THE DEVELOPMENT OF SELECTED LEARNING UNITS IN LAND ADMINISTRATION TO FACILITATE THE LAND REFORM PROGRAMME

by

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AS THE CANDIDATE'S SUPERVISOR I HAVE APPROVED THIS DISSERTATION FOR SUBMISSION.

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ABSTRACT

With the introduction of a new government in South Africa in 1994, the country embarked on a programme of land reform, and currently the process of dealing with the issues of Land Redistribution, Land Restitution and Tenure Reform is underway. Sound land administration is crucial to the Land Reform Programme, and to future peace in the country. Such land administration requires a range of role players with varying levels of education.

Also in the field of education the country saw a complete break away from the system of content-based education and competency based training, to one of outcomes-based education and training. The introduction of this new educational dispensation is overseen by the South African Qualifications Authority (SAQA), who is in the process of ensuring the smooth implementation of the National Qualifications Framework (NQF) into all aspects of learning in South Africa. The purpose of the NQF in the broad sense is to provide for the registration of nationally and internationally recognised qualifications on all levels in an integrated system, in order to facilitate access to and provide mobility in education and training.

The NQF is designed to develop learning that is relevant to the needs of industry, the individual and the economy, but also to be dynamic and able to adapt quickly to changing circumstances. It therefore is providing South African educators with new challenges in the field of Outcomes-Based Education and training.

One of the methods available to identify appropriate learner outcomes to meet the above requirements is the DACUM method, which works on the premise that expert workers are better able to describe/define their job than anyone else. The DACUM method is a proven way of arriving at relevant outcomes, which is the starting point in the curriculum development process as used in outcomes-based education and training programmes. In this thesis the DACUM model is tested as a tool for designing relevant outcomes, and such outcomes are modified in accordance with outcomes in practices in existing programmes in land administration in Southern Africa.

Another important component in designing learning outcomes is to ensure that appropriate embedded knowledge is identified in order to avoid that learning becomes mechanistic without learners mastering necessary content. In this thesis a body of general knowledge has been compiled which can inform the curriculum developer on relevant embedded knowledge when designing learning units in Land Administration. This body of knowledge includes land related historical issues in South Africa as well as Australia and the USA, Government Policies and Legislation dealing with Land Reform.

Finally some learning units in one of the fields in land administration were developed. In making the choice of which field, care was taken to identify one which will span a range of NQF levels, and the choice fell on the adjudication of land rights, which proved to have relevant learning on every NQF level from Level 3 to Level 7. To achieve this the writer had to interview a number of stakeholders and compile a body of knowledge specific to adjudication. Care was taken to develop elements, which could be used by the Standards Generating Body (SGB) in Surveying in designing Unit Standards, as well as by educators in Higher and Further Education.

DEDICATION

This work is dedicated to my family who had to continuously take second place whenever time became available for me to proceed with this study.

PREFACE

This research has been carried out in Durban and Pietermaritzburg in the Province of KwaZulu-Natal, whilst working as a lecturer in surveying and a curriculum developer at Mangosuthu Technikon. The purpose of this study was to identify and develop appropriate learning units in Land Administration, to facilitate the Land Reform Programme.

The study has been supervised by Dr C Fourie, initially, and later by Mr J Jackson, both of the University of Natal in Durban.

This is to certify that this study comprises only my original work except where due acknowledgement is made in the text.

J C Landman
Durban
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GLOSSARY OF TERMS

The following is a list of terms and acronyms used in this project:

ADJUDICATION   The process whereby existing rights in a particular parcel of land are finally and authoritatively ascertained.

CADASTRE   It is "an official register of the location, boundaries, ownership, value, and other attributes of land." (Dunkerly, 1985)

CVA   Canadian Vocational Association

DACUM   Develop a Curriculum. It is a practitioner-based process for documenting the skills of specific occupations.

DEEDS SYSTEM   "The state grants rights to a parcel of land to an individual and then all subsequent transfers are done along a chain of individuals. These transfers are registered in the Deeds Registry. The deed is based on the name of the individual" (Fourie, 1994).

EAC   Education Advisory Committee of PLATO

ETQA   Education and Training Quality Authority

FIXED BOUNDARIES   "When a plot is originally demarcated it is marked by pegs and, once these pegs are emplaced in the ground, then the position established on the ground at that point in time is the fixed position" (Fourie: 1994).

GAC   General Area of Competence

LAND PARCEL	The basic spatial unit of the cadastral record is the land parcel, sometimes known as a lot, or plot. The parcel is an area, or more strictly a volume, of space recognized for recording purposes that may cover many square kilometres in the case of a farm or ranch, or may be as small as 1 square metre for land used as an electricity sub-station. (Habitat, 1990).
NQF	National Qualifications Framework
NSB	National Standards Body
PLATO	South African Council for Professional and Technical Surveyors
QUITRENT TENURE	Occupation of property for a fifteen-year term, renewable, and subject to an annual rental in accordance with the quality of the land, payable to the Government. Proc R188 of 1969
SAQA	South African Qualifications Authority.
SGB	Standards Generating Body
ESTA	Extension of Security of Tenure Act (Act 62 of 1997)

CHAPTER 1

INTRODUCTION

1.1   The Research Problem

The Department of Land Affairs of South Africa was created in 1994, with the responsibility of developing and implementing a policy of land reform. The mission of this new department is to create an equitable and fair land dispensation and to secure and promote the effective use of land as a resource *(Dept of Land Affairs, 1997)*.

The department is further committed to the restoring of land rights as provided for in the Constitution. Section 25(1) of the Bill of Rights in the Constitution states that no one may be deprived of property except in terms of law of general application, and no law may permit arbitrary deprivation of property. Sub-clause (5) states that the state must take reasonable legislative and other measures, within its available resources, to foster conditions that enable citizens to gain access to land on an equitable basis. Sub-clauses (6) and (7) deal specifically with persons or communities whose tenure of land has been affected by past racially discriminatory laws or practices. Sub-clause (6) for access to tenure that is legally secure or to comparable redress, whilst Sub-clause (7) specifically makes provision for the restitution of property of a person or community that had been dispossessed of such property after 19 June 1913 *(SA Constitution, 1996)*. The department is therefore committed to provide an appropriate land policy, legislative framework and mechanisms for equitable access to land and security of tenure *(Dept of Land Affairs, 1997)*. This implies that the department will have to initiate, manage and facilitate the relevant processes democratically and in a participative, transparent, efficient, scientifically accountable and just manner.

In order to facilitate the democratic ideals expressed above, the White Paper on South African Land Policy (1997) devoted a section to responses received on the Green Paper on South African Land Policy *(Dept of Land Affairs, 1997)*. One of the issues raised at the workshops described in the Green Paper was that the roles and

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responsibilities for land administration at the different levels of government be clarified, and there were calls for land administration at local level to genuinely represent the interests of land users.

It was not only at these workshops where the concept of local level land administration was considered. Calls for the establishment of local land administration have increased in recent times. Fourie (1996), put forward an argument for the development of capacity to administer land tenure transformation at the local level. UNCHS (Habitat) has been one of the major lobby groups supporting decentralisation (UNCHS (Habitat, 1991). Davies (1997) argues that a local land record office would allow local tenure patterns to evolve while simultaneously providing a more formal level of security of tenure to the residents of the community. The South African Government, in the White Paper on South African Land Policy (1997), recognises the decentralisation of functions and authority as a necessity for the efficient and effective delivery of land reform. Fourie and van Gysen (1996) argue that a local registry system modelled on the Namibian Rehoboth system is necessary for land reform and land management in developing areas in South Africa. The Rehoboth registry has made land information (conditions of title and ownership descriptions, survey information, land use control/zoning and valuation information) for land management available for many years to a local community of about 35 000 people. Instead of outside professionals obtaining information about a local area by using field workers, then fitting this information into an official land management plan of action, the planning initiative is handed over to the local people. They are encouraged to use their first-hand knowledge and expertise to construct charts, maps and matrices. In many cases, the problem-solving strategies that result are innovative and sustainable. This Participatory Rural Appraisal (PRA) system operates on the premise that problems in these areas are endemic and ongoing. PRA equips people as a group and helps them set and achieve their own management standards working within local means.

Palmer and McLaughlin (1996), reported on a system similar to local level registries that is used in Peru, where democratically elected local leaders administer informal settlements. Such local leaders are responsible for land administration and community improvement projects. The Peruvian Government subsequently initiated a formalisation

process, which was made more efficient by enabling all informal property holders in a community to formalise their properties by using common maps and simple forms. Thomas *et al* (1998), argues that in respect of group-based systems of rights, such systems would not work in practice unless it was supported by a transparent and accessible system of land administration at the local level.

These examples show that sound land administration, be it at the local level or otherwise, is crucial to the Land Reform Programme, and will be important for future peace in the country.

Capacity building training programmes to equip a range of people with a variety of educational backgrounds to undertake various levels of land administration will have to be developed. Land administration requires a range of competent role players and varied levels of education will have to be established in order to comply with the requirements of the NQF (National Qualifications Framework).

This research, with the objective to solve relevant problems, started in 1996 with a DACUM workshop (*Landman, 1996*), during which the General Areas of Competence (GAC's) for a local land administrator were identified by a number of stakeholders. A range of skills associated with each GAC was also identified, which could serve as the basis for establishing learning outcomes in land administration. *See Appendix A.*

Further information exists which could be used as guidelines for establishing learning outcomes for land administration in South Africa. Firstly the Polytechnic of Namibia introduced a National Certificate Course in Land Measuring in 1997, which included a number of land administration related topics. Secondly, the Centre for Environment & Development (CEAD) at the University of Natal in Pietermaritzburg, is introducing a Postgraduate Programme in Land-Information Management. Two of the semester modules deal with land administration related topics. In Malawi the Ministry of Lands and Housing has introduced Certificate and Diploma programmes in land administration, totalling six semesters of study.

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Nationally, the development of educational programmes needs to be carried out in terms of the National Qualifications Framework (NQF), which is based on a system of learning outcomes, as discussed in 1.2 below. This thesis describes the process of establishing learning outcomes as required by the South African Qualifications Authority (SAQA) as part of the NQF. Such learning outcomes can then be used in the writing of Unit Standards and/ or Learning Units at various levels to be available to learners with different educational backgrounds and levels.

The diagram below illustrates a model whereby learning outcomes will be established in this thesis It combines two acceptable methodologies in order to successfully establish learning outcomes - these are the DACUM method of occupational analysis, and performing a curriculum analysis by researching existing educational programmes.

WRITING PROCESS FOR UNIT STANDARDS / LEARNING UNITS (Adapted from Phillips, 1997: Unit Standards in the NQF)

NARROW CONSULTATION (DACUM)

OUTCOMES/ CURRICULUM ANALYSIS → **OUTCOMES CONFIRMED** → **FIRST DRAFT**

GROUPS OF SUBJECT MATTER EXPERTS WRITE UNIT STANDARDS OR LEARNING UNITS FROM IDENTIFIED OUTCOMES
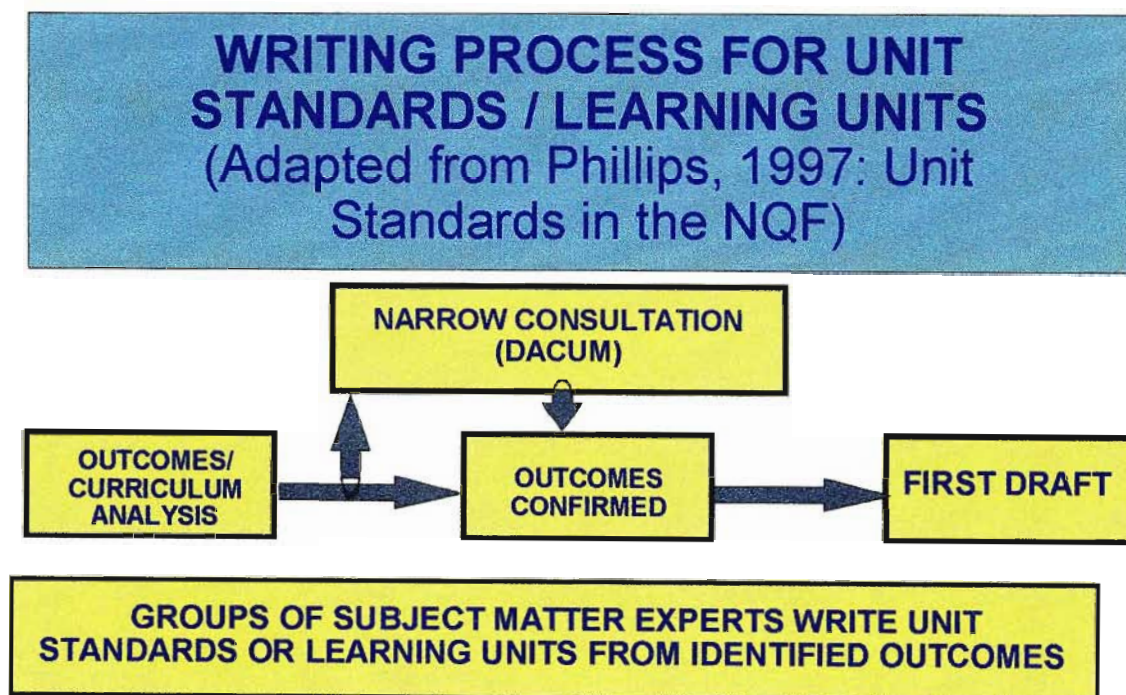
THE WRITING PROCESS FOR LEARNING UNITS/ UNIT STANDARDS

(Phillips 1997)

1.2   The Outcomes-Based curriculum development model

Education in South Africa has been subjected to a significant paradigm shift since 1994. The result of this shift is a new education and training dispensation, of which the South African Qualifications Authority (SAQA), National Standards Bodies (NSB's), Standards Generating Bodies (SGB's) and the Education and Training Quality Assurers (ETQA's) are the main drivers. The move away from the traditional "content-based" education and "competency-based" training, to one of "outcomes-based" education and training (OBE), is one that is still the subject of intense debate in education and other circles.

In outcomes-based learning programmes, the curriculum design process starts with the intended learning achievement, the outcomes. Outcomes-based learning implies that learners must demonstrate the achievement of an outcome, as well as involvement in the learning processes. The outcomes-based curriculum emphasises a holistic and integrated approach towards learning, which entails mastering of content, competencies and processes within a specific context (Olivier, 1998).

This study will use two acceptable methodologies in order to successfully establish learning outcomes for capacity building in land administration. These are the DACUM method of occupational analysis, and researching presently existing programmes that cover land administration.

The DACUM method of curriculum design has been be applied successfully in identifying learning outcomes, whenever such education and training are geared towards preparing the learner for specific applications at the workplace. The process is practitioner based, and consists of a structured brainstorm technique involving workplace experts, resulting in a matrix of the skills and tasks of an occupation, working department or occupational area. The concept of a process of deliberation, which is the foundation from which any DACUM analysis is launched, has gained wide acceptance amongst writers on curriculum design. Joseph Schwab (1969) recognised the

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importance of group participation by arguing that it becomes obvious that the identification of the places where curriculum change is wanting, requires not one person, but a group. Mulder (1991), Pereira (1984) and Reid (1988) all favoured a process of deliberation when establishing curricular content. The DACUM analysis, mainly because of this deliberation process, accommodates approaches to learning which seek to develop outcomes that can be applied in a wide range of situations, including the development of the qualities of independence and the ability to reflect critically, solve problems and make judgements. However, intrinsic to the above is the use of a competent deliberation group or committee. This was achieved in this study – see APPENDIX A.

In addition to the above the components of present education and training programmes running in Southern Africa can also be investigated. The outcomes so derived will be independently validated once a comparison is drawn between the existing programmes and the outcomes as derived from the DACUM analyses.

1.3   Conclusion

According to the principles of the NQF learning has to be defined in terms of outcomes, and the learner will have to master relevant knowledge, skills and attitudes. Any learning unit that will be designed for land administration will have to comply with the requirements of the NQF. The DACUM method of curriculum analysis has been applied to the field of land administration, and has successfully been used internationally to define learning outcomes in many occupations. In following chapters this method will be combined with a curriculum analysis of existing programmes in land administration to define relevant learning outcomes in that particular field.

The following chapter will look more closely at the National Qualifications Framework, and how it will impact on designing relevant training programmes for land administration. It will also analyse the DACUM approach to establish whether it can be used successfully in defining relevant learning outcomes in land administration.

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CHAPTER 2

The National Qualifications Framework (NQF)

2.1 Introduction

The South African Qualifications Authority Act (Act 58 of 1995) has been promulgated in terms of which the South African Qualifications Authority (SAQA) is to oversee the development and implementation of the NQF. Section 5(1)(b) of the Act mandates the South African Qualifications Authority (SAQA) to register national standards and qualifications, and to take steps to ensure compliance with accreditation provisions and to ensure that standards and qualifications are internationally comparable.

All education and training programmes in South Africa have to be designed according to NQF criteria as part of a system of Outcomes-Based Education and Training. In an outcomes-based approach to curriculum design, learning is measured not by the amount of real time a learner spends on a programme, but by the extent to which a learner can demonstrate competence in the specified learning outcomes.

The design of learning units for the training of prospective learners in land administration are amongst those that need to be structured to comply with the requirements of the NQF and SAQA. It is therefore necessary that these requirements be investigated before the design of learning units is embarked upon.

Below follows a short review of the NQF, and how it affects the design of training modules for prospective land administrators.

2.2 The structure of the NQF

SAQA has adopted an eight-level framework, with levels 1 and 8 respectively being regarded as open-ended. Level 1 accommodates three Adult Basic Education and

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Training (ABET) certification levels as well as the General Education and Training Certificate.

NQFLevel	Band	Qualification Type
8 7 6 5	Higher Education and Training	• Post-doctoral research degrees • Doctorates • Masters degrees • Professional Qualifications • Honours degrees • National first degrees • Higher diplomas • National diplomas • National certificates
Further Education and Training Certificate (FETC)		
4 3 2	Further Education and Training	National certificates
General Education and Training Certificate (GETC)		
1	General Education and Training	Grade 9 | ABET Level 4
		National certificates

SAQA has also identified twelve fields of learning, which are as follows:

1. Agriculture and Nature Conservation
2. Culture and Arts
3. Business Commerce and Management
4. Communication and Language
5. Education Training and Development
6. Manufacturing Engineering and Technology

7. Human and Social Studies

8. Law Military Science and Security

9. Health and Social Services

10. Physical, Mathematical, Computer and Life Science

11. Services

12. Physical Planning and Construction

An NSB (National Standards Body), reports to SAQA with one NSB per field of learning, and is registered for a period of three years. A SGB (Standards Generating Body) is formed for each sub-field of learning and reports to the relevant NSB.

An SGB is responsible for establishing unit standards and qualifications and shall: -

□   Generate standards and qualifications in accordance with the Authority requirements in sub fields and domains.

□   Recommend standards and qualifications to the National Standards Body.

□   Recommend criteria for the registration of assessor's, moderators and moderating bodies.

□   Perform such other functions as may be delegated by its National Standards Body.

2.2.1 The NQF and the Survey Profession

Hull (2001) reports that the Council for Professional and Technical Surveyors of South Africa (PLATO) as a key interest group in the sub field of Physical Planning, Design and Management in which Surveying is located, was instrumental in facilitating and funding the activities of the Surveying SGB. The Surveying SGB was the first SGB to be registered with SAQA through NSB 12.

Hull (2001) reports further that PLATO has traditionally registered persons from NQF level 4 – 7. However to encompass all workers in the industrial sector, and embrace the ideals of the SAQA philosophy to allow persons to qualify through the achievement of life long learning, PLATO agreed to the process of changing its Act.

PLATO REGISTRATION		FUTURE QUALIFICATIONS
NQF LEVEL	CATEGORY	
1 – 3	Technical Assistant	National Certificate (120 credits)
4	Assistant Survey Technician	National Certificate (120 credits)
5	Survey Technician	National Diploma (240 credits)
6	Surveyor	National First Degree (360 credits)
7	Professional	Professional Degree (480 credits)
8	Specialist	Masters Degree (720 credits)

Table showing the grouping of Unit Standards into qualifications and registration category (Hull, 2001)

SAQA has stipulated that 10 notional study hours be worth one credit on the NQF. SAQA estimates that one notional study year is equal to 1 200 notional study hours (120 credits)*(Luckett, 1998).*

7 activities within the domain of surveying have been identified by the SGB as follows: -

- ❑ Minerals
- ❑ Cadastral/ Land Management
- ❑ Photogrammetry/ Remote Sensing
- ❑ Engineering/ Precise Engineering
- ❑ Hydrographic
- ❑ Geodesy

At the final meeting of the outgoing SGB in Surveying held on18 - 20 March 2002, it was agreed that Learning Units in Land Administration will be dealt with by the incoming SGB, which is likely to assume duties in 2003.

2.3   The purpose of the NQF

The purpose of the NQF in the broad sense is to provide for the registration of nationally and internationally recognised qualifications on all levels in an integrated system, in order to facilitate access to and provide mobility in education and training. This is to be effected within a system of Outcomes-Based Education and Training.

2.3.1 Outcomes-Based Education and Training

Olivier (1998) states that the National Qualifications Framework (NQF) is focussed on the re-engineering of the learning system towards an Outcomes-Based Education (OBE) approach. He contrasts this with the previous mainly *content-based* learning in the education system, and *competency based* learning in the training system. Spady (1994), argues that OBE means clearly

focussing and organising everything in an educational system around what is essential for all students to be able to do successfully at the end of their learning experiences. The South African Qualifications Authority, SAQA (1998), defines outcomes as the contextually demonstrated end-products of the learning process.

A curriculum design process must accommodate the development of outcomes that can be applied in a wide range of situations and develop qualities of independence and the ability to reflect critically, solve problems and make judgements. The success of OBE depends largely on the quality of the various defined outcomes. If these definitions are too narrow or too vague, this will lead to poor results once the student graduate has to deal with true-life issues in the real world. See Chapter 5 for a detailed discussion with some examples on how to effectively write learning outcomes.

To summarise, Outcomes-Based Education is simply the establishment of expected goals or outcomes for different levels of education, and a commitment to ensuring that every student achieves at least those minimum proficiencies before being allowed to graduate.

How can such outcomes be successfully established for local land administration? I will show that the DACUM method, which has been used extensively in South Africa and internationally, meets the criteria for successfully identifying learner outcomes.

2.3.2 The relationship between the NQF and outcomes-based education

Qualifications and standards registered on the NQF are described in terms of the learning outcomes that the qualifying learner is expected to have demonstrated. Hence there is an underlying commitment to a system of education and training that is organised around the notion of learning outcomes (SAQA, 2000).

SAQA (2000) states that the NQF emphasises the notion of applied competence – the ability to put into practice in the relevant context the learning outcomes acquired in obtaining a qualification. It refers to Ronald Barnett's discussion of competence in higher education which epitomises the kinds of transition that are taking place in education and training systems the world over. Higher education is urged to allow the term *knowledge* to embrace *knowledge-through-action*, particular outcomes of a learning transaction, and trans-disciplinary forms of skill *(Barnett, 1994)*.

SAQA (2000) argues that if South Africa is to take up its position in the global village, it needs to embrace the new vocabulary of which Barnett speaks: competence and outcomes. It motivates this argument by stating that countries in Europe, the Pacific Rim, Australasia, and North America have either adopted or moved in the direction of a national qualifications framework, underwritten by a commitment to outcomes-based education, and that South Africa cannot afford to ignore these developments.

SAQA has accepted that there is more than one situation in which knowledge develops and that learning continues both before and after a qualification has been awarded in a variety of sites of learning. Then, in order to achieve integration and coherence within the system so that access and portability can become a reality, it is necessary to clearly articulate the outcomes of learning achievements. SAQA also believes that since the global trend is moving towards describing qualifications in terms of achieved learning outcomes, articulation of South African qualifications with their international counterparts is facilitated if such qualifications are described in terms of the learning outcomes. The NQF with its commitment to outcomes-based education and training is the means that South Africa has chosen to bring about systemic change in the nature of the education and training system *(SAQA, 2000)*.

2.4 The DACUM model for defining learning outcomes

DACUM is an acronym for *Developing A Curriculum*. It was introduced in Canada by Howard Clement, staff officer in the Department of Regional Economic Expansion, under whose auspices a number of innovative training centres were established throughout Canada *(Coffin, 1993)*. It is a practitioner-based process for documenting the skills of specific occupations. It makes use of a highly refined structured group interview technique to generate and analyse curriculum content and develop a validated set of skills. The process is recognised internationally as a cost-effective method for analysing occupational skills and designing meaningful training and education programmes. In the 1970's DACUM was researched and refined as a quick, low-cost way to develop skills profiles using a committee of content experts or incumbent workers *(Coffin, 1993)*.

The DACUM approach, in its original form, is based on the following assumptions:

☐ Expert workers are better able to define their job than anyone else;

☐ Any job can be described in terms of the skills/ tasks that successful workers perform; and

☐ All skills/ tasks have direct implications for the knowledge and attitudes that workers must have in order to perform the skills/ tasks correctly.

The analysis takes place in five phases that are as follows:

1st Phase - Occupation Title and scope of the analysis;

2nd Phase - General Areas of Responsibility;

3rd Phase – Skills/ tasks;

4th Phase - Skills analysis, Learning Activities and Resources;

5th Phase - Performance Indicators and Assessment Criteria.

For phases 1 - 3 of the analysis, a facilitator works with a DACUM committee to produce a DACUM chart listing the general and specific skills/ tasks for an occupation.

