1. A HISTORY OF DISPOSSESSION

"Those who genuinely seek durable institutions of property and ownership cannot simply invoke the political transition, like a sorcerer's trick, to erase the illegitimate origins of what they now seek seamlessly to dignify as 'property'. Instead, a more realistic understanding of the racially skewed history of South African property accumulation is necessary, a history that is substantially longer than the history of Apartheid itself, but which Apartheid vastly exacerbated. Institutions of property cannot be viewed in narrow isolation from the moral and political legitimacy of the surrounding society".[1]

Introduction

Aim of the thesis

The aim of this thesis is to use a combination of methodologies – particularly comparative material – to provide a unique overall understanding of land reform in South Africa. This understanding should inform the analysis of the various land reform programmes in South Africa as well as the recommendations that emerge from the study.

Rationale (for the thesis and the research methods used)

The relatively large amount of research on land reform conducted in South Africa, over the last decade, tends to be very narrowly focussed. Much of the research is confined to particular issues or localities. Alternatively, relatively brief overviews are provided by non-governmental organisations such as the National Land Committee or academic research institutions such as the Programme for Land and Agrarian Studies[2]. A number of excellent area specific[3], programme specific[4], issue specific[5] and case study[6] research projects have contributed to a more thorough understanding of local dynamics, as well as highlighting general trends. It is the purpose of this thesis to draw on these projects and to locate the findings within an international context, in an effort to produce an encompassing understanding of land reform policy formulation, programme implementation, successes, failures and prognosis for the future of land reform in South Africa. In other words, it is my contention that current analysis of South African land reform policies are insufficiently informed by comparative perspectives and that this thesis, therefore, represents a unique contribution to knowledge on this ground alone.

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[1] Asmal K, Asmal L & Roberts R.S (Eds.), "Placing Property on a Legitimate Footing", in Reconciliation through Truth, David Philip Publishers, Cape Town, 1996, p. 131

[2] For example Turner & Ibsen 2000

[3] E.g. Francis E 1999 and Levin R. M 1996

[4] For example on Redistribution Bonti-Ankomah, 1998 and Lyne M 1998. On Tenure Cross 1988, Hornby 1998, Lahiff E, 2000, Ntsebeza L 1999. On Restitution Dawood 1998.

[5] On agricultural productivity, for example, Agricultural Land Reform in South Africa, Van Zyl J, Kirsten J & Binswanger H (Eds.), 1996. On legislation, Budlender 1993 & 1996 and NLC 1994. On small-scale farming, Land, Labour and Livelihoods, volumes 1 & 2, Lipton M, Ellis F & Lipton M (Eds.) and Thomas D.J.J 1994. On gender Cross 1996 & 1998. On violence Segal L 1999

[6] E.g. Cousins & Cousins 1998, Hargreaves 1998, Lund F 1999, Middleton S 1997

Assessment (guiding) criteria

Land reform programmes are notoriously difficult and beset by problems. There are few successful examples of land reform - even across a broad spectrum of countries and time periods and using a wide variety of redistribution policies. This raises two fundamental questions. The first, why implement land reform programmes if empirical evidence points to failure? Secondly, on what grounds do we determine the success or failure of land reform programmes?

In order to answer these questions and in order to identify "fair"[7] criteria for land reform policies/programmes in South Africa, I extracted the "assessment/guiding criteria" from the White Paper on South African Land Policy. In answer to the first question, therefore, land reform programmes are implemented to redress past injustices and to promote political stability (See for example the Executive Summary or sections 4.13 and 4.14 of the White Paper). Secondly, successful land reform programmes can contribute to increased agricultural productivity[8], alleviate poverty[9], enhance food security[10] and promote environmental sustainability[11] (discussed in chapter two of this thesis) and gender equity[12] (discussed in chapter ten of this thesis). Appropriate financial services are required in rural areas to ensure that the listed criteria can be met.[13]

The gauge for a successful land reform programme (used in this thesis), therefore, includes the attainment of justice (equity), of political stability, of economic development that includes poverty alleviation, environmentally sound practices, increased agricultural productivity, enhanced food security and fourthly, of the overall sustainability of the land reform programme.

Structure of the thesis

Chapter one serves as a general introduction to the thesis and covers the rationale, aims, methodologies, assessment guidelines/criteria and time frame of the thesis. In addition, the chapter acknowledges (and gives a brief account of the process) that South Africa's past is one of inequity and injustice and, consequently, skewed economic development.

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[7] In the sense that I will evaluate the land reform programmes not against international criteria, nor the contradictory criteria that are propounded by the various ideological approaches to land reform, but according to the criteria that policy developers designed the South African land reform programmes to meet.

[8] See, for example, section 2.1, particularly page 8 of the White Paper. Although, agriculture is somewhat neglected in the white paper, I have incorporated it as a guiding/assessment criteria because agriculture is such a central issue in the comparative material, in the policy development process and with regard to other aspects of policy (e.g. food security, gender, poverty alleviation, restitution, redistribution and tenure reform).

[9] See for example the Executive Summary of the White Paper or section 2.1 on strategic goals and visions of land policy, p. 7

[10] See, for example, section 2.5.3. of the White Paper, page 13

[11] See, for example, section 3.9 on page 23, or the Executive Summary, sections 3.12, 3.13 and 3.14, or box 2.3 on page 12 etc.

[12] See, for example, section 3.24, 4.11, Executive Summary, box 2.3, section 3.1.6 etc.

[13] For example, see section 3.11 of the White Paper.

These characteristics are the results of concerted social, political and legal efforts to maintain white dominance and reduce economic competition from Africans. The past continues to influence and limit the transformation and economic development of South African society. Without understanding the past and without attempts to "level the playing field" the South African National Land Reform Programme will not achieve the objectives of equity (justice), political stability and development. Acknowledging the influence and the injustices of the past is particularly crucial within the context of an essentially market-based land reform programme. When the significance of the past is acknowledged it becomes apparent that the mere equalisation of opportunities (access to land markets) cannot adequately address the inequities in economic and political power.

The foremost purpose of chapter one is, therefore, to provide a synopsis of the policies and legislation that led to the current inequitable distribution of land. Chapter one also emphasises the fact that land has intrinsic value – that land is embedded in social relations and is more than an economic asset. Every place/piece of land has a particular history with specific meaning for different groups (i.e. dispossessed or commercial farmers) that influences identity and feelings of in/security. In other words, land reform beneficiaries often demand access to a particular piece of land with which they have a historical connection, as opposed to, a general demand for land. Once the intrinsic value of land is acknowledged, a number of implications for land redistribution and restitution become apparent. It is the intrinsic value of land, for example, that pushes up land prices in the redistribution programme and which limits the potential of a supply-led land reform programme.[14]

Chapter two is written in response to the guiding criteria – poverty alleviation, environmental sustainability and increased food security – which were extracted from the white paper. After describing the current status of poverty, food security and the environment as it relates to land reform in South Africa, the chapter uses largely comparative material to assess whether it is indeed likely (or even possible) for land reform programmes (in general) to contribute to poverty alleviation, increased food security and environmental sustainability. Further, chapter two peruses whether land reform in South Africa is likely (and if so, under what conditions or policy measures) to alleviate poverty and contribute to food security and environmental sustainability. Thirdly, chapter two emphasises the complexities of these issues and the fact that there are no absolute answers. Nevertheless, by building on evidence from a variety of local and international case studies recommendations for South African land reform policies/programmes are made in chapter two regarding the achievement of poverty alleviation, food security and environmental sustainability.

Chapter three is written to address and evaluate the criteria for increased (or sustained) agricultural production. Chapter three, accordingly, investigates the relationship between agriculture and land reform; and attempts to determine, firstly, what "type"[15] of land

[14] For a detailed discussion see chapter 7 on Redistribution

[15] For example, does the land reform programme promote large or small-scale farming? Or, is the programme supply or demand driven? Or, is the programme supported by government policies that emphasise assistance to emerging farmers? Or, is it a state-led reform programme or, is it a market-based

reform programme would be appropriate to South African agriculture. Secondly, what "type" of land reform programme is most likely to maintain/ increase current levels of agricultural production and, thirdly what "type" of land reform programme will alleviate poverty in rural areas through agriculture (should this be possible). Issues covered in this chapter are the history, characteristics and consequences of liberalisation and reform on the racially inequitable South African agricultural sector, and the small-scale versus large-scale efficiency debate. Building on empirical evidence from the comparative material, recommendations for the South African agricultural sector and land reform programmes are made.

Chapter four explains that credit and financial support services in South Africa are characterised by the same inequitable nature as the agricultural sector. There is a modern and sophisticated system that serves the financial needs of the white agricultural sector and an informal micro-lending sector attempting to service the majority of the population. By implication, the majority of South Africa's rural population has no access to formal financial and credit services, whereas empirical evidence suggests that access to cheap credit is a crucial variable in the success or failure (short and long-term) of a land reform programme. Chapter four therefore reviews a range of credit options that have been used in conjunction with reform programmes elsewhere in the world, and uses these reviews (in conjunctions with South African case study material) to identify solutions and make recommendations for credit polices and rural financial services in South Africa.

