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A multi-theoretical analysis of the complexity of land reform policy formulation in post-apartheid South Africa

Richard Bartholomew Jurgens
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A dissertation submitted to the Faculty of Management, University of the Witwatersrand, in fulfilment of the requirements for the degree of Master of Management Governance by Dissertation.

I declare that this dissertation is my own, unaided work. It is submitted in fulfilment of the requirements of the degree Master of Management Governance by Dissertation, in the University of the Witwatersrand, Johannesburg. It has not been submitted before for any degree or examination in any other university.

Signed.

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This dissertation is humbly dedicated to the scholars from whom I have learned so much in studying this difficult but vital topic of social concern.

We are not students of subject matter but students of problems.
Karl Popper

Abstract

Recent years have seen a highly polarised public debate about land reform, centring on the question of whether the ANC government should seek to amend the Constitution to allow for the expropriation of land without compensation. The ANC finally adopted expropriation without compensation as its policy on land reform in 2018, a position on the question that appears to be a significant shift from its more reconciliation-led approach in the early democratic years.

This dissertation analyses the land reform debate between 1994 and 2018 through a multi-theoretical lens, focusing, firstly, on the ANC-led government's approach to policy formulation and implementation in this period, and secondly, on its approach to the parliamentary inquiry that it sponsored in 2018 to establish the public's views on expropriation without compensation. Two related theories, the wicked problem framework, and framing theory, are used to shed light on the ANC's approach to shaping the public debate on land reform during the period under review. An accountability model is used to evaluate the Joint Constitutional Review Committee's approach to public engagement during its inquiry in 2018. The use of a multi-theoretical approach aims to provide new insights into the complexity of the land reform debate, and, at the same time, to illustrate the value and utility of theoretical tools in complex policy questions.

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Table of abbreviations

AZAPO	-	Azanian Peoples Organisation
ANC	-	African National Congress
EFF	-	Economic Freedom Fighters
BEE	-	Black Economic Empowerment
CBO	-	Community-Based Organisation
CLARA	-	Community Land Rights Act
CPA	-	Community Property Association
CRLR	-	Commission for the Restitution of Land Rights
CONTRALESA	-	Congress of Traditional Leaders of South Africa
DA	-	Democratic Alliance
DOA	-	Department of Agriculture
EWC	-	Expropriation without compensation
GDP	-	Gross Domestic Product
IBIS	-	Issue-Based Information Systems
IMF	-	International Monetary Fund
JCRC	-	Joint Constitutional Review Committee
(LRAD	-	Land Redistribution for Agricultural Development
LCC	-	Land Claims Court
NAFU	-	National African Farmers Union
NGO	-	Non-Governmental Organisation
NP	-	National Party
PAC	-	Pan-African Congress
RET	-	Radical Economic Transformation
SACP	-	South African Communist Party

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Chapter 1: Introduction

Introduction

Land reform is one of the most complex and, simultaneously, one of the most socially divisive policy issues in South Africa today. Recent years have seen a highly polarised public debate about the issue, centring on whether the Constitution should be amended to allow for the expropriation of land without compensation.

The ANC government finally adopted EWC as the fundamental basis of land reform in 2018. The ANC government represented the new approach as a much-needed, comprehensive solution to the complexities of land reform. The new position appeared to be a significant shift from the reconciliation-led approach of official government policy in the early democratic years. Accordingly, it been the subject of highly emotive and polarising public debates about land reform since at least 2008. Understanding why the change from reconciliation to expropriation was so controversial can help to explain why the debate about EWC was so vociferous.

This dissertation analyses the land reform debate during three distinguishable periods of official government policy between 1994 and 2018. The three phases can be conveniently understood to coincide with the first three ANC presidencies, that is, with the presidency of Nelson Mandela from 1994 until the end of 1999, the presidency of Thabo Mbeki from 2000 to 2008, and the presidency of Jacob Zuma from 2009 to 2018. The land reform aspects of these periods are sketched in the following section.

Background

The land question was a central theme of the negotiations between the NP, the then-incumbent in power, and the ANC toward a political settlement to end apartheid and introduce democracy. For the ANC, addressing the problem of dispossessed land symbolised a deep-seated need for justice and the restitution of what had been lost (Anseeuw & Alden, 2011; Thompson, 2001). However, while the land question had great symbolic significance, during the subsequent decades, the major questions of land reform centred on the actual importance that the ANC and its government accorded to land reform. Arguably, changes in the ANC government's approach

to land reform are crucially related to its relations with a wide range of vested interests in land, including commercial farmers' organisations, banks, international advisory bodies, traditional leaders, civil society organisations and activists representing communities of rural landless people, and, in the background, a range of (mainly) western countries.

In outline, it is clear that the ANC government's approach to land reform policy can be understood in three phases. The first phase coincided roughly with the Mandela presidency from 1994 to 2000, during which the ANC government formulated and implemented its market-led policy, which came under increasing criticism as it failed to achieve its targets. During the second phase, from 2000 to 2008, attempts to reorient the market-led policy failed to achieve significant improvements in attaining targets, and calls for a radical revision of policy grew, including from within the ANC's ranks. During the third phase, government policy emphasised the greater involvement of traditional leaders and a new approach to land ownership that rejected the central market-led assumption that land reform should foster private land ownership. The period also saw an increasingly polarising and socially divisive public debate between opposing positions regarding the emergence of new demands for a non-market-led approach based on EWC.

Problem Statement

While there was widespread disagreement on many of the issues of land reform, voices in academia, policy analysis, the farming sectors, representatives of the poor and landless, and among the public generally agreed that the issues involved were highly complex. In the academic literature, a range of theoretical approaches identified very different problems of land reform and very different solutions to them. These theoretical approaches had complex and dynamic relationships with the political views and ideologies in the public arena and, along with the latter, were highly engaged politically and energetically opposed to each other. Arguably, the range of competing and conflicting viewpoints on land reform contributed to its complexity as a policy problem. Very little theorisation of land reform as a complex policy problem has been developed in the literature.

In general, the culmination of the third phase of land reform in a parliamentary inquiry in 2018 that concluded in favour of EWC was received very differently by proponents and opponents of the change of policy direction. The ANC, which had adopted the approach after it was

introduced by more radical, "populist" voices, said that the new approach represented a comprehensive settlement of the problems of land reform. However, participants in vociferous and polarising debates on land reform challenged this claim from several ideological and theoretical perspectives. In an attempt to resolve the issue, in 2018, the ANC government instituted a parliamentary inquiry to establish the public's views on the matter. Opponents of the measure questioned the inquiry's methodology and outcomes and, more generally, its reliability as an inquiry research process.

This dissertation asks how a focused theoretical approach to complexity can contribute to a better understanding of the relationship between the three broad phases of land reform and, in turn, their relationship with the 2018 parliamentary inquiry. More specifically, the aim is to establish how the conduct of the JCRC inquiry was intended to resolve the complex issues of land reform that were revealed during the three phases.

Research Purpose and Questions

This dissertation explores how a theorisation of the complexities of land reform can contribute to a greater understanding of the dynamics within each of the three phases of land reform and their relationship with the 2018 parliamentary inquiry as an approach to the complexity of land reform. To do this, the dissertation proposes a multi-theoretical approach that is appropriate for providing new insights into the complexities of land reform policy. This approach, it is suggested, can also provide insights into the value of a range of theoretical tools that have not been used to analyse land reform.

The dissertation adopts the "focused theory frame" approach to social inquiry developed by Dietrich Rueschemeyer as a basic orientation (Rueschemeyer, 2009b). It deploys two related, focused theory frames, the wicked problem framework created by Rittel and Webber (H. W. J. Rittel & Webber, 1973) and the framing theory developed by Rein and Schön (Rein & Schön, 1991, 1993, 1996), to conceptualise and explain the phenomenon of complexity that is so evident as a significant factor in the changes of direction during the three phases of land reform. These phenomena are, on the one hand, the complexity of the competing and conflicting positions involved and, on the other hand, the way positions on the issue select factors of the complex problem in an attempt to define and manage it. For this dissertation, the main focus is

on the positions adopted by the ANC government as a participant in the complex stakeholder engagement process.

The broad research question addressed by the dissertation falls into three parts.

Firstly, it asks how theorising the problems of land reform in terms of the wicked problem framework and framing theory can contribute to a greater understanding of the interplay of competing and conflicting views of land reform in each of the three phases of ANC land reform. In investigating these issues, it finds that debates moved from a narrow conception of land reform as a matter of material well-being to a broader conception of land reform as a matter of rights of ownership.

Secondly, it aims to understand the relationship of the 2018 parliamentary inquiry to the problems that emerged during the three phases of land reform. In investigating this problem, it finds that while the ANC government represented the inquiry as an attempt to establish the public's views on EWC, it framed the matter as the question of whether currently skewed land ownership patterns reflected an authentic right to ownership. Where legitimate land ownership had been defined in terms of a framework of private property in principle accessible to all, it was now defined primarily in terms of a sense of prior indigenous rights.

Thirdly, it aims to understand claims and counterclaims regarding the credibility of the inquiry process as a confirmation of EWC as official government policy. An accountability model developed for application in public institutions that are in some sense representative of and responsible to a citizenry is outlined and applied to the case to evaluate the credibility of the inquiry as an accountable process.

It is suggested that the proposed use of multiple theories is appropriate for the complex realities of the policy arena. This approach has at least two advantages: firstly, it is likely that different but complementary approaches to understanding highly complex contexts and phenomena make it possible to account for several elements of complexity. Secondly, using various theoretical approaches requires some explicit awareness of the assumptions involved and, hence, an explicit account of them, which can contribute to richer understanding of a complex problem (Cairney, 2013, p. 9).

The first part of the dissertation proceeds through a literature review, which develops the research question with more specificity and a methodology to identify and define the phenomena of complexity and selective focus that are distinguishing features of the land reform debate in more detail. The substantive chapters that follow address the issues raised in this introduction.

Chapter 2: Literature Review

Introduction

The introduction set out a view of three periods of land reform in South Africa according to which the ruling party has adopted three different approaches to land reform policy over nearly thirty years of land reform. Analysts with widely different theoretical points of view have generally agreed that the issues of land reform present complex problems for policy formulation. The ANC's rejection of its market orientation and adoption of EWC brought considerable critical commentary. Arguably, the parliamentary inquiry that the ANC instituted in 2018 was intended to validate the controversial change of direction. The credibility of that inquiry has yet to be thoroughly evaluated.

The research questions

The above reformulation of the broad issues involved suggests the following refinement of the initial research questions:

How did the ANC's understanding of the complex problems of land reform in the first phase of land reform between 1994 and 2000 result in its adoption of the market approach, and why did the policy lead to a public debate on changing the direction of land reform?

How did the ANC's changed understanding of the complex problems of land reform lead it to review its approach during the second period of land reform and then, during the third period, adopt EWC?

Why did this process of revision lead to a parliamentary inquiry on the direction land reform should take, and how credible were its results as a public process?

The first two questions centre on two fundamental conceptual issues: firstly, a reasonably defined concept of highly complex policy issues, and secondly, an understanding of how policy actors reduce highly complex policy problems that involve

many competing and conflicting positions to manageable proportions that make policy decisions possible. The third question requires an understanding of the constitutional context and parliamentary rules that guide parliamentary inquiries as public consultation processes and the extent to which the 2018 parliamentary inquiry resulted in a credible public process of inquiry.

The following section reviews the competing stakeholder positions involved in land reform, which represent the range of demands that land reform policy would have to address. The section following that reviews the academic literature that categorises the dominant theoretical and ideological positions on land reform. These sections provide a picture of the complexity of the range of positions involved. The section following them reviews particular uses of the concept of complexity in the land reform literature. It is followed by a section that discusses views of the relationships between theoretical positions and ideological standpoints on land reform. The section after that takes up the theme of populism, which emerges as an essential element of the discussion of the complexity of the land reform situation over time. The last section discusses the literature on the constitutional and parliamentary rules governing parliamentary inquiries.

It is worth noting, before proceeding, that the land reform literature is extensive. A search of the academic database Scopus using the search phrase "'South Africa" AND "land reform"' yielded 557 academic research articles published between 1994 and 2022 that include both the phrases "South Africa" and "land reform". A Google Scholar search using the same search phrase yielded 1,010 results. A scan of the items in both searches revealed they dealt with a considerable range of land reform issues.

A complete survey of the understanding of the complexity of land reform and the role of theory and ideology in that complexity in the literature is beyond the scope of this thesis. The literature review conducted here was limited to about 200 books, book chapters, articles, and reports that deal directly with the selected research issues.

Competing stakeholders' ideologies and perspectives

This section briefly takes up the "many-sided and complex character" (Cousins, 2021, p. 115) of land reform seen as a question of policy, that is, the "policy challenge" of Cousins' distinction. The aim is to sketch the understanding in the literature of the connections between the theoretical research positions outlined in the previous section and the ideological standpoints on land reform that have played a significant role in influencing official policy at different times.

The ANC and land reform's stakeholders

The ANC's relationships with the wide range of different and sometimes conflicting interests involved in the negotiations about land reform constitute a significant concern in the literature (Akinola, 2016; Anseeuw & Alden, 2011; Beinart & Delius, 2014; Cousins, 2015; Hall & Williams, 2000; Mngxitama, 2004; Viljoen, 2022; Walker, 2012; Weinberg, 2015). Among the stakeholders involved were transnational organisations such as the International Monetary Fund, the World Bank, and (behind the scenes) various national governments (Barber, 2005, p. 230). National elite groups were represented by established agricultural officials, black farmers' unions, emerging black farmers, traditional leaders, white commercial farmers, agribusiness corporates, banks, land-focused NGO advocacy groups and their lawyers, rural black communities, landless people and farm workers (Adams, 2017; Akinola, 2016; Anseeuw & Alden, 2011; Hall & Williams, 2000).

In the initial phase, according to De Klerk, the interests and demands of various political groupings had to be assimilated into policy if the outcomes of the negotiations were to be accepted as legitimate (De Klerk, 2002, p. 18). According to other commentators, as the government-in-waiting, the ANC needed to be seen to be conducting "open-ended" consultations with stakeholders (Anseeuw & Alden, 2011, p. 15) and could not be seen to promote sectional interests as regards land (Mngxitama, 2004, p. 57). The need to balance competing and conflictual interests and values through "broad-based consultations" (Anseeuw & Alden, p. 15) was reflected in the 1997 White Paper, its "official indication" of its land reform policies (Rabie, 1999, p. 134). Yet, according to Hall, the policy "alienated almost all interest groups" as its impacts unfolded over the coming years.

Land reform as a complex policy problem

This section briefly explores the common-sense, everyday view of the meaning of complexity. It then outlines the ANC's view of the complex issues involved in the first period of land reform as they relate to the stakeholders' positions. Following that, it reviews some uses of the term "complex" in academic and commentary articles dealing with land reform in South Africa between 1994 and 2022, focusing on the complexity that resulted from the wide range of stakeholder positions, not all of which could be satisfied.

The 1997 White Paper's view of complexity

The ANC government's White Paper of 1997 summarised its understanding of land reform and its engagement with stakeholders before, during, and after the establishment of democracy in 1994.

According to the policy statement, the primary purpose of land reform was to address the poverty and landlessness of millions of black people that had resulted from the racially-based patterns of land ownership of the apartheid era (Department of Land Affairs, 1997, p. 7). The country's "history of conquest and dispossession, of forced removals and a racially-skewed distribution of land resources" had left it with "a complex and difficult legacy" (Department of Land Affairs, 1997, p. 4). In formulating its land reform policy, the ANC said "it had **"endeavoured to take account of the widely conflicting demands of the various stakeholders**" (Department of Land Affairs, 1997, p. 9). While it had endeavoured to take into account "people's deepest concerns regarding land", it had been difficult to reconcile the "counter proposals" [sic] of some stakeholders and compromises "had to be found" (Department of Land Affairs, 1997, p. 6).

In summary, the ANC summarised its two primary goals for land reform as (I) to address injustice while fostering reconciliation and (II) to "underpin economic growth while alleviating poverty" (Department of Land Affairs, 1997, p. 7). Specific challenges of land reform included satisfying certain requirements of the new Constitution by

reconciling people's rights with the capacity of the state, the land market (combining the need for land reform with the need to recognise private land ownership and investment), land institutions (the lack of personnel and effective systems of land administration) and the environment (relieving "land pressure" while addressing widespread land degradation) (Department of Land Affairs, 1997, pp 8 - 11).

It is arguable that in formulating its land reform policy, the ANC "could not be seen to promote sectional interests, despite the rhetoric of 'transformation'" that was in the air (Mngxitama, 2004, p. 57). The White Paper's understanding of the "complex legacy" appears to include the recognition that there is a wide range of issues concerning rural life that need to be understood, as well as other matters relating to questions of the requirements of stakeholders in land reform and yet others relating and how to identify appropriate policies to deal with them. However, the document does not specify its understanding of "complex". It might be suggested that the ANC's need to demonstrate confidence at this critical juncture included signalling its recognition of the complexity involved and suggesting that its approach effectively addressed that complexity.

Academic views of the complexity of first-phase land reform

The negotiations had revealed that the country's agricultural setting was complex. At the same time, there were high expectations among the black population for a favourable resolution of the skewed distribution of land (Anseeuw & Alden, 2011, p. 14). In a current extended analysis of the White Paper, Hall argued that its central complexity lay in its attempt to balance the requirements of "equity" and "productivity" (Hall, 1998, p. 452). The two objectives could "become conflicting" if no account were provided for how productivity would lead to equity (Hall, 1998, p. 453). In addition, the challenges of land reform included the need to anticipate resistance to change, the need to create workable policy instruments to combat inequity, and the limits of the institutional, human, and financial resources available (Hall, 1998, p. 452).

At the time, Bernstein argued that land reform had been a central motif in the making of the modern world" since the French Revolution, and accordingly, that it had "a long, diverse and complex history in both North and South" (H. Bernstein, 1995, p.

27). Generally speaking, land is valued not only as a "commodified resource" but rather as a source of connection to nature and of belonging that is inflected through "numerous variables, including history, politics, and economics" (Koot et al., 2019, pp. 347–348). Globally, land, like water, can be a source of deep-rooted social and resource conflict (Bradshaw & Breakfast, 2018, p. 376).

Whether it is directly used or indirectly indicated, the notion of complexity invokes a sense of the multi-faceted nature of land reform and of conflict frequently associated with different views and interests. Commentators observe aspects of complexity in land reform through specific lenses that relate to their theoretical position and research interests.

Policymakers faced a "complex maze of challenges" in institutionalising reform to reach beneficiaries (Walker, 2012, p. 811). Thus, land reform policy would have to address the complexity of the historic rights of dispossessed people (Cliffe, 2000) and the "complex rural realities" that pertained in the countryside (Cousins, 2000b, p. 2). Cousins observed the influence of networks of actors in land reform and their preoccupations with the complex policy changes, reversals, and conflicts that the government had faced in attempting to introduce land reform (cited by Capps, 2000). Beyers et al. (2015) noted that land restitution programmes were "extraordinarily complex", involving a range of legal, bureaucratic, and planning exercises. In Du Toit's view, land reform generates "complex conundrums about the optimal use of resources to meet discrete, competing, and legitimate social needs" (Du Toit, 2019).

As the land reform programme unfolded, Hall observed that the land reform programme had attracted "large, complex rural claims" on land (Hall, 2003), stretching an overburdened and inefficient administration. According to Gibson, "complex group dynamics" had resulted from policy decisions that resulted in people pooling their grants to afford land (Gibson, 2008, p. 215). According to Zille, "complex legal and institutional arrangements" (Genesis Analytics, 2014, p. x) underlay the sometimes bewildering proliferation of land reform programmes since 1994. Deininger agreed, stating that state-led reform resulted in "complex regulations and cumbersome bureaucratic requirements" (Deininger, 1999, p. 7).

In 2000, as perceptions began to accumulate that land reform was failing to meet crucial targets, Hall & Williams argued that the government's centralised bureaucratic approach was not well suited to planning and implementing "complex land reform projects" (Hall & Williams, 2000, p. 10). According to Hay, land reform programmes were challenged at least partly because policymakers were reluctant to recognise the influence of the country's complex history on land ownership (Hay, 2015, p. 7). In general, these observations shared the view that the complexities of land reform lay in addressing the challenges of overlapping economic, social, cultural, and political causes of inequities in land reform (Akinola, 2016; Jacobs et al., 2013).

In 2012, du Toit noted that reform must deal with "complex, dynamic, open social systems: not only are many of the key variables not easily controllable", but "many of the relationships and dynamics are non-linear, dynamic and unpredictable" (Du Toit, 2012). Addressing land reform required considering a "number of interlocking systems and processes", including employment policies, industrial practices, migration flows, political dynamics, legal conditions, and livelihood patterns", which would need to change together. For this reason, it was impossible to isolate and prioritise one set of variables for policy action (Du Toit, 2012, p. 8). In du Toit's view, the primary aim of land reform ought to be poverty reduction. However, arguably, this characterisation of the policy problems of land reform would also apply to policies aimed at addressing other priorities, such as economic efficiency.

Theoretical approaches to land reform

The land debate involved various stakeholders, and an essential strand in the literature is devoted to characterising their perspectives. This approach contributes to understanding the wide range of stakeholder positions involved.

Hebinck characterised reform issues as a "plurality of co-existing land and agrarian questions" (Hebinck, 2013, p. 4). According to Hay, the land reform literature consists of "contrasting theoretical frameworks" and is "inherently multidisciplinary", with interpretations of the issues involved coloured by different experiences of historical events and situations (Hay, 2015, p. 3). During the negotiations until 1994 and during the following years, distinct theoretical positions and political stances emerged among

researchers and commentators and continued to develop as the debate on land reform unfolded. This section outlines a brief characterisation of these theoretical positions and their role in influencing the debate on land reform.

In 2010, Cousins and Scoones published a study to evaluate the notion of viability, different versions of which, they argue, have been influential in the land reform debate (Cousins & Scoones, 2010, p. 1). They argued that the different versions of the notion could best be explained as conceptual "framings" based on different theoretical positions on land reform. Though the idea of framing is not directly defined, in their use, it appears to mean that a theoretical position generates an implicit normative model of the kinds of criteria or recommendations that are deemed to be relevant to understanding the notion of viability (see Cousins & Scoones, 2010, p. 2). They identified at least six theoretical positions on land reform: (1) mainstream institutional economics; (2) mainstream neo-classical economics; (3) Marxism or neo-Marxism; (4) a Marxist or neo-Marxist "bottom-up" view; (5) a "pro-poor" stance combining class analysis with issues of race or nationality; and (6) a developmental approach to sustainable livelihoods.

Characterising the stakeholders' positions

Lahiff, for example, has described the "political and ideological factors shaping land reform policy since 1994" and the societal groupings associated with them based on a study of international debates about land reform. He identified three broad approaches: modernisation, neo-modernism and radical populism (Lahiff, 2008b, p. 19). Modernism, which might be capitalist or communist, aimed at capital-intensive development and maximum extraction of value from agriculture, and hence large-scale farming (Lahiff, 2008b, p. 19); neo-liberalism supported private property, and aimed at economic reform and, in some forms, small family farms (Lahiff, 2008b, p. 22); and radical populism aimed at the direct, large-scale redistribution of land and other assets to the poor, without focusing on economic issues such as economic growth or farming efficiency in any detail (Lahiff, 2008b, pp. 22–23).

On this basis, Lahiff argued that the 1997 White Paper represented a compromise between the neo-liberal and radical-populist approaches and that later policies embodied

a compromise between the modernist capitalist approach, which emphasised the black farming class, and neo-liberalism (Lahiff, 2008, p. 24). According to this analysis, neo-liberalism was aligned with the BEE element within the ANC and the new agricultural bureaucrats and their departments. Modernist capitalism was aligned with big business and "big agriculture", that is, mainly white, large-scale commercial farming interests, as well as conservative elements within the ANC. Radical populism was espoused by agricultural NGOs and movements of peasants and the landless, with support from the SACP, township social movements, and others disaffected by the ANC, among others (Lahiff, 2008, pp 21-24).

Similarly, Cousins & Scoones analyse the ideological stances associated with the six theoretical positions they identified. In their view, neo-classical economists are often associated with neo-liberal policy prescriptions, and new institutional economists with a conservative form of agrarian populism, or neo-populism. Marxists, meanwhile, focus on class politics and the socio-economic differentiation of rural populations, and the sustainable livelihoods approach is associated with either "developmentalism" or "welfarism", which they describe as "a kind of centrist populism" that is strongly contrasted with the radical populism of the radical political economists. In their view, theoretical "framings" of land reform issues are driven "primarily by ideological commitment" to notions of the "viability" of their own and others' positions rather than the other way round (Cousins & Scoones, 2010, p. 6).

Five theories of land reform

The following paragraphs briefly sketch some critical features of six prominent theoretical positions in the land reform literature. The presentation of the essential characteristics of each position is not comprehensive and intended to provide only a brief account of their distinctive features (Cousins & Scoones, 2010, p. 6). Moreover, as will emerge, it should be noted that the categories of theoretical approach are not mutually exclusive or antithetical in all points.

New institutional economics

According to Hodgson, new institutional economics is based on the insights that economic behaviour can be explained in terms of the relations between "institutions, habits, rules, and their evolution" (Hodgson, 1998, p. 168). Unlike neo-classical economics (see below), its main rival in economics, institutional economics does not aim at building a single general model of economic behaviour. Instead, it aims instead at developing "specific and historically located approaches to analysis" (Hodgson, 1998, p. 168). Historically, South Africa's land distribution system was based on the colonial and segregation-based appropriation of large amounts of land from black Africans, resulting in the loss of traditional smallholding farming. Accordingly, the new institutional approach argued that land reform should begin by recognising the need to deal with "complex land relations" as well as the "widely diverging" aspirations of various social and political groups (Binswanger & Deininger, 1993, p. 1466). Overall, this position argued that negotiated land reform based on limited government involvement could provide "equity and efficiency benefits" (Deininger, 1999, p. 2) by balancing market and non-market mechanisms (Deininger, 1999, p. 3).

In this view, the aim of land reform should be to restore black African smallholder farming on a large scale through the "conversion" of existing commercial sector farms to small- or medium-sized part-time or full-time farms. This should be addressed by a market-assisted programme, "the cheapest and fastest way to generate productive employment, both farm and non-farm" (Binswanger & Deininger, 1993, p. 1466). In this model, the state would play a "facilitative role" by assisting beneficiaries to acquire land with grants or cheap loans (Driver, 2007, p. 67) and otherwise ensuring the security of private ownership through appropriate legislation (Binswanger & Deininger, 1993, p. 1446). This policy approach, advocated by the World Bank, was highly influential in the design of the ANC government's first land reform policy (Driver, 2007, p. 67). Other academic advocates included Lipton, M. et al. (1996), Van Zyl et al. (1996), Kirsten & van Zyl (1999), Deininger (1999), Vink and Van Rooyen (2009), and Binswanger-Mkhize et al. (2009).

Neo-classical economics

Neo-classical economics emphasises the priority of private property rights as the foundation of effective economic behaviour and on methodological individualism or the view the individual is the fundamental unit of analysis. It differs from institutional economics in regarding individuals'" rational" economic decisions as essential to the outcomes of economic behaviour and in its view that the "general equilibrium of markets" or balance of supply and demand is the ideal measure of an efficient market (Dolderer et al., 2021, p. 2). Central to this model of economics is the notion of a "rational, utility-maximising being" who calculates their "self-interest" based on a "short-term perspective" that is entirely independent of other people's needs (Dolderer, 2021, p. 8). According to the neo-classical view, there is a direct relationship between land reform and economic development; private ownership of productive land facilitates wealth creation, facilitating rapid socio-economic development (Zarin & Bujang, 1994, p. 13). This approach tends to see the aim of land reform mainly as the facilitation of large-scale commercial farming among beneficiaries and emerged in the literature particularly after 1999 when the failure of government land reform programmes introduced in 1994 was increasingly a subject of public criticism.

A key argument of neo-classical economics, as regards land reform, is that "the market and the private sector distribute land more efficiently" and have a greater capacity to facilitate "the successful entry of new farmers" than the state (A. Bernstein et al., 2005, p. 19). According to Schirmer, land reform policy should focus on identifying "cohorts of black farmers with capacity" who should be assisted "to gain access to good agricultural land in areas where markets are readily accessible" (Schirmer, 2000, p. 164). Negotiated or "market-assisted" land reform advocated from this angle is associated with the austere economic reforms imposed on developing countries by transnational organisations such as the World Bank and the International Monetary Fund (El-Ghonemy, 2004) and in the South African context often labelled as a "neo-liberalism" intended to "legitimise" the World Bank's influence in South Africa (Driver, 2007, p. 67).

According to Lahiff, this approach has been adopted by advocates of the market approach to land reform associated with big business and NGOs supporting it. On his account, the approach is intended "largely as a means of easing the political tensions arising from a highly racialised pattern of landholding" (Lahiff, 2008b, p. 20). In his terminology, the position is "modernist-conservative" and based mainly on a "(largely

implicit) support for the existing structure of the agricultural sector" (Lahiff, 2008b, p. 20). "Neo-liberalism" in this sense includes "liberalisation of the agricultural sector, commitment to a large-scale commercial farming model, a 'restrained state' in terms of spending on land reform, as well as the willing-buyer willing-seller market-based model of land reform" and the protection of private property rights (Hay, 2015, p. 2).

However, the pejorative characterisation simplifies the position, which may be associated and commensurate with other positions. Beinart & Delius, for example, argue that smallholder farming in former homelands offers potential that should be supported with greater security of tenure and support, in parallel with support to the existing commercial, highly capitalised economy, which could "also contribute to the growth of more successful smallholder agriculture" (Beinart & Delius, 2018, p. 10). Various versions of this double-pronged approach have been offered (J. Kirsten & Sihlobo, 2021; Sihlobo, 2020, 2023).

The "sustainable livelihoods" framework

As the debate around land reform unfolded, the "sustainable livelihoods" framework that emphasised the connection between land reform and sustainable livelihoods and overlapped to some extent with the broader neo-classical approach discussed above was increasingly articulated in the literature. The reform agenda should be oriented toward "people's livelihoods and their well-being" and not merely questions of economic efficiency (Hebinck, 2013, p. 8). In the views of some commentators, this would be closely related to social movements "from below" and "under the leadership of the state but controlled by social movements" (Hebinck, 2013, p. 8).

Like the Marxist "from below" perspective, some proponents of this approach return to the grand themes of the agrarian question, envisaging the "radical restructuring of agrarian economic space, property regimes and socio-economic relations" (Hebinck et al., 2011, p. 8). The sustainable livelihoods model is not exclusive of other theoretical understandings of land reform and involves concerns that overlap with those of other researchers and the models that they propose. Hall, for example, argued that for the rural poor, restored land involved a dual function as both a symbol of addressing historical injustice and a resource for socio-economic survival (Hall, 2004, p. 214).

Other proponents of this perspective adopt a less normative view than the grand agrarian question theorists and investigate how much land reform benefits recipients. In some studies, the benefits of transferred land were tangible because possessing it underwrote the capacity to choose how it could be utilised, including part-time farming, livestock farming and selling it for a profit. Such findings confounded the ideas of policymakers, planners, and analysts, who expected that the main benefit from the possession of land would derive from its use in full-time smallholder production (Hart, 2012; Jacobs et al., 2013). According to Aliber & Cousins, some of the blame for the misplaced expectation could be attributed to the "uncritical application" of large-scale farming models to land reform, which resulted in project designs that were irrelevant to the lives of the rural poor (Aliber & Cousins, 2013, p. 141).

Marxist or neo-Marxist approaches to land reform

Marxist or neo-Marxist approaches to land reform centred on "the agrarian question", a central theme in turn-of-the-century Marxist studies focusing "on how capitalist accumulation interacts with and transforms agrarian social relations of production" (Sadajian, 2020, p. 3) that contributed significantly to the development of peasant studies within the social sciences (Sadajian, 2020, p. 4) and subsequently to this radical approach to land reform scholarship. The approach includes two positions: modernising (neo)Marxism and "accumulation from below" (Neo)Marxism.

According to Bernstein, "the classic agrarian question [i]s concerned with transitions to capitalism", which can take different paths given "specific configurations of class forces and class struggle" (H. Bernstein, 1995, p. 29). In such transitions, the Marxist theory would suggest ("predict"), agricultural production would either be transformed by the conversion of "pre-capitalist" landed property into agrarian capital or its "overthrow" and redistribution to the "former tenant peasanty" (Bernstein, 1995, p. 30). Bernstein argued that neither of these paths emerged from the negotiations to end apartheid. Instead, the ANC adopted an "extremely cautious" conservatism due to a conjunction of factors, including the collapse of communism in the Soviet Union and the subsequent influence of "bourgeois" tendencies within the ANC (Bernstein, 1995, p. 35).

Subsequently, a sizeable Marxist-inspired land reform literature emerged that proposed or supported the principle of state-led reform but was cautiously critical of the ANC government's approach to land reform after 1994. The literature "is very diverse, and disagreements over nuance and interpretation are common" (Cousins & Scoones, 2010, p. 14). Often enough, research in this category focuses on particular themes rather than the "big picture" approach characteristic of "the agrarian question" while also eschewing the technical language of Marxism used by Bernstein.

Hall, for example, argued that the early land reform programme of the 1990s assumed "the potential for state-driven change" and excluded women for its equity objectives without invoking the Marxist theoretical apparatus (Hall, 1998). Similarly, in a later paper, she argued that government measures to address the failure of land reform used the rhetoric of "agrarian revolution" but privileged large-scale commercial agriculture in practice (Hall, 2009, p. 8). Cousins adopted a detailed, primarily institutional analysis of changes in land reform policy while critiquing its "strong bias in favour of 'emerging black commercial farmers'" (Cousins, 2013, p. 17). While nuances remained between them, other writers in this category joined in the view that land reform was increasingly benefitting elite groups rather than the millions of smallholders whom it had originally been intended to help (Hall & Kepe, 2017; Lahiff, 2016; Mtero, 2021).

Marxist or neo-Marxist approach to land reform based on accumulation from below

In a review of the applicability of Marxist theory to land reform, it might be said that Cousins effectively reintroduced direct Marxist theory into pro-poor land reform research. Among other things, he distinguished between "accumulation from above", or the strategies by which existing rural elites exploit labour, gain state support, and use existing capital to accumulate wealth, and "accumulation from below", or the processes by which successful farmers generate a surplus that they can reinvest into their enterprises. On this basis, he argued that a genuinely pro-poor rural land reform would seek to foster "accumulation from below" by small-scale, market-oriented black farmers who could make "a small but significant contribution to reducing unemployment and poverty" (Cousins, 2019, p. 6).

Greenberg, in several articles, has articulated a similar view, similarly based on direct Marxist theory as well as developments of it, arguing that the increasingly evident limitations of land reform reflected a political compromise by which land reform had been "artificially separated" from "agricultural restructuring" (Greenberg, 2003, p. 64). Overall, the outcome has benefited "a small core of well-resourced individuals at the expense of the majority of the dispossessed population" (Greenberg, 2003, p. 64). In a detailed study of a community in Limpopo, he concluded that people were developing practices that negotiated paths around the limitations imposed by notions of private property and by traditional authorities, such as leasing, that presented possible models for land reform as a project genuinely aimed at enabling the poor (Greenberg, 2011).

Jara has argued that the land reform policies have effectively created a" comprador' class of commercial farmers in which black farmers are largely "parasitic" due to their lack of capital (Jara & Hall, 2009, p. 215). Smallholder and subsistence farming will remain survivalist if they cannot mobilise pressure from below" to link their need to broader concerns such as rural development, including infrastructure, markets and service delivery (Jara & Hall. 2009, p. 226).

Land reform and race or "the national question"

Land reform and race or "the national question". An important variant of the Marxist-inspired pro-poor theories briefly sketched above views land reform through the lenses of race and "national" rights to land broadly understood. Notions of race played a role in Marxist land reform research, but perhaps somewhat uncomfortably; from the (neo-) Marxist point of view, explaining South Africa's highly racialised sometimes required uneasy adjustments of class analysis, as in the case of the theory of "internal colonialism" (Everatt, 1992; Wolpe, 1975). As against this, the thrust of "national question" land reform is the argument that land owned by white people was acquired by processes of colonial alienation, as a prominent proponent of this view put it (Hendricks, cited by Ntsebeza, 2007, p. 121), or the "taking of the land" (Ngcukaitobi, 2021, p. 83).

According to Ntsebeza, even while the negotiations toward the constitutional settlement based on existing property rights were being conducted in the 1990s, people

on the ground saw themselves as dispossessed and regarded "white property rights" as illegitimate (Ntsebeza, 2007, p. 116). Accordingly, the view that it was possible to respect existing property rights and to carry out "fundamental land redistribution" at the same time involved a "contradiction" (Ntsebeza, 2007, p. 129). The argument was that these aims were mutually exclusive and could not be achieved simultaneously.

Atuahene, a leading proponent of "national question" land reform, has argued, in outline, that the constitutional settlement fails to recognise that colonially-derived property rights are illegitimate. Legitimate ownership of anything is based on its being *deserved*, where this entails that ownership has been earned either through "hard work" or as a bequest or gift (Atuahene, 2007, p. 1422). As against this, she claimed, most members of the black majority believed that white ownership of land was illegitimate because it was based not on colonial dispossession and "theft" (Atuahene, 2007, p. 1420). The taking of the land was part of a broader phenomenon of social, psychological and economic disruption that amounted to the taking of black people's dignity (Atuahene, 2014, pp. 4–5). The aim of land reform should, ultimately, be to restore dignity as well as property.

However, as Hendricks & Ntsebeza had observed in 2000, "' in effect, colonial land theft is now preserved by constitutional sanction" (Hall, 2004, p. 214). Proponents of this view have increasingly argued that a radical revision of land reform is necessary if "democracy was to survive in South Africa" (Hendricks et al., 2013, p. 341). Some have argued that full restoration is not possible through the "transformation" of existing economic and political structures but only through "the destruction of South African civilisation" (Mngxitama, 2004, p. 52). Both positions accord with the view that effective land reform should be based not merely on an understanding of land as a material resource only, but rather that its restoration should be seen also, or even primarily as a matter of symbolic significance (Jara & Hall, 2009, p. 207).

Three features of ideological/theoretical debates on land reform

In particular, three features of academic and research debates on land reform are worth noting. Firstly, like the ideologies with which they are associated, many of these

positions have been actively present in the debate on land reform since before 1994 and have been differently influential on land reform policy at different times (see Lahiff, 2008b, p. 2). Secondly, participants are generally politically engaged. In 2005, for example, Walker observed that participants in the land reform debate rarely directly debated with each other; insofar as they addressed opposing views, these were about "abstract first principles rather than programmatic interventions" (Walker, 2005b, p. 819). In 2015, Walker and Cousins noted that the land reform debate was based on "high emotions" and had become highly confrontational, though with "little commitment to open debate" (Walker & Cousins, 2015, p. 16).

