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THE SETTLING OF LAND CLAIMS BY THE SOUTH AFRICAN COMMISSION ON RESTITUTION OF LAND RIGHTS: INSIGHTS FROM THE GAUTENG REGIONAL LAND CLAIMS COMMISSION

By

JOSEPH MUDAU

A dissertation submitted in fulfilment of the requirements for the degree

of

MASTERS IN PUBLIC AFFAIRS

in the

Faculty of Humanities

TSHWANE UNIVERSITY OF TECHNOLOGY

Supervisor: Dr BA Ntshangase

Co-supervisor: Dr RM Mukonza

DECLARATION

I hereby declare that the dissertation entitled, "**The settling of land claims by the South African Commission on Restitution of Land Rights: Insights from the Gauteng Regional Land Claims Commission**" submitted for the degree of Masters in Public Affairs at Tshwane University of Technology is my own work and has not been submitted to any other institution of higher learning. I further declare that all the sources cited or quoted are indicated and acknowledged by means of a comprehensive list of references.

……………………………………

Joseph Mudau

DEDICATION

I would like to dedicate this work to my parents, Jeanette Maseko and Willie Smith Mudau. Without their love and support, this study would have been impossible. My parents always insisted that we should pursue education to the apex level and live for what matters most in life, which is knowledge. I am deeply grateful for all your efforts in raising a fine and dedicated young man who epitomises black excellence. It gives me a great pleasure knowing that my parents find joy in witnessing and celebrating the success of their children and for that I will always be grateful to God for keeping them alive for us, and yes “Mama, I made it.”

I would also like to dedicate this work to my younger brother and sister, Emanuel Mudau and Phumzile Maria Mudau, respectively. My wish is for you to be better than me and this is also my wish for every African child. Bear in mind what I always tell you: “Whatever your hand finds to do, do it to your utmost best”. I will always support both of you in your future endeavours. In the words of Franz Fanon, “Each generation must, out of its relative obscurity, discover its mission, fulfill it or destroy it”. You are the generation that has the responsibility to meet the set of challenges presented to you locally and internationally in an attempt to solve them satisfactorily and use the presented opportunities for the benefit of our beautiful country, South Africa, and for the next generation to come, for you carry the dreams and hopes of this country.

I dedicate this work to my departed grandfather, Lawrence Mandlenkosi Dlamini in Swaziland, whose ultimate death in 2018 November robbed me an opportunity to say to him “Thank you old man” for he always wanted the best for me.

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ABSTRACT

The purpose of this research was to assess the efficacy of land restitution in an attempt to draw lessons for South Africa regarding the nature of the backlog in settling land claims. The study was undertaken to explore the “problematique” concept of land restitution that impedes the rate of settling land claims by the South Africa Commission on Restitution of Land Rights. Political independence in South Africa since 1994 created a moment of opportunity for the country to embark on the land reform programme that is meant to redress the highly inequitable land ownership resulting from apartheid, However the performance of the land reform programme, particularly in the political perspective of transferring land to the marginalised group, has been very poor and as a result, the researcher chose to embark on this study in an attempt to propose an alternative model for land restitution.

The study adopted a qualitative methodology. Semi-structured interviews, which largely informed the study, permitted the researcher to obtain guided responses while at the same time allowing interviewees to volunteer as much information on the subject under discussion as possible. The study also made use of questionnaires to gather data. Both purposive and convenience sampling were used to randomly identify participants, taking into account the age, gender, occupation and other personality traits. The research philosophies that largely guided this study are a combination of both critical and interpretivist paradigms. The choice of these is influenced by the fact that the researcher adopted a qualitative methodology in an attempt to invoke the structural, historical and political aspects of land reform processes.

The study established that there is a huge backlog of land claims in the Commission. The findings illustrate that the Commission deviated from its original mandate enshrined in the Restitution of Land Rights Act (Act 22 of 1994), hence the backlog. The study concludes that there is a need for establishment of a restitution unit in the Department of Rural Development and Land Reform responsible for implementing the recommendations of the Restitution Commission. Furthermore, the study recommends that, although land reform is necessary, land reform policy cannot be standardised; rather each country needs to devise its own model of land reform.

ACRONYMS

NLA	Native Land Act
DRDLR	Department of Rural Development and Land Reform
CLCC	Chief Land Claims Commissioner
CRLR	Commission on Restitution of Land Rights
DLCC	Deputy Land Claims Commissioner
RLCC	Regional Land Claims Commissioner
PFMA	Public Financial Management Act
USA	United State of America
LCC	Land Claims Court
LMV	Land Market Value
RDP	Reconstruction and Development Programme
KZN	KwaZulu-Natal
ANC	African National Congress
GoZ	Government of Zimbabwe
LRRP	Land Reform and Resettlement Programme
FTLRP	Fast Tract Land Reform Programme
CODESA	Convention for a Democratic South Africa
NPM	New Public Management
AU	African Union

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CHAPTER 1

CONTEXTUAL SETTING

1.1. INTRODUCTION

The ‘land question’ in South Africa is still a contested terrain. There is still more to be done by government if the historical imbalances on the past are to be corrected. The imprint of forced removals on the social and physical landscape of South Africa still seem indelible, while the impact of a restitution programme based on that legacy is less clear. The Republic of South Africa’s Constitution, 1996, in section 25(7) provides that individuals and communities who were dispossessed of rights to land after 19 June 1913, as a result of past discriminatory laws and practices, may claim restitution or equitable redress. The Restitution of Land Rights Act (Act No.22 of 1994) emphasises the cut-off date of restitution claims which is the 31 December 1998.

In 1994, the government of South Africa committed to the implementation of the Reconstruction and Development Programme (RDP), a policy framework that promotes fundamental transformation of the social, economic and moral foundation of South African society (African National Congress, 1994). The RDP succinctly identified land reform as a critical component of its endeavor to build the economy of the country. It regarded land reform as a central key and driving force of rural development and set a target of distributing 30% of agricultural land within five years of democratic government (ANC, 1994:21-23).

The land reform programme, particularly the restitution branch, was in the limelight after the amendment to 1994’s Restitution of Land Rights Act 22 in 2014. The government reopened the land claims process, which allowed those who were forcefully evicted from their land to lodge claims for compensation or restoration until 30 June 2019. Former president Jacob Zuma signed into law the Restitution of Land Rights Act (Act No. 22 of 1994), which re-opened the Restitution Claim process that closed in1998 and gave claimants five years until 30 June 2019 to lodge further claims. However, in July 2016, the South African Constitutional Court declared the amended Land Restitution Act invalid, which consequently ceased the intake of new claims.

An estimated 3.5 million South Africans were forcibly removed from their land as a result of the Native Land Act of 1913, which subsequently meant that 87 percent of the land was in the hands of the white minority (Walker, 2008). The proposed research therefore seeks to investigate and expose challenges causing the backlog in settling land claims by the Department of Rural Development and Land Reform (DRDLR,) particularly the Commission on Restitution of Land Rights (CRLR). This chapter introduces the study and provides background and motivation by deconstructing all issues relating to land reform. This is intended to provide context to the research problem. The research questions and objectives are succinctly explained in detail. The summary of the chapter has the sequential arrangements of chapters and offers insights into what each chapter entails.

1.2. RESEARCH BACKGROUND

Since the passing of the 1913 Native Land Act, the South African land question has been a politically saturated construct that has generated a range of preferred answers in both scholarly and more popular accounts (Walker & Cousin, 2015). Since 1913, the issue of land in South Africa has revolved around major inequalities in access to land rights, largely in the black community. These inequalities are commonly traced to the promulgation of the Native Land Act of 1913, which advocated a legal frame work for the division of the country into a white heartland and a cluster of impoverished black reserves on the periphery.

The Native Land Act (Act No. 27 of 1913), right from its inception to date, continues to have perennial onerous consequences and negative effects on the development of South African society. The Native Land Act (Act No. 27 of 1913) perpetuated and reinforced the racially discriminatory foundation on black South Africans in terms of land acquisition and ownership.

The Act was subsequently renamed the “Bantu Land Act 1913”, which aimed at regulating the acquisition of land by the “Natives”. The Act, which had its roots in or during the colonisation of Africans (Walker, 2008) and to perpetuate land dispossession on the part of the South African majority, was accompanied by major socio-economic repercussions.

The Native Land Act (Act No. 27 of 1913) led to only seven percent of the country's land being reserved for the indigenous population. The Act barred Africans from land acquisition or renting land outside the reserves, which relegated Africans to labour tenants in 87 percent of the Republic. Land plots situated outside the designated reserves and purchased prior to 1913 were called "black spots" and the people remained under the threat of eviction (Atuahene, 2014).

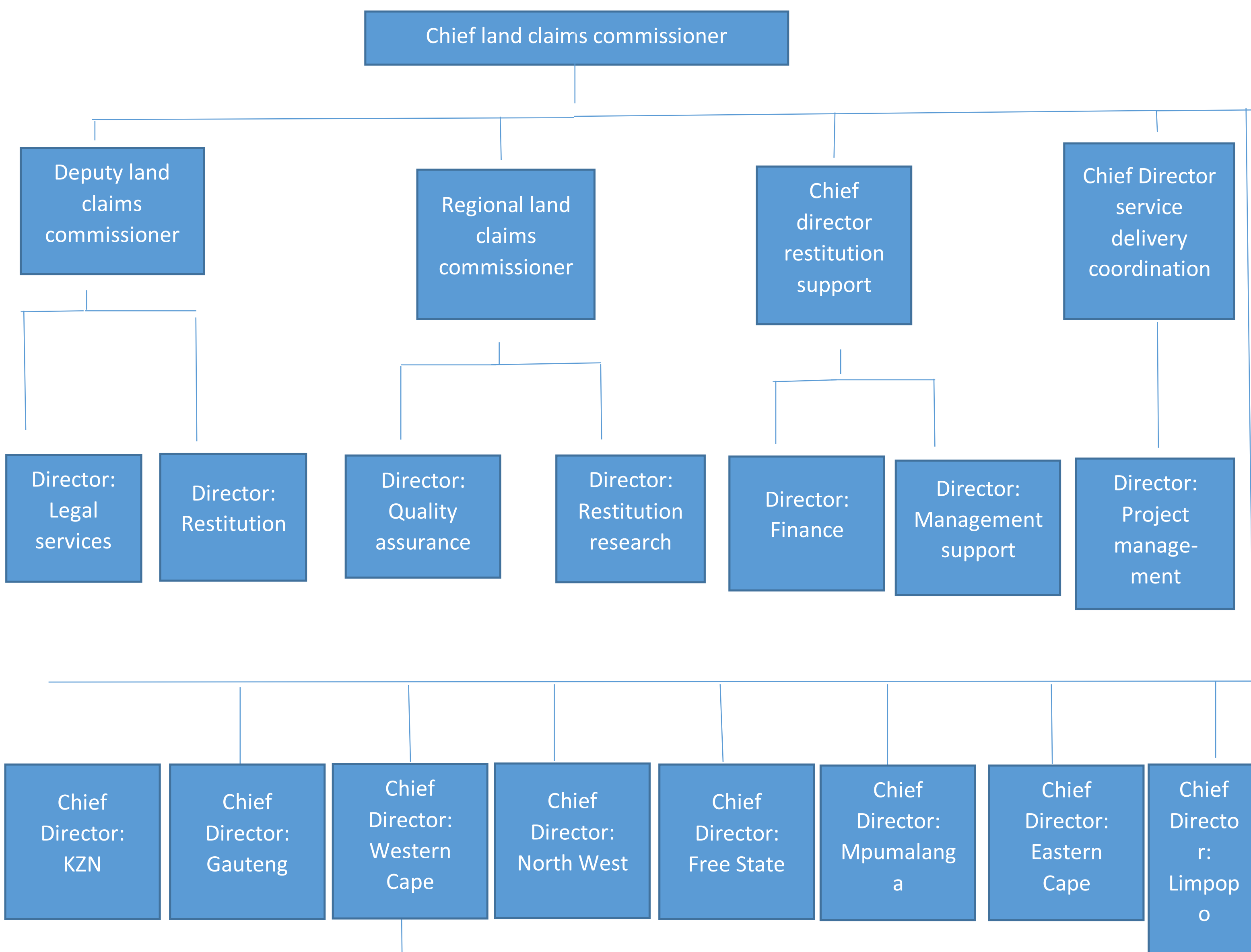
Historical records provide apparent evident that land dispossession in South Africa was part of a larger strategy that dehumanised and infantilised black people as they experienced "dignity taking" (Autahene, 2014). After a long hard-fought struggle, apartheid ceased and a multi-racial democracy committed to justice and human rights was born. Like many other states in transition, the new democratic South Africa in 1994 had no choice but to either address the past land injustices or ignore them.

Under the leadership of the late former President of South Africa, Nelson Mandela, the state decided to address land dispossession, and the important part of the post-apartheid state's strategy was the introduction of section 25 of the Constitution of South Africa, 1996, which postulates that "A person or community dispossessed of property after 19 June 1913 as a results of past racially discriminatory laws or practices is entitled to the extent provided by an Act of parliament, either to restitution of that property or equitable redress". It is therefore then that the Commission on Restitution of Land Rights (CRLR), hereafter also referred to as the "Commission" was born in 1994, with the primary mandate to ensure that this constitutional promise becomes a reality.

Since the transition to democracy in 1994, the post-apartheid state has struggled to develop an effective land reform programme that can address the crosscutting demands for land redistribution, local development, and representative government that this history has bequeathed. These ongoing challenges mean that the issue of land remains unresolved and that the question is itself in need of reformulation (Auahene, 2014).

The CRLR was established to be responsible for investigating and processing restitution claims. The CRLR is also mandated to develop and coordinate restitution policies and oversee restitution court cases.

Diagram 1: The structuring of the Commission on Restitution of Land Rights



(Source: DRDLR Annual Performance Plan 2016/2017)

The project of restitution in South Africa has two central themes, namely, the trauma of the dislocating loss of land in the past and the promise of restorative justice through the return of that land in the future (Walker, 2008).

The Republic of South Africa's Constitution, 1996, section 25(7) gave rise to the establishment of the Restitution of Land Rights Act (No. 22 of 1994), which states that "A person or community dispossessed of property after 19 June 1913 as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of

Parliament, either to restitution of that property or to equitable redress". Chapter two of the Restitution of Land Right Act (Act No. 22 of 1994) section 2 projects the establishment of the CRLR. Section 4(3) of the Restitution Act stipulates that the "Commission" shall consist of a Chief Land Claims Commissioner (CLCC) appointed by the Minister after inviting nominations from the general public, a Deputy Land Claims Commissioner (DLCC) similarly appointed, and as many Regional Land Claims Commissioners (RLCC) as may be appointed by the Minister.

The topic was selected because of the practical challenges encountered by the Commission on Restitution of Land Rights, which is a branch of the Department of Rural Development and Land Reform (DRDLR), in the settling of land claims (Makombe, 2018). Hall (2014) concurs with the previous statement when she argues that the government has made relatively slow progress in land restoration compared to financial compensation settlements, and Makombe (2018) attests that after independence, South Africa embarked on a land reform programme that is meant to redress the highly inequitable land ownership resulting from apartheid. Makombe (2018) argues further that the performance of the land reform programme, largely in the political perspective of transferring land to the marginalised group, has been very poor and as a result, the researcher chose to embark on this study in an attempt to propose an alternative model to land restitution.

The Department of Rural Development and Land Reform (DRDLR) re-opened the re-lodgment of land claims while there were outstanding claims from the first cut-off date of 31 December 1998 (while the Constitutional Court declared the amended Land Restitution Act invalid and consequently ceased the intake), therefore, this proposed research will not only expose the gaps in the settlement of land claims but also seeks to serve as a framework that the CRLR and civil society will utilise as a reference moving forward.

According to Walker (2008), because there are enormous issues facing the Commission and the lack of progress made, a review and re-examining of the assumption that shaped the formation of the Commission (CRLR) in the mid-1990s ought to be engaged in in order to provide critiques and insights into the public debate about land reform today, therefore

the focus area of the study was the Gauteng Regional Land Claims Commission in Pretoria. This area of study was selected because it constitutes both complex urban and rural claims and also it was easy for the researcher to reach the offices.

1.3. PROBLEM STATEMENT

According to Menone (2002), a problem statement generally defines the current conditions as well as conditions at the end of the forecast year. Mouton (2011) states that a research idea is just a notion on what to investigate, while the real challenge is how to transform it into a research problem. Lourens (2007) argues that as a requirement, a research problem should be as short as possible and relevant concepts and/or variables must be defined precisely.

The ongoing debate in the political discourse in South Africa is the need for land. The great variations in landscape and the differing contexts and conditions under which black rural people live are a great concern, therefore, this study seeks to investigate the cause of the backlog in settling land claims by the Commission on Restitution of Land Rights.

Much of South Africa’s scholarly history on land suggests that the struggle between Boer and Briton, the mining revolution, the struggles of the white working class, the creation of the Bantustans, the ravages of the migrant labour system, and the pass laws have left an indelible mark on the landscape of the country and on the lives of the indigenous population that endures to this day (Tin, 1998). Central to this inequality is a racially skewed distribution of land. The land policies in South Africa, both during colonialism and apartheid, supported the emergence of a white elite commercial agriculture and capitalist profiteering through, among other measures, eliminating independent African production and restricting access to land in small communal reserves designated solely for African occupation. While acting as reservoirs of cheap labour, these communal areas were also “dumping grounds” for those (the elderly, women, and children) deemed surplus to the labour needs of the white economy. The land question in favour of white capital was thus central to the making of contemporary South Africa. The Constitution of South Africa was adopted in order to "...heal the divisions of the past and establish a society based on

democratic values, social justice and fundamental human rights..." (A land Dispossession history 1600s-1900s, 2011)

The purpose of the research was to assess the efficacy of land restitution in an attempt to draw lessons for South Africa regarding the nature of the backlog in settling land claims. Land dispossession is not just a political issue that is placed on the policy agenda setting of the country, it is also an emotive issue that needs to be approached carefully.

The Department of Rural Development and Land Reform is entrusted with the mandate to ensure that section 25 of the Constitution of South Africa becomes a constitutional reality and heals past wounds by restoring land to the natives.

1.4. RESEARCH QUESTIONS

The nature of questions the study asks necessitates the contribution towards an enhanced framework for land reform in South Africa. It seeks to achieve this by asking:

- What is the nature of the backlog problem in settling land claims in the Gauteng Regional Land Claim Commission?
- To what extent is the Land Claims Court aiding or derailing the land claims process?
- Does the CRLR institutional arrangement have an impact on the rate of settling land claims?
- What would be an ideal model for land restitution in South Africa?

1.5. OBJECTIVES OF THE STUDY

The main purpose of the study was to assess the efficacy of land restitution in an attempt to draw lessons for South Africa regarding the nature of backlog in settling land claims. This much is achieved through the following objectives:

- To establish the nature of the backlog problem in settling land claims.
- To assess the extent to which the Land Claims Court influences the land claim process.

- To access the impact of CRLR organizational arrangement on the rate of settling land claims.
- To propose a model for land restitution in South Africa.

1.6. SIGNIFICANCE OF THE STUDY

There are various approaches to remedy the legacy of colonialism and apartheid in South Africa and, according to Atuahene (2014), a state can either utilise a forward-looking mechanism such as "land redistribution" or a backward-looking mechanism, that is, "land restitution". Redistribution can be seen as a forward-looking mechanism, according to Atuahene (2014), simply because it is based on current need or capacity rather than on specific acts of dispossession. To the contrary, the South African Land Restitution Programme provides a remedy for those who owned or occupied land in the past and had experienced land dispossession due to racial discriminatory laws and practices.

This study examines whether or not the Commission on Restitution of Land Rights, since its inception in 1994 to date, has been able to deliver on its constitutional mandate as stipulated in section 25 of the Constitution of the Republic of South Africa, 1996, which states that "A person or community disposed of property after 19 June 1913 as a result of past racial discriminatory laws and practices is entitled to either restitution of that property or equitable redress." The study will not only project the gap between expectations and outcomes of the Commission, but propose a model in dealing with land restitution matters.

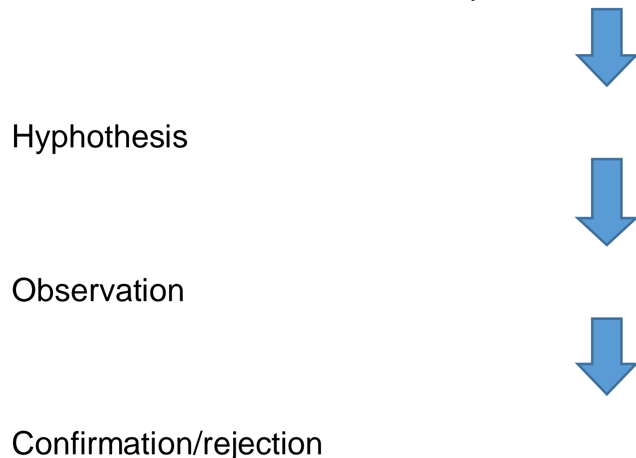
1.7. A SUMMARY OF THE RESEARCH METHODOLOGY

According to Brynard and Hanekom (2006:36), the research methodology of collecting data necessitates a reflection on the planning, structuring and execution of the research in order to comply with the demands of the truth, objectivity and validity. A research methodology involves the form of data collection, analysis and interpretation that researchers propose for their studies (Creswell, 2014:16). Research methodology explains the approach that the researcher used to collect data and data analyses.

Burns (2000:259) posits that research is the process of finding out about a phenomenon by critically examining its significant attributes and behaviours. Research thus encapsulates the application of a systematic and objective investigation to bring about possible answers to an identified problem. Research methodology is an organised method consisting of sequences, procedures and systems required to manage and run a research process. It is also a method that a researcher utilises to collect data within either a qualitative or quantitative study and it includes techniques for data collection (Burns, 2000:259). The difference in the two well-known research approaches are thoroughly articulated in the research methodology chapter.

Deductive reasoning operates from the more general to the more specific. Sometimes this is referred to as a “top-down” approach. The researcher formulates the research topic and narrows that topic down to a hypothesis. After the formulation of a hypothesis, it is narrowed down to observations that address the hypothesis; ultimately observations lead to the testing of the hypothesis with a specific set of data that then either confirms or rejects the hypothesis (Trochim, 2006).

The schemata below is an example of deductive reasoning theory.



An example of deductive reasoning

Source: Trochim, 2006

Inductive reasoning works in contrary, i.e. it moves from the specific observations to broader generalisations and theories. Sometimes it is called ‘theory building’ or ‘bottom-up-approach’. In inductive reasoning, a study commences with specific observation and

measures which detected patterns and irregularities that formulate some tentative hypothesis will be explored and finally, the development of some general conclusion or theories occurs.

The schemata below postulates an example of inductive reasoning.

Theory

Tentative hypothesis

Pattern

Observation

Figure 1: An example of inductive reasoning

Source: Trochim: 2006

Qualitative research is based on phenomena such as values, attitudes, assumptions and beliefs and how this phenomenon affects the individuals under investigation. When applying qualitative research, a great deal of time is spent on interacting with the participants in an investigation to access the difficulties and to measure the phenomena (Babbie, 1999:256-266). Having thoroughly interrogated the above two reasoning approaches, the study therefore adopts an inductive reasoning approach in an attempt to explore the “problematique” land reform experiences.

The research methodology that informs the study is largely qualitative. The study employed a qualitative context analysis to analyse issues in the data collected through distribution of questionnaires, review of literature and interviews conducted. The study was conducted in the Gauteng Regional Land Claims Commission. This study makes use of open-ended questions on both interviews and questionnaires, and therefore, the data

is of a non-numeric form, which makes it rely heavily on interpretation of descriptive data. The perusal of literature was also utilised to gather information. After assessing both qualitative and quantitative approaches, the researcher concluded that using a qualitative methodology was desirable to the study on the basis that to adequately comprehend land reform processes and the cause of backlog in settling land claims, the research depends on people's perceptions, experiences, opinions and secondary data.

1.7.1. Research design

A research design is defined by Mouton (2001:55) as a plan or blueprint of how one intends conducting the research. He further states that a research design focuses on the end product, formulates a research problem as a point of departure, and focuses on the logic of the research (Mouton, 2001:56). According to Leedy and Ormrod (2001:91-92), a research design can be defined as the basic plan that informs the structure of the research to show all major parts of the research: the type of information to be collected, the sources of data, the procedure for collection of data, and the analysis of the data.

Welman and Kruger (1999:46) sought to make an argument that a research design is the plan according to which research participants or subjects are obtained and the process whereby information is then collected from them. The strengths of the qualitative methodology include the following:

- obtaining a more realistic feel of the word that cannot be experienced in the numerical data and statistical analysis used in quantitative research
- using flexible ways to perform data collection, subsequent analysis and the interpretation of the collected information
- providing a holistic view of the phenomena under investigation (Bogdan & Tylor, 1975; Patton, 1980).
- having the ability to interact with the research subjects in their own language and on their own terms (Kirk & Miller, 1986)
- possessing a descriptive capability based on primary and unstructured data.

The above discussion concludes that qualitative research provides information about human aspects of an issue. Qualitative research gives insights into the often contradictory

behaviours, beliefs, opinions, emotions and relationships of individuals. It gives the researcher time to interact with people.

1.7.2. Population and sampling

A population is a collection of objects, events or individuals having some common characteristics that the researcher is interested in studying (Mouton, as cited by White, 2005:113).

Brynard and Hanekom (1997:44) postulate that stratified sampling should preferably be used when the population is divided into a different and clearly recognisable sub-population and strata. According to Strydom and De Vos (as cited by White, 2005:119), this kind of sample is mainly used to ensure that the different groups or segments of a population are sufficiently represented in the sample. The desired number of persons is then selected within each of the different strata.

The population comprised of 66 officials of the CRLR. Interviews were used to obtain data from officials from the legal unit, management, national research unit and operational unit. Claimants, both beneficiaries and non-beneficiaries of land restitution, were also part of the population in order to solicit their views regarding the process of land restitution. An interview is a conversation between the researcher and the respondents, but it varies from a daily conversation in that the researcher is the person who sets an agenda and asks the questions (Bertram & Christiansen, 2014). Interviews are segmented into two, namely, structured and unstructured interviews. These are articulated in the research methodology chapter.

There are 66 officials working in the Gauteng Regional Land Claims Commission at different salary levels (subject to change, depending on new appointments). Both purposive and convenience sampling were used to randomly identify participants, taking into account the age, gender, occupation and other personality traits. Purposive and convenience sampling were used because of time, costs, unavailability of a sampling frame, some of the participants not having time to respond, others being dubious about the motive of the study, while still others were busy, and failed to appreciate the value

and concepts. The two sampling methods were chosen due to their practical value given the constraints that the research faced.

The researcher targets specific groups knowing very well that the group does not represent the wider population but simply represents itself. This is usually done when the researcher does not wish to generalise the results beyond the group sampled (Bertram & Christiansen, 2014).

Particularly within the context of the study, the study area consists of subgroups of woman and men at different salary levels, with different roles and duties who also voiced their views and opinions. Twenty land claimants were also interviewed in order to solicit their views regarding the prospects and challenges of the land restitution process. The targeted group of people for the study included both males and females varied in terms of age, marital status, employment status, religion and their level of education. These are detailed in the research methodology chapter.

1.7.3. Data collection

Semi-structured interview questions were utilised as a method of collecting data. Furthermore, secondary documentation applicable to the study was reviewed and considered. Researchers do not always have to collect new data for their studies but can also make use of secondary data. An example of secondary data is information that is on a public database. Secondary data may be interview transcripts that have been recorded by other researchers. A researcher may use this data and analyse it in a different way for a different purpose.

1.7.4. Interviews

According to Cohen (as cited by White, 2005:141), an interview "… provides access to what is inside a person's head, makes it possible to measure what a person knows (knowledge of information), what a person likes or dislikes and what a person thinks". Interviews are segmented into different types of category, namely, individual, telephonic, group and luncheon interviews. In this study, the researcher made use of both individual and group interviews.

There are individuals who feel much better when they are interviewed separate from others so that they can be frank and honest, hence the individual interview was adopted. However, a group interview was also adopted simply because the researcher wanted all the participants in the group, including those who were hesitant and shy, to contribute positively and a group interview stimulates one's mind and generates more ideas. The interview technique will give the researcher sufficient time to explain the research questions to the interviewees in case the questions are not clear.

1.8. DATA ANALYSIS

According to Cooper and Schindler (2003), data analysis is the process of collecting, reducing and summarising the researcher's collected data. Data analysis enables the researcher to organise and bring meaning to a large amount of data (Mukonza, 2015). Neuman (2001:419) suggests that all the field notes, interview transcripts and documents should be available and be completed without missing data. Brockopp and Hasting-Tolsman (1995:255) and Tesco (1990:113-116) propose common steps for analysis of qualitative data. These include identification of theme, verifying selected themes through reflection of data; discussion of them with experts in the area; and records supporting data. Before data can be analysed, it must first be edited to detect any possible errors and omission with the objective of ensuring accuracy, completion, consistency and that they are uniformly entered (Cooper & Schindler, 2009).

Creswell (2007) suggests a procedure for qualitative data analysis to follow for data preparation coding and interpretation as outlined in Table 1 below.

Tesco's (1990:113-116) techniques were adopted to analyse qualitative data collected via interviews. Accordingly, to analyse data systematically and thoroughly, the researcher conducted line-by-line analyses of the content. Each statement was read thoroughly to ensure familiarity with the data.

The researcher made use of online electronic resources and copies of available legislative instruments to understand issues related to land claims, particularly those that are relative to the slow pace of settling land claims. The data collection and analyses

techniques selected for this study have limitations and these are outlined in their own subsection.

Table 1: Common data analysis steps

Steps	Descriptive
Organise and prepare the data for analysis	This involved transcribing interviews, typing up field notes, or sorting and arranging the data into different types, depending on the source of information
Read through all the data	This involves making sense of the information and understanding the meaning of the data as a whole
Use the coding process to generate a description of the setting or people, as well as categories or themes for analysis	This involves collecting detailed background information about people, places or events in a setting.
Use the coding to generate a small number of themes or categories	These themes are the ones that appear as major findings in qualitative studies and they are stated under separate headings in the findings section of the study
Advance an example of how the description and theme should be represented in the qualitative narrative	The most popular approach is to use a narrative passage to convey the findings of the analysis
Interpretation	This explains the meaning of the data

Source: Creswell, 2007

1.9. RELIABILITY AND VALIDITY

Validity refers to the accuracy and trustworthiness of the instrument, data and findings in the research. To satisfy issues of validity in the research, the researcher establishes the degree to which the findings reflect the empirical reality of human experience (Kirk & Miller, 1986:20).

1.9.1. Three types of validity

- **Construct validity**

Construct validity was fulfilled by designing questions that effectively capture the main research issues. Issues such as piloting the questionnaire, adequacy, clarity, understanding of construct statements, length and layout of questionnaire and completion time were unnecessary because data was collected through face-to-face interviews. These issues apply when participants are required to complete the questionnaire on their own (Pooe, 2013).

- **Internal validity**

This type of validity is required and often utilised in explanatory causal studies and not in the descriptive or exploratory research (McKinnon, 1987:36). For this reason, the study did not require satisfying internal validity.

- **External validity**

The term 'external validity' refers to the extent to which research findings can be generalised beyond the immediate study and applied to other contexts of the entire population. However, this study does not seek to generalise findings. The results are confined to the problem area stipulated, which is the Pretoria Regional Office.

- **Content validity**

Content validity was assessed by the research supervisor who reviewed the items for clarity, relevance and comprehensiveness. The supervisor was consulted to ensure correctness and appropriateness of the questions. This approach decreases the possibility of collecting and subsequent analysis of information that does not answer the

research question. It also increases the probability that the study's findings are an accurate reflection of the reality about the cause of the backlog in settling Land Claims by the Commission in the Pretoria Regional office.

To render the results and the information of the study reliable and valid, the researcher ensured that:

- the activities in the study did not infringe on human rights and the laws of the Republic of South Africa
- all information that was utilised from the internet, books, newspapers and journals was read carefully, analysed and acknowledged
- participants included in the questionnaires included males and females from different generations, as well as various levels of society, etc.
- the questions in the questionnaires were general questions relating to the topic. These were carefully generated. These questionnaires were sent to each participant.

1.10. LIMITATIONS OF THE STUDY

The scope of the study is restricted and confined to the Gauteng Regional Land Claims Commission in Pretoria while the researcher would have liked to distribute questionnaires to and interviewed all other regional offices that are also dealing with the restitution process. The Regional Pretoria office constitutes of a population of only 66 officials, which resulted in the findings not being generalisable. The limitation associated with this study may be that the results cannot be generalised to the wider population beyond the subjects chosen.

The methodology chosen for data collection, the interview technique in particular, rendered a few impediments and challenges. The following are some of the challenges that the researcher faced during the process of data collection:

- it is time consuming as some of the respondents were reluctant to be encapsulated in the process of the interview
- some interviewees were hesitant to answer certain questions because they feared being victimised.

- it was a challenge to reach most of the respondents, as they were in the field doing operational duties and were faced with deadlines to submit their research reports to their supervisors, therefore they were rarely available
- some respondents refused to provide permission to be recorded, therefore this implied that the researcher had to rely solely on the notes that were generated during the interview.

1.11. ETHICAL CONSIDERATION

More often than not, researchers work independently and possess a certain degree of freedom in designing and executing research projects. However, the need to recognise research ethics remains critical. According to Cooper and Schindler (2003:120), ethics are norms or standard of behaviour that guide moral choices about behaviour with others. The involvement of *homo sapiens* as objects of the study in the Social Sciences brings with it peculiar ethical problems.

The research took place within an institutional legal framework, in other words, prior approval from a Director General from the Department of Rural Development and Land Reform, who is an accounting officer of the Department, was obtained before research began. The cardinal ethical consideration in social sciences is that data should not be obtained at the expense of human beings. Lutambingwa and Nethonzhe (2006:124) identify these broad areas of ethical conduct in terms of the design and execution of research: the ethics of data collection and analysis, the ethics of treatment of participants, and the ethics of responsibility to society. The instrument of data collection used in this study was approved by the Tshwane University of Technology Faculty of Humanities Research Ethics Committee (see questionnaires attached). Prior appointments with key informants were secured early in order to prevent any unnecessary interruptions of incumbent’s day-to-day duties. The aim of the research was fully explained to participants prior to them completing questionnaires. This much is in line with the principle of informed consent, as outlined by Strydom (2011:112).

Ethical considerations were observed during the study, especially in the collection of primary data. According to Clapper (2004, 106), the study should not violate human rights; participation is voluntary, the participants signed an informed consent form to ensure understanding, confidentiality, voluntary participation and termination of participation, anonymity and the purpose of the study, the rights of the participants were respected, where questionnaires were involved, the researcher used informed consent letters, and participants completed and signed an ethics declaration to indicate their awareness and understanding of ethical implications.

The researcher also took into cognisance of the identity of individuals who wanted to remain anonymous for personal reasons. The desire of any individual included in the study to remain unknown was respected. The researcher utilised unstructured guided interview questions during the interviews and the issues of confidentiality and anonymity of the respondents was deeply emphasised, and the respondents were assured that the information utilised during the interview would be kept as strictly confidential.

The findings of this study are limited to the Regional Pretoria Office of Restitution; however, if there are other Commission regional offices experiencing similar problems, they may conduct a study of a similar nature.

1.12. SEQUENTIAL ARRANGEMENT OF CHAPTERS

This section provides a synopsis of what is encapsulated in each chapter of the study. The study is segmented into six different chapters as outlined below.

Chapter 1: Contextual setting

This chapter postulates the outline of the introduction and background of the study. It also seeks to examine the objectives of the study, the problem statement, the research questions, the research methodology, and the scope and limitations of the study. Ethical considerations and the content of chapters are also captured in the chapter.

Chapter 2: Towards an epistemological framework for conceptualising and contextualising the land reform process in South Africa

Chapter 2 provides a theoretical exposition of the restitution process in South Africa. Theories and models of the restitution process are explored with the objective of finding those that are applicable in this particular study. The role of the state in managing land as a resource is also articulated.

Chapter 3: A Comparative overview of land reform experiences in Zimbabwe and Namibia: A lesson that South Africa can learn from

This chapter focuses on exploring the experience faced by the three mentioned countries in which the land reform process is still not complete. This chapter also seeks to thoroughly interrogate the feasibility of land expropriation without compensation policy in South Africa.

Chapter 4: Research methodology

The chapter provides detailed discussions of the research methodology adopted in the study. Elements such as the research design, sampling, data collection instruments, data collection and analysis are succinctly dealt with.

Chapter 5: Presentation and analyses of data

This chapter seeks to present the empirical findings and as well as provide interpretation and analyses.