Whereas the first four chapters investigated broad issues (based on assessment criteria extracted from the White Paper) that relates to land reform in general, chapters five to nine evaluate the land reform programmes that have been developed or implemented in South Africa since 1994. Chapter five investigates the policy formulation process – in particular who the important actors in this process were - in South Africa. While chapters six (the Restitution Programme), seven (the Redistribution Programme), eight (tenure reform in the former homelands) and nine (tenure reform for farm workers and labour tenants) analyse and assess the various programmes according to the criteria mentioned above, as well as, according to salient features of land reform that emerged from a reading of the comparative material.

Chapter ten is written in response to the criteria for gender equity. However, the chapter is also written as an example of the importance of taking socio-economic differentiation into account when developing and implementing land reform policies. In addition, chapter ten emphasises the importance of "fundamental transformation of power structures" and the importance of rural and/or social mobilisation around socio-economic rights.

Chapter eleven is written in response to the criteria for justice, political stability and reconciliation extracted from the White Paper. The chapter investigates the relationship between direct action and the scope, pace and sustainability of land reform, and uses

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reform programme. As the discussions throughout this thesis will show, these are all factors that have an impact on the success of land/ agrarian reform programmes, on whether these programmes alleviate poverty and, on which groups, in any particular society, benefit from the land reform programme.

comparative material and empirical evidence to expand the argument for the "fundamental transformation of power structures" and the importance of mobilisation around socio-economic rights.

Time-Frame

This thesis essentially covers the period 1991 to 1999. However, in cases where issues outside this timeframe are relevant they are included. For example, the history of dispossession discussed in chapter one, falls outside this time frame, but is included because it contextualises land reform. In chapters six, seven, eight and nine, data up to December 2002 (and in a few instances as recent as June 2003) are included because this impacts on the analysis of the various programmes (i.e. the number of beneficiaries or the change of direction that the redistribution programme underwent from 2000).

Methodology

I have used different methodologies or different combinations of methodologies for different aspects of this thesis. This allowed me to build on comparative literature and sectional studies in rural development in politics to produce (the first) overall treatment of land reform in South Africa since 1994.

Firstly, for the comparative material I conducted an extensive library- and desk-based literature search (see bibliography). This extensive study of comparative literature allowed me to offer critical assessments of South African policies/processes/experiences that are grounded in the precedents offered by the history elsewhere of official and political efforts to address rural/land inequities. This material was used throughout the thesis.

Second, although the literature search yielded large quantities of information regarding land reform in South Africa, I conducted an extensive search for micro-, case-, area specific-, issue specific-, and programme specific studies conducted by various non-governmental, academic, consultant and government organisations and institutions on South African land reform. This was used to inform that evaluation of the South African land reform programmes – see, in particular, chapters six, seven, eight and nine.

Thirdly, I conducted interviews with ten key players in the South African land reform policy development process who were willing to be quoted. I conducted a further nine interviews with current/former land activists who requested anonymity, as well as, a further seven interviews with employees from the Department of Agriculture who also requested anonymity (i.e. 26 interviews with key players). All but three of these interviews were conducted in 2001. The purpose of these interviews was to provide information for an analysis and understanding of the land reform policy development process in South Africa – focussing largely on the period 1992 to 1999. These interviews were the most important source with regard to understanding land reform policy processes in South Africa, and it is this understanding that underlies the thesis. The major shortcoming in this regard was my inability to gain access to top level employees of the ministry of Land Affairs and Agriculture under Minister Thoko Didiza's

leadership. It is possible that this resulted in some informant bias in chapter five. The information generated by these interviews also turned out to be very useful in informing the evaluation of the South African land reform programmes in chapter six, seven, eight and nine. For more detail on this process see Appendix two. For a copy of the interview questions see Appendix four.

Fourth, I conducted fieldwork (several weeks) among two communities in Mpumalanga in 2001 – Solane and Sheba. The fieldwork I conducted at Solane was used (essentially) for the analysis of the South African Redistribution Programme in chapter seven (since Solane is regarded as a "successful" example of redistribution). The fieldwork I conducted at Sheba, was used to inform my understanding of land invasions, tenure reform, redistribution and poverty in chapters two, seven, eight and eleven (since the Sheba Siding Tenure and Development Project is considered "unsuccessful"). However, the fieldwork (with both communities) also informed my broader understanding and experience with land reform and poverty in South Africa.

Parts of the fieldwork were structured and systematic (e.g. planned and structured interviews), while (those) parts of the fieldwork (that yielded some of the most interesting information) were unstructured (e.g. conversations). Counting formal interviews, informal interviews, conversations and community meetings, I "interviewed" approximately 80 people. For a copy of the structured interview/questionnaire see appendix three. For a sample of a structured interview transcript see Appendix five. For more detail on the methodology and fieldwork in Mpumalanga see Appendix two.

Appendix one provides information of the Sheba Siding Tenure and Development Project, which began after the Department of Land Affairs was contacted concerning a land invasion on state land outside Baberton. In brief, the most prevailing feelings with regard to land reform at Sheba were frustration and confusion. Not surprising, given the fact that the interviewees had no formal housing, no electricity, no water, no social services and no recreational facilities. Approximately 70% of interviewees reported being unemployed. Many of the interviewees, who reported that they were employed, were employed as farm workers and earned on average R200 per month. (Note: I did not verify salary information by talking to local farmers, and none of the farm workers had pay-slips or documentation to show what their salaries were). Only approximately 30 percent of adults in the community had undergone any form of formal education (mostly primary school). The nearest high school, shop and clinic are approximately 25 kilometres away from the settlement. Further, crippling transport costs limit access to these institutions.

Finally, I also had an opportunity to accompany the former Minister of Agriculture and Land Affairs, Derek Hanekom, to a community meeting with representatives of the Xhomani San on 8 September 2002. I subsequently conducted a formal interview with Isak Kuiper. For more detail on this experience see Appendix two.

A History of Dispossession: The inequitable distribution of land in South Africa

In 1991, approximately 80% of the South African population were still prohibited from owning or leasing land in over 80% of the country. Whites (14% of the population) owned 83% of the land (including 16% owned by the government and its agencies).[16] It is this unequal distribution of land that underpinned white domination of the black majority. In 1994, 80% of the land was still owned by whites and 50 000 white farmers owned 85% of all agricultural land.[17] This is highly skewed, even when compared to some of the most unequal societies both internationally and/or historically. As the following discussion will show, South Africa remains one of the countries with the most inequitable distribution of land (more inequitable than, for example, Zimbabwe and Namibia). South Africa is arguably also the country were such inequity has persisted the longest.

A 1985 government census in Brazil, for example, found that large-scale land holdings of over 1 000 hectares made up only 0.83% of the total number of rural properties but accounted for 43.3% of cultivated land. By contrast, smallholdings under 10 hectares comprised 53.1% of rural properties but accounted for only 3% of cultivated land.[18] In 1995, there were 4.8 million landless workers in Brazil and 1% of all property owners still owned 44% of the land, while 67% owned only 6% of the land.[19] In Cuba in 1958, 9% of the landowners owned 73% of the land.[20] In 1961, there were 1 091 large farms (haciendas) in Peru of over 2 500 hectares.[21] Foreign landowners possessed 70% of Mexico's wealth in 1910.[22] In Honduras in the early 1990s, two-thirds of all agricultural producers had access to only 10% of the total land area. In contrast, 10% of the Honduran population controlled 50% of the total land area.[23] In Chile in 1925, 5 396 large estates (with an average size of 10 377 hectares) accounted for 89% of all farmland.[24] After decades of land reform, large numbers of the Central American population remain landless. In Guatemala, 98% of the rural population require land and in El Salvador the figure is 57%.[25]

Further comparative examples include Japan where feudal landlords owned almost half of Japan's total land area in the period immediately preceding the end of World War

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[16] Margo T, "The South African Land Question", New Nation, February 7, 1991

[17] Turok B , "Expand from below: Reconstruction and Development in the PWV Region", South Africa: Perspectives on Development, Maganya E, Coetzee S, Turok B & Beukes E (Eds.), IFAA, Johannesburg, 1994. p. 97 & 98

[18] Amnesty International, Report Brazil: The Criminilisation of Rural Activism - The Case of Frei Anasta Ribeiro, October 1996

[19] Servico Brasileiro de Justica e Paz, "Land Issues", News from Brazil, Number 166, February 16, 1995

[20] El-Ghonemy M.R, "Cuba", The Political Economy of Rural Poverty, Routledge, London, 1990

[21] Christodoulou D, "Agrarian Reform: Solution, Holding Operation or Trojan Horse", The Unpromised Land, Zed Books, London, 1990

[22] Hodges D & Grandy R, "Soldier, Priest and Landlord", Mexico 1910 - 1976: Reform or Revolution, Zed Press, London, 1979

[23] De Walt B.R, Stonich S.C & Hamilton S.L, "Honduras: Population, Inequality and Resource Destruction", Population and Land Use in Developing Countries, Jelly C.L & Torrey B.B (Eds.), National Academy Press, Washington D.C, 1993

[24] McBride G.M, "Influence of the Haciendas", Chile: Land and Society, American Geographical Society, New York, 1936

