

University of the Western Cape



Faculty of Economic and Management Sciences (EMS)
Institute for Social Development (ISD)

**South Africa's Land Reform Programme: A case study of the relocation of the
Stockenström community to Friemersheim in the Western Cape during the
Apartheid era**

**A thesis submitted in fulfilment of the requirements for the degree of Master's
in Development Studies (M. Dev Stud.)**

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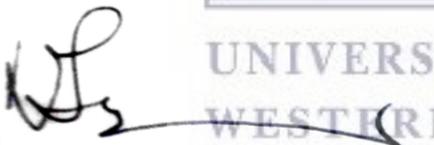
DECLARATION

I declare that “South Africa’s Land Reform Programme: A case study of the relocation of the Stockenström community to Friemersheim during the Apartheid era” is my own work, that it has never before been submitted for any degree or examination in any other university, and that all the sources I have used or quoted have been indicated and acknowledged as complete references.

Natalie N. Seymour



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Signed.....

Date: 18 MARCH 2019

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To the Old Stockenströmers who are the survivors of an epic 30-plus years of struggle for the restoration of land and dignity, I salute you for strength and courage showed throughout this journey and for being prepared to tell me your story.

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ABSTRACT

This research places in context a proposed case study of land and property rights of a dispossessed Stockenström (Eastern Cape) community forcibly removed to Friemersheim (Western Cape) during the apartheid era, between 1985 and 1986. This dispossessed community has yet to receive appropriate compensation for that expropriation in the form of restoration of their property rights. This study examines the specifics of the legislative framework, which underpinned the circumstances of their land expropriation, as well as the pattern of land dispossession in South Africa during this era. To this end, it examines the impact of land-related apartheid legislation, which directly and indirectly influenced this community. It focuses on discussions, many of the parliamentary proclamations and statutes such as those passed in 1913, and beyond, which provided the legal context for large-scale land grabs, and contrasts these with the post-1994 land reformation programme.

Finally, this research examines the practical implementation of the 1994 land reform programme, especially the component of restitution, with particular reference to the displaced Stockenström community who find themselves facing huge challenges in a democratic South Africa, even after they applied the new rights accorded to them in the land reform programme. It outlines the significance of the new legislative rights conferred on those dispossessed and tracks their land claims successes and failures.

KEY WORDS OR PHRASES

1. Racial segregation
2. Bantustans or Homelands
3. Dutch Reformed (Mission) Church
4. Apartheid
5. Coloured Preferential Areas
6. Land Reform
7. Land Restitution
8. Redistribution
9. Dispossession of land
10. Land expropriation
11. Friemersheim
12. Stockenström

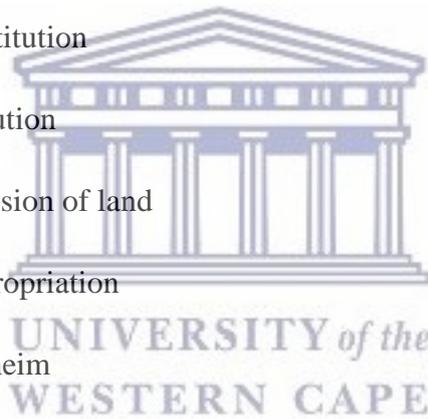


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ABBREVIATIONS AND ACRONYMS

ANC	African National Congress
CPA	Communal Property Association
CRDP	Comprehensive Rural Development Programme
CRLR	Commission on Restitution of Land Rights
DLA	Department of Land Affairs (now named Department of Rural Development and Land Reform)
DRDLR	Department of Rural Development and Land Reform (formerly the Department of Land Affairs)
ESTA	Extension of Security of Tenure Act
IDP	Integrated Development Plan
LARP	Land and Agrarian Reform Programme
LCC	Land Claims Commission
LRAD	Land Redistribution for Agricultural Development
NDP	National Development Plan
NDR	National Democratic Revolution
NGSKSTK	NG Sendingkerk Stockenström (English translation: NG mission church)
PLAS	Proactive Land Acquisition Strategy
RDP	Reconstruction and Development Programme
SLAG	Settlement/Land Acquisition Grant
TVBC	Transkei, Venda, Bophuthatswana and Ciskei

CHAPTER 1: INTRODUCTION AND CONTEXT

1.1. INTRODUCTION

Historically, the phenomenon of separate development or racial segregation was first conceived and developed, under colonial rule and finessed under apartheid. The 1913 Native Land Act remains one of the most significant social, economic, cultural exploitation ever to have happened on South African shores to date. Millions of South Africans were degraded and forcibly removed from their land through this legislation and many others which systematically deprived South Africans from their right to ownership of the land of their ancestors.

South Africa's apartheid spatial planning and separate development vision, sought to continue with entrenching this machination by introducing and implementing further segregationist legislation, forcing various race groups into parts of South Africa they deemed appropriate for each individual racial grouping. Black, Coloured and Indian people who owned vast tracts of land and were engaged in many forms of agrarian activity, found themselves inexplicably removed and relocated without any consultation, caught up, as it were, in this relentless apartheid juggernaut. The scarring that this apartheid legacy left was, and still remains, immeasurable.

Circumstances differed in the details of the individuals involved, but everywhere in the country, people were dispossessed of their land. In some instances, particularly in rural areas, black owners of land were subjected to state sanctioned expropriations, because their land was deemed desirable for white ownership. Thus their homes became 'black spots' on an increasingly white landscape. So an invasive, political re-engineering model was utilised to spatially manipulate the country to meet the separate development vision of the apartheid government. Each racial or ethnic grouping had been classified according to legislated descriptors and moved to the appropriate, pre-selected location, demarcated for that specific racial grouping.

The ideology of apartheid's separate development areas for Blacks, were the creation of homelands or Bantustans, This Bantustan concept, is at the centre of this case study and its dismantling, continues to be one of the factors within the land reform programme that is, and continues to be, the most difficult to resolve. According to Levin and Weimer (1977: 6), despite the new democratic South Africa's assertion that the former homelands had been officially closed down and all formations had been reincorporated into mainstream South Africa, they had not. They still continue, for the most part, through custom and practice, to function in the same way they had been operating during apartheid. However, with the new democracy's many legislative and policy reform initiatives, the tide was turning but at a very slow pace.

While land reform is, arguably, one of the most difficult policy issues facing the post-apartheid government, it should have made more ground-breaking changes than what has been evident thus far. Land reform is generally accepted to mean restitution, redistribution and/or a confirmation of rights in land for the benefit of the poor and dispossessed (RSA, 1997b). But its competency areas should have radically reduced the circumstance of the many dislocated communities (RSA, 1997b; Van Zyl, Kirsten, and Binswanger, 1996).

Land reform includes a land claim process, but also refers to the acquisition of land for distribution to the landless and dispossessed. These processes however, seem only to work where there is a single claim or one group of claimants (Van Zyl, Kirsten and Binswanger, 1996). Where there were multiple claimants, and disputes have had to be declared, it appears that the settlement of any claims could not take place during the lifetime of claimants, or only after several generations have already passed away.

The focus of this research is to investigate the resettlement of a dispossessed community from a Bantustan to a Coloured preferential area in the Western Cape Province during the 1980s. This community was dispossessed of their land in the Ciskei in 1980s and resettled in the rural town Friemersheim in the Eden District Municipality in the Western Cape Province.

1.2. STOCKENSTRÖM VERSUS FRIEMERSHEIM

This case study focussed on the land expropriation process of the Stockenström community in the Eastern Cape during 1980s, as per the Bantu Homelands Citizens Act (RSA, 1970b); and the legislative process whereby the community is seeking reparation in accordance with the post-1994 land reform programme, especially restitution. The Stockenström community, classified as Coloured through apartheid's racial profiling, had ownership papers to land near Balfour or Hertzog, given by the British Government for services to the army. Through ancestral leaseholds all of the land was registered to specific individual families and the Dutch Reformed Mission Church also owned land in the same area. This was land, earmarked for dispossession and expropriation for incorporation into the newly established "Republic of Ciskei."

The Stockenström expropriation and resettlement case study deviates fundamentally from the rest of the country in one sense only. Whereas most land dispossessions took place within the context of land appropriated from Black majority racial groupings - for the benefit of White minority racial grouping, this is not the case here (Weiner, 1990: 229). In this case study, the dispossessed land had been expropriated for the Xhosa ethnic grouping, who were in turn newly classified citizens of the Ciskei Self-Governing Territory, or by the more commonly known appellation, TVBC homelands or Bantustans. In effect, this meant that the Xhosa community, who may have lived elsewhere, were resettled in the Ciskei Bantustan, whilst the Coloured residents of Stockenström, were forcefully removed to a Coloured preferential area, Western Cape. This was typical of the Apartheid government's strategy of racial segregation.

1.3. SIGNIFICANCE OF THE STUDY

Unlike other instances of dispossession, expropriation and forced removals of Black South Africans and their resettlement in the Bantustans, there is no record of anything about the dispossession or removal of Coloured communities from the Bantustans. This research focussed on the removal of the "old Stockenström" community from the newly proclaimed Ciskei and proposed resettlement process in Friemersheim. This will offer a unique insight into such removals and will provide a fairly new focus on land

dispossession. This case study will also offer an opportunity to study what happens when two claimants, the new Dutch Reformed Mission Church Stockenström and the “old Stockenström” community, are contesting for the same piece of land. Another significant focus of the research, which will provide important information to policy makers, is to investigate the reasons for the lengthy delay in the settlement process as this is not the case for other land claims which have been settled far more promptly.

1.4. THE ROLE OF THE CHURCH

The Apartheid Nationalist government had a tacit understanding with the Coloured Dutch Reformed Church, to assist in facilitating the relocation/ resettlement processes. There is reason to believe that they played an active role in the speedy removal of this community, especially when the government encountered strong opposition to the proposed expropriation of properties of the community. The church was instrumental in persuading the community to focus their energies on the relocation when it became clear that a forced removal was imminent. It is not clear what kind of interaction took place between the apartheid government officials and representatives of the church. Unanswered questions also pertain to the choice of area for relocation. It is evident that the community relied on the church to give direction especially during the removal phase.

Thus, it transpired that through the negotiation and/ or intervention of the original Dutch-Reformed (NG – Sending [missionary]) church Stockenström board, each of the 60 families dispossessed of their land in the Eastern Cape, were allocated small plots of approximately 300m² as ‘replacement land’ when they arrived in Friemersheim. This was not the understanding of the community had when they were loaded on the trucks and drove toward Friemersheim in the 1980s. The Stockenström community had an expectation that they would receive land that was equivalent to that which they owned in Stockenström. It became apparent that differences of opinion existed between the broad community’s interpretation of the 1980s dispossession and the current Dutch Reform Mission Church’s Boards’ version of events, many of whom were not part of the church in the 1980’s.

Figure 1: Dutch Reformed Mission Church in Friemersheim



Source: Claassen, 2011

The 1984 Race Relations Survey reports highlight two aspects regarding this situation (South African Race Relation Survey, 1984). Firstly, it was because of the extreme pressure from Apartheid government, Ciskei Government and individual black families that the Coloured community from Stockenström decided to reluctantly accept dispossession of their home and livestock. Secondly, this same pressure led them to accept money as purported compensation for the forced removal from their home from the South African Development Trust (South African Institute of Race Relations, 1984, p. 476). During interviews with the community no one could explain what criteria was used to determine compensation. Although the cost of moving and the relinquishing of their livestock, gardens and property did not tally with the “compensation”. The third reason that this community was moving from the Ciskei was that they would do so as a cohesive whole. Even the church below which was Dutch Reformed, but ostensibly

would serve the entire 'old Stockenström' community, including the existing Friemersheim community.

The broader community remained consistent and adamant, that contrary to the two claimant scenario for the Moordkuyl property and beyond the dispute on who is entitled to property, that they, individually, were dispossessed and they were not an amorphous Dutch Reformed Mission church group. They maintain that the 'old Stockenström' community members belonged to other denominations, which included members of the Catholic Church and other Christian groupings. The current Dutch Reformed Mission church, in Stockenström, is the only group who supported the view that the dispossessed community were church members exclusively and were the only ones that had to be resettled on land purchased by the Dutch Reformed Mission church, in the Western Cape town of Friemersheim (See Figure 1.1).

1.5. THE RESEARCH PROBLEM

The study considers the dilemma that although the land reform programme has been one of the flagships of the post-apartheid government's transformation vision, very little of the original goals and targets have been realised (Greenberg, 2010; ANC, 2012). In the case study, the key problem is that claimants from Stockenström, who did not belong to the Xhosa grouping, no longer met the newly created racial requirements to continue to live on their own property, a dilemma created by the passage of the Bantustan legislation (RSA, 1970b). Consequently, they were dispossessed of their land in the Eastern Cape. They had never been properly resettled on alternative land allocated to them in the Western Cape, namely, Friemersheim.

In addition, as victims of dispossession by the white apartheid government's new legislation, they had never received proper compensation by virtue of replacement of land loss, of stock loss, or of loss of personal furniture and other miscellaneous possessions, since their original removal in 1980s. So not only was the resettlement process not instituted properly, none of the community had been given security of tenure to the resettled property. They remained in a landless limbo.

Since 1994, and the dawn of the new democracy, despite all the many land reform processes and legislative interventions, this community have yet to gain access to land that was equivalent to the land lost during dispossession. Nor were they given new stock or farmland. They were, instead, given temporary shelter to house their families but not equipped with tools or start up farming or seeds to plant, to provide food security for their families. It is within this context that, almost three decades later, this research seeks to follow the directives of the land reform programme, and establish what happened and why land restoration initiatives have not succeeded here, when they have in other areas.

1.6. AIMS AND OBJECTIVES OF THE STUDY

The overall aim of the study is to examine the forced removal and resettlement process of the Stockenström community since its dispossession in 1980s. The specific objectives are to:

- Document the forced removal and resettlement process of the Stockenström community;
- Identify key stakeholders in the resettlement process and discern what role was played by each;
- Examine the experiences of the community since their dispossession like loss of farming skills, food insecurity and poor infrastructural development.
- Outline the range of challenges faced by the Stockenström community like fallow land and no security of tenure in the resettled area.
- Provide recommendations to all role-players and stakeholders regarding the resolution of the resettlement process.

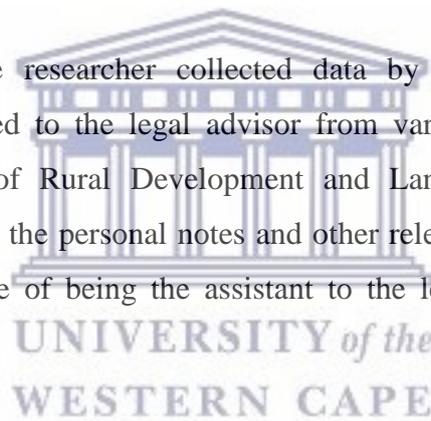
1.7. RESEARCH METHODOLOGY AND DESIGN

Babbie and Mouton (2001), have written extensively on research design and in their view the ‘blueprint’, which is what the research design provides, is critical for the procedure, the collection and the analysis of all research data. Yin (2014) concurs, but adds an additional element to the need for a proper research design and that is an action

plan. If the action plan is correctly executed, through the setting of appropriate questions, this will allow for appropriate conclusions to be drawn (Yin, 2014).

Qualitative research methodology involves data collection which incorporates the input of the original 1980s dispossessed community members as well as their descendants, whose first-hand input formed an integral part of the empirical research. This input recorded what happened to the collective claimants when they were forcibly removed and what assistance or otherwise they had encountered in the ensuing years since dispossession. Their participation was critical for primary data collection since they had the collective memory of the events as they unfolded. Triangulation research method was used to verify the validity of certain sources.

In some instances, the researcher collected data by virtue of having access to documentation forwarded to the legal advisor from various sources including those from the Department of Rural Development and Land Reform. In addition, the researcher had access to the personal notes and other relevant documents pertaining to the case study by virtue of being the assistant to the legal advisor representing the claimants.



Other data collecting tools used was in-depth interviews with individual beneficiaries to access specific historical records and documentation that may have accumulated in individual households over the almost 30 years since dispossession. Again, because of the long delay in restitution, the researcher had to cross-reference each claim, using the triangulation research method to check the veracity of the claim against that of the statements made by officials from the NG Church and the Department of Rural Development and Land Reform.

The gathering of primary data was done mainly through semi-structured, in-depth interviews both on a one-one one basis, as well as through focus group discussions

(Welman, Kruger and Mitchell, 2005: 150). In addition, the use of a questionnaire schedule acted as a guide to focus all interviews and focus group discussions, so that all respondents answered succinctly to the relevant questions.

1.8. OUTLINE OF THESIS

Chapter 1: Introduction to the Study

This chapter gives a general background to the land reform process in South Africa. It sketches the picture of land ownership, dispossession and redistribution from Apartheid to the present. It also contextualises the case study and outlines the specific objectives and their significance.

Chapter 2: Literature Review

This chapter first considers the theoretical framework for the case study as well as examines what other researchers contributed to the discourse on the whole land reform process in South Africa. It examines successes and failures of other case studies in order to draw parallels, which could benefit the current case study. It considers gathered data from official government websites. These institutions are tasked with the responsibility of oversight and accountability of the Land Reform and Restitution process like the Department of Rural Development and Land Reform, the Commission on Restitution and Land Reform, to check which mechanisms have worked to bring about settlement of claims and which did not. In addition, government departments such as the Department of Finance helps the research in terms of understanding government's financial output for the Restitution process.

Chapter 3: Research Design

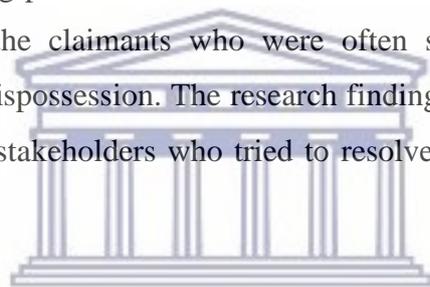
This chapter provides a research plan for the thesis, which will include methodology, measuring instruments and data collection techniques. This research plan also incorporates an ethical statement and outlines the limitations of the study.

Chapter 4: Overview of the Case Study Area

This chapter sketches the resettlement area in Friemersheim as well as attempts to identify the role that all the relevant stakeholders played in either assisting or resisting the restitution process. It also gives a perspective of the primary claimants and other stakeholders during the process of resettlement and examines what impact the delay in restorative justice has had on those awaiting restitution.

Chapter 5: Presentation of Research Findings

This chapter critically examines the raw data and presents an analysis of the findings. Key to the data gathering process was to unlock the historical data that came from the collective memory of the claimants who were often second and third generation, survivors of the initial dispossession. The research findings also examines and analyses the roles of all the key stakeholders who tried to resolve and/ or retard the restitution process.



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Chapter 6: Conclusion and Recommendations

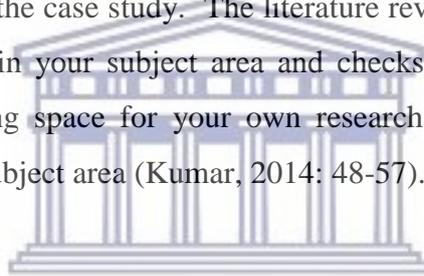
This chapter interprets the findings and made necessary recommendations towards resolution. If carried to its full potential to the relevant parties, particularly the beneficiaries of the land claimants in the case study, it could play a vital role in unblocking some of contested issues. Should the political and moral will be central in the minds of all the parties, then recommendations in this conclusion could potentially resolve, at least this restitution claim.

CHAPTER 2: LITERATURE REVIEW AND THEORETICAL FRAMEWORK

2.1. INTRODUCTION

This chapter first considered the theoretical framework for this case study and examined what other researchers were discussing on the entire land reform process in South Africa. It examined success and failures of other case studies.

The literature reviews also assist in a deeper understanding of the research problem and the historical context of the case study. The literature review clarifies themes that have already been discussed in your subject area and checks for relevancy or gaps in the knowledge base allowing space for your own research to contribute to the broader knowledge base in the subject area (Kumar, 2014: 48-57).



2.2. THEORETICAL APPROACHES AND FRAMEWORK

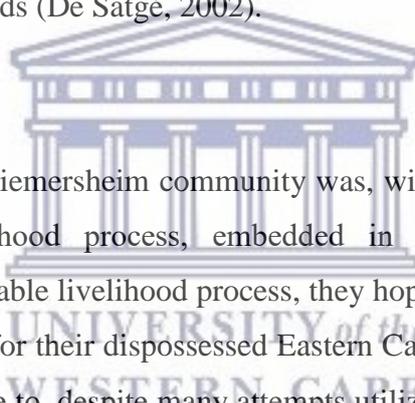
2.2.1 *Sustainable Livelihood Approach*

Sustainable livelihoods approach attempts to close the gap left by the failure of other developmental approaches to community development. It attempts a holistic view that is more people-centred, taking on board people's strengths and differences to eventually attain full community participation.

The sustainable livelihood approach (SLA) concept, according to De Satgé, et.al (2002), therefore, considers a wide range of influences which includes, the environment, economic and social activities, as well as human capabilities. A widely-used concept of sustainable livelihoods definition is one where: "A livelihood comprises of the capabilities, assets (including both material and social resources and activities required for a means of living. A livelihood is sustainable when it can cope

with and recover from stressors and shocks, maintain and enhance its capabilities and assets, while not undermining the natural resources” (De Satgé et. al., 2002 citing Chambers and Conway: 4).

De Satgé et. al., (2002) outline a few key objectives of sustainable development approach which includes an understanding of people’s livelihoods which is firmly based on reality and a clear understanding of factors that shape that reality. Also, an objective of sustainable livelihoods approach is that it is imperative to focus on building policies and institutional environments that supports a pro-poor perspective on livelihoods. Finally, sustainable livelihood approach should have the objective of supporting development, not for its own sake, but development that builds on the strengths of the most vulnerable and provides them with tangible opportunities for improving their livelihoods (De Satgé, 2002).



In this case study, the Friemersheim community was, wittingly or unwittingly engaged in a sustainable livelihood process, embedded in South Africa’s land reform programme. This sustainable livelihood process, they hoped, would realize their micro - issue of land restitution for their dispossessed Eastern Cape property. Their reality was that they had been unable to, despite many attempts utilizing the application process for restitution, to gain security of tenure on land that they were promised during apartheid, since 1980s. In their attempt to seek reparation they had engaged, local, provincial and national government, church authorities, individuals and eventually, obtained the services of their own legal expert.

This community has on a micro environment level, used their individual and collective capabilities to enhance their present livelihoods. They have, through sheer determination, pooled their human capital together over a sustained period of time, to reach their ultimate goal of their own farms to secure, personal and collective, sustainable livelihoods. Utilising the sustainable development approach in this case study, as allowed this researcher to understand a community’s vulnerability and

resilience to all the negative influences that had been their cross to bear.

2.2.2. Marxist Approach

Marxism which emanated from the social, political and economic theories of both Karl Marx through (*Das Kapital*) and Friedrich Engels (*Communist Manifesto*), holds that the system of capital is in essence about the exploitation by the few, of the majority of human beings, in pursuit of profit (Workers Socialist Party Admin, 2017). The majority, who own or are in charge of the means of production would, through actions or institutions, engage in an unequal power struggle over the minority, and in the South African context, between labour and capital.