Chapter 6: Recommendations and conclusion

This chapter is the final chapter of the study. It provides conclusions and proposed recommendations are made. Suggestions for further research are also provided.

1.13. CONCLUSION

The chapter has provided a framework for the study by giving an introduction and background to it. This was followed by a layout of the problem statement, research questions and objectives of the study. This section provided the axis on which the study revolves and the motivation and justification for the study in order to give the researcher's perspective on how and where the study emanated. A brief synopsis on the methodology and literature of the study are provided. Lastly, a synopsis of the entire study is given to give the reader an idea of what is expected in the study in its entirety.

CHAPTER 2

TOWARDS AN EPISTEMOLOGICAL FRAMEWORK FOR CONCEPTUALISING AND CONTEXTUALISNG THE LAND REFORM PROCESS IN SOUTH AFRICA

2.1. INTRODUCTION

The previous chapter provided an introduction and background to the context of the study. It outlined the problem statement as well as the main questions and objectives. This chapter situates the study in the mainstream discourse on the land reform process by clarifying concepts and providing literature that make up the essence of the object of the study. This is followed by a succinct reflection on the praxis of land reform discourse. Particularly within the context of South Africa, this chapter focuses on providing a direct and detailed literature study regarding the policy framework that constitutes the pragmatic implementation of land reform. The chapter further concludes by detailing the role of the state in managing land as a resource and provides a current review of empirical studies on land reform in South Africa.

2.2. CONTEXTUAL ASPECTS OF THE REVIEW FOR CONSIDERATION

Schulze (2002:2) posits that a literature review is a systematic, critical analysis and a summary of existing literature relevant to the research topic. It aims at contributing towards the epistemological understanding of the nature and meaning of phenomena that have been identified. Marchall and Rossman (1999:43) add to the argument that a literature review constructs a cogent framework for the research and sets it within a tradition of inquiry and a context of related studies.

According to Ile and Mapuva (2008:127), a literature review assists a researcher to devise a theoretical and analytical framework that can be used for subsequent interpretation and analysis of data. This chapter extensively unpacks literature on an important aspect of the study, which is land reform. In the context of South Africa's liberation struggle, where white monopoly gained political notoriety, the fundamental concept of land restitution is

inevitably contentious in the discourse of economic transformation. This contention straddles conceptual and theoretical premises of the sub-text of the discipline of Public Administration from which this study is undertaken.

Land reform has been a pivotal driver in pursuit of economic transformation since South Africa achieved democracy in 1994 and, as such, an overview of what has been achieved since the promulgation of the Restitution of Land Rights Act 22 is significant. The land reform process in South Africa focuses on three tiers: land restitution, land tenure and land redistribution.

Among issues that are largely raised by academics and landless natives is the dialectical challenge of post-settlement in South African land reform. It is generally acknowledged that there has been an acceleration in the settlement of restitution claims in the second term of the democratic government from 1999-2004. Critical issues raised by academics are programmes that were limited to the mere transfer of land, which were generally associated with limited equity (Deininger, 2003; Hall 2003; Lahiff, 2001).

This chapter is an attempt at contextualising land reform processes in South Africa and at separating it from other related concepts. For the purpose of this study, in-depth focus will be mainly related to the land restitution process. This chapter presents debate around the prospects and challenges of land restitution and locates the land reform in the discipline of Public Administration.

2.3. THE HISTORICAL CONTEXT OF SOUTH AFRICAN LAND DISPOSSESSION

Land reform is engendered by universal public discourse. Links (2011) adds to the argument that in certain parts of the world, land reform is seen as the redistribution of property or rights in property for the benefit of the landless, tenants and farm labourers but in others, it has been a tool of oppression. The author takes the argument further by postulating that the question of land worldwide arose mainly because of the inequalities of resources or to control resources. Land reform has always been an issue, even internationally. Ghonemy (1984) attests to the statement by declaring that in the case in Russia, land reform arose mainly because of the Russian revolution and the socialisation

of agriculture was a prerequisite for attaining communism. In countries such as Namibia and Zimbabwe, Ghai *et al.* (1983) state the argument that racial policies resulted in discriminatory land polices during the period of apartheid and colonialism. In Nigeria, the Land Use Act of 1978 was utilised to revoke freehold land ownership and to make it easy for the government to expropriate the oil rich land of the Niger-Delta, a situation that almost created a guerrilla war between the Nigerian state and the people of the Niger-Delta (Arogundade, 1996).

Powelson (1987) also attests that land reform is a universal issue by singling out a few countries as a case study. He argues that in Asia, for instance, agitation is mainly for the redistribution of land among landless labourers. Powelson (1987) seeks to take the argument further by stating that land reform in South America was a huge crisis due to the huge tracks of land that were in the hands of novice labourers. In Cuba, Geisler *et al.* (1984) also add to the argument, land reform was one of the main platforms of the revolution of 1959 where large holdings were expropriated by the National Institute for Agrarian Reform (NIAR). Having discussed the above, it is apparent that land reform across the spectrum arose for various reasons but mainly because of the inadequacy of land as a resource.

South Africa is no exception. According to Levin and Weiner (1991:92), there were approximately 82 million hectares of agricultural land in the country, divided into 60 000 commercial farm units in white ownership, while over 13 million people, the majority of the poverty stricken, lived in the 135 units of the national territory that constituted the former 'homelands'. This portrays the skewed pattern of land ownership that the democratic government of South Africa inherited. The South African inhabitants expected a fundamental transformation of property rights after 1994. Waldo (1991:18) purports that the apartheid regime dichotomised the population of South Africa into separate segments according to colour, each with a different political and social position in the system. Waldo (1991) took the argument further saying that racial distinction, forms of exploitation and oppression have existed in South Africa since the inception of colonial power.

Bernstein (1996) suggests that the agrarian quest of South Africa is both extreme and exceptional. He argues that the policies of the segregation and apartheid eras

perpetuated the exclusion of natives from the main economy by legally reducing them to a source of cheap labour. The social and political order of the day promoted and safeguarded the interests of white commercial farmers. The majority of the oppressed were trapped and lived in poverty within the homelands.

In the early 1990s, black farmers were cultivating the land very well and accumulating wealth though the utilisation of land, thereby competing with the white farmers. Southhall (1982) argues that there was a strong need to do away with African peasantry and thus introduced peasants to seeking wage labour by dispossessing them of their land. The South African apartheid government introduced the 1913 Native Land Act with the sole objective of promoting the principle of land segregation, and defined the boundaries of the 'native reserves'. The Native Land Act of 1913 perpetuated the restriction of black people to 7% of the total land area of the Union of South Africa. Blacks who owned land outside the reserves before 1913 and who were exempted from the original legislation in 1913 and 1936, were deprived of their land in a so-called 'second wave' of eviction after the Group Areas Act, which came into force in 1950. These farmers were forced back to the homelands and were subjugated as hard labourers on white farms.

Land dispossession was central to both colonial conquest and the social engineering of apartheid. The Native Land Act 27 of 1913 legally designated land on a racial basis. Millions of black South Africans were forcibly removed from their land and homes in terms of the Group Areas Act in urban areas and in the rural areas in terms of the Natives Land Act of 1913 and as well as Bantustan and influx control policies (Bernstein, 1999). Forced removals were perpetuated up until the 1980s, by which time only a few "black spots" of land remained (Bernstein, 1999).

Dispossession and forced removal of African people under colonialism and apartheid resulted not only in the physical dichotomy of people along racial lines, but also extreme land shortages and insecurity of tenure for much of the black population (Lahiff, 2001). Removals provoked popular resistance, forming a focal point for wider political mobilisation in the rural areas. The permitted forms of African tenancy on white-owned farms were also restricted, as successive governments introduced coercive measures to inhibit Africans from independent production and convert share, rent and labour tenants

into wage labourers (Hall, 2004). In contrast, the Freedom Charter envisaged that a non-racial order would distribute land on an equitable basis and declared that "the land shall be shared among those who work it" (Congress of the People, 1955).

A critical argument put forward by the study is that land dispossession had largely taken place prior the promulgation of the Native Land Act of 1913. Alienation of land from Khoisan and Africans to white people resulted from conquests between the seventeenth and nineteenth centuries, as settlers and colonial states expanded their authority into the interior (Beinart & Delius, 2014). This expansion required both violence and legal measures: annexations, the survey and privatisation of land, and a new colonial civil authority. In some cases, African chiefs accepted colonial rule without extended resistance because they were well conversant that warfare could be counterproductive and punished by the appropriation of land.

In the area that became the Transvaal as argued by the study, treaties and land purchase agreements of dubious merit paved the way for settler intrusion. Such documents were endorsed by African rulers, generally under profound duress, but occasionally because they saw economic or political advantage in alienating the land of their subject or neighbours, and farms were demarcated before conquest over areas where there was no effective colonial control, including the heartland of independent African kingdoms (Delius,1983). In the case of the Pedi Kingdom, according to Delius (1983), farms were "inspected" and title deeds were issued from the 1860s. In 1878, British colonials predicted that while the creation of national farms had little meaning when the title deeds were first issued, when the natives are taught subjection, the Boers will claim the farms on which they have hitherto not dared to trespass and either take possession of them themselves or demand rent and services from the occupiers.

According to Delius (2014), land was alienated in the British colonies of the Cape and Natal, setting aside a piece of land for the African colonised population in the nineteenth century. These areas were popularly known as the reserves. In the Boer Republics of the Orange Free State and Transvaal, land was not initially reserved for Africans. In the British colonies, Africans could purchase land in their own names but this was not legally allowed in the Republics, especially in the western Transvaal. The ban was circumvented through

the registration of farms in the names of missionaries and later officials. In 1880s, a start was made in establishing locations in the Transvaal but by 1913, only a small area had been reserved for African settlement in comparison with the Cape and Natal.

The issue of land in South Africa needs to take into account the effects of colonial rule and national development prior to land dispossession under the apartheid regime. Beginning in the nineteenth century, black Africans lost land as they aspired to be nascent middle class and entered the migrant labour force. Intervention of public authorities, commercial farmers, prospectors and investors combined with the arrival of missionary and settler groups of European descent, redefined land rights. White capitalists, the Dutch Reformed Church, the Moravian Church, and colonial and national authorities began to eliminate freeholders whose land rights and access to local markets sustained their communities. Apartheid regime laws exacerbated class differences and caused kinship erosion that weakened ties to land in African communities. Fragmentation and relocation occurred not only according to racial criteria but also because the state and capitalists' interests coveted agricultural land, mineral resources and residential property (Delius, 2014).

2.4. THE LEGACY OF THE NATIVE LAND ACT OF 1913 IN POST-APARTHEID SOUTH AFRICA

The Native Land Act continues to have onerous effects on the social and economic development of the country and 'the centenary after the passing of the Native Land Act of 1913 sparked considerable commentary that both underscored and revealed gaps in the comprehension of its historical context and consequences. The Act was a key example of segregationist and racist legislation that increasingly fixed the discriminatory foundations of South African law' (Beinart & Delius, 2014).

The indelible role played by the Native Land Act of 1913 in the impoverishment of black South Africans in terms of socio-economic injustices and the land issue is worth probing. The provisions of section 2 of the Native Land Act, 1913 prohibited black Africans from

occupying and/or using the so-called white land (Letsoalo, 1987:41). Such a prohibition intensified the impoverishment of the lives of the indigenous population.

Feinberg (1993:66) underscored the importance of section 7 of the Native Land Act, which declared share-cropping or sowing on shares, as illegal and as a result, the existing contracts of share-cropping between the white landlords and the black African people were terminated, which had a negative impact on the socio-economic livelihood of many black South Africans.

The Native Land Act of 1913 harnessed rather than caused dispossession on the basis that dispossession took place prior to the promulgation of the Act. In certain respects, the 1913 Native Land Act constrained further dispossession (Beinart & Delius, 2014). It encapsulated three major elements: firstly, Africans were forbidden to purchase land outside areas that were demarcated as 'scheduled native areas'. Secondly, the Act provided for a commission (the Beaumont Commission) to demarcate such areas that were occupied largely by the African population, although some exceptions were made for whites in towns, on missions and trade stations. This formalised at the Central Government, into the system of reserves that had already become well established in the Cape and Natal. Thirdly, the Act contained the provisions regarding tenancy that were most important in the decades immediately after 1913 (Beinart, 2001).

The 1913 Native Land Act was designed to regulate the forms of tenancy allowed on the white-owned farms. In a broadly conceived clause, it forbade the rental by Africans of land outside reserve areas and required Africans living on white-owned land to render a 90 days service a year to the land owner. The Act specifically abolished sharecropping or cash payments as a means of securing access to land on farms by Africans, but it did not preclude agricultural production by African labour tenants on white-owned farms (Beinart, 2012).

The socio-economic realities of the contemporary South Africa are viewed as having been inherited from colonial and apartheid land dispossessions, oppression and exploitation of black Africans (Helliker, 2011:43-44). Mngxitama (2006:6) takes the argument further by stating that the emancipation for socio-economic justice as it relates to the land issue

needs to be re-premised within the discourse of colonialism and apartheid. The RDP, the Growth Employment and Redistribution (GEAR) policy, the White paper on South African Land Policy, and the most recent Green Paper on Land Reform all have a bearing on attempts to redress the legacy of colonialism and apartheid. A common factor in all the preceding policies was the 'Willing buyer and willing seller approach' Mngxitama (2006:52) rightfully problematised such an approach in that it has failed to empower poor black Africans and alleviate poverty. To this end, a valid concern is that the poor were unable to acquire land at market prices without the assistance of the state (Bradstock, 2005). The lack of capital limits the poor native population from acquiring productive assets such as land and, as a result, the poor continue to be trapped in poverty that was predominantly engineered by the Native Land Act of 1913, and still persists, regardless of the political freedom enjoyed by South Africans today. A common understanding among many scholars is that the 1913 Native Land Act perpetuated the acquisition of property by the poor. It also forbade rentals outside reserve areas. The post-1994 government has an obligation to redress the shameful legacy of the past.

2.5. LAND REFORM IN SOUTH AFRICA'S DEMOCRATIC DISPENSATION

Land reform is generally understood as the redistribution of the right to land for the benefit of the landless, tenants and farm labourers (Adams, 1995:1). Ghimire (2001:3) takes the argument further by stating that it involves a significant change in the agrarian structure, resulting in increased access to land by the rural people and security of land in rights and titles. Bernstein (2002) also adds to the argument by stating that the starting point for land reform is deeply rooted in the exploitation of peasants or landless workers by the owners of land or property.

The scope of land reform in most countries includes some mix of access to land and formalisation of land rights and entitlement, as well as improving post-reform production structures and livelihood (Ghimire, 2001:7-10). Ghimire argues that the scope of land reform varies from country to country and/or even from locality to locality for various

reasons, *inter alia*, the dispossession patterns vary per country, which determines a totally different model of land reform per country.

South Africa has the challenge of land inequalities and therefore land reform formed an important part of the political negotiations during the transition to democracy and the adoption of a new constitution. Policies adopted by the democratic government since 1994 are based on utilising land reform as a means of fostering national reconciliation, stability, economic growth and development. This is to be achieved through a multiple programme of land restitution, redistribution and tenure reform (Toulmin & Quan, 2000). The status of existing property rights (including agricultural) was a central factor in the Convention for a Democratic South Africa (CODESA) negotiations that led to political transition. White farmers and industrialists successfully lobbied to ensure that commitments to transformation in the 1993 interim constitution and the final 1996 Constitution were tempered by a 'property clause' that recognised and protected existing property rights. Land reform could happen but would be constrained, leading some commentators to observe that 'in effect', colonial land theft is now preserved by constitutional sanction (Hendricks & Ntsebeza, 2000).

The interaction of a number of factors ensured that a programme of land reform was adopted. Among these were mobilised rural communities drawing on the militancy of their resistance to forced removals and non-governmental organisations (NGOs) and church groups who demanded that their land be returned to them. Another factor was the advice of the World Bank, which promoted its own "market-led" model of land reform and argued that redistributing land and creating a class of black smallholders was necessary to avert social and political instability as well as to promote rural development (Hall, 1998).

The African National Congress (ANC) committed itself, as part of the RDP, to redistribute 30 percent of agricultural land to the poor and landless over a period of five years. The World Bank had proposed this target as feasible, noting that six percent of agricultural land is transacted each year and thus appearing to hold to the incredible notion that *all* or nearly, all, land on the market would be bought for redistribution (Aliber & Mokoena, 2002:10).

Land reform in South Africa is perceived as a means by which the South African state would provide redress for the past injustices and promote developments. The challenge facing the land reform programme is immense. Approximately 16 million people or 30 percent of the country's population live in the communal land of the former "homelands" and possible in the region of 3-5 million people on farms (Hall, 2004).

Land reform in South Africa has been pursued under three broad categories, namely, Land Restitution, Land Redistribution and Land Tenure. The aims and objectives as set out in the Constitution of South Africa and the 1997 White Paper on South African Land Policy are ambitious and potentially far-reaching, including redressing the racial imbalance in landholding, developing the agricultural sector and improving the livelihood of the poor (Lahiff, 2001). In line with neo-liberal macro-economic policy, the approach taken by the ANC-led government has been based on respect for private property, reliance on market mechanisms, tightly controlled public spending, and minimal intervention in the economy, the so-called market-based, demand-led approach. The section below attempts to unpack the three tiers of the South African Land Reform programme.

2.6. THE THREE LEGS OF THE SOUTH AFRICAN LAND REFORM PROGRAMME

Prior to the general elections in 1994, the African National Congress stated in the Reconstruction and Development Programme that land reform was intended to redress the injustices of forced removals and the historical denial of access to land (ANC, 1994). Land reform was to ensure security of tenure for rural dwellers, eliminate overcrowding and provide residential and productive land to the poorest section of the rural population.

South African land reform has its fundamental base in the South African Constitution of 1996, particularly section 25(5), (6), (7). *The 1997 White Paper on Land Policy* sets out the government's land reform programme based on three components, all of which are provided for in the Constitution. The three tiers of the programme are land restitution, land redistribution and land tenure.

2.6.1. Land restitution

In the restitution programme, land is returned to those whose land was taken from them during the era of apartheid or alternatively, financial compensation is offered for this land. Land claims can be instituted against any land that was expropriated after 1913 after the adoption of the Native Land Act of 1913. Land claims are dealt with by the Land Claims Court (LCC) and the Commission on Restitution of Land Rights, which were established in terms of the Restitution of Land Rights Act (22 of 1994).

Restitution deals with claims lodged in terms of the Restitution of Land Rights Act 22 of 1994, under which a person in a community was dispossessed of their rights to land after 19 June 1913 as a result of racially discriminatory laws or practices and such persons or community is entitled to lodge a claim for restitution of that land or comparable redress (Restitution of Land Rights Act 22 of 1994). By the cut-off date of 31 December 1998, 63 455 claims by communities, households, groups and individuals had been lodged, of which about 80% are urban (DL, 2006). By 31 August 2004, 56 650 land claims at the cost of R1 557 648 437 were settled (Hall, 2004:13). Between 1994 and June 2006, the restitution process has been able to deliver 1 007 247 hectares of land to claimants (DLA, 2006) and most of the land claims remaining are complex rural claims, while those already settled were mainly urban claims that received financial compensation. Of the settled land claims, 59 percent accepted financial compensation while five percent opted for an alternative remedy and 36 percent involved land restoration. Hall (2003) argues that to date there has thus been little impact on changing patterns of property ownership and property rights in South Africa.

It was clear by the early 1990s that land reform in South Africa would have to respond to the demands of people who had lost land that ought to be restored to them. Restitution would need to redress the legacy of forced removals and the significance of land, not only as an economic asset but also a constitutive element of identity, culture, history and tradition. The Restitution of Land Rights Act 22 of 1994 is one of the first pieces of legislation passed by the government of National Unity, which came into power after the first democratic elections. The Act established a Commission on the Restitution of Land Rights (CRLR) to solicit and investigate claims for land restitution and prepare them for

settlement, and a Land Claims Court (LCC) to adjudicate claims and make orders on the form of restitution or redress that should be provided to claimants (Hall, 2004).

From 1995, the CRLR, together with partners both in and outside government, advertised the restitution process and invited those eligible to submit claims to do so by the end of December 1998. Since then, it has become apparent that an enormous number of people who would have been eligible for restitution were unaware of the process or for other reasons did not lodge claims. This has resulted in a fairly arbitrary distinction between those who made their claims in time and those who missed the deadline. By December 1998, a total of 63 455 claims had been lodged nationally. The total number of claims has since risen to 79 693 (Mayende, 2004) as shown in Table 2, not due to new claims lodged but due to existing claims being split up where necessary to settle claims individually or by household rather than with entire communities (Mayende, 2004).

➢ **Progress with land claims**

According to Hall (2004), restitution is expected to advance reconciliation and historic justice by undoing some of the legacies of dispossession and the social upheaval it entailed. However, there is little basis on which to judge how successful this has been. Instead, progress with restitution has been most commonly measured by counting the number of claims that have been settled. By this measure, the pace of the programme increased dramatically from 1999, following the implementation of recommendations from a ministerial review (Du Toit et al., 1998). This resulted in a shift from a judicial process, in which the Land Claims Court adjudicated each claim and made restitution orders, to a largely administrative process in which the CRLR settles claims primarily through negotiation, only referring cases to the Land Claims Court (LCC) where there are disputes or where claimants contest the type or level of compensation. Another innovation that enabled the Commission to speed up the settlement of claims was the introduction from 2000 of Standard Settlement Offers (SSO) of cash compensation for urban claims, usually set at R40 000 per household for former owners (R50 000 in certain metropolitan areas) and R17 500 per household for former long term tenants (Ministry of Agriculture and Land Affairs (MALA), 2004).

Primarily as a result of these two changes in implementation, the number of claims settled jumped from 41 in 1999 to 3 916 in 2000; 12 074 in 2001; 29 877 in 2002 and 46 727 in 2003 (CRLR, 2003:25). By the end of August 2004, a cumulative total of 56 650 claims had been settled, resulting in the transfer of 810 292ha of land (just under 1% of agricultural land in the country) at a cost of about R1.5 million (see Table2).

Table 2: Claims lodged by province in 2004

Province	**Claims at December 1998**	**Claims at March 2001**	**Claims at March 2002**	**Claims at February 2003**	**Claims at March 2004**
Eastern Cape	9 615	9 292	9 469	*	*
Free State		4 715	2 213	*	*
Northern Cape	12 044	4 715		*	*
Western Cape		11 938		*	*
Gauteng	15 843	15 843		*	*
North West		15 843		*	*
KwaZulu-Natal	14 208	14 808	14 808	*	*
Mpumalanga	11 745	6 473	6 473	*	*
Limpopo		5 809	5 809	*	*
TOTAL	**63 455**	**68 878**	**98 878**	**72 975**	**79 693**

Source: DLA cited in SAIRR 200:154 CRLR 2001:11; CRLR 2003c:10; Mayende 2004

Table 3: Land restitution claims settled by province in 2004

Province	Claims	Households	Hectares	Land cost (R)	Total award (R)
Eastern Cape	15 886	40 358	45 738	204 526 881	868 450 250
Free State	1 674	3 442	45 748	16 909 206	55 800 449
Gauteng	11 932	11 748	3 555	62 537 367	616 080 815
KwaZulu-Natal	10 551	26 307	187 583	487 986 253	998 480 348
Mpumalanga	1 546	20 973	97 983	377 785 091	514 597 858
North West	2 498	13 822	71 484	93 992 542	256 158 485
Northern Cape	1 792	5 564	233 634	69 753 602	146 564 827
Limpopo	1 314	19 886	121 466	236 061 308	373 350 135
Western Cape	9 457	12 685	3 101	8 096 187	384 854 965
TOTAL	**56 650**	**154 785**	**810 292**	**1 557 648 437**	**4 214 338 132**

Source; MALA, 2004

The increased pace at which restitution claims have been settled is evident in Table 3. This postulates a dramatic acceleration in 2000 and 2001, which levelled off in 2002 and picked up again in 2003. The provincial breakdown in Table 2 reveals that in terms of land

area, the most significant transfers have been in the semi-arid Northern Cape and towards the eastern seaboard of the country, particularly Mpumalanga and KwaZulu-Natal. Far smaller areas have been transferred in the desperately poor provinces of Limpopo and the Eastern Cape, in the “maize triangle” of the Free State and even less in the commercial agricultural heartland of the Western Cape (Hall: 2004). Rural claims are not evenly spread across the country, as the provincial variation above also reflects uneven progress in tackling the restoration of land. Eastern Cape and Limpopo are two provinces in which there is a large number of rural claims but relatively little land has been restored. The cost of the claims settled thus far, about R4.2 billion, far exceeds the total capital budget of R2.4 billion spent on restitution between the 1995/1996 and 2004/2005 financial years (Gwanya, 2004).

PERFORMANCE INFORMATION BY PROVINCE

Table 4: Provincial performance against APP target

Province	**Annual performance against targets**			
	Number of land claims settled	**Number of land claims finalised**	**Number of phased projects approved**	**Number of claims lodged by 1998 to be researched**
Eastern Cape	80 (86%)	40 (85%)	7 (117%)	279 (69)
Free State	5 (83%)	10 (91%)	1 (100%)	7 (700%)
Gauteng	18 (100%)	76 (245%)	3 (cannot rate – no target set)	65 (59%)
KwaZulu-Natal	50 (98%)	59 (148%)	14 (140%)	621 (113%)

Limpopo	189 (556%)	104 (371%)	10 (77%)	301 (91%)
Mpumalanga	59 (113%)	42 (323%)	20 (167%)	584 (91%)
North West	30 (429%)	34 (179%)	15 (100%)	45 (500%)
Northern Cape	8 (73%)	22 (157%)	8 (160%)	45 (122%)
Western Cape	178 (93%)	173 (102%)	4 (cannot rate – no target set)	594 (104%)

Source: CRLR annual report 2015/16:29

The Department of Rural Development and Land Reform's (DRDLR) Annual Report 2016/16 underscores that during the initial window of the lodgment of claims, which was between 1994 and December 1998, a total of 17 638 claims were lodged and out of those claims, 16 780 were settled. This number excludes dismissed claims. The DRDLR annual report for the 2015/16 financial year further stipulates that most claims originated from the six districts of the Eastern Cape province that include the two metropolitan councils, namely, Nelson Mandela Metropolitan council and Buffalo City Metropolitan Council. The district with the highest number of land claims lodged pre-1998 was the Amathole district with a total of 8 053 claims lodged, followed by the Sarah Baartman District with a total of 7137 land claims lodged (DRDLR Annual Report 2015/16). The claims lodged in the Eastern Cape prior to the 1998 cut-off date included betterment claims in communal farming areas: conservation claims, forestry claims and commonage claims (Annual report 2015/16 financial year).

2.6.2. Land redistribution

Land redistribution is aimed at providing land to historically disadvantaged and poor people for residential and productive purposes with the aim of increasing black ownership of land. Although the redistribution process also includes the urban poor, the main focus is primarily on the redistribution of rural land to the benefit of rural poor black people, farm workers, labour tenants and new participants in agriculture (Bosman, 2007). Redistribution was originally encouraged by means of Settlement Land Acquisition Grants (SLAG). SLAG were a R1 600 cash allowance for which poor and black natives could apply to purchase and develop agricultural land. The basic allowance was supported by an allowance for planning, facilitation and the resolution of disputes (Bosman, 2007).

In 2002, the SLAG programme was replaced by the Land Redistribution for Agricultural Development Programme (LRAD). The most notable distinguishing factor between SLAG and LRAD was that the beneficiaries did not have to have a specific minimum income to qualify for allowances and that larger allowances were granted to applicants who could invest more of their capital or obtain loans from commercial institutions (Bosman, 2007).

During the period 1994-1999, the land redistribution policy aimed at providing the designated group and the impoverished natives with land for residential and productive purposes. Land redistribution adopted several forms, including group settlement, combining housing with some production, group production, commonage schemes and on-farm settlement of farm workers. A range of additional financial resources was injected in support of the basic grant, such as a planning grant, facilitation and dispute resolution (Manenzhe, 2007).

The land redistribution programme was to address the division between the 87% of the land dominated by white commercial farming and the 13% in the former homelands. Redistribution was to ease congestion in the communal areas and diversify the ownership structure of commercial farmland (Hall, 2004). Policy debates in the early 1990s considered the merits of a range of tools to promote land redistribution and these included the extent to which the process should rely on land markets and approaches to beneficiary identification, financing mechanisms for redistribution, and provision of credit to new

producers (LAPC, 1994). Also debated were land taxes and land ceilings to raise the opportunity cost of owning under-utilised land and bringing additional agricultural land onto the market, and subdivision to create holdings suited to the needs of resource-poor, small scale producers.

Policy advice from the World Bank emphasised the potential economic benefits of promoting a smallholder sector, arguing that there is an inverse size-productivity relationship in agriculture. This stresses that small farms are more efficient than large farms. The bank promoted its model of market-assisted land reform in which the state would facilitate market transactions but, unlike in Zimbabwe, would not purchase land itself, nor would it select beneficiaries. Instead, those eligible would be required to apply to the state, which would provide subsidies, support and advice (World Bank, 1993).

Land redistribution started under a pilot programme from 1995 to 1999, and aimed to benefit poor households who could apply for grants from the state to enable them to purchase land and have a little start-up capital. This approach was later confirmed in the White Paper on South African Land Policy (DLA, 1997). Ownership of land was seen primarily as providing security of tenure for residential purposes and small-scale agriculture subsistence purposes. Eligibility was restricted to households with an income below R1 500 per month, therefore land redistribution is seen as a pivotal driver to economic freedom and restoring human dignity to the poor.

- **Achievements of land redistribution**

In the first ten years of the inception of land reform, most land transfers have been through the redistribution programme, with restitution contributing just less than a third of the total. Transfers to farm dwellers or tenure upgrades for residents of the former homelands, through the tenure reform programme, comprise a small portion. The total land redistributed through redistribution and tenure reform as of September 2004 was nearly 1.9 million hectares. Land transfers peaked in 2002 at just under 300 000ha during that year and then declined to about half that during 2003 (Table 5). An overall trend is towards a declining size of land per project (fewer hectares) but also a sharply declining size of

group with the result that the number of hectares per beneficiary, on average, appears to be on the rise (Hall, 2004).

Table 5: Land redistribution and tenure reform by year 2004

Year	*No. of projects*	*Households*	*Female-headed households*	*Individuals (LRAD)*	*Hectares*
1994	5	1 004	12	0	71 655
1995	12	1 819	24	0	26 905
1996	49	6 256	189	0	72 416
1997	97	11 928	1 029	0	142 336
1998	236	14 943	2 934	0	205 044
1999	156	30 383	1 675	0	245 481
2000	236	29 699	1 941	363	222 351
2001	400	23 213	2 912	3 732	249 302
2002	742	14 132	691	10 650	299 969
2003	502	17 438	226	8 192	158 668
2004	251	2 730	0	16 284	183 625
TOTAL	**2 686**	**153 545**	**11 633**	**39 221**	**1 877 752**

Source: MALA 2004

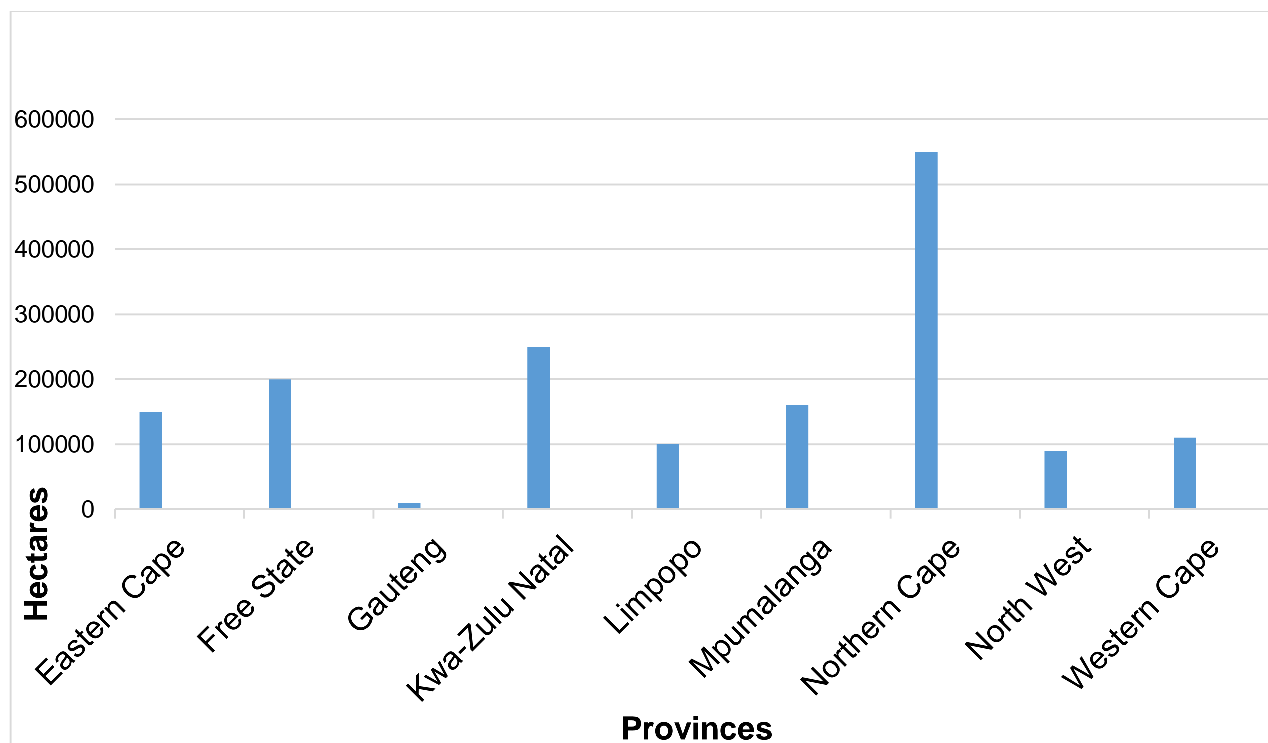


Figure 1: Land transferred through land redistribution and tenure reform (ha)

Source: DLA 2003

The provincial picture is quite varied (see Figure 1). More than half of land transferred has been in the semi-arid Northern Cape. Excluding the predominately urban province of Gauteng, the redistribution of land ranged from 87 000ha in North West and 95 000ha in Limpopo to 239 000ha in KwaZulu-Natal (DLA; 2003). Little is known about the impact of land redistribution on the livelihood or what land use is occurring on redistributed land (Hall, 2004).

2.6.3. Land tenure reform

Land tenure reform aims to provide inhabitants with secure tenure where they live or farm, to prevent arbitrary evictions and fulfil the constitutional requirement that all South Africans have access to legally secure tenure in land. Tenure reform is aimed at ameliorating the security of tenure for all South Africans. It is addressed in a revision of land policy, the administration of land, and legislation regarding private property, communal ownership and the rights of those who rent their land (Bosman, 2007).

Important legislation that has been introduced to ameliorate the security of tenure includes:

- the Land Reform (Labour Tenants) Act 3 of 1996, which protects the rights of labour tenants who had been rewarded for labour primarily by the right to occupy and utilise the land
- the Extension of Security of Tenure Act 62 of 1997, which protects the tenure rights of farm workers and people who are associated with them
- Prevention of Illegal Evictions and Unlawful Occupation of Land Act (Act 19 of 1998), which prohibits illegal evictions and makes provision for procedures for the eviction of people who illegally occupy land
- the Communal Land Act, which puts procedures in place to protect the tenure rights of people who live on communal or tribal land.

Cousins (2004) argues that tenure insecurity in the communal areas of South Africa takes two forms: a relatively small number of high-profile cases where conflicts and contestations over land rights are explicit and apparent, and a large number of chronic, low profile situations where lack of clarity and certainty are constraining land-based livelihoods. The Interim Protection of Informal Land Rights Act (IPILRA), 1996 (Act 31 of 1996) was passed as an interim measure that sought to protect people in the former homelands against abuses of their land rights by corrupt chiefs, and administrative measures or property developers who fail to consult the occupiers of the affected land while a new more comprehensive law was being prepare. The IPILRA was designed as an interim measure for two years but was renewed in 1998 and 1999, parallel to a new law being prepared. In February 2004, the Communal Land Rights Act 11 of 2004 was passed by parliament and was signed into law on 15 July 2004. The Act empowered the Minister of the Department of Rural Development and Land Reform to transfer ownership of communal land to communities (Hall, 2004c:49).

2.7. THE PERCEIVED CHALLENGES IN THE SOUTH AFRICAN LAND REFORM PROGRAMME

According to Maserumule (2010), the imperatives of a developmental state, particularly in the context of South Africa, require that the quality of the life of the citizenry is improved through service delivery, while, on the other hand, citizen participation in the mainstream economy be maximised. Binswanger (1996:13) supports the argument that the success of land reform in South Africa should be tested against its ability to address the equity in land distribution and livelihood upgrading, reduction of poverty, creation of rural employment and income-generating opportunities. The author further argues that on the post-settlement side, issues around sustainability, amelioration of livelihood of beneficiaries and creation of employment are pivotal. The study maintains the argument that land access is just one factor, but that there has to be complementation of the land access with land use so that the success of land reform can be realised.