Moreover, throughout its existence, the land reform debate has been characterised as both engaged and emotive. There has never been any consensus on the central issues and the best solutions to them. The highly contested nature of the research debate may have contributed to a feeling, which has strongly influenced the nature of political decision-making on policy, that policy debates on land in southern Africa are "contested terrain" (Cousins & Scoones, 2010, p. 60) and that social science cannot provide adequate evidence for policy decisions or a "neutral space beyond politics" (Du Toit, 2012, p. 14).

Limitations of the concept of complexity in the literature

The general understanding of the term "complex" in English attributes to it two meanings: (1) as the characteristic of something "consisting of many different and connected parts" or (2) as the characteristic of something that is "not easy to analyse or understand" (*Oxford Dictionary of English, Third Edition*, 2010). All the passages cited above observe complexity without defining the concept or explaining how it applies to the situation under discussion.

We would expect a theory of complexity not merely to observe that a phenomenon consists of many constitutive parts but to explain why that multiplicity is difficult to understand or analyse. Such an approach must satisfy the essential requirement of theory in not merely describing but attempting to explain a phenomenon (Bates, 2016, p. 2). On that basis, we would also expect a theory of policy problem complexity to account for

how policy participants understand the complexity they face and the procedures by which they deal with it.

Policy studies frameworks and the study of land reform

Arguably, much of the land reform literature is concerned with the study of various aspects of land reform policy, that is, with the study of the multiple inputs to and outputs involved in attempting to resolve the issues of land reform. Broadly, these studies may be said to focus either on "actors and their interactions in the policy process" or on "the content of adopted decisions" and their impact on issues identified as requiring policy solutions (Howlett & Cashore, 2014, p. 2).

Where the ideological and theoretical frameworks identified in the previous section are understood as the positions of attempts by social actors to influence or shape policy, they fall under the category of inputs. A range of frameworks for the study of policy inputs have been developed in the literature aimed at attempting to make sense of policymaking (Howlett & Cashore, 2020, p. 2), including the advocacy coalition framework, punctuated equilibrium theory, and the multiple-stream approach to policy input narratives (Cairney, 2012, p. 6).

As noted above, one approach in the land reform literature reviewed for this dissertation has conceptualised the various positions of policy actors involved in land reform policy input debates[1] in terms of the relationships between their ideological and theoretical positions and their interests, while another has envisaged the positions of policy actors about their prior ideological or theoretical commitment to opposing to "viability". In another approach, Hall has analysed the between different policy actors'

[1] A plural characterisation of the involvement of various social actors in discussions in land reform policy input is adopted here. Discussions of land reform policy have taken place in various political, academic and public contexts, and while it is demonstrable that there has been some interaction between these levels of discussion, the extent of active engagement of different social actors and their standpoints with each other is less clear (Walker, 2005b, p. 809). The broader context of discussion about land reform policy, then, is probably more usefully understood as several policy discussions, some of which sometimes overlap or engage with each other.

policy inputs in terms of actor networks in the context of their "discourses", emphasising "the categories and networks described by the actors themselves" (Hall, 2010, p. 55).

Each of these approaches aims to provide an analysis that contributes a set of explanatory terms and principles as a particular approach to understanding the complexity of the landscape of land reform. However, their accounts of the complex issues of perspective and disagreement between the various stakeholders and their positions are based on an immanent understanding of complexity, which is neither defined nor conceptualised.

One distinctive approach to theorising the complexity of land reform from a perspective independent of the theoretical positions and political stances involved was identified in the land reform literature. This is Viljoen's application of the "wicked problem" framework to analysing the failure of the state to underpin legislation and other measures aimed at improving tenure security and, more broadly, secure property ownership. In outline, Viljoen offers the wicked problem framework as a focused theory frame that can help to understand the nature of the complexity involved in land reform. On that basis, she argues that the ANC government sought to "bolster its own resilience" through such measures as the state trusteeship-leasehold model and the failure to extend "positive housing rights" to citizens, both of which reduce the sovereignty of citizens vis-a-vis the state (Viljoen, 2022, pp. 39–40).

However, Viljoen does not explore the implications of her empirical account of the challenges and shortcomings of the government's land reform administration for the chosen framework. The "wicked problem" framework is not extensively applied to analysing the problem. Intriguingly, she does draw one implication from the framework: that the state, as the ultimate policy decision-maker, is also implicated in the complexity of the "wicked problem" of land reform because its decisions result in scenarios, including policy programme failures and omissions, that contribute to the continuing and growing complexity of land reform as an ongoing policy problem.

Implicit theories of framing in the literature

This review of the literature on land reform has noted that several analysts use notions of "frame" or "framing" in the context of analyses of land reform. In one version, a frame is understood as the theory in terms of which an explanatory concept is couched (Cousins & Scoones, 2010, p. 1). In another, framing is viewed as a process by which a policy problem is represented in an underlying context (Du Toit, 2019, p. 24). Viljoen's account of framing sees it as the analytic reduction of a complex policy problem to a few simpler arguments or terms . In the literature, framing is also implicitly understood as the process by which the ANC government changed its approach to the problems of land reform by seeing them as a consequence of poor or inappropriate design rather than a matter of poor implementation (Hall & Cliffe, 2009, pp. 6–8).

It is noteworthy, however, that none of these accounts offers an explicit theoretical account of framing that contextualises it as an approach to identifying and, possibly, simplifying the issues involved in a policy problem. The lack of an explicitly articulated account of "framing" and "frames" and how these might apply to the analysis of the complex policy issues involved in land reform also represents a gap in the literature.

Populism in land reform

Analysts agree that the ANC government's approach to policy underwent "profound changes" during the first 20 years (Hall & Kepe, 2017, p. 2). For example, in the late 1990s, the 1997 White Paper's focus on small-farm, pro-poor policies changed to an emphasis on supporting an emergent class of black commercial farmers. Critics argued that the change of direction ignored earlier commitments to supporting smallholders and allowed the white, large-scale commercial farmers to continue to dominate the countryside economy in conjunction with elite black interests (Aliber & Cousins, 2013; Brooks, 2004; Cousins, 2016b; Hall & Williams, 2000; Hay, 2015; Hebinck, 2013; Weinberg, 2015).

As we saw in the section on competing theoretical perspectives and ideologies above, many of the ideologies and theoretical positions on land reform were based primarily on understanding land as a material resource. While their approaches differ in many respects, the neo-classical view (both broad and narrow), the new institutional

approach, modernising (neo-)Marxist theories, and, to some extent, the sustainable livelihoods framework agree that a central purpose of land reform should be to ensure some form of material benefit to the dispossessed. Arguably, these positions all shared a view that social equity essentially meant addressing the patterns of skewed land ownership that had resulted from discriminatory legislation after 1913 and aimed at correcting them in the interests of the current material well-being of beneficiaries. As we saw, though, other positions argued that land reform on this pattern did not fully address historic land dispossession and did not address the non-material, symbolic values of land.

Versions of this view were present in land reform positions from the onset in the early 1990s and, to some extent, recognised as such even by authors of different and competing theoretical positions (Christopher, 1995; Hall & Williams, 2000; Hendricks, 1995; James, 2000; J. F. Kirsten & Van Zyl, 1999; Letsoalo, 1996; Malebe, 1997). Toward the end of 1999, just over five years after the 1994 elections, the Mbeki government admitted that the problems of land reform might not only be due to poor implementation or budgetary constraints but might be due to the (market-oriented) design of policy (Hall & Cliffe, 2009, p. 7). From about 2005 critics were beginning to question the material resource approach as this was expressed in the government's market-oriented approach to land reform (Atuahene, 2011). Some critics argued that white ownership of land constituted "historic land theft" (Mngxitama, 2004, p. 58). Increasingly, the view that white ownership of property in South Africa was illegitimate became essential in "radical" arguments, sketched as the assertion of a justified majority over a resistant minority (Ntsebeza, 2007, p. 127).

The views outlined here aligned closely with a growing insistence that land reform should embody more than a material conception of land. As we have seen, some authors articulated such an approach early on, but a process by which the implications of this were infolded in various land reform writings is evident in the literature. Letsoalo, for example, wrote that the "former victims" of apartheid could not justifiably be compensated if they had to pay for the land of which they had been dispossessed (Letsoalo, 1996). In 2000, James sketched a complex picture of the value of land to beneficiaries, including liberal/universalist notions of human rights overlapping with "primordialist ideologies of ethnicity and tribe", as well as biblical, nationalist and traditional motifs relating to ancestor veneration (James, 2000). In 2005, Walker wrote that beneficiaries perceived

land reform as a material restoration project as a failure to "make amends for the insults to human dignity" inherent in collective dispossession (Walker, 2005b, p. 806). By 2019, Vorster could summarise the growth of the symbolic resource perspective as including the views that in addition to being a commodity, land was a "social space, cultural artefact, and divine inheritance" (Vorster, 2019, p. 1).

As was noted in the section above on stakeholders' ideologies and theoretical perspectives, several positions that differed otherwise were described as adopting a "populist" perspective. As Lahiff defined it, populism in land reform was "mainly concerned with putting assets (including state resources) directly into the hands of the poor for purposes of poverty alleviation" (Lahiff, 2008b). Cousins & Scoones agree in seeing populism in land reform as involving "[peasants] as both beneficiaries and as agents of change" (Cousins & Scoones, 2010, p. 13) and as an emphasis on the transformation of "exploitative agrarian structures (Cousins & Scoones, 2010, p. 26). The meaning both articles provide for "populism" in the context of land reform is fairly specific and related to the idea that it involves a "radical" expression of peasant interests.

However, as Cousins & Scoones point out, the term "populism" also took on a broader connotation in public debates about land reform, in which stakeholders with the livelihoods perspectives, agrarian populism and Marxism increasingly used "heavy doses of populist and nationalist rhetoric" invoking the need for radical change as against the "more technical positions" associated with neo-classical and new institutional economics that emphasised pragmatic adjustments (Cousins & Scoones, 2010, p. 16). It might be noted that in the broad context of political analysis, "populism" is regarded as an "essentially contested concept" which may commit the user to "endless disputes about [its] proper use" (Mudde, 2017, p. 27).

For our purposes, it may be noted that the term is used in the context of land reform to refer to the need to address long-term historical injustices in the structure of land ownership (Mkodzongi & Brandt, 2018, p. 6). In this sense, some "populist" positions on land reform have also tended to invoke rights to land in terms of such notions as an attachment to the places where ancestors are buried or to land as original or prior possession of territory, and thus, ultimately, to a sense of indigeneity as the prior rights of "first comer" (Koot et al., 2019, pp. 350–351). More generally, often in the context of

highly emotive debates, the term is also clearly used to express rights of belonging in the context of "political strategies, conscious and unconscious, through which access to various rights and resources are sought and contested" (Koot et al, 2019, p. 346.).

Populism and belonging

As we saw earlier in this chapter, various stakeholders took part in debates about land reform policy after 1994. In general, these contributions focus on understanding land reform as essentially a matter of **"**the redistribution of property rights in agricultural land" (Bernstein, 2007, 27). This means that the reviewed literatures rely on notions of land possession and property ownership that remain undefined and unexplored in any detail. In particular, the discussions in the reviewed literature rely on various implicit concepts of belonging that are associated with property ownership. In English, "belong" may have the sense of something's being the property of someone or of something's being a member of some or other group (Oxford Dictionary of English).

As noted in the above characterisation of the stakeholders' positions, analysis of land reform in terms of the notion of belonging has primarily been associated with "populist" ideologies and positions that emphasise a fundamental link between collective membership and land ownership that was largely side-lined in the early phase of land reform. Populist invocations of belonging were a prominent part of changes in the ruling party's views on land coinciding with the rise of Jacob Zuma to power after 2008, who was expected to exploit the land question as a "consummate populist" (Gibson, 2009, p. 137).

More latterly, they were evident in the stance of the Economic Freedom Fighters, a splinter-party of the ANC formed in 2012, and based on the premise that the ruling party had become distant from "the people" (Roux, 2020, pp. 108–112). The EFF platform included "nationalisation, EWC [of land] and its identification with the black radical tradition". In the views of many, its challenges to its legitimacy either forced or enabled the ANC to adopt the language of the black radical tradition and, in the process, more populist positions on a range of issues, including land (see Mafora, 2022, p. 5).

Most notably, for this dissertation, that radical tradition has attributed white land ownership to the "colonial theft" perpetrated by white settlers. This compound notion effectively reframes the citizenship bargain that was a major, though largely unspoken assumption of the 1994 constitutional settlement. In particular, it reframes the reconciliation version of land reform, namely that the property rights of white people were to be regarded as those of constitutionally protected citizens. Emphasising their non-indigeneity entails that their possession of land is illegitimate because it is based on *foreign* violent dispossession of land. Thus, implicitly, the reframing introduces the view that land reform is not about who any land belongs to but rather about who belongs to the land.

The view that these two senses were connected was implicit in various early pro-poor, "populist" contributions (Hendricks, 1995; Letsoalo, 1996) and more explicit in various forms in contributions that followed widespread debate about the failure of the government's first market-oriented land reform programmes (Atuahene, 2007, 2011, 2014; Ntsebeza, 2007). In general, "precursor" notions of belonging as identity emerged in the literature in terms of the distinction between the material and non-material or symbolic significance of land, where the "symbolic" aspect was often linked with notions of identity (Aliber et al., 2006; Christopher, 1995; Gibson, 2008; James, 2000; Jara & Hall, 2009; Lahiff, 2008b; Malebe, 1997; Mngxitama, 2004; Rugege, 2004; Walker, 2005b). In 2013, Hebinck outlined precursor notions of the two senses of belonging in terms of the "tangible and non-tangible assets" of land (Hebinck, 2013, p. 15).

Detailed academic analysis of land reform in terms of the sense of belonging as membership emerged in connection with efforts to understand the emotive nature of land reform debates. Koot et al. explore the implications of this in terms of the positions of the San and white people in South Africa but do not extend their analysis further (Koot et al., 2019). In two major recent interventions, du Toit uses the concept to understand highly emotive academic and public debates around proposals to introduce EWC (Du Toit, 2018, 2019). In his view, "land functions as a central concept in a critique of South Africa's non-racial postcolonial constitutional dispensation, and allows for the indirect articulation of otherwise occluded and politically repressed questions about national and postcolonial identity" (Du Toit, 2019, p. 23). However, his analysis applies to a late phase of debates about land reform. So far as could be determined, there is no extended discussion in the

literature of how the two concepts of belonging mentioned above may have been deployed implicitly or explicitly in different phases of the land reform issue or their role in shaping the landscape of land reform.

The 2018 parliamentary inquiry

In 2018, the ANC government instituted a parliamentary inquiry into the desirability of EWC after a series of protracted and highly emotive debates about land reform had polarised the country. As has been suggested in the previous section, the emotive nature of the debates reflected strong indications that the underlying issue involved questions of belonging for which EWC was a "political shorthand" (Du Toit, 2018). The underlying problem that the inquiry was supposed to address, then, concerned deep notions of the rights of belonging as opposed to those of acquiring property. Given that the real issue was so fundamental, then it is essential to question whether the inquiry that was ostensibly held to resolve it was properly conducted, that is, whether it was credible as an inquiry.

The land reform debates preceding the inquiry had become highly acrimonious at times (Vorster, 2019, p. 2), characterised by "little commitment to open debate among groups with opposing views", and freighted with much emotion … [and] little clarity as to purpose" (Cousins, 2015, p. 16). Opponents of EWC were accused of not wanting land reform, while proponents were charged with ignoring the real causes of the slow pace of land reform, namely, the ANC government's performance in formulating effective policies and implementing them.

In February 2018, Parliament tasked the JCRC with an inquiry to establish the public's views on "the necessity of, and mechanisms for expropriating land without compensation" (Joint Constitutional Review Committee, 2018, pp. 4–5). According to the JCRC's final report, the inquiry was "mandated" by sections 59(1)(a) and 72(1)(a) of the Constitution and conducted according to the processes set out in the Joint Rules of Parliament. "Public participation was key to eliciting the views of the public" on EWC (Joint Constitutional Review Committee, 2018, p. 5). The committee sought public opinion through public hearings, written submissions, and oral submissions.

A methodology for the inquiry was established, in terms of which participants were asked to respond to a two-part question: (1) to answer "yes" or "no" on whether to amend the Constitution and (2) to explain their views on the issue briefly. Participation would be enabled through public hearings, written submissions, and oral submissions. The JCRC published its report in November 2018, concluding that the participants in the public hearings had expressed "overwhelming support" for amendment (Joint Constitutional Review Committee, 2018, p. 34) and that this was sufficient to establish that the public supported an amendment to section 25 of the Constitution to allow for EWC explicitly (Hoops, 2019, p. 263).

A range of critical responses followed the publication of the JCRC's report. In sum, the range of expert or lobby group objections to EWC strongly suggested that the inquiry had effectively ignored the complexity of land reform as a policy problem. Most commentators provide substantive arguments identifying other societal factors that a land reform policy must consider. Other critics focused on issues of constitutionality and fairness. A more limited range of objections to the parliamentary inquiry and its results were methodological.

Committee members of opposition parties claimed that the report had ignored evidence and mismanaged the public hearings (ANA staff, 2018), as well as that the inquiry processes were "flawed and manipulated" (Besent, 2018). Some analysts also raised methodological questions regarding the JCRC inquiry and report. Various commentators argued, in particular, that aspects of the inquiry's processing of the submissions brought its conclusion into question (Corrigan, 2018; Jeffery, 2018).

The ANC claimed, in response, that the process was fair and transparent and would pass "constitutional muster" (Besent, 2018). A legal challenge to the inquiry's process in court (Gerber, 2018) questioned its approach to the written submissions and, therefore, its "legality", but the challenge was dismissed (Reuters Staff, 2018). The judgment hinged on broader constitutional questions regarding, firstly, the general scope of judicial review as regards the accountability of "substantive" political decisions and processes and, secondly, its scope about matters of parliamentary functioning, including the assembly's

rules and the extent to which they can be subject to questions of legality and judicial review.

Issues of constitutionality and fairness have been the focus of an extensive general research and commentary literature (Bilchitz et al., 2016; Cachalia, 2018; Corder, n.d.; W. Gumede, 2016; Hoffman, 2018; Klug, 2016; Kotzé, 2021; Labuschagne, 2013; Mhango, 2014; Modiri, 2018; Mukherjee & Tuovinen, 2020; Okpaluba, 2018; Sachs & Astrow, 1989; Swanepoel, 2016), as well as literature connecting constitutional questions with land reform (Andrews, 2017; Christians, 2021; Cousins, 2006; Klug, 2018; Mamdani, 2019; Sihlobo, 2022a, 2022b; Vorster, 2019). The ANC's response to claims of improper procedure invites further investigation as a constitutionally mandated inquiry procedure.

As van der Westhuizen shows, the role of parliamentary committees in carrying out inquiries has been questioned for decades. Committees generally "privilege[e] the wishes of party bosses over the needs and interests of citizens" (Van Der Westhuizen, 2014, p. 6) or exercise "executive dominance over the territory of the legislatures" (Waterhouse, 2015, p. 173). Waterhouse observes that the committees' role in challenging the executive and Parliament is not unremittingly "dismal": much has depended on the individual representatives and their relationships. Nevertheless, in her view, their structure limits the actual functioning of these "engine rooms of Parliament" (Parliament of the Republic of South Africa, 2011, p. 18) is limited by their structure. Firstly, as she argues, effective one-party dominance in Parliament allows the ruling party to engage public participation in a limited and ritualistic way. And secondly, as she suggests, this is enabled by the "absence of any rules or standards regarding how [public] submissions should be considered" (Waterhouse, 2015, p. 67).

As long ago as 2004, Habib and Herzenberg argued that no "uniform rules apply to the weight attached to or the treatment of submissions" to parliamentary committees (cited by February, 2006b, p. 136). According to February, the applicable rules do not specify a systematic process for reviewing submissions or a "valid or reasonable" process for drawing conclusions from them (February, 2006b, p. 136). Moreover, it appears that the constitutional mandate for these procedures assumes that they provide for accountable processes of inquiry, where "accountability" is understood in terms of the foundational

constitutional values of responsiveness and openness. However, the Constitution does not give any definition of accountability. While responsiveness and openness are recognised as "stand-alone values", they are, strictly speaking, "offshoots of the all-embracing concept of accountability" (Okpaluba, 2018, pp. 12–13). The question arises, then, regarding the independent validity of these claims to accountability.

No research was identified in the literature that aimed to evaluate the ANC government's claim that the results of the inquiry were "fair" and "transparent" and that it would otherwise "pass constitutional muster" – a phrase strongly implying that it would satisfy the constitutional requirements of accountability, responsiveness and openness. This raises a three-part research question: (a) what constitutional rules governed the inquiry; (b) to what extent were they satisfactory as rules of responsive and accountable inquiry, and (c) if they were not satisfactory as responsive and accountable, how credibly did the inquiry reflect the public's views on the issue?

Conclusion

This chapter has established that land reform is widely regarded as a complex issue, both as an analytic challenge and a policy challenge. In outline, this review of relevant literatures on land reform reveals various gaps in the literature. Firstly, there is a need to theorise the complexity of land reform. Secondly, there is a need to theorise "framing" as it applies to policy formulation. Thirdly, there is a need to review the extent to which the notion of belonging has been implicit in land reform policy debates and, therefore, the extent to which it contributed to the emotive issues of land reform debates, thus apparently requiring resolution in the form of a parliamentary inquiry. Fourthly, there is a need for an independent model of accountability to evaluate the credibility of the 2018 parliamentary inquiry, which was intended to resolve those emotive issues.

These gaps in the literature in response to the research questions invite investigation that can potentially add to our understanding of the problems of land reform in South Africa as an analytical challenge. Conclusions regarding their applicability to addressing the policy challenges involved in land reform will be provided in the conclusion. Appropriate methodologies to address these issues are set out in the following chapter.

Chapter 3: Methodology

Introduction

This dissertation's main question is: How can a focused theoretical approach to complexity contribute to a better understanding of some central features of the three periods of land reform and their relationship with the 2018 parliamentary inquiry? This question was broken down into three sub-questions. The first addressed the issue of complexity and the framing of policy decisions in the first phase of land reform, the second the problem of complexity and the framing of policy decisions in the second and third periods of land reform, while the third was concerned with understanding the credibility of the 2018 inquiry in relation to the complexity of land reform as a policy problem.

This chapter reviews theoretical work relevant to the questions outlined so far. It proposes, firstly, the wicked problem framework as a widely recognised theoretical approach to understanding complexity. Framing theory provides a complementary theoretical framework for understanding policy options and proposals in the complex, wicked problem context. The emergence of forms of populism in the second and third periods and their association with radical revisions of views of rights to land ownership based on belonging requires a conceptual background for understanding belonging. Finally, the chapter proposes an account of public opinion research methodologies and an accountability model as theoretical and methodological frames for understanding the credibility of the 2018 parliamentary inquiry.

Social sciences, grand theory, and focused theory frames

This section and the following briefly set out a rationale for combining the four theoretical approaches identified as appropriate to address the research questions. This section outlines an understanding of the level of theory to be expected from the selected theoretical approaches in terms of the essential elements of social scientific theory and,

therefore, provides an account of the criteria by which their use in description and explanation can be evaluated.

Theories are central to both the natural and the social sciences. In outline, a theory aims to explain a natural or social phenomenon. A theory is "a set of systematically interrelated constructs and propositions intended to explain and predict a phenomenon or behaviour of interest, within certain boundary conditions and assumptions" (Bhattacherjee, 2012, p. 26). Constructs are the concepts that identify critical elements of the phenomenon, while propositions posit relationships between the concepts in a logical, systematic, and coherent way (Bhattacherjee, 2012, p. 25).

Social scientific theories generally also clearly establish the circumstances in which the posited relationships between the concepts will not work or the boundary conditions (Bhattacherjee, 2012, p. 26). They can also exhibit significant differences in scale and scope. "Broad theoretical orientations and grand designs of analysis" are known in the social sciences, as in the work of Marx, Durkheim and Weber in the 19th century of Parsons, Habermas, and Foucault in the 20th century, according to Rueschemeyer (2009, p. 3). However, as Rueschemeyer argues, "focused theory frames", though not full-fledged theories, "represent the strongest advances in the social sciences over the last 150 years" (2009, p. 2).

Theory frames, in his account, identify "the kinds of causal conditions and process patterns" relevant to their areas of interest, "offer concepts that correspond to these identifications", and "give reasons for the choices made" (Rueschemeyer, 2009, p. 1). They seldom "contain or logically entail a body of testable hypotheses" (Rueschemeyer, 2009, p. 1) in the narrow sense of "testable" and "hypothesis" entailed by (post-)positivist epistemologies. Their primary usefulness is in forming concepts and generating insights or empirical propositions, among other uses (Rueschemeyer, 2009, pp. 2-3).

Policy studies offer a range of theoretical frameworks of this kind, including new institutionalism, rational choice, multiple streams theory, punctuated equilibrium theory, advocacy coalition network theory, policy transfer theory, as well as research focusing on the influence of socio-economic factors, policy networks, and power and ideas (Cairney, 2013, p. 6). None aspires to the over-arching explanation of the social phenomena of

Parsons' “grand theory of structural functionalism”. Each might be described as a focused theory frame in Rueschemeyer's sense.

This dissertation proposes that the use of multiple theories has at least two advantages: firstly, different theories “may have comparative advantages in different settings,” and secondly, the use of various approaches requires some explicit awareness of the assumptions involved and hence an explicit account of them (see Cairney, 2013, p. 9). These points suggest that the approach is appropriate for the complex realities of the policy arena. However, the intentional use of multiple theories requires understanding how or in what way they can be combined.

The proposed theoretical approaches

This dissertation assumes that the study of land reform issues as policy problems, as reviewed in the literature in Chapter 2, takes place in the broader context of policy studies. As Dubois points out, “uncountably many” policy definitions have been provided (Dubois, 2018, p. 31). This could make the choice of a perspective dependent on a lengthy definitional debate.

This dissertation adopts Anderson's definition: a policy is “a relatively stable, purposive course of action followed by an actor or set of actors in dealing with a problem or matter of concern” (Anderson, 2003, p. 2)**.** This definition assumes that policy is “developed by government bodies and officials” but also that it is an intentional approach to addressing a problem that occurs in a context in which government must respond to the demands of other actors, including “private citizens, group representatives, or legislators and other public officials” (Anderson, 2003, pp 2-3). These groups of other actors are understood to be the stakeholders previously identified in the context of land reform.

The theoretical work that was identified as relevant to addressing the research questions of this dissertation is:

(1) An explication and application of the “wicked problem” framework developed by Rittel and Webber to conceptualise complex, intractable policy problems to the government's approach to land reform policy. Central texts consulted are “Systems analysis of the 'first and second generations'“ (H. Rittel, 1972) and “Dilemmas in a general theory of planning” (H. W. J. Rittel & Webber, 1973) as well as selected texts from the extensive secondary literature.

(2) The approach to framing analysis developed by Rein and Schön that addresses how policy actors, including governments, represent policy problems and thereby delimit possible policy solutions to them. Central texts for this purpose are *Frame Reflection: Toward the Resolution of Intractable Policy Controversies* (1994) (D. Schön & Rein, 1994) and “Frame-critical policy analysis and frame- reflective policy practice” (Rein & Schön, 1996) as well as other primary texts by these authors and their collaborators and selected texts from the extensive secondary literature;

(3) Public opinion research methodologies are relevant to critically understanding the 2018 parliamentary inquiry's procedures. Works consulted include two textbooks on social science research methodology, Bhattacharjee's *Social Science Research: Principles, Methods, and Practices* (2012), Babbie & Mouton's *The Practice of Social Research* (2001), and Creswell's *Qualitative Inquiry & Research Design (*2007), as well as selected articles on the methodology of survey research (Fowler Jr., 1992; Schuman, 1986; Story & Tait, 2019).

(4) An accountability model for parliamentary inquiries in a constitutional democracy like South Africa. The theoretical framework proposed is the accountability model developed by Mark Bovens as a report for the European Parliament (Bovens, 2006). It sets out “an analytic framework for the empirical study of accountability” (Bovens, 2006, p. 5).

In addition, it was observed that the change of direction in land reform policy noticeable during the second and third periods involved a “populist” revision of the underlying assumption of legitimate ownership in land reform debates. In reviewing the change of direction, it was observed that it involved implicit and explicit claims about the relevance of belonging to the question of land ownership. Accordingly, it was determined

that an analysis of this emergent theme would require a clear conceptualisation of belonging.

Therefore, the research uses four different theoretical frameworks from the broad field of policy studies. This can be understood as a multi-theoretical approach. The following sections outline each of the theoretical approaches adopted by this dissertation. To prepare the way, some relevant meta-theoretical conceptualisations are first outlined. These concern the definition of theory, the background assumptions that inform theory, the types and uses of theory, and some basic rules for combining theories in a multi-theoretical research design.

The "wicked problem" framework

The previous chapter explored different accounts in the literature of the complexity of the issues involved in land reform. It showed that little attempt has been made to theorise underlying conditions that might help to explain that complexity as a phenomenon in its own right. Consequently, the literature needs a conceptualisation of the complexity of the land reform situation that can contribute to understanding the role of official policy in addressing the multi-dimensional, dynamic realities of the agricultural context.

The wicked problem framework developed by Rittel and Webber is widely regarded as a practical approach to conceptualising policy problems (Head, 2022, p. 22). It originates from their claim that many of the policy issues faced by modern societies were resistant to rational planning. In their view, the policy and planning disciplines shared a general belief with other professional fields in the assumptions and methods of modern science as "instruments of perfectibility" (H. W. J. Rittel & Webber, 1973, p. 158). However, the kinds of policy issues they increasingly faced were "inherently different" from the problems that science dealt with (Rittel & Webber, 1973, p. 160). Industrial society was increasingly characterised by fragmentation into many minority groups with different "interests, common value systems, and shared stylistic preferences", as well as massive increases in the volume of information available and technological developments which facilitated their availability (Rittel & Webber, 1973, p. 167).

Given these factors, the policy and planning disciplines increasingly faced "stubborn" policy problems in society that resisted rational solutions. More than ever, policy issues were surrounded by different social groups' conflicting values, interests and preferences, making the case difficult to define and understand. At the same time, attempts at solutions were less consensual. Whereas problems in the sciences were clearly definable and might have findable solutions and were therefore "tame", the social issues of the complex kind they observed were ill-defined and could not have clear solutions. Such matters were "wicked" not because they were in themselves "inherently deplorable" but in the sense that they were "vicious", "tricky", and "aggressive" (Rittel & Webber, 1973, p. 160).

Rittel and Webber developed a set of criteria for identifying "stubborn" or "intractable" policy problems. Their framework sets out a detailed characterisation of ten objective characteristics of wicked problems, which they set out in essentially epistemological terms as identifying factors that make it difficult for actors to understand and address the problematic features of reality in a policy context. According to their approach, a central feature of wicked problems is that they involve a range of stakeholders with different and sometimes opposing views of the problem at hand. Stakeholders might disagree on a definitive formulation of the problem – "what the problem is". Without that, different stakeholders might view very different approaches to addressing the policy situation as "solutions". No solution, then, can be true or false, and stakeholders might not even agree on what might count as a rational test for a solution or a set of criteria that can help to establish whether "the problem" has been "solved" (Rittel & Webber, 1973, pp. 161-166)[2].

[2] From their analysis of the characteristics of wicked problems, Rittel & Webber draw the conclusion that "the planner cannot be wrong" (Rittel & Webber, 1973, pp. 166). Why? Perhaps this formulation is intended to reflect the high expectations of conflicting stakeholders in a highly fraught policy context. However, in many circumstances, the challenge that policy decision-makers and planners do in fact face is that they cannot satisfy everyone, that is, that they cannot be right. This is essentially the same as saying that there can be no "right" or "wrong" solution, rendering tenth characteristic is redundant.

It is worth noting that commentators have questioned the rigid distinction between tame and wicked problems upon which the framework rests, critically examined the usefulness of the list of ten features, and suggested additional characteristics of "super wicked' problems (Niskanen et al., 2021, p. 3). Various analysts have also carried out detailed work evaluating the appropriateness of the ten wicked problem characteristics identified by Rittel & Webber to a range of policy problems that appear to be even more intractable or resistant to resolution than "traditional" or "standard" wicked problems. These additional characteristics of highly complex policy problems are taken to identify so-called "super wicked" problems (Daviter, 2018; Lazarus, 2009; Peters, 2017).

For this dissertation, a focused list of the wicked problem characteristics is adopted according to which they have (a) many stakeholders, (b) complex origins in the broader social environment, (c) are constantly changing, and (d) have no independent evaluative standards. Moreover, Levin et al., for example, particularly challenging policy situations may involve some additional factors, namely that (e) there is some pressure of time to find a solution, while (f) no central authority exists that can control or decide between choices, and (g) the same stakeholders that were involved in creating the problem are also seeking to end it (Levin et al., 2007, pp. 8–9). The latter are adopted here because the conceptualisation makes it possible to factor in the impact of policy actors' decisions over time in wicked problem contexts. This factor suggests that some issues in wicked problems may be latent or absent from conscious attention in a policy debate.

Rittel & Webber suggested that wicked policy problems were subject to "ill-definition" because their complexity made it impossible to identify them. Whether decision-makers recognised them explicitly as highly complex or not, they would only be able to "resolve" them by using elusive political judgment proposed that decision-makers may attempt to "tame" complex, "wicked" contexts either by "carving off" a piece of it that can be dealt with in the traditional problem-solving way (leaving the unresolved, "wicked" elements to be addressed by someone else) or by generating an atmosphere of good feeling of consensus that gives the impression that the wicked problem has been "solved" (Churchman, 1967, p. B-141).

In a later development, Noble & Rittel provided an approach to systematically analysing the stakeholder positions involved in a wicked policy problem called Issue-Based Information Systems (IBIS).(Noble & Rittel, 1989, pp. 275–280) (Noble & Rittel, 1989, 275). In outline, this approach encouraged the analysis of the many stakeholder views involved in a wicked problem in terms of the "issues" or themes which they address, the "positions" that they adopt about those issues, the "arguments" used to support of them, and their "linguistic" (logical) relationships (Noble & Rittel, 1989, 275). Used systematically, it would require policy "designers" to identify a wide range of potential stakeholders and their positions. Its completeness could potentially reveal unnoticed views and make the policy debate process more transparent (Noble & Rittel, 1989, 275).

In outline, the wicked problem framework provides an analytic tool to identify the argumentative characteristics of complex policy problems. Yet, arguably, neither Rittel & Webber's wicked problem framework nor a systematic IBIS analysis provides insight into how the complexity of wicked problems is evaluated or how this is achieved by "political judgment". The following section briefly outlines a theory of policy framing that fills this gap.

Frame theory

In the previous section, we saw that the wicked problem framework identifies intractable or unresolvable policy issues as a significant challenge in contemporary policy decision-making. In the face of unresolvable complexity, decision-makers may adopt various strategies, including further consultation, simplification, denial, and "carving off" a part of the problem that can be addressed. However, these approaches may result in other issues contributing to the problem's continuing complexity. For this dissertation, one of these approaches, simplification, is presented in terms of the framing theory developed by Rein & Schön.

Moreover, as was noted in the literature review, several analysts use notions of "frame" or "framing" in the context of analyses of land reform, showing the relevance of such a conceptualisation to understanding the problems of land reform. For this

dissertation, Rein & Schön's account of how policy actors was used to address the question of how policy actors in complex, possibly wicked policy contexts may focus attention on the elements of the complexity that they consider relevant to tell a compelling story. In public policy studies, frame analysis has an "established history" built mainly on Rein & Schön's work (van Hulst & Yanow, 2016, p. 94).

According to Rein & Schön, the increasing complexity of modern societies is resulting in "intractable policy controversies" that are "all too familiar to readers of the daily newspapers and watchers of the evening television news" (Schön and Rein, 1994, p. xi). Examples are "crime, welfare, abortion, drugs, mass unemployment, the Third World, the conservation of energy, economic uncertainties, environmental destruction and resource depletion, and the threat of nuclear war" (Schön & Rein, 1994, p. 4). The intractability of such problems, they argue, can lead either to "stalemated policy" or to "pendulum swings" in policy and thus either stasis or instability in policy development (D. Schön & Rein, 1994, p. 9). Because such policy problems "are always richer and more complex than can be grasped through any particular story," policy controversies "are inherently subject to "multiperspectival accounts" (Rein & Schön, 1991, p. 265).

Frame theory provides a theory of how participants in such controversies arrive at or represent their positions. Unlike the wicked problem framework, frame theory sees the evaluation of the issues involved in a wicked policy problem not as a rational, deliberative process that looks in detail at the competing stakeholder positions but rather as a contentious, selective process of identifying the issues involved that explicitly or implicitly excludes other positions from consideration. In the context of public policy studies, frame analysis "focuses on the process of problem definition" and helps to describe how policy actors attempt to define policy problems to "solve problems" where policy problematisation is subject to conflict and negotiation, the "rhetoric, or persuasive language" become a crucial feature of interest (Mah et al., 2014, p. 2).

As Boräng et al. put it, framing proceeds from the broad intuition that meaning in rich, over-determined contexts is about "selecting and highlighting some features of reality while omitting others", which becomes particularly evident in contexts where it matters what is at stake (Boräng et al., 2014, p. 190). This sense of framing was initially described in the context of individual psychology and interpersonal communication in the

work of Bateson and Goffman (Vliegenthart & van Zoonen, 2011, p. 103). The insight has been applied in various academic domains and disciplines, including sociology, economics, psychology, cognitive linguistics, communication, political science, sociology, and media studies (Borah, 2011, p. 246).

In Rein & Schön's view, a selective frame that addresses a policy issue embodies a narrative that comprises an issue terrain (naming), an implicit generative metaphor that selects features within it that are deemed relevant to the problem (framing), and an account of how these features contribute to identifying or solving the problem. They distinguish between "rhetorical frames", or "the espoused theory put forward by frame sponsors or critics in the realm of policy debate", and "action frames", which consist of "the pattern of actions undertaken by policy practitioners", supposedly in fulfilment of their rhetorical claims (Rein & Schön, 1996, p. 90).

