

**THE RELEVANCE OF HUMAN RIGHTS TO THE
SOCIO-ECONOMIC AND POLITICAL DEVELOPMENT
IN SOUTH AFRICA**

by

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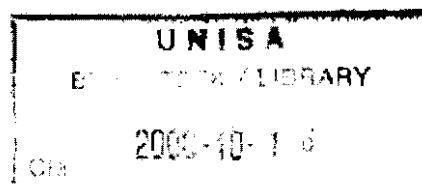
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SUMMARY

**THE RELEVANCE OF HUMAN RIGHTS TO THE
SOCIO-ECONOMIC AND POLITICAL DEVELOPMENT
IN SOUTH AFRICA**

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The concern with the relevance of human rights to the socio-economic and political development in South Africa is of threefold account, namely human rights, socio-economic and political development, and South Africa.

Human rights have been consistently applied as a common standard of achievement in the realisation that development cannot be implemented in pure economic terms only, but implies the duties of all people towards all other people. For rights only come into their own through practice, the interaction of socio-economic and political facts with values.

The importance of the Universal Declaration of Human Rights of 10 December 1948 is of primary account in this regard. This implies the right to development of all people as well as the classical meaning of equity. The main social function of human rights is to become essential ingredients in legal, political and social reality in each and every country.

The socio-economic implementation of human rights in the entire world includes the facts and peculiarities of South Africa in the context of ethnic pluralism. This covers the unrealistic overtones of apartheid, the unabated pressure of the United Nations and the achievement of the new South Africa. There is a great difference between merely criticising and getting things done. An important issue is the sustainability of the RDP, with its emphasis on Mandela's linkage

between human rights, the rule of law and economic prosperity. COSATU with its unrealistic trade unionism however, remains the chief stumbling block to the unfettered free market economies and investments which are required for genuine job creation. Short of this the RDP and GEAR, which have got off the ground, are in danger of collapse.

It is recommended that the ANC should work towards a genuine multi-party democracy at a realistic level where honest criticism is respected. The universal implications of human rights require that people should not be protected overduly simply because they are black at the expense of others who simply happen to be white. Some people are not more equal than others merely by virtue of being white or black.

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CHAPTER 1

THEME ANALYSIS AND STATEMENT OF THE PROBLEM

1.1 INTRODUCTORY ORIENTATION

It is generally accepted that human rights is an ingredient of the development process and **that the human person should be the subject of development**. This philosophy belongs explicitly or implicitly to the essence of a series of documents which all base themselves on the structural approach¹ to human rights, notably the Proclamation of Teheran adopted in 1969, the United Nations (UN) Declaration on Social Progress and Development, General Assembly resolution 32/130 adopted in 1977, and numerous other resolutions on the right to development, culminating in the UN Declaration on the Right to Development in 1986. (A similar philosophy can be found in the African Charter on Human Rights and Peoples' Rights (1986: 403-410), which was adopted in 1981 in the framework of the Organisation of African Unity and entered into force in 1986).

In particular, the Proclamation of Teheran (1969), apart from referring to the human person as part of the development process, also referred to human rights denials as a result of racial policies, to the refusal to recognise the right of peoples to self-determination, and to violations of human rights as a result of armed conflicts. A multitude of these denials are present throughout history for example the anti-individualism of Bolshevism under Stalin and the extreme racialism of the Nazis under Hitler. During the cauldron of the Second World War, it took no stretch of the imagination to see that one dangerous aspect of Hitler's rule was its lack of concern for people's lives and liberties. Due to this, the war against the Axis powers was easily defended in terms of preserving human rights and fundamental freedoms. The Allied governments asserted in the *Declaration by United Nations of 1 January 1942* that victory was "*essential to defend life, liberty, independence and religious freedom, and to preserve human rights and justice*" (Van

¹ The structural approach implies i) linking human rights to major worldwide patterns and issues, ii) identifying the root causes of human rights violations, iii) assessing human rights in the light of concrete contexts and situations, iv) recognising the diversity of political and social systems, cultural and religious pluralism, and different levels of diversity.

Panhuyt et al 1981). Stimulated concern for the rights of all human individuals later culminated in the building of an international organisation that could defuse international crises and provide a forum for discussion and mediation. This organisation was the United Nations (UN), which played a key role in the development of the contemporary view of human rights.

The creators of the United Nations believed that **reducing the likelihood of war required preventing large-scale violations of people's rights**. Due to this belief, early drafts of the UN Charter (1942-1943) contained a bill of rights to which any nation joining the organisation would have to subscribe. After some difficulties with the enforcement of such a bill of rights, it was ultimately decided to include only a few references to human rights in the UN Charter. The Commission on Human Rights was charged with the job of writing an international bill of rights which was approved by the General Assembly on 10 December 1948 and called the Universal Declaration of Human Rights, proclaiming "*a common standard of achievement for all peoples and all nations*" (Brownlie 1971: 107). The rights it declared were to be promoted by progressive national and international measures to secure their universal effectiveness. These rights included civil and political rights (such as equal protection, nondiscrimination, due process in legal proceedings, privacy, personal integrity, etc.) and social and economic rights (such as social security, an adequate standard of living, education, etc.).

Among these above-mentioned rights and aggregate economic growth trade-offs or complementarities may emerge. Various studies have focussed on these different rights such as S M Lipset's study claiming that a certain level of economic growth was a precondition for civil and political rights. GA O'Donnell's study of bureaucratic authoritarian regimes drew on the dependency literature to argue that since economic growth is not a uniform process, but one that goes through distinct stages connected to the development of the international economy, **growth will have different effects on political rights at different times** (Forsythe 1989:110).

The officially stated position of the current administration in the United States is that respect for civil and political liberties is necessary for economic growth, which lay the foundation for economic and social rights at a later stage. In so far as South Africa is concerned, the dawn of a new era of civil, political, social and economic rights is breaking. Chapter three of the

Constitution of this country contains the Bill of Rights and forms a bridge away from a culture of authority to a culture of justification (Mureinik 1994:32).

During the latter part of the seventies a combination of factors and developments elevated human rights again to a prominent place on the international agenda. The structural approach propagated by the Third World, together with the high profile given to human rights by United States President Jimmy Carter, as well as the process embarked upon in the East-West context as a result of the Helsinki Accords of 1975, made human rights a suitable topic for diplomats and politicians. Lawyers and moralists lost their monopoly over human rights and the idea of human rights has become part of the vocabulary of the general public. It was also symptomatic that as a result, the UN Commission on Human Rights increasingly turned into a political platform. Diplomats took over from experts and political alliances counted more than merits.

In analysing the kind of development which does justice to the human person as the bearer and beneficiary of human rights (keeping in mind that no uniform and universally applicable model exists regarding the process of development), a UN study on the international dimensions on the right to development (1986) identified, according to Forsythe (1989:126-127), the following elements forming part of development:

- the realisation of the potentialities of the human person in harmony with the community should be seen as the central purpose of development
- the human person should be regarded as the subject and not the object of the development process
- development requires the satisfaction of both material and non-material basic needs.
- respect for human rights is fundamental to the development process
- the human person must be able to participate fully in shaping his own reality
- respect for the principles of equality and non-discrimination is essential
- the achievement of a degree of individual and collective self-reliance must be an integral part of the process.

It is therefore not strange that the World Commission on Culture and Development (1995:15) expressed the following viewpoint: "*Development divorced from its human or cultural context is growth without a soul*".

Also taking into account that it is an undeniable fact that human rights do not function in isolation, these rights therefore cannot be fully and properly assessed without considering the political, economic, social and cultural context of the particular situation. Human rights should in theory constitute an integral part of development policies, but this theory is hardly converted into practice when it comes to the actual operation of development policies. In fact, the UN preaches a theory which it does not practise itself, for example the UN human rights programme, which is being administered by the UN Centre for Human Rights in Geneva, largely functions in separation from the main programmes and agencies of the UN; the UN Charter of Economic and Social Council should secure co-ordination of policies, but the Council has failed to do so. Clearly, the infrastructural conditions of the human rights programme are not geared towards the integration of human rights concerns and objectives into development policies (Forsythe 1989:129).

Notwithstanding the fact that the relationship between human rights and development has been under discussion in the UN for fifteen to twenty years, the UN is not adequately serving as a bridge between human rights and development. Other international actors such as non-governmental organisations (NGOs) and church groups could take up this function. They are energetically trying to make human rights an integral part of their efforts in the field of development co-operation.

Pertaining to the situation in South Africa, questions that could indeed be asked are: to what extent are human rights implemented in South Africa presently, to what extent are human rights relevant to the social, economic and political development in South Africa, and will South Africa as part of Africa with its Third World character be able to overcome the social, economic and political realities of the continent.

Answers to these questions fall within the parameter of this study (or forms the basis of this study), and should be connected to the principle that the **primary responsibility** for

development and human rights rests with nations themselves. This is a matter of self-determination to which all people are entitled in terms of article one of both International Covenants on Human Rights:

All people have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and political development.

The international community has made it clear that the right of self-determination does apply to South Africa (McCorquodale 1994:12).

Various other declarations add in the same provision and indeed Articles 55 and 56 of the UN Charter are the *sedes materiae*. These articles ask that states should have:

- respect for the principle of equal rights and self-determination of peoples
- relate international co-operation for development and well-being to universal respect of human rights
- pledge (or commit) to take joint and separate action towards the achievement of human rights.

Paragraph 12 of the Proclamation of Teheran in 1969 is of equal relevance regarding the primary responsibility of the constituent units of the community of nations and states the following:

The widening gap between the economically developed and developing countries impedes the realization of human rights in the international community. The failure of the Development Decade (1961-1970) to reach its modest objectives makes it all the more imperative for every nation, according to its capacities, to make the maximum possible efforts to close the gap.

Apart from the above-mentioned, there is also the common responsibility vested in the international community for the well-being of mankind. This common responsibility reflects as a universal principle the unity of humankind and the dignity and worth of all human beings. Recognition of this principle of common responsibility creates new relationships between and within peoples and nations.

In this study the researcher will try to bridge the gap between rhetoric and reality at national and international level regarding human rights and development by determining the relevance of human rights to the social, economic and political development in South Africa in theory and practice. This is no doubt a great challenge.

1.2 THEME ANALYSIS

In the present study *The relevance of human rights to the socio-economic and political development in South Africa* will be examined. It is therefore essential that the following concepts will be defined and described in more detail:

1.2.1 Human rights

The concept "*human rights*" originated from the Latin words "*homo*" meaning **human, belonging to man, the qualities distinctive of man**, and "*rectus*" meaning **right, justification, fair claim, thing one is entitled to** (Fowler et al 1983:485 & 898).

Human rights is an international concept but it has not been adequately defined in any act of international law. **Human rights** was first introduced by the United States Declaration of Independence in 1776, and the Declaration of the Rights of Man and Citizen in 1789 of the French Revolution.

The concept "*human rights*" was adopted by the United States Constitution and extended by the sixteenth constitutional amendment in 1913 and is the subject of international declarations. The first of such declarations is the Declaration of Human Rights and Duties which was worked out by the New York Institute of International Law in 1929. In article one it proclaimed that it is the duty of every state to recognise equal rights of an individual to life, freedom and property, and to fully grant and protect these rights on its entire territory regardless of nationality, sex, race, language or religion; and in article two it is a duty of every state to recognise equal rights of an individual to free execution, whether in public or in private, of any faith, religion or worship, the practice of which is not in violation of public order and good manners. This declaration, together

with the resolution of an Inter-American Conference in Chapultepec (8 March 1945) to protect **human rights** internationally laid the foundation for a draft of the Universal Declaration of Human Rights. Later the General Assembly of the United Nations in the Universal Declaration of Human Rights (1948) clearly defined **human rights** as a "*common standard of achievement for all people and all nations ...*" (Brownlie 1971:107).

Although the contemporary idea of **human rights** was created during the Second World War, the recent rise to prominence of the vocabulary of human rights was in fact the popularisation of an old idea. The notion of a natural or divine law binding on all people and requiring decent treatment of all is an ancient one. This notion was wedded to the idea of **natural rights** in the writings of theorists such as John Locke and Thomas Jefferson, as well as in declarations of rights such as the French Declaration of the Rights of Man and the Citizen, and the United States Bill of Rights. The idea of individual rights vis-à-vis, or against government is not new. Therefore, one could argue that today's idea of **human rights** is merely a development of this concept. But, if the Universal Declaration and the Covenants are taken as representative of contemporary views of **human rights**, today's views differ from earlier conceptions of **human rights**, particularly those of the eighteenth-century natural rights, in mainly three ways namely that **human rights** today are **more egalitarian, less individualistic** and have an **international focus**. The egalitarianism of recent **human rights** documents is for example evident in the great emphasis being placed on protection against discrimination and on equality before the law. Although eighteenth century rights manifestos sometimes declared equality before the law, protection against discrimination are nineteenth and twentieth century developments. Regarding individualism, recent rights manifestos have tempered the individualism of classical theories of natural rights. Current documents conceive of people, for example as members of families and communities, and not as isolated individuals who must be given reason for entering civil society. The third difference is that **human rights** have been internationalised. **Human rights** are seen as appropriate objects of international action and concern. Although eighteenth century natural rights were viewed as rights of all people, they served more often as criteria for justifying rebellion against existing governments than as standards whose violation by governments could justify the application of diplomatic and economic pressure by international organisations (Nickel 1987:6-12).

What has been suggested here is that **human rights** are complex high-priority norms involving different scopes, weight, addressees and condition of possession. These components enable rights to provide very definite guidance to behaviour and serve to confer, extend and protect important freedoms, powers, immunities, protection, opportunities and benefits.

1.2.2 Socio-economic and political development

The concept "*development*" means **growth, fuller working out, stage of advancement** (Fowler et al 1983:262). **Development** is concerned with positive change in existing human societies. In broad terms, **development** may be defined as positive social, economic and political change in a country or community.

The term "*development*" covers the theoretical as well as the practical aspects of development, in as far as the present purposes are concerned. One is sufficiently aware of the use and abuse of the term **development**, in an ever widening context, even to the extent that it has become an "*overloaded*" concept (Riggs 1981:31).

Kotzé (1983:14) distinguish between the following three **definitions of development**, namely empirical, operational and moral definitions:

- **empirical definitions of development** refer to the results of development, for example economic growth, improvement in educational and health services, better nutrition and other social indicators
- **operational definitions of development** are those which prescribe [what should be done] to achieve a condition of full development; development models are used in these definitions; they also have a future vision in the sense that they project existing models into the future, for example to visualise new and improved communications, structures for maintenance of the peace, new household aids and medical services; the capitalist and socialist societies are respectively the main models of modernity and for operational definitions; a definition of development will therefore be something like the following: it is the improvement of capacity, equality and differentiation

- **moral definitions of development** are essentially idealistic, postulating an ideal society conforming to a particular value system, and therefore also strongly utopian. The following is an example of a definition of this kind: "*Development is the historical quest for new values, new institutions, and a new culture in each society; it elicits new norms for interaction within and among societies; ... prepares a new universe and ... new civilizations*" (Goulet 1974:42-43).

A comprehensive definition of development, namely the **structural definition of development** distinguishes between inherent characteristics of development in order to describe development as a unique but universal phenomenon. Development is integrated change of societal institutions (political, social, economic and cultural) according to collective evaluative preferences which may be executed in an evolutionary or a revolutionary manner through conscious human action.

These numerous perspectives on and definitions of **development** indicate the wide intellectual interest in the concept, even if they do not always contribute to greater clarity and consensus. Some agreement seems to have emerged towards the end of the 1970's, namely that **development** could not be measured and implemented in pure economic terms only.

Socio-economic and political development is concerned with a process of adaptation and readaptation in the endeavour to bring relief to needy countries. It means ever more new programmes, philosophies and methods of assistance towards economic reconstruction and recovery in the concern with the conditions of public administration in developing countries. It empirically extends to the enunciation of the dangers of administrative development with respect to costs and technical factors. It includes the awareness of the possibilities of development in various circumstances, paying attention to the implication of considerable changes in the structure and processes of political executive organs and their relationship to the relevant bureaucracies. This often means a consciously induced and directed change in the organs of government.

1.2.3 South Africa

South Africa is an extremely contentious and complicated country. It became the whipping-boy

of the United Nations as a result of the reaction of world opinion against the brutalities of Hitler's racialistic policies. South Africa was accused of racialism and criticised much more severely than even communist China at the time when Mao Tse Tung committed extreme brutalities against human beings.

For a long time South Africa was wealthy enough as a state to defy world opinion, until the mid-eighties when sanctions and disinvestment forced it to change its policies radically for the sake of economic survival. At that stage the Soviet Union and its satellites collapsed and reduced the possibility of applying military force against the South African government with its apartheid policies. Under all circumstances South Africa remains a problematic country, because it is a peculiar combination of European as well as sub-Saharan African qualities, with enormous Third World implications.

1.3 STATEMENT OF THE PROBLEM

In view of the preceding introductory orientation and theme analysis, the statement of the problem regarding the present study is the following:

Are human rights relevant to the socio-economic and political development in South Africa?

All the main aspects of the project are interrelated, carrying us beyond the **geographic setting** in South Africa, the **functional character** of the relevant development strategies and the **ethical implications** of human rights towards the achievement of a meaningful whole, which the researcher endeavours to make as sufficiently clear, integrated and accounted for as possible.

Within the context of universal humanity and the entire world, the South African situation has to be seen against the background of overpopulation in sub-Sahara, the destruction of the natural habitat, scarce financial resources and insufficient insight into development. The researcher deals with the inescapable practical consequences of socio-economic and political development as well as the normative implications of the various declarations of human rights as an ethical concern for

all people and specifically the needy, making the highest demands on ourselves and others in the service of humanity.

The present submission is intended to be more than a perusal of what has been written and investigated by others in the relevant field of research. However much the researcher is indebted to the literature which has been consulted, there is ever more scope for a fresh approach and new insight, which one is entitled to attempt, reinterpreting existing material.

1.4 CENTRAL THEORETICAL STATEMENT

The researcher will attempt to verify the following statement:

Human rights are undoubtedly relevant to the socio-economic and political development in South Africa.

1.5 RESEARCH PROCEDURES AND METHODS

The present investigation goes beyond attitudinal assessment and will be conducted by means of relevant literature. It means that the relevant normative (axiological) reflection in the concern with human rights is set within the widest relevant field of evidence, gained from the various articles and books which have been consulted. This investigation namely, *The relevance of human rights to the socio-economic and political development in South Africa* can therefore be described as basic, theoretical research and represents a descriptive-explanatory study.

Relying on a variety of diverse sources, linking up normative and empirical development theory, development policy, politics and practice, the researcher compares, analyses, interprets and evaluates as responsibly as possible. Following the Socratic method, in which particulars and generalities are mutually implicative, successive syntheses of existing evidence are achieved. It is found that moving from likely conclusions to even more likely conclusions there are "intermediate steps between past and future research" (Light & Pillemer 1984:3) in an accumulation of insight.

Falling short of the epistemological ideal of certain and exhaustively demonstrable knowledge one has to be satisfied with a degree of probability as long as a degree of inductive support or confirmation is achieved. Striving to get beyond tentative, partial and qualified answers one can hope for moderation, combined with respect for the available evidence, sticking to one's cardinal themes as explained in the motivation for the present study.

1.6 THE MOTIVATION FOR THE PRESENT RESEARCH PROJECT

The present theme has a wide background of motivation with a bearing on the triplicity of the title, covering **human rights, socio-economic and political development, and South Africa.**

1.6.1 Human rights

Human rights are intimately linked with ethics as the science of morals within the context of a new discipline, *"the ethics of development"*, a specific development ethic, which was pioneered by Denis Goulet. In the attempt to avoid pitfalls in the direction of *"utopianism"*, *"abstraction"* or *"tricky practical situations"*, Goulet (1988) was determined to establish which kind of development aid is ethically better. It is a matter of avoiding the dilemma which arises between what is ethically the right thing and what is merely prudent. The solution is to become sufficiently clear about ends and means, about development aid which is equally as prudent as ethical.

Goulet would like **ethicists** to *"analyze and lay bare the value content of (the relevant) instrumentalities from within their proper dynamism"* (Goulet 1988:157-158). He thinks in terms of *"a moral beacon illuminating the value questions (which are) buried inside instrumental means (which are) appealed to by decision-makers and problem-solvers of all kinds ..."* (Goulet 1988:157-158). Linking up both normative and empirical development theory with development policy, politics and practice, the theory-practice of development becomes sufficiently clear. It means **doing good** to our fellowmen as an **ethical concern**.

It is a matter of working towards development ethics in the context of *"development theory-practice"*, the unity of theory and practice, rendering development decisions and actions humane.

Peter Berger (1974:vii) spoke of "*political ethics applied to social change*". Crocker (1991:468) is convinced that clarity about "*theory-practice*" reveals that we can link up both normative and empirical development theory with development policy, politics and practice. It requires a global dialogue, a moral dialogue towards authentic development and a better world (Crocker 1991:474).

But the greatest stimulus towards the world-wide aspiration to achieve universal justice for all the earth's inhabitants is the Universal Declaration of Human Rights of 10 December 1948, as we have already pointed out. We shall attempt to explain in the second chapter how the convincing statement of the **rights** of each and everybody by this **Declaration** emphatically implies the **duties** of all people towards all other people.

1.6.2 Socio-economic and political development

The **socio-economic and political development** of a number of impoverished countries were stimulated and financed on an unknown scale as a result of the initiative of the government of the United States of America. For at the time Soviet Russia occupied the continent of Europe as far west as Mecklenburg and the border between Austria and Switzerland. In the United States of America Stalin's expansionism was seen as a threat from behind an iron curtain and caused the Americans to abandon their unwillingness to meddle with the internal affairs of foreign states (Zeylstra 1977:37-43). The Truman Doctrine of 12 March 1947, meant "*to support free peoples who are resisting subjugation by armed minorities or outside pressures ...*" (Zeylstra 1977:31).

In 1947 President Truman and his advisers feared that communism would gain ground and eventually win control in the countries of Western and Southern Europe, unless the threatening collapse of these economies could be warded off. American support meant more than the immediate relief of these countries. The intention was to "*assist free peoples to work out their own destinies in their own way*", towards economic stability and orderly political processes (Zeylstra 1977:31), which required a programme of assistance towards economic reconstruction and recovery in a convincing way. This intent was extended to more and more countries, and in due course became very emphatic in the case of the Third World countries.

The concern with and for development aid, which was conceived in the Atlantic West during the first two post-war decades, stimulated by the realistic political, economic and humanitarian intent of the Americans in Europe, covered an increasing number of countries whose economic condition is described as "*underdeveloped*", "*under-developed*", or "*less developed*" (Zeylstra 1977:24). In this regard it became increasingly clear that the relevant development has two sides and implies a dialectical continuum of normative theory and intent as well as practical socio-economic and political development. It became an ever greater problem to determine in which direction poor societies in the interest of humanity should develop, that is, in which direction poor people ought to be helped to help themselves.

When complete decolonisation became the goal of British and French colonial policies it was decided to prepare the remaining dependencies, mainly situated in sub-Saharan Africa, for their future independence by means of development programmes, even continuing after the relevant independence, for as long as necessary (Zeylstra 1977:44-51). But the gap between rich and poor countries became an increasing burden on the industrialised countries, which resulted in a great increase in the external public debt of the beneficiary countries (have-nots) (Zeylstra 1977:xi,54-69).

Underdevelopment was worsened by the general assumption by the donors of a single socio-economically comprehensible system, irrespective of the historical colonial background (Zeylstra 1977:116-134). For it was widely assumed that the aid-receiving nations provided all the characteristics of actual and potential development and were consequently responsible for their own economic plight, which grew into critical proportions as they received ever more aid from the advanced Western countries.

According to Zeylstra (1977:xiv) it was only slowly realised how relative any value premise is and remains, which makes it imperative

to view the problems of developing countries on a macro level as following from integration into the international system (of financing and investment), as embodied in the General Agreement on Tariffs and Trade (GATT) and the International Monetary Fund (IMF) as well as on a micro level as problems of acculturation.

This came closer to Myrdal's opinion that the underdeveloped countries should be studied in terms of that which is adequate to (their own) reality (Zeylstra 1977:146).

1.6.3 South Africa

South Africa has been in the limelight of world opinion since it defied the opinion of a growing number of members of the United Nations from 1948 onwards. As a peculiar combination of First World and Third World elements South Africa has a great deal in common with Europe and the United States of America on the one hand, and with sub-Saharan Africa on the other.

The First World white colonial element, which was established by the Dutch at the Cape, in 1652, and taken over by the British in 1806, maintained the upper hand over the African population of South Africa, until the negotiated settlement was achieved with the African National Congress (ANC) in 1993. This phase is discussed in the fifth chapter, explaining how white colonials dealt with black colonials inter alia emphasising the fact that the Cape Dutch stock farmers who moved eastwards in the search for ever more fresh grazing for their animals first met the African tribes who were interested in fresh grazing in a westerly direction on the banks of the Fish River, at the end of the eighteenth century.

The Great Trek of the Cape Dutch farmers (Voortrekkers) into the interior of South Africa, from 1836 onwards, was partly due to the need for more fresh grazing but also to basically different attitudes between the Boers (Cape Dutch) and the British, resulting in the establishment of the republics of Natalia, the Orange Free State and Transvaal. Natal was already conquered by the British in 1843 and the Transvaal and the Orange Free State in 1902. This paved the way for the establishment of the Union of South Africa in 1910, but when the First World War broke out within four years, in 1914, a rebellion occurred, which was defeated because some of the Boers preferred conciliation to open defiance. When the Second World War broke out, in 1939, a motion that South Africa should remain neutral was defeated in parliament and at the polls in the general election of 1943, but the Nationalists (Afrikaners) won the 1948 general election and got more and more support from English speaking white voters in the country, strengthening South Africa's defiance of the United Nations.

The official United Party opposition, under the leadership of General JC Smuts, until 1950, was so conciliatory towards the British that few white English speakers had any hesitation in supporting it, whilst the governing National Party, under Dr DF Malan, was supported by most Afrikaans (i.e. Cape Dutch) white voters who were suspicious of the British. When Dr Malan announced his segregationist policy under the new term, "*apartheid*" (separate development), General Smuts was surprised by the terminology but he soon claimed that the Nationalists had taken over his policy. The primary difference was that the Nationalists overdefined their policy, which a diplomatic pragmatist like General Smuts would try to avoid. Soon Dr TE Dönges and Dr HF Verwoerd went much further than the United Party would ever allow, by creating "*apartheid*" between the Cape Coloured people and the whites in addition to introducing inhumane policies like group areas and job reservation.

Dr Verwoerd was a well-trained psychologist who became a professor of sociology and a newspaper editor before he became a senator. He knew how to make himself popular with the white voters after he succeeded Advocate JG Strijdom as Prime Minister. Dr HF Verwoerd led South Africa out of the British Commonwealth and won a majority in a referendum of white voters for the establishment of a republic. After winning an overwhelming majority in a general election, he was on the verge of announcing his intended administrative policy, which was a secret to everybody else, when he was stabbed to death in his seat in parliament by one of the attendants. Dr Verwoerd refused to allow what he called "*white capital*" to be invested in the Bantu homelands, which he created with the intent to make them independent ethnic states. But the states of the world refused to recognise this attempted independence of the Bantustans and they remained an enormous tax burden on the South African tax payers, combined with a growing unemployment problem.

The overall South African economy remained strong until the mid-eighties when the "*American Negroes*" as a powerful pressure group, who were very sympathetic towards the freedom struggle of the African National Congress, induced American investors to apply sanctions on South Africa and to disinvest increasingly. This reached a point where the American actions and worldwide influence induced the South African government under President FW de Klerk into the achievement of a negotiated constitutional settlement with the ANC, leading to the fully

democratic general election of 1994, which the ANC won with little less than a two-thirds majority.

It is found that the election promises of the ANC and its attempts to overcome the economic disparities between black and white South Africans are of paramount importance. For socio-economic and political development in South Africa, on the one hand, is partly typical of sub-Saharan Africa with its tribal overtones, but otherwise, on the other hand, typical of what happens in a country like Australia with its dominant First World character. It remains to be seen whether the ANC can parallel the success story of the "*Tiger economies*".

1.7 PROGRAMME OF STUDY

The preceding introductory orientation, theme analysis, explanations of relevant concepts and statement of problems are now followed by the further programme of research and investigations.

The **second chapter** covers the nature and extent of human rights. After having dealt with the preamble of the Charter of the United Nations the historical setting of the Universal Declaration of Human Rights will be explained, covering the 30 articles of the Declaration of Human Rights, the right to development, and the classical meaning of equity. The ethics of development will be discussed, linking up with the rights of each and every individual person.

The **third chapter** deals with the rights of individuals and their universal implementation in the realisation that neither development nor rights have relevance unrelated to each other. But it has become ever more difficult to determine in which direction poor people ought to be helped to help themselves. The ideal is to reach and put into practice a solution which will produce both equity and growth, not forgetting that Western consumption patterns were transferred more effectively than Western production techniques.

The **fourth chapter** discusses the South African historical setting with respect to the ethnic diversity which affected the limitation of human rights, as well as the socio-economic and political development in this country. This includes the clashes between the Boers and the British,

culminating in the Peace Treaty of Vereeniging in 1902, where the whites restricted the franchise to themselves, ignoring the political aspirations of the blacks.

The 1948 general election was won by the National party, emphasising the "*black peril*", regarding the urban areas as the white man's creation, expecting the blacks to work there on a strictly temporary basis.

The **fifth chapter** emphasises the reaction against Hitler's inhumanity, which was projected onto South Africa. It put and kept the whites in South Africa in the wrong in world opinion, starting in earnest at the first session of the General Assembly of the United Nations. In spite of a special committee against apartheid and an arms embargo against South Africa, the United States, the United Kingdom and France stood by South Africa. This lasted until the revolt of 1984-1986, which increased external pressure on this country. After the Chase Manhattan Bank announced that it would no longer "*roll over*" its loans to South Africa, the United States and the United Kingdom could no longer ward off sanctions.

President FW de Klerk realised that it is possible for a minority to maintain its cultural and religious identity, whilst living in harmony with a variety of majorities. The collapse of the Soviet Union in 1991 gave him the opening to achieve a negotiated settlement with the ANC. The calculated risk was partly based on the conviction that the whites would continue to be a permanent force, irrespective of their numbers. Even as a small minority the whites have the economic power to ensure that their needs are accommodated.