The notion of a developmental state, Maserumule (2012) argues further, is that it dominates in the formulation and presentation of the ANC's 52nd national conference resolution of 2007, which sets political harmony for the Zuma administration's strategic policy and political direction, therefore this study attests that at the centre of that policy direction was the need to expedite the pace of land reform and in the process, consolidate the Mbeki administration and correct its failure. However, the policy did not deliver the expected outcomes.

Van Zyl *et al.* (1996:45) posit that the success of land reform in South Africa should encapsulate the participation of land reform beneficiaries in the planning of infrastructure and agricultural services. The authors further raise a challenge around ignoring women and farm workers, which they describe as a great mistake happening in various parts of Africa, and where land reform has been implemented in ignorance of these marginal groups (farm dwellers/workers and women) job losses have occurred.

The challenge for land reform is in the planning and design of agricultural and rural development strategies and the design of support services and credit programmes. Van Rooyen (1995) argues that different groups of farmers have various needs, therefore the

needs of farmers, marginal groups and farm workers should be prioritised when designing programmes and projects. Involvement of beneficiaries in planning for their projects and livelihood security creation is critical.

According to Cousins (2000), post-apartheid South Africa inherited a legacy of massive inequalities in both income and access to services, with the worst poverty being located in the rural areas. Resources, specifically natural resources from the communal range lands, are imperative in the livelihood strategies of rural people. Cousins (2000) furthers his argument that rural livelihoods are multiple, diverse, dynamic and are more often than not aimed at managing risk, reducing vulnerability and enhancing security. When the ANC government took political power in 1994, it enacted and promulgated various people-centred policies. According to Tshishonga and De Vries (2011), the ANC government adopted principles of a developmental state with the belief that the state's economic intervention could enhance the state capacity to deal with the legacy of apartheid, which included the question of land. Many scholars argue that since the new dawn in 1994, the South African government has made tremendous progress in land reform. However, this study argues that more still needs to be done, particularly in terms of land restoration and post-settlement support. Criticism expressed by many scholars is that the Department of Rural Development and Land Reform, the Regional Land Claims Commission (RLCC) in particular, does not take sufficient account of post-settlement issues when negotiating settlements, especially in rural areas (Cousins, 2000).

The DLA (1997:16) distinguishes between the equitable distribution of land and the provision of complementary support services. Recent studies have shown that land reform beneficiaries experience numerous challenges regarding access to complementary services such as infrastructure support, farm credit, agricultural input, training extension and access to markets for farm outputs and ploughing services; and also assistance with productive and sustainable land use (Hall, 2004; HSRC, 2006; Wegerif, 2004). According to Jacobs, Hall and Lahiff (2003), land reform in South Africa since 1994 has empowered some rural poor people to gain access to land for a range of purposes but land-based livelihood strategies and support after the land transfer have been neglected by the State. Vink and Kirsten (2003) argue that land reform beneficiaries

and small scale farmers have been left alone struggling with access to services. Various academics have argued that the challenge for land reform in South Africa is the absence of clear and coherent strategy on post-transfer support (Hall, 2003; Jacobs, 2007; Lahiff, 2000; Wegerif, 2004).

The South African land reform programme, particularly restitution, is expected to restore a vast amount of land, including prime agricultural land, to previously disadvantaged communities and victims of land dispossession. This presents a mammoth task of providing support to the novice farmers and settlements that will be instituted by land reform. The DLA (2004) has identified issues such as the utilisation of intermediaries in the process of land reform, design agents (consultants) involved in business planning and design of projects for the new land owners. Lahiff (2007) has identified the problem of inappropriate design of most land reform projects as a weakness in South African land reform.

Hall (2003:18) argues that the absence of post-settlement support has led to serious problems for the new owners of land, who are unable to use land as a basis for their livelihoods. Hall (2004) identifies institutional support to legal entities as another key area of support for land reform beneficiaries. Ainsley, Andrew and Schackleton (2003) argue that weak institutional capacity and conflicts have a direct, debilitating impact on the ability of beneficiary groups to develop and implement land use management strategies to make productive use of their resources, such as the acquired land.

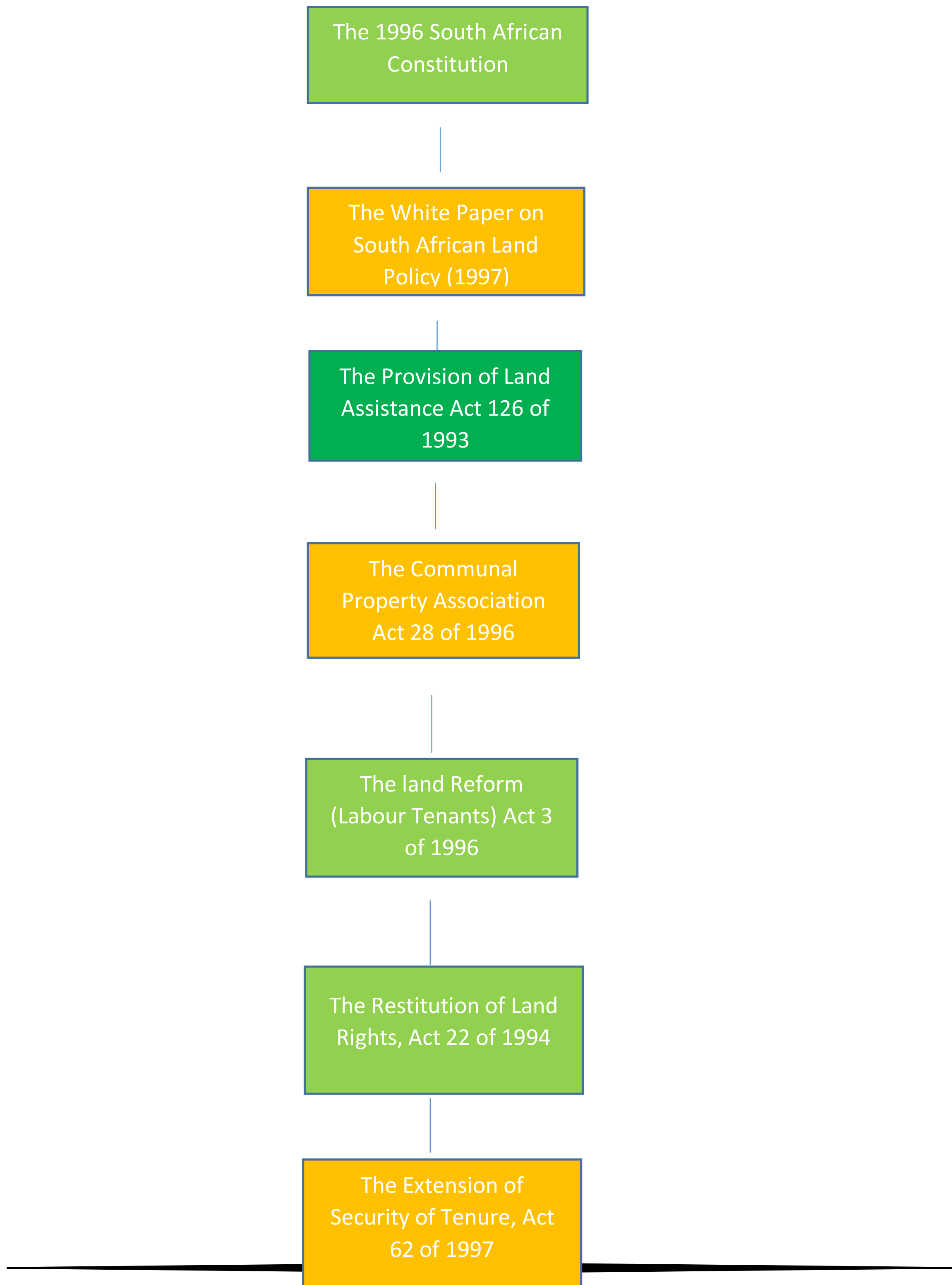
A survey by the DLA (1998), known as Quality of Life, has found that critical support services such as production loans, agricultural extension, infrastructure and project management training were identified as being imperative for the sustainability of land reform projects. On a similar note, Jacobs and Lahiff (2003) identify key functional areas of support for land reform beneficiaries, namely, extension services (farm advice), skills development, and capacity building including training, mentorship programmes, and financial assistance in the form of grants and credit to assist with farming operations, infrastructure support such as irrigation and fencing, and access to markets ranging from local sales, which are mainly informal, to marketing arrangements with commodity organisations.

Land use management poses another challenge for post-settlement land reform processes in South Africa. The rural communities in Southern Africa are no exception to other rural dwellers in other developing countries in procuring varieties of natural resources for household consumption and for sale. The situation is equally so in the rural beneficiaries of land reform. Hassan (2002) argues that state agencies internationally accord a low value to natural resources in people's livelihoods. He further argues that it is evidenced by the fact that these items are not accounted for in development plans and land reform projects. Most of the business plans that the beneficiaries of land reform are required to develop with the assistance of consultants outsourced by the government are usually orientated along commercial farming lines with little or no account of natural resources (Shackleton, 2001).

The South African agricultural sector forms part of an increasingly competitive global market for agricultural products. Not only are South African farmers no longer protected by tariffs or support by agricultural marketing boards in the marketing and distribution of their products, but they must also compete with farmers in countries with which South Africa conducts trade (Bosman, 2007). Commercial farming is also extremely competitive and successful farming requires not only knowledge of the cultivation of commodities, but also familiarity with sophisticated management techniques with regard to processing, distribution, marketing, and the management of human and financial resources. The knowledge intensity in the sector is consequently particularly high. Novice farmers should accordingly enjoy comprehensive support from the state or via mentorship from existing farmers (Bosman, 2007).

2.8. Land Reform Polices and Legislation

This section seeks to provide an articulation of various policies and legislations relating to South Africa's land reform programme.



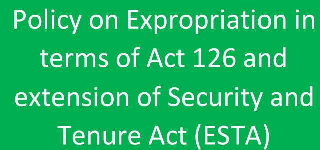


Figure 2: Land reform policies and legislation

Source: Links (2011)

2.8.1. The 1996 Constitution of the Republic of South Africa

The 1996 Constitution of the Republic of South Africa is the supreme law of the country. It provides the legal foundation for the existence of the Republic, sets out the rights and duties of its citizens, and defines the structure of the government. An integral part of the negotiations to end apartheid in South Africa was the creation of a new, non-discriminatory Constitution for the country. One of the major disputed issues was the process by which such a constitution would be adopted. The African National Congress (ANC) insisted that it should be drawn up by a democratically elected constituent assembly, while the governing National Party (NP) feared that the rights of minorities would not be protected in such a process, and proposed instead that the Constitution be negotiated by consensus between the parties and then put to a referendum.

Formal negotiations began in December 1991 at the Convention for a Democratic South Africa (CODESA). The parties agreed on a process whereby a negotiated transitional constitution would provide for an elected constitutional assembly to draw up a permanent constitution. The CODESA negotiations broke down, however, after the second plenary session in May 1992. One of the major points of dispute was the size of the supermajority that would be required for the assembly to adopt the Constitution. The National Party (NP) wanted a 75 percent requirement, which would effectively have given it a veto.

In April 1993, political parties returned to the negotiations in what was known as the Multi-Party Negotiating Process (MPNP). A committee of the MPNP proposed the development of a collection of "constitutional principles" with which the final constitution would have to

comply, so that basic freedoms would be ensured and minority rights protected, without overly limiting the role of the elected constitutional assembly. The parties to the MPNP adopted this idea and proceeded to draft the Interim Constitution of 1993, which was formally enacted by Parliament and came into force on 27 April 1994 (Waldo, 1991). The Constitutional Assembly engaged in a massive public participation programme to solicit views and suggestions. As the deadline for the adoption of a constitutional text approached, however, many issues were hashed out in private meetings between the parties' representatives. On 8 May 1996, a new text was adopted with the support of 86 percent of the members of the assembly, but in the First Certification judgment, delivered on 6 September 1996, the Constitutional Court refused to certify this text and identified a number of provisions that did not comply with constitutional principles (Waldo, 1991). Areas of non-compliance included failure to protect the rights of employees to engage in collective bargaining; to provide for the constitutional review of ordinary statutes; to entrench fundamental rights, freedoms and civil liberties and to sufficiently safeguard the independence of the Public Protector and Auditor-General, as well as other areas of non-compliance in relation to local government responsibilities and powers.

The Constitutional Assembly reconvened and adopted an amended constitutional text containing many changes relative to the previous text. Some dealt with the court's reasons for non-certification, while others tightened up the text. The amended text was returned to the Constitutional Court to be certified, which the court duly did in its Second Certification judgment. The Constitution was signed by President Mandela and officially published in the *Government Gazette*.

Hailed as a cornerstone of the Republic of South Africa, the Constitution makes provision in section 25(3) that ‘the amount of the compensation and the time and manner of payment must be just and equitable, reflecting an equitable balance between the public interest and the interest of those affected, having regard to all relevant circumstances’ including:

a) the current use of the property

b) the history of the acquisition and use of the property

c) the market value of the property

d) the extent of direct state investment and subsidy in the acquisition and beneficial capital improvement of the property and

e) the purpose of the expropriation.

Section 25(5) states ‘the state must take reasonable legislative and other measures, within its available resources, to foster conditions which enable citizens to gain access to land on an equitable basis’.

Section 25(7) states that ‘a person or community disposed of property after 19 June 1913 as a result of past racial discriminatory laws or practices is entitled, to the extent provided by an Act of parliament, either to restitution of that property or to equitable redress’.

The restitution process is at the core of the 1996 Constitution of the Republic of South Africa, and gave rise to the Restitution of Land Rights Act (Act 22 of 1994).

2.8.2. The White Paper on South African Land Policy (1997)

The raison d’être for the land reform programme in South Africa is the indelible imprint of native land dispossession (Waldo, 1991). Poor black people were forcefully obligated to vacate their land due to racial laws and policies and were forced to occupy land where there was a great deal of overcrowding. In terms of the White Paper on South African Land Policy (DLA, 1997), land reform aims to contribute to economic development by giving households an opportunity to engage in productive land use and by increasing employment opportunities through encouraging greater investment in the rural economy. Since the inception of the implementation of the land reform programme, debate has centred on the slow pace of land reform, particularly in settling land claims and securing tenure rights for farm dwellers (Hall, 2004a:214).

2.8.3. The Provision of Land Assistance Act 126 of 1993

The promulgation of this Act was purely on the basis of designating land and regulating the subdivision of that particular land. Much of the scholarly literature on South African land reform has been confined to the premise that the Provision of Land Assistance Act aimed at providing financial assistance for the acquisition of land and security of tenure rights. Links (2011) adds to the argument that this Act was amended in the year 2000 to

expedite the land reform process (The Provision of Land Assistance Act 126 of 1993, as amended by Act 11 of 2000).

2.8.4. The Communal Property Association Act 28 of 1996

Links (2011) posits that the promulgation of this Act was to assist communities to create a juristic person known as the Communal Property Association. This Association is mainly responsible for safeguarding the interests of communities relating to land matters and is also mandated to acquire, hold and regulate property as agreed to by members of the community.

2.8.5. The Land Reform (Labour Tenants) Act 3 of 1996

Phillips (2016) argues that labour tenancy arose out of landowners who, up to the 1930s, allowed people to live on their farms, requiring them to work in return for the right to reside there. The authors further posit that farm workers were given a portion of the farm for grazing and growing crops. In return, they provided labour for the landowner for six months for little or no payment.

Phillips (2016) further argues that the prelude to the Land Reform (Labour Tenants) Act (No. 3 of 1996) states that the aims of the act are:

- to provide for security of tenure of labour tenants and those occupying or using land as a result of their association with labour tenants
- to provide for the acquisition of land and rights in land by labour tenants
- to provide for matters connected therewith
- whereas the present institution of labour tenancy is the result of racially discriminatory laws and practices that have led to the systematic breach of human rights and denial of access to land
- whereas it is desirable to ensure the adequate protection of labour tenants, who are persons who were disadvantaged by unfair discrimination, in order to promote their full and equal enjoyment of human rights and freedoms

- whereas it is desirable to institute measures to assist labour tenants to obtain security of tenure and ownership of land
- and whereas it is desirable to ensure that labour tenants are not further prejudiced.

2.8.6. The Restitution of Land Rights Act 22 of 1994

The Act seeks to provide for the restitution of rights in land in respect of which persons or communities were dispossessed under or for the purpose of furthering the objectives of any racially based discriminatory laws and policies. The Act also makes provision for the establishment of the Commission on Restitution of Land Rights and Land Claims Court in order to ameliorate the restitution process and resolve any disputes concerned. Scholars have agreed that the Act provides for restitution of land rights to persons or communities dispossessed of land after 19 June 1913.

Section 6 of the Restitution of Land Rights Act proffers the general functions of the Commission. Section 6(2) states that the Commission may, at a meeting or through the Chief Land Claims Commissioner‘s regional land claims commissioner or a person designated by any such commissioner:

a. monitor and make recommendations concerning the implementation of orders made by the court under section 35.
b. make recommendations or give advice to the Minister regarding the most appropriate form of alternative relief, if any, for those claimants who do not qualify for the restitution of rights in land in terms of this Act.
c. on notice of interested parties, apply to the court for a declaration order on a question of law as contemplated in section 22 (1).
d. ensure that priority is given to claims that affect a substantial number of persons, or persons who suffered substantial losses as a result of dispossession, or persons with particular pressing needs.
e. generally, do anything necessarily connected with or reasonably incidental to the expeditious finalisation of claims.

Furthermore, the Act is a cornerstone of a democratic land reform process that, if adhered to properly by the Commission, can expedite the rate of land claims. The Act also makes

provision of the powers of the Commission, Land Claims Court and the Minister. The Restitution Act clearly states that the function of the Commission, simply put, is to investigate claims and make recommendations to the Minister and not engage in post-settlement support. Section 42 (d) of the Restitution of Land Rights Act postulates the powers of the Minister after being satisfied that the claimant is entitled to restitution of a right in land in terms of section 2 of the Restitution of Land Rights Act, to enter into agreement with the parties involved and award to the claimants of land, a portion of land or any other right in land. Furthermore the Act postulates that the Minister may make grants available for the claimants.

2.8.7. The Extension of Security of Tenure Act 62 of 1997

According to Links (2011), the aim of this Act is to safeguard the tenure of farm workers and people living in rural areas as well as their rights to reside on the land. This Act regulates the conditions and circumstances under which people whose rights of tenure have been terminated. The author further puts an argument forward that the Act protects farm workers and people residing in rural areas against arbitrary evictions.

2.8.8. Policy on expropriation in terms of Act 126 and the Extension of Security and Tenure Act (ESTA)

Land expropriation is a very complex and arduous domestic policy issue, but possible. The success or failure of any land reform is a function of balance of power between contending forces. Much the same, the success of land expropriation with or without compensation is a function of balance of power. Masondo (2018) attests to the argument by declaring that if the opposition to the expropriation of land is potent then expropriation may not happen, and that, since the Land Expropriation without Compensation Policy is in the limelight, it will face opposition and therefore it is important to construct a popular movement for land and agrarian reform. According to Links (2011), land expropriation should be conducted within the confines of certain legal and procedural frameworks that the Minister of the Department of Rural Development and Land Reform should adhere to. The property owners should be given a hearing and notice of expropriation as well as the memorandum justifying the expropriation (Links, 2011). The State takes possession of

the property on date of expropriation and the beneficiaries can move onto the land. A conveyancer must be appointed to assist in transferring the property into the name of the beneficiaries (Policy on Expropriation in terms of Act 126 and ESTA, Act 126 of 1997, RSA, 1997).

2.9. THE ESTABLISHMENT OF THE COMMISSION OF RESTITUTION OF LAND RIGHTS

The Commission on Restitution of Land Rights was established to fulfil a constitutional imperative, which is to provide redress to those South African inhabitants who were disposed of the land as a result of discriminatory laws and/or practices (CRLR Annual Report, 2016/2017). The CRLR was established as an autonomous institution enacted by the Restitution of Land Rights Act (Act 22 of 1994) to solicit land claims, investigate them and attempt to resolve them through negotiation and mediation.

Section 21 of the Restitution of Land Rights Act (Act No. 22 of 1994) stipulates that the CRLR must 'annually not later than the first day of June submit to parliament a report on all its activities during the previous year, up to 31 March' (CRLR Annual Report 2015/16).

The restitution programme is at the centre of government programmes to redress the land injustices perpetrated through colonialism and apartheid, and of building a united nation. It gives an opportunity to those that suffered the most brutal of human rights violation by being forcefully removed from their land an opportunity not only to have the land restored, but also the restoration of their dignity. The CRLR is the custodian of the restitution process, being one of the two institutions that was instituted by the Restitution of Land Rights Act (Act No. 22 of 1994), the other being the Land Claims Court. The CRLR performs administrative functions in relation to soliciting land claims, investigating claims and attempting to resolve them through negotiation and mediation. The Land Claims court adjudicates disputes that emanate from the restitution process (CRLR Annual Report, 2014/2015).

The mandate of the Commission of Restitution on Land Rights emanates from section 25(7) of the Constitution of South Africa, 1996, which postulates that 'a person or

community disposed of property after 19 June 1913 as a result of past racial discriminatory laws or practices is entitled, to the extent provided by an Act of parliament, either to restitution of that property or to equitable redress'.

The Restitution of Land Rights Act (Act No. 22 of 1994) was in 2014 amended, purportedly to allow an opportunity for those communities and/or individuals who did not lodge claims prior to the first cut-off date of December 1998, to do so. This meant that a further extension of five years was granted. However, in July 2016, the Constitutional Court in the LAMOSA judgment declared the Restitution amendment of 2014 invalid on the basis that parliament had failed to consult adequately. This consequentially resulted in the Commission being barred from receiving or processing any new claims that had already been received after July 2014 as a result of the 2014 Amendment (CRLR Annual Report 2016/17).

The Restitution of Land Rights Act (Act 22 of 1994) empowers the Minister of Rural Development and Land Rights and the Land Claims Court to make awards to restitution claimants where he or she is satisfied that there is a valid restitution claim, by awarding to the claimant land, a portion of land or any other right in land, the payment of financial compensation, or an award of both land and financial compensation. The CRLR is currently implanting an autonomy programme, which is a process of comprehensive transformation of the Commission into an effective organisation that improves the experience of its constituents, of which becoming autonomous is but one project (CRLR annual report 2016/17).

2.9.1. The land claims processes

The need for restitution ensues from the forced removals underpinning racial segregation that yielded tremendous suffering and hardship in South Africa. Christiansen (1996) states that the land restoration process includes the return by administrative or adjudicative process the dispossessed land to individuals or communities who were unjustly removed in pursuance of racially based legislation or policies. The Restitution of Land Rights Act protect the rights of legitimate claimants to restitution and lays down the following rules for the acceptance of claims:

- only those individuals or communities who were forcibly removed from land due to racial laws qualify
- only people who were forcibly removed from land after 19 June 1913 have a right to restitution
- even the rights of people who did not have title deeds at the time of removals will be respected
- for the claim to be valid, it must have been lodged on or before 31 December 1998.

The land claims process is composed of the following seven phases (Commission on Restitution of Land Rights, 2007:8).

- **Phase 1: Lodgment and registration**

This phase considers claims lodged no later than 31 December 1998. An acknowledgement is issued. The Restitution Act 22 of 1994 states that "Any person who or the representation of any community that is entitled to claim restitution of a right in land, may lodge such claim that shall include a description of the land in question, the nature of right in the land and the nature of the right or equitable redress being claimed on the form prescribed for this purpose by the Chief Land Claims Commissioner.

- **Phase 2: Screening and categorisation**

This is a phase where compliance with the Restitution of Land Rights Act is checked and establishes missing information. It is during this phase that field research is conducted.

- **Phase 3: Determination of qualification in terms of section 2 of the Restitution of Land Rights Act**

If the research claims is found not to qualify then publication in the *Government Gazette* and relevant newspapers is made and claimants and other parties are informed accordingly.

- **Phase 4: Negotiations and mediations**

This phase includes negotiations on the settlement of the claim, including land valuation and determining the negotiation process. A research report is produced after the

completion of the investigation. Various options are presented to assist claimants in making an informed choice, i.e. to choose between financial compensation and land.

- **Phase 5: Settlement**

In this phase, agreements are signed in terms of section 42(d), ministerial approval or a court order by the Land Claims Court.

- **Phase 6: Finalisation of settlement**

This phase includes acquisition and transfer of land, payment of financial compensation and/or payment of grant.

- **Phase 7: Post-settlement support**

Support is given in preparing a business plan, hand over is made to post settlement support, monitoring is done for compliance with section 42 (d) settlement agreement or a court order.

Table 6: Summary of performance: Gauteng province

Number of land claims settled		Number of phased projects approved		Number of land claims finalised		Number of claims lodged by 1998 to be researched	
Target	**Actual**	**Target**	**Actual**	**Target**	**Actual**	**Target**	**Actual**
18	18	-	3	31	76	110	65

Source: CRLR annual report 2015/16:38

During the 2015/2016 financial year, the Gauteng province projected to settle 18 land claims in the APP. Gauteng also undertook to finalise 31 land claims and research 110 land claims. As at the end of the 2015/2016 financial year, the province managed to finalise 76 land claims and research 65 claims, and, although not initially targeted, the province facilitated the approval of three phased claims (DRDLR Annual Report 2015/2016).

The majority of land claims that were settled in the period under review were lodged against rural properties. The target of settling 18 land claims was achieved, which benefited 290 households at a cost of R7 271 878.21. Three phased projects were settled for Kafferskraal, phase 1 and 2, as well as Vygeboschlaagte phase 1 at a total cost of R27 766 868.40 (Annual Report 2015/16).

Table 7: Annual Performance Plan

Performance indicators	Annual target & achievement	Achievement
Number of land claims settled	24	24
Number of land claims finalised	31	78
Number of phased projects approved	0	2
Number of claims lodged by 1998 researched	63	76

Source: CRLR Annual Report 2016/2017 financial year.

For the year under review, the office of the Regional Land Claims Commissioner: Gauteng (RLCC: GP), managed to attain its settlement target by settling the projected 24 land claims specified in the Annual Performance Plan (APP). There was no target set for settling phased projects but the office overachieved by settling two projects for nine phased land claims. Exceptional performance is again reflected with the finalisation of land claims; the office has set a target of 31 and has overachieved through finalisation of 78 land claims. The research target was set at 63 and performance was set at 76 researched claims with a variance of four claims that will be researched in the 2017/2018 financial year (CRLR Annual Report 2016/2017).

- **Untraceable claimants**

Untraceable claimants who were not part of the above sessions, by having their claims printed in a national newspaper, were urged to contact the office in order to process the 155 claims. The untraceable claimants list was also displayed at the mobile offices in Ekurhuleni, City of Johannesburg and Tshwane prior to the LAMOSA judgement halting operations. The RLCC office spearheaded an engagement with the South African Social Security Agency (SASSA) and CRLR for a working relationship through a Memorandum of Understanding (MOU), which sought to see the two organisations making use of their database to trace untraceable land claimants. The agreement required intensive legal consultation to ensure that upon agreement of MOU, both parties are acting in accordance and adherence to the protection of Personal Information Act of 2003 *inter alia* to other key legislations (CRLR Annual Report 2016/2017 financial year).

2.10. PROCESS OF LODGING A LAND CLAIM

A land claim is a written request made by a person, a direct descendant of a person, an estate or a community, for the restitution of a right in land, or other equitable redress that has been lodged with the Commission on Restitution of Land Rights in a prescribed manner (Restitution of Land Rights Act 22 of 1994).

A land right is a registered or unregistered right in land and includes the interest of labour tenants and sharecroppers, customary law interest or beneficial occupants for a period of more than 10 years. Individuals or communities must have occupied land or must have proof in a form of documentation (tittle deed, permission to occupy, etc.) for them to have a right in land (Restitution of Land Rights Act 22 of 1994). A person or community dispossessed of a right in land after 19 June 1913 as a result of past racial discriminatory laws and practices and who did not receive just and equitable compensation at the time of dispossession, can claim for restitution of that right in land or equitable redress.

Categories of claimants:

- an individual dispossessed of a right in land.
- a direct descendant or spouse of a person who lost a right in land.
- a juristic person, i.e. a company or a trust.
- an executor or an administrator of an estate of a deceased person.
- a representative of a community.

2.11. POST-SETTLEMENT SUPPORT

The chronic deficiency of support for beneficiaries after land transfer is widely acknowledged. Post-settlement support is purportedly to aid beneficiaries of settled claims in planning, implementation and capacity building (Sepaela, 2006:14). The Department of Rural Development and Land Reform outlines that post-settlement support is the support to the claimants or beneficiaries to utilise the development grants in a manner that will ensure a sustainable livelihood.

The problem also extends to inappropriate pre-transfer business planning that sometimes emphasises capital intensive investments rather than cheaper alternatives or basic infrastructure such as fencing and boreholes (Hall, 2004). In such cases, post-settlement support is needed for real world planning once people are on the land.

2.12. THE ROLE OF THE STATE IN MANAGING LAND AS A RESOURCE

South Africa is a developmental state and, according to the United Nations Conference on Trade and Development (2007:60), a developmental state is a state that is rationally planned in a manner that makes it necessary for the government to influence the direction and pace of economic and social development rather than leaving it to the dictators of the market. Tshitshonga and De Vries (2011) write that since the emergence of the notion of a developmental state as a model to deal with socio-economic crisis, the concept has provided a critical platform for both the social and political scientist to deliberately explore the scope and role of a state that is developmentally oriented.

Maserumule (2010) notes that the introduction of a developmental state, particularly in South Africa, can be located politically and ideologically in the ANC's political discourse on the democratic state. Therefore after assuming political power in 1994, the study contends that the ANC government explored, enacted and promulgated various policies and programmes, in an attempt to adopt the principles of a developmental state with the primary objective that state economic intervention could be ameliorated and strengthen the state capacity to deal with the legacy of apartheid, especially the issue of land, challenges of poverty and societal inequalities.

Land is a public good that needs to be managed by the state in order to achieve social and economic goals aimed at ameliorating the lives of the citizenry, and, as Maserumule (2012) and Gumede and Makuwira (2018) assert, at the centre of the agenda of a developmental state, particularly within the context of South Africa, is the need for poverty eradication, extension of basic services to the poor, and most importantly land restoration.

The development of a land reform policy was a product of the South African 1994 democratic government. Policy formulation is one of the six generic functions of public administration. Lemay (2006:24) concurs that policy processes are sets or a series of stages whereby policy is established and implemented. The post-1994 period in South Africa employed an enormous number of policies formulated to redress the legacy of pre-1994 government activities. These policies are aimed at empowering the previously designated groups in terms of, among others, access to land.

Public administration is of fundamental importance to the affairs of the state, which in principle should focus on bringing services to communities. The prioritisation of land reform in this context becomes one of the critical service delivery areas for the state, hence the development of legislation that intends to strengthen the government efforts.

Public Administration is a discipline studied for the purposes of dealing with public administration activities. Policy formulation and implementation are part of public administration. According to Botes *et al.* (1992:257), public is similar to civil, thus the officials that undertake the exercise are called public officials. It is further confirmed that public administration is a human activity that constitutes an activity for the people by the

people. Botes et al. (1992:12) concludes that Public Administration is classified as a human science.

Public Administration does not operate in a vacuum but occurs where people undertake an activity to attain a common goal (Van Dijk, 2003:33). Van Dijk (2003) further emphasises the fact that administration is found in all spheres of human activity where joint action is required to achieve a goal. The emphasis is that the generic functions are inclusive of one another and they collectively constitute a process that enables the efficient and effective execution of specialised functional activities (Hanekom, 1987:62), as is the case with land reform.

The issue of separating public administration from politics is still a controversial matter in South Africa. Wilson (1887) argued that Public Administration could be made scientific only if administrators were able to concentrate on the execution of policy after the legislative system had defined it. It is, however, difficult to realise Wilson's proposition even to date, especially in developing countries such as South Africa, because the establishment of post-1994 legislation such as land reform seeks to hasten service delivery and both the executive and legislative systems are equally engaged in attaining such a goal. Nenwekhulu (2009:350) confirms the above, that failure to fulfil unplanned and unbudgeted expectations of the public is normally beyond the realm of public service performance. Such service delivery failures are blamed on those in government, both political and administrative leadership.

In summing up this discussion, the study concludes that the land reform process is a government activity undertaken by public officials. The development of the White Paper on South African Land Reform is a clear expression of the state's will to redress the legacy of apartheid, and as Roux (1997) attests, efficient processes of policy execution include aspects of management, as this forms an integral part of the public affairs of the state, as is the case with land reform. The section below seeks to re-visit empirical papers based on the issue of land.

2.13. THE REVIEW OF RECENT STUDIES ON LAND REFORM IN SOUTH AFRICA

Hall (2004) contributed to the body of literature by carrying out a study that presented the output of ongoing monitoring and analysis of the land reform programme. The paper acknowledges the legacy of the 1913 Native Land Act on socioeconomic imperatives, and details the transition from apartheid to democracy that sought to adopt a number of legislative polices aimed at addressing the legacy of the 1913 Native Land Act in a new democratic dispensation. Hall (2004) argues that South Africa's experience with land reform over the past ten years has evolved significant shifts as well as continuities. Hall (2004), explains in details the three tiers of land reform, namely, land restitution, land redistribution and land tenure and the impact each tier thereof. The paper reviewed the achievements and shortcomings of land and agrarian reform in South Africa in the first decade of democracy.

The paper presents a brief historical background and identifies underlying challenges of land and agrarian reform faced by the democratic state in 1994. Hall (2004) identified that one of the challenges of land reform is lack of post-settlement support and that this is not solely government responsibility but a collective effort from different stakeholders, such as business.

Hall (2009) raised the idea that land reform is a political project that needs to clarify its economic rationale. But more importantly, Hall (2009) adds to the epistemological discourse that land reform is a catalyst of structural change in society and the economy and, as a result, land reform policy has envisaged what kind of production is to be promoted through the process of reform. The study argues that the object of land reform should focus on socio-economic transformation by providing indigenous people with an opportunity to engage in land production in an attempt to increase employment opportunities through the creation of investment opportunities.

The fundamental argument put forward by Hall (2009) in this paper is that the growing debate on land policy over the years in South Africa has always focused on the premises of the question of how to get the land instead of on land productivity, therefore this study

argues that land production should be the primary focus in an attempt to bring about benefits to rural economy.

Makombe (2018) argues that political independence in South Africa created a platform to critically deliberate on issues of land. He argues further that after independence, South Africa embarked on a land reform programme that was meant to redress the highly skewed historical land injustices. The article utilised a social constructive paradigm to explore the perspectives of previous land owners who provided insights into how the restitution programme could be made more successful by allowing a conversation to occur among the previous owners and beneficiaries.

Mudau, Mukonza and Ntshangase (2018) offer lessons to be learnt by South Africa from other countries' experiences of land reform. However, the authors note that, although land reform is necessary, it is one of the most complex and arduous domestic policies and needs to be carefully approached. The authors argue that reform is a universal issue and, as a result, each country needs to develop its own model of land reform. They further argue that what could possibly work for Zimbabwe and Namibia, for example, might not necessarily work for South Africa. They raise the argument of the introduction of land expropriation without compensation as an alternative model of land reform and a panacea to societal ills. They, however, maintain the argument that land expropriation without compensation is dependent on changing a number of strategic sectors, such as decolonisation of education, skills capacity, and implementation of support services. Furthermore, they build on the theoretical contribution of Autehene (2014), called "dignity taking". This concept of dignity taking derives from the social contract theory, which in principle proffers that injustice is derived from a hypothetical contract between an individual in an attempt to culminate in a state that is mutually beneficial, in a sense that individuals govern themselves by law.

In addition to the argument raised by authors above, Molope (2018) argues that land reform, particularly in South Africa, seems to pose a conundrum to the hard-earned democracy. Molope (2018) asks the question whether the amendment of section 25 of the Constitution to allow expropriation of land without compensation contributes to social

cohesion. The article further recommends a land audit in order to determine how the expropriated land will be distributed.

Gumede and Makuwira (2018) provide lessons to be learnt from Namibia's land reform programme. They note that land reform in Namibia was frustrated by legal challenges that are extremely costly to government, which is a situation that needs to be avoided in South Africa.

