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**LAND REFORM IN SOUTH AFRICA: A  
GENERAL OVERVIEW AND CRITIQUE**

BY

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**DECLARATION OF OWN WORK**

I, Viresh Ranchod, declare that this dissertation is my original work and that all sources have been accurately reported and acknowledged, and that this document has not previously been submitted in any form to any university in order to obtain an academic qualification.



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V. Ranchod

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## ABBREVIATIONS AND ACRONYMS

<b>Agribee</b>	Agricultural Black Economic Empowerment
<b>Agri-SA</b>	Agricultural Union of South Africa
<b>AIDS</b>	Acquired Immune Deficiency Syndrome
<b>ANC</b>	African National Congress
<b>BASIS CRSP</b>	Broadening Access and Strengthening Input Market Systems Collaborative Research Support Program
<b>CASP</b>	Comprehensive Agricultural Support Programme
<b>CRLR</b>	Commission on Restitution of Land Rights
<b>DLA</b>	Department of Land Affairs
<b>DPACD</b>	Department of Provincial Affairs and Constitutional Development
<b>ESTA</b>	Extension of Security of Tenure Act 62 of 1997
<b>FAO</b>	Food and Agricultural Organisation
<b>FWES</b>	Farm worker Equity–Share Schemes
<b>GEAR</b>	Growth, Employment and Redistribution Policy
<b>HIV</b>	Human Immunodeficiency Virus
<b>HSRC</b>	Human Sciences Research Council
<b>IDASA</b>	Institute for Democracy in South Africa
<b>IFP</b>	Inkatha Freedom Party
<b>IFPRI</b>	International Food Policy Research Institute
<b>Kwanalu</b>	Kwazulu–Natal Agricultural Union
<b>LAPC</b>	Land and Agricultural Policy Centre
<b>LDC</b>	Less Developed Country
<b>LIS</b>	Land Information Systems
<b>LPM</b>	Landless People’s Movement
<b>LRAD</b>	Land Redistribution for Agricultural Development
<b>LRC</b>	Legal Resources Centre
<b>LRCF</b>	Land Reform Credit Facility
<b>NDA</b>	National Department of Agriculture
<b>NGO</b>	Non–Governmental Organisation
<b>NIE</b>	New Institutional Economics
<b>NLC</b>	National Land Committee
<b>OXFAM</b>	Oxford Committee for Famine Relief–Established during World War Two, now an International Aid Organisation
<b>PLAAS</b>	Programme for Land and Agrarian Studies, University of the Western Cape
<b>PR</b>	Property Right
<b>RDP</b>	Reconstruction and Development Programme
<b>SDI</b>	Spatial Development Initiative
<b>SLAG</b>	Settlement and Land Acquisition Grant
<b>SPP</b>	Surplus People’s Project
<b>TRC</b>	Transitional Representative Councils
<b>UNRISD</b>	United Nations Research Institute for Social Development
<b>US</b>	United States of America

## ABSTRACT

This study aims to synthesise the land reform programme in South Africa in terms of its multifaceted political and legal policy origins, arrangements and the implementation thereof, with due regard to the international lessons and experiences. The political aspects of the process are given due consideration as they are often linked to the socio-economic aspects of the land reform process. The fact is that the South African government's attempts at land reform have thus far failed to live up to expectations. This study proposes equity-sharing schemes in general and farm worker equity-share schemes in particular as viable modes of land redistribution. There is also a particular focus on the appropriate institutional environment, which is required for a successful and sustainable transfer of ownership and control. Furthermore, the government needs to provide extensive support for the rural poor who have been to a large extent rationed out from the current land reform process. Ultimately, it is conceded that for the next decade at least the targeted beneficiaries of the land reform programme in South Africa that is, "the rural poor, women, and the landless", will have to wait, as has been the case for many developing nations, to receive what will probably be a very small gain, in terms of what was promised and expected after political freedom was attained in 1994.

## CHAPTER 1 – INTRODUCTION

### 1.1 INTRODUCTION

In South Africa, land is presently not only one of the most defining political and development issues, but also perhaps the most intractable. The continuing racial misdistribution of land will either be resolved through a fundamental restructuring of the government's land reform programme, or it will be resolved by a fundamental restructuring of property relations by the people themselves. Which direction the country follows depends to a large degree on the urgent and immediate responsiveness of the government to the needs and demands of the country's 19–million mostly poor, black and landless rural people (Thwala, 2003, p.1).

The first post–apartheid South African government aimed to establish democratic institutions and prosperity in a non–racial society. Pensions, housing subsidies and land reform were to launch the process of equitable and sustainable development. But the sheer scale of poverty, the legacy of apartheid, and the competitive global economy meant that progress was slow. The need for land reform was simple. White South African government policies had resulted in a dualistic and unequal system. On one hand there existed heavily subsidised, highly mechanised white farms on the most fertile land available, whilst the black population survived in overcrowded infertile homelands on the other (Deininger et al, 1999).

This study examines secondary literature based on the land reform programme in South Africa, which is investigated from both a theoretical and practical perspective. Firstly, a broad foundation is developed for South Africa by focusing on the general objectives and international experience with land reform using various examples. Thereafter, an economic framework for South Africa is shaped from a theoretical perspective. The land reform programme in South Africa is then given a detailed overview, with the elements, role of other stakeholders and the latest national developments being the primary areas of focus. After discussing the land reform programme, the focus is shifted to the barriers faced by beneficiaries in participating in the programme. Finally, the study is summarised and recommendations are provided for the land reform process in the South African context.

## 1.2 DEFINITION OF LAND REFORM AND ASSOCIATED TERMS

Broadly speaking, the concept of “reform” implies change through intervention or an intended improvement. Land reform is essentially a state initiative to modify, redirect or change rights, usage and relations on land, especially in rural areas (Marcus et al, 1996, p.179). According to Adams, “land reform in its simplest sense is generally accepted to mean the redistribution of property or rights in land for the benefit of the landless, tenants and farm labourers” (1995, p.1).

Land reform usually entails a redistribution of the rights of ownership or use of land away from large landowners in favour of cultivators with very limited or no land-holdings. It can take various forms: the transfer of ownership to tenants who already work the land to create family farms as in Japan and Taiwan; transfer of land from large estates to small farms as in Mexico; rural cooperatives in Cuba; state farms like Peru or the appropriation of large estates for new settlement as was the case in Kenya. All go under the heading of land reform and are designed for fulfil one central function: the transfer of land ownership or control directly to the people who actually work the land (Todaro and Smith, 2003).

The two main traditions of land reform are collectivisation, typically favoured by communist and socialist movements and regimes and the creation of a smallholding peasantry (the family farm), usually favoured by those who work for constitutional democratic government. Whether collectivisation or smallholding is introduced (and there are as many variations in detail as there are efforts at reform), the goal is to improve material conditions for desperately poor peasants while reducing environmental degradation, easing population growth and slowing urbanization all in such a manner that the party or regime bringing about the changes creates an agrarian political base of support (Smith, 2002).

As land reform is a complex process, a number of related terms should be defined. Property rights are multidimensional continua of rights and obligations associated with land ownership and tenancies (Barraclough, 1998, p.6). They define actions that individuals can take in relation to other individuals regarding some “thing” (Ostrom, 1998, p.5). If one has a right, someone else has a commensurate duty to observe that

right. Property exists at a number of levels, both within a social group like a household or community, and without it and acts as recognition that the property interest of one party is protected by a right only when others fulfil their duty to respect that right (Buckle, 1995, p.65 cited in Drimie, 2000, p.25).

Tenure, which is often synonymous with property rights, can be described as being composed of a bundle of rights, many specific to do certain things with land.

According to Adams et al (1999, p.1), these land rights may include one or more of the following:

- Rights to occupy a homestead, or to use land for annual and perennial crops, to make permanent improvements, to bury the dead, and to have access for utilising the natural resource base;
- Rights to transact, give, mortgage, lease, rent and bequeath areas of exclusive use;
- Rights to exclude others from the above-listed rights, at community and/or individual levels; and
- Rights to enforcement of legal and administrative provisions in order to protect the rights holder.

A land tenure system is all types of tenure that are recognised by the national or local system of law. Land tenure systems reflect specific historical, geographical, economic, social and political conditions and are continually modified in the process of economic development (Dorner, 1972, p.36 cited in Drimie, 2000, p.25). These systems are sometimes classified in a typology of state property, private property, common property, or open access (non-property) as summarised by Bromley (1991, p.31) in **Table 1.1** (Next Page).

**Table 1.1: The four types of property regimes**

<b>State property</b>	Individuals have a duty to observe use / access rules determined by controlling / managing agency. Agencies have the right to determine use / access rules.
<b>Private property</b>	Individuals have the right to undertake socially acceptable uses, and have a duty to refrain from socially unacceptable uses. Others (called “non-owners”) have a duty to refrain from preventing socially acceptable uses, and have a right to expect only socially acceptable ones
<b>Common property</b>	The management group (the “owners”) has the right to exclude non-members, and non-members have a duty to abide by the exclusion. Individual members of the management group (the “co-owners”) have both rights and duties with respect to use rates and maintenance of the thing owned.
<b>Open access</b>	No defined group of users or “owners” and so the benefit stream is available to anyone. Individuals have both privilege and no right with respect to use rates and maintenance of the asset. The asset is an “open access resource”.

**Source: Bromley, 1991, p.31.**

'Land reform' and 'agrarian reform' are often used interchangeably. Agrarian reform, a construct of the Cold War to counter 'communist' land reform, embraces improvements in both land tenure and agricultural organisation. Its policy prescriptions urged governments to go beyond redistribution: they should also support other rural development measures, such as the improvement of farm credit, cooperatives for farm-input supply and marketing, and extension services to facilitate the productive use of the land reallocated. Whilst conceptually sound, the danger with these wider prescriptions is that they may discourage governments from doing anything until they can do everything (Adams, 1995, p.1).

### 1.3 HISTORICAL BASIS FOR LAND REFORM IN SOUTH AFRICA

Relocation and segregation of blacks from whites started as early as 1658, when the Khoi were informed that they could no longer dwell to the west of the Salt and Liesbeck rivers, and in the 1800's, when the first reserves were proclaimed by the British and the Boer governments (Human Awareness Programme 1989 cited in Thwala, 2003, p.1). The Native Land Act was also passed in 1913. This Act restricted the area of land for lawful African occupation, and stripped African cash tenants and sharecroppers of their land and consequently replaced sharecropping and rent-tenant contracts with labour tenancy. The Native Land Act resulted in only 10 percent of the land reserved for blacks.

In 1923, a principle of separate residential areas in urban locations was established, and this principle was extended by the Group Areas Act of 1950. In an attempt to deal with problems of forcing more people to live on small areas of land, betterment planning was introduced. This included cattle-culling, fencing off of fields and grazing land from residential areas, and the moving of people into villages set away from farming areas (Thwala, 2003, p.3)

In 1936, the Development Trust and Land Act was passed. This Act allocated already promised land to the reserves. Squatting was also made illegal. In 1937, the Natives Laws Amendment Act was also enacted to prohibit Africans from buying land in urban areas. Furthermore, the Group Areas Act was promulgated in 1950. This Act racially segregated areas with respect to residence and business and controlled interracial property actions. In a further attempt to ensure separate and unequal development, the Bantu Authorities Act was passed in 1951. This Act allowed the establishment of tribal, regional and territorial authorities. Also, to ensure complete illegality of squatting, the Prevention of Illegal Squatting Act was passed in 1951.

This Act allowed the government to establish resettlement camps for surplus people evicted from white farms. The Blacks Resettlement Act was also passed in 1954 to give the state the authority to remove Africans from any area in the magisterial district of Johannesburg and adjacent areas. The Promotion of Bantu Self-Government Act was also enacted in 1959 to establish the 'Bantustans' and make the reserves the

political homeland of Black South Africans. In the early 1960's, the first relocation camps were established. This was an attempt to remove displaced labour tenants, unwanted farm workers and unemployed urban people (Thwala, 2003, p.4).

Historically, land has been a source of conflict and contention in South Africa. Colonial and Apartheid policies disposed millions of black South African of their land moved them into overcrowded and impoverished reserves, homeland and townships. It has been estimated that 3.5 million people were forcibly removed from their land between 1960 and 1982 alone (Surplus People Project, 1983). These racially-based land policies caused great discontent amongst black people and also resulted in inefficient urban and rural land use patterns and a fragmented system of land use administration. According to Aliber and Mokoena (2003, p.330), “on the eve of the 1994 elections, whites controlled about 84 percent of non-public land, while blacks controlled only about 16 percent, primarily in ‘homelands’ and coloured reserves.”

Naturally, land reform was held to be a cornerstone of the transformation process with the dawn of democracy in South Africa. As clarified in the 1993 framework document for the African National Congress (ANC's) Reconstruction and Development Programme (RDP) and in the ANC's election manifesto, land reform encompassed both economic and social objectives individually as well being part of the overall process of historical redress (Aliber and Mokoena, 2003, p.330).

#### **1.4 THE NEGOTIATED ROOTS OF SOUTH AFRICA'S LAND REFORM**

As early as 1993, the World Bank, arguably the institution most dedicated to the protection of private property rights in the world, warned that if post-apartheid South Africa did not undertake a large-scale reorganization of the rural economy the country faced the danger of rural violence, and possibly even civil war. It was against this backdrop and amid growing concerns about the need to inspire the confidence of foreign investors in a rapidly globalising world economy that South Africa's multiparty constitutional negotiators approached the thorny question of whether and how to reverse the centuries old racial misdistribution of the country's 122 million hectares of land.



The challenge was tremendous: On the one hand, the ANC's Government-in-waiting needed to fulfil its 1955 Freedom Charter promise to reverse the Apartheid landscape which had put 87 percent 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 on the remaining 13 percent. On the other hand, transforming the rural landscape and the racially separated urban settlement patterns while ensuring continued food self-sufficiency, creating an investor-friendly environment, promoting economic growth and fostering national racial reconciliation presented multiple and interlinked challenges (Thwala, 2003, p.10).

At this stage it is important to also note that the National Party, was proactive in reorganising land ownership prior to democracy. Land was used as a political bargaining chip with little regard for principle. In the lead-up to the first democratic elections, communal land in a number of areas around the country was transferred directly into the control of the traditional authorities. In 1992, the government gazetted the transfer of 380 000 hectares of land to the Lebowa homeland and 52 000 hectares to the QwaQwa homeland (South African Institute of Race Relations, 1994, p.225). In KwaZulu-Natal, the Ingonyama Trust was set up and signed into law less than a month before the first democratic elections in 1994. Ninety-five per cent of the former KwaZulu homeland (1.2 million hectares) was put under control of the King. This is widely viewed as having being a trade-off for the participation of the IFP in the 1994 elections (Wood, 2000, p.188).

In preparing for governance underlying the policy details were two key strategies that have characterised the ANC's approach to development and growth since the early 1990's. These have become more clearly defined, particularly since the start of Thabo Mbeki's term as President. The first strategy in the ANC's developmental approach was a 'state-assisted market' model of development and redistribution, with the market serving as the primary mechanism for the allocation of goods and services. Placing the market at the centre in this manner ensures economic continuity and a limited disruption of the inherited economy while efforts are made to redistribute opportunities and resources. Nevertheless, in this model the state does intervene in two crucial ways. First, it plays a welfare role on the margins of the economy to facilitate entry into markets for those without their own resources, primarily through a

system of grants and subsidies. Second, the power and resources of the state are used to create economic opportunities for black advancement (Greenberg, 2003, p.10–11).

Later policy documents and statutory laws drafted by the new government, including the 1994 Reconstruction and Development Programme and the 1997 White Paper on South African Land Policy, further committed the government to redistribute 30 percent of Agricultural land and complete the adjudication process on land restitution claims in the first five years of South Africa's democracy (1994–1999), and to a land reform programme that would address, “the injustices of racially-based land dispossession of the past; the need for land reform to reduce poverty and contribute to economic growth; security of tenure for all; and a system of land management which will support sustainable land use patterns and rapid land release for development”, respectively (Thwala, 2003, p.11). The 1997 White Paper on Land Policy merely consolidated the existing approaches to land reform. It identified the challenge as ‘find[ing] a way of redistributing land to the needy, and at the same time maintaining public confidence in the land market’ (Department of Land Affairs (DLA), 1997, p.17). The government would provide a small subsidy to assist beneficiaries in the purchase of land through the market. At the same time, the government would serve as a facilitator only, not as a driver of the programme.

## **1.5 THE POLITICAL BACKGROUND TO THE LAND REFORM PROGRAMME IN SOUTH AFRICA**

Ben Cousins (1999, cited in Capps and Batterbury, 2000) presented an insightful analysis of the land question in South Africa, stressing the networks of actors and their preoccupations that had created a complex set of policy changes, reversals, and conflicts in recent years prior to 1999. South Africa has a set of broad political interests in the state, and in society as a whole. It has networks of actors (policy experts, state employees, advisors) who create policy ‘discourses’ about land. Political interests in the state include: The Presidency and Cabinet, Government Departments; old white bureaucrats and new black bureaucrats; provincial government and local government bodies. In society at large, there are differentiated rural communities, constituencies of farm workers who often live on private farms, a

set of emerging black entrepreneurs, white commercial farmers, traditional leaders, and a variety of corporate capitalist interests and foreign investors. There are linkages between many organisations in society at large.

Actor networks formed since 1990 have included the NLC (National Land Commission), the ANC's Land Commission (LAPC) which was itself advised by the World Bank, and university economists. The conjunction of these three bodies led to the formulation of the RDP and land reform policy. Implementation initially fell to the ministers of land affairs and agriculture being Derek Hanekom and Doctor A.I. van Niekerk respectively. Under their supervision, government policy had essentially fallen into three policy arms: (1) rights-based legislation and programmes; (2) market-assisted redistribution via a R16 000 grant; and (3) the promotion of small-scale farming. Cousins' framework for understanding the outcome of these three different policy discourses is given as an illustration in **Table 1.2** (Next Page).

**Table 1.2: Cousins' framework for understanding the outcome of the three different policy discourses in South Africa**

Criteria	Policy discourses		
<b>Equity</b>	<u><b>State-led but community based</b></u> –challenge inherited framework of property rights –popular participation –attack gender bias in land allocation	<u><b>Combine state, markets, community and rights</b></u> –rights for dispossessed and vulnerable –justice and redress through restitution and redistribution –target 'communities' and the poor	<u><b>Market-led but state assisted</b></u> –deracialise agriculture –remove discriminatory legislation and by affirmative action
<b>Efficiency</b>	Enhance value of multiple rural livelihoods through expanded land-base and support	R16 000 grant for land aquisition via the market / business plans and commmunal property associations. Developmental restitution of land Enhance agricultural production at a variety of scales Create a lean but efficient state (outsourcing)	Subsidies/grants/support services for emerging black farmers. Promote efficient operation of markets through deregulation. Attract foreign investment. Target rural development in high-potential zones (SDI's)
<b>Identity</b>	Land → Tradition → African leadership		

Source: Cousins, 1999, cited in Capps and Batterbury, 2000.

