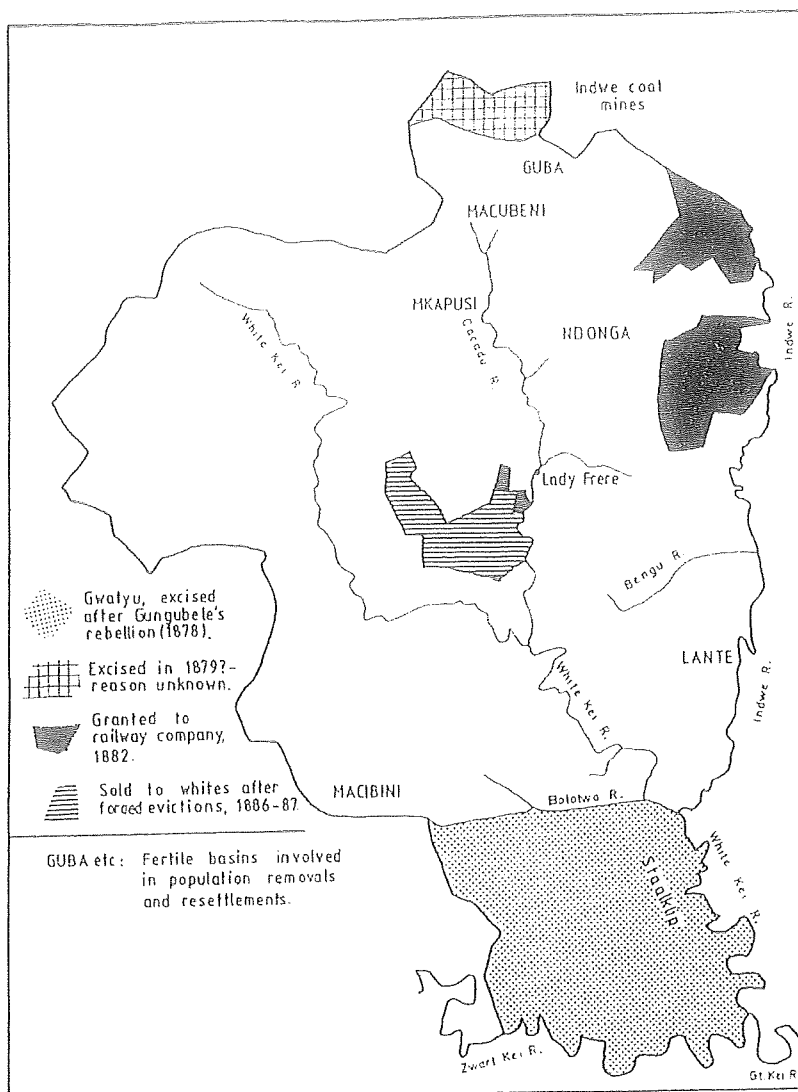
#### The period 1883-1978

111. In or around 1883, the entire block of land surrounding the Gwatyu was surveyed and divided into farms and sold to 'struggling' white farmers.<sup>45</sup>
112. Following the end of the Ninth Frontier War (after 1878), all the remaining black, mainly Tshatshu, people living around the Gwatyu were forcibly removed therefrom. Some moved to the core Glen Grey district where other Tshatshu groups already resided, while others found refuge in other districts, including Cofimvaba and Engcobo in the Transkei, and further afield in the colony.

<sup>44</sup> Anne Mager (2014) 'Gungubele and the Tambookie Location 1853–1877', 1174.

<sup>45</sup> Anne Mager & Phiko Velelo (2018) *The House of Tshatshu*, 188.

Map 4. The excision of Gwalyu from Glen Grey after the 9<sup>th</sup> Frontier War of 1877-78



Source: Richard Bouch, Glen Grey Reduction 1878-1887<sup>46</sup>

113. Magisterial administration of civil and judicial matters in Tambookieland had indeed proved to be the thin edge of the wedge to full incorporation.<sup>47</sup> Spurred on by the Ninth Frontier War, annexations of Transkeian regions abutting

<sup>46</sup> Richard Bouch 'Glen Grey before Cecil Rhodes', 13.

<sup>47</sup> Chris Saunders (1976) 'The Transkeian Rebellion of 1880-1881: A Case-study of Transkeian Resistance to White Control.' South African Historical Journal 8: 32-39.

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Tambookieland occurred successively in the decades of the 1870s, 80s, and 90s: East Griqualand in 1877; Fingoland in 1878; Gcalekaland, Bomvanaland and Thembuland in 1885; and Pondoland in 1894. These blocks eventually formed the Transkeian Territories governed as a reserve for African occupation by means of a system of Councils followed by the implementation of 'Bantu Authorities' under apartheid, eventually leading to self-rule and mock independence in 1976.

114. Tambookieland, renamed and somewhat reformed as the Glen Grey district minus t the Gwatyu block, remained outside the Transkei for another century as a district of the Cape Colony administered by an evolving Ciskeian administration, to be eventually incorporated into the 'independent' Transkei in 1976.
115. As mentioned above, Gungubele was released from prison in 1888 and lived the rest of his days near Cofimvaba. He died and was buried at Makwababa in 1923.<sup>48</sup> By that time, there were two competing Tshatshu houses vying for the chieftainship, Caba and Makwababa.
116. In the 1950s, Dabulamanzi Gungubele, a retired headman from Caba and Chief's councillor, approached the Secretary for Native Affairs for recognition of the chieftaincy. Officials concluded that "as Gwatyu in the Queenstown district is not a native area, his claim to chieftainship of that area cannot be

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<sup>48</sup> Anne Mager & Phiko Velelo (2018) *The House of Tshatshu*, x.


considered". They maintained that ... "to gather this clan into one place and to pair ethnicity with territory would be a cumbersome task".<sup>49</sup>