The **sixth chapter** explains the ANC's Reconstruction and Development Programme (RDP). The base document contains high promises and ideological exaggerations, aiming at the final eradication of apartheid and the building of a democratic, non-racial and non-sexist future. COSATU's emphatic concern regarding the domination of white business, to the exclusion of black business, partly justified the opposition to privatisation. Both COSATU and the South African Communist Party criticised the ANC government for beginning to embrace a neo-liberal economic policy, criticism which worked against the free market and jobs creation.

Mr Raymond Parsons said that business must be RDP-friendly and the RDP must be business-friendly. Mr Ogilvie Thompson maintained that privatisation has succeeded in putting a share of the economy into the hands of the man in the street. The managing director of the Standard Bank Group made it clear that foreign investors are bound to invest according to expected profit.

In mid-June 1996 Trevor Manuel announced the government's macro-economy strategy for Growth, Employment and Redistribution (GEAR). The British Prime Minister, Tony Blair, praised GEAR as the workable policy for tackling the needs of the disadvantaged, while retaining the confidence of the markets.

The **seventh chapter** investigates the use and abuse of human rights in the new South Africa. Human rights are acknowledged as individual rights beyond all collectivistic notions. They are and remain in line with the equity of Aristotelian ethics. The primacy of human dignity over the interests of states and race are emphasised. A bill of rights needs to restrain those who are unjustly promoting their own well-being at the expense of others. These sentiments are promoted in the free press of South Africa. This is strengthened by the universal anti-racialism in the United Nations Organisation, which has defined a broad range of internationally accepted rights.

The **eighth chapter** consists of a recapitulation of findings and conclusions which result from the investigation. As part of the prognostic effort of the study some substantiated recommendations regarding human rights and the socio-economic and political development in South Africa are made. Finally, further proposed fields of study are suggested before the final synthesis is presented.

CHAPTER 2

THE NATURE AND EXTENT OF HUMAN RIGHTS

2.1 INTRODUCTION

In the context of the overall theme, *The relevance of human rights to the socio-economic and political development in South Africa*, human rights are of crucial importance. In the present chapter the focus is on **the nature and extent of human rights**, with the emphasis on the international bill of rights which was approved by the General Assembly of the United Nations Organisation on 10 December 1948 and called the Universal Declaration of Human Rights, proclaiming "*a common standard of achievement for all peoples and all nations*" (Brownlie 1971:107).

It put into dignified words what had been built up over a period of more than two thousand years. It is the result of reflections on **duties**, starting with the early civilisations and the great world religions, extending over Greek philosophy, Roman law, Medieval apologetics, the Renaissance and the Enlightenment, to culminate in the various deliberate declarations of the rights of individual people, which were initiated in North America.

As the culmination of a long process, with many set-backs, the Universal Declaration of Human Rights of 10 December 1948 is the result of the following:

- the monotheistic belief in the equality of all people before God
- Luther's campaign for the sovereignty of the individual Christian's conscience
- Galileo's demand for the right to unfettered scientific inquiry
- Locke's sober provision of a theoretical foundation for the political aims of Shaftesbury and his followers in the struggle against the Stuarts
- the reaction of the free world against Hitler's contempt for people.

Although JS Mill, the utilitarian philosopher, attempted to reconcile the collective trends in society with the individual's freedom, he makes it particularly clear in his essay **On Liberty** that: "*We can never be sure that the opinion we are endeavouring to stifle is a false opinion, and if we were sure, stifling it would be an evil still ...*" (Mill 1940:79). It means that even a democratic majority can lead to tyranny, as de Tocqueville, the great French political thinker, also maintained.

In this tradition individuality is stressed with the single proviso that freedom is not abused to invade the corresponding freedom of others. For the state exists for the service of the individual and not the individual for the service of the state, although the fact remains that for all practical purposes the primary responsibility for the development of human rights rests with the particular member states of the United Nations Organisation. Beyond this it is up to the citizens of the relevant states to make sure that they actually possess the effective right to self-determination, as the expression of the humanity of their fellow citizens, covering personal, social, political and economic development to the full extent. It will become increasingly clear in the present chapter how co-implicative **the nature and the extent** of human rights are in theory and practice.

2.2 THE NATURE OF HUMAN RIGHTS

2.2.1 What is meant by "*human rights*"?

Human rights are literally the rights of humans. More precisely, human rights refer to the concept that every member of the human race has a set of basic claims in virtue of his or her humanness (Palley 1991:50). For all their differences from other types of rights, human rights are **rights**. Historically these claims covered "*natural rights*" to life, liberty, property and freedom of religion. They later came to cover all traditional civil liberties (the rights of man) and rights of political participation (the rights of the citizen). Subsequently natural rights were extended to cover "*social, economic and cultural rights*". This phrase refers to the duty of the state to provide, without discrimination for those material conditions, including education, working conditions and welfare benefits.

A distinction should be made between "*being right*" and "*having a right*" to something. The word "*right*" encompasses at least two concepts of great political and moral significance. On the one

hand "*right*" refers to **moral righteousness**, as in "*It's just not the right thing to do!*" On the other hand "*right*" may refer to **entitlement**, as in the claim "*I have a right to ...*". This second sense of entitlement distinguishes rights, human or otherwise.

These two senses of "*right*" have very different philosophical "*grammars*", indicative of important differences in these two concepts that share a single word. Right in the sense of "*what is right*" is used primarily as an adjective or adverb. In contrast, right in the sense of having a right is almost always used as a substantive, and only in this sense do we speak of "*a right*" or "*rights*". Rights are things one **has, holds** and may **exercise** or otherwise put to use. One cannot possess, but only be in accord with the (standard of) right, whereas having a right is crucial (Donnelly 1985:4). While "*right*" in both senses expresses or imposes obligation (who is obliged), the type of obligation and the relationships between the parties depend largely on the sense in question.

These contrasting emphases on the action and on the person arise primarily from the entitlement provided by rights. Being right establishes duties, but nothing more. Human rights specifically involves setting out the major rights and duties of man in society, in relation to other individuals, the institutions within which all live and the organs of government. This constitutes a political or moral theory that can be summed up in two propositions:

- rights are means to secure the good life for the individual in a society
- governmental organs have the task of adjusting conflict between the equal rights of the individual in order to secure the good life for all participating in that society.

Therefore, in this instance human rights imply moral rights and should be seen as rights in terms of a postulated moral and political system, according to which relevant rights ought to be respected. Governments are obliged to enforce those rights, including those held against them.

2.2.2 Elements of (human) rights

Human rights are a subset of rights and often involve complex relationships concerning who has the right and when it can be applied. Rights range from abstract to specific rights (or from general

to precise) according to how fully their parts are specified. According to Nickel (1987:13-15) the following is a detailed analysis of the parts of a fully specified right:

- **each right identifies some party as its possessor or holder** - a right's "*conditions of possession*" may be narrow enough to apply to only one person or broad enough to include the whole human race; procedures for permanently alienating a right, such as selling, repudiating or forfeiting a right can also be specified in its conditions of possession
- **rights are to some freedom or benefit** - the scope of a right specifies "*what it is to*" and often contains exceptions, excluding items that might otherwise be expected to be included; also inclusive in the scope of a right is the "*conditions of operability*", which specify when a right applies and what must be done to bring it into play; a right becomes operable when its holder is in a situation in which the right can be put into use, perhaps by being claimed or invoked; it can then be said to be "*engaged*"; to waive or refuse to exercise one's right when it is operable often prevents the right from being engaged; rights are also commonly classified as negative and positive according to whether the right requires the addressees merely to refrain from doing something or requires them to take some positive action they might not otherwise take
- **rights idealifies a party or parties who must act to make available the freedom or benefit identified by the rights' scope** - these parties are the "*addressees*" of the right; a distinction can be made between rights that entail claims against the world at large and rights that entail claims against specific parties
- **the weight of a right specifies its rank or importance in the relation to other norms** – weight pertains to whether a right can sometimes be overridden by other considerations in cases of conflict; a *prima facie* right is a nonabsolute right whose weight in competition with other considerations is not fully specified; describing a right as *prima facie* does not imply that it is only an apparent right, but rather asserts that it is a genuine right that can sometimes be outweighed by other considerations.

According to Nickel (1987: 15) one of the confusing things about analysing the elements of rights is that they are used with differing degrees of abstractness. Even very abstract or general rights

play important roles in stating grand political principles. The moral and legal roles of abstract rights are often just as significant as the roles of very specific rights. One simply has to come to terms with the abstractness in rights rather than proposing to get rid of it to achieve some philosophical ideal of precision.

2.2.3 Distinctive functions of (human) rights

In explaining a problematic concept it is often helpful to try to identify the distinctive functions of that concept. Two of the most familiar accounts of the functions of rights are the **interest** and the **will theories** (Lyons 1970:45-55). Interest theories, which are associated with the utilitarian tradition assert that the function of rights is to promote people's interests by conferring and protecting benefits or goods. Will theories, which are associated with the Kantian tradition assert that the function of rights is to promote autonomy by conferring and protecting authority, discretion, or control in some area of life. In this kind of theory the alleged role of rights is to guarantee a specified scope for people's wills, for example their decision-making capacities.

Apart from these two accounts, there are characteristically other multiple functions of the concept of human rights. Amongst other things, Nickel (1987:26) claims that rights provide the following:

- a normative category that is binding, high-priority and definite
- a normative vocabulary that allows for "*claiming*" in a variety of senses by either rightholders or interested parties
- a focus for a number of connected Hohfeldian elements.

By identifying in its scope a freedom or benefit to be made available, a right identifies the rationale of the various powers, immunities, duties and liabilities that are part of the right.

Finally, human rights are not intended to remain lofty ideals. Their main social function is to become essential ingredients in legal, political and social reality in each and every country.

2.3 THE HISTORICAL BACKGROUND OF HUMAN RIGHTS CULMINATING IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS OF 10 DECEMBER 1948

After the First World War (1914-1918) the League of Nations was established to outlaw war, but the United States of America withdrew from the scene and did not become a member of this peace keeping international body. After the First World War the successful Leninist-Marxist revolution took over the greater part of the Russian empire, whilst what was left of the German empire became a model democratic republic (the Weimar Republic). But Germany was heavily destabilised economically and politically as the result of the reparations demanded by France under the terms of the Treaty of Versailles, an imbalance which eventually led to the Nazi dictatorship under Hitler who started and lost the Second World War (1939-1945).

A determined attempt was made by the Western allies, under the leadership of the United States of America, not to repeat the mistakes of the League of Nations which placed too much emphasis on the status quo. The League of Nations (United Nations 1995:5) went too far in respecting the "*territorial integrity*" and "*political independence*" of states, which benefitted the **haves** at the expense of the **have-nots**, although

the Covenant of the League of Nations (already) emphasised the principle of the primacy of human dignity over the interests of states in a number of areas such as the situation of the inhabitants of trust territories.

Beyond this, the practice of the League of Nations gave rise to a system of protection whose purpose was to guarantee certain basic rights to members of minority groups. Furthermore, the constitution of the International Labour Organisation (ILO), was adopted in 1919, establishing as one of its main objectives the promotion of social justice and respect for the dignity of workers. These principles were further developed in 1944 in the Declaration of Philadelphia, later incorporated into the organisation's constitution (United Nations 1995:5-6).

Going well beyond the undertaking of members of the League of Nations "*to respect and preserve as against external aggression the territorial and existing political independence of all Members of the League*" (Article 10 of the Covenant of the League of Nations), the Charter of the United

Nations squarely placed the emphasis on the rights of all human individuals on earth, making less of the "*territorial integrity*" or "*political independence*" of any states, large or small. It was the horror of the Second World War, and the consequent awareness of the close connection between respect for human dignity and peace, which motivated the Charter's qualitative leap towards the promotion of human rights "*for all*" (United Nations 1995:6) in the most convincing sense.

In this regard states were of much less account than individuals in the most universal sense and it became increasingly indifferent whether states had won or lost wars. War was most consistently outlawed, however long it took a good number of governments to realise the full implications of the Universal Declaration of Human Rights of 10 December 1948. It was not intended to achieve the binding legal effect on states which might be expected from an international treaty, covenant or convention, but most emphatically intended to formulate fundamental human rights as the due of each and every individual. This goes beyond societies as represented by their governments.

The Universal Declaration of Human Rights of 10 December 1948, which has ever more meaning for individuals of all races, colours, languages and creeds is the most universal beacon of justice which has been achieved up to the present. It is the culmination of responsible historical attitudes and aspirations. It is rooted in early religion and government and embodies claims which individuals consistently make on themselves and others in their organised societies. It is found in the value systems of Buddhism, Christianity, Islam and Hinduism.

In the Judaeo-Christian tradition human beings are regarded as created in the image of God. They are morally bound to behave accordingly, aspiring to be as good as is humanly possible, not forgetting that all men are equally dependent on God and responsible towards the perfection upheld by their Creator. Individuals are in **duty** bound and obliged to obey God and love their fellows. They realise in this historical context that every human being has the **right** to be treated as a person with rights. It is a slow but sure process towards the definition of the rights of man.

It cannot be denied that the variegated and complicated story of the concept of Natural Law has stimulated the development of the "*theoretical base for (the concept of) universal human rights*" (Ackermann 1991:5), placing the emphasis on a rational legal approach and not on the arbitrary

whims of rulers. Plato (427-347BC) was a great influence in this direction in his opposition to the positivism of Thrasymachus which he rejected in favour of universal rational norms (Maguire 1947:163), distinguishing between external authority and rational legal insight as the voice of God. This led increasingly to the idea of the equality of all human beings before the law as a universal higher authority, well above mere state authority. The Stoic philosophers, who influenced the Roman jurists had similar views.

Although Roman Law had its own peculiar positive character and authority, the universal humanism of the Greek philosophers influenced a number of Roman jurists. Ackermann (1991:5) was of the opinion that for Cicero

the binding authority of law was dependent upon its being in agreement with reason and the universal attributes of human nature. Ulpian (one of the architects of the Roman Law, and a rich source of South African common law) relied on principles of natural law when he stated that the fundamental principles of justice are to be found in the duty to live honestly, to injure no one, and to let each person have what he or she deserves.

The Renaissance and Reformation which brought the Middle Ages to an end, meant the return to the Greek, Roman and Hebrew sources of European culture which were reinterpreted to suit various attitudes. Old limitations upon thought and learning made way for reappraisals. Reuchlin in Germany went back to Hebrew, Valla in Italy and Bedé in France to the real Latin and Greek of antiquity. Machiavelli and Valla were Italians, Von Hutten was German, Zwingli Swiss, Rabelais French, More English, Erasmus Dutch (Fisher 1941:498). Erasmus (1467-1536) believed that the Roman Church could be reformed from within. Luther (1483-1546) established an independent church and maintained the authority of the nobility, opposing the democracy which many German peasants demanded. Calvin (1509-1564) achieved a consistent reinterpretation of the entire Bible and established a Calvinistic republic at Geneva. The Reformation resulted in the 30 Years' War (1618-1648) between Roman Catholics and Protestants which devastated Germany as the heart of Europe. It corresponded with the last part of the 80 Years' War (1568-1648) which marks the struggle of the Dutch against the tyranny of Catholic Spain. In England an army under the leadership of Oliver Cromwell served the cause of the English parliament against the Stuart Catholic king, Charles I, who believed in the divine rights of kings, but lost on the battle

field and was executed in 1649 (Ploetz 1951:478). When peace was restored in Europe reference was made to the "*public law of Europe*" as a result of the decisive contribution which was made by Grotius (Hugo de Groot) (1583-1645) to International Law.

Grotius was a Dutch jurist who dealt with the legal implications of war and peace in his **De Jure Belli ac Pacis**, which was published in 1625. He agreed with Cicero that self-preservation, in line with the human being's animal temperament, is a basic duty towards ourselves. To do what is in line with nature and to avoid what is contrary to nature (Ritter 1984:583) at this animal level, as well as at the higher human level of reason, is of basic importance to Grotius. For sound reason demands that we should take care of society, respect other people's property, keep our promises, restore the damages which we ourselves have caused. Going beyond animals who look after their offspring, human beings use language, insight and other means to build up peaceful, well-ordered associations with their fellows, irrespective of whether God exists or not. Grotius believed that acts which are based on clear reason are moral acts which have the same validity as mathematical principles and are therefore acceptable to God, not the other way round (Ritter 1984:583-584).

Grotius who borrowed many ideas from others brought the idea back into politics that a moral community should be upheld as an objective universal entity, beyond a political community which is merely particular and subjective. In this regard Grotius (Louw 1990:72) revealed the following basic differences between **positive law** and **natural law**:

for the principles of the law of nature, since they are always the same, can easily be brought into a systematic form; but the elements of positive law, since they often undergo change and are different in different places, are outside the domain of systematic treatment.

In his introduction to the Dutch Law (1631) Grotius explains that what is prohibited by the law of nature cannot be commanded by positive law, or by any statute produced by a human lawmaker, whereas what is decreed by the law of nature, rationally discovered, cannot be prohibited by positive law (Ackermann 1991:6).

John Locke (1632-1704), the leader of the Enlightenment, was personal physician and secretary to the Earl of Shaftesbury when he fled to Holland and France to escape the intolerance of the

Stuarts. Locke finally returned to England in 1689 when William of Orange and his Stuart wife, Mary, became the dual monarchs of the realm, having developed his own theory of knowledge and political philosophy. Locke's anti-metaphysical approach did not make it possible for him to justify natural law beyond assuming that God has a purpose with the world to the extent that virtue is bound to lead to happiness. He had no doubt that the individual has a right to self-preservation and therefore to such things as he may need for his subsistence. Locke called the rights of life, liberty and estate the inalienable **rights of man**. Each man possesses himself absolutely and has established his right to property by "*mixing his labour*" with things which were originally given to mankind in common, but now made his own by his labour. This human endeavour towards the acquisition of property is of key importance in Locke's philosophy (Ritter 1984:588).

Locke opposed Hobbes' (1588-1679) absolute theory of government and rejected the divine right of kings. He put the emphasis on "*the public good*" (Locke 1924:i,3) and regarded the ruler's authority to be conditional, to the extent that a ruler who becomes a tyrant puts himself in a state of war with the people who may make an appeal to heaven and may revolt against the aggressor. He had no doubt that revolution is only justified when the arbitrary will of a single person (a prince or any other) hinders the legislature from due and lawful assembly, or

- when there is arbitrary change in elections
- when the people are delivered into subjection by a foreign power
- when the executive neglects or abandons its charge.

In this regard the community may act only by the right of the majority. Because the authority of a government has no right to exceed the authority of the governed, the people have a right to dissolve the legislature and establish a new government whenever the legislature violates its trust. He went further and argued in favour of a separation of the legislative and executive powers.

In his **Esprit des Lois** Montesquieu (1689-1755) went even further than Locke in emphasising the separation of the judicial, executive and legislative powers as the secret of English liberty. He stayed in England for a considerable period (1729-31) and described that country as the freest in

the world, even freer than republics (like Venice or Switzerland) because the sovereign whose person is controlled and limited, is unable to inflict any imaginable harm on anyone. Other thinkers who paved the way towards the independence of the United States of America were James Harrington, Jean Jacques Rousseau, Edmund Burke and Thomas Paine, who all had American readers.

Unimpressed by the grandeur of Louis XIV, Harrington in his **Commonwealth of Oceana** (1656) appraised the merits of the Republic of Venice where the competence of the educated classes and truly productive classes was the source of government and the handmaid of economic power, reconciling the tensions of opposing forces. Harrington's book influenced the drafting of the constitutions of Carolina, New Jersey and Pennsylvania. It was the bedside reading of John and Otis Adams as well as Thomas Jefferson.

Rousseau (1712-1778) was a citizen of Geneva (Ziegenfuss & Jung 1950:382-86) where Calvin had established his republic previously, but although extremely intelligent he did not place the emphasis on the intellect, but on the elemental power of natural feeling. His romanticism had enormous repercussions on the French Revolution which followed in the wake of the American achievement of freedom and a federal democratic constitution. Dealing with **the Origin of Inequality** Rousseau argued that morality is not natural but conventional, which explains the privileges which are enjoyed by some persons to the disadvantage of others. On the other hand, humans are sentient beings who are bound to revolt against oppression as the result of the instinct for self-preservation as well as moral repugnance to unwarranted infliction of pain or death.

Rousseau had no doubt that any species of inequality which prevails in all civilised countries is plainly contrary to the law of nature. He rejected a state of affairs in which *"the privileged few should gorge themselves with superfluities, while the starving multitude are in want of the bare necessities of life"* (Rousseau 1938:200-206, 228, 238).

In England Edmund Burke (1729-1797) was a sober moderate who did not allow himself to be overwhelmed by radical thinkers. Burke was convinced that England owed its constitution to the restoration of the monarchy in 1660, and its limited monarchy to the Bill of Rights in 1689. His

sympathy with the discontent of American colonists was directed against the curse of "*taxation without representation*", but his letter to John Farr on "*The Affairs of America*" was only written in 1777.

Thomas Paine (1737-1809) stayed in America from before the beginning of the War of Independence till after independence was achieved (1774-1787), as the friend of Benjamin Franklin (1706-1790). He not only supported the cause of the Negro slaves, but joined the revolutionary army of the 13 dependencies, which were at war with Britain (1776-1783). In his pamphlet, **Common Sense** Paine advocated immediate self-determination for the dissatisfied North American colonists. On July 1776 they unilaterally declared their independence. The three million colonists concerned were of British, Dutch, German and Swedish stock. The minority were slave owners who saw little inconsistency in slavery and in their claim that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness.

This was a continuation of the intent expressed in the Virginia Bill of Rights which was enacted on 12 June 1776, and pre-dated the American Declaration of Independence by about three weeks. The common ancestry of the two American documents and the Preamble, as well as article one of the Universal Declaration of Human Rights is obvious. The rights which were formulated in clause one of the Virginia Bill of Rights (Ackermann 1991:7) are that

all men are by nature equally free and independent, and have certain inherent rights, of which, when they enter in a state of society, they cannot by any compact, deprive or divest their posterity; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.

In addition to this the idea of limited government, which is the essence of article 21 of the Universal Declaration of Human Rights and which was proclaimed in the American Declaration of Independence is given expression in clause three of the Virginia Bill (Ackermann 1991:7), namely that

government is, or ought to be instituted for the common benefit, protection and security of the people, nation or community ... and that, when any government shall be found inadequate or

contrary to these purposes, a majority of the community hath an indubitable, unalienable and indefeasible right to reform, alter or abolish it, in such a manner as be judged most conducive to the public weal (public good, welfare or interest).

Absolute monarchy on the continent of Europe reached its zenith under Louis XIV (1638-1715), but he already predicted that a great political flood would follow his rule. He could hardly foresee that individuals working through the Paris salons and stirring up the mob would behead their king, Louis XVI, and challenge the monarchies of Europe in the name of Liberty, Equality, Fraternity and the Rights of Man (Maurois 1961:216-26, 269-303). Lafayette who had already won fame in the American War of Independence, was the principal sponsor of the **Declaration of the Rights of Man and of Citizens** in France (26 August 1789). Paine who returned to England from America in 1787 and met Jefferson (1743-1826) in Paris the following year, wrote his work on **The Rights of Man** under the influence of Lafayette (1756-1834), Jefferson and the practical philosopher, Benjamin Franklin, who was then the American ambassador in Paris. He argued under the influence of Rousseau that men are born equal, and with equal natural rights, since every child must be considered as deriving its existence from God. Individuals precede government, which exists only by virtue of a constitution or compact of men for their reciprocal benefit (Gould 1967).

However in the United States, it took more than eighty years from the Declaration of Independence, proclaiming the self-evident equality of man and his inalienable rights, until slavery was eliminated. Both in Europe and in the United States it took even longer before women were given voting rights or otherwise given equality to men in law.

Hence, there were often considerable gaps between the promise of the constitutions and the reality which many individuals faced. The process had been started, however, and turned out to become an irresistible force for further advancement of the rights and dignity of all. Serious reversals were experienced, and there were also times when the enthusiastic struggle for human rights led to excesses which were later regretted. Gradually, however, the principles of humane government have been consolidated into what the Universal Declaration of Human Rights calls the "*common standard of achievement*".

2.4 THE PRESENT CONCEPT OF HUMAN RIGHTS

According to Eide (1995:14-15) there are several ways of classifying **the different human rights**. These are the most important components:

the right to

- **physical and mental integrity** - the right to life and to liberty and security of the person, including freedom from torture and cruel or inhuman treatment, freedom from slavery, servitude and forced labour; freedom from arbitrary arrest and other deprivations of liberty
- **freedom of conscience and action** - freedom of religion, of opinion and expression, and freedom of information; freedom of assembly and freedom to form and join trade unions; freedom of movement, including the right to leave and to return to one's own country
- **legal justice** - fair trial in criminal cases, the right to defence counsel, prohibition of the use of criminal laws retroactively
- **privacy and family rights** - the right to respect for one's privacy, respect and protection of the family
- **political rights** - the right to take part in the conduct of public affairs, the right to vote and to be elected
- **social and economic rights** - the right to work, to an adequate standard of living and social security, the right to health services
- **equality and non-discrimination.**

In recent years, there has been at the United Nations an increasing concern with "*collective*" rights, in addition to the individual rights mentioned above. One of these is ancient and reflected in the American Declaration of Independence as well as in many of the constitutions adopted in the 19th century: **the right to self-determination of a nation, or people**. Others are less

recognised and still controversial. One such example is **minority rights**, another is **the right to development** which was proclaimed by the General Assembly of the United Nations in its resolution 11/128, adopted in December 1986. While many will accept these as people's (namely the group's) rights, there is doubt whether they can be considered "*human*" (namely individual) rights.

2.5 THE PREAMBLE OF THE CHARTER OF UNITED NATIONS

The embryonic definition of "*human rights*" in the initial constitutions of various North American states, ultimately the constitution of the United States of America as well as the Universal Declaration of Rights of 10 December 1948 (Osmanczyk 1990:390) are of decisive importance regarding the relevance of human rights as part of eternal and immutable justice. In this regard the Preamble of the Charter of the United Nations is still the most dramatic declaration of human rights. It "*sets out the philosophical ideas and historical factors that prompted the adoption of the Declaration*" (Dugard 1991:12-13). It appeals to all peoples and nations in the following words:

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all the members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the achievement of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in a larger freedom,

Whereas Members States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms.

Whereas common understanding of these rights and freedoms is of the greatest importance for the full realisation of this pledge.

Now, therefore, the General Assembly proclaims

this universal declaration of human rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of members states themselves and among the peoples of territories under their jurisdiction.

It stresses the recognition of **the inherent dignity** and of **the equal and inalienable rights** of all members of the human family. It specifies the **freedom of speech and belief and freedom from fear and want**, proclaiming such freedom as the highest aspiration of the common people. It leaves no doubt that **human rights** should be **protected by the rule of law**. It expresses faith in **fundamental** human rights, in the dignity and worth of the human person and in the equal rights of men and women in the determination to promote social progress and better standards of life in a larger freedom. It aspires to promote **universal respect for and observance of human rights and fundamental freedoms**. The overwhelming intent of the authors of The Preamble is to **secure** the universal and effective recognition and observance of this **universal** declaration of **human rights**.

2.6 THE 30 ARTICLES OF THE DECLARATION OF HUMAN RIGHTS OF 10 DECEMBER 1948

In addition to the Preamble of the Declaration of Human Rights of 10 December 1948 there are 30 articles, covering the so-called "*first generation rights*", which are concerned with **civil and political rights**, as well as the so-called "*second generation rights*", which have added **economic, social and cultural rights**, as extended by the UN Covenant of 1966. These altogether stress 32 matters (Robertson 1991:19-214), which the researcher formulates as follows:

- the right to **human dignity**
- the right to **freedom from discrimination**
- the right to **life, liberty, and security**
- the right **not to be held in slavery or servitude**
- the right to **freedom from torture and ill-treatment**
- the right to **recognition before the law**
- the right to **equality before the law**
- the right to **effective remedies**
- the right to **freedom from arbitrary arrest and detention**
- the right to a **fair trial**
- the rights of **people accused of crimes**
- the right to **privacy, honour, and reputation**
- the right to **freedom of movement**
- the right to **asylum**
- the right to **nationality**
- the rights to **marriage and a family**
- the right to **own property**
- the right to **freedom of thought, conscience, and religion**
- the right to **freedom of opinion and expression**
- the rights to **assembly and association**
- the right to **democracy in political life**
- the right to **social security, assistance, and welfare**
- the right to **work**
- the right to **equal pay for equal work**
- the right to **social rights**
- the right to **form and to join trade unions**
- the right to **rest and leisure**
- the right to **education**
- the right to **culture**
- the right to **international peace and security**
- the right **against the restrictions and limitations on human rights**

- the right against the abuse of human rights.

2.7 THE RIGHT TO DEVELOPMENT

Although the Universal Declaration of Human Rights of 10 December 1948, the key norm in the United Nations system in the field of human rights "*does not have a direct impact on government machinery*" (United Nations 1995:28), there is no moral limit to the influence of the United Nations Organisation on its member states towards world-wide justice, as became increasingly evident in the case of South Africa, which remained recalcitrant for over 40 years of **apartheid**, but ultimately complied with the expectations of the United Nations. For on the institutional level,

the signing of the Charter (of the United Nations) was followed by the creation of the principal organs and specialized agencies with competence in the human rights field (United Nations 1995:5).

What is of concern in the present study is document 56, the Declaration of the Right to Development (United Nations 1995:322-324) which was found to be necessary to overcome all misunderstanding about the intention of the United Nations Organisation to achieve international co-operation in solving economic, social, cultural and humanitarian problems covering all the people of the earth.

It is a human rights reaffirmation in the following words (United Nations 1995:323).

Declaration of the right of development

The General Assembly,

Bearing in mind the purposes and principles of the Charter of the United Nations relating to the achievement of international co-operation in solving international problems of an economic, social, cultural or humanitarian nature, and in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Recognizing that the development is a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the wellbeing of the entire population of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of

benefits resulting therefrom.

Considering that under the provisions of the Universal Declaration of Human Rights everyone is entitled to a social and international order in which the rights and freedoms set forth in the Declaration can be fully realized,

Recalling the provisions of the International Covenant on Economic, Social and Cultural Rights and of the International Covenant on Civil and Political Rights.