In addition, land and property ownership in Apartheid South Africa, as a representation of the means of production, sought to exploit the majority of South Africans and remove their access to land through legislation, and wide-scale dispossession, in order to gain control over the land (Workers Socialist Party Admin. 2017). An understanding of what amounts to a class struggle but with distinct racist overtones, and all its concomitant dynamics such as forces of production and means of production, was necessary for Apartheid South Africa, to implement and systematically control their society so that a minority can rule over the majority.

So in keeping with Marx's theory, South Africa's material conditions (infrastructure/economic base), determined what happened in the "political, social and cultural spheres of society (or the superstructure) (Le Roux and Graaff, 2001: 29). Again in Marx's analysis, a capitalist society (like South Africa), which sought through legal and ideological means to uphold class and also racial differentiation, would be unsustainable. Marx's prediction was that there would be an uprising of the masses which will eventually lead to the overthrow of capitalists' exploitation (Webster, 1990), came true with the new democracy.

2.3. LEGISLATIVE FRAMEWORK FOR LAND OWNERSHIP AND TENANCY

The social engineering that characterised the apartheid system - the scars of which will remain visible for many years to come - were directly linked to the ways in which occupation of, access to, and rights on, land was regulated (Van der Walt, 1995). Some researchers such as Walker, Bohlin, Hall and Kepe (2010), agree that the land issue for South Africans, has been fraught with tensions resulting in fundamental human rights violations over a sustained period. These violations included land and property rights seizures, which began since the arrival of the colonising Europeans as represented by historical figures like *Bartholomew Diaz* (1498), *Jan Van Riebeeck* (1652), *British Settlers* (1820), and others. But recent property rights violations came into prominence for the majority of modern day South Africans with the promulgation of Native Land Act of 1913, which predates even the institutionalised apartheid state. Apartheid being the carefully designed stratagem initiated by the national party-led government in 1948, to systematically strip South African citizens, who were not white, of their land, their right to housing, citizenship and basic human rights.

State sponsored forced removals were among the most flagrant human rights violations of the apartheid era. Reflecting the political significance of this history, the Restitution of Land Rights Act was among the first pieces of legislation passed by the democratic government of Nelson Mandela in 1994 (Walker, Bohlin, Hall and Kepe, 2010). At the time there was high hopes that land reform would not only address the injustices experienced by those who had been dispossessed of land rights but also contribute to the objectives of land tenure security, land redistribution and rural development (Walker, Bohlin, Hall, and Kepe, 2010).

2.3.1. Colonial influences on land ownership

Current discourse concurs that almost all legislation, which post-dated 1913 have as an underlying tenet, the systemic separation of individuals and communities from each other and away from their land or material possessions, based on race. Many national and international researchers agree that some of the main pillars of apartheid with an

emphasis on enforced separate development included the Native Administration Act of 1927 (Union of South Africa, 1927), Development Trust Land Act of 1936 (Union of South Africa, 1936), Asiatic Land Tenure Act of 1946 (Union of South Africa, 1946), Group Areas Acts of 1950 (Union of South Africa, 1950a) and 1966 (RSA, 1966), the Rural Coloured Areas Act of 1963 (RSA, 1963) and the Community Development Act of 1966 (RSA, 1966; Walker, Bohlin, Hall, and Kepe, 2010).

2.3.1.1. Brief description of key apartheid legislation pertaining to land

The author Du Plessis (2011) observed that when the government of Nelson Mandela took office in 1994, it was faced with a myriad of pieces of legislation in place which was designed to segregate and control land division, with a number different land control systems in South Africa (*Du Plessis, 2011:45*). Below is a brief description of the key pieces of legislation.

- ***The Natives Land Act of 1913.***

This was the first major piece of apartheid land related legislation. The Act became law on 19 June 1913 limiting land ownership of Africans to 7%, which was later increased to 13% by the 1936 Native Trust Land Act. The Act restricted black people from buying or occupying land. It opened the door for white ownership of 87% of the land in the country, leaving black people to scramble for what remained.

Once this Act was passed, the government began the mass relocation of black people to poor areas and poorly planned underserviced black townships. This marked the beginning of the socio-economic challenges the country is facing today such as landlessness, poverty and inequality.

- ***Native Administration Act of 1927***

In terms of the Native Administration Act, 1927 (Act No. 38 of 1927; subsequently renamed the Bantu Administration Act, 1927 and the Black Administration Act, 1927), the “Governor-General of South Africa” could “banish a 'native' or 'tribe' from one area to another whenever he deemed this 'expedient or in the general. According to this Act,

the Governor-General was the Supreme chief of all “Natives” and was vested with all such rights, immunities, powers and authorities in respect of all “Natives” as are or may be from time to time vested in him in respect of Natives.

- ***The Native Trust Land Act 18 of 1936***

According to this act, the land set aside for reserves was extended from 7.3% (See: the NATIVE LAND ACT of 1913) to almost 13%. More specifically, it prohibited any ownership and/or purchase of land by 'Natives' outside the stipulated reserves.

- ***Asiatic Land Tenure Act of 1946***

The Asiatic Land Tenure and Indian Representation Act restricted people of Indian descent from buying or occupying land outside certain areas especially property which had not been owned by Indians before 1946. This was designed to marginalise Indians and force them to live in certain restricted areas, mostly in towns. In return for the restrictions on land ownership, Indians were offered a limited form of parliamentary representation, mainly through White representatives. The law was repealed, however, in 1948 as one of the first legislative acts of the Nationalist government in the implementation of its policy of apartheid.

- ***Group Areas Act of 1950***

The National Party was elected in 1948 on the policy of Apartheid ('separateness'). This 'separateness' officially divided South Africans into different racial groups. The Group Areas Act was passed into law in 1950. With the passage of the Group Areas Act (GAA) in 1950, it imposed control over interracial property transactions and property occupation throughout South Africa. The GAA created the legal framework for varying levels of government to establish particular neighbourhoods as 'group areas', where only people of a particular race were able to reside. It was amended almost annually and was re-enacted in the Consolidation Acts of 1957 and 1966. In terms of the Act, Black or White South Africans were prohibited from buying property or living in areas that had been proclaimed as an area for one racial group. This act saw the destruction and forced removal of Black communities such as District Six in Cape Town, Sophiatown in Johannesburg and Cator Manor in Natal when their areas were proclaimed as White.

- ***Bantu Authorities Act of 1951***

This was the first piece of legislation introduced to support the government's policy of separate development. It made provision for the establishment of Regional and Territorial Authorities for each specific ethnic groups in the reserved areas. Tribal Authorities were established and positions were granted to Chiefs and Headman who became responsible for the allocation of land within their area. The Traditional leadership of the African population had, through this Act, become representatives of the White government.

This Act was designed to give authority to Traditional Tribal Leaders within traditional tribal areas in South Africa, in accordance with classifications of the different ethnic groups. This legislation paved the way for the creation of a legal basis for the various ethnic and linguistic groups into traditional homeland reserve areas. The Bantu Homelands Citizens Act of 1970 followed this Act. The law established a basis for ethnic government in African homeland reserve areas such as the Ciskei. The Bantu Homelands Citizenship Act of 1970 therefore, made every black South African, irrespective of actual residence, a citizen of one of the designated Bantustans. However, all of the homelands remained dependent, both politically and economically, on South Africa, even though some of them purported to exist as independent countries.

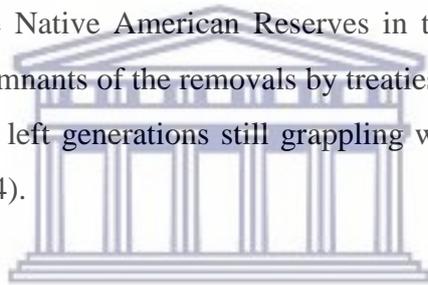
- ***Population Registration Act of 1950***

The Act was to make provision for the compilation of a register of the population of the country; for the issue of Identity cards to persons whose names are included in the Register; and for all matters incidental thereto such as (*inter alia*) place of residence, place of recreation and even place of burial. The Population Registration Act was one of the cruellest pieces of apartheid legislation. Approved in 1950, it was created to provide definitions of "race" based on physical appearance, as well as general acceptance and "repute". The Population Registration Act of 1950 was the foundation that allowed the apartheid Government to make laws in the future that caused certain racial groups to lose rights, which included every aspect of their lives. Individuals had their race chosen by the government because of the Population Registration Act of 1950.

2.3.1.2. *Brief discussion of key apartheid legislation pertaining to land*

Most researchers agree that only 7.8 % of the entire South African landscape was allocated as reserves or ‘scheduled areas’ through this 1913 Act, which meant that in no other part of South Africa were blacks allowed to practice subsistence or any other kind of farming. In addition, this act prohibited blacks from owning, leasing or in any way hiring land, outside of the designated reserve (Union of South Africa, 1913; Van Zyl, Kirsten, and Binswanger, 1996). While within the reserves, blacks were prohibited from freehold, mortgaging and land sales. The transfer of reserve land to non-blacks was not allowed (Van Zyl, Kirsten, and Binswanger, 1996).

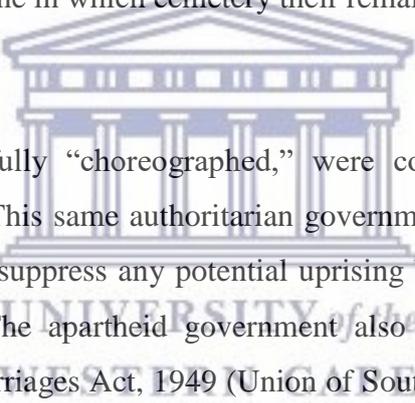
Pertinent to this discussion on the historical context of land rights is legislation like the Native Land and Trust Act of 1936 (Union of South Africa, 1936), which continued where the 1913 Land Act left off, in that it further restricted land ownership for black citizens (Union of South Africa, 1913; Union of South Africa, 1936). Some researchers have compared it to the Native American Reserves in the United States of America where even today, the remnants of the removals by treaties and other involuntary means of forced removal, have left generations still grappling with issues of identity, among other things (Horse, 2004).



The 1936 Act (Union of South Africa, 1936) also increased the size of the land area that was contained in the original 1913 Native land act so that those who could own land outside of these areas, were now also not allowed to own land in the new extended borders (Union of South Africa, 1936). Also key to the 1936 Act was the establishment of a trust, later known as the South African Development Trust (Union of South Africa, 1936). It had as its key competency to ensure that, with the approval of the Minister of Education and Development Aid, no person or body other than itself, or a black person, may acquire land in a ‘scheduled Black Area’ (Union of South Africa, 1936; Union of South Africa, 1913). This trust, for all intents and purposes, became *de jure* owners of the land set aside for blacks whether state-owned or not (De Klerk, 1991).

Again there is consensus among most researchers that some of the land and property legislation relating to those who were classified as non-whites grew more elaborate

beginning with the Group Areas Act of 1950 (Union of South Africa, 1950a) and 1966 (RSA, 1966) (Letsoalo, 1987; Van Zyl, Kirsten, and Binswanger, 1996: 57-61). This separation continued with the Population Registration Act of 1950 (Union of South Africa, 1950b), Bantu Authorities Act of 1951 (Union of South Africa, 1951a) and the Reservation of Separate Amenities Act of 1953 (Union of South Africa, 1953). This was especially true of the manner in which they sought to bring about more stringent controls over how people conducted their day-to-day living. As an example, the Group Areas Act of 1950 (Union of South Africa, 1950a) and 1966 (RSA, 1966), dictated where racial groups classified as non-whites lived, how they accessed land, where they went to school, how many passed or failed, how they travelled, whom they associated with, whom they married, where they worshipped, even where they vacationed (Union of South Africa, 1951a; Letsoalo, 1987). More succinctly put is that life for the majority of South Africans were dictated to from cradle (moment of birth), to the grave, i.e. even going so far as to determine in which cemetery their remains were to be buried.



These regulations, carefully “choreographed,” were controlled and enforced by a military- styled regime. This same authoritarian government armed their defence force with live ammunition to suppress any potential uprising by whatever means necessary to get the job done. The apartheid government also utilised statutes such as the Prohibition of Mixed Marriages Act, 1949 (Union of South Africa, 1949); Group Areas Act 1950 (Union of South Africa, 1950a) and 1966 (RSA, 1966); Population Registration Act, 1950; Bantu Authorities Act of 1951 (Union of South Africa, 1951a); Reservation of Separate Amenities Act, 1953 (Union of South Africa, 1953); Rural Coloured Areas Act of 1963 (RSA, 1963); and Bantu Homelands Citizenship Act, 1970 (RSA, 1970b), to ensure that where legislation was not adhered to, police could arrest and jail citizens and confiscate property, within the parameters of the legal system. Researchers concur that the overall impact of these examples of apartheid land-related legislation was that black landowners became “black spots” on a white landscape (Van Zyl, Kirsten, and Binswanger, 1996; Letsoalo, 1987).

Land became a state-owned commodity through expropriation and blacks could be arbitrarily relocated in reserves or Bantustans like Ciskei, and their land re-allocated to whites. Even more sinister than ‘mere’ dispossession and relocation, was the stripping of South African citizenship from blacks who were now banished to Bantustans. Coloured landowners, who found themselves in areas designated for Bantustans, were similarly removed to areas allocated to coloured enclaves, like the Western Cape Province which became a designated coloured preferential area (Letsoalo, 1987).

2.3.2. Apartheid, Bantustans and land ownership

The Apartheid government themselves did some tinkering with their ‘separate development’ ideologies in the interest of land reform, just before the 1994 elections. Their endeavours to redress the land issues began with policy changes such as the 1991 White Paper on Land Reform which proposed substantive changes to segregation legislation (Van der Walt, 1995: 10-11). Among the legislative changes suggested, and eventually legislated was the Abolition of the Racially Based Land Measures Act of 1991, which in turn repealed some of the most draconian statutes of the apartheid era, namely The Land Acts of 1913 and 1936 and the Group Areas Act of 1966 and many more (Van der Walt, 1995; Union of South Africa, 1913 and 1936; RSA, 1966).

In the latter part of the 1980s and the earlier part of the 1990s, scholars, researchers, activists, and other interested parties got together in seminars, workshops and other platforms to discuss the intricate web of land legislation and to speculate how a new, democratically-elected government would begin to address a new land reform regime. One such workshop was hosted by the Institute for a Democratic Alternative for South Africa (IDASA) in 1990 and captured in the book, *A Harvest of Discontent: The Land Question in South Africa* (De Klerk, 1991). In its chapter “Unravelling rights to land in rural race zones,” authors Geoff Budlender and Johan Latsky (De Klerk, 1991) are at pains to track the interrelated legislative tools. They outline Acts and Proclamations, including Regulations that made up the morass of legislative means that the apartheid government used to dispossess people of land, restrict them to designated areas and generally, limit their access to land tenure (De Klerk, 1991).

2.3.3. New Constitution – new land policy framework

The first salvo from the new democracy to deal with land egalitarianism was from the first drafts up until the final draft of the new constitution, now called: The Constitution of the Republic of South Africa, Act 108 of 1996 (RSA, 1996a). In Section 25 it addresses property in general, but also land reform in particular. Subsections (5-8) are clear that the state must make every attempt to create an enabling environment for citizens to gain equitable access to land (RSA, 1996a). The Constitution echoes both the Freedom Charter and the RDP document in that it ensures that a “person or community dispossessed of property until after 19 June 1913 as a result of past racially discriminatory laws or practices is entitled to ...either to restitution of that property or to equitable redress” (RSA, 1996a; and Van Zyl, Kirsten, and Binswanger, 1996). The Constitution also directs that an act of Parliament should enhance this section. In essence, the wording in the Constitution is instructing the relevant Minister of Land Affairs (now DRDLR) to produce specific legislation that would spearhead all new land reform programmes. Yet, even the constitution of South Africa is not infallible because between 1996 and 2009, there have already been sixteen amendments to it.

2.4. LAND REFORM POST-1994 SOUTH AFRICA

In 1994, South Africa ushers in a succession of legislative reforms and programmes to grapple with the fundamental issues of land restitution and redistribution. South Africans began to bear witness to the intricacies and nuances of restoring land to many thousands, even millions of citizens, who have been dispossessed through the vagaries of South Africa’s unique past political governance. As new transformative legislation began to alleviate the restrictions of the apartheid rule, it became clear that no one, mainly because only a few in the minority government had access to the apartheid machinery, could have anticipated the scope of the problem (Van Zyl, Kirsten and Binswanger, 1996).

The drafters of, and contributors to, the *Reconstruction and Development Programme: A Policy Framework* (RDP), first published in 1994 for the African National Congress (ANC), are also among the group who sought to create a conducive political

environment that would allow for the new social order to be ushered in to deal with the millions of dispossessed and landless masses (ANC, 1994). This RDP document appears to reverberate with the basic tenets on the land question that is contained in the 1955 Freedom Charter, which lists under the heading: “*The land shall be shared among those who work it!* (Steydler, 1992, p. 270)”, and that “*Restrictions of land ownership on a racial basis shall be ended, and all the land re-divided amongst those who work it to banish famine and land hunger; the state shall help the peasants with implements, seed, tractors and dams to save the soil and assist the tillers; freedom of movement shall be guaranteed to all who work the land; all shall have the right to occupy land wherever they choose; people shall not be robbed of their cattle, and forced labour and farm prisons shall be abolished* (Steydler, 1992, p. 270)”.

The RDP document (ANC, 1994) appears to feature, within the context of an egalitarian paradigm shift, the social, political and economic conditions that needed to be redressed through democratic land reform policies and processes. These included ensuring that any land reform programmes should be “demand driven and must aim to supply residential and productive land to the poorest section of the rural population and aspirant farmers” (ANC, 1994, p. 20). RDP policy framework further stipulated that a land reform programme should include two fundamental aspects “**redistribution** of residential and productive land to those who need it but cannot afford it, and **restitution** for those who lost land because of apartheid laws” ANC, 1994, p. 20). One of the key mechanisms contained in the RDP document for redress of the impoverished conditions that existed and the intricacies of the national party government legislation which allowed for the dispossession, was through land claims courts. These courts were to “... *restore land to South Africans dispossessed by discriminatory legislation since 1913*” (ANC. 1994. p.22). It was in addition stated that these land claims courts should be accessible to the poor, and should make “speedy decisions” ANC, 1994: 20).

The Government of National Unity (GNU), established the RDP ministry designated to a minister without portfolio. But found already by 1996, cracks appearing in the implementation of the RDP. Where the RDP ministry had allocated only 55% of

1994/1995 RDP Fund and spent only a very small portion of that (Deng and Tjønneland, 1996). Deng and Tjønneland (1996), attributes this gross underspending, especially in the rural areas, partly due to the white dominance of the public service, fragmentation of the administration, but especially the GNU and ANC's lack of understanding of the technical complexities of implementing RDP programmes (Deng and Tjønneland, 1996: 6-8; Van Zyl, Kirsten and Binswanger, 1996).

The Restitution of Land Rights Act, No 22 of 1994 (RSA, 1994), was the Department of Land Affairs flagship response to land reform, as per the directive of the Constitution. As the legislation began to be implemented it became necessary to make additional amendments which included the Restitution of Land Rights Amendment Act 84 of 1995 (RSA, 1995); Land Restitution and Reform Laws Amendment Act 78 of 1996 (RSA, 1996d), Land Restitution and Reform Laws Amendment Act 63 of 1997 (RSA, 1997b); the Interim Protection of Informal Land Rights Act of 1996 (RSA, 1996b); White Paper on Land Policy 1997(RSA, 1997c); Land Affairs General Amendment Act 61 of 1998 (RSA, 1998b); Land Restitution and Reform Laws Amendment Act 18 of 1999 (RSA, 1999); Land Affairs General Amendment Act 11 of 2000 (RSA, 2000); Restitution of Land Rights Amendment Act 48 of 2003(RSA, 2003) and Public Service Amendment Act 30 of 2007 (RSA, 2007).

Researchers' comments on the Presidential directive in 2002 that the restitution process should be finalised within three years (Walker, Bohlin, Hall and Kepe, 2010) was setting unrealistic targets. Also a ministerial directive issued in 2000 stipulated that 30% of agricultural land should be redistributed by 2015 had to concede defeat, but once more departmental and other delays for various reasons, would not allow the department to meet those deadlines (Walker, Bohlin, Hall and Kepe, 2010). Similarly, the South African Government's initial aim of completion of all restitution matters by 2005, then extended to 2008, with a third extension to 2011, effectively demonstrating that all the restitution targets could not be met (Walker, Bohlin, Hall and Kepe, 2010).

Many advocates of land reform, evaluating the land restitution and land redistribution as possible solutions to the ongoing land question, paint a very dismal picture of agrarian South Africa. Chief among reasons for despair is of course the long period from the time of submission of a claim to the time of resolution. Second, is the broader outcry from communities and political parties for the immediate redistribution of white-commercially viable land, through unilateral expropriation without compensation, the abandonment of the willing –buyer willing seller model because of abuse by both buyer and seller.

2.4.1 Role of the Department of Rural Development and Land Reform (DRDLR)

Whilst it was developing and passing legislation continuously to try and improve the appropriate context to drive land reform processes and policies, the DRDLR was transforming itself internally as well, to meet the demands of its mandate. This new DRDLR redirected by virtue of a very specific mandate began drafting a Comprehensive Rural Development Programme (CRDP). The tools used here was a three-pronged approach to land reform, which places emphasis on Agrarian Transformation, Rural Development and Land Reform (RSA, 2009). The Department of Rural Development and Land Reform (DRDLR) has had the mandate to manage to land reform process since 1994, albeit under its prior formation such as the department of Land Affairs (RSA, 2009). Its primary mandate derived from the Constitution of the Republic of South Africa, particularly sections 24, 25 and 27. However, over the 24 years of democracy, as mentioned above, it has passed many innovative and transformative legislation that should have made many more inroads into resolution of land claims, restitution, land tenure matters, than it has currently done.

2.5. FINANCING LAND REFORM PROCESS

By 2007, the budget for land reform had already increased by R2.6 billion from the previous year to bring the overall budget to R6, 6 billion. But despite this increase, the Department of Rural Development and Land Reform (DRDLR) was reprimanded by the Minister of Finance who questioned the department's capacity to deal with more funding (Groenewald, 2008).

Table 1: Budget Estimates for the Office of the Commission on Restitution of Land Rights

Rand 1000,00c	Past			Adjusted allocation	Projected		
	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19
Restitution National Office	38,786	160,048	622,562	59,303	217,546	233,467	239,254
Restitution Regional Office	356,416	388,073	610,128	427,356	437,740	490,006	522,577
Restitution Grants	2,470,532	2,288,581	2,260,900	2,116,010	2,512,922	2,622,562	2,783,371
Total	2,865,734	2,836,702	2,997,937	2,602,669	3,168,208	3,346,035	3,545,202

Source: Commission on Restitution of Land Rights (2016:13)

2.6. STATUS OF LAND CLAIMS

The Office of the Land Commissioner, in 2016 (Gobogo, 2016) gave an assessment of the status of land claims, which was as follows:

“Presently, there are 7419 old land claims that have not yet been settled.