117. In 1973, the house of the amaTshatshu claimed their domicile to be Glen Grey (formerly the Tambookie Location), specifically the Rodana, Tshatshu, Mtsalane, and Mopothulo locations that were demarcated when Glen Grey was surveyed into over twenty locations. In 1973, 17,588 adult men claimed to identify as amaTshatshu in the four locations of Glen Grey.<sup>50</sup>
118. As we saw above, prior to the Ninth Frontier War of 1877-8, the core of the amaTshatshu lived in and around the Gwatyu section of the Tambookie Location/Glen Grey. When the Gwatyu block was excised after the war, many were dispersed. Some moved to, or already resided in the Glen Grey district while others found refuge in many other districts, such as Cofimvaba, Engcobo, and further afield. They never lost their sense of ethnic identity and desire to be recognised as a chieftaincy.
119. An opportunity presented itself when Transkei was evolving from so-called self-rule to claims for 'independence' in terms of apartheid's new policy of creating independent Bantustans. Kaiser Matanzima, hoping to become president of the first independent Bantustan, Transkei, needed to show the apartheid government that he had support. A strategy to bolster the scope of his authority and territorial reach was to incorporate Glen Grey and Herschel into the Transkei. The considerable Thembu population of Glen Grey would have

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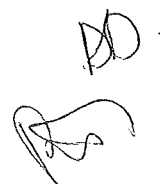
<sup>49</sup> Anne Mager & Phiko Velelo (2018) *The House of Tshatshu*, 144.

<sup>50</sup> Anne Mager & Phiko Velelo (2018) *The House of Tshatshu*, 148.



provided an obvious source of support for Matanzima, who was a Thembu of 'Emigrant' or western Thembuland.

120. This strategy succeeded, and Glen Grey and Herschel districts were forthwith moved from the jurisdiction of the Ciskei to the Transkei in 1976. This also opened a space for the amaTshatshu to renew their clamour for recognition and restoration. However, complicated chiefly politics at the time posed challenges to their ambitions.
121. The Tshatshu leadership needed to pinpoint a locality for the proposed seat of the chieftaincy and their potential regrouping. Glen Grey was an obvious site for potential relocation since several administrative areas or 'locations' in that district were already occupied by amaTshatshu. However, it was Gwatyu to which amaTshatshu felt a sense of belonging and attachment, a festering wound after dispossession and scattering as a result of the war.
122. However, it could equally be said that the sense of belonging before the settlement of Gungubele and his followers on the Gwatyu was to Maphasa's land that was confiscated west of the Klipplaar River and on which Queenstown district was established. It was here that Gungubele previously wished to return with his followers (see paragraph 98 above).
123. Despite their geographical dispersal, many amaTshatshu formed a loose constellation from wherever they were. They told Kaiser Matanzima that they would not move to Glen Grey, but would rather wait "until the apartheid



government fulfilled its promise to expropriate the land that had once been occupied by Gungubele on the Gwatyu".<sup>51</sup>

The period 1978-1994

124. Following the incorporation of Glen Grey in the Transkei, the South African Development Trust proceeded with expropriating the white farmers from their farms in Gwatyu.
125. The Transkei Department of Agriculture proceeded to further subdivide the farms but not through formal subdivision. The original farm boundaries are still those that are registered in the Deeds Office.
126. The policy of the Transkeian government was to lease the land to applicants. In reality, the farms were leased to politically connected clients of the Matanzima brothers, and he himself and his brother George each got one farm in title.
127. Matanzima tried to bring Gwatyu in line with the land tenure system used across the Transkei, by requiring the former farmworkers to apply for land under the communal system. If their "applications" were successful, the Transkei government issued them with 'permission to occupy' (PTO) certificates.<sup>52</sup>
128. Matanzima established a tribal authority, under the authority of Sobantu Gungubele, to administer Gwatyu. However, the system did not work in the context of Gwatyu. Farmworkers had never been governed by a headman and

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<sup>51</sup> Anne Mager & Phiko Jeffrey Velelo *The House of Tshatshu*, 151.

<sup>52</sup> Anne Mager & Phiko Velelo (2018) *The House of Tshatshu*, 190.

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did not recognise the authority of a Chief. In addition, the new “lessees” were drawn from elite class that had no relationship with the imposed Chief.<sup>53</sup>

129. Later investigations by the Special Investigating Unit showed that the land was leased to known supporters of the Matanzima regime under highly favourable terms to the beneficiaries and in the absence of adequate processes to filter applicants and monitor conditions of lease. The land was leased to Bantustan functionaries well-connected to the homeland sources of power at rates well below the recognised market leases based on the rates of neighbouring agricultural land. The generally poor farming record of the beneficiaries of this policy is well documented.
130. By the time Matanzima was forced to resign in 1986, none of the leases had been registered and not a single permission to occupy certificate had been issued. The leases were terminated.<sup>54</sup>
131. The result of the overlapping tenures of farmdwellers, lessees and subjects of the new Chief was that a chaotic system of land administration followed. This resulted in the collapse of basic agricultural infrastructure. Dams, reservoirs, windmills, fences and dipping tanks were not maintained.
132. Most lessees did not live in the area and employed family labour and also some of farmdwellers. Some family members of the lessees wrongly assumed that they had inherited the rights under the leases.

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<sup>53</sup> Anne Mager & Phiko Velelo (2018) *The House of Tshatshu*, 190.

<sup>54</sup> Anne Mager & Phiko Velelo (2018) *The House of Tshatshu*, 190.

133. Many of the farmdwellers had lived on the farms for generations. In cases of overlapping use, they grazed their livestock alongside the livestock of absentee lessees with little or no regulation.<sup>55</sup>
134. Their residence was accepted but not legally recognised and there was no way to assert their rights prior to 1994. Despite their investments in farming and their skills with livestock farming in particular, they were never provided with the means to acquire agricultural land.
135. After 1994 their rights were protected by the Interim Protection of Informal Land Rights Act of 1996 (IPILRA). In practice IPILRA was little known among either the contending land users and its enforcement by state officials was not forthcoming due to lack of regulations and administrative institutions, though there was some reported litigation, the results of which are not known to me.
136. In the land audit of 2000 authored by myself and my colleague<sup>56</sup>, Mr Monty Roodt commissioned by the Department of Land Affairs Eastern Cape Land Reform Office, East London, we summarised the history prior to 1999 from the information we were able to assemble and which I synthesise below.
137. During the Matanzima regime, the former farmworkers were recognised as permanent land occupants by Matanzima himself, both in his position as 'State President' and his position as Chief of the Emigrant Tembu (in particular, his royal status in the Cofimvaba district).

