

**LAND RESTITUTION: THE EXPERIENCES IN KENYA AND
ZIMBABWE COMPARED. LESSONS FOR SOUTH AFRICA.**

By

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Declaration

I, the undersigned, hereby declare that the work contained in this thesis is my own original work and that I have not previously in its entirety or in part submitted it at any university for a degree.

SUMMARY

Land has been the revolutionary metaphor for wealth and power in the world and even more so in Africa. Ideally, land reform in Africa should therefore, contribute to social and economic progress and ultimately result in social equity as well as increased agricultural productivity.

This study was devoted to the history of colonialism and the meaning and birth of land reform policies after colonialism. Moreover, to familiarise the reader with the various meanings and issues concerning land reform particularly in Kenya and Zimbabwe. The outcome of the study was to provoke further discussion on the need for land reform in other developing countries, especially South Africa, as well as to investigate whether colonialism created certain land ownership patterns that had harmful effects on the political and economic climate after independence in Kenya and Zimbabwe.

Kenya has been unable to establish a sustainable land reform programme since independence. Ethnic clashes in the early 1990's were seen as a continuation of a battle to recognise the existence of property rights. The contributing factor to the conflict was the fact that the political leadership in Kenya was the direct beneficiary of land reform policies. Furthermore, the uncontrolled privatisation of public land only resulted in economic and agricultural decay. The Kenyan experience provides no evidence of increase in agricultural production, but inevitably resulted in social and economic inequalities and the emergence of significant landlessness, which was a result of the inadequacy of government, to provide credit as was initially proposed.

Zimbabwe faces the painful reality that its political revolutions have only brought them halfway to true independence. The objective for Zimbabwe was to establish a functional socialist economy where decision making would be under political control in order to bring about the drastic redistribution of wealth from whites to blacks and to become independent from capitalists. The importance of land in Zimbabwe did not so much lie in the social and

economic inequalities, but rather the inability to access land, accompanied by a growing overpopulation, landlessness, land deterioration and escalating poverty in the black areas parallel with severe under-utilisation of land in the white farming areas.

This study concludes that African governmental land reform programmes have had mixed success. The complex nature of the liberation struggles in Africa, created diverse post-independence governmental systems. However, some former colonies illustrate certain common underlying issues such as the fact that years after independence, land remains one of the key unresolved issues in both Kenya and Zimbabwe, as well as in South Africa.

OPSOMMING

Gesien in die lig dat grond die revolusionêre metafoor van rykdom en mag in die wêreld, nog te meer in Afrika is, sal dit ideaal wees indien grondhervorming in Afrika kan bydra tot sosiale en ekonomiese bevordering en uiteindelik kan uitloop in sosiale gelykheid asook toename in landbou produktiwiteit.

Hierdie studie was toegewy aan die geskiedenis van kolonialisme en die betekenis en oorsprong van grondhervormingsbeleide na kolonialisme, asook om die leser in te lig oor menings en uitgangspunte rakende grondhervorming, spesifiek in Kenya en Zimbabwe. Die doel van die studie was om verdere besprekings oor die behoefte vir grondhervorming in ander ontwikkelende lande, veral Suid-Afrika, uit te lok. Verder om te ondersoek of kolonialisme sekere grondeienaarskappatrone veroorsaak het wat negatiewe effekte op die politieke en ekonomiese klimaat in Kenya en Zimbabwe, na onafhanklikheidswording, veroorsaak het.

Kenya is, sedert onafhanklikheidswording, nog nie in staat om 'n volhoudbare grondhervormingsprogram daar te stel nie. Etniese botsings in die vroeë 1990's was gesien as 'n voortsetting van 'n geveg om die bestaan van eiendomsregte te erken. Die bydraende faktor tot die konflik was die feit dat die politieke leierskap in Kenya direkte begunstigdes van die grondhervormingsbeleide was. Verder het onbeheerde privatisering van openbare grond ekonomiese en landbou verval tot gevolg gehad. Die Kenya-ondervinding voorsien geen bewyse van toename in landbou produktiwiteit nie, maar het onvermydelik sosiale en ekonomiese ongelykhede en die ontstaan van merkwaardige grondloosheid tot gevolg gehad as gevolg van die onvermoeë van die regering om krediet te voorsien soos aanvanklik voorgestel was.

Zimbabwe staar die pynlike realiteit in die oë dat hul politieke revolusies hulle slegs halfpad tot ware onafhanklikheid gebring het. Die doel vir Zimbabwe was om 'n funksionele sosialistiese ekonomie daar te stel waar besluitneming

onder politieke beheer sou wees om sodanig drastiese herverdeling van rykdom vanaf blankes na swartes, asook onafhanklikheid van kapitaliste, te bewerkstellig. Die belangrikheid van grond het nie soveel in die sosiale en ekonomiese ongelykhede gelê nie, maar liever in die onvermoë om grond te bekom tesame met 'n toenemende oorbevolking, grondloosheid, grondverarming en toenemende armoede in swart gebiede. 'n Bydraende faktor was die uiterse onderbenutting van grond in blanke boerdery gebiede.

In samevatting wys hierdie studie dat grondhervormingsprogramme van regerings in Afrika gemengde sukses behaal het. Die kompleksiteit van die bevrydingstryde in Afrika het uiteenlopende post-onafhanklike regeringstelsels tot stand gebring. Nietemin, illustreer sommige voormalige kolonies sekere algemene onderliggende uitgangspunte, onder andere die feit dat grond, jare na onafhanklikheid, steeds een van die belangrikste onopgeloste vraagstukke in beide Kenya en Zimbabwe, sowel as Suid-Afrika is.

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Abbreviations Used

| | |
|-------------|--|
| AFC | Agricultural Finance Corporation |
| ANC | African National Congress |
| CFU | Commercial Farmers Union |
| ICDC | Industrial and Commercial Development Corporation |
| IBRD | International Bank for Reconstruction and Development |
| IMF | International Monetary Fund |
| Kanu | Kenya African National Union |
| KAU | Kenya African Union |
| KCA | Kikuyu Central Association |
| LDSB | Land Development and Settlement Board |
| LRAD | Land Redistribution for Agricultural Development Sub-Programmes |
| NDP | National Democratic Party |
| UDI | Unilateral Declaration of Independence |
| ZAPU | Zimbabwe African People's Union |
| ZNA | Zimbabwe National Army |
| ZIPA | Zimbabwe People's Army |

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CHAPTER ONE: INTRODUCTION

1.1 PROBLEM STATEMENT

In Africa the struggle for land has been a major factor in decolonisation and post-independence development. The fight for land between tribes and nations and between settlers and indigenous populations represent a significant chapter in Africa's recent history. Land became a resource whose value was determined by the sacrifices in blood made in order to take or protect it. The current land patterns in Africa were shaped by land dispossession initiated by colonialism and large-scale immigration by European settlers into Africa, which determined the economic position of Africans.

Bracewell-Milnes (1982: 17) stated that ownership represents potential consumption, and that the power to consume has value as well as its exercise. This links with the most pressing concerns for indigenous communities the world over: the use of land and the occupation thereof. To them the relationship to land was not merely a question of possession and production but also a material and spiritual element that must be fully preserved for future generations.

Arnold (1974: 35) argued that colonialism should be looked at for exactly what it was designed to do *i.e.* to benefit the colonial powers financially. Therefore, it could be stated that colonial practices were created to put a divide between the ruled and the rulers. While colonial subjects had the rights in theory, in practice these rights were severely limited. Colonialism worked upon a series of balanced theories: "divide and rule; concede and hold; loyalty and subversion" (Arnold, 1974: 42). De Waal (1990: 17) stated that colonialism was a word, which was exclusively used by those who have been colonised, while the colonial powers justified their exploitation as a moral obligation to civilisation. Furthermore, Arnold (1974: 46) reported that even to the end of

colonialism, the colonial authorities still believed that they knew what was best for Africans, and this insistence upon superior wisdom more than any was what made colonialism so unbearable to its subjects. This created a divide that gave birth to the theory of backward and advanced communities in the colony. Horowitz (1985: 50) stated that every population group needs a positive self-evaluation and that differences between various groups create comparisons and competition, subsequently creating greater chances for conflict.

Imbalances of land ownership in Africa dates back to the Berlin Conference of 1885, when European powers partitioned Africa into spheres of influence. De Waal (1990: 15) stated that during the Berlin Conference agreement was that Europe would *“emphatically pledged themselves and placed on record their recognition of the sacred duty of preserving the aboriginal races of Africa; of watching over their interests; and of cultivating their moral and material advancement and development”*. The reality was that Black Africa was dispossessed of its ancestral lands and prohibited from participating in commercial production except as labourers and at the end of the First World War Europe had colonised up to 85% of the world. Since then *‘the land question’* became a major cause of liberation struggle in Africa. Land reform (must be noted) was a recurrent historical event and not merely the invention of idealistic reformers. Years after most countries have regained their independence these imbalances still remain, as in the case of Kenya and Zimbabwe, with one or another being forced into dominance by historical and political circumstances.

In Africa we have seen that the best cultivable land had been owned and operated by colonial settlers and the decolonisation process, therefore, had implications for the relations of production in the agrarian system of these countries. For the purpose of this study it was decided to focus on two African countries whose land reform policies received the most attention. Kenya and Zimbabwe are examples of countries, which were both under British Colonial Rule, where dispossession took place and where the struggle for land fuelled the liberation struggle. There was no doubt that one of the greatest problems

of development in Africa was how to adjust “tradition-ridden societies to the requirements of agricultural progress and socio-economic advance and how to finally decide whether to channel this dynamic process to the advantage of all Africans or leave it to favour just a few” (Jacoby, 1971: 319).

Kenya and Zimbabwe are two countries with various similarities and differences regarding land reform and restitution. In both cases the quest for land ownership was pivotal in the political evolution of these countries. Today, perhaps more than ever, people in developing countries are living in need of land.

1.1.1 Kenya

Kenya is regarded as a rural economy and for this reason land reform plays an integral role in the overall economic strategy. Kenya is a country with a land area of 570,000 square kilometers, and underdeveloped in nature. The vast majority of Kenya’s population “(85-90%) is rural” (Hunt, 1984: 8). Most of the people in turn derive all or part of their income from the land. Kenya has most of the problems associated with poverty: “low levels of education, poor nutrition, weak health care, poor infrastructure, and over-reliance on agriculture” (McCormick, 2001: 5). It is not surprising that Kenya rank “187th out of 210 countries in GDP per capita” (McCormick, 2001: 5). Between 1980 and 2000, Kenya’s labour force grew significantly from 7,2 million to 14,8 million. Inevitably, the majority of the new labour force will seek employment in the rural sector and while land is unequally distributed, overall population pressure on the land is rising rapidly. Hunt (1984: 9) emphasis that the present systems of land holding and land use in Kenya is a legacy of both the pre-colonial and colonial (1895-1963) periods.

During the colonial period the indigenous tribes were restricted to reserves, while the settler community cultivated the arable land in Kenya. The land was reserved for white settlement and the exclusion of the indigenous population from what were “deemed to be their ancestral lands has triggered off the Mau

Mau rebellion of the 1950's" (Sobhan, 1993: 72). During this period colonial authorities introduced programmes of land reform in the reserves. It was initiated in the "Kikuyu province, and continued after independence in other parts of the country" (Hunt, 1984: 12). In 1968 Jomo Kenyatta was reported stating, "[the] greatest asset in Kenya is [the] land, which is the heritage received from our forefathers and in land lays our salvation and survival" (Klopp, 2000: 7).

During the process of negotiations for independence it was agreed, with the exception of the settler community, that a substantial proportion of settler farms would be transferred to African ownership. This was viewed essential to maintain political and economic stability, as land reforms were associated with a process of overall social, political and economic transformations. The aim of the Kenyan government was to acquire the surplus land from the white settlers for redistributive purposes to African households. However, the government also wanted "white settlers to continue to run their capitalist farms, which remained the main source of production and exports from the farm sector" (Sobhan, 1993: 73). Some farms were transferred to members of the new political elite and other sections were subdivided into settlement schemes. Hunt (1984: 13) reports that the Kenyan land reform programme was financed by loans from the World Bank and the British Government and the core of the Kenyan land transfer process, "which continued till 1971, was the Million-Acre Scheme for which US\$42 million was provided" (UF research, 1993: 3). It was agreed between the various parties that purchases would be made at the prevailing market price, on a willing seller basis.

Since political independence in 1963, Kenya boasted with the "highest per capita income in East Africa and the largest most diversified modern sector" (Hunt, 1984: 19) but the extremes of income were marked and associated with differences in race. A decade later signs of instability crept in as Kenya was still relying heavily on its agricultural sector. The Kenyan government was confronted with the question if whether they can maintain to promote equity by redistribution programmes with high population pressures and a large landless labour force.

Two possible policy alternatives regarding land distribution were suggested; first to redistribute land to individual peasant producers and with the continuing dominance of private ownership. Secondly, to establish a stable ownership of large-scale industry and collective ownership of cultivable land. During this time many believed that the only way to readdress poverty and to provide optimal employment and income opportunities was through radical asset and land redistribution.

1.1.2 Zimbabwe

More than 20 years after Zimbabwe attained its independence the land question has continued to dominate the political arena. Land in Africa has been a central issue ever since the coming of the colonists and in Zimbabwe it remained a key determinant, which shaped the entire political economy. Colonialism in Zimbabwe began in "1889, [driven by] the British South Africa Company (BSAC) under Cecil Rhodes" (Peters & Malan, 2000: 151). Today some of the key issues of public concern in Zimbabwe include: "the adequacy of the quantity and quality of land redistributed, the method and costs of land acquisition and redistribution, the efficiency of land use in both the large farm and resettlement areas, the suitability of those benefiting from land redistribution, the fairness and equitability of procedures for dealing with land demands, and the economic impact of land reform" (Moyo, 1995: 1). In Zimbabwe land reform embraced a variety of policy problems ranging from political, economic, social and environmental issues. The term land reform had many different meanings to various interests groups over time in Zimbabwe and subsequently, had an impact on the success and deliverance rate of the various land reform programmes.