Approximately 80 000 land claims were lodged with the Commission by 31 December 1998. Of these old claims, 78750 have been settled cumulatively as at 31 March 2016.

The settlements have resulting in the award of 3.32 million hectares (of which 1.9 million hectares have been transferred to beneficiaries) and R10.2 billion has been paid as financial compensation. A total of 399 116 households (1.9 million individuals) have benefitted from the restitution programme as at 31 March 2016. The government has spent R19.9 billion on acquisition of land for restitution purposes, as at 31 March 2016 (Gobogo, 2016)”.

From the Chief Land claims commissioner, the following presentation of the status quo of rural and urban land claims was given.

Table 2: Rural and urban land claims, household represented in claims, and hectares claimed by province

Province	Rural claims	Urban claims	Dismissed	Households	Hectares
Eastern Cape	419	16207	291	65139	136753
Free State	41	2858	209	7614	55747
Gauteng	1717	11866	702	14320	16964
KwaZulu-Natal	2196	13641	141	85421	764358
Limpopo	2294	1326	438	48492	603641
Mpumalanga	1611	1235	202	53525	460964
Northern Cape	133	3593	255	21900	569341
North West	626	2924	319	44268	399407
Western Cape	1426	15469	633	27411	4140
Total	10483	69119	3190	368090	3011315

Source: Cousins, B. and Hall, R. 2015. Original Source: Presentation of the Chief Land Claims Commissioner to Parliament, August 2013

Departmental reports and reviews begin to reflect the reality of why progress has been so slow, as experienced by the dispossessed Stockenström community. The Commission for Restitution of Land Rights (CRLR) has over many years, reflected this slow progress, only managing in 2014/2015 to settle 428 cases and researched 1, 525 claims. It is extremely disappointing that the CRLR has managed to spend an amount of R674 million during this MTEF period on consultants and travel and subsistence (CRLR, 2016: 16). Even worse, R150 million is additionally allocated to research, verification and valuation. At this rate the expense of finalizing claims may be more than the claims itself. Even though some of this budget will be spent on trying to track claimants, interviews and workshops.

Table 3: Commission on Restitution and Land Rights Report 2016/2017 Presentation to Parliament on 28/03/2017

Performance indicator	Annual Target		Variance	*Annual target vs actual

						performance
		Target	Actual Performance	Achieved %		achieved%
Number of land claims settled	615	181	247	136%	+66	38%
Number of land claims finalised	454	144	117	81%	-27	26%
Number of phased projects approved	76	20	23	115%	+3	30%
Number of claims lodged by 1998 to be researched	1530	422	469	111%	+47	31%

Source: <https://pmg.org.za/committee-meeting/24214/>; *own calculations

Disingenuous statistics were presented to portfolio committee and indeed to parliament about the actual land claims settlement rate, numbers of claims finalized, number of phased projects approved and the number of claims lodged by 1998 to be researched. Again, it reflects further examples of the slow progress of restitution even from the departmental officials tasked with managing the process.

Table 4: CRLR Commitment as at 31 December 2016 as per Report 2016/2017 presentation to Parliament on 28/03/2017

Province	Total Award	Total Expenditure	Total Commitment as at 31 October 2016	Restitution Grants Committed as at 31 October 2016	Financial Compensation Committed as at 31 October 2016	Land Cost Committed as at 31 October 2016
Eastern Cape	3861 282 321.45	2 553 575 566.13	1 307 706 755.32	257 061 489.22	1 042 444 324.97	8 200 941.13
Free State	555 780 570.57	519 080 116.46	36 700 454.11	8 379 337.39	3 543 488.42	24 777 628.30
Gauteng	970 208 295.85	815 718 351.77	154 489 944.08	28 277 179.86	96 605 611.92	29 607 152.30
KwaZulu Natal	10 556 359 157.12	8 675 329 469.97	1 881 029 687.15	945 436 489.21	389 487 253.64	546 105 944.30
Limpopo	6 230 976 242.07	5 246 562 234.43	984 414 007.64	523 081 342.10	199 429 858.76	261 902 806.78
Mpumalanga	7 055 215 214.31	6 325 649 072.52	729 566 141.79	227 161 975.97	241 596 091.24	260 808 074.58
Northern	2 093 247 095.72	1 783 681 485.00	309 565 610.72	84 990 855.94	71 943 153.30	152 631 601.48

Cape						
North West	3 342 280 788.49	2 798 350 491.42	543 930 297.07	397 356 684.29	78 339 030.65	68 234 582.13
Western Cape	1 766 831 248.52	1 413 732 916.83	353 098 331.69	176 731 302.28	173 151 953.68	3 215 075.73
Total	36 432 180 934.10	29 893 452 533.85	5 757 357 242.76	2 648 476 656.26	2 296 540 766.58	1 355 483 806.73

Source: <https://pmg.org.za/committee-meeting/24214/>;

2.7. RESTITUTION

The opening explanatory paragraph of the Restitution of Land Rights Act, 1994 repeats almost word for word what the Freedom Charter, the RDP document and the Constitution says about land reform and that is to “*provide for the restitution of rights in land to persons or communities dispossessed of such rights after 19 June 1913 as a result of past racially discriminatory laws or practices; to establish a Commission on Restitution of Land Rights and a Land Claims Court; ...*”(RSA, 1994; RSA, 1996d; Van Zyl, Kirsten, and Binswanger, 1996). But the primary mandate for the department of Rural Development and Land Reform, with regards the Restitution of the Land Rights Act ([1994]), is to authorise the Minister to “purchase, acquire and expropriate land or rights in land for the purpose of restitution awards (ENE, 2015 p. 729). These forms of restitution mechanisms refer not only to restoration of land to those who were dispossessed, but also include providing either alternative land elsewhere or offering monetary compensation for the deprived communities. This act further allows the claimants to have direct involvement in the restitution process (Walker, Bohlin, Hall and Kepe, 2010).

In addition to Act 22 of 1994, the Department of Land Affairs in 1998 under the Minister, Derek Hanekom, developed information brochures including a guidebook termed: *A guide to the department of Land Affairs’ land reform programme* (Department of Land Affairs, 1998). In this the department outlines approximately fourteen areas that potential beneficiaries in the land claims process needed to comprehend in order to make a successful restitution claim. This guide also informs the public that the government’s land reform programme has three components, which are land restitution, and redistribution and land tenure reform (Department of Land Affairs, 1998; Hall, 2009).

However, on-going debates suggest that the cut-off date of 31 December, 1998 as per the Restitution of Land Rights Act, 1994 may have intentionally or unintentionally, excluded a large number of potential claimants (RSA, 1994). This means that whoever did not lodge a restitution claim on or before this date was not eligible for any restitution whatsoever. Indeed, even those whose land was dispossessed before the 1913 was automatically excluded from restitution claim because the Constitution of the Republic of South Africa also confirms that 1913 is the cut-off for any land restitution claims (RSA, 1996d). Whilst amending the Restitution of Land Rights Act, 1994 may not be a minor consideration, changing the Constitution may be a huge stumbling block (RSA, 1996d).

Since the passage of the 1994 legislation, many debates have arising about the slow progress of the restitution of claims. This case study being such an example but by no means unique. In a paper drafted in 2015, Cousins and Hall begin to unpack the amendment to the 1994 legislation. Their focus is on the Restitution of Land Rights Amendment Act of 2014. The central amendments focused on the cut-off date for claimants to lodge their claims had been 1998, and of those who were eligible could only claim from 1913 (year in which the Land Act was implemented). Throughout the many pros and cons to accommodate the extension of a date earlier than 1913, the 2014 legislation finally concluded the debate by only extending the 1998 claim date to 30 June, 2019.

The second element that the amended Land Restitution Amendment Act 2014 covers is the concerns that were raised about what should be restored. Will it be land/property rights either the exact land/ property that they had been dispossessed of; an alternative equivalent property/ land; financial compensation only; or any variation of these?

2.8. REDISTRIBUTION

Land Redistribution is always one of the more sensitive policies in any land reform programme. In the South African context it involves direct government intervention to ensure that poor and landless people have land, resources and the necessary tools with which to manage and create a thriving agricultural enterprise that would be sustainable for the rest of their lives.

Lahiff (2007) discusses the phase in the redistribution process up till 2000, which relied on the Settlement/ Land Acquisition Grant (SLAG) to target the poor (those with an income of less than R1500 per month). In his assessment this phase had merit and had met with some success but critics felt that large groups of claimants were inappropriately located to dumped commercial farms without the requisite skills or the resources to make a success out of commercial agrarian production (Lahiff, 2007; Lahiff, Davis and Manenzhe, 2012). This grant enabled beneficiaries, to pool their funds to purchase and work the land. These groups, or individuals, included both urban and rural landless poor, farm workers, labour tenants, women and emergent farmers, who could apply to the Land Bank not only for grants for the purchase of land, but also, for other resources and agrarian related services (RSA, 1998a: 25-30). The launch of the sub-programme, Land Redistribution for Agricultural Development (LRAD), a replacement of the Settlement/Land Acquisition Grant, in 2001 was to spearhead all agricultural developmental programmes and to actively promote commercially orientated agricultural ventures.

2.9. LAND TENURE

Land tenure is one of the fundamental pillars in the entire land reform philosophy and it determines how the land and/ or its resources are utilised. This component of the land reform process' primary purpose, is to ensure that people, who have for many years lived on a piece of land or property, without the benefit of ownership rights, whether as farm labourers or any other capacity, have security of tenure on those farms or in the former reserves or homelands. So the Land Reform (Labour Tenants) Act, 1996 together with the Extension of Security of Tenure Act, 1997 specifically ensures that labour tenants have rights to acquire land (RSA, 1996b; RSA, 1997a).

Recently, moves were made to grant even greater security of tenure through the Land Tenure Security Bill, 2010, which was to repeal Extension of Security of Tenure Act, 1997 and Labour Tenants Act, 1996. Extension of Security of Tenure Act, 1997 was promulgated to try and protect the rights of people, living on other people's land, from being evicted. However, others like Pienaar (2013), have argued that there are other related issues, such as the need for a more reliable land information system, other than the current land registration system that is critical to the land tenure process (Pienaar, 2013).

2.10. WILLING-BUYER, WILLING-SELLER [MARKET APPROACH]

This concept speaks for itself in that it presumes that there is no coercive pressure on the seller to hand over the land nor is there pressure on the person or government who is buying the land (Cliffe, 2007, p.1). WBWS was a term developed by the World Bank and touted as a reasonable version of land reform that would get the cooperation from historical white farm owners as well as dispossessed and landless blacks. The WBWS model was the primary option that South Africa selected to address the land redistribution process (Lahiff, 2007 and Lahiff, Davis and Manenzhe, 2012).

The presumption is also that all parties would be prudent and that money for land exchange would follow after an equitable negotiation process. The problem with this process thus far has been that all the properties are negotiated on a one-on-one basis causing bottlenecks and protracted negotiations before the land purchase is finalised (Cliffe, 2007). Additionally, landowners frequently sought to extract as much money from the process as possible. This often-deliberate retardation – link with sentence above in the finalisation has consequently, had a domino effect in what way on the planning process for the new regimes' land reform programme.

The purchase price of R250 000 for the Moordkuyl farm in Friemersheim was the only figure this researcher found. However, how reasonable a purchase price was this for the

size of the farm with white ownership? Or was this the going price for such a purchase during this time period 1985-87, is not known. What is known is that there was a willingness from the white farmer to sell the farm for resettlement purposes.

2.11. ROLE OF THE DUTCH REFORMED CHURCH

2.11.1. Dutch Reformed Church before and during apartheid

In South Africa during apartheid and even today, the church has always played a significant role in the politics of the country. During Apartheid, the emphasis was on supporting the Apartheid government, almost giving the sanction of the church to justify some of the atrocities that were committed by the government organs. The church of choice was the Dutch Reformed Church. The missionary arm of the Dutch Reformed church was often given land on white property to build these churches. The missionary church structures were primarily for those worshippers who were not white.

In the instance of KwaZulu Natal, according to Modise (2010), missionary practices provided the opportunity for government to get support for apartheid racist practices like influx control. In turn, black mission churches, used white churches as intermediaries to access colonial authorities (Modise, 2010). Examples of the missionary church used white churches as intermediary is where chiefs used them to purchase land and to access welfare services.

Modise (2010) uses mainly examples of black dispossession and the role that the Dutch Reformed church played, mainly in supporting the dispossession but also as a conduit through which the Apartheid government could dispossess communities from their land or resettle communities on newly designated black areas. This happened in the former Transvaal in the same way that it happened to the Stockenström community.

Because Apartheid legislation did not allow Africans or Coloureds to own land or buy land, churches were asked to buy land on behalf of their community. Often when one examines the records by the deeds registry, the ownership of the property is in the name of the white church (Modise, 2010). Consequently, Modise (2010) suggests that the Commissioner on the Restitution of Land Rights should closely examine the legacy of land acquisition by churches operating during Apartheid.

Moreover, Modise (2010) suggests that the church officials did not always have the interest of the dispossessed communities at heart and affirms that there had been instances where these same church authorities expelled blacks from their homes with police assistance. These dishonest practices happened in various ways by many denominations including the Hermannsburg Mission of the Evangelical Lutheran Church of South Africa (Modise, 2010). Other churches, all of whom in one way or the other expelled blacks from their homes, prevented black land ownership, evicted black mission tenants, or sold mission land to white owners – who then evicted black tenants (Modise, 2010). The essence of what Modise (2010) posits, is that churches of various denominations metered out some of the worst cases of land dispossession across the length and breadth of the country alongside the state organs. They profited unduly off the back of black despair. Therefore claims made by churches should be viewed with circumspection and a large dose of caution. Modise (2010) asserts that the church should play a pivotal role in transformation through the land reform process, as reparation for their profiteering during apartheid.

Already there have been some instances of various denominations who have done some introspection and have reached the same conclusion, i.e. that their historical leadership had colluded with apartheid's shameful policy. In the case of the Church of the Province of Southern Africa, their Bishop Rubin Philip, was elected to oversee their role, at a land summit conference in 2004 (Modise, 2010).

Various denominations also embarked on land reform projects, often in conjunction with nongovernmental organisations. The Church of the Province of Southern Africa (CPSA) convened a land summit synod in 2002 that was facilitated by the Church Land Programme. Dutch Reformed Church was tasked to do a similar introspection. According to Modise (2010), whilst they did say that they did not have sufficient land to contribute to the land reform programme, they did direct their various church communities to do an audit of any land registered in their name at the deeds office.

2.11.2. Unification of Dutch Reformed Church – impact on community

Whilst the Dutch Reformed synod did ask for an audit of all the assets of the Dutch Reformed Church, unification procedures we also throwing this bastion of apartheid into its own inner turbulence. The Dutch Reformed church structure which had historically be divided along race lines, called for a unification process bringing together all the mission churches together with its white counterparts into one unified whole. The resultant consultative processes founded the Unified Reformed church of South Africa (URCSA). Although there had been some deviations to this call for unity particularly as it related to the restitution process, where the Dutch Reformed church and the Dutch Reformed church continued to forcibly remove the URCSA members from church land because Dutch Reformed held the title deeds and not the URCSA (Modise, 2010).

2.12. CRITIQUE OF SOUTH AFRICAN LAND REFORM PROGRAMME

2.12.1. Land Claims Court

The Land Claims Court, deals almost exclusively with disputes arising out of South Africa's land reform policy, such as the Restitution of Land Rights Act, 1994; the Restitution of Land Rights Amendment Act, 2003; Land Restitution and Reform Laws Amendment Act, 1996; the Land Reform (Labour Tenants) Act, 1996; Upgrading of Land Tenure Rights Amendment Act, 1996; Land Reform (Labour Tenants) Act, 1996 and the Extension of Security of Tenure Act, 1997 to name a few. It was established in 1996 with the same status as any High Court within South Africa. As with other High

Courts, any appeal against any decision of the Land Claims Court has to go through the Supreme Court of Appeal and where necessary, to the Constitutional court (Chaskalson, 1997).

Even in 1997, when writing about the newly established Land Claims Court, Chaskalson (1997) wrote about some of the thornier issues that the Land Claims court would have to grapple with when making any decision. These questions were centring around managing specific claims; successful claimants; competing claimants for the same piece of land; restoring land or offering financial compensation (Chaskalson 1997: 32). These were indeed, some of the real cases that the Land Claims Court has had to deal with in the last decade and a half of its existence and without any precedent. According to Chaskalson (1997), the experiences of the Chancery Courts in England and particularly the German Courts may provide some comparative jurisdiction on dispossession, land seizures and forced removals (Chaskalson, 1997).

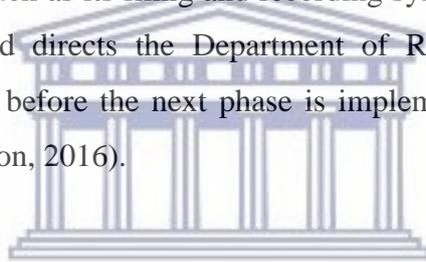
Some of these “thornier” issues are described through case law by Hanri Mostert (2010) in his Chapter “Change through Jurisprudence: The Role of the Courts in Broadening the Scope of Restitution” (Mostert, 2010). However, he concludes with a great deal of optimism for the judicial process in South African land reform by saying that

“judicial activism around the parameters of restitution can be more forceful than policy revision. ... judicial extension of the scope of restitution has significantly affected the benefits bestowed through the restitution process”
(Mostert, 2010: 76).

From the Department of Planning, Monitoring and Evaluation’s (2016) own assessment in 2016, the land Claims Court’s slow progress was reviewed in 1998 and a change in settlement of claims was resolved. The slow progress was supposed to be accelerated by the passage of the amended legislation of Restitution of Land Rights Act, 48 of 2003, which had sought to give the Minister more powers to

“purchase, acquire in any other manner or expropriate land, a portion of land or right in land for the purpose of restoration or award of such land, portion of land or right in land to a claimant or for any other related land reform purpose; and to provide for matters connected therewith” (RSA, 2003).

However, despite the restitution process being able to be resolved administratively, and the 1999 stats showing that there was a definite increase in the claims settled, the Department of Planning, Monitoring and Evaluation (2016) still highlighted deficiency in service delivery. Their evaluation period covers Jan 1999 to 31 March 2013 of the Restitution of Land Rights programme and demonstrates that systemic and operational weaknesses... *“spoil the programme’s efficiency and effectiveness* (Department Planning, Monitoring and Evaluation, 2016)”. More specifically, they point to the administrative process such as its filing and recording system as being the cause of the failure in efficiency and directs the Department of Rural Development and Land Reform to correct these before the next phase is implemented (Department Planning, Monitoring and Evaluation, 2016).



One of the intentions of the new Restitution of Land Rights Amendment Act of 2014 was also to strengthen the role of the Judge President on the issue of the land claims court. This provision takes into account that in the absence of the Judge President, the longest serving judge may replace this person thereby ensuring that the land claims issue is able to continue.

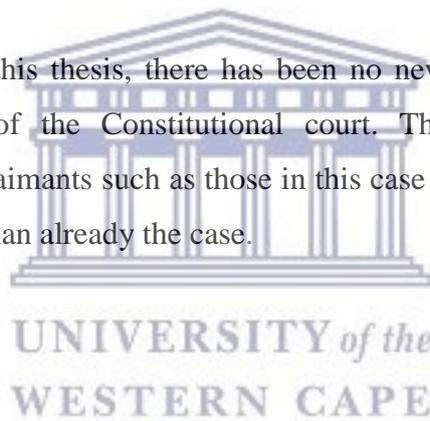
However, the passage of this new legislation ran into a few snags, which required that the constitutional court make a ruling of the constitutionality of this legislation. In a ruling reported in by Gaye Davis, Eyewitness News (29/07/2016), the Constitutional court struck down this Amendment Act, rendering it invalid, claiming that the legislation was rushed through Parliament without the appropriate consultation. The concern for those representing claimants, was that this new amendment which would add more that 100,000 new land claims, would unduly prejudice those still waiting for

their original claims to be finalised. New claimants who lodged their claims under the now invalid Restitution of Land Rights Amendment act, were given the assurance by the Constitutional Court that their claims will remain intact. From the office of the land claims commissioner, some of the implications were as follows:

“...4. If Parliament does not re-enact legislation re-opening lodgement of claims by 27 July 2018, the Chief Land Claims Commissioner is required to approach the Constitutional Court for directions on how the Commission is to process the already pending new order claims.

5. The order does not expressly deal with the powers of the Land Claims Court in relation to the pending new order claims” (Gobodo, 2016).

At the time of writing this thesis, there has been no new legal framework drafted to remedy the concerns of the Constitutional court. Therefore, the impact of this uncertainty in law for claimants such as those in this case study, could potentially delay processes even further than already the case.



2.13. SUMMARY

Historical land dispossession has created a quagmire through which the new democracy is still trying to wade, albeit slowly. Restitution, the sub-programme in the Land Reform measures under which this particular case study resides, whilst innovative and sensitive to transformation, did not necessarily fulfil its intended mandate. The literature stated above shows that despite the fact that this Restitution programme is government’s flagship intervention to ensure that poor and dispossessed people have land, resources and the necessary tools to fulfil hopes and dreams, progress has been slow in the extreme. Tangled and lengthy bureaucratic processes found the attention of the Office of the President on quite a few occasions. Various ministers in charge of implementing the policies, sought extensions on deadlines so that and new policies could be developed to unlock the blockages hampering the rollout of Restitution. But even now, the backlog on resolving many of these cases, are still significant in number.

CHAPTER 3: METHODOLOGY AND RESEARCH DESIGN

3.1. INTRODUCTION

This chapter provides a research plan for the thesis, which includes research design, methodology, measuring instruments and data collection techniques used. This case study relies almost exclusively on a qualitative methodology but in instances of ascertaining the demographics of the claimants, a quantitative methodology was used. The preference for the qualitative method was used to satisfy the need to solicit more in-depth information from the respondents.

3.2. RESEARCH METHODOLOGY

The research design helps to focus the research and keep the researcher from straying into areas not relevant to the case study (Babbie and Mouton, 2001). De Vaus (2001), suggest that a work plan is needed even before data collection and analysis can and should take place. When one does obtain the relevant information, each piece of evidence can be tested against your research question or your theoretical framework for relevance and accuracy. Specifically, De Vaus (2001: 9) encourages that researchers' have to be as unambiguous as possible to answer the research question accurately and thereby solicit concrete evidence, validating one's research question.

The research methodologies used throughout this case study was necessary to conduct an empirical investigation on how the various claimants and interested stakeholders, retarded or facilitated the issue of reciprocity of the Moordkuyl property at the centre of the dispute. For the best results, this researcher considered that a primarily qualitative research methodology would solicit the best outcome. These methodological tools allowed for the gathering of personal stories from families and individuals' so that each account of struggle for settlement could unfold.