[25] Sequira M, "Central America: Rural Workers say Land is Returning to the Rich", World News, April 9, 1998

Two.[26] Before the South Korean land reform programme was initiated, Japanese settlers representing 1.3% of the total number of South Korean landowners, owned 55% of the land.[27] In 1947, absentee landlords in India still owned 80% of the agricultural land. An unequal distribution of land as well as a concentration of land ownership were characteristics of Chinese society in the late 1940s. The size of large Chinese farms ranged from 20 to 1 380 hectares, with an average size of 335 acres. Small-scale cultivators represented approximately 70% of the total number of landowners but accounted for only 20 to 25% of total landholdings. Approximately 20 to 30% of rural households were landless, while an estimated 10% of all landowners were absentee farmers.[28]

At the time of independence (1980) in Zimbabwe, approximately 5 700 white farmers owned 16 million hectares of commercial agricultural land; 8 100 African farmers owned 1.5 million hectares and approximately one million African farmers cultivated 16 million hectares of land under customary tenure. In addition, whites (1% of the population) owned 70% of the most arable land.[29] It is estimated that absentee landlords currently own farms in Namibia covering more than a million hectares and that more than 70% of Namibia's arable land is still in the hands of a white minority group of farmers.[30] Before Egypt embarked upon its 1952 land reform programme, 94% of the total number of landowners controlled 35% of agricultural land, while 0.1% of the total number of landowners controlled 20% of agricultural land. Furthermore, approximately 45% of all Egyptian rural households were landless.[31]

Colonialism and the 1800s

The process of dispossession started when the first white settlers arrived at the Cape in 1652 and continued for approximately three centuries. This was arguably a more protracted process than elsewhere in Africa and Latin America. Portuguese immigration to Brazil, for example, started in the 1700s with the discovery of gold deposits and continued up to the middle of the 20th century. By 1831, European settlers had gained control of land resources as well as a dominant political and economic position in Brazilian society.[32] It was only in 1890 that Cecil John Rhodes dispatched a pioneer column from South Africa to colonise Zimbabwe and independence was achieved in 1980. And, in Kenya, colonisation commenced at the beginning of the 20th century when all "vacant" land was declared British Crown Land with the inevitable results of alienation, displacement and conflict.[33]

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[26] Cloete F, "Comparative lessons for land reform in South Africa", Africa Insight, Vol.22, No.4, 1992
[27] El-Ghonemy M.R, "South Korea", The Political Economy of Rural Poverty, Routledge, London, 1990
[28] El-Ghonemy M.R, "China", The Political Economy of Rural Poverty, Routledge, London, 1990
[29] Amanor-Wilks D, "Zimbabwe becoming another Zambia", Africa Today, March 1998
[30] Star, "Namibia resolves to seize farms", August 28, 2002
[31] El-Ghonemy M.R, "Egypt", The Political Economy of Rural Poverty, Routledge, London, 1990
[32] Grappo P, "Agrarian Reform and Land Settlement Policy in Brazil - Historical Background", Land Tenure Service SDAA, FAO, Rural Development Division, June 3 1996
[33] Christodoulou D, "Examples of rural movements and circumstances", The Unpromised Land, Zed Books, London, 1990

In 1658, the first formal act of forced relocation in South Africa occurred when Jan van Riebeeck informed Khoi communities that they could no longer live west of the Salt and Liesbeek rivers.[34] From then on, military conquest and colonial settlement became the standard methods of dispossession, although legislation and trickery always played a part. This is illustrated by the aggressive annexation of the Eastern Cape in the 1800s.

Legislation was increasingly used as a method of dispossession. As the white agricultural sector grew in the mid 1800s, so did the demand for African labour. Accordingly, a tax policy designed to force Africans into wage labour by heavily taxing independent African tenants on farmland was introduced in 1860.[35] This was followed by the 1884 Native Location Act in the Cape Colony and the 1887 Squatter Laws in the Transvaal. In 1891, the Free State prohibited Indian ownership and occupation of land. Indians were also prohibited from crossing provincial boundaries. It was in protest to this prohibition that Gandhi and a group of 2 700 protestors marched from Natal into the Transvaal.[36] In 1894, the Glen Grey Act was introduced in the Cape Colony to increase the supply of and control over African labour. In terms of the Glen Grey Act, migrants from "reserve" areas would provide labour, thus setting the foundation for separate development and the Apartheid policies that were to follow. Finally, it was the 1904 Masters and Servants Ordinance that deprived black tenants of legal protection by defining them as servants instead of wage labourers. The Ordinance therefore established the legal basis for the process of forced removal and eviction of labour tenants and farm workers that continued for almost a century thereafter.

The Union and the 1913 Land Act

With the creation of the Union of South Africa in 1910 and the coming to power of the South African Party, a new era of vigorous and focussed government policies to inhibit the growth of the African peasantry was ushered in.[37] The Land Act 27 of 1913 came into operation on June 19 - less than two months after the first reading on April 25, 1913. The 1913 Land Act prohibited land purchases by Africans outside of the scheduled reserves, making these the only places where Africans could legally occupy land. The 1913 Land Act also outlawed sharecropping and "squatting". The Act effectively dispossessed millions of South Africans and immediately reduced African access to land by excluding over one-and-a-half million hectares of white owned land rented by Africans, as well as half a million hectares owned and occupied by Africans at the time.[38]

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[34] Levin R.M, "Land Restitution, the Chieftancy and Territoriality: The case of the Mmaboi Land Claim in South Africa's Northern Province, Centre for African Studies, March 1996

[35] NLC, A History of Dispossession Media Fact Sheet, not dated

[36] Paton A, The People Wept, pamphlet, 1957

[37] Bundy C, The Rise and Fall of the South African Peasantry, Heinemann, London, 1979, p. 242 & 243 & NLC, A History of Dispossession Media Fact Sheet, not dated. The 1913 Land Act served several related purposes – preventing the rise of a class of commercially successful black farmers, ensuring a supply of migrant labour for mines and farmers, and maintaining low wages based on the justification that access to land in the bantustans allowed families to supply a portion of their subsistence through farming.

[38] Klug H, "Historical Claims on the Right to Restitution", Agricultural Land Reform in South Africa, Van Zyl J, Kirsten J & Binswanger H (Eds.), Oxford University Press, Cape Town, 1996, p. 391

The introduction of a system of "native reserves" is certainly not particular to South Africa and, as was the case elsewhere in colonial Africa, the objective was to generate a steady flow of cheap labour to settler farms and mines.[39] In Zimbabwe, the Land Apportionment Act of 1930 divided Zimbabwe into European and Native Reserves (constituting only 30% of the total land area). When the Land Tenure Act of 1969 replaced the Land Apportionment Act, European farms were roughly 100 times the size of African holdings in Zimbabwe's Tribal Trust Lands (reserves).[40] In Kenya, African "reserves" were created in 1926. What is particular to South Africa is the fact that the scheduled areas amounted to only 7% of the total land area. As early as 1916, the Beaumont Commission[41] reported that the reserves could only support half the African population of South Africa.

The 1913 Act was part of a bigger policy framework that included (among other measures) the Mines and Works Act of 1911 and the Native Labour Regulation Act of 1911 – both aimed at facilitating cheap labour to white enterprises.[42] Intrinsic to the bigger policy framework was the ideology that Africans should be allowed in white areas only as servants and never as owners or independent producers.[43] Nevertheless, the Beaumont Commission (1916) reported that African purchasers in the Transvaal were still squeezing whites out of the property market.

Closing in

In 1924, the Pact government came to power and set out to eliminate independent African access to land and to create a uniform system of black administration throughout South Africa. The then Minister of Native Affairs, J.B.M Hertzog, introduced the Black Administration Act 38 of 1927, which became one of the principle methods of forced removals. The power to forcibly remove African communities was contained in Section 5(1)(b) of the Act.[44] Hertzog also introduced the Native Trust and Land Act of 1936. The Act expanded the total reserve area to 6.21 million hectares or approximately 13% of the national land area.[45] It also created the South African Native Trust to acquire and administer that land. The Trust became the registered owner of most reserve land. Until 1937, African land purchases had continued, in a few cases, but the introduction of the 1937 Native Laws Amendment Act removed the surviving rights of Africans to acquire

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[39] Basset T. J, "The Land Question in Agricultural Transformation in Sub-Saharan Africa", Land in African Agrarian Systems, Basset T.J & Crummey D.E (Eds.), University of Wisconsin Press, Wisconsin, 1993

[40] Naldi G.J, "Land Reform in Zimbabwe: Some Legal Aspects", Journal of Modern African Studies, Vol.31, No.4, 1993

[41] The Beaumont Commission was established by the 1913 Land Act to study the impact of the legislation as well as to recommend whether and which additional land should be added to the reserves.