The unequal distribution of land was due to legislation drawn up by the colonial powers to favour settlers politically and economically. By the end of "1910, 23,4 % of the land had been appropriated by whites, and 26 % had been declared Native Reserves, later to become known as Tribal Trust Lands" (Herbst, 1991: 269). The implementation of The Land Apportionment Act

(LAA) in 1930 legalised the division of the country's land. By this time, Europeans owned 50,8 %, Natives 30,1 % and the rest 19,1%, furthermore, this "act prohibited members of either racial group from owning land in areas assigned to the other" (Herbst, 1991: 269). Thus, creating large inequalities concerning the quality of land held by the different racial groups. Herbst (1991: 269) reported that 74 % of all peasant land was in areas frequented by droughts and uneven rainfall, which made intensive crop production impossible. Moreover, the population density in the reserves/communal areas "where approximately 28 people per square kilometer compared to the only nine people per square kilometer in the white areas" (Herbst, 1991: 270). The racially discriminatory act of grouping indigenous tribes in reserves led to the disintegration of the agricultural economies of these people. This gave impetus to a bloody liberation struggle with the main driving force: *land*.

Due to the violent nature of the liberation struggle, a constitutional settlement was negotiated, which protected white settler land and committed the new government to pay compensation for white lands required. The Lancaster House Constitution, which was accepted in 1979, protected the white settler land through the willing seller-willing buyer clause. In following years the Mugabe government blamed the externally imposed Lancaster House Constitution for the poor delivery rate, as this agreement impeded radical land reform programmes. Observers to the liberation struggle viewed the "land provision of the Lancaster House Constitution as an essential part of the political solution to the war" (Herbst, 1991: 271). In 1980 Zimbabwe attained independence.

During the initial years following independence, the Zimbabwean government resettled " 8 600 families on 520 000 hectares of land" (Herbst, 1991: 271). By 1984 some "18 % of the white-owned land had been redistributed to Africans" (Sobhan, 1993: 73). This figure included those white-owned land where some white settlers fled out of Zimbabwe but most of the white settler community stayed. Initially, the land reform programme of Zimbabwe looked very promising, transferring only 10 % less land than Kenya but the restrictions of the Lancaster House Agreement had tremendous strains on the

optimal provision of adequate land. As stated earlier, only a few white settlers decided to leave Zimbabwe and only a few white farmers were willing to sell their land or a portion of their land. The Mugabe government could not properly provide the infrastructure needed to assist new farmers, as they were forced to acquire land that “needed a great deal of preparation before it could be farmed” (Herbst, 1991: 272).

Ten years after independence “51 000 families had been resettled on 2,65 million ha of land” (Cloete, 1992: 254). In 1990 the “Zimbabwean government attempted to adopt new legislation, which would empower the government to acquire any land they consider necessary to confiscate [and] to determine fair compensation within a reasonable time frame” (Cloete, 1992: 254), furthermore, to restrict ownership of land to one farm and to pay compensation in local currency. This attempted change in legislation had a dramatic impact on the politics of resettlement in Zimbabwe, as the state was not in a position to create prosperity.

In 1997 the government published a list of “1,471 farms that were to be expropriated and resettled without compensation” (Peters & Malan, 2000: 156). The fund donors did not favour this controversial move of the Mugabe government. Furthermore, Mugabe’s reluctance to withdraw from the civil war in the Democratic Republic of Congo (DRC) was not in alignment with the International Monetary Fund (IMF) and the World Bank, and financial aid was suspended. The Zimbabwean government was criticised both locally and abroad for crediting an election campaign that favoured violence. The illegal occupation of white-owned land “since February 2000” (Mapenzauswa, 2001: 2) has damaged investor confidence, which indicate very poor economy recovery. This new phase of land reform in Zimbabwe is a source of great concern, as the continued dominance by the Mugabe government is a constraint to the proper evolution of an appropriate land reform policy.

It was believed that land reform programmes in Africa were extremely slow paced and insufficiently administrated to fulfill the needs of the indigenous groups. Looking at Kenya; there are strong arguments supporting the notion

that land reform programmes had some level of success, partly due to “better agro-ecological conditions” (Herbst, 1991: 271) but the intensification of land reform will have definite benefits for the rising political and economic strains created by poverty. The Zimbabwean government faces a volatile situation, as expectations were high that the government would deliver on expected benefits such as land.

1.1.3 South Africa

Goforth (1998: 1) stated that “South Africa’s apartheid regime was one of the ugliest experiments in human history”. It contributed to the current situation where more than “3,5 –7 million people” (Stanich, 2000: 22) are dispossessed and land hungry. The Land Act of 1913 shaped the land distribution to “87 % of the most arable land given to a ruling minority, and the remaining 13 % to the majority, who were disenfranchised at the time” (Matlou, 2000: 1). Matlou (2000: 1) reported that the South African Land Reform policy was designed to reverse land ownership created by the Land Act of 1913.

In 1994 the newly elected ANC government faced the “staggering racial imbalance in land ownership” (Stanich, 2000: 22). These racial imbalances were shaped by the political, social and economic history of South Africa. The government provided a land reform policy with four basic objectives: firstly, to redress the injustices of apartheid; secondly, to foster national reconciliation and stability with South Africa; thirdly, to underpin economic growth; and lastly, to improve household welfare and alleviate poverty.

The Land Reform Programme in South Africa consists of three legs that were put in place to improve overall welfare and to alleviate poverty in the country. *Land restitution* usually involves “returning land lost, or compensating victims who lost property since 19 June 1913” (Matlou, 2000: 1) as a result of racially discriminatory laws or practices, and without just and equitable compensation, at the time of dispossession. *Land redistribution* enables the “poor and disadvantaged people in South Africa to buy land with the help of

Settlement/Land Acquisition Grant/Land Redistribution for Agricultural Development Sub-Programmes (LRAD)” (DUA, 2001: 76). The *land tenure reform* aims to privatise state-owned land in order to bring all people occupying land under one legal system of landholding. It aims to provide help to “resolve tenure disputes and provide alternatives for people who are displaced in the process” (DUA, 2001: 76).

This research assignment focuses on the Restitution of land rights as a process. In South Africa victims of land dispossession had until December 1998 to lodge official claims for the restoration of their land rights. Matlou (2000: 1) stated that the Restitution of Land Rights Act of 1994 provides victims with five ways of restoration: firstly, the government provides the restoration of land from which claimants were disposed; secondly, they will make provision for alternative land; thirdly, government will provide monetary compensation to claimants; fourthly, government will provide preferential access to government housing; and lastly, government will assist claimants with land development programmes.

A critique against the Land Reform policy in general and more specific the Restitution of land rights programme, is that the progress has been slow since its inception. Although President Thabo Mbeki, in his state of the Nation Address 2002, “acknowledged the lifted number of settled claims from 12, 094 [in 2000-2001] to just over 29, 000” (Commission on Restitution of Land Rights) in 2002, there is a call from grass-roots level to speed up land restitution. There is a growing frustration from communities who remained unclear to understand the complex administrative nature of the restitution process of land rights.

1.2 PURPOSE AND SIGNIFICANCE OF THIS STUDY

This contribution to the study of land reform argues that land reforms originate in a change in the balance of power in society and that the nature of this adjustment in relations of power has a profound effect on the outcome of the reforms. Thus, the proposed study would be an in-depth investigation into land reform and restitution processes in Kenya and Zimbabwe. It is paramount to fully conceptualise land restitution in the context of Africa. This study will also focus on the frustrations surrounding this concept, thus determining why implementation was more successful in Kenya and more problematic in Zimbabwe, especially in light of the fact that they received so much international attention and funding. Furthermore, to capture the varying circumstances and experiences of land restitution in Kenya and Zimbabwe, the outcome of this study is to stimulate further debate on land restitution in Africa by comparing these two countries' similarities, differences and outcomes of land restitution. The study will also determine a further need for land reform focusing on preconditions for revitalising land reform and finally, it can provide a conceptually sound framework how South Africa could improve on its land restitution policies.

1.3 RESEARCH METHODOLOGY

This thesis is an empirical comparative study analysing existing data. Comparative studies focus on the similarities and (especially) differences between groups or units of analysis. Such objects can include individual organisations, cultures, countries, societies, institutions and even individuals. The units of analysis identified to be used for this study are Kenya and Zimbabwe and their restitution policies. The selection of cases or units of analysis was done for comparative purposes.

Mayer (in Landman, 2000: 12) claims "comparative analysis is a method that plays a central role in the explanatory mission of political science itself.

Landman (2000: 4) identifies “four main objectives, all of which co-exist and are mutually reinforcing in any systematic comparative study”. The first identifiable objective is the “process of describing the political phenomena and events of a particular country, or group of countries” (Landman, 2000: 5). Contextual description is thus viewed as the starting point for all systematic research. The second identifiable objective, classification, is regarded as a “necessary component of systematic comparison, but in many ways it represents a higher level of comparison since it seeks to group many separate descriptive entities into simpler categories” (Landman, 2000: 5). Furthermore, it aims to reduce complexities by seeking out those qualities that countries share and those that they do not share. The third objective is the search for those objectives that may aid the researcher to explain what has been described and classified. Lijphart (in Landman, 2000: 6) claims “comparison allows testing hypothesized empirical relationships among variables”. The fourth objective is regarded by most scholars as the most difficult of comparative politics as it aims to make “predictions about outcomes in other countries based on the generalizations from the initial comparison, or to make claims about future political outcomes” (Landman, 2000: 10). However, hypothesis-testing and prediction (i.e. objectives three and four) are not relevant for the purpose of this research assignment

The primary focus would be text data, which is appropriate for the interpretive nature of this study. The strength of this particular type of analysis is the logic of comparison. A comparative study approximates causal inferences that allow scholars to attempt stronger causal hypotheses. It also allows for comparison of different theoretical viewpoints across different settings. A limitation of comparative studies is the comparability of cases. In the case of this study the definition of the concept of land restitution varies within Kenya and Zimbabwe. It is therefore essential to define key concepts concerning land reform/restitution before embarking on an in-depth study of this subject.

1.4 DEFINING CONCEPTS

1.4.1 Land reform

Land reform is a difficult concept to define, as access to land is a primary human need. It became a popular tool of African governments to correct past colonial wrongs. In the post-colonial era both reformers and revolutionaries saw land reform as a mechanism to “modernisation and structural change of their backward societies” (Sobhan, 1993: 1). One element of land reform was thus to eradicate rural poverty. Therefore, it is not surprising that “[t]hird world governments, or even radical opposition political parties, placed land reform high on their policy agendas” (Sobhan, 1993: 3), with the pervasive persistence of the rural landless’ desire to eliminate poverty and agricultural stagnation as driving forces of land reform in developing countries.

Universally, land reform was seen as the redistribution of property or rights in property for the benefit of the landless, tenants and farm labourers. Adams (1995: 1) viewed Africa as an example of land reform where the primary concern was correcting the imbalance of agricultural land as Africa has a history of subsistence farming. Jacoby (1971: 24) viewed land reform or agrarian reform as frequently used terms to denote any integrated programme that aim to reorganise the institutional framework of agriculture in order to facilitate social and economic progress in accordance with the philosophy, values and creed of the community concerned. The United Nations defined land reform as “comprising an integrated programme of measures designed to eliminate the obstacles to economic and social development arising out of defects in the agrarian structure” (Jacoby, 1971: 24), as millions of black African farmers were forced to crowd onto plots too small and with “soil qualities too marginal for even subsistence farming” (Baines, 2001: 1).

Challenges for the various governments would be to find a way to bridge the racial ownership gap in land, homes and buildings or be held responsible for

future social instability, furthermore, to turn a broad constitutional commitment into a workable programme of government. Access to land is therefore, a determinant of the distribution of income and wealth in a society. The Urban Foundation recommended that land reform is the “foundation on which a new political dispensation and development strategy will be built” (The Urban Foundation, 1991: 1). Edigheji (2000: 34) points out that in racially divided countries where minority racial groups had dominated the political and economic system, after independence the outcome would be political instability

Approaches to land reform has taken different forms and met with varying success in terms of coverage and impact. It must be kept in mind that the demands and circumstances for land reform varies across nations and thereby conditions the character, dimension and outcome of reforms. In the light thereof, land reform in Africa was characterised thus far by “external controls or prohibitions by law on property rights for instance: nationalisation and collectivisation; restitution; redistribution policies involving expropriation of land, with or without compensation” (Adams, 1995: 2). Moyo (1995: 73) defined land reform as a change in the legal or customary institution of property rights and duties, which define the rights of those who own or use agricultural land. There is a direct link between land reform and ownership, as the latter refer to rights representing varying degrees of control: “the right to possess, use, manage, earn an income from, lend, transfer or sell, as well as to pass these rights on to others” (Moyo, 1995: 73).

Land reform consists of three major issues: firstly tenure reforms, which consist of tenure changes in, state land, communal land, tenureship and private property; secondly, redistribution programmes, which entails developmental projects, co-operatives, subsidies or capital, training, extension of existing property and marketing; and thirdly, restitution provides the redress of imposed dispossession as mentioned before. The key issues here are equity and production.

1.4.2 Land restitution

Land restitution is a component of the broader land reform programme, which aims to restore the right to land to those who lost it as a result of racially, and discriminatory legislation and practices. Simplistically, land restitution in the African context is concerned about “giving back land to those communities and individuals who were forcibly removed” (Matlou, 2000: 1).