Rhetorical frames may be "diagnostic/ prescriptive stories that tell, within a given issue terrain, what needs fixing and how it might be fixed occur in the context" (Rein & Schön, 1996, p. 89). They can generate narratives that centre on a "generative metaphor that links the identified problem to proposals for action" (Rein & Schön, 1991, p. 256). They occur in a context "of debate, persuasion, or justification" (Rein & Schön, 1996, p. 90), while action frames, by contrast, consist of the "patterns of action inherent in the practice of policy practitioners" (Rein & Schön, 1996, p. 91). Comparison of the two kinds of frames provides "an important analytic 'tool' for those seeking to understand, for instance, issues in the mismatch between administrators' implementation of legislated policies and policy intent" (van Hulst & Yanow, 2016, p. 92). That is, comparing a policy actor's rhetorical frame with their action frame can help to reveal the distance between their intentions and actions

A methodology for studying frames emerges from characterising their distinct kinds of content, which is "constructed" from different types of evidence in different contexts (Rein & Schön, 1996, p. 91). Evidence of the problem identifications and solutions implicit in rhetorical frames is contained in relevant sorts of text, including speeches, memoranda, and journalistic essays of the kind produced by politicians, policy advocates or critics, journalists, and policy analysts (Rein & Schön, 1996, p. 90). Evidence for the elements of the action frame is mainly derived from studying the actions of policy-

makers, and analysis can "construct" them by observing the "data of action" involved (Rein & Schön, 1996, p. 91).

Rein & Schön suggested various metaphors for understanding the role and structure of a rhetorical frame as a "scaffolding", a "boundary" like a picture frame, an abstract schema of interpretation, or a "diagnosis" (Rein and Schön, 1996, p. 88). This dissertation adopts the diagnostic metaphor in terms of which a policy problem is identified as a "condition" that needs "treatment". It also adopts an approach to analysing frames that combines the rhetorical frame and action frame in a single analytic tool as a "diagnostic" approach to framing.

According to this approach, a problem frame and its proposed solution may be understood as a "diagnostic" process involving (1) a "diagnosis" (this is the problem); (2) a causal interpretation (where the problem comes from); (3) an attribution of responsibility (the collective or individual actor that is held to responsible for the problem); (4) a moral evaluation (assignment of blame to a specific actor or actors); and, therefore, (5) a "prognosis" or suggested remedy (how to resolve the problem).(Barisione, 2012, p. 6). This dissertation adopts the diagnostic approach in three basic steps for precise analysis: diagnosis or problem identification, attribution of responsibility and blame, and "prognosis" or proposed treatment.

Complementarity of wicked problem theory and framing theory

The wicked problem framework and the proposed frame theory derive from a similar fundamental insight regarding the nature of many contemporary policy problems. Both begin by observing the complexity of modern policy processes. They believe complex policy situations involve stakeholders with competing and possibly conflictual perspectives. The lack of an independent, neutral, authoritative way of mediating them renders them intractable to rational, linear problem-solving. However, the wicked problem framework explains complexity in terms of the objective characteristics of complex situations that it identifies and that result from competing or antagonistic values, interests and preferences. The proposed framing theory explains complexity in the public

policy context as primarily a matter of the competing rhetorical representations of a policy situation that can occur in policy debate.

For this dissertation, the wicked problem framework and framing theory are applied to the research problem at hand in the following way: (1) use the wicked problem framework's key features to characterise the land reform policy problem as a particular policy situation; (2) use this characterisation to evaluate the extent to which land reform policy problem constitutes a wicked policy problem; (3) provide an analysis of the ANC/government's understanding of the land reform as an effective framing of it as policy problem; and (4) on that basis, provide an analysis of the extent to which policy actors' framings of the problem address the full complexity of the policy problem.

Populism and concepts of belonging

As we saw in Chapter 2, the view that land possession can be aligned with notions of rightful ownership was either implicit or directly present in early formulations of the "populist" ideological and theoretical positions on land reform. It was increasingly foregrounded by "populist" proponents as criticism grew around the government's failures in land reform. Arguably, the growing intensity of "populist" positions on land reform in public political debates in recent years has intertwined the notions of land ownership and belonging.

In the longer-term historical context, lingering perceptions of the influence of legal and quasi-juridical notions of belonging that were prevalent in the European colonial age, such as contentious claims to "empty land" or "unused land" (Hendlin, 2014), may underlie these conflicts (Boisen, 2017; de Beer, 2006). At the same time, though, South Africans in general, across all four groups, are largely ignorant of South African history (Gibson, 2009, p. 160), which might make it easy for the elites that drive South African politics to do so unchallenged, as Gibson observes (Gibson, 2009, p. 139).

In the view of Koot et al., the foregrounding of "populist" views in land reform debates has been based on growing perceptions of the land as a highly valued resource, combined with increasing articulations of claims to it in terms of belonging, where "to

belong is to have a sense of connection; it implies familiarity, comfort and ease, alongside feelings of inclusion, acceptance and safety" (Koot et al., 2019, p. 346). At this level, land as belonging invokes powerful individual senses of belonging, which in political or social contexts are often articulated as notions of home, community, ethnic identity, civic identity or nation (Koot et al., 2013, 347). These accounts of growing perceptions in land reform debates of land ownership as a matter of political and symbolic realities reflect the view that "land rights and property" are "not about things … but about relationships between and among persons with regard to things" (Lentz, 2007, p. 37). As Du Toit puts it, land reform in this period had become about "political belonging" (Du Toit, 2018).

However, the concept of belonging is notoriously broad. It has been a central term in various disciplines, including political science, gender studies, studies of religion, sociology, migration studies, social geography, psychology, philosophy and cultural studies (Halse, 2018, p. 2). Unless specified in the context of an explanatory framework, it can be "vaguely defined" and "under-theorised" (Halse, 2018, 3). Based on the work of Yuval-Davis, a significant figure in producing a comprehensive effort to study belonging, Antonsich proposes a two-fold analytic definition of belonging as "a personal, intimate, feeling of being 'at home'" and "a discursive resource" that is used to "claim, justify, or resist" attempts at inclusions or exclusion, broadly analogous to the difference between the sense of personal belonging somewhere and public membership of a collective (Antonsich, 2010, p. 645).

This two-part distinction usefully captures the distinction between personal/emotional and public/political attitudes to belonging implicit in the accounts of Koots et al. and Du Toit. Yet while the distinction emphasises "relationships between and among persons" in relation to things, it does not include an account of how the basic, possession sense of belonging relates to or is involved in some shaping or constituting those relationships. That is, it does not include an understanding of how the possession sense of belonging "implies … the right to occupy, use, profit from, sell and exclude others, and thereby structures the relationships between people in relation to those rights" (Nooitgedacht et al., 2022, p. 88).

Accordingly, Nooitgedacht et al. distinguish between three general "beliefs or principles" by which people claim and infer ownership of land or territory:

Authocthony: first possession (of objects) or first occupancy (of territories). Entitlements and rights derived from autochthony are often perceived as self-evident or even "natural";

Investment beliefs: past investment into a territory or contributing to the cultivation of the land. This can be used to infer and claim territory or to recognise another group as a rightful owner;

Formation: ownership claims based on the constitutive role of the land in forming the identity of the group. Land can be felt to be of primary importance in forming a collective identity (Nooitgedacht et al., 2022, pp. 89–98).

As Yuval-Davis points out, "belonging tends to be naturalised" (Yuval-Davis, 2006, p. 197), especially where it is threatened. A claim to belonging may be represented as "real" and unique and, therefore, an undeniable claim to priority. This conception has obvious relevance in South Africa, which does not have a single, shared definition of identity due to its "diversity of the people, languages, cultures, geographical features and historical perspectives" (Meiring, 2008). In the South African case, the strong affectivity noted of issues of land reform may involve mutually challenging claims to "real", unique belonging.

It is easy to assume that questions of belonging may be "especially prescient in settler societies" in which "racialised membership has always been in question, especially in terms of national identity formation" (Schein, 2009, 812). In this respect, the South African case is not unique. In Africa, the last few decades have seen "an explosion of fierce conflicts between people who claim to belong to an area" (Geschiere, 2018, p. 27). Countries as otherwise different as Cote d'Ivoire, Kenya, Uganda, Tanzania, Senegal, Zimbabwe, and South Africa have faced difficult choices between kinds of property regime, kinds of citizenship and kinds of political leadership that are perceived to be appropriate to them (Boone, 2007, p. 586).

Some of the dynamics of collective, ethnic or even racial hostility typically associated with the settler states in Africa are being replicated in cities or regions with large groups of immigrants, resulting in "discourses of autochthony" (Lentz, 2007, p. 43).

For analysis, this is a helpful reminder that apparent local specificities may mask commonalities with other situations.

Finally, as we have seen, a vital feature of the affective force of issues relating to land reform is rooted in elite competition for control over land not only as a material resource but as a symbolic resource or "identity sign" (Ehala, 2018, p. 100). As noted, the competition is between collective identities, as these are perceived to be defined by their respective relationships with land. Antagonists may, and do, emphasise their sense of an authentic relationship with the land and the exclusion of others' identity relationships as incompatible with theirs. Authenticity is a value that "guarantees the sameness of these identities" (Ehala, 2018, 105); inauthenticity is the absence of that value in members of a collective perceived as different or hostile. Inauthenticity of identity is an "identity sign" of not belonging in the three senses outlined above.

Survey research methodology

The literature review noted that the 2018 parliamentary inquiry used a range of inquiry methods to consult with the public that were derived from or intended to reflect the credibility of survey methods used in standard public opinion research. This aspect of the inquiry can usefully be assessed in terms of the criteria that apply to sound survey methodologies.

The public opinion survey is a standard tool of political science (Hale, 2011, p. 219). Descriptive surveys are helpful because they inform about "patterns in the wider society that transcend our immediate experience" (Rueschemeyer, 2009b, p. 5). Professionally conducted surveys can substantially impact political events such as elections (Mitchell, 2007, p. 369). Surveys to establish the levels of support or opposition to alternative policy solutions are familiar in political life, and the concepts and techniques involved are relatively well-developed (Mitchell, 2007, p. 374).

The basic requirements of a good survey are electing the appropriate survey to use in answering a question, developing a good question, establishing who should be surveyed, and the method used in analysing the results (Mitchell, 2007, p. 370). Well-

established methods exist for closed surveys (Mitchell, 2007, p. 372). Interpreting results from other types of surveys, such as those based on open and closed questions, requires some methodological justification. Finally, the ethics of how a survey is conducted are also important, including issues such as the public's ability to take part and the demeanour and conduct of survey officials.

In outline, this suggests the following methodology: (a) assessing the adequacy of the inquiry's formulation of its question; (b) assessing the appropriateness of the inquiry's approach to collating and interpreting the results of each of the three streams of consultation; and (c) assessing the appropriateness of the inquiry's approach to comparing the results of each of the three streams of consultation.

This methodology provides criteria for evaluating various aspects of a parliamentary inquiry, including the phrasing of the inquiry question, the processes by which the results of the open and closed questions are interpreted, and the criteria by which the results of methodologically different surveys are evaluated. Finally, it also provides criteria for evaluating the ethical aspects of an inquiry, such as the arrangements for equal participation and the protection of participants against intimidation.

The Bovens accountability model

Bovens' conceptual framework was developed to provide a conceptual framework for the empirical evaluation of accountability in political contexts in which democratically elected representatives represent citizens. The framework adopts a normative definition of accountability as “a relationship between an actor and a forum, in which the actor must explain and justify his or her conduct, the forum can pose questions and pass judgments, and the actor may face the consequences” (Bovens, 2006, p. 31).

While the definition of accountability is normative, the framework operationalises the concept in terms of a specific set of social relations that can be empirically studied (Bovens, 2006, p. 9). On this definition, the actor can be an individual — in the area of governance, an official or civil servant — or an organisation, such as a public institution or a government department. The accountability forum, meanwhile, can be a specific

person — a superior, a minister, or a journalist — or an agency such as parliament, a court, or an audit office. It can also be a "more virtual entity", such as the citizenry or general public (Bovens, 2006, p. 9). On this basis, the framework specifies three criteria for effective account-giving.

According to Bovens, the notion of accountability can apply either in an internal or an external context. Internal accountability concerns the "procedural or internal adequacy" of processes within a specific institution, such as a parliament (Bovens, 2006, p. 23). External accountability concerns the evaluation of the external effects of such processes. External accountability might involve establishing whether an accountability mechanism is functioning appropriately (Bovens, 2006, p. 23).

The framework provides a helpful checklist of the criteria for analysing "appropriate and proper" accountability. These amount to the minimum requirements of an accountability procedure. It also accounts for five types of locations or forums where accountability relationships can occur, each involving a specific application of the notion of accountability (Bovens, 2006, p. 16). For this thesis, these concepts and relationships provide an evaluative framework that can be applied to the functioning of the JCRC in its conduct of the inquiry into amending the Constitution. It is argued that the concept of internal accountability is relevant since the question at hand concerns an evaluation of the credibility of the JCRC inquiry's processes.

Theory frames and criteria of evaluation

As noted, the dissertation proposes the combination of four distinct theory frames in addressing the research questions: the "wicked policy" framework, framing theory, the standard methodology of public opinion inquiry, and an accountability model for parliamentary inquiries in a constitutional context.

The wicked problem framework and framing theory are complementary in understanding complex policy situations. Both are concerned with the same broad phenomenon: the complexity of the contemporary policy decision processes. They observe two similar characteristics in this phenomenon: the participation of stakeholders

with different and potentially conflictual views on the policy situation in which they are involved and a perception of the "stubbornness" or "intractability" that may be interested in attempting to balance disagreements between their perspectives. It is argued that the wicked problem framework and framing theory together provide a valuable account of the decision process that confronts the deciding authority in complex policy contexts.

A different question arises concerning the meta-theoretic alignment of these two theory frames and the theoretical apparatus implicit in survey research methodologies and also, partly at least, in the Bovens accountability model. The two theory frames can be characterised as qualitative in approach; though empirically oriented, they represent attempts to understand and explain aspects of the social world, and their mode of explanation is not statistical but conceptual.

By contrast, at least some survey research methodologies are quantitative. A survey aimed at establishing the proportions of the members of the public who are for or against a particular measure will be quantitative, for example. In other cases, the survey approach might be qualitative and include such features as answers to an open-ended question seeking people's reasons for their support or not of a proposed measure. (As will be shown, both approaches were used in the 2018 JCRC inquiry into EWC.) Moreover, while the Bovens accountability model is mainly qualitative, in some uses, it may allow a quantitative element through the allocation of scores to the analysis of the elements making up an institution's accountability processes. This approach might also allow for the quantitative comparison of the accountability of different institutions.

Formally speaking, the combination of theory frames outlined in his chapter involves quantitative and qualitative approaches. This might suggest that a research design that evaluated the process for its combination of quantitative and qualitative data types would be required, involving complex criteria for the "mixing" and "integrating" data (Creswell, 2009, pp. 203–226). However, the approach in this dissertation is meta-theoretical: the aim is to describe and apply frame-theoretical concepts and categories to each of the three objects of study – that is, the first and second phases of the long durée of the land reform debate since 1994, and on that basis, to develop criteria for better understanding their complex relationships.

Research Design

This dissertation adopted a mutli-theoretical model of analysis to provide an understanding of the complex realities of the land reform policy problem and of specific impacts of the ANC government's approach to addressing that complexity. In outline, the wicked problem framework was used to evaluate the initial complexity of the land reform policy. A related and complementary framing theory revealed conflicting conceptions of legitimate land ownership in the ANC government's understanding of land reform.

The impact of selecting one of those conceptions as the basis of the policy approach was traced in the growing critical opposition to it and the re-emergence of the rejected concept of legitimate land ownership as an increasingly forceful element in the ANC government's revised approach to land reform. The ANC's advocacy of the rejected concept was shown to have caused considerable social polarisation, which it attempted to resolve through a consultative public inquiry. A theory of the accountability of public inquiries as exercises of credible engagement with stakeholders and the broader public was used to evaluate the ANC government's approach to the inquiry.

Chapter 4: Land reform policy 1994 – 2000

Introduction

This chapter aims to address the question: How did the ANC's understanding of the complex problems of land reform in the first phase of land reform between 1994 and 2000 result in its adoption of the market approach, and why did the policy lead to a public debate on the changing the direction of land reform? The chapter proposes that the wicked problem framework and its associated theory of framing provide a helpful pair of theoretical lenses for understanding how land reform policy was formulated in a complex policy context.

The focus of the chapter is on understanding the range of stakeholder views involved in land reform between 1994 and 2000 and the extent to which it was possible for the ANC, as the incoming government, not only to take all these views into account but to satisfy them in its final formulation of land reform policy in the White Paper of 1997, which was based on reconciliation. The chapter develops this discussion by briefly reviewing the main challenges faced by the government's reconciliation-based land reform policy between 1994 and 2000 with a view to understanding the impact these would have on its attempts to reform land reform policy between 2000 and 2008, which are reviewed in the first part of the following chapter. The chapter concludes by arguing that these developments led to a new phase of the land reform debate from about 2008 that focused on an approach to land reform that was opposed to that of the first phase – expropriation without compensation.

A common thread running through many criticisms of the first phase of the ANC government's land reform policy was the view that it lacked a proper programme design, making the possibility of its practical implementation questionable (Hall, 1998, pp. 451–462). This chapter suggests, instead, that it is plausible that the failures of programme design and implementation to which the later failures of various land reform programmes were attributed may have had as much to do with how land reform was conceptualised as a policy problem. If so, this aspect of the failure would have been due as much to "problem setting" as to "problem-solving" (D. A. Schön, 1993, p. 138).

The ANC's position in the negotiations: general factors

In the early 1990s, the question of land ownership in South Africa was central to the negotiations to end apartheid, concluding with the election of the ANC as the first government of the democratic era. The ANC faced considerable challenges in taking up its role in the negotiations with the white minority government to end apartheid and establish a democratic dispensation. The ANC positioned itself as an organisation with the "single, perhaps singular, purpose of delivering democracy to the people of South Africa" (Macazoma, 1994, p. 244). Still, there was some ambiguity in this formulation. On the one hand, it was viewed as either the sole representative or at least as the leading representative of the country's black population. The expectations of black communities were high that the organisation would address the decades of discrimination and deprivation that they had faced. On the other hand, the ANC would also need to arrive at policies that were in some way in the country's general interest.

Land reform in the early 1990s: background and challenges

In general, according to Thompson, the tasks that confronted it were "awesome … the country was racked by the cumulative effects of colonialism, apartheid, and urbanisation [and] had one of the greatest gaps in the world between rich and poor" (Thompson, 2001, p. 324). Decades of discrimination had many negative impacts on the black majority. For example, in 1994, 24% of black adults had no schooling, 37% had been to primary school, 22% had some secondary education, and just 6% had any form of higher education (Thompson, 2001, p. 325).

Whites dominated professional and management skills, and in these and other ways the country's international competitiveness was skewed (Thompson, 2001, pp. 325-326). While the country had some advantages in its resources, infrastructure, and management abilities (albeit mainly present among whites), the economy was still recovering from a prolonged recession that had resulted from the white minority government's isolationist economic policies in response to international sanctions, which included protective tariffs and high wages about productivity.

The collapse of communism in Eastern Europe was a significant factor in making the negotiations possible. However, this somewhat unexpected development also impacted the ANC ideologically. The collapse of communism required the ANC to review its long-held aim to nationalise "the commanding heights of the economy" (Simpson, 2021, p. 556), including land, in favour of neo-liberal principles of deregulation, privatisation and trade liberalisation (Koot et al., 2019, p. 343). The ANC argued that it had always taken a "non-dogmatic approach" and that its economic policy "embraced both socialism as well as capitalism" (*African National Congress (ANC)*, 1991) and, therefore, that its adoption of a capitalist approach was not inimical to its fundamental principles. Others saw the ANC's adoption of "much of the neo-liberal logic of global capitalism" (K. Johnson, 2003, p. 322) as a compromise of the national democratic revolution (H. Bernstein, 1995, p. 21).

The organisation also faced complex issues of internal coherence and ideology. As a "once secret, illegal movement", it had been led by a "tight clique of about thirty-five people" since its banning in 1961, and its internal dynamics were both "intensely factional" and secretive (Ellis, 2013, p. 288). Another challenge was ideological: as a "broad church" organisation, the ANC included a range of ideologies. According to Nelson Mandela, it was "an amalgamation of people who agreed in hating apartheid but who had very different experiences" (Thompson, 2001, p. 250). Out of these factors, it would need to transform itself into "a mass political party with a broader and more democratic management" (Thompson, 2001, p. 251).

One significant outcome of the negotiations was the ANC's commitment to a macroeconomic policy that aimed at addressing these and many other disparities under the heading of reconciliation, with two primary goals: to create economic growth and improve the quality of life for the majority of citizens (Department of Land Affairs, 1997, p. 4). Sceptics questioned whether these goals could be simultaneously achieved. According to Thompson, for example, emphasising economic growth could pay for quality-of-life programmes that benefitted the large number of black people who had suffered disadvantages under apartheid, but emphasising quality of life would quickly exhaust state financial resources (Thompson, 2001, p. 278).

The challenge of reforming the massively skewed patterns of ownership and use of land that had resulted from racially discriminatory practices faced a similar dilemma. Justice in the form of large-scale land transfers would be needed, but some form of economic continuity in the agricultural sector would also be necessary, given its importance to GDP, employment, and food security, among other factors. The following section shows that the approach to land reform that emerged from the ANC's consultations with the complex array of interests in land closely mirrored its stated aim of balancing its macroeconomic objectives of economic growth and improving quality of life.

Land reform: negotiations and the ANC's evolving position

The ANC had not paid much attention to questions of land redistribution before the negotiations began (Cousins, 2015, p. 3). For most of the decades of its existence, its primary focus had been on achieving political rights and power; land featured in its formal statements and policies as a general concept that projected it mainly as a matter of "sovereignty and control over the economy as a whole", as Cousins puts it, rather than as a resource of food production or, for that matter, as a specific place to live (Cousins, 2016b).

The ANC's idealistic, Freedom Charter-inspired views on land had not prepared it for the complexity of the agricultural setting it faced (Anseeuw & Alden, 2011, p. 14). Questions of land ownership and the structure of agrarian society land involved a wide range of theoretical viewpoints, ideological positions and interests, and the extent of the potential contradictions and tensions between some of them only became apparent as the negotiations proceeded. As a result, even as the ANC assumed its role as the primary negotiating counterpart to the incumbent NP, the essential elements of its approach to land reform were constantly evolving.

Its statement accepting the possibility of negotiations to end apartheid, the Harare Declaration (1989) identified a need for a land reform programme (Anseeuw & Alden, 2011, p. 7). Its proposal for a legal framework for a future democratic dispensation, the Constitutional Guidelines (1989) recognised dispossessions of land as a subset of the

broader issue of discriminatory measures (*African National Congress (ANC)*, 1991). The Ready to Govern document explicitly connected the problems of land dispossession and widespread black poverty (*Ready to Govern: ANC Policy Guidelines for a Democratic South Africa*, 1992). The negotiations resulted in "wide agreement" that land dispossessions during the segregation and apartheid eras would be the central focus of land reform and that land reform would be significant to rural development (Cliffe, 2000, p. 276).

Some elements of a land reform policy were introduced early on, including the Restitution of Land Rights Act (1994), and continued to be introduced through various other pieces of legislation. In 1994, in its election manifesto (Hall & Cliffe, 2009, p. 1), the Reconstruction and Development Programme, the ANC affirmed land reform as "the central and driving force of a programme of rural development" (Aliber et al., 2006, p. 5). By the conclusion of the constitutional negotiations in 1994, the ANC had defined the issue terrain of land reform in terms of two broad themes: restoring land dispossessed after 1913 to black people and securing the tenure rights of communities, farmworkers, and labour tenants whose access to land had been severely limited by apartheid legislation (Cousins, 2015, p. 389). The overall aim of land reform would be to generate a process of "rural restructuring", as the World Bank put it (Options for Land Reform and Rural Restructuring in South Africa, 1993).

Land reform: the stakeholders

The range of stakeholder positions involved in consultative processes on land reform from the early 1990s included include white commercial landowners and farmers' unions (white landowners); (emergent) black commercial landowners and farmers' unions (black landowners); corporate capitalist interests and foreign investors (corporations and foreign investors); policy experts (academic researchers), state employees advisors and civil society researchers (advisors); political interests in the state, including the presidency, the cabinet, and government departments; provincial government and local government bodies (officials); "old white bureaucrats" and "new black bureaucrats" (officials); rural communities; groups of farm workers, often living on private farms (rural residents and some small farmers); small black farmers and local associations (some small farmers and local associations); traditional leaders (chiefs and

political groupings); organised civil society groupings and associated researchers (civil society researchers and intellectuals); and land NGOs and landless people (NGOs) (Capps, 2000; Cousins, 2021; Hall & Williams, 2000).

International organisations such as the World Bank and the International Monetary Fund also played a prominent role in shaping expectations. In the background were the governments of other countries, including the US, the UK, Zambia, and European Community countries, all of which expected a negotiated solution (Maharaj, 1989). The ANC and the NP depended more on international support than they might have liked (Anseeuw and Alden, 2011, p. 8).

Land reform as a wicked problem

An analytic approach to the wicked problem framework was outlined in the previous chapter. According to that outline, the interconnected dimensions of the framework can be used to characterise and identify the elements of policy problems that appear to be highly complex. In line with that approach, this chapter proposes to briefly assess the overall complexity of the land reform policy problem as it appeared when the issues and challenges were still being evaluated, lobbied on, and negotiated. The rest of the chapter focuses on analysing the relationships between the stakeholders in land reform in more detail.

As noted in the previous section, land reform in South Africa in the period around the negotiations to end apartheid involved a wide variety of stakeholders. With that, the land reform policy problem satisfies the first wicked criterion (a), many stakeholders. Their complex relationships with each other also reflected the second criterion, complex origins in the broader social environment. As Lahiff points out, their positions had undoubtedly been impacted by the reordering of "global politics and economics" during the early post-Cold War period, which resulted in "demands and proposals from across the ideological spectrum [that] competed with each other' (Lahiff, 2008b, p. 19). Their relationships were often indirect, with key issues left unaddressed, unresolved or "resolved in ways that suggested consensus where in fact deep divisions remained" (Lahiff, 2008b, p. 19). Most of these stakeholder groupings were implicated in the "complex and difficult legacy of "conquest and dispossession, of forced removals and a

racially-skewed distribution of land resources" that had been typical of South Africa's history (Department of Land Affairs, 1997, 4).

Moreover, as we have seen, within a few years, it was evident that the land reform landscape was constantly changing – criterion (c), "constant change". This was evident in the changes in the ANC's position during the late 1980s and even into the very early 1990s when it appeared that it might insist on some form of nationalisation and the market-oriented position it adopted when it took power in 1994. The end of the Cold War, which had made the negotiations possible, had itself been almost entirely unanticipated (Gaddis, 1992, p. 5); it was only to be expected, as it were, that any policy that aimed to intervene in a complex situation of interlocking and often conflictual interests might produce unanticipated outcomes.

The involvement of two other wicked problem criteria, "pressure of time" (criterion (e)), was evident at the time, given the tremendous pressure the negotiating parties were under to arrive at a settlement. It was also apparent that some of the stakeholders in the situation were also involved in the negotiations toward a "solution" (criterion (g)). These included the NP, the white commercial farmers, the interests of rural supply chains, as well as large business interests in private property.

The only criterion of wicked policy problems that the land reform situation in the early 1990s did not satisfy was the claim that they involved the absence of a central authority (criterion (f)). In Rittel & Webber's view, wicked policy problems could not be adequately solved by "entrusting de facto decision-making "to the wise and knowledgeable professional experts and politicians" (Rittel & Webber, 1973, 169). This was not "ethically tolerable", since it would mean allowing some to decide for others. Aside from this, it offers no resolution of the problem since no value-free, true-false solutions to wicked problems that satisfy all stakeholders and positions involved are available (Rittel & Webber, 1973, 169). As Head points out, the complex policy problems typical of contemporary societies arise partly because of the "cognitive and sociocultural differences" entailed by their pluralist composition (Head, 2019, p. 18).

Rittel & Webber's point may be relevant as an epistemological claim. However, as we have seen, policy typically means a "relatively stable, purposive course of action

followed by government" to deal with a perceived problem (Anderson, 2003, p. 2). In this sense, it cannot be assumed that government, at whatever level, can only be an equal partner in the *decision-making process* of any complex policy debate. As the incoming government, the ANC "could not be seen to promote sectional interests, despite the rhetoric of 'transformation'" to which it was nominally committed (Mngxitama, 2004, p. 57). But in that role, and in the absence of any "value-free, true-false solutions" it would need to rely on the quality of "elusive political judgment" to which Rittel & Webber refer.

The following section aims to demonstrate this by showing that a systematic approach to understanding the stakeholder positions involved in a wicked policy problem and their relationships would not be feasible, at least in a real-world decision-making context and assuming the absence of highly developed technological approaches to studying the situation based on the proposed IBIS system or variants.

A systematic stakeholder analysis

As outlined in Chapter 3, Noble and Rittel proposed a development of the wicked problem framework, the IBIS system, as a way to characterise and potentially evaluate the conceptual and social relationships between the ideological or theoretical positions in a complex policy problem. An IBIS-type approach aims to provide an ideal-case systematic analysis of the stakeholder positions involved in the complex policy problem of land reform.

The approach assumes that identifying positive connections can help define common ground on policy issues while identifying negative connections can help establish whether they are fundamental (contradiction) or amenable to compromise (disagreement). A practical, systematic approach to analysing these positions would summarise them in a table that shows their main elements in relation to each other and, therefore, provides an overview of their positive (agreement) and negative (disagreement of contradiction) interconnections.

Stakeholders

A systematic IBIS approach need not assume that the policy problem involved is "wicked" in the sense outlined by Rittel & Webber. In their analysis, a policy problem is "wicked" if it is characterised by a range of features that may result from the complex relationships between the stakeholders involved. Nevertheless, the IBIS approach may be helpful as a lens through which to view the ideological or theoretical positions involved in a policy problem and, on that basis, for evaluating whether it is a wicked policy problem.

In outline, the conceptual and social relationships between stakeholder positions on land reform can be understood as pertaining to many different and potentially conflicting "assumptions, values, interests and capacities" (Head, 2019, p. 183). This is precisely the pluralist, "wicked" scenario envisaged by Rittel and Webber. The IBIS approach would seek to identify the "issues" or themes involved in a policy problem, the "positions" that actors adopt about those issues, the "arguments" they use to support them, and their "linguistic" (logical) relationships (see Chapter 2). Stakeholder positions may agree entirely or in some respects, but they may differ fundamentally on the nature of the controversial problem and appropriate ways to address it (Batie, 2008).

The following section sets out a brief account of what an IBIS stakeholder analysis might look like.

Stakeholder positions

The kinds of stakeholders considered relevant would depend on the level of analysis. For example, at the level of a metro or a local community, land reform might involve "local-level stakeholders, including local government, representatives of claimants, and the office of the regional land claims commissioner (Beyers, 2010, p. 225). For our purposes, actors at the national policy level will be reviewed.

An IBIS analysis might typically be expected to proceed based on an outline such as that provided in the previous subsection. However, such an analysis would likely

identify commonalities of "position", such as ideology or theoretical view. It is convenient, therefore, to draw on existing studies of the land reform stakeholder landscape that identify such commonalities. Two studies outlined in the literature review help to identify a useful characterisation of the ideological or theoretical approaches to land reform (Cousins & Scoones, 2010; Lahiff, 2008b).

The former seeks to understand stakeholders' positions in terms of three broad approaches on social issues derived from an overview of international debates about land reform in the 1960s, which the author argues coexisted in the South African policy debate "in varying degrees of tension" before 1994 (Lahiff, 2008, p. 19). Broadly, the themes are modernisation (in capitalist and communist forms), neo-liberalism (with a "neo-populist variant) and radical populism (Lahiff, 2008, p. 19). Each has a basis in some form of economic theory, and each involves "political leanings and alliances" (Lahiff, 2008b, p. 21).

The second study understands land reform as policy contestation based partly on how an issue is understood from different theoretical points of view (Cousins & Scoones, 2010, p. 1). More specifically, these authors outline different theoretical perspectives or analytic paradigms ("framings") of the viability of various approaches to land reform (Cousins & Scoones, 2010, p. 2). Competing analytical frameworks in the land reform debate are identified as neo-classical economics, new institutional economics, two versions of the sustainable livelihoods approach, Marxism and traditions of radical political economy. These theoretical positions are determined by their central focus, which can be understood as their normative or ideological understanding of the main goals of land reform. According to this view, the prominent positions in South Africa's highly contested land reform policy debates are "driven primarily by ideological commitment, rather than simply analytic considerations". However, each also involves articulations in terms of theoretical approaches and basic concepts (Cousins & Scoones, 2010, 6).

These categorisations generally assume that the ideological stances are identifiable with groups of social actors or stakeholders in land reform. Accordingly, clarifying their relationships with stakeholders helps to demonstrate their overlaps and differences. As Lahiff points out, the categories he identifies are "abstractions" that

"tend to blur into each other in practice"; they represent "loose coalitions of interests, rather than an "organised formation" (Lahiff, 2008b, p. 19). As he argues, they all also involve a "welfarist" element in agreeing to some extent on the need for alleviating extreme poverty, and a "political" side in viewing land reform as necessary for political stability. Nevertheless, the positions are analytically identifiable and useful for understanding and comparison.

These elements are combined in the following table:

Table **1**: Paradigms of land reform and their associated stakeholders

	Neo-classical economics	New institutional economics	Sustainable livelihoods - developmental	Sustainable livelihoods - welfarist	Radical political economy	Marxism
Central focus	Well-functioning markets vs market distortions and 'imperfections	Linking equity and productivity	Development as livelihood improvement and poverty reduction	Poverty alleviation, social protection	Development as agrarian transformation	The agrarian question focusing on the transition to capitalism in agriculture
Key concepts	Efficiency in factor productivity (land, labour, capital)	Transaction costs, institutions	Multiple and diverse livelihoods;	Household food security; vulnerability: social protection	Peasants are a social class exploited by a global corporate food regime; Food sovereignty	Social relations of production, property and power (class); dynamics of agricultural accumulation
Main types of stake-holders	Landowners, advisors and officials; corporations and foreign investors; some NGOs and civil society researchers and academics	Transnational organisations: World Bank, the IMF; corporations and foreign investors; some NGOs; some officials	Mainstream developmental organisation development academics and advisors; rural residents and small farmers	Transnational organisations: World Bank, the IMF; some NGOs; some academics and advisors; rural residents and small farmers	Peasant organisations, land NGOs, civil society researchers and activists; rural residents and farmers	Socialist political parties, NGOs, activists, trades unions, academics
Political ideology	Modernist conservative (LAhiff; Cousins & Scoones); neo-liberalism (Lahiff)	Neo-populism (Cousins & Scoones); neo-liberalism (Lahiff)	Centrist populism (Cousins & Scoones)	Centrist populism (Cousins & Scoones)	Anti-capitalist, radical populism	State-led modernisation; modernisation "from below"
Policies	Market-led land reform: reduce market imperfections; register private property rights; provide credit to promote investment	Market-assisted land reform: reduce policy biases favouring large farms or urban consumers; promote efficient markets; secure property rights; credit; land taxes	State action to support smallholder production e.g. land reform, targeted subsidies, coordination of marketing	Enhanced and secure access to land for small-scale food production as a safety net	Radical agrarian reform that secures rights to land and resources by peasant farmers Food sovereignty	(a) Retain efficient large capitalist farms & improve conditions of labour), or (b) reforms that promote accumulation from below, or (c) support struggles for land by exploited classes

Adapted from (Lahiff, 2008b) and (Cousins & Scoones, 2010)

It is easy to show that any systematic analysis of the interconnections between the key elements of the ideologies and theoretical positions involved and their key features would present a considerable challenge. In the first place, such an analysis would investigate the issues and tensions involved in the relationships between the elements of each row – typified here as the key elements. Using the permutation formula $P(n,r) = \frac{n!}{n-r}!$ we can show that a systematic comparison of any combination of two aspects of any one row would require 30 distinct comparative analyses. A systematic comparison in this way across each of the rows would involve 150 different comparative analyses.

Moreover, addressing the elements of each row would require different sets of assumptions and concepts in the case of each comparison, depending on the focus. For example, one approach to analysing the top-row elements might compare the technical and theoretical aspects of each central focus. Neo-classical and new institutional economics would share some technical assumptions (market focus, e.g.) and differ in other respects (independent variables or explanatory drivers: individual motivation versus institutional structure, e.g.). Meanwhile, the theoretical approaches underlying both forms of economic analysis would differ markedly from those of the remaining four in the row.

For example, the theory underlying neo-classical economics invokes a relationship between competitive markets, private property and private profit. In contrast, Marxist economics emphasises a social economy, state property and social profit. Comparing each approach's "technical" aspects would require a meta-theoretical discussion of their theoretical merits. Alternatively, the focus of discussion might be on the different conceptions of appropriate goals or ends in the row, which would involve political and economic normative debate. Similar considerations would apply to each row so that the initial number of permutations in each case would be multiplied by the different focuses applied. Analysing just the top row from within the different foci mentioned here – technical assumptions and political and economic ends – results in 60 comparisons for that row.

From a policy perspective, the IBIS approach has limited use as a practical tool for policy decision-making. It would require many cross-comparisons across a complex matrix of land reform themes and their elements. From an analytic perspective, such an analysis would be redundant since it would contribute little to understanding how policy decision-makers exercise "elusive political judgment" without complete information of the kind such an analysis envisages. Moreover, in both cases, the initial criteria of analysis – represented by the terms in the horizontal and vertical columns in the table – would need to be provided, which might themselves be a focus of analytic or political contention.

A formal land reform policy

As the sections above show, the ANC government's approach to land reform could not feasibly have been based on a systematic analysis of the relationships between all the stakeholder positions involved. Moreover, the process by which it arrived at a land reform policy was not linear. Given the pressure of time it perceived to be involved, for example, it felt obliged to introduce certain vital features of its approach to land reform while still developing the details of its position on land reform.

These features evolved from various consultative processes with stakeholders and internal discussions (Anseeuw & Alden, 2011, p. 15). The 1997 White Paper summarised the legislative and other policy processes that had been put in place since 1994 and contextualised them in terms of the policy of reconciliation. This section briefly reviews the White Paper's rationale for the balanced, reconciliation-based approach and the extent to which it addressed the demands and positions of the stakeholders in land reform which it identified.

The political significance of the land issue was reflected in the fact that the first piece of legislation that the ANC introduced to the new parliament was the Restitution of Land Rights Act 22 (1994) (Walker, 2005b, p. 817). The Act identified any land dispossessed after 1913 under a racially discriminatory law as the target of land reform, defined various forms of restitution and compensation for land dispossession, and dealt with specific conditions for urban claims (Boyle, 2001, pp. 678–679). Various other

pieces of legislation followed between 1994 and 1996, including laws outlining "a viable system of land administration", a market-oriented land redistribution process, and procedures that enabled claimants to form associations to acquire, hold and manage property (J. F. Kirsten & Van Zyl, 1999, p. 330). The elements of the land reform policy that had evolved from before the 1994 negotiations into the ANC's first tenure in power were summarised in a White Paper published in 1997.