Recalling further the relevant agreements, conventions, resolutions, recommendations and other instruments of the United Nations and its specialized agencies concerning the integral development of the human being, economic and social progress and development of all peoples, including those instruments concerning decolonization, the prevention of discrimination, respect for and observance of, human rights and fundamental freedoms, the maintenance of international peace and security and the further promotion of friendly relations and co-operation among States in accordance with the Charter,

Recalling the rights of peoples to exercise, subject to the relevant provisions of both International Covenants on Human Rights, full and complete sovereignty over all their natural wealth and resources,

Mindful of the obligation of States under the Charter to promote universal respect for and observance of human rights and fundamental freedoms for all without distinction of any kind such as race, colour, sex, language, religion, political or other opinion or social origin, property, birth or other status,

Considering that the elimination of the massive and flagrant violations of the human rights of the peoples and individuals affected by situations such as those resulting from colonialism, neo-colonialism, apartheid, all forms of racism and racial discrimination, foreign domination and occupation, aggression and threats against national sovereignty, national unity and territorial integrity and threats of war would contribute to the establishment of circumstances propitious to the development of a great part of mankind,

Concerned at the existence of serious obstacles to development, as well as to the complete fulfilment of human beings and of peoples, constituted, *inter alia*, by the denial of civil, political, economic, social and cultural rights, and considering that all human rights and fundamental freedoms are indivisible and independent and that, in order to promote development, equal attention and urgent consideration should be given to the implementation, promotion and protection of civil, political, economic, social and cultural rights and that, accordingly, the promotion of respect for and enjoyment of certain human rights and fundamental freedoms cannot justify the denial of other human rights and fundamental freedoms.

Considering that international peace and security are essential elements for the realization of the rights to development,

Reaffirming that there is a close relationship between disarmament and development and that progress in the field of disarmament would considerably promote progress in the field of development and that resources released through disarmament measures should be devoted to the economic and social development and well-being of all peoples, and, in particular, those of the developing countries.

Recognizing that the human person is the central subject of the development process and that development policy should therefore make the human being the main participant and beneficiary of development,

Recognizing that the creation of conditions favourable to the development of peoples and individuals is the primary responsibility of their States,

Aware that efforts at the international level to promote and protect human rights should be accompanied by efforts to establish a new international economic order,

Confirming that the right to development is an inalienable human right and that equality of opportunity for development is a prerogative both of nations and of individuals who make up nations,

Proclaims the following Declaration on the Right to Development, covering ten articles, it is made sufficiently clear that *"the human person is the central subject of development"*, with *"the right to development"*, in a setting covering *"the constant improvement of the well-being of the entire population and of all individuals"*. It is assumed that *"States have the primary responsibility for the creation of national and international conditions favourable to the realization of the right to development"*.

Concisely, the United Nations (1995:324) regard that states shall

take steps to eliminate the massive and flagrant violations of the human rights of peoples and human beings affected by situations such as those resulting from apartheid, all forms of racism and racial discrimination, colonialism, foreign domination and occupation, aggression, foreign interference and threats against national sovereignty, national unity and territorial integrity, threats of war and refusal to recognize the fundamental right of peoples to self-determination.

It is expected that states should *"at the national level"* (United Nations 1995:324) carry out the policies of the United Nations towards universal development and

ensure, *inter alia*, equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and the fair distribution of income.

2.8 THE CLASSICAL MEANING OF EQUITY

Fowler et al (1983:410) defines equity as follows: "*Fairness; recourse to principles of justice to correct or supplement law; system of law co-existing with and superseding common and statute law*". Roman law already accepted Aristotle's concept of equity as fairness, in the ethical sense of being humane (*ius aequum*), as distinguished from Roman law as fundamentally and positively laid down in the strict sense of the word (*ius strictum*), where **the law is the law as you find it**, pure and simple (Ritter 1971:940).

These clear distinctions that exist between ethics and jurisprudence have to be born in mind if one wants to be fair to those who use the term "*equity*" in the realm of development, where sound human relations and concern for our fellowmen is of primary importance. In his prudence Aristotle (1937:1143b) makes it clear that "*a man cannot be practically wise without being a good man*" which requires us to be reasonable towards our fellows (Aristotle 1937:1144b), demanding less for ourselves than we are entitled to (Aristotle 1937:1136).

Like his master Plato, Aristotle is convinced that human happiness is only achieved through moral character aspiring towards the highest good, which makes us like immortals and would seem to be our highest and truest Self, "*to constitute each man's Self*" (Aristotle 1937:1178a), steering clear of vice, imperfect self-control and brutishness (Aristotle 1937:1145a). "*The good, in loving their friend, love their own good*" (Aristotle 1937:1157b), a friend being in fact another Self (Aristotle 1937:1166a). It follows from this that "*it is not possible to experience the pleasure of the just man without being just*" (Aristotle 1937:1173).

In Aristotle's aspiration toward "*the achievement of the Good Man*" (Aristotle 1937:1094), he remains a moderate realist. Being clearly aware of the importance of practical situations, he places the emphasis on specificity and concreteness. For unlike the self-sufficiency of the scientist, who "*can contemplate even when quite alone*" (Aristotle 1937:1177a), "*all the practical virtues require either society or war for their working*" (Aristotle 1937:1177b). Emphasising specificity

and relevance, Aristotle steers a middle course, choosing the least of the evils between two faulty states. Within this context universality and specificity are co-implicative. Small wonder that Aristotle's followers, the Peripatetics, referred to the secular concept of ethics as a sober science, in Aristotle's sense, as "*practical philosophy*" (Ritter 1972:759).

The difference between law and ethics come to the fore in Aristotle's reflections with much common ground in equity, but it suffices to stress his specificity, practicality and sobriety. For Aristotle has a peculiar sane concrete approach to a socio-economic situation, blending cultural immersion in a society with Platonically inspired philosophic assessment. Aristotle (Nussbaum & Sen 1989: 308 & 311) holds that any good account of development

will be genuinely rooted in the experience of the people (concerned) and be genuinely practical, and yet be evaluative in such a way as to help leaders structure things for the best, enabling people to live as good and flourishing a life as possible ... we do not inquire in a vacuum. Our conditions and ways of life, and the hopes, pleasures, pains and evaluations that are a part of these, cannot be left out of the inquiry without making it pointless and incoherent ... ethical truth is in and of human life.

The incisiveness of Aristotle's thoughts on equity have been praised by leading scholars from antiquity to the present (Ritter 1971:940). During the Middle Ages when it was remarked, on the one side, that

the Member is part of the Whole, that the Whole is independent of the changes in its parts, that in the case of collision the welfare of the Member must be sacrificed to that of the Body; and on the other side, that the Whole only lives and comes to light in the Members, that every Member is part of the Whole, and that even a justifiable amputation of a Member, however insignificant, is always a regrettable operation which gives pain to the Whole (Gierke 1938:27).

Aristotle's views on equity prevailed. It is revealed in the reciprocity of Rights and Duties (Gierke 1938:34), in the "*legal boundaries of state power*" (Gierke 1938:37), in "*the original community of goods which is prescribed by the Law of Nature*" (Gierke 1938:40), as well as the emphasis on "*distinct Subjects each with rights of a contractual kind valid against the other and with duties of a contractual kind owed to the other*" (Gierke 1938:71).

When "the old Germanic idea with regard to a 'Right State' (Reign of Law) had already shown its insufficiency" (Gierke 1938:73) the need for "the immutability of Natural Law" (Gierke 1938:76) was felt increasingly. Small wonder that "Medieval theory ... was unanimous that the power of the State stood below the rules of Natural Law and above the rules of Positive Law" (Gierke 1938:78). Emphasising "the highest maxims of Natural and Divine Law" (Gierke 1938:81), "Medieval Doctrine was already filled with the thought of the inborn and indestructible rights of the Individual" (Gierke 1938:81).

Natural law in terms of Aristotle's clear concepts of **equity**, again and again asserted itself in the Middle Ages when conformity to God's will and divine law was demanded, contrary to individual autonomy, freedom, privacy. This reassertion of equity was partly due to the fact that Christianity emphasises the equality of all people before God and partly because Roman and Greek learning influenced the truly scholarly intellectual leaders of the all-powerful Catholic Church. In this regard St. Thomas Aquinas (1225-1274) was a Christian Aristotelian apologist and a most scholarly proponent of Natural Law, although he did not regain the secular character of Aristotle's Nicomachean Ethics (Ritter 1984:571-572).

Aristotle's classical clear definition of **equity** as "*practical wisdom*" (Aristotle 1937:1141b), the human endeavour to be thoroughly good, cannot be overestimated. It became the mainstay of the clarification of the concepts, which inspired the axiology (theory of values) of leading Roman lawyers like Ulpian (170-228 AD). Ulpian regarded law (*ius*) as the result of the will to justice (*iustitia*): "*Justice is the firm and lasting will to assign to everybody what he is entitled to (to give each his due)*" ("*Iustitia est constans et perpetua voluntas ius suum cuique tribuendi*"). The ability to distinguish between justice and injustice marks the sagacity of the true jurist in this regard: "*Juris prudence is the insight into godly (divine) and human affairs, into justice and injustice*" ("*Juris prudentia est divinarum atque humanarum rerum notitia, iusti atque iniusti scientia*") (Ritter & Gründer 1992:223).

Well after the concern for the freedom of the individual was stimulated by the Renaissance and the Enlightenment Aristotle still came into his own as the greatest proponent of **equity** most emphatically in the codification of several important legal systems on the Continent of Europe

(starting with the Napoleonic Code). It meant full appreciation for the clarity and simplicity of Roman Law, but also sufficient emphasis on **equity** in the sense of Aristotle under the new circumstances of the bourgeois (burgerlike) liberal rule of law ("*Rechtstaat*") (Ritter 1971:941).

2.9 THE WELFARE OF ALL PEOPLE

The Universal Declaration of Human Rights of 10 December 1948, which went beyond mere states to individuals, towards the achievement of justice for all the earth's inhabitants, proclaimed "*a common standard of achievement for all peoples and all nations*" (Brownlie 1971:107). It intended to bring about global peace as a moral beacon and inescapable instrument from the outset. It means that human rights have been emphasised so emphatically that no state can continue to ignore this enormous accent on the consideration which is due to all people from all people. It means that human rights have been emphasised so clearly and emphatically that no state can afford to ignore the enormous accent on the consideration which is due to all people from all people. Human rights are a "*fait accompli*" which are to be respected and put into practice, as a matter of being true to our own humanity, irrespective of whether we are religiously inspired in the universal Christian and Buddhist sense, or clear about ethics in the secular sense of Aristotle and Kant.

It is particularly instructive in this regard to look beyond the rigorism and pedantic stiffness of Kant's philosophy, which does not make it easy reading. For, Kant, more than any other modern philosopher, clarified the foundations of Plato and Aristotle for the purposes of more recent reflections on ethics and natural law. He carried Locke's enlightenment a stage further, steering clear of the pitfalls of the pragmatically inspired aspiration towards happiness as the highest end ("*eudaemonism*").

Immanuel Kant (1724-1804), witnessed the extremism of many French revolutionaries from 1789 onwards. He went beyond their superficially conceived "*Goddess of Reason*" in whose name countless injustices were committed, seeking specifically for the foundations of all claims to rationality in his "*Critique of Pure Reason*", his "*Critique of Practical reason*" and his "*Groundwork of the Metaphysic of Morals*".

Kant was more emphatically convinced than anybody else that it is the attempt to achieve goodness for its own sake that marks the ethicist. His "*Groundwork of the Metaphysic of Morals*" strictly defines ethics as inner morality, the ethical mindedness ("*Gesinnung*"), which is revealed in the relevant rules ("*Maximen*") of rational conduct. He has no doubt about the primacy of inner morality as the subject matter of ethics (Ritter 1972:782).

Whilst physics is concerned with the laws of nature, Kant regards ethics as the discipline of the law of freedom, as "*practical reason*", focussing on the conscience inspired moral relationships of people towards people (Ritter 1972:780-781). Emphasising the autonomy of the human will, Kant is convinced that "*man and every rational being*" must be regarded as "*an end in itself*", not merely as "*a means to an end*", not merely a "*thing*", but a "*person*" (Ritter 1972:781-782). Kant adheres to the categorical imperative that "*one can because one must*", which allows one no escape from doing one's duty. His golden rule is to act according to the maxim which requires that what one does would be equally as acceptable if it should be made a general law. An application of the principle is to act in such a way that one always treats humanity in one's own person as well as any other person as an end and never as a means (Ritter 1972:782).

Kant in his transcendental ethics left no doubt about the sovereignty of the free will in the realm of ethics (Ritter 1984:595-596). But it is sufficiently clear that Kant emphatically differentiated between ethics and law without sacrificing their common moral basis (Ritter 1972:778). Kant never forgot that law and jurisprudence ("*die philosophische Rechtslehre*") are the outward acts which arise from ethics and not reducible to ethics in the basic sense (Ritter 1972:782), however much the law might be authorised to coerce uncommitted free individual persons towards civil society, even to the point of achieving a social contract in Rousseau's sense (Ritter 1984:595-596).

Plato maintained that the ability to distinguish marks the philosopher and there cannot be any doubt about Kant's qualifications in the realm of moral philosophy. There is still much appreciation in the present century for "*Kant's incomparable analysis of the categories of legality and morality*" (d'Entrèves 1964:94).

The fact remains that law, including the law of human rights, has its limitations. In this regard

moral principles may help to shape the law, but they cannot be assumed to do so more effectively than they do the rest of the law (Lyons 1984:104).

Although the courts are expected to decide cases in a morally responsible manner (Lyons 1984:92) and although a moral requirement seems analogous to that of a legal requirement, the fact remains that

the requirements of law and morality are not equivalent, and the differences do not turn entirely on the fallibility of the law (in the sense of common law). Moral standards are often more extensive and more demanding than those of established law. Morality may require generosity and compassion, charity and mercy, but falls beyond the reach of legal requirements (Lyons 1984:70).

Equity in its effect on natural law extends beyond positive law, which it corrects or supplements if required to do justice to moral standards "*which are often more extensive and more demanding than those of established law*" (Lyons 1984:70). In this regard Natural Law co-exists and supersedes common and statute law. This applies equally in the case of our concern with the welfare of all people, with doing justice to the social and economic aspects of universal human rights as defined by the United Nations and so many other instances. It is required to look further than the "*necessary connections*" between law and morality to ensure that law satisfies the moral standards by which it may be judged properly (Lyons 1984:74).

2.10 HUMAN RIGHTS AS MORAL DEMANDS

Jefferson was of the opinion that to Americans the idea of individual **rights** is self-evident as a truth or axioma. But the wide acceptance of these rights has only occurred since the catalytic effect of the Second World War when the reasoned resistance against Hitler's arbitrary racialistic dictatorship became formulated increasingly convincingly as the freedom of speech, of worship, and from want and from fear. These rights now appear to be a "*universal truth*" (Henkin 1978), after having been defined in the Universal Declaration of Human Rights which have been adopted by the United Nations General Assembly on 10 December 1948, and in the numerous covenants and conventions which have been derived from it.

The **universality** of human rights, that is the rights of all people at all times and in all situations, has been implied by the Judaeo-Christian duty to love one's neighbour as well as the ideal of natural law which has come to us from Greek philosophy, Medieval Christian apologetics, the Renaissance, the Reformation and the Enlightenment as well as the American and French declarations of human rights. An emphatic example of a universal human right is the right to a fair trial (Macfarlane 1985:6) which

is not a right 'necessarily' limited to those persons who are on trial at any particular point in time, but as a positive expression of the liberty right of all men not to be subject at any time to arbitrary arrest, imprisonment or punishment.

The **individuality** of human rights consists in the right of individuals to meet the needs and purposes of individuals as free beings who possess dignity and worth, who are endowed with reason and conscience, which makes them capable of moral choice and free activity. But although human rights are the rights of individuals (Macfarlane 1985:7), they are claims upon

society rather than against other individuals, since it is society's responsibility to ensure that the rights concerned are given legal force and upheld against all persons and bodies within the community.

The **paramountcy** of human rights means that no one can be deprived of a human right without giving a grave affront to justice. The problem remains that although there are certain deeds which should never be committed, certain freedoms which should never be violated, it is not always easy to provide a definitive concrete criterion of paramountcy. A clear example of the difficulties which arise in this regard is found in the Third World where economic and social needs are of paramount importance. Here *"the crucial question remains of whether it is possible to establish specific economic and social rights claims (which are) capable of being given effect in legislation"* (Macfarlane 1985:9), particularly because Third World countries lack the resources for the provision of what is needed to satisfy minimum rights.

The **practicability** of human rights, whether what ought to be done can be practically achieved, can be very discouraging, although there is no limit to the discovery of new ways and means as

the history of science has proven again and again. What seems impossible today might be possible in the future. It would be unreasonable to expect to live forever physically or for everybody to have his own personal and exclusive private physician. It is another matter if the poor of the Third World merely claim the right to an adequate livelihood, not the right to live as well as the average German or North American. In this regard Macfarlane (1985:10) is of the opinion that

practicality has rather to be established in terms of the probability that proposed changes will help meet the basic economic and social needs of the poor with the minimum disturbance of existing rights and customary ways.

The **enforceability** of human rights is primarily a matter of domestic politics and juridical action in an enforceable concrete setting. It is much more difficult for an international court to enforce human rights than for the established courts which exist in the various sovereign states. A clear instance is to be found in the European states, which are Members of the Council of Europe and therefore bound by the European Convention for the Protection of Human Rights and Fundamental Freedoms, whilst the European Court deals only marginally with human rights within the community states (Mendelson 1982). The enforcement provisions of the United Nations International Covenants, which are in themselves morally at a high level, depend very much on individual states for practical reasons. There is sufficient evidence, for example, that the peace keeping efforts of the United Nations Organisation depends entirely on the individual states which are responsible for the enforcement of whatever decisions which are taken by the world organisation.

2.11 THE APPLICABILITY OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

Although it was not possible to entirely avoid the minefield of relevant lawyer's arguments and the history of philosophy, there can be no doubt about the direct applicability of the Universal Declaration of Human Rights solemnly addoted by the General Assembly of the United Nations on 10 December 1948 for the purpose of this study. Going beyond "... *Medieval Doctrine (which) was already filled with the thought of the inborn and indestructible right of the Individual...*" (Gierke 1938:81), human rights today (after 10 December 1948) are intended to be **more**

egalitarian, less individualistic, and have an international focus (Nickel 1987:7). The Universal Declaration of Human Rights and the major relevant covenants and conventions (Nickel 1987:7) were the outcome of a compromise finally agreed upon after long, often disappointing experience in international affairs, as an acceptable "... *ideological programme ... to be tested in the battlefield of history...*" (d'Entrèves 1964: 114). There can be no doubt that the most specialised arena of this battlefield is the United Nations Organisation and its agencies, who have to implement these rights practically to assure the welfare of all and each person living on earth.

In the Universal Human Rights declared on 10 December 1948 and the following covenants

political forces have mooted the principal philosophical objections, bridging the chasm between natural and positive law by converting natural human rights into positive legal rights (Henkin 1978:19).

It means that they are rights against the entire world and binding on all states, whether they are directly enforceable or not. For they were and are intended to define and secure the universal rights of the individual once and for all. They give all individuals in global society equal claims on global society, for they belong to every human being living in every human society. They are fundamental and enjoy a *prima facie* presumptive inviolability and cannot be lightly sacrificed, even for the hypothetical good of the greatest number of people. Human rights are **rights**, not merely aspirations or assertions of the good. They imply the obligation of society to satisfy all relevant claims. They are the rights of individuals as persons with claims **upon** society, not **against** society. This means that there is a claim of individuality which cannot be invaded or sacrificed by individuals, even when they are called upon to give up some of their rights for serving the rights of others for the common good. In this regard all individuals count equally. According to Henkin (1978:5)

no particular individual can be singled out for particular sacrifice, except at random or by some other 'neutral principle', consistent with the spirit of equal protection of the laws.

Human Rights establish claims which are universally valid, irrespective of whether the individuals concerned are ethically speaking, good or bad people. As every person has rights against every

other person, the one person's right reciprocally implies the other person's duty, involving all people in rights which correspond to the duties which are implied by these, which means that rights and duties are co-implicative.

In this regard, Hakim (Donnelly 1985:78) is of the following opinion:

Rights and duties are two facets of the same picture. Whoever demands a right to liberty has to respect a similar right in others which circumscribes his right to personal liberty very considerably. If an individual thinks it is his right to be fed and clothed and maintained in proper health and if he has a right to work, it is also his duty to work according to his energies and skill and accept the work which the welfare of the community demands of him.

Initially the emphasis was placed on **duty**, but however long it took the people concerned to fully realise it, it became increasingly evident that duties and rights are co-implicative. An illustrative example of the shift of emphasis from **duties** towards **rights** is to be found in the Christian injunction: "*Thou shalt love thy neighbour as thyself*" (Matthew 5:43; 19:19; 23:39; Mark 12:31; Luke 10: 27; Romans 13; Galatians 5: 14; James 2:8). God's law is the primary determining factor according to which all human beings are in **duty** bound to love their neighbours as themselves.

Once mutual love is understood to be a universal binding **duty** it becomes clear that obedience to God implies a **duty** that is expected from one another. We can logically expect from other people to love us because it is a **duty** which God placed on all of us, giving us the **right** to expect it from our fellowmen with the consequent demands. The giving end of mutual love implies the receiving end with its own peculiar perspective. Louis Henkin (1978:186-187) had to admit that within this context of the co-implication of human rights and duties human rights are, at least a supplemental "*theology*" for pluralistic, urban, secular societies. This might not be acceptable to all theologians, but the fact remains that legal reflection has drawn the full consequences of human duties implying human rights and *vice versa* human rights implying human duties. The world has become increasingly secular in this regard.

The most emphatic formulation of the **rights of man** in the Universal Declaration of Human Rights put into dignified words what had been built up over a period of more than two thousand

years. It is the result of reflections on **duties** starting with the early civilisations and the great world religions, extending over Greek philosophy, Roman law, Medieval apologetics, the Renaissance and the Enlightenment to culminate in the various deliberate declarations of the rights of men, which were initiated in America.

If the 30 articles of the Universal Declaration of Human Rights of 10 December 1948 are more closely observed, the rights can be grouped into the following five categories, namely **rights to**

- the rule of law
- non-coercion
- non-interference
- political liberty
- economic and social upliftment.

Corresponding with the above-mentioned rights, are the following five parallel **duties to**

- legally protect our fellows
- protect others from being co-erced
- protect others from being interfered with
- protect the political liberty of others
- extend economic and social upliftment to others.

Once formulated for the peace-keeping and other purposes of the United Nations Organisation Universal Human Rights are sufficiently clearly established as an **international criterion** which has to be made as enforceable as possible, depending on the willingness and ability of the states to act accordingly.

2.12 CONCLUSION

Having explained the relevant distinctions between ethics and law (positive and natural) in the sense of Aristotle and Kant, one is all the clearer about the scope and stumbling blocks of human

rights, which is a world wide reality which is to be maintained by the member states of the United Nations and have to be reckoned with by all states and people. It was in opposition to the inhumanity of Nazism specifically that the Universal Declaration of Human Rights of 10 December 1948 and similar subsequent declarations by the United Nations Organisation (UNO) have emphasised human rights irrespective of whether people are of equal or unequal power, developed or underdeveloped. It does not depend on the legal systems of the states concerned or the morality of the people concerned, irrespective of whether a person is religiously inspired in the Christian and Buddhist sense, or clear about ethics in the sense of Aristotle and Kant. Beyond this, under all circumstances, respect for human rights is a "*fait accompli*" regarding all states and persons. Human rights are bound to be put into practice in the long run. Even the most powerful states like the USA and the Soviet Union could not ignore them.

Within the ambit of our general theme in the present thesis we are clearly concerned with *the relevance of human rights to socio-economic and political development in South Africa*, which focuses on the socio-economic implementation of human rights in the world-wide setting in chapter three. One is concerned with the degree in which development aid is realistically possible at meso level, as well as technocratic, reformist and radical at the level of micro projects (Moris 1981:2-3), implying the normative as well as the practical. For rights only come into their own through practice, whilst implementation can only be meaningful as the fulfilment of rights, linking up "*both normative and development theory with development policy, politics and practice*" (Crocker 1991:468). One is justified to aspire towards "*a moral dialogue (in search of) authentic development and a better world*" (Crocker 1991:474), which might not be possible without positive state action as well as great expenditure.

CHAPTER 3

THE SOCIO-ECONOMIC AND POLITICAL IMPLEMENTATION OF HUMAN RIGHTS

3.1 INTRODUCTION

The triplicity of our overall theme should be born in mind constantly. It covers **human rights, socio-economic and political development**, as well as **South Africa**. The second chapter has dealt with the **nature and extent of human rights**, covering the classical meaning of human rights as equity, the welfare of all people and human rights as a "*fait accompli*" regarding all states and persons, a common standard in the 30 articles of the Declaration of Human Rights of 10 December 1948.

But neither development nor rights have relevance unrelated to each other. Although they do not create each other, they are co-implicative. Human rights do not function in isolation. They cannot be fully and properly assessed without considering the political, economic and social and cultural context of the particular situation.

Developing countries "*should be studied in terms that are adequate to (their own) reality*" (Zeylstra 1977:148). In a wider setting Paragraph 12 of the Proclamation of Teheran 1969 emphasised the primary responsibility of the constituent units of the community of nations. It is found to be disquieting that the widening gap between the economically developed and developing countries impedes the realisation of human rights in the international community. The failure of the development Decade (1961-1970) to reach its modest objectives makes it all the more imperative for every nation, according to its capacities, to make the maximum possible efforts to close the gap. It has become an ever greater problem to determine in which direction poor societies in the interest of humanity should develop, that is, in which direction poor people ought to be helped to help themselves.

3.2 AID AS AN INSTRUMENT OF POLICY

At the time when the United Nations Organisation was established in San Francisco, at the end of the Second World War, it became increasingly clear that one had to distinguish between a powerful prosperous state like the United States of America, communist dictatorships like the Soviet Union and a Third World consisting of developing countries. The Universal Declaration of Human Rights of 10 December 1948 set standards which, at that stage, could only be fulfilled by the United States of America, Canada, Sweden, Switzerland and a few other states but not to the extent that they could carry the rest of the world economically. The situation was even more difficult because the Soviet Union occupied Europe as far west as the western borders of Mecklenburg, Sachsen-Anhalt, Thuringia, Czecho-Slovakia and Austria, which was soon regarded as an "*iron curtain*" between the communistic and freemarket countries.

This "*iron curtain*" increasingly became the border in terms of which an ideological confrontation, a Cold War, was being waged, lasting from 1945 to 1990. Under the guidance of President Truman **foreign aid became an important weapon against the encroachment of communistic propaganda** on the economically weakened countries of Western and Southern Europe which were directly exposed to the Soviet Union and its satellites.

The political motivation of what was called the Marshall Plan was to prevent the spread of communism to France and Italy (where the communist party was strong), to stabilise conditions in West Germany (and create an attractive alternative to the socio-economic system imposed in East Germany) and to reduce the appeal of socialist policies in the United Kingdom of Great Britain (where the Labour Party enjoyed considerable popularity) (Griffin 1991:645-646).

The intention was to "*assist free peoples to work out their own destinies in their own way*" (Zeylstra 1977:31). Soon the Marshall Plan was followed by Truman's Point Four programme which was a technical and economic assistance programme for Greece and Turkey (Griffin 1991:646), also in terms of the communist threat on the borders of the Soviet Union. For it became increasingly clear that assistance towards "*economic reconstruction and recovery*" was required in a convincing way to win the Cold War. By degrees the realistic political, economic

and humanitarian policies of the Americans in Europe were extended to other countries.

The disintegration of the European colonial empires, first in Asia and then in Africa, produced new needs and opportunities for development aid by the more wealthy countries. In this regard America led the way, in terms of socio-economic and political conditions which were described as "*underdeveloped*", "*under-developed*", or "*less developed*". The countries which were occupied by Japan before and during the second World War, (including China which had become communistic in 1949), were approached along the same lines as a contest for the "*hearts and minds*" of less fortunate people who might become a victim of communistic ideology.

Foreign aid was one weapon in this contest, not the only weapon and seldom the most powerful one, but none the less a significant tool of Western diplomacy (Griffin 1991:646).

The political motives of foreign aid were very emphatic in the case of Taiwan, South Korea and South Vietnam, particularly in the latter where accompanying military operations ultimately failed completely. When Cuba became a communistic threat on America's doorstep in 1950 an economic embargo against that country followed and also a foreign aid programme for the rest of Latin America. As the economies of Britain, France and the Netherlands improved, these erstwhile colonial powers provided economic aid to the Third World countries which they felt morally responsible for. The result of these endeavours was an expanding global capitalistic (free market) economy which ultimately won the Cold War, the decisive motivating factor behind "*the domestic political support in the donor countries*" (Griffin 1991:647). By securing markets, promoting exports and creating a favourable climate for private foreign investment more support was mobilised for the implementation of human rights than would otherwise have been possible in the United Nations Organisation (Griffin 1991:647). Cold War motives went beyond the genuine humanitarian idealism of the Scandinavians and a few other donor countries.

3.3 DEVELOPMENT AID AFTER THE COLD WAR

The most convincing arguments that the communists used against the capitalistic countries during the Cold War was the supposition that development aid from the previous colonialist mother countries was merely neo-colonialism and that the capitalistic foreign aid of the USA and her allies

was merely enslaving the beneficiaries who were forced to become part of a free market economy which was onesided and ultimately harmful. This was not entirely untrue, but the Soviet Union and her European satellites collapsed by 1991 and the economy of China soon became increasingly capitalistic.

The fact remains that a fellow creature in need has a moral demand on his or her fellow creatures who are able to be of help, irrespective of and beyond the onedimensionality of individualistic capitalism as well as the onedimensionality of collectivistic communism (Marcuse 1970:124).

However, in general, foreign aid is only humanitarian in a secondary sense and merely strengthens those who possess power to retain it. It consequently often strengthened the militarisation of the Third World. The anti-communistic orientation of Western aid led to the strengthening of rightist dictatorships and militarism. Examples come readily to mind: South Vietnam, and Pakistan in Asia; Liberia, Kenya and Zaire in Africa; Guatemala and Haiti in Latin America. Sometimes aid to right-wing dictatorships was directly juxtaposed to left-wing dictatorships receiving aid from the Soviet bloc, for example Pakistan versus Soviet-supported Afghanistan, Somalia versus Soviet-supported Ethiopia, Honduras versus Soviet-supported Nicaragua (Griffin 1991:669).

Western analysts oversimplified the advantages of foreign aid in terms of the established capitalistic economy, characterising underdevelopment by shortages of capital, technology and relevant skills. It was assumed that economic development was bound to occur through increased supplies of capital, technology and skills, which the donor countries could easily provide. But this investment doctrine is hostile to institutional change which is not in line with the preferences of the donors, for it does not take the unique circumstances of the recipient countries into sufficient account. Small wonder that the conventional view of the donor countries became challenged increasingly. *"The statistical evidence ... for the 1960s, 1970s and early 1980s is not consistent with the hypothesis that aid accelerates growth"* (Griffin 1991:654).