The DACUM facilitator must be specially trained and skilled in outcomes-based curriculum development and group processing, but not necessarily in the occupation being analysed. Subject matter experts are carefully screened to select 8-12 to participate as members of a DACUM committee at a two - to three-day DACUM Analysis meeting. The committee first identifies "general areas of responsibility" and then the "occupational or workplace skills" required for each such area. Interaction and deliberation therefore forms an integral part of any DACUM analysis and is a firmly embedded component of the DACUM process. The selection of the committee is a critical factor in doing a successful analysis, and the use of an experienced facilitator is absolutely essential *(Coffin, 1993)*.

General and specific skills are written out on cards. The cards are arranged on a wall to allow flexibility in modifying the list and sequencing the skills. The completed DACUM chart becomes the basis of the training programme, curriculum or job description. To help in scheduling revisions, the chart includes the names of committee members and the date of the meeting. *(Coffin, 1993)*.

A carefully selected curriculum development committee, consisting of all stakeholders, including academic staff, performs phases 4 and 5 of the analysis. The exact activities during this part of the process will, to a large extent, depend on the teaching philosophy of the institution, but will mainly consist of an analysis of the identified skills *(Coffin and Morin, 1998)*. In South Africa this will culminate in the writing of Unit Standards and/or Qualifications on the NQF, as well as how these will be assessed.

Regular reviews and less frequent major revisions are recommended to keep the charts up to date. Employers can benefit by using the charts to develop job descriptions, training goals, hiring criteria and as a performance appraisal tool.

2.4.1 The writer's capacity to apply the DACUM method

The writer of this thesis visited Canada for the first time in 1993 as part of the

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Canadian funded COTIL Project. As part of the activities in this project he was introduced to the DACUM model of Skills Analysis for the first time. He was subsequently trained as a DACUM skills analysis facilitator by the Canadian Vocational Association (CVA) in Canada, and was the first, and still is the only South African to receive CVA DACUM Facilitator Certification.

His activities include assisting Academic Departments in ensuring that their academic programs offered are aligned with the requirements of the South African Qualifications Authority (SAQA). He has also worked with various organisations in industry in obtaining validated skills profiles for their employees. To this end he has made use of the DACUM skills analysis model extensively, and has facilitated numerous occupational analyses throughout South Africa ranging from the non-professional to the professional levels.

Internationally he has done DACUM training and analyses in Zimbabwe, Namibia and Swaziland, and has presented papers on the DACUM model at International Conferences in the USA, Canada and South Africa.

He is registered as a Professional Engineering Surveyor with the Council for Professional and Technical Surveyors of South Africa, and is a member of the Standards Generating Body (SGB) for Surveying where he is involved in the development of education standards that are in accordance with the requirements of the South African Qualifications Authority.

2.4.2 Using DACUM for outcomes-based education

SAQA (2000) states that a qualification shall represent a planned combination of learning outcomes which give a defined purpose and which are intended to provide qualifying learners with applied competence and a basis for further learning. One of the principles of outcomes-based education according to Spady (1999) is that the curriculum design starts with the abilities, skills, knowledge and attitudes that one ultimately wants students to demonstrate.

In this research use is made of existing programmes in land administration combined with a DACUM exercise carried out for Local Land Administrators in 1996, to define the relevant learning outcomes. Before the DACUM method can be accepted as a valid tool for formulating such outcomes, it has to be rigorously measured against existing parameters so as to assess its suitability for that purpose.

To perform this assessment the method will be analysed according to the characteristics of Joseph Schwab's paradigms of curriculum enquiry.

2.4.3 Schwab's approach to learning

Armstrong (1998), reports that Schwab has been termed a "constructivist." Constructivism recognizes that students learn, interpret and organize information as individuals and that these processes are personal. He sets out Schwab's approach to learning at school level.

Below follows Schwab's approach, adjusted by using NQF/ SAQA terminology:

- Students work to solve problems of their own construction or those posed by the instructor.
- Students work both in class and out of class.
- The instructor serves as a helper, guide, and resource provider.
- Students often work in teams.
- Students seek to learn process as well as product.
- Class activities are more like real-life solution seeking.
- Employers and community are often important associates in the learning.
- Since many activities are open-ended, there may be a variety of appropriate solutions and processes.

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When developing open-ended problems, Armstrong (1998), reports further that according to Schwab the focus should be relevant to the curriculum and demonstrate the following characteristics:

- Provide for active, hands-on experience rather than reliance on memorising theory from printed materials;
- Allow for a variety of approaches for successful conclusion;
- Be constructed in such a way that students have access to necessary materials;
- Be completed within appropriate time constraints;
- Utilise the processes of knowing, including observing, inferring, predicting, graphing, communicating, classifying, and collaborating;
- Be interesting and challenging; and
- Provide development of self and ability to solve problems and answer personal questions.

Schwab's approach is consistent with Spady's (1994) definition of outcomes-based education, which states that OBE means clearly focusing and organising everything in an educational system around what is essential for all students to be able to do successfully at the end of their learning experiences. This means starting with a clear picture of what is important for students to be able to do, then organising curriculum, instruction and assessment to make sure this learning ultimately happens *(Spady, 1994)*.

2.4.4 The place of DACUM in Schwab's paradigms.

In "The Practical: A Language for Curriculum", Joseph Schwab (1969), argues that the standards of curricula were declining due to a preoccupation with the technical, behaviouristic research paradigm, which he labelled *theoretic*. Schwab provided an image of what should be, namely, a *practical* paradigm. His critique is not about *what* the curriculum should be like; rather, it concerns *how* curriculum enquiry should proceed.

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For DACUM to qualify as a tool for effective curriculum enquiry in an outcomes-based education system, it therefore has to fall into Schwab's Practical Paradigm to be consistent with Spady's definition of outcomes-based education.

Below follows an analysis comparing DACUM with Schwab's main elements of his theoretic and practical paradigms.

COMPARISON OF SCHWAB'S THEORETIC AND PRACTICAL PARADIGMS

	Theoretic	Practical
Problem Source of Inquiry (formal cause)	state of mind or abstract conceptualisation of researcher	state of affairs or dilemma experienced
Method of Inquiry (efficient cause)	induction on phenomena by detached researcher and hypothetical deduction relative to findings	interaction with state of affairs; embeddedness and encounter as lived experience
Subject of Inquiry (material cause)	Generalizations; law like statements; generic knowledge or information data	situationally specific insights; increased meaning and sense of direction
End of Inquiry (final cause)	knowledge for the sake of knowledge; knowledge for the sake of (data) publication	decision; meaning; sense of direction; action;

The Formal Cause. Schwab argues that the formal cause or problem source of the theoretic exists as a mere state of mind, whereas that of the practical is in an actual state of affairs. Phase One of the DACUM analysis reviews the occupation. The problem of what exactly is to be analysed is clearly stated, and

the scope of the analysis is determined. The existing occupation as well as its growth areas, are thoroughly researched to determine the clustering of job classifications, the size of firm or business which normally employs the workers, and the purpose or application of the analysis, e.g. curriculum development, career development or others.

For Schwab's Formal Cause statement, DACUM is consistent with the characteristics of Schwab's Practical Paradigm.

The Efficient Cause. Schwab argues that the theoretic researcher reserves induction that separates the inquirer from the situation studied for the sake of objectivity. The practical researcher sees immersion in the problematic arena itself as necessary. Thus, interaction is the practical counterpart of induction.

By comparison, the DACUM process is based on a highly refined structured group interview technique to generate and analyse curriculum content and develop a validated set of competencies. Interaction and deliberation therefore form an integral part of any DACUM analysis. The composition of the committee, which will perform the initial brainstorming activity, is of critical importance. Schwab (1983), recognised the importance of group participation by arguing that it becomes obvious that the identification of the places where curriculum change is wanting, requires not one person, but a group. A group is also required to deliberate appropriate alternatives. The composition of such a group was also given major importance by Schwab who outlined group membership and group size for school curriculum deliberations. The DACUM method, in similar fashion, clearly stipulates the size and composition of the DACUM committee.

The important role of deliberation in curriculum design is explored by Marsh (1997), who reports that Hannay et al. (1987) noted that deliberation is not a linear process but rather a spiral process - a spiral of meaning *(Roby, 1985)*. Mulder (1991) asserts that argumentation and interaction are the key activities.

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Pereira (1984) emphasizes that the purposes of deliberation are to clear away clashes between alternatives. Deliberation to him is 'essentially a systematic method for formulating and entertaining an adequate variety of alternatives, alternative perceptions, alternative problems, and alternative solutions'. Reid (1988) perceives deliberation as a strongly context-bound and practical mode of curricular problem solving. Although the process of deliberation is seldom easy, without it the most fruitful alternatives may not be found. He notes that deliberation 'does not go in for ready-made solutions or axiomatic forms of reasoning. It suggests that good actions have to be discovered, and that the means for their discovering is the inventive behaviour of people'.

Marsh (1997) reports that for these writers, it is the ongoing searching that gives deliberation its unique qualities. One may expect forthright discussion to lead directly to viable solutions, but that is seldom the case. Deliberation finally leads to some decisions for action: planning enters the 'design' phase when a group has achieved sufficient consensus about beliefs, problematic circumstances, and potential solutions so that particular courses of action can be taken more or less automatically, without further consideration of alternatives.

Schwab's argument that places where curriculum change is wanting, requires not one person, but a group, and that a group is also required to deliberate appropriate alternatives is consistent with the arguments summarised by Marsh above, although the focus of DACUM deliberations similarly deal with curriculum deficiencies and alternatives are debated extensively. That makes the composition of the committee for phases 1 - 3 of the analysis a critical factor in doing a successful analysis - an important factor that is also highlighted by Schwab, and the use of an experienced facilitator absolutely essential *(Coffin, 1993)*.

I have shown that for Schwab's Efficient Cause statement, DACUM is consistent with the characteristics of Schwab's Practical Paradigm. I have also shown that DACUM is similar to deliberation models proposed by Schwab because DACUM

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is not a linear process.

The Material Cause. Schwab argues that the theoretic researcher seeks generalisations that are broadly applicable. The practical researcher sees this as a false hope when dealing with a field that is composed of persons in changing contexts. Therefore the advocate of practical research recommends that the search be for insights into situational specific problems.

The philosophy upon which the DACUM method is based, is that expert workers are better equipped to define their job than anyone else; any job can be described in terms of the skills/ tasks that successful workers perform; and all skills/ tasks have direct implications for the knowledge and attitudes that workers must have in order to perform the skills/ tasks correctly. This is consistent with Schwab's requirement that in a field that is composed of persons in changing contexts, the search be for insights into situational specific problems. One of the strengths of the DACUM method is its capacity to effectively review education and training programmes because of changes in technology, and other changes that affect activities at the workplace.

For Schwab's Material Cause statement, DACUM addresses situational specific problems that are consistent with the characteristics of Schwab's Practical Paradigm.

The Final Cause. Schwab argues that in the theoretic paradigm knowledge is for the sake of knowledge, which treats persons and situations as broad categories instead of acknowledging their unique needs and interests. The practical researcher is interested in sense of meaning and direction and in improved decision and action, and argues that inquiry in fields such as curriculum must focus on issues such as quality of life and worthwhile experience in actual problem situations. Moreover, the practical researcher criticises the theoretical

researcher on the grounds that his or her real goal is not to acquire knowledge but publications.

Using experts in the occupational field being analysed, DACUM ensures that a sense of meaning and direction and improved decision and action materialise upon implementation of the programme. By preparing people for the workplace, it indirectly focuses on issues such as quality of life, and uses worthwhile experience in actual dilemmas as important components of curriculum design. By implementing a rating scale for self-assessment, it addresses the unique needs and interests of the employee. Therefore, for Schwab's Final Cause statement, DACUM is consistent with the characteristics of Schwab's Practical Paradigm.

From the discussion on Schwab's practical paradigm above, and by analysing Schwab's approach to learning, I have shown that DACUM complies with the characteristics of his Practical Paradigm, and that it can be applied successfully to Schwab's constructivist approach, and is therefore fit for defining learner outcomes in an outcomes-based education system as defined by Spady.

2.4.5 Other arguments against the use of DACUM

2.4.5.1 DACUM is a "quick fix"

Proponents of the DACUM method claim that adequate deliberation can be accomplished with one meeting of 8-12 content experts usually for 2-3 days. This sometimes leads to the criticism that DACUM is a "quick fix". I wish to argue that the speed at which DACUM can be used to analyse an occupation is one of its strengths, not a weakness, and underlines the importance of assembling a competent committee, which works under the guidance of a trained, competent facilitator.

2.4.5.2   DACUM impedes lateral thinking

Because DACUM is used mainly for occupational analyses, there is a perceived danger that the skills/ tasks identified during a DACUM process will impede lateral thinking, and turn students into doers without the necessary background knowledge to conceptualise what they are doing. In selecting and organising learning experiences, DACUM relies very heavily on the correct selection and use of proper action verbs to define the task that has to be performed as part of the learning process. As a guide to the correct application of verbs to describe tasks, DACUM makes use of Bloom's Levels of Thinking Complexity. Bloom and his co-workers established a hierarchy of educational objectives, which is generally referred to as *Bloom's Taxonomy*, and which attempts to divide cognitive objectives into subdivisions ranging from the simplest behaviour to the most complex.

Knowledge. Knowledge is defined as the remembering of previously learned material.
Some DACUM action verbs: define; repeat; record; list

Comprehension. Comprehension is defined as the ability to grasp the meaning of material.
Some DACUM action verbs: translate; restate; discuss; describe

Application. Application refers to the ability to use learned material in new and concrete situations.
Some DACUM action verbs: interpret; apply; employ; use

Analysis. Analysis refers to the ability to break down material into its component parts so that its organizational structure may be understood.
Some DACUM action verbs: distinguish; analyse; differentiate; appraise

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<u>Synthesis</u>. Synthesis refers to the ability to put parts together to form a new whole.

Some DACUM action verbs: compose; plan; propose; design

<u>Evaluation</u>. Evaluation is concerned with the ability to judge the value of material (statement, novel, poem, research report) for a given purpose. Some DACUM action verbs: judge; appraise; evaluate; rate

The above illustrates that DACUM does not impede thinking or problem solving but, on the contrary, encourages it, if so required by the programme being designed. It must also be remembered that the DACUM chart can be used for a variety of things - although it is highly suited for OBE, it can also be used for updating of traditional content based programmes. The chart does not automatically mean that each skill will be assessed separately. Skills can be grouped. DACUM in itself does not prescribe how the teaching should be done.

DACUM can therefore accommodate a range of outcomes that will include identifying the knowledge, skills and processes that must be mastered. Bloom's Taxonomy shown above illustrates this, on which DACUM's action verb classification is based. But, once again, the successful use of the correct action verbs depends largely on the competence of the analysis committee, and the use of a competent facilitator.

2.4.5.3   DACUM is only good for training, not education.

The Center for Decision Support, Idaho State University argues that examining the intent and scope of the instruction can make the distinction between training and education. In a training environment the employee is taught to use specific skills as part of exacting job performance. In an

education context the employee would be encouraged to examine and evaluate not only skills and methods of work but fundamental operating principles upon which job skills are based. The employee is using internalised concepts and skills to perform operations such as analyses, evaluation, and judgment to reach higher cognitive level decisions that lead to the accommodation of newly integrated knowledge and skill.

Within the education system, learning programmes serve as guides to direct learners towards achieving outcomes. The curriculum development process is based on identifying specific areas of learning. For each learning programme, a series of specific outcomes are subsequently formulated. These outcomes serve as the basis to establish what knowledge, skills and processes must be mastered as enabling objectives in order to achieve the outcomes.

DACUM is not by its nature limited to a training approach. Most DACUM analyses include key areas of competence such as Communication Skills and Personal Development skills. It follows that DACUM is consistent with the characteristics of Schwab's Practical Paradigm, since it does not have any place for knowledge just for the sake of knowledge. However, the importance of competent deliberation committees is once again stressed, to identify skills and to formulate outcomes that establish what knowledge, skills and processes must be mastered to achieve them.

2.4.6 Using DACUM for analysing the skills required for Land Administration

In 1996 a DACUM analysis to establish a competency profile a local level land administrator was carried which involved by a number of stakeholders. *See Appendix A.* This exercise served to identify a large number of workplace skills, some of which could serve as the basis for establishing learning outcomes in land administration.

2.5 Conclusion

The SAQA Act sets out the various principles of the NQF; learning units for land administration will have to conform to the broad philosophy of the NQF in order to be accepted by all stakeholders.

I have shown that the DACUM method can be used to define outcomes that can be used successfully in an OBE system. I have also argued that DACUM in itself does not have to define the full curriculum, but that it can be used as an effective tool to define outcomes relevant to the workplace. Individualism can be preserved by academic staff being instrumental in the inclusion of sound educational strategies during the curriculum development process, as well as during the implementation and delivery stages of the programme.

In the next chapter I will give a historical background of land ownership in South Africa, and also show how these events contribute towards present day land administration issues.

CHAPTER 3

Historical background of Land Ownership in South Africa

3.1   Introduction

The National Land Committee (2002) notes that the history of land in South Africa is one of dispossession of an indigenous population of their land by successive regimes, and their subsequent entrapment into exploitative labour conditions.

As a result, black South Africans had, over a period of many years, been pushed into small areas of the country, first by the Dutch and British colonisers, and later by measures taken by various South African governments. After national unification in 1910 the ideology of segregation came to be openly propagated, and measures were issued affecting land ownership and occupation by black South Africans.

Practitioners in the field of land administration will have to be familiar with particular historical cases in their particular areas, that have their origins in these national policies of colonial and apartheid governments.   Therefore learning units in Land Administration will have to cover the general historical background of land ownership in South Africa.

Since the Natives' Land Act of 1913, the right to own, rent or sharecrop land in South Africa depended on a person's racial classification. *(Dept. of Land Affairs, 1997)*. The focus of the history covered in this thesis will be on events before, and following the implementation of the Natives' Land Act in 1913, even though the Government's Land Restitution Programme in terms of The Restitution of Land Rights, Act 22/1994, will only cover cases and forced removals, which took place after 1913. The last date when a claim could be lodged was 31 December 1998.

Birkett and van Dyk (2001) explain that 'it is important to note the cut off date was 19th June 1913 which coincided with the Natives Land Act of 1913. This Act limited the right to own land based on racial classification. It did not affect those families who owned land prior to that date and resulted in a situation where "black spots"

grew in "white" areas and the process of forced removals began. The original owners were often inadequately compensated and were also removed'.

It therefore seems that the choice of 1913 indicates that the new Government accepted the general legal/tenure system created by the settlers, which the new government inherited but that it seeks to redress injustices that were perpetrated in terms of that framework

Birkett and van Dyk (2001) admit that there are claims that go back to before 1913, such as the example of the early Cape settlers who took land from the people in that part of South Africa in the 1600s. However, they argue that the pattern of land invasion by the more powerful group has been part of South African history for as long as South Africa has been in existence. An example is King Shaka who was a noted invader who took the lands of conquered groups.

Although land administrators will generally be faced with cases whose recorded histories trace back to events after 1913, an account of relevant land related historical events before 1913 will also be given in this thesis, as it forms the background to more recent events. Below follows a general account of the history of land ownership in South Africa, as well as a brief discussion of similar situations that developed in North America and Australia after settlers occupied those territories.

3.2   Land issues in South Africa from 1652 to the end of the 19th century

Bullard (1996), reports that colonialism in Africa has been that a mainly white minority occupied countries and allocated land to its own citizens. At the time of Union in 1910, rights were still largely polarised, and land was still often unfairly distributed. South Africa allowed many generations of white landowners to pass the land to their successors under Roman Dutch Law. The black population during this time was increasing in numbers and therefore both groups felt the pressure for land.

At the time of colonisation in the 17th century, two land tenure systems existed, that of the Roman Dutch law and the African communal land tenure systems. By the end of the 19th century, African communal tenure was in serious conflict with the western

ideas of individual ownership. *(Du Plessis, 1996).* The complexity and variety of African communal tenure, and the measure of western ignorance about them, have been well emphasised, but a notion of land ownership was not lacking amongst black Southern Africans, even though they had no system of survey and recording. The chiefs and headmen played a prominent role in the allocation of land. *(Davenport and Hunt, 1974).*

3.2.1   The imposition of Western tenures

The South African Yearbook (2000/2001), reports that European seafarers, who pioneered the sea route to India in the late fifteenth century, were regular visitors to the South African coast during the 1500s. In 1652, the Dutch East India Company (VOC) set up a station in Table Bay (Cape Town) to supply provisions passing ships.

When Jan van Riebeeck (representing the VOC) landed in the Cape in 1652 he established a trading post and a small-scale garden farming settlement to supply passing ships with fresh food. The stands for garden farming were much larger than the normal urban stands found in Europe at the time and as development moved inland, this pattern of providing large stands continued. *(Korsman, 2001).* Fisher (1974) reports that Jan van Riebeeck had neither the intention nor any instruction to found a colony. The settlement was not extensive and it had not been taken by force. The settlers and the indigenous Khoikhoi had a cordial but tense co-existence, although conflicts did occur. Van Riebeeck made no attempt to purchase any land, or to pay any compensation to the Khoikhoi, although in 1672 'Prince Manchanghou of the Hottentots' ceded the territory in the vicinity of the settlement to the VOC, on the promise of payment of an agreed amount. Hottentots Holland was sold under similar contract for a purchase price in brandy, beads and bread to the value of about R20. The transformation of a settlement into a colony took place in 1657, and the laws of Holland were generally applicable in the Cape.

The South African Yearbook (2000/2001), reports that, beginning in 1657, European settlers were allotted farms by the colonial authorities in the arable

regions around Cape Town, where wine and wheat became the major products. Guelke (1984), reports that the Dutch East India Company assumed the right to dispose of land, and that freehold grants were made to free burghers and farms were given out on loan, for which property rights were eventually attached. Boundaries of farms were sometimes established by riding out in all directions from a central point. Such arbitrary annexations resulted in confrontation between the Dutch and the Khoikhoi, and later also the San (Bushman).

The National Land Committee (2002) states that contrary to many myths, the settlers did not find vast stretches of empty land available for their occupation. White Settlers brought with them the idea and practice of private property in land, while African communities believed land was a communal resource. Even where Settlers negotiated rights to land from African rulers, it is unlikely that the latter had any specific authority over the land concerned.

By the early 1700s, the colonists had begun to spread into the hinterland beyond the nearest mountain ranges. These relatively independent and mobile farmers were largely free from supervision by the Dutch authorities (South African Yearbook, 2000/2001).

During the one and a half centuries that the VOC administered the Cape Colony they introduced three distinct forms of land tenure: Freehold, Loan and Quitrent. Of these, freehold and quitrent tenures were subject to formal registration by title deed. Generally loan tenure was incompletely recorded although there are in existence a few title deeds, with diagrams, of land given on loan (Fisher, 1974).

In 1795, the British occupied the Cape as a strategic base, controlling the sea route to the East. After a brief reversion to the Dutch in the course of the Napoleonic wars, it was retaken in 1806 and kept by Britain in the post-war settlement of territorial claims. The closed and regulated economic system of the Dutch period was swept away as the Cape Colony was integrated into the

dynamic international trading empire of industrializing Britain *(South African Yearbook, 2000/2001).*

When the British arrived in the Cape, their policy was to tighten up the conditions of landholding, and the colonial government placed restrictions on all forms of title, and introduced perpetual quitrent in place of the loan farm – an example of this can be found in the 1820 Settlers, who were settled on the basis of perpetual quitrent title. Freehold sales began in 1843, but in 1856 the Cape Parliament restored the quitrent system. Finally, the Cape Parliament set out specific instructions for the sale of Crown Lands by public auction *(Davenport and Hunt, 1974).*

Davenport and Hunt (1974) also report that many black Africans in the Cape held land under the white man's forms of title from the middle years of the nineteenth century. The establishment of quitrent tenure among African villagers can be traced back to 1849 in Victoria East. Quitrent tenure was also introduced to the Mfengu (Fingo) Crown Reserve in 1853.

Freehold was only granted when a person complied with certain educational requirements resulting in the exclusion of a large part of the community from obtaining freehold. *(Du Plessis, 1996).* Such people were also known as "exempted" natives.

3.2.2 The Trek into the Interior

From the 1770s, colonists also came into contact and conflict with black chiefdoms some 700 km east of Cape Town. A century of intermittent warfare ensued during which the colonists gained ascendancy first over Khoisan and then over the black chiefdoms to the east *(South African Yearbook, 2000/2001).*

Alienated by British liberalism, and with their economic enterprise usurped by British settlers, several thousand farmers from the interior districts (eventually called Voortrekkers), accompanied by a number of Khoisan servants, began a

series of migrations northwards in the mid-1830s. The Voortrekkers established many new towns in what became known as the Orange Free State, the Transvaal and Northern Natal. The Voortrekker farmers were commercial cattle ranchers and hunters [skins, ivory, horns etc.] and were served by the Voortrekker towns, which provided a full range of urban facilities for the surrounding district. When the Voortrekkers moved into the interior it was sparsely populated by Black African tribes and by clans of Khoisan hunter-gatherers *(Korsman, 2001)*. Eventually the Voortrekkers coalesced in two landlocked republics, the South African Republic (Transvaal) and the Orange Free State.

The Colony of Natal developed along very different lines from the original colony of settlement, the Cape. Chiefdoms consisting mainly of refugee groups were persuaded to accept colonial protection in return for reserved land and the freedom to govern themselves in accordance with their own customs. These chiefdoms were established in the heart of the colonial territory *(South African Yearbook, 2000/2001)*.