Dlamini and Ogunnubi (2018) acknowledge that land reform in South Africa is a topical and sensitive issue. The article is based on the premise that land reform in South Africa has failed to deliver its constitutional mandate, and calls for an alternative approach to land reform. Furthermore, they argued, particularly in the discussion of land expropriation without compensation, that a major concern is how this initiative can be implemented so that it addresses tenure security and youth unemployment.

Hall (2010) attests that land reform is one ways in which the 'new' South Africa set out to redress the injustices of apartheid by redistributing land to black South Africans and transforming the structural basis of racial inequality. Further argument is made that processes of land reform have intersected with shifting politics in the post-transition period in South Africa. Ricardo (1817) suggests that the principal problem in political economy concerns the relations and distribution of resources among three classes, namely 'the proprietor of the land, the owner of the stock or capital necessary for its cultivation, and the labourers by whose industry it is cultivated'. Hall (2010) identifies the shortfalls in policy making by the government regarding land reform, and attests that between 1995 and1999, the primary focus of government's land reform has been the redistribution of land through a market-led willing buyer, willing seller land redistribution programme, which did not yield expected results but presented many challenges to the government.

Lahiff (2014) contributes to the body of knowledge and literature by reviewing books representing theoretical and methodological positions on land reform. He argues that the 1913 Act represented therefore not a final act of dispossession but rather the formalisation of the dual system of property rights whereby the majority black population would be granted limited and conditional access to land greatly inferior to that of their

white counterparts in urban areas and white-owned farms. Sol Plaatje (1987) argues that the formal division of the territory of South Africa into black and white racial zones was entrenched through the 1936 Native Trust and Land Act. The promise of land confronts the multiple land questions facing South Africa when taking a broadly political economy approach. Central to the argument presented by Lahiff (2014) is that there remains a multifaceted land crisis, part of the incomplete process of democratisation that has failed to address centuries of colonialism and dispossession.

Literature consulted above has revealed that authors share the same sentiments regarding land reform in South Africa, so that even after 23 years of democracy and the centenary of passing of the 1913 Native Land Act, challenges still lie in the land reform programme of South Africa, and that the Native Land Act resulted in the skewed patterns of racial zones experienced even to date. According to Marcus (2009), the South African democratic government made land reform one of its top priorities and a cornerstone of its reconstruction and development. One challenge identified by scholars in all consultative literature was the post-settlement support and protraction in settling land claims. Scholars argue that the realisation of land reform should not be the sole responsibility of government, but collective efforts from both government and external stakeholders. The above literature also indicates that there is a growing argument among scholars that is premised on the need for land expropriation without compensation as an alternative model to land reform in South Africa. The scholars further argue that this expropriation demands a structural approach of implementation because it should focus on job creation, poverty reduction and economic growth.

2.14. CONCLUSION

In the South African context, a negotiated transition from apartheid to democracy curtailed the realisation of the vision embodied in the Freedom Charter "The land shall be shared among those who work it". Given the persistent challenge of poverty in South Africa and the frustration caused by the unresolved issue of land, South Africa is driven by a combination of moral and economic imperatives.

This chapter provided a detailed discussion of existing literature that represents issues of land reform, encapsulating all three tiers of land reform in South Africa. The chapter also reviewed legislative framework influencing the land reform processes. Further, the chapter provided a locus of land reform within the discipline of Public Affairs.

The next chapter provides a comparative experience of land reform in Zimbabwe and Namibia in an attempt to draw lessons for South Africa.

CHAPTER 3

A COMPARATIVE OVERVIEW OF LAND REFORM EXPERIENCES IN ZIMBABWE AND NAMIBIA: A LESSON THAT SOUTH AFRICA CAN LEARN FROM

3.1. INTRODUCTION

A land reform programme is one of the most complex and arduous domestic policy issues confronting countries such as Zimbabwe, Namibia and South Africa. In each of these countries, the land reform programme is still incomplete. Zimbabwe is confronted with a crisis in democratisation due to its approach to land reform. Namibia's land reform on the other hand cannot be dealt with effectively. Then there is South Africa, where systems and polices to deal with land reform are regarded the best and advanced from a legal perspective but resources, patience and other practical issues to implement land reform effectively are serious hurdles (Villiers, 2003).

Land reform, both in practice and in academia, refers to restitution, redistribution and tenure reform. Villiers (2003) contends that land reform is more than a mere land claim-driven process where an ancestral land is claimed by people who were dispossessed, but entails a wide spectrum of options such as land claims, acquisition and distribution of land, access to land for certain purposes, land use planning, infrastructure development, farming and commercial support, resettlement programmes, security of tenure, and training.

Reasons can be advanced for choosing these three countries, Zimbabwe, Namibia and South Africa, as case studies. One reason is that extensive research has been done on each of the countries, but little comparison has been made between their respective legal arrangements and experiences. Villiers (2003:2) puts forward an argument that these mentioned countries can be termed non-treaty dispensations that contrast with countries such as the United State (US), Canada and New Zealand, where some form of historic treaty was entered into between the colonial power and local indigenous people.

In all three countries, the element of inequality, colonial dominance and discrimination largely led to the indigenous people being forcefully removed from their land for the benefit

of a white minority who perpetuated political infamy, therefore political independence in these countries created a platform on which to critically deliberate on the skewed distribution of land ownership patterns, which still exist to date.

This chapter contextualises experiences of land reform in Zimbabwe, Namibia and South Africa. The aim is to draw lessons for South Africa in the light of the ongoing debates on land reform options for the country. The chapter also gives a brief background to the impact of colonialism and apartheid, which led to land dispossession. Ultimately a conclusion will be drawn whether or not comparative analysis of land reform in these countries should be strongly supported, taking into account the discrepancies in the land dispossession patterns. This chapter asserts that land reform is a global phenomenon that affects a whole range of countries even outside the peripheries of Africa. Furthermore, the chapter juxtaposes commonalities in an attempt to draw recommendations and conclusions from the study.

3.2. ZIMBABWE'S LAND QUESTION IN HISTORICAL PERSPECTIVE

The colonial process in Zimbabwe began in 1889 when the British South Africa Company, led by Cecil John Rhodes, received a royal Charter of Incorporation from Britain that included the right of the company to expropriate and distribute land (Villers, 2003:5). The author further argues that the company was so successful in the execution of its responsibilities that, by 1902, it had succeeded in expropriating three-quarters of the land for the benefit of the new dwellers who were approximately five percent of the population. Mutasa (2014) attests that the era of formal colonialism in Zimbabwe lasted for 90 years and was marked by European settlers' occupation of Zimbabwe (formerly Rhodesia) and the dispossession of millions of black farmers of their native land. Mutasa (2014) further makes the interesting point that a series of land policies deprived the majority of poor black people of their land rights, while granting rights to a few privileged white elites.

According to Villiers (2003:5), since 1889, whites had the privilege of the "pick of the land", where massive infrastructure was developed to open markets, investments were made available to assist new farmers, international markets were established and employment

created. All these interventions were as a result of state subsidies, loans and various tax incentives with the sole purpose of assisting white farmers to advance and develop their land, but black natives were to a large extent limited to “native reserves”. Villiers (2003) takes the argument further, stating that the first African reserves were instituted in the 1890s in Matabeleland and this exercise was also practised in other parts of the country. He further argues that statutes such as the Southern Rhodesia Order in Council 1898, Land Appropriation Act 1930, Native Land Husbandry Act 1951 and the Land Tenure Act 1969 are among other statutes that compartmentalised land holding into racial categories, forced the peasants into marginal areas and reserved half of the agricultural land for white elites. The Land Tenure Act allocated 1 505 million ha to 6 000 white commercial farmers, 16.4 million ha to black poor families and 1.4 million ha to 8 500 small scale commercial farmers (Villiers, 2003:6).

According to Mutasa (2014), another piece of legislation enacted by the white colonialists was the Land Apportionment Act of 1930, which legally enshrined the *de facto* land stratification. The Act allocated a greater proportion of arable land to white farmers and made provision for evicting indigenous farmers to drier and infertile agro-ecological regions (Mutasa, 2014). The Act also prohibited Africans from owning or occupying land in designated white areas.

Much of the scholarly empirical history on Zimbabwe’s colonialism suggests that in the beginning of 1890, white settler’s colonial government led by Cecil John Rhodes was characterised by a systematic dispossession realised through immense violence, war and legislative enactments that subsequently resulted in racially skewed land distribution and ownership patterns. According to Mutasa (2014), the first liberation war began in the 1800s but was subdued by the white settlers’ superior firepower. The scholar further postulates that after a decade, land dispossession, extra-economic regulations (blacks required a travel pass to be in urban areas, certain jobs were for whites) and taxes turned Zimbabwe into a labour reserve economy relying on cheap domestic labour to work on farms, roads and urban factories. Black poor people lost their land through wholesale evictions and forced removals, their agricultural economy was reduced to subsistence levels by the late 1930s, most black communities were forcefully moved to areas

designated as native reserves with poor infertile soil, located in the inhospitable areas of the country (Mutasa, 2010).

The colonial elite of the British government had experienced intense conflict for land in post-independence in Kenya where they assisted in the purchasing of white-owned farms, therefore, they attempted in the mid-1970s to establish a Zimbabwe Development fund primarily aimed at acquiring white-owned farms for distribution (Scoones, Marongwe, Mavedzenge, Mahenehene, Murimbarimba & Sukume, 2010). Villiers (2003) takes the argument further that the establishment of this fund culminated in the Lancaster House negotiations where several principles were tabled, which among others, are:

- acquisition of land only on a willing seller and willing buyer approach.
- compensation to be remittable in a foreign currency.
- under-utilised land could be acquired for public purposes but at the full market value.

A profuse number of scholars such as Hall (2004), Mutasa (2010) and Villiers (2003) for instance, articulate that the colonial British government undertook to assist with financing of the programme provided its contribution was met on a pound for pound basis by Zimbabwe. Unfortunately, Villiers (2003) states, the Lancaster House agreements did not contain a detailed commitment from any of the foreign donors to actually contribute to land reform.

The guerilla war campaign intensified in the 1970s, but had no clear winner and resulted in a negotiated peace settlement through a 1979 ceasefire agreement brokered by the British government. The ceasefire was followed by negotiations for a new independent Zimbabwe held at Lancaster House in Britain. Lancaster agreements set a framework for key outcomes, including a roadmap to elections through a universal plebiscite, a constitution, and steps to attain equitable land reform (Mutasa, 2014). The Lancaster House agreement is articulated in the section below.

3.3. THE LANCASTER HOUSE AGREEMENT

The Lancaster House agreement took place in early 1979 and led to an independence constitution which, among others, safeguarded and set the basis for the first ten years of land reform. According to Scoones et al. (2010), the negotiations took place between Britain, internal political parties and the liberation movements. The authors take their argument further by saying that all parties involved in the Lancaster negotiations acknowledged that land reform had to be a central pillar of post-independence policy but options were severely constrained.

Villiers (2003) adds to the argument that it was generally accepted at the time of the drafting of the Lancaster agreements that land reform would be required; however, the difficult question that begged an answer was how land reform was going to be dealt with in a way that would address the fears and expectations of all parties involved. It was not a simple task to reverse policies of more than a century of colonial rule that saw Africans lose much of their land for the benefit of the white elite.

According to Moyo (1994), the Lancaster House constitution resulted in a huge compromise being made by the liberation movements. Vance (1980) saw the compromise as a sign of mature leadership by the diplomats that were involved in the negotiations. The author argues further that the influence of the British government in the Lancaster agreement was very potent and although certain basic principles of majority government were accepted, various “safeguards” were built into the constitution to protect the rights of the white minority for a period of ten years.

Land has been a source of political conflict in Zimbabwe since colonisation both within indigenous black communities and white settlers. Colonial polices regarding expropriation gave white minority farmers ownership of large arable commercial land while the majority of poor black families resided in overcrowded, arid communal areas (Centre for Public Impact, 2017). The case study further articulates that the Land Apportionment Act of 1930 was the first legislation to establish land segregation, designate half of the country’s land for whites who made up only five percent of the population and assign to them most of the better land.

The Lancaster Agreement of 1980 marked the first effort to distribute land more equitably and made provisions on land acquisition that protected white farm owners. The agreement established that the Zimbabwean government would not engage in compulsory land acquisition as land distribution was intended to take place through the principle of the willing buyer and willing seller approach (Centre for Public Impact, 2017).

3.4. ZIMBABWE'S POST-INDEPENDENCE LIBERAL LAND REFORM

Moyo (2004) posits that Zimbabwe attained independence from Britian on 18 April 1980 after a protracted struggle against white supremacy. He makes a strong argument that the post-independence government embarked on a nation-building project of its own but the democratic revolution remained a matter of social struggle. Moyo (2004) further asserts that land reform in Zimbabwe between 1980 and 1996 was pursued within a state-centred but market-based approach to land acquisition on a willing buyer and willing seller approach, as agreed to at Lancaster House in 1979. Landowners in Zimbabwe led the identification and supply of land to be available for resettlement, while central government was a reactive buyer choosing land on offer. The government provided land to beneficiaries selected mainly by its district officials under the direct supervision of central government officials (Moyo, 2004). He states further that about 65 percent of the Zimbabwean land acquired on the market was procured by 1985 through the National Intensive Resettlement Programme.

Sekume (2010) argues that when Zimbabwe gained its independence on 18 April 1980, the land question was therefore already at the centre of issues that the young nation had to address. The author argues further that the new Zimbabwe government was confronted from the outset with the almost impossible task of striking a balance between the need for immediate and tangible land reform and maintaining the skills and investment to support economic growth. The author stressed that the main objectives of the land reform programme in Zimbabwe's post-independence were to:

- reduce civil conflict by transferring white land to black people.
- provide opportunities for war veterans and landless people.

- relieve population pressure on communal lands.
- expand production and raise welfare.
- maintain levels of agricultural production.

Zimbabwe's land and agrarian reform has largely been premised on the "livelihood, political economy and neo-patrimonial"' approaches, much to the neglect of other frameworks (Mazwi, Muchetu & Chibwana, 2017). Since Zimbabwe's independence from Britain in 1980, the country has attempted four different land reform policies aimed at addressing land injustice and inequality inherited from the colonial white government.

Moyo (2004) argues that the pace of land reform in Zimbabwe between 1980 and 1986 was extremely slow. He argues further that between the year 1980 and 1985, about 430 000 hectares were acquired each year and this included the land abandoned by white farmers in the liberated zones during war. Between 1985 and1992, the pace of land acquisition was about 75 000 hectares per year while that between 1992 and 1997, an estimated 158 000 hectares, were acquired per year. Zimbabwe's government in the independence period instituted the Fast Track Land Reform Programme (FTLRP) in July 2000 to radically transform the agrarian sector in a manner that has far-reaching socio-political ramifications (Mutasa, 2010). This programme is detailed in the sector below.

3.4.1. Overview of Fast Track Land Reform Programme in Zimbabwe

The Fast Track Land Reform Programme (FTLRP) has been at the centre of Zimbabwe's political and social discourse since the year 2000. According to Moyo and Chimbati (2013:1) Zimbabwe's FTLRP, which began with the occupation of white commercial lands, was radical in nature and challenged the prevailing notion that the transfer of land could only be done under a free market system.

The Zimbabwean government commenced its land reform in the 1980s to address the imbalances of land access ownership. A number of reforms were executed over the years with corresponding modification to the confines of the law. The most recent initiative was the Fast Track Land Reform Programme (FTLRP) which was introduced in 2001 to speed up the policy of redistribution of land (a case study by Centre for Public Impact, 2017).

The FTLRP case study by the Centre for Public Impact: A BCG Foundation (2017) titled 'Fast Track Land Reform in Zimbabwe' postulates that the FTLRP has not delivered the outcomes that the government intended. Instead, it has resulted in violence, a lack of legitimacy in land ownership and chronic weakening of the county's agricultural infrastructure, all of which have contributed to Zimbabwe's deteriorating social and economic conditions. The case study further puts forward the argument that FTLRP's aim was acquiring land from white commercial farmers for redistribution to poor and middle-income landless black Zimbabweans. The objective of the reform initiative was said to be *inter alia* to acquire not less than 8.3 million hectares from the large-scale commercial farming sector for redistribution. The case study commissioned by the Centre for Public Impact: A BCG Foundation (2017) states that 10 816 886 hectares were acquired and 162 161 families resettled, and a total number of 237 858 households were reported to have access to land under the programme. The case study further postulates that there was a significant agricultural production decrease during the FTLRP period, affecting major crops and livestock. The infrastructure and technology around the agricultural industry also collapsed. The optimal utilisation of available technologies, especially for the peasants, was constrained by limited access to inputs, machinery, equipment and infrastructure. By 2015, it was reported that more than 7 million hectares (17.3 million acres) of land had been redistributed since 2000, which was justified as "compensation for colonialism".

The findings of the case study commissioned by the Centre for Public Impact state that progress under the FTLRP phase of reform was slow and the number of families resettled by the end of the year 2000 still fell short of the 1980 targets. During 1990, less than 1 million hectares of land (2.47 million acres) was acquired and fewer than 20 000 families were resettled. The case study further states that much of the land acquired during this phase was of poor quality, and only 19 percent of the almost 3.5 million hectares (8.65 million acres) of resettled land was considered prime or farmable. Scholars make the conclusion that the FTLRP had its own challenges but was a good policy of land redistribution.

3.4.2. Distributional outcome of the Fast Track Land Reform Programme

According to Moyo (2004), the nature of the distributional outcomes must be examined from the social and class character of the beneficiaries, especially the heterogeneous farming capacities and support requirements. Mazwi, Muchetu and Chibwana (2018) concur that the FTLRP has achieved the redistribution element of social agenda but other components of social policy transformation, such as production, protection and social cohesion, are yet to be adequately addressed due to capitalist relations prevailing in the Zimbabwean arena.

Moyo (2004) underscores important figures: by November 2003, allocation of land in Zimbabwe was granted to 130 641 families, while commercial beneficiaries amounted to 20 400 new famers on 6.5 and 2.5 million hectares, respectively. The scholar took the argument further stating that this allocation changed the sub-sectoral distribution of land with the number of farm units in the commercial sector increasing by more than 64 percent, while the sector arena dropped by 42 percent. The quality of land received by the beneficiaries varied across the provinces depending on agro-ecological potential and the distribution of water and irrigation resources. Manzungu (2004) concludes that resettled farmers received some irrigated land, 7.618 hectares (6%) of national irrigable land, and the beneficiaries received 12.448 (10%) of the land. Both scholars conclude that progress was gradually made even though it was slow.

3.5. THE MUGABE ADMINISTRATION

The Zimbabwean government, under the rule of former president Mugabe, wanted to expedite land transfers, as land was not being transferred from white farmers to black farmers ‘fast’ enough. Links (2011) argues that white farmers in Zimbabwe also failed to put their farms on the market as instructed, and this in turn led to further failure in the land reform process of Zimbabwe. White farmers and their families were forced off their farms by the military and Zanu-PF war veterans. This was done in violent and intimidating ways, leaving the white owners with no choice, but to hand over farms in fear of their lives.

According to Links (2011), the question of land in Zimbabwe still remains a delicate and sensitive issue in the public discourse. After the war, when the Zanu-PF and Mugabe took over power, Britain, who had colonised Zimbabwe, offered to pay for the land that had been forcefully taken in the first place from black Zimbabweans in the colonial era. This agreement is known as the Lancaster agreement. Britain paid for a while but afterwards failed to pay, claiming that they did not agree with how the Zimbabwean government was spending the money. Although Mugabe and the Zanu-PF used this for their own political agenda, the government did have a moral obligation to take back the land (Arogundade, 2008).

3.6. ZIMBABWE'S LAND REFORM AND RESETTLEMENT POLICIES

The land question in Zimbabwe has been widely discussed and analysed in the past decade. It recently shot into the international limelight. According to Waeterloos (2004), during the first post-independence decade 1980-1990, the Zimbabwean government shifted its focus to purely addressing the agrarian question through the Lancaster House Constitution that was forged to pave the way to ceasing the white elite rule. The author further postulates that this constitution provided for the protection of private property from compulsory acquisition. The willing seller and willing buyer approach led to a conservative market-led land reform policy during the first phase of the LRRPI during 1980-1998. In the year 1997, Waterloos and Rutherford (2004) state that the government of Zimbabwe had acquired 3 498,444 hectares of land and resettled 71 000 families. These authors state further that resettlement was first carried out under an intensive programme of limited scope, using detailed planning, systematic settler selection procedures and a large amount of specialised inputs.

With the adoption of the Land Acquisition Act in 1992, the Zimbabwean government obtained a mechanism to redress the land injustices. The Act provided the legislative machinery for the second phase of the Land Reform and Resettlement Programme. The Land Acquisition Act of 1992 provided *inter alia* the procedure and principle to acquire land for resettlement that includes designation, gazetting, valuation and compensation

(Moyo, 1995; Tshuma, 1997). The principle of the Land Reform and Resettlement Programme II (LRRPII) stem from the 1992 National Land Policy, which sets its objective as to ensure equitable and socially just access to land, to promote sustainable and efficient use and management of land, to provide for participatory processes of management in the utilisation and planning of the land, and to democratise land tenure systems and ensure security of tenure for all forms of holdings (Moyo, 1995).

Table 7. Distribution of agricultural land before and after implementation of LRRPII

Tenure category

Land, millions of ha

	1980	Land
CA	16.4	16.4
SSCF	1.4	1.4
LSCF	15.5	6.0
State farms	0.3	2.5
Resettlement	0	8.3
Total	33.6	33.6

Source: Moyo (1998) and Government of Zimbabwe (2001)

Of Zimbabwe's total land area of 39 million hectares, approximately 33 million hectares, thus 85%, are allocated to agricultural use and six million hectares, thus 15%, to national parks and urban settlement (Waterloos & Rutherford, 2004). The table above summarises the distribution of agricultural land prior and after the implementation of the Land Reform and Resettlement Programme. The table shows that about half of the land is allocated in the communal areas (CAs), comprised mainly of smallholder farmers. These CAs are purely the legacy of white political notoriety and the colonial policy of racial segregation. The agricultural land is divided into large scale and resettlement areas. In 2000, the majority of the LSCFs were still owned by the minority white Zimbabweans and international companies. The table above makes provision for a partial overview of the agrarian question in Zimbabwe, since it does not reflect equally important characteristics such as soil dynamics and infrastructure development (Moyo, 1998; GoZ, 2001; see also Waterloos & Rutherford, 2004).

In summing up this argument, based on the literature of Zimbabwe's history on land, the study therefore concludes that the pace of land reform in Zimbabwe since the attainment of democracy has been very slow and as a result, many policies were introduced, such as the willing buyer and willing seller, in an attempt to expedite land reform. However, all failed. The study therefore strongly advocates the argument that Zimbabwe needs a strong integrated policy on a post-settlement support system, particularly for those previously disadvantaged beneficiaries of land reform. The South African experience of land reform is articulated in the section below in an attempt to move toward a synthesis.

3.7. SOUTH AFRICAN LAND DISPOSSESSION IN CONTEXT

Land reform in South Africa is seen by most as the ultimate test for social, political and economic transformation (Villiers, 2003). Villiers (2003) further underscore that the framework of land reform in South Africa is more advanced than in Zimbabwe and Namibia, however, acknowledgement ought to be made that the extent of dispossession is also more extensive.

The social engineering that characterised the apartheid regime and the indelible scars thereof were directly influenced by ways in which occupation of, access to and rights on land were regulated (Villiers, 2003). The struggle for land predates colonial presence in Africa. Scholars agree that the first people to be dispossessed of their land in South Africa were the San (Bushmen). According to Villiers (2003), the history of South Africa is fraught with struggles over land. Conflict existed from the earliest days of European settlement between the natives and the new arrivals. The author further posits that the consecutive colonial power declared land as 'Crown' and later 'state' land as other forms of land ownership were not recognised by the new settlers' legal system. Villiers (2003) takes the argument further that the 1913 Native Land Act and Black Land Act placed vast areas of South Africa under the sole control of a white minority while the natives were given some traditional areas that they were made to believe they had historically resided on.

Villiers (2003) also posits that the nature and extent of land dispossession in South Africa, the poor quality of land available in communal areas, violence that accompanied

resettlements, coupled with overpopulation of such areas had a colossal impact on South Africa's black population, more so than was the case in Zimbabwe or any other African country. The author perpetuates the argument that in South Africa, the political rights of black people were restricted to the so called 'homelands' in the hopes that these homelands would become independent from the rest of white South African. The natives who lived outside the main black areas were removed over time. The extent of the impact of the 1913 Native Land Act on the social, economic and political fabric of South Africa are impossible to measure, since the resettlement it caused is too deeply felt and the scars are too sensitive to touch (Villiers, 2003). Seventy percent of the black population in South Africa still live in rural areas, thus, the social transformation after 1913 was swift, sweeping and severe.

3.8. THE SOUTH AFRICAN LAND REFORM PROGRAMME

The land reform's dialectical discourse commenced soon after the 1990 unbanning of liberation movements and the release of political prisoners in South Africa. Much of the scholarly work on South Africa's land reform history articulates that the 1993 South African Constitution (also known as the interim constitution), which had a life span from 1993 to 1996, introduced a new phase in the land restitution process. Scholars drew the conclusion that for the first time, the "right to have land" was recognised as a constitutional right by the 1993 Interim Constitution of South Africa. Villiers (2003) also takes the argument further that during the drafting of the interim constitution, extensive debate took place regarding the scope of application for restitution, determination of who qualifies for restitution, timeframe of the application and when the dispossession took place.

According to Konrad (2006), a pivotal principle was set in the final draft of the South African Constitution of 1996 that land reform will not only be limited to the scrapping of discriminatory laws and polices but also employ a major transformation of the whole legal system in order to restore land to the natives. Villiers (2003) takes the argument further, stating that during the transition period and CODESA negotiations in South Africa, the Africa National Congress (ANC) had limited experience of agrarian matters and solicited

assistance from external allies and institutions such as the World Bank, which played an enormous role in assisting the ANC government in formulating the land reform scheme. The main objectives of the land reform programme identified were to:

1. redress the injustices of the apartheid regime
2. foster national reconciliation and stability
3. underpin economic growth
4. improve household welfare and alleviate poverty

The 1996 Constitution of South Africa sets out a legal framework for land reform. The key provision of land reform in the Constitution is section 25 states that:

(1) no one may be deprived of property except in terms of law of general application and no law may permit arbitrary deprivation of property

(2) property may be expropriated only in terms of a law of general application:

a. for a public purpose or in the public interest

b. subject to compensation which has either been agreed to by those affected or decided or approved by a court.

(3) The amount of compensation and the time and manner of payment must be just and equitable, reflecting an equitable balance between the public interest and the interest of those affected, having regard to all relevant circumstance, including:

a. the current use of the property

b. the history of the acquisition and use of the property

c. the market value of the property

d. the extent of direct state investment and subsidy in the acquisition and beneficial capital improvement of the property

e. the purpose of the expropriation

(4) For the purpose of this section:

a. the public interest includes the nation's commitment to land reform and to reforms to bring about equitable access to all South Africa's natural resources

b. property is not limited to land

(5) 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.

(6) 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 for by an Act of parliament, either to tenure that is legally secure or to comparable redress.

(7) A person or community dispossessed of property after 19 June 1913 as result of past racially discriminatory laws or practices is entitled, to the extent provided for by an Act of Parliament, either to restitution of that property or to equitable redress.

(8) No provision of this section may impede the state from taking legislative and other measures to achieve land, water and related reform, in order to redress the results of past racial discrimination, provided that any departure from the provisions of this section is in accordance with the provisions of section 36(1).

(9) Parliament must enact the legislation referred to in subsection (6).

Having thoroughly discussed the provisions of the 1996 Constitution of South Africa regarding land, Villiers (2003) argues that the land reform policy of the first democratic government comprised of three tiers, namely: Land Restitution, Land Redistribution, and Land Tenure Reform. Land Tenure Reform sought to ameliorate the rights especially of farm workers and persons within communal and homeland areas. Two paramount pieces of legislation to this end are the Land Reform Act 3 of 1996 (Labour Tenants) and the Extension of Security of Tenure Act 62 of 1997 (Villiers, 2003). Workers derive their rights from the Labour Tenants Act and such rights include the right of a tenant and member of family to occupy and use part of the farm (Cousin, 2002). The author further argues that evictions may occur by order of the LCC. The Extension Act makes

provision that security of tenure is offered to people who may not have secure tenure of their homes and are vulnerable to evictions (Cousin, 1999).

In 2002, according to Villiers (2003), the Communal Land Rights Bill, whose primary objective was to deal with tenure in the former homelands, was published by government for comments. However, Kepe and Cousin (2002) argued that progress has gradually been made in the tenure reform.

Land restitution's main thrust as set out by the Restitution of Land Rights Act 22 of 1994 is to either to compensate people who were forcefully removed from their land due to racial laws and practice or fully restore the land they were dispossessed of (Villiers, 2003). Wegerif (2004) attests to the argument that the restitution process is claim-driven and requires empirical evidence that indeed people were deprived off their ancestral land. Lahiff (2006) adds to the body of literature that the RDP's initial target was to transfer about 30% of white-owned farms to approximately 600 000 beneficiaries, but other scholars have a contrary argument that this is far too optimistic. While the interim and final draft of the South African Constitution established the principle of restitution of rights to land, much detail regarding the procedure to claim land was set out in the Restitution of Land Rights Act 22 of 1994. The common principle envisaged in the Constitution is that any person or community dispossessed of rights in land due to the 1913 racial legislations and/or practices, is entitled to restitution. Villiers (2003:51) agrees that the final draft of the South African Constitution was designed to address all possible land disputes by means of restoration.

The Department of Rural Development and Land Reform's exceptions to the 1913 Native Land Act cut-off date policy framework (2017) stipulate that there is a clarion call to adopt a different socio-economic transformation trajectory, the type that should have constituted the baseline during the negotiations that led to the democratic government. The policy further postulates that this model could be classified as 'socio-economic egalitarianism' according to the policy, the department should execute the exceptions to the 1913 cut-off date to accommodate the Khoi and San, and address historical landmarks and heritage sites. Much of the scholarly literature on South Africa's land dispossession has affirmed that dispossession took place prior to the passing of the 1913 Native Land Act and that

the Khoi and San were the first to be dispossession, hence the Department of Rural Development and Land reform is instituting an exception policy accommodating the former. The policy trajectory shall be supported through the execution of policies of the Department of Rural Development and Land Reform, including but not limited to the Comprehensive Rural Development and Land Reform, the Rural Economy Transformation Model, the Rural Development Framework and the Agri-Parks Programme. According to the policy framework, the Minister shall establish a research panel with the following terms of reference:

- identify the land for allocation to the descendants of the Khoi and San on the basis of their historical occupation, indicating who occupied that land and creating a link between the land and the recommended beneficiaries.
- identify heritage sites and historical landmarks for all South Africa's recommended beneficiaries.
- advise on the legislative requirements for the execution of the exception programme
- develop a national strategy for the wide-scale implementation of the exception programm.
- advise on the roles and responsibilities of all major stakeholders in the implementation of the exception programme.

The exception programme, in so far as it relates to the descendants of the Khoi and San, should be driven by the Department of Rural Development and Land Reform (DRDLR) and the National Khoi and San Reference Group. According to the Native Land Act of 1913, the Khoi and San are not covered, therefore the DRDLR has initiated an exception programme specifically to deal with the Khoi and San, based on the premise that land dispossession had already taken place to the Khoi and San long before the promulgation of the Native Land Act, therefore this exception programme is aimed at advancing the interests of the Khoi and San.

Land Redistribution, according to Villiers (2003) and Lahiff (2006), involves making grants available to individuals and families who do not qualify for tenure reform or restitution in order to assist them to purchase land. The provision of Land and Assistance Act of 1993 is central to the regulation of the land redistribution programme. Many scholars criticise

the redistribution programme as having been very slow since the inception of democracy. Villiers (2003:50) adds to the argument that 10 years after democracy in South Africa, only 1.2% of commercial farmland was distributed and that figure includes redistribution, farm equity schemes and labour tenant projects.

Table 8: Land redistribution outputs

Land redistribution programme	Outputs to achieve
Equality in distribution of land	A more equitable distribution of land, thereby contributing to national reconciliation and stability
Reduction in land conflicts	Substantially reducing land-related conflict in areas where disputes are endemic
Solve problem of landlessness	Help solve the problem of landlessness and pave the way for an improvement in settlement conditions in urban and rural areas
Improve economic conditions	Enhance household income security, employment and economic growth throughout the country

Source: White Paper on South African Land Affairs, RSA, 1997:38

According to the White Paper on South African Land Policy (RSA, 1997:38), the Land Redistribution Programme aims to afford the poor and historically disadvantaged with access to land for productive and residential purposes. The range of the programme includes farm workers, the poor (urban and rural), labour tenants and new entrants to the agricultural market (White Paper on South African Land Affairs, RSA, 1997:43). According to this white paper, the access to land will be achieved for a significant number of eligible people, assisted by grants and services provided by Government. The redistribution programme must achieve the outputs illustrated in Table 8.

3.9. THE ROLE OF DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM

The Department's role is of a dual nature. The Department should support the claim process by assisting the claimants in having their title to land restored and rendering support to the Land Claims Commission (LCC), while, at the same time liaising with all affected stakeholders to solicit their views as to the legality of the claim and the utilisation of the particular land (Villiers, 2003). The state also has a responsibility to assist the expert researcher to compile research reports. Villiers (2003) and Lahiff (2006) also affirm that the research reports have been used to facilitate mediation by way of demonstrating that a valid claim exists and that it would probably pass the scrutiny of the Regional Land Claims Commissioner (RLCC). Many scholars are still carrying an apparent confusion of the roles between the DRDLR and the Commission on Restitution of Land Rights (CRLR). However, the DRDLR's Annual Report for the 2014/15 financial year sought to unpack the confusion by stating that the commission is autonomous with its budget approved by the Department.

3.10. THE ADMINISTRATIVE SETTLEMENT

The Restitution of Land Rights Act provides a fundamental base for the settlement of claims through administrative procedures instead of legal process that includes the Land Claims Court (LCC). Many authors agree that since 1998, the Restitution Act decentralised powers to the Minister of the DRDLR, director general and RLCC to settle uncontroversial claims (Villiers, 2006). This process was given momentum by the former minister of DRDLR, Minister Thoko Didiza, in 1999. The author further argues that the administrative settlement is aimed at speeding up settlement and encouraging parties affected to reach a settlement agreement rather than referring disputes to the Land Claims Court that was established to administer the process of restitution.

3.11. LAND EXPROPRIATION WITHOUT COMPENSATION IN DEVELOPED COUNTRIES

Well-documented historical evidence reveals that countries that undertook uncompensated expropriation grew their output in terms of agriculture. Masondo (2018) agrees with the statement and seeks to make an argument that England, as the biggest and first economically developed country, undertook land expropriation without compensation of the common land and dispossession of peasants. Masondo (2018) seeks to further his argument by also making reference to capitalist market-dependent countries such as the USA, France and Germany, which generated higher economic growth by first dispossessing the peasantry.

Colonial power in the colonies: Australia and the USA utilised force to exterminate Native Americans and Australian aboriginals and expropriate their respective land. Masondo (2018) further argues that ironically, colonised countries that expropriated land from the colonised peasantry generated a great deal of level of agricultural and industrial development. The author further argues that the expropriation of land in colonies in Africa in particular, was not a consequence of internal class struggle between feudal landlords and peasants as was the case in England in the 1500s. Instead it was a product of colonial conquest to extract mineral resources such as gold, diamonds, and agricultural products such as palm oil, rubber and cotton.

3.12. LAND EXPROPRIATION IN POST-COLONIAL SOUTH AFRICA

According to Masondo (2018), the 54th ANC's National Congress not only took a resolution that land title deeds must be granted to urban and rural inhabitants, but also that South Africa should turn over a new leaf and embark on land expropriation without compensation as one mechanism to expedite agrarian land reform processes. The 1996 Constitution of South Africa states that land, as part of private property rights, can be expropriated for the public interest in terms of the law of general application but subject to compensation, therefore many scholars have drawn the conclusion that section 25 of the 1996 Constitution does not make provision for land expropriation without

compensation and as such, it has faced tremendous criticism from politicians and scholars recently. The national parliament has since adopted a motion towards the possibility of amending the Constitution of South Africa with regard to land expropriation without compensation and the matter has been referred to the Constitutional Review Committee (Masondo, 2018).