The inflow of foreign aid into a country undoubtedly makes more money available for expenditure but this can easily be wasted, spent on unproductive consumption, over a wide field covering military expenditure, the reduction of taxation, the amassing of monetary reserves, capital flight, irrespective of education, health care, nutrition programmes, training and research. In addition to

this, the donor's preferences have far too often resulted "*in favour of large, capital-intensive, show piece projects in the public sector with below average rates of return*" (Griffin 1991:662). There is the constant danger that donors do not pay enough attention to the poverty impact of their projects, not realising that there have been cases where aid has been harmful to the poor (Cassen 1986:51 & 299).

The future of foreign aid is bound to be affected enormously by the collapse of the Soviet Union and its satellites, robbing it of its Cold War incentive. Instead of foreign aid flowing mainly to the Third World in a Cold War effort to strengthen these countries against the Second World of the communists, it is now needed for assistance to the USSR (or its successor states) and its former allies in Central and Eastern Europe (Griffin 1991:671). Germany is building up its part of the previous Soviet Bloc, namely the former German Democratic Republic, in addition to which the united Germany is bound to have a great share in medium term restructuring aid which is extended to the whole of Eastern Europe, leaving less money for other countries. Japan, in addition to her enormous share in the foreign aid to Oriental countries can in due course share in the development of what used to be the Soviet Union.

There is no limit to what the USA could do for other countries

to serve not ideological self-interest but commercial and other interests such as the control of international trade in narcotic substances and the prevention of further deterioration of the global environment (Griffin 1991:673).

There are many more stumbling blocks facing foreign aid, but ever more clarity is being arrived at, resulting in the view that more emphasis should be placed on the reallocation of existing sources than on foreign sources. The new emphasis is on self-reliance, the abolition of poverty, the creation of employment, the satisfaction of basic needs and the creation of an equitable society within the universal context of human rights.

3.4 STRUCTURAL ADJUSTMENT

The recession which occurred in the world economy between 1979-1981 meant that indebtedness,

debt servicing, falling terms of trade, declining exports and reductions in aid demanded special attention and special measures. These critical circumstances required significant departures from past policies to be implemented in response to economic instability. In order to reduce deficits in the balance of payments of developing countries, primarily in Latin America and Africa, Structural Adjustment Programmes (SAP) were developed increasingly. In tandem with the protracted crisis in Africa during the 1980s, the role of the International Monetary Fund (IMF) and the World Bank has in this regard become increasingly crucial. Between June 1986 and July 1987, 21 countries signed stand-by agreements. Eleven of the least-developed African nations on this list also agreed to Structural Adjustment Facilities (SAF) (Stein 1992:83).

Structural Adjustment Programmes (SAP) received the support of international creditors and bankers as the major initiators of development. "*They offered conditional loans, which stipulated the adoption of specific policies by borrowing countries*" (Roy 1990:3). Although not insisting on the quantification of macro-economic variables, they nevertheless demanded that tariffs must be restructured, that price controls should be abolished, that the prices of public goods and services must be increased, that exports must be promoted, that devaluation must be carried out and that specific economic sectors, for example industry and agriculture, must be supported (Roy 1990:3). In the conviction that "*economic mismanagement*", interference with the free market, should be avoided, the achievement of "*the right prices*" became a primary aim, with the focus on the repayment of debts (Roy 1990:7 & 9).

The main emphasis in SAP has remained on the agricultural sector which is primary in sub-Saharan Africa, but the augmentation of standards of living would obviously require a certain degree of industrialisation. Stein (1992:94) argues that although there are problems as far as the structure of industry in Africa is concerned, merely hoping that "*the market will solve the difficulties is no substitute for developing an industrial policy*". According to Stein (1992:85) the adjustment goals of the World Bank and IMF persist that

resources should be shifted from industry to agriculture, from public to private ownership, from import-substituting to export industries, from final goods production to raw material processing, intermediate and capital goods production, and away from import-intensive investment.

This means deindustrialisation, from the side of demand as well as supply, so that existing industries will be hit on the cost side with rising interest expenses, import costs and raw material prices for agricultural goods (Stein 1992:89).

In trying to overcome government intervention, which gives rise to distorted markets, import-substituting industry is encouraged at the expense of agriculture. Both the World Bank and the IMF are in favour of "*liberizing foreign exchange, restoring the real effective exchange rate, removing protectionist barriers and reducing the role of the government through expenditure reductions and privatization*" (Stein 1992:94). And this requires export oriented tight control of credit, adjustment policies which are a fresh attempt to achieve the fullest possible integration of sub-Saharan African economies with the predominant capitalistic economic order. Togba-Nah Tipoteh believes that the World Bank and the IMF seek to

promote private, foreign profit making opportunities which are relevant to Africa. This is not surprising because both institutions are controlled by the group of five member states: USA, Japan, West Germany, France and Britain, but principally by the first three countries, whose governments are accountable to their multinational corporations which continue to dominate investment, trade and aid in African economies (Tipoteh 1989:30).

Many who have long believed that aid contributed to development have had second thoughts, suffering from "*aid fatigue*". The report of the World Bank in 1990 concluded that even

when aid has been directed to the poor, the results have sometimes been disappointing - especially in countries in which the overall policy framework has not been conducive to the reduction of poverty (World Bank 1990:4).

The truth is that apart from other reasons why foreign aid, in combination with commercial bank lending, has imposed an enormous burden on many developing countries "*... is that a large part of foreign aid and commercial external loans were not used for development purposes but instead were squandered*" (Griffin 1991:677).

Small wonder that the debt burden of the poorer countries, after forty years of foreign aid, has reached overwhelming proportions, to the extent that the repayment of many of these debts has

become impossible. Griffin (1991:678) is of the opinion that:

cancellation of a large part of the external debt of developing countries would be a once-for-all gift from the rich countries to the poor, a form of foreign aid that would help to remedy the errors of the past, and a gift that would cost the donors little in terms of forgone income since they are unlikely to be paid in any event.

At this stage general public opinion in countries like the USA, the UK, Germany, Canada, the Netherlands, Norway and Sweden has lost interest in "*humane inter-nationalism*" (Griffin 1991:682). This is particularly alarming in the case of the Scandinavian countries and the Netherlands with their unselfish attitudes towards the Third World.

3.5 THE PRIMARY IMPORTANCE OF HUMAN RIGHTS IN DEVELOPMENT

Neither the organised selfishness of unfettered capitalism nor the anti-individualistic collectivism of Stalinist dictatorship nor any apartheid regime can in the long run escape the implications of the Universal Declaration of Human Rights as defined on 10 December 1948 and by subsequent relevant declarations under the same auspices. For it means that traditional religious and secular ethical duties have for once and for all been formulated as universal human rights against the world, which fully imply the duties which they have made incumbent on every state on which the United Nations Organisation can effectively apply pressure. It makes global rights and duties reciprocal in the most implicative sense, where the exercise of every state's rights requires the exercise of every state's duties. In this regard the universal goal is the self-actualisation of all people through the universal implementation of their fundamental rights all the time, regardless of the level of development of the relevant society.

There is already a growing intention in many countries to "*assist free people to work out their own destinies in their own way*" (Zeylstra 1977:31). This is the result of a growing awareness that we are all obliged to help the less fortunate within the universal context of accepting that a human being in suffering is our other self in suffering, remaining within the concrete polarity between ideals and practical implementation, as a matter of affordability, which is enhanced by getting poor people to help themselves ever more effectively.

It becomes increasingly clear that developing countries must be understood properly for the purposes of development, both historically and within their inner struggle in the process of development (Gunatilleke 1983:8). The fact however remains that the very term "*development*" is not used clearly enough by many authors who have written on aid to less developed countries causing a degree of embarrassment (Riggs 1981:13). This is particularly evident where the "*theory-practice*" of development is approached from a variety of angles with even opposing attitudes (Crocker 1991:458). Within the polarity between the ideals of human rights and practical implementation there is often a lack of consensus. According to Plant (1989:131) "*the principle of the integrity of human rights is commonly accepted,*" but

definitions which specify the nature and scope of individual economic and social rights are rare, and disagreements about the corollary obligations of governments frequent and fierce.

The fourth Nordic Seminar on Human Rights, held in Copenhagen in 1987, resulted in more questions being asked than answers given, but it revealed a profound concern for the less fortunate on our globe. The Norwegians, the Swedes, the Finns, the Danes, the Dutch and others were demanding democratisation, which includes freedom of expression, free elections, freedom of religion, fair trials, etcetera, going beyond this to social and economic rights, such as the right to work, education, medical care and to food, in the attempt to correct historically skewed patterns of the distribution of resources, wealth and power.

Dealing with human rights in development programmes which are receiving development aid between 1987 and 1988 under the auspices of the Christian Michelsen Institute, the Danish Centre of Human Rights and the Norwegian Institute of Human Rights, Andreassen, Skalnes, Smith and Stokke (1988:334) made it clear that human rights tend to cluster around one or the other of two prominent perceptions, namely:

- protection of socio-economic rights may be seen as mere goals to be achieved through gradual economic and social progress
- the basic needs approach views full scale needs satisfaction as at least morally obligatory now for the most deprived groups in the world through governmental and

intergovernmental aid.

On the one hand the view prevails that there are "*manifesto rights*" which Joel Feinberg considers to be "*only 'potential rights'; socio economic needs (for the) satisfaction (of) the world's poorest people (which) is currently found (to be) too expensive*" (Andreassen et al. 1988:334). They can only graduate by degrees according to Andreassen (1988:334) from being mere claims to become truly valid as full rights at some future date when resources are less scarce, and when duty-holders who are capable of providing for the fulfilment of such rights can be clearly identified. On the other hand, Henry Shue has a "*basic rights*" conception which poses an immediate, obligatory duty to implement the full-scale basic needs of the poor, including even modern health facilities and environmental protection.

The dilemma of brutal reality lies somewhere between these two stated alternatives:

how to specify a practicable (ultimately even an area-specific) minimal floor of well-being as a standard of distributive analyses of each of the key economic and social rights ... standards that may be seen as obligatory for the distribution of right-related goods and services in that they can actually be met by the world's available resources without harming production incentives (Andreassen et al. 1988:334).

Even in spite of the creation of Human Rights Institutes, like the Danish and Norwegian ones Plant (1989:131) states, more questions are asked than can be answered. More than anything else, realistic concrete indicators are required with respect to the affordable implementation of measures for meeting human needs in poor countries on a comparative and well-documented basis.

3.6 SUSTAINABLE GROWTH ACCORDING TO THE NORMS OF EQUITY

In the realisation that both the anti-individualistic collectivism of state socialism and the organised selfishness of the so-called free market economy provided too many a slip between the cup and the lip Guy Gran and David Korten made special efforts to face the socio-economic problems of all mankind with a view to a truly successful 21st century, less alienating, more peaceful and more

productive than the present (Gran 1983:356; Korten 1990:151). However well intended enterprising capitalism and party dominated state socialism might be, they are increasingly being regarded as part of the problem. They are often proving to be stumbling blocks in the way of the people themselves, who are assumed to be "*the target of development*" but are also required to be "*the instruments of development*". They are expected to supply the relevant physical labour as well as the "*technical and professional skills*" (Gant 1979:10), which includes managerial and entrepreneurial abilities.

Although "*cumulative Western investment aid, and advice, combined with export-led growth models, serve to enlarge trade and advantages of the core societies*" (Gran 1983:12), there are deeply entrenched multidimensional obstacles to overcome. For, in order to improve tangibly the lives of the poor majorities in the Third World societies of the periphery any development assistance efforts should according to Gran (1983:14)

begin by understanding where individual poor people fit into the prevailing mode of production and how and why specific confidence mechanisms work to keep them there.

The ideal is to

reach and put into operation a solution that will produce both equity and growth (which means changes in systems, processes, institutions and values (Gran 1983:3).

Ultimately the process of economic development depends on

what people can or cannot do, for example whether they can live long, escape avoidable morbidity, be well nourished, will be able to read and write and communicate, take part in literacy and scientific pursuits.

All individuals are enabled to control "*chance and circumstances*" (Sen 1984:497). Goulet (1985:ix-x) maintains that existing models of "*development*" are far too often cases of "*antidevelopment*" and far removed from "*authentic development*". The "*cruei choice*" which Goulet encourages implies "*the conquest of autonomy and the will to create a new future*" (Goulet 1985:xx), thrusting "*debates over economic and social development into the arena of*

ethical values" (Goulet 1985:vii).

There can be no doubt that "*all men must surely have enough goods in order to be more human*" (Goulet 1985:xiv). It is imperative for them to become agents of their own social destiny unmasking and overcoming the alienations "*of the many in misery, of the few in irresponsible abundance*" (Goulet 1985: xxi & 123). Going beyond the waste economy of the unfettered market system, Goulet believes that the quality of life is not necessarily enhanced by the superabundance of overproduction. Plato justifiably held that each man should get enough and no more, to perform the function of fate or the special educational system (which) Plato outlines and had chosen to perform within the confines of the polis. Like Plato, Aristotle endorsed Socrates' position that "*to have few wants is godlike*" (Goulet 1985:3). Within a worldwide setting including all people the technical expert, the educator or administrator from a developed country, must somehow experience the other's underdevelopment as the source of his own vulnerability (Goulet 1985:53). In the overall setting Goulet (1995:101) assumes

the opposition of forces in a state of mobile equilibrium ... a procession of events governed by confrontations among diversely stratified classes, nations, and trans-national interests.

In the global context Korten (1990:135) supports these views and quotes an Australian Aborigine woman saying:

If you have come to help me you can go home again. But if you see my struggle as part of your own survival then perhaps we can work together.

This is the gist of mutual empowerment.

Korten (1990:149) explains that "*on a spaceship there is neither lifeboat nor fortress*". Where economic democratisation goes hand in hand with political democratisation as the foundation of equity-led sustainable growth strategy we go beyond the dominant state towards a universal order, a single instantaneous communication system. In this regard NGOs are sources for change, in support of a global, social learning process in which each individual helps to save the global consciousness and the collective pattern of behaviour by which we define our relationship, with

our host planet, strengthening people's capacity for participation (Korten 1990:215-221). In the system of mutual empowerment which Korten advocates the focus is on helpful people, insight and information. Most development issues are addressed as shared or joint problems, recognising that most contemporary development problems know no North or South, East or West (Korten 1990:146-7), rich or poor.

Korten (1990:78-80) divides equity-led sustainable growth strategy into the following six sequential stages:

- preparation for change
- asset reform and rural infrastructure
- agricultural intensification and diversification
- rural industrialisation
- urban industrialisation
- export promotion.

It boils down to a serious attempt towards building the capacity of the poor to be genuinely productive, to the extent that growth becomes part of the process of redistribution as a guarantee for further growth. This would expand the production as well as consumption opportunities (which are) available to the poor as essential to just development. Building on existing circumstances basic education should be provided, freedom of speech and association should be guaranteed, the judiciary should be modernised and made professional, the military should be streamlined and made professional, the economy should be made free. In addition women should be given political and social power, local governments should be given more authority and functions, public education should be improved, population growth should be curtailed, preventative health services should be improved and made nation wide. Beyond this, remote rural areas should be opened up through investment in basic infrastructure, communications costs should be reduced, local agricultural processing and market facilities ought to be improved. Finally, in order to serve the needs of the rural people for services, small- and medium-scale rural industries have to be established, covering services, capital goods, agricultural inputs and agricultural processing as well as paying attention to the growing needs of local markets and

consumers (Korten 1990:79-81).

Dealing with the 21st century as the target of his objectives Korten has no doubt that the greatest stumbling block to development aid is the capitalistic attitude of the First World which is and remains *"locked into a procedural and legislative straight jacket"* (Korten 1990:xiii). Nevertheless, despite the surrounding misery there is a decisive global commitment to alleviate poverty universally by accelerating economic growth on the optimistic supposition of the managerial experts that *"if adequate growth rates can be sustained, the poor will be swept along with the tide of rising incomes"* (Korten 1990:ix). They ignore the fact that the poor are at the mercy of the tides of floods and drought, desertification, communal violence, unrestrained population growth, and the ebbing of employment and income generating opportunities. The result according to Korten (1990:ix) is that *"relief and welfare measures (only) temporarily relieve the worst symptoms of development failure"*, whilst the big business of development maintains *"an apolitical and value free stance in dealing with what are, more than anything else, problems of power and values"*.

Gran already emphasises the fact that many people in the Third World remain poor, and indeed become poorer and he tried to find out how this state of affairs can be reversed. He put the emphasis on people-based participatory development in a spirit of equity, stressing the primary importance of human labour, the one factor in production which is abundantly available, if properly mobilised, even beyond external investments. But the fact remains that *"people will invest more labour only when they control the activity and are assured of keeping the fruits of their labour"* (Gran 1983:xiii). It is a matter of getting poor people involved to get more equitable, resource-efficient results, by creating

a more socially responsible human being without either the hunger and deprivation (which is) historically associated with market economics or the terror and totalitarianism (which is) often associated with command economies (Gran 1983:4).

Participatory development envisages a development system which is run from the bottom upwards by citizens motivated by *"their own needs and designs to work under their own control towards goals (which) they are specifically interested in"* (Gran 1983:164). In this regard *"betting on the*

peasant as the professional is the practical long-term strategy for a more just world order" (Gran 1983:200). Because it empowers people to develop "*in agriculture and in the manufacturing and industrial sectors (Gran finds that) a more participatory workplace and structure leads to higher productivity"* (Gran 1983:5).

3.7 THE QUANDARY OF SUB-SAHARAN AFRICA

In the last ten years the World Bank has become less keen to lend money to Third World governments in sub-Saharan Africa and shows a preference to deal with Non-Governmental Organisations (NGOs) and to encourage the involvement of local citizens at grass roots level, according to Dr Ravi Kanbur, the chief economist of the bank (Barnard 1995:12). A comparative study of socialist Tanzania and capitalist inclined Kenya (Nyerere 1966:171, 178; Fair 1986:33; Morna 1990:24) reveals that these countries, like the rest of sub-Saharan Africa, are confronted by a rural-urban imbalance of frightening proportions. It is not a matter of ideology but population growth, climatic factors, quality of soil and a variety of economic realities.

The reaction of serious African leaders to the problems created by international aid for the poor people are dealt with by General O Obasanjo. He put the emphasis on the secondary importance which was attached to the previous colonial economies by the previous colonial masters. Being misplanned, mismanaged and misadvised, these economies "*are being blackmailed to implement structural adjustment programmes"*, without taking account of Africa's own mentality, "*resources, environment, needs, tradition and culture"* (Obasanjo 1988:vi-vii). Obasanjo believes that the greatest harm done to the previous colonial people is "*the destruction of their self-confidence, self-determination and self-esteem"* (Obasanjo 1988:1).

After retirement from politics, as a previous head of government of Nigeria, Obasanjo became a farmer in order to set an example to his people in the belief that agricultural production is the key factor in the economic and social salvation of Africa. Thinking in terms of the concrete primacy of farming, Obasanjo is convinced that there is no economy "*that is absolutely left to the machinations and manipulations of market forces"* (Obasanjo 1988:57). Besides, according to Obasanjo (1988:18) Western consumption patterns were transferred more effectively than

Western production techniques and capitalist greed was internalised sooner than capitalist discipline. Above all, Obasanjo has no doubt that if Nigeria should fail politically, economically, educationally and technologically, the prospects for any black nation in sub-Saharan Africa to succeed would be poor.

The fact remains that the colonial powers were not sufficiently clear about Africa where they contributed to the lack of harmony between relevant structures, institutions, abilities and values, which brought Chileshe to believe that there is a lot which Africa can do for itself if left alone to decide for itself, hence the title of his book "*Nothing wrong with Africa except ...*". What worries Chileshe (1988:222-223) is that Africa essentially has an agrarian economy but agricultural development is neglected, overlooking the largest and most efficient group, namely the small-scale farmers. State-controlled enterprises (parastatals) have been too extensive, highly centralised and costly, whilst there has been a shortage of skilled personnel and export earnings have been over-emphasised. Poor government economic policies are restricting creativity and weakening incentives on the national front. There is corruption and a disloyal civil service, misspending and wastage. Chileshe (1988:159 & 175) emphasises national resources and efforts rather than external resources and wishes to avoid "*the big business aid ... (which) is mainly given to promote the commercial interests of the donor rather than the recipient*".

Even if the Africans set their own agendas for research, production and distribution in agriculture, the infusion of foreign capital and technology is absolutely necessary. This includes the cancellation of existing debts and fresh funds from abroad. In addition, it has already been proven in the case of the Sahel that it would be cheaper to provide a long-term subsidy for expert management at an existing irrigation project, than to provide periodic famine relief (Soule et al. 1991:235). In the attempt to help the Africans help themselves new standards of accountability, efficiency and conditionality are undoubtedly required in countries which are receiving aid, as revealed at the Fourteenth Session of the Governing Council of the Rome-based International Fund for Agricultural Development (Parker 1991:72). In the face of the fact that Africa will have 30 percent of the world's poor by the turn of the century, there is no escape from the fact that her poor people are starving, placing a moral burden on wealthy countries, whatever interests or selfish attitudes they might have, as in the case of the Republican governments of the USA.

3.8 CONCLUSION

We remain within the ambit of our central supposition, that neither development nor rights have relevance unrelated to each other. This came out clearly when we noted how the USA used development aid as an important weapon against the encroachment of communistic propaganda, thus assisting free people to work out their destinies in their own way, which resulted in an expanding global free market economy which ultimately won the Cold War.

When development aid was robbed of its Cold War incentive it proved to be humanitarian in only a secondary sense. It far too often strengthens those who possess power to retain it, strengthening the militarisation of the Third World. The new emphasis on development rights soon shifted the focus on self-reliance, the satisfaction of basic needs and the need to create an equitable society.

Along the lines of business realism structural adjustment programmes (SAP) were developed increasingly in developing countries, receiving the support of international creditors and bankers, offering conditional loans. It is necessary to make sure that money is used for development purposes, instead of being squandered.

Above all, the primary importance of human rights in development dare not be doubted in the light of the Universal Declaration of Human Rights, as defined on 10 December 1948. The goal is and remains **the self-actualisation of all people** all the time, regardless of the level of development of the relevant society.

Gran (1983) puts the emphasis on people-based participatory development in a spirit of equity. He stressed the primary importance of human labour, realising that people will invest more labour only when they control the activity and are assured of keeping the fruits of their labour, working towards goals which they are specifically interested in. Betting on the peasant as the professional is the practical long-term strategy for a more just world.

The quandary of sub-Saharan Africa, as described by General O Obasanjo, puts the emphasis on

the secondary importance which was attached to the previous colonial economies by the selfish colonial masters, without taking note of Africa's own mentality. This applied to Africa's "*resources, environment, needs, tradition and culture*" (Obasanjo 1988:vi-vii), which resulted in "*the destruction of their self-confidence, self-determination and self-esteem*" (Obasanjo 1988:1). This is also true in the case of South Africa's indigenous population, as it will be explained in chapter 4.

For, unlike comparable English-speaking countries like Australia, New Zealand, Canada and the United States of America, this country has to face a Third World majority of people of originally African peasant stock. Furthermore, South Africa in its uniqueness, has an even more difficult and complicated problem than the rest of sub-Saharan Africa with respect to a lack of harmony between structures, institutions, capabilities and values.

CHAPTER 4

AN OVERVIEW OF THE ETHNIC DIVERSITY WHICH AFFECTED HUMAN RIGHTS AS WELL AS THE SOCIO-ECONOMIC AND POLITICAL DEVELOPMENT IN SOUTH AFRICA

4.1 INTRODUCTION

In addition to **human rights and socio-economic and political development** the overall theme places the emphasis on **South Africa**, a country which manifests a highly peculiar social, economic and political diversity to such an extent that JC Smuts described it in its plurality as an ideal laboratory for ethnologists and sociologists. The historical course of events which is traced back to the arrival of the Dutch at the Cape of Good Hope in the middle of the seventeenth century are partly typical of sub-Saharan Africa with its tribal overtones, but also typical of what happens in a newly colonised country which is partly like Canada with its dominant First World character, containing two proud European elements. The fact however remains that the French Canadians are predominantly limited to the province of Quebec, whilst the Afrikaners (Cape Dutch) are in evidence in the whole of South Africa.

We dare not forget that developing countries "*should be studied in terms that are adequate to (their own) reality*" (Zeylstra 1977:148). In this regard South Africa with its hybrid character is decisively more complicated than less developed countries, as was amply illustrated when the winds of change swept across the African Continent from the First World War onwards.

By degrees the influence of the Leninist-Marxist (Bolshevik) regime in the Soviet Union made itself felt by linking up with the African National Congress through the South African Communist Party. Towards the Second World War German National Socialism (Nazism) had a limited impact on militant Afrikaner nationalism, consciously as well as subconsciously. The fact remains that the basic history of multi-racial South Africa however has its own momentum, as is sufficiently clear in the present (fourth) chapter.

Oversimplifying the South African multiplexity to suit ideological or party political ends is nothing less than the violation of reality in its uniqueness. Brutal, singleminded badly informed, superficiality cannot possibly do justice to the facts as they present themselves to the honest and patient, scientifically minded, direct observer or historian.

4.2 EUROCENTRIC POLITICS IN SOUTH AFRICA UNTIL 1948

4.2.1 Early beginnings

South Africa is geographically part of sub-Saharan Africa, but the area south of the Orange River and west of the Fish River was not occupied by Bantu settlers until white cattle farmers of European stock moved eastwards in search of ever more grazing. They soon came into contact with Bantu peasants who were moving westwards for the same purpose. Preceding this stage of the country's history, the first European settlers who arrived in 1652 at the Cape were intended to man a victualling station on the trade route between Europe and the Orient. They very soon came into contact with the Khoisan, comprising Khoi (Hottentots) who were stock farmers, and San (Bushmen) who had no respect for stock ownership. By degrees the San in the area (which eventually became the Cape Province) disappeared through assimilation with the Khoi or became servants on the farms (Van Jaarsveld 1976:21), whilst the Khoi in due course became detribalised and interbred with the Europeans and the slaves, adopting the language, religion and way of life of the Europeans. This constitutes the Cape Coloureds to whom a Malay element was added (Van Jaarsveld 1976:29-32). From 1657 onwards small farming communities (Vryburgers) of German and Dutch stock were established and strengthened as a Calvinistic people when the French Huguenots arrived in 1685 (Van Jaarsveld 1976:40-46). Soon stock-farming, which extended beyond the Western Cape with its vineyards and wheat lands, compelled ever more European colonists to move ever further inland in search of grazing for their stock. These were the pioneers (veeboerpioeniere) who first met the Bantu on the borders of the Fish River in the last quarter of the eighteenth century, leading to the establishment of a fixed border on the eastern frontier in 1778 (Van Jaarsveld 1976:47-52).

Before and after the end of the eighteenth century the European colonialism, which gave rise to the South African situation passed through five phases, as described by Drascher (Van Jaarsveld 1976:1-4). The first of three of the phases is the Christian world order, when the Portuguese and the Spaniards colonised America with the blessings of the Pope from 1492 onwards, distinguishing sharply between Christians and heathen, civilised and uncivilised people. The second was the challenge of the Spanish and Portuguese world monopoly by the Dutch, the French and the British in the seventeenth and eighteenth centuries and their new commercial rivalries, which led to the establishment of the Dutch victualling station at the Cape. This phase of mercantilistic expansion of trade and racially pure European new settlements was followed by the liberal-humanitarian world order from the eighteenth century onwards, the time of the British conquest of French Canada, the American War of Independence, the French Revolution and the Napoleonic Wars, which led to the final occupation of the Cape by the British after the defeat of the French at the Battle of Trafalgar in 1805. They only reached the Cape in 1806. This was a definite turning point in the history of South Africa because the unilingual British were already the leading world power, whilst the Cape Dutch were stubborn and well entrenched in their language and Calvinistic fundamentalism. They emphasised the Old Testament to a point where they virtually identified themselves with the Israelites. With the Bible as their moral and political guide the Cape Dutch farmers (Boers) in the interior of the Cape Colony developed a sense of hardy independence. They were not likely to forget their republican traditions (Van Jaarsveld 1976:61), which were already in evidence in the short-lived Republics of Swellendam and Graaff-Reinet.

4.2.2 The British and the Boers

The basic different attitudes between the Boers and the British became increasingly obvious in the area of friction between the Whites and the Bantu on the Eastern Border of the Cape, where the British administration vacillated and did not inspire sufficient confidence. From 1836 onwards the Cape Dutch farmers started to trek into the interior in great numbers, calling themselves Voortrekkers. They crossed the Orange River and whilst some trekked beyond the Vaal River others crossed the Drakensberg and established the Republic of Natalia which the British annexed in 1843.

The independence of the Republics of the Transvaal and the Orange Free State were recognised by Great Britain respectively in 1852 and 1854, but both were conquered as a result of the Anglo-Boer War in 1902. Shortly after this JC Smuts convinced the British Liberal Prime Minister, Campbell-Bannerman, to grant the Orange River Colony and the Transvaal Colony responsible government, bringing them into line with the Cape Colony and Natal Colony, thus paving the way for the Union of South Africa (Smuts 1952:97-98). This Union, which was achieved in 1910 strengthened the British Imperial order (*pax Britannica*) to a point where emphasis was placed on the key position of South Africa as "*clear of Suez complications, almost equally distant from Australia, China, India, Gibraltar, the West Indies and the Falklands*" (Scholz 1954:115-116). It remained a mosaic of races and languages, but the political unification of 1910 gave a new impetus to the markets, empire, industry, capital and railways as vehicles of change (Beinart 1994:9).

4.2.3 The Union of South Africa

The National Convention which brought about the Union of South Africa (1910) put the emphasis on conciliation between the British and the Afrikaners (Boers). Beinart (1994:74) is of the opinion that

as agreed at the Peace of Vereeniging (in 1902), the whites were able to restrict the franchise to themselves. To African political leaders, Britain seemed to be selling out the interests of blacks ... to the Boers.

A racially exclusive, British-influenced parliamentary system was established "*though Cape politicians managed to salvage and entrench a non-racial qualified franchise in their province*" (Beinart 1994:75). In this regard according to Spies (1993:54)

there were very few real differences between the Unionist programme and the government manifesto issued by General Louis Botha. Both placed great emphasis on the establishment of a single nation in South Africa, which was clearly implied to be a white nation and which would place the native question above party politics.

These two opposed political parties only differed about the equality of English and Dutch, the two predominant settler languages, which were entrenched equally in the Act of Union.

