

Implications of land reform on spatial planning and development in the Tzaneen Local Municipality

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A thorough investigation of legislation involved in the land reform programme was conducted. This includes the Constitution of South Africa, as well as the legal frameworks that manage the land reform process. Many of the unintended results are because of misunderstandings. This study sought to clarify those misunderstandings and confusing language.

The South African land reform process was excellently planned. The process is managed in three phases, namely land restitution, land redistribution and land tenure. There are some successes and failures due to the way those programmes were implemented.

In order to implement and manage the land reform programmes and spatial planning on national, provincial and district level, the following plans were introduced:

National Level: Pro-active Land Acquisition Strategy (PLAS) & Area-based Planning

Provincial Level: Limpopo Growth and Development Strategy (LGDS)

District Level: Mopani Integrated Development Plan

Local Level: Greater Tzaneen Municipality Integrated Development Plan & Spatial Development Framework

The study area, the Tzaneen Local Municipality, was chosen because it is home to some of the first land reform projects in South Africa, it is the district with some of the highest intensity of land claims and it offers a complete menu of land reform programmes in an advanced state on a small area.

The impact that land reform has had on the spatial development in the Tzaneen Local Municipality has been studied in more detail. As the study progressed, it was realised that the impact not only stops at spatial development. The influence was much bigger than that. The local economy was affected, as were job opportunities, tourism, food security, the retail industry and even the mining industry. Such an impact is also not restricted to the Tzaneen Local Municipality.

In order to control the land reform process, the government should involve the private sector in the land reform process. The moment this happens, the skills and experience locked in the private sector are transferred to the government for the benefit of all people involved in and influenced by the land reform process.

An Integrated Land Reform Action Forum (ILRAF) must be established that manages the land reform process on national, provincial and local level. This ILRAF has to fulfil much the same purpose as the former Joint Monitoring Committees (JMCs) accomplished.

The ILRAF must consist of all role-players within the land reform process. These include, national, provincial and local government officials, commercial farmers, key role-players from the private sector, farm worker representatives, Agri-SA, professionals such as town and regional planners and transfer attorneys, farmers' associations, commercial banks and the media to ensure transparency.

In order to correct past mistakes and to ensure that the next five years of the land reform process goes off without a hitch, it is important to involve all role-players and ensure transparency throughout all decision-making processes.

Key Terms: Land Reform; Agri-village; Area Based Planning; Land Restitution; Land Redistribution; Land Tenure Reform; Greater Tzaneen Municipality; Willing buyer-willing seller; Spatial Development Framework; Integrated Development Plan.

Glossary

ABP – Area Based Planning

ANC – African National Congress

CBD – Central Business District

CCMA – Commission for Conciliation, Mediation and Arbitration

CD – Chief Director

CDE – Centre for Development and Enterprise

CDW – Community Development Worker

CLaRA – Community Land Rights Act, 1996 (Act 28 of 1996)

CONTRALESA – Congress of Traditional Leaders of South Africa

CPA – Communal Property Association/Communal Partnership Agreements

COMG – Commonage Grant

CRDP – Comprehensive Rural Development Programme

CRLR – Commission of Restitution of Land Rights

DA – Democratic Alliance Party

DG – Director General

DLA – Department of Land Affairs

DLD – District Level Delivery

DLRO – District Land Reform Offices

DoA – Department of Agriculture

DRDLR – Department of Rural Development and Land Reform

EAAB – Estate Agency Affairs Board

ESTA – Extension of Security of Tenure Act, 1997 (Act 62 of 1997)

GDP – Gross Domestic Product

GGP – Gross Geographical Product

GNU – Government of National Unity

GTM – Greater Tzaneen Municipality

GTMIDP – Greater Tzaneen Municipality Integrated Development Plan

GTMSDF – Greater Tzaneen Municipality Spatial Development Plan

HH – Households

IDP – Integrated Development Plan

IFSNP – Integrated Food Security and Nutrition Programme

ILRAF – Integrated Land Reform Action Forum

ISRDP – Integrated Sustainable Rural Development

JMC – Joint Monitoring Committees

LCC – Land Claims Court

LED – Local Economic Development

LESR – Local Economic Strategy Review

LGDS – Limpopo Growth and Development Strategy

LRAD – Land Redistribution for Agricultural Development

LTA – Land Reform (Labour Tenants) Act, 1996 (Act 3 of 1996)

MDM – Mopani District Municipality

MEC – Member of Executive Council

MIDP – Mopani Integrated Development Plan

NCOP – National Council of Provinces

NEPAD – New Partnership for Africa's Development

NGO – Non-Governmental Organisation

PCU – Policy Co-ordination Unit

PLAS – Proactive Land Acquisition Strategy

PLRO – Provincial Land Reform Office

PSC – Provincial Steering Committee

PTO – Permission to Occupy

RDP – Reconstruction and Development Programme

SACP – South African Communist Party

SADT – South African Development Trust

SAFM – South African Farm Management

SCPA – Sekororo Community Property Association

SDF – Spatial Development Framework

SDI – Spatial Development Initiative

SG – Surveyor General

SLAG – Settlement/Land Acquisition Grant

SLC – Sustainable Livelihood Consultants

SOE – State of Environment

SPLAG – Settlement and Production Land Acquisition Grant

URP – Urban Renewal Program

WBWS – Willing-buyer, willing seller

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Chapter 1 – Introduction

This study serves to point out that, despite an excellent constitutional framework and sound legislation governing land reform, the implementation of land reform programmes has a devastatingly negative impact on development, as well as the spatial planning with regard to spatial development.

To achieve this, a thorough investigation into the constitutional and legal frameworks for land reform is necessary, as well as an analysis of the vision, mission, policies, programmes and intentions of the Department of Rural Development and Land Reform (DRDLR – Previously Department of Land Affairs). A large number of the unintended results of land reform programmes originate from misunderstandings, confusing language and a lack of consultation and coordination between role-players. This study will also seek to clarify some of these misunderstandings and confusing language.

The method of study will entail source-based analysis, covering basic documents as well as expert opinions from articles and books, combined with interviews with key stakeholders where basic sources are found to be inadequate. This will be integrated with an empirical study on land reform projects and *in loco* inspections of the impact of those projects on development, especially in the Letaba District of Limpopo, which forms part of the Tzaneen Local Municipality. A number of questionnaires have been distributed among stakeholders across the spectrum, beneficiaries of land reform, land owners and farmers. Information from the questionnaires has been integrated and interpreted in such a way that the identity of the respondents could be protected in honour of an agreement to such an effect.

The Letaba District was selected because:

- It is home to some of the earliest restitution, redistribution and security of tenure projects in the country;
- It is the district in South Africa with the highest density of land claims combined with redistribution and tenure security projects;
- It offers a complete menu of land reform programmes in an advanced state on a small area;
- The land reform programme in the Letaba district is well recorded and the different phases of each of the three legs of land reform are documented and published in

popular publications, academic studies, radio and television broadcasts and departmental reports; and

- The Tzaneen Local Municipality is situated within the Mopani District Municipality. Due to the impact of land reform within the whole district municipality, it will not be of scientific value if the Tzaneen Local Municipality is studied in isolation.

For the purpose of this study, the history of land ownership leading to the distorted current dispensation, and the need for land reform will be stated from various historical sources, official documentation and policy statements. In **Chapter 2** the origins of current patterns of ownership and historical dispossession will be covered in order to sketch the prevailing order and the background to the constitutional and legal framework governing land reform.

Chapter 3 will deal with the principles of land reform as derived from the constitution and various land reform acts. It will also analyse the vision and objectives for land reform as formulated by various stakeholders. Already in this chapter some misunderstandings and confusing language will transpire.

Chapter 4 will serve to analyse the various land reform programmes in the restitution, redistribution and tenure security pillars of land reform.

Chapter 5 indicates the various plans that government has developed on national, provincial, district and local level in order to improve spatial development and planning that are usually affected by land reform.

Interviews and an empirical study on projects in the Letaba district will point to the results of these programmes and will raise the issues to be analysed in **Chapter 6**.

Chapter 7 will visit the impact of these land reform programmes on development in terms of planning, financing, security, growth and the drivers of land reform. It will introduce a critical instrument to measure the progress of land reform against the objectives of the state, as well as its implications for investment, growth and development.

Chapter 8 introduces various planning recommendations in order to improve the land reform programme and to minimise the impact of land reform on spatial development and planning.

The study will be summarised with some recommendations on the future roll-out of the existing land reform programmes in order to minimise its impact on development.

In the pursuit of supporting the theme of this study, a number of related topics in other fields of study will be touched upon. Although each one of these themes cannot be separated from the topic of this study, they remain at best related, with some relevance to the focus of this study, but great care will be taken not to indulge in those themes. Such is the political dimension of the tension between land reform and development, or the economical dimension of this topic. The study will be incomplete without references to these dimensions, but both lie well beyond the scope of this study. Similarly, social security, food security, safety, environmental impacts and international repercussions as well as the legal implications are all intertwined with this thesis, but it is not part of this field of study.

Each one of these related topics deserves more in depth research than what is currently available. It is not the purpose of this study though, which will strictly focus on the impact on land reform on spatial development issues. Each one of these related topics will only be mentioned in its relationship and relevance to the purpose of this study.

To serve as basis for this study, it is necessary to clarify certain terminology and define certain key features of land reform.

1.1 What is land?

The Oxford's Advanced Learner's Dictionary, fifth edition (1998), describes land as *“the solid dry part of the earth's surface, contrasted with sea or water; ground or soil that is used for farming; rural areas and the rural way of life, as contrasted with cities and towns; property in the forms of land; an area of land belonging to one person, an estate”*

But why do we as people attach so much importance to our land? Apart from the fact that it is a source of life in terms of supplying most of our food, other factors play a role as well. In Chapter 2 the relevance of land and the ownership of this land for a country's people, economy and social infrastructure will be addressed.

Land does not simply refer to something physical. The nature of the right involved in the ownership of land, called hereditary, is one of the most important aspects when referring to land

as something people live on. This means that most of the land that people own, no matter in which country, was passed on from one generation to the next. However, this is mostly the case with rural land. Urban land, however, has a few factors involved restricting heredity. Those restrictions are mostly not imposed by law, but by physical factors such as distances from different work places and economical factors. However, not all rural land was passed from generation to generation. Some people started farming with no ancestor in the farming sector. This means that they had to buy land and learn all farming principles.

1.2 Land ownership and tenure

This study mostly focuses on rural land ownership and tenure. The reason for this is that land reform, in all countries, mostly affects those owning rural land. Therefore it is important to understand what ownership and tenure of rural land means. What does property mean and what can you achieve when owning property?

The state has an essential role to play in the legal definition of property rights, as well as in providing infrastructure used to demarcate and record property rights to enable their cost-effective enforcement. To secure property rights to land, countries will therefore have to establish institutions that carry out land administration functions. While private users will appropriate some of the benefits provided by such institutions, the reliability and comprehensiveness of the information they provide, their accessibility, legitimacy, integrity and the trust they command will be critical for granting tangible ownership and tenure security. (Deininger, 2003:70).

Land administration in municipalities includes all the processes needed in an area to be able to plan and deliver services in a way that conforms to mandates. In other words, it should assist with service delivery and cost recovery decisions and projects. When looking at land administration in this way, land use management is one of the tools that a municipality can use to achieve coherent administration through regulating what land is used in what ways. It creates a spatial picture of basic information and regulation that enables land to be administered more effectively. There needs to be a better understanding of land administration if an effective change in municipal areas is to be achieved. The conventional understanding of functions of land administration include things like planning and building controls, land valuation, zoning and development controls (Hornby, 2006:28).

Most of these regulations depend on a system of managing land tenure that is centralised and located at the DLA (Department of Land Affairs). For example, for a municipality to be able to zone land for land use control or to value land, it needs to know what land is being referred to, and who owns that land. This information is held at the Surveyor General's and Deed Offices (Hornby, 2006:29).

According to Deininger (2003:70), land administration can contribute to the achievement of broad efficiency and equity goals if a number of preconditions are satisfied:

1. The institutions involved need to have clear mandates and structures that allow them to function efficiently and free from political pressure.
2. The poor will be first to be left out of sporadic approaches that cover part of the territory at high cost, and may even lose their rights if non-transparent processes of sporadic titling are adopted.
3. As a public good, the information on land ownership maintained in the registry needs to be publicly available and accessible at low cost to minimise the transaction costs for other users and to allow land and financial markets to operate at minimum costs

There are two main instruments used for land administration. The one is a deeds registry that handles information on land ownership and transactions and the other a land database, called the cadastre. It contains the boundaries of parcels as defined by surveys and recorded on maps and any additional information about these parcels. The cadastre provides the basis for a number of other functions, such as land use planning, management and disposal of public lands, land valuation and taxation, provision of other public services, and generation of maps (Deininger, 2003:70).

1.3 Tenure

Land tenure was born in the common law systems as a concept referring to the legal regime in which land is owned by an individual, who is said to “hold” the land. The sovereign monarch, known as The Crown, held land in its own right. All private owners are either its tenants or sub-tenants. The term “tenure” is used to signify the relationship between tenant and lord, not the relationship between tenant and land (Wikipedia, 2007).

Historically, in the system of feudalism, the lords who received land directly from the Crown were called tenants in chief. They doled out portions of their land to lesser tenants in exchange

for services, who in turn divided it among even lesser tenants. This process – that of granting subordinate tenancies – is known as subinfeudation. In this way, all individuals except the monarch were said to hold the land “of” someone else (Wikipedia, 2007).

It was not unusual for reciprocal duties to exist between lord and tenant. There were different kinds of tenure to fit various kinds of duties that a tenant might owe to a lord. For instance, a military tenure might require the tenant to supply the lord with a number of armed knights. The concept of tenure has since evolved into other forms, such as leases and estates (Wikipedia, 2007).

Land is a key asset for the rural and urban poor. It provides a foundation for economic activity and the functioning of market and non-market institutions in many developing countries. Understanding the origins of property rights and their evolution over time is important to appreciate how property rights related to land affect households’ behaviour and can, in turn, be influenced by government policy. Historically, one reason property rights evolved was to respond to increased payoffs from investment in more intensive use of land resulting from population growth or opportunities arising from greater market integration and technical advances (Deininger, 2003:xvii-xviii).

According to Wikipedia (2007) there are a great variety of modes of land ownership and tenure:

Table 1.1: Modes of land ownership and tenure

Traditional land tenure	An example: most indigenous nations or tribes of North America had no formal notion of land ownership. When Europeans first came to North America they simply disregarded traditional land tenure and seized land.
Feudal land ownership	A system of mutual obligations under which a royal personage granted a fiefdom in exchange for a claim on service.
Life estate	Under common law, this is an interest in real property that ends at death. The holder has the use of the land for life. No ability to transfer the interest.
Fee tail	Under common law, this is hereditary, non-transferable ownership of real property.
Fee simple	Under common law, this is the most complete ownership interest one can have in real property. The holder can freely sell or transfer that interest or use it to secure a mortgage. Complicated by the obligation to pay a property tax in most cases and by the fact that if the land is mortgaged, there will be a claim on it in the form of a lien. Most common form of land ownership.
Leasehold or rental	Under both common law and civil law, land may be leased or rented by its owner to another party; a wide range of arrangements are possible, ranging from very short terms to the 99-year leases.

Table 1.1: (Continues)

Rights to use as commons	May include such rights as the use of a road or the right to graze one's animals on commonly owned land.
Sharecropping	Under which one has use of agricultural land owned by another person in exchange for a share of the resulting crop or livestock.
Easements	Allows one to make certain specific uses of land that is owned by someone else. The most classic easement is right-of-way, but it can also include the right to run an electrical power line across someone else's land.

Source: Wikipedia – Land Ownership and Tenure, (2007).

There are various forms of collective ownership, which typically take either the form of membership in a cooperative, or shares in a corporation, which owns the land (typically by fee simple, but possibly under other arrangements). There are also various hybrids: in many communist states, government ownership of most agricultural land has combined in various ways with tenure for farming collectives (Wikipedia, 2007).

In South Africa, communal tenure systems serve social and economic functions for a large number of citizens. “Communal” means, in most cases, a “*mixed*” tenure regime, comprising individual, family, sub-group and larger group rights and duties in relation to a variety of natural resources”. The White Paper on South African Land Policy (1997:33) states that tenure reform must allow people to choose the tenure system that is most appropriate to their circumstances and it recognises that communal tenure plays an important part in the livelihoods of the poor. Communal land emphasises the sharing of resources in addition to private control of residential space and land cultivation. It is not adverse to private control, but rather emphasises public access to certain shared resources for private economic survival (Sithole, 2006:31).

Tenure insecurity is due to both recent memory of colonial and apartheid dispossession, and the current reality of weak property rights and institutional support. These situations create uncertainty in a political economy context of rapid change and social reconfiguration. Traditional norms, practices and intuitions provide a familiar and important terrain and base from which to engage and relate to these realities and changes. The adaptability and negotiability of land rights acquired in communal tenure also mean that people can trade-off various risk and opportunity factors at local levels (Ziqubu *et al*, 2001:3).

According to Deininger (2003:2), access to land and the ability to exchange it with others and to use it effectively are of great importance for poverty reduction, economic growth and private sector investment as well as for empowering the poor and ensuring good governance. Throughout the last decade, there has been an enormous increase in the demand for policy advice on land. There are two reasons that underlie this phenomenon:

1. Stakeholders are more aware of the need to complement macro-economic policies with attention to structural issues if the desired response to greater economic opportunities is to be forthcoming. Structural characteristics will affect the way in which the benefits of other policy interventions are distributed among the population and different groups' activities for long-term investment in physical and human capital.
2. Policymakers now better understand the shortcomings of past approaches to land policy.

According to Ziqubu *et al.*, (2001:6) tenure is secured through:

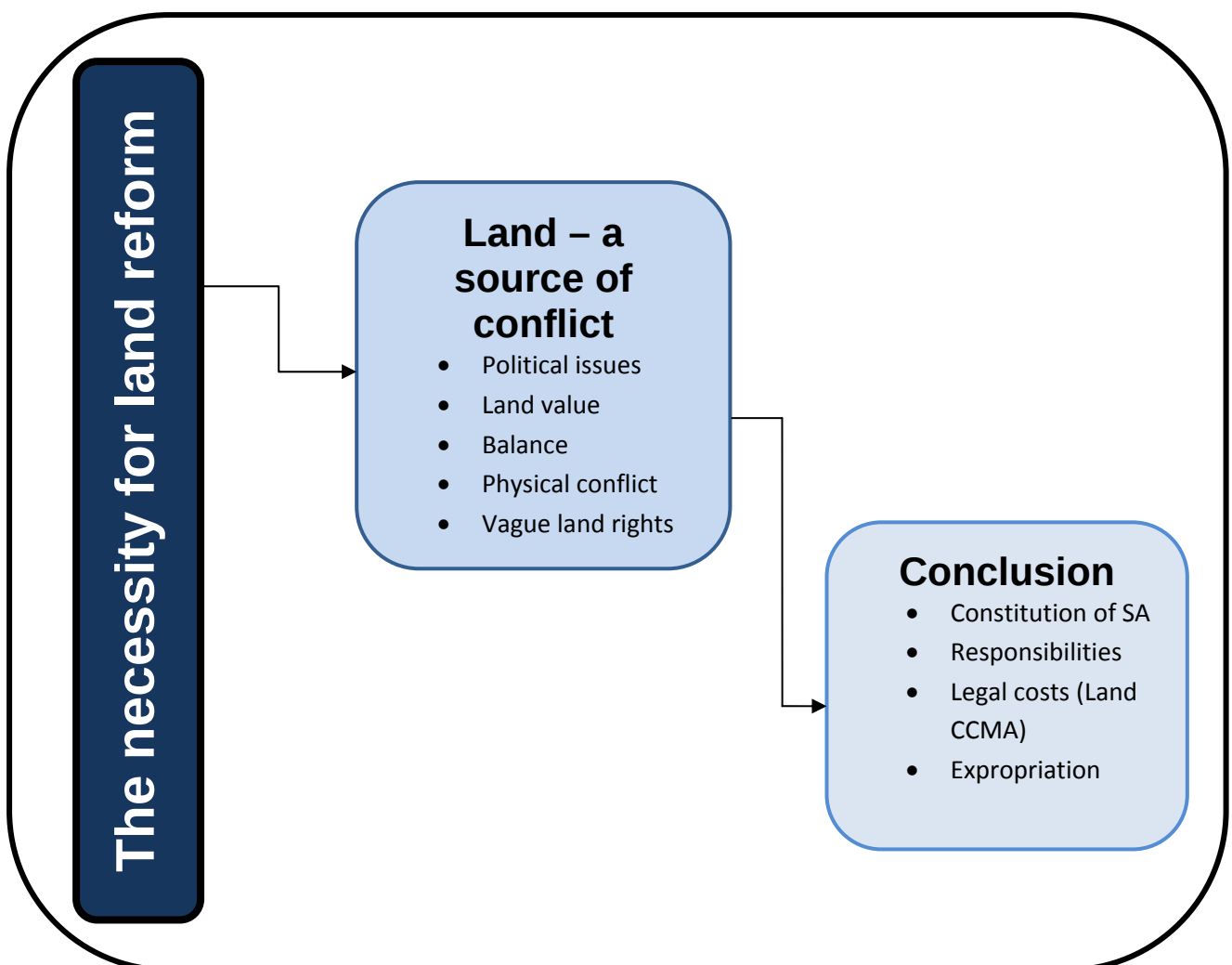
- The processes through which community members assert their interests and rights to land
- The basis upon which these are justified
- The institutional processes and mechanisms by which rights are realised

The measures for tenure security are then the degree to which these processes are socially accepted, known, equitable (or non-discriminatory), clear and consistent, accessible, used, transparent, and enforced (Ziqubu *et al.*, 2001:6).

Chapter 2 – The necessity for land reform

2.1 Introduction

A research process outline has been constructed for each chapter of this document in order to structure all ideas discussed.



2.2 Land – a source for conflict

According to Thwala (2003), land in South Africa is one of the most defining political and development issues and also perhaps the most intractable. The reason for this is that there is a continuing racial mal-distribution of land. This will either be resolved through a fundamental

restructuring of the government's land reform programme, or it will be resolved by a fundamental restructuring of property relations by the people themselves. It is the government's responsibility to take urgent and immediate action to supply for the needs and demands of the country's 19 million black and landless rural people.

It is important to note that the value of land is not interpreted the same by all. In this case more specifically, the government has a very different view of what land means than, for example, an economist's opinion about land and its different uses. The same is applicable for a commercial farmer and a land claimant. Currently in South Africa great tension exists between the economic value of land and the social value. Promises have been made by government to people who expect to receive land, but no promises have been made to the rest of South Africa's people on where tomorrow's food will come from if land reform is not a success.

Balance is the answer to these uncertainties. It is true that in the past some people were treated unfairly and that righteousness must reign. However, there must always be a balance between land as a 'nice to have' and land as a production medium. In the same sentence it should be mentioned that there must be a balance between food security and land reform. If all people receive land because it is a status symbol, or you were previously disadvantaged, but no production takes place on that given land, South Africa will soon be in a position of being unable to cater for its citizens' basic need – that of being fed.

The relationship with land, which includes its access, resources and ownership, frequently creates tension, expectations and alienation between individuals and social structures. This can lead to physical conflict, such as damage to property or physical abuse between people. Conflict over land is not just about an expanse of ground on which things grow, but a deep-seated attachment to place and identity, exacerbated by economic and other imperatives that are located in a history of expansion and acquisition (Lewis, 2006:15).

For farm dwellers, their attachment to a particular portion of land is not about how many crops it sustains per hectare. It is about identification with the vision of its relationship with the past, with the people who lived and worked on it, and with the spiritual dimension of the landscape. Understanding land only as a quantifiable economic indicator of worth is a diminishment of its intrinsic value. It further demeans the dignity of the people for whom this intrinsic value resonates with their own historical and lived reality at many different and nuanced levels (Lewis, 2006, 15-16).

Although the Constitution, Bill of Rights, and land laws such as ESTA and LTA are supposed to create frameworks and mechanisms to attend to and resolve such conflict, in reality these are undetermined. Knowing that there is a constitution and laws that are supposed to protect people against an abuse of their fundamental human rights, is frustrating if you are unable to actualise those rights. The judicial process continues to fail rural citizens of South Africa in its inability to ensure appropriate and necessary access to legal redress, to act against criminal infringements of fundamental rights, and to affirm and entrench in practice that which is constitutionally enshrined (Lewis, 2006:16).

Currently in the ESTA Act, there is no definite principal stating the rights and responsibilities of farm dwellers *vis-à-vis* that of land owners. There is no regulation as to how many livestock units a farm dweller may keep, or what the relationship between that number and the carrying capacity of the grazing is. It also does not state the responsibilities of the farm dweller to meet or maintain certain conservation or health criteria. For example, both the land owner and the farm dweller own cattle that graze the land of the land owner. Whose responsibility is it to vaccinate these cattle? If the land owner vaccinates his cattle, but the farm dweller does not, the land owner will fight a losing battle. These vague rights do not end with cattle and other livestock. The same can be applicable to sanitation, services and even security. Somewhere a line must be drawn and some responsibility must be given to the farm dwellers as well. This will also help to resolve the power dynamics problem mentioned in the paragraph below.

The potential to resolve conflict between parties is made more difficult when the power dynamics between those parties are unbalanced – either through access to information or resources. The need to create safe spaces for all parties to be able to speak openly without fear, victimisation or retribution, requires skilled intermediaries and the commitment of all parties in dispute to engage in the discussion process – which is frequently protracted (Lewis, 2006:16).

If there is any dispute between the land owner and the farm dweller, going the legal route is almost impossible due to the enormous legal cost involved in solving such matters. A suggestion will be that a land CCMA must be introduced in order to solve all land-related legal matters. This will be a cheaper option and more land disputes will be solved in a much shorter time. The fact still stands that government has made promises to the people of this land and delivery is not always forthcoming – maybe not always possible. This leads to ructions between different parties that are not always worth the ideological drive and political mileage government receives with regard to the land reform process.

The Constitution of South Africa (Act 108 of 1996) is the supreme law of South Africa and therefore also provides the legal framework according to how such difficult land reform decisions must be made.

Section 3(2) of the Constitutions states that all South African Citizens are:

- a) *equally entitled to the rights, privileges and benefits of citizenship; and*
- b) *equally subject to the duties and responsibilities of citizenship.*

According to Section 25(1-8), dealing with property:

1. *“No one may be deprived of property except in terms of law of general application, and no law may permit arbitrary deprivation of property.*
2. *Property may be expropriate only in terms of law of general application –*
 - a. *for a public purpose or in the public interest; and*
 - b. *subject to compensation, the amount of which and the time and manner of payment of which have either been agreed to by those affected or decided or approved by a court.*
3. *The amount of the compensation and the time and manner of payment must be just and equitable, reflecting an equitable balance between the public interest and the interests of those affected, having regard to all relevant circumstances, including –*
 - a. *the current use of property;*
 - b. *the history of the acquisition and the use of property;*
 - c. *the market value of the property;*
 - d. *the extent of direct state investment and subsidy in the acquisition and beneficial capital improvement of the property; and*
 - e. *the purpose of the expropriation*
4. *For the purpose of this section –*
 - a. *the public interest includes the nation’s commitment to land reform, and to reforms to bring about equitable access to all of South Africa’s natural resources; and*
 - b. *property is not limited to land*
5. *The state takes reasonable legislative and other measures, within its available resources, to foster conditions which enable citizens to gain access to land on an equitable basis.*
6. *A person or community whose tenure of land is legally insecure as a result of past racially discriminatory laws or practises is entitled, to the extent provided by an Act of Parliament, either to tenure (which is legally secure) or to comparable redress.*

7. *A person or community disposed of property after 19 June 1913 as a result of past racially discriminatory laws or practises is entitled, to the extent provided by an Act of Parliament, to restitution of that property or to equitable redress.*
8. ***No provision of this section may impede the state from taking land, water and related reform, in order to redress the results of past racial discrimination, provided that any departure from the provisions of this section is in accordance with the provisions of section 36(1)."***

Section 25(8) of the Constitution of South Africa clearly states that the government may not expropriate any land, water and related reform to redress the results of past racial discrimination. This means that the sound government make to strike off the willing-buyer, willing-seller approach, and expropriate the land instead, will be totally opposed to what the Constitution says and will thus be breaking the law.

The willing-buyer, willing-seller approach is discussed in more detail in Section 3.5 of Chapter 3.

Section 36(1) deals with the limitation of rights.

1. *"The rights in the Bill of Rights may be limited only in terms of law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equity and freedom, taking into account all relevant factors, including –*
 - a. *the nature of the right;*
 - b. *the importance of the purpose of the limitation;*
 - c. *the nature and extent of the limitation;*
 - d. *the relation between the limitation and its purpose; and less restrictive means to achieve the purpose."*

2.3 Conclusion

Land has always been, and will always be, a source of conflict. For the owner of the land, the Constitution of South Africa sets out a set of laws that must be obeyed, also when it comes to rights, privileges and benefits enjoyed by the owner. The value of land is experienced differently by everyone. This is also true for a farmer and a farm dweller. A farmer sees land as a productive entity and a dweller sees it as a place to stay and perhaps farm a little piece of land for own use.

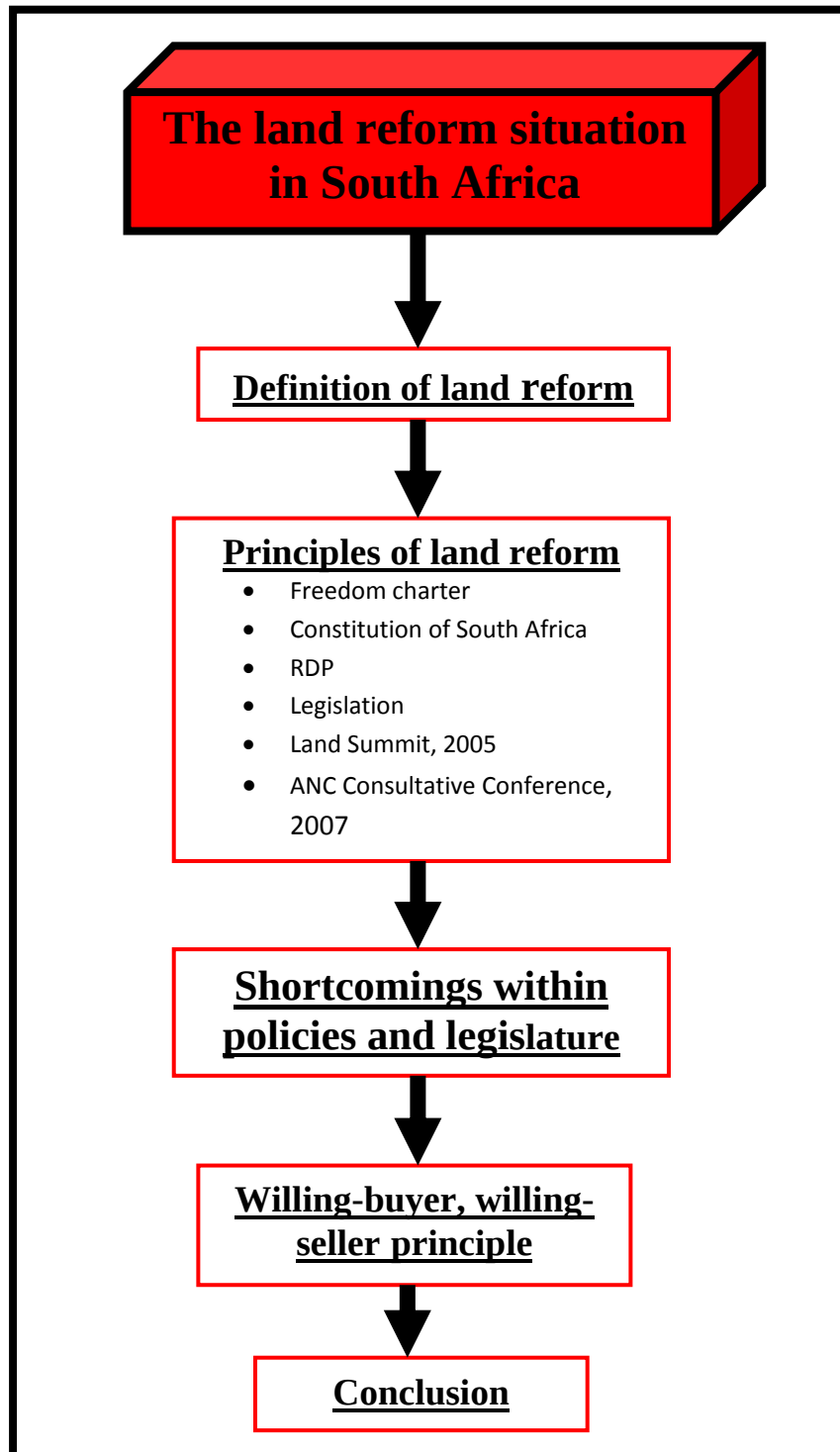
There are still vague rights between a farmer and a farm dweller. Where does a farmer's responsibility stop and a farm dweller's start on the same piece of land? Normally the relationship between farmer and farm dweller is non-existent and each one wishes the other would leave.

Another issue is legal costs regarding land reform. A cheaper option for both the farm owner and the farm dweller is that a land CCMA should be established.

The Constitution sets out a number of laws specifically dealing with the expropriation of land. The conclusion that can be made is that no land may be expropriated in order to correct historical racial discrimination. Government saying that land will be expropriated due to the myth that farmers raise land prices only because government is buying their land is not acceptable/conducive.

Chapter 3 – The land reform situation in South Africa

3.1 Introduction



The research outline process above describes the content contained in Chapter 3. Firstly, the definition of land reform as applicable in South Africa is explained.

The land reform process was formulated by various influences. Those influences are also listed and described in this chapter. A principle that receives intensive attention at this stage is the willing-buyer, willing-seller principle. The importance of this principle is described in this chapter as well as why expropriation is not the way to resolve the current problems.

Lastly, a solution is formulated in order to accommodate the willing-buyer, willing-seller principle as well as to restrict uncertainties evolving from the land reform process.

3.2 Definition of land reform

According to Adams (1995), the definition of land reform is not easy due to differences in land types, farming methods, the history of land acquisition, general social and economic conditions, and political aims. However, definition is important because some supposed land reform policies are not in fact intended to change the distribution of land ownership and rural power (Adams, 1995).

Warriner (1969) said land reform was generally accepted to mean: **“the redistribution of property or rights in land for the benefit of the landless, tenants and farm labourers”**. This is a narrow definition, reducing land reform to its simplest element.

DW Bromley (1995:99) describes land reform as the struggle to wrest ownership of land away from a small class of landlords who employed landless tillers under a variety of institutional arrangements. Bernstein *et al.* (2005:6) state that there is a need to redefine land reform to include the realities of an urbanising, modernising economy; to make it consistent with our shared vision of where this society is planning to go, and with other crucial dimensions of government policy; and to ensure that it is a policy area with achievable goals, compatible with our development constraints.

Past apartheid policies have resulted in an extremely racially-skewed and inequitable distribution of land, overcrowding and poverty. Until 1991, 80% of the population was prohibited from owning or leasing land in over 80% of the country. About 3.5 million black South Africans in urban and rural areas lost their land and rights in property through forced removals. Constraints facing current land reform measures include: limited areas of arable land; limited

public funds for land purchase; limited skills for the implementation of land reform; and the difficulty of unscrambling the so-called homelands: areas of land struggle, densely populated, lacking in services, and often agriculturally marginal (Adams, 1995).

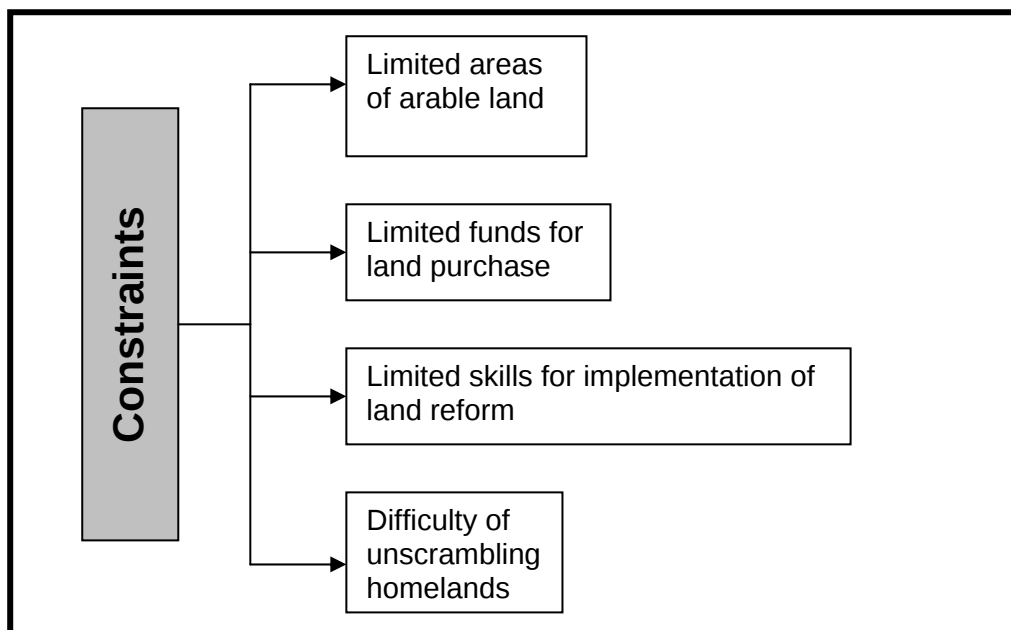


Figure 3.1: Constraints facing land reform

Source: Own construction.