Policy shifts in 1999–2000 have resulted in some elements of this wider South African discourse proving more powerful than others. In 1999 and 2000, the terms of debate and the direction of policy have shifted markedly, with new directives and personnel. From the Non–Governmental Organisation’s (NGO’s) side, there has been criticism that the projected restitution of land has been too slow, that redistribution has been badly planned, that there is a lack of political will behind these measures, and that there is a gender bias against women in the way land reform has been handled. From both internal critics in the DLA and in the Department of Agriculture, came the criticism that the DLA leadership was too ‘white’ and potentially racist.

It was the combination of these two critical thrusts that resulted in Thoko Didiza taking up office as the head of the DLA in 1999. Her initial response was to:

- Design a ‘black commercial farmers programme’.
- To declare an intention to ‘transfer lands to tribes’, where customary law will apply.
- To go about restitution using cash payouts.
- To support black leadership in government Departments.
- To initiate, in September 2000, an integrated rural development programme, possibly with links to the United Nations Food and Agricultural Organisation (FAO), and with unknown operational components (Capps and Batterbury, 2000).

The current initiatives of the DLA and the more recent political debates around policy measures will be comprehensively discussed further in **Chapter 4**.

## **1.6 POVERTY AND LAND NEED IN SOUTH AFRICA**

As discussed earlier, South African history can be seen in terms of a continual process of land dispossession. A legacy of insecurity, landlessness and poverty amongst black people and inefficient land use and administration was created (Surplus People’s Project, 1983, p.156). Since the Native Land Act, 27 of 1913, the right to own rent or sharecrop land in South Africa depended upon racial classification. Millions of black people were compelled to leave their ancestral and privately owned lands and resettle

in overcrowded and environmentally degraded reserves. These areas became known as separate development entities or ‘bantustans’. These inequalities created a difficult legacy for post – apartheid reconstruction and development, particularly in the rural areas (Drimie, 2000, p.2).

For example, the 1998 Poverty and Inequality Report indicated that 50 percent of the national population were defined as poor using a South African poverty line equivalent to R15 (about US Dollars 2,40) per person per day (Office of the Deputy President, 1998). Poverty extends beyond insufficient income and includes access to essential services and the marginalisation of certain people (May and Vaughan, 1999, p.69). Most poverty occurs in rural areas as is given in **Table 1.3**.

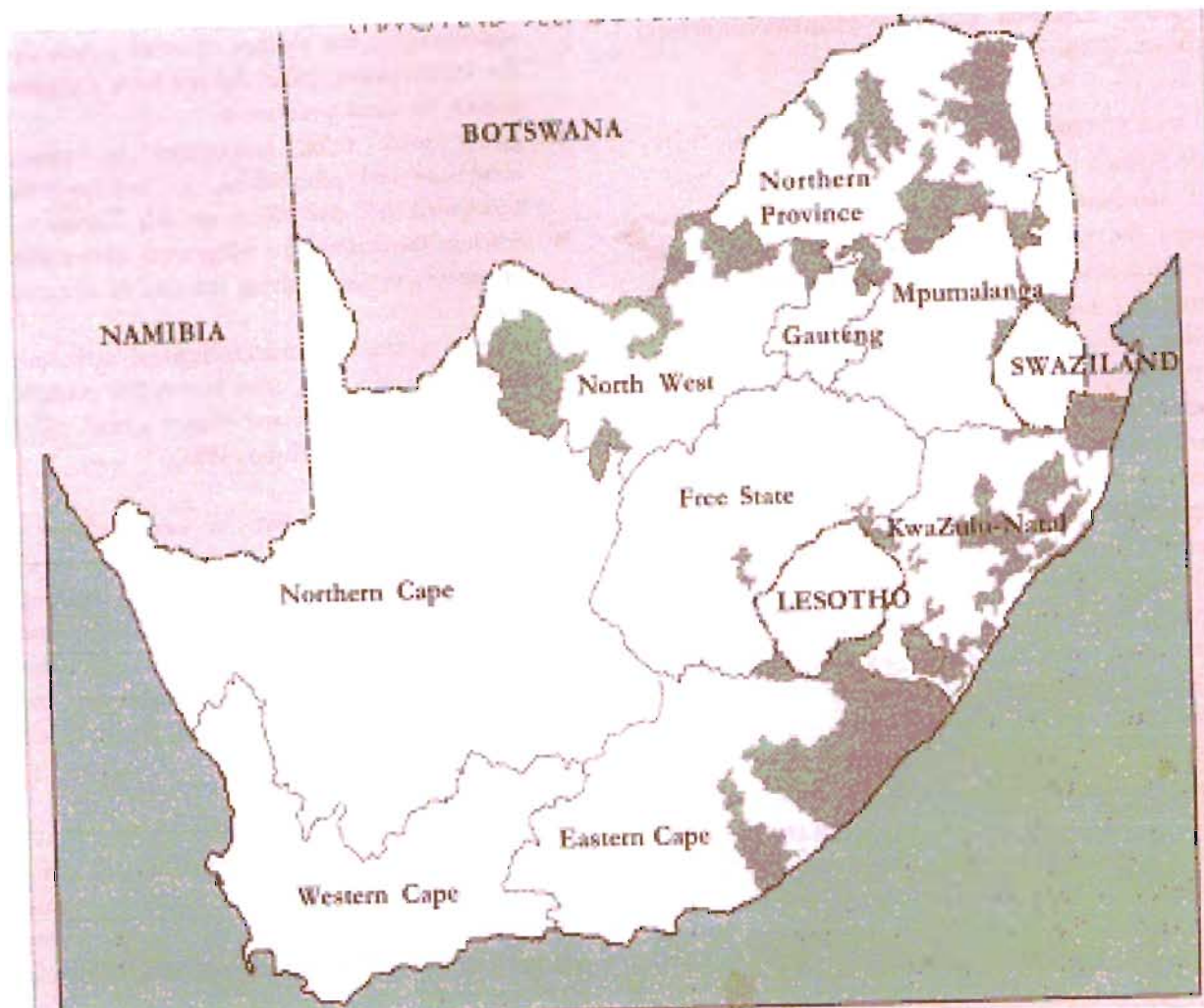
**Table 1.3: Distribution of poor individuals by rural/urban classification**

	<b>Population share percentage</b>	<b>Poverty share percentage</b>	<b>Poverty rate percentage</b>
<b>Rural</b>	50.4	71.6	70.9
<b>Urban</b>	49.6	28.4	28.5
<b>All</b>	100	100	49.9

**Source: May, 2000, p.23.**

The poverty share of rural areas, which refers to the poorest percent of households in terms of consumption expenditure, was 71.6 percent. The poverty rate was 70.9 percent in these areas compared to 28.5 in urban areas. Poverty was severest in the provinces that contained the former ‘Bantustans’, where lower cash incomes fell below the poverty line. Figure 1.1 (Next Page) shows the former ‘bantustans’ with the dark areas depicting the former ‘independent’ TBVC: Transkei, Bophuthatswana, Venda and Ciskei and Self-Governing Territories such as Kwazulu. (May and Vaughan, 1999, Drimie, 2000, p.3)

**Figure 1.1: Republic of South Africa – former ‘bantustans’**



**Source: Mokgope, 2000, p.113.**

A study conducted by the Land and Agricultural Policy Centre (LAPC) in 1996 attempted to provide an estimate of actual land demand for agricultural production (Marcus et al, 1996, p.17). The figure in **Table 1.4** (Next Page) indicates a broad demand as two-thirds of rural households desired agricultural land either to supplement what they already had or because they had none at all. The study also showed that this rural demand was limited as almost 50 percent of respondents reported wanting one hectare or less, 45 percent reported wanting between one hectare and ten hectares, and only five percent considered that they would need more than ten hectares (Deininger et al, 1999, p.15).

**Table 1.4: The demand for land in South Africa**

<b>Province</b>	<b>No. of households (millions)</b>	<b>Mean household size</b>	<b>Percentage householders who need land</b>
<b>1. Eastern Cape</b>	<b>1.106</b>	<b>5.3</b>	<b>70.3%</b>
<b>2. Free State</b>	<b>0.618</b>	<b>4.0</b>	<b>50.0%</b>
<b>3. Gauteng</b>	<b>1.887</b>	<b>3.8</b>	<b>76.0%</b>
<b>4. Kwazulu–Natal</b>	<b>1.237</b>	<b>6.2</b>	<b>78.3%</b>
<b>5. Mpumalanga</b>	<b>0.563</b>	<b>4.7</b>	<b>68.0%</b>
<b>6. Northern Cape</b>	<b>0.213</b>	<b>3.5</b>	<b>40.0%</b>
<b>7. Northern Province</b>	<b>0.764</b>	<b>5.4</b>	<b>72.4%</b>
<b>8. North West</b>	<b>0.879</b>	<b>3.9</b>	<b>40.1%</b>
<b>9. Western Cape</b>	<b>1.0956</b>	<b>3.9</b>	<b>74.5%</b>
<b>National</b>	<b>7.887</b>	<b>4.8</b>	<b>67.7%</b>

**Source: Department of land affairs, 1998 cited in Drimie, 2000, p.4.**

## **1.7 CONCLUSION**

After gaining a solid understanding of the concept of land reform and related issues, the great demand for land in South Africa, and the historical and political basis for land reform in South Africa, it would now be appropriate to examine the types of land reform processes with relevant international examples, which are covered in the next chapter. This is done to create a strong framework of understanding, which is essential when the focus is shifted directly onto the economic rationale for land reform in South Africa and South African land reform experience in the latter chapters (**Chapters 3 and 4**).



## **CHAPTER 2 – OBJECTIVES, TYPES OF LAND REFORM AND LESSONS LEARNED WITH RELEVANT EXAMPLES**

### **2.1 GENERAL OBJECTIVES OF LAND REFORM**

Agricultural and rural development that benefits the masses of people can succeed only through a joint effort by the government and all farmers. A first step in any such effort is the provision of secured tenure rights to the individual farmer. It is for this reason as well as for reasons of higher agricultural output and the simultaneous achievement of both greater efficiency and equity that land reform is often proposed as a necessary first condition for agricultural development in less developed countries (LDC's). In most countries, the highly unequal structure of land ownership is probably the single most important determinant of the existing highly inequitable distribution of rural income and wealth (Todaro, 2003, p. 452).

Different countries may have different objectives for land reform. While the objectives may be inter-related and complementary, sometimes achieving one objective retards or conflicts with another. The principal conflict usually lies between achieving social equity, while striving for economic and efficient utilization of land and other resources. Dividing expropriated large farms into numerous small plots may result in decreased household food production, marketable surpluses and export earnings for the government. On the contrary, if a government does not implement a land reform programme, it may fail to raise the standard of living of many of its people and in the long run create political instability (Zinyama, 1999, p.9).

One or more of three motives governs the majority of land reform programmes around the world: Political, Social and Economic (Hirsch, 1972; King, 1971 cited in Zinyama, 1999, p.10). The political motive is usually underpinned in government statements on reform; nevertheless it is often a chief factor in appealing to the landless peasantry or disempowering landowners perceived as a threat to the ruling class. The social equity motive is in most cases closely linked to the political motive hence the government promises to give land to the landless peasants in return for political support. The economic motive on its own rests on the premise that land reform will

result in greater agricultural production, increased marketable surpluses for domestic consumption and / or export, and higher rural household incomes.

As stated earlier, each country or region has its own specific objectives but following objectives as provided by the SEAMEO Secretariat (2000), the land reform authority in Thailand provides an excellent general framework: “

- 1) To convert tenant and landless farmers into owner–operators;
- 2) To provide and ownership to squatter farmers through legalisation and land distribution;
- 3) To increase agricultural production and improve delivery systems of supporting services so as to ensure betterment of living standards among the farmers; and
- 4) To reduce social and economic inequalities among the populace.”

The White Paper on South African Land Policy was published in its final form in April 1997. It grew out of an extensive process of popular consultation, including a National Land Policy Conference in late 1995, and departmental engagement with submissions and comment on earlier drafts of its proposals. It identified the following as the key issues for land reform to address:

- The injustices of racially based legislation;
- The inequitable distribution of land;
- The need for security of tenure for all;
- The need for sustainable use of land;
- The need for rapid release of land for development;
- The need to record and register all rights in property; and
- The need to administer public land in an effective manner (DLA, 1997).

These were summarized by Walker (2002, p.39) into a four–fold case for land reform:

- To redress the injustices of apartheid;
- To foster national reconciliation and stability;
- To underpin economic growth; and
- To improve household welfare and alleviate poverty.

“Land reform” is used to refer to a number of rather distinct processes or programmes. In the list below the broad spectrum is divided into types. These processes are not at all mutually exclusive. Many states have two or more of these types of land reform as part of their rural development “package” of programmes.

## **2.2 IMPOSED REDISTRIBUTIVE REFORMS**

In a redistributive land reform, the land is taken from large holders and given to landless and poor farmers. This normally includes nationalisation: redistribution policies involving expropriation of land on grounds of excessive size, under utilisation, ownership by absentee landlords and or foreigners. This type of land reform often grows out of a post crisis situation such as a war or civil war. The police power of the state is used to redefine the property rights of landholders. Thus, such a land reform requires an exclusive control on political power. It can succeed only where the power of the existing rural, land-based elite is either transferred or eliminated. Therefore, such land reforms have been often directed more by ideological fervour than sound technical planning. It is interesting to note that this category represents both the most successful and the most unsuccessful examples of land and agrarian reform. The failures to emulate elsewhere the successes in Asia of Japan, the Republic of Korea and Taiwan probably led to the general disenchantment with land reform among the donor community. Several of the major multilateral donors such as the World Bank and the European Union have adopted governing rules that require them to refrain from lending for land purchases (Riddell et al, 2000).

### **REGIONAL EXAMPLES OF REDISTRIBUTIVE LAND REFORM: ASIA, LATIN AMERICA, NEAR EAST AND NORTH AFRICA AND SOVIET AND FORMER COMMAND ECONOMIES**

Asia: Japan probably represents the archetypical representation of a successful land reform. Implementation was enforced by the United States occupation forces following World War Two as a means of breaking the power of the large landowners who had strongly led the militaristic developments in Japan in the pre-war period. Land holding ceilings were established at one hectare. The landlords were compensated in a combination of cash and development bonds. The rural producer

populations largely stayed on their previous holding, but were now given full ownership rights and a highly subsidised mortgage. Key factors that are often overlooked in the literature, but are critical to understanding the success or failure of other land reforms were the existing well developed extension service, land records and efficient bureaucracy (Yang, 1970 cited in Riddell et al, 2000).

Latin America has been a region that has had its fair share of land reform programmes. Starting with the Mexican revolution of 1910 there had been a series of attempts to impose a land reform in the region (Bolivia, Chile, Colombia, Cuba, El Salvador, Honduras, Nicaragua and Peru). While there has been much justified criticism of these reforms, they did benefit many thousands of poor rural families and did receive wide support in the society at large. They did not, however, result in the kind of transformation envisaged in the original design. Cuba is the sole exception. The programmes were universally under-funded so that needed services, inputs, and institutional development could not take place, or took place too late. Finally, they were bureaucratically top heavy and did not build on or create a self sustaining farming system (Thiesenhusen, 1995).

The Near East and North African Region also saw the attempts at major land reforms. Egypt, North Africa, Iraq and Iran all undertook major land reform projects in the period from 1950 to the mid 1970s. Again, though the literature emphasises the failures, there is no denying that again, as in Latin America, the benefits reached many thousands of impoverished rural families. Egypt was by far the most thorough going and benefited the most people. (El-Ghonemy, 1993)

Finally, one should mention all of the land and agrarian reforms inspired by the Soviet model of command economies: the entire agrarian reform policy of China, the former Soviet Union and other command economies (Angola, Cuba, Eastern and Central Europe, Ethiopia and Mozambique) was predicated on a concept of social, as opposed to individual, property rights in rural resources. We have to remember that it was the promise of an agrarian reform that led to much grassroots support for these governments in the initial period. Today the emphasis in all these countries is to reverse this process (Riddell et al, 2000).

### **2.3 LAND TENURE REFORM**

This type of reform is used in all other categories, but is often used as the main instrument of achieving both more efficient and equitable distribution of land and resources, for example, water. The focus is on techniques and institution–rebuilding that make land tenure institutions work in a more efficient, effective and fair way. Thus, the focus is on the social, political, and economic support needed for institutionalised transactions in rights in property. The fundamentals of this approach are good legal support and effective land information systems (LIS). It has been repeatedly observed that where the cadastre, which is a public register of the quantity, value and ownership of the real property of a region or country, and land registry is poorly maintained or non–existent, there are high costs for proper survey, valuation and creation of new land records. The transaction costs for property exchange often exceed the economic value of the property involved. Experience has shown that landowners have many tools available to frustrate the process of creating fair and open economic transactions.

Land tenure reform is usually based on the creation of unambiguous property rights in land through legal reform and land registration. First, the newly established private rights must be clear. Second, “private” refers largely to control, that is, legal capacity: private tenure imbues the owner with control over the acquisition, use, enjoyment and disposal of the property. These rights are conditioned by the context – specific statutes and laws that limit the absolute freedom of an individual through restrictions on land use (Riddell et al, 2000).

#### **EXAMPLES OF LAND TENURE REFORM: MEXICO AND THAILAND**

Mexico and Thailand represent two of the world's most ambitious attempts to stimulate rural development through land tenure reform. In 1992, Mexico initiated a process to remove the restrictions on land market transactions on the social property of the ‘Ejido’ communities that had been created out of the redistributive land reform of 1910 – 1936. The process has involved a massive land demarcation. Since this extensive experiment is too recent to make any final judgement at this time, an examination of the case in Thailand may be illustrative (De Janvry et al, 1997).

Thailand is in its thirteenth year of a 20-year programme to provide modern cadastre, land registration and land conveyancing and credit institutions to all its rural populations. It is estimated that over 20 million properties so far have been registered. A recently completed monitoring and evaluation project by Thai research centres has revealed that rural incomes, major investments like tractors, land transactions, land improvement, use of formal credit is much higher among farmers with titled land than for those yet to be included in the programme. The data also indicates that the land tenure regularisation has stimulated the emergence of strong private credit and supply / marketing participation. Non-registered rural populations also benefit (Riddell et al, 2000).

## **2.4 MARKET-LED REFORM**

This is a type of land reform that combines very naturally with the realisation that when they work properly, markets are the best arbiter of supply and demand of goods and services. If this is the case, why could we not get land markets to function in a way that those who really want to farm and are the best farmers would get land, and inefficient land holders and absentee land owners would be driven out by market forces? This usually involves direct government intervention in the market by making assets available to those too disadvantaged to enter into normal land market transactions. This includes the distribution of public lands; state expenditure on land reclamation and subsequent allotment as private property; mortgage interest tax relief; support to institutions to administer the necessary land acquisition and distribution mechanisms and to advice services to prospective landowners.