The discovery of diamonds and gold near the end of the 19th Century led to a large influx of speculators and gold diggers and fortune hunters from Europe. Rapid urbanization resulted and Kimberley and Johannesburg were established *(Korsman, 2001)*. The South African yearbook (2000/2001) states that the fact that the mineral discoveries coincided with a new era of imperialism and the scramble for Africa brought imperial power and influence to bear in southern Africa as never before. Independent African chiefdoms were systematically subjugated and incorporated by their white-ruled neighbours. The most dramatic example was the Zulu War of 1879, which saw the Zulu State brought under imperial control, and in 1897, Zululand was incorporated into Natal. The South African Republic was annexed by Britain in 1877. Boer resistance led to British withdrawal in 1881, but not before the Pedi (Northern Sotho) State, which fell within the Republic's borders, had been subjugated. The indications were that, having once been asserted, British authority was likely to be reasserted. The Southern Sotho and Swazi states were also brought under British rule but maintained their status as

imperial dependencies, so that both the current Lesotho and Swaziland escaped the rule of local white regimes.

3.2.3 Black land ownership by 1913

Du Plessis (1996) reports that In the Free State no individual black ownership was allowed by 1913, except the Marokka Tribe at ThabaNchu, and in the Transvaal, black South Africans formed syndicates buying up land from impoverished Afrikaner families, and obtained land for services rendered from the South African Republic. The British, with the annexation of 1877, also sold land to blacks, but they never transferred ownership, and the land was registered in the name of the Secretary of Native Affairs as a trustee. The communities did not know this. At the end of the 19th Century, and prior to 1913, black South Africans in the Natal province could obtain so-called syndicate land on neighbouring European farms. Land could also be occupied with the permission of the owner of the land, and no restrictions were placed on the number of persons occupying such land. There was, in principle, no restriction placed on black South Africans to obtain ownership of land in Natal prior to 1913.

3.3 The Natives' Land Act of 1913

The National Land Committee (2002) reports that in the early 1900s the first attempts were made to define a uniform 'native' policy, which would bring all four republics and colonies under the same land and labour framework. In 1910, the creation of the Union of South Africa ushered in an era of vigorous and focused government policies to inhibit the further growth of an African peasantry, and relocate those resident on white owned farms. One of these interventions was the introduction of the 1913 Natives' Land Act with the following key provisions:

- ❑   The creation of a number of African "reserves" for the settlement of black South Africans, which would serve as pools of migrant labour for white-owned farms and urban based industry.

❑ The elimination of independent tenancy in 'white' rural areas, with the abolition of sharecropping and rental tenancy arrangements.

Du Plessis (1996) reports that the following reasons were given for the introduction of this Act:

❑ Since 1870 agricultural land has become scarcer and squatting and overgrazing resulted in degradation of the land.

❑ European farmers, in exchange of labour, leased land to Black South Africans – it resulted in a form of economic feudal land control.

❑ A Native Commission found that uncontrolled squatting was undesirable and against the public interest.

❑ The purpose was to create total segregation and to abolish communal land tenure, as it seemed to be in conflict with the idea of individual ownership.

❑ African reserves were to be "extended" but the Act really created a legal mechanism to ensure the flow of workers to the mines.

❑ The Act should also have prevented Blacks from buying European farms.

❑ Freehold was not allowed in the reserves; the land was held in trust for the different communities.

Plaatje (1916) highlights the extent to which the 1913 Act resulted in people losing their land, how many were thrown off farms and had to travel with their livestock and families to the so-called reserve areas which resulted in untold hardship, loss of life and livestock.

Plaatje put the plight of "Natives" across, and stated openly "this law, like Alexander the coppersmith, hath done us much harm". He accused the government and the responsible minister of breaking promises, among these broken promises being the definite assurance the minister gave Parliament that the Bill would be referred to the Select Committee on Native Affairs, so that the Natives, who are not represented in Parliament, their European friends and the Missionary bodies on behalf of the

Natives, could be able at the proper time to appear before this committee and state any objection which they might have to the Bill.

Plaatje described the object of the Natives' Land Act as aiming to prevent the Natives from ever rising above the position of servants to the whites, as capable of producing any measure that is subversive of native interests; and that of the complete arrest of native progress. It made it a crime for a Native to live in South Africa, unless he is a servant in the employ of a farmer, and that from this it will be just one step to complete slavery. He claimed the law was an extension of a Free State law, which makes it illegal for Natives to live on farms except as servants in the employ of Europeans.

Plaatje gives an account of the many reservations expressed by members of parliament during the debate on the Bill, as well as from extra-parliamentary bodies. However, with a rush, the Natives' Land Bill was dispatched from the Lower House to the Senate, adopted hurriedly by the Senate, returned to the Lower House, and went at the same pace to Government House, and there receiving the Governor-General's signature, it immediately became law.

3.4   Land possession by settlers in other colonies

As has been shown above, before apartheid came to be developed as a state ideology in 1948, there had already been a massive occupation of land by colonial settlers accompanied by various styles of dispossession through questionable treaty, war and the doctrine of terra nullius. In South Africa the settler system soon became challenged by the numerous and culturally robust local population, invoking the response that came to be known as apartheid. This did not have a close analogy in other settler societies. In South Africa the challenge to the settler society culminated in a government whose constituency was dispossessed people. Redress of inequities is sought largely through new legislation affecting the way in which land is administered.

Analogous patterns of colonial settlement occurred in other colonial countries including Australia and the United States where, as in South Africa, there was

colonial settlement, which developed into autonomous expansion of the settler groups into the interior. In this period, various methods were used to get land cheaply, without much attention to legal and fair methods of land exchange. Some similarities to the South African situation are shown below.

3.4.1 Indigenous cultures and land tenure systems

As has been shown above, the early Dutch and British settlers in South Africa, and later the migrants into the interior, met with indigenous cultures who practised indigenous forms of land ownership. These forms of ownership were based on communal, and not individual rights in land.   The situation in Australia was similar. Somewhere between one half and one million Aboriginal people inhabited Australia at the time of European colonisation, but estimates vary *(Ogleby, 1993)*. Aboriginal land ownership was based on their custom and tradition, not a formal written land title system *(BBC, 1999)*.

Before the European colonization of the Americas, 70-100 million people lived within the diversity of the land. There was no practise of private ownership of land, nor of selling land, among or between the Peoples prior to the arrival of the colonialists *(The NDN Rights Project, 2001)*. Land ownership of indigenous people is complex and unique and has, to a significant degree, its own terminology and terms of art *(Nash, 1999)*.

3.4.2 The doctrine of Terra Nullius and the role of religion

Invasions of land by settlers were justified under the doctrine of "*Terra Nullius*" - the notion that land was effectively unoccupied before colonisation. The lack of indigenous systems of private land ownership was used to give credence to the idea of *Terra Nullius*, as it could be claimed that it was impossible to rob indigenous people of land, as they'd previously never owned land by title. The NDN Rights Project (2001) claims that the dual mission of the European invasion in North America was the Christianisation of non-Europeans and the expropriation of their lands.

Ogleby (1993) asserts that for many in Europe around the time of the settlement of Australia the right to claim land seen as 'waste' or 'uninhabited' was established by Biblical authority. The attitudes prevailing in Christian Europe in the 17th and 18th Centuries fuelled the zeal with which colonising nations expanded their influence in the lesser 'civilised' and predominantly non-Christian worlds. All of the lands in the newly established colony became the property of the British Crown. No landed interests or rights of the Aboriginal inhabitants were recognised.

In North America the colonisers were accustomed to owning land and laid claim to it while they considered the indigenous people to be nomads with no interest in claiming land ownership. As time went on, the colonisers claimed dominion over all the territories of the future United States and those claims seemed to limit the sovereignty of the indigenous nations living there. *(Cooper, 1990).*

A 1992 court case, dubbed the Mabo case, saw the first formal recognition of native land rights. In its decision, the Australian High Court ruled that the existing legal doctrine of "*Terra Nullius*" - the idea that land was not owned by anyone - did not apply to Australia *(BBC, 1999).* In present day Australia the majority judges firmly repudiate the lie of *Terra Nullius,* as being 'discriminatory, unjust and unconscionable' *(Hunter, 1996).*

3.4.3 Treaties and agreements

One of the most important instruments of European expansion on the African continent was the paper treaty - the acquisition of land through concession of the chief who claimed to possess it. It is debatable whether, in many instances, the chief who gave the land had the authority to do so. Sometimes land was purposely given away which did not belong to him, in order to enlist the white man's aid against a rival *(Davenport and Hunt, 1974).*

Obleby (1993) cites the following instructions from Cook's secret sailing orders in 1768, when setting sail for Australia:

'You are also with the Consent of the natives to take possession of Convenient Situations in the Country in the Name of the King of Great Britain; or, if you find the Country uninhabited take possession for His Majesty by setting up proper marks and inscriptions, as first discoverers and possessors'.

In North America too, there were agreements and pacts between First Nations in regards to access to hunting or fishing areas. Gradually, First Nations along the Atlantic found themselves dispossessed of their lands and victims of settler depredations *(The NDN Rights Project, 2001).* Between 1778 and 1871, a total 389 treaties between the United States government and various indigenous American groups were signed and, for the most part, promptly broken. In 1815, the U.S. officially adopted a policy of forced land confiscation, compelling the "Indians" to relocate to remote homelands administered by the government. And as the European population expanded, the land allocated to native peoples dwindled from 155 million acres in 1887 to barely 47 million acres in 1934. *(Baobab Press, 1993).*

Cooper (1990), reports that when Europeans first sailed to America, the tribes were sovereign by nature. Colonial governments and later the federal government of the United States treated with the indigenous nations as they did with foreign nations and allowed them to regulate their own affairs. The young United States made treaties with hundreds of Indigenous American Nations, exchanging lands for payments and access rights. Cooper (1990) therefore argues that Indigenous American nations were not conquered by the U.S. armed forces, as many believe. Rather, indigenous lands were obtained through negotiation and contractual consent.

However, as the United States grew in size and power, additional land was required for settlement and development. The U.S. government began a policy of Indian removal, which was in effect from 1816 to 1846. Through treaties and coercion the government actively, and sometimes forcibly, removed indigenous peoples to other areas. As the available land base was

shrinking, removal was no longer an option. As a result, Indigenous[*] Americans were moved onto reservations. Reservations were established when Indigenous Americans agreed (often under threat of force) to forfeit land in exchange for monetary payment or other goods and services. The reservation era lasted from roughly 1865 to 1890. After that, the reservations, too, came under pressure by settlers looking for land. *(Cooper, 1990).* Surviving native peoples had been relegated to tribal "homelands" or "reservations" *(Baobab Press, 1993).*

3.5   The 20th Century up to 1992

I have shown above that black South Africans have historically been subjected to practices that gradually resulted in loss of land, mainly to colonial and other settlers and that similar processes took place in other countries of European settlement. In South Africa these practices continued into the 20th century right up to 1992, as I will show below.

The National Land Committee (2002) estimates that more than 3.5 million people and their descendants have been victims of racially based dispossessions and forced removals during the years of segregation and apartheid. Urban removals were mostly dealt with in terms of the Group Areas Act or the Urban Areas Act. Rural removals consisted of various categories, such as black spot removals, removal of labour tenants, removals from mission stations, removals for the sake of forestry requirements and internal removals in areas which later became the homelands. Legislation applicable to rural removals includes the Natives' Land Act No. 27 of 1913, the Development Trust and Land Act No. 18 of 1936 and the Prevention of Illegal Squatting Act No. 52 of 1951.

Du Plessis (1996) notes that the following reasons were given for the introduction of the 1936 Development Trust and Land Act:

❑   It would ensure more land for occupation by Africans and would have ensured a reasonable standard of living and would create special government structures.

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- It had to ensure the execution of the segregation policies laid down in 1905 and 1913.
- A restriction had to be placed on the amount of land allocated to Africans – residential and agricultural land had to be specially allocated and squatting must be prevented.
- The income of mineral rights were to be transferred to the Trust that was to be created in terms of the Act. The Trust would be used to buy up land that could be added to existing reserves.

Platzky and Walker (1985) report that the Act formally authorised that another 6,2 million hectares of land should be added to the reserves that had been scheduled in 1913. The established Native Trust was empowered to administer the land, and became the registered owner of almost all the reserves. However, large numbers of isolated African-owned farms were excluded, and became "black spots" in white areas.

Since 1936 numerous measures were issued affecting land ownership of blacks and occupation of blacks on white-owned land. Attempts were made to outlaw labour tenants. Du Plessis, (1996) records that site permits were issued to lease a vacant plot, certificates of occupation of land and business permits were issued with protected rights of use, but no security could be obtained and the allocation of permits were subject to the arbitrary powers of the local authority or township manager. In general only men were allowed to obtain site permits. On the death of a permit holder all permits automatically lapsed, but preference was given to the dependant or heir by allotting the permit to that individual *(Du Plessis, 1996).*

Blacks who owned freehold land, known as black spots, had their land expropriated as they were pieces of land in designated white areas, although some occupants of black spots successfully resisted forced removal. In most (but not all) cases, such land was acquired before the enactment of the 1913 Land Act *(Budlender and Latsky, 1990).*

Due to the eventual situation whereby blacks owned a small percentage of South Africa's land, most were not allowed to own or purchase land in or near cities. With

many millions of blacks being forced to live in so-called homelands, black work-seekers had to look for work under a migrant labour system, giving them only certain inferior land rights in white areas. Many, however, did not follow the official application procedure, and went to the cities in the hope of finding jobs. In Durban the emergence of shantytowns can be traced back to 1928, when new arrivals to the city tended to congregate in the Cato Manor area *(Maasdorp, 1972)*.

Korsman (2001) reports that after the 1948 election the government of the day was mandated to control rapid urbanization and to avoid the type of problems that had occurred in England at the time of the industrial revolution. To achieve this strict measures were taken to prevent the establishment of more shantytowns. The basic tools that were used to manage the urbanization process were influx control, the provision of adequate affordable housing for the lowest income groups, the elimination of slums and shanty towns, financial measures to enable the Black townships to be economically viable and the existing racial pattern was rationalized and changed from a system of private legal control [i.e. in the title deeds of the properties] to state control.

The National Land Committee (2002) describes the period after 1948 as follows:

> 'Following its ascendancy to power in 1948, the Nationalist government embarked on a systematic programme of eliminating squatting and transforming labour tenancy in to waged labour through the vigorous enforcement of the 1936 Act. The attempts to scale up the removal of "squatters" from farms, and from urban areas, led to the introduction of the Prevention of Illegal Squatting Act of 1951. This legislation empowered white farmers and local authorities to evict farm tenants with relative impunity. These powers were given further effect through the 1964 Bantu Laws Amendment Act, which allowed for the rapid eviction and removal of tenants and black spot residents.'

> 'Throughout the decade that followed, labour tenancy was progressively eliminated through proclamation, district by district. Evictions were carried out by the farmers themselves, or by Bantu Administration officials. Once a

blanket ban on labour tenancy had been achieved, the government targeted black spots for elimination. Over 600 000 black people living in black spot communities were resettled through large-scale removals carried out by government during this period. It is estimated that between 1960 and 1983, a total of 2.3 million people were removed from white rural areas around South Africa.'

3.6   Conclusion

I have shown that the historical colonial, apartheid and homeland laws and practices created many types of unacceptable tenure arrangements. Learning units in land administration will have to be designed in such a way that general historical facts are taken into account.

I have also shown that many parallels can be found between the practices of colonialism in Australia and North America - the doctrine of Terra Nullius, period of cheap transfers with the merest appearance of fairness, a period of consolidating colonial practices and lately, a questioning of the fairness of this system. The uniqueness of the South African situation can be found in the appearance of a national government whose constituency is those people who were historically disadvantaged. This has not happened in other ex-colonial countries.

In the next chapter I will discuss the relevant new policies and legislation introduced by the present South African Government designed to deal with legacies of past land-related legislation, as part of the capacity building necessary in the training of land administrators.

CHAPTER 4

Government Policies and Legislation relating to Land Reform

4.1 Introduction

The present South African Government has embarked on a policy whereby previous discriminatory legislation, which was highlighted in the previous chapter, will be rescinded, introducing new legislation to reverse the effects of the old and to enhance the human dignity of prospective landowners.

Learning units in the field of land administration will have to cover, and reckon with, the relevant government policies and legislation. As in the case of the history of land ownership in South Africa, learning units on land administration will have to create a general knowledge of government policies and legislation on land reform.

In this chapter Government policy on land reform is investigated, and the relevant Acts and policy documents that will have to be applied by practitioners in the field of land administration are identified and briefly discussed.

4.2 The vision of the South African Department of Land Affairs

The Department of Land Affairs (DLA) was created in 1994, with the responsibility of developing and implementing a policy of land reform. The mission of the department is to create an equitable and fair land dispensation and to secure and promote the effective use of land as a resource within the context of sustainable rural development.

The department also has to restore land rights as provided for in the Constitution and to provide an appropriate land policy, legislative framework and mechanisms for equitable access to land and security of tenure within a rural development context. Its approach will be to initiate, manage and facilitate the relevant processes democratically and in a participative, transparent, efficient and just manner.

The Government of National Unity's Reconstruction and Development Programme (RDP) states that the abolition of the Land Acts of 1913 and 1936 is not enough to redress the inequities of the past in land distribution in South Africa. Only a small minority of all previously disadvantaged people will be able to afford to buy land on the free market unless a National Land Reform Programme is put into place to address effectively the injustice of forced removals, historical imbalances in access to land, and the lack of tenure security.

4.3   The White Paper on South African Land Policy

The White Paper on South African Land Policy (1997), points out that, under the Bill of Rights in the new Constitution, the Government is obliged to develop a law which sets out the types of vested interests in land which were undermined by discriminatory laws and the measures necessary to ensure that such interests in land are legally secure. The Government's broad Land Reform Policy entails *restitution* for those who lost their land as a result of racially discriminatory laws, *redistribution* of productive land to those who were previously disadvantaged, and *tenure reform* to protect the land-holding or land-ownership rights of all *(Dept of Land Affairs, 1997).*

4.4   Restitution

The Restitution of Land Rights Act, 22 of 1994, was approved by Parliament in 1994, the Commission on Restitution of Land Rights was established in 1995 and Members of a Land Claims Court have been appointed *(Dept of Land Affairs, 1997).*

4.4.1 The aim of Restitution

The aim of restitution, as envisaged by the Commission on Restitution of Land Rights, is the restitution of rights in land to persons or communities dispossessed of such rights after 19 June 1913 as a result of past racial discriminatory laws or practices. This resulted in the enactment of the Restitution of Land Rights Act 22 of 1994, which established the Commission

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on Restitution of Land Rights (constituted on 1 March 1995), and the Land Claims Court.

4.4.2 The Commission on Restitution of Land Rights

The mission statement of the Commission includes the promotion of justice, the facilitation of negotiated settlements and the promotion of the sustainable use of land in a spirit of reconciliation through the restitution process.

The functions of the Commission on Restitution of Land Rights were originally outlined by the interim Constitution of the Republic of South Africa (Act 200 of 1993), and included the investigation of the merits of claims, the mediation and settling of disputes arising from such claims, and the submission of evidence before a court of law.

The provisions of Act 200 of 1993 indicates a preference for the resolution of land claims by way of amicable settlement, where the parties involved enters willingly into negotiations and the Commission on Restitution assumes the role of mediator.

4.4.3 The Land Claims Court

This Court serves as a specialist court with an independent adjudicatory function with regard to legal disputes arising from the government's land reform programme. It has the same status as the High Court of South Africa, with exclusive powers to determine a right to restitution in accordance with the Restitution of Land Rights Act (Act 22 of 1994), to determine compensation payable in respect of land owned upon expropriation or acquisition of such land, and to determine a person entitled to title in land. In order to speed up the restitution process the Restitution of Land Rights Act was amended to make provision for a fast track procedure, thereby entitling claimants to have direct access to the Land Claims Court to deal with a claim. After the completion of amendments to Act 22 of 1994, a shift from the judicial process, which was court-driven to an administrative approach within a legislative

framework, was implemented. According to this approach the Minister of Land Affairs is granted powers to settle claims on the basis of agreement between the various parties.

4.4.4 Forms of Restitution

The Commission on Restitution of Land Rights (ND), lists the following forms that restitution can take:

- ❑ restoration of the land from which claimants were dispossessed;
- ❑ provision of alternative land;
- ❑ payment of compensation;
- ❑ alternative relief including a combination of the above-mentioned, sharing of the land, or budgetary assistance such as services and infrastructure development; or
- ❑ priority access to state resources with regard to housing and land development programmes.

Wherever possible preference should be given to the restoration of land. Compensation received at the time of removal as well as improvements to the property since dispossession had taken place should be taken into account when determining redress to the claimant.

4.5   Redistribution

The Department of Land Affairs (1997), states that many people were prevented by apartheid from acquiring access to urban land. They found themselves kept out of, or removed from, urban areas in terms of the pass laws, or were prevented by racially discriminatory legislation from acquiring legal occupation of well-located land. The backlog caused by all of these restrictions has created a large and unsatisfied need for secure access to well-located urban land.

In rural areas, the eviction of farm workers and labour tenants has resulted in a swelling of the numbers of landless and destitute people. In the rural areas land is

needed for a variety of purposes where conditions are very complex and diverse. It is important that the redistribution programme is designed in a manner that will allow it to respond to different needs and circumstances in appropriate ways so that it contributes to the alleviation of poverty and to economic growth *(Dept of Land Affairs, 1997).*

Section 27 of the Constitution of South Africa, established an imperative for government to respect and protect existing property rights, and to ensure that no right could be arbitrarily removed. Linked to this was a guarantee that compensation would be paid for land redistributed through the programme. In effect, the Constitution ensured that redistribution should take place through the market, with agreements for purchase being reached on a "willing-buyer" and "willing-seller" basis. Redistribution takes place under the Provision of Certain Land for Settlement Act, 126 of 1993, which provides for a Settlement and Land Acquisition Grant. This Grant is a 'flexible instrument that has allowed for a range of redistributive projects to be supported, including the purchase of equity in farming enterprises by farm workers (termed 'share equity schemes'). A grant for municipal commonage has enabled primary local authorities to acquire land or extend commonage for use by poor and disadvantaged residents' *(National Land Committee).*

4.5.1 Key Issues in Redistribution

The National Land Committee sees the protection of the property rights of current landowners, and the guarantee of compensation for land transferred, as a key limitation underlying redistribution. Therefore, a "willing-buyer, willing-seller" framework and the requirement of "fair and just" compensation for existing landowners, meant that financial constraints were placed on the extent of land transfer, negatively affecting redistribution targets.

As a result, the rural poor have not benefited sufficiently from the redistribution programme, and the DLAs' monitoring system has found very little beneficial impact on intended beneficiaries, with land redistribution projects providing little support to beneficiaries for production or development of the land. Most importantly, beneficiary communities were often unable to

meet the market-based terms of the redistribution programmes. Another weakness that has been identified has been the exclusion of rural black communities from real participation in the decision-making processes of land reform.

4.5.2 Redistribution Under Review

In February 2000, the Minister of Agriculture and Land Affairs, Ms. Thoko Didiza, announced new proposals to take redistribution forward over the next five years.

The new Integrated Programme of Land Redistribution and Agricultural Development in South Africa (draft document dated 8th June 2000) aims to facilitate the transfer of a targeted 30% of the country's agricultural land over 15 years. Various new principles mark a shift in emphasis and approach from the previous land redistribution programme, and the implementation will now be decentralised and all beneficiaries will be required to make a contribution to the project. Projects will, furthermore, need to be economically viable and commercially oriented agricultural projects will receive priority attention.

A range of project types or products, with different objectives, is accommodated within the programme, such as food safety net projects, commonage projects, equity schemes and commercial agricultural projects.

The programme has substantially modified the grant system and establishes a sliding scale with a range of grants (R20 000 to R100 000) provided for depending on the amount of own contribution in cash, labour or kind by the beneficiary. Beneficiaries will, however, be expected to make a minimum contribution of R5 000.

4.6   Tenure Reform

The National Land Committee points out that the black rural areas in South Africa are marked by a variety of tenure forms or systems, which have been shaped

through the interaction between indigenous common property systems, modern, western systems of individual ownership, and tenure systems imposed by the state for political purposes. This interaction has resulted in a range of different tenure systems, which include quitrent, freehold, communal tenure and tenancy.

Under the apartheid system, black people could not retain or acquire rights in land set aside for persons classified 'white'. In the townships and former homeland areas, land rights were generally 'subservient, permit-based or held in trust'. In these areas, land was generally registered as the property of the state or held in trust through the South African Development Trust (SADT). Black people were placed under the jurisdiction of 'chiefs'.

4.6.1   Definitions of Tenure and Tenure Reform

The National Land Committee (2002) states that the term "Tenure" is derived from the Latin meaning 'holding' or 'possessing' and land tenure means the terms on which land is held, or the rights and obligations of the holder of the land. It is a legal term and means the right to hold land, rather than the simple fact of holding or possessing land. Thus, land tenure reform refers to a planned change in the terms and conditions under which land is held, used and transacted. A large part of the content of tenure systems is determined by the values of communities, by prevailing power relations and by unspoken assumptions about how people ought to act.

The National Land Committee (2002) reports further that while many of South Africa's existing tenure systems are legitimate and serve a functional role for their users, the absence of a formal legal basis for many of the de facto rights held by these land-users makes it difficult for marginalized community members to safeguard their rights, which often leads to conflict. In addition, this insecurity is severely hampering attempts to develop areas through various government and private sector initiatives. The National Land Committee has identified the following problems, which characterise many communal land tenure systems in the former homeland areas of South Africa:

- Individuals who have insecure rights - such as women or the very poor - are vulnerable to having their access rights interfered with, or impinged upon by the state, powerful individuals, or other community members;
- Without legally enforceable rights, rights-holders are unable to access credit or grant finance for housing, infrastructure, or agricultural development; and
- The system is open to abuse by individuals in positions of power, such as government officials, traditional leaders, and land developers, leading to illegitimate land sales and development initiatives.

4.6.2 Approaches to Tenure Reform

The National Land Committee (2002) suggests that in order to solve the various land tenure problems outlined above the rights of current occupants will need to be strengthened; the systems for the administration of land will need to be clarified; additional land must be released to relieve overcrowding; and the various pieces of legislation and regulations that affect land in the communal areas must be rationalised and simplified. These changes are to be effected through a process of tenure reform.

