

**The concept of restitution in South African economic policy documents between 1994 and
2014: An ethical analysis.**

By



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Industrial Policy Action Plan (IPAP)

National Planning Commission (NPC)

National Development Plan (NDP)



Abstract

There is widespread concern in the democratic South African context over economic inequalities. However, given the problems of poverty, unemployment and inequality, there is a need to consider economic restitution. Restitution is used in public policy often without conceptual clarity. This study is situated in the field of economic ethics; therefore it will contribute to philosophical and more specifically ethical discourse on the concept of economic restitution. The focus of the study is on South African economic policy documents released by the government in response to current economic inequalities in the period between 1994 and 2014. Such policy documents include the Reconstruction and Development Programme (RDP, 1994); Growth Employment and Redistribution Programme (GEAR, 1996); Accelerated and Shared Growth Initiative South Africa (AsgiSA, 2005); Industrial Policy Action Plan (IPAP, 2007) and its iterations; New Growth Path (NGP, 2010); and the National Development Plan (NDP, 2012). This study focuses on how the concept of restitution is understood in South African policy documents in the period between 1994 and 2014 in response to current economic inequalities. It identifies implicit and explicit references to the concept of economic restitution; describes the scope of the term as used in such policy documents; analyses and compares how the term restitution is understood; and indicates any emerging patterns in this regard.

Declaration of academic integrity

I hereby declare that the composition of this Thesis entitled: “The concept of restitution in South African economic policy documents between 1994 and 2014: An ethical analysis”, is wholly my own work and that the thesis has not been submitted at any other university and where other authors in this thesis have been either quoted or paraphrased, this has been thoroughly referenced.

Mbhekeni Sabelo Nkosi

11 March 2016



Signature



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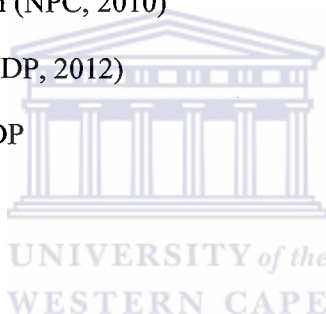
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CHAPTER 1

Introduction and methodological clarification

1.1 Background

There remains an unacceptable level of inequality in South Africa between and within population groups as a result of South Africa's history of dispossessions during colonialism and dehumanization during apartheid. There also remains a widespread concern over continuing economic inequalities, the inability to overcome the economic inequalities, rampant unemployment and abject poverty after 1994-2014. One way to address such concerns that is often raised in public discourse is through economic restitution. Although there is widespread consensus on the need for economic restitution given the legacy of the past, what such restitution entails is highly contested in such public discourse. There is an obvious need for conceptual clarity in this regard.

As is often observed, the Gini-coefficient in South Africa is amongst the worst in the world.¹ Given the historical impact of imperialism, colonialism and apartheid, such inequalities continue to beg questions about the need and the possibilities for restitution. This has been debated in relation to land restitution and the proceedings of the South African Truth and Reconciliation Commission (TRC). However, given the problems associated with poverty, unemployment and inequality, there is also a need to consider forms of economic restitution. There is a long legacy of philosophical reflection on the term restitution. In the South African context restitution is widely used in public discourse, often without conceptual clarity. This study is situated in the field of economic ethics and will contribute to philosophical and more specifically ethical discourse on the concept of economic restitution (in distinction from related concepts such as reconciliation, reparation, rehabilitation, redistribution and reform) from within the South African context.

More specifically, the focus of the study is on South African economic policy documents

¹ Michael P. Todaro and Stephen C. Smith in *Economic development (11th ed.)*, (Essex: Pearson, 2011), 208, conceptualize the Gini coefficient to mean “an aggregate measure of income inequality ranging from 0 (perfect equality) to 1 (perfect inequality).”

released by the government in response to current economic inequalities in the period between 1994 and 2014. Such policy documents include the Reconstruction and Development Programme (RDP, 1994); Growth Employment and Redistribution Programme (GEAR, 1996); Accelerated and Shared Growth Initiative South Africa (AsgiSA, 2005); Industrial Policy Action Plan (IPAP, 2007); New Growth Path (NGP, 2010); and the National Development Plan (NDP, 2012). These policy documents have been widely discussed and critiqued in public discourse and also by South African economists. This study will draw on such literature but will focus more specifically on how the concept of restitution is understood, explicitly or implicitly, in such major economic policy documents released by the South African government in the period between 1994 and 2014 in response to current economic inequalities in South Africa. I will identify implicit and explicit references to restitution, describe the scope of the term as used in such documents, analyse and compare how the term restitution is understood and indicate any emerging patterns in this regard.

1.2 Statement of the research problem

How is the concept of “restitution” understood, explicitly or implicitly, in major economic policy documents released by the South African government in the period between 1994 and 2014 in response to current economic inequalities in South Africa? The significance of this statement of the research problem to be addressed in this study should be understood against the following background:

In 1994, the ANC launched the Reconstruction and Development Programme (RDP, 1994) as part of their election campaign manifesto for the national general elections. On the 27th April 1994 the first general election took place. In the RDP the South African government understands the term “restitution” to mean principally land restitution. Ngubane, for example, maintains a position that land restitution is understood as the restoration of land ownership so that a particular property is restored to its original owners or their legal heirs; and that, “restitution is about land restoration; settling claims for land lost under apartheid.”²

² Mngqobi Mthandeni Ngubane, in his Masters Thesis entitled, ‘Land beneficiaries as game farmers in the ‘new’ South Africa: Land reform in relation to conservation, the hunting industry and chiefly authority in KwaZulu-Natal’, (Bloemfontein: University of the Free State, February 2012), 24.

The RDP explicitly maintained this position. But how is lost land to be restored when/where there are already buildings built on it? Is restoration the right term to use in such a context? If not, what is the term that should be used for giving back lost land to its original owner(s)? Inequalities emerged as a result of the dispossession of land and property belonging to persons or communities. The other problem is that the restitution process as understood by the South African government only recognises land dispossessions that occurred after the 1913 Land Act. Land restitution is then understood as the processing of land claims. According to Andrew, “The Restitution of Land Rights Act was approved by Parliament in November 1994, and along with the Constitution, provides for settling land claims against the state.”³ In line with the RDP, the Bill of Rights, included in the Constitution of the Republic of South Africa [adopted on 8 May 1996 and amended on 11 October 1996 by the Constitutional Assembly, in section 25.(7)], states that, “A person or community dispossessed of property after 19 June 1913 as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to restitution of that property or to equitable redress.” How, then, is “equitable redress” understood in relation to restitution? What does the clause “restitution of that property” mean?

In the Growth, Employment and Redistribution Programme (GEAR, 1996) the term restitution refers implicitly to land restitution but it also speaks of land reform and the need for (land) redistribution. This begs the question how, then, inequalities that emerged as a result of the dispossession of land and property belonging to persons or communities prior the 19th of June 1913 should be addressed? Is an understanding of restitution as land restitution an appropriate response to current economic inequalities in South Africa? GEAR states that the land reform programme includes, not only land restitution but combines that with (fixed) asset redistribution and tenure reform. It adds that the rapid release of land (through land redistribution) needs to be coupled with settlement grants and emergent farmer support programmes (marketing support, appropriate technological interventions and streamlined extension services) in order to improve long-term prospects for employment and income generation in the rural economy.⁴ The assumption in GEAR is that “Over time, agricultural development associated with land reform

³ Nancy Andrew in her Doctoral Thesis entitled, ‘Land reform and the social dynamics of land conflict in the South African countryside’, (Paris: Université René Descartes – Paris V, June 2005), 144.

⁴ *Growth Employment and Redistribution (GEAR): A macroeconomic strategy*, 16.

will play a key role in improving the distribution of income and economic activity.”⁵ However such distribution of income has not been achieved since 1996. It is therefore clear that GEAR understands land reform to include land redistribution and tenure reform and presumably also land restitution (in terms of settling land claims). GEAR does not use the term restitution explicitly and where it is used implicitly it is not restricted to land restitution but includes support programmes (marketing, technological) in order to address unemployment with the hope that this shall “improve long-term prospects for employment and income generation.”

While such economic policy documents were being put in place (1994-1996), the proceedings of the Truth and Reconciliation Commission (TRC) were already underway on the basis of the Promotion of the National Unity Reconciliation Act 34 of 1995. The Commission, which was given a specific time frame to complete its work, started its proceedings on the 15th April 1996 (and ended in June 1998).⁶ Duvenage maintains that, the TRC “was structured to operate through three specialized committees – one dealing with the violations of human rights, one on amnesty, and another on reconciliation and reparation.”⁷ TRC recommendations were tabled in Parliament on the 15th April 2003. The term “reparation” that is used in the context of the TRC refers primarily to compensation to be paid to victims of gross violations of human rights or their relatives. Then the South African government set up a TRC unit in 2005 to address the implementation of the recommendations. It is notable that the decision in this regard extended the meaning of “restoration” beyond compensation to victims to include “rehabilitation”. Ntlatleng records that:

The Truth and Reconciliation Commission (TRC) Unit has made significant progress in the implementation of the TRC recommendations tabled in Parliament on 15 April 2003. The recommendations, approved by Parliament, include final (individual) *reparations*, symbols and monuments, medical benefits and other forms of social

⁵ *Growth Employment and Redistribution (GEAR): A macroeconomic strategy*, 16.

⁶ Pieter Duvenage in ‘The politics of memory and forgetting after apartheid,’ edited by Kwasi Wiredu in *A companion to African Philosophy*, (Chapter 42), (Oxford: Blackwell, 2004), 512; edited by Kwasi Wiredu.

⁷ Duvenage, ‘The politics of memory and forgetting after apartheid,’ 512.

assistance and community rehabilitation.⁸

There are conceptual difficulties to understand what such reparation means in the context of the TRC report, especially in relation to reconciliation, restitution, redistribution, restoration and rehabilitation. The same conceptual difficulties apply to the term reconciliation. The South African government's approach to reconciliation, to use Haan's phrase, had no economic implications.⁹ Given the legacy of the structural injustice of apartheid it is not clear whether reconciliation, (individual) reparation, and community rehabilitation would suffice to address the current economic inequalities. In order to address current inequalities one may argue that economic restitution is also necessary. But what such restitution means is in need of conceptual clarification.

In 2005 an economic framework referred to as the *Accelerated and Shared Growth Initiative South Africa* (AsgiSA, adopted in 2005) was introduced, and in this policy document there is a drift away from the concept of restitution. Restitution suddenly does not feature in the policy framework. In 2007 the *Industrial Policy Action Plan* (IPAP) was launched as a South African government economic policy (IPAP 1, 2007/8). In this policy framework there is, likewise, silence concerning restitution. This shows an even further drifting away from the concept. In 2010 the policy framework entitled *The New Growth Path* (NGP, 2010) was launched, in which the term land reform resurfaces. In the NGP it states that, "[The New Growth Path] sets out a range of practical measures at sectoral level to achieve [its] employment targets, with the following core [strategy]: [re]structuring land reform."¹⁰ What does restructuring land reform mean as a core strategy to achieve employment targets? The discussion in the NGP then shifts away from restitution and drifts further away from linking restitution to land but focuses on the unemployment problem and creating employment through a reindustrialization strategy.

⁸ Benson Ntlatleng, 'TRC – Restoring dignity through community rehabilitation', *Justice Today: The magazine of the Department of Justice & Constitutional Development* (Republic of South Africa: April 2014), 6.

⁹ Roelf Haan, *Theology and Economics: The Hermeneutical case of Calvin today* (Wellington: Bible Media, 2012). In the introduction Haan tries to 'understand the basic movement of Calvin's theology as to its economic implications.

¹⁰ *New Growth Path (NGP): Framework*, (Republic of South Africa: Economic Development Department, 2009), 2.

Soon after the introduction of the NGP, the National Planning Commission (NPC, 2010), was commissioned in order to address the triple problem of poverty, unemployment and inequality. In 2011 the NPC published a *Diagnostic Report* in five volumes as well as a *Diagnostic Overview*.¹¹ There is a further drift away from restitution, while a stronger focus on unemployment emerges. The NPC then released a policy framework referred to as the *National Development Plan* (NDP, 2012). On land redistribution and restitution the NDP states that, “Since 1994, about 6 million hectares of agricultural land have been redistributed – 3.4 million hectares through land redistribution and 2.4 million hectares through the restitution process.”¹² In the NDP the restitution process therefore remains linked to land.

In the light of the survey above it is evident that the term restitution is used in such economic policy documents mainly to refer to land restitution as one dimension of land reform, alongside land redistribution and tenure reform. However, the difficulty for a conceptual clarification of the connotations of “restitution” is that the term is typically juxtaposed with concepts such as reconciliation, rehabilitation, reparation and restoration. How, then, is the concept of “restitution” understood, explicitly or implicitly, in relation to such other concepts in major economic policy documents released by the South African government in the period between 1994 and 2014 in response to current economic inequalities in South Africa?

This study will entail a close reading and a thick description of such policy documents in order to describe, analyse and compare how the term restitution is understood and to indicate any emerging patterns in this regard. Although this study will retain a descriptive and analytical focus, I will in a closing chapter also assess the adequacy of such ways of understanding restitution as a response to current economic inequalities in South Africa.

1.3. Research procedure

a) The first step of the study provides a very brief overview (sketching only some very broad parameters) of current economic inequalities within the South African context since 1994. Publications by selected scholars shall be consulted in this regard. Details on the publications of

¹¹ The deputy chairperson of the NPC was Cyril Ramaphosa who in president Zuma’s second term in office (2014 - present) was appointed to the office of the deputy president.

¹² *National Development Plan (NDP) Vision 2030: Our future – make it work*, (Republic of South Africa: Presidency, National Planning Commission (NPC), 2013), 195.

these authors are provided in the bibliography. This overview remains limited in its scope and depth and given the selection of a limited number of authors. Following the introductory comments and methodological clarification provided in Chapter 1, the results of this overview on economic inequalities are documented in Chapter 2 of the thesis.

b) The second step offers a brief outline of neoliberalism (neoliberal globalisation) as an important factor in providing an understanding of the complex root causes of such increasing economic inequalities globally. A variety of sources are consulted for such a critique of the influence of neoliberalism on economic policy making in South Africa since 1994. Details on the publications of these authors are provided in the bibliography. Following the overview on economic inequalities, I provide a conceptualization of neoliberalism (neoliberal globalisation) within the historical context of capitalism in Chapter 2 of the thesis.

c) The third step offers a reflection on the term restitution and the conceptual difficulties to understand what restitution means in relation to reconciliation, reparation, redistribution, rehabilitation, and restoration. In addition to encyclopedic references to the terms restitution and restorative justice, I offer a brief account of German debates on restitution (*Wiedergutmachung*) with reference to the contributions by Patricia Chappine, Elazar Barkan and Michael Marrus. Details on the publications of these authors are provided in the bibliography. This overview of how the term restitution is used in the history of academic reflection is documented in Chapter 3 of the thesis.

d) The fourth step entails a close reading and critical analysis of each of the various economic policy documents released by the South African government since 1994. I offer a thick description of the ways in which the term restitution is used, implicitly or explicitly, in relation to concepts such as reconciliation, reparation, redistribution, rehabilitation and restoration in order to address current economic inequalities in South Africa. On this basis I compare the ways in which the term restitution is understood in such economic policy documents in order to identify trends and to offer observations in this regard. This thick description, analysis and comparison is documented in Chapter 4 of the thesis.

In a final chapter I offer some tentative recommendations on how the term restitution may best be understood. This would not yet address the question whether restitution is indeed an appropriate concept to address current economic inequalities in South Africa. In conclusion I

reflect on the need for further research in this regard and draw on theological literature situating the study in Christian ethics.

The first three steps of the argument (a discussion of economic inequalities in South Africa, neo-liberalism and the concept restitution) provide the necessary background to the study, while the fourth and fifth steps constitute the core of the study.

1.4 Limitations

The main focus of this research project is on an analysis of economic policy documents published by the South African government between 1994 and 2014. There is an exhaustive amount of literature that is available on South African economic policy. This study only focuses on restitution and how the term is understood in the economic policy documents. It situates itself in the political and economic context of South Africa that informs economic policy discourse. The main focus is on land restitution and not economic reflection of the macroeconomic policy with regards to other aspects related to social economic policies. An exhaustive analysis of the macroeconomic policy of South Africa between 1994 and 2014 is far beyond the scope of this study. Only limited and relevant sections of the economic policy documents are analyzed in relation to restitution.

1.5 Significance of study

This study locates itself within the political context of South African macroeconomic policy discourse. Its aim is to offer an ethical analysis of how the term restitution is understood in the economic policy documents and the context in which this understanding is framed. The initial ideas behind this research were triggered by the publication of the National Development Plan (NDP, 2012) by the National Planning Commission (NPC, 2010). I felt that there was a need to understand how the term restitution is understood in various economic policy documents starting from the publication of the Reconstruction and Development Programme (RDP, 1994). The intention was to analyse the consequent policy documents between 1994 and 2014 with regards to their understanding of restitution. There is a view that the apartheid situation was very similar and simultaneously very different to the situation in Germany during the Nazi regime. It is acknowledged that the policy of the Nazi regime was genocide against the Jewish people. As a result, the Jewish communities that were subjected to various crimes and discriminatory

legislation were consequently mass murdered and many were forced out of Germany. By contrast the policy of the apartheid regime was not genocide but to utilize the African people (including other people groups) as a labour force within the South African economic system, and relegate African people to the labour reserves. As a result a myriad of discriminatory and racial legislation was promulgated which led to dispossessions of land, culture, and identity and a policy of forced removals was put in place that displaced communities causing suffering for the groups that were discriminated against yet securing wealth and privileges for one minority group classified as white against a majority group classified as African. As a result of such a history there remains a legacy and a heritage of the apartheid system which has led to a myriad of systemic challenges some of which are the triple challenges of poverty, unemployment and inequality. There has been an attempt at redress and restoration. This is evident in the symbolic work of the process of the Truth and Reconciliation Commission (TRC, 1996). The research project evaluates the German model of restitution in which restitution is understood to mean *Wiedergutmachung*.

A summer school was held at the University of the Western Cape (24th to 26th February 2015) in which Prof Ernst Conradie (who is my supervisor) was the host. A delegation from Germany (Berlin) arrived to participate in the academic conference. Academics from the University of Stellenbosch (US) and the University of KwaZulu Natal (UKZN), University of Notre Dame and Humboldt University of Berlin were present in the conference and they also presented relevant papers with regards to the need for some form of restitution. The most thought provoking papers for me were the papers that had a sharp focus on the discourse on reconciliation and restitution for apartheid. The academic team from the University of Stellenbosch at the time had prepared academic papers with the view of commemorating the life and work of Beyers Naudé. This research builds on the insights that emanated from conversations in that Summer School with the delegation from the various universities concerning restitution. In our conversations there was agreement between myself and Prof Conradie that due to confusion between how the meanings of the terms restitution, reparations, redistribution, and restoration a new terminology may have to be constructed and inserted into the discussion that will refer to what I mean by economic restitution. The significance of this thesis has to be understood in terms of its main concern. Hence its considerations of neoliberal globalisation and its thrust with regards to economic development within the context of (global and local) inequalities (*i.e.* inequalities of income,

land, location, gender, education, *etc.*). In the study I also offer a brief overview of neoliberalism as a governing ideology and offer a brief description of the challenges of inequalities that have been brought about by the principles and ideologies of market fundamentalism in the economic system. The project invites dialogue over how South Africa has been moving forward in the democratic context given its history. There are studies with regards to economic development and economic policy, especially elucidating the various shifts in economic policy but very little is offered with regards to a historical ethical analysis in relation to the programme of restitution. This study makes a contribution to the philosophical discourse on economic ethics in this regard even though it is situated in the context of Christian ethics.



CHAPTER 2

Nature and root causes of economic inequalities in South Africa (1994-2014)

2.1 Introduction

In this chapter I provide a very brief overview (sketching only some very broad parameters) of current economic inequalities within the South African context since 1994. This overview remains limited in its scope and depth given the selection of a limited number of authors. Following the introductory comments and methodological clarification provided in Chapter 1, I offer an overview on economic inequalities. I also briefly outline neoliberalism (neoliberal globalisation) as an important factor in providing an understanding of the complex root causes of such increasing economic inequalities globally. Following the overview on economic inequalities, I provide a conceptualization of neoliberalism (neoliberal globalisation) within the historical context of capitalism.

2.2 Economic inequalities in the period 1994 – 2014

The apartheid regime in South Africa came to an end in 1994. However, racialized inequalities persist to the damage of the South African society. These inequalities, including inequalities of gender and location, capital (income from capital) and labour (income from labour) are at the heart of problems associated with poverty and unemployment.¹ The shift from developmental economic policies that focus on industrial production to neoliberal policies that focus on service sector oriented business activities have intensified economic inequalities in the world economic

¹ Thomas Pikety, in the book *Capital in the twenty-first century*, (Cambridge: Belknap Press of Harvard University Press, 2014), 173, makes a distinction between inequality with respect to capital and labour. He says that, “The first regularity we observe when we try to measure income inequality in practice is that inequality with respect to capital is always greater than inequality with respect to [labour]. The distribution of capital ownership (and of income from capital) is always more concentrated than the distribution of income from [labour]. Two points need to be clarified at once. First, we find this regularity in all countries in all periods for which data are available, without exception, and the magnitude of the phenomenon is always quite striking.”

system.² In order to foster economic growth, neoliberal policies have promoted the liberalization of the free-market system (with less government regulation) and the privatization of state-owned enterprises (with more freedom for business activities). However, one may observe that financial markets require a macro-economic policy waiver and the trade-off: this trade-off is unemployment.³

2.3 Current economic inequalities: The wider (global) context

Inequality, according to Kumar, is “more than ever before, a pressing issue globally.”⁴ Fuentes-Nieva and Galasso, assert that economic inequality is “rapidly increasing in the majority of countries. The wealth of the world is divided in two: almost half going to the richest one percent; the other half to the remaining 99 percent.”⁵ Since the early 1980s, Stockhammer suggests, “an increase in inequality has occurred in all OECD [Organisation for Economic Cooperation and Development] countries. At first sight, this seems to have taken on different forms in different countries. In the Anglo Saxon countries [is] observe[d] a sharp increase in personal income inequality [where top] incomes have experienced a spectacular growth.”⁶ Moreover, the World Economic Forum has “identified this as a major risk to human progress. Extreme economic inequality and political capture are too often interdependent.”⁷ Hence, “over the last two decades,

² Brenda Hofmeyr, ‘The culture and subjectivity of neoliberal governmentality,’ in *Phronimon: Accredited Journal of the South African Society for Greek Philosophy and the Humanities (SASGPH)*, (Vol. 12) (No. 2), (Pretoria: Phronimon, 2011), 19. See also: www.phronimon.co.za.

³ Altwater, E., ‘The privatization of public goods: The impact on governance and on the co-ordination of economic policy,’ *Impressum rls – policy paper*, (Rosa-Luxenburg-Stiftung, 2003), 3.

⁴ Claire Kumar, ‘Africa rising? Inequalities and the essential role of fair taxation,’ (February 2014), 9.

⁵ Ricardo Fuentes-Nieva and Nick Galasso, Oxfam Briefing Paper (178th) entitled, ‘Working for the few political capture and economic inequality,’ (20 January 2014), 1. Piketty in his book *Capital in the twenty-first century* (p.173) further states that, “To give a preliminary idea of the order of magnitude in question, the upper 10 percent of the labor income distribution generally receives 25-30 percent of total labor income, whereas the top 10 percent of the capital income distribution always owns more than 50 percent of all wealth (and in some societies as much as 90 percent).”

⁶ Engelbert Stockhammer, ‘Rising Inequality as a Root Cause of the Present Crisis,’ in *Working Paper Series* (No. 282), (Massachusetts: Political Economy Research Institute, April 2012), 2.

⁷ Fuentes-Nieva and Galasso, ‘Working for the few political capture and economic inequality,’ 1.

both insurance premiums and out-of-pocket health costs have risen.”⁸ In light of this Wolff (in the context of the United States of America) notes that,

Between 1982 and 2006, while the average real income of white households increased by 42 percent, it rose by only 28 percent for black households. As a result, the ratio of mean income slipped from 0.54 to 0.48. Between 1983 and 2001, average net worth in constant dollars climbed by 73 percent for white households but rose by only 31 percent for black households, so that the net worth ratio fell from 0.19 to 0.14.⁹

To inform a recent trajectory, Ortiz and Cummins maintain that economic inequality increased globally between the early 1980s and 1990s following a review of different studies: “While [an] analysis shows some reversal of this trend, there is a significant likelihood that income inequality is being exacerbated in the on-going global economic crisis.”¹⁰ Hence, as Hongbo observes, “the magnitude and direction of change in income distribution among countries since 1980 depend[s] significantly on the indicator used. One way of measuring international inequality is to examine the Gini coefficient of per capita incomes of countries. This Gini coefficient has been calculated by taking each country’s GDP per capita as one observation or data point.”¹¹ Commenting on

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⁸ Sarah A. Burgard and Molly M. King, citing Claxton *et al.*, 2013 in an article entitled ‘Health Inequality’, (California: Stanford Center on Poverty and Inequality, January 2014), 47.

⁹ Edward N. Wolff, ‘Wealth Inequality, in the State of the Union,’ *The Poverty and Inequality Report 2014* (California: Stanford Center on Poverty and Inequality, 2014), 40.

¹⁰ Isabel Ortiz and Matthew Cummins, ‘Global Inequality: Beyond the Bottom Billion,’ *A Rapid Review of Income Distribution in 141 Countries* (New York: UNICEF, April 2011), 20.

¹¹ Wu Hongbo the Under-Secretary-General for UN Economic and Social Affairs in a report entitled ‘Inequality Matters: Report of the World Social Situation 2013’ (United Nations: Report, 2013), 26. Alicja Krol and Judy Maan Miedema in an article entitled: ‘Measuring Income Inequality: an Exploratory Review,’ (June 2009), 8, state that, “The Gini coefficient is most sensitive to inequalities and income transfers in the middle part of the income spectrum and does not emphasize inequalities in the top or bottom of the spectrum (polarization). For example, a Gini coefficient may indicate decreasing inequality but society may be becoming more polarized. The Gini simply indicates the spread of the income distribution or deviation from the mean. Other measures are better suited to show income polarization. The Gini coefficient shows the direction of income redistribution but does not indicate where the redistributions are occurring...For example, the Gini coefficient may indicate declining

Hongbo's observation, Wolff shows that, the Gini coefficient "after rising steeply between 1983 and 1989 from 0.80 to 0.83, remained virtually unchanged from 1989 to 2007"¹² and that, "left unchecked, the effects are potentially immutable, and will lead to "opportunity capture" – in which the lowest tax rates, the best education, and the best healthcare are claimed by the children of the rich. This creates dynamic and mutually reinforcing cycles of advantage that are transmitted across generations."¹³ Concerning this dynamic, Ortiz and Cummins ask a pertinent question: "What does global inequality mean for the poor?" They respond to the question by asserting that,

[T]o contextualize the extremity of inequality that faces an incredibly large number of poor persons...global income distribution resembles a "champagne glass" in which a large concentration of income at the top trickles down to a thin stem at the bottom. Overall, this provides a powerful graphic in terms of the scant amount of income that is available to the poor on a global scale.¹⁴

In light of the above quotation, Hongbo adds that, globally, "the distribution of income remains very uneven. In 2010, high-income countries – that accounted for only 16 per cent of the world's population – were estimated to generate 55 per cent of global income. Low-income countries created just above one per cent of global income even though they contained 72 per cent of [the] global population."¹⁵ To support this view Schwab declares that, "more than half of the world's population now lives in cities. By 2050, the urban population will have nearly doubled to an

inequality in a situation where income is redistributed only among the very poor while the overall structure of the income distribution remains the same." Retrieved from: <http://chd.region.waterloo.on.ca>, 17 June 2016 (02h36).

¹² Wolff, 'Wealth Inequality, in the State of the Union,' 38. Ortiz and Cummins, in 'Global Inequality: Beyond the Bottom Billion', *A Rapid Review of Income Distribution in 141 Countries*, 20; attest that the Gini index "is the most commonly used measure of income inequality, where 0 is perfect equality (e.g. each person has exactly the same income) and 1 is perfect inequality (e.g. one person has all the income)."

¹³ Fuentes-Nieva and Galasso, 'Working for the few political capture and economic inequality,' 2.

¹⁴ Ortiz and Cummins, 'Global Inequality: Beyond the Bottom Billion,' *A Rapid Review of Income Distribution in 141 Countries*, 20.

¹⁵ Hongbo 'Inequality Matters: Report of the World Social Situation 2013,'25. Furthermore, according to Hongbo, "High-income countries are those with a gross national income (GNI) per capita of \$12,476 or more in 2011, while low-income countries are those with a GNI per capita of \$1,025 or less, according to the World Bank."

estimated 6.4 billion. Most of the increase in urban populations will be in middle and lower income countries, which have more limited capacity to manage the new risks being created – and existing risks being exacerbated – by the global urban transition.”¹⁶ In addition to this, Ortiz and Cummins attest that, “approximately 1.2 billion were living on less than \$1.25 per day in 2007 (22 percent of the world population) and about 2.2 billion on less than \$2 per day (or about 40 percent of the world population).”¹⁷ To show the current economic inequality, Schwab further states that, “around 1 billion people, one-third of the world’s urban population, live in slums – a number that has been increasing in the current era of high and widening income inequalities. This growing population of [the] urban poor is vulnerable to rising food prices and economic crises, posing significant risks of chronic social instability.”¹⁸ Ortiz and Cummins conclude that “an alternative way of viewing the “champagne glass” is “to compare the top percent of world income earners versus the bottom. In doing so, we find that the wealthiest 61 million individuals (or one percent of the global population) had the same amount of income as the poorest 3.5 billion (or 56 percent) as of 2007.”¹⁹

2.4 Current economic inequalities: The broader (African) context

In Sub-Saharan Africa inequality is holding back progress as wealth is concentrated in the hands of the political elite. Much of Africa remains rural and underdeveloped. The majority of people in African countries live in abject poverty and often hunger despite (or perhaps because of) rapid recent economic growth in some countries.²⁰ In Africa, the estimated household income earned is less than US\$0.85 per day.²¹ Economic inequalities may be regarded as *the* issue – as Sub-Saharan Africa lags behind in the development agenda; whilst in Asia development continues

¹⁶ Klaus Schwab, ‘Global Risks: Insight report,’ (9th ed.), (Geneva: World Economic Forum, 2014), 22.

¹⁷ Ortiz and Cummins, ‘Global Inequality: Beyond the Bottom Billion’, *A Rapid Review of Income Distribution in 141 Countries*, 20.

¹⁸ Schwab, ‘Global Risks: Insight report,’ 22.

¹⁹ Ortiz and Cummins, ‘Global Inequality: Beyond the Bottom Billion: *A Rapid Review of Income Distribution in 141 Countries*,’ 20.

²⁰ Hongbo, ‘Inequality Matters: Report of the World Social Situation 2013,’ 29.

²¹ Mmafale Phogole, ‘Issues of Increasing Levels of Poverty and Hunger in Africa, with Specific Reference to South Africa,’ *Policy Brief*, (Briefing no. 8) (Pretoria: AISA, 2010), 2.

with GDP per capita more than doubling that of Sub-Saharan Africa.²² There is growing concern that, the high levels of income inequality in sub-Saharan Africa are holding back progress.²³ The majority of people in African countries live in abject poverty and hunger. About 70% of Africa's poor are rural dwellers and, according to Phogole, "there are many interrelated issues that cause hunger and poverty which are related to socio economic [inequalities] and other factors."²⁴ Relatedly, Hongbo suggests that, "an average gross domestic product (GDP) per capita of \$2,014 in sub-Saharan Africa in 2010 stood out against regional GDPs per capita of \$27,640 in the European Union and \$41,399 in North America."²⁵ This means that, there is growing public recognition that, inequality is *the* issue both "globally and in sub-Saharan Africa – [yet] there is little definitive analysis of income inequality trends on the continent."²⁶ Phogole indicates that the most recent estimates are that, "approximately 47% of sub-Saharan Africans live on less than US\$1 dollar per day, and more than 50% of them are from East Africa and Nigeria. On average, poor Africans [were] estimated to earn US\$0.85 (85 cents) per day during the latter part of the 1990s."²⁷ Africa is clearly falling behind with regards to development. In the early 1980s, Schaffnit-Chatterjee stated that, "[Sub-Saharan Africa]'s GDP per capita (valued at purchasing power parity) was twice that of developing Asia, but only ten years later developing Asia had almost caught up and its GDP per capita is now more than double that of [Sub-Saharan Africa]."²⁸ However, in African countries after independence since the 1960s, inequality seems not to be a new phenomenon. Kumar contends that, "in the decades since [independence], wealth has, to too great an extent, remained concentrated in the hands of elites who replaced the colonial

²² Claire Schaffnit-Chatterjee, 'Sub-Saharan Africa: A bright spot in spite of key challenges,' (Frankfurt: DB Research, 15 July 2013), 4.

²³ Kumar, 'Africa rising? Inequalities and the essential role of fair taxation,' 6.

²⁴ Phogole, 'Issues of Increasing Levels of Poverty and Hunger in Africa, with Specific Reference to South Africa,' 1.

²⁵ Hongbo, 'Inequality Matters: Report of the World Social Situation 2013,' 25.

²⁶ Kumar, 'Africa rising? Inequalities and the essential role of fair taxation,' 6.

²⁷ Phogole, 'Issues of Increasing Levels of Poverty and Hunger in Africa, with Specific Reference to South Africa,' 2.

²⁸ Claire Schaffnit-Chatterjee, 'Sub-Saharan Africa: A bright spot in spite of key challenges,' (Frankfurt: DB Research, 15 July 2013), 4.

powers and failed to reform existing structures and redistribute assets.”²⁹ Similarly, Schaffnit-Chatterjee states that, “countries with the highest intensity of deprivation include Ethiopia, Mozambique, Burkina Faso and Senegal.”³⁰ Hongbo corroborates this view by stating that, “the gap between the rich and the poor declined in many African countries as well, including very high-inequality countries such as Botswana, Lesotho and Swaziland, but continued to increase relatively quickly in South Africa during the post-apartheid period, despite continued economic growth and the expansion of social assistance programmes.”³¹ Schaffnit-Chatterjee concludes that,

Income inequality in [Sub-Saharan Africa] remains high; with Gini coefficients close to 45%...Many resource-rich countries are highly unequal. The poorest 10% of the population account for less than 1.5% of national income in Angola, South Africa, Central African Republic and Namibia...In these four countries, more than 45% of national income accrues to the richest 10% of the population.³²

2.5 Current economic inequalities: The immediate (South African) context

In South Africa there remains a widespread and deep concern about the inability of economic policies to overcome racialized economic inequalities in the period between 1994 and 2014. This prompts a need for academic reflection on the nature of such inequalities.³³ The moral imperative

²⁹ Kumar, ‘Africa Rising? Inequalities and the essential role of fair taxation,’ 9.

³⁰ Schaffnit-Chatterjee, ‘Sub-Saharan Africa: A bright spot in spite of key challenges,’ 10.

³¹ Hongbo, ‘Inequality Matters: Report of the World Social Situation 2013,’ 29.

³² Schaffnit-Chatterjee, ‘Sub-Saharan Africa: A bright spot in spite of key challenges,’ 12.

³³ According to Terreblance in *A history of Inequality in South Africa 1652-2002*, “[he] described the transformation that took place in 1993/1994 as ‘incomplete transformation’ and asked what could be done to make it more ‘complete’. [He] described it thus because in 2002 [he] was of the opinion that only the political dimension of our politico-economic system had changed – from white political dominance to an African-controlled democracy – while the economic dimension remained almost intact as a system of free-market capitalism” (p.2). In page 80 of his book he further states that the weakness of the South African democratic system is that, “it is (after the elite compromise in 1993) too powerless to address the very unequal distribution of income between the 50 million inhabitants of the country, and also too powerless to address the very unequal distribution of income between the different racial and ethnic groups. These inequalities are indeed so large that they introduce almost unbearable tensions into the viability of our democratic system.” Sampie Terreblanche,

to address such inequalities is often reiterated in public discourse and in policy documents alike but the post-apartheid context still bears the marks of its economic history of imperialism, colonialism and apartheid. This impasse prompts the need for academic reflection on the nature of such inequalities. To capture the contours of current economic inequalities in South Africa Bhorat, Hirsch, Kanbur and Ncube, declare that, “the new era of political freedom was viewed as the foundation for economic prosperity and inclusion. The last two decades have seen mixed results. Economic growth has been volatile. While inequalities in public services have been reduced, income inequality has increased, and poverty levels have remained stagnant.”³⁴ This means that, “approximately 18 million out of 45 million people have not experienced the benefits of [the] newly found freedom.”³⁵ The impact of such inequalities in South Africa is widely recognised. Although inequality in South Africa has a racial pattern, Fourie and Burger state that, “there is also significant inequality within each population group. The Gini coefficient for disposable income for blacks is 0.63 – more unequal than that [amongst] whites, which is 0.53 – and appears to have been increasing.”³⁶ In terms of total disposable income for whites in South Africa the Gini coefficient increased to 0.56.³⁷ There is currently seemingly no solution in sight to rectify the situation. In addition, Branson, Garlick, Lam and Leibbrandt declare that,

Alongside South Africa’s high income inequality, the country has long had one of the

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Lost in Transformation: South Africa's search for a new future since 1986, (Johannesburg: KMM Review Publishing Company, 2012).

³⁴ Haroon Bhorat, Alan Hirsch, Ravi Kanbur and Mthuli Ncube, ‘Economic Policy in South Africa Past, Present, and Future,’ *DPRU Working Paper, 201401*, (Cape Town: Development Policy Research Unit, 2014), 3.

³⁵ Renier Koegelenberg in an article entitled ‘Breaking the grip of Poverty and Inequality in South Africa 2004-2014: Current trends, issues and future policy options,’ The article was co-ordinated by J. P. Landman, (Belville: EFSA, December 2003), 1.

³⁶ Frederick C., N Fourie, and Philippe Burger, *How to think and reason in macroeconomics (3rd ed.)*, (Claremont: Juta, 2011), 18. To show the changes in the Gini coefficients, Fourie and Burger further state that, “for South Africa the Gini value was estimated at 0.68 in 1991 – one of the highest in the world. The Income and Expenditure Survey of 2005/6 estimated several different Gini coefficients. The Gini coefficient for income from work was 0.80. The Gini coefficient for income from work and social security benefits was 0.73. The payment of various social grants contributes significantly to a reduction in income inequality in South Africa.”

³⁷ Statistics South Africa, in a presentation of their main findings on the income and expenditure of households 2005/2006, corroborates what is stated by Fourie and Burger.

highest levels of earnings inequality in the world. Current research has focused on earnings inequality differences between subgroups defined by race, gender and location...Earnings inequality is shown to have increased in the late 1990s and remained fairly stable thereafter. Unemployment is shown to be a key driver of inequality, with the increase in labour force participation and subsequent unemployment in the late 1990s contributing to increased inequality during this time.³⁸

In light of the above quotation, Kumar holds that, “it is also clear that this trend is not just a result of the rich getting richer. There is clear evidence that this is at the expense of the poor who are also getting poorer, and are therefore actively impoverished in this process.”³⁹ In light of this Borat, Van der Berg, and Van Aardt, argue that, “the main driver of inequality currently in [South Africa] is no longer the Black/White divide, but rather the intra-group divide between rich Blacks and poor Blacks.”⁴⁰ To this, Branson, *et.al*, further declare that,

While between racial groups inequality persists, within racial groups inequality contributes a larger share to overall inequality and has increased substantially over the post-apartheid years. Earnings inequality within the African population group is highest and has increased the most over time. Inequality within urban areas is also shown to have increased as workers moving to the cities to find jobs increase the

³⁸ Nicola Branson, Julia Garlick, David Lam and Murray Leibbrandt, ‘Education and Inequality: The South African Case,’ *Working Paper Series* (No. 75), (Cape Town: Southern Africa Labour and Development Research Unit, 2012), 5.

³⁹ Kumar, ‘Africa Rising? Inequalities and the essential role of fair taxation,’ 6.

⁴⁰ Haroon Borat, Servaas van der Berg, and Carl van Aardt, ‘Breaking the grip of Poverty and Inequality in South Africa 2004-2014: Current trends, issues and future policy options,’ (December, 2003), 7. Mcebisi Ndletyana in an article entitled: ‘Middle-class in South Africa: significance, role and impact’ (p.13) also states that, “Despite the significant growth of the middle-class in the last few years, there are great odds against upward mobility. South Africa’s middle-class is likely to remain minute for a considerable period of time. Unless the structure of the South African economy is altered drastically, working-class and unemployed segments of our society will remain predominantly black for a similarly long period of time.” See BRICS Academic Forum, Rio – Brazil March 10, 2014 at <http://www.mistra.org.za>. Retrieved: 17 June 2016 (03h02).

variance in earnings among urban dwellers.⁴¹

As much as the above quotation is true, I agree with Kumar when she declares that, “inequality damages us all. It damages our societies and our relationships and it lies at the heart of the poverty that deeply affects so many of [South Africa]’s citizens.”⁴² In addition to high earnings inequality in South Africa, in line with Kumar, Branson *et.al.*, maintain that, “South Africa has a large unemployment problem. A crucial connection between education and inequality in South Africa is the role of education in determining who is employed. With a large pool of potential workers, education may influence employers’ decisions about job allocations.”⁴³ Kumar further emphasizes her position when she further declares that,

Inequality is not only a difference in income or economic power, it includes all types of differences – based, for example, on gender, ethnicity or location – that determine how individuals and groups can exercise control over their own lives and prospects. These multiple inequalities intersect and the picture is complex, but it is clearly the poorest who suffer most as a result.⁴⁴

The rise of inequality “has been one of the most profound changes in modern societies since the early 1980s.”⁴⁵ Therefore, left unchecked, “political institutions become undermined and governments overwhelmingly serve the interests of economic elites to the detriment of ordinary people. Extreme inequality is not inevitable, and it can and must be reversed quickly.”⁴⁶ Personal income inequality has increased globally.⁴⁷ Inequality is a rapidly increasing global problem for all governments and political institutions. Fuentes and Galasso note that, if the inequalities are left unchecked, governments and political institutions shall serve the interests of the economic

⁴¹ Branson, Garlick, Lam and Leibbrandt, ‘Education and Inequality: The South African Case,’ 5.