Botha's conciliation policy suffered a set-back only twelve years after the Anglo-Boer War when the Union of South Africa was drawn into the First World War along with the rest of the British Empire by a decision taken in London in 1914. Refusing to be drawn into Great Britain's wars a number of Boers opposed Botha's invasion of German South West Africa by force of arms. And soon the newly found National Party was strengthened by the bitterness in the hearts of the rebels who were subdued by the Union Defence Force (Van Jaarsveld 1976:276). Nevertheless, Hertzog and Malan who left nobody in doubt that they put South Africa first, regarded all whites as equals, treating English-speaking nationalists accordingly.

When Botha died in 1919, Smuts succeeded him as leader of the South African Party and soon got the additional support of the Unionists, which enabled him to win the 1921 general election convincingly. In 1924 Hertzog's Nationalists, in combination with Creswell's English-speaking Labour Party, won the next election, paving the way for their bigger pact victory in the 1929 election. This was to no avail when the world depression of 1933 undermined the confidence of the voters to a point where Hertzog and Smuts decided to bury their differences for the sake of the country. They first attempted a coalition government and then formed the United South African National Party, which Malan and his Cape Nationalists did not join, calling themselves the Purified National Party (Gesuiwerde Nasionale Party) (Van Jaarsveld 1976:283-285).

The United Party won the 1938 general election with a two-thirds majority against Malan's nationalists, the Labour Party which had reasserted its independence, and Stallard's Dominion Party, a remnant of the Unionists, which refused to follow Smuts to the United Party. When the Second World War broke out in September 1939, Hertzog refused to be drawn into Great Britain's wars and emphasised South Africa's right to independence since 1931. He was joined by Malan's Nationalists, but more than a dozen of Hertzog's followers joined Smuts who led the country into war in September 1939 with a majority of thirteen votes (Grundlingh 1993:276-279).

Some of Hertzog's followers decided to support Malan in future, justifying the renaming of the party and calling it the Re-united National or People's Party (HNP). However, some of Malan's followers did not befriend Hertzog. This resulted in the founding of the Afrikaner Party under Havenga (Grundlingh 1993:279). As virtually all English speaking white South Africans supported Smuts, he won the 1943 war election "*comfortably with 107 seats to 43 of the Afrikaner opposition*" (Grundlingh 1993:280). At least a third of the Afrikaans speaking whites voted for Smuts as the tide of the war had already turned in favour of the allies which had been joined by the United States of America.

4.2.4 The triumph of Afrikaner nationalism

The majority of the Afrikaans speaking whites were still under the enchantment of the Voortrekker centenary of December 1938. This event reminded them of their roots as Dutch (Afrikaans) speaking pioneers who had opened up three provinces to Eurocentric civilisation on a continent which was populated by a majority of Bantu peasants. They ignored the changes which urbanisation had already brought about in this regard. They were conscious of their Germanic origins to a point where many of them had pro-German leanings, which were similar to those of the Flemings in Belgium.

Some even were so intent "*on keeping the 'spirit of 38' alive (that they) claimed to stand aloof of the sordid squabbles of party politics*" (Grundlingh 1993:272-273). The Ossewabrandwag was led by Hans van Rensburg as "*leader of disciplined Afrikanerdom*" which "*openly advocated an authoritarian one-party state*" (Grundlingh 1993:273). Small wonder that "*approximately 2 000 Ossewabrandwag men were placed in internment camps for anti-war activities*", whilst the Ossewabrandwag also clashed with the National Party (Grundlingh 1993:273).

When Hitler lost the Second World War in 1945 "*fascism*" became a swear word and the Ossewabrandwag suffered under the same disadvantages as Weichardt's Grey Shirts, Havemann's Blackshirts and Pirow's New Order. Smuts played a very influential role at the establishment of the United Nations Organisation and the formulation of the Rights of Man, but he lost the 1948 general election against Malan and Havenga's parties, by a narrow margin (Grundlingh 1993:281).

One of the reasons for losing the election was that the returned soldiers believed Smuts had broken the promises which he had made to look after their welfare as soon as hostilities ceased. They even called him "*Jan Promise*".

Above anything else the nationalists played on the fears of the white electorate with slogans emphasising the "*black peril*" (swart gevaar) and "*black swamping*" (swart oorstroming) which they associated with Smuts's right hand man, Jan Hofmeyr and liberalism in general (Grundlingh 1993:282). When Smuts moved the ratification of the United Nations Charter in the South African Assembly on 6 February 1946, the Nationalists criticised him because in Malan's words (SA Parliament : House of Assembly 1946:1180)

he first ratified the treaty - and this is an important point that is now before us - and subsequently he comes to Parliament, after it is a fait accompli, and asks the approval of Parliament.

Smuts was often accused of having become too big for South Africa. Eric Louw (SA Parliament: House of Assembly 1946:1200) expressed the opinion that

any power would be rash which put its trust in the "United Nations", as organised at San Francisco, for the maintenance of peace and security.

After Smuts had lost the 1948 general election, he accused the Malan government of having a "*most vague*" policy, specifically with respect to "*the issue of apartheid*". For apartheid, according to Smuts (SA Parliament: House of Assembly 1948a:200) signifies the government's policy and "*...is something quite unique. I have heard English visitors to this country ask what particular 'hate' is this? It is no 'hate' at all*". This single word has bedeviled South Africa's international reputation in no small way.

4.3 CULTURAL PREDILECTIONS ON THE ROAD TO APARTHEID

4.3.1 Rural beginnings

When the Voortrekkers established themselves in Natal, they tried to secure land for themselves

through a treaty with Dingaan. This treaty was based on misunderstanding and ended in the Battle of Blood River on 16 December 1838. Unfortunately, the Republic of Natalia was annexed by the British in 1843, who henceforth determined the colour policy of Natal. It was based on segregation policies, maintaining separateness towards the Bantu tribes, despite the isolated liberal attitude of some of the British colonial officials. Theophilus Shepstone went out of his way to protect the tribalism of the Zulus.

The Difaqane, which was brought about by murdering tribes of the time of the rise of the Zulu kingdom, opened up enormous tracts of land. This land was in due course occupied by the Voortrekkers and their descendants. It explains why the Afrikaners established their farms over an area, extending from the homelands of the Xhosa at the Fish River, the Basutu at the Caledon River, the Zulu in Natal and the Swazi further north (Van Jaarsveld 1976:135-165). On their farms the Afrikaners, as the owners, maintained a patriarchal order in which the African peasants (Bantu) remained the employees. There were deeprooted cultural and language barriers between the two rural elements, however much they came to understand each other's languages. This also applied in the case of English speaking farmers, mainly in Natal and the Eastern Cape Province.

Until the twentieth century, the entire rural population in the interior of South Africa beyond the South-Western Cape and Natal depended on stock-keeping, and sorghum and maize as staple crops. More than 90 percent of the population was still rural when diamonds were discovered at Kimberley in 1866 and gold on the Witwatersrand in 1886. This meant that an increasing number of British people migrated to these centres. Black labourers on a migratory basis, "*gave capitalists a work force without the full costs of supporting workers and their families in town*" (Beinart 1994:29).

This migrant labour system became one of the emphatic distinguishing features of the South African industrial system. In 1872 the first of the industrial pass laws to control movement of mine labour was enacted in the Cape. In 1895 a new pass law was drafted by the fledgling Chamber of Mines and enacted by the Transvaal Volksraad (or legislature) (Wilson & Ramphela 1989:192).

Colonel Stallard (Wilson & Ramphela 1989:192) enunciated in 1921 the policy that was to cause such pain and damage to black South Africans during the twentieth century:

The native should only be allowed to enter the urban areas, which are essentially the white man's creation, when he is willing to enter and to minister to the needs of the white man and should depart therefrom when he ceases so to minister.

4.3.2 Racial distinctions at the time of the unification of South Africa (1910)

Shortly after the establishment of the Union of South Africa in 1910, a number of laws were passed to consolidate regional arrangements and sketch guidelines for the future. Some provided important norms for the future, establishing long-term ideological, economic, political and social structures in the new state. One of these was the Mines and Works Act of 1911. It laid down

- a maximum eight hour day at the working place or "*from face to face*"
- that no person other than a white man was allowed to conduct blasting operations in the Transvaal or Orange Free State mines
- that only white men would be allowed to operate machinery
- that certificates issued in other provinces entitling blacks or coloureds to perform tasks of this nature would be invalid in the Transvaal or Orange Free State (Spies 1993:56).

This clearly reinforced the prevailing division of labour (the job colour bar) in industry. In 1926 the Pact Government of Hertzog and Cresswell re-affirmed this act, but also reserved certain jobs for coloureds.

Smuts was not only minister of Mines, but also minister of Defence and responsible for the South African Defence Act of 1912, working in co-operation with the British War Office. The act stipulated clearly that whilst in time of war, all white South African citizens were liable for service in "*any part of South Africa, whether within or outside the Union*", citizens who were "*not of European descent*" were not liable for military service unless parliament decided otherwise (Spies 1993:57).

The Natives Land Act of 1913 was initially drafted by Hertzog and piloted through parliament by JW Sauer. It had to be passed by a two-thirds majority of both houses of parliament sitting together in order to bring the Cape Province into line with the other provinces under pressure of white farmers from the Transvaal and Free State. This act of 1913 prevented further purchases of land by blacks in what were considered to be "*white areas*" (partly) as an attempt to secure a supply of cheap black labour on the platteland and in the towns by checking the development of an independent black peasantry (Spies 1993:59).

4.3.3 The tug of war between the United Party and the National Party on "*apartheid*"

After the National Party had won the 1948 general election, Field-Marshal Smuts, as leader of the United Party in opposition, insisted that "*apartheid is just a false and misleading catchword intended to exploit the colour prejudice of this country*" (SA Parliament : House of Assembly 1948b:2901). Defending the policy of the United Party, Smuts maintained that it was a policy "*of guardianship, of trusteeship, over the non-European peoples in this country*" maintaining "*European paramountcy in this country*". This implies the following: "*We have always stood and we stand for social and residential separation in this country, and for the avoidance of all racial mixture*" (SA Parliament : House of Assembly 1948b:2905).

Mr De Wet Nel, a later minister of Native Affairs, tried to summarise the policy of apartheid as follows (SA Parliament : House of Assembly 1948b:2921-2922):

The maintenance of the

- European population of South Africa as a pure European race, with the elimination of every source of a clash of interests between Europeans and non-Europeans
- native non-European racial groups of South Africa as separate national communities through the influence of Christian civilisation so that they may become self-reliant national units
- traditional principle of trusteeship. The cultivation of national pride and self-respect with each group and the promotion of mutual regard and respect amongst the various races

and racial groups of the country.

These overgeneralisations came from a man who was familiar with African tribal life and languages, but who was no economist and no expert in international affairs. It is clear that he does not allow for the possibility that African individuals might wish to become part of more universal language, cultural and economic communities. Christianity in particular paves the way, beyond the confines of Calvinistic congregationalism (where the cardinal administrative authority, unlike most other churches, resides in the congregations).

The then Prime Minister, Dr Malan (SA Parliament : House of Assembly 1948b:2943), made an enormous issue of the bringing about of apartheid on the trains. He did not view this as oppression, or depriving coloured people and Natives of their rights. He was of the opinion that they can always ride in the trains, they can ride third class or second class, and they also have the opportunity to ride first class if they wish to do so. As far as transport is concerned nothing has been taken from them. All that has been taken from them is the right to do what they have hitherto done all along, to intrude amongst Europeans.

It was this petty apartheid that pleased the white voters and built up the electoral support of the National Party irrespective of world opinion, arguing that "*the protests that were made were not all spontaneous. They were incited by Communists and Liberals in the party on the other side*" (SA Parliament : House of Assembly 1948b:2951).

Smuts (SA Parliament : House of Assembly 1948a:203) complained that the Fagan Report "*was scarcely referred to*" by the governing National Party, ignoring the thorough "*convincingness*" of this investigation into the urbanisation of the Native population under conditions of increasing industrialisation. He added that the native has been integrated into our industrial system and into our economic system which means that

the problem of self-government arises at once among them. If you have a Native township near to an industrial area you cannot simply run it with white officials.

Malan (SA Parliament : House of Assembly 1948c:1370) argued that

natives who came from the reserves and go to urban areas because they are required there for labour ... must not be regarded as permanent residents of European areas.

Shortly before his death, during the third session of the tenth parliament, Smuts, who had previously said that what the Nationalists described as their policy of apartheid was a caricature of his own policy, again accused the Malan government of "*exploiting the feelings, the emotions of our people on the colour question in this country*" (SA Parliament : House of Assembly 1950a:33). Smuts found it necessary to accuse the Malan government "*that poses as the protectors of the future white South Africa*" of sabotaging his well-intended immigration policy. He continued by saying that

we are a minority, but we do not want to be a dwindling minority; we want to be a minority that will gradually assert itself, consolidate itself and strengthen itself, and have the foundation of power behind it; and it is for that reason that the late Government adopted the policy of immigration into this country (SA Parliament : House of Assembly 1950b:38).

The truth is that the Nationalists wanted as few German and British immigrants as possible because they were afraid of losing the Afrikaans supremacy which was first achieved in the 1948 general election.

After having accused Smuts of having contradicted himself by referring to apartheid as "*actually in line with South Africa's traditional policy*" (SA Parliament : House of Assembly 1950b:83) the one moment and then to reject it the next as "*the curse of apartheid (which) will rest on us in South Africa*" (SA Parliament : House of Assembly 1950b:119), various members of the House of Assembly supporting the National Party in the relevant debate were followed by Malan who explained: "*We need time fully to carry out that vast and complicated task as represented by our policy of apartheid*" (SA Parliament : House of Assembly 1950c:232-233).

Dr Abraham Jonker who was a well-informed United Party MP, found it necessary to explain that it was sufficiently clear that the United Party accepted the concept of apartheid which "*was the*

traditional policy of South Africa" but not identical with "this kind of apartheid that they proclaim today and from which they are running away the next day". Jonker claimed that

apartheid, as far as social relationships between European and non-European in South Africa were concerned, has been the policy of our country since the days of Jan van Riebeeck (SA Parliament : House of Assembly 1950d:336).

The fundamental opponents of apartheid interpreted these attitudes in the United Party as part of "*the pattern of racial capitalism that grew during the centuries*" before 1948 (Wilson & Ramphela 1989:1).

4.4 CONCLUSION

This chapter focussed on the South African historical setting with respect to the ethnic diversity which affected human rights, as well as the socio-economic and political development in South Africa. To understand this diversity and its influence, it was essential to view the context in which development took place by tracing back the historical events in the country to the arrival of the Dutch at the Cape in the middle of the seventeenth century. Tribes such as the Khoi and the San became detribalised and interbred with the Europeans and the slaves, adopting their language, religion and way of life. In due course more colonists moved further inland and clashed with the Bantu tribes on the borders of the Fish River towards the last quarter of the eighteenth century.

After a lack of confidence in the British administration, the Voortrekkers trekked into the interior in great numbers from 1836 onwards. As a result of the Anglo-Boer War (1899-1902), both independent Republics of the Orange Free State and Transvaal were conquered. At the Peace of Vereeniging in 1902 the whites restricted political supremacy to themselves and thereby ignoring the political aspirations of the black South Africans. This was aggravated after the National Party had won the 1948 election by emphasising the "*black peril*". The lack of acknowledgement of the ethnic diversity of this country later led to many conflicting interests of the various ethnic groupings.

Against this background, the next chapter will focus on the challenge of human rights to the prevalent socio-economic and political order in South Africa with special reference to the role of the United Nations to protect the rights of the individual regarding human dignity and individual liberty.

CHAPTER 5

THE CHALLENGE OF HUMAN RIGHTS TO THE PREVALENT SOCIO-ECONOMIC AND POLITICAL ORDER IN SOUTH AFRICA

5.1 INTRODUCTION

Nazism was an indirect but decisive threat to the prevalent socio-economic and political order in South Africa to the extent that the reaction to Hitler's disrespect of human dignity and individual liberty caused a powerful world-wide reaction. It put the whites in South Africa and specifically the National Party from DF Malan to PW Botha in the wrong in world opinion.

The Universal Declaration of Human Rights of 10 December 1948 once and for all defined human rights as a "*common standard of achievement for all people and all nations ...*" (Brownlie 1971:107). This in the long run made it futile to try to hide behind the sovereignty of any state. Not states, but all individuals who live on earth are of supreme importance in the light of this new insight and resolve.

5.2 THE PRESSURE OF THE UNITED NATIONS ON SOUTH AFRICA FROM JC SMUTS TO HF VERWOERD (1946-1966)

South Africa has been put in the wrong at the United Nations from the first session of the General Assembly when the way was being paved for the Universal Declaration of Human Rights, in which Smuts played a prominent role. Smuts was then at the peak of his prestigious career but had to face the complaint which was lodged against South Africa's increasing discrimination against people of Indian origin. This was done on the authority of the Charter of the United Nations, which was signed in San Francisco on 26 June 1945, (as) the first international treaty whose aims are expressly based on universal respect for human rights (United Nations 1995:5). It was also India that made the first formal reference at the United Nations to the policy of apartheid soon after it was adopted by South Africa's newly elected National Party in 1948 (United Nations 1994:8).

The General Assembly "*regularly appealed to the South African Government to reconsider its apartheid policies*" (United Nations 1994:8), only to be faced with the South African Government's persistent rejection of General Assembly resolutions. In retaliation South Africa from 1955 to 1964 withdrew its membership from bodies in line with UNESCO (United Nations Education, Scientific and Cultural Organisation), FAO (Food and Agricultural Organisation) and ILO (International Labour Organisation). Small wonder that the first resolution of the Security Council of the United Nations deplored the policies and actions of the Pretoria Government, as a result of the Sharpeville killings of 1960.

South Africa simply continued defying the United Nations and world opinion irrespective of the clear intent of Resolution 217 (III) (United Nations 1994:9), namely that

everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Emphasising its sovereignty, which kept apartheid within its domestic jurisdiction, South Africa claimed that it was not based on racial discrimination, to which the General Assembly declared for the first time on 2 December 1950 that "*a policy of racial segregation (apartheid) was necessarily based on doctrines of racial discrimination*" (United Nations 1994:10).

The African National Congress of South Africa (ANC) in concerted action with the South African Indian Congress, as well as organisations representing the Cape Coloured people and white enemies of apartheid started a non-violent "*Campaign of Defiance Against Unjust Laws*", thus risking imprisonment. When the South African government arrested many people and exercised physical violence against this allegedly non-violent resistance, the situation threatened to become dangerous and explosive. This led to the establishment of a United Nations Commission on the Racial Situation (UNCORS) in the Union of South Africa by the General Assembly, which was opposed by the South African Government which asserted its right to sovereignty and enacted more stringent laws (United Nations 1994:11-13).

When dozens of people were killed by the police at Sharpeville in 1960, when they nervously fired at a peaceful demonstration against the pass laws, this was referred to as a massacre by sections of the press, which brought the South African government to declare a state of emergency, mobilise the armed forces and detain thousands of people. Later in the same year Mandela was chosen to lead the protests of an All-In African Conference - with 1,400 delegates from 145 religious, cultural, peasant, intellectual and political bodies with the purpose to oppose Verwoerd's intended white republic. The exclusively white referendum was rejected as part of the "*tyranny of a minority*" (United Nations 1994:13-15).

In June 1960, the Second Conference of Independent African States met in Addis Ababa and called for sanctions against South Africa, setting a never abating trend as more and more African states became independent. Even the United Kingdom, South Africa's main trading partner, no longer doubted the justifications of the United Nations. Its representative declared in 1961 that his Government regarded apartheid as being so exceptional as to be *sui generis* and now felt able to consider proposals on the subject. Action against apartheid was bound to begin, but South Africa remained consistently stubborn.

In trying to justify the sabotage actions of Umkhonto we Sizwe (Spear of the Nation) Mandela said he hoped "*to scare away capital from the country ... thus compelling the voters of the country to reconsider their position*" (United Nations 1994:16-17). The South African Government opposed this threat with the Sabotage Act of 1962. This Act was deplored by Resolution 1761 of 1962, chiding South Africa for its flouting of world public opinion and suggesting sanctions against this country. Soon it brought a Special Committee against Apartheid into being. Ever more states broke diplomatic, economic and other relations with South Africa. African states prohibited South African Airways flights over their territories. At this stage Mandela was sentenced to six years in prison. Ever more stringent security measures were enacted by the South African Government.

Regarding South Africa as "*a threat to international peace*" (United Nations 1994:19) due to its apartheid policies, the United Nations excluded this country from the work of the United Nations Economic Commission for Africa (ECA). This seemed to justify raising international

consciousness leading to South Africa's isolation in sports and exclusion from the 1964 Olympic Games.

Alarming developments in South Africa led to an arms embargo adopted at the request of the Security Council in 1963 and the adoption of Resolution 181, which the United Kingdom initiated in 1963, because arms imports from that country had been used against peaceful demonstrations. When Mandela and other leaders were charged under the Sabotage Act, the General Assembly paid attention to the fate of political prisoners who were prosecuted for having opposed the policy of apartheid. The Danish Foreign Minister, Per Kaekkerup asked that an alternative to apartheid be sought, promoting equal rights for all individuals, irrespective of race which could not be accomplished by the people of South Africa alone. The Expert Group, which was consequently established agreed with the words spoken by Mandela during the Rivonia trial, namely

I have cherished the ideal of a democratic and free society in which all persons live together in harmony and with equal opportunities. It is an ideal which I hope to live for and achieve. But if needs be, it is an ideal for which I am prepared to die (United Nations 1994:22).

It was clear that ideals were developing towards the promotion of a convention to pave the way for full democracy for South Africa:

In addition to providing for large numbers of non-Whites to be qualified for the professions, the civil service and teaching, the official Expert Group recommended an urgent examination of the logistics of sanctions. The conviction (United Nations 1994:23) was that

the struggle in South Africa is not a struggle between two races for domination; it is a struggle between the protagonists of racial domination and the advocates of racial equality.

Further reports followed in this regard suggesting that effective measures be taken to save the lives of the South African leaders condemned for acts arising from their opposition to apartheid. All states which maintained relations with South Africa, especially the United States, the United Kingdom and France, were requested to take effective measures to meet the present grave situation and to apply economic sanctions.

In Resolution 190 (United Nations 1994:24) the Security Council demanded that the South African government should

renounce the execution of the persons sentenced to death for acts resulting from their opposition to apartheid; to end the Rivonia trial forthwith; and to grant an amnesty to all persons already imprisoned, interned or subjected to other restrictions for their opposition to apartheid.

However, some members felt that the Security Council should refrain from action which might be construed as interference in the due process of law of a member state.

Mandela and his co-accused had already been sentenced to life imprisonment when the Security Council adopted Resolution 191 in 1964, making their demands more emphatic and extensive than in Resolution 190. In this Resolution they demanded that all people of South Africa should be brought into consultation and should thus be enabled to decide the future of their country at the national level. The expert services of the United Nations were offered to make the full execution of the demands practically and technically possible, which included the establishment of a programme for the purpose of arranging for education and training abroad for South Africans. South Africa replied that it would not allow such intervention which went beyond the authority of the Charter and would mean the abdication of its sovereignty in favour of the United Nations (United Nations 1994:24-25).

South Africa was helped to remain adamant by the attitude of the main trading partners of South Africa, particularly three permanent members of the Security Council, namely the United States, the United Kingdom and France. Little more than the amelioration of the situation of those who were regarded to be oppressed inside the country could be achieved under these circumstances. Throughout South Africa's trading partners failed to co-operate in implementing Resolutions in the General Assembly and continued to trade with South Africa, encouraging the latter to persist in its racial policies.

5.3 THE UNREALISTIC OVERTONES OF APARTHEID

5.3.1 The Afrikaner's will to power

The Afrikaner suffered decisive setbacks in his history which gave him the will and power to overcome being disadvantaged politically, economically and linguistically, specifically by the British. When the nationalistic minded section of the Afrikaners ultimately achieved political supremacy beyond earlier expectations, it took their enlightened element over forty years to accept the changed world situation after Hitler and the dismemberment of the British empire. However, they succeeded under De Klerk to adapt themselves to the international and economic realities of the world and the primary fact that they are a permanent minority in their own country.

The fact remains that the Nationalists allowed themselves for almost two generations to believe in the ideology of apartheid, inspired by Malan's oratory, Strydom's slogan of white supremacy (baasskap) and Verwoerd's social engineering. These effective propagandistic factors led to the successful parliamentary election of 1948 and provincial election of 1949 against Smuts. Havenga and Malan fused their parties into one in 1951 after which Strydom was Prime Minister for four years, to be succeeded by Verwoerd in 1958.

Dönges, a long-standing minister of the interior, was responsible for most of the primary apartheid legislation, including the Group Areas Act, which he regarded to be "*the corner stone of apartheid*" (Scher 1993:323). He packed the senate to secure the removal of the Cape Coloureds from the common role, thus proving that apartheid was not a matter of culture, but race, giving substance to the accusation that apartheid in the contemporary sense was inspired by Nazism.

Verwoerd fulfilled Strydom's dream of an independent republic outside the British Commonwealth in 1961 (Van Jaarsveld 1976:303-323). He went even further than Hertzog and Malan in putting South Africa first beyond language differences between Afrikaans and English speaking whites, whom he regarded as one people using two European languages. He refrained from interfering with the English medium white schools. Despite the critical English language press, more and more English speaking voters supported the National Party under his leadership. One of the most

impressive factors at the time was the healthy state of the economy. Even though Verwoerd was no economist, his strong arm government gave the impression that South Africa was economically safe for investment.

5.3.2 The new world after the Second World War

The major English language newspapers in South Africa started off as an imperialistic press and from Hitler's invasion of the Soviet Union onwards became infiltrated by communists, as the Friends of the Soviet Union who became more influential. Few of the journalists writing in English had genuine insight into the problems and sentiments of the Afrikaner. It seemed as if both capitalistically minded and communistically inspired, unilingual journalists, who were operating from this country claimed unwarranted omniscience as part of a world-wide anti-Afrikaner press.

There was an overhasty tendency to over-associate apartheid with Nazism. Whilst world opinion was indifferent about race before the Second World War, there was no limit to the reaction which was stirred up by Hitler's racialistically inspired overgeneralisations and obnoxious mass murder of Jews, Gypsies, Poles, Russians and others who were regarded to be of inferior race. World opinion consequently outlawed ethnicity as a political criterion by the establishment of the United Nations Organisation and the drafting of the Universal Declaration of Human Rights of 10 December 1948, as was mentioned in chapter two of the present dissertation, where the inescapability of human rights was underlined.

When Churchill boastfully reassured the British that he would never preside over the dismemberment of the British Empire, he did not foresee the results of the Second World War when the influence of the United States of America and the Soviet Union would overshadow the colonialism of all the traditional European colonial powers. It resulted in the Civil Rights Movement in the USA, as well as the call for one man one vote, which brought independence to all the British colonies and the isolation of South Africa as a state dominated by the whites. Increasing pressure was mounting at the United Nations for South West Africa to be freed from the mandate (judicial command) which had been given to South Africa by the defunct League of Nations over this previous German colony.

5.3.3 Changes brought about by the economic development of South Africa

From primeval times African peasants have lived in a world of their own linguistically, culturally and economically. Besides, even after the First World War, in the twenties of this century very few little areas of sub-Saharan Africa have been overpopulated. There were unlimited areas where wild animals were mainly undisturbed by the tribal people and all was well. Africa was kind to its children and they were a happy people to whom the present concept of poverty hardly applied.

The arrival of the whites with their guns made all the difference. With the imposition of their own destructive as well as constructive economic and anti-economic practices they created a new state of affairs in sub-Saharan Africa. This was aggravated by the population explosion of the people of African peasant stock, which requires a rethink which depends equally as much on the whites as the blacks, short of which the people concerned cannot be sufficiently objective to find true solutions.

Part of the unavoidable poverty is easily blamed on the haves who were white and in political and economic control of South Africa where the rich town dwellers were predominantly English speaking whites and the white Nationalists exercised political control since 1948. Wilson and Ramphela (1989:4) maintain the following: There are

three interlocking factors which, taken together, justify the assertion that poverty in South Africa is unique. First is the width of the gulf between rich and poor, the degree of inequality. Second ... is the extent to which the poverty that exists is a consequence of deliberate policy. The third aspect has to do with the way in which material poverty in South Africa is reinforced by racist policies that are an assault on people's humanity.

This "*ongoing process of impoverishment*" (Wilson & Ramphela 1989:190) started with the subjection of the Khoi and San and continued with the migrant labour on the mines to culminate in the real barriers created by the Bantustans, with the consequent political powerlessness of the Blacks in the industrialised parts of South Africa. It violated the principle that "*work should be available within reasonable distance of the (relevant) person's home*" (Wilson & Ramphela 1989:320). It started with mining and migrant labour practices, which were central to South

Africa's economic development. This had important consequences for African urban culture and population structure, culminating in the phenomenon that over 90 percent of the black population of Johannesburg was male in 1911 (Beinart 1994:28).

Industrialisation increasingly extended into the realm of manufactured goods (clothing, textiles, food-processing, et cetera) in the major coastal cities and on the Witwatersrand. The South African labour pattern however only slowly evolved beyond the logic established by the migratory system of the mines as far as the African labourers were concerned. The mine owners were answerable to foreign shareholders. The entrepreneurs demanded cheap food, cheap labour, and an open colonial economy based around exports of primary products, irrespective of the needs of black domestic consumers (Beinart 1994:82). They simply did not realise that a freer labour market would increase the economic efficiency of the country with rising wages for blacks hastening the growth of the internal market.

Not only blacks, but an increasing number of whites coming from the farms found employment in the manufacturing industries. Employment in metal and engineering trebled to over 50,000 between 1932 and 1940 (Beinart 1994:114). The world depression, which occurred in the early thirties, caused alarm about the poverty of the whites. Particularly the Afrikaans speaking section in white political circles ran the country and led to the establishment of the Carnegie Commission on the Poor White Problem in South Africa. According to Wilson and Ramphele (1989:x) the failure of the Commission lay in the extent to which

the limitation of its concern to whites meant that its findings were used to promote strategies for improving the position of poor whites, often at the expense of poor blacks.

This discrimination remained part of the National Party's policy of apartheid.

It was difficult for the leaders of the National Party to grasp the full socio-economic implications of the total free market system which accompanied the victory of the United States over fascism in the Second World War. The socio-economic integration of the entire population of South Africa occurred inexorably as the expansion in mining and industry drew an increasing number of African workers to the cities. Economic demands and social fluidity during the Second World

War undermined controls over African urbanisation and it became increasingly clear that the industrial growth of the South African economy would “*undermine or 'explode' apartheid*” and result in a more open society (Beinart 1994:164).