3.3 The principles of land reform

“At present, land reform is geared at balancing the goals of righting past wrongs and assisting the poorest South Africans with the important aim of creating a class of successful black commercial farmers, all with a market-oriented policy framework” (Bernstein et al, 2005:8).

Ministers Derek Hanekom, Thoko Didiza, Lulu Xingwala and Gugelu Nkwinti, previous ministers burdened with land reform, were assigned with the enormous task of driving South Africa’s land reform programme in an equitable manner (Department of Agriculture and Land Affairs (DALA), 2005).

Land reform is a difficult, complex and expensive process with regard to targets, time frames and impact on food security. It is also true that the complexity and scale is enormous regarding the society involved. All this means that very serious consequences may arise from any policy or programme of land reform than can be portrayed as failing to meet its targets or simply as taking too long to make an impact. This means that South Africa needs a land reform programme that is developmentally and politically successful. The outcome must leave the land

reform beneficiaries better off and create an increasing degree of confidence in all stakeholders, especially investors. This confidence is applicable to both domestic and international situations. Land issues must be kept under control while historic wrongs are being righted at a steady pace (Bernstein, 2005:6).

To understand what land reform is, it is important to have a closer look at the term “land reform” and what exactly the three processes of land are composed of. This entails legislation and policies involved, procedures followed, persons involved and affected, etc. The land reform programme is built on three important principles. These principles are derived from:

- Freedom charter
- Constitution of South Africa
- Reconstruction and Development Programme (RDP)
- Legislation
- Land summit, 2005
- ANC Consultative Conference, 2007

It is important to understand that each of these pillars forms an important part of the land reform process. Each of them will individually be discussed.

3.4 Principles from which the three pillars of land reform originate

3.4.1 Freedom charter

The Freedom charter was drawn up in 1955 by visionary South Africans. Its vision and truths still guide South Africans today. The Charter sets out goals and principles that underline our country's path to democracy. Its goal is to guide and evaluate the progress and future trajectory of land and agrarian reform in South Africa. Regarding land reform, the most important statement within the Charter is: **“South Africa belongs to all who live in it, Black or White.”**

The last 100 years of the country's history is based on the fact that land ownership was dictated by race. This aspect must be addressed to ensure a more even distribution of land. This will lead to more growth, nation-building and the reconciliation of hope. The goal is to bring about an equitable dispensation, ensuring that the injustices that occurred in the past will not be

repeated. This means that South Africa with all its land, wealth and future must indeed belong to all who live in it – Black and White (Ministry for Agriculture and Land Affairs, 2005:3-4).

Most of the people who work and live on the land do not own the land. According to the Freedom charter, land must be shared among all who work it. Tenure security is a necessity to address insecurities regarding the utilisation of land. Land reform beneficiaries must be integrated into a revitalised economy of rural towns and villages. It is the government's responsibility to assist land reform beneficiaries with comprehensive agricultural support (Ministry for Agriculture and Land Affairs, 2005:4).

3.4.2 The Constitution of South Africa

The Constitution of the Republic of South Africa, Act 108 of 1996, placed the responsibility on the government to guide citizens to gain access to land. The Constitution supports the vision of the Freedom charter and creates the foundation to make the vision a reality (Ministry for Agriculture and Land Affairs, 2005:5).

The negotiated constitutional settlement on land issues respects property rights, and assures land owners that South Africa will not end up the way Zimbabwe did. Legal action was taken against land invasions and a process was followed to reduce legal disputes over land. South Africa has adopted demand-led and largely market-driven land reform programmes to deal with these disputes. The willing-buyer, willing-seller principle was adopted in transferring land ownership from whites to blacks (Bernstein *et al*, 2005:8). The willing-buyer, willing-seller principle will be discussed further in Section 3.5 of this chapter.

The proposed amendments to the expropriation act, as recommended by cabinet in 2008, withdrawn later that year because it was not compatible with the constitution, as well as the consistent pressure from Land Affairs officials to abandon the willing-seller principle, are the key generators of tension between land owners and government. The uncertainty created by this tension, along with extensive media coverage both locally and internationally, has caused a major expatriation of investment capital and has put development in rural areas in the freezer box (Farmers Weekly, 7 Aug 09).

The White Paper on South African Land Policies (1997:15-17) highlights some issues regarding the constitution:

- **Allocation of land-related responsibilities**

- In terms of the Constitution, all deeds registrations, land surveys and land reform are the responsibility of the national government.
- The provincial government also has responsibilities regarding land reform. These responsibilities occur where both national and provincial government are involved in Schedule 4 of the Constitution. These include: agriculture, environment, soil conservation, housing, regional planning, and urban and rural development.
- The local government also has a constitutional responsibility to manage land use and planning.
- Traditional authorities carry out land-related functions in terms of customary law.
- All three government authorities, as well as traditional authorities, have a function in land administration. However, most legislation dealing with land administration is assigned to the Minister of Rural Development and Land Reform

- **Coordinating the functions of the different spheres of government**

- Coordination of the different spheres of government is important for two reasons. The first is because of the constitutional requirement of cooperative government and the second is to achieve effective government.
- Closer cooperation is therefore necessary between the different spheres of government on land matters to ensure the successful delivery of service.

Despite the honourable intentions and procedural prescriptions to integrate development strategies and cooperation between the different tiers of government, in practise very little of any such interaction materialised. Agriculture, housing, economic development, tourism and spatial planning were all provincial functions of government by MECs and provincial officials on the basis of provincial development strategies. Unfortunately all of these functions are somehow related to land use and rights in land. Land Affairs, however, has been a national function since 1994. This department has unfortunately become notorious for poor communication and a seeming unwillingness to take part in integrated development planning. The notion that restitution is a function of higher priority than any other development need has wrecked many development initiatives

- **Responsibility for land reform**

- National government is responsible to ensure the restitution of land rights of those dispossessed by apartheid legislation and a more equitable distribution of land, and to implement a programme of tenure and land administration reform;

- The provincial government is responsible for the provision of complementary development support to those participating in the land reform programme;
 - Close co-operation between national and provincial government must exist to ensure that beneficiaries of land reform enjoy services provided by the provinces as envisaged by Schedule 4 and 5 of the Constitution.
- **Deeds and survey**
 - Surveying is the process in which a piece of land is identified and title deed records are registered;
 - The Surveyor-general's office examines and approves all cadastral surveys, and assembles as well as maintains plans showing the relationship of all the various parcels of land;
 - The Minister for Agriculture and Land Affairs controls these operations and ensures that uniform standard surveys and deeds are registered countrywide;
 - There is currently a 30-34% discrepancy between the database of the Surveyor General (SG) and that of the Deeds Office (Christo Roodt – item online).
- **Property clause (Section 25)**
 - Effective land reform requires an appropriate constitutional framework;
 - The Constitution seeks to achieve and maintain a balance between the protection of existing property rights and constitutional guarantees on land reform;
 - The property clause itself provides clear constitutional authority for land reform;
 - The equality clause provides clear authority for a programme aimed at achieving substantive equality;
 - The willing-buyer, willing-seller principle is what the government is committed to regarding land reform. Government's commitment to this principle is currently under dispute by Government itself and other stakeholders in land reform.
- **Eliminating discrimination in women's access to land**
 - Lack of access to land for women is one of the key factors contributing to poverty in rural areas;
 - Discriminatory, customary and social practises are largely responsible for these inequities;
 - Section 9 of the Constitution confers the right to equality before the law and the right to equal protection and benefit of the law. It further states that equality *"includes the full and equal enjoyment of all rights and freedoms."*

- Specific strategies and procedures must be revised to ensure that women are able to participate fully in the planning and implementation of the land reform project.

The constitution created a mandate for the Department of Land Affairs, together with the Commission on Restitution of Land Rights, to ensure that land is equitably redistributed and injustices of land dispossessions (dating back to 1913) are effectively addressed. The Constitution balances both the protection of poverty rights and the imperative for land reform (South Africa, 2005b).

The Constitution stipulates that the state must implement land reform and bring about equitable distribution of land. The responsibility of the government is made plain: **“thorough and effective land and agrarian reform is a prerequisite for building equality and growth in the nation.”**

3.4.3 The Reconstruction and Development Programme

According to the RDP a policy framework, 1994: *“Land is the most basic need for rural dwellers. Apartheid policies pushed millions of black South Africans into overcrowded and impoverished reserves, homelands and townships. In addition, capital intensive agricultural policies led to the large-scale eviction of farm dwellers from their land and homes. The abolition of the Land Acts cannot redress inequities in land distribution. Only a tiny minority of black people can afford land on the free market. A national land reform programme is the central and driving force of a programme of rural development. Such a programme aims to redress effectively the injustices of forced removals and the historical denial of access to land. It aims to ensure the security of tenure for rural dwellers. In implementing the national land reform programme, and through the provision of support services, the democratic government will build the economy by generating large-scale employment increasing rural incomes and eliminating overcrowding. The RDP must implement a fundamental land reform programme. This programme must be demand-driven and must aim to supply residential and productive land to the poorest section of the rural population and aspirant farmers. As part of a comprehensive rural development policy it must encourage the use of land for agricultural, other productive or residential purposes.”*

“The land policy must ensure security of tenure for all South Africans, regardless of their system of land-holding. It must remove all forms of discrimination in woman’s access to land.”

The Reconstruction and Development Programme (RDP) was designed as a blueprint to turn the principles of the Constitution into real targets. It was Nelson Mandela's ANC's effort to establish common buy-in into a national goal. One of the main targets for the RDP was to redistribute 30% of white-owned agricultural land by 2014 (Land Summit, 2005). This target was described as the 'collective aim of land reform' (Bernstein *et al*, 2005:11).

The inputs of the Constitution and RDP led to a progress in democracy and as a result the task of revising policies and laws began. The White Paper on South African Land Policy (April 1997) was established and resulted in an extensive process of public consultation. The document set out the vision and implementation strategy for South Africa's land policy, which dealt with both urban and rural environments, readdressing the injustices caused by apartheid, fostering national reconciliation and stability, underpinning economic growth, improving household welfare and alleviating poverty (South Africa, 2005b).

3.4.4 Legislation

Legislation involved in the land reform process includes the following:

- Abolition of Racially Based Land Measures Act, 1991 (Act 108 of 1991)
- Administration of Estates Act, 1965 (Act 66 of 1965)
Administration of Estates Amendment Act, 2002 (Act 47 of 2002)
- Black Authorities Act Repeal Bill
- Black Authorities Act, 1951 (Act no 68 of 1951)
- Black Administration Act, 1927 (Act 38 of 1927)
Repeal of the Black Administration Act and Amendment of Certain Laws Amendment Act, 2008 (Act 7 of 2008)
- Communal Land Rights Act, 2004 (Act 11 of 2004)
- Communal Property Associations Act, 1996 (Act 28 of 1996)
- Deeds Registries Act, 1937 (Act 47 of 1937)
Deeds Registries Amendment Act, 1998 (Act 93 of 1998)
- Extension of Security of Tenure Act, 1997 (Act 62 of 1997)
- Interim Protection of Informal Land Rights Act, 1996 (Act 31 of 1996)
- Land Reform: Provision of Land and Assistance Act, 1993 (Act 126 of 1993), as well as
Provision of Land and Assistance Amendment Act, 2008 (Act 58 of 2008)
- Land Reform (Labour Tenants) Act, 1996 (Act 3 of 1996)
- Land Use Management Bill, 2008

- Restitution of Land Rights Act, 1994 (Act 22 of 1994)
Restitution of Land Rights Amendment Bill, 2003
Restitution of Land Rights Amendment Act, 2003 (Act 48 of 2003)
- State Land Disposal Act, 1961 (Act 68 of 1951)
- Transformation of Certain Rural Areas Act, 1998 (Act 94 of 1998)
- Upgrading of Land Tenure Rights Act, 1991 (Act 112 of 1991)
- White Paper on Agriculture, 1995
- White Paper on South African Land Policy, 1997
- White Paper on Land Reform, 1991

Included but not limited to, a few Acts, Bills and White Papers involved in constructing the land reform process are described.

Communal Land Rights Act, (Act 11 of 2004) (CLaRA)

The purpose of the Communal Land Rights Act (Act 11 of 2004), is to “*provide for legal security of tenure by transferring communal land including KwaZulu-Natal Ingonyama land to communities, or by awarding comparable redress; to provide for the conduct of land rights enquiry to determine the transition from old order rights to new order rights; to provide for the democratic administration of communal land by communities; to provide for Land Rights Boards; to provide for the cooperative performance of municipal functions on communal land; to amend or repeal certain laws; and to provide for matters incidental thereto*”.

The Communal Land Rights Act, (Act 11 of 2004) applies to:

- State land that is beneficially occupied and State land that
 - At any time vested in a government contemplated in the Self-governing Territories Constitution Act, 1971 (Act no 21 of 1971), before its repeal or of the former Republic of Transkei, Bophuthatswana, Venda or Ciskei, or in the South African Development Trust established by Section 4 of the Development Trust and Land Act, 1936 (Act 18 of 1936), but not land vested in the former South African Development Trust and which has been disposed of in terms of the State Land Disposal Act, 1961 (Act 48 of 1961);
 - Was listed in the schedules to the Black Land Act, 1913 (Act 27 of 1913), before its repeal or the schedule of released areas in terms of the Development Trust and Land Act 1936 (Act 18 of 1936) before its repeal;

- Land to which the KwaZulu-Natal Ingonyama Trust Act, 1994 (Act 3 KZ of 1994), applies, to the extent provided for in Chapter 9 of this Act;
- Land acquired by or for a community whether registered in its name or not; and
- Any other land, including land that provides equitable access to land to a community as contemplated in Section 25(5) of the Constitution.

Communal Property Associations Act, 1996 (Act 28 of 1996)

The purpose of the Communal Property Associations Act, (Act 28 of 1996) is *“to enable communities to form juristic persons, to be known as communal property associations in order to acquire, hold and manage property on a basis agreed to by members of a community in terms of a written constitution; and to provide for matters connected therewith”*.

Extension of Security of Tenure Act (Act 62 of 1997)

The purpose of the Extension of Security of Tenure Act (Act 62 of 1997) is *“to provide for measures with State assistance to facilitate long-term security of land tenure; to regulate the conditions of residence on certain land; to regulate the conditions on and circumstances under which the rights of persons to reside on land may be terminated; and to regulate the conditions and circumstances under which persons, whose rights of residence have been terminated, may be evicted from land, and to provide matters connected therewith”*.

Land Use Management Bill, 2008

According to the South African Land Use Management Bill, 2008, the Bill's main purpose is to: *“Provide for a uniform, effective, efficient and integrated regulatory framework in the Republic for land use and land use management which promotes the public interest; to provide for directive principles and compulsory norms and standards for land use management in the Republic; to address the imbalances of the past and ensure that there is equity in land use management by promoting cooperative governance, socio-economic benefits and the achievement of land reform objectives; to provide for land use schemes; to establish Land Use Regulators in all spheres of government and National Land Use Commission; to repeal certain laws; and to provide for matters connected therewith”*.

Section 4(d) of the Land Use Management Bill clearly states that one of the directive principles of the Bill is *“the principle of sustainability to promote the sustainable management and use of*

*resources, including the creation of synergy between economic, social and environmental concerns, the protection of natural, environmental and cultural resources in a manner consistent with the applicable legislation, and the **sustainable use of agricultural land***".

Provision of Land and Assistance Amendment Act (Act 58 of 2008)

The Provision of the Land and Assistance Amendment Act's (Act 58 of 2008) main purpose is *"to amend the Provision of Land and Assistance Act, 1993, so as to state the objects of the Act, to clarify and extend the application of the provisions on the acquisition, planning, development, improvement and disposal of property and the **provision of financial assistance for land reform purposes; to provide for the maintenance of property for land reform purposes; and to provide for matters connected therewith**"*.

Labour Tenants Act (Act 3 of 1996)

The purpose of the Labour Tenants Act (Act 3 of 1996) is *"to provide for security of tenure of labour tenants and those persons occupying land as a result of their association with labour tenants; to provide for the acquisition of land and rights in land by labour tenants; and to provide for the matters connected therewith"*.

According to the Labour Tenants Act (Act 3 of 1996), the term 'labour tenants' means:

- A person who is residing or has the right to reside on a farm;
- A person who has or has had the right to use cropping or grazing land on the farm, of another farm of the owner, and in consideration of such right provides or has provided labour to the owner or lessee; and
- A person whose parent or grandparent resided or resides on a farm and had the use of cropping or grazing land on such farm or another farm of the owner, and in consideration of such right provided or provides labour to the owner or lessee of such other farm, including a person who has been appointed a success to a labour tenant.

Restitution of Land Rights Amendment Act, 2003 (Act 48 of 2003)

The purpose of the Restitution of Land Rights Amendment Act (Act 48 of 2003), is *"to amend the Restitution of Land Rights Act, 1994, so as to empower the Minister of Land Affairs to purchase, acquire in any other manner or expropriate land, a portion of land or a right in land for*

the purpose of the restoration or award of such land, portion of land or right in land to a claimant or for any other related land reform purpose; and to provide for matters connected therewith”.

White Paper on Agriculture, 1995

The purpose of the White Paper on Agriculture (1995) is to “*ensure equitable access to agriculture to the development of all communities, society at large and the national economy, in order to enhance income, food security, employment and quality of life in a sustainable manner*”.

This mission can be achieved by recognising the contribution of all farmers and ensuring equitable access to resources and services and the sustainable utilisation of agricultural resources, production and marketing. Because the agricultural sector operates in a new general policy framework, concepts traditionally used in agriculture have changed. By including all agricultural role-players in the new agricultural paradigm, the content of certain existing concepts will change (White Paper on Agriculture, 1995).

White Paper on South African Land Policy (1997)

According to the White Paper on South African Land Policy (1997), a land policy acts as a cornerstone for the reconstruction and development programme. A land policy needs to deal effectively with:

- the injustices of racially-based land dispossession of the past
- the need for a more equitable distribution of land ownership
- the need for land reform to reduce poverty and contribute to economic growth
- the need to secure tenure for all
- a system of land management that will support sustainable land use patterns and rapid land release for development

According to the White Paper on South African Land Policy (1997), the following are principles of the land reform programme:

- **Social justice**
 - Landlessness is the result of dispossession and apartheid. Land is a basic human need. Government must take active steps to address this issue. Redistribution must take place to manage the current inequity in South Africa.

- **Poverty focus**

- The first priority is to give land to the poor who are in need to contribute to income and food security. Identification is required of marginalised groups, including women, evicted and existing labour tenants and landless farm workers. State assistance is necessary for groups unable to enter the land market on their own.

- **Needs-based**

- The previous land policies were government-designed and supply-driven. The result was inappropriate and unpopular programmes resulted. To avoid previous mistakes, the programmes must respond to expressed needs and ensure that structures are established to facilitate this.

- **Government as facilitator**

- The government is concerned that the demands of the neediest cannot be articulated in an organised way. The reason for this is due to the marginalisation of the rural and poor and their weak organisation. The government is therefore committed to facilitate the expression of demand and inform people about options.

- **Flexibility**

- Flexible applications of a policy within the framework of national norms and standards are required. Land reform policies need to be flexible in order to adapt in the light of experience and demand.

- **Participation, accountability and democratic decision-making**

- The participation of communities and individuals throughout the land reform process is vital. Decisions must be taken democratically at local level. The most important part is that support must be provided.

- **Gender equity**

- Equitable opportunities must be given to both women and men. Priority must be given to women applicants.

- **Economic viability and environmental sustainability**

- All planning and development of land reform projects at local level must ensure economical viability and environmental sustainability.

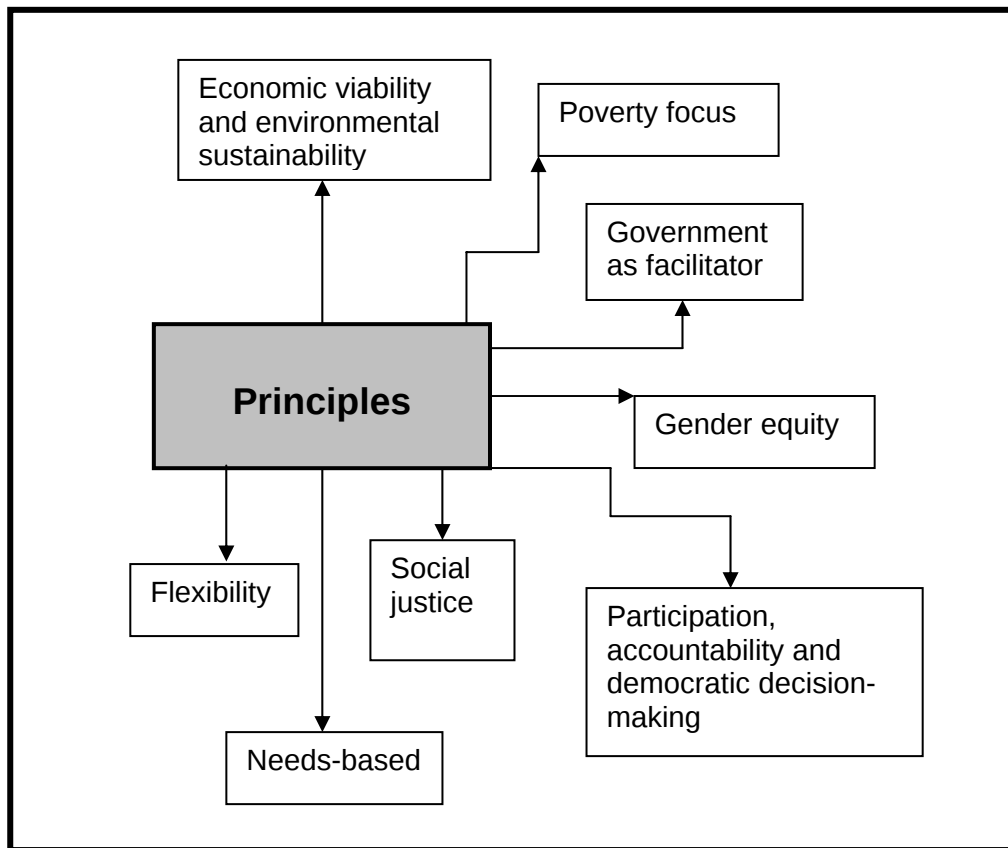


Figure 3.2 Land Reform Principles Outlined

Source: (White Paper on South Africa Land Policy, 1997).

South Africa has attached some issues and challenges to land reform. The Natives Land Act of 1913, the 1936 Native Trust and Land Act, the Group Areas Act of 1950 and other discriminatory laws have caused economic and political damage. Other factors that also had an influence include: the consequence of the forced removals under apartheid; and the legacies of the 'homelands' policy of successive National Party governance. Many participants expected it to modernise the communal tenure system in former homeland areas; strengthen the position of women; rapidly create a new class of thriving black commercial farmers; and play a major role in relieving rural poverty (Bernstein *et al.*, 2005:5 & 6).

3.4.5 Land Summit, 2005

At the end of July 2005, over a thousand South Africans from all walks of life gathered at NASREC outside Johannesburg to deliberate on the trajectory of land and agrarian reform. Social movement activists, government officials, farmers, business people, people living and working on commercial farms, landless communities and beneficiaries of land reform, public representatives and political parties, traditional leaders, academics, donors, religious leaders

and NGOs engaged in frank and robust debate over three days under the banner of the Summit: “A Partnership to Fast Track Land Reform: A New Trajectory Towards 2014”. The Summit was also attended by international delegates from Namibia, Brazil, Zimbabwe, Kenya and other countries who enriched these debates with their own experiences of land and agrarian reform (South Africa, 2005b).

The Summit assessed how far we have come in meeting the land and agrarian reform ideals of our people as reflected in the Freedom Charter and the Constitution. The Summit noted the progress made by our democratic government in the first ten years of democracy. Nevertheless, one delegate after another said that progress had at best been slow and costly (South Africa, 2005b).

Each of the nine provinces held a provincial summit, the conclusions of which were fed into the national Land Summit. However, many delegates expressed concern about the extent and depth of the pre-Summit consultation process (South Africa, 2005b).

The Summit was convened to ensure that all those with an interest in land and agrarian reform should be able to freely express themselves. Given the diversity of opinion, the range of interests involved and the intensity of emotions and passion that the land question justifiably generated, it was unlikely that consensus would be found on each and every issue. Despite these challenges, every effort was made to reach consensus and failing that, to adopt positions supported by the overwhelming majority of delegates. The Land Summit and the resolutions adopted at the Summit were the starting point for what needs to be an ongoing engagement, with a view to building the widest possible unity in action around the revised programme of land and agrarian reform (South Africa, 2005b).

After the Land Summit was held, a committee was established in order to bring the decisions made at the summit into effect. As illustrated in Figure 3.3, the committee was named the ‘Post-Settlement Committee’ and represented all the committees, consisting of:

1. Legislation Committee
2. Implementation Committee
3. Policy Committee

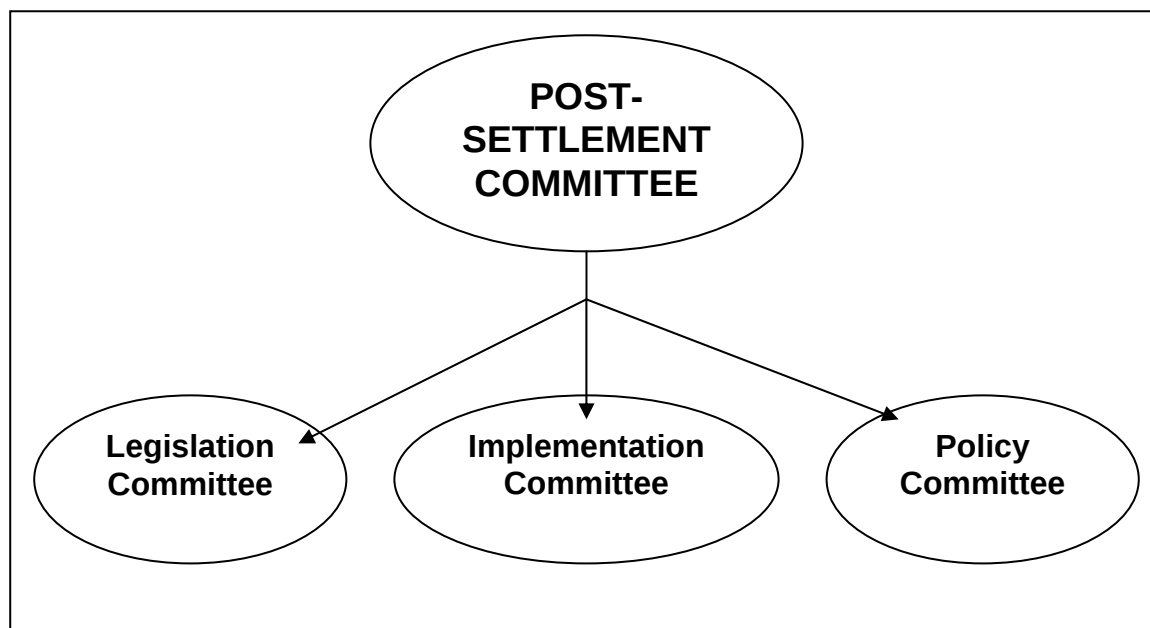


Figure 3.3: Committees that were represented by the Post-Settlement Committee

Source: (Own Construction).

Meetings were held in the offices of the Department of Land Affairs (DLA) in Pretoria. All the Director Generals (DGs) of Department of Land Affairs and Department of Agriculture (DoA) were chairpersons of the committee. This committee came to an end, because the DLA and DoA did not arrive for the meetings anymore. This is actually quite ironic because the meetings were held in their own offices.

3.4.6 ANC Consultative Conference, 2007

The African National Congress' (ANC) 52nd National Conference was held from 16-20 December 2007 at the University of the North in Polokwane.

At the Conference, the following resolutions were made regarding land and agriculture (ANC, 2007):

- The country's commitment to land reform, restitution, redistribution and access to land should be taken into account
- The state and mandated entities must exercise their legal right to expropriate property in the public interest for public purpose. Compensation shall be awarded in accordance with the constitution, placing special emphasis on equity, redress and social justice. All legislation pertaining to expropriation must be aligned with the constitution

- The market-driven land reform must be discarded and the willing-buyer, willing-seller principle must be reviewed in order to accelerate an equitable distribution of land
- Review the adequacy of post-settlement support in all land reform programmes
- The management and control of state land must be under one department
- The allocation of customary land be democratised and should not only be the preserve of the traditional leader
- The redundant land belonging to SOEs and municipalities be transferred for low cost housing

With reference to rural development, land reform and agrarian change, the following was noted (ANC, 2007):

- The Constitution enjoins the state to take action to enable citizens to gain access to land on an equitable basis, to ensure security of tenure for people and communities and to realise the restitution of land rights for those dispossessed after 1913
- Current approaches to land reform are not achieving the scale of outcomes required for the realisation of a better life for rural South Africans. In particular:
 - The Government has only succeeded in redistributing 4% of agricultural land since 1994, while more than 80% of agricultural land remains in the hands of fewer than 50 000 white farmers and agribusinesses. The willing-seller, willing-buyer approach to land acquisition has constrained the space and efficiency of land reform. It is clear from our experience that the market is unable to effectively alter the patterns of land ownership in favour of an equitable and efficient distribution of land
 - Land reform has not been located within a broader strategy of rural development or a commitment to supporting smallholder farming on a scale that is able to improve rural livelihoods. As a result, changes in land ownership have not realised their full potential to transform social relations, combat rural poverty and promote rural development
 - The lack of popular participation in land reform has limited its impact and has undermined efforts to accelerate redistribution
 - Land reform beneficiaries, as well as new and existing producers in the former Bantustans, have often failed because of the inadequate provision of extension services, capital, infrastructure and market access.
- Rural development is constrained by the insecurity of tenure among farm dwellers and people living in the former Bantustans

- South Africa is water constrained. Water allocation could be a key instrument in rural development and land reform

In theory, the ANC has considered all aspects of land reform at the conference held in Polokwane, before any resolutions were accepted. However, most officials do not contribute in executing or implementing decisions made at the conference.

3.5 Shortcoming within policies and legislature

The following are shortcomings within the White Paper on South African Land Policy (1997), as well as other policy documents dealing with land reform.

- **No conflict settlement**

Whenever land is transferred and emotions play a role, there will be some type of conflict. Usually between the land owners and the people who receive the land. The third party, which in this case is the state, is also a huge conflict instigator. Promises are made that cannot be met. However, nowhere is a plan in place that would fulfil all parties' wishes.

- **No maintenance strategy**

As history has proven, people who receive a farm often do not have the capital or the know-how to maintain the received farm and make improvements. High capital-driven farms are given to people who do not know how to farm on such a big scale, or who do not know how to farm altogether. A strategy must be put in place to educate these people on exactly how a commercial farm should be managed. And more important, special care must be given to the cultivation of specific vegetation and livestock on each individual farm.

- **No selection criteria**

On what criteria are specific farms given to specific land claimants? That is the question that can be asked. How has it happened that one tribe can claim more than the area their cattle have grazed? A perfect example is the Mokgoba land claimants who claimed the whole of the Magoebaskloof area in Tzaneen as well as some farms in the George's Valley area, which mainly falls within the Mathunyeng tribe's jurisdiction area. How was that allowed?

- **No mechanism to prevent self-enrichment, fraud and nepotism**

The government has no plan in place to prevent all this from happening and no form of policing is prepared in order to monitor if this does not happen. A few people have the

sole mandate to drive the whole land reform process. Does this give them the power to provide for themselves as well?

- **No integrated approach**

How is it possible that the commercial farmers who have farmed their land for many years and took a basic piece of land and established it into a profit-driven entity are not approached in the education process for the new upcoming farmers? A more integrated approach is necessary for skills and knowledge to be transferred from one person to the next. This is the only way that the upcoming farmers will make a success of the newly received farm.

3.6 Willing-buyer, willing-seller principle

Because the willing-buyer, willing seller principle has often been mentioned in this document, it is important to explain what this principle means, the repercussions of this principle, as well as the advantages and disadvantages.

The concept of 'willing-buyer, willing seller' (WBWS) has dominated the discourse on land reform in South Africa since 1994. It can be described as one of the defining characteristics of the programme, distinguishing it from most other land reforms around the world (Lahiff, 2005:1).

The term willing-buyer, willing-seller (WBWS) has some history of usage in South Africa, particularly around the operation of the Expropriation Act of 1975, under which the price paid for expropriated property is determined by reference to the price that would be paid for the property were it to be exchanged between a willing seller and a willing buyer. In this context, WBWS refers to an imaginary ideal, rather than an actual practice. WBWS entered the discourse around land reform in South Africa gradually during the period 1993-1996. It was entirely absent from the ANC's *'Ready to govern'* document of 1992, which instead advocated expropriation and other non-market mechanisms. It was similarly absent from the Reconstruction and Development Programme of 1994. However, at the time of the White Paper on South African Land Policy of 1997, a market-based approach, and particularly the concept of WBWS, had become the cornerstone of government's land reform policy (Lahiff, 2005:1). According to the Third Draft Discussion Document of the Department of Land Affairs, (2006:4), *"the concept of the willing buyer, willing seller principle means a completely voluntary transaction between a buyer and a seller"*.

As was stated in the Farmer's Weekly of 4 August 2008, the minister of agriculture has repeatedly explained that drastic measures like the Expropriation Bill are necessitated by white farmers who want too much for their land. A recent study by the Centre for Development Enterprise showed that agricultural land prices in fact escalated by 1,1% over the past three years. No-one has told her that her department actually appoints the property assessors and that land owners have no say in valuations. She does not know that landowners who immediately accept government's offer without any queries or conditions, wait an average of 13 months for a transaction to materialise.

Gloomier is the fate of five more willing sellers who queried offers of 20% to 45% below market value, and with obvious mistakes on the size of developed areas in the valuation report. Or consider a case of five willing sellers whose land was not valued. Farms in the fertile Harmony block between Hoedspruit and Tzaneen were valued in May 2007. After numerous fruitless visits and hundreds of calls and letters to the commission from farmers, lawyers, organised agriculture and agribusinesses, the commission made offers in July 2008. It was clear that 20% to 45% had been deducted from the values proposed by the professional assessor. Officials gradually admitted that it was the manager of quality control (who has no formal training or any experience in the property market) who took the liberty of making deductions (Farmer's Weekly, 2008).

The Democratic Alliance (DA) states that it is in favour of a sustainable, equitable and just land reform programme. However, it rejected most of the recommendations that emanated from the Land Summit held in 2005 (DA, 2005:4). The following comments were made about the discussions regarding the willing-buyer, willing-seller principle (DA, 2005:4-5):

- The abandonment of the willing-buyer, willing-seller principle would undermine investor confidence in rural areas and threaten the stability of the agricultural sector. This would include emerging farmers who would not be given access to desperately needed finance, as the security of their collateral, namely the land they own, becomes uncertain.
- The rejection of the willing-buyer, willing-seller principle would be tantamount to an assault on property rights, which are the cornerstone of a free economy and an open opportunity society. This would negatively affect the property rights, not only of farm owners, but also of property owners as a whole, thus discouraging foreign investment and jeopardising prospects for economic growth.

- The agricultural sector is highly geared, with up to a third of the total value of this sector held as debt by banks. Abandoning the willing-buyer, willing-seller principle would in effect destroy the value base of the agricultural sector, and thereby threaten the viability of the entire rural economy. This would lead to large-scale unemployment and leave an even greater majority of residents in rural areas stuck in a poverty trap of the government's own making.
- By jettisoning a market-orientated approach to land reform, the government would encourage the development of a "black market" in land transfer, which would, in turn, lead to price distortions, ultimately making it more difficult for a just and fair land reform programme to take place. It would also create uncertainty of tenure, considering that in order to be of value land must be "bankable", which it can only be if there is security of tenure. The lack of certainty over tenure would have a direct negative impact on both current landowners and future landowners as it would limit their ability to access capital.
- If the government were to abandon the willing-buyer, willing-seller principle and embark on large-scale expropriation, there is a very real possibility that this would undermine the overall productivity of the agricultural sector. Accelerated and haphazard land reform of this nature will in all likelihood leave recipients worse off than before and would fail to ensure that land is used to its full productive capacity. Previous experience has shown that all too often recipients of land reform are left to fend for themselves, with little or no support from the state in terms of the provision of the necessary assistance such as skills transfers and equipment.

Currently the government is looking at abandoning the willing-buyer, willing-seller principle due to various reasons. One of the acquisitions made is that, because it is an open market system, the farmers raise the prices of their farms and therefore the government must pay way more than what the land is worth. This statement is actually highly untrue.

According to de Jager (2007:74), parliament has admitted that 35% less was paid for land in the redistribution programme with the willing-buyer, willing-seller principle, than in the land claims process. Why is it then necessary to eliminate the willing-buyer, willing-seller principle? There is more than enough land available in the market to succeed in land reform. Pam Golding has more than 5 million hectares of land on its books and the Jigsaw-property group has submitted even more than that to the Land Affairs Department (now called the Department for Sustainable

Development and Land Reform). If the department was serious about the transfer of land to black people, why did they not buy the available land?

Another acquisition made is the following: *“farmers are free to sell to the highest bidder or buyer of their choice. Thus, the land owners can actively avoid offering their land for sale for land reform purposes, say on racist ground, and still dispose of their land on the open market”* (Lahiff, 2005:1).

Now, the question can be asked: Why would a seller avoid selling his land due to racist reasons in the economic climate of today? When a farmer wants to sell his land, he will sell it to any person, regardless of the colour of the farmer or the buyer. According to de Jager (2007:75), the agricultural sector is not profitable enough for farmers to keep clinging to their farms.