A land market always requires some state intervention. A land market by itself will not do much to transfer land to the poor who want to be independent, land owning producers. This is because where the former owner has to be compensated at market or near market value by the purchaser, a poor farmer cannot repay out of farm profits alone. Land always contains a premium value over and above the value of its agricultural productivity due to its collateral value in a market economy and preferential access to credit. It has been the unfortunate observation that where the market is not sufficiently monitored after distribution, land distribution is quickly followed by land return to the former owners. It goes without saying that a market-led

land reform requires an active land market. That is, there have to exist willing–sellers and buyers (Riddell et al, 2000).

### **EXAMPLES OF MARKET–LED REFORM: COLOMBIA AND BRAZIL WITH A COMPARISON**

In Colombia, maldistribution of land in rural areas, while dating back to the Spanish conquest, has been reinforced and exacerbated in more recent times by a number of factors, including (i) tax incentives for agriculture that implied that rich individuals acquired land in order to offset taxes on non-agricultural enterprises; (ii) legal impediments to the smooth functioning of the land rental and sales markets such as the prohibition of share tenancy; (iii) credit and interest rate subsidies providing incentives for mechanized agricultural cultivation with low labour intensity.

The main reasons for the shift from an interventionist to a market-assisted model of land reform were the limited success of centralized land reform and the elimination of the traditional source of finance for INCORA (a duty on imports). Even though considerable amounts of resources were spent on land reform (INCORA's average annual budget in the 1980s was about US\$140 million), almost 35 years of operations had produced little visible effect. In the early 1990's the administrative costs of transferring land were very high, amounting to about 50 percent of the total land reform budget or about US \$15 000 per beneficiary. Many beneficiaries of the INCORA programme abandoned full–time agriculture and rented out most or all of their land, in many cases to the old landlord. Despite almost 35 years of state–led land reform the Gini coefficient of the operational land distribution fell by only 3 percentage points, from 0.87 to 0.84 (Deininger and Olinto, 1998).

With a land distribution among the most unequal in the world, Brazil's situation is similar to Colombia's in a number of respects. There is a very large and vocal political demand for land reform; a recent FAO study estimates the number of families who are potential candidates for land reform at 2.5 million. A land reform institute (INCRA) was established in 1969, distributing 10 million hectares to 200 000 families and colonizing about 14 million hectares for about 75 000 beneficiary

families since then. Land reform has acquired political importance; a federal Minister for Agrarian Reform was appointed in 1996 and the land reform budget tripled from US \$0.4 billion in 1994 to \$1.3 billion in 1995; a further increase to \$2.6 billion is proposed. Rather than relying on a lengthy process of expropriation, land is selected by community-groups on a willing seller-willing buyer basis. This is expected to reduce the price of land from currently US\$11 000 to \$3 000, mainly by avoiding the need to pay for expensive land improvements that are of little use for small-scale agriculture. Instead of compensating landlords with highly discounted government bonds, they are paid cash. This provides a strong incentive for landowners including many banks who hold title to large tracts of land as a collateral for non-performing loans to sell land to land reform beneficiaries. Government's role is reduced to providing assurance that there are no problems with the land titles, and ensuring that the price negotiated between community groups and landlords is within acceptable boundaries. Projects are approved at the state level. Technical assistance is provided on a strictly demand driven basis; beneficiaries can use part of the community grant made available under a World Bank loan to contract private providers; CONTAG (Federation of Rural Workers) participates in the state councils and assists with information dissemination and land purchase negotiations. The only commonality between pilots and the nation-wide land reform process is the fact that beneficiaries under the new process have access to a subsidized loan under a special programme (PROCERA) for land reform beneficiaries (Deininger and Olinto, 1998)

While the broad principles are similar to those in Colombia, the process is considerably more flexible and agile. The main points of difference are the following: Since grant financing is provided for complementary and community-level infrastructure rather than land itself, beneficiaries have an incentive to reduce the price for land as much as possible. This would focus land reform on lands that are currently under utilized, where the social gains from the intervention are maximized. The process of beneficiary selection is less formal and bureaucratic than in Colombia and relies more on existing community associations. Since the working capital credit provided to beneficiaries is subsidized (with a subsidy element of 70 percent), other sources of working capital, as well as marketing channels, need to be available to



ensure the long term economic viability of land reform beneficiaries. This may well be one of the most critical aspects of land reform.

Given the political importance of land reform and the limited knowledge of both the most appropriate mechanisms to implement this reform as well as the magnitude of the productivity and poverty–impact, the government has established an Institute for Agrarian Studies to encourage discussion between all parts of civil society on land reform issues; monitor the implementation of the process and make the data collected publicly available (Deininger and Olinto, 1998).

## **2.5 LAND REFORM THROUGH RESTITUTION**

The focus in this case is on the restoration of rights, which are felt to have been unjustly taken. This process is technically a legal and judicial process that returns rights to a pre–determined date or year. In most of Eastern and Central Europe this year is 1948, in South Africa it is 1913.

### **EXAMPLES OF LAND REFORM THROUGH RESTITUTION: EASTERN AND CENTRAL EUROPE AND SOUTH AFRICA**

While land restitution is a form of land reform to address past injustices, in both Eastern and Central Europe and in South Africa it is running into a number of practical problems. The principal one is that the entire physical infrastructure has changed dramatically since the rights to individual parcels were unjustly acquired. Citizens, quite understandably, insist on the return of their original property, but this nowadays is usually at odds with access, service provisions or even sound sustainable land use. Where original properties have been restituted, the general experience has been one of disappointment and limited economic utility. This will be expected to change through innovations in the land tenure reform that will allow equitable property rationalisation by the resettled owners (Letsoalo, 1996).

## **2.6 FAO'S LESSONS LEARNED ON LAND REFORM FROM AN INTERNATIONAL PERSPECTIVE**

After examining the types of land reform processes, it is important to determine the key lessons before moving onto the future challenges. In this regard, Maximiliano Cox and his research team from the FAO Rural Development Division (2003, p.21–23) conducted a comprehensive review of land reform experiences throughout the world from the early 1940's to the present period in time. The following is summary of the salient lessons learned from their widespread study.

### **Lesson 1: Good governance and the rule of law correlate closely with the successful implementation of the process.**

Measures to reduce the inherent instability and uncertainty that accompany profound social change should be enacted decisively. Social mobilization, which is necessary to maintain the momentum and political support of such changes, should be kept within rational limits. This was achieved in the 1964–70 Chilean experience, as well as in Mexico and the Philippines. Moreover, good governance and effective state apparatus are required for successful implementation. To a large extent, the reforms in Japan, the Republic of Korea and Taiwan Province of China were successful because of the conjunction of these positive factors: good governance; reliance on existing managerial abilities of the land reform beneficiaries; and profiting from expanding market opportunities caused by general economic growth, increased demand for agricultural products and guaranteed good output prices. Among the most important of these were political will and good governance that is, limited corruption and rent-seeking behaviour in the implementation of the reforms.

### **Lesson 2: Non-biased macroeconomic policies are crucial to the successful implementation of land reform.**

As with any process requiring growth in agriculture, the overall macroeconomic conditions, especially those affecting interest and exchange rates and including

promotional policies for agricultural production are essential for the success of the land reform process.

**Lesson 3: Land redistribution needs to be coupled with the provision of support services for beneficiaries, including targeted access to capital, services and markets.**

The major redistributive reforms in Latin America tended to have an initial positive impact. However, a lack of support services for beneficiaries and unfavourable macroeconomic factors subsequently hampered the performance of the reformed sector severely. The provision of these services is critical, especially where dealing with beneficiaries with low entrepreneurial experience.

**Lesson 4: The previous managerial experience of land reform beneficiaries is essential.**

The land reform programmes in Egypt, Japan, the Republic of Korea, Taiwan Province of China and several states in India enabled tenants to become owners of the land they cultivated. In part, these reforms were successful because of the continued use of existing physical infrastructure, including road network and irrigation facilities and institutional infrastructure, as previously existing input supply, credit and marketing structures were not disrupted. An additional advantage was the availability of trained human resources.

**Lesson 5: A rational system of individual economic incentives in the reformed sector is critical.**

The introduction of individual economic incentives can generate a highly dynamic response. China introduced such mechanisms under the household responsibility system in 1978, which gave farming families usufruct rights over cultivated land. At the same time, the organizational system of the People's Communes, which had proved to be low efficiency were abolished. The results of the reform have been impressive. After 30 years of stagnation, growth in agricultural output in the first half of the 1980's accelerated to a rate several times the previous long-term average. Most

of the increase is attributed to the strong incentives given by the reforms to individual farmers coupled with the partial liberalization of the produce market.

**Lesson 6: Fair compensation packages for landowners, that is, fully compensating for reinvestment and providing for some real liquidity to reduce the potential negative impacts on economic growth.**

Payments for expropriated land that are viewed as confiscatory can generate violent reactions and will affect production and the overall economy substantially during the initial phases of land reform. In Chile the reforms of the 1960's provided cash compensation for improvements, thus enabling investment in agriculture to increase during this period. The land reforms in Japan, the Republic of Korea and Taiwan Province of China compensated former landholders with cash and development bonds, which encouraged investment of the proceeds in industry.

**Lesson 7: Social capital formation is important, through the participation of local communities and beneficiaries in taking control of their own development.**

The Philippines started its land reforms in 1964 and local communities have played an increasingly large role as these reforms have progressed. A broad-based peasant lobby pressured Congress and the President to enact the Comprehensive Agrarian Reform Programme in 1988. In the early 1990's, the Department of Agrarian Reform recognised that effective alliances with autonomous peasant organisations were essential to the implementation of land reform. Farmers' groups are now engaged in facilitating the provision of support services to land reform communities.

**Lesson 8: Appropriate land administration capacity is crucial to land reform implementation.**

Land Administration is a critical tool for enabling the implementation of land reforms, particularly through land surveying, titling and registration, but also through land-use planning, land valuation and land taxation. Land titling is frequently a costly process, but it generates major economic advantages by securing land rights and providing

investment incentives. The need to give due attention to the interests of the poor and underprivileged, particularly women and indigenous peoples, has been recognized as they have lost out in some titling projects (Cox et al, 2003, p.23).

The fact that in many countries the current land ownership distribution has its origins in discriminatory policies rather than in market forces has long provided a justification for adopting policies aimed at land reform. The record of such policies is mixed. Land reforms have been very successful in Asia (Japan, Republic of Korea, Taiwan), and positive impacts have been reported from some African countries such as Kenya and Zimbabwe in the early phases of their post independence land reforms. At the same time, land reforms in Latin America, other Asian countries, and more recently South Africa, failed to live up to their objectives and remain incomplete in many respects. A key reason for such limited impact was that reforms were often guided by short-term political objectives, or that implementation responded more to planners' conceptions than to the needs of beneficiaries, often limiting the reforms' sustainability and their impact on poverty.

Where extreme inequality in land distribution and underutilization of vast tracts of productive land co-exist with deep rural poverty, a case for redistributive measures to increase access to land by the poor can be made, both politically and from an economic perspective. Even in such cases, a number of different instruments (ranging from expropriation with compensation to activation of rental markets) to effect the transfer of land will normally be available. To ensure success of the reform and productive use of the land, land reform needs to be combined with other programmes at the government's disposal. Access to non-land assets and working capital and a conducive policy environment are essential. Those benefiting from land reform need to be able to access output markets as well as credit, the selection of beneficiaries needs to be transparent and participatory, and attention needs to be paid to the fiscal viability of land reform efforts (Deininger, 2003, p. xl).

## 2.7 CHRISTIANSEN'S LESSONS LEARNED ON REDISTRIBUTIVE LAND REFORM FOR SOUTH AFRICA

In order to assess the performance of the land reform programme in South Africa (covered in detail in **Chapter 4**) it is necessary to reflect on the International experience with redistributive land reform. The five salient lessons to emerge from the international experiences in redistributive land reform are summarised by Christiansen (1996, p.365–366) as follows:

- **The speed of implementation of the programme.** In the absence of fast paced programmes, a combination of excessive bureaucracy, over-centralisation of the process and legal challenges are likely to render the programme ineffective. Success is strongly influenced by rapid implementation.
- **Economic viability of the farm models.** There must be a careful assessment of the models or livelihood options available to rural households before a reform programme is implemented. The models should indicate whether the persons resettled on the land have sufficient land-size and quality to provide at least the target income. Furthermore, in computing the costs and benefits, other assistance and infrastructure necessary to generate the target income should be included.
- **Political acceptability and legitimacy of the programme.** A consensus across the spectrum of political opinion that the programme is both necessary and the most acceptable way of achieving the stated goals, must be reached. Land reform programmes are not irreversible, particularly where this consensus has not been achieved.
- **Clear definition of the role that public sector can and will play.** The proposed programme must be evaluated in light of an understanding of the roles that the public sector can and must play, and what should be best left to the non-governmental sector. Programmes that have relied entirely on the public sector in the belief that is the only one capable of maintaining integrity, delivering services, determining needs and managing the process have been failures.

- **Land reform is only one part of a comprehensive programme of economic reconstruction.** The redistribution of land is necessary, but not sufficient to guarantee the success of a development programme. There is the need for additional services such as infrastructure, markets, incentives and health to be considered and access provided. These considerations are necessary both to sustain higher productivity subsequent to reform and to include others who may not benefit from the direct provision of land.

It is in the light of these lessons that it is generally accepted that market-assisted land redistribution programmes tend to perform better than those administered and operated by the public sector. The need for reliance on market mechanisms stems from the observed weaknesses of non-market orientated programmes that typically vest too much control in public sector bureaucracies (Kirsten and Van Zyl, 1999, p.328).

## **2.8 LAND REFORM DEVELOPMENT CHALLENGES FOR THE TWENTY-FIRST CENTURY**

The reduction of poverty and inequality of land redistribution, associated with sustained agricultural output growth, have been the common concern of the international community since the 1960's. Two leading economists of the World Bank have recently examined these important quantified rural development issues of inequality, poverty and growth, and their relationships to one another (Deininger and Squire, 1998 cited in El-Ghonemy, 2003, p.40). Their aim was to explore why several countries have failed both to increase their economic growth rates and to reduce their poverty levels after their implementation of economic reform programmes. Their results indicate a negative effect of land inequality on subsequent income growth. The inequality hurts the rural poor through two channels: (1) the inability to provide collateral for borrowing agricultural credit, and (2) the low schooling attainment resulting in high illiteracy.

Empirical evidence also suggests that land distribution inequality increased: in the 1980's and 1990's in sub-Saharan Africa; in East European countries where land reforms were dismantled after the collapse of the Soviet Union; and in the 1970's and 1980's in South Asia. This increased inequality has affected growth negatively. The conclusion of these studies is that a combination of increased aggregate investment and land redistribution for the benefit of the poor raises their incomes significantly, and is an effective way of reducing poverty and increasing economic growth.

The great challenge is to cope with the rising demand for access to land as represented by the increasing numbers of landless wage-dependent workers, in particular, and the agricultural workforce in general. This trend is compounded by another alarming trend of increasing concentration of land. At the same time, the aggregate supply of land of cultivable land is diminishing. Moreover, the employment opportunities for the growing numbers of agricultural workers have narrowed. This is primarily as a result of rising unemployment in urban areas combined with the replacement of unskilled rural workers by more skilled and educated job-seekers competing for low-paid jobs, in addition to labour-displacing technology induced by free-trade globalisation (El-Ghonemy, 2003, p.40)

In conclusion, one could ask how developing countries' governments can meet these challenges if the present trends continue into the twenty-first century, as their ability to address them directly has been restricted and their role in development redefined by neo-liberalism, as reflected in conditionalities of price stabilization and foreign debt recovery agreements. Their response is made even more challenging by the fear of being disadvantaged in terms of world trade competitiveness, including their efforts to attract much needed foreign capital. The next two decades will be a testing time for governments seeking to address this dilemma. A failure to do so will increase the risk of social unrest and political instability (El-Ghonemy, 2003, p.41).

It must be noted that governments are most likely to meet these challenges if they use the mechanisms at their disposal in concert and with the objective of maximizing synergies between them. This also implies a need to integrate land reform into the broader context of economic and social policies aimed at development and poverty



reduction, and to implement programmes in a decentralized way with maximum participation by potential beneficiaries and at least some grant element. Given the continuing relevance of the issue, the often heated political debate surrounding it, and the lack of quantitative evidence on some more recent approaches, rigorous, open, and participatory evaluation of ongoing experiences is particularly important (Deininger, 2003, p. xl).

## **CHAPTER 3 – ECONOMIC RATIONALE FOR LAND REFORM IN SOUTH AFRICA**

The main arguments favouring land reform in South Africa are primarily based on social equity and economic necessity.

### **3.1 MARKET-LED LAND REFORM**

As explained earlier, the South African “negotiated settlement” (1990–1994), which led to the first democratic elections in 1994, and the subsequent adoption of the constitution in 1996, culminated in a market-led land reform policy. As a precondition for this, a programme of agricultural liberalisation was adopted, that completed the eradication of Apartheid-era subsidisation schemes that benefited large-scale white commercial farmers. This programme was coupled with the removal of barriers to market entry, both domestically and for export with price incentives shifting towards high-value labour-intensive crops, the decline of land prices and the considerable increase in the supply of land on the market (Deininger et al, 1999, p.4). This was in line with the government’s growth, employment and redistribution plan (GEAR), which emphasised fiscal discipline, the importance of a ‘competitive outward orientated economy’ and programme of ‘accelerated tariff liberalisation’ to guarantee a stable environment for confidence and a profitable surge in private investment (Department of Finance, 1996, p.1–5). These changes created the conditions for the land reform programme to utilise market transactions, rather than expropriation to transfer assets to the poor.

A policy rethink regarding the approach to land reform during 1999 has led to changes in emphasis, which were claimed to speed up the redistribution of land. However, as noted by Cliffe (2000, p.272) the new formula is still couched in ‘modernist’ orthodoxies, which still prevail in both the ANC and the South African Government. These are fixated on ‘commercialisation’—which usually translates into larger-scale and sophisticated technologies and the promotion of the interests of a potential black agrarian entrepreneurial class, rather than satisfying the desperate needs of the landless in South Africa.

## 3.2 PROPERTY RIGHTS AND SECURITY OF TENURE

### 3.2.1 PROPERTY RIGHTS–ECONOMIC ASPECTS

Land is a unique commodity; it is completely immobile, it can be put to different uses and used by various parties simultaneously. What governs the use of this resource is a system of property rights (PR's). Land property rights have some peculiar features; they can be very complex and they vary over space and time, requiring policymakers to adjust their instruments to the situation found in specific cases. PR's are so critical because their actual nature determines resource allocation in a world of conflicting user interests. As illustrated earlier (**Table 1.1, p.5**), there are four types of property regimes. All four types may be found in one society and more than one category may apply to the same tract of land (Vogelgesang, 1998, p.24–25).