[42] Wickens P.L, "The Natives Land Act of 1913: A cautionary essay on simple explanations of complex change", South African Journal of Economics, Vol.49, 1981

[43] Claassens A, "For whites only - land ownership in South Africa", in A Harvest of Discontent: The Land Question in South Africa, De Klerk M (Ed.), Idasa, Cape Town, 1991, p. 43 - 56

[44] Marcus G, "Section 5 of the Black Administration Act: The Case of Bakwena ba Mogapa", No Place to Rest, Murray C & O'Reagan C (Eds.), Oxford University Press, Cape Town, 1990, p. 13 - 24

[45] Turner S & Ibsen H, "Land and agrarian reform in South Africa: A Status Report", Occasional Paper Series, PLAAS, UWC, November, 2000, p. 2 - 4

land in urban areas. This was followed by the 1946 Asiatic Land Tenure Act, which was introduced to control Indian land purchases in the Transvaal and Natal.

Forced Removals and Apartheid

The process of dispossession culminated in Apartheid with its "*labyrinth*" of laws relating to land and the forced removal of approximately 3.5 million people. Budlender and Latsky argue that the host of land-related laws that emerged during this period "*cannot and did not arise from a single flash of misguided brilliance. Rather, it was the result of generations of legal tinkering, of piecemeal and painstaking technical embellishments of structures created, on the one hand, in the service of the grand Apartheid plan and on the other hand, in response to ideological, developmental and economic realities from time to time and from area to area*".[46]

The majority of forced removal victims were African – although 600 000 non-Africans were forcibly removed under the Group Areas Act. Black spot clearance, homelands consolidation, the abolition of labour tenancy, urban township relocation, influx control and betterment planning, were all Apartheid measures to forcibly remove people. Between 1960 and 1982, approximately 1 200 000 people were forcibly removed from farms, a further 600 000 through black spot and bantustan consolidation policies, another 700 000 through urban relocation, some 900 000 under the Group Areas Act and 150 000 for other reasons.[47] All these removals were forced: "*The force has been both structural – coercion is built into the web of discriminatory and oppressive laws and institutions restricting black freedom of movement and access to land – and specific to the particular instances of relocation. Sometimes the violence with which people are moved is direct – police and guns, bulldozers demolished houses and arrests. Sometimes the violence is less overt – intimidation, rumour, co-option of community leaders, the pressure of shops and schools being closed and building restrictions imposed in areas due for removal"*.[48]

The Group Areas Act

"*But God save us all from the South Africa of the Group Areas Act, which knows no reason, justice or mercy"*.[49]

The Group Areas Act divided South Africa into African, Coloured, Asian and white areas and stipulated that each group had exclusive occupation rights within those areas. Indian, Chinese and Malay groups were created as subdivisions of the Coloured category on March 30, 1951. This separation would extend to all levels of society – residential, social, educational, commercial, recreational and industrial. The ratio of whites owning more than 80% of the land was maintained. The Group Areas Act had particular significance in the lives of Indian and Coloured communities in South Africa. The Group Areas Act 41 of 1950 imposed government control over all inter-racial changes in

[46] Budlender G & Latsky J, "Unravelling Rights to Land and to Agricultural Activity in Rural Race Zones", South African Journal of Human Rights, 1990
[47] South African Council of Churches, The Churches report on forced removal, Randburg, 1984
[48] Surplus Peoples' Project, Forced removals in South Africa Volume One, Cape Town, 1983
[49] Alan Paton in Paton A, The People Wept, pamphlet, 1957

ownership and occupation of property not already governed by the 1913 and 1936 Land Acts (primarily affecting Africans) and created the state machinery to enforce this legislation.[50] As such, the Group Areas Act, in conjunction with the Population Registration Act 30 of 1950 (which classified all people into one of four racial categories), became the primary instrument of forced removal and dispossession of Indian and Coloured communities. The Act led to the destruction of places like Cator Manor (Durban), South End (Port Elizabeth), District Six (Cape Town), Fordsburg, Vrededorp, Pageview and Sophiatown (Johannesburg) and to the creation of places like Lenasia, Eldorado Park, Chatsworth and Mitchell's Plain.[51]

For example, approximately 100 000 people were forcibly removed from Sophiatown in 1953 in terms of the Group Areas Act. Soon after the forced removals, houses and buildings were demolished and a new low-income white suburb, Triomf (meaning triumph), was built on the ruins of Sophiatown. The forced removals were part of a government plan to remove Sophiatown, Matindale and Newclare – all so-called black spots – to the western areas of Johannesburg. These freehold communities were established respectively in 1903, 1905 and 1912.[52] The plan to remove these "*last bastions of African freehold title*" was developed only after the areas became geographically suitable for white settlement and "*formed part of a calculated attempt to finally end all African freehold rights to land*".[53] As will be discussed in chapter six, by March 1998, more than 200 claims had been lodged with the Commission for the Restitution of Land Rights, affecting an estimated 1 700 properties.[54] As such, Sophiatown became a test case for urban land claims. Although many claimants wanted to return to Sophiatown for settlement, the majority of claims were addressed through financial compensation. It has also been difficult to establish the whereabouts of all the former dwellings as only a handful of the original buildings survived the bulldozers' onslaught. These include what used to be Trevor Huddleston's church in Ray Street and the Walter Sisulu's house.[55]

Related legislation gave the National Party government the power to continue its policies of forced removal. These included the Natives Resettlement Act of 1954, the Natives (Urban Areas) Amendment Act of 1955 and the Group Areas Amendment Act of 1956. In order to ensure effective separation between group areas, 58 border strips were established (nine in the former Transvaal, 41 in the former Cape Province, seven in Natal and one in the Orange Free State).[56] By December 1981, approximately 120 00 families

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[50] South African Council of Churches, The Churches report on forced removal, Randburg, 1984
[51] South African Council of Churches, The Churches report on forced removal, Randburg, 1984
[52] For more detailed information see Xuma A.B, "Black Spots or White Spots", Reconstruction, Mutloatse M (Ed.), Ravan Press, Johannesburg, 1981, p. 127 – 134 & Nasson B, "She preferred living in a cave with Harry the snake-catcher", in Bonner P, Hofmeyer I, James D & Lodge T (Eds.) Holding their Ground, University of Wits & Ravan Press, JHB, 1989 & Huddleston T, Naught for your comfort, Collins, London, 1956 & Denniston R, Trevor Huddleston, Macmillan, Oxford 1999
[53] Xuma A.B, "Black Spots or White Spots", Reconstruction, Mutloatse M (Ed.), Ravan Press, Johannesburg, 1981, p. 127 - 134
[54] Rheeder E, "Land-claims people must just relax", Northcliff / Melville Times, April 17, 1998
[55] Cohen M, "The day of reckoning approaches", Financial Mail, April 24, 1998 & for more information on Restitution see chapter 6
[56] Report of the Technical Committee on Enquiry into the Group Areas Act, 1966

(600 000) people had been removed under the Act. A total of 4.5 million whites had 866 group areas (774 000 hectares), 2.6 million coloured people had 904 group areas (95 000 hectares) and 0.8 million Indians had 274 areas (48 550 hectares).[57]

"Dr. Malan . . . called [the Group Areas Act] the 'heart of Apartheid'. So it is; and a fitting heart too, for in it is found all the contempt for humanity that is the mark of Apartheid".[58]

The "Homelands"

Since coming to power in 1948, the National Party argued that the South African population was composed of ten different nations. The Bantu Homelands Citizenship Act of 1970 provided that Africans could no longer be South African citizens but were citizens of respective homelands (whether they were born there or not). The Bantu Homelands Constitution Act gave the National Party government the power to grant independence to any homeland. The Transkei became independent in 1976, Bophuthatswana in 1977, Venda in 1979 and Ciskei in 1981.

Bantustan consolidation played an important part in the process of dispossession. The "homelands" consisted of broken tracks of land and the NP government tried to group these tracts together "relocating" people to where they were "required". Further forced removals and relocation took place when the Borders of Particular States Extension Act (1986) came into force stipulating that land from "white South Africa" be added to the bantustans. The redrawing of boundaries led to the forced removal of large numbers of people, without consultation and often with fierce resistance.[59] As a result of these policies, the population in the bantustans increased from 4.5 million to 11 million between 1960 and 1980.[60]

The Goedgevonden community, for example, had lived near Ventersdorp in the former Western Transvaal for 31 years when they were forcibly removed to farms 200 kilometres away in 1983. The land on which the community was resettled was subsequently incorporated into Bophuthatswana and the community thereby lost access to three-quarters of the land originally allocated to them.[61] Another example is the Braklaagte community, who fought a costly and protracted battle against incorporation into Bophuthatswana. The community, consisting of 10 000 individuals, lived on land that they had purchased in 1907 near Zeerust in the former Western Transvaal. In 1986, the local commissioner in Zeerust informed the community that they were about to become part of Bophuthatswana. In response, the Braklaagte community drew up petitions and wrote letters to the National Party government requesting a meeting to discuss their concerns. The National Party government never responded to these requests

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[57] South African Council of Churches, The Churches report on forced removal, Randburg, 1984
[58] Paton A, The People Wept, pamphlet, 1957
[59] Levin R, "Land Reform: Politics, Policies and Prospects", Transformation in South Africa? Policy Debates in the 1990's, Maganya E & Houghton R (Eds.), IFAA, Johannesburg, 1996, p. 101 - 107
[60] Turner S & Ibsen H, "Land and agrarian reform in South Africa: A Status Report", Occasional Paper Series, PLAAS, UWC, November, 2000, p. 2 - 4
[61] TRAC, "Return to the Land", Newsletter, No.19, November 1991

and went ahead with the incorporation in December 1988. In March 1989, the Braklaagte community took the matter to court. As a result, conflict between the government and the community escalated. School children were assaulted, the local clinic was converted into a jail and many individuals were arrested and beaten - some were killed.[62]

