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The discourses on the right to housing in Gauteng Province, 1994-2008.

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2010-05-25T09:15:57Z
http://hdl.handle.net/10539/8141

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CHAPTER ONE

INTRODUCTION

1.1 Introduction

Rights discourse made an important contribution to a multifaceted struggle against the misery produced by apartheid policies in South Africa (see Dugard 1978 and Asmal et al 2005), and continues to influence post apartheid transformation projects since a political transition in 1994 (Sarkin 2001, 1998; Steytler 1997) where a new constitution (RSA 1996) which recognises the rights all citizens may equally claim is the overarching legal framework of a rights-based transformation project (see Klare 1998). Negotiations for a new constitution and consideration of the idea of rights were to transcend a legacy of previous governments --- none of the preceding constitutions included a bill of rights with justiciable human rights (Kotze 1996:138). Despite the constitution transcending that legacy, it appears puzzling the post-apartheid state finds itself in conflict with communities and social movements complaining about the consequences of its policies which have not delivered services, such as, housing and water, related to these rights (see Forrest 2003 and Habib 2003).

The central research question driving my thesis is: Can a philosophy of rights inspire policies and actions which have the effect of procuring significant socio-economic transformation in the lives of the now enfranchised black majority who have a constitutionally legitimated claim to the full scope of citizenship rights? A variety of forces, the constitution, state bodies, courts, and civil society organisations are expected to make important contributions to the unfolding debate about the meaning of rights and their realisation (see Sarkin 1998). My thesis is inspired by an appreciation that there is a raging debate or "contestation" (Pigou et al 1998:8) between individuals and organisations

drawing on rival perspectives on rights, and debating issues such as: the adequacy and clarity of constitutional declarations about rights, state formation and duties framed by notions of rights (see Seleoane 2001:66), the relationship between perspectives on rights and housing policy, civil society organisations and their understanding of rights as well as their mobilisation for the realisation of rights. Different and conflicting statements are made about the nature of rights and of the right of access to adequate housing in particular. Researchers have their own socio-political values (Neuman 2004:81) and the analysis of the discourses on rights and adequate housing reflects my own critical position in these discourses. This may be a means of making interventions and engaging the perception of a certain naivety among liberation struggle elites as well as the expectations of the formerly disenfranchised that democracy would instantly guarantee substantive social and economic rights (see Diamond 1994:48-9).

The specific contribution of my thesis is to make an intervention into the dialogue or discourses of rights and adequate housing in a way that gives voice to marginalised views about the nature of rights and specifically of the right of access to adequate housing. The analysis of discourses often emerges in interpretive sociological research concerned with power relations. Drawing from "transition theory" (Ginsburg 1996), South Africa's transition has been characterised as one managed by and benefitting an "elite cartel" (Alexander 1993), and as an "elite transition" where the old ruling elite has accommodated an oppositional elite with little drastic transformation in property relations to benefit the masses (Bond 2000). In the "transition" theory theoretical framework it is argued: old elites "do not voluntarily surrender power"; they "resist demands for profound systemic and structural change"; the transition is rarely because of a revolution but mostly because of pacts between old elites and new emergent elites opposing the old regime; new elites who negotiate on behalf of the masses settle for a conservative compromise within the framework of liberal democratic institutions which protect existing property relationships, and embark on demobilising the oganisations of the masses whose actions were vital to bringing about the transition (Ginsburg 1996:74-6).

Evidence points increased class inequality in SA despite the formal recognition of both civil, political, and socio-economic rights. My thesis studies linkages between knowledge and power since the political transformation in the creation of meaning around two central aspects of SA's transition, the extension of social and economic rights to all citizens, and the realisation of one right in particular, access to adequate housing. I argue a research approach focusing on an analysis of discourses makes a significant contribution to understanding puzzling events about constitutionally enshrined values and rights, and propose suggestions as to what kinds of intervention may best facilitate the latter, thereby improving the quality of life of recently enfranchised citizens.

1.2 A synopsis of apartheid, the black housing question, and political transition

After an electoral victory in 1948, the white-controlled National Party (NP) ruled South Africa for more than four decades enforcing apartheid policies which sought the territorial, cultural, and political separation of the white and black (a collective designation for Africans, coloureds, Indians) races (Davenport & Saunders 2000:373-4, 388-98). Subordinated race groups were excluded from representation in higher state institutions such as parliament and the minority white electorate secured enjoyment of modern era rights in a "racially exclusivist democracy" (Kaplan 1980:85) while it subsequently diminished black's equal enjoyment of citizenship rights.

Urbanisation and industrialisation processes in the period preceding apartheid, known as "segregation", as well as throughout the apartheid era, brought continued interaction between whites and blacks, particularly because of white-owned enterprises's dependence on the labour power of a black proletariat, in an expanding capitalist economy (see Beinart & Dubow 1995). Separating the races involved removing, relocating, and resettling Africans outside of the urban areas to their officially designated separate ethnic, and highly impoverished,

territories, to practice crop tilling and livestock herding livelihoods under adverse conditions. Officially, Africans expelled from urban areas were a “surplus” and not of service to the white economy, hence, the state should not bear the responsibility of providing housing for them (Platzky & Walker:8-51). Nevertheless, official policy recognised the permanent urban status of some Africans permitted to live in urban areas called locations and townships, but without franchise rights, and the NP limited funds for the provision of African housing. Recruiting agencies operated to allocate migrant African labourers from the separate ethnic territories to the different sectors of the white-controlled economy (Giliomee & Schlemmer 1985:1-4).

Apartheid policies produced miserable living conditions for the disenfranchised blacks (see Wilson & Ramphele 1989), who organised a number of political organisations with common rights claims, such as: the right to vote, to form political parties, freedom of movement, right to land, to housing, among others. Black liberation movements and political activists were banned or suppressed by a spectrum of legislation passed between the 1950s and 1980s to curb their activities, forcing them into exile and to adopt armed struggle means of resisting white minority rule. Internal resistance to apartheid was not stifled, it episodically emerged through trade unions, youth and women’s organisations, and civics organisations. Collectively, their actions pressured the NP to initiate reforms. Faced with sustained worker (see MacShane et al 1984) and youth (see Hirson 1979 and Muller 1987) unrest after 1973 and 1976, NP leader President PW Botha perceived a “total onslaught” on white rule by an array of opposition forces and felt the required response was a “total strategy” entailing a mixture of security and military actions as well as political reforms to co-opt blacks (van Zyl Slabbert 1992:21-6). In the early 1980s, the NP introduced a package of constitutional reforms and new parliamentary structures, sanctioned by the majority of whites through a referendum, but the reforms still kept those black groups and political parties participating in these structures on the periphery of a system of white political power and material privilege (Gastrow 1985:1-3; Welsh 1984). Coloureds and Indians were given new structures in a single