Throughout the process of understanding and analysing this community was to recognise that there were diverse role-players in the dispossession and consequent relocation of the Stockenström community to Friemersheim in the Western Cape, with widely conflicting agendas. All were subjected to the laws that governed the apartheid government, the Ciskei Bantustan, the NG mission church and the restorative justice philosophy of the new South African democratic construct, but there were many inconsistencies and inaccuracies in the evidence presented by various stakeholders.

Sometimes, because of the contradictory information *in situ*, comparative research was done via archival research of both primary and secondary data and other literary sources from similar cases throughout South Africa. However, the bulk of the information in this investigation came through analysis of the data collected, collated and corroborated from semi-constructed interviews, focus group discussions and the respondent's answers to the questionnaires.

The fieldwork took place almost exclusively at Friemersheim in the Western Cape but for historical context, it was necessary to conduct some of the interviews in Stockenström, Eastern Cape. Some of the information sought could only come from the departmental officials. On other occasions specific information had to be collected from the site of dispossession, namely Stockenström in the Eastern Cape, from some of the original families who had moved back.

In addition, it was critical that the methodology was meticulous in creating compensating factors in the qualitative and quantitative approach to ensure that the negatives and positives of each method could balance each other out (Babbie and Mouton, 2001). This researcher chose also to adopt Neuman's (2000) version of research methodology, whereby the nature of the research problem, research objectives and questions, data sources and procedures to be followed, was determined in advance.

There were also post-apartheid, apartheid, tri-cameral governance, pre-democracy and new democracy legislative sensitivities to consider. The complexities of the various hierarchical structures in the Dutch Reformed church needed to be understood so questions had to be weighed up for maximum feedback. Understanding the apartheid past, as well as the functioning of some groupings within the pre- and post-apartheid church structures who resisted and finally refused to consider their hierarchical directives, required careful planning. Then to understand who is promoting transformation or not, or advocating personal agendas, among all stakeholders, needed the researcher to carefully plan and weigh one view against another to authenticate the information.

3.2.1. Qualitative methods

For this case study, the qualitative method was expressly used to extricate the best information. Babbie and Mouton (2001) observed that to gather insider and relevant information, the researcher should immerse themselves in the lives of the respondents and thereby gaining an intimate understanding of the community being researched.

3.2.2. Participatory Action Research Approach:

This action research approach is also closely linked to participatory action research which, according to Babbie and Mouton (2001: 59-63), was first introduced into the social research environment. Whilst Lewin (2005), focussed on research in developing countries, during the 1970s and 1980s and was seen as the founder of action research there. Others views have concurred with his explanation on this methodological approach, and has been described by academics as an approach whereby a research problem is investigated and resolved *in situ*, working very closely with respondents (Lewin, 2005; Babbie and Mouton, 2001).

Greenwood (2002) sounds a word of caution for investigations using the action research approach, when he directs the researcher to check and recheck outcomes from respondents, focus groups, questionnaires, etc. This is especially true in view of the fact

that there is a perception that there has been a systemic delinking within both social sciences and pure sciences towards practical human affairs. This translates into action researchers occupying space only at the margins of the academic and policymaking communities. Greenwood (2002) also offers harsh critique toward action research practitioners who lord their superiority over the more conventional researchers. Greenwood (2002) also cautions against action researchers conflating ‘doing good’ and ‘doing good social research’ by emphasising that, they do not miss the fundamentals of theory, method and validity.

Action researchers should verify and substantiate findings and claims with the same vigour that can be found in other theoretical approaches. Greenwood (2002), also contends that unless action researchers demonstrate competency in their research methodologies and discourse, the veracity of their work would be questioned by others. Additionally, key to the quality of research outcomes using action research approach, is collaboration and cooperation between the researcher and the respondents.

Babbie and Mouton (2001), also raises the issue of validity of the information collected using action research approach, since this information is most likely to be an extrapolation from an informal and, therefore, less structured environment. Chalmers and Holwell’s (1998) perspective on action research is to recognise that action research has its foundation in the natural sciences. In natural science, researchers can repeat-test experiments, replicate and present methods and demonstrate results through reductionism, repeatability, and refutation (Checkland and Holwell, 1998: 10). These results are then validated, defended and even transferred for application elsewhere. Checkland and Holwell (1998: 20) therefore suggests in defence of the application of action research approach to the social sciences is to:

“ ...state the epistemology (the set of ideas and the process in which they are used methodologically) by means of which they will make sense of their research, and so define what counts for them as acquired knowledge”.

Essentially, Checkland and Holwell (1998) argue that a recoverable process is a prerequisite for validating an action research approach to social science.

3.2.4. People-Centred Approach

This particular case study has emphasised what academics since the 1960s have begun to realise and that is that people should be front and centre during the entire process of trying to transform their lives (Sen, 1999; Nussbaum, 2000). The people-centred approach discourse therefore recognised that people in each research situation were the key to unlocking their own future (Chambers, 1997).

3.3. RESEARCH DESIGN (DATA COLLECTION)

In any research design, it is judicious for the researcher to consider different techniques needed in order for data collection to proceed with maximum efficiency. In this case study, there was a need to unravel the complexities of the legislative framework that had a direct impact on the lives of those Stockenström residents, who were forcibly removed from the Ciskei region in the Eastern Cape, to the Western Cape.

The nature of the Friemersheim dispossession was one of many cases of dispossession that happened during this period during apartheid in South Africa. The case study approach for this research topic, therefore, served to assist the researcher to focus the attention on a specific space in time, on a specific family and even a community's evolution (Welman, et.al. 2005).

De Vaus (2001) emphasises that the research design should not allow the researcher to collect evidence to prove a theory or to fit in with our research question. Rather our design should “...*minimize the chance of drawing incorrect causal inferences from data*” (De Vaus, 2001:16).

Kumar (2014: 127) also suggested that case study methodology is useful when one needs to explore a little known area, or when you want to have a universal understand of a specific “...*situation, phenomenon, episode, site, group or community*”. Yin (2014), advocates that a case study methodology allows the researcher in depth insight into the “how” and “why” questions at a grassroots level. It is this researcher’s observation that the case study methodology is entirely suited for the study of the particular circumstances of the plight of the dispossessed people from Stockenström who were resettled in Friemersheim in the Western Cape.

3.3.1. Research Sample

The research sample was determined by obtaining a list of claimants from both the community themselves as well as departmental officials. Names that appeared on the one list and not the other were questioned and their presence or absence was the subjected of a negotiated process between the legal representatives of the dispossessed community members, the NG church officials and the department officials. In the end the final research group was confined to representatives of each of the interested parties.

Here the researcher had a very specific group of people who formed the research subjects and these were the claimants. The sampling method used was purposive sampling in which the subjects were deliberately selected for an understanding of the roles that dispossession and resettlement played in their personal lives.

3.3.2. Semi-Structured Interviews

Semi-structured interviews allowed the researcher as well as the respondent to follow an organic pattern, with each question allowing for follow-up questions and thereby soliciting further points of clarity. During these interviews many additional information emerged with was not apparent at the outset of the interviews. Respondents and the researcher was able to expand and contract on themes central to the research question. Often new stakeholders were identified when one respondent would relate a role that another had played in the dispossession, resettlement or restitution process.

3.3.3. Self-Administered Questionnaires

Kumar (2014), suggests that a questionnaire allows the researcher to direct the questions for data collection in such a way that each respondent is able to meet the aims of the research question and therefore the requirements of the study. Checkland and Holwell (1998) suggests that a good research design can help to recover some of the materials gathered from groups, minutes, others views, etc. to ensure that the information sources are recoverable, should verification become necessary. Most of the questions, being primarily open-ended, allowed respondents to use their own words to formulate their own personal accounts of events and how it impacted on their peculiar circumstances.

The questionnaires, focus groups, observation tools therefore, seems to be specifically designed to solicit the detailed information of the families in Friemersheim who still lived in the designated homes they were given in 1985 and 1986 when they first arrived. Many respondents were second and third generation respondents with few forming part of the original group who underwent the forced removals. Purposive sampling tool was the preferred method used throughout the data collection exercise.

3.3.4. Observation

Observation is always a difficult concept to for researchers to measure, but Adler and Adler (1994: 389) suggests that it is at the core of all research methods in social sciences and can be applied to almost any setting. Jennings (2010: 169), speaking from a tourism context, observed that there were a few ways in which the researcher could observe the subject(s) in a qualitative in research setting. These settings were as follows: “complete observer”, the “observer as participant”, the “participant as observer”, and the “complete participant”. Other researchers have named these categories differently but the underlying tenet for this research methodology is that it allows different ways in which to ascertain information from the community and other

key stakeholders. In some instances, the researcher is fully engaged in the data collection activity, or only partially involved, or passively observing.

While this researcher was attending meetings or group feedback sessions, she was able to listen to varying points of view on the same subject with some objectivity. The researcher was able to observe the perspectives and behaviours of departmental officials, church authorities, competing claimants and collect the valuable data received without bringing any bias from competing interests.

3.3.5. Focus Groups

Getting a focus group into an interview situation assist both the group and the researcher both in an informal and an informal setting. Babbie and Mouton (2001), describes a focus group as an interview, which can be both structured, or semi structured. In both of these settings, the researcher is able to probe the views of the group and consequently, is able to get more or less consensus in the views expressed or the sequencing of events. In the case of Friemersheim group, because they had been separated from their origins for such an extended period, this type of research tool allowed the group to steer each other from perceptions of events to an actual accounting of events.

Leedy and Ormrod (2010), refers to a focus group as one in which an interview takes on board the participation of a group who have a shared interest. The arrangement of the focus groups in this case study was usually as a result of the legal representative for the claimants setting up report back meetings in which claimants would be informed of the next phase of development in the case. Members of the Friemersheim group would book venues and spread the word of an impending meeting with the assistance broader community. The question and answer session following these focus group meetings allowed for everyone to express their views freely.

3.4. VALIDITY AND RELIABILITY

In this case study, the mechanisms for verification of information presented in the interviews, focus group discussions and questionnaires, relied to a large extent on the application of the triangulation research method to widen the researchers understanding of the versions of the resettlement process advocated by the various respondents.

3.5. SUMMARY

All the various data collection tools used such as questionnaires, focus groups, semi structured interviews and meetings were always well attended and most were willing to share their stories or positions held. Most of the respondents were still familiar with the details despite the fact that a few decades had passed since the disposessions first occurred. Where an individual stumbled the other members of the focus groups, or the meeting were able to assist in the details. As a dispossessed community the collective memory of the events were very strong which made the data collection process relatively painless. Only respondents of the second claimants could not be reached or refused to be part of the interviews. Information from this sector had to be sourced through interviews with the Friemerheim representatives who were present at the joint meetings as well as the legal representative acting on behalf of the Old Stockenströmers. Throughout the data collection process, translation from Afrikaans into English presented some technical difficulties, however the community members themselves offered to translate.

At various intervals during the data gathering process, it became imperative that because many of the initiators of the resettlement discussions and subsequent land claim process were no longer available, documents were sought and found from individual households. The documentation along with the presentation of the oral history of the process indicate the entire process was fraught with difficulties. These primary documents assisted the researcher in providing an accurate summation of events as they unfolded as well as interventions made by the Stockenström community to facilitate appropriate restitution in the post 1994 period.

CHAPTER 4: OVERVIEW STOCKENSTRÖM AND FRIEMERSHEIM

4.1. INTRODUCTION

This chapter sketches the origins of, and resettlement of the displaced community of Stockenström (Eastern Cape Province), to Friemersheim (Western Cape Province). It is critical to examine the volatile political environment which existed in this time period (1970s, 1980s and 1990s), in order to better understand the context in which the removal of the community took place. This chapter also attempts to sketch a historical, geographical, social and political perspective impacting upon the lives of the claimants and other stakeholders before and during the process of resettlement.

Fundamental to the understanding of this case study's citizens' removal from Stockenström, is in recognising that this area was located within the territory then known as the Independent Homeland of the Ciskei. Also crucial in one's insight into this case study, according to the SAIRR (1986: 337), is to appreciate that there were continuous forced removals of citizens to and from Transkei, Bophuthatswana, Venda, and the Ciskei (TBVC) independent states. All of this political fluidity and volatility, negatively impacted upon the basic construct of families and communities. The fate of approximately 3,8 million lives removed from various locations in South Africa and TBVC states, were socially engineered and thrown into upheaval by the Apartheid governments' attempt to institutionalise "separate development" (SAIRR, 1986: 336-337).

4.2. BRIEF HISTORY OF THE AREA STOCKENSTRÖM

The wider geographical area where Stockenström is located falls within the Kat River Valley area, in the Eastern Cape. This is, as was in most of South Africa, an area where historical confiscation of land for white settlement took place since colonial times. In addition, there had also been contestation of land between the indigenous people of the area, namely Xhosa and Khoekhoe (Ross, 2013: 151). Because of the constant border

wars, this area had experienced multiple wars for ownership of the land, including skirmishes such as those between the British, supported by Khoekhoe, against the Xhosa (Ross, 2013: 150-152).

Significant also to the history of this area, is the name of the person for which the area was named, Sir Andries Stockenström. He was cited as the person who reached an agreement for frontier peace and stability in “Ceded Territory” in the area between the Fish and the Keiskamma rivers (Geni, 2017; Ross, 2013). According to Geni (2017), the citizens in the area requested a name change to Stockenström in honour of the contributions made by Sir Andries Stockenström (Ross, 2013). This honour came about mainly because during Sir Andries Stockenström’s term as a frontier soldier, he made a critical decision to grant full land ownership and property rights to some of the commanders fighting with him, who were Khoi and Griqua soldiers (Geni, 2017; Ross, 2013). This area, therefore, after being known as the Kat River Khoi Settlement, took the name Stockenström, which still remains today (Geni, 2017).

According to Ross (2013: 151), the Kat River Settlement, had about 400 farms and this was well kept and maintained by the property owners, Khoekhoe’s (with British colonial approval), who farmed with vegetables and livestock, but this area was under constant border threat from both White settlers and Xhosa. The British- Khoekhoe alliance was and uneasy one with neither trusting the other, until Khoekhoe revolted against the colony and sided with Xhosa.

Ross (2013: 153 – 155)), inadvertently substantiates the Stockenström claim of ownership to land when the author mentions, Tamboekiesvlei, being the farm that had been settled onto a commandant of the original Khoekhoe forces, Christiaan Groepe. This same Christiaan Groepe, is the acknowledged ancestor of some of the dispossessed family at Friemersheim. There is however, acknowledgement that even beyond the parameters of this case study, the Kat River Valley and surroundings was an area of great contestation for land rights. Robert Ross (2013) problematizes the issue in this

region by touching a fundamental question, which is... to whom should the land be returned to? This case study accepts that the Friemersheim group is the established owners of Stockenström farms from which they were dispossessed.

4.2.1 Citizenship of Homelands

In the 1980s, this Stockenström community, suffered another upheaval, the apartheid government, transferred land, even those under private tenure, to the Ciskei Bantustan (Ross, 2013). Whilst there were both white and coloured dispossession during the formation of the Ciskei, and it is alleged that both were compensated for the land confiscated, this researcher has found insufficient evidence to substantiate this claim.

The Stockenström community were therefore, uprooted and removed to the Western Cape during 1985 and 1986 by the Apartheid government as per the then Bantu Homelands Citizens Act (RSA, 1970b). This Act (RSA, 1970b), declared among other things, that African persons in the Republic of South Africa must be a citizen of a homeland. The Act (RSA, 1970b) elaborates further, that Africans should also have citizenship in South Africa, in effect, dual citizenship of both homeland and South Africa (SAIRR, 1977: 321). The dual citizenry only remained, prior to the independence of the territories. For example, when Transkei, gained its independence, all citizens within those borders, lost their South Africa citizenship (SAIRR, 1977: 321).

However, this state of affairs gave rise to many forms of civil unrest both within the homelands and from compatriots within the borders of South Africa. Many people were arrested for being in contravention of the “influx control” measures which were in place to prevent Africans from crossing “borders” from the Independent homelands (into South Africa, looking for jobs, homes and other economic and social endeavours (SAIRR, 1986: 336-347).

Figure 2: South African Homelands



Source: <http://www.sahistory.org.za/article/black-homeland-citizenship-act-1970>

This was followed other legislation which had categorised South African citizens into various ethnic groups and declared that some of those ethnic groups belonged to their own self-governing Homelands or Bantustans.

Figure 3: Ciskei



Source: <http://www.sahistory.org.za/dated-event/ciskei-homeland-established>

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4.2.2. Funding of Homelands

The general impact of such segregationist legislation had a devastating impact on the lives and livelihoods on communities. On the one hand the creation of “homelands”, according to South African Institute for Race Relations (1977, p. 315), between 1948 and 1976, 258 632 Africans had been “removed from black spots and resettled in the Bantu Homelands”.

In addition to the negative impact on black South Africans’ livelihoods, The South African government invested millions in entrenching separate development. This policy imperative ensured that black Africans remain in designated areas or were otherwise

forcibly removed to those areas. For example, SAIRR (1977: 316-318) cites that in the 1977 – 1978 estimates of expenditure from the state revenue account, South Africa financed various aspects of homeland upkeep, such as grant-in-aid for the SA Bantu Trust Fund – R216 968 000; construction of access roads – R2 920 000. Then to specifically Ciskei government, where the case study is located, South Africa's contributions were for that year, R22 870 000 for statutory grants; R17 370 800 for additional grants, R 2 827 400 for administrative and technical assistance- further described as allocation of white personnel to homelands (SAIRR, 1977: 317).

Because the members of this Stockenström community did not fall into the designated ethnic group, namely Xhosa- speakers, who had been allocated lands in the Ciskei, the Apartheid government determined that they did not belong in the Ciskei. The Apartheid government further determined that they and should be moved to a Coloured preferential area where their coloured ethnic group was designated, namely the Western Cape. The Ciskei, was one of the Bantustan/Homelands given self-governing status by the South African government.



Although Self-governing states like the Ciskei were given independent status, none of these Homelands ever received international recognition as such. Similarly, although the Apartheid government supported and paid for this independence and consequently did not recognise the Blacks Xhosa's as South African citizens. However, Apartheid South Africa, did allow these Self-governing states to support the expulsion of any South Africans who were not Xhosa from their territory. The new post 1994 government changed all of that and incorporated the Bantustans into the new South Africa,

Each family was not given sufficient time to settle their affairs and as a consequence lost the rights to all the property and stock not able to fit on the truck. So as part of the Apartheid government's resettlement plan, those who refused to move from the Ciskei (Stockenström), were unilaterally loaded on trucks with some their belongings and none

of their stock, and transported to the Western Cape (Friemersheim). Some of this community also voluntarily left the area and resettled with family or friends elsewhere. A few families moved back to Stockenström, without the necessary confirmation of their property rights and are still there.

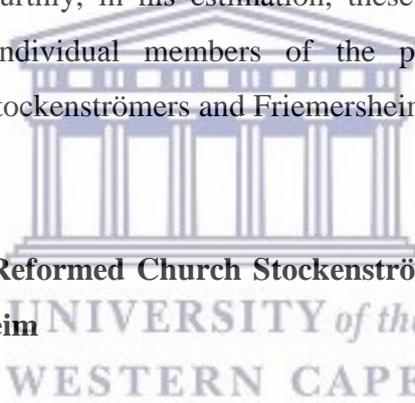
4.3. THE RESETTLEMENT COMMUNITY IN FRIEMERSHEIM, WESTERN CAPE

It transpired that the 1986/7 Stockenström property owners was represented by community representatives from the NG church. These community leaders took it upon themselves to negotiate with the representatives of the Apartheid government and tried to persuade them to abandon the proposed relocation. It was only after the intervention of the church that a deal was struck in which the dispossessed community from Stockenström would be allocated land in the Western Cape, to compensate for their property loss in the Eastern Cape. The land was identified and bought from a local white landowner and the property was called Moordkuyl. In terms of an agreement with the various stakeholders in the process, the NG church was the purchaser of the property. The detailed circumstances surrounding this purchase has been lost in the subsequent \pm 30 years, but the nett result is that the property could not legally be transferred into coloured hands but was registered as council property. After the new democratic government introduced a land claim process, a claim was filed in 1996 by the Stockenström community who was forcibly removed from the Eastern Cape. Subsequently, another land claim was filed on behalf of the church in 1998. The two claimants, namely the church and the community are therefore both claiming ownership of the Moordkuyl property. Identifying who the *de jure* owners of the land currently is one of the issues responsible for the delay in settlement of property in this case study.

The relocated community is clear that they were never compensated when they arrived in 1986/7 Friemersheim for the land expropriated in Stockenström, Ciskei. They expected to be allocated land that was equivalent to their properties in Stockenström. Some representatives of the NG Church is equally clear that they purchased the land from church coffers and therefore claim the land as theirs. The Stockenström held the view that the church was mere a conduit to facilitate the resettlement of the community.

Both parties claim to have initiated a legislative process seeking reparation in accordance with the post-1994 land reformation programme. The claim is still not settled. According to Western Cape government (no date) the Dutch Reformed Church owned Friemersheim and sold their land to the state in the 1960s.

In his report Ds Bohnen (2002) confirms a few pertinent facts, the first of which is that the farm at the centre of the resettlement claim was indeed section 6 of Moordkuyl No 30, the size of the property equalled 152,6218 hectares of land. Secondly, he confirms that the land was registered in the name of the Friemersheim Council (Bestuursraad) with the registration number being T 14756/86. Thirdly, Ds Bohnen (2002) further acknowledges that the process has been long and complex one and that there were a few key stakeholders some of whom were representative of the previous church council (destydse Kerkraad). Fourthly, in his estimation, these contesting stakeholders were among others, some individual members of the previous church council, old Stockenströmers (oud- Stockenströmers and Friemersheim) Councils (Bestuursraad).



Understanding Dutch Reformed Church Stockenström in relation to Community members in Friemersheim

Ds Bohnen (2002) contextualises the Dutch Reformed missionary community/congregation (Sendinggemeente), Stockenström in the overall reconstruction of the broader Dutch Reformed church during the 1990s – 2000s, which essentially amounted to a merging of Dutch Reformed Mission churches (Coloured), Indian Reformed Church (Indian) and other Dutch Reformed churches in Africa (Black) into one unifying United Reformed church. These mergers were happening throughout South Africa in an attempt to undo the racial profiling of the Dutch Reformed Mission churches and others and to bring about the emerging democratic principles of non-racialism into spaces like churches. Churches, during apartheid followed closely the nationalist government's guidelines on separate development. The Stockenström missionary church, Stockenström ensured that this merger took place in 1994 (Bohnen,

2002). The Dutch Reformed Mission Church, Stockenström (NG Sendinggemeente or NGSKSTK Stockenström), it is understood that this appellation was the one used in most of the correspondence. It is also understood, as per Ds Bohnen's (2002) report, that while the NGSKSTK appellation continued to be used in communication and correspondence, the *de jure* legal entity of the church council for those community members/ congregation - Stockenström, lies with the church council of the Unified Reformed Church in South Africa (Vereingende Gereformeerde Kerk in Suider-Afrika), Stockenström-community/ congregation.