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<sup>55</sup> Anne Mager & Phiko Velelo (2018) *The House of Tshatshu*, 190.

<sup>56</sup> Rosalie Kingwill & Monty Roodt (2000) 'Social Land Audit of the Gwatyu Block of farms, Cofimvaba district, Eastern Cape.

138. Matanzima allocated them particular areas of the farms to set up their residential settlements and to use the land.
139. Matanzima also 'gave' farms to influential people to use, such as policemen, headmen and Chiefs (many of whom were also his close relatives), e.g. from Glen Grey district. It appears that it was only during the period of General Bantu Holomisa's presidency of the Transkei government that these individual 'patrons' whom Matanzima had placed on the farms became 'lessees' and were expected to sign contracts of agreement and pay rent to the state.
140. We were unable to find the official notice in a Government Gazette of the formal establishment of the Tshatshu Tribal Authority that was supposedly created in 1982 to 'administer' Gwatyu. It appears that it was only formally instituted in the post-apartheid period. It was in any event not equipped to deal with a complex set of tenure arrangements and diverse claims to the land.

State policies for land reform planning, grants and subsidies 1995-2001

141. In 1995, the Gwatyu Block of farms was selected by the Provincial Executive Committee to form part of the Land Reform Pilot Programme in the Eastern Cape. The geographical range of the pilot was a rough imaginary circle around Queenstown as epicentre, including parts of the former Ciskei in the north and Transkei in the south that had a range of tenure systems, as well as the intermediate border areas known colloquially as 'the Border' which was largely white-owned land. This was a conscious attempt to move beyond homeland boundaries and to map a region based on land redistributive, ecological and agricultural rationality in place of ethnically defined boundaries.

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142. The Pilot Programme aimed to kick start the land redistribution programme of the new democratic government and enable the development of efficient, equitable and sustainable mechanisms of land redistribution in rural areas. The Pilot Programme was set to be implemented over a two-year period.
143. The first phase of the Eastern Cape pilot programme culminated in a pre-planning report in February 1996<sup>57</sup>, which set out the parameters of land ownership and occupation of the land, the various population figures, the physical infrastructure and the status of current developments in the aforementioned area. For the second phase consultants were contracted to produce recommendations for future land use including development, commercial and subsistence farming, commonage usage, irrigation potential and settlement planning.
144. An expression of interest in the Gwatyu farms was published in 1997 and received 73 responses. Certain persons expressed interest in buying or leasing Maties and the Forest Range portions. Nothing, however, came of the pilot programme beyond consultants' reports and a number of development proposals over time.
145. On discovery of attempts to buy off parcels of state land that were supposed to be earmarked for redistribution by largely unrecognised 'lessees', the Judicial Commission of Enquiry under Judge Heath (often referred to as the "Heath Commission", later to become the Special Investigations Unit), was tasked with

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<sup>57</sup> R.Kingwill and W. Beinart (1996) Eastern Cape Land Reform Pilot project Pre-Planning report, Land and Agricultural Policy Centre (LAPC) and the Border Rural Committee (BRC)



investigating the legality of the lease agreements over the farms entered during the Transkei era. As a result of that investigation, certain lessees were evicted while others were ordered to pay arrears and vacate the farm.

146. By mid-1998, it became clear that no development could proceed on state-owned land in many regions of the Eastern Cape abutting the former Transkei and Ciskei where there was so much uncertainty surrounding the tenure status of current occupiers of the land with overlapping rights and competing interests, as well as competing claims to the land. Hence a policy of 'state land disposal' was developed, and tenders called for audits of the various state land blocks.
147. The Kingwill-Roodt land audit of Gwatyu (which was in reality a form of land rights enquiry) was one of these; awarded after a successful tender.
148. Information we were able to obtain at the time of our audit indicated that Nobulelo Kakana was evicted by court order on 31 March 1999 from an informally subdivided part of Forest Range Portion 0 (referred to as Farm No 7), although the Kakanas had in fact already left the farm by then.
149. Mr Sidabe, who was the lessee of the second informally subdivided piece of Portion 0, had an application brought against him under case number EC185/95, according to the SIU records. The instructing attorneys have been unable to trace this matter and the outcome is uncertain.
150. Mr Ndarhala, lessee of Forest Range Farm portion 2 (referred to as Farm No 6), was ordered to pay R1575 in arrear rental and ordered to vacate the farm by 11 June 1999.



151. Mr Fezile Mtanzina, lessee of one informally subdivided section of Portion 1 (referred to as Farm No 9), was evicted by court order on 4 February 1999 according to the SIU records.
152. A debate ensued within the Department of Land Affairs (DLA), as it then was, as to what the legal status of the lessees and the farm dwellers was and how to dispose of the state land equitably. As mentioned above, it was policy at that time to dispose of state land via formal transfer to rightful claimants, who were to be identified, for example, by means of audits or land rights enquiries and thereafter assist beneficiaries to apply and acquire the land using the relevant state subsidy or assistance programme.
153. At the time, there were two main grants available for land acquisition and settlement. One focused on land for mainly settlement purposes and the other for agricultural purposes, each of which involved different funding applications for the relevant funding stream. This would mean using the subsidies for settlement or farming assistance. The former was the Settlement and Land Acquisition Grant (SLAG) and the latter was the grant for Land Redistribution for Agriculture Development (LRAD). The latter was intended for individual purchase but was later made applicable for groups.
154. In both cases, the policy was for the land to be formally transferred to the beneficiaries who would in theory 'buy' the land using state subsidies. However, and argument had been made in 1998 related to a comparable case comprising a group of farmdwellers known as Maskhane in the Alice district of the former Ciskei, whereby the farmdwellers were recognised as 'beneficial occupants'

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entitled to free transfer. Based on the facts of this case, the policy for beneficial occupation was changed to include state land in qualifying cases.