parliament along with whites, but with separate chambers and voters' rolls for all three groups; the African majority would have pseudo political independence granted to separate ethnic territories; urban Africans were expected to enjoy voting rights for councillors in a system of semi-autonomous community councils that administered urban townships but were still subordinated to white-controlled administration boards called Development Boards (Murray 1987:59-60, 109-24). The reform initiative gave the semblance of powersharing, but, effectively, white control persisted. Consequently, the reforms remained unacceptable to both exiled liberation movements and internal opposition organisations. The initiative had the simultaneous effects of hardening the positions of the white right wing who felt the government should maintain its military offense against its opponents; it also hardened the position of liberation movements strategists who felt a sustained armed struggle campaign was the only means to end white minority rule (van Zyl Slabbert 1992:26-7).

In the late 1980's, leading NP members began negotiations with leaders of banned black liberation movements for a political transition to a genuinely inclusivist democracy and to end the misery that decades of NP rule had imposed on the disenfranchised race groups. Several of the prominent leadership elite of the premier liberation movement, the African National Congress (ANC), were willing to enter negotiations. However, rival groups, such as the Pan Africanist Congress (PAC) and Black Consciousness Movement (BCM) oriented groups such as the Azanian Peoples' Organisation (AZAPO), consistently expressed a generalised distrust of and cautious approach to negotiations (van Zyl Slabbert 1992:41-9). In a historic speech in February 1990, NP Prime Minister FW de Klerk, announced the release of political detainees, the lifting of restrictions on outlawed political organisations, and declared an earnestness about ending violent confrontation in favour of negotiations for a new constitutional dispensation:

> "With the steps the Government has taken it has proven its good faith and the table is laid for sensible leaders to begin talking about a new dispensation, to reach understanding by way of dialogue

and discussion."

"The agenda is open and the overall aims to which we are aspiring should be acceptable to all reasonable South Africans."

"Among other things, those aims include a new democratic constitution; universal franchise; no domination; equally [sic] before an independent judiciary; the protection of minorities as well as individual rights; freedom of religion; a sound economy based on proven economic principles and private enterprise; dynamic programmes directed at better education, health services, housing and social conditions for all." (de Klerk 1990)

These initiatives drew South Africa closer to the escalation of what American political scientist Samuel Huntington demarcates as the "third wave" of democratisation in his periodisation of impulses to democracy in different parts of the globe in different time periods since the era of Europe's Industrial Revolution. In his periodisation, the first wave commences with the American and French revolutions in the late eighteenth century, one being a struggle for independent statehood and the other against the feudal aristocracy. The second wave occurs after World War II when the Allied forces occupying central European states formerly connected to the Nazi regime introduced democratic institutions there, as well as in Japan and South Korea. The third wave commenced with resistance to military dictatorships in Europe from about 1974; it was followed by the toppling of authoritarian regimes in Latin America, and, since the 1980's, has swept across Africa and the rest of the globe (Huntington 1991:21-6; Potter et al 1997:277-292). For Huntington, no single factor sufficiently explains the move to democratisation; but, a variety of contributing factors include: a country's level of economic development, industrialisation, the emergence of a bourgeoisie and middle class, economic crises which weaken authoritarian governments, or even foreign pressures on authoritarian governments to adhere to the norms of international human rights covenants.

European political scientist Adam Przeworski (1991:98) observed that political transitions in Latin America and Eastern Europe involved negotiations among elites entailing concessions among elites, consequently, they were “inevitably conservative, economically and socially”. Similar concern was raised about whether SA’s transition had similar consequences, or, whether its social movements played a role in ensuring the transition produced radical reforms (Adler & Webster 1995:76, 84-5). Adler & Webster (1995:93-8) argue the trade union movement had a reform strategy that allowed them to make significant gains in the form of worker and trade union rights following the transition.

Workers’ rights were just one arena of the interrelated anti-apartheid struggles. Civic organisations were formed in the early 1980s to organise black people’s struggles around another of the central arenas of the anti-apartheid struggle, namely, the right to housing, freedom of movement in opposition to the territorial separation policies of apartheid, and the right to live in urban areas. My thesis examines developments after the political transition and is based on the assumption that developments on housing rights support the notion of conservative consequences to the negotiated transition.

A dominant discourse in the first few years of SA’s transition through inclusive and democratic elections of April 1994 was that it was a “miracle” (Waldmeir 1997): rationality prevailed among conciliatory white generals, NP politicians, certain members of the ANC elite, white civil society organisations and township youth who spoke the ANC’s creed of non-racialism, creating a climate for negotiations and avoiding a cataclysmic upheaval. Despite constant threats of the outbreak of violence and the elections falling apart due to the actions of both white and black factions opposed to negotiations, a political transition did occur through the ballot box (Davenport 2000:564-8). It was a transition from the policies of a white-dominated political system which enforced “segregation” policies from 1910 and then apartheid policies after 1948 and effectively disenfranchised “blacks”, a collective designation advocated from the early 1970s in recognition that Africans, Indians and coloureds similarly did not have

political power and as a strategy to forge some sort of solidarity among them despite the different degrees of unequal treatment under white rule (Mangena 1989:13; Gerhart 1978:277-81). (While sometimes the capitalised “Black” was used interchangeably with African, it was in no way in line with the government’s shift from terms such as “Native”, “Bantu”, then “Black” (Ashforth 1990:209). The transition allowed race groups once relegated to participation in separate institutions on the periphery of the political system to formally regain full and equal citizenship rights, and, along with their white counterparts, to vote for their political representatives on the same ballot in an inclusivist democracy. Formally attaining citizenship rights, however, has to confront the legacy of apartheid policies --- class inequality and misery among the once disenfranchised.

A classic statement in 1949 by British sociologist Thomas Humphrey Marshall (Marshall & Bottomore 1992) on the meaning of citizenship raises another assumption of my study. His argument holds the principle of citizenship promises formal equal status to all designated as citizens in terms of their rights and their duties, however, this is in tension with the social class inequalities rooted in capitalist market relations and the institution of private property. His evolutionary model of the development of different generations of citizenship rights in England holds that there are really three elements to citizenship --- civic, political and social --- in respective order; each generation or type of right developed roughly in the eighteenth, nineteenth and twentieth centuries. The first generation civic element of citizenship entails rights necessary for individual freedom, liberty of the person, freedom of speech and belief, the right to own property, to conclude valid contracts, and to justice. The corresponding institutions which developed these are the courts of justice. The political element of citizenship rights entails the right to participate in the exercise of political power; the corresponding institutions to realise this right are parliament and the councils of local government. On the second generation of the social and economic elements of citizenship rights which prompt policies to redistribute national income, Marshall (Marshall & Bottomore 1992:8) says:

> “By the social element I mean the whole range from the right to a modicum of welfare and security to the right to share to the full in

> the social heritage and to live the life of a civilised being according to the standards prevailing in the society."