⁴² Kumar, ‘Africa rising? Inequalities and the essential role of fair taxation,’ 11.

⁴³ Branson, Garlick, Lam and Leibbrandt, ‘Education and Inequality: The South African Case,’ 5.

⁴⁴ Kumar, ‘Africa rising? Inequalities and the essential role of fair taxation,’ 11.

⁴⁵ Stockhammer, ‘Rising Inequality as a Root Cause of the Present Crisis,’ in the Working paper series, 2.

⁴⁶ Fuentes-Nieva and Galasso, ‘Working for the few political capture and economic inequality,’ 1.

⁴⁷ Stockhammer, ‘Rising Inequality as a Root Cause of the Present Crisis,’ in the Working paper series (No. 282), (Massachusetts: Political Economy Research Institute, April 2012), 2.

elites to the detriment of the majority of ordinary people.⁴⁸ In South Africa there remains widening inequalities as a result of the legacies of colonialism and apartheid. After 1994, South Africa has recurrent economic inequalities as measured through the Gini-coefficient.⁴⁹ Fourie and Burger describe the changes in the Gini-coefficients:

For South Africa the Gini value was estimated at 0.68 in 1991 – one of the highest in the world. The Income and Expenditure Survey of 2005/6 estimated several different Gini coefficients. The Gini coefficient for income from work was 0.80. The Gini coefficient for income from work and social security benefits was 0.73. The payment of various social grants contributes significantly to a reduction in income inequality in South Africa.⁵⁰

As the levels of inequality increase, the rates of unemployment increase, and the poor are getting poorer.⁵¹

2.6 Neoliberal globalisation and increasing economic inequalities

Providing an understanding of the root causes of such increasing economic inequalities globally is highly complex. In this section, I identify an important factor: that of neoliberalism at a global level (neoliberal globalisation). To facilitate this understanding it is important to give a brief descriptive background of liberalism.

Liberalist assumptions which dominate Western economics for the last few centuries can be traced back to Thomas Hobbes. Liberal ideals such as the rule of law and the sanctity of private property are expressed by John Locke who argued, concerning the role of the individual and human rationality in an organized society and the formation of the state that, governments may be understood as a trust and that people were morally self-sufficient to watch over its activities in the interests of the society at large.⁵² The key pillar in liberalism is individual freedom. The

⁴⁸ Fuentes-Nieva and Galasso, 'Working for the few political capture and economic inequality,' 1.

⁴⁹ Fourie, and Burger, *How to think and reason in macroeconomics*, 18.

⁵⁰ Fourie and Burger, *How to think and reason in macroeconomics*, 18.

⁵¹ Branson, Garlick, Lam and Leibbrandt, 'Education and Inequality: The South African Case,' 5.

⁵² Rais A. Khan and James D. McNiven, 'Liberalism and conservatism,' (Chapter 12) in *An introduction to Political science* (3rd ed.), (Ontario: Nelson Canada, 1990), 303.

liberal argument, according to Moravcsik, is that, “states are imbedded in domestic and international civil society, understood as an aggregation of individuals and voluntary groups, which places structural constraints on the behaviour of the state by shaping the underlying preferences on which policy is based.”⁵³ Karns and Mingst, in agreement with Moravcsik, state that, liberals “expect mutual interests to increase with greater interdependence, knowledge, communication, and the spread of democratic values. Therefore, neoliberalism “seen through the lens of Michel Foucault’s analysis of neoliberalism as a form of governmentality,...emerges as a political program intent on subjecting the political sphere – along with every other dimension of contemporary existence – to an economic rationality.”⁵⁴ Neoliberals typically argue for less regulation by government in order to allow business the freedom to flourish. They maintain that, “by permitting competitive free markets to flourish, privatizing state-owned enterprises, promoting free trade and export expansion, welcoming investors from developed countries, and eliminating the plethora of government regulations and price distortions in factor, product, and financial markets, both economic efficiency and economic growth will be stimulated.”⁵⁵ This idea of faster economic growth, higher investment and greater labour absorption shows the acceptance of Locke’s liberal ideas which were facilitated by the emergence of a new economic and social order referred to as capitalism.⁵⁶ After the industrial revolution, this emerging system of capitalism could be referred to as industrial capitalism. The most widely acknowledged achievement of capitalist societies is indeed their capacity to amass wealth on an unprecedented scale.⁵⁷

Classic forms of capitalism are often understood as a free enterprise system, but this term does not capture the complexity of the system.⁵⁸ The term capitalism may therefore be understood as any economic system “where there is a combination of private property, a relatively free and

⁵³ Andrew Moravcsik, ‘Liberalism and international relations theory,’ Paper no. 92-6 (Cambridge: Centre for European Studies, 1992), 2.

⁵⁴ Hofmeyr, ‘The culture and subjectivity of neoliberal governmentality,’ 19.

⁵⁵ Todaro and Smith, *Economic development*, 127.

⁵⁶ Khan and McNiven, ‘Liberalism and conservatism,’ 303.

⁵⁷ Steven N. Durlauf, and Lawrence E. Blume, (Ed.) *The new Palgrave dictionary of economics* (2nd ed.), (Vol. 1), (New York: Macmillan, 2008), 693.

⁵⁸ Durlauf, and Blume, *The new Palgrave dictionary of economics*, 693.

competitive, market, and a general assumption that the bulk of the work-force will be engaged in employment by private (non-governmental) employers engaged in producing whatever goods they can sell at a profit.”⁵⁹ According to Karns and Mingst, “to stimulate individual (and therefore collective) economic growth and to maximize economic welfare, free markets must be allowed to develop and mature.”⁶⁰ The original theory of capitalism was one of “an entirely free market of small-scale entrepreneurs, hiring individual labourers at the minimum possible cost, would produce the maximum output, at the cheapest possible price given the cost of the other inputs necessary for production.”⁶¹ This is often viewed as the “perfect competition” model of economics. One aspect of this model is to require government neither to own any productive enterprise, nor to regulate or control the economy in any way. In its pure form the function of political government is reduced to that of a “passive policeman.” The accumulation process proper (for the sake economic growth) therefore cannot be attributed to a large public sector (i.e. to government) but rather results from changes in the logic of capitalist movements after the concentration of industry has taken place.⁶² The task of the various levels of government is at best one of creating an environment in which business can flourish and not to over-regulate the system. The “public sector” is thus understood within the framework of capitalism.

Since the establishment of classic capitalism as the dominant economic system there emerged numerous forms of capitalism, such as mercantile capitalism, industrial capitalism, Keynesianism and monetarism. These systems clearly have to be understood in the context of the legacy of imperialism and colonialism. The history of capitalism in the twentieth century was obviously influenced by the First World War (a contest between rival imperial powers), the Great Depression that followed after that and the Second World War. After World War II distinct

⁵⁹ David Robertson, *The Routledge dictionary of politics* (New York: Routledge, 2004), 51.

⁶⁰ Margaret P. Karns and Karen A. Mingst, ‘The theoretical foundations of global governance’ (Chapter 2) in *International organizations: The politics and processes of global governance* (Boulder: Lynne Rienner 2004), 36.

⁶¹ Robertson, *The Routledge dictionary of politics*, 52.

⁶² Durlauf, and Blume, *The new Palgrave dictionary of economics*, 694. I am of the view that public ownership of enterprise through the state is key to pursuing the social objectives of reducing inequality, creating sustainable employment en masse and developing the rural areas including investing in productivity by converting the townships into production plants.

forms of capitalism emerged in the USA and the UK on the one hand and in Germany and Scandinavia on the other. Nevertheless, the dominant Western economic system was shaped by the establishment of the Bretton Woods institutions in 1944.⁶³ After a period of recession in the 1970s, associated especially with the oil crisis of 1974, neo-liberal forms of capitalism were introduced in the 1980s during the terms of office of Ronald Reagan (1980-1984) and Margaret Thatcher (1979-1990) in order to incentivise economic growth through a policy of privatisation and the deregulation of global markets.

The General Agreement on Tariffs and Trade (GATT) came into force in 1948 as adopted by the United Nations; it later became the World Trade Organisation (WTO) in 1995 for the deregulation of markets.⁶⁴ The WTO was to reduce tariffs in the international trade of goods. The result was that it increased the transfer of capital. In this context it was good for business. The assumption was that it increased entrepreneurship and that this had positive spin-offs for developing countries as well because the less the tariffs the more the business investment. The challenges with the WTO agreements were that they benefited the dominant role players who are indeed able to exploit the opening of markets instead of benefiting the developing countries. Todaro and Smith assert that, in developing countries neoliberalism calls for freer markets and the dismantling of public ownership, statist planning, and governmental regulation of economic activities.⁶⁵ Therefore, neoliberals, like liberals, tend to be optimists and see cooperation and interconnectedness as generally positive; they also recognize that not all efforts to cooperate and integrate will yield [them] good results.⁶⁶ Hence, Altvater states that, “it is well known in economics that open financial markets and stable exchange rates are only achievable by waiving

⁶³ Dambisa Moyo, *Dead Aid: Why Aid is not working and how there is a better way for Africa*, (New York: Farrar, Straus and Giroux, 2009), 10. She states that, in the first three weeks of July 1944, at a meeting held at the Mount Washington Hotel in Bretton Woods, New Hampshire, USA; against the backdrop of the Second World War, over 700 delegates from some forty-four countries resolved to establish a framework for a global system of financial and monetary management.

⁶⁴ Dot Keet, *The World Trade Organisation General Agreement on Trade Services (GATS): From forcing liberalisation to re-enforcing privatisation, from the further 'opening up of all economies to furthering re-colonisation'*, (Cape Town: AIDC, 2003), 3.

⁶⁵ Todaro and Smith, *Economic development*, 127.

⁶⁶ Karns and Mingst, 'The theoretical foundations of global governance', 39.

macro-economic policy options, for instance employment policy. Financial stability, if it is at all possible in a capitalist economy, has a trade-off: [that of] unemployment.”⁶⁷ The central insight shared by all liberals is that, the fundamental actors in world economics are individuals and privately constituted groups with autonomous preferences; governments represent some subset of domestic social actors; and interstate behaviour is shaped primarily by the pattern of state preferences not state power.⁶⁸ Haibin maintains that,

Emerging powers are not only important trading partners to the developed world, but as emerging donors they are also key development partners for [the] developing world. To expand their global economic relationship further and protect their increasing overseas interests, these emerging economies are starting to transform their economic power into international political influence.⁶⁹

Neoliberalism, as a tradition, remains implicit in the above quotation. Those in the neoliberal tradition have argued that, “international interdependence in the era of technocratic welfare state[s] promotes the creation and maintenance of global international economic regimes. These economic regimes are shaped by the level of market interdependence and the convergence between national economic policies.”⁷⁰ Neoliberals, further assert that, “international economic and social cooperation is a prerequisite for political cooperation.”⁷¹ It is neoliberal theory that helps one to understand the development of the specialized agencies of the UN system which

⁶⁷ Altwater, ‘The privatization of public goods: The impact on governance and on the co-ordination of economic policy,’ 2.

⁶⁸ Moravcsik, ‘Liberalism and international relations theory,’ 2.

⁶⁹ Haibin, ‘BRICS in Global Governance: A Progressive Force?’ 1.

⁷⁰ Moravcsik, ‘Liberalism and international relations theory’, 33.

⁷¹ Karns and Mingst, ‘The theoretical foundations of global governance’, 40. Karns and Mingst continue to say that An important middle-level theory within liberalism which emerged within international law was the concept of international regimes which enabled scholars “to examine informal patterns and ad hoc groupings that enhance international cooperation;” and that international law “consisted not only of formal authoritative prohibitions, but also of more informal norms and rules of behavior that over time may become codified and sometimes institutionalized. By referring to the totality of these norms and rules of behavior as ‘regimes,’ they emphasized the governance provided for specific issue areas.”

have come up with the United Nations' Millennium Development Goals.⁷² Similarly, the term “public goods”, alludes to a theoretical foundation in global governance an approach within neoliberalism that is referred to as the public goods theory. According to Cohen, “the production of international stability [is] redefined as the ‘international economic infrastructure.’”⁷³ Infrastructure is a public good. Karns and Mingst point out that, public goods may be tangible or intangible. As a result they maintain that,

In the global context; they include the “nature commons” such as the high seas, atmosphere, ozone shield, and polar regions. They also include...“human-made global commons” such as universal norms and principles, knowledge, and the Internet, as well as “global conditions” ranging from peace, health, and financial stability to free trade environmental sustainability and freedom from poverty.⁷⁴

2.7 Conclusion

In this chapter, I have offered a very brief overview of current economic inequalities within the wider (global), broader (African) and immediate (South African) contexts sketching only some very broad parameters since 1994. This overview remains limited in its scope and depth. The last section offers a reflection on the way in which such inequalities are situated within a wider economic dispensation, *i.e.* the dominance of globalized neoliberal capitalism. Inequalities have to be understood in that context.

⁷² Karns and Mingst, ‘The theoretical foundations of global governance’, 41.

⁷³ Benjamin J. Cohen, ‘International Finance,’ (Chapter 22) in Walter Carlsnaes, Thomas Risse-Kappen, and Beth A. Simmons (Eds.), *Handbook of international relations*, (London: Sage, 2002), 435.

⁷⁴ Karns and Mingst, ‘The theoretical foundations of global governance’, 44.

CHAPTER 3

The concept of restitution in relation to restoration, reconciliation and reparation

3.1 Introduction

In this chapter I offer reflection on the term restitution and the conceptual difficulties to understand what restitution means in relation to reconciliation, reparation, redistribution, rehabilitation, and restoration. In addition to encyclopedic references to the terms restitution and restorative justice, I offer a brief account of German debates on restitution (*Wiedergutmachung*).

3.2 Brief historical survey of philosophical discussions on restitution

The recognition of systemic economic inequalities has led to widespread calls for economic justice and more specifically for restitution. This requires conceptual clarification on the meaning of restitution given the diverging connotations attached to words such as restoration (or restorative justice), reparation and reconciliation. Such conceptual clarification cannot be undertaken here since nothing less than a survey of the history of philosophical reflection on the meaning of justice in different traditions would be required.¹ Suffice it to say that the English term restitution is derived from the Latin term *restituere* meaning “to restore.”² Macquarrie and Childress clarify the meaning of restitution as “genuine sorrow for sin [which] implies not only the desire for future amendment of life but the desire to repair or minimize the injuries inflicted by the sin or sins already committed and now repented of.”³ In the context of systemic economic

¹ Pamela Jane Schwikkad and S.E. van der Merwe, *Principles of evidence (3rd edition)*, (Juta, 2009). Dr H.J. van der Merwe conducted lectures on the early history of justice, in the early history of the law of evidence, at the University of the Western Cape in 2014.

² James Leo Garrett, Jr., notes in his footnotes that, “The great similarity between the Latin *restituere* and *restaurare* should be noted. The general literature on Reformation and modern Protestant restitutionism is very limited. One of the few books in the field is Alfred T. DeGroot, *The Restoration Principle* (St. Louis: Bethany Press, 1960), which with what seems to be Ritschlian presuppositions and with the obvious influence of the Disciples of Christ traces the restorationist theme from Clement of Rome to the American Disciples leader, Frederick D. Kershner.” (Italics mine)

³ John Macquarrie and James Childress, *A new dictionary of Christian ethics* (London: SCM Press, 1986), 549.

inequalities restitution typically means the restoration of something to its original state.⁴ The concept of restitution is thus regarded as synonymous with restoration. For Garret, the question is, if the terms “restitutionism,” or “restorationism” can be used, and if so, with what meanings?⁵ Restitution, according to Garret, is the ‘restoration of something lost or stolen to its proper owner’; restitutive (adjective) is the derivative.⁶ However, According to Littell, restitution is conceived as a recovery (*restitutio*);⁷ a recovery primarily of material goods (land, property, possessions) that can no longer be restored to its original state to which commitment to [it] begins in a thorough-going repentance.⁸ Martin maintains that Littell’s “approach lies in its rejection of deterministic theories that make a person a victim of heredity or environment. Rather, it places responsibility for one’s own life on the individual.”⁹ However, Littell’s conception of restitution as a recovery (*restitutio*) poses a theological and ethical challenge. Restitution conceptualized this way is problematic in a racialized society that has asymmetrical power relationships due to structural domination and systemic economic inequalities. As part of the racialization process, minorities are redefined as illegitimate, thus seen as devoid of social

⁴ Catherine Soanes and Angus Stevenson (Eds.), *Concise Oxford English dictionary (11th ed)*, (Oxford: Oxford university press, 2006), 1226.

⁵ James Leo Garrett, Jr., ‘Restitution and Dissent Among Early English Baptists: Part I’, Garret then asserts, “answers to questions such as these await further intensive and cooperative scholarship and ecclesial activity.” In my survey his contribution to the subject is minimal.

⁶ Soanes and Stevenson (Eds.), *Concise Oxford English dictionary (11th ed)*, 1226.

⁷ Franklin H. Littell, in his article entitled ‘The Anabaptist Doctrine Of The Restitution Of The True Church’, 33; asserts that, “The Anabaptists conceived of their historical significance as a restitution of the true church, a recovery...”; “The real issue was the restitution of a vigorous congregational life, as it had been lived in apostolic times,” 36.

⁸ Littell, ‘The Anabaptist Doctrine Of The Restitution Of The True Church’, 35. Littell further suggests [it] “requires mature dedication and discipline. Such commitment requires a degree of understanding (Vernunft) which only mature persons can possess. He quotes from Testimony in Bossert, Gustav, ed., *Quellen zur Geschichte der Wiedertäufer: Herzogtum Württemberg* (Leipzig, 1930), Quellen und Forschungen zur Reformationsgeschichte, No.XIII :1. p. 240. Hereafter, WTQ 1930.

⁹ P. Martin, ‘Sin, Guilt and Mental Health: Confession and Restitution as Means of Therapy,’ *Christian Century* Vol.92, No. 19, 1975:526.

and political legitimacy.¹⁰ Many African communities were dispossessed of their land, property (including culture, and identity) by minority groups during the period of colonial and apartheid rule. This long process resulted in forced removals and perennial poverty.¹¹ These African communities were transformed to slave labour and migrant labour. Forced removals in South Africa remain a fundamental factor contributing to current social and political problems, and the perpetuation of economic inequalities.¹² What does restitution mean in the context of the tragedy of colonial dispossession and apartheid? Does restitution then imply compensation, re-appropriation or a transfer of alternative economic resources to the victims? In the South African context where African people were dispossessed of their land and property during colonial and apartheid rule thereby transforming them into migrant labour reserves and where the structure of the economy changed radically during the same period from an agricultural economy to an industrialised service-oriented economy, economic “restitution” poses enormous challenges.

Is restitution a form of restorative justice? If it is, the challenge would be to explain “how can notions of restorative justice be brought into line with issues arising from a demand for decolonization, for collapsing the categories of colonizer and colonized?”¹³ If restorative justice implies the desire for future amendment of life especially when amendment is seen as the desire to repair or minimize injuries; can it be seen as synonymous to restitution? Wright and Masters warn that the concept of restorative justice, in its modern incarnation, has recently come of age

¹⁰ Chris Cunneen, ‘Restorative justice and the politics of decolonization,’ edited by Elmar G.M. Weitekamp and Hans-Jurgen Kerner (Chapter 3) in *Restorative Justice: Theoretical foundations* (London: Willan Publishing, 2002), 39; Cunneen further asserts that, “the concept of ‘community’ is a concept which is highly problematic in restorative justice (as in other areas of social and legal policy).”

¹¹ Jakobus M. Vorster in an article entitled, ‘The ethics of land restitution,’ *Journal of Religious Ethics* (34) (no. 4) 2006:686. Klaus Nürnberger pointed out that some feel that the adjective “pathological” should be applied to the enormous imbalances in the control over resources and that oppression, exploitation and discrimination structurally and ideologically caused poverty and led to chaos. See *Ideologies of change in South Africa and the power of the gospel (Capitalism - Socialism - Marxism): An interdisciplinary study-program of the Missiological Institute, Mapumulo*, (Durban: Lutheran Publishing House, 1979), 86.

¹² Mzobanzi M. Mboya, *Beyond apartheid: The question of education for liberation* (Cape Town: Esquire Press, 1993), xi.

¹³ Cunneen, ‘Restorative justice and the politics of decolonization,’ 44.

and is more than twenty one years old so it ought to be able to withstand criticism.¹⁴ However, Van Ness maintains that, while there is always need for caution in making claims about a restorative future, there does seem to be evidence that the future of justice will at least include restorative elements.”¹⁵ How then is restitution clarified in the context of the historical and brutal land dispossession process of colonization and oppression? Should that process, be seen only as “sin” that has inflicted injuries to an entire group in a South Africa that has now been reconciled? Cunneen argues that, “one of the great dangers is that restorative justice may simply dissolve into a process of maintaining neo-colonial relations.”¹⁶ Vorster maintains that, “today, indigenous peoples and previously disadvantaged groups are campaigning for restitution because they rightly argue that insecurity of property rights and land ownership upholds their poverty and perennial social distress.”¹⁷

According to Christian ethics, sin can be forgiven without restitution; but offering forgiveness should lead to restitution. This is where the problem lies. Is it not the position of most whites in South Africa that the “sins” that they historically had already committed they have now repented of and are forgiven? By asking this question I do not seek to invite a discussion here but to further probe the question, how should restitution be conceptualized in the South African democratic context taking into consideration the historical discourse of dispossession and the current economic inequalities?¹⁸ To complicate the issue further some Christians maintain that “it may sometimes be impossible to make restitution. Wherever possible, however, an act of restitution or the sincere intention of performing such an act must be regarded as a necessary part

¹⁴ Martin Wright and Guy Masters, ‘Justice criticism, misunderstanding, or important steps on the road to acceptance?’ edited by Elmar G.M. Weitekamp and Hans-Jurgen Kerner (Chapter 4) in *Restorative Justice: Theoretical foundations*, (London: Willan Publishing, 2002), 50.

¹⁵ D. W. Van Ness, ‘The shape of things to come: a framework for thinking about a restorative justice system,’ (Chapter 1) Weitekamp, E. G. M., and H., Kerner (Eds.) *Restorative Justice: Theoretical foundations*, London: Willan Publishing, 2002, 17.

¹⁶ Cunneen, ‘Restorative justice and the politics of decolonization,’ 44.

¹⁷ Vorster, ‘The ethics of land restitution,’ 685.

¹⁸ Restitution is not reprobation which is defined as an “act whereby God excludes those in the state of unrepented moral sin from salvation and condemns them to eternal punishment (Matt 25:41-46)? O’Collins & Farrugia, 226.

of repentance, and as a condition for receiving absolution.”¹⁹ As complex as the restitution concept is, can the sincere intention of performing such an act, be considered restorative? Or is it impossible to “make restitution”? Can restorative justice mean that what a people group had historically dispossessed can be demanded back in peace through genuine restitution? If so how? Furthermore, how does restitution relate to retribution in the context of restorative justice?²⁰ Zehr suggests that, “both retributive and restorative theories of justice acknowledge a basic moral intuition that a balance has been thrown off by the wrong doing. Consequently, the victim deserves something and the offender owes something.”²¹

3.3 South African debates and discussions on restitution

Such academic reflection is best situated in the field of economic ethics but it cannot be isolated as the restitution theme is also addressed in many other academic disciplines and discourses. For a stronger grasp of an overview on how the term restitution is used in the history of academic reflection and more specifically in South Africa, I depend on Andrew and Ngubane who provide an articulation of a framework that South Africa has followed in terms of restitution. According to Andrew, the need for restitution in the form of land restitution was recognised to be a constitutional issue given the legacy of land conquest, the impact of legalised dispossession of land and of the infamous Land Act of 1913 and subsequent land legislation under apartheid. This need was addressed through the Restitution of Land Rights Act which was approved by Parliament in November 1994.²² Andrew in her dissertation declares that,

The Restitution of Land Rights Act was approved by Parliament in November 1994,

¹⁹ Macquarrie and Childress, *A new dictionary of Christian ethics*, 549.

²⁰ Carl F.H. Henry, *Baker's dictionary of Christian ethics*, (Michigan, Baker Book House, 1973), 582. Retribution, the Bible insists, must inevitably follow sin; although the word is not used in scripture, the idea of retribution appears frequently and is clearly expressed by Paul in Rom 2:5, 6. Chikane suggests that the blacks have always struggled with this God of those who brutally dispossessed them; the God of their oppressors: a Christian religion of the oppressor, a Christian religion of the white man, and therefore worse than irrelevant for them (Chikane, 38).

²¹ H. Zehr, ‘Journey to belonging’, Chapter 2 in Weitekamp, E. G.M., and Hans-Jurgen Kerner (Eds.) *Restorative Justice: Theoretical foundations*, London: Willan Publishing, 2002, 29.

²² Nancy Andrew in her Doctoral Thesis entitled, ‘Land reform and the social dynamics of land conflict in the South African countryside’, (Paris: Université René Descartes - Paris V, June 2005), 144.

and along with the Constitution, provides for settling land claims against the state and helping people to relocate there. This act set up an independent 5-member commission to help applicants prepare claims and to reach settlement between parties and agree on a price. It also established the Land Claims Court (which ratifies the Commission's decisions) to settle cases that the commission is unable to decide.²³

The implementation of this Act led to the South African land reform programme. A conceptual distinction need to be made here between land restitution, land redistribution (addressing racialized inequalities when it comes to land ownership, especially in rural areas) and land tenure reform (addressing legal systems of land tenure). Land restitution is typically understood as the restoration of land ownership so that a particular property is restored to its original owners or their legal heirs. As Ngubane shows, "restitution is about land restoration; settling claims for land lost under apartheid measures by restoration of holdings or by providing compensation."²⁴ Fraser, cited in Ngubane says that, "the South African land reform programme is a response to a highly unequal distribution of land along racial lines and an attempt to redress the injustices of forced removals and other dispossessions. Underlying the sheer magnitude of injustice, whites own over eighty-five percent of the land,"²⁵ and Fraser is further cited noting that, the ANC-led "government set the goal of redistributing 30% of total agricultural land by 2014, but has had to admit that this will not be a realistic and achievable target."²⁶ Ngubane then adds that, "the target deadline has been pushed forward again to 2025."²⁷ Ngubane asks the question, "What has been the progress in terms of land restitution?"²⁸ He answers the question concerning the situation as

²³ Andrew, 'Land reform and the social dynamics of land conflict in the South African countryside,' 144.

²⁴ Mngqobi Mthandeni Ngubane, in his Masters Thesis entitled, 'Land beneficiaries as game farmers in the 'new' South Africa: Land reform in relation to conservation, the hunting industry and chiefly authority in KwaZulu-Natal', (Bloemfontein: University of the Free State, February 2012), 24.

²⁵ Ngubane, 'Land beneficiaries as game farmers in the 'new' South Africa: Land reform in relation to conservation, the hunting industry and chiefly authority in KwaZulu-Natal,' 24.

²⁶ Ngubane, 'Land beneficiaries as game farmers in the 'new' South Africa: Land reform in relation to conservation, the hunting industry and chiefly authority in KwaZulu-Natal,' 25.

²⁷ Ngubane, 'Land beneficiaries as game farmers in the 'new' South Africa: Land reform in relation to conservation, the hunting industry and chiefly authority in KwaZulu-Natal,' 25.

²⁸ Ngubane, 'Land beneficiaries as game farmers in the 'new' South Africa: Land reform in relation to conservation, the hunting industry and chiefly authority in KwaZulu-Natal,' 29.

for March 2009:

By March 2009, just 5.3 million of the 24.6 million target hectares (5.2%) had been transferred through the various land reform programmes, including restitution. Over 4000 lodged rural restitution claims had not been processed by 2009, and the restitution programme faced many challenges in resolving land claims, particularly in relation to high value land. Inadequate budgetary allocations, unrealistic deadlines and a lack of adequate post-settlement support for land-reform beneficiaries have continued to hamper both the redistribution and the restitution components of the land reform programme (Kleinbooi, 2010:43-4).²⁹

Ngubane in his thesis maintains that, “restitution is about land restoration; settling claims for land lost under apartheid measures by restoration of holdings or by providing compensation.”³⁰ Ngubane gives restitution attention in that his study “is particularly concerned with the restitution dimension of the land reform programme.”³¹ He maintains that, “the land restitution programme aims to give back land to those dispossessed of their land rights since 1913, through racially discriminatory laws and practice.”³² He then adds: “Some scholars find this date problematic in itself because it technically excludes restitution of land dispossessions which took place before 1913.”³³ Andrew supports Ngubane when she states that,

In order to return land to those who were dispossessed by discriminatory apartheid laws after the 1913 Land Acts, a limited programme of land restitution was initiated in mid-1995. Starting from May 1995, applicants had three years to file a claim for a specific piece of land, either state or private, while the Land Commission and Land

²⁹ Ngubane, ‘Land beneficiaries as game farmers in the ‘new’ South Africa: Land reform in relation to conservation, the hunting industry and chiefly authority in KwaZulu-Natal,’ 29. Kleinbooi, cited in Ngubane.

³⁰ Ngubane, ‘Land beneficiaries as game farmers in the ‘new’ South Africa: Land reform in relation to conservation, the hunting industry and chiefly authority in KwaZulu-Natal,’ 24.

³¹ Ngubane, ‘Land beneficiaries as game farmers in the ‘new’ South Africa: Land reform in relation to conservation, the hunting industry and chiefly authority in KwaZulu-Natal,’ 25.

³² Ngubane, ‘Land beneficiaries as game farmers in the ‘new’ South Africa: Land reform in relation to conservation, the hunting industry and chiefly authority in KwaZulu-Natal,’ 25.

³³ Ngubane, ‘Land beneficiaries as game farmers in the ‘new’ South Africa: Land reform in relation to conservation, the hunting industry and chiefly authority in KwaZulu-Natal,’ 25.

Claims Court had a period of five years to process and rule on the claims, and ten years to implement court decisions.³⁴

The above quotation necessitates the attempt at providing evidence that gives background to dispossessions that occurred since 1652 to be reconstructed because racially discriminatory laws do not come into practice only in 1913, and also, like some scholars as Ngubane notes, I find it problematic that the restitution programme focuses on dispossession since 1913. To provide evidence for this, Westaway and Minkley, also cited by Ngubane suggest that, “the restitution process is rights based. More specifically it provides a “measure of justice” to those that were dispossessed of land rights in the post 1913 period.”³⁵ In light of this, Bosman asserts that, “Land claims could be made against any land that was expropriated after 1913 (i.e. after the promulgation of the Natives Land Act), or in cases where forced removals took place.”³⁶ Consequently, Cliffe, cited by Ngubane, states that, “the primary objective of restitution is to promote social justice and reconciliation.”³⁷ Andrew asks a pertinent question, “Who qualifies?” In answering the question, she declares:

Persons who were dispossessed since 1913 due to apartheid practices or laws, or were not paid just compensation if they were expropriated under the Expropriation Act, the Development Trust and Land Act after 1965 or the Community Development Act after 1975. Significantly, rights are not determined by past racially-biased laws, since these often prevented ‘legal’ protection of one’s rights to land, nor by formal ownership, but may include some “long-term tenancy rights and other occupational rights” (p. 36). Beneficiaries must be *direct descendants* of the individual or community dispossessed.³⁸

³⁴ Andrew, ‘Land reform and the social dynamics of land conflict in the South African countryside,’ 144.

³⁵ Westaway and Minkley in Ngubane, ‘Land beneficiaries as game farmers in the ‘new’ South Africa: Land reform in relation to conservation, the hunting industry and chiefly authority in KwaZulu-Natal,’ 25.

³⁶ Bosman in Ngubane, ‘Land beneficiaries as game farmers in the ‘new’ South Africa: Land reform in relation to conservation, the hunting industry and chiefly authority in KwaZulu-Natal,’ 25.

³⁷ Cliffe in Ngubane, ‘Land beneficiaries as game farmers in the ‘new’ South Africa: Land reform in relation to conservation, the hunting industry and chiefly authority in KwaZulu-Natal,’ 25.

³⁸ Andrew, ‘Land reform and the social dynamics of land conflict in the South African countryside,’ 144.

However, Ngubane further reveals that in the rural context, “some communities have found ways around this: for example, the Ngome community...dispossessed of its land rights in the pre-1913 period, made strategic use of the land redistribution programme to get back the lost land.”³⁹ In this case, restitution is understood, as Ngubane suggests, primarily if not only as a recovery of lost land. Ngubane maintains that the scope of restitution has widened over time. He quotes Hall when she explains that, “the impetus for restitution came from people forcibly removed from ‘black spots’ into the so-called homelands, mostly within living memory, but the programme has come to encompass a much wider range of claimants, including those evicted in urban areas, *former labour tenants on commercial farms*, and those who lost land and livelihoods through ‘betterment’ planning in the homelands.”⁴⁰ According to Andrew, in agreeing with Hall, the apartheid legislation that is used to judge the validity of the claims includes:

The Black Administration Act of 1927, the development Trust and Land Act of 1936, the Group Areas Act of 1950, 1957, and 1966, the Community Development Act of 1966 and the Black Resettlement Act of 1954 which were applied in order to “remove, evict and expropriate ‘black spot’ (freehold) communities, unregistered and deregistered labour tenants and disqualified urban dwellers.” Other examples include “so-called voluntary removals and voluntary sales” that took place when “inducements of alternative land were made or after racially segregated residential areas were declared, but before final expropriation happened.” Or, in some instances, “race neutral [?] laws such as the Slums Act and the Squatting Act were used to effect racial zoning.” In still other cases, “state action under discriminatory law played a secondary role in the process of dispossession and private parties contributed to the discriminatory act of dispossession.”⁴¹

Ngubane, in light of the above quotation, suggests, “Restitution is a process that has to take place under the limitations of the available state resources and within the broad policy framework of

³⁹ Ngubane, ‘Land beneficiaries as game farmers in the ‘new’ South Africa: Land reform in relation to conservation, the hunting industry and chiefly authority in KwaZulu-Natal,’ 25.

⁴⁰ Ngubane, ‘Land beneficiaries as game farmers in the ‘new’ South Africa: Land reform in relation to conservation, the hunting industry and chiefly authority in KwaZulu-Natal,’ 26.

⁴¹ Andrew, ‘Land reform and the social dynamics of land conflict in the South African countryside,’ 144.

the compensating state considering the physical loss of assets.” He cites Roodt who states that, “If restoration is not possible, restitution may take the form of *financial compensation* or in the case of land, *alternative land*.” [Emphasis added by Ngubane]. Roodt “emphasizes that the primary aim of restitution is reconciliation;”⁴² Ngubane outlines Roodt’s interpretation of what restitution usually involves to those who qualify; he cites a number of components: “The restoration of a right; the restoration of physical property lost, and/or the compensation of victims; the reconciliation of victims and the perpetrators/beneficiaries of the original dispossession; the expectation that the restitution process will contribute in some way to economic upliftment and development.”⁴³ To this, Andrew asks the question “Who does not qualify?” She then presents the answer:

Persons dispossessed before the Native Land Act of June 1913 due to “wars, conquest, treaty and treachery”. The government does not believe the Land Claims Court can feasibly handle claims for land predating this time. Avowedly, the *Green Paper* also seeks to avoid stirring up ethnic conflict between communities based on historical claims, and to circumvent the “legal-political complexities” of competing claims for the same land which has been occupied successively by different groups. It also points out that the population increase since that time, along with the dispersion factor would make such claims untenable. It seeks to focus on the “present-day effects of historical dispossession.”⁴⁴

3.4 Restitution as discussed in South Africa

Since the structure of the South African economy changed radically from an agricultural economy to an industrialised service-oriented economy over the last century it should be clear that land restitution would not by itself suffice to address current economic inequalities. It would also require a form of economic restitution but what such restitution entails is subject to conceptual clarification and public debate. A distinction between economic reparation and

⁴² Ngubane, ‘Land beneficiaries as game farmers in the ‘new’ South Africa: Land reform in relation to conservation, the hunting industry and chiefly authority in KwaZulu-Natal,’ 26.

⁴³ Ngubane, ‘Land beneficiaries as game farmers in the ‘new’ South Africa: Land reform in relation to conservation, the hunting industry and chiefly authority in KwaZulu-Natal,’ 28.

⁴⁴ Andrew, ‘Land reform and the social dynamics of land conflict in the South African countryside’, 145.

restitution is important here. Reparation may be defined as “money that is paid by a country [or community or institution], for the damage [or] injuries, etc. that it has caused [on a people group]...offenders should be forced to make reparation to the community.”⁴⁵ Such reparation may also apply to other forms of compensation for damages incurred in the interaction between businesses, organisations in civil society and individual citizens (e.g. in civil law proceedings). The general consensus in South Africa is that reparations should be paid to the victims of apartheid. However, in the words of Jeff Rudin, “A major problem has been how to fund reparations whether to individuals or communities.”⁴⁶ Given the legacy of colonialism and apartheid and the their heritage of current economic inequalities it is not clear whether such reparation would suffice since inequalities cannot be traced any longer directly to any one specific incident that happened generations ago. In order to address current inequalities shaped by a myriad of injustices, forms of economic restitution are also necessary in order to create a more just future. Such economic restitution is typically recognized in the very aims of economic policy documents. However, what such restitution means is in need of conceptual clarification. Moreover, what does restitution mean in relation to reparation and reconciliation? The purpose here is to use economic matters as a paradigm for conceptual clarification; therefore my approach is a hermenetical one, to understand the economic implications of the concept of reconciliation and its impact towards the previously dispossessed African majority in contemporary democratic South Africa.⁴⁷ The hermeneutical aspects of this reflection on reconciliation must be placed at the centre of a just economy. It is in this regard that the term ‘reconciliation’ as a concept with an eschatological meaning has been highly contested; hence its prioritisation and its moral demands had also been contested in South Africa’s sociopolitical debates since the 1990s. Duvenage then asks a question: ‘How do we deal with the moral

⁴⁵ Sally Wehmeier (Chief Editor), *Oxford Advanced learner’s dictionary: International student’s edition (7th ed.)* (Oxford University Press, 2005), 1236.

⁴⁶ Jeff Rudin, ‘Apartheid debt: Questions & Answers,’ (Cape Town: Jubilee 2000, Alternative information and development centre, 1999), 18.

⁴⁷ Using economic matters as a paradigm for reading on concepts such as reconciliation in relation to reparations, restitution, redistribution, rehabilitation, and reform is a way of reading that I borrow from Roelf Haan in his book *Theology and Economics: The Hermeneutical case of Calvin today*, Wellington: Bible Media, 2012.

obligation to the past?’⁴⁸ Conradie further maintains that, “the distinction between reparation, compensation and restitution...is not widely employed in the literature in the field of jurisprudence. Often restitution is understood to include reparation and compensation.”⁴⁹ Restitution is formally defined to be “the act of giving back something that was lost or stolen to its owner; [it is held to be synonymous with restoration; yet the legal meaning is] payment, usually money, for some harm or wrong that somebody has suffered.”⁵⁰ In terms of international jurisprudence, Wittmann asks a pertinent question:

So for what exactly does the entitlement to reparation due under international law constitute? The general and foundational rule of the international legal reparations regime was laid out by the Permanent Court of International Justice when it proclaimed in the Chorzow Factory case that ‘reparation must, as far as possible, wipe out all the consequences of the illegal act and re-establish the situation which would, in all probability, have existed if that act had not been committed.’⁵¹

Can South Africa ‘wipe out all the consequences of the illegal act of apartheid and re-establish the situation which would, in all probability, have existed if that act had not been committed?’ To qualify the above quotation Duvenage invokes Jacques Derrida when Derrida writes that,

[Apartheid] by itself the word occupies the terrain like a concentration camp. System of partition, barbed wire, crowds of mapped out solitudes...At every point, like all racisms, it tends to pass segregation off as natural – and as the very law of origin...even though it offers the excuse of blood, colour [*sic*], birth...racism always betrays the perversion of a man, the ‘talking animal.’ It institutes, declares, writes, inscribes, prescribes. A system of marks, it outlines space in order to assign forced

⁴⁸ Duvenage ‘The politics of memory and forgetting after apartheid,’ 510.

⁴⁹ Ernst Conradie, (Ed.), *Reconciliation: A guiding vision for South Africa?* (Stellenbosch: Sun Press, 2013), 46.

⁵⁰ S. Wehmeier, (Ed.), *Oxford Advanced learner's dictionary: International student's edition* (Oxford: Oxford University Press, 2005), 1246.

⁵¹ Nora Wittmann, ‘Slavery reparations: The time is now’, *New African*, (No.532) (Herts: IC Publications, 2011), 33.

residence or to close off borders. It does not discern. It discriminates.⁵²

In light of this reflection, Wittmann declares that, “the ultimate aim of reparations must be the destruction of the structures of exploitation that have persisted... If the general goal of reparation, as defined by law and justice, is ‘as far as possible to wipe out all the consequences of the illegal act and re-establish the situation which would, in all probability, have existed if that act had not been committed’, [what] would [this] involve?”⁵³ Conradie asserts that, “reparation may be understood as addressing the harm that can indeed be undone... [it] is the minimum standard of justice, but it does not suffice for reconciliation.”⁵⁴

3.5 Restitution, Reparations and *Wiedergutmachung* (making good again)

The South African situation begs the question, is restitution only about land restoration; settling claims for land lost by restoration of holdings or by providing compensation?⁵⁵ Marrus in his book *Some Measure of Justice* “explores the Holocaust redress movement of the 1990s—triggered by lawsuits in the United States primarily against Swiss banks, German and American corporations, insurance companies, and individuals and institutions... Claimants and their attorneys.”⁵⁶ Germany found an opportunity to financially support the redress movement by

⁵² Duvange, ‘The politics of memory and forgetting after apartheid,’ 510; Duvange quotes Jacques Derrida, ‘Racism’s last word,’ *Critical inquiry*, 1985, p.291; see also Derrida in ‘Debate with McClintock and Nixon,’ *Critical inquiry*, 1986.

⁵³ Wittmann, ‘Slavery reparations: The time is now’, *New African*, 33.

⁵⁴ Conradie, ‘Reconciliation as one guiding vision for South Africa? Conceptual analysis and theological reflection,’ 45. Conradie in a draft paper, entitled: What diagnosis? Which Remedy? Critical reflections on the Diagnostic Overview of South Africa’s National Planning Commission, suggested that ‘the term “reparation” may be used to refer to creative acts, strategies or policies that are introduced (e.g. affirmative action, weighted opportunities) in cases where a dissipation and amplification of injustices have taken place due to the extension of unequal relationships over time’(p.14). This paper was discussed at a seminar in the Department of Religion and Theology at the University of the Western Cape on 5 May 2015.

