

The Influence of Ideology upon Land Policy of the Post Apartheid Government of the Republic
of South Africa, 1994 – 2004.

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Declaration

I Makwena Mathiane declare that this research project for a Masters degree in Political Science has not been previously submitted by me for a degree at this or any other university, that it is my own work in design and execution and that all materials contained herein have been duly acknowledged.

Signature: _____

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Dedication

I dedicate this work to my mother, Mokgadi Jenifer Leboho, for believing in me since the day I was born.

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Abstract

Since 1913 black South Africans have been forcefully dispossessed of land under the racist land laws of the successive white South African governments. In 1994 the black government began to pass land laws that were supposed to provide blacks with land ownership rights. Ten years later blacks have re-claimed less than four percent of the eighty seven percent of the land they were dispossessed of. The failure to return dispossessed land to blacks is attributed to the ideology of the current government with respect to its land policy.

This study attempts to fill the void regarding the ideological implications of the land reform policy of the post-apartheid government. We speculate that neo-liberal implications are dominant within this policy. Social democracy can overcome the failure of the policy as it is cost-effective and efficient and attempts to achieve social justice. It can therefore afford dispossessed and landless blacks land ownership.

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Introduction

This study is concerned with the ideological implications of the post-apartheid South African governments' land reform policy. The research attempts to contribute to the development of the conceptualisation of the post-apartheid South African governments' land reform policy. From the vantage point of a current literature review it is evident that there is a lack of clarity regarding the ideological implications of the post-apartheid South African governments' land reform policy. The African National Congress (ANC), the political party that has ruled since 1994 to the present, intended to nationalise agricultural land when it adopted the *Freedom Charter* in 1955. Nationalisation of the essential means of production, such as agricultural land, is a widespread social practice based on what research reveals as subscribing to the ideology of social democracy. In 2002 the same government declared that land for mining would not be nationalized and was to remain in private hands. This is a policy that the research views as having its basis within the ideological perspective of liberalism. Thus, while agricultural land was to become nationalised, land for mining was to remain privately owned. It is such a contradictory ideological position on the part of the post apartheid South African government that raised the question that forms the basis of this study- Which ideology influenced the post-apartheid South African governments' land reform policy?

To answer the question we have attempted to put into perspective the essential aspects of the land reform policy that are used in the official government documents pertaining to the policy in question. The land reform policy is, therefore, divided into three elements, namely; 1) land redistribution, 2) land restitution and 3) land tenure reform. In this research effort we seek to analyse the implications of each element of the policy in an attempt to draw some general conclusions regarding overall ideological basis.

The post-apartheid South African governments' land reform policy is, primarily and fundamentally, a response to the racial distribution of land embarked upon by previous South African governments that afforded white citizens exclusive land ownership rights since 1913. These exclusively white land ownership rights were affirmed and extended in 1936. This is the general background of the post-apartheid South African governments' land reform policy. To understand the post-apartheid South African governments' land reform policy we need to fully appreciate the context within which it developed.

We are guided by both critical theory and elite theory in our analysis of the ideological implications of this land reform policy. In the case of post apartheid South Africa the owners of the means of production from the previous dispensation have been able to maintain their hold on significant sections of agricultural land. This prompted the questions of who makes important decisions in society. Elite theorists have an answer to this question.

According to elite theorists important decisions in society are made by a few well placed individuals, that is, important policy decisions are made by corporate, military and governmental leaders. Thus in post-apartheid Republic of South Africa, the land reform policy would reflect the interests of the elite and not of the masses. The masses through the *Freedom Charter* showed that they wanted to own agricultural land. However, white farmers and corporate leaders retain agricultural land ownership rights even though the stated intention of the government continues to be the transfer of land ownership rights to the black masses.

Some of the primary sources in the form of official documents which were reviewed in this research effort are; the *Freedom Charter* of 1955, the *Constitution of the Republic of South Africa*, Act 108 of 1996, the RDP of 1994, and the *White Paper on South African Land Policy* of 1997. The secondary sources that are considered are the writings of scholars on the post-apartheid

South African governments' land reform policy. Relevant scholarly writings on ideologies are also reviewed.

In Chapter two (2) we first define ideology as we understand it. Then we discuss these ideologies relevant to our study; 1) liberalism, 2) socialism, 3) social democracy, 4) feminism, 5) communism, 6) Marxism and 7) conservatism. Liberalism, social democracy and feminism receive most of our attention because they are the most relevant to post-apartheid South African governments' land reform policy. Feminism advocates ownership of land by women. According to *liberal* feminism, women should have an equitable share of landownership to that of men. *Radical* feminism, on the other hand, advocates landownership by women as a means of overthrowing male landownership and therefore male domination. Socialism, communism, Marxism and conservatism are irrelevant to the actual land reform policy formulation and implementation processes within the post-apartheid South African government. We do discuss these ideologies in a much more limited way because they are part of the broader ideological discourse in the literature. We do, however, attempt to show how irrelevant they are for the purposes of this study. An insistence upon the relevancy of liberalism, social democracy and feminism as ideological perspectives that inform the general framework of the land reform policy of the post apartheid South African government is maintained.

Chapter three (3) sets out the research method, research methodology means of data collection and the best and most appropriate method of analysis given the data.

In Chapter four (4) we pay strict attention to land reform policy formulation and adoption. Here we discuss each of its elements. As defined by the government they are: 1) land redistribution policy formulation and adoption, 2) land restitution policy formulation and adoption, and 3) land tenure reform policy formulation and adoption. The role of the *Freedom Charter*, the discriminatory land acts, the Cold War and the *Arusha Declaration* of 1967 are

discussed as part of the historical context of the land reform policy. It is evident from a critical reading of the Charter that the representatives who voted for its adoption “thought” that the post-apartheid regime should take the responsibility of ensuring that landownership rights are restored to them. What the people wanted appears to be social democracy.

Furthermore, in this chapter, we attempt to show the influence of social democracy on a global scale. Hence the Arusha Declaration becomes relevant as one of the documents that demonstrate the Tanzanian government’s willingness to experiment with an innovative land reform policy within the context of the cold war.

Empirical information shows that there was a shift within the land reform policy formulation in the post-apartheid regime after the first non racial election in 1994 from what appears to be an ideological perspective close to what many would describe as social democracy to a more obvious neo-liberal perspective. Regarding land reform policy adoption, in Chapter four (4) we critically review the acts of parliament that give effect to the land reform policy. It is in the process of land reform policy adoption where the establishment of the institutions that would regulate and transfer land ownership rights from white to black citizens occurred. Such institutions are an essential part of land reform policy implementation. Chapter five (5) is a discussion of such institutions.

Land reform policy implementation involves the institutions that the land reform policy adoption established. Analysing the nature of such institutions enabled us to acquire empirical information about the ideological implications of the post-apartheid South African governments’ land reform policy. For instance, the *Restitution of Land Rights Act* (No. 22 of 1994) established the Land Claims Court and the Land Claims Commission to regulate and transfer land ownership rights to individual land claimants as part of their land restitution policy implementation effort. The Commission on Restitution of Land Rights is an institution that affords private South African

community members land ownership rights as part of the land redistribution and tenure reform policy implementation programmes. The regulation and the transfer of land ownership rights to private owners are neo-liberal practices. We cannot draw overarching conclusions about the ideological implications of the post-apartheid South African governments' land reform policy based only upon the institutions that have been established for the purpose of land reform. We also need to include the land reform policy formulation and the adoption processes in order to achieve more adequate conclusion regarding the ideological implications of this overall policy. This is the task undertaken in Chapter six (6).

In Chapter six (6) a comprehensive analysis of the empirical information that has been collected in the previous chapters is attempted. In this most central chapter we are able to draw overarching conclusions based upon the empirical information regarding the political ideologies and the post-apartheid South African governments' land reform policy. An analysis of the rationale for the post-apartheid South African governments' land reform policy also illuminates the understanding of the ideological implications of this policy.

We begin with the determination of the ideological implications of the formulation of the land redistribution aspect of the policy. Those documents which afford landless black citizens private land ownership rights are evaluated ideologically in order to make this determination. The process of land redistribution policy adoption as well is influenced by ideological assumptions. There are several primary documents that affirm private landownership and provide for its regulation. These legislative Acts are considered in some detail within this chapter so that the ideological implications of their assertions can be determined.

The extent to which land redistribution policy implementation is influenced by ideological assumptions is also taken up in this chapter as part of the overall analysis. In this chapter specific ideological determinations will be made where possible and with reservations

where necessary. For example, although the RDP gives the government the responsibility for the eradication of the unequal distribution of landownership, it is not necessarily social democratic. Furthermore, while the RDP is based upon some neo-liberal assumptions such as private landownership, the *Land Redistribution for Agricultural Development* (LRAD) of 2001 is apparently neo-liberal as it appears to encourage emerging black farmers to own agricultural land privately. It specifically provides for significant governmental funding of emerging black farmers.

Generally speaking, however, the land redistribution aspect of the land reform policy seeks to ensure that the people who are landless gain access to land and it is specifically not about people who have been dispossessed of land. But the post-apartheid South African government considers land dispossession as the primary problem that it intended to solve with this policy. More specifically, it sought to achieve this through the land restitution aspect of the policy. Land restitution is also formulated, adopted and implemented. The ideological assumptions of each stage in this process is analysed as part of the task undertaken in Chapter six (6). A general theme of the chapter is the ideological implication of the formulation, adoption, and implementation of the land restitution aspect of the policy. Finally, the ideological implications of the land tenure aspect of the land reform policy are also considered within the content of this most important chapter.

It is the land tenure reform policy adoption process that gives effect to the land tenure reform policy framework. Since there are several Acts that ensure that individuals have secure land tenure rights, the influence of ideological assumptions upon them must be considered as part of our central purpose in this overall research effort. It is the task of the Commission on Restitution of Land Rights to secure land tenure rights for community members. This Commission is part of the land tenure reform policy implementation process. Since it provides

specific guidelines for the regulation of land acquisition and ensures a specific form of ownership and control, this aspect of the general policy is evaluated in terms of the ideological assumptions that underpin it.

In Chapter seven (7) we draw the reader's attention to the rationale for the post-apartheid South African governments' land reform policy. We consider the fact that the post-apartheid South African governments' land reform policy has not reached the land redistribution and restitution targets that it set out to achieve. We also make some recommendations regarding the ideological approach that may help the post-apartheid South African governments' land reform policy to achieve its land redistribution and restitution targets within a short period of time.

Chapter 1

Orientation to the Study

Background to the Problem

The negotiated settlement of the Anglo-Boer war (conflict) over resources, was concluded by the Natives Land Act of 1913 and the Native Trust and Land Act of 1936 which put eighty seven (87) percent of the Union of South Africa's land into the hands of white settlers in South Africa. This land, by most accounts, was the most fertile within the country. Black South Africans (natives), who had been systematically excluded from the distribution of the resources thus were left with thirteen (13) percent of the land which was, by all accounts, the most unfertile land within the region.

In the literature there appears to be little or no reference to ideology. Since this study is about ideology we define it as a set of ideas which form a coherent system to which large numbers of people must subscribe.

Racialisation of Human and Natural Resources

Under the Natives Land Act of 1913 black South Africans were dispossessed of their own land. For Plaatje (1991, pp. 31-32) black South Africans suffered as a result of the dispossession as it was unlawful for them to buy or lease land except in areas scheduled for black South Africans. And under severe pain and penalty they were deprived of the bare human right of living on the land, except as servants in the employ of the whites.

For Magubane (1979, p.1) the plight of black South Africans is intimately bound up with the history of white settlement in black people's lands. No wonder Magubane concurs with

Plaatje who described the plight of black South Africans (p. 82) – that “on Friday morning, June 20th, 1913, a black South African found himself, not actually a slave, but a pariah in the land of his birth.” “Stealing” black people’s land is one injustice; depriving blacks of ownership of their own land another. Magubane’s (1979, pp.82-86) description of the injustice is that after the passage of the 1913 Land Act, even more than before it, the areas set aside for Africans (Blacks) became reservoirs of labour for the mines, towns, and white farms. That is, Africans, having lost access to their lands, were permitted to draw sustenance from it as labourers, herdsmen, tenants, or renters. African areas were kept in a state of social and economic dependence. Starvation became a relentless goad that pushed black men out to earn money to support their families.

Black South Africans (natives) were reduced to servants of white settlers. To ensure that black South Africans remained in this position permanently, the Native Trust and Land Act was passed in 1936. Magubane’s (1979, p. 85) description of this Act is that its principles went far beyond those of the 1913 Land Act because it forbade the sale or lease of land outside areas scheduled for Africans. The 1936 Act established once and for all that the conquered land could not be acquired by Africans either by commercial purchase or political means.

According to Achebe (1990, p. 4), about the colonialists’ behaviour and attitudes in Africa in general,- (they) constructed very elaborate excuses for their actions. They said, for instance, that the colonized people were worthless and quite unfit to manage themselves or their affairs. If there are valuable things like gold or diamonds which the colonizers were carting away from the territory of the colonized people, they (colonizers) proceeded to prove that the colonized did not own them in the real sense of the word. Thus, they (colonizers) concluded that the colonized just happened to be lying around the same place when the colonizers arrived.

In the RSA in particular both natural and human resources were thus taken by white settlers.

A National Concern

Since 1994, a land redistribution programme has been implemented by the post-apartheid South African governments. This redistribution was a response to the injustice of the pre-1994 land policies. Magubane (1979, p. 2) offered data that whites, who constituted (and still do) less than twenty (20) percent of the nation's population, consumed more than sixty (60) percent of its income in addition to the aforementioned eighty seven (87) percent legal occupancy rights. Rural land privately owned by Africans was but a bare seven point three (7.3) percent of the total land area of the country.

Clapman (2004), states that the goal of the original plan for land redistribution was to redistribute and restore, through voluntary market transactions, thirty (30) percent of white-owned farmland over five (5) years. Furthermore, "nearly ten (10) years later, only two (2) percent has been transferred". Land redistribution inadequacy has apparently become a national concern in the post-apartheid Republic of South Africa (RSA) and is probably also ideologically influenced. It is worth noting also that racially-based ownership of land which has characterized the RSA since 1913, is contrary to the tenets of the liberation struggle. de Villiers (1994a, p.1) states that racial land ownership has led to political tensions and economic stagnation in the RSA.

The political tension to which de Villiers referred is better analysed by Mazrui (2005, p. 18) who wrote that black against white in Africa is a clash over resources. Racial conflicts in Africa are ultimately economic. White - and black folks fight and hate each other over who owns what and how ownership was acquired. The anti-apartheid struggle was ultimately an economic war.

A Social Problem

Society is affected when the majority of people do not have adequate areas for residence and for commercial purposes such as farming, as is the case in the RSA. If there is a lack of clarity as to how an ideology may influence land policy, the implementation of such a policy may not achieve the desired results. Recently there are signs of increased tensions between landowners, landless people and the post-apartheid government of South Africa. The conflict has emerged from a conciliatory approach of land transfer between white and black South Africans called the “willing seller, willing buyer” approach. However, according to Clapman (2004) this conflict is engineered by a group of white farmers who established a restitution fund to resist land claims. On the other side is a fast-growing political faction called the Landless People’s Movement (blacks), who are threatening to invade South African farms (all white).

This problem is further highlighted by Moore (2004), who states that in January 2004, Thabo Mbeki, president of the RSA, has entered the fray by signing several amendments to the 1994 Restitution of Land Rights Act, allowing the minister of agriculture, Thoko Didiza, to expropriate farms without going to court. The amendment caused an outcry from white land owners. According to the law, current owners must be fully compensated for land. This controversy continues as tension increases on both sides. One may see this tension about ownership of land being inconsistent with *Ubuntu* – an African ideological principle which advocates sharing of the natural resources by all people. *Ubuntu* translated means that a one is a human being because of other human beings or “I am because of you” (translated in Northern Sotho – “motho ke motho ka batho”). *Ubuntu* appears to advocate communal ownership of land. In other words access to land may not be restricted to some sectors of the population. The private ownership of land is therefore not consistent with Ubuntu (Ramose, 1999, pp.40-53).

Government intervention in the conflict constitutes a major national effort to reverse the racialised land ownership pattern by a policy of redistribution to all South Africans, with the intention of settling conflict that could destabilise the economy and reignite flagrant tensions reminiscent of the anti-apartheid struggle era. But it is clear that not all citizens have bought into the redistribution policy. In the South African post apartheid land policy it is not clear which ideology has been a major driving influence.

Statement of the Problem

The intention of the post-apartheid South African government is not clear on its land policy and its intended relation to the economy, that is, whether it aims to nationalize or privatize land. Its intention is clear on how it intends to regulate the mining industry and maybe they should learn from this. *The Freedom Charter*, of 1955, on the mining industry question, states that “the mineral wealth beneath the soil, the banks and monopoly industry, shall be transferred to the ownership of the people as a whole”. Clearly nationalization of the mining industry was the intention of the African National Congress (ANC) prior to 1994. However, their intentions began to change during the negotiations that established the Government of National Unity. In 2002, the *Broad-Based Socio-Economic Empowerment Charter for the South African Mining Industry* backed away from nationalisation, thus clearly endorsing privatisation, which clearly comes from the ideology of liberalism.

This clarity does not extend to the land question especially with regard to the ideology which influenced the post-apartheid South African government’s land policy in general, as well as each key element of the land policy, specifically.

Between 1994 and 2004, a policy aimed at reforming the apartheid land policy was formulated to ensure a way that the dispossessed people, including black women, would get

access to and ownership of land. Since 1913 the pre-1994 South African governments used the Natives Land Act of 1913, to “steal” land from black South Africans. Under this Act the government owned land in the RSA and this ownership, as will be shown later (ideologies section), is clearly a social democratic practice which enabled a racist government to transfer large amounts of land to white South Africans as privately owned property.

The problem is that there is lack of clarity as to the ideology that influenced the post-apartheid South African government’s land policy. This lack of clarity arises from the fact, among others, that post apartheid government in its efforts to restore justice, privatizes and communalizes land (as mentioned in the *White Paper on South African Land Policy* of 1997). The key elements of the post-apartheid South African government’s land policy, namely land redistribution, land restitution, and land tenure reform seem to be largely influenced ideologically by social democratic principles. Social democracy allows for redistribution of income, land and other commodities. In the case of South Africa it cannot redistribute land because it does not own the land. Therefore, it appears that redistribution of land by the post-apartheid government can only take place when this government owns the land. Nowhere does it state explicitly that they own any South African land.

Privatization of land as well as redistribution of land through voluntary sales and purchases by the sellers and buyers, respectively, is a principle of liberal ideology; communalization of land (transfer of land ownership to the community) appears to be social democratic as well as liberal in that the post-apartheid government involves itself in ensuring ownership of land by a landless community, while at the same time the traditional leaders may end up privately owning the land.