155. The Maskhane group received ministerial approval for free transfer of land based on an extended period of beneficial occupation in collective ownership in 2000. The Masakhane case had similarly involved formerly expropriated land with competing interests from lessees. In the Masakhane case, the SLAG was used to provide additional funding for settlement and infrastructure development.
156. The Masakhane case set a precedent for the Gwatyu farmdwellers for motivating for free transfer of the land based on beneficial occupation, for which status they clearly qualified and still qualify.
157. In 2003, Ministerial approval was also sought for free transfer of land to farmdwellers in Guba, a comparable case to Gwatyu, on the edge of the former Transkei, known as Guba.
158. Thus, in light of the DLA policies to (a) radically reduce the extent of land owned by the state other than for public or utility purposes, much of which owned by the South African Development Trust (SADT); (b) free transfer in the case of qualifying beneficial occupiers on state land; and (c) determine the legitimate claimants, the Department commissioned a study to ascertain the *de facto* nature of land use and occupation trends in Gwatyu in 2000 within these policy parameters. The brief was to determine the users and the most legitimate or deserving claimants to the land.



159. Some of the findings of that land audit report, dated March 2000 and attached to the Founding Affidavit marked AM22, were:
160. *The farms are occupied and used daily by the former farmworkers and their extended families. The farms were vacated in 1976 and hence the original families had already been there for approximately 48 years, by far the most of which had not been transferred from the state to private owner. Since then, sons and daughters and grandchildren have also become land users.*
161. *There appears to be little difference in the farming practices of lessees and farmdwellers and their livestock graze together and get dipped and dosed together. The advantage that lessees have over farmdwellers lies chiefly in their access to their own personal transport (usually, bakkies or cars), and they are thus able to take livestock or livestock products to markets, though this is a limited activity. One case of milk deliveries was encountered, and reference was made to lessees transporting wool to East London or Port Elizabeth. For the most part, lessees appear to collect individual animals for sale or slaughter when necessary (page 7).*
162. *"State subsidisation of dipping ceased a long time ago. Farmdwellers collect money from livestock owning families to pay for the dip (each farm has its own method of collection and rotation), and dipping days are organised on a rotational basis by the farmdwellers per blocks of farms. Farmdwellers organise dipping days on a regular basis (once a fortnight in summer) and on one farm the dipping was witnessed by the researchers. Lessees' livestock are included and contributions towards the dip are made. Some farmdwellers are using a*



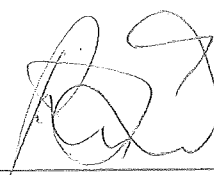
spray called "Deadline" and dip infrequently, but only one group of farm dwellers interviewed referred to this method (possibly where water and dips are less accessible)" (page 8).

163. "On each farming unit, relations of mutual support and reciprocity sustain farm dweller settlements as small "communities" based on communal use of natural resources. In about 90% of cases observed, farm dweller settlements are highly cohesive social and economic systems, with long-standing ties of familial and historical association. The small settlements are in turn tied into broader social networks in the block, distinguishing the farm dwellers socially and economically from neighbouring rural settlements in the former Transkei" (page 5).
164. "Ties of family and community are also stronger than ethnic affiliations. While some individuals recognised some form of affiliation to the amaTshatshu ethnic group, this did not appear to be an important source of identity in the area as a whole, and was only revealed when prompted by the question. In general people referred to their historical identity as former farm workers and their ties to the land as their main point of reference in defining themselves as a "group" or "community" (page 6).
165. The audit estimated that the farm dwellers had in total invested in R13 million in livestock.
166. By the time the pilot programme ended, extensive planning and a land rights audit had been completed. The 2000 commissioned audit report found that the land had been informally subdivided into 66 units by the former Transkei



department of agriculture. The authors of the audit recommended the allocation of these units based on their adjudication of rights and uses as well as an assessment of investments, effective beneficial occupation and IPILRA's protections of occupiers.

167. However, these recommendations were not acted upon. We do not know why.



ROSALIE ANNE KINGWILL

I certify that on the 2 day of October <sup>2024</sup> and at Kenilworth the above deponent appeared before me and that she acknowledged to me that she knows and understands the contents of the above Affidavit, which Affidavit was signed and sworn to in my presence in accordance with the requirements of Regulation No. R1428 dated 16 November 1984, as amended, which have been fulfilled.



Commissioner of Oaths  
Dariya Dalvie  
CA(SA)

Dated...02/10/2024.....  
17 Staff Street  
Rondebosch East 7780



COMMISSIONER OF OATHS

RK

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RK LGR Rosalie Kingwill Land Governance Research

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### BIOGRAPHICAL SUMMARY

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I am an independent critical applied, academic, policy and action research consultant specialising in all aspects of land reform particularly land governance, land administration and land tenure. I have forty years' experience in the land sector. I am the sole proprietor of RK-LGR Consulting. My applied and scholastic background is in tenure reform, land administration, property rights and inheritance in the context of land governance in Africa. My academic interests lie in property concepts from a cross-cultural and historical perspective. I have been associated with various University research institutes, NGOs and civil society platforms, and continue to work in that space.

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### NARRATIVE CHRONOLOGY

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I completed my PhD in land and agrarian studies at PLAAS, UWC, in 2014. The focus of my thesis was the intersection of common law and customary law notions of ownership, and the linkage between immovable property rights and family law. The thesis drew insights from evidence of land tenure arrangements drawn from two case studies in African localities with freehold title issued in the mid-nineteenth century. A key finding was that African customary familial relationships provide the basis of social networks that continue to define how property and land rights are understood, transmitted and transacted, even if title deeds nominally define ownership and confer common law property rights. In view of the findings, the thesis sheds light on the divergences and confluences of common law and customary property rights.