⁵⁵ Ngubane, ‘Land beneficiaries as game farmers in the ‘new’ South Africa: Land reform in relation to conservation, the hunting industry and chiefly authority in KwaZulu-Natal,’ 24.

⁵⁶ Michael R. Marrus, *Some Measure of Justice: The Holocaust Era Restitution Campaign of the 1990s*, (Madison: University of Wisconsin Press, 2009), xviii. Marrus further explores “the goals of the movement, why it emerged when it did, how it compares to earlier reparation to Jewish individuals and institutions, its significance for the historical representation of the Holocaust, and its wider implications.” Elazar Barkan reviews Marrus’ book.

paying reparations and setting up a restitution fund by the state in the name of *Wiedergutmachung* (making good again) for the Holocaust. Germany made a financial settlement to the Israeli state in the name of restitution for the Jewish settlers there who were survivors of the Holocaust. The German restitution model is important because:

The Holocaust is usually presented as the paramount example of historical crime. This may raise the question of uniqueness, but the Holocaust undoubtedly possesses a particular status here. Yet [reparations] to Holocaust victims in the 1990s were part of a larger global movement for redress for various historical crimes; the issue of [restitution] has become part of the transition to democracy in the postcolonial, post-apartheid, post-Cold War world.⁵⁷

In light of the above quotation, I will offer a brief review of the motivation for Germany to make restitution and establish its moral underpinnings. This may have implications in the South African context in which a genuine need for economic restitution has arisen. Barkan notes that, in any review of the German restitution model it is important to recall that, “the real precedent came during the 1950s when German reparations to individual Jews and to the state of Israel indeed blazed the trail. That phase, from the 1950s to the 1980s, in fact dwarfs the settlements of the 1990s in terms of monetary payments: the latter amounts to perhaps barely more than five percent of the total.”⁵⁸

For the purposes of understanding the German restitution model I rely and depend on Chappine’s research. Chappine begins by stating that, “West Germany paid approximately DM 100,000,000,000 to 500,000 Holocaust survivors internationally;” and cites Ferencz’s comment that, ‘The German indemnification program was unprecedented, ‘Never before had any people subjected to such persecution been compensated for their suffering.’”⁵⁹ What is interesting when

⁵⁷ Marrus, *Some Measure of Justice: The Holocaust Era Restitution Campaign of the 1990s*, xviii.

⁵⁸ Elazar Barkan (Columbia University) in his review of Marrus, *Some Measure of Justice: The Holocaust Era Restitution Campaign of the 1990s*, xviii.

⁵⁹ Stuart E. Eizenstat, *Imperfect Justice: Looted Assets, Slave Labor, and the Unfinished Business of World War II*, (New York: Public Affairs, 2003), 15. Benjamin B. Ferencz, ‘A Retrospective Evaluation,’ in his *Less Than Slaves: Jewish Forced Labor and the Quest for Compensation*, (Bloomington IN: Indiana University Press, 2002 [reprint of original Harvard University Press, 1979 edition, with added 2001 ‘Retrospective Evaluation’], x. Taken from Chappine.

I survey Chappine's work is that she helps in formulating an understanding of the meaning of restitution as a concept and she differentiates it from reparations and also shows how restitution was facilitated by the victims of the Holocaust themselves. This is revealed by Chappine when she asserts that,

[The] Conference on Jewish Material Claims against Germany began pursuing settlements with individual companies on behalf of survivors in the 1950's. Regretfully, by the 1960's, the statute of limitations for claims against individual German companies had run out. The Claims Conference could do nothing more than distribute the money it had obtained in the settlements. Through the work of the Claims Conference, 14,878 survivors scattered throughout forty-two different countries received payments. As impressive as this number seems, there were several shortcomings. Since the Claims Conference negotiated exclusively for Jewish survivors, these early agreements excluded non-Jewish forced laborers. Also, hundreds of thousands of Jewish slave laborers had worked for businesses that refused to pay.⁶⁰

Chappine shows a restitution process that is driven by a Conference that is organized by the victims of oppression that were subjected to slave labour and forced labour by the German companies. This is the German restitution model. Barkan notes that, "there is no doubt that various sorts of advocacy were necessary for the drive to succeed."⁶¹ Though there was a 'statute of limitations for the claims' this shows that the restitution process although 'the compensation itself was not consistent,' was not necessarily only initiated and driven by the German state.⁶² In the German restitution model the ethics of restitution became an ethics of the Jewish forced, migrant, and slave labourers, followed by negotiations. "On April 23, 1996, the U.S. Senate

⁶⁰ Patricia Chappine, 'Delayed justice: forced and slave labor restitution after the holocaust', *Journal of Ecumenical Studies*, 46:4, (Fall, 2011), 617.

⁶¹ Elazar Barkan in his review of Marrus, *Some Measure of Justice: The Holocaust Era Restitution Campaign of the 1990s*, xviii.

⁶² The "compensation itself was not consistent. For example, surviving slave laborers who had worked for Rheinmetall received equal payments of DM 1,700 while claimants who had worked for the Siemens factory 'were to receive up to DM 5,000...with payments based on the duration of the victims' labour.' Decades passed without any further compensation paid." Chappine quotes Henry, *Confronting the Perpetrators*, 130.

Banking Committee held hearings on the World War II dealings of the Swiss banks. On August 13, 1998, Swiss banks agreed to pay \$1,250,000,000 to Jewish groups in restitution for lost assets of Holocaust victims and their heirs:

This successful negotiation opened the door for many other Holocaust-era claims, which unfolded rapidly in the late 1990's...In the same month, an International Commission of Holocaust Era Insurance Claims was formed to establish a process to collect information regarding unpaid policies. Class-action suits against French and German banks followed in 1999. The settlement with the Swiss banks opened the floodgates for the future litigation of Holocaust claims.⁶³

In spite of this, Barkan emphasizes that, "most of the German restitution money devoted to re-compensating former slave laborers went to old, poor, non-Jewish survivors in Eastern Europe. The tension is particularly intriguing because at the macro level the successes are usually represented as an ethical and a moral achievement, while at the micro level actual events included unsavory acts."⁶⁴ However, Chappine's literature helps in that it clarifies at least conceptually what restitution means. The above information shows how banks agreed to *Wiedergutmachung* for the victims of an injustice whether dead or alive; those who remain alive became heirs. Chappine further reveals that,

Perhaps sensing that the Swiss banks would settle, Mel Weiss and Michael Hausfeld, two American class-action lawyers, on March 4, 1998, filed suit on behalf of Jewish and non-Jewish victims, in federal court in Newark, New Jersey, against the Ford Motor Company and its German subsidiary Ford Werke for their use of slave and forced labor . . . to make trucks for the German Army.⁶⁵

⁶³ This information is published by Robert A. Swift, "Holocaust Litigation and Human Rights Jurisprudence," in Michael J. Bazylar and Roger P. Alford, (eds.) *Holocaust Restitution: Perspectives on the Litigation and Its Legacy*, (New York and London: New York University Press, 2006), 53; Chappine refers to it.

⁶⁴ Elazar Barkan reviews Michael R. Marrus, *Some Measure of Justice: The Holocaust Era Restitution Campaign of the 1990s* (Madison: University of Wisconsin Press, 2009), xviii.

⁶⁵ Bazylar and Alford, *Holocaust Restitution: Perspectives on the Litigation and Its Legacy*, xiii. Chappine further makes use of Henry, Marrus and Eizenstat. She further reveals that, "Considering the outcome of the Swiss banking litigation, [the] German government officials and industry leaders took the initiative to open negotiations. Their secondary goal was legal peace from future claims against German industry in the U.S. The

This way of conceptualizing restitution implies that this concept of compensation includes both Jewish labour and non-Jewish labourers. This has further implications in that it focuses on banks and companies that made use of labour for the Nazi regime; in the above context – truck manufacturing companies for the German army – and Ford Motor Company’s use of forced and slave labour. This makes the German restitution model not only form part of ‘a vehicle for a political struggle’ but also a legal process. Chappine maintains that, “Close to forty separate slave-labor cases were filed in courts throughout the U.S. Under Secretary of State Stuart Eizenstat credits the class-action lawyers with spurring the negotiations: ‘The lawsuits were simply a vehicle for a titanic political struggle, which was messy, sometimes unseemly, and constantly frustrating.’”⁶⁶ What made these processes *authentic*, political as they were, was that as a response to ‘class-action suits’ the German Chancellor (Gerhard Schröder at the time) including the executives of German companies (twelve German corporations) responded (by issuing a statement) and on February 16, 1999:

Negotiations formally commenced in March of 1999. The parties involved included the Claims Conference, which represented all Jews regardless of their country of origin or where they were put to work. Manfred Gentz served as representative for major German industries. German government officials also took part, as did Eizenstat, who represented the U.S. and acted as the “facilitator” of the talks. Moreover, Central and Eastern European governments (Poland, the Czech Republic, Russia, Belarussia [sic], Estonia, Moldova, and Ukraine) represented their nationals, as did representatives from Israel. Finally, a group of class-action attorneys was

chancellor sent his aide: Federal Minister BoboHombach, to Washington, DC, to ask President Bill Clinton for assistance. Clinton's response was to appoint Eizenstat to undergo the task of negotiation. Here Chappine uses Otto Graf Lambsdorff, “The Negotiations on Compensation for Nazi Forced Laborers,” in Bazylar and Alford, *Holocaust Restitution*, 173.

⁶⁶ Eizenstat, *Imperfect Justice*, 208-209, cited in Chappine, 618. “In response to the filing of the class-action suits in the U.S., German Chancellor Gerhard Schröder and the executives of twelve German corporations issued a statement on February 16, 1999, expressing their interest in atoning for past wrongs and acknowledging their historical responsibility to Holocaust survivors who had suffered under the Nazis.”

included.⁶⁷

From an economic ethics perspective, what is profound in the German restitution model is the use of the biblical concept of atonement that is found largely in the Old Testament. This concept of atonement became the primary goal and it fortified the German restitution model. A second concept that is borrowed from Christian ethics is the concept of '*shalom*' or as is the case in *Wiedergutmachung*, *peace* against future claims. This '*shalom*' became the second goal of the restitution process and it aided as a solution to a key problem and addressed a fundamental concern which was – timeline. The German restitution model had through these biblical concepts a clear commencement point and a clear end point and had clear goals. Government officials and representatives of corporations took part in this restitution process religious as it were; it had legal and massive financial and titanic political implications. It required serious talks and a 'facilitator' of the process. Barkan points out that, restitution issues "received enormous public attention in the 1990s, engaged international diplomacy, and became a movement of ethical redress."⁶⁸ Moreover, Nicosia and Hüener further noting the insufficiencies in the process assert that,

Jews were not the only victims of forced and slave labor during the Holocaust. Polish inmates and prisoners of war also struggled to be recognized for their suffering as forced laborers for Germany, but these attempts were mostly unsuccessful. In fact, laborers who were from concentration camps represented only a fraction of the virtual army of compulsory laborers utilized for Germany's wartime production. It is estimated that approximately 700,000 laborers came from the concentration camps, compared with millions of laborers from Eastern Europe and prisoners of war who accounted for twenty-five percent of Germany's workforce by 1945. With so many possible claimants, the discussions on the final allocation of funds were an exercise in complication. The capstone agreement of DM 10,000,000,000 (which was approximately \$5,200,000,000 at the time) was finally signed on December 17, 1999.

⁶⁷ The statement they issued out, according to Chappine, expressed "their interest in atoning for past wrongs and acknowledging their historical responsibility to Holocaust survivors who had suffered under the Nazis."

⁶⁸ Elazar Barkan in his reviews of Michael R. Marrus, *Some Measure of Justice: The Holocaust Era Restitution Campaign of the 1990s* (Madison: University of Wisconsin Press, 2009), xviii.

This settlement was a significant step in the search for justice for former slave and forced laborers. However, like past restitutions agreements, it had its insufficiencies.⁶⁹

What I have noted as an important aspect of restitution is that in the German restitution model “like past restitution agreements,” there seems to be a focus on labourers. Again in the above quotation it is shown that restitution becomes an ethics that focuses on the labourers. This is an important point: there is no necessary link between restitution and ‘land’ *per sé*.

Restitution as understood this way includes elements of redress for slave labour (including forced labour and migrant labour) settlement. However, “German banks were contributing to the settlement fund; any claims against them were taken out of the DM 10,000,000,000. The German insurance companies followed suit and thus inserted themselves into the settlement. DM 1,000,000,000 was distributed to claims that had nothing to do with forced or slave labor.”⁷⁰ Moreover, throughout the “slave and forced labor negotiations, it was often stated that money could never repair the damage done:

Elie Wiesel echoed this idea when he remarked on the importance of restitution as a symbol in a 1997 *Time* magazine article: ‘If all the money in all the Swiss banks were turned over, it would not bring back the life of one Jewish child. But the money is a symbol. It is part of the story. If you suppress any part of the story, it comes back later, with force and vengeance.’⁷¹

As one can see above, restitution and its processes is understood as symbolic; including the money that is involved in it; the money is symbolic. Restitution and atonement form part of the process of reconciliation. What I note is that, ‘the monetary settlement as a moral symbol’ for restitution, and as a ‘testament to history and the memory of those who did not survive,’ was used in the German restitution model; and thereby pronouncing the restitution process a ‘moral victory’ for the labourers. Bazylar asserts that, “Negotiations created a worldwide dialogue about issues of justice and state-sponsored persecution. Second, the perpetrators involved were forced

⁶⁹ Francis R. Nicosia and Jonathan Huener, (eds.) *Business and Industry in Nazi Germany* (New York: Berghahn Books, 2004), 81. Cited in Chappine.

⁷⁰ Bazylar, *Holocaust Justice*, 80.

⁷¹ Bazylar, *Holocaust Justice*, 80.

to take responsibility.”⁷² According to Chappine, the process of restitution goes ‘beyond criminal punishment,’ where there is required of ‘the wrongdoer to pay a financial compensation;’ and this is the only recourse; and that “while forced and slave labor compensation is not all about money, [money] is certainly a part of the issue.”⁷³

The German government admitted responsibility for the crimes of the Holocaust and took measures toward reaching a compensation agreement.⁷⁴ For the Germans, according to McConkey, restitution is *Wiedergutmachung* – “making good again,”⁷⁵ In November of 1949, Adenauer offered DM 10,000,000 to Israel ‘as a first direct token that the injustice done to the Jews all over the world has to be made good,’ this was followed by the Luxembourg Agreements which were reached between Israel and the Federal Republic of Germany.⁷⁶ It was not the first *Wiedergutmachung* of the Berlin senate, nor will it be the last; *Wiedergutmachung* goes on.⁷⁷ However in this on-going *Wiedergutmachung* the question that Chappine asks is:

How can one compensate a lost parent or child? How can one calculate the value of a lost childhood? How can one ever make amends for so many children, who were never given the chance to grow up, marry, or start families of their own? Obviously, none of the crimes committed by the Nazi regime and its collaborators can be “made

⁷² Bazylar, *Holocaust Justice*, 80.

⁷³ Chappine, ‘Delayed justice: forced and slave labor restitution after the holocaust’, 619.

⁷⁴ Chappine, ‘Delayed justice: forced and slave labor restitution after the holocaust’, 616. She points out that, “the Nuremberg Trials in 1945...[which] acknowledged the criminal behavior of prominent Nazi members and business leaders [was] concerned only with punishing the surviving perpetrators. The possibility of compensation to the victims themselves was first raised in 1949, by Konrad Adenauer, the first Chancellor of the Federal Republic of Germany (West Germany).”

⁷⁵ Clarence M. McConkey, in an article entitled, ‘Restitution in Berlin’ published in December 1, 1982), 1231, by The Christian Century. McConkey is executive director of Associated Pastoral Counselors in Lincoln, Nebraska, and a minister of the United Methodist Church.

⁷⁶ Chappine, ‘Delayed justice: forced and slave labor restitution after the holocaust’, 617, cites Marilyn Henry, *Confronting the Perpetrators: A History of the Claims Conference* (London and Portland, OR: Vallentine Mitchell, 2007), 5. She further cites that, Marilyn Henry that, “this treaty called for Germany to make reparation payments to the State of Israel in order to offset the financial burdens resulting from settling nearly half a million survivors after the Holocaust.”

⁷⁷ McConkey, ‘Restitution in Berlin,’ 1231.

good again.” Once this is realized, how should one proceed?⁷⁸

As echoed above, “the magnitude of the Holocaust created suffering that can never be rectified. Decades later, the search for some form of justice still eludes many. The crimes of the Holocaust were vast.”⁷⁹ Chappine cites Bazylar that “the Nazis were not only guilty of the murder of 11,000,000 men, women, and children but also in the theft of between \$230,000,000,000 and \$320,000,000,000 in assets from Jewish victims alone.”⁸⁰ Nevertheless, Chappine seeks to demonstrate “the significance of the final agreement on restitution to the surviving laborers as both a moral victory and a testament to the memory of the victims.”⁸¹

In the German restitution model the continual restitution process (since *Wiedergutmachung* goes on) was facilitated by the German Senate. The state set up a fund. “Significantly, these funds have also set up commissions dedicated to preserving the memory of survivors and providing education about the issues of tolerance and civic responsibility. For the memory of survivors, *Wiedergutmachung* going on was seen as facilitating a “coming back” of the Jews to Germany; “the Berlin senate brought them to see the modern city, to be introduced to contemporary German life, to explore the past and to greet one another from across the long years of exile;”⁸² as a return to a foreign land McConkey reveals that, “many of these former Berlin Jews had not been back to Germany since they left it 40 or 45 years ago. Some had escaped as children. Most came as though strangers to a foreign land, gawking in wonder at what had been, what had disappeared and what had been put in its place.”⁸³ It is this context that Chappine concludes that,

Even private companies have contracted historians to research their wartime roles.

⁷⁸ Chappine, ‘Delayed justice: forced and slave labor restitution after the holocaust’, 619.

⁷⁹ Chappine, ‘Delayed justice: forced and slave labor restitution after the holocaust’, 614.

⁸⁰ Citation from Michael J. Bazylar, *Holocaust Justice: The Battle for Restitution in America’s Courts* (New York: New York University Press, 2003), xi. He goes to reveal that “Benjamin Ferencz, a former prosecutor for the United States during the Nuremberg Trials, is of the opinion that “[t]he crimes against humanity committed by the Nazi regime and its accomplices were so enormous that they can never be redressed in a manner that will be seen as fair by either the perpetrators or their victims.”

⁸¹ Chappine, ‘Delayed justice: forced and slave labor restitution after the holocaust’, 616.

⁸² “They were Jewish survivors of Hitler’s Germany, former Berlin residents who escaped death before and during World War II.” McConkey, ‘Restitution in Berlin’, 1231.

⁸³ McConkey, ‘Restitution in Berlin,’ 1231.

Holocaust restitution can also be viewed, in the words of Michael Markus, 'as a continuing injustice that needs remedy. This definition regards Holocaust-era restitutions not as a one-time-only cure, but as part of an ongoing attempt to acknowledge and explain a historic crime.'⁸⁴

For the Jewish people there remains a sense of loss because many Jews still go "looking for former friends, for the houses in which they had once lived, for the schools and synagogues they had once attended, for the streets they had walked and the train stations from which they had traveled."⁸⁵ What is evident is that, most of them found little or nothing. Friends were gone, houses demolished, schools and synagogues destroyed or relocated, streets renamed and train stations rebuilt. This concept of viewing restitution as ongoing reinforces the importance of a constant reexamining of the past in order to preserve a more peaceful future.⁸⁶ In the German restitution model restitution is continued through "gatherings", it is justified through the events that occurred in history and is effectively facilitated through "pilgrimages." This is understood when McConkey asked Dr. von Weizsacker the question, "what do you think happens in these gatherings?" I asked him; 'how is the time and money of the city justified for these pilgrimages?' von Weizsacker looking out over the assembly, responded, 'what can we do?' he asked, 'for the Jews who still live? We cannot restore their former lives; we cannot bring back their dead; we cannot erase the hatred they may sometimes feel or the guilt we feel. All we can do, all we hope to do, is to show them modern Berlin and ask them to forgive Germany.'⁸⁷ McConkey then concludes that, "the survivors were entertained, they saw Berlin; I doubt they forgave anything."⁸⁸

In the German restitution model the Germans facilitate that the Jews see Germany and visit places there. When they visited the great *Jiidische Gemeindehaus*, the director there said to them, "We in this room are the end product of centuries of Christian intolerance and oppression of the Jews. It all came to focus with Hitler, but we must remember that he was the end, not the

⁸⁴ Chappine, 'Delayed justice: forced and slave labor restitution after the holocaust', 619.

⁸⁵ McConkey, 'Restitution in Berlin,' 1231.

⁸⁶ Chappine, 'Delayed justice: forced and slave labor restitution after the holocaust', 619.

⁸⁷ McConkey, 'Restitution in Berlin,' 1231.

⁸⁸ McConkey, 'Restitution in Berlin,' 1231.

beginning – the effect, not the cause – of anti-Semitism. The Holocaust took place in Christian Europe.”⁸⁹ The Nazi Regime “employed forced workers in nearly every area of society. During World War II, there were approximately 10,000,000 people forcibly employed within Germany. At least half of the top twenty companies still thriving in Germany today were guilty of utilizing slave labor during the war.”⁹⁰ The pilgrims after being shown were “the political enemies of the Third Reich were exterminated. The detention house, the living quarters and the killing shed” that are still there “as a memorial to all the victims of the Holocaust.” The tour guide told them that,

Germany is doing what it can to make restitution, but that the enormity of the task makes the effort well-nigh impossible. At best, the city and the nation engage in symbolic gestures. We were told none too gently that Nazis make up 6 per cent of the German population today. The speaker said, ‘Yes, it can happen again. It will happen again, it is happening now.’ No one knew what to say.”⁹¹

The predominantly “post-Holocaust perspective on German-Jewish history has gravely distorted the past realities of Jewish life in Germany: all Jews everywhere but particularly in Germany, have always been persecuted and always in the same ways.”⁹² However, “this idea of historical accuracy, that the crimes of the Nazis and their collaborators be acknowledged, is crucial to the memory of those lost during the Holocaust. It is also the catalyst for many survivors who fought so hard to receive some measure of justice from Germany.”⁹³

⁸⁹ McConkey, ‘Restitution in Berlin,’ 1232.

⁹⁰ Michael R. Marrus, *Some Measure of Justice: The Holocaust Era Restitution Campaigns of the 1990s*, (Madison, WI: University of Wisconsin Press, 2009), 115, and Bazylar, *Holocaust Justice*, 59, are cited by Chappin who further says that, “Slaves were not only used by major German industry and the S.S. but also by schools and hospitals. With such an intricate and far-reaching network of laborers, why was so little done to compensate them in the years following the end of the Holocaust? In actuality, there were several attempts to include slave and forced laborers in early restitution negotiations.”

⁹¹ McConkey, ‘Restitution in Berlin’, 1232.

⁹² Dagmar Barnouw, *The War in the empty air: Victims, perpetrator, and Postwar Germans* (Indianapolis: Indiana University Press, 2005), 55; Citing Fritz Stern, *Gold and Iron: Bismarck, Bleichroder, and the Building of the German Empire*, (New York: Vintage, 1979); Barnouw, *Visible Spaces*, (Chapter.3), “The silence of Exile.”

⁹³ Chappine, ‘Delayed justice: forced and slave labor restitution after the holocaust’, 620.

3.6 Conclusion

In this Chapter, I offered a reflection on the term restitution and the conceptual difficulties to understand what restitution means in relation to reconciliation, reparation, rehabilitation, and restoration. In addition to references to the terms restitution and restorative justice, I offered an account of the German restitution model (*Wiedergutmachung*). In the account, I conceptually differentiated between reparations and restitution and explained how the idea of retribution is a feature of the restitution process. In order to construct a framework for restitution I surveyed literature on the German restitution model and conclude that restitution in Germany was conceptualized and clarified as ‘compensation to the victims,’ of the Holocaust. Having considered the literature that describes Germany’s conceptualization of restitution, my reflection of Germany’s restitution process is that the Germans also perceive restitution as a ‘pilgrimage’ for the Jews; as ‘gatherings’ between themselves as Germans and the Jews; through regular assemblies. This restitution process is done in order to address the past injustices of the Nazi Germans and it is facilitated by the German Senate. I do not criticize the German concept of restitution. Some may hold a position that it is spiritually and morally empty, I hold that it is a model that has clarified restitution as a sign and symbol of restoration and a model that South Africa may learn from.⁹⁴

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⁹⁴ At the time of writing this project the website www.restitution.org was temporarily unavailable. This is the reason that any specific reference to the Restitution Foundation or their official site is omitted. However, I have met with Deon Snyman on two occasions for discussions with regards to the concept of restitution. The first occasion was at a seminar in the Department of Religion and Theology where he was presenting on the work of the Restitution Foundation. The second occasion was at the Desmond Tutu Peace Lecture at the University of the Western Cape. On these two occasions we held conversations with regards to the necessity for a conceptual clarification of the term restitution in South Africa.

CHAPTER 4

The term restitution in South African economic policy documents (1994-2014)

4.1 Introduction

In this chapter, I offer a critical analysis of the economic policy documents issued by the South African government in the period 1994 to 2014. Such policy documents include the Reconstruction and Development Programme (RDP, 1994); Growth Employment and Redistribution Programme (GEAR, 1996); Accelerated and Shared Growth Initiative South Africa (AsgiSA, 2005); Industrial Policy Action Plan (IPAP, 2007) and its iterations; New Growth Path (NGP, 2010); and the National Development Plan (NDP, 2012). I provide a description of the ways in which the term restitution is used implicitly or explicitly in these policy documents in order to address current economic inequalities in South Africa. I offer an economic policy analysis and show the impact of the current growth path within the context of a market-led land restitution programme. On this basis, I also compare the ways in which restitution is understood in relation to concepts such as reconciliation, reparation, redistribution, and restoration and I offer observations and identify shifts in such economic policy documents. I identify various trends and offer an extensive narrative of the economic policy discourse in South Africa with regards to the triple problem of poverty, unemployment and inequality and include quantitative results in terms of the outcomes of the land restitution programme. In conclusion I offer a few remarks on the restitution programme.

4.2 South African economic policies

On the 11th February 1990 Nelson Mandela was released from prison.¹ During the same year (28

¹ According to Terreblanche, Margaret Thatcher, at the instigation of Ronald Reagan, had to instruct P.W. Botha to release Nelson Mandela toward the end of 1989. Terreblanche maintains that, Botha rejected this recommendation which emerged from the eminent persons group (EPG) delegation that was sent to Botha by Thatcher. Terreblanche, further holds that, after Botha, had a heart attack, F.W. de Klerk was elected leader in the National Party and President in the South African apartheid government; thereafter F.W. de Klerk was called to London by Thatcher and the outcome of that meeting led to the release of Mandela in 11 February 1990. Sampie Terreblanche, *Lost in transformation: South Africa's search for a new future since 1986*, (Johannesburg: KMM Review Publishing, 2012), 15.

April – 1 May) a workshop on ‘Economic Policy for a Post-Apartheid South Africa’ was convened by the Congress of South African Trade Unions (Cosatu) Economic Trends Group and the African National Congress (ANC) Economics Department to come up with some recommendations on economic policy for a post-Apartheid South Africa.² The significance of the workshop was that it introduced the concept of a growth path in the policy discourse of the democratic movement.³ Between 1990 and 1993 the ANC was the chief protagonist during the negotiations with the National Party (NP) government. According to Van Niekerk, the negotiations created the conditions for dialogue, contestation and extensive debate over the values and principles which should underpin social and economic policies before the democratic elections towards a post-apartheid state.⁴ According to Jay Naidoo, “With the help of the left-leaning Italian General Confederation of Labour (CGIL), [Cosatu] arranged the first discussions between CUT [*Central Única dos Trabalhadores*], Cosatu and CGIL in 1991...Some of [Cosatu’s] earliest ideas around the Reconstruction and Development Programme (RDP) came from [their] interactions with comrades in Brazil.”⁵ By contrast, according to Gevisser, “[Mbeki] led an ANC delegation to Washington to meet the World Bank and the International Monetary Fund (IMF) in 1992; he also arranged for many ANC Department of Economic Policy (DEP) staffers to be trained at Goldman Sachs in New York.”⁶ Habib and Padayachee state that during this period (1990-1993),

40 – 45% of the economically active population [in South Africa] was found outside the formal sector. Labor absorption into the formal sector [in the 1990s had] plummeted from 60% to under 40%. Net job creation over this period amounted to

² Cosatu, *A growth path towards full employment: Policy perspectives of the Congress of South African Trade Unions* (Draft Discussion Document: 11 September 2010), 5.

³ Cosatu, *A growth path towards full employment: Policy perspectives of the Congress of South African Trade Unions*, 5.

⁴ Robert van Niekerk, ‘ANC’s rise and the decline to social democracy,’ *South African Labour Bulletin*, Vol.38, No.1, (May/June 2014), 44. Robert van Niekerk is the director of the Institute of Social and Economic Research (ISER) at Rhodes University in Grahamstown.

⁵ Jay Naidoo, ‘The Lula Moment: A Question of Leadership and Integrity,’ edited by Edward Webster and Karen Hurt in *A Lula moment for South Africa? Lessons from Brazil: A collection of essays* (Johannesburg: Chris Hani Institute, 2014), 3.

⁶ Mark Gevisser, *Thabo Mbeki: The dream deferred*, (Johannesburg: Jonathan Ball, 2007), 249.

just 440,000 compared to growth of five million in the economically active population, implying that less than one of every 10 new entrants into the economically active population was being absorbed into formal employment.⁷

At the time, the principles underpinning the social and economic policies of the NP were 'residualist' and 'neoliberal' in character and this neoliberal approach meant that individuals would have to secure their health and welfare by relying on the market.⁸ Van Niekerk continues to state that during the period of transition,

The NP promoted the introduction of market-based principles into public health and welfare services, as well as the privatisation of services. This thinking was reflected in the apartheid ministry of health's National Policy for Health Act 116 of 1990. The ANC with its allies, the Congress of South African Trade Unions (Cosatu) and organisations from the anti-apartheid civil society movement developed a set of alternative social policy proposals based on the Freedom Charter. The proposals contained the most authoritative statement on its post-election economic and social policies. These consisted of the right to state-provided health, welfare, and education with an economic strategy of re-distribution with growth. This was written up into the RDP 'base document'.⁹

The NP had pioneered neoliberal measures in the 1980s, mainly through austerity, sales of major state companies such as Iscor and Sasol including tax reforms.¹⁰ According to Habib and Padayachee, the ANC "entered the period of transition in the early 1990s with only an impressionist economic vision. But for all its limitations it was a (state-led) program of development directed at alleviating the legacy of poverty and inequality. The ANC was forced to begin to fashion a set of modeled economic proposals around which it could at some level

⁷ Adam Habib and Vishnu Padayachee, 'Economic Policy and Power Relations in South Africa's Transition to Democracy', *World Development*, Vol. 28, No. 2, (London: Pergamon, 2000), 246-263.

⁸ Van Niekerk, 'ANC's rise and the decline to social democracy,' 44.

⁹ Van Niekerk, 'ANC's rise and the decline to social democracy,' 44.

¹⁰ Lucien van der Walt, 'Beyond 'white monopoly capital': Who owns South Africa?' *South African Labour Bulletin*, Vol.39, No.3, Umanyano Publishers (June/July 2015), 40.

“negotiate” with other organizations and social groups and contest an election.”¹¹ It was Cosatu in early 1993 that had put forward the idea of a Reconstruction and Development Programme (RDP). In this regard, the federation proposed a ‘reconstruction accord’ which would bind the ANC to working class demands and aspirations. According to Gevisser:

By 1993 the ANC’s attraction to market-friendly economic policies was manifest. Five months before [the ANC] came to power, [the ANC] signed a letter of intent with the IMF committing itself as the future government to a program of fiscal austerity in return for a \$850 million loan for South Africa. But there was a fundamental incoherence to ANC policy. At the same time that this was happening, the movement unveiled its Reconstruction and Development Plan (RDP) – in effect, its election manifesto. Led by trade unionists and former United Democratic Front activists, the RDP attracted the iconic status of an updated and fleshed-out Freedom Charter, but its virtue was its failing. The product of popular consultative process, it was more the wish list of the “broad church” that was the ANC than the workable policy of a new government coming to power with enormous expectations on one hand and crippling debt on the other.¹²

The emergence of a fiscally conservative approach to economic policy in the ANC, as Van Niekerk points out, was apparent by the end of 1993 in the Transitional Executive Council (TEC): a joint governing authority of the NP and the ANC established to oversee the transition to democracy in 1994.¹³ Effectively, it was the TEC that concluded the loan for US\$ 850 million with the International Monetary Fund (IMF) in November 1993. This loan agreement, which included a commitment to contain government expenditure, cap the debt to gross domestic product (GDP) ratio in subsequent years, and not raise taxes, was evidence that the ANC had abandoned a redistributive project.¹⁴ Concerning the loan agreement from the IMF, Terreblanche states that,

The TEC decided that South Africa needed a loan of \$850 million from the

¹¹ Habib and Padayachee, ‘Economic Policy and Power Relations in South Africa’s Transition to Democracy,’ 245.

¹² Gevisser, *Thabo Mbeki: The dream deferred*, 249.

¹³ Van Niekerk, ‘ANC’s rise and the decline to social democracy,’ 46.

¹⁴ Van Niekerk, ‘ANC’s rise and the decline to social democracy,’ 46.

International Monetary Fund (IMF) to help tide the country over balance of payments difficulties. Before the IMF granted the loan to South Africa it requested the TEC to sign a document about the economic policy of the future government. If the 'statement on economic policies' is read carefully, it becomes clear that it was the GEAR policy of 1996 in embryo form. The document committed the TEC to the ideologies of neoliberalism and market fundamentalism. The TEC reached agreement on a historic compromise in November 1993, the elite compromise which is the foundation on which the new South Africa has been based since 1994.¹⁵

The introduction of neoliberal principles into the South African economy seems to be evident before the advent of an ANC-led government in South Africa. Market fundamentalism and austerity measures were promoted within the NP. The mass democratic movement had developed alternative economic policy strategies and instead of promoting neoliberal measures it advocated for a strategy of redistribution. Unfortunately, it would be market based principles that would later inform any strategy for restitution or redistribution.

4.3 Reconstruction and Development Programme (RDP, 1994-1996)

In 1994, a few months before the first democratic elections, the ANC launched the Reconstruction and Development Programme (RDP, 1994) as a 'base document' that formed part of an elections campaign manifesto for the national general elections. On the 27th April 1994 a historic general election took place. As a result of that election, the ANC gained victory. The outcome was that the late president of the ANC, Nelson Mandela, became the first democratic president of a post-apartheid South Africa.

Article 1.2.9 of the RDP introduced and established the intentions of the ANC as follows: "[An] election victory is only [the] first step. No political democracy can survive and flourish if the mass of our people remain in poverty, without land, without tangible prospects for a better life. Attacking poverty and deprivation must therefore be the first priority of a democratic government."¹⁶ After the electoral victory, a Government of National Unity (GNU) was

¹⁵ Terreblanche, *Lost in transformation: South Africa's search for a new future since 1986*, 64.

¹⁶ Article 1.2.9 of the *Reconstruction and Development Programme (RDP): A policy framework* (Johannesburg: Umanyano Publications, 2000), 4. The RDP was first published in 1994.

established under the leadership of the ANC.¹⁷ Consequently, the ANC-led Government of National Unity (GNU) in South Africa adopted the RDP as a policy document of the state during the late president Nelson Mandela's term in office (1994-1999). The RDP states that,

The South African economy is in a deep-seated structural crisis and as such requires fundamental reconstruction. For decades forces within the white minority have used their exclusive access to political and economic power to promote their own sectional interests at the expense of black people. Black people have been systematically exploited and oppressed economically and South Africa now has one of the world's most unequal patterns of distribution of income and wealth.¹⁸

In view of the deep-seated structural crisis in the economic system, Reddy asserts that, when the ANC-led government came to power, "It built a vision of a free and just society that would work to erase the injustices of the past. The cornerstone of this vision was the guarantee of decent work for all."¹⁹ The RDP argued that development is integral to economic growth however it does not proceed from it. In Article 1.3.6 – providing a link between reconstruction, development and growth – the RDP states that,

Reconstruction and development [are] parts of an integrated process. This is in contrast to a commonly held view that growth and development, or growth and redistribution are processes that contradict each other. Growth – the measurable increase in the output of the modern industrial economy – is commonly seen as the priority that must precede development. Development is portrayed as a marginal effort of redistribution to areas of urban and rural poverty. In this view, development

¹⁷ Jay Naidoo, in 'The Lula Moment: A Question of Leadership and Integrity', 3; states that, "In 1994, newly appointed to the Mandela cabinet, I received a frantic call from Sergio Xavier Ferreira, a CUT comrade and Lula's official translator. He said the South African foreign affairs bureaucracy had cancelled a scheduled meeting with President Mandela. Relenting to pressure, a private meeting was allowed and Mandela and Lula had a passionate conversation that overshot the scheduled time."

¹⁸ *The Reconstruction and Development Programme (RDP): A policy framework*, 75.

¹⁹ Niall Reddy, 'State of labour: 20 years after democracy', *South African Labour Bulletin*, Vol.38, No.4, (Johannesburg: Umanyano, November/December, 2014), 34. Niall Reddy is a political economy research affiliate at the Alternative Information Development Centre in Cape Town.

is a deduction from growth.²⁰

Cosatu conveniently uses the phrase “growth path” to refer to a “growth and development path”: a perspective of a growth path that includes issues of social equity, environmental sustainability which moves beyond the narrow definition of economic growth.²¹ Article 2.2.1 of the RDP states that, “The RDP links reconstruction and development in a process that will lead to growth in all parts of the economy, greater equity through redistribution, and sustainability.”²² The RDP, in view of Cosatu’s thinking, breaks decisively with this narrow approach to economic growth. Therefore, in a draft discussion document Cosatu declares that,

Cosatu’s thinking about economic policy questions, was impelled by the twin forces of rapidly rising poverty and suffering, and ‘a realization that this growth crisis had deep structural roots located in the particular combination of capitalism and apartheid that shaped our present society and economy.’ Because resolving these problems required a package of policies and a coherent strategy, an emphasis on the concept of a growth path was made.²³

During the late president Mandela’s term in office (1994-1999) with Thabo Mbeki and F.W. de Klerk as deputy presidents, the hope was that the problems of poverty, unemployment and inequality as raised would be addressed through the RDP. In the RDP the South African government understands the term “restitution” to mean principally “land restitution”.²⁴ According to this understanding the RDP supported the land reform programme as it was

²⁰ Article 1.3.6 of The Reconstruction and Development Programme (RDP): A policy framework, 6.

²¹ Cosatu, *A growth path towards full employment: Policy perspectives of the Congress of South African Trade Unions*, 5

²² *Reconstruction and Development Programme (RDP): A policy framework*, 15.

²³ Cosatu, *A growth path towards full employment: Policy perspectives of the Congress of South African Trade Unions*, 5.

²⁴ My argument differs with this view. Restitution can be framed as an area of civil law concerned with reversing unjust enrichment on the part of a defendant. More precisely, it involves removing from him/her some accretion to his wealth which, in the eyes of the law, he should not be entitled to retain, or making him pay for some non-money benefit on the basis that it would be wrong to allow him/her to retain it for nothing. This framework is taken from Andrew Tettenborn, *Law of Restitution in England and Ireland (3rd ed)*, (London: Cavendish Publishing, 2002), 1.

understood to mean the same thing as the land restitution programme. In Article 2.4.5 the RDP states that, “The land reform programme has two 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.”²⁵ How, then, is equitable “redress” understood in relation to restitution? What does the clause restitution of property mean? Article 2.4.13 of the RDP further states that,

To redress the suffering caused by the policy of forced removals, the democratic government must, through the mechanism of a land claims court, restore land to South Africans dispossessed by discriminatory legislation since 1913. This court must be accessible to the poor and illiterate. It must establish processes that enable it to take speedy decisions. In order for this court to function effectively, constitutional rights to restitution must be guaranteed.²⁶

The land reform programme is enshrined in the South African Constitution (Section 25, Sub-section 4). According to Kariuki, the land reform agenda focuses on reviewing the restitution, redistribution, and tenure reform programmes.²⁷ In relation to restitution, Kariuki further notes that, “the focus [is] on expediting the processing of settled claims and the settlement of outstanding claims, whilst that on redistribution and tenure reform will be to develop less costly alternative models of land redistribution.”²⁸ Ngubane, for example, maintains Kariuki’s position when he says that land restitution is understood as the restoration of land ownership so that a particular property is restored to its original owners or their legal heirs; and that, “restitution is about land restoration; settling claims for land lost under apartheid.”²⁹ In relation to Ngubane’s

²⁵ *Reconstruction and Development Programme: A policy framework*, 20.

²⁶ *Reconstruction and Development Programme: A policy framework*, 22.

²⁷ Samuel Kariuki, ‘The comprehensive rural development programme (CRDP): A beacon of growth for rural South Africa?’ found in (Chapter 15) *New South African Review [1] - 2010: Development of decline?* Edited by John Daniel, Prishani Naidoo, Devan Pillay and Roger South Hall (Johannesburg: Wits University Press, 2010), 345.

²⁸ Kariuki, ‘The comprehensive rural development programme (CRDP): A beacon of growth for rural South Africa?’ 345.

²⁹ Mngqobi Mthandeni Ngubane, in his Masters Thesis entitled, ‘Land beneficiaries as game farmers in the ‘new’ South Africa: Land reform in relation to conservation, the hunting industry and chiefly authority in KwaZulu-Natal’, (Bloemfontein: University of the Free State, February 2012), 24.

assertion, there is one reference in the RDP which uses the term restoration in relation to land. The reference to “land restoration” is found in Article 2.5.9 of the RDP wherein it states that,

Legislation must be rapidly developed to address issues such as tenants’ rights, squatters’ rights, the rights of people living in informal settlements, community reinvestment by banks, evictions, consumer protection, *land restoration*, community participation in planning and development, and anti-discrimination protection.³⁰
(Italics mine)

The restitution process as understood by the South African government only recognises land dispossessions that occurred after the 1913 Land Act. Land restitution is then understood as the processing of land claims.³¹ According to Andrew, “The Restitution of Land Rights Act was approved by Parliament in November 1994, and along with the Constitution, provides for settling land claims against the state.”³² In line with the RDP, the Bill of Rights, section 25.(7), included in the Constitution of the Republic of South Africa declares that, “A person or community dispossessed of property after 19 June 1913 as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to restitution of that

³⁰ *Reconstruction and Development Programme (RDP): A policy framework*, 24.