It is therefore our purpose to explore the relationship between the ideology and the post-1994 South African governments' land policy.

Purpose and Significance of the Investigation

The purpose of this study is to determine the influence of ideology upon the land policy of the post-apartheid South African governments, that is, the first post-apartheid government of the RSA which took office from 1994 until 1999 and the second from 1999 until 2004.

A study of the influence of an ideology upon the post-apartheid South African government's land policy is significant in that it attempts to broaden the knowledge base of public policy in this regard. A better understanding of this influence may lead to greater agreement of the methods of social justice and the restoration of human rights to dispossessed people. Hopefully then, this will lead to a formulation of acceptable and appropriate land policies that will contribute to the 'greater good' and peace and stability in the post-apartheid RSA.

Motivation for the Study

After attending a Political Ideologies class at the University of the North in 2004 and learning that dominant ideologies influence public policies we became curious about the influence of neo-liberalism, as the dominant ideology of this epoch, upon the land policy of the post-apartheid South African government. The influence of neo-liberalism on the post-apartheid South African government's land policy became a question on the researcher's mind given the lessons from the failure of the Zimbabwean government's land policy which, as it appeared at that time, was being copied by the post-apartheid South African government. Being aware of various other political ideologies, (such as liberalism, socialism, conservatism, and feminism) our main question

became one that wanted to determine the ideology that had a predominant influence on the land policy of the post-1994 South African governments.

A contribution to this question by Mbeki (1992, pp.14-24) is that the issue of land and its redistribution is fundamental to the struggle for liberation in South Africa as he (Mbeki) then goes on to warn us that there can be no peace until this and other rights, of which the majority of the people have been deprived for so long, have been restored.

Areas of Study

The areas of study for this research are public policy, political theory, and political economy which are the sub-disciplines of Political Science. This is a study of the influence of an ideology upon a specific domestic economic policy in the RSA. It is therefore a contribution to the general knowledge in the Political Science sub-disciplines of public policy, political theory and political economy.

Goal of the Study

The goal of the study is to determine the ideological influence upon the post - apartheid South African governments' land policy that was intended to achieve restoration of human rights, to dispossessed - and landless people.

Objectives

The objectives of the study are:

- to analyse land redistribution policy and explore the ideological influence upon it;
- to analyse land restitution and explore the ideological influence upon it;

- to analyse land tenure reform and explore the ideological influence upon it.

Definitions of Concepts Used in the Study

In this study the following definitions will be employed:

- **Agricultural/farm land** refers to the arable South African land, for plantation purposes, which is privately owned by white South African farmers whose ownership of black South African's land was made possible by the Natives Land Act of 1913 under which black South Africans were dispossessed of land.
- **Communalization of land** means the process of bringing the land under the ownership of a legal community, i.e. a group of people defined by the government as a legal community. The community is defined as a legal owner of land in recognition of its entitlement to land it was dispossessed of under the discriminatory land policies of the pre-1994 South African governments.
- **Discriminatory land policies** refer to all pre-1994 South African governments' land policies whose approach to land distribution was racially based. These policies were used to dispossess black South Africans of their land under the Natives Land Act of 1913 and the Native Trust and Land Act of 1936 which afforded white South Africans ownership of black South Africans' land.
- **Feminism** is an ideology which advocates the enhancement of women's role in society. Two types of feminists can be identified which are 1) liberal feminists and 2) radical feminists. Liberal feminists seek women to have equal rights with men, access to ownership of resources, eradication of gender inequalities, among other things. Radical feminists seek a sexual revolution to occur in order to

overthrow men who are seen as dominant within society. For radical feminists the domination of one gender by another will cease after the sexual revolution.

- **Ideology** is ‘a well developed and relatively consistent set of ideas . . . (with) . . . a sufficient number of adherents to have a social impact’ (Kadali, 2004, p.35). The post-apartheid government of the RSA has a relatively consistent set of ideas to which it adheres and has a social impact as it makes land policy. In this study this broad set of ideas and concepts is called “neo-liberalism”.
- **Land policy** refers to the post-1994 South African government-made set of principles according to which the post-apartheid South African governments attempt to identify and solve apartheid era land related problems.
- **Land redistribution** refers to the element of the land reform policy of the post-apartheid South African government which intends to make land accessible to black South Africans including the poor blacks and black women who were previously dispossessed of land under the discriminatory land policies before 1994.
- **Land restitution** refers to the element of the land reform policy of the post-apartheid South African government where the government intends to return land to the individual black South Africans who were dispossessed of land and compensate these people where land cannot be returned to them.
- **Land reform programmes** are normally viewed as an important component of the democratization process by addressing inequalities in the use and allocation of land (de Villiers, 1994a, p.1).
- **Land tenure reform** refers to an element of land reform policy of the post-apartheid South African government which affords communities rights to own

land, resolving “overlapping and competing tenure rights of people forcibly removed and settled on land to which others had prior rights”, and extending “security of tenure to the millions of people who live in insecure arrangements on land belonging to other people, especially in the predominantly white farming areas” (*White Paper on South African Land Policy*, 1997).

- **Marxism** is an ideology which is based on Karl Marx’s ideas of changes in ownership of the major means of production from the owners of the means of production, within capitalist societies, to the labourers. For Marx labourers will own the major means of production at some point as society develops. At that point society will be socialist as far as Marx is concerned. This social development is viewed by Marx as a transitional phase from capitalism to communism. In a communist society the major means of production will be owned in common, that is, no social class, a group of people that fit in the production process in the same way, will oppress and exploit another.
- **Neo-liberalism** is an ideology which advocates private property ownership achieved through privatization of state-owned enterprises by the government, government regulation of the economy and less government involvement in economic activities such as employment and production of goods and the rendering of services. Subsidies and the public service are reduced and downsized, respectively, but welfare programmes, such as social grants for the poor, are enhanced. This definition of neo-liberalism is relevant for the proposed study as it would allow the researcher to collect and analyse empirical information about who should own South African land, which is what the South African governments within the period, 1994 to 2004 have done. It also defines

the government's approach to social policy as the researcher assumes that neo-liberalism is the dominant ideology within the post-apartheid South African governments. Neo-liberalism is a variation (or offshoot) of liberalism or classical liberalism which ceased to dominate the owners of the means of production and the governments of the developed countries since the Great Depression of the 1930s. Liberalism is an ideology which advocates non-intervention of the government in the economy and individual liberty. Individual liberty means, among other things, that individuals can own whatever they want, and the individual owners of the means of production can pay their workers a remuneration of their choice without the government saying or doing anything about it.

- **Non-discriminatory land policy** refers to the non-racially based land reform policy made by the post-apartheid South African government to correct the pre-1994 distribution of land that afforded white South Africans ownership of 87 percent of land which belonged to black South Africans before they were dispossessed of it since 1913.
- **Policy** refers to a government-made set of principles according to which the government attempts to identify and solve a social problem.
- **South African policy makers** are the individual members of the post-apartheid South African government, i.e. the president of the Republic of South Africa, its vice president and the ministers. This definition is used because it is consistent with the elite theory whose parts are useful for this study.
- **Post-apartheid South African governments** refer to two South African governments which took office in succession from 1994 until 2004. These

governments included black South Africans unlike all the pre-1994 South African governments which excluded black South Africans. However, black South Africans were part of the tricameral parliament in 1983. The parliament (whether bicameral or tricameral) should not be confused with government. Government in this study refers to the cabinet or the executive.

- **Social democracy** refers to an ideology by which the government owns the major means of production. It is also an approach to social policy. In much of the literature this ideology is called “socialism” or “communism”.
- **“Willing seller, willing buyer”** refers to the approach of both post-apartheid South African governments to land reform according to which land must be exchanged through voluntary sales among the sellers and buyers of South African land of which black South Africans were dispossessed.

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Chapter 2

Land Policy Ideology Literature Review

In response to the injustices which black South Africans suffered until 1994 as a result of pre-1994 land acts, the post-apartheid South African government formulated the land reform policy which we have already said entails the three key elements, namely, land restitution, land redistribution, and land tenure reform. Section 25 subsection (1) of the *Constitution of the Republic of South Africa*, Act 108 of 1996, states that no one may be deprived of property except in terms of law of general application, and no law may permit arbitrary deprivation of property.

Although this section does not specifically state private “land” ownership, land is a property. Therefore it is safe to conclude that the South African government supports private ownership of land. We can even go further and say that women as well are not to be denied the right to own property. According to Heywood (2002, p.58) feminism, as an ideology, has a desire to enhance, through whatever means, the social role of women. Does this mean that the land policy of the post-1994 South African governments is influenced by feminism? The same *Constitution* provides for property expropriation through compensation as section 25 subsection (2) and paragraph (b) state that property may be expropriated only in terms of law of general application, subject to compensation, the amount of which and the time and manner of payment of which have either been agreed to by those affected or decided or approved by a court.

Thus the South African government plays a regulatory role to ensure land reform. The same *Constitution* also enables communal property ownership, as section 25 subsection (6) states that a person or community whose tenure of land is legally insecure as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either

to tenure which is legally secure or to comparable redress. As communalization of land is done through traditional leadership, land might end up in the private hands of the traditional leaders. Section 16 subsection (1) paragraph (a) of *Land Reform (Labour Tenants) Act*, No.3 of 1996 states that subject to the provisions of this Act, a labour tenant or his or her successor may apply for an award of the land which he or she is entitled to occupy or use.

Thus, labour tenants are afforded the rights to own land. Ownership of the means of production, such as land, by the proletariat is a concept of the ideology of Marxism. Marx (1994, p.164) states that “the weapons with which the bourgeoisie felled feudalism to the ground are now turned against the bourgeoisie itself. But not only has the bourgeoisie forged the weapons that bring death to itself; it has also called into existence the men who are to wield those weapons – the modern working class – the proletarians”. Is affording rights of ownership of land to the labour tenants by the post-1994 South African governments’ land policy a Marxist influence? Conferences have also been called to deliberate upon the land issue in the post-1994 Republic of South Africa (RSA). *The National Land Tenure Conference Resolutions* (2001) resolved that land redistribution to the landless must be prioritized and that the willing seller, willing buyer should be complemented with expropriation with land reform within the Constitutional framework.

The Conference was concerned that the post-1994 South African governments’ land policy discriminated against black women with regard to access to land and therefore recommended “the promotion of women’s access to land and the strengthening of the rights of women in land”. Although it is the Conference’s aim to extend the rights of ownership of land to black South African women, it does not represent the official government. The Conference can only use its influence to try and get rights to ownership of land for women. Section 3 (a) of

Communal Land Rights Act, (No. 11 of 2004) states that upon the registration of its rules, a community acquires juristic personality with perpetual succession regardless of changes in its membership and it may in its own name acquire and hold rights and incur obligations.

Thus, a community can own the land. Common ownership of the major means of production is one of the elements of socialism. Heywood (2002, p.50) refers to common ownership as a means of harnessing material resources to the common good. Is the communalization of land by the post-1994 South African governments an influence of socialism? The primary documents of the post-apartheid governments of the RSA indicate the governments' support for private property ownership.

The secondary sources also have a position with regard to land ownership. The harshest criticism of the *Restitution of Land Rights Act*, No. 22 of 1994 is that it has excluded thousands of the indigenous majority population even from claiming the crumbs of the *Natives Land Act* of 1913. Pheko (2004, p.18), president of the Pan Africanist Congress (PAC), one of the South African political parties, argues redistribution as not only being about rights but more fundamentally about wealth creation and socio-economic development. And it is about the ability of 70 percent of the poor still concentrated in the rural areas to have their economic inequalities redressed.

With this demonstration of the relationship of land ownership and socio-economic development, Pheko (2004, p. 18) decries the inefficiency of the current land reform process driven by the principle of "willing seller, willing buyer". He also criticised the woefully inadequate budget allocation which implies a lack of understanding of the hardships experienced by landless blacks.

Other voices have been raised in critical opposition to the Restitution Act, albeit along a broad spectrum. Weiner (1990, p. 293) however, directly condemns the incompatibility of free market principles – implied in “willing seller, willing buyer” as being an unacceptable attempt at reforming political apartheid by unwittingly maintaining economic apartheid. Ellis (1992, p. 195) supports the voices of opposition to land reform by citing historical attempts that failed to change social relationships of property ownership, wealth, social status and political power. He argues that the failures of land reform are dogged by 1) losers – powerful members of society expecting to lose from it, 2) implementation – losers will evade and thwart the intentions of legislators, and 3) compromises made during the legislative process (between implementers and losers).

Although de Villiers’ (1994b) correctly points out that the ownership of land was “arranged along racial lines” before 1994, his description fails to acknowledge that the land that was arranged in the manner he described originally belonged to black South Africans from whom it was forcefully “removed”. While ignoring the fact that white South African farmers own the land that belonged to black South Africans, he insists on referring to an appropriation of the land in question by the government, for the purpose of redistributing it, as authoritarian! For de Villiers (1994b, p.21) an authoritarian approach by government to expropriate land against the free will of owners rarely provides positive results as happened in the case of Paraguay and Chile, or, more recently, in Zimbabwe.

We contend that the “free will” of white South Africans counts less than restoring land to its rightful black South Africans. None should be surprised that de Villiers (1994b, p. 21) thinks that “a more appropriate way is to use policy measures to create the environment to willing participation in the land reform programme” .

Shifting the focus to the case of land reform in Tanzania, the Tanganyika National African Union (TANU) used the ideology of “socialism” to guide its land policy. Specifically, TANU’s land policy provided for the control and ownership of land by the peasants and the workers. *The Arusha Declaration* of 1967 is clear on how the Tanzanian government of the time envisioned “socialism” as the guiding ideology in its land reform policy. The *Arusha Declaration* indicated that the way to build and maintain socialism is to ensure that the major means of production are under the control and ownership of the peasants and the workers themselves through their government and their co-operatives. It is necessary to ensure that the ruling party is a party of peasants and workers. These major means of production are the land, forest, mineral resources, among others.

TANU thought the ownership of land by the peasants and workers through their government was “socialism”. This is inaccurate because political parties are institutions of capitalism. Representative government is a capitalist idea. What they intended to do was social democratic. Social democracy is a state in capitalism where the government owns the major means of production. Nevertheless, from TANU we learn that an ideology can be used to influence a public policy.

Classical liberalism advocates the absence of government intervention in the economy. As the post-1994 South African governments regulate land ownership, we question the influence of classical liberalism on the governments’ land policy. The Annual Report of the Department of Land Affairs, 2002 to 2003, states that ‘to this end a class of new farmers, young and old, male and female, is being established’. We again question whether the use of the word “class” shows the influence of the ideology of Marxism. Again, is establishing a class of new farmers who include women a feminist influence? It must be reemphasized that nowhere in the secondary

literature is the relationship between an ideology and the post-1994 South African governments' land policy mentioned or analysed. This study proposes to begin the process of closing that gap. Since 1990 South Africa has undergone fundamental political reform in the movement from a limited to more broadly based democracy.

Writing in the late 1950s, that is a period prior to the current one in which Mazrui has just made the above statement, Fanon (1965, p. 28) showed that black and white people under colonialism fought over Africa's resources when he indicated that France in 1959 proclaimed that it would never abandon the Sahara and its resources. For Fanon such arguments carried no weight with the Algerian who replied that the richness of a country was not an excuse for oppression.

Since 1913 black South Africans were forced to live in areas under the "control" of traditional leadership structures. This practice seems to be continued by the post-apartheid South African governments as they allow land to be owned by a community through its traditional leaders who might privately own land in more or less the same way they laid claim to it under the apartheid regime. The division of areas for blacks and whites translated into different political identities for both groups. Mamdani (1998, p.4) recognised among the indigenous Africans and the settlers in equatorial Africa during colonialism two types of political identities: civic and ethnic. Civic identity was racially based and the population of subjects was excluded from the regime of rights. Indigenous Africans were said to belong, not to any civic space, but to an ethnic space.

For Mamdani ethnic citizenship was far more important than civic citizenship because it was the only way of accessing land. The rich could buy land anywhere. But if one was poor, and one could not afford to buy land in the first place, one could still claim land 'customarily', in one's 'home' area, from one's 'customary' chief, as a 'customary' right, under 'customary' law.

While individual rights were acknowledged as universal, only the indigenous African was supposed to have group rights.

Mamdani (1998, p.12) argued that the two types of political identities also applied in the post-apartheid RSA, and that the 1994 compromise has brought South Africa in line with other equatorial African countries. While civic citizenship is deracialized; ethnic citizenship remains unreformed. Although civic citizenship has been deracialized, the land question still remains to be explored in this study.

The Relevance of Political Ideologies within the Context of Land Reform in the Republic of South Africa, 1994-2004

In this section of the chapter we review various political ideologies. The ideologies are 1) liberalism, 2) social democracy, and 3) feminism in particular while Marxism, socialism, communism, and conservatism are also discussed. However, we presume the latter four are less relevant within the context of post-1994 South African land reform. These ideologies are analysed to determine how each designs the ownership of resources within society as this study is essentially about land ownership. Land is a resource and a primary focus of the post-1994 South African governments' land reform policy. Ownership of land can be afforded to either an individual, a group of individuals, groups of individuals or all members of society. This is the context within which the ideologies will be analysed.

Liberalism

Liberalism's basic credo comprises individualism, natural rights, and private ownership (Susser, 1995, p. 57). These principles are characteristic of all forms of liberalism. Classical

liberalism, one form of liberalism, advocates non-government intervention in the social and economic spheres of the life of individual citizens. Classical liberalism is based on the ideas of classical liberals such as John Locke and Adam Smith whose writings dominated liberal thought in the eighteenth century until the first decade of the nineteenth century. They advocated individual freedom, liberty and adherence to natural law. For Smith (1910, pp.23-27) the laws of demand and supply are sufficient to sustain the availability of goods (that is, the produced materials for consumption by human beings) within society. By this Smith meant that government should not be involved in the economy as its involvement either hinders the “dealers” from bringing goods to the market, “which may sometimes produce a famine” or encourage buyers to consume the goods “so fast as must necessarily produce a famine”.

Classical liberals understood man to mean human kind. For Locke (1960, pp. 153-171) man has a natural right to what he produces through his own labour. What man produces through his labour becomes his own property to which no one else has a right. This right of ownership of property constitutes the freedom of man. As far as Locke (1960, p. 177) is concerned;

the supreme power cannot take from any man part of his property without his own consent, for the preservation of property (is) the end of government . . . for I have truly no property in that, which another can by right take from me, when he pleases, against my consent (parenthesis added).