The concepts of state and private property are fairly simple when compared with common property and open access. The distinguishing features between the latter two can be somewhat unclear in the sense that the incentive structure in a common property scenario may be such as to cause economic behaviour of individuals to resemble that under open access regimes. In many countries in Latin America, frequently up to 50 percent of cultivated land is untitled thus making it de facto open access. There is a belief that common property results inevitably in the degradation of the property because of the inability to control over-consumption by users that is described by the, "Tragedy of the Commons" (Hardin, 1968). Based on this belief, advocates argue that only private property (or effective regulation) can work to protect the Commons. The failure to protect the Commons lies not in the form of property ownership, but in the inability to detect or exclude use. There are many societies where property is held in common which have been able to develop effective mechanisms to regulate use, and have been able to maintain sustainable resource use for centuries.

According to Demsetz (1967, p.347), property rights "derive their significance from the fact that they help a man form those expectations which he can reasonably hold in his dealings with others." Demsetz also maintains that, "a primary function of

property rights is that of guiding incentives to achieve a greater internalisation of externalities.” Based on Demsetz’s two propositions it would appear that private property provides the best mechanism to internalise external effects and hence seem to be a necessary, but not sufficient, condition for economic development. This does imply that private PR’s constitute the first–best solution in all circumstances. The most appropriate PR regime will depend on the individual conditions of a society, like its stage of economic development.

Finally, PR’s also play an integral role in providing incentives for efficient land use and investments in that they reduce asymmetric information and thus facilitate transactions in financial markets. Asymmetric information in land markets can emerge in the course of economic development of a society. In the initial stages, land transactions will greatly be carried out among members of the same community where information is still mostly accurate and available. As the mobility of individuals and capital increases in the more advanced stages, an increasingly large number of transactions take place with outsiders resulting in problem of imperfect information and land disputes. This could further result in an associated efficiency loss as the market price of land will move away from its shadow price and the extent of land transactions will be suboptimal (Vogelgesang, 1998, p.26–27).

It should also be noted that although the optimal PR system may not always be the private PR system, in the process of economic development private property becomes ever more important. The economic history of European countries, for example, indicates that with growing development, as the division of labour increases, economic interaction between agents more complex, and factor slowly emerge, the institution of common ownership in land has to give way to private property regimes (Barlowe, 1958).

### **3.2.2 SECURITY OF TENURE**

A central argument for strengthening land tenure has been the economic benefits deriving from such security. The nature and strength of property rights strongly conditions economic decision making because of their effects on people’s

expectations of a return on their investments of labour and capital. In neo-classical economic theory, property rights attempt to reduce the uncertainty that economic agents experience in terms of how other agents' actions may affect their own economic decisions. The importance of being able to transact property rights has increased in the African context with population growth, specialisation and the incorporation of rural areas into market economies (Adams, 1999, p.4).

### **3.2.3 LAND TENURE IN SOUTH AFRICA**

In the African context, customary land management has often been derided as obstructing development because of an inherent insecurity of land rights. Quan (1997) argues that customary tenure provides no incentives for land investment and no basis for credit or market allocations of land to the most efficient users.

Customary land tenure systems, which are part of the broader social framework, often protect poor and vulnerable community members. Land has a social function as it is a common resource and has benefits and characteristics that entitle society to limit the absolute nature of the individual's ownership, the extent of such derogation being dependent on its locality (Marcus et al, 1996, p.176). Indigenous law does not normally recognise individual ownership as land is regarded as a common socio-economic asset, administered by the lawful authority in the form of a "chief", in consultation with a tribal council, for the benefit of the entire tribe or community.

Customary land tenure in South Africa implies that persons may hold different, but concurrent rights in the same parcel of land, depending on their personal status within the group and on their personal needs (Letsoalo, 1991). Land rights are inextricably linked to, and reflect the social structure of, the land-holding community and centres on social relations and duties between persons in respect of things, rather than on production and land as economic resource (Cross, 1988). The tribal authority administers and allots vacant land by virtue of the fact that they rule the tribe. The recipient and their family have total control over the allotment in terms of use and occupation, rights which are normally granted for rest of their lives (Letsoalo, 1991).

Adams et al (1999, p.3) divide most African landscapes with communal customary tenure into two broad categories:

- The holding, which is land possessed and used relatively exclusively by individuals or households for residential, farming, or some other business activity;
- The commons, which is land shared by multiple users for grazing and for gathering natural resources.

The “holding” may form part of the “commons” when it is not being utilised. For example, in rural Kwazulu–Natal cattle are allowed to eat the crop residual after harvesting on arable holdings during the dry season grazing period (Drimie, 2000, p.37).

### **3.3 REDISTRIBUTIVE LAND REFORM**

Both politically and economically, the increased social equality and egalitarianism, which would result from redistributive land reform is highly desirable. This is in keeping with the fundamental objective of “social justice” after decades of injustice under Apartheid. The South African Land policy has largely focused on the equality of treatment for all land rights. In terms of the economic aspects, social justice is linked to issues of Employment, Income Distribution, Efficiency and the Size of the Domestic Market (Ellis, 1992, p.199). On the political side, social justice means increased social equality, which lies at the heart of the democratic transition in South Africa in terms of achieving true racial equality.

#### **3.3.1 EQUITY AND EFFICIENCY**

The main dilemma of the land reform programme in South Africa is the reconciliation of the historical claims of previously dispossessed black people and the need to maintain effective production of crops and livestock for sale to urban and rural consumers and export markets (Williams, 1996, p.148). The redistribution of land may be intended for the welfare benefit of poor people by improving their household food security. It may also be intended for production goals by fostering a rural

development path centred on efficient commercial agriculture. A reduction in land concentration needs to be balanced against relying on agricultural growth alone as an effective anti-poverty strategy (De Villiers and Critchley, 1997 cited in Drimie 2000, p.41).

Neo-classical economic theory can shed some light on the meaning of equity and efficiency. Efficiency refers to making economic optimum use of a given set of national resources in order to achieve the highest level of material welfare for the consumers of a society as a whole, for a given set of prices in resource and output markets (Ellis, 1992, p.19). Growth can occur by moving from a less efficient to a more efficient use of existing resources, or by increasing the productivity of the given level of resources, so that more output can be obtained. Equity, on the other hand refers to the distribution of this total output amongst individuals or social groups within society.

Quan (1997, p.9) has indicated that the relationship between economic growth and levels of inequality in land holdings in various developing countries reveals that a more equitable distribution of land is actually conducive to higher levels of growth. Hence, a reduction in the inequality of land ownership would increase the real incomes of rural households and the numbers that are able to obtain an acceptable livelihood from the land. Increasing the access to productive resources enhances people's ability to generate secure income by enabling the poor to produce food for the household and a potential surplus for the market.

### **3.3.2 THE FARM-SIZE-EFFICIENCY RELATIONSHIP**

The concepts related to the farm-size-efficiency relationship have been defined in Ellis (1993, p.202-206), and tabled on the **next page**.

**Table 3.1: Definition of terms– farm–size debate**

‘Farm size’	The area size of farms.
‘Scale of farm enterprise ‘ or ‘farm scale’	Differences in the overall economic size of farms in relation to all the resources used in production.
‘Optimum farm size’	The area size of farm, which minimises the long–run average unit cost of production for the given technology confronting all farmers. This will vary for different crops, different crop–specific technologies, relative factor prices such as land and labour and the balance between size–related cost economies and diseconomies.
‘Intensive cultivation’	Small farm size with relatively large inputs of other resources
‘Extensive cultivation’	Large farm size with low inputs of capital and labour.

**Source: Ellis, 1993, p. 202–206.**

Proponents of smaller farms argue that there is an inverse relationship between farm–size and productivity (Van Zyl, 1996, p.259). This argument is based on the theory of production relations which suggests that, with low levels of mechanisation, large farms are in general less efficient than small farms due to the problem of labour supervision. In other words, smaller farms make a greater net contribution to output than a few large farms, operating at the same level of technology (Drimie, 2000, p.43).

Several empirical studies have shown that family labour is generally more productive than that of contracted agricultural workers (Biswanger et al, 1993, p.4; Van Zyl et al, 1995). Smaller farms theoretically select higher inputs of labour than large farms and therefore produce higher levels of output from given inputs of land and capital. The higher labour input is due primarily to lower labour costs and the greater incentives farmers have to work effectively on their own lands. Large farms are more dependent on hired labour with supervision and management costs to ensure quality of labour.



Smaller farms thus avoid transaction costs in the labour market. Furthermore, technological change in agriculture continually lowers the subsistence threshold size of holding while expanding options for small farmers (Conway, 1997 cited in Adams, 1999, p.9). These arguments run contrary to the belief that agricultural production is subject to economies of scale in that large farms minimise capital transaction costs and fully utilise capital inputs. The existence of indivisible factors such as machinery, management knowledge or marketing underpins this argument (Bruce, 1993, p. 16 cited in Drimie, 2000, p.44).

Worldwide evidence of an inverse farm–size productivity relationship, as related to the rationale for land redistribution, is found in Domer (1992). The basic explanation is found in the differences in resource endowments, which lead small farms to allocate more labour per unit of land, thus cultivating the land more intensively than larger farms. According to Melmed–Sanjak and Lastarria–Cornhiel (1998, p.11) the works of Carter and Weibe (1990), Eswaran and Kotwal (1986) and Feder (1985), lay emphasis on the fact that land redistribution creates incentives for small farmers to cultivate intensively, resulting in land redistribution being a win–win process of efficiency and equity.

According to Van Zyl (1996, p. 304) the inverse farm–size–efficiency relationship observed in South African commercial agriculture, does provide a strong argument for land reform. However, a precondition is the removal of all privileges to the farm sector because they tend to favour large farms over smaller ones, as well as the addressing of missing and imperfect markets for small farmers. Thus, the playing field should be levelled.

### **3.3.3 DUALISTIC NATURE OF AGRICULTURE AND LAND REDISTRIBUTION**

The three most important features of South African agriculture are its dualistic structure (commercial and subsistence), the process of deregulation of commercial agriculture that has taken place over the past two decades, and the attempts to ‘deracialise’ the sector since 1994. These features must be seen against the

background of the country's resource endowment. Of the 100.6 million hectares of agricultural land, only some 14 percent receives enough rainfall for arable farming, while the remainder is used for extensive grazing (83.9 million hectares), forestry and nature conservation. Only 1.35 million hectares of the arable land available is irrigated and yields at least a third of total agricultural output (Directorate; Agricultural Statistics, 2002 cited in Vink and Kirsten, 2003, p. 3).

South African agriculture, like all other sectors of the economy, has a dual nature, with a well-developed commercial sector comprising about 50 000 commercial farmers occupying 86 % of agricultural land (Directorate; Agricultural Statistics, 2002; NDA, 2001). Small-scale subsistence or communal farmers occupy the remaining 14 percent of farmland. Past government policies, which restricted blacks to specific regions called 'homelands' and therefore excluded them from entering mainstream agriculture, was a factor in promoting this dualistic nature of agriculture. The redistribution of farmland in South Africa is high on the government's agenda, and it generally accepted that it is necessary for political stability and hence economic growth (cited in Ortmann and Machethe, 2003, p. 48).

### **3.4 THE NEW INSTITUTIONAL ECONOMIC PERSPECTIVE AND FARM WORKER EQUITY-SHARE SCHEMES**

The New Institutional Economics (NIE) is a vast and relatively new multidisciplinary field that includes aspects of economics, history, sociology, political science, business organization and law. Oliver Williamson coined the phrase the "New Institutional Economics" (Coase, 2000) but it is commonly known that the New Institutional Economics emerged with Coase's 1937 article "The Nature of the Firm". This article and his other famous essay "The Problem of Social Cost" (1960) started what many, including North (2000 cited in Kherallah and Kirsten, 2001, p. 1) considered to be a revolution in economics. This new direction of economics considers that the cost of transacting, determined by institutions and institutional arrangements is the key to economic performance. It is therefore argued that the institutions of a country such as its legal, political, and social systems-determine its economic performance, and it is

this, according to Coase (2000), that gives the new institutional economics its importance for economists.

The NIE acknowledges the important role of institutions, but argues that one can analyze institutions within the framework of neoclassical economics. In other words, under NIE, some of the unrealistic assumptions of neo-classical economics such as perfect information, zero transaction costs, full rationality are relaxed, but the assumption of self-seeking individuals attempting to maximise an objective function subject to constraints still holds. Furthermore, institutions are incorporated as an additional constraint under the NIE framework (Kherallah and Kirsten, 2001, p. 2).

The discussion that follows integrates Farm worker Equity–Share Schemes (FWES’s) as a viable economic option for successful land reform in South Africa. As will be explained, FWES’s have a strong NIE underpinning and assist in reducing and, in the long term, eliminating four common problems which arise in the land reform process; (1) The free-rider problem, (2) The horizon problem, (3) The portfolio problem and (4) The control problem. The actual performance of equity–sharing schemes in the South African Land reform context is covered in **Section 4.2.3.3, p.55**.

FWES’s were initiated in the Western Cape region of South Africa in the early 1990’s as a method of redistributing farm assets to land reform beneficiaries while maintaining the viability of commercial farming operations. In a study of nine land reform projects, undertaken in the Western Cape during November 2001, Knight et al (2003, p. 228) identified the institutional characteristics of successful FWES’s using relevant principles from the theory of NIE and proposed a set of “best institutional practices” that is likely to promote the success of these and future projects and so enhance the contribution to land reform in South Africa.

Knight et al (2003, p. 230) argue that equity–sharing schemes offer an institutional environment that creates an incentive to invest in enterprises where resources such as land are co-owned. Greene and Lyne (2001) substantiate this argument with the following reason. The majority of land currently being farmed by the state is contested by neighbouring communities. The notion that this land should be subdivided and privatised to individuals who benefit from Land Redistribution for

Agricultural Development (LRAD) grants has been strongly rejected by these communities who perceive that all of their members should benefit from the land. Eckert et al (1996) add that large commercial farms are expected to remain a predominant feature in South Africa (owing largely to the reality of lumpy resources and fixed transaction and sub division costs) and it is therefore crucial that new ways are found to improve rural livelihoods and access to land on commercial farms through new ownership structures. Changing the ownership structure of commercial farms can redistribute wealth without adversely affecting agricultural productivity, farm worker employment or sacrificing economies of farm-size.

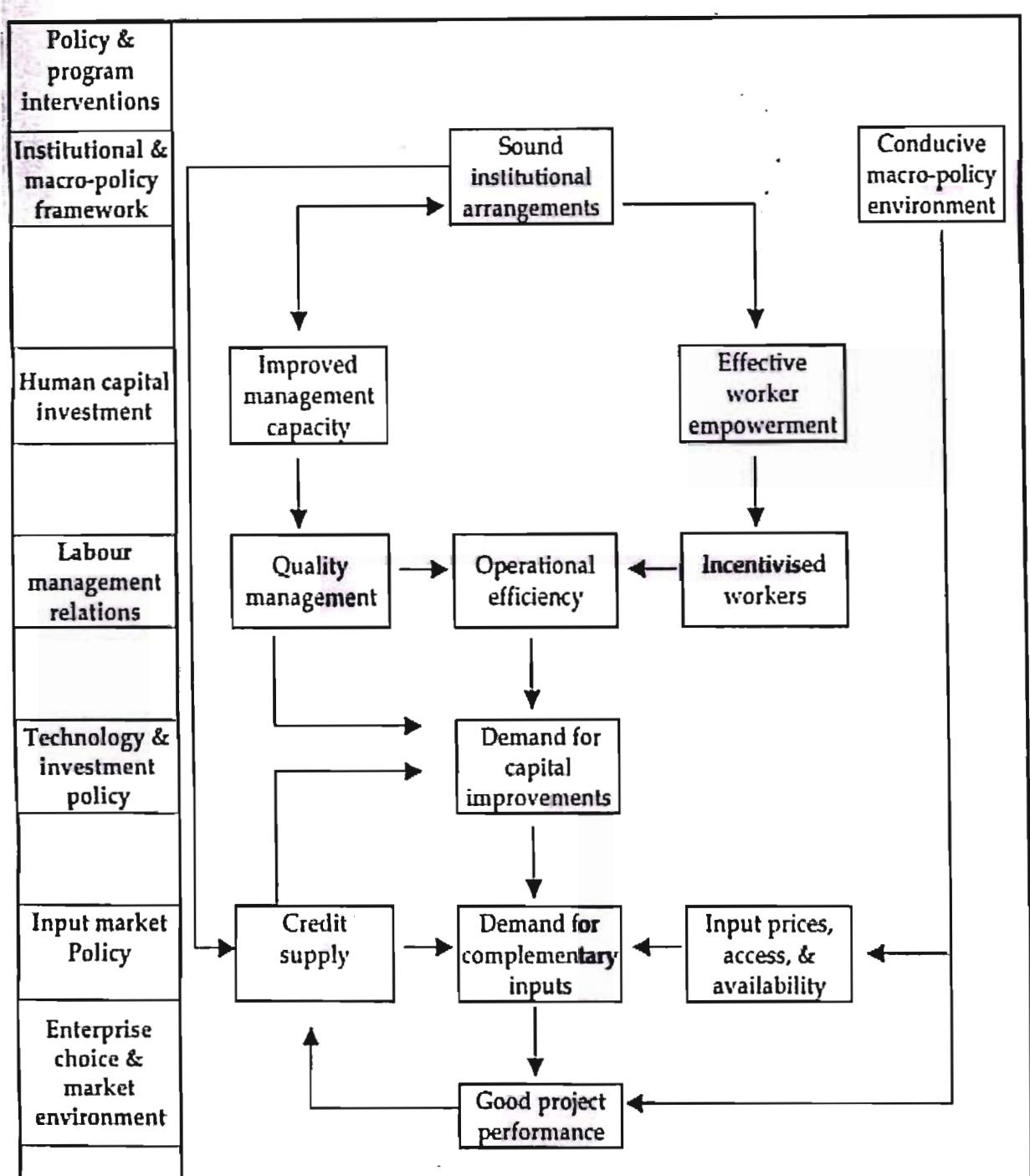
In addition, these institutions should eliminate or reduce the potential for free-riding to encourage co-owners to finance improvements and to use their shared resources in a sustainable manner. Recent NIE literature analysing the demise of traditional cooperatives in favour of “new generation” cooperatives (Cook and Illiopoulos, 1999; 2000; Porter and Scully, 1987) and investor-owned firms (Hendrikse and Veerman, 2001 cited in Knight et al, 2003, p. 232) explains the relative inefficiency of traditional cooperatives in terms of inadequate property rights that result in free-rider, horizon, portfolio, control and influence problems. To solve the internal free-rider problem, property rights (that is, benefits and voting rights) assigned to members, should be well defined and proportional to their individual capital contribution.