³¹ According to Tettenborn, in order to obtain restitution for unjustified enrichment, the claimant has, on principle, to show a few things, these are: (a) that the defendant has obtained an enrichment, or gain; (b) that there is some factor (an ‘unjust factor’) indicating that the enrichment is unjustified and ought to be reversed; a claimant who demonstrates that these requirements are met *prima facie* has a right to restitution, unless the defendant in turn can show some valid defence to the claim. Andrew Tettenborn, *Law of Restitution in England and Ireland (3rd ed)*, (London: Cavendish Publishing, 2012), 5.

³² Nancy Andrew in her Doctoral Thesis entitled, ‘Land reform and the social dynamics of land conflict in the South African countryside’, (Paris: Université René Descartes - Paris V, June 2005), 144. The significance of this study should be understood against this background. By contrast to how the South African government policy defines restitution I prefer to use Tettenborn’s definition to argue that restitution is “the response of the law to gains which it regards as unjustified – or, more simply, the law concerning the rectification of unjust enrichment” (Tettenborn, *Law of Restitution in England and Ireland*, 1). The term “restitution” is used explicitly in the RDP however, not in Tettenborn’s sense of the term as a “rectification of unjust enrichment”. In some cases alternative terms such as “reform” or “redistribution” are used, but confusing the meaning to mean the same thing. The term restitution in the RDP is mentioned five times and where it is used it is almost always restricted to “land restitution” in the context of “land reform”; and land claims.

property or to equitable redress.”³³ A programme for land reform was to be in place within one year after the electoral victory of the ANC. The aim of the programme was the redistribution of 30% of agricultural land within the five years in which adjudication was to be complete in 1999. With regards to this, Article 2.4.14 of the RDP further states that:

The land reform programme, including costing, implementing mechanisms, and a training programme, must be in place within one year after the elections. The programme must aim to redistribute 30 per cent of agricultural land [a target total of 24.6 million hectares] within the first five years of the programme. The land restitution programme must aim to complete its task of adjudication in five years.³⁴

With reference to the above quotation, Kariuki declares that,

[The RDP] explicitly recognised the inextricable link between apartheid and landlessness, its attendant poverty patterns in the rural areas, the emergence of a dual agricultural regime, and the insecurity of land tenure experienced by rural black citizens. Based on this prognosis, the RDP clearly advocated the need for land as the ‘most basic need for rural dwellers’ (ANC 1994: para 2.4.1). The urgency with which the RDP approached the land question was evident in the time frames it scheduled for the implementation of the programme, namely the transfer of 30 percent of agricultural land within five years (ANC 1994: 2.4.14).³⁵

Relatedly, Article 2.4.6 states that, “The land redistribution programme will realize its objectives in various ways, including strengthening property rights of communities already occupying land, combining market and non-market mechanisms to provide land, and using vacant government land.”³⁶ Redistribution, as a term in the RDP in the main, Kariuki suggests, refers to “transfer” in relation to “land reform” but it is understood also to have a meaning in reference to “land

³³ Article found in the Bill of Rights (Chapter 2), section 25.(7) in the Constitution of the Republic of South Africa (as adopted on 8 May 1996 and amended on 11 October 1996 by the Constitutional Assembly), 12.

³⁴ *Reconstruction and Development Programme (RDP): A policy framework*, 22.

³⁵ Kariuki, ‘The comprehensive rural development programme (CRDP): A beacon of growth for rural South Africa?’ 351.

³⁶ *Reconstruction and Development Programme (RDP): A policy framework*, 20.

restitution”.³⁷ With regards to this combination of “market and non-market mechanisms to provide land”, the RDP in Article 2.4.7 asserts that,

The redistribution programme should use land already on sale and land acquired by corrupt means from the apartheid state or mortgaged to state and parastatal bodies. Where applicable, it will expropriate land and pay compensation as the Constitution stipulates. Land acquired from the apartheid state through illegal means must be recovered after due process of investigation. The land reform programme must include land outside of the historically black areas. All legal provisions which may impede the planning and affordability of a land reform programme must be reviewed and if necessary revised.³⁸

Land prices had been artificially depressed after 1994. Therefore, concerning compensation for the land that is to be redistributed, Article, 2.4.8 maintains that, “The democratic government must provide substantial funding for land redistribution. In addition, beneficiaries must pay in accordance with their means.”³⁹ Relatedly, Article 5.3.3 of the RDP states that: “The Constitution...should also guarantee a right to restitution for victims of forced removals.”⁴⁰

³⁷ Redistribution, as a term is mentioned eleven times in the RDP. The term redistribution is used only once with reference to personnel (Article 2.12.10.3 with regards to health care. Herein is the term rehabilitation used, and not with regards to land or in relation to redistribution or restitution).

³⁸ *Reconstruction and Development Programme (RDP): A policy framework*, 20.

³⁹ *Reconstruction and Development Programme (RDP): A policy framework*, 21. Basically, the victims of dispossession (referred to as “beneficiaries”) have to pay (reparation) for their own (land) restitution and this refers to all the victims of forced removals. Tettenborn (in Tettenborn, *Law of Restitution in England and Ireland*, 3) assists me to see that there is a doctrinal difficulty here: that the government must provide substantial funding for land redistribution. The notion that many of the restitutionary actions had to be subsumed under the rubric of “expropriation with compensation” distinctly hampered development of any coherent theory of (land) restitution. The idea of “expropriation with compensation” so far means that the victim has to pay as if he/she had contracted to do so when he had not, it is simply uninformative in that it does not say *why* he/she had to pay (compensation to the land owner who owns the land unjustly). A lot of restitutionary claims do indeed have an affinity with contract (for example, the duty to pay those that unjustly benefited).

⁴⁰ *Reconstruction and Development Programme (RDP): A policy framework*, 122. Therefore, redistribution in the RDP is linked to land. However, there is no sense in the policy document that restitution is understood as a recovery for unjust enrichment or reversing unjust enrichment or unjust benefit on the part of the beneficiaries of apartheid – especially with regards to “forced removals”. Is it safe to assume given the context in which the term

According to Van Niekerk, the economic and social policy proposals in the RDP 'base document' were based on an ethic of social justice that suggested a neo-Keynesian strategy of development and an acknowledgement of constitutionally guaranteed social rights that are compatible with a social democratic welfare state – where the state intervenes to ensure economic growth, and citizens' social needs are met. Habib and Padayachee maintain that,

At the time, the ANC was under pressure from forces determined to drive the ANC back to the past and to confiscate an outdated economy that is based on exploitative, cheap, African labour. The ANC placed unusually great stress on the importance of foreign capital inflows and on the lower costs of raising capital in international markets that would derive from strict adherence to principles of the Washington Consensus.⁴¹

The principles of the Washington Consensus compromised the agenda of the RDP. This is revealed in Van Niekerk's assertion that, the RDP agenda was compromised by the form of accommodation made with organized business, to preserve a free market-based economy.⁴² According to Habib and Padayachee, the economic program ultimately adopted and implemented differed significantly from both the ANC's original vision, and its initial proposals. This economic program was a fairly standard neoliberal one.⁴³ There were disagreements in the ANC and the ANC-led GNU distanced itself from the pre-election macroeconomic policies that were advocated by Cosatu, the SACP, and civil society groups, this led to the emergence of a creeping fiscal conservatism in government pronouncements and policy statements. This is seen when Van Niekerk's asserts that,

restitution is used that Article 5.3.3, with regards to victims of forced removals, restitution refers to "land restitution" which should be established as holding the same meaning as "land redistribution"? The RDP, in Article 2.4.11, also states that, "Women face specific disabilities in obtaining land. The *land redistribution* programme must therefore target women"; (italics mine).

⁴¹ Habib and Padayachee, 'Economic Policy and Power Relations in South Africa's Transition to Democracy,' 246. "The economic ideas and recommendations generated by progressive economic think tanks such as the Macroeconomic Research Group (MERG) despite being "owned" by the ANC alliance were not systematically debated and contested within high-level political structures and in multiparty negotiations."

⁴² Van Niekerk, 'ANC's rise and the decline to social democracy,' 45.

⁴³ Habib and Padayachee, 'Economic Policy and Power Relations in South Africa's Transition to Democracy,' 246.

After the 1994 democratic elections, disagreements emerged. These were between a fiscally cautious ANC, now head of a multiparty Government of National Unity (GNU) and its more radical alliance partners, Cosatu, the South African Communist Party (SACP) and civil society groups. The disagreements were over which strategy would be the best to rectify the poor economic conditions inherited from the apartheid era. The GNU led by Nelson Mandela was concerned about government's ability to implement the RDP. The ANC decided to revise its pre-election economic policy.⁴⁴

According to Van Niekerk, a White Paper for Reconstruction and Development (RDP) was released in September 1994 wherein the proposals for nationalization and state intervention in the economy found in the original RDP 'base document' were either dropped or moderated and a new language of fiscal austerity which reflected the influence of ideas from the World Bank was introduced with phrases such as 'affordability', 'cost containment', 'sale of state assets', 'user charges' as key objectives of government economic policy.⁴⁵

There was a shift in policy formulation. Habib and Padayachee contend that the policy shift "was the result of the ANC's particular perception and interpretation of the balance of economic and political power, at both the global and local level. This understanding gave priority and prominence to the international financial and investor community rather than to the country's post-apartheid growth and development needs."⁴⁶ The government formed an RDP Fund wherein actual RDP funds assigned to such a fund were a 2% portion of the total government budget in 1994. Furthermore, Van Niekerk states that,

The White Paper limited expenditure on the RDP to 'savings' from government departments which would be placed in an RDP fund; institutionally an RDP ministry run by the minister without portfolio was established in the presidency and incorporated into the office of the deputy president under Thabo Mbeki – this incorporation of the RDP ministry was seen as a decline of a redistributive social democratic agenda and the consolidation of an economically conservative neoliberal

⁴⁴ Van Niekerk, 'ANC's rise and the decline to social democracy,' 46.

⁴⁵ Van Niekerk, 'ANC's rise and the decline to social democracy,' 47.

⁴⁶ Habib and Padayachee, 'Economic Policy and Power Relations in South Africa's Transition to Democracy,' 246.

developmental path.⁴⁷

After 1994, Kariuki maintains that, “Within two years of the 1994 RDP white paper, however, the government’s macroeconomic policies were revised, the RDP office was closed and its task-teams disbanded. The responsibility for the implementation of the RDP was now devolved to various national and provincial departments.”⁴⁸ After the RDP ministry was consequently finally closed down in 1996, the government prepared the ground for a new strategy for economic policy. It is with regards to this strategy that Terreblanche points out that,

⁴⁷ Van Niekerk, ‘ANC’s rise and the decline to social democracy,’ 47. During Thabo Mbeki’s term in the office as deputy president (1994-1999) the South African government commissioned the Truth and Reconciliation Commission (TRC, 1996-1998) but, given the TRC’s focus to address gross violations of human rights, the TRC did not address the “unequal patterns of distribution of income and wealth” and “restitution for those who lost land because of apartheid laws” as referred to in the RDP. The TRC was not planned for in the RDP, neither was it a programme of the ANC-led alliance structures (Cosatu and the SACP). The idea of the TRC is external to the original policy of the ANC. The origin (thinking) of the concept of the TRC does not lie within the policy documents of the ANC-led government. Hence, in the RDP, the only reference to the term reconciliation is with reference to the youth service programme. Article 3.6.4 in the RDP states that, “the youth service programme must also build a spirit of national unity and reconciliation amongst the youth, as well as a sense of service towards the community and the nation.” There is no reference to the term reparation in the RDP. In the policy document, the term does not exist. The RDP ministry was consequently closed down in 1996.

⁴⁸ Kariuki further states that: “The Department of Land Affairs [was] delegated the responsibility for rural development. In place of the RDP, policy development towards rural development was guided by the 1995 rural development strategy (RSA 1995) which proposed mechanisms by which rural people and their elected representatives on rural district councils and local councils could begin to identify local development priorities...The rural development strategy (RDS, 1995) outlined the new government’s vision for rural areas over the next twenty five years. Like the broader principles of the RDP on land and agrarian reform, it adopted a broad and functionalist view towards land reform and rural development. The strategy called for better tenure security, restitution and farmer support measures.” In addition to land reform, Kariuki further notes that: “[The] RDS called for wide ranging programmes of land reform and infrastructure investment to be made in the rural areas, the strategy explicitly acknowledging the primacy of supporting smallholder agriculture as part of a poverty alleviation measure. In this regard, the strategy argued against maintaining the then current bias in land reform which sought to sustain a large scale farming sector that had traditionally been seen as pivotal to the attainment of national food production. The implementation of the programme was to happen at the local government level (RDS 1995).” Kariuki, ‘The comprehensive rural development programme (CRDP): A beacon of growth for rural South Africa?’ 352.

[There was pressure] and persuasion from western governments, and from international institutions such as the Bretton Woods Institutions (BWI) and global corporations. A large group of leading ANC figures received ideological training at American universities and international banks on the alleged merits of neoliberal globalism and market fundamentalism...[The] local and foreign corporate sectors, the National Party, the American and British pressure groups – were ideologically committed to neoliberal globalism and market fundamentalism.⁴⁹

In the RDP the term restitution is understood to mean land restitution. The term reparation is not used in the RDP. The term restitution is discussed only with regards to those that were dispossessed of their land by discriminatory legislation of 1913 and by the policy of forced removals during apartheid. Restitution forms part of the land reform programme. It is understood as a process of claims. Its focus is on processing land claims against a democratic state. Redistribution forms part of the land reform programme. It is understood to mean land redistribution. It is a model for purchasing land for victims of apartheid. Land redistribution is understood to mean the transfer of land ownership through the redistribution model. The previously dispossessed become the beneficiaries who are required pay in accordance with their means; and if they have no means, the democratic government must fund the transfer. The land reform programme which includes land restitution, land redistribution and tenure reform is understood to be aimed at redistributing agricultural land (farmland).

4.4 Growth Employment and Redistribution Programme (GEAR, 1996 - 2004)

During Thabo Mbeki's term in the office of deputy president (1994-1999) and later as president (1999-2008), there was an economic policy shift from the RDP to the Growth Employment and Redistribution Programme (GEAR, 1996). In 1996 the poverty, inequality and unemployment problem worsened. Census data revealed that in 1996, 46 percent of South Africa's population of 40.6 million at the time, lived in the rural areas – the areas where over 70 percent of the country's poor live.⁵⁰ With regards to these areas Kariuki states that,

⁴⁹ Terreblanche, *Lost in transformation: South Africa's search for a new future since 1986*, 64.

⁵⁰ Kariuki, 'The comprehensive rural development programme (CRDP): A beacon of growth for rural South Africa?' 360.

[The imprint of apartheid spatial geography was] still much evident as manifested in the levels of socio-economic disparities between rural and urban areas. Inequality of land ownership and attendant poverty patterns are stark reminders of [the apartheid] past. In terms of land inequality, in 1996, less than 1 percent of the population owned and controlled over 80 percent of farmland. This 1 percent was part of the 10.9 percent of the population classified as white, whilst 76.7 percent of the population that is classified as African had access to less than 15 percent of agricultural land, with less secure tenure rights. Added to this, an estimated 5.3 million black South Africans live with almost no security on commercial farms owned by white farmers.⁵¹

In view of the above quotation, Atkinson suggests that, South Africa inherited a “master narrative” which encapsulated a set of values regarding the political and symbolic importance of land and that “this narrative emphasizes the loss of access to land by the black population, before and during the apartheid years, and the need to restore racial balance regarding land ownership. The need for land reform is therefore based on racial and equity arguments.”⁵² The budget for the Department of Land Affairs at the time was approximately R650 million (1996). Notably, a new economic strategy was drafted in 1996.⁵³ The drafting of this new economic strategy, according

⁵¹ Kariuki, ‘The comprehensive rural development programme (CRDP): A beacon of growth for rural South Africa?’ 345.

⁵² Doreen Atkinson, ‘Breaking down barriers: Policy gaps and new options in South African land reform’, found in (Chapter 16) *New South African Review [1] - 2010: Development of decline?* Edited by John Daniel, Prishani Naidoo, Devan Pillay and Roger South Hall (Johannesburg: Wits University Press, 2010), 365.

⁵³ In order to capture the shifts on economic policy discourse at the time (1996) it is important to reflect also on historical commentary. Graeme Gotz, commenting in an article entitled: “*Reconstruction and development: Shifting the goalposts*,” pointed out that: ‘For some months now the government has been preparing the ground for what it calls the Growth and Redistribution Strategy scheduled to be released for public comment in June [1996]. Since last year [1995] sections of government have been suggesting that the RDP should be conceived as a long term strategic vision, to be gradually realized by realigning all government effort around clearly stated and collectively endorsed economic targets. The government, we have been told, needs to enter a new “collective mode of operation” based on the detailed co-ordination of government policies, activities and programmes, all aimed at securing various “high level economic outputs” (6% growth per year, 500 000 new jobs per annum by the year 2000).’ Graeme Gotz, ‘Reconstruction and development: Shifting the goalposts’, *South African Labour Bulletin*, Vol.20, No.3, Umanyano (June 1996) 14.

to Van Niekerk, “began in earnest under the auspices of Thabo Mbeki with Trevor Manuel as minister of finance. The government unveiled its new economic strategy in [June] 1996 called the Growth, Employment and Redistribution [GEAR] strategy.”⁵⁴ The GEAR strategy “was presented to Parliament by the Minister of Finance in 1996.”⁵⁵ Habib and Padayachee confirm that GEAR, “[was] the economic program formulated by the ANC-led Government of National Unity (GNU) in 1996.”⁵⁶ The GEAR strategy, in Article 1.1 introduced its macro-economic policy proposals with a continued commitment to the goals of the original RDP and the longer-term objectives of a competitive fast-growing economy which creates sufficient jobs for all work seekers: a redistribution of income and opportunities in favour of the poor; a society in which sound health, education, and other services are available to all; and an environment in which homes are secure and places of work are productive. In its introduction, the compilers of GEAR stated that,

[GEAR is a] strategy for rebuilding and restructuring the economy... in keeping with the goals set in the Reconstruction and Development Programme [RDP]. In the context of this integrated economic strategy, [the South African government] can successfully confront the related challenges of meeting basic needs, developing human resources, increasing participation in the democratic institutions of civil

⁵⁴ Van Niekerk, ‘ANC’s rise and the decline to social democracy,’ 47.

⁵⁵ Everyone’s guide to the South African economy (10th ed.), 197.

⁵⁶ Habib and Padayachee, ‘Economic Policy and Power Relations in South Africa’s Transition to Democracy,’ 246. In the same year [1996], in an article entitled: “*Wanted: a new economic policy*,” Pillay in a speech commented that: “Our politicians appear to have succumbed to the view that the new global order and its concomitant neo-liberal economic regime cannot be challenged or even controlled in the home economy. Hence the political retreat now taking place in the country – a retreat marked by a virtual abandonment of interventionary economic policies, in the rolling back of the South African state, and reducing much of the Reconstruction and Development Programme (RDP) into something approaching a mantra. Indeed, there is much breast-beating about the scale of unemployment, but no convincing policy or programme to address that economic blight, apart from vague generalizations about a 6% growth [in the] economy around the year 2000. It seems this 6% growth [in the] economy has already become a sound-bite, designed to mesmerize and further befuddle the unemployment problem.” Pillay was a member of the board of the National Institute of Economic Policy (NIEP). This is a text of a speech that was delivered in March 1996.

society and implementing the RDP in all its facets.⁵⁷

The strategy of GEAR, according to Roux, “was aimed at significant improvement in economic growth and development for all South Africans, and a meaningful decline in unemployment. There were three broad policy themes within GEAR. These were [1] to improve macro-economic discipline; [2] to increase international competitiveness; [3] to free up markets.”⁵⁸ Terreblanche affirms that, “GEAR stressed the need for market-led growth, fiscal and monetary discipline, and investor confidence. While the document paid lip-service to redistribution and poverty relief, its main concerns were the balance of payments, inflation and [Foreign Direct Investment] FDI...[The compilers of GEAR] lost contact with the imperfect reality of deep-seated inequalities in South Africa.”⁵⁹ According to Cosatu,

Proponents of GEAR justified its introduction on the basis that it gave effect to the realization of the RDP. Some leaders felt that the RDP, noble its objectives and philosophy might have been, was simply not possible to implement. The main reason that was put forward for GEAR was that the economy could not sufficiently generate sufficient resources to finance the programmes outlined in the RDP unless “more deep-rooted reforms” are given attention.⁶⁰

The RDP argued differently to GEAR. With regards to a growth path, the RDP had a strategy that prioritized the socio-economic transformation of South Africa. Roux suggests that, “Its major emphasis was on the need to invest in people, because long-term development and the reduction of poverty can best be achieved by empowering people to cater for their own needs and desires.”⁶¹ By contrast, GEAR held a different logic. It emphasized fiscal austerity, deficit reduction, pegging taxation and expenditure as fixed proportions of GDP, the management of

⁵⁷ *Growth Employment and Redistribution (GEAR): A macroeconomic strategy* (Republic of South Africa: Department of Finance, 1996), 3.

⁵⁸ André Roux, *Everyone's guide to the South African economy (10th ed.)*, (Cape Town: Zebra Press, 2011), 197.

⁵⁹ Sampie Terreblanche, *A history of inequality in South Africa: 1652-2002* (Pietermaritzburg: University of Kwa-Zulu Natal Press, 2012), 115.

⁶⁰ Cosatu, *A growth path towards full employment: Policy perspectives of the Congress of South African Trade Unions*, 7.

⁶¹ Roux, *Everyone's guide to the South African economy (10th ed.)*, 196.

inflation, the deregulation of financial markets, tariff reduction and trade liberalization as well as limiting government expenditure; the effect of this was to increase the outflow of domestic capital.⁶² Reynolds states that, “GEAR was not the product of consultation with Cosatu and the ANC’s own broader constituency but was developed by a technical team of fifteen policy makers made up of officials from the Development Bank of Southern Africa, the South African Reserve Bank, three state departments, academics and two representatives of the World Bank.”⁶³ To achieve the goals that were set out in GEAR required the maintenance of fiscal restraint which included the reduction of fiscal deficit to 3% of GDP in order to eliminate the government deficit and an implementation of economic reforms to facilitate a growth path that would grow the economy by 6% and create 400, 000 jobs annually.⁶⁴ This is in line with the first broad economic policy theme within GEAR which, according to Roux, is “reducing the budget deficit as a percentage of GDP, by slowing down the growth of government debt and by reducing the government’s interest burden.”⁶⁵ At variance with GEAR, Cosatu suggested that,

The philosophical underpinnings of GEAR were at odds with the historical positions

⁶² Terreblanche, *Lost in transformation: South Africa’s search for a new future since 1986*, 64. Terreblanche emphasizes a point made by S. Ashman, B. Fine, and S. Newman – the editors of the Social Register (2011) in an article entitled: The crisis in South Africa: neoliberalism, financialization and uneven and combined development. Terreblanche quotes from the article.

⁶³ Louis Reynolds, ‘Health for all? Towards a national health service in South Africa’, found in (Chapter 14) of *New South African Review [1] - 2010: Development of decline?* Edited by John Daniel, Prishani Naidoo, Devan Pillay and Roger South Hall (Johannesburg: Wits University Press, 2010), 345. To capture the era, Graeme Gotz commenting in 1996 pointed out that: “The Growth and Development Strategy will advance a growth path based on fixed infrastructure investments such as roads, development spines, electricity grids and basic service installations. The government has swallowed the World Bank thesis that every 1% increase in fixed investment multiplies into a 1% increase in total GDP. There is nothing inherently wrong with this economic logic, but it must be recognised that it represents a different economic vision from that proposed in the original RDP. In its original thinking on the RDP, COSATU envisaged a growth path based on tapping the economic potential of formally marginalized sectors of society. For the unions, redistribution and growth could be achieved simultaneously from below through the unlocking of new developmental energies, if a visionary and decisive government uncompromisingly worked to restructure economic priorities.” Graeme Gotz, *Reconstruction and development: Shifting the goalposts*, South African Labour Bulletin, Vol.20, No.3, Umanyano (June 1996) 14.

⁶⁴ Van Niekerk, ‘ANC’s rise and the decline to social democracy,’ 47.

⁶⁵ Roux, *Everyone’s guide to the South African economy*, 197.

of the democratic movement. The constraints of fiscal policy that GEAR lamented were not analytically explained and the proposals contained in prior policy documents were ignored. The relaxation of exchange controls paved the way for capital outflow, thereby taking away South Africa's financial resources to fund the RDP. Trade policy was not linked to job creation and made no reference to the promotion of progressive internationalist principles. Industrial policy did not specify sectors to be supported, and made no mention of how to deal with the power of monopoly capital. The push for labour market flexibility departed from the principle of building workers' power and denied the fact that the working class already suffered high levels of exploitation.⁶⁶

Compared to the RDP, the economic policy position of the GEAR strategy became very illusive to Cosatu. Cosatu disagreed with the principles and the economic policy objectives entailed in the GEAR strategy as they relegated the RDP to being an empty promise. Cosatu's argument was that GEAR favoured the interests of monopoly capital and that GEAR was going to deliver results that were against the aspirations of organized labour. Roux maintains that, "most people became somewhat disillusioned by the RDP because it seemed to promise more than it was actually able to deliver. And, yes, it does seem that the RDP was initially more about talk than actual results."⁶⁷ According to Gevisser:

Mbeki was GEAR's godfather, and he and Manuel - supported by Mandela - advocated it with steely determination. One of the messages the new ANC government needed to get across was that, in an environment of heightened contestation, it was firmly in charge and that the communist tail no longer wagged the ANC dog. And so the policy was presented as *fait accompli*; it was nonnegotiable. Knowing that GEAR would be unpopular, particularly to the ANC's left allies, Mbeki made a point of giving Manuel political cover, introducing it in parliament and then goading critics at the press briefing afterward with the line, "Call me a Thatcherite!" Mbeki insisted that there was no other way, and his defense of

⁶⁶ Cosatu, *A growth path towards full employment: Policy perspectives of the Congress of South African Trade Unions*, 8.

⁶⁷ Roux, *Everyone's guide to the South African economy*, 197.

GEAR would bring out a belligerence in him never seen before: He would dismiss the policy's critics as ideological, puerile, irrational, mendacious, racist, and politically expedient.⁶⁸

In view of the above quotation, Terreblanche asserts that, the fact that Cosatu was responsible for compiling the RDP which was used as an electioneering document in the 1994 elections and then discarded by the ANC government, is an indication that the trade unions were not part of the elite conspiracy. By contrast, monopoly capital played a significant role in the economic policy shift from the RDP to GEAR.⁶⁹ Roux further notes that, "The GEAR proposals were generally well received in local and international business and financial circles."⁷⁰ With reference to the power of monopoly capital, Lucien van der Walt states that:

Certainly, it is correct that 'white monopoly capital' has played a central role, both past and present. By 1987, over 83.1% of all shares on the Johannesburg Stock Exchange (JSE), now the Johannesburg Securities Exchange were owned by four giant companies, with Anglo-American (despite the name, a South African company) owning 60.1% followed by Sanlam at 10.7 % argues Cosatu. With the 1990s transition, the Big Four were not subject to any penalties, were largely exempted from the Truth and Reconciliation Commission (TRC), and benefitted massively from post-apartheid economic policies and state contracts (for example, construction).⁷¹

The financial services sector became the biggest beneficiaries of the GEAR strategy. With regards to the four giant companies and insurance organisations that van der Walt refers to above, Cosatu further argues that:

South Africa's financial sector (banking and insurance) [remains] a monopoly industry: [dominated] by 4 large privately owned banks (ABSA, Nedbank, FNB, and Standard Bank), two of which have significant foreign ownership. Insurance and re-insurance is dominated by Mutual and Federal, Old Mutual, Sanlam, Chartis,

⁶⁸ Gevisser, *Thabo Mbeki: A dream deferred*, 250.

⁶⁹ Terreblanche, *A history of inequality in South Africa: 1652-2002*, 115.

⁷⁰ Roux, *Everyone's guide to the South African economy*, 197.

⁷¹ Van der Walt, 'Beyond 'white monopoly capital': Who owns South Africa?' 40.

Santam, Swiss Re-insurance, Africa Re-insurance, Munich Re-insurance, etc. ABSA is 56% foreign-owned whilst Standard Bank is at least 40% foreign owned. The Reserve Bank is also privately owned and has foreign ownership too.⁷²

The above quotations are with reference to GEAR's second broad theme, according to Roux, of "further reducing tariffs and encouraging foreign investment in South Africa."⁷³ With regards to exchange controls and capital outflow referred to earlier, van der Walt further states that, "It was ANC-led liberalization of capital and other controls that allowed Anglo to relocate its primary listing to London in the 1990s. Looser regulations were part of growing efforts to position South Africa as an attractive 'emerging market', and growing global flows of foreign investment have seen the JSE change."⁷⁴ GEAR in effect advanced trade liberalization and privatization of state enterprises in South Africa. With regards to the effects of advancing trade liberalization, Mosoetsa points out that,

Trade liberalization entailed a shift away from the country's previous import substitution industrialization policies. This had a devastating effect on the manufacturing sector in [South Africa]. Retrenchments, relocations, and factory closures became a regular feature of neo-liberal, post-apartheid [South Africa]. In 1998, it was estimated that 23 percent of manufacturing jobs [for example in KwaZulu-Natal] had been lost...The two dominant manufacturing sectors of the province's economy – clothing and textiles, and footwear – were badly affected. There were massive job losses as factories tried to compete with imports coming from China and Taiwan.⁷⁵

As a macro-economic policy framework, GEAR strengthened the financial services sector and in effect undermined the manufacturing and production sectors of the South African economy.⁷⁶

⁷² 12th Cosatu National Congress, 'Secretariat Report', 2015:78.

⁷³ Roux, *Everyone's guide to the South African economy*, 197.

⁷⁴ Van der Walt, 'Beyond 'white monopoly capital': Who owns South Africa?' 40.

⁷⁵ Sarah Mosoetsa, *Eating from one pot: The dynamics of survival in poor South African households* (Johannesburg: Wits University Press, 2011), 10.

⁷⁶ Industrial policy and programmes in South Africa: Discussion document (South Africa: DTI, 1998), 40. The discussion document goes on to state that in 1996, the South African manufacturing sector became relatively less competitive and in 1997 employment again declined significantly as the combined effects of [trade] liberalization,

Gevisser points out that, “One of GEAR’s most notorious failed promises was that South Africa would rapidly achieve a growth rate of 6 percent per annum, which would solve the country’s unemployment crisis. In fact, the growth rate never exceeded 5 percent, and it was accompanied by increasing unemployment, well over 30 percent.”⁷⁷ In a discussion document drafted by Cosatu, it states that,

[In South Africa] trade liberalization has strengthened the power of multinational corporations; it has weakened the power of the state to direct industrialization and has led to disintegration of productive structures at local level. The secondary sector has been losing jobs since 1995..., the secondary sector lost 350 000 jobs. [GEAR] thus failed to promote labour intensive industrialization in line with historical positions of the democratic movement.⁷⁸

In my analysis of the GEAR strategy the term “restitution” does not play any role. Instead, emphasis is placed on the term redistribution. However, the term “redistribution” in GEAR does not have the same meaning as the term “redistribution” in the RDP. Comparatively, and to reiterate an earlier point made, in Article 2.4.6 of the RDP on land redistribution, it states that, “the land redistribution programme will realize its objectives in various ways, including strengthening property rights of communities already occupying land, combining market and non-market mechanisms to provide land, and using vacant government land.”⁷⁹ There is no such thing as “land redistribution” in GEAR. The policy position of “land redistribution” is omitted. By contrast GEAR associates the term redistribution with “income redistribution” and “asset redistribution” and not land redistribution *per sé*. However, the land reform programme and the initiatives entailed in the RDP on land redistribution are rather peripheral in the GEAR strategy. To demonstrate, Article 2.1b of GEAR states that:

Firstly, in the context of 3 percent growth, and without significant improvements in

illegal imports weakened domestic manufacturing and production consequently suppressing employment creation.

⁷⁷ Gevisser, *Thabo Mbeki: A dream deferred*, 252.

⁷⁸ Cosatu, *A growth path towards full employment: Policy perspectives of the Congress of South African Trade Unions*, 17.

⁷⁹ *Reconstruction and Development Programme: A policy framework*, 20.

labour absorption coefficients, it is doubtful whether annual job creation much in excess of 100 000 would be possible over the next five years. The unemployment rate would then rise by some 5 percent to about 37 percent in 2000. This estimate takes into account about 20 000 additional jobs created per annum in response to various employment-intensive public expenditure programmes such as *land reform*, low-cost housing, community water and municipal infrastructure.⁸⁰ (*Italics mine*).

GEAR, as a macroeconomic policy that has aimed at accelerating the integration of the South African economy into the global economy did not only raise unemployment but has had the adverse effects of deepening inequalities within the country itself.⁸¹ Land reform, according to GEAR “[is] amongst the initiatives which aim to address the claims of the poor to a fair package of basic needs.”⁸² GEAR further states that, “[In] keeping with RDP objectives...Land reform...[is] just [one] of the areas in which detailed analysis and extensive public discussion have led to major policy revision.”⁸³ It continues to state that, “[The] focus of this document is the overall macroeconomic environment. Social and sectoral policy development cannot be outlined comprehensively here, but a few key linkages between growth, redistribution and new policy directions are highlighted.”⁸⁴ Furthermore, GEAR states that:

The *land reform* programme, combining asset redistribution with enhancement of tenure has an important role in improving the long-term prospects for employment and income generation in the rural economy. Progress has been made to finalizing procedures for the rapid release of land and the introduction of a settlement grant. Complementary initiatives include emergent farmer support programmes. As these gain momentum, emphasis will shift to marketing support, appropriate technological interventions and streamlined extension services. Over time, agricultural development associated with *land reform* will play a key role in improving the

⁸⁰ Article 2.1b, *Growth, Employment and Redistribution (GEAR): A macroeconomic strategy*, 3.

⁸¹ Mosoetsa, *Eating from one pot: The dynamics of survival in poor South African households*, 16.

⁸² Article 3.4 *Growth, Employment and Redistribution (GEAR): A macroeconomic strategy*, 10.

⁸³ *Growth, Employment and Redistribution (GEAR): A macroeconomic strategy*, 15.

⁸⁴ *Growth, Employment and Redistribution (GEAR): A macroeconomic strategy*, 15. With regards to redistribution, article 6.1 of GEAR, states that, “Progress in education shows up consistently in comparative studies as a key determinant of long-run economic performance and income redistribution.”

distribution of income and economic activity.⁸⁵ (Emphasis mine)

The term (land) restitution is used implicitly in the above quotation. This begs the question: how are inequalities that emerged as a result of the dispossession of land and property belonging to persons or communities prior the 19th of June 1913 addressed? It is my view that in the policy documents, specifically GEAR, there is an unwillingness to embrace a general principle of recovery (*restitutio*) primarily of material goods that can no longer be restored to its original state. In GEAR, the majority of situations regarded as restitutionary are not catered for. GEAR states that the land reform programme, assuming that it includes, not only land restitution but combines that with (fixed) asset redistribution and tenure (reform), adds that the rapid release of land (presumably through land redistribution) needs to be coupled with settlement grants and emergent farmer support programmes (marketing support, appropriate technological interventions and streamlined extension services) in order to improve long-term prospects for employment and income generation in the rural economy.⁸⁶ The assumption in GEAR is that “Over time, agricultural development associated with land reform will play a key role in improving the distribution of income and economic activity.”⁸⁷ However, such distribution of income has not been achieved since 1996. Is it therefore implicit that GEAR understands land reform to include land redistribution and tenure reform and presumably also land restitution (in terms of settling land claims)?⁸⁸

GEAR does not use the term restitution explicitly and where it is used implicitly it is not restricted to land restitution but includes support programmes (marketing, technological) in order to address unemployment with the hope that this shall “improve long-term prospects for employment and income generation.” However, the linking of the term “redistribution” to the word “asset” is only done once in GEAR.⁸⁹ The term “tenure” appears with regards to its

⁸⁵ *Growth Employment and Redistribution (GEAR): A macroeconomic strategy*, 16.

⁸⁶ *Growth Employment and Redistribution (GEAR): A macroeconomic strategy*, 16.

⁸⁷ *Growth Employment and Redistribution (GEAR): A macroeconomic strategy*, 16.

⁸⁸ The basis for restitution in any claims that have to do with unjust enrichment requires the enrichment to be reversed.

⁸⁹ With assets gained where ownership is a piece of property where the gain is equivalent to the value of the asset gained, Tettenborn suggest that, “On principle, this gain is susceptible to capture through the law of restitution.” Tettenborn, *Law of Restitution in England and Ireland*, 6.

enhancement in improving prospects for employment. Yet, approximately 2.8 million people live on commercial farm land, many without secured tenure.⁹⁰ With regards to employment creation, GEAR states that, “A strong export performance underpins the macroeconomic sustainability of the growth path. Private sector employment creation is reinforced by small business promotion, *land reform* and emergent farmer support, greater labour market flexibility and labour-based public sector infrastructural development projects.”⁹¹ The term restitution does not feature in the GEAR strategy. However, where the term “land reform” is used, it is never restricted to “land redistribution”. In GEAR the concept of “land redistribution” also does not exist. The term redistribution is not linked to land. The term “restitution” is not used at all in GEAR especially to address economic inequalities that resulted from imperial conquest, economic exploitation of land and labour and the introduction of discriminatory policies and structures under colonial rule and under apartheid. Neither is the term “reparation” found or used anywhere in the GEAR strategy. This omission includes the terms reconciliation or rehabilitation nor restoration. Unfortunately, it should be noted that, unlike in the RDP, the concept “land restitution” is not used explicitly in GEAR. In this case, alternative terms such as “land reform” are used.⁹²

In the GEAR strategy, in addition to the fact that the term restitution is not used, there is a change of pattern. The term “redistribution” is mentioned nine times in GEAR and is used mostly with regards to “income distribution”; unlike in the RDP, where the term is used in relation to “land redistribution”. However, the concept “income distribution” with the term “income” linked to “redistribution” is only mentioned twice. To illustrate, Article 1.1, in the introduction, GEAR states that: the compilers seek “a redistribution of income and opportunities in favour of the poor.”⁹³ GEAR after considering the progress that has been made states that, “Notwithstanding these achievements, it has become increasingly evident that job creation, which is a primary source of income redistribution, remains inadequate. It is widely recognised

⁹⁰ Kariuki, ‘The comprehensive rural development programme (CRDP): A beacon of growth for rural South Africa?’, 352,

⁹¹ *Growth, Employment and Redistribution (GEAR): A macroeconomic strategy*, 22.

⁹² It is suggested, says Tettenborn that, “for the purposes of restitution, it is normally the time of receipt that ought to matter rather than any other date (such as the time when restitution is requested, or when proceedings are taken to obtain it).” Tettenborn, *Law of Restitution in England and Ireland*, 13.

⁹³ *Growth, Employment and Redistribution (GEAR): A macroeconomic strategy*, 1.

that the present growth trajectory of about 3 percent per annum: fails to reverse the unemployment crisis in the labour market.”⁹⁴ It is my observation that, the term redistribution is used with regards to “income redistribution” with reference to the unemployment problem and the lack of job creation. In this regard, GEAR maintains that:

[Public sector reforms] contribute to the redistribution of opportunities and income; and employment and training policies enhance the growth potential of industry, extend job opportunities to the unemployed and contribute over time to the redistribution of income. While recognising that policy-making must remain sensitive to changing circumstances, there is an urgent need to establish firm foundations for this approach to growth and employment creation in the South African economy.⁹⁵

In the above quotation redistribution of income includes redistribution of opportunities (job opportunities to the unemployed). Similarly, GEAR states that, “Employment creation provides a powerful vehicle for redistribution.”⁹⁶ Relatedly, GEAR further states that, “the fiscus is most effectively able to contribute to redistribution.”⁹⁷ GEAR claims to have been implementing the RDP, though in the implementation of the GEAR strategy – GEAR promised to reduce poverty and create employment, but these challenges of poverty deepened and the levels of inequality increased, unemployment levels rose as there were wage reductions that were designed to increase employment but instead increased poverty.⁹⁸ Such continuing and indeed increasing

⁹⁴ *Growth, Employment and Redistribution (GEAR): A macroeconomic strategy*, 1.

⁹⁵ *Growth, Employment and Redistribution (GEAR): A macroeconomic strategy*, 7.

⁹⁶ *Growth, Employment and Redistribution (GEAR): A macroeconomic strategy*, 22.

⁹⁷ *Growth, Employment and Redistribution (GEAR): A macroeconomic strategy*, 10. However, this is with regards to revenue issues that have to do with taxation, it continues to state that, “It is nonetheless important that the incidence of taxation should remain progressive, while at the same time impacting across a broad base so as to avoid excessive rates. Several further steps in the overhaul of the tax structure including the rewriting of the Income Tax Act will be undertaken.”

⁹⁸ Chance Chagunda, ‘An outline and brief analysis of AsgiSA,’ Briefing Paper (no.156), (South African Catholic Bishops’ Conference: Parliamentary Liaison Office, 2006) 5; he states that, “The RDP and GEAR promised to reduce poverty and create employment but these challenges are still deepening.” Asghar Adelzadeh, in a commentary entitled: ‘From the RDP to Gear: The gradual embracing of neoliberalism in economic policy’, in *Transformation* (Vol.3), 1996:84; goes on to say that in 1996 there were wage reductions that were designed to

economic inequalities raised the levels of restlessness over wealth redistribution and the need for economic restitution in South Africa. According to Van Niekerk, “The departure from the redistributive and fiscally expansive policies advocated in the pre-election RDP ‘base document’ was reflected in GEAR as the new fiscally austere economic policy framework.”⁹⁹ Employment in the private sector, according to Habib and Padayachee, “fell consistently [during] this time. Pre-1994 income and wealth inequality was commonly cited as among the worst in the world. The rural areas as sources of growth, employment or even subsistence, all but collapsed.”¹⁰⁰ Macroeconomic policy was diverted from redressing inequality.¹⁰¹ GEAR privileged economic stability and growth as a precondition of social development in the post-apartheid era; this shift represented a departure from the principles enunciated in the RDP which had explicitly pledged equitable redistribution through social policies that were compatible with a social democratic welfare state.¹⁰² A new era of economic rationalism had dawned.¹⁰³

increase employment but instead increased poverty at the same time (see page 91). Adelzadeh further suggests that an income policy advocating wage restraint for lower paid workers merely froze and perpetuated inequality and poverty. The ‘Industrial policy and programmes in South Africa: Discussion document,’ (South Africa: DTI, 1998), 8; states that, “liberalization may have contributed to [a high] degree of job losses in 1997.”