In 2006, the minister of the Department of Land Affairs (Department for Sustainable Development and Land Reform) mentioned the word “expropriation” when speaking about the replacement of the willing-buyer, willing-seller principle (Farmer’s Weekly, 2006:14). Expropriation will not be in favour of Clause 25 of the Constitution, which states that (Constitution of the Republic of South Africa, Act 108 of 1996):

(2) Property may be expropriated only in terms of law of general application –

- (a) for a public purpose or in the public interest; and
- (b) subject to compensation, the amount of which and the time and manner of payment of which have either been agreed to by those affected or decided or approved by a court.

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

- (a) the current use of the property;
- (b) the history of the acquisition and use of the property;
- (c) the market value of the property
- (d) the extent of direct state investment and subsidy in the acquisition and beneficial capital improvement of the property; and
- (e) the purpose of expropriation

3.7 Solution

Land reform is not just a difficult and expensive procedure, but also a very sensitive process. The complexity and scale are enormous and the impact on the society involved is absolutely unthinkable. It does not only affect the new upcoming farmers or the white farmers selling their land, but all the people living in South Africa and the countries that food are exported to.

Land reform should not be studied in isolation. One of the main aspects influenced by land reform, other than commercial agriculture, is spatial planning for spatial development in agricultural driven towns. Spatial planning refers to *“the methods used by the public sector to influence the distribution of people and activities in spaces of various scales. Spatial planning includes all levels of land use planning, including urban planning, regional planning, environmental planning and national spatial plans”* (Anon, 2009).

As can be seen from the above-mentioned definition, spatial planning refers to planning spaces where people can establish themselves. It is not only restricted to physical spatial expansion, but also environmental planning. This means that environmentally sensitive areas must stay protected, while a town expands its boundaries.

Land reform has a definite impact on food production and spatial development in the rural areas. This means that very serious consequences may arise from land reform. South Africa is in need of a land reform programme that is developmentally and politically successful. An increasing degree of confidence must be stimulated in order for investors to keep investing in the agricultural sector, as well as in the overall spatial development of South Africa.

The objective is currently to give land to the previously disadvantaged. In turn, food production and providing adequate housing to the poor have taken a back-seat. Should the focus not rather be to provide land big enough to grow sustainable domestic feed stock, with adequate housing and basic services near places of amenities? Thus, the land owner still has a steady income each month and he will be able to provide food for his family. This will also fall into place with governments' commitment to provide housing to the poor. Spatial development of small towns will increase, because these so called “agri-villages” will be established on the outskirts of the local towns.

The agricultural village idea will be perfect in order to combine urban planning, regional planning and the protection of commercial agricultural land.

This initiative will contribute to the tradition of the local black South Africans. Based on historical patterns, black South Africans were existence farmers. Many have had the opportunity to become commercial farmers, but chose to be existence farmers instead. New commercial farm beneficiaries have made a success of the farms received through the land reform process, but according to studies, the upcoming farmers chose to rather farm on small-scale, for domestic use, instead of having to carry the responsibility of managing a commercial farming enterprise.

Would land reform's solution not rather be agricultural-villages in the suburbs of local towns? In this initiative, each beneficiary receives a three hectare piece of farm land in the outskirts of the local town. Once the beneficiary can prove that he can make a living and even a profit from farming on a small scale, he will be able to receive a commercial farm, preferably available on the free market, where he will be able to prove himself. The agri-village is not as labour intensive as a large commercial farm and the beneficiary will be able to get to know the market climate first before he starts producing on a larger scale. Also, with a bit of money in his pocket, he will be able to afford farming equipment in order to improve his way of farming.

This initiative will ensure that the food security of South Africa will be protected and the land reform process will be much less an emotional see-saw. Also, it can be an incredible economic injection for local towns with much more employment opportunities.

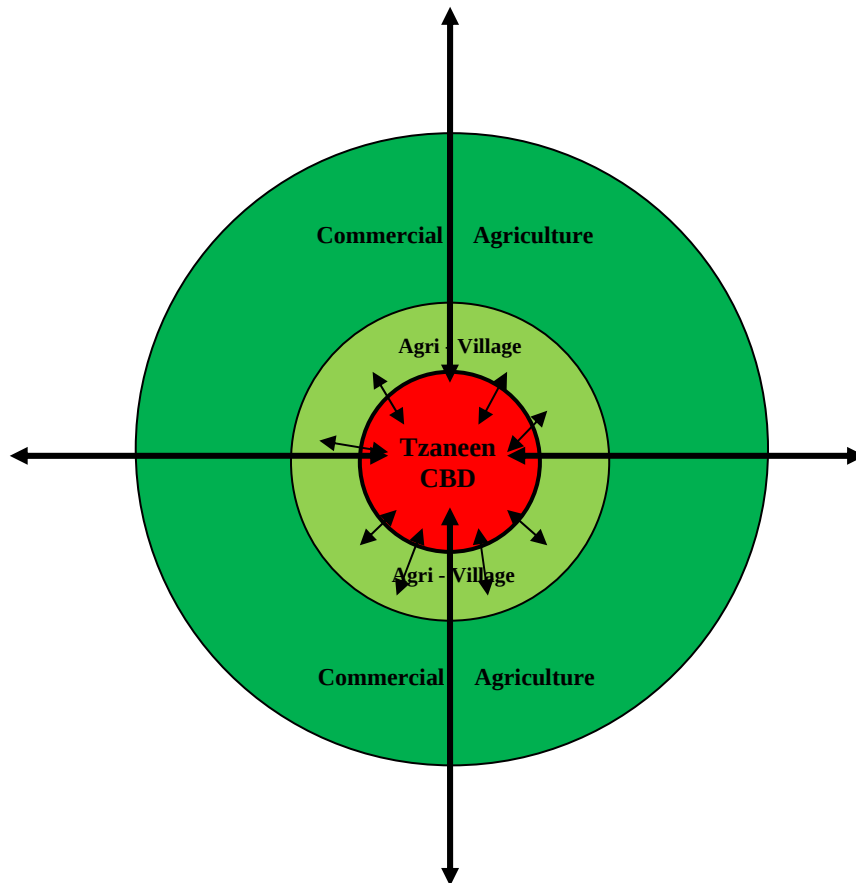


Figure 3.4: Agri-Village Principle

Source: Own Construction

3.8 Conclusion

Various legislation and principles are involved in the composition of the land reform programme. Unfortunately, none of them are focused on protecting the spatial development of towns affected by land reform.

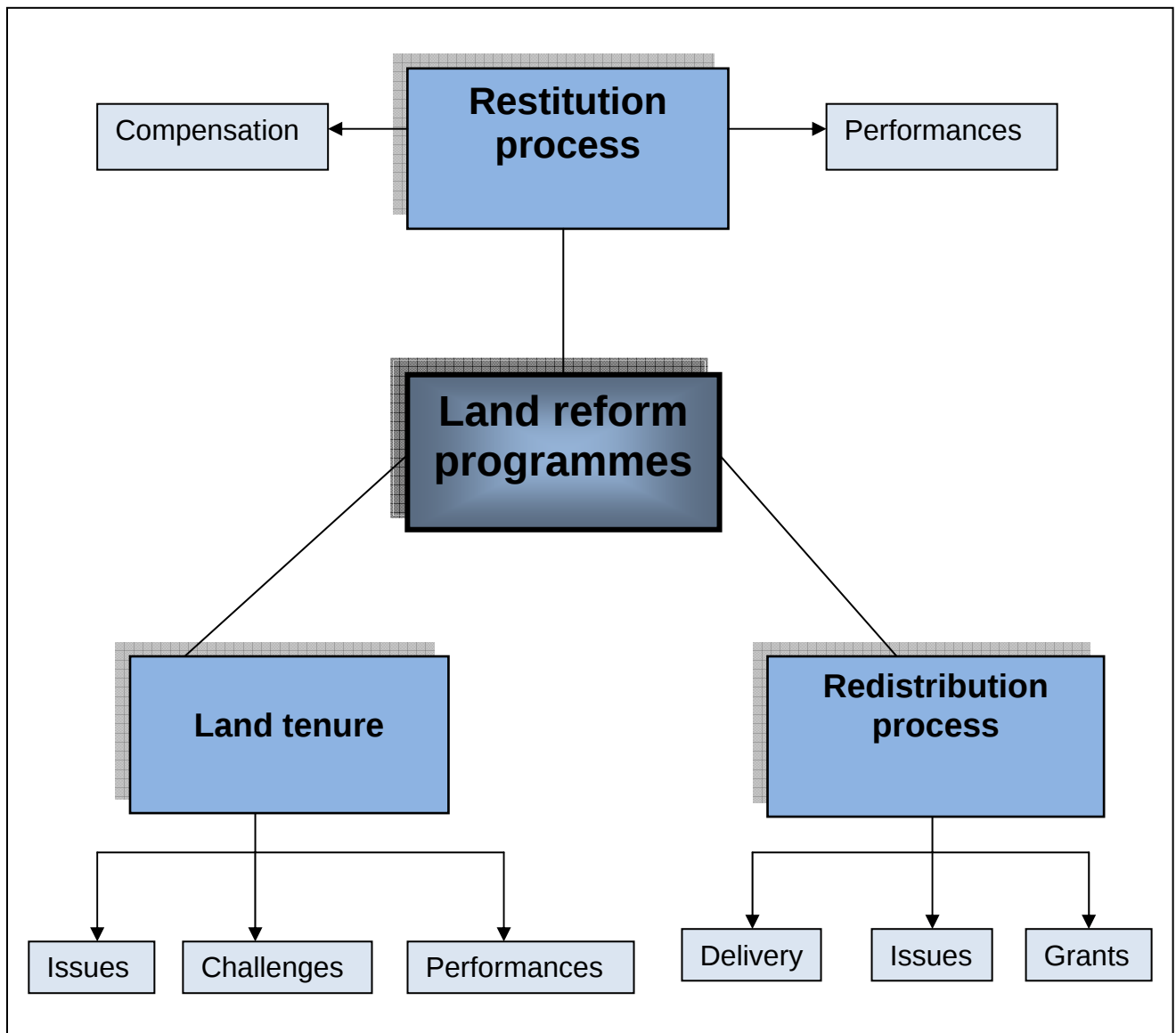
There is a possibility that the “agricultural village” initiative can accelerate the land reform process in South Africa, while spatial development of the affected towns will be stimulated. All basic services are available to the agri-village area and the upgrading and extension of services will be much cheaper than providing those services to a farm located further from the CBD.

Because of the dynamics in a town such as Tzaneen, it is possible that an initiative such as this will be well embraced by a town such as Tzaneen.

Chapter 4 – Land reform programmes

4.1 Introduction

The South African Government introduced various programmes and sub-programmes to ensure the equitable redistribution of land. The aim of these programmes was to redistribute 30% of prime agricultural land to black emerging farmers by 2014 (DALA, 2005). By December 2004, government had only delivered an area of up to 4,3 percent of commercial agricultural land to black people. This figure indicates that the transfer of land, if state land is excluded, is only a total of 3,4 percent. This results in the government being under a huge amount of pressure to perform and implies delivery of land on the scheduled date (Bernstein *et al.*, 2005:7).



The research process outline above indicates the various land reform programmes and how they relate to each other.

Government never made it clear how progress towards the 30% would be measured and no measurement instrument has ever been developed. It has never been clear how the 30% would be defined and this has caused uncertainty and confusion among land owners and other rural investors. The Agri Land Forum, a discussion Forum of interest groups in the agricultural, property and industrial sectors, aired its frustration in this regard shortly after the National Land Summit.

“The Land Summit, held in 2005, was never clear on what land reform is expected to deliver. The goal of 30% of all land to be transferred to black owners before 2014 was not defined. If it means that 30% of the surface of our country should belong to black people, will it be measured per municipal district, including the vast semi-desert areas of the Northern Cape? Or does it refer to the total number of property title deeds? To adopt government’s approach on a set of poorly defined goals could have potentially devastating consequences on the economy, and that spells disaster” (Agri Land Forum, 2006).

By December 2004, a total of 3,5 million hectares of land had been delivered. This is the 4,3 percent of land delivered mentioned above. According to the Department of Land Affairs (DLA), government had to deliver a further 20,6 million hectares of commercial land to reach the 30% target by 2014. This meant an average of 2,06 million hectares a year. Over the next five years, delivery averaged 0,38 million hectares a year, dropping annually (Bernstein *et al.*, 2005:13). By 2009, only 5% of land had been transferred through the three land reform programmes. This means that delivery must increase fivefold to meet the 2014 target. According to Bernstein *et al.* (2005:13), as stated in different terms, if the current pace is maintained, the 30% target will only be reached in 54 years’ time. It also means that the Department has to annually deliver the same results that it had delivered in total over the last 15 years. The shifting of target dates (probably well into the 2020s) has become unavoidable. A further difficulty is that national and provincial departments lack the capacity to effectively support land reform beneficiaries.

The above-mentioned delivery statements were made on estimates only, and not on the complete facts. There is no measuring instrument in place in order to determine exactly how much land is in black ownership, as race is not indicated on the deeds register. Many land transactions from white to black have been processed without the involvement and knowledge of the department and there is no way to trace or measure the contributions private transactions

have made towards the 30% target. For all we know we are maybe way closer to the 30% target (if assumed that the 30% is based on the number of title deeds), than we realise.

As mentioned in Chapter 3, the land reform process consists of three pillars. In this section a thorough explanation will follow regarding each of these pillars.

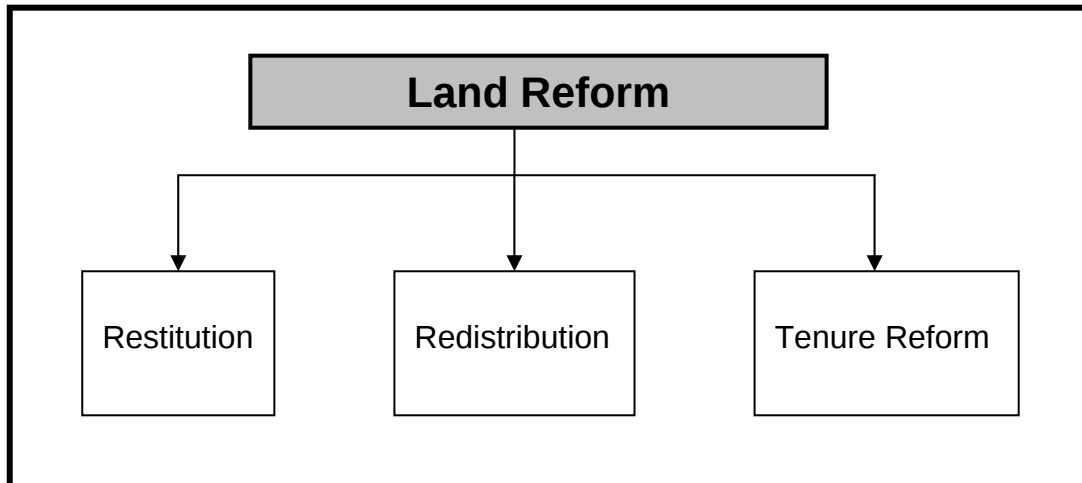


Figure 4.1: Three processes in land reform

Source: Own construction.

4.2 Restitution process

4.2.1 Introduction to the restitution process

According to the Ministry for Agriculture and Land Affairs (2005:11), the Government's Land Restitution Programme is based on the provision in Section 25(7) of the Constitution:

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

The restitution programme is governed by the Land Rights Act No 22 of 1994. Through this Act, land can be restored to claimants or alternative land can be acquired. Financial compensation can be paid, or other provisions can be made in a development programme. The Land Claims Commission was instituted to facilitate all restitution claims (Ministry for Agriculture and Land Affairs (2005:11).

The Commission's vision is (Ministry for Agriculture and Land Affairs):

- Promotion of equity for victims of dispossession by the state, particularly the landless and rural poor
- Facilitation of development initiatives by bringing together all stakeholders relevant to land claims
- Promotion of reconciliation through the restitution process; and
- Contribution towards an equitable redistribution of land rights

The restitution programme was introduced by the Government of National Unity (GNU) in 1994. The intention of this programme is to address any past injustices caused by racially-based legislation (DALA, 2005:7). *"The restitution policy is guided by the principles of fairness and justice."* A restitution policy is required so that a broader development interest can be developed throughout the country. This also means that resources must be used in a responsible manner. The Reconstruction and Development Programme must support restitution in order to be successful (White Paper on South African Land Policy, 1997:49-50). According to DALA (2005:7), this programme was designed to promote national reconciliation, nation-building and economic development. According to stipulated rules and regulations, a restitution claim is only valid if:

- The claimant was disposed
 - of a right in land
 - after 19 June 1913
 - due to any past racial discriminatory laws or practices
- No equitable compensation was paid to the claimant
- The claim was lodged no later than 31 December 1998

Government spent a lot of time and money to convince people to lodge their claims according to the restitution process. It was noticed that only 34 000 claims were lodged by March 1998. Government decided to extend the lodgement date to 31 December 1998. The number of claims lodged at the cut-off date of 31 December 1998 counted up to a total of 63 455, including individual (or family) and community claims, in both urban and rural areas (Ministry of Agriculture and Land Affairs 2005:23-28). According to Lahiff (2007:3), following a major validation campaign in 2002, the total number of claims in the system was revised to 79 687 and the settlement of claims accelerated dramatically. By August 2006, only 8 107 claims were still waiting to be settled, of which 6 975 were classified as rural and 1 132 as urban. Land

Affairs Annual Report (2009:30) stated that by the end of 2009 a total of 4 296 claims were still outstanding.

After the deadline for the lodgement of claims had expired after 31 December 1998, a number of disgruntled communities and land rights organisations tried to put pressure on government to re-open the claims procedures to allow for new land claims to be lodged. This transpired *inter alia* at the North West Provincial mini land summit. In its report (2005:4) it is argued that the goal of the restitution policy is to restore land, together with the provision of restitution remedies to people dispossessed by racial discrimination. The Restitution of Land Rights Act, 22 of 1994 and the Constitution provide a framework for the resolution of land claims against the state. This aspect has, however, not been communicated and understood by the disadvantaged communities. The timeframe for the lodged claims was limited to a number of three years, whereas it took the previous regime 81 years to dispossess other sectors in the South African communities. As a result, some legitimate claimants were omitted and therefore prevented them from claiming their rights, or compensation, to their ancestral land (North West Provincial mini land summit Report, 2005:4).

It is important to note the questions that arise from the argument above. The previous regime took 81 years to dispossess other sectors in the South African communities. It implies that restitution should also take 81 years to complete. Ancestral land is not part of the requirements for restitution. However, the Department of Rural Development and Land Reform has interpreted it wrongly, with the result that in the northern and eastern provinces, especially in the Tzaneen area, the notion that black communities were entitled to restoration of ancestral land without taking the four conditions of the Restitution Act into account, is false. This may lead to an expansion of the traditional areas or former homelands.

4.2.2 Performances

According to the North West provincial mini land summit report (2005), land reform in South Africa was intended to promote equity in land ownership throughout the nation, as well as to alleviate poverty. However, studies by the affiliates of Agri South Africa in the Tzaneen area have shown that there has been a 94% job loss on farms as a result of land reform.

The first five years of the restitution programme was used to establish policies and procedures for researching, negotiating and finalising a restitution claim in terms of the Restitution of Land Rights Act. It is the Commission's responsibility to facilitate the investigation, verification and

finalisation of the claims. Another task of the Commission is the referral of a claim to the Land Claims Court for ratification or adjudication (Ministry of Agriculture and Land Affairs 2005:11).

By 1998, the Chief Land Claims Commissioner and Regional Commissioners decided to call a review of the restitution process. The dilemma was that there were a number of policy and implementation frameworks that hindered the delivery of restitution and they subsequently needed to be streamlined (Ministry of Agriculture and Land Affairs 2005:11).

One of the obstacles that had to be dealt with was the lack of integration of restitution into the land reform programme as a whole (Ministry of Agriculture and Land Affairs 2005:11). Restitution had to be positioned as preference above the other land reform programmes in order to avoid a situation where the department was compelled to buy the same farm twice. The farms La Boheme of Leon Bondisio and Geluksfontein of Mr Johan Green in Trichardtsdal were sold to land redistribution beneficiaries under the SLAG Programme in 2000 and 2002. However, in 2003, they were gazetted as part of the Sekororo Land Claim, and both beneficiary groups were willing sellers simply because they saw an opportunity to make a profit while farming operations on the two farms collapsed.

Similarly, many commercial land owners became willing sellers to escape from the burden of large numbers of farm dwellers who exercised land rights in terms of the ESTA legislation on their farms. They sold their farms to land claimants along with the farm dwellers and thus transferred the problem to the new land owners, leaving government with the dilemma to strike a balance between the rights of land claimants and the beneficiaries of their tenure reform programme.

The lack of integration caused a deficiency in the realisation of development potential as well as economic empowerment opportunities for claimants (Ministry of Agriculture and Land Affairs 2005:11). Progress with restitution was most commonly measured by counting the number of claims that had been settled. By this measure, the pace of the programme increased dramatically from 1999, following the implementation of recommendations from a ministerial review (Du Toit *et al.*, 1998). This resulted in a shift from a judicial process, in which the Land Claims Court adjudicated each claim and made restitution orders, to a largely administrative process in which the CRLR settled claims primarily through negotiation, only referring cases to the Land Claims Court (LCC) where there were disputes or where claimants contested the type or level of compensation offered (Hall, 2004:12).

On the down side, it caused endless delays accompanied by vast uncertainty among both land owners and investors, causing a major outflow of investment capital from the rural areas.

As the restitution process was intended to be finalised in March 2005, the land claims commission embarked on a comprehensive exercise to get the outstanding land claims gazetted in 2004. Without proper research into the validity of these claims, hundreds of land claims were massified. In the Tzaneen area the Makgoba Tribe originally claimed only six farms, but 685 properties were gazetted in their favour in 2004. During the five years of delays up to the transfer of the first farms of willing sellers, the timber, avocado and tourist industries took a huge economic knock mainly as a result of investment uncertainty and the freezing up of the property market.

Since 2000, the implementation of the recommendations and reviews has led to a significant increase in settled claims, although the emphasis has been on the settlement of urban claims (Gauteng 26%, Eastern Cape 23% and Western Cape 16%). A need to address the more complex rural claims remained (Ministry of Agriculture and Land Affairs 2005:11).

According to Hall (2004:14), another innovation that enabled the commission to speed up the settlement of claims was the introduction from 2000 of Standard Settlement Offers (SSOs) of cash compensation for urban claims, usually set at R40 000 per household for former owners (R50 000 in certain metropolitan areas) and R17 500 per household for former long-term tenants. Primarily as a result of these two changes in implementation, the number of claims settled jumped from:

- 41 in 1999 to
- 3 916 in 2000;
- 12 074 in 2001;
- 29 877 in 2002;
- and 46 727 in 2003 (Commission on the Restitution of Land Rights (CRLR) 2003:25).

By the end of August 2004, a cumulative total of 56 650 claims had been settled, resulting in the transfer of 810 292ha of land (just under 1% of agricultural land in the country) at a cost of about R1.5 billion (Hall, 2004:14).

By December 2004, a total of 57 257 claims had been settled, which is approximately 70% of some 80 00 claims submitted by the 1998 deadline. These were mainly urban claims and

represented the simple part of the challenge. Only 812 315 ha of land had been transferred; equal to just 1% of commercial agricultural land. Government has made good progress regarding urban land claims. Most of the urban claims were settled with cash instead of land. Rural claims are far more complex: they tend to involve more people and are therefore more complicated to resolve. As a result, the settlement of rural claims has progressed more slowly – about 9 000 rural claims involving millions of people were still outstanding (Bernstein *et al.*, 2005:11).

As can be seen from the above statement, mostly rural claims have been settled since 1999 to 2004. The problem with this is that the settlement of these claims generates numbers that make the government's performance look good on paper, but does not solve the problem of agricultural land delivery to the previously disadvantaged. By 2009, not a single land claim was fully and finally settled. In each claim only a number of farms were transferred leaving the rest of the farms in a state of uncertainty. By transferring some farms in such a claim without proper investigation into the validity of the claim, government has acknowledged the validity and created a legitimate expectation among the claimants to receive the rest. Pressurising the rest of the land owners to surrender their farms would inevitably result in the latter to challenge the validity in court, which might obstruct the original transfers. This has caught the department between the devil and the deep blue sea, prohibiting them from either settling the claim or de-gazetting it.

Most of the significant transfers have been in the semi-arid Northern Cape and towards the eastern seaboard of the country – particularly Mpumalanga and KwaZulu-Natal. Far smaller areas have been transferred in the desperately poor provinces of Limpopo and the Eastern Cape, in the 'maize triangle' of the Free State and even less in the commercial agricultural heartland of the Western Cape and the largely urban province of Gauteng. While rural claims are not evenly spread across the country, the provincial variation above also reflects uneven progress in tackling the restoration of land. For example, the Eastern Cape and Limpopo are two provinces in which there is a large number of rural claims, but relatively little land has been restored (Hall, 2004:14).

In February 2005, the target date for settling restitution claims was moved from 31 March to 31 December 2005, and later that year to end of the 2007/2008 financial year (a somewhat more realistic time frame) (Bernstein *et al.*, 2005:12). The department started in 2007 to use 31 December 2008 in its statements as to represent the deadline. After this date also lapsed no new deadline has formally been established although treasury refers to 2012 as the final date for which they are prepared to budget for restitution. According to Bernstein *et al.* (2005:12),

state funding is a very important factor influencing the achievement of this target. In 2004, the government budget stood at just under R3,5 billion for restitution in the three years up to 2006/2007. In October 2004, the minister of land affairs, Thoko Didiza, indicated that the state would have to spend significantly more (perhaps as much as R13 billion) to complete the restitution process. In February 2005, the government pushed up its restitution budget to R9,9 billion for the three years up to 2007/2008. While this is a significant increase, the total still fell to more than R3 billion short of the minister's own estimate.

With the constant moving of deadlines because of non-performance, it seems that the government does not even blink an eye when it comes to moving dates for the finalisation of land reform. If things continue at the current rate, the land reform programme will only be completed in 2085. This is according to a report by Ms Frouwien Bosman, the writer of the report "*Grondhervorming: 'n kontekstuele analise*" (Translated: Land Reform: a contextual analysis). According to this document, the pace of land reform would have to be multiplied by five in order to reach its target in 2014. Since the process was started in 1994, only 4% of agricultural land has been granted to black South Africans (Van Aard, 2007:18).

In 2005, The Centre for Development and Entrepreneurship showed that the government still had to redistribute 20,6 million hectares of land. The pace then was 0,38 million hectares per year. One of the major problems pertaining to land redistribution is that almost a quarter of the Department of Rural Development and Land Reform's positions are vacant (Van Aard, 2007:18).

The validation campaign indicates that rural claims comprise about 20% of the valid claims (Ministry of Agriculture and Land Affairs 2005:14). This is, however, not measurable, because lately no research has been done on this.

The Commission's focus shifted from urban to rural claims in the 2002/2003 period. An average rural claim takes 46 months to process and due to time-shortage regarding the land claims process over-all, the Commission committed to reduce the settlement to one year (Ministry of Agriculture and Land Affairs 2005:14). This never materialised. On the contrary: by 2009 the average time for the settlement of a claim had risen to 49 months.

By January 2006, the land claims commission was aware of over 79 696 claims that had been lodged with the Commission nationally. 68 730 claims have been settled, which has benefited 186 862 households. About 1 007 247 hectares with a total land cost of R2,2 billion have been restored to claimants. On the other hand, more than R2,3 billion has been paid out as financial

compensation to urban claimants. Of the 68 730 claims settled nationally, 18 749 claims are for land restoration on which development took place in both urban (15 060) and rural (3 689) areas. About 12% of the claims settled were rural, while 88% were urban. The outstanding urban claims are prioritised for settlement within the current financial year. The remainder of rural claims (7 000) were scheduled for settlements over two years ending in March 2008. The Commission and the Department of Land Affairs has allocated development grants amounting to R677 million for planning and development of the land delivered to claimants (South African Government Information, 2006). However, in their 2009 Annual Report, the Department admitted to not having reached these targets, with more than 60% of those rural claims still outstanding.

The following cumulative statistics show all land claims settled since 1995 to March 2009. The most claims were settled in the Eastern Cape (21%), followed by the Western Cape (20%). The least claims were settled in the Free State (3%), followed by Mpumalanga (4%). Only 4% of claims have been settled in the Limpopo province.

In August 2009, the written question was asked in Parliament of how many rural land claims had been settled to date. The shocking answer followed that not one rural land claim had been settled in full yet. The numbers below only refer to claims where some properties have been transferred.

Table 4.1 Settled Restitution Claims: 1995-31 March 2009

Province	Claims	HHs	Beneficiaries	HA	Total award (R)
E Cape	16194	60747	208064	93600	1699,379,847.17
F State	2654	5813	40624	47363	178,996,877.44
Gauteng	13159	15153	70179	9476	828,787,975.68
KZN	14742	68910	409323	610996	5,969,745,666.80
Limpopo	3067	40124	215936	487935	3,193,116,183.58
Mp'langa	2688	48366	223524	389395	4,360,110,339.87
N Cape	3663	18216	97479	471896	1,118,093,456.64
N West	3707	35118	169823	364729	1,878,649,548.63
W Cape	15526	22986	116297	313204	1,124,003,718.53
Total	75400	315433	1551249	2788594	20,350,883,614.34

Source: Pepeteka *et al.*, 2009.

As can be seen from the table below, the following claims are still outstanding; of which KwaZulu-Natal has the most outstanding claims (38%). 13% of the claims in KwaZulu-Natal were resolved between 1 April 2008 and 31 March 2009. The Limpopo province has the second most outstanding claims (17%) and 26% of the claims were settled from 1 April 2008 to 31

March 2009. The province with the least outstanding claims is Gauteng, with a total of only three claims outstanding.

Table 4.2 Outstanding claims by 31 March 2009

Province	No of outstanding claims at 31 March 2008	No of claims settled: 1 April 2008 - 31 March 2009	Dismissed claims: 1 April 2008 - 31 March 2009	Total no of outstanding claims by 31 March 2009
Eastern Cape	555	33	0	522
Free State	97	15	54	28
Northern Cape	218	18	11	189
Gauteng	0	1	0	3
North West	215	20	0	195
KZN	1740	72	12	1652
Mpumalanga	851	235	17	422
Limpopo	647	139	0	712
Western Cape	599	12	14	573
Total	4949	545	108	4296

Source: Pepeteka *et al*, 2009.

4.2.3 Compensation

The constitutional right to claim land according to the restitution process does not mean that every claimant will receive a piece of land, a house or any amount/compensation. The principle of equity and fairness stipulates that each case must be treated according to certain merits. Many claimants feel that they should be compensated with the land they were previously removed from. Others want another form of recognition for their losses and violation of human rights. The restitution process does not prescribe the outcome of each and every claim, but provides a framework and opinions that can be used to develop an appropriate solution through negotiations (White Paper on South African Land Policy, 1997:53).

Restitution can take the following forms:

- the restoration of the land from which claimants were dispossessed
- provision of alternative land
- payment of compensation
- alternative relief
- priority access to state resources that includes the allocation and development of housing and land

Regarding all the above mentioned, priority must be given to the restoration of land. Any form of compensation given at the time of forced removal must be taken into consideration when

compensation is provided (White Paper on South African Land Policy, 1997:53). However, in the Tzaneen area there is no record of any research to establish the discrepancy between historical compensation that claimants had received and historical market value. In all cases where beneficiaries claimed to have received less than market-related compensation when removed from any particular property, they were either rewarded with the whole developed farm or with financial compensation to the full.

When land is awarded to households, the Land Claims Court may determine certain rights in order to ensure that all dispossessed members of a community have access to the land. This takes place on a fair and non-discriminatory basis, which includes women and people whose rights were not formally recognised (White Paper on South African Land Policy, 1997:53). Unfortunately, the administrative system allows people who had not been part of the claimant community as stipulated on the original claim form, to piggy-back on the process and be included on the register of beneficiaries of land in which they never held rights.

According to the White Paper on South African Land Policy (1997:54), it is the state's responsibility to compensate certain successful claimants where restoration or other remedies are not appropriate. The Constitution deals with such claimants and therefore provides equitable compensation. The applicable portion of Section 123(4)(a) reads as follows:

"The compensation...shall be... just and equitable taking into account the circumstances which prevailed at the time of the dispossession and all other factors as may be prescribed by the (Restitution of Land rights Act, 1994 [such as factors listed in Section 34]), including any compensation that was paid upon such dispossession."

Compensation to land owners

Sections 25(2) and 25(3) of the Constitution deal with the compensation of privately owned land needed for restitution. Section 25 states that *"No one may be deprived of property except in terms of law of general application, and no law may permit arbitrary deprivation of property."* Section 25(2) states further that *"Property may be expropriated only in terms of law of general application –*

- a) for a public purpose or in the public interest; and*
- b) subject to compensation, to the amount of which and the time and manner of payment of which have either been agreed to by those affected or decided or approved by a court."*

Section 25(3) of the Constitution states that “*The amount of the compensation and the time and manner of payment must be just and equitable, reflecting an equitable balance between the public interest and the interests of those affected, in regards to all relevant circumstances.*”

The issue of compensation to land owners became extremely contentious in the Tzaneen area:

- Since August 2007, the Land Claims Commission had started to offer less than market value
- By August 2008, the Land Claims Commission was offering only 50-65% of market value
- Land owners complained that they were intimidated into accepting less than market value
- The land claims commission justified reduced offers on the basis that the Constitution allowed for less than market value

The underlying principle is that the owner of the land must not make a profit at the expense of the public as a result of any special benefits given. It is the Court's – and not the Department's - responsibility to determine what is 'just and equitable' compensation. The calculation of what is 'just and equitable' must contain the following factors:

- the actual price that was paid by the present owner for the land
- the market value of land, including any improvements made on the land
- the present day market value of the land, excluding improvements
- the contributing value of beneficial improvements made to the property by the owner since the time of acquisition
- the value of any special benefits that the owner received from the state

The problem is that the impact of the above mentioned on current market value is not measurable. How do you measure the impact of historical disasters and / or subsidised training of farmers on the current value of the land? The Land claims Commissioner could never explain how he calculated these other factors to reduce the market-related offer.

More than any other deficiency, the issue of sub-market-related offers had a massive impact on the spatial development of the Tzaneen area. It caused farmers to refrain from renewing their citrus and banana orchards, and from developing infrastructure such as pack houses, processing facilities, irrigation systems and other agricultural assets. This had a knock-on effect

to the Tzaneen business environment where input and service providers to the agricultural sector suffered declining turnovers.

It even led to the change of land use in some areas especially after the transfer in the Pheeha claim in Mooketsi where 11 farms were transferred in 2002. The claimants preferred to allocate portions of the land to individual members of their community for residential settlement and the Sekororo claim in Trichardtsdal where small portions of the once thriving commercial farms were allocated to subsistence farmers, simply because they did not have the means to restore the land to its original agricultural use.

4.3 Redistribution process

The main purpose of the land redistribution programme is to provide land to the poor. This land is provided for residential and productive purposes in order to improve their livelihoods. The Redistribution process is not like the restitution process, a rights driven one, based on the willing-seller principle. The redistribution programme is designed to be flexible and able to embrace the wide variety of land needs of the eligible applicants. The land redistribution programme was designed to assist the urban and rural poor, farm workers, labour tenants as well as emerging farmers. The Land Redistribution Programme was originally designed to assist eligible individuals to obtain a Settlement/Land Acquisition Grant (SLAG) comparable to urban housing subsidies. This has proven to be inadequate in acquiring commercial farm land in a sustainable land, and therefore the Land Redistribution for Agricultural Development (LRAD) and other redistribution mechanisms such as the Proactive Land Acquisition Strategy (PLAS) were invented to take the redistribution process forward. (White Paper on South African Land Policy, 1997:ix).

The redistribution programme was based on a demand-driven and market-based approach. A grant system was designed to assist all beneficiaries in the programme to purchase land from willing sellers. The Provision of Land and Assistance Act, 1993 (Act 126 of 1993), assisted the redistribution programme in the acquisition and land development of land for settlement and production purposes. Financial grants assisted historically disadvantaged people to acquire freehold titles in land. The Settlement and Land Acquisition Grant (SLAG) was set at R15 000 per person mainly to conform to the already existing housing subsidy. In 1998, the subsidy was increased to R16 000 per household (Ministry of Agriculture and Land Affairs, 2005:29).

This can more easily be described as the statutory assistance of all the poor, labour tenants, farm workers, women and also emerging farmers. The redistribution of land reform is largely based on the willing-buyer, willing-seller concept. Government will only assist the purchasing of land, but will not be the buyer or owner of the land (White Paper on South African Land Policy, 1997:36). PLAS changed this. PLAS is based on the principle that government buys the land from white farmers and rents it to black emerging farmers. According to the White Paper on South African Land Policy (1997:36), the main purpose of the government will be to assign land acquisition grants to buyers and to support and finance the process.

The Provision of Land and Assistance Act, 1993 (Act 126 of 1993) provides the main guidelines used for the redistribution process. It is used for the designation of land for settlement purposes and provides financial assistance to people acquiring land for productive uses and settlement. The Act was amended in 1998 and these changes allowed for land to be purchased without necessarily being designated. It also makes allowance for various other forms of land reform, for the funding of commonage land acquired by Municipalities and most importantly, it provides the Minister of Land Affairs with the power to expropriate (Ministry of Agriculture and Land Affairs, 2005:29).

According to the White Paper on South African Land Policy (1997:ix-x), the Redistribution Programme will give priority to the following:

- the marginalised and women in need
- projects that can be implemented quickly and effectively

In each of the cases handled throughout the land redistribution programme, it is important to keep in mind that viability and sustainability must be demonstrated. It is stipulated that government will ensure that geographical spreading of different projects will take place. This includes diversity of projects, covering different beneficiary sectors, different land uses and different tenure arrangements (White Paper on South African Land Policy, 1997:ix-x).