Political independence in Africa created the possibility for Africans to use land for agriculture and food security; instead, in 1961-1994, food productivity declined (Masondo, 2018). Africa's economy since independence was driven by cheap borrowing, commodity prices and poor agricultural performance based on old colonial modes of exploitation of the peasants. Masondo raised a very critical argument that countries such as Tanzania (Nyerere), Ghana (Kwame Nkrumah) and Guinea (Sekou Toure), which undertook a state-led approach, established state-run collective farms that did not lead to structural change in agriculture. Mineral-endowed politically independent states such as Zambia nationalised their mines but continued to extract minerals in the enclaves without significant industrial diversification and agricultural growth. In the 1950s, Masondo (2018) adds, South Korea was one of the poorest countries in the world compared to counterparts such as Ghana, Congo and South Africa, but in the 1980s and 1990s, its agriculture and manufacturing industries were advanced and were a great contributor to the GDP figure. This was the result of their ability to utilise land reform, among other measures, to generate economic growth, unlike Zimbabwe, Namibia and South Africa in the early stages of political independence. Countries such as South Korea and Taiwan embarked on non-market mechanisms including land expropriation without and/or with compensation below market value to increase agricultural production and economic development through industrialisation.

In order to avoid state arbitrariness in the expropriation, Masondo (2018) and Gumede (2018) argue that there should be a clear and proper governance structure in line with the ANC resolution on the democratisation of land allocation and use. In Mozambique, governance structures were clear in the 1997 Land Law that gave the state the power to allocate land for commercial purposes, the provincial governor permission to allocate land sizes between 0 to 100 hectares, and the Minister of Agriculture between 1 000 and 10

000 hectares, whereas in Tanzania, a village assembly had decision-making powers over allocating less than 50 hectares of public land in rural areas. However, another important question in the proposal of land expropriation without compensation in South Africa is 'what is to be done with bonded land?' Land owed to the state and commercial banks. Some farms exist from day-to-day on loans.

3.13. LAND REFORM – THE POLITICS OF BALANCE OF POWER IN SOUTH AFRICA

This study builds on the argument put forward by Masondo (2018) that, particularly within the context of South Africa, the success or failure of land reform is a function of the balance of power between contending forces. He writes further that the success of a land expropriation without compensation policy is also a function of balance of power. He adds that if the opposition party's rejection to expropriation without compensation is strong, then it will not happen. There is also an attempt to used failed post-land transfer projects such as the Makgoba Tea Estate (previously known as Sapekoe Tea Estate) and the Zebediela Citrus Estate in Limpopo, in which farming has collapsed, to discredit land reform and land expropriation without compensation. The balance of power is so dangerous in that the opponents of land reform deliberately do not cite relatively successful projects of land transfer such as the Nodunga Communal Property Association (NCPA) in KwaZulu-Natal, which struck great deals with sugar producing companies, Tongaat Hullet and the Mkhuzane community and Mondi (Pty), and both settlements continue to maintain productive farming (Masondo, 2018). Those who oppose the land expropriation without compensation policy as a result of balance of power are even lobbying right wing organisations in other countries, especially in the USA, Britain and Australia.

3.14. THE ROLE OF WORLD BANK IN LAND REFORM DISPENSATION

A wide range of research documentation on land reform confirms that the World Bank, from 1947 through to the end of the 1960s, has been lending to the agricultural sector and a large scale of irrigation projects. Williams (1981) argues that the Bank recognised

land reform as a measure to promote growth and redistribute economic resources in 1970, but has done very little in this regard, focusing instead on tenure upgrading programmes such as in Malawi. The bank continues to advocate conservative fiscal policies, economic liberalisation, the promotion of foreign investment and the development of small-scale agriculture, which in some cases have had detrimental consequences for the poor natives in Africa (Bond, 2000).

According to Williams (1981), the World Bank has a history of lending to politically oppressive regimes that include military governments in Brazil, Chile and Argentina and also perpetuated loans to oppressive governments in Indonesia, South Korea, the Philippines and Iran. Subsequently, the World Bank walked into South Africa's land reform policy development in the early 1990s and played a significant role in shaping the debates thereof. Van Zyl et al. (1996) concur that the World Bank's entry to South African land reform was facilitated by the Development Bank of Southern Africa, the Independent Development Trust and Anglo America's Urban Foundation, and as a result, the intervention of the Bank in South Africa's land reform process was viewed by many land activist as 'manipulative' and 'intellectual arm twisting' and as happening at 'just the right time and using just the right strategy'.

The few individuals deployed by the ANC with formulating land and agricultural policies were overwhelmed by representations, models and prescriptions from a variety of quarters, in South Africa and externally. External ideological skills, policy analysis and advice were supplied by the World Bank's internationally mobile usual suspects (Bernstein, 2000).

The degree of influence that the Bank had becomes clear after the analysis of its policy recommendations and how much of it was embedded in South African land reform policy. Through 'critical theory' engagements, scholars concluded that the World Bank's representatives are consistently advocating for a market-based land reform programme. The World Bank still continues to play a pivotal role in South Africa's land reform policy to date, by means of its strong links to academics in certain white dominated universities in South Africa; proponent to this, the influence is also clearly articulated in the 2001 Strategic Direction Paper introduced by the Minister of Agriculture and Land Affairs,

Thoko Didiza. However, the role of the World Bank in influencing South Africa's land reform policy should not be exaggerated on the basis that globalisation has also led to 'internationalization of public policy making', meaning that policy decisions are invariably influenced by processes in other countries as well by international agencies, and South Africa is no exception (Cooper, 1998).

Many scholars have advanced the argument that the World Bank alone is not to be purported to be the sole influencer, because the policy formulation in South Africa rarely adopts a linear development model (problem identification, policy formulation, policy implementation and policy evaluation). Similarly, in South Africa, land activists argue that various groups within the ANC or with close connections with the ANC were working in a fairly uncoordinated manner on various aspects of South African land reform prior to the World Bank's representatives engaging in South African policy development.

Dolny (2001) posits that the onerous engagement with the World Bank and participation in its research programme was preceded by significant public discourse around participation among land activists and as a result of some activist criticism of the involvement of the World Bank. However, the final agreement appears to have been that the World bank would fund and conduct research in South Africa with or without South African participation. Land activists further argued that participation would therefore allow South Africa to influence the direction and outcome of the World Bank's research programme, but this invoked criticism from scholars in the sense that there was no autonomy exercised by South Africa in championing land reform's research output.

3.15. THE CODESA NEGOTIATIONS

Land reform policy was at the centre of CODESA negotiations in South Africa. However, Dolny (2001) argues that many land activists viewed the outcome of the CODESA negotiations as a "repugnant compromise" that failed to be a panacea to the needs of the poor majority. Academics also argue that the CODESA negotiations indicated that the aspirations of rural people regarding land have been subordinated to other priorities. Much of South Africa's scholarly history contends particularly within the context of

reconciliation and nation building that the ANC had adopted a neo-liberal approach instead of a programme towards the transformation of social, economic and political systems of South Africa.

According to Husy (1998), concessions reached during the CODESA negotiations are partly the result of potent lobbying on land issues from the National Party, Freedom Front and the white commercial agricultural sector, which benefited from maintaining the status quo in land distribution, while the ANC negotiators paid inadequate attention to the land question. Husy further posits that there is growing agreement among scholars and land activists that the ANC government attempted to reach a compromise during the CODESA negotiations between an active role of the state in the redistribution of wealth and resources and aiming to invigorate competitiveness, promote exports and make the country attractive to foreign investments. Polices developed as a result of a "compromise in CODESA negotiations" resulted in "privatization, cuts in public spending, reduction of public employment and increased unemployment of the poor particularly". Hanekom (1998) adds to the argument by declaring that these policies were mainly to keep the political elite in power while also deepening the impoverishment of the poor majority.

Academics in South Africa still maintain the argument that the policy direction reached at the CODESA concessions has been articulated as a result of the transition process based on the elite and according to the theory of 'elite transition', transformation in the South African dispensation came about not through revolutionary change but rather through a process of compromise between the then ruling elite and the ANC, where the principle of 'Politics of balance of power' between contending forces played a tremendous role and as a result, politics became divorced from the mass of the people and the preserve of bureaucrats and politicians (Husy, 1998; see also Cousin, Lebert & Mbhele, 1998).

3.16. THE FEASIBILITY OF LAND EXPROPRIATION WITHOUT COMPENSATION

Land reform in South Africa is in its young adulthood stage. The biggest hurdle facing the three mentioned countries in the case study is to develop and implement an integrated policy for land reform. Villiers (2006:83) adds to the argument that South Africa's process

is characterised by a high degree of segmentation where relevant departments are not active participants from the early stage of the implementation of the land claims process. He takes the argument further by stating that in many instances, local government and/or provincial government departments are only involved in the end process of the resettlement phase or even worse, only in the implementation phase. This too affects their ability to take co-ownership of the process and develop post-settlement support schemes.

The Freedom Charter adopted in 1955 is arguably the most significant policy statement on both rural and urban land issues. Both land activists and politicians still maintain the growing agreement among scholars that the Freedom Charter is seen as an 'adequate expression of the political priorities of rural Africans at the time' (Lodge, 1990). The adoption of the charter, according to Lodge (1990), sought to address the structural causes of poverty and advocated equality in land ownership. The freedom Charter states that 'Our people have been robbed of their birthright to land and that South Africa belongs to all who live in it black and white' and the Charter also demands that 'land shall be shared among those who work it'. It further says that 'the state shall assist the peasants with implements, seeds, tractors and dams to save the soil and assist the tillers'. Forced labour on farm prisons shall be abolished and freedom of movement shall be guaranteed to all who work the land (ANC Freedom Charter, 1955) However, the CODESA negotiations are seen by scholars to have neglected the pure rich mandate of the freedom charter, which should form a fundamental base of land expropriation without compensation.

Masondo (2018) maintains the argument of the feasibility of land expropriation without compensation. Also, many scholars and land activists argue that the feasibility thereof is dependent on changing and investing in a number of strategic sectors of society *inter alia*, but not restricted to, decolonisation of the education system, skills capacity building, and strengthening the relations of the African Union (AU) to one common mandate of land reform, which will impact on the market.

Decolonisation of the education system is seen by many academics as a mechanism that soeeks to bring justice that addresses the epistemic violence of colonial knowledge and

colonial thought (Pillay, 2015). Nwadeyi and Bentley (2016) add that colonialism, apartheid and other vehicles for entrenching white supremacy not only affected political rights or economic freedoms. They have affected every aspect of life and their effects and legacies are still entrenched in South Africa. Kelley (2000:27) writes that colonial domination required a whole way of thinking, a discourse in which everything that is advanced, good and civilised is defined and measured in European terms. The author takes the argument further that colonial education played an instrumental role, promoting and imposing Eurocentric ways and worldviews while subjugating everything else. Thus, one of the most destructive effects of colonialism was the subjugation of local knowledge and promotion of Western knowledge as universal knowledge. European scholars have worked hard for centuries to erase the historical, intellectual and cultural contributions of Africa and other parts of the non-Western world to our common humanity. They have done this as part of the white supremacist project. In the process, they have reduced the "other" in their texts to "little more than beasts of burden or brutish heathens" (Kelley, 2000:22) Scholars agree that the colonial and apartheid curriculum in South Africa promoted white supremacy and subjected a black native to a subservient role.

Having discussed what many scholars argued about South Africa's education system, it must be stated that there is also a common understanding among scholars that the success of land expropriation is also dependent on decolonisation of the education system, therefore, this chapter also seeks to strongly raise an argument, in addition to the body of knowledge, that agrarian studies should be introduced from primary to tertiary levels of schooling and must be a compulsory module as part of investing in young people and building a skills capacity that will be beneficial to the agricultural sector and breed of young graduates who are capable in terms of working the land as enriched in the Freedom Charter.

In addition, the study concludes that the feasibility of land reform is also dependent on skills capacity building largely on post-settlement support. The South African government needs to take the initiative of investing and building skills among young people so that they are able to work the land in terms of establishing trade relations with international countries. This chapter also sought to argue that if African countries can unite on the land

question, land expropriation would be feasible in penetrating the market with the sole purpose of establishing trade relations and the growth of the African economy. Such intervention is not a sole responsibility of one country, but Africa as a continent. The study posits that although land reform is necessary in South Africa, it is one of the most complex and arduous domestic policies and needs to be carefully approached.

Namibia's experience on land reform is succinctly articulated in the section below.

3.17 NAMIBIA'S EXPERIENCE ON LAND REFORM

Villiers (2003) writes that Namibia was colonised by Germany in 1883 and remained so until 1915, when it was conquered by South African troops, whereafter, in 1919, it became a South African protectorate under the League of Nations. Villiers further emphasised that the South Africans were initially welcomed as "liberators" and there were expectations of South Africa returning some of the land the Germans had taken. Werner (2003) adds in support of the latter that land dispossessions in Namibia in the main affected the indigenous pastoralist communities such as the Ovaherero, Nama and Damara livestock farmers. Communities in the north-eastern and northern parts of former South West Africa that practised rainfed cultivation and livestock husbandry were not directly affected by dispossession. One scholar argues that the primary objective behind German colonialism against Namibia was that the native tribe would have to capitulate the land on which they had grazed for the benefit of the white minority.

Namibia's land reform is seen by many scholars and land activists as a prerequisite for successful rural development and poverty eradication. Colonial dominance in Namibia led to eight concession companies acquiring rights in land utilised by pastoralist communities. Werner (2003) ponders the effect of colonial rule in that, by 1902, 38% of the total land area remained in black hands. The author argues that the rapid loss of land contributed enormously to the Nama and Herero war of resistance against the German colonial forces in 1904. A common understanding among scholars is that the German colonial authorities expropriating approximately all land of the Herero and Nama was a

consequence of regulations enacted in 1906 and 1907, resulting in German authorities owning 19 million hectares of land.

The German Land policy left a "special legacy" on future policies in Namibia. The creation of reserves not only increased the effectiveness of colonial dominance but also enabled the remainder of the country to be made available to the new settlers (Villiers, 2003). At the outbreak of World War 1, troops from the Union of South Africa dominated the German colonial forces in South West Africa and as a result, the new colonial regime continued with the establishment of white farms in the Police Zone after 1915. In the 1950s, the process of white settlement had largely been concluded. The total number of farms established by then was 5 214 (Villiers, 2003:144, quoted by Werner, 2003). The South African colonial government also, simultaneously with the process of white settlement, began to set to aside land for the exclusive use of black communities disposed of their land. These areas became known as the "Native reserves" and by 1926, such reserves covered 2.4 million hectares.

According to Werner (2003), South African reserve policies culminated in the mid-1960s in proposals put forward by the Commission of Enquiry into South West Africa Affairs to consolidate existing native reserves into tribally based "homelands". These homelands were to obtain some measure of autonomy through the establishment of tribally based legislative assemblies and executive committees. The recommendations of the Odendaal Commission completed the system of racially structured access to land in Namibia. Villiers (2003) concurs with the argument put forward Werner and argues that the Odendaal Commission in 1962 recommended that a policy of ethnic homelands similar to that of South Africa be pursued in Namibia, and therefore, the commission ultimately recommended the establishment of 10 homelands for the ethnic groups, each being embodied with the limited autonomy of self-governance through an elected assembly. Scholars conclude that these homelands possessed limited control over land subject to their self-governance and could release land in benefit of an individual or a community.

Adams and Werner (2005) observe that South Africa managed Namibia as a *de facto* fifth province with similar policies being pursued regarding racial and other related matters and as a result, scholars criticise the process and argue that the main beneficiaries were,

as in Zimbabwe and South Africa, the new white settlers, in particular the white commercial farmers.

3.18. POLICY AND FRAMEWORK IN NAMIBIA'S INDEPENDENCE

Namibia commenced its land reform programme in 1990s (similar to South Africa) with the acquisition of freehold farms. According to (Werner, 1997, see also Pohamba, 2001; Villiers, 2003) the land reform programme in Namibia was very slow during the first period of independence. In the mid-1990s, the authors argue, less than 20 freehold farms had been purchased for redistribution. Namibia's independence government in 1990, according to Villiers (2003), inherited an onerous system of land distribution along racial lines, which had developed over more than a century with intensive state interference regarding financial and other support. Approximately 4 500 white commercial farmers held 43% of all agricultural land while 15 000 black peasants had access to 42% of the land (Villiers, 2003).

Land reform, according to many scholars, both in terms of land redistribution and tenure reform, featured prominently in political and economic programmes of internal parties in Namibia, as was the case in South Africa and Zimbabwe. Adams and Howell (2001) also observe that political parties in Namibia grouped under the Democratic Turnhalle Alliance (DTA) and reached a consensus that land reform should be at the centre of policy agenda setting of the new government of Namibia. At independence, therefore, Werner (2001) argued, two diametrically opposed concepts of land reform had been in existence. However, policies and legislation since 1990 seem to have been shaped primarily by concepts of land reform developed in exile. The state has been centrally involved in the identification of land for allocation, its purchase, planning, and the selection of settlers since independence. With regard to ownership rights of land allocated by the state, the Land Reform Act provides for leaseholds to be registered over such allocations with an option to buy after a five-year probation period. It is interesting, however, that the Act tries to circumscribe the rights normally associated with a registered lease agreement. Section 46 subjects the right to sub-let, mortgage or any other encumbrance to prior written

consent of the Minister. Similarly, support to settlers is provided by the state through the Ministry of Land and each resettlement scheme has its government appointed manager. As a rule, settlers do not participate in the selection of freehold farms for acquisition and planning or the management of resettlement projects.

In making recommendations on land reform for the independent state in Namibia, Adam and Werner (2001), quoted by Villiers (2003:32) sought to highlight the following priorities:

- the “façade” of the Odendaal Commission has to be stripped away to ensure that the Namibian nation is built, that administrative support services reach the whole nation, and vested interests that resulted from the commission be countered.
- a form of decentralisation to move away from the ideology that all decisions are made in Windhoek by bringing closer administrative interaction between government and the end-user.
- improvement of the education system to enable the new generation to comprehend and practise new farming methods.
- training and development of skills of peasant farmers including basic training in mathematics and sciences.
- deployment of a “cadre of advisors” who can assist with agricultural training at all levels.
- increased attention to experiences at international level with land reform and the implementation thereof.

During the inception of the land reform programme in Namibia in 1990, four components were identified to be at the centre of the programme, namely:

- redistributive land reform
- tenure reform
- development of unutilised communal land
- the Affirmative Loan Scheme.

This section also sought to provide a legislative framework that guides somewhat the land reform programme in Namibia. This consists of the following:

- the Constitution of the Republic of Namibia

- Agricultural (Commercial) Land Reform Act, 1995
- White Paper on Resettlement, 1997
- National Land Policy, 1998
- Communal Land Reform Act 2002.

Werner (2003) writes that redistributive land reform is implemented in accordance with the provisions of the Agricultural (Commercial) Land Reform Act, 1995. The provisions of the Act include the following:

- It lays down a preferential right of the state of purchase of commercial farm land.
- It provides for market-related compensation,
- It establishes a Land Reform Advisory Commission consisting of stakeholders to advise the Ministry of Land,
- It prescribes the way in which commercial farm land was to be planned and allocated.
- It provides for the subdivision and survey of holdings for small scale farming.
- It restricts the acquisition of commercial farm land by foreigners.
- It establishes a Land Tribunal to resolve possible disputes over process between sellers and the government.

In the terms of the Provisions of the White Paper on Resettlement, a broad spectrum of previously disadvantaged people in Namibia will be considered for resettlement, ranging from those with no access to land and no means of production to people in employment (*The Namibian*, 21 November, 2002). The report further postulates that the cut-off point is determined by the Affirmative Action Loan Scheme by Agribank, which is accessible only to people with 150 or more large stock units.

3.19. THE ESTABLISHMENT OF LAND REFORM ADVISORY COMMISSION

A commission was established to assist the Minister of Lands, Resettlement and Rehabilitation and to advise on matters such as suitability of land to offer. Villiers (2003) writes that once land is acquired, the commission makes recommendations to the Minister on the utilisation of that land, based on a land use plan. The Land Reform Act describes

the beneficiaries of the land reform prgramme as: “Namibian citizens who do not own or otherwise have the use of agricultural land or adequate agricultural land, and foremost to those, Namibians who have been socially, economically or educationally disadvantaged by past discriminatory practices”. Many scholars criticise the land reform in Namibia purely on the basis that there was no direct return of ancestral land.

3.20. THE NATIONAL LAND REFORM CONFERENCE

The conquest for independence in Namibia was mainly a reaction to the colonial land theft upon which structures of apartheid and labour exploitation were based (Adams & Devitt, 1990). The authors took the argument further saying that a year after independence, the new government of Namibia, supported by the opposition parties, conducted a national consultation on the land question that culminated in the National Conference on Land Reform held in Windhoek on 25 June to 1 July 1991. A common understanding among scholars and land activists was that in the main, these consultations were aimed at providing consensus on major issues and making recommendations to government on a policy of land reform. The role of the conference was an advisory one, supreme decision-making power resided in the legislature, headed by the National Assembly.

According to Adam and Devitt (1990), the conference by the prime minister encapsulated 500 participants and 150 observers from various constituencies, political parties and interest groups. Specialists on land-related topics from Namibia as well as from neighbouring countries, specifically Zimbabwe, Botswana and Malawi, were engaged to inform and structure the debate. Approaches were adopted to facilitate the participation of unorganised and commonly excluded sections of the community. The views of rural people were elicited and expressed in a video documentary based on a national survey of opinions on land issues (Adams & Devitt, 1990). The Conference then moved on to debate the inequity of land ownership in the freehold areas.

There was a growing agreement among scholars, organisers and participants that the conference met its immediate objectives by reaching an amicably satisfactory consensus of opinions of the land question.

3.21. TOWARDS A SYNTHESIS

Land reform in Zimbabwe after independence took a radical approach as argued by many scholars. Scoones et al. (2010) concur that around the year 2000, Zimbabwe's largely white commercial farms were invaded as a result of Mugabe's "land grab" approach. The authors argue that violence, displacement and accusations of "wanton environment destruction" were the order of the day. The collapse of Zimbabwe's economy and food security were attributed to be the "chaotic" land reform where property and human rights were violated while commercial land was transformed into under-utilised plots run by "political cronies" with no skills and knowledge of farming (Scoones, et al, 2010). However, to the contrary, some scholars argue that Zimbabwe's perennial land history is much more complex than just generalisations. Palmer (1990) and Stoneman (2000) also observe that at independence in 1980, Zimbabwe inherited a highly skewed land ownership pattern similar to that of South Africa, with around 42% of the land owned by 6 000 large scale white farmers. The authors further argue that this agricultural sector was critical to the economy of Zimbabwe, contributing 75% of total agricultural output and 96% of sales. Palmer (1990) also seeks to advance an argument that Zimbabwe's nature of land reform at the beginning of the first five years of independence was influenced by an inherent skewed land ownership pattern, concocted by the margins of colonialism and as a result, the land question was at the centre of the nation-building agenda. In the process, so many mistakes were committed. However, the article further emphasises that Zimbabwe's land reform process since independence has not been simple and has not been an outright failure.

Villiers (2003) argues that Zimbabwe's greatest challenge was the complexity of the land reform process, the difficulty in turning back the clock on past injustices and the impact that a lack of resources had on the acquisition and post-settlement support. The paper therefore argues that Zimbabwe and South Africa faced similar challenges in the first five years into independence and democracy, respectively. Furthermore, Sekume (2010)

argue that Zimbabwe's land reform began on a sour note as a result of the complexity of political competition, the fight to retain power and the souring of international relations between the UK and Zimbabwe. The contextual setting of Zimbabwe's land reform is briefly discussed in the section below.

3.21.1. Land reform experience in Zimbabwe sets the scene

According to Bernstein (2004), Zimbabwe's land reform approach is very distinctive, having dismantled the functioning of large-scale commercial farming operations and the transfer to small-scale agricultural peasant production rather than the nationalisation of land to the tiller distribution of pre-capitalist forms of landed property as part of a longer-term transition to capitalism. However, the author argues that these do not negate the importance of Zimbabwe's experience in the context of the former settler migrant economies in Southern Africa.

The 1979 Lancaster House agreement provided a fundamental base for land reform policies for the first ten year of Zimbabwe's independence. Under the Lancaster House agreement, many scholars argue, Mugabe's government acquired land mainly through the "willing buyer and willing seller" approach. This approach was seen by many scholars as giving special protection to white Zimbabweans for the first ten years of independence. The willing buyer and willing seller approach perpetuated political notoriety in that it prohibited Zimbabwe's government from engaging in any form of compulsory land acquisition but required that government should pay adequate compensation, which the economy of Zimbabwe could not sustain. Much scholarly literature on Zimbabwe's land reform seeks to suggest that progress under the willing buyer and willing seller approach was very slow and the number of families resettled by the end of 2000 still fell short of the 1980 target. Scoones et al. (2010) support the observation that in the light of the challenges of willing buyer and willing seller approach, the Zimbabwean government proceeded with constitutional reforms to the "Fast Track Land Reform Programme" (FTLRP) in 2000. This FTLRP phase permitted the Zimbabwean government to acquire land compulsorily without paying compensation. The FTLRP approach made tremendous improvements, particularly within the context of land reform in Zimbabwe; however, critics suggest that the approach lacked post-settlement support.

3.21.2. Namibia's land reform contextual setting

A fundamental role in Namibia's land question is demonstrated by the fact that 90 percent of the population derive their livelihood from the land, whether in the form of commercial farming or as workers employed on commercial farms (Villiers, 2003), therefore, land reform in Namibia is both a conquest of political and economic discourse inclusive of two strategies, namely, resettlement and transfer of commercially viable agricultural land.

According to Werner and Odendaal (2010), Namibia emerged from colonial rule in 1990 with a skewed distribution of agricultural land and high levels of poverty, as was the case with Zimbabwe and South Africa. The authors further emphasise that the National Conference on Land Reform and the Land Question in 1991 formed a potent foundation within which the Namibian government devised its land reform programme. The main aim of land reform in Namibia immediately after the attainment of independence was to address the injustices that colonial rule and land dispossession had brought about.

Namibia was a German colony from 1884 to 1915, and subsequently, apartheid South Africa took over and ruled the country until 1990, when it attained independence. The Namibian government, as argued by Sekume et al. (2010) commenced a land reform process in 1990 through the use of the "willing buyer and willing seller approach", as was the case with Zimbabwe and South Africa. This approach bought land at market price from private farm owners; however, scholars criticised the approach in the sense that slow progress was made.

Villiers (2003) observed that Namibia, as did Zimbabwe, did not choose to adopt a claim-driven approach to land reform but rather to acquire land through market prices. Villiers (2003) argued further that the land reform process in Namibia was very slow from the start as a result of land dispossession on a large scale, as was the case in Zimbabwe and South Africa. All three countries were inherently faced with the conundrum of reversing the imbalances of the past.

3.21.3. Land reform in South Africa – a deconstructive approach

South African history is tainted by the plight over land. Villiers (2003) concurs that from the earliest days of European settlement, conflict between the indigenous people and new settlers erupted, and in the process, land was lost. Land reform in South Africa commenced soon after the 1990 unbanning of liberation movements and the release of political prisoners. The South Africa Constitution places an obligation on the state to take reasonable legislative and other measures within its available resources to effect changes in land distribution patterns. The main aim of land reform in South Africa was to:

- redress the injustices of apartheid.
- foster national reconciliation and stability.
- underpin economic growth.
- ameliorate household welfare.

As Mngxitama (2006) puts it, the willing buyer and willing seller approach implemented by the South African democratic government was a great hindrance to the pace of land reform. From the above argument, a deduction is that the willing buyer and willing seller approach did not deliver the expected outcome in South Africa, and as a result, the ANC government took a resolution to scrap the approach, as it was putting strain on the economy.

The on-going debate in the political discourse in South Africa recently is the notion of land expropriation without compensation. This is similar to Masondo's (2018) statement that this concept has developed tremendously in the South African political spectrum after the 54th ANC's National Congress took a resolution to adopt it as a policy in an attempt to expedite the land reform process. The land expropriation without compensation has so far received so much criticism from almost all stakeholders in society, but this study argues that land expropriation without compensation is a panacea to land reform woes. What is required is a very constructive implementation approach inclusive of the decolonisation of the educational system in South Africa from basic to tertiary levels. The expropriation mechanism, as argued by this study, will also require that government

invests in skills capacity, particularly in the recipients of land expropriation without compensation policy.

With the above literature in Chapter 2 and 3 of the study, the researcher conceptualised and published an article titled “A comparative overview of land reform experiences in Zimbabwe and Namibia: A lesson that South Africa can learn from” in the *Journal of Public Administration* (special issue on land reform), *53*, 2.1, June 2018.

3.22. CONCLUSION

The chapter provided an overview experiences of land reform in selected countries. Various countries’ method of approach to land reform is detailed in the chapter as well. The chapter also provides the feasibility of a recent argument of land expropriation without compensation in South Africa. Juxtaposing commonalities in selected countries is also detailed in the chapter. The chapter stresses that land reform in the mentioned selected countries is still incomplete and there is a need for skills capacity in all these selected countries. Legislative framework for land reform processes are also provided in the chapter.

The literature provided in the study has in some ways, displayed surprising arguments that strongly suggest that there is room for improvement in the land reform process in South Africa, Zimbabwe and Namibia. This chapter was limited to secondary data, and indicated that land reform is a political project that is still incomplete in all these three countries. The chapter strongly stresses that each country ought to adopt its own land reform model.

CHAPTER 4

RESEARCH METHODOLOGY

4.1. INTRODUCTION

The preceding chapter provided comparative analyses of experience in various countries, sought to articulate the feasibility of land expropriation without compensation, and subsequently provided a juxtaposition of commonalities of experiences. These issues are critical as they provide detailed information on contextual issues of the study. In this chapter, the subject of discussion is research methodology. According to Welman, Kruger and Mitchell (2005:2), scientific research can be defined as a process of establishing scientific knowledge through various objective procedures and methods. Mukonza (2015) identifies three pivotal aspects of the above-mentioned definition that need to noted: first is that scientific research is a process and not an event, therefore, it requires that a researcher meticulously plan prior to embarking on it. Secondly, the primary aim of research is to establish scientific knowledge, and according to Mouton, Auricombe and Litabingwa (2006:6) this knowledge is different from absolute knowledge – truth that holds without regard to space and time. Therefore, authors argue that scientific research is concerned with establishing epistemic truthful knowledge. Truthful knowledge according to De Vos, Strydom, Fouche & Delport (2011:4) is knowledge that, at a specific time, can be acceptable by a specific community as being valid and reasonably correct. Proponent to the statement, Goddard and Melville (2001:1) further stress that discovery and creation of knowledge lie at the centre of scientific research. Thirdly, the importance of methods and procedures is in searching for this truthful knowledge. Mouton et al. (2006:5) concur with the above statement, saying that scientific knowledge is the outcome of rigorous, methodical and systematic inquiry and not the haphazard way in which ordinary knowledge is acquired. Within the context of the above discussion, the study seeks to establish truthful knowledge about the significance of land reform in South Africa, particularly restitution, and this will allow the researcher to make a contribution to the body of knowledge in the field of Public Administration and Public Affairs.

According to Welman et al. (2005:2), research methodology provides the rationale behind the methods and instruments that are to be utilised in the research processes. There must be a logical flow in one's research and the researcher must endeavour to maintain the 'golden thread' that connects the research from the first chapter to the last. This chapter focuses on the research design, methodology and procedures utilised in the study, and provides generic information on qualitative and quantitative research methodology. It will also provide details on the selection of the population for the study and the criteria used. Furthermore, a description of sample selection, sampling procedures used and qualitative and quantitative instruments used is provided. In addition, ethical considerations are discussed.

4.2. RESEARCH PHILOSOPHY

Babbie and Mouton (2001) attempt to devise a critical dichotomy between ordinary knowledge and scientific knowledge. In the quest, these authors articulate that ordinary knowledge is non-scientific on the basis that it is more often unsystematic and haphazard, based on personal authority and secondary sources. Scientific knowledge, according to the authors, is largely characterised by a systematic and methodological form of inquiry. Research philosophies differ on the basis of the objective of the research and the manner in which to achieve these objectives.

The quest for understanding the notion of a search for epistemic truth, particularly in the context of social sciences, demands a clear understanding of the nature of scientific knowledge in natural and social sciences. The assumption about what to study, the research tools and techniques, together constitute and best define a research philosophy. The research philosophy that largely guided this study is a combination of both critical and interpretivist paradigms. The choice of these two philosophies is influenced by the fact that the researcher adopted a qualitative methodology in an attempt to invoke the structural, historical and political aspect of land reform processes. The researcher views reality as shaped by the social, political, cultural, economic and other dynamics in an attempt to explore phenomena. The findings of the study were not generalised but

confined to the study population. The choice of the two philosophies was also influenced by the fact that the world is characterised by unequal power relations, hence the study in Chapter 3 articulated the politics of balance of power, which has a greater influence in the process of land reform. Guba and Lincoln (1994) write that the assumption of the interpretivist paradigm stresses that there is not a single truth about a phenomenon but rather a set of realities or truths that are historical, local, specific and non-generalisable.

4.3. RESEARCH METHODOLOGY

Research methodology refers to the ways of obtaining, organising and analysing data (Pilot & Hungler, 2004:233). Brynard and Henekom (2006:36) also add in proponents to the previous statement that research methodology refers to a group of methods and procedures that one uses in collecting data and includes aspects of planning, structuring and execution of the research, which ensures that it complies with demands for truth, objectivity and validity. The research methodology section presents the material, equipment or instruments the researcher used and the methods and techniques, including sampling procedure that was employed in data collection. Research design, according to Creswell (2014), on the other hand, refers to plans and procedures for research that span the decision from broad assumptions to detailed methods of data collection and analyses.

4.3.1. Types of research methodology

In the main, there are two types of research methods utilised by researchers, namely, qualitative and quantitative research methodology. Ngoatje (2006:48) writes that, depending on the nature of the problem to be researched, a combination of the two can be utilised. The authors further contend that each method is associated with a cluster of data collection techniques. A synopsis of qualitative research and quantitative research methodology is outlined below.

4.3.1.1. Qualitative methodology

Qualitative methodology refers to the research that produces data that is generally presented in the participant's own written or spoken words and pertains to their experience or perceptions. Usually no numbers or counts are assigned to these observations (Brynard & Hanekom, 2006:37).

Qualitative methodology has a great deal of concern with collecting and analysing information that describes events, persons and other phenomena without the use of numerical data (Baxter et al., 1996, as cited by Ngoatje, 2006:50). Welman et al., (2005:6) write that the qualitative approach is also referred to as an anti-positivist approach that opposes the notion that research ought to be limited to that which is measurable. Proponents of anti-positivism argue that a positivism approach is designed to study molecules and organisms and is therefore less suitable to study human behaviour (Welman et al., 2005:6). According to Ngoatje (2005:50), qualitative methodology aims to achieve depth rather than breadth on issues, therefore, the researcher, through this method, aims to extract and discover the meaning and understanding of participants.

Qualitative researchers usually utilise a combination of inductive and deductive reasoning when interpreting findings. Deductive reasoning operates from the more general to the more specific. Sometimes this is referred to as a "top-down" approach. The researcher formulates the research topic and narrows that topic down to a hypothesis. After the formulation of the hypothesis, it is narrowed down to observations that address the hypothesis; ultimately, observations lead to the testing of the hypothesis with a specific set of data that then either confirms or rejects it (Trochim, 2006). Inductive reasoning, on the other hand, moves from specific observations to broader generalisations and theories. Sometimes it is called 'theory building' or 'bottom-up-approach'. In inductive reasoning, a study commences with specific observations and measures that detect patterns and irregularities that formulate a tentative hypothesis that will be explored, and finally the development of some general conclusion or theories occurs.

Qualitative methodology permits a researcher to have an insider's perspective of social events. Many scholars such as Baxter et al. (1996) as cited by Ngoatje (2006:50) for

instance, maintain that participant observation and in-depth interviews with key informants are some of the data collection methods used in qualitative methodology. There are several limitations associated with qualitative research methods and these include its inability to use large samples representative of the target population (De Vos et al., 2011, as cited by Mukonza, 2015). In addition, these authors argue that this method would be suitable in situations where participants are concentrated in a smaller geographical area. Welman et al. (2005) build on the previous argument by writing that the qualitative methodology in practice requires a considerable amount of time and financial resources in both data collection and data analyses. Mukonza (2015) argues that the nature of the qualitative research method makes justifying its validity and reliability a mammoth task. The author further stresses that conventional standards of reliability and validity tests, as provided by different computer programmes, are difficult to apply in the qualitative research method, therefore based on these limitations, some scholars such as Brynard (2006) and Hanekom (2004) have expressed their dubiousness as to its empirical qualities.

4.3.1.2. Quantitative methodology

According to Mouto (2003) as cited by Brynard & Hanekom (2006:37), quantitative methodology is associated with analytical research and its purpose is to arrive at a universal statement. In quantitative methodology, the researcher ought to assign numbers to observations. Data is produced by counting and measuring "objects" (Mouton, 2003). This method includes techniques such as observation, preliminary investigations, quantitative analysis and questionnaires.