The Department of Land Affairs' tenure reform policy is guided by the Constitution of South Africa, which states as follows:

> "A person or community whose tenure of land is legally insecure as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to tenure which is legally secure or to comparable redress."

The DLA outlined its guiding principles for tenure reform in the White Paper on South African Land Policy, which emphasises the protection of all rights-holders in group-based land holding systems. The DLA, in particular, requires that traditional systems adapt to accommodate the 'changing position of women'.

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4.6.3 The Draft Communal Land Rights Bill, 2002

The aim of the Communal Land Rights Bill is to legally recognise traditional customs of tenure. The Bill has not been to the Cabinet yet, and once it has served there, it will be opened for public comment, which may result in a re-draft. When completed it will serve before Parliament who will pass it into law. Once it becomes law, and should its contents not change from the latest draft published in August 2002, it will radically change the way in which communal land is to be managed. It meets the objectives of tenure reform in communal areas as discussed in Par. 4.6.2 above.

In the Government Gazette of 14 August 2002, the objects of the Bill are contained in Chapter 2, and are to:

❑ give effect to section 25(5),(6), (8) and (9) of the Constitution;

❑ confer juristic personality on communities with full legal capacity;

❑ give legal recognition to land tenure rights held by communities and their members or individual households or individual families or individual persons on communal land;

❑ confer legal status upon certain land tenure systems and community rules based on local custom;

❑ provide for legally secure tenure where the tenure of land is legally insecure as a result of past racially discriminatory laws and practices including the transfer of communal land to communities, or similar entities or individual households or individual families or individual persons and the registration thereof of land tenure rights in terms of the Deeds Registries Act and this Act;

☐ provide suitable comparable redress to persons whose tenure of land is insecure due to past discriminatory laws or practices and which cannot be made legally secure;

☐ regulate certain aspects of decision-making in respect of land tenure rights in communal land in order to promote security of tenure and attraction of resources for development in communal land;

☐ provide, in the context of this Act, for the protection of the fundamental human rights contained in the Bill of Rights in the Constitution, including –

   (i)   the right to equality, especially gender equality in respect of the ownership, allocation, use of, or access to land;

   (ii)   the democratic right of the members of a community to choose the appropriate land tenure system, community rules and administrative structures governing their communal land; and

   (iii) the right to democratic participation by the members of a community in decision-making processes affecting their tenure rights;

☐ provide for further democratisation and support in respect of the functioning of the institution of traditional leadership and other community-based institutions or structures which administer communal land;

☐ recognize alternative dispute resolution mechanisms for the resolution of conflicts and disputes concerning communal land, arising from any cause, including forced overcrowding or conflicting land tenure rights in such land; and

□ provide for certain institutional, material and technical support by the State to communities in the ownership and management of their land tenure rights, subject to the provisions of the Constitution and the Act.

4.7 Relevant Land Related Legislation and Policies

The table below lists legislation and policies, some of which has already been discussed above in some detail, which touches on land rights and would need to be studied by a land administration practitioner. The list was compiled from ones provided by Fourie (2000) and working lists provided during communication with officials of the Department of Land Affairs, and follows a chronological sequence based on the dates of promulgation.

NAME OF ACT/POLICY	AIM / IMPACT
ACTS	
Sea Shore Act (Act 21 of 1935)	Regulates the rights and duties on the land between the high-water mark and the low-water mark.
Deeds Registries Act (Act 47 of 1937)	To consolidate and amend the laws in force in the Republic relating to the registration of deeds
The State Land Disposal Act (Act 48 of 1961)	Allows the President to 'sell, exchange, donate or lease, any state land on behalf of the state on such terms and conditions as he may deem fit'.
Removal of Restrictions Act (Act 84 of 1967)	To empower the Administrator of a province to alter, suspend or remove certain restrictions and obligations in respect of land in the province; to repeal the Removal of Restrictions in Townships Act, 1946; to validate certain proclamations of Administrators; and to provide for incidental matters.

NAME OF ACT/POLICY	AIM / IMPACT
Prescription Act (Act 68 of 1969)	Consolidates and amends the laws relating to prescription and is the cornerstone of the laws regulating the extinction of debts by prescription.
Subdivision of Agricultural Land Act (Act 70 of 1970)	To control the subdivision and, in connection therewith, the use of agricultural land.
National Roads Act (Act 54 of 1971)	To provide for the construction and control of national roads; to repeal or amend certain laws; and to provide for incidental matters.
Sectional Titles Act (Act 66 of 1971)	To provide for the division of buildings into sections and common property and for the acquisition of separate ownership in sections coupled with joint ownership in common property and matters related to that.
Abolition of racially based Land Measures Act (Act 108 of 1991)	To de-racialise legislation and racially based administration systems, regulate norms and standards.
Upgrading of Land Tenure Rights Act (Act 112 of 1991)	Allows for the upgrading of Permission to Occupy permits (PTO's) to title deeds, although later amendments have restricted the Act to residential or business sites in urban areas; idea was to upgrade lower order rights to full rights. Not very successful. Amended several times.
Amendments to the Upgrading of Land Tenure Rights Act, 112 of 1991	Bring this Act into line with government's policy on the conversion of rights in land.
Less Formal Townships Establishment Act (Act 113 of 1991)	Allows Provincial Authorities to immediate begin working on informal settlement areas and sets the way forward for upgrading.
The Physical Planning Act (Act 125 of 1991)	To assist with coordinating and development in rural and urban areas.

NAME OF ACT/POLICY	AIM / IMPACT
KwaZulu Land Affairs Act (Act 11 of 1992)	To provide for the disposal of Government land; to provide for certain rights of tenure to land and for the registration of certain forms of title in respect of land; to provide for the development, use and subdivision of land; to provide for the removal of restrictive conditions; and to provide for incidental matters.
The Land Titles Adjustment Act (Act 111 of 1993)	Cleaned up administrative and legislation procedures to determine / adjust title.
Distribution of Transfer of Certain State Land Act (Act 119 of 1993)	Originally for the disposal of certain identified land.
Provision of Certain Land for Settlement Act (Act 126 of 1993) as amended	Makes it possible for qualifying applicants to acquire land, and provides for a Settlement and Land Acquisition Grant. Amendments mainly make the Act applicable throughout the Republic: allows for delegation; broadens what subsidies may be used for and allows for circumstances where grants can be used.
Restitution of Land Rights Act (Act 22 of 1994)	To provide for the restitution of rights in land to persons or communities dispossessed of such rights after 19 June 1913 as a result of past racial discriminatory laws or practices. This act also established the Commission on Restitution of Land Rights and the Land Claims Court.

NAME OF ACT/POLICY	AIM / IMPACT
Amendments to the Restitution of Land Rights Act (Act 22 of 1994) in 1995, 1996, 1997 and1998	Since the commencement of the Act it has been extensively amended. The amendments during 1995 and 1996 centred around the structure, powers and procedures of the Land Claims Court. In 1997 amendments were promulgated to bring the Act into line with the Constitution of the Republic of South Africa, 1996, and to extend the cut-off date for the lodgement of claims. During 1998 it was amended so as to provide for the secondment of officers to the Commission, to further regulate mediation and negotiation and to extend the cases in respect of which money may be granted for the development of land.
iNgonyama Trust Act (KZN Act 3 of 1994)	*Land that was transferred to the Government of the former self-governing state of KwaZulu in terms of Proclamation R232 of 1986, and all land acquired thereafter by the Government of KwaZulu, was vested in the iNgonyama Trust.** **See KwaZulu-Natal iNgonyama Trust Amendment Act (Act 9 of 1997) below*
National Roads General Amendment Act (Act 27 of 1994)	To amend the National Roads Act, 1971, so as to make further provision for the declaration of toll roads; and to amend the South African Roads Board Act, 1988, so as to further regulate the functions of the Toll Roads Committee; and to provide for matters connected herewith.
Land Administration Act (Act 2 of 1995)	Allows the delegation of powers to the provinces and local authorities.

NAME OF ACT/POLICY	AIM / IMPACT
Land Affairs General Amendment Act (Act 11 of 1995)	Attempt to make land legislation uniform across the entire Republic, i.e. overcome problems with differing legislation in previous bantustans.
Development Facilitation Act (Act 67 of 1995)	To coordinate land reform and development, in particular as land matters and legislative powers are a national competency, but that provincial and local governments are the executive arm and have powers over a number of areas, including agriculture.
Land Reform (Labour Tenants) Act (Act 3 of 1996)	Gives secure, legal land rights to labour tenants. Usually the implementation of the Act results in the purchase of the land, either as an individual or, more likely, as a group.
Communal Property Associations Act (Act 28 of 1996)	Establishes the opportunity for a new form of legal body - the Communal Property Association - through which people may collectively acquire, hold and manage property in terms of a written constitution. Legal entity for land holding purposes. Prescribes certain conditions and rules for group land holding. Replaces the trust model, which proved, not provide sufficient protection of rights
Interim Protection of Informal Rights Act (Act 31 of 1996)	Intended to protect people with insecure tenure from losing their rights in land until long-term tenure reform measures are introduced. Recognises and protects land rights - particularly informal rights in traditional and communal areas, and those obtained in previous bantustans.

NAME OF ACT/POLICY	AIM / IMPACT
The Constitution of the Republic of South Africa (Act 108 of 1996)	The aims of the Constitution are to • heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights • improve the quality of life of all citizens and free the potential of each person • lay the foundations for a democratic and open society in which government is based on the will of the people and every citizen is equally protected by law • build a united and democratic South Africa able to take its rightful place as a sovereign State in the family of nations.
The Land Survey Act (Act 8 of 1997)	Consolidates the laws relating to the survey of land. It creates the survey system of the cadastre, provides for the administration of it, determines the qualifications that the Land Surveyor must hold and provides for rules for his/ her conduct.
KwaZulu-Natal iNgonyama Trust Amendment Act (Act 9 of 1997)	To amend the KwaZulu Ingonyama Trust Act, 1994, enacted by the KwaZulu Legislative Assembly, so as to redefine "iNgonyama" and "Registrar" and to include certain additional definitions; to redefine and extend the categories of beneficiaries of the Trust; to create a board to administer the Trust and its assets in conjunction with the iNgonyama and in view thereof to repeal the iNgonyama's power to delegate; to provide that Trust land shall be subject to national land programmes; and to provide for matters connected therewith.

NAME OF ACT/POLICY	AIM / IMPACT
Extension of Security of Tenure Act (Act 62 of 1997) (Commonly known as ESTA)	Protects occupiers in rural areas, who have the permission of the owner or person in charge; legislates the rights and duties of owners and occupiers, creates procedures for occupiers to strengthen their rights.
Land Restitution and Reform Laws Amendment Act (Act 63 of 1997)	These amendments have resulted in the speeding up of the restitution process by doing away with the need for a claim to be referred to the Court where the interested parties have reached agreement as to how a claim should be finalized. The Minister is now authorized under these circumstances to make an award of a right in land, pay compensation and grant financial aid.
Prevention of Illegal Eviction from Unlawful Occupation of land Act (Act 19 of 1998)	Complementary to ESTA. Applies to lawful eviction procedures (although there is a section on lawful evictions in ESTA). Does not apply to occupiers in terms of ESTA or IPILRA. Replaces Prevention of Illegal Squatting Act (Act 52 of 1951)
Transformation of Certain Rural Areas Act (Act 94 of 1998)	Provides for the transfer of commonage or township land to the relevant municipality in previous Coloured Rural Reserve areas.
BILLS	
Communal Land Rights Bill, 2002	Provides for an enabling legal environment for communities or individual households or individual families or individual persons to obtain legally secure tenure.

NAME OF ACT/POLICY	AIM / IMPACT
POLICIES	
Dept of Land Affairs (1997): *White Paper on South African Land Policy*	Sets out Government Policy dealing with the injustices of racially-based land dispossession, the inequitable distribution of land ownership, 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.
Private Sector Initiatives in Land Reform (PC DOC 5/96)	Supports partnerships between beneficiaries and other parties as a strategy aimed at making the objectives of land reform realisable. For example a farmer and farm workers could agree on some form of joint ownership and utilisation of land as well as the division of proceeds arising there from
Procedures for farm Workers Equity Schemes (PC DOC 9/97)	Proposes a set of procedures on how to implement farm worker equity schemes and provides clarity needed on various issues
Guideline for the Design of Project Identification Reports (PC DOC 10(1)/97) and Guidelines for the Design of Project Business Plans (PC DOC 10(2)/97)	The guidelines should structure an overview of the proposed project in such a manner that it is easy to comprehend, without neglecting technical, procedural and financial matters. The guidelines therefore follow upon each other.
Municipal Commonage Policy and Procedures (PC DOC 12/97) & Manual	In this document the DLA 'commits itself to ensuring that existing commonage land needed by local poor residents for agricultural purposes on a leasehold basis, to supplement their household income, is made available for such purpose'.

NAME OF ACT/POLICY	AIM / IMPACT
Policy and Procedural Guidelines for the Application and Payment of Surveying (PC DOC 16/97)	Makes several proposals and recommendations on funding sources for the payment for surveying.
Flexible Application of the Balance of the Settlement/ Land Acquisition Grant to Accommodate a Broader Range of Agricultural Inputs (PC DOC 35/98)	This policy document recommends that a portion of the Settlement/Land Acquisition Grant may be used to buy agricultural inputs on certain conditions.
Exemption from the payment of donations tax where immovable property is donated to beneficiaries in terms of the land reform programme (PC DOC 36/98)	Individual farmers and companies wishing to donate immovable property may be granted exemption from donations tax.
Procedural guidelines related to the registration of beneficiaries on the critical project database (PC DOC 40/98)	The Critical Project Database is meant to keep a record of all beneficiaries who have previously received financial assistance.

NAME OF ACT/POLICY	AIM / IMPACT
Policy and procedures for expropriation of land in terms of Act 126 and ESTA (PC DOC 48/99)	This document deals with expropriation that will be undertaken in terms of the Provision of Certain Land for Settlement Act (Act 126 of 1993) and the Extension of Security of Tenure Act (Act 62 of 1997) (Commonly known as ESTA) for any land reform project in terms of these Acts i.e. redistribution or tenure. It does not set out the steps to be followed in terms of The Restitution of Land Rights Act, 1994 (Act 22 of 1994) or the Land Reform (Labour Tenants) Act, 1996 (Act 3 of 1996).

4.8   Conclusion

In this chapter the relevant acts and policies dealing with land reform have been identified and briefly discussed.

In South Africa, land reform must address and solve difficult problems created in the past. The solutions to these problems may entail new systems of land holding, land rights and forms of ownership, and may therefore have far-reaching implications. The intended promulgation of the Communal Land Rights Bill will have far-reaching implications for land administrators at all levels, in specified land.

The broad land reform policies and legislation affecting redistribution, restitution and tenure reform call for capacity building in those areas for prospective practitioners in land administration to ensure the effective implementation of restitution, redistribution, tenure reform and appropriate land development.

In the next chapter possible titles of relevant learning units will be identified. These learning units will include relevant sections of policy documents and legislation.

CHAPTER 5

Learning Unit Components

5.1   Organising a learning unit

All education and training programmes in South Africa have to be designed according to NQF criteria as part of a system of Outcomes-Based Education and Training. In an outcomes-based approach to curriculum design, learning is measured not by the amount of real time a learner spends on a programme, but by the extent to which a learner can demonstrate competence in the specified learning outcomes.

One of the major steps in the operation of an outcomes-based system of education or training is putting the process into manageable learning units, sometimes also referred to as modules. Providers of education and training generally refer to such an exercise as the "modularisation" of a learning programme. These units of learning are usually tied to individual skills or clusters of skills that have been identified by some form of narrow consultation with stakeholders, also referred to as an Outcomes Analysis, and can be done in a variety of ways, one of which is the DACUM analysis as described in Chapter 2 of this thesis. In this thesis the term "Learning Unit" will be used, with the understanding that it can mean "Learning Module" or "Unit of Learning" to some providers of education and training, and also "Unit Standard" to SAQA. Some providers will cluster groupings of learning units together to form a "module".

The components of a "unit of learning" developed here could therefore be used to

1) write a Unit Standard in Adjudication by the SGB in Surveying, or
2) a provider of education and training could use it as a learning unit or learning module,

depending on the preferred terminology. The format to be used in this thesis, so as to establish which components are to be developed, will therefore have to be flexible enough for both these uses to be effected without having to introduce major changes to it.

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The main purpose of a learning unit is to enable the learner to progress systematically from a **present state** of knowledge and skills to a **desired state** of knowledge and skills. To accomplish this, the unit must contain clear and concise directions and must flow smoothly from the known to the unknown. It must convey to the learner in understandable terms (1) what is to be learned, (2) why it is important or valuable to learn it, (3) how it is to be learnt, and (4) how to be sure it has been learnt *(Coffin and Morin, 1998).*

5.2   The Concept of Applied Competence

SAQA (2000) states that a qualification shall represent a planned combination of learning outcomes which has a defined purpose and which is intended to provide qualifying learners with applied competence and a basis for further learning. Qualifications and standards registered on the NQF are therefore described in terms of the learning outcomes that the qualifying learner is expected to have demonstrated. SAQA (2000) states that the NQF emphasises the notion of applied competence as the ability to put into practice in the relevant context the learning outcomes acquired in obtaining a qualification. It states that competence can be defined as a skill or cluster of skills, carried out in an indicated context to standards of performance, of understanding in context, of understanding the system and of transferring the skills to other related contexts.

SAQA has accepted that there is more than one situation in which knowledge develops and that learning continues both before and after a qualification has been awarded in a variety of sites of learning. Then, in order to achieve integration and coherence within the system so that access and portability can become a reality, it is necessary to clearly articulate the outcomes of learning achievements.

SAQA defines applied competence as covering foundational competence, practical competence and reflexive competence, which are all necessary for the meaningful accomplishment of a task in any real world context.

❑   **Foundational competence** is described as an understanding of what is being done and why.

- **Practical competence** is described as a demonstrated ability to do a particular thing.

- **Reflexive competence** is described as a demonstrated ability to integrate or connect performance with the understanding of that performance so as to learn from the actions and adapt to change and unforeseen circumstances.

The notion of applied competence indicates that a qualification must address both the theory needs as well as the practical needs of learners. A qualifying learner must be able to understand as well as do something useful with the knowledge, in a real-world context - the balance between the needs of the individual and the social and economic development of the nation at large. A similar view is held by the Namibia Qualifications Authority (2000) which states that National Competency Standards are nationally applied statements of the knowledge, skills, attitudes, values and special attributes required and combined through underlying understanding to carry out the roles or sets of tasks in a particular occupation and the criteria to be used to determine the achievement at a specified minimum level of performance.

SAQA (2000) makes it clear that it rests in the hands of learning programme developers and implementers to ensure that learning does not become narrow, behaviourist and devoid of critical thought. It is the duty of responsible educators to ensure that this educationally sound interpretation of outcomes and competence is not neglected in a system that is socially negotiated.

The design of learning units for use on the NQF therefore poses a challenge for curriculum developers, who must ensure the development of learning outcomes that are precise enough to indicate the purpose of the learning unit but general enough to permit flexibility in delivery, choice of content, assessment methodology; and a balance between the need for practical competence and the need for foundational and reflexive competence. A curriculum design process must accommodate the development of outcomes that can be applied in a wide range of situations and develop qualities of independence and the ability to reflect critically, solve problems and make judgements.

5.3 Critical cross-field education and training outcomes

SAQA (2000) defines certain outcomes that are deemed critical for the development of the capacity for life-long learning. These are the Critical Cross-field Education and Training Outcomes, commonly known as the Critical Outcomes, and are an additional mechanism through which coherence is achieved in the framework. The Critical Outcomes describe the qualities that the NQF identifies for development in learners within the education and training system, regardless of the specific area or content of learning. These outcomes are intended to direct the thinking of policy makers, curriculum designers, facilitators of learning as well as the learners themselves.

SAQA (2000) insists that it is mandatory for developers of standards to incorporate at least some of the Critical Outcomes in the standards that they recommend and designers of qualifications must ensure that all Critical Outcomes have been addressed appropriately at the level concerned within the qualifications being proposed. Below follow the Critical Outcomes adopted by SAQA:

- ❑ Identify and solve problems in which responses display that responsible decisions using critical and creative thinking have been made.
- ❑ Work effectively with others as a member of a team, group, organisation, and community.
- ❑ Organise and manage oneself and one's activities responsibly and effectively.
- ❑ Collect, analyse, organise and critically evaluate information.
- ❑ Communicate effectively using visual, mathematical and/or language skills in the modes of oral and/or written presentation.
- ❑ Use science and technology effectively and critically, showing responsibility towards the environment and health of others.
- ❑ Demonstrate an understanding of the world as a set of related systems by recognising that problem-solving contexts do not exist in isolation.

In order to contribute to the full personal development of each learner and the social and economic development of the society at large, it must be the intention underlying any programme of learning to make an individual aware of the importance of:

- Reflecting on and exploring a variety of strategies to learn more effectively;
- Participating as responsible citizens in the life of local, national and global communities;
- Being culturally and aesthetically sensitive across a range of social contexts;
- Exploring education and career opportunities, and
- Developing entrepreneurial opportunities.

5.4   Selecting learning unit titles

When developing a whole learning programme, the title of a learning unit should fit the title and purpose of the learning programme. The title of a learning unit contains the name or names and, if relevant, the number or numbers (from the DACUM chart), of the skill or skills contained in the unit. SAQA requires that the title of the learning unit starts with an action verb. The value of a learning unit to the individual learner will depend firstly on the clarity of the title, and the learner must have no question as to the objective of the unit.

5.4.1 Using the DACUM chart to Identify Learning Unit Titles – the "Top-Down" approach

Obtaining the Learning Unit title from the DACUM chart requires the input of a number of experts from academia and from the original DACUM committee, as well as other relevant identified stakeholders. Experts in a particular learning area will be able to cluster similar skills or identify individual skills that will become learning unit titles. The title must reflect a clearly defined learning achievement, demonstrating that the learner was exposed to a learning experience or experiences where knowledge, skills and attitudes were

mastered. In each instance the learner must achieve competence as per the definition of SAQA.

Learning Unit Titles can be found from the DACUM chart as individual outcomes derived from a single skill, or by combining similar skills. If skills are combined, these could be listed at the beginning of the Unit. A decision has to be made as to which ones to combine that make sense for the development of the programme. The other option is to develop each skill independently and then combine them so that nothing is missed in the development. It must be remembered that there are no hard and fast rules for the development of a programme, and one has to customise the design to particular needs and to what will work in a particular situation.

The DACUM analysis can also be applied effectively to identify which outcomes are directly related the critical cross-filed outcomes as stated in 5.3 above. In GAC B of the attached DACUM chart (Appendix A) such skills are identified and it will assist the course designer in ensuring that learners will achieve the critical cross-filed outcomes in relevant contexts.

Once similar skills from the DACUM chart have been clustered, if necessary, a suitable title can be identified, which must be a brief and clear description of the overarching outcome that will be achieved by the learner successfully completing the learning unit. This title must conform to being measurable, achievable, significant and as being a milestone of learning.

The basis of defining a learning unit title for educators should therefore be: "What is the outcome to be achieved by the learning which is contained in this unit?" In testing the title the educator should always ask WHY IS IT DONE. Learning unit titles should focus on the performance of the individual, and must steer clear from narrowly defined "tasks".

Examples: Task: File documents
             Outcome: Keep administrative records

Procedure: Select ingredients

Outcome: Prepare executive lunch

The success of OBE depends largely on the quality of the various defined outcomes. If these definitions are too narrow or too vague, this will lead to poor results once the student graduate has to deal with true-life issues in the real world.

The procedure above is often referred to as the "Top-Down" approach to modularisation, as it ignores all previous curriculum development exercises that have been completed for similar programmes. The Top-Down approach relies on a process of narrow consultation with stakeholders, resulting in a "Qualification Specification" phase, consisting of the formulation of a Qualification Title, broadly stated Exit Level outcomes and Specified Outcomes with associated assessment criteria. This is followed by a Programme Design phase consisting of the design of learning units.