1.4.3 Willing-seller /Willing-buyer

The Land Acquisition Act drawn up in the spirit of the 1979 Lancaster House Agreement in Zimbabwe made provisions for a “willing-seller, willing buyer” (Stiff, 2000: 20) clause in Section 57. This Act gave the government the right to purchase excess land for the purpose of redistribution to the landless. It also protected commercial white-landowners against forced land confiscation from the government. The Lancaster House agreement provided a clause that stated that the ‘willing-seller, willing buyer’ clause could not be changed for ten years. In 1992, The Land Acquisition Act was enacted to speed up the land reform process by removing the ‘willing seller, willing buyer’ clause. The Act empowered the government to buy land compulsorily for redistribution, and a fair compensation was to be paid for land acquired. Furthermore, landowners were given the right to go to court if they did not agree to the price set by the acquiring authority.

1.4.4 Confiscation/ Expropriation

Confiscation is to take property away by the use of authority. Prosterman et al (1987: 194) perceives a reform to be confiscatory in nature, when it deprives landowners of a major portion of their capital, their income and their economic security. Literature suggests that governments supporting land confiscation are likely to use “fraudulent means of control, bribery, perjury, administrative sabotage and even force if necessary” (Prosterman et al, 1987:

194). The absence of adequate compensation results in a decline of the economic and agricultural strength of landowners and the nation as a whole.

1.4.5 Compensation

Hunt (1984: 282) noted that any redistributive land reform inevitably raised the question of whether those who lose land rights should be compensated and, if so, by what means. Compensation could be defined as the commitment of government to owner-property rights and the just payment for land acquired. Compensation is significantly not only for the landowners but also for the creditors who have made loans against the security of the land. Therefore, it should be noted that the effects of land reform and compensation reaches all spheres of society. Compensation is thus vital if nonrevolutionary land reform is to be politically feasible. The degree of compensation to be made to the affected landowners appears to be a “key independent variable that is likely to determine whether really effective land reform can be carried out in that particular society at a particular time” (Prosterman et al, 1987: 194). The inability to resolve this issue in a more acceptable manner to landowners represents a crucial block to the implementation of land reform.

1.4.6 Restoration

Land restitution primarily deals with giving back land to those individuals or communities who were forcibly removed from their land under a dominant power. Matlou (2000: 1) stated that restitution of land claims could be divided into the provision of alternative land to the disposed or the access to monetary compensation but more importantly the restoration or reinstatement of the actual land or property right to claimants who were disposed.

1.4.7 Revolutionary vs. evolutionary land reforms

Adams (1995: 1) defined revolutionary change as advocating a drastic, planned public intervention to the redistribution of land. Evolutionary policies involve the expropriation and compensation of land. These two concepts indicate the illiberal and liberal level of state intervention to the land reform question.

1.4.8 Settler community

Ogot et al (1995: 11) stated that colonialism operated on a principle that barbarism pervaded Africa, therefore, there was no culture to salvage. It was thus, expected from the European settlers to proceed with the civilising mission and introduce Africans to modernity and contact with human civilisation. It could thus be stated that the settler community was at the horn of colonialism, as they did not belong to the indigenous community and did not share in their culture, beliefs and traditions.

1.4.9 Nepotism and corruption

After independence, the most African countries inherited social, economic and political problems. The national political elites assumed the administrative responsibilities and duties previously discharged by the colonial authorities. However, Meredith (2002: 16-17) reports that the absolute transferal of power without procedural accountability often led to corruption and cases of nepotism, where high ranking officials favoured relatives and friends by providing them with governmental positions as well as land.

1.4.10 Negotiability of goods

Albin (1991: 49) stated that the nature of the goods determined if it was divisible or indivisible. It should be noted that economic conflict is easily negotiable but land, which is an emotional commodity, would lose its meaning, quality and commercial value by dividing it.

1.5 SUMMARY

The social and economic progress achieved through land reform would greatly contribute to social equity as well as increased production provided settlement projects, financing and marketing schemes are in place in the post-colonised countries.

The present study, therefore, explores issues of social and economic relevance, but in particular country contexts. Different countries still have much to learn from each other's experiences. Therefore, the issues that are explored in this study had an impact on the development of land reform not only in Kenya or Zimbabwe but also throughout the world. The aim of the study was to stimulate further discussion on the need for land reform in other developing countries; possible lessons for South Africa will be highlighted. The primary argument of this study is directly derived from the Economic and Public Policy Agenda for Kenya, which believes that the need for a land policy is pivotal as land *"... in most cases... is the most important, if not the only means of livelihood; it is the foundation of shelter, food, work and indeed, a sense of nationhood. It is also one of the most important ways through which political influence is likely to be practiced..."* (An Economic and Public Policy Agenda for Kenya, 1998: 1).

CHAPTER TWO: KENYA

2.1 COLONIAL PATTERN

The late 1890's marked the start of Britain's land expansion policies. This period saw the formation of the British East African Company, which was based in Mombassa, thus linking the history of colonialism directly to the Uganda railway. The initial agreement was that "11 000 pounds should be paid annually to the Sultan of Zanzibar" (Arnold, 1974: 172) for the lease of the East African Protectorate. Majdalaney (1962: 8) reported that soon after the completion of the Uganda railway and spending more than five million pounds the British government had no use for it. This prompted the decision to colonise the uninhabited East African Protectorate. Throughout the colonial history white settlement was officially encouraged to settle on land with a superb climate and cheap labour, which was conducive for agricultural practices. Within five years the railways shown a considerable profit and "within ten years it was beginning to look as though the country would be doing the same" (Majdalaney, 1962: 10).

The East African Protectorate faced an "accumulation of disasters during the 1890's, such as rinderpest, small-pox, drought and locust, which produced famine and decimated the Kikuyu (referred in some sources as Gikuyu) tribe" (Arnold, 1974: 172). The British believed that due to the fact that large areas was uninhabited in Kenya that they did not displace any of the indigenous communities. During this time the Kikuyu, who was approximately 300,000 strong was the largest population group in Kenya. They roamed the forest edges as they constantly feuded with the Maasai. In 1896 the Kikuyu made agreements with the British that they could cultivate the land on a temporary basis but the British regarded this agreement as the obtainment of permanent transferal rights of the land. Thus, the colonial powers that inhabited Kenya felt strongly about the fact that they did not steal any land from the local communities, as the later did not make use of it. Majdalaney (1962: 11)

argued that land ownership in Kenya was a European concept as Africans did not own land but tribes merely clustered themselves on a piece of land for usage (subsistence farming) and traditional purposes but in Kikuyu culture land and the ownership of land stood center to their entire existence. In Kenya the Kikuyu society combined the ownership of land with their regulation of marriage. Like in many African cultures land inevitably became a symbol of power, integrity and security both to the Africans and settlers.

Colonial practices in Kenya were designed to create a divide between the rulers and the ruled although the colonial powers intrinsically believed that it was to benefit the Africans. It was maintained that colonialism had brought with it the benefits of "education, religion, modern commerce and government and it rendered the invaluable service of drawing Africans into the mainstream of human civilisation" (Maloba, 1998: 1). However, Anderson (2000: 459) argued that the recruitment of African labour at poor rates of pay and under primitive conditions of work was characteristic of the operation of colonial capitalism in Africa during the nineteenth and twentieth centuries. During this time the colonial authorities were the largest employers of labour and criticism of labour laws were likely to be interpreted as a critique against the state. The government imposed the Master and Servant Statute (M & S statute) of 1906 upon the African community, as an attempt to control and regulate labour and the movement of Africans in Kenya.

The colonial pattern in Kenya was the greatest determinant of the current situation in Kenya. The end of the First World War marked a heightening of racial politics, which resulted in the emergence of the first racial political activity among Africans in Kenya. Colonialism in Kenya was once described as land invasions on a devastating scale, which inevitably resulted in mass hysteria. The British authorities added to this problem by recruiting white South African farmers to the East Protectorate, who added their own "particular brand of conduct and race attitudes" (Arnold, 1974: 56) to the colonial scene. The African community revolted against colonialism as a "refusal to simply accept the role given to them by Europeans" (Arnold, 1974: 16).

The colonial powers imposed the "Kipande system" on the local community. This was an identity certificate for all African males of sixteen or over, which obliged them to carry registration cards on which their fingerprints had been impressed, so that they could be more easily identified and thus controlled. This Kipande system and the newly imposed hut taxes were but only two of the main issues, which were taken up by a new generation of young African politicians and freedom fighters. Related economic and political events such as "slump conditions in agriculture, reduction in wages, taxation, debarring from growing coffee and no presentation in government" (Arnold, 1974: 18) only intensified the hold of the colonial powers of the local community.

During the 1920's the name of the British East Africa Protectorate officially changed to Kenya Colony and it marked the beginning of African nationalism. The start of the East African Association, which later changed to the Kikuyu Central Association (KCA) marked the battle cry of Kenyans onwards: "Give us back our Land" (Arnold, 1974: 27). The Kikuyu had always been regarded as politically motivated people and colonial suppression did in fact breed extremism. In 1944 the Kenya African Union (KAU), which replaced the KCA, was officially banned and this fostered a social, economic and political interest in all Africans across Kenya.

The 1950's marked the start of a process, which ultimately produced the longest and most horrific period in Kenya's history. Jomo Kenyatta, the *Light of Kenya*, is still regarded as the man who brought the light of independence to Kenya. His arrest forced the pace of nationalism in Kenya, and thereafter Mau-Mau took their killing oath. It became clear that Jomo Kenyatta provided the leadership that could unify the nationalist movement in Kenya. During this period there was no or little dialogue between the Africans and the colonial settlers and government. Arnold (1974: 45) stated that this gave rise to frustration and produced the explosion of Mau-Mau. Warwick (<http://www.multiline.com.au/-markw/maumau.html>) believed that behind the uprising was the force of what Harold MacMillan called the "*winds of change*" blowing through Africa and fanning fires of nationalism.

2.2 THE MAU-MAU UPRISING

The Mau-Mau in Kenya was regarded as the most controversial happening to date in the country as its psychology and origins could not be properly defined as of yet. The Mau-Mau emerged as an instrument of nationalism as conditions were favourable for liberation struggle; alienated tribal land and landless squatters resisting the colonial system. Therefore, scholars considered Mau-Mau as the “outcome of both state violence and African reaction and counterviolence” (Maloba, 1998: 2). To the settlers and the conservatives they were regarded as barbarians whose aim was destruction. To those who supported them they were regarded as the only means to attain freedom, land and self-determination in Kenya. Many argued that Mau-Mau was incidental of the freedom process, while others view it as central to the cause.

The Mau-Mau guerrillas demanded the return of settled land and initially did not emphasise independence from colonial powers. Oaths, which were seen as a form of witchcraft or sorcery, were central to the Mau-Mau and the colonial powers focused on it, as it was not received well even with the liberal Christian community. The Mau-Mau did not have comparable propaganda machinery, which the colonial powers possessed as this did the most harm to their cause as they could not defend their aims and objectives. The authorities declared a state of emergency.

After the imprisonment of Jomo Kenyatta and other freedom fighters there was a degree of hope, as it was believed that this would eventually give a voice to the disenfranchised. However, it soon became evident that the colonial powers only imposed further restriction on the indigenous community. Their sentencing on 8 April 1953 transformed the mood of the people from “guarded optimism to desperation” (Maloba, 1998: 114). In the Central Provinces, the White Highlands (currently the Highlands zone) and Nairobi the conditions of desperation and fear, gave birth to Mau-Mau, as described above.

Maloba (1998: 23) argued that before the emergency there was not a general revolt between the Kikuyu and the colonial powers and it is safe to say that the state of emergency gave rise to the Kikuyu revolt. The declaration of a state of emergency seemed merely to have stimulated and increased the violence. The Kikuyu were forced to the forest and it was mainly they who fought against the colonial powers during the height of unrest from 1952 to 1956. Donald Barnett stated that a "reaction to external stimuli rather than the unfolding of a well laid plan for revolutionary action or guerrilla warfare" (Maloba, 1998: 114) directed the entry of youths and other militants to the mountains. The freedom fighters generally came from the reserves in Central Province. They were people who were landless or small landholders who were restricted to produce and sell due to colonial restrictions. It must be noted however, that not all freedom fighters entered the forests willingly but that some youths were captured by force. To be sure, more black people than white people were killed by the Mau-Mau.

Those who entered the forests willingly have taken the warrior oath prior the state of emergency. The main reason for reverting to the forest was its favourable environment for guerrilla warfare, protection and a rich supply of food, which they soon found out not to be the case. The forest of Mount Kenya and Aberdares provided natural protection to guerrillas but also to those who fled colonial oppression in the reserves. One of the reasons for the eventual failure of Mau-Mau was that it did not have an operator through which it could communicate and link its military and political activities with each other in the forests. This seriously impeded their formulated long and short-term ideals and goals. The freedom fighters relied heavily on relatives and friends in the reserves for information and food, for which they often used force to obtain.

A loose union of small groups characterised the structure of Mau-Mau during the first seven months of the revolt. The guerrilla forces that operated between 1952 and 1954 had great success due to the fact that government forces were not effective in stopping them. The Lari-Massacre of 1953 was

regarded as the high point of Mau Mau violence but the destruction and brutality were not received well by the liberal international world.