The corresponding institutions that developed towards realising these social citizenship rights are the educational system and the social services. He conceptualised these rights as all bound together in earlier forms of Middle Age communities, but they gradually became disentangled and lost, only to eventually resurface in different generations of the rise of the modern capitalist era. Sociologist JM Barbalet (1988:5) augments Marshall's model stating these generations of equal citizenship rights evolved alongside the development of capitalist social relations, and each generation attempted to counteract different evolving social class inequalities. Although first generation rights may have supported the rise of the bourgeoisie and the development of capitalist social relations, it was second generation rights which placed the institutions of the modern welfare state and the support they provide for the working class and poor in sharper antagonism to the market relations characteristic of capitalism.

Marshall's seminal argument has stimulated considerable research on the growth and nature of social citizenship in the welfare state institutions and policies of the developed industrialised economies of Europe and North America. For instance, Gosta Esping-Andersen (1990:19, 26-9) argues a variety of state forms, social and economic policies, and institutional arrangements between states and markets have arisen in the course of the twentieth century towards the realisation of social and economic rights, or securing a basic modicum of welfare for citizens. Welfare state institutions and policies that secure the realisation of social rights are not only about the extent of state spending on these rights but also about the state taking responsibility when markets fail; social rights are about transcending the commodification of services as though they are like any other commodity circulated through market processes. A better understanding of the nature of a state as a welfare state would not empirically compare one state's spending patterns against some abstract model, but should "capture the ideals or designs that historical actors sought to realize in the struggles over the welfare state" (Esping-Andersen 1990:21). My subsequent

chapters are based on the assumption that the ideals and designs of people's struggles over housing implied what type of welfare state intervention may have to be implemented to redress he legacy of apartheid-created inequalities. The enjoyment of welfare state type of social citizenship rights in South Africa was still to be shaped in the negotiations on issues such as: the post-apartheid form of state, the place of the different generations of rights in the configuration of post-apartheid institutions, and the choice of economic system and policies by a post-apartheid government.

Negotiations for a transformation to an inclusivist political system and democratic elections in South Africa were followed by negotiations for an Interim Constitution (IC) adopted in November 1993 (Basson 1995:xxi-iii), the installation of a Government of National Unity (GNU), and the drafting of a new or Final Constitution (FC) by the Constitutional Assembly by the end of 1996. There was consensus the constitution should map out a state which followed the *trias politica* principle of separating legislative, executive and judicial powers (SALC 1991:91-4, 731- 46). The IC recognised first generation (civic and political), second generation (socio-economic), and third generation (cultural) rights, and provided the framework for negotiations for a FC (Kotze 1996:138). Including entrenched rights in a Bill of Rights in the IC was drawing South Africa closer to the European tradition of a constitutional state, or *rechtsstaat*, where the constitution is the supreme law and government complies with the legal values enshrined in its Bill of rights (Basson 1995:xxvii). The IC's recognition of second and third generation rights created the foundations of a redistributivist welfare state, a *soziale rechtsstaat*, which is another dimension of the constitutional state. While the transition has the appearance of putting in place the institutions that would possibly reorganise social relations, there are contradictory dimensions to it as well. Although the struggle for a constitutional democracy may have been perceived as a strategy to move beyond the political exclusion and repression as well as the socio-economic inequality of the past, constitutions themselves can be a problem in that they protect the privileges the previous social order generated for its dominant classes (Blondel 1998:72). The fact that SA's transition to constitutional democracy came about through a negotiated

pact raises another assumption of my study influenced by "transition theorists'" arguments about such elite pacts --- "the property rights of the bourgeiosie are inviolable" (O'Donnell & Schmitter 1986:69; also Ginsburg 1996:74-8). The ANC was open to compromises (Herbst 1997:600); in 1990 ANC leader Nelson Mandela made overtures to white politicians demonstrating his organisation was willing to make minimalist demands: as long as white politicians agreed to negotiate to the minimal demand of a universal franchise and ending apartheid laws. Political scientist Mahmoud Mamdani (2000:183) also argues the Truth and Reconciliation Commission (TRC), an additional institution facilitating the compromise transition, was significantly flawed because its mandate to bring about reconciliation through uncovering perpetrators of gross human rights violations, did not deal with the issue of how apartheid produced beneficiaries "whose gains remain intact". That legacy of intact wealth and private property prompted my assumption that it would be an obstacle to acquiring land for low-income housing projects for homeless blacks as well as be an issue in situations where black squatters resided on privately owned land.

Legal scholars (see Davis 1992; Haysom 1992; Mureinik 1992; de Vos 1997) debated the issue about including second generation rights before and after the adoption of the Final Constitution (FC). Opposition to their inclusion in constitutions was mostly because of insufficient economic resources for their realisation, however, economic resources are also required for the realisation of civil and political rights --- the right to a fair trial, a first generation right, imposes obligations on the state and demands an allocation of its financial resources. The right to vote also demands that a state provide resources for periodically holding elections. American legal scholars Stephen Holmes and Cass Sunstein (1999) convincingly point out that the civic and political liberties Americans enjoy do have costs supported by the state's budget. The inclusion of second generation rights was vital given the types of needs in society:

> "... you cannot expect people to take the constitution seriously as fundamental law if it offers nothing to satisfy their most fundamental needs. If one is starving, food is more important than free speech. ... A bill of rights containing only first-generation rights

> would be perceived to be elevating luxuries above necessities, and that would discredit it as a charter of fundamental values." (Mureinik 1992:465)

The inclusion of socio-economic rights in the FC was crucial to its legitimisation:

> "Those who argued in favour of a significant role for these rights pointed out that it makes little sense to tell people that their civil and political rights will be protected, if they continue to be at the mercy of the elements of social exploitation. If socio-economic rights were not given meaningful protection by the Constitution, it was said, the legitimacy of the Constitution would suffer because people would be bound to say it does not deal with their most fundamental needs. This raised the spectre of angry and disillusioned people holding up the Constitution and asking whether this is what the struggle was all about." (Heyns & Brand 1999:2)

The Final Constitution (FC) was an ambitious document which recognised simultaneously all three generations of citizenship rights. The promise of this situation was that, in South Africa, this bundle of rights need not be realised in the evolutionary fashion Marshall depicted their development in England.