⁹⁹ Van Niekerk, ‘ANC’s rise and the decline to social democracy’, 47.

¹⁰⁰ Habib and Padayachee, ‘Economic Policy and Power Relations in South Africa’s Transition to Democracy,’ 247. Yet some positive and potentially positive economic fundamentals and features were in place, upon which an innovative platform for post-apartheid reconstruction and development could have been built.

¹⁰¹ Vella Pillay used the term restitution in an interesting manner; for her there needed to be a restitution of policy (instead of a policy of restitution). To capture the historical moment: Vella Pillay presenting a speech in 1996, then further declared: “We should demystify all those policy injunctions which seek to divert the country’s macro-economic policy from redressing inequality and reducing the RDP into a mantra. This means that the arbitrary limits to the fiscal deficit should be abandoned and fiscal policy should be structured around target levels of employment generation. Today [1996] a feasible fiscal deficit as a ratio of GDP is around 7 to 8% and not the 5,3% being presently sought by the government. The funding of such a deficit can easily be managed by the restitution of the policy...” Vella Pillay, ‘Wanted: a new economic policy’, *South African Labour Bulletin*, Vol.20, No.2, Umanyano (April 1996), 41.

¹⁰² Van Niekerk, ‘ANC’s rise and the decline to social democracy,’ 47.

¹⁰³ Gotz, commenting at the time (1996) finally concluded that: “Economic policies are now determined not by how best to involve and benefit local communities and groups with an interest in reconstruction, but by what market indicators say is reasonable. There is a danger that the human element of the RDP has given way to an economic

The economic policy proposals within the RDP were abandoned. However, by April 1997, 372 land reform pilot projects had been approved.¹⁰⁴ On the whole in business circles, the GEAR proposals in 1997 were generally considered to be sound and that they created the potential for future growth and development – although not in the short run.¹⁰⁵ The formulation of policies and laws on land reform, according to Kariuki, “found expression in the publication of the white paper on land reform policy in April 1997 which addressed questions of redress, equity, security of tenure, nation building and national reconciliation and sustainable land use patterns.”¹⁰⁶ Land reform was to be the spark to the engine of growth. Kariuki further holds that, “From a policy perspective, the provisions of the 1997 white paper were ambitious and from the outset created an overburdened expectation that land reform was able to accord redress on the one hand, whilst conterminously dealing with the crisis of underdevelopment and economic growth on the other.”¹⁰⁷ However, in 1997, contrary to the ANC’s original economic policy formulations to

rationalism in which everyone is assumed to accept the limits imposed by market costs, and in which sectors like labour, wishing to make a positive contribution to the task of transformation, are cast in the role of a destabilizing force because they do not bow to what seems set down in stone as feasible. The Growth and Development Strategy threatens to limit labour’s space for manoeuvre on the political front...A new era of economic rationalism, supported by a government locked into fixed cost-time plans, implies a political order far less receptive to union recommendations and demands. Not only does labour now face departments no longer bound to the ethics of an RDP, it will also have to contend with officials who fend off claims for social and economic empowerment because these are not economically rational given government’s set objectives.” Gotz, *Reconstruction and development: Shifting goalposts*, 15.

¹⁰⁴ Doreen Atkinson, ‘Breaking down barriers: Policy gaps and new options in South African land reform,’ ‘Breaking down barriers: Policy gaps and new options in South African land reform’, (Chapter 16), edited by John Daniel, Prishani Naidoo, Devan Pillay and Roger South Hall, *New South African Review [1] - 2010: Development of decline?* Johannesburg: Wits University Press, 2010, 365.

¹⁰⁵ Roux, *Everyone’s guide to the South African economy (10th Ed.)*, 197.

¹⁰⁶ To capture the essence of the era, in 1997, Melanie Samson wrote: “The Reconstruction and Development Programme (RDP) has to all extents and purposes, been abandoned. Government has shifted its emphasis to the Growth, Employment and Redistribution Strategy (GEAR). GEAR is a market oriented strategy. It assumes that globalisation is inevitable, and places international competitiveness at the centre of policy development. [Therefore] the RDP is no longer the core of government policy.” Melanie Samson, *Globalisation: Women pay the price*, *South African Labour Bulletin*, Vol.21, No.1, Umanyano (February 1997), 8.

¹⁰⁷ Kariuki, ‘The comprehensive rural development programme (CRDP): A beacon of growth for rural South Africa?’ 352,

transform South Africa, plans for market liberalization and deregulation were put in place in accordance with the GEAR strategy.¹⁰⁸ It is in this climate that the government revealed an overlapping strategy: the Rural Development Strategy (RDS, 1997) and the Rural Development Framework (RDF, 1997); but one of the government's achievements was the Extension of Security of Tenure Act 62 of 1997 (ESTA).¹⁰⁹ Relatedly, at the time when the RDP was introduced, Roux recalls that, "the country was changing – dramatically – in a variety of ways...And then we also need to bear in mind that some of the RDP objectives were perhaps a bit ambitious in aiming to achieve substantial success within five years."¹¹⁰ Beyond the attainment of the targets, Kariuki, states that,

The RDP had also envisaged a significant economic renewal of rural areas as an outcome of a successful land reform project. It acknowledged that a comprehensive rural development programme must raise incomes and productivity, increase agricultural production and ensure security of tenure for all South Africans...The provision of rural infrastructure, support services, training, water provisioning, and health care were deemed crucial markers to define rural development...The RDP focused on the need to invest both in the on-farm and off-farm economy in the rural areas.¹¹¹

¹⁰⁸ Terreblanche, *Lost in transformation: South Africa's search for a new future since 1986*, 74.

¹⁰⁹ Kariuki, 'The comprehensive rural development programme (CRDP): A beacon of growth for rural South Africa?' 352, states that: "The RDF's primary focus was on rural infrastructure, public administration and local government, although it also stressed the need for the coordination of rural development in the country. However, the framework was not confirmed as the government's strategy for rural development." Furthermore, Kariuki states that, "One of the achievements of the government was the Extension of Security of Tenure Act, 62 of 1997 (ESTA), which aims to prohibit the illegal eviction of farm workers. The Act applies in all rural areas (anywhere outside a proclaimed township) and creates a procedure to be followed when applying for an order to evict people. In practice many people continue to be illegally evicted by owners who resort to extra-judicial means such as threats and intimidation...Overall, the law is seen to be strong in terms of procedural rights – defining the procedures one needs to follow to enforce a legal eviction – but exceptionally weak in defining the substantive rights of farm workers and labour tenants."

¹¹⁰ Roux, *Everyone's guide to the South African economy (10th Ed.)*, 196.

¹¹¹ Kariuki, 'The comprehensive rural development programme (CRDP): A beacon of growth for rural South Africa?' 351. To capture the atmosphere at the time in 1997, Malcom Ray maintained that: "Upbeat government

In view of the above points, the role of the state was reversed, neoliberal orthodoxy was embedded in government and monopoly capital was resilient in maintaining capitalism. Hence, Cosatu in its analysis correctly maintains that,

In South Africa, the canon of neoliberal thinking remains GEAR. Now regarded as merely a short term stabilization programme by its advocates, GEAR's economic principles and philosophy continue to dominate the practice and articulation of policy....The principle of GEAR is that growth must occur first, then employment will follow. Once employment increases, the distribution of income will improve. This principle, which is in sharp contrast to the RDP, is reflected in the persistent setting of growth targets as the primary focus rather than targets for employment and income distribution.¹¹²

GEAR was necessitated in the ANC as a macroeconomic framework and as an emergency plan which, Gevisser reiterates, was "developed in conjunction with academics and World Bank consultants. GEAR called precisely the kind of fiscal discipline and investment-friendly tax incentives the international financial institutions believed in, but [it] was in stark contrast to the

officials announce plans for phased 'deregulation' and 'liberalisation' of the market, to the delight of potential investors eagerly awaiting the go-ahead to capitalise on new investment opportunities. This process stands in marked contrast to the ANC's original formulation of transformation of the public sector. In terms of the RDP, the basic needs of the majority of South Africans were to be achieved through an efficient and vibrant public sector under state ownership and control. COSATU also insisted on state ownership and control of public utilities. State-owned enterprises, it maintained, were pivotal to guiding the economy through the hurdles of reconstruction and development. At the end of 1995, a business-commissioned report entitled "Restructuring the Public Sector to achieve Black Economic Empowerment" proposed privatisation as a mechanism to restructure public enterprises. It argued that partial or outright privatisation would contribute significantly towards the reduction of South Africa's debt and promote black economic empowerment. Around the same time, the ANC, under increasing pressure from international finance capital, released its own document "The State and Social Transformation" proposed a dramatic reversal of the state's role in the public sector through partial privatisation and a range of deregulatory measures. The document represented an effective ditching of the thinking behind the RDP." Malcom Ray, 'Privatisation: Pushing ahead', *South African Labour Bulletin*, Vol.21, No.1, Umanyano (June 1997), 11.

¹¹² Cosatu, *A growth path towards full employment: Policy perspectives of the Congress of South African Trade Unions*, 17.

redistributive RDP, which soon [was] rendered obsolete.”¹¹³ The ANC’s plan was simple and pragmatic: to use the economy under global conditions of neoliberal orthodoxy and hegemony to build a new, diversified, African owned and competitive future economic platform of a democratic South Africa. Nevertheless, according to Gevisser, “By 1998 both [Mbeki] and Mandela were threatening to eject the Congress of South African Trade Unions (Cosatu) from the ruling alliance if it continued to challenge GEAR.”¹¹⁴ Gevisser concludes that,

Seen this way, Gear was “a culmination” of the liberation movement’s “moral surrender” to the market: The party’s neophyte economics had been “force-fed a neoliberal agenda” by the World Bank and the IMF, and the multiparty talks were, in the end, less significant than the offstage negotiations happening between the ANC and agents of global capital.¹¹⁵

The year 1998 brought to an end the experimental phase of land reform pilot programmes. During this period there was an extensive roll out of land reform, master-minded by the then minister of land affairs, Derek Hanekom, between 1998 and 2000.¹¹⁶ Thoko Didiza took office in 2000 and she had a more commercial approach. By 2001, overlapping these events the government implemented a successive strategy: the Integrated Sustainable Rural Development Programme (ISRDP, 2001). However, this phase of the land reform programme had a pro-poor focus. The budget for the agricultural sector was approximated at R2 billion (2001/2002). Atkinson points out that, in terms of the Settlement/Land Acquisition Grant (SLAG) government distributed small grants (around R15 000 per person) as widely as possible, to enable poor people to purchase land (groups of people had to pool their subsidies in order to afford land); unfortunately, this policy coincided with a post-democratization property boom, and land became increasingly unaffordable, especially with such small subsidies.¹¹⁷ Atkinson says that, four factors contributed to property price increases and these are: (i) black South Africans could now invest in land; (ii) the state was purchasing land for land reform; (iii) South Africans and

¹¹³ Gevisser, *Thabo Mbeki: The dream deferred*, 250.

¹¹⁴ Gevisser, *Thabo Mbeki: The dream deferred*, 250.

¹¹⁵ Gevisser, *Thabo Mbeki: The dream deferred*, 254.

¹¹⁶ Atkinson, ‘Breaking down barriers: Policy gaps and new options in South African land reform,’ 365.

¹¹⁷ Atkinson, ‘Breaking down barriers: Policy gaps and new options in South African land reform,’ 366.

foreigners began to invest in farms, often as lifestyle purchases; and (iv) there was a shift away from food production towards game farming, eco-tourism and hunting, which are land-extensive activities.¹¹⁸ In place of the Land Rights Bill, the Communal Land Rights Act (CLARA, 2004) was formulated and signed into law (14 July 2004) by the then president Thabo Mbeki.¹¹⁹ The objective of the Act was to legalize the security of tenure in the rural areas which are home to well over 21 million people. Yet, tenure reform has been a dismal failure, and the worst performing aspect of land reform and with extremely shocking results when coupled with the chronic poverty of the people that have been evicted out of farms, and relegated to the status of the *precariat*: an emerging, new, and dangerous class.¹²⁰ The precarious status of farm dweller communities manifested difficulties in attaining or securing tenure and economic development in freehold farming areas. No implementation of the reform of communal tenure has ever taken place. The reality was that between 1994 and 2004 over 1 million people were evicted and less than 1 percent had some form of legal representation.¹²¹ In light of this, the NDA introduced the Comprehensive Agricultural Support Programme (CASP, 2004) to try and assist land reform beneficiaries with agricultural production and allocations to CASP rose to approximately R200 million in 2004/2005.¹²² Phumzile Mlambo-Ngcuka assumed the deputy presidency in 2005. By 2005 the ANC was ready to move into a developmental state mode.¹²³ The DLA budget was increased to approximately R3.4 billion (2005). However, Mbeki fired Zuma (in 2005); as a result, COSATU fueled the rebellion against Mbeki.¹²⁴ During this phase, the government had

¹¹⁸ Atkinson, 'Breaking down barriers: Policy gaps and new options in South African land reform,' 366.

¹¹⁹ Kariuki, 'The comprehensive rural development programme (CRDP): A beacon of growth for rural South Africa?' 358. In addition, the success of CLARA is contingent on the success of the Traditional Leadership and Governance Framework Act. On 6 November 2009, the North Gauteng High Court Judge, Aubrey Ledwaba, declared fourteen sections of the (TLGF) Act unconstitutional.

¹²⁰ The "precariat" is a term used by Guy Standing in his book entitled, *The Precariat: The new dangerous class* (London: Bloomsbury Academic, 2011).

¹²¹ Kariuki, 'The comprehensive rural development programme (CRDP): A beacon of growth for rural South Africa?' 358,

¹²² Atkinson, 'Breaking down barriers: Policy gaps and new options in South African land reform,' 365.

¹²³ Refer to the closing address of Mbeki at the 2005 NGC entitled: 'Development and Under-Development' where he started to theorize this based on the Two Economies concept.

¹²⁴ Gevisser, *Thabo Mbeki: The dream deferred*, 252.

removed virtually all agricultural marketing supports, including agricultural price stabilization, tariff protection and agricultural subsidies that Atkinson further states that,

Consequently, 'emergent' black farmers were caught in a squeeze between rising land prices and declining farm-gate prices, and faced increasingly stiff competition with foreign imports...Beneficiaries now also had to manage agricultural enterprises collectively, which caused many projects to fail.¹²⁵

The term restitution is not used in GEAR. In the GEAR strategy land restitution and land redistribution is assumed to be implicit in its understanding of land reform. The land reform programme is assumed to combine land restitution, land redistribution and tenure reform. The land reform programme is a standard neoliberal one which requires the victims of land dispossession to purchase the land back from the current owners who demand compensation. This strategy to land reform has not rectified the landlessness and the poor conditions inherited from apartheid for the dispossessed majority. The term reparation is not used in GEAR. Where the term redistribution is used it is not linked to land redistribution but it is understood to mean income redistribution (through job creation). Land reform is understood to be an employment-intensive public expenditure programme regarded as an initiative which is aimed at addressing the claims of the poor. In the GEAR strategy land restitution is understood to be implicit in land reform programme and that such restitution will be market-led. Redress for the suffering caused by the policy of forced removals occurs within a neoliberal framework.

4.5 Accelerated and Shared Growth Initiative South Africa (AsgiSA, 2004 - 2009)

In 2005 an economic framework referred to as the Accelerated and Shared Growth Initiative South Africa (AsgiSA, 2004, adopted in 2005) was introduced. It was president Mbeki that introduced AsgiSA during the latter part of his second term in office. AsgiSA was led by the then deputy president Phumzile Mlambo-Ngcuka (2005-2008). In AsgiSA there is a further drift away from the concept of restitution. The term restitution also does not feature in the policy

¹²⁵ Atkinson states that, "In 2005 one study showed that 44 percent of land reform projects in North West Province were not producing, or were in major decline," 366. Atkinson, 'Breaking down barriers: Policy gaps and new options in South African land reform,' 370.

document.¹²⁶ Atkinson maintains that it was during this time that “[the] DLA was unable to spend its full budget, and in 2005/2006, the Department had to return R1 billion of its R3.9 billion budget to Treasury.”¹²⁷ Roux asserts that AsgiSA was launched in 2006, and he points out that, the two major objectives of AsgiSA were an average economic growth rate of 4.5% between 2004 and 2009, and an average of 6% between 2010 and 2014; and the halving of unemployment and poverty by 2014.¹²⁸ In this policy framework it is stated that, “The South African Government was mandated in 2004 to halve poverty and unemployment by 2014. These objectives [were] feasible – indeed [the government] hope[d] to surpass them – because of steady improvement in the economy’s performance and job-creating capacity.”¹²⁹ The outcome of AsgiSA’s target of poverty reduction was improbable, poverty instead of being halved, increased, and the inequality situation became worse as there was no pro-poor shift in the growth trajectory, the economy had no “job creating capacity.”¹³⁰

The expectation with AsgiSA was that wealth, as it was concentrated in the hands of a minority economic elite in South Africa, would “trickle-down” to the poor.¹³¹ However, this “trickle-down effect” did not happen instead the systemic structural crisis as pointed out in the RDP continued. The result was that the current inequalities were instead accelerated. The South African government introduced social grants as a measure that was to be put in place while the

¹²⁶ Neither does reparation, reconciliation, restoration or rehabilitation. These terms are not used implicitly or explicitly in AsgiSA.

¹²⁷ Atkinson further states that “In 2006 MAFISA Agricultural Loan Scheme was introduced to assist emergent farmers with farming credit...However, the optimal use of these allocations were constrained by administrative difficulties.” Atkinson, ‘Breaking down barriers: Policy gaps and new options in South African land reform,’ 367.

¹²⁸ Roux, *Everyone’s guide to the South African economy*, 198.

¹²⁹ *Accelerated shared growth initiative South Africa* (AsgiSA), (Republic of South Africa: The Presidency, 2006), 5.

¹³⁰ Fiona Tregenna and Mfanafuthi Tsela, ‘Inequality, unemployment and poverty in South Africa’, (Pretoria: TIPS, 2012) 16.

¹³¹ Chance Chagunda, ‘An outline and brief analysis of AsgiSA’, *Briefing Paper* (no.156), (South African Catholic Bishops’ Conference: Parliamentary Liaison Office, 2006) 3.

proposed Basic Income Grant (BIG) was not introduced.¹³² AsgiSA states that, “the social grant programme has given significant impetus to poverty reduction and income redistribution [however] there remains about a third of South African households [that are] not yet able to benefit directly from [South African] economic advances.”¹³³ The social grant programme that was introduced was not linked to productivity so that even though it shifted the Gini-coefficient it did not help to create employment. Sarah Mosoetsa reiterates that,

Poverty is an ever-present reality in contemporary South Africa. The distribution of wealth in the country is heavily skewed towards the rich. Despite a radical increase in social welfare over the last decade and a half, the vast majority of households remain poverty-stricken. While the poor are heavily reliant on the state for income in the form of social grants, the majority of people are not eligible for them. This means that the meager income derived from grants has to support many people besides the intended beneficiaries.¹³⁴

The poor remain landless, lack skills and expertise and are unemployed. Mosoetsa is correct to state that they are heavily reliant on the state for income in the form of social grants. The term redistribution is mentioned only once in AsgiSA. It is used in relation to income and not land. With regards to land, AsgiSA states that, “A final set of Second Economy interventions is centered [sic] on the challenge of realising the value of [land as a] dead asset...that [has] intrinsic value not currently realized. Measures to realize the value of dead assets [entail] more rapid movement towards the formalization of land tenure.”¹³⁵ Atkinson holds a position that “AsgiSA exhibited a greater appreciation that land reform was an investment that had to yield agricultural results and represented a significant shift away from the quantitative obsession with hectare transfer.”¹³⁶ Mosoetsa, at variance with Atkinson further notes that, “A quarter of South Africans [became] jobless in terms of the official definition of unemployment. When the entire

¹³² Charles Meth, ‘Basic income grant: There is no alternative!’ *SDS Working Paper* (no. 54), (Cape Town: SADRU, 2008), 2.

¹³³ *Accelerated shared growth initiative South Africa* (AsgiSA), 12.

¹³⁴ Mosoetsa, *Eating from one pot: The dynamics of survival in poor South African households*, 1.

¹³⁵ *Accelerated shared growth initiative South Africa* (AsgiSA), 14.

¹³⁶ Atkinson, ‘Breaking down barriers: Policy gaps and new options in South African land reform’, 367.

economically active population is taken into account, however, the figure [rose] to a staggering 32 percent. Unemployment is likely to get even worse as [wages declined] even further.”¹³⁷ As a result, Roux points out that,

As part of AsgiSA, government also introduced the Joint Initiative on Priority Skills Acquisition (JIPSA), which identifies solutions to skills shortages over the next few years. The skills requirements that have been identified as priorities for economic growth and development are the acquisition of intermediate artisan and technical skills (for infrastructure); the development of information and communications technology (ICT) skills; the recruitment, retraining and employment of unemployed graduates.¹³⁸

Several more innovations to address critical government shortcomings were introduced under a new minister, Lulu Xingwana, who had a controversial ‘use-it-or-lose-it’ approach to land reform.¹³⁹ Atkinson points out that, “A major assessment of land reform was conducted by the Sustainable Development Consortium in 2007 and made valuable recommendation to the DLA and NDA. The resultant Settlement and Implementation Support (SIS) strategy reflected critically on the poor ability of government departments to implement land reform and provide support for beneficiaries.”¹⁴⁰ Kariuki sums up this period and states that,

In sum, the limitations of the land reform programme [were] two-pronged, that is, they [were] quantitative (inability to meet targets), and qualitative (inability to create sustainable livelihood impact, and multiple effects on local and national economy). These limits [called] into question the extent to which issues around historic injustice, reconciliation and nation building as objectives of these programmes can be realized. Appreciation that land reform was failing to meet its objectives of historical

¹³⁷ Mosoetsa, *Eating from one pot: The dynamics of survival in poor South African households*, 1.

¹³⁸ Roux, *Everyone’s guide to the South African economy*, 198.

¹³⁹ Kgalema Motlanthe would be elected ANC secretary-general; but then, according to Gevisser, having become estranged from Mbeki, he would be elected deputy president on the “Zuma ticket” that defeated Mbeki in 2007, and would become South Africa’s third democratic president once Mbeki was fired. Gevisser, *Thabo Mbeki: The dream deferred*, 251.

¹⁴⁰ Atkinson, ‘Breaking down barriers: Policy gaps and new options in South African land reform’, 367.

redress and economic growth led to the adoption of a view that policy should embrace a renewed focus on land reform and rural development. As a result, the national policy conference of the ANC, held in June 2007, proposed a resolution on economic transformation to be considered for adoption at the 52nd [ANC] National Conference.¹⁴¹

In AsgiSA the term restitution is omitted. This includes the term reparation. The understanding of the term redistribution is linked to income redistribution. AsgiSA makes reference to the formalization of land tenure. It is assumed that in AsgiSA land tenure includes land restitution and land redistribution as forming part of the land reform programme.

4.6 Industrial Policy Action Plan (IPAP 1, 2007/8), (IPAP 2, 2011/12-13/14), (IPAP 3, 2013/14-15/16)

In 2007 the Industrial Policy Action Plan (IPAP) was launched as a South African government economic policy (IPAP 1, 2007/8). In this policy framework there is, likewise, silence concerning restitution. This shows an even further drifting away from the concept. The terms restitution and redistribution are not found in the IPAP. However, during 2007 the Land and Agrarian Reform Programme (LARP) was launched as a partnership between the DLA, NDA and provincial departments of agriculture. Its goals were to: (i) Redistribute 5 million hectares of white-owned agricultural land to 10 000 new agricultural producers; (ii) Increase the participation of black entrepreneurs in agri-business; (iii) Provide universal access to agricultural support services to target groups; (iv) Increase cultural production by the target groups; and (v) Increase agricultural trade by the target groups.¹⁴² From 2007 onwards, there was another shift: a new system of 'pro-active land acquisition' (PLAS) was instituted, which enabled government to purchase land and rent it to selected beneficiaries until they were able to take a transfer, effectively meaning that government could acquire "appropriately priced" land when it becomes

¹⁴¹ Kariuki, 'The comprehensive rural development programme (CRDP): A beacon of growth for rural South Africa?' in *New South African Review [1] - 2010: Development of decline?* 354.

¹⁴² Atkinson, 'Breaking down barriers: Policy gaps and new options in South African land reform,' 365. This was seen as a change in land reform thinking which came with the appointment of the new Department of Rural Development and Land Reform which included non-land issues to the land reform context.

available on the market.¹⁴³ The policy discourse then shifted to agrarian transformation. It is during Zuma's first term (2009-2014) that the state shifted its policy outlook towards industrial policy and continued with the IPAP's second iteration (IPAP 2, 2011) as one of its pillars of the above mentioned interlocking economic policy frameworks. The concept of land reform resurfaces in the industrial policy document: IPAP 2. IPAP 2 states that, "[the] beneficiaries of land reform do not necessarily have the skills and relevant technology to grow trees optimally;"¹⁴⁴ and that, for example, most of "the forests exist on common land where a number of value-added opportunities can be explored for small growers who are currently supplying their timber to big companies for pulp and paper mills;"¹⁴⁵ and on land tenure, it stated further that "Most of the land that has been identified as suitable for new afforestation is...land belonging to communities; where land-claims settlement issues still need to be resolved before tree planting can take place."¹⁴⁶ According to Rob Davies, the goal of the IPAP in this policy context is "to prevent industrial decline and support the growth and diversification of South Africa's manufacturing sector."¹⁴⁷ Davies further holds that,

The balance of international evidence is that manufacturing is the engine of growth and employment of all economies that have achieved high gross domestic product (GDP) and employment growth [and that] manufacturing can generate significant job creation directly as well as indirectly in a range of primary and service sector activities.¹⁴⁸

The IPAP 2 holds that, "In terms of employment: the forestry sector has identified large tracts of land in the EC, KZN, Mpumalanga and Limpopo as being suitable for new afforestation."¹⁴⁹ It is notable that the term restitution is not used explicitly in this policy document and its iterations since the main focus is on land use and more specifically on manufacturing. However, Kariuki

¹⁴³ Atkinson, 'Breaking down barriers: Policy gaps and new options in South African land reform', 368.

¹⁴⁴ *Industrial Policy Action Plan (IPAP) 2011/12-2013/14: Economic Sectors and employment cluster* (Republic of South Africa: Department of Trade and industry, February, 2011), 152.

¹⁴⁵ *Industrial Policy Action Plan (IPAP) 2011/12-2013/14: Economic Sectors and employment cluster*, 151.

¹⁴⁶ *Industrial Policy Action Plan (IPAP) 2011/12-2013/14: Economic Sectors and employment cluster*, 152.

¹⁴⁷ *Industrial Policy Action Plan (IPAP) 2011/12-2013/14: Economic sectors and employment cluster*, 6.

¹⁴⁸ *Industrial Policy Action Plan (IPAP) 2011/12-2013/14: Economic sectors and employment cluster*, 6.

¹⁴⁹ *Industrial Policy Action Plan (IPAP) 2011/12-2013/14: Economic Sectors and employment cluster*, 157.

holds that at this juncture, “[sixteen years] into the implementation of the land reform programme, none of the broad delivery objectives [had] been achieved, as exemplified in the fact that only close to 6.7 percent [5.5 million hectares] of such land had been transferred by 2009”¹⁵⁰ The overall budget (2009/10) for the Department of Land Affairs declined by 8 percent, driven by a precipitous decline in the capital budget allocated for the land restitution programme.¹⁵¹ By 2010 almost all the farms that were bought by the government had collapsed, yet CASP had been projected to be increased to R758 million in 2010.¹⁵²

4.7 New Growth Path (NGP, 2010)

Kgalema Motlante (2008-2009) was sworn in as interim state president after the resignation of Mbeki (2008) from the presidency. By 2010 the land reform programme had performed poorly, none of the targets had been met. On the 2nd March 2010, the minister of Rural Development and Land Affairs, Mr Gugile Nkwinti declared that food security and economic growth are being undermined by the collapse of more than 90 percent of farms that the government has bought for restitution or redistribution for victims of apartheid.¹⁵³ During this period the policy framework entitled The New Growth Path (NGP, 2010) was launched, in which the term land reform resurfaces. In the NGP it states that,

[The New Growth Path] sets out a range of practical measures at sectoral level to achieve [its] employment targets, with the following core [strategy]: [re]structuring land reform to support smallholder schemes with comprehensive support around infrastructure, marketing, finance, extension services, etc.; upgrading employment in commercial agriculture...commercial farming...acceleration of land claims and better support of new farmers following land-claims settlements.¹⁵⁴

¹⁵⁰ Kariuki, ‘The comprehensive rural development programme (CRDP): A beacon of growth for rural South Africa?’ 351.

¹⁵¹ Kariuki, ‘The comprehensive rural development programme (CRDP): A beacon of growth for rural South Africa?’ 354.

¹⁵² Atkinson, ‘Breaking down barriers: Policy gaps and new options in South African land reform,’ 367.

¹⁵³ Atkinson, ‘Breaking down barriers: Policy gaps and new options in South African land reform,’ 365.

¹⁵⁴ *New Growth Path (NGP): Framework*, (Republic of South Africa: Economic Development Department, 2009), 2.

What does “restructuring land reform to support smallholder schemes” mean as a core strategy to achieve employment targets? Atkinson suggests that for most land reform analysts, “white commercial farmers are *the problem*, and therefore cannot be instrumental in a solution.¹⁵⁵ The discussion in the NGP then shifts away from (land) restitution and drifts further away from restitution and yet in the 2010 budget, the ministry of Rural Development and Land Reform was allocated an extra R860 million over three (3) years.¹⁵⁶ The NGP was crafted (in 2008) by the economic cluster in the ministry of economic development under the leadership of Ebrahim Patel.¹⁵⁷ The first goal was to address the need for an employment-driven economic framework and according to Patel this was done through developing the New Growth Path.¹⁵⁸ Mapaila asserts that the central thesis of the NGP is that decent work, jobs and employment growth must be prioritized as the key drivers of economic growth.¹⁵⁹ By March 2008, according to Atkinson, the DLA had transferred 4.7 million hectares, and from then on the rate of transfers was increasing every year. Atkinson relates that:

During 2008/2009, the combined land reform programmes had yielded transfers amounting to 443 600 hectares, in a total of 501 projects...Thus far, [the] DLA’s progress has been measured primarily in terms of ‘hectares transferred’, a yardstick which has given rise to concerns that other key deliverables are being neglected...Allocations to CASP rose...to R415 million in 2007/2008...By 2008, CASP had assisted 3 270 projects and 218 000 beneficiaries.¹⁶⁰

In 2011 the South African government concluded four Accords based on the New Growth Path:

¹⁵⁵ Atkinson, ‘Breaking down barriers: Policy gaps and new options in South African land reform,’ 365.

¹⁵⁶ Kariuki, ‘The comprehensive rural development programme (CRDP): A beacon of growth for rural South Africa?’ 355. The government then considered extending the deadline of 30 percent to 2025 given the budgetary shortfalls.

¹⁵⁷ Soon after the introduction of the NGP (2010), Jacob Zuma was reintroduced as state president in South Africa for the second term (2014).

¹⁵⁸ Input by Minister Ebrahim Patel, Address to the 11th Cosatu Congress (19 September 2012) published in Book 1 of the 12th Cosatu National Congress, Minutes, Resolutions, Declaration & Collective Bargaining, 110.

¹⁵⁹ Solly Mapaila, ‘Preliminary reflections on the economic transformation discussion document,’ *African Communist* (October 2015), 8.

¹⁶⁰ Atkinson, ‘Breaking down barriers: Policy gaps and new options in South African land reform,’ 367.

Cosatu joined with government and business to commit to the goal of five million new jobs and joint action to achieve it – these accords cover local procurement, the green economy, skills development and basic education.¹⁶¹ This employment-driven economic framework is underpinned by a neoliberal economic policy framework. Patel stated that,

In the 21 months before the New Growth Path was adopted, the economy lost 869 000 jobs. In the 21 months after [the South African government] adopted the New Growth Path the economy created some 472 000 new jobs...To create jobs on [a large] scale requires structural changes and the creation of sustainable, secure jobs in the mainstream economy, in the sectors that [Cosatu] organizes. It is this that constitutes the bulk of the New Growth Path.¹⁶²

Cosatu, in its Secretariat Report states that: “Whilst the adoption of a New Growth Path and IPAP represents a shift in policy, however such a shift is not informed and rooted in a clear articulation of class interests in which the working class has to play a pivotal role within the context of [a] people driven and people centred development.”¹⁶³ Atkinson shows what for her is *the problem* that, “the two land reform programmes, land redistribution and land restitution are increasingly at odds with one another...land restitution claims have blocked viable land redistribution opportunities. Once a restitution claim has been lodged or gazetted, the land cannot be sold or transferred to emergent black farmers.”¹⁶⁴ With regards to the shift, Kariuki holds a view that,

The land reform programme, through the rights-based approach, has thus far focused

¹⁶¹ Patel, ‘Address to the 11th Cosatu Congress,’ 111.

¹⁶² Patel, ‘Address to the 11th Cosatu Congress,’ 111. Patel continues to state that, “[The NGP] sets a jobs target of five million new jobs by 2020, as part of a move to full employment. It made decent work the cornerstone of economic policy. By decent work we mean more jobs and better jobs. We are one of the few countries globally with a jobs target as the central economic target of government. The New Growth Path identified some sectors as central job drivers.” Patel further points out that, “The New Growth Path called for a tighter policy integration so that macroeconomic policy as well as micro-economic policies are aligned and directed at promoting jobs and broader development outcomes. The New Growth Path recognized that to achieve our ambitious goals, [the South African government] need to have partnerships.”

¹⁶³ 12th Cosatu National Congress, Secretariat Report, 2015.

¹⁶⁴ Atkinson, ‘Breaking down barriers: Policy gaps and new options in South African land reform’, 370.

predominantly on the transfer of land or natural capital at the expense of deficient financial, human, social and physical resources which are all interdependent and necessary to generate sustainable livelihoods... This is despite the fact that the broad developmental thrust envisaged in the RDP... demands a significant paradigm shift in the policy models pursued thus far... [In order to] succeed in [the] land reform and agrarian objectives, a significant shift in policy instruments, resource endowments, and institutional systems is needed.¹⁶⁵

In the IPAP 1 there is a complete drift away from the use of the term restitution. There is an even further drift away from the use of the term redistribution. In the IPAP 2 the land reform programme resurfaces with a focus on the productive use of restituted or redistributed land. Similarly, in the NGP land restitution implicitly forms part of the core strategy for employment creation. In the restructuring of land reform it is implicitly understood that land restitution, land redistribution and land tenure form integral parts of the land reform programme. In the IPAP's iterations land restitution is understood implicitly in relation to land claims. The term reparation does not exist in the IPAP. Land redistribution is understood implicitly in recognition of unresolved communal land ownership transfers.

4.8 National Planning Commission (NPC, 2010)

During president Zuma's first term in office (2009-2014), whilst the IPAP and NGP was underway, a National Planning Commission (NPC, 2010), chaired by Trevor Manuel, was commissioned in order to address the current inequalities, poverty and unemployment questions. In 2011 the NPC published a Diagnostic Report in five volumes as well as a Diagnostic Overview.¹⁶⁶ In the Diagnostic Overview There is a further drift away from restitution, while a stronger focus on unemployment emerges. According to the Diagnostic Overview (2011), "Present policy is taking a more comprehensive view of rural development by focusing on incomes, employment opportunities and enterprise development, alongside existing programmes

¹⁶⁵ Kariuki, 'The comprehensive rural development programme (CRDP): A beacon of growth for rural South Africa?' 355.

¹⁶⁶ The deputy chairperson of the NPC was Cyril Ramaphosa who in president Zuma's second term in office (2014 - present) was appointed to the office of the deputy president.

of infrastructure and land reform.”¹⁶⁷ Rural development is defined by Kariuki as “increasing the capabilities of rural people’s capacities to control their destiny through optimal utilization and management of natural resources. Key components of rural development will include capacity building initiatives, building strong organisational and institutional capabilities and investments in a range of social, economic, and institutional infrastructure.”¹⁶⁸ Within the context of this definition, South Africa’s key economic challenges could “be ‘synthesized’ as: high levels of poverty and inequality which stem directly from the fact that too few people work and productivity is low relative to peer group countries.”¹⁶⁹ The Diagnostic Overview states that,

The roots of South Africa’s high rates of unemployment, poverty, and inequality can be traced to more than a century of colonial exploitation and apartheid – denying African people access to land, and the right to run businesses, to own certain assets, to quality education and to live in well-located areas. Decades of racial discrimination in the workplace led to social stratification based on skin colour, with social and economic institutions largely reinforcing these inequities.¹⁷⁰

After the NPC provided a Diagnostic Report it produced the National Development Plan (NDP) in order to address poverty, unemployment, inequalities. With regards to this, Terreblanche reflects that,

The members of the NPC ought to know that it is not possible to reach all targets it has set by 2030. Why has the NPC formulated so many targets with such sincerity if they cannot be realized in time? I suspect that the NDP is actually a carefully crafted ideological propaganda document. This version of ideological propaganda could be called the ‘ideology of targetism’. The aim of this ideological propaganda is to lull the general public, and especially the impoverished majority, into contentment until 2030. If only the poor and the unemployed were prepared to live their heavy ordeal until 2030, they were given the assurance by the NPC that, when the sun rises over

¹⁶⁷ *National Planning Commission (NPC), Diagnostic Overview*, (South Africa: Presidency, 2011), 20.

¹⁶⁸ Kariuki, ‘The comprehensive rural development programme (CRDP): A beacon of growth for rural South Africa?’ 345.

¹⁶⁹ *National Planning Commission (NPC), Diagnostic Overview*, 18.

¹⁷⁰ *National Planning Commission (NPC), Diagnostic Overview*, 10.

South Africa on the morning of 1 January 2030, it would be a bright morning, and South Africa would be a fabulous country without poverty and with only 6 percent unemployment!¹⁷¹

In view of the above quotation, Karima Brown concerning the NPC revealed that the SACP, after signing off on its discussion document (drafted by Jeremy Cronin) on the NDP, stated that, it “wants the ‘free-floating’ NPC to be disbanded, saying the institution ‘is playing a lone ranger-game.’”¹⁷² The discussion paper, which according to Brown interrogates the NDP as a long-term vision to address poverty and inequality, states that,

The NPC should now be dissolved (having produced a 2030 vision) – and with the incoming 2014 administration a new, more organic State Planning capacity should be established... Was it remotely realistic to expect a part-time, semi-external national planning commission, composed of 26 commissioners with desperate skills and ideological inclinations, to develop, in 18 months, a 484-page, relatively detailed 20-year plan that would also enjoy universal support from the entire nation and be purpose-fit for implementation?¹⁷³

The Diagnostic Report was followed by the release of a policy framework referred to as the National Development Plan (NDP, 2012). Mukwendeya points out that, “The South African government launched the NDP in August 2012.”¹⁷⁴

4.9 National Development Plan (NDP, 2012)

President Jacob Zuma, in the State of the Nation Address (14th February, 2013) had declared that, the NDP “contains proposals for tackling the problems of poverty, inequality and unemployment. It is a roadmap to a South Africa where all will have water, electricity, sanitation, jobs, housing, public transport, adequate nutrition, education, social protection,

¹⁷¹ Terreblanche, *Lost in transformation: South Africa's search for a new future since 1986*, 122.

¹⁷² Karima Brown, ‘SACP hits Planning commission: institution “playing a lone-ranger game”’, *The Sunday Independent* (28 April, 2013), 4.

¹⁷³ Brown, ‘SACP hits Planning commission: institution “playing a lone-ranger game”’, 4.

¹⁷⁴ Tatenda G. Mukwendeya, ‘SA National Development Plan: Is it for a democratic developmental state?’ *South African Labour Bulletin*, Vol.38, No.2, Umanyano Publishers (July/August 2014).

quality healthcare, recreation and a clean environment.”¹⁷⁵ Similarly, Trevor Manuel, who was the minister in the Presidency (during Zuma’s first term as state president) and was chairperson of the NPC maintained that, the NDP is “a plan for the country to eliminate poverty and reduce inequality by 2030 through uniting South Africans, unleashing the energies of its citizens, growing an inclusive economy, building capabilities, enhancing the capability of the state and leaders working together to solve complex problems.”¹⁷⁶ Equally, Pravin Gordhan (who is currently the minister of finance) also articulated that, the NDP is “an overarching vision for where we wanted to move SA’s economy in the future. [He recognised that South Africans] would all have to work harder, in government as well as the private sector and indeed the labour movement and other constituents, to boost growth in the country. With this growth it is hoped that future jobs and better economic prospects will emerge for all.”¹⁷⁷ In addition, Gordhan’s focus was that the NDP is a plan for economic growth; and this aspect was echoed also by Zuma when he declared that, “the [NDP] outlines interventions that can put the economy on a better footing. The target for job creation is set at 11 million by 2030 and the economy needs to grow threefold to create the desired jobs.”¹⁷⁸ Emphasizing the national strategic importance of the NDP, Gordhan in his budget speech (27th February 2013) further declared that,

Under your leadership Mr President, we have opened new channels of communication and built more cohesion among key stakeholders in South Africa. We have taken many steps to create the conditions for higher levels of confidence in our economy and society. Now we are ready to implement the National Development Plan.¹⁷⁹

¹⁷⁵ Jacob Zuma, ‘State of the Nation address 2013’; retrieved from <http://www.info.gov.za>.

¹⁷⁶ Trevor Manuel, *National Development Plan 2030: Our future make it work* (South Africa: National Planning Commission, 2013), foreword.

¹⁷⁷ Pravin Gordhan is the Minister of Finance who presented the Budget Speech 2013. For some analysts, according to Bongane Mathebula in ‘NDP key to business growth’, *The New Age* (Monday, 18 March 2013), 23; “the one element of the budget was the National Development Plan (NDP) being the guide for budgeting.”

¹⁷⁸ Zuma, ‘State of the Nation address,’ (2013).