After a brief period teaching and lecturing history, I began a career in working in land related issues in the Eastern Cape; initially as a researcher and then as a member of anti-forced removal committees that arose out of the Surplus Peoples Project (SPP) that eventually affiliated to the National Land Committee (NLC). I remained in the NGO sector from 1987-1996 as employee for the Border Rural Committee (BRC) where I coordinated the research unit, liaising with the NLC and contributing to land reform policy research conducted by the Land and Agriculture Policy Centre (LAPC) in the early nineties in preparation for the ANC government's land reform programme. I was non-executive Director (Treasurer) of BRC's Board of Directors from 2000 - 2006. I was involved in the early land policy networks that informed the emerging Constitutional framework for land reform.

I was a freelance consultant with McIntosh, Xaba & Associates (MXA), 1997-2004 and Mbumba Development Services, East London, 2002-2011. I undertook short-term consultancies for national, provincial and district government institutions including the Department of Land Affairs (now Agriculture, Land Reform and Rural Development), the Land and Agriculture Policy Centre (LAPC), District Municipalities (including IDPs) on a range of land tenure, planning and development related issues, including manuals on land administration focusing on legal and institutional harmonisation for the provincial government of the Eastern Cape. I collaborated with land advocacy organisations and University research institutes, including the Institute for Poverty, Land and Agrarian Studies (Plaas), University of the Western Cape, the Institute for Socio-Economic Research (ISER) at

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Rhodes University (research associate), the Geomatics Department (UCT), Land and Accountability Research Centre (LARC) at Faculty of Law, UCT, the Legal Resources Centre (LRC), Association for Rural Advancement (AFRA), Pietermaritzburg, and Afesis-Corplan, East London.

I was a member of a land tenure research initiative LEAP (2005-2015) comprising a small collective of land tenure advocates who explored participative research and learning approaches to land tenure insecurity, grass-roots learning and conceptual and policy analysis of land tenure and its practical applications. We co-edited a book, *Untitled* (UKZN Press 2017) based on our case material, observations, ideas and experiences.

After completing my PhD, I relocated to Cape Town in 2014 and became a research associate at LARC (2014-16), a post-doctoral research fellow at PLAAS (2016-18) and research associate at PLAAS (2018-21). I authored several articles and book chapters and co-edited a collection *Land, Law and Chiefs: Contested Histories and Current Struggles* (Wits University Press 2021). I have become increasingly interested in urban tenure, drawing from a range of networks, studies and my own contractual research involvement.

I was a member of the Collaboration on Alternatives for Land Policy and Law that contributed to the High Level Panel 2016-2017 (HLP) appointed by the Parliamentary Speakers' Forum in 2017 to "review legislation with a bearing on transformational goals of the post-apartheid state, and assess implementation, identify gaps and impediments and propose action steps including strengthening, reviewing and/or amending identified laws by Parliament". I contributed to the Spatial Inequality report and a report with my colleague Siyabulela Manona proposing a land records system for off-register rights. I participated in consultative processes for the Presidential Advisory Panel on Land Reform 2018-2019, to which I contributed various presentations on behalf of the civil society platform LandNNES (Land Network National Engagement Strategy) on restructuring Land Administration and introducing a land records system.

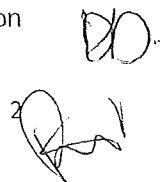
I was a founding member of the Land Governance Transformation Network (LGTN) to lobby for an inclusive legal and administrative framework for recognising diverse land rights, which evolved into a collaborative project known now as the Land Administration Pilot project (LAPA) aimed at deriving lessons for tenure and land administration policy reforms from deep community engagements as well as scholarly research. I am a member of the LandNNES network and have collaborated with international land organisations and networks, sometimes in a contractual capacity.

## GENERAL RESEARCH ORIENTATION

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My work has largely related to land tenure and land administration policy and legal reform issues. It included early evaluations of former and evolving land administration systems affected by the transition from the former apartheid era to the post-apartheid constitutional era. I conducted detailed research on the legal and institutional frameworks in a variety of tenure contexts in the rural areas of the former Ciskei and Transkei, Eastern Cape, and farm tenure, urban informal settlements and townships. I have worked in programmes on land tenure, state land disposal, land redistribution and land restitution, some involving detailed household-based land rights audits. My research methodology includes documentary research, fieldwork, oral testimony, archival research. I am currently engaging in policy innovation with practical applicability regarding property rights, inheritance, land administration and land governance.

My interest in historical and evolving land rights and tenure institutions is informed by histories, realities and potentialities of various tenurial developments, mindful of (a) the risks, opportunities and challenges of formalisation; (b) legal pluralism, non-dualism and the binding Constitution; (c) the importance of a unitary Constitutional property system that recognises diverse normative orders and sources of law; (d) the interface between customary and common law systems that draw from diverse and hybridised local systems; (f) the adverse effects of dualistic and fragmented public administration



systems on off-register rights and tenure security with resultant institutional disjuncture and inequities in land governance; (h) the harmonisation of formal and customary property systems regarding adjudication of rights, inheritance and succession; information systems, spatial planning, land use management, valuation, taxation and dispute resolution.

## EDUCATIONAL AND CURRICULUM INTERESTS

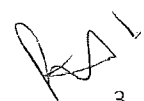
I have a vision of contributing to curriculum development in tertiary institutions on developing land administration as an academic and applied disciplinary field drawing from multiple related fields of geomatics, law, planning, etc. To that end, I collaborate with colleagues in the Geomatics Department, UCT, which includes co-supervising a PhD on urban tenure, and the International Federation of Surveyors (FIG) concerning land administration reforms that contribute to improved land administration and tenure security using new technologies and philosophies. In this context we draw from some potentially ground-breaking innovations for post-colonial and post-conflict societies by the Global Land Tool Network (GLTN), a subsidiary of UN-Habitat in Nairobi, among others.