As Ranchod notes, the White Paper of 1997 "merely consolidated the existing approaches to land reform" (Ranchod, 2004, p. 8). It is certainly the case that the process by which the White Paper was arrived at included the publication of various documents between 1991 and 1997. Yet overall, the publications appeared to be stepping stones that led the ANC, as government-in-waiting, from its socialist-oriented position in the 1980s to its acceptance of capitalism in the early 1990s. One remarkable feature of that process is evident in the fact that a passage in a 1991 White Paper on Land Reform published by the then government argued that a full-scale restoration of land would be impossible for historical reasons (see Letsoalo, 1996, p. 6) was repeated in other terms in the 1997 White Paper (Department of Land Affairs, 1997, pp. 77–78).

The White Paper of 1997

The 1997 White Paper noted that land reform policy was formulated on the basis of "a broad-based consultative process". Implicitly, this recognised high expectations among the black population and that white people, particularly white farmers, might fear ANC rule (Anseeuw & Alden, 2011, p. 14). Addressing the challenges of land reform would be a "huge and complex task" (Department of Land Affairs, 1997, p. 54). A particular effort had been made "to take account of the widely conflicting demands of the various stakeholders" (Department of Land Affairs, 1997, p. 9).

According to the White Paper, a history of conquest and dispossession had resulted in large-scale poverty and landlessness among black people based on "a complex legacy" of racially discriminatory legislation and skewed patterns of land ownership (Department of Land Affairs, 1997, p. 4). The document identified four main problems grouped in two sets: (i) the need to redress the injustices of apartheid while

fostering national reconciliation; and (ii) the need to support economic growth while alleviating poverty (Department of Land Affairs, 1997, p. 7). The strategy was based on the recognition that the new Constitution protected private property and, hence, existing rights to land while obliging the government to introduce land reform in the interests of social justice.

The main challenge of land reform would be to promote both "equity" (equal or at least improved access to land) and "efficiency" (agriculture as an element of economic growth) (Department of Land Affairs, 1997, p. 31). This would be achieved by "redistributing land to the needy, and at the same time maintaining public confidence in the land market" (Department of Land Affairs, 1997, p. 41). The objectives would be achieved through three programmes focusing on restitution, redistribution, and tenure rights. The overall objective expressed reconciliation as a condition for stability, harmony, and development. The three programmes would foster "rural development", which would address both equity and efficiency.

Market mechanisms would be used by which the state would purchase land from existing owners for redistribution to the rural poor: the state would buy land for restitution or pay financial compensation if the land could not be purchased; a grant would be paid to those who wanted to buy land under the redistribution programme; and legal protections for people living in conditions of insecure tenure would be strengthened. The strategy adopted a target (already set by the RDP) of transferring 30% of agricultural land to black beneficiaries within the first five years of the programme (African National Congress, 1994, section 2.4.14). As previously noted, the cut-off date of 1913 for claims was because opening claims to the colonial period would create "legal-political complexities" (Department of Land Affairs, 1997, p. 77).

The three pillars of land reform

The overall aim of the 1997 land reform policy depended on integrating equity in efficiency over time to support upward mobility among the rural poor. Land reform would address the "injustices of forced removals and the historical denial of access to land" (African National Congress, 1994 section 2.4.2). Providing support services to beneficiaries would enable them to use their land productively, so "generating large-

scale employment, increasing rural incomes and eliminating overcrowding" (African National Congress, 1994, section 2.4.). Unemployment, the document estimated, was at 17 million nationally, and of these people, some 11 million lived in rural areas (African National Congress, 1994, section 2.1.1).

In practical terms, land reform would be realised through three interdependent pillars centred on restitution, redistribution and security of tenure, respectively (Hall, 2004, p. 226). These were envisaged and, in many respects, finalised in documents preceding the White Paper of 1997. A *redistribution programme* would provide residential and productive land "to those who need it but cannot afford it"; a *restitution programme* would restore land lost because of apartheid laws (African National Congress, 1994, section 2.4.5); and a *security of tenure programme* would that recognise "diverse forms of tenure existing in South Africa" and render them more secure (African National Congress, 1994, section 2.4.10).

The state would "provide substantial funding for land redistribution", using "land already on sale or acquired by corrupt means by the apartheid state". Beneficiaries would be expected to contribute according to their means (African National Congress, 1994, sections 2.4.7 and 2.4.8). Under the redistribution and restitution processes, the state would acquire land that beneficiaries applied for; the approach was based on a demand-driven, willing-seller, willing-buyer process in which the state would, theoretically, be a facilitator.

Support services would include a training programme, which would "be in place" one year after the [1994] elections" (African National Congress, 1994, section 2.4.12). The security of tenure programme sought to address the complicated web of insecure, overlapping and disputed land rights that had been inherited from the apartheid system, particularly in the former homelands. Overall, the programme aimed to strengthen the rights of people living in insecure circumstances on farms, mainly those of white farmers, and included measures to protect them from losing their rights to land they were occupying or to facilitate their rights to land close by, and by introducing stricter measures for owners who wished to evict the occupants of land (Cliffe, 2000, p. 275).

Land reform policy 1994-2000: results

The preceding sections have focused in some detail on the ANC government's approach to formulating land reform policy between 1994 and 1997. This section briefly reviews some of the main outcomes of the policy finalised in the White Paper between 1994 and 2000.

Redistribution

By June 1998, nearly 250,000 people involved in 279 applications had received land under the redistribution programme. More people received land during 1998 than in the previous three years combined. More than 50,000 people had obtained land through the redistribution programme by the first quarter of 1999. “By mid-November 1999, the DLA had 447 redistribution projects in the implementation phase, which involved 360,256 people (55,424 households) and the transfer of 714,407 hectares of land (Cliffe, 2000, pp. 274-275). By 1999/2000, claims to some 150,949 hectares had been settled under the restitution programme (Hall, 2003, p. 22). Meanwhile, by 1999, some claims to 717,407 hectares had been settled under the redistribution programme (Cliffe, 2000, p. 275). Comparing the sum of these two figures to the total hectares owned by commercial farmers shows that about 1% of agricultural land had been transferred by about 2000.

The calculation above is based on figures provided by various sources, including the DLA, the CRLR, and the South African Institute for Race Relations. The percentage arrived at above must be regarded as provisional on a detailed analysis of the methodologies of the different sources. Hall notes several other factors affecting the accuracy of the figures (Hall, 2003). For example, the hectarage indicated does not reflect actual land transfers since a significant proportion of the settled claims involved urban land for which financial compensation was paid. Regarding restitution, the number of claims reported may not match the number of claims registered as settled because claims during the period were sometimes split into multiple claims for settlement (Hall, 2003, p. 23).

Moreover, the CRLR adopted “shifting definitions” of settled and unresolved claims (Hall, 2003, p. 24). Then again, other ways of measuring progress include tallies by households benefitting and the money spent on the programmes. Finally, both the DLA and the CRLR were “ambivalent’ as regards the measures of success since the quantity of land settled did not necessarily reflect progress toward other more general goals, such as the promotion of justice and sustainable use of land (Walker, 2012, p. 818).

After a slow start, by June 1998, some 250,000 people in 279 projects had received land, and more people received land in that year than in the previous three years combined. By the beginning of 1999, more than 50,000 people obtained land through the redistribution programme. Toward the end of the year, the DLA noted that it was implementing 447 redistribution projects involving 360,256 people, or 55,424 households, and the transfer of 714,407 hectares of land (Cliffe, 2000, pp. 274-275). Nevertheless, the transfer of land was nowhere near the target of 30% (Cousins, 2016a, p. 3), and the target date had to be extended to 2015 (Hall, 2004, p. 216). According to one observer, only 4% of white-owned agricultural land had been redistributed after ten years of land reform (Hall, 2005, p. 621). The figure of 1% indicates a serious shortfall of total land settlements about the original target of 30% for that date.

Restitution

The Land Rights Act (1994) established that those dispossessed of land after 1913 could lodge claims for restitution between 1 January 1995 and 31 December 31, 1998. Between May 1995 and May 1998, 63,455 claims were filed with the LCC, and by June 2000, only 4,900 land restitution claims for 9,100 beneficiaries had been settled (Boyle, 2001, p. 679). By 31 March 1999, 63,455 restitution claims had been lodged. Of these, 284 claims were rejected. By March 1999, another 4,365 claims were gazetted, with another 200 “nearing completion”. Significantly, nearly 80% of all restitution claims related to urban land; these were settled with pay-outs in lieu of the dispossessed land (Cliffe, 2000, p. 275).

Security of tenure

The White Paper recognised security of tenure from the beginning as a "particularly complex process" (Department of Land Affairs, 1997, p.16). Reason: Initially, securing tenure was seen as a matter of formalising informal rights to land by ensuring that individuals could register negotiable titles (Cliffe, 2000, p. 14). However, securing the informal rights of tenants or those living informally on land proved "anathema" in the context of property rights and individual ownership and laws protecting the tenure rights of farm dwellers proved "notoriously difficult to enforce" (Hall, 2004, p. 218). Government planning stumbled on the complexities of understanding land rights and authority over land in contexts where these had long been understood as "communal" (Cousins, 2009, p. 1). According to Beinart, the notion of "communal tenure" indicated that land could not be bought or sold, but beyond that, it allowed a range of "patterns of tenure and control over land" (Beinart, 2001, p. 19).

The lack of clarity around the conceptual issues of ownership and access to land in the countryside contributed to situations in which moral and legal claims to land were subject to different laws and further exacerbated doubts about what sorts of rights applied to tenure (Hall & Williams, 2000, p. 8). Moreover, efforts to finalise legislation ensuring individual title ran into opposition from chiefs and other traditional leaders, who saw the extension of title rights as a threat to their traditional rights of control of land (Lodge, 2003, p. 7). As a result, the approach to tenure took a new turn, emphasising incorporating notions of communal rights in new legislation and giving greater powers to traditional authorities. Somewhat ironically, these aspects of the difficulty of securing tenure had been recognised in the earlier stages of the land reform debate, when the NP and the ANC agreed that "different forms of tenure, not just individual private property, [would] have to be protected in law" (Hendricks, 1995, p. 52).

Land reform 1994-2000: Government reviews

Toward the end of the first period of land reform, mounting criticism of the slow pace of land reform prompted the ANC government to investigate. Two high-level reviews were conducted, which are briefly outlined in the following sections.

The DLA Ministerial Review 1999

As early as 1998, government concern at the slow pace of land reform was such that the land affairs minister appointed a review team to investigate implementation problems (Walker, 2012, p. 824). In 1999, the then-minister instituted a ministerial review to investigate the broader issues of land reform (Walker, 2012, p. 817). The brief required the investigators to engage with "all the role-players to identify areas of critical intervention". It identified "five key" dimensions of crisis: slow delivery; "a crisis of unplannability" as a result of poor information management; poor integration of the elements of the larger land reform programme; lack of trust between implementers; and "high levels of frustration" (Walker, 2012, p. 834).

The report did not specify where or why frustration was occurring, but it can inferred as a major factor in the experience of applications for land reform benefits (de Wet, 1997, p. 356), as well as those ANC politicians who felt that the slow pace of delivery was embarrassing to the ruling party (De Villiers, 2003, p. 68). Differences concerning the direction of land reform began to manifest in tensions between political rivals within the organisation (Cousins, 2000a, p. 3).

The report identified the cause of these problems as a "systemic crisis" involving an unworkable institutional framework, the absence of "authoritative leadership", and a "mismatch between the institutional legal and policy framework and the scope and nature of demand" (Walker, 2012, p. 824). In particular, the ministry and its two companion land reform institutions, the Commission on Restitution of Land Rights (CRLC) and the LCC were faced with an unanticipated deluge of claims for urban land while the system had been designed mainly with rural claims in mind (Walker, 2012, p. 824). The lack of a "reliable database and accurate records" further affected land reform operations, which contributed, in turn, to the unplannability crisis. As regards the beneficiaries, the department had found that the community property associations through which many beneficiaries gained access to land were showing an inability to hold and manage [it]" (Hall & Williams, 2000, p. 10).

The review had two important outcomes. The first aimed to resolve an "adversarial relationship" between the CRLR and the DLA, the two organs that dealt with the restitution pillar of land reform (Genesis Analytics, 2014, p. 8). Responsibility for the programme was transferred to the CRLR, though it still functioned as a branch of the DLA. The second was to "abandon the judicial route for finalising claims", which had considerably slowed the processing of claims; the capacity to authorise claims was now made an administrative function without the necessity of a court order for every finalised claim. As Walker observes, this placed restitution "more firmly" within the state bureaucracy, under the political authority of the minister (Walker, 2012, p. 824).

The DOA report of 2004

However, the problems caused by the lack of post-settlement support continued to fester. These were not overseen by the DLA but by the DOA. Between 1994 and 2000, according to a later report by the department, "advisory and support services were non-existing [sic] and some of these projects are collapsing/failing because of the absence of agricultural support" (Progress Report on the Implementation of the Comprehensive Agriculture Support Programme (CASP), 2004, p. 11). This was due to "the restructuring of the departments of agriculture, and the provision of services within the various tiers of government", which resulted in "a gap in service delivery" (Progress Report on the Implementation of the Comprehensive Agriculture Support Programme (CASP), 2004, p. 11).

Support for "irrigation schemes and other intensive forms of farming", which were "highly dependent for their success on specialised technical and finance support", had not been maintained. Newly emerging farmers, as well as whole farming communities, were "experiencing the total collapse of what seemed to be a promising future in farming" (Progress Report on the Implementation of the Comprehensive Agriculture Support Programme (CASP), 2004, pp. 10–11).

Government views of the problem: concluding remarks

It is worth noting that both the government reports outlined aimed to identify the causes of the slow pace of land reform in the context of a given and broadly

unquestioned framework, that the problems they identified were almost exclusively related to the evaluation of internal factors, and that the solutions both reports presented focused on institutional issues. Both were largely technocratic documents aimed at identifying the management and administrative structure issues that were impacting the delivery of land reform.

In summary, the reports indicated that in the view of the government departments involved, the problems of land reform were concerned with institutional, systemic issues. At this stage, in the government's view, the problems of land reform were mainly understood from a departmental managerial perspective and attributed mainly to problems of institutional design and factors preventing programme execution, and their conclusions pointed to institutional solutions. External critics, however, took a far broader view of the slow pace of land reform. The following section briefly reviews the wider context in which critics viewed the issue, focusing on the emergence of a central theme of disagreement, namely, the market-oriented approach.

Land reform 1994-2000: stakeholders' critiques

As we saw in the discussion of the six analytic frameworks outlined in Table 1, land reform was a central concern for many stakeholders with different theoretical orientations and political ideologies. Many aspects of the land reform policy finalised by the White Paper were the subject of "heated debate" (Cousins, 2000a, p. 2) from their inception in the early 1990s from these perspectives. By the early 2000s, critics were presenting a bewildering array of analyses of the causes of the perceived failures of land reform. In broad terms, these can be understood under several major themes, not presented here in any form of implied priority: problems of political orientation and commitment; problems of planning; problems of implementation; problems of funding; institutional problems; problems of market dysfunction or exploitation; and legacy problems relating to the complexities of different modes of ownership.

Though they disagreed in many respects regarding the ANC government's land reform problem, critical views from various perspectives agreed on one thing: that land reform was proceeding very slowly (Deininger, 1999; J. F. Kirsten & Van Zyl, 1999;

Lahiff, 2000; Lahiff & Cousins, 2001). For many, this was mainly reflected in the low levels of land transferred under either the redistribution programmes as outlined above. The critical perspectives of these analytical frameworks, summarised in Table 1 earlier, were focused around a central issue of the 1997 White Paper phase of land reform: its adoption of a market-assisted policy centring on the willing-buyer, willing-seller approach.

New institutional economics framework

The new institutional position was closely associated with transnational organisations such as the World Bank and a range of academic experts. This approach is often supposed to have influenced the ANC government policy outlined in the 1997 White Paper (Driver, 2009, p. 67). It emphasises the role of the institutions that mediate relations between individuals, including through the market, based on entrenched property rights (Driver, 2007, p. 64). As outlined in Chapter 2 (see p. 27), this position argued that negotiated land reform based on limited government involvement could provide "equity and efficiency benefits" (Deininger, 1999, p. 2) by balancing market and non-market mechanisms (Deininger, 1999, p. 3).

As against the modernising Marxists, who argued that the elements of the policy itself were contradictory; new institutionalists argued that the failures of land reform were largely due to the ANC government's attempt to manage the market approach with a large and cumbersome bureaucracy (J. F. Kirsten & Van Zyl, 1999, p. 337). This argument suggests that the ANC government failed to fully implement the new institutional approach by allowing a bloated, centralised land reform bureaucracy to develop (Kirsten & van Zyl, 1999, p. 337). The land reform bureaucracy's inefficiency and lack of structure made "effective decentralization and beneficiary participation difficult" (Deininger, 1999, p. 28).

Where beneficiaries did gain access to land, business plans were often drawn up by advisors with little focus on "the long-term economic success of the project, while technical support was often lacking (Deininger, 1999, p. 29). Often, the size of the parcels of land assigned to beneficiaries was inadequate to generate "the target income" of the projects (Kirsten & van Zyl, 1999, p. 339). In summary, the problems of land

reform were due to slow implementation, non-viability of the farm models adopted, too much government involvement, the lack of support services to beneficiaries, and obstructive legislation that prevented the subdivision of large farms (Kirsten & van Zyl, 1999, p. 339).

Bureaucratic ineffectiveness should be compensated for by working with NGOs and the private sector (Deininger & May, 2000, p. 2). Land reform should focus on redistributing land from wage-operated farms to smaller family-operated ones to increase productivity. Increased productivity would, in turn, improve smaller farms' access to credit and allow them to re-invest in their farms, which "could lead to higher aggregate growth" and, ultimately, greater prosperity (Deininger, 1999, pp. 2-3).

Neo-classical economics framework

As reviewed in Chapter 2, a core argument of the neo-classical position on land reform was that markets were more effective than state institutions at redistributing land. Characterisations of this view from other positions tended to reduce it to this basic premise. Lahiff, for example, says that this form of modernism in agriculture was generally aligned with the Centre for Development and Enterprise (CDE), a "big business-aligned" NGO. Proponents "don't believe that land reform is good either for the economy or for the poor" and "don't really support either efficiency or equity arguments" (Lahiff, 2008b, p. 20). Critics from other points of view also tended to portray the largely white commercial agricultural sector as a threatening bully in the land debate. Ntsebeza, for example, reviewing a summit on land in 2005, said that "a tiny minority of white commercial farming delegates belonging to the farmers' union AgriSA" threatened dire "consequences" if the market-based WSWB model was abandoned (Ntsebeza, 2007, p. 127).

In fact, according to Weidemann, the commercial agricultural sector "had very little official participation in agrarian and land policy formulation" during the negotiations in the early 1990s but gained influence over time (Weidemann, 2004, p. 230). While the sector supported a market-based reform programme, there were differences between commercial farmers' organisations; they generally "emphasized the

importance of providing support services to new farmers" as well as the development of a black farming class (Weidemann, 2003, p. 230) (Weidemann, 2004, 229). In 2005, the CDE, the "big-business aligned" NGO to which Lahiff alluded, adopted a highly conciliatory view of the government's approach to land reform thus far and recognised the need for supporting grants to land reform beneficiaries in addition to its insistence on the efficiency of market mechanisms (A. Bernstein et al., 2005, p. 24) (Bernstein 2005, 24).

Schirmer, a trenchant proponent of the primacy of market mechanisms in land reform, argued that the land reform programme had failed by 2000 because it did not recognise the "complexity and diversity" of conditions in rural areas and because it did not aim at "facilitat[ing] the creation of new agricultural producers" (Schirmer, 2000, p. 162). Even so, he also recognised that this would need to be balanced by welfare transfers and the promotion of rural development (Schirmer, 2000, 164).

The developmental sustainable livelihoods framework

The sustainability framework took the view that the livelihoods of the poor are "complex and dynamic and combine formal and informal economic activity". Accordingly, it opposed approaches that focused on the economic aspects of agriculture, such as production, employment and household income (Cousins and Scoones, 2010, p. 10). Its concerns focused instead on rural citizens whose survival involved multiple strategies, including cash work, sharing land and labour tenancy (Hall, 2004).

From this perspective, land reform offered the potential to "transform social and economic relations and provide a structural basis for broad-based pro-poor development" (Hall, 2004, 214). Land, from this perspective, signified more than an economic resource, but also one "which can facilitate the realisation of other rights and entitlements, such as housing, freedom of movement and subsistence" (Aliber et al., 2006, p. 3)

Although left-wing critics of the 1997 land reform policy dismiss it as "neo-liberal" – sometimes eliding the distinction between its modernist and populist versions – it represented, in part, a vision of the reinvigoration of a large sector of smallholder

farmers that would provide a sustainable basis to a thriving black rural economy (Hendricks, 1995). As Hendricks pointed out, by the mid-1990s, it was already clear that many black South Africans would not be interested in farming life (Hendricks, 1995).

By 1995, for example, some 56% of people in the (recently former) homelands were reported to be "functionally urbanised" (Bernstein, 1995, p. 29). In a 1996 survey, 68% of poor rural black people wanted land, but mostly small parcels of land as secure places to live and for small-scale, mainly household cultivation (Hall, 1998, p. 222). According to two surveys conducted around the turn of the century, 68% of black people interviewed agreed that "Land must be returned to blacks in South Africa", even though most people also thought that jobs, housing, and basic services were greater priorities (Walker, 2005b, p. 806). By 2003, two-thirds of the population lived in towns (Lodge, 2003, p. 7).

If these data were any indication, the large-scale smallholder strategy was ill-conceived, and so was the WSWB if it was supposed to aid in achieving large-scale land redistribution and restitution through market methods; both were premised on a large-scale interest in acquiring redistributed land for intensive farming purposes. Cousins & Scoones would later agree with Hendrick's view that the livelihoods aspect of the 1997 land reform policy failed to address the "deagrarianisation" of the countryside (Cousins & Scoones, 2010, p. 11). They argued that urbanised people were increasingly diversifying their livelihoods by shifting to non-agricultural income sources while retaining links to the countryside (Berry, 2018, p. 11).

The welfarist sustainable livelihoods framework

The emphasis of this approach is on poverty alleviation, focusing on household food security. Many of the arguments cited by Cousins & Scoones relate to international studies that may be said to apply to some extent to the South African case. For example, they cite a study of Africa and Asia arguing that globalisation-related development such as service delivery privatisation, reductions in public investment and the market

approach expose smallholder farmers to “exceptional risks” (Cousins & Scoones, 2010, p. 12).

According to the cited author, tenure reforms that reform inheritance laws, protect women and ensure improvements in title documentation that enable the use of land records as collateral for loans can contribute to greater poverty alleviation (Cousins & Scoones, 2010, p. 12). However, they do not specifically identify sustainable livelihoods authors who focused on welfarist issues in South African land reform at the time. Extrapolating from their account, the permeability of the analytic categories they introduce is indicated by the fact that land researchers associated with the new institutionalist assumptions of transnational institutions such as the World Bank argued for the welfare benefits of providing beneficiaries with access even to “relatively small amounts of land” (Cousins & Scoones, 2010, p. 11).

The definition of welfare itself depends on the perspective adopted. A study of the impact of land reform on agricultural production in the Eastern Cape, for example, found that modest improvements in the livelihoods of beneficiaries had resulted in modest improvements in welfare as defined as “equity”, though at the cost of efficiency (Aliber et al., 2006). Schirmer, an author who is probably best located in a broadly neo-liberal perspective, argued that the White Paper policy aiming at large-scale smallholder farming was only feasible for a relatively small number of black farmers with aspirations and capacity to farm commercially and that government programmes would need to run separate “welfare” programmes enabling most people to access land for residential or other purposes (Schirmer, 2000, p. 164).

In general, arguments that evaluate the performance of tenure reform would tend to operate within, or at least complementarily to other welfarist arguments. As the 1997 White Paper noted, citing the complexities of layered, successive land occupations, tenure reform would be the most challenging of the three land reform programmes. Several factors contributed to a growing, “wicked” complexity. First, the prospect of more demanding requirements of tenure incentivised many commercial and other farmers to evict or dis-employ many people, and the laws were, in any case, “notoriously difficult to enforce” (Hall, 2004, p. 218).

Meanwhile, the "layering" problem, though somewhat anticipated, proved even more complex on the ground. Competing claims for land and the sometimes competing issues arising from different laws and land reform objectives resulted in delayed transfers (Hall & Williams, 2000, p. 8). Basing her observations on her experience as a land commissioner in KwaZulu-Natal until 1999, Walker noted that national policy objectives and planning often conflicted with "a kaleidoscope of particular, localised, messy, often conflictual and personality-inflected projects" (Walker, 2005a, p. 806).

Marxism or Marxist-inspired frameworks

Critics in this camp were critical of the market-assisted approach, which became synonymous with the willing-seller, willing-buyer (WCWB) model. In Bernstein's view, the ANC had essentially abandoned "the Freedom Charter's demand for land to the tiller" (H. Bernstein, 1995, p. 1). The White Paper and other policy documents envisaged that the government would facilitate by providing grants to beneficiaries who identified land to purchase through the market (see Cliffe, 2000, p. 276). This approach was to apply both to the redistribution and the restitution programmes. According to critics from this viewpoint, "experiments" with the approach in South Africa and elsewhere had shown that it was not capable of "redistributing land at scale, providing effective farm development support, or being cost-effective" (Hall & Cliffe, 2009, p. 2). In countries where the market-led approach was effective, it was combined with "non-market reforms" that involved land occupations and the regularisation of landless peoples' occupation of unutilised land (Hall & Cliffe, 2009, p. 2).

According to this view, WSWB involved an essential tension between "issues of production and those of equity, rights and historical redress" (Cousins, 2000b, p. 2). "Institutional weaknesses" contributed significantly to the slow progress of land reform – grants were too small to be effective, and there was a lack of post-settlement support, effective monitoring and evaluation, and skilled staff (Hall, 2003, 2004). However, according to Hall, the major factor in the slow progress was "poor policy design", which had not sufficiently anticipated the possibility of "conflicts" between "the paradigms of rights and development" (Hall, 2003, 2004). Cliffe agreed, remarking that the "package of measures was a curious hybrid of pressures and perspectives" (Cliffe, 2000, p. 276).

As a modernist view in the sense previously outlined, the position favoured massive support for small-scale farming while reluctantly accepting the need for commercial agriculture (Jara & Hall, 2009; Lahiff, 2008b). Proponents of this view generally argued for an extended role of the state. According to Cousins & Scoones, the policy included "a new institutional economics perspective [that] mixed uneasily with livelihoods and welfare priorities" (Cousins & Scoones, 2010, 17).

By around 2000, according to Cousins, the tensions between the ambitions of land reform and the limitations of the government's approach to it became "so severe" that it was "widely recognised in the rural sector" that a fundamental rethink of land reform policy was necessary (Cousins, 2000b, p. 2). Not all researchers agreed with this assessment, however. In general, commentators from the neo-classical and new institutional economics perspectives argued that its failures of planning and implementation were to blame for the lack of progress rather than the land reform programmes themselves.

Radical political economy: populism

The radical political economy position was even more uncompromising on the question of the ownership of land. As in the table above, "populism" is broadly understood as referring to a policy that aims to address the needs of the masses or a large majority. Even during the negotiations, voices in the land reform debate argued that the market approach rewarded the beneficiaries of apartheid and ensured that its victims would have to pay for their land (Letsoalo, 1996). NGOs and social movements representing the poor and landless argued that the priority was to "restore or redistribute land to poor rural people" (Hall & Williams, 2000, p. 3). From this perspective, "comprehensive land reform would be necessary for social, economic and political development" (Mngxitama, 2004, p. 38). Land should be redistributed as state-granted "relief", not as a purchase or investment, nor as private property, which should not be protected (Mngxitama, 2004, p. 38).

Land reform: the White Paper's evaluation of complexity

A rhetorical frame in the sense outlined for this dissertation, we recall, is a narrative that presents a "diagnostic" metaphor that "sees" a situation in a certain way that includes potential identifications of the cause of the problem, the actor responsible for it, and provides a solution to it (Barisione, 2012, p. 6). Frames are pervasive but tacit and may be revealed by analysis through the presence of the elements outlined here. The first analytical task, then, is to identify the underlying metaphor that sets the frame of the problem to be solved.

The White Paper's account of land reform stakeholders

As noted earlier, the White Paper explicitly recognised that it would have to consider the "widely conflicting demands of the various stakeholders" (Department of Land Affairs, 1997, p. 9) in addressing the challenges of land reform and that this would be a "huge and complex task" (Department of Land Affairs, 1997, p. 54). All these views "had to be represented in the talks if the process and its outcomes were to be seen as legitimate" (De Klerk, 2002, p. 18). This section briefly outlines the White Paper's view of the various particular stakeholder positions it faced and, on that basis, attempts to assess the level of complexity it accorded to the policy situation of land reform.

According to its account, commercial farmers and farming organisations wanted a constitutional clause protecting property rights. They were concerned about factors such as the criteria for assessing compensation for redistributed land and the lack of a national land database. Black rural communities were concerned that the amount allocated to beneficiary households of R15,000 for the acquisition and settlement of land was too little, about the definition of a "qualifying household" for the grant, about the willing-seller willing-buyer approach and the cut-off date for land claims, which was set quite early in the negotiations at 1913, and wanted an explicit commitment to women's rights. According to the document, many land NGOs echoed these views (Department of Land Affairs, 1997, p. 28).

"Planners" (that is, policy experts), meanwhile, wanted "transparency" in the appointment of policy experts and officials and emphasised the need for support services to beneficiaries after the settlement of claims. Financial institutions supported the market approach, wanted a property clause in the constitution, and advocated for post-

settlement support. Provincial government departments were concerned about the administrative approach needed to process claims and raised concerns about dealing with questions of communal ownership. According to the document, other statutory and government organisations were concerned with environmental issues (Department of Land Affairs, 1997, pp. 28–31).

Indeed, the White Paper attempted to address the potentially wicked complexity of the stakeholder scenario with a degree of thoroughness, identifying a relatively wide range of the types of organisations involved and, in most cases, specifying their preferences and concerns. Yet a closer critical view of its account of the stakeholder landscape reveals that while it recognises the policy situation as a complex inheritance of skewed land ownership, it assigns a considerably lower level of complexity to the array of positions and interests involved in addressing that situation.

While the White Paper recognises a wide range of stakeholders, the significance of many is underplayed or elided. This is facilitated by describing the groups of stakeholders mainly in terms of their social sectors. Specific organisations, and therefore, the particular contradictions, antagonisms or tensions that might pertain between them, are seldom mentioned. In a rare exception, the document does mention the National Land Committee (NLC), a grouping of organisations that had been involved in local land issues during the 1980s (Hall & Williams, 2000, p. 3), as well as the Centre for Applied Legal Studies, which had been active in supporting community activism in the 1980s. However, by contrast, the paper does not mention erstwhile allies of the ANC, the SACP, the unions, or the powerful organisation of traditional leaders, CONTRALESA (Christopher, 1995, p. 270).

The sectoral approach, by specifically avoiding the recognition of specific stakeholders, helped to elide the fact that several of them had deep roots in the former dispensation. Nor did these always run along easily identified racial lines. The commercial farming sector, for example, was represented by the South African Agricultural Union, a powerful organisation with extensive connections throughout agriculture and its wider value chains (Anseeuw & Alden, 2011, p. 12). Meanwhile, NAFU represented the interests of black commercial farmers who were opposed to the promotion of small-scale farming (Hall & Williams, 2000, p. 3).

In some cases, the entrenched interests of some of these organisations and their conflicts of point of view with those of others were regarded as obvious, as in the case of the commercial farming sector. In other cases, the entrenched rights that would continue to exercise an influence in the new context of land reform were less obvious. CONTRALESA, for example, which represented traditional leaders who had been part of the apartheid homelands structures, sought to reassert chiefly "patriarchal authority" over land during the negotiations, as against more egalitarian aspirations, such as those of the NLC (Hall & Williams, 2000, p. 3). The account also omitted specific recognition of the involvement of influential transnational organisations such as the World Bank and the International Monetary Fund was also omitted, although their "neo-liberal" views significantly influenced land reform policy (Cliffe, 2000, p. 276).

The White Paper: evaluation of its view of complexity

This chapter has argued that the different demands of stakeholders in the land reform debate can usefully be understood in terms of the conflicts of substance between their positions and that a complete picture of their interrelationships would require an extended Rittel-Noble analysis. Compared to that ideal, the White Paper's account of the differences between their positions amounted to a considerable understatement of the complexities involved and the complex social environment they reflected. If so, the White Paper's sketch of the policy situation projected a considerably lower element of complexity as regards the first two wicked framework criteria, "many stakeholders" and "broad social environment" ((a) and (b)).

Some credit is due to the painstaking process by which the organisation sought to engage with land stakeholders in the early 1990s. The White Paper records several milestones in this process, including the Department of Land Affairs' Framework Document on Land Policy (May 1995); a Draft Statement of Land Policy and Principles, discussed at the National Land Policy Conference between 31 August and 1 September 1995; and the Green Paper on South African Land Policy, published on 1 February 1996 and widely distributed to solicit written responses (Department of Land Affairs, 2997, 6). The situation was constantly changing, then, and the process of consultation sought to track that (criterion (c)).

It is likely that during the negotiations, the ANC was influenced by the strong sense of urgency created by several of its transnational advisors. The World Bank, for example, had argued that the country faced the possibility of "peasant insurrection, possibly civil war, combined with capital flight and economic decline" (Binswanger & Deininger, 1993, p. 1466). It also knew, as has repeatedly been observed, that expectations of land reform were high among the black population. All the same, while it is "comprehensive and ambitious" (Cousins, 2013, p. 11), the White Paper gives little sense of urgency or the pressure of time (criterion (e)). As one commentator has argued, "despite the rhetoric of "transformation" and residual Freedom Charter-inspired sloganeering such as the 'land shall be shared amongst those who work it', as the government-in-waiting the ANC could not be seen to promote sectional interests (Mngxitama, 2004, p. 57).

It is difficult to avoid the impression that the White Paper's tone of measured consideration is due to a similar dynamic. Thus, the White Paper assumes the ability of the planners involved in the process to arrive at valid decisions (criterion (d)) and, indeed, does not attempt to provide a rationale for its resolution of the "widely conflicting demands of the various stakeholders" to which it referred (Department of Land Affairs, 1997, p. 41). It assumes its role as that of a "central authority" unquestioningly (criterion (f)). Finally, no doubt for diplomatic reasons – the ANC could hardly take an aggressive, accusatory stance toward the party it had been forced to negotiate out of power – it does not recognise that some stakeholders' involvement in creating the problems which the negotiations were intended to address might add some complexity to evaluating its results (criterion (g)).

The White Paper's framing of land reform

This chapter has so far analysed the complexity of the policy problem of land reform in terms of the wicked problem theory. It has shown that while the White Paper recognises the "widely conflicting demands" of the stakeholders in land reform, it effectively avoids crucial elements of that complexity or "wickedness". While it represents its approach to processing the wide range of stakeholder positions as

systematic, it doesn't outline them with any completeness or provide a detailed evaluation of their conceptual and practical points of agreement and conflict. It has been further argued that such an approach would be complex and challenging.

The White Paper, then, presents its conclusion in favour of a market-oriented, "willing seller, willing buyer" approach but does not explain how it arrived at it. In effect, it suggests that the conclusion was reached by political judgment. As we have seen, though, the formulators of the wicked problem theory suggested that understanding such a process of political judgment presents a further problem. The following section argues that this process can be explained as the result of selective framing.

Land reform: the diagnostic metaphor

According to the document, the over-arching issues of land reform are expressed by the view that "[o]ur history of conquest and dispossession, of forced removals and a racially-skewed distribution of land resources, has left us with a complex and difficult legacy" (Department of Land Affairs, 1997, p. 4). In its role as representative of all black people, the ANC would have understood that many of its adherents understood the loss of the land primarily in a general sense, which it projected as a single historical event, namely the forcible occupation of the country by settlers from another part of the world (Walker, 2005, p. 808). Indeed, the rhetoric of many of its statements from exile also projected the country's history in this way.

The sense here is of the loss of people's belonging to the land and of the land which had belonged to the people. If so, the underlying diagnostic metaphor would involve the senses of "land is authentic belonging". Belonging is a very complex concept involving a range of meanings and associations, including "citizenship, nationhood, gender, ethnicity and emotional dimensions of status or attachment" (Bhimji, cited by Antonsich, 2010, p. 645); deprivation of land, then, is the loss of a complex range of physical and emotional attachments. These are some of the senses implied by "conquest and dispossession".

However, the White Paper offers a different diagnostic framing of the problem. The policies of segregation, apartheid, and "separate development" had consigned the great majority of black people to reserves and "homelands" consisting of a small fraction of the country ("A Brief History of the African National Congress," n.d.). Millions of people were displaced from urban and rural areas in "white" South Africa between 1960 and 1980 (Department of Land Affairs, 1997, p. 34). Millions more lived in "insecure arrangements on land belonging to other people" (Department of Land Affairs, 1997, p, 59). As a result, the rural areas were characterised by extensive poverty and landlessness (Department of Land Affairs, 1997, p. 7). This expresses a narrower metaphor than the first, namely that pervasive poverty and landlessness were a gross effect of the loss of "land as material belonging".

Influential voices in the land reform debate agreed that the most immediately pressing problem was how to quickly restore large amounts of land to those dispossessed of it. Even stakeholders who were virulently opposed in other ways agreed on this. For example, representatives of the World Bank and the NLC urged that rapid, large-scale land transfers were necessary to avoid conflict in the countryside (Binswanger & Deininger, 1993; Hall & Williams, 2000). World Bank researchers and NLC-associated intellectuals agreed, in outline at least, that some form of rural restructuring would be necessary to support rapid land transfers (Mngxitama, 2004). However, rapid land transfers and large-scale rural restructuring would not be ends in themselves, as would be the case if the first, broader framing of land reform prevailed. Instead, the focus was on the restoration of land as a way of restoring people's disrupted routes to prosperity through farming.

This narrow diagnostic framing effectively shaped the ANC's first approach to land reform. The adoption of the narrow diagnostic metaphor emphasised the need to address the effects of the material loss of land by restoring land to those who had been dispossessed of it and linking this emphasis to the idea that land reform should quickly generate conditions in which restored land could contribute to its owners' prosperity. The cumulative effect of racial and discriminatory laws over time had resulted in the "continued and forceful depression of the profitability of small-scale agriculture" (Binswanger & Deininger, 1993, p. 1462). The focus of the redistribution programme, in particular, would be to encourage individual or family smallholder ownership

(Department of Land Affairs, 1997, 67), and overall, land transfers would aim to foster long-term stability and economic prosperity" (Department of Land Affairs, 1997, p. 35).