Ds Bohnen (2002) also offers clarity with regards the understanding of the concept "church council" (Kerkraad). In his explanation, he places emphasis on the inclusive nature of this legal entity and includes the understanding of functionality as that of any church council whether it represented the NG Missionary Church (NG Sendingkerk) or the new United Reformed Church (Vereingende Gereformeerde Kerk - Suider-Afrika), Stockenström-community/ congregation. Similarly, when he references community/congregation (gemeente) it refers to the situation within the Stockenström-community/ congregation, before 10 November 1985. This date represents the time period that the "old Stockenströmers" were forcibly removed from the Eastern Cape and resettled in Friemersheim, Western Cape. In addition, it represents the time period when the church council- Stockenström decided in favour of the purchasing of the farm Moordkuyl, Friemersheim.

Finally, in Bohnen's (2002) view, the Church council of Stockenström also represented by members of the original community/congregation that was left behind in Hertzog as well as those that were removed to Friemersheim. He also clarifies that after 1985 not all of the original community/congregation of Stockenström had relocated to Friemersheim, others had gone to several other geographical locations and had joined other United Reformed Church communities/ congregations, elsewhere in South Africa.

The structures of the NG Church

It is important for clarity of understanding for this case study that one recognises that there is a specific hierarchical structure in the NG church that follows a clear set of rules and guidelines with regard to its smooth functioning. This hierarchy allows for the flow of information, policies and guidelines throughout the many levels of the decision making, management, and other structures. The rules and guidelines offers a systemic NG approach to elections of church officials, or the passage of unified church policies or on various matters.

At a local level, in a specific church, one has the highest decision making body called the church council (Kerkraad). This means that eligible members of a specific church community or congregation are elected onto the church council to represent all the members. So they become representatives, advisers and decision makers regarding all church policy matters from both the local church congregation as well the other structures in the hierarchy. The term of office of these church council members are usually for a specific period. When the term of office of these individual church councils expire, then the rules dictate that a precise procedure is followed to elect new church council member. It is also possible within in the guidelines, that church council members can be re-elected for a further term. Also at local level, among the Church Council members, certain members are elected to hold key portfolio's and become the executive management of church council (uitvoerende bestuur). Their term of office follows the same guidelines applicable to any other member of the church council.

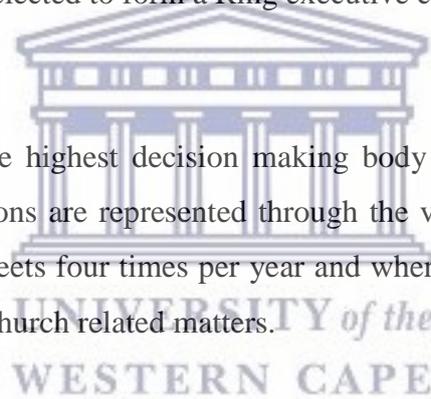
The next level in the NG Church hierarchy is the regional structure called the Ring (Die Ring) and usually consist of the pastor/priest and one church council official of a specific church community/congregation, linking up with other similar representatives from various congregations in a certain geographical area. In the case of Fish River Ring, the various communities/ congregations of East London, Queenstown, Dordrecht, Maclear, Hertzog, Fort Beaufort-Adelaide, King Williams's Town and Bedford, together formed this regional Ring structure.

The status of the Fish River Ring underwent similar changes to that which was happening throughout the rest of the country, with regards to the disbanding of the NG

missionary church and the NG church of Africa into its unified appellation namely, the United Reform Church of South Africa. In their case, the Stockenström Ring, had undergone these unification changes in the late 1990s, but in addition, had also changed their jurisdiction to that of the current Fish River Ring. However, depending on the time period under discussion sometimes reference would be made to the Stockenström Ring.

Throughout most of its period of existence, the Stockenström Ring conducted its business with an annual meeting where discussions were held on issues of common interest. Any of the members of this Ring could place matters on the agenda as long as the matters raised fell within the rules, plans and guidelines of the Missionary church's parameters. In general meetings, a chairperson (ex-officio), secretary, treasurer and an additional member was elected to form a Ring executive committee.

A Synod (Sinode) is the highest decision making body within the NG Church. All communities/congregations are represented through the various Ring Commissions on this body. This body meets four times per year and when not in session, the executive structure deals with all church related matters.



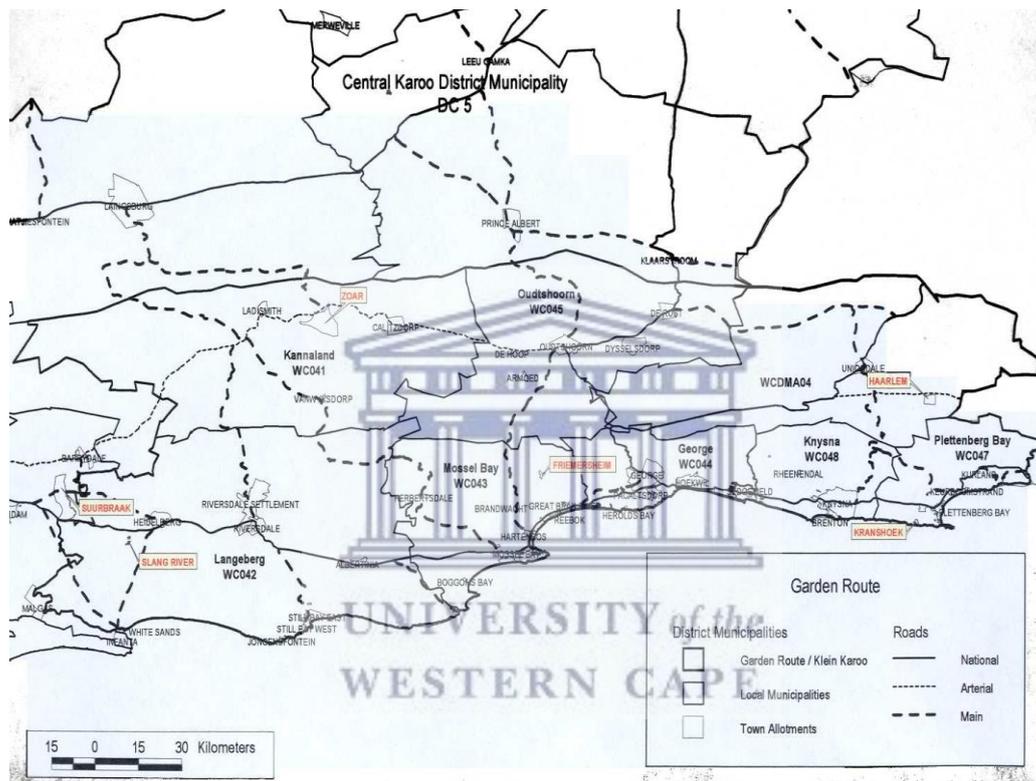
Friemersheim Local Government involvement in Relocation

The local government in Friemersheim also underwent a series of name changes and political changes from the time of resettlement to date. This transformation impacted directly on the light of the community relocated there, the original community in Hertzog and the local Friemersheim community called the Gonnakraal community.

The Friemersheim local government was initially known as the Friemersheim Management Committee (Bestuursraad). Then their status and name changed in the early nineties to Friemersheim local government or Interim Council. Then even more structural changes happened during the reconstruction of municipalities across the

length and breadth of the country, resulting in the Friemersheim community sharing local government policies under the broader Mossel Bay council.

Figure 4: Garden Route area including Friemersheim



Source:

https://www.google.co.za/search?q=Herzog+districtandsource=Inmsandtmb=ischandsa=Xandved=0ahUKEwjA8-yIreXUAhWsKMAKHUBUDXgQ_AUICygCandbiw=1175andbih=628#tmb=ischandq=Friemersheim,+Cape+Townandimgrc=-pkAWQtfug5KkM

4.3.1 Core elements of Friemersheim community claimants' position

The Community claimants are clear that both the church and the community had claims to separate properties in the Katriver District in Ciskei, Eastern Cape. They expressed

the fact that they were dispossessed from their homes and told to find other property/ accommodation outside of the borders of the Ciskei. The community was brought together by the church on 30 March, 1985 in Hertzog in Eastern Cape for a decision to buy the property called Moordkuyl, Western Cape. The purchasing decision was for the purpose of resettlement, due to the fact that the Ciskei, now a Bantustan and self-governing for exclusively Xhosa residents. The community, not being Xhosa, was expected to vacate their properties (expropriation).

The community arrived in Friemersheim between 1986/87. Discussions then took place between the arriving families and the Friemersheim Council. The main thrust of these discussions were resettlement of the Stockenström families into the Friemersheim community. Only 45 families made the move to from Stockenström to Friemersheim eventually. Township Houses were then allocated to those families which in no way met the promises made to the people. They were not able to engage in small-scale farming with those properties and sustain themselves. This resulted in loss of farming skills and food insecurity.

These Friemersheim families were told that a state-planner had been appointed to measure the 150 hectares and that 70 erfs had been identified on a separate piece of land specifically acquired for them. This would then enable them to pursue agricultural and other farming activities. While this process was being negotiated many of the people who made the trek to Friemersheim began passing away. Very few people with farming skills are still around.

An interpretation of the court documents in the possession of the legal advisor, it is apparent that it was never the intention that the property Moordkuyl, become church property. Rather, the court papers suggest that the property Moordkuyl, was purchased for the benefit of the families from Stockenström.

4.4. CHURCH AS CLAIMANT

Some contestation exists between the broader community's interpretation of the 1986/7 dispossession and the current NG church's version. The broader community remain adamant that they (inclusive of religions and faiths), were dispossessed and that land

was acquired for their resettlement. The current church council is of the view that the dispossessed members of the NG church only, were to be resettled on land purchased by the church in the Western Cape town of Friemersheim.

The nature of the relationship, between the 1986/7 leaders of the Dutch Reformed (NG) Church board and the Apartheid government officials is not fully understood. But this undefined relationship allowed the 1986/7 NG Church board and local government officials to place these dispossessed people onto what is ostensibly NG church land even whilst operating within the paradigm of the Apartheid government's legislative framework which prohibited coloured people from owning white land.

What further complicates the speedy resolution of the land restoration dispute is that many of the original heads of households who were primary negotiators in the case study are now deceased. This left the descendants of this land claim with no option but to engage the services of an attorney to investigate the case and reconstruct the details of the land claim with all the stakeholders, including church officials, government departments, opposing claimants and the dispossessed community. Further exacerbation the ownership issue, is that the church had numerous role players throughout the duration of the land dispossession and the resettlement process. These roles differed depending on the position and personal interest of each stakeholder.

As per documentary evidence, Moordkuyl was bought to the value of R250, 000, in 1985(?). This property was signed off by NG Sendingkerk (Mission church) leaders, Mr. J. Loots, Mr. DFN Bailey and Pastor J. Maart. The size of the property was approximately 150 hectares. No transfer of ownership took place at this juncture because of South Africa's apartheid property laws (groups areas act), which prohibited coloured people from purchasing property owned by whites. Documentary evidence show that the property Moordkuyl had been owned by a white farmer until that point. Later Moordkuyl is registered on behalf of the claimants, in the name of the

Friemersheim Council. Registration of the property is confirmed as having taken place on 22 April, 1986.

The community claimants claim number with the Department of Rural Development and Land Reform is N25 claimants. Numerous meetings were held in various configurations with different parties. The Attorney Mr Vernon Seymour, is the legal representative for N25 claimants. The other claimants B962, representing the NG church is made up of the following individuals: Mrs Kathleen du Preez, Tom Pringle, Wytjie Louw and others sometimes represented by various members of the du Preez family. Other stakeholders from the church present at some of these meetings were Ds Irion, representative of VGKSA. Mr David Smith, representing the Department of Rural Development and Land Reform.



4.5. SUMMARY

The information gathered during the data collection period demonstrates that of course there have been differing views from the two claimants which was the NG Church and the Old Stockenströmers. But what emerged from the interviews etc., is that there is no unanimous Church view but rather those who have accorded themselves status as church representatives and the wider United Reform Church.

The Unified Church has expressed its views on the matter which is in sharp contrast to that of the smaller Stockenström church. It is this smaller body that have convinced departmental authorities that they are true representatives of the position taken in Stockenström in 1985. Of course the rest of the “Old Stockenströmers” are in direct opposition to the new “Stockenström NG Church” representatives and they have gone so far as to litigate the matter. It has been an on-going dispute which is currently in the hands of the courts.

Prior to this latest court battle other key stakeholders from the previous Coloured Representative council have been the subject of individual litigation for their roles in the delay or the land restitution process. This case study therefor has demonstrated the many twists and turns in the restitution process that are unintended consequences to the legislative process set out in the numerous land reform statutes since 1994.



CHAPTER 5: FINDINGS AND ANALYSIS

5.1. DOCUMENTING THE HISTORY- INTRODUCTION

This chapter critically examined the raw data, secondary data, and all other information gathered during the course of the investigation, and presents an analysis of the key findings. It became apparent that central to the data gathering process in this case study, was a broad understanding of what took place 30 years ago, who the key role-players were and what the key challenges were, both in the forced removal and the resettlement process. Significant too, was how most of the stakeholders responded to the crisis within their everyday lives.

In this chapter the objectives of this study is clearly demonstrated. The forced removal and relocation from Stockenström to Friemersheim, is documented through the personal interviews of the claimants, their legal advisor, documents of church representatives obtained, reports of the land claim commission and various pieces of correspondence relating to the matter. It outlines a struggle for more than 30 years relating to a quest for justice after the horror of forced removal and dispossession during the apartheid era in 1985.

The second objective, which relates to the key stakeholders in the process are clearly identified and their roles explained. They include the various government agencies such as the Land Claims Commission, the Department of Rural Development, the land claimants from Stockenström who were relocated to Friemersheim; the lawyers of the claimants. The role of the NG Church and its successor, the VGK is clearly outlined as well as the complex hierarchical systems. In addition, individuals who played critical leadership roles in the church structures where outlined, including those who claim to be playing leadership roles.

Thereafter it becomes clear that there were various types of litigation efforts on the side of the lawyers of the church leadership, the local authorities which included the Friemersheim Management Board in 1986 and the Mossel Bay Municipality to make their particular

stance evident. All of these stakeholders played key roles in the retardation of the process or the progress made with efforts to resolve the situation.

The third objective, which relates to the experiences of the community, is clearly defined from the respondents' responses. Their narrative suggests the community went from resistance - to the forced removal - to a reluctant relocation, and sketches their struggles to survive over many years.

They went from a situation where they were self-sufficient with their farming skills used optimally, to a situation of food insecurity because they were unable to continue their familiar agricultural livelihoods. Most of the original people who were responsible for subsistence farming in Stockenström, died before transferring their skills to the next generation. In Friemersheim they ended up in a township development, contrary to their expectations and not in keeping with the promises made to them.

The fourth objective refers to the challenges faced by the Stockenström community which is outlined in great detail. They include the struggles of the people of Stockenström who in 1987 embarked upon a 30-year struggle for the promised resettlement in an area called Friemersheim in the Western Cape some 800km from their erstwhile homes. Although there were consultations with them in the beginning, it is evident they never quite understood what was happening and lived in hope especially when the church became involved. Moreover, they were never really empowered with all the facts and made discoveries along the way. They also struggled to get their voices heard. Many of them raised the question why a property was purchased in a white group area, which they themselves could not occupy in terms of the then government's laws. How did they end up in a township area when they were supposed to relocate to a place with similar accommodation they enjoyed in Stockenström? Why was this not disclosed to them? How did this property become a resettlement option for the people of Stockenström? Most of these questions have remain unanswered.

Of course, this case study has already discussed the turbulent Apartheid legislative framework that was the catalyst to the forced removal process, but it bears reminding that none of the community claimants had any control of the unfolding events, which disturbed

the foundations their lives. Also of significance is the fact that in 2018, at the time of writing of this research paper, the department of Rural Affairs and Land Reform had not yet resolved a resettlement crisis that began almost 30 years previously. The matter is now before the Land Claims Court.

Each of the claimants had individual views on their particular involvement in the process of dispossession and their expectations from the outcome of the process. The NG Church, the community, the local government authorities, Land Claims Commission, the Department of Rural Affairs and Land Reform, the various legal representatives from both claimants, all played their part in both the retardation and/or the advancement of the settlement of the land claim of the Moordkuyl farm, Friemersheim.

5.1.1. Observation of claimants' memory on the issue of dispossession, relocation and property rights

In many instances, the researcher was not an active participant in the consultative meetings but rather an observer of interaction between claimant and the legal advisor and the community representatives. The legal advisor provided feedback, requested documentary information, required signatures for confirmation of beneficiary status or provided updates from the departments or other claimants. Claimants asked various questions of clarity and provided information of what events, activities or initiatives they were subjected to in between contact with their legal adviser. This method of information gathering gave the researcher a unique view of the level of frustration at the constant delays in the finalisation of the settlement. For the most part the community claimants demonstrated a great deal of mistrust towards the second claimant and well as officials from the Department of Rural Affairs and Land Reform and local municipal authorities.

Whilst this method is not very scientific and often had claimants commenting back and forth on their views of the poor management of the land claim process, it was very useful for the researcher. It was, nonetheless, a remarkable learning experience into the extensive memory of the claimants and the impact of the forced removals. Many of the claimants were able to give clear accounts of what happened on the date of dispossession and

removal, even providing photographic evidence of the South African Government trucks that were used to round up and move them from the Eastern Cape to the Western Cape.

5.1.2. Personal interviews

Most of the claimants were second and third generation claimants. The approximately 30-year passage of time meant that many of the original claimants had passed away whilst still waiting for the resolution of the land claims. However, the collective memory of the remaining original claimants as well as the comments from the remaining second and third generation claimants showed that they still had full grasp of the details of their claims with many being able to produce original documents and even pictures of the day of dispossession and many more.

In some instances, they were able to demonstrate which of the original houses was allocated to each family in Friemersheim, and which were ultimately taken away upon the death of the head of the household. The significant and sometimes heart-rendering account from the remaining descendants reflected grief, incomprehension, disillusionment and intensified anger at once more removed from the property they had ostensibly been resettled on, was difficult to witness. These accounts of second - stage forced removals were primarily derived from the experiences of the already grieving families. These reflections directed the researcher's understanding of how local government officials were, sometimes, responsible for contributing additional burdens by requesting that they vacate their allocated homes, after the death of head of households. Many allegations of corruption that emerged during these interviews were directed at church officials, local government officials and individuals who seemingly sought to capitalise and benefit financially from the situation. Whilst not part of the primary research topic, these alleged actions nonetheless, were for this researcher, indicative of potential personal and collective corrupt actions evident in the South African public service sector. It also demonstrated that these actions had been widespread from the time of Apartheid through to the new democracy.

5.1.3. Questionnaires

The questionnaires were directed to the individuals and tried to focus on unlocking the memory of critical portions of the move from Stockenström to Friemersheim so as to give an accurate individual family account of what happened to them specifically. Very useful information came through the utilization of this research method. Of particular interest were the instances of influence on the specific households which came from the government pressure, church pressure as well as pressure from those new tenants of the homes which were vacated by Stockenström families.

In many instances the summary of events given by Bohnen (2002) is confirmed as being the correct but there was also some deviation from his recorded version. It has also emerged through these questionnaires that many of key documents were handed to Bohnen (2002), which was then used to construct his document.

One instance of actual theft of church books and records raised questions about motives and hidden agendas. How could such actions occur within the parameters of a church environment? Some of the individuals implicated in the nefarious activities were church office bearers and church members who had already resigned and demanded that their membership be revoked. They had declared that they wanted nothing more to do with the NGSKSTK. Later, through various means, these same individuals regrouped and misrepresented themselves as the NGSKSTK representatives, and proceeded to use the church letterheads to access church funds for their personal gain.

Throughout the execution of these seemingly nefarious activities and over an extended period, they never once acted on behalf of those 33 families who had, in effect, been stranded in Friemersheim without any means of sustenance for both immediate and extended survival. These survivors of the dispossession onslaught managed to sustain themselves through remittances from their community. Without this means of support and pension grants, they would not have survived for as long as they did.

5.2. THE STAKEHOLDERS AND THEIR ROLES IN THE PROCESS

5.2.1. Brief Summary of the analysis of Legal Advisor for Friemersheim-Stockenströmers

Stockenström Church Council (NGSKSTK)

- One Hundred and fifty (150) hectares of land was acquired in Friemersheim for resettlement purposes. The land was situated in a white group area at the time, which meant that the people could not have the land registered in their names. It was then registered in the name of the local authority.
- The transaction which led to the acquisition of the land was negotiated by a Ds Maart, who was the “dominee” in charge of the church at the time of the forced removal.
- Evidence demonstrate that the Stockenström Church Council (NGSKSTK) had attempted to register the Moordkuyl property in the name of their church. They were unsuccessful for various reasons and eventually abandoned their position.
- On 6 August, 1991, the Friemersheim Local Town Council, headed by a Mr. Maart made a decision that Moordkuyl property should be transferred in to the NG church council- Stockenström. Some members of the same church expressed their dismay, arguing that it was contrary to the resettlement plan and that this would disadvantage the families.
- On 1 June, 1992, the decision made by the Friemersheim Town Council to transfer the land to the Church Board, is reviewed and a new decision is taken to negotiate with the Stockenström community, so that a more reasonable settlement can be made inclusive of the already established families regardless of religious affiliation.
- On 12 June 1994, the Stockenström Church Council (NGSKSTK) announce that they have informed the NG Ring Commission that they are no longer part of the new V GK Church of South Africa. (This new V GK church formation was part of the NG church’s attempt at incorporation and inclusion of all the various racially divided church of the apartheid era, to unify under one universal body).
- Most of the NGSKSTK Church board members – Stockenström had resigned at this juncture and had renounced their membership of the church. As a result, the Church Board no longer had a quorum to function and needed fresh elections.
- These resignations left a vacuum in church leadership in the Stockenström area within the NG Church council.
- The community based in Friemersheim set up a committee to manage the process on their behalf, but the church leadership refused to approve the development.

- A self-appointed Church Board outside of Friemersheim emerged and assumed the leadership of the process. This time the church turned a blind eye to this development.
- Financial issues relating to compensation given to the church was never properly accounted for.
- Compensation issued by the apartheid government to the community was not transparent with no clear criteria with no one understanding what was due to them.
- The leadership of the VGK church is not blameless because they could have assisted in the resolution of the dispute but elected not to do so.
- The role of the Land Claims Commission and the Department of Rural Development has contributed to the delay of the finalisation of the dispute.
- The Department adopted an approach which in terms of which the Church Board was the primary claimant, which led to the stand-off with the residents.
- The key dispute issue was the view of the Church Board that the property should be allocated to them and that they would make available 5 hectares to accommodate the families with subsidy support from Mossel Bay municipality.
- The community insisted that the original resettlement plan meant that the property should be allocated to them so that they could resume farming activities to sustain themselves.
- The Department was unwilling to agree to independent mediation and insisted on their own processes which had failed miserably.
- The issue of the impact of the delay on the community facing loss of farming skills, food insecurity and township life-style which the community had been forced into, has never been part of discussions with the Department.
- The Land Claims Court was the only avenue left for the community to achieve the justice they seek.