Largely as a result of the "homeland" policies and consequent overcrowding, rural poverty had reached endemic proportions by the 1940s and urbanisation rates increased significantly. Rural to urban migration was probably also encouraged by the temporary relaxation of the pass laws during the Second World War. Accordingly, the state enacted a series of measures which included the Native Trust and Land Act of 1936, the Control and Improvement of Livestock in Native Areas Proclamation (i.e. Betterment Planning) and the Rehabilitation scheme which, "*aimed to stabilise the economic deterioration of the reserves to ensure their viability for a permanent class of migrant labourers*".[63]

Betterment Planning

The situation in the homelands continued to deteriorate, becoming more overcrowded and more impoverished. (Similar events played themselves out in the Zimbabwean reserves, where enforced overpopulation resulted in severe ecological degradation. By 1979, the population of the Zimbabwean Reserves exceeded the carrying capacity of the land by two million people, placing an enormous constraint on the ability of small-scale farmers to generate income.[64]) Despite the obviously deplorable conditions imposed on people by the Apartheid system, the National Party government argued that the agrarian crisis in the bantustans was the result of bad farming practices followed by Africans. In particular, the communal land tenure system.

Therefore, instead of addressing the real problem by making more land available, the National Party governments (under D.F. Malan) focussed on the prevention of the further deterioration of available land. The emphasis was on better crops, modern methods of production and livestock reduction. The Commission for the Socio-Economic Development of Bantu Areas (better known as the Tomlinson Commission[65]) was appointed by the Malan government in 1950. The commission's mandate was to develop a socio-economic plan to rehabilitate and develop black areas into self-governing homelands.[66] The Commission's 1953 report recommended separate development as a strategy to avoid racial tension in South Africa, urged an acceleration of land purchases to add to the homeland areas and address overcrowding, and highlighted the need for agricultural development and restructuring (i.e. betterment planning).[67] The (then)

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[62] TRAC, "Bantustans and forced incorporation", New Nation, March 1991

[63] Drew A, "The Theory and Practice of the Agrarian Question in South African socialism, 1928 – 1960", Journal of Peasant Studies, 23, January – April, p. 58

[64] Herbst J, "The Dilemmas of Land Policy in Zimbabwe", Africa Insight, Vol.21, No.4 1991

[65] So called because it was lead by Professor F R Tomlinson.

[66] Hoffman T & Ashwell A, Nature Divided: Land degradation in South Africa, University of Cape Town Press, Lansdowne, 2001, p. 26 & 27

[67] Hoffman T & Ashwell A, Nature Divided: Land degradation in South Africa, University of Cape Town Press, Lansdowne, 2001, p. 26 & 27

Department of Bantu Affairs rejected many of the Commission's recommendations[68] and implemented a betterment planning programme, introduced by Proclamation 31 of 1939 and regulated by Proclamation R 169 of 1967.

Betterment involved the division of land into residential, arable and grazing land, the relocation of people from their scattered homesteads to new concentrated betterment villages, gully rehabilitation, a reduction of the number of livestock that could be owned by individuals/families and the fencing off of residential and grazing areas (in order to introduce rotational grazing). "Economically viable" sized plots would be granted to "competent" farmers, who would be provided with "certificates of occupation" as opposed to freehold rights. The Tomlinson Commission had calculated the amount of land required in each ecological area (in the homelands) to provide an average family with "economically viable plots". However, the government at the time (led by Malan) had reduced this to the equivalent of just 60 pounds worth of land – making even subsistence farming untenable.[69] Others (i.e. not competent farmers) would gain access to residential plots in newly established betterment villages and would arguably be absorbed into other sectors of the economy. In reality, other sectors were unable to absorb the surplus people.[70]

Instead of developing agriculture and improving the quality of life in the rural areas, betterment planning ensured a steady supply of migrant labour for white South African industries, mines and agriculture. The negative consequences of betterment planning, according to McAllister,[71] were social, political, economic and ecological. Ecologically, the concentration of people in villages led to the excessive exploitation of nearby resources (grazing, water and wood) as well as to severe erosion gullies around the new homesteads.[72] The social costs of leaving a familiar homestead with ancestral graves to relocate to a foreign (often hostile) environment were very negative – excluding the economic costs of relocating and building new homes. Groups of close kin were broken up, destroying support networks as well as undermining economic activity that often depended on neighbourhood networks. Political organisations and economic relationships were destroyed and the effect on agriculture was extremely negative.[73]

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[68] H.F. Verwoerd, then Minister of Native Affairs, rejected the following recommendations (1) Tribal ownership should be replaced with freehold tenure for blacks in both rural and urban areas. (2) Full-scale development of black areas would require a budget of more than R200 million over then years. (3) White capital should be invested in the homelands to develop industries and provide employment. (4) A black peasant farming class should be developed to supply domestic markets with produce. Quoted directly from Hoffman T & Ashwell A, Nature Divided: Land degradation in South Africa, University of Cape Town Press, Lansdowne, 2001, p. 26

[69] Hoffman T & Ashwell A, Nature Divided: Land degradation in South Africa, University of Cape Town Press, Lansdowne, 2001, top of page 27.

[70] Letsoala E, "Land Reform - state initiatives", A Harvest of Discontent: The Land Question in South Africa, De Klerk M (Ed.), Idasa, Cape Town, 1991, p. 102 - 106

[71] McAllister P.A, "Reversing the effects of betterment planning in South Africa's black rural areas", Africa Insight, Vol.21, No.2, 1991

[72] Also see Hoffman T & Ashwell A, Nature Divided: Land degradation in South Africa, University of Cape Town Press, Lansdowne, 2001, p. 30 & 31. Hoffman explains how, from the beginning, it was unlikely that these interventions to address soil erosion and conserve natural resources, would succeed.

[73] Whole paragraph is based on McAllister P.A, "Reversing the effects of betterment planning in South Africa's black rural areas", Africa Insight, Vol.21, No.2, 1991. See also Beinart W & Bundy B, "State

According to Hendricks, only 3.3% of the Transkei population, for example, owned more than 25 cattle by 1941, while 70% owned between one and five.[74] Another effect of Betterment Planning was to increase economic stratification as a minority of wealthier individuals/families benefited from these policies, while approximately one quarter of the population of the homelands had no land or stock at all.[75] Figures from Witsieshoek, a Betterment Area in the former Transvaal, indicate that by 1950, of the total population of 14 000 households, about 4 000 had no land or cattle and approximately 75% had no stock.[76] The Surplus Peoples' Project estimated that, between 1960 and 1982, four million people were relocated as a result of *betterment policies*.

Forced Removals

The Surplus Peoples' Project estimated that between 1960 and 1983, 7.5 million people were forcibly removed. These include the bulk of the people affected by influx control, those relocated as a result of betterment planning, those who were moved more than once and those who were removed after 1982. Excluding those relocated as a result of betterment planning, farm workers constituted the largest single category of removals followed by the Group Areas Act and removals through urban relocation policies. Black spot clearance was one of the most notorious and violent methods of forced removal. Black spots were areas owned or occupied by Africans that fell outside of the territories designated by the 1913 and 1936 Land Acts. An estimated 614 000 people were forcibly removed from black spots between 1960 and 1982. Informal settlement removals accounted for a further 112 000 people, infrastructural removals[77] accounted for a further 23 500 people, and strategic[78] and political removals accounted for a further 50 000 people.[79] The Slums Act 76 of 1979 further contributed to racial separation and forced removals. The Act allowed municipalities to act against "slums" and "nuisances" within their areas of jurisdiction, by calling for removals and/or destruction of property.

In the 1980s, the National Party government officially adopted a "softer" policy on removals, speaking of "voluntary" removals as opposed to the forced removals of the 60s and 70s. "*The new policy amounted to persuading the people to move by means that progressed rapidly from discussion, to withdrawal of health services, to demolition of schools, to withholding pensions and finally . . . surrounding the village with armed*

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intervention and rural resistance: the Transkei 1900 – 1965", in Martin A Klein (Ed.), Peasants in Africa: Historical and Contemporary Perspectives, Sage, Beverly Hills & London, 1980, p. 197 – 198

[74] Hendricks P, The pillars of Apartheid: Land Tenure, Rural Planning and the Chieftancy, Ph.D., Uppsala University, 1990, p. 100 & 101

[75] Drew A, "The Theory and Practice of the Agrarian Question in South African socialism, 1928 – 1960", Journal of Peasant Studies, 23, January – April, p. 58 - 62

[76] Hendricks P, The pillars of Apartheid: Land Tenure, Rural Planning and the Chieftancy, Ph.D., Uppsala University, 1990, p. 59

[77] Infrastructural removals involved moving people (without consultation) for the creation of, for example, game reserves or dams.