State policies providing for the realisation of socio-economic rights are not a new development in South Africa only formally emerging with the end of apartheid and being protected in a constitution. Seekings (2000), argues the enjoyment of social citizenship rights by the different race groups in South Africa predates the political transition of the 1990's and the apartheid era. Despite the apartheid policies of preferential treatment to whites, to some extent, social citizenship policies and measures began some time before the NP's electoral win in 1948. They were also extended to Africans, coloureds, and Indians, and these policies and measures survived through the apartheid period. For instance, Seekings (2000:395, 398-9) says, in 1944 means-tested, non-contributory old-age pensions were granted to Africans and Indians; in 1946 unemployment

insurance was extended to workers of all races. Although these social policies were not derived from a constitution which recognised such rights, Seekings notes that, occasionally, liberal white politicians used the discourse of rights to argue for the extension of these measures for all race groups. Nevertheless, immense poverty and misery prevailed, to different measures, among the three disenfranchised race groups. Whatever redistributive practices prevailed under apartheid, they were unable to narrow the poverty and inequality gap between and within race groups. Economist Francis Wilson and medical doctor Mamphela Ramphele examined a variety of sources and statistics on what the extent of this gap was at the height of the apartheid years in the 1970s and, on the eve of renewed anti-apartheid protest in the 1980s; they reported:

> "In South Africa as a whole, including the reserves, the proportion of the total population living, in 1980, below subsistence ... was estimated to be 50 per cent. For Africans throughout the country the proportion was estimated to be nearly two-thirds (60.5 per cent)... ."

> "However, the most striking feature of poverty in South Africa is the degree of inequality that exists. ... In 1970, the richest 20 per cent of the population in South Africa owned 75 per cent of the wealth... ." (Wilson & Ramphele 1989:17-8)

Social researchers Whiteford, Posel and Kelataweng (1995) examined data on inequality on the eve of the 1994 elections and the climax of the political transition. Their analysis reports a Gini coefficient of 0.65 (a figure closer to 1 and thus denoting very high inequality) in 1993. Other detailed figures for 1993 of the size of each race group and their respective share of national income showed that undoing the racial distribution of incomes would be a serious challenge for the broad scope of redistributive policies and measures used by the first post-apartheid government: Africans made up 76.2 percent of the population but enjoyed only 29.3 percent of income; coloureds made up 8.3 percent of the population and had 7.4 percent of income; Asians [Indians] made up 2.6 percent of the population and had 4.8 percent of income; whites made up

12.9 percent of the population and had 58.5 percent of income (Whiteford, Posel & Kelawateng 1995:15, 21). This does not explore another important dimension, the legacy of inequality within the race groups; a useful indicator of this is the South African Institute of Race Relations' (SAIRR 1993:192) monthly income cohorts in Table 1.1 for the different race groups available a few years before the 1994 elections. Within the African group, 83.9 percent earned less than R1 200 per month, while within the white group, 51 percent earned above R 4 000 per month.

TABLE 1.1: Monthly household income: 1991 (in rounded figures)

Income group R/month	African proportion	Coloured proportion	Indian White proportion	proportion
1-399	36.1	17.5	04.1	01.5
400-699	22.0	13.8	05.6	03.0
700-1 199	25.8	21.8	19.9	06.0
cumulative	[83.9]	[53.1]	[29.6]	[10.5]
1 200-1 999	09.1	20.5	20.5	09.5
2 000-2 499	03.1	07.4	11.2	08.1
2 500- 3 999	02.6	10.4	24.0	20.9
cumulative	[14.8]	[38.3]	[55.7]	[38.5]
4 000- 5 -999	01.0	06.7	09.3	24.0
6 000 +	00.2	01.8	05.4	27.0
cumulative	[01.2]	[08.5]	[14.7]	[51.0]

While noting that the apartheid welfare state treated whites preferentially, Seekings, in an earlier publication, also warned the challenge to a post apartheid government to make the institutions of welfare provision more inclusivist would have limits imposed by external forces like neo-liberal globalisation trends. SA's political transition occurred simultaneously with the global acceleration of neo-liberal economic policy trends where states were adopting measures such as reducing their welfare spending:

> "Post-apartheid governments face a challenge of forging an inclusive social citizenship out of a welfare system based on exclusion, and at a time when globalization imposes severe limits on what the state can do through macro-economic and labour market policies (Seekings 1997:32)

Rudolf Gouws, an economics researcher with Rand Merchant Bank, one of the country's largest banks and also advisor to the NP's Minister of Finance, characterised the economy to be inherited by a new political order as structurally deteriorating since the 1970s; it was also facing tremendous pressure to spend, whereas the new thinking globally was moving towards more conservative fiscal and monetary policies:

> "Stabilizing or reversing the ratio of government spending to GDP will be difficult, given the massive need for greater state spending on black education, health, welfare, social services, and infrastructure in black urban areas as well as in the rural areas. Restitution for the economic discrimination of a century or more will have to be part of future economic policy." (Gouws 1991:45)

South Africa's political transition to a democracy with constitutionally guaranteed socio-economic rights has to face the reality that these redistribution obligations on a state can only be met in a situation where there is significant economic growth thereby providing the state with financial resources to meet welfare needs, but this has a counterproductive effect on the economy and the ability of capitalist enterprises to increase investments in their operations (Schneider 1997). Trevor Manuel (1997), the second Finance Minister in the post-apartheid government, saw the related challenges of democratising society, developing the economy, and acquiring these financial resources in the context of re-integrating the SA economy into a hegemonic neo-liberal "new world order" of economic policies and trade relations. The trends to neo-liberal globalisation influence my assumption that state fiscal restraints and concomitant policy would accentuate tensions between the formal promises of the Final Constitution and the extent of the state's commitment of its fiscal resources to the realisation of socio-economic rights.