The following aspects are addressed in the Land Redistribution Programme (White Paper on South African Land Policy, 1997:ix-x):

Land invasions: Government will not give priority to any group or people participating in land invasions. Government undertakes to work with organised groups.

Overcoming discrimination against women: Discrimination against women is a problem that has occurred throughout history. The government decided to involve women in the redistribution process. Government will uphold the provision of the Constitution that outlaws discrimination against women. This involves the removal of legal restrictions on women's access to land.

Farm workers: Farm workers entail special attention in the redistribution programme. They are one of the most apprehensive groups in the population of South Africa. Farm workers as well as their families are granted subsidies to improve tenure insecurities. The Settlement/Land Acquisition Grant and LRAD are used for this purpose.

Labour tenants: The objectives of the *Land Reform (Labour Tenants) Act, 3 of 1996* provide for both the protection of existing rights and make provision for the acquisition of land for labour tenants who will be able to access the Settlement/Land Acquisition grant.

Partnerships with the private sector: Government will support the private sector, which will widen the extent and efficiency of the land reform process.

Rural finance: Government will provide financial services for land reform beneficiaries.

4.3.1 Delivery in terms of land redistribution

By March 2009, the redistribution programme had delivered up to 443 600 4886 hectares, which is 164 459.5114 hectares short of the revised target. A total of 501 projects were finalised and 14 457 beneficiaries were reached through these projects (Land Affairs Annual Report, 2009:33).

All land acquired through the Proactive Land Acquisition Strategy (PLAS) during the 2008/2009 financial year, had been registered in the name of the State. In certain instances the State provided potential beneficiaries with access to land by means of lease/caretaker agreements until the land was transferred permanently to suitable beneficiaries. Plans for the disposal of land to potential beneficiaries are being finalised, where after such land will be transferred to the beneficiaries in terms of the provisions of the Land Redistribution for Agricultural Development Grant (LRAD), the Settlement and Production Land Acquisition Grant (SPLAG) and/or the Commonage Grant (COMG). These grant systems are the principal funding models that are used under the Land and Tenure Reform Programme (Land Affairs Annual Report, 2009:33). Performances and deliveries in terms of these funding models can be tabulated as follows:

Table 4.3 Deliveries according to funding instruments

PROV	Hectares			No of projects			No of beneficiaries				
	LRAD/COM/SLAG/SPLAG	PLAS	Total	LRAD/COM/SLAG/SPLAG	PLAS	Total	Individuals	Female	Farm workers	Youth	Disabled
Eastern Cape	14,019.4292	32,603.5142	47,522.9434	26	33	59	772	195	59	153	2
Free State	8,727.3543	55,514.9262	64,242.2805	25	73	98	144	53	42	40	0
Gauteng	0.000	2,554.5806	2,554.5806	0	16	16	44	28	0	9	0
KZN	59,528.4999	6,010.7311	65,539.2310	95	20	115	9449	2279	258	1755	91
Limpopo	12,208.1997	1,392.3794	14,600.5791	70	3	73	550	93	164	215	6
Mpm	15,246.8130	73,025.8538	52,272.6668	17	48	65	1177	402	0	446	0
N-Cape	81,114.9034	44,247.6487	125,362.5521	17	8	25	364	48	232	46	0
NW	6,231.7997	46,636.5600	52,868.3597	14	16	30	238	35	1	27	0
W-Cape	18,637.2954	0.000	18,637.2954	19	0	19	1719	578	993	0	563
Total	216,614.2946	226,986.1940	443,600.4886	283	217	501	14457	3911	1749	2691	663

Source: Land Affairs Annual Report (2009)

The redistribution programme has been hampered by a lack of selection criteria for beneficiaries. In terms of both the Act and the department's application guidelines, just about anyone can qualify to be a beneficiary for land redistribution, irrespective of age, skills, field of interest or track record. The redistribution programme is not as restrictive on the use or even exchanging of land as the restitution process is. This programme lends itself to irregularities, self-enrichment and many unintended results.

4.3.2 Issues regarding redistribution

The White Paper on South African Land Policy (1997:26-27) stipulates some issues regarding the Land Redistribution Programme:

- **The need for land**

"Land physically locates people's sense of being, past and present." For many, land is only a symbol for residential purposes, but for other it means much more than that. It is a form of security that will provide the food that will feed the nation of tomorrow. Another role it plays is the alleviation of poverty.

- **Urban areas**

In the apartheid era, many people were prohibited to own land. Restrictions were implemented that led to backlogs in the access to well-located urban land. Consequences of these backlogs were land invasions and an uneven pattern of

urban land prices, which caused the poor to live in remote areas. In many of these informal settlements tenure is insecure, confused and requires clarification. The rapid rate of urban migration puts enormous pressure on urban land. There is a need for coordinated policies and strategies to improve speedy land delivery, management and development. If something is not done soon, land invasions will continue.

- **Land invasions**

Landlessness and invasion of land are harsh realities in Southern Africa. Delays in the release of land, unrealistic expectations and a lack of information have exacerbated this problem. Urban land invasions have been the result with local and provincial authorities trying to reverse the problem by means of evictions. This has only led to ongoing land disputes. In rural areas, eviction of farm workers and labour tenants resulted in a growth of landless people. Invasions of public and privately owned land soon followed. State land was also part of this hard reality of land invasion. The reason for this is that no control and supervision of state land took place, which created the opportunity for land invasions. The extraction of rent and selling of this state-owned land are also common. These land invasions can only be prevented by a dynamic controlling programme.

- **Rural areas**

In rural areas, the need for land is a very complex aspect. Land is used for a variety of purposes by a diversity of people. Farm workers need land for the grazing of stock. New upcoming female farmers are in the spotlight at the moment, proving that they can also make a success of farming. The redistribution programme must thus be designed in order to respond to different needs and circumstances so that it can contribute to economic growth and the alleviation of poverty.

• **The use of municipal commonage**

The term 'commonage' refers to land owned by a municipality or authority that was normally acquired through state grants or the church. It differs from other municipal land because residents have acquired grazing rights on the land or the land was granted expressly to benefit needy local inhabitants. Municipal commonage provides opportunities for land reform because it is public land that does not need to be acquired. It is an existing institution's responsibility to manage the land. For the government to address the local economic development and provide an inexpensive land reform

programme, the reallocation of commonage to poor residents is a viable option. A constraints regarding commonage is the fact that not all local authorities are willing to assist the poor residents to obtain access to the land.

It is important to communicate information on a regular basis to rural communities. The Strauss Commission found that the availability of information was a critical barrier to rural development at all the different levels. The main reason for this is the difficulty to pass on information in the rural areas, especially in the case of farm workers (White Paper on South African Land Policy, (1997:38).

The rural poor are among the poorest, not only in South Africa, but in fact all over the world. It is stated that more than 70% of South Africa's poor lives in rural areas, whereas more than a quarter of South Africa's population are classified as poor (Deininger & May, 2000:3). Giving the poor assets will promote equity in the country – one of the main aspects Government is trying to reach. A number of recent papers have argued that a more equitable distribution of wealth can lead to the promotion of efficiency. This means that when the poor have more assets they will be able to obtain more credit and better insurance, which in return will help them invest more effectively. This results in the fact that the country will eventually have an enhanced distribution of income, health and education, which will lead to overall productivity. The poor will also have the knowledge to start small businesses of their own by pledging the land against the loans (Banerjee, 1998:14).

In the redistribution programme (as in the restitution programme), the opposite was more often true. Some of the severest critics of the land reform programme in South Africa are constantly pointing out that land reform leaves beneficiaries poorer, mostly because they do not have the means to maintain a sustainable farming operation on the land. This leads to beneficiaries leaving urban areas and settlements for their newly acquired farms. Left with less income than ever before, these beneficiaries then leave the farms after a year or two. They move back to their towns or settlements of origin and leave the farms abandoned with absentee owners.

4.3.3 The decrease of challenges through the use of grants

According to the Ministry of Agriculture and Land Affairs (2005:29), targets were set by the Department of Land Affairs to redistribute 30% of land by 2014. They face a number of challenges before the mentioned target can be reached:

- Deal with the widely differing needs and aspirations of people for the land in both rural and urban areas.
- Redistribution of land in an equitable and affordable manner
- Contribution to employment, poverty reduction and economic growth
- Addressing the situation of landlessness and homelessness

In the formulation of answers to these challenges, the South African land reform strategy took the international lessons of land reform into consideration. These include:

- the need for speed
- decentralisation
- economically sustainable production models
- complementary agricultural and support service and infrastructure
- involvement of the non-governmental and private sector

(Ministry of Agriculture and Land Affairs 2005:29).

The programme was designed to be flexible and therefore allow different types of projects, such as:

- group settlement
- group and individual production
- on-farm and off-farm worker equity schemes

The basic grant was supported by a planning grant to be used by the Department of Land Affairs to conduct feasibility studies, prepare business plans, do valuations, meet transfer costs etc. (Ministry of Agriculture and Land Affairs 2005:29-30).

According to the Ministry of Agriculture and Land Affairs (2005:30), good progress was made in the first five years of operation. Unfortunately, some mistakes made by other countries were repeated. These included:

- lengthy project cycles
- excessive bureaucracy and reliance on outside consultants to formulate project plans
- over-centralisation of the decision-making process
- low levels of complementary support services

Some problems generated in the South African programme were the reluctance of the Department of Land Affairs and Agriculture to collaborate. Land Affairs provided land, as well as resources for agricultural capital, inputs and assisting in farm plans. A lack of integration existed between relevant Government departments, non-governmental service providers, NGOs and the private sector (Ministry of Agriculture and Land Affairs 2005:30).

The Ministry of Agriculture and Land Affairs (2005:30) stipulated that while the programme was based on market-assisted approach, the land market itself was not structured. Sub-division restrictions remained in place, forcing beneficiaries to pool their small grants together and buy large commercial farms. No official policy existed under which the beneficiaries could own the acquired farm. Officials promoted the Communal Property Association as the main form of holder of property rights. As a result, SLAG was characterised as:

- a slow deliverer;
- having a significant number of poorly appraised and supported projects;
- having an emphasis on communal property associations that often resulted in misguided attempts; and
- having an insufficient impact on beneficiary's incomes and agricultural production.

SLAG was an absolute disappointment in South Africa. There was not one successful SLAG project. The MEC of Limpopo reposessed 71 SLAG farms in 2007. If one takes into consideration the influence on food security because of these mistakes, SLAG was a huge disaster.

This same issue was reported in the Farmer's Weekly of 29 December 2006. The following was said: *"We reported on the Limpopo agriculture department deregistering 71 farms bought by government after showing that production had declined sharply, and on how the state failed to release its land to black farmers, dashing the dreams of about 200 small-scale farmers aiming to become commercial producers."* They further reported that *"In another noteworthy case, BOTCH-UP IN Tzaneen saw a farm which was bought for R1,4 million by the government sold for a mere R110 000 after the beneficiary failed to settle a R27 000 electricity bill"*.

On 11 March 2007, Rapport also reported on this issue: *"The provincial government has paid more than R100 million for farms on which 6 500 families were established under the SLAG Programme. Me. Dikiledi Magadzi, MEC for agriculture in Limpopo, deregistered these farms in February 2007 because the farms were under-utilised"* (Anon, 2007:5).

4.3.3.1 The Land Redistribution for Agricultural Development (LRAD)

In August 2001, the Department of Land Affairs adopted a new sub-programme – the Land Redistribution for Agricultural Development (LRAD) – which has in theory shifted the emphasis of redistribution away from settlement and towards sustainable agriculture. LRAD uses a combination of state grants and commercial loan finance (Bernstein *et al.*, 2005:12). This grant was developed to assist Municipalities to acquire land for commonage purposes or to extend current commonage. The grant was mainly used in cases where the R16 000 grant from the SLAG programme was not sufficient (Ministry of Agriculture and Land Affairs 2005:30).

As said by the Ministry of Agriculture and Land Affairs (2005:32), the goal of the LRAD is the following:

- *“to contribute more significantly to agricultural development and to extend the target group beyond the poor to include emerging black farmers*
- *The redistribution target was set at 30% of agricultural land to the historically disadvantaged over a period of 15-20 years”*

The LRAD was designed as a joint programme between the Departments of Agriculture and Government on the three different levels (National, Provincial and District levels).

A few aspects were introduced by the Ministry of Agriculture and Land Affairs (2005:32), which was an improvement on the SLAG programme:

- Applicants would be able to access LRAD grants on an individual basis
- The grants would be calculated on a sliding scale from R20 000 to R100 000, depending on the applicant's own contribution in kind, labour and cash
- Flexible to cover land acquisition, land improvements, infrastructure investments, capital assets and short-term agricultural inputs
- Increase range by including a wide range of projects

The LRAD programme was also designed to include other institutions in the project implementation, such as financial institutions. These institutions need to obtain project approval from the LRAD authorities. These institutions would apply the LRAD eligibility and selection criteria, and have the authority to approve the LRAD grants (Ministry of Agriculture and Land Affairs 2005:32).

In order to remain righteous it is important for government to allocate the same resources to all beneficiaries. This also applies to the level of state support in terms of grants awarded. Governments must be mindful to recognise the importance of encouraging individual enterprise and initiative (White Paper on South African Land Policy, 1997:37).

The highest output in terms of the number of hectares delivered was done by the redistribution programme which has delivered 50% of all land transferred in land reform. The sub-programme Land Redistribution for Agricultural Development (LRAD), which assisted the redistribution programme, still takes the lead by having delivered 20% of this figure, despite the fact that it was only implemented in 2001 (Ministry of Agriculture and Land Affairs 2005:30). The LRAD is easily accessible to those seeking land for survivalist rather than commercial activities. According to a senior DLA official, the problem remains that as many as 80% of LRAD beneficiaries may be using their land for subsistence. This raises the question of whether the LRAD programme is really producing significantly different outcomes from the previous, discredited SLAG programme. A total of 19 736 new black farmers have reportedly been resettled through LRAD since its inception (Bernstein *et al.*, 2005:12).

Table 4.4: Differences between SLAG and LRAD policies

SLAG Projects	LRAD Projects
A grant amount of only R16 000 per household	Grants of R111 000 - R430 000 per individual adult
Own contribution was not required	Own contribution is required
SLAG is linked to the housing subsidy register	LRAD grant is de-linked from the housing subsidy register
Grants allocated to households	Grants allocated to individuals
Planning grants, 9% of R16 000	Planning grant 15% of the total LRAD grants
No graduation in grant size	Graduated grant sizes
Implementation over-centralised	Implementation decentralised
Covered all land reform projects	Specific to productive land use agricultural projects
Land Affairs sole implementing agency	Land Bank also appointed as implementing agency

Source: Ministry of Agriculture and Land Affairs, 2005.

In the case of urban land redistribution, throughout the country urban areas are struggling with an increase in homelessness. This problem is far greater than can be solved by provision of housing at the moment. The problem is further exaggerated by the insecure tenure that has an impact on many informal settlements in the city areas (White Paper on South African Land Policy, 1997:43).

The urban land reform programme consists of two elements (White Paper on South African Land Policy, (1997:43):

- The first is directed to measurements that will result in the alleviation of landlessness through the provision of land.
- The second is the delivery of secure tenure to people in the places where they currently are.

4.3.4 The Comprehensive Agricultural Support Programme (CASP)

According to the Ministry of Agriculture and Land Affairs (2005:37) the CASP framework was developed to complement LRAD. The CASP framework has become a core programme within the Department of Agriculture.

The aim of CASP, as stipulated by the Ministry of Agriculture and Land Affairs (2005:37):

“...to improve the quality of post settlement support services as well as bridge the policy gap between land reform and agricultural development.”

Another aspect of CASP is that it targets beneficiaries of land reform and includes other producers who have acquired land through private means. This can only happen as long as they are currently engaged in value-adding agricultural enterprises domestically or involved in export of agricultural products (Ministry of Agriculture and Land Affairs 2005:37).

As stated by the Ministry of Agriculture and Land Affairs (2005:37) the main priorities of the CASP framework, illustrated in figure 4.3, include:

- information and knowledge management
- technical and advisory assistance
- financial support
- training and capacity building
- marketing and business development
- on- and off-farm infrastructure

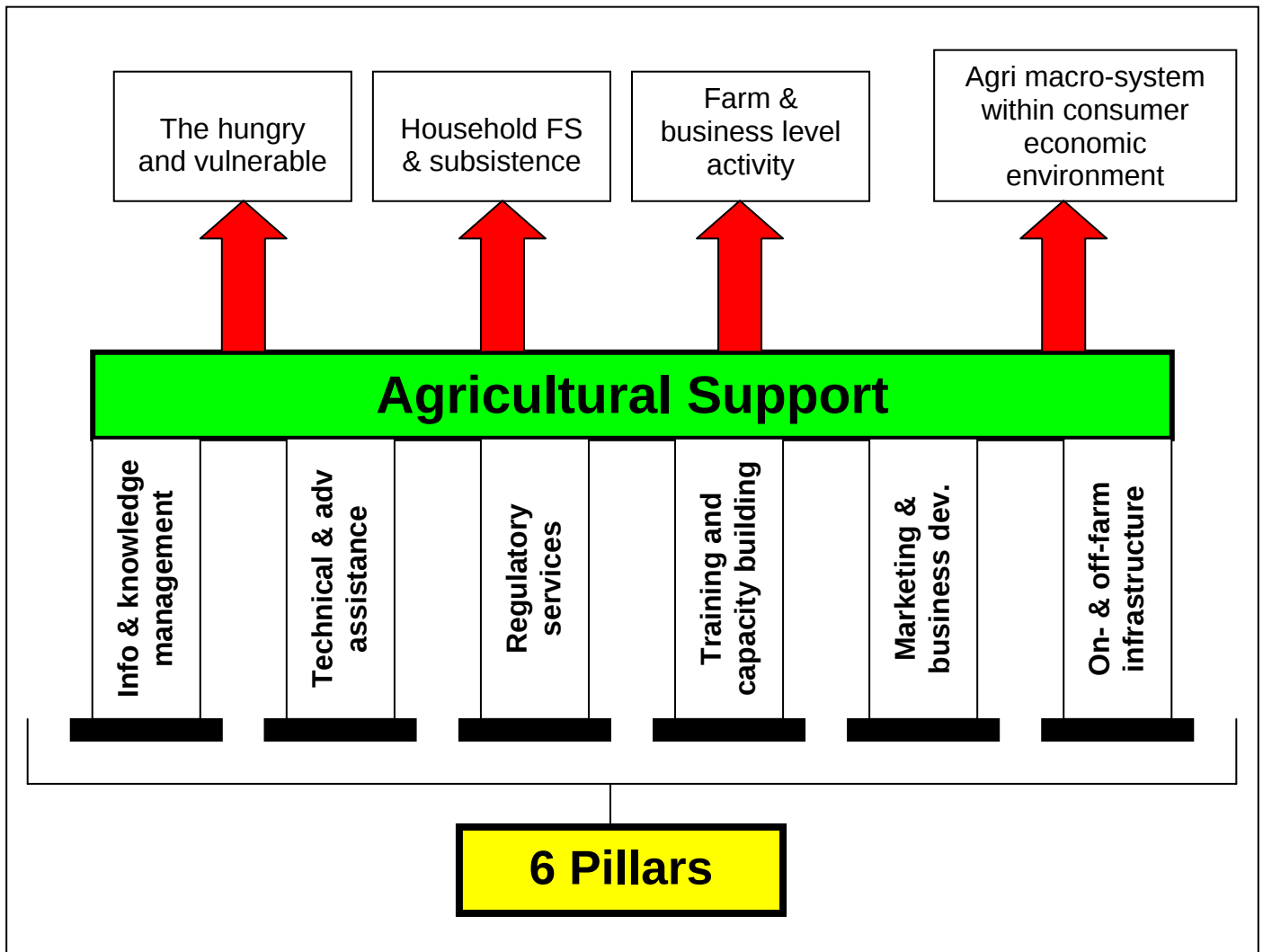


Figure 4.2: The main priority areas of CASP

Source: Ministry of Agricultural and Land Affairs, 2005.

According to the Ministry of Agriculture and Land Affairs (2005:38), the CASP programme is based on the public-private-community cooperation for service delivery concept. The Department of Agriculture has developed a three-pronged approach in order to implement the programme. This strategy consists of the following:

- to align all support services to the six priorities mentioned
- to phase in the basic support services related to on- and off-farm infrastructure
- to develop a policy for agricultural financing

The Department of Agriculture has a mandate to employ the farmer support services within the CASP framework. It is required of the provincial departments to develop a partnership with the private sector. This partnership is necessary in order to facilitate the implementation of the

framework. A phase-in approach is implemented and additional resources have been made available to support departments in the implementation of the CASP framework (Ministry of Agriculture and Land Affairs 2005:38).

The Integrated Food Security and Nutrition programme (IFNSNP) forms part of the CASP programme. Together with the Agricultural Starter Pack Programme, which aims to move people out of the Food Parcel Scheme by growing their own food, they have accomplished the following progress (Ministry of Agriculture and Land Affairs 2005:38-39):

- In 2003-2004 a total of 36 387 households benefited from the Agricultural Starter Pack Programme at a cost of R34 million.
- In 2004-2005, 18 575 households benefited from the Agricultural Starter Pack Programme at a cost of R38 million.

The Department of Agriculture Report (2004/2005:69) stipulates that the starting point of the CASP programme concentrated on the identification of different types of agricultural support most needed for improvement of agricultural productivity and efficiency. There was extensively engaged with the following persons:

- stakeholders
- local government
- farmers
- agro-processors
- national and provincial departments
- consumers
- research and educational institutions
- civil society organisations

Based on the feedback received, the programme concentrated mainly on creating an enabling environment through the appropriate policy, legislation, norms and standards, technical guidelines and other services. The progress made in setting these norms and standards has raised confidence levels within the sectors resulting in improved productivity. This is especially true for major crops such as maize, sorghum and sunflower. According to the Crop Estimate Committee's reports, the production of these crops noticeably improved among commercial farmers in areas with limited rainfall.

4.3.4.1 Challenges in the CASP framework

The poor performance of the Department of Land Affairs and its clear inability to meet its targets and time frames can be attributed to a large number of factors. The Department itself believes that it is challenged to address the following issues (Ministry of Agriculture and Land Affairs 2005:39):

- Land in South Africa is expensive and high market prices could continuously pose a cost barrier to poor land reform beneficiaries as well as the State. The ability of the willing buyer to raise finance is problematic. (The willing-buyer, willing-seller principle and all aspects relating to the principle, were discussed in section 3.5 of Chapter 3.)
- The scarcity of viable commercial agricultural land in South Africa
- Present agricultural commercial land owners are not necessarily willing to sell their land at below market prices
- The department of Land Affairs has not used its power in an effective way to expropriate commercial agricultural land where it is needed for land redistribution
- Probably the most important aspect is that in those cases where commercial farmers sell their land, there are bureaucratic structures that prolong the sale of land resulting in it not being an attractive option to landowners.

Other stakeholders in land reform, such as corporate businesses, academic and research institutions and land owners themselves believe to the contrary that the department's biggest challenge is the lack of capacity and the incapability of its own officials.

4.4 Land tenure reform

According to Statistics South Africa, the number of commercial farms has decreased from 57 980 in 1993 to 45 818 in 2002. This explains why almost 200 000 farm workers have been dismissed. In the same time the number of commercial farmers has decreased from 68 647 to 46 027. Agri SA has predicted that there are no more than 40 000 commercial farmers left in South Africa (Steenkamp, 2007:1).

Several laws were introduced after 1994 to give people (especially farm workers and labour tenants) security of tenure over houses and land where they work and stay. The most important of these are the Extended Security of Tenure Act (ESTA), the Communal Land Rights Act (CLaRA) and PIE. All of these are meant to provide some measure of security of tenure to the most vulnerable individuals in society: the rural poor.

The following are only a few kinds of tenure that exist (Education and Training Unit, 2008):

- **Private ownership**

In this case a person or business owns the land or house. You have to register a title deed to say that the property is legally yours, and you can sell the land or home at any time and recover monies invested in the property

- **Communal ownership**

This implies traditional utilisation of land by an ethnic group organised by a tribal authority, mostly in the former homelands. In the restitution process the law allows for people to own land or property as a group by forming a communal property association (CPA)

- **Renting**

You can rent your home or land as its owner, which could be a private landowner, a company, a local authority or other institution. There are laws that protect the rights of people who rent.

The Department of Land Affairs is responsible to extend security of tenure in diverse ways. In comparison with the other land reform programmes, the tenure reform programme has been the slowest and most difficult to incorporate. A number of acts have been established to address security of tenure in certain areas, which include: insecurity of persons/groups in the former homelands, the ex-South African Development Trust (SADT) areas, former coloured areas, white commercial farm areas, as well as the peri-urban areas where farm workers and farm occupiers are mainly found (Ministry of Agriculture and Land Affairs 2005:54):

Table 4.5: Acts involved in the land tenure reform

Act	Description
Interim Protection of Informal Land Rights Act 31 of 1996	* Protect people with insecure tenure from losing their rights * Deals with tribal land under communal tenure that are registered in the name of the state * Operates in terms of section 25 (6) of the Constitution * Major challenge is the division of communities
Upgrading of Land Tenure Rights Act, 112 of 1993	* Provides for the upgrading of many forms of Tenure

Table 4.5: (Continues)

Communal Land Rights Act, 28 of 1996	* Was promulgated on 14 July 2004 * Now: Communal Land Rights Act 11 of 2004 (CLARA) * Communal Property Associations (CPA) Act 28 of 1996 * Enables communities/groups to acquire, hold and manage property under a written Constitution
Labour Tenants Act (LTA) 3 of 1996	* Provides labour tenants with strong protection against unfair eviction * Gives labour tenants the right to acquire ownership of land they currently occupy or suitable alternative land
Extension of Security of Tenure Act (ESTA)	* Passed in November 1997 * Provides tenure security to occupiers who live on someone else's agricultural land with the consent of the owner or person in charge by preventing unfair evictions

Source: (Ministry of Agriculture and Land Affairs, 2005).

The tenure reform is a particularly complex process. This process involves the interest in land and the form these interests should take. More specifically in South Africa, tenure reform must address difficult problems created in the past. Solutions of these problems may require new systems of land holding, land rights and forms of ownership, and therefore may have far-reaching implications. Policies to support tenure reform had to be developed with extreme care. In order to guarantee this, a two-year period was set aside for consultation on tenure policy, for the implementation of test cases and for the preparation of legislation (White Paper on South African Land Policy, 1997:xi).

Many people expect the land reform process to modernise the communal tenure system in former homeland areas; to strengthen the position of women living in traditional societies; to rapidly create a new class of flourishing black commercial farmers; and to play a major role in relieving rural poverty (Bernstein *et al*, 2005:6).

The Communal Land Rights Act was promulgated in February 2004. Its job is to seek rationalisation in the extremely complex tenure issues in the former homelands. Under this

legislation, those who are occupying land with a Permission To Occupy (PTO) certificate, or other traditional occupation certificates, can apply for ownership. This legislation has had a long and complex period of development and continues to provoke opposition, especially from traditional leaders who fear that the Act may erode their power-base. Concerns about the State's capacity to implement the Act have also been raised (Bernstein *et al*, 2005:12).

According to the White Paper on South African Land Policy (1997:xi), the principles guiding the policy development process and programme action are the following:

- *tenure reform must move towards rights and away from permits*
- *tenure reform must build a unitary non-racial system of land rights to all South Africans*
- *tenure reform must allow people to choose the tenure system that is appropriate to their circumstances*
- *all tenure systems must be consistent with the Constitution's commitment to basic human rights and equality*
- *rights-based approach and adjudicatory principle have to be adopted, which recognise and accommodate de facto vested rights*
- *new tenure systems and laws should be brought in line with the situation as it exists on the ground and in practise.*

Under the Bill of Rights in the Constitution, the government is grateful to develop a law that stipulates the types of vested interests in land that were undermined by discriminatory laws and measures necessary to ensure that such interests in land are legally secure (White Paper on South African Land Policy, 1997:xii).

4.4.1 Issues regarding tenure reform

According to the White Paper on South African Land Policy (1997:29-33), the following issues must be dealt with through the land tenure programme:

- **The second class status of black land rights**

During the so-called apartheid era, Government's policy stipulated that black people were not allowed to own land. This regulation was abandoned in the 1990s. The form of land rights in townships and ex-homelands was generally subservient, permit-based or 'held in trust'. Land was registered as government property or property of the South African Development Trust. Administration of this land was chaotic and insufficient. The result of this unorganised system was that people who had lived for decades on land

found out that they had no legal rights to the land, even if nobody disputed that they were the rightful owners of the land. Some people have Permission to Occupy certificates (PTOs), but others do not. The result is legal insecurity and it makes it difficult for people to protect their land, whether from confiscation or from others coming to settle among them. Another difficulty is that people who have lived on the land find it sold by others who claim to own it. Confusion and unnecessary disputes are the result. In some cases land is registered as state property, and local and provincial authorities may decide to use it without realising the nature of the underlying ownership. This results in a power struggle between the different parties claiming to own the land.

The following are problems that occur because of a lack of legally enforceable rights to land:

- *vulnerability to interference or confiscation of rights whether by state or by other people*
 - *difficulty in securing housing subsidies and other development finance*
 - *no administrative support for the system of land rights that operates in practice, which in turn contributes to internal breakdowns and administrative chaos giving rise to abuse of power by officials, some chiefs and powerful elites*
 - *the position of the poor and the vulnerable is exacerbated by the lack of legal certainty and administrative protections*
 - *unscrupulous individuals take advantage of the lack of enforceable land rights to bring others onto the land in exchange for money and to bolster their personal power*
-
- **Overcrowding and forced overlapping of land rights**

Over 80% of people were squeezed into townships and ex-homeland areas as a result of racial land laws. Overcrowding, poverty and extreme pressure on the land were the result. As indigenous tenure systems came under pressure, agricultural land had to be sacrificed in order to meet basic housing needs. The first priority of tenure reform should be to relieve overcrowding rather than consolidate it. One of the main problems is that no tenure system can operate effectively if overcrowding occurs in places where the programme must be implemented. The problem is further compounded by the fact that different tenure systems and rights exist on top of each other. People were often forcibly removed and resettled on land that others had prior rights on. The result is therefore overlapping rights according to the specific land. In order to restore these rights and settle all problems, government must make additional land available so that those who

have weaker rights are provided with a viable alternative when land rights are formalised.

- **Traditional and communal tenure**

- Underlying rights

Communal systems have been characterised as 'backward' and measures were introduced to privatise and convert communal systems into individual ownership. Confiscation of land rights were often the result. Problems arose regarding the fact that some chiefs, ex-homeland officials and politicians involved in the process took land for personal gain. The legal status of the communal land was weak and this only led to further dispossession. These interventions did not acknowledge that communal systems were based on pre-existing joint rights to land.

- Rights of members under communal systems

Some communal systems do not function democratically and do not uphold the rights of all members. In some parts of the country the rules and practises of communal tenure discriminate against women. Some tribal authorities do not function democratically and operate in ways that undermine the constitutional basic human rights. Group-based land holdings should not conflict with the basic human rights. It is Government's responsibility to ensure this. The challenge is to find a way in which the procedures governing the exercise of group-based rights ensure that all rights holders are able to participate effectively in decisions regarding their joint asset, and that the rules of such systems are consistent with the principle of equality.

- Internal breakdown with communal systems

Many communal systems are suffering from internal breakdown. The reason for this is a lack of discipline and individuals disobeying group rules. This normally occurs as a result of legal uncertainty in respect of the status of the group's rights, partly because old authority systems have broken down and nothing legitimate exists with which to replace them.

In an effort to formalise security of tenure, a much deeper debate has been sparked on the issue of the place, sustainability and future of the traditional system as such. This debate is not uncommon in the whole of the sub-Saharan continent. The issue here is that the traditional system revolves around the power of the tribal chief and traditional authority to allocate land and grant land rights. By the exercising of this power, traditional leaders

maintain control and command over a specific area, maintaining justice and discipline and determining opportunities for the subjects. Legislation to promote the security of tenure of individuals on this land necessarily erodes the power-base of the tribal authority and the chiefs, resulting in their demise. While the South African government has not taken a clear stance on how it perceives the future of the system, the Congress of Traditional Leaders of South Africa (CONTRALESA) has challenged the Constitutionality of the CLaRA legislation in the Constitutional Court.

Elsewhere in Africa, this debate is being rolled out between the two opposite poles of Malawi on the left, who decided to abandon the traditional system altogether and Swaziland on the right, who maintains traditionalism *Über All*.

- **Violence/ Conflict**

Many black tenure systems are characterised by widespread violence. This can be because of overcrowding, desperate land hunger, insecure status of most forms of black land rights, and the lack of administrative support. Another problem is the invasion of land or land that is not securely controlled.

- **Informal settlements in urban areas**

As already mentioned, many South Africans have no other place to stay than the outskirts of the urban areas. Many of these settlements have existed for years. Unless some sort of administration and control takes place, these areas are vulnerable to exploitation by unscrupulous individuals. For this reason, urban tenure upgrading programmes are a necessary first step to achieve stability.

A perfect example of such illegal occupation was the case of the Modderklip Boerdery (Pty) Ltd. During the 1990s, because of overcrowding, residents of Daveyton began settling on a buffer strip of land between Daveyton and the Modderklip farm. This became the Chris Hani informal settlement. During May 2000, some 400 persons, who had been evicted by the municipality from Chris Hani, moved onto a portion of the Modderklip farm and erected approximately 50 shacks. By October 2000, there were about 4000 illegal residential units in which some 18 000 persons were living. In October 2000, Modderklip launched an application and an eviction order was issued in April 2001. The order was served on the occupiers, who were granted two months to vacate, but they failed to comply. It was later estimated that the people on the 50 hectares of farm property numbered 40 000, of whom a third were illegal immigrants (Media Statement, 2004).

In a comprehensive legal action that the land owner launched against the state, all courts from the magistrate's division to the Constitutional court slammed the state and government for the poor management of the Modderklip debacle, and ordered the squatters to be evicted or the farm to be purchased for residential use by the state.

By 2009, the department was still in contempt of court as it had not implemented any of the options prescribed in the judgement.

- **The provision of services and development**

The lack of clarity of the status of black land rights often mitigates against service provision and infrastructural development. The financing of these community schemes rests on the government's shoulders. However, government departments and development agencies are reluctant to finance it when the community does not have legally-secure rights to the land on which the development takes place. Another problem that occurs regarding these individually owned plots is that no land has been set aside for schools and other municipal services. The result to fix these problems is often so complicated, costly and difficult that the proposed development gets delayed indefinitely.

The Extension of Security of Tenure Act (Act 62 of 1997) was drafted in order to address problems of insecure tenure and illegal evictions.

- **Discrimination against women**

Many types of tenure arrangements discriminate against women. The most widely recognised discrimination is that practised under tribal and communal tenure, which has already been referred to. Even under private tenure, women are discriminated against in terms of family law and inheritance provisions.

- **Occupants of privately owned land including farm dwellers**

Millions of people live in insecure arrangements on land belonging to other people. This is a major cause of instability in rural areas. Structural reasons forced them to live in these circumstances. Often no alternative means of survival are available to them. This structural situation is the result of literally hundreds of land-related, racially discriminatory laws introduced and enforced under colonialism and apartheid. This is the reason why current and expected evictions are so terrible. The evicted have no place else to go and suffer appalling hardship. They find themselves at the mercy of other land owners for refuge. If no mercy is shown, land invasion is an unavoidable outcome. It is government's responsibility

to intervene in order to remedy the situation. The *Extension of Security of Tenure Bill, 1997* was designed to handle this situation.

The responsibility to provide for this vulnerable segment of the population cannot be allocated to land owners alone, and tension caused by this issue is mostly the result of inadequate service delivery by the state. One of the major problems of the ESTA legislation is that it is restricted to the agricultural sector, while the extent of the problem on state land, mining land and industrial land seems to be ignored.

4.4.2 Challenges

Tenure reform has different ways of delivering security of tenure. A series of key tasks were developed in order to assist Government in developing the tenure reform programme. These are the most important principles (White paper on South African Land Policy, 1997:60-65):

- **Develop the mechanisms for 'upgrading' *de facto* vested interests in land into legally enforceable rights**

Adjudicatory principles to assess and quantify current vested interests in land will be finalised and set out in law. A procedure is being developed in which stakeholders are involved in a process where concrete solutions are formed. These solutions are measured against criteria that will determine factors to which extent they adequately and fairly encompass the rights of all occupants of the land, cost effectiveness and public interest. If they meet the criteria, government funding in the form of settlement subsidies and compensation will be made available.

- **Protection for occupants of privately owned land**

Where informal land rights exist on land that is privately owned, the rights of the current owners are at issue, and in most instances the upgrading of formal rights in such situations would amount to the expropriation of the rights of current owners. The farm workers and other people on privately owned land are at the same time vulnerable to evictions in terms of old apartheid laws. Tenure reform requires that legislation be promulgated, which protects the rights and interests of both owners and occupants.

- **Forms of ownership**

All land that is redistributed, restored or awarded must be registered in the form of ownership.

- **Family-based ownership**

Family-based ownership is seen within the context of township houses, informal settlements, trust towns and some ex-SADT areas that were allocated to individual families. When the government hands over land to people, they must ensure that all rights are secured in the process. If these measures are not met, it can lead to family breakdown and internal eviction under the legislation that provided for the conversion of leasehold.

- **Group based rights**

The *Community Property Associations Act, 28 of 1996* facilitates this aspect. People involved have a need for an amendment to allow for internal sub-division and registration of individual rights to areas with Communal Property Association boundaries. This act cannot be used for the conversion of pre-existing informal community systems. The Communal Property Association is too complex to be used in a mass-based conversion process.