[78] Forced removals for strategic considerations happened mostly along South Africa's borders. People were moved from these areas in order to clear areas for the South African Defence Force border patrols.

[79] All figures from Surplus Peoples' Project, Forced removals in South Africa Volume One, Cape Town, 1983

police in the dead of the night".[80] In 1985, the National Party government announced that the policy of forced removal had been suspended. One year later, with the declaration of a state of emergency, the suspension was lifted and forced removals took place in, for example, Langa and Crossroads.

(For an extended commentary on the Churches' role in dispossession, including relatively recent land sales in anticipation of restitution claims, see Appendix 6.)

The Prevention of Illegal Squatting Act

Since the mid 1970s, one of the most commonly used legal mechanisms for forcibly removing communities was the Prevention of Illegal Squatting Act 52 of 1951. There were two types of removal powers in the Act: criminal provisions and administrative procedures. The key criminal provisions are in section 1, which provided that: "*Save under the authority of any law, or in the course of his duty as an employee of the government or of any local authority; no person (a) shall enter upon or into without lawful reason, or remain on or in any land or building without the permission of the owner or lawful occupier of such land or building whether such land is enclosed or not*".[81] Section 5 of the Act gave a magistrate administrative powers to order the removal of persons from land and the demolition of any structures in circumstances where the magistrate felt that the health and safety of the public generally would be endangered if such a removal did not take place. The Act was amended in 1988, despite widespread opposition to further facilitate forced removals. Some features of the Amended Act included the granting of powers to local authorities and landowners to demolish buildings.[82]

Urbanisation Policies

"There will be no more black South Africans".[83]

Under influx control and pass laws thousands of Africans were forced out of white areas into the homelands. Influx control refers to a wide range of policies and legislation aimed at preventing African urbanisation. These included the pass laws, the system of housing permits, deportation and forced removal policies, legislation related to the prevention of "illegal squatting", the homeland system and fining employers for employing "illegal labour".

It is argued that influx control was a major structural cause of poverty in South Africa as well as an essential pillar of the existing power structure.[84] Essentially influx control and

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[80] Claassens A, "Rural -Land Struggles in the Transvaal in the 1980's", Murray C & O'Reagan C (Eds.), No Place to Rest, Oxford University Press, Cape Town, 1990, p. 31

[81] O'Reagan C, "The Prevention of Illegal Squatting Act", No Place to Rest, Murray C & O'Reagan R (Eds.), Oxford University Press, Cape Town, 1990, p. 162

[82] O'Reagan C, "The Prevention of Illegal Squatting Act", No Place to Rest, Murray C & O'Reagan R (Eds.), Oxford University Press, Cape Town, 1990, p. 167

[83] Connie Mulder, Minister of Plural Relations in 1978 quoted by the Surplus Peoples' Project

population removals were designed to maintain strict racial segregation and to keep as many Africans as possible in the overcrowded bantustans. One of the major legislative mechanisms used to enforce influx control was Section 10 (1) of the Black (Urban Areas) Consolidation Act 25 of 1945 and its subsequent amendments. This section prohibited any black person from remaining in a prescribed area for more that 72 hours unless: "*(a) He has resided continuously in the area since birth or (b) he has worked continuously in the area for one employer for at least ten years or lived in the area lawfully and continuously for at least 15 years or (c) Such black is the wife, unmarried daughter or the son under the age of 18 years of any black mentioned in subsection (a) and (b) above who has lawfully entered and lawfully lives with that black in the area. (d) Permission for any other black to remain in the prescribed areas has been administratively granted"*.[85] African urbanisation was further curbed by outlawing the building of houses for blacks in urban areas between 1968 and 1977.

The 1986 White Paper on Urbanisation marked a substantial shift in the state's approach to urbanisation so that for the first time African urbanisation was regarded as inevitable.[86] The previous coercive influx control measures were replaced by a strategy of orderly urbanisation.

Tenancy

Running parallel to the process of dispossession were measures to impede black agricultural production on white owned land. The Surplus Peoples' Project estimated that farm evictions constituted the largest single category of removals (1 129 000 people between 1960 and 1982).[87] Turner & Ibsen estimated that, between 1950 and 1980, 1.4 million people were evicted from white-owned farms.[88] Africans had adapted to restricted land access by entering into sharecropping and tenancy arrangements with white landowners. Accordingly, successive legislative attempts were made, from the early 1900s, to eliminate rent, share and labour tenancy on white-owned land and to promote wage labour systems.[89]

A major objective of the 1913 Land Act was to eradicate independent African tenant producers and commercial farmers.[90] The Act was used quite successfully in the Free

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[84] Zille H, "Political Power and Poverty: An examination of the role and effect of influx control in South Africa", Second Carnegie Inquiry into Poverty and Development in Southern Africa, Cape Town.

[85] Zille H, "Political Power and Poverty: An examination of the role and effect of influx control in South Africa", Second Carnegie Inquiry into Poverty and Development in Southern Africa, Cape Town

[86] Stutcliffe M, Todes A & Walker N, "Managing the Cities: An Examination of State Urbanisation Policies Since 1986", No Place to Rest, Murray C & O'Reagan C (Eds.), Oxford University Press, Cape Town, 1990, p. 86

[87] Surplus Peoples' Project, Forced removals in South Africa Volume One, Cape Town, 1983

[88] Turner S & Ibsen H, "Land and agrarian reform in South Africa: A Status Report", Occasional Paper Series, PLAAS, UWC, November, 2000, p. 2 - 4

[89] For more on diversification and classification – particularly regarding sharecroppers and small-scale farmers see Bundy C, The Rise and Fall of the South African Peasantry, Heinemann, London, 1979, p. 11, 45 & 128

[90] It is estimated that in 1890 in the Cape alone, there were between one and two thousand black small-scale commercial farmers. This highlights not only the response of the African population to economic

State, for example, to reduce the size of African herds and to promote wage labour systems. Attempts to restrict access to grazing and cattle numbers were a major source of contention.[91] Keegan[92] argues that the 1913 Act ushered in a period of "*concerted efforts to change the terms of tenancy in favour of white farmers and to extend their control over the labour, the resources and the productive enterprises of blacks living on their land*". By the 1920s, a staggering demise in labour tenancy was evident, but tenancy arrangements continued to survive in certain parts of South Africa (notably the Transvaal Highveld). It was under Hertzog that the fortunes of tenant families really began to change. The trend at the time to sub-divide white-owned land meant more intensive farming methods and reduced access to land for Africans.[93] In 1932, the Native Service Act gave farmers the right to evict tenant families, to whip tenants and to compel labour tenants and farm workers to carry passes.[94] As the white-commercial agricultural sector became increasingly modernised (with state support) in the 1930s and 1940s, labour tenancy and sharecropping became more and more scarce and labour relations on farms more and more exploitative.

Attempts to eliminate labour tenancy, sharecropping and independent African agricultural production are colonial phenomena. In Kenya, some of the worse conflicts arose from forcing labour tenants into the wage labour system.[95] In Zimbabwe, policies to protect the white farming sector led to the almost complete destruction of the African agricultural economy in the 1930s and, the eviction of approximately 85 000 African families from European land between 1945 and 1951.[96] What is particular about South Africa is the protracted nature of the process and its culmination in Apartheid. Following its ascendancy to power in 1948, the NP government embarked upon a process of systematic aggression against "squatting" and labour tenancy. Legislation included the Prevention of Illegal Squatting Act and the 1964 Bantu Laws Amendment Act. The NP government also encouraged evictions carried out by farmers and Bantu Administration officials.

This aggression, although devastating, failed to eliminate labour tenancy altogether. In the 1950s, labour tenancy arrangements continued in the Transvaal Highveld. Van Onselen[97] tells the story of Kas Maine, a sharecropper who exemplifies the tenacity and

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opportunities as emphasised in chapters eight and nine of this thesis, but also highlights socio-economic differentiation among the rural African population at the time. See Bundy C, The Rise and Fall of the South African Peasantry, Heinemann, London, 1979, p. 94

[91] It might have been a bigger source of contention for some than for others. According to Bundy, for example, a survey of the former Transkei in the early 1900s, found that 33 percent of the cattle were in the hands of five percent of the population – indicating stratification. Bundy C, The Rise and Fall of the South African Peasantry, Heinemann, London, 1979, p. 128

[92] Keegan T, Facing the Storm, David Philip, Cape Town, 1988

[93] Keegan T, Facing the Storm, David Philip, Cape Town, 1988

[94] NLC, A History of Dispossession, Media Fact Sheet, undated

[95] Williams G, "Transforming Labour Tenants", Land, Labour and Livelihoods, Volume 2, Lipton M, Ellis F, Lipton M (Eds.), Indicator Press, December 1996

[96] Binswanger H & Deininger K, "South African Land Policy: the legacy of history and current options", in Agricultural Reform in South Africa, Van Zyl J, Kirsten J & Binswanger H (Eds.), Oxford University Press, Cape Town, 1996, p. 78, 79, 84, 87 - 93

[97] Van Onselen C, The Seed is Mine: The Life of Kas Maine, a South African Sharecropper 1894 - 1985, Hill & Wang, New York, 1996

ability of some labour tenants to farm successfully in the most adverse of circumstances, with no capital and very limited resources. In 1964, there were an estimated 163 000 labour tenant families in South Africa, mostly in Natal.[98] In the 1980s, labour tenants could still be found in limited pockets of the country – notably Weenen. In the 1990s, former farm workers were still engaged in sharecropping arrangements in the North West Province.[99] Even in 1998, estimates indicated that there were some 40 000 labour tenants in Mpumalanga and 1.2 million in KwaZulu-Natal.[100]

The question is, why did labour tenancy survive? It survived because it served the interests of both parties involved. Tenancy arrangements gave African farmers access to land and an opportunity to keep cattle in an increasingly hostile environment. For white farmers, tenancy provided a constant supply of labour without the capital outlays required for wage labour.[101] It also gave landowners access to African skills and equipment and enabled them to share the risks of arable farming.[102] Keegan[103] argues that the whole process was characterised by a profound contradiction. Many white farmers continued to depend on black farmers for their economic survival, thus contradicting the general ideology of white supremacy. African farmers who were able to exploit this contradiction were able to survive.