The free-rider problem discourages member investment because some the gains from the cooperative accrue to individuals that did not fully invest in developing the gains. It is thus important that workers’ interests in an equity-share scheme are not diluted by a transfer of shares to non-workers as a result of bequests or sales to outsiders. The horizon problem results from residual claims that do not extend as far as the economic life of the underlying asset (Porter and Scully, 1987). New members become free-riders as they benefit from past investments without paying fully for them in the form of higher share prices. The portfolio problem (Jensen and Meckling, 1976) discourages members of cooperative from investing as much as they would do as shareholders in an investor-owned Firm. This problem arises because the cooperatives investment portfolio may not reflect the interests or risk attitudes of any given member. Members cannot trade shares at market prices and are therefore unable to diversify or concentrate their own asset portfolios to fully reflect personal risk preferences. The

control problem (Sykuta and Cook, 2001) refers to the cost that members face in monitoring managers to ensure that they make prudent investment decisions and do not shirk and cheat (Porter and Scully, 1987, cited in Knight et al, 2003, p. 234).

**Figure 3.1** (Next Page) presents a conceptual model linking the institutional arrangements of farm worker equity-sharing schemes and performance. The left side of the figure identifies strategic points of policy and programme interventions that impinge directly or indirectly on the enterprise. The macroeconomic environment, which is influenced by domestic policy and global trade, will have an important bearing on the profitability of the enterprise regardless of its institutional and organisational features. Even the best institutional arrangements risk falling short of implementation without investment in human capital that enables management and workers to take advantage of their new rights and asset ownership. In particular, situations where land reform beneficiaries are operating with new legal structures and require new skills to administer their institutions, develop business plans, interpret financial statements and to access input, product and financial markets. A favourable institutional environment combined with an enabled management and workforce, *ceteris paribus*, should improve the operating efficiency of the enterprise, thereby increasing the profitability of fixed improvements and complementary inputs. In most commercial farming situations, performance also depends on access to loan finance from banks, net worth and debt-servicing capacity (Knight et al, 2003, p.236).

**Figure 3.1: Conceptual model of factors contributing to the performance of a farm worker equity–share scheme.**

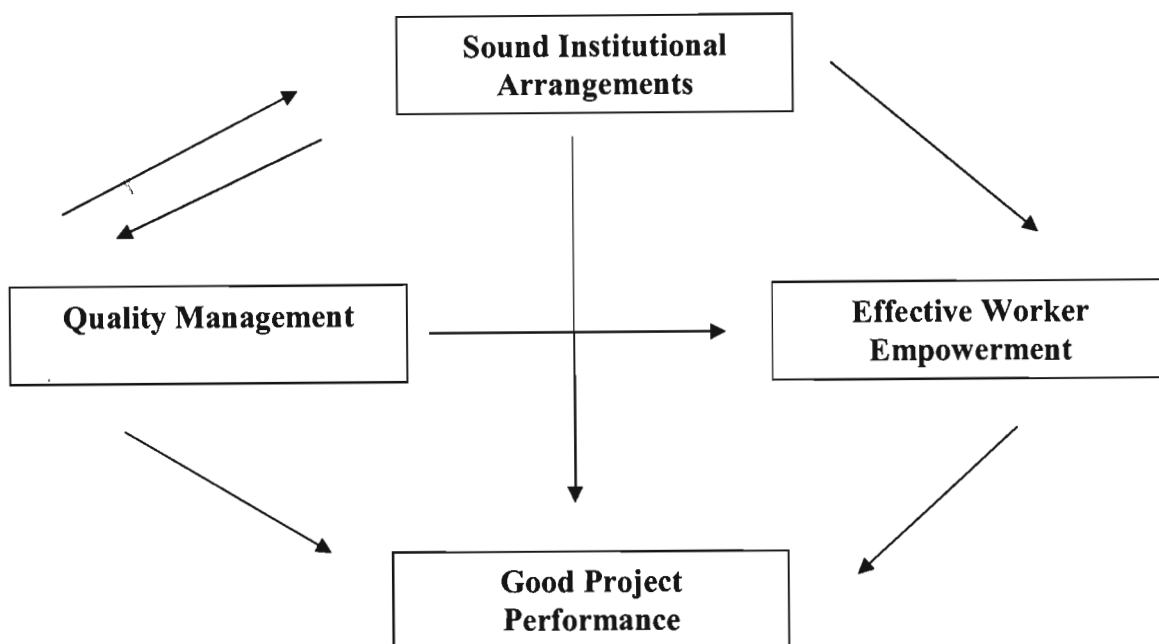


Source: Knight et al, 2003, p. 235.

Based on the study of the nine land reform projects, Knight et al (2003) proposed the

following empirical constructs of a farm worker equity–share scheme as given in **Figure 3.2** (Below). The most important relationship seems to be between the ‘sound institutional arrangements’ and ‘quality management’ which is two–way feedback process. ‘Sound institutional arrangements’ influences ‘good project performance’ both directly and indirectly through ‘effective worker empowerment.’

**Figure 3.1: Empirical constructs of a farm worker equity–share scheme.**



Source: Knight et al, 2003, p. 239.

### 3.5 GENERAL CONCLUSIONS

This chapter has attempted to bring together the economic rationale for land reform in South Africa based on the theoretical underpinnings. It must be noted, however that the political and social issues also play quite a significant role. It is clear from this chapter that there is no blueprint approach to land reform, as each instrument should be designed for the particular conditions to be effective. The important aspects of both individual and communal tenure should be properly understood when reform initiatives attempt to change social relations in rural areas. In terms of the issues

discussed, Redistributive land reform does appear to be both economically and politically feasible in South Africa. Nevertheless, there must be flexibility in policies regarding farm-size and structure of agriculture, while support must also be given to proper training and extension aimed at increasing the individual farmer's managerial ability (Van Zyl, 1996, p. 305).

Sound institutional arrangements are based on strong economic fundamentals and should be accompanied by other best practices such as provision for female representation in the workers' legal entity, and a general transfer of basic literacy, life and technical skills followed by continuous mentoring in financial, administrative and managerial skills so that worker representatives can perform their duties as office bearers, participate meaningfully in policy decisions and ultimately establish their own enterprises (Knight et al, 2003, p.247).



## CHAPTER 4 – LAND REFORM IN SOUTH AFRICA

### 4.1 INTRODUCTION AND BACKGROUND

This discouragement or prohibition of black farmers was one of the major forces that drove Africans out of the commercial farming areas into the former homelands. Between 1960 and 1980 the population of the former homelands increased from 4.5 to 11 million people (Turner and Ibsen, 2000, p.2). Evictions from white farms accelerated in the early 1990's, partly in response to commercial farmers' concerns about legislation intended to improve the security and working conditions of their labour. Some moved to the overcrowded homelands, while many erected shacks in urban shanty settlements. It is now estimated that almost 13 million of South Africa's 40 million residents live in the former homelands, and that over 80 percent of rural people in South Africa in 1993 were living in poverty (Turner and Ibsen, 2000, p.2; South African Data Profile, 2002 cited in Lyne and Darroch, 2003, p.65). This was the situation facing South Africa's first democratic government as it took power in 1994 and began to deal with land and agrarian reform.

### 4.2 ELEMENTS OF THE SOUTH AFRICAN LAND REFORM PROGRAMME

Faced with the need to balance strong demands from the dispossessed with the need to preserve the commercial farming sector and a fragile political compromise, the ANC-led government opted for a three-pronged land reform policy:

- **Land restitution** – a legal process whereby people who can prove that they were dispossessed of their land after 1913 can regain their land or receive due financial compensation for it.
- **Land tenure reform** – which aims to address insecure tenure in the former homelands, and
- **Land redistribution** – which aims to redress the racial imbalances in rural land ownership (Lyne and Darroch, 2003, p.66).

#### 4.2.1 LAND RESTITUTION

The restitution programme has been the most high profile and politically charged component of the land reform policy (De Wet, 1997, p.357). The land restitution programme aims to restore land to those dispossessed of their rights since 1913 through racially discriminatory laws and practice. The objective is ‘to promote justice and reconciliation.’ The Restitution of Lands Rights Act 22 of 1994 was enacted to guide implementation and give it a legal basis (Cliffe, 2000, p.275).

Lahiff (2003, p. 10) describes the institutional structure underpinning the land restitution process as follows: “The Commission on Restitution of Land Rights (CRLR) was established under a chief land claims commissioner and six regional commissioners and is an independent body, but in practice it falls under the control of the director–general of the department of land affairs and the minister of land affairs. The Land Claims Court was also established to deal with land claims and other land related matters. Provision is made for three broad categories of relief for claimants: restoration of the land under claim, granting of alternative land or financial compensation.”

Following the promulgation of the Restitution of Land Rights Act, Act 22 of 1994, members of the public were invited to submit land claims. The cut–off date for lodgement of restitution claims was 31 December 1998, by which date a total of 68 878 claims had been officially lodged, including both individual, family and community claims in urban and rural areas (CRLR, 2002). This legal process started very slowly. By September 2000, 12 623 households had received a total of 268 306 hectares—or less than 1 percent of the land available for redistribution. However, following an instruction to the Commission by president Thabo Mbeki to finalise all land claims by the end of 2005, the pace accelerated remarkably. Land affairs Director–General Gilingwe Mayende, presenting the department's annual progress report and plans for 2004, said 42 556 restitution claims involving 102 454 households had been settled between 1995 and 30 September of 2003. Taking the restitution programme alone, approximately 282 569 hectares of land had been restored at a total cost of about R809 million (BuaNews, 2003).

#### 4.2.2 LAND TENURE REFORM

The land tenure reform programme deals directly with the means through which land is owned. In particular, it seeks to address issues pertaining to the insecure, overlapping and disputed land rights resulting from previous systems of governance, especially in the former 'Bantustans'. The following laws have been enacted to facilitate reform:

- The Interim Protection of Informal Land Rights Act 31 of 1996, a mechanism to protect people with insecure tenure from losing their rights and interests in land pending long-term reform measures;
- The Communal Property Associations Act 28 of 1996, which enables communities or groups to acquire, hold and manage property under a written constitution; and
- The Land Reform (Labour Tenants) Act 3 of 1996, which provides for the purchase of land by labour tenants and the provision of subsidies to this end.
- In addition, the Extension of Security of Tenure Act 62 of 1997 ('ESTA') provides for tenure security in two ways: first, by helping people living on rural land or semi-urban land to obtain stronger rights to the land in which they are living, or on land close by; and second, by laying down certain steps that owners and persons in charge of rural or semi urban land must follow before they can evict people (Cliffe, 2000, p.275).
- The Transformation of Certain Rural Areas Act, No. 94 of 1998, which provides for the repeal of the Rural Areas Act (Act 9 of 1987) that applied to the 23 so called coloured reserves in the Western Cape, Northern Cape, Eastern Cape, and Free State (Lahiff, 2003, p.12).

#### 4.2.3 LAND REDISTRIBUTION

The aim of the redistribution programme is 'the redistribution of land to the landless poor, labour tenants, farm workers and emerging farmers for residential and productive use, to improve their livelihoods and quality of life' (DLA, 1997, p.36). Since South Africa's political democratisation in 1994, three principal modes of land redistribution have emerged transferring farmland to previously disadvantaged

entrants: Government–assisted land transfers, private land purchases and equity–sharing projects.

#### **4.2.3.1 GOVERNMENT–ASSISTED LAND TRANSFERS**

Between 1994 and 1999, the South African government vigorously pursued a policy of market liberalisation in commercial agriculture and simultaneously implemented the settlement and land acquisition grant (SLAG) of R16 000 (initially R15 000) per beneficiary household. In terms of the SLAG programme, historically disadvantaged South Africans who were landless and poor could apply for a cash grant to purchase and develop farmland. In practice, beneficiary households had to pool their meagre grants in order to buy a farm from a willing seller. The group established a legal entity (usually a community land trust or communal property association) that was formally registered as the owner of the property. In most cases, farms financed with land grants and settled by groups (of up to 500 households) were much too small to support all of the beneficiaries as full–time farmers (Lyne and Darroch, 2003, p. 66).

The department of land affairs anticipated that emerging farmers would use the grant to leverage loan finance for additional land. However, most creditworthy farmers did not qualify for a land grant as the means test applied to potential beneficiaries precluded individuals with a monthly household income greater than R1 500 from receiving the grant. By the end of 2000, the ministry of agriculture and land affairs had approved 484 projects under the SLAG programme, transferring a total of 780 407 hectares to 55 383 households of which some 14 percent were headed by women (Turner and Ibsen, 2000, p.12). Taken together, land restitution and land redistribution had transferred roughly one million hectares, or less than 1.2 percent of the 86 million hectares of white–owned farmland, to disadvantaged South Africans over a period of six years. Unimpressed with the performance of the SLAG programme, minister Didiza imposed a moratorium on further SLAG projects in July 1999 while the departments of agriculture and land affairs redesigned the grant programme. The minister released her proposals for a new programme, land redistribution for agricultural development (LRAD), late in 2000. The LRAD programme was implemented in August 2001 after several revisions. It differs from SLAG in one

major respect: Beneficiaries do not have to be poor to qualify for a minimum grant of R20 000—and those who have more savings and who can raise bigger loans to finance their farms qualify for successively larger grants. A beneficiary must inject equity and debt capital totalling at least R400 000 to qualify for a maximum grant of R100 000 (Ministry of Agriculture and Land Affairs, 2001, p.8 cited in Lyne and Darroch, 2003, p.65).

This marks a distinct shift in the South African government's land redistribution policy away from poverty alleviation and group settlement, in favour of settling prospective farmers on their own farms. In its first year, LRAD redistributed approximately one million hectares of farmland in South Africa (Shabane, 2002 cited in Lyne and Darroch, 2003, p. 69).

#### **4.2.3.2 PRIVATE LAND PURCHASES**

Private land transactions are constrained by severe cash flow problems when loans are used to finance land in times of economic inflation (Nieuwoudt and Vink, 1995). Returns to land consist of two principal parts; rent, which represents the cash dividend or Current Return to the land and capital growth. Like a stock market investment, the current returns to agricultural land tend to be low relative to capital growth. Empirical evidence from the United States of America, United Kingdom and South Africa shows that the average annual current return to agricultural land seldom exceeds 5 percent of its market value (Nieuwoudt, 1987, cited in Graham, 2000, p. 17).

In South Africa, the cash flow problem associated with land purchase has been compounded by another impediment to private land transactions—the Subdivision of Agricultural Land Act, 70 of 1970. In terms of this Act, farm-owners must get permission from the government to subdivide their land. This introduces uncertainty and delays that add to the costs of registering, surveying and transferring affordable parcels of land to aspiring farmers.

Although Act 70 has been rescinded, president Mbeki has not yet signed the repeal into law. The delay has been attributed to the absence of national zoning legislation regulating the conversion of agricultural land into residential or industrial uses.

Repeal of Act 70 will make it easier for the many poor and part-time farmers who will be rationed out of the LRAD programme to finance smaller, more affordable farms (Graham, 2000, p.19).

#### **4.2.3.3 EQUITY-SHARING PROJECTS**

Costs, delays and uncertainty associated with the formal transfer of small subdivisions of land in South Africa have contributed to the growing popularity of farm-worker equity-sharing projects as a means of redistributing wealth and incomes while maintaining or improving agricultural performance (Eckert et al, 1996, p. 693–712). In 1998 it was estimated that about 50 FWES projects had been initiated in South Africa, mostly in the Western Cape (Department of Land Affairs, 1998, p.2) and it is clear that this number has increased substantially in recent years. Today, FWES projects are spread across all nine of South Africa's provinces and involve wine, fruit, vegetables, olives, poultry, cut flowers, dairy and eco tourism enterprises (Knight et al, 2002).

In general, these projects are company operations in which financial equity is owned by workers, former owners, managers and other investors (Ngqangweni and Van Rooyen, 1995) in the form of tradable shares that define their individual rights to vote for directors and to benefit from the profits and capital gains generated by the company. FWES projects benefit from experienced management (frequently the former white owner) and have been able to attract finance from commercial banks and venture capitalists (Knight and Lyne, 2002). These private financiers have a strong incentive to help their clients build sound business organisations and to train worker-shareholders for their active participation in a successful company.

Case studies analysed by Knight et al (2003) show that both skills transfer and gender representation are positively related to the workers' share of equity in the enterprise. In essence, empowerment requires that workers buy a significant shareholding. Initially, farm workers had to finance their equity in the company with loans, creating the usual cash flow problems. This situation changed in 1996 when the DLA allowed farm workers to finance equity with SLAG grants, and in May 1999 when it piloted the LRCF. The LRAD programme explicitly supports equity-sharing projects

(Ministry of Agriculture and Land Affairs, 2001 cited in Lyne and Darroch, 2003, p. 73). Based on the theoretical underpinnings given in **Section 3.4, p.43** and on the current performance, it should be noted that FWES's are an effective and efficient tool for the current and future endeavours in the land process of South Africa.

#### **4.2.3.4 REASONS FOR FAILURE OF THE SLAG PROGRAMME**

As outlined earlier, the South African government initiated land redistribution in 1995, offering cash grants to historically disadvantaged households who wished to purchase commercial farms from white owners on a willing buyer–willing seller basis. Together, land restitution and redistribution transferred one million hectares, or less than 1.2 percent of the available area, to beneficiaries during 1995–2000. Most of these transfers were directed to resettlement schemes on low quality land with communal tenure arrangements in order to reach many beneficiaries quickly and at modest cost (Lyne and Darroch, 2004, p.1) Apart from insufficient delivery, as of 1999, the department of land affairs was just beginning to reach a critical level of awareness that a high proportion of its redistribution projects were plagued with serious problems. Much attention focused on the fact that groups were too large and post–transfer support was poor. Upon assuming the double portfolio of minister of agriculture and land affairs in June 1999, Thoko Didiza called for a complete review of the redistribution programme. The essence of her call was that the programme should be broadened to cater for those aspiring to become full–time, medium–scale commercial farmers, and should build more on synergies between land affairs and agriculture (Aliber, 2003, p. 2).

The slow pace of land reform has been attributed to two fundamental problems. First, it is not always feasible to partition large commercial farms into smaller, more affordable units due to indivisible resources and the high cost of surveying, transferring and registering subdivisions. Second, prospective farmers lack capital and are unable to finance land with mortgage loans from commercial banks due to cash flow problems caused by high nominal interest rates and low cash returns to land. Hence, more than half of the farmland redistributed in KwaZulu–Natal is co–owned by predominately white farmers and their previously disadvantaged black labourers; a worrisome fact given the chequered history of cooperative farming models and

concerns that several high profile group settlement schemes already have succumbed to weak institutions (Lyne and Roth, 2004, p.1).