Note that the formulation of the problem as a matter of contemporary poverty and landlessness neglects the longer background of loss that underlay them. The ANC itself was formed, in the first instance, by middle-class people on broadly nationalist principles to oppose the 1913 Natives Land Act ("A Brief History of the African National Congress," n.d.). According to Richard Msimang, an attorney and founder of the ANC, the 1913 Natives Land Act had not only dispossessed black people of property and tenure; it had also disrupted their ability to accumulate wealth in the form of continuous tenure of land and cattle. As Ngcukaitobi comments, the Act prevented the emergence of independent, prosperous African nations (Ngcukaitobi, 2021, pp. 52–53). The restoration of dispossessed lands, in whatever way, could address a contemporary need for land, but it could not by itself address the longer-term historical loss of wealth.

Diagnostic metaphor: cause and responsibility

This section attempts to identify the White Paper's sense of the cause of the diagnostic problem, which it adopted as central to the issue of land reform, and the assignable responsibility for it.

The preceding section argued that the White Paper presented the "land as authentic belonging" metaphor as a potential problem identification but set it aside in favour of a narrower sense of "land as material belonging". Arguably, the broader metaphor would have invited combative language identifying specific population groups and assigning perpetrator and victim roles to them. Confrontational rhetoric, indeed, was in the ANC's ideological DNA. The preamble to the Strategy and Tactics of the ANC (1969) targets the "white racialist and fascist regimes" then in power across southern Africa as the sources of oppression. Similarly, the Colonialism of a Special Type document (*Colonialism of a Special Type*, n.d.) identifies a group of people, namely, white South Africans, as those who "enjoy political power, racial privileges and the lion's share of the country's wealth". At the same time, the black majority suffered "national oppression, poverty, superexploitation, complete denial of basic human rights, and political domination".

The use of combative language continued through the period leading up to the negotiations and further into the post-apartheid era after the ANC had gained power. Malan has shown, for example, that the speeches of leading ANC politicians throughout the negotiations and moving into the first years of its rule frequently involved the conceptual metaphor of "politics is war" (S. Malan, 2008). Arguably, for the ANC, "the struggle" was not just a linguistic metaphor but part of its way of thinking and talking – that is, "a model, schema or frame" of its conflict with the apartheid government and the system it represented.

As regards land reform, the central concept used in ANC's Ready to Govern (1992), the RDP (1994), and the White Paper on land reform (1997) is that of dispossession. It occurs relatively infrequently in the first two documents but is used 57 times in the White Paper. As a term of moral evaluation, "dispossession" is related to the concepts of injustice and fairness, which, used in an evaluation, require the identification of the subjects of injustice and unfairness and the agents responsible for inflicting them. As we have noted, throughout its many years of struggle, the ANC's instinct was to identify the disenfranchised and dispossessed black people of the country as the subjects of oppression caused by a racist government or even white South Africans generally.

However, the ANC adjusted the aggression of its rhetoric as it moved closer to power. The ANC's traditional 8 January speeches running up the negotiations in 1994 often used the phrase "the struggle" as a conceptual metaphor projecting the organisation's relationship with the apartheid government as a conflict for power; in 1980, it was used 34 times, and in 1988, it was used 55 times. However, as the negotiations intensified, its use declined to eight in 1993 and seven in 1994. The organisation was aware of how combative the phrase could make it appear to be. Accordingly, one traces a parallel adjustment of tone through the documents relevant to land reform.

The Ready to Govern document, for example, described land as "a productive resource" and "a secure place to live" that can be rendered by the enactment of these values (*Ready to Govern: ANC Policy Guidelines for a Democratic South Africa*, 1992).

The White Paper noted that the structural "instability and insecurity" of the rural areas was "the result of literally hundreds of land-related racially discriminatory laws introduced and enforced under colonialism and apartheid" (Department of Land Affairs, 1997, p. 59). The phrase "racially discriminatory laws" occurs 14 times in the document. It assigns responsibility for the injustice and unfairness of the prevailing distribution of land not to a "racist regime" or to the people that the regime claimed to represent but to "racially discriminatory laws". This is different terminology from that of the rhetorical stances taken by the ANC in exile, at times during the negotiations, and for some time into its period of rule.

Diagnostic metaphor: the policy remedy

The next element of discovering the frame of a position in an "intractable" controversy requires us to identify the "treatment" or policy solution likely to have been implicit in the frame's construction. Combined with the traditional combative stance, the more general metaphor "land is belonging" expressed in the White Paper would likely have issued in a confrontational policy solution for land reform. However, while the White Paper frequently expresses a strong sense of the connection between race and land ownership, it retains the legalistic approach.

In the terms the selective framing has set up, the direct problems to be solved are, again, racially discriminatory laws; for example, "racial land laws" are mentioned that have squeezed "over 80% of the population into the townships and ex-homeland areas" (Department of Land Affairs, 1997, p. 57) as well as "literally hundreds" of "racially discriminatory laws" that were introduced and enforced under colonialism and apartheid (Department of Land Affairs, p. 60). Restitution of land under the land reform programme is envisaged as the restoration of land "dispossessed as a result of past racially discriminatory laws or practices" (Department of Land Affairs, 1997. p 77) through the introduction of corrective laws.

The crucial background to this approach must be found in the ANC's proposal for a constitution in the run-up to the negotiations. In the Harare Declaration it called for the lifting of various oppressive measures at home, the suspension of hostilities, and a constitution that would be based on "the principles of equal citizenship in an undivided

South Africa, one person one vote under a common voters' roll, and universal human rights entrenched in a Bill of Rights". Toward the end of the last century, Constitutionalism was experiencing a "third wave" (Roux, 2014 section 10-21) in which many countries emerging from autocracy chose the path of a bill of rights and the use of judicial review to limit state power.

The ANC's adoption of constitutionalism was a key element of its campaign to be recognised as the leading anti-apartheid negotiating party, which required acceptance from various International actors, including African and Western governments (Simpson, 2021, pp. 530–532). Winning the confidence of international monetary institutions and foreign investors in a "rapidly globalising world" where they had many choices of investment destination was a basic requirement of establishing its credibility as a future government (Ranchod, 2004, p. 6). This meant a legal approach to addressing the wrongs of the past and the protection of private property. These elements were the essential ingredients of the proposed land reform policy.

Diagnostic framing: between two metaphors

In summary, we can describe the diagnostic framing narrative of the ANC's land reform policy in the immediate post-apartheid period in the following terms. In outline, it identified a broader diagnosis of the problem of land reform in terms of the long-term history of land ownership and dispossession in South Africa that articulated land reform as a matter of the return of lands gained by colonial dispossessions and a narrower one based on a shorter-term view of land ownership and dispossession in the context of the 20th century that articulated land reform as a matter of addressing the well-being of dispossessed people. The choice of the narrower diagnostic metaphor, it is argued, resulted in the decision in favour of the market-oriented "willing seller, willing buyer" model in the first period of land reform.

As we have seen, the White Paper accepted the second, narrower metaphor, "the loss of land as material belonging", which was aimed at addressing the poverty and landlessness of most black South Africans as the critical issue of land reform. The narrower metaphor led to the identification of racially discriminatory laws as the main cause of the policy problem. Such abstract language did not require the direct attribution

of responsibility for the dispossessions on any group, although it assumed that the state would be responsible for redressing them. The policy remedy for the problem diagnosis, constitutional legalism, followed directly from these selections of the framing process, was. That is, it assumed the use of a constitutional order of rights to undo the damage of discriminatory laws, however long they had been in place.

The broader diagnostic metaphor was based on the sense of conquest and dispossession as the central theme of South African history after the arrival of white settlers and was shown to be based on a metaphor for "the loss of land as authentic belonging". However, the White Paper set this viewpoint aside, arguing that claims based on it would be impossible to resolve because it would result in complex overlapping claims based on ethnic identities that might result in "destructive racial and ethnic politics" (Department of Land Affairs, 1997, pp. 77–78). In particular, it argued that claims would be highly contested because many claimants would not be able to show that they were "legitimate descendants" of any group (Department of Land Affairs, 1997, p. 78).

Two important assumptions of this approach may be noticed. Firstly, the policy assumed that the constraints of the available judicial means were valid, mentioning the Restitution of Land Rights Act of 1994. Secondly, it mentioned the possibility of using "Aboriginal Title Arguments" such as those successfully used in Canada and Australia by indigenous groups to recover dispossessed land (see e.g. Yanou, 2006).

Now, reference to the Restitution of Land Rights Act invoked the Constitution, which provided for private property rights primarily based on citizenship, not ethnic identity. Arguably, the notions of personal property and abstract citizenship represented "naturalisations" of a shared abstract identity that did not exist as a commonly accepted reality at the time of the negotiations (see Chapter 2). Indeed, it might be suggested that the constitutional recognition of a general South African identity did not represent a recognition of an existing psycho-cultural reality so much as the aspiration that such might, in time, come into being based on the reconciliatory approach of the document as a whole.

Secondly, the document assumed "legitimate descent" as a potentially valid basis for claims to land, only rejecting it based on its practical unrealisability, not as a matter of principle. We may say, then, that the requirement of an ability to show legitimate descent invoked an expectation of authenticity or a "guarantee of sameness of identity" (see Chapter 2). Again, for a negotiated post-apartheid settlement, that authenticity was defined in terms of the abstract rights of citizenship of the Constitution. Changing either of these assumptions would, of course, fundamentally alter the possibilities for policy. The abandonment of both would represent an assertion of the primary validity of previously existing notions of judicial belonging (in both senses of this term), but this was not viewed favourably at the time because the priority was judged to be national unity and reconciliation (Christopher, 1995, p. 269).

As some formulations in the White Paper showed, the policy was intended to address a collective wrong – the dispossession of land from peoples, not only persons. However, the constitutional rights in terms of which it was framed effectively focused on the policy remedy for the problem diagnosis as a matter of individual rights.

Conclusion

In outline, this chapter has traced the formulation of land reform policy during the first period from 1994 to 2000 using the wicked problem framework as a key to understanding the complexity of the policy problem, mainly as it related to the range of stakeholders involved, and the identification of policy "solutions" to the problem in terms of "diagnostic" framing. It has shown that the diagnostic framing of land reform in the first period identified two versions of the problem and, therefore, two different sets of the measures deemed necessary to address it: a narrower framing ("material well-being") and a broader framing ("authentic belonging").

The White Paper of 1997 adopted the narrower framing, which was associated with a market-oriented approach based on the restoration of land through willing-seller, willing-buyer agreements. As reports of the failure to achieve the basic targets of land reform mounted, in its official reviews, the ANC government largely positioned land reform's failures as internal, institutional failings. In contrast, the critical views of the

six broad ideological positions of stakeholders summarised in Table 1 above identified many problems, including political will, policy design, institutional tensions and incapacities. The dominant narrower framing based on a market-based mechanism of land restoration increasingly faced pressure from two sides: from "neo-liberals" advocating land reform of "a more modest nature" and from radical populists (Lahiff, 2008b, p. 20).

As Cousins saw it, the core difference that "bedevilled" the debate at the time was the tension between two broad approaches: those who advocated a primarily economic approach to land reform and those who advocated a strategy based on "equity, rights and historical redress" (Cousins, 2000, p. 2). The first was pro-market, with an emphasis on economic efficiency, a broadly "right" or conservative-liberal political agenda supported by the private sector, business-funded think tanks and white farmer unions, while the second was "broadly left and pro-poor", with an emphasis on social justice, and largely represented by organised civil society and "many academics and researchers" (Cousins, 2021, p. 103).

Effectively, these positions brought most of the positions categorised in Table 1 under two broad headings, which Cousins described as "broadly left" and "pro-poor" on the one hand and as pro-market and(by implication) "broadly right" on the other (Cousins, 2021, p. 103). While the two positions overlapped in some matters and took different directions in others, as we have seen, each centred on the "thorny difference" that would increasingly emerge as the central issue of land reform in the second period between 2000 and 2008: the conflict between the market-oriented and the confiscatory policies on land acquisition (Cousins, 2021, p. 107).

As this chapter has sought to show, the ANC's initial evaluation of the problems of land reform outlined two possible policy approaches in terms of diagnostic metaphors of "material well-being" on the one hand and "authentic belonging" on the other. As has been argued, during the first period from 1994 to 2000, the ANC government had to mediate the competing positions of a complex array of stakeholders, synthesise them into a land reform policy, and implement the result. Though very much present in debates then, the radical redistribution position was effectively excluded.

Yet, as the wicked problem framework suggests, in such complex policy situations, any policy framing will be a partial "solution" at best that is likely to exclude relevant factors already present in the debate about the policy problem. The excluded factors may continue to play a role in the situation, gain influence as the (inevitable) narrowness of the original policy decision, and generate further problems.

What is clear is that calls for expropriation without compensation (re-)emerged as a significant view in the land reform debate from the end of the first period under review. Indeed, some senior leaders within the ANC called for expropriation as early as 2000 (Cook, 2000). The following chapter sets out, firstly, to review the state's attempts to reframe the objectives of the narrow "material well-being" policy and, secondly, to show that growing dissatisfaction with this approach resulted in a complex and polarising campaign for a fundamental revision of the main objective of land reform that unambiguously linked the call for expropriation without compensation to the "authentic belonging" diagnostic metaphor.

Chapter 5: Two phases of land reform, 2000 – 2018

Introduction

The research question addressed by this chapter concerns the nature and significance of major changes in the focus of the land reform debate and their contribution to the ANC government's radical revision of the underlying theme of land reform following widespread criticism of the perceived failures of the first period of land reform between 2000 and 2018. As we saw in the previous chapter, the first period of land reform effectively ended in 2000, with growing criticism of the slow pace of land reform. That criticism centred on two broader issues: perceived problems with the policy's political, institutional and administrative shortcomings and, more broadly, perceived problems with the market-oriented approach.

This chapter focuses mainly on the increasingly important debate that unfolded in those periods about the fundamental aims of land reform. It outlines growing criticism of the reconciliation approach in the second period of the land reform debate between 2000 and 2008 and shows that it resulted in an increasing emphasis among critics of the ANC government's land reform policy and programmes on a more confrontational approach that emphasised the interests and rights of dispossessed black people over those of existing land owners.

It argues that this development can be understood as a process of intensive disruption of the "material welfare" metaphor between 2000 and 2008 and its increasing displacement by the "authentic belonging" metaphor as the dominant imperative of land reform from 2008 to 2018. It argues that adopting the expropriation without compensation model was controversial because it represented the ANC government's more fundamental adoption of the metaphor of "authentic belonging" as an underlying justification for all land ownership. The chapter concludes that this underlying but undeclared emphasis was an essential reason for opposition to the proposed re-orientation of land reform policy. In these terms, the ANC government's appointment of a public inquiry in 2018 was intended to establish its acceptability. The following chapter sets out the significant aspects of the public inquiry and evaluates its credibility as an inquiry process.

The second period of land reform: 2000 – 2008

In 1999, following the task team and ministerial reviews of land reform outlined in Chapter 4, the ANC government announced a change in its approach to land reform policy, formally outlined in Thabo Mbeki's first speech as president at the opening of parliament in February 2000. The president said the change would be based on "a programme of integrated rural development" (Cousins, 2000a, p. 3). The new approach maintained the market-oriented approach but focused policy on stimulating the emergence of a sector of "aspirant black commercial farmers" based on the principles of "market efficiency" and the "deracialisation" of the commercial farming sector (Cousins, 2016a, p. 3). The new approach was intended to "complement rather than replace" the emphasis on supporting small-scale farming of the first period of land reform policy, but in practice, support for small-scale farmers began to "fall away" (Cousins, 2021, p. 104).

Mbeki is also widely viewed as presiding over a "rightward" or "neo-liberal" shift in general economic policy (Viljoen, 2022, p. 141), but this did not make him a "convert to political liberalism" (Ellis, 2013, p. 294). Accordingly, he presided over a considerable centralisation of power and government administration around the presidential office, and there was a general decline in consultation with relevant experts and stakeholders on a range of matters, including land reform (Anseeuw & Alden, 2011, p. 15). In contrast with the atmosphere of open consultation that had often characterised the first period of land reform, details of the new plans were not initially made known, resulting in "an atmosphere of unease" in the rural sector, particularly among left-leaning land NGOs and rural development organisations (Cousins, 2000a, p. 3).

The new approach was based on a policy framework, LRAD, which provided grants to aspirant black commercial farmers. The process would be demand-driven, with would-be beneficiaries expected to apply for assistance and justify their applications with detailed business plans (Cousins & Scoones, 2010, p. 17). Applicants would be expected to compete "on an 'equal footing'" with established white commercial farmers "regardless of their resources, abilities, or stated objectives" (Cousins & Scoones, 2010, 17). The unease of left-leaning stakeholders at the time was no doubt exacerbated by perceptions that the new approach had been arrived at with the input and sometimes the approval of

other “key stakeholders”, among them organisations representing the interests of white commercial farmers and “relatively wealthy black commercial farmers” (Mather, 2002, p. 352).

This shift in policy focus can be understood as a response to widespread public perceptions of the failure of the first land reform policy between 1994 and 2000. These criticisms included questions about the slow pace of land transfer, little evidence of improvements in beneficiaries’ livelihoods where transfers had taken place, ineffectiveness in securing tenure and difficulties in raising the productivity of land reform projects (Diagnostic Report on Land Reform in South Africa, 2016, p. 15).

Viewed through the wicked problem framework lens, it is plausible to see Mbeki’s centralised market-oriented approach as a further attempt to cut through the complexities of land reform. Limiting consultation ensured that the views of some stakeholders could be excluded from consideration, enabling support of an emerging black land-owning elite. Moreover, Mbeki’s centralisation of policy-making and administration enabled greater control over the internal transformation of government, including land reform institutions. According to one observer, the focus on commercial farming was also potentially easier for bureaucrats to administer (Mather, 2002, p. 352). The departure of senior land reform personnel, mostly but not exclusively white, also removed ideological obstacles to the new approach (Walker, 2012, p. 825). In outline, Mbeki’s reframing of land reform closely resembled the “carving off” strategy identified by Rittel & Webber.

The new focus on black commercial farming

Aiming to address the slow pace of land reform, Mbeki applied pressure on land reform institutions. In 2002, in his State of the Nation address, he said that the pace of land reform had picked up considerably, particularly as regards restitution and that “the land restitution process would be ‘completed’ within three years” (Hall, 2003, p. 26). This was taken as a deadline “to settle all outstanding claims by 2005” (Hall, 2003, p. 26). Land reform insiders argued that the deadline wasn’t feasible due to staffing constraints and that achieving the target would require “a raft of new policy”, including an increased

budget and revisions to the Restitution Act to "expedite expropriation of land for the purposes of settling claims" (Hall, 2003, p. 26).

As we saw in Chapter 4, the ministerial review of 1998/1999 focused mainly on internal administrative hurdles to land reform. A more extensive review of land reform associated with the Mbeki administration was conducted between 1999 and 2000, with World Bank input (Hall & Cliffe, 2009, p. 7). The review was critical of the 1997 White Paper land reform policy, which it argued had necessitated that beneficiaries combine their grants to obtain land, resulting in unwieldy collectives that were "unable to manage and use their land" (Hall, 2015, p. 233). The policy had focused on "the wrong kind of beneficiary [the black smallholder sector] and an inappropriate use of the land", and, as outlined in the previous section, the new policy proposed supporting "emerging farmers" (Hall & Cliffe, 2009, p. 7).

Commentators' views of the new policy's larger significance contrasted strongly. For proponents, in general terms, the emphasis on small-scale farming had been misplaced (Hall, 2015, p. 233). According to proponents, larger grants that enabled beneficiaries to purchase land for commercial purposes would "prevent [the] patterns of overcrowding and under-utilisation of land" that had resulted from the attempt to encourage smallholder agriculture of the first phase of land reform. (Hall & Kepe, 2017, p. 2). The reform of evaluation procedures fast-tracked this process by allowing for the administrative, rather than the judicial settlement of applications, the processes of which had held up adjudications of claims (Hall & Kepe, 2017, p. 2)

For opponents who wanted a more strongly state-driven, expropriation-based emphasis on smallholder agriculture – most notably some proponents of the sustainable livelihoods paradigm – this merely promoted a right-wing class agenda (Hall, 2015, p. 233), which would "marginalise the majority of rural farmers, who were women" (Hall, 2015, p. 233). The fast-track process, which would enable speedy settlements of restitution claims in terms of cash payments, amounted to "chequebook restitution", and human rights lawyers maintained that the fast-track procedure would enable "abuse", that is, corruption (Hooper-Box, 2001).

The three programmes: reviewing progress

As we have seen, by the end of the first period of land reform in 2000, less than 1% of the land had been restored under land reform programmes aimed at restoring 30% of land by that time (Cliffe, 2000, p. 279). Critics from different perspectives agreed that the pace of land reform was slow (Cousins, 2000b; De Villiers, 2003; Deininger, 1999; Driver, 2007; Hall, 2004; Hall & Cliffe, 2009; J. F. Kirsten & Van Zyl, 1999, 1999; Lahiff & Cousins, 2001; Ntsebeza, 2007; Vink & Van Rooyen, 2009) and noted a wide range of explanatory factors in this poor performance, including budgetary, institutional and implementation questions, some was mainly due to the market mechanism. This, it was argued, slowed redistribution in particular because the approach required the willingness of existing owners to sell, while the commitment to settle deals at market-related prices involved protracted negotiations (see e.g. Lahiff, 2000, p. 8).

Despite this, the ANC government's approach to land reform during the second period of land reform committed policy even more narrowly to the "material well-being" diagnostic metaphor and the market mechanism as the means of achieving it. The "material well-being" metaphor had implicitly adopted the measurement of amounts of land transferred as a primary criterion for success (Walker, 2005b, p. 819). The following subsections briefly review the ANC government's delivery against land reform targets set in the second period under review in this dissertation.

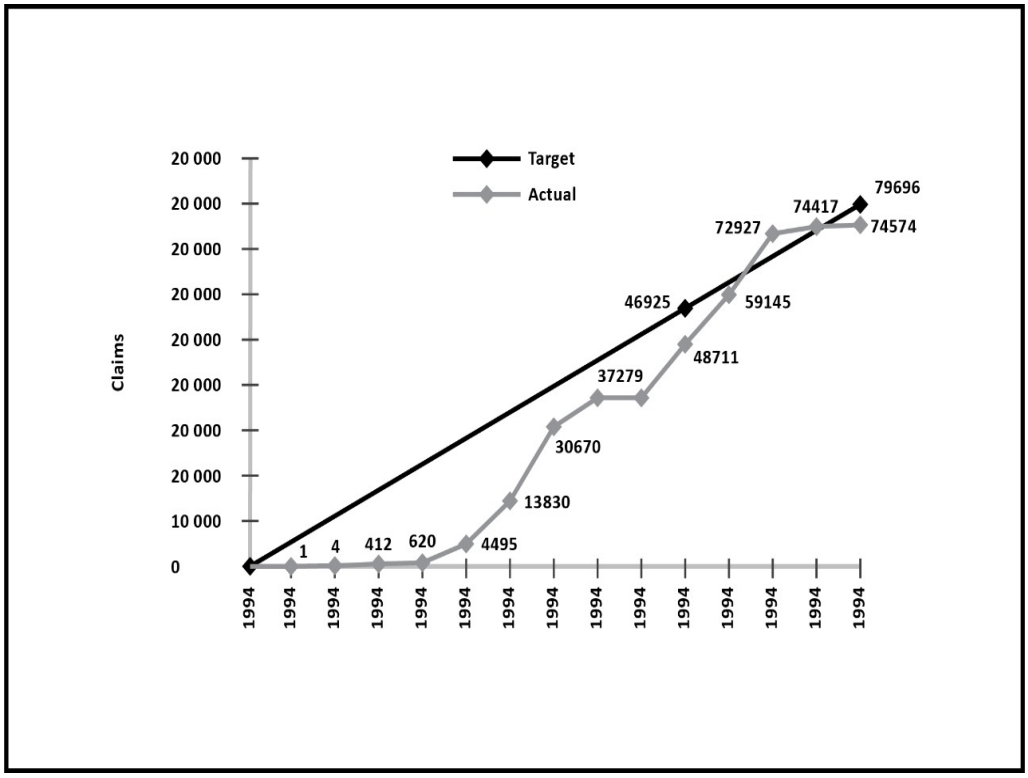
Restitution

Restitution was regarded as an essential pillar of land reform because it aimed to address the forceful dispossession of land, often within living memory. As outlined in Chapter 4, the institutional challenges of land reform in the first period resulted in the settlement of perhaps as few as 50 claims by 1999. From that year, as noted, the Mbeki administration's greater urgency and centralisation pushed up the annual number of claims settled: 34 in 1998/99, 3,875 in 1999/2000: 8,178 in 2000/2001, and 17,783 in 2001/02 (Hall, 2003, p. 28).

While the number of claims settled increased, the amount of land being restored was not. Between 1998 and 2002, the average number of households involved in a claim declined from 432 to 2. Per claim, the number of restored hectares per settled case declined from 5,185 to eight. According to Hall, this suggests that more minor claims were being prioritised or that larger claims were being split (Hall, 2003, 28). Nevertheless, according to Walker, within five years, the reinvigorated programmes were showing "relative improvement", with the number of restitution claims increasing from 1,651 in 2000 to 73,433 by 2006 (Walker, 2012, p. 817).

At the end of the first quarter of 2003, the CRLR reported that it had settled 36,488 claims and restored 571,103 hectares of land. However, most settled claims were urban, for which financial compensation was paid in lieu of land. It also noted the continuing trend of fewer claimants per claim (Hall, 2003, p. 29). Targets were set to settle 40,089 urban and 11,547 rural claims between 2002 and 2005. However, insufficient data on outstanding claims called into question the accuracy of estimates of the funding needed to pay them (Hall, 2003, p. 36). Progress toward the settlement of restitution claims at the end of the second period of land reform, either as actual or projected settlements, is summarised in the following figure.

Figure 1: Restitution claims settled (and projected) 1994 – 2008



Source: Department of Land Affairs, 2006/07 Annual Report to the Select Committee on Land & Environmental Affairs, 6 November 2007. PowerPoint presentation (Lahiff, 2008a, p. 14).

From the figure, it appears that the rate of restitution climbed rapidly from the point at which the Mbeki administration took over power (1999), levelled out briefly after his deadline speech in 2002, and accelerated further after that, almost reaching its target in 2005 and even exceeding it in 2006. By 2007, some 69.7% of restitution claims were settled by cash compensation, 26.4% by land restoration, and 3.9% settled by "alternative remedies" such as "developmental assistance and/or alternative land" (Lahiff, 2008a, p. 13). The proportion of rural claims settled with land was more than double that of urban claims (Lahiff, 2008, p. 13). The unsettled cases involved complexities relating to the need for adjudication, disputes with traditional leaders, disputes with current landowners and untraceable claimants (Lahiff, 2008, p. 17). Critics noted discrepancies in different land reform reports within the same period, as well as changes in the figures reported from year to year in some cases (Lahiff, 2008, 16).

Redistribution

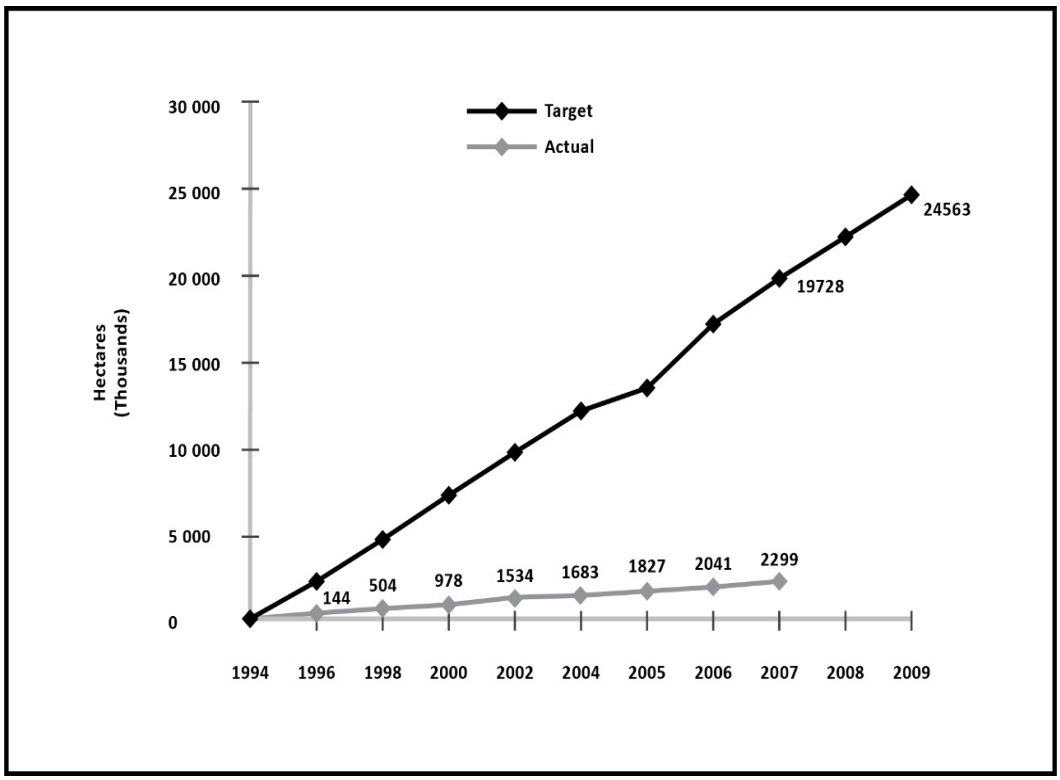
The redistribution programme aimed to use the market mechanism to provide land to black people who wanted it and, in so doing, redress the injustices of the past and "enable social stability and improved livelihoods" (Viljoen, 2022, p. 2). As already noted, in the first period, progress toward the target of redistributing 30% of commercial agricultural land to black people within five years was slow. According to one account, by 1999, only about 55,000 households – estimated at 300,000 people – had received land under the redistribution programme (Hall & Cliffe, 2009, p. 6). Even so, this represented a considerable speeding up of the redistribution process beginning in 1998, when more people were granted land than in the previous three years. In 2000, the date for achieving the target was reset to 2015[3].

After the rapid increase in redistribution between 1998 and 2000, the pace of redistribution slowed down, partly due to the ministerial and other reviews set in motion at the end of the first period, which put in place a moratorium on new projects (Cliffe, 2000, p. 274). By 2003, only about 1.2% of commercial farming land had been redistributed, including farm equity schemes and labour tenant projects. Several commentators observed that even the revised target entailed that significant increases in the annual rate of land transfer would be necessary. According to one, "a sevenfold increase" of transfers each year would be required to achieve the (revised) redistribution target of 30% of commercial farmland by 2015 (De Villers, 2003, p. 54). According to others, the revised target date implied that some 1.64 million hectares would need to be transferred annually to achieve the target by 2014 (Diagnostic Report on Land Reform in South Africa, 2016, p. 11).

Despite these projections, the dynamism introduced by the Mbeki deadline in 2002 resulted in a relative increase in both the number and the annual rate of redistribution settlements between 1994 and 2008, but unlike the rate of restitution, the rate of redistribution did not nearly approach the annual targets. This is indicated in the following table:

[3] Other sources cite 2014 as the new deadline date. (See e.g. Bradshaw & Street, 2018; Diagnostic report on land reform, 2016.)

Figure 2: Target and actual land transfers under the redistribution programme, 1994–2009



Source: Department of Land Affairs. Presentation of the 2006/07 Annual Report to the Select Committee on Land & Environmental Affairs. 6 November 2007 PowerPoint presentation (Lahiff, 2008a, p. 23).

Unlike restitution, the DLA raised issues of funding and budgeting in relation to redistribution. The department had consistently underspent on redistribution, but in the years 2006/07, it allocated 100% of the budget to land redistribution and tenure reform (Lahiff, 2008a, p. 22). The DLA said it would "continuously increase" its budget to accommodate the need for faster and large-scale redistribution but warned that this would not be "unlikely to see any corresponding increases in the hectares of land acquired mainly due to high land prices" (Lahiff, 2008a, p. 23). However, according to Lahiff, this "greatly exaggerate[d] the likely rise in land prices (given that the budget for land purchase is set to roughly double for each year over the next two years)" (Lahiff, 2008a, p. 24).

Security of tenure

For clarity at this point, we remind ourselves that "tenure", in a general sense, is often taken to be "synonymous with property rights", which refer to "a bundle of rights, many specific to do certain things with land" (Ranchod, 2004, pp. 2–3). In the context of South African land reform, "tenure" took on more specific meanings relating to the secure access to land of people living in insecure circumstances on white-owned farms and in the former homelands. These contexts presented different challenges for a coherent land reform policy.

During the first period of land reform, several pieces of legislation – among them the Land Reform Labour Tenants Act (1996) and the Extension of Tenure Security Act (1997) – were introduced to address the security of black tenants' tenure on (mainly) white-owned farms by defining legal constraints on eviction and measures to prevent arbitrary eviction. However, these laws proved "notoriously difficult to enforce" (Hall, 2004, p. 218). Well into the second period of land reform, the measures were proving so ineffective that "even potential beneficiaries are asking that the Act be scrapped" (Weidemann, 2004, p. 220).

Meanwhile, early commentators had argued that the variety of forms of access to land in the communal areas would prove challenging for land reform policy; new laws would need to protect "different forms of tenure, not just individual private property". These different forms of tenure represented overlapping and often disputed land rights based on customary forms of tenure, including heritable family rights, chiefs' rights of land allocation, and private property rights (Delius & Beinart, 2021).

The difficulty of addressing these issues was reflected in the fact that various forms of legislation were proposed that faltered or failed. Among them, a Land Rights Bill proposed in the late 1990s that was never finalised (Cliffe, 2000 p. 275) and the Communal Land Rights Act (2004), which attempted to "finesse" the gap between traditionalism and democracy by allocating rights to allocate land to traditional authorities (Walker 2005, p. 820). Critics charged the latter Act with "strengthen[ing] the apartheid-

era powers of traditional authorities". It was finally scrapped in 2010 as unconstitutional after land NGOs successfully argued that the public had not been sufficiently consulted.

As noted, the reliability of the available figures is undermined by the fact that departments tended to lump the figures for redistribution and tenure together (Diagnostic Report on Land Reform in South Africa, 2016, p. 23). Nevertheless, the available statistics strongly indicate that security of tenure was the "orphan programme" of land reform (Cousins, 2016a, p. 5). By 2005, according to one report, some 1,780,260 hectares had been restored by redistribution, while only about one-tenth of that, some 171,554 hectares on the (mostly) white-owned commercial farms, had been restored through tenure reform (Walker, 2005b, p. 818). To put these figures in perspective, the communal areas covered about 17,2 million hectares, of which around 14,5 million hectares were classed as "agricultural" in 1991. Most of this land was state-owned and "densely settled by black households under various forms of customary tenure" (Walker & Dubb, 2013, p. 2)

According to an earlier (non-government) survey, from 1994 to 2003, out of about 2.5 million people who left farms for various reasons, about 940 000 people were evicted, only around 1% of them legally through a court order (Diagnostic Report on Land Reform in South Africa, 2016, p. 55). A year later, this figure was estimated at one million people, as compared to about three-quarters of a million evictions between 1984 and 1994 (Cousins, 2021, p. 102). Another study claimed that as many as two million people were displaced from rural areas between 1994 and 2004 – more than the total number of people who had benefited from land reform programmes (Lahiff, 2007, p. 1582). However, it should be noted that "displacement" included people who had moved from farmland without necessarily suffering eviction.

General outcomes: restoration and poverty

Commentators and land reform experts have not produced any widely accepted criteria for the "success" of the land reform programme. In 2005, as the Mbeki administration's refocusing of the narrow framing of land reform unfolded, "pro-poor" commentator Cheryl Walker argued that critics across the ideological spectrum had

adopted “contrasting positions” that “consistently underestimate[d] the complexity of the [land reform] task”; the criteria they developed for judging success were “limited” and possibly “even counter-productive” (Walker, 2005b, p. 818). Based on conflicting notions of the aims and appropriate means of land reform, these disagreements were an apt illustration of the wicked problem framework’s conceptualisation of the unresolvability of complex policy problems involving incommensurable problem statements and policy solutions.

Arguably, the relatively poor quality of the reported data on land reform was an essential source of the chronic and structural disagreements between land reform stakeholders. We have seen that the state’s reporting criteria obscure the results of at least two of the three pillars of land reform, redistribution and security of tenure. In Walker’s view, land reform institutions were “ambivalent” about their criteria of measuring success, adopting both reporting by numbers and assessment of programmes by more “general objectives” (Walker, 2012, p. 818), such as social stability. The lack of detailed reporting by state land reform agencies contributed to intense debates about what “the precise achievements of the land reform programme” were (Lahiff, 2007, p. 1582).

For pragmatic purposes, two broad criteria for evaluating the outcomes of land reform during the second period of land reform are adopted here: the extent of restoration of land and the impact on rural poverty.

General outcomes 1: Restoration

The president’s deadline speech in 2002 had focused attention. According to the Institute for Poverty, Land and Agrarian Studies, restitution proceeded “dramatically” in the second period of land reform. By 2009, about 75 787 claims for restitution had been settled, most of them for land in urban areas that was compensated for in cash payouts. In total, about 1.5 million people benefited from the settlement, and about 2.64 million hectares were transferred in this way (Diagnostic Report on Land Reform in South Africa, 2016, p. 11)

Given the patchy reporting by state authorities, the available statistics on land restoration from different sources yield a somewhat mixed picture. For example, as regards the redistribution programme, by 2005, some 1,780,260 hectares had been transferred to black people, as well as 171,554 hectares through tenure reform outside the communal areas (Walker, 2005, p. 818). By this time, 2.8 million hectares had been transferred through all the three land reform programmes, amounting to 3.4% of all commercial farmland (Walker, 2005, p. 818). By 2009, some 3.04 million hectares had been redistributed to 185,858 beneficiaries (Diagnostic Report on Land Reform in South Africa, 2016, p. 11).

Overall, possibly a relatively clear picture in percentage terms of relative contributions of the three programmes of land reform toward the end of the second period is given by the following table:

Table 2: Total land transfers under South African land reform programmes 1994 - 2006

Programme	Hectares redistributed	Contribution to total
Redistribution	1 477 956	43.8
Restitution	1 007 247	29.9
State land disposal	761 524	22.6
Tenure reform	126 519	3.7
Total	3 373 246	100

Source: From a DLA PowerPoint presentation of 24 August 2006 (Lahiff, 2008a, p. 5)

While commentators had caveats about the quality of land reform data, in combination with the data in Figures 1 and 2 above, the table provides a helpful outline of the state of play of land reform near the end of the second period of land reform. As we saw, redistribution ran into problems, and the total amount was nowhere near the

projected target for 2014/15. While restitution had achieved its targets by the end of 2007, the meagre total of hectares transferred as compared to the annual total needed to achieve the 2014/15 target suggested a range of problems to critics, who by this time often included members of the government. The very low figure for tenure reform indicated that, at the least, the programme was not a priority for the ANC government.