## EDUCATION (QUALIFICATIONS)

2014	PhD in Land and Agrarian Studies. Thesis: <i>The Map is not the Territory. Law and Custom in 'African Freehold': A South African case study</i>	Institute of Poverty, Land and Agrarian Studies (PLAAS), University of the Western Cape, Cape Town
1976	B.A. (Honours) History	University of Cape Town (UCT)
1974	Teacher's Diploma in Higher Education	University of Cape Town (UCT)
1970-73	B.A. (majoring Psychology & History)	University of Stellenbosch

## AFFILIATIONS AND BOARD MEMBERSHIP

2022-present	Member of the core team of the collaborative Land Administration Project (LAPA) conducting field, documentary and policy research on land tenure and administration
2018 - present	Member of Civil Society Platform, LandNNEs, a collaboration of land-related organisations
2017-2021	Research Associate: Institute of Poverty, Land and Agrarian Studies (PLAAS), University of the Western Cape
2015-2017	Post-doctoral research fellow: Institute of Poverty, Land and Agrarian Studies (PLAAS), University of the Western Cape
2014 -2015	Research Associate: Land and Accountability Research Centre LARC)
2013	Board Member: Ntinga Ntaba kaNdoda rural development, Keiskammahoek
2009-2014	Research Associate: Institute for Social and Economic Research (ISER), Rhodes University, Grahamstown (Makhanda)
2000-2006	Non-executive Board Member (Treasurer): Border Rural Committee
1996-7	Non-executive Board Member: Rural Support Services (RSS), East London.
1993	Non-executive Board Member: Transkei Land Service Organisation (TRALSO)





## SCOPE OF CONSULTANCIES

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- Reviews of land-related institutions including bills, laws and projects and programmes
- Analysis of land tenure/administration systems using case material
- Assessment of land tenure reform options, opportunities and alternative legal frameworks
- Assessment for design & adaptation of new legal forms of recording/registering property
- Detailed adjudication of individual rights and claims on state land
- Restitution claims, historical research (field, oral, documentary, archival)
- South African country assessments with regard to land issues
- Evaluations of a range of state and municipal projects, programmes, and policies
- Historical research on land tenure and land administration systems in the Eastern Cape
- Inclusion of land tenure and administration in planning tools such as municipal IDPs

## EMPLOYMENT AND WORK EXPERIENCE

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1998 - Present	Independent research consultant
2014 - 2016	Post-doctoral fellow, UWC
1989-1997	Border Rural Committee (BRC) Grahamstown/East London: community support; research co-ordinator
1980-1983	Lecturer: History, University of the Transkei; and researcher for Institute of Management and Development Studies, University of Transkei

## SKILLS AND RESEARCH METHODOLOGY

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Practical, applied, policy and academic research using mainly qualitative research methods based on thorough and rigorous documentary, archival and oral research of affected individuals, communities and/or institutions/organisations. Conducting primary research in communities at the level of families and individuals, and collective institutions. Research on legal and policy frameworks in historical context. I consult scholarly sources on South Africa's tenure, property and succession law; African and international literature on property and authority; legal pluralism; formal and customary land rights; titling; the cadastral and formal property system in relation to off-register systems; land administration systems (comparative and local).

## SELECT PUBLICATIONS

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**2024** Michael Barry & Rosalie Kingwill, 'Regularisation by Land Title Adjustment in South Africa: An Inadequate Remedy for Cloudy Titles'. Paper for FIG International conference, Accra, Ghana, 19-24 May 2024

**2024** Simon Hull, Jennifer Whittal and Rosalie Kingwill, 'What is Land Administration? Exploring an inclusive definition'. Paper for FIG International conference, Accra, Ghana, 19-24 May 2024

**2021** William Beinart, Rosalie Kingwill & Gavin Capps (editors) *Land, Law and Chiefs: Contested Histories and Current Struggles*, Johannesburg: Wits University Press and chapter in book: Rosalie Kingwill, 'Customary Law and Land Ownership in the Eastern Cape

**2020** Michael Barry & Rosalie Kingwill, 'Community Land Records development, hybrid governance and organisational culture: eschewing ISO standards in Monwabisi Park informal settlement'. World Bank Conference on Land and Poverty, 2020



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2020 Michael Barry & Rosalie Kingwill, 'Evaluating the Community Land Record System in Monwabisi Park Informal settlement in the context of Hybrid Governance and Organisational Culture', *Land* 2020

2017 Donna Hornby, Rosalie Kingwill, Lauren Royston & Ben Cousins (editors). *Untitled: Securing Land Tenure in Urban and Rural South Africa*. Durban: UKZN Press and sole authored chapter in book 'Square Pegs in Round Holes: the Competing Faces of Land Title'

2017 Rosalie Kingwill. 'An Inconvenient Truth: Land Title in Social Context: A South African Perspective' in *Land, Law and Governance: African Perspectives on Land Tenure and Title*, edited by Hanri Mostert, Leon CA Verstappen & Jaap Zevenbergen. Cape Town: Juta.

2016 Rosalie Kingwill '[En]gendering the Norms of Customary Inheritance in Botswana and South Africa. *Journal of Legal Pluralism and Unofficial Law*, 48(2).

2014 Rosalie Kingwill 'Papering over the Cracks: An Ethnography of Land Title in the Eastern Cape' in *Kronos: Southern African Histories*, 40.

2013 Rosalie Kingwill 'In the Shadows of the Cadastre: family law and custom in Rabula and Fingo Village'. In Hebinck, Paul & Cousins, Ben (eds), *In the Shadow of Policy. Everyday practices in South African Land and Agrarian Reform*. Johannesburg: Wits University Press.

2012 Rosalie Kingwill 'Lost In Translation. Family Title in Fingo Village, Grahamstown'. In *Pluralism and Development: Studies in Access to Property in Africa* ed by Hanri Mostert & Tom Bennett. Cape Town: Juta.

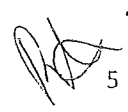
2008 Rosalie Kingwill 'Custom-building freehold title: the impact of family values on historical ownership in the Eastern Cape' in Ben Cousins & Aninka Claassens, Aninka (eds). *Land, Power and Custom: Controversies generated by South Africa's Communal Land Rights Act*. UCT press, Cape Town.

2004 Kingwill, Rosalie. 2004. 'Seeking Equilibrium: Land Rights Adjudication in off-register, non-formal, or formalising contexts in South Africa' in *New legal frameworks and tools. Proceedings of the Expert Group Meeting on Secure land tenure: Gigiri, Nairobi, Kenya; UN-Habitat and International Federation of Surveyors (FIG) Commission 7*.