The macro-economic policies the ANC government opted for, particularly from mid-1996, have blighted the redistributive aspirations of the new constitutionally guaranteed socio-economic rights. ANC leadership elites have been castigated for acquiescing to neo-liberal globalisation strategies preferred by South Africa's

business elites and external financing institutions (see Bond 2000; Marais 2001; Michie & Padayachee 1997; Terreblanche 2002). Disappointment about how these macro-economic policies have produced a surge in unemployment, a smaller share of national income for the poorest segment of the population, evictions, water and electricity cut-offs, are related issues that point to frustration of constitutionally guaranteed socio-economic rights such as land, housing, and health care. Sociologist and community activist Ashwin Desai (2002 & 2003) argues the policy of private sector provision of basic services such as water and electricity, the expectation that poor or low-income households should pay a significant part for the provision or delivery of these services, has fueled the growth of new social movements (see Forrest 2003 and Habib 2003) mobilising communities around these issues; sometimes trade unions have taken up these issues too; it has sparked a number of incidents of community resistance and violence towards local authorities; and it also has fueled resentment about aspects of the social and economic policies of the new ruling party. Despite the accepted legitimacy of the ANC as an elected government, the phenomenon of community struggles and the rise of social movements against the perceived injustices of its free-market economic policies has encouraged another critical perspective on the transition: the litany of disappointments about the outcomes of the transition being managed under the framework of neo-liberal economic policies has spurred on a new literature bemoaning “the betrayal of the South African liberation struggle” (Desai 2002:11).

Apparently ANC economic policy documents since its unbanning in the 1990s reveal a conviction that a mixed economy brought the benefits of market flexibility as well as strong state direction for investment to orient production towards meeting basic needs. Contrarily, the NP and business organisations were swayed by the view that markets should be the basis of economic policy (Lazar 1996:600-1), and, after two years in government, ANC economic policy moved steadily towards the logic of market provision of goods and services with minimal state intervention (see Adelzadeh 1996). These events prompt my assumption about inevitable conservative dimensions to the transition managed by SA’s political and economic leaders. An assumption implicit in the next

section of this chapter is that the realisation of social and economic rights is an important issue that has to be addressed in order to enhance the transition from the erstwhile apartheid system of formalised racial exclusion and inequality and the consolidation of a new inclusivist democratic political system. Political scientist Philippe Schmitter (1998:23, 33) argues democratic consolidation is not a static condition but something which continually evolves, and, across the spectrum of newly democratising societies, there are various combinations of institutions and rules which make consolidation possible. Elsewhere, O'Donnell & Schmitter (1986:11-12) argue the transition to political democracy allows another possible transition, economic democracy, which entails equal benefits to goods and services such as housing, education, healthcare, among other redistributive effects: the kind of effects which are the focus of my study on the realisation of socio-economic rights as one of the important factors contributing to the consolidation of SA's democracy. Habib (1995:66-7) makes a similar point about the potential for the consolidation of the post-apartheid democracy: there are high expectations about raising the material standard of living which places pressures on the new polity as well as the policies it chooses to develop an economy that can meet redistribution demands. Furthermore, whatever conflict emerges, key role players manage it within the framework of the institutions set up by the new democracy.

Sociological studies (Cotterrell 1984:48-51) of the role of law claim the modern state can use law to effect social change. In the case of South Africa, as part of a larger body of law, constitutionally guaranteed rights and the subsequent specific legislation towards realising rights to housing, work, education, food and water are expected to play a role in social change, particularly its legacy of inequality. Klare (1998:150-1) refers to the South African situation where rights have become justiciable (enforceable by the courts) and the legal review of laws and policies as "transformative constitutionalism", because the constitution is set in a context where it is expected to engender transformation towards not only democratic participation but also to effect large-scale egalitarian transformation. Judges are expected to note that the Final Constitution is not only about acknowledging the liberal civic and political rights, but also seeks egalitarian

goals (Klare 1998:178, 180). Rights dealing with reducing the tremendous social and economic inequalities that surfaced as a consequence of apartheid policies, and even in the lengthier span of eras preceding that policy (see Terreblanche 2002), are important to reducing inequality. Realising these rights is also important for political stability and the consolidation of a democracy where equal civil and political rights have only recently been extended to all designated as citizens. While the rights may have a formal legal guarantee about them, it is up to the state to choose policies that effectively realise those rights. If these policies do not satisfactorily address social needs, the enduring legacy of severe race and class inequality as well as that arising from conditions after the political transition have the potential to fuel forms of conflict which threaten the stability of the new inclusivist democracy. Barrell (2002) says evidence shows a trend of steadily worsening class inequality in the decade covering the last few years of reform under the NP and the first five years of transition managed by the ANC. Such a trend imposes more challenges to address this dimension of social stratification. Although a prominent tendency in left wing political thought doubts the capacity of rights discourse to produce amelioratives to class inequality, I still maintain the challenge of realising socio-economic rights as an ameliorative for class inequality deserves closer examination to provide an understanding of the prospects of this new political order.

1.3 Housing in post-apartheid transformation

In seeking answers to my central research question, my thesis examines: the meaning of the idea of rights as seen by mainstream philosophical perspectives; views of the obligations of states towards the realisation of rights; how the idea of rights, particularly social and economic rights and their realisation has been understood by a variety of key players in post-apartheid transition and how they have acted respectively on their understandings of rights in order to produce their expected social change outcomes. As an illustration of the significance of such an examination, my thesis gives specific attention to developments about the constitutionally guaranteed right of access to adequate housing, which was

expected to address the legacy of apartheid policies that produced extensive homelessness, shacks in informal settlement camps, and overcrowded shelters among its formerly disenfranchised race groups.

Other than the right to housing being an issue addressed and a claimed right in the ANC's prime mobilising document drafted in 1955, the *Freedom Charter*, in the course of the revival of anti-apartheid protest in the 1980s, new community organisations were formed and mobilised on rents and a housing shortage. But these organisations suffered considerable repression by the apartheid state's security measures. The extent of that repression contributed to pressures on black trade unions to expand the "workerist" (Ritchken 1989:40-2) tendency in their struggles beyond an economic focus on production issues, to a form of "social movement unionism" (Webster 1988:175-6) that combined struggles for improvements in working conditions and living standards together with the struggles of black community organisations and being a vehicle for speaking out and acting on political issues. More pertinent to my research focus, unions began making demands on state organs for more housing, not only for those Africans whose families were, for some generations, resident in urban areas, but also for those Africans who were migrant labourers restricted to hostels in the white-controlled urban economy (Cobbett 1989). The purist ideal in apartheid ideology sought the separation of races, but this purist ideal also had to deal with the reality of the integration of the races in some spheres of their lives and on an unequal basis, which was a result of the dependence of a white-controlled economy on black labour (see Beinart & Dubow 1995; Barker 1949). The consequences of the NP government trying to accommodate the tension between these two issues, the ideal of separation and the reality of integration, after its election in 1948, produced shifts in dealing with the housing needs of blacks. But, from 1967, the NP went in the direction of reducing its spending on housing provision for Africans in urban areas (Cobbett 1989:324). This policy change produced one of the most important demands the transition has to manage, a housing backlog. Just two years before de Klerk's historic 1990 address, urban geographer, William Cobbett, warned:

"With the existing backlog in housing stock, it is going to remain

> high on the economic and political agenda for the foreseeable future." (Cobbett 1989:323)

Hence, a question related to my central research problem: are developments on housing policy towards realising the right to housing by a post-apartheid government a reliable measure of the extent of the success of SA's transition, or of the threat to political stability and the consolidation of democracy?