It would be also appropriate to examine the failure of the SLAG programme in terms of Christiansen's lessons from the international experience with redistributive land reform discussed earlier. According to Kirsten and Van Zyl (1999, p.338–339), the SLAG programme faltered in the following areas:

- The speed of implementation of the programme was slow due to a combination of excessive bureaucracy and over-centralisation of the process, which rendered the programme ineffective.
- Economic viability of the farm models had not been adequately addressed in that livelihood options available to resettled households generally indicate that they had insufficient land size and quality to provide at least the target income. Furthermore, other assistance and infrastructure necessary to generate the income was not readily available to beneficiaries.
- There was no clear definition of the role that both the public and the non-governmental sector should play. International evidence has shown conclusively that such programmes that have relied exclusively on the public sector in the belief that it is the only one capable of maintaining integrity, delivering services, determining needs and managing the process, have failed.
- The need for additional services—infrastructure, markets, incentives, health—to be considered and access provided, has not received adequate attention. These considerations are necessary both to sustain higher productivity subsequent to reform and to include others who may not benefit from the direct provision of land.
- Changes to the legal environment have been aimed at establishing the rights of particular marginalized groups. However, some major impediments have not been addressed yet. Research has shown that this particular is a major impediment to land reform within a market-led approach and will in all probability cause such an approach to fail



#### 4.2.3.5 CAN THE LRAD PROGRAMME WORK?

The new redistribution programme as discussed earlier, entitled land reform for agricultural development, or (LRAD) was based on a model actively promoted by staff of the world bank, drawing on their recent experiences in Brazil and Columbia. It was adapted by officials of the national department of agriculture and academics from a South African university. Whether LRAD represented a broadening of the redistribution programme, or a wholesale shift, remains an issue of contention. One of the primary differences from the old programme is that the grant is available in a range from R20 000 up to R100 000, depending on an own contribution which rises disproportionately according to the grant level (that is from R5 000 to R400 000). However, as significant as the change in the size of the grant is the fact that it is now awarded to adult individuals rather than to households, and in practice multiple adult members of the same household can apply for LRAD grants with the intention of pooling them. In fact, this is actively encouraged by government staff and private consultants who work with LRAD applicants (Aliber, 2003, p. 2).

Although the LRAD programme is designed to extend larger grants to creditworthy farmers, there are some problems with the design and delivery of LRAD that must be addressed. For example, there is an implicit cap on LRAD grants imposed by commercial banks that usually require a debt/equity ratio of less than one when financing investments. Under optimal conditions when the lender is assured that the borrower will receive a grant, a prospective owner-operator would have to provide R100 000 in own equity in order to qualify for an LRAD grant of R90 000 and a commercial bank loan of R190 000. Under conditions that are less certain, and for previously disadvantaged farmers that lack savings, the implicit cap on LRAD grants would be much less generous.

Secondly, barriers to the subdivision of farmland imposed by the Subdivision of Agricultural Land Act, 70 of 1970 will prevent many emerging farmers from making private purchases. LRAD discounts the impact of Act 70, stating that “permission to subdivide for sale under LRAD will be effective immediately upon the launch of LRAD” (Ministry for Agriculture and Land Affairs, 2001, p 6.). While this

commitment is welcomed, it does not address other significant costs associated with the formal subdivision, registration and transfer of agricultural land. Moreover, it applies only to government–assisted transactions and, therefore, does nothing to improve market access for private buyers. Third, LRAD relies heavily on private “design agents” who will help prospective buyers to identify willing sellers, prepare their land–use plans and cash flow projections, negotiate sale agreements, arrange finance, and facilitate applications for LRAD. These agents are expected to recover most of their costs from a planning grant that is awarded once the project has been approved. However, this arrangement is fraught with uncertainty as there is no guarantee that government will approve a project. Consequently, existing landowners, property developers, estate agents and non–government organisations may be unwilling to act as design agents (Lyne and Darroch, 2003, p. 82).

The following points summarised by Lahiff (2002, p.15) outline the key weaknesses in LRAD:

- Major new responsibilities are allocated to provincial departments of agriculture, with no new commitment of resources.
- Approval criteria are even more weighted than before towards commercial production, with little acknowledgement of the importance of part–time farming as part of a survival strategy for millions of poor households.
- No explicit role is allocated to local government, despite official emphasis on the importance of the third tier of government in the delivery of services.
- Integration between different legs of land reform–tenure, restitution and redistribution–has remained unresolved, as do links between land reform and wider aspects of rural development
- No positive mechanism to ensure that more women, the unemployed and the very poor can participate.
- Volume, location and price of land will be determined largely by current owners.
- Design of projects remains in the hands of private consultants.

#### 4.2.3.6 CAN REDISTRIBUTION REDRESS PAST INJUSTICES?

The South African government introduced restitution as one of the main aspects of land reform, and since restitution is unambiguous in its focus on the redress of past injustices, then redistribution might have been construed as a purely economic proposition. In fact this was never the case. The fact that redistribution also bears responsibility for contributing to this redress is implicit in the RDP's 30 percent target, which lumped redistribution and restitution together as co-contributors to the objective of altering the racial imbalance in land ownership. The 30 percent target is revealing in another way. Unlike the redress of specific injustices, as catered for through the restitution programme, the 30 percent target bespeaks an intention to redress collective grievances owing to the long history of land dispossession. In fact, only redistribution can do this. Whereas restitution requires proof on a case-by-case basis, eligibility for redistribution requires only that one is a black South African.

This element of redressing the collective injustice is what accounts for the persistence of the 30 percent target in the public sphere, even though it was in the first place a purely arbitrary figure with no intrinsic significance. It very likely also accounts for the popular appeal among many black South Africans of Robert Mugabe's 'fast track land reform.' According to a 2001 survey of 3 700 individuals conducted by the Institute for Justice and Reconciliation, 85 percent of black respondents agreed with the statement, "Most land in South Africa was taken unfairly by white settlers, and they therefore have no right to the land today," while 68 percent agreed that, "Land must be returned to blacks in South Africa, no matter what the consequences are for the current owners and for political stability in the country." The point is that social justice is not just about restitution, but also about the way in which one conducts redistribution. Thus the social justice undercurrent to redistribution very likely also accounts for the rejection by the Landless People's Movement and others of the whole willing buyer-willing seller concept, which confers on white farmers generally the power to decide what land will and will not be made available to blacks. The willing buyer-willing seller approach is also considered objectionable in that it puts people in the position of 'buying back their own land' even if the money largely comes from the state (Aliber, 2003, p.7-8).

The adoption of LRAD as the flagship redistribution programme marks a shift in favour of benefiting a few greatly. If the 30 percent target were by some miracle achieved, LRAD would directly assist only about 350 000 households. Will this contribute to a popular perception that progress is being made towards redressing past injustices? As yet there exists no robust way of judging that. However, what makes this unlikely is that there is little deliberate targeting among those that do benefit from LRAD. Those who benefit most handsomely from LRAD are not black farmers who have been stymied by the lack of opportunity to expand within the homelands, but local elites who see LRAD as an opportunity to diversify their interests to complement their existing business activities for example being taxi and/or bottle store-owners. An alternative interpretation of the various pieces of information is that many South Africans do indeed want land, both to support their livelihoods and as a matter of righting an historical wrong, but that next to job creation, more housing, and improved security, land is generally not a priority. In that case, LRAD is very much the wrong approach (Aliber, 2003, p. 9). Only time will tell whether LRAD can and will be successful.

### **4.3 THE ROLE OF OTHER STAKEHOLDERS**

#### **4.3.1 NON-GOVERNMENTAL ORGANISATIONS (NGO'S)**

NGO's are very often the foot soldiers of land reform. The national land committee (NLC) is an active land NGO with a network of seven provincial affiliates and a head office in Johannesburg. It grew out of the national committee against removals that assisted communities fight the apartheid government's policy of forced removals and bantustan consolidation. NLC affiliates are independent NGOs and their size, strength, opinions and strategies vary across the country. They fulfil both a developmental role acting in partnership with government on specific projects and a lobbying/watchdog function (Sibanda, 2001, p.6).

The South African land reform programme is, to a significant degree, rights-based. This is a matter of constitutional obligation. However rights do not have meaning unless the holders of the rights are able to enforce them consistently and effectively. In practice the enforcement mechanisms remain weak. Part of the solution rests with

legal assistance organisations with the ability to use the law in defence of the poor and vulnerable. The Legal Resources Centre (LRC) is one such organisation. It is the oldest public interest law firm in South Africa and has developed a credible track record in land reform issues. Other organisations are the Centre for Applied Legal Studies at Wits and the Centre for Rural Legal Studies based in Stellenbosch (Sibanda, 2001, p.7).

#### **4.3.2 FARMERS' ORGANISATIONS**

These organisations constitute important pressure groups in the land reform sector. These include the national african farmers union, which, like the NLC, has autonomous affiliates in three provinces. Agri-SA has been an active role player in all land reform policies, laws and programmes. They have provincial unions and represent the landowning-farming sector. Most of the affiliates have predominately white members, with the exception of Kwanalu (the KwaZulu-Natal affiliate). The Agricultural Employers' Organisation is also an organisation representing white farming interest.

#### **4.3.3 THE LAND BANK**

The land bank was established in 1912 to assist in implementing government agricultural policy and promote white commercial farming. More than eighty years later, it is being radically transformed to support the development of the agricultural economy in the new South Africa and to serve a whole new set of clients. The land bank has been capitalised with grants of state funds and provides low-interest mortgages for farm purchase as well as unsecured production credit for clients with no security or formal financial track record. Its 'step-up' programme has assisted 36 000 clients, not considered bankable by the commercial sector. Commercial banks are critical of parastatals offering lower rates than the private banks can afford. At the same time, they have criticised the land bank for expanding its commercial book (mainly white farmers) instead of lending exclusively to black land reform farmers—a criticism dismissed by the land bank on the grounds that it needs commercial accounts to remain solvent. (Sibanda, 2001, p.8).

#### 4.3.4 THE LAND REFORM CREDIT FACILITY

The land reform credit facility was launched at the end of May 1999 with the aim of drawing private sector finance and human capital into commercially viable land reform projects (LRCF, 1999). The facility offers loans with deferred or graduated repayment schedules to reputable banks and venture capital investors who finance, on similar terms, equity-sharing projects and land purchased by aspiring farmers. In essence, the LRCF inherits the cash flow problem. Loans granted to financial intermediaries must have a deferred repayment schedule consistent with that designed by the intermediary for the enterprise it is financing. Otherwise, intermediaries are free to negotiate retail interest rates with their clients. Private lenders and investors who apply for loans from the LRCF are expected to conduct their financial evaluation and screening of projects thoroughly, adhering to sound business criteria, as they are putting their own resources at risk. At present the LRCF is administered by one full-time manager whose principal task is to approve loan applications submitted by accredited financial intermediaries according to land reform criteria established by the DLA (Lyne et al, 2000).

The LRCF was initially capitalised at a level of R63 million via a R32 million grant made by the department of land affairs that was matched by grants from the European Union of R29.4 million and The Danish Agency for Development Assistance (DANIDA) of R1.7 million (LRCF, 2000, p. 1 cited in Lyne and Darroch, 2003, p. 73). Simulation exercises based on anticipated loans with deferment periods ranging from one to three years (longer deferment periods render most projects unprofitable) indicated that approximately R15 million could be disbursed annually without reducing the real value of the LRCF fund to a level where it would not recover in the longer term. Although the DLA's moratorium on land grants prevented commercial banks from financing all but highly elitist projects (whose beneficiaries did not require grants), the Facility approved loans worth R32 million between May 1999 and April 2001, with applications for another R34 million pending its re-capitalisation.

Of this R32 million approved by the LRCF during its pilot phase, R4.8 million financed mortgage loans made to individual farmers and R27.2 million financed long term loans made to equity-sharing projects. In May 2001, the DLA and the European

Union accepted proposals to re-capitalise the LRCF. The DLA approved a grant of R60 million during the 2001 / 02 financial year, and the European Union is likely to provide a further grant of R10 million (LRCF, 2001a). ABSA Bank, the Facility's largest client, intends to make much greater use of the LRCF in future, especially if the DLA accepts a recommendation to allocate a portion of the proposed LRAD grants to the LRCF and to fast track these grants to the beneficiaries of projects financed by the Facility (LRCF, 2001b, p. 53)

#### 4.4 THE LATEST NATIONAL STATISTICS AND DEVELOPMENTS

**Table 4.1: Land restitution claims settled by region, 31 March 2001**

<b>Region</b>	<b>Lodged</b>	<b>Settled</b>	<b>Percentage settled</b>
Eastern Cape	9292	2898	31.20
Free State / Northern Cape	4715	405	11.60
Kwazulu-Natal	14 808	419	2.80
Western Cape	11 938	3 860	32.30
Gauteng / North West	15 843	3764	23.80
Mpumalanga	6473	3	0.05
Northern Province	5809	330	5.70
<b>Total</b>	<b>68 878</b>	<b>12 094</b>	<b>17.60 %</b>

**Source: Lahiff, 2002, p. 9.**

The pace of restitution was extremely slow in the first four to five years, due to detailed and complex verification processes and legal procedures. By December 1998, only 31 claims had been processed. A Ministerial review of the process and an amendment to the Act through the Restitution Review, giving the Minister authority to approve settlements, shifted the implementation of the sub-programme away from the courts and increased the number and speed of claims settled (Department of

Finance, 2002, p.681). According to Lahiff (2002, p.10), “The pace of settlement increased greatly following the implementation of the Restitution Review, so that by June 2001 this total had risen to 12 314 claims (18 percent of total claims lodged).”

Lahiff (2002, p.10) further argues that, “there has been a clear bias towards urban claims and financial compensation. The majority of claims (approximately 49 000, or 72 percent of the total) are from urban areas and derive from forced removals under the Group Areas Act. About 19 000 claims, or 28 percent, are from rural areas, and most are community or group claims.” This rural–urban bias is prevalent in the latest settled restitution claims: cumulative statistics as provided in **Table 4.2 (Below)**.

Approximately 88 percent of the claims settled were urban claims, an overwhelming majority. It must be noted, however, that the beneficiaries involved in the rural claims exceeds those involved in urban claims by a significant amount.

**Table 4.2: Cumulative statistics on settled restitution claims for the period 1995 to 29 February 2004 (rural/urban breakdown)**

	<b>Land restoration</b>	<b>Financial compensation</b>	<b>Alternative remedy</b>	<b>Total number of claims settled</b>	<b>Percentages of claims settled</b>	<b>Beneficiaries involved</b>
<b>Urban Claims Settled</b>	14 677	25 336	2 477	42 490	<b>87.68</b>	259 671
<b>Rural Claims Settled</b>	2743	3 225	5	5 973	<b>12.32</b>	356 758
<b>Total</b>	<b>17 420</b>	<b>28 561</b>	<b>2482</b>	<b>48 463</b>	<b>100</b>	<b>616 429</b>

**Source: Department of land affairs, 2004.**



**Table 4.3 (Below)** provide the latest settled restitution claims: cumulative statistics in terms of the provincial breakdown. Both the Eastern Cape and Kwazulu–Natal have the largest number of settled restitution claims, followed by the Western Cape. The remaining provinces have an equally small share of the balance of the settled claims. It is interesting to note that Mpumulanga and Northern Cape are the provinces where the most land has been reallocated. So, although, the Eastern Cape and Kwazulu–Natal have the largest number of settled restitution claims, most of beneficiaries in these provinces opted for financial compensation rather than having the land reallocated.

The fairly large amounts of financial compensation need to be closely examined. As discussed earlier (**Section 4.2.1, p.50**) President Thabo Mbeki had issued a directive in 2003 that all restitution claims should be settled by 2005. The result was a focus on resolving claims through cash payments rather than the transfer of land (Department of Finance, 2003, p.711). According to Greenberg (2003, p.17) this translates into just one-third of a per cent of total land in South Africa, and less than 0.4 percent of commercial agricultural land.

**Table 4.3: Cumulative statistics on settled restitution claims As At 29 February 2004 (provincial breakdown)**

Province	Claims	Households	Beneficiaries	Hectares reallocated	Financial compensation
<b>Eastern Cape</b>	12943	26742	112664	28338	438,436,096.68
<b>Free State</b>	2031	2718	18460	43315	28,859,440.18
<b>Gauteng</b>	9312	9304	45493	3453	377,631,298.00
<b>Kwazulu–Natal</b>	10332	22909	140591	132379	404,330,949.84
<b>Mpumulanga</b>	1354	14124	78337	240014	35,713,317.00
<b>North West</b>	1237	11881	63770	71484	26,280,000.00
<b>Northern Cape</b>	1501	5273	31936	233634	47,702,033.60
<b>Limpopo</b>	1209	12722	53577	54575	36,469,597.96
<b>Western Cape</b>	8544	11653	71601	3100	325,453,902.07
<b>Total</b>	<b>48463</b>	<b>117326</b>	<b>616429</b>	<b>810292</b>	<b>1,720,876,635.33</b>

Source: Department of land affairs, 2004.

In South Africa, the most recent policy debate has centred on the Communal Land Rights Bill, the threats issued by the landless people's movement (LPM) to forcibly occupy white owned commercial farms, and the enactment of a new legal provision that allows expropriation of land.

An amendment to the 1994 Restitution Act was passed late last year to empower the minister of agriculture and land affairs to expropriate commercial farms required for restitution purposes, if negotiation with a commercial farmer failed. However, the amendment still obliged the Government to pay compensation at the market price as provided for in the Constitution, thus protecting the property rights of commercial farmers. The laws affecting farm dwellers' rights—the Extension of Security of Tenure Act and the Land Reform (Labour Tenants) Act—are reportedly to be amended, and possibly consolidated into one. It is not clear in what ways this will affect the content of their tenure rights and the draft legislation has not been made public (Marongwe and Palmer, 2004, p.7).

The Communal Land Rights Bill was finally passed by Parliament in February 2004 and has been forwarded to the President to be signed into law. However, the President has not yet assented to it and so it is not yet an Act. It appears, though this is not officially confirmed, that the President is seeking further legal opinion on its constitutionality, so further delays are possible. At the same time, the department of land affairs has stated publicly that it cannot begin to implement the Bill until 2005. One of the most controversial aspects of the Bill is the one that imposes traditional councils as the bodies that will administer communal land. This aspect was first introduced on 17 October and public hearings around the bill were held within three weeks of this date. Concerns have been raised on whether or not the Bill has been properly debated either within the rural branches of the ANC or within rural society within such a short timeframe. In essence, the Bill gives traditional leaders power over rural land, and thereby power over the lives of the people who live on the land. For this reason, it has been criticised for potentially negatively affecting the plight for rural women who suffer severe discrimination under current customary systems. Many civil society critics (Claasens, 2004; Walker, 2004) in their submissions on the Bill, pointed out that a critical omission was the absence of community consultation

on whether or not they desired a transfer title, or on the form and content of land rights.