Welman et al. (2005:6) argue that quantitative methodology is also referred to as the positivist approach and is based on the philosophical approach of logical positivism. The authors further stress that this approach holds that research must be limited to what we can observe and measure objectively. Quantitative methodology, through the use of structured questionnaires, makes it easier for the researcher to reach a wider range of respondents. And according to Ngoatje (2006:49), the use of questionnaires allows the researcher to analyse collected data numerically. The positivist approach strives to

formulate orthodox laws that are applicable to the populations and to explain the causes of objectively observable and measurable behaviour.

Mukonza (2015) argues that a study is said to be a quantitative one when there is an emphasis on the quantification of constructs purely on the basis that the researcher believes that the best way of measuring properties is through assigning numbers to the perceived quality of things. The author further argues that the strength of the quantitative research methodology lies in the presence of precision and control. This is due to techniques such as sampling and statistical analyses that allow for objectivity.

Quantitative methodology is viewed as a method that denigrates and ignores human individuality and autonomy to think. Many scholars also give the criticism that the quantitative methodology is mechanistic: it tends to neglect values such as freedom, choice and moral responsibility, while on the other hand is viewed as an end in itself instead of viewing it as a means to explore the human condition.

4.3.1.3. Mixed method approach

De Vos et al. (2011: 434) and Du Plessis and Majam (2010:457) sought to define a mixed method as a method of using a combination of methods and techniques (quantitative and qualitative methodology) in data collection and analyses. Du Plessis and Majam (2010:456) argue that the mixed method is still a relatively new approach and as a result, tends to be confusing to some scholars. The authors further distinguish mixed methods research from the practice of triangulation in that, while triangulation uses a multiple methods approach to data collection to avoid errors and biases, the mixed method employs both quantitative and qualitative methodology, methods and procedures to come up with a more complete picture of a research problem. Green and Caraceli (1997, as cited in Du Plessis & Majam, 2010:457) posit a contrary view; they argue that a mixed methods approach can be seen as a triangulation where quantitative and qualitative methods are combined to study the same phenomenon in order to gain convergence and increased validity.

Scholars such as Onwuegbuzie (2004) and Brynard and Hanekom (2006) argue that with mixed method research, it is not enough to collect quantitative and qualitative data and

analyse it exclusively, but it has to be mixed in some way to give a complete picture of the research problem. According to Du Plessis and Majam (2010:457, cited in Green, 1997; Johnson & Onwuegbuzie, 2004), the mixed approach can overcome the weakness of a single method (quantitative or qualitative).

The study employed a qualitative approach. The study was conducted in the Gauteng Regional Land Claims Commission and makes use of open-ended questions in both interviews and questionnaires, and therefore the data is of a non-numeric form, which makes it to rely heavily on interpretation. A literature review will also be used to gather information. Interviews as a technique of collecting data will also be utilised.

After assessing both qualitative and quantitative methodology, the researcher concluded that for this study, a qualitative methodology was desirable. To adequately comprehend land reform processes and the cause of the backlog in settling land claims, the researcher was dependent on people's perceptions, experiences and opinions and on secondary data, therefore the researcher reckons it made it necessary to utilise a qualitative approach. Qualitative case-study research design is a genre of qualitative research empirical inquiry in a real-life context that investigates and analyses a single or collective case(s), intended to capture the complexity of the object of study, using multiple sources of evidence (Antonius, 2013:43; Devos, Delpot, Strydom & Fouche, 2011:132; Baxter et al., 2008; Durrheim, 2006:47). Welman and Kruger (1999:46) state that a research design is the plan according to which research participants or subjects are obtained and the process whereby information is then collected from them. The strengths of the qualitative methodology include the following:

- obtaining a more realistic feel of the world that cannot be experienced in the numerical data and statistical analysis used in quantitative research.
- using flexible ways to perform data collection, subsequent analysis and the interpretation of the collected information.
- providing a holistic view of the phenomena under investigation (Bogdan & Tylor, 1975; Patton, 1980).
- having the ability to interact with the research subjects in their own language and on their own terms (Kirk & Miller, 1986).

4.4. RESEARCH DESIGN

De Vaus (2001:9) argues that a research design is the logical structure of an enquiry. The author proceeds to warn researchers that it deals with a logical problem and not a logistical problem (De Vaus, 2001:9). According to Rubin and Babbie (2005), a research design is a plan or blue print of how one intends to conduct the research and it explains how the research study is to be conducted in order to achieve the objectives. Pallant (2011:3) cautions that the usefulness of the data is largely dependent on the instruments that were used to collect it and the research framework that guided the collection process. The study is descriptive in nature.

4.4.1. Mixed method research design

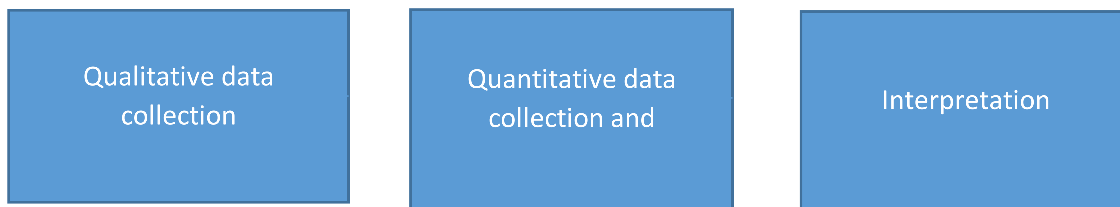
De Vos et al. (2011:440) stress that in the case of a mixed research approach, qualitative and quantitative data collection need to take place almost concurrently. The purpose of this research design, as Mukonza (2015) argues, is that it would either merge qualitative and quantitative methods or have them in sequential order. The section below is a demonstration of what the research design might be:

- quantitative to qualitative. This denotes a quantitative-driven sequential study, where quantitative data collection is followed by qualitative data collection with unequal priority.
- quantitative + qualitative. This denotes a quantitative and qualitative-driven concurrent study. In this case, quantitative and qualitative data collection occurs at the same time and is given equal priority.
- quantitative (qualitative). This denotes that qualitative methods are imbedded within a quantitative design.

4.4.1.1. Types of mixed method research design

De Vos (2011) identifies various types of mixed method research design, which are articulated in the section below:

- exploratory mixed research method design: this is where a researcher uses a qualitative research method to explore a phenomenon prior to attempting to measure it quantitatively (De Vos, 2011). The research is carried out in two phases where the first phase results in the collection of qualitative data and the second leads to the collection of quantitative data. The schemata below shows an exploratory mixed research design.



Source: Creswell and Plano (2007:76)

Figure 3: An exploratory mixed research design

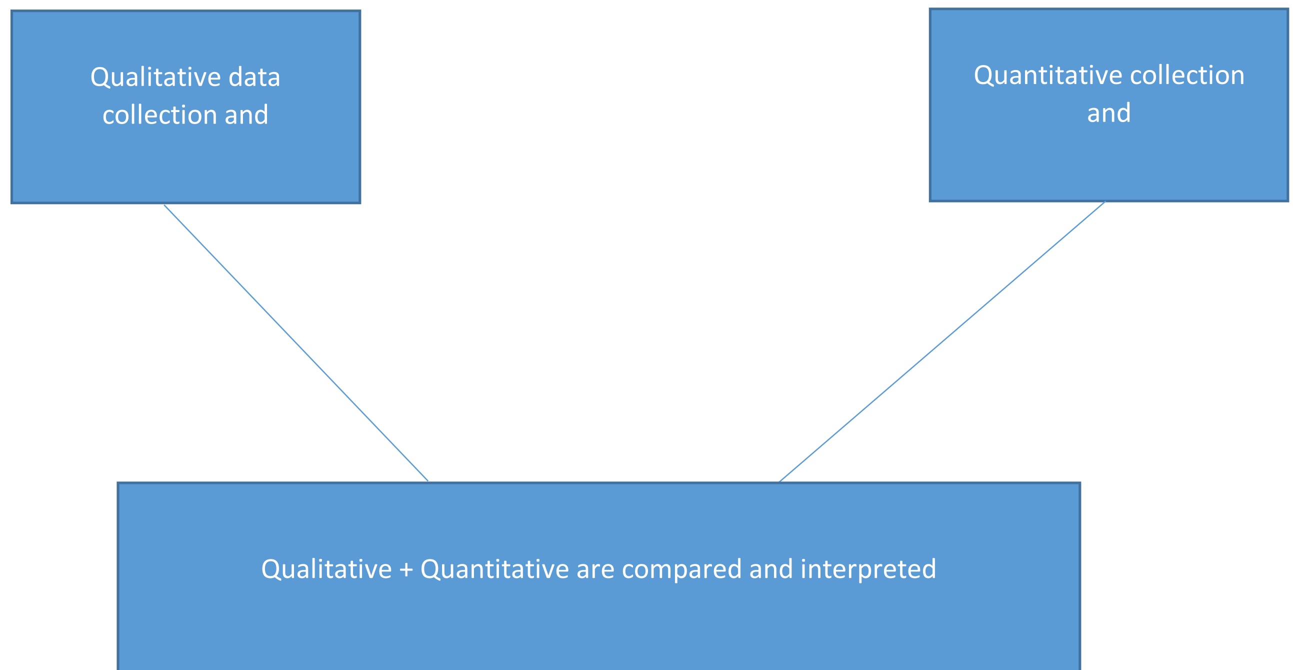
The schemata above (figure 4) depicts two phases of exploratory mixed research design in which the quantitative data collection and analysis precedes quantitative data collection and analysis before the two sets of data are interpreted.

Source: Creswell and Plano (2007:73)

Figure 4: Explanatory mixed methods design

- explanatory mixed methods design: this approach is also segmented into two phases, as argued by many scholars, in which collection of data and analyses of quantitative data are followed by collection and analyses of qualitative data. In this

design, the purpose of qualitative data is to further assist in explaining the quantitative data collected. Priority is given to quantitative data.



Source: Creswell and Plano (2007:73)

Figure 5: Triangulation mixed method design

- triangulation mixed method design: scholars argue that in this method, the researcher employs both quantitative and qualitative methodology during the same timeframe and with equal weight to best comprehend the paradigm. Mukonza (2015) suggests that this approach is anticipated to permit the researcher to produce complete and well validated conclusions.

The researcher used an exploratory mixed research design because it allowed the researcher to utilise the descriptive data collected to better comprehend the process of land reform.

4.5. DATA COLLECTION

According to Brynard and Hanekom (2014:38), data in research can be collected by primary and secondary methods. Structured interview questions were employed as a method of collecting data. Questionnaires were also utilised to gather data. Furthermore, secondary documentation applicable to the study was reviewed and considered. Researchers do not always have to collect new data for their studies but can also make use of secondary data. An example of secondary data is information that is on a public database. Secondary data may be interview transcripts that have been recorded by other researchers. A researcher may use this data and analyse it in a different way for a different purpose.

4.5.1. Primary research method for data collection

In this study, as previously stated, interviews, questionnaires and surveys were employed. Qualitative data was collected through open-ended questions in a questionnaire, and interviews were employed concurrently with equal weight (Creswell & Plano, 2007).

Twenty questionnaires were also distributed to the beneficiaries of land reform in an attempt to solicit their views about the process of settling land claims. Interviews with beneficiaries were also held. The researcher was also interested in understanding attitudes, perceptions, opinions and philosophies behind the process of settling land claims. Forty questionnaires distributed to officials in the Commission were structured in such a way that they were open-ended questions. For the purpose of this study, the Commission refers to the administration of the state at national and provincial level. Proponent to the previous statement, Maserumule (2007:147) writes that these government departments are under the direct leadership of political executive authorities.

This was to ensure that responses from respondents were captured thoroughly. In-depth interviews with officials and beneficiaries were conducted as well.

The researcher also made use of online electronic resources and copies of available legislative instruments to understand issues related to land claims, particularly those that are relative to the slow track of settling land claims. The data collection and analyses techniques selected for this study have limitations and these are outlined in a separate subsection.

Table 9: Common data analysis steps

Steps	Description
Organise and prepare the data for analysis	This involves transcribing interviews, typing up field notes, or sorting and arranging the data into different types, depending on the source of information
Read through all the data	This involves making sense of the information and understanding the meaning of the data as a whole
Use the coding process to generate a description of the setting or people, as well as categories or themes for analysis	This involves collecting detailed background information about people, places or events in a setting
Use the coding to generate a small number of themes or categories	These themes are the ones that appear as major findings in qualitative studies and are stated under separate headings in the findings section of the study
Advance an example of how the description and theme should be represented in the qualitative narrative	The most popular approach is to use a narrative passage to convey the findings of the analysis

Interpretation	This explains the meaning of the data

Source: Creswell, 2007

4.5.2. Secondary research methods for data collection

The researcher also relied on the secondary data collection methods in addition to primary data collection. Primary sources include information that is obtained directly from the source, for example, letters, minutes of meetings, voice recordings, while on the other hand, secondary data methods refers to information that is a step further from the source, for example, books, papers presented at conferences, and journals. In this study, the researcher obtained secondary data from government publications, draft policies, departmental annual reports and publications by academics including articles, journals and books.

4.5.3. Interview

Ten face-to-face interviews with various key informants at the Gauteng Regional Land Claims Commission were carried out during the study. Nieuwenhuis (2007:87) posits that an interview is a two-way conversation in which an interviewer poses questions to an interviewee in an attempt to collect data and learn about the participant's opinions, beliefs, ideas and experiences. Nieuwenhuis (2007) further contends that interviews are a valuable source of descriptive data that assists a researcher to understand the participant's construction of knowledge and social reality. These 10 face-to-face interviews were conducted with officials in the Commission who deal with land restitution on a daily basis. These people are employed by the Commission and their mandate is to facilitate land claims processes, therefore they hold vast experience of land reform, particularly the restitution. Their expertise was a source of knowledge to the study. According to Welman et al. (2005:165-167) and Nieuwenhuis (2007:87), interviews are differentiated into three type, namely, structured, semi-structured and unstructured interviews.

Structured interview*:* this is where a researcher is expected to use an interview as per scheduled structured questions. This type of interview generally inhibits probing and is

normally used when a researcher is targeting a large number of respondents (Nieuwenhuis, 2007:88: Welman et al., 2005:165).

Semi-structured interview: in general, a researcher utilises semi-structured interviews in order to gain a detailed picture of a participant's beliefs about, or perception or accounts of, a particular topic (De Vos et al., 2011:351). Scholars such as Collins (1981) argue that this method gives both a researcher and participant much more flexibility. With the semi-structured interview, the researcher will have a set of predetermined questions on an interview schedule, but the interview will be guided rather than dictated by the schedule. De Vos et al. (2011:352) further contend that in this method, participants share more closely in the direction the interview takes and can introduce an issue the researcher had not thought of.

Unstructured interview: also known as in-depth interviews. Collins (1998:1) states that the dichotomy between "structured" and "unstructured" is misleading. The author further posits that unstructured interviews are conducted without utilising any of the researcher's prior information, experience or opinions in a particular matter. Unstructured interviews are, in most instances, spread over a period of time and are serialised. The researcher is, however, cautioned not to rely entirely on single sources and in cases where they do so, the information needs to be verified with other sources for authenticity (Nieuwenhuis, 2007:87).

Semi-structured interviews largely informed the study, which permitted the researcher to obtain guided responses while at the same time allowing interviewees to volunteer as much information on the subject under discussion as possible. The researcher prepared scheduled questions for different key informants, including employees in the National department, particularly the Commission. These scheduled questions acted as mere guidelines, as in most cases follow up questions were asked of interviewees. Semi-structured interviews were deemed suitable in this study purely because of their flexibility; they allowed the researcher to gain as much insight as possible while spending a reasonable time on each interviewee. In this study, 40 people from various directorates were interviewed about land restitution.

4.5.4. Validity of interviews

The researcher used a tape recorder where permission was granted, as this allowed the researcher to compare what was captured by pen during interviews. The researcher also solicited assistance with the capturing of information that the interviewees were giving. In other words, two scribes were taking notes, which were then reconciled at the end of each day to ensure that there was accuracy in the information-capturing process. Occasionally the researcher had to conduct a follow-up interview to have unclear areas clarified. This was done mostly with the key informants in the study.

4.6. SAMPLING

Sampling involves making a decision about which people, settings, events or behaviour to include in the study. Strydom (2011:222) defines a sample as a portion or a smaller number of units of a population as representatives or having the particular characteristics of a total population. Researchers will need to decide how many individuals, groups or objects will be observed. Maree and Pietersen (2007:172) further contend that samples need to be random and representative of the population being studied.

4.6.1. Sampling size

Johnson (2014:156) and Goddard and Melville (2001:35) reckon that sample size is a huge problem for probability samples, as the sample size has to be adequately large so that others researchers can determine how likely it is that the results are a reasonably accurate reflection of the population being studied. However, sample size is not an issue when working with non-probability samples as whether the sample size is large or small does not make the results generalisable to the entire population (Johnson, 2014:156). For probability samples, the sample size is determined by the following three factors:

- size of the population
- the level of confidence
- precision

Table 10: A guide to selecting a sample size

POPULATION SIZE	SAMPLE SIZE
10	10
50	44
100	80
200	132
250	152
500	217
700	248
1 000	278
3 000	341
50 000	381
100 000+	384

Source: Krejcie & Morgan (1970, as cited in Johnson, 2014)

4.6.2. Methods of sampling

There are two main methods of sampling, namely, random sampling (also called probability sampling) and purposive sampling (also called non-probability sampling). Bertram and Christiansen (2014:60) argue that these mentioned sampling methods can be stratified and further that a third approach to sampling is the very pragmatic convenience sampling.

Probability sampling methods are based on the principle of randomness and probability theory, whereas non-probability methods are not.

Table 11: Probability and non-probability sampling

PROBABILITY SAMPLING	NON-PROBABILITY SAMPLING
SIMPLE RANDOM SAMPLING	Convenience sampling
SYSTEMATIC SAMPLING	Quota sampling
STRATIFIED SAMPLING	Accidental sampling
CLUSTER SAMPLING	Dimensional sampling
	Target sampling
	Sequential sampling
	Key informant sampling
	Spatial sampling
	Snowball sampling
	Purposive sampling

Source: Author (contributions from Maree & Pietersen, 2007:172; Strydom,2011:222)

These types of sampling can be utilised, depending on the nature of the study and the type of research paradigm chosen by the researcher. For the purpose of this study, the researcher chose purposive sampling. The researcher will interview 40 participants from the Commission. The total population is 66 officials; the 40 were chosen on the basis of their experience and the line of work, for instance, this 40 is inclusive of projects officers, officials from operations, legal units and the National Research Unit. The Finance and Human Resource Department are excluded because they do not possess relevant experience, thus they do not on a daily basis deal with land claims processes but rather they are support staff. Ten claimants were also interviewed, and 20 questionnaires were distributed to claimants who are beneficiaries of land restitution. A brief discussion of sampling methods is provided below.

4.6.2.1. Convenience sampling

According to Bertram and Christiansen (2014:60), convenience sampling means choosing a sample that is easy for the researcher to reach. Burger and Silima (2006:92) say this is also referred to as accidental or availability or haphazard sampling. In this case, the researcher utilises his or her experience to choose participants. Samples that are drawn through convenience sampling are in most cases biased (Strydom, 2011:232). Convenience sampling is not random nor is it driven by a particular purpose.

4.6.2.2. Cluster sampling

According to Johnson (2014:153), cluster sampling is a multi-step approach to select a random sample when a complete listing of the population does not exist. In cluster sampling, the researcher subdivides the population into subgroups and then clusters them (Goddard & Melville, 2001:37).

This is the type of sampling where the researcher relies on his or her expert judgment to select units that are representative or typical of the population (Burger & Silima, 2006:93). The authors further admit that this type of sampling yields more sampling errors than other probability sampling methods; however, they argue that it can be both time saving and cost effective.

4.6.2.3. Stratified sampling

According to Bertram and Christiansen (2014:61), stratified sampling is used when the research population consists of subgroups who may have different opinions or experience of the world. In this method it is important that the sample should be inclusive of all the subgroups of the population.

4.6.2.4. Purposive sampling

Purposive sampling means that the researcher makes specific choices about which people, groups or objects to include in the sample (Bertram & Christiansen, 2014:61). These authors further contend that in this type of sampling, the researcher targets a specific group knowing very well that the group does not represent a wider population, it simply represents itself. Niewenhuis (2007:79) states that in some cases, a researcher needs to adopt stratified purposive sampling where he or she selects participants according to preselected criteria relevant to a research question. However, this method may result in serious flaws that may affect the validity of the conclusion but it could work well if carefully and correctly used.

There are 66 officials working in the Gauteng Regional Land Claims Commission at different salary levels (subject to change, depending on new appointments). Both purposive and convenience sampling were used to randomly identify participants, taking into account the age, gender, occupation and other personality traits. Purposive and convenience sampling were used because of time, costs, unavailability of a sampling frame, some of the participants not having time to respond, others being dubious about the motive of the study, while others were busy, and failed to appreciate the value and concepts. In practical terms, the two sampling methods were chosen due to their practical value, given the constraints that the research faced.

Group interviewed

The sample of the population that will be interviewed will include the following:

- operation directorate from the Gauteng Regional Land Claims Commission, i.e. the operational unit entrusted with the responsibility to investigate land claims.

- national research unit at national office.
- office of the Chief Land Claims Commissioner.
- office of the Regional Land Claims Commissioner.
- claimants who are beneficiaries, in order to solicit their views regarding the Restitution claim.

4.7. DATA ANALYSIS

Raw data is meaningless unless it is analysed and interpreted and deductions made from it. Mouton (1996) reckons that the analysis of data also implies that the research undergoes the imperative phase of the study, which means that the unprocessed data should enable us to deduce something in relation to the hypothesis of the research topic. In this instance, the data was analysed in accordance with the research topic.

Welman et al. (2005:211) assert that collected data needs to be analysed using appropriate procedures, therefore the authors argue further that it is after the analysis and interpretation of data that a determination is made of whether the proposed hypothesis can be accepted or rejected.

In this study, analysis of both primary and secondary data was done qualitatively using various methods such as content analysis and interpretivism to augment analysis. The researcher consulted various official documents and policies on land reform, particularly the restitution, while data was collected from interviews needed to be interpreted to argue or dispute findings.

4.8. ETHICAL CONSIDERATION

More often than not, researchers work independently and possess a certain degree of freedom in designing and executing research projects. However, the need to recognise research ethics remains critical. According to Cooper and Schindler (2003:120), ethics are norms or standard of behaviour that guide moral choices about behaviour with others. The involvement of *homo sapiens* as objects of the study in the Social Science brings with it peculiar ethical problems that are not precisely relevant in the Natural Sciences, but this is not to say that there are ethical issues.

Brynard et al. (2014:94) define research ethics as what is right and wrong in conducting research. Ethical considerations were observed during this study, especially in the collection of primary data. According to Clapper (2004:106), the study should not violate human rights: participation is voluntary, and participants need to sign an informed consent form to ensure understanding, confidentiality, voluntary participation and termination of participation, anonymity, the purpose of the study, and the rights of the participants are respected. When questionnaires are involved, the researcher should use informed consent letters, and participants need to complete and sign an ethics declaration to indicate their awareness and understanding of ethical implications.

The cardinal ethical consideration in social sciences is that data should not be obtained at the expense of human beings. Common ethical consideration that need to be observed in carrying out research include the following:

- voluntary participation.
- informed consent.
- Confidentiality.
- Honesty.
- lack of plagiarism.
- no falsification of results (Strydom, 2011:116-126; Welman et al., 2005:182-183; Brynard et al., 2014:95-96).

The nature of the study required that the researcher be familiar with these. The researcher made all efforts to ensure that all ethical procedures pertinent to this research are adhered

to. Permission from the TUT Faculty of Humanities Research and Ethics Committee to conduct a study was sought and granted. The Department of Rural Development and Land Reform granted the researcher permission to conduct a study in the Commission on Restitution of Land Rights. A letter to this effect was signed by the Director General of the Department. With regards to interviews, a permission-seeking letter written by the researcher and the study leader was sent to the Commission. Questionnaires were accompanied by covering letters that informed participants about the aims of the research and what is expected of them.

The researcher ensured that results gathered were captured and analysed without falsification. The findings of this study are limited to the Regional Pretoria Office of Restitution. However, if there are other Commission regional offices experiencing similar problems, they may conduct a study of a similar nature. After observation of the above, the researcher was satisfied that the research was carried out in a manner that was of a required standard.

4.9. CONCLUSION

This chapter has discussed various research designs, methodology, instruments of collecting data, as well as ethical considerations. The research has succinctly justified choices made on various aspects of research process. The researcher chose a purposive sampling method due to the nature of the study, and reasons were provided. Questionnaires and interviews were utilised as a method of collecting data. The group to be interviewed were also succinctly articulated. The research philosophies that guided the study and shaped the thinking and objectives were succinctly articulated in this chapter. The chapter discussed the sampling and data analysis adopted by the study. Having thoroughly discussed the various methodology aspects, the following chapter presents some of the finding of the study.

CHAPTER 5

PRESENTATION AND ANALYSIS OF DATA

5.1. INTRODUCTION

The purpose of this chapter is to present, interpret and analyse data collected through questionnaires and face-to-face interviews. Analysis of text and other forms of data presents a challenging task for qualitative researchers. Creswell (2013:179) supports the argument. He wrote that analysis and presenting of text in a qualitative approach involves organising the data, conducting a preliminary read-through of the database, and coding and organising themes. In the study, the researcher utilised a qualitative approach. This approach allows a researcher to adopt a person-centred and holistic perspective that results is the generation of rich knowledge and participant insights.

5.2. BACKGROUND OF THE STUDY

De Vos, et al., (2005) wrote that the aim of a qualitative research study is to produce findings on a participant's feelings, perceptions, attitudes, and values regarding a particular phenomenon. Cloete (2007:513) supports the argument by stating that data gathered by the use of qualitative techniques is utilised to govern the research. The main purpose of this study was to assess the efficacy of land restitution in an attempt to draw lessons for South Africa regarding the nature of the backlog in settling land claims. Below are the research questions:

- What is the nature of the backlog problem in settling land claims in the Gauteng Regional Land Claims Commission?
- To what extent is the Land Claims Court aiding or derailing the land claims process?
- Does the CRLR institutional arrangement have an impact on the rate of settling land claims?
- What would be an ideal model for land restitution in South Africa?

Data was collected through a qualitative research approach that employed unstructured interviews and questionnaires with open-ended questions as data collection methods. The research employed the two methods mainly because the intention was to provide a platform for participants to express their own opinions, feelings and views regarding the land restitution process in South Africa. Ten officials and five land claimants were interviewed. The researcher experienced a challenge in finding officials to interview because they were busy with official work.

5.3. DATA COLLECTION EXPERIENCES

In this study, data was collected through distribution of questionnaires and face-to-face interviews. Appointments were arranged with 40 officials in the Department of Rural Development and Land Reform, particularly the restitution branch, as discussed in the previous chapter. In consultation with the officials, both the researcher and officials chose a conducive environment convenient to the officials and with little distraction. The researcher also telephonically arranged interviews with land claimants at a place convenient to them. Prior to interviews, the researcher asked the participants for permission to record the interview and in a case where they refused, their right was respected by the researcher. Permission and consent were given to the research and the interview was conducted in a language of their preference. The researcher experienced the following problems when conducting research:

- travelling costs.
- officials too busy to participate in the study.
- officials not having time to respond to the questionnaires distributed.
- officials hesitant to participate because of fear of victimisation.

5.4. ANALYSES OF DATA IN QUESTIONNAIRES

Data was collected through the use of interviews, questionnaires and surveys. Forty questionnaires were distributed to officials in the Commission and a total of 22 were returned from participants. Twenty questionnaires were distributed to claimants who are

beneficiaries of land restitution and 10 questionnaires were returned. Ten officials and five land claimants were interviewed. Responses to the questions have been qualified, categorised and subjected to thematic analysis. Section A of the question asked for the personal details of respondents, including the number of years and months they had worked for the Commission. Section B was the actual content required regarding the pace of the land restitution process.

Section A: personal details of respondents

Particularly in this subsection, the researcher sought personal details of the respondents. This information is presented in the schemata below, followed by the synthesis of findings.

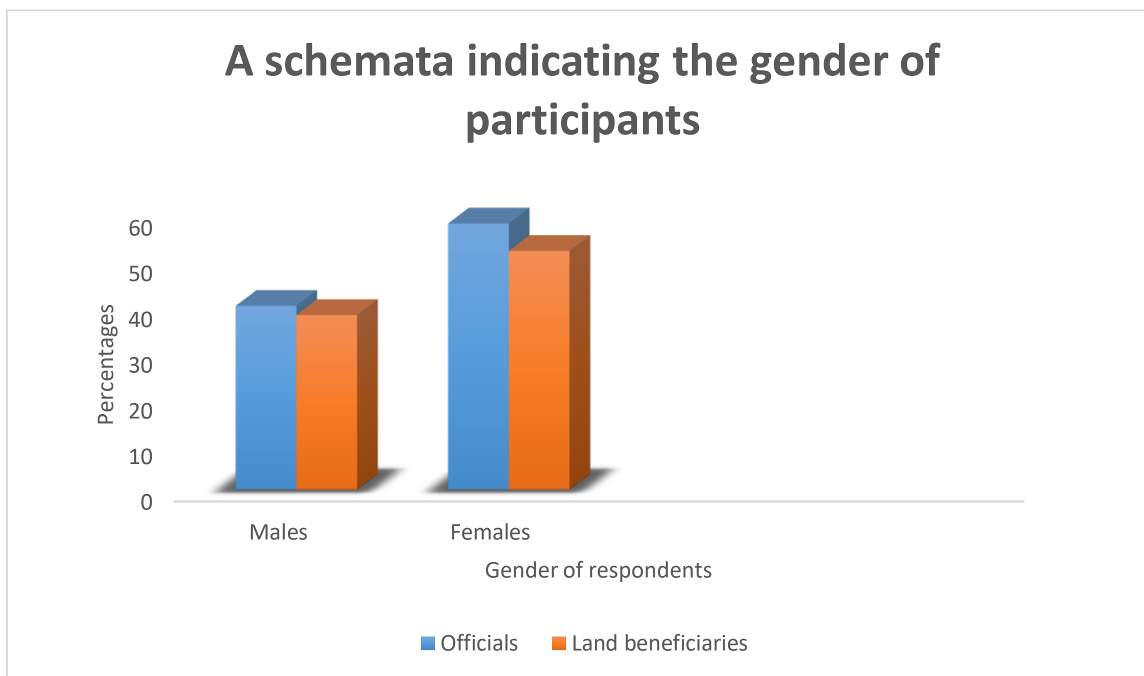


Figure 6: Composition of sample by gender group

Figure 6 illustrates an equal representation of gender in the study; 55 percent were males and 45 percent were females; 60 percent were male claimants and 40 percent were female. The above illustration indicates that both genders were evenly represented in the study. These include both officials at the Commission and land beneficiaries.

5.5. DEMOGRAPHIC DATA

The targeted group of people for the purpose of this study included the operations directorate of the Gauteng Regional Land Claims Commission (i.e. this is the operational unit and is entrusted with the responsibility of investigating land claims) excluding the support division, the National Research Unit at National Office, the Office of the Chief Land Claims Commission, and Office of the Regional Land Claims Commission. Twenty claimants who are beneficiaries were selected but only five were interviewed. The participants were both male and female. The participants varied in terms of age, marital status, employment status, religion and their level of education. The table below presents the employment status of land beneficiaries.

Table 12: Occupation status of land beneficiaries

Employment status	***Frequency***	***Percentage***
Unemployed	10	40%
Self-employment	6	10%
Civil servant	0	0
Pensioner	15	50%
Other (please specify)	0	0
Total	31	100%

Source: Own compilation based on the 2018 data

The table above reveals that 40% of the land beneficiaries that participated in the study were unemployed, 10% were self-employed (conducting informal business as a means to generate income for their households), while 50% were pensioners and depended on state grants. The figures above are a clear indication that land reform in South Africa is a panacea to many societal and economic ills, particularly in the black nation. This synoptic proves the skewed distribution of land ownership patterns in South Africa, showing that land is still in the hands of the white elite. The majority of black people who were dispossessed of their land are now illiterate pensioners and some have passed away

therefore their direct descendants have claimed the land on behalf of their forefathers. The bar graph below displays the level of education of land beneficiaries.

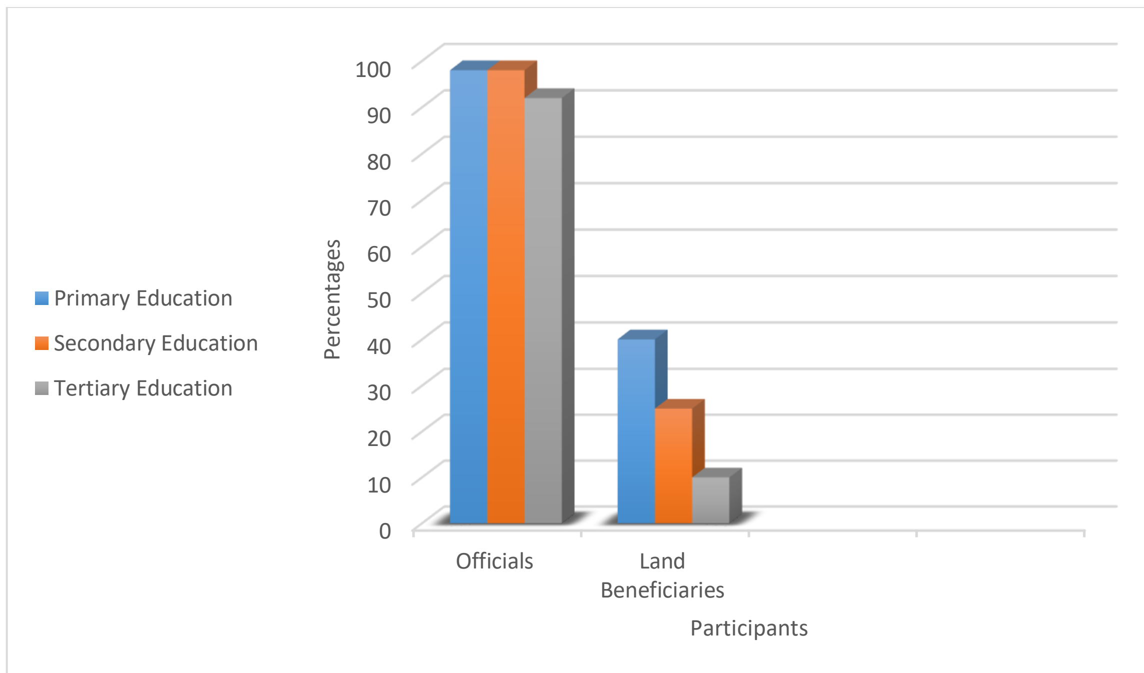


Figure 7: Graph showing the level of education of participants

Figure 7 shows that 98% of officials have a tertiary education. The data above seeks to validate that indeed the officials are equipped with the education needed for the purpose of carrying out their official duties. On the other hand, 40% of land beneficiaries possess only a primary education, 25% hold a secondary education and 10% have a tertiary education.

5.6. GENERAL ASSESSMENT OF THE EFFICACY OF LAND RESTITUTION

The first objective of the study was to critically establish the nature of the backlog in settling land claims. The section below discusses primary data collected from officials and land restitution beneficiaries. The data analysed and presented is based on respondents' opinions and views of the themes given below.

5.6.1. The causes of backlog in settling land claims

Relating to the challenges of settling land claims dating back as far as the first cut-off date, 31s December 1998, 22 respondents from the Commission supported the argument raised by many scholars, such as Hall (2014) for instance, that the backlog in the system is caused by the nature of the process of the restitution itself. Respondent 1 postulated that:

> The restitution process itself is tedious and takes time. Land claimants are required to lodge a claim with us as the department, subsequently, follows Rule 3 report which is acceptance of claim for investigation. This is where we are going to determine whether or not the claim lodged comply with section 2 of Restitution of Land Rights Act (Act 22 of 1994). Rule 3 report according to me is a pre-validity report done by the department. After Rule 3 report, we are going to Gazette the claim then subsequently follows a process called "First stakeholders' meeting" this is where we invite all parties affected to discussed the nature of the claim and such meeting is bound to have disputes stemming particularly from the owners of property. They think that the department will forcefully take their land which is not true. This first stakeholders' meeting is carried out in an attempt to bring together affected parties and find an amicable solution regarding the claim. Rule 5 report will then be carried out by the Department. Rule 5 report includes thorough investigation by the Regional Land Claims Commissioner. This process is where we gather outstanding information required in respect of the claim. We do a detail research and determine whether or not compensation was received, determine the amount of such compensation and also determine whether the compensation was properly determined and comparable to the value of the land dispossessed. This process mentioned above takes time and demands adequate staff capacity, which I think is a greater contributor to the nature of the back log in settling land claims.