1.4 Rights and consolidating a new democracy

Sociologist Bryan Turner (1999:193) sees Marshall's bundle of citizenship rights as a form of social solidarity: class inequality results from market relations and the consequent potential for class conflict is contained through the introduction of redistributive measures or the evolutionary realisation of social citizenship rights (second generation or welfare rights). Participation in periodic election rituals in an inclusivist political community contributes to social solidarity. Marshall treated the state as the main agent through which social citizenship rights are realised, through which political groups expect redress of their circumstances as well as legitimisation of the claims they make against the state. However, political scientist Larry Diamond (1990:80) argues democratic transitions face the problem of the alienation of poorer classes, especially if they feel others have enjoyed upward mobility through unfair means. Herbst (1997:614) also points to a problem of elite pacted transition - a successful transition is not necessarily followed by consolidation. Participation in periodic elections are crucial to democratic consolidation, but discontent about housing in SA is one area that may prompt people's withdrawal from the social solidarity, democratic consolidation and regime legitimation effects of elections.

These concerns I assume to be of significance to my study because of indicators of worsening inequality among blacks (Barrell 2000; UNDP 2003:43-4) and increases in the numbers of people in lower income categories (Meth & Dias 2004:83), which is contrasted with the upward economic mobility of a small

number of black people, usually with links to the ANC (see Carroll 2004 and Motlanthe 2004), and with a capacity for conspicuous consumption indulgences in expensive cars, patronising extravagant restaurants and opulent houses (Stoddard 2006). The outcomes of the ANC-as-government's policies evokes my assumptions about the trajectory of the elite pact, which are drawn from Fanon's (1963) caricature of Africa's post-independence elites: these elites demand nationalisation of the economy, a phenomenon similar to the ANC's support for Black Economic Empowerment (BEE), which emphasises black ownership and control of productive property, and has also facilitated the emergence of a black managerial elite (see Shubane 2007); they splurge money on "grandiose buildings" and "prestige expenses" (Fanon 1963:133); a rift develops between the liberation party and the masses whose circumstances worsen, but the party demands their obedience to its authority.

The redistributive goals of socio-economic rights received legitimation particularly through the fact that most parties supported their inclusion in the Bill of Rights of SA's Final Constitution (Liebenberg 1998:41-3). Realising the right to housing is a major demand of the poor and a source of possible threat to political stability if not realised to the satisfaction of a large segment of the homeless.

My thesis is influenced by the assumption that the ANC government has underestimated as a priority two related areas, that is, both people's sense of entitlement to housing and, the urgency about acquiring adequate housing in the post-apartheid era. Events unfolding on housing indicate just how much of a threat to political stability the consequences of this underestimation can be. While still Deputy President, Thabo Mbeki revealed this lack of a sense of urgency about dealing with the housing backlog:

> "Thabo Mbeki was asked what went through his mind when he flew over a squatter settlement. He answered: "I think there is an enormous amount of patience among the people in those shacks. I don't think there's any kind of explosive sentiment in reaction to perceived lack of delivery of houses."" (Adam, van Zyl Slabbert, &

Moodley 1997:203)

Among poorer blacks, housing is central to improving their material circumstances; the ANC acknowledged this in its main framework document for post-apartheid policies, the *Reconstruction and Development Programme* or RDP (ANC 1994), which highlighted the right to housing. Nevertheless, long waits for the realisation of this constitutional right, and the exposure to dangers such as shack fires (Hartley 2003; Business Day 31 March 2004), is a source of much alienation, which some activists have begun to use to encourage the homeless not to bother with democratic procedures because they still do not produce politicians and policies that make a change to their living conditions. Betty Phenyo, a shack dweller who lost her possessions in floods, is one such person who expresses this impatience and possible vulnerability to the calls of activists for boycotts of elections, she says:

> "I never thought I will still be living in a shack in 2006. ... I want my RDP house now. I registered years ago, but I still live in a shack." (Maphumulo 2006)

Impatience about housing delivery prompts violent attacks upon black local government officials and their homes, brutal suppression of housing protest in different parts of SA by the police (Joseph 2005; du Plessis 2005; News24, 25 May 2005; Goldstone 2005) as well as the newly enfranchised's revulsion towards the democratic procedures and rituals (du Preez 2004; Maphumulo 2006; Sukhraj 2006). S'bu Zikode a representative of *Abahlali baseMjondolo* (a social movement mobilising shack dwellers) in KwaZulu-Natal says:

> "Voting means putting politicians back in power to again oppress us. ... it is a waste of time." (Sukhraj 2006)

Many people still living in shacks more than a decade after the 1994 elections have become despondent about participation in periodic elections, and may be compliant with the spontaneous calls for boycotts of the elections where "no housing, no vote" (see Goldstone 2005) slogans surface. The consolidation of a democracy that has been realised through the rituals of three rounds of

inclusive national elections and parliamentary institutions (Adam et al 1997:213; Alexander 2002:59-65, 68; Giliomee 1994; Lodge 1999). The elections aspect of the transition has undoubtedly legitimised the negotiated transition. Democratic consolidation is about popular belief in the democratic institutions and processes and a turnover of government through these electoral systems, yet the ANC has scored an electoral hattrick by winning the 1994, 1999 and 2004 elections, and, for some time, the ANC will be the dominant party in a democratic system. All three elections put and kept the ANC in government, a situation in tension with the requirement. ANC member, Raymond Suttner (2004:8-9) regards it as dogmatic obsession that consolidation entails a turnover of government because the ANC can only be replaced by a party that "is associated with building the new South Africa and social transformation." The ANC will enjoy the loyalty of a large part of the electorate in future elections, but will still have to face the challenge of the discontentment of protesting communities who claim to still have not enjoyed significant social transformation.