They revised their tactics and after March 1953 the struggle was characterised by “tightly organised groupings concentrated within a number of large, permanent camp clusters” (Maloba, 1998: 116). There was a unified need of survival and to counteract the colonial operations they created the Kenya Defense Council. Maloba (1998: 117) reports that the Mwathe meeting in August 1953 brought together the military leaders and the independent units to establish organised and structural patterns for future attack against the colonial powers. During this meeting it was agreed upon that the Kenya Defense Council would rather legitimise than alter the positions previously held by guerrilla leaders. The outcome of this meeting was that eight Land and Freedom Armies were officially recognised and that they would attempt to formulate military strategy. It should be kept in mind that many guerrilla units, which did not attend the Mwathe meeting, still operated independently. It became apparent that the Kenya Defense Council had no or limited significant input in the entire struggle. Many observers agreed that the unity that was created was symbolic and not effective by no means. The Kenya Defense Council had problems convening meetings as they had a large membership and that the units were scattered in the forest.

In February 1954 the “Kenya Parliament” (Maloba, 1998: 118) was formed which replaced the Kenya Defense Council. The Kenya Parliament envisioned itself as to evolve into a “legitimate interim African government of Kenya” (Maloba, 1998: 118). However, it soon became evident that the Kenya Parliament just like its predecessor could not succeed in organising the activities among the various units. Maloba (1998: 132) argued that the primary reason for Mau-Mau failure was its inability to link its military and political strategy. Idealistically they thought that everyone knew why they had taken up arms but this was not the case. The success of guerrilla warfare relies ultimately on organisation before combat, and the Mau-Mau failed to have a politicisation campaign before and during the revolt. Furthermore, it is widely believed that “[g]uerrilla warfare is essentially a political war, and

military efforts are important only as they advance the political agenda” (Maloba, 1998: 121).

Another element that negatively influenced the Mau-Mau was the criminal and parasitic elements, which were called the komerera, took advantage of the liberation cause and robbed local inhabitants of property while masquerading as Mau-Mau. This contributed to the fact that from 1954 Mau-Mau lost the battle as their reputation lost appeal with sympathisers: it also remained mainly a Kikuyu-based organisation and not nation-wide. The colonial powers also succeeded to drive the guerrillas deeper into the forests, which disconnected them from their supply lifelines. The colonial troops gained success due to the fact that the guerrillas relied heavily on seers, witchdoctors and spiritual mediums for strategic planning and calculations. Unfortunately, they failed to see the importance of railways and electricity and the Mau-Mau was characterised by an absence of real episodes of sabotage. Warwick (<http://www.multiline.com.au/~markw/maumau.html>) argued that the hardship of the forest and the shortage of ammunition shattered the fighting spirit of Mau Mau.

In 1955 the government declared amnesty for those who surrendered and many of those who were forced did surrender to the colonial powers. The government implemented a programme of “decontamination” (Maloba, 1998: 137), which was aimed at ridding the indigenous community of Mau-Mau sympathy. The colonial powers promised the African community a much more attractive future than that which the Mau-Mau could ever have provided. This decontamination programme was already incorporated in 1953 during the revolt, and also contributed to the weakening of Mau-Mau as they lost support. The colonial powers created detention camps for this purpose but these were not favourably received by the African community due to the Hola incident, where men died as a result of extreme brutality.

The government counteracted with the Swynnerton plan, which represented government’s determination to increase agricultural production in the African reserves. This plan entailed the “modification of customary land rights in

favo[u]r of individual freeholds based on plot demarcation and private registration" (Miller et al, 1994: 26). This plan envisioned that Africans should have access to profitable cash-crop agriculture and to increase the carrying capacity and productivity of land in the reserves while also raising. The government intended to provide African farmers with "farm credit, agricultural extension services, and technical assistance, but most importantly the provision of water supplies" (Miller et al, 1994: 26). Furthermore, the Swynnerton Plan assisted the government with the concentration of rural Kikuyu into village/reserves to proceed with their decontamination programme. Thus, the colonial powers viewed the rehabilitation programme as a political and administrative success. However, Maloba (1998: 144) reports that economically this Swynnerton Plan was a failure, as it could not produce large landholders who would employ labourers. The government could not succeed in reforming the country's economic and political environment and by the end of the emergency in 1960 emotions of fear and confusion were high amongst the Mau-Mau loyalists.

The greatest fear of the colonial powers in Africa was a rise in African nationalism and moreover that they would steer towards communism. During this time the African nationalist movement was still splintered but two mutual objectives bound them. They agreed on the release of Jomo Kenyatta and the land issue, although there was some disagreement on how land should be acquired. Kanu's official policy was that white settlers should voluntarily surrender parts of their land and that it will be compensated fully. Many Africans acknowledged the positive role of the white settlers and suggested that they should continue with their agricultural activities, as they were the largest contributors to Kenya's agriculture and economy.

The Kenyatta government benefited from this scheme as it had access to government loans and credit and acquired the best available land. The Mau-Mau fighters were seldom appointed to high governmental posts or land as was originally thought, due to the fact that Kenyatta later on distanced himself from Mau-Mau ideology and practices. However, the Kanu manifesto gave an indirect acknowledgment of the Mau-Mau during liberation struggle. Kenyatta

believed that forgetting Mau-Mau was a vital aspect of this whole healing operation of the nation.

2.3 THE BRITISH SETTLEMENT FUND/PRIVATE LAND PURCHASE

After the 1962 Lancaster House Conference, the colonial powers proposed land legislation that would aid the European settlers during the dying days of colonialism in Kenya. The first official land policy was created in 1961 when the government implemented the Land Development and Settlement Board (LDSB). The LDSB was authorised to purchase land from white settlers at “1959 prices, which was higher than the 1961 prices” (Maloba, 1998: 163) due to the substantial depreciation on land value. Unfortunately, this land reform policy only favoured two types of Africans. Maloba (1998: 163) stated that this system only favoured the *yeoman* and peasant who had some level of capital but the landless-peasants, detainees, and ex-guerrilla fighters were excluded from this list and had no access to land. This restriction that was placed upon land fuelled hostility and hatred against the colonial powers.

The colonial government revised its land policy and aided by the British government provided funds “as a loan for the purchase of 20,000 acres annually over a period of five years” (Maloba, 1998: 164). The transferal of land to African families provided the colonial government with another mechanism of rehabilitation of Mau-Mau loyalists. Rewarding those who showed considerable loyalty towards the colonial government and European settlers, while no land was transferred to those who were suspected of subversive activities.

With independence, when Kanu (led by Kenyatta) won the election in 1963 it inherited the million-acre scheme and landed themselves in debt that had to be paid back. Kenyatta proposed a self-help programme, Harambee, which meant pulling together. Ogot et al (1995: 137) argue that this concept of self-

help was foreign to the traditional Africans in Kenya as it was common practice that everything should aid the group but the people received Harambee positively.

The resettlement of Africans on European farms was the main objective of the Kenyatta government after independence. Prior to independence the Kenyatta government agreed on a "principle of private ownership in land and free enterprise" (Maloba, 1998: 163). Initially funds were gathered from the World Bank (International Bank for Reconstruction and Development (IBRD)) and the Colonial Development Corporation to purchase farms and to provide to some degree a monetary income. Ogot et al (1995: 88) reported that large farms were transferred to citizens as intact units, with credit assistance from the Land Bank. Unfortunately, when Kenyatta consolidated his power he favoured an "informal system of nepotism and favouritism" (Miller et al, 1994: 37). Nevertheless, Jomo Kenyatta left Daniel Arap Moi with an entrepreneurial legacy and fast paced economic reform during the first years after independence.

2.4 THE ROLES THE AGRICULTURAL FINANCE CORPORATION AND INDUSTRIAL AND COMMERCIAL DEVELOPMENT CORPORATION SINCE INDEPENDENCE

Ogot et al (1995: 83) stated that Kenya's colonial economy displayed the characteristics of an underdeveloped country. Kenya was still dominated by "foreign capital, the dominance of the agriculture, the limited development of industry and heavy reliance on export of primary products and imports of capital and manufactured consumer goods" (Ogot et al, 1995: 83). The political and economic environment of Kenya after independence called for revised policies, which could address urban and rural poverty and decay. The three most urgent issues in Kenya were unemployment, the redistribution of land and education. The government provided a paper "*African Socialism*, which rejected western capitalism and eastern communism" (Arnold, 1974:

158) but most sectors of the economy were dominated by “market forces and Kenya’s foreign policy was closely aligned with that of the West” (Baynham, 1989: 225). Tom Mboya the Minister of Economic Planning and Development believed that African Socialism would “guarantee every citizen, whether rich or poor, full and equal political rights” (Ogot et al, 1995: 84). From the start of independence the economy was characteristic of a mixed economy rather than a socialist one as the Kenyatta government regarded communism just as bad as colonialism.

Before independence Africanisation was the promise to the disenfranchised communities in Kenya. The Europeans “dominated the agriculture, industry, while the Asians controlled the trade and commerce”. After independence it was the objective of the Kenyatta government to break the non-Kenyan hold on the economy of the country, which guided the government to impose various restrictive measure. Ogot et al (1995: 114) reported that this produced the mass migration of Asians to Britain in February 1968, as levels of unemployment and the need for Africanisation intensified feelings of resentment towards Asians.

The government ensured the transferal of “capital and economy into the hands of Africans” (Ogot et al, 1995: 86) through the extension of credit by creating state credit institutions, such as the *Agricultural Finance Corporation (AFC)* and the *Industrial and Commercial Development Corporation (ICDC)*. The AFC was created in 1963 and re-established in 1969, with the primary aim to provide credit for buying or rehabilitating large farms. The AFC furthermore, administers the Guaranteed Minimum Return programme for wheat and maize in Kenya. It was report that in 1972 the AFC’s credit to “2,500 large-scale farmers and ranches had amounted to 12 million pounds, plus 2.5 million pounds to 14,500 small-scale farmers” (Ogot et al, 1995: 86).

The ICDC was founded in 1964 with the task to administer the Commercial Loans Revolving Fund, which was established to aid Kenyan citizen traders, especially those who “acquired business by non-Kenyans through the government’s Kenyanisation [Africanisation] programme” (Ogot el, 1995: 86).

It should be noted that trade owned by Africans increased considerably from 48 % in 1966 to 80 % in 1971. Although, it should be mentioned that 83% of the land is arid and semi-arid, while the rest is coastal and upland areas of medium to high potential land, suitable for agricultural purposes and furthermore, Okoth-Ogenda (1996: 113) reports that over 80 % of the entire population lives in the medium to high potential areas. Kenya enjoyed the title of being the model of economic opportunity and political stability in East Africa. Miller et al (1994: 3) report that 350 multinational corporations were then based in Nairobi and that twenty thousand foreign residents belong to the community.

After independence Kenya's economy was primarily based on land exploitation for agriculture, tourism, human settlements, industrialisation, and pastoralism. There developed three main types of land tenure after independence: private, customary and public. Many authors claim that the mixture of British land law and Kenyan traditional tenure or customary law contributed to the inadequate land reform programme. **Private tenure**, in Kenya is a consequence of the colonial regime, where individual or private ownership of land is based on both freehold and leasehold systems. **Customary tenure** is an example of land that is owned communally and it includes areas that have not been formally transformed through adjudication, consolidation and registration by the government. **Public tenure** in turn refers to land use of unalienated government land, where land is reserved for public purposes, unless or until it has been privatised to an individual or corporate entity through a presidential grant of freehold or leasehold.

Still a large proportion of the entire population lives in absolute poverty. Hunt (1984: 5) and Okoth-Ogenda (1996: 113) report that almost 85% of the entire rural population is concentrated on the 20% cultivated area in Kenya. Although the need for land is forever increasing due to the escalating population growth, solutions to redistribute land have been exhausted. The inadequacy of the current land reform should be reconsidered, as it is

believed that a surplus in the agriculture sector could positively influence and contribute non-farming production and employment.

2.5 SUMMARY

Kenya has been unable for more than 50 years to establish a sustainable land reform programme. Many Kenyans saw independence as the end of the struggle but in fact this was only the starting point of a long battle towards true economic and political freedom. Ethnic clashes in the Rift Valley in 1993-4 severely undermined land rights as ethnic group and individuals refused to recognise the existence of property rights. Kenyan Human Rights Commission reported that over 1,500 people died and 250,000 were displaced. Wanjala (1996: 129) believed that there is no realistic hope for land reform in Kenya as political leadership is the direct beneficiary of the post-Swynnerton private ownership reforms. He furthermore stated that the uncontrolled privatisation of public land in Kenya only resulted in economic and agricultural decay. Leach (1996: 128) added to the argument by stating that there has not been much land reform since independence. He stated that inadequate land reform policies and legislation contributed to irrelevant administrative arrangements, which only deepened poverty, as the constitution will not protect individual land rights.

In recent times agriculture has become pivotal for African countries as their economies rely heavily on the production of agricultural goods. Okoth-Ogenda (in Basset et al, 1993) believed that the Kenyan experience provided no evidence of increase in agricultural production, but inevitably resulted in inequalities and the emergence of significant landlessness, which was a result of the inadequacy of government, to provide credit as was initially proposed. Hunt (1984: 1) proposed that the redistribution of land should be radically altered.

The Moi government has been compared to the colonial government and has been severely criticised for illegally using land as gifts to buy political support. In June 1982 the National Assembly amended the constitution, making Kenya officially a one-party state. Demands for constitutional reform were voiced from opposition parties and the international donor community. Barkan (1998) reported that the ethnic clashes and the intensified economic stagnation and the declining per capita income since the late 1980's forced Kenya to consider changes. The International Monetary Fund (IMF) and the World Bank threatened the government that donor aid will be suspended if they did not return to liberalisation and a multiparty politics.

Ndegwa (1998: 193) regarded the 1997 election outcome as a disappointing confirmation of the extent to which the country's democratic transition has stalled. Although the crisis in Kenya is just as intense as during the state of emergency the "people of Kenya have tasted freedom and no longer will be content without it" (Kiai, 1998: 192). The escalating levels of governmental corruption concerning land grabbing and violence hold long-term consequences for the "security for both the security of property rights and the prospects for democracy in Kenya" (Klopp, 2000: 8). Klopp (2000: 8) continued by stating that it is difficult and almost impossible to document the number of land grabs over a period of time, as everything is done in complete secrecy.