The "Top-Down" approach is shown diagrammatically below:
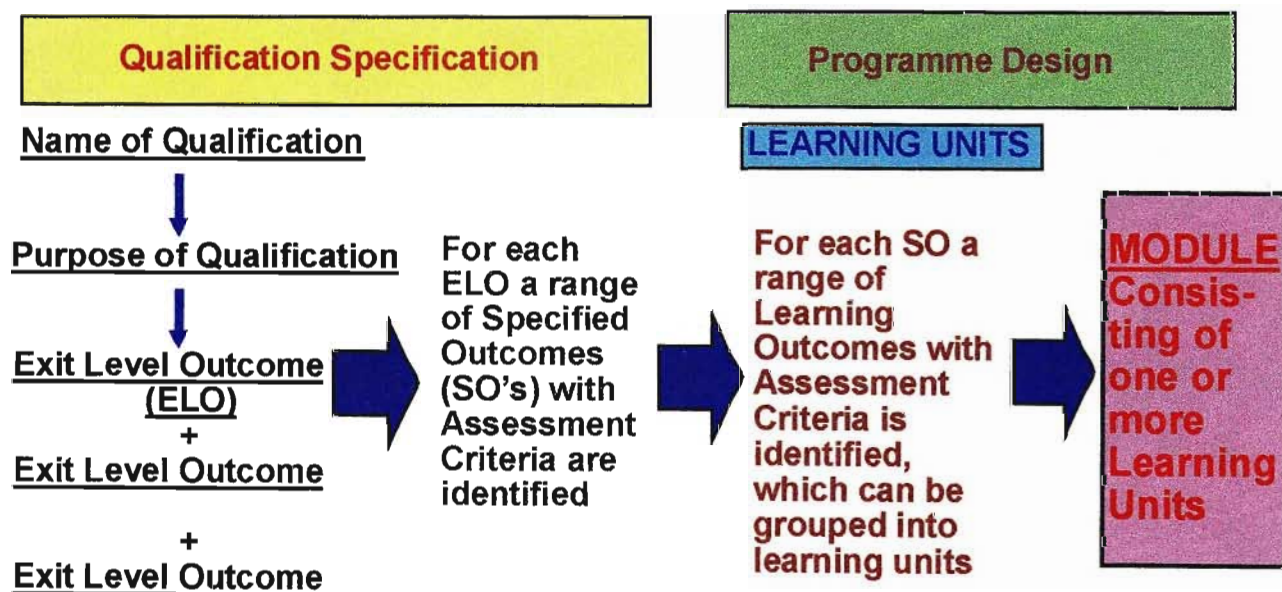
THE TOP-DOWN APPROACH TO MODULARISATION (Cooke, 2000)

5.4.2 Using the existing education and training programmes to Identify Learning Unit Titles – the "Bottom-Up" approach

The following programmes in the field of land administration were used as guidelines for establishing learning outcomes for land administration in South Africa:

Firstly the Polytechnic of Namibia introduced a National Certificate Course in Land Measuring in 1997, which included a number of land administration related topics. Secondly, the Centre for Environment & Development (CEAD) at the University of Natal in Pietermaritzburg, introduced a Postgraduate Programme in Land-Information Management in 2002. Two of the semester modules deal with land administration related topics. In Malawi the Ministry of Lands and Housing has introduced certificate and diploma programmes in land administration, totalling six semesters of study. Ligomeka (2002) reports that the government had already started training 25 people in land administration to implement the country's new land policy.

The following Broad Areas of Competence have been identified:

5.4.2.1	COMMUNICATION / LANGUAGE SKILLS
5.4.2.2	GENERIC COMPETENCE
5.4.2.3	ADMINISTRATIVE / MANAGERIAL / PLANNING COMPETENCE
5.4.2.4	COMPUTER SKILLS
5.4.2.5	DRAWING / MAPPING / CARTOGRAPHIC SKILLS
5.4.2.6	RECORDS & REGISTRATION
5.4.2.7	POLICIES AND LEGISLATION
5.4.2.8	LAND REFORM & CONFLICT MANAGEMENT
5.4.2.9	GOVERNANCE
5.4.2.10	LAND USE

The Bottom–Up approach relies completely on existing programmes to inform the programme design procedure. It does not rely on any form of narrow

consultation as in the Top-Down approach and this usually results in outcomes being derived from existing content, which goes against the philosophy of OBE where the curriculum development process should start with the outcomes.

5.4.3 Combining the DACUM analysis with data from existing programmes – the "Hybrid" approach

By combining the Bottom-Up and Top-Down approaches into a so-called "Hybrid" approach, the benefits of narrow consultation (DACUM) and experience derived from present programmes are both maintained. This is the approach that will be used in this thesis.

An analysis was done (see appendix B) of the programmes presently offered at the Southern African Institutions of Learning mentioned in 5.4.2 above, combined with DACUM workshop *(Landman, 1996)*, during which the competency profile for a local land administrator was identified by a number of stakeholders. *See Appendix A.* . As will be seen in Chapter 6 of this thesis, the area of competence that was chosen for further development was LAND REFORM & CONFLICT MANAGEMENT (see 5.4.2.8 above). For this area learning unit titles were chosen and developed into learning units. For the other areas the analysis shown in Appendix B will assist with future development of learning unit titles, and falls outside the scope of this thesis.

5.5   The Specific Learning Outcomes

It is usually necessary to analyse the topic or objective of the learning unit title (which is an outcome) into smaller or more specific outcomes to elaborate on the title. Between 4 and 6 Learning Outcomes should be defined in the following way:

- Measurably and verifiably capture the purpose of the Learning Unit
- Begin with a verb and contain an object and modifier
- Focus on competence outcomes for learning and performance

Specific Learning Outcomes are context specific and describe what learners should be able to demonstrate in specific contexts and areas of learning. They should be formulated in such a way that they include details such as differences in complexity, scope and context.

These outcomes should be expressed as clear, observable demonstrations by learners. They are what learners actually *do* with the knowledge, skills and attitudes they have acquired and developed. The outcomes-based approach primarily treats learning as mental processing, and knowledge underpins the outcome statements, but outcomes require more than mental processing - they require the ability to show and make visible the results of mental learning. Regardless of how much content learners learn, they have to do something with it - both mentally and actively - for it to become useful and for them to be 'competent' rather than just 'knowledgeable' *(Powell, 2002)*.

The specific learning outcomes will therefore contain the outcomes that the learner must achieve in order to demonstrate competence as required by the purpose of the learning unit. SAQA (2000) requires that qualifying learners should be provided with applied competence, which suggests a broadening of the behaviourist notions of knowledge usually associated with outcomes and competence models. Applied competence according to SAQA suggests that foundational (an understanding of what is being done and why), practical (demonstrated ability to do a particular thing) and reflexive (integrating and connecting performances and decision making with understanding, including the ability to adapt to change) competences are all necessary for the meaningful accomplishment of a task in the real world context.

Learning Outcomes consists of a series of smaller outcomes related to the identified skill(s) on the DACUM chart, which contributed to the title of the learning unit. As such it contains an action verb and depicts an activity that is observable and measurable. Learning Outcomes may be in the cognitive, affective, or psychomotor domain. That is, they may deal, respectively, with knowledge, attitude, or performance.

The major problem encountered by the unit developer will be to decide on the "size" of the outcome. It is often difficult to sense whether an outcome is too broad or too narrow; whether it is too general or too specific. One guideline is the number of outcomes that are written. A simple skill may require only two or three outcomes whereas a complex one may require as many as six or eight. Another measure is whether it can be further subdivided. If it is difficult to break the statement down into more detailed statements it is probably too narrow.

Another precaution to observe in writing Learning Outcomes is to make sure that the defined action is observable. It is always a temptation to say that the learner must "recognise the importance of... " or "appreciate the difference between ...". These are desirable objectives but you can measure "recognition" and "appreciation" only by what the learner does. It is better to say "explain the importance of ..." or "differentiate between...". For these the learner must do something that makes it possible to measure the degree of "recognition" or "appreciation".

The specific learning outcomes will have to be derived from a knowledge base on adjudication and how this knowledge can be applied in the real world, including applications under changed circumstances. This knowledge base is shown in Chapter 6 of this thesis.

5.6   Assessment Criteria

Assessment Criteria reflect the kinds of evidence that will be required to demonstrate that the learning outcome has been achieved *(Powell, 2002)*. The Assessment Criteria will provide a detailed measure of outcome requirements. Step by step, they take the learner, and eventually the evaluator, through the criteria by which competence in the outcome may be measured. The items in the performance assessment indicate what the learner will do, can do, or has done in demonstrating competence in the outcome. These items will, in general, be smaller components of the Specific Learning Outcomes defined in (3) above, and will follow the same sequence. The rule of thumb is for every Learning Outcome there should be 2 or more assessment criteria. The simplest way to write Assessment Criteria is to visualise the process of evaluating the performance. Assessment Criteria are written

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in the present tense, e.g. "spark plug is changed successfully". *(Coffin and Morin, 1998).*

5.7   The Purpose Statement

After the Learning Outcomes and the Assessment Criteria have been composed, it becomes comparatively easy to write a Purpose Statement for the unit. The Purpose Statement is a brief statement explaining what the learning unit is about and its importance. It then follows that before the Title or Purpose Statement can be written, the study area to be covered by the learning unit be clearly defined and understood.

The Purpose Statement is the learner's introduction to the unit and should be thoroughly understandable without recourse to dictionaries or other reference books. Care should be exercised that the purpose does not slip into the *how* area.

Another precaution to observe in writing the purpose is to maintain the correct focus. The learner's attention should be kept on the industrial or job application of the required skills and not on the learning situation. Rather than "It is important to learn this skill..." it is preferable to say: "As a computer programmer, the learner will......". In this same connection, care must be taken to say why a particular outcome is important and not merely reiterate that it is important.

5.8   Conclusion

In this chapter I have focused on the main elements that should be contained in a learning unit, to meet the objectives of the NQF adequately. These components are the Title, the Purpose Statement, the Specific Learning Outcomes and the Assessment Criteria. To meet SAQA's requirements for competence, reference will have to be made to the Critical Cross-Field Outcomes that have been achieved in any particular unit, and reference will have to be made to the knowledge required to reach a satisfactory level of competence in each learning unit. In the next chapter, learning units in Adjudication are proposed which meet the above criteria.

CHAPTER 6

Writing learning units in Adjudication

6.1   Introduction

In Chapter 5 the concept of putting the learning process into manageable units or modules was explored. Such units of learning are usually referred to as learning units or learning modules by the various stakeholders in Education and Training, and as Unit Standards by SAQA.

The value of a learning unit to the individual learner will depend on the smoothness, clarity and completeness of the way in which the unit is presented to the learner. The learner must be able to proceed through the unit without any undue obstacles that might be caused by gaps in information or inappropriate vocabulary. Directions must be clear and complete and proceed in logical order. The learner must have no question as to the objective of the unit or to the measures by which the achievement of the skill or skills will be evaluated *(Coffin and Morin, 1998)*.

For the purpose of this study the learning unit model in use at Mangosuthu Technikon, and the standard format for a unit standard, as laid down by SAQA, will be investigated so as to determine which components of such a "unit of learning" will be developed in this study.

6.2   Identifying components for learning units in Adjudication

6.2.1   The format of a Unit Standard

The format for unit standards, as laid down by SAQA, contain the following components: unit standard title; SAQA logo; unit standard number; NQF level; credit in terms of notional study hours; field of learning; sub-field of learning; issue date; review date; purpose; learning assumed to be in place; essential embedded knowledge; accreditation and moderation process; and notes which include critical cross-field outcomes.

6.2.2 The Mangosuthu Technikon format for a Learning Unit

A learning unit at Mangosuthu Technikon, where the writer of this thesis is employed, contains the following elements: a learning unit title; a learning unit number; the NQF level of the learning unit; the credit value of the learning unit in terms of notional study hours; and the field and sub field of learning, as defined in SAQA's twelve fields of learning. Additional information like the Faculty, Department of the providing institution and the qualification towards which the learning unit will qualify the learner could also be added. Further to the above, the learning unit must contain a Purpose Statement, an indication of learning assumed to be in place (pre-requisites), specific Learning Outcomes and Assessment Criteria for each Learning Outcome.

At the end of the Learning Unit the following information has to appear:

6.2.2.1   Essential Embedded Knowledge - The knowledge base required for competent performance and achievement of the learning outcomes.

6.2.2.2   Critical cross-field outcomes - as defined by SAQA.

Additional information that will enhance the quality of the learning unit include learning activities and resources – human, printed and multimedia resources

6.3   Elements to be developed in this thesis

It was stated in Chapter 5 that the main purpose of a unit of learning is to enable the learner to progress systematically from a present state of knowledge and skills to a desired state of knowledge and skills. To accomplish this, the unit must contain clear and concise directions and must flow smoothly from the known to the unknown. It must convey to the learner in understandable terms (1) what is to be learned, (2) why it is important or valuable to learn it, (3) how it is to be learned, and (4) how to be sure it has been learned *(Coffin and Morin, 1998)*.

The following elements that are generic to both models, and which have been explained in Chapter 5, will be developed towards use in either learning units or unit standards on Adjudication:

- Title
- Purpose statement
- Specific Learning Outcomes
- Assessment Criteria
- Embedded Knowledge

6.4   Identifying and developing learning units in adjudication

The writer interviewed Messrs R.W. Birkett, F. Marais and A. Hugo, who are officials of the Surveyor General's office in Pietermaritzburg, Mr H.R. Hillermann of the KwaZulu-Natal Department of Traditional and Local Government Affairs in Durban, and Mr C. Turner of the Chief Directorate: Surveys and Mapping in Cape Town. These interviews were held in February, April and November 2002. The interviews revealed that learning in Adjudication has to take place at 5 different levels, which are NQF3, NQF4, NQF5, NQF6 and NQF 7. The titles of these learning units, which will eventually be tabled at the SGB for Surveying for registration with SAQA as Unit Standards, have been identified as follows:

Level 3:   APPLY THE PRINCIPLES OF ADJUDICATION TO OBSERVE, BE AWARE OF AND SUPPLY ORAL EVIDENCE AND/ OR FIELD EVIDENCE TO ASSIST WITH THE FIELD INVESTIGATION AND PRESENTATION OF FINDINGS ON RIGHTS OF AN ELEMENTARY NATURE OF LAND OWNERSHIP AT THE LOCAL LEVEL.

Level 4:   APPLY THE PRINCIPLES OF ADJUDICATION TO ASSIST WITH THE INVESTIGATION AND PRESENTATION OF ELEMENTARY FINDINGS ON RIGHTS IN LAND OWNERSHIP.

Level 5:   APPLY THE PRINCIPLES OF ADJUDICATION TO INVESTIGATE
            AND PRESENT BASIC FINDINGS ON RIGHTS IN LAND
            OWNERSHIP

Level 6:   APPLY THE PRINCIPLES OF ADJUDICATION TO INVESTIGATE
            AND PRESENT FINDINGS ON RIGHTS IN LAND OWNERSHIP

Level 7:   APPLY THE PRINCIPLES OF ADJUDICATION TO ASCERTAIN
            RIGHTS IN LAND OWNERSHIP

The relevance of the above titles, and the supporting information that will have to
appear as elements in these learning units as identified in 6.3 above, will have to be
compared with the information obtained from the DACUM analysis and the existing
programmes in Adjudication, as presented in Appendix B and then tested against a
body of knowledge on Adjudication – see Par. 6.5 below. It must also be ensured
that the learning units above will comply with the SAQA definition of competence, as
described in Chapter 5 of this thesis.

6.5   A relevant body of knowledge on Adjudication

To meet the SAQA requirements of applied competence as described in Chapter 5, it
must be ensured that learning units in adjudication reflect clearly what knowledge is
to be mastered by the learner so that a satisfactory level of foundational competence
is acquired. Below follows a body of knowledge on adjudication to inform the writing
of the learning units that have been identified in 6.4 above. Where it was considered
necessary to quote extensively from a single source, such quotes are acknowledged
and presented in italics.

6.5.1 The benefits of land registration

UNCHS (Habitat), (1991) states that the need to record details of land parcels
within a cadastre stems from a need for the better administration of the land.
Improvements in the management of land are essential for the betterment of
both the rural and the urban poor.   In most developing countries, the

inadequacy of land information poses serious constraints on what can be done. Without knowledge of who owns the land, development cannot peacefully take place. In consequence, the emphasis in many development programmes is placed on ensuring that rights in land are identified, recognized by the State and recorded in some suitable form.

According to Williamson (1986), the benefits of such land registration include:

(a) Certainty of ownership. The compilation of land records will necessitate the formal identification and recognition of the ownership of the land, a process known as adjudication. This should provide certainty not only as to who is the landowner but also what other rights exist in the land. This in turn should lead to greater social cohesion.

(b) Security of tenure. Through the adjudication process, existing defects in any titles to land can be cured by the judicious use of appropriate powers. In many countries the official record is supported by a State guarantee of the title to the land. Greater security should in turn lead to increased productivity, especially in rural areas where farmers have an incentive to take greater care of the land and to invest their capital and resources in it.

(c) Reduction in land disputes. Disputes concerning land and boundaries can give rise to expensive litigation. The settlement of such disputes should be part of the process of adjudication and will not only lead to greater productivity from the land but also reduce the money wasted on litigation and going to court.

6.5.2 Definitions of adjudication

The International Federation of Surveyors (FIG) defines adjudication as the process of final and authoritative determination of the existing rights and claims of people to land. It describes it as a standard procedure prior to the recording of these rights and claims in a registration system, and should

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simply reveal what rights already exist, by whom they are held and what restrictions or limitations there are on them.

UNCHS (Habitat) (1991) describes adjudication as the process whereby existing rights in parcels of land are finally and authoritatively ascertained. Adjudication is the first stage in the introduction of registration of title to land in areas already settled but where the ownership of the land is officially unknown. It is also a pre-requisite for land consolidation and redistribution to ensure that each existing owner is treated equitably. Adjudication necessitates determining "who" owns "what", that is the rights and ownership must be ascertained as well as the extent of the land affected. The latter means that the boundaries of each parcel must be agreed upon between the adjoining parties. Haldrup (1996) refers to the so-called "www"-questions: *what* rights, *who* hold them and *where* can these rights be exercised?

Dale (1976) defines adjudication as the process whereby the ownership and the limits of land parcels are determined, generally by inquiry in the field but sometimes by resorting to the courts. He also states that it is a first stage in the introduction of registration of title to new areas and may entail the determination of existing rights or agreement as to the allocation of land in the process of land reform or the granting of individual rights in land; it is generally accompanied by the demarcation of property boundaries so that there is adequate physical evidence of the extent of each land parcel *(Dambiane, 1999).*

Haldrup (1996) defines adjudication as the resolution of a dispute by the application of pre-existing rules. He argues that adjudication by land tribunals could have several functions in the context of government intervention: to allow for iterative and participative planning decisions, to resolve disputes between individuals and the administration, and to make the intervention legally binding.

Davuth and Suon (2001), states that adjudication does not alter existing rights in land and it does not create new rights. It establishes what right exists, by

whom they are exercised and to what limitations they are subject. As a result, it produces certainty and finality into land records. The core question of adjudication is "Who owns what?"

Barry (1999), referring to Simpson (1976), Dale (1976) and Lawrance (1985), states that adjudication is the authoritative ascertainment of all existing rights in any particular parcel of land. More broadly, it may entail the determination of existing rights or the agreement as to allocation of land in the process of land reform. It is an essential prerequisite for certain other land measures such as land registration, land consolidation and disposal of state land.

6.5.3 Adjudication and a cadastral system

At an Inter-Regional Meeting of Experts on Cadastre, held in Bogor, Indonesia, in March 1996, the basic justification for a cadastral system was agreed on, being for economic development, environmental management and social stability. The meeting recognised that the key to a successful cadastral system is one where the three main cadastral processes of adjudication of land rights, land transfer and mutation (subdivision and consolidation), are undertaken efficiently, securely and at a reasonable cost and speed, in support of an efficient and effective land market. Key cadastral issues were also discussed and in particular, it was agreed that "the success of a cadastral system is not dependent on its legal or technical sophistication, but whether it protects land rights adequately and permits those rights to be traded (where appropriate) efficiently, simply, quickly, securely and at low cost" *(Williamson, 1997)*.

Barry (1999), reports that a cadastral system is operationally defined as comprising a set of institutions, human resources, technical resources and processes that support land tenure security. The processes around which these resources and institutions are structured include 1) adjudication; 2) boundary definition, demarcation and survey; 3) land registration; 4) dispute resolution; and 5) information management. Barry argues that the first objective of support of land tenure security is served directly by the juridical

cadastral system's fundamental products. These are the processes and instruments such as adjudication of land rights, the demarcation of the spatial extent of these rights, registration and cadastral survey.

Barry (1999), reports further that Dale (1979) sees the cadastre as having four sub-systems each with its own identity and each interacting with the other. "The sub-systems are adjudication - the determination of rights in land; demarcation - the physical or abstract evidence of boundaries; survey - the acquisition of information in the field; and description - the documentation of information about parcels." He also reports that Dale and McLaughlin (1998) list the components of a juridical cadastre as adjudication, demarcation, survey, registration and information management.

Barry (1999) concludes that the cadastral system is operationally defined to comprise the properties that emerge from the interaction of its sub-systems. These sub-systems are the processes and the outputs of the processes of adjudication, boundary definition and demarcation, surveying, registration and dispute resolution.

6.5.4 Types of adjudication

UNCHS (Habitat) (1991), states that the adjudication process may operate sporadically or systematically.

Sporadic adjudication is random, unpredictable with regard to location and timing, available to deal with one land parcel at one time and initiated by an application from the landholder. Systematic adjudication is planned and structured with regard to location and timing, capable of dealing with many land parcels at one time and initiated by a land-titling project. More detailed descriptions of both types of adjudication follow below.

6.5.4.1   Sporadic Adjudication

Sporadic adjudication means "here" and "there", "now and then", namely whenever or wherever there is a demand or other reason to determine the precise ownership of an individual parcel. The sequence whereby parcels are brought on to the register is piecemeal, haphazard and unpredictable. An example of this type of adjudication is when government-owned land has been brought on to the register, for instance, when alienating land for government schools, hospitals and dispensaries or for police posts *(UNCHS (Habitat), 1991)*.

Davuth and Suon (2001), states that whenever and wherever there is a demand to or other reason to determine the precise ownership of an individual parcel then the process of sporadic adjudication is executed. They also claim that the sporadic method is much cheaper in the short run because in principle those who need a title pay for it.

UNCHS   (Habitat)   (1991),   recommends   that   sporadic adjudication be used selectively to encourage specific categories of land ownership and it is claimed that it is cheaper in the short term because adjudication of the rights to many parcels can be deferred. It also permits the cost of the whole operation to be passed directly to the beneficiaries who can be charged an appropriate fee for having their land registered.

6.5.4.2   Systematic Adjudication

Davuth and Suon (2001), describes systematic land adjudication as a system where all land is adjudicated, area-by-area, parcel-by-parcel. They argue that it will be cheaper in the long run per parcel and that the method enables all expected benefits of land registration. In terms of individuals' rights, they claim that it is

safer than sporadic adjudication as it is executed with maximum publicity. The register data becomes very accurate as data is investigated in the field and checked by all adjoining parties. It is a compulsory process where usually those who fail to claim for their rights or refuse to cooperate with the process will loose them.

UNCHS (Habitat), (1991) sees the systematic approach as a methodical and orderly sequence wherein, area-by-area, all parcels are brought on to the register. Its use in Kenya and Malawi, where large areas of unrecorded land have been brought on to the registers, is given as examples of successful implementation. It is also claimed that systematic adjudication is in the longer term less expensive because of economies of scale, more safe because it gives maximum publicity to the determination of who owns what within an area, and more certain because investigations take place on the ground with direct evidence from owners of adjoining properties. Systematic adjudication ensures that upon registration of land, a uniform land law and system of conveyancing will apply to all land in the designated locality.

FIG (2000) sees systematic registration as a methodical approach, adjudicating, surveying and registering parcels on an area-by-area basis. It argues that systematic registration is relatively expensive in budgetary terms because of the typically large numbers of parcels being dealt with, although on a per parcel basis the average cost per parcel may be significantly lower than with sporadic registration as a result of economies of scale and of effort. It argues further that systematic registration has the advantage that it will provide more comprehensive land information within a given time frame. It will also give more people improved rights more quickly, thus supporting the

general development impact of increased security of ownership and reduced transaction costs.

FIG (2000) states that systematic adjudication is likely to involve the following:

- *"Legal authority is provided by an appropriate law*
- *Criteria are agreed for establishing priority areas, and priority areas selected as part of a programme*
- *General publicity is given to locations and dates for claimants to appear to give evidence*
- *Appointment of the adjudication team/ committee/ commission in accordance with the procedures laid down in the law*
- *Rights of claimants are determined in accordance with procedures laid down in the law*
- *Results are published and appeals heard within a specified time period*
- *Entry of adjudicated claims onto the register is thereafter taken as proof, and may be guaranteed by the system"*

6.5.5 Voluntary versus Compulsory Adjudication

UNCHS (Habitat) (1991) states that in voluntary adjudication, the decision to have one's land adjudicated and registered is that of the landowner. In compulsory adjudication, the law sets out the manner in which all persons concerned must participate, with penalties prescribed for non-compliance.

Sporadic adjudication can be applied voluntarily, as it is a completely voluntary process based on the immediately need only, whereas the systematic approach must be compulsory since it is necessary to summon everyone who claims to own land within a designated area to give evidence.

Experience has shown that without some degree of compulsion in adjudication, registration of title will almost certainly fail and complete registration of all-important areas of land is never likely to be achieved. Furthermore, disputes over land are more difficult and expensive to resolve if the sporadic approach is adopted since economies of scale cannot apply *(UNCHS (Habitat), 1991).*

Lawrence (1985) argues that in areas where sporadic, voluntary adjudication has occurred, it is the voluntary, not the sporadic component that has resulted in the failure of these systems. Total registration of all land is unlikely to be achieved where compilation depends on sporadic and voluntary applications for adjudication. In fact, most English-speaking countries, which originally opted for voluntary adjudication, have now opted for compulsion, and, in more recent years, where sporadic compilation of a land register has been introduced, compulsion has been adopted from the outset.

6.5.6 Adjudication in customary tenure systems

Barnes (1993), argues that one of the popular misconceptions about African and other indigenous tenures is that they are static, while in fact they have been adapting to different economic, political and cultural pressures ever since they were first challenged by colonisation efforts. Bruce (1989), argues that indigenous tenure systems are not inherently incompatible with agricultural modernisation and their defects can most cost-effectively be handled through relatively modest changes in tenure rules, reorganisation of land administration machinery, and the creation of new, supportive linkages with national and regional institutions.

Fifield (1997) argues that for a successful cadastre to be put in place, that is, for the land records to reflect what is on the ground, it is essential that an adjudication process, which is acceptable to the community, be put in place. This process should occur prior to registration so that all details regarding a parcel of land are correct at first registration. It is important that when a parcel of land is brought onto the register for the first time, details of all rights and

liabilities in it must have been ascertained and determined with finality, for the simple reason that it is on the particulars recorded at first registration that the subsequent completeness and correctness of the register wholly depend.