There is, however, also a marginalised discourse on the urgent need to deal with the legacy of class inequalities and their deterioration, and what policies could accelerate redistribution programmes; this is considerably prominent in the persistent struggles on realising the right to housing. Spurning democratic procedures cannot always be dismissed as the position of "cranks, extremists, and rejectionists" (see Diamond 1999:67) especially when we witness communities spontaneously calling for boycotts of elections and violently confronting security forces. Political activists debate the significance of declining levels of voter participation in the election rituals of the now inclusivist democracy (see McKinley 2004 and Sachs 2004), which continue to draw out majority votes in favour of the ruling ANC party. The participation of just under 16 million voters is still a tremendous measure of confidence in the electoral system and its outcomes, and the fact that the clear majority of these participants voted for the ANC still underscores the legitimacy of its government. Stuart Hall (1984:23-5) observes that high levels of participation in elections characterise the democracies of Western Europe, but he draws the psychologistic conclusion that it may be "grudging and habitual consent" by

many to the political order. My study, however, sought to explore, through the use of discourse theory and critical theory approaches, how rights discourse regulates political subjectivity in post-apartheid South Africa.

1.5 Discourse and Critical Theory approaches to Rights

A specific dimension of my main research question was: How is it that, ten years into the new democracy, the 'new' social movements dealing with housing are caught up in violent confrontation with the authorities and similar violent confrontation also occurs in those places where this protest about the housing shortage spontaneously occurs? My thesis contends that a qualitative approach to understanding the discourses about rights, state obligations, and civil society expectations can be a valuable complementary contribution to the debate on South Africa's post-apartheid transition. My assumption about how to research this was to understand aspects of capitalist restructuring in SA and how ideas and idea systems regulate peoples' everyday lives, in other words, the role of rights discourse in their everyday lives.

South Africa's transition coincided with important global events and trends. The fall of Soviet bloc regimes in 1989 inspired the eloquent conclusions of Francis Fukuyama (1989:3-5, 9-12) that authoritarian, fascist, and communist regimes were being supplanted by the ideas and institutions of Western liberal democracy and its economic consort, capitalism, effectively an end point in History with no further social engineering experiments. Fukuyama (1991) felt the transition negotiations underway in South Africa vindicated his theory.

Since the early 1980s, a new regime of restructuring capitalist state, social and economic relations was spreading globally. Referred to as the 'Washington Consensus' (Williamson 2004 & 1998), 'neo-liberal globalisation' (see Tabb 1997), or simply as 'neo-liberalism' (Harvey 2005), the economic policy agenda of this restructuring sought to dismantle welfare state measures through: fiscal discipline, as a means to reduce national budget deficits; re-ordering public

expenditure priorities, which entailed cutting subsidies of welfare programmes; trade liberalisation, to open economies to international competition; privatisation, of among others, the delivery of social services; and the protection of property rights (Williamson 2004:3-4). Thatcher's government in Britain led the way in thinking about state involvement in housing as a burden to be shifted to private sector involvement in housing processes (Harvey 2005:60-1).

The welfare state nature of housing policies, and their attendant sense of "distributive justice", would be challenged by the hegemony of conservative neo-liberal macro-economic policies based on the idea of a minimal state and dependence on market forces to deliver social goods. Not only conservative parties were won over to these policies; their social democratic rivals also came to see their interventionist state and redistributive economic ideas as *passé* (Teeple 1995:1-7). An assumption that underlies my thesis is that SA's political transition was affected by the global spread since the 1970s of neo-liberal economic policy. This trend acts as a structural constraint well into the era of shaping post-apartheid housing policy.

Post-apartheid economic transformation policies appear to be no different from the neo-liberal economic policies of governments elsewhere and that have prompted the formation of new social movements in opposition to such policies and several incidents of protest and violent clashes with authorities. In his examination of the different dimensions of the globalisation phenomenon, Dharam Ghai (1997:26, 29, 30, 38) says the economic aspect of it entails "acceptance of free markets and private enterprise as the principal mechanisms for promoting economic activities", this has been guided by the conviction of greater efficiency in private enterprises, and the pressure on governments to reduce public expenditures on social security and welfare programmes, to reduce budget deficits and control inflation, but these policies have contributed to forms of human insecurity such as job losses, lower wages, and increased charges for social services. The introduction of neo-liberal policies in Latin American countries since the 1990s, in line with the principles of the Washington consensus adopted by international institutions such as the World Bank, the

World Trade Organisation, and the International Monetary Fund (IMF), prompted the growth of a diversity of oppositional struggles around land rights in rural regions, urban workers' struggles against privatisation and over wages, urban communities opposing the privatisation of services, all producing "the alarming growth in repression, criminalization and militarization of the conflict" in Latin American countries (Algranati, Seoane & Taddei 2004:112-7, 118). African economist Samir Amin (2004) argues a large part of the global population is dependent on peasant livelihoods but they are threatened by the encroachment of neo-liberal market policies into agriculture, land use and land availability and this has prompted the growth of a number of peasant movements.

South Africa's political transition follows upon or coincides with these global events and trends, as well as when social theory trends see the death of class politics in the leading industrialised countries, when a swing to knowledge production as a key emancipatory force is in vogue in these countries, and when it appears that class politics are enacted outside the realm of production relations and trade unions but through 'new' social movements (Aronowitz 2003:2, 141, 162). A political transition that clings to rights discourse and constitutionalism also coincides with adopting the elements of what leftwing writers Michael Hardt and Antonio Negri (2000) characterise as living within the "Empire" of the regulation of political subjectivity in a new era of the globalisation of capitalist economic and cultural exchanges. There is no outside of the social relations and institutions constituting the "Empire"; constitutions in this era draw from, or have projected on them, or states have enforced on them, the innovative constitutional ideas and value systems of the American constitution (Hardt & Negri 2000:1-21, 22-27, 160-182), with the attendant disciplining and biopolitical control effects these have on subjects in capitalist society. It is in this changed world of capitalism, they argue, that we need to understand the struggles of the proletariat as having shifted beyond the workplace and the leading role the industrial working class played in the struggle against capitalism; that struggle now envelops the different forms of struggles of the "multitudes" against capitalist discipline, relations of production, and exploitation (Hardt & Negri 2000:52-4). This perspective on the liberating potential of the multitudes

struggles around housing, basic services, health care, and education may also be in vogue in South Africa among many organisers of the post-apartheid social movements (Ballard, Habib & Valodia 2007:411). Neo-liberal economic globalisation imposes a particular discipline which regulates everyday life in the present global order; it is a "market discipline" which "stresses economic growth and development, deregulation, the free market, the privatization of public services, and minimum government" (Evans 2005:1056). Various analyses (see Evans 2005:1056-63) of the impact of neo-liberal economic globalisation or the market discipline on human rights discourse argue that market discipline has primacy over human rights: as far as rights are concerned, this neo-liberal discourse favours the protection of liberal rights, particularly the right to property, insufficient attention is given to socio-economic rights and their abuse, and the conditions of aid to states in less developed countries puts these states under pressure to reduce their social programs on health, education, and housing.