However, the Economic and Public Policy Agenda for Kenya are very optimistic concerning the land question in Kenya. Many believe that the constitution of Kenya will be amended in the near future and the land question will take central position in the process. The Economic and Public Policy Agenda for Kenya suggests that the new constitution should include:

- Balance land tenure and land use priorities, i.e., the nexus between land ownership and its use.
- Reassert the land rights of the registered proprietors acquired through the willing seller-willing buyer principle or upon first registration.

- Declare all unalienated government land to be 'public land', hence only privatisable in the public interest.
- Declare all irregularly acquired government land to be 'public land', hence repossessable through physical reversion or full compensation.
- Declare all trust land as belonging to the area residents according to customary law, thereby reasserting the superiority of claims by the people vis-à-vis the local authorities.
- Declare the principle of community participation in natural resource management through the percolation of tangible benefits.
- Declare the inalienable right of every Kenyan to shelter and land-based income-generating work.

CHAPTER THREE: ZIMBABWE

3.1 THE COLONIAL PATTERN

The British government strongly believed that they had a moral obligation towards Africa to spread the “blessings of commerce and Christianity” (De Waal, 1990: 14). Rivalry between the Germans, Boers and the British to colonise Southern Africa directed the way to seize Mashonaland (Southern Rhodesia [1890-1965]; Rhodesia [1965-1979]; Zimbabwe [1980-]). Cecil John Rhodes succeeded to claim Mashonaland, and subsequently established the British South Africa Company in 1889. Rhodes negotiated with King Lobengula, king of the Matebeles and Mashonas, to give sovereign powers to the British to establish a government, mining laws and to create a military force. Stiff (2000: 282) reported that during 1890 the combined tribal population of Mashonaland and Matebeleland was about 500,000. This population figure was kept low by “inter-tribal warfare, Arab slave traders and famine like malaria and sleeping sickness” (Stiff, 2000: 282).

The areas occupied by the Mashona were later demarcated as native reserves, while the unoccupied and some occupied areas were taken over by companies like the British East African Company. This was a disturbing time in Matabele history due to the fact that two-thirds of their cattle were seized by the colonial powers. The drought and famine like smallpox and rinderpest contributed to the decline of the tribe. Furthermore, the killing of apparently healthy cattle by the colonial powers to check for disease was not well understood by the indigenous community.

To the Mashona and Matabele custom, land was regarded as *res communes*, which meant that it belonged to everyone. Stiff (2000: 282) argued that in Zimbabwe individual or collective ownership of land was unknown and that the white settlers established a system of land ownership. When the settlers came to Zimbabwe they created a market for black farmers and it is estimated

that in "1903 black farmers contributed 90 % of the country's agricultural output, while white farmers only contributed 10 %" (Stiff, 200: 282)". However, the colonial powers soon shifted their attention from mining to develop a white agricultural sector. This eventually directed the movement of Africans into Native Reserves during the 1920's. The British created the office of Chief Native Commissioner to handle all the disputes and administration concerning the Native Reserves. De Waal (1990: 15) reports that the Rhodesian authorities applied economic pressures by imposing taxes which could only be paid in money, thus forcing men to leave their homes in order to earn wages. The Land Apportionment Act of 1930, which was later replaced by the Land Tenure Act of 1969, made provision that land should be divided along racial lines. It was decided that "20 million hectares should be reserved for whites, which included the 13 million [already occupied], while the native reserves totalled only 8,7 million hectares, later increased to 16,3 million" (Stiff, 2000: 286). It was estimated that more than 90 % of African men had to forfeit their land rights in order to provide a labour sector for the settlers.

The administration of the Land Apportionment Act of 1930 was brought to a stop with the outbreak of the World War II. However, after the war the British could deploy sufficient administrators to enforce the law. It soon became evident that subsistence farming in the Native Reserves damaged the land and the government announced the Land Husbandry Act of 1952, "bringing with it compulsory de-stocking, which restricted the number of cattle peasant tribesmen were allowed to possess" (Stiff, 2000:286). The British viewed the reluctance of the indigenous community to conform to the new rules and regulations as laziness without consideration of the negative social impact that it had on men leaving their families and land. This insensitivity was viewed as a consequence of the indoctrination of the European race viewing Africans as inferior beings. This ultimately directed the liberation struggle in Zimbabwe.

In 1957 the political climate in Rhodesia changed and a new moderate nationalist organisation, the African National Congress (ANC) was launched.

The ANC was a political organisation with the objective to create “non-racialism and economic progress [and furthermore] suggested the abolition of discriminatory laws, reform of land allocation, and an extension of the franchise” (Meredith, 2002: 25). Poverty and political frustration created a mass movement both in urban and rural areas and the ANC succeeded to create a big support base. However, Meredith (2002: 25) argued that the biggest support base was in the rural areas due to the fact that over a period of thirty years more than half a million Africans had been displaced and their land given to white settlers. The colonial government viewed the nationalist movement, as a possible challenge to the government and while there was no sign of any nationalist revolts or resistance, the ANC was banned in February 1959.

In 1960 the National Democratic Party (NDP) was established but with a more radical stance on liberation. During this time Robert Mugabe returned to Rhodesia from Ghana, where he worked as a teacher, taking on an activist role by joining the nationalist movement in retaliation of the arrest of three NDP officials. The march of the 7 000 on 19 July 1960 marked the start of the nationalist movement moving to full resistance. The name, which the nationalist movement used to refer to Rhodesia, was Zimbabwe, which was adopted from the “site of impressive stone ruins near Masvingo that five centuries before had been the political and religious capital of a black monarchy” (Meredith, 2002: 27).

The government counteracted with the Law and Order (Maintenance) Act 1960, which was “designed to deal with any future African opposition” (Meredith, 2002: 27). The Law and Order (Maintenance) Act successfully restricted freedom of speech, movement, privacy, assembly and association, and allowed the arrest and detainment of anyone without trial. The NDP held a meeting in Highfield in December 1961, and it was decided that “[i]f European-owned industries are used to buy guns which are aimed against [the indigenous people] then they must withdraw their labour and customs to destroy those industries” (Meredith, 2002: 29). After this meeting the NDP was officially banned under the provision of the Law and Order Act. This

ensured that the 1960's in Rhodesia were characterised by civil disobedience and armed insurrection. This turbulent decade saw the escalation of civil unrest and the "political crimes committed were cattle and land related" (Stiff, 2000: 286).

The nationalists launched a new organisation, the Zimbabwe African People's Union (ZAPU) 1961, within a few days after the NDP was banned. Zapu was more militaristic in nature compared to its predecessors. The violence increased and "white targets were now included; forests and crops were burned; cattle maimed, sabotage attempts made on railway lines, and attacks carried out on schools and churches" (Meredith, 2002: 29). Consequently, Zapu was also banned from the political arena and Mugabe and other officials were arrested and restricted to their home districts for three months. The Chimurenga (war of liberation) in Zimbabwe was therefore, a modern people's war that aimed to advance the goals within the style of radical peasant consciousness.

In December 1962 the white settler community formed a new "right-wing party, the Rhodesian Front, which became obsessed with the need for independence from Britain" (Meredith, 2002: 30) and introduced amendments to the Law and Order (Maintenance) Act, including a mandatory death sentence for sabotage. On 11 November 1965 a Unilateral Declaration of Independence (UDI) were declared. Shortly afterwards the Zimbabwe African National Union (Zanu) 1963, was established with the aim to further liberation struggle. Zapu and Zanu initially both advocated majority rule but eventually each group tried to assert itself and rivalry between the two groups developed. Little or no attention was given to the real cause, which was freedom from an oppressive regime. Meredith (2002: 33) argued that the rivalry between the two groups where met with discontent with nationalist sympathisers abroad. The Rhodesian Prime Minister, Ian Smith officially declared that all nationalist parties be banned and their leadership began a decade in detention. The Battle of Sinoia on 28 April 1966, in which seven guerrillas died, was the start of the armed struggle and is commemorated as Chimurenga Day.

The period between December 1972 and December 1979 was termed by many observers as the decisive phase of the liberation struggle. Furthermore, the white farmers' hold on the economy was intensified, as they were encouraged to increase production. The Rhodesian government aided the white farmers by "annual subsidies and loans which were running at an estimated \$8 000 per settler-farmer compared to the 60 cents each for black cultivators" (Stoneman, 1988: 8). The white commercial farmers succeeded to increase their level of domestic food production from 30 per cent during the 1960's to more than 75 % by 1979.

When Magabe was released after eleven years in prison his objective was to further the revolutionary struggle under the banner of Zanu but the nationalist leadership "prevented him from disrupting the formation of a combined guerrilla army, the Zimbabwe People's Army (Zipa), which was constructed out of Zanu and Zapu guerrillas" (Meredith, 2002: 37). It should be noted that Mugabe only succeeded as late as August 1977 to gain the control of the army and the party. Zanu and Zapu were joint members of the Patriotic Front but still there was no trust between the two organisations. Although the two organisations were still formally bonded to the Patriotic Front, Mugabe decided that Zanu-PF would enter the 1980 election independently due to Zapu's more moderate stance on liberation. At that time the liberation struggle in Rhodesia has been ongoing for more than 30 years. Furthermore, Rhodesia was the last colony and it was inevitable that it should receive independence. De Waal (1990: 37) argued that the two months following the ceasefire on 28 December 1979 was surely one of the most extraordinary exercises in democracy ever attempted. This directed the way for a historic victory for Zanu and Mugabe over the other parties. However, Cornwell (1980: 142) believed that the results of the general elections revealed the depth of ethnic division in the country that government had to content with to avoid future ethnic strife.

3.2 LANCASTER HOUSE AGREEMENT, 1979

The Lancaster House Conference in the United Kingdom in 1979 was seen as an attempt to negotiate a non-racial society between Ian Smith's Rhodesian Front and the two liberation parties, Zanu and Zapu. All the parties involved in the Rhodesian conflict attended the Lancaster House Conference, chaired by Lord Carrington. It opened on "10 September 1979 and ended after 47 plenary sessions with the signing of formal agreements on 21 December 1979" (Stiff, 2000: 20). Mungazi (1992: 93) believed that during the conference the administration of the country were officially given to the Africans.

It was agreed that Rhodesia was in need of a new constitution, allowing for a new *one man, one vote* election early in 1980. Furthermore, whites were guaranteed 20 parliamentary seats for a period of five years. It was also decided that the British governor, Lord Soames would rule until after the elections. Stiff (2000: 20) argued that the underlying objective of the conference was to make sure that Mugabe would not be elected. The agreement stated: if ZANLA should continue with its brutal intimidation campaign, the party would be eliminated from the election campaign altogether. This ensured a cease-fire, while the "guerrillas of both factions would have to report to various assembly points and be confined until the elections were over" (Stiff, 2000: 21). During the discussions the three parties (Rhodesians, ZAPU and ZANU) agreed to form a new army, which was an amalgamation of the Rhodesian Security Force, ZIPRA and ZANLA. This new army was called the Zimbabwe National Army (ZNA).

The Lancaster House Constitutional proposals divided land into two categories, "commercial land and tribal trust land" (Stiff, 2000: 288). Commercial land was defined as land open to purchase with freehold title by anyone, while "Tribal Trust Land" was held under communal tenure by tribal authorities empowered to allocate arable plots to tribesmen and allow them

access to communal grazing land under the guidance of the Tribal Trust Land Board” (Stiff, 2000: 288).

The British government agreed to assist funding the resettlement programme, on condition that the programme should be transparent. It was required that all land acquired by the government should be purchased on a “willing buyer, willing seller basis and that owners of any land seized by the government be compensated in foreign currency” (Herbst, 1991: 270). The Lancaster House Constitution reads: *“Every person will be protected from having his property compulsorily acquired except when the acquisition is in the interest of ...the development or utilisation of that.... Property in such a manner as to promote the public benefit or, in the case of under utilised land, settlement of land for agricultural purposes. When property is wanted for one of these purposes, its acquisition will be lawful only on condition that the law provides for the prompt payment of adequate compensation and, where compensation is contested, that a court order be obtained. A person determine[d] whose property is so acquired will be guaranteed the right of access to the High Court to determine the amount of compensation...Compensation will, within a reasonable time, be remitted to any country outside Zimbabwe, free from any deduction, tax or charge in respect of its remission...”* (Stiff, 2000: 288).

To summarise:

- 20 parliamentary seats reserved to give white minority a forum for a period of 10 years.
- An equitable redistribution of land to the landless.
- Willing buyer, willing seller clause
- Compensated in foreign currency
- Formation of ZNA

Although the Lancaster House Agreement stipulated certain prerequisites for the newly elected government, Hodder-Williams (1980: 107) argued that the new government’s priorities were dominated by the consequences of the guerrilla war. This was confirmed with Mugabe’s Independence Speech when

he assured the nation of "*land for the landless, homes for the homeless, schools for the children, roads to transport the farmers' produce, markets at which crops can be sold, and health facilities for the rural areas*" (Hodder-Williams, 1980: 107).

After independence the Zimbabwe government introduced the three-year *Transitional Development Plan (1983-1985)*, aiming to resettle at least 162 000 peasant families. This was an impossible task as it required more than Z\$570 million to relocate those families. The government soon decided to scale down on its goals and proposed the *First Five-Year National Development Plan (1986-1990)*. Herbst (1991: 270) stated that during this time the number of families resettled had risen to a figure of 52 000. It was decided that the 162 000 family goal would be an eventual target for the entire resettlement effort.