On 10 January 2004, the LPM issued a press statement entitled 'Ten years of failed land reform is enough', launching a 'No land, no vote' campaign towards the forthcoming election. The LPM demanded a national land summit to discuss the fundamental constraints to effective land reform and an immediate moratorium on all forced removals and evictions. In April while South Africa was holding its national elections, about 62 members of the Gauteng LPM were arrested as they tried to stage a peaceful protest. Those arrested included the core leadership of the LPM in the province and other activists.

In terms of progress, a total of 2 493 566 hectares of land has been transferred through all aspects of land reform since 1994. This amounts to 2.9 percent of commercial agricultural land, excluding the former homelands. The target remains to transfer 30 percent of this land by 2015. Of the 2.5 million Hectares, 810 292 hectares have been transferred through restitution and 1 683 275 hectares through redistribution and tenure reform. In the latter category, just under 12 percent of households benefiting are female-headed.

Overall, the budget for land reform has been increased in the financial year 2004 / 5, now amounting to a little under 0.5 percent of the national budget: R1.4 billion. Within this, the budget for 'restitution' (most of which has in the past been spent on cash compensation rather than land acquisition) accounts for R933 million and the budget for 'land reform' to fund redistribution and tenure reform stands at R474 million. Although the latter has been growing slowly, the capital budget for land acquisition has been declining in real (and nominal) terms and is only due to return to 2001/2 levels by next financial year. In the meantime, approved projects have been put on hold, and land cannot be transferred in a number of provinces due to a lack of funds. This is in direct contrast with previous years, when the budget was regularly under-spent (Marongwe and Palmer, 2004, p.8).

On the policy front: the Minister of Agriculture, Thoko Didiza, recently launched the Agricultural Black Economic Empowerment (Agribee) document, the objective of

which she stressed was to eliminate racial discrimination in the agricultural sector through implementing initiatives that mainstream black South Africans in all levels of agricultural activity and enterprises along the entire agricultural value chain can benefit from (Byford–Jones, 2004, p.7).

Some of the specific objectives include:

- Promoting equitable access and participation of historically disadvantaged individuals in the entire value chain.
- De–racialising land and enterprise ownership, control, skilled occupations and management of existing and new agricultural enterprises.
- Facilitating structural changes in agricultural support systems.
- Development initiatives to assist black South African in owning, establishing, participating in and running agricultural enterprises.

She stressed that in this document it was further proposed that the sector makes available additional 20 percent (beyond the target of 30 percent as set in the RDP) of agricultural land to the historically disadvantaged individuals and communities through leasehold.

Didiza added that it is also necessary to look at the roll–out of the Comprehensive Agricultural Support Programme (CASP) of government in order to address certain challenges that the emerging farms would still face. She announced that a steering committee would be appointed that adequately reflects the agricultural sector and government, which would be tasked, “with the onerous job of undertaking consultations, information sharing in order to deepen clarification, particularly disempowered groups. By November I would want the steering committee to provide me with a final report on the framework consultative process in order to submit this to my colleagues” (Byford–Jones, 2004, p.7).

## **CHAPTER 5 – BARRIERS TO PARTICIPATION OF THE POOR IN SOUTH AFRICA’S LAND REFORM PROGRAMME**

The department of land affairs (1997) set a priority on the participation of, “women, the poor and the landless in South Africa’s land reform programme,” three groups who are especially vulnerable in rural areas. In light of the unsatisfactory performance to date of the land reform programme and the land redistribution programme in particular, this chapter examines the underlying causes by focusing on the many barriers to participation in the land reform programme and land redistribution in particular, that current and potential beneficiaries have faced and are likely to be facing in the future. These barriers are wide ranging. They encompass all aspects of life from the very technical issues like the definition of a community in South Africa to the very practical crisis of HIV / AIDS and its devastating consequences in South Africa. Though they seem disparate, they all emphasize the enormous challenge faced by current and potential land reform beneficiaries.

### **5.1 THE PROBLEM OF DEFINING A ‘COMMUNITY’ IN THE SOUTH AFRICAN CONTEXT**

The stated aims of policy makers is to develop policies which will have a positive impact on the poorest people of South Africa, including those who live in the rural areas of the former ‘Bantustans’. In policy documents, the involvement of ‘communities’ is regarded as central to achieving these goals. As part of the new political dispensation, it is argued that rural communities should have a stake in their own development and that it is their constitutional right to have a direct contribution in matters affecting their future (Kepe, 1999, p.415).

Few developmental theorists and practitioners can deny that the term ‘community’ is one of the most commonly used terms in development circles. However, it has also been recognised as being highly elusive, with several competing interpretations (Cousins, 1989; Selznick, 1996; McLain and Jones, 1997). In this regard, Bernard (1973) suggests three basic characteristics of a community; (1) shared locale, (2) common ties and (3) social interaction. The first and second characteristic will be further elaborated in this study (Cited in Kepe, 1999, p. 418).

The most common definition of ‘community’ in sociological studies refers to people who share a common locality (Selznick, 1996). Conversely, Bernard (1973) argues that the phrase ‘the community’ is more aptly linked to people in a particular geographical location. In the former homelands of South Africa, the chiefs and headmen who were responsible for the allocation of new sites have, throughout the twentieth century, primarily controlled the location of an individual household within a particular environment. The most important factor in deciding where a new site would be located was the immediate neighbours who had to give their approval. In the former Transkei, these neighbours would be organised in a well-defined geographical cluster within the village, often centring around a dominant lineage, and with their own subheadmen. The name given to such groupings is *izithebe* (singular–*isithebe*) or mat associations. Hence, the negotiation of the concept of a community as a spatial unit involved at least four different social actors: (1) the applicant, (2) the traditional authority, (3) the formal administrative structure and (4) the people of the *isithebe*.

After the all inclusive elections of 1994, the structure and role of local government changed. In rural areas this change put into question the historical roles of the state and traditional authorities in defining ‘communities’ in terms of space. In 1995, a two-tier system of rural local government was established at regional level (district council) and local level (Transitional Representative Councils, or TRC’s). The TRC’s were not given the powers of a fully fledged local authority, but relied heavily on the district councils where they could represent their constituencies. The role of traditional leaders was restricted to that of custodians and custom with their land allocation powers effectively having been removed (Department of Provincial Affairs and Constitutional Development–DPACD, 1998). Instead, legal entities comprising of holders of land rights in a particular area are given the responsibility of deciding the spatial ‘community’ (Cited in DLA, 1998).

A ‘community’ can also be defined in terms of economic relationships, here different social actors share common interests, control particular or practise similar economic activities to make their livelihoods (Dikeni et al 1996, cited in Kepe, 1999, p. 420). In the former ‘Bantustans’ of South Africa, people who come from different villages or localities frequently share several resources, such as river, large dams, forests, the

coast and grazing land (Kepe, 1997). In addition, these shared resources may more often than not 'legally' belong to somebody else, for example the state. The main issue is whether these two characteristics ('community' as a spatial unit and 'community' as an economic unit) can be reconciled. In the land reform programme, where both historical ownership and long term use are important for deciding land rights, this is crucial. In the case when different 'communities' (spatial or economic units) exist within or claim rights to one geographical area, conflict management becomes critical before any land reform programme can be effectively implemented.

Many South African authors including Cross (1997) assert that clarity of land rights is a precondition for economic development in the former homeland areas. If land rights are clarified or secured, without the economic liberation of the previously disadvantaged poor people in rural area land reform will not efficiently contribute to redressing the imbalances between the various race groups in South Africa. Conversely, economic development initiatives, designed to alleviate poverty in rural areas, can result in new 'communities' being formed or old ones being fragmented. Such setbacks have already emerged in the Wild Coast Spatial Development Initiative (SDI) in the Eastern Cape Province (Kepe, 1999, p. 422).

Since land rights and economic benefits are necessarily closely linked in the new policy frameworks of post-apartheid South Africa, a situation arises where new 'communities' emerge and old ones disintegrate in the context of rapid social change. Sometimes there is a recall of past associations by group, to ensure that they are seen as part of the beneficiary community. Ultimately, it is argued that the use of the term 'community' in South Africa's land reform programme has both positive and negative effects on the beneficiaries. Effects are positive when they help focus on the needs of poor people, but negative when they compel conflicting groups together in a mode which results in the rights of the weaker group being trampled on by the actions of a more dominant group (Kepe, 1999, p.431).

## 5.2 THE MARKET-LED 'WILLING BUYER-WILLING SELLER' APPROACH

As explained earlier, the thrust behind market-led approach was a hybrid of pressures and perspectives. On the one hand, policy grew out of those initiatives concerned with land issues during the previous decade's mounting mobilisation against apartheid. These involved struggles to assert the claims of those who had lost rights to land or who were threatened with loss of access. On the other hand, this approach to redistribution through grants and land transfer through the market was also in line with the economic thinking of the World Bank and other international experts wedded to a market-led land reform. The following reasons as provided in **Table 5.1** is a summary of the justification for the market-led approach for South Africa's Land redistribution programme as given by the World Bank officials and other experts.

**Table 5.1: Reasons for the adoption of the market-led approach In South Africa as given by World Bank officials and other experts.**

<b>(1) Political</b>	It is essential so as to avoid 'decades of likely insurrection, possibly civil war, combined with capital flight and economic decline.'
<b>(2) Micro-economic</b>	A 'small farmer' strategy will lead to inverse economies of scale, through more intensive use of labour and relatively less capital (hitherto available through unjustified subsidies to 'white-owned' farms).
<b>(3) Macro-economic</b>	The transfer of land will allow a resolution of the 'debt-crisis' affecting many white-owned commercial farms as result of liberalisation and removal of subsidies, without The need to devote state revenues to debt relief.

Source: Cliffe, 2000, p. 277.



In the original policy documents (Department of Land Affairs, 1997) the land redistribution was to be demand-led, meaning that only those who are able to evince considerable interest in and capacity to become productive farmers will be able to access the programme. This is the “willing-buyer” portion of the “willing buyer-willing seller” framework. Demand-led targeting has the advantage of preserving productivity in the agricultural sector, since participation tends to be limited to those who can and indeed must make productive use of the land (Biswanger and Deininger, 1993).

In a world of perfect markets, demand-led targeting, which implements a shadow willingness-to-pay criterion, would also ensure that the land goes to those who most want it. The disadvantage of demand-led targeting is that in a world of multiple market imperfections (many arising out of the legacy of apartheid), the participation requirements will tend to favour those rural blacks who already have a reasonable strong asset base and will tend to exclude those who have none. If the poor prove to be unwilling or unable to meet the necessary level of interest or capacity, they will ultimately be barred from participation in the land redistribution programme. Furthermore, with the substantial expense of the programme, as well as its prominence in the government’s rural anti-poverty agenda, a failure to participate may very well mean continued poverty (Zimmerman, 2000, p. 1440).

As Van Rooyen and Njobe-Mbuli (1996, p.469) indicate, “ A market-based land redistribution strategy, in all probability, will only benefit the upper emerging commercial classes, while landless people may be deprived even more of scarce production resources due to their inherent inability to compete in the market for agricultural support and inputs”.

### **5.3 UP-FRONT COSTS**

The land redistribution programme includes substantial direct and indirect up-front costs to the beneficiaries in terms of money and labour. Such up-front costs will include direct programme participation costs, moving costs, the costs of new equipment, application and search costs, necessary land improvements (such as

fencing) and the opportunity costs of forgone activities during the transition period. These costs are likely to be more binding on poor households than rich ones. They are therefore likely to serve as a barrier to participation by the very groups that the land redistribution would like to target. Settling large numbers of black households on previous white-owned farms will necessitate the construction of new housing. Furthermore, small-scale infrastructural improvements, notably fencing and water supply, will be the responsibility of the land redistribution beneficiaries.

Among the largest up-front costs is the own-contribution necessitated by the demand-led rationing of the programme benefits. The own contribution envisioned by Van den Brink, de Klerk and Biswanger (1996) is R1 735 at 1993 prices. This figure is 20 percent of the cost of land, livestock and machinery necessary to settle a household. A very rough, but conservative, estimate of the up-front to the beneficiaries therefore reaches about R5 400. This amount represents only the out-of-pocket expenses that can be delayed, expenses to be paid out of the land grant or the direct and indirect of the application process itself. Households are unlikely to be able to obtain this money by borrowing, since credit markets are thin or absent in rural South Africa, and since poor people engaging in a new and for them unproven form of production would not make a good credit risk. May (1996) states that even informal credit *stokvels* are out of reach of the poor and that formal credit is unattainable for them (Cited in Zimmerman, 2000, p. 1443).

Van den Brink et al (1996) anticipate that part of the own-contribution could be made in terms of 'sweat-equity'. However, poor households and female-headed households face binding labour constraints that make the contribution of labour as challenging as that of money. Furthermore, the move and transition to a new area will itself be labour-intensive and demand a considerable amount of labour time.

#### **5.4 RISK AVERSION**

Risk aversion in general tends to be greater among poor people than among wealthier people (Zimmerman and Crater, 1997; Morduch, 1994 cited in Zimmerman, 2000, p. 1443). Poor people living close to subsistence are gambling with their health and their

lives when they take major financial risks. Poor people have a substantially lower capacity to self-insure than wealthier people and are less likely to have access to formal insurance. Informal insurance works best within extended families; when there is a high correlation of incomes within families. For these reasons, the increased risk of participation in the land redistribution programme will be of primary concern to poor households. **Table 5.2** shows several important sources of risk in the land redistribution to participating households.

**Table 5.2: Potential sources of risk in the land redistribution programme to participating households.**

<b>(1) Profitability</b>	Eligible households face uncertainty about the profits in the former white areas to which they will be resettled. Furthermore, the large subsidies which ensured white agricultural prosperity have now been rescinded.
<b>(2) Agricultural risk</b>	There is both yield risk and input and output price risk.
<b>(3) Non-agricultural employment</b>	Households face uncertainty about the availability and wages of non-agricultural employment.
<b>(4) Opportunity cost</b>	Households may fear that by accepting the benefits of the land redistribution they are putting their current remittance income in danger

**Source: Zimmerman, 2000, p. 1444.**

## **5.5 HUMAN CAPITAL CONSTRAINTS**

Agricultural skill is a key factor in making the beneficiaries of land reform successful farmers in the long run. Considerable evidence exists to suggest that human capital is as important to successful agriculture as land access. Van Zyl (1996) finds that human

capital is one of the most consistent and economically important predictors of farm efficiency.

A great deal of the physical displacement of blacks occurred before the apartheid era (pre 1948), so that numerous potential beneficiaries are three generations or more removed from their families' occupation of redistributable land. Furthermore, since land expropriated after 1913 is covered under restitution programme, the restitution programme will necessarily be composed of beneficiaries who have a distant connection to the land to which they will gain access. The failure of the land reform programme to budget funds for training in the vital skills of farming implies an assumption that beneficiaries either already have such skills or will acquire the necessary training themselves. Even part-time farming demands fairly extensive training which includes a basic understanding of bookkeeping, pesticide application, fertilizer demands, planting and replanting times, crop associations and rotations and risk management (Zimmerman, 2000, p. 1446).

The human capital constraint is further worsened by South Africa's history of discrimination against blacks in education, from the 19<sup>th</sup> century through to the apartheid era, which has left a legacy of a black-white education gap that extends to farm managerial ability in economically effective ways. In the words of Helena Dolny (1991, p. 218), "...major demand groups [for redistributable land] are unevenly skilled and hardly constitute an independent rich or middle peasantry or even tenants who are just waiting to emerge and expand their production opportunities through access to land. Apartheid effectively succeeded in eliminating most independent commodity producers in the 'Bantustans' areas."

Subsequently, agricultural human capital in the former homelands is both scarce generally and unevenly distributed. As the poor currently lack sufficient agricultural skills and because they will have immense difficulty in acquiring them, the value of the land reform programme and land redistribution in particular will be less to them than it is to more agriculturally experienced wealthier black farmers. In a demand-led rationing system and without considerable investment in agricultural training, the poor my well be rationed out (Zimmerman, 2000, p.1449).

## 5.6 TIME POVERTY

The poverty alleviation potential of the land reform programme depends heavily on the assumption of surplus rural labour. If poverty is the result of expropriation of productive assets, the argument goes, then restoring those assets will enable the poor to put their surplus labour capacity to work, generating incomes for the poor at no loss of efficiency and possibly a potential gain to the Macro economy. However, a large volume of evidence suggests that labour is as much a constraint on increased production as land. In a nonparametric analysis of rural income in Kwazulu–Natal, Carter and May (1999) find that the burden of household chores significantly reduces household income generation and that the differences are class–based. Zimmerman (1998, cited in Zimmerman, 2000, p. 1448) adds that labour is scarce both because of the historically distorted demographic structure in the former homelands and a dismal record of government neglect of local services and infrastructure that has raised the labour cost of daily living and household maintenance which is termed ‘time poverty’.

Although land is scarce in the former homelands, labour is also scarce, so severe overpopulation has existed for years with under utilization of land. Lyne and Niewoudt (1991) report that 22 percent of arable land in Kwazulu–Natal is unused.

**Table 5.3 (Below)** summarises the possible explanations for this under utilisation of land and scarcity of labour in the former homelands.

**Table 5.3: Possible explanations for the under utilisation of land and labour scarcity in the former homelands.**

<b>(1) Multiple market imperfections</b>	There are missing labour and land rental markets preventing the usual equalisation of factor returns across plots (Lyne and Niewoudt, 1991).
<b>(2) Oscillating labour migration patterns</b>	The patterns of oscillating migration have historically denuded black areas of working–age men leaving an economy of women, children and the elderly. Under South Africa’s settler colonialism the former homelands were viewed as reserves of labour (Wilson and Ramphela, 1989).

<p><b>(3) Shortage of government infrastructure and services</b></p>	<p>According to Zimmerman (1998), the lack of government infrastructure and services enforces a labour intensive, cumbersome form of household maintenance for rural households. In his study he found that whereas former homeland blacks spend 54.35 hours per week per household collecting wood and water, non-rural households spend only 3.28 hours per week per household in these tasks. In this way, virtually all of the productive labour power of a typical rural household could be used up in necessary household tasks, leaving almost nothing for wage work or agriculture.</p>
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**Source: Zimmerman, 2000, p. 1449.**

The labour constraints of the former homeland areas are likely to persist with the land redistribution programme, as households will be asked to move to areas with insufficiently developed water and sanitation infrastructure and with uncertainty about the development of a necessarily denser infrastructure of roads, clinics, schools and electricity grids.