5.2.2. Fish River Ring Kommissie (Commission)

Once the Stockenström (NGSKSTK) Church board had tendered their resignation, the Fish River Ring Kommissie, as per the NG church rules and regulations, assumed the

responsibilities of the Stockenström (NGSKSTK) mission church. Their understanding was that the caretaker role would cease once the church congregation, most of whom had resided in Friemersheim, had elected a new church council into office. The Fish River Ring Kommissie had no documentary evidence that a new Stockenström (NGSKSTK) Mission church board had been established. The Friemersheim claimant community also dispute that a new church board had been elected.

- On 1 April, 1995, the Fish River Ring Kommissie met with the Friemersheim Town Council and the residents from Stockenström formally, in Friemersheim.
- Emanating from this meeting was a profound decision that the church council would withdraw the court case and by agreement that the matter would be settled by the Land Claims Commission.
- What followed was continued development discussions with regards the 70 erfs previously agreed to, that would benefit the original families from Stockenström.
- At some stage it was agreed that the remainder of the 150 hectares, minus the 70 erfs, would be signed over the NG Church. There was a tacit understanding that the church would manage the remainder of the 150 hectares for the benefit of those families resettled in Friemersheim.
- In April 1995, the Ring Commission agreed with the Stockenström Community that the resettlement plan should be implemented.

5.2.3 Non-compliance with regards to agreement made by 1995 Ring Kommissie

- Between 1997-2002 many attempts were made to implement the decisions of the 1995 Ring Kommissie which included letters of appeal and many meetings, but nothing concrete materialised from these attempts.
- In 2001, the late Mr Phillip De Klerk (dispossessed Stockenström member), tried to establish a Stockenström committee in Friemersheim, but it was rejected by the Ring Kommissie. Other members of this erstwhile Stockenström committee was Ms M. Noonan, Mr. M. Sterling, Mr. A Swartbooi, Mr. T. Noonan and Ms K. Alexander- all of them dispossessed from Stockenström. None of these committee members were allowed to take the issues further without the support of the Ring Kommissie. Their stance on the matter was clear, they maintained that only the

resettled families in Friemersheim should be the legal owners of the farm Moordkuyl.

- In December 1998, a land claim was filed by the NG Church Stockenström at the office of the Land Claims Commission. There is still some uncertainty, as to whether this claim had the endorsement of the Ring Kommissie. This claim was filed in response to the one filed on behalf the land claim filed on behalf of the Stockenström community in 1996.
- During this 1997 – 2002 period there had been no meetings held with the families in Friemersheim by the NG Church (VGK) nor by NGSKSTK.
- In recent years Dr. Irion, chairperson of the Fish River Ring Kommissie, had been delegated by the United Reformed Church Moderateur (Moderator) to help facilitate in the resolution of the dual claimants in Friemersheim (Email Irion to V. Seymour. 27 Feb, 2014, 08:39)

5.3. MEETING WITH THE LAND CLAIMS COMMISSION

There had been ongoing meetings with the Land Claims Commission and other representatives of the department of Rural Affairs and Land Reform over the years. Many of these meetings had ended at deadlock, with neither of the two claimants willing to move on their stance. Of significance in this ongoing saga was the fact that the claimant's cards were finally put on the table on 23 August, 2012. In this meeting, the Land Claims Commission had arranged for a roundtable discussion between the persons who presented themselves as the Stockenström (NGSKSTK) Church Board and the dispossessed Stockenström families residing in Friemersheim. This ostensibly, a settlement meeting, was held to try and manage all the matters preventing the finalisation of the land claim. There was an understanding still to be reached that whomever was declared the legitimate owner of the claim (which the community saw as their claim), would be the one who owns the entire 150 hectares. In addition, it was agreed that the development of the farm, Moordkuyl, would include the building of houses for the Stockenström families and agricultural support would be sought from the government.

5.4. POINTS OF CONTENTION

There had been a number of contentious points over the years between the two parties. The Church Board had claimed that they alone were the legitimate beneficiary of the land claim. The Stockenström community counter-claimed that the church was only the conduit through which the land could be transferred for resettlement purposes, but at no stage was it agreed that they the sole claimant and have sole rights to the 150 hectares. This has been the major dispute point that has impeded the progress in this matter. What complicated matters, the Department of Rural Development had adopted the position of the Church Board, which meant that the Stockenström community was at loggerheads with the very people who had the mandate to resolve this matter.

Subsequently the new Stockenström (NGSKSTK) church board, changed their stance and then proposed that only 5 hectares of the 150 hectare Moordkuyl, should be set aside for the remaining 33 families originally from Stockenström in Friemersheim . This was formally conveyed to the Land Claims Commission and in a meeting between the two parties convened by the Land Claims Commission. Furthermore, they maintained that the remaining 145 hectares will remain the property of the Stockenström (NGSKSTK) church. The family claimants maintain that the Church (NGSKSTK) proposition was completely unreasonable and was a misrepresentation of the resettlement plan agreed to in 1986.

The department of Rural Development and Land Reform alleged that there was a 1987 agreement with regard to the housing of the resettled community in support of the Church Board proposal, but offered no proof of the existence of such an agreement. But neither claimant had any knowledge of this alleged agreement and so were unable to confirm or deny the veracity the existence of such an agreement with the officials from the Department of Rural Development and Land Reform.

The community claimants sought clarity, however, on the legal position of the new Stockenström (NGSKSTK) Church board. They had a few pertinent questions which they wanted the opposing claimant to respond to. These were as follows:

- When were they elected?
- Where were they elected?
- Who elected or appointed them?
- Where are the documents relating their election or appointment?

- Why were none of the church members in Friemersheim notified of any meeting convened for the purposes of electing a new Church Board.

The questions posed by the community claimants formed an integral part of their contention, that the NG church, regardless of their formation i.e. local, regional or national bodies, do not have sole claim to the 150 hectare Moordkuyl farm. At best, they are a small component of the whole community claim, for that which had been taken away from them in Stockenström. But the community claimants remained convinced, that especially the current representatives of the local church board, have no *locus standi* to make the 150 hectare Moordkuyl farm, their exclusive right.

5.5. PROPOSALS FROM THE FAMILY CLAIMANTS

The community claimants had reached consensus on a number of pertinent points and conveyed it succinctly at the meeting with the Church Board representatives. Firstly, they wanted to ensure that the resettlement plan agreed prior to their move to Friemersheim, be upheld as a matter of principle. Secondly, they were prepared to compromise in order to settle the dispute. As a compromise they proposed, that every remaining family who moved to Friemersheim, be allocated 2 hectares of land. Thirdly, that the land that had been allocated to each family be registered and ownership be transferred to the individual families. Lastly, that the remaining land be placed in trust for agricultural development for the benefit of the families and the church management in Friemersheim. This proposal was rejected by the church board who insisted that their position should prevail. This led to a stalemate which led to the Land Claims Commission refer the matter to the Land Claims Court.

5.6. ANALYSIS OF THE ROLE OF NGSKSTK, RING COMMISSION and VGK CHURCH IN POSSESSION, RESETTLEMENT AND RESTITUTION

Throughout the research process, it became clear that there would be a convoluted relationship with the various levels of the Dutch Reformed Church in this land dispossession case study. For any person, not of the same faith, would have difficulty in understanding the role of the Dutch Reformed Church. But central to this comprehension

of the Dutch Reformed Church is that their evangelical work in South Africa, sanctioned separate congregations divided along racial lines. In fact, the South African National Party government had elevated the Dutch Reformed Church to the status of almost “official church of South Africa”. Almost all of the Afrikaner Presidents, Prime Ministers and other government leaders of the pre-democratic South Africa, claimed to be members of the Dutch Reformed Church. The structure of the Dutch Reformed Church (for Whites) therefore was split into Dutch Reformed Mission Church (for Coloureds), Dutch Reformed Church in Africa (for Blacks) and Indian Reformed Church (for Indians). In the course of their settling into missionary church work in the Eastern Cape Province, they played a pivotal role in forming a religious following in the Katriver/ Hertzog/ Stockenström area. But not all the rural communities in this area were Dutch Reformed congregants. Some of the respondents were acknowledged Catholics; others were Anglican and so on.

As with most rural communities, many Christians, regardless of their specific doctrine or faith, would transcend religious barriers and have inter-faith converging occasions. There were instances of married couples consisting of one of Evangelical faith, married to Dutch Reformed Mission church member, or a Catholic married to someone from another faith, etcetera. For the most part, they lived in harmony with each other, even as they practiced their specific faiths.

Therefore, the trauma of imminent dispossession on the grounds of race, would and did, become a unifying event in the Katriver/ Hertzog/Stockenström area for people of all faiths. Everyone living in the area were similarly affected and attended community meetings, called by the main organizer that the time, Mr. Bailey (NGSKSTK member). These community meetings were held for the most part at a convenient venue, which was the Dutch Reformed Mission Church. This solidly build structure served as a venue for many meetings in the period of its existence and even today, has been declared a historical monument. The relocated Stockenström community, recognized the context of the imminent dispossession, as a community effort to make sense of a racially, intolerable situation.

The Dutch Reformed Mission Church - Stockenström (NGSKSTK) claim that they were the owners of some properties from the Stockenström-district is true. However, this was

equally true for the community members who all owned their own properties. Their contention is that they were dispossessed of their property in 1985 by the then apartheid government and incorporated into the “Republic of the Ciskei”. This is a similar contention held by all the old Stockenströmers. NGSKSTK (under Bailey) acknowledged that some compensation (*trane geld*) for this property loss was paid to individual families. It is not clear how much was paid and what criteria were used. The inequality of “trane geld” (money for reparations) offered by the National Party government to individuals is an entirely new area of study, but this researcher, has concluded that the majority of Friemersheim/ Stockenström displaced community, did not even receive enough money to cover their relocation expenses. Respondents both at interviews and at during focus group discussions mentioned insignificant amounts varying from R1300 to R4000, as amounts received for reparation. Furthermore, any reasonable person’s calculation, the above amounts cited could not account for loss of livestock, land, houses, gardens and loss of livelihoods.

However, neither NGSKSTK nor any community/congregation members were given legal permission to purchase or possess immovable property within the geographical borders of the Ciskei. There, apparently, had been arrangements that could be made with the Ciskei government to rent properties to some community/congregation members. Verification of this alternative being exercised was not possible. The choices given to those who were forced to relocate and to find alternative livelihoods therefore, were limited. Those who elected to remain became tenants of the properties they once owned.

In view of this untenable situation which the Stockenström community found themselves in, they were disparately trying to find a place where everyone could be together at a new location. The Bohnen (2002) report mentions that a realisable possibility or viable option (realiseerbare moontlikeheid) which suddenly appeared (verskyn) on the agenda of the NGSKSTK. The opportunity was two-fold, firstly, it was available to a desperate community poised on the brink of dispossession and secondly, it was available in a coloured preferential community in the Western Cape which made relocation relatively more secure for coloureds than their present conditions. Consequently, the opportunity of the farm Moordkuyl, Friemersheim was placed on the table for consideration in the context of ‘no viable alternative’.

The other interesting subtext in the report is about the convenient accessibility (beskikbaarheid) of the farm Moordkuyl, Friemersheim in the district of Mossel Bay. Was it an advantageous alternative at that time and for whom? But for whatever reason, it became part of the meeting's agenda. It was made abundantly clear to the community that Friemersheim was indeed a coloured preferential area. Such a reassurance was essential for everyone, since they already faced dispossession from the Ciskei, a designated black area. Thus assurance was given that this place indeed fulfilled all their requirements.

However, it transpired later on that the farm to be acquired and be resettled on, belonged to a white farmer. This fact is significant on two levels- firstly, during the 1980s it was a well-known fact that legally, no coloured person or entity could acquire property from a white person and occupy such property. Secondly, an uncertain passage to a new territory without assurance of protection by the appropriate legal framework could have meant that the community could potentially be uprooted for a second time. They therefore would be compelled to relocate to an alternative location, specifically designated areas for coloured citizens.

The decision to acquire the farm Moordkuyl, according to Bohnen's (2002) report, had been agreed to at Hertzog on 30 March, 1985. The majority of the community and Dutch Reformed Church members were present at this, and many subsequent meetings which were held with relevant parties to endorse the acquisition of this property in Friemersheim. Although the acquisition of the property was presented as a purchase by the church, there is no evidence that the church had the necessary funds to do so. What is known was that the purchase price was paid for by the church after meetings were held with the officials from the National Party government. Whether this transaction was effected in accordance with the then government's "greasing machine" for implementation of separate development and Bantustan policies is the subject of another research. It is apparent that not all the relevant facts were disclosed to the people. In addition, negotiations had been conducted with the Dutch Reformed Mission church in Friemersheim as well as with the George, Dutch Reformed Ring Commission and various government officials. Indeed, according to the conditions of the negotiated settlement, The Stockenström community

would be resettled within the geographical borders of the Dutch Reformed Mission community in Friemersheim, but with certain stipulated conditions.

The law firm Espin and Espin, from Grahamstown was appointed to represent the NGSKSTK and requested on 17 October 1985, that the Manager of the Boland Bank prepare a deed of sale to give effect to the transaction. The representative of the law firm Espin and Espin made a few recommendations: a) The buyer is the Church Board of NGSKSTK or its nominee; b) the sale is subject to the obtaining of the necessary permits by the buyer in accordance with the parameters of the Group Areas Act; c) that the selling price is R250,000 and d) that the seller, Mr. van der Westhuizen will contribute R5000 to the Commission and the balance will be paid by the buyer (Bohnen, 2002). This should have been the end of the transaction with all parties clear that whilst the Dutch Reformed Mission Church – Stockenström, ostensibly provided the funding, the entire community would be allocated their portion of ground commensurate with the land and property loss that they had experienced through dispossession in Stockenström.

5.7 THE “NEW” CHURCH BOARD”

However, in the course of information gathering, and as new evidence began to emerge in the interview process, it appears as if there was an irregularity in the election/appointment of a new Church Board and its functioning. The community was clear that the Church Board who had conducted negotiations relating to the forced removal became a “defunct” church board, after the majority of the members resigned. An individual or individuals apparently deliberately manipulated the entity NGSKSTK (now with uncertain authority) to gain access to the records and funds, and assumed authority. The individual interviews with Friemersheim community members, established that misrepresentation and corruption happened at various phases in the forced removal process as well as the resettlement process.

It became apparent that the new representatives of the NGSKSTK had not been voted in as official church representatives by the Friemersheim resettled community, who were, at the time, their only congregants. Part of the Friemersheim congregants’ contention was that their relocated community in its entirety had been removed from the Ciskei-based NGSKSTK. Thus all the church infrastructure should have been relocated to Friemersheim

as well with them. These congregants were adamant that an urgent review of the legal status of this newly constituted NGSKSTK representatives was needed. Thus they questioned the legitimacy of this new Board.

An example of these objections from “old Stockenströmers” to this new Church Board was when they opposed the attempted take-over of the process by them in 1992. Thereafter, the decision was taken to review the transfer of the Moordkuyl property to the NGSKSTK which was no longer led by Mr. Bailey or any other of the original like-minded church board members in Friemersheim (like Christine du Preez) who were part of the Church Board prior to the resignations. The revised decision that the Friemersheim Local Council meeting adopted was that the chairperson, with the assistance of legal advice and the necessary financial implications, negotiate for a more amicable arrangement for all those families who have already been resettled in Friemersheim. Including those who belonged to other faiths.

The legitimacy issue is also apparent in the Bohnen Report (2002). What is revealing in the lengthy report of Bohnen (2002) is that appeal, upon appeal, was launched by the “old Stockenströmers” in Friemersheim, at regular intervals. Corroboration from personal documents and interviews show that even before dispossession, long into the resettlement process, and through their legal representative, this community has been actively appealing at every conceivable juncture, against the perceived injustice that befell them. Bohnen (2002) almost inadvertently demonstrates that at almost every meeting either called by the NGSKSTK board (under new management), the Ring, the National Dutch Reformed Church, or Friemersheim council, the Land Claims Commission, or the Department of Rural Development and Land reform, there is mention of a delegation of “old Stockenströmers”.

If one has to examine the many accounts given by Bohnen (2002) of meetings and resolutions made and ignored by one or the other Dutch Reformed Church structure, then credence should be given to the many efforts were made in seeking resolution of this restitution case. However, information gathered through interviews, questionnaires, and secondary data, determined that persons with questionable motives sought to divert the

primary objective of restorative justice and held themselves out to be the “new” Church Board.

5.8. COMMUNITY RESISTANCE (“old Stockenströmers) TO FORCED REMOVALS FROM STOCKENSTRÖM AND THE QUEST FOR RESETTLEMENT IN FRIEMERSHEIM

The impact of the apartheid government’s forced removal policy is evident during engagements with those who experienced it. Their initial resistance and subsequent defiance faded as they realised their stance was not going to have a happy ending. Community members and NG Church members in Friemersheim, recount the story of their dispossession in Stockenström and final journey to Friemersheim with a great deal of pain and anguish. Individuals from various religious groups show pictures of their farms that they left behind. With their words, they paint a picture of a deep rural community where everyone was engaged in pastoral activities, including stock farming of various animals like cattle, sheep, goats, pigs and chickens. They also mention vegetable gardens, fruit trees and various other agrarian activities. They were never rich but they were self-sufficient and were able to sustain themselves from what they produced on the land. Very few had the need for formal training since all the learning was done on their farms. They tried everything possible within their power to retain what they had and to prevent the inevitable. Many of their questions went unanswered: Why must they move? What about their family heritage? Why can’t they get paid compensation commensurate with their property values? Will they have properties equivalent to what they have in Stockenström? Who decided that they only have two options for alternatives to choose from? Where will the money come from? Why must they go a place they had never seen and know nothing about?

The forced removal process brought about tensions within the community because some people began to co-operate while others still resisted to the bitter end when the trucks arrived. From the interviews, it emerges that a schism developed between those who relocated to Friemersheim and those who did not. Some of these dissident community members left Stockenström for other places. Before departing, they raised vehement objections to the move to Friemersheim and some demanded their NG church membership cards believing the church was collaborating with the apartheid government. At a meeting,

a week or two before departure, some of the people who staged a walk-out at a previous meeting, forcibly entered a NGSKSTK board meeting and physically seized the books and other records from then assistant secretary, Ms Christina Du Preez. Ms Christina Du Preez, during her interview, expressed her horror of this event and was shocked that upstanding church members would resort to such outrageous behaviour that bordered on the criminal. The documents that were seized included minutes of meetings and the cheque book of the NGSKSTK. Present at this meeting was the NGSKSTK board including Mr. Bailey and Ds Maart.

5.9. THE QUEST FOR RESETTLEMENT IN FRIEMERSHEIM

After arriving in Friemersheim, many meetings took place in their quest for resettlement which was promised to them. Further meetings took place between the Dutch Reformed church, “old Stockenströmers” and the Friemersheim Town Council at various intervals. Over the subsequent years, many attempts were made to achieve resolution and security of tenure among the resettlement claimants. The next level of Dutch Reformed church hierarchy was called upon in mid-June, 1991, to intervene in an effort to resolve the resettlement issue. The Ring Committee Stockenström represented this next level of the church hierarchy. However, this intervention was not without controversy. The “new” Church Board members adopted the stance that the property acquired in Friemersheim should be registered in the name of the Church Board.

The “old Stockenströmers” made submissions requesting the review the role of the NGSKSTK as primary owner of the Moordkuyl property. From interviews with the community, it appears that the newly reformed NGSKSTK no longer represented the Friemersheim component and held a different view. This new NGSKSTK board resided in the Eastern Cape far away from their congregation in Friemersheim.

Bohnen (2002) also confirms in his report that there were many representatives of the “old Stockenströmers” (Friemersheim based Stockenströmers) at a 5 June 1991, meeting. These same “old Stockenströmers” wanted to discuss their resettlement in Friemersheim. Other relevant issues raised at this meeting was the fact that the Friemersheim Local Council had failed to transfer the property, Moordkuyl, to the minister, Mr. Curry (Coloured Representative Council – part of the Tri-cameral Parliament. The Friemersheim Local

Council which was chaired by a Mr. Maart, who happened to be the father of Ds Maart, was receptive to the position adopted by the new Church Board. The meeting decided that they would request from the Friemersheim Council that the property, Moordkuyl, should be re-registered to the NGSKSTK, without prejudice. The Friemersheim community were vehemently opposed to this. Despite all the discussions above, this matter came to a head when the NGSKSTK (new Church Board) launched a high court case against the Management Board of Friemersheim Town Council (case number 5613/1992). This legal dispute then halted any further intervention from the church hierarchy.

Two years later, on 22 February, 1994, the Ring Commission, Stockenström met once more, with a delegation of “old Stockenströmers” in Fort Beaufort to discuss a few pertinent issues. Uppermost on the agenda of this delegation was the issue of re-registration of the Moordkuyl property in the name of an individual- Mr. Loots (secretary) and allegedly a member of the NGSKSTK. Another individual, a Mr C. Meyer also allegedly a member of NGSKSTK, wanted to buy the Moordkuyl property. Neither of the proposals were approved after objections by the Friemersheim community.

The Ring Commission reaction was very clear in 1994. They contend that they did not have a Dutch Reformed Mission church in Friemersheim and they confirm the continued existence of the NGSKSTK in Hertzog, albeit without a Church Board. In addition, they confirm that the previous Dutch Reformed Ring Commission did not cancel the current membership of the people originally removed from Stockenström. They remained part of the congregation and was entitled to participate in the election of a new Church Board.

At this juncture, the Dutch Reformed Ring Commission offered advice to those from Friemersheim that they write to the state president stating their case and requesting a proclamation of the property from white ownership to normal town. They also advised that this community write a second letter to the Friemersheim Council to request that the farm be declared a town so that development can take place. They advised that this community take membership of the existing NG community in Friemersheim to make the transition from Stockenström easier.

The main premise of the campaign by the “old Stockenströmers” to the various levels of the Dutch Reformed church, department of Rural Development and Land Reform, the Commission for Restitution and Land Reform and every other administrative or religious body, has always been, that they needed full acknowledgment of all those dispossessed, regardless of religious affiliation in the resettlement of the people. Another constant appeal has been, that everyone be allotted that which was determined collectively, prior to dispossession. Also, that all the assets that the collective had worked hard to accomplish prior to dispossession, be distributed to all who were made that promise. In addition, they wanted the highest level of the Dutch Reformed church, to nullify all actions taken by an “illegitimate” church board, on behalf of Friemersheim community, in the restitution and resettlement process.

This is a clear indication of a dedicated community intent on ensuring that restorative justice is done. It also is an inherent recognition by this group, that it is a dispossessed community that has been wronged and is seeking restitution, not a board, church, a council, a ring commission or an individual.