Thus he justifies non intervention by government in the economy. Kadalie’s (2004, p.89) “critical” analysis advances the idea that “classical liberals believe that all humans are born with natural rights and other human beings may violate the rights of individuals. In order for this to be prevented laws are enacted that emphatically proclaim that the rights of humans can not be abridged by any of the organs of government or by any other individual”. For Sinopoli (1993, p. 644) “the state should be neutral in treatment of people holding controversial conceptions of the good life”.

A classical liberal idea is that government should “govern the least”. For Susser (1995, p. 59) “Such government would subject the social and economic behaviour of its citizens to a bare minimum of regulation, and jealously safeguard each individual’s natural rights to life, liberty, and property”. That is how classical liberalism conceptualises the rights of citizens and especially the right of private property ownership. Liberalism is relevant to this study with regard to the land redistribution policy of the post-apartheid South African government because individual citizens are afforded land ownership rights. However, in its classical form, liberalism that excludes government intervention is less relevant. Given the sustained economic inequality in the country, government involvement seems needed.

Thus revisionist or welfare liberals like John Stuart Mill and Robert Nozick challenged classical liberalism. These liberals pointed to the failure of classical liberalism to promote public welfare, which it had “promised”. In this study, revisionist liberalism, welfare liberalism and modern liberalism refer to one and the same thing. For Susser (1995, pp. 65-67);

the revisionist departed from the classical understanding of liberalism in two major ways: first, in wishing to modify the stark doctrine of absolute property rights that was leading to acute social ills and crippling the market mechanism itself, and second, in tending to perceive of liberalism and popular democratic rule as indissociable from one another . . . to revise its earlier commitment to the untrammelled free market and to the inviolability of private property. The complex patterns of social interdependence, economic concentration, and large-scale industry that marked modern urban society meant that proper role of government as well as the place of property rights required a new kind of ideological dispensation.

The role of government, according to modern liberals, is to ensure the social welfare through social welfare programmes “aimed at remedying severe cases of poverty, exploitation and degradation” (Susser, 1995, p. 71). Government, for modern liberals, serves as a guardian of the public welfare. They believe that individuals can only develop under “certain favourable social conditions” (Susser 1995, 69). Thus Heywood (1997, p.44) argues modern liberalism is

characterised by a more sympathetic attitude towards state intervention. The shift from classical liberalism to modern liberalism was “born out of the recognition that industrial capitalism had merely generated new forms of injustice and left the mass of the population subject to the vagaries of the market”. Even though Robert Nozick in his work, *Anarchy, State and Utopia* (1974) did not support government intervention to assist the members of society who were economically worse-off as a matter of right, he acknowledged that government should let those who are willing to help these members of society do so voluntarily. This means that the property of some individuals should not be appropriated to assist others and that this should not be enforced. In this regard Nozick’s work influenced modern liberalism. Wolff’s (1991, pp. 10-12) analysis of Nozick’s ideas is that the state is justified;

only in so far as it protects people against force, fraud, and theft, and enforces contracts. Thus it exists to safeguard rights and this is its sole justification. The state violates rights if it undertakes any more extensive programmes. . . . the most startling consequence of Nozick’s claim is that the state has no business helping those in poverty: people do not have rights to welfare assistance.

For Mills (1989, pp. 13-16) a member of society;

cannot rightfully be compelled to do or forbear because it will be better for him to do so, because it will make him happier, because, in the opinions of others, to do so would be wise, or even right. There are good reasons for remonstrating with him, or reasoning with him, or persuading him, but not for compelling him, or visiting him any evil in case he do otherwise.

Mills further believes that the individual is “the proper guardian of his own health”. Thus for Mills, government should not force but persuade individuals to help others. Mills, like other modern liberals, recognizes the social ills created by non-intervention of government in the economy. Venkataran (1994, p. 150) views a welfare system as a system of government organised to ensure the well-being of citizens through government intervention in the economy. The government uses citizens’ resources to implement social programmes such as social grants.

But it does not take away individual property ownership rights. Modern liberalism favours government intervention in the economy by some authors, to ensure the well-being of citizens. But it does not support the removal of individual property rights, therefore it would not support land redistribution. It is thus, not relevant to South African needs as redistribution is an essential element of the land policy.

It must be borne in mind that modern liberalism, though it attempted to rid society of the afore-mentioned social ills, did not succeed. One may say that modern liberalism had very little or no social impact. Thus the ideology of neo-liberalism, which was influenced by the ideas of economists like John Maynard Keynes, was born. For Keynes, the government should intervene in the economy in order to reduce inequalities of income and wealth among members of society and government intervention is essential to create full employment and extend an accumulation of wealth. However, he warned that individuals should not be hindered from the generation and the ownership of wealth. In this study, a contemporary welfare liberalism that deepened government involvement in the social and economic spheres will be referred to as neo-liberalism. Neo-liberals emphatically assert that individual rights of ownership of property should not be taken away. Amin's (2002, pp. 46-49) analysis of neo-liberalism is that it was a "stage of the expansion of world capitalism" that was "marked by opening up to the world market and competition". "The Great Depression of 1929 ushered in an era of even deeper government penetration into business and trade" (Susser, 1995, p. 71). Besides the provision of progressive income tax, institution of health standards, breaking up of monopolies in order to encourage trade, regulation of working conditions and hours, severe limitation of labour of children and pregnant women, governments borrowed money to stimulate weak economies and economic growth. Needless to say, all these involve a substantial departure from liberalism in its classic

form (Susser, 1995, p. 71). For Sleeman (1973, 1) after 1945, the government's responsibility for the provision of social services was extended. Neo-liberalism also advocated the opening up of markets by governments for international competition. Receiving loans from international financial institutions such as the International Monetary Fund and the World Bank meant adhering to their role of opening up markets in an attempt to stimulate economic growth. For Davidson (1994, p. 40) the intention was to avoid another depression. It must be emphasised again that welfare liberals as well as neo-liberals believe that government involvement in the economy does not interfere with private property ownership. It does not create other forms of property ownership either. The government can expropriate private property for the public good. Such expropriation is expressed in the concept of eminent domain. The government can, for example, construct a road on the land owned by an individual for public transport purposes and thereby create jobs for its citizens. Neo-liberalism allows the government to redistribute land to the individual citizens. Thus it is relevant to the land redistribution policy of the post-apartheid South African government.

Neo-liberalism emerged in the 1930s with the involvement of government in the economy by borrowing money to stimulate economic growth. This greater involvement of government in social and economic spheres has led to the emergence of another variant of liberalism, which for this study is referred to as contemporary classical liberalism. Contemporary classical liberalism emerged to counter the greater involvement of government in social and economic spheres of life. It seeks minimal government intervention in this regard. For contemporary classical liberals like Milton Friedman, there should be free markets within society. Governments do not have to redistribute wealth or resources. Redistribution of wealth and resources should be voluntary and on the part of individuals who have rights of ownership over their own resources (Susser, 1995,

pp. 78-85). As far as contemporary classical liberals are concerned, greater government intervention in the economic and social spheres poses a threat to individual rights and freedom. According to Friedman (1962, pp. 27-28), the role of government is “to do something that the market cannot do for itself, namely, to determine, arbitrate, and enforce the rules of the game”. Friedman supports “private monopoly”, rather than “public monopoly” or “public regulation”. This is just classical liberalism in the contemporary context. Contemporary classical liberalism is as irrelevant to the land reform policy of the post-apartheid South African government as classical liberalism is.

Before we conclude this discussion of liberalism in its various forms it must be noted that liberalism means different things to different nations. One example of Americans and Europeans suffices to prove this point. Susser (1995, pp. 58-59) states:

American conservatives and liberals are both liberals – estranged members of a single ideological family. Conservatives champion a position known as classical liberalism while liberals support a more recent variant often described as welfare liberalism. For all their substantial differences, they remain bound to a set of commonly accepted moral and political axioms. . . . In the American context, those called liberals belong to the left; they advocate government intervention in favour of the weak and the needy, the redistribution of wealth, and a general reformist attitude towards the institutions of government. By contrast, liberals in continental European politics oppose these very same measures. They support free market economies and resist the attempts of left-wingers to introduce welfare legislation and expand the role of government. As odd as it may sound to American ears, European liberal parties belong to conservative centre-right of the political spectrum.

In the popular discourse these conservatives are called neo-conservatives. As far as Susser (1995, p. 28) is concerned for us to understand conservatism we need to consider the context. Within the context of the 1789 French Revolution, conservatives advocated the protection of monarchy, aristocracy, the church as well as existing landownership rights of the privileged citizens.

Edmund Burke is considered to be the most influential conservative thinker. According to Susser (1995, pp. 33-35) Burke understood that;

In each enduring social institution . . . lie buried the cumulative results of innumerable adjustments to changing circumstances. Long-enduring institutions are therefore always more than they appear to be.

American conservatism and European conservatism should therefore not be confused. As much as liberals believe in individual rights and regard society as a collection of the very individuals, socialists are opposed to this view.

Socialism

Socialism draws from the ideas of Karl Marx who refers to socialism as a transitional phase from capitalism to communism. For Marx, in socialism, the labourers would own the major means of production. It will be they that dictate to the owners of productive wealth who would have owned productive wealth within the capitalist phase of social development (Marx, 1994, pp.102-213). Levine (2004, p. 76) says: “Marxist socialists have always opposed utopian socialism that envision ideal arrangements apart from accounts of the real course of human history”. Sharma’s (1985, p. 275) analysis of social development is that it “demonstrates that the movement of history is a movement which is as much revolutionary as evolutionary but always a movement which can be comprehended only in terms of development of material forces of society. By analysing the society of his day in a “historical-materialist” perspective Marx brought out the “objective laws of social dynamics”. Marx’s (1994, pp.102-213) explanation of social development, which he called historical materialism, shows that at one stage of development society was feudal.

A feudal society is characterized by, among other things, dominant agrarian production controlled by the owners of land who were known as the landlords. As society developed it became capitalist. This is the epoch in which the bourgeoisie took over the control of the essential means of production and therefore ruled society as a social class. The essential means of production in this epoch were, for the most part, industrial rather than agrarian as was the case during the feudal epoch. The point is that as society developed and went through different epochs, the ruling social classes in these epochs created institutions through which they ruled the other subordinate classes of society. Therefore non-structuralist descriptions of socialism such as Heywood's below are discarded in this study. This is because affording the proletariat or all other classes of society, but the capitalist ruling social class, rights of ownership of essential means of production without doing away with capitalist institutions such as government and the legislature does not accurately define socialism. Let us rest our case by accepting Kadalie's (2000, p. 20) argument that "the historical conception of socialism and a lack of clear distinction between institutional relations which are epoch specific to the capitalist mode of production and those, yet to emerge, that will be institutional relations epoch specific to socialism is partly responsible for the ideologico-political dilemma".

Venkata conceptualises socialism differently. Venkata (1987, p. 197) envisions a socialist society as "an egalitarian society in which there would be no domination of one section over another". A thorough analysis of Venkata's "vision" reveals that a socialist society is classless. However in this study "classlessness" is conceptualised as a characteristic of communist society. Socialism with regard to the land reform policy of the post-apartheid South African government, is particularly relevant because it would promote the redistribution of South African farms to the farm working class.

Socialism means different things to different people. In this study a structuralist approach is adopted. A structuralist approach means that the institutions of a state are regarded as the defining feature of society. A structural approach is adopted because as society develops, different institutions are developed as well. These institutions define society in different epochs. For example, a state dominated by capitalist institutions is regarded as capitalist.

Some of the non-structuralist descriptions of socialism that more closely respond to the aspirations of South Africa's landless people will be discussed. According to Heywood (1997, pp. 49-50), the elements of socialism are community, fraternity, social equality, need, social class and common ownership. Community refers to "the vision of human beings as social creatures linked by the existence of a common humanity". Fraternity means that individuals as members of society "are bound together by a sense of comradeship" – there is a sense of brotherhood among them. Social equality means that there should be equality of wealth within society. In other words there should be no inequalities in the distribution of wealth. "Need" means that resources must be distributed by government according to the needs of the members of society, and distributed from members of society according to what they have, that is ability determined by their capacity to produce. And finally, social class means that socialism analyses society by using social classes. A social class refers to a group of people that fit into the production process in the same way. For example, the owners of the means of production constitute a class, and the labourers also constitute a class. Nevertheless, it means that members of society should own the wealth collectively (as "tribal law") not individually. However common ownership is a very controversial element in South Africa as in all of Africa because most of the land is in the hands of whites.

Some Africans, especially the Tanzanian government, through the Arusha Declaration of 1967, advanced the concept that the “class dictatorship of the proletariat could come through representative democracy.” They intended to bring the major means of production and exchange under the control of the peasants and workers (The Arusha Declaration, 1967). They believed that a socialist society would be realised as a result. This was inaccurate because “the quest for socialism itself as a new fundamentally different and distinctive mode of production with its implication for genuine democracy has not yet been realized” (Kadali, 2000, p. 19). Some African national liberation leaders tried to “delink” from the international capitalism system. It was done after independence. They believed that they had to “build” socialism. “They took up the Soviet ideology”. They established national “development” projects which failed (Amin, 2002, pp. 47-48). Like Soviet Union national leaders, these African leaders mistakenly believed that what they followed was the ideology of socialism, but it was actually social democracy.

Social democracy

Social democracy begins with a core doctrine of socialism (Susser, 1995, p. 113). The heart of the social democratic argument can be simply stated: political democracy is incomplete so long as profound economic inequalities persist. If political democracy is to be more than a fig leaf masking the real control of the haves over the have-nots, political equality will have to be matched by an economic bill of rights. The right to basic material well-being is no less fundamental than the right to vote. This, social democrats insist, is not merely a matter of elementary justice; it is an essential requirement of democracy itself (Susser, 1995, p. 107). Social democracy tries to bring about some economic equality among citizens of a state. The

right to vote is as fundamental as the right to basic material well-being. Therefore social democracy aims to redistribute wealth to citizens.

For social democrats, political freedom and economic egalitarianism are natural allies. Socialism was the economic aspect of democracy, just as democracy was the political aspect of socialism (Susser, 1995, p. 107). Social democracy stands for a balance between the market and the state, a balance between the individual and the community. At the heart of social democracy there is a compromise between, on the one hand, an acceptance of capitalism as the only reliable mechanism for generating wealth. On the other, there is a desire to distribute wealth in accordance with moral, rather than market, principles (Heywood, 1997, p. 55). John Maynard Keynes has also influenced social democracy with his insistence upon government's involvement in the economy with the purpose of ridding society of its social ills. For Heywood (1997, p. 55), "the chief characteristic of modern social democratic thought is a concern for the underdog in society, the weak and vulnerable". Thus for South Africa this ideology is relevant in all aspects of development but more specifically to its post-apartheid land policy. For as much as Fabian socialists, "proposed creative reforms in city planning, in the tax structure, and in social welfare programs, they also offered concrete scenarios for the transfer of extravagant private wealth – which undermined social cohesion and public welfare - to communal control".

Fabians championed a programme of gradual reform rooted in popular will expressed within constitutional government. They even proposed reimbursing wealthy capitalists for some of their holdings that would become communal property (Susser, 1995, p. 108). When one reviews the elements of the land policy especially the aspects of redistribution and restitution some of the social democratic principles such as "reimbursing wealthy capitalists etc." would counter the

problems of redistribution cited by Ellis (losers). The principles of social democracy with respect to land may also address the racialisation of land distribution and redistribution. There are however also variations of social democracy. For Susser (1995, p. 109-110) some social democrats have Marxist ideological origins while others may incorporate environmental issues. Then there are those who favour nationalization, economic planning, and the redistribution of property (mainly in poor countries), over cooperative and communal ventures. Yet a third way claims a welfare system as a step between capitalism and communism. Kadalie (2000, p.18) defines an extreme variety of social democracy as “state capitalism” where the state “directly owns and controls a dominant share of the most essential means of production”. In general social democracy is an ideological concept that defines the dominant view within a capitalist social formation which relies upon nationalization of substantial economic assets as the principal strategy of providing social services to workers. Nationalization is defined as government ownership and control of key industries as well as central economic planning.

According to Susser (1995, p. 112) for social democrats to be equal politically requires;

at least a minimal degree of equality in the citizenry’s social and economic position. The marketplace needs to be suffused with some of the same communal, egalitarian, and democratic spirit that prevails in the political arena.

Furthermore;

economic differences and competition must be kept within limits that preserve society as a moral union of equal persons. When socio-economic differences create a dehumanizing underclass, or when individuals and classes are so fundamentally set aside each other that it becomes difficult to speak of social solidarity, political pathology has set in.

From the 1920s until well after World War II, social democratic ideas were linked to a reasonably clear political program. That reflected antagonism toward the injustice caused by

free-market economics, as well as the belief that central economic planning was superior to the hit and miss anarchy of an unregulated market. Social democrats predicted that planning would rationalize production by eliminating wasteful competition. Thus;

It would be directed toward the general welfare and not merely by the hunger for immediate profits. . . . In the past social democrats tended to believe that central planning and the nationalization of industries such as utilities, railroads, mining, steel, and health care was the answer to society's ills (Susser, 1995, pp. 113-114).

Given the principles of social democracy stated above it is the most relevant ideology for the land reform policy of the post-apartheid South African government. It is particularly significant where the government may nationalise land and where South African communities are allowed to have shared rights in land. However the political ideologies that have been discussed thus far fail to address women's rights of ownership of resources.

Feminism

The information on the role of women with regard to property ownership within society is only provided in the ideology of feminism. Early feminist perspectives have tended to focus primarily on issues such as gender differentials in political representation and participation. Feminist political theory does not in any way constitute a homogeneous field either (Mottier, 2004, p. 277). As diverse as feminist theories and doctrines are, their one unifying feature is a common desire to enhance, through whatever means, the social role of women. The underlying themes of feminism are therefore, first, that society is characterised by sexual or gender inequality and, second, that the structure of male power can and should be overturned (Heywood, 1997, p. 58). Women have fought for emancipation and liberation. They have aimed to remedy inequality and injustice, to challenge patriarchy and the entire social hierarchy, to change it politically, socially and ideologically (Forbes, 1991, p. 20). Feminist theorists reject the view of

the female sex-role as a cluster of social expectations directed primarily by the biologically predetermined reproductive capacity of women, and emphasized the cultural and social determinants of gender-role expectations as well as the oppressive character of the so constructed “difference” (Markus, 1987, p. 96).

The discrimination against women owning property is endemic in South African society. Thus there are more poor and landless women than men in South Africa, which defies the equality clause of the new South African constitution especially the Bill of Rights. From the current literature three feminist traditions can be identified. These are liberal feminism, socialist feminism and radical feminism.