¹⁷⁹ Pravin Gordhan, in the Budget Speech 2013, 2; retrieved from <http://www.treasury.gov.za>. Gordhan further declared in page 6 of the budget speech that, “The NDP, supported by the New Growth Path and other programmes, invites us to look beyond the constraints of the present to the transformation imperatives of the next

Gordhan's readiness for implementation, as echoed in the above quotation, reiterates Trevor Manuel's confidence in the NDP, when he declared that, "the plan addresses the need to enhance the capabilities of our people so that they can live the lives that they desire; and to develop the capabilities of the country so that we can grow faster, draw more people into work and raise living standards for all, but particularly the poor. This is the plan for South Africa."¹⁸⁰ With reference to the NDP, Kumar maintains that, "South Africa has one of the highest levels of inequality in the world and one which keeps increasing. The sharp rise in the incomes of the richest 5% is driving the increase at the top end. Yet there is no evidence of progress in tackling this inequality, or even much preoccupation with it in South Africa's new National Development Plan."¹⁸¹ The NDP predicts that, "by 2030 GDP per capita [shall be] more than twice the present level, export growth [will be] accelerated, income levels [would] have risen above the poverty line for all, inequality [would be] substantially reduced, and unemployment [will be] reduced from 25 percent to 6 percent."¹⁸²

With reference to Mosoetsa's argument and with regards to the NDP's predictions (or targets) I ask the following questions: (i) What consequences will the NDP's economic strategy have for the poor? (ii) Will the NDP's economic strategy by 2030 result in massive job creation and an increase in employment for the majority of the people? The NDP continues an economic strategy of prioritizing economic growth first before development imperatives and employment growth. Borat, *et.al*, maintain that throughout the democratic period, "there has been vigorous debate on economic strategy, with the appearance of programs with acronyms such as the RDP, GEAR, NGP and, most recently IPAP and the NDP; behind these acronyms lie basic and unresolved differences on an appropriate strategy for the South African economy, with a strong natural resource base but with deeply entrenched inherited inequalities, in particular across race."¹⁸³ Davies holds that, "South Africa's long-term vision of an equitable society is provided by the National Development Plan. The IPAP is informed by this vision and is both framed by and

twenty and thirty years. These imperatives are already apparent in the realities of the social and economic restructuring that is under way."

¹⁸⁰ Manuel, *National Development Plan 2030: Our future make it work*, foreword.

¹⁸¹ Kumar, 'Africa rising? Inequalities and the essential role of fair taxation,' 6.

¹⁸² *National Development Plan (NDP) Vision 2030: Our future – make it work* (Chapter 3), 110.

¹⁸³ Borat, Hirsch, Kanbur and Ncube, 'Economic policy in South Africa past, present, and future,' 1.

constitutes a key pillar of the programmatic perspectives set out in a series of ‘drivers’ and ‘packages’ contained in the NGP.”¹⁸⁴ The NGP, IPAP, and the NDP interlock and form integral parts of government policy documents as South African government policy frameworks that seek to address the complex structural imbalance in the South African economy just as the RDP had aimed to do. As policy frameworks they prioritize fiscal restraint over redistribution. Mosoetsa reiterates that,

It is clear that post-apartheid macro-economic policies have yielded only limited economic growth while resulting in significant job losses and rising inequality...While two million jobs were created in the formal and informal sectors between 2004 and 2008 (Statistics South Africa, 2009), the number of unemployed people in the country remains unacceptably high. The global economic crisis has made the problem even worse. Despite debates about the accuracy of the methods that are used to measure poverty and inequality, most scholars agree that income poverty has actually decreased since 2001. They attribute the decline to the social grant system rather than to economic growth and the creation of jobs.¹⁸⁵

According to the executive summary of the NDP, “the plan focuses on the critical capabilities needed to transform the economy and society. Achieving these capabilities is not automatic, nor will they emerge if the country continues on its current trajectory.”¹⁸⁶ Furthermore, Manuel had pointed out that, “development economist Amartya Sen developed this capabilities approach in his book *Development as Freedom*, for which [Sen] received the Nobel Prize.”¹⁸⁷ Interestingly, Sen’s work, according to Maite Nkoana-Mashabane (who has been South Africa’s minister of international relations and cooperation since 2009), “not only won him the Nobel Prize in economic sciences, but he was also instrumental in the creation of the widely-used UN Human

¹⁸⁴ *Industrial Policy Action Plan (IPAP) 2011/12-2013/14: Economic Sectors and employment cluster*, 11.

¹⁸⁵ Mosoetsa, *Eating from one pot: The dynamics of survival in poor South African households*, 142.

¹⁸⁶ Taken from page 16 of the Executive Summary of the National Development Plan

¹⁸⁷ Trevor Manuel, ‘Driving change: The National Development Plan,’ in *New Agenda: South African Journal of Social and Economic Policy* (Issue 48) (4th Quarter, 2012), 43.

Development Index.”¹⁸⁸ Thus, Trevor Manuel, reflecting Amartya Sen on human development, suggested that, Chapter 9 of the NDP focuses on ‘education, skills, and innovation’ and if the focus of attention is not on this, then everything else will fall apart.¹⁸⁹ As a result, the NDP “presents a long-term strategy to increase employment and broaden opportunities through education, vocational training and work experience, public employment programmes, health and nutrition, public transport and access to information.”¹⁹⁰ Hence, the NDP, according to Gordhan, emphasizes key institutional capabilities which are: “the need to professionalize the public service and strengthen accountability; improved management and enforcement systems to fight corruption; reinforcement of the education accountability chain, with lines of responsibility from [the] state to [the] classroom; improved planning and management of strategic infrastructure projects.”¹⁹¹ Consequently, Gordhan, advocating for the NDP, then further declared in his speech that,

The NDP also highlights the need to lower the cost of living for households, and to reduce the cost of doing business for small and emerging enterprises...the NDP’s emphasis [is] on uniting South Africans around a common vision: it proposes a social compact to reduce poverty and inequality, and raise employment and investment, recognizing that progress towards a more equal society requires shared efforts across the public and private sectors. And so the 2013 Budget takes the National Development Plan as its point of departure.¹⁹²

According to the above quotation the budget has been approved to finance the NDP and implementation of the objectives of the NDP is underway. Therefore, Phumla Williams (who is the acting Chief Executive Officer of the Department of Government Communication and Information Systems) cited Gordhan’s budget speech when Gordhan asserted that, “the strategic plans of the government and the medium-term expenditure plans will be aligned to realize [the]

¹⁸⁸ Maite Nkoana-Mashabane is the Minister of international Relations and Cooperation in South Africa, she said this in her analysis published in an article entitled ‘First Brics summit on SA soil’ in the opinion and analysis section of *The New Age* (Friday, 15 March 2013), 19.

¹⁸⁹ Manuel, ‘Driving change: The National Development Plan,’ 43.

¹⁹⁰ Taken from the executive summary of the NDP, 18.

¹⁹¹ Gordhan, Budget Speech, 2013:8.

¹⁹² Gordhan, Budget Speech 2013:8.

National Development Plan (NDP) objective.”¹⁹³ One priority objective of the NDP is raising employment through ‘faster economic growth.’¹⁹⁴ Williams alluding to ‘faster economic growth’ then declared that, “this [objective] will set South Africa on a fresh economic course which is in line with our NDP commitments of bringing about faster economic growth, higher investment and greater labour absorption.”¹⁹⁵ In light of this, Mkhwanazi [sic] then reveals that,

[President Jacob Zuma had been] in meetings with the business community to discuss some of the issues affecting the country’s economy and that through these meetings the government had been able to clarify some of its positions, [because] business was an important stakeholder in the country...[Zuma] had even met with Anglo American chairperson Sir John Parker to discuss some of the issues relating to the economy...[he] had also held discussions with trade union federation Cosatu on the economy.¹⁹⁶

President Zuma has affirmed that the ANC has endorsed the government’s NDP when he stated that, “Mangaung embraced the National Development Plan. There is now a clear plan before the country that the government has to implement. What emerged at the ANC’s National Executive Committee and Cabinet Lekgotla was the call to implement the NDP.”¹⁹⁷ He further stated that, “the triple challenges [of poverty, inequality and unemployment] are a reality. This is what drives the ANC – that we need a radical shift. We cannot do things the usual way we need to do things differently,”¹⁹⁸ Zuma further argued that, these triple challenges needed to be dealt with decisively.¹⁹⁹ Hence, in an interview about the NDP, Zuma stated that, “the ANC believed such a radical shift in the economy would be able to deal with the question of the triple challenges and

¹⁹³ Phumla Williams, ‘The new blueprint for the next 20 years: South Africa is set on a fresh economic course which is in line with the NDP,’ (Wednesday, 6 March, 2013), 18.

¹⁹⁴ *National Development Plan (NDP) Vision 2030: Our future – make it work*, 27.

¹⁹⁵ Williams, ‘The new blueprint for the next 20 years: South Africa is set on a fresh economic course which is in line with the NDP,’ 18.

¹⁹⁶ Siyabonga Mkwanazi, in an article entitled, ‘We are on track’ – Zuma, in the opinion and analysis section of *The New Age* (Friday, 15 February, 2013), 19.

¹⁹⁷ Mkwanazi, ‘We are on track,’ 19.

¹⁹⁸ Mkwanazi, ‘We are on track,’ 19.

¹⁹⁹ Mkwanazi, ‘We are on track,’ 19.

that it was needed because it could not be ‘business as usual’ if the government wanted to address the socioeconomic challenges facing it.”²⁰⁰ It was in this context that Zuma, in defence of the NDP, declared that,

The government [is] also on track in eradicating mud schools. [And with regards to health] the government was also meeting set targets, pointing out that the government’s massive intervention in HIV and Aids had seen an increase in life expectancy with more people participating in HIV programmes. The National Health Insurance scheme would also close the gap between the rich and the poor in terms of accessing quality healthcare.²⁰¹

The chapter on the economy and employment in the NDP “principally deals with proposals to raise employment and economic growth.”²⁰² In order to achieve full employment the NDP proposes that the country needs to create about 11 million more jobs in the next 20 years. [The NPC] estimated that the economy would have to grow by about 5.4 percent on the average every year in this period to achieve this aim.²⁰³ The claim/target is that the proportion of the population with income below the poverty measure of R418 per day [shall] fall from 39 percent in 2009 to zero in 2030 [and] the level of inequality will fall from 0.7 in 2010 to 0.6 by 2030.²⁰⁴ Ngubane commenting on this asserts that,

The NDP makes grand promises for job creation, yet it leaves out of its definition at least three-million discouraged job seekers. Worse still, in 2011 the [NPC] Diagnostic Report even claimed [that,] ‘unemployment levels are decreasing since 2002’, even though we lost 9% of our workforce during the 2008-11 period, leaving us with a higher unemployment rate than 10 years ago.²⁰⁵

²⁰⁰ Mkwanazi, ‘We are on track,’ 19.

²⁰¹ Mkwanazi, ‘We are on track,’ 19.

²⁰² The key measures of economic success identified in the plan are that South Africa [shall achieve] average Gross Domestic Product (GDP) of over 5 percent.

²⁰³ *National Development Plan (NDP) Vision 2030: Our future – make it work*, (2011), 90.

²⁰⁴ *National Development Plan (NDP) Vision 2030: Our future – make it work*, (2011), 91.

²⁰⁵ Mbuso Ngubane, ‘National Development Plan: Putting South Africa into reverse gear,’ *South African Labour Bulletin*, Vol.37, No.4, (Umanyano Publications, October/November, 2013), 41.

By contrast, the NDP states that, “Building on South Africa’s progress in forging a democracy over the past 18 years, the country now enters a new 20-year phase of development, focused principally on the economic advancement of the poorest South Africans.”²⁰⁶ The plan, according to the NDP, “requires collaboration between all sections of society and effective leadership by government [and that] in a society with deep social and economic divisions, neither social nor economic transformation is possible without a capable and developmental state.”²⁰⁷ In line with expert approximations that ‘infrastructure will be critical for the successful implementation of the NDP’, in his state of the nation address, President Zuma made it clear that, “a part of the government’s focus [will be] on improving infrastructure. He also emphasized the need for an integrated urban development framework to help municipalities effectively manage rapid urbanization.”²⁰⁸ Concerning the progress of the domestic economy in the past two decades, and the social alienation of the poorest people in a democratic South Africa, former deputy president Kgalema Motlanthe (a few months later after the state of the nation address) warned that,

The current grant payments to 15 million [people in South Africa] [were]...‘unsustainable’...[Once the] ‘have-nots get to a point where as Martin Luther King put it ‘...they fight against the degenerating feeling of nobodiness...’ it is only a matter of time before [they] transitioned into a strong feeling of ridding themselves of abject poverty and deprivation.”²⁰⁹

Despite Motlanthe’s warning concerning the 15 million South Africans that are living on grant payments, the late Collins Chabane at the time declared that, ‘part of the tough choices that the government would have to make would be to shift resources from certain areas into programmes identified by the NDP.’²¹⁰ As the NDP had declared that, ‘the largest infrastructure gaps are in energy’, and that ‘the infrastructure gap will cost about US\$ 93 billion a year.’²¹¹ The NDP

²⁰⁶ *National Development Plan (NDP) Vision 2030: Our future – make it work*, 110. The introduction of the Economy and Employment section (Chapter 3).

²⁰⁷ *National Development Plan (NDP) Vision 2030: Our future – make it work*, 408.

²⁰⁸ Sathekge, ‘NDP focus on cities: Infrastructure improvement is key for the successful implementation of government plan,’ 16.

²⁰⁹ Donwald Pressly, ‘Unequal society risks revolution’, *The Sunday Independent* (Sunday, 2 September 2013), 1.

²¹⁰ Mkhwanazi, ‘NDP “to drive government,”’ 4.

²¹¹ Saliem Fakir, ‘Brics bank, world dominance,’ *The New Age* (Wednesday, 3 April 2013), 19.

further states that, a driver (behind the growth in emerging markets) “is the largest urban migration in history. Agricultural workers are leaving the land, where they often engaged only in subsistence farming, for urban jobs. This is leading to the development of new mega-and mid-sized cities.”²¹² One of the programmes identified in the NDP has a strong focus on cities. Lullu Krugel, a senior economist at KPMG according to Sathekge agreed that, “cities have a key role in making the NDP happen, especially with regard to infrastructure.”²¹³ Hence, Krugel said that,

The country had to make sure every piece of infrastructure spending was directed towards development in the cities...As a matter of fact, the president mentioned [that] cities have to be given the ability and responsibility to do their own planning and developing their own strategies. Also, unlike many countries around the world, South Africa’s cities have been recognised in the Constitution and the call by the president was the right step in the right direction.²¹⁴

Krugel affirmed the need for a skills upscale and added that “the importance of skills and capacity to the successes of the cities needed to be addressed on multiple levels. ‘Cities are the future of the world and the most important level of government as [they are] the closest to the people.’”²¹⁵ Sathekge reveals that, “Kobus Fourie, KPMG partner and leader of the KPMG [South African] centre of excellence for cities, said cities were a catalyst for the successful implementation of the NDP, given that 37% of the South African population live in the eight metropolitan cities and produce 62% of the national GDP.”²¹⁶ Chabane in light of Fourie’s view

²¹² *National Development Plan (NDP) Vision 2030: Our future – make it work* (Chapter 1), 81.

²¹³ Bernard Sathekge, ‘NDP focus on cities: Infrastructure improvement is key for the successful implementation of government plan,’ *The New Age* (27 February, 2013), 16.

²¹⁴ Sathekge, ‘NDP focus on cities: Infrastructure improvement is key for the successful implementation of government plan,’ 16.

²¹⁵ Warren Mabona, ‘ANC fully supports NDP’s jobs strategy,’ *The New Age* (Tuesday, 26 February 2013), 4.

²¹⁶ Sathekge, ‘NDP focus on cities: Infrastructure improvement is key for the successful implementation of government plan’, 16. Fourie further stated that, “The key to infrastructure development was the role of water and its availability to make such projects a success. A significant factor is the complexity of getting water to the end user. The amount of unaccounted for water due to leakages, incorrect billing and theft is in the region of 40% in some areas. The country must make sure it addresses this problem sooner than later to avoid the scarcity of water. Water treatment plants are deteriorating, but the difference is that in developed countries, it is recognised as a problem.”

further added that, 'what was critical to the plan was integration and coordination with other government plans.'²¹⁷ Fourie further stated that, "if government can focus in this area to give cities a facelift with regard to infrastructure, this would result in a positive economic spin-off. And it will be a major start and the target of creating 11 million jobs in the next 10 years will be likely to [be] reached."²¹⁸ Krugel supporting Fourie declared that,

Almost two thirds of South Africa's population lives in urban areas, with the rate of urbanisation expected to continue. Cities, as economic hubs, can contribute to economic growth and employment creation. They have an important role to play as centres of economic infrastructure provision to the rest of the country. Our research showed that there had not been enough of a holistic view to address city issues and planning around them was not long term enough. Also traffic congestion and other side effects of cities contributed negatively on productivity of citizens.²¹⁹

The ministers in the presidency in agreement correctly maintained that there "needed to be synchronization between the NDP and other government plans."²²⁰ According to Chabane, "the integration and coordination of all the actions of those responsible will be important. There needs to be a coordination centre for all of [these policies]."²²¹ Moreover, Manuel further maintained that, the NDP "would drive changes in the country and energize democracy and that they were looking at implementation instruments they needed to see the plan through."²²² Zweli Mkhize stated that, "the NDP was not a political document, but a living document that would guide government and all its stake holders in rebuilding society."²²³ He said that, "part of what we have to do here is to look at how each one of us will participate in the effective implementation of the

²¹⁷ Siyabonga Mkhwanazi, 'NDP "to drive government,"' *The New Age* (Wednesday, 20 February, 2013), 4.

²¹⁸ Sathekge, 'NDP focus on cities: Infrastructure improvement is key for the successful implementation of government plan,' 16.

²¹⁹ Sathekge, 'NDP focus on cities: Infrastructure improvement is key for the successful implementation of government plan,' 16.

²²⁰ Mkhwanazi, 'NDP "to drive government,"' 4.

²²¹ Mkhwanazi, 'NDP "to drive government,"' 4.

²²² Mkhwanazi, 'NDP "to drive government,"' 4.

²²³ Zweli Mkhize, 'NDP is central to growth: Mkhize says measuring performance and what still had to be done was key to delivery,' *The New Age* (Wednesday, 20 February 2013), 9.

NDP.”²²⁴ Concerning the targets of the NDP Mkhwanazi quotes Chabane when he pointed out that, ‘there had to be funds available to implement the plan.’²²⁵ Manuel echoing this view declared that, “We must have better alignment on the allocation of money in the budget, in the performance agreement and how that money is spent.”²²⁶ Moreover, reiterating Zuma’s affirmation, ministers in the Presidency (at the time) Manuel and Chabane said that, “the focus on the National Development Plan (NDP) will be its implementation.”²²⁷ According to Mkhize, “as we move forward we are still trying to build a society that is non-racial, non-sexist, where everyone is treated with dignity...there is still a lot of work to be done to fully achieve these

²²⁴ Mkhize, ‘NDP is central to growth: Mkhize says measuring performance and what still had to be done was key to delivery,’ 9.

²²⁵ Mkhwanazi, ‘NDP “to drive government,”’ 4.

²²⁶ Mkhwanazi, ‘NDP “to drive government,”’ 4.

²²⁷ Mkhwanazi, ‘NDP “to drive government,”’ 4. Blade Nzimande in a media release (Department of Higher Education and Training, 2014:3) said that in this effort on promoting skills the NDP requires that by 2030 at least 30 000 qualified artisans [be] produced per year. Currently the country produces on average 12 000 qualified artisans per year. Matriculants that have an inclination to become an artisan, e.g. motor mechanic, plumber, electrician, etc. can also register at the National Artisan Development Support Centre (NADSC). In light of the above quotation the NDP recommends a ‘formal graduate recruitment scheme’, which pursues a centralized approach emphasizing on a cohort of civil servants deployed across government through a meritocratic process. Hence, the NDP further maintains that, “the public service should attract highly skilled people and cultivate a sense of professional common purpose and a commitment to developmental goals. To achieve this South Africa needs...to increase the pool of skilled people by ensuring that the public service and local government become careers of choice for graduates who wish to contribute to the development of the country, and ensure that high level staff are recruited on the basis of their suitability for the job (NDP, 2012:416). Nzimande was echoing the NDP which further states that, “services cannot be delivered without the people with the necessary specialist skills – whether they are nurses, doctors, engineers, planners or artisans. There is a shortage of professional skills in government, particularly at a local level.” (NDP, 2012:423). Chabane further declared that, “one of the issues of the NDP is raising [and] building [the] capacity of the State. ‘We have identified that there is a great need for skills upscale in the country’” (Mkhwanazi, ‘NDP “to drive government,”’ 4). Concerning a skills upscale, Zuma pointed out that, “[a] renewed focus on Further Education and Training (FET) colleges was paying dividends. Whilst the numbers of matriculants continued to grow there were many students who would have fallen through the system after matric if there were no FET colleges to accommodate them” (Mkhwanazi, ‘NDP “to drive government,”’ 4).

values.”²²⁸ It was during this atmosphere that, planning Minister in the Presidency at the time and chairperson of the NPC, Trevor Manuel, to everyone’s shock was quoted declaring that, “We should no longer say it [is] apartheid’s fault...there is no Botha regime looking over our shoulder, we are responsible ourselves.”²²⁹ To say that we should no longer blame apartheid was surprising since the NDP, in its overview, states that,

The struggle against apartheid was first and foremost [and that it was] about the construction of a non-racial and non-sexist democratic society, in which all people have equal rights. Despite consistent progress since 1994, South Africa remains a divided society, with race still forming the main divide. Individual stereotyping of race and ethnicity is widespread and discrimination persists.²³⁰

Hence, in light of the above quotation in the NDP, Manuel’s statement raised alarm inside the alliance structures and in the general public and was interpreted to mean that, “the government should stop blaming apartheid for its delivery failures nearly two decades into democracy.”²³¹ President Zuma’s response to Manuel was,

To suggest [that] we cannot blame apartheid for what is happening in our country now, I think is a mistake, to say the least. We do not need to indicate what it is apartheid did. The fact that the country is two in one – you go to any city, there is a beautiful part and squatters on the other side – this is not the making of democracy and we [cannot] stop blaming those who caused it.²³²

Zuma further maintained that, “While wanting to see change happening fast in every corner of the country, we are under no illusion that South Africa will automatically and comprehensively

²²⁸ Mkhize, ‘NDP is central to growth: Mkhize says measuring performance and what still had to be done was key to delivery,’ 9.

²²⁹ Sam Mkokeli, (Political Editor), ‘Zuma takes a swipe at Manuel on apartheid: President’s pointed remarks may further sideline planning chief’, *Business Day* (Thursday, 11 April 2013), 1.

²³⁰ *National Development Plan (NDP) Vision 2030: Our future – make it work* (Overview), 35.

²³¹ Mkokeli, ‘Zuma takes a swipe at Manuel on apartheid: President’s pointed remarks may further sideline planning chief,’ 1.

²³² Mkokeli, ‘Zuma takes a swipe at Manuel on apartheid: President’s pointed remarks may further sideline planning chief,’ 1.

change in only 20 years. That is impossible. The legacy of apartheid is too deep and too far back for the democratic administration to reverse it in so short a period.”²³³ Motlanthe, concerning the past 20 years responded that,

The distribution of society’s wealth is unfair and very skewed in favour of a handful of people [and that there is] conspicuous consumption in the midst of abject poverty [and this] is something to be worried about..., it is an ingredient for revolution...a sharpened radical shift [was demanded by the global] crisis of capitalism, which was hitting growth, widening social inequality, increasing poverty and worsening unemployment.²³⁴

a) Mounting opposition to the NDP

Irvin Jim (the General Secretary of the National Union of Metalworkers of South Africa – Numsa) and Zwelinzima Vavi (the former General Secretary of the Congress of South African Trade Unions – Cosatu – at that time) publicly attacked the NDP in a manner that was “reminiscent of the ideological battles waged over Gear (Growth, Employment, and Redistribution) during the Thabo Mbeki era.”²³⁵ The KwaZulu-Natal provincial leadership of the South African Communist Party (SACP) similarly, “called on the ANC-led government to dump the NDP and advance the Freedom Charter, saying [the] NDP was embedded in neo-liberalism.”²³⁶ Despite some opposition from the SACP and Cosatu, the ANC, “expressed its full support for the National Development Plan (NDP) saying the plan was providing guidance for South Africa for future economic growth.”²³⁷ Yet, Mbuso Ngubane (Secretary for the SACP in KwaZulu-Natal), according to Mabona, also likened the NDP to the Growth, Employment and Redistribution [Gear] strategy. Ngubane, said that the movement would not allow the plan to become the policy vision of the country for the next 20 years; Ngubane maintained that, “Strategic industries should be nationalized, the renewable energy sector should be prioritized,

²³³ Mkokeli, ‘Zuma takes a swipe at Manuel on apartheid: President’s pointed remarks may further sideline planning chief,’ 1.

²³⁴ Donwald Pressly, ‘Unequal society risks revolution,’ *The Sunday Independent* (Sunday, 2 September, 2013), 1.

²³⁵ Editorial comment, ‘Posturing will not help NDP,’ *The New Age* (Tuesday, 23 April, 2013), 20.

²³⁶ Mabona, ‘ANC fully supports NDP’s jobs strategy,’ 4.

²³⁷ Mabona, ‘ANC fully supports NDP’s jobs strategy,’ 4.

and the Reconstruction and Development Programme (RDP) revisited since so many basic needs are still unmet.”²³⁸ Ngubane further said: ‘Like the imposition of Gear in 1996, [the NDP] accepts the microeconomic parameters as given and worsens our vulnerability to [the] world capital crisis. We need the ambition of the Freedom Charter and start with the crucial nationalization of strategic industries.’²³⁹ The political economic future of South Africa hinges in no small measure on the fate of the struggle between those who are identified with the symbols of the SACP’s ‘communism’, Cosatu’s ‘socialism’ and of the ANC’s ‘capitalist nationalism.’²⁴⁰ Keith Khoza, ANC spokesperson at the time, stated that,

Each and every alliance partner was at liberty to express its opinions on any policy within the alliance...voices of resentment to the NDP from some of the alliance partners of the governing party would not harm the alliance. The NDP gives vision for the country as to where it should be in the next coming years. And independent organisations have a right to engage anybody on policy issues.²⁴¹

In view of this, the SACP’s criticism on the NDP’s proposals for economic policy echoed Cosatu’s response to the NDP; however, the SACP rejected Numsa’s ‘all or nothing approach’ and instead argued that the NDP is ‘a site of struggle.’²⁴² There were attacks on the ANC by Jim and Vavi over the (NDP), which “once again highlights the fragile state of affairs within the Tripartite Alliance. Since both the congresses of the ANC and Cosatu, the NDP has been sold to the nation as the economic blueprint for the country and one that will extricate the country from its current economic woes.”²⁴³ Moreover, Cosatu and the SACP are the ANC’s alliance partners that have voiced their opposition to the NDP. Khoza, in spite of this, further maintained that, “the NDP matters could also be discussed at the secretariat of the alliance [whilst reiterating that,] ‘there were discussions of the NDP [in 2012] before it was launched.’”²⁴⁴ The NDP “which was

²³⁸ Ngubane, *National Development Plan: Putting SA into reverse gear*, 41.

²³⁹ Mabona, ‘ANC fully supports NDP’s jobs strategy,’ 4.

²⁴⁰ Harold D. Lasswell, *World politics and personal insecurity* (New York: Free Press, 1965), 92.

²⁴¹ Mabona, ‘ANC fully supports NDP’s jobs strategy,’ 4.

²⁴² Brown, ‘SACP hits Planning commission: institution “playing a lone-ranger game,”’ 4.

²⁴³ Editorial comment, ‘Posturing will not help NDP,’ 20.

²⁴⁴ Mabona, ‘ANC fully supports NDP’s jobs strategy,’ 4.

endorsed by the ANC National Executive Committee (NEC) in December [2012], has so far been rejected by Numsa and [the] farmworkers union Fawu [and the] Public-sector union Nehawu has also raised concerns about the plan.”²⁴⁵ Hence, Mabona noted that Khoza (quoted above) could not say if there were ‘talks’ also taking place at the alliance level.²⁴⁶ To confirm this view, Zwelinzima Vavi, in his address to delegates at Numsa’s bargaining conference, suggested that Cosatu should reject the NDP, Vavi stated that,

The NDP’s economic and labour-market proposals constitute a serious assault on workers. Cosatu will not support them and, in fact, the very campaign we have launched to engineer our own Lula moment [referring to a radical shift during former Brazilian president Luiz Lula da Silva’s second term in office] from below is actually a struggle against *the current inappropriate growth path that reproduces unemployment, poverty and inequality*. Implementation of those proposals now or in the future will constitute the biggest setback to our struggle for a better life for all...it is simply unfair for anyone, in particular our ally the ANC, to ask us to cooperate with our own oppression and exploitation, which is what the NDP’s major proposals are. The NDP represents a typical example of a chicken and a pig partnership in which the chicken offers to lay eggs for breakfast, but asks the pig to donate bacon.²⁴⁷ (Italics mine)

It is in this context that the NDP is viewed as a plan that contains an inappropriate growth and development path. Ngubane, with reference to the above quotation states that,

At the National Bargaining Conference of our National Union of Metalworkers of South Africa (Numsa) held in April, we learned from the Congress of South African Trade Unions (Cosatu) general secretary Zwelinzima Vavi that the NDP ‘represent[s] a typical example of a chicken-and-pig partnership, in which the chicken offers to lay eggs for breakfast but asks the pig to donate bacon’. No thanks, we would like to enjoy eggs, but not at the expense of a neoliberal deindustrialization plan that makes

²⁴⁵ Matuma Letsoalo and Charles Molele, ‘Vavi lashes ANC for asking workers to co-operate in their own “oppression,”’ *Mail & Guardian* (19 April 2013), 3.

²⁴⁶ Mabona, ‘ANC fully supports NDP’s jobs strategy,’ 4.

²⁴⁷ Letsoalo and Molele, ‘Vavi lashes ANC for asking workers to co-operate in their own “oppression,”’ 3.

promises of jobs while actually killing our economy, just the way Gear did in the late 1990s.²⁴⁸

Furthermore, according to Vavi, Cosatu rejected the NDP's economic and labour-market proposals, which he maintains, 'contradicted other progressive government proposals.'²⁴⁹ Hence, the "current spat sends all the wrong signals to potential investors; [and others suggest that] it is high time all the partners within the alliance set aside their differences in the broader national interest and work together to implement the NDP."²⁵⁰ In light of Vavi's strong position against the NDP an informal anti-Vavi caucus was reported to be formed. The affiliates of the informal anti-Vavi caucus, who were distancing themselves from Numsa's position were planning to endorse the NDP as a government working document under the pretext that, "rejection of the NDP will damage the ANC going into the [2014] national elections."²⁵¹ Nevertheless the Vavi contingent held that, "no amount of posturing will ensure that the burden of poverty and unemployment will be eliminated. The alliance, led by the ANC, needs to put aside the differences and focus on the broader challenges of fostering economic growth."²⁵² Irvin Jim held his position that the ANC had adopted the NDP [and the NDP] was an "assault" on workers."²⁵³ Ndaba then revealed that, Mantashe denounced Numsa as a "sponsored" agent of foreign countries out to weaken the ANC and other African liberation movements. He was addressing the central committee (CEC) meeting of the [South African] Transport and Allied Workers Union.²⁵⁴ Jim's response was that, "In [their] view, if [Numsa] were now to support an election campaign which is based on the very same NDP, [Numsa] will lose all credibility. [They] would also lose any ability [they] now have to fight against it."²⁵⁵ Mantashe then said that:

²⁴⁸ Ngubane, 'National Development Plan: Putting South Africa into reverse gear,' 41.

²⁴⁹ Letsoalo and Molele, 'Vavi lashes ANC for asking workers to co-operate in their own "oppression,"' 3.

²⁵⁰ Editorial comment, 'Posturing will not help NDP,' 20.

²⁵¹ Letsoalo and Molele, 'Vavi lashes ANC for asking workers to co-operate in their own "oppression,"' 3.

²⁵² Editorial comment, 'Posturing will not help NDP,' 20.

²⁵³ George Matlala quoting Irvin Jim in an article entitled, 'Furious Numsa bosses dump ANC: Union considers leaving Cosatu and forming new federation,' *The Sunday Independent*, (24 November, 2013), 1.

²⁵⁴ Baldwin Ndaba, 'ANC under siege: Mantashe says Numsa wants to dissolve tripartite alliance,' *The Star Africa Edition* (28 November, 2013), 6.

²⁵⁵ Matlala, 'Furious Numsa bosses dump ANC: Union considers leaving Cosatu and forming new federation,' 1.

One of our own comrades accused the ANC of protecting capital – to the applause of many. What was missing was the Marxist understanding of the relation with capital, the one of unity and struggle of the opposites. Capital is not our friend but a necessary evil that you love and hate. Failure to understand the contradictory relation led to the collapse of the Zimbabwean economy. As that economy was collapsing the revolutionary rhetoric was being shouted with the loudest voice. For us it provides lessons for things we must avoid.²⁵⁶

In view of Mantashe's dialectical and defensive posture through the use of Marxism, Jim further proposed that, "[Numsa] should not endorse the ANC's 2014 election campaign like [they] have done since 1994 because the ANC's election manifesto is premised on the National Development Plan."²⁵⁷ In this regard, Cosatu president Sdumo Dlamini then indicated [Thursday, November 21, 2013] that,

The ruling party was sidelining the labour federation and the SACP, citing there had only been one alliance task team meeting intended to resolve disagreements on the macro-economic policy in the National Development Plan. But despite all this finger pointing, the federation suggested it would not opt out of the alliance and would still campaign for the ANC in election.²⁵⁸

Mkhwanazi had pointed out that, "The NDP has targeted that poverty would have to be eliminated by 2030 as part of this country's mapping of the future. The NDP also wants to increase employment to one of the highest levels. [However,] the plan has come under severe attack from Cosatu and some of its affiliates, including metal workers union, Numsa."²⁵⁹ Marian then declared that,

Cosatu is angry over the lack of "space" to raise its concerns over the economic chapter of the National Development plan and macroeconomic policy, it insists it will support the ANC in the upcoming election in 2014...The committee expressed

²⁵⁶ Ndaba, 'ANC under siege: Mantashe says Numsa wants to dissolve tripartite alliance,' 6.

²⁵⁷ Matlala 'Furious Numsa bosses dump ANC: Union considers leaving Cosatu and forming new federation,' 1.

²⁵⁸ Hlengiwe Nhlabathi, 'Cosatu cries foul as ANC defers policy discussions,' *Sowetan* (22 November, 2013), 4.

²⁵⁹ Siyabonga Mkhwanazi, 'Indaba tackles global issues: International experts to look for solutions to climate change, food security and biodiversity at Cape meeting,' *The New Age* (6 November 2013), 7.

concern about the “slow progress” in following up the allies’ concerns on macroeconomic policy issues and disagreements over the economic chapter of the NDP.²⁶⁰

At the time the ANC would be rolling out its election campaign – the ANC had planned to use the NDP as its draw-card to feature prominently in its election manifesto. The 2014 election manifesto of the ANC declared that,

The ANC adopted the National Development Plan in line with the objective to build the national democratic society. The National Development Plan is a living and dynamic document and the overwhelming majority of South Africans support its objectives of eradicating poverty and inequality. The ANC urges all our people to actively participate in its implementation, to move our country forward. The NDP is the primary instrument that we shall use, taking full and united responsibility, together with our government, to move our country forward.²⁶¹

In view of the above quotation, Ngubane maintained that,

This is why Cosatu’s biggest member, Numsa, will fight the NDP with all its passion. It is appalling to us [that] the African National Congress (ANC) draft elections manifesto is based on the NDP, nicknamed ‘the people’s plan’ even though it is a plan for big corporations. To hear the ANC claim that ‘The NDP will create full employment’ is chilling, because this was the same kind of rhetoric we heard about [in] Gear 17 years ago.²⁶²

Ngubane further asserted that at no point was Numsa going to say that they accept the NDP; he then asked the question: “If we support the ANC’s election campaign now, would we be able to stand firm after the elections and say we reject the NDP?”²⁶³ To understand the basis for Numsa’s protest and its intense rejection of the NDP, Nyatumba revealed that,

While Ghana, Nigeria and Mozambique grew 7.1%, 6.6% and 7.4% respectively last

²⁶⁰ Natasha Marrian, ‘Anger over ANC snub to partners,’ *The New Age* (6 November, 2013), 7.

²⁶¹ January 8th statement 2014, *ANC election manifesto*, ANC, 2014:9.

²⁶² Ngubane, ‘National Development Plan: Putting SA into reverse gear,’ 41.

²⁶³ Matuma Letsoalo, ‘Numsa draws a line in the sand,’ *Mail & Guardian* (November 1 to 7 2013), 10.

year [2012] and are projected to grow 8%, 6.7% and 8.5% respectively this year [2013], [South Africa] registered a mere 2.5% growth last year [2012] and is projected to reach 2.8% growth this year [2013]. This is information from the African Development Bank. Even that 2.8% growth in gross domestic product might still turn out to have been too optimistic a projection.²⁶⁴

Ngubane maintained that Numsa “will launch a massive protest against the implementation of the ANC’s economic policies in the first quarter of 2014.”²⁶⁵ Mantashe and Dlamini suggested that, Numsa general secretary Irvin Jim and other unnamed high-profile union and political party leaders were planning to form a new political party to challenge the ANC at the next year’s election.²⁶⁶ Butler then revealed that,

The ANC is also deeply influenced by former NP [National Party] leaders...For the first time in its history, the key players in the SACP, such as Blade Nzimande, Jeremy Cronin, and Sdumo Dlamini (central committee member and Cosatu president), now have vaguely leftist ideological leanings...SACP leaders in the National Union of Mineworkers (NUM), in particular, are now very active in ANC politics: Gwede Mantashe is ANC secretary-general; NUM president Senzeni Zokwana (national chairman of the SACP) is a pervasive presence on ANC subcommittees. The NUM general secretary and his deputy are both SACP central committee members.²⁶⁷

Ngubane further stated that, “the members of Numsa are not employed by the ANC but by the private sector and organized by the working class [therefore they] are now realizing that the ANC is not prepared to deliver to the working class [as a result] they have rejected all [working class] demands which include the scrapping of the NDP.”²⁶⁸ In addition, Ngubane further

²⁶⁴ Kaizer Nyatumba, ‘When it comes to growth, we are our own worst enemies,’ *Business Day* (29 November, 2013), 11.

²⁶⁵ Letsoalo, ‘Numsa draws a line in the sand,’ *Mail & Guardian*, 10.

²⁶⁶ Baldwin Ndaba, ‘ANC under siege: Mantashe says Numsa wants to dissolve tripartite alliance,’ *The Star Africa Edition*, (28 November, 2013), 6.

²⁶⁷ Anthony Butler, ‘Reds and Boers may yet direct SA’s future,’ *Business Day* (22 November, 2013), 11.

²⁶⁸ Letsoalo, ‘Numsa draws a line in the sand,’ 10.

declared that,

All the positive hype before the Mangaung ANC conference, such as the need for a radical second phase of transition involving radical economic policies in line with the Freedom Charter, have been drowned out by the NDP and the refusal by the leading elites in the ANC to nationalize the commanding heights of the economy...it is very clear that members of the South African black working class are faced with two extreme options – succumb to the domination of right-wing neoliberal capitalism...chances are that Numsa will walk out...if nothing changes about the NDP.²⁶⁹

In line with Ngubane's argument, Advocate Dali Mpofu (who later defected to EFF after his experience of interacting with the victims of the Marikana massacre) according to Warren Mabona, held that, "the ANC's decision to adopt the National Development Plan at its 53rd elective conference convinced him that the organisation was heading towards neoliberal politics."²⁷⁰ Despite this, the former Minister in the Presidency for National Planning, Trevor Manuel, speaking at the NDP round-table discussion held by the Helen Suzman Foundation (4th November 2013) maintained that, "the success of the National Development Plan (NDP) will depend on South Africa's ability to build trust between its various institutions and sectors as preparations are made for its implementation in January [2014]."²⁷¹

In November 2013 NUMSA went to a Special National Congress and took resolutions which on amongst others included the following: (i) Call on COSATU to break the alliance; (ii) Organize a march to COSATU House to coincide with the 1st COSATU CEC in February 2014; (iii) To neither endorse nor support the ANC in 2014; (iv) To establish a new United Front as a political organization committed in its policies and actions to the establishment of a socialist South Africa.²⁷² As a result, the Cosatu Special National Congress held from the 14th – 15th July 2015 endorsed the decision of the CEC to expel NUMSA based on the fact that "[NUMSA] flagrantly violated the founding principle of the federation of one union one industry and had ignored the

²⁶⁹ Letsoalo, 'Numsa draws a line in the sand,' 10.

²⁷⁰ Warren Mabona, 'Mpofu joining EFF expected,' *The New Age*, (4 November, 2013), 4.

²⁷¹ In brief, 'NDP's success "depends on trust,"' (5 November, 2013), 3.

²⁷² 12th Cosatu National Congress, Organisational Report 2015, 81.

repeated pleas to reverse its decisions to extend its scope to other union's scope with an intention to liquidate them."²⁷³ The Special National Congress "further accepted the decision of the CEC to expel comrade Zwelinzima Vavi as the General Secretary of COSATU. The expulsion was based on him acting against COSATU's code of conduct and for undermining COSATU's constitution."²⁷⁴ The CEC of COSATU resolved that: "Comrade Zwelinzima Vavi be dismissed as the General Secretary of COSATU with immediate effect and that he must henceforth stop speaking on behalf of the federation as he is no longer the General Secretary of COSATU and that no staff member or general secretaries should take instructions from him."²⁷⁵

b) Criticism of the NDP

The NDP continued to receive withering criticism from academics such as Seekings (and his colleagues) who had stated that, "The plan was too long for anyone to really engage with, mostly ignored existing industrial strategies and, most importantly, was vague about the massive surge in low-waged jobs it seems to advocate."²⁷⁶ According to Shane Godfrey (researcher at UCT's Labour and Enterprise Policy research Group):

The plan's 'major and critical failing' is that it makes 'passing references to trade-offs', but gives no detail...the plan's 'scale undermines its purpose'...the National Planning Commission had produced an unwieldy 'massive document...it is a major task to read it;' [furthermore] the plan seems to accept that many sectors will disappear, while most new jobs will be in services...what is most worrying is the view that there will be small firms. Yes, they create a lot of jobs, but they also destroy a lot.²⁷⁷

What makes the NDP difficult to engage with is that it "provides a detailed and holistic approach

²⁷³ 12th Cosatu National Congress, Organisational Report 2015, 81.