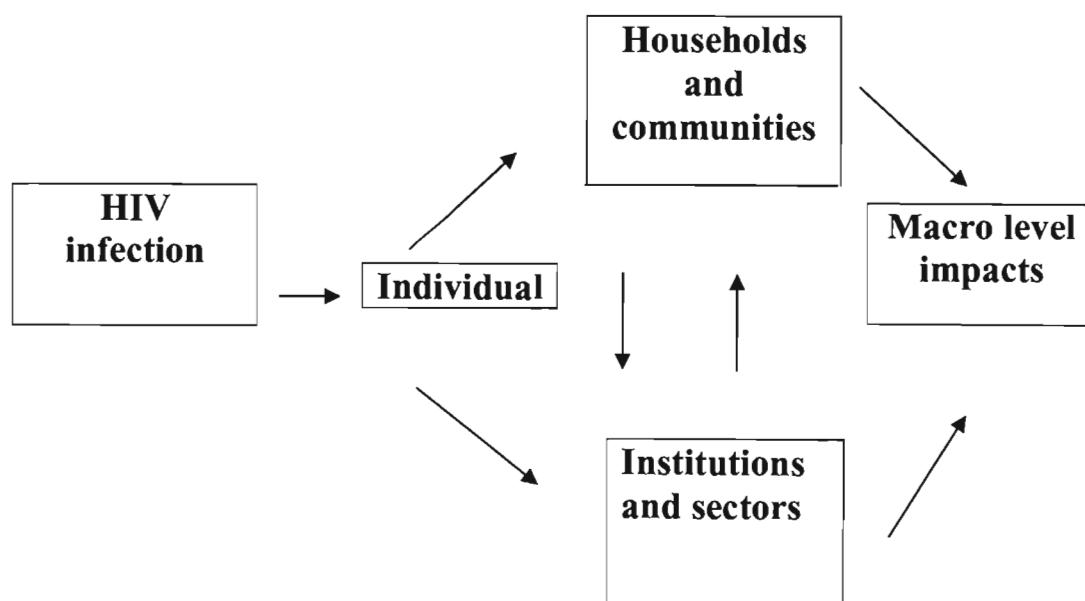
## **5.7 THE IMPACT OF HIV / AIDS**

The impact this epidemic has on rural development and livelihood cannot go unnoticed. AIDS (Acquired Immune Deficiency Syndrome) affects the very same people that development is intended for. It therefore becomes a challenge for policy makers to ensure that all development programmes in rural communities integrate HIV / AIDS in their planning. The causes and challenges of HIV (Human Immuno-deficiency Virus) are closely associated with wider challenges to development, such as poverty, food and livelihood insecurity, and gender inequality. In effect HIV/AIDS tends to exacerbate existing development problems through its catalytic effects and systematic impact.

Poverty and access to basic resources are one of the factors that exacerbate this epidemic. In addressing this it therefore becomes important to address the root causes and consequences of the wider challenges of rural development. Rather than developing a programme that deals only with HIV/AIDS, the government needs to establish a programme that will improve and bring value to lives of people. Land reform and security of tenure leads to development in rural communities. Very little investment will be made in land that has no ownership (Zwane, 2001, p.3).

Moreover, due consideration must be given to the relationships between people and institutions as shown in **Figure 5.1 (Below)**. People who should benefit from land reform are being infected and affected in homes and communities, and their reality is changing. At the same time, institutions are having their capacity undermined, and long term trends indicate the worst is yet to come. It is only when we start to consider the two aspects simultaneously, that we can really begin to plan appropriately. Many of the implications for land reform stem not only from HIV infection and direct illness and death, but from knock-on effects on both people and on institutions.

**Figure 5.1: HIV/AIDS infected and affected—households and communities, institutions and sectors**



Source: Mullins, 2001, p. 5.

In South Africa, the land reform programme does not address HIV/AIDS issue. The only programme that is available is one that deals with the staff and employees of the department of land affairs. As an agent responsible for land reform it has not committed it self to address HIV/AIDS issues in the execution of its duties.

According to Dan Mullins Regional HIV Coordinator for the Oxfam G.B. Regional Management Centre (2001, p. 9) based on the current trends of HIV/AIDS across South Africa, it can be reliably assumed that;

- 1) Families badly hit by AIDS are likely to be excluded from the land reform process.
- 2) About 15–35 percent of adults who could benefit from land reform are already HIV positive, although virtually none of them know it. They will begin to fall ill from chronic illness leading to death within the next 5–10 years.
- 3) Many other adults being resettled, and many of the children in their families, will in future become HIV positive and go on to develop AIDS.

Adams and Howell (2001) refer to the weak capacity of some governments to implement meaningful land reform. This capacity will only be undermined due to AIDS, so any current and future thinking about objectives and strategies must be based in part on an assessment of the impacts of HIV/AIDS on internal organizational capacity to plan and implement land reform. There are two possible two ways in which AIDS can affect institutions:

- 1) Staff (including senior managers) are themselves people living in societies with 15 – 35 percent adult HIV prevalence.
- 2) Clientele of institutions, along with their needs, objectives, abilities, and constraints, are being affected by HIV / AIDS

Some of the main internal impacts on institutions can be summarized;

- 1) Lower productivity (absenteeism from attending funerals, caring for others, illness during which there will be additional workload on other staff),
- 2) Direct costs of health care,
- 3) Human resources and workforce planning: harder and more expensive to hire in good staff, and retain them long enough for them to develop and use their experience.



Ultimately as suggested by Dan Mullins (2001, p.8), the land reform process in South Africa should seek to achieve a range of objectives in order to:

- Maximise appropriate access, with attention to particular needs of those infected and affected by HIV and AIDS
- Support productive use in the long-term, including those affected and infected by HIV and AIDS.
- Minimise HIV transmission and improve care and treatment for those who are ill, through provision of essential services.

If the land reform process in Southern Africa simply transfers access to families in which everyone is relatively healthy and makes no efforts to help families of those who later become chronically ill to retain and cultivate their land, then the process will not be seriously contributing to its stated goals of long term poverty alleviation and economic development.

## CHAPTER 6 – SUMMARY, CONCLUSION AND POLICY RECOMMENDATIONS

### 6.1 SUMMARY AND CONCLUSION

In April of 1994, a new democratic South Africa was born. The extension of political rights to the entire nation was an event celebrated globally. The raising of the new South African flag was testimony that a profound change had occurred. Over ten years later, the spirit of reconciliation and nation building have died down somewhat and been replaced by optimism based on the recent elections promises of ‘a people’s contract to fight poverty and create jobs.’ Notwithstanding newly won political freedoms, approximately half of South Africa’s 44 million people and two thirds of its African population still live in deep poverty. Seven million people live in shacks, disease morbidity levels remain high and a disproportionate number of poor people reside in rural and semi urban areas. South Africa also has one of the most skewed distributions of income in the world (“the top 5 percent of the population consume more than the bottom 85 percent”) and the national unemployment rate is currently between 40 and 50 percent (Bond, 1996 cited in Levin and Weiner, 1997, p. 5).

Based on these striking statistics it must be stated that the ten–year period of democracy in South Africa is too short a timeframe in which to measure success or failure of the land reform programme. As Martin Adams (1999) argues:

“It took one hundred years to construct South Africa’s land tenure map. It absorbed the energies of colonial invaders (all the king’s soldiers and all the king’s men) and all the demonic intensity of the apartheid state. How long will it take to dismantle it? From a comparative perspective, we must recognise that this is but the first round of land reform in this country. Looking to the experience of other countries we can see that land reform seldom is accomplished in one go. It emerges on the political agenda as a result of widespread landlessness and insecurity among the population as a whole where access to the land and other productive assets is marked by historical legacies of inequality. Land reform will continue to re–emerge over time as an

important political issue for as long as large numbers of the poor reside in rural areas in conditions of poverty and extreme inequality.”

Considering the political rivalries and contradictions that the DLA has had to negotiate in the fairly short period of its existence and its limited administrative capacity to implement policy, it is unrealistic to expect a dramatic “reconstruction” of South Africa’s rural landscape. In terms of identifying and defining the rights to the land, balancing interests between the various stakeholders and the facilitation of negotiation and consensus seeking, it would be unkind to describe the reform process a total failure (Drimie, 2000, p.240). After all, “any process of rural institutional and social transformation has to proceed carefully, mindful of the brittle nature of social networks and the enormous damage that has been wrought on people’s lives by decades of underdevelopment and abuse” (Walker, 1994, p.349).

Land reform in South Africa is not merely reallocating land from one group of people to another. It is about changing power structures and socio–economic relations; it is about ensuring a better livelihood for the previously disadvantaged rural poor. Bold political measures, imaginative land use policies and technical packages that may be envisaged require a great deal of thought, debate, research and pilot projects (Ghimire, 2001, p.25).

This study aimed to synthesise the land reform programme in South Africa in terms of its multifaceted political and legal policy origins, arrangements and the implementation thereof, with due regard to the international lessons and experiences. The criticisms that follow are meant to be constructive guidelines and should be understood as such. Ultimately, it must be noted that land reform is a long process, with explicit and implicit struggles and with multiple tensions. One may hope for effective governments able to achieve their ambitious goals in terms of their land reform programmes, but it is only reasonable to suspect that large numbers of landless workers who hope desperately for help through land reform are likely to meet with disappointment and despair.

Cherryl Walker (2004, p.11–12) aptly summarises the current political and populist opinions regarding the land reform process in South Africa:

“Land reform ... is overloaded with the claims of history and the twinned but incongruent imperatives of redress for the past and development for the future that that has bequeathed us. It is also hobbled by the constraints of the present, including not only the relative marginality of the rural areas politically and economically, but also the indifferent–uncooperative–natural environment in which it is to work its remedy. Popular expectations have been shaped by a ‘master narrative’ of quintessentially rural dispossession and restoration that, while not, broadly, untrue, is no longer directly relevant to today’s developmental challenges. It focuses too narrowly on the so-called ‘white’ countryside, underplays the importance of urban land reform and the former reserves, and underestimates the contemporary challenges to agriculture. It is not that land issues and land reform are not important for the millions who do look to the land to provide or supplement a living. .... It is that successful programmes of restitution, redistribution and enhanced tenure security will, at best, provide only some of the preconditions for emancipation from oppression and poverty ...”

The struggle of the people of South Africa is not over. Indeed, political freedom has been achieved but the struggle now continues on the economic front, with land reform unquestionably being at the forefront of government’s policy agenda for a long time to come.

## **6.2 POLICY RECOMMENDATIONS:**

### **6.2.1 THE INTERNATIONAL PERSPECTIVE**

In terms of the International Perspective, in order for land reform to achieve some measure of success:

- 1) Governments must have the capacity to provide family–scale farms, secure titles, adequate credit and technical know–how;

- 2) Governments must promote the market strength of small farmers internationally as well as locally;
- 3) Governments must accommodate the long-term technological displacement of much rural employment by stemming population growth and finding new kinds of jobs for those on the land; and
- 4) International agribusiness and governments must reduce their subsidies to domestic farmers, so that unfair competitive practices are ended while its controls over prices along the chain of production are better regulated.

The last point is worth highlighting, as there has not been a direct focus on the effects of globalisation and its implications for land reform processes. Global market forces pose a major challenge to effective land reform efforts when international agribusiness uses its vast power to advantage. For example, international agribusiness may sell cereals at prices below those on local markets due to generous price supports given by the United States of America and the European Union to their large commercial farmers, who gain access to poorer markets due to liberal trading agreements.

Admittedly, world trade accords do make it possible for increased Asian, African and Latin American exports to richer countries, but the farms that supply this demand are almost always on such a large-scale that is likely to have no significant effect on the poor families in these regions (Smith, 2002). It is these poor families who are in most cases the target groups in their respective government's land reform programmes.

### **6.2.2 FARM WORKER EQUITY-SHARE SCHEMES IN SOUTH AFRICA**

Farm worker equity-share schemes may never satisfy everyone's view of land reform. Nevertheless, recent experience suggests that FWES represent a viable mode of redistributing wealth and de-racialising commercial agriculture in South Africa. The following policy recommendations can be made:

It is recommended that DLA grants should be awarded only to beneficiaries of projects that are co-financed by a private investor, commercial bank or other

reputable institution as this ensures in depth financial analysis. In addition this approach eliminates the need for a separate financial analysis by the DLA and would reduce the time taken for grant approval. Excessive delays in grant disbursement hold up the empowerment process and have a detrimental influence on the project's solvency and liquidity.

It is recommended that the DLA should research the history of labour relations on the farms that apply for the LRAD grants to establish equity-sharing projects. Objective measures of mutual trust and respect might include a comparative analysis of current conditions of employment, skills training, average length of service, turnover in the workforce and institutional practices for hearing and settling labour disputes.

The DLA should consider extending its grants to regular but seasonal farm workers who wish to participate in established farm worker equity-share schemes. At present, only permanent employees are eligible for grants (Knight and Lyne, 2002, p. 371).

### **6.2.3 THE SOUTH AFRICAN LAND REFORM EXPERIENCE**

Based on research undertaken by Adams et al (1999), as part of the Overseas Development Institute, the following summary of policy implications concerning land tenure reform measures can be suggested:

Firstly, land use in communal areas, where the state is the registered owner needs to be properly regulated and recorded in terms of traditional customs and practices used by the local communities. Secondly, land rights should be vested with land users and not institutions that may not always act in the best interest of land users. Thirdly, tenure reform needs to be decentralised and daily management should be the responsibility of local level decision-making structures. Fourthly, as pointed out in **Section 5.6, p.79** earlier women make up the majority of economically active population in rural areas and it is therefore vital to promote measures to strengthen women's access to land. Lastly, tenure reform must be flexible in allowing right holders the opportunity to create and / or modify current rules when an opening arises.

A comprehensive study (Deininger et al, 1999) of the land reform programme in South Africa was undertaken in 1999, by prominent researchers of the World Bank,

DLA and two reputable South African Universities and the following policy recommendations are a summary of the broad conclusions of this study:

Firstly, poor people who rely on land reform for subsistence would benefit greatly if some of the qualification requirements for joining the programme were dropped. Secondly, the land reform programme could be more effective if it was significantly integrated into government's RDP programme. Thirdly, beneficiaries should be required to make their own contribution to address to challenges associated with ownership and economic success. Fourthly, increasing awareness through media campaigns would greatly reduce training and infrastructure costs. Lastly, de-centralisation of project approval to local government if they have the capacity, would speed up the implementation and hence the productivity and efficiency of the land reform process.

Based on the discussion of the government's latest LRAD programme in terms of Lyne and Darroch (2003, p.83) **Section 4.2.3.5, p.58**, the following policy recommendations can be made:

Firstly, obstacles preventing the repeal of the Subdivision of Agricultural Land Act, 70 of 1970, must be addressed without further delay. Scrapping this Act will make it easier for those poor and part-time farmers who are rationed out of the LRAD programme to obtain finance for smaller, more affordable farms. Secondly, the government should also contain or reduce the inflation rate, and lower the statutory costs of subdividing and transacting farmland, to assist commercial banks when financing prospective farmers and equity shareholders.

Recent invasions of commercial farms in Zimbabwe highlight the urgent need for bold interventions to deracialise the structure of commercial agriculture in South Africa. An effective alternative to the destructive "fast track" policy adopted in Zimbabwe is to subsidise interest rates for a finite period on loans made to creditworthy land reform projects. The problems associated with cheap credit programmes are well documented and have encouraged the South African government to resist interest rate subsidies. Many of these problems, however, could be avoided by channelling finite interest rate subsidies that decline over time through commercial banks. This has the added advantage of drawing private sector finance and expertise into the land reform process (Lyne and Darroch, 2003, p.84).

#### **6.2.4 BARRIERS TO PARTICIPATION IN LAND REFORM PROGRAMME IN SOUTH AFRICA**

While the land reform programme faces many challenges, including the pressure to deliver, the government and its associates cannot afford to take short cuts when implementing the programme. The untangling of rights to land during rights enquiries should be allowed to take as much time as is needed for ensuring long lasting solutions. The minute details of conflicts that arise as a result of attempting to clearly define 'communities' should not be ignored, even though it may seem distant from the immediate issue at hand, in this case land rights (Kepe, 1999, p.431).

Former minister of agriculture Derek Hanekom has been quoted as saying, "We need a major shift from land reform to land reform plus other things." These "other things" include rural job creation, intensive management assistance and public infrastructure development (Mail and Guardian, 1999 cited in Zimmerman, 2000, p.1455). Clearly, with such programmes in place the selection of beneficiaries of the land reform programme need no longer be demand-led, but rather targeted to the poor.

Furthermore, the landless poor would benefit from employment programmes, land grants and additional safety nets as a way of making the programme more attractive to them.

Such insurance in terms of Zimmerman (2000, p.1455) could cover risks and take many forms: Firstly, the government could sell subsidized weather insurance (not subject to moral hazard) that would pay off in the event of inadequate rainfall. Secondly, the government could make the up-front costs of the programme payable over three or five years, and then only in the event of integration into the farming economy. Lastly, the government could guarantee employment at some level of minimum wages. Taking the risk out of the programme would go definitely make it more attractive to the poor.

To alleviate the time poverty barrier to participation, a policy option would be to aggressively extend government services—infrastructure, electricity, drinking water, irrigation, education and health care to rural centres that would be foci of new development. Lipton and Lipton (1993) stress the importance of water control rural



infrastructure. They cite the example of East and Southeast Asian countries whose agricultural success resulted from heavy rural infrastructural investment. Essentially, the government would construct towns into which land reform beneficiaries could move and be assured of access to important services. Such a solution would keep time constraints to a minimum and serve as magnets for the rural economic activity that would provide the non-farming jobs necessary to make the programme successful (Zimmerman, 2000, p.1455).

In terms of HIV/AIDS the following is summary of policy recommendations that are suggested by Zwane (2001):

Firstly, the government should conduct a broad situation analysis of the impact of HIV/AIDS on the land reform programme. This can be done through a study that will initially involve numerous communities in South Africa, followed by studies undertaken in other countries. The entire process can take about 5 to 10 years to complete, which is acceptable as land transfers are lengthy processes. Secondly, the government can work with NGO's to make all the HIV/AIDS statistics accessible and available to all planners and land reform project members, so that these statistics are accurately integrated in their planning. Thirdly, the government should involve key stakeholders in planning and research. Results that emerge from such studies will be easily accepted because every organisation would have participated. Fourthly, donors of the land reform programme should be encouraged to invest in fighting the spread of HIV/AIDS. Lastly, the government should include a budget line for HIV/AIDS in all financial planning and establish support centres where it possible for those infected and affected by HIV/AIDS to help deal with the associated stress and to encourage those in the community or region who are still productive.

The successful implementation of these policy measures would require a re-thinking of current government policy, sound financial planning and a realistic look at the impact of HIV/AIDS on the viability of the land reform programme in South Africa.

Overall, land reform must be solutions-orientated, actions-based, dynamic which works towards the restoration and redefinition of land usage, distribution and ownership patterns, so as to reflect the spirit and intent, and meet the expectations of the new South Africa (Momsen, 2004, p.4).

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