Initially the resettlement scheme in Zimbabwe were divided into a number of models, including Models A, B, C and D. Peter et al (2000: 154) stated that, Model A schemes consisted of household village-type resettlements of five arable hectares (ha) and 15 grazing ha each; Model B was based on a collective co-operation model; Model C and D schemes consisted of respectively 10 ha plots attached to a state farm, and villages with arable but no grazing land. The resettlers on the most popular model, Model A, received permits from the Ministry of Land on a household basis to reside, cultivate and graze stock. However, the household must relinquish its land in the communal areas and reside in the resettlement area.

Ten years after the Lancaster House Agreement, the Zimbabwe Parliament passed a revised Bill of Rights on 12 December 1990. The new provisions allowed government to confiscate land and pay 'fair' compensation purchased through administrative price setting, irrespective of the willingness of the sellers. Matshe (2000: 24) believed that the way forward would be to draft a new Constitution in light of the fact that although the Lancaster House Constitution is still the legal Constitution, it has lost its political and moral authority.

3.3 THE LAND ACQUISITION ACT, 1992

The Land Acquisition Act of 1992 marked a turning point for land reform in Zimbabwe. The rationale behind this Act was to seize land and to allocate the acquired land to black farmers. Moyo (1995: 3) believed that the act and government's defensive stance on land reform was a "formal statement of recognition ...that the first decade and a half of land reform was far from satisfactory for various segments of society". The main reason for this assessment was that government did not fulfill the transparency requirements of the Lancaster House Agreements. Initially many observers viewed the Act as a liberal market-orientated approach to land reform, in light of the fact that it rejects land occupations and land claims. The land acquisition will be "compulsory for reasons of public good and the Act provides for fair compensation" (Moyo, 1995: 13).

It became clear by the beginning of the 1990's that Zimbabwe was facing a crisis concerning land use *i.e.* agricultural, environmental and land allocation. Chitiyo (2000: 15) stated that the Zimbabwean government introduced the *Economic Structural Adjustment Programme (ESAP)* to address the above-mentioned problems. The ESAP was designed by the World Bank and the International Monetary Fund (IMF) and aimed to "deregulate and indebt an economy seen as overprotected and inefficient" (Bond et al, 2002: xv). The Zimbabwean government announced that there would be a "25 % cut in civil service, along with the demise of all labour restrictions, price controls, and import regulations, as well as many government subsidies" (Bond et al, 2002: 31). Bond et al (2002: 31) reported that the Mugabe government promised the following benefits:

- 5 % growth annually.
- The overall budget deficit would shrink to 5 % of GDP.
- Foreign debt would increase from US\$2.4 billion in 1991 to a projected US\$4 billion in 1995. However, repaying the debt would be significantly easier.

- The debt service ratio, which peaked at 35 % in 1987, would fall to 18.5 % by 1995.
- Private sector investment would be doubled.
- Total invest would increase to 25 % from less than 20 % of GDP from 1985-1990.
- Inflation would be down from 20 % to 10 % by 1994.
- Mining exports would increase from less than US\$400 million in 1990 to more than US\$500 million in 1994.
- Would initiate better more competitive terms for trade.
- New direct investments would flood to Zimbabwe-US\$ 30 million a year from 1992-1995.

However, the ESAP failed, primarily due to the fact that its “implementation coincided with the drought of 1990-1993” (Chitiyo, 2000: 15). The effects of the programme resulted in inflation and high prices, higher level of unemployment and aggravated rural problems. However, the Zimbabwean government succeeded to abolish “18 000 government jobs, reducing the civil service bill form 15.3 % to 11.3 % in 1994 of the GDP” (Bond et al, 2002: 37). The World Bank Project Completion Report (1995) judged the progress of ESAP as highly satisfactory, contrasting public opinion in Zimbabwe.

The government argued that the new land reform policy was created to guarantee access of land to small-scale African farmers and aspiring black capitalists. The white farmers did not react favourably to the Land Acquisition Act. The Commercial Farmers Union (CFU) recognised the need for the redistribution of land but called upon the government to reconsider as “commercial agriculture, ... accounted for one-quarter of all jobs and 40 percent of export earning”(Meredith, 2002: 122) and that forcing farmers off their land without adequate compensation could be detrimental to the Zimbabwe economy. They proposed that government should either start redistributing the half million acres of government owned land but their suggestions was negatively received by Mugabe and his government.

After the inception of the Land Acquisition Act government designated thirteen productive farms for land reform purposes. Again in 1993, 70 farms, several owned by government's political opponents were claimed. Meredith (2002: 124) stated that government action aroused suspicions that the land acquisition programme was being used to settle old political scores. Furthermore, the Land Acquisition Act soon aroused criticism against it. It was proven that a 3,000-acre farm purchased by the government to redistribute to 33 landless peasants was given to the former agriculture minister, Witness Mangwende.

3.4 THE WAR VETERANS ASSOCIATION, 1989-

After independence in 1980 the war veterans were forgotten and government neglected to provide them employment and land, which was the underlying objective of the armed struggle. The war veterans were disillusioned due to the fact that Mugabe and senior officials of Zanu-PF prospered after independence. Stiff (2000: 316) reports that members of the Zimbabwean National War Veterans Association, were demobilised after independence instead of being absorbed into the National Army, one of the preconditions of the Lancaster House Agreement. However, the war veterans were offered demobilisation packages of Z\$185 per month for a period of two years till 1981.

Moyo (1995: 115) stated that the War Veterans Act of 1992 officially promised ex-combatants access to land but most of the war veterans remained unemployed and poverty stricken. In 1997 independent MP Margaret Dongo, inquired why more than \$1.5 billion have been paid between 1992 and 1997 and still war veterans were not reaping the fruits of the settlement. Dongo, accused the government and more specifically Chenjerai Hunzvi, chair of the War Veterans Association, that only senior politicians, officials and their relatives benefited from the money that was allocated towards the war veterans. Furthermore, it was difficult to say who were "truly war veterans

and who were imposters because [during] the Bush War days no record was kept" (Stiff, 2000: 316). As early as March 2000 Hunzvi was directly implicated in the fraudulent transaction of about "Z\$3 million from Zexcom, a company owned by the War Veterans Association" (Stiff, 2000: 242). Mugabe turned a blind eye to the allegations due to the fact that Hunzvi and the war veterans was aiding his land reform programme.

The War Veterans and land issue was a great embarrassment for Mugabe and ministers and critics believed that he vented his frustration and anger towards the white farmers. Meredith (2002: 138-139) reported that government decided to take 12 million acres of land from white farmers for redistribution to blacks. Mugabe declared, "the only payment the government would make would be for buildings and for what he termed infrastructural development like roads and dams, but nothing for the soil itself" (Meredith, 2002: 139). Furthermore, Mugabe boldly stated that Britain as a former colonial power could compensate the white farmers. The war veterans and youths were incorporated in the police and selective prosecution became the norm as Zanu-PF supporters engaged in political violence.

In 1997 Mugabe restored the prominence of the War Veterans Association and in turn they "became Mugabe's shock troops after the February 2000 referendum defeat, invading more than 1 500 white-owned farms" (Bond et al, 2002: 77). They allowed Mugabe to claim that only Zanu-PF could restore Zimbabwe's land inequality. The government announced that they would give a payment of Z\$50 000 plus Z\$2 000 per month to a total of 50 000 liberation war veterans. However, Bond (2002: 39) reports that the war veterans encountered resentment from the rest of society as income tax and petrol tax were increased to cover the payments they received. Furthermore, Mugabe and Hunzvi planned a national farm invasion campaign using the War Veterans Association after having decided that they were needed for this exercise. The war veterans were offered a "pension increase of 41 %" (Stiff, 2000: 327) to win their trust and respect. Observers considered it as payment to drive white settlers of their farms.

3.5 LAND INVASIONS: MARCH 2000

Bond et al (2002: 77) argued that land occupation began in February 2000 as a direct response to the humiliation that Mugabe suffered after the referendum. This gave rise to intensified land invasions; although a few peasants and farm workers invaded land during 1997-1998, authorities cleared them off. The Commercial Farmers Union (CFU), "a non-racial body representing the country's 4 500 commercial farmer" (Stiff, 2000: 337) appealed to government to reconsider their draft constitution as it would undermine Zimbabwe's already battered image and deepen its worst economic crisis. However, the government responded that the land invasions would only be stop if white land owners willingly handover their land to the government. Mugabe claimed that the land invasions were not a governmental exercise but the war veterans expressing a legitimate concern for fair land redistribution. He announced on 27 March 2000 that he had no intention as to intervene in the matter. He described the land invasions as peaceful demonstrations and claimed that government did not encourage or fuelled the movement. It was reported that the armed gangs were transported by government and army trucks to the various farms to be seized.

Meredith (2002: 167) argued that these armed forces called themselves war veterans, while a large number were unemployed youths who were paid a daily allowance to peg out plots of land and to crush any support for the opposition. Some war veteran groups only caused disruption to normal agricultural activities, while others used more aggressive and violent tactics. Furthermore, the war veterans threatened if the opposition would win the upcoming election they would make Zimbabwe ungovernable. The CFU obtained a High Court order on March 17 2000, which declared, "land invasions to be illegal and instructing the police to evict the invaders within twenty-four hours" (Meredith, 2002: 170). The high ranking political figures and police ignored this High Court order and land invasions intensified. Normal agricultural practices were harshly sabotaged by war veterans, who had gone to great lengths to stop farmers to deliver any produce.

Stiff (2000: 344) reported that the presidential spokesperson, George Charamba, announced that the president “*would not halt the invasions until Parliament had amended the constitution to allow the acquisition of land without compensation*”. Mugabe reasoned that if the British government neglected to honour their Lancaster House Agreement of paying half the cost for redistribution purposes, the Zimbabwe government would continue to take white-owned land without compensation.

The Zimbabwe government intensified media laws, sympathetic towards Zanu-PF and subtly intimidated voters to ensure that Mugabe remains in the leadership position. The general election of June 2002 was relatively calm, although the opposition reported incidences of intimidation. The election results showed that “Zanu-PF won sixty-two seats, obtaining 48 percent of the votes cast; MDC won fifty-seven seats, obtaining 47 percent” (Meredith, 2002: 188). Leader of the MDC, Morgan Tsvangirai, attempted to contest the results of election in court due to the various cases of intimidation and irregularities concerning the counting of the ballots.

The election results was an indication to Mugabe that the MDC was a force to be reckoned with as they only have been in existence nine months prior the election and still successfully contended with Zanu-PF. Shortly after the election, Mugabe announced, *The Third Chimurenga*, a campaign that would finally free Zimbabwe from its colonial heritage. However, Meredith (2002: 191) argued that the campaign was only intensified episodes of violence and intimidation against the electorate to ensure that Mugabe retained his power.

3.6 DONORS

The Lancaster House Agreement constituted that Britain would contribute financially half of what is needed to successfully redistribute land to the landless in Zimbabwe. After they have funded more than 44 million pounds, resulting in the acquisition of about 3,5 million hectares of commercial farm land for resettlement, it was discovered that the programme was plagued by mismanagement and corruption. During the early 1990's the United States of America described the land reform programme in Zimbabwe as racial, linking the unwillingness to provide resources to facilitate land redistribution.

From as early as Independence, Zimbabwe was pressured by businessmen, economists and international bodies, such as the World Bank, to create a more positive investor friendly environment. The IMF and World Bank suspended its aid to Zimbabwe arguing "Mugabe's Zanu-PF movement, ruined a once-vibrant economy in 21 years of mismanagement, ... merely using land as a major campaign tool" (Mapenzauswa, 2001: 2). Peters & Malan (2000: 156) argued that the cancelling of international funding of land reform in Zimbabwe enraged Mugabe, who started to threaten to expropriate white-owned commercial agricultural land without compensation. Furthermore, the IMF gave no target date for a resumption of aid, which was frozen in 1999 over issues including Zimbabwe's involvement in the Congo war, and the forced land invasions of white farms without any compensation.

Currently, Zimbabwe is showing the first signs of starvation, while Mugabe alienated foreign investors cutting off access to foreign currency needed to import food. Itano (2001: 1) stated that during the World Conference Against Racism held in South Africa developing countries demanded acknowledgment that colonialism left a legacy of racism, which directly contributed, to landlessness problem in Africa. Countries like Zimbabwe indicated that the only solution would be reparation or aid by the former colonies.

3.7. SUMMARY

Today, Zimbabwe faces the painful reality that its political revolutions have only brought them halfway to true independence. Regarding the land question, Moyo (1995: 1) stated that years after independence, the government failed to address key public concerns, which was: "*the adequacy of the quantity and quality of land redistributed, the method and costs of land acquisition and redistribution, the efficiency of land use in both the large farm and resettlement areas, the suitability of those benefiting from land redistribution, the fairness and equitability of procedures for dealing with land demands, and the economic impact of land reform*". However, Chitiyo (2000: 4) stresses the fact that settlers did not alone generate Zimbabwe's land problem, but that numerous land wars between the Shona and Ndebele contributed to it and that these conflicts should be negotiated.

Mugabe's objective for Zimbabwe was to establish a Marxist-Leninist dispensation where decision making on all "crucial matters would be under political control in order to bring about the drastic redistribution of wealth from whites to blacks and to become independent from capitalists" (Leistner, 1989: 147). However, Zimbabwe did not and would not succeed with a functioning socialist economy, as history already revealed to us. Walsh (2002: 1) reported that of the remaining 4, 500 white farmer, 2,900 have been informed by government to evacuate their land without compensation. Government policies and regulations created a chronic shortage of food supplies in Zimbabwe. Still they continued refusing white farmers to proceed in food production.

The importance of land in Zimbabwe did not so much lie in the inequalities, but rather the inability to access land, accompanied by a growing overpopulation, landlessness, land deterioration and escalating poverty in the black areas parallel with severe under-utilisation of land in the white farming areas. This set the stage for conflict. Government needs to admit that they do not have the organisational expertise to resettle people. Compagnon

(2000: 453) remarked that the tactics and policies promoted by Mugabe and Zanu-PF have suffered to the extent that the regime's image in the West could never be restored.