5.10. THE CHALLENGES- FROM FORCED REMOVAL AND DISPOSSESSION TO NO SECURITY OF TENURE IN FRIEMERSHEIM

At the start of the forced removal of the Stockenström community, it was apparent that the community in the Ciskei (Stockenström, Katriver, Hetzog, etc.) area were bewildered as they began to accept the reality of the situation. The intense pressure from the National government, was present, the newly formed Ciskei Bantustan authority was keen to exert their new policy for their Xhosa citizens. Moreover, the individual new occupants of the Ciskei area were impatient to get into their “new properties.” The respondents in interviews and in questionnaires told of the pressure they felt to relinquish their property they called “home” because of all the above factors. Not much is known about what was communicated to the new Bantustan citizens but they made life very uncomfortable for the “old Stockenströmers” who were resisting the forced removal.

The community was therefore aware that sooner rather than later, they needed to move out of the Ciskei and their options for a place of resettlement were limited. Many meetings

were held for all the community members and the person mentioned frequently as being the community leader at the time, was Mr Bailey (deceased) leader of the NGSKSTK, who was also a school principal and community leader. He, mainly, canvassed the entire broader Katriver district community to at first, resist the forced removals. Later, he requested extension after extension to try and get what amounted to a stay of execution on the forced removals for the Stockenström community. Already, at this initial phase prior to resettlement, Mr. Bailey was at pains to reassure the broader Katriver community that all their specific concerns, as well as the collective concerns, regarding their move out of the Stockenström area, would be considered. When it became clear that the entire process had only one outcome, they reluctantly agreed to consider resettlement alternatives. Consequently, community meetings are held where it was decided that a delegation is sent on behalf of the community to consider some options for resettlement. One of the interviewees, Ms Marshie Noonan, a catholic, was part of this delegation.

5.11. THE TWO OPTIONS

As the Stockenström community began to consider relocating, two options were presented by Ds Maart. It is uncertain how these options were selected and exactly who selected them. Ms Marshie Noonan, then related that the two properties that were viewed at the time, was in Alexandria and Friemersheim. The delegation that included Mr. Bailey, rejected the property in Alexandria in favour of the Friemersheim option, citing that the Alexandria property had a few deficiencies including poor access to water, a critical commodity in farming. Other shortcomings were also mentioned in the interview, but the primary reason for rejection was the poor facilities on the Alexandria farm. So, by virtue of elimination, the Friemersheim option became the only one to be considered and this was conveyed to the broader Katriver community in the delegation's report back meeting. It is not known why these two options were the only ones available to the community. None of the interviewees could explain this issue.

Interesting facts emerge from the interviews with regards the family connection between the pastor, Ds. Maart and the persons nominated by the community claimants, formed part of the delegation who met the Friemersheim Town Council. The delegation was received by Mr. Maart, father to the NGSK pastor at that date, whilst the father was head of the

Friemersheim Council (a product of the Apartheid government's' Tri-cameral parliament), in other words, a coloured representative council. It is important to mention this family connection at this stage, as it becomes increasingly germane as the convoluted story unfolds.

As per Ms Noonan's interview, the delegation is shown the full extent of the farm Moordkuyl, and assured by all, including the seller of the property Mr. van der Westhuizen (white property owner), that all of that portion of Moordkuyl farm, will belong to the Stockenström community. They were also assured that their living conditions would not differ materially from what they had enjoyed in Stockenström. With this assurance in hand, the delegation is satisfied that all their concerns and needs would have been met with the Friemersheim option.

It is noted that the acquisition and registration of the farm Moordkuyl would have been a problem for any coloured person or group, yet this option was presented to the community. At that time the apartheid laws were strictly enforced. During the 1980s, because of the Group Areas Act, there had been many instances of government evictions of coloured, Indian, black and other race groups, prohibiting them from ownership of white-owned land and property. Evictions, expropriation and arrests for those who did not "qualify" or who did not have the necessary permits to apply for permission to reside was the order of the day. Those permits were not easily obtainable. It is apparent that this issue was not brought to the attention of the Stockenström community and they only became aware of it after they arrived in Friemersheim. It is important to highlight the political historical context when examining the report of Ds Bohnen (2002) in this regard. Bohnen (2002), states that the deed of sale was signed on 23 October, 1985 by the seller, J.S van der Westhuizen and by three others (J.M. Maart, J. Loots and DFN Bailey) on behalf of the buyer. Bohnen (2002) also notes that all the recommendations by the attorney Espin and Espin was contained in the deed of sale.

However, Bohnen (2002) notes further that even while all the legal considerations with regards the deed of sale was adhered to, some problems arose. These problems related specifically, to the statutory requirements of the Rural Coloured Areas Act No 24 of 1963, which caused delays with regards the transfer of the land to the coloured community/

congregation from Stockenström. Subsequently, a meeting was called for on 8 November 1985 between representatives of the local council of Friemersheim (Bestuursraad Friemersheim –BF) and NGSKSTK in Hertzog. It is at this meeting that the decision is made to nominate the local Friemersheim council to take ownership of the farm Moordkuyl on behalf of the NGSKSTK. In addition to this “temporary transference of ownership”, there was the acknowledgement that the NGSKSTK would provide the funding for the purchase of the property, Moordkuyl. It is once more important to note that Ds Maart, pastor to the SKSKSTK is the son of Mr. Maart, main representative of the Friemersheim Council, who is now been requested to stand in as temporary owner for the Stockenström community.

For expediency, it appears that a deal was brokered between the NGSKSTK (still headed by Mr. Bailey) and the local municipal authority, under whose jurisdiction this Moordkuyl property resided. There were some specifics in terms under which entity the *de facto* ownership of the property would reside. It was also understood by the parties that in fact, because of the Group Areas Act, which prohibited the transfer of ownership to coloured persons that such a transaction could not be processed without concessions such as the apartheid government’s permit system. All parties were at pains to emphasise that the property belonged to the NGSKSTK. Hence the Council of Friemersheim, proceeded to apply for the purchasing of the property Moordkuyl even though the deed signed and sealed on 22 April, 1986 read that the Council Friemersheim was the legal owner of the property Moordkuyl. Based on this understanding the NGSKSTK represented by Mr Bailey, signs the cheques that paid an amount of R13, 735 to Betsie Pienaar, Attorney, Conveyancer and notary from Mosselbay for transfer duty on 21 March, 1986 (Standard bank, Fort Beaufort, cheque No 315853, receipt No 064) (Bohnen, 2002). In addition, Mr. PR Walters, surveyor, was paid an amount of R12, 051.97, on 11 November 1987 (Standardbank, Fort Beaufort cheque no 315976). Mr. Bailey is signatory on both of these cheques as well (Bohnen, 2002).

It is evident that the very little (if anything) of the issues covered in the preceding paragraphs were known to the community prior to the removal from Stockenström. They only became aware of these issues as they began to engage in resettlement negotiations. Many of them raised the question why a property was purchased in a white group area,

which they themselves could not occupy in terms of the then government's laws. Why was this not disclosed to them? Did the purchase of this particular farm suggest that deals were cut for the benefit of some people in this process? Why was a father and son instrumental in the acquisition of this property? Was it just a mere co-incidence? Was there any special relationship/friendship between the owner of the farm and the chairman of the Friemersheim Local Town Council? How did this property become a resettlement option for the people of Stockenström? Most of these questions remain unanswered.

5.12. THE ROLE OF THE LOCAL AUTHORITY IN THE TRANSFERENCE OF THE FARM MOORDKUYL

Out of the above transitional land “purchase” arrangement, a few critical issues emerge, namely, that urgent attention be given to the incorporation of the newly purchased farm by the Friemersheim Council and the re-transference of the property rights to the NG Mission Church Stockenström (NGSKSTK). With reference to Ms Noonan's and Ms Christina Du Preez's interviews, it is the NGSKSTK (headed by Mr. Bailey at the time), that agrees to acquire the property. However, it was with the tacit understanding that this acquisition is on behalf of all of the dispossessed community relocating to Friemersheim, regardless of religious affiliation. Ms Noonan, herself bears testimony to this understanding of inclusivity of religions, since she is a product of a mixed religion household. One parent was catholic and the other was Dutch Reform. She attended the Catholic Church, but taught religion and sang in the choir at the NG church. Similar integrated religious affiliations emerge from various other community members who attended these community meetings held by Mr. Bailey, prior to the removals.

It was generally understood that the Friemersheim council will act on behalf, and in the interest of, the Missionary church Stockenström (NGSKSTK). They would also specifically act as facilitator to ensure that the property would be transferred in the name of the Minister of Rural development (Tri-cameral authority), ostensibly, to circumvent further dispossession (Bohnen 2002). This action would be for exclusively for expediency sake, so that that the property would qualify for coloured rural development programme/fund already in existence to help develop the area for its coloured citizens.

However, in the implementation of the above action through the official council channels, this interpretation was initially held in abeyance. According to Bohnen (2002), the interpretation of Friemsheim Council's ownership of the property Moordkuyl, was the one which was considered and not that of conduit for the NGSKSTK. Nonetheless, at various council meetings, the interpretation of "acting on behalf of NGSKSTK" was again referred to, including at an extraordinary council meeting held on 21 March, 1988.

Simultaneously, there is a report placed before the council that the re-transference of ownership to NGSKSTK is underway by virtue of negotiations with a Mr. Raubenheimer from George. Also, according to the deeds office, there is a need to secure the services of a conveyancer. The overall assessment of ownership is referred to through various activities, whereby the NGSKSTK is again required to act as the owner of the property Moordkuyl, and not the Friemersheim Council, including instances of clearing the property and sale of smaller plots. Confirmation of the transfer of the property to NGSKSTK was affirmed from the office of Agriculture (as per Tricameral Governance) echoing the willingness to transfer the property unconditionally to the NGSKSTK council on 13 April, 1988.

But in minutes of a meeting held in 22 August 1986, the Friemersheim council refers to themselves as co-owners of the farm Moordkuyl. This appears to be a fracture in the undertaking of "acting on behalf of" of NGSKSTK, agreement. It behoves the reader to recognize that the governance of the property Moordkuyl, currently in temporary custody of the Friemersheim Council, is in jeopardy. But once more that matter is debated and resolved. Acknowledgement of the definition of co-owners is debated at a later meeting and the final conclusion is that the NGSKSTK is indeed the owner outright, confirmed. Implication is that co-sharing the property is not a viable option with the Friemersheim council. What materializes from this meeting is that it was never the intention of the Friemersheim council to have ownership of the farm.

In November 1995, during a Ring Commission meeting in Fort Beaufort, it is once again revealed that the question of management/ ownership of the farm Moordkuyl, is in jeopardy. This time correspondence from Ds, J.M. Maart, ostensibly for NGSKSTK

(without Mr Bailey), to Department of Agriculture (Tricameral parliament), requesting that the farm Moordkuyl be transferred to the NGSKSTK Board. Three months later (1 Feb, 1996), the Department of Housing, Rural Development and Planning, responds to Ds J.M Maart. The correspondence, according to Ds J. Bohnen (2002) points to apparent contradictions in management/ ownership of the farm Moordkuyl. Apparently there appears to be a number of agreements and counter agreements in the communication from many communicators, including the Friemersheim board all of whom have given a perspective on the farm, Moordkuyl. In his communication Ds Maart also asks that the Friemersheim Council gives and accounts of the rental money that they collected on behalf of NGSKSTK property, Moordkuyl. No one knows what happened to the money.

5.13. SUMMARY

One of the most humiliating experiences in the history of South Africa was the forced removals of people from their places of birth and residence to unfamiliar areas. The Stockenström community experienced this first hand. In the early 1980's the then apartheid government was busy implementing its Bantustan policy and proclaimed parts of the Eastern Cape area for people of a specific ethnic group, the Xhosa. A part of the proclaimed land included Stockenström, which was an area occupied predominantly by coloured people. In order to ensure that the "coloured spot" is removed, the government engaged in a process which ultimately led to the forced removal of the coloured people from their land. They were dispossessed of their land in Stockenström in the Eastern Cape, relocated and dumped in Friemersheim, in the Western Cape. Some received meagre compensation for their properties which was not in any way commensurate to the values of their properties. There were no discussions with the property owners about compensation. No one knows what criterion was used to determine compensation. It appears that the amount of compensation depended on the property owner's level of resistance to the forced removals with some people receiving nothing at all.

This case study reflects on the struggles of the people of Stockenström who in 1987 embarked upon a 30-year struggle for the promised resettlement in an area called Friemersheim in the Western Cape some 800km from their erstwhile homes. Although there were consultations with them at the commencement of the process, it is evident they

never quite understood what was happening and lived in hope especially when the church became involved. Moreover, they were never really empowered with all the facts and made discoveries along the way in the 30-year quest for resettlement. They also struggled to get their voices heard ending up attending many meetings with anyone prepared to listen to them.

A 250 hectares of farm land (Moordkuyl) was acquired through the involvement of the church, for resettlement purposes in 1986, but they are still waiting to move onto the land due to a variety of reasons. The Stockenström community never took occupancy of the acquired land. The farm land was situated in a white group area. Many of the dispossessed coloured land owners died in their quest to enforce a resettlement agreement. Throughout their 30-year quest, the community held the view that the land was acquired for resettlement of the people who were forcibly removed from Stockenström and that the church was the conduit to achieve this. In 1996 a land claim was filed on the behalf of the Stockenström community in respect of the acquired farm land called Moordkuyl.. In 1998, a competing claim was filed for the same farm land by the church. The church board maintained the view that the land should belong to the church and must be transferred into the name of the church because “they paid the purchase price”. The standoff between the Church Board based in the Eastern Cape and the Stockenström residents in Friemersheim resulted in a stalemate in the process.

Many meetings were convened by the Land Claims Commission in an attempt to try and resolve the dispute so that the land claim could be finalised. The process was fraught with all kinds of difficulties. The parties maintained their respective stances. In the most recent meetings held in 2017, the Stockenström community submitted a compromise proposal to the effect that each of the remaining families should be allocated two hectares of land and the remainder of the land be allocated to the church to be held in trust, for agricultural development purposes for the benefit of the families in Friemersheim. This proposal was rejected by the Church Board submitted a counter-proposal that only 5 hectares of land be set aside for occupation by the families. Not only did the families deem the counter-unacceptable, they also questioned the legitimacy of those claiming to represent the

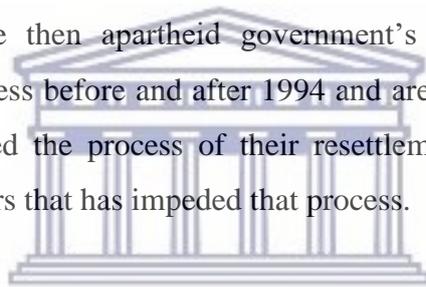
Church Board. Thus the resettlement issues remain unresolved. The matter has now been referred to the Land Claims Court for adjudication.



CHAPTER 6: CONCLUSIONS AND RECOMMENDATIONS

6.1 INTRODUCTION

When Nelson Mandela assumed office in 1994, land reform has been one of the critical focus areas for the new democratic government. It attempted to address the apartheid legacy of forced removals and dispossession. The constitution of the democratic government guarantees all citizens equal treatment. Thus, all South Africans are now entitled to equitable access to land and shelter. In order to achieve the realisation of this entitlement, an equitable balance had to be established between the legitimate interests of the holders of the rights to land, and the legitimate needs of those without land and shelter. The Stockenström community, who were forcibly removed from their land in 1986 after the implementation of the then apartheid government's Bantustan policy, has been engaged in a quest for redress before and after 1994 and are now before the Land Claims Court. This study examined the process of their resettlement since their dispossession including some of the factors that has impeded that process.



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The resettlement of the Stockenström community has been the subject of ongoing negotiations and mediation for the better part of 30 years and remains unresolved. The overwhelming majority of the original households of Stockenström community are either pensioners or they are descendants of deceased persons who were forcibly removed from their land in the Eastern Cape in 1986. They were the victims of a questionable process that was not cognisant of their dignity, even in the democratic era. The entire process was murky with the community depending on the Church leadership for information, who themselves were not fully empowered. The Church leadership themselves did not always seem to fully comprehend the forced removal process in their facilitation of the relocation of the community. The selection of Friemersheim from one of two options was never fully explained to the community. By relocating to Friemersheim, the community lost their former independence and agricultural lifestyles including farming skills, and facing food insecurity had to work as wage labourers, factory workers, or unskilled artisans.

The Department of Rural Development and Reform attempted to secure a resolution of the matter, which became a protracted process because of a failure to recognise the true nature of the dispossession. While they acknowledged that forty-five families were forcibly moved from the Eastern Cape, they deemed the post 1995 NG Church Council to be the legitimate owners who were dispossessed because the records reflect that the church paid the purchase price for the acquisition of the Moordkuyl property in Friemersheim. Even though this was the stance they had adopted, they never established whether the Church Council representatives who acted on behalf of the Church in the land claim process were indeed legitimate, notwithstanding the fact that legitimacy was a key issue raised by the Stockenström families.

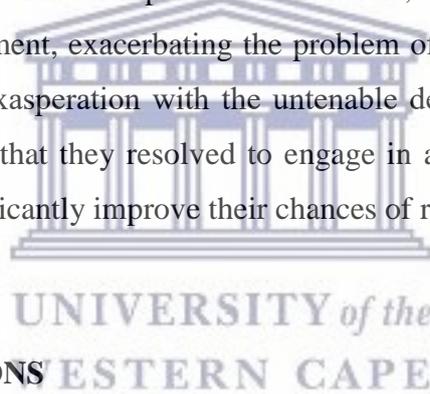
6.2. CONCLUSION

Throughout the post-forced removal process, nothing had significantly changed in the lives of those Stockenström people dispossessed in 1986. There had been not been any restitution. None of those who had been dispossessed in 1986/87 had any form of closure or conclusion in their land claim. The community watched their parents and grandparents depart the earth with agony of not knowing whether their families will be settled. It was evident that the pain of being uprooted during forced removals is still all too real for those who experienced it. With nothing being finalised, none of the promised, re-settlement support, and potential government support programs to rebuild a community was applicable in this case study. The significant passage of time, ensured conclusively, that almost none of the original dispossessed community had their lives, retrospectively changed or restored.

This study has also highlighted the need for post-democracy policy-makers and government officials to walk the talk of the very claimants or beneficiaries they have profess to assist in land reform programs. Government interventions, transformative processes and new innovations to address the ravages of apartheid's land tenure question has not produced the desired result for the Stockenström community in Friemersheim. It is also evident that there is a disjuncture between what policy makers craft in ivory towers

and what is the current reality. The knowledge base from which policies are drawn, in some instances, owes its existence from books, comparative studies and misnamed “experts”. These green, white papers and other untested “transformative change agents” often mislead policy makers, for the most part, into ill-conceived legislation steeped with impracticality.

This same “innovative” legislation is then either erroneously interpreted, corrupted, or misdirected by those very implementers who are supposed to share the vision of restorative justice. Policy makers, across the political spectrum, who are representing their constituents needs, often do not understand nor care that their action or inaction, have failed to resolve the pain of dispossession. Post-democracy transformative legislation was supposed to alleviate the problem and end their landlessness. Instead their current battle was and is still, riddled with examples of individuals, church groups, departmental officials, and local government, exacerbating the problem of landlessness. It is primarily due to the communities’ exasperation with the untenable delays and corrupt practises of those with vested interest, that they resolved to engage in a legal battle to challenge the stakeholders, so as to significantly improve their chances of resolution.



6.3. RECOMMENDATIONS

The Old Stockenström claimants, would find resolution to their case, if there is certainty that the land is indeed theirs, which means that the settlement of the claim is critical. Consequently, government’s top priority should be to settle the claim in such a way that all the claimants’ expectations are realised. Court challenges should be minimized, but arbitrating these disputes would have a better turnaround time. After thirty years spent in relative squalor, more thought should have been given to finding an amicable and mutually benefiting settlement for the competing claimants rather weighing one against the other and finding fault with one and favouring the other. Both sets of claimants have been robbed of their community and indeed their property through the dispossession and resettlement process.

Another crucial area in which to receive closure is where everyone has sufficient land to engage meaningfully in every entrepreneurial opportunity conceived. Old Stockenströmers also need a specific government strategy that would target specific agrarian and other programmes, which would include taking produce from these communities directly to accessible markets, local, provincial, national and even international. The scale and size of these endeavours is conditional on the skill- sets that have to be developed and the size of the property allocated to the beneficiary.

Hall (2009) suggests that the evidence shows that the South African Government as well as the expectations from claimants in terms of ownership of land, has been over-estimated. The implementation of the restitution programme, whilst having the political will to transform, sufficient funding to implement, has more complexities than anyone initially anticipated. The magnitude of the claims themselves have become a burden for which all types of “quick wins” are being explored including land expropriation (funded and unfunded).



BIBLIOGRAPHY

- Adler, P. and Adler, P. 1994. Observation techniques. In Denzin, N. and Lincoln, Y. (eds), *Handbook of qualitative research* (pp. 377-392). Thousand Oaks, CA: SAGE Publishers.
- African National Congress (ANC). 1994. *Reconstruction and Development Programme: A Policy Framework*. Johannesburg: Umanyano Publications.
- African National Congress (ANC). 2012. *Land reform policy discussion document*. Available at: http://www.anc.org.za/docs/pol/2012/landpolicyproposals_june2012v.pdf [Accessed 15 June 2015].
- Alden, C. 2009. *Land, liberation and compromise in Southern Africa*. Basingstoke: Palgrave Macmillan. Available at: <https://workerssocialistparty.co.za/marxism-and-the-land/> [Accessed 17 January 2018].
- Babbie, E. and Mouton, J. 2001. *The practice of social research*. (South African Edition). Cape Town: Oxford University Press.
- Ballesteros, M. and De la Cruz, M. 2006. *Land reform and changes in land ownership concentration*. Philippines: Philippine Institute for Development Studies.
- Bank, L. and Mabhena, C. 2010. After the Communal Land Rights Act: Land management, power and arrested development in rural Eastern Cape, SABC News, 11 May.
- Bernstein, H. 1998a. Book review of 'Citizen and subject: Contemporary Africa and the legacy of late colonialism' by M. Mamdani (1996). *Development and Change* Vol. 29: 15
- Bernstein, H. 1998b. Social change in the South African countryside? Land and production, poverty and power. *Journal of Peasant Studies*, 25(4): 60
- Bohnen, J. 2002. *Verlag van die aanloop, aankoop, interim-transportering, inlywing en resente pogings tot hertransportering van die plaas Moordkuyl te Friemersheim in naam van die VGK Stockenström gemeente en die posisie van die "Oud-Stockenströmers" tans gehuisves te Friemersheim*. [Unpublished Report of Former Consulatant-preacher to Vereegende Gereformeerde Kerk, Stockenström]. 4th Edition.
- Chambers, R. 1997. *Whose reality counts? Putting the first last*. London: Intermediate Technology Publications.
- Chaskalson, M. 1997. *Land Claims Courts, Consultus*. Johannesburg: Centre for Applied Legal Studies, University of the Witwatersrand. Available at:

<http://www.sabar.co.za/law-journals/1997/may/1997-may-vol010-no1-pp31-32.pdf>
[Accessed 03 February 2014].

Checkland, P. and Holwell, S. 1998. Action research: Its nature and validity. *Systemic Practice and Action Research*, No 11(1):9-21.

Claassen, L. 2011. 'Kerk verloor duisende'. *Rapport Nuus*. 22 October. Available at: <http://www.rapport.co.za/KaapRapport/Nuus/Kerk-verloor-duisende-20111022>.
[Accessed 01 March 2016].