- **Rights under communal ownership system**

The enquiry process determines which forms of land occupation qualify as rights of underlying ownership. It must provide legal protection for these rights. It must also differentiate between rights that are fundamentally group based and those that operate as individual rights.

- **Gender equity in tenure reform**

The tenure reform process could intend consequences that will have a negative impact on the rights of women. To protect these rights of women, the gender implications of all new measures will have to be assessed and steps taken to avoid certain dangers.

4.4.3 Performances

By December 2004, 171 554 hectares of land had been delivered under the tenure reform programme. Senior DLA officials believe that ESTA has caused a considerable increase in the illegal evictions of farm labourers by farmers reluctant to grant them the new rights of tenure. The department, justice and policy systems lack the personnel and resources to ensure that ESTA is successfully communicated and enforced. All things considered, tenure reform continues to be controversial in policy terms, and the legislation has had unfortunate and unexpected outcomes in commercial farming areas (Bernstein *et al.*, 2005:12). The development of farm worker housing on commercial farms, which for many decades was the

most important contributor to the effort of securing a shelter for rural families, has virtually grinded to a halt. The ESTA legislation also severely impacted the beneficiaries of restitution and redistribution programmes when farm dwellers on land reform farms refused to leave after the land was transferred, hindering agricultural development by the new landowners. According to Bernstein *et al.* (2005:12), tenure insecurity in urban and peri-urban areas may well be a growing problem on which the government has not yet focussed attention.

Table 4.6: Summary of restitution, redistribution and land tenure aspects

Restitution	
Description	- A person/community dispossessed of property after 19 June 1913 as a result of past discriminatory laws or practices - If no equitable compensation was paid - The claim had to be lodged no later than 13 December 1998
Acts	- Land Rights Act - Reconstruction and Development Programme
Compensation	- Provision of alternative land - Payment of compensation - Alternative relief - Access to state resources - Grants: - Settlement/Land Acquisition Grant (SLAG) - National Housing Subsidy
Performances	- Claims settled 1995-2009: 75 400 - Outstanding claims: 4 296
Redistribution	
Description	- Provide land to the poor - Land provided for residential & productive purposes in order to improve livelihoods - Flexible - Assist urban and rural poor, labour tenants & emerging farmers - Land Redistribution Programme - Willing buyer, willing seller
Acts	- Provision of Land & Assistance Act
Compensation	- Settlement/Land Acquisition Grant (SLAG) - Land Redistribution for Agricultural Development (LRAD) - Comprehensive Agricultural Support Program (CASP)
Performances	March 2009: 443 600 4886 ha of land transferred, 501 projects finalised and 14 457 beneficiaries benefited
Land tenure	
Description	- Laws were introduced after 1994 to give people (especially farm workers & labour tenants) security of tenure, over houses and land where they work and stay - 3 Types of tenure - Protect labour tenants from eviction and give them the right to acquire ownership of land that they live on or use - +/- 19 000 claims have been lodged under the Act - Slowest and most difficult to incorporate

Table 4.6: (Continues)

Acts	- Interim Protection of Informal Land Rights Act - Upgrading of Land Tenure Rights Act - Communal Land Rights Act - Labour Tenants Act - Extension of Security of Tenure Act (ESTA)
Compensation	- Grants - Provision of farm land - Payment of compensation
Performances	- Commercial farms decreased from 57 980 in 1939 to 45 818 in 2002. In 2002 ± 200 000 farm workers were dismissed and commercial farmers decreased from 68 647 to 46 027

4.5 Conclusion

One of the most sensitive aspects of land reform is the balance between food production on commercial farms and the emotional need for land. The failure of land reform has cost South Africa large amounts of money. South Africa has become a net importer of food. This is not only land reform's fault, but it has most certainly played a major role. On the other side are the previously disadvantaged to whom land has been promised. Not only is there a great degree of uncertainty regarding the future of the farmers currently farming on claimed land, but the claimants also have a great deal of uncertainty. Both commercial farmers and claimants must do future planning and it seems if they will once again be disappointed by government.

The constitutional and legal framework for land reform was carefully planned, as were the programmes to implement it. When it came to the execution something went terribly wrong and it is clear that the department lacks the managerial capacity, leadership, expertise and human capital to turn the well-planned legal framework and programmes into tangible results.

The time framework to implement land reform through its different programmes was planned incorrectly from the start. Instead of bringing all parties involved to a table to discuss the way forward, government took land reform in its own hands and tried to transfer farm land from commercial farmers to upcoming farmers as soon as possible. The government's mission was to transport land as quick as possible to brag with figures, not taking into consideration the emotions of all parties involved, and most importantly, not planning where tomorrow's food would come from while upcoming farmers were in the process of learning to take over.

It is widely believed that if the poor are furnished with an asset such as land, or overall wealth distribution, they will be able to also uplift themselves. According to this belief, the poor will then

be able to obtain the knowledge to start their own businesses. Government is also a firm believer of this statement, which explains why it so generously and freely gives the poor land, expecting them to manage the farm in such manner that it is still as productive, or even develop the farm to a better state than it was, at hand-over.

Chapter 5 – Land reform vs. spatial planning and development

5.1 Introduction

South Africa has one of the best legal frameworks in terms of constitutional guarantees for land ownership and the restitution law of 1994. At the National Land Summit in 2005, the government took a step towards the composition of frameworks in order to resolve land reform issues and still salvage spatial development in rural towns affected by land reform.

The frameworks that are managed on national level are the Pro-active Land Acquisition Strategy (PLAS) and Area Based Planning (ABP). Both are regulated by government with management on national, provincial, district and local levels in order to ensure that these strategies are implemented and sustainable. Although ABP is a facet of the District Integrated Development Plan, it is still managed on national level.

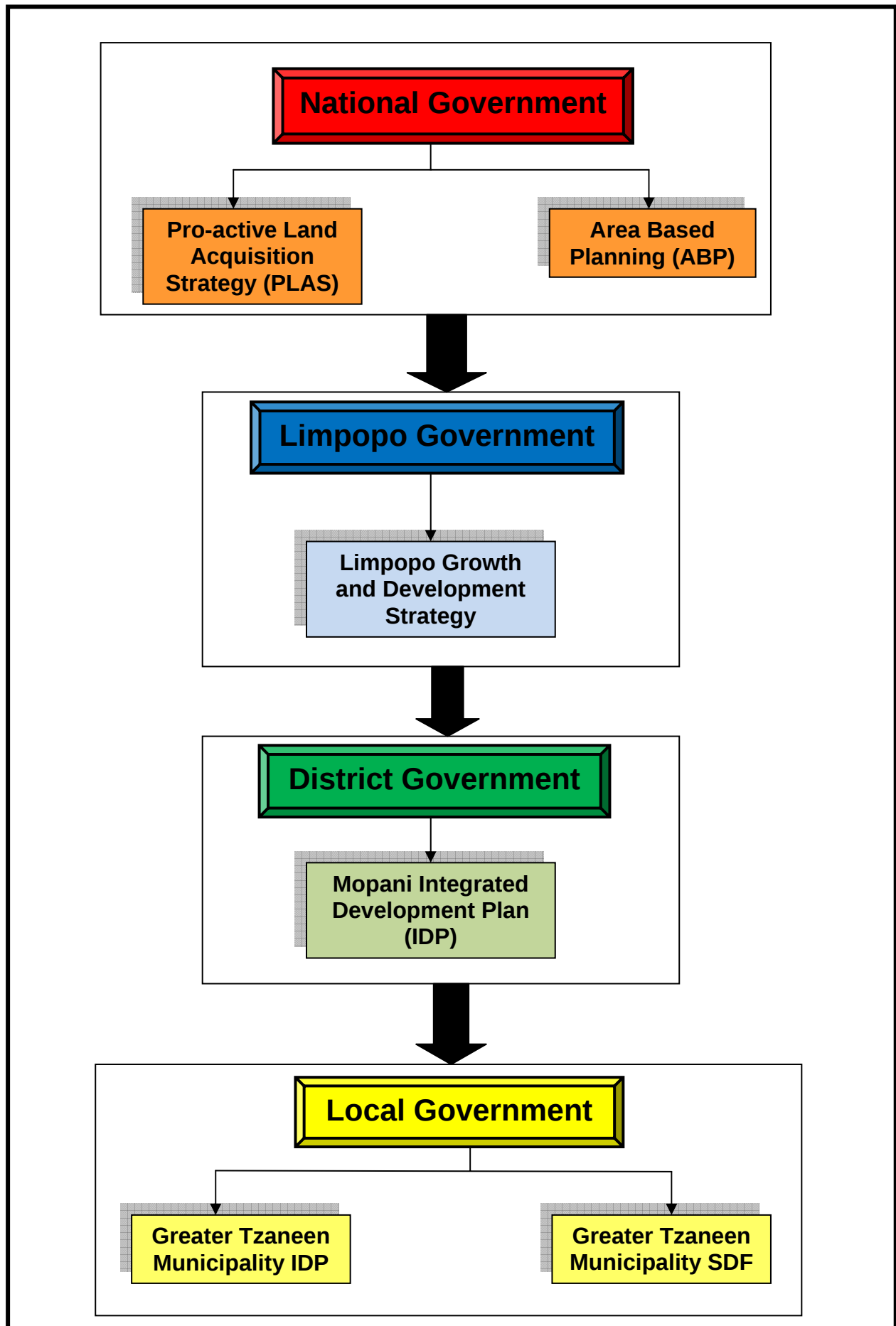
The Minister, in her budget speech to parliament on 18 May 2007, stated the following (South Africa, 2009d):

“We will also introduce Area Based Land Reform Planning. This is a fundamental tool for the integration and alignment of land reform to the strategic priorities of the Province, municipalities and other sectors.”

Based on the case study area, on provincial level, the Limpopo Growth and Development Strategy (LGDS) was developed to ensure spatial growth on provincial level. *The LGDS was developed in order to “advance the growth of the economy in a manner that attracts investment, create sustainable jobs and ultimately, improve the living conditions of the people of Limpopo”* (South Africa, 2005a:i).

The Mopani Integrated Development Plan (MIDP) was developed on district level to manage spatial growth and development on district level. Unfortunately, the Mopani Spatial Development Framework is still in its draft stage and not yet available.

On local level, the Greater Tzaneen Municipality (IDP) and (SDF) were developed to manage and control spatial development, as well as facilitate land reform in the municipality.



5.2 State-driven Proactive Land Acquisition Strategy

At the National Land Summit of 2005, the minister of Land Affairs reaffirmed that one of the measures that needed to be in place was *“to ensure that land and agrarian reform moves to the new trajectory that will contribute to the higher path of growth, employment and equity by 2014”* is the *“introduction of proactive land acquisition by the state for targeted groups in the land market.”* The implementation of the Proactive Land Acquisition Strategy (PLAS) will contribute to the higher path of growth, employment and equity by 2014 (South Africa, 2006a:4).

According to South Africa (2006a:4), the main advantages of the Proactive Land Acquisition Strategy are to:

- accelerate the land redistribution process;
- ensure that the Department of Rural Development and Land Reform can acquire land in the nodal areas and in the identified agricultural corridors and other areas of high agricultural potential to meet the objectives of Accelerated Shared Growth Initiative (ASGISA)
- improve the identification and selection of beneficiaries and the planning of land on which people would be settled; and
- ensure maximum productive use of land acquired.

This approach is primarily pro-poor and based on purchasing advantageous land i.e. either because of the property's location, because it is especially amenable to subdivision, because it is suitable for particular agricultural activities that government would like to promote *vis-à-vis* redistribution, and/or because it is an especially good bargain (South Africa, 2006a:5).

5.2.1 Legal framework

The Provision of Land and Assistance Act, Act No 126 of 1993, Section 10(1) (a) gives legal effect to the proactive acquisition of land:

“The Minister may, from money appropriated by Parliament for this purpose -... (a) acquire land for the purposes of this Act”.

Section 10 has been delegated to Provincial Chief Directors (CDs) and this gives them the authority to purchase land without first identifying beneficiaries if it is for the purposes of Act 126 (South Africa, 2006a:5).

Once it has been made farmable, Section 11 of Act 126 can be invoked to dispose of the land. It is therefore not necessary to process applications through the Provincial State Land Disposal Committees, because Section 11 of Act 126 affords the Provincial CDs the discretion to sell, exchange or donate any land acquired in terms of Act 126 for the purpose of Act 126 or if the land is not required for the purposes of the Act. However, it should be noted that Section 11 is a partial delegation and the power to impose terms and conditions still vests with the Minister. The approved terms and conditions will allow Provincial Chief Directors to dispose of land acquired through Act 126 and it will be a non-negotiable aspect of the Provincial Grant Committee's approvals process. In this way all proactive projects, if they comply with the Ministerial terms and conditions, need not be sent through the state land disposal route (South Africa, 2006a:5).

5.2.2 Corridor approach, agricultural development within nodal areas and land for housing

The proactive strategy supports the concept of the agricultural development corridors and should increase economic growth and development of rural towns. The agricultural development corridors focus on developing agriculture along the major arterial routes (N1, N2 etc), guided by the principle of exploiting agricultural potential in the rural towns scattered along these routes. By using these models, the proactive strategy is to deliver land; land can be acquired and used for agricultural purposes through area-based planning and development. The inception of the Integrated Sustainable Rural Development Programme (ISRDP) and the Urban Renewal Programme (URP) in 2001 ushered in a renewed focus on a new approach to integration at a local level in South Africa. Twenty-one nodal areas (both rural and urban) were identified in order to develop a model that would inform an overall strategy of government working in a new integrated way to produce results. The proactive strategy is one method of fostering integrated planning and development in such areas (South Africa, 2006a:8).

The proactive strategy is also aligned with the Department of Housing's various programmes linked to the fast tracking of housing delivery. Central to the programme is the acquisition of well-located land for low-income housing where the Department has committed to make funding available for land acquisition. The Department together with the Department of Housing will manage the systems for delivering land for housing (South Africa, 2006a:8).

Proactive land acquisition must be executed within the ambit of local/district level IDP processes or the area-based planning approach. However, the DLA need not necessarily wait for local

level structures to approach the DLA for land (as is currently the situation), but could actively assist local level structures to determine land needs, select appropriate beneficiaries and identify suitable land. Thus municipalities and/or local/district agriculture may actively identify land and beneficiaries, and then approach the DLA for funding assistance for planning and land acquisitions. In terms of the District Level Delivery (DLD) process, a proactive land reform strategy would improve and add to an efficient land delivery process (South Africa, 2006a:9).

5.2.3 Financial mechanisms

The proactive approach would allow the DLA to acquire land in terms of Act 126 [Section 10 (a)] based on the selling price, expropriation or auction price without attaching beneficiaries to such land. Once beneficiary selection has been finalised, beneficiaries are expected to lease with an option to purchase and lease fees would also be taken into account once the applicants are ready to acquire full ownership of the land after being assessed by the Department of Agriculture (South Africa, 2006a:10).

Once the trial-lease period has expired, the land can be disposed of to the same beneficiaries if they have been satisfactorily assessed by the Department of Agriculture. A “qualifying grant” based on the LRAD grant system would be made available to beneficiaries and discounted against the purchase price. The sale price of the land would have been fixed at acquisition by the DLA. A further discount of 30% would be offered to all qualifying beneficiaries. If grants and the discounts are still not enough to reach the purchase prices, then beneficiaries should be assisted to obtain finance from:

- Commercial financial institutions;
- Development financial institutions such as the Land Bank; or
- MAFISA

5.2.4 Re-settlement models

According to South Africa (2006a:11-12) there are seven re-settlement models through which the Proactive Land Acquisition strategy can be implemented. These models can be implemented through mixing and matching various grants and services of the different government departments e.g. agri-villages and Kibbutz-type development can be implemented by combining grants and services from DLA (land acquisition), DoA (CASP, agricultural starter packs and extension), Department of Housing (building the houses) and local government for municipal services. Each of these models will be integrated into local development strategies:

- Agri-village
- Small holdings
- Settlement and commonage
- Establishing black commercial farmers
- Sustainable human settlements
- Commonage
- Kibbutz-type development

5.3 Area-based planning

The area-based plan is seen as a sector plan of the broader municipal district Integrated Development Plan (IDP). The idealised description of the Area-Based Plan (ABP) process is closely aligned to the municipal IDP process (South Africa, 2007a: 3).

The objectives of ANP are:

- to improve the alignment and sustainability of land reform projects;
- to promote sector alignment: agriculture, Local Economic Development, Integrated Sustainable Human Settlements, tenure security/upgrade linked to the provision of basic services;
- to promote the objectives of intergovernmental relations with municipalities and sector departments; and
- to empower communities to participate actively in project formulation and implementation of land reform projects.

Given these objectives, one of the guiding principles in Area-Based Planning is integration and alignment with other relevant departments, and involvement of other key interest groups, in developing a developed centred land and agrarian reform that conforms to inter-sectoral needs and objectives in ways that provide meaningful development outcomes from communities involved in land reform programmes (South Africa, 2007a:3).

The emphasis here is not land transfer *per se*, but rather enabling land transfer to be done within a context that complements other development processes such as municipal IDPs and Provincial Growth and Development strategies. In this regard, IDPs should also ensure service provision for communities living on commercial farms. The national sphere of government must provide both guidance and adequate funds to municipalities in order to handle these issues (South Africa, 2007a: 3).

5.3.1 Area-based planning process

According to South Africa (2007a:3), the core area-based planning process comprises five phases:

1. A situational analysis
2. Vision strategy formulation and conceptualisation of focus areas
3. Project identification and definition of programmes
4. Integration and prioritisation and
5. Approval

These five planning phases are preceded by preparation phases. These phases are identical to those of the broader districts IDP process.

1. National level

At a national level, ABP will be the responsibility of the national ABP manager within DLA. The national manager would be assisted by a panel of experts. The national manager will be required to convene and coordinate a national ABP steering committee. The operations of the steering committee will be governed by an ABP partnership protocol entered into between the DLA and core ABP partner departments and agencies. The national steering committee will report, through the DG of Land Affairs, to the DGs cluster, and in turn to a relevant inter-ministerial forum (South Africa, 2007a: 5).

2. Provincial level

At provincial level, an ABP manager will be placed with the Provincial Land Reform Office (PLRO). The provincial manager will be supported by a panel of provincial experts. The ABP manager is responsible for convening and coordinating a Provincial ABP Steering Committee (PSC). An implementation protocol will be entered into between DLA and implementing partners. Such protocols would clarify the objectives of the ABP initiative, set out the roles of partner agencies as well as structures such as the PSC, and state what the channels of accountability and communication will be. The District Land Reform Offices (DLRO) will also engage on an ongoing and formal basis with the provincial IDP forum. The forum should ideally be involved in the approval of provincial ABPs. The forum also plays an important role in assisting with provincial growth and development priorities, and ensuring that adjoining district plans inter-related with one another (South Africa, 2007a: 5).

3. District level

The proposed area-based approach to land reform is driven from the district level. Towards this end, District Land Reform Offices (DLRO) will be established to undertake ABP and to drive district land reform implementation. Operationally, responsibility for ABP resides with the Chief Town and Regional Planner in the District Office, although a great deal of the planning process itself will be implemented by service providers contracted for that purpose.

Given the ABP is synchronised with the IDP, the IDP steering committee is an important district-level institution. As part of preparation for the ABP, the DLRO needs to ensure that the IDP steering committee includes an ABP sub-committee. The DLRO would be responsible for convening and coordinating this sub-committee. The district council plays an important role in approving the final area-based plan. It is critical to ensure buy-in from districts to ABP prior to ABP roll-out. The DLRO reports directly to the PLRO and the provincial ABP steering committee (South Africa, 2007a: 5-6).

5.3.2 Area-based land reform planning

Area-based plans are proposed as the fundamental tool for the integration and alignment of land reform with the strategic priorities of the provinces, municipalities and key sectors of agriculture, Local Economic Development (LED) and Sustainable Human Settlement. The ABP will be an integral part of the IDP and will serve as a catalyst for land-related developments at a Municipal level. ABPs will be aligned to the Agricultural, LED, Sustainable Human Settlement, and other relevant sectors of an IDP. It will enable the Department of Land Affairs and municipalities to formulate pro-poor strategies that will enable greater access to and participation in land and agrarian reform initiatives. While the ABPs will be formulated at a District Level to indicate linkages and opportunities for economies of scale, the ABP will equally focus on all local municipalities within their respective clusters (South Africa, 2007a:40).

The Area-Based Planning (ABP) is a tool for the sustainable delivery and integration of land and agrarian reform programmes within the strategic priorities of municipalities (as expressed in IDPs), national programmes and provincial imperatives (South Africa, 2007a:40).

The ABP is designed to speed up the land reform programme while at the same time providing for enhanced economic development. It is therefore an important tool in the delivery of key national policy objectives such as Accelerated and Shared Growth Initiative of South Africa (South Africa, 2007a:40).

The ABP represents a land sector plan that will be the key vehicle for enhanced integrated planning and a platform for better intergovernmental relations and public participation. The ABP will facilitate forward planning in areas such as resource mobilisation, service delivery and proactive land acquisition (South Africa, 2007a:40).

5.4 Limpopo Growth and Development Strategy

The Limpopo Province adopted a Growth and Development Strategy (LGDS) at the stakeholder summit held on 15 October 2004. The strategy is a culmination of various discussions with stakeholders from all sectors towards realising the dream of sustainable and integrated development that seeks to promote economic growth and development, improve the quality of life of its citizens, raise the institutional efficiency of government, attain regional integration and enhance innovation (South Africa, 2005a:ii).

The LGDS asserts that smart partnerships are essential among stakeholders in development if Limpopo is to realise its vision of sustainable and integrated development. It is only through the collaboration of all stakeholders that the proposed development targets contained in the LGDS will be achieved and whereby the vast development potential of Limpopo and the region can be realised. The implementation of the LGDS is handled through seven industrial cluster committees, the LGDS Advisory Council, Cluster Committees and Policy Co-ordination Unit (PCU) and the Office of the Premier. And finally, the LGDS makes provision to incorporate the National Planning Framework and District/Municipal IDPs with provincial development imperatives (South Africa, 2005a:ii).

5.4.1 Provincial development objectives

Following the outcome of various international, national and provincial programmes and initiatives such as the World Summit on Sustainable Development, NEPAD, the National Spatial Development Program, the National Growth Summit, the Integrated Sustainable Rural Development Strategy, Land Reform and Land Restitution Program, the National Skills Development Strategy, the National Housing Policy and the policy on free basic services and the National Crime Prevention Strategy, the province adopted five development objectives for itself whose performance indicators correspond to those of the Millennium Development Goals. These objectives are:

- The need to improve the quality of life of the population of Limpopo;
- Growing the economy of the province;

- Attaining regional integration
- Enhancing innovation and competitiveness; and
- Improving the institutional efficiency and effectiveness of government.

5.5 Mopani Integrated Development Plan (IDP)

5.5.1 Geographic location and key features

The Mopani District Municipality is situated in the North-eastern part of the Limpopo Province, 70km from Polokwane (capital of the Limpopo Province). It is bordered in the east by Mozambique, in the north by Zimbabwe and Vhembe District Municipality, in the south by Mpumalanga through Ehlanzeni District Municipality and to the west by Capricorn District Municipality and, in the south-west by Sekhukhune District Municipality. The district spans a total area of 2 242 183 ha (22 421.83km²), with 15 urban areas (towns and townships), 325 villages (rural settlements) and a total of 106 wards. The Mopani District, by virtue of the Kruger National Park as a District Management Area, is part of the Great Limpopo Transfrontier Park, the park that combines South Africa, Mozambique and Zimbabwe (Mopani District Municipality, 2008:20).

The reconciled total population of the Mopani District Municipality for 2006 is 1 223 747. The population for each municipality within Mopani District is presented in the table below. Out of the district's population of 1 223 747, 81% reside in rural areas, 14,2% in urban areas and 4,6% on farms (Mopani District Municipality, 2008:21).

Table 5.1: Estimated population, 2006

Municipality	Population	Rural	Urban	Farming
Greater Giyani	276 668	247 585	29 083	0
Greater Tzaneen	442 282	362 453	45 836	33 993
Greater Letaba	260 286	245 523	14 763	
Ba-Phalaborwa	137 264	49 633	69 950	17 681
Maruleng	107 247	95 162	2 494	9 591
Mopani/Total	1 223 747	100 0356	162 126	61 265

Source: MDM, (2008:21).

5.5.2 Powers and functions of the Mopani District Municipality

The powers and functions of the District Municipality in terms of the Provincial Notice No. 309 of 2000, Government Gazette 615 are as follows:

- Integrated development planning for the district municipality as a whole, including framework for integrated development plans for local municipalities within the area of the district municipality, taking into account the integrated development plans for those municipalities;
- Bulk water supply that affects a proportion of municipalities in the district;
- Bulk electricity supply that affects a significant proportion of municipalities in the district;
- Bulk sewerage purification works and main sewerage disposal that affect a significant proportion of municipalities in the district;
- Solid waste disposal sites serving the area of the district municipality as a whole;
- Municipal roads that form an integral part of road transport system for the area of the municipality as a whole;
- Regulation of passenger transport
- Municipal airports serving the area of the district municipality as a whole;
- Municipal health services serving the area of the district municipality;
- Promotion of local tourism for the area of the district municipality as a whole;
- The receipt, allocation and, if applicable, distribution of grants made to the district municipality.

Strategic themes were introduced in the IDP as the focus of strategic process that needs to be achieved in terms of the vision and mission. In essence, the Mopani District Municipality identified three strategic themes that will enable them to address and deliver their mandate (Mopani District Municipality, 2008:9).

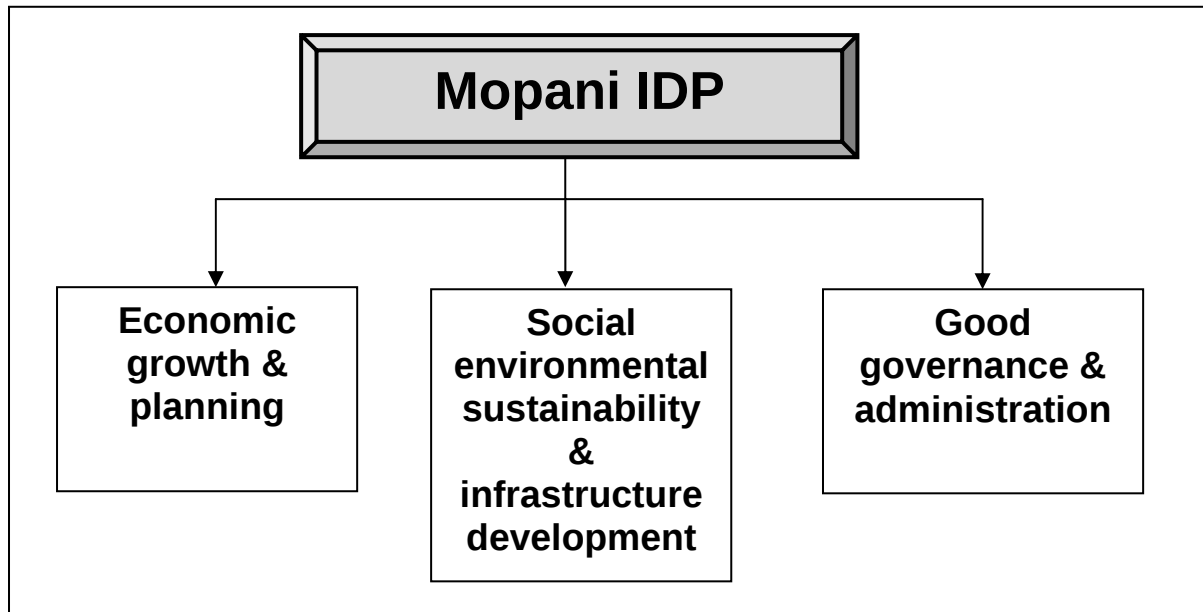


Figure 5.1: IDP Strategic Themes

Source: Mopani District Municipality, (2008:9).

5.5.3 Local planning context

At local level, a number of fundamental issues affect the planning processes of the district municipality. Firstly, as with all other district municipalities, the Mopani District Municipality (MDM) does not have a distinct area of its own, but shares the same operational area with the Greater Tzaneen, Greater Letaba, Greater Giyani, Ba-Phalaborwa and Maruleng local municipalities. These local municipalities are also engaged in integrated development planning in their own respective municipal areas (Mopani District Municipality, 2008:13).

Secondly, the Mopani District Council has different roles, powers and functions to those of the local municipalities. Among these is the role of coordinating and supporting service delivery across the three spheres of government. The district municipality is compelled to involve various stakeholders in its quest to integrate planning, align programmes and projects and ensure coordinated service delivery. In order to realise this objective, the district municipality strives (and is yet) to play its role more effectively and strategically to ensure that various governmental actors, developmental agencies, the private sector and parastatals harmonise their developmental work through consensus-seeking dialogue during the IDP-preparation, implementation and review processes. The district municipality is currently expected to play a role of pro-active coordination and support to the local municipalities and sector departments (Mopani District Municipality, 2008:13).

Thirdly, the MDM neighbours a range of other districts that affect delivery within its area of jurisdiction. This is, in some cases, due to overlapping service delivery areas that do not correspond with district boundaries and which therefore require inter-district alignment. The IDP process is useful in this regard, as it provides an arena to forge greater inter-district planning and implementation. As such, it will also ensure integrated, cost effective and qualitative delivery of public services (Mopani District Municipality, 2008:14).

The MDM is responsible for facilitating inter-governmental relations within its area of jurisdiction. In line with the Intergovernmental Relations Framework Act, MDM has taken upon itself the task to improve intergovernmental engagements, thereby ensuring that proper inter-governmental planning guides public, private and donor investment in the district (Mopani District Municipality, 2008:18).

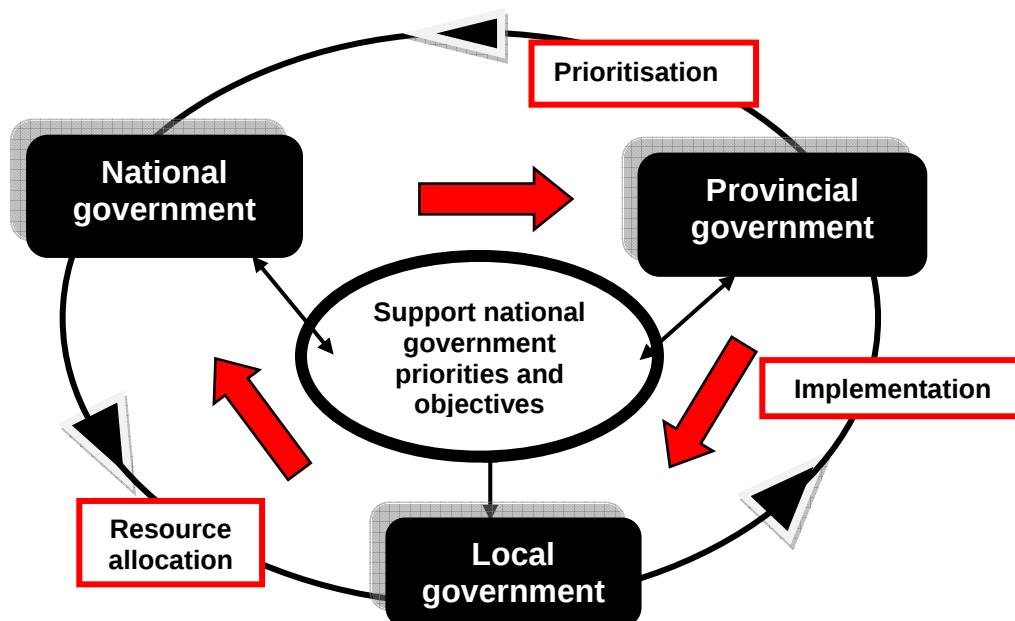


Figure 5.2: Inter-governmental Relations

Source: Mopani District Municipality, (2008:18).

5.5.4 The extent of land claims

Land ownership is still a contentious problem in the district. A total of 349 land claims have been received in the district. Of the total number of claims received within the five local municipal areas, Greater Letaba has by far the majority of these land claims (159) and Greater Giyani the least (11 land claims). It is, however, not the number of claims as such that is very important, but the extent of the land claimed as restitution. Approximately 140 189 ha, representing approximately 46,73% of the total local municipal area of Ba-Phalaborwa, is subject to land

claims. It is followed by Greater Letaba with approximately 91 812 ha, representing 48,55% of the total area of the municipality, which is subject to land claims. Only approximately 6,28% of the Greater Giyani Local Municipal area is subject to land claims, representing 18 633ha (Mopani District Municipality, 2008:28).

In total, approximately 298 000ha (representing 26,85% of the total area of the Mopani District) is subject to land claims. The extent of land claims in this district and the potential impact it may have depending on the outcome of investigations is quite substantial and may impact heavily on the spatial development framework of the district municipality, and specific local municipalities such as Ba-Phalaborwa and Greater Letaba (Mopani District Municipality, 2008:29).

“On the one hand, land restitution and redistribution processes may result in many people obtaining access to land, resulting in improved living standards and quality of life. On the other hand, it could result in large-scale sterilisation of economically productive land (e.g. high potential agricultural land, mining of certain minerals, nature conservation areas etc) and consequential loss of job opportunities if not well planned and managed within the context of spatial development framework that considers all these factors” (Mopani District Municipality, 2008:29).

5.5.5 Economic sector analysis

The sector that contributed the most to the GDP in the Mopani District is the mining sector (30%), followed by the general government services sector (17%) and finance and business services sector (15%). This shows the same trend as in the Limpopo Province where mining is by far the largest contributor to the GDP. The contribution of agriculture to the GDP has grown more on provincial and district level than on national level. The mining sector has grown on national level as well as on district level, while the manufacturing sector has grown slightly less on regional level (Mopani District Municipality, 2008:31).

The primary sectors, which include the agriculture and mining sectors, have shown positive growth with regard to GGP contribution to the district. The agricultural sector showed the most growth in Greater Giyani (9,6%) and a negative growth rate of -0,6% in Ba-Phalaborwa, while there was growth of between 5% and 6% in the Greater Tzaneen, Greater Letaba and Maruleng Municipalities. In both Greater Giyani and Ba-Phalaborwa the mining sector indicated a growth rate of approximately 5%, while there was less growth in the Greater Tzaneen and Maruleng

Municipalities. Greater Letaba was the only municipality with a negative growth rate of -2,6% in the mining sector (Mopani District Municipality, 2008:31).

Agriculture is the most important economic sector in Greater Tzaneen, Greater Giyani, Maruleng and Greater Letaba. Citrus fruit such as oranges and grapefruit are produced commercially and small-scale in the Greater Tzaneen Municipality. The fruit are either exported out of the district in its raw state or sold for further processing into juices, pulp and dried fruit. Furthermore, sub-tropical fruit including mangoes, avocados and bananas are grown in the Greater Tzaneen, Maruleng, Greater Letaba and Greater Giyani areas. In Greater Giyani, bananas are mostly grown within the Middle Letaba Irrigation Scheme. These sub-tropical fruit are also either sold to outside markets or used for further procession such as juices, atjar, dried fruit and pulp. The ZZ2 farms that are located in the Greater Letaba Municipality (Mooketsi area) produce approximately 60% of the tomatoes grown in the country. These tomatoes are exported or processed into juices, puree, paste etc. (Mopani District Municipality, 2008:32).

5.5.6 Localised “spatial strategic guidelines”

The purpose of designing the localised spatial strategic guidelines is to ensure that national spatial development principles are applied in a manner related to specific local issues when strategies are designed and projects are planned. There are a number of factors that need to be considered when spatial planning is undertaken in the district. Firstly, the apartheid spatial legacy still characterises the spatial pattern of the district with huge disparities in levels of service provided to different areas and in terms of economic activity. The spatial legacy also reflects distance between places of residence and places of work for the majority of the population in the district. New land development within the district should emphasise an attempt to minimise the distances between places of residence and work, or when and where possible, should integrate these uses (Mopani District Municipality, 2008:72).

Secondly, there are currently 394 land claims in the Mopani district. The extent of these claims in the district and the potential impact they may have depending on the outcome of investigations is quite substantial and may impact heavily on the Spatial Development Framework (SDF) of the district municipality, and specifically the Ba-Phalaborwa and Greater Letaba Municipalities (Mopani District Municipality, 2008:72).

Thirdly, spatial planning at the district and local municipalities needs to take into consideration principles contained in the Development Facilitation Act, which indicates that land development should result in security of tenure, provide for the widest possible range of tenure alternatives,

(including individual and communal tenure) and in cases where land development takes the form of upgrading an existing settlement, not deprive occupants of homes or land. Where it is necessary for land or homes occupied by them to be utilised for other purposes of their interests in such land or homes, they should be reasonably accommodated in some other manner (Mopani District Municipality, 2008:72).

Fourthly, the localised spatial strategic guidelines should take into cognizance the fact that the Mopani district Municipality is faced with the mushrooming of unplanned settlements because of illegal occupation of land. It is within this context that the municipality finds it difficult to deliver services such as water, sanitation and roads to unplanned settlements. No settlement/occupation of land will be allowed within the district without following a legal township/settlement establishment process. Land for settlement should be provided at a rate that meets the demand and housing needs. Land to meet these needs should be identified according to the guidelines contained in the Provincial Spatial Rational and the District spatial Development framework (Mopani District Municipality, 2008:72).

New land development should promote the establishment of a range of different types of land uses. All land development initiatives should also minimise interference with the natural environment and avoid settlement in places of high risk. The policy framework of the district municipality should encourage public-private partnerships for land development. Land Use Management Systems should be developed to manage land use in the district (Mopani District Municipality, 2008:72).