CHAPTER FOUR: COMPARING KENYA AND ZIMBABWE

4.1 SIMILARITIES BETWEEN KENYA AND ZIMBABWE

In Africa governmental land reform programmes have had mixed success. The complex nature of the liberation struggles in Africa, created diverse post-independence governmental systems therefore, indicating the difficulty to draw similarities, as no two Land Reform Policies would be similar in their political and economic nature. However, some former settler colonies illustrate certain common underlying features. Years after independence land remained the key focus of government in both Kenya and Zimbabwe (dealt with in previous chapters) as well as in South Africa. In Zimbabwe the leading issues are restitution and compensation and the legalities of the restoration process while in Kenya, squatting on state land, and the lack of production on too small units of private land, created problems for the productivity of land.

4.1.1 Backward vs. Advanced

The most observable similarity between Kenya and Zimbabwe was that both were products of British colonialism and the colonialists' attempt to expose dark Africa to commerce and Christianity. The colonial history of these two countries, subsequently, greatly determined the identity of those it affected. The Brown Commission (in Mungazi, 1992: 91) stated: *In the contact sphere between two different cultures, distrust and deeply injured feelings damaged relationships between the government and the Africans.* Horowitz (1985: 167) in his book, *Ethnic Groups in Conflict*, came to the conclusion that the greater cultural differences there is between ethnic groups, the greater the chances would be for conflict, as both groups' objective would be to preserve their own identity. Ethnicity is viewed as a dense, highly emotional package and that difference between groups emerges from comparisons and competition.

Stiff (2000: 281) stated that the European authorities successfully indoctrinated an entire race to view Africans as inferior beings. This directly links with Horowitz's (1985: 167) *Backward vs. Advanced* theory: ethnic groups, and more so individuals, need a positive evaluation of themselves as what you are shapes who you are. The colonial powers had a strong internal positive evaluation of themselves, as they invidiously measured and compared their achievements and what they have resisted to the indigenous communities. Therefore, when the colonial powers arrived in Africa they immediately assigned meaning to the attributes of the indigenous communities, and in doing so, created ethnic stereotypes that produced a basis for future conflict. The "Backward" units inevitably will target the "Advanced" group, as they intrinsically would want to gain what the more prosperous groups possess.

Horowitz (1985: 171) suggests three possible strategies that "Backward" communities could incorporate to free them from their competitive disadvantages. Firstly, they could catch-up with the advanced groups, and in doing so abandon their culture and dismantling their own identity. Secondly, the "Backward" units could resort to violence, to cause a sense of threat that would upstage the "Advanced" groups. Thirdly, the "Backward" group could attempt to capture the state by engaging into active politics. In the global system, states are regarded as equal, however, by the promotion of symbols and a certain language, dominance is established. In engaging the state it is essential to dominate the civil service as its identity tells who owns the state.

The colonial history of Kenya and Zimbabwe are both excellent case studies for this theory. The British colonised both countries during the late 1890's and as a result of group differences and competition for land, the indigenous communities first attempted to catch-up with the colonial powers in terms of western education and religion. This was aided by the missionary school systems in British colonies and the decline of traditional beliefs making way for Christianity. However, the colonial powers were still unwilling to fully incorporate the indigenous people into their society. The indigenous communities were still regarded as backward and inferior and would never

rise to the European level of civilisation. This rejection of the colonial powers to fully accept indigenous people, even after they have forfeited their identity, enraged the oppressed and they resorted to violent tactics to regain their possession (land), but most importantly their self worth. This period of violent retaliation is captured best by Mau-Mau, in Kenya, and the Chimurenga (war of liberation) in Zimbabwe, as they exemplify the anxiety and stress of the indigenous people. After independence, the colonial authorities were automatically lifted out of the governing seats by products of their education programme for the indigenous community. Indigenous people gained enough knowledge concerning western politics, to successfully compete with their colonial counterparts. In both case studies the insurgence of African nationalism, and western ideological beliefs like democracy and socialism contributed to the reclaiming of land and the regaining of a positive sense of worth.

4.1.2 The settler community

Literature suggests that the black liberation forces did not win the two liberation struggles in Kenya and Zimbabwe. However, the settlements between the colonial powers and the African nationalists should be seen as an essential part of the political solution to the war, "because the last settler government could not have compromised unless its most important constituency, the white farmers, were at least to some extent reassured about their future" (Herbst, 1991: 271). This assurance in both countries was contributed to the fact that white-farmers dominated the agricultural sector, the leading contributor to their economies, at the time of Independence. Although, the main objective was to redistribute land to black landless peasants, the importance of the white commercial farmer was regarded highly by the post-independent government. After independence in Kenya, the Kenyatta government attempted to break the non-Kenyan hold on the economy by imposing various restrictive measures. Still, the government was sensitive and sympathetic to the needs of the white commercial farmers as they were the only lifelines for Kenya after Independence. Initially, the

Zimbabwean government regarded the colonial settlers as imperative to the economic success of the country, as they contributed more than 75 % of the domestic food supply. However, in recent times Mugabe and his government took on a different stance on the need for a settler community in Zimbabwe as they regard the need to redistribute land more important than the production of domestic food supplies, which white commercial farmer still dominates 22 years after independence.

4.1.3 Nepotism and corruption

The liberation struggles in Kenya and Zimbabwe focused on the release of freedom fighters and the reclaiming of land. Promises were made that after independence land would be freely distributed to all landless peasants. However, in both cases the land reform programmes created the opportunity for corruption, as political elites became landlords, crushing the hopes of the peasants to gain access to possible land. In Kenya, Kenyatta consolidated his power by favouring an "informal system of nepotism and favouritism" (Miller et al, 1994: 37) as land was given as reward to politicians, officials and relatives. The levels of corruption in Zimbabwe were more severe compared to Kenya. Among the transactions was a 3,000-acre farm purchased by the government to redistribute to 33 landless peasants but was given to the former agriculture minister, Witness Mangwende. The British Government discovered after spending more than 44 billion pounds on the redistribution, peasants were still landless and poverty stricken.

4.2 DIFFERENCES BETWEEN KENYA AND ZIMBABWE

4.2.1 Liberation struggle

The liberation struggle in Kenya was mainly about land and the release of Jomo Kenyatta. The nature of the Mau-Mau rebellion in Kenya (1952-1957) insured that the British government created a Settlement Fund after independence, to be used by Kenyans to purchase land and furthermore, to benefit the entire population. In Zimbabwe, African Nationalism and the liberation war was still highly politicised years after independence. Mugabe used the land question and liberation movement to win sympathy for the Zanu-PF party, while in Kenya; Jomo Kenyatta urged the nation to forget the Mau-Mau liberation struggle in order to heal.

The Chimurenga (war of liberation) in Zimbabwe (1966-1979) was not only about power and majority rule, but also about land. The Lancaster House Agreement of 1979, stipulated that the British government would contribute half of what was needed to successfully redistribute land in Zimbabwe. However, it could be stated that the Land Policy in Kenya succeeded by benefiting many displaced Kenyans while the settlement process in Zimbabwe was detrimental to the economy and agricultural section. This was mainly due to the fact that nowhere else in post-independence societies, land reform were characterised by violent uprising. In Zimbabwe, the War Veterans Association, assisted government with illegal land invasions in March 2000 and was responsible for the destruction of the economy.

Peters & Malan (2000: 155-156) states that land reform is a very costly and lengthy process. Therefore, the development of former colonies relies heavily on financial assistance, especially aiding with the restoration aspect of their various land restitution programmes. In 2000 the Zimbabwean Government estimated that the land reform programme would cost more than \$1 billion, as it also included the cost of support services to ensure sustainability. History

indicates that the land reform success in Kenya could be directly linked to the Settlement Fund, which the British Government created to assist the newly elected independent government over an extended period of time. In Zimbabwe financial aid was suspended in light of the fact that the aid was not reaching whom it was intended for. The Zimbabwean model clearly indicated that without donor assistance the entire land reform programme and economy came to an abrupt halt. Furthermore, donor aid could be beneficial for a country like Zimbabwe, where “state land represents only 1 % of all land in the country” (DUA, 2001: 105), having in effect no state land available for redistributive purposes.

4.2.2 African Socialism

Theorists suggested that the success of strategies and principles after independence relied heavily on government’s stance on socialism. The Kenyan Government “laid down a Sessional Paper No 10 of 1965, entitled *African Socialism and Its Application to Planning in Kenya*” (Ogot et al, 1995: 83). This document indicated that government rejected both Western capitalism and Eastern communism. Kenyatta was once quoted stating that communism was just as bad as colonialism. Ogot et al (1995: 84) stated that the main features of African Socialism in Kenya included:

- Political democracy.
- Mutual social and political responsibility.
- Various forms of property ownership so that nobody would have too much power.
- The control of wealth so that it is used in the interest of society.
- Freedom from want, disease and exploitation.
- Progressive taxation to narrow the gap between the rich and the poor.

The Kenyan model of Socialism rather attempted to build upon and modify the political and economic system they inherited from the colonial powers.

Kenyatta gladly encouraged foreign investment although some factions of society called for scientific socialism.

In Zimbabwe, the ruling party “acknowledged Marxism-Leninism as its ruling ideology, and proclaimed an ongoing transition to socialism, but operates an economy in which private, not to say foreign, capital is dominant” (Stoneman, 1988: 6). These two contradicting elements were regarded, as the lack of political will of government to implement radical policies. The Marxist overtone of the Zimbabwean regime “attracted top-up aid with no conditions attached or questions asked” (Stiff, 2000: 313) from the Communist Bloc. However, after 1990, aid from the Communist Bloc was suspended forcing Zimbabwe to turn its focus on the West for financial assistance.

4.2.3 Kenyatta vs. Mugabe

The legacy of leadership is crucial to any post-independence government as it determines the direction of the future. Maloba (1998: 157) argued that Kenyatta was truly regarded as the *Light of Kenya*, and the history of the liberation struggle and Kenyatta’s name is linked to the country. Although Kenyatta distanced himself from the Mau-Mau, this movement took its killing oath, when he was arrested. Although Kenyatta adopted a divided nationalist movement it became clear that he provided the leadership that could unify the nationalist movement in Kenya and he forced the pace of nationalism in Kenya. The leadership of Jomo Kenyatta created a legacy of stability and prosperity for Kenya.

The leadership of the Zimbabwe liberation struggle was fragmented to the degree that certain factions support certain personalities. Robert Mugabe had his Mashonaland support base firmly rooted in the Zanu party, although it should be noted that he only “gained the control of the army and the party as late as August 1977” (Meredith, 2002: 37). Observers suggests that the only reason Mugabe was chosen to lead the liberation struggle to independence was because he opted for more violent tactics compared to his moderate

colleagues, who were not inclined to some forms of violence. Mugabe's method of governance in Zimbabwe has damaged the image of the country, which could not be restored.

4.2.4 Negotiability of goods

The article of Albin (1991: 45), concerning the nature to what extent indivisible goods can be negotiated in Jerusalem, could be implemented to discuss the nature of indivisible goods (land) in Zimbabwe. She stated that economic conflict is easily negotiable, but that the nature of the goods determined if it was divisible or indivisible. However, in the case of Zimbabwe, land could be regarded as an indivisible good as it is a commodity so unique that it cannot be replaced or multiplied and by subdividing it will lose its meaning and intrinsic qualities. Furthermore, people attached meaning and value to the land and by dividing it could lose its commercial value.

In Zimbabwe one party within an electoral democracy has absolute power making it difficult to negotiate, as smaller parties are not seen as equal. Negotiating a fair exchange concerning the land is not attainable, as land is viewed at a zero sum pay off. This indicates what the one party loses (white commercial farmers) the other party gains (Zanu-PF).

Albin (1991: 53) suggested that the only solution to answer the land question would be if people could modify their perception and unlearn the value of land, because behavioural change could alter the nature of the goods. However, Horowitz (1985: 184) believed that contest shapes ethnic and cultural identity and if there were a breakdown in animosity there would be a breakdown of identity. Thus, suggesting that some conflicts are non-negotiable.

4.3 LESSONS FOR SOUTH AFRICA

The South African government's objective concerning land restitution is to bridge the racial ownership gap in land or be held responsible for future social instability. The right to own land is both emotionally and economically important and government's greatest concern at present is to prevent a land hunger situation in South Africa just as great as in Zimbabwe. International experience (e.g. Zimbabwe and Kenya) attests to the fact that in countries undergoing a transition to democracy, land is often a "mechanism used to mediate the dialectics of reconciliation and transition over and above the need to effect meaningful and radical agrarian transformation" (Kariuki, 2000: 1). Thus, the deliverance rate of the ruling party will be a test to measure their competence.

The Land Reform Programme in South Africa consists of three legs that were put in place to improve overall welfare and to alleviate poverty in the country. *Land restitution* usually involves "returning land lost, or compensating victims who lost property since 19 June 1913" (Matlou, 2000: 1) as a result of racially discriminatory laws or practices, and without just and equitable compensation, at the time of dispossession. *Land redistribution* enables the "poor and disadvantaged people in South Africa to buy land with the help of Settlement/Land Acquisition Grant/Land Redistribution for Agricultural Development Sub-Programmes (LRAD)" (DUA, 2001: 76). The *land tenure reform* aims to privatise state-owned land in order to bring all people occupying land under one legal system of landholding. It aims to provide help to "resolve tenure disputes and provide alternatives for people who are displaced in the process" (DUA, 2001: 76).