An assumption about probable conservative dimensions to SA's transition is a central stimulus to the concerns of my thesis. The unfolding circumstances, the paradox of formal political empowerment but persistent adverse social conditions as well as repression sustains my conviction that a critical theory (see Neuman 2000:75-82; also Fay 1975:92-110) type of research approach and a choice of qualitative research methods, which emphasise meaning, describing and understanding (Babbie et al 2001:53), to gather and analyse data is necessary to complement the emancipation project of the formerly disenfranchised. American sociologist Lawrence Neuman says critical social science research includes a range of idiographic and nomothetic approaches, commonly seeking to "conduct research to critique and transform social relations", and such research promises to dispel certain "illusions" we have of social processes (Neuman 2000:76). I argue this approach may do the same about understanding, critiquing and uncovering the paradoxes of the so-called miracle transition in South Africa. A critical social science approach incorporates historical exposition and a critical tone; it examines the past in order to understand future possibilities, since this helps reveal "underlying structures" (Neuman 2000:79, 81); and, in the case of South Africa, it helps us understand

conditions sustaining the “elite transition” and the hegemony of its discourse in the unfolding housing policy process.

My research approach is also inspired by anthropologist Arturo Escobar’s (1995:vii) analysis of the discourse of “development” which spells out how the analyses of discourses can be a useful approach to deal with the “sense of puzzlement” that emerges when development policies do not succeed. Escobar says a dominant discourse, the discourse of development, began as a dream that turned into a nightmare prompting its questioning and the search for strategies to challenge it. Although a variety of development experts and theories spoke a particular truth about development and informed the policy choices of governments and other institutions, there still were no improvements in the lives of people (Escobar 1995:5). In a similar vein, it can be argued certain developments about SA’s constitutionally guaranteed socio-economic rights also prompt a sense of puzzlement and provoke a struggle to challenge that hegemonic discourse. In reference to events concerned with the transition away from apartheid society and the redress of the impoverishment and underdevelopment these policies had caused, Tapscott (1997:87, 94-95) talks of the “development” discourse in post-apartheid South Africa, which, in fact, is reproducing relations of power rather than uplifting the poor.

Recent sociological investigations of subjects’ experiences of phenomena such as power, ideology and domination, rights, and how subjects give meaning thereto, have been influenced by developments in discourse theory, especially Michel Foucault’s approaches to power and disciplinary forces. Foucault (1988:118; see also Purvis & Hunt 1993:487-9) felt the notion ‘ideology’ did not conceive of the capacity of humans’ resistance to power. It is this sense of discourse as a means of political practice, as a form of intervention, as a part of a struggle where knowledge is a means of practicising power through the challenge of subjugated knowledge (Dant 1991:129-131; Foucault 1988:109) that I felt my study should take, but to also integrate aspects of critical theory. Foucault’s idea of resistance to hegemonic discourse has some affinity to that of critical theory, which examines ideas, ideologies, beliefs and attitudes to

demonstrate their internal contradictions, to show how idea systems are illusions, to show how ideas deceive humans given their goals and wishes, and tries to show humans other rational ways of achieving what they want (Fay1975:98-9) . The Frankfurt School of the critical theory tradition in sociology is particularly interested in the role of ideological forces in inhibiting socialist revolution (Agger 1991:107-111; Bottomore 1984:11-14). This interest in the Marxist notion of 'false consciousness' has drawn critical theory to the study of language, intersubjective communication, discourse, and the notion of truth (Outhwaite 1994:39-57; Sewart 1980:342-50).

The idea of rights has become one of the central ideas in bringing about a transformation away from the apartheid legacy. Following sociologist Brian Fay's (1975:103-4) characterisation of the goals of critical social science, and combining aspects of discourse theory, my thesis examines the idea of rights in an "educative" manner, that is, in a way that seeks to bring "enlightenment" to the homeless in their ongoing struggles to realise the right to housing, and so that they may change those conditions which they find repressive.

1.6 Conclusion

While apartheid rule undercut black people's realisation of a bundle of citizenship rights, rights discourse was used to oppose to that rule and continues to influence the redress of the legacy of misery caused by apartheid. One of the specific areas of control and misery was in the enjoyment of the social right to housing. Developments about the interconnection between rights discourse and the right to housing in post-apartheid SA are the focus of my study.

In order to systematically research these issues, I have divided my subsequent chapters into the following focus themes. Chapter Two is a discussion of my choice of a qualitative research methodology and my use of an analysis of discourse approach in order to present a critical analysis of developments about socio-economic and, specifically, housing, rights. In Chapter Three I discuss

three interrelated themes: discourses on rights in mainstream political philosophies, how rights are incorporated in constitutions, and how rights discourse influences the organisation of state practices in order to realise rights. Chapter Four is an overview of the nature of apartheid policies in order to show how housing rights emerged as an important liberation struggle issue. Then, in Chapter Five I discuss the political negotiations in a manner that highlights how rights discourse emerges as one of the important discourses of post-apartheid transition. In Chapter Six I discuss debates on whether or not, and how, the second generation socio-rights should be incorporated in South Africa's Final Constitution; I identify some key socio-economic rights cases deliberated in the Constitutional Court, and which shape that institution's approach to the adjudication of such rights; and, I identify other prominent agents expected to play a significant role in shaping the unfolding rights discourse in South Africa. Next, in Chapter Seven I discuss housing policy for blacks as it was practiced in relation to the pursuit of apartheid policies, then continue with how the ANC government and state departments sought to implement policies that would culminate in the realisation of the Constitution's guarantee of the right of access to adequate housing for all. In Chapter Eight I give more specific attention to processes and events in Gauteng Province that have had a crucial impact on shaping the national housing rights discourse. Chapter Nine is an analysis of the role of key agents in shaping and possibly transforming SA's socio-economic rights discourse, giving attention to their positions on issues such as, rights, state resources, policy priorities, claims to land, states and market processes in housing provision, as well as the notion that dominant positions in the rights discourse sustains the protection of elite privileges, a compromise made in the negotiated transition. Finally, in Chapter Ten I present concluding remarks about the possible contribution my research offers, and point out some of the major countervailing trends that threaten political stability and consolidation of SA's fledgling democracy, which can actually be countered by reinvigorating rights discourse as a means of addressing those trends.