Liberal feminists understand female subordination in terms of the unequal distribution of rights and opportunities in society and seek to reform such inequalities through enhancing the legal and political status of women and improving their educational and career prospects. Socialist feminists highlight the links between female subordination and the capitalist mode of production, drawing attention to the economic significance of women being confined to family or domestic life where they, for example, relieve male workers of the burden of domestic labour, rear and help to educate the next generation of capitalist workers, and act as a reserve army of labour. Radical feminists believe that gender divisions are the most fundamental and politically significant cleavages in society. In their view society is characterised by patriarchy, rule by men, and this must be changed through a sexual revolution, a revolution that will restructure personal, domestic and family life. For Chapman (1995, p. 95) “the radical feminism that in the 1960s was a holistic vision of the political, social, economic, psychological and cultural world of men . . . identified the oppressive dualism of gender as the common factor underlying the whole and raised revolutionary hopes that women’s liberation could transform it all”.

Gender is not just a dichotomy of male and female, but a hierarchy of male over female (Chapman, 1995, p. 96). Radical feminism seeks to substitute “power” and “domination” for “achievement” and “superiority” in the account of male values and translate women’s unequal status and restricted roles into political terms of subordination, powerlessness and oppression. This was what gave the statement that “the personal is political” its enormous significance for modern feminism (Chapman, 1995, 97). The women’s liberation movement was to be a profoundly revolutionary movement, which would not only liberate women from male oppression and their gender socialisation, but also to overcome the barriers between the public and private spheres. It intended to recreate society in the areas of culture, politics, economics management etc. into non-patriarchal forms. In developing countries like South Africa, land ownership and redistribution for women were a priority. It must be understood that the enhancement of women’s role in society includes a share of ownership of resources –especially land, which is not the case in patriarchal societies as was the situation in the RSA pre 1994. Although some women may own some property in a patriarchal society, this ownership is for the most part negligible. So far we have seen that feminism aims to ensure that women have the same rights of ownership of property as men.

Basically, liberal feminism’s aim is to afford women property ownership rights as individuals. Socialist feminism is not clear. However, it aims to enable women to take part in the production of wealth. Radical feminism’s aim is to afford women the same property ownership rights and overthrow men as owners of productive property. Thus feminism is very relevant to the land reform policy of the post-apartheid South African government with respect to ownership of land by women, emerging women farmers and so forth. Communism is an ideology which proposes the distribution of property to all members of society irrespective of gender.

Communism

In the literature communism has become a bone of contention. Some associate the ideology of communism with the economic system of the Soviet Union and even though it is proclaimed to be communist, it was really more social democratic because it had capitalist institutions (political parties and “representative” government) and it had nationalised substantial economic assets. Of course we arrive at this critical conclusion if we accept a structuralist approach. The economy of the Soviet Union was centrally planned. This means that the economy was under the control of the central or national government. The essential means of production were nationalised. As mentioned above, nationalization is a social democratic idea. For Karl Marx, upon whose ideas communism is based, a communist society is stateless. Further more, there are no classes in a communist society.

Classes refer to groups of people who fit into the production process in the same way. Such groups represent those who provide labour and those who rule. For Marx (1994, pp. 70-174) in a communist society there is no private property. The society “loses its class character”. Communism “strips” a people of its “national character”. According to White, Gardner, Schopflin and Saich (1982, pp. 93-107), Ahmed (1993, pp. 369-381), Galioan (1995, pp. 191-203) and Kadalie (2000, p. 19), because the Soviet Union had a constitution, a legislature and an executive it therefore was a state. State capitalism too is a variety of social democracy. “An army of bureaucrats had been brought into existence to run the State” (McCauley, 1993, p. 370). Even though the Soviet Union attempted to “battle” with a capitalist system “of” western countries by being social democratic, “its attack on the capitalist system did not really matter much”. The Soviet Union’s hold on social democratic principles did not substantially impact the dominant capitalist system (Ahmed, 1993, 369).

In the final analysis the Soviet Union was a state, therefore not a communist society. For this reason an elaboration of the various aspects of Soviet society does not add new knowledge to the discussion of communism. For the same reason communism is irrelevant for the post-1994 Republic South Africa simply because this Republic is a state. Land reform in this Republic takes place within the boundaries of a state and obviously does not set out to create a stateless society. For Susser (1995, p. 137) the state withers away in a communist society. The ruling class becomes dysfunctional in a communist society. This dysfunction causes the state to wither away. As has been noted communism is based on the ideas of Marx. Some writers have emphasised the ideological context of the writings of Marx's ideas and ended up calling this collection of writings Marxism.

Marxism

Marxism is also a contested issue. Marxian theory has traditionally been a class theory, which analysed the role of social classes in history (Kellner, 1995, p.12). Levine's (2004, p. 76) question is "What, after all, could be more in the spirit of Marx's thought than to reflect on the present, and speculate on the future, by, understanding the past?" The point here is that the ideas of Marx form the bases of "Marxism". These ideas, contained in our discussion of historical materialism, have already been contemplated under the discussion of socialism and that of communism. It would be superfluous to analyse them again as Marxism. Therefore the ideology of Marxism will be excluded in this study.

Conservatism

The ideology of conservatism seeks to conserve the status quo (Susser, 1995). We have already enumerated upon conservatism within the context of the 1789 French Revolution and within the context of the United States of America. American conservatives are basically liberals. Conservatism within the former context does not apply within the context under study because the post-apartheid South African government's land reform policy is radical, that is, it does not conserve the status quo, but seeks to change it. This land reform policy aims to afford the rights of ownership of land to black South Africans who were dispossessed of their own land under apartheid laws. Suffice it to say that European conservatism as an ideology has no room within the post-apartheid South African governments. European conservatism is, therefore, not considered in this study. American conservatism is as irrelevant to the land reform policy of the post-apartheid South African government as classical liberalism is.

Conclusion

Liberalism in all its forms entrenches private property ownership. Liberalism in its classical form is explicit on this. Even though both modern liberalism and neo-liberalism are "sympathetic" to government intervention in the redistribution of wealth, they want the government to leave private property ownership intact. These forms of liberalism do not seek to transfer property ownership to any group of individuals or the government. What makes matters worse is that contemporary classical liberalism seeks to do away with redistribution of wealth by government. What contemporary classical liberals need is an unchallenged private property ownership. It must be re-emphasised that redistribution of wealth does not necessarily mean a transfer of property ownership. Socialism is another political ideology that we conceptualised. Our argument has been that capitalist institutions cannot define a socialist society. We saw that

socialism is irrelevant in this study. That the post-apartheid Republic of South Africa is capitalist is a fact we cannot run away from. Social democracy attempts to create a balance between the rich and the poor. Government redistributes wealth. Productive property may be owned by a community or by the government. We also conceptualised the ideology of feminism. Feminism as well has variants. These variants are unified by the need for equality of rights between men and women. Women want to own property at the same level as men. We also conceptualised the ideology of communism. It became explicit to us that, like socialism, communism cannot be defined by capitalist institutions. We understood Marxism to be a body of Karl Marx' ideas and not an ideology. The ideology of conservatism has no contribution to make toward reform as it opposes reform. Therefore, it is irrelevant to this study.

Theoretical Framework

Both critical theory and elite theory form the theoretical framework for this study. Adorno (1991, p.198) admitted that he and other representatives of the Frankfurt School such as Habermas and Horkheimer, have “developed the elements of a critical theory of society”. Habermas (1995, p.132) stated that “a skeptical evaluation of current world conditions is the background for my reflections”. These representatives seek to contribute to people's emancipation in modern states, as Habermas (1995, p.149) further wrote that people must be able to form their convictions on the basis of the best available knowledge without being coerced. For Adorno (1991, p.100), an analysis of society should take culture into account because “cultural entities . . . are no longer *also* commodities, they are commodities through and through. This quantitative shift is so great that it calls forth entirely new phenomenon”. Adorno (1991, p. 106) further cautions that “the progressive technical domination of nature” is “mass deception” and

“impedes the development of autonomous, independent individuals who judge and decide consciously for themselves”.

The theoretical framework of critical theory is necessary for the proposed study to be undertaken as it will allow the researcher the flexibility that is needed to explore the ideology that influenced the post-apartheid South African government’s land reform policy as it affects the South African society.

Mills is the founder of elite theory, which he developed in his *The Power Elite* (1956). O’Connor and Sabato (1999, p. 17) explain elite theory when they indicate that in society important policies are set by a loose coalition of three main groups - corporate leaders, military leaders, and a small group of key governmental leaders (the elite) so that the government is “increasingly alienated from the people and rarely responsive to their wishes”.

With regard to post-apartheid South Africa, Sodaro (2001, p. 840) states that the current key governmental leaders (high-level leaders of the ruling ANC) and white business leaders are ruling as the elite.

Because this study deals with the land policy made by the post-1994 South African government, which includes many of former white businessmen/farmers and together they form an “elite”, land policy will be influenced by elements of elitism. Therefore elite theory will be used in this study.

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Chapter 3

Research Method

The Research Question

Which ideology influenced the land reform policy of the post-apartheid South African government?

The Primary Assumption of the Study is that:

Neo-liberalism is the dominant ideology within the post-apartheid South African governments.

Research Methodology

To achieve the purpose of this study qualitative analysis will be implemented as “an approach to making social observations or methods for examining empirical information without converting them to a numerical format” (Babbie, 2004, p. 164).

The study will explore the influence of ideology upon the post-1994 South African governments’ land reform policy by generating qualitative information through a technique of content analysis. The analysis will be guided by the principles contained in the theoretical framework we have identified. We will then attempt to identify some of the political ideologies described in chapter two in the land policy. Documents on the post-1994 South African governments’ land policy will be analysed using the theoretical framework to establish and list aspects that correlate with the various selected ideologies.

Research Design

Data Collection

Data will be collected from purposive samples which will consist of the contents of primary sources. The selection of the primary documents is informed by historical and current literature on the research question. For the purposes of this study it is considered that the information from primary sources will be reflective of the position of the ANC with regard to how and what influenced its position on land. To effect a more rigorous research the primary sources were divided into those considered to be critical and the rest considered to be supportive. The post apartheid government documents and the ANC documents of the liberation movement/political party, dealing with the land and subsequent land policy, will be scrutinised and analysed as the more significant primary sources. They include;

- *The Freedom Charter* of 1955
- *The Reconstruction and Development Programme* of 1994
- *The Constitution of the Republic of South Africa*, Act 108 of 1996
- *White Paper on South African Land Policy* of 1997

The criteria that informed the selection of these particular documents for this study, are their validity and reliability as established by the fact that these land related policy documents have been accepted by the majority of political movements in the history of South Africa. Even though the study focuses primarily on the period 1994 to 2004, it is imperative to take into account the direct relationship between the land policies and statements made prior to this period and the land policies made during the study period.

Purposive Sampling

The Freedom Charter of 1955: In 1955 a total of 2 888 delegates from the majority of South Africa's political parties approved the contents of the Freedom Charter with acclamation. These political parties were legally not recognised by the then racist regime and they were represented along the 'legal racial classification' designed by the same racist regime. The delegates represented the following political parties – the African National Congress (ANC) (mixed) and the convener, the South African Indian Congress (SAIC), the South African Coloured People's Organization (SACPO), and the South African Congress of Democrats (SACOD) (mixed). The then all white Nationalist party (Afrikaans) and the all white United Party (English) had been invited and even though they did not attend the congress which approved the Freedom Charter, the majority of the people in the country were represented by the majority of political parties/political movements which attended (Grobler, 1988; Magubane, 1979). The selection of the Freedom Charter as a primary source for the purposes of this study is clear: it was democratically acclaimed by the majority of South African political parties. Political parties are for the purposes of this study, political movements.

The Reconstruction and Development Programme, 1994: The RDP succeeded the *Freedom Charter* as the implementable culmination of the aspirations of the liberation struggle. The RDP represented the ANC's development blueprint for the Republic of South Africa (RSA) which included responses to the ever popular UN required development sustainability. It actually extended sustainability of reconstruction and development to the southern African region, but it spelled out mainly how the RSA would politically and socially be transformed. Specifically it addressed apartheid created inequities. Thus it was inspired by a strong 'socialist' desire. Unlike the *Freedom Charter* it set specific targets in areas related to employment, income and rights: 2,5 million jobs in ten years; electrification of 2,5 million homes (black) by 2000; the

redistribution of 30 percent of arable land to black farmers in five years and rights related to access to health, education, shelter, water and sanitation, gender participation rights and so forth.

Strategies for implementation were designed to be centralised and so even as the post settlement ANC-led government of national unity (GNU) adopted the RDP the structural problems related to its execution began to be realised. Other problems with its implementation surfaced with donor support and inefficient public sector management as well as budgeting. It was later abandoned for the more clearly neo-liberal Growth, Employment and Redistribution (GEAR) program.

The essentials of the RDP document were relevant to the land redistribution policy adoption. The RDP aimed to redistribute land to landless South African citizens as individuals and communities, which is more neo-liberal than the socialist approach of the *Freedom Charter*. But the tendency towards government regulation of land ownership transfer (neo-liberal) and helping the poor to acquire land with government help (social democratic) bears the marks of an ideological struggle within the RDP itself.

The Constitution of the Republic of South Africa, Act 108 of 1996: This constitution is the end product of a negotiated settlement between “all” the people of South Africa that started in December, 1991 when delegates from nineteen (19) political parties met. These parties were mostly liberation movements which were ‘unbanned’ by the apartheid South African government in the late ‘80’s, who began a negotiation process for a democratically elected and representative government with the aforementioned non-democratically elected incumbent. This process was called the Convention for a Democratic South Africa (CODESA). It set up working groups that would report back to a second convention, CODESA II. However, because this process had excluded trade unions and civic organisations on the grounds that they were not political

organisations, another process called the Multi- Party Negotiating Process (MPNP), began in April 1993 with a total of twenty six (26) registered political parties and interest groups. The MPNP produced a Negotiating Council (NC), representative of all interest groups, unions and political parties.

It is the NC that negotiated and presented the *Interim Constitution* for endorsement at the MPNP plenary session. Political parties that were part of the previous regime, became part of the negotiated transition by sitting for the last time in December, 1993 and ending the existence of their parliament with the repeal of the remaining apartheid laws and the adoption of the *Interim Constitution*. The new *Constitution of the Republic of South Africa*, Act 108 of 1996, emerged democratically from the interim constitution, and its adoption spelled the end of the MPNP. The selection of the new constitution as a major primary document is therefore also informed by the fact that it is a democratically adopted document by the majority of the political parties and movements in the RSA.

The final major primary source for the purposes of this study is the *White Paper on South African Land Policy* of 1997. It was developed from the provisions for land in the new constitution. The *White Paper on South African Land Policy*, like the new constitution, is also a democratically developed document expressing the direction of the new dispensation, thus establishing the reason for its selection.

The *Constitutional* provisions for land reform led to the development of a number of policy documents to execute land reform. Most of these documents will serve as primary sources from which qualitative information will be collected for analysis. The *Arusha Declaration* was selected because it too was a democratically developed document representing the struggle against injustice. The *Arusha Declaration* will inform the study of the ideological principles that

were part of the African discourse of liberation in colonial times as the struggle against apartheid was part of the discourse of the liberation of the African people.

Qualitative formation will also be collected from the following primary sources which are listed in chronological order:

The Arusha Declaration, of 1967

Provision of Land Assistance Act, No. 126 of 1993

Annual reports of the South African Commission on Gender Equality, 1994 to 2005

Annual reports of the South African Commission on Human Rights, 1994 to 2005

Annual reports of the South African Department of Land Affairs, 1994 to 2005

Annual reports of the Landless People's Movements, 1994 to 2005

Restitution of Land Rights Act, No. 22 of 1994

The Constitution of the Republic of South Africa, Act 108 of 1996

Land Reform (Labour Tenants) Act, No. 3 of 1996

Communal Property Association Act, No. 28 of 1996

Upgrading of Land Tenure Rights Amendment Act, No. 34 of 1996

Extension of Security of Tenure Act, No. 62 of 1997

Expropriation of Land Policies and Procedures, 1999

Land Restitution and Reform Land Amendment Act, No. 18 of 1999

Opportunities and obstacles to women's land access in South Africa (Land reform gender policy framework), February 2002

Broad-Based Socio-Economic Empowerment Charter for the South African Mining Industry, 2002

Communal Land Rights Act, No. 11 of 2004; and

Other relevant government documents.

Secondary Sources

Only primary sources make up the sample for this study because it is from the primary source content that information will be collected. Secondary sources will be used to clarify the analysis of the data collected from primary sources. Secondary sources are identified as the opinions of other analysts, writers and other parties concerned with issues that affect the land question. It is hoped that the secondary sources will contribute to a more robust and critical analysis. The writings of scholars on the land policy of the post-apartheid South African governments will be analysed. Land reform lessons from other countries such as Zimbabwe will also be included to provide guidance in land reform policy analysis.

Methods of Analysis

The data collected from the South African government's land policy documents will be analysed in accordance with the method of content analysis. Content will be aligned according to various and dominant ideologies. The ideological consistency within the land reform policy will determine the predominant ideology. The 'weight' of the content will determine the predominant ideology. Interpretation guided by critical and rigorous political science models, such as elite and structural, will be made of the current land policy's ideological focus.

Units of analysis

The analytical categories for the study are: 1) land restitution, 2) land redistribution, and 3) land tenure reform. Government documents on the post-1994 South African governments' land reform policy are the units of analysis for the study and they are the primary sources of empirical information whereas the works of scholars on this land reform policy are the secondary

sources. About the units of analysis Babbie (2004, p.94) states that “in social research, there are virtually no limits to what or who can be studied, or the units of analysis”.

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Chapter 4

Description of the Post-Apartheid Land Reform Policy

Formulation and Adoption

In this chapter we describe the post-apartheid South African governments' land reform policy. The description will follow accepted public policy-making process frameworks. Policy-making frameworks essentially consist of four activities which are – problem identification, policy formulation (description), implementation and evaluation (O'Connor and Sabato, 1999; Richan, 1996; Fischer, 1999). This study hopes to contribute to policy-making by clarifying the role of ideology upon policy formulation and thus the stages in the policy-making process are relevant. All aspects related to the problem - its recognition, definition, background and so forth - have been discussed in chapters one and two. The implementation stage will be described in the following chapter as the institutions that the post apartheid policy established to regulate land distribution are also ideologically driven. The description and implementation stages constitute the essence of that which will be analysed for ideological implications. The formulation and implementation have been separated for ease of understanding and analysis.

The elements of the post-apartheid South African governments' land reform policy are 1) land redistribution , 2) land restitution, and 3) land tenure reform.

Liberals understand public policy to mean the policy of the public representing the interests of the individual citizens. Accordingly the state represents a multitude of individuals. Marxists and socialists see public policy as a policy of the ruling class. According to these ideologues the state represents the interests of the ruling class. Liberal feminists see public policy

as a policy of individual men. Accordingly the state represents individual men. Radical feminists see public policy as a policy of the male ruling class. The male ruling class dominates the state.