The prevalence of labour tenancy in KwaZulu-Natal can in part be attributed to the unique nature of this province. According to Walker[104] it is the relationship between the former areas of Natal and KwaZulu that set the province apart. KwaZulu was the largest, most densely populated and most powerful homeland. Furthermore, the KwaZulu homeland had the support of powerful white agricultural and business interests – notably the South African Sugar Association. Forced removals and aggressive homeland consolidation policies in the area would arguably have had a negative impact on the stability and profitability of the sugar industry with negative consequences for the province as a whole. In addition, a large percentage of the African population in Natal was able to retain access to agricultural land outside of the scheduled reserve areas. Finally, resistance to the elimination of labour tenancy in the 1960s and 1970s was particularly fierce in Natal – both tenants and farmers (especially small-scale and absentee farmers – highly prevalent in the area) resisted the elimination of the system.[105]

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[98] Bundy C, The Rise and Fall of the South African Peasantry, Heinemann, London, 1979, p. 235

[99] Williams G, "Transforming Labour Tenants", Land, Labour and Livelihoods, Volume 2, Lipton M, Ellis F, Lipton M (Eds.), Indicator Press, December 1996

[100] Mngxitama A, "Labour Tenants: The forgotten people", Land Update, No.64, January/ February 1998

[101] Hornby D, "All we need is a piece of land", National Land Committee Investigation into the Current Status of Labour Tenancy, March 1998

[102] Williams G, "Transforming Labour Tenants", Land, Labour and Livelihoods, Volume 2, Lipton M, Ellis F, Lipton M (Eds.), Indicator Press, December 1996

[103] Keegan T, Facing the Storm, David Philip, Cape Town, 1988

[104] Walker C, "Mass removals in Natal: Consolidation and Farm Evictions", Special Report No.1, AFRA, 1981

[105] But even in 1850, labour-tenancy and share-cropping was more likely in KwaZulu-Natal, according to Bundy, because (1) land ownership was concentrated in the hands of merchants, land companies and other speculators, (2) the land market was static and land prices were very low, (3) the stagnation of colonial agriculture, and (4) this reinforced the tendency to rely upon rent to extract profit from the land. Bundy C, The Rise and Fall of the South African Peasantry, Heinemann, London, 1979, p. 170

In 1986, chapter four of Act 18 of 1936 was repealed as part of the Abolition of Influx Control Act 68 of 1986. In conjunction with the Land Reform (Labour Tenants) Act 3 of 1996, labour tenancy was once again legal.[106]

Resistance

The process of dispossession has not been uncontested, and at times (as the following discussion will illustrate) agrarian and rural protest in South Africa was fierce and extensive. The African National Congress and the South African Communist Party have both had links to (and an interest in) rural resistance. The establishment of the ANC in 1912, for example, concurred with the promulgation of the 1913 Land Act. The South African Communist Party's 1924 draft programme, as a further example, called for the expropriation and redistribution of large landholdings amongst the landless rural population.[107]

However, agrarian and rural protest in South Africa never linked sufficiently to the national struggle or a nationalist organisation (e.g. the African National Congress) or even trade unions[108], nor did it reach the dimensions of regime challenge that was posed by, for example, guerrilla movements in other parts of Africa. Part of the explanation lies in the unparalleled scale of industrialisation (compared to other African countries) and consequent rural to urban migration in South Africa. Another distinctive feature is that, in South Africa, rapid industrialisation occurred before[109] "agrarian transformation", whereas (generally) capitalist agriculture develops prior to industrialisation.[110] Linked to this, is the fact that the white agricultural sector in South Africa was substantially commercialised – if not capitalised. Consequently, farm workers represented an especially vulnerable section of the population and, therefore, much less likely (or able) to organise resistance, than, for example, the residents of the former homelands who had access to some resources through migrant remittances. The exception being the resistance led by the Industrial Workers Union in the 1920s in the Free State and Natal. Between 1926 and 1927, the ICU (originally a black dock-workers' union) organised black sharecroppers and labour tenants in an effort to retain access to land. Also in the late 1920s, an ANC organisation of farm workers in the Western Cape presented significant resistance and was only suppressed in the early 1930s.[111]

It will be argued in later chapters of this thesis that the failure of the African National Congress to sufficiently link with rural resistance influenced the land reform policy

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[106] Tenure reform is discussed in chapters eight and nine of this thesis.

[107] Drew A, "The Theory and Practice of the Agrarian Question in South African socialism, 1928 – 1960", Journal of Peasant Studies, 23, January – April, p. 50 - 60

[108] The Congress of South African Trade Unions, for example, never really made a serious impact on farm workers or in rural areas in general.

[109] Prussian path - Bernstein H, "South Africa's Agrarian Question: Extreme and Exceptional?", in Bernstein H (ed.), The Agrarian Question in South Africa, Frank Cass, London, Portland, 1996, p. 30

[110] This argument is made by Bernstein H, "South Africa's Agrarian Question: Extreme and Exceptional?", in Bernstein H (ed.), The Agrarian Question in South Africa, Frank Cass, London, Portland, 1996, p. 27 -32

[111] Hofmeyer W, "Rural Popular Organisation Problems: Struggles in the Western Cape 1929 – 1930", Africa Perspectives, p. 26 - 49

development process (chapter five), as well as, the pace and scope of policy implementation thereafter (chapter eleven).

Naturally, the African National Congress's relative distance[112] from rural politics also influenced the nature of rural struggle and resistance, as well as the process of historical documentation. Until recently, available documentation generally emphasised the "dramatic manifestations" of resistance (see the list below for examples), which are interpreted as "responses to specific state policies".[113] What is not captured in the kind of historiography described above, and drawn on below, is the concept of "day-to-day" resistance.[114] "Day-to-day" resistance can be defined as conscious acts of defiance by individuals or communities that are often overlooked – for example, labour withdrawal. "Day-to-day" resistance (or hidden resistance[115]) is probably more likely in scenarios of severe repression (e.g. apartheid South Africa). Another factor that influences the nature of rural resistance in South Africa, is the protracted nature of dispossession. Of course, the nature of rural resistance is also affected by simple logistical factors. For example, (as Levin and Solomon explain[116]) resistance and organisation require "a certain level of communications infrastructure to be effective and sustainable". In other words, rural resistance was limited by (and continues to be limited by) a lack of communication technology.

Documented (i.e. dramatic manifestations of) resistance essentially commenced with the arrival of the first white colonists. Fierce clashes took place between the Khoi and the Dutch East India Company soon after the latter's arrival and continued for 50 years. From 1770 to 1800, the San fought battles against white settlers along the Bokkeveld and Sneeuberg ranges into Namaqualand.[117] War between Xhosas and colonists on South Africa's "eastern frontiers" continued for a century (1778 to 1878).[118] Further examples of resistance include the 1906 Bambatha Zulu uprising, peasant boycotts in Herschel in

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[112] The so-called urban bias of African National Congress politics and policies is discussed in chapter five of this thesis. It is important to point out, however, that the discussion in this section suggests that opportunity to mobilise and organise in the rural areas existed, but that the ANC for various reasons – its communist party links (Drew 1996), or the youth-based culture of resistance in the 1970s (Levin & Solomon 1997), or links to urban trade unions etc. – failed to sufficiently link to and mobilise around rural issues (e.g. land). Also see Drew A, "The theory and practice of the Agrarian Question in South African Socialism, 1928 – 1960", in Bernstein H (ed.), The Agrarian Question in South Africa, Frank Cass, London, Portland, 1996

[113] Beinart W & Bundy C, Hidden Struggles in Rural South Africa, James Currey, London & Ravan Press, Johannesburg, 1987, p. 26

[114] Beinart and Bundy explain that this concept of "day-to-day" resistance, as well as a more complex understanding of resistance (i.e. resistance also includes collaboration) emerged from post-1960 authors critical of "resistance studies". See especially p. 27 of Hidden Struggles in Rural South Africa.

[115] Levin R & Solomon I, "National Liberation and Village Level Organisation and Resistance", in Levin R & Weiner D (eds.), No More Tears . . . Struggles for Land in Mpumalanga, South Africa, Africa World Press Inc., Asmara, Eritrea, 1997, p. 176 & 177

[116] Levin R & Solomon I, "National Liberation and Village Level Organisation and Resistance", in Levin R & Weiner D (eds.), No More Tears . . . Struggles for Land in Mpumalanga, South Africa, Africa World Press Inc., Asmara, Eritrea, 1997, p. 178

[117] Winberg M, Back to the Land, Porcupine Press, JHB, 1996, p. 7 - 11

[118] Elphick R & Giliomee H, The Shaping of South African Society, Maskew, Miller, Longman, Cape Town, 1989

1914, resistance in Bulhoek in 1921, and the emergence of the Industrial Workers Union in 1919.[119]

In 1928, the rural populist Wellington Movement in the Transkei, which challenged local authorities and the state's control over schools and churches, was considered "dangerous" by the white government.[120] In fact, there were a number of rural political movements, whose political responses were dominated by questions of land and livestock, in the former Transkei region between the early 1880s and the 1930s.[121]

Many manifestations of rural resistance were in response to (or in anticipation of) betterment planning. Resistance to betterment planning was relatively protracted and successful. Levin[122] points out that by 1952 only 9.4% of all reserve land had undergone betterment planning, despite the fact that betterment planning began in the 1930s and various proclamations were made in the 1940s to make betterment planning compulsory.

Between 1946 and 1962, land legislation was fiercely resisted in a number of areas including Zeerust[123] (mid-1950s), Zoutpansberg[124] (1940s), Sekhukhuneland[125] (mid-1950s), Zululand, Witsieshoek[126] (1950), Pondoland and the former Transkei. In Sekhukhuneland, resistance (against the Bantu Authorities Act and associated betterment planning[127]) culminated in the 1958 revolt and the formation of a migrant workers' association called Sebatakgomo, which played a prominent role in maintaining rural resistance.[128] Furthermore, battles against homeland consolidation in the 1950s contributed to the rise of the ANC in rural areas in the 1960s and its transformation into a broad-based national movement.[129] Resistance continued in the 1970s through the struggles of labour tenants and black spot communities against removals and evictions. In the 1980s, the United Democratic Front and several unions embarked on a number of successful anti-removal struggles and mass action campaigns. For example, village-based residents associations (some affiliated to the United Democratic Front) in the

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[119] See preceding discussion.
[120] Beinart W & Bundy C, Hidden Struggles in Rural South Africa, James Currey, London & Ravan Press, Johannesburg, 1987, p. 1
[121] See Beinart W & Bundy C, Hidden Struggles in Rural South Africa, James Currey, London & Ravan Press, Johannesburg, 1987, p. 3, but also the whole book for detailed examples of resistance in the former Transkei.
[122] Levin R, "Land Restitution and Democracy", in Levin R & Weiner D (eds.), No More Tears . . . Struggles for Land in Mpumalanga, South Africa, Africa World Press Inc., Asmara, Eritrea, 1997
[123] Basner M, Am I African? The Political Memoirs of H.M. Basner, University of the Witwatersrand, JHB,1993, p. 99 - 108
[124] Harrison B, "Rural revolt in South Africa 1937 – 1951", Paper presented at the Institute of Commonwealth Studies Post-graduate seminar, The Societies of Southern Africa in the 19th and 20th centuries, 1977
[125] Mbeki G, South Africa: The Peasants Revolt, Hammondsworth, Middlesex, 1964
[126] Lodge T, Black Politics in South Africa since 1945, Longman, London & New York, 1983, p. 261 - 294
[127] Levin R, "Land Restitution and Democracy", in Levin R & Weiner D (eds.), No More Tears . . . Struggles for Land in Mpumalanga, South Africa, Africa World Press Inc., Asmara, Eritrea, 1997, p. 237
[128] Delius P, A lion amongst the cattle, Ravan Press, Randburg, 1996
[129] NLC, A History of Dispossession, Media Fact Sheet, undated. Also see Levin R & Weiner D, "The politics of land reform in South Africa after Apartheid: Perspectives, problems and prospects", Journal of Peasant Studies, Vol.23, April 1996

Border Corridor of the Eastern Cape, resisted their scheduled forced incorporation into the Ciskei.[130] Another example of resistance was the successful rejection of KwaNdebele independence in 1986 that ended the NP government's independence drive.[131]

The important point, according to Beinart and Bundy[132], is not that there are so many "dramatic manifestations" of rural resistance, but rather that rural resistance was clearly complex, varied, persistent (although not in the sense of sustained organisational structure) and salient. Discussions (and analysis) of rural resistance should therefore include examples of "day-to-day" resistance such as tax evasion, labour withdrawal, boycotts, sabotage, non-compliance with the law, strikes, flight, destruction of crops and other assets and stock theft.[133] Levin and Solomon point out that in the Central Lowveld (north of Nelspruit) "the history of labour tenancy, forced removals and the creation of bantustan villages in Kangwane, Lebowa and Gazankulu was punctuated by day-to-day forms of resistance.[134] (Rural resistance can also include – see chapters six, seven, eight, nine and particularly eleven – land invasions/occupations, intimidation, and assault or even murder of current landowners.) Discussion on (or analysis of) rural resistance also needs to take account of socio-economic differentiation[135] among rural communities, in the sense that various manifestations of resistance will have different economic, cultural and social origins (i.e. will be motivated by different socio-economic needs).

The context in brief

The current inequities in access to land are the result of colonialism and racist policies and legislation propagated and implemented for centuries. The 1913 and 1936 Land Acts are particularly notorious in this regard. The process of dispossession culminated in Apartheid – as exemplified by the creation of the homeland system and racist urbanisation policies. At least 3.5 million people were forcibly removed, but if

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[130] Levin R & Solomon I, "National Liberation and Village Level Organisation and Resistance", in Levin R & Weiner D (eds.), No More Tears . . . Struggles for Land in Mpumalanga, South Africa, Africa World Press Inc., Asmara, Eritrea, 1997, p. 188

[131] Mbongwa M, "The Political Economy of Post-1960 Dispossession in South Africa, Paper presented at a conference of the Newick Park Initiative, Land Reform and Agricultural Development, UK, October 1990, Jubilee Centre Publications

[132] Beinart W & Bundy C, Hidden Struggles in Rural South Africa, James Currey, London & Ravan Press, Johannesburg, 1987, p. 27 & 28

[133] For an analysis of "day-to-day" resistance see Levin R & Solomon I, "National Liberation and Village Level Organisation and Resistance", in Levin R & Weiner D (eds.), No More Tears . . . Struggles for Land in Mpumalanga, South Africa, Africa World Press Inc., Asmara, Eritrea, 1997, p. 176. Drawing on the work of (and quoting) Allen Isaacman, the authors point to the necessity to defining day-to-day acts of resistance in order to ensure that the concept of resistance does not become "meaningless". Isaacman suggests (as quoted by Levin et al.) that "the perpetrators of the actions [should] embody at least some vague notion of collective identity and [actions should] possess an internal structure and logic".

[134] Levin R & Solomon I, "National Liberation and Village Level Organisation and Resistance", in Levin R & Weiner D (eds.), No More Tears . . . Struggles for Land in Mpumalanga, South Africa, Africa World Press Inc., Asmara, Eritrea, 1997, p. 176

[135] Beinart and Bundy on page 30, for example, distinguish between four groups. "A self-consciously progressive Christian-elite, sometimes salaried, a minority of peasants/migrants who were usually Christian converts and who were more highly incorporated into the colonial economy, traditionalist chiefs and headmen, and the mass of traditionalist peasant migrants.

betterment planning, influx control policies and homeland consolidation are taken into account, these figures could be closer to 7.5 million people.[136]

The above mentioned policies affected mainly the African population. It was the Group Areas Act that had devastating consequences for the Indian and Coloured communities. In terms of agricultural production, concerted efforts and intervention in the entire process of production ensured the almost complete demise of African agriculture as well as the political and economic dominance of the white large-scale commercial agricultural sector. Neither this dominance nor the demise of African agriculture would have been possible without active state intervention. To a large extent, it was the state and not the market that determined the nature of agricultural production in South Africa.

Christian institutions (i.e. the church) are major landowners in South Africa (see Appendix six) and have played a part in the process of dispossession. As an institution with good rural networks and access to land, the church could play an important role in the land reform process. Its roles can include mediation, rural organisation and mobilisation (as is the case in Brazil), restitution, development aid and the promotion of reconciliation.

"A country that denies its history also denies its future".[137] If the South African land reform programme is to meet the identified criteria for success (see chapter two) i.e. justice and political stability these inequities in land ownership have to be addressed. Yet, after eight years of land reform, the Congress of South African Trade Unions condemned the land reform programme in a July 2002 statement, arguing that the programme had "*failed to correct the injustices black people suffered during the Apartheid era and colonisation*".[138]

[136] Surplus Peoples' Project, Forced removals in South Africa Volume One, Cape Town, 1983
[137] Seretse Khama quoted in Dolny H, Banking on Change, Penguin Books, South Africa, 2001
[138] Mail & Guardian, "COSATU publication slated land policy", July 12-18, 2002