Above all Verwoerd rejected the sense of urgency of the Tomlinson Commission and his critics. He reassured his supporters that he would not allow great demands to be made on the taxpayer's money for the purposes of the rapid urbanisation of the Native reserves. Refusing the introduction of the required private capital for the progressive development of the reserves, he warned Anton Rupert, the Afrikaans industrialist, that he would not allow him to establish Hongkongs' on the borders of the white part of South Africa. Verwoerd argued that the selfish economic motives of white entrepreneurs would lead to the complete white domination of the reserves, undermine the authority of the chiefs and rob the blacks of their entire inheritance (SA Parliament : House of Assembly 1956:191-193). Verwoerd had no doubt that the Bantu should develop separately at their own pace. He would not deprive the Bantu of his chances for self-development and self-help, which require gradualism and added the following (Sher 1993:352):

The Bantu must start on a small scale. Psychologically he is not adapted to industrial life and certainly not to private enterprise, to start on a big scale.

It was only at a later stage that it became clear that much more economic and political co-operation between white and black was required to overcome the vulnerability of South Africa than Verwoerd and his government realised (Höpker 1978:100-101). When BJ Vorster succeeded Verwoerd, Vorster said that he would continue along the same lines, but he soon spoke of “*power sharing*”. This indicated his increasing pragmatic attitude. It was a matter of choosing between racial conflict and partnership (Leistner 1978:105-116). It was evident that economic prosperity could not be maintained if world opinion, as well as the increasing dissatisfaction of the non-whites in South Africa with the oppressive consequences of apartheid became more radical, resulting in an alliance of the ANC with the Soviet Union and its satellites.

Nevertheless, Verwoerd's prime ministership from 1958 till his assassination in 1966 was a period of unaccustomed economic prosperity with a growth rate of about 7% after the return of foreign capital. In spite of the negative features of the political policy of the government the enforced

stability of the country "*convinced overseas investors that South Africa was a good risk*" (Scher 1993:415). The booming economy with a high growth rate made it possible for the per capita income of both white and black to rise significantly, partly as a result of stricter import control, the devaluation of the currency and a great increase in manufacturing. Confirming the links between mining and manufacturing (Beinart 1994:168), new gold mines were developed on the Witwatersrand and the Orange Free State, petrol from coal was produced at Sasolburg and phosphate concentrates were mined at Phalaborwa.

Between 1960 and 1970 the number of blacks employed in the manufacturing sector virtually doubled (Scher 1993:416), although very little was done to develop the black areas to reverse the trend. Whilst

the whites enjoyed one of the highest standards of living in the world, the vast majority of blacks were condemned to live a life of poverty (Scher 1993:415).

A day after Sharpeville, Verwoerd established an Economic Advisory Council, consisting of representatives of both the private and public sectors of the economy. In addition to this, the economic strength of South Africa made possible military and security strength, which enabled the government to uphold its ideologically inspired social engineering. This built up a feeling of strength and complacency in the white electorate. At the fifth anniversary of the Republic of South Africa Verwoerd was satisfied that "*South Africa is part of the white man's domain in the world ... on a continent of black nations*" (Scher 1993:416). Verwoerd had invited white settlers from other African countries to come and settle in South Africa. Even immigrants from Europe came to South Africa as a result thereof.

5.3.4 HF Verwoerd's special emphasis on apartheid

The ideology of apartheid, which DF Malan had initiated was passed in Parliament by Dr TE Dönges with the Group Areas Act of 1950. The intention with this Act was to reduce friction between the races and was expected to

be administered with justice and without discrimination (but) it proved, in fact to be one of the cruellest acts ever passed by the South African legislature (Scher 1993:323).

Moving people about became a major preoccupation of the apartheid planners (Beinart 1994:148). Whilst very few whites were moved around, the sacrifices were made by the other races. Long-standing communities were dislocated and destroyed, for it meant cutting across traditional property rights and leading to the eviction of thousands of blacks, Indians and coloureds from their homes.

Verwoerd applied relentless logic to doubtful premises in his social engineering, which is illustrated in his rejection of the following considered opinion of the Fagan Commission (Botz 1977:132-150):

The idea of total segregation is utterly impracticable; secondly, that the movement from the country has a background of economic necessity - that it may, so one hopes, be guided and regulated, and may perhaps also be limited, but that it cannot be stopped or turned in the opposite direction; and thirdly that in our urban areas there are not only Native migrant labourers, but there is also a settled, permanent Native population.

Verwoerd regarded the African in the white town as merely a temporary visitor. He passed many laws "*to keep the African in his place*", as he saw it, ignoring economic logic by pinning blacks to homelands with the emphasis on tribal authority (SA Parliament : House of Assembly 1951:2893), which meant strict pass and influx control on males and females. It implied displacement, dehumanisation and embitterment, apart from financial losses that many of the victims suffered.

Verwoerd was also unimpressed by the Tomlinson Commission which made it clear that the reserves would need to be developed industrially, as well as agriculturally to provide the largest possible Bantu population in these areas with a lasting livelihood. The least that would be required to make the gigantic effort viable is the encouragement of decentralised industries on the borders of the homelands (Beinart 1994:54-55), which would need private capital as well as large scale public spending (Scher 1993:350).

Rejecting this expert advice, playing up to the white electorate's unwillingness to pay for such required development, Verwoerd tuned down his Bantustan policy to a level exclusively in line with the Bantu Investment Corporation, where it could no longer be viable. He not only refused to accept the full universal implications of the free market economy, but supported Dr Werner Eiselen's wish to protect the Bantu against the negative features of the civilisation of the whites. Continuing along the lines of an earlier "*school of segregationists*" (inspired by Theophilus Shepstone) in Natal (Brits 1993:222) Eiselen, who was a leading social anthropologist emphasised the right of the Bantu to their own culture, and required that they should be Europeanised only gradually.

A report issued under the leadership of Eiselen was issued in 1951, criticising the 5,000 or so established Christian missions for "*achieving nothing but the destruction of Bantu culture ... (i.e.) nothing beyond succeeding in making the native an imitation Westerner*" (Scher 1993:325-326). This Eiselen Commission warned against the over-emphasis of English and dangerous liberal ideas, promoting an African élite which claimed recognition in a common society. It was recommended that the native (Bantu) vernacular languages should be used as the medium of instruction up to the eighth year of schooling, whilst in higher classes both official languages, Afrikaans and English were to be used (Beinart 1994:153-154).

When Verwoerd, who was still minister of native affairs introduced the Bantu Education Bill of 1953, he had already appointed Eiselen as secretary of native affairs. He had no doubt that

the school must equip the Bantu to meet the demands which the economic life of South Africa will impose on him ... There is no place for him in the European community above the level of certain forms of labour (SA Parliament : House of Senate 1953:128ff & SA Parliament : House of Senate 1954:2599ff).

There was a disquieting gap between the money spent on white and black education, which was condemned by educational institutions and many church bodies. The Methodist Church criticised the act as incompatible with Christian principles and believed it was intended to condition the African people to a predetermined position of subordination in the state, which did not deter

Verwoerd from eventually stopping all government aid to the mission schools. Soon there were declining standards in examination results and the training of teachers (Scher 1993:326-327; Carter 1958:107-108). The most decisive factor, in the end, was the reaction of the black children themselves against Verwoerd's paternalism and the consequent "*gutter education*" about which the ANC propagandists spoke.

In 1959 the Extension of University Education Act forced the open universities to largely close their doors to people of colour, "*while at the same time, establishing ethnic universities for the coloureds, Indians, Zulu, Xhosa and Sotho*" (Scher 1993:361). Within the context of apartheid it was allegedly intended to promote self-esteem (eiewaardigheid) and independence (selfstandigheid). This was not in line with the open approach of Christianity as portrayed in Galatians 3:verse 28:

For there is neither Jew nor Greek, there is neither bond nor free, there is neither male nor female: for ye are all one in Christ Jesus.

It also jarred with the universally minded Greek and Roman inspired universities of Europe and America.

What is more, Verwoerd did not foresee what use and abuse the communistic minded allies of the ANC would make of his tribal universities to put their ideology across as the pressure mounted against South Africa, through the cunning MK violence which Slovo planned with the Soviet Union and its satellites (Mandela 1995a:325). In the attempt to make South Africa ungovernable, students were exploited for the class war to the detriment of their own academic careers with the slogan: "*Liberation before education!*".

In 1959 Verwoerd, as Prime Minister introduced a master plan for Bantu self-government in eight national homelands to the point of independence. He believed that by granting the Bantu tribes sufficient scope in their own areas to fully develop and "*adapt to the demands of modern civilisation ... with whatever aid the white can give*", he was also "*buying for the white man his freedom and the right to retain domination in what is his own country*" (SA Parliament : House of Assembly 1961:4191). From the early seventies onwards Vorster and Botha encountered

difficulties with the homelands in so far as no established independent state was prepared to recognise the independence of the Bantustans.

Nobody knows whether Verwoerd would ultimately have accommodated the homelands in a confederation of South Africa on a pattern similar to the Swiss Confederation, which might have been the ideal way out of South Africa's international predicament. It would have meant putting the emphasis on geographic borders and allowing ethnicity to fend for itself. In that case the major part of the old Cape Province, west of the Fish River, would have been a haven for the Afrikaans speaking whites and coloureds, leaving the rest of the country to be divided along the present multi-ethnic lines. Under all circumstances there was no escape from the relevance of human rights as formulated on 10 December 1948.

5.4 THE UNABATED PRESSURE OF THE UNITED NATIONS ON A SLIGHTLY CHANGING SOUTH AFRICA

5.4.1 Stalemate

From 1967 to 1989 South Africa's trading partners were still reluctant to impose sanctions against this country, which persisted in its intransigence and aggression. This caused the United Nations to launch its international campaign, which extended across the globe and increasingly isolated South Africa in most of its international relations. The emphasis was placed on mercilessly exposing South Africa's apartheid policy and practices through ever more effective publicity in all countries.

It meant exposing South Africa's "*destabilisation*" of the countries which had common borders with her, as well as concerted action by the United Nations through all her organs, accepting the liberation movements as the authentic representatives of the South African people. It included embargoes on arms, oil and other economic commodities, as well as sports and cultural boycotts, trade union, student and youth action and a "*free Mandela*" campaign. There was also assistance for opponents of apartheid and for education and training (United Nations 1994:29-84).

5.4.2 BJ Vorster

Before BJ Vorster succeeded Verwoerd as Prime Minister of South Africa, state security had been Vorster's responsibility. Vorster went out of his way to crush civil disobedience, leaving no doubt about his strong arm measures. Black political resistance had been reduced to a minimum in the mid 1960s. In 1962 Vorster introduced the General Laws Amendment Act, which made sabotage a capital offence and gave the minister of justice the power to place anyone under house arrest. This law was amended to give the police the right to detain suspects for any number of periods of 90 days. A further modification of the law in 1965 empowered the attorney-general to hold witnesses in prison for a period of up to 180 days. The ANC and PAC seemed to have been crushed after the Rivonia trial in the mid 1960s and established themselves outside the country. Small wonder that many suicides occurred and there were many allegations of police torture.

It was only in 1973 when the Durban strike movement occurred that significant black industrial political resistance re-emerged (Scher 1993:409) to become more emphatic during the Soweto revolt of 1976. Even then, Vorster's repressive security legislation kept him in control by means of deeds committed by the relevant police who had racialistic, as well as anti-communistic motives. Civil liberties were sacrificed for state security in the most decisive sense meeting the violence of Mandela's liberation struggle, in alliance with Slovo, with severe counter measures (Mandela 1995a:325).

Some ascribed the acts of violence and insurrection in the first half of the sixties to the hurt caused by apartheid legislation, whilst others were aware of the unabating Cold War which was bound to give the communists an opening to exploit the dissatisfaction of the oppressed in South Africa to their own ends. It could not be denied that there were leading communists in the ANC Alliance, as well as in the pressure groups at the United Nations, and relatively later, even in the new Marxist black governments of Frelimo and the MPLA in Mozambique and Angola. It became increasingly clear to people who feared the communists and their motives that the Soviet-bloc was keen to exploit the dissatisfaction in South Africa and the new openings, which offered themselves in Mozambique and Angola to their own ends. This gave Vorster's security measures a new justification (Liebenberg 1993:460). There seemed to be a growing danger that revolutionary

blacks could make use of the circumstances and this could easily be twisted to give apartheid a new undeserved meaning within the context of national security.

This uncompromising side of Vorster's energetic efficacy (*kragdadigheid*) in the services of the national security of South Africa extended into the ominous Bureau of State Security (BOSS) and became an effective instrument (Beinart 1994:213). But this was not enough to satisfy all the members of his government. Extremist Afrikaners like Albert Hertzog and Jaap Marais led a split group of supporters away from Vorster who was accused of moving away from Verwoerd and Strydom. After Vorster had dismissed Hertzog from his cabinet, he published a political manifesto in which he emphatically defended Afrikaans-English co-operation, diplomatic ties with black states outside South Africa, immigration and sporting ties with the outside world (Liebenberg 1993:424). Hertzog and his followers did not like such enlightened guidelines for the future and formed their own Reconstituted National Party (HNP), which disposed over ample funds and contested every general election from 1970 onwards, but without taking a single seat.

Unlike Verwoerd's rigid sociological generalisations, Vorster's combination of security consciousness and open juridical approach with its emphasis on dialogue and detente, opened the way for ever more changes in policy. In 1970 Vorster announced that any homeland was free to ask for complete independence (Liebenberg 1993:434-435). There can be no doubt that Vorster applied Verwoerd's dogmatic apartheid policy less strictly, particularly when it became sufficiently clear that the increasing influx of blacks into the white cities could not be stopped and would continue well beyond the peak, which Verwoerd expected to be reached in 1978 (Liebenberg 1993:480).

Vorster accordingly did not try to prevent the private sector from taking its own initiative when a number of industrialists, in co-operation with the Urban Foundation, decided to improve the living conditions in black urban areas at their own expense. In 1974 Vorster decided to allow the inhabitants of South West Africa "*to decide on their future themselves*" (Liebenberg 1993:482). However, he realised in 1977 that he could not circumvent the authority of the United Nations in this regard. Ultimately, it was as a result of the "*unorthodox methods which were employed in an effort to improve South Africa's image abroad*" that Vorster has landed in the so-called

Information scandal due to the irresponsible acts of minister Dr CP Mulder. Mulder then left him in the lurch, forcing his retirement. This was well after the Soweto protests of 1976.

5.4.3 PW Botha

PW Botha primarily was a party organiser who made his way to the top by putting the party line well above his own views on matters of policy. This did not prevent him from boldly and vehemently stating his views in closed circles, even when it went against Strydom, Verwoerd and Vorster (De Villiers & De Villiers 1984:39). Verwoerd made him Minister of Coloured Affairs in 1961 and Minister of Defence in 1966, the same year in which he succeeded Dönges as leader of the National Party in the Cape Province. He would have preferred to have the coloureds represented by coloureds in Parliament, but accepted Verwoerd's guidance in the matter (De Villiers & De Villiers 1984:72). He also accepted Vorster's intention to appoint the Erica Theron Commission and to reconsider the franchise of the coloureds, which in 1977 led to his appointment as chairman of a committee to work out a new constitution for South Africa.

After Botha had become Prime Minister in 1978, these efforts towards more power sharing matured into the Republic of South Africa Constitution Act of 1983. The act was implemented after a referendum in which 65,9% of the white voters voted yes (Liebenberg 1993:479). The positions of Prime Minister and state president were merged, resulting in Botha becoming the first executive state president. The state president was to be elected for a period of five years by an electoral college of 85 members made up as follows: 50 from the House of Assembly (whites), 25 from the House of Representatives (coloureds) and 13 from the House of Delegates (Indians) (Liebenberg 1993:478). The executive authority consisted of a cabinet and three ministers' councils, distinguishing between own affairs and general affairs.

The legislative authority was vested in a three-chamber parliament:

- a House of Assembly for whites (178 members)
- a House of Representatives for coloureds (85 members)
- a House of Delegates for Indians (45 members).

Bills dealing with own affairs were to be handled by the chamber of the relevant ethnic group, but those bills which refer to general affairs were to be tabled in all three chambers.

If the three chambers differed over the acceptance of a general affair bill, the particular bill had to be submitted to the President's Council for a decision. The President's Council replaced the Senate and was made up of 60 members of whom 20 (were) nominated by the House of Assembly, ten by the House of Representatives, five by the House of Delegates and 25 by the State President (Liebenberg 1993:478).

In due course the functional whole became more unitary. The coloureds and Indians became thoroughly efficient in the workings of parliament and moved incredibly close to the National Party.

Nonetheless, the blacks were influenced by radical elements and wanted nothing less than non-racial majority government for the whole of the country. On 3 September 1984, the same day on which the tricameral parliamentary system came into effect, the black population of the Vaal Triangle broke into rebellion. The unrest quickly spread throughout the country and lasted until about December 1986. A few months later, in September 1987, this was followed by a civil war between Inkhata and the United Democratic Front – the ANC in disguise – which has continued unabated (Liebenberg 1993:488).

The threat from the MPLA and Frelimo in Angola and Mozambique, which had already linked up with SWAPO and ANC exiles, meant ever more militarisation in South Africa where a formidable army, based on the Afrikaner commando system, had been built up. When he was forced into action by the general insurgency, Botha declared a state of emergency in the whole country in July 1985. His total strategy of "*simultaneous reform and repression*" on the one hand, meant that "*hostility to communism, terrorism, the ANC, and opposition movements was inculcated into servicemen*" (Beinart 1994:245). On the other hand, joint management centres, sometimes displacing community councils, tried to upgrade facilities and living conditions in black townships, offering the promise of a taste of the good life (Beinart 1994:246-247).

There was also an "*easing of the pass laws, the abolition of the Mixed Marriages and racial sections of the Immorality Act in 1986*", as well as the extension of "*the Freehold property rights for Africans in town*" (Beinart 1994:247).

After the Wiehahn and Riekert Commissions had investigated the labour legislation of South Africa the Labour Relations Amendment Act of 1981 deleted all references to race and allowed multiracial trade unions to be registered (Liebenberg 1993:470), which included the citizens of the homelands which had previously been part of South Africa. Other acts gave blacks in urban areas their own town councils, replaced the Administration Boards with Development Boards and abolished Influx Control (Liebenberg 1993:471). Above all it was finally realised that because "*the labour opportunities were in the white cities ... Verwoerd's ideal of a white South Africa was a futile dream ...*" (Liebenberg 1993:480).

From 1981 the linkage issue arose, under the initiative of the USA, which meant "*coupling ... South West African independence with the withdrawal of Cuban soldiers from Angola*" (Liebenberg 1993:487). This would be robbing South Africa of much of its justification for giving Savimbi's Unita military support against the Angolan Marxist MPLA, which Vorster in 1976 had blamed for the use of Russian and Cuban intervention (Liebenberg 1993:451). A few months after the battle of Cuvelai (in 1983) South Africa began to negotiate a cease fire (Liebenberg 1993:455). In 1986 Reagan and Gorbatsjev had come to an agreement at Reykjavik. In 1987 the South Africans were not prepared to make the required sacrifices of lives to decisively take Cuito Cuanavale from the MPLA. This led to the negotiations between South Africa, Angola and Cuba, which was conducted by Chester Crocker and supported by a Soviet adviser in 1988, resulting in "*the independence of South West Africa and the withdrawal of the Cubans from Angola*" (Liebenberg 1993:537). Under the auspices of the United Nations South West Africa became the Republic of Namibia in 1990 (Liebenberg 1993:540). This occurred after Botha's retirement in 1989 as the result of apoplexy and at a stage when "*there were still several laws on the statute book which enforced apartheid*" (Liebenberg 1993:492).

5.5 THE NEED AND COURAGE TO CHANGE

After a period of relative calm in South Africa, the revolt of 1984-1986 sharply increased external pressure on South Africa. Economic sanctions were no longer merely a threat. In December 1984 35 conservative members of the American Congress told Brand Fourie that they were no longer prepared to oppose the imposition of sanctions against South Africa. Sweden and Denmark made it clear that they would intensify their existing ban on investment in South Africa. Soon France recalled its ambassador and forbade further investment in South Africa. America's Manhattan Chase Bank announced that it would not "*roll over*" its loans to South Africa (Liebenberg 1993:509).

There seemed to be a never ending process of disinvestment when Pik (Roelof) Botha told the diplomatic corps that further reforms might be forthcoming in South Africa and that the state president, PW Botha would make an announcement in this regard. This led to enormous expectations in the news media of the world, which however, became an anti-climax. For Botha informed millions of overseas viewers that he rejected the concept of "*one-man-one-vote*", that he was not concerned with foreign demands and that he was not prepared to lead white South Africa down the road to abdication and "*suicide*" (Liebenberg 1993:510). Botha simply refused to cross the Rubicon.

Other foreign banks immediately followed Chase Manhattan's example and demanded the immediate repayment of their loans. The enormous crisis of confidence in the South African economy made it impossible for American President Ronald Reagan and British Prime Minister Margaret Thatcher to ward off sanctions any longer. An Eminent Persons Group (EPG) was established to bring South Africa closer to world trends and was received by Botha. This was of little avail, for he accused the outside world of interference in South African affairs and a few days later he mounted air attacks on ANC bases in Lusaka, Harare and Gaborone. Both Reagan and Thatcher consequently could not help the apartheid regime against disinvestment and the South African economy deteriorated constantly. In August 1986 Mrs Thatcher reluctantly agreed to forbid further investments in South Africa and to discourage tourism to the country (Liebenberg 1993:512). Israel and Japan were also forced by the pressure of world opinion which were

growing towards sanctions to sacrifice their trade interests in South Africa (Liebenberg 1993:513).

The man who most clearly saw the desperate need for radical change and also had the courage to do away with apartheid entirely was FW de Klerk. He was partly helped in this by his brother, Willem de Klerk, who had been inter alia a professor in philosophy at Potchefstroom University and editor of the *Transvaler and Rapport*. He had made an early distinction between narrow-minded (*verkrampte*) and broadminded or enlightened (*verligte*) Afrikaners. The latter were an influential "*mainstream that gave impetus to the political philosophy of enlightened (verligte) Afrikaners*" (De Klerk 1991:124). This group includes "*church leaders, Afrikaans editors, political commentators, businessmen, Broederbond leaders, academics, and about twenty National Party parliamentarians ...*" (De Klerk 1991:124). In this regard books and columns were written, closed and open meetings were addressed in all quarters, memos, proposals and reports were drafted, and delegations were led to see the authorities. Over a period of three years the ANC was met in secret. Think tanks were attended and a network of communication channels was forced open, thus (paving) the way for FW de Klerk. Furthermore, "*via Vorster and Botha, then, enlightenment was (already) accommodated step by step*" (De Klerk 1991:124-125).

When FW de Klerk is referred to as "*an Afrikaner Calvinist*" by his brother, Willem de Klerk, this implies the full history of the Afrikaner as a member of "*an African tribe, rooted in the harshness and mystery of this continent*" as well as "*sovereignty within one's own sphere, a concept embracing the highly valued calvinistic idea of freedom*" (De Klerk 1991:148). Basically tolerance towards the majority, as well as the minority is implied by this. After all "*a common South African loyalty in one state does not exclude the ethnic heritage and composition of the country*" (De Klerk 1991:149). It is probably not a coincidence that John Calvin was of Jewish stock, emphasising the equal importance of the Old as well as the New Testament, spanning the cardinal religious history of a people, which set an example to the Afrikaner Calvinist. It showed that it is indeed possible for a minority to maintain its cultural and religious identity, whilst living in harmony with a variety of majorities.

After De Klerk had taken over the leadership of the National Party in the Transvaal from Treurnicht (who became leader of the newly founded Conservative Party), he moved from the centre middle stream of the political spectrum to a convincing enlightened position. This was in harmony with his personality as "*a calm, friendly and approachable man*" (Liebenberg 1993:524). A few weeks after he had been sworn in as state president, De Klerk released eight political prisoners. He also scaled down the status of the State Security Council, which once again became an ordinary cabinet committee, responsible to the cabinet. These moves and many others on the way of saving South Africa from complete economic collapse would not have been possible if the communist ideology had not collapsed in the USSR and her satellites by 1991, which brought De Klerk to make the following remark to his brother Willem de Klerk:

The decline and collapse of communism in Eastern Europe and Russia created a new situation. Prior to this the ANC was an instrument of the expansionism of Russia in Southern Africa. When this fell away, the carpet was also pulled out from under the ANC. The basis of their finances, their advice and moral support had caved in ... (Liebenberg 1993:526).

De Klerk decided to make use of this "*turning point in world history*", but he was also aware that he represented the Afrikaner as a minority in the country. He acted in the confidence that the Calvinistic Afrikaner does not need to dominate everybody else in the country in order to maintain his own identity and interests. The fact remains that the step, which he took at the opening of parliament on 2 February 1990 towards a new South Africa was an act of faith of a genuine statesman, who believes in God. It was in line with his own convictions when he announced the following:

The ban on the ANC, the PAC and the Communist Party would be lifted, that all political prisoners, including Nelson Mandela, would be freed and that the United Democratic Front (UDF), the National Education Crisis Committee (NECC), Cosatu and thirty other banned organisations could once again resume their activities (Liebenberg 1993:525).

The National Party at the time did not intend to convert South Africa into "*an African state*" by lowering the existing First World standards, but wished to lift the Third World element to a higher level and accordingly benefit all the people living in the country. This convention implied that they did not want to

lose their standard of living and privileges in education, their health system and public administration - nor did they want to pay dearly for them. With good reason, the white electorate (was led to believe that they could) trust the National Party with safeguarding their wealth and power (Adam & Moodley 1993:33).

The National Party "*co-opted key demands of the opposition as its own, but attached conditions that altered their consequences*" (Adam & Moodley 1993:33).

Giliomee, professor of the School of Political Studies of the University of Cape Town (UCT) saw the intent of the National Party to establish a new South Africa as "*the attempt to seize the strategic initiative by appropriating the form of the adversary's demand and giving it its own substance*" (Giliomee 1991:5). In this regard

the core principles of the ANC, nonracialism and universal franchise, were adopted by the NP but tied to minority party protection, veto rights, a consensus mechanism, and a collective rotating presidency (Adam & Moodley 1993:33).

It was agreed that

majorities will not use their dominance to permanently exclude the losers from gaining the majority ... and conversely, the losers will accept the right of the winners to govern and take binding decisions (Slabbert 1992:7).

As an able lawyer, De Klerk aimed at constitutionally entrenching existing interests in the name of fundamental rights and freedoms. This implied that "*parliament (would) not be able to override the 'rule of law', or at least not without high qualifying majorities*". It would require "*an independent judiciary that can declare laws passed by parliament unconstitutional*" (Adam & Moodley 1993:33-34). However, the ANC also had a great say in the matter. Under the influence of astute Leninist Marxists, Joe Slovo, who over-emphasised the importance of centralised government, the protection which minorities enjoy in and through federal constitutional structures could easily be lost. But, whatever the outcome of the intended attempt to achieve a negotiated political revolution in South Africa, and however great the risk with respect to the minimal conditions for future Afrikaner survival, the head of the Broederbond, Pieter de Lange felt that

"the greatest risk is not to take any risks" (Adam & Moodley 1993:41).

What De Klerk envisaged was *"a new democratic constitution, universal franchise, (and) no domination"* which would put the emphasis on *"dialogue and discussion"* and should satisfy *"all reasonable South Africans"* (Liebenberg 1993:525). As a realistic politician he *"did not wait until the position of power dominance turned against (him) before (he) decided to negotiate a peaceful settlement"* (Liebenberg 1993:525). In May 1990, the Minute of Groote Schuur between the delegation of Mandela and the government was achieved, in which the two parties committed themselves to peaceful negotiations. They declared their agreement on the following points (Liebenberg 1993:527):

- a working group constituted of both parties would make recommendations within three weeks on the release of political prisoners
- provisional indemnity would be given to members of the ANC who returned from outside the country
- the government would amend security legislation so as to make normal political activities possible
- the state of emergency would be lifted as soon as possible and that avenues of communication between government and the ANC would be created to combat violence.

De Klerk and Mandela both visited Europe. Mandela also visited the USA. Throughout, Mandela's request was that *"they should maintain sanctions against South Africa until significant progress had been made with the drafting of a new constitution"* (Liebenberg 1993:528). When the government lifted the five-year state of emergency over the entire country, barring Natal and released 48 more political prisoners, the question arose in government circles *"whether it was wise to proceed with the release of prisoners while the ANC was still committed to the continuation of the arms struggle"* (Liebenberg 1993:528). The second round of talks between the government and the ANC achieved the Pretoria Minute, which opened the way for a negotiated constitution. The ANC announced that it was now suspending all armed actions with immediate effect.

On its part, the government undertook the following:

to

- continue with the release of political prisoners, to free all political prisoners before 30 April 1991
- lift the state of emergency in Natal as soon as possible
- remove all references to communism from the Internal Security Act (Liebenberg 1993:528).

This was a great step forward from the DF Malan Accord when the ANC still refused to disband its military wing, Umkhonto we Sizwe, and also refused to give up the arms in its possession. However, the ANC agreed to refrain from the following (Liebenberg 1993:528):

- attacks by means of weapons and explosive devices
- infiltration of men and material into South Africa
- the creation of underground structures
- statements inciting violence
- threats of armed action
- training inside South Africa.

Unfortunately many hitches remained with respect to the following:

- the composition of the body drafting the constitution
- the ongoing violence in Natal
- misconduct by the police
- the ANC wanting to remain a national freedom movement and not a political party
- Inkhata and the ANC not wanting to behave as prescribed (Liebenberg 1993:529-531).

Eventually the required National Peace Accord was signed. By the end of November 1991 twenty-six political groups (governments and parties) had assembled in Johannesburg to start the necessary organisation for the proposed multiparty conference called the Convention for a Democratic South Africa (Codesa) (Liebenberg:1993:531).

Federalistic motives kept Inkhata and Bophuthatswana from signing the final intent. This intent was as follows (Liebenberg 1993:532-533):

To bring about an undivided South Africa with one nation sharing a common citizenship, patriotism and loyalty, pursuing amid our diversity, freedom, equality and security for all irrespective of race, colour, sex or creed: a common country free from apartheid or any other form of discrimination or domination.