General outcomes 2: poverty reduction

Land reform in the two periods after 1994 did not reduce chronic levels of rural poverty. By the early 2000s, some 70% of black people in rural areas still lived below the poverty line. These included about one million farm workers and their dependents. Most of this group — nearly a third of South Africa's population — lived on less than 13% of the land in the former homelands (the figures provided here are due to Hall, 2004, p. 214). Some 70% of low-income people lived in the rural areas (Laurence, 2001). By 2006, 66% of black people with access to land could only access 0.5 hectares or less; only 0.5% had access to more than 20 hectares. Among white people with access to land, 53% had access to more than 20 hectares, while 15% had access to 0.5 hectares. However, only a tiny percentage of the white population owned farming land. Most of their investments were in other sectors of the economy, including mineral resources, manufacturing, and the financial and services sector (Hall and Cliffe, 2009, p. 3).

Between 1993 and 1996, white commercial farmers had mechanised and improved productivity by 20% per year (Mulholland, 2001). This had placed further pressure on farming employment and resulted in evictions that caused concern. Agriculture employed about 780,000 people as farmworkers, though it only contributed only 4% of GDP. For about 4.5 million residents of the former homelands, access to land provided both food and an occasional cash income (Hall and Cliffe, 2009, p. 3). Only about 0.2% of 1.27 million black farmers could make a living from farming.

The framing of land reform around the "material well-being" metaphor in the first period of land reform had centred mainly on "neo-liberal" arguments about productivity and in the second period on "commercial viability" (see, e.g. Cousins & Scoones, 2010, p. 17). The precise outcomes of widespread small-scale farming for poverty reduction do

not appear to have been specified in detail, though by the end of the period, there was a presumption that these should be expressed in terms of "costs and benefits" (J. F. Kirsten & Van Zyl, 1999, p. 327). During the second period, with the emphasis on commercial farming, they were mainly based on calculations of the "minimum viable farm size" that could produce "an acceptable level of household income" (Cousins & Scoones, 2010, p. 18).

Several studies completed during or shortly after the second period revealed contradictory findings regarding whether land reform had resulted in poverty alleviation (Jacobs et al., 2013, p. 11). Positions varied according to ideological orientation, not always predictably. From a "pro-poor" perspective, for example, land reform had, at best, delivered "modest" improvements to the livelihoods and incomes of the rural poor (Hall & Cliffe, 2009, p. 2). From a "pro-market" perspective, there was "*no* evidence that the supposed beneficiaries of land reform are better off" from it (Vink & Van Rooyen, 2009, p. 22) (italics added). Estimations of the failure rate of land reform projects that were supposed to have become viable enterprises of one kind or another varied from 50% to 90%.

Reframing land reform: The move from "material well-being"

By the end of the second period of land reform, the ANC government's policies had been the subject of a considerable amount of analytic and critical reflection from various stakeholder perspectives, including academia, NGOs, political parties, business and agricultural lobby groups, and grassroots organisations. Increasingly, land reform institutions, particularly the DLA, were more actively involved in critical reviews, while more broadly, ideological criticism from elements within the ANC was also more publicly expressed.

In Chapter 4, we saw that the wicked problem framework posits that the "wickedness" of certain policy situations consists in the fundamental disagreement of stakeholder positions regarding the identification of the problem and, hence, the solutions. As the wicked problem framework posits, the complexity of "wicked" policy situations is not static. Selective identifications of policy problems result in further issues as their

associated selective solutions are implemented. Relatedly, the implementation of policy solutions may be poor in various ways and thus generate further problems that compound those currently evident. Moreover, some problem identifications and associated solutions may not be properly identified in the early stages of an incomplete wicked problem identification phase.

In the latter case, it will be an open question whether failures to identify salient issues in the initial phase of a consciously approached wicked problem situation result from systematic and conscious evaluation and decision according to explicable processes. As we have seen, the White Paper finalised a relatively exhaustive process of consultation of the first phase of land reform – yet its summary of the decision process that rejected versions of the radical populist and "pro-poor" state-interventionist approaches to land reform was that "counter proposals" were "often difficult to reconcile" and "comprises" had to be found (Department of Land Affairs, 1997, p. 6). However, the consequences of such a decision continue to reverberate through the successive stages of dealing with the wicked problem situation.

As we have seen in this chapter, many issues contributed to the failures of first-phase, smallholder-based land reform. These included broadly institutional problems such as inadequate budgeting, poor institutional design, poor institutional cooperation, poor implementation of policy, lack of planning, lack of post-settlement support, lack of adequate management of staff, decision structures that allow for abuse, and the involvement of consultant in drawing up irrelevant business plans, among many issues. Slightly broader critical accounts suggested that the failure was due to the ANC government's "lack of political will" to implement its policy or its frequent institutional changes and government restructuring (Cliffe, 2000, p. 279).

More broadly opposed critical differences with first-phase land reform that had been present in the debate but essentially side-lined began to re-emerge in parallel with the Mbeki administration's second-phase efforts to make the "material well-being" diagnostic metaphor work, albeit with a different solution. These critical views were based on fundamental objections to elements of the political settlement upon which the reconciliation approach was based. Specifically, they identified "flaws" in the constitutional settlement, the centrality and protection of private property, and, more

specifically, the WSWB model. The impact of these views during the second phase of land reform is briefly discussed in the following section.

Criticism of the market orientation

By the end of the second period, only one of the three land reform programmes, restitution, had been prioritised and enabled to attain its targets. Redistribution and security of tenure, by contrast, had fallen woefully behind. In Hall's view, the emphasis on restitution was aimed at staving off criticism of the ANC government's performance in land reform (Hall, 2003, p. 34). While criticism of first- and second-phase land reform generated a range of problems, as we saw in the opening paragraphs of this section, the debate about the significant shortfall in the redistribution target increasingly focused on the market orientation of first- and second-phase land reform.

In outline, by the end of the second period, criticisms centred on four points: claims that the market process was too slow; arguments that it was "ethically and ideologically wrong" to expect the victims of colonialism and apartheid to buy back "stolen land"; arguments that it did not help the poor; and arguments that it was based on the principle of individual property rights, which discriminated against the poor (Driver, 2007, p. 70). More generally, criticism of the WSWB model claimed it "hampered land reform" (Hall & Cliffe, 2009, p. 7).

Kirsten & van Zyl, proponents of a broadly neo-classical approach, had argued that global comparative studies of land reform showed that "market-assisted land redistribution" performed better than state-led land reform (J. F. Kirsten & Van Zyl, 1999, p. 328). Well into the second period of land reform, Bernstein also praised the ANC government for adopting the market orientation and the WSWB; the primacy of the principle of private ownership had enabled "legal action against land invasions", due process in "legal disputes over land" and thus, generally, supported the economic value of land (A. Bernstein et al., 2005, p. 10). Deininger, a new institutionalist, argued that the slow pace of land reform was mainly due to institutional problems such as an over-centralisation of land reform bureaucracies, a general lack of "after-care" for beneficiaries

and the lack of clear and relevant plans for post-settlement development (Deininger, 1999, pp. 28–29).

On the "pro-poor" side, as we saw in Chapter 4, the (neo-)Marxists, proponents of sustainable livelihoods and the radical populists shared a broad view that large-scale land reform required some form of state intervention. These positions differed in their aims and the proposed mechanisms to achieve them. The modernising form of Marxism advocated state-supported, large-scale modernising interventions in the agrarian economy, while the radical populist critique of the WSWB emphasised the need to benefit the rural peasantry (Lahiff, 2008b, p. 23). However, "pro-poor" commentators argued that the primary cause of slow progress in redistribution was the WSWB model (Jacobs et al., 2013, p. 12).

Moreover, this view was also adopted by figures within the land reform bureaucracy. In the early 2000s, for example, the then director-general of the DLA suggested that the WSWB was "a fallacy" (De Villiers, 2003, p. 55). Increasingly, government and ANC officials claimed that the market mechanism enabled high land prices for land. According to some analysts, white landowners were often "outright hostile to restitution" (that is: land restoration) and, where they were not, tended to "pitch prices for land out of the reach of the state" (Rugege, 2004, p. 5). Proponents of this view claimed that the market mechanism enabled landowners a "veto" over any transaction and the capacity to initiate land transfer transactions only where this was to their advantage (Lahiff, 2008a, p. 22). Yet it is arguable that these complaints about "exorbitant" prices were "largely unsubstantiated" (Lahiff, 2008a, p. 22).

Claims that the WSWB model disabled the state by enabling high prices persisted through the second period. The following two sections trace another development that can be shown to have contributed to the ANC government's changing orientation regarding land reform.

The growing influence of traditional authorities

Another indication of a significant re-orientation of views of the major factors underlying the dynamics of land reform during the second phase, and in particular, of the reconciliation-based policy, was reflected in the ANC government's increasing emphasis on including traditional leadership in its calculations of the relevance of stakeholders and their interests.

Previously, as we saw briefly in Chapter 4, the ANC had discounted the role of traditional authorities in South African political life. Land had featured as a potent symbolic issue in the post-apartheid dispensation, to be sure, but the ANC's long absence from South Africa had left it out of touch with rural realities, and its first-phase approach to land reform discounted the traditional authorities for several reasons.

Firstly, as some commentators have argued, during the run-up to the first democratic election and extending into the first period of land reform, the ANC leadership represented mainly black middle-class urban aspirations. Land, in a general sense, played a highly symbolic role in the organisation's projections, but as previously noted, the specific issues of the agrarian social and political economy were not considered (Hendricks, 1995, p. 50). That approach effectively excluded the longer-term history of land dispossessions before 1913, and, by implication, the relevance of indigenous modes of land occupation and governance.

Secondly, ideologically, the ANC was suspicious of the concept and practices of traditional authorities, which had been constituted and supported under segregationist and apartheid rule. Indeed, for seven decades, it was hostile to the traditional authorities and had promised to abolish them when it was in government (Branson, 2016, p. 2). Thirdly, given this view, it is likely that the ANC viewed the traditional authorities as a threat to its leadership, both during the negotiations and when it assumed power as the first democratically elected government. At that time, traditional leaders controlled about 13% of land in the former homelands, with about 14 million people, or about one-third of the population (Anseeuw & Alden, 2011, p. 13).

From 2001, some DLA[4] officials began to argue for a continued role for traditional leaders and the "African way of life" (Kindra, 2001). Importantly, CLARA (2004), briefly outlined earlier, aimed to assign a considerable degree of control over land to traditional leaders as the supposed representatives of those communities. The ANC government argued that the Act provided "for the democratic administration of communal land by communities" (see Iyer & Calvino, 2021, p. 15).

Traditional leaders had lobbied to retain their authority during the land reform consultations in the 1990s, but it was only in the early 2000s that ANC policymakers began to accommodate them. Ostensibly, the emphasis on communal rights was mainly aimed at addressing the third leg of land reform, security to tenure, but it is arguable that by doing so, it placed a third of the population outside the ambit of the other two land reform programmes. An ANC MP, Lydia Ngwenya, criticised the move, saying that African people wanted individual titles to land (Kindra, 2001). Communities and civil society organisations challenged it in 2005, arguing that it did not secure tenure and that the law had been passed without sufficient consultation. As we have seen, the Act was eventually struck down in 2010 by the Constitutional Court on procedural grounds (PLAAS, 2016, 12).

According to Walker, civil society groups opposed the attempt to push the legislation through as an "undemocratic, unimplementable, and possibly unconstitutional attempt to appease the traditionalist lobby" (Walker, 2005b, p. 820). Critics argued that the Act placed a large swathe of the population under the control of unaccountable and sometimes corrupt leadership (Cousins, 2021, p. 103). More particularly, some also argued that the Act perpetuated traditional notions of women's inequality, and therefore, their land rights were dismissed as "progressive liberals" (Kindra, 2001). According to constitutional experts, the Act potentially "inserted traditional leaders between members of rural traditional communities and their democratically elected representatives" (Bennet et al., 2014, section 26:7).

[4] The Department of Land Affairs became the Department of Agriculture and Land Affairs in 1996, but continued to be known as the DLA (Hall & Williams, 2000, p. 1).

It is arguable that the ANC, now in government, was attempting to reverse its long-held general policy virtually by fiat. A significant factor, according to Brandon, was highly instrumental: the ruling party allowed the chiefs to control land – and therefore, in many instances, lucrative local mining, infrastructure, and forestry projects – in exchange for their ability to mobilise the rural vote (Branson, 2016, p. 3). Weinberg provides a detailed account of the factors that led to the ANC's new alignment with the traditional authorities. These included the party's long-standing weakness in the rural areas; its failures in local government, which caused "people in rural areas [to] become more and more disenchanted with local government officials" and to turn to traditional authorities; and the "convenience" the traditional authorities offered as "single individual[s] or institution[s]" with whom to negotiate lucrative mining and other projects (Weinberg, 2015, p. 20). The result was that people in the communal areas (the former homelands) became "'subjects' with second-class land rights" (Weinberg, 2015, p. 20).

The insertion of the values and governance methods of traditional leadership into the "wicked" land reform equation is significant because it indicated a change in the ANC's background understanding of land reform both in itself, as a distinct policy issue, and as regards its relationship with the broader political context. Traditional leadership was associated with non-democratic land allocation processes that the ANC had long opposed. Under traditional systems, access to land fell mainly under the jurisdiction of unelected authorities, the functioning of which was potentially conflictual with various aspects of the Constitution, including questions of democratic procedure and the importance of private property ownership.

It is plausible that the ANC government's embrace of these potentially contradictory values contributed to undermining the centrality of individual property ownership in the changing land debate. The following two subsections trace two related developments that can be said to have contributed to the ANC government's increasing willingness to reject the WSWB model and to frame land reform in terms of non-economic assumptions.

Firstly, in the early 2000s, sometimes violent land seizures in Zimbabwe occasioned a vociferous debate about the direction of land reform in South Africa. Secondly, these led to a Land Summit 2005, at which the ANC government formally committed itself to

rejecting the WSWB model. Together with the influences discussed earlier, this section concludes that during the second period of land reform, criticism of the existing framework of land reform increasingly brought the "material well-being" metaphor into question.

The Zimbabwe crisis

Rising sentiment among "pro-poor" analysts and commentators against the WSWB model during the second period of land reform was considerably bolstered by a land-grab crisis in Zimbabwe beginning in 2000 when then-President Robert Mugabe lost a constitutional referendum (Simpson, 2021, p. 657). Abruptly, the Zimbabwean government announced a plan to expropriate primarily white-owned commercial farms without compensation and encouraged invasions of white-owned commercial farms.

At that time, about 4,500 white families and a few black commercial farmers owned 33% of the land in a country of 12 million black citizens (Hughes, 2010, p. xi). Paramilitary bands occupied nearly every farm in the country, harassing owners and workers. By 2002, about 4,000 white families had been forcibly removed from their farms, and ten whites and "a large, but unverifiable" number of black farm workers were displaced (Hughes, 2010, p. xi). The ZANU-PF government and its supporters described the violent occupations of white commercial farms in Zimbabwe as a "third Chimurenga" or liberation war, and additionally as "fast-track land reform" (Muringa & Zvaita, 2022).

According to Johnson, in South Africa, Mbeki was perceived to have endorsed the land occupations by asserting that Mugabe could deal with the land issue as he liked (R. W. Johnson, 2001). Many adherents of the ANC and the more radically oriented PAC saw the "state-sanctioned land occupations" as a demonstration that the Constitution was an obstacle to social justice because it protected property owners (Lodge, 2004, p. 7). To proponents of "pro-market" land reform, the events in Zimbabwe were "a terrifying example of how ruthless and unprincipled elites can mobilise the mass public in pursuit of a 'solution' to the land problem" (Gibson, 2009, p. 138).

The Zimbabwean situation considerably heated the land reform debate in South Africa. The then-minister of agriculture and land affairs visited Zimbabwe, and on her return, echoed by Jacob Zuma, then vice president, called for EWC to solve the slow progress of land reform. However, she retracted the call when her remarks caused a furore (Cook, 2000). Amid the furore, however, in 2005, the government organised a National Land Summit under the title of "a partnership to fast-track land reform". The phrase closely echoed the Zimbabwean formulation of the early 2000s and signalled the beginning of a notable change in the ANC's rhetorical stance on land reform.

The 2005 Land Summit

Though the government hosted it, the Land Summit of 2005 was to some extent driven by "a wide range of stakeholders" on the "pro-poor" side of the debate who wanted land reform to be "embedded" in a larger context of agrarian reform. Among other things, they called for (Hall & Cliffe, 2009, p. 7)"a fundamental review of land reform policy, including the willing-seller, willing-buyer principle broader approach", as well as for more effective poverty reduction and a renewed focus on the needs of smallholder farmers (Cousins & Scoones, 2010, p. 18).

The conference's aim was essentially to reject the land reform policies to which the ANC government had (formally speaking) committed itself for a decade. According to Hall & Cliffe, the government's active participation in the conference represented an acknowledgement "that problems experienced in the land reform initiative were not merely implementation or budgetary blockages, but arose from fundamental problems with the design of policy itself" (Hall & Cliffe, 2009, p. 7). The minister had already committed herself to the view that the WSWB model needed "to be mediated by the reality of a failure of land markets" (Hall & Cliffe, 2009, p. 7).

Some 1,500 delegates from "political parties, government departments, [and] churches", as well as lobby groups representing white and black commercial farmers, organisations representing farm workers and land claimants, and rural non-governmental organisations attended the conference (Hall, 2005, p. 621), including many senior ANC officials and even the president (Hall, 2005, p. 626). Opening the conference, the deputy

president and the minister of agriculture and land affairs announced that the willing-seller,-willing-buyer approach was a "key impediment" to speeding up the pace of land reform (Hall, 2005, p. 621).

Civil society organisations representing black rural interests submitted a joint memorandum demanding the scrapping of the willing-seller,-willing-buyer approach, aggressive expropriation, the opening of land claims to the period before 1913, and, crucially, government commitment to a consultative and democratic approach to land reform in the future (Hall, 2005, p. 623). Delegates also called for "less bureaucratic processes and substantially increased resources to be allocated to the programme", including for government staffing (Hall, 2005, p. 624).

Notably, the dominance of largely "pro-poor" and populist sentiment at the Summit occurred in the context of a broader change of ideological emphasis among some influential black intellectuals. In 2006, for example, the founding of the Native Club in Pretoria was announced. Partly funded by the Department of Arts and Culture, its aim was "the re-mobilisation of black intellectuals into a vibrant forum" to counter the "neo-liberalism" that was perceived to be a dominant and negative influence on "the transformation of South Africa" (Ndlovu-Gathsheni, 2009, p. 73).

Tracing its roots to "Afroradical liberatory traditions" such as Black Consciousness, Pan-Africanism, and Negritude, the organisation's chairman was an adviser to Mbeki, who was thought to be its sponsor (he denied this (Carroll, 2006)). The club does not appear to have lasted long. Yet, like the Summit, its emergence was an essential indication of a turn toward a revisionist sentiment regarding "neo-liberal" government policy in general that would gain a significant presence in the national discourse and shape an emerging campaign against the reconciliation land reform policy in the coming years. By this time, arguably, the "means of land redistribution (including compensation for landowners)" had become "the defining issue in South African land politics" (Lahiff, 2008b, p. 21)

After the Summit

The Summit attracted much attention, including "an immediate and negative reaction by white farmers and the main opposition party" (Cousins, 2021, p. 106). In Hall's view, it appeared that the state had embraced "populist rhetoric", and the conference might "mark a new era" in which blaming white farmers for the failings of land reform would become an accepted orthodoxy (Hall, 2005, 626). However, according to Cousins, the minister moved on to another cabinet position, and the promise to review the WSWB model came to nothing (Cousins, 2016, 106).

This observation is somewhat belied by the fact that in 2006, the government introduced a new programme based on a "supply-side" policy whereby the state would buy farms and lease them to beneficiaries. Under this scheme, the government would be the "willing buyer" and "would be free to spend as much as was needed (and available from the national budget) to buy farms" (Hall, 2015, 237). The new approach, the minister said, would address "the reality of a failure of land markets" (Hall and Cliffe, 2009, p. 7).

According to some commentators, the approach freed the redistribution programme of the constraints of the previous grants-based systems, which had not effectively enabled beneficiaries to buy land on the market because the grants were too small to allow for the acquisition of usable portions of land. However, it is arguable that the new approach also freed the ANC government of the need to tie purchases to would-be beneficiaries' applications for land. Rather than rejecting the WSWB model, the ANC government took advantage of its ability to purchase land through this approach.

As we have seen, "pro-poor" critics, in particular, tended to characterise first- and second-period land reform based on the "material well-being" metaphor as "neo-liberal" – an often dismissive term intended to suggest that the main, if not exclusive intention or result of such an approach was to benefit big business and the commercial farming sector. However, this view of the "material well-being" basis of land reform policies may be simplistic.

As Cliffe argued, far from being a monolithically "neo-liberal" approach, first-period land reform policy "was a curious hybrid of pressures and perspectives" (Cliffe, 2000, p. 276). In his view, for example, the input of a wide range of "pro-poor" participants in the stakeholder debate ensured the inclusion of the restitution programme

(Cliffe, 2000, p. 276). The restitution programme, in particular, was significantly different to the approach of other "ex-settler" countries in Africa, such as Zimbabwe, Namibia, Swaziland and Kenya, where the post-colonial state simply acquired large amounts of land for redistribution by the state (Cliffe, 2000, p. 276).

Seen in a comparative context, the "pro-poor" critical view that the WSWB model was to blame for retarding land reform amounts to a "surface characterisation", as Shapiro puts it (Shapiro, 2011, p. 43). Yet "pro-poor" critics frequently cited the slow delivery of land reform as evidence of ANC administrations' lack of "political will" to achieve its stated land reform aims (Cliffe, 2000; Hall & Cliffe, 2009; Ntsebeza, 2007; Ranchod, 2004). Even more widely, it was agreed that ANC administrations had consistently devoted smaller budgets to land reform than were justified by their claims that it was a priority (Capps, 2000; Cousins, 2000a; Du Toit et al., 2011; Hall, 2003; Hall & Cliffe, 2009; Lodge, 2003; Schirmer, 2009; Walker, 2005b). As we saw above, when ANC leadership applied pressure, the restitution programme, which transferred land to people who could show that they had been dispossessed of it, successfully achieved its targets by the end of the second period.

In short, numerous commentators across various ideological and theoretical positions believed that the slow delivery of the other two land reform programmes was at least as much attributable to a lack of government commitment, poor policy integration, poor government performance and institutional factors as it was to other factors. Yet, by the end of the second period, ANC and "pro-poor" rhetoric in debates about the direction of land reform increasingly began to emphasise the needs of the masses or a large majority – an approach that this dissertation has characterised as "populism" – on the ground that the WSWB model had failed.

The following sections explore the development of positions that directly and explicitly challenged the "ordinary discourse" of reconciliation-focused land reform by proposing views that introduced an "abnormal discourse" (Rein & Schön, 1991, p. 283) of conflict about the broader framing of the problems of land reform, their related solutions, and what constituted relevant evidence for these framings.

The third period of land reform: 2008 – 2018

The previous sections have shown that the narrow framing of land reform in terms of the "material well-being" diagnostic metaphor essentially grouped the challenges of land reform around "the mechanisms of achieving land reform" – such as issues of policy design, institutional organisation and policy implementation. – rather than the visions informing it.

The following sections show that under Zuma's administration, land reform policy took a "populist turn" (Mafora, 2022; Roux, 2020) that ultimately enabled the ANC and its government to reframe land reform policy along the lines of the broader diagnostic metaphor of "authentic belonging" that the 1997 White Paper rejected. Where previously land reform debates mainly centred on "the mechanisms to be used, increasingly they came to centre on "the vision that [wa]s to be pursued" (Hall & Cliffe, 2009, p. 1).

Mbeki to Zuma: the political transition

By 2005, the ANC had been in power for over a decade. In the three elections between 1994 and 2004, the party's total vote share increased from 62.65% to 69.68% (Brooks, 2004, p. 5). By 2004, the country had seen its most extended period of sustained growth since the Second World War, with economic growth at 5.6% in that year. By 2007, it was still at 5%. The party had also expanded its support base over the political spectrum (Brooks, 2004, p. 7).

Critics on the left said the impact of Mbeki's "neo-liberal" economic policies on unemployment was "disastrous" (Wallis & Rusell, 2007), yet his administration significantly increased employment (Mahadea & Simson, 2010, p. 1). This enabled a significant social spending policy. From 2001, some 45% of the national budget had been spent on low-income people or the lowest 40% of earners. South Africa's economy, it seemed, was being lifted "out of economic stagnation and lack of freedom characterised by the Apartheid regime" (Nolutshungu, 2019).

By the end of Mbeki's administration, the ANC had a "tremendous hold on political power" (Brooks, 2004, p. 6). However, Mbeki was approaching the end of his second term as president and, constitutionally, could not serve for a third term (Alence & Pitcher, 2019, p. 9). Moreover, his "aloof, arrogant, and elitist style of leadership" (Mafora, 2022, 5) had offended within the ANC. Zumaa campaigned for power as "a champion of the poor" (Southall, 2016, p. 5) and as "a threat to elitist interests within the ANC" (Mafora, 2022. p. 5).

Some analysts assert that Zuma rose to power on the back of an ethnicist sentiment within the party in favour of Zulu identity politics. According to Chipkin, for example, under Zuma, the party mutated into a "more regional party, with a strong ethnic Zulu base" despite its claims to be a nationally representative political party (Chipkin, 2016, p. 220). Given this, the dynamics of the ANC's direction were increasingly driven by conflict between a "moderate faction" for whom the Constitution remained "the most appropriate governance framework for the country" (Roux, 2020, p. 20) and an RET faction consisting of Zuma's supporters within the ANC, who supported radical proposals such as "the nationalisation of the South African Reserve Bank and expropriation of land without compensation" (Mafora, 2022, p. 6).

The Zuma administration: land reform from 2009

As we saw (see Table 1, Figures 1 and 2), the Mbeki administration achieved some improvement in land reform roll-out figures, with restitution meeting its targets and the statistics for redistribution and security of tenure considerably improved. Nevertheless, delivery under the latter two programmes was still far behind targets. By 2009, when Zuma became president, land reform as a political project was judged to have "'foundered', to be in crisis', 'at a crossroads', 'at an impasse' or simply 'stuck'" (Hall & Cliffe, 2009, p. 1).

The new Zuma administration immediately announced that "rural development, food security and land reform" would be national priorities (Cousins, 2016a, p. 5). A new department, the Department of Rural Development and Land Reform (DRDLR), was created (Diagnostic Report on Land Reform in South Africa, 2016, p. 12). In 2010, it

established a National Planning Commission, which, by 2012, had produced a National Development Plan that included a chapter on the rural economy that proposed that commercial farmers should "assist" in identifying 20% of the land in their districts "for transfer to land reform beneficiaries (Cousins & Walker, 2015, pp. 42–43). The wording of the latter provision anticipated a significant theme of Zuma-era land reform, namely the move toward expropriation without compensation as a fundamental policy tool.

The Zuma administration's strategic overview of its plans for land reform was contained in the Green Paper of 2011, which is briefly reviewed in the following section.

The 2011 Green Paper and subsequent policy

The Green Paper of 2011 set out a broad perspective for the ANC government's revised approach to land reform. In a preamble, it connected the land question to a range of high-level issues. It stated "the ANC's acute awareness and sensitivity to the centrality of [the land question]". The country's race, gender and class contradictions could only be resolved by understanding land reform as a matter of "national sovereignty" (Green Paper on Land Reform, 2011, p. 1). In its view, land reform was "about two things: repossession of land lost through force or deceit; and, restoring the centrality of indigenous culture" (Green Paper on Land Reform, 2011, p. 1).

To translate this general statement to policy, the document identified "agrarian change, land reform, and rural development" as policy priorities (Green Paper on Land Reform, 2011, p. 1). Specifically, it proposed a four-tier land tenure system based on four categories of landholding: state leasehold, by which land reform beneficiaries would be granted the use of state land for a defined period; freehold "with limited extent", which proposed restrictions on land size; "precarious" freehold involving obligations and conditions for foreign owners; and communal tenure (Green Paper on Land Reform, 2011, p. 4).

The Zuma administration's view that expropriation without compensation would provide the solution to land reform was signalled in a draft version of the Green Paper (2010), which mooted the move to expropriation (Iyer & Calvino, 2021, p. 16). The Green

Paper itself mentioned expropriation without compensation only three times, in the context of a statement of intent to introduce a new element into the institutions of land reform, a "Land Valuer-General" whose role would be to determine property values independently of the market (Green Paper on Land Reform, 2011, p. 4). A 2012 policy discussion document argued that "land reform must represent a radical and rapid break from the past without significantly disrupting agricultural production and food security. It urged new legislation providing for expropriation (Iyer & Calvino. 2021, p. 28).

These and other measures were introduced through a stream of policy statements addressing leasing, funding, and types of landholding (Cousins, 2016a). Particularly significant was the new state leasehold system, which modified a supply-side approach by proactively purchasing land for redistribution rather than relying on would-be beneficiaries to identify and claim parcels of land (Hall & Kepe, 2017, p. 2). The approach significantly altered a fundamental element of land reform by redefining "redistribution" as the assignment of land to beneficiaries without transfer of title. (Hall & Kepe, 2017, p, 3). All other grant-based models were discontinued.

Cabinet approved an Expropriation Bill in 201d to bring the existing Expropriation Act in line with the Constitution and "provide a consistent framework to incorporate expropriations with compensation in the public interest" (Iyer & Calvino. 2021, p. 28). However, problems with formulating the amendment to the existing Act, including a lack of provision for public participation in policy formulation, saw the Bill referred back to Parliament in 2019 (Iyer & Calvino, 2021, p. 28). Arguably, the move was significant, despite the formulation failure, because it demonstrated that expropriation without compensation was a central intention of the ANC government regarding land reform.

Critical views of the Green Paper

Given the "wicked" context of land reform, stakeholders' critiques of the 2011 Green Paper contribute various vociferous perspectives. This section sketches a range of the perspectives of "pro-poor" and "pro-market" commentators. Some critics also offered critical views based on legal or constitutional perspectives.

Cousins, a prominent "pro-poor" analyst, was disappointed that the Green Paper was brief and "contained only general statements of principle" (Cousins, 2016a, p. 5). The objection likely involved several dimensions. A Green Paper is generally regarded as a "discussion document" that demonstrates a department's "thinking about a particular policy" that typically invites "comments, suggestions and ideas" (V. Gumede, 2008, p. 11). As we have seen, "pro-poor" commentators, in particular, felt that the Mbeki and Zuma administrations had ceased considering broad consultation on land reform a priority.

Moreover, to Cousins, the paper's brief outline of a fundamental revision of policy seemed to be part of a series of ad hoc "policy shifts" based on a "populist rhetoric" that appeared to aim at benefitting the appropriate stakeholders (black smallholder farmers and the rural poor) when other aspects of policy such as the leasing and funding policies mentioned above aimed, in effect, at benefitting "an emergent black bourgeoisie" (Cousins, 2013, p. 12). Moreover, the document offered "scant" historical justification (Cousins, 2013, 12).

To other prominent "pro-poor" analysts, the Green Paper amounted to a directionless "policy vacuum" (Du Toit et al., 2011, p. 3). The Green Paper, these authors argued, had resulted from two-and-a-half years of "a secretive process" drafting process that had excluded the South African public, "civil society, stakeholders and expert opinion" (Du Toit et al., 2011, p. 1). Taking the Zuma administration as a continuation of the ANC government, they argued further that the Green Paper "refused to learn from experience, both from its own mistakes and successes" ((Du Toit et al., 2011, p. 1). The paper's "directionlessness" would continue the "slow progress" and "unsustainable outcomes" that had characterised land reform policy over the previous five years (Du Toit et al., 2011, 3).

Another range of opinion traversed a more "pro-market" orientation. The Institute of Race Relations, often perceived as either "liberal" or "right-wing", argued that the leasehold system reversed years of ANC government claims to a land reform policy aimed at building a "new generation of independent black farmers"; beneficiaries would become "leasehold owners" who were "subject to eviction" (Jeffery, 2012)". More generally, the organisation warned that the Green Paper's provision for a Valuer-General function that

would be empowered to value land independently of the markets would "oust the jurisdiction of the courts"; in its view, this was "an assault on "the Constitution and the rule of law" (*SAIRR Slams Land Reform Green Paper*, 2011).

The South African Civil Society Information Service (SACSIS), a more left-leaning NGO, suggested that the Green Paper did not significantly address the failure of successive ANC governments to change "the skewed land ownership and land use pattern" (Ashton, 2012). It noted that the Green Paper had "taken six years to compile" but clearly "lack[ed] an over-arching vision" (Ashton, 2012). In an indication of the sometimes fractious nature of stakeholder competition, it also said that the IRR's claim that the leasehold system represented a "populist" move was "tactless" and that its argument that surveys indicated very few potential beneficiaries wanted to farm was irrelevant (Ashton, 2012).

From a legalist perspective, Claasens argued that, far from being directionless, the Green Paper and subsequent legislation based on it constituted "a major reversal of post-1994 government policy" (Claasens, 2015, p. 147). The policy fundamentally altered the rights of ordinary people living on communal land. At the same time, the move toward expropriation broke previous guarantees around compensation for land acquired for land reform (Claasens, 2015, p. 147. From a similar perspective, Erlank argued that the paper contained "a lot of florid political rhetoric and raised questions of the possible unconstitutionality of some of its proposals (Erlank, 2014, p. 616). Various stakeholders were concerned that the leasehold system would prevent investment (Erlank, 2014, p. 616). More generally, the Valuer-General function appeared to direct authority over land valuing and taxation from the courts., and likely contravened section 25 of the Constitution, which guaranteed individual rights to property (Erlank, 2014, 616).

Though inevitably brief and selective, this review covers the positions of "pro-poor" academics, "pro-market" commentators, legal academics, "economists, commercial farmers, unions, and emerging farmers" (Erlank, 2014, p.616), among others. Several points of agreement are evident. For example, "pro-poor" and "pro-market" commentators could agree that the proposed leasehold system fundamentally altered the rights of at least two categories of people: the smallholders it claimed to benefit and the residents of the communal areas. Similarly, some agreed on the problem of a sweeping,

"populist" approach to policy that weakened rather than strengthened potential beneficiaries' rights.

It is difficult, however, to understand the "pro-poor" academics' view that the Green Paper was 'ad hoc" or "directionless". Cousins' "general statements of principle" perhaps refer to the paper's intentions to extend state intervention in land reform through expropriation and the Valuer-General function; arguably, these significantly extend the state's power. Like Cousins, Du Toit et al.'s view that the paper was "directionless" surely missed a significant change in its orientation.

Themes of the third period of land reform

Several aspects of the Zuma administration's approach to land reform stand out as characteristic.

Firstly, the administration said it aimed to include land reform in a broader context of agrarian change and rural development based on the claim that doing so would address the widespread problem of black rural landlessness. It is fair to say that this approach expressed a "populist" approach in the minimal sense adopted by this dissertation, namely, that it stood for a series of policies that were supposed to benefit a large majority of people in the country. However, as reviewed in the previous section, commentators from different and sometimes conflicting perspectives agreed that elements of the policy, such as de facto support for emergent black commercial farmers, contradicted the "populist" claims.

Secondly, critics complained that the policy measures that followed the Green Paper were "ad hoc", as Cousins notes, despite its claims to work toward an integration of land reform. As another commentator noted, this resulted in "policy confusion", with critical elements of the overall approach to land reform inconsistent with each other or unimplementable in conjunction with other legislation[5] (de Jager, 2015, p. 201). To the

[5] For example, de Jager argues, the rights and interests of potential beneficiaries of Economic Empowerment measures in the acquisition of land potentially conflicted with those of claimants to the same

frustration of stakeholders in the commercial farming sector in particular, officials in the DRDLR could not "answer even the simplest of questions on how different policies are supposed to relate to one another" (de Jager, 2015, p. 201). Meanwhile, tensions existed between land reform line departments, according to an evaluation commissioned by the presidency, hampering land reform initiatives (Cousins, 2016a, p. 5)

Thirdly, the new framing of land reform policy as a "populist" issue raised expectations, placing land reform firmly in the context of government service delivery. Given this, the Zuma administration would be expected to deliver on its promised solutions to landlessness. However, as Cousins commented, by 2015, "a raft of policy statements had appeared … but practical measures to implement them [were] slow to materialise" (Cousins, 2016a, p. 5). The promises came at a time of widespread dissatisfaction with the ANC government's stewardship of socioeconomic transformation (Mafora, 2022, p. 6). Moreover, many policies were "highly controversial" among various stakeholders on the ideological and theoretical spectrum (Diagnostic Report on Land Reform in South Africa, 2016, p. 15). Thus, ANC governments across the second and third periods appear to have abandoned the main principle of first-period land reform, namely that policy must be informed by a wide range of the interests and assumptions of stakeholders if it is to be sustainable (Aliber et al., 2006, p. 4).

Fourthly, the Green Paper effectively swept aside the narrow orientation of first- and second-period land reform on land dispossessed after 1913. It explicitly stated that the proper context for land reform questions was the country's more extended colonial history. In its view, land reform was not only about restoring or enabling the well-being that had been damaged and disrupted since 1913. It was part of a broader "anti-colonial struggle" that was, "at the core, about two things: repossession of land lost through force or deceit; and, restoring the centrality of indigenous culture" (Green Paper on Land Reform, 2011 p. 1)

In contrast to the generally agreed position among stakeholders, it is arguable that the Green Paper did indeed articulate an over-arching vision. Firstly, contrary to

land. Similarly, the DRDLR urged farmers to "create millions of jobs" while introducing policies that required farmers to cede half of landholdings to workers without compensation (de Jager, 2015, p. 201).

observations that it appeared to demonstrate that the ANC government had not accepted that the failures of land reform were due to problems with successive land reform policies, the Green Paper stated that these were due to "a total-system failure (TSF) rather than that of a single piece of legislation" (*Land Reform Green Paper*, 2011, p. 10). As examples, it cited problems with the formulation of legislation, weak enforcement of legislation, a non-"worker-friendly" judiciary, poor working relationships with NGOs, and "poor or non-existent monitoring, coordination and communication amongst state organs, and other interested parties" (*Land Reform Green Paper*, 2011, p. 10).

In formal reviews, successive ANC administrations had indicated a willingness to consider internal, organisational factors in the failures of land reform. However, this new framing of the failures of land reform as a "total systems failure" suggested that the problem could not be addressed piecemeal but would require "total" systems reform. In the terms adopted by this dissertation, the paper dismissed the narrow "material well-being" metaphor and proposed that land reform required a new, broader diagnostic metaphor. It suggested that policies should be based on a broader conceptualisation of land dispossession as a loss of "national sovereignty" (*Land Reform Green Paper*, 2011, p. 1). The recovery of "national sovereignty" through land reform would supersede all other considerations, even food security (*Land Reform Green Paper*, 2011, p. 1).