5.6 Greater Tzaneen Municipality Integrated Development Plan (IDP)

The Integrated Development Plan (IDP) is a strategic tool that will enable the municipality to eliminate the fragmented planning and implementation processes of the past and bring together the different initiatives and resources in order to do more with the minimum resources and increase synergy. The focus and priority should be the poorest of the poor; where the IDP's holistic nature forces us to be people-centred and environmentally sustainable addressing the following issues (Greater Tzaneen Municipality IDP, 2007:6):

- Basic needs orientation
- Poverty alleviation and gender equity

- Environmental soundness and sustainability
- Promotion of economic growth, income and employment generation
- Involvement of communities, residents and stakeholders
- Sustainability of services, settlement and municipalities
- Spatial principles of integrated, liveable and compact towns and cities and equal consideration of formal and informal settlements

5.6.1 Description of municipal area

Land ownership in the municipal area is characterised by (Greater Tzaneen Municipality IDP, 2007:11):

- Approximately 66% of the total land area in private ownership, ranging from smallholdings to extensive farms, used mainly for commercial farming activities;
- Approximately 33% of the total land area in ownership of the State, under custodianship of six traditional authorities; and
- Land of negligible extent being municipal commonage

The Greater Tzaneen Area has experienced an average economic growth rate of approximately 3,5% per annum, compared to 4,9% for the Lowveld and 6,3% for the Limpopo Province. The local economy is reasonably well diversified. Apart from the service sector (26%) and agriculture contributing 21% to GGP, manufacturing (20%), trade and catering (14%) form the backbone of the Greater Tzaneen economy. This is a healthy base for further growth in the economy (Greater Tzaneen Municipality IDP, 2007:18).

Two sub-sectors that contribute to the agricultural sector are the commercial and small-scale sub-sectors. The latter is also referred to as subsistence. The commercial sub-sector in the Greater Tzaneen Municipality is run on a larger scale, and predominantly by white people. It is well established contributing significantly to the agricultural sector and the economy. A lot of raw produce from this sub-sector is transported out of the area for external processing, due to a lack of processing facilities within the municipal area. The lack thereof hinders the area's economic growth as a considerable amount of money is spent on transporting raw goods that eventually return to the area processed and expensive (Greater Tzaneen Municipality IDP, 2007:19).

5.6.2 Spatial analysis

The purpose of spatial analysis is to ensure that the spatial strategies and land use management decisions of the municipality are based on an awareness of (Greater Tzaneen Municipality IDP, 2007:28):

- spatial constraints, problems, opportunities, trends and patterns;
- the necessity for spatial restructuring;
- the need for land reform; and
- the spatial dimension of development issues

The spatial analysis component has strong backward and forward linkages to the rest of the process and is totally dependent on the accuracy and comprehensiveness of critical data such as population, population distribution, existing service networks, natural and artificial constraints (topography, land ownership, etc.), and existing development patterns (Greater Tzaneen Municipality IDP, 2007:28).

Legislation and policy that currently affect spatial planning and development, include the following (Greater Tzaneen Municipality IDP, 2007:28):

- Chapter 1 of the Development Facilitation Act, 1995;
- Housing Act, 1997 (Act 107 of 1997);
- Housing White Paper and National Housing Code, March 2000;
- White Paper on Spatial Planning and Land Use Management;
- National Environmental Management Act, 1998 (NEMA);
- Communal Land Rights Act, 2004 (Act 11 of 2004).

It is important that the future spatial planning within Greater Tzaneen Municipality is done in compliance with, and in support of, mentioned legislation.

The population of the Greater Tzaneen municipal area is concentrated in two clusters of towns and villages, the first being the Nkowankowa/ Lenyenye cluster, where 253 000 people (51%) live in 63 towns and villages on 47 778 residential stands, and the second being the Mamitwa cluster where 98 000 people (20%) live in 34 villages on 17 907 residential stands. It has also been ascertained that 10 767 households (11, 47%) live in proclaimed towns, while 83 058 households reside in rural villages and/or informal settlements (Greater Tzaneen Municipality IDP, 2007:30).

Business and industrial development is concentrated in Tzaneen town, where there are 402 retail businesses and industries on 298 stands concentrated in the CBD and industrial areas of the town. In addition, the town boasts a full complement of financial and banking institutions and facilities, plus an extended office zone. A total of 37% of all businesses and industries within the municipality are concentrated in one town on 48,7% of land designated for this purpose (158 ha out of a total of 324 ha). A further characteristic of especially the business development in Tzaneen is its sophistication in relation to the rest of the municipal area (extreme variety of goods and services, variety of choice and competition) (Greater Tzaneen Municipality IDP, 2007:32).

Since 2006, the need for retail shopping centres was evident with applications from three developers to extend existing malls and construct two additional shopping centres. The demand was supported by the more than 200% increase in residential development experienced in Tzaneen town (Greater Tzaneen Municipality IDP, 2007:32).

Industrial development also experienced a boom in 2006 with Council having a waiting list of more than ten investors intending to invest in the industrial area of Extensions 18 and 40. The moratorium with effect from 2006 on the selling of industrial land prevented the selling of the available land to investors, which had a negative effect on industrial development and job creation (Greater Tzaneen Municipality IDP, 2007:32).

5.6.3 Spatial constraints

The following constraints influence the evolution of a beneficial spatial pattern, thereby disrupting the balance between economy and environment, and placing a burden on a scarce resource (Greater Tzaneen Municipality IDP, 2007:35):

- **Topography**

A large percentage of land area within the municipal area cannot be considered for urban development due to the mountainous nature of the terrain, although this situation has other advantages in respect of water catchment areas, tourism value, climate, etc. Approximately 22% of the municipal area is taken up by inhibiting slopes that occur mostly along the southern and western perimeters of the municipal area.

- **Urban Sprawl**

The fragmented and dispersed nature of the urban component of the municipality has caused inefficient duplications of networks and hinders the creation of a core urban complex essential for a healthy spatial pattern. Unplanned informal settlements without access to services complicate the design of an optimal spatial pattern. A further contributing factor is the continued demarcation of residential stands at villages outside nodal areas and population concentration points, where provision of services is an added backlog problem.

- **Land ownership**

Inaccessibility of land caused by ownership in the name of the State and other related factors is a serious constraint to the harmonious development of the municipal area. This situation inhibits township extension and development of business areas. This is exacerbated by the lack of finance on the part of the municipality to acquire land for development.

- **High potential agricultural land**

Large areas of the municipal area are taken up by land with high agricultural potential. It is imperative that this resource be protected for the economic well-being of the area. This situation influences the spatial pattern of the municipal area.

- **Environmentally sensitive areas, nature areas, greenbelt areas**

These essential components to a balanced spatial pattern could also be considered to be constraints.

- **Mining areas**

Currently there is competition between the holders of mining rights and surface rights in certain areas within the municipal area, which places constraints on the pattern, and would have to be resolved to the detriment / benefit of the parties involved.

The configuration of the municipal area and the existing spatial pattern (topography, population distribution and sprawl) together with causal factors (land ownership, established land uses) are impediments to the successful implementation of a development strategy to achieve the four developmental outcomes proposed in the White Paper on Local Government. Natural constraints to the spatial pattern, such as steep topography, are fixed, and will continue to exert

influence on spatial development initiatives for as long as the resident population cannot afford to pay for expensive infrastructural services (Greater Tzaneen Municipality IDP, 2007:36).

The dependence of the local economy on agriculture, and the current location of high potential agricultural land in relation to existing development and service networks, ensures that this factor will also influence future development initiatives. The current tendency to "waste" land (i.e. under-utilisation of land by establishing limited business on large farm portions, providing extensive residential plots, overprovision of parks) has resulted in considerable sprawl, which affects the availability of land, a scarce resource, for future development initiatives. Restricted access to land by the municipality due to inhibitive land cost (privately-owned land) and statutory deterrents state-owned land under tribal custodianship) would exacerbate attempts by the Council to orchestrate and encourage the development of a beneficial spatial pattern within the municipal area (Greater Tzaneen Municipality IDP, 2007:36).

The rapid increase of informal settlements/squatting bears the threat of neutralising development alternatives currently available to Council by the reduction of land availability and the problems associated with relocation of communities once they have established. A positive of informal settlement is that this phenomenon is a clear indication of areas with development potential, and can be used as one of the indicators during the design of the desired spatial framework. Environmentally sensitive areas, as essential as they are to creating liveable environments for communities, also influence the design of a future spatial pattern, in that their position is fixed. Very often, especially in communities with low income, one cannot afford to conserve these areas, and neither can one afford not to do so (Greater Tzaneen Municipality IDP, 2007:36).

The incidence of mining areas within the municipal area, especially in a densely-populated environment, accentuates the conflict between subterranean and surface rights, especially where communities do not have a statutory right to the land on which they reside. The development of a mine could lead to job opportunities and an improved economy, but could simultaneously negatively influence/disrupt the spatial development pattern, and negate certain development alternatives (Greater Tzaneen Municipality IDP, 2007:36).

In addition to the above, the severe backlogs in terms of especially infrastructural services, coupled with the dysfunctional spatial pattern, place severe constraints on the achievement of a balanced and feasible improvement. The dynamics of eradicating backlogs (especially water provision through the water scheme system) does not contribute to the solution (Greater Tzaneen Municipality IDP, 2007:36).

In summary, the following issues threaten the achievement of the spatial development objectives of the municipality (Greater Tzaneen Municipality IDP, 2007:36):

- Lack of support to areas with inherent development potential;
- Lack of institutional support (human resources, cadastral data, GIS, legal) for implementation of land use management schemes and contraventions thereof, and policing of development of state land;
- Application of different legislation to manage/regulate land use development in municipal area;
- Slow land reform by way of formalisation of villages;
- Indiscriminate settlement squatting;
- Undeveloped land in private ownership within urban concentrations;
- Inadequate access to land for macro- and micro-development;
- Severe backlogs in terms of infrastructural, social and institutional facilities and services; and
- Bulk infrastructural service provision for extensions in the formal towns.

5.7 Greater Tzaneen Municipality Spatial Development Framework (SDF)

A Spatial Development Framework is a key component to the successful compilation and implementation of an Integrated Development Plan (IDP). The purpose of a Spatial Development Framework (SDF) is to provide guidance with respect to decision-making and action towards the establishment of integrated and habitable towns. A secondary purpose of the SDF is to establish a strategic framework for an appropriate land use management system (Greater Tzaneen Municipality SDF, 2007:1).

5.7.1 Agriculture

Large areas of the municipal area are taken up by land with high agricultural potential. Four broad types of farming occur within the municipal area, these being (Greater Tzaneen Municipality SDF, 2007:13):

- timber in the south-western and western parts of the municipality;
- subtropical fruit and citrus production in the western and central parts;
- cattle and game farming in the eastern section of the municipality; and
- dryland cultivation of maize on the outskirts of villages in the rural areas.

The extent of farming units reflects the type of farming activity, in that areas of intensive production (in the west) have an average extent of between 20 and 100 ha, while many farms in the east exceed 1 000 ha (Greater Tzaneen Municipality SDF, 2007:13).

High potential agricultural land is situated (Greater Tzaneen Municipality SDF, 2007:14):

- in pockets in the extreme north-west of the municipal area;
- in Georges Valley, roughly midway between Haenertsburg and Tzaneen;
- around Tzaneen within an estimated radius of 10km from the town centre; and
- northward from the Nkowankowa-Letsitele axis as far as the northern boundaries of Wards 17 and 23, and as a broad fragmented strip between Trichardtsdal and Leydsdorp.

High potential agricultural land takes up roughly 27% of the land area of the municipality (Greater Tzaneen Municipality SDF, 2007:14).

The commercial farming sector has reached its full potential. Growth is dependent on improvements in technology. Agriculture in historically disadvantaged communities is largely confined to subsistence farming. Better utilisation of State land (almost 40% of the land area of the Greater Tzaneen area of jurisdiction) holds the key to the expansion/growth of the agricultural sector and the economy. The under-utilised potential of 10 000 - 170 000 hectares referred to in the Phalaborwa SDI is State land (tribal land) and estates owned by the Province, one of the latter being situated within the Greater Tzaneen area. Forward linkages to other sectors, especially manufacturing and trade, represent economic development potential.

5.7.2 Settlement patterns and densities

Tzaneen Town is situated roughly in the centre of the municipal area where the major arterial routes converge. Although settlement concentration is average by comparison (i.e. in terms of the total number of residential sites), the town has by far the highest concentration of business, industrial, social, financial, recreational and infrastructural facilities and services within the municipal area. The town takes up approximately 849 ha (Greater Tzaneen Municipality SDF, 2007:15).

Nkowankowa, situated approximately 13 km east of Tzaneen and north of the provincial road P 17/3 is the largest proclaimed town within the municipal area (862 ha) with the highest number of stands (5 250) (Greater Tzaneen Municipality SDF, 2007:15).

Lenyenye, situated 10 km further east of Nkowankowa on the southern side of the same arterial, extends over roughly 230 ha and has 2 519 stands, which makes it the smallest of the three major proclaimed towns, but also the most compact in terms of settlement density (Greater Tzaneen Municipality SDF, 2007:15).

Haenertsburg, a small proclaimed town (142 ha), is situated at the western gateway to the municipality, exhibits a very limited residential component and a low settlement density, but serves as service node with considerable tourism appeal and potential (Greater Tzaneen Municipality SDF, 2007:15).

Letsitele, situated nine kilometres east of Nkowankowa and south of the P43/3, is the smallest of the proclaimed towns, extending over 102 ha with a total of 123 stands, has an unusually well-developed business area, which is attributed to the fact that the town serves as retail and social service centre to a large farming community and the resident population of a number of rural villages within a 10km radius of the town (Greater Tzaneen Municipality SDF, 2007:15).

By far the largest concentration of rural settlements is found in the southern quadrant of the municipal area, where 69% of the population resides on 67% of the residential stands. Densities vary from 21 persons per ha to 106 persons per ha with an average of 45 persons/ha (Greater Tzaneen Municipality SDF, 2007:15).

The second concentration of rural settlements occurs in the northern quadrant of the municipal area, where 27% of the people reside on 26, 5% of residential stands. Densities vary from 18 persons per ha to 77 persons per ha, the average density calculating to 37 persons per ha (Greater Tzaneen Municipality SDF, 2007:15).

5.7.3 Residential development

A characteristic of current residential development is that it is low density; the average density being five stands per ha. This is conducive to urban sprawl as a gross rate of 2 000 sq.m per stand relates to an average net extent of 1 440 sq.m per residential stand. With an average floor area of residential dwellings calculating to 172 sq.m, this represents a floor area ratio of 0,12 (12% coverage). It can therefore be deduced that residential land, which is a scarce resource, is generally being grossly under-utilised, as acceptable norms dictate coverage of 50%. Simply stated, residential stands are currently too big on average, the average floor area of dwellings

dictating that residential erven should extend over 350 sq.m (Greater Tzaneen Municipality SDF, 2007:20).

Residential densities in the proclaimed areas are higher than in the rural villages, with the density in Lenyenye calculating to 12 residential units per ha, in Nkowankowa to six residential units per ha, and in Tzaneen to four units per ha (Greater Tzaneen Municipality SDF, 2007:20).

5.7.4 Spatial objectives and strategies

The Greater Tzaneen Municipality will pursue the following objectives to achieve the desired spatial form of the municipality (Greater Tzaneen Municipality SDF, 2007:50):

- Objective 1:** The sustainable utilisation of all land within the municipal area to its fullest potential and benefit.
- Objective 2:** The restriction of wastage of land through urban sprawl, degradation of the natural environment and/or sterilisation of resources.
- Objective 3:** The concentration of development to derive social and economic benefits for the community.
- Objective 4:** The utilisation of existing development and infrastructure capacity.
- Objective 5:** The promotion of good internal and external accessibility through the optimal use of existing road networks.
- Objective 6:** The support of economic growth through the judicious exploitation of natural and artificial resources.
- Objective 7:** The promotion of orderly development through timeous preparation and planning.
- Objective 8:** The manipulation of development to achieve a hierarchal settlement development pattern.
- Objective 9:** The promotion of land restitution and reform to achieve equitable access to land and security of tenure.

Spatial trends could be classified as a perpetuation of the existing situation, deviations being the following (Greater Tzaneen Municipality SDF, 2007:52):

- accelerated migration of people to those areas in Tzaneen that are perceived to offer employment and basic services; and
- unplanned, indiscriminate settlement of people especially along arterial routes.

The prevalent spatial pattern can be attributed to the following (Greater Tzaneen Municipality SDF, 2007:52):

- historic policies and development initiatives;
- economic potential of land;
- land ownership and management;
- culture; and
- topography.

The desired spatial form of the municipality is dependent on the meticulous application of the following principles (Greater Tzaneen Municipality SDF, 2007:55):

- Sustainable use of land to fullest potential and benefit;
- Minimal wastage of land through sprawl, degradation and sterilisation;
- Concentration of development to the social and economic benefit of the community;
- Utilisation of existing development and infrastructure capacity;
- Good accessibility through well-developed road networks and optimal use of existing roads;
- Vibrant economy and economic growth through spontaneous growth of economic sector;
- Orderly development;
- Concentrated urban core, intermediate levels of development and hinterland (hierarchy of towns and settlements);
- Tenure/land reform; and
- Establishment of a framework for cost-effective provision of social and physical infrastructure.

The formulation of a spatial rationale, and more specifically a **macro-spatial plan** for the Limpopo Province and its municipalities requires some statement on the spatial development objectives that guided the formulation of the macro-spatial plan (hierarchy of settlement) (Greater Tzaneen Municipality SDF, 2007:56).

The most important objectives that guided the formulation of the macro-spatial plan and also eventually policy and strategy formulation are (Greater Tzaneen Municipality SDF, 2007:56):

- The establishment of an optimal and functional spatial pattern for the district over time.

- The establishment of a hierarchy of settlements (both towns and villages) to provide a framework for the provision of social facilities and physical infrastructure on a cost effective basis.
- The development of nodal points in rural areas should receive priority attention in an attempt to establish sustainable settlements that are able to create jobs for their residents.
- The establishment of a spatial pattern with a hierarchy of settlements that provides a sound basis for economic growth to, among others, increase income and employment in both the formal and informal sectors, in urban as well as rural areas.
- The establishment of an optimal macro-land-use pattern that identifies macro-land-uses most suited to specific land (e.g. areas for mining, agricultural development, tourism, trade and industry, residential development).
- The optimum utilisation of available natural resources.
- To promote and implement spatial development initiatives that support security of tenure in all areas (e.g. a full range of land tenure options should be available).
- Initiation of a process to streamline the existing policy development processes as well as legislation pertaining to spatial development (including land-use management).
- The successful integration of planning on macro-level (national and provincial) and micro-level (district and local municipality).
- To provide inputs to an institutional framework that could facilitate the implementation of the Spatial Rationale (macro-spatial plan with its policy and strategy) by all levels of government.

The following proposals with spatial and environmental impact have been made in the Spatial Development Framework (Greater Tzaneen Municipality SDF, 2007:75):

- The conservation of high-potential agricultural land that is a scarce resource and the backbone of the local economy;
- The protection of environmentally sensitive areas, including the drainage system and other conservation areas;
- The judicious utilisation of nature areas for commercial tourism;
- The promotion of densification of urban development;
- The concentration of development initiatives and projects in areas with inherent potential to promote the establishment of a hierarchical settlement pattern;
- The acknowledgement and reservation of potential mining areas;
- The anticipation and pre-emption of indiscriminate settlement/squatting; and

- The acknowledgement of the current settlement pattern and the utilisation of existing spatial and infrastructural development to further the aims and achieve spatial goals of the Greater Tzaneen Municipality.

5.8 Conclusion

The government has developed various plans and frameworks in order to assist with spatial development and planning on national, provincial, district and local level.

In order to maintain the current spatial trends and the development of new innovative ways of spatial development, it is important to follow these plans and frameworks. These frameworks are also designed to protect conservation areas within the municipality of Tzaneen, as well as the sustainable usage of services and other available resources.

These plans were constructed after intense research of the area. The question is whether the land reform programme, addressing issues such as the influence on spatial development as addressed in the plans, will have such a huge effect in practice as was predicted in the plan. Also, were these issues handled according to what was prescribed in the plans? Chapter 6 describes the influence land reform has on the Limpopo Province, as well as on the spatial development and planning in the Greater Tzaneen Municipality.

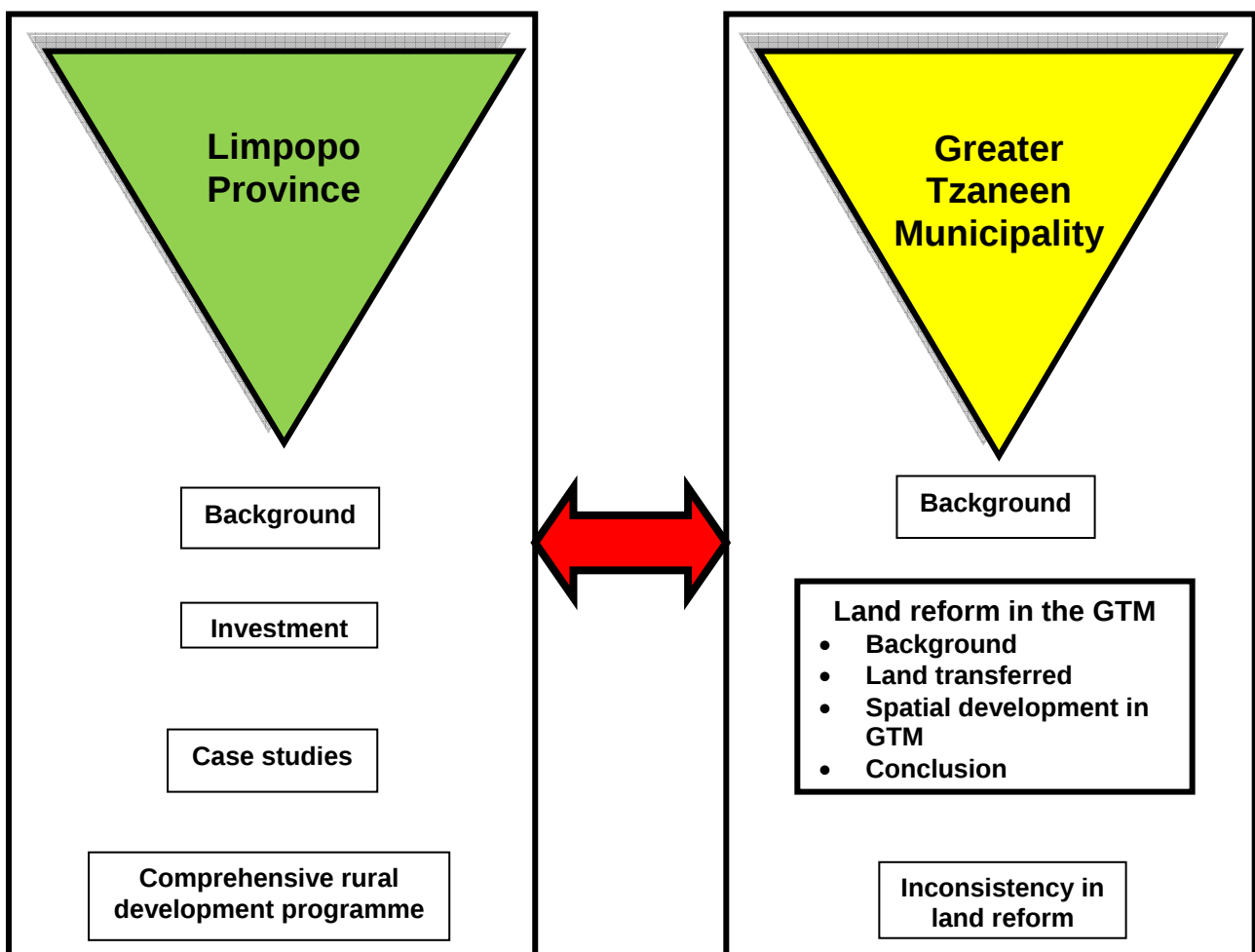
In order to make a success of both land reform as well as spatial planning it is important that these factors should not be seen in isolation. Land reform and the influence it has on spatial development, including bulk services provision, road upgrades, establishment of business nodes etc. should be incorporated within the local IDP's and SDF's.

The same can be said about the policies regarding land reform. Policies should also focus on localised areas, because the dynamics of every district municipality differs.

Chapter 6 – The impact of the land reform programmes on the Greater Tzaneen Municipality

6.1 Introduction

The Greater Tzaneen Municipality (GTM) has made some promises in its Integrated Development Plan (IDP) as well as the Integrated Development Framework (SDF) in order to manage land reform and still maintain and improve spatial development and planning within the municipality. In this chapter, the influence of land reform on the Limpopo Province, and more specifically on the Tzaneen Municipal Area and its surroundings, will be discussed. Photos are included to state some remarks contained in this chapter. Case studies of farms transported through land reform are included. Furthermore, the impact on production in the Tzaneen area is discussed, as well as the influence on local business, property development and the over-all influence on spatial planning and development.



Above is a research process outline describing how the land reform process fits in with the Limpopo Province and the Greater Tzaneen Municipality.

The different land reform programmes and their overall influences and performances on national level were discussed in Chapter 4. On local level, the pace, nature of implementation and the effects of land reform were directly dependent on the policy frameworks and administrative procedures that were formed on a national and provincial level.

As was already stated and explained, the land reform process consists of three programmes, namely the land **restitution programme** where a community or tribe claim farms. Those claims are published in the Provincial Gazette in order to legalise the claims. Secondly, in the **redistribution process** the beneficiaries receive a grant (SLAG, LRAD, PLAS etc.) from the government in order to purchase a farm and do the necessary developments. The grants are received according to the amount of contributions the farm buyer can give. This includes his own capital, farm implements, labourers etc. If the farm buyer cannot supply anything but his own labour he needs to form partnerships with other beneficiaries in order to receive a bigger grant. And thirdly, the **land tenure process** is when the farm worker is given the opportunity to receive his own piece of the farm land he works and temporary lives on.

6.2 The effect of land reform in different provinces

The effect land reform has on each province in South Africa varies. The geographical nature, crop cultivation, demographics, financial management, spatial development schemes, average farms sizes and markets of all the provinces differ, which is why the impact of land reform in each province is different.

It is indeed noticeable that the areas where traditionalism occurred are the areas where the most claims were lodged. Such areas include the eastern parts of Mpumalanga, Limpopo, eastern parts of the North West Province, KwaZulu-Natal and the old homeland areas.

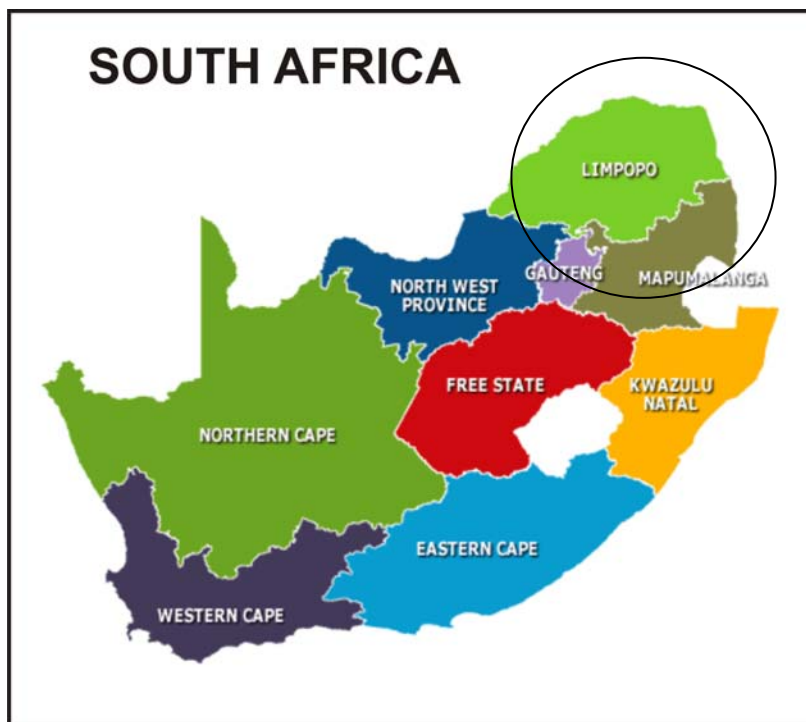
The most land claims were introduced by communities through the restitution process. This resulted in group farming activities. The successes relating to group farming were few and even after 10 years no decent progress was made. The redistribution programme is focussed on families and has also resulted in family farming. The reason for this is that the more input you can give as beneficiary, the bigger grant you receive. This actually led to great successes,

which improved the livelihood of people and ensured that people take possession of the land that was given to them.

It seems that the most successes in the land reform programme occurred in the southern and western provinces under the land redistribution programme. However, land claims under the restitution programme made the land redistribution programme almost impossible in the northern and eastern provinces. The reason for this is that, no land that is under claim can be used for anything else than farming, and the sole right for the farming privileges are given to the claimant of that specific land. This is the reason for the so-called successes with land reform in the southern and western provinces.

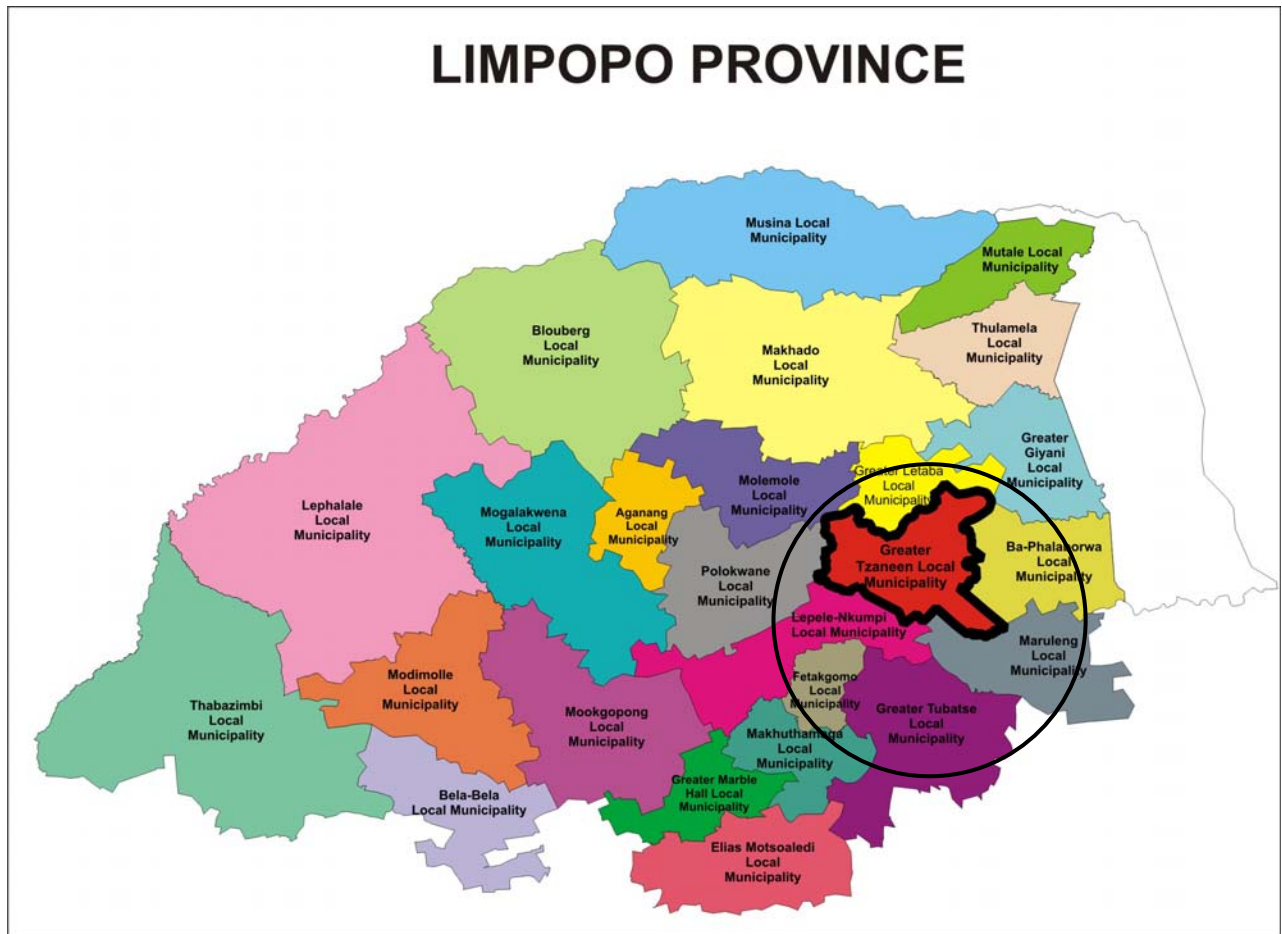
6.3 The Limpopo Province

6.3.1 Background



Map 6.1: Map of South Africa

Source: ANC, 2009.



Map 6.2: Map of the Limpopo Province

Source: (Own Construction).

The Limpopo Province is the most northern province of South Africa. The province shares borders with the Gauteng province (industrial centre of the country) in the south, Mozambique in the east through the Kruger National Park (a world conservation icon), Zimbabwe in the north and Botswana in the west. The proximity of the province to Gauteng, the Kruger National Park, Zimbabwe, Mozambique and Botswana puts the province in a strategic position as a gateway to Africa and its resources to unleash the economic potential of this great continent (South Africa, 2005a:1).

The province covers an area of 12,46 million hectares and these account for 10,2% of the total area of the Republic of South Africa. The province is endowed with abundant agricultural resources and it is one of the country's prime agricultural regions noted for production of livestock, fruit and vegetables, cereals and tea (Limpopo Department of Agriculture, 2008).

According to Limpopo Focus (2008), the gross income from all agricultural products in South Africa in 2005 amounted to R68 298 million constituted as follows:

- Animal products: R31 286 million
- Horticultural products: R20 824 million
- Field crops: R16 188 million

Agriculture in Limpopo contributes R1.8 billion to the provincial gross geographical product (GGP), about 2.5% of the total GGP. This is based on 2002 figures. Livestock (beef, pork, chicken and eggs) contributes a significant portion of agriculture's portion to the GGP (Limpopo Focus, 2008).

The total land area in Limpopo is 11 960ha with farmland making up 88.2%. Potential arable land constitutes 14% of the total area. Limpopo's climate is suitable for agricultural production. There are two parts of the province with rainfall in excess of 1 000mm per annum. The province is a summer rainfall area that receives its rain between October and March (Limpopo Focus, 2008).

Agriculturally speaking, Limpopo is the food basket of South Africa. Limpopo produces 75% of South Africa's mangoes, 65% of its paw-paws, 25% of its citrus, 25% of its litchis, 75% of its tomatoes, 54% of its macadamia nuts and approximately 60% of its avocados. Limpopo is the second-largest producer of potatoes in the country, accounting for 19% of South Africa's total production. The province is also one of the largest producers of guavas, bananas, papayas and tea in the country. Limpopo is home to the largest cotton fields and biggest ginnery, producing the highest quality in South Africa. Agriculture has also stimulated the ancillary development of a growing range of processed products, such as fruit juice and concentrates, dried fruit and products such as aachaar (Limpopo Focus, 2008).

Considerable opportunity exists in the areas of processing and packaging, the export of beef, pork, chicken and eggs, as well as fruit and vegetables. The province therefore offers opportunities in the processing and packaging of fruit and vegetables (Limpopo Focus, 2008).

There is also potential for the additional production of sunflowers, soy beans and maize in dry-land conditions. Soy beans represent a particularly profitable investment opportunity with substantial quantities being imported. Pre-feasibility studies indicate that peach and almond production is viable, and investigations into the viability of cassava and bamboo production have also been conducted (Limpopo Focus, 2008).

The Limpopo Provincial Government is facilitating development of new types of farming and further value added processing of products as diverse as sugar, essential oils, catfish and goats. Limpopo has a viable forestry sector with commercial plantations covering 63 000ha and an annual round wood production of about 680 000m³. Approximately 90 000m³ goes to the mining sector (as mining timber). The growth of the mining sector in this province is expected to increase the demand for timber. Game farming has also become a lucrative business and has surpassed cattle farming in several areas (Limpopo Focus, 2008).

6.3.2 Investment

Large and small farmers in Limpopo are joining the movement to eliminate or reduce chemical fertilisers and pesticides in the cultivation of their crops through the introduction of organic farming in the province. Organic farming is emerging as a potentially lucrative new industry in Limpopo, spurred by buoyant demand for chemical-free products. Through the Limpopo Export Advisory Committee (LEAC), TIL is placing special emphasis on promoting organic products, and has already sponsored local farmers to attend major exhibitions in South Africa and in Germany as observers. The market for organic goods has grown considerably. Woolworths, for example, says that since it introduced organic produce in 2001, sales of these products have on average increased by 75% each year (Limpopo Focus, 2008).

The Limpopo Provincial Government is moving to halt the sharp decline in productivity on many agricultural estates awarded to communities under South Africa's post-apartheid land reform and restitution laws. With many communities lacking the skills and resources to sustain large-scale enterprises, Limpopo's premier, Sello Moloto, has noted that 'vast tracts of land are lying fallow' (Limpopo Focus, 2008).

The Provincial Government's response has been to pioneer what has become known as the 'strategic partnership model'. This enables communities with restituted land and workers on farms to form partnerships with commercial farmers who are given 10-15 years concession to operate estates. Strategic partners, who in many cases have turned out to be previous landowners, are obliged to transfer business, management and farming skills to the new owners (Limpopo Focus, 2008).

Limpopo is becoming a major export of exotic trees and shrubs. Foreign investors, in partnership with a community in Vhembe District, have revived a rundown, 250ha tree and shrub cultivation estate near Thohoyandou with a view to serve landscaping markets in the

Middle East, which is experiencing a boom in property development. The partners will also serve the South African market and hope to meet much of the demand for landscaping in and around the 2010 Soccer World Cup sites. In addition, they are establishing a training centre on the estate, which they also plan to develop as an agri-tourism attraction (Limpopo Focus, 2008).