In this study the Marxist and socialist definition of public policy is adopted. This position is informed by the empirical information that points to the fact that ruling class interests (whites) dominated public policy during the apartheid era. In the post-apartheid regime, it appears the interests of the ruling class, consisting of business men (black and white) and an emerging upper class in politics and industry (also mixed) in the Republic of South Africa (RSA) influences the direction of public policy. The interests of the poor and the working class do not appear to have affected the post-apartheid RSA's land reform policy. We will elaborate upon this fact later.

Economic feasibility is relevant for this study only to the extent that the allocation of financial resources to a particular course reflects the particular ideology that drives the government in that direction. To favour dispossessed and landless by appropriating money for their cause, policy would have to be guided by a like ideology- at least one that reflects social concerns and is group oriented. A neo-liberal government may buy land for the individual citizens not for a group according to a market orientation. This is government regulation of property ownership. It is also understood that the stages or phases of the public policy-making process do not necessarily progress in a particular order (Levine, Peters and Thompson, 1990).

1. Land redistribution

Land redistribution is an element of the land reform policy of post-apartheid RSA that would allow individual black South Africans to own South African land that by law they were previously forbidden to own or occupy. "Blacks" refers to both male and female Africans,

Indians, and Coloureds. Land redistribution has a policy framework derived primarily from acts of parliament that give effect to it. We will trace the land redistribution policy through land redistribution policy formulation. The *Freedom Charter* of 1955 and the *Reconstruction and Development Programme* (RDP) of 1994 form the basis that informed the land reform policy of the post-apartheid South African government.

Because both documents represent essential aspirations of the liberation struggle it is necessary to consider the context within which the *Freedom Charter* and the RDP were developed. The essentials of the *Freedom Charter* and the RDP that were relevant to the land distribution policy adoption and that inspired the context for the development and the adoption of the *Freedom Charter* will be elaborated upon.

The Union of South Africa (whites only) adopted the Natives Lands Act of 1913. Under this Act the government expropriated all the land owned and occupied by indigenous African people, either individually and/or as communities. The government further made it illegal for these black people to purchase the land it expropriated through the Native Trust and Land Act of 1936. When black people were deprived of ownership of their land they organised out of anger and frustration, a number of oppositional political parties. The African National Congress (ANC) was initially the predominant resistant party.

In 1955 the ANC convened a national congress at which it and other political parties adopted the *Freedom Charter* in a collective mixed reaction to Black deprivation of rights, including land ownership rights, that was enforced by the then 'whites only' government. The historical context of the development of the *Freedom Charter* is not limited to discriminatory land Acts that we have just mentioned. With the adoption of the Charter the ANC was seeking the support of the Soviet Union, which we previously indicated was considered to be social democratic (Chapter 3). The Cold War, marked by the period 1920 to 1989, consisted of an

ideological conflict between liberalism and social democracy, that pitted two super powers- the USA and the Soviet Union respectively- into a threatened nuclear war. In much of the literature this conflict is thought of as being between capitalism and communism. The Soviet Union nationalised land. The Charter represented the interests of the working class which “sought” a social democratic government. The Charter would empower the ANC to take the responsibility of reducing or eliminating the unequal distribution of land that benefited white South Africans. The Soviet Union’s social democratic influence could be felt in Tanzania as well. The *Arusha declaration* of 1967 is a document that shows that the Tanzanian government sought social democracy in Tanzania.

When the actual formulation of the redistribution part of the policy of post-apartheid RSA occurred it was influenced by more than just the *Freedom Charter* and the RDP.

Land redistribution formulation

The *Freedom Charter*, The RDP, the *Growth, Employment and Redistribution* (GEAR), the *White Paper on South African Land Policy* and the Agriculture Black Economic Empowerment Policy (*AgriBEE*) have been found to have contributed to the development of the policy framework of land redistribution. These documents make up the land redistribution formulation.

In terms of the *Freedom Charter* (1955), “land shall be shared among those who work it”. Thus the ANC developed a working class oriented ideological perspective. This appears to be socialism. The RDP document however, shifted from this position. It aimed to redistribute land to the landless South African citizens as individuals and as communities. This would be done in order to change the land ownership patterns, which benefited few white South Africans, in favour of blacks. These blacks would be “empowered to manage and administer” agricultural

programmes. Women were also earmarked as beneficiaries of the land redistribution (*RDP*, 1994). The ANC government intended to regulate the transfer of land ownership. Regulation of the economy is a neo-liberal practice. The fact that the post-apartheid South African government does not transfer land to the private sector shows that the ideological perspective of the RDP is not clearly neo-liberal. The post-apartheid South African government also intends to help the poor to acquire land within its available financial resources. This is not necessarily a social democratic practice because the government does not own the land. The RDP appears to bear the ideological struggle between neo-liberalism and social democracy within itself.

We turn to a consideration of the GEAR, a clearly neo-liberal policy framework. The GEAR policy (1996) is a policy initiative in as far as the transfer of property is concerned. Even though this policy is not explicit on the question of land redistribution, land restitution and land tenure reform, it is necessary as it provides the framework for the redistribution of land as property. Land is a property and it is to be redistributed in a manner outlined by GEAR. Land is redistributed to the private sector. It is also redistributed to South African community members as individuals who will share ownership of the land. Privatisation is clearly a neo-liberal principle and it is one of the conditionalities of the Structural Adjustment Programmes (SAPs) of the International Monetary Fund (IMF) and the World Bank (the dominant neo-liberal international financial institutions). Privatisation was adopted by the post-apartheid government as a condition to secure loans for development as an emerging/developing state. The GEAR policy is in line with the SAPs as it privatises the South African land.

For Khanya College (2000, p. 19), GEAR is another key land reform policy initiative. The GEAR policy and the *White Paper on South African Land Policy* aim at the development of the South African economy. In terms of the *White Paper on South African Land Policy* (1997), land reform aims to contribute to economic development. Land redistribution aims to provide the

disadvantaged and the poor with access to land for residential and productive purposes. Its scope includes the urban and rural very poor, labour tenants, farm workers and new entrants to agriculture. The Commission for Gender Equality (1998), concerns itself with matters of non discrimination against women regarding land ownership. Therefore, women are expected to receive preferential treatment with regard to rights of land ownership. In terms of the *Proposed Broad-Based Socio-Economic Charter for the South African Mining Industry* (2002), the government intends to negotiate the transfer of ownership of at least 51 per cent of mining industry assets to historically disadvantaged South Africans, that is blacks and black women, within the next ten years.

AgriBEE envisions, on average, a 52.2 per cent representation of black people, and a 27.5 per cent representation of women in management positions of agricultural enterprises by roughly 2008. It “dramatically increases land redistribution target which rises from 30% to 60% of commercial land under black control by 2014” (Centre for Development and Enterprise, 2005, p.11; Bernstein, 2005, p. 1). Mbongwa and Thomas (2005, pp. 3-4) disagree. They assert that ‘the *AgriBEE* framework does not increase the target for redistribution, but merely extends what are now accepted industry-by-industry empowerment targets to the entire value in the agricultural sector’. The *AgriBEE* was released for comment in July 2004 – the last year that concerns this study. In other words this envisioned representation does not change land ownership patterns within the period under study.

Land redistribution assists individuals and families who do not qualify for tenure reform or restitution to purchase the land sold on the market. Redistribution is driven by demand rather than by claim. Land redistribution also enables communities to acquire and own land (Labuschagne, 1999, p. 25; de Villiers, 2003, p. 50-72). Land redistribution is about increasing black ownership of rural land (Centre for Development and Enterprise, 2005, p. 11). Between

1994 and 1999 the government has avoided using expropriation in order to redistribute land. From 1999 onwards expropriation was practiced (Khanya College, 2000, p. 49).

We now turn to a consideration of the land redistribution adoption as a relevant stage of the public policy-making process.

Land redistribution adoption

The *Constitution of the Republic of South Africa*, Act 108 of 1996 provides the legal framework for land redistribution. The acts of parliament that support land redistribution are the *Provision of Land and Assistance Act* of 1993 and the *Land Reform (Labour Tenants) Act* of 1996. These acts make up the section which enables the adoption of land redistribution. A review of the relevant sections of these acts is presented.

Section 25 (5) of the *Constitution of the Republic of South Africa*, Act 108 of 1996 enables the government to take reasonable legislative and other measures, within its available resources, to create the conditions which enable citizens to gain access to land on an equitable basis. The land redistribution section of the policy is based primarily upon this section.

Section 10 (1) (d) of the *Provision of Land and Assistance Act* (No. 126 of 1993) allows the minister of land affairs to acquire land on behalf of any person and transfer land directly from its owner to that person. In terms of section 10 (2) (c) of the same Act persons who have been dispossessed of land or of a right to own land but do not have a right to restitution as prescribed by the *Restitution of Land Rights Act* (No. 22 of 1994) may be granted an advance or subsidy. The advance or subsidy enables this person to access land. As outlined in section 10 (2) (a) of the same Act, persons who may be granted an advance or subsidy are persons who have no land or who have limited access to land, and who wish to gain access to land or to additional land. Land redistribution is also based upon this section.

For the Department of Land Affairs (2003, p. 16) the *Provision of Land and Assistance Act* empowers the minister of land affairs to acquire land and provide development assistance for the redistribution of land and for security of tenure to occupiers of rural land that belongs to someone else. As far as de Villiers (2003, p. 50) is concerned this Act is the “central” piece of legislation for land redistribution.

According to section 3 (1) (a) of the *Land Reform (Labour Tenants) Act* (No. 3 of 1996) a person who was a labour tenant on 2 June 1995 has the right with his or her family members to occupy and use that part of the farm which he or she or his or her family member used and occupied on that date. It also prevents an eviction of labour tenants from farms and thus labour tenants’ access to land is protected by this Act. It also has implications for redistribution because it gives labour tenants the right to become owners of the land on which they live (Khanya College, 2000, pp. 38-39). It further provides for access to the Settlement/Land Acquisition Grant of a maximum of R16 000 per household to help them purchase the land. It must be said, however, that this Act protects only those labour tenants whose parents have also been labour tenants.

It appears that the land redistribution adoption represents the interests of the ruling class. It is in the interest of the property owning class to maintain their hold of property. The land redistribution adoption ensured that few citizens privately own land. Only citizens who have enough money can buy land. Limited financial resources of the post-apartheid South African government can only ensure that the few own land. R13 billion is required to redistribute 30 percent of agricultural land by 2014. Only R3 million was available. The question of the limited financial resources that the post-apartheid South African governments had was previously discussed.

2. Land restitution

Land restitution is an element of the post-apartheid South African government's land reform policy, which aims to return or provide alternative land to or financially compensate black South Africans who were dispossessed of land under the apartheid laws. Land restitution as well has a policy framework, pieces of legislation and the programmes that are envisioned to enable it to have a social impact. The institutions that the post-apartheid South African government has established for the purpose of land restitution will be discussed in Chapter 5. In this section the focus will be upon land restitution formulation and adoption.

Land restitution formulation

The RDP and the *White Paper on South African Land Policy* also provide the policy framework for land restitution. The goal of restitution is to restore land and provide other restitution remedies - such as compensation - to the people who have been dispossessed of land under racially discriminatory legislation under apartheid (RDP, 1994; *White Paper on South African Land Policy*, 1997; South African Human Rights Commission, 2002, p. 65; Centre for Development and Enterprise, 2005, p. 11). Thwala's (2003, p. 14) view on land restitution is different in that he considers compensation as but one form of redress. Furthermore, that compensation is not land reform because it does not involve the transfer of land rights.

Land restitution is based upon claim. In other words one must claim through legally prescribed government channels to legally constituted government agencies in order to stand a chance of becoming a beneficiary of land restitution. Pieces of legislation have been enacted to give effect to land restitution formulation. These enactments are part of the land restitution adoption to which we now turn.

Land restitution adoption

The *Interim Constitution*, the *Constitution of the Republic of South Africa*, Act 108 of 1996 and the *Restitution of Land Rights Act* deal with land restitution. Section 121 (2) of the *Interim Constitution* states that a person or community shall be entitled to claim restitution of a right in land from the state if –

- (a) such a person or community was dispossessed of such right at any time after a date to be fixed by the Act referred to in subsection (1);
- (b) such dispossession was effected under or for the purpose of furthering the object of a law which would have been inconsistent with the prohibition of racial discrimination contained in section 8 (2), had that section been in operation at the time of such dispossession (Basson, 1994, p. 173).

Thus the *Interim Constitution* enshrines property rights and entitles people who have been dispossessed of land to either the land they have been dispossessed of or compensation. In terms of Section 25 (7) of the *Constitution of the Republic of South Africa*, Act 108 of 1996 “a person or community dispossessed of property after 19 June 1913 as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to restitution of that property or to equitable redress”.

In terms of section 2 (1) (a) of the *Restitution of Land Rights Act* (No. 22 of 1994) a person or community has the right to “enforce” restitution of a right to land. The options that are identified in the *Restitution of Land Rights Act* are;

- 1) restoring the actual title by transferring the land to the claimant’s name,
- 2) providing alternative land for the claimant, and
- 3) making financial payment as compensation.

The latter two can be considered only if full restoration of land rights is not feasible (de Villiers, 2003, p. 58). Restitution is aimed at compensating people who were removed from their land as part of the consolidation of homelands or the so-called “black spot” removal programme.

The process is therefore claim-driven and requires basic evidence that people were deprived of their ancestral land in a manner that would be unconstitutional under the new constitution of the RSA (de Villiers, 2003, p. 51). The *Restitution of Land Rights Act* also provides equitable redress to persons or communities dispossessed of land as a result of apartheid laws (Department of Land Affairs, 2003, p.16). The *Constitution of the Republic of South Africa*, Act 108 of 1996, advocates for restitution to take place as long as certain forms of dispossession that resulted from discrimination without adequate compensation have occurred. The dispossession that is referred to was suffered between 1913 and 1994. For de Villiers (2003, p. 52) unlike the land redistribution and tenure reform programmes which are “complex”, the land restitution process has a clear legal base in the constitution and the *Restitution of Land Rights Act* and the institutions dealing with claims. Hence the investigation thereof as a legally sanctioned process is established.

Section 5 (1) (a) (i) and (ii) of the *Restitution of Land Rights Amendment Act* (No. 48 of 2003) allow the minister of agriculture and land affairs to purchase, acquire or expropriate land or a right in land for the purpose of restoring land to land claimants who are entitled to restitution. This section also allows the minister to provide alternative land in case the land that has been dispossessed may not be returned to its claimants. Under this Act the minister can in his own capacity or by delegation to the director general of the department of a regional land claims commissioner, award land to a claimant, authorise payment of compensation, acquire or expropriate land or a combination of options in the settlement of a claim (*Restitution of Land Rights Amendment Act*, 1998). Expropriation of land will be “considered in situations where there is no reasonable alternative land and the owner either will not sell, or will not negotiate a fair price”. There are no procedural guidelines to effect expropriation of land relevant to the

Department of Land Affairs. “The Minister may expropriate land on behalf of identified beneficiaries as well as for unidentified beneficiaries” (*Department of Land Affairs*, 1999).

The *Restitution of Land Rights Act* was amended in 2003. As far as Bernstein (2005, p. 1) is concerned, the *Restitution of Land Rights Act* was amended to “renounce” the market-oriented approach as the Act is “expanding the minister’s powers of expropriation” of land. To the contrary, Mbongwa and Thomas (2005, p. 3) hold that this amendment does not show any radical approach of government to land reform. Restitution is still based upon the Constitution “using fair compensation as the principle”.

Bernstein’s above statement contradicts the analysis of the Centre for Development and Enterprise, of which she is the executive director. For this Centre (2005, p. 8) the post-apartheid South African government has ‘stayed firmly within the constitutional framework’ and respected property rights. Moreover, this government has “taken legal action against land invasions, and followed due process in legal disputes over land. It has adopted a demand-led and largely market-driven set of land reform programmes, and has observed the principle of ‘willing buyer, willing seller’ in transferring land ownership from whites to blacks”.

Neo-liberalism appears to dominate land restitution adoption to the extent that the post-apartheid South African government affords individuals and communities landownership rights. Bourgeois interests appear to be furthered by this element of land reform policy in more or less the same way as in land redistribution since it follows the market principle that the land that is claimed by an individual or a community must be bought in the market at the market price. This is in the interest of the bourgeoisie. The government still furthers bourgeois interests when it follows non-market principles to acquire land. The individual citizens or the community, a collection of individuals, are meant to own the land that the government expropriates.

3. Land tenure reform

Land tenure reform is an element of the post-apartheid South African government's land reform policy which aims to afford communities secure landownership rights. Land tenure reform, like land redistribution and restitution, has a policy framework, pieces of legislation and programmes. Again policy formulation and adoption will be discussed separately.

Land tenure reform formulation

The RDP and the *White Paper on South African Land Policy* also provide for the policy framework for land tenure reform. The position of the RDP and the *White Paper on South African Land Policy* on land tenure reform is that labour tenants and farm workers should have secure rights where they live.

Land tenure reform aims to ensure security of tenure for rural dwellers. This programme is demand-driven and is supposed to supply residential and productive land to the poor, aspirant farmers and women. This programme is part of land redistribution (RDP, 1994). It furthers private property ownership in the same way as the land redistribution formulation and adoption. The aim of the *White Paper on South African Land Policy* (1997), is to improve land tenure security and to accommodate diverse forms of land tenure, including types of communal tenure. Land tenure reform must move towards rights and away from permits. The rights that are referred to here are individual and communal property rights mentioned in the Bill of Rights enshrined in the *Constitution of the Republic of South Africa*, Act 108 of 1996.

It further aims to secure communal rights to tenure as some chiefs, ex-homeland officials and politicians confiscated communal land for their own personal gain. This is dispossession according to these policy documents. Communities are afforded joint rights to land. Individual

community members would have shares in the ownership of the land that has been acquired. This kind of ownership is neo-liberal.

Land tenure reform refers to improving the rights especially of farm workers and persons within communal and homeland areas (de Villiers, 2003, p. 49). Land tenure reform is directed towards people without land tenure security. The right to gain access to land is based upon the idea that there are people who need land and those who are not secure on the land on which they live (SAHRC, 2002, p. 65). Land tenure reform is about improving the security of the tenure of dwellers on rural and peri-urban land (Centre for Development and Enterprise, 2005, p. 11). After being explicit on what land tenure reform is about, the Centre does not hesitate to conclude that ‘tenure reform continues to be controversial in policy terms’. For Thwala (2003, p. 14) tenure reform policy ‘includes an initiative to provide legal recognition and to formalise communal land rights in rural areas’. Land tenure reform also strengthens the rights of tenants on mainly white-owned farms. A review of the legal framework of land tenure reform, that is, the land tenure reform adoption follows.