Commentators reviewed for this section understood the significance of using the concept of "sovereignty" differently. At the time, some "pro-poor" supporters of grand agrarian reform understood the term mainly in the context of "class and popular struggles" (H. Bernstein, 2007, p. 27) . On the cusp of the transition to third-period land reform, from this perspective, it could be understood almost reflexively to refer to food security (Cousins & Scoones, 2010, p. 12). Meanwhile, as we have seen, the initial responses of "pro-poor" commentators were that the Green Paper did not articulate a larger vision.

From the legalist perspective, Erlank noted the Green Paper's emphasis on "anti-colonial and anti-apartheid struggles" and suggested that various difficulties would be entailed by extending the historical horizon of land reform (Erlank, 2014, p. 618). Pointing out that extending the historical horizon would raise questions concerning the "constantly changing systems and patterns of land ownership" over the centuries (Erlank, 2014, p, 619), his concerns echoed those of the 1997 White Paper In its response, the

Institute of Race Relations focused on what it identified as the constitutional and rule-of-law implications of the Green Paper. It is noteworthy that only one of the commentators reviewed here (Steward, 2011) questioned the document's definition of land reform in terms of "national sovereignty" and its explicit linkage of this with "the centrality of indigenous culture" (*Land Reform Green Paper*, 2011, p. 1).

The following section explores some specific implications of the proposed linkage between the two concepts.

Third period: radical reframing

This section attempts to trace the expressions of the "authentic belonging" diagnostic metaphor of land reform in South Africa and to show their culmination as a radical reframing of land reform during the third period of land reform, which coincided with the period of the Zuma administration from 2009 until 2017 and extended into the period of Cyril Ramaphosa's presidency from 2018.

The emergence of the "authentic belonging" metaphor

As part of the stakeholder debates of the 1990s, various "pro-poor" writers articulated a view that the "neo-liberal" market mechanism of land reform failed to recognise that the concept of land signified more meanings and uses for the dispossessed than were associated with the "material well-being" metaphor. This broad position explored this broader set of meanings and uses, mainly to establish the significance of what had been lost by dispossession.

Authentic belonging: first period, early formulations

As noted in Chapter 4, during the 1990s, "pro-poor" commentators representing "the victims of forced removals, tenants, farm workers, the unemployed small farmers and squatters" (Letsoalo, 1996) argued against the market approach to land reform. According to Letsoalo, their position was based on economic need; land holdings in the

former homeland areas were tiny and not economically viable. However, he continued, their demands should not be judged "only on their economic merit" (Letsoalo, 1996).

The prevalent lack of land in many rural areas had resulted from a *political* project. The history of how white people came to have exclusive territorial land ownership and to enjoy the resultant benefits almost exclusively, he continued, had been interpreted variously by social scientists and lay people. As he put it, these included "stories of how far a horse/mule could run, stories of how land was exchanged for a Bible, and stories of outright theft" (Letsoalo, 1996). The stark situation, he argued, compared with that of China in former times, where "the land owned by the rich … stretche[d] from one end to the other without a break, but the poor... ha[d] no place even to stand upon". As he put it, then, this made "[t]he white population, as an exclusive group of landowners… [the natural] the target of land reform" (Letsoalo, 1996).

Malebe explored some of the various meanings of land in more detail. For the Khoisan – the first southern African people to suffer European colonial dispossession – the loss of land signified more than the loss of a commodity, for it was "the capital upon which tribal life is based" (Malebe, 1997, p. 16). For indigenous communities, land had both a "material" reality and a "religious" significance as "the provider of life" (Malebe, 1997, p. 69). African connectedness to specific pieces of land was experienced as the "home" of one's extended family and ancestors (Malebe, 1997, p. 68).

Non-traditionalist influences could also mediate the traditionalist senses of the significance of land. As a theologian, Malebe explores this in terms of an Old Testament paradigm of the Jubilee year as a celebration of the "liberation and restitution" of a landless, exiled people (Malebe, 1997, p. 9). These multiple, overlapping senses of the meaning and value of land as an African expression of a sense of traditional and Biblical connectedness with land constituted an "anti-language", a way of negating the "mainstream Western understanding of land" (Malebe, 1997, p. ii) as (apparently) a mainly economic commodity. For its original indigenous owners, land signified "social links among families, ethnic groups, tribes, and nations" (Malebe, 1997, p. ii).

According to Malebe, these senses of land aligned with the positions of "extreme left black [political] parties" such as the PAC and AZAPO. As we have seen, these

positions were effectively excluded from the land negotiations in the 1990s. He interprets AZAPO's position, in particular — that the land "belongs to the people and cannot become the property of an individual or state" — as an "authentic Jubilee concept" (Malebe, 1997, p. 32).

In a deep exploration of the meaning of restituted land to beneficiaries at the end of the first period of land reform, Deborah James noted that returnees did not primarily intend to take up full- or even part-time farming. They experienced their return to the land as a "joy of return" after "the bitterness of being cast out of one's birthplace" (James, 2000, p. 13). As Malebe had observed, the significance of land could be understood in both traditional and Biblical terms. The loss of land had been "God's punishment for "having lost hope in God" (James, 2000, p. 13); its return was understood as the recovery of the place of one's ancestors (James, 2000, p. 14). The return of restituted land was also celebrated in "overtly nationalist terms", with the singing of the "Nkosi Sikele iAfrika (God Save Africa)", chants of "Viva Mandela!" and the hoisting of the country's new flag" (James, 2000, p. 13).

Authentic belonging: second period, development

According to Mngxitama, commentators and activists connected with the land NGOs involved in the land reform negotiations in the 1990s argued that the protection of property clause would legitimise "historic land theft"; they proposed a "restitution clause" that would allow extensive expropriation (Mngxitama, 2004, p. 58). They had hoped to develop "a [rural] programme of resistance" but found the land reform agenda dominated by urban interests, including within the ANC (Mngxitiama, 2004, p. 50).

This understanding of land reform was couched in mainly political terms, while, as we have seen, some commentators were already articulating broader conceptualisations of the significance of land. In the second period of land reform, commentators from "populist" and "pro-poor" perspectives increasingly connected broader articulations of the significance of land with political conceptualisations of the issue as a matter of "theft" and compensatory expropriation. The political aspect of second-period critiques of

market-oriented land reform questioned the 1997 White Paper's attempt to reconcile efficiency and equity and, in addition, its conceptualisation in these terms.

Arguments to this effect had been in development, in fact, since the end of the first period of land reform, when commentators generally agreed that attempts to achieve the delivery targets of all three programmes had failed. Ntsebeza, a prominent "pro-poor" academic argued that the policy as a whole was misguided because the reconciliation approach risked "legitimising colonial land alienation" (Ntsebeza, 2007, p. 131). In outline, the slow pace of delivery was due to an inherent contradiction between the protection of "existing property rights" and the commitment to a "redistributing land to the dispossessed majority" (Ntsebeza, 2007, p. 121).

This argument had two prongs. Firstly, any redistribution policy would be "rendered void for the simple reason that whites privately own most land" (Ntsebeza, 2007, p. 121. In this view, the private property rights of white landowners were not compatible with a full-scale redistribution of land. Secondly, the market mechanism assumed that a "fair" price was possible, but any determination of a "fair" price would ignore the historical reality of how the land was originally acquired. "Conquest and land dispossession [lie] at the heart of the land question in South Africa", and no process of land redistribution that ignored this history could be legitimate to those "who were robbed of their land" (Nstebeza, 2007, pp. 121-124).

According to Atuahene, another early proponent of this "pro-poor", "populist" position, most black South Africans believed that an ethnically distinct minority had acquired "significant amounts of property through some form of past theft" (Atuahene, 2007, p. 1423). Laws that protected "theft" and did not reverse it were unjust (Atuahene, 2007, p. 1322). These arguments for expropriation outline themes very similar to those of the PAC and AZAPO noted by Malebe (see previous subsection), side-lined in the early 1990s. The ANC government's failure to recognise these claims had resulted in underfunded land reform efforts, reinforced racial inequalities, and a widespread lack of support for land reform beneficiaries with capital and skills so that they could "use their newly acquired land productively" (Atuahene, 2011, p. 123).

Both authors locate their "populist", "pro-poor" stance in a broader socio-political context. Ntesebeza, for example, views land reform in terms of a broadly democratic perspective that includes a critique of the role of undemocratic traditional authorities; in his view, these owe their survival in a post-colonial context to the power over land allocation allowed them by the ANC government (Ntsebeza, 2005). He also places his hope for rural transformation in democratic action "from below" (Ntsebeza, 2013). Atuahene, meanwhile, warned that the ANC government was ignoring the potential of a "potentially catastrophic" ethno-nationalist confrontation over land such as had happened in Zimbabwe in the early 2000s (Atuahene, 2011, p. 1423). In a later paper, she argued that colonial land dispossessions had robbed the indigenous majority both of land as physical commodity and of the dignity that was associated with its ownership. Restoration, then, needed to take account of both (Atuahene, 2014, p. 4). of

These accounts represent academic articulations of the "popular expectations" that Walker, a former land claims commissioner, identified as standard among land reform beneficiaries and would-be beneficiaries (Walker, 2005, p. 823). In the terms adopted by this dissertation, her account suggests that popular expectations framed land as a diagnostic metaphor or "master narrative" of dispossession and restoration (Walker, 2005b, p. 808), identifying the problem as the dispossession of "a unified collectivity" and the solution as "general redress on behalf of all black South Africans" (Walker, 2005b, p. 808).

While differing to some extent in their accounts of the socio-political context and, therefore, the broad shape of any solutions to the land reform problem, these positions converge on at least two major themes: firstly, that reconciliation-based land reform limited the historical horizon of legitimate land reform expectations; secondly, that the general pattern of colonial occupation of land constituted "historic theft"; and third, that the "theft" of land occurred as part of the ethnic domination of white settlers over the indigenous population conceptualised as a historical unity. With this turn, it is argued, the focus of land reform was directed away from the presumed legitimacy of individual white land ownership to the assertion of autochthony as the main criterion for evaluating legitimate land ownership.

Authentic belonging: third period: politicisation

This section argues that under Zuma's administration, a groundswell of largely "populist" commentary and opinion-making successfully politicised autochthony-based arguments about land reform, reframing the central issues of land reform as a matter of the dispossession of "a unified collectivity", as Walker put it, and the need for "general redress on behalf of all black South Africans" (Walker, 2005, p. 808). In essence, the reframing diagnosed the problem of skewed land ownership as a highly generalised effect of illegitimate minority-ethnic domination. As an expression of this, the anti-market impetus in the land reform debate gained momentum.

In an important respect, the move toward autochthony took up a long-standing debate about successive ANC administrations' priorities concerning land reform. The debate was not about whether the market-oriented mechanism of land reform should be prioritised but about the fundamental framing of land reform. In 2014, this position was taken up by the EFF, a splinter of the ANC, during the national elections of that year (Kepe & Hall, 2016, p. 1). The EFF represented the ANC as having betrayed the liberation struggle and proposed radical "populist" measures such as the nationalisation of various economic sectors, including the mines, banks, and agriculture. It quickly became the third-largest party in national politics, winning 25 seats during the 2014 national elections and 44 in 2019 (Cousins, 2021, p. 107).

Roux describes the emergence of the EFF as a "second populist turn", following that of Zuma's crude ethno-nationalism (Roux, 2020, p. 1). As regards land, the new party's election manifesto identified the willing-seller-willing buyer policy as a critical failing of land reform and called for a "fast-track" approach to land reform and the nationalisation of the land on the basis that "stolen land should not be paid for" (Cousins, 2021, p. 8).

An essential basis for this was the view that land alienation in southern Africa under white settler rule had taken "a very peculiar, racial path; a path unparalleled even by other African experiences of land alienation" (Ntsholo, 2016). According to Ntsholo, a member of the EFF, the conclusion was obvious: "White people and their successive governments

maimed, killed and dispossessed black people from their land, [and] continue to extract innumerable benefits from their possession of the land to the disadvantage of black people" (Ntosholo, 2016). White people, in general, were the "villains" in a simple, black-and-white story.

Criticising Walker's "master narrative" concept in particular, Ntsholo said she had also argued that "loss among many black people is not confined to just land, and that land may not even be the most significant of the losses. To some, she argues, a loss of "something as small as a sewing machine constitutes the most significant loss in their memory" (Ntsholo, 2016). The narrative of loss and restoration, therefore, was "wholly inadequate as a framework through which to design land reform" (Ntsholo, 2016). Its frame denied the relevance of a more general sense of dispossession as a frame of discourse on land reform. In the view of many young activists, race was the determining factor in South Africa's skewed patterns of land ownership. "White experts" were guilty of "race denialism" by attempting to attribute land dispossession to other factors.

Zuma's administration was taken unawares by the sudden politicisation of the "autochthony" claim. As seen above, the evidence strongly suggested that the organisation had not meaningfully prioritised land reform. Zuma's government was, in any case, beset by revelations of corruption, rent-seeking and "state capture", which saw insider networks using the state for "private wealth accumulation on a massive scale" (Cousins, 2021, p. 110). Faced with signs of waning support, the ANC increasingly adopted the EFF's stance on land, according to which patterns of land ownership reflected "colonial conquest and theft" that rendered all white ownership of land illegitimate (Kepe & Hall, 2018, p. 1).

Following the Mbeki era's relative successes, the economy declined, with unemployment between 25% and 36%, depending on the definition, and 52% of the population living in poverty (Southall, 2016, p. 5). As an organisation, the ANC was in financial trouble. In 2007, it had assets of R1.75 billion, but by 2012, the money had vanished, and the ANC was "broke, or struggling to pay its bills" (Southall, 2016, p. 6). The government and the ruling party faced the prospect of "falling off a fiscal cliff" (Southall, 2016, p. 6). The ANC did poorly in the local elections in 2016, losing control of most of the major cities in the country to coalitions of the official opposition, the DA,

as well as the EFF (Alence & Pitcher, 2019, p. 14). Massive levels of corruption within the ANC, known as "state capture", became a constant theme in media reports.

Meanwhile, the rise of the EFF presented a challenge to the ANC from the left. At its founding in 2009, the EFF had called for a "dictatorship of the people" and listed expropriation without compensation as its priority (Roux, 2020, p. 10). In 2014, expropriation without compensation was a central theme in national elections (Kepe & Hall, 2018, p. 1). The new party identified WSWB as a critical failure of land reform. Echoing the Zimbabwean term for populist occupations of farms, as the 2005 Summit had done, it reiterated its call for the nationalisation of the land. As Julius Malema, EFF's leader, said, "This is our continent; it belongs to us" (cited by R. Malan, 2016). In Malema's view, "All white people ought to be treated like criminals for land theft" (Akinola, 2016, p. 16).

In January 2017, Zuma surprised his party by announcing that he would move the country toward a "black-owned economy (Simpson, 2021, p. 729). The EFF's foregrounding of the land question effectively exposed the lack of priority the ANC had given it. The ANC announced it was planning to "fast-track" land reform by introducing expropriation without compensation. Later that year, Zuma said the party would "take land back to the people' (Kepe & Hall, 2018, p. 2). Zuma did not himself pursue this agenda, since he was finally forced to resign due to pressure relating to corruption charges that he was facing.

The EFF, led by Julius Malema as its "commander-in-chief", participated noisily in the votes of no confidence against Zuma, disrupting them and calling for Zuma to "pay back the money". Its advocacy of the theme resonated particularly with university students and young black South Africans (Cousins, 2021, p. 107) who adopted and broadened it during the Rhodes Must Fall and the Fees Must Fall student movements that began in 2015 (Kepe and Hall, 2018, p. 1). Criticism of the Constitution's property clause became increasingly entangled with a broader view that the ANC had compromised with minority interests by pursuing negotiations (Klug, 2018; Ngcukaitobi, 2021). According to Du Toit, Nelson Mandela is increasingly being portrayed, not as an admirable visionary and a statesman, but as a "sell-out" and the legitimacy of the post-Apartheid political order is in question (Du Toit, 2018).

The EFF's campaign on land reform generated a lot of attention, both on it and the issue. Its position on the land issue raised the question of how the ANC would respond. In a review of the implications of the growing impetus behind the call for expropriation without compensation, for example, Du Toit asked what it was about the land as compared to other equally — or indeed, perhaps more — pressing issues, such as jobs or education, that gave it such potency as "a rallying cry" (Du Toit, 2019, p. 23). The ANC also had a long tradition of representing itself as a "broad church" organisation, home to different ideologies as long as they opposed apartheid.

Part of the answer, he suggested, was that land had come to act as a powerful rallying symbol, invoking "without saying it in so many words, the national question" (Du Toit, 2019, p. 23). The possibility that some standpoints within the organisation might agree with the EFF's challenge raised the question of whether it would retain its formal commitment to non-racialism and, therefore, to a cosmopolitan conception of the character of the South African polity or whether it would succumb to the temptations of "cultural nationalism and nativism", and hence, whether citizenship, under its watch, would become another of the "casualties of Africa" (Ndlovu-Gatsheni, 2018, p. 67).

Critical dynamics of the politicisation of the theme of autochthony are to be found in the records of parliamentary debates toward the end of the third period of land reform. In outline, speeches by members of the ANC and the EFF proposed that the WSWB model of land reform be comprehensively replaced by EWC and that this be formalised as an amendment of section 25 of the Constitution, which protected private property.

In a speech to parliament on the day the EFF proposed the amendment and it was passed by the Assembly, Malema labelled white settlers as "criminals who stole the land" (National Assembly, 2017, p. 26). He described the colonial occupation of the land as a "full blown [sic] colonial genocide, antiblack land dispossession criminal project" (National Assembly, 2017, p. 26). The reconciliatory, market-oriented land reform policy of the first two periods of land reform had represented "false reconciliation without justice"; "the dignity of our people" and their need for land dictated that "[t]he time for reconciliation is over; now is the time for justice' (National Assembly, 2017, p. 27).

Answering questions from the House on 14 March 2017, barely a month after he took over as president, Cyril Ramaphosa placed the meaning of land in the broadest possible context as a resource that "the development of societies and.. economic activities possible" and "fundamental to "the dignity and well being [sic] of all our people "(National Assembly, 2018). The following sentence described colonial occupations of land as "the dispossession of land of the indigenous people of this country" (National Assembly, 2018). Ramaphosa went on to characterise colonial occupations of land as "the original sin that continues to constrain the realisation of the potential of our people" (National Assembly, 2018).

Ramaphosa had fully appropriated the EFF's drive for EWC based on a fundamental critique of the WSWB model of land reform. Rather than rejecting the radical position, he adopted the cause of EWC by adopting a transformed imagery. The notion of "original sin" has complex roots in Christian theology, of course, but in that context and a general sense, it refers to the Christian explanation of evil as a "sin against God", which is exemplified in the story of Adam and Eve's fall from grace in the garden of Eden (Wiley, 2002).

Ramaphosa, then, a practising Christian himself, effectively replaced Malema's violent language and imagery of theft and retribution with a theology of redemption that essentially implied that it was the "duty" of those who claimed to be fellow Christians – read: who claimed to be "fellow citizens" – to recognise that they could recover God's grace only by forgoing the fruits of their sin. In another sense, the Biblical connotations of the phrase suggested grandiosity. The reframing of and reform as a question of belonging would "make this country the garden of Eden", he said (Simpson, 2021, p. 750).

Ramaphosa's announcement that the ANC had adopted expropriation heated an already acrimonious public debate on land reform (Vorster, 2019, p. 2). Those who objected to expropriation were accused of not wanting land reform by those who supported it. To address the polarisation, or perhaps to be seen to be doing so, the ANC caucus in parliament proposed a series of public consultations to establish the public's views on the issue, which was confirmed by a parliamentary resolution on 27 February 2018.

Conclusion: Justifying "authentic belonging"

In outline, this chapter has attempted to show that the full emergence of the "authentic belonging" diagnostic metaphor completed a long, discursive process by which land reform policy priorities were challenged and inverted.

As Rein and Schön observed, controversies about diagnostic policy frames can occur within a "cooperative" political context in which appeals to reflection about differences are based on "the shared interest of the participants in minimising, or at any rate reducing" the possibility of zero-sum game wins and losses (Rein & Schön, 1991, p. 282). It is plausible to suggest that the interests of ideological and "pro-poor" commentators in challenging the technocratic issues of first-period land reform were less about the technical issues of designing, implementing and monitoring a market-oriented land reform programme than they were about challenging the underlying democratic capitalist "metaframe" upon which it was based (Rein & Schön, 1991, p. 283).

Reframing land reform primarily as a matter of "authentic belonging" essentially required excluding other considerations from the broad, "wicked" landscape of land ownership. A similar exclusion had occurred during the first iteration of land reform, when the concerns and interests of mainly "populist" "pro-poor" theorists and activists were effectively excluded from consideration. It was now occurring again, though this time, it is arguable that the concerns and interests of a far more comprehensive range of the views of theorists, commentators and stakeholders were effectively excluded from practical consideration.

It was a significant source of concern that proponents of EWC did not specify what it might mean or how it would be implemented. As Du Toit observed, the reframing raised radical questions concerning *political* belonging, including issues such as "the value of our Constitution, … the nature of South Africa as a political community, and … the meaning of citizenship" (Du Toit, 2019, p. 23). One version of this view appeared to be a call for "moral vindication" and a demand for retribution; that is, that those who had benefited from the injustices of apartheid should not continue to enjoy its fruits and also

that they "should lose something" (Du Toit, 2019, p. 23). In this mode, the position is recriminatory and punitive in tone.

Another version of the position appeared more potentially inclusive, emphasising (by implication) a spiritual or religious sense of original belonging to which the "fallen" could, potentially at any rate, aspire by aligning themselves with God's grace. As Atuahene put it, "[j]ustice may require the children of the dispossessed to share the land with the daughters and sons of those who unjustly expropriated it" (Atuahene, 2007, p. 1462). Either way, the fate of those deemed not to qualify for inclusion in the "authentic belonging" category was left vague.

Between 2008 and 2018, then, issues around land reform became a source of highly acrimonious debates around the country (de Satgé, 2009; Vorster, 2019). A significant source of this may have been the "authentic belonging" argument. Those who objected to EWC were accused of not wanting land reform by those who supported it. This rhetorical stance denied the possibility that opponents' concerns might involve objective matters that any comprehensive attempt at understanding the issues would need to consider. Positions for or against EWC appeared to align more or less with the black and white population groups, respectively. "Expropriation without compensation" was the most-used phrase on social media in 2018 (Levy, 2019).

Yet reframing the theme of land reform as a matter of "authentic belonging" represented a potential challenge for the ANC. The constitutional settlement of 1994 was fundamentally based on an acceptance that the country "belongs to all who live in it, united in our diversity" (The Constitution of the Republic of South Africa, 1996, p. 1). Moreover, the ANC – though, it is arguable, not its governments – had a tradition running back to the Freedom Charter of non-racialism. The "authentic belonging" metaphor brought this commitment into question. Nevertheless, in relation to its reframed land reform policy, the ANC needed to retain an appearance of inclusivity and, more specifically, of non-racialism. The following section examines how the ruling party incorporated its potentially divisive reframing of land reform in its political programme and set about validating it through a parliamentary inquiry.

Chapter 6: The JCRC inquiry

Introduction

This section of the dissertation describes and evaluates the JCRC inquiry into the public's views on expropriation without compensation held between June and August 2018.

As argued in chapters 4 and 5, the ANC government's move from a land reform policy based on the "material well-being" diagnostic metaphor to a policy based on the "authentic belonging" metaphor occasioned highly emotive and socially polarising public and stakeholder debates. Given this, it was argued that the ANC government judged it necessary to provide a formal, constitutional justification for adopting the new approach. This chapter evaluates its attempt to justify the new policy through a public inquiry.

Specifically, the ANC government proposed that a parliamentary committee inquiry establish the public's view on EWC; the task was assigned to the JCRC. The committee's brief was, firstly, to "[r]eview section 25 of the Constitution and other clauses where necessary, to make it possible for the state to expropriate land, in the public interest without compensation, and propose the necessary constitutional amendments where necessary"; and secondly, to "engage in a public participation process to get the views of all stakeholders about the necessity of, and mechanisms for expropriating land without compensation" (Joint Constitutional Review Committee, 2018, p. 4).

If the JCRC inquiry aimed to establish the public's views on the proposed reframing of land reform, then its adequacy depended, in the first place, on its constitutional accountability as a public inquiry as determined by the Parliamentary Rules (Joint Rules of Parliament, 2016). Arguably, then, determining the constitutionality of the conduct of a parliamentary inquiry depends, firstly, on the extent to which that inquiry satisfies the Parliamentary Rules and, secondly, the extent to which the Parliamentary Rules satisfy the constitutional values of accountability. However, though the concept is central to understanding the Constitution and its founding values, the Constitution does not define accountability (Okpaluba, 2018, p. 5).

The question arises, then, of the extent to which the inquiry processes satisfied a legitimate expectation of seeking evidence in a public context on a public matter, such as whether to introduce EWC as the official basis of land reform policy or, more particularly – as

the ANC government expressed it – whether to amend the Constitution to allow for EWC. The chapter adopts the accountability framework developed by Bovens to support empirical analysis of contexts in which accountability is considered relevant (Bovens, 2006).

As Bovens argues, "accountability" is "one of those golden concepts that no one can be against … because it conveys an image of transparency and trustworthiness" – yet the concept is elusive because "it can mean many different things to different people" (Bovens, 2006, p. 5). Accordingly, he sets out to provide "an analytic framework for the empirical study of accountability" (Bovens, 2006, p. 5). Concerning the Constitution, Okpaluba suggests that the lack of a definition leaves it open to interpretation as to "what the term means in simple English, what it connotes, and what the framers of the Constitution might have intended it to represent" (Okpaluba, 2018, p. 5). We are, then, justified in developing a conceptual framework to fill in this gap.

The Bovens accountability model provides for a relationship involving the responsibility of one entity ("the actor") to report to another entity (the "forum") (Bovens, 2006, p. 16). Accountability consists of the quality of the actor's reporting to the forum. Three elements of substantive reporting quality measure the quality of reporting: the proper provision of information; proper debate about the information; and a proper judgment procedure to evaluate the information (Bovens, 2006, p. 24). In this relationship of accountability, the JCRC's report on its conduct of its inquiry can be construed as the report of its role as the "actor" reporting to the public in the context of concluding a public inquiry, or the "forum".

The Parliamentary Rules provide for submissions by the public to a committee. In the case of the JCRC inquiry, a survey process was established whereby members of the public were asked to submit answers to two questions: whether they agreed with the proposal to amend the Constitution ("yes"/"no"; and how their views shaped their answer (an unstructured response). Arguably, this approach represented the application of survey methods to the inquiry. The committee's approach to evaluating the responses to these questions can therefore also be assessed by the standards appropriate to standard survey methodology. The adequacy of such an evaluation would contribute to the adequacy of the information provided by the actor to the forum.

Specifically, this chapter addresses the following question: how can a robust conceptual framework of accountability help to analyse and assess the quality of the JCRC inquiry into amending the Constitution to allow for an explicit constitutional commitment to expropriation without compensation? To answer this question, the section outlines the limits of the constitutional understanding of accountability and an account of Boven's conceptual framework for analysing and assessing public accountability. The chapter provides a detailed description and analysis of the inquiry processes. On that basis, the Bovens accountability framework is used to evaluate the inquiry's procedures and results. Further, an account of the standard evaluative criteria for survey methods used is provided in context.

Constitutional accountability

In South Africa's multi-party democracy, political activity takes place in the public arena as an ongoing contest between political parties to establish "the definition of alternative issues, problems, and solutions" and, therefore, which "issues, problems, and solutions … gain the attention of the public and decision-makers" in such a way as to "gain broader attention" (Jann & Wegrich, 2007, p. 63). As the American political scientist E.E Schattschneider puts it, "The definition of the alternatives is the supreme instrument of power" (Schattschneider, cited in Jann and Wegrich, 2007, p. 63).

South Africa's democracy is generally described as embodying representative and participatory ideals. According to Roux, the word democracy, when used in the Constitution, is qualified by four adjectives: "representative", "participatory", "constitutional", and "‘ multi-party" (Roux, 2014, section 10-2). The Constitution provides for rights of representation with citizen participation in policy-making processes. The meaning of participation is left unclear, and it is open to interpretation on a case-by-case basis in judicial review. However, the concept of participation implies an element of engagement that includes exchanges of information that may be expected to be true.

Government accountability to the public is a central value of the Constitution, along with responsiveness and openness (The Constitution of the Republic of South Africa, 1996, section 1). At the same time, transparency is also established as an essential value in support of accountability. Yet the Constitution does not define the meaning of accountability (Okpaluba,

2018, p. 5); it is “an elastic, all-embracing word” (Okpaluba, 2018, p. 6). As applied to real-life issues, a court must “give guidance as to what accountability means or represents in any particular context” (Okpaluba, 2018, p. 3), which it must do “by the principles of legality, rationality and reasonableness” (Okpaluba, 2018, p. 6).

Parliamentary accountability

Regarding the separation of powers implicit in the Constitution, the branches of government are accountable to each other and, except in the case of elections, only indirectly to the public. The Constitution requires the National Assembly to facilitate “public access to and involvement” in its legislative and other functions (The Constitution of the Republic of South Africa, 1996, section 58). Direct public participation in the functioning of state institutions can occur through various forms of involvement in specific parliamentary processes. Members of the public may attend parliamentary sittings of the National—Assembly and, under certain conditions, sittings of its various committees.

The constitutional parliamentary system of committees is intended to support the separation of powers implicit in the Constitution by providing for specific mechanisms of oversight that can review and question the functioning of the executive and of the National Assembly; the Constitutional Court leaves it to Parliament to decide on their internal structures and relationships so long as these conform to and are testable by the values of the Constitution. The oversight mechanisms include parliamentary debates, questions to the executive, notices of motion, members’ statements, statements by cabinet ministers, petitions from the public, the approval of departmental strategic plans and annual budgets, and parliamentary committees (Mbete, 2016, p. 71).

The role of the joint committees – some established by legislation and others by the Constitution – is to “deal with matters of equal concern to the Assembly and the Council”. The Joint Rules of Parliament further specify public involvement in parliamentary processes. Members of the public may attend joint sittings of the houses of Parliament and respond to invitations from a committee to comment on or give evidence regarding bills or other matters (Joint Rules of Parliament, 2016, section 6). More specific rules cover the functions of joint committees, which may initiate legislation for introduction to Parliament or consider legislation

in the legislative process only when "expressly empowered to do so" and, in the course of so doing, summon anyone to give evidence under oath, receive petitions and representations, and permit oral evidence (*Joint Rules of Parliament 2016*, section 32).

Formally speaking, the parliamentary committees have considerable power over the work of Parliament. They allow for more specialised work on their particular areas of scope than possible for the plenary meetings of either of the houses (Doyle, 2016, p. 38). Under the Constitution, the committees are the "engine room" of Parliament and "the key instrument of [its] attempt to fulfil its oversight mandate" (February, 2006a, p. 128).

Accountability to citizens?

In South Africa's constitutional democracy, the question of accountability is open to juristic interpretation. Some jurists support a "maximalist interpretation". Hoffmann, for example, argues that the fundamental values of accountability, responsiveness, and openness, as well as the rule of law (Hoffman, 2011, pp. 92–93), should be supported by "a culture of justification" (Hoffman, 2011, pp. 106-107). A culture of justification suggests that government should be in a position to explain and justify its policies and actions to the public and also that it does so.

However, a Supreme Court of Appeal judgment noted that "public involvement is necessarily an inexact concept". It might include public participation "through submission of commentary and representations", but this is "neither definitive nor exhaustive of its content". The obligation to facilitate public involvement is a "base standard" that Parliament has significant leeway in fulfilling (*Matatiele Municipality and Others v President of the Republic of South Africa and Others*, 2006, par 64).

Effectively, this means that the public depends on the committee members' willingness to conduct their business in a way that satisfies the values of accountability, responsiveness, and openness. However, a court has observed that public participation allows citizens to be "actively involved" in public affairs, that it enables "their voices to be heard and taken account of", and that it "promotes a spirit of democratic and pluralistic accommodation" that produces laws that are regarded as legitimate and effective and that because of its open and public

character, it acts as a "counterweight to secret lobbying and influence-peddling" (*Doctors for Life International v Speaker of the National Assembly and Others*, 2006, section 115). The sentiments expressed in the judgment reflect those of other reviews (Helen Suzman Foundation, 2014, pp. 6-7).

The Bovens accountability framework

Scholars recognise that accountability is seldom carefully defined (Wolfe, 2012, p. 5). As noted above, Bovens' conceptual framework was developed to fill that gap and provide a conceptual framework for the empirical evaluation of accountability. Yet, as Bovens asks, where institutions may be thought to suffer from "serious accountability deficits", what would this mean (Bovens, 2006, p. 3)?

According to Bovens, the broadly understood notion of accountability as "the obligation to explain and justify conduct" is not based on a "general consensus about the standards for accountable behaviour" (Bovens, 2006, p. 9). He proposes a narrow definition of accountability: "a relationship between an actor and a forum, in which the actor must explain and justify his or her conduct, the forum can pose questions and pass judgments, and the actor may face the consequences" (Bovens, 2006, p. 31). This operationalises the concept regarding a specific set of social relations that can be empirically studied (Bovens, 2006, p. 9). In this definition, the actor can be an individual — in the area of governance, an official or civil servant — or an organisation, such as a public institution or a government department. The accountability forum, meanwhile, can be a specific person — a superior, a minister, or a journalist — or an agency such as Parliament, a court, or an audit office. It can also be a "more virtual entity", such as the citizenry or general public (Bovens, 2006, p. 9).

The relationship of account-giving involves three elements: the agent will be obliged to inform the forum about his conduct, including providing data about tasks, outcomes, and procedures and, where necessary, explanations and justifications; the platform must be able to interrogate the actor and to question their conduct or data; and the platform must be able to pass judgment on the actor, that is to criticise it publicly and also to impose sanctions on the actor of some kind (Bovens, 2006, pp. 9-10). Bovens provides a helpful checklist of the criteria for normative analysis of "appropriate and proper" accountability, as he puts it, in any of these

contexts. This approach to responsibility addresses the quality of any particular accountability process, namely, the minimum requirements of an accountability procedure.

As Bovens argues, the evaluation of accountability can proceed at "at least two levels" (Bovens, 2006, pp. 23). One approach would be to evaluate "the propriety of a particular accountability mechanism or of a specific, concrete accountability process" (Bovens, 2006, p. 23). This he calls "procedural or internal adequacy" (Bovens, 2006, p. 23). Another approach would be to evaluate such mechanisms for their external effects, testing how an accountability mechanism satisfies "its function in a political or administrative system" (Bovens, 2006, p. 23). Given that the question at hand concerns the extent to which the JCRC inquiry's methods could be considered satisfactory and accountable, the concept of internal accountability is set out below. The applicability of the concept of external accountability to the case is discussed in the conclusions of this chapter.

Standards of evaluation: Internal accountability

The Bovens model provides for three elements of accountability, as follows:

Proper provision of information
The actor provides information about [his, her, their] conduct in a timely fashion.
The information is reliable.
The information is sufficient.
The actor makes the information available to the public in an appropriate forum.

Proper debate
There is sufficient opportunity for the public to pose questions.
The main differences between the positions involved in a policy issue are heard.
The actor has sufficient opportunity to explain [his, her, their] conduct.

Proper judgment procedure
The forum is (sufficiently) independent of the actor's influence.
The forum is sufficiently unbiased.
The standards of evaluation for the policy issue at hand are clear.

The data and their interpretation warrant the judgment.

The consequences for the actor are proportionate (from Bovens, 2006, p. 24).

This series of questions provides a framework for "the normative analysis of accountability procedures" (Bovens, 2006, p. 24). The framework evaluates the quality of the information provided by the actor, "the quality of the procedure, and the quality of the forum's judgment" (Bovens, 2006, p. 24). As such, it offers "a basis for the development of a coherent system of requirements for appropriate and proper accountability, the principles of good accountability" (Bovens, 2006,p. 24).

Sites of accountability

This account specifies what might be expected of an accountable interaction but does not provide an understanding of the locations or forums where such interactions may occur within the democratic space. A relevant question is how Bovens' narrow definition can be used to evaluate interaction processes between actor and forum in different contexts.

In one helpful analysis, deliberation in a public, democratic context occurs in the following locations: the formal institutions of government, such as legislatures, courts, executives, and administrations; in the **"**public sphere**"**, which can be defined as "public life outside the formal institutions of government that form the public opinion to which [formal government] institutions should respond", including the meetings of political organisations and activists, social movements and debates in the media; and, increasingly, new sites of interaction between public actors and their forums, such as mediation practices, non-partisan discussions such as mini-publics, citizens' assemblies, and deliberative polls (Bächtiger et al., 2018, pp. 13–22).

Regarding accountability, Bovens identifies five "types of forums" and "five types of accountability" operative in constitutional democracies. In his view, the forums are politics, law, the administration, the professions, and the social world, each with its "type" of accountability (Bovens, 2006, p. 16). However, these are, more strictly speaking, the broader contexts in which accountability relations are relevant; forums would be the specific institutions in which they occur. Specific institutions, such as the legislature or a court, are more appropriately regarded as forums of formal government. In the political context, the

mechanism (note, not the criteria for) of authority can be interpreted as a "chain of principal-agent relationships": the public delegates authority to the representatives, who delegate their power to the cabinet, which the ministers delegate to civil servants or administrative bodies.

The mechanism of accountability, meanwhile, runs in the opposite direction: the civil servants account to their minister, who accounts to Parliament, whose representatives account (eventually) to the voters (Bovens, 2006, p. 16). In a representative, participatory democracy, the political accountability of a government during its term in office depends, firstly, on the integrity of the government's accountability relations at each link in the chain and, secondly, on the level and quality of the participation it allows as regards each link in the chain.

In adversarial parliamentary systems, "debates can be ritualised performances.. aimed primarily at scoring points in the public eye" (Bächtiger et al., 2018, p. 13). In such contexts, the emphasis is on deliberation between party power-holders as actors accountable to the institutional forum; any communication between them and their principals occurs mainly through public observation, parliamentary transcripts, media reports, and opinion articles. The public's ability to question power-holders directly in such a context is minimal, and their capacity to sanction power-holders is deferred until the next election. Public involvement in this context may be described as participatory but not deliberative. Public participation in executive and administrative processes is similarly minimal.

For our purposes, these concepts and relationships provide an evaluative framework that can be applied to the functioning of the JCRC in its conduct of the inquiry into amending the Constitution.