The above view expressed by an official in the commission is a clear indication that the restitution process needs to be revised. Respondent 2 was a land beneficiary who shared the same sentiments regarding the lengthy process of land restitution. Respondents 2 articulated the following:

> I think the problem with most of our land claims stem from the land restitution processes itself. This process takes time. Some of us lodged a land claim with the department during the period of the first cut-off date. We were taken from pillar to post and ended up resorting to financial compensation

> rather than the actual land after 15 years of lodgment of the claim. I think the land expropriation without compensation is a solution to land reform in South Africa.

The above view from a land beneficiary is an indication that land is not a commodity but rather a need to the black nation in particular but the restitution process is very long and it takes time. Such argument is supported by the views and opinion from an official and land beneficiaries.

Some of the officials also expressed their views regarding the backlog, casting aspersions on the nature of the claimants that they deal with.

> Respondent 3: Untraceable claimants are also a contributor to the nature of backlog in South Africa.

> Respondent 4: There is no archival information regarding the registered land, which also impedes on the process of land restitution.

The study also established that continuous delays are mostly as a result of both disputes from the CRLR and landowners and between the Commission and claimants. Hall (2004) writes that in some cases, the disputes between claimants and the CRLR have risen mainly about the extent of claims or owners have refused to sell or have contested the validity of claims. Lahiff (2001) further argues that the delay is also in the implementation of settlement agreements, for instance, the betterment claim of Keiskammahoek as supported by Hall (2004), that this claim was settled in 16 June 2002 with a value of R100 million where more than two years later, no money had been made available in respect of this claim even to start planning development.

5.6.2. The role of the Land Claims Court

Some participants inclusive of officials and land beneficiaries reiterated the provisions of the Restitution Act (Act 22 of 1994) that the Land Claims Court is an arbitrator that works in the best interests of all affected parties. Some respondents indicated that they experienced disputes with land owners and, as a result, the matter was then referred to the Land Claim Court.

The study asked a claimant the following question: What was your experience with the Land Claims Court and what triggered your claim to be referred to court?" and one claimant responded as follows:

Respondent 1: Land beneficiary

> My claim went through the process of Land Claims Court. The dispute stemmed from the white man (land owner) who refused to work with the department with the aim to resolve the claim, however, the Land Claims Court intervened and my claim was ruled in my favour as I am a direct descendent of people who used to occupy the land.

Respondent 2 was an official articulating the experience of subjecting the claim to the Land Claims court:

> We usually refer claims to the Land Claims Court if there are disputes by land owners. The court will rule on the basis of evidence provided and pass a verdict. I view the court as a catalyst, particularly in claims that have disputes that are beyond our control as officials of the Department (Respondent 2).

The study established that officials in the Commission are advocating that the Land Claims Court is aiding rather than derailing the land claims processes. The study noted that their views seek to purport that the court is assisting particularly in arduous matters where there are disputes between either the claimants and/or land owners. Hall (2004) supports the statement stating that conflicts are more common where land owners have resisted restitution on a political basis, for instance, the Transvaal Agricultural Union assisted landowners to respond to claims through its Restitution Resistance Fund.

Through the interaction of officials, the study established that most claims are referred to the Land Claims Court due to inadequacy of negotiation skills from officials. Jordaan (2004) supports the argument by declaring that the nature of some of these claims requires officials who are empowered to actually say certain things quite clearly to land owners and claimants, particularly during the process of the first stakeholders' meeting.

5.6.3. Organisational arrangement of the CRLR

From the responses given by the commission's officials, it can be realised that the commission's organogram presents a conundrum on the rate of settling land claims. One respondent stated that land is both a political and emotive construct and as such, the government ought to dedicate enough staff capacity to assist the Regional Land Claims Commissioner (RLCC).

The researcher asked the officials "What is the impact of the availability of having one RLCC on land claims processes, considering the fact that the Restitution Act states that the Minister can appoint as many RLCCs as possible?" One official responded as follows:

> The availability of one RLCC who approves all research reports from all provinces is also a contributing factor to the backlog of land claims. The RLCC is not only dealing with research reports but also section 42D and so forth. Therefore, this process is strenuous to one person. The problem also is when he is on leave, who takes over? I suggest that government should amend the Restitution of Land Rights Act (Act 22 of 1994) and give the chief directors who are situated in regions similar powers as the RLCC. That way, the rate of dealing with the backlog will be advanced.

From the findings of the study, it is apparent that officials are proposing that chief directors at regions should be empowered with similar powers as the RLCC in an attempt to deal with the backlog. The officials argue that the RLCC's role should be a final signatory authority but the ground work should be done at the regions and approved by the chief director responsible.

5.6.4. The impact of service providers on the rate of settling land claims

The Restitution of Land Rights Act (Act 22 of 1994) makes provision for the CRLR to appoint a person or organisations (service providers) to assist the Commission on an ad hoc basis. This is done to assist the Commission with necessary expertise in an attempt to expedite the land claims. Section 9(1) of the Restitution Act states that the Chief Land Claims Commissioner may from time to time:

a) appoint one or more persons or organisations with particular knowledge or specific expertise relevant to the achievement of the Commission regarding any matter connected with the performance of its function

b) appoint one or more persons or organisations with specific expertise in relation to dispute resolution to facilitate meetings of interested parties, mediate and settle disputes and report to the Commission in writing on the outcome of such negotiations.

The efficacy of service providers is in the narrative of those who are part of the Commission. Most respondents from the Commission stated that a profuse number of service providers outsourced by the Commission makes less impact and are not well conversant with issues of investigating land claims.

One respondent from the Commission said:

> Most of service providers that we outsourced as the department in order to assist the commission with research and investigation of land claims make way less impact as most of their reports still need to be vetted as they are not in good quality and yet the department pays them a substantial amount of money.

Another respondent from the Commission expressed the opinion in support of the previous statement and said:

> Most of the service providers don't do thorough work and don't really understand what is required of them and how to get the required information, but more important, I feel that these service providers don't understand the restitution process itself and as such, they produce poor quality reports.

The study found that the role of service providers in the commission is having a negative effect on the rate of settling land claims. Most respondents recommended that monetary value should be re-directed to capacitating project officers rather than paying service providers because of the poor quality reports that they produce.

5.6.5. Financial compensation: A panacea to land restitution?

Where land owners are unwilling to sell, the CRLR attempts to settle with farmers who are happy and willing to sell while working on the others (Jordaan, 2004, personal communication). Where land is not available for restoration, settlement agreements are signed and monetary value is paid to a trust account pending the identification of suitable land. However, most of the officials do not view financial compensation policy as a

panacea to restitution but rather a more convenient approach than restoration. One official said the following in support of the statement:

> Frankly speaking, we are failing our people by giving them monetary value. African wealth is measured by land and therefore the more the department give people land it is the more black population is liberated. Our claimants resort to financial compensation for a number of reason, inter alia, they have waited for far too long and as such, they end up opting for financial compensation rather than restoration, because of the disputes emanating from land owners who are not willing to sell, then the claimants opt for monetary value.

Through the above view expressed by a middle level official, it can be realised that financial compensation is not necessarily a solution but rather a means to an end. The above is a clear indicative measure from officials that the black population needs the actual land and not payment. This land, according to the respondents, will solve most of the societal ills, particularly among the black nation. Hall (2016) concurs with the statement. She argues that land reform is a political project that needs to clarify its economic rationale. The author argued further that the land reform in South Africa should be based on the premise of bringing both direct benefits to land beneficiaries and/or indirect benefit to the rural economy. Land reform aims to contribute to economic development by providing households with an opportunity to engage in productive (DLA 1997:17).

The land beneficiaries engaged in the study also agreed that financial compensation did not live up to their expectations.

One land beneficiary said:

> Initially when I lodged a claim, I did not envisage to obtain a monetary value but rather my land. I ended up opting for financial compensation on the basis of fear that I might die without my claim being settled as it protracted for a very long time. The land restitution process made me lose hope hence I was always taken from pillar to post. Lack of constant communication from the department is also what made me opt for monetary value instead of land. However, I put it on record that our dignity has been undermined by the government and my forefathers are not happy hence there is no hope of getting the ancestral land back. I think the concept of land expropriation without compensation will be a solution in South Africa.

Another concern pinpointed by the respondents in the study was the deviation of the land reform process, particularly the restitution, from its original constitutional mandate. They argued that the restitution's mandate emanates from its roots in the attempt to restore land in such a way as to support reconciliation, reconstruction and development, in the process, ensuring historical justice and healing the wounds of the apartheid regime through programmes aimed at eradicating poverty and restoring dignity of the people who were dispossessed of their land. However, the government seems to have deviated from the mandate and focused more on giving claimants monetary value, while on the same note, Lahiff's (2001) contextualisation observes that there is no systematic review of the impact of restitution on the livelihoods of beneficiaries that has been undertaken to date.

5.7. SUMMARY

The qualitative data presentation and analysis has displayed that land reform and land use remain a panacea to societal ills within black communities. Many scholars such as Hall (2008) put forward a potent argument that seeks to advocate the need for land use instead of acquisition only. She argues that if land reform is to be a catalyst for structural change in society and the economy, it ought to change the patterns of investment (capital) and productive land use (land). The participants' views in the study seem to strongly express a paradigm shift, thus, a move away from policy debate that focuses on the question of "How to get the land?" but rather the use of this land, consumption thereof and sales of its product.

The findings of the study postulate that the restitution process is expected by communities to be the response to the demand of the poor people who lost land. Most respondents expressed the view that the restitution programme has been measuring its progress by counting the number of claims settled, which, according to their views, is regarded to be unacceptably few. There also seems to be a growing concern, particularly from the officials, regarding the backlog of land claims. They articulated that the greater contributor to the backlog in the system is untraceable claimants, disputes between land owner and claimants, unavailability of archival information regarding the registered land and the

protracted land restitution process itself. These factors are identified by the study as a major contributor to the slow rate of land claim settlement. The study also established that there is a cry for the need for post-settlement support. Hall (2004) and Masondo (2018) also argue by stating that the CRLR has over time recognised the crucial role of post-settlement support being provided to restitution claimants in an attempt to enable them to utilise the land. The restitution was characterised by its critics during the period 1999-2000 as an approach that perpetuates the interest of the white minority. However, Hall (2004) argued that during the period 1999-2000, there has been a significant shift in the redistribution policy, a hiatus in policy concerning farm dwellers. The author argues further that a trilateral agreement on post-settlement support was concluded between the CRLR, the Land Bank and the National Development Agency in 2002. She states further that this agency provided capacity building while the Land Bank's loan products were considered inappropriate to the needs of claimants.

The study pinpointed a major concern from respondents, namely, the need for an integrated policy from government. Villiers (2003) concurs. Roth et al. (2003, see also Sibanda, 2010) underscore the importance of an integrated policy. They argue that because of the combination of apartheid and colonialism in South Africa, racially-skewed distribution of land and resources left the inhabitants with a complex and difficult legacy to reverse, as the colonisers founded a society that largely survived from agricultural production. In their opinion the government should assist with skills capacity particularly in terms of agricultural activities. The findings of the study also postulate that various government departments need to generate an integrated policy aimed at advancing post-settlement support to those beneficiaries whose land was returned.

The study found that the Commission has deviated from its original mandate, which has caused the backlog in settling land claims. Its mandate, according to the Restitution of Land Rights Act, is to receive and acknowledge claims for restitution, investigate them, mediate and settle disputes then make recommendations to the Minister regarding the most appropriate form of alternative restitution. This deviation of mandate cast aspersions on the integrity and the organogram of the CRLR. The Commission should not engage in appointing conveyancers and post-settlement support, to mention a few as is happening

in reality, but rather, stick to its mandate. Therefore from the findings of the study, it is recommended that the minister establish a restitution unit in the Department of Rural Development and Land Reform responsible for implementing the recommendations of the Commission and providing settlement support. The deviation caused the backlog because the focus has shifted from the original mandate. Furthermore, the study found that the centralisation of power to one RLCC is also the cause of the backlog. The study advocates that there should be decentralisation of power and authority to chief directors at the regions.

As expressed by respondents, land acquisition is not a solution to societal problems but rather it is the use of the land that matters, therefore the study, through its findings, argues that the concept of land expropriation without compensation is largely dependent on investing in a wide range of the strategic sector of society, for instance, decolonisation of the South African education system and giving in-depth focus to agricultural studies, skills capacity, and strengthening the African Union (AU), in an attempt to penetrate the market. The study argues that the government should redirect resources to post-settlement support.

5.8. THE PROPOSED COMPREHENSIVE MODEL OF LAND RESTITUTION IN SOUTH AFRICA

South African history is tainted by the plight over land. The on-going debate in the political discourse in South Africa recently is the concept of land expropriation without compensation. The respondents' views seek to contextualise the South African land restitution process as an approach that should focus on redistributing rights in land for the benefit of the poor, landless, tenants and farm labourers. In adding to the argument, Ghimire (2001:3) and Lahiff (2007) state that the South African land restitution programme should encapsulate a significant change in agrarian structure, resulting in the increase of access to land by the rural people and security of land rights.

Functions of the Commission

Section 6 of the Restitution of Land Rights Act proffers the general functions of the Commission. Section 6(2) states that the Commission may, at a meeting or through the Chief Land Claims Commissioner, regional land claims commissioner or a person designated by any such commissioner:

a. monitor and make recommendations concerning the implementation of orders made by the court under section 35.
b. make recommendations or give advice to the Minister regarding the most appropriate form of alternative relief, if any, for those claimants who do not qualify for the restitution of rights in land in terms of this Act.
c. on notice of interested parties, apply to the court for a declaration order on a question of law as contemplated in section 22(1)(c).
d. ensure that priority is given to claims that affect a substantial number of persons, or persons who suffered substantial losses as a result of dispossession, or persons with particularly pressing needs.
e. generally, do anything necessarily connected with or reasonably incidental to the expeditious finalisation of claims.

The backlog is caused by the fact that the Commission is engaging on matters that it is not supposed to, such as post-settlement support. The model strongly suggests that the Minister of the Department of Rural Development and Land Reform should establish a Restitution Unit within the Department that will be solely responsible for implementing the recommendations of the Commission.

Powers of the Minister

Section 42 (d) of the Restitution of Land Rights Act proffers the powers of the minister:

1. If the Minister is satisfied that a claimant is entitled to restitution of a right to land in terms of Section 2 of the Restitution of Land Rights Act, and that the claim for such restitution was lodged not later than 31 December 1998, he or she may enter into agreement with parties who are interested in the claim providing one or more of the following:

a) the award to the claimant of land, a portion of land or any other right in land, provided that the claimant shall not be awarded land, a portion of land or right in land disposed from another claimant or the latter's ascendant, unless:

   i) such other claimant is or has been granted restitution of a right in land or has waived his or her right to restoration of the right in land in question

   ii) the Minister is satisfied that satisfactory arrangements have been or will be made to grant such other claimant restitution of a right in land

b) The payment of compensation to such claimants.

c) Both an award and payment of compensation to such claimants.

The above provisions of the Restitution Act serve as proof that it is the Minister that is responsible for post-settlement support and not the Commission. The function of the Commission as per the provisions of the Act is to investigate and make recommendations to the Minister, therefore the model further suggests that the Minister of DRDLR should established a restitution unit in the Department that will be responsible for the implementation of the recommendations of the Commission.

Rules regarding the procedure of the Commission

The Rule 3 report, the acceptance of a claim for investigation, is necessary. The Restitution Act in terms of Rule 3 states that:

1. a regional land claims commissioner having jurisdiction over the land in respect of which a claim is instituted shall accept the claim for investigation where he or she is satisfied:
   a) subject to the provision of section 11(2) of the Restitution of Land Rights Act, that the claim was lodged.
      i) substantially in the form of Annexure A, together with such additional documents as are relevant to substantiate the claim.
      ii) with any regional offices or head office of the omission not later than 31 December 1998.

b) that the claimant has reasonable grounds for arguing that the claim meets the criteria set out in section 2 of the Restitution Act.

c) that the claim is not frivolous or vexatious, whereupon he or she advises the claimant accordingly.

The current steps of restitution are as follows:

- **Phase 1: Lodgement and registration**

This phase considers claims lodged no later than 31 December 1998. An acknowledgement is issued. The Restitution Act 22 of 1994 states that

> Any person who or the representation of any community that is entitled to claim restitution of a right in land, may lodge such claim that shall include a description of the land in question, the nature of right in the land and the nature of the right or equitable redress being claimed on the form prescribed for this purpose by the Chief Land Claims Commissioner.

- **Phase 2: Screening and categorisation**

This is a phase where compliance with the Restitution of Land Rights Act is checked and missing information established. It is during this phase that field research is conducted.

- **Phase 3: Determination of qualification in terms of section 2 of Restitution of Land Rights Act**

Research claims found not qualifying are subjected for publication in the *Government Gazette* and relevant newspapers then claimants and other parties are informed accordingly.

- **Phase 4: Negotiations and mediations**

  This phase includes negotiations on the settlement of the claim, including land valuation and determining the negotiation process. A research report is produced after the completion of the investigation. Various options are presented to assist claimants in making an informed choice, i.e. choosing between financial compensation or alternative land.

- **Phase 5: Settlement**

  In this phase, agreements are signed in terms of section 42D ministerial approval or a court order by the Land Claims Court.

- **Phase 6: Finalisation of settlement**

  This phase includes acquisition and transfer of land, payment of financial compensation and/or payment of a grant.

- **Phase 7: Post-settlement support**

  A business plan is prepared, hand over to post-settlement support, and monitored for compliance with section 42D settlement agreement or a court order.

A model was devised by the researcher based on existing literature and was tested using interviews with key informants, distribution of questionnaires, and secondary data as instruments of data collection. The objective of the study was to assess the efficacy of land restitution in an attempt to draw lessons for South Africa regarding the nature of backlogs in settling land claims. Figure 10 highlights a synopsis of the proposed model of land restitution in South Africa.

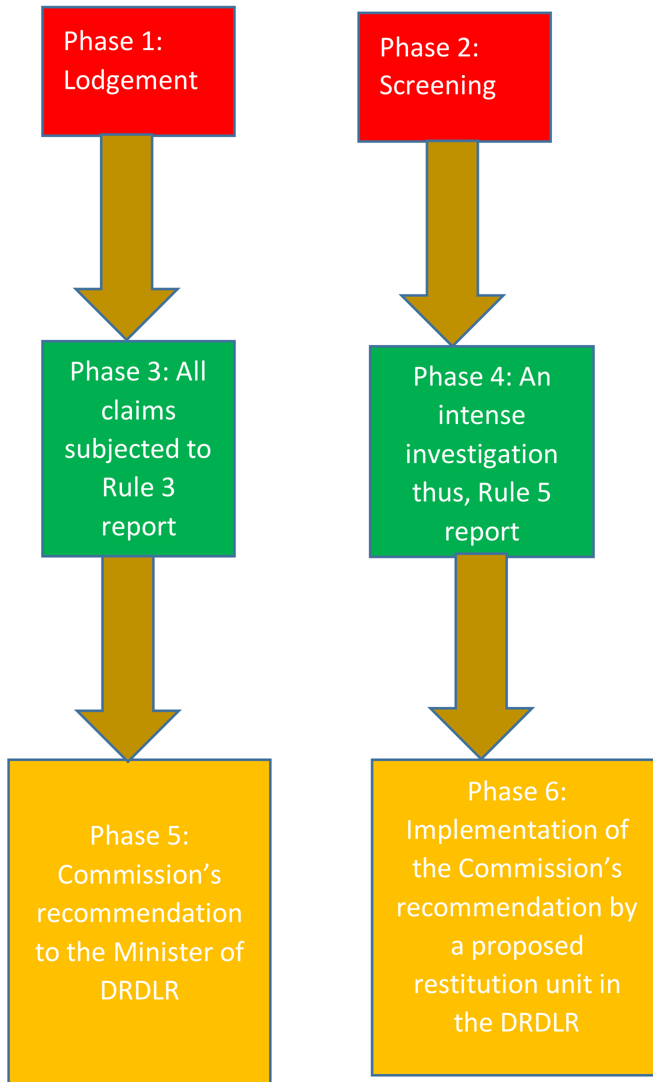


Figure 7: the proposed model of land restitution in South Africa

Models, according to Cloete and De Coning (2011) and Brynard at al. (2014) simplify reality and assist people to comprehend the world better. The model above, which emanates from the evidence gathered by the researcher presented in the findings of the study simplifies and expedites the land restitution process.

According to the findings of the study, the officials in the Commission criticise the process of land restitution, arguing that it is long and tedious. However, the model argues that the officials are criticising their own processes, which are as a result of the deviation from the mandate of the Commission enshrined in the Restitution Act.

According to the model above, the function of the Commission should be to investigate land claims and provide recommendations to the Minister. The Commission should not engage in the post-settlement process, and appointment of land conveyancers transfer of land should not be the function of the Commission. The reason for the slow rate of land claims is because the Commission has deviated from its original mandate.

The Commission on Restitution of Land Rights was established to fulfil a constitutional imperative, namely, to provide redress to those South African inhabitants who were disposed of land as a result of discriminatory laws and/or practices (CRLR Annual Report 2016/2017). The CRLR was established as an autonomous institution enacted by the Restitution of Land Rights Act (Act 22 of 1994) to solicit land claims, investigate them and attempt to resolve them through negotiation and mediation.

The mandate of the Commission of Restitution on Land Rights emanates from section 25(7) of the Constitution of South Africa, 1996, which postulates that "a person or community disposed of property after the 19 June 1913 as a result of past racial discriminatory laws or practices is entitled, to the extent provided by an Act of parliament, either to restitution of that property or to equitable redress".

The model further proposes a decentralisation of authority to chief directors to sign and approve all claims in the region up to a certain amount of money, for instance, R500 000. All claims in that range can be approved and signed off by the chief director at the regions. However, claims beyond the set threshold can be directed to the Regional Land Claims Commissioner. This will assist to expedite the backlog in the system. This model is thoroughly explained in the previous chapter.

The model proposes that the Rule 3 report is important and should be conducted by the Commission. The Rule 3 report is the procedure of ensuring compliance of the claim with section 2, which is the entitlement to restitution. The model proposes that the Commission institute a Rule 3 report to all the claims at once because this is the simple process of screening the claims and discarding those that, according to the Restitution Act, are not entitled to restitution. This process is not tedious and should not take long. Once all claims that comply with the Act have been screened and set aside, through the process of Rule

3, they should be subjected to the Rule 5 report, which is the intense investigation of the claim. However, the model proposes that the Commission should screen all the claims lodged and sift through those that do not qualify. This will assist the commission to discard claims that are frivolous and vexatious and as a result, expedite the pace of land restitution.

To sum up the discussion, the model proposes that the Minister of the Department of Rural Development and Land Reform should establish a restitution unit with the Department that will be responsible for:

1. post-settlement support.
2. appointing land conveyancers.
3. transferring the land.
4. negotiating with land owners.
5. purchasing the land.

The above is been done by the Commission which, according to the Restitution of Land Rights Act, is not the function of the Commission. This explains the backlog faced by the Commission, because the Commission has shifted its focus to matters that are not its function to deal with. Generally, all commissions, such as the Zondo Commission on State Capture, the Marikana Commission of Inquiry and the Commission on Fees Must Fall, to mention a few, have a sole mandate, which is to investigate facts and make recommendations, therefore this proves that the Commission on Restitution of Land Rights is failing to uphold its mandate, which is to investigate claims and make recommendations to the Minister. However, the Commission is currently focusing on issues of post-settlement support, appointing conveyancers and buying the land, which according to the restitution Act, are not the functions of the Commission. This explains the backlog because the focus has shifted.

5.9. CONCLUSION

In this chapter, data was collected through the use of interviews, questionnaires and surveys. Forty questionnaires were distributed to officials in the Commission and a total of 22 were return from participants. Twenty questionnaires were distributed to claimants who are beneficiaries of land restitution and 10 questionnaires were returned. Ten officials and five land claimants were interviewed. This chapter presented the aim of a qualitative research study, which is to produce findings on participants' feelings, perceptions, attitudes, and values regarding a particular phenomenon. The responses provided were analysed against the questions asked in the questionnaire, together with the interview made during the collection of data. Summary of recommendations and conclusion will be dealt with in detail in the next chapter.

CHAPTER 6

RECOMMENDATIONS AND CONCLUSION

6.1. INTRODUCTION

The study is of both academic and practical value. Its academic value lies in that it broadens the knowledge of land reform, particularly in comparing experiences of Zimbabwe, Namibia and South Africa. It is practical in that it voices the views and exposes the challenges of land reform in an attempt to generate an alternative model for land reform in South Africa. The main purpose of the study was to assess the efficacy of land restitution in an attempt to draw lessons for South Africa regarding the nature of the backlog in settling land claims. The preceding chapter presented findings and analysis of the study. This chapter presents a summary of the findings, and provides recommendations based on the findings. This chapter will also present conclusions drawn from the same findings, in line with the objectives of the study.

6.2. SUMMARY OF PREVIOUS CHAPTERS

The first chapter introduced the contextual setting of the study and gave an overview of the historical background of land dispossession, provided a problem statement, research questions and objectives of the study, research methodology, research design, ethical considerations, limitations of the study, and the sequential arrangement of chapters was also outlined. The research problem assumed to assess the efficacy of land restitution in an attempt to draw lessons for South Africa regarding the nature of the backlog in settling land claims. The researcher also devised research objectives to assist and complement the research question provided in the first chapter. The background of the study critically influenced the philosophy of the study.

The second chapter situated the study in the mainstream discourse on the land reform process by clarifying concepts and providing literature that made up the essence of the object of the study. Chapter 2 focused on providing a direct and detailed literature review

regarding the policy framework that constitutes the pragmatic implementation of land reform. The chapter further concluded by detailing the role of the state in managing land as a resource and provided a current review of empirical studies on land reform in South Africa.

Chapter 3 contextualised experiences of land reform in Zimbabwe and Namibia with the aim of drawing lessons for South Africa in the light of the ongoing debates on the land reform options. The chapter also gave a brief background of the impact of colonialism and apartheid that led to land dispossession, and ultimately the conclusion was that each country needs to adopt its own land reform model. This chapter asserted that land reform is a global phenomenon that affected a whole range of countries even outside the peripheries of Africa. Furthermore, the chapter juxtaposed realities in an attempt to draw recommendations and conclusions of the study.

The fourth chapter discussed the research methodology and research design and procedures utilised in the study. The chapter provided generic information on qualitative and quantitative research methodology and stated the research methodology that largely informed the praxis of the study was a qualitative approach. This chapter also provided details on the selection of the population for the study and the criteria used. Furthermore, a description of sample selection and sampling procedures and qualitative and quantitative instruments used is provided. In addition, ethical considerations requiring approval for the research instrument by the Tshwane University of Technology Research Ethics Committee is included in this chapter.

Chapter 5 presented, interpreted and analysed data collected through questionnaires and face-to-face interviews. In the study, the researcher utilised a qualitative approach, which allows a researcher to adopt a person-centred and holistic perspective paradigm that results in the generation of rich knowledge and participants' insights. Data was presented and analysed qualitatively using tables, and descriptive analysis was used to describe phenomena and explain why certain phenomena occurred.

Chapter 6 stresses the main purpose of the study, which is to assess the efficacy of land restitution in an attempt to draw lessons for South Africa regarding the nature of backlog

in settling land claims. This chapter presented a summary of the findings, and provided recommendations based on the findings. The chapter also presented conclusions drawn from the same findings, in line with the objectives of the study.

6.3. OVERVIEW OF THE RESEARCH STUDY

This study is about the assessment of the efficacy of land restitution with special focus on the Gauteng Regional Land Claims Commission. The study sought to determine the nature of the backlog in settling land claims, and in the process, the study had the following objectives:

- To establish the nature of the backlog problem in settling land claims.
- To assess the extent to which the Land Claims Court influences the land claim process.
- To access whether or not the CRLR's organisational arrangement has an impact on the rate of settling land claims.
- To propose a model for land restitution in South Africa.

6.4. SUMMARY OF THE FINDINGS

Based on the empirical findings and analysis in the study, key findings in line with the objectives are outlined below:.

6.4.1. Objective 1: To establish the nature of the backlog problem in settling land claims.

The main objective of the study is to establish the nature of the backlog in settling land claims by the Gauteng Regional Land Claims Commission. The study found that the history that South Africa inherited also contributes to the backlog of land claims. During the transition process in South Africa from apartheid to democracy, deliberate mistakes were committed that impede the restitution process, including the unavailability of archival information, which created a conundrum for the new democratic government in determining whether or not the land belongs to a certain black community whereas it is

registered in the hands of the white elite. The deficit of proper archival information leads to poor record to prove the validity of a claim.

From the findings of the study, it is evident that the untraceable land claimants are also a contributing factor to the backlog. The restitution process requires that claimants lodge a claim with the commission and provide all necessary supporting documents with contact details. However, there are cases where claimants are untraceable and as a result it creates a backlog in the system.

The study also found from both officials and land beneficiaries that the restitution process is onerous and very long, creating a pool of disputes between land owners and claimants. For a claim to be validated, it needs to go through the process of Rule 3, first stakeholders' meeting, and subsequently Rule 5, which according to the officials, takes time and as such, it creates a backlog of land claims.

6.4.2. Objective 2: To assess the extent to which the land claims court influences the land claim process

The second objective endeavored to assess the extent to which the Land Claims Court aids or derails the rate of the land claims process. Through the findings, the study argued that the Land Claims Court is not a contributing factor to the backlog but rather it expedites the process, particularly in cases where there are disputes. The court is autonomous, and as such it rules in favor of the party entitled to the land. This process is done mainly where there are disputes beyond the prerogative of the CRLR. Hall (2016) concurs that the court assists in arduous cases mainly where there are disputes between land owners and claimants. According to Roth et al. (2004), the possibilities and advantages of the disputes resolution method in addressing conflicts over land are eminent in the present South African land reform debate. The authors further wrote that adjudicating land claims that are interconnected with colonial and apartheid history, racial discrimination or custom and culture, are often central to legal redress. The study argues that particularly where there are disputes, the possibility of finding solutions and securing rights in land lies with the court processes, therefore the study can conclude by stating that the court aids in the rate

of settling land claims. It must be emphasised that, based on the evidence in this study, the Land Claims Court is therefore a necessary institution in the settling of land claims.

6.4.3. Objective 3: To assess the impact of organisational arrangements on the rate of settling land claims

The third objective was to access the impact of CRLR arrangements on the rate of settling land claims. The study found that there is one Regional Land Claims Commissioner (RLCC) responsible for all nine provinces and as such this derails the rate of settling land claims. There is also a cry from officials to decentralise power and authority to chief directors in the regions in an attempt to deal with the backlog. The study therefore argues that the availability of the one RLCC is also a contributing factor to the problem of the backlog, hence, Yates (2004) explains that the slow pace of settling land restitution claims is as a result of staff capacity. The study therefore recommends the amendment of Restitution of Land Rights Act (Act No. 22 of 1994) in an attempt to provide similar powers to those of the RLCC to validate and approve claims, as this will deal with the backlog in the system.

6.4.4. Objective 4: To propose a model for land restitution in South Africa

The objective and vision informing land reform in South Africa have changed drastically over time. The finding of the study indicates that both officials and beneficiaries demand the need for properly planned land expropriation without compensation as an alternative model to land reform. This much is influenced by the premise of the Freedom Charter, which states that land shall be shared among those who work it. The concept of land expropriation without compensation has been a very topical issue in South Africa's political discourse. Masondo (2018) puts it that the ANC's 54th National Congress took a resolution to expedite the land reform process by introducing the concept of land expropriation without compensation. However, in as much as the study advocates for this concept, it also recommends that proper and clear governance structures in line with the ANC's resolution on the democratisation of land allocation and use, should be put in place.

The study also found that land expropriation without compensation is derived from the premise of the Freedom Charter which states that:

> Our people have been robbed of their birthright to land and South Africa belongs to all who live in it black and white and therefore land shall be shared among those who work it. It further says that the state shall assist the peasants with implements, seeds, tractors and dam to save the soil and assist the tillers. Forced labour on farm prison shall be abolished and freedom of movement shall be guaranteed to all who work the land (ANC Freedom Charter, 1995)

However, the study argues that land expropriation without compensation in South Africa is a function of the politics of the balance of power between contending forces, but so far it is characterised by its critics as a panacea to land reform problems. The National Parliament in South Africa has adopted a motion towards the possibility of amending the 1996 Constitution of South Africa with regards to land expropriation without compensation and the matter has since been referred to the Constitutional Review Committee (Masondo, 2018).

The study proposed a comprehensive model of land restitution. The model is devised on the basis of the data collected by the research. The model proposes that the Minister of the DRDLR should establish a restitution unit in the Department that will be responsible for the implementation of the recommendations of the Commission. The model further proposes a decentralisation of power authority to chief directors to sign and approve all claims in the region up to xR500 000. All claims at that range can be approved and signed off by the chief director at the regions, but claims beyond the set threshold can be directed to the Regional Land Claims Commissioner. This will assist to expedite the backlog in the system. This model is thoroughly explained in the previous chapter.

6.5. RECOMMENDATIONS

Considering the above findings and discussions, the study recommends that the Minister of the Department of Rural Development and Land Reform should establish a Restitution Unit in the Department that will deal with the implementation of the recommendations of the Commission. This unit should also focus on providing post-settlement support after

land has been transferred to the beneficiaries. Post-settlement support is of utmost importance, especially to beneficiaries whose land was returned. Hall (2016) supports the statement by arguing that joint ventures in the context of land reform in South Africa involve partnerships between black people acquiring land or land reform grants and commercial farmers. These arguments emerged particularly because of the impediments to acquiring land at market price and the chronic shortage of operating capital faced by new land owners. The study also recommends a potent financial injection by government in support of new black farmers to equip them with the necessary skills to penetrate the market. The unit should also be responsible for appointing land conveyancers and transfers of land. The Commission's responsibility as per the recommendations of this study should solely be investigation of land claims and making recommendations to the Minister as enshrined in the Restitution of Land Rights Act. The implementation of recommendations should be the responsibility of the Commission.

The study also recommends that there should be decentralisation of power and authority to the chief directors in the regions to carry the similar functions of the RLCC. This much will assist in dealing with the backlog in the system. Furthermore, the study strongly recommends that the Minister of the Department of Rural Development and Land Reform establish a restitution unit that will be responsible for implementing the recommendations of the study. The unit should focus on:

- providing post-settlement support.
- negotiating with land owners.
- appointing conveyancers.
- transferring the land.

The study recommends that the Commission should stick to its mandate as enshrined in the Restitution of Land Act and as discussed in the previous chapter, which is to investigate land claims and make recommendations to the Minister and not engage in matters of post-settlement support, appointing conveyancers and transferring the land as is happening currently. This explains the backlog in the system. Instead, the Commission's mandate should be to investigate and make recommendations to the

Minister, therefore the Minister should establish a restitution unit in the Department that will be responsible for the implementation of the recommendations of the Commission.

6.6. AREAS OF FURTHER RESEARCH

Land reform by its very nature is a dynamic and pragmatic field because the needs and demands of the people change on an everyday basis. Land reform aims to contribute to economic development and therefore it should also focus on the needs and demands of the people. The study proposes that further research regarding the feasibility of the on-going debate on land expropriation without compensation in South Africa should be engaged, and its challenges, prospects and impact explored. Further research could also explore the patterns of land use and production, particularly where land has been transferred with full ownership through land reform programmes, thus, to determine how land is being used in land reform projects and how production is organised in an attempt to ameliorate the skills and livelihood of previously marginalised communities, particularly in commercial farming. Land expropriation is a very topical issue in South and as such, this concept deserves further research regarding the approach of implementation and the impacts involved.

6.7 CONCLUSION

The chapter presented some conclusions of the study. These conclusions were based on the objectives set in the first chapter of the study. In this chapter, summary of previous chapters, conclusions and recommendations were outlined. After presenting a summary of the findings, concluding remarks were given. A conclusion and recommendations were also presented to restate the main aim and sum up the entire purpose of the study. Areas of further research were also outlined. This was informed by the current land debate in South Africa for the better option of land reform in the country. The DRDL, according to the recommendations of the study, should establish a restitution unit to deal with the implementation of the recommendations of the Commission. There should be

decentralisation of powers and authority to chief directors in the regions in an attempt to expedite land restitution claims.

6.8 REFERENCES

Adams, M. & Werner, W. 2001. Land tenure reform and rural livelihood in Southern Africa. *Evolving land rights, policy and tenure in Africa*. London: Oversees Development Institute.

Adams, M.E & Devitt, P.1990. *Grappling with land reform in pastoral Namibia*. Windhoek.

Adams, M., & Howell, J. 2001. Redistributive land reform in Southern Africa. Natural resource perspectives number 64. London: Oversees Development Institute.

African National Congress. 1955. Freedom Charter. Adopted at the congress of the people, Kliptown, 26 June 1955.