Letsoalo (1987) argues that traditional land tenure systems (in South Africa) cannot be termed as communal. Given the fact that it is possible for an individual to hold land, that transfers may occur between families, that there is a land rental market, referring to indigenous tenure as communal is an oversimplification, and misleading. She proposes a renovation of existing indigenous tenures in South Africa so that land is vested in the community, access to land by community members is guaranteed, land-use is subject to certain controls, and any improvements on the land are freely marketable.

Barnes (1993) argues that renovating indigenous tenure would entail promoting stronger community ties, without removing some of the economic advantages that are available in western-styled tenure systems. In Mexico additional flexibility is provided by allowing traditional communities to dissolve their communal ties and to move to an individualised, private property system, provided the majority of the members approve of such a move. He argues that this kind of system may represent a good model for rural communities in South Africa. The strength of this approach is that it specifically recognises that tenure is dynamic and very clearly places the decision making power in the hands of the local community. However, one of the weaknesses of this approach is that it implicitly assumes that communities will move to a private ownership system, which may block the emergence of an alternative system that might constitute a more innovative renovated indigenous system.

The arguments put forward by Barnes, Bruce and Letsoalo points to the real possibility that a system of systematic adjudication can be applied successfully as part of a renovating process, with full participation of the role players, in areas which are subjected to customary tenure systems

The process of adjudication offers the opportunity for community involvement both in the determination of rights in land and in the selection of priority areas

for registration. Where possible, the compilation of registers should be carried out on a systematic basis because the unit costs are less than in the sporadic approach. For this there must be compulsion to register.

Fifield (1997) argues that for a system of adjudication to be successful, it must be compulsory. He argues further that it should contain elements of both sporadic and systematic adjudication. He defines this hybrid adjudication as being applied in a methodical manner to scattered groups of land parcels over the period of time leading to first registration. That means that the adjudication process should be sporadic in the sense that it treats the whole in a piecemeal manner, but is systematic in that each part, or group of land parcels, within this whole are adjudicated methodically.

6.5.7 Adjudication procedures

Simpson, S.R. (1976), in his book *Land Law and Registration*, describes adjudication procedures in detail. Below follow extracts from Chapter 15: The Process of Systematic Adjudication):

> *"The standard procedures for systematic adjudication begin with the promulgation of a law defining the powers of those who will take part. This law provides a framework within which to conduct the adjudication process - examples of such laws can be found in Kenya and in Malawi.*

> *Normally there will be an adjudication officer who is responsible for making the necessary decisions. Local committees of non-officials may assist such officers. In addition, there will be a demarcation officer responsible for marking out the parcels, a survey officer who will survey the boundaries and a recording officer who will take note of all the decisions reached. One officer may undertake more than one of these functions.*

> *Having selected an area, publicity must be given to the adjudication programme making announcements over the local radio or in the press*

and holding public meetings to explain what is happening. It is essential that the landowners have an understanding and confidence in what is going on, for without their cooperation the adjudication will fail. They must know at what time and on what day the adjudication team will visit their land so that they can prepare and present the necessary evidence. At the appointed time they will explain their claim and the adjudication officer will make a decision, which will be recorded by the recording officer. If the boundaries are determined concurrently, then they will need to be demarcated and, at the earliest possible subsequent date, surveyed - too much delay and the surveyor may be unable to find the new boundary beacons. This happened in the early days of adjudication in Malawi when the demarcation teams worked too far in advance of the survey teams who were then unable to find where the marks had been placed. Improved survey and management techniques eventually solved this problem.

Of great importance are the involvement of local laypeople and the utilization of their knowledge. Traditional knowledge is more and more being recognised as an important source of information, with many people taking the view that the community knows the land more intimately than centralised government agencies. On-site sessions and verbal presentations of claims by the land users themselves are effective ways of conveying a type of information, which would be very difficult to bring into a courtroom.

The results of the adjudication should then be displayed in some public place and landowners permitted a limited period of time - usually between 30 and 60 days -to appeal against the decisions if they have grounds for doing so. Once any appeals are settled, the details are entered into the land registers as the definitive statement of the official rights in the land.

While both systematic and sporadic adjudication will normally lead to a title, mechanisms may be needed to provide short-term solutions and

to deal with uncertain tenures. These may include the issue of temporary occupation licenses, rights of occupancy or use but not outright ownership, or the issue of limited, qualified or possessory title. Such mechanisms should indicate that such temporary titles will be converted into a full title unless, by a certain and predetermined date, either the land is required for specific development or the true owner can prove superior rights to those of the temporary title owner. The use of limited titles enables a more rapid conversion of land on to the register, allowing apparent rights to be recognized.

Less accurate methods of parcel identification and survey can be adopted, as happens in Malawi where the provisional title may be supported by a sketch plan. Such preliminary surveys must be upgraded at the earliest opportunity if long-term problems are not to occur. Time will cure many problems especially with regard to outright ownership but problems of boundaries tend to remain until an adequate survey is undertaken. "

6.5.8 Disputes

Haldrup (ND) reports that Adjudication is inevitably linked with uncertainty and disputes. Conflicts over land rights are generated constantly in all societies. Factors that can contribute to the occurrence of land disputes include inefficient land administration or even an absence of institutions to regulate land allocation. "Land grabbing" is sometimes used to refer to unauthorised land occupations made possible by a virtual absence of regulation. Uncertainty and disputes may also derive from a change that is about to be implemented in the course of land reform and regulation of land use. He argues that it is therefore important that adjudication is perceived not only as an impartial activity to record existing rights in land but also as one that will inevitably also involve a process of dispute resolution.

Haldrup (ND) argues further that disputes are seen as consisting of two categories. Firstly, there are *disputes between individuals*. In many of these

cases disputes arise between neighbours when a certain threshold of tolerance is exceeded. The causes and issue of such disputes include the position of the boundary, fences and hedges and the transgressing of boundaries by domestic animals. In fact disputes are generated in all aspects of land use. Secondly, there are *disputes between individual citizens and the administration*. These disputes are typically occasioned by the enactment of legislation.

Bailey et al (1992) point out that disputes are resolved in terms of a body of pre-existing rules:

> *"A proportion of the disputes generated in the field of administrative law can be resolved by the application of pre-existing rules. These rules vary in precision and in origin. The application of reasonably precise rules of law in the resolution of a dispute is a function typically performed by a court of law, although there are many examples of such processes being entrusted to other institutions..."*

A general definition of adjudication that places dispute resolution at its centre, can then be stated as: *A formal procedure for the resolution of a dispute by the application of pre-existing rules.*

6.5.9 Application of Adjudication – some examples

6.5.9.1 Namibia

The Ministry of Lands, Resettlement and Rehabilitation (MLRR) published a discussion paper on land management and local level registries in November 1996. Some extracts follow below:

"Procedures for adjudication and survey of boundaries: The alignment of roads, service corridors and individual boundaries should be planned and demarcated by a land measurer, who could be employed by the local property office, local authority, the MLRR or a private land surveyor acting as consulting land

manager for a local authority. The adjudication of boundaries should be carried out in cooperation with the existing community structures adhering to (specified) planning requirements. The residents should be included as much as possible in the process. A community map will be a useful tool at the beginning of the adjudication process. Furthermore an aerial photograph (e.g. an orthophoto), if available, could be used.

While adjudicating the boundaries the land measurer will produce a map - here called a cadastral map. If only a part of the block is upgraded the outside figure of this part must be surveyed by a land surveyor and subdivided from the block on a diagram. As part of the upgrading process, final erf numbers must be assigned to the newly defined individual parcels.

The cadastral map produced during the adjudication period will for an existing informal area also be the proposed layout plan that must be approved by the relevant authorities in accordance with simplified procedures that may be introduced or existing procedures. When the layout plan is approved and the necessary changes have been carried out on the ground and agreed by the community, the cadastral map is updated and lodged for official approval.

This process would in most instances result in the proclamation of the area as a new extension of the town.

Adjudication of rights: A register may not be up to date insofar as transfers, deaths, etc. may have taken place without such changes being reported to and recorded by the local property office. In addition, the individualisation of group oriented rights will entail a process of adjudicating on the range of claims that might arise in respect of a particular property.

One possible way of dealing with this adjudication is to specify detailed procedures, according to which rights can be upgraded, as is provided, for example, in the South African Upgrading of Land Tenure Rights Act, 1991. As this can be a costly and lengthy procedure it is suggested that a simple administrative procedure be provided for in legislation with an appeal to the Magistrate's Court having jurisdiction in the area.

The essential elements of such a procedure would be:

❑ *The local authority or owner of the site would advertise their intention in simple English of upgrading tenure rights. The advertisement could advise interested parties that a list is available at the local property office indicating the people to whom it is proposed that these rights be allocated and the erf that is proposed to be allocated. To a large extent this would entail the publication, if up to date, of the tenure register with erven allocated by reference to a proposed cadastral map;*

❑ *Interested parties should be able to approach the local property office if they disagree with the allocation and the local property office would try to facilitate a mediated solution, using local knowledge and customs to assist them. The local property office could draw on an individual or organisation with particular expertise. If the local property office is unable to reach agreement on the allocation of the property, the matter would be referred to the Magistrate's Court having jurisdiction in the area. The Magistrate would play the role of arbitrator and may ask traditional authorities in the area to assist him/her in reaching a decision. This role will be authorised in terms of the proposed legislation; and*

❑ *The adjudication process should have a definite cut-off point where after the upgrading should take its course and any further*

disputes would have to be referred to the relevant court having jurisdiction in the matter."

6.5.9.2   Ghana

Kuntu-Mensah (2002) reports as follows:

"Over a century since the idea was first introduced into the country, it appears that Ghana now has the best it can hope for in a Land Title Registration system, given the realities of today. The system does not supplant the customary system; it gives recognition to ownership acquired under them and most importantly seeks to protect such rights and interests by providing the machinery for security of title. With the system firmly grounded in the written law, it would appear that what needs to be done is the efficient implementation of the system to the level where it will be commonplace.

The system should be decentralized even further to the local level. In the initial stages, concentration should be on adjudication efforts to ascertain or resolve rights, especially in the rural areas. The adjudication committee should involve reliable local personnel who may be more knowledgeable in the land tenure situations in their areas. The adjudication process should also be sufficiently publicized to alert all property owners. Where boundaries are not clear or do not exist owners should be encouraged to erect monumentation for their parcels - either by placing beacons or pegs in the ground at property corners or by use of linear features such as walls, fences or hedges.

With reference to the survey of these properties, field survey methods as currently used are not the cheapest, fastest, or most cost effective and the accuracies being imposed are overly burdensome for initial parcel delineations. Means of upgrading

accuracies of parcel delineations over time should be considered. The Survey Department and the Survey profession should use less expensive, fast and simple technologies like GPS for cadastral surveying. This means that current efforts by the Department of Geodetic Engineering, University of Science and Technology and their German counterpart to install an IGS station needed for GPS activities should be encouraged. Surveyors and related professionals should be trained and retained in these new technologies. We believe that if the right procedures are followed, it will only be a matter of time until the full impact of the land registration will be realized. Even if Land Title Registration does not result in all or most of the benefits described in the literature, ensuring certainty of title to ownership, minimizing or eliminating litigation, and reducing the number of socially disruptive land disputes will be adequate enough reason for implementing a reliable land registration in Ghana."

6.5.9.3   Indonesia

Walijatun and Grant (2002) report as follows:

"Starting in 1994, the project introduced new concepts in land administration. A new regulation will be used as the legal basis for the adjudication of title to land. Instead of relying on the written documents of ownership, the new regulation dictates that in those cases where written documents as evidence of ownership are not available, written documents will be created by accepting the written statements and testimonies both from the applicant (owner) and witnesses who can be formal and informal local leaders, friends and neighbours. In principle if somebody claims that he/she is the owner of a piece of land, he/she must be responsible for the legal implication of his/her statements in the future. If the land is state land, then the Land

Office will investigate the possibility of land granting and if possible a right will be granted and the certificate of ownership will be issued to the applicant.

The new regulation includes:

- *the authority for the adjudication to take place;*
- *the procedures for the appointment of the adjudication team (they have to swear an oath);*
- *the procedures for taking statement and testimony;*
- *the publicity concerning the area and schedule of the systematic adjudication (door to door method);*
- *the determination of the rights in accordance with the prescribed procedures;*
- *the announcement of the results (names and maps) and the hearing of appeals within 60 days;*
- *the methods for solving problems (if possible disputes are settled out of the court through negotiation between the parties with the team as a mediator);*
- *the formal entry of the results into the registers of title. (After the formal entry, any dispute must be settled by the court);*
- *the issuance of the certificates of ownership.*

Areas to be systematically adjudicated are selected with priority in accordance with needs (rapid development, high level of disputes, etc.)."

6.5.9.4   The Western and Northern Cape

Turner (2001) reports that the Department of Land Affairs claims that the Transformation of Certain Rural Areas Act will see the transfer of 1.7 million hectares of state land to 70 000 people in the former coloured reserves in the Western Cape, Northern Cape,

Eastern Cape and Free State. Most of this land consists of un-surveyed and unregistered land parcels.

"These small holdings or "saailande" (dry land plots) in the Western Cape, Northern Cape, Eastern Cape and Free State must be surveyed and property rights registered. At present these "saailande" have no surveyed or registered boundaries. The areas of some of these "saailande" were up to now calculated by the number of bags of seed that can be sowed on it. It is important that this land is surveyed and registered in the most cost-effective way.

To survey and register the property rights, the first step is for the proposed rural land boundaries to be identified on site, agreed to and physically marked (beaconed) in consultation with the recipients of adjoining land parcels. Disputes must be resolved between adjoining owners and rights such as water rights, rights of access etc. must be identified and agreed on. These rights must also be surveyed to be registered as servitudes. Only after these consultations and negotiations are successfully completed can the surveys be done and the General Plan or Diagrams framed. At the time of the survey the Surveyor has to be accompanied in the field by adjoining owners to make sure that all the agreed beacons and boundaries are surveyed.

The Chief Directorate: Surveys and Mapping together with the NGO, Surplus People Projects (SPP) have recently completed a pilot project on the survey of 20 "saailande" at Kharkams in the Leliefontein area in Namakwaland. The aim of this pilot project was to establish a procedure to survey and register these "saailande" in the most efficient and cost effective way and to develop a community process for the resolution of disputes in relation to plot boundaries and the allocation of determinable rights.

At a meeting in the pilot area at Kharkams it was demonstrated to the owners how to indicate their boundaries on a 1:50 000 topographic map and they were requested to draw in their own plots. A month was then set aside during which time the "owners" were asked to mark out their "saailande" and negotiate with the neighbouring "owners". SPP (Surplus Peoples Project) assisted with the plotting of uncontested "saailande" on a 1:50 000 topographic map and facilitated the process of negotiating with the parties involved in cases where agreement had not been reached.

During this time contested boundaries were identified. There were two cases where owners wanted a simple confirmation of boundaries and a third was more complicated and required a site visit by the author and after several hours of dispute resolution the matter was finally resolved. The owners and the Local Council then produced a sketch plan indicating the approximate positions of the agreed boundaries of the "saailande" for approval.

Two field survey teams under supervision of a Professional Land Surveyor then went out with GPS to survey the "saailande". Each field team was equipped with a copy of the sketch plan and an enlargement of the latest aerial photography of the area. A team then surveyed a "saailand" by going around the boundary accompanied by the owner, identifying the position of the beacons on the photo and drawing the boundaries between the beacons as pointed out by the owner. When adjoining "saailande" were surveyed in the same way not only the co-ordinates of the beacons were checked but also the agreement of the beacons and boundaries between owners. The approximate position of the beacons and boundaries were plotted on the enlarged aerial photo and agreed to by all the owners before the General Plan was framed."

6.5.9.5   KwaZulu-Natal

Source: Interview with Mr F. Marais of the Surveyor General's Office in Pietermaritzburg.

During the 19th century land was allocated to tribal chiefs, or AmaKhosi by the then Colonial Government. In 1907 21 Reserves and approximately 20 "Locations" were registered. Both Reserves and Locations were registered as Communal Property. Some of this land was lost after the Black Land Act No. 27 of 1913, and the Development Trust and Land Act No. 18 of 1936.

During the 1980's the KwaZulu Government surveyed the boundaries of reserves and Locations, to establish survey diagrams for the various tribes. This required the application of adjudication procedures to establish the positions of some of the boundaries, involving the AmaKhosi and other stakeholders. Evidence based on existing survey data was often not accepted. Problems also arose when grazing rights were granted by some owners to others, who interpreted such rights as ownership.

This adjudication exercise continued between the various tribes until 1994. At the time of the 1994 elections all Reserves and Locations were placed under the control of the Zulu King, who formed the Ingonyama Trust to administer this land. This resulted in the majority of tribal land in KwaZulu-Natal not being registered.

Land Restitution claims have been dealt with on evidence based on positions of ancestral graves, aerial photographs and maps, and involve the community and other stakeholders, e.g. farmers. Such claims also required the application of adjudication procedures involving a range of stakeholders. This includes claims by labour tenants.

6.5.9.6   Case study: Ekuthuleni Community

From a report on a workshop for the Ekuthuleni Community held at the Ntembeni Tribal Authority Hall in Melmoth, KwaZulu-Natal, in December 18 and 19, 2001, the following information is summarised:

A considerable number of people at Ekuthuleni expressed the need for title deeds or individual records of their land holdings. This was due mainly to two reasons:

1. Security of tenure for individual households at Ekuthuleni, particularly against the state as the current owner, but also against people within the community who are regarded as landowners.

2. Access to credit for people who are involved in commercial agriculture who would want to upgrade their agricultural ventures.

Due to the unaffordability and inaccessibility of title deeds this was not an option for the community, hence an investigation by the Association for Rural Advancement (AFRA) regarding how affordable records of land ownership based on land administration systems the community uses might be provided to households.

An adjudication process was undertaken within the community, the purpose of which was to identify where boundaries go, to identify where there are disputes (both boundary and rights holders disputes), and to discuss the process for resolving those disputes. Colour orthophotos showing the whole Ekuthuleni community were used for this purpose. People indicated on the photos where their boundaries go. This happened in the presence of all people concerned, people who share the boundary, so that they can

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witness the demarcation. In cases where there were disputes those disputes were noted so that they could be addressed in a process to be agreed upon.

After workshopping several options, the community decided on the following option, referred to as the 'Informal' option:

- *"The Communal Property Association is going to transfer portions of land to individual households and issue ownership records for those portions;*
- *This option is going to formalize the practices that people are already using and are familiar with;*
- *Ownership records will not cost as much as title deeds to develop and issue out to individuals;*
- *Subdivision and transfer costs from the CPA to individual households in this option will be low;*
- *Subdividing and transferring land to descendants will not cost individuals big amounts;*
- *In the informal option there will be no delays like in the formal option;*
- *The respect and dignity of the traditional authorities will be maintained and they will always have a role to play in the administration of land; and,*
- *The community will take the responsibility of demarcating and pegging as people who are knowledgeable about where the boundaries go.*

The workshop groups recommended the following regarding pegging and dispute resolution:

- *Pegging process: People who have to be part of this process are the Nduna, the committee members, the household head who is identifying where the boundary goes, and ibandla*

consisting of, among other people, direct neighbours of the person identifying where the boundary goes.

□ *Dispute resolution: People who were part of the demarcation process have to be present in the dispute resolution process to give their evidence. Such people are the Nduna, committee members, ibandla and the disputing parties."*

6.6   Levels of learning in adjudication

The learning unit titles, which were defined in Par. 6.4 above, cover learning in adjudication on NQF levels 3,4,5,6 and 7. In this section a discussion will follow with arguments as to why learning at so many NQF levels is necessary. The completed learning units, showing the developed elements identified in Par. 6.3 above, are shown in Appendix C.

6.6.1 Title: APPLY THE PRINCIPLES OF ADJUDICATION TO OBSERVE, BE AWARE OF AND SUPPLY ORAL EVIDENCE AND/ OR FIELD EVIDENCE TO ASSIST WITH THE FIELD INVESTIGATION AND PRESENTATION OF FINDINGS ON RIGHTS OF AN ELEMENTARY NATURE OF LAND OWNERSHIP AT THE LOCAL LEVEL. (NQF Level 3).

Hillermann (2002) argues for learning at this level based on his experience with adjudication and dispute resolution at the local level. As can be seen from the title, this is a person who has local knowledge of a community (traditional or non- traditional), who can assist with the investigation and presentation of findings on land rights of an elementary nature. A person who has successfully completed this learning unit is able to provide oral and/ or field evidence to assist with the investigation and presentation of rights in land and land ownership in accordance with the objectives/ principles of land reform.

Turner (2001) reports in Par. 6.5.9.4 above of local people assisting with the demarcation of their own boundaries before the boundaries were surveyed,

which included resolving disputes around contested boundaries. The Ekuthuleni Community case study in Par. 6.5.9.6 above also makes mention of the fact that *"the community will take the responsibility of demarcating and pegging as people who are knowledgeable about where the boundaries go".*

The Communal Land Rights Bill (Section 2(h)(iii)) has as one of its objects *"the right to democratic participation by the members of a community in decision-making processes affecting their tenure rights",* and it refers to Land Rights Officers.

The person successfully completing this learning unit could be an important role-player in such community-based processes as mentioned above, having mastered elementary theory in land rights, land tenure and dispute resolution, and being able to use such knowledge to present elementary field findings of facts related to land, land rights, land boundaries and land tenure. Such a person will also be an asset in community administrative structures governing their land, as envisaged by the Communal Land Rights Bill section 2(h)(ii). This person is, therefore, not just a field worker, but will also participate administratively.

From the Specific Learning Outcomes (SLO's) *(Appendix C),* the SAQA requirements for applied competence are met, i.e. Foundational Competence – SLO 1 and 2, Practical Competence – SLO 3 and 4, and Reflexive Competence – SLO 3 and 4.

6.6.2 Title: APPLY THE PRINCIPLES OF ADJUDICATION TO ASSIST WITH THE INVESTIGATION AND PRESENTATION OF ELEMENTARY FINDINGS ON RIGHTS IN LAND OWNERSHIP. (NQF Level 4)

Birkett, Marais and Hugo (2002) unanimously supported learning in adjudication at this level. Their view was supported by Hillermann (2002).

The Department of Land Affairs makes use of certain employees to assist with establishing the official situation from survey records in case of minor disputes

that may arise, and where such survey records are in existence. A person who has successfully completed this learning unit is therefore able to apply the principles of adjudication to assist with the investigation and presentation of minor findings on rights in land and land ownership in accordance with the objectives/ principles of land reform.

The learning at NQF Level 4 is aimed at such a person as the one being made use of by the DLA. There is therefore a distinct difference between this person, and the one described at Level 3, where the focus was on field evidence and participation in community administrative structures at the local level. This difference is apparent when one looks at the Specific Learning Outcomes (SLO's). At Level 3, for SLO 1 the outcome focuses on local land tenure. SLO 2 for both Levels 3 and 4 is the same, but the Assessment Criteria clearly indicate the distinction between the field worker (Level 3) and the office worker (Level 4). Both SLO 3 and SLO 4 are the same, except that for Level 3 the focus is on field applications. It can also be seen that additional embedded knowledge is required to be mastered by the Level 4 person, in particular additional knowledge on legislation.

As is the case for Level 3, it can be seen that from the Specific Learning Outcomes (SLO's) *(Appendix C)*, the SAQA requirements for applied competence are also met, i.e. Foundational Competence – SLO 1 and 2, Practical Competence – SLO 3 and 4, and Reflexive Competence – SLO 3 and 4.

Lastly, the Level 4 person will assist the Level 5 person in the DLA offices, which is described below.

6.6.3 Title: APPLY THE PRINCIPLES OF ADJUDICATION TO INVESTIGATE AND PRESENT BASIC FINDINGS ON RIGHTS IN LAND OWNERSHIP. (NQF Level 5).

According to Birkett, Marais and Hugo (2002), the Department of Land Affairs makes use of certain employees to establish the official situation from survey

records in case of minor disputes which may arise, and where such survey records are in existence. They argue that such activities require learning at NQF Level 5. A person who has successfully completed this learning unit must therefore be able to apply the principles of adjudication to investigate and present basic findings on rights in land and land ownership in accordance with the objectives/ principles of land reform.

The Level 4 person assists this person in establishing the official situation from survey records. The qualifier "basic" in the learning unit title distinguishes this level of learning form Levels 3 and 4, where the word "elementary" was used. Also, this person goes beyond the mere presentation of findings, as was the case for Levels 3 and 4, and is able to identify clear-cut queries, can make recommendations with respect to the possible resolving of advanced queries/ disputes and is able to recommend an appropriate mediator to resolve advanced queries/ disputes.

From the Specific Learning Outcomes (SLO's) *(Appendix C)*, the SAQA requirements for applied competence are met, i.e. Foundational Competence – SLO 1, Practical Competence – SLO 2 and 3, and Reflexive Competence – SLO 2 and 3.

Once again, it can be seen that additional embedded knowledge is required to be mastered by the Level 5 person.

6.6.4 Title: APPLY THE PRINCIPLES OF ADJUDICATION TO INVESTIGATE AND PRESENT FINDINGS ON RIGHTS IN LAND OWNERSHIP. (NQF Level 6).

Birkett, Marais and Hugo (2002) agreed that the Department of Land Affairs makes use of certain employees to establish the official situation from survey records in case of disputes which may arise, and where such survey records are in existence. Therefore, a person who has successfully completed this learning unit is able to apply the principles of adjudication to investigate and present findings on rights in land ownership in accordance with the objectives/ principles of land reform.

There is a clear distinction between this person and the Level 5 person, in that at Level 5 only "basic" findings are presented, and clear-cut queries/ disputes are identified. At Level 6 the person goes as far as resolving all disputes/ queries where clear-cut facts exist. Recommendations as to the resolving of complex disputes are made, and a mediator to resolve complicated queries/ disputes is recommended.