1998 Rosalie Kingwill and Roodt, Monty. 1998. 'The Macleantown Restitution Case, Eastern Cape' in *Land Restitution in South Africa: A long Way Home* edited by Colin Murray, Marj Brown, Justin Erasmus, Rosalie Kingwill and J. Monty Roodt, Idasa, Cape Town.

## SELECT CONSULTANCIES

Client & Project		Activities
2022-on-going	Land Administration Project (LAPA) managed by Phuhlisani NPO and previously in the form of land rights advice to Legal Resources Centre, a member of LAPA	Designing, implementing and conducting research for pilot tenure projects as member of the core team and researcher for themed studies and pilots; advice on land rights enquiries and research methodology
2024-on-going	Natural Justice (NJ). Historical research for land claim by Wupperthal community under contract for NJ acting for the community	Archival, scholarly, documentary and oral research of the history of land and land rights at the mission Wupperthal, Cedarberg District in support of their claim to land ownership
2022-2023	Anglo American South Africa, under contractual management of Webber Wentzel law firm for 'Alternative Deeds Registry Project' (ADRP)	Conducted a feasibility study of an 'Alternative Deed Registry' (ADR) in the form of a research report with recommendations for law reform and implementation of an ADR

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2022-2024	Office of the Valuer General (OVG) Subcontract to Urban-Econ. Review of the impact of the Property Valuation Act of 2014 (PVA) on land reform	Documentary and legal review with interviews
2021 & Aug 2024	University of Cape Town, Ongoing Professional Development (OPD) course on Guidelines for Improved Land Administration (GILA) with Dr Simon Hull, Department of Geomatics, UCT	Presenter and forthcoming presenter on the course elements that focus on Land Administration (LA) challenges in South Africa
2020-2021	Public Affairs Research Institute (PARI) and PLAAS, University of the Western Cape: Policy on Integrated Land Administration System	Research, writing, stakeholder engagement, presentations, policy engagements on specific themes in four consultative work streams
2020	Oxfam USA, contract to Emerald Network (UK) Project: Independent Evaluation of 'Behind the Brands' re Implementation of Land Rights Commitments and compliance with land rights standards of the 'big ten' global manufacturers (e.g. Coca Cola, Nestlé, Unilever) that procure raw materials (e.g. sugarcane, coffee, cocoa, palm oil) from poor farmers in the Global South	Documentary research and interviews to gather evidence to review the impact of Oxfam's Behind the Brands campaign assess the compliance through case studies. Presentations and Reports, final report published on Oxfam website
2020	LandNNES (Land Network National Engagement Strategy)	Narrative report and video series on 'An Introduction to Land Administration' with Simon Hull and Tshepo Fakane
2019	Webber Wentzel law firm for Commission on Restitution of Land Rights (RLCC); Ebenhaeser Land Claim — Expert Report on the Land Rights of the Ebenhaeser claimant community for Webber Wentzel in the matter of LCC CASE NO 05/2015	Historical, documentary and scholastic research resulting in expert historian's report that contributed to out of court settlement of the claim
2019	LandNNES for Presidential Advisory Panel on Land Reform Project: Centering Land Administration reform in Land Reform (voluntary)	Two Roundtable presentations on "Land Administration at the Crossroads" and for plenary
2018-19	LandNNES. Land Administration Conceptual Framework Discussion: 'Developing a conceptual framework for Land Administration institutional reform in South Africa.	Author of the Report entitled 'Inclusive Land Administration in the context of People-Centred Land Governance' <a href="https://landnnes554026872.files.wordpress.com/2019/01/la-conceptual-framework-for-landnnes-jan-2019-final.pdf">https://landnnes554026872.files.wordpress.com/2019/01/la-conceptual-framework-for-landnnes-jan-2019-final.pdf</a>
2018	AfricaGeo Conference and Exhibition (for land surveying, spatial data, technical innovation, etc.) Johannesburg 17-19 August. Project: Land Administration, Land Rights and Land Governance 3-day workshop hosted by conference	Coordinator, presenter. Activities: Workshop Organiser on Land Administration at AfricaGeo Conference. Two presentations on (a) Repurposing Land Administration in South Africa; (b) Urban Land Records, Monwabisi Park, Cape Town case study.

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2017-2018	Department of Geomatics Engineering, University of Calgary (Professor Mike Barry, Chair in Land Tenure and Cadastral Systems) Evaluation of local Community Land Records system in Monwabisi Park informal settlement, Cape Town. Assessment of key success factors in designing and maintaining local land records, including the use of GPS and GIS technologies; implications for Deeds Registry	Responsibilities (1) Report to the VPUU NGO on findings and lessons of the Community Records system and Community Records Office (CRO); (2) Co-author with Prof Mike Barry in <i>Land</i> on local land records systems in light of international practices & theories on recording local land rights
2017	AY Bhayat attorneys on behalf of the RLCC (Reslitution Commission). Historical report Nhlobane Community Land claim, Schagen farm, Mpumalanga in case of LCC CASE NUMBER 30/2011 (First report 2014)	Role: Historian and researcher to produce reports on the verification of community claim Activities: Documentary, field and archival research on Nhlobane land claim, Final report
2017	Association for Rural Advancement (AFRA) Assignment: Land Rights Adjudication: Developing Principles and Processes for ESTA and Labour Tenant Rights' Holders	Activities: Report 'Conceptual development of principles of adjudication' <a href="https://afra.co.za/2017/08/29/land-rights-adjudication-developing-principles-and-processes-for-esta-and-labour-tenant-rights-holders/">https://afra.co.za/2017/08/29/land-rights-adjudication-developing-principles-and-processes-for-esta-and-labour-tenant-rights-holders/</a> <a href="https://landportal.org/library/resources/land-rights-adjudication-developing-principles-and-processes-esta-and-labour">https://landportal.org/library/resources/land-rights-adjudication-developing-principles-and-processes-esta-and-labour</a>
2016	Southern African Labour and Development Research Unit (SALDRU) Economics Dept, University of Cape Town: Employment, Income Distribution and Inclusive Growth project (REDI 3x3) funded by National Treasury. 'Land tenure, land administration and economic development: Reflections on the former Ciskei and Transkei'	Activities: Coordinated a team for submission of suite of 5 papers , and authored some of the material on relationship of land tenure and land administration to land governance and economic development.
2015	Housing Development Agency (HDA) RFP/JHB/2015/003. Assignment: Implications of customary and informal tenure for formalisation. Assessment of land tenure implications for formalisation to assist housing delivery	Team member and author: Report entitled: 'Rethinking communal land administration: Unlocking human settlement development in communal land areas'
2013	Eastern Cape Planning Commission. Assignment: Diagnostic Study: Land Administration in the Eastern Cape. Identification of blockages to land development, planning and land tenure reform in the Eastern Cape primarily in the former Transkei.	Member of a team. Research and fieldwork design and analysis on land governance, tenure and land administration. Activities: Composed key sections on various land tenure systems in the Eastern Cape.
2011	World Bank - Land Administration Assessment Report (LGAF). South African component on global comparative assessment on land governance using standardised indicators	Activities: Report on the Deeds Registry system. Presented paper entitled 'Land Information for Tenure Security' at the Technical Validation Workshop of the LGAF hosted by the World Bank
2008-2009	Department of Land Affairs, contracted to Umhlaba Rural Services. Project: Situational analysis on the applicability and execution of	Team member. Contributed to (1) Literature review, comparative & legal analysis of ULTRA & related land reform legislation (2) Report on