In 2006, Limpopo started a programme to resuscitate the province's tea estates. Among the African countries, the Kenyans are the masters of the tea trade, which is why the Limpopo Department of Agriculture has linked up with the Kenyans who are assisting in terms of revitalising tea estates in the province. At the core of this programme are two tea estates, namely Magwa, in the Eastern Cape and Sapekoe in Limpopo, which takes the form of four separate estates. Sapekoe Tea Plantation outside Tzaneen is South Africa's biggest. In 2004 it was forced to cease production and lay off its workers because of an ongoing land claims process. More than 4 000 workers lost their jobs. The Magwa and Sapekoe estates were responsible for about 76% of the black tea produced in South Africa. The revival of Magwa would create some 2 000 full-time jobs, while resuscitating Sapekoe would establish 5 000 permanent posts (Limpopo Focus, 2008).

6.3.3 Land reform case studies

According to Mr Sello Moloto, former premier of the Limpopo Province, 88% of farms in the Limpopo province are under claim. This was said at a National Council of Provinces (NCOP), held in Nkowankowa in 2005. The land claims commissioner raised an objection to this statement made by Moloto, but this could not be resolved due to the fact that no list of claims in the province was ever compiled (Limpopo Provincial Government, 2005).

Land Reform in Limpopo has come under close scrutiny from academic, farming and civil society stakeholders. This can be attributed to several factors, including high proportion of commercial farmland under claim (approximately 88%), the articulated land requirements of marginalised and poor communities in the former homeland areas, the seemingly slow pace of land transfer and, notably, the relatively poor achievement of many land reform initiatives. Key literature on the land reform process in Limpopo was examined. A number of themes emerged, including weak community cohesion among land reform beneficiaries, the poor institutional capacity of Communal Partnership Agreements (CPAs), inadequate support for CPAs, poor integration of land reform into IDPs, and new development possibilities through strategic partnerships. A number of gaps in the research were also identified, including the lack of

research on the economics of land reform in Limpopo, on land local economic development, and on the agricultural environment (Charman *et al.*, 2008).

The land reform process has also proceeded slowly. By 2008 the Department of Land Affairs (DLA) had returned only 3% of the land area of Limpopo Province. This protracted pace is a cause of great concern. It has negatively impacted on the agricultural sector; delays have given rise to uncertainty, thus undermining investment. Although the government has put considerable resources into creating a black farming class, there are worries that these emerging farmers still lack the capacity, skills and know-how to be able to farm commercially. Despite these setbacks, the reform programme has had some success, most notably on the public-private partnerships between CPAs and strategic business entities (Charman *et al.*, 2008).

The Sustainable Livelihood Consultants (SLC) study concluded that land reform needed to be seen in both economic and political dimensions. The current approach to land reform, which is characterised by an increasing supply of services and financial grants, will be difficult to sustain given the growing demands on state resources to provide direct services (Charman *et al.* 2008).

6.3.3.1 Case study – Morebeng (formally known as ‘Soekmekaar’)

The ‘Soekmekaar area’ was formerly a reasonably thriving white commercial farming area with a mixture of field crops, horticulture crops, cattle, and timber. Although the town of Soekmekaar was founded only in 1924 “...as the rail junction for the Messina, Komatipoort and Polokwane railway lines” (Aucamp & de Beer, 2007), white farms had been established from the turn of the century. The agricultural conditions in the area are generally favourable due to its location on the cusp of the escarpment, which moderates temperatures and assures relatively ample rainfall (Aliber *et al.*, 2008:2).

While there are no secondary data with which to depict trends in farm employment, interviews with commercial farmers suggest countervailing processes over the past 10-15 years. That the area was plagued with ongoing problems of farm evictions is evident by the fact that the first ANC attack on a police station was that on Soekmekaar in January 1980. On the one hand, the diversification into high-value crops means greater demand for permanent workers relative to seasonal workers, but overall an increase in the wage bill. On the other hand, the transfer of land through land reform has reduced overall demand for labour on white-owned commercial farmers, while employment and self-employment on transferred properties is variable according to the overall performance of the projects (Aliber *et al.*, 2008:3).

Presently, much of the land has been transferred via land reform to black owners, and the extent of commercial farming in the area is dramatically diminished. One sign of this was the closing of the NTK shop – the main source of agricultural supplies within 100 kilometres travel distance – in 2001. Another indicator is an off-hand remark of one of the main companies that provides agricultural transport in the region (based in Mooketsi, roughly equi-distance between Morebeng and Tzaneen) to the effect that “...*there really aren't any commercial farmers in Soekmekaar anymore*”. More to the point, however, the primary, project-level data collected in the course of LaLR establishes that eastern Molemole has experienced a rather typical mix of land reform projects, from some that are completely moribund, to those that show some sign of ‘success’, at least in terms of maintaining some form of agricultural production (Aliber *et al.*, 2008:3).

However, it would be rash to conclude that the decline in agriculture in eastern Molemole was a consequence of land reform. This might be the case, even just partially, but there are indications that the commercial farming community of eastern Molemole began to decline prior to and independent of land reform. The most obvious sign was that the NTK shop closed before a significant share of land had shifted hands through land reform. Secondly, while initially white commercial farmers banded together to oppose land claims, once one of them realised that it posed a great opportunity to get out of farming, others quickly followed suit. Remaining white farmers who were interviewed give the impression that it was not because farmers there were particularly eager to sell, but rather because government, for some reason, had chosen to focus on it (Aliber *et al.*, 2008:5).

6.3.3.2 Case study – Zebediela citrus estate

Zebediela citrus estate is the biggest citrus plantation in Southern Africa. It is situated 50km outside of Potgietersrus in the Limpopo Province (De Villiers *et al.*, 2006:5).

The land was returned to the Bjaatladi community on 28 September 2003 following a successful land claim. The progress from lodging the claim to settlement took about five years to complete. The land measures 13, 750 ha. The Bjaatladi Community Property Association (CPA) holds title to the land on behalf of the community. The CPA comprises 423 households with some 1 800 beneficiaries. The farm employs about 800 workers in season, with 237 permanent workers (De Villiers *et al.*, 2006:5).

Zebediela has a long history as a citrus estate and as one of the major exporters of citrus in South Africa. Before handover it was managed by the Regional Development Corporation under auspices of the Lebowa government, and most recently management fell to the Limpopo government. External influences such as the abolishment of farming subsidies, deregulation of the industry, vandalism, theft, unemployment and severe drought have had a major impact on operations at Zebediela before and since handover. One of the conditions of handover was that workers who had been employed previously at Zebediela had to be retained with similar conditions of service (De Villiers *et al.*, 2006:5).

According to De Villiers *et al.*, (2006:6), the legal structure of the Zebediela Company is as follows: The CPA, its strategic partner – Henley Farm Properties (Boyes Group) – and the workers established the Zebediela company to which the land is leased. The company has three shareholders:

1. The Community Property Association (CPA);
2. The Worker's Trust; and
3. The Boyes Group

The CPA is not allowed to encumber or dispose of the land. Shareholding in the company is as follows:

- The CPA holds 30% of the shares with shareholding set to increase annually by 1% up to 35%
- The Worker's Trust holds 15%
- The strategic partner holds 55%, with shares set to reduce annually by 1% to 50%.

The Zebediela company leases land from the CPA for a period of 15 years at R1 million a year, after which there will be a review of the arrangement. Zebediela employs the workers and all commercial activities on the farm fall under the auspices of the company. Zebediela appointed a managing director, John Boyes, to take up the responsibility of implementing the business plan as well as for the daily management of the land, marketing, new operations, the training of staff and matters associated therewith (De Villiers *et al.*, 2006:6).

Although Zebediela has a history as a top exporter of citrus, the farm became derelict and vandalised over time due to various reasons. After handover of the land to the homeland of Lebowa in 1973, it made a profit for only three of the following 20 years. By the 1990s the number of citrus trees had been reduced from 200 000 to 60 000 due to drought, mismanagement and vandalism. By the time the farm was returned to the CPA, large investments were required to replace and upgrade equipment (De Villiers *et al.* 2006:8).

According to De Villiers *et al.*, (2006:11), in 2006 some 850ha were under 210 000 citrus trees. At its peak Zebediela carried approximately 600 000 trees, but economic circumstances and subsidies at the time were markedly different and more beneficial than is the case today. It was envisaged that 30 000 new trees would be added in 2005/06 and that this would place the farm close to its commercial and environmental capacity (De Villiers *et al.*, 2006:11).

According to a few other resources, the Zebediela citrus estate project was not that successful as they wanted it to appear.

The Zebediela citrus estate used to be called “the diamond of agricultural projects”, and in 1978 the Reader’s Digest, in its Illustrated Guide to Southern Africa, wrote: “Nearly 400 million oranges are harvested each year... At the height of the season, about 15 000 cases of oranges leave Zebediela every day. The fruit comes from more than 565 000 trees irrigated by enough water to supply a city...” (p.122). The harvest was worth R30 million a year. But after its hand-over to the Agricultural and Rural Development Corporation of the ruling ANC Government the estate suffered a loss of R30 million in 2000 and of R35 million in 2001. The press reported that it was “beyond recovery”. A lemon yield worth R8 million was left to rot because there was no money to pay staff. In March 2001, ABSA Bank stopped all credit and bounced a pension cheque of R56 million. The seller farmers had been only too ready to help the new owners, but their help was rejected (Scarborough, 2004).

According to Stuijt (2004), all is not as it seems. After the magnificent citrus estate was handed over to the ANC-regime, the 2 260 hectare had actually never produced a profit – yet now it is being hailed as a major land reform success. It is, in fact, being run by a white-owned company, which pays out so-called black “equity partners” who “owned the land since 2001”. The minister of agriculture’s spokesperson claims that “business had started to boom”.

At a meeting held between land claimants and farmers, the latter were told by a claimant that ‘they should hand over their title deeds to the claimants and then you (the farmers) can work for us’. This seems to be the new trend in claimants’ thinking, most of whom do not want to farm and cannot farm commercially. Farmers must run the operation while the “owners” rake off a good portion of the profits. It’s called mentoring, or ‘joint ventures’. The latest idea is ‘leaseback’, where the farm is ‘handed over’ to claimants and leased back to the original farmer who must now hand over a hefty percentage of his profit to people who have had no input in the farm’s productivity or profitability. Thus, “*the claimants become a sort of landowners’ class, doing nothing and sharing profits with the managers and workers.*” This arrangement will not

suit many farmers who want the full profit for all their work, initiative, skills and heartache (Stuijt, 2004).

The farming of such vast fruit and tea estates is extremely labour-intensive and requires many years of experience of local conditions, plus marketing and management expertise. Years of professional agricultural training is an absolute requirement for anyone managing such land holdings (Stuijt, 2004).

Zebediela is now being run on a 15 year management contract by the (white) Boyes family. John Boyes, manager of the company, is quoted as being “confident that the 2005 citrus crop will produce a full harvest and yield 1,2 million cartons of fruit”. This claim was called ‘extravagant’ by other local professional farmers. Summarised: In 1980, there were 600 000 trees in production at Zebediela. In 2004, less than 200 000 trees remained. The rest died, and were cut up for firewood. The original area under plantation was 2 260 hectares. In 2004, less than 800 ha were under production. The estate was run at a third of its total proven potential. In the same time some local professional farmers in the area produced up to 3 000 export cartons per hectare. Zebediela produced only 375 export cartons per hectare (Stuijt, 2004).

6.3.3.3 The story of Charles Boyes

With the commencement of transferring land through the restitution process in Limpopo, farmers felt that the land claims commission gave no assistance in the post-settlement of new farmers. Many willing sellers were prepared to give assistance and act as mentors to the farmers in order to transfer their knowledge, experience and financial problem-solving skills. A few models were designed by agricultural businesses, agricultural forums and individual farmers in order to execute the ideas for the insurance of the agricultural development process. Since 2003, none of these plans and presentations had been approved by the land claims commission and it was remarkable how the choices of mentors and partners were based on political choices (de Jager, 2009:98).

It was also notable that the farms with the best agricultural potential, especially in the export industry, such as citrus, and in industries with high profit mark-up, such as bananas, were consequently allocated to the same company. The company was South African Farm Management (SAFM) under the management of a very competent lowveld farmer, Charles Boyes. Boyes was never involved in organised agriculture. He was a farmer in the Letsitele- and Hoedspruit vicinity, who also owned a nursery and was involved in other business ventures.

Although he farmed in both districts he mostly isolated himself from the agricultural ranks (de Jager, 2009:98).

Boyes first came into the radar when one upscale farm after the other was awarded to his company for partnership. One of the first farms was Zebediela citrus estate. He also received the Burgershall banana farm to manage, which was described as the heartland of South Africa in the banana industry. Also in Levubu the best farms were awarded to him. What the farmers could not understand was that even a willing seller who was awarded the junior champion farmer of the previous year could not fulfil the requirement to act as mentor or partner to the beneficiaries on his own farm, while it was awarded to Charles Boyes (de Jager, 2009:98).

Boyes regularly gave donations and sponsorships for state supported affairs such as Heroes' Day celebrations. According to local ANC leaders, Boyes was an involved member of the party. His farming monarchy exponentially grew as one land claim after the other was settled in the Limpopo and Mpumalanga provinces (de Jager, 2009:98).

In the Letsitele Valley, one of the first farms that were transferred through the land claims process had degraded within two years and ran a risk of completely falling apart. Bad management, contested financial decisions and absolute incompetence started to show on the Mamatlola farms. Eventually the land claims commission got hold of a court order that took the management from the CPA (Communal Property Company) and placed it in the hands of SAFM (de Jager, 2009:98).

In a short time SAFM transformed the farm in such a way that it was once again productive. Many of the farmers in the vicinity found this initiative very unpopular because of the uncertainty of procedures followed when Boyes was introduced as partner of the claimants. Many farmers in the farming forums hoped that they would receive such an opportunity to get involved with the beneficiaries (de Jager, 2009:98).

In 2006, the land claimants in Charles Boyes' projects started complaining about the low profit margins and reduction in revenues from their farms and partnerships with Boyes. Some of the claimants accused him of manipulating the markets through his own businesses. These accusations were noted by the claim groups and resulted in Boyes being welcomed with much less enthusiasm by the beneficiaries of the restitution projects (de Jager, 2009:99).

SAFM closed in 2008 due to administrative backlogs, and the inability of the land claims commission. Already in 2007 the delays in settlement of post-settlement subsidies and

payments to other developmental help left Boyes' projects struggling to stay afloat. Based on guarantees from the Department of Land affairs, Boyes and SAFM claimed more financing from ABSA bank in order to maintain the restitution farms he was responsible for. At the end of 2007, his financial problems were clearly visible on the banana farms in the Letsitele Valley and Burgershall. As a result, his relationship with land claims partners began to deteriorate (de Jager, 2009:99).

6.4 Comprehensive Rural Development Programme, Greater Giyani – Muyexe

The Greater Giyani Project was selected as a pilot project for the implementation of the Comprehensive Rural Development Programme (CRDP) by the Minister of the Department of Rural Development and Land Reform (DRDLR), Mr Gugile Nkwinti.

According to a speech made by President Jacob Zuma on 17 August 2009 at the launch of the Giyani Pilot Project, the Comprehensive Rural Development Programme is the national collective strategy in the fight against poverty, hunger, unemployment and lack of development in the rural areas. Over the medium term government has pledged over R2,6 billion in conditional grants to provinces. This will be used for agricultural infrastructure, training and advisory services and marketing, and for upgrading agricultural colleges. One of the government's priorities is to ensure that land reform through redistribution and restitution is more coherently linked to the creation of livelihoods for the poor.

A critical part of the rural development strategy is to stimulate agricultural production with a view to contribute to food security. In this regard, government will support the provision of agricultural implements and inputs to support emerging farmers and households nationally. The government must also make agricultural loans accessible and ensure agricultural extension services of a high quality. Over the medium term, the aim is to bring about a measurable increase in agricultural output. To promote food security, government will also work to protect valuable agricultural land from encroachment by other development. The focus is on encouraging communities to grow their own food. Therefore, measures will be put in place to ensure access by poor households to basic foods at affordable prices; and the general improvement of the logistics of food distribution (Zuma, 2009).

Questionnaires were used to do a profiling and to confirm the exact number of households (HH) in the Muyexe Village. 300 HH have been profiled through the physical and contact interviews. CRDP Officials, CDWs and War Room officials had several meetings with the Muyexe community. In all meetings water was identified as the main need of the community. Other needs identified included roads, clinics, housing, fencing, playground, post office, Tribal Authority (facility for the chief), community hall, police station, shopping mall, bed and breakfasts (tourism opportunities), a library and upgrading dilapidated schools. Pupils from the primary school were invited to draw pictures on their perception of the village and high school pupils were invited to write essays on the theme “Muyexe, My Village, what I like and what I do not like” (Department of Rural Development and Land Reform, 2009:8).

Summary of the final list of priorities & needs for the village of Muyexe:

Table 6.1 Priorities and needs for the Muyexe village

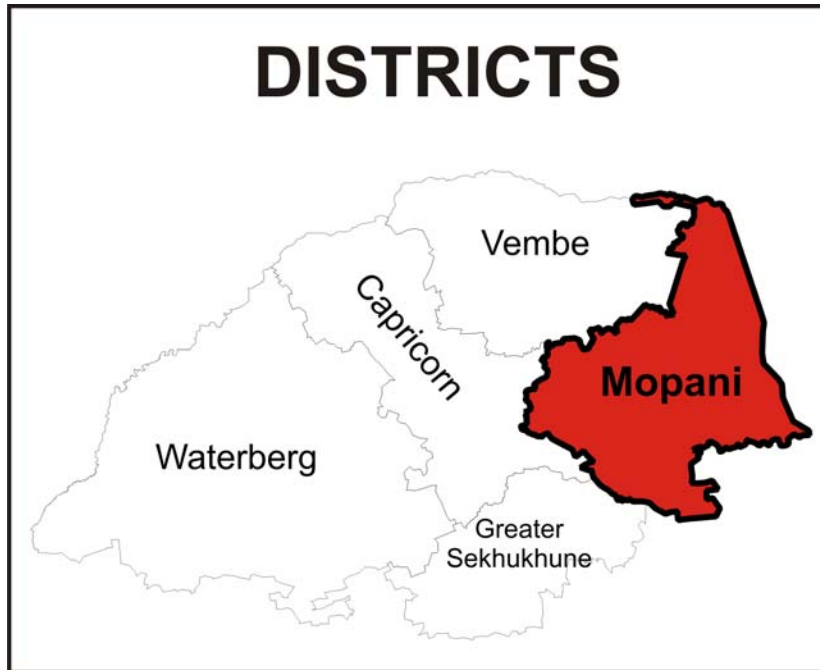
Priorities	Needs
Water	Business centre
Roads	Community hall
Houses	Sports centre
Sanitation	Library
Fencing for cattle	ECS centre
Irrigation Systems for crops	Recreational centre
Soil suitability analysis	Cell phone network, land lines
Livestock farming analysis	Veggie tunnels
Clinic	Satellite police station
Eradication of animal diseases	Village industry (Economic industries)
Infrastructure for traditional authorities	Skills and youth development
Soccer playgrounds	Procurement of tractors
	Post office

Source: Department of Rural Development and Land Reform, (2009:9).

The Muyexe Spatial Plan seeks to spatially locate projects that have been proposed in response to the identified needs of the community of Muyexe. The principles promoted in the current legislative framework for spatial development have been adopted to ensure the maximisation of resources (Department of Rural Development and Land Reform, 2009:9).

6.5 Tzaneen local municipality

6.5.1 Background



Map 6.3: Districts of the Limpopo Province

Source: Own Construction.

The Greater Tzaneen Local municipality is situated within the Mopani District of the Limpopo Province. Greater Tzaneen Local Municipality, together with Ba-Phalaborwa, Greater Giyani, Greater Letaba and Maruleng Local Municipalities comprise the Mopani District. The Greater Tzaneen Local Municipality is situated in the south of the Mopani District along the R72 road, linking Polokwane with the Phalaborwa Gate of the Kruger National Park. The Greater Tzaneen Municipality area encompasses the proclaimed towns of Tzaneen, Nkowankowa, Lenyenye, Letsitele and Haenertsburg. The Phalaborwa Spatial Development Initiative (SDI) transverses the Greater Tzaneen Municipal area, while one of the major links between Gauteng and the Kruger National Park also passes through the area (Tzaneen Local Municipality, 2007:5).

The Greater Tzaneen Municipality comprises a land area of approximately 3 240km² and extends from Haenertsburg in the west, to Rubbervale in the east, south of Modjadjiskloof in the north and to Trichardtsdal in the south. In addition to the proclaimed towns there are 125 rural villages, concentrated mainly in the south-east and north-east of the study area. Almost 80% of households reside in these villages. In addition, a large area of land is in private ownership (66%), ranging from smallholdings to extensive farms, used mainly for commercial farming

activities. Equally large areas of land are under ownership of the State, under custodianship of six Traditional Authorities (Approximately 33%) and land of negligible extent is within municipal commonage (Tzaneen Local Municipality, 2007:6).

According to the Local Economic Strategy Review of Tzaneen (2007:8), The Greater Tzaneen Municipality area is subdivided into four cluster areas:

- Runnymede: North-east including Letsitele
- Relela: North-west including Tzaneen and Haenertsburg
- Bulalahlo: Central south
- Lesedi: South, including Nkowankowa and Lenyenye

The Tzaneen LESR (2007:8) exhibits the following spatial characteristics of The Greater Tzaneen municipal area:

- An extensive land area extending over approximately 3 240km²;
- A fragmented formal urban component comprising Tzaneen, Nkowankowa and Lenyenye, which has developed along a major arterial route;
- Two significant clusters of rural villages, one in the northern, and the other in the southern quadrant of the municipal area;
- A well-developed network of primary and secondary arterial routes;
- Two service nodes, Haenertsburg and Letsitele, at opposite ends of the municipality;
- A considerable percentage of the land area comprises mountainous terrain (to the west and south), which precludes urban development
- Large tracts of high-potential agricultural land utilised for intensive/extensive farming;
- Significant areas of land owned by the State under custodianship of Tribal/Traditional authorities
- Limited accessibility to most villages due to inadequate access roads and internal street networks
- A cone-shaped land area extending over approximately 80km along its east/west axis, 40km along the western vertical perimeter and 75km along the eastern vertical perimeter;
- Steep slopes along its western and southern boundaries, which gradually dissipate into undulating hills in the central areas to virtually flat ground in the eastern parts of the area of jurisdiction.
- Environmentally sensitive areas largely coincide with steep slopes, which ensure that these areas are protected from overexploitation. Exceptions include the area surrounding the Ebenezer Dam and the banks of the Great Letaba River.

The table below offers a short summary of the economic indicators of the agriculture, mining, manufacturing, wholesale, retail, trade, finance and business services in the municipality and compares performance to that of the Mopani District.

Table 6.2 Summary of economic indicators, 2004

Indicators	Mopani District	Greater Tzaneen
AGRICULTURAL		
Share of GDP	3.3%	6%
GDP growth per annum (1999-2004)	-0.5%	0.3%
GDP contribution to sector in district	n/a	48%
Share of employment	25.5%	28.9%
Employment growth per annum (1999-2004)	1.6%	1.3%
Employment contribution to sector in district	n/a	46%
MINING		
Share of GDP	5.6%	7%
GDP growth per annum (1999-2004)	6.4%	5.6%
GDP contribution to sector in district	n/a	5%
Share of employment	5.6%	1.1%
Employment growth per annum (1999-2004)	0.4%	0.6%
Employment contribution to sector in district	n/a	8%
MANUFACTURING		
Share of GDP	4.7%	7.9%
GDP growth per annum (1999-2004)	3.3%	0.5%
GDP contribution to sector in district	n/a	45%
Share of employment	9.9%	14.5%
Employment growth per annum (1999-2004)	2.7%	3%
Employment contribution to sector in district	n/a	59%
WHOLESALE, RETAIL & TRADE		
Share of GDP	10.7%	18.6%
GDP growth per annum (1999-2004)	4.6%	4.2%
GDP contribution to sector in district	n/a	46%
Share of employment	13.6%	14.2%
Employment growth per annum (1999-2004)	2.5%	2%
Employment contribution to sector in district	n/a	42%
FINANCE & BUSINESS SERVICES		
Share of GDP	15.3%	23.9%
GDP growth per annum (1999-2004)	1.0%	1.7%
GDP contribution to sector in district	n/a	41%
Share of employment	7.8%	8.4%
Employment growth per annum (1999-2004)	6.1%	6.1%
Employment contribution to sector in district	n/a	44%

Source: Tzaneen Local Municipality, 2007.

From the information in the table above, the statement can be made that Tzaneen's total contribution to the GDP is a massive 63.4%. The agricultural sector's share of employment is the most, with a total of 28.9%. Agriculture's GDP contribution to sectors in the district is also

the most with a total of 48%. As can be seen from the mentioned figure, agriculture plays a very important role in the contribution to GDP, as well as employment.

6.5.2 Land reform in the Tzaneen municipal area

In the Tzaneen district, more than 98% of the farms are under claim. Very few of the farms were transferred through land reform programmes, such as LRAD and PLAS. Most of the farms that were transferred through LRAD and PLAS were under claim and this caused huge conflict. The farm Mafufula is located next to Tzaneen's industrial area and was transferred through the PLAS Programme. The Muthunyeng tribe claimed the land first and when they heard what was happening, they immediately tried to stop the programme. A portion of the farm Lucern was transferred to the farm workers while it was under claim by the Mathunyeng claimant and was also listed by the Makgoba tribe.

Success stories concerning land reform were very few and the failures that received the most attention, both national and international, came mostly from the Tzaneen area.

The Tzaneen local municipality was totally uninvolved in the land reform process, except for a workshop that was organised by the local municipality in 2007. The people present at the workshop included commercial agriculture, farm workers, land claimants, NAFU, agricultural businesses, political parties and the Landless People's Movement. Unfortunately the speaker of the municipality (as well as chairman of the workshop) were 2 ½ hours late. This led to huge uncertainties on the agenda of the workshop, which caused the South African Communist Party (SACP) and the Landless People's Movement to be first in line to speak. This disrupted the workshop and commercial farmers and farm workers walked out. There was never any feedback on the workshop. The un-involvement of the municipality left a huge gap in the management of land reform in the district.

The land reform process in the Tzaneen area consisted mostly of restitution and redistribution of land.

The first farm that was transported in the land reform process was the farm La Boheme in Trichardsdal. 360 land beneficiaries, who each received a R16 000 grant through the SLAG-programme, jointly bought the farm. The problem was that 360 farmers were 359 too many and soon internal stress between the new land owners caused a previously highly productive farm to deteriorate into an unproductive piece of land (de Jager, 2009:8).

The farm Geluksfontein soon followed the same route as La Boheme. An estimated total of 60 beneficiaries bought the farm through the SLAG programme, but unfortunately also lost it. This caused the remaining 26 commercial farmers in Trichardtsdal to rather take up the risk of managing a land claim on their land than to see other farms go the same way La Boheme and Geluksfontein went (de Jager, 2009:9).

Land claims became a reality when the first land claim in the area was announced in the Government Gazette in 2003. The Sekororo tribe claimed the whole of Trichardtsdal's remaining farms. In April 2004, the Magoba-tribe claimed 417 farms in Magoebaskloof. This was a huge shock for the farming community of Tzaneen. At this point land claims became a reality and not something everybody just speculated about in the Tzaneen area. The 417 farms that the Magobas claimed were increased to 680 including farms in George's Valley, Veekraal, and Letaba Valley, which were claimed by tribes such as the Seralas, Muthunyengs, Molepos, Mamabolos and various others. In March 2005, the 13 willing Trichardtsdal sellers sold their land to the Sekororo Community Property Association (SCPA) (de Jager, 2009:13-14).

Land reform's impact is not restricted to agricultural entities such as commercial farms. The ripple effect causes various other sectors to also be influenced. These sectors include: over-all spatial planning and development of the town, financing, security, professional services such as doctors and attorneys, manufacturing and transport, to name but a few.

A number of questionnaires were distributed among key role-players within the municipality. These role-players include local business owners, property developers, professional services and farmers. The reason for these questionnaires is to determine to which extent local spatial planning and development were influenced as a result of land reform.

The result is as follow: Most property developers seek potential land that is not under claim. The problem with this is that because 98% of the land within the Greater Tzaneen Municipality is under claim, to get hold of developable land without a land claim is almost impossible. Thus, property development in this area is currently at a stand-still. Tzaneen, as well as the other towns within the Greater Tzaneen Municipality, mostly depends on business from farmers and farm workers farming and staying on commercial farms in the outskirts of the towns. Local business owners feel that their businesses are affected in a huge way. Most local commercial farmers who sold their land through the land claims process moved away from the area. The same is true for the farm workers who were employed on the farm. This results in the decrease of buying capacity in the area. People who are mostly affected by this are the local business owners.

Professional services experience the same result. With fewer people in the area who make use of professional services, such as town planners, lawyers and doctors, the professional services sector decreases as well. Commercial farmers feel the pressure as well. The products produced are usually packaged in pack houses in Tzaneen. But as a result of land reform most of those businesses have closed down and only a few are left. This causes huge backlogs and an increase in prices. Many transport companies have also closed their doors.

The questioned role-players all agree on one thing and that is that Tzaneen's economy is dependent on the local farmers and if all farms are transported to beneficiaries who are not educated to farm commercially, Tzaneen will become a ghost town. The Greater Tzaneen Municipality must improve their management in terms of land reform and spatial development and not only make promises in their IDP and SDF.

Unfortunately, there is no measuring instrument to determine the progression of the land reform process. No one knows how many hectares were transported throughout the land reform programmes. The only indication of hectares transported in the land reform process is those transported through the restitution process and the LRAD, PLAS and SLAG programmes. Many hectares have been transported in the free market, but nobody knows how many.

The main difficulty is that race may not be indicated on title deeds, because that will bring us back to apartheid and mean a whole lot of trouble on its own. Names do not give any indication of race, so also that is not a reliable form of gathering information. Without the government knowing how many hectares of land have been exchanged from white to black hands it is impossible to determine when the government will reach the target of 30%.

In 2008, the Department of Rural Development and Land Reform, the Department of Agriculture, Agri-South Africa, TLU-SA, Agis, the deeds office and the Surveyor General decided to do an empirical study in order to determine ownership of farms. This initiative was driven by the CEO-Forum. The conclusion they came to is that private transactions have a greater success in transporting land from white commercial farmers to new black upcoming farmers than the state has with their land reform programme. Unfortunately, it seems that the government does not see this effect as a positive measure. The key in all this is that government should rather form partnerships with the private sector estate market in their land reform programme. This will help the government to reach the 30% target much more easily.

According to Bernstein (2008:30), the land market transfers millions of hectares between buyers and sellers each year, and an increasing proportion of buyers are black. It is estimated that the

true extent of land transferred from white to black owners is now close to 6,8% of commercial agricultural land. Some 4,7% of agricultural land has been transferred through state programmes. This means that market transactions have transferred a quantity of land equivalent to 40% of the land transferred through government's land reform programmes. This may be an underestimate. In some areas, black people own far more than 7% of commercial agricultural land. For instance, CDE's own research shows that black farmers own 32% of commercial farmland in the Eastern Cape regions of Elliot and Ugie. Moreover, according to media reports, black farmers now own between 12-20% of commercial agricultural land in some districts in the Free State.

In July 2009, the Property Rates Act was implemented. The act stated that each farm owner must pay rates and taxes on his land. In order for the state to know how much land is owned by whom, they had to do valuations. These valuations gave a good indication of how much land is owned by black farm owners.

The actual impact land reform has on spatial development in the Tzaneen area is not measurable by statistics, but it has an emotional effect that no one can document in its precise form.

In Annexure B photographs are included, showing what has happened on commercial farms that were transported to beneficiaries.

Maps are attached as Annexure C, which shows the different land claims in the Tzaneen vicinity. As can be seen from the maps, almost all farms surrounding the town of Tzaneen are under claim. This means that spatial development in Tzaneen is almost impossible, because if land is under claim, the use of such land may not be changed. The land may also not be sold to any other person than the claimants. Because it is only agricultural land that is claimed, it means that the land use may not be used for residential purposes.

6.6 Inconsistency in land reform

In Hoedspruit it so happened that people formed an artificial tribe that never existed previously and had no relations with each other. They claimed five farms on which residential areas and wildlife estates had already been established. These wildlife estates are very exclusive and each investor obtains a one hectare stand on which he can establish a residential unit. Developers of such wildlife estates invested millions of rands to make these schemes viable,

but unfortunately the moment these farms were listed in the government gazette all transactions were frozen and most developers are now on the brink of bankruptcy. The chance that the land claims commission will actually buy the land for the claimants is very small and in the process developers' time and money are being wasted unnecessarily (de Jager, 2009:6).

Magoebaskloof was claimed as a consolidated area, except for a few properties in the middle of the area that stand out like a sore finger. For some land owners it is just too accidental that some of those properties belong to the previous Prime Minister of the Limpopo Province, the Governor of the Reserve Bank and other senior officials. It is quite unlikely that historical rights such as pasturage and the collection of wood, which was ostensibly disposed, exclude those specific properties (de Jager, 2009:7).

In Phalaborwa the Mashishimane tribe mainly claimed game farms. The carrying capacity of the pasture is one big livestock unit on 10 to 12 hectares of land. This area is behind the foot-and-mouth disease red line, which means that mostly big-five game farms were established, which were transported to a value of R8 000 per hectare in August 2006. The claimants insisted on farming with cattle. The commission thus spent an average of R80 000 to R96 000 to create the capacity for farming with one cow, which was worth about R4 000. Nobody in the commission or claimant community understood the financial implication of this and nobody cared (de Jager, 2009:6-7).

In the Mooketsi area the Maupa-tribe's claim has been dragging on for more than seven years after it was listed in the government gazette. The reason for this is that the claim is in conflict with the interests of the Modjadji-tribe and ten others. Agri-Letaba could not succeed in obtaining a copy of the Modjadji claims and is very sceptical about the second and third alterations to the claims that were announced in the government gazette at the end of 2008. Frustrated land owners are unhappy that the land claims commission announced the Maupa claim in the government gazette without the certainty that there was not more than one claim on the same property. They have consequently been the victims of administrative incompetence for more than seven years (de Jager, 2009:7).

6.7 Conclusion

The three legs of land reform, land restitution, land redistribution and land tenure reform's influence on the Limpopo Province, and more specifically the Tzaneen Municipality, have been

discussed extensively. So were case studies on land reform performances, as well as inconsistencies within the land reform programme.

The influence of land reform on the local spatial development in the Tzaneen area was never documented. The reason for this may be because no one is ready or willing to take responsibility for this. The other possibility is that the full picture has not been taken into account. Whatever the reason may be, there is definitely an influence.

Not only farmers whose land is under claim feel a huge matter of uncertainty regarding the stigma of land reform. Many agricultural businesses have closed doors and many farm workers who have worked on the farms have lost their jobs. They could do nothing else but move to the cities, thereby diminishing the buying capacity for Tzaneen. If all people move to the cities, who remains to build houses for and what reason is there for the town to move its boundaries and grow? Estate developers see a problematic future for agriculturally driven towns such as Tzaneen and are not prepared to take the risk of starting new residential or business developments. The same applies to investors.

Unfortunately, there is no vacant land adjacent to the town for Tzaneen to spatially develop any further. This implies that since the land reform issue was put into practice, spatial development in Tzaneen has been minimal.

The overall impact that land reform has on spatial development will be discussed in more detail in Chapter 7.

Chapter 7 – Implications of land reform policies on spatial development

7.1 Introduction

It is important to understand that government has already rectified a large number of past injustices and some of the unintended results through the rectification programme – land reform – are not directly the fault of government. However, some mistakes were made and the outcomes were not always as planned. Unfortunately, most of these mistakes are non-reversible, which means that it will take years to repair, if ever.

Such an unintended 'mistake' is the influence that land reform has had on the spatial development of all rural towns influenced by land reform. Spatial development is stimulated by various factors, such as general migration to a town, local business expansion, improvement of transport systems, tourist attractions, employment opportunities, improvement of basic services, provision of buying opportunities (shopping centres, entertainment, etc.), agglomeration benefits, provision of scarce products, land availability and a blooming farming community. Unfortunately, the land reform process in South Africa negatively influenced all these factors that are supposed to stimulate growth. The result: no spatial development, or even worse, people migrate to areas with a much more moderate economic state, leaving the rural towns to shrink and die.

Some of these mistakes are not measurable, because it was people's emotions that were influenced. But luckily most of these errors can be repaired by means of detailed planning and management on implementation.

7.2 Influences on spatial development

The aspects that are influenced by land reform should not be seen in isolation, because one small facet has an influence on various others and so, when one is out of balance, it can bring the whole tower down. All the aspects mentioned apply to the Tzaneen Local Municipality as well.

The following are unintended results caused by the land reform programme:

- **The communal areas/ homelands have increased**

The reason for this is that people have claimed farms adjacent to the homeland boundaries. This is a problematic issue because the Department of Housing's initiative is to give adequate housing and services to those in need. This initiative from the DoH has in some cases already spread to some homeland areas, but they have mostly started in the outskirts of towns where it is easy to connect to existing services. The local municipality will have to provide adequate housing and services to these people in the homeland areas and with most municipalities, especially those located in the smaller towns, money is a problem. This results in all the municipality's money and energy being used for the development of these homeland areas, leading to less money and time to focus on development of the town and business node itself.