²⁷⁴ 12th Cosatu National Congress, Organisational Report 2015, 82.

²⁷⁵ 12th Cosatu National Congress, Organisational Report 2015, 87.

²⁷⁶ Dewald van Rensburg, 'Last days of SA's labour regime, conference told,' in a section entitled 'NDP is long, vague,' *City Press – Business* (4 August, 2013), 1. At the labour law conference held during the week of the 4th August 2013. Professor Jeremy Seekings, director for social science research at UCT was one of the panelists at the conference.

²⁷⁷ Van Rensburg, 'NDP is long, vague,' 1.

to the task; covering education, infrastructure, rural development, health care and social protection, among other issues.”²⁷⁸ Hence, for Seekings, it is ‘too long to really engage with.’ What is most critical to the NDP is ‘to eliminate poverty’ and in order to do this, the NDP states that, “South Africa has to raise employment [and] this can only happen only if the economy grows faster and in ways that draw in the historically disadvantaged.”²⁷⁹ Seekings accused the NDP “of a ‘rhetoric of tough choices’ accompanied by a ‘conspicuous absence’ of any detail or discussion about what those choices are. The plan talks of 11 million new jobs by 2030, but it is ‘very, very thin on detail’ about how these jobs are to be created.”²⁸⁰ The NDP however, concerning its ‘rhetoric on tough choices’ states that, “choices made now on the basis of these insights [enormous economic opportunities, risks and challenges driven by both external development and internal dynamics] will largely determine whether or not South Africa emerges in 2030 with a stronger economy and a more socially equitable society.”²⁸¹ Seekings further maintained that, “the plan’s job targeting ‘implicitly’ creates a right to work that runs counter to the current system of wage agreement extensions that lead to closing clothing factories [and that] the little direction it gives [is] ‘anathema to the labour movement.”²⁸² Seekings further declared that,

The plan proposes that so-called decent work will only be achieved in the future and that the first priority is mass employment, especially in small firms in the private sector...the plan, however, seemed to suggest that the right to work might have to be exercised through a massive expansion of the Expanded Public Works Programme, creating an ‘enormous and probably unbearable’ burden.²⁸³

The goal, according to the NDP “will be achieved only if the country confronts current structural and policy weaknesses, minimizes risks, and exploits its economic strengths in ways that benefit

²⁷⁸ *National Development Plan (NDP) Vision 2030: Our future – make it work*, 110.

²⁷⁹ *National Development Plan (NDP) Vision 2030: Our future – make it work*, 110.

²⁸⁰ Van Rensburg, ‘NDP is long, vague,’ 1.

²⁸¹ *National Development Plan (NDP) Vision 2030: Our future – make it work*, 110.

²⁸² Van Rensburg, ‘NDP is long, vague,’ 1.

²⁸³ Van Rensburg, ‘NDP is long, vague,’ 1.

the most marginalized in society;²⁸⁴ and that the economic challenge is that “the fragility of South Africa’s economy lies in the distorted pattern of ownership and economic exclusion created by apartheid policies. The effects of decades of racial exclusion are still evident in both employment levels and income differentials.”²⁸⁵ Concerning income differentials (which according to the NDP has racially defined fault lines that include skill levels, gender and location) Seekings further argued: “I’m not saying the NDP means minimum wages should be lowered or abolished in all sectors...; [I am] saying the NDP’s goal is only possible if there is flexibility around wages in some sectors...wage ‘flexibility’ was particularly necessary in tradable sectors like clothing, ‘which can be outsourced to China.’”²⁸⁶

The South African state which, according to the NDP, “has developed into one of the most unequal societies in the world, with very high levels of poverty, carrying all the attendant risks;”²⁸⁷ seems set on embracing the National Development Plan’s (NDP’s) vision of a ‘capable state.’²⁸⁸ Even though the “country has failed to reap a demographic dividend by harnessing the potential of a proportionately large cohort of working-age-youth;”²⁸⁹ organized business, analysts and opposition parties had called on Pravin Gordhan (Minister of Finance) to send a strong message on the certainty of the government’s economic and fiscal policy when he delivered the medium-term budget policy statement [on Wednesday, October 23, 2013].²⁹⁰ Moeletsi Mbeki (political economist) concerning the mid-term budget declared that, “this budget was a very strong reminder to the critics of the NDP that at the end of the day it is the government who decides.”²⁹¹ The NDP’s most fierce critics were allies of the ANC within the trade unions. Organized business, analysts, and opposition parties maintained that Gordhan “[needed] to firmly commit the government to speedily implementing the 30-year growth and

²⁸⁴ *National Development Plan (NDP) Vision 2030: Our future – make it work*, 110.

²⁸⁵ *National Development Plan (NDP) Vision 2030: Our future – make it work*, 110.

²⁸⁶ Van Rensburg, ‘NDP is long, vague,’ 1.

²⁸⁷ *National Development Plan (NDP) Vision 2030: Our future – make it work*, 110.

²⁸⁸ Natasha Marian, ‘School to train public servants launched’, *Business Day* (22 October, 2013), 1.

²⁸⁹ *National Development Plan (NDP) Vision 2030: Our future – make it work*, 110.

²⁹⁰ Linda Ensor and Ntsaki Maswanganyi, ‘Gordhan is urged to be firm on fiscal plans: Observers say he needs to commit to speedily implementing the NDP’, *Business Day* (22 October 22, 2013), 1.

²⁹¹ Miriam Isa, ‘Budget lays basis for SA’s growth,’ *Sunday Times – Business Times* (27 October, 2013), 4.

development strategy, the National Development Plan (NDP), despite trade union opposition.”²⁹²

But what was the basis to this call for firm commitment to the implementation of the NDP?

According to Isa,

[Gordhan] acknowledged the key role of the private sector in job creation, saying that despite government funding and incentives it still accounted for 80% of employment in the country. The medium-term budget policy statement was closely aligned with the recommendations of the National Development Plan (NDP), a blue print for faster growth and inclusive growth, which the ANC...endorsed at its elective conference in Mangaung in December. The plan has been welcomed by business and investors, but criticized by the ANC's trade union allies, who say it will reduce the role of the state in the economy.²⁹³

It is in this national context that Prof Raymond Parsons (Business Unity SA – Busa special policy adviser) stated that, “a government commitment to implement the NDP would help create the more predictable and certain environment that business needed.”²⁹⁴ Perhaps it is the reason why Mike Brown (chief executive of Nedbank) declared, “It is pleasing to see on-going support [for] the NDP.”²⁹⁵ Yet, true to its guns, the National Union of Metalworkers of South Africa (Numsa) rejected the medium-term budget policy statement's plans to align the government's three-year planning policy with the NDP, claiming it propped up the elite at the expense of the poor.²⁹⁶ But, Gordhan was not being swayed by such concerns [as that of Numsa], insisting he had work to do to steer the country towards sustained growth and focus on such goals as

²⁹² Ensor and Maswanganyi, ‘Gordhan is urged to be firm on fiscal plans: Observers say he needs to commit to speedily implementing the NDP,’ 1.

²⁹³ Isa, ‘Budget lays basis for SA’s growth,’ 4.

²⁹⁴ Ensor and Maswanganyi, ‘Gordhan is urged to be firm on fiscal plans: Observers say he needs to commit to speedily implementing the NDP,’ 1.

²⁹⁵ Sure Kamhunga, ‘Gordhan maintains his balancing act: But finance minister’s stance on NDP causes friction with Numsa,’ *The Sunday Independent* (27 October 2013), 7.

²⁹⁶ Kamhunga, ‘Gordhan maintains his balancing act: But finance minister’s stance on NDP causes friction with Numsa,’ 7.

improving the lives of the majority of the poor; create jobs and attract investment.²⁹⁷ Though South Africa is in “a fortunate position of having areas of comparative advantage [these including] its natural endowments (including minerals) a strong fiscal position, its location on the continent, a strong and deep financial services sector;”²⁹⁸ according to Kamhunga:

The economy is in bad shape, unemployment is rising unabated, poverty levels are still high...while the relationships between trade unions and employers seem to have reached their lowest ebb in years...there is also no love lost between trade unions and the government over its plans to push through the National Development Plan (NDP), as evidenced by comments...by the Treasury that they could no longer be held to ransom by continued debate on the plan.²⁹⁹

Parsons’ statement provided an “opportunity to strongly reaffirm the official commitment to the NDP, to clarify the fiscal implications of the NDP, and to stabilize government debt within a framework of fiscal discipline...[for Parsons] the NDP remains an essential road map for the structural reforms that will facilitate stronger and inclusive private sector-led growth, in which fiscal policy plays an important role”³⁰⁰ Busa “called on Mr Gordhan to clarify how much implementing the NDP would cost the taxpayer.”³⁰¹ Sizwe Nxedlana (chief economist at First National Bank) “is one of the liberal economists who have been calling for what he terms ‘a supply-led response’ from the private sector for the NDP to achieve growth targets.”³⁰² Nick Koornhof (Congress of the People [Cope] finance spokesperson) aligning with Busa’s position

²⁹⁷ Kamhunga, ‘Gordhan maintains his balancing act: But finance minister’s stance on NDP causes friction with Numsa,’ 7.

²⁹⁸ *National Development Plan (NDP) Vision 2030: Our future – make it work*, 111. The list includes “quality universities and a small but sophisticated services industry.”

²⁹⁹ Kamhunga, ‘Gordhan maintains his balancing act: But finance minister’s stance on NDP causes friction with Numsa,’ 7.

³⁰⁰ Ensor and Maswanganyi, ‘Gordhan is urged to be firm on fiscal plans: Observers say he needs to commit to speedily implementing the NDP’, 1.

³⁰¹ Ensor and Maswanganyi, ‘Gordhan is urged to be firm on fiscal plans: Observers say he needs to commit to speedily implementing the NDP,’ 1.

³⁰² Kamhunga, ‘Gordhan maintains his balancing act: But finance minister’s stance on NDP causes friction with Numsa,’ 7.

“emphasized the need for commitment to the NDP and for state expenditure to be cut.”³⁰³ According to Kamhunga, Chris Hart (chief strategist at Investment Solutions) stated that, “it is clear that Gordhan is focused on an invigorated economy” citing ‘among other positives’, “plans to implement the NDP...and promoting an enabling investment environment.”³⁰⁴ Hart resolved that the NDP has started to take shape, [and the National Treasury remains resolute].³⁰⁵ The commitment to the NDP also ‘augured well’ with the Association of Public Accounts Committees (Apac), which represents the parliamentary and legislature fiscal watchdogs.³⁰⁶ Despite the NDP again having a prominent place in the speech, few of the plans announced under the auspices of the NDP are new; timely and successful implementation will be required for it to deliver on its goals.³⁰⁷ Gordhan had “spent quite a bit of his speech talking about the support government is giving to the NDP as well as improving the investment climate.”³⁰⁸ Whilst the union Numsa (National Union of Mineworkers of South Africa – the trade union federation Cosatu’s largest affiliate) “is mobilizing its members to strike over the implementation of the National Development Plan (NDP) [having started from January [2014]].”³⁰⁹

Hugo Pienaar (senior economist at the Bureau for Economic Research) stated that, “while Gordhan made references to the NDP, there was ‘not a lot of detail on specific NDP plans’...[and] that concrete steps to implement the NDP now needed to be taken...‘we have a government whose alliance partners, especially Cosatu, are pushing back on the reforms

³⁰³ Ensor and Maswanganyi, ‘Gordhan is urged to be firm on fiscal plans: Observers say he needs to commit to speedily implementing the NDP’, 1.

³⁰⁴ Kamhunga, ‘Gordhan maintains his balancing act: But finance minister’s stance on NDP causes friction with Numsa’, 7.

³⁰⁵ Chris Hart, ‘Gordhan does citizens proud,’ *Sunday Times*, (27 October, 2013), 4.

³⁰⁶ Donwald Pressly, ‘Rivals denounce mini budget’, Business Report section of the *Sunday Independent* (27 October, 2013), 1.

³⁰⁷ Kamhunga, ‘Gordhan maintains his balancing act: But finance minister’s stance on NDP causes friction with Numsa,’ 7.

³⁰⁸ Kamhunga, ‘Gordhan maintains his balancing act: But finance minister’s stance on NDP causes friction with Numsa,’ 7.

³⁰⁹ Letsoalo, ‘Numsa draws a line in the sand,’ 10.

[government is] proposing.³¹⁰ Global investment bank Goldman Sachs suggesting that the size of the economy at an average of 5% GDP growth would reach \$1-trillion by 2030, then released a report on South Africa on two decades of democracy stating that, “Black ownership of the JSE had risen to 21% last year, compared to 5% in 1995 but for South Africa to overcome its challenges – in particular stubborn unemployment and inequality – it should aim to raise its GDP growth rate from the past 20 years’ average of 3.3% to 5%”³¹¹ In spite of this Nyatumba contested that,

Not only have we never registered growth anywhere close to 10% in the past 30 years [including the 20 years of democracy, in the early years of which there was a tremendous amount of international goodwill towards (South Africa)], but we have consistently hovered between 2% and 3% growth. Our best performance was in 2006, when we registered a 5.6% growth rate.³¹²

A report in an article by Carol Paton, apart from recognizing South Africa’s “enormous social transformation which has seen the extension of social welfare grants from 2.4 million to 11.6 million people and a rapid growth of the African middle class, which ‘more than doubled’ from 1993 to 2008;”³¹³ further revealed that:

Key structural economic advances [have] been made since 1994, which include: close to tripling gross domestic product (GDP) from \$136bn to \$385bn; reducing inflation from an average of 14% in the 14 years prior to 1994 to an average of 6% in the years that followed; and the rise in gross gold and foreign exchange reserves from \$3bn to \$50bn today.³¹⁴

³¹⁰ Bianca Capazorio, ‘Minister’s medium-term budget viewed as “political,”’ *The Sunday Independent*, (27 October, 2013), 7.

³¹¹ Carol Paton, ‘Friendlier climate for investment “now urgent”’: Goldman Sachs report praises SA gains, but calls for 5% growth,’ *Business Day*, (Tuesday, 5 November 2013), 1.

³¹² Kaizer Nyatumba, ‘When it comes to growth, we are our own worst enemies,’ (*Business Day*, Friday 29 November, 2013), 11.

³¹³ Paton, ‘Friendlier climate for investment “now urgent”’: Goldman Sachs report praises SA gains, but calls for 5% growth,’ 1.

³¹⁴ Paton, ‘Friendlier climate for investment “now urgent”’: Goldman Sachs report praises SA gains, but calls for 5% growth,’ 1.

In view of the above, the South African Reserve Bank governor Gill Marcus “expressed concern about the disappointing 0.7% GDP growth in the third quarter but expressed confidence that the issues constraining growth could be addressed.”³¹⁵ Nyatumba then asserted that, “Marcus was spot on in her statement that, as a people, we are responsible for South Africa’s poor economic performance and that we are our own worst enemies. Somehow we have managed to get our beloved country questioned or doubted as a foreign investment destination.”³¹⁶ In agreement concerning the report Finance Minister Pravin Gordhan maintained that challenges in education and key obstacles in health identified by the Goldman Sachs report – as in the way of better growth and employment – had been recognised in the National Development Plan.³¹⁷ Bobby Godsell (chairman of Business Leadership South Africa) at the release of the Goldman Sachs report (at the Nelson Mandela Foundation on the 4th November 2013) had said that, “several recent initiatives provided hope that SA could turn a corner and take on some of its challenges. The first was the National Development Plan, which he said, had given South Africans ‘a [policy] framework’ to think about the future and had provided ‘a dialogue [on economic policy] that was forward looking.”³¹⁸ Nyatumba further declared that,

According to the Reserve Bank, our economy grew a pitiable 0.7% in the third quarter – the lower rate of growth since our 2009 recession. The modest growth-rate forecast for the quarter was 1.2%. Economists quoted in the media [that] week said [that] the 0.7% growth [underlined] stagnating economic activity, after an upwardly revised 3.2% in three months to June.³¹⁹

The NDP states that, “There are real obstacles that include distortions created by South Africa’s apartheid past in ownership and access to land capital and skills for the majority of the

³¹⁵ Paton, ‘Friendlier climate for investment “now urgent”’: Goldman Sachs report praises SA gains, but calls for 5% growth,’ 1.

³¹⁶ Kaizer Nyatumba, ‘When it comes to growth, we are our own worst enemies’, *Business Day* (29 November, 2013), 11.

³¹⁷ Paton, ‘Friendlier climate for investment “now urgent”’: Goldman Sachs report praises SA gains, but calls for 5% growth,’ 1.

³¹⁸ Paton, ‘Friendlier climate for investment “now urgent”’: Goldman Sachs report praises SA gains, but calls for 5% growth,’ 1.

³¹⁹ Nyatumba, ‘When it comes to growth, we are our own worst enemies’, 11.

population”³²⁰ to the extent that there is a concern that small-scale agriculture, microenterprises and artisanship have weakened.³²¹ In light of the concern of ‘closing the gap between the rich and the poor’ the NDP states that, “the Gini coefficient, which measures inequality of distribution (0 being total equality and 1 being the widest disparity), worsened globally from 0.44 in 1950 to 0.54 in 2000. A quarter of the population in developing countries still lives on less than US\$ 1.25 a day.”³²² The president of the World Bank reiterating this was cited saying that, “in practical terms, the goal would be to lower the number of people living on less than \$1.25 a day from 21% of the world population in 2010 to just 3% by 2030.”³²³ Nonetheless, the NDP will “drive the government’s programme over the next 17 years.”³²⁴

Comparatively, in Washington [2 April 2013], the “World Bank chief Jim Yom Kim called for a global drive to wipe out extreme poverty by 2030, acknowledging that reaching the goal will require extraordinary efforts.”³²⁵ The NDP therefore attests that, “1 billion people lack clean drinking water, 1.6 billion have no access to electricity, and 3 billion do not have adequate sanitation. HIV/AIDS has been devastating in sub-Saharan Africa.”³²⁶ In a speech in Washington at George Town University, Jim Yong Kim, in light of this, is cited saying that,

A world free of poverty is within our grasp. It is time to help everyone across the globe secure a one-way ticket out of poverty and stay on the path towards prosperity....the nature of the poverty challenge will change fundamentally in most parts of the world. The focus will shift from broad structural measures to tackling sporadic poverty among specific vulnerable groups...Though we will continue to reach out to those who suffer from sporadic and occasional poverty, the fight against mass poverty that countries have waged for centuries will be won...*To reach the 2030 goal*, we must halve global poverty once, then halve it again, and then nearly

³²⁰ *National Development Plan (NDP) Vision 2030: Our future – make it work*, 118.

³²¹ *National Development Plan (NDP) Vision 2030: Our future – make it work*, 119.

³²² *National Development Plan (NDP) Vision 2030: Our future – make it work*, 77.

³²³ ‘World Bank’s chief calls for an end to extreme poverty by 2030,’ *New Age* (Wednesday, 3 April 2013), 15.

³²⁴ Mkhwanazi, ‘NDP “to drive government,”’ 4.

³²⁵ ‘World Bank’s chief calls for an end to extreme poverty by 2030,’ *New Age* (Wednesday, 3 April 2013), 15.

³²⁶ *National Development Plan (NDP) Vision 2030: Our future – make it work*, 77.

halve it the third time – all in less than one generation.³²⁷ (Italics mine)

To win this fight against mass poverty Kim maintained that three factors will be required: “Higher economic growth rates will be needed, in particular sustained high growth in South Asia and Sub-Saharan Africa.”³²⁸ Hence, the World Bank, according to the NDP, suggests that, “by 2025, six major emerging economies – Brazil, China, India, Indonesia, South Korea and Russia – will account for more than half of all global growth, growing, on average, by 4.7 percent a year to 2025, by which time their share of global GDP will have grown from 36 percent to 45 percent.”³²⁹ According to the NDP, “Africa has the weakest infrastructure in the world – average electricity costs of US\$ 0.18 per kilowatt-hour are about double those of other developing countries.”³³⁰ Sathekge maintains that experts approximate that, “infrastructure improvement in South African cities will be critical for the successful implementation of the National Development Plan (NDP) if managed properly as outlined in the plan.”³³¹ In light of this the NDP declares that, “the largest infrastructure gaps are in energy, with citizens in 30 of the 47 countries in sub-Saharan Africa facing regular power shortages and power interruptions... Bridging the infrastructure gap will cost about US\$ 93 billion a year, with about 40 percent in the power sector.”³³²

c) Restitution in the NDP

The term restitution resurfaces again in the NDP and it is used explicitly with reference to land redistribution as found in the RDP. It is my observation that the term restitution is mentioned six (6) times in the NDP. Where it is mentioned the concept of restitution is linked to land reform which has to do with land claims. Though restitution and redistribution is not only about land, these two terms as used in the policy documents are restricted to land restitution and land redistribution. In my analysis this is how the terms are used. It is not clear whether Kariuki’s data

³²⁷ ‘World Bank’s chief calls for an end to extreme poverty by 2030,’ 15.

³²⁸ ‘World Bank’s chief calls for an end to extreme poverty by 2030,’ 15.

³²⁹ *National Development Plan (NDP) Vision 2030: Our future – make it work*, 80.

³³⁰ *National Development Plan (NDP) Vision 2030: Our future – make it work*, 87.

³³¹ Sathekge, ‘NDP focus on cities: Infrastructure improvement is key for the successful implementation of government plan,’ 16.

³³² *National Development Plan (NDP) Vision 2030: Our future – make it work*, 87.

that 6.7 percent (5.5 million hectares) of such land had been transferred by 2009 goes against the NDP's data, (the question also becomes how is the data collected and of which land?). The NDP, in reference to the RDP, records that the target for redistribution "was 30 percent of land to be redistributed in five years. By 2011, only 4.1 percent of land had been redistributed, most of which was state [owned] land. The rate for productive land has been even slower: only 3.7 percent of agricultural land has been redistributed since 1994."³³³ The NDP makes a direct reference to the RDP which states that, "The [land reform] programme must aim to redistribute 30 per cent of agricultural land within the first five years of the programme. The land restitution programme must aim to complete its task of adjudication in five years."³³⁴ Unfortunately, in 17 years (1994 – 2011) only 4.1 percent has been redistributed and yet the target was 30 percent in five years.

Atkinson suggests that, the slow pace of land reform has caused political controversy. She says that, "critics on the left have ascribed it to the recalcitrance of white farmers to sell their land at reasonable prices. The principle of 'willing-buyer-willing-seller' (WBWS) has become increasingly controversial and the DLA has now proposed a land tax to reduce the price of land and bring more white land onto the market."³³⁵ Though there has been poor performance and dismal failures when it comes to the land reform/land restitution/land redistribution/land tenure reform programme, the NDP insists on land reform as a measure for redress and states that,

The Constitution protects property rights and prevents confiscation of property without due compensation. However, it also provides a legal, political and moral basis for redress measures such as land reform. Flowing from the Constitution, the White Paper on land allows for land redistribution, land restitution and tenure reform. The principles underpinning land reform are threefold: De-racialising the rural economy; Democratic and equitable land allocation and use across race, gender and class; A sustained production discipline for food security.³³⁶

With regards to a comprehensive rural development programme, Zweli Mkhize (National

³³³ *National Development Plan (NDP) Vision 2030: Our future – make it work*, 140.

³³⁴ See Article 2.4.14 of the Reconstruction and Development Programme (RDP), 22.

³³⁵ Atkinson, 'Breaking down barriers: Policy gaps and new options in South African land reform', 372.

³³⁶ *National Development Plan (NDP) Vision 2030: Our future – make it work*, 140.

treasurer of the ANC) articulating his concern for rural development stated that, “Rural development, land reform and food security were issues that are very important in realizing these values [in the Constitution]; in this regard, we need to be able to pool resources of all government departments because these issues are not sectoral and go to the core of our fight against poverty and inequality.”³³⁷ The programmes of rural development, land reform and agrarian change need to be integrated into a clear strategy that, according to Kariuki “would seek to empower the poor, particularly those who already derive all or part of their livelihoods from the exploitation of productive land. It is against this background that...to a large extent [success depends] on improving the pace and quality outcomes of the land and agrarian reform programme, namely redistribution, restitution and tenure reform.”³³⁸ Against the backdrop of poor performance on the delivery of the land reform programme (land redistribution and the restitution process) the NDP further states that,

Since 1994, about 6 million hectares of agricultural land have been redistributed – 3.4 million hectares through land redistribution and 2.4 million hectares through the restitution process. Of 79 696 land claims lodged since 1994, 95 percent have been settled. Rural areas, however are characterized by greater poverty and inequality than urban areas, with many households trapped in a vicious cycle of poverty.³³⁹

In view of the performance of the programme since 1994, there exists an ideological stalemate which plays itself out at various levels. This view is also held by Atkinson. The stale mate remains unresolved because of possibly neo-Marxist ideological critique, as Kariuki maintains that, “a substantial number of people live in the rural areas. Some 45 percent of South Africa’s population lives in non-urban areas, depending on the definition used. Of these, some 85 percent live in the former homelands and the rest on commercial farms and in small towns.”³⁴⁰ Restitution as conceptualized in the South African policy documents has been unworkable, land

³³⁷ Mkhize, ‘NDP is central to growth: Mkhize says measuring performance and what still had to be done was key to delivery,’ 9.

³³⁸ Kariuki, ‘The comprehensive rural development programme (CRDP): A beacon of growth for rural South Africa?’ 354.

³³⁹ *National Development Plan (NDP) Vision 2030: Our future – make it work*, 195.

³⁴⁰ Kariuki, ‘The comprehensive rural development programme (CRDP): A beacon of growth for rural South Africa?’ 346.

reform projects have stalled; infrastructure has deteriorated leading to a massive loss of jobs.³⁴¹ The term restitution is used in the NDP mainly to refer to land restitution only as one dimension of land reform, alongside land redistribution.

The term reparation is not mentioned in the NDP. By contrast, the term redistribution is mentioned eleven (11) times in the NDP. Where it is used in the NDP (unlike in the GEAR strategy) it is without explicit relation to “income redistribution”. By comparison, “income redistribution” is not found in the NGP neither is it found in the NDP. The use of the two words together suddenly disappears in the policy documents. With regards to the 6.7 percent (5.5 million hectares) that Kariuki referred to earlier, of this 5.5 million, 3 million hectares of land has been transferred through the redistribution and tenure reform programmes combined and 2.5 million hectares have been transferred to claimants through the restitution programme and the DRDLR had planned to transfer the remaining 19.1 million hectares (23.3 percent shortfall of the 30 percent of agricultural land) by 2014.³⁴² Perhaps this is the reason why Sender claims that, the techniques that were used ‘to write a new story’ in the NDP’s brief chapter on rural development involve manipulating and omitting data and waving a populist flag.³⁴³ The NDP states that, “There are real obstacles that include distortions created by South Africa’s apartheid past in ownership and access to land capital and skills for the majority of the population”³⁴⁴ to the extent “to which small-scale agriculture, microenterprises and artisanship have weakened is a concern. In many developing countries, it is these activities that provide shock absorbers for extreme poverty and platform for self-employment, with the potential to serve as rungs on the ladder of economic advancement.”³⁴⁵ However, Sender further holds that,

³⁴¹ But the idea of restitution, according to Tettenborn, presupposes a coherent conception of gain, or enrichment, on which the law can and ought to operate; without this, restitution would be unworkable. Tettenborn further asserts that, restitution is not simply about benefit, but about enrichment – financial gain, if you like, or gain that can, at least potentially, be measured in money terms. Tettenborn, *Law of Restitution in England and Ireland*, 38.

³⁴² Kariuki, ‘The comprehensive rural development programme (CRDP): A beacon of growth for rural South Africa?’ 354.

³⁴³ John Sender, ‘Fictions & elephants in rondavel: Response to NDP on rural development’, *South African Labour Bulletin*, Vol.37, No.1, Umanyano Publishers (March/April, 2013), 38.

³⁴⁴ *National Development Plan (NDP) Vision 2030: Our future – make it work*, 118.

³⁴⁵ *National Development Plan (NDP) Vision 2030: Our future – make it work*, 119.

The NDP chapter, titled ‘An integrated and inclusive rural economy’, begins with the claim that in the period since 1994 some progress has been made in reducing poverty and improving the welfare of rural households. This claim is supported by just one dramatic sentence – no poverty data are presented or analyzed: ‘The National Income Dynamics Study (NIDS) revealed that the rural share of poverty fell from 70% in 1993 to 50% in 2008. [The NDP]...tells us nothing about progress in reducing the absolute number and proportion of rural people who are poor. [The NIDS]...does, in fact, provide clear evidence on trends in rural poverty incidence, but these data are not cited, presumably because they tell a story that is incompatible with the NDP’s progress narrative.’³⁴⁶

Using the NDP as a blueprint, Ngomane, in her report pointed out that the Department of Performance Monitoring and Evaluation (DPME) and Statistics South Africa (STATSSA) are working with departments to ensure that indicators are refined so [that] they are always measurable, accurate, reliable and time-bound.³⁴⁷ In her presentation, Ngomane further maintained that the NDP is being implemented in an unfavourable global economic environment and that some causes for poor performance are that private investment in the productive sector is relatively low.³⁴⁸ Towards the ANC’s National General Council (NGC), Mapaila’s analysis concerning the NGC’s discussion document on economic transformation was that,

The introduction, in particular, gives the impression that what we have before us for consideration is a government review of progress on the implementation of the NDP, rather than a comprehensive focus on radical economic transformation as a key factor in social transformation. Still, the way the interventions such as the New Growth Path (NGP) and the Industrial Policy Action Plan [IPAP] are discussed reflect serious weaknesses. These interventions predate the NDP, an economic doctrine that contradicts the basic philosophy, in varying degrees, of both the NGP and [IPAP].³⁴⁹

³⁴⁶ Sender, ‘Fictions & elephants in rondavel: Response to NDP on rural development,’ 38.

³⁴⁷ Tsakani Ngomane, Progress report on the implementation of the Medium-Term Strategic Framework (MTSF) 2014-2019: Alignment of spending outcomes with the POA (Presidency: 1 September 2015), 9.

³⁴⁸ Briefing to the standing committee on appropriations, 1 September 2015.

³⁴⁹ Solly Mapaila, ‘Preliminary reflections on the economic transformation discussion document,’ 8.

Some of the policy advances achieved by the South African government have been the development of the NGP and the IPAP. According to Cosatu's Secretariat Report, the centrality of redistribution of the means of production in the country's growth strategy requires an active state to drive economic development.³⁵⁰ Cosatu's Secretariat Report further states that:

Redistribution of the means of production is the economic basis of state power. Redistribution of the means of production will only remain limited to having the crumbs of economic spoils being given to the people if the reality remains that our economy continues to be dominated by a few conglomerates, which are increasingly going global – exhibiting strong trends towards multinational ownership and the continued entry of foreign ownership in conglomerates that are of South African origin.³⁵¹

Concerning land reform, the indicator in the NDP is that land acquired (per percentage of hectares) to be allocated to smallholder producers – the Medium Term Strategic Framework (MTSF) target is that 50% of 1 million hectares of acquired hectares of land by March 2019 – the latest available measurement are that: (i) 55 881ha were allocated to smallholder producers (15%); however, there is slow transformation and slow progress – the target will not be met; (ii) the NDP indicator is that the number of hectares allocated to people living and/or working on farms (labour tenants, farm workers/dwellers) – MTSF target is 200 000 hectares – the latest available measurement is that 65 359 hectares were allocated to farm workers and farm dwellers (18%); however, there is slow transformation and slow progress, contributing to labour disputes and farm worker unrests – the target will not be met.³⁵² Hence, Sender contests that,

Since the rural population of SA increased by about a million [between 1993 and 2008] the absolute number of poor rural South Africans has certainly increased. The NDP is correct in claiming that social grants have made a substantial contribution to the income of rural households. Without these grants there would have been an even larger increase in the number of rural people struggling to survive below the poverty

³⁵⁰ 12th Cosatu National Congress, Secretariat Report 2015, 81.

³⁵¹ 12th Cosatu National Congress, Secretariat Report 2015, 81.

³⁵² Ngomane, Progress report on the implementation of the Medium-Term Strategic Framework (MTSF) 2014-2019: Alignment of spending outcomes with the POA, 9.

line. There is no basis at all, however, for the claim that farm workers now ‘receive better wages’ than they did in 1993. The NDP does not, and indeed cannot, produce any statistics to justify this astonishing claim.³⁵³

The income that has been derived from grants does not enable people in rural communities to do anything either than survive. Ngomane reports that (a) the baseline by November 2013 was 9.0% (that is of the 30% 1994 target – 82.5 million hectares), translating to 7.39 million hectares of 24.5 million – the MTSF target is to transfer an additional 2 million hectares by 2019; (b) by the end of March 2015, 350 750 hectares of land were acquired and allocated against an annual target of 390 000 hectares – raising the baseline to 9.4%, or 7.74 million hectares; (c) the government had committed to allocate 10% of the newly acquired hectares of land to people living and/or working on farms, and 50% to small holders – the sector had however, underperformed on both targets.³⁵⁴ Sender further contests and states that,

What the data shows is that labour has been casualized on South African farms – particularly between 1996 and 2002 – the casual share of total farm labour increased from about one third to almost one half by 2007. Despite widespread recognition of the abysmally low earnings of casual/seasonal farm workers, the majority of whom are women, no effort has been made by the statistical authorities to monitor their real hourly or annual wages on a consistent basis.³⁵⁵

Ngomane argues that critical to the change agenda, there is slow progress as a result of labour disputes and farmworkers unrests due to unemployment rising from 46.1% (2014) to 47.7% (2015) and agriculture’s contribution to GDP had declined by 16.6%. By contrast Sender maintains that,

Farmers have used casualization, immigrant labour and, increasingly, labour brokers to evade labour legislation. Of course, rural contractors pay very much lower wages than direct employers...If there is no basis for the NDP’s assertion concerning a reduction in the number of rural people suffering from very low levels of

³⁵³ Sender, ‘Fictions & elephants in rondavel: Response to NDP on rural development,’ 38.

³⁵⁴ Ngomane, Progress report on the implementation of the Medium-Term Strategic Framework (MTSF) 2014-2019: Alignment of spending outcomes with the POA, 9.

³⁵⁵ Sender, ‘Fictions & elephants in rondavel: Response to NDP on rural development,’ 38.

income/expenditure, or for their claim that the real wages received by the poorest farm workers have increased, are its authors justified in making the additional boast that 'rural access to basic services have increased'?³⁵⁶

In view of Sanders' criticism, the ANC NGC Discussion document records that the progress to date with regards to the rural development programme performance for 2014/2015 is that:

[There are] 442 Rural Enterprises [that are] supported; [9 509] Skills development opportunities; [6 563] Jobs created in rural development initiatives...The stipends being paid to participants impact positively on between 35 000 and 50 000 people. More than 15 000 participants have been enrolled to date. Of these, as at April 2014, 2 444 had graduated and more than 6 000 participants participated in various skills development programmes.³⁵⁷

However, Sender maintains that the NDP is "littered with exhortatory, populist, nationalist and patronizing slogans, possibly in an effort to promote the illusion of cohesion and solidarity in an obscenely unequal society."³⁵⁸ Sender argues further against the evidence above and asserts that,

There is no reliable or up-to-date information on the number of 'small farmers', far less on the number of wage workers they currently employ. So the NDP resorts to guesstimates based on wishful thinking and a poorly designed census conducted more

³⁵⁶ Sender, 'Fictions & elephants in rondavel: Response to NDP on rural development,' 39. Sender, further maintains that, "The NDP's chapter on rural development is silent on the most dramatic *outcome* trends measuring the basic welfare of women and children over the period since 1994. One of the most distressing welfare indicators is the maternal mortality rate (MMR)...The official estimate is that there were approximately 150 deaths per 100,000 live births in 1998 and about 625 deaths per 100,000 live births in 2010...Under Five Mortality [Rate] (U5MR) in SA is extremely disturbing, especially because the U5MR is generally regarded as an excellent indicator of the overall quality of care achieved by health systems and, more generally, of human welfare."

³⁵⁷ African National Congress (ANC), *National General Council (NGC) Discussion Document*, 212.

³⁵⁸ Sender, *Fictions & elephants in rondavel: Response to NDP on rural development*, 40. Sender, further holds that, "A substantial proportion of rural children have still not been vaccinated and do not have access to basic sanitation or live in houses with safe water on site and TB transmission amongst children remains high. The recent pattern of health expenditure in SA certainly does not suggest that preventing the death of rural children has been a priority: about 60% of health expenditure is devoted to 15% of the population using the private sector, and about two thirds of paediatricians work in the private sector."

than five years ago: 'There must be at least 25, 000 small-scale farmers in the communal areas with access to more than five hectares of dry land...If about one in three beneficiaries of the redistribution programme farms on a small scale and employs at least two workers, 40,000 jobs are created'. If wishes were horses...³⁵⁹

The NDP states that, "A further 70 000 livelihood opportunities are created if land-reform beneficiaries are properly supported. By 2009, the land redistribution and restitution programmes had transferred land to 185 858 beneficiaries (about 40 000 households) and 1.6 million beneficiaries (270 000 households) respectively."³⁶⁰ However, in view of Sanders' assertion, the ANC NGC Discussion Document tabulating progress to date records that,

[The] overall progress regarding the redistribution [of] white owned agricultural land in South Africa (82 million ha) from 1994 to 31 March 2015 is such that 4 555 995 [hectares] under Land Redistribution through 5184 projects, benefiting 235 609 beneficiaries of which 50 882 are women, 33 108 are youth and 678 are people with disability, has been redistributed.³⁶¹

However, the NDP records that, "A large number of the beneficiaries, mainly of the restitution programme, have not been able to settle on the land or use it productively. In part, they have lacked infrastructure, inputs and technical support."³⁶² In view of this, the 52nd ANC Conference resolved that: "producer co-operatives, small holder associations, input supply co-ops, marketing co-ops and/or state regulated institutions designed to support and promote market access and collective action amongst small rural producers [must be assisted]." Sender says that,

Unfortunately the recent history of the performance of smallholder co-operatives and 'associations' in SA, even when massively supported by state institutions, agribusiness or non-governmental organisations, does not suggest that they will become capable of making a significant contribution to output or wage employment. The truth is that a very small number of large-scale farms will probably continue to

³⁵⁹ Sender, *Fictions & elephants in rondavel: Response to NDP on rural development*, 40.

³⁶⁰ *National Development Plan (NDP) Vision 2030: Our future – make it work*, 221.

³⁶¹ African National Congress (ANC), *National General Council (NGC) 2015: Discussion documents (Special Edition)*, (Johannesburg: Umrabulo, 2015), 210.

³⁶² *National Development Plan (NDP) Vision 2030: Our future – make it work*, 221.

produce the vast majority of SA's agricultural output. At present, about 2,500 farms produce more than half of total output, and all indices of the degree of concentration have been rising.³⁶³

The discourse continues as land sellers inflate their prices even when farmers ask for realistic prices, those prices are seen as too high for a realistic programme of land reform. With regards to redistribution, the NDP states that,

While it is true that the governmental system is the result of compromise, this is not unique to South Africa. No country can draw up its governmental framework independently of the politics of the time. Furthermore, South Africa's approach of decentralising responsibility for implementation while maintaining national oversight and using centralised funding mechanisms to achieve redistribution is not out of line with the approach taken by many other countries.³⁶⁴

But this method and its use of a funding mechanism to facilitate redistribution is clearly not working. As Atkinson suggests – “Expropriation therefore becomes the obvious solution, a standpoint which alarms commercial agriculture.”³⁶⁵ Nevertheless, the NDP still insists that, “Two potential avenues exist for ensuring greater black ownership and control: the first is through redistribution, and the second is through ensuring that new growth is skewed towards black entrepreneurs.”³⁶⁶ Unfortunately, in South Africa there remains an ideological framework of market-led reform which effectively maintains the willing-buyer-willing-seller (WBWS) principle intact, perpetuating the constraints as brought about by the property clause in the Constitution. This clause has framed the atmosphere – into an impasse – between avoiding expropriation and the threat of violent confrontation: the consequences of a stalemate in a continuous context wherein the dominant picture of land reform is one of systemic failure with regards to the land question. No one remains clear, AgriSA insists on being animated by the ethics of the “rule of law” and the “sanctity of private property” and the “willing-buyer-willing-seller” model of land reform including values such as the “legitimacy of competition”,

³⁶³ Sender, ‘Fictions & elephants in rondavel: Response to NDP on rural development,’ 40.

³⁶⁴ *National Development Plan (NDP) Vision 2030: Our future – make it work*, 431.

³⁶⁵ Atkinson, ‘Breaking down barriers: Policy gaps and new options in South African land reform,’ 372.

³⁶⁶ *National Development Plan (NDP) Vision 2030: Our future – make it work*, 139.

“investment for advancement”, “profit and material gain” for themselves, their families, their descendants and their communities. Atkinson is correct to state that,

Language devices such as phrases and metaphors elicit stock responses. Consequently, words such as “agrarian capital” and “neoliberal ideology” evoke dominant images of an exploitative, oppressive economic class, bolstered by racial privilege, holding out against sharing scarce resources, and set on capturing the state for its own self-interested purposes. Any idea that such economic agents could become *partners* in land reform therefore becomes almost unthinkable. It is scarcely surprising that the dominant approach of the state is to ‘go-it-alone’.³⁶⁷

In the NDP the term restitution is restricted to land restitution and understood to mean the processing and the settling of claims. This process prevents the confiscation of property without compensation. The term redistribution is used to mean land redistribution. This is understood to mean a transfer of land that has been bought by the state on behalf of the victims of apartheid. In the NDP the term reparations is not used. There is currently no policy proposal for a strategy for reparations.