5.6 THE FINAL CREDIT CLAIMED BY THE UNITED NATIONS

As a result of sanctions, South Africa was in an impossible economic situation which enabled De Klerk to move his party and the traditional onesided white electorate in this country to accept a black majority government. Apart from this, a prevailing conviction was that the blacks were not competent enough to run the country properly to the benefit of all its inhabitants. Much of the credit for this intolerable economic state of affairs could be claimed by the United Nations Organisation, which had pressurised the nations of the world into applying economic sanctions against South Africa. It was of decisive importance that "*according to the United Centre on Transnational Corporations, a total of 605 transnational corporations disinvested from South Africa between August 1985 and August 1990*" (United Nations 1994:87).

It was realised at the United Nations by the end of 1989 that "*South Africa was more than ready for change*" (United Nations 1994:86). Above all, sections of the White community, including business people, began to feel that the course followed by the Government would only lead to a protracted civil war and the devastation of the economy (United Nations 1994:87).

After the new Government of President FW de Klerk took conciliatory steps – by revoking the bans on the ANC, the PAC and other political organisations, and by releasing Nelson Mandela and other leaders – the United Nations sought to encourage the South African authorities to proceed with negotiations (United Nations 1994:85).

The enormous interest shown in meaningful negotiations in South Africa by the United Nations, the powerful international guardian and propagator of the well-formulated Rights of Man, was

of great help to De Klerk to achieve a meaningful debate with Mandela and his followers, for the latter had great faith and confidence in this undisputed world body. It was consequently of decisive importance that the United Nations General Assembly in December 1989 "*adopted by consensus, the Declaration on Apartheid and its Destructive Consequences on South Africa*" (United Nations 1994:89).

The South African National Party government was not prepared to be dictated to by the United Nations, but able to benefit from the influence that this extremely important and informed body had over the ANC. The United Nations provided the authority and advice, which enabled the ANC-Cosatu-Communist Alliance to listen to the voice of reason and opposed the new myth, which the futile activists had manufactured. They held that "*Pretoria had no choice but to capitulate at home because it has been defeated militarily in Angola and economically through international sanctions*" (Adam & Moodley 1993:46). Actually, with the ANC weakened - cut off ideologically and financially by its disintegrating East European sponsors – the National Party saw a unique opportunity to gain global legitimacy, especially after the retirement of the unpopular PW Botha after a stroke (Adam & Moodley 1993:47).

In addition, "*Pretoria's confidence had increased since the scare in mid-1989, when the country's reserves were apparently down to thirty-one days of obligations*" (Adam & Moodley 1993:45). However, the following had become sufficiently evident:

- the most decisive factor in the negotiated revolution was to maintain the confidence of the majority of white voters in South Africa
- the white voters are not defeated
- South Africa, unlike Angola and Mozambique, is not a colonial situation and able to maintain itself through negotiations.

According to Adam and Moodley (1993:50) it simply had to be accepted that the white electorate

constitute(s) a permanent force that, even as a small minority, has the economic and military power to ensure that its needs are accommodated and to guarantee a minimum of coercive stability in the country.

Short of such confidence on the part of the white voters negotiations would be futile, the ANC would easily take over the country on its own terms, as Chris Hani and other activists were too quick to assume.

Joe Slovo, who was an intelligent KGB colonel and a key figure in the ANC's armed struggle, was more prudent. Having fully understood the implications of the collapse of the Soviet Union and its allies, he was convinced that the armed struggle was a thing of the past and that negotiation was the safest approach for the ANC. But he had difficulties in convincing Mandela of this (Mandela 1995:702). At the same time the dominant enlightened Afrikaner establishment realised that the political incorporation of disenfranchised subordinates had clearly become the only way for the NP government to regain international legitimacy (Mandela 1995:52).

The De Klerk government took a calculated risk in the conviction that whites would continue to play a "key role" in the new South Africa and "not accept a dispensation in which the quality of existing liberties and rights are dismantled" (De Klerk 1990:1). It became clear that "few ruling groups in history have ever wriggled themselves out of so deadly a predicament more elegantly" (Adam & Moodley 1993:40), confidently giving way to "the combined pressure of internal and external forces" (United Nations 1994:100).

When South Africa finally began "to take steps to meet the demands of the international community" (United Nations 1994:90, 95) the United Nations were equally as indispensable to the ANC as to the South African government for the following reasons:

- facilitating the release of political prisoners
- the return of the refugees
- the search for an end to violence
- the promotion of talks and
- the convening of international organisations to observe these (United Nations 1994:98-102).

After De Klerk had held a whites-only referendum in which he obtained 68.7% support, he could resume his constitutional negotiations in the confidence that he had the required mandate from the existing white establishment to do away with apartheid completely.

At this stage the co-ordinated involvement of the Security Council, the General Assembly and the Secretariat, who worked together as catalysts, paved the way for a final settlement. They were joined by observers from the Commonwealth, the European Union and OAU who were in South Africa until after the elections of 27 April 1994 (United Nations 1994:106-107). All parties concerned were however not equally accommodating. The ANC had the typical communistic preference for over-centralised governmental structures, whilst the representatives of Bophuthatswana, Ciskei, KwaZulu, the IFP and the Conservative Party opposed a unitary constitution. Unfortunately the principles of federalism were sacrificed in the haste to quickly adopt "*a Declaration on the cessation of hostilities, the armed struggle and violence, and a Resolution on conditions necessary to eliminate violence*" (United Nations 1994:111-112) at the Multi Negotiating Council which had succeeded the Convention for a Democratic South Africa (CODESA I and II).

The De Klerk government had already lost patience with the corrupt and spendthrift governments of the Bantustans and abolished all four at the expense of the federalistic principle which had been weakened to a point where it has become very difficult to do justice to the autonomy of the nine provinces which were ultimately established. The Transkei and Ciskei became part of the Eastern Cape Province, Bophuthatswana became part of North West, Venda became part of the Northern (Transvaal) Province, KwaZulu was combined with Natal in the Province of KwaZulu-Natal.

Boutros Boutros-Ghali met President de Klerk in New York and congratulated him on his historic decision (United Nations 1994:112). At a meeting of the Special Committee Against Apartheid, taking place at the same time Mr Nelson Mandela said: "*The demise of the White minority regime has been determined, agreed and set*" (United Nations 1994:112). In addition, Mandela's request that the international community lift economic sanctions against South Africa was supported by the OAU (United Nations 1994:112).

From then onwards the course for the imminent South African elections was clearly set and facilitated by the Transitional Executive Council (TEC) which the De Klerk government established in September 1993, "to oversee government operations and preparations for elections" (United Nations 1994:112). After an interim Constitution with a Bill of Rights was adopted in line with Universal Human Rights the United Nations Observer Mission (UNOMSA) was also prepared for electoral observation (United Nations 1994:112, 117). This resulted in "*the dismantling of the economic embargoes so arduously built up over the previous decades*" (United Nations 1994:114).

Ultimately 22,7 million South Africans were regarded to be eligible to vote on 27 April 1994 in an election which was found to be "*sufficiently free and fair*" in the words of Mr Justice Johan Kriegler (United Nations 1994:124). The ANC won by a wide margin in six of the nine provinces and by a small majority in the Northern Cape, whilst the National Party won in the Western Cape and Inkhata received a convincing majority in KwaZulu-Natal (United Nations 1994:125). It meant that the ANC took over the government of South Africa with an overall majority of a little less than 65 percent and Mr Nelson Mandela became the first president, albeit sharing power with the National Party and Inkhata in a Government of National Unity, as provided for in the new constitution. As the National Party got a little more than 20 percent of the votes, their leader, Mr FW de Klerk, became one of the two vice presidents, but for all practical purposes the success of the new government was primarily the responsibility of the ANC.

5.7 CONCLUSION

Although world opinion was indifferent about race before the Second World War, there was no limit to reactions which were stirred up by Hitler's overemphasis of race. Consequently ethnicity was outlawed by world opinion as a political criterion by the establishment of the United Nations Organisation and the drafting of the Universal Declaration of Human Rights where the inescapability of human rights was underlined. Despite this tendency, the National Party allowed itself for more than four decades to believe in the ideology of apartheid, which was practically inspired by Malan's oratory, Strydom's slogan of white supremacy and Verwoerd's social engineering.

As a result, the ANC in concerted action with its allies started a non-violent campaign against unjust laws.

The later violent reaction of the South African government led to a dangerous situation. The United Nations Organisation stepped in and established a commission to monitor the racial situation.

After having received all the moral, legal and economic support which the United Nations could possibly mobilise and the development aid which keen countries like the Netherlands and those of Scandinavia could provide, as well as the military aid of communistic countries of the Soviet bloc, the ANC were spoilt favourites of the international community. De Klerk's government took a calculated risk in the conviction that whites would continue to play a prominent role in the new South Africa. The beginning of the process to meet the demands of the international community was clearly triggered off by a combined effort of internal and external forces.

The challenge of human rights to the socio-economic and political order in South Africa was indeed realised by the unabated pressure of the United Nations from the times of general JC Smuts to the times of former president FW de Klerk. After the decline and collapse of communism in Eastern Europe and Russia, a new situation was created. De Klerk decided to use this turning point in world history and lift the Third World element in South Africa democratically via an election to a higher level and accordingly benefit all the people living in South Africa.

Before the first democratic elections in 1994, an interim Constitution with a Bill of Rights was adopted which was in line with the Universal Declaration of Human Rights. This brought an end to inter alia, economic embargoes and political discrimination. The challenge of human rights was theoretically met, but the fact remains that there is a great difference between theory and practice, between aspiring towards power and exercising power, between politicising (acting the politician) and being saddled with the administrative responsibility of actually running the country democratically. More practical application would be required than the pledge, which Boutros Boutros-Ghali (United Nations 1994:131) made in 1994 at the inauguration of President Mandela that the United Nations, its agencies and programmes are ready to provide continued support for the achievement of dignity, equal rights and social progress for all the people of South Africa beyond the preparatory work undertaken by the United Nations agencies providing an assurance of constructive co-operation in promoting the social and economic development of the new South Africa.

Against this background, chapter 6 will focus on the RDP of the ANC as a deliberate attempt to emphasise human rights in the socio-economic and political development of South Africa.

CHAPTER 6

THE RECONSTRUCTION AND DEVELOPMENT PROGRAMME OF THE ANC

6.1 INTRODUCTION

The ANC's Reconstruction and Development Programme is a deliberate attempt to emphasise human rights in the socio-economic and political development of the South Africa. It is the alternative for apartheid, but remains problematic to the extent that the focus on **the paramountcy of human rights** is interpreted variously by the ANC itself and its partners (COSATU and the Communist Party of South Africa). It was possible for these partners "*to subsume their own positions on economic policy issues to that of the ANC during the 1994 election period*" (Michie & Padayachee 1997:2). It cannot be denied that the RDP Base Document contains collectivistic overtones. It is clearly socialistic to have a set purpose to help individuals according to a predetermined pattern, whether they desire it or not. It means overruling the freedom of the individual on the supposition that big brother knows best, even ignoring the right of the person as an autonomous ethical being who wishes to decide for himself.

6.2 THE CHALLENGES FACING THE ANC-COSATU-COMMUNIST ALLIANCE

The fact remains that the cardinal motive is to overcome the poverty of the black masses in South Africa. The second Carnegie Report of 1980, emphatically set the target to achieve "*a just and non-racial, non-sexist and democratic South Africa,*" (Wilson & Ramphela 1989:xii). But it is clear enough that the Macro Economic Research Group which paved the way for the RDP stated that they would like to "*achieve economic growth and set realistic goals for improved living standards and economic security for all South Africans, especially the most disadvantaged*" (University of Western Cape Macro-economic Research Group 1993:1). This according to them requires a vigorous private sector, as well as a well-supported macro-economic strategy.

The cardinal question remains, whether the RDP of the government which was elected in 1994, can be sustained. The fact is that "*sustainable development is development that meets the needs*

of the present without compromising the ability of future generations to meet their own needs" (World Commission of Environment and Development 1987:43). In this regard the problems attached to the affordability of socio-economic upliftment cannot be escaped. The general promise of the ANC and its allies to improve the socio-economic position of the poorest of the poor in South Africa substantially has saddled it with an enormous commitment to produce what has never before been achieved in sub-Saharan Africa.

The question remains whether the Mandela government can do reasonable justice to Universal Human Rights in its applied policies, maintaining "*a common standard of achievement for all people and all nations*" (Brownlie 1971:107). Openminded attention has to be given to the initial intentions and expectations of the RDP Base Document. Full note should be taken of the RDP Base Document with all its high promises and ideological exaggerations.

6.3 THE GOOD INTENTIONS OF THE RECONSTRUCTION AND DEVELOPMENT PROGRAMME

Mandela in his preface to the RDP Base Document expresses the opinion that it is bound to be "*short lived if (it) cannot address our socio-economic problems within an expanding and growing economy*" (African National Congress [ANC] 1994). Furthermore, in the introduction the ANC Base Document is viewed as

an integrated, coherent socio-economic policy framework, which seeks to mobilise all South Africa's people and the country's resources toward the final eradication of apartheid and the building of a democratic, non-racial and non-sexist future (ANC 1994:1).

In this regard it was intended by the ANC, assisted by other mass organisations, by non-governmental organisations (NGOs) as well as research organisations to consult the business community and encourage this sector to participate as fully as they may choose.

6.3.1 The need for the RDP

The need for the RDP is explained in terms of South Africa's history which the ANC regards to have been dominated by colonialism, racism, apartheid, sexism and repressive labour policies,

which are seen as the sources of poverty and degradation, covering rural areas, towns and cities. It is pointed out that segregation in education, health, welfare, transport and employment left deep scars of inequality and economic inefficiency, leading to cheap labour policies and employment segregation which concentrated skills in white hands, leaving the workers poorly equipped for the rapid changes taking place in the world economy.

Six basic principles of the RDP according to the ANC (1994:4-7) are underlined. They are

- an integrated and sustainable programme
- a people-driven process
- peace and security for all
- nation-building
- the linking of reconstruction and development as parts of an integrated process
- the democratisation of South Africa.

Next key programmes of the RDP are listed. They are

- the meeting of basic needs
- the development of South Africa's basic resources
- the building of the economy
- the democratisation of the state and society
- the implementation of the RDP.

The basic needs which are stated as the first priority, are "*jobs, land, housing, water, electricity, telecommunications, transport, a clean and healthy environment, nutrition, health care and social welfare*" (ANC 1994:7).

6.3.2 Meeting basic needs

Meeting basic needs is the problem, the key issue, which the RDP tries to face squarely, "*for poverty is the single greatest burden of South Africa's people ...*" (ANC 1994:14). Besides, it is not only the lack of income which determines poverty, but basic needs which are at present not

met. Above all the unlocking of existing resources for reconstruction and development will be a vital challenge during the reconstruction process.

The vision and objectives of the RDP means aspiring towards "*growth in all parts of the economy, greater equity through redistribution, and sustainability*" (ANC 1994:15). The central objective is and remains to improve the quality of life of all South Africans, and in particular the poorest and most marginalised sections.

Particular emphasis is placed on the role of women, not forgetting that women are the majority of the poor in South Africa. One intention is to create jobs through public works,

the key area where special measures to create jobs can link to building the economy and meeting basic needs (thus) redressing apartheid-created infrastructural disparities (ANC 1994:18).

Land reform is taken very seriously, overcoming one of the primary abuses of apartheid by the

redistribution of residential and productive land to those who need it but cannot afford it, and restitution (of land) to those who lost land because of apartheid laws (ANC 1994:20),

with a view to discriminatory legislation since 1913.

Water and sanitation are deemed to be of such vital importance that three main goals are set, namely "*meeting every person's health and functional requirements, raising agricultural output, and supporting economic development*" (ANC 1994:29). Tariffs have to ensure that every person has an adequate water supply. Everybody is considered to be entitled to have electric power, which calls for an energy policy council to bring together stakeholders, including the government, unions, civics, the energy industries, and consumers.

Telecommunications are regarded as an information infrastructure which must play a crucial role in South Africa's health, education, agriculture, informal sector, policing and safety programmes. The vital importance of transport is emphasised, among other things, to overcome the distances

which were created by apartheid which moved the poor people away from job opportunities and access to amenities. The protection of the environment is envisaged, remembering that "*apartheid legislation distorted access to natural resources, denying the majority of South Africans the use of land, water, fisheries, minerals, wildlife and clean air*" (ANC 1994:38).

Nutrition is considered to be of primary importance in view of the fact that a large number of South African children under the age of 10 years are malnourished and/or stunted, whilst many thousands of adults, especially the elderly, are hungry, and millions of people, live in constant fear of being hungry. The intention is that health care for all children under six years of age, and for all homeless children, must be provided free of charge at government clinics and health centres, along with the improvement of maternal and child health through access to quality antenatal, delivery and postnatal services for all women. It is in the belief that prevention is better than cure that the

RDP must significantly shift the budget allocation from curative hospital services towards primary health care to address the needs of the majority of the people (ANC 1994:51).

6.3.3 The development of South Africa's human resources

The development of South Africa's human resources is believed to be in direct opposition to the fragmented, unequal and undemocratic nature of the education and training system which evolved under apartheid. It was fragmented along racial and ethnic lines and is saturated with the racist and sexist ideology. It revealed "*a lack of access or unequal access to education and training at all levels*", causing "*vast disparities (to) exist between black and white provision*" (ANC 1994:58).

Arts and culture are understood to embrace custom, tradition, belief, religion, language, crafts, and all the art forms like music, dance, the visual arts, film, theatre, written and oral literature, permeating all aspects of society as integral parts of social and economic life, including business and industry based upon the arts. This covers the rich and diverse expression of South African culture, but does not exclude the development of a unifying national culture, representing the aspirations of all South Africa's people.

6.3.4 The building of the economy

The building of the economy is a problematic affair. It requires that it should be realised that the South African economy is in a structural crisis and as such requires fundamental reconstruction, above all because

marked regional disparities exist within the economy as a result of policies (which were) designed to ensure a migratory labour supply to the mines and of the ethnic division of South Africa under the apartheid system (ANC 1994:75).

The most disturbing factor according to the programme is the excessive concentration of economic power in the hands of a small minority of the population, serving the wealthy and excluding the poor. This is based on the centrality of the system of cheap labour which is aggravated by racist and sexist policies, added to the inability to maintain a dynamic small-scale and micro enterprise sector. Women are found to be discriminated against in the formal sector. Neglect is found to be obvious in the rural economy.

Privatisation is squarely opposed by the RDP for harming basic services to the people.

The vision and objectives of the RDP commits it towards the creation of

a strong, dynamic and balanced economy which will eliminate the poverty, low wages and extreme inequalities in wages and wealth (which were) generated by the apartheid system, meet basic needs, and thus ensure that every South African has a decent living standard and economic security (ANC 1994:79).

In the ANC document it was stated that it might be necessary to reduce the public sector in certain areas in ways that enhance efficiency, advance affirmative action and empower the historically disadvantaged, while ensuring the protection of both consumers and the rights and employment of workers. Under all circumstances all relevant policies of the RDP are intended to alleviate inequalities in incomes and wealth and expand productive opportunities.

The promotion of industry, trade and commerce are expected to require coordinated and effective policies that combine private sector initiatives as well as government support to address their structural weaknesses with substantial increase in net national investment. Much is expected from the increased engagement with regional and international trade and the development of social and economic infrastructures.

Great concern is expressed regarding the domination of business activities by white business and the exclusion of black people as well as women from the mainstream of economic activity. Micro, small and medium-sized enterprises, owned by black entrepreneurs are emphasised. The need for legislation is expressed to *"ensure that agreements to import foreign technology include a commitment to educate and train local labour to use, maintain and extend technology"* (ANC 1994:97).

Resource-based industries are a basic concern of the RDP. The complaint is made that traditionally South Africa's enormous mineral wealth has only been used for the benefit of the small white minority. It is pointed out that whilst agriculture in the Bantustans is starved of resources

the industry is characterised by a high degree of concentration in the hands of 60,000 white farmers who own over 87 percent of the land and produce more than 90 percent of its product (ANC 1994:102-103).

It is believed that efficient, labour-intensive and sustainable methods of farming must be researched and promoted. It is found that the fishing industry is concentrated in the hands of a few major companies which not only own the harvesting rights, but also own the processing and marketing concerns related to the industry. Similarly tourism in South Africa has focused largely on the local white and overseas markets, and has been negatively affected by apartheid and the resultant sanctions.

The RDP is intent on upgrading infrastructure to the best of its ability. It has no doubt that

the link between meeting basic needs through an infrastructural programme and reviving economic growth in manufacturing and other sectors is the essence of the link between reconstruction and development (ANC 1994:107).

This includes electrification, telecommunications and transport. The intent to reform the financial sector is very strong in the RDP, in the belief that the apartheid system severely distorted the financial system of South Africa. The tendency is to believe that "*a handful of large financial institutions, all linked closely to the dominant conglomerates, centralise most of the country's financial assets*" neglecting "*most of the black community, especially women*" (ANC 1994:110). Special attention is paid to pension and mutual funds in the conviction that pension funds and provident funds should be made far more accountable to their members, and insurance companies in turn to their contributors.

With a view to bring an

end to discrimination on the grounds of race and gender, and to address the disparity of power between workers and management, and between urban and rural areas (ANC 1994:115)

affirmative action measures are intended. In the attempt to overcome the legacy of apartheid due regard is to be given to education and training, the empowerment of individuals, communities and groups, the establishment of principles for the hiring and the promotion of workers with similar skills/jobs. Furthermore, due regard is to be paid to acceleration through collective bargaining programmes, the provision of job security for pregnant women, the provision of child care and women's equality in employment.

6.3.5 Democratising the state and society

It is reiterated that democratising the state and society is of paramount importance for much value is attached to the impression that every aspect of South African life is marked by minority domination and privilege as promoted under apartheid. This unjust state of affairs is believed to call for the overall democratisation of the new South Africa in which regard it is believed that "*effective democracy implies and requires empowered citizens*" (ANC 1994:119 & 121).

The effective coordination and implementation of the RDP is thought to require sufficient central government powers, as well as the regulation of the use of property when this is in the public interest, the recognition of the fundamental equality of men and women in marriage, employment and society and openness and transparency in the new constitution in order to reinforce the RDP, ensuring "*social, economic, environmental and peace rights (which) are more fully embodied in the Bill of Rights*" (ANC 1994:122).

It is intended to embark on an extensive programme of affirmative action with the emphatic intent to achieve the kind of public service that is truly reflective of society, especially at the level of management and senior employees. For

while the public service must be based on merit, career principles, suitability, skills, competence and qualifications, these standards should not be interpreted to further minority interests, as in the past (ANC 1994:127).

Special concern is attached to local government as the level of representative democracy closest to the people, which is intended to guarantee the rights of individual people, in so far as parents should be empowered through school governance, residents through residents' associations, et cetera. In addition the conviction prevails that "*open debate and transparency in government and society are crucial elements of reconstruction and development*" (ANC 1994:133) in which regard it is intended to

ensure the free flow of information – within the broad parameters of the Bill of Rights – with regard to which the Freedom of Information Act must be broadened (ANC 1994:134).

6.3.6 The overall vision and objectives of the RDP

The overall vision and objectives of the RDP led to a coherent programme which

- builds a nation
- is people driven
- provides peace and security for all

- links reconstruction and development
- democratises the state and society.

Accordingly "*financing the RDP presents both a challenge and an opportunity to revive our economy and set it on a path to sustained reconstruction and development*" (ANC 1994:138). In line with this relevant structures within national, provincial and local governments are considered to be imperative for the purposes of the RDP.

The financing of the RDP is acknowledged to be of paramount importance. It cannot be put into practice without the required economic means which gives rise to the question whether such an extensive programme can be afforded and whether people will be required to pay more. In addition to finance it also requires labour, skills and coordinated effort. It is believed that there is a need to restructure the national budget, for "*despite relatively high levels of government spending, South Africa displays a worse record than many poorer countries in meeting basic needs*" (ANC 1994:143). A Reconstruction Fund is envisaged to mobilise new funds in the realisation that socially desirable investments of the RDP cannot be funded without support from the private sector. Last but not least, it is believed that "*unemployed local labour must be mobilised, through job banks and community-based employment-generation initiatives*" (ANC 1994:146).

Remaining in line with the United Nations Development Programme (UNDP), which is concerned with bringing the new South Africa into the world system for the promotion of human rights, the United Nations are particularly supportive of the ANC's RDP which was very soon enhanced by the release of the strategy for Growth, Employment and Redistribution (GEAR). Having singled out the eradication of poverty as its overriding priority for assistance to countries, the UNDP aims at building capacity in government as well as non-government organisations. In this regard special attention is given to the fulfilment of economic, social and cultural rights, underlining their applicability as legal standards, that is legally binding individual or collective standards.

Speaking as a trained lawyer to the International Bar Association's South African Conference, in an address which was delivered on his behalf by Dullah Omar, President Mandela discussed "*The*

Rule of Law: cornerstone of economic progress". Referring to the United Nations with appreciation, he recalled

that we all prayed and made sacrifices to bring about a South Africa that we could hold out as the true example of the democracy, equality and justice for all which the apartheid system was constructed and intended to deny (Mandela 1995b:2).

He maintained that he has "*been guided and will continue to be guided by a set of norms universally accepted as constituting rule of law*" (Mandela 1995b:4).

He believes that

our country suffered under a grossly distorted form of parliamentary supremacy – not only did an abuse of rights take place, but our economy suffered greatly" (Mandela 1995b:5).

He has no doubt that "*the interim constitution and charter of fundamental rights, coupled to the reconstruction and development programme constitute a firm foundation to meet our challenges*" (Mandela 1995b:9). He wishes the justice system to "*be truly democratic, accessible, representative, transparent and accountable*" (Mandela 1995b:10). Furthermore, Mandela sees "*a necessary and inevitable linkage between human rights, the rule of law and economic prosperity*" (Mandela 1995b:17). He asks the following:

What good does it do a person to tell her she has a right to vote or to speak as she likes when she does not have the energy to walk to the polling booth or to open her mouth. What good is a right to education where there are no schools or employment opportunities? (Mandela 1995b:16).

He agrees with Sir Shridath Ramphal that there is a dire need for "*an international legal order that upholds the objectives of economic and social justice world-wide*" (Mandela 1995b:20).

6.4 PUTTING THE RECONSTRUCTION AND DEVELOPMENT PROGRAMME INTO PRACTICE

6.4.1 The paradoxical wide support of the RDP in South Africa

The ANC increasingly came to realise that the unrealistic trade unionism of the Congress of the South African Trade Unions (COSATU) was an enormous stumbling block to its efforts to make the RDP economically viable. Both the South African Communist Party (SACP) and COSATU were a constant threat to investments from abroad by implicitly criticising the government which was elected in 1994 for beginning to embrace a neo-liberal economic policy framework. Both organisations openly attacked the government "for yielding to World Bank pressure on privatisation and the reduction of trade tariffs (and) criticised the scrapping of the financial rand" (Michie & Padyachee 1997:23). The SACP even announced that it would campaign for the democratisation of the Reserve Bank. COSATU criticised the 1995 budget for the top-down and closed procedure by which the budget was drawn up (Michie & Padyachee 1997:24) and was partly supported by the *Weekly Mail* for its criticism of the government for its inability to deliver on unimproved social services.

The highly objective, independent, neutral, practical and informative **RDP Monitor**, promotes a cautious approach to the RDP, which the first editor, Dr Gavin Lewis, calls "*constructive criticism*". He attempts to highlight challenges as well as opportunities, for

only this will ensure that the two broad thrusts of the RDP – social upliftment and economic development – and the need to close the gap between the 'insiders' in formal employment and the majority of the population, succeed (Lewis 1994a:1).

The main objective is the prosperity of South Africa, which calls for the channelling of "*people's power*" into constructive avenues, which primarily depends on business driven investment.

In spite of the criticism of the South African Communist Party and COSATU, the first edition of the RDP Monitor, which already appeared in 1994 (June/July/August 1994) was already convinced that "*the RDP, from being a statement of intent has become a national consensus, a touchstone of national unity*" (Lewis 1994a:1). Instead of the RDP becoming a "*holy cow*" there

are various angles to it. "*Support for the RDP comes from all political parties, and from the private sector and civil society*" to the extent that

there are disagreements about its funding and its practicality, but no-one rejects its ideals, or the real need in South Africa for some sort of restructuring and development program (Lewis 1994a:1).

6.4.2 Unrealistic trade-unionism as the primary threat to the affordability of the RDP

It is to the extent that both conflict and co-operation are accepted as natural elements in industrial relations that the people concerned in collective bargaining are bound to realise that labour and capital should learn to know and respect each other in the process of industrial conciliation. Beyond mere ideology, which is bound to be short of the moderation which is required, only clearheaded tolerance can lead to a realistic outcome. In contrast to French syndicalism, which inspired the trade union movement towards radical anti-capitalism, there was a strong functional tendency in the United States of America, which succeeded in reconciling trade unionism with the free enterprise system. Ultimately this sobriety served as an example to the trade unionists in other countries, including the United Kingdom, where Mrs Thatcher's willpower and the substitution of oil for coal broke the back of unrealistic trade unionism.

After the Second World War, which led to the Declaration of Human Rights on 10 December 1948, the Industrial Conciliation Act of 1925 was amended again in 1956 to confirm for the umpteenth time that skilled work in South Africa was reserved exclusively for whites. However, the increasing industrialisation of the country at that stage unavoidably meant that the black workers soon became the majority of the industrial labour force and were bound to be taught new skills. The foreign investors who were not interested in Verwoerd's ideology, but fending for their own economic interests, perforce pressurised the South African government. North American firms, particularly, demanded equal opportunities and open trade union rights for all races in South Africa as an economic necessity, inversely calling for investment in this country to coerce the government towards the lifting of the colour bar.

Under these circumstances dissatisfaction inside and outside the country with its segregated labour legislation in the late 70s forced the South African government of the time to appoint the Wiehahn and Riekert Commissions in 1977. In 1979 the Wiehahn Commission recommended that black trade unions should be officially recognised, that job reservation should be abolished and that equal wages should be paid for equal work, irrespective of the colour of a worker's skin. Two years later, in 1981, the Labour Relations Act deleted all references to race and even allowed multiracial trade unions to be registered (Liebenberg 1993:469-470).

The report of the Riekert Commission on the restrictive effect of various apartheid laws on the utilisation of black labour was completed in 1978. After a lot of soul searching and controversy the need for the drafting of new legislation by degrees led to three bills which were called the Koornhof trilogy. The Black Local Authorities Act of 1982 gave the blacks in urban areas their own local government (town councils). The Black Communities Development Act of 1984 introduced Development Boards. The Abolition of Influx Control Act of 1986 rounded off the relevant process (Liebenberg 1993:471).