In terms of the Constitution, Parliament is directly accountable to the electorate at election time and indirectly through participatory forums such as parliamentary inquiries. Typically speaking, parliamentary inquiries are accountable to Parliament and only indirectly to the public. In the context of this study, for example, in the terms of the Constitution, Parliament delegated authority to the JCRC to conduct the inquiry into expropriation without compensation. In Bovens' definition, Parliament is both the principal and the forum in the relationship. The principal is Parliament in the form of the National Assembly, which delegated the authority; the forum is Parliament in the form of an institution defined by constitutional powers and Parliamentary Rules.

The following section turns to an account of the polarised debate about expropriation, to resolve which the ANC government decided to conduct a parliamentary inquiry.

The JCRC inquiry: mandate and composition

The committee's mandate was to "elicit.. the views of the public on the possible review of s[ection] 25 of the Constitution and establish... mechanisms for expropriating land in the public interest without compensation" (Joint Constitutional Review Committee, 2018, p, 5). The JCRC decided to hold three streams of consultations around the country between June and August 2018. One stream (written submissions) invited members of the public to submit their responses in writing; a second involved oral submissions from invited organisations; and the third involved public hearings held at venues in towns around the country. In each stream, respondents were asked to respond to a two-part question: (1) to answer "yes" or "no" on whether to amend the Constitution and (2) to explain their views on the issue briefly. Additional public consultation and oral submission hearings were held after this date.

The Joint Rules of Parliament specify that a joint committee must be composed of members of Parliament in proportion to their representation in Parliament (sections 19 and 20). The JCRC, in this case, was composed of 16 members from the ANC, the EFF, the National Freedom Party, the Democratic Alliance, and the Congress of the People (*Parliament Adopts Report on Expropriation of Land without Compensation*, 2018). The chair and two co-chairs were all ANC members.

The JCRC inquiry: three streams of consultation

This section outlines the processes of the three streams of consultation of the JCRC inquiry and the two main elements of its inquiry methodology, the open and closed questions. The following section reviews these processes and methods in terms of the accountability framework outlined above.

Public hearings

The purpose of the public hearings was to allow citizens who might not have access to communication tools of various kinds -- including pen, paper, postal fees, and Wi-Fi -- to participate. The JCRC reported that it "deployed a team of public educators … to enable members of the public to participate meaningfully in the discussions on s[section] 25 of the Constitution" (Joint Constitutional Review Committee, 2018, p. 5). The public education programme aimed "to raise awareness of the relevant clauses in s25 to enable members of the public to participate meaningfully in the discussions on s25 of the Constitution" (Joint Constitutional Review Committee, 2018, p. 6).

The forthcoming meetings were publicised through media statements and interviews with its co-chairs. The committee reported taking "reasonable steps to ensure that as many people as possible attended the public hearings" (Joint Constitutional Review Committee, 2018, p. 6). Workshops were conducted on "how to make an oral submission on a complex matter in a short allocated time" (Joint Constitutional Review Committee, 2018, p. 6)., and informed members of the public about the committee's public hearings programme, especially the relevant dates and venues for the public hearings.

To manage the short timeframe, committee members were divided into two groups of 11 members to hold and record the hearings, with one group focusing on the coastal provinces and the other on the inland provinces (Joint Constitutional Review Committee, 2018, p. 5). The public hearings were conducted in towns and cities nationwide between June and early August 2018. Each meeting was held between 11 am and 4 pm, though these times "only served as a guide" for the hearings, given that "numbers of people" were often waiting to speak (Joint Constitutional Review Committee, 2018, p. 5). Every hearing was started with "an explanation of the background and purpose of the public hearings" and the "rules of engagement". According to the report, the "co-Chairpersons protected all speakers against intimidation" (Joint Constitutional Review Committee, 2018, pp. 6-7). Each speaker was given "at least three minutes" to state their answer to the yes/no question and to outline their reasons for their preference.

Written submissions

The committee called for written submissions in national and local newspapers in April 2018, setting the end of May as a deadline, which was extended to June 15. The written

submissions were received in two formats: emails and "hard copies" (i.e. written submissions on memory sticks or printed or hand-written submissions) and handled by an "external service provider". According to the report, 630,609 written submissions were received by the due date. The recommendations were in two forms: emails and hardcopies (Joint Constitutional Review Committee, 2018, p. 9).

The data was to be analysed to reveal the total submissions, the total "yes" answers, the total "no" answers, and the total "undecided" answers. Each respondent's first name, last name, and response to the yes/no question would be recorded, to which their written statement expressing their response to the open-ended question was attached. Initially, the written statements were intended to be analysed for significant themes (Joint Constitutional Review Committee, 2018, p. 10). On November 25, 2018, the JCRC concluded its inquiry with a report recommending that Parliament amend section 25 of the Constitution as a "legitimate option for land reform". Parliament was "most urgently" to effect the necessary amendment and table it before the end of the parliamentary year, within about three weeks (Joint Constitutional Review Committee, 2018, pp. 34-35).

Oral submissions

According to the JCRC's report, members of the public were invited to "indicate whether they would like to make oral submissions to the committee" (Joint Constitutional Review Committee, 2018, p. 10). In this stream's first round of selections, 42 individuals or organisations "were identified for oral submissions" (Joint Constitutional Review Committee, 2018, p. 10). In a second round of selections, the service provider compiled a list of 120 individuals or organisations who "had requested an opportunity to make oral submissions" (Joint Constitutional Review Committee, 2018, p. 10). The applications were checked for "duplications, [and] whether the submission was substantial" (Joint Constitutional Review Committee, 2018, p. 10). The 42 individuals or organisations of the first round were included in the second list of 120 respondents who said they wanted to argue a case before the committee. The main criterion for selection was whether the statement was likely to be "substantive" (Joint Constitutional Review Committee, 2018, p. 11).

The report noted that it later "reached a consensus" that this stream should be re-opened, and 21 respondents were invited to make submissions in a later round of presentations to the

committee. No reason for the decision was provided (Joint Constitutional Review Committee, 2018, p. 11). A total of 63 individuals or organisations presented to the committee in this stream. The selected individuals and organisations presented their views to the committee on 4 - 7 September and again on 25 - 26 October. Each presenter or presenting organisation was given 10 minutes to present their argument, after which committee members questioned them.

The inquiry questions

According to the JCRC report, "the guiding questions for the assignment [the inquiry] were the necessity of and mechanisms for expropriating land without compensation" (Joint Constitutional Review Committee, 2018, p. 4). In its view, "public participation was key" to establishing the views of the public on these matters (Joint Constitutional Review Committee, 2018, p. 5). The two questions respondents were asked to answer were not separately specified as core features of its methodology but included in a list of the "fields of entry" for the written submissions. The fields of entry, or data points, were listed as: "1. First Name 2. Last Name 3. "Decision ("Yes, change the Constitution"; "No, don't change the Constitution"; or "Undecided") and 4. Message (Open text)" (Joint Constitutional Review Committee, 2018, p. 10) (Joint Constitutional Review Committee, 2018, p. 4).

Evaluating the JCRC inquiry: the accountability framework

This section aims to evaluate elements of the JCRC's conduct of its inquiry into expropriation without compensation in terms of the accountability framework outlined above. In the first instance, it is evident that the JCRC can be understood to be an actor in an accountability relationship with Parliament, by which it was delegated to carry out the inquiry. Yet that is not the context of the inquiry, which was explicitly aimed at arriving at a conclusion regarding the public's views on the issue of expropriation without compensation and applying that conclusion to a policy determination. In this case, it is arguable that the JCRC can be understood to be an actor in an accountability relationship with the public and that the forum of this relationship was the parliamentary hearings.

If so, we can apply the three criteria for an accountability relationship in this context. Evaluating it involves testing the inquiry's processes and outcomes against the three essential criteria of an accountability relationship. The criteria are applied in the form of the following

questions: (1) did the JCRC provide sufficient information about its processes and the outcomes of its inquiry? (2) was there sufficient opportunity to debate its provision of information? (3) were the criteria by which the processes and inquiry outcomes were judged sufficient to support the claim that they provided a proper judgment procedure?

Processes and outcomes: the public hearings

In general, information regarding important aspects of the preparation of the public was presented unsystematically and without sufficient detail. The JCRC report did not specify the content of the public education sessions that were intended to prepare would-be participants. It is, therefore, impossible to evaluate the extent to which the general education sessions presented a balanced case for and against expropriation without compensation. The staffing and size of the public education teams, the number of participants, and the dates and places where these public education sessions were held were not reported. It is unclear how representative these hearings were of the broader public for which they were intended. Some commentators objected to the hearings being conducted in venues in cities or significant regional towns, which limited the ability of many rural citizens to participate.

At the public hearings, participants had only a few minutes each to express themselves on complex issues (Corrigan, 2018). Committee chairpersons had considerable latitude in selecting speakers at the meetings, while no translation facilities were made available to participants who spoke various languages (Corrigan, 2018). The committee's appeal for tolerance during the public hearings was not always respected; some meetings were "characterised by high levels of intimidation and bullying with incidents of racist attacks on speakers" (ANA staff, 2018). This may have been due to the EFF's "prominent role" at the hearings (Cousins, 2021, p. 109), given that the party had consistently expressed a racialist position in favour of expropriation without compensation during the expropriation without compensation debate.

Process and outcomes: the written submissions

An external service provider was engaged to process the written submissions. The process was divided into "response handling", "indexing and data capturing", and "data

analysis and report writing" phases. The result of the data analysis phase was to provide information summarising the number of people who supported or were against amending the Constitution and to analyse the themes included in the responses to the open-ended question (Joint Constitutional Review Committee, 2018, p. 10). The JCRC report indicated that the service provider had analysed the information and produced a report. Its findings were summarised in the report (Joint Constitutional Review Committee, 2018, p. 11).

The committee reported receiving 630,609 written submissions but that "only 449,522 were valid" (Joint Constitutional Review Committee, 2018, p. 16). Submissions rejected as invalid were "inquiries, unrelated, blank and duplicate{s}", resulting in a "variance" of 181,087 (Joint Constitutional Review Committee, 2018, p. 16). On these figures, 28.7% of submissions were rejected. According to the committee, 34% of written submissions favoured the amendment of the Constitution, while 65% did not (Joint Constitutional Review Committee, 2018, p. 16).

The main opposition party claimed that 780,000 submissions were received (Jeffrey, 2018) but did not cite its source for this. According to Jeffrey, a highly critical commentator on the Institute of Race Relations staff, the 720,000 written submissions were received by the deadline of June 15, though she did not cite her source for this (Jeffrey, 2018). Media reports suggested that committee members had queries about the quality of the analysis by the service provider, "a little-known recruitment company" (Phakathi, 2018). The committee vice-chairperson defended the results, but it appears that the analysis was discarded since the chairperson later said that the committee had decided to "sample" 400 of the submissions instead of relying on the analysis (Phakathi, 2018). This sample comprised 0.09% of submissions the committee had retained (Jeffrey, 2018).

Process and outcomes: the oral submissions

The JCRC opened the oral submissions stream to "individuals, representatives of political parties, community leaders, traditional leaders, property owners, including land reform CPAs and Trusts, NGOs, CBOs, organised agriculture, lobby groups, trade union movements, researchers, traditional healers' associations, faith-based organisations and other members of civil society in general" (Joint Constitutional Review Committee, 2018, p. 8).

However, it did not explain its criteria for the section of the participants in the oral submission process

During the oral submissions, presenters were allowed 10 minutes to make their presentations, following which they were questioned by members of the committee (Joint Constitutional Review Committee, 2017, p. 11). The report presented the themes which it identified in these sessions under headings relating to views on the Constitution, arguments for expropriation without compensation, arguments against expropriation without compensation, impediments to land reform, and recommendations on what needed to be done (Joint Constitutional Review Committee, 2018, pp. 18-24).

The impediments to land reform section included the following themes: policy uncertainty; failure to implement current provisions of the Constitution and land reform laws; questions around the land audit, which was "biased and not transparent"; arguments that land reform had failed mainly because of the government's lack of political will; comments regarding the corruption in the land reform process; criticism of the legislature for failing to exercise its oversight function; and objections from some participants that the market model of land reform required people to pay for land that had been stolen from them ((Joint Constitutional Review Committee, 2018, pp. 18-24).

The open-ended question

This section briefly evaluates the inquiry's methodological approach to the open-ended question. As noted, the aim of the consultations was establish the extent to which the public supported amendment of the Constitution. yes or no, and to connect this with their views regarding their yes/no answers.

In survey research methodology, the two questions of the JCRC inquiry would be defined as an open-ended question that allows respondents to choose their responses and a closed question that provides a set of categories among which respondents must choose (Mitchell, 2007, p. 372). The open-ended question asked South Africans to state their views on land reform and whether they wanted the Constitution to be amended. "Views" can include

attitudes, feelings, beliefs, opinions, ideas, and prejudices, among other mental or affective states. Respondents' justifications for their yes/no answers covered many possibilities.

As we saw, the reframing campaign was characterised by emotive and polarising rhetoric. Given the highly emotive character (Cousins, 2021; du Toit, 2019; Iyer & Calvino, 2021; Kepe & Hall, 2018; Pigou, 2018; Vorster, 2019) of the public debate on expropriation without compensation as part of the reframing campaign (outlined in Chapter 5) it is likely that some types of "views", such as respondents' opinions, were more affective than others, and likely to be the products of the moment, rather than of reflection. A similar argument might apply to respondents' beliefs. Likely, even those members of the public who took a consistent interest in the land reform issue were actively misinformed (Flyn et al., 2017, p. 130). Other views, such as prejudices, might be reasonably deemed formally irrelevant but would have been captured as "data".

"Views", then, as a research term, is ambiguous. If the inquiry had been conducted as a quantitative exercise, such a term would have resulted in measurement errors, specifically regarding the reliability and validity of this conceptualisation of the research issue (Fowler Jr., 1992, p. 219). Reliability is the extent to which a particular research technique will likely yield a similar result with the same sample at another time (Babbie & Mouton, 2001, p. 119). Validity is the extent to which a research concept measures the phenomenon it claims to study (Babbie and Mouton, 2001, p. 123). In the first case, the use of appropriate techniques (the test-retest method, the split-half method) would be necessary to establish that the survey result would likely be repeated in a subsequent study of the same group. In the second case, careful testing of the research concept — in the case of the JCRC inquiry, the concept of amending the Constitution as it would be likely to be understood by each group — would be required to establish that the survey adequately reflects the possible views of the broader group of which the sample was a selection (Babbie and Mouton, 2001, p. 123).

Moreover, the inquiry was framed as a single-issue survey. It is widely accepted that single-issue survey measures yield unreliable results. Multi-item measures have been "the norm in social inquiry for over 50 years" because single-item measures tend to generate low internal reliability (Loo, 2002, p. 223). that is, the kind of reliability that would result from asking respondents several questions to measure the same construct. "[N]ot all traits or behaviours are observable or can be measured by a single question" (Story & Tait, 2019, p.

196). (In this case, the "trait" in question is the "views" on amending the Constitution, which respondents were asked to evaluate in the form of a closed, yes/no question.)

Single-item measures also exclude related issues from their respondents' consideration. Other surveys of South Africans have asked respondents to rate the importance of land reform measures in the context of other aspects of their lives, for example, including such issues as economic growth, access to employment, and food security, among others (Aliber, 2006; Bilchitz et al., 2016; Gibson, 2008) while in a more recent survey respondents felt that only land taken from communities during apartheid should be redistributed and a slight majority felt that the willing-seller, willing-buyer policy should be retained (Nkomo, 2018).

In methodologically rigorous surveys conducted in 2015, 2016, and 2017, respondents' views in favour of land reform measures were far lower than the impression created by the JCRC inquiry of an "overwhelming majority" in favour of amending the Constitution, while large majorities believed that they would benefit more from better education and jobs (Jeffery, 2018). Suppose the inquiry or research evidence is used in a policy process. It should use "well-designed and well-implemented methods tailored to the questions being asked" (Commission on Evidence-Based Policymaking, 2017, p. 18).

The closed question

This section evaluates the committee's methodology in processing and evaluating the data generated by the closed question in all three streams. As we have seen, the committee was accused of under-declaring the number of written submissions received. It reported the results of a discredited analysis without withdrawing them and later based its view of the salience of these submissions on a small sample of 400. It appears that its decision to disqualify a relatively high percentage of the submissions was based on the view that they were "duplicates" — individual submissions on standardised forms provided by Afriforum, a civil society organisation (News24wire, 2018). Yet the report cited the analysis of these submissions in quantitative terms; in a quantitative survey, these would be counted as individual responses, even if they used the same wording. It is not clear why these results were regarded as acceptable.

The methodology of the three streams of consultation was different in each case. The numbers of written and oral submissions and their associated yes/no answers were recorded, but each represented a different kind of sample group. The written submissions constituted a large sample group of participants understood as ordinary citizens; these results were tabulated, even if by a flawed process. The oral submissions involved a small group understood as interested experts and could, in principle, have been tabulated. However, the proportions of those in favour and those against were ultimately only estimated. Finally, the number of respondents who participated in the public was not tabulated, though the committee concluded that "an overwhelming number" favoured amending the Constitution (Joint Constitutional Review Committee, 2018, p. 12).

The committee outlined the results from the three consultation streams in its report. It reported that large majorities in two of the streams (oral and written submissions) were against amending the Constitution. In contrast, an "overwhelming majority" of the speakers at the public hearings favoured amending the Constitution. On this basis, it concluded in favour of expropriation without compensation, without any explanation at all as to how it had evaluated them. While studies combining quantitative data from large samples and qualitative data from small samples are increasingly possible with the development of new techniques, comparing data from such different methodological requires a bespoke methodology (Mahoney & Goertz, 2006, p. 232). In quantitative studies, for example, the criteria for the effective use of a sample are validity and reliability

In an appropriate research process, the reliability and validity of the sampling would need to be demonstrated (as briefly defined above). The shortcomings of the quasi-quantitative approach adopted by the committee did not provide a basis for comparing the data from any of the three streams, so determined, with those of the other streams. The chairman's argument that the main aim was to determine the "strength of the argument" on both sides of the debate (*What Parliament Says about Reviewing Section 25*, n.d.) does not resolve this issue. Ultimately, the results of entirely different sorts of inquiry were compared without explaining how they could be effectively compared. The committee might legitimately have argued that it aimed to compare different kinds of knowledge: abstract, practical, and personal, for example (Flyvbjerg, 2011). However, its inquiry methodology did not establish criteria for such a comparison.

On November 25 2018, the JCRC concluded its inquiry with a report recommending that Parliament amend section 25 of the Constitution as a "legitimate option for land reform". Parliament was "most urgently" to effect the necessary amendment and table it before the end of the parliamentary year, which was within about three weeks (Joint Constitutional Review Committee, 2018, pp. 34-35).

JCRC inquiry accountability evaluation

The analysis of the JCRC's methodology outlined in the previous sections establishes that the JCRC's inquiry was characterised by severe flaws that render its results highly questionable as a research exercise. The inquiry did not satisfy elementary social inquiry methods regarding the clarity of its research question, sampling, criteria of participant selection, methods of comparison of its results, or indeed, in some instances, even the safety and well-being of participants in the public hearings. Even if the inquiry's underlying assumptions and methodological approach had been adequately outlined in the JCRC's report, they would not have justified the committee's inquiry processes and outcome.

The JCRC chairperson, Victor Smith, was reported to have said that "the process was fair, the process was transparent, and the process will pass constitutional muster" (Besent, 2018). Members of opposition parties on the committee expressed their disappointment in unusually emotive terms, even by the standards of a Parliament dominated by a party widely recognised as corrupt (Corder, 2022; Iyer & Calvino, 2021; Kubheka, 2018). They said the inquiry had been a "sham", a "political gimmick", that its report had been pushed through "despite errors in procedure" (ANA staff, 2018), and that it had been a "disgrace" (Besent, 2018). Some committee members said they had no access to the draft report or the written submissions (Mokgoroane, 2018). It is not implausible, then, to conclude that the inquiry's methodologies did little to generate results that might be regarded as reliable or sufficient in the sense Bovens indicates as measures of the first criterion of a fully accountable relationship, namely that "proper provision of information" from the actor to the forum can be expected (Bovens, 2006, p. 24).

Bovens' second criterion, proper debate, requires that there is sufficient opportunity to pose questions to the actor and that the resulting debate involves exchanges of views in which

"both" sides are heard. (In the case of the land reform debate, of course, this would require a range of sides to be heard.). On the face of it, the inquiry went to some lengths to hear many positions on the issue of amending the Constitution and, by extension, expropriation without compensation. However, when the committee report concluded with the observation that it had considered all the positions on land reform presented during the three streams of consultation and recommended amendment of the Constitution, it did so without providing any guidance as to the reasoning behind its decision.

It may be that the problematic situation of land reform is highly complex, as this dissertation tried to demonstrate, and therefore providing a rationale for a decision on so complex an issue would be challenging. However, this chapter has offered a critical discussion of the JCRC's claim to have mounted an inquiry that would result in helpful evidence. At this stage, the question is what it was about the institutional context that allowed so important a decision to be effectively unquestionable.

We recall that Bovens' third criterion of a full accountability relationship is the requirement of a "proper judgment procedure" (Bovens. 2006, p. 24). Such a procedure would require that policy decisions are based on (relatively) independent, unbiased, and straightforward criteria such that it can be shown that "the facts warrant the judgment" (Bovens, 2006, p. 24). Above all, what leaps out from the JCRC inquiry's report is that the committee was under no obligation to demonstrate the relationship between its deliberations and its conclusion. While the JCRC inquiry failed to satisfy the criteria of proper information and proper debate, more particularly, it also was unable to fulfil the requirement of warrantability for its decision-making. This suggests that it hardly qualified as an accountability mechanism in the sense intended by the accountability framework.

To understand this, we may refer to another aspect of the Bovens accountability framework. An accountability relationship, as we have seen, pertains between an actor and a forum when the actor is obliged to answer the questions of a forum to which they report about their performance of a function delegated to them and may face sanctions in the event of a judgment of poor performance. In a complex organisation such as a Parliament, a chain of delegation runs down from the assembly to parliamentary committees, to researchers, and so forth. The direction of accountability, meanwhile, runs in the other direction, from the researchers to the committees and thence to the assembly (Bovens, 2006, p. 16). Each point in

these relationships may be both a forum and an actor. A committee, for example, would be a forum to which researchers are accountable, but at the same time, an actor that is accountable to the assembly. This can work because, in these circumstances, no actor is the forum to which it is accountable. However, in some circumstances, this may be the case, such as where the actor accountable to a forum is in a position to set the rules of the forum.

For example, the National Assembly and Parliament Rules allow parliamentary committees to decide what evidence or information to consider, whether this derives from their research or other sources or consultations of whatever sort with the public. The rules do not specify uniform rules regarding the weight they attach to submissions or how to treat them (February 2006, p. 136, citing Habib and Herzenberg). No specifications exist regarding how submissions to parliamentary committees are reviewed or how valid or reasonable recommendations are to be drawn from them to be placed before the committee for its consideration (February 2006, p. 136).

Parliamentary committees can decide whether to include public participants in their deliberations or to consider their input. The Rules allow committees to summon any person to give evidence, produce documents, receive petitions, representations, or submissions from "interested persons or institutions", conduct public hearings at which oral evidence may be heard, and otherwise determine its procedure (Joint Rules of Parliament, section 32). Committees may invite and consider public participation, but they are not required to do so. A "chairperson has the power to decide who can speak, for how long they can speak, on what issues they may speak, whether interruptions will be allowed and whether the committee can engage in questions with that person" (Waterhouse, 2015, p. 182).

This case study of the JCRC inquiry suggests that while parliamentary committees have a formal accountability relationship to Parliament, the rules that govern their functioning with respect to the inquiries that frequently influence policy do not specify, in any way, what might be expected of a valid inquiry. In effect, this means that a parliamentary committee inquiry can be an actor that is accountable to a forum, the rules of which it can determine as it likes. In summary, the rules of Parliament for parliamentary inquiries are procedural in two senses: firstly, they do not specify any requirements for the appropriateness or quality of inquiry procedures; and secondly, they provide for decisions on the matters before them by voting, which does not require explanation or justification.

Conclusion

South Africa's democracy is generally described as embodying representative and participatory ideals. According to Roux, the word democracy, when used in the Constitution, is qualified by four adjectives: "representative", "participatory", "constitutional", and "multi-party", while "democracy" is described as a "culture" which "can deepen [ed] by the adoption of Charters of Rights" (Roux, 2014, section 10-2). South Africa's political system, then, is a constitutional democracy that combines the rights of representation with citizen participation in policy-making processes. The meaning of participation is left unclear, and it is open to interpretation on a case-by-case basis in judicial review.

According to Hoffman, the separation of powers established by the Constitution should be supported by the fundamental values of accountability, responsiveness, and openness, as well as by the rule of law, a foundational value (Hoffman, 2011, pp. 92-93). However, he identifies several areas where the ANC government has failed to uphold these central constitutional values.

Among these is a blurring of the separation of executive and legislature through the ANC's domination of Parliament; extensive failures in service delivery across the country; efforts to erode the powers of independent institutions such as the National Prosecution Authority; and (as he argues) the party's failure to accept genuine multi-party democracy through its view of itself as "hegemonic" (Hoffman, 2011, p. 92). In his view, other areas of South Africa's constitutional democracy remain less impacted by the ANC's conduct in power. The Constitution enjoys legitimacy through free and fair elections and the lack of constraints on freedom of expression and political activity. In particular, the courts and the media were "free and independent". However, he argues that "a culture of justification" is needed to address the "ails of the system at present" (Hoffman, 2011, pp. 106-107).

The idea of a culture of justification, it is suggested, invokes a sense that government should be in a position to explain and justify its policies and actions to the public and also that it does so. This chapter has argued that the ANC's conduct of the JCRC inquiry into the amendment of the Constitution would not rate very highly as an accountability mechanism

where this is understood to represent a normative ideal of accountability in a parliamentary process. (Whether this normative ideal reflects the ideal of accountability expressed in the Constitution is not a question that has been addressed here.) Instead, the inquiry appears to have been conducted as an exercise in the appearance of accountability. This was enabled by the rules of Parliament that define the role and function of parliamentary inquiries, which, as the "engine rooms" of Parliament, play a decisive role in the formation of policy.

Using the Bovens accountability framework to evaluate the JCRC inquiry as an inquiry process provides insight into the unease that committee members and commentators expressed regarding the inquiry procedures. As has been argued, the Parliamentary Rules define committee inquiries in terms of rules or public engagement protocols. They, therefore, allow the processes and results of committee inquiries to be evaluated purely on the extent to which they satisfy organisational protocols. They set no requirements for the quality of an inquiry's approach to processing and interpreting information. As has been argued, based on the accountability framework, this does not amount to an accountable approach to debate about substantive policy issues.

Chapter 7: Conclusion

Introduction

The dissertation has attempted to understand the significance of the 2018 parliamentary inquiry that sought the public's views on whether to introduce EWC as the foundation of land reform policy.

In outline, the issue was addressed, firstly, by showing that in its first approach to the problem, the ANC government adopted an almost-textbook approach to addressing the "wicked" problem of land reform by consulting widely with the range of stakeholder positions and interests involved; the result was a reconciliatory land reform policy that framed the issue in terms of the diagnostic metaphor of material well-being and its solution in terms of the legitimacy of citizens' rights to private property (in principle at least). Secondly, it was shown that in its second approach to the problem, the ANC government addressed the "wicked" complexity of land reform by considerably limiting its consultations with stakeholders and, on that basis, framing land reform in contrasting terms as a matter of authentic belonging that justified a policy of EWC. That is, the debate about EWC was effectively a proxy debate about the legitimacy of forms of land ownership. Finally, the 2018 parliamentary inquiry's decision for EWC resulted from a narrow form of inquiry that allowed the ruling party to decide the issue in favour of its preferred solution because it was minimally accountable to the public.

This was addressed using the combined wicked problem framework and framing theory to understand the relationship between the ANC government's first reconciliatory land reform policy based on the market mechanism and its ultimate choice for a retributive policy based on EWC. Chapters 4 and 5 showed that the two approaches to land reform differed substantially in their diagnoses of the problems and solutions of land reform. Emotive and polarising debates about the move were shown to centre on contrasting notions of the legitimacy of forms of land ownership, represented by the "material well-being" and the "authentic belonging" diagnostic metaphors. Essentially, it may be concluded that the stark contrast between these two understandings of land reform was a proxy for a potentially fundamental redefinition of the relationship between citizenship and property rights.

The 2018 parliamentary inquiry was explained as a public process by which the ANC government aimed to validate its choice for EWC by mounting a large-scale public inquiry, which it claimed was constitutionally well-founded and based on adequate inquiry methods. The controversy around its conclusion in favour of EWC was explored using inquiry methodology and the Bovens accountability model to evaluate the adequacy of the inquiry's claims to have arrived at a valid and satisfactory conclusion. Chapter 6 concluded by arguing that the inquiry did not satisfy valid independent criteria for objective inquiry or accountable engagement with the public. The result of the inquiry was used as the adoption of an amendment to the Constitution to make explicit provision for EWC.

This chapter concludes the dissertation by briefly considering certain consequences of the adopted multi-frame approach and, secondly, by reviewing some implications of its use of selected theory frames for further research.

Some wicked implications

The dissertation answered the broad main question and the sub-questions by using a combination of four focused theory frames. It was argued that this was useful because the research problem required an explanatory connection between two distinct sets of policy phenomena. That is, the research problem needed an explanation of the connection between decision-makers' successive selections or framings of the elements of the complex public policy context that they chose to address and their subsequent use of a formal inquiry process to validate their latter framing of policy.

As outlined in Chapter 3, this dissertation adopted a multi-theoretical approach, assuming that adhering to the traditional theoretical boundaries would mean "*giving up trying to understand concrete phenomena" (Palmer, 1996, p. 74).* However, it is essential to emphasise that the different theories used are limited in scope. To recall, in Rueschemeyer's definition, focused theory frames specify concepts, causal conditions and process patterns in a way that allows the generation of insights or empirical propositions. Focused theory frames, then, offer focusing lenses for understanding phenomena and can

produce limited, testable hypotheses and insights into "process patterns" (Rueschemeyer, 2009a, p. 1).

As we saw in the development of the specific multi-theoretical lens adopted by this dissertation, both the wicked problem framework and frame theory were developed to address the insight that policy situations are complex. Policy problems are "always richer and more complex than can be grasped through any particular story" (Rein & Schön, 1991, p. 265). In the terminology of this dissertation, they are about which diagnostic metaphors are appropriate to the problem at hand. However, finding policy solutions to policy problems is complex because the constraints, such as the resources available or the political consequences of decisions, are unpredictable and "constantly changing" (Roberts, 2000, p. 1). Regarding the wicked problem framework, no independent standards exist for evaluating opposing solutions.

As regards land reform, it might be concluded that there is no way of arbitrating between the two diagnostic metaphors of "material well-being" on the one hand and "authentic belonging" on the other. Complex policy situations are inherently subject to the challenges of relativism, or the claim that "all frames are equally valid" (Rein & Schön, 1991, p. 266). In Rittel & Webber's version, the danger is that all frames may appear equally valid, and the policy problem may be subject to a "relativistic logic" (Rein & Schön, 1991, p. 266). Such a claim may be implicit in the argument for the "authentic belonging" metaphor, for example, since it appears to rely on the assumption that the relevance frames of property ownership are culturally determined and, therefore, relative.

However, this is not how the debates about land reform reviewed in this dissertation were conducted. The various ideological and theoretical positions involved assumed that some forms of evidence and argument were necessary, although they disagreed, sometimes fundamentally, about which of these were relevant. Suppose the exposition and discussion of land reform are plausible. In that case, the combination of frame theory and the wicked problem framework, in particular, offers at least the outlines of such a common sense framework. As we saw in the literature review, both are highly developed areas of research, with a rich literature of theoretical elaboration and analytic application to draw on.

Rein & Schön suggest that ultimately, some kind of "common sense" in the form of "implicit, perhaps even consensual, standards" might exist by which opposing the

adequacy of metaframes "for interpretation, understanding, and action" is judged (Rein & Schön, 1991, p. 266). However, they admit that they cannot identify what these might be. In the context of debates about land reform, it is suggested here the two focused theory frames adopted by this dissertation – wicked problem framework and frame theory – offer the advantage of a meta-theoretical characterisation of complexity that is independent of the highly engaged positions involved.

With these focused theory frames helping to shape inquiry into land reform, we may conclude, for instance, that the choice for the "authentic belonging" metaphor represented a narrow, procedural decision in favour of a simple majority view and the rejection of a complex, broader position taking a range of issues into account. As the analysis of the procedure of the 2018 parliamentary inquiry demonstrated, it was, ultimately, a decision for quantity, or the (presumed) overall numbers of citizens supporting the position, over quality, or the relevance of a wide range of complex problems still needing to be solved if the land reform issue was to be fully, or at least adequately addressed.

Considered through the lens of the wicked problem framework and frame theory, this dissertation suggests that it is likely that assumptions that the adoption of the "authentic belonging" metaphor as official land reform policy has "resolved" the problems of land reform will prove to be mistaken. This is not due, in the first place, to the nature of the decision regarding the many complex issues involved in land reform but rather to the structure of the issue as a wicked problem. However, this conclusion does not amount to a tautologous claim that any decision in the context would result in the negation of relevant underlying issues.

More specifically, it is possible to suggest that, due to the nature of the decision, it is likely that outstanding issues will remain as factors in the ongoing landscape of skewed land ownership. Several likely consequences can be extrapolated from the ascendancy of the "populist" position on land reform. For example, as we saw, the "populist, "pro-poor" position was essentially excluded by the initial narrow framing of land reform that resulted from the constitutional negotiations in the early 1990s, but opting for the narrow framing did not make it "go away"; on the contrary, it re-emerged as the ANC's attempts to implement land reform faltered.

Another example would be the likely consequences of the ANC government's adoption of the "populist" position in favour of EWC, which it justified based on claims that it represented a unified, dispossessed people and that its possession of the formerly "stolen" land would naturally benefit the people it claimed to represent. The rise of the problem of widespread elite capture of land reform projects indicates the likelihood of this is low without significant changes to the broader environment of government accountability. Finally, a closing example concerns the potential of the "authentic belonging" metaphor to disrupt existing economic and socio-political patterns if the connection that this metaphor established between group membership and property ownership is adopted as a precedent.

The precedent the ANC government sets for the role of government in land reform plays through all of these issues. One significant implication of the analysis presented in this dissertation plays through all of these questions. The ANC government's move from the narrow "material well-being" diagnostic metaphor to the broad "authentic belonging" diagnostic metaphor was closely paralleled by its development of policies that potentially make the state the custodian of all expropriated land. In so doing, it is arguable that, appearances to the contrary, the state has abandoned the position of arbiter and become, essentially, a participant in the problems it is supposed to solve. If so, that might increase the pressure on the wicked problem of land reform by converting it into a super-wicked problem in which the actor that caused the problem is an inextricable element of the attempt to solve it.

Research building on these insights might be a valuable extension of the approach developed by this dissertation.

Some democratic implications

As we saw in Chapter 6, parliamentary committees are the "engine rooms" of parliamentary processes, and they play a determinative role in policy formulation. The processes by which they conduct policy inquiries, therefore, shape policy. However, as the case study of the JCRC inquiry demonstrated, the Parliamentary Rules effectively allow the dominant party on a committee to pursue its purposes through parliamentary inquiries

without deliberation or explanation. As we have seen, emphasising inquiry as a protocol does not require substantive debate and limits it considerably.

It was shown that the JCRC inquiry failed to satisfy the criteria of the Bovens model, an independent standard of accountability for public inquiries. The officials on the committee were in no sense directly accountable to the public they represented because, ultimately, the inquiry process did not require an explanation of its result. That is, the process did not set standards for providing information, nor did it allow for debate about the information or proper criteria for judgment of the committee's performance. Instead, the outcomes of the inquiry were procedurally determined, that is, only by a vote.

The JCRC case shows that a parliamentary committee can invite public participation but otherwise set the terms of engagement. This includes preventing it from being questioned by members of the public or any other stakeholders in the issue under consideration. The accountability framework establishes that a critical feature of accountability requires the actor to be questioned. Without this capacity, the case suggests that the Parliamentary Rules may undermine the constitutional ideals of participatory, representative democracy.

South Africa's democracy is generally described as embodying representative and participatory ideals. According to Roux, the word democracy, when used in the Constitution, is qualified by four adjectives: "representative", "participatory", "constitutional", and "multi-party". Moreover, "democracy" is described as a "culture" that "can be deepen[ed] by the adoption of Charters of Rights" (Roux, 2014, 10-2). South Africa's political system, then, is a constitutional democracy that combines the rights of representation with citizen participation in policy-making processes. The meaning of participation is left unclear, and it is open to interpretation on a case-by-case basis in judicial review.

The unease that resulted from the JCRC's conduct of the 2018 inquiry into EWC may be part of a pattern of democratic deficits and ailments that trouble the system, according to the jurist Paul Hoffman; in his view, that pattern suggests that "a culture of justification" is needed to address the existing deficit of responsive engagement with the public (Hoffman, 2011, pp. 106–107). The idea of a culture of justification, it is suggested, invokes a sense

that government should be in a position to explain and justify its policies and actions to the public and also that it does so.

In conclusion, the case of the JCRC inquiry raises the question of whether government policies and performance can be adequately subjected to democratic tests of deliberative engagement during parliamentary inquiries. Such tests can be understood minimally to be constituted by discussion between government, officials, stakeholders and members of the public that "weighs preferences, values and interests regarding matters of common concern" (Bächtiger et al., 2018, p. 2). Suppose accountability entails citizens' ability to question and challenge government policy and implementation. In that case, participation must involve a deliberative and not merely formally participatory involvement in the country's political life.

According to Rothstein's theory, effective democracy combines democratic voting with the capacity to justify decisions as both "true" and "fair" (Rothstein, 2019, p. 16). An application of this theory, it is suggested, constitutes a plausible interpretation of the Constitution's implicit provisions for epistemic standards of democratic evaluation. Rothstein's theory forms part of an "epistemic turn" in recent democratic theory that has set out to address the claims of proceduralists that democracy is essentially a matter of "competition for the majority's vote" (Hamilton, 2015, p. 42). More specifically, it is a matter of "citizens collectively authorising laws by voting for them, and/or for officeholders who make them" (Estlund, 2008, p. 65). In this view, democracy is justified only by "fair procedure" that emphasises the participation of all (qualified) citizens in deciding on their representatives and the laws they make.

If the argument of this dissertation is plausible, the processes and outcome of the JCRC inquiry in favour of EWC effectively denied the inherent complexity of a policy situation when troublesome and resistant elements of that complexity are bound to resurface. It is suggested that a built-in deliberative component of the inquiry processes of Parliament would have required a responsible and accountable consideration of such possibilities.

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