The Department of Land Affairs is the leading coordinators and monitor of the land reform policy programmes. However, their budget and staff are divided to facilitate the following functions: surveys and mapping, deeds registration, the Surveyor-General and land development planning, the management of state land falling under the jurisdiction of the Minister of Agriculture and Land

Affairs. The Directorate of Department of Land Affairs is responsible for the overall coordination, training and support, as well as macro programme and policy evaluation of the various Land Reform Programmes. While the Provincial directors are responsible for monitoring and evaluation at provincial level. However, many critics regard the monitoring and evaluation of the three programmes as the key to the blocked and slow land reform in South Africa.

Land Restitution is regarded the most important programme of the entire Land Reform process as it “gives all South Africans the opportunity to share the country and its resources” (Commission on Restitution of Land Rights, 2002: 9). The Chief land claims commissioner regards it as a more sustainable and lasting basis for reconciliation. Furthermore, Land Restitution holds the key to local economic development, both urban and rural areas, and ultimately to the growth of the national GDP. The remainder of this chapter will be dedicated to investigate whether the Restitution Programme fulfil the promises made in the Constitution.

Chief land claims commissioner, Wallace Mgoqi (in Commission of Restitution of Land Rights, 2002: 9), stated that the Restitution of Land Rights, as a process, is aimed at rectifying the injustices of the past and has its origins in the interim constitution of 1993. The historical background of South Africa suggests that more than 3.5 million people and their descendants have been victims of racially based dispossessions and forced removals during the apartheid years. The Groups Areas Act or the Urban Areas Act contributed to the large number of urban removals. The Rural removals consisted of various categories, such as black spot removals and removal of labour tenants. The Black Land Act No.27 of 1913, the Development Trust and Land Act No.18 of 1936 and the Prevention of Illegal Squatting Act No.52 of 1951 constituted the removals of mission stations, removals for the sake of forestry requirements and internal removals in the scheduled and released areas (later to become the homelands).

The Commission on Restitution of Land Rights (in Commission on Restitution of Land Rights, 2002: 2) leading task is aligning their vision, mission and values to honour the promise of the Constitution of South Africa.

VISION

“To have persons or communities, dispossessed of property after 19 June 1913 as a result of past racial discriminatory laws and practices, restored to such property or receive just and equitable redress” (Commission on Restitution of Land Rights, 2002: 2).

MISSION

- “To promote equity for victims of dispossession by the state, particularly the landless and rural poor.
- To facilitate development by bringing together all stakeholders relevant to land claims.
- To promote reconciliation through the restitution process.
- To contribute towards an equitable redistribution of land rights” (Commission on Restitution on Land Rights, 2002: 2).

VALUES

- “Promotion of gender equity.
- Just and equitable redress.
- Prioritising the needs of land development.
- Needs-based prioritisation.
- Promotion of Batho-Pele” (Commission on Restitution of Land Rights, 2002: 2).

The property clause in the new Constitution seeks to achieve a balance between the protections of current property rights and constitutional guarantees of land reform. This is a double challenge for government, as it must unlock historical structural constraints. The White Paper on South African Land Policy sets the framework for land reform for both rural and urban areas in South Africa.

The Land Policy strive to deal with the following:

- “The injustice of racially based land dispossession.
- The inequitable distribution of land ownership.
- The need for security of tenure for all.
- The need for sustainable use of land.
- The need for rapid release of land for development.
- The need to record and register all rights in property.
- The need to administer public land in an effective manner” (DUA, 2001: 76).

The total estimated land surface of South Africa constitutes to 1 219 090 km² (Streek, 2000: 1), of which the Province breakdown is listed in Table 1, and the South African Government is the biggest landowner. Thoko Didiza (in Streek, 2000: 1), current Minister of Land Affairs, confirmed that the state owns 24,3-million hectares of land (Table 1), which constitutes about 20% of the total surface area (Table 2). This figure includes governmental departments such as SANDF, SAPS and others as listed in Table 3, but excludes vast tracks of land, that constitutes more than 8% (Table 2) of the surface area, owned by parastatals like Transnet and the 2,9-million hectares owned by the Ingonyama Trust in KwaZulu-Natal. This figure also excludes "unsurveyed and unregistered state owned land such as coastal areas, foreign properties such as South African embassies, offshore islands such as Robben Island, land held in trust by the State such as former Coloured Rural areas, parastatal land such Eskom and land leased for state domestic or other national purposes" (Streek, 2000: 2).

Didiza (in Streek, 2000: 2) agreed with the former minister of agriculture and land affairs, Derek Hanekom, that only 1.3-million hectares of state-owned land (5 %) are suitable and available for land reform purposes. However, the availability of state-owned land suitable for restitution purposes could have a positive impact on the entire Land Reform Policy, as it could provide land for redistributive purposes. The Chief Land Claims Commissioner, adv. Wallace A. Mgoqi (Commission on Restitution of Land Rights, 2002: 8), believed that

their ultimate goal should be that land restitution be measured not by the number of claims settled, but by the success of the projects on the restored land. However, in the beginning of 2002, the President in his state of the Nation Address acknowledged that the number of settled claims had risen from 12,094 (number of claims settled at the end of 2001) to just over 29,000.

Table 1: Province breakdown of land surface in South Africa

| | |
|-------------------|------------------------|
| Eastern Cape | 6.1 million ha |
| Northern Province | 5.3 million ha |
| North West | 3.9 million ha |
| KwaZulu-Natal | 1.9 million ha |
| Mpumalanga | 2.4 million ha |
| Western Cape | 1.9 million ha |
| Northern Cape | 1.7 million ha |
| Free State | 635 776 ha |
| Gauteng | 429 670 ha |
| Total | 24.3 million ha |

*source-Streek,2000.

Table 2: Percentage land surface owned by the South African government.

| | |
|------------------------------|--------------|
| Former homelands | 13.8 % |
| National parks | 2.9 % |
| Provincial parks | 2.6 % |
| Trust and forestry land | 1 % |
| Total | 20.3% |
| Public companies/parastatals | 8.3% |

*source-Streek,2000.

Table 3: Hectares of land owned by governmental departments.

| | |
|---|-----------|
| SANDF | |
| -Northern Cape | 43 632 |
| SAPS | 254 812 |
| Department of Correctional Services | 40 145 |
| Department of Water Affairs and Forestry | 84 335 |
| Department of Agriculture | 758 780 |
| South African National Parks | |
| -Provincial | 86 694 |
| Department of Public Works | 3 354 300 |
| Department of Home Affairs, Justice, Mineral and Energy | 3 138 669 |
| Experimental Farms. | 2 133 300 |

*source-Streek,2000

4.4 A Critique of current Land Restitution Programme

4.4.1 Institutional capacity

During the inception of the Land Reform Pilot Programmes in 1995, it was noted that the institutional capacity of the Department of Land Affairs would not be able to hold the demand of land claims. The lack of staff became a source of major concern as the public demand for land reform increased. The current, 2400, Department of Land Affairs staff members is divided between various projects other than land reform. More than three-quarters are engaged in the vital survey and deeds registration services and corporate services of the Department. Only "447 posts, both on national and provincial level, are available for land reform policy development" (Department of Land Affairs, 1997: 7) and registration. Until 1996 only 304 of these posts were filled.

4.4.2 Land invasions

The invasion and illegal occupation of land is a threat to stability and development to any evolving democracy. In South Africa, community groups have found their land planning and housing development on identified land brought to a halt by land invaders. This is directly linked to the level of poverty and desperation in South Africa. A survey by the World Bank on Persistence of Poverty in Rural South Africa (1995) showed that 57 % of all households in the rural areas are poor, and 68,3 % of people in rural households live in poverty. Of the total poor in the country, 60,6 % are Africans and only 0,7 % are white. It should be mentioned that the interest in land is not simply for residential purposes, but for a substantial minority, in addition to being a place to live, land has a productive value to alleviate poverty.

The big question lurking is whether South Africa could avoid the Zimbabwe land experience? Initially the claims settled by the commission were very slow. This was mainly due to the fact that from 1995 until 1998 all claims lodged had to be ratified by Court, even where there was an agreement between the parties. Furthermore, the roles of the Commission and the Department of Land Affairs overlapped and resulted in duplication and long delays. Mgoqi (in Commission on Restitution of Land Rights, 2002: 9) views the amendment of the Restitution Act during 1998 positively, as it vested the Minister with powers to finalise claims administratively. This contributed to an increase in the settlement of claims.

The Land Claims Commission concludes that the recent developments in restitution, aided this programme immensely. They include:

- "Implementing the Standard Settlement Offer policy, which has worked well so far, and has enabled CRLR to avoid lengthy and costly valuations.
- Implementing the policy of Betterment Claims, as has been done with the approval by the Minister in the Chatha claim, Eastern Cape, and is to be rolled out in similar claims.

- Implementing policy on Labour Tenancy, and submission of claims to the Minister for approval in terms of Section 42D of the Restitution Act. This too will fast track the restitution of claims.
- Achieving an integrated working relationship between the Commission and the Department of Land Affairs over the current financial year, thus creating synergies beneficial to the restitution process.
- Establishing closer working relationships with local government structures and district councils, through district forums.
- Making vigorous use of the administrative approach- i.e. negotiated settlements.
- Referring disputed claims to the Land Claims Court.
- Expropriating, as a matter of last resort, under the rule of law. This emphasises the fact that the preferred method of settling restitution claims is by means of negotiated settlements, which result in win-win outcomes for all involved" (DUA, 2001: 80).

4.5 SUMMARY

The political survival of the South African Government depends on the ability to correct past racial imbalances and to transform the economy. However, Land Reform should be seen a long-term programme with no quick-fix solutions. The South African Land Reform Programmes have increasingly drawn international attention, because much has been achieved in a varied, innovative and comprehensive way in a short space of time and without international donor aid.

Broad similarities between Zimbabwe and South Africa exist, especially the need for land. Peter & Malan (2000: 157) state that research on land demand and migration patterns in South Africa indicate that more than 67,7 % of black rural households has a need for land. The South African government must acquire land on a willing seller basis and must pay just compensation for that land. However, observers to the Zimbabwe crisis predict that this could inhibit

the amount of land acquired in the future. Khumalo (2002: 1) reports that the Minister for Agriculture and Land Affairs, Thoko Didiza, announced that government are negotiating the possibility to impose legislation to decrease the foreign ownership of land in South Africa. Furthermore, she assured South Africans that white and black commercial farmers in South Africa are working together unlike the happenings in Zimbabwe. Structures like Agri SA assists government to attract black farmers to this sector.

Opposition parties in South Africa, like the UDM, believe that South Africans should emancipate themselves from the black/white ideological way of thinking. Bantu Holomisa (in Rapport, 2002: September 1) claims that Zimbabwe did not succeed to cultivate a non-racial society and thought patterns remained of the wealthy white farmer compared to the poor, landless black peasant. South Africa could avoid following the same route as Zimbabwe by honouring the constitution and to admit that every population group and individual could contribute politically and economically.

CHAPTER FIVE: CONCLUSION

The British Empire was the last of the great world empires, with the most extensive history. Furthermore, it is believed that its decline and fall took place within a single generation, effectively beginning with Indian Independence in 1947 and ending with the creation of Zimbabwe in 1980. The British Government annexed vast areas of Africa for the British Crown and their rivalry with other European powers often led to land being acquired by unlawful means. The British justified colonisation as a moral obligation to civilise dark Africa. Those who suffered viewed colonisation as the exploitation of human and other resources therefore, claiming that colonisation only financially benefited the British Government.

The theme of the study was to investigate two former British colonies, Kenya and Zimbabwe, to determine whether colonialism created certain land ownership patterns that had detrimental effects on the political and economic arena after independence of these two colonies. The study concluded that the two countries illustrated a limited number of similarities and boundless differences concerning the history and environment, which created their individual Land Reform Policies.

Similarities between Kenya and Zimbabwe:

- British colonies annexed in late 1890's
- Land ownership was pivotal in the political evolution of these countries
- Land remained highly politicised years after Independence
- Colonial powers created a *Backward vs. Advanced* mentality
- Both involved in violent, brutal liberation struggles
- Economy is dependent on the agricultural sector
- White settler community owning the commercial agricultural sector
- Years after Independence large number of landless black peasants
- Land reform plagued by nepotism and corruption

Differences between Kenya and Zimbabwe:

| KENYA | ZIMBAMWE |
|---|--|
| Land reform in Kenya created to reduce poverty and to be beneficial to the entire population | Mugabe used the land question to win support for Zanu-PF |
| British financial aid for a period of five years in Kenya | British aid suspended due to corruption |
| Kenya's Socialism rejected both western capitalism and eastern communism but invited foreign investment | Zimbabwe attempted to incorporate Marxism-Leninism as its ideology, but never accomplished |
| Kenyatta: legacy of stability and prosperity | Mugabe: legacy of corruption and violence |
| Land in Kenya was negotiable; resulted in settlement with a durable nature | Land in Zimbabwe is non-negotiable; resulted in land reform crisis |

Problems facing South Africa:

The South African Government estimates that more than 3,5 million people and their descendants have been victims of racially based dispossessions and forced removals during the apartheid years. The aim of the Restitution programme is to rectify the injustices of the past without ever deviating to a Zimbabwe model. Although South Africa is receiving international attention, congratulating the Restitution Programme for the progress it has made in successfully settling claims, studies show that more than 67,7 % of rural South Africans is in desperate need of land.

After a peaceful transition in Namibia and relative economic stability, pres. Sam Nujoma is threatening the whites in the country with similar tactics like Robert Mugabe in Zimbabwe, to seize land without compensation. This is mainly due to the fact that Africa is facing a new dilemma; the fight for land is no longer paramount but the fight for valuable land have taken center stage. This raises the question whether South Africa, with its highly developed constitution, and a constitutional court, which protects land rights, will not follow the same route.

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