Cliffe, L. 2007. Policy options for land reform in South Africa: New institutional mechanisms? Policy Brief 26. Bellville: PLAAS, University of the Western Cape.

Commission on Restitution of Land Rights (CRLR). 2002a. *Annual Report: April 2001 – March 2002*. Pretoria: Government Printers.

Commission on Restitution of Land Rights (CRLR), 2002b. *Land Restitution under the rule of law equals peace, stability, prosperity, justice and sustainable development*. Pretoria: Government Printers.

Commission on Restitution of Land Rights (CRLR). 2016. Annual Performance Plan: 2016/2017. Pretoria: Government Printers.

Cousins, B. 2002. *Reforming communal land tenure in South Africa: Why land titling is not the answer: Critical comments on the Communal Land Rights Bill, 2002*. Programme for Land and Agrarian Studies (PLAAS), School of Government, University of the Western Cape. Available at: http://www.plaas.org.za/sites/default/files/publications-landpdf/reforming_communal_land_tenure_sa.pdf [Accessed 3 Feb 2014].

Cousins, B. and Hall, R. 2015. The Restitution of Land Rights Amendment Act of 2014 [unpublished paper]. An analysis commissioned by the Legal Resources Centre. Bellville: PLAAS, University of the Western Cape.

Cousins, T. and Hornby, D. 2002. *Leaping the fissures: Bridging the gap between paper and real practice in setting up common property institutions in land reform in South Africa*. Bellville: PLAAS, School of Government, University of the Western Cape.

Creswell, J.W. 2003. *Research design: Qualitative, quantitative, and mixed methods approaches*. Thousand Oaks: Sage Publications.

Davids, I., Theron, F. and Maphunye, K. J. 2009. *Participatory development in South Africa: A development management perspective* (2nd ed). Pretoria: Van Schaik Publishers.

Davis, G. 2016. Over 100 000 land claims put on ice following ConCourt ruling. *Eyewitness News*. Available at <http://ewn.co.za/2016/07/29/Over-100000-land-claims-put-on-ice-follow-ConCourt-ruling>. [Accessed 20 July 2017].

- De Klerk, M. (ed). 1991. *A harvest of discontent: The land question in South Africa*. Cape Town: IDASA.
- Deng, L.A. and Tjønneland, E.R. (eds). 1996. *South Africa: Wealth, poverty and reconstruction*. Bergen Trykk: Chr. Michelsen Institute and Centre for South African Studies.
- Department of Planning, Monitoring and Evaluation (DPME). 2016. *Policy brief series: Evidence-based policy-making and implementation*. Available at: <http://www.ruraldevelopment.gov.za/publications/evaluation-reports/file/4665-restitution-policy-brief-series>. [Accessed 13 June 2017].
- De Satgé, R. et al. 2002. *Learning about livelihoods: Insights from Southern Africa*. UK: Oxfam Publishing.
- De Vaus, D.A. 2001. *Research design*. London: Sage Publications. Available at: http://research.apc.org/images/5/5f/De_Vaus_chapters_1_and_2.pdf. [Accessed 20 July 2017].
- De Villiers, B. 2008. *Land reform: A commentary*. Johannesburg: Konrad Adenauer Stiftung.
- Du Toit, A. 2011. *Comment on the newly-released Green Paper on Land Reform*. Available at: <https://anothercountryside.wordpress.com/2011/09/26/comment-on-the-newly-released-green-paper-on-land-reform/>. [Accessed 23 February 2016].
- Du Plessis, W.J. 2011. *African Indigenous Land Rights in a Private Ownership Paradigm* PER, 2011, Volume 14 (7):45
- Erlank, W. 2014. *Green Paper on Land Reform: Overview and challenges*. Potchefstroomse Elektroniese Regsblad (PER), 17(2). Available at: http://www.scielo.org.za/scielo.php?script=sci_arttextandpid=S1727-37812014000200002. [Accessed 23 February 2016].
- Geni Heritage Company. 2017. *Kat River Settlement*. Available at: <https://www.geni.com/projects/Kat-River-Khoi-Settlement/31897>. [Accessed 1 May 2017].
- Gibson, J. L. 2009. *Overcoming historical injustices: Land reconciliation in South Africa*. Cambridge: Cambridge University Press.
- Gobodo, N. 2016. Media Statement by the Chief Land Claims Commissioner, Ms Nomfundo Ntloko Gobodo. Available at: <http://www.forestry.co.za/media-statement-by-the-chief-land-claims-commissioner>. [Accessed 16 June 2017].
- Greenberg, S. 2010. *Status report on land and agricultural policy in South Africa, 2010*. Research Report 40. Bellville: PLAAS, University of the Western Cape.

- Greenwood, D.A. 2002. Action research: Unfulfilled promises and unmet challenges. *Concepts and Transformation*, 7(2):117-139.
- Groenewald, Y. 2008. Land reform hobbled by capacity problems. *Mail and Guardian*. Available at: <http://mg.co.za/article/2008-02-22-land-reform-hobbled-by-capacity-problems>. [Accessed 30 May 2015].
- Hall, R. 2007. *Impact of land restitution and land reform on livelihoods*. Bellville: PLAAS, School of Government, University of the Western Cape.
- Hall, R. (ed.) 2009. *Another countryside? Policy options for land and agrarian reform in South Africa*. Bellville: PLAAS, School of Government, University of the Western Cape.
- Hebinck, P. and Cousins, B. (eds). 2013. *In the shadow of policy: Everyday practices in South African land and agrarian reform*. Johannesburg: Wits University Press.
- Hill, T. and Nel, E. 2000. *An evaluation of community-driven economic development, land tenure and sustainable environmental development in the Kat River Valley*. Pretoria: Human Sciences Research Council (HSRC).
- Horse, P.G. 2004. Native American Identity. *New Directions for Student Services*. Available at: [http://web.b.ebscohost.com.ezproxy.uwc.ac.za/ehost/pdfviewer/pdfviewer?sid=142e38be-e73f-49ae-92fd-6d315f64f96c%40sessionmgr110andvid=1andhid=124p64 – 68](http://web.b.ebscohost.com.ezproxy.uwc.ac.za/ehost/pdfviewer/pdfviewer?sid=142e38be-e73f-49ae-92fd-6d315f64f96c%40sessionmgr110andvid=1andhid=124p64-68). [Accessed 20 July 2015].
- Irion. 2014. *Meeting with Stockenström Church Council*. E-mail correspondence between irion1@live.com and Vernonseymour1@yahoo.com, 27 February 2014, 08:39am.
- Jennings, G. 2010. *Tourism research*. Australia: John Wiley.
- Kleinbooi, K. 2007. *Schmidtsdrift community land claim*. Bellville: PLAAS, School of Government, University of the Western Cape.
- Kleinbooi, K. (ed.) 2010. *Review of land reforms in Southern Africa*. Bellville: PLAAS, School of Government, University of the Western Cape.
- Kodwa, Z. 2014. *The enactment of the Restitution of Land Rights and Property Valuation Bills*. Available at: <http://www.anc.org.za/show.php?id=10986>. [Accessed on 3 March 2016].
- Kumar, R. 2005. *Research Methodology: A step-by-step guide for beginners*. London: SAGE Publications.
- Kumar, R. 2014. *Research Methodology: A step-by-step guide for beginners*. Los Angeles: SAGE Publications.

- Lahiff, E. 2002. *Land reform and sustainable development in South Africa's Eastern Cape Province*. Research Report No 14. Bellville: PLAAS, University of the Western Cape.
- Lahiff, E. 2007. *State, market or the worst of both? Experimenting with market-based land reform in South Africa*. Bellville: PLAAS, University of the Western Cape.
- Lahiff, E., Davis, N. and Manenzhe. 2012. *Joint ventures in agriculture: Lessons from land reform projects in South Africa*. U.K: International Institute for Environment and Development (IIED).
- Leedy, P.D. and Ormrod, J.E. 2010. *Research in practice: Applied methods in social science*. Cape Town: University of Cape Town.
- Le Roux, P. and Graaff, J. 2001. State and social transformation. In: Coetzee, J.K., Graaff, J., Hendricks, F. and Wood, G. (eds). *Development: Theory, policy, and practice*. Cape Town: Oxford University Press.
- Letsoalo, E.M. 1987. *Land reform in South Africa*. Johannesburg: Skotaville Publishers.
- Levin, R. and Weimer, D. 1977. From apartheid to development in South Africa. In: Levin, R. and Weimer, D. (eds). *No more tears! Struggles for land in Mpumalanga*. Trenton, N.J.: South Africa World Press, pp. 3-25.
- Lewin, K. 2005. Action research and minority problems. In: Cooke, J. and Wolfram Cox, J. (eds). *Fundamentals of action research*. Vol. 1. London: SAGE Publications.
- Mamdani, M. 1996. *Citizen and subject: Contemporary Africa and the legacy of late colonialism*. Princeton: Princeton University Press.
- Manona, C. 1998. The collapse of the 'tribal authority' system and the rise of civic associations. In: de Wet, C. and Whisson, M. (eds). *From reserve to region: Apartheid and social change in the Keiskammahoek District of (former) Ciskei, 1950-1990*. Grahamstown: Van Schaik.
- Michigan State University (MSU). 1984. Overcoming apartheid. Available at: <http://overcomingapartheid.msu.edu/image.php?id=65-254-FF>. [Accessed 1 March 2016].
- Modise, L. 2010. *Black church buildings that are still on white churches' land: a land restitution perspective*. [online] Available at: <http://hdl.handle.net/10500/4621>. [Accessed on 12 August 2018]
- Mostert, H. 2010. Change through jurisprudence: The role of the courts in broadening the scope of restitution. In: Walker, C., Bohlin, A., Hall, R. and Kepe, T (eds). *Land, memory, reconstruction, and justice: Perspectives on land claims in South Africa*. Athens, Ohio: Ohio University Press.

- Mouton, J. 2001. *How to succeed in your Master's and Doctoral studies*. Pretoria: Van Schaik Publishers.
- Mouton, J. and Marais, H.C. 1996. *Basic concepts on the methodology of the social sciences*. HRSC Series in Methodology. Pretoria: HSRC Publishers.
- Moyo, S. 1986. The land question. In: Mandaza, I. *Zimbabwe: The political economy of transition, 1980-1986*. Senegal: Codesria Publications.
- Mthembu, J. 2013. *100 years of the Natives Land Act*. Available at: <http://www.anc.org.za/show.php?id=10355>. [Accessed 05 August 2015].
- Neuman, W.L. 2000. *Social research methods: Qualitative and quantitative approaches*. Boston, USA: Pearson.
- Nussbaum, M. 2000. *Women and development: The capabilities approach*. Cambridge: Cambridge University Press.
- Overholt, W.H. 1976. Land reform in the Philippines. *Asian Survey*, Vol.16. California: California University Press.
- Parliamentary Monitoring Group (PMG). 2014. Re-opening of the lodgement of land claims: Briefing by Commission on Restitution and Land Rights. Department of Rural Development and Land Reform National Assembly Committee. Available at: <https://pmg.org.za/committee-meeting/17391/>. [Accessed 03 March 2016].
- Peters, B.L. and Malan, N. 2000. Caveats for land reform in South Africa: Lessons from Zimbabwe, *South African Journal of International Affairs*, Vol. 7:10.
- Pienaar, G. 2013. Land tenure security: The need for reliable land information. *Journal of the Helen Suzman Foundation*. Issue 70, October.
- Platsky, L. and Walker C. (eds). 1985. *The surplus people's project: Forced removals in South Africa*. Johannesburg: Raven Press.
- Reason, P. and Bradbury, H. (eds). 2008. *The Sage handbook of action research: Participative inquiry and practice*. CA: Sage Publications.
- Republic of South Africa (RSA). 1966. *Group Areas Act of 1966*. Pretoria: Government Printers.
- Republic of South Africa (RSA). 1970a. *Proclamation No 25 of 1970*. Pretoria: Government Printers.
- Republic of South Africa (RSA). 1970b. *Bantu Homelands Citizens Act of 1970*. Pretoria: Government Printers.

- Republic of South Africa (RSA). 1971. *Self-Governing Territories Act of 1971*. Pretoria: Government Printers.
- Republic of South Africa (RSA). 1991a. *White Paper on Land Reform*. Pretoria: Government Printers.
- Republic of South Africa (RSA). 1991b. *Abolition of the Racially-Based Land Measures Act of 1991*. Pretoria: Government Printers.
- Republic of South Africa (RSA). 1994. *Restitution of Land Rights Act, Act No 22 of 1994*. Pretoria: Government Printers.
- Republic of South Africa (RSA). 1995. *Restitution of Land Rights Amendment Act, Act No 84 of 1995*. Pretoria: Government Printers.
- Republic of South Africa (RSA). 1996a. *Constitution of the Republic of South Africa, Act No 108 of 1996*. Pretoria: Government Printers.
- Republic of South Africa (RSA). 1996b. *Interim Protection of Informal Land Rights Act of 1996*. Pretoria: Government Printers.
- Republic of South Africa (RSA). 1996a. *Labour Tenants Act of 1996*. Pretoria: Government Printers.
- Republic of South Africa (RSA). 1996d. *Land Restitution and Reform Laws Amendment Act, Act No 78 of 1996*. Pretoria: Government Printers.
- Republic of South Africa (RSA). 1996e. *Upgrading of Land Tenure Rights Amendment Act of 1996*. Pretoria: Government Printers.
- Republic of South Africa (RSA). 1997a. *Extension of Security of Tenure Act of 1997*. Pretoria: Government Printers.
- Republic of South Africa (RSA). 1997b. *Land Restitution and Reform Laws Amendment Act, Act No 63 of 1997*. Pretoria: Government Printers.
- Republic of South Africa (RSA). 1997c. *White Paper on South African Land Policy*. Department of Land Affairs. Pretoria: Government Printers.
- Republic of South Africa (RSA). 1998a. *Guide to the Department of Land Affairs' land reform programme*. Pretoria: Government Printers.
- Republic of South Africa (RSA). 1998b. *Land Affairs General Amendment Act, Act No 61 of 1998*. Pretoria: Government Printers.
- Republic of South Africa (RSA). 1999. *Land Restitution and Reform Laws Amendment Act, Act No 18 of 1999*. Pretoria: Government Printers.

- Republic of South Africa (RSA). 2000. *Land Affairs General Amendment Act, Act No 11 of 2000*. Pretoria: Government Printers.
- Republic of South Africa (RSA). 2003. *Restitution of Land Rights Amendment Act, Act No 48 of 2003*. Pretoria: Government Printers.
- Republic of South Africa (RSA). 2007. *Public Service Amendment Act, Act No 30 of 2007*. Pretoria: Government Printers.
- Republic of South Africa (RSA). 2009. Department of Rural Development and Land Reform. Available at: <http://www.ruraldevelopment.gov.za/about-us#.VdLzTrKqpHw>. [Accessed on 20 April 2015].
- Republic of South Africa (RSA). 2011. *Green Paper on Land Reform*. Government Gazette No 34607, 16 September. Pretoria: Government Printers.
- Republic of South Africa (RSA). 2013. *Natives Land Act: Negotiating a new landscape 100 years later*. SA Government News Agency. Available at: <http://www.sanews.gov.za/south-africa/natives-land-act-negotiating-new-landscape-100-years-later>. [Accessed 19 February 2016].
- Republic of South Africa (RSA). 2014. *Restitution of Land Rights Amendment Act, Act No 15 of 2014*. Government Gazette No 37791, 1 July. Pretoria: Government Printers. Available at: http://www.gov.za/sites/www.gov.za/files/37791_Act%2015%20of%202014%20Restitution%20Of%20Land%20Rights%20Amendment%20Act_a.pdf. [Accessed on 19 February 2016].
- Republic of South Africa (RSA). 2015a. *Department of Rural Development and Land Reform: Strategic Plan 2015-2020*. 13 March. Available at: http://www.gov.za/sites/www.gov.za/files/drdlr_strat_plan2015_2020_13march2015_a.pdf. [Accessed on 20 March 2017].
- Republic of South Africa (RSA). 2015b. *National Treasury: Estimates of National Expenditure*. Pretoria: Government Printers.
- Sen, A. 1999. *Development as Freedom*. Oxford: Oxford University Press.
- South African Institute of Race Relations (SAIRR). 1977. *Race Relations Survey, 1977*. Johannesburg: South African Institute of Race Relations.
- South African Institute of Race Relations (SAIRR) 1985. *Race Relations Survey, 1985*. Johannesburg: South African Institute of Race Relations.
- South African Institute of Race Relations (SAIRR) 1986. *Race Relations Survey, 1986, Part 1*. Johannesburg: South African Institute of Race Relations.

- Steytler, N. (ed). 1992. *The Freedom Charter and beyond: Founding principles for a democratic South African legal order*. Plumstead: Wyvern Publications.
- Tilley, S. 2004. *Is expropriation the answer to the inadequacies of land reform?* Paper commissioned by Surplus People Project. Cape Town: Surplus People Project.
- Tilley, S. 2007. *International comparative study of strategies for settlement support provision to land reform beneficiaries*. Bellville: PLAAS, School of Government, University of the Western Cape.
- Union of South Africa. 1913. *The Natives Land Act of 1913*. Pretoria: Government Printers.
- Union of South Africa. 1927. *Black Administration Act of 1927*. Pretoria: Government Printers.
- Union of South Africa. 1936. *Native Trust and Land Act of 1936 No 18*. Pretoria: Government Printers.
- Union of South Africa. 1950a. *Group Areas Act of 1950*. Pretoria: Government Printers.
- Union of South Africa. 1950b. *Population Registration Act of 1950*. Pretoria: Government Printers.
- Union of South Africa. 1951a. *Bantu Authorities Act of 1951*. Pretoria: Government Printers.
- Union of South Africa. 1951b. *Prevention of Illegal Squatters Act of 1951*. Pretoria: Government Printers.
- Union of South Africa. 1953. *Reservation of Separate Amenities Act of 1953*. Pretoria: Government Printers.
- Union of South Africa. 1961. *Coloured Persons' Communal Reserves Act, Act No 3 of 1961*. Pretoria: Government Printers.
- Van der Walt, A. J. 1995. Land reform in South Africa since 1990: An overview. *SA Public Law Journal*, 10:1-30.
- Van Zyl, J., Kirsten, J. and Binswanger, H.P. (eds). 1996. *Agricultural land reform in South Africa: Policies, markets and mechanisms*. Cape Town: Oxford University Press.
- Walker, C. 1982. *A process of dispossession: An overview of relocation in Natal*. Pietermaritzburg: Association for Rural Advancement (AFRA).
- Walker, C. 2008. *Landmarked: Land claims and land restitution in South Africa*. Johannesburg: Jacana Media.

- Walker, C., Bohlin, A., Hall, R. and Kepe, T (eds). 2010. *Land, memory, reconstruction, and justice: Perspectives on land claims in South Africa*. Athens, Ohio: Ohio University Press.
- Weideman, M. 2004. Who shaped South Africa's land reform policy? *Politikon*, 31(2):219-238.
- Weiner, D. 1990. The land question in South Africa. In: Posterman, R.L., Temple, M.N. and Hanstad, T.M., *Agrarian reform and grassroots development*. South Africa: Lynne Rienner Publishers.
- Welman, C., Kruger, F. and Mitchell, B. 2005. *Research Methodology*. Cape Town: Oxford University Press.
- Western Cape Government. 2003. *Geographical orientation: Publications/Legislation Friemersheim*. Available at: <http://www.westerncape.gov.za/other/2003/friemersheim.pdf>. [Accessed 01 March 2016].
- Western Cape Government. No date. *Information on Rural Areas Act*. Available at: <https://www.westerncape.gov.za/general-publication/information-rural-areas-act>. [Accessed 30 June 2017].
- Wikipedia. No date. *Eden District Municipality*. Available at: https://upload.wikimedia.org/wikipedia/commons/thumb/0/08/Map_of_South_Africa_a_with_Eden_highlighted_%282011%29.svg/165px-Map_of_South_Africa_with_Eden_highlighted_%282011%29.svg.png. [Accessed 1 March 2016].
- Workers' Socialist Party. 2017. *Marxism and the land*. [online] Available at: <https://workerssocialistparty.co.za/marxism-and-the-land/> [Accessed 12 December 2017]
- Wotshela, L. 2009. Land distribution politics in the Eastern Cape midlands: The case of the Lukhanji municipality, 1995-2006. *Kronos*, 35:142-159.
- Yeasmin, S. and Rahman, K.F. 2012. 'Triangulation' research method as the tool of social science research. *BUP Journal*, 1(1), September. Available at <http://www.bup.edu.bd/journal/154-163.pdf>. [Accessed 12 June 2017].
- Yes Media. 2015. *Handbook for Local Government: A complete guide to municipalities in South Africa*. Available at: <http://www.localgovernment.co.za/locals/view/220>. [Accessed 30 August 2015].
- Yin, R.K. 2014. *Case study research: Design and methods*. Los Angeles: SAGE Publications.
- Zarin, H.A. and Bujang, A.A. 1994. *Theory on land reform: An overview*. Dept. of Property Management and Valuation, Faculty of Surveying, Universiti Teknologi,

Malaysia. Available at: <http://eprints.utm.my/4990/1/Theory.pdf>. [Accessed 12 June 2017].



ANNEXURE 1

Interview questions for residents of Friemersheim (Old Stockenströmers)

These questions are to identify who are the potential beneficiaries of the Friemersheim land claim and how they became eligible to be beneficiaries. Some of these formed part of the focus group questions.

1. What is your name?
2. Are you one of the original 16 families removed from Stockenström? If not, explain your relationship to the original family who was removed.
3. What was your/the family address in Stockenström?
4. How big was the property?
5. Does anyone have a copy of the title deed of that property? Who has the title deed, and what is the relationship with the original owner?
6. Who owned it?
7. How did it come into their/parents' possession in the first place?
8. How did they use the land?
9. Is it in your possession right now?
10. Did they have any workers on the land?
11. What kind of relationship did you have with the owners? Share croppers?
12. What happened to them?
13. Who removed you/them from the farm and why?
14. How exactly did it happen?
15. What, if anything, was promised at the time of departure?

16. In what year did that happen?
17. Were any promises made in writing?
18. Who made the promises?
19. Did any of those promises come to fruition? If not, why not? If yes, in what way?
20. What happened when they arrived in Friemersheim?
21. Who arranged it?
22. What was promised, if anything? By whom?
23. Did you/they have property given to them in Friemersheim? How did you come into possession of this property? Do you have a title deed to this property?
24. Did any of those promises come to fruition? If yes, how? If not, why not?
25. What has happened to the community since their arrival?
26. What, if anything, has anyone done to get their property back?
27. Post-1994, have there been any changes to the land that was originally your home?
28. How do you know about any of those changes, having been away from the property?
29. What kind of communication has happened, if any, between the community and the government?
30. Who is occupying your Stockenström land right now?
31. What is the nature of their occupancy?
32. When did the occupancy occur and were there any legal or social consequences?
33. What is the situation at this juncture?