Embedded knowledge requires an extensive knowledge of relevant legislation and policies, historical land related issues and a sound knowledge of adjudication theory.

From the Specific Learning Outcomes (SLO's) *(Appendix C)*, the SAQA requirements for applied competence are met, i.e. Foundational Competence – SLO 1, Practical Competence – SLO 2 and 3, and Reflexive Competence – SLO 2 and 3.

6.6.5 Title: APPLY THE PRINCIPLES OF ADJUDICATION TO ASCERTAIN RIGHTS IN LAND OWNERSHIP. (NQF Level 7).

The Standards Generating Body (SGB) for Surveying received a recommendation from the working group on Cadastral Surveying that a Unit Standard be registered with SAQA on Adjudication at NQF Level 7. The proposed Title was "CONDUCT ADJUDICATION FOR LAND TITLING".

At a meeting of the SGB held on 29 and 30 January 2002, it was agreed that the writer of this thesis develop this Unit Standard. A draft Unit Standard was subsequently presented at the following SGB meeting, which was held on 18, 19 and 20 March 2002. The Level 7 Learning Unit shown in Appendix C is one that includes the comments received from the SGB.

From the Specific Learning Outcomes, the Assessment Criteria and the required Embedded Knowledge, it is clear that this unit belongs at the Professional Level, which is NQF Level 7. A person who has successfully

completed this learning unit must be able to apply the principles of adjudication to ascertain rights in land ownership in accordance with the objectives/ principles of land reform and/ or other land related laws (rules).

There is a clear distinction between this person and the Level 6 person, since at Level 7 the actual dispute resolution activities take place after proper analysis of all the facts. Embedded knowledge requires a comprehensive study of a range of legislation, historical events and adjudication procedures and principles.

From the Specific Learning Outcomes (SLO's) *(Appendix C)*, the SAQA requirements for applied competence are met, i.e. Foundational Competence – SLO 1, Practical Competence – SLO 2 and 3, and Reflexive Competence – SLO 2 and 3.

It is envisaged that this learning unit be presented at the next SGB meeting for final approval as a Unit Standard.

6.7 Conclusion

In this Chapter information to support the identified learning units titles were presented, and the titles were tested against certain norms so as to establish whether such learning is justified.

Using the information in this Chapter, the learning unit titles have been reinforced by relevant Purpose Statements, Specific Learning Outcomes, Assessment Criteria and Embedded Knowledge, which were derived from the analysis done in Appendix B8 and the body of knowledge, assembled in Par. 6,5 above. It is also important to note that it is assumed that outcomes of the lower units have been mastered before embarking on the next level. See Appendix C for the developed learning unit elements as per Par. 6.3 above.

CHAPTER 7

Conclusion

In this study several factors have come into play that during the apartheid era played no part in the education of South African officials and surveyors.

(1) The new dispensation requires that practitioners respond to the land related concerns of poor people who often do not hold formal title but who may have de facto control of land or use customary tenure practices.

Concerns over land ownership have been part of land tenure systems for as long as such systems have been in existence. In South Africa the rights of people using land ranged from full freehold title to living "illegally" on land, and the occupiers of such land were often subjected to exploitation by the landowner. To ensure that those who have been landless, and who are going to be future landowners enjoy land rights as envisaged in the South African Constitution *(Par. 4.2 and 4.3)*, practitioners in land administration will need to acquire the capacity to function in various problem-solving contexts. Challenges facing such practitioners include the implementation of affordable land holding systems, the use of affordable methods of demarcating and surveying such land and the resolving of disputes that includes disputes in the existing freehold tenure system, as well as disputes that will be part of, and which will follow, the creation of new tenure systems *(Par. 6.5.9)*.

The history of land ownership in South Africa covered in this thesis *(Ch. 3)* gives an account of land conflicts that were created, and will have an important influence on the curriculum content of learning units in land administration, including those on adjudication, which were the ones developed in this thesis *(Par. 6.3)*. In addition to this, land administration will be totally ineffective without supporting legislation and policies, and therefore a considerable part of this thesis focused on the legal knowledge that practitioners in land administration will have to master at the different levels of education and training *(Ch. 4)*.

Implementing the principles of the adjudication of land rights can in many cases facilitate the tasks facing land administration practitioners. In this thesis the need for training of practitioners who can apply the principles of adjudication has been identified from various interviews held with stakeholders, to be on 5 different levels of learning *(Par. 6.4 and 6.6)*. The important activity of community involvement in land related decisions can be facilitated by applying the principles of adjudication to ensure security of tenure, and to resolve land related disputes in accordance with a system of existing local rules *(Par. 6.5.8)*. Also in present communal tenure areas, the planned promulgation of the Communal Land Rights Act *(Par. 4.6.3)* will ensure full participation of community members in decisions regarding the land on which they live in accordance with a system of pre-existing local rules. This will include activities such as land demarcation and establishing a local land administration system.

The learning units in land administration will therefore include outcomes covering historical, present, legal and local knowledge as well as the mechanisms to deal with land allocation and land related disputes by the adjudication of land rights. They will cover the range of practitioners from a local community official to the professional practitioner *(Appendix C)*.

(2) In general educational strategy, the previously narrow and rigid systems have needed to be broadened to allow workers at all levels to develop their understanding and competence.

In the future all learning in South Africa will have to be in accordance with the objectives of the National Qualifications Framework (NQF), The objectives of the NQF are outlined in the South African Qualifications Authority (SAQA) Act (Act 58 of 1995) and are, inter alia, designed to create an integrated national framework for learning achievements, to facilitate access to, mobility and progression within education and training and to enhance the quality of education and training *(Par. 2.1 and 2.3)*. This is to be effected within a system of Outcomes-Based Education and Training *(Par. 2.3.1 and 2.3.2)*.

The NQF makes it possible for learners to be credited with learning achievements on 8 levels on the NQF *(Par. 2.2)*, making it possible for a learner to progress from one level to the other after demonstrating competence at each completed level.

SAQA has defined the concept of competence clearly *(Par. 5.2)*, and this will ensure that practitioners in land administration will have acquired the required competence levels upon the completion of the learning process. Once assessed as competent at a certain NQF level, the learner may progress to the next level, benefiting from another NQF objective, which is to establish a culture of life-long learning.

The Council for Professional and Technical Surveyors (PLATO), has embraced the new educational dispensation by having an education "bosberaad" in 1998, which resulted in the establishment of the Standards Generating Body (SGB) for surveying. This SGB reports to the National Standards Body (NSB) responsible for Physical Planning & Construction *(Par. 2.2.1)*. The learning units developed in this thesis *(Appendix C)* will be tabled at the next SGB meeting, for subsequent registration as Unit Standards with the South African Qualifications Authority (SAQA). The analysis that was done of the existing programmes and the DACUM exercise *(Appendix B)* can serve as a guideline for the identification of further Unit Standards in the field of land administration to be registered with SAQA.

(3) In international educational thinking, there has been a related drive towards broadening access to education and embodying the requirements and expertise of workers.

In this thesis I have shown that wide ranging knowledge, skills and attitudes are required by land administrators to perform the competencies for secure land administration in South Africa. The outcomes that have been derived from the skills identified during the DACUM exercise *(Appendix A)*, and from existing programmes in the Southern African sub-continent *(Appendix B)*, support this argument.

For practitioners in land administration, a curriculum base that is soundly determined with maximum input from the stakeholders that are going to employ the learners is needed. From this study is clear that the various outcomes required in land administration would require a multi-disciplinary input. For example, surveyors and/ or cartographers will have to train learners in how to read maps and aerial photographs. Other disciplines that will have to be involved are communication experts, public administrators, computer/ IT specialists, legislation practitioners, conflict managers, land use planners and, of course, experienced land administrators.

To permit any provider of education and training to identify a research base for curriculum development, an alternative to the traditional, time consuming, and often costly approach of occupational analysis is needed. The DACUM method of occupational analysis is such an alternative, since it has proven to be an effective method of quickly determining at relatively low cost, the skills/ tasks/ procedures that must be performed by persons employed in a given job or occupational area. It makes use of experts in the field being analysed *(Appendix A2)*, and has as its underlying philosophy that expert workers are better able to describe/define their job than anyone else *(Par. 2.4)*.

To show that the DACUM method can be used to identify outcomes in an outcomes-bases learning model, the DACUM method has been evaluated in this thesis, and found to be effective tool for that purpose *(Par. 2.4.4)*. A DACUM chart for a Local Land Administrator was developed *(Appendix A1)*, and formed one of the elements used to identify learning unit titles and outcomes. It was used in conjunction with the outcomes which presently form part of existing programmes in land administration in the Southern African region *(Appendix B)*.

I have argued in this thesis that sound land administration is crucial to the land reform programme. Without it an unacceptable level of uncertainty will prevail, rendering many efforts to address land imbalances ineffective. To ensure that such land administration is a reality, relevant education and training for practitioners in land administration will have to be in place. The learning units in adjudication

developed as part of this thesis should make a contribution towards achieving the goal of full access to land by all South Africans.

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APPENDIX A1:   THE LOCAL LAND ADMINISTRATOR MUST BE ABLE TO:

GAC's	SKILLS/ TASKS								
A **PRACTICE ADMINISTRATIVE SKILLS**	A1 Operate and maintain database	A2 Operate computer system	A3 Exercise supervisory skills	A4 Plan and schedule work effectively	A5 Work proactively	A6 Work independently	A7 Organise work space	A8 Uphold principles of participative management	A9 Conduct operations in an ethical manner
B **FACILITATE COMMUNICATION BETWEEN COMMUNITY & LOCAL GOVT.**	B1 Be fluent in predominant local language	B2 Be fluent in English	B3 Conduct meetings	B4 Demonstrate cultural sensitivity	B5 Take minutes	B6 Produce Reports	B7 Demonstrate listening skills	B8 Clearly verbalise ideas and concepts	B9 Convey technical terms into ordinary language
	B10 Identify stakeholders	B11 Facilitate links between stakeholders	B12 Apply the principles of adult education	B13 Educate & inform community and officials on principles of integrated planning	B14 Demystify jargon				
C **GATHER AND ANALYSE INFORMATION**	C1 Apply various information gathering techniques	C2 Select appropriate information gathering techniques	C3 Conduct needs assessment using various techniques re PRAs/ RRAs	C4 Evaluate & interpret information gathered	C5 Make recommen-dations on information gathered	C6 Keep & maintain a 'resource file'			
D **ACQUIRE, MAINTAIN & UPDATE MAPS OF THE AREA**	D1 Identify maps & know where to acquire them	D2 Interpret aerial photographs	D3 Read maps	D4 Convey map information to community	D5 Identify need for spatial information	D6 Draw sketch maps	D7 Identify changes to existing maps	D8 Update maps according to identified changes	D9 Assist cartographer in annotating maps
	D10 Reproduce maps & aerial photographs on appropriate media								
E **RECORD INFORMAL LAND RIGHTS**	E1 Keep & maintain a local register	E2 Acknowledge local custom & practice with regard to land rights	E3 Reconcile Statute & Common Law with regard to Land rights	E4 Relate local register to a map or aerial photograph	E5 Interpret a developmental map	E6 Demarcate relative positions on ground (from developmental map)			

I

GAC's	SKILLS/ TASKS							
F **FACILITATE REGISTRATION OF FORMAL LAND RIGHTS**	F1 Identify the need for upgrading the community	F2 Liaise between community & professionals	F3 Facilitate registration of initial title for land claimant	F4 Advise community on legal issues of Land Rights				
G **INTERPRET LAND LAWS & POLICIES**	G1 Interpret town planning scheme	G2 Interpret municipal by-laws	G3 Recommend different forms of Land Tenure	G4 Advise on different forms of family law relating to land	G5 Reinforce gender rights with regard to Land Laws	G6 Identify & work with relevant land development laws	G7 Keep abreast about relevant Land Policy & Land Law	G8 Inform community of Land Law, Land Policy & changes thereto
H **DEMONSTRATE LEADERSHIP IN CONFLICT SITUATIONS**	H1 Preempt conflict situations	H2 Determine the core problem in a conflict situation	H3 Identify possible alternative solutions	H4 Initiate negotiations between dissenting parties	H5 Facilitate negotiations between dissenting parties	H6 Recommend a mediator to resolve conflicts	H7 Communicate outcome of the mediation process	H8 Remain impartial
I **UNDERSTAND & EXPLAIN STRUCTURES & FUNCTIONS OF GOVT.**	I1 Identify all service providers to community	I2 Identify the 'function' of each service provider	I3 Inform community of function of each service department	I4 Demonstrate an understanding of the legislative & executive functions of govt				
J **PROMOTE & ENCOURAGE USAGE OF LAND AS A SCARCE ECONOMIC RESOURCE**	J1 Advise on availability of development finance	J2 Advise on conditions of mortgage bond finance	J3 Advise on appropriate land use (urban/rural)	J4 Identify & act on land use transgressions	J5 Educate on the economic value of land			
K **ADVISE & INFORM COMMUNITY ON TECHNICAL & ENVIRONMENTAL ISSUES**	K1 & K2 Identify the role and responsibility of Land surveyors, town planners & other departmental practitioners	K3 Advise on the cost of provision & maintenance of various levels of service		K4 Promote environmental awareness & conservation issues	K5 Educate on the value of land & water as natural resources	K6 Facilitate links between community & environmental groups	K7 Advise on the principles of incremental development planning	

J C LANDMAN, 1996

II

APPENDIX A2: COMMITTEE MEMBERS FOR DACUM EXERCISE

The following group of experts was assembled for the purpose of identifying the tasks which will have to be performed by the local land administrator:

Facilitator: J Fortuin, Alberta Vocational College, Canada.

For this particular analysis, Ms J Fortuin of Alberta Vocational College, Calgary, Canada, was approached. The analysis was carried out as part of her task sheet under the Mangosuthu Technikon Canadian Linkage Project. Ms Fortuin is widely experienced in curriculum development models and computer managed learning.

Scribe: J Landman, Mangosuthu Technikon

Members:

- Mr F Magubane — Pan Africanist Congress
- Dr C Fourie (Ms) — Dept of Surveying and Mapping, University of Natal
- Mr R Birkett — Surveyor-General: KwaZulu/Natal
- Mr O Trevor — Chief Directorate: Surveys and Land Information
- Mr M Van Den Berg — Council for Professional and Technical Surveyors
- Mr R Hillerman — Institute of Professional Land Surveyors KZN
- Ms P Lugayeni — Community Outreach Committee, Mangosuthu Technikon
- Mr G Hattingh — Chief Registrar of Deeds
- Mr J Hojgaard — Namibia Government
- Ms P Hojgaard — Namibia Government

APPENDIX B.1   COMMUNICATION / LANGUAGE SKILLS

NQF LEVEL & QUALIFI- CATION	SKILLS/ OUTCOMES DACUM LA	LEARNING OUTCOMES INSHURD	LEARNING OUTCOMES MALAWI	LEARNING OUTCOMES TELMSA	EXISTING & PROPOSED TITLES
NQF 4 **CERTIFICATE LEVEL**	**Communicate** • Be fluent in English • Be fluent in predominant local language • Demonstrate listening skills • Clearly verbalise ideas and concepts	**Language skills** • Apply good practical working language • Use basic speaking skills • Access information through reading and listening • Read and listen actively and selectively • Use proper grammar and writing structures	**Public Dialogue & Communication Skills** Course Title – no details		A range of Unit Standards dealing with communication skills as shown to be identified
NQF 5 **DIPLOMA LEVEL**	**Communicate** • Convey technical terms into ordinary language • Demystify jargon • Produce reports • Convey map information to community	**Communication Skills** • Communicate effectively at various levels of complexity and through various means • Communicate with various (types) of communities • Write letters, reports • Present results of findings • Understand the cultural influence On/ background of communication (cultural and social customs)	**Communication Studies** Course Title – no details	• Understand the cultural influence On/ background of communication (cultural and social customs)	
NQF 6 **FIRST DEGREE LEVEL**		• Communicate at different registers and different levels of complexity		• Communicate at different registers and different levels of complexity	
NQF 7 **PROFESSIONAL DEGREE LEVEL**				**Communication Skills** • Academic writing and language skills in the field of environment and development	
NQF8 **MASTERS/ DOCTORATE LEVEL**					

APPENDIX B2:   GENERIC COMPETENCE

NQF LEVEL & QUALIFI-CATION	SKILLS/ OUTCOMES DACUM LA	LEARNING OUTCOMES INSHURD	LEARNING OUTCOMES MALAWI	LEARNING OUTCOMES TELMSA	EXISTING & PROPOSED TITLES
NQF 4 **CERTIFICATE LEVEL**	**Demonstrate Personal Competence** • Conduct operations in an ethical manner • Demonstrate cultural sensitivity • Work independently • Work proactively	**Functions of Land Measurers** • Understand various types of work land surveyors and measurers are performing • Understand in which environments land measurers and land use planners are working • Assess type of work necessary • Have an overview of type of products that land use planners and surveyors/ measurers are producing			Critical cross-field outcomes as specified by SAQA will have to be present in any grouping of learning units so as to cover personal competence skills
NQF 5 **DIPLOMA LEVEL**	• Acknowledge local custom & practice with regard to land rights		**Introduction to Social Science** **Learning Skills and Studying techniques** Course titles – no details		
NQF 6 **FIRST DEGREE LEVEL**			**Professional Practice and Ethics** Course titles – no details		
NQF 7 **PROFESSIONAL DEGREE LEVEL**					
NQF8 **MASTERS/ DOCTORATE LEVEL**					

APPENDIX B3:	ADMINISTRATIVE / MANAGERIAL / PLANNING COMPETENCE				
NQF LEVEL & QUALIFI-CATION	SKILLS/ OUTCOMES DACUM LA	LEARNING OUTCOMES INSHURD	LEARNING OUTCOMES MALAWI	LEARNING OUTCOMES TELMSA	EXISTING & PROPOSED TITLES
NQF 4 **CERTIFICATE LEVEL**	**Administrative/ managerial skills** • Plan and schedule work effectively • Organise work space • Identify stakeholders • Facilitate links between stakeholders				
NQF 5 **DIPLOMA LEVEL**	**Administrative/ managerial skills** • Uphold principles of participative management • Conduct meetings • Take minutes • Exercise supervisory skills		**Planning Process and Techniques** Course title – no details		
NQF 6 **FIRST DEGREE LEVEL**	**Administrative/ managerial skills** • Apply principles of adult education • Educate & inform community and officials on principles of integrated planning • Conduct needs assessment using various techniques		**Physical Planning** **Planning Theories** **Land use Planning Theories** **Planning Techniques and Methodology** Course titles – no details		
NQF 7 **PROFESSIONAL DEGREE LEVEL**			**Special Topics in Business and Personnel Management** Course title – no details	**Project Planning and Evaluation** • Project planning and management	
NQF8 **MASTERS/ DOCTORATE LEVEL**					

APPENDIX B4:	COMPUTER SKILLS				
NQF LEVEL & QUALIFI-CATION	SKILLS/ OUTCOMES DACUM LA	LEARNING OUTCOMES INSHURD	LEARNING OUTCOMES MALAWI	LEARNING OUTCOMES TELMSA	EXISTING & PROPOSED TITLES
NQF 4 **CERTIFICATE LEVEL**	**Computer Skills** • Operate computer system	**Introduction Computer** • Work with the major hardware parts of the computer • Work with basic computer operating systems • Work with concepts of files and filing hierarchies • Run simple batch files and windows programmes	**Introduction to basic computing and computers** Course title – no details		
NQF 5 **DIPLOMA LEVEL**	• Operate and maintain database	• Work with word processing software	**Computer programming** Course title – no details		
NQF 6 **FIRST DEGREE LEVEL**					
NQF 7 **PROFESSIONAL DEGREE LEVEL**				**Computer Skills** • Use databases • Use presentation and project management packages in environmental and developmental fields	
NQF8 **MASTERS/ DOCTORATE LEVEL**					

APPENDIX B5:   DRAWING / MAPPING / CARTOGRAPHIC SKILLS

NQF LEVEL & QUALIFI-CATION	SKILLS/ OUTCOMES DACUM LA	LEARNING OUTCOMES INSHURD	LEARNING OUTCOMES MALAWI	LEARNING OUTCOMES TELMSA	EXISTING & PROPOSED TITLES
NQF 4 **CERTIFICATE LEVEL**	**Acquire, maintain and update maps of the area** • Identify maps & know where to acquire them • Interpret aerial photographs • Read maps • Identify need for spatial information • Draw sketch maps • Identify changes to existing maps • Update maps according to identified changes	**Measuring and drawing skills** • Make use of maps and measuring equipment • Measure features on maps and relate to real world features • Make use of drawing instructions • Apply technical drawing techniques • Present and plot effectively and correctly	**Basic cartography** • Course title – no details		
NQF 5 **DIPLOMA LEVEL**	• Assist cartographer in annotating maps • Reproduce maps & aerial photographs on appropriate media • Interpret a developmental map • Demarcate relative positions on ground (from developmental map)	**Aerial photography and base mapping for physical planning** • Understand principles of base mapping • Describe the products of base mapping • Describe the process to produce base maps • Interpret base maps for physical planning • Describe possible problems and constraints of interpretation	**Cartography** **Basic Drawing Skills** **Introduction to Photogrammetry and Remote Sensing** • Course titles – no details		
NQF 6 **FIRST DEGREE LEVEL**			**Photogrammetry and remote sensing** • Course titles – no details		
NQF 7 **PROFESSIONAL DEGREE LEVEL**				**Geomatics for Land Management**	
NQF8 **MASTERS/ DOCTORATE LEVEL**					

APPENDIX B6:	RECORDS & REGISTRATION				
NQF LEVEL & QUALIFI-CATION	SKILLS/ OUTCOMES DACUM LA	LEARNING OUTCOMES INSHURD	LEARNING OUTCOMES MALAWI	LEARNING OUTCOMES TELMSA	EXISTING & PROPOSED TITLES
NQF 4 **CERTIFICATE LEVEL**	**Information gathering, record keeping and registration** • Apply various information gathering techniques • Select appropriate information gathering techniques	**Principles of deed registration** • Understand what land registration is and why it is done • Understand the concept of land administration and land management • Describe various land registration methods • Describe duties and functions of different functionaries in the Deeds Office • Understand the principles of conveyancing	**Basic Data Collection and Record Keeping** **Introduction to Land Administration procedures** • Course titles – no details		
NQF 5 **DIPLOMA LEVEL**	• Evaluate & interpret information gathered • Make recommendations on information gathered • Keep & maintain a resource file • Keep & maintain a local register	• Describe the duties and functions of the conveyancer and the Registrar of Deeds • Understand how land registration is part of land information in general	**Land Administration** Course title – no details		
NQF 6 **FIRST DEGREE LEVEL**	• Relate local register to a map or aerial photograph • Identify the need for upgrading the community • Liase between community & professionals • Facilitate registration of initial title for land claimant				
NQF 7 **PROFESSIONAL DEGREE LEVEL**				**Land Registration, Administration and Land Legislation** Programme Module – no details	
NQF8 **MASTERS/ DOCTORATE LEVEL**					

APPENDIX B7: POLICIES AND LEGISLATION

NQF LEVEL & QUALIFI-CATION	SKILLS/ OUTCOMES DACUM LA	LEARNING OUTCOMES INSHURD	LEARNING OUTCOMES MALAWI	LEARNING OUTCOMES TELMSA	EXISTING & PROPOSED TITLES
NQF 4 **CERTIFICATE LEVEL**	**Interpret land laws & policies** • Interpret town planning scheme • Interpret municipal by-laws • Recommend different forms of Land Tenure • Advise on different forms of family law relating to land • Reinforce gender rights with regard to Land Laws • Identify & work with relevant land development laws • Keep abreast of relevant Land Policy & Land Law	**Legal principles of land tenure systems** • Understand the nature and origin of customary, common, case and statutory land law • Describe the laws that deal with land and regulate land tenure • Explain what land tenure is and what it involves • Classify certain legal tenure and property rights/ types • Understand the implications of certain land tenure types			
NQF 5 **DIPLOMA LEVEL**	• Inform community of Land Law, Land Policy & changes thereto • Advise community on legal issues of Land Rights		**Introduction to Land-Based Policies**		
NQF 6 **FIRST DEGREE LEVEL**	• Reconcile Statute & Common Law with regard to Land rights		**Land Tenure, Land Law and Legislation** **Land Law and Cadastral Systems** • Course titles – no details	**Land Reform, Adjudication and Land Dispute Resolution** • Understand and describe the various acts dealing with land reform	
NQF 7 **PROFESSIONAL DEGREE LEVEL**			**Legal Studies – Introduction to Torts and Contracts** **Land Law and Governance** **Legal Studies – Land Law and Property Rights** • Course titles – no details	**As above – Land Legislation Section**	
NQF8 **MASTERS/ DOCTORATE LEVEL**					