	the Upgrading Land Tenure Rights Act, 1991, Act no 112 of 1991 (ULTRA)	applicability and extent of application of ULTRA in 8 provinces (3) 5 case studies on successes and challenges (4) Lessons
2003-2005	EC Department of Housing and Local Government. Project: Training and Procedures Manual on Land Administration to facilitate Provincial and municipal departments and offices responsible for land administration in the Eastern Cape	Compiled manuals for Municipalities on old and new laws and procedures of Land Administration, land development and planning on state land, rural communities, private farmland, urban and commercial properties
2005	Association for Rural Advancement (AFRA). Assignment: Report on the problems in Land Administration that hamper service delivery and development in communal areas	Authored report: 'Options for developmental land administration systems in the context of communal tenure situations and implications for service delivery'
2005	Umhlaba Consulting Group for Amatole District Municipality Project: Review of Land Reform & Settlement Plan of the Amatole District Municipality's Integrated Development Plan (IDP)	Activities: Documentary research, review and compilation of land reform and planning elements of the statutory municipal IDP
2002-2003	Public Service Commission for the Premier of the Eastern Cape. Project OPSC001/01 Project: Review of Land Administration Systems in the Eastern Cape, with recommendations by MXA consortium. Main project features: Review of assignment of functions, legislation and powers; institutional and organisational structures and co-ordination mechanisms, processes and procedures regarding effective and efficient land administration	Position & Role: Coordinator, researcher and report writer in a 5-person team of land administration experts. Activities: Co-author of 3-part analysis (Status Quo, Options, Recommendations) of land administration system in EC, Findings included legacy problems, weaknesses, legal confusions and institutional disjuncture/break down in land administration
2002-2003	Department of Land Affairs Provincial Land Reform Office, Eastern Cape. Seven related Projects: Land Rights Enquiries for state land disposal in seven settlements in the former homelands of the Eastern Cape.	Seven discrete Land rights enquiries, sole researcher. Activities: Documentary research, fieldwork & compilation of reports. Activities: Facilitation and adjudication; recommendations of disposal of land to beneficiaries. Outcome: Seven discrete State Land Disposal plans for identified rural communities in the Eastern Cape and drafting of Ministerial Memoranda
1998	Dept of Land Affairs (Land Tenure Directorate) by MXA consortium. Main project features: Study of the system of allocating rights in the former homelands, e.g., Permission to Occupy (or PTO) and land held in trust for black people; the implications thereof; and uncertainties	Team member. Author of Eastern Cape chapter of the report: 'Evaluation of Land Administration in the E-homelands: Past, Recent and Current situation in the context of organisational, financial and wider implications of the proposed Land Tenure Bill' ,
1997	Department of Land Affairs, Eastern Cape Land Reform office	Evaluation of the Eastern Cape Land Reform Pilot programme
1996	Land and Agriculture Policy Centre (LAPC): Eastern Cape Land Reform Pilot project	Pre-Planning Report of Land Reform Pilot Programme with Prof William Beinart





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- Lester, Alan (1998) 'Settlers, the State and Colonial Power: The Colonization of Queen Adelaide Province, 1834-37', *The Journal of African History* (39) 2, 221-245.
- Kingwill, Rosalie & Roodt, Monty (2000) 'Social Land Audit of the Gwatyu Block of farms, Cofimvaba district, Eastern Cape', Department of Land Affairs, Eastern Cape Land Reform Office.
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- Mager, Anne Kelk (2014) 'Gungubele and the Tambookie Location 1853–1877: end of a Colonial Experiment', *Journal of Southern African Studies* (40):6, 1159-1176.
- Mager, Anne Kelk and Velelo, Phiko Jeffrey (2018) *The House of Tshatshu*, University of Cape Town Press.
- Saunders, Christopher (1976) 'The Transkeian Rebellion of 1880-1881: A Case-study of Transkeian Resistance to White Control', *South African Historical Journal* 8: 32-39.
- Republic of South Africa (2022) Media statement issued by the Chairperson of the Parliamentary Portfolio Committee on Agriculture, Land and Rural Development 3 February 2022. <https://www.parliament.gov.za/press-releases/media-statement-tshatshu-traditional-authority-claims-western-thembuland>
- Spicer, Michael (1978) *The War of Ngcayecibi 1877-78*, MA thesis, Rhodes University.
- Wagenaar, Elsie (1973) 'A Forgotten Frontier Zone – Settlements and Reactions in the Stormberg Area Between 1820–1860', MA thesis, Rhodes University, also published in the *Archives Year Book for South African History* (2) 1982.

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