Land tenure reform adoption

The *Interim Constitution* and the *Constitution of the Republic of South Africa*, Act 108 of 1996 also provide the legal framework for land tenure reform. Section 28 (3) of the *Interim Constitution* enables the dispossessed persons or communities to claim the land they were dispossessed of under racially discriminatory laws (Basson, 1994, p. 42). In terms of Section 25 (6) of the 1996 *Constitution* “A person or community whose tenure of land is legally insecure as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to tenure which is legally secure or to comparable redress”.

Land tenure reform also has the support of some pieces of legislation. Khanya College (2000, p. 36) indicates that the following nine laws are related to land tenure reform:

- *Upgrading of Land Tenure Rights Act (No. 112 of 1993),*
- *Provision of Certain Land For Settlement (No. 126 of 1993),*
- *Land Administration Act (No. 2 of 1995),*
- *Development Facilitation Act (No. 67 of 1995),*
- *Land Reform (Labour Tenants) Act (No. 3 of 1996),*
- *Communal Property Associations Act (No. 28 of 1996),*
- *Interim Protection of Informal Land Rights Act (No. 31 of 1996),*
- *Extension of Security of Tenure Act (No. 62 of 1997), and*
- *Prevention of Illegal Evictions and Unlawful Occupation of Land Act (No. 19 of 1998).*

A review will be made of those aspects of the chronologically listed pieces of legislation that are significant to the purposes of this study.

Upgrading of Land Tenure Rights Act (No. 112 of 1993):

This Act “provides for the upgrading of various forms of tenure to ownership”. It ensures that the law protects various forms of tenure such as; 1) secure land tenure to the people who are living on the land that is owned by others, and 2) secure land tenure to the people whose tenure rights to their land are not secure.

Provision of Land and Assistance Act (No. 126 of 1993):

Section 10 (2) (b) of this Act states that persons who wish to secure or upgrade the conditions of tenure under which they live or who wish to develop the land with the consent of

the owner may be granted an advance or subsidy. The Act further provides for the development and the legal mechanism to provide the landless citizens with land (Labuschagne, 1999, p. 25).

Provision of Certain Land for Settlement Amendment Act (No. 26 of 1998):

Section 5 (1) (a) and (b) (i) and (iii) of this Act allows the minister of agriculture and land affairs to acquire land for residential purposes, agricultural production or small business development and to secure, upgrade and register tenure rights. This Act enables the government to acquire land in order to settle landless people and secure rights of ownership of land of those whose land tenure is not secure.

Land Administration Act (No. 2 of 1995):

This Act provides for assignment and development of serviced land for low income housing (Khanya College, 2000). This provision is part of the insurance of land in order to give greater tenure security for those who live in certain areas.

Development Facilitation Act (No. 67 of 1995):

This Act introduced measures to facilitate the implementation of development programmes and projects in relation to land. It is not concerned with the transfer of land ownership (Khanya College, 2000, 36). It “provides for extraordinary measures to facilitate and speed up the implementation of reconstruction and development programme and projects in relation to land”.

Land Reform (Labour Tenants) Act (No. 3 of 1996):

Section 3 (1) (a) of this Act is also relevant to land tenure reform as it is concerned with land redistribution. This section has also been quoted under adoption of the land redistribution, especially that the act also prevents eviction of labour tenants from the farms. This fact is relevant to land tenure reform. Section 5 of this Act states that a labour tenant or his or her associate may only be evicted by an order of the Land Claims Court issued under this Act. It provides one way of enhancing security of tenure for labour tenants. Additionally, according to Section 16 (1) a labour tenant or their successor may apply for an award of land they are entitled to or have occupied in the past five years before this Act came into effect. They may also apply for an award of rights to land. It must be emphasised that the government assists the applicants financially in the acquisition of land under the provision of this Act.

Furthermore, Section 23 (1) of the same Act entitles the owner to compensation. This compensation should be in line with the market value of the property to be transferred to the labour tenants.

Communal Property Association Act (No. 28 of 1996):

This Act enables “communities to form juristic persons, to be known as communal property associations in order to acquire, hold and manage property on a basis agreed to by members of a community in terms of a written constitution”. This Act specifically provides for the establishment of communal legal entities (Department of Land Affairs, 2003, p. 16). It regulates and supports group ownership systems of land to enable the legal institutions to function effectively.

Interim Protection of Informal Land Rights Act (No. 31 of 1996):

This Act provides for the temporary protection of certain rights to and interests in land. Section 2 (1) of this Act stipulates that no person may be deprived of any informal right to land without his or her consent. However an exception is made in Section 2 (2) where land is held on a communal basis, a person may be deprived of such land or right to land in accordance with the custom and usage of that community. The provision of this Act lapsed on 31st December, 1997 as provided for in Section 5 (2).

Extension of Security of Tenure Act (No. 62 of 1997):

This Act provides measures for the long-term security of land tenure for occupiers of land and regulates eviction of occupiers of the land. This Act does not cover townships (black subsidised housing) in urban areas. Additionally section 4 (1) (a) of this Act allows the minister of agriculture and land affairs to grant subsidies to occupiers who need long-term security of land tenure to acquire land or rights to land. Furthermore according to section 6 (2) (a) of the same Act an occupier has the general right to security of tenure. This Act also provides for security of tenure to people living on farmland that belongs to other people and regulates the eviction of such people under certain circumstances (Department of Land Affairs, 2003, p. 16).

Prevention of Illegal Evictions and Unlawful Occupation of Land Act (No. 19 of 1998):

This Act provides for the prohibition of unlawful eviction and sets forth procedures for the eviction of unlawful occupiers. Section 3 (1) of the *Prevention of Illegal Evictions and Unlawful Occupation of Land Amendment Bill* of 2003 states that no person may arrange or organise or permit a person to occupy land without the consent of the owner or person in charge of that land. The *White Paper on South African Land Policy* (1997) envisages the illegal

occupation of land and suggests that it is the delivery of appropriate land at a rapid pace that is the solution to land invasions. All the above-mentioned pieces of legislation are relevant for land tenure reform. However, their significance differs for different authors. For instance, some authors see the *Land Reform (Labour Tenants) Act* (No. 3 of 1993) as the most significant land tenure reform act whereas others see it as the least significant.

The “most important” pieces of legislation to improve the rights of farm workers are the *Land Reform (Labour Tenants) Act* (No. 3 of 1996) and the *Extension of Security of Tenure Act* (No. 62 of 1997) as far as de Villiers (2003, p.49) is concerned. The Khanya College report (2000, p.37) concurs that these are key laws regarding land tenure reform.

For Khanya College (2000, p. 41) the *Extension of Security of Tenure Act* ensures that people who live on the land have the right to that land, and that they do not just depend on permits or on the benevolence of the landowner. The Land Claims Court (LCC) is the institution that has the authority to order evictions. The analyst at the Centre for Development and Enterprise (2005, p. 12) argued that the most important pieces of legislation for land tenure reform are the *Communal Land Rights Act* of 1994, the *Land Reform (Labour Tenants) Act* of 1996, as well as the *Extension of Security of Tenure Act* of 1997. Even though Khanya College has not identified the *Communal Land Rights Act* (No. 11 of 2004) as important to land tenure reform, we will review this act, because it is in our estimation very relevant to this aspect of general land reform.

According to section 4 (1) of the *Communal Land Rights Act* (No. 11 of 2004) a community or person is entitled either to tenure which is legally secure or to comparable redress if the tenure of land of such a community or person is legally insecure as a result of past discriminatory laws or practices. Land tenure reform is also based upon this section. The *Communal Land Rights Act* “seeks to rationalise the enormously complex tenure issues in the

former homelands”. As far as the Alliance of Land and Agrarian Reform Movement - a group of 18 South African Non-Governmental Organisations and the South African Communist Party (SACP) – is concerned, the *Communal Land Rights Act* does not guarantee the rights of people to land, especially women and the youth. This organisation holds that people in rural areas have no individual land ownership rights and are regarded as subjects of chiefs. However, a counter argument by the Inkatha Freedom Party (IFP) is that chiefs do not own land but only hold it in trust for their subjects (Molefe, 2005, p. 21).

In increasing women’s social roles multiple barriers such as discriminatory traditional and cultural laws and practices should be considered in order to enable women to access socio-economic rights. Insecure tenure to land is a manifestation of discrimination of women in the enjoyment of rights (Commission for Gender Equality, 1998). As far as the Department of Land Affairs (2003, p. 15) is concerned, the rationalisation process of the *Land Reform (Labour Tenants) Act* (No. 3 of 1996) and the *Extension of Security of Tenure Act* (No. 62 of 1997) “considerably consolidates the situation of labour tenants and farm dwellers”. The Department of Land Affairs (2003, p. 16) holds that the *Land Reform (Labour Tenants) Act* enables labour tenants to effectively acquire land. Labour tenants cannot be evicted as long as they continue to provide labour for the farmer (Khanya College, 2000, p. 38). The claims of labour tenants and sharecroppers are also recognised as rights to land (Khanya College, 2000, p. 27).

The South African Human Rights Commission (2002, p. 68) points to the *Interim Protection of Informal Land Rights Act* (No. 31 of 1996) and the *Extension of Security of Tenure Act* (No. 62 of 1997) as the main pieces of legislation pertaining to land tenure reform. For the South African Human Rights Commission (2002, p. 68), the *Interim Protection of Informal Land Rights Act* is important because it aims to dispose of government-owned land by making it available to people who actually own but have limited rights to the land and also to transfer the

rights to land to long-term communal or traditional groups. This Act is an interim measure instituted to protect the position of people with untitled land rights. For the Department of Land Affairs (2003, p. 16) this legislation temporarily protects certain rights and interests in land which are not otherwise adequately protected by law, until comprehensive new legislation is in place.

All the pieces of legislation that are relevant to land tenure reform have been reviewed. What is the ideological perspective of the adoption of land tenure reform? Although the final analysis in this regard is the domain of Chapter 6 we can point out some important ideological facts that appear within the land tenure reform adoption.

The shared landownership rights that members of the communities are supposed to have, manifest the neo-liberal perspective to the extent that these members share landownership rights privately as individuals. Liberal feminism manifests itself when women are included in this kind of ownership. The post-apartheid South African government regulates the transfer of communal landownership rights. Regulation of the economy is a neo-liberal practice.

Conclusion

We saw that the post-apartheid South African governments' redistribution policy framework and the acts of parliament are aimed at transferring land ownership to the landless, that is, people without land. We saw that the restitution policy framework and acts of parliament are aimed at returning land to the people who have been dispossessed of that land. We also saw that the dispossessed have to claim the land. This is a restitution procedure, which we will discuss in the following chapter. It has become clear that once a piece of land has been claimed neither the present landowner nor the land claimant has the right to "own" that land until the claim has been settled. We saw that the land tenure reform policy framework and acts of parliament intend to secure land tenure rights of people who live on farms but do not have secure rights to land. We

also saw land tenure reform as aimed at transferring land ownership. It became clear that land tenure reform intends to redistribute land in order to change landownership patterns that benefited few white citizens. Above all we saw that land redistribution, land restitution, and land tenure reform are the strategies of the post-apartheid South African governments for transferring land to black and female South Africans. These elements of land reform policy are envisioned to pull together to ensure the transfer of land to blacks.

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Chapter 5

The Post-Apartheid South African Governments' Land Reform Policy

Implementation; Institutions and Procedures

In the previous chapter we reviewed the post-apartheid South African governments' land reform policy formulation and adoption. The last stage of the public policy-making process relevant to the post-apartheid South African governments' land reform policy is the land reform policy implementation. This is the focus of this chapter. We will define public policy implementation and subsequently focus specifically upon;

- 1) land redistribution implementation,
- 2) land restitution implementation, and
- 3) land tenure reform implementation.

In Chapter 2 we took a structuralist approach. By this we meant that the institutions are the defining feature of society. We take the same approach in this chapter. We will attempt to analyse the institutions that the post-apartheid South African governments have established to carry out land reform.

Policy implementation may be defined as or refers to the actual administration or application of the policy to its targets. For Cameron (1996, p. 237) and Levine, Peters and Thompson (1990, p. 86) financial and human resources and the procedures are required for the implementation of policy.

Policy can be evaluated in order to determine the policy's actual accomplishments, consequences, or shortcomings. Evaluation of the land reform policy is not the primary concern

of this chapter. However, some examples will be given to show how land reform programmes are carried out.

1. Land redistribution **implementation**

The *Reconstruction and Development Programme* (RDP), the *White Paper on South African Land Policy*, and the *Land Redistribution for Agricultural Development* (LRAD) are the programmes of land redistribution. The former two frameworks aim to redistribute land to the poor, labour tenants, farm workers and emerging black farmers as land redistribution so intends. The latter programme outlines procedures about how to enable emerging black farmers to access land for commercial purposes. Like all the other elements of the post-apartheid South African governments' land reform policy, the land redistribution is implemented by all the three levels of government. These are; the national, the provincial and the local levels of government.

While all administer land matters, most of the administration work has been assigned to the minister of agriculture and land affairs (*White Paper on South African Land Policy*, 1997). We see that administration of the redistribution of land is the responsibility of government. This is how the government regulates land reform. The post-apartheid South African government's land redistribution programme is aimed at transferring landownership rights to the South African citizens as individuals. Government regulation and the transfer of landownership rights are a neo-liberal practice.

The objectives of the land redistribution programme are:

- 1) strengthening property rights of communities already occupying land,
- 2) combining market and non-market mechanisms to provide land, and
- 3) using vacant government-owned land.

Non-market mechanisms include expropriation of land by the government. These mechanisms will be employed where applicable. Where land is expropriated landowners will receive

compensation for that land. The land redistribution programme aimed to redistribute 30 per cent of agricultural land within the first five post-apartheid years and to target women for ownership as a priority (*RDP*, 1994).

The RDP attempted to integrate development, reconstruction, redistribution and recommendation into a unified programme (Cameron, 1996, p. 231). The post-apartheid South African governments encouraged farm workers who seek settlement to apply as a group for assistance to buy land (*White Paper on South African Land Policy*, 1997). What is important here is that the post-apartheid South African government encourages communal or shared ownership of land by farm workers. Shared landownership rights are private property ownership rights. Such rights are advocated by neo-liberalism.

When government applies market principles to land reform, it manifests neo-liberalism according to which government should regulate the economy without taking full responsibility of directly transferring land from one landowner to another. Again when government follows non-market principles and administers land, social democracy is manifested. When government enters into partnerships with the private sector to redistribute land or facilitates the redistribution through mediation neo-liberalism is manifested as well. We shall analyse these questions later in Chapter 6.

As a procedure, the government redistributes land in accordance with the willing seller-willing buyer principle. However, where these principles are not applicable the government has the power to expropriate land in accordance with the Bill of Rights. The Bill of Rights recognises that the public interest is served by rectifying an injustice of the past. That is the compelling reason for its commitment to land reform (*White Paper on South African Land Policy*, 1997). When white farmers put artificially high prices on their land, government will expropriate the land. Such farmers will receive a compensation that is at the level of the fair market price. Thus,

government will assist in the purchase of land. However, it will in general not buy or own the land that is being redistributed. “Rather it will make land acquisition grants available and will support and finance the required planning process”. These grants are also accessible to individuals who need to acquire land. The very *White Paper on South African Land Policy* (1997) holds that land will be expropriated when voluntary market transactions are unable to redistribute it.

The African National Congress, the ruling political party in the Republic of South Africa (RSA) within the period under study, has a position on the issue of the willing seller-willing buyer approach. Its secretary-general is reported by Molefe (2005, p. 21) to have said that the willing seller-willing buyer approach does not redistribute land to the landless. In this report the position of the South African farmers’ organisations such as the Agri-SA and the Transvaal Agricultural Union is that the willing seller-willing buyer approach should not be scrapped. However these organisations do not say whether or not they agree that the willing seller-willing buyer approach is effective in the transfer of land to the landless.

The LRAD programme is another programme for land redistribution. The LRAD forms part of the *Integrated Land Redistribution and Agricultural Development Programme* administered by the Ministry of Agriculture and Land Affairs in 2001. For the Ministry of Agriculture and Land Affairs (2001) LRAD, a sub-programme of the larger land redistribution programme, aims to make land available to people for agricultural purposes. This policy has two parts. Part one is about the transfer of agricultural land to individuals and groups. The other part is about commonage projects which are aimed at improving people’s access to municipal and tribal land mainly for grazing purposes. The beneficiaries of this sub-programme include historically disadvantaged rural people, particularly women and young people who live in rural

areas. Both these parts of the LRAD deal with agricultural land redistribution. “LRAD is designed to provide grants to black South African citizens to access land specifically for agricultural purposes”. LRAD’s aim is to ensure that not less than one third of the transferred land resources accrues to women.

According to Khanya College (2000, pp. 54-59) the LRAD also aims to assist labour tenants and farm workers in buying land for the purpose of working on it. The programme also covers the claimants of restitution who choose to receive land and want to farm. It thus has implications for restitution and tenure reform. A comparison of the land redistribution programme between 1994 and 1999, on the one hand, and the same programme between 1999 and 2004, on the other, shows different aims of the government. In the former period the programme was directed at the landless poor and women in general for the acquisition of land. Within the latter period the programme sought to establish commercial black farms. In this period the LRAD made “no reference to the importance of gender equity in its implementation”. Between 1994 and 1999 there appears to be the struggle between neo-liberalism and liberal feminism. The post-apartheid South African government sought to redistribute land to both male and female landless citizens. Between 1999 and 2004 the ideological struggle between neo-liberalism and liberal feminism appeared to cease within the LRAD. Neo-liberalism appeared to emerge dominant. Land could only be redistributed to private individuals.

The “main aim” of this programme is to “facilitate the transfer of agricultural land to landless people who have the resources and experience to become commercial farmers”. This programme assists black farmers who have already demonstrated a capacity to be successful (de Villiers, 2003, p. 50- 72; Thwala 2003, p. 1). This programme aims to stimulate development and encourage commercial farming by African farmers (South African Human Rights Commission, 2002, p. 68). Interestingly the LRAD is the only redistribution programme (South African

Human Rights Commission, 2002, p. 83). Thwala's (2003, p. 17) final analysis of LRAD is that it is merely de-racialising commercial agriculture. For Khanya College (2000, p. 47) the LRAD's role is to ensure that the racially skewed distribution of land in the post-apartheid RSA is changed for equitable and just land redistribution in favour of blacks.