4.10 Conclusion

In this chapter, I offered a critical analysis of the economic policy documents issued by the South African government in the period 1994 to 2014. These are the RDP, GEAR, AsgiSA, IPAP, NGP, and the NDP respectively. In it, I provided a description of the ways in which the term restitution is used implicitly or explicitly in these documents in relation to concepts such as reconciliation, reparation, redistribution, rehabilitation and restoration in order to address current economic inequalities in South Africa. On this basis, I also compared the ways in which restitution is understood and I offered observations and identified trends in such economic policy documents. In this regard, where the term restitution has been used, whether explicitly or

³⁶⁷ Another important and adverse macro-economic trend, especially since 2004, has been that the country imports more goods than it exports. As a consequence, the external balance on goods and services remained negative over the period 2004 and 2005, in marked contrast to the positive balances achieved in the early 1990s. According to the International Monetary Fund (IMF) exchange rate overvaluation and the funding of current account deficits by volatile portfolio inflows are continuing to pose significant risks to macro-economic growth. Sender, ‘Fictions & elephants in rondavel: Response to NDP on rural development,’ 41.

implicitly, it has been linked to land. As a result, the concept “restitution” has been understood to mean “land restitution”. In 1994, the term features prominently and is used explicitly in the RDP in relation to the term “redistribution” which also in the RDP is understood to mean “land redistribution”. The RDP in its use of the term linked it to the land reform programme for redress of inequalities. The RDP argued for reconstruction and development first instead of a narrow understanding of economic growth in order to address inequalities. However, in 1996 when GEAR was introduced there was a shift, the term restitution is not used at all and the term redistribution is no longer linked to land *per sé*, as in the RDP but it is linked to income. Hence, the GEAR strategy refers to the concept of income redistribution or the redistribution of income. In the main, this shift involves a refocusing on the problem of unemployment. Though GEAR prioritized growth first it argued that employment or job creation shall be a consequence of economic growth. This argument however has been confirmed to be a failure in South Africa. As a result, in order to address economic inequalities, income inequality in particular, amongst many other inequalities, in 2005 AsgiSA was introduced. There was another shift. In AsgiSA, the term restitution is also not used at all. In the consequent policy which was launched in 2007, the IPAP, the term restitution suddenly does not feature in the policy framework and its iterations. This became the trend. In 2010, when the NGP was introduced, I observed that the term restitution resurfaces again but linkages are made to involve employment targets, because of the argument that a new growth path is necessary which prioritizes development and employment creation instead of a narrow economic growth. In 2012, the NDP was launched. The term restitution resurfaces again in the NDP with references to 1994. Though the term restitution reappears again in the NDP, the idea of restitution has been a continuous theme within the ANC in that it reappears in the ANC NGC in 2015. According to the ANC NGC Discussion Document, there is reference to a “re-opening of restitution” in line with the 53rd ANC Conference Resolution. This resolution states that:

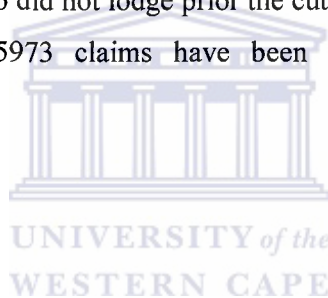
The commission recommends the following: reopening of the [lodging] date; provide for exceptions to the cut-off date of 1913 so as to accommodate the Khoi and San descendants, heritage sites and historical landmarks; [t]hat this forms part of the 1913 Natives Land Act centenary observation.³⁶⁸

³⁶⁸ African National Congress (ANC), *National General Council (NGC) 2015: Discussion documents*, 214.

Accordingly, the relevant government department is to give effect to the above resolution by means of a “restitution programme” as an intervention. The challenges to such a programme, according to the discussion document are:

Inadequate resourcing of the [Restitution] Programme; Research complexities in respect of historical and conflicting/overlapping claims; Community disputes; Unscrupulous investors undermining inclusive community development initiatives and appropriate equity sharing arrangements in community development projects on restituted land; Infrastructure backlogs in rural villages.³⁶⁹

The policy interventions entail a Draft Policy in terms of exceptions to the cut-off date of 1913, and the legislative intervention entails: The Restitution of Land Rights Amendment Act (Act 15 of 2014). This Act was signed into law in July 2014 extending the lodging of land claims for a further five (5) years for those who did not lodge prior the cut-off date of 1998; and that as of the 15th April 2015, a total of 55973 claims have been lodged with the Commission.³⁷⁰



³⁶⁹ African National Congress (ANC), *National General Council (NGC) 2015: Discussion documents*, 214.

³⁷⁰ African National Congress (ANC), *National General Council (NGC) 2015: Discussion documents*, 214.

CHAPTER 5

Restitution in South Africa: An ethical and theological assessment

5.1 Introduction

In this final chapter I offer some tentative recommendations on how the term restitution may best be understood. This would not yet address the question whether restitution is indeed an appropriate concept to address current economic inequalities in South Africa. In the chapter, I reflect on the need for further research to be done in this regard.

5.2 The use of the term restitution

Restitution can be framed as an area that is concerned with reversing unjust enrichment. More precisely, it involves removing from one some accretion to his/her wealth which he/she should not be entitled to retain, or making him/her pay for some non-money benefit on the basis that it would be wrong to allow him/her to retain it for nothing. This framework goes against the way in which restitution is currently understood in the policy documents. In South Africa the victims of dispossession (referred to as “beneficiaries”) have to pay (reparation/*isethulo*) for their own (land) restitution and this refers to the victims of forced removals.¹ There is a conceptual and practical difficulty here: that the government must provide substantial funding for land redistribution. The notion that many of the restitutionary actions had to be subsumed under the rubric of “expropriation with compensation” distinctly hampered development of any coherent theory of (land) restitution. The idea of “expropriation with compensation” so far means that the victim has to pay as if he/she had contracted to do so when he/she had not, it is doctrinally unsound in that it does not say *why* he/she has to pay (compensation to the land owner who owns the land unjustly). The restitutionary claims have an affinity with the duty to pay those that unjustly benefited. Those that have unjustly benefited have justified their financial enrichment through the current system of land reform. The claimants have, on principle, shown a few things,

¹ Reparation is defined as “*money that is paid by a country* [or community or institution], for the damage [or] injuries, *etc.* that it has caused [on a people group]...offenders should be forced to make reparation to the community.” See Sally Wehmeier (Chief Editor), Oxford Advanced learner’s dictionary: International student’s edition (7th ed.), (Oxford University Press, 2005), 1236.

these are: (1) that those that unjustly benefited during apartheid have obtained their enrichment, or gain, unjustly; and (2) that there is some factor (an ‘unjust factor’) indicating that the enrichment is unjustified and ought to be reversed. Claimants have demonstrated that these requirements are met *prima facie* and that they consequently have a right to restitution, unless the one that had unjustly benefited from forced removals in turn can show some valid defence against the claim.

Restitution is the appropriate response to a gain which is regarded as unjustified. It is the rectification of unjust enrichment. With assets gained (where ownership is a piece of property) where the gain is equivalent to the value of the asset gained. This gain must be susceptible to capture through restitution. For the purposes of restitution, it is normally the time of receipt that ought to matter rather than any other date (such as the time when restitution is requested or when proceedings are taken to obtain it). The idea of restitution presupposes a coherent conception of gain, or enrichment, on which the law can and ought to operate; without this, restitution would be unworkable. Restitution is not simply about benefit, or about enrichment or financial gain, or gain that can be measured in money terms. The *Nguni* term for restitution is *ukunxeshazelwa*. The meaning of this term has to do with matters of justice (*ubulungisa*). According to Nell, “the term ‘justice’ is complex and requires [a] more thorough theological reflection.”² Beyers Naudé, in one of his sermons, had once declared that,

As far as South Africa is concerned, the policy of apartheid has been one of the main

² Ian A. Nell, ‘Towards a deeper understanding of “Just Leadership”: Engaging Beyers Naudé’, (Presented at the University of the Western Cape: 25 February, 2015), 1; (see <http://moribundity55.rssing.com>). After Ian A. Nell completed his presentation, I asked him the question: “Since Beyers Naudé was rejected by his [Afrikaner] community and his social relations came under duress because of his views, but he effectively rejected apartheid and as you state that De Gruchy writes that Naudé was a visionary and an enabler of people, can you kindly comment briefly on Beyers Naudé’s views on how he envisioned South Africa beyond his time, in terms of how South Africa was to deal with the structural challenges of apartheid?” At a much later stage of the conference we were standing outside of the New Life Science building at the University of the Western Cape having a conversation and I asked Ian whether in his invoking Beyers Naudé’s theology wasn’t he risking a similar rejection by the Afrikaner intellectual community seeing that Beyers Naudé was such an ambiguous figure in the Afrikaner community? These questions began our conversation. I requested to borrow some of his ideas in his paper to use them in this chapter. He agreed. I borrow some of his ideas in certain sections of this chapter and make reference to him.

causes of the economic injustice, which over many decades have been inflicted on millions, especially of our black (African) community. God therefore demands that all those Christians who have been involved and approved in principle the injustice of apartheid should admit their wrong in this regard and prove their sincerity by some form of restitution.³

Johan Cilliers reflecting on the above sermon by Beyers Naudé asserts that, true to Naudé's logic of pointing out the consequences of what this form of restitution would entail for the churches in South Africa, Naudé sees the congregation (church) as playing a fundamental role in the confession of injustice, but also in the restructuring of justice.⁴ Cilliers reiterates that, "As a

³ This is one of the points that Beyers Naudé spelled out in a sermon entitled Poverty and Privilege, preached at the Dutch Reformed Church (Pretoria, 9 February 1992). The sermon is taken from *Vreesloos Gehoorsaam: 'n Keur uit Beyers Naudé se preke 1939-1997* published through the Beyers Naudé Centre Series on Public Theology edited by R., Murray Coetzee, Len Hansen, Robert Vosloo (Stellenbosch: Sun Press, 2013), vii.

⁴ Johan Cilliers is Professor in Homiletics and Liturgy at the Faculty of Theology, University of Stellenbosch, he presented a paper (see: www.academia.edu and <http://www.dionforster.com>) on the 25th February 2015 at the University of the Western Cape during the Summer School. His paper was entitled: "Poverty and Privilege": Re-hearing sermons of Beyers Naudé on religion and justice' (see page 5). After Cilliers' presentation I asked him the question: "Towards a theology of restitution, how should we conceptualize restitution and how do we add content to what restitution should mean as an ethical call for structural and contextual justice?" I asked Cilliers this question because I felt that he was grappling with similar questions that I was asking. In our conversations after his presentation I requested to integrate his ideas with my thinking on the question of restitution and build on his foundation towards a conceptualization of what restitution should mean in the current South African context. This is reflected in certain sections of this chapter. And this is where I appreciate Cilliers' meta-ethical reflection of Naudé's ethics of restitution. Cilliers reflects on Naudé's ethics itself and he asks the question *restitution* as what? Then he conceptualizes *restitution* as *re-structuring justice*. Here, Cilliers gives restitution form and content and provides a foundation for what restitution is and what it means for South Africans effectively providing a path (etching a crack on the dividing wall) to conceptual clarification if not the conceptual clarification itself. In this chapter, I provide process (on the opposite side of the economic divide) effectively in conversation with him. To put it homiletically: We have cracked the dividing wall and we see the light penetrating through the crack and we can talk to each other as we stand *reconciled* but on the brink of the dawn of a new era: from reconciliation to economic restitution. What we need are appropriate conversation partners for us to make the crack bigger until economic justice can flow through like a river. In this we must be careful because others may come to re-direct the river so that the rest may remain thirsty for justice forever. Therein lays the potential threat for the option of violence from the younger generation that does not know the

matter of fact, the whole issue of structural injustice...and re-structuring of justice forms the background to [Naudé's point]" (Italics his). Cilliers emphasizes that,

For Naudé, justice is not only a private matter, but structural, and furthermore contextual, and he challenges his congregation (in effect the whole Dutch Reformed Family) to speak out about, but also to strive to contextually transform structures that could either hamper or foster justice, by means of the power of ideas, values, transformed relationships, and communication, 'not only by our words and resolutions but especially by our deeds and actions.'⁵

In Cilliers' opinion, "this is a golden thread running throughout Naudé's preaching, namely the call for structural and contextual justice." To demarcate "some aspects that [are] of use for further reflection of Naudé's role as a leader"⁶ and to show the importance of Cilliers' role in the conceptual development of a South African framework for the restitution process, Cilliers provides important reflexive, theological, and analytical tools that can lead the discussion towards economic restitution for the South African context in his articulation of the need for a confession of injustice framed within a *structural-contextual-ethical mode of moral discourse* and the dialectical relationship between the *structuring of injustice* and the *restructuring of justice*.⁷ And it is precisely in this form of thinking and re-thinking on restitution that Cilliers, in his hermeneutical reflection on Naudé's theology, re-inserts into the intellectual discourse on restitution the idea of economic restitution understood as confronting structure (structural economic injustice). In this context, according to Cilliers, Naudé "calls upon the churches to step

political and economic history of South Africa and the South African post-apartheid traditions of reconciliation and peace in a democratic context. But if we could risk taking the route we are thinking together within the democratic context of *peace* and maintain the symbolic tradition of *reconciliation* then the country may have a better and much brighter vision for the future. It is here that we must go beyond reparations and restitution and ask the question: what do we see after the *restitution process* is complete?

⁵ Cilliers, "Poverty and Privilege" Re-hearing sermons of Beyers Naudé on religion and justice,' 6.

⁶ I borrow the idea of demarcation from Ian A. Nell, 'Towards a deeper understanding of "Just Leadership": Engaging Beyers Naudé, (Presented: 25 February, 2015), 2; at the University of the Western Cape.

⁷ Cilliers, "Poverty and Privilege" Re-hearing sermons of Beyers Naudé on religion and justice,' 6. Cilliers further points out that, "In light of Gustafson's distinctions, Naudé's preaching could in fact be described as an articulation of a structural-contextual-ethical mode of moral discourse."

out of the silence of the void, in order to grapple with the realities of structural injustices in South Africa.”⁸ Naudé provides an ethical foundation and philosophical tools that assist Cilliers to contribute towards a fair conceptualization of economic restitution that will confront the deep questions of the structural systemic economic dimensions of post-apartheid-type economic relations in South African society; and these economic dimensions remain intact in the current democratic South African economy making it possible for the economic policy and the structure and pattern of the economy to perpetuate economic aspects of apartheid itself. This self-perpetuating unjust economic system, according to Cilliers, lacks a “specific analysis...in the current South African context [because it is a system that directly relates to the current] structural injustices that still prevails, even twenty years after apartheid.”⁹ Cilliers in his experience provides an important hermeneutical key to understanding what Naudé means by the phrase “some form of restitution”.¹⁰

This chapter necessitates a construction of new terminology. For this purpose I will focus on the term *ukunxeshezela-isethulongabela*.¹¹ This construct is used as a heuristic tool to reflect on Naudé’s idea on restitution and Cilliers interpretation of it as a contextual transformation of structure to foster justice.¹² The construct is a *Nguni* term that adds content towards what Naudé means by restitution and forms a connection between Naudé’s call for restitution with what Cilliers means by the *restructuring of justice*. I operationalize this term within the framework of

⁸ Cilliers, “‘Poverty and Privilege’ Re-hearing sermons of Beyers Naudé on religion and justice,’ 6.

⁹ Cilliers, “‘Poverty and Privilege’ Re-hearing sermons of Beyers Naudé on religion and justice,’ 12.

¹⁰ I borrowed the idea of a hermeneutical key to understanding restitution from Ian A. Nell who writes that, “It seems to me, in this experience of Wolterstorff, one finds a very important key to understanding “just leadership” when trying to appreciate the leadership of Beyers Naudé during the time of apartheid law and a segregated society.” This quotation is found in Ian A. Nell, ‘Towards a deeper understanding of “Just Leadership”: Engaging Beyers Naudé, (Presented: 25 February, 2015), 2.

¹¹ The philosophical construct of the term: *ukunxeshezela-isethulongabela* – says what I mean by the process of *economic restitution* and how this process includes compensation that comes through reparations. The term expresses what I want to achieve without diverting the process to mean something else that it is not. This construct comes after the presentation of certain sections of Chapter 3 of the Thesis.

¹² Using concepts as “heuristic tools for reflecting on the writings of [Johan Cilliers] and [the] sermon of [Beyers] Naudé during the time of apartheid” is an idea that I borrowed from Ian A. Nell. He is Associate Professor in Practical Theology and Missiology at Stellenbosch University.

the *Wiedergutmachung* model. *Ukunxeshazelwa-isethulongabela* is operationalized to mean: *Kokuma kwemali ne sethulo se ngcebo esifanele ukuba sinekezwe ngokuthula njenge senzo, noma ukulethwa ngomongo wokubuyisana, kwi nqubo yo guquko olwenza kabusha ubulungisa kwezomnotho njengo kubuyiselwa noma isinxephezelo*, which when translated is interpreted to mean: *a financial and resource contribution that must be supplied in peace, as a deed or delivered as an action, in the context of reconciliation in a transformative process for the restructuring of economic justice as a restoration or recovery.*¹³ This understanding seeks to confront structural economic injustice in order to *structure* economic justice.¹⁴ Naudé in his logic asked a pertinent question: “What should be [our] priorities at the present moment?”¹⁵ And he spelled out the answer: “To confront the serious economic needs of the majority of our people: poverty, unemployment, [inequality].”¹⁶

The South African situation begs a reiteration of the question, is restitution only about land restoration; settling claims for land lost by restoration of holdings or by providing compensation? I view restitution to have much more broader meaning than that; having surveyed the redress movement of the 1990s which was triggered by lawsuits in the United States primarily against Swiss banks, German and American corporations, insurance companies, and individuals and

¹³ The Afrikaans terminology that is equivalent to *Ukunxeshazelwa-isethulongabela* is *Bydraelewerherstel*. I presented this *construct* to Prof Conradie during our discussions in the supervision process. The term means: *'n finansiële en hulpbrongbestuur bydrae wat in vrede as 'n daad voorsien moet word of afgelewer as 'n aksie in die konteks van versoening in 'n transformerende proses vir die herstrukturering van ekonomiese geregtigheid as 'n herstel*. In this sense I fulfill the task of articulating exactly what I mean by economic restitution.

¹⁴ According to Nora Wittmann any reparations that does not respect complex legal requirements and aims to restrict itself to sole payment of a certain amount of money could never be adequate to settle this claim. Wittmanns' argument (as shown earlier) is that the ultimate aim of reparations must be the destruction of the structures of exploitation. And that in South Africa reparations should be paid to the victims of apartheid. See an by Nora Wittmann article entitled: 'Slavery reparations: The time is now', *New African*, No.532, (Herts: IC Publications, 2011), 33. This article is taken from a book entitled: *Slavery reparations: The time is now: Exposing lies, claiming justice for global survival – an international assessment*, published by Power of Trinity Publishers.

¹⁵ Cilliers, “Poverty and Privilege” Re-hearing sermons of Beyers Naudé on religion and justice,' 6.

¹⁶ Cilliers, “Poverty and Privilege”: Re-hearing sermons of Beyers Naudé on religion and justice,' 6. I substitute homelessness for inequality here deliberately.

institutions by claimants and their attorneys. During the same time period in South Africa Nelson Mandela was released from prison (11 February 1990). The Holocaust redress movement was triggered around this time period. Could such lawsuits have been triggered in the South African context, what would have been the outcome? Perhaps the violent political context would not have allowed such a process at the time (1990s). However, if such lawsuits were to be triggered in a peaceful democratic context they would require an economic restitution movement. What would be the implications and impact of such a movement?

Cilliers points towards this idea of a restitution movement and this is where my thinking converges with his thought – in this *ethical tension of our silence and [our unavoidably mutual] struggle* – on the questions of an economic restitution process in South Africa that may be triggered by a movement.¹⁷ Cilliers declares that, “restitution can become a truly people-oriented movement not only towards ‘poor people’, but also as a double movement ‘in which the imperative of renewal, conversion, and change should as much be directed to the life-worlds of the economically rich and privileged.’”¹⁸ Cilliers offers content to what this concept of an economic restitution movement as an ethical priority would be if set into motion. In conceptualizing this movement, he states that,

First, [it shall be] a *centripetal movement*, back to the poor and marginalized, to the preferential option for the poor; back to the orthopraxis of listening to the poor and allowing our theology to be formed within their spaces,...Second a *centrifugal movement*, against the grain of our fear for the “other”, into the hard realities of injustices in everyday life in South Africa, and against the grain of all structures that lie at the root of these [economic] injustices. How exactly we are to go about this ethical calling will be an ongoing debate, hopefully in the form of an open

¹⁷ And this is exactly where my conversations with Johan Cilliers begin because in his paper he was pushing the ethics of restitution question further into the necessity for restitution to confront structure and structural injustice. It is here that the academic paper and work of Cilliers’ colleague Ian A. Nell, ‘Towards a deeper understanding of “Just Leadership”: Engaging Beyers Naudé’ which was also presented at the Summer School begins to interest me. Our dialogue began here.

¹⁸ Cilliers cites Ignatius Swart, ‘Meeting the challenge of poverty and exclusion: The emerging field of developmental research in South African practical theology’, *International Journal of Practical Theology*, (Vol.12), (2008), Issue 1:23, 126.

dialogue.¹⁹

In Cilliers' notion of going back 'to the preferential option of the poor', as reflected in the above quotation, can the structural injustice in South Africa be restituted? Cilliers maintains that, "glaring economic inequalities between poverty and privilege lie at the root of many of South Africa's societal problems...what is needed is a theological paradigm that does not shrink from this debate, but rather helps to set the agenda and provide relevant content."²⁰ Finca said that, "Restitution is not a political issue. It is a moral and ethical [issue that] lies at the centre of moral theology."²¹ *Ukuxsheshezela-isethulongabela* is the theological paradigm that provides content which Cilliers argues is needed, the term sets the agenda and it is moral and ethical and lies at the centre of economic ethics in a democratic South Africa. However, would South Africans financially support a movement and a process that is "aimed at harnessing the energies and resources of the communities in a collaborative effort to [re]build South African society"²² and a pedagogic reconstruction designed to help set the agenda of taking a hard look at the root *causes* of explicit and implicit systemic modes of economic injustice? Could the South African government set up a national economic restitution fund in the name of restitution for apartheid if restitution was conceptually clarified in this way? The issue of systemic structural economic injustice needs to be tackled head-on.²³ It is important that economic restitution should not be confused with charitable acts or compassionate hand-outs. Germany made a financial settlement to the Israeli state in the name of restitution for the Jewish settlers there who were survivors of

¹⁹ Cilliers, "Poverty and Privilege" Re-hearing sermons of Beyers Naudé on religion and justice,' 6.

²⁰ Cilliers, "Poverty and Privilege" Re-hearing sermons of Beyers Naudé on religion and justice,' 7.

²¹ Cilliers, "Poverty and Privilege" Re-hearing sermons of Beyers Naudé on religion and justice,' 7. See footnote 28 of Cilliers' paper. Citation from Bongani Finca, in a paper entitled: 'Restitution imperative in a fragile democracy'. Finca's paper was delivered at the annual meeting of the Foundation for Church-led Restitution (Cape Town: Unpublished Document, 2007), 4.

²² Cilliers, "Poverty and Privilege": Re-hearing sermons of Beyers Naudé on religion and justice,' 7.

²³ Cilliers, "Poverty and Privilege": Re-hearing sermons of Beyers Naudé on religion and justice,' 8. This tackling head-on the issue of systemic poverty is borrowed from Mugambi's view on a theology of reconstruction and Maluleki's preferred use of the concept a theology of restitution as noted by Cilliers. For me the concept of restitution is both a deeply soteriological issue and an eschatological concept and that falls within the discipline of systematic theology. However, I prefer to position restitution in general within the discipline of ethics in order to be contextual and economic restitution in particular within the field of economic ethics.

the Holocaust in the name of *Wiedergutmachung*. Where the difference lies, and the reason why South Africa would need its own model, is that the Jews set up the state of Israel and yet in South Africa both the previously oppressed (the victims of apartheid) and their previous oppressors (the perpetrators of apartheid) live together in the same country. The German restitution model as a framework is important for a South African model to be developed in such a way that reparations for apartheid in South Africa form part of the economic restitution movement for the redress of apartheid as a historical crime. The issue of an economic restitution process which is inclusive of reparations may form part of the democratic transition and must be included in the economic policy discourse. In the South African context a genuine need for economic restitution has arisen.

For the purposes of understanding the German restitution model I had relied and depended on Chappine's research. Further research may need to be done. Chappine's work helped in formulating an understanding of the meaning of restitution as a concept and she differentiated it from reparations and she also showed how restitution was facilitated by the victims of the Holocaust themselves. This was revealed by Chappine when she asserted that,

Through the work of the Claims Conference, 14,878 survivors scattered throughout forty-two different countries received payments. As impressive as this number seems, there were several shortcomings. Since the Claims Conference negotiated exclusively for Jewish survivors, these early agreements excluded non-Jewish forced laborers. Also, hundreds of thousands of Jewish slave laborers had worked for businesses that refused to pay.²⁴

In view of the above quotation, can such a Conference on Claims that begins to pursue settlements with individual companies and negotiating on behalf of survivors of apartheid be commissioned in South Africa? If it were to be commissioned, how would such a Claims Conference distribute the money it would have obtained in the settlements in order for survivors of apartheid crimes to receive payments? What if hundreds of thousands of African slave labourers and non-African labourers had worked for businesses that shall refuse to pay? The economic restitution process may be driven by a Conference that will include not just the churches only but organized labour as they are the symbol of the victims of oppression that were

²⁴ Chappine, 'Delayed justice: forced and slave labor restitution after the holocaust,' 617.

subjected to slave labour and forced labour by the South African companies and their international counterparts. This is what I mean by a South African economic restitution model – one that focuses also on labour and not only focused on land claims. Various sorts of advocacy shall be necessary for the drive to succeed. There may be a need for a ‘statute of limitations for the claims’ therefore in the same model, economic restitution must be initiated and also be driven by the South African government as is currently the case with the land restitution process. However, in the South African economic restitution model the ethics of economic restitution may become an ethics of the African forced labourers, migrant labourers (including the labourers in the mines), and slave labourers (on the farms) followed by negotiations on behalf of the unemployed labourers, and the unemployable African labourers.

Ukunxeshezela-isethulongabela may be negotiated. If such a restitution process was to be set into motion in South Africa, through an economic restitution movement that is both *centripetal* and *centrifugal* would South African banks and South African insurance companies, the South African financial services sector and its monopoly industries, agree to pay reparations to African groups and non-African groups in restitution for unpaid policies and lost assets of apartheid victims and their heirs?²⁵ Would this be an ethical redress and a moral achievement? The South African economic restitution model may show how African people in South Africa and non-African people groups (for example South Africans of Indian descent) were used as labour in companies and therefore must be compensated through an economic restitution process that brings into its processes reparations, restitution, and redistribution. Such restitution is distinct from reform even though it includes reform and it is distinct from redistribution even though it also includes the redistribution process. Economic restitution, in itself at a macroeconomic level, is a restorative restructuring of economic justice that is transformative. It re-invites economic implications into reconciliation and into its processes. It is contextual and aims at an economic restructuring and economic sustainability at a micro level. Therefore, restitution must also be

²⁵ In terms of international jurisprudence, Wittmann (in ‘Slavery reparations: The time is now’, *New African*, 33) asks a pertinent question: So for what exactly does the entitlement to reparation due under international law constitute? The general and foundational rule of the international legal reparations regime was laid out by the Permanent Court of International Justice when it proclaimed in the *Chorzow Factory* case that ‘reparation must, as far as possible, wipe out all the consequences of the illegal act and re-establish the situation which would, in all probability, have existed if that act had not been committed.’

devoted to compensating for example the children of former slave laborers and survivors of apartheid in South Africa. If South Africa takes this route the successes shall be an ethical and a moral achievement both at a macro and micro level. Chappine's literature helps to show how the banks agreed to *Wiedergutmachung* for the victims of an injustice whether dead or alive; those who remain alive became heirs. Will South African banks and the financial services sector agree to such a model? The South African model may form part of 'a delivery vehicle for an economic struggle' but must also become a legal process. What implication does such a model for restitution mean for the South African mining companies? Since the mines were (and are still) subject to foreign ownership does this mean that the foreign owners of the mines would have to make economic restitution as well for their use of migrant African labour?

South Africa may need an Economic Restitution Commission (ERC) that will deal with the structural, historical and economic injustices that are systemic that South Africa has inherited as a legacy of colonialism and apartheid. The German model has provided a framework for what the ERC may look like if it were to be set into motion.²⁶ If the South African model for restitution were to be re-conceptualized using the German model as a framework, the South African government would need to trigger the process of *ukunxeshezela-isethulongabela* through setting up the ERC in order for a Claims Conference to be facilitated. But, who must the parties involved in the ERC include if a Claims Conference was to be set up? The parties may comprise of: (i) Representatives from major apartheid industries; (ii) Ex-South African government officials who worked for the apartheid regime; (iii) Representatives of foreign governments who collaborated with the apartheid government. What is sure is that what the ERC process shall need to involve is a "facilitator" of the talks.

The South African model may make use of the concept of atonement. This concept of atonement may become the primary goal in order to fortify the South African model. The goal of *ukunxeshezela-isethulongabela* is atonement. However, another concept that may be inherent in the ethics of economic restitution and reparation is the concept of peace so that the process itself

²⁶ In conversations and discussions with Agustin Fuentes on the 24 February 2015 at the Library Auditorium at the University of the Western Cape (UWC) after Fuentes' presentation during the Dean of Arts' distinguished lecture we discussed in our conversation that in light of his concept of human niche, cooperation, imagination, and creativity, content may need to be added to the concept of restitution because of the unjust structural challenges that South Africa is facing. Fuentes' response was "shall restitution mean restorative reconstruction?"

becomes an act of comprehensive peace. This act of peace may become the second goal of the process of *ukunxeshezela-isethulongabela* and it must address a fundamental concern which is: timeline. Cilliers differs slightly on the notion of timeline because of the complexity of the issue of restitution in South Africa. Roux suggests that,

As South Africans we [must] revisit the notion of land restitution by removing the artificial time limit imposed on the finalization of the land restitution process; by brokering more deeper and more meaningful settlements; by involving current land owners in the search for settlement solutions (in other words: by bringing people together in safe spaces for negotiation and collaboration)...therefore re-inviting reconciliation into the process.²⁷

I agree with Roux's view, as quoted above especially on re-inviting reconciliation into the economic restitution process especially the idea of "bringing people together in safe spaces for negotiation and collaboration", and it is this thinking and re-thinking that makes me appreciate Cilliers' dialectical approach to *structuring injustice* and *restructuring justice*; and his *meta-ethical* reflection on the dialectical relationship between the South African processes of reconciliation and restitution. Cilliers' invocation of the need for a confession of injustice and a *restructuring of justice* is meaningful to the necessary South African process of conceptualizing a way forward. Economic restitution as a way forward is a deed that has to be done within the symbolic tradition of reconciliation and within the context of peace. The economic restitution process must be an act of reparation, and a recommitment to wealth redistribution in South Africa.²⁸ The South African economic restitution model if conceptualized in this way shall have

²⁷ See footnote 18 of Cilliers' unpublished paper.

²⁸ It remains to be remembered, as Rudin declares in 'Apartheid debt: Question & answers' that, "South Africa [has been] a political entity since 1910, [it] owes its existence to the environment of foreign governments and business. Moreover, the South Africa that came into being in 1910 and the South Africa that developed into what came to be known as apartheid in 1948 bears all the hallmarks of foreign – pre-eminently British – political and economic interests" (p.18) furthermore it must be recalled that, "British banks...provided the backbone of the South African financial system up to almost the last days of apartheid. The intimate links between the political [and] the economic foreign interests is symbolized by Lord Barbour. Lord Barbour, [who was] Chairman of Standard Bank during...the rescue of apartheid by international banks, was a former Conservative Chancellor of the Exchequer (Finance Minister). Along with Barclays Bank, Standard Bank exercised a near monopoly

a clear commencement point and a clear eschatological imperative and shall have clear goals. Government officials and representatives of corporations shall take part in this restitution process religious as it shall be; it shall have legal and massive financial and titanic economic implications. Economic restitution shall be an exercise in complication. There may be a need for a capstone agreement and a settlement that can be signed as a step towards the *restructuring of justice*. An important aspect of economic restitution is that in the South African economic restitution model there must be a focus on labourers. The ethics of economic restitution must have a focus on the labourers (the workers) so that no discussion of restitution links restitution to 'land' only. Economic restitution is understood to include elements of redress for slave labour (including forced labour and migrant labour) settlement.

My recommendation is that an ERC be commissioned and a national reparation fund be formed by the ERC and set into motion so as to address issues that pertain to poverty, unemployment and inequality. The moral imperatives are that: South African banks must contribute R 100,000,000,000 or more to the reparation fund.²⁹ Any claims against South African banks must be taken out of that amount. South African insurance companies and the mining companies must follow suit and make a contribution into the reparation fund. R 10,000,000,000 may be distributed to claims that have nothing to do with forced or slave labor.³⁰ It is important to state that money alone can never repair the damage done by apartheid. Economic restitution is a symbol. Money will not bring back the life of one South African child; but the money is a

position in South Africa for most of this century." Therefore, one must ask the question: 'What does reparations effectively mean in this context?

²⁹ Rudin in 'Apartheid debt: Question & answers,' (p.19) asserts that, "Any money that shall be restored to South Africa [must] be paid into a special fund reserved exclusively for projects to meet the social and economic needs of the majority of South Africans. These funds would be administered by...Government and civil society. Money paid as reparations would similarly be [*sic*] administered by these...the only difference being that disbursements from such a [National] Reparations Fund might – the issue has still to be determined – be made to...groups."

³⁰ The capstone figure is in view of a conference on material claims against apartheid to be set into motion in order to trigger the national reparation process, to be done through lawsuits in South Africa against banks (such as Standard Bank, ABSA, Nedbank *etc.*), insurance companies (such as Sanlam, Old Mutual, Metropolitan *etc.*), South African corporations, individuals and institutions that were established during apartheid? Can cases be filed?

symbol. It must form part of the South African story. If anyone suppresses any part of the South African story, it shall come back later, with force and vengeance. What needs to be noted is that the monetary settlement as a moral symbol for economic restitution shall serve as a testament to South African history and the memory of those who did not survive apartheid. The South African model of economic restitution shall pronounce the process to be a moral victory for the poor in civil society movements, political parties and labour unions, business circles and the casual labourers (some of whom are unemployed and unemployable), and the churches, synagogues, mosques and temples. Negotiations for this process shall create a dialogue about issues of economic justice in South Africa including shaping a way forward with regards to alternatives for the current pattern of macroeconomic policy. The economic restitution process shall not be retributive. It is not a process to facilitate punishment. It shall go beyond criminal punishment, where there is required of the wrongdoer to pay a financial compensation. In this regard it is a form of restorative justice. Economic restitution is about a just compensation, but money forms part of the moral issue. Economic restitution is a dialogue about economic issues of restructuring justice and has to do with the ethics of responsibility.

There has not been a measure toward reaching a compensation agreement for apartheid in South Africa. Economic restitution must become the measure. It must also be understood as a sacred offering and direct token that the economic injustice done to the people of South Africa has to be redressed. In this sense, economic restitution goes on. However, concerning this on-going process, to ask Chappine's question:

How can one compensate [for] a lost parent or child? How can one calculate the value of a lost childhood? How can one ever make amends for so many children, who were never given the chance to grow up, marry, or start families of their own? Obviously, none of the crimes committed by the [Apartheid] regime and its collaborators can be [restituted]. Once this is realized, how should one proceed?³¹

In view of the above question, children have died during the liberation struggle in South Africa, parents have sacrificed themselves so that there can be freedom. How can anyone make amends for the children that died in the 1976 Soweto uprising, where innocent school children were massacred? These children were never given a chance to grow up in a peaceful South Africa.

³¹ Chappine, 'Delayed justice: forced and slave labor restitution after the holocaust,' 619.

How does one make restitution for the Sharpeville massacre, the Bisho massacre, and the Boipatong massacre to mention a few? How can one calculate the value of the young men and women that went into exile and joined uMkhonto weSizwe (MK) and the Azanian People's Liberation Army (APLA)? Some young people came back as soldiers to South Africa others as operatives of uMkhonto weSizwe (MK). Some never got a chance to marry and start families of their own but lost their lives fighting for freedom and liberation? Apartheid needs to be explained as a historical crime.³² What makes these major questions and many other minor questions as important questions to consider is based on the main question: how should South Africans proceed? The magnitude of apartheid created suffering that can never be rectified. Decades later, the search for some form of economic justice still eludes many. The crimes of imperialism, colonialism and apartheid were vast. In the South African economic restitution model the continual restitution process must be facilitated by the South Africans themselves including the South African state. My recommendation here is that the South African state assists in forming a reparation fund. This fund shall also set up an economic restitution programme that is dedicated to preserving the memory of survivors and providing funds for education, in order to address the inequalities in the education system (towards a vision of an equalized education system), eradicating human underdevelopment, and providing for skills and expertise development, employment creation (through a renewed focus on re-industrialization processes and a renewed focus on manufacturing), and creating a vision of how South Africans can rectify the unequal distribution of wealth, redress income inequalities, inequalities of location (redressing the harsh realities of townships and squatter settlements as reserve labour camps), land inequalities (ensuring land for the landless in an equitable way), gender based inequalities (redress for the triple oppression of women during apartheid), creating access to clean water, electricity, quality health care and quality housing for all without being subjected to a standard

³² Wittmann (in 'Slavery reparations: The time is now,' 31) further points out that, "Contrary to hegemonic opinion, historical sources...show that [Apartheid] was indeed [a crime during] its time. Now the concept of legal responsibility and its ensuing obligation to make reparations for wrongful conduct too was, in one form or another, historically present in all legal systems concerned...Once the illegality of [Apartheid] can be established and responsibility legally attributed, in appliance of the law of the time and looking at the facts, reparation is due for this massive [historical] crime."

neoliberal framework which guarantees access only for a few that can afford it. Economic restitution must go on. Even private South African companies may contract historians to research their roles during apartheid. Economic restitution cannot be a one-time-only cure, but part of an ongoing attempt to acknowledge an explanation of apartheid as a historical crime.

5.3 Conclusion

For African people there remains a sense of loss because of apartheid. For many South Africans who experienced apartheid and the Group Areas Act some still see their houses in which they had once lived, the schools and churches in which they had once attended, the streets they had walked and the train stations from which they had traveled. What is evident is that, houses were demolished, schools and churches destroyed or relocated, streets renamed and train stations rebuilt. This concept of viewing economic restitution as an ongoing process reinforces the importance of a constant reexamining of the past in order to preserve a more peaceful future. In the South African model economic restitution must continue through “gatherings”, it must be justified through the events that occurred in history and must effectively be facilitated through “pilgrimages”. People have to leave where they are and attend the “gatherings” religious as they may be. What shall happen in these gatherings? How shall the time and money be justified for these “gatherings” and “pilgrimages”? The communities of European descent cannot restore the former lives of African people. The Afrikaner community cannot bring back their dead. The South Africans of Indian descent cannot erase the hatred they may have. The South Africans who remain “classified” as “Coloureds” or people of “mixed-race” may sometimes feel guilty for being made second class citizens during apartheid and somewhat placed higher in the “racial hierarchy” than Africans. All that can be asked of all the previously oppressed people of South Africa is to forgive apartheid South Africa. Even though there is doubt that the African people have forgiven anything. In line with this understanding, I echo Chappine when she concludes that,

The battle for justice so many years after [Apartheid] is a struggle for the memory of the victims. With the advanced age of the survivors, there is urgency that, if each fact is not accurately recorded, something crucial may be lost. Each small detail is important when trying to comprehend the whole event. It is often said that history is written by the dominant groups. The memory of [Apartheid] is too important to leave

to the political interests of international powers. The admission of guilt on the part of [South African] industry and [South Africa] itself is a vital record in the struggle to make sure that history is correctly represented.³³

The economic conditions of the majority of African people in South Africa are a result of centuries of racism, discrimination, and oppression. Apartheid took place in South Africa. The apartheid regime employed African workers in nearly every area of society. The top commercial farming companies still thriving in South Africa today are guilty of utilizing slave labor during apartheid. The Afrikaner community still forms part of the South African population today. Racism can happen again, it does happen, it is happening somewhere in South Africa right now. The predominant post-apartheid perspective has distorted the past realities of African life in South Africa. All the previously oppressed during apartheid have always been persecuted and always in similar ways. However, this idea of historical accuracy, that the crimes of apartheid and its collaborators be acknowledged, is crucial to the memory of those who were lost during apartheid. It is also the catalyst for many survivors who fought so hard to receive some measure of justice in South Africa. Some may hold a position that restitution understood this way is spiritually, morally and ethically empty; however it is a model that has clarified restitution as a sign and symbol of restoration.

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³³ Chappine, 'Delayed justice: forced and slave labor restitution after the holocaust,' 620.

Concluding Remarks

In the South African economic policy documents between 1994 and 2014 the term restitution is used to mean land restitution within the context of land reform with regards to the land that was taken away from African people through corrupt means and through violent dispossession (through colonialism), discriminatory legislation (Land Act of 1913) and through forced removals (Group Areas Act of 1950) during apartheid; and consequently many other discriminatory legislative Acts. As a result, the economic policy documents offer data with regards to land that has been bought back for the African people through an unworkable land reform programme that was set into motion after 1994. The land reform programme (which is interpreted to mean land restitution/land redistribution/land tenure reform) means that the ANC-led democratic government is required to buy back the land (provided that it is available on the market) for the victims of apartheid. The mechanisms that are used are the current restitution and redistribution programmes that are framed within a market-led land reform model. This strategy is underpinned, consolidated, and bolstered by a neoliberal and market fundamentalist “willing-buyer-willing seller” principle. Land is provided to the victims of the injustice of landlessness through a market-based mechanism. The land reform programme depends on the availability of land – that means (i) agricultural land (or productive land/farm land) that is available in an expensive commercial property market; and (ii) land that is for sale in a real estate environment that is exorbitantly priced and designed to preserve a trans-generational wealth for a minority, privileged, land and property owning class.

The result of understanding restitution in this way has led to unequal patterns of land distribution remaining intact and a perpetuation of a structural crisis within the economic system. The land that was unjustly taken away from the African people by the perpetrators of colonial and apartheid crime through violent land and property dispossession remains an investment in the hands of a minority class. What is unfortunate is that the constitutional requirement is that in order for African people in South Africa to receive back their land the land must be purchased back by the victims of economic injustice in adherence to the principles of the Washington consensus: effectively compensating the perpetrators of apartheid crimes. In economic policy documents the term reparation is not used. There is no alternative reparations programme that is proposed as a strategy for redress. The term restitution and redistribution is used to mean a land

restitution programme that translates to those that have unjustly benefitted from property ownership receiving compensation for their unjust ownership, and thus triggering some form of transfer of land ownership on the side of the victim (the “willing buyer”) and a massive financial benefit on the side of the perpetrator or their heirs (the “willing seller”). This business deal is brokered and funded by the democratic government on behalf of the victims of apartheid to the financial benefit of the perpetrators of a historical crime. Restitution cannot continue to be understood this way.



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