African National Congress (ANC). 1992. Ready to Govern. ANC policy guidelines for a democratic South Africa adopted at the National Conference, Johannesburg, 28-31 May.

African National Congress (ANC). 2003. The Reconstruction and Development Programme. 1994. The State and social Transformation (1996): State Property Relations and Social Transformation (1998): Commission on Restitution of Land Rights, Land Restitution in South Africa: Our Achievements and Challenges (26 May 2003).

Aliber, M. & Mokoena, R. 2001. The interaction between the land redistribution programme and the land market in South Africa: A perspective on the willing buyer/willing seller approach: Programme for Land and Agrarian studies. University of Western Cape (Land reform and agrarian change in Southern Africa occasional paper series No. 21).

Aliber M. & Mokoena R. 2002. The interaction between the Land Redistribution programme and the land Market in South Africa. A perspective on willing-buyer/willing-seller approach. Occasional paper no 20. Cape Town.

Andrew, M. & Schackleton, C. 2003. Land use and livelihoods. Evaluating land and agrarian reform in South Africa series, No. 8 Programme for land and agrarian studies, University of the Western Cape.

Andrew, M., Ainslie A. & Shackleton, C. 2003. Land use and livelihood: Programme for land and agrarian studies. University of Western Cape. Evaluating land and agrarian reform in South Africa occasional paper series No. 8.

Ann Bernstein Report no. 14 Land Reform in South Africa. A 21st century perspective.

Annual Commission Report on Performance Plan 2016/2017.

Annual Commission Report on Restitution of Land Rights: Financial year 2013/2014.

Archary, L.C. 2012. Reversing the legacy of the 1913 Native Land Act. Pretoria. Department of Rural Development and Land Reform.

Arogundade, K. 1996. Service management in commercial buildings: In-house versus outsourcing. Unpublished honours' thesis. University of Lagos.

Atuahene, B. 2014. *We want what's ours*. : City Oxford University Press.

Babbie, E., & Mouton, J. 2001. The principle of social research. Oxford" Oxford University Press.

Bennett, T.W. 1993. Redistribution of Land and the Doctrine of Aboriginal Title. SAJHR.

Beinart, W. 1984. Soil erosion, Conservationism and ideas about development: A Southern African Exploration 1900-1960. Journal of Southern African Studies, vol. 11. No. 1, pp. 52-83.

Beinart, W., & Delius, P. 1986. Introduction in William Beinart, Peter Delius and Stanley Trapido (eds). Putting a plough to the ground: Accumulation and Dispossession in Rural South Africa 1850-1930. Johannesburg: Ravan Press, pp. 1-55.

Bernstein, H. 1997. Social change in the South African countryside? Land and production, poverty .and power, Occasional paper series No. Programme for Land and Agrarian Studies, University of Western Cape.

Bernstein, H. 2004. Changing before our very eyes. Agrarian questions and the politics of land in capitalism today. *Journal of Agrarian Change*, 4(1-2):190-225.

Binswanger, H. 1996. The political implications of alternative models of land reform and compensation in Johan van Zyl, Johan Kristen and Hans Binswanger (eds).

Agricultural Land Reform in South Africa. Cape Town: Oxford University Press, pp. 139-146.

Botes, P.S., Brynard, P.A., Fourie, D.J. & Roux, N.L. 1992. Public Administration and Management: A guide to central, regional and municipal administration and management, Pretoria: Kagiso Tertiary.

Bond, R., & Hulme, D. 1999. Process approaches to development: Theory and Sri Lankan practice. World Development Vol 27 (8) 1389-1358.

Bradstock, A. 2005. Changing livelihood and land reform: Evidence from the Northern Cape Province of South Africa. *World Development*, 33(33):1979-1992.

Brynard, P.A. & Hanekom, S.X. (2nd ed.). 2006. *Introduction to research in management-related fields*. : Van Schaik Publishers.

Brynard, P.A., Cloete, F., & De Coning, C. 2011. Policy Implementation, pp. 135-169. In Cloete, F. & De Coning, C. improving public policy: Theory, practice and results. Pretoria: Van Schaik Publishers.

Bundy, C. 1979. *The rise and the fall of the South African peasantry*. London: Heinemann.

Claassens, A. 2003. Community views on the Communal Land Rights Bill. Cape Town: Programme for land and agrarian studies, University of the Western Cape. Occasional Paper Series, No. 6.

Clapper, V.A. 2004. Research methods in Local Government management. Pretoria. Tshwane University of Technology.

Cliffe, L., Alexander, J., Cousin, B. & Gaidzanwa, R. 2011. An overview of Fast Track Land Reform in Zimbabwe; editorial introduction. *Journal of Peasant Studies*, *38*(5).

Commission on Restitution of Land Rights annual report 2014/2015 financial year.

Commission on Restitution of Land Rights annual report 2015/2016 financial year.

Commission on Restitution of Land Rights annual report 2016/2017 financial year.

Cooper, D.R. & Schindler, P.S. 2003. *Business research methods.* New York. McGraw-Hill/Irwin.

Cousin, B., Lebert, T. & Mbele, B. 1998. *Land invasion in Africa*. Cape Town: Oxford University Press.

Cousin, B. 2000. At the crossroads: Land and agrarian reform in South Africa into the 21st century. Johannesburg/Cape: National land Committee/PLASS, University of the Western Cape.

Cousins, B. 2004. Grounding democracy: The politics of land in post-apartheid South Africa. Paper presented to an IDASA round table on lessons from the field: a decade of democracy. Pretoria August.

Creswell J.W. 1995. Research design: Qualitative and quantitative approaches. Thousand Oaks: Sage Publishers.

Creswell, J.W. 2014. Research design: *Qualitative, quantitative and mixed methods Approaches*. United Kingdom: SAGE.

Department of Land Affairs. 1997. White paper on South African land policy. Pretoria: Government Printers.

Department of Land Affairs. 1998. Flexible application of the balance of the settlement/ land acquisition grant to accommodate purchase of a broader range of agricultural inputs. Land reform policy committee PC Doc35/1998.

Department of Land Affairs. 2004. Excel spreadsheets obtained from the Monitoring and Evaluation Directorate, Pretoria. Updated to 29 February 2004, obtained 20 April 2017.

Delius, P. 2014. The historical context and legacy of the Native Land Act of 1913. *Journal of Southern African Studies*, *40*(4):667-688.

Dlamini, S., & Ogunnubi, O. 2018. Land reform in South Africa: Contending issues. Journal of Public Administration. Vol. 53. No. 2.1. June 2018.

Dolny, H. 2001. Banking on change. Johannesburg: Penguin.

Du Toit, A. 2004. *The great land scandal.* Centurion: Legacy Publishers.

Feinberg, H.M. 1993. The 1913 Native Land Act in South Africa: politics, race and segregation in the early 20th century. *The international Journal of African Historical Studies*, *26*(1):65-109.

Fourie, D.J. & Roux, N.L. 1992. *Public Administration and Management: A guide to central regional and municipal administration and management*. Pretoria: Kagiso tertiary.

Ghai, D. & Radwan, S. (eds). 1983. *Agrarian policies and rural poverty in Africa*. Geneva: International Labour Office.

Ghimire, K. 2001. Whose Land? Civil perspective on land reform and rural poverty reduction: Regional experience from Africa, Asia and Latin America, UNRISD, Geneva.

Ghonemy, M. 1984. *The political economy of rural poverty: Case study for land reform*. London: Routledge.

GoZ. 2008. The report on the delimitation exercise for the 2008 Harmonizes election, Zimbabwe Electorate Commission.

Gumede, N., & Makuwira, J. 2018. Contemporary challenges of postcolonial land reform in Namibia: Lessons for South Africa. Journal of Public Administration. Vol. 53. No. 2.1. June 2018.

Hall, R. 2003. A comparative analysis of land reform in South Africa and Zimbabwe, in Lee M.C. & Colvard, K. *Unfinished business: The land crisis in Southern Africa.* Johannesburg: Africa Institute, pp. 255-285.

Hall, R. 2004. *Land and agrarian reform in South Africa*. A status report 2004. University of Western Cape.

Hall, R. 2004*. Land restitution in South Africa:* Rights, development and the restrained state. *Canadian Journal of African studies*, *38*(3). (Special issue on ten years of democracy in Southern Africa.

Hanekom, D. 1998. Cabinet paper on agricultural sector: Opportunities and challenges. Unpublished manuscript.

Heleta, S. 2016. Decolonisation of higher education: Dismantling epistemic violence and Eurocentrism in South Afric.*, Transformation in Higher Education*, *1*(1). http://dx.doi.org/10.4102/the.v1i1.9

Helliker, K. 2011. Land reform and marginalised communities in the Eastern Cape countryside of post-apartheid South Africa. Inhhelliker, K. & Murisa, T. (eds). *Land struggles and civil society in Southern Africa.* New Jersey: Africa World Press.

Hjalte, T. 1998. The slave, the native and the serf: Three sites of violence in the Southern African ethnic space 1652-1996. Centre for Cultural Research, Aarhus University,

Denmark. Draft paper prepared for the seminar series, “Comparative Colonialisms: responses in the longue durée” at the University College of London, Spring 1998.

Human Science Research Council. 2006. *Farmland price trends in South Africa 1994-2005. Urban, Rural and Economic Development*. Pretoria: HSRC.

Husy, D. 1998. *The National budget and the implications for land reform.* Randburg: Yarn.

Jacobs, P. Hall, R. & Lahiff, E. 2003. Land redistribution, evaluating land and agrarian reform in South Africa. Occasional paper series no.1. Cape Town: Programme for land and agrarian studies. University of the Western Cape.

Ile, I.U., & Mapuva, J. 2008. Civil Society and citizen participation in governance process in Zimbabwe. Journal of Public Administration, 43(2).

Jacobs, P., Lahiff, E., & Hall, R. 2003. Evaluating land and agrarian reform in South Africa. Land redistribution. An occasional paper, No. 1. University of the Western Cape. Cape Town, p. 9.

Kelley, U. 2000. *Historical context of unequal South Africa*. Randburg: Yarn.

Lahiff, E. 2001. Land reform in South Africa: Is it meeting the challenges? PLASS, University of the Western Cape, South Africa.

Leedy , P.D., & Ormrod, J.E. 2010. Practical research: planning and design, ninth Edition. Merril. New York City.

Letsoalo, E.M. 1987. *Land reform in South Africa – a black perspective*. Braamfontein: Skotaville.

Levin, R. & Weiner, D. 1991. Land and agrarian transition in South Africa. *Antipode*, 23(1):92-120.

Links, H.L. 2011. An output-based evaluation of delivery of land reform in South Africa over the period of 1994-2010. MPhil dissertation. University of Stellenbosch, South Africa.

Lodge, T. 1990. Perception of agrarian issues in black politics. *Development Southern Africa*, *7*:483-494.

Makombe, G.M. 2018. Land reform in South Africa: The conversation that never took place. The qualitative report 2018. Vol. 23. No. 6. Nova Southerneastern University.

Maserumule, M.H. 2010. *The Zuma administration: Critical challenges*. Cape Town: Human science Research Council.

Maserumule, M.H. 2012. Discourse on the concept of a developmental state in South Africa. Journal of Administration Publica. South Africa, Pretoria.

Masondo, D. 2018. Land expropriation, agriculture and food security. Cape Town: Human science Research Council, South Africa.

Matondi, T.B. 2012. *Zimbabwe's fast tract land reform program*. Nordic Africa Institute.

Mayende, G. 2004. Land Reform and black economic empowerment. PowerPoint slideshow presented at launch of AgriBEE framework, 26 July 2004. Regent Hotel, East London.

Mayende, G. 2012. *Rural development and agrarian transformation policy*. HSRC.

Maylam, P. 1986. *A history of the African People of South Africa: RFom the early iron age to the 1970s.* Cape Town: David Philip.

Mazwi, F., Muchetu, R.G. & Chibwana, M. 2017. Land, agrarian reform in Zimbabwe viewed from a transformative social policy perspective. *African Journal of Development Studies*, *47*(1).

Michael, A. & Mokoena, R. 2002. Land reform and agrarian change in Southern programme and Agrarian studies School of Government. University of Western Cape.

Ministry of Agriculture and Land Affairs. 2000. Policy statement by the Minister of Agriculture and Land Affairs for strategic direction on land issues. Unpublished document, 11 February.

Ministry of Agriculture and Land Affairs. 2001. *Land redistribution for agricultural development: A sub-programme of the Land Redistribution Programme*. Pretoria: MALA.

Ministry of Agriculture and Land Affairs. 2004. Presentation by AT Didiza, Minister of Agriculture and Land Affairs at the Public Hearings on the pace of Land Reform in South Africa, convened by the Agriculture and Land Affairs Portfolio Committee, 18 October 2004. Unpublished document.

Minnaar, A. 1994. *The dynamics of land in rural areas: 1990 and onwards: Access to and affordability of land in South Africa: The challenge of land reform in the 1990s*. Pretoria: Human Science Research Council.

Mnanzungu, E. 2004. Environment impacts of the fast track land reform programme: A livelihoods perspective. Zimbabwe: Weaver.

Mngxitama, A. 2006. The taming of land resistance: Lessons from the National Land Committee. *Journal of Asian and African Studies*, *41*(1/2):39-69.

Molope, M. 2018. The decision to amend section 25 of the constitution shakes cohesion: Perception of public hearing participants in the North West Province. Journal of Public Administration. Vol. 53. No. 2.1. June 2018.

Moyo, S. 1994. *The land question in Zimbabwe*. Institute of Development Studies. SAPES Trust-Harare.

Moyo, S. & Chambati, (eds). 2013. Land and agrarian reform in Zimbabwe. Beyond white-settler capitalism. Work-in-progress paper presented at the Conference on the agrarian constraint and poverty reduction: Macroeconomic lessons for Africa, Addis Ababa, 17-18 December 2004. Dakar: Codesia.

Moyo, S. 2004. The overall impact of the Fast Track Land Programme. Harare: African Institute for Agrarian Studies.

Mudau, J., Mukonza, R.M. & Ntshangase, B.A. 2018. A comparative overview of land reform experiences in Zimbabwe, Namibia and South Africa: A lesson that South Africa can learn from. *Journal of Public Administration*, *53*(2.1).

Mukonza, R.M. 2015. An empirical of e-governmental relations and service delivery: A case study of selected local government authorizes in Zimbabwe. D-Tech Thesis. Tshwane University of Technology, South Africa: Pretoria.

Mutasa, C. 2014. Are there corrective measures to Zimbabwe's land reform programme? Zimbabwe: Harare.

National Department of Agriculture. 2001. *Strategic plan for Agriculture*. Pretoria: Government Printers.

Ngoatje, M.F. 2006. The role of the African union as vehicle for investment initiatives and regional cooperation: A critical overview of the New Partnership for Africa's Development (NEPAD). Unpublished PhD thesis in Public Affairs: University of Pretoria.

Ntsebeza, L. & Hall, R. 2007. *The Land question in South Africa*. : HSRC

Nwadeyi, W. & Bentley, M. 2016. Land reform in the new South Africa. Cape Town: Oxford University Press.

Palmer, R. 1990. Land reform in Zimbabwe: 1980-1990. *Afr. Affairs*, 163-181.

Peters, B.L & Malan, N. 2000. *Caveats for land reform in South Africa: Lessons from Zimbabwe. South African Journal of International Affairs*.

Pillay, U. 2015. Urban policy in post-apartheid South Africa: Context, evolution and future directions. *Urban Forum*, *19*(2):109.

Plaatje, S.T. 1995. *Native Life in South Africa*. Randburg: Ravan.

Pohamba, H. 2001. Budget speech delivered by the Honourable Hifikepunye Pohamba, Minister of Lands, Resettlement and Rehabilitation, on the 23rd of April 2001. Windhoek.

Powelson, J.P. 1987. *The story of land.* Boston: Oelgeschlager, Gunn & Hain.

Republic of South Africa. 1994. Restitution of Land Rights Act (No. 22 of 1994). Printer: Government Printers.

Republic of South Africa. 1913. Native Land Act. Printing. Government Printers.

Roth, M., Nxasana, V., Sibanda, S. & Yates, T. 2004. National land tenure conference: Finding solutions, securing rights: Papers and perspectives from the National Land Tenure Conference, ICC, Durban, South Africa.

Roux, S.P. 1997. Land reform in Zimbabwe. Harare: Waever

Scheepers, C.L. 2010. Ethnicity, cultural diversity and poverty in South Africa: Archaeological perspective from Iron Age Palestine. *Old Testament Essays*, *23*(1), 161-177.

Scoones, I., Marongwe, N., Mavedzenge, B., Mahenehene, J., Murimbarimba, F. & Sekume, C. 2010. *Zimbabwe's land reform. Myths and realities*. Woodbridge: James Currey.

Sekume, P. 2010. *Land resistance in Africa*. Cape Town: David Thorn.

South African History. 2011. A land dispossession history. http://www.sahistory.org.za/article/land-dispossession-history-1600s-1990s (Accessed 26 Septermber 2017).

Southall, R. 1982. *South Africa's Transkei: The political economy of an independent Bantustan*: Heinemann.

Stoneman, C. 2000. *Zimbabwe's land prospects. Issues of race, class and capital in Southern Africa.* MacMillan: London.

Strydom, H. 2011. Ethical aspects of research in the social science and human service proffessions, pp. 113-130. In De Vos, A.S., Strydom, H., fouche, C.B. & Delport, C.S.L. research at grassroots: For the socialscience and human service professions. Pretoria: Van Schaik Publishers.

Terreblanche, S.J. 2005. *A history of inequality in South Africa, 1652-2002.* Pietermaritzburg: University of Natal Press and Sandton: KMM Review Publishing.

Thornhill, C. 2006. The domain of Public Administration. *Journal of Public administration*, 41(1)

Thornhill, C., Odendaal, ..J., Malan, L, Mathebula, F.M, Van Dijk, H.G. & Mello, D.M. 2002. An overview of intergovernmental relations: Africa. Southern African Development Community. PAIR Institute. SAFPUM publishers.

Tong, M. 2007. *Jurisprudence on Restitution of Land Rights in South Africa*.

Tshishonga, N. & De Vries, M.S. 2011. The potential of South Africa as a developmental state: A political economy critique. Radbound University.

Van Rooyen, C.J. 1995. Overview of DBSA's farmers support programmes, in Singini,R. & Van Rooyen (eds). *Serving small-scale farmers: An evaluation of the farmer support programmes.* Halfway house: Development Bank of Southern Africa, pp. 1-21.

Van Rooyen, J. & Njobe-Mbuli, B. 1996. *Agricultural land reform in South Africa: Policies, markets and mechanism.* Cape Town: Oxford University Press.

Van Wyk, J. 1992. *The Namibia land conference – a first step towards addressing a burning problem*. South Africa's Public Law.

Van Zyl, J., Kirsten, J. & Binswanger, H. 1996. *Agricultural land reform in South Africa: Policies, markets and mechanisms.* Oxford: Oxford University Press.

Vance, C. 1980. Aid to Zimbabwe. Hearing sub-committee on Africa, committee on Foreign Affairs, House of Representatives. 96th Congress, second session, 23 September 1980.

Villiers, B. 2003. *Land reform issues and challenges*: *A comparative overview of experiences in Zimbabwe, Namibia, South Africa and Australia*. : Konrad-Adenauer-Striftung.

Vink, N. & Kirsten, J. 2003. Agriculture in the National Economy in Niewoudt. L. & Groenewald, J. (eds). *The challenge of change: Agriculture, Land and the South African Economy.* Scottsville: University of Natal Press, pp. 3-19.

Waldo, A. 1991*. Apartheid: The facts.* Kent: A.G. Bishop and Sons. Ltd.

Walker, C. 2003. The limits of land reform: Rethinking the land question. In Beall, G. & Hassim, S. *State and society in South Africa: Faultiness of Chris and Sites of Socialism.* Forthcoming.

Walker, C. 2004. *The land question in South Africa. The challenges of transformation and redistribution*. Cape Town:

Walker, W. 2008. *Land marked*. Jacana Media (Pty) Ltd.

Walker, C., & Cousin, B. 2015. Land Divided, Land Restored: Land reform in South Africa for the 21st century. Jacana media. Pretoria.

Wegerf, M. 2004. Who shaped South Africa's land reform policy? *Politikon*, *31*(2):219-238.

Welman, C., Kruger, F. & Mitchell, B. 2005. *Research methodology.* Cape Town: Oxford University Press Southern Africa (Pty) Ltd.

Werner, W. 1993. A brief history in land dispossession in Namibia. *Journal of Southern African Studies.*

Werner, W. 1997. Land Reform in Namibia: The first seven years. The Namibian Economic Policy Research unit.

Werner, W. 2001. *Land reform and poverty alleviation: Experiences from Namibia*. Namibian economic research unit. Paper presented at conference on land reform and poverty alleviation in Southern Africa held by Southern African Regional Poverty and Development Network, Pretoria.

Werner, W. 2003. *Land reform in Namibia: Motor or obstacle of democratic development.* Paper presented at the meeting on land reform in Southern Africa: Motor or obstacle of development held under auspices of the Fredrich Elbert foundation, Berlin.

Werner, W. & Odendaal, W. 2010. Livelihoods after land reform: Namibia country report. Land, Environment and Development Project. Legal Assistance Centre.

Wickins, P.L. 1981. The Native land Act of 1913. *South African Journal of Economy*, *49:*105-129.

Wilson, W. 1887. The study of administration. Political Science Quarterly. Pp 197-222.

Wolpe, H. 1972. Capitalism and cheap labour-power in South Africa: From Segregation to Apartheid. *Economy and Society.*

World Bank. 1993. Options for land reform and rural restructuring in South Africa. Unpublished document. Washington. World Bank

ANNEXURE A: QUESTIONNAIRES

QUESTIONNAIRES FOR OFFICIALS

The purpose of this questionnaire is to establish your views on and feelings about the prospects and challenges of land claim processes in South Africa. Kindly respond to the questions below as frankly as possible by ticking on the appropriate box. There are no wrong or right answers.

SECTION A: BIOGRAPHICAL INFORMATION

Mark with an X where appropriate

1. Gender

Male		Female	

2. Age

3. Race

African / Black	
Coloured	
Indian	
White	

Other (please specify)	

4. Education level

None	Primary	Secondary	Tertiary	Other (please specify)

5. For how long have you been working in the commission?

YEARS	MONTHS

SECTION B

1. Nature of backlog problem in settling land claims.

1.1. In your own view, can you highlight and justify the cause of backlog in settling land claims?

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1.2. In your own opinion, is the financial compensation policy a panacea to land restitution process?

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1.3. What impact do “research Service Providers” outsourced by the Commission, have on the research and investigation of land claims, do they perform to the expected optimum?

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1.4. In your own opinion, what do you think can be done by the CRLR to ameliorate the process of land restitution in South Africa?

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1.5. What do you perceive to be the impact of Land Market Value on restitution process in South Africa

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2. The impact of Land claims Court

2.1. In your view, is the Land Claims Court having an impact on the rate of settling land claims?

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2.2. What do you perceive as the impact of legal cost on the land claim process?

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2.3. Why are certain land claims referred to Land Claims Court while others are not, what is the selection criteria and why?

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3. Institutional arrangement of the Commission on Restitution of Land Rights

3.1. Is the institutional arrangement of the CRLR in your own view having any impact on the rate of settling land claims e.g. To what extent does having one Regional Land Claims Commissioner who approved all land claims research reports from all provinces in south Africa, contributing to the rate of settling Land Claims?

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3.2. Why are we having Chief Directors at various provinces who have almost similar powers with the RLCC at national office but cannot validate research reports instead they are sent to one RLCC for approval?

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3.3. In light with other country's land reform experiences (countries such as Zimbabwe and Namibia to mention a few) what do you perceive to be an ideal alternative model for land reform in South Africa?

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SECTION C

QUESTIONNAIRES FOR CLAIMANTS

6. Gender

Male		Female	

7. Age

8. Race

African / Black	
Coloured	
Indian	
White	
Other (please specify)	

9. Education level

None	Primary	Secondary	Tertiary	Other (please specify)

10. What is your occupation?

Mark with an X

Unemployed	Self-employed	Civil servant	Pensioner	Other(please specify)

11. When did you lodged the claim?

Years	Months

12. Was the process of lodgment of land claim explained to you?

Mark with an X

Yes	No

SECTION D

1. Nature of the backlog in settling land claims.

1.1. Please elaborate when did you lodge a claim with the Department of Rural Development and Land Reform and what other supporting documents did you attach and how was the treatment from the officials?

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1.2. Did you opt for financial compensation or alternative land and why?

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1.3. How long did it take you to benefit from the land restitution process and what was the reason for the timeframe?

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1.4. In your own view as a beneficiary, what do you think can be done by the Government to ameliorate where necessary the land claim process in order to expedite the restitution process?

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2. **Impact of Land Claims Court**

2.1. Did your claim went through the Land Claims Court, if yes, please explain the processes?

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2.1. Were you required to pay for legal costs in order for your claim to be in a roll at court or did the state provided a lawyer for you, please explain?

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3. Model for Land Restitution in South Africa

3.1. What do you think should be done to improve the existing model of land restitution or can you propose a possible land reform model that can be adopted by South Africa in an attempt to expedite the land claims process?

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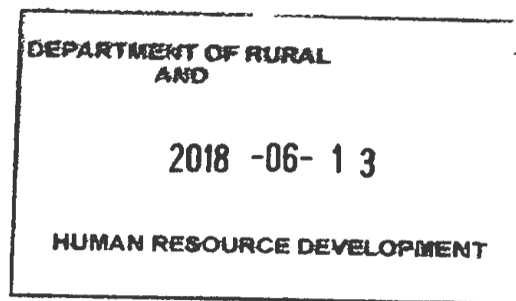
ANNEXURE B: PERMISSION LETTER TO CONDUCT A STUDY

rural development
land reform

Department:
Rural Development and Land Reform
REPUBLIC OF SOUTH AFRICA

OFFICE OF THE DIRECTOR-GENERAL
Private Bag X833, Pretoria, 0001; 184 Jeff Masemola Street, Pretoria
Tel. 012 312 8911; Fax: 012 323 6072; Email: DGOffice@drdlr.gov.za

Mr J Mudau
3705 Extension 4
Zithobeni
BRONKHORSTSPRUIT
1024



Dear Mr Mudau

APPROVAL TO CONDUCT ACADEMIC RESEARCH IN THE DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM

Thank you for your application providing details of your research in relation to your dissertation.

The Department has no objection to your request to conduct research; however, the following must be adhered to:

- The final copy of your research report must be submitted to the Department prior to your final submission to the Institution of study.
- Files and records may not be removed from the Department's archives.
- Photocopies of official records may not be made for public purposes.
- Names of individuals from official records may not be published.
- Access to the records must be arranged in collaboration with the Head of Office, or in the case of National Office, with the Directorate: Information and Innovation Management Services.
- The Department reserves the right to restrict access to files of a sensitive nature.
- Access to classified information will not be granted if you have not been security cleared.
- Supply annual proof of registration from your University to the Department.

The Department will not be responsible for your travelling and accommodation expenses during this time of conducting the research.

APPROVAL TO CONDUCT ACADE IC RESEARCH IN THE DEPARTMENT OF RURAL DEVELOP ENT AND LAND REFORM

You will need to sign the attached letter of indemnity before conducting research in the Department.

Your co-operation to meticulously adhere to the aforementioned will be highly appreciated.

Kind regards

MS SADIKI
ACTING DIRECTOR-GENERAL: RURAL DEVELOPMENT AND LAND REFORM
DATE: 2018.06.09

rural development
& land reform

Department
Rural Deve opment and Land Reform
REPUBLIC OF SOUTH AFRICA

OFFICE OF THE DIRECTOR-GENERAL
Private Bag X833, Pretoria, 0001; 184 Jeff Masemola Street, Pretoria
Tel. 012 312 8911; Fax: 012 323 6072; Email. DGOffice@drdlr.gov.za

INDEMNIFICATION BY MR J MUDAU TO THE GOVERNMENT OF SOUTH AFRICA THROUGH ITS DEPARTMENT OF RURAL DEVELOP ENT AND LAND REFORM

Whereas I, the undersigned, requested permission to conduct research in the Department of Rural Development and Land Reform (the Department);

I understand and agree that the Department has granted permission that I may conduct research subject to the under-mentioned conditions:

I may not disclose to any unauthorised person confidential or secret information of whatever nature, which comes to my knowledge as a result of my research, either by word of mouth, telephonically, by means of an interview or by means of me receiving or reading notes, documents or letters, without prior written permission of the Deputy Director-General: Corporate Support Services (DDG: CSS), or an official duly authorised by him or her.

If I am in any doubt as to whether I may use or refer to information gathered in the Department during my research I shall first obtain the written permission of the DDG: CSS.

I agree to assume all risks relating to me conducting research in the Department and I indemnify the Department against the following:

a) Claims arising from my death or any personal injury I may suffer while on the Department's premises or while in any way busy with the research referred to herein.

b) Claims for the loss of any personal property I may suffer while on the Department's premises or while in any way busy with the training referred to herein.

c) Claims by any third party (including, but not limited to, employees or contractors of the Department and members of the public) as a result of any act or omission on my part while on the Department's premises or while in any way busy with the research referred to herein.

d) Claims by any third party (including, but not limited to, employees or contractors of the Department and members of the public) as a result of the publication by me of any information I obtained from the Department.

I understand and accept that the Department may at any time withdraw the permission to me to conduct research in the Department, without the giving of reasons.

When on the Department's premises I must have in my possession a copy of the letter giving me permission to conduct research in the Department, and I must produce it to any employee of the Department requesting the letter.

SIGNED AT ____________ **THE** 13 **F** JUNE

IGNATU

ANNEXURE C: REQUEST TO CONDUCT A STUDY

Tshwane University of Technology

Department of Public Management

Acting Director-General
Ms. L Archary
Department of Rural Development and Land Reform

From: Joseph Mudau
Masters Student
Department of Public Management
Tshwane University of Technology

Dr. BA Ntshangase
Senior Lecturer (M-Tech Supervisor)
Department of Public Management
Tshwane University of Technology

Dear Ms. L Archary

RE: REQUEST FOR PERMISSION TO CONDUCT A STUDY

This letter seeks to confirm that Mr Joseph Mudau with student number: 211127635 registered Masters Student at Tshwane University of Technology in the Department of Public Management. A requirement of this qualification is that candidates conduct research for dissertation topic related to Public Affairs, with the guidance of the supervisors. Tshwane University of Technology encourages research that has utilitarian value and/or inform policy praxis.

The focus of his study is "**An investigation into the settling of land claims by the South African Commission on Restitution of Land Rights: insights from the Gauteng Regional office (Pretoria)**" the nature of the study requires that Mr Mudau gather primary data from current officials in the "Commission" and claimants who are beneficiary of the land restitution process. The University requires permission be granted by the institution under studied to Mr. Joseph Mudau, to conduct his research, especially relation to to reports, documents, distribution of questionnaires to staff members and institute interviews to follow up on various areas where clarity may be sought. Information obtained will be solely used for the purpose of the study, and participant's confidentiality will not be disclosed, unless with their permission or required by the law. Day to day operation of staff members won't be compromised instead appointments will be made regarding any interviews and/or any follow up regarding the data collection.

The topic was selected because of the practical challenges encountered by the Commission on Restitution of Land Rights which is the branch of the Department of Rural Development and Land Reform (DRDLR), in the process of settling land claims (Annual performance plan 2016/2017). The study will also propose a model within which government of South Africa can utilise in addressing issues of Restitution. The land issue in South Africa is still a dialectical discourse and the apparent evident of great variations in landscape and the differing contexts and conditions under which Black rural people live, therefore, this study seeks to investigate the cause of backlog in settling land claims by the Commission on Restitution of land rights. The Department of Rural Development and Land Reform is entrusted with the mandate to ensure that section 25 of the Constitution of South Africa becomes a constitutional reality and heal past wounds by restoring land to the natives. The research will provide practical remedies to the investigated backlogs can be utilised by the Commission.

The following documents are attached as annexures:

Proof of registration as **annexure A**

Research abstract as **annexure B**

CV as **annexure C**

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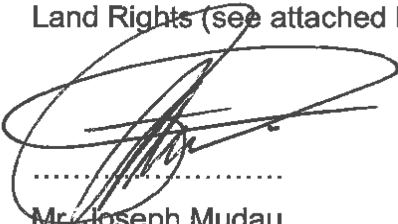
Outstanding documents:

1. A Letter from the university indicating that research has been approved is outstanding on the bases that the procedure at the University requires that student ought to be granted a permission to conduct a study first from the institution concern, prior to all ethical clearance matter hence am making this submission requests.

Your swift response regarding the request will be greatly appreciated. The following relevant signature authority prepared as advised by the commission on Restitution of Land Rights (see attached letter as **annexure D**)



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Mr Joseph Mudau

M-Tech Student

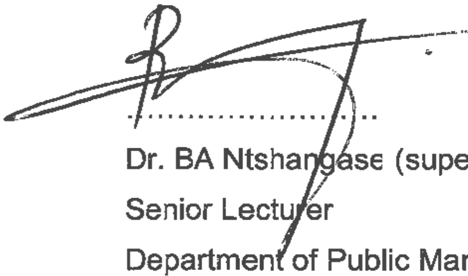
Department of Public Management

Tshwane University of Technology

Email: Josephmuda

Cell: 078 640 3719

02/10/



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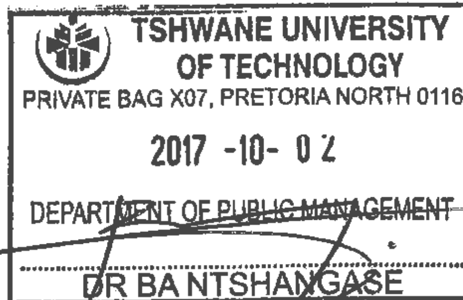
Dr. BA Ntshangase (supervisor)

Senior Lecturer

Department of Public Management

Tell: 012 382 9637/9030



02/10/2017

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Prof KB Moeti

Associate Professor

Department of Public Management

Departmental Research and Innovation Committee Chairperson

Email: MoetiKB@tut.ac.za

Tel: 012 382 9552

Date: 02/10/2017

....

Mr. S Ngomane

Director Human Resource Development

Department of Rural Development and Land reform

Date:

....

Ms. C Sheraton

Chief Director: Human Resource & Organizational Development

Department of Rural Development and Land reform

Date:

....

Mr DSB Lupungela

Chief Director: Safety and security

Department of Rural Development and Land reform

Date:

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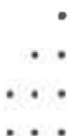
Mr. E Southgate

Deputy Director General-Corporate services

Department of Rural Development and Land reform

Date:



M. L Archary

Acting Director General

Department of Rural Development and Land reform

Date:

ANNEXURE D: FRCE APPROVAL LETTER FROM THE UNIVERSITY

Faculty Committee for Research Ethics – Humanities [FCRE-HUM]

Subjects for International Institu tions (FWA 00011501) (Expires 22 Jan 2019). In South Africa it is registered with the National Health Research Ethics Council (REC-160509-21).The FCRE-HUM is a subcommittee of the Senate Committee for Research Ethics

12 OCTOBER 2017

Ref #: FCRE/PM/STD/2017/12
Name: Mudau, J.
Student #: 211127635

C/o Dr. B.A. Ntshangase
Department of Public Management
Faculty of Humanities

Dear Ms./Mr. Mudau, J.

Title: An investigation into the settling of land claims by the South African Commission on Restitution of Land Rights: Insights from the Gauteng Regional Office (Pretoria)

Investigator: Mudau, J
Qualification: M Tech: Public Management
Supervisor: Dr. B.A. Ntshangase
Co-supervisor: Dr. R.M. Mukonza

Thank you for submitting your proposal for ethics clearance.

Decision: The application be approved

In reviewing the proposal, the following comments/notes, emanating from the meeting are tabled for your consideration/attention/notification:

- The study investigates the settling of land claims by the Commission on Restitution of Land Rights • The research is potentially ethically sensitive
- The research proposal is in order.
- The Information Leaflet and informed consent documentation, as well as the survey Cover letter, are in order.
- The interview schedule and the survey questionnaire are in order

The Faculty of Humanities Research Ethics Committee reviewed the documents at its meeting on 28 September 2017. The study is **recommended for Approval**

The Committee wishes you well with your research endeavours.

Signature

12 OCTOBER 2017

Chair / Deputy-Chair
Faculty Research Ethics Committee
[Ref#: FCRE/PM/STD/2017/12]

cc Dr. B.A. Ntshangase;

- No permission letter to conduct the research is provided. Such a permission letter should be provided to the FCRE when it becomes available
- **Recommend: Approval**

We empower people
Tel. (012) 382 9932 Tel. (012) 382-9754, www.tut.ac.za • The Registrar, Private Bag X680, Pretoria 0001