- **Destroy commercial agricultural production**

If the farms are handed over to the new beneficiaries it has a definite influence on the commercial production on that farm. The new beneficiaries are not necessarily commercial farmers from origin and usually do not have the knowledge to farm commercially. This has a major effect on food security in South Africa. Also, farming is dependent on natural sources and resources. If for example it is a dry year, food yields will not be the same as the previous year and the farmers will have to use more of their own capital to plant crops for the following year's harvests. This happens all the time and farmers who are in the business for a few years know to budget for times when harvests are not that productive. But in the case of new upcoming farmers, they firstly do not have the capital and secondly, they do not have the experience to plan for less productive yields.

Unfortunately, if all commercial farms end up in the same way, South Africa has to import food in order to feed the nation. Also, farmers whose land is under claim do not make any investments on their land, because they do not know when the actual land transaction will take place. This sets the new beneficiary already a few steps back when he eventually receives the farm.

The land claim process is a problem. The commission lacks administrative capacity, as well as transparency. All this has an adverse impact on the business of farming. Many farmers whose farms are under claim say they are not making any new investments, and are cutting back on replant programmes. They are doing the bare minimum to keep on

ticking over. That's not a good development. And when land claims are finally gazetted, they can still take years to finalise (Bernstein et al., 2008:6).

- **The land reform programme creates existence farming**

There is nothing wrong with existence farming, but the problem comes in when productive commercial farms are converted into farms that only create food for the few people staying on the farm. That takes products out of the market that could have been used to feed the whole country, including the people staying on the farm. Also, no commercial production means no food to sell in food stores. Thus, when stores close their doors, people have to move to places where food is still freely available.

- **Informal housing on fertile agricultural land**

In many instances where land reform beneficiaries were not able to make a living on the received land, they go back to the cities where they came from. What happens now is that very fertile agricultural land, which many people will pay millions for, is occupied by illegal squatters. This causes the value of agricultural land to depreciate.

- **Beneficiaries are poorer than before they become beneficiaries of the land reform programme**

The beneficiaries move from the city/towns they are currently staying and working to the farms they received through the land reform process in order to make a living on their new farm. The problem is that they cannot use their land for collateral to borrow money in order to do improvements on the farm. They use their own money, but usually it is not enough to do the necessary improvements. They cannot sell the land or convert the land use, so all that is left for them to do, is to move back to the city/town and leave the land as it is.

- **Local economy reduced**

The rural towns are very dependent on the local farming community and if the farmers leave, no one is left to do business with. Agricultural businesses close their doors and soon all practices follow.

- **Big farmers become bigger and the smaller farmers leave**

Mostly the big farmers are not willing sellers, but smaller farmers see the land reform process as an opportunity to sell their land and start something new, or to retire. Very soon it is only the big farmers left in the business, because the big farmers control the market and prices and the smaller non-willing sellers do not have a choice other than to sell their land. This happens because it is not possible to survive in a market controlled only by large-scale farmers.

- **No investment in the rural areas**

Investors are uncertain about the land reform climate. Most investors have decided to invest in a more stable business.

- **Unemployment**

Unemployment is a huge issue in areas influenced by land reform. Most commercial farmers scale down, because they do not know what the land reform future will bring. This means retrenchments of farm workers. In the cases where farms are transported in the land reform process, the beneficial farmers rather use their own workers or try doing all the farm work between himself and his partners than to re-employ the farm workers.

Also, businesses that usually served the commercial farmers in the area scale down, which means more retrenchments. Soon, all businesses remotely related to the agricultural sector close doors, which means more people lose their jobs.

7.3 Conclusion

The question can now be asked, why are these implications not monitored and corrected? Is it because no one has realised there is a problem, or is it because of the factors the Centre for Development and Enterprise (CDE) has mentioned in their Research Report no 16? According to Bernstein (2008:21), the following issues are of great concern:

- **Capacity in the Department of Rural Development and Land Reform**

Over the past three years, the government has begun to admit what informed outsiders have been saying for a decade or more: ***“that the greatest impediment to successful implementation of land reform is the lack of capacity in the Department of Rural Development and Land Reform”***. In November 2006, the Minister of Agriculture and Land Affairs said there were 1 000 vacancies in the department. Capacity constraints were limiting delivery, and there was a lack of personnel to manage leases at the provincial level (Berstein, 2008:21).

- **Funding**

State funding of land reform is another problematic area, for two main reasons. Firstly, the DRDLR has recently struggled to spend its budget allocation. In 2006/2007, for instance, R3,7 billion was eventually spent, adjusted down from a planned R4,8 billion. Of this reduced amount, approximately R2,27 billion was allocated to restitution, and R907 million to redistribution. Surveys, mapping and planning received R194 million, and the remainder was allocated to administration and services (Berstein, 2008:22).

Secondly, even when the DRDLR is able to spend its whole allocation, there is a mismatch between the size of its budget and the likely cost of meeting its land reform goals (Berstein, 2008:22).

It is very concerning that land reform not only influences the agricultural sector alone, but has some sort of effect on every economically driven sector in South Africa. Take for instance the mining sector, which is supposedly not affected by land reform. If they cannot receive any wood from the timber industry, they will be unable to mine for minerals. That has an influence on the price of gold, which in return has an influence on the value of the Rand, etc.

The development of sustainable development indicators will improve the measurement of the influence of land reform on spatial planning and development. Also, the accountability of politicians will be determined as well as their monitored.

Chapter 8 – Planning recommendations

In this chapter, a few planning recommendations will be made that will support the efficiency of the land reform programme and ensure that spatial planning will not be forfeited in the process.

Although recommendations are made, it is not an easy task to implement these proposals. Government will have to make a mind-shift in terms of who to approach for help. Unfortunately, in both suggestions made, the private sector plays an integral role in order to accomplish success. Government will have to realise that to involve the private sector, targets will be reached much sooner.

The first recommendation is that the government must form coalitions with the private property market. This will mean that commercial land transported to black beneficiaries in the open market will have to count towards the 30% target to be reached in 2014. If this happens, part of the emotional sting will be taken out of the land reform process. As was already mentioned, much more land has been transported in the open market than government has transported through its land reform process. Also, if the government recognises the private property market as a partner, the government can have first opportunity to buy any farm land available on the open market and transport it to a beneficiary.

The second recommendation is that an integrated body must be formed, such as the former Joint Monitoring Committees (JMCs). This Integrated Land Reform Action Forum (ILRAF) must make decisions on national, provincial and local level and must be managed by an economic body. A person such as Trevor Manuel will make an excellent chairperson for such a forum.

The people that must be involved in the execution and management of the ILRAF are the following:

- **Town- and regional planners** who must be involved in all spatial development of towns influenced by land reform. This will ensure that spatial planning is not diminished in these towns and future development is still an option.
- **Urban designers** to ensure that local spatial development still occurs in such a way that it is aesthetically acceptable.
- All parties that provide **civil and electrical engineering services**. These include private sector companies as well as all state-lead engineering services providers. This will ensure that all future planning will be handled in a holistic manner and future planning can be made on local level in order to accommodate future spatial development.

- **Attorneys** involved in the transportation of land. This will ensure that at each meeting an update will be received of how many hectares of land have been transported and how many are still on the waiting list. Government will then be up to date on how much land has been transported and they will know how near/far they are from their 2014 target
- **Valuers** who value land for the land reform process. They will be able to give a full report on how many hectares of farm land have been valued, what they are valued for and how many hectares still have to be valued. This will also give the attorneys a bulk figure for their future planning in transporting land.
- **Political leaders** involved in the land reform process.
- **National Department of Agriculture, Forestry and Fisheries as well as the Provincial Departments of Agriculture**

The DoA's (Department of Agriculture) mission is to lead and support sustainable agriculture and rural development. The DoA will ensure that commercial agriculture will not be traded for informal housing being erected on farms received through land reform.

- **Department Rural Development and Land Affairs (DRDLR)**

The department's mission is to *"facilitate integrated development and social cohesion through participatory approaches, in partnership with all sectors of society"* (DRDLR, 2009b). Because the department plays such a key role in the land reform process, it is important for them to form part of such a facilitating forum, giving their advice and sharing their knowledge. Also, to share progress made on the land reform side and how issues were resolved.
- **Department of Human Settlement**

The mission of the Department of Human Settlement is *"to establish and facilitate a sustainable process that provides adequate housing for all within the context of affordability of housing and services and access to social amenities and economic opportunities"* (DoH, 2007). It is important that all departments must work together in order to make the land reform process a success and to ensure that spatial development is not restricted in any way. One of the objectives of provincial government is to provide adequate housing to the poor. It is a bit contradicting if one person receives a farm through the land reform process and cannot make a success of it, but many people do not even have a roof over their heads.
- **Commercial farmers** (both willing and unwilling sellers)

They will be able to provide insight into how current successful, producing commercial farmers experience the land reform process. It is important that the government should protect the country's commercial farmers in order to ensure food security for the future. They will also be able to advise the government on how to handle complicated situations.

- **Agri-SA**

“Agri South Africa is a federal organisation, which promotes on behalf of its members, the sustainable profitability and stability of commercial agricultural producers and agribusinesses through its involvement and input on national and international level” (Agri-SA,2009).

- People involved in **agriculture-related businesses**, such as NTK.
- **Farmer associations**, such as the Citrus Growers Association or the Cotton Growers Association.
- **Commercial banks**, such as ABSA, Standard Bank and First National Bank.

- **Estate Agency Affairs Board (EAAB)**

A representative of the EAAB can give valuable information on the property market. They will also be able to provide information on all agricultural land available on the free market.

- **Local municipalities**

It is critical that all local municipalities be involved in the decision-making of land reform. If they are up to date with where the process is heading, they will be able to budget for future development.

- **Farm workers representatives** (unions)

Farm workers are influenced by land reform on a much greater scale than the government gives credit. They are the people who are unemployed when commercial farms are transported to new beneficiaries.

- **Possible sponsorships**

When the government is unable to support new beneficiaries financially, possible sponsorships can become a party to the land reform process.

- **The President of South Africa**

It is important that the President of South Africa is up to date on all decision-making regarding land reform.

- **The media**

Decisions made on this forum must be communicated to the general public. To ensure that decisions made at meetings are for the benefit of all involved, transparency is the key. The media, which includes television, radio, newspapers and magazines, will ensure that all important issues will be communicated to both the national and international public.

- People within the **local community** that acts as a representatives of affected parties
- A representative for **upcoming farmers and beneficiaries communities** in order to ensure that their uncertainties and preferences are heard.

Chapter 9 – Conclusion

A research process outline is included in Annexure A.

The research process outline indicates all involvement in the land reform process on national, provincial, district and local level, as well as the management of spatial development and planning on all of these levels.

For the broad-spectrum South Africa, the term 'land' means more than just a means to make a living, it brings an emotional connection that determine an individual's welfare and status in the community, but more than anything else, it provides the gateway to great expectations.

According to Lewes (2006:15) the relationship with land, which include its access, resources and ownership, frequently create tensions and alienation between individuals and social structures. Conflict over land is not just about an expanse of ground on which things grow, but a deep-seated attachment to place and identity, exacerbated by economic and other imperatives that are located in a history of expansion and acquisition.

After the Democratic elections in 1994 which introduced a new government to an emotionally bruised South Africa, the land reform program was launched. South Africa's land reform programme consists of 3 pillars, namely:

- Land Restitution;
- Land Redistribution; and
- Land Tenure

These three pillars originate from five principles. These principles are:

- Freedom Charter
- Constitution of South Africa
- Reconstruction and Development Programme
- Legislation
- Land Summit, 2005
- ANC Consultative Conference, 2007

Each one of these five principles played a role in the composition of the land reform programme.

The first phase of the land reform program is **land restitution**. This phase comprises the lodgement of a land claim on a piece of land. The land claims process is managed by the Land Rights Act, Act 22 of 1994. This phase is focussed to address “*past injustices caused by racially based legislation*” (DALA, 2005:7). According to this law, black people that lost their land after 19 July 1913 under racially inspired laws, without compensation, could claim that land back from the state. For a successful land claim, the claim must have been lodged at the Department of Land Affairs (now known as the Department of Rural Development and Land Reform), before 31 December 1998.

The second phase of the land reform program is **land redistribution**. In this phase the government assist black people to buy land from white owners. The state provides subsidies or other types of grants in the form of fixed amounts per person or family, or a percentage of the total purchase amount of the farm to be bought. The first grant that was introduced was SLAG (Settlement Land Acquisition Grant) which provided a housing subsidy of R16 000 per individual. This basic grant was supplemented by additional allowances for planning, facilitating and the resolvment of differences. The SLAG program has failed and was replaced by the LRAD (Land Redistribution and Agricultural Development) program. The LRAD programme was initially managed by the Land Bank, but because of irregularities in the bank, management was taken over by the provincial offices. The programme was first based on a percentage of 20% of the land value, but was later on restructured to a maximum grant of R430 000 per individual (de Jager, 2009:43).

The third leg that land reform focus on is **land tenure**. This is mostly a product of changing labour circumstances and the decreasing of commercial farmers in the country. In 1984, there was a total of 120 000 commercial farmers in the country, but in 2004 this amount has shrunk to 40 000. The Communal Land Rights Act (ClaRA) was promulgated in February 2004. Its job is to seek rationalisation in the extremely complex tenure issues in the former homelands. Under this legislation those who are occupying land with a Permission To Occupy (PTO) certificate, or other traditional occupation certificates, can apply for ownership. This legislation has had a long and complex period of development and continues to provoke opposition, especially from traditional leaders who fear that the Act may erode their power-base. Concerns about the state’s capacity to implement the act have also been raised (Bernstein et al, 2005:12).

The study area, the Tzaneen Local Municipality, is situated within the Limpopo province, one of nine provinces in South Africa. The Limpopo province is further divided into five districts, namely:

- Vembe district;

- Mopani district;
- Capricorn district;
- Greater Sekhukhune district; and
- Waterberg district.

Various frameworks and plans were developed on national, provincial, district and local level in order to ensure that spatial development and planning runs parallel to land reform. These plans and frameworks are as follow:

- **National Level**
 - Proactive Land Acquisition Strategy (PLAS)
 - Area Based Plans (ABP) although ABP's are developed on national level, in forms a part of District level Integrated Development Plans (IDPs)
- **Provincial Level**
 - Limpopo Growth and Development Strategy (LGDS)
- **District Level**
 - Mopani Integrated Development Plan (MIDP)
- **Local Level**
 - Greater Tzaneen Municipality Integrated Development Plan (GTMIDP)
 - Greater Tzaneen Municipality Spatial Development Framework (GTMSDF)

The Tzaneen Local Municipality is situated within the Mopani District Municipality Area of jurisdiction, together with the Greater Giyani, Ba-Phalaborwa and Greater Letaba.

Unfortunately, according to the case studies conducted in the Limpopo Province, land reform successes are few.

There is an immense impact on the spatial development of the Tzaneen Local Municipality because of the land reform programme. The main reason for this is once a piece of land is under claim, the land use may not be changed. Tzaneen is an agricultural-driven town, surrounded by commercial farms. Unfortunately most of the farms surrounding the town are under claim. This is bad news for spatial development, because Tzaneen cannot expand, because townships can not be established on agricultural claimed land.

Also, Tzaneen's buying power is migrating. Land reform causes many uncertainties, which results in many of the previous white commercial farmers leaving the district. Agricultural-related businesses such as NTK first closed their doors, and soon many others followed. It is not only

the agriculture-related businesses that are affected. Professional services such as transfer attorneys, engineering companies, town planners etc. soon follow in their footsteps. Unfortunately, when it first starts, there is no way of stopping it. With a town such as Tzaneen where more than 98% of the surrounding farms are under claim it is a huge problem for spatial development.

The only way in starting to rectify such problems is for the local municipality to step in. Regrettably, the Tzaneen local municipality was never involved in the whole land reform process in Tzaneen, so there is little chance for them to intervene in the process to help save the town's economy.

The only way to save the economy of local towns in South Africa is to involve the private sector in the land reform process. All the expertise is situated within the private sector and this will also help to remove the emotional sting from the land reform process. The first thing government must consider is to buy agricultural land already available on the open market. According to de Jager (2007:74), the estate agency Pam Golding has got five million hectares of agricultural land on their books, and the Jigsaw-group has submitted even more than that to the Department of Rural Development and Land Reform.

An initiative that can also resolve the huge emotional aspect of land reform is to rather establish "agricultural villages" in the outskirts of local towns. Connection to bulk services is available and minimal costs should be paid in order to upgrade and connect to these services. The spatial development of the towns will be stimulated by these agri-villages as beneficiaries have less of a responsibility to perform. The land is big enough to make a living and even to make a profit. When the beneficiary can prove that he is able to produce he can then be upgraded to a bigger piece of land.

Another recommendation is that an integrated body must be formed such as the former Joint Monitoring Committees. This Integrated Land Reform Action Forum (ILRAF) must make decisions on national, provincial and local level and must be managed by an economic body.

ANNEXURE A



The Influence of Land Reform on Spatial Planning and Development in the Greater Tzaneen Municipality

National Level

Definition of LR

Principle

Shortcomings

WBWS principle

Solution

LR Programs

Documentation

Freedom
Charter

Constitution

RDP

Legislation

ANC CC

Restitution

Redistribution

Tenure

PLAS

ABP

Provincial Level

Impact of LR Programs

Documentation

LGDS

Implications on Spatial Development

Planning Recommendations

District Level

Impact of LR Programs

Documentation

MIDP

ABP

Implications on Spatial Development

Local Level

Impact of LR Programs

Documentation

GTM IDP

GTM SDF

Implications on Spatial Development

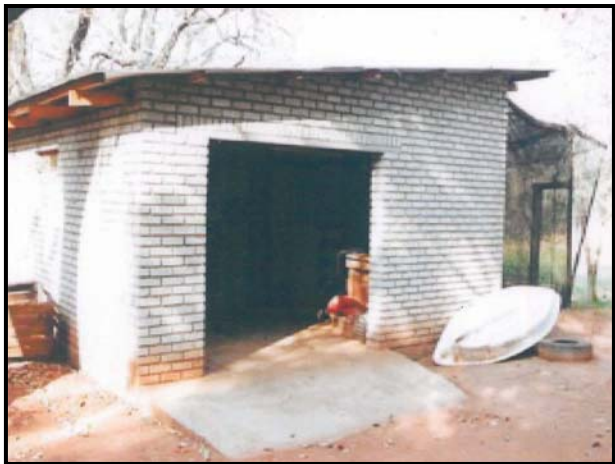
Planning Recommendations

ANNEXURE B



2004

2008



2004



2008



2004

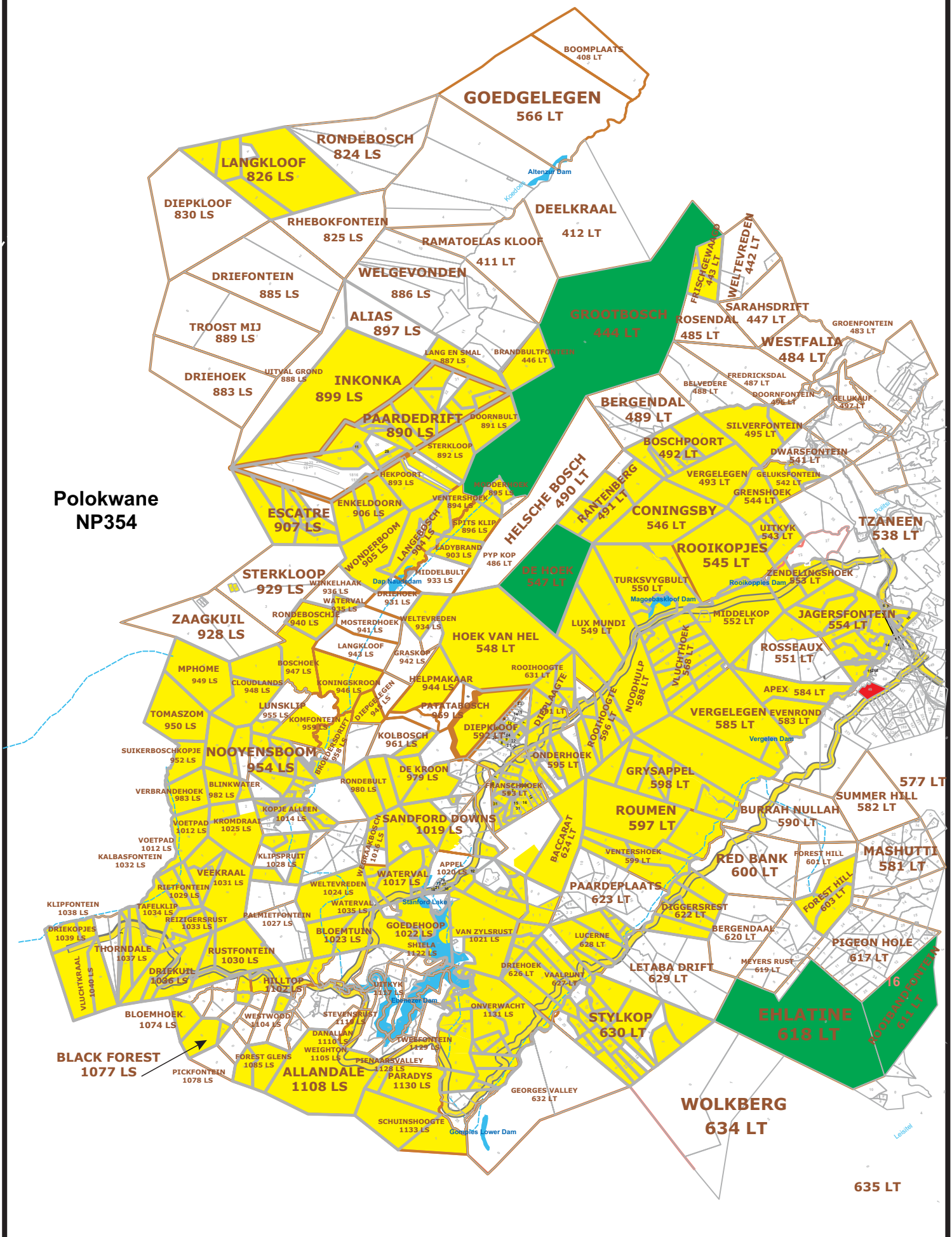


ANNEXURE C

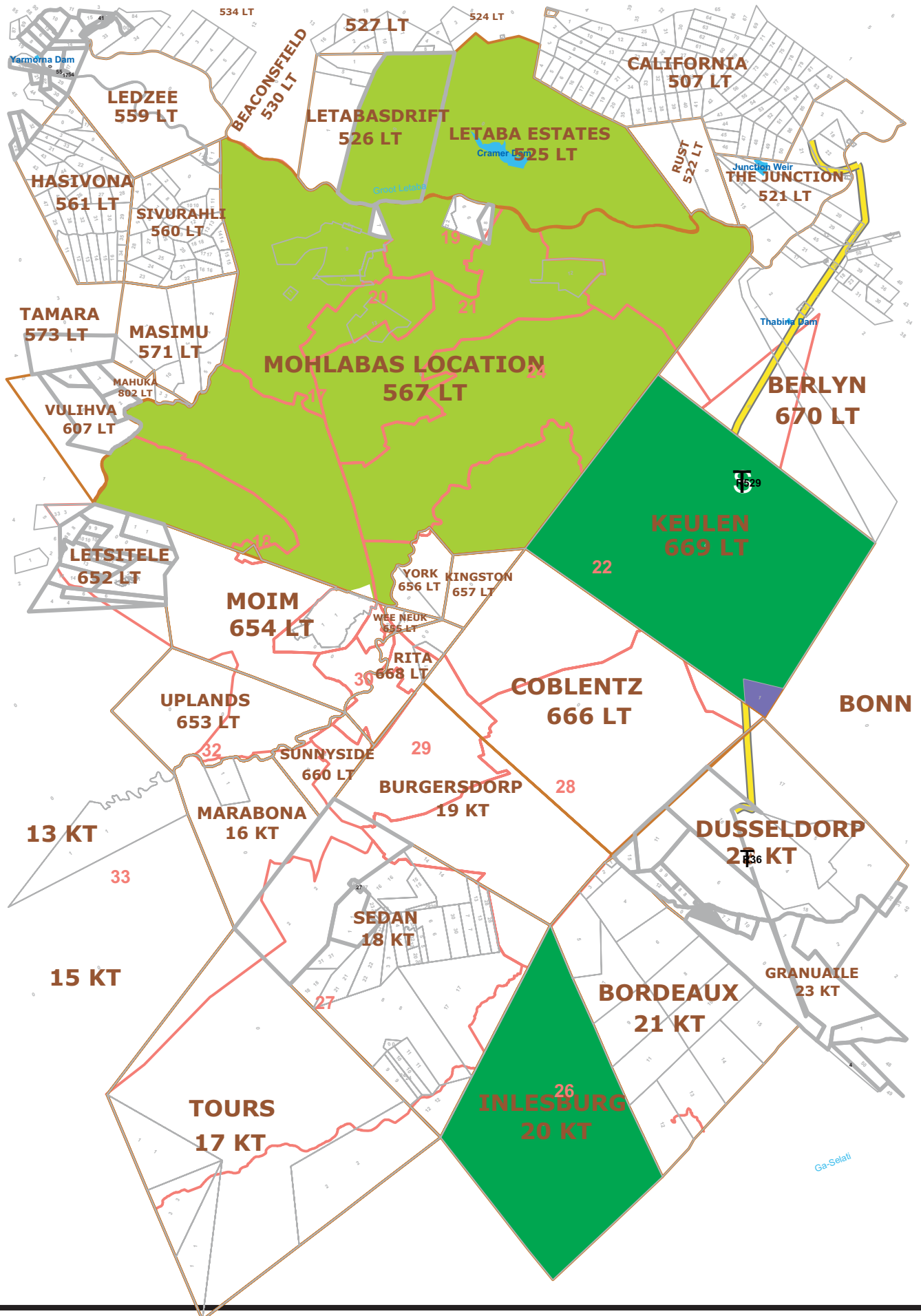


Bakgaga Land Claim

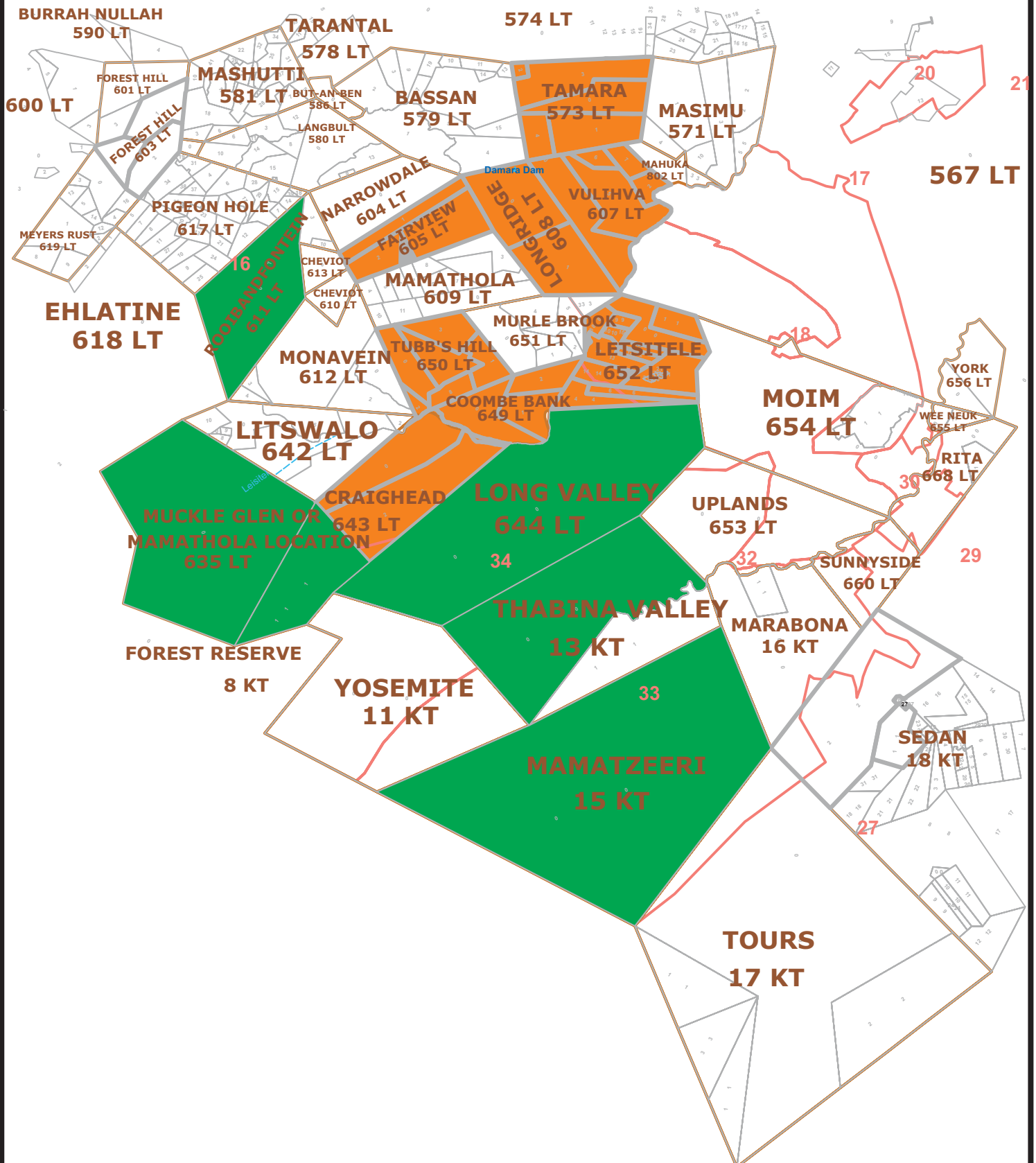
MAGOBA LAND CLAIM



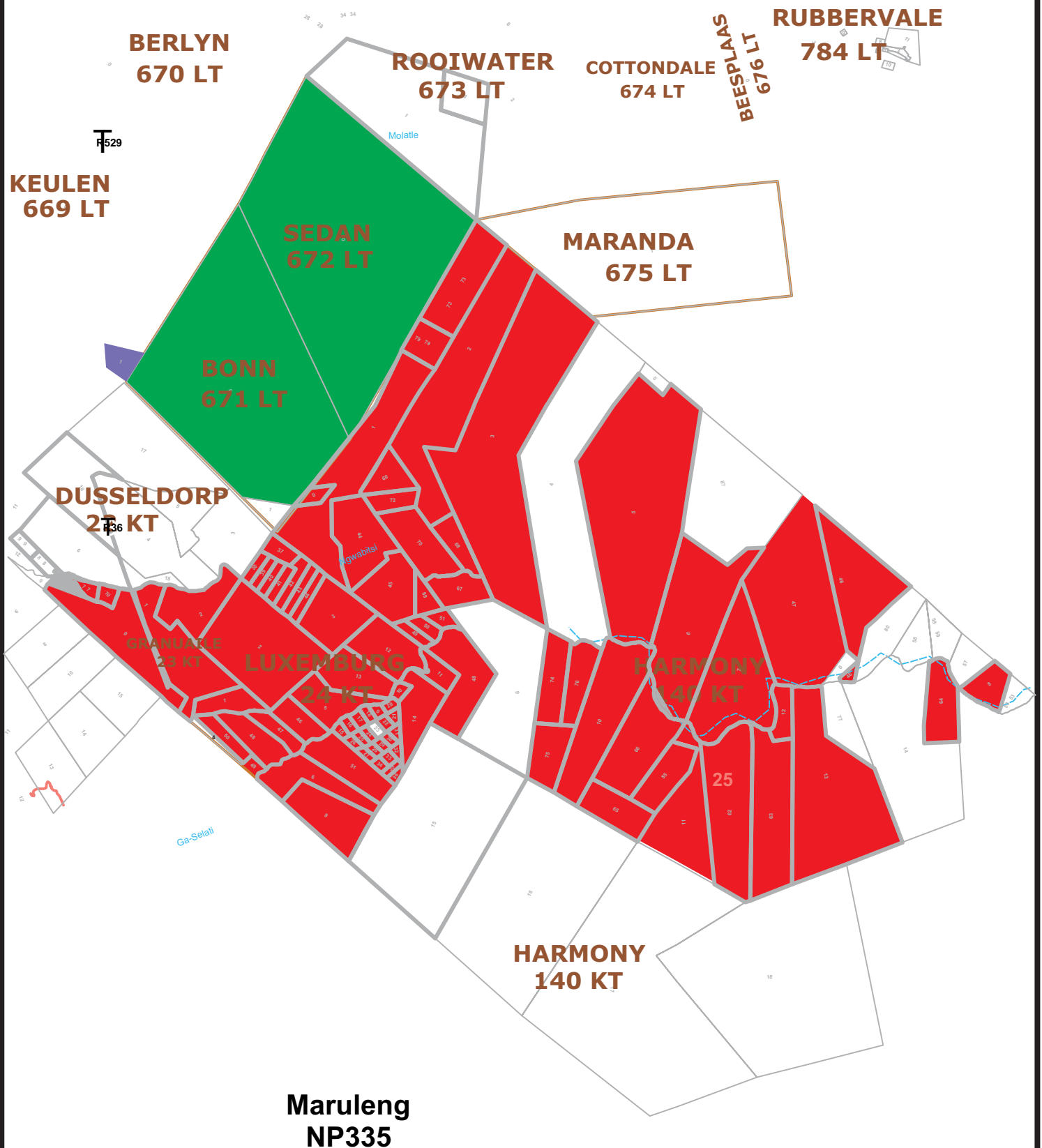
RISENGA LAND CLAIM



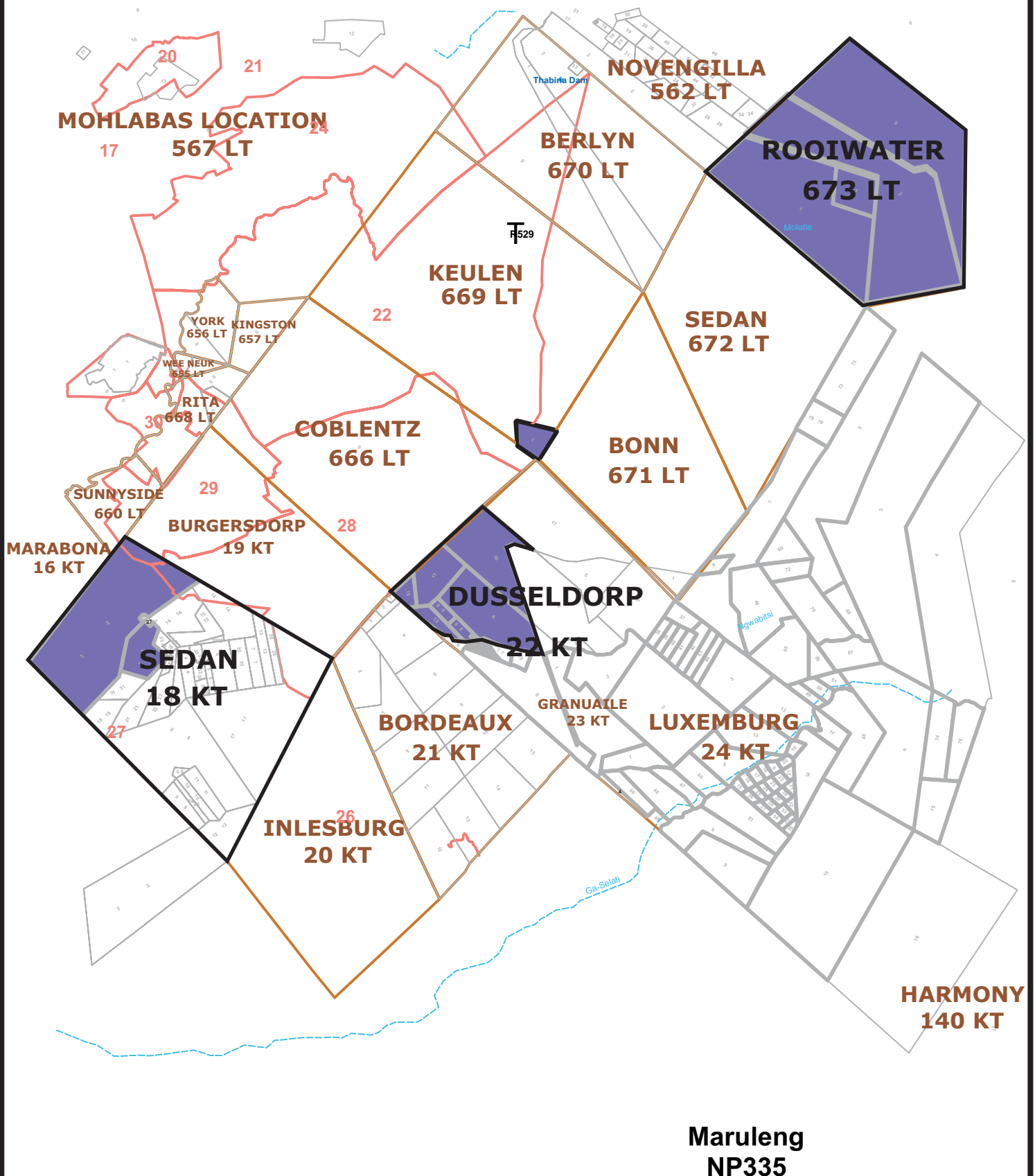
MOGOBOYA LAND CLAIM



MAITJENE LAND CLAIM



BAKGAGA LAND CLAIM



ANNEXURE D



Name and Surname

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1. Occupation

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.....

2. Name of current employer/Business

.....

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3. How many years are you actively involved in the industry?

.....

4. Geographical area where the business is mostly practised

.....

.....

5. Business in the Tzaneen area as a percentage (%) of your total business

.....

.....

6. Did land reform have an influence on the size of your business and if so, what was the influence?

Business has grown ☐

Business has shrunk ☐

No influence ☐

Comment:.....

.....

7. What is your opinion about future business development in the Tzaneen vicinity?

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Additional Comments:

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