According to Mbongwa and Thomas (2005, p. 4), the Directors General of Agriculture and Land Affairs, respectively, LRAD is the "main" redistribution programme. It "uses market purchases rather than state acquisition as the transfer mechanism". It is flexible and accommodates a range of different beneficiaries. The South African Human Rights Commission (2002, p. 83) and Thwala (2003, p. 12) hold that the redistribution programme enables implementation of land to be based upon the principles of the "willing-seller, willing-buyer" approach. This is a market-based approach for the redistribution of land. The Centre for Development and Enterprise (2005, p. 12) holds the position that the LRAD has "shifted the emphasis of redistribution away from settlement and towards sustainable agriculture" by using state grants and commercial loans as the means of financial support. Moreover it appears to the Centre that the LRAD grant is easily accessible to those seeking land for subsistence rather than commercial activities.

2. Land restitution **implementation**

In terms of the *White Paper on South African Land Policy* (1997) the Land Claims Court and the Land Claims Commission are responsible for the implementation of land restitution. These institutions are established by the *Restitution of Land Rights Act* (No. 22 of 1994). They regulate land restitution. Claim-based restitution means that individuals or communities have to make a claim to a particular piece of land so that the claim can be processed and probably settled.

As part of the procedures to be followed, the following additional options of restitution have been outlined in the *White Paper on South African Land Policy* (1997);

- 1) alternative relief including a package containing a combination of the above, sharing of land, or special budgetary assistance such as services and infrastructure development where claimants live, and
- 2) priority access to state resources in the allocation and the development of housing and land in the appropriate development programme.

However, as far as the post-apartheid South African government is concerned preference must be given to land restoration. There are measures that govern claims. Some of these measures will be considered next.

An individual, a group or community can lodge a claim. This means that claims can represent different numbers of people. Some claims may therefore represent as many as 8, 000 people, while in other cases a single person may lodge a claim (de Villiers, 2003, p. 65). Rural claims represent far more people than urban ones. The Department of Land Affairs is working on a ratio of 80:20 in favour of urban areas. This means that urban claims constitute 80 percent and the rural claims constitute 20 percent of the total land claims. Even though the ratio favours urban claims, more than 80 per cent of the total allocated land and funds released for land go to claimants that are from rural areas. The total number of people involved in land claims tends to be higher in rural areas since one community's claim may be made on behalf of more than 100 people. Whereas in many urban cases each individual is recorded as an independent individual claimant. Moreover, most of the restored land tends to be for rural claimants. About 9000 rural claims involve millions of people (South African Human Rights Commission 2002, p. 78; Centre for Development and Enterprise, 2005, pp. 11-13). That this rural/urban claim disparity has ideological implications shall be seen in Chapter 6.

An example can be given as to the disparity of rural and urban claims. For Gwanya, Acting Chief Land Claims Commissioner, in the Commission on Restitution of Land Rights (2003, p. 5);

A rural claim such as Mbila community at Umkhanyakude in KwaZulu Natal counts as one claim on the database but involves more than 1000 households and 43 000 hectares of land. Cato Manor is an urban claim in Durban that involved 5613 individual claimants, which counted as such on the Commission's database, although it transferred less than 50 hectares to the claimants. As in most urban claims the bulk of the Cato Manor restitution awarded was for financial compensation.

The post-apartheid South African government encourages group claims in both rural and urban areas. Claimants are encouraged to form groups for each town, suburb or former group in order to jointly submit and/or negotiate the settlement of their claims. According to Khanya College (2000, p. 28) the post-apartheid South African government encourages claimants in the same area to come together and lodge their claim as a group. As part of achieving this, the Chief Land Claims Commissioner has the power to direct that certain claims be investigated together. This approach is emphasised even more with respect to claims in urban areas.

Land restitution implementation had targets. These targets are for a three-year period for lodging claims beginning on May 1, 1995. There is a five-year period for claims submitted through the Land Claims Commission, and there is a ten-year period for the implementation of all Land Claims Court orders (*White Paper on South African Land Policy*, 1997).

Another measure is the procedure followed when land is claimed as outlined by Khanya College (2000, p. 31). After a land claim has been lodged with the Land Claims Court (LCC), the land claims commissioner publishes the claim in the Government Gazette or lodges the claim with the LCC that will issue an order to the landowner. Afterwards the commissioner must inform the present landowner that a claim exists. After he or she has been informed about the claim, the landowner may not make alterations to or sell the land without the permission of the

Land Claims Commission. In cases where the claimant lives on the land, the landowner cannot evict the claimant. In terms of the *Restitution of Land Rights Act* (No. 22 of 1994) all cases handled by the Land Claims Commission must be referred to the LCC for an order on the land being claimed. de Villiers (2003, p. 60) explained the procedure as follows:

No person may sell, exchange, lease, rezone or develop land without having given the regional land claims commissioner one month's written notice of the intention to do so. The commissioner is empowered to obtain an injunction/interdict prohibiting the sale, exchange, lease, subdivision or development of land or the removal of an improvement if it believes that such an act may be prejudicial to the objectives of the Act. If such notice has not been given, the LCC may grant any order it sees fit. The (*Restitution of Land Rights Act*) provides that no claimant may enter on to or occupy the land claimed without the permission of the owner (parenthesis added).

As part of the land restitution implementation phase, the government through the Department of Land Affairs (DLA) assists the land claimants with its Land Reform Credit Facility, a credit agency owned by the Department of Trade and Industry. The government established farm worker equity schemes that enable workers to buy a stake in the land they are farming (de Villiers, 2003, p. 73).

3. Land tenure reform **implementation**

In this section the programmes – the institutional means by which policies are carried out – of land tenure reform, will be discussed. The *White Paper on South African Land Policy* (1997) identifies the Commission on Restitution of Land Rights as an institution that implements a programme of land tenure reform with the support of the national government to ensure an equitable distribution of land. It must be remembered that tenure reform is part of land redistribution.

It is not clear from a statement made by Thoko Didiza, minister of agriculture and land affairs, whether or not there is a tenure reform programme in place. For Didiza a tenure reform program has been put in place. She has said that;

Our tenure reform program has also facilitated mining developments that have taken place in a number of communal areas. In the first instance our responsibility in this regard has been to ensure that communities are aware of the developments that will take place in their locality. . . . The tenure reform program in the past year has also seen the completion of the upgrading of settlements in peri-urban communities into fully fledged townships. (Department of Land Affairs, 2003, 10)

What politicians say may not lead to a clear understanding of land reform policy. This is because politicians' interpretations may differ. These different interpretations have prompted the Centre for Development and Enterprise (2005, p. 8) to write that "the language used by some government politicians and officials often differs from policy and its implications, with reference to 'landlessness' and the use of land to 'push back the frontiers of poverty' not being uncommon". Therefore the interpretations of politicians and government officials will not be afforded any substantial credibility in this study. In arguing that there might not be a tenure reform program that has been put in place, the Centre for Development and Enterprise (2005, p. 12) has advanced the following position;

Senior (Department of Land Affairs) officials believe that (the Extension of Security of Tenure Act) has caused a significant increase in the illegal evictions of farm labourers by farmers reluctant to grant them the new rights of tenure. The department does not have the personnel or resources to ensure that (the Extension of Security of Tenure Act) is effectively communicated and enforced, and neither do the justice and policing systems (parentheses added).

The conclusion that the Centre for Development and Enterprise (2005, p. 12) draws is that the government has not focused attention on tenure insecurity in urban and peri-urban areas. This study is not primarily about the effectiveness of the land reform programme. We are not interested in whether illegal evictions of farm labourers have been brought to book or stopped or

the extent to which that has been achieved. The question that concerns us is what the tenure reform programme entails. It appears tenure reform programme affords communities secure tenure rights. This is what the land tenure reform implementation entails. Then we question whether farm workers and eligible communities are afforded secure tenure rights. This is a productive question. One example is enough to throw some light on whether a tenure reform programme exists or not. We consider a case in our vicinity. In the Limpopo province the Manavhela community of 600 households got their land restored to them by title in April 2002 (Commission on Restitution of Land Rights, 2003, p. 14). As of the aforementioned date this community secured tenure rights. This case indicates that land tenure reform programmes exist as it is envisioned by the post-apartheid South African governments in their land reform policy.

In Chapter 4 the land reform policy framework of all the three elements of the land reform policy were reviewed. All the acts of parliament that give effect to all the three elements of the land reform policy were also reviewed. We have just reviewed the programmes of each of the three elements of the land reform policy. Nevertheless, an important question of who implements the land reform policy is still to be answered. From our research it appears that the implementation of the land redistribution, restitution and tenure reform programmes is largely the responsibility of the government. It is the regulation of the transfer of landownership rights that the post-apartheid South African government has embarked upon. However, one of the institutional arrangements the *White Paper on South African Land Policy* (1997) sets out is that the government, where appropriate, must enter into partnerships with the private sector, Non-Governmental Organisations (NGO's) and Community-Based Organisations (CBO's). The government aims to facilitate this cooperation through implementation mechanisms and procedures.

Recent land reform policy developments also deserve our attention. Foreign ownership of South African land is an issue of recent concern. For the Centre for Development and Enterprise (2005, p. 8) the question of foreign ownership of South African land is an issue on the national agenda. However, a government-appointed commission was set up to investigate the issue of foreign land ownership, and public hearings were held in December 2004. There is no policy yet.

4. Conclusion

We saw that the post-apartheid South African governments have taken the responsibility to transfer land to the poor and landless citizens through the land redistribution implementation programme. These governments have established the Land Claims Court and the Land Claims Commission as the institutions responsible for the implementation of land restitution. Regulatory land reform procedures have been put in place by these governments. The Commission on Restitution of Land Rights has afforded communities landownership rights as part of the land tenure reform implementation programme. Neo-liberalism appeared to influence the post-apartheid South African governments' land reform policy implementation. We need to analyse the ideological implications of the post-apartheid South African governments' land reform policy formulation, adoption, and implementation. This is the domain of Chapter six where the final analysis is made.

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Chapter 6

Analysis and Conclusions

In Chapter two we reviewed the literature - secondary sources - and the ideologies that are relevant to land reform within the context of post-apartheid Republic of South Africa (RSA). Chapters four and five discussed the land reform policy formulation, adoption and the land reform policy implementation, of the post-apartheid RSA, respectively. In this chapter we analyse the ideological implications of the land reform policy as an attempt is made to answer the research question - which is to determine which ideology influenced the land reform policy formulation, adoption and implementation of post-apartheid RSA. We hypothesised that neo-liberalism may be the dominant ideology within the post-apartheid South African governments' land reform policy.

We will analyse; 1) the land redistribution formulation, adoption and implementation, 2) the land restitution formulation, adoption and implementation, and 3) the land tenure reform formulation, adoption and implementation. Overarching conclusions about the ideological implications of the post-apartheid South African governments' land reform policy are drawn in this chapter.

Generally, the post-apartheid South African governments' land reform policy intends to transfer land from white to black citizens. This is a transfer of wealth. We have to be critical in order to understand this transfer of land and the ideology that influenced it.

As long as land, the essential means of production, is not redistributed, there is no transfer of ownership of land from which wealth can be generated. Rodney (1972, p. 241) stated "a country's wealth comes not from taxes but from production". The farms that the post-apartheid

South African governments intend to redistribute to its black citizens are the means of production. An analysis of the land redistribution that the post-apartheid South African governments have embarked upon will be made.

Land redistribution

Land redistribution is an element of the post-apartheid South African governments' land reform policy that intends to afford its male and female landless and poor citizens landownership rights. In this element, we will determine which ideology dominated the land redistribution formulation, adoption and implementation. We begin with the land redistribution formulation.

Land redistribution formulation

The *Freedom Charter* of 1955, The *Reconstruction and Development Programme* (RDP) of 1994, the *Growth, Employment and Redistribution* (GEAR) of 1996, the *White Paper on South African Land Policy* of 1997 and the *Agriculture Black Economic Empowerment* (AgriBEE) of 2004 form the land redistribution framework. We reiterate some of the important points in these documents that were highlighted in Chapter four. The ideological direction of the *Freedom Charter* is not clear. But, it appears the Charter intends to redistribute land to farm workers. It is ambiguous as to whether these farm workers would own land as individuals or as a labouring social class. It is, therefore, difficult to say whether the Charter is neo-liberal or socialist especially since the Freedom Charter was not a government document until 1994. The RDP also lacks clear ideological direction. Mandela in the RDP (1994) stated that "we are building on the tradition of the Freedom Charter". Yet the RDP stated that it would redistribute a substantial amount of land to the landless citizens. An argument cannot be based upon documents that lack clear ideological implications.

Land redistribution formulation aims to transfer land ownership rights to labour tenants, farm workers, black commercial farmers, the landless and the poor. The post-apartheid South African government makes money available to help these persons to purchase land. This is government involvement in and regulation of the transfer of landownership. However this involvement has limitations. The government does not expropriate the land that is supposed to be redistributed. This is one limitation. The government could only expropriate land for public good. The government encourages farmers to sell “their” farms. It intends to mediate in land disputes where the landowner intends not to sell “his or her” land to the landless. The individual farmers have rights to the land they own and the government has no right to interfere with that right unless for the public good. In land redistribution formulation of the post-apartheid South African governments’ land reform policy neo-liberalism appears to be clearly influential.

The government also encourages the labour tenants, farm workers and new black commercial farmers to form groups in order to purchase land. These are partnerships that private individuals enter into. “Groups” does not necessarily mean communities. As it encourages these “new” owners of land, government does not compel them. Individuals form groups voluntarily. This is the freedom that neo-liberals advocate, as stated in Chapter two (2). The “new” landowners can own the purchased land individually. An important point about encouraging group landownership rights is that individuals are enabled to share landownership. So far neo-liberal principles and practices are clearly conspicuous within the land redistribution of the post-apartheid South African governments’ land reform policy.

Privatisation and government regulation of land that the GEAR policy advocates are neo-liberal. GEAR is a neo-liberal document in all aspects. *AgriBEE* is the remaining leg of the land redistribution framework. It appears that there is a socialist implication within the *AgriBEE*, the land redistribution framework of the post-apartheid South African government.

The *AgriBEE* framework commits the established agricultural industry to ensuring that farm workers own a minimum of ten (10) per cent of “farm-level enterprises” by 2008 (Centre for Development and Enterprise, 2005, p. 9). This percentage falls far too short of at least 50 per cent of the production enterprises that the proletariat should own in order to be able to dictate to the bourgeoisie. It is not possible for the proletariat to be able dictate to the bourgeoisie while owning only ten per cent of productive wealth. Socialism has, therefore, not influenced the land redistribution policy formulation. Communism appears to be out of the question.

The post-apartheid South African government carries out land-related laws. This is a capitalist practice by the post-apartheid South African government. Representative government is a capitalist institution (Kadali, 2000, pp. 10-25). There appears to be no intention on the part of the post-apartheid South African government to relinquish the administration of land reform within the RSA as a state. Such an intention is not reflected at least within the period 1994 to 2004.

An analyses of the pieces of legislation that give effect to the land redistribution will follow. These pieces of legislation make up the land redistribution adoption.

Land redistribution adoption

The adoption of the land redistribution is clear about who the government aims to assist financially to acquire land. The *Constitution of the Republic of South Africa*, Act 108 of 1996, enables the landless citizens to access land. The land redistribution adoption section also ensures that the land tenure rights of people who occupy the land that belongs to someone else, are secure. The *Provision of Land and Assistance Act* (No. 126 of 1993) specifies that the minister of agriculture and land affairs may acquire land for an individual. Private landownership is a neo-liberal principle. The *Land Reform (Labour Tenants) Act* (No. 3 of 1996) allows individual

labour tenants to occupy and use the land which either they or their family members occupied. This is also a neo-liberal principle. These acts also outline the procedure for the implementation of the land redistribution.

Land redistribution implementation

The *Reconstruction and Development Programme* (RDP) of 1994 and the *Land Redistribution for Agricultural Development* (LRAD) of 2001 constitute the land redistribution implementation. The national, provincial and local levels of the post-apartheid South African government are involved in funding emerging individual black farmers, “new” occupiers of land, and communities. Individual South African citizens and members of communities are afforded land ownership rights. Government-owned land is also redistributed to community members. All of these practices and activities are neo-liberal influences and thus it may be concluded that the land redistribution implementation has a dominant neo liberalist influence.

The post-apartheid South African governments have the right to expropriate land. Expropriation of land is carried out when owners of land put higher prices on or do not sell “their” land. The government expropriates land in order to redistribute it to individual citizens. This is also a neo-liberal practice.

A specific analyses of the LRAD reveals that through part one (of the LRAD), the government aims to redistribute land to commercial black farmers and women as individuals or as groups. Commercial black farmers include labour tenants and farm workers. LRAD aims to redistribute at least one per cent of land to women as individuals. Through part two of the LRAD, government aims to make grazing land accessible to rural people. Through this part of the LRAD, the government does not actually transfer land. It just allows rural people to graze their livestock.

The ideology that can be recognized in this programme is neo-liberalism as the government aims to achieve private property ownership. A redistribution of one per cent of land to women may be seen as one step towards increasing women's ownership of land. However, this percentage falls far too short of the equal distribution of resources that feminists aim for. As women constitute roughly 50 per cent of South African society, an equal distribution of land can only mean 50 per cent share of land. The individuals, communities and women that are covered by the land redistribution are the ones that are landless (Ministry of Agriculture and Land Affairs, 2001). It does not address those that have been dispossessed. But that will be addressed in the land restitution section.

Thus far in the land redistribution section we may conclude that neo-liberal tendencies appear to be the dominant ideological influence.

Land restitution

Land restitution is an element of the post-apartheid South African governments' land reform policy that ensures that those citizens who were dispossessed of their land either get their land back, or get alternative land or get financial compensation where they cannot own their land. In this element we analyse the ideological implications of the land restitution formulation, adoption and implementation. We begin with the land restitution formulation.

Land restitution formulation

Land restitution aims at restoring land or offering financial compensation to the individuals and communities that have been dispossessed of land. The *White Paper on South African Land Policy* is clear on this point as has been seen in Chapter four (4). In land restitution

formulation we also recognize the neo-liberal principle of private landownership. Individual community members are afforded shared landownership rights. The government also makes money available to compensate the landowner who is to lose “his or her” land. A transfer of land to the dispossessed members of South African society is effected by acts of parliaments. There are ideological principles that can be recognised within these acts.

Land restitution adoption

Both the *Interim Constitution* and the *Constitution of the Republic of South Africa, Act 108 of 1996*, allow the individual and the community to claim land that has been dispossessed. The *Restitution of Land Rights Act* (No. 22 of 1994) outlines the options that are available for the settlement of a land claim. The post-apartheid South African governments prefer restoration of land as one option or the provision of alternative land as another option. These options aim at a transfer of ownership of land to either an individual or a community. A third option is financial compensation made by government to land claimants whose land cannot be transferred to them. This option does not transfer land to “new” owners. The ideological implications of the land restitution adoption are important for this study. A neo-liberal principle of private land ownership is conspicuous in these acts as individuals who have been dispossessed of land are enabled to own the land privately. Communal land ownership is a neo-liberal implication to the extent that individual community members share landownership.