APPENDIX B.8	LAND REFORM & CONFLICT MANAGEMENT				
NQF LEVEL & QUALIFI-CATION	SKILLS/ OUTCOMES DACUM LA	LEARNING OUTCOMES INSHURD	LEARNING OUTCOMES MALAWI	LEARNING OUTCOMES TELMSA	EXISTING & PROPOSED TITLES
NQF 3 **ELEMENTARY CERTIFICATE LEVEL**	**Conflict Management** • Determine the core problem in a conflict situation • Remain impartial	**Participatory land disputes resolution** • Understand and describe the disputes related to land, land boundaries and land tenure • Apply communication techniques at various registers and/ or levels of complexity to propose or refer to possible resolutions to disputes		**Land Reform, Adjudication and Land Dispute Resolution** • Describe the institutions dealing with Land Reform in Southern Africa • Understand and describe the disputes related to land, land boundaries and land tenure • Understand the "uncertainty" in land rights in the South African context • Describe the concept of land tenure security necessary for adjudication	**APPLY THE PRINCIPLES OF ADJUDICATION TO OBSERVE, BE AWARE OF AND SUPPLY ORAL EVIDENCE AND/ OR FIELD EVIDENCE TO ASSIST WITH THE FIELD INVESTI-GATION AND PRESENTATION OF FINDINGS ON RIGHTS OF AN ELEMENTARY NATURE OF LAND OWNERSHIP AT THE LOCAL LEVEL.**
NQF 4 **CERTIFICATE LEVEL**	**Conflict Management** • Determine the core problem in a conflict situation • Remain impartial	**Participatory land disputes resolution** • Understand and describe the disputes related to land, land boundaries and land tenure • Apply communication techniques at various registers and/ or levels of complexity to propose or refer to possible resolutions to disputes		**Land Reform, Adjudication and Land Dispute Resolution** • Describe the institutions dealing with Land Reform in Southern Africa • Understand and describe the disputes related to land, land boundaries and land tenure • Understand the "uncertainty" in land rights in the South African context • Describe the concept of land tenure security necessary for adjudication	**APPLY THE PRINCIPLES OF ADJUDICATION TO ASSIST WITH THE INVESTI-GATION AND PRESENTATION OF ELEMENTARY FINDINGS ON RIGHTS IN LAND OWNERSHIP**
NQF 5 **DIPLOMA LEVEL**	• Determine the core problem in a conflict situation • Pre-empt conflict situations • Remain impartial	• Understand and describe the disputes related to land, land boundaries and land tenure		• Understand and describe the disputes related to land, land boundaries and land tenure	**APPLY THE PRINCIPLES OF ADJUDICATION TO INVESTIGATE AND PRESENT BASIC FINDINGS ON RIGHTS IN LAND OWNERSHIP**

NQF LEVEL & QUALIFI-CATION	SKILLS/ OUTCOMES DACUM LA	LEARNING OUTCOMES INSHURD	LEARNING OUTCOMES MALAWI	LEARNING OUTCOMES TELMSA	EXISTING & PROPOSED TITLES
		• Apply communication techniques at various registers and/ or levels of complexity to propose or refer to possible resolutions to disputes		• Understand the "uncertainty" in land rights in the South African context • Describe the concept of land tenure security necessary for adjudication • Understand the history of land reform in South Africa • Describe the objectives of land reform in the Southern African countries • Apply communication techniques at various registers and/ or levels of complexity to propose or refer to possible resolutions to disputes	
NQF 6 **FIRST DEGREE LEVEL**	• Pre-empt conflict situations • Determine the core problem in a conflict situation • Identify possible alternative solutions • initiate negotiations between dissenting parties • Recommend a mediator to resolve conflicts • Remain impartial	• Understand and describe the disputes related to land, land boundaries and land tenure • Apply communication techniques at various registers and/ or levels of complexity to propose or refer to possible resolutions to disputes		• Understand and describe the differences and shared problems related to land reform in the various Southern African countries • Apply communication techniques at various registers and/ or levels of complexity to propose or refer to possible resolutions to disputes	**APPLY THE PRINCIPLES OF ADJUDICATION TO INVESTIGATE AND PRESENT FINDINGS ON RIGHTS IN LAND OWNERSHIP**
NQF 7 **PROFESSIONAL DEGREE LEVEL**	• Pre-empt conflict situations • Determine the core problem in a conflict situation • Identify possible alternative solutions • initiate negotiations between dissenting parties • Facilitate negotiations between dissenting parties	• Understand and describe the disputes related to land, land boundaries and land tenure • Apply communication techniques at various registers and/ or levels of complexity to propose or refer to possible resolutions to disputes	**Boundary Adjudication and Demarcation techniques** **Customary Tenure and property Rights** • Course titles – no details	• Understand and describe the differences and shared problems related to land reform in the various Southern African countries • Apply communication techniques at various registers and/ or levels of complexity to propose or refer to possible resolutions to disputes	**APPLY THE PRINCIPLES OF ADJUDICATION TO ASCERTAIN RIGHTS IN LAND OWNERSHIP**

APPENDIX B.8   LAND REFORM & CONFLICT MANAGEMENT

APPENDIX B.8	LAND REFORM & CONFLICT MANAGEMENT				
NQF LEVEL & QUALIFI-CATION	SKILLS/ OUTCOMES DACUM LA	LEARNING OUTCOMES INSHURD	LEARNING OUTCOMES MALAWI	LEARNING OUTCOMES TELMSA	EXISTING & PROPOSED TITLES
	• Recommend a mediator to resolve conflicts • Communicate outcome of the mediation process • Remain impartial	**Principles of Adjudication** • Understand the processes of adjudication in general • Understand the activities and principles of adjudication in general • Understand the "uncertainty" in land rights • Describe the concept of land tenure security necessary for adjudication		• Understand the activities and principles of adjudication in general • Understand the "uncertainty" in land rights in the South African context • Describe the concept of land tenure security necessary for adjudication	
NQF8 **MASTERS/ DOCTORATE LEVEL**					

APPENDIX B9: GOVERNANCE					
NQF LEVEL & QUALIFI-CATION	SKILLS/ OUTCOMES DACUM LA	LEARNING OUTCOMES INSHURD	LEARNING OUTCOMES MALAWI	LEARNING OUTCOMES TELMSA	EXISTING & PROPOSED TITLES
NQF 4 **CERTIFICATE LEVEL**	**Structures and Functions of Government** • Identify all service providers to community • Identify the "function" of each service provider • Inform community of function of each service department • Demonstrate an understanding of the legislative & executive functions of govt	**Institutional framework of land administration** • Describe the various institutions dealing with land management and administration • Describe the various policies and programmes of these institutions • Understand the differences in policies and how this may lead to certain problems and constraints			
NQF 5 **DIPLOMA LEVEL**					
NQF 6 **FIRST DEGREE LEVEL**			**Planning Law and Governance** **Land Law and Governance** • Course titles – no details		
NQF 7 **PROFESSIONAL DEGREE LEVEL**					
NQF8 **MASTERS/ DOCTORATE LEVEL**					

APPENDIX B10: LAND USE

NQF LEVEL & QUALIFI-CATION	SKILLS/ OUTCOMES DACUM LA	LEARNING OUTCOMES INSHURD	LEARNING OUTCOMES MALAWI	LEARNING OUTCOMES TELMSA	EXISTING & PROPOSED TITLES
NQF 4 **CERTIFICATE LEVEL**	**Land Use** • Advise on availability of development finance • Advise on conditions of mortgage bond finance • Advise on appropriate land use (urban/rural) • Identify & act on land use transgressions	Note: INSHURD designed a separate Land Use Planning Certificate course of one year duration **Environmental impact assessment** • Understand the rationale and need for environmental impact assessment • Describe and apply techniques and methods of performing environmental impact assessments • Describe policy and institutional framework of environmental impact assessment • Understand and assess examples of environmental assessment	**Introduction to Land Use Planning and Natural Resource Management** • Course title – no details	**Land Use Planning, Resettlement & Farm Planning** • Role and policies of public institutions dealing with land use planning • Legislation and policies related to land use planning	
NQF 5 **DIPLOMA LEVEL**	• Educate on the economic value of land **Technical and Environmental Issues** • Identify the role and responsibility of Land surveyors, town planners & other departmental practitioners • Advise on the cost of provision & maintenance of various levels of service • Promote environmental awareness & conservation issues • Facilitate links between community & environmental groups	**Principles of Urban Planning** • Understand the definition and process of planning in general and physical planning • Understand the difference between legal (statutory) and advisory plans • Appreciate the different types of plans prepared by town and regional planners and the purpose for which they are prepared	**Planning Processes and techniques** **Institutional and Legal Framework of the Planning System** **Urban/ Rural Planning Linkages** **Natural Resource Management and Environmental Impact Assessment** **Planning Implementation and Enforcement** **Urban and Regional Planning** • Course titles – no details		

APPENDIX B10:   LAND USE

NQF LEVEL & QUALIFI-CATION	SKILLS/ OUTCOMES DACUM LA	LEARNING OUTCOMES INSHURD	LEARNING OUTCOMES MALAWI	LEARNING OUTCOMES TELMSA	EXISTING & PROPOSED TITLES
NQF 6 **FIRST DEGREE LEVEL**	• Educate on the value of land & water as natural resources • Advise on the principles of incremental development planning	• Understand the need for physical planning and appreciate the principles of good planning • Understand the importance of applying a logical, consistent planning process in the preparation of plans	**Physical Planning** **Planning Theories** **Land Use Planning Theories** **Planning Techniques and Methodology** **Land Economics** **Planning Law and Governance** • Course titles – no details		
NQF 7 **PROFESSIONAL DEGREE LEVEL**			**Site Planning and Design** **Rural Planning and land use management** **Planning Practice and Professional Ethics** • Course titles – no details		
NQF8 **MASTERS/ DOCTORATE LEVEL**					

APPENDIX C   PROPOSED LEARNING UNITS IN ADJUDICATION

The information contained in Chapters 3, 4 and 6 is reflected below in the form of learning units in land adjudication. This was achieved by using the principles discussed in chapters 2 and 5.

It is important to note that the learning unit won't reflect the actual section from legislation or other text that need to be mastered, since such a refinement will be left to the provider and assessor to finalise. Reference to the required Embedded Knowledge therefore only states that "relevant sections" need to be mastered by the learner.

Level 3:   APPLY THE PRINCIPLES OF ADJUDICATION TO OBSERVE, BE AWARE OF AND SUPPLY ORAL EVIDENCE AND/ OR FIELD EVIDENCE TO ASSIST WITH THE FIELD INVESTIGATION AND PRESENTATION OF FINDINGS ON RIGHTS OF AN ELEMENTARY NATURE OF LAND OWNERSHIP AT THE LOCAL LEVEL.

Purpose Statement:

A person who has successfully completed this learning unit is able to provide oral and/ or field evidence to assist with the investigation and presentation of rights in land and land ownership in accordance with the objectives/ principles of land reform.

Specific Learning Outcomes and associated Assessment Criteria with required embedded knowledge:

Specific Learning Outcome 1:

Demonstrate an elementary understanding of land rights and the concept of local land tenure security in the South African context.

Assessment Criteria:

1.1   Elementary theory associated with the dynamics of land rights in the South African context is explained.

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1.2   Elementary theory associated with tenure rights in the South African context is explained.

Specific Learning Outcome 2:

Describe the institutions dealing with Land Administration at the local level

Assessment Criteria:

2.1   Functions and activities of the Surveyors General are described.

2.2   Functions and activities of the Registrars of Deeds are described.

2.3   Functions and activities of Land Reform offices are described.
Range: Land Affairs, Municipalities.

2.4   Functions and activities of the Land Claims Commissioner are described.

2.5   Functions and activities of Local Government are described.

Specific Learning Outcome 3:

Assist with the field investigation of elementary queries related to land, land rights, land boundaries and land tenure.
Range: Encroachments, servitudes, dimensions, demarcation.

Assessment Criteria:

3.1   The core problem in an elementary query/ dispute is identified

3.2   Elementary disputes/ queries are investigated by obtaining clear-cut facts

Specific Learning Outcome 4:

Assist with the presentation of elementary field findings of facts related to land, land rights, land boundaries and land tenure

Assessment Criteria:

4.1   Assistance is rendered with the presentation of clear-cut facts on elementary disputes/ queries

4.2   Referrals to the appropriate professional person are recommended in cases of advanced disputes – Land Surveyor, Conveyancer, Planner, Land Claims Commissioner etc.

Embedded knowledge: <u>Relevant sections dealing with elementary concepts from</u>:

Chapter 3 - Historical background of Land Ownership in South Africa:

Par. 3.3   The Natives' Land Act of 1913

Par. 3.4   The 20th Century up to 1992

The present situation

Chapter 4 - Government Policies and Legislation relating to Land Reform:

Par. 4.2   The vision of the South African Department of Land Affairs

Par. 4.3   The White Paper on South African Land Policy

Par. 4.8   Relevant Land Related Legislation: relevant sections from -

- The Land Survey Act (Act 8 of 1997)
- The Constitution of the Republic of South Africa (Act 108 of 1996)
- Communal Land Rights Bill (2002)
- Extension of Security of Tenure Act (Act 62 of 1997) (Commonly known as ESTA)
- Prevention of Illegal Eviction from Unlawful Occupation of land Act (Act 19 of 1998)

Chapter 6 – Writing learning units in Adjudication:

Par. 6.5.1   The benefits of land registration

Level 4:   APPLY THE PRINCIPLES OF ADJUDICATION TO ASSIST WITH THE INVESTIGATION AND PRESENTATION OF ELEMENTARY FINDINGS ON RIGHTS IN LAND OWNERSHIP.

Purpose Statement:

A person who has successfully completed this learning unit is able to apply the principles of adjudication to assist with the investigation and presentation of minor findings on rights in land and land ownership in accordance with the objectives/ principles of land reform.

Specific Learning Outcomes and associated Assessment Criteria with required embedded knowledge:

Specific Learning Outcome 1:

Demonstrate an elementary understanding of land rights and the concept of land tenure security in the South African context.

Assessment Criteria:

1.1   Elementary theory associated with the dynamics of land rights in the South African context is explained.

1.2   Elementary theory associated with tenure rights in the South African context is explained

Specific Learning Outcome 2:

Describe the institutions dealing with Land Administration in South Africa.

Assessment Criteria:

2.1   Elementary functions and activities of the offices of the Surveyors General are described.

2.2   Elementary functions and activities of the offices of the Registrars of Deeds are described.

2.3   Elementary functions and activities of the Land Reform offices of the Department of Land Affairs are described.

2.4   Elementary functions and activities of the offices of the Land Claims Commissioner are described.

2.5 Elementary functions and activities of Local Government offices are described.

Specific Learning Outcome 3:

Assist with the investigation of elementary queries related to land, land rights, land boundaries and land tenure.

Range: Encroachments, servitudes, dimensions

Assessment Criteria:

3.3 The core problem in an elementary query/ dispute is identified

3.4 Elementary disputes/ queries are investigated by obtaining clear-cut facts

Specific Learning Outcome 4:

Assist with the presentation of elementary findings of facts related to land, land rights, land boundaries and land tenure

Assessment Criteria:

4.1 Assistance is rendered with the presentation of clear-cut facts on elementary disputes/ queries

4.2 Referrals to the appropriate professional person are recommended in cases of advanced disputes – Land Surveyor, Conveyancer, Planner, Land Claims Commissioner etc.

Embedded knowledge: Relevant sections dealing with elementary concepts from:

Chapter 3 - Historical background of Land Ownership in South Africa:

Par. 3.3 The Natives' Land Act of 1913

Par. 3.4 The 20th Century up to 1992

Chapter 4 - Government Policies and Legislation relating to Land Reform:

Par. 4.2 The vision of the South African Department of Land Affairs

Par. 4.3 The White Paper on South African Land Policy

Par. 4.8 Relevant Land Related Legislation: relevant sections from -

- The Land Survey Act (Act 8 of 1997)

- The Constitution of the Republic of South Africa (Act 108 of 1996)

- Restitution of Land Rights Act (Act 22 of 1994)

- Land Restitution and Reform Laws Amendment Act (Act 63 of 1997)

- Extension of Security of Tenure Act (Act 62 of 1997) (Commonly known as ESTA)

- Land Reform (Labour Tenants) Act (Act 3 of 1996)

- Interim Protection of Informal Rights Act (Act 31 of 1996)

- Prevention of Illegal Eviction from Unlawful Occupation of land Act (Act 19 of 1998)

- Communal Land Rights Bill (2002)

- Relevant Provincial Ordinances and Legislation.

From Chapter 6 – Writing learning units in Adjudication:

Par. 6.5.1   The benefits of land registration

Par. 6.5.8   Disputes

Level 5: APPLY THE PRINCIPLES OF ADJUDICATION TO INVESTIGATE AND PRESENT BASIC FINDINGS ON RIGHTS IN LAND OWNERSHIP

Purpose Statement: A person who has successfully completed this learning unit is able to apply the principles of adjudication to investigate and present basic findings on rights in land and land ownership in accordance with the objectives/ principles of land reform.

Specific Learning Outcomes and associated Assessment Criteria with required embedded knowledge:

Specific Learning Outcome 1:

Demonstrate a basic understanding of land rights and the concept of land tenure security in the South African context

Assessment Criteria:

1.1   Basic theory associated with land rights in the South African context is explained.

1.2   Basic theory associated with tenure rights in the South African context is explained

          Range: Freehold, Lease, Customary Tenure, servitudes, Deeds of Land Tenure Rights

Specific Learning Outcome 2:

Identify clear-cut queries

Assessment Criteria:

          Range: Applied to specified geographical area

2.1   The core problem in a land related query is identified

2.2   Negotiations between dissenting parties are initiated

2.3   Clear cut queries are resolved by presenting clear cut facts

2.4   Land legislation and policies are considered

2.5   Local rules are considered

2.6   Land Tribunal/ Land Committee is consulted

Specific Learning Outcome 3:

Present elementary findings of facts related to land, land rights, land boundaries and land tenure

Assessment Criteria

Range: Applied to specified geographical area

3.1   Basic facts are presented with respect to possible resolving of advanced queries/ disputes

3.2   Recommendations are made with respect to possible resolving of advanced queries/ disputes

3.3   A mediator to resolve advanced queries/ disputes is recommended

Embedded knowledge: Relevant sections dealing with basic concepts from:

Chapter 3 - Historical background of Land Ownership in South Africa:

Par. 3.2   Land issues in South Africa from 1652 to the end of the 19th century

Par. 3.3   The Natives' Land Act of 1913

Par. 3.4   The 20th Century up to 1992

Chapter 4 - Government Policies and Legislation relating to Land Reform:

Par. 4.2   The vision of the South African Department of Land Affairs

Par. 4.3   The White Paper on South African Land Policy

Par. 4.8   Relevant Land Related Legislation: relevant sections from -

- The Land Survey Act (Act 8 of 1997)
- The Constitution of the Republic of South Africa (Act 108 of 1996)
- Restitution of Land Rights Act (Act 22 of 1994)
- Land Restitution and Reform Laws Amendment Act (Act 63 of 1997)

- Extension of Security of Tenure Act (Act 62 of 1997) (Commonly known as ESTA)

- Land Reform (Labour Tenants) Act (Act 3 of 1996)
- Interim Protection of Informal Rights Act (Act 31 of 1996)
- Communal Land Rights Bill (2002)
- Relevant Provincial Ordinances and Legislation.

Chapter 6 – Writing learning units in Adjudication:

Par. 6.5.1   The benefits of land registration

Par. 6.5.8   Disputes (resolved in terms of a body of pre-existing rules)

Level 6: APPLY THE PRINCIPLES OF ADJUDICATION TO INVESTIGATE AND PRESENT FINDINGS ON RIGHTS IN LAND OWNERSHIP

Purpose Statement: A person who has successfully completed this learning unit is able to apply the principles of adjudication to investigate and present findings on rights in land ownership in accordance with the objectives/ principles of land reform.

Specific Learning Outcome 1:

Demonstrate a working understanding of land rights and the concept of land tenure security in the South African context

Assessment Criteria:

1.1 Theory associated with land rights in the South African context is investigated and described.

1.2 Theory associated with the concept of land tenure security in the South African context is investigated and described.

1.3 Relevant legislation that applies to registered and unregistered rights, and land reform is investigated and described

1.4 A range of information concerning land rights is sourced, investigated and described.

Specific Learning Outcome 2:

Resolve clear-cut queries/ disputes

Assessment Criteria:
Range: Applied to specified area

2.1 Potential Conflict/ dispute situations are pre-empted and identified.

2.2 The core problem in a land related query/ dispute is identified

2.3 Negotiations between dissenting parties are facilitated

2.4 Disputes/ queries are resolved by presenting clear cut facts

2.5   Land legislation and policies are considered

2.6   Local rules are considered

2.7   Land Tribunal/ Land Committee is consulted

Specific Learning Outcome 3:

Present findings of facts related to land, land rights, land boundaries and land tenure

Assessment Criteria

Range: Applied to specified area

3.1   Facts are presented with respect to possible resolving of complex disputes

3.2   Recommendations are made with respect to possible resolving of complex disputes

3.3   A mediator to resolve complicated queries/ disputes is recommended

Embedded knowledge: Relevant sections from:

Chapter 3 - Historical background of Land Ownership in South Africa:

Par. 3.2   Land issues in South Africa from 1652 to the end of the 19th century

Par. 3.3   The Natives' Land Act of 1913

Par 3.4   Land possession by settlers in other colonies

Par. 3.5   The 20th Century up to 1992

Chapter 4 - Government Policies and Legislation relating to Land Reform:

Par. 4.2   The vision of the South African Department of Land Affairs

Par. 4.3   The White Paper on South African Land Policy

Par. 4.4   Restitution

Par. 4.5   Redistribution

Par. 4.6   Tenure Reform

Par. 4.8   Relevant Land Related Legislation: relevant sections from -

- The Land Survey Act (Act 8 of 1997)

- The Constitution of the Republic of South Africa (Act 108 of 1996)
- The Sectional Titles Act
- Restitution of Land Rights Act (Act 22 of 1994)
- Amendments to the Restitution of Land Rights Act (Act 22 of 1994) in 1995, 1996, 1997 and199
- Land Restitution and Reform Laws Amendment Act (Act 63 of 1997)
- Provision of Certain Land for Settlement Act (Act 126 of 1993)
- Extension of Security of Tenure Act (Act 62 of 1997) (Commonly known as ESTA)
- Land Reform (Labour Tenants) Act (Act 3 of 1996)
- Upgrading of Land Tenure Rights Act (Act 112 of 1991)
- Interim Protection of Informal Rights Act (Act 31 of 1996)
- Communal Property Associations Act (Act 28 of 1996)
- Distribution of Transfer of Certain State Land Act (Act 119 of 1993)
- The Land Titles Adjustment Act (Act 111 of 1993)
- The State Land Disposal Act (Act 48 of 1961)
- Amendments to the Upgrading of Land Tenure Rights Act, 112 of 1991
- Abolition of racially based Land Measures Act (Act 108 of 1991)
- Less Formal Townships Establishment Act (Act 113 of 1991)
- The Physical Planning Act (Act 125 of 1991)
- Development Facilitation Act (Act 67 of 1995)
- Prevention of Illegal Eviction from Unlawful Occupation of land Act (Act 19 of 1998)
- Subdivision of Agricultural Land Act (Act 70 of 1970)
- INgonyama Trust Act (Act 3 of 1994)

- Communal Land Rights Bill (2002)

- Relevant Provincial Ordinances and Legislation.

Level 7:   APPLY THE PRINCIPLES OF ADJUDICATION TO ASCERTAIN RIGHTS IN LAND OWNERSHIP

Purpose Statement: A person who has successfully completed this learning unit is able to apply the principles of adjudication to ascertain rights in land ownership in accordance with the objectives/ principles of land reform and/ or other land related laws (rules).

Specific Learning Outcome 1:

Investigate, analyse and describe land rights and the concept of land tenure security in the South African context

Assessment Criteria:

1.1   Theory associated land rights in the South African context is investigated, analysed and described.

1.2   Theory associated with the concept of land tenure security in the South African context is investigated, analysed and described.

1.3   Relevant legislation that applies to registered and unregistered rights, and land reform is investigated, analysed and described.

1.4   Information concerning land rights is sourced, investigated, analysed and described.

Specific Outcome 2:   Apply the principles of sporadic and systematic adjudication to ascertain rights in land and land ownership

Assessment Criteria:

2.1   Existing stakeholders are identified and their rights in relation to existing legislation are established.

2.2   Consultative Land Tribunal / Land Committee is established in accordance with task specific requirements.

2.3   Land Tribunal / Committee meetings are facilitated in accordance with task specific requirements.

2.4 Adjudication party is established and the adjudication process is advertised, as required.

2.5 Relevant local rules, land legislation and land policies are applied to the land adjudication process

Range:

- Formal rights and informal rights are linked
- Activities and principles of boundary and land rights adjudication are applied
- Boundaries are demarcated according to agreed principles

2.6 Land Rights are determined and defined.

Specific Learning Outcome 3:

Resolve disputes related to land, land rights, land boundaries and land tenure

Assessment Criteria:

Range: Urban areas, rural areas, areas under customary tenure. Include boundary disputes and disputes on land rights.

3.1 Conflict situations are pre-empted and identified.

3.2 Negotiations between dissenting parties are initiated and facilitated

3.3 Recommendations are made with respect to possible resolving of disputes in land and land rights.

3.4 Decisions are made to resolve disputes of a complex nature.

3.5 Justification for decisions are provided.

3.6 Outcome is communicated to dissenting parties.

Embedded knowledge: Relevant sections from:

Chapter 3 - Historical background of Land Ownership in South Africa:

- Distribution of Transfer of Certain State Land Act (Act 119 of 1993)
- The Land Titles Adjustment Act (Act 111 of 1993)
- The State Land Disposal Act (Act 48 of 1961)
- Amendments to the Upgrading of Land Tenure Rights Act, 112 of 1991
- Abolition of racially based Land Measures Act (Act 108 of 1991)
- Less Formal Townships Establishment Act (Act 113 of 1991)
- The Physical Planning Act (Act 125 of 1991)
- Development Facilitation Act (Act 67 of 1995)
- Prevention of Illegal Eviction from Unlawful Occupation of land Act (Act 19 of 1998)
- Subdivision of Agricultural Land Act (Act 70 of 1970)
- INgonyama Trust Act (Act 3 of 1994)
- National Roads Act (Act 8 of 1998)
- Removal of Restrictions Act (Act 84 of 1967)
- Prescription Act (Act 68 of 1969)
- Communal Properties Rights Bill (2002)
- Relevant Provincial Ordinances and Legislation.

Chapter 6 – Writing learning units in Adjudication: