

5. THE SHAPING OF SOUTH AFRICAN LAND POLICY

Introduction

The purpose of this chapter is to investigate the process of land policy development in South Africa in the period 1994 to 1999 (including some relevant discussions based on policies and events pre-1994 and in 2000).

The chapter is essentially divided into two parts. Sections 1 to 10 include a discussion of the actors that shaped South African land reform policy, as well as, an analysis of the implications of this particular combination of actors, and the effect thereof on the nature of subsequent land reform policies. Section 11 includes a brief discussion of the policies that were developed (according to the date order in which they were developed), as well as, a brief analysis of the main ideological and policy commitments that emerged at each consecutive stage.

It is important to note that the first part of the chapter (sections one to ten) is based (to a large extent) on interviews that I conducted with individuals who were/ are involved (directly or as observers) in the early land policy formulation stage. I conducted nine interviews with individuals who had insight into the early policy formulation periods and who were willing to be listed in the bibliography and quoted. A further nine individuals who are currently working in the land reform sector participated in interviews, but requested anonymity. Despite repeated requests, I was unable to get interviews with very senior staff in the National Department of Agriculture, although I did manage to interview seven NDA staff members who work closely with senior management and, for that reason, also requested anonymity. Nevertheless, the exclusion of this significant group of informants suggests that there is a risk of bias in this chapter.

It is argued in the first section of the chapter (following Cooper et al¹) that policy formulation is a process that is inextricably rooted in the power relations between the central government, local governments, political parties, interest groups and non-governmental organisations. In South Africa these include the former National Party government, the World Bank, the African National Congress, various non-governmental organisations, the white commercial agricultural sector, the National African Farmers Union, the former department of Native Affairs, and the relationship between the Department of Agriculture and the Department of Land Affairs. Importantly, however, the poorest sectors of South Africa's rural society and other potential land reform beneficiaries were excluded from the policy formulation process. What appears to be lack of emphasis on the degree of consultation with, or participation from, potential land reform beneficiaries in this chapter, is the result of the fact that these groups did not participate (in an influential way) in the policy development process.

The policy development sequence covered in section 11 includes the Reconstruction and Development Programme (1994), the Green Paper on South African land reform policy (1996), the Growth, Employment and Redistribution Programme (1996) and the 1997

¹ Cooper et al, Public Administration for the 20th and 21st century, Harcourt Brace College Publishers, 1998

White Paper on South African land reform policy. This section ends with an assessment of the National Land Reform Pilot Programme, which aimed to “test” the policies that emerged from the process above.

1. The National Party

Land “reform” in South Africa began in 1990 under the leadership of the National Party, which introduced its White Paper on Land Reform in 1991. The National Party’s land reform programme was “simple” and “predictable” – i.e. limited reform while maintaining the status quo in property ownership.² The National Party’s biggest contribution relates to agrarian rather than land reform – in terms of the agricultural deregulation and liberalisation policies of the 1980s.³ The 1991 White Paper called for the abolition of all land laws based on racial discrimination. Accordingly, the Abolition of Racially Based Land Measures Act 113 of 1991 (amended in 1993) was introduced. Some of the most important laws repealed by the Act included the 1913 and 1936 Land Acts, the Group Areas Act, the Asiatic Land Tenure Act and the Black Communities Development Act of 1988.

The National Land Committee and its affiliates, various individuals⁴ involved in land reform and the communities concerned all welcomed the abolition of racist land legislation but argued that the mere repeal of such legislation would not address the extreme inequities in access to land and resources. Furthermore, the introduction of new “racially-neutral” legislation would create the impression that inequitable access to land is a class, rather than a race issue, thereby denying the fact that inequity is the deliberate result of racist legislation. In other words, white privilege and black poverty would be entrenched under the guise of racially neutral laws. In Zimbabwe, for example, racial land laws were amended in 1977. Since few Africans had the resources necessary to acquire land in the former white areas, however, land distribution remained skewed. A second criticism was that a number of important racist laws were not repealed by the Act. These included the Black Administration Act of 1927, the Rural Areas Act of 1987, the Prevention of Illegal Squatting Act (though amended by the Less Formal Township Establishment Act 113 of 1991) and the Self-Governing Territories Act of 1971. Section 12, of the Self-Governing Territories Act, stipulated that the South African Development Trust (SADT), which became the National Rural Development Corporation, would continue to operate under the almost exclusive power of the State President who could transfer SADT assets to any person, state department or institution. The Less Formal Townships Establishment Act 113 of 1991 provided for the establishment of informal settlements on land made available by provincial administrators or local authorities. The Act replaced the provision for establishing less formal settlements contained in the Prevention of Illegal Squatting Act, but the power of government to demolish buildings

² Claassens A, “Who owns South Africa?”, Occasional Paper Series, CALS, February 1991

³ See chapter three on Agriculture and Land Reform

⁴ Budlender G, “The Land Issue and the Legacy of the Past: Some fundamental legal issues”, unpublished paper presented at Conference on Land Reform, Stellenbosch University, 1996

and remove people (contained in the Prevention of Illegal Squatting Act) remained in place.⁵

The National Party government would neither formulate nor implement any restitution or restoration of land rights programme. The 1991 White Paper on Land Reform argued in paragraph A2.11 that the restoration of land lost as a result of past racially discriminatory land legislation was “not feasible”.⁶ Nevertheless, the Advisory Commission on Land Allocation was established at the end of 1991 to “facilitate the process of restoration” especially relating to claims by those who were dispossessed as a result of racist legislation.⁷ The powers of the Advisory Commission of Land Allocation (ACLA) were limited to making recommendations and its mandate to unutilised state-owned land.

The NLC and its affiliates, affected communities⁸ and the ANC rejected the ACLA arguing that no mechanism existed to address the injustices of the past. Dissatisfaction was expressed regarding the lack of consultation in establishing the ACLA as well as with the limited powers and scope of the Commission. The ANC issued a press statement in which it claimed that neither the ANC nor the victims of land dispossession were given an opportunity to express their views in the drafting of the 1991 policy.⁹ The ANC’s criticism appears a bit insipid when one looks at the level of engagement that took place between representatives of the ANC and members of the National Party’s Regional and Land Affairs Department in the early 1990s – particularly regarding the ACLA. Several meetings took place during which ANC representatives not only provided the National Party with advice (which the NP adhered to), but actually presented the National Party with a list of possible restitution cases that included the Magopa and Riemvasmaak communities.¹⁰ Furthermore, at least one member of the NLC was appointed to serve on the ACLA.

Nevertheless, criticism led to the introduction of the Abolition of Racially Based Land Measures Amendment Act 110 of 1993, which introduced two types of amendments to the ACLA’s terms of reference. The first was the removal of the word “advisory” from the Commission’s name, thus changing the Commission from a purely advisory body to one with final decision-making power in “certain circumstances”.¹¹ The second type

⁵ Budlender G, “The Land Issue and the Legacy of the Past: Some fundamental legal issues”, unpublished paper presented at Conference on Land Reform, Stellenbosch University, 1996

⁶ TRAC, “Some Implications of the White Paper on Land Reform and the Four Bills on Trust Land for Coloureds in Namaqualand and elsewhere”, Johannesburg, February 9, 1991

⁷ National Land Committee, “Response to the Government’s Establishment of an Advisory Commission on Land Allocation”, Press Statement, Braamfontein, May 20, 1991

⁸ This included communities represented by TRAC, the NLC and the Border Rural Committee covering the former Western Cape, Border, Northern Cape, Eastern Cape, Natal and Transvaal. Specific communities include Daggakraal, Driefontein and KwaNgema.

⁹ ANC, Press Statement on the Government White Paper on Land Reform, Department of Information and Publicity, Marshalltown, March 13, 1991

¹⁰ Interview with Derek Hanekom (Former Minister of Land Affairs and Member of Parliament), Hartebeestpoortdam, September 8, 2002

¹¹ Roux T, Memorandum on the Abolition of Racially Based Land Measures Amendment Act 110 of 1993, Institute of Development Law, University of Cape Town, 1996

extended the Commission's powers to identify land previously outside its jurisdiction – undeveloped and unutilised state-owned land acquired under a repealed racial law.¹²

With regard to tenure reform, the National Party government's focus was on the creation of a national freehold tenure system and the privatisation of traditional and communal land tenure systems. The 1991 White Paper on Land Reform presented communal ownership as an "unproductive traditional system of land tenure".¹³ The purpose of the Upgrading of Land Tenure Rights Act 112 of 1993, as amended by the General Law Second Amendment Act 108 of 1993, was to convert all lower order tenure rights (quitrent, permission to occupy certificates and communal tenure) to individualised freehold property rights.¹⁴ This was accompanied by the Land Titles Adjustment Act 111 of 1993 that repealed all legislation relating to the adjustment of titles, including the Land Titles Adjustment Act 68 of 1979 and Section 8 of the Black Administration Act.

Many rural communities expressed concern regarding the fact that communal tenure would not be legal. In February 1991, a number of Namaqualand communities demanded that communal ownership be recognised and protected.¹⁵ Communities also expressed a lack of trust in private tenure; *"title deeds do not make us more secure. A poor person can easily lose his land under this system when he falls into debt. Anyway, the government has taken title deeds away from blacks before"*.¹⁶ The Black Sash pointed out that individualisation could lead to increased destitution as thousands of people living in rural areas have access to land and relative security through the communal land ownership system. Privatisation could lead to dispossession. The Grahamstown Rural Committee expressed a similar concern regarding the communities of the Border Corridor between the former Ciskei and Transkei (where the population stood at approximately 200 000).¹⁷ The majority of residents in this area had no legally accepted tenure rights, while a relatively large number of people had access to land based on Certificates of Occupancy. The concern was that conversion to freehold tenure would result in land being sold to the wealthy and so dispossess the very poor. Land could also be sold by husbands, effectively dispossessing women and children. A third concern was that group purchase and ownership was the only way in which impoverished Africans would be able to acquire land in a free-market context. *"The government is not allowing us to buy land as a group, nor is it allowing that farms be divided up. How can a single black person possibly afford to buy a big white farm?"*¹⁸ Finally, it was argued that land

¹² For more detail see National Land Committee & The Surplus People's Project, Closing the Door: The Implication and Implementation of the 1993 Land Legislation, Johannesburg, May 1994

¹³ The 1991 White Paper on Land Reform paragraphs A3.5, B3.3, B3.2 & D5.5.2

¹⁴ National Land Committee & The Surplus People's Project, Closing the Door: The Implication and Implementation of the 1993 Land Legislation, Johannesburg, May 1994

¹⁵ TRAC, "Some Implications of the White Paper on Land Reform and the Four Bills on Trust Land for Coloureds in Namaqualand and elsewhere", Johannesburg, February 9, 1991

¹⁶ Statement by Communities of the Wakkerstroom District, TRAC, unpublished, March 26, 1991

¹⁷ Communities include Mooiplaas, Kwelera, Newlands, Mgwali, Hekel, Wartburg, Goshen, Lessey town, Hanover, Nkqonkqweni, Kabusi, Eluxolweni, Needs Camp, Macleantown and Thornhill. Grahamstown Rural Committee, Some Implications of the White Paper on Land Reform, Unpublished version, March 15, 1991

¹⁸ Statement by Communities of the Wakkerstroom District, TRAC, unpublished, March 26, 1991

rights should not be restricted to title deeds and should include birthright, long occupation, productive use and inheritance.¹⁹

With regard to redistribution, the National Party's White Paper on Land Reform stipulated that redistribution would occur in a free-market context. Accordingly, no redistribution policies would be developed or implemented by the state, with the exception of the 474 000 hectares of SADT land originally set aside for black settlement schemes. The principle mechanism for redistribution under the National Party was the Provision of Certain Land for Settlement Act 126 of 1993. The aim of the Act was to redistribute state-owned land to those who were dispossessed as a result of racist laws (including those resident in former homeland areas, labour tenants and farm workers).²⁰ The Act also stated that, subject to certain conditions relating to sustainable land use, financial assistance would be provided to families who earned less than R1 250 per month. The financial package consisted of,

- (a) 5% of the purchase price for land paid by the family,
- (b) 80% of the purchase price in the form of a government grant and
- (c) 15% through a loan repayable over five years to the Minister of Finance.²¹

Related legislation included the Distribution and Transfer of Certain Land Act 119 of 1993 that established procedures for the distribution and transfer of state-owned land into private ownership.

Opponents argued that the extreme inequities in South African society were the result of Apartheid policies. Equity/justice could, therefore, only be achieved through state intervention in redistributive and restorative land policies, since the poor did not have access to the resources necessary to participate in a free-market system. Opponents argued that the policies set out in the 1991 White Paper would entrench the unequal social and economic systems created by Apartheid. The Black Sash expressed it as follows, *"it is one thing to ensure rights to buy land, it is quite another to give people the ability to buy land and use it productively. Apartheid has impoverished black people on the land over many decades, to expect them to compete on a free for all scramble for land is unrealistic and will de facto perpetuate the present unequal division of land"*.²²

Communities with access to land argued that more land had to be made available for redistribution to the poor. *"The government is making no new land available to people who cannot afford it. The tens and thousands of blacks living on our land, who were evicted from surrounding farms, desperately need land. We see little or no possibility of them getting it under this system"*.²³ Several Western Transvaal communities expressed it as follows: *"To say that we should buy the land is just another way of denying black people access to land. It is very unfair for the government who impoverished us to expect us to buy back the land that was stolen from our ancestors and that we were thrown off*

¹⁹ Black Sash, Response to the Repeal of the land acts, Press Release, October 1991

²⁰ Farmworkers' Research and Resource Project, A Critique of the Provision of Certain Land for Settlement Act No.126 of 1993, NLC, Braamfontein, 1998

²¹ Farmworkers' Research and Resource Project, A Critique of the Provision of Certain Land for Settlement Act No.126 of 1993, NLC, Braamfontein, 1998

²² Black Sash, Response to the Repeal of the land acts, Press Release, October 1991

²³ Statement by Communities of the Wakkerstroom District, TRAC, unpublished, March 26, 1991

*again in the recent past. We have no money because we have been under-paid for decades. Buying farms is out of our reach”.*²⁴ By 1994, the Provision of Certain Land for Settlement Act 126 of 1993 had had little effect on land distribution in South Africa, because of its limited mandate (limited to the redistribution of state-owned land) and the 5% own-contribution that effectively excluded the majority of landless people.²⁵

National Party land policy also included various provisions for the joint administration of state-owned and trust land by the South African and former homeland governments. For example, the 1993 Amendments to the Black Rural Areas Land Regulations Proclamation R188 of 1969 that transferred the responsibility for the administration of land in the Trust areas from the former Department of Development Aid to the relevant provincial administrators.²⁶ The Rural Areas Amendment Act (House of Representatives) 112 of 1993 gave the Minister of Local Government, Housing and Agriculture in the House of Representatives the power to transfer land held in trust for communities of the coloured reserves to management boards.²⁷ The Regulation of Joint Executive Action Regarding Certain Land Act 109 of 1993, allowed joint regulation of land outside the self-governing territories by the South African government and the administrations of the self-governing territories concerned. The Revocation and Assignment of Powers of Self-Governing Territories Act 107 of 1993, revoked the legislative and executive powers of homeland administrations and vested them in the president. The Regional and Land Affairs General Amendment Act 89 of 1993 aimed to phase out the SADT.²⁸

A final aspect of National Party land reform policy was the increasing powers allocated to the Minister of Land Affairs and the State President. The final decision making power for land redistribution or restoration lay with the Minister of Land Affairs. This meant that communities had no legal recourse against decisions made by the minister. A number of land-related bills were introduced “containing the recurrent theme of granting the State President the power to amend, supplement or repeal Acts of parliament itself”.²⁹ These included the Revocation and Assignment of Power of Self-Governing Territories Bill, the Joint Administration of Certain Measures Bill, the Regulation of Joint Executive

²⁴ This sentiment was expressed in April 7, 1991 by the following communities in the Western Transvaal – Braklaagte, Koster, Majakaneng, Mathopestad, Modderspruit & Mogopa. Similar sentiments were expressed on November 25, 1990 by communities from the central and south-eastern Transvaal – Vrisgewagte, Bafokeng, Hartbeesfontein, Oukasie, Monnagotla, Leeuwfontein & Bloedfontein. Other communities expressing similar sentiments include KwaNgema, Piet Retief, Daggakraal, Driefontein & Campsite.

²⁵ Farmworkers’ Research and Resource Project, *A Critique of the Provision of Certain Land for Settlement Act No.126 of 1993*, NLC, Braamfontein, 1998

²⁶ Roux T, *Memorandum on the Abolition of Racially Based Land Measures Amendment Act 110 of 1993*, Institute of Development Law, University of Cape Town, 1996

²⁷ National Land Committee & The Surplus People’s Project, *Closing the Door: The Implication and Implementation of the 1993 Land Legislature*, Johannesburg, May 1994

²⁸ For more information on these Acts see National Land Committee & The Surplus People’s Project, *Closing the Door: The Implication and Implementation of the 1993 Land Legislature*, Johannesburg, May 1994

²⁹ Budlender G, *Legal Analysis of the 1993 Regional and Land Affairs Bills*, Legal Resources Centre, June 9, 1992

Action Regarding Certain Land Bill, the Distribution and Transfer of Certain State Land Bill and the Regional Land Affairs General Amendment Bill.³⁰

Although the basic policy thrust would soon change dramatically, and despite consistent criticism from rural and land related NGOs, the National Party government lay significant groundwork for subsequent South African land reform policy. This includes the Advisory Commission on Land Allocation, a precursor to the Commission for the Restitution of Land Rights. Further examples include a commitment to the upgrading of tenure rights, adherence to free-market land policies and agricultural market liberalisation, as well as, the introduction of a partial grant for land acquisition by means of the Provision of Certain Land for Settlement Act.

2. The World Bank

From 1947 through to the end of the 1960s, most of the World Bank's agricultural loans went to large-scale irrigation projects. Since 1968, there has been a shift in lending policy towards agriculture generally and, towards providing resources to the poor and particularly to small-scale farmers.³¹ The Bank recognised land reform as a measure to promote growth and redistribute economic resources in 1970, but has done little in this regard, focusing instead on tenure upgrading programmes such as in Malawi.³² Attempts to translate the commitment to land reform into practice, in Brazil, Zimbabwe and the Philippines, met with limited success (if any). In 1973, the Bank identified landless labourers as one of its rural target groups, but potential efficiency-based selection criteria ensured that the better off gained access to credit and subsidies, while the poorest farmers remained excluded. The World Bank also continues to advocate conservative fiscal policies, economic liberalisation, the promotion of foreign investment and the development of small-scale agriculture, which in many cases have had detrimental consequences for the poor in Africa and elsewhere. For example, one of the Bank's largest projects in Southern Africa in the early 1960s, was the Kariba hydroelectric dam on the Zambezi River (Zambia), which displaced tens of thousands of Batongo people without compensation, also resulting in numerous deaths.³³

The World Bank also has a history of lending to politically oppressive and military regimes that include military governments in Brazil, Chile and Argentina and loans to oppressive governments in Indonesia, South Korea, the Philippines and Iran.³⁴ There are also numerous examples of support for oppressive governments in Southern Africa that include the white minority governments in former Rhodesia (whose debt the Zimbabwean government is held accountable for) and Portuguese ruled Mozambique and

³⁰ For a detailed explanation on each of these Bills see Budlender G, Legal Analysis of the 1993 Regional and Land Affairs Bills, Legal Resources Centre, June 9, 1992

³¹ Williams G, "The World Bank and the Peasant Problem", Heyer J, Roberts P & Williams G (eds.), Rural Development in Tropical Africa, Macmillan Press, London, 1981

³² Chenery H, Ahluwalia M, Bell C, Duloy J & Jolly J, Redistribution with Growth, Oxford University Press, 1974

³³ Bond P, Elite Transition, University of Natal Press, 2000, Chapter 5

³⁴ For detail on these lending policies see Williams G, "The World Bank and the Peasant Problem", Heyer J, Roberts P & Williams G (Eds.), Rural Development in Tropical Africa, Macmillan Press, London, 1981

Angola. Loans were also provided to the National Party government in South Africa in 1952, 1953, 1966, 1968 and 1983.³⁵

Given the history of the World Bank and the fact that many prominent members of the ANC had experienced the effects of its policies in Africa, there initially was a great deal of hostility towards the Bank's possible involvement in the formation of post-Apartheid society.³⁶ The World Bank, nevertheless, walked onto the South African land reform policy development stage in the early 1990s, and played a significant role in shaping debates. The World Bank's entry into South African society was facilitated by the Development Bank of Southern Africa, the Independent Development Trust and Anglo-American's Urban Foundation. Most of the Bank's recommendations were set out in *Options for Land Reform and Rural Restructuring in South Africa*, presented at a conference organised by the Land and Agricultural Policy Centre (LAPC) in 1993.

A wide range of land reform documents, produced mostly in 1991 and 1992, preceded *Options*. The early documents were produced by prominent World Bank representatives (particularly Hans Binswanger), agricultural economists from the University of Pretoria, former staff of the Southern African Development Bank (paid exuberant salaries by the World Bank) and over a hundred (often very "progressive") social scientist and lawyers, mostly contracted to the LAPC. None of the researchers were historians. The majority of the research papers produced in this period are collected in *Agricultural Land Reform in South Africa*³⁷, edited by Hans Binswanger, Johan van Zyl³⁸ and Johan Kirsten³⁹. (Hans Binswanger is a senior advisor for Agriculture and Natural Resources for the Latin American Region of the World Bank and has worked on agricultural issues in Switzerland, India, Mexico and Central America. He has co-authored five books and over 50 journal articles and is listed in the Who's Who in Economics. According to a source who attended the policy discussions he is "very hard-line, a very strong lobbyist, very powerful and very difficult to argue with. He could list hundreds of examples at the drop of a hat". And according to another "Binswanger is a typical arrogant academic bastard, but he can provide so much information that you don't stand a chance"). Other prominent authors included Masiphula Mbongwa⁴⁰, Klaus Deininger⁴¹, Bill Kinsey⁴², Heinz Klug⁴³, Robert Christiansen⁴⁴, Bongiwe Njobe⁴⁵, Nick Vink⁴⁶ and David Cooper⁴⁷.

³⁵ For details on these loans see Bond P, *Elite Transition*, University of Natal Press, 2000, Chapter 5

³⁶ Interviews with Budlender & Dolny, also see Bond P, *Elite Transition*, Chapter 5

³⁷ *Agricultural Land Reform in South Africa*, Van Zyl J, Kirsten J & Binswanger H (Eds.), Oxford University Press, Cape Town, 1996

³⁸ Van Zyl is a professor in Agricultural Economics at the University of Pretoria and works for the Agricultural and Natural resource department of the World Bank in Washington.

³⁹ Kirsten is a senior lecturer in agricultural economics at the University of Pretoria.

⁴⁰ Mbongwa is the current Deputy Director General of Agriculture and is reported to have very close ties to Bongiwe Njobe. He previously worked at the Centre for Policy and Information Analysis at the Development Bank of Southern Africa.

⁴¹ Deininger is an agricultural economist with the World Bank and has worked on agricultural issues in Germany and Sri Lanka.

⁴² Kinsey has worked in land reform in Zimbabwe and Zambia.

⁴³ Klug is with the Law School of the University of the Witwatersrand

An important policy document from this early period that is not included in *Agricultural Land Reform in South Africa*, is the World Bank's *Rural Restructuring Programme*. According to Levin & Weiner⁴⁸, the *Rural Restructuring Programme (RRP)* is "essentially a top-down, technical, and overly economic policy prescription, which is completely out of touch with everyday life in rural South Africa". The World Bank managed to give legitimacy to its research and propositions precisely by hiring ANC-aligned and some "radical" South African researchers. "Of course, the synthesis that the Bank produced was distorted but, by then, the research was legitimated".⁴⁹

The World Bank's intervention in South African land reform policy formulation, through a series of conferences and sponsored research in the early 1990s, is viewed as "manipulative", as "intellectual arm twisting" and as happening at "just the right time and using just the right strategy".⁵⁰ "A few individuals charged by the ANC with formulating (or conjuring) land and agricultural policies were overwhelmed by representations, models and prescriptions from a variety of quarters, South African and external . . . External ideological skill, policy analysis and advice were supplied by the World Bank and other agencies, the planeloads of consultants attached to them and the rest of the internationally mobile usual suspects".⁵¹ Or, according to a source who attended the first World Bank workshop in Swaziland, "these guys were technically superior and excellent lobbyists, nobody from South Africa was at that level. We just sat there and were lectured to, they had an answer for everything".

The degree of influence that the Bank had becomes clear after analysis of its policy recommendations and how much of it was incorporated into South African land reform policy. The World Bank's representatives consistently argued for a market-based land reform programme and in *Options* suggested that R17.5 billion would be sufficient to redistribute 30% of white-owned land over a period of five years. Both "suggestions" were contained in subsequent land policy documents (including in the Reconstruction and Development Programme). As early as October 1993, the South African Agricultural Union announced that it had won commitments by the Bank that "no land would be

⁴⁴ Christiansen is a senior economist in the Agriculture Operations Division, Southern African Department of the World Bank and is based in Washington. He has been involved in land reform projects in Zimbabwe, South Africa, Tanzania and Malawi.

⁴⁵ Njobe is the current Director General of Agriculture and Land Affairs and formerly lectured in the Department of Agricultural Economics at the University of Pretoria.

⁴⁶ Vink formerly worked for the Development Bank of Southern Africa and is head of the Department of Agricultural Economics at the University of Stellenbosch.

⁴⁷ Cooper was the former director of the LAPC.

⁴⁸ Levin R & Weiner D, "Towards the Development of a Popular and Participatory Rural Land Reform Programme in South Africa", in Levin R & Weiner D (eds.), *No More Tears . . . Struggles for Land in Mpumalanga, South Africa*, Africa World Press Inc., Asmara, Eritrea, 1997, p. 254

⁴⁹ Interview with Andile Mngxitama, Senior Researcher NLC, June 7, 2001. Also see Williams G, "Setting the Agenda: A critique of the World Bank's Rural Restructuring Programme for South Africa", *Journal of Southern African Studies*, 22, March 1996 for a comprehensive account of the process.

⁵⁰ Interviews with Geoff Budlender, former Director General of DLA, July 2001 & Dave Husy (Former Deputy Director of the NLC), May 31, 2001

⁵¹ Bernstein H, "Social change in the South African countryside? Land and production, poverty and power", PLAAS, UWC, 2000

expropriated or nationalised with a view to establishing small-farmer projects".⁵² The Bank's representatives, and Binswanger⁵³ in particular, also pushed for "economic liberalisation" and the abolition of protectionist policies in agriculture. The new ANC-led government soon embarked on a process of agricultural market liberalisation. In 1993, World Bank representatives recommended a constitutional guarantee of private property rights and a flexible communal tenure and land ownership system based on "minimum democratic decision making".⁵⁴ These propositions were reflected in the 1996 Constitution of South Africa and the Communal Property Associations of South Africa's redistribution programme. The World Bank also recommended the three-part land reform (i.e. separate restitution, redistribution and tenure reform programmes) that later formed the foundations of South African land reform policy. The Bank recommended a claims based restitution process, complete with cut-off dates and a land claims court. The redistribution programme, it argued, should be market-based (i.e. willing-buyer, willing-seller) with a partial grant component for land acquisition.⁵⁵

As National Land Committee leader Abie Dithake concluded in a 1998 article, the "failed" market-driven policy was established "*in the context of external influences, in particular the intervention that the World Bank made during the policy process. Alternative views and aspirations were not fully integrated into the policy, notwithstanding the perceived consultative process the Department of Land Affairs undertook. Concerns raised by rural communities in 1994 were outweighed by global imperatives represented by the World Bank and other international interests*".⁵⁶ The alternative views and concerns raised by potential land reform beneficiaries and rural communities in the period 1992 to 1994 included the views expressed at the Community Land Conference⁵⁷ held in Bloemfontein in February 1994. Representatives from 350 rural communities attended the conference and demanded that "*the land . . . should be returned immediately and unconditionally at no cost to the community concerned*".⁵⁸ The dominant theme expressed by community representatives at the conference and elsewhere⁵⁹ was the rejection of market-based land reform (willing-seller and willing-buyer) by people who argue that their land has been "stolen" and that they should not have to "pay" to "get it back".

The Bank continues to play a role in South African land reform policy today, by means of its strong links to academics at the University of Pretoria. This influence is clear in the

⁵² Bond P, *Elite Transition*, University of Natal Press, 2000, Chapter 5

⁵³ Binswanger H. P, *Agricultural and Rural Development: Painful Lessons*", Address to the Agricultural Economics Association of South Africa, Pretoria, September, 1994

⁵⁴ Binswanger H.P & Deininger K, "South African Land Policy: The legacy of history and current options", Paper presented to the World Bank & UNDP workshop, Swaziland, November 1992

⁵⁵ Papers presented to the World Bank & UNDP workshop, Swaziland, November 1992

⁵⁶ Quoted in Bond P, *Elite Transition*, University of Natal Press, 2000, Chapter 5

⁵⁷ Which Greenberg (drawing on Andile Mngxitama's work) describes as stage-managed examples of top-down vanguardism (i.e. where "the people" are "led to achieve an effect for the benefit of NGOs).

Greenberg S, "Power and politics in the shaping of rural development in post-apartheid South Africa", *Development Update*, 4(1), Interfund, March 2003, p. 24 & 25

⁵⁸ Community Land Conference, National Demands: Land Restoration, Bloemfontein, 12-13 February, 1994

⁵⁹ See section on the National Party and land policy in this chapter

2001 Strategic Directions Paper, introduced by the current Minister of Agriculture and Land Affairs, Thoko Didiza.⁶⁰

Nevertheless, the role of World Bank representatives in formulating South Africa's land reform policy should not be exaggerated. Firstly, globalisation has led to the "internationalisation of public policy making"⁶¹, which means that policy decisions are invariably influenced by processes in other countries as well as by international agencies and organisations – South Africa is no exception. What is important is whether particular groups or interests groups were excluded from the broad policy formulation process - i.e. whether the landless participated adequately in policy formulation. Secondly, policy formulation rarely follows a linear development model (problem identification, policy formulation, policy implementation and policy evaluation). Similarly, in South Africa, various groups within the ANC, or with close connections to the ANC, were working in a fairly uncoordinated way on various aspects of South Africa's land reform policy before the World Bank's representatives engaged in South African policy development. Thirdly, the World Bank is not a homogenous body. Various World Bank representatives (some forceful and others critical of the World Bank itself), working in different sectors of the World Bank, presented a variety of perspectives as opposed to a single World Bank policy for land reform in South Africa. Fourth, engagement with the World Bank and participation in its research programme was preceded by significant debates around participation among land reform activists. While some activists argued against any kind of involvement with the World Bank, the final agreement appears to have been that World Bank representatives would fund and conduct research in South Africa, with or without South African participation. Participation, therefore, would allow South African activists to significantly influence the direction and outcome of the World Bank's research programme (on the condition that no lending is imposed on South Africa). Derek Hanekom retrospectively conceded "*that the exercise turned out to generate lots of very useful material and very useful policy options, non of which we were compelled to adopt*".⁶² According to this interpretation, *Options* closely resembled the final land reform policy because it was the result of a process in which South African activists played a key role (i.e. much of the final policy would have been similar had World Bank representatives not participated in the process).

3. The African National Congress

Up until 1990, the ANC had not produced any substantial land or agrarian reform policies. It seemed that ANC leaders were not particularly interested in debating land and agrarian reform⁶³ and land did not feature very strongly on the ANC's agenda. This was the case, despite the fact that land issues date back centuries, that the establishment of the ANC and the development of the liberation movement coincided with the promulgation of the Land Acts of the early 1900s and despite quite consistent resistance

⁶⁰ See chapter 7 on Redistribution for detail.

⁶¹ Cooper et al, *Public Administration for the 20th and 21st century*, Harcourt Brace College Publishers, 1998, p. 158

⁶² Interview with Derek Hanekom (Former Minister of Land Affairs and Member of Parliament), Hartebeestpoortdam, September 8, 2002

⁶³ See Dolny H, *Banking on Change*, Penguin Books, South Africa, 2001

in the rural areas throughout the 1900s⁶⁴. Rural unrest was particularly pronounced in the 1950s, with the imposition of the Bantu Authorities Act and resettlement and cattle culling schemes. During this period the ANC did make several attempts to organise farm workers into trade unions⁶⁵, but since then there has been very little focus on rural areas. When homeland politics led to rural mobilisation in the 1980s in places like Lebowa and Kangwane, the ANC failed to integrate land and rural issues into the wider struggle for political liberation.

This “urban bias” in ANC policy and activities may be the result of the close relationship between the ANC and CPSA (Communist Party of South Africa) leadership. Drew⁶⁶ argues that the South African communists were divided between a majority giving priority to the urban working class and a minority that saw the agrarian question as the backbone of any social revolution. Drew further argues that the theoretical dominance of the urban bias was accentuated by two characteristics of South African society at the time. The first characteristic (relating to the difficulties of mobilisation in rural areas) was the dispersed and extremely repressive conditions on white farms. The second characteristic was the rapid development and national visibility of an organised urban black working class and the dramatic upsurge of the trade union movement in the 1970s, which shifted discussion away from agrarian issues.⁶⁷ In 1986, for example, Helena Dolny organised a reading group on land issues in Lusaka, but “*less than a handful of people were interested in . . . debating its [land reform] relevance to post-apartheid policy*”.⁶⁸ When policy statements were made, “*a recurrent theme was that apartheid, capitalism and inequality were closely related and that a strong measure of state intervention would be needed to create a more equitable social, political and economic system*”.⁶⁹ In an April 1986 statement, for example, the ANC argued for the nationalisation and redistribution of farms owned by monopoly business, the Land Bank and absentee landlords.⁷⁰

The Freedom Charter is arguably the first significant policy statement on rural and land issues. Adopted in 1955, the Charter is seen as an “*adequate expression of the political priorities of rural Africans at the time*”.⁷¹ It addressed the structural causes of poverty and advocated equality in land ownership, redistribution and state support for land reform beneficiaries. The Freedom Charter stated that, “*our people have been robbed of their birthright to the land*”. That South Africa “*belongs to all who live in it, black and white*” and demanded that “*the land shall be shared amongst those who work it. Restriction of land ownership on a racial basis shall be ended, and all the land re-divided amongst those who work it, to banish famine and land hunger. The state shall help the peasants*

⁶⁴ See section on resistance in chapter one

⁶⁵ Lodge T, “Perceptions of agrarian issues in black politics”, *Development Southern Africa*, 7, 1990

⁶⁶ Drew A, “The Theory and Practice of the Agrarian Question in South African socialism, 1928 – 1960”, *Journal of Peasant Studies*, 23, January – April, p. 54

⁶⁷ Drew A, “The Theory and Practice of the Agrarian Question in South African socialism, 1928 – 1960”, *Journal of Peasant Studies*, 23, January – April, p. 54 & 55

⁶⁸ Dolny H, *Banking on Change*, Penguin Books, South Africa, 2001

⁶⁹ Nattrass N, “Politics and Economics in ANC Economic Policy”, *African Affairs*, Vol.93, 1994

⁷⁰ Lodge T, “Perceptions of agrarian issues in black politics”, *Development Southern Africa*, 7, 1990

⁷¹ Lodge T, “Perceptions of agrarian issues in black politics”, *Development Southern Africa*, 7, 1990

with implements, seed, tractors and dams to save the soil and assist the tillers; Freedom of movement shall be guaranteed to all who work on the land; All shall have the right to occupy land wherever they choose; People shall not be robbed of their cattle; Forced labour on farm prisons shall be abolished".⁷² Again, the CPSA seems to have been influential given the similarities between the Freedom Charter and the CPSA's 1929 programme. The CPSA's 1929 programme called for the repeal of the Land Act, expropriation of large landholdings for redistribution, tenure security for "squatters", regulation of farm labour under the Wage Act, implementation of a nation-wide irrigation scheme and the development of co-operative agricultural schemes.⁷³ During the land policy development phase of the early 1990s, ANC and UDF-aligned activists consistently referred to the Freedom Charter.⁷⁴

In the early 1990s, the ANC held a land conference in Lusaka at which divergent views were expressed, but where nationalisation was still a dominant theme. Pallo Jordan's speech at the conference had a clear interventionist base, he stated that "*the National Liberation Movement will be compelled to implement policies that will entail the seizure of various economic assets*".⁷⁵ Academic, Tessa Marcus, was a particularly strong proponent of nationalisation at the time.⁷⁶

Following his release from prison in February 1990, former president Nelson Mandela also made a statement with a strong interventionist content. He argued that "*there must be an end to white monopoly of political power and a fundamental restructuring of our political and economic system to ensure that the inequalities of Apartheid are addressed and our society thoroughly democratised*".⁷⁷ By May 1990, however, Mandela was already introducing qualifications and started placing particular emphasis on increased agricultural productivity.⁷⁸ Shortly after the unbanning, in May 1990, a second ANC conference was held in Harare. Nationalisation was still a topic of debate, but the reality and necessity of developing post-apartheid policy led to more convoluted discussions. Debates took place around a diverse range of issues including regulated land markets, the re-emergence of sharecropping⁷⁹ as a solution to landlessness, the development of a black

⁷² ANC, "Freedom Charter", Human Rights for South Africans, Robertson M (Ed.), Oxford University Press, Cape Town, 1991

⁷³ Bunting B (Ed.), South African Communists Speak: Documents from the History of the South African Communist Party 1915 – 1980, Inkululeko, London, 1981, p. 106

⁷⁴ Interviews with Helena Dolny (Former Director of Land Bank & advisor to Derek Hanekom), June 22, 2001 and Dave Husy (Former Deputy Director of the NLC), May 31, 2001

⁷⁵ Dolny H, Banking on Change, Penguin Books, South Africa, 2001, p. 31 - 39

⁷⁶ Interviews with Helena Dolny (Former Director of Land Bank & advisor to Derek Hanekom), June 22, 2001, Ben Cousins, (Director PLAAS), July 2, 2001 and Dave Husy.

⁷⁷ Mandela N, "Now is the Time to Intensify the Struggle", Speech in Cape Town following release from prison February 11, 1990, Nelson Mandela: Speeches 1990, McCarton G (Ed.), Pathfinder, USA, June 1990

⁷⁸ Mandela N, "We must end the old social order and bring in a new one", Address to South African Business Executives May 23, 1990, Nelson Mandela: Speeches 1990, McCarton G (Ed.), Pathfinder, USA, June 1990

⁷⁹ This argument was made by Mike de Klerk, see De Klerk M, "Opening Access: An assessment of market-based options for land reform in South Africa", Paper presented at a conference of the Newick Park Initiative, Land Reform and Agricultural Development, UK, October 1990, Jubilee Centre Publications. De Klerk argued that international and local evidence indicated a shift to part-time farming (see chapter

commercial agricultural sector and safety nets for the rural poor. Masiphula Mbongwa made the latter suggestion.⁸⁰ The commitment to the development of black commercial agricultural sector and safety-net projects for the poor has been restated in the current Land Redistribution for Agricultural Development Programme

Soon after the unbanning of the ANC, the organisation established the ANC National Land Commission and several Regional Land Commissions. In October that year, the Commission organised a workshop in Johannesburg (Broederstroom) where, according to Dolny, “*a popular understanding of nationalisation was expressed*” by community leaders and land activists. Consequently, a major debate took place on nationalisation and “*for the first time the weaknesses of nationalisation were really explored*”.⁸¹ Further debates centred on the key individuals involved. Bongiwe Njobe led the debate for the development of a class of black commercial farmers, Derek Hanekom argued for negotiations involving all relevant actors and Helena Dolny emphasised women’s rights and tenure reform.⁸² Other key individuals in early policy formulation include Joanne Yawitch, Cheryl Walker, Sue Lund, Aninka Claassens, Davie Bosh and Richard Levin. By this time, the ANC leadership had already stated its commitment to fiscal restraint and work began on a “compromised” land policy. Further policy development took place under the auspices of the Land Commission at the 1991 ANC national conference in Durban and the National Party Conference held in Johannesburg in 1992. A significant document to emerge from the Land Commission processes (1992), was the ANC’s *Ready to Govern Policy Guidelines* (drafted at a national conference in May 1992), in which the ANC argued that “the legacy of forced removals must be addressed” and, in this regard, called for the establishment of a land claims court.⁸³ According to Levin & Weiner⁸⁴, the *Ready to Govern* policy development process was “*inclusive and participatory, involving intense discussion at local branch level, as well as, a regional conference which elected delegates were mandated to attend*”. The Regional Commissions, however, failed to establish effective links at a local level and, by the end of 1992, the National Land Commission was “*effectively dissolved and subsumed under the department of economic*

three). He argued that this shift would have two major consequences. First, responsibility for day-to-day production activities would in many instances be taken over by black farm managers, leading to the transfer of higher levels of skills and adding to the body of potential black commercial farmers. Secondly, because supervision is more difficult for part-time farmers, there would be a growing need to replace direct supervision with productivity incentives and risk sharing. The logical result would be profit-sharing arrangements, which would constitute an important (indirect) route for resource poor black farmers to access land. De Klerk also advocated the scrapping of the Sub-division of Agricultural Land Act and discussed the possibilities of renting as opposed to purchasing land.

⁸⁰ Mbongwa also argued for the introduction of a land ceiling policy, a progressive land tax, the removal of agricultural monopolies, the creation of a Land Trust through which the government would provide loans to farmers to purchase land, the restructuring of the Land Bank, public ownership of under and unutilised land and a thorough census of the agricultural sector. See 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

⁸¹ Interview with Helena Dolny

⁸² Interview with Dave Husy

⁸³ African National Congress, *Ready to Govern: ANC Policy Guidelines for a Democratic South Africa*, Johannesburg, May 1992

⁸⁴ Levin R & Weiner D, “From apartheid to development”, in Levin R & Weiner D (eds.), *No More Tears. ... Struggles for Land in Mpumalanga, South Africa*, Africa World Press Inc., Asmara, Eritrea, 1997

planning as the Land and Agriculture Desk".⁸⁵ Derek Hanekom, who had been a central figure in policy development, became the head of the Land and Agriculture Desk.

It was also in 1991 that the real policy work around land reform began. The small group of ANC activists working on land reform issues in exile returned and joined forces with NGO activists. Although policy work was co-ordinated from the Shell House headquarters, the initial policy formulation process was rather haphazard and disjointed as various progressive and "not-so progressive" groups engaged in a series of meetings and workshops.⁸⁶ Small groups of people were researching and developing particular parts of an ill-defined general land reform policy, "so that there were a number of uncoordinated groups looking at different aspects of policy".⁸⁷

4. The CODESA negotiations

The most significant principles for South Africa's land reform policy that emerged from the Codesa negotiations at the World Trade Centre (primarily negotiated between the ANC and the former National Party) include the adherence to free-market principles for land redistribution and the entrenchment of property rights in the 1996 Constitution. Both principles potentially placed a limit on the amount of land available for redistribution and increased the cost of a land reform programme.

Many land activists saw the outcome of the Codesa negotiations as an "unacceptable compromise" that would "fail to address the needs of South Africa's poor majority". *"We are number two in the world's ranking of countries with the greatest internal economic inequality. Yet the outcome of the negotiated settlement is that South Africa's economic transformation now depends on governmental ability to create policies and influence the direction of investment to secure redistribution"*.⁸⁸ Academics argued that the Codesa concessions indicated that the "aspirations of rural people around land had been subordinated to other priorities".⁸⁹ An example of this is that the demands (again opposition to the market-based approach) of the large demonstration of rural people outside the World Trade Centre in 1993 were ignored.⁹⁰

Others argued that in the context of reconciliation and nation building, the ANC had adopted a neo-liberal or "home-grown structural adjustment" policy instead of a programme towards the significant social, economic and political transformation of South African society. It is argued that the ANC government attempted to reach a compromise

⁸⁵ 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

⁸⁶ Interview with Derek Hanekom (Former Minister of Land Affairs and Member of Parliament), Hartebeestpoortdam, September 8, 2002

⁸⁷ Interview with Derek Hanekom (Former Minister of Land Affairs and Member of Parliament), Hartebeestpoortdam, September 8, 2002

⁸⁸ Dolny H, *Banking on Change*, Penguin Books, South Africa, 2001, p. 49

⁸⁹ 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

⁹⁰ 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

between an active role for the state in the redistribution of wealth and resources, while at the same time aiming to encourage competitiveness, promote exports and make the country attractive to foreign investment. A compromise therefore, of which the goals are inherently contradictory and, which is in line with the structural-adjustment policies imposed by the IMF and the World Bank in other African countries.⁹¹ Policies that resulted in *“privatisation, cuts in public spending and reduction of public employment”*, which *“devastated social networks, made employment relationships precarious and increased unemployment”*.⁹² Policies that kept the political elite in power and resulted in the impoverishment of the poor majority. The July 1996, Growth, Employment and Redistribution (GEAR) strategy that reinforced the government’s emphasis on fiscal discipline and export promotion is seen as a case in point. This thesis argues that the compromise reached at Codesa could prevent a complete transformation of power relations from taking place in South African society and, that without such total transformation, there can be no significant change in land distribution or in agrarian relations of production.

The policy direction introduced during the Codesa negotiations has also been explained as the result of a transition process based on elite-pacting. According to the theory of elite transition, transformation in South Africa came about not through revolutionary change but rather, through a process of compromise between the ruling “elite” of the National Party and the ANC. The result of the elite-negotiated transition is that politics become divorced from the mass of the people and become the preserve of bureaucrats and politicians. If the South African transition really were the result of elite-pacting, the consequences for agrarian and land reform might be particularly negative. By implication, potential land reform beneficiaries have not participated sufficiently in policy formulation and implementation and key land reform questions were debated without sufficiently incorporating the demands and needs of rural communities.

The concessions reached during the Codesa negotiations are also partly the result of strong lobbying on land issues from the former National Party, the Freedom Front, white commercial agriculture and others who would benefit from maintaining the status quo in land distribution, while the ANC negotiators paid insufficient attention to the land issue. *“There is a perception that land reform was a high profile issue at Codesa, but the ANC negotiators were not really interested in land reform. It became a big issue when it came up on the agenda, but we had great difficulty in getting the key negotiators to pay attention to the land issue. Even when it came to the property clause it was difficult to get the ANC negotiators to realise the importance of not locking up land rights at that point”*.⁹³ The theme running throughout South African land reform policy development and implementation is the perceived “lack of interest and commitment” to land reform amongst the ANC leadership.⁹⁴

⁹¹ Debate 4, “Resistance to Neo-Liberalism: a view from South Africa”, Vol.2, No.1, 1998

⁹² Debate 4, “Resistance to Neo-Liberalism: a view from South Africa”, Vol.2, No.1, 1998

⁹³ Interview with Dave Husy.

⁹⁴ Interviews with Ben Cousins, Dave Husy & Tom Lebert and Mbhele W, “Seremane's extraordinary attack on Hanekom”, *Mail & Guardian*, October 16 – 22, 1998

5. *The Land and Agriculture Policy Centre (LAPC)*

The LAPC was established in the early 1990s and, from 1993, became the ANC's think-tank on land reform policy. Although the LAPC received substantial funding from a number of international donors including DANIDA, the European Union, the Ford Foundation and the British Overseas Development Agency, it established strong links with the World Bank (particularly representatives of the Wisconsin Tenure Centre) almost immediately. In fact, the first contract awarded to the LAPC was a World Bank contract to investigate land needs and devise approaches to land reform.⁹⁵ It was also the LAPC that hosted the policy conference (October 1993) at which *Options* and the *Rural Restructuring Programme* were developed and debated. Again, the demands of potential land reform beneficiaries, who attended the conference and "fiercely rejected"⁹⁶ market-based land reform, were ignored. Under the leadership of David Cooper, a relatively small group of people, through a series of workshops, played a crucial role in developing South African land reform policy.

6. *The influence of non-governmental organisations on South African Land Reform Policy*

Non-governmental organisations (NGOs) influenced land reform policy in two ways. Firstly, through their direct involvement in and contribution to policy formulation and secondly, through the channelling of NGO staff into the newly established Department of Land Affairs. Individuals from land related and rural NGOs did important and quality research and have contributed far more to South African land reform policy than is commonly recognised. Particularly influential NGOs included the NLC⁹⁷ and its affiliates, the Centre for Rural Legal Studies in Stellenbosch, the Legal Resources Centre (LRC)⁹⁸ and the Centre for Applied Legal Studies (CALS)⁹⁹. Affiliates include the Association for Rural Advancement (AFRA)¹⁰⁰, Border Rural Committee (BRC)¹⁰¹, Eastern Cape Land Committee (ECLC)¹⁰², Farmworkers' Research and Resource Project (FRRP)¹⁰³, Free State Rural Committee (FSRUC)¹⁰⁴, Southern Cape Land Committee

⁹⁵ Interview with Tom Lebert (Deputy Director of National Land Committee), April 25, 2001 and Dave Husy.

⁹⁶ Levin R & Weiner D, "Towards the Development of a Popular and Participatory Rural Land Reform Programme in South Africa", in Levin R & Weiner D (eds.), *No More Tears . . . Struggles for Land in Mpumalanga, South Africa*, Africa World Press Inc., Asmara, Eritrea, 1997, p. 259

⁹⁷ The NLC grew out of three land/rural based NGOs in the 1980s (all organised against forced removals and with some relationship to the Liberal Party). The NGOs were AFRA, the SPP, TRAC and the Grahamstown (now Border) Rural Committee.

⁹⁸ The LRC is not affiliated with the NLC but has worked closely with the organisation.

⁹⁹ CALS is not affiliated with the NLC but works closely with the organisation.

¹⁰⁰ AFRA was formed in 1979 and stems from the Liberal Party in KwaZulu-Natal

¹⁰¹ The BRC was previously known as the Grahamstown Rural Committee and operates in the Eastern Cape.

¹⁰² The ECLC is no longer affiliated with the NLC.

¹⁰³ The FRRP is not affiliated to the NLC, but is committed to the improvement of the socio-economic position of rural people. The organisation places particular emphasis on women, farm workers and labour tenants.

¹⁰⁴ The FSRUC is no longer a NLC affiliate.

(SCLC)¹⁰⁵, Surplus Peoples' Project (SPP)¹⁰⁶, Rural Action Committee (TRAC)¹⁰⁷, Transkei Land Service Organisation (TRALSO)¹⁰⁸ and Association for Northern Cape Rural Advancement (ANCRA)¹⁰⁹.

NGOs in South Africa have acted as a vehicle for rural mobilisation and have given a voice to relatively organised rural communities, farm workers and labour tenants. The NLC and its affiliates organised a land conference in February 1994, where representatives from rural communities were given the opportunity to articulate their land demands and needs. NGOs also facilitated regular interaction between the Department of Land Affairs and rural community representatives during the formation of the Green and White Papers on land reform.

The extent to which these NGOs represented unorganised landless, and the poorest sectors of rural society, remains questionable.¹¹⁰ *"The people who were known to policy makers were the communities who had been resisting forced removals and were relatively organised. Consultation with landless people did not really take place".*¹¹¹ The extent to which community input was incorporated into subsequent land reform policy is also questionable. *"People said their say, they had their charters and their demands. These were taken and attached as an appendix to the Green Paper. It did not influence land reform policy. One of the things that were consistently argued is that 'we will not pay for our land, it is ours, we have bought it with cheap labour'. These demands were not taken seriously".*¹¹²

The historical background and experiences of the NGOs ensured that emphasis was placed on particular aspects of land reform, thus influencing the subsequent structure and focus of South African land reform policy. Historically, rural NGOs have tended to focus on victims of forced removals and bantustan consolidation policies, labour tenants and farm workers. Policy was therefore shaped by a heavy emphasis on preventing evictions of labour tenants and farm workers. The NLC played a significant role in the development and criticism of the Extension of Tenure Security Act and the Land Reform Labour Tenants Bill.¹¹³ The participation of legal-based NGOs also contributed to the legalistic nature of the subsequent Restitution Programme.¹¹⁴

¹⁰⁵ The SCLC operates in the Southern and Western Cape and remains affiliated to the NLC.

¹⁰⁶ The SPP was formed in 1980 in response to the Crossroads evictions in the Western Cape and is still affiliated with the NLC

¹⁰⁷ TRAC grew out of the Black Sash and was therefore also subject to Liberal Party influence in its early years. TRAC is still affiliated to the NLC and operates in Mpumalanga and the North West Province.

¹⁰⁸ TRALSO is no longer affiliated to the NLC.

¹⁰⁹ ANCRA is still an affiliate of the NLC. The NLC has also acquired two "new" affiliates. The Land Access Movement of South Africa (LAMOSA) was established in 1996 and grew out of TRAC. The organisation is active in the former homeland areas. The second is Nkuzi Development, which operates in the Limpopo Province and Gauteng.

¹¹⁰ Also see Greenberg S, "Power and politics in the shaping of rural development in post-apartheid South Africa", *Development Update*, 4(1), Interfund, March 2003

¹¹¹ Interview with Geoff Budlender, former Director General of DLA, July 2001.

¹¹² Interview with Andile Mngxitama, Senior Researcher NLC, June 7, 2001

¹¹³ See chapters 8 & 9 on tenure reform for more detail

¹¹⁴ See chapter 6 on Restitution for more detail.

The second mode of influence occurred when many NGO staff members were recruited into the Department of Land Affairs (DLA). Putting contributions aside, the influx of former NGO staff into the DLA has had negative consequences both for the NGOs involved and for the land reform policy implementation process – consequences that continue to plague the land reform programme today. The NLC, in particular, lost many of its most experienced and able personnel to the government. As Derek Hanekom explains, “*it is true*” that the transformation and establishment of the DLA “*depleted the NGOs, but none of this was designed. The pace was very fast and we appointed most of our key people from the NGOs. Everybody was aware of this depletion, but it was seen as part of an exciting phase. There was always broad consultation around appointments*”.¹¹⁵ The fact that approximately 70% of the senior staff appointed to the DLA came from NGOs, has had a negative impact on the relationship between the departments of Agriculture and Land Affairs.¹¹⁶ The conflict between the so-called “liberals” appointed under Hanekom and the leadership of the 1999 Departments of Agriculture and Land Affairs may in part be explained by the “liberal” history of some of these NGOs. AFRA, for example, sprang from the Northern Natal Landowners Association and was established with the “blessing” of the Liberal Party in the late 1950s. Many of the leaders of the Northern Natal Landowners Association were also “committed” members of the Liberal Party.¹¹⁷ This conflict eventually led to a massive staff exodus, a huge loss of skills and experience, and arguably slowed down the process of land delivery.

Many rural NGOs already had contact with the ANC in the 1980s as affiliates of the UDF. Contact was strengthened by consultation between individual members of these organisations (some of whom were members of the ANC) and the ANC in exile. By 1990, workshops were being held in Harare attended by ANC leaders in exile as well as representatives of the various rural NGOs.¹¹⁸ Following the unbanning, a large number of workshops and meetings also took place in South Africa in the early 1990s. This relationship was initially quite expedient for the ANC as it allowed the organisation to establish itself within a broad civil society framework and provided access to intellectuals outside the National Party government. “*The ANC did not have to rely on government officials and National Party technocrats for policy formulation. It could rely on a whole set of academics and activists*”.¹¹⁹

This close connection was initially carried forward into the relationship with the DLA in 1994. The relationship began to falter as NGOs found themselves at a crossroads. They could either complement government efforts and aid in implementation, or continue to provide criticism of government policies and programmes, concentrating on representing their various constituencies. The NLC increasingly distanced itself from government policies and became one of the most effective critics thereof. “*In the early 1990s, we*

¹¹⁵ Interview with Derek Hanekom (Former Minister of Land Affairs and Member of Parliament), Hartebeestpoortdam, September 8, 2002

¹¹⁶ Interview with Andile Mngxitama, Senior Researcher NLC, June 7, 2001

¹¹⁷ Vigne R, *Liberals Against Apartheid*, Macmillan Press, Great Britain, 1997, p. 92 - 97

¹¹⁸ Interview with Ben Cousins, (Director PLAAS).

¹¹⁹ Interview with Dave Husy.

[NLC] were willing allies of the new regime and we put a lot of energy into building good relationships with the DLA. We almost formed a partnership with the state and some of our affiliates were implementing government land reform projects. Six years later, we are becoming increasingly uncomfortable with that role and major policy disagreements have emerged.¹²⁰ The NLC has also continuously pointed to the government's apparently "dwindling commitment to the problems of the rural poor".¹²¹ Some argue that the NLC has been too critical. *"Hanekom was quite critical of the role that NGOs played after 1994. He felt that they were hammering the inadequacies of the policies to the point where they provided ammunition to those who were sceptical about land reform"*.¹²²

With the change of minister in 2000, the relationship between the NLC and the Departments of Agriculture and Land Affairs had deteriorated to such an extent that the NLC began to see social mobilisation as its core objective and emerged as an organised supporter of land invasions. *"An indication of where things are at, is that we [NLC] are now getting visits from the National Intelligence Agency"*.¹²³ Other organisations, including CALS and the Centre for Rural Legal Studies in Stellenbosch have been less critical of government policies.

7. The role of the white commercial agricultural sector

By definition, the white commercial agricultural sector had a vested interest in the maintenance of the status quo in land distribution. They nevertheless committed themselves to negotiations and argued that the purpose of land reform should be to build a class of black farming entrepreneurs through the operation of a regulated liberal market.¹²⁴ Although there have been important differences¹²⁵ between commercial farmer organisations, representatives of commercial agriculture supported a market-based land reform programme, emphasised the importance of providing the necessary support services to assist new farmers and saw themselves as playing a supervising role in the development of a black farming class.¹²⁶ The sector entered negotiations wielding tremendous economic power and political influence, which they increasingly used. Economic power stemmed from the fact that white commercial farmers are responsible for 6% of the GNP and 99.5% of the value produced on agricultural land.¹²⁷ The sector's political power stemmed from decades of National Party support. The sector was, therefore, clearly influential in encouraging the willing-buyer, willing-seller principle.

¹²⁰ Interview with Tom Lebert

¹²¹ Turner S & Ibsen H, "Land and agrarian reform in South Africa: A Status Report", Occasional Paper Series, PLAAS, UWC, November, 2000

¹²² Interview with Ben Cousins

¹²³ Interview with Tom Lebert.

¹²⁴ Marcus T, "White Farmers and corporate agriculture", *Down to Earth*, Marcus T, Eales K & Wildschut A (Eds.), Land and Agricultural Policy Centre, Indicator Press, Natal, March 1996

¹²⁵ Agri SA has consistently been more "progressive" while the Transvaal Agricultural Union, for example, is decidedly right-wing.

¹²⁶ Marcus T, "White Farmers and corporate agriculture", *Down to Earth*, Marcus T, Eales K & Wildschut A (Eds.), Land and Agricultural Policy Centre, Indicator Press, Natal, March 1996

¹²⁷ Interviews with Chris Williams and Dave Husy, also see section on the Importance of Agriculture.

The current renewed focus on the development of a black commercial farming class closely resembles the arguments that the sector put forward in the mid 1990s.

In the early 1990s, the white commercial agricultural sector had very little official participation in agrarian and land policy formulation, but the sector has become increasingly influential overtime. There were some early meetings between individual farmers and ANC representatives, as well as invitations to ANC representatives to speak at conferences organised by various agricultural industries (e.g. fisheries, cattle ranches, fertiliser industry and the poultry industry). Again, it was a largely uncoordinated process, consisting of relatively informal meetings and working groups.¹²⁸

South Africa's land reform programme has also arguably had an effect (albeit minimal) on the productivity of the white commercial agricultural sector. Some farmers claim that they might have expanded their landholdings, but have refrained from doing so because of insecurities relating to land and labour policies. Many farmers have opted for land rental instead of purchase. Escalating levels of rural violence and crime, including farm murders, further contributed to insecurities.¹²⁹

White commercial agricultural sectors have been influential in shaping land and agrarian policies in other African countries as well. Zimbabwe is a case in point. In the 1940s, Zimbabwe's Commercial Farmers Union (CFU) was able to pressurise the colonial government into passing the Licensing Act, which stipulated that all commercial farmers had to buy a license from the CFU. The union drew political power from the fact that white commercial farmers were, at the time, responsible for 80% of the country's agricultural output.¹³⁰ The CFU continued to exert pressure and obtained constitutional guarantees against expropriation and nationalisation from the British government, prior to Independence in 1980.¹³¹ The CFU subsequently grew into the largest and most powerful farmers' organisation in Africa, sporting a huge research staff and a ten-story office building in Harare. It has consistently lobbied behind the scenes to limit the scope of Zimbabwe's land reform programme.¹³²

8. The National African Farmers' Union (NAFU)

The National African Farmers' Union, which represents established and emergent black farmers with commercial aspirations, was established partly in response to the fact that none of the actors shaping South African agrarian and land policy represented black commercial farmers. This exclusion is reflected in the consequent policy emphasis on

¹²⁸ Interview with Derek Hanekom (Former Minister of Land Affairs and Member of Parliament), Hartebeestpoortdam, September 8, 2002

¹²⁹ paragraph based on Marcus T, "White Farmers and corporate agriculture", *Down to Earth*, Marcus T, Eales K & Wildschut A (Eds.), Land and Agricultural Policy Centre, Indicator Press, Natal, March 1996

¹³⁰ Herbst J, "The Dilemmas of Land Policy in Zimbabwe", *Africa Insight*, Vol.21, No.4 1991

¹³¹ Bratton M, "Land Redistribution 1980 to 1990", *Zimbabwe's Agricultural Revolution*, Rukuni M & Eicher E (Eds.) University of Zimbabwe Press, 1994

¹³² Takavarasha T, "Agricultural Pricing Policy", *Zimbabwe's Agricultural Revolution*, Rukuni M & Eicher C.K (Eds.) University of Zimbabwe Publications, 1994

poverty alleviation and the neglect of programmes to promote black commercial agricultural production.

The National African Farmers Union became increasingly influential in the late 1990s. The union, which adopted a resolution expressing no-confidence¹³³ in former Minister of Land Affairs, Derek Hanekom, because of the governments' apparent reluctance to support black commercial agricultural development, has developed close ties with the current Minister of Agriculture and Land Affairs, Thoko Didiza, as well as with the department in general. Indications are that NAFU representatives were influential in bringing about the change in policy focus (from pro-poor to pro-agricultural development) that occurred in 2001 with the release of the Strategic Directions policy paper. The close relationship between NAFU and the leadership of the Department of Agriculture is also evident from the positive policy response NAFU was able to secure in the form of the Broadening Access to Agriculture Trust. A budget of R24 million was allocated to the Trust and it was proposed that R10 000 per annum be spent on "deserving" farmers. So far, the Trust has failed to find a sustainable institutional form.¹³⁴

9. The Department of Native Affairs

Bureaucrats and/or civil servants constitute one of the interest groups that influence public policy and are particularly important in terms of policy implementation. This is because governments and ministers may come and go, while civil servants and bureaucrats who control information and plan and apply implementation procedures often stay. Bureaucrats and civil servants, who are by no means neutral actors and who subscribe to particular political ideologies, have considerable power because of their expertise, knowledge and competence.¹³⁵ South Africa is no exception.

When the DLA was established in 1994, it took over the building and personnel of the former Department of Native Affairs. Staff from the old departments of Agriculture and Native Affairs had little influence on land reform policy formulation, but significant influence on slowing down the process of implementation. In turn, this contributed to slow delivery, conflict between the Departments of Land Affairs and Agriculture and finally to the change of minister and policy direction that commenced in 2000.

Although Derek Hanekom systematically replaced personnel in the top leadership structures, he did so gradually, and the lower echelons (those responsible for bureaucratic processes and administration) continued to consist of personnel whose ideological background and experience were inconsistent with the policies of the new Department. This created the contradictory impression that transformation in the Department was occurring both too slowly and too rapidly. This impression was clearly revealed at a 1995 workshop on the tenure process facilitated by Ben Cousins. "*We conducted an*

¹³³ Lodge T, *Politics in South Africa*, David Phillip, Cape Town, 2002, p. 79

¹³⁴ Schirmer S, "Policy visions and historical realities: Land reform in the context of recent agricultural developments", *African Studies*, 59, 1, 2000

¹³⁵ Walt T, *Health Policy: An introduction to process and power*, Zed Books, London, 1994, p. 80

opportunities constraints exercise called Rocks and Oxen. Participants had to draw an ox-wagon pulling the department into the future. On top of the wagon there were heavy rocks holding the department back. One group indicated that Hanekom was both an ox pulling the department into the future and a rock holding it back. Another group had a rock falling off the wagon with WHAMS written on it. I asked them what WHAMS were and they said, 'White Afrikaner Males' – indicating insecurity in the department".¹³⁶

Personnel responsible for administration and bureaucratic processes, therefore, continued to wield significant influence on policy implementation allegedly slowing down the process. *"They did not necessarily slow down the implementation process deliberately. It is just that people were used to administering in a completely different kind of department. The old administration did not understand the community focus of the new department. For example, they could not understand why you had to travel to the far North to visit communities".¹³⁷* When new administrators were appointed they initially lacked the skills and experience required. *"People had never been in a government department before. They did not realise the complexity and importance of bureaucracy".¹³⁸*

Bureaucratic inefficiency was another, often cited, complaint, which the DLA sought to address by embarking on a decentralisation drive in 1997 and 1998. As a former DLA staff member relates, *"One day they brought these trunks of stationary, which looked like arms caches, to the provincial office. But, the keys had been left in Pretoria. Instead of smashing the locks, I had to drive to Pretoria to pick up the keys! That is an expense of approximately R300 and a day's work, as opposed to replacing two locks".¹³⁹* Problems were compounded in the period immediately after April 1994 (in the context of the government of national unity), by the fact that the Deputy Minister of Land Affairs came from the National Party.

10. The relationship between the Departments of Agriculture and Land Affairs

In 1994, two separate departments were established to deal with Agriculture and Land Affairs. Derek Hanekom was appointed as Minister of Land Affairs while Kraai van Niekerk, of the former National Party, continued to hold the portfolio of Minister of Agriculture. Co-operation between the two departments was poor (particularly between the national Department of Land Affairs and the provincial Departments of Agriculture) and this contributed to slow policy implementation. When the National Party withdrew from the government of National Unity in 1996, Derek Hanekom became minister of both Departments, yet, communication and co-operation remained poor.

Much speculation surrounded Derek Hanekom's appointment as Minister of Land Affairs (and later Agriculture), with Hanekom admitting that he was *"very surprised to be*

¹³⁶ Interview with Ben Cousins

¹³⁷ Interview with Durkje Gilfillan (Former Land Claims Commissioner), June 1, 2001

¹³⁸ Interview with Dave Husy.

¹³⁹ Interview with Chris Williams (Director of TRAC Mpumalanga & former DLA Chief Planner), May 24, 2001.

approached to be minister".¹⁴⁰ The dominant explanation for his appointment revolves around the reconciliation framework of the time. It is argued that former President Mandela appointed Hanekom, a white male with an Afrikaans surname and a commendable record in the ANC (Hanekom served a five-year prison sentence for running an ANC communications system from the Magaliesburg)¹⁴¹ because, *"he was someone who was acceptable to all parties and could pull them all together"*.¹⁴² This explanation, however, seems platitudinous and does not take account of Hanekom's experience in land issues, his central role in early policy formation and his positions in the ANC's Land Commission and Land and Agriculture Desk. Hanekom himself believes that former president Nelson Mandela thought that *"I could straddle the two opposing sides"* and *"play a facilitative role"* and *"clearly he also wanted all sorts of balances in his cabinet"*.¹⁴³

Under Hanekom's leadership the Department of Land Affairs produced a complex and relatively sound policy framework for land reform. It is, however, during this time that the relationship between the departments of Agriculture and Land Affairs was damaged in a way that continues to effect land policy today. The exacerbation of tensions between the two departments (which escalated into racial tensions and ideological differences) was partly the result of Hanekom's approach to staff employment and the failure to adequately address conflictual issues when they became apparent.

Hanekom filled the majority of positions in the DLA with individuals who had a background in South Africa's rural NGOs (and, hence, experience in land policy issues). As a consequence of apartheid policies, however, these individuals tended to be white. Although racial tensions should not be overemphasised, race was a real issue and contributed to the feelings of marginalisation experienced by staff in the Department of Agriculture (including Bongiwe Njobe and Thoko Didiza). *"Hanekom did not appoint enough black people in the department and the black people in the department felt marginalised by the people in leading positions who were not only white but, formed part of the same social grouping. These tensions were not acknowledged or recognised early enough and people were not given an opportunity to let off steam. We conducted a workshop in the early 1990s, before the DLA embarked on its transformation drive. Race was a very real issue at the workshop and Hanekom did not take it seriously. There were a lot of hurt feelings. People can deny it as much as they want, but race was a real issue, and it was not managed well"*.¹⁴⁴ This is an issue that continues to plague the national Departments of Agriculture and Land Affairs today, albeit in a different form. *"I would say that black managers are now taking the lead, but if you asked me who these people were, I would say that they are Xhosas. The Director General, the Deputy Director*

¹⁴⁰ Interview with Derek Hanekom (Former Minister of Land Affairs and Member of Parliament), Hartebeestpoortdam, September 8, 2002

¹⁴¹ Lodge T, *Politics in South Africa*, David Phillip, Cape Town, 2002, p. 78 - 80

¹⁴² Interviews with Dave Husy, Durkje Gilfillan and David Manzini among others. It was also the dominant explanation adopted by the South African media.

¹⁴³ Interview with Derek Hanekom (Former Minister of Land Affairs and Member of Parliament), Hartebeestpoortdam, September 8, 2002

¹⁴⁴ Interview with Ben Cousins

General, the Chief Land Claims Commissioner and many more, are all Xhosas".¹⁴⁵ By the late 1990s, morale in the Departments of Agriculture and Land Affairs was very low. The failure to address these issues eventually translated into the loss of skilled personnel in 2000 and 2001.

In 1999, following the transfer of power from President Mandela to President Thabo Mbeki, a new minister of Land Affairs, Thoko Didiza, was appointed. (When Didiza was appointed, she was not only the youngest member of cabinet, she was also South Africa's first female Minister of Agriculture. Didiza grew up in South Africa and attended school in Inanda outside Durban. Prior to her appointment, she worked for the Black Social Workers' Association and later as a legal secretary for the South African Council of Churches. In 1992, she became the first secretary-general of the Women's National Coalition and was nominated by the ANC Youth League to be one of their MPs in parliament in 1994).¹⁴⁶ The new appointment initially generated quite a lot of controversy and the reason for Hanekom's "surprising dismissal" was intensely debated. Sources indicated that Hanekom was also surprised by the turn of events. *"Days before the cabinet announcement we were discussing our appointments as National Programme Managers for Derek. Derek thought he was a sure thing and we resigned our jobs and negotiated contracts for July, when we would be appointed"*.¹⁴⁷ Hanekom described his reaction to the change of minister as "75% surprise".¹⁴⁸ However, a wide range of factors contributed to the appointment of a new Minister of Agriculture and Land Affairs.

Among them, the slow pace of land delivery is paramount. Hanekom's administration was plagued by some policy mistakes that included an announcement in 1996, that R15 billion in state subsidies would pay for land reform (900 000 beneficiary families), when conservative estimates indicated that 1.7 million families required land.¹⁴⁹ Only 1% of agricultural land had been distributed and half of the families that had been resettled could not be found. It is in this context that people talked about the *"aura of failure that surrounded Hanekom"*. Secondly, Hanekom's ability to *"play off different actors against each other and reach a consensus"* was beginning to have negative consequences. Hanekom was attacked by the white commercial agricultural sector for agricultural liberalisation policies, by the National African Farmers' Union for failing to develop policies in support of emerging farmers and by the left and rural social movements for adhering to a market-based, "World Bank designed", land reform policy. At the same time, Hanekom's formerly sound relationship with land and rural NGOs began to deteriorate. When the NLC organised a protest march in 1996, against the property clause in the Constitution, Hanekom remarked that the NLC *"did not understand"*. Later, Hanekom publicly accused members of the NLC of being "ultra-left" and "frivolous".¹⁵⁰ A series of bad personal relationships also took their toll. Derek Hanekom had experienced a hostile relationship with Bongiwe Njobe, who left the ANC Land

¹⁴⁵ Interview with a DLA Project Officer

¹⁴⁶ *The Star*, "Blooming in the field of the rainbow land", September 17, 2002

¹⁴⁷ Interviews with two land activists.

¹⁴⁸ Interview with Derek Hanekom (Former Minister of Land Affairs and Member of Parliament), Hartebeestpoortdam, September 8, 2002

¹⁴⁹ Bond P, *Elite Transition*. University of Natal Press, 2000, Chapter 5

¹⁵⁰ Bond P, *Elite Transition*. University of Natal Press, 2000, Chapter 5

Commission partly because she could not work with Hanekom¹⁵¹ and, whom sources argue *“is the one who pulls the strings in the department”*. Hanekom also had an antagonistic relationship with Thoko Didiza and reportedly also clashed with President Mbeki.¹⁵²

Furthermore, the majority of commentators describe Hanekom’s approach to land reform as “pro-poor”.¹⁵³ By late 1999, policy directives had changed to emphasise support and development of a black commercial agricultural sector. A policy directive that Thoko Didiza, Bongiwe Njobe and the Department of Agriculture in general, consistently advocated. On the other hand, such differences in approach to land reform policy should not be exaggerated. Despite “pro-poor” rhetoric, Hanekom had consistently supported the market-based land reform programme and, by 1999, had brought a halt to large-scale resettlement projects that were not “economically viable”.

Finally, Hanekom had allegedly failed to cultivate a political support base within the ANC. *“Derek has this thing where he goes out every weekend to visit a community. He was very steeped in the morality of what he was doing. This meant that he was all over the place and that he failed to build a support base within the ANC”*.¹⁵⁴ Helena Dolny made a similar argument about her forced resignation as Director of the Land Bank. A *“comrade from Lusaka”* told her that *“this is a political job . . . to survive in a job like this you have got to have political allies. Look at Bongi Njobe and the way she operates. The day of the election results in Gallagher Estates, she is there. On the occasion of the announcement of the new cabinet ministers, she is there. And you? Where were you? Who do you keep contact with? Who do you consider to be your political allies”*. And as Dolny put it, *“I ignored the public relations politics at my peril and was now paying for my neglect. My biggest mistake had been to fail to take sufficient heed of the political dynamics and their tentacles that reach deep into South African business activity”*.¹⁵⁵

The appointment of the new Minister of Agriculture and Land Affairs resulted in a massive staff exodus that has been described as “an attempt to get all the people close to Hanekom out”, “the purge of Hanekom’s appointees”¹⁵⁶, “ethnic cleansing”¹⁵⁷ and the “Kensington cabal”¹⁵⁸. Among those who left the land reform terrain was former Director of the Land Bank Helena Dolny, former Director General of Land Affairs Geoff Budlender, former Deputy Director Generals Sue Lund and Stanley Nkosi, former Chief Directors Richard Levin and Snakes Nyoka, a number of Land Claims Commissioners including Cheryl Walker and Durkje Gilfillan, two provincial directors and a number of other skilled staff including Chief Planners.

¹⁵¹ Interview with Helena Dolny.

¹⁵² *Business Day*, December 28, 1999

¹⁵³ Interviews with Ben Cousins, David Manzini (DLA Project Officer, Mpumalanga), May 25, 2001, Dave Husy and Geoff Budlender.

¹⁵⁴ Interview with personal friend of Derek Hanekom

¹⁵⁵ Dolny H, *Banking on Change*, Penguin Books, South Africa, 2001, p. 343

¹⁵⁶ *Mail & Guardian*, August 4 – 10, 2000

¹⁵⁷ Dolny H, *Banking on Change*, Penguin Books, South Africa, 2001

¹⁵⁸ Lodge T, *Politics in South Africa*, David Phillip, Cape Town, 2002, p. 79

This exodus was explained and interpreted in a variety of ways. Some argued that years of hostility between the two departments influenced Didiza “*not to trust staff in the DLA and to assume that people in the DLA would be difficult or hostile*”.¹⁵⁹ And, “*I think that she thought that people were committed to Hanekom and his policies. She felt that she could not trust the people who were brought in by Hanekom*”.¹⁶⁰ A second explanation relates to differences in land reform ideology (i.e. the apparent shift from a pro-poor policy to a policy that emphasises the development of a black commercial agricultural sector). “*Didiza had a more agricultural approach to land reform and it is possible that she felt that the DLA staff would be too committed to the old policies*”.¹⁶¹ A racial spin was also placed on the departures, particularly in the South African media, but racial tension is an oversimplified explanation, which only contributed to increased hostility. Nevertheless, the convergence of continuing departures (particularly of staff with NGO backgrounds) was no coincidence. Without exception, sources suggested that employees of the DLA were “marginalised” and “made to feel unwelcome”. Some personal accounts are telling.

Geoff Budlender explains that “*Didiza and I could not work together effectively. We had a meeting in August 1999, and it was the best meeting we had ever had. I said to her that if she wanted a DG she could trust I was happy to be that person, but if I am not that person, tell me, and I will leave. We agreed that I would leave in six month’s time. I had no desire to stay in a place where I was not welcome, and it suited both of us for me to leave. That was the one thing that we agreed on. It would not be fair to the minister to say that I was fired. I feel like I left at the delight of the minister, but the feeling was mutual*”.¹⁶² Chief Planner, Chris Williams explains, “*I loved my job, it was a spiritual commitment and I felt that we were doing something to heal this country. Overtime, however, it became more and more difficult to get approval for things. Morale in the department was at an all time low. People were not talking openly and there was a lot of tension between the policy and administrative sectors of the DLA. My relationship with the minister and her direct staff was not very healthy either. I waited eight months for approval of a project and when the approval came the timeframe had been re-routed to indicate that the minister had approved the project in a couple of weeks. To be faced with that kind of dishonesty hurt me really badly*”.¹⁶³ All interviewees have also pointed to the stressful nature of the work as a contributing factor to their departures.

Although it is certainly common practice for new ministers to appoint high-level staff that share their policy visions (e.g. Director Generals), the replacement of lower level management (e.g. Chief Directors, Chief Planners etc.) is questionable. In the case of the Departments of Agriculture and Land Affairs it led to a loss of institutional memory, skills and experience. The moratorium placed on land reform projects in early 2000 and the shelving and re-emergence of the Draft Tenure Rights Bill years later were both (in part) consequences of this loss of capacity.

¹⁵⁹ Interview with Ben Cousins.

¹⁶⁰ Interview with Geoff Budlender.

¹⁶¹ Interview with David Manzini.

¹⁶² Interview with Geoff Budlender.

¹⁶³ Interview with Chris Williams.

The fundamental reason for the restructuring is the different approaches to land reform held by the Departments of Land Affairs and Agriculture respectively. Nevertheless, sources have placed emphasis on the roles of individuals, particularly the role allegedly played by Bongiwe Njobe and Masiphula Mbongwa. (Bongiwe Njobe speaks six languages, holds a Masters in Agriculture from the University of Bulgaria, has worked in farm management in Zambia and Tanzania and has been a consistent champion of women's rights). Bongiwe Njobe, Director General of the Department of Agriculture, is said to have close familial and friendship ties with the Mbeki family – with whom she allegedly wields a substantial amount of influence. *“So what was mirrored in the 1999 shake-up was the whole changed political thrust from Mandela to Mbeki, and from the predominance of a land affairs approach to an agricultural approach”*.¹⁶⁴ Njobe is also said to be very influential within the Department of Agriculture. *“Bongi runs the Department of Agriculture, not Thoko Didiza. Bongi is the one who runs the show”*.¹⁶⁵ And, *“The first thing that Didiza did when she was appointed, was to close down the minister's office in the DLA building and open it up in the Agriculture building, right next to Bongi's office. Bongi is the one who pushes the buttons”*.¹⁶⁶ An ANC Member of Parliament explained that *“Thoko is very dependent on Bongi. Bongi was the one who prepared her speeches, for example”*. Sources have also indicated that Bongi Njobe and Masiphula Mbongwa restrict access to the Minister of Agriculture and Land Affairs. *“I could not get to the Minister's inner sanctum. I could not get to speak to her directly. Everything was done through Masiphula Mbongwa with Bongi Njobe in attendance”*.¹⁶⁷ And, *“we had great difficulty getting access to her [Didiza] . . . the amount of access we got to her was astonishingly little”*.¹⁶⁸ A further interesting aspect is Njobe's close relationship with staff from the Agricultural Economics Department at the University of Pretoria (where she lectured before joining the Department of Agriculture) and the renewed influence of these academics in the formation of post-1999 land and agricultural reform policy.

Indications of a power-struggle within the Departments of Agriculture and Land Affairs resurfaced in July 2002, when Minister Didiza and Director General of Agriculture Bongiwe Njobe contradicted each other over a controversial proposal to re-regulate agricultural marketing. Njobe told reporters that the document would provide the basis for a policy review and new agricultural marketing legislation to be tabled in parliament in early 2003. A spokesperson for the Minister, however, argued that the report on the marketing proposal was incorrect. When Njobe was asked to comment on the spokesperson's statement she allegedly asked reporters why they had gone to the

¹⁶⁴ Interview with land activist. Also see Dolny H, Banking on Change, Penguin Books, South Africa, 2001

¹⁶⁵ Interview with employee of the Department of Agriculture.

¹⁶⁶ Interview with land activist and former employee of the NLC. Also see Mail & Guardian, “Agriculture officials sent mixed messages”, July 19 – 25, 2002

¹⁶⁷ Dolny H, Banking on Change, Penguin Books, South Africa, 2001

¹⁶⁸ Interview with Geoff Budlender & I had similar experiences during my fieldwork. It was extremely difficult to arrange a meeting with staff from the Department of Agriculture and once such a meeting had been arranged I would arrive in Pretoria to be told that the appointment had been cancelled.

Minister.¹⁶⁹ At the same time, Member of Parliament, Derek Hanekom, expressed “concern” over a possible move to reinstate marketing controls.

Whatever the realities may be, Njobe has consistently argued for a land reform policy that addresses both the development of a black commercial agricultural class and the reduction of poverty and inequities in land ownership. The paper, she presented at the LAPC and World Bank workshop in Swaziland in September 1993, has striking similarities with the Strategic Directions Paper and the policy developments of August 2002. In the paper, Njobe emphasises both a more equitable distribution of land based on race and the importance of increased agricultural productivity. She argued that support services should be provided to land reform beneficiaries and that emerging agricultural producers should be “supported”. Njobe also placed considerable emphasis on the development of small-scale agriculture. In sum, *“the ultimate success of such a programme in South Africa should be tested against its ability to address equity in land distribution, reduction of poverty, creation of rural employment and income generating opportunities, raise the number of black agricultural producers and enhance overall productivity whilst maintaining sustainable material resource management and utilisation”*.¹⁷⁰

Thoko Didiza, who was Deputy Minister of Agriculture under Hanekom, is described as a “political player”, as not being “close to communities or rural and community organisations” and as “more at home at political meetings than Hanekom ever was”. The relationship between the Departments of Agriculture and Land Affairs and land NGOs (particularly the NLC) has deteriorated significantly under Didiza’s leadership. *“Our inputs were smashed and not taken seriously during the development of the Strategic Directions Paper. Our submissions were meaningless and the Minister made it clear that she was not going to listen to us”*.¹⁷¹ And, *“the relationship is so bad that the NLC is getting visits from the National Intelligence Agency”*.¹⁷² However, in some cases it appears that the new Ministry has been responsive to direct action (and the demands of potential beneficiaries). For example, in 1999, a number of NGOs¹⁷³ organised a *Rural Development Convention* in Bloemfontein, attended by 500 rural community representatives. The *Rural People’s Charter* was adopted at this Convention. A number of demands¹⁷⁴ were made in this charter, many of which have been addressed in the Land Redistribution for Agricultural Development policy approach adopted under Minister Didiza’s leadership.

¹⁶⁹ *Mail & Guardian*, “Agriculture officials sent mixed messages”, July 19 – 25, 2002

¹⁷⁰ Njobe B, Criteria for Participation, Paper for the World Bank & LAPC conference in September 1993, Swaziland

¹⁷¹ Interview with Andile Mngxitama

¹⁷² Interview with Tom Lebert.

¹⁷³ The NLC, SANGOCO (SA NGO Coalition), IDP (Initiative for Participatory Development), TCOE (Trust for Community Outreach and Education), RDSA (Rural Development Services Network).

¹⁷⁴ There were calls for general rural development, water provision, support for emerging farmers, efforts to combat violence against women, efforts to combat violence in the workplace (on farms), provision of comprehensive health care, provision of education, environmental management, more land, women’s rights and a focus on empowering young people. All from the Rural People’s Charter: Adopted at the Rural Development Initiative Convention, Bloemfontein, April, 25, 1999

11. Policy

The policy, that emerged from this period of debate in the early 1990s, was first set out in the 1994 Reconstruction and Development Programme (later followed by GEAR) and the 1997 White Paper on Land Reform Policy. The first policy test cases took place under the 1996 Land Reform Pilot Programme.

A frequent argument is that each successive land reform policy statement was a “watered down” version of the former. Each successive statement increased the role of the market and decreased the role of the state in agrarian reform. This **gradual** shift¹⁷⁵ is the product of a negotiated land reform programme, developed by a variety of actors with vested interests and the ominous exclusion of potential land reform beneficiaries from the policy formulation process.

11.1 The Reconstruction and Development Programme (RDP)

The RDP, which went through seven drafts, provides the first indication of this arguable policy shift towards an emphasis on market-based land reform. Although opening up a role for the market in land reform, the RDP nevertheless defined a significant role for the state in South Africa’s land and agrarian reform policies (primarily through state assistance to beneficiaries) and sought to include a range of marginalised groups into the policy’s reach.

The RDP was based on certain fundamental assumptions, first, that the most basic need of rural people was for land. Secondly, that the Apartheid system, through the homeland system and government support for the white commercial agricultural sector, resulted in the dominance of the white commercial agricultural sector and the impoverishment of the black majority. Thirdly, that the mere repeal of discriminatory legislation would not be sufficient to address the inequitable distribution of land and economic resources, and finally, that an entirely market-based approach to land reform would not by itself lead to a more equitable distribution of land.¹⁷⁶

The RDP argued that a national land reform programme should address gender inequities (section 2.4.2), rural development, tenure insecurity, employment opportunities and income generation and that support services be provided to land reform beneficiaries. Section 2.4.12 states that “*Rural infrastructure, support services and training at all levels must be provided to ensure that land can be utilised effectively*”. This would include the provision of water and health services. In addition, “*the programme must include the provision of services to beneficiaries of land reform so that they can use their land as productively as possible*”. According to the RDP, the land reform programme should be demand-driven and benefit the poorest of the poor (section 2.5.3). The policy should

¹⁷⁵ It is debatable whether there was a shift at all, since all the important elements, like market-based redistribution, agricultural liberalisation policies, and court-based restitution were contained in the Reconstruction and Development Programme.

¹⁷⁶ All references to the RDP from African National Congress, The Reconstruction and Development Programme, Umanyano Publications, JHB, 1994

incorporate both market-based and non-market based aspects of land reform (section 2.4.5). Expropriation would take place in accordance with the Constitution (2.4.7). Significant funding responsibility would fall on the state, while beneficiaries would contribute “according to their means” (section 2.4.10).

With regard to agriculture, the RDP emphasised productivity, noting the importance of agriculture to general economic development (section 4.5.2.2). The argument for agricultural liberalisation made by the World Bank in the early 1990s is contained in Section 4.5.2.3 of the RDP. *“The present commercial agricultural sector will remain an important provider of food and fibre, jobs and foreign exchange”*, but the RDP *“must provide a framework for improving its performance by removing unnecessary controls and levies as well as unsustainable subsidies”*. Furthermore, support services and government assistance to agriculture should benefit *“small and resource-poor farmers, especially women”* (section 4.5.2.4) and *“comprehensive measures”* are required to improve the *“living and working conditions of farm workers”* (section 4.5.2.5).

The drafters of the RDP also took to heart the suggestion for a three-part land reform programme made by the World Bank and land activists in the early 1990s. The RDP set out the basis of the Restitution Programme as well as for the Land Claims Court as contained in the 1997 White Paper on South African Land Reform Policy. With regard to tenure security, the RDP called for secure tenure rights for all South Africans *“by adopting a tenure policy that recognises the diverse forms of tenure existing in South Africa”*. The RDP also calls for the development of *“new and innovative forms of tenure”* such as group-based land holding options (section 2.4.10).

Section 2.4.4, contains the most contentious aspect of the RDP and, calls on the government to aim to redistribute 30% of South Africa’s agricultural land in five years (the same as the figure advocated by World Bank representatives in 1992 and 1993). The majority of commentators¹⁷⁷ argue that the 30% target was “unrealistic” and not achievable, *“at least not without increasing the budget for land reform beyond anyone’s imagination”*.¹⁷⁸ Setting this target was probably one of the biggest mistakes made during early policy formulation and has, as it where, set the DLA up for failure. Public policy analysts have pointed to the importance of not creating unrealistic expectations during the early phases of policy formulation. This is particularly important in large-scale social programmes such as land reform where results are not easily quantifiable and where expectations of rapid improvements are simply not justifiable.¹⁷⁹ On the other hand, critics and supporters have argued that the target was attainable given the estimate that 6% of agricultural land changes ownership per annum.¹⁸⁰ *“The targets could have*

¹⁷⁷ For example Ben Cousins & David Manzini

¹⁷⁸ Interview with Geoff Budlender.

¹⁷⁹ Walt T, *Health Policy: An introduction to process and power*, Zed Books, London, 1994, p. 190 – 191 & Cooper et al, *Public Administration for the 20th and 21st century*, Harcourt Brace College Publishers, 1998, p. 174

¹⁸⁰ The argument was made by Mike de Klerk in the early 1990 policy debates and is also made by Bond P, *Elite Transition*. University of Natal Press, 2000, Chapter 5

*been achieved if the state had first option to buy each time land goes onto the market – if not 30%, then 20%, in any case, more than the 1% that was distributed by 1999”.*¹⁸¹

Nattrass¹⁸² explains the arguable policy shift from state to market led distribution¹⁸³ in terms of the ANC’s attempt to find a balance between the redistributive demands of its constituency and the need to broaden its political base by acquiring the support of “big business”. The economic and social strategy that was adopted committed the ANC to “*working with, rather than confronting white capitalists’ interests*”¹⁸⁴ and placed constraints on the nature and implementation of the land reform policies that followed. The arguable shift may also be a reflection of the fact that the development of the RDP was less “participatory” than, for example, the development process of the ANC’s “Ready to Govern” document.¹⁸⁵ According to Levin and Weiner¹⁸⁶, the RDP only “filtered down to [ANC] branches in its fourth draft”, and “branch-level participation was minimal”. Furthermore (as argued above) it is evident that the rural component of the RDP was “heavily influenced” by the World Bank’s Rural Restructuring Programme.

11.2. The 1996 Green Paper on South African Land Reform

The 1996 Green Paper on Land Reform was the precursor to the 1997 White Paper on Land Reform. The stated aim of the Green Paper was to redistribute land to the landless, the poor, farm workers, labour tenants, women and those who were historically deprived of their land due to racist legislation introduced prior to and during apartheid. The paper, therefore, retained the RDP’s commitment to include a range of marginalised groups into the land policy’s reach. The paper formally introduced the three policy programmes; Restitution, Redistribution and Tenure Reform. A set of new land related legislation was also propounded including the Restitution of Land Rights Act of 1994, the Provision of Certain Land for Settlement Act of 1993 and the Land Reform (Labour Tenants’) Bill. The proposed Tenure Reform programme included extending registerable land rights, the legal recognition of communal tenure, recognition of the role of traditional authorities in land administration and placed emphasis on women’s rights to land. Furthermore, the paper introduced the Settlement/Land Acquisition Grant, the Settlement Planning Grant and the District Planning Grant.

Land NGOs and other rural organisations strongly criticised the Paper. In line with the constitution, the Green Paper argued that restitution would only apply in cases where land dispossession occurred after 1913. The NLC and affiliates argued that the cut-off date was arbitrary and that claims pertaining to the pre-1913 period should be recognised in

¹⁸¹ Interview with Andile Mngxitama, Senior Researcher NLC, June 7, 2001 & for more detail on this argument see chapter 7 on the redistribution programme.

¹⁸² Nattrass N, “Politics and Economics in ANC Economic Policy”, *African Affairs*, Vol.93, 1994

¹⁸³ Also evidenced in the development of ANC policy discussed in the previous section.

¹⁸⁴ Callinicos A, “South Africa after Apartheid”, *International Socialism*, Spring 1996

¹⁸⁵ Levin R & Weiner D, “Towards the Development of a Popular and Participatory Rural Land Reform Programme in South Africa”, in Levin R & Weiner D (eds.), *No More Tears . . . Struggles for Land in Mpumalanga, South Africa*, Africa World Press Inc., Asmara, Eritrea, 1997

¹⁸⁶ Levin R & Weiner D, “From apartheid to development”, in Levin R & Weiner D (eds.), *No More Tears . . . Struggles for Land in Mpumalanga, South Africa*, Africa World Press Inc., Asmara, Eritrea, 1997

the Restitution Programme.¹⁸⁷ These organisations also argued that the market-based approach (entrenched by 1996) would limit the impact of land reform, increase the costs beyond the capacity of the government and contribute to environmental degradation. The R15 000 Settlement/ Land Acquisition Grant was seen as insufficient by rural organisations and the communities they represented. Activists argued that the scale of assistance was not in line with the support the white agricultural sector had received under apartheid. Furthermore, the Green Paper's stipulation that only families earning less than R1 500 could qualify for the Settlement/Land Acquisition Grant was seen as unjust since all "non-whites" were discriminated against under apartheid. Critics also pointed to important omissions, which included the Paper's lack of attention to farm workers and labour tenants, food security and mineral rights.¹⁸⁸

Nevertheless, the Green Paper was formulated based on relatively wide consultation, primarily with the NLC and its affiliates. Public workshops and meetings were conducted in an attempt to get input from community level. The Department of Land Affairs also hosted a *National Conference on Land Policy* in August and September 1995, which was attended "by hundreds of delegates from all over the country"¹⁸⁹. In other words, government and NGO representatives (including representatives from communities that had established relationships with NGOs) attended the conference. As argued before¹⁹⁰, the dominant theme that emerged from delegates representing potential land reform beneficiaries was that "black people should not have to pay for the land that was stolen from them" (i.e. a rejection of the market-based approach to land reform). Nevertheless, the Green Paper (and subsequently the 1997 White Paper on South African Land Reform Policy) stated that land redistribution would be based on market principles (i.e. willing-seller, willing buyer). Therefore, irrespective of the number of workshops that took place, or the conference, or the "consultative process", the views/ demands of potential land reform beneficiaries were not sufficiently incorporated into the policies that were developed.

11. 3. Growth, Employment and Redistribution Programme (GEAR)

Arguably the real policy shift took place with the introduction of GEAR and the suspension of investment in RDP activities. Gear had three central objectives, to reduce government debt, to create an export-orientated economy and to increase employment. Proponents of GEAR argued that fiscal discipline (including cuts in social spending), promotion of foreign investment and the creation of an internationally competitive economy would achieve these objectives. Coupled with the devaluation of the currency,

¹⁸⁷ For more detail see chapter on Restitution.

¹⁸⁸ These criticisms are contained in National Land Committee, Submission on the Green Paper on Land Reform, unpublished paper, April 9 1996 and TRAC, Community Submission on the Land Reform Green Paper, Mpumalanga Province, unpublished, April 1996

¹⁸⁹ Levin R & Weiner D, "Towards the Development of a Popular and Participatory Rural Land Reform Programme in South Africa", in Levin R & Weiner D (eds.), *No More Tears . . . Struggles for Land in Mpumalanga, South Africa*, Africa World Press Inc., Asmara, Eritrea, 1997, p. 260

¹⁹⁰ see section on the role of NGOs in the formulation of South African land policy and throughout the thesis

GEAR is sometimes described as a “home-grown structural adjustment policy”. *“I do not think that the World Bank could have given us a better Structural Adjustment Policy”*.¹⁹¹

The impact of GEAR on land reform is two-fold. Firstly, it reduced the financial resources available to the Department of Land Affairs as the government cut social spending and embarked on efforts to reduce the size of the civil service. The primary negative consequence of budgetary limitations is that the DLA was understaffed. *“I do not think that money was the issue, you could double the DLA’s budget and it would have no impact on the national budget”*.¹⁹² And, *“the critical constraint that the DLA faced was a capacity constraint. Ministers were instructed to reduce and not expand their departments”*.¹⁹³ It is this capacity constraint that was partially responsible for a slow process of policy implementation. It also partly explains why the DLA failed to spend its annual budget, *“without the staff you can’t spend the money”*.¹⁹⁴ Secondly, GEAR focussed on urban industrialisation and paid insufficient attention to the importance of agriculture and land reform in South Africa’s social and economic development. In 1995, for example, agriculture generated 4.4% of the GDP and accounted for 14% of employment.¹⁹⁵ Agriculture is also of primary importance to 13 million (mostly poor) people who continue to live in rural areas.

11.4. The 1997 White Paper on South African Land Reform Policy

The 1997 White Paper was complex, comprehensive, flexible and the result of a fairly wide process of consultation (compared to, for example, other government departments or the current Departments of Agriculture and Land Affairs). The White Paper had four basic objectives; bringing about justice, building reconciliation and political stability, promoting economic growth and alleviating poverty.¹⁹⁶ The proposed land policy set out to address the injustices of racially-based land dispossession, the racially skewed inequitable distribution of land, tenure insecurity, unsustainable land use, land availability for development, the lack of an accurate record and register of land rights and the ineffective administration of public land. The policy framework of the White Paper emphasised a “needs-based approach” to land reform, effective co-operation between government departments, the provision of support services to land reform beneficiaries, local participation in decision-making, gender equality, economic viability and environmental sustainability. Importantly, the paper stated that land reform would be based on a willing-seller, willing-buyer principle, although some state intervention would occur in the form of financial grants to potential beneficiaries.

The three-part structure was maintained. A Land Restitution programme would address the land needs of those who were dispossessed as a result of racially discriminatory

¹⁹¹ Interview with Chris Williams.

¹⁹² Interview with Geoff Budlender.

¹⁹³ Interview with Ben Cousins.

¹⁹⁴ Interview with Ben Cousins. Geoff Budlender made similar statements.

¹⁹⁵ Nomvete B.D, Maasdorp G.G & Thomas D (Eds.), *Growth with Equity*, Africa Institute for Policy Analysis and Economic Integration, Cape Town, 1997

¹⁹⁶ All policy statements with regard to the White Paper from Department of Land Affairs, *White Paper on South African Land Policy*, Pretoria, April 1997

practices and legislation after June 19, 1913. A Land Redistribution Programme would address the land needs of the poor and landless through the Settlement/Land Acquisition Grant. The stated objectives of the Land Tenure Reform programme were “*to bring all people occupying land under a unitary, legally validated system of land holding, devise secure forms of land tenure, resolve tenure disputes and provide alternatives for people who are displaced in the process*”.

The White Paper identified the lack of information in rural areas as a critical impediment to the success of the land reform programme and argued that the state would play a central role both in disseminating information and in rural financial systems. The paper, therefore, proposed that the state make funding available for the employment of information agents as well as “*foster a greater number of rural financial institutions . . . and co-ordinate the provision of a balanced range of trustworthy financial services*”.¹⁹⁷ The Paper also recommended that the Land and Agricultural Banks be transformed.¹⁹⁷ Finally, the White Paper introduced the Development Facilitation Act 67 of 1995, which “*introduced extraordinary measures to facilitate and speed up the implementation of RDP programmes and projects in relation to land*”¹⁹⁸ and set out the principles for land development.

11.5. The Land Reform Pilot Programme (LRPP)

*“It was a disaster, and there was no logic to it. If they had stopped to think about it, I am sure the penny would have dropped. It was a real disaster and a waste of money. It was a complete f***-up!”*¹⁹⁹

The Land Reform Pilot Programme (LRPP) was developed in 1994. The central aim was to “*develop efficient, equitable and sustainable mechanisms of land redistribution in rural areas, as a kick-start to a wide ranging national land reform programme*”.²⁰⁰ The LRPP was intended to serve as a “test” land reform programme and to provide ongoing information according to which policies and plans would change. It was also intended to test a number of different delivery mechanisms that would reflect the full diversity of conditions pertaining to land redistribution.²⁰¹ The Department of Land Affairs (DLA) set up nine provincial pilot projects at the end of 1994. A Land Reform Steering Committee was appointed in each province/pilot project to manage the programme.

The emerging consensus appears to be that “the programme was never really a pilot”, that the LRPP was a “disaster”, that it was “illogical”, “useless” and “a waste of money”.²⁰²

¹⁹⁷ See chapter 4 for more detail.

¹⁹⁸ NLC, Rural Development Policy Media Fact Sheet, not dated

¹⁹⁹ Statement by a land reform activist involved in the LRPP

²⁰⁰ Lebert T & Swift M, “Experiences in Land Reform: The Case of South Africa's Land Reform Pilot Programme”, Paper presented to the Southern and Eastern Africa Regional Conference on Experiences, Perspectives and Strategies in Land Rights and Land Reform in Rural and Urban Settings, Johannesburg, June 1996

²⁰¹ Lund S, “An Overview of the Land Reform Pilot Programme”, Agricultural Reform in South Africa, Van Zyl J, Kirsten J & Binswanger H (Eds.), Oxford University Press, Cape Town, 1996

²⁰² Interviews with Ben Cousins, Andile Mngxitama, Dave Husy, Chris Williams & Tom Lebert

Activists argue that the LRPP never experimented with a range of approaches to land reform and that the programme never questioned the “fundamentals” of a policy framework that already existed. Essentially the LRPP very quickly became the Land Redistribution Programme and options for tenure reform and restitution were never “tested”. Similarly, supply-led models where the state identifies the land or state-led models with support for beneficiaries were never tested. Detractors point out that the LRPP was “hugely expensive” and that resources were spent in small, localised areas (arguably resources could have been better utilised). No adequate process of assessment or evaluation took place so that the lessons that emerged from the LRPP were ignored and the same mistakes were repeated in the Land Redistribution Programme.

The most frequently voiced objection is the fact that the concentration of resources and political pressure resulted in selection criteria that was hopelessly skewed in favour of people who were relatively well organised and already had access to resources.²⁰³ In other words, the DLA tended to select projects in sites where communities had been working with non-governmental organisations (NGOs) for years. In the North West Province and Mpumalanga, the majority of communities involved in the LRPP had a long history of involvement with TRAC. In the Eastern Cape, the DLA chose communities who had contact with the Border Rural Committee (BRC) and in KwaZulu-Natal, those who had contact with the Association for Rural Advancement (AFRA). By implication, large amounts of human and financial resources were spent on communities who already had some access to resources and organisational capacity.

The important question is whose interests (other than the beneficiaries’) were served by the selection criteria. Two groups appear to have benefited. It appears that the pilot projects served as DLA personnel training courses for future advancement. *“Those who were appointed as managers of the pilot projects are basically the people who later became provincial DLA directors”*.²⁰⁴ The LRPP’s national manager became the Deputy Director General of the DLA. NGOs were also bringing a particular conception of land reform and very particular interests (i.e. the constituencies they represented) into the pilot projects. These NGOs were able to direct a massive inflow of resources towards those areas and communities with whom they had been working for years.

11.5.1. Lessons that emerged from the Land Reform Pilot Project

It was very clear in the KwaZulu-Natal Pilot Project that people’s priority was to secure access to infrastructure and residential land rather than productive land.²⁰⁵ This priority stems from a combination of population pressure and competition for scarce resources. Increased demand reduced the amount of land available for grazing and agriculture, thus, people were willing to farm but lacked the skills and the resources to do so.

²⁰³ Interviews with Jabulani Themba, Miriam Fakude, Durkje Gilfillan, David Manzini, Helena Dolny, Ben Cousins, Andile Mngxitama, Dave Husy, Chris Williams & Tom Lebert, see bibliography for details

²⁰⁴ Interview with Dave Husy

²⁰⁵ Cross C, Mngadi T, Sibanda S & Jama V, “Making a living under land reform: weighing up the chances in KwaZulu-Natal”, *Land, Labour and Livelihoods in Rural South Africa*, Volume 2, Lipton M, Ellis F & Lipton M (Eds.) Indicator Press, December, 1996

Bernstein²⁰⁶ argues that the LRPP has been constrained in meeting its objectives (i.e. overcoming rural poverty) by trying to fit these objectives within the framework of a market-based reform. In the Free State, for example, the LRPP beneficiaries have tended to be people who are able to finance the purchase of land and farming activities out of incomes derived from commercial activities and salaried employment.²⁰⁷

Land prices were inflated in a number of cases, by between 30 and 50%, according to a 1995 DLA report. The report identified three reasons for inflated land prices; the desperate need of communities for land, the beneficiary assumption that “someone else will pay”, and the preference for settlement on the land from which communities were removed or for land close to current settlements which discouraged “shopping around”.²⁰⁸

It soon became apparent that provincial and local governments had very limited financial and skills capacities. Many observers and participants point out that the personnel involved lacked the skills and experience necessary for the successful development and implementation of the LRPP.²⁰⁹ TRAC has argued that inadequate monitoring and evaluation has seriously inhibited the potential to learn from the LRPP. Instead of a continuous process of evaluation, conducted by persons involved in the projects, “*external observers would come from Pretoria sampling only certain things and then go back to Pretoria to write the report*”.²¹⁰

Critics also question the rationality of the areas that were selected. In Mpumalanga, for example, the pilot project took place in Groblersdal – the only local authority not to have local government elections in 1996 as a result of a border dispute - i.e. whether Groblersdal formed part of Mpumalanga or North West Province. Consequently, the first land reform project to be settled in Mpumalanga, in 1998, was not part of the pilot programme and, land reform occurred at a higher rate outside the pilot district between 1996 and 1998.²¹¹

On the whole, participation by rural communities in the LRPP was limited, especially in Mpumalanga and the North West Province. Lack of participation was a partly a consequence of inadequate information dissemination to rural communities. In Mpumalanga, communication was extremely ineffective, communities found it hard to adapt to changing policies and legislative frameworks and, in some cases, business plans were drawn up without consulting beneficiaries.²¹²

²⁰⁶ Bernstein H, “Social change in the South African countryside? Land and production, poverty and power”, PLAAS, UWC, 2000

²⁰⁷ Williams G, Ewert J, Hamann J & Vink N, “Liberalising markets and reforming land in South Africa”, Journal of Contemporary African Studies, 16.1, 1996

²⁰⁸ Department of Land Affairs, Issue Specific Report: KwaZulu-Natal Pilot Programme, July 1995

²⁰⁹ Interviews with Dave Husy & Tom Lebert. Cross C, Mngadi T, Sibanda S & Jama V, “Making a living under land reform: weighing up the chances in KwaZulu-Natal”, Land, Labour and Livelihoods in Rural South Africa, Volume 2, Lipton M, Ellis F & Lipton M (Eds.) Indicator Press, December, 1996

²¹⁰ TRAC, “Land Reform: Beyond the Pilots”, Newsletter, No.32, February 1998

²¹¹ Interview with Chris Williams (Director of TRAC Mpumalanga), May 24, 2001

²¹² Lebert T & Swift M, “Experiences in Land Reform: The Case of South Africa's Land Reform Pilot Programme”, Paper presented to the Southern and Eastern Africa Regional Conference on Experiences,

Institutional confusion and lack of co-operation between government departments emerged as problems in all nine pilot districts. The LRPP fell under different government departments in each province. In the North West Province the LRPP fell under the Department of Agriculture and Environmental Affairs and, in Mpumalanga, under the Department of Local Government, Housing and Land Administration – overall, the DLA was responsible for the implementation of land reform in the provinces. This fragmentation led to conflict and differences of interest between different levels of government, parastatals and NGOs. In Mpumalanga, it resulted in duplication of, and/or massive gaps in, work.²¹³ In the KwaZulu-Natal pilot district, problems were compounded by a lack of co-ordination among government departments (at central, provincial and local levels), by intense ANC/IFP political rivalry and by different approaches among rural NGOs.²¹⁴ This fragmentation also extended to Provincial Steering Committees. In Gauteng, the Steering Committee fell under the auspices of the planning directorate of the provincial government, in the Free State, the Steering Committee was chaired by the premier and in Mpumalanga, a DLA Deputy-Director chaired the Steering Committee.²¹⁵ In both the North West Province and Mpumalanga, the Provincial Steering Committees could not function effectively because the representative officials (who in many cases were irregular about attending meetings), serving on the Committees, were often not senior enough to be able to mobilise resources or make decisions.²¹⁶

It is imperative that people are provided with access to land on which they can make a living. Cross *et al*²¹⁷ argue that although livelihoods and sustainability appear in government land reform policy statements, livelihood planning was never conducted for the pilot projects. The KwaZulu-Natal pilot project is situated in one of the poorest, most conservative, most violent and densely populated areas of the province.²¹⁸ The pilot project provided a taste of the complexity of land claims and the pre-emptive land invasions that are characteristic of areas with scarce resources and limited economic opportunities. Problems pertaining to the complexities of tenure systems in South Africa's rural areas, the disadvantages of communal and freehold tenure systems and the ambiguous role of traditional authorities emerged in most of the pilot districts, and

Perspectives and Strategies in Land Rights and Land Reform in Rural and Urban Settings, Johannesburg, June 1996

²¹³ TRAC, "Land Reform: Beyond the Pilots", *Newsletter*, No.32, February 1998

²¹⁴ Cross C, Mngadi T, Sibanda S & Jama V, "Making a living under land reform: weighing up the chances in KwaZulu-Natal", *Land, Labour and Livelihoods in Rural South Africa*, Volume 2, Lipton M, Ellis F & Lipton M (Eds.) Indicator Press, December, 1996

²¹⁵ Interviews with Chris Williams and Tom Lebert

²¹⁶ Lebert T & Swift M, "Experiences in Land Reform: The Case of South Africa's Land Reform Pilot Programme", Paper presented to the Southern and Eastern Africa Regional Conference on Experiences, Perspectives and Strategies in Land Rights and Land Reform in Rural and Urban Settings, Johannesburg, June 1996

²¹⁷ Cross C, Mngadi T, Sibanda S & Jama V, "Making a living under land reform: weighing up the chances in KwaZulu-Natal", *Land, Labour and Livelihoods in Rural South Africa*, Volume 2, Lipton M, Ellis F & Lipton M (Eds.) Indicator Press, December, 1996

²¹⁸ Williams G, Ewert J, Hamann J & Vink N, "Liberalising markets and reforming land in South Africa", *Journal of Contemporary African Studies*, 16.1, 1996

continue to plague the national land reform programme today. In fact, all of these problems continue to plague the land reform programme.

Conclusion

Actors

The political process of policy formulation and the nature of subsequent policies are the results of the distribution of power within a given society as well as globally, and the interaction (inclusion or exclusion) of a variety of local and international interest groups and individuals within the context of a particular political system. In South Africa, interest groups included the former National Party government, the World Bank, the ANC, non-governmental organisations, the white commercial agricultural sector, the former department of Native Affairs and the new departments of Agriculture and Land Affairs.

The National Party lay significant groundwork for subsequent land reform policy in South Africa. This includes agricultural liberalisation and deregulation policies, the Advisory Commission on Land Allocation, legislation to upgrade tenure rights, adherence to free market principles, the abolition of racial land laws and the introduction of a partial land grant for land acquisition through the Provision of Certain Land for Settlement Act.

The World Bank (or its representatives) had a significant influence on policy formulation. The 1997 White Paper on South African Land Reform closely resembles the policy proposals set out by World Bank representatives and World Bank sponsored researchers in its *Options* document. Market-based redistribution with a target of 30% of agricultural land, agricultural liberalisation policies, a constitutional guarantee of property rights, three separate programmes for redistribution, restitution and tenure reform and a court-based restitution procedure, were all policy recommendations made in *Options*.

The ANC, possibly influenced by the South African Communist Party, historically paid insufficient attention to rural issues and rural mobilisation. The ANC also neglected the development of post-apartheid land reform policy although there appears to have been a general commitment to strong state intervention in the late 1980s and early 1990s. When serious work on post-apartheid land reform policy began, it was a fragmented and uncoordinated process. The negotiations at Codesa resulted in the entrenchment of property rights in the Constitution and adherence to free market principles, which formed the basis for the land reform programme that followed. This placed a limit on the amount of land available for redistribution and increased the cost of the national land reform programme.

NGOs were influential in shaping particular aspects of the national land reform programme, for example, the Restitution Programme. A large percentage of the Department of Land Affairs' staff contingent was drawn from the NGO sector. This arguably contributed to the strained relationship between the Department of Agriculture and the Department of Land Affairs in the late 1990s. The white commercial agricultural

sector (a powerful political and economic lobby group) used its power (particularly in the later stages of policy formulation) to maintain the status quo in land ownership and to gain constitutional protection of property rights.

Interest groups excluded from the process include the National African Farmers' Union, the poorest sectors of rural society and the potential beneficiaries of the land reform programme. NAFU played almost no role in the early policy formulation process but the union became increasingly influential in the late 1990s. This particular combination resulted in an essentially market-based, three-part land and agrarian reform programme.

It is important to note that, although I discussed separate "actors" to illustrate the contributions of particular interest groups to policy development in this chapter, none of these groups operated in isolation, and, accordingly, there was a continuous process of mutual influence. For example, the former National Party developed their land policies in consultation with ANC members, who were also members/ employees of the NLC and/or the LAPC. In another example, the term World Bank is often used, but this disguises the diversity of contributors to "World Bank" policy (i.e. the LAPC, which was the ANC's think-tank on land policy acted as a facilitator for the World Bank policy development process, and a wide range of South African activists and academics participated in the process).

Key policy documents that indicate a continuous commitment to market-based land redistribution include the RDP, GEAR, the 1996 Green Paper and the 1997 White Paper. The Reconstruction and Development Programme, for example, stated (in section 2.4.5) that land reform would be both market-based (willing-seller and willing buyer) and non-market based (state assistance and the provision of grants). These policies arguably were tested through the Land Reform Pilot Programme. Factors and interest groups that contributed to a slow implementation process include the role played by staff from the former Department of Native Affairs. The conflict-ridden relationship between the Department of Agriculture and the Department of Land Affairs contributed to racial tension, a loss of skills and experience, and slow policy implementation.

Beneficiary Participation

This chapter highlights four aspects around potential beneficiary participation in the development of South Africa's land reform policy. First, the lack of potential beneficiary participation in the land reform policy formulation process, compared to possible levels of participation as evidenced by the Tanzanian process discussed below. Two, that where potential beneficiaries were involved (e.g. through consultative conferences) they were not able to significantly influence subsequent policy development. Third, that NGOs, representing relatively organised rural South African communities with particular interests (e.g. restitution) were able to influence land policy. However, their influence was more a result of their members being co-opted into government, and less a result of social mobilisation facilitated by these organisations. Fourth, as a result of the first two factors, South African land reform policy does not reflect the demands and needs of potential land reform beneficiaries and, in particular, does not reflect the demands and

needs of the most marginalised (and poorest) sectors of rural society, which do not have established relationships with NGOs.

Potential beneficiary participation in the development of South Africa's land reform policy was limited²¹⁹ to a small number of events (e.g. conferences) and the activities of land and rural non-governmental organisations like the National Land Committee and its affiliates. For example, there was a degree of mobilisation in 1993, when a demonstration attended by rural people took place outside the World Trade Centre (Codesa negotiations) and in February 1994, which took the form of a conference on land issues, held in Bloemfontein, and attended by delegates from 350 communities. The Department of Land Affairs hosted a national conference in August and September 1995 (during the Green Paper formulation process), which was attended by "hundreds of delegates from all over the country". In 1996, the National Land Committee organised a protest march against the property clause in the Constitution that managed to draw media attention for only a couple of days. There was also relatively widespread consultation (primarily with non-governmental organisations) around the formulation of the 1997 White Paper on South African Land Reform Policy (in comparison to the policy formulation processes followed by other South African government departments). As a final example, the National Land Committee organised a Rural Development Convention in 1999 (in anticipation of policy changes expected from the new ministry of Agriculture and Land Affairs) in Bloemfontein, where 500 delegates from rural communities adopted the Rural People's Charter.

The extent of beneficiary participation in South Africa does not compare favourably to examples of participation from, for example, Tanzania and Mozambique. In Tanzania, for example, the Commission of Inquiry into Land Matters (known as the Shivji Commission) was appointed in 1991, by the president of Tanzania, and was mandated to "listen to the grievances of the people" and make recommendations for new land policies and legislation based on this feedback²²⁰. The Shivji Commission visited all twenty regions of mainland Tanzania. It held 277 public meetings in 145 villages and 132 urban centres. Approximately 83 000 people attended these meetings, comprising of 58 000 men and 25 000 women. Over 3 000 people submitted complaints and opinions at public meetings, while approximately 800 written complaints or opinions were sent to the Commission. According to Shivji, the commissioners spent 300 working days on regional tours and the transcript of the evidence collected by the Commission consists of 4 000 pages. If a large-scale consultative effort (similar to the Tanzanian example) had been employed in South Africa, it could have been an important starting point to ensure beneficiary participation in land reform policy development. Similar approaches could still be used to inform future amendments to (and development of) land reform policies (e.g. tenure reform).

²¹⁹ Also see Greenberg S, "Power and politics in the shaping of rural development in post-apartheid South Africa", *Development Update*, 4(1), Interfund, March 2003, p. 15 & 16

²²⁰ Unless otherwise indicated all the material on Tanzania in this sections is from Shivji I G, "Lift the Whip: Palaver: The Land Bills", in *The African (Tanzania)*, February 1999. & Shivji I G, "The Land Acts 1999: A cause for celebration or a celebration of a cause?", Keynote address to the Workshop on Land held at Morogoro, 19-20 February, 1999, available from the University of Dar Es Salaam

In the Mozambican example, various interest groups co-operated to disseminate information regarding a new land law, thereby providing potential beneficiaries with the information necessary for them to become informed (and influential) participants in the policy development process. In response to the Land Bill – Law 19/97 (that proposes recognition of land occupation through oral testimony) a group of national and foreign non-governmental organisations, associates and academics founded a National Committee, with the purpose of disseminating information pertaining to the Bill to rural communities (i.e. the Land Campaign). A Land Campaign representative was sent to each provincial capital to “hear about people’s interests”.²²¹ Further, the Campaign produced and distributed 120 000 comic books, 3 000 audio cassettes with a dramatisation of the Comic Book (one side Portuguese and the other in a local language), 20 000 copies of a manual to accompany the reading of the new land Bill, 15 000 copies of a form for registering land conflicts, 500 posters, conducted a national seminar and ten provincial seminars, distributed more than a thousand letters and faxes, created a theatre production (also suitable to radio) and a comic film (also on video).²²² There are no comparable efforts to disseminate information in South Africa, and, by implication, potential beneficiaries (particularly the poorest and most marginalised sectors of rural South African society) do not have access to the information required for effective participation in policy development.

Although NGOs can significantly influence government policies, as was the case with the Ugandan²²³ Land Alliance (a coalition of NGOs), these organisations do not always represent “the poorest” or “the landless” as they claim (e.g. the National Land Committee in South Africa). As discussed in this chapter land and rural NGOs in South Africa have been particularly active in promoting the interests of farm workers and labour tenants, as well as the interests of victims of forced removals and other racially discriminatory land policies. Accordingly (as will be discussed in subsequent chapters) NGOs in South Africa made an important contribution to the development of the Restitution Programme, as well as, to the development of the Land Reform (Labour Tenants) Act and the Extension of Tenure Security Act (ESTA). As stated above, however, these organisations do not represent the most marginalised and/or poorest (unorganised) sectors of South African rural society. (Individuals whose interests are served by the Restitution Programme are landowners, and farm workers and labour tenants who, at the very least, are employed.) Therefore, policies that are developed in accordance with NGO participation in South Africa do not necessarily reflect the needs and demands of the poorest sectors of society. An example of this can be found in the case of the Land Reform Pilot Programme, where the involvement of non-governmental organisations ensured the selection of communities with whom these organisations had established relationships. As a result, large amounts of (limited) human and financial resources were spent on communities who already had access to some resources and organisational capacity.

²²¹ Negrao J, “The land campaign in Mozambique”, February 1999, available at www.oxfam.org.uk

²²² Negrao J, “The land campaign in Mozambique”, February 1999, available at www.oxfam.org.uk

²²³ Palmer R, “Learning lessons from land reform in East Africa”, *Zero Newsletter*, January 2000, available from www.oxfam.org.uk

Potential beneficiaries and their representative organisations, when they were involved in the South African policy development process (with the qualified exceptions mentioned above) were not able to significantly influence subsequent South African land policy. (But even in Tanzania, where such a large-scale consultative process was followed, subsequent land legislation, like the Land Act and the Village Land Act of 1999, was developed without consulting the Shivji Commission's report.²²⁴) Some of the actors that shaped South African land reform policy, like the former National Party and World Bank representatives, for example, largely ignored input from potential beneficiaries and their organisational representatives. Even when land reform policy fundamentals were debated at Codesa, the demands and needs of rural communities were ignored. The arguments made above, that the needs and demands of rural communities were ignored, is based on the observation that at all the conferences and events listed above, the dominant theme/demand expressed by community representatives was an outright rejection of the market-based (i.e. willing-buyer and willing-seller) approach to land redistribution. Even during the relatively small amount of fieldwork I conducted at Sheba and Solane, the dominant theme (regarding redistribution), particularly at Sheba, was that "people should not have to pay for land that was stolen from them". With regard to policy development in South Africa, the arguable shift towards market based reform that is already contained in the Reconstruction and Development Programme, may also be a reflection of the fact that the development of the Reconstruction and Development Programme was less participatory than, for example, the African National Congress' Ready to Govern document.

What are the potential consequences of developing and implementing a land reform policy that does not address the needs or meet the demands of the people it is supposed to benefit? Could this lead to frustration and hopelessness among potential beneficiaries? Could this be a rallying point for rural mobilisation? Or could it result in land invasions and violence? These questions are addressed in chapter 11.

²²⁴ Palmer R, "Learning lessons from land reform in East Africa", Zero Newsletter, January 2000, available from www.oxfam.org.uk