Restitution also involves expropriation of land. This is possible under the *Restitution of Land Rights Amendment Act* (No. 48 of 2003). Expropriation of land may appear to be nationalisation or government ownership, because the post-apartheid South African government has a temporary control over the land it expropriated until that land is transferred to “new”

owners. This may appear to be a social democratic practice. However, it is not as the post-apartheid South African does not intend to manage the expropriated land. It intends to transfer the expropriated land to private individuals. Thus the land claim would be settled. The land restitution adoption also appears to have clear neo-liberal implications.

Land restitution implementation

We already know that the Land Claims Court and the Land Claims Commission are responsible for the implementation of land restitution. What is not clear is who should own land through the land restitution implementation- will it be the citizens as individuals or as communities or will it be the government; and will women be enabled to own land?

Answers to these questions, require that we bear in mind that restitution is based upon claim and that a settlement of a claim, in accordance with land restitution, comes in three forms, namely; 1) restoring land rights to the claimant person or community, 2) affording the claimant person or community an alternative land, or 3) making a financial payment to the claimant person or community. The latter two forms of land claim settlement will leave landownership rights to the land that has been claimed in the hands of the white owners of land. In other words, there will be no transfer of land ownership rights to black people who were dispossessed of land. In this instance the willing seller-willing buyer approach does not exist because no land is bought. If land was to be bought the owner would have a choice either or not to sell the land he or she owns. The neo-liberal implication in the first two forms of land restitution is that the landownership is transferred to the private individual.

We have seen in Chapter four (4) that rural or community land claims dominate the total land claims. It must be re-emphasised that a market principle of the willing seller-willing buyer does not apply in land restitution and land tenure reform. The government uses a willing seller-

willing buyer approach to land redistribution. However, according to Khanya College (2000, p. 60) the government “will only expropriate land as the last resort, but will have to pay compensation based on amongst others, the current market value”. The government would transfer land despite the owner’s willingness to sell “their” land. The government has the right in terms of the *Restitution of Land Rights Amendment Act* (No. 48 of 2003) to purchase, acquire or expropriate land or a right to land for the purpose of restoring or awarding the land that has been claimed.

An option of land claims settlement such as an alternative relief, which includes sharing of land, affords the dispossessed individuals and communities ownership of land. As has already been noted, one rural claim may represent as many as 8 000 persons. This means that many South Africans have been dispossessed of land as communities rather than as individuals. Therefore a community can rightly claim a land of which it has been dispossessed. In other words if an individual claims such land for himself or herself the claim will not be valid. However an individual can rightly claim a land of which he or she has been dispossessed as an individual. Neo-liberalism appears to have influenced the land restitution implementation.

Women are allowed to head communities that acquire the land of which they were dispossessed. The fact remains that the post-apartheid South African government intends to transfer such land to the community, rather than the women in question. Still neo-liberalism is influential in this instance. Feminism is less influential in this instance. There is no community of women recognised in the land restitution of the post-apartheid RSA. This further diminished a chance for feminist influence within the land restitution. In Land restitution too, we may conclude that neo liberalism appears to be the dominant influence.

Land tenure reform

Land tenure reform is the third element of the post-apartheid South African governments' land reform policy that affords South African communities secure land tenure rights. In this element of land reform policy, we analyse the ideological implications of the land tenure reform formulation, adoption and implementation. We begin with the land tenure reform formulation.

Land tenure reform formulation

We have already mentioned in Chapter four (4) that the aim of the land tenure reform formulation is to ensure that labour tenants and farm workers have secure tenure rights where they live. The *Reconstruction and Development Programme* (RDP) of 1994 and the *White Paper on South African Land Policy* of 1997 are clear on this point. We also mentioned that land tenure reform is part of the land redistribution as is communal land tenure. Community members are afforded shared rights to land. This is a response to the actions of some chiefs, ex-homeland officials and politicians, who illegally brought communal land under their respective individual control. In this regard the post-apartheid South African governments ensure that the members of communities as individuals own the land and have secure tenure rights. Ensuring secure tenure rights for labour tenants and farm workers and encouraging these groups to claim land as groups can only mean one thing, and that is, the landownership rights that will be acquired will be shared by members of these groups. Besides, this takes place within communal or former homeland areas. This is communalisation of land. Such action manifests the ideology of neo-liberalism and thus neo-liberalism again appears influential within the land tenure reform formulation.

Land tenure reform adoption

The *Interim Constitution* and the *Constitution of the Republic of South Africa*, Act 108 of 1996, enable individuals and communities to have legally secure land tenure rights. The *Provision of Land and Assistance Act* (No. 126 of 1993) aims to secure individual rights of land ownership. Under the *Provision of Certain Land for Settlement Amendment Act* (No. 26 of 1998) the post-apartheid South African government acquires land. The landless are settled on this land and have secure land tenure rights. The *Land Reform (Labour Tenants) Act* (No. 3 of 1996) provides for eviction of labour tenants that is legal only when the Land Claims Court has approved of it. This means that labour tenants have the right to remain on the land that “belongs” to someone else unless the Land Claims Court orders eviction of such labour tenants. Under this Act labour tenants may apply to become owners of the land on which they live, that is, where they are without secure land tenure rights. Once such an application is made the government encourages the landowner to sell such land to the applicants. Once the landowner agrees he or she will be financially compensated for the land that has been redistributed to applicants who will have shared landownership rights. Government money will be used for such compensation. In this instance neo-liberalism is still influential as land ownership is transferred to individuals.

As has already been mentioned the *Communal Property Association Act* (No. 28 of 1996) enables communities to form associations so as to acquire and own land as communities following their own written constitutions. Even private companies with shareholders have written constitutions in which shared ownership is protected. This is a neo-liberal practice.

The *Interim Protection of Informal Land Rights Act* (No. 31 of 1996) provides for individual as well as communal land ownership rights. However where land is held on a communal basis, an individual may be deprived of such land. Even though individual property

ownership is enabled, this ownership can be invalidated by communal custom and usage where a community owns land. This Act also enables the government to transfer its land to communities. In this particular case the post-apartheid South African governments ensure that the members of the community, rather than a single individual, own the land. And thus similar to a private company with shareholders shared ownership is protected which again emphasises neo-liberal tendencies.

The *Extension of Security of Tenure Act* (No. 62 of 1997), like the *Land Reform (Labour Tenants) Act* (No. 3 of 1996), ensures security of land tenure for people who occupy the land they do not own. This Act also regulates eviction of such people. These people might be the individuals or communities. Similarly, under the *Prevention of Illegal Evictions and Unlawful Occupation of Land Act* (No. 19 of 1998) unlawful eviction of people who occupy land is prohibited. This Act also provides for the procedures that must be followed for one to evict people who occupy land unlawfully. The *Communal Land Rights Act* (No. 11 of 2004) allows both an individual and a community to have a legally secure land tenure. An individual and a community whose tenure is insecure are afforded comparable redress.

In the land tenure reform adoption the neo-liberal principles have been recognised. The neo-liberal principles of private landownership are also evident in the post-apartheid South African governments' intention to afford individuals shared rights to land. In the final analysis neo-liberalism influenced the land tenure reform adoption. We turn to the land reform implementation.

Land tenure reform implementation

As part of the land redistribution, land tenure reform aims to redistribute land to individuals and communities who do not have either land or secure land rights. The Commission on Restitution of Land Rights implements land tenure reform. Upgrading of settlements in peri-urban communities into fully-fledged townships is part of the land tenure reform implementation. Neo-liberalism has had an influence upon land tenure reform implementation as secure landownership rights are afforded to individual peri-urban community members whose rights to land are not secure.

Even though individual land ownership rights are secured, the preference of the post-apartheid RSA is to secure shared rights to land. Dispossession largely affected communities under group areas relocation. For example in KwaNdebele more than 100 000 Sotho people were forced to move from their places (Khanya College, 2000, p. 17). A national land reform programme aims to address effectively the injustices of forced removals and the historical denial of access to land (*Reconstruction and Development Programme*, 1994). From this example one can understand that land reform will require that members of a community claim as a group, otherwise their land claim will not be valid. The reason for this is that a single individual cannot claim the land of which a community was dispossessed. The land in question belongs to the community.

In the final analysis it appears neo-liberalism has influenced all the three elements of the post-apartheid South African governments' land reform policy.

Conclusion

We saw that neo-liberalism influenced the land **redistribution** formulation, adoption and implementation as well as the land **restitution** formulation, adoption and implementation. It also influenced the land **tenure reform** formulation, adoption and implementation. The only overarching conclusion that can be drawn is that neo-liberalism has influenced the land reform policy of the post-apartheid South African governments.

Some additional information with regard to the post-apartheid South African governments' land reform policy will be provided in an attempt to further elucidate upon the intentions of the post-apartheid South African governments' land reform policy, and secondly, which ideology should have influenced the post-apartheid South African governments' land reform policy, given the aspirations of the freedom struggle. We will elaborate upon the answers to these questions in the next chapter.

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Chapter 7

The Rationale for the Post-Apartheid South African Governments' Land

Reform Policy and the Recommendations

In this chapter we will outline the rationale for the land reform policy of the post-apartheid South African government. In the end, we will make some recommendations as to what the South African government should do in order to have an effective land reform policy that will eradicate the social ills, such as the unequal distribution of land, poverty and unemployment, that liberal policies create.

The rationale for the land reform policy

There are naturally reasons why the post-apartheid South African governments' land reform policy was formulated, adopted and implemented.

According to Thwala (2003) the *Freedom Charter* of 1955 promised to reverse the apartheid landscape which had put 87% of land in the hands of 60, 000 white farmers and the state, while millions of black people eked out a living in overcrowded conditions. However, the post-apartheid South African governments do not intend to nationalise land as the *Freedom Charter* appears to have intended (Khanya College, 2000, p. 17).

In terms of the *White Paper on South African Land Policy* (1997), the primary reason for the government's land reform measures is to address the injustices of apartheid and to alleviate the impoverishment and suffering that discriminatory land policy caused. The primary focus of land reform is the historically disadvantaged, that is, those who have been denied access to land and have been disinherited. Section 25 (8) of the 1996 *Constitution of the Republic of South*

Africa states that the state shall undertake land reform in order to redress the “results of past racial discrimination”. The *White Paper on South African Land Policy* was introduced in an attempt to undo the legacy of colonialism and apartheid that has left the black majority landless (Khanya College, 2000, p. 21). Didiza, minister of agriculture and land affairs, wrote in the *AgriBEE* document that *AgriBEE* is a means to redress imbalances caused by past injustices. *AgriBEE* seeks to redress the historical injustices and empower the historically disadvantaged South Africans in the agricultural sector and also aims to ensure that these South Africans own land (Department of Agriculture, 2004, pp. 2-7) and so forth.

There is no question that a new land policy was essential to realise reconstruction and development. But there was a sobering realisation that it would come at a cost. Thus, according to the President of the Republic of South Africa (RSA), Thabo Mbeki (2005), “the struggle for freedom from white minority domination had its price, so will our efforts to achieve non-racism and national reconciliation have their price”. With regard to land, then, Mbeki’s statement seems to infer that white South Africans will lose land to blacks South Africans. This would have to be the case to achieve racial justice, equity and righting of past wrongs etc.

The mission of the Department of Land Affairs (2003, p. 15) appears to be to “provide access to land and to extend rights to land, with particular emphasis on the previously disadvantaged communities, within a well-planned environment” according to the constitution. Yet, while on paper the land reform policy provides for “historical redress for centuries of settler dispossession” so does the implementation of the land reform programme fail to address the injustices of racially based land dispossession of the past due to cost and rights of current owners.

According to de Villiers (2003, p. 55) the Land Claims Court considers a variety of matters when making a decision. Such matters are the desirability of compensating people who have been dispossessed and rectifying past human rights violations, the requirements of equity

and justice, and the avoidance of major social disruption. It is in the balance of avoiding social and economic disruption, especially in the market and the achievement of equity and social justice that the government's intentions become flawed. Government and the African National Congress (ANC) may have wanted to be social democratic to ensure equal distribution and racial justice but they could not because redistribution along the principles of equity and justice do not coincide with market principles of competition, individualism, profit and so forth. And even though it has set targets about the quantity of land that should be transferred by a particular period in time, government does not have the money to accomplish its own targets.

Besides such an achievement would be social democratic and would require government to take and own land in order to redistribute it equitably. Such action may then cause dissatisfaction among white South Africans, especially white farmers who would cry foul and disrupt the economy as new 'emerging' black farmers - who through the years of being estranged from skills of managing land/agriculture etc., - may not be able to fill the void left by the exiting white farmers as is the case in neighbouring Zimbabwe.

There are many who agree with the general argument that neo-liberalism has influenced not only the land reform policy of the post-apartheid South African governments, but its overall economic policy as well. Thwala (2003, p. 19) argues that in the eight (8) years of post-apartheid government, a neo-liberal economic order has emerged which has contrary to governments rationale, continued to perpetuate the unequal economic relations of the past.

Some factors that have mitigated against the selection of another form of economy may have been the collapse of the Soviet bloc, which has been the alternative for most developing countries against western economic imperialism. Furthermore, for the "new" South Africa, whose economy and high levels of skills development have been structured in favour of a white minority that was threatening to withdraw (money and skills) from the country in fear of either

imagined or real black reprisal and revenge for years of apartheid tyranny, the choice was to avoid a collapse of the economy. The ANC which has once flirted with social democratic ideals seemed to feel pushed into engaging a market head on in view of debts and loans left by the apartheid regime.

It is accurate to state that the post-apartheid South African governments' land reform policy is dependent upon market forces. However, instead of budget cuts that the GEAR policy advocates the budget for land restitution has been increased. Increasing social spending is, however, not a neo-liberal practice. Khanya College (2000, p. 54) holds that South African agriculture has been opened up to international competition and market forces. We cannot elaborate upon this point at this stage because the question of foreign ownership of land in the RSA is still on the agenda of the South African parliament.

Khanya College (2000, p. 17) understands the *Interim Constitution* and the *Constitution of the Republic of South Africa*, Act 108 of 1996, to be less than addressing equity because they entrench the individual property clause in the Bill of Rights. For the writers on this subject from Khanya College the fact that land reform policy is market-friendly makes it neo-liberal and again entrenches some of the inequities of the past. These writers seem to advocate that government should be involved in order to achieve an economic balance for all South African citizens as they further criticise the withdrawal of the government from direct intervention and participation in the economy as affirmed by the *Growth, Employment and Redistribution* (GEAR) policy of 1996.

Land reform does not include land for mining. This land cannot be claimed. This is part of the land restitution. Section 2 (3) of the *Land Reform (Labour Tenants) Act* (No. 3 of 1996) states that "Nothing in this Act shall affect the rights of any person, other than an owner, who is entitled to mine any land in terms of the Minerals Act, 1991 (Act No. 50 of 1991), or who is the holder of mineral rights". This section clearly indicates that private mining landownership is

unchallenged. It is therefore, abundantly clear that the South African government does not envision a change in the form of the ownership of such lands. The rationale for not directly interfering in mining again appears to be one of not disturbing the economy in a very competitive global market even though the South African economy is growing.

For labour tenants to have ownership of the land on which they have lived they either need to buy the land from the landowner or work it. Allowing the landowner to sell “his or her” land voluntarily is a neo-liberal practice. In terms of Section 36 (1) of the *Land Reform (Labour Tenants) Act* (No. 3 of 1996) the government mediates between the labour tenants who seek to buy land and the landowner. This mediation is not biased in favour of the landowner. It supports the labour tenants because the government is committed to a redistribution of thirty (30) percent of agricultural land by 2014. Even in this case the government encourages labour tenants to come together and claim land as a group.

It appears the land reform policy has not been successful in the redistribution of thirty (30) percent of the agricultural land within the first five post-apartheid years, as was envisaged by the *Reconstruction and Development Programme* (1994) using strictly neo-liberalist principles. What the government should attempt in order to make the land reform policy succeed requires a critical inquiry. This will involve some additional information and a different ideological perspective.

For Rodney (1972, p. 255), the capitalist principle of individual property ownership hinders the development of the African masses. So too for Fanon (1963, pp. 119-165) productive wealth that is under the control of the few capitalists does not meet the needs of the African masses. Fanon (1965, pp. 30-130) further asserts that capitalism strengthens its political domination and its economic exploitation of the African masses. This domination distorts the relations of indigenous Africans with their own culture. Fanon emphasises these points in his

books, *Towards the African Revolution* (1967) and *Black Skin, White Masks* (1967). We cannot question the fact that capitalism created some social ills, such as unemployment, poverty and the unequal distribution of land. We have noted in Chapter 2 that unregulated individual private property ownership has created some social problems. It is not the focus of this study to advocate a revolution. The government cannot embark upon a revolution but can engage in land reform. For a quicker realisation of land reform and the eradication of the social problems associated with market driven capitalism this study recommends that the government:

1) completely abandon some market principles, such as the willing seller-willing buyer approach, in land redistribution. Affording landowners rights not to sell the land contradicts the primary post-apartheid South African governments' reasons for land reform. Some of the basic reasons for land reform are to eliminate unemployment and to eradicate poverty. Affording blacks private productive land ownership is the same as leaving productive land ownership to white South Africans because the same social problems will continue to exist. Private productive property ownership creates these problems regardless of the colour of the land owning class.

2) undertakes certain social democratic practices. The government should own, control, and administer all large productive farms. This would alleviate some of the social problems that capitalism creates. This may be the only progressive ideological option open to South African policy makers at this historical moment.

3) eliminates compensation in land restitution for the land that was dispossessed since 1913. Such compensation hinders land reform as it is financially costly on the part of the government. More than R13 Billion (depending on market fluctuation) is required for compensation. The government does not have this amount of money for land reform.

Settlement of land claims is a necessary step towards land reform. A high cost of land claim settlement hinders the transfer of landownership to blacks. Unless the post-apartheid South African government takes this position black citizens will continue to suffer the social problems that private productive land ownership creates.

Conclusion

We have seen that the post-apartheid South African governments' land reform policy was a response to the massive expropriation of black South Africans' land beginning in 1913 and continuing through the apartheid years to the 1994 non-racial election which brought the post-apartheid government to power. The intention of the post-apartheid South African governments' land reform policy is to afford individual black citizens land ownership rights. In view of the exploitation that private property ownership inflicts upon the working class and the social problems that it creates we recommended that private ownership of large farms be eliminated. Not only is this possible within South Africa, it will also reduce the severity of many of the social problems that private property ownership creates. We recommended that the post-apartheid South African government be guided by social democratic ideological principles in its land reform policy. Social democracy provides greater opportunities for the eradication of poverty through higher employment levels which is what the anti-apartheid mass struggle intended to achieve.

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