At that stage the ANC's struggle for black supremacy, which had already become very violent from 1961 onwards in co-operation with the Communist Party (Mandela 1995:320 & 325), which had been underground for a long time, revealing its influence on the black workers. It meant that many black trade unions avoided registration, with the intention to escape control from the government and continue more freely in political activity (Liebenberg 1993:470), in a development which culminated in COSATU's anti-capitalistic trade-unionism in the vanguard against apartheid. Because the apartheid government had lagged behind for so long in the extension of full political rights to the black workers the consequent radicalism was bound to be rampant under the leadership of ideologists under the influence of the communists who make a claim to omniscience in the realm of labour, over-emphasising the polarity between the haves and the have-nots.

Conflict-ridden industrial relations were bound to follow from this radicalism, at the expense of South Africa's economy.

Correspondingly, the number of person-days lost to (unrealistic) strikes rose from 227,000 in 1981 to 914,000 in 1988 with a "hike" of almost 6 million in 1987 as the result of a mineworkers strike (World Bank 1994:7).

Unless the trade unions have sufficient clarity about the free market economy and work towards an employment oriented strategy, their radicalism is bound to work against job creation. The intensity of conflict between labour and capital in South Africa has simply meant that the higher wages which were achieved have necessarily led to a lower demand for labour, because the potential investors were discouraged. In the seven years from 1981 to 1988 the 15 percent union induced increase in wages meant that "*African employment would have been 200,000 to 400,000 above the present level of about 5 million*" (World Bank 1994:7).

The national strategy document for reconstruction and development (RDP Base Document) was the outcome of many discussions and the socio-economic basis on which the ANC-COSATU-Communist Alliance fought the 1994 general elections. But

while all sections of the (alliance) fully participated in the formulation of the RDP Base Document, this document was in all likelihood itself the outcome of some compromises (Michie & Padayachee 1997:47).

Furthermore, in the period leading up to the democratic elections in April 1994 the ANC's partners, including COSATU, the SACP and the South African National Civics Organisation (SANCO),

had all agreed in terms of their membership of the alliance) to subsume their own positions on economic restructuring to that of the ANC itself (Michie & Padayachee 1997:47).

Under these circumstances COSATU, with its unrealistic trade unionism, was more of a stumbling block than anything else to the sustainability of the RDP.

COSATU's influence is so much in evidence in the RDP Base Document that it is regarded to be necessary that the board of the Reserve Bank "*must include representatives from the trade unions*

and civil society" (ANC 1994:112). Beyond this there is no limit to the fundamental importance which is attached to labour and worker rights in the RDP Base Document, which are intended to be safeguarded and extended. Basic organising rights are emphatically intended to be put clearly according to the ANC Base Document (1994:113), in the Constitution of South Africa, namely

- the right to organise and join the trade unions
- the right to strike and picket on all economic and social matters
- the right to information from companies and government.

Whilst a living wage is universally placed beyond dispute it is more fully assumed that "*all workers should be entitled to a living wage and humane conditions of employment in a healthy and safe working environment*" (ANC 1994:113). Collective bargaining at all levels is deemed to be imperative, "*giving workers a key say in industry decision making and ensuring that unions are fully involved in designing and overseeing changes at workplace and industry levels*" (ANC 1994:114). It is put beyond doubt that workplace empowerment is required to facilitate worker participation and decision making.

too much empowerment?

What unrealistic trade unionists do not seem to realise is that not all workers benefit from demands for highest wages by trade unionists. Firstly higher labour costs are a burden on the entire economy of the country to the disadvantage of all. Secondly the poorest of the poor are not represented in the trade unions which care for the increase of the wages of their own members and consequently stimulate general inflation to the detriment of all who do not benefit from the wage increases which the trade unions secure for their own members. Trade unions are in competition with the entire economy, particularly the vast majority of poor people who are unable to fend for themselves against such thoroughly organised labour.

COSATU does not represent the poorest of the poor and is surprisingly unwilling to learn from their own mistakes. An instance is the decision which the bus manufacturing company, Dorbyl, took in reaction to COSATU's excessive wage demands and strikes. After twelve years' losses Dorbyl moved their factory from the Eastern Cape to India, which meant that 167 people were due to lose their jobs. They weighed up the lowest wage of R1 700 per month which they had to

pay under the pressure of COSATU, against the R150 which workers receive in India (Finansies & Tegniek 1997:7).

6.4.3 Productivity and affordability as key factors in the aspiration towards the RDP

It is of key importance to realise that the ultimate success of the RDP lay in reciprocal obligations, which brought the South African Chamber of Business (SACOB) director general, Mr Raymond Parsons, to say "*business must be RDP-friendly and the RDP must be business-friendly*" (Parsons 1994:4). It was initially expected that R40 billion would be spent on financing the RDP over the next five years. Amongst the channels the first would be the reallocation of funds in the budget, more effective tax collection, effective control on the public sector wage bill, taking care that the proposed RDP bond offered a premium to market rates, the sale of excess oil reserves, higher electricity tariffs, promotion of a state lottery, the privatisation of state enterprises and assets, as well as foreign aid investment (Lewis 1994a:2).

It was intended to issue a RDP White Paper but there was delay attached to this, partly because it was more of a philosophy than a programme. It had to draw from exterior sources like the Development Bank's work. The National Party in 1994 objected to the labour and housing sections of the draft White Paper as a result of the recent wide-spread strikes. In addition the National Institute of Economic Policy had drawn up a rival Green Paper which maintained that the emphasis on export-led growth was "*diametrically opposed to the RDP which sets achievement of full employment, meeting basic needs and restructuring the economy*" as priorities, in addition to presenting the "*private sector as driving the investment process*", relegating "*state investment to a minor role*" (Manga 1994:7).

Parastatals like the Development Bank of South Africa, the KwaZulu Finance and Investment Corporation and the South African arms industry were brought into the implementation of the RDP. Initially the Minister Without Portfolio was made the RDP Minister, but the fact that he came from COSATU did not prevent the latter from rejecting his draft White Paper on the RDP. For, asserting its primary authority with relation to worker and trade union rights COSATU maintained that it would particularly focus its attention on those MPs and Cabinet Ministers who

had been released from its own ranks to government, and remind them that they had been released "on the understanding that they would be sympathetic to the demands of organised labour" (Vavi 1994:11).

Since the 1994 general election the issue of privatisation has become relatively open by September of the same year. Going against the ANC's supposition that privatisation would only enrich whites, the Anglo American chairman, Julian Ogilvie Thompson, had called in July for the privatisation of state assets to finance the RDP. He maintained that, "*There are examples of enough countries where privatisation has succeeded in putting a share of the economy into the hands of the man in the street*". He further explained:

Coupled with the further disposal of surplus oil and other strategic stocks, privatisation of public property or enterprises that have no conceivable role in delivering services to the poor could raise several billion rand from the RDP in its critical early years. Disposal of forests and commercial buildings could be initiated immediately, with Telkom, Foskor, road transport, the oil pipeline and airports following in the medium term. SAA and Escom should be tackled in the longer term. The funds so raised could accrue entirely to the benefit of the poor to whom the RDP is addressed (Tomney 1994:16).

Similar sentiments were expressed by Public Enterprises Minister Stella Sigcau quoting the example of Malaysia.

Two international Monetary Fund economists according to Lewis (1994c:10) in a paper entitled "*Privatisation: Expectations, Trade-Offs, and Results*", warned that productivity will only materialise if privatisation is accompanied by extensive industrial restructuring ensuring competitiveness. To this warning Bureau for Economic Research economist, Nils de Jager, added the view that rising inflation could only be avoided by higher productivity, output and employment in the privatised industries. Minister without Portfolio and Deputy Minister of Finance Alec Erwin gave instructions that a complete list of all state properties be compiled by the end of 1994 (Natal Mercury 1994:2). It became increasingly evident that the market-oriented government economists had triumphed over the more interventionist ANC ones.

Standard Bank Group MD made it sufficiently clear that

- foreign investors are bound to invest according to expected profit
- growth performance is more important than mere projects
- South Africa is the gateway to Africa, but countries like Indonesia offer better inducements
- Russia's mineral resources are at least equally as enormous as those of South Africa
- solid infrastructure must not be overestimated in view of the fact that much of China's output reaches its markets along rutted, muddy tracks
- compared to the Far East "*Tigers*" the South African workers are overpaid underproducers.

He strongly advises that exchange control should be abolished, base metals be beneficiated, the government be explicitly committed to a competitive rate of economic growth and a public programme which is designed to attain high levels of economic growth which the RDP cannot reach, which is evident to international investors, as well as local observers.

Hartley and Bulbring in the **Sunday Times** of 30 July 1995, oversimplified the complexity of the "*East Asian Miracle*" of the "*Tiger States*" which have turned Third World economies into great successes when they expressed the expectation that President Mandela would help to achieve the same for South Africa. For

President Mandela frustrated by his (fifteen month old) government's failure to deliver on election promises, this week instructed his cabinet to abandon its obsession with grand plans and make economic growth its top priority (Hartley & Bulbring 1995:1).

Within five years "*the shift from a 'grand programmatic approach' (variously described as socialist, interventionist, development orientated) appeared to be complete*" (Michie & Padayachee 1997:42). This was in contrast to the Freedom Charter of 1955, leading the comment of the IMF in an article headed "*Long walk to economic recovery*" in which the economic policy of the ANC since it came into power is described as "*a study in moderation*" (International Monetary Fund Survey 1995:91).

In December 1995 it was sufficiently clear that the RDP Office was "*adopting a more modest and pragmatic approach towards implementation*" which means that there is more "*space for effective, locally driven private sector and civil society involvement*", whilst

key figures in government have reasserted the primacy of economic growth, based on fiscal discipline over welfare and development – though not at the expense of the latter (Lewis 1996a:1).

The government of South Africa intended growth to lead the RDP following a steady shift in emphasis from mid-1995. Intended as an elaboration of the RDP Base Document and not its substitute, Executive Deputy President Thabo Mbeki announced a national Growth and Development Strategy (GDS), setting targets. It meant

6% growth per annum by the year 2000, creating 300 000 - 500 000 new jobs a year, and providing 'basic household infrastructure' to all by 2005, and a doubling of the share of national income received by the poor (Lewis 1996c:2).

The above, according to Lewis (1996c:2), required that

- industries and services need to be restructured to create employment and to compete in world markets
- a huge investment in education and training
- an enhanced investment in household and economic infrastructure
- a national crime prevention strategy
- a social security system and social development for the poor
- the transformation of the government and public sector into an efficient and responsive instrument of delivery and empowerment.

In mid-June 1996 Trevor Manuel, who had taken over the ministry of finance from Chris Liebenberg, announced his macro-economic strategy for Growth, Employment and Redistribution (GEAR), which was intended

to boost growth to 6% per annum by 2000, creating 400 000 jobs per annum by then, following orthodox capitalist economic policies ... providing the platform from the funds to implement core RDP goals (Lewis 1996e:3).

This tougher stance on privatisation was endorsed by the President himself and is of pivotal importance. Confronting COSATU, with its exaggerated trade-unionist preferences, the president expressed preferences for "*outward-orientated, export-led growth, or by internal growth and infrastructural development*" (Lewis 1996e:3).

6.4.4 The unsteady RDP vision

The Base Document of the RDP which was a "*major plank*" (if not **the** major plank) in the ANC's election platform did not nearly achieve the political miracle which South Africans awaited with eager anticipation, believing that it was the means by which infrastructural inequalities were to be redressed, wealth redistributed and the playing fields levelled. It was clear within two years from the 1994 election that "*low-cost housing targets have not been met. Educational institutions are awash with anger and protest. Taxi violence continues unabated*" (Jackson 1996:2).

The great expectations which had been created in the minds of the majority of the voters, who are poor people, are not going to disappear and the ANC government will have to keep the RDP vision as alive as possible, maintaining the impression that it will sooner or later succeed in fulfilling the essential promises of the RDP Base Document. On the one hand, however, the unrealistic trade unionism of COSATU and the expected worker's paradise of the communists stirs up a great deal of dissatisfaction with the free market system. On the other hand, COSATU and the SACP's traditional claim to represent the interests of the disadvantaged does not prevent their functionaries themselves from increasingly becoming part of the organised selfishness of the free market system. It means that

the unions asset managers as they call themselves, have fully adopted the capitalist logic of ruthless exploitation of all opportunities. From the ANC to COSATU, SANCO and the SACP, former socialists have now quietly set up investment arms in order to make capitalism work for themselves (Adam, Slabbert & Moodley 1997:3).

The RDP vision depends on the perspectives of its opposed supporters, which is bound to be influenced by the divided interests of the asset managers serving COSATU, with its unrealistic trade unionism, particularly under circumstances where Oppenheimer is pleased that "*the government is 'making a serious effort' and 'is doing quite well' to build the economy*" (Adam, Slabbert & Moodley 1997:214). Running with the hare and hunting with the dogs is and remains a paradoxical pursuit.

There is no sign yet what these "*comrades in business*" are going to do when the poor masses lose patience with them for enriching themselves whilst the majority are left unprovided for in a country with one of the highest gini-coefficients in the world, a frightening gap between rich and poor (Adam, Slabbert & Moodley 1997:3). But there can be no doubt that the finance ministry is set on GEAR whilst the RDP vision, is still very much alive at this stage and inspiring the have-nots to be patient, particularly since the White Paper has added emphasis, specific details and roles at various levels of government. Compared to the RDP Base Document the White Paper puts more emphasis on export-led manufacturing-based economic growth and adds a firmer commitment to fiscal and monetary discipline (Lewis 1994:6). On the other hand, whilst the possible privatisation of some under-utilised state assets is now explicitly accepted by the White Paper, as a means of funding the RDP, repeated reference to the entrenchment of trade union rights and the centrality of the state, to an even greater extent than in the RDP Basic Document (Lewis 1994b:6), does not satisfy the full expectations of free enterprise.

It became clear towards the end of 1994 that the revised White Paper (WP) at that stage differed little from the original. The new features were reining-in state expenditure to release moneys for the RDP (including the sale of state resources), and entrenching worker/trade union rights more deeply, which fuelled a spate of wide-spread strikes which were objected to by the National Party.

Although there was criticism from the left that the revised White Paper revealed traits of neo-liberalism it emphatically made concessions for and assistance to the very poor. It re-emphasised that it would maintain fiscal discipline by among other things saving on expenditure in the attempt to ensure the sustainability of the RDP. To the extent that adequate revision was required the

appearance of the revised White Paper was postponed again and again. It went through various committees in the process of providing more detail and adequate administration. It was thoroughly subjected to public hearings and various organisations, including business scrutinies.

Early in 1996 the RDP office was closed and control over the RDP Fund and over all foreign aid development was transferred to the Finance Ministry, whilst the Special Presidential RDP Projects were given to the relevant line departments. The remainder of the RDP Office, including its policy development functions, were placed under the supervision of Deputy President Mbeki's office (Lewis 1996d:1). Although this move lowered the profile of the RDP more attention was focussed on economic growth and job creation and closer co-operation with the private sector. More clarity is emerging as the government has agreed on the need for a stable investment environment, trying to avoid prescribed investments and emphasising market-related returns, shifting the focus on privatisation. But South Africa is still paying the cost of consistent failure to handle succession in a sensible and strategic manner. The rand's unsatisfactory progress on international markets indicates that

the ANC whose whole history of struggle was based on changing perceptions, now that it is in power fails to grasp the significance of perceptions (Lewis 1996d:4).

Although *"the ideology behind the RDP is in abeyance, the reality on the ground is there for all who care to see"* (Lewis 1996g:2). The focus by August 1996 was shifting increasingly to Deputy Finance Minister Gill Marcus who inspires a lot of confidence, which is important in view of the coordinating function of the RDP Office between departments. Further comfort could be drawn from President Mandela's speech at the opening of parliament in 1996 when he reaffirmed the government's commitment towards making the essential elements of the RDP work.

It was agreed at the RDP Infrastructure Investment Conference in March 1996 on a partnership between government, labour, communities and the private sector towards raising the required money which is needed for economic infrastructure, thinking in terms of market-related returns and bringing in parastatals into the process. But there was growing concern at the continued rates and services boycotts, which threaten to cripple the ability of local authorities to function. In June SANCO released its economic development policy document in which it criticised the lack of

direction in the RDP which it wanted to reform convincingly. Roy Page-Shipp the former national programme director of the RDP Office found it necessary to point out that government is a less efficient delivery mechanism for the RDP than public/private partnership. But there can be no doubt that the RDP remains a key to the government's electoral success in the medium to long term, as Mbeki as a key candidate, is bound to realise, with the greatest stumbling blocks, lack of capacity at the local level and the still unresolved rents and services boycotts, remaining (Lewis 1996f:1).

A new pattern of funding was developed towards the end of 1996 in which the size of the civil service was reduced and some of the money which is available is returned to the treasury to help meet the target of 4 percent deficit in the budget of 1997. After this foreign grant money would be the chief source of income of the RDP until more money is received from the envisaged state lottery (Lewis 1996g:2).

6.5 CONCLUSION

For the sake of the unity of his political alliance with COSATU Mandela was slow in shifting the main focus of the implementation of GEAR, thus achieving adaptation and renewal, by simply becoming Mr GROWTH (Mandela se rol 1997:7). Now that Mbeki has crossed the Rubicon and called COSATU's bluff, by no longer tolerating unrealistic attacks on GEAR by COSATU or anybody else, even for the sake of maintaining the triple political alliance, there are better economic prospects for the country (Schoombee 1997c:18). The fact however remains that the ANC leadership still believes that it needs COSATU with its excellent infrastructure as an ally in the coming general election on June 2, 1999.

When he resigned as leader of the ANC on the 16th of December 1997, Mandela delivered a lengthy hard-hitting farewell speech in which he put everybody who criticised the ANC in the wrong (Spanning oor ras in Mandela se rede 1997:10). He levelled extreme criticism against the media, the NP, the DP and the UDM, accusing them of having chose to propagate a reactionary, dangerous and opportunist position (Doonan 1997:4). He however got most cheers for his attack on opportunistic, elitist and corrupt elements in the ANC who used the ANC towards their

personal advancement (Mandela uitlatings skok: opposisieparty, media en ook ANC loop deur 1997:1).

Fortunately for the ANC, its allies, COSATU and the Communist Party, the hard core of socialist thinking (Venter 1997:92), cannot afford it politically to leave the alliance with the ANC (Esterhuysen 1997b:18), however difficult they might find it to accept the ANC's decisive shift towards the middle of the eco-political spectrum (Mittner 1997c:16). They are powerless against Mandela's efforts to bring as many people as possible into an extremely wide political union, as part of his gigantic effort to build a rainbow nation, for uniting as many voters as possible to achieve a two-thirds majority for the ANC (Rassepolitiek 1997:8).

One is constantly reminded that apartheid, with its exaggerated emphasis on ethnicity was the creator of a united opposition in a process in which the ANC became the main home for anyone who was opposed to racial discrimination against blacks (Venter 1997:91-92). Without the concept of apartheid the ANC would virtually be robbed of the reason of its existence, which is still the excuse for its own mistakes, its unsatisfactory performance. After the coming 1999 election the ANC will nevertheless be reminded increasingly that it has made empty promises, that it has to act in order to overcome evils, to put the economy on course and convince people to pay their overdue debts (Beskuldigings oor geld 1977:14).

Although the RDP, which was developed into GEAR, has undoubtedly got off the ground the danger remains that it might crash before long, short of a clear commitment to once and for all reject socialism, centralisation and unrealistic trade unionism. The German President, Roman Herzog, gave the ANC sound advice not to over-estimate the undeniable charisma and positive leadership of Mr Mandela with respect to drawing investment from abroad. Above all, investors must know that their investments are safe, that productivity is at a high level and that their managers and their families are not threatened by criminals. Conditions in South Africa should be equally as favourable as in Central Europe, Latin America and Asia, where milliards are being invested at present.

Valuable advice has also been extended by Mr Tony Blair, the British Prime Minister on facing

the modern challenge along the lines of the **third way** in Britain and South Africa. For economic progress, accompanied by social justice and stability can best be achieved by South Africa in the whole of sub-Saharan Africa, as this country already accounts for 45% of the GDP, and 40% of trade in this vast region, despite having only 7% of the population. Blair (1999:3) has no doubt that the South African government are on the right track in this regard by stating that the Growth, Employment and Redistribution (GEAR) strategy has set South Africa on a course to tackle the needs of the disadvantaged, while retaining the confidence of the markets.

Against the background of the above-mentioned, chapter 7 will focus on the use and abuse of human rights in the new South Africa. In the application thereof, it is imperative to remember that rights only come to their fulfilment through practise, whilst their implementation can only be justified as the fulfilment of rights.

CHAPTER 7

THE USE AND ABUSE OF HUMAN RIGHTS IN THE NEW SOUTH AFRICA

7.1 INTRODUCTION

Above all, fundamental human rights, as formulated in the Universal Declaration of Human Rights, as promulgated on 10 December 1948 by the General Assembly of the United Nations, apply to all individual human beings in all countries, irrespective of the use and abuse which individual governments commit against these supreme principles. "*Human rights are claims which all human beings have, or ought to have, against their societies as represented by their governments*" (Robertson 1991:1).

Although South Africa's previous rulers have shown little respect for human rights in the explicit sense, as was explained in Chapter 5, the National Party government was forced to come to an arrangement with the ANC on the issue, but this does not mean that the latter is able or willing to accept the universal demands of fundamental human rights. In 1948 "*South Africa, the Soviet Union, and a few other states abstained from voting on the document*" (Robertson 1991:1) and although the Soviet Union collapsed in 1991, the communist wing of the ANC is still inclined to believe that big brother knows best. There is a persistent perception that apartheid is the only stumbling block in the application of true human rights as they are understood by the black majority in South Africa, not fully realising that universal human rights are colour blind.

Even human rights lawyers differ on important points (Robertson 1991:1), but it is fairly safe to refer to the ANC's own Freedom Charter, Constitutional Guidelines for a Democratic South Africa, the draft Bill of Rights, and the South African Law Commission's draft Bill of Rights (Robertson 1991:2), in addition to the Constitution of the Republic of South Africa, 1996.

7.2 THE UNIVERSALITY AND SPECIFICITY OF HUMAN RIGHTS

It was made sufficiently clear in Chapter 2, which deals with the nature and extent of human

rights, that the universality and specificity of human rights are co-implicative in the sense that human rights are universally valid in the case of all human beings and that each and every human individual has the same universal rights beyond race, nationality and privilege. Human rights are of universal account for or against each and every human being. They are individual rights in the fullest sense of the word, beyond all collectivistic notions in the totalitarian sense of the Leninist Marxists or Fascists, beyond "*Asiatic rights*" or any African tribalism.

It was explained in Chapter 2 that human rights, as defined on 10 December 1948 are the fruit of the equality of all people before God and the law. They are in line with the equity of Aristotelian ethics and the enlightenment of Europe and North America in the eighteenth century. The Preamble of the Charter of the United Nations is still the most dramatic declaration of human rights. It "*sets out the philosophical ideas and historical factors that prompted the adoption of the Declaration*" (Dugard 1991:12-13). It went beyond the League of Nations in emphasising the principles of the primacy of human dignity over the interests of states. In this regard states were of much less account than individuals in the most universal sense and it became increasingly indifferent whether states had won or lost wars. For it was the horror of the Second World War, and the consequent awareness of the close connection between respect for human dignity and peace, which motivated the Charter's qualitative leap towards the promotion of human rights "*for all*" (United Nations 1995:6) in the most convincing sense.

The intention of the Universal Declaration of Human Rights of 10 December 1948 was not to achieve any binding legal effect on states, which might be expected from an international treaty, covenant or convention, but rather to most emphatically formulate fundamental human rights as the due of each and every individual. It is the most universal beacon of justice which has been achieved up to the present, giving ever more meaning to the rights of individuals of all races, colours, languages and creeds.

When John Locke put the emphasis on "*the public good*" (Locke 1924:i, 3) he regarded the ruler's authority to be conditional, to the extent that a ruler who becomes a tyrant puts himself in a state of war with the people who may make an appeal to heaven and may revolt against the aggressor. The essence of article 21 of the Universal Declaration of Human Rights, which was proclaimed

in the American Declaration of Independence, is given expression in clause three of the Virginia Bill (Ackermann 1991:7), namely that

government is, or ought to be instituted for the common benefit, protection and security of the people, nation or community...and that, when any government shall be found inadequate or contrary to these purposes, a majority of the community hath an indubitable, unalienable and indefensible right to reform, alter or abolish it, in such a manner as to be judged most conducive to the public weal (public good, welfare or interest).

The degree of free enterprise economy and liberal democracy, which was already achieved in Great Britain and the USA at the end of the eighteenth century came by degrees to the rest of the world and is still the prerequisite for the achievement of the liberty of each and every individual in any state. But there is no moral limit to the influence of the United Nations Organisation on its member states towards world-wide justice, as became increasingly evident in the case of South Africa, which resisted the United Nations for 40 years. At this stage in history it is expected that states should "*at the national level*" (United Nations 1995:324) carry out the policies of the United Nations towards universal development and

ensure, *inter alia*, equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and the fair distribution of income.

The Universal Declaration of Human Rights of 10 December 1948, which went beyond mere states to individuals, towards the achievement of justice for all the earth's inhabitants, proclaimed "*a common standard of achievement for all peoples and all nations*" (Brownlie 1971:107). It means that human rights have been emphasised so emphatically that no state can continue to ignore the enormous accent on the consideration which is due to all people from all people. In this regard the proponents of human rights and development ethics in their separate endeavours are like two armies which march separately but attack the enemy in a combined effort. They both imply the same practical concern for the welfare of each and every person.

7.3 DIFFICULTIES WHICH ARISE IN THE IMPLEMENTATION OF HUMAN RIGHTS

It remains imperative to remember that rights only come to their fulfilment through practice, whilst their implementation can only be justified as the fulfilment of rights. Human rights are thoroughly egalitarian and have an international focus in and through the United Nations. Having been achieved after long, often disappointing experience in international affairs, human rights are an acceptable "*ideological programme...to be tested in the battlefield of history*" (Entrèves 1964:114). This means that mistakes are bound to be made in their implementation, particularly when governments fail to be circumspect, not realising that human rights should not be sacrificed, even for the hypothetical good of the greatest number of people.

Human rights are rights against the entire world and binding on all states, whether they are directly enforceable or not. For they were and are intended to define and secure the universal rights of each and every individual once and for all. They give all individuals in global society equal claims on global society. They are fundamental beyond the claims of any state. They enjoy a *prima facie* presumptive inviolability.

Human rights are **rights**, not merely aspirations or assertions of the good. They imply the obligation of society to satisfy all relevant claims. They are the rights of individuals as persons with claims **upon** society, not **against** society, which means that there is a claim of individuality which cannot be invaded or sacrificed by individuals, even when they are called upon to give up some of their rights for serving the rights of others for the common good. In this regard all individuals count equally. Human Rights establish claims which are universally valid, irrespective of whether the individuals concerned are good or bad people, ethically or politically speaking.

The **universality** of human rights, that is the rights of all people at all times and in all situations, has been implied by the Judaeo-Christian duty to love one's neighbours as well as the ideal of natural law which has come to us from Greek philosophy and is increasingly maintained as "*universal truth*" (Henkin 1978). An emphatic example of this is the right to a fair trial (Macfarlane 1985:6), as a positive expression of the liberty right of all people not to be subject

at any time to arbitrary arrest, imprisonment or punishment.

Although human rights are the rights of individuals who are capable of moral choice and free activity (Macfarlane 1985:7), for practical purposes "*it is society's responsibility to ensure that the rights concerned are given legal force and upheld against all persons and bodies within the community*" for they are **individual rights**. The **paramourcy** of human rights means that no one can be deprived of a human right without giving a grave affront to justice. The problem is and remains that although there are certain deeds which should never be committed, certain freedoms which should never be violated, it is not always easy to provide a satisfactory concrete criterion of paramourcy. This is particularly emphatic in the Third World where economic and social needs are of paramount importance. Here "*the crucial question remains of whether it is possible to establish specific economic and social rights claims (which are) capable of being given effect in legislation*" (Macfarlane 1985:9).

The **practicality** of human rights, whether what ought to be done to be practically achieved, can be very discouraging, although there is no limit to the discovery of new ways and means as the history of science has proven again and again. What seems impossible today might be possible in the future. It would be unreasonable to expect to live forever physically or for everybody to have his own and exclusive private physician. It is another matter if the poor of the Third World merely claim the right to an adequate livelihood, not the right to live as well as the average German or North American. In this regard Macfarlane (1985:10) is of the opinion that:

practicality has rather to be established in terms of the probability that proposed changes will help meet the basic economic and social needs of the poor with the **minimum disturbance of existing rights and customary ways**.

The enforcement provisions of the United Nations International Covenants, which are in themselves morally at a high level, depends very much on individual states for practical reasons. There is sufficient evidence, for example, that the peace keeping efforts of the United Nations Organisation depends entirely on the individual states which are responsible for the enforcement of whatever decisions which are taken by the world organisation. It is because the **enforceability** of human rights is primarily a matter of domestic politics and juridical action in an enforceable

setting that human rights can be neglected or violated. For much depends on the ability and insight of the officials and politicians concerned.

7.4 THE SOUTH AFRICAN DILEMMA

In South Africa a dilemma arises because of the wide racial and cultural differences that exist in this country. Small wonder that it took the South African government under the National Party forty years to become convinced that they could not afford to oppose the Universal Declaration of Human Rights of 10 December 1948. It is not surprising however that the initiative for formulating a Bill of Rights for South Africa came from leading lawyers in the country which has a high reputation in legal practice. This came to the fore at a seminar sponsored by the Herbert Quandt Foundation under the chairmanship of Mr Justice PJJ Olivier, vice chairman of the South African Law Commission, which came into operation 1 September 1973, in order to remove anomalies in the legal system of the country (Olivier 1989b).

Since its inception the Commission has operated on the basis that its task is to reform the law for the benefit of the entire South African community, irrespective of race, creed, colour or religion, and not to favour the interests of one group or section to the detriment of others. This high ideal requires a policy of openness and consultation from all concerned. It meant that all interested parties should be given an opportunity to present their views to the relevant commission and to consult extensively with experts and interest groups.

It was realised that the fundamental rights of man must be recognised and protected in South Africa, short of which there will be a never-ending revolution. Group privilege, racial discrimination and repression must disappear. In its place a strong constitution, based on justice, is required, in addition to an honest bill of rights. For all people have inalienable aprioristic universal human rights simply by being human. Beyond political or partisan purposes a bill of rights must guarantee equal rights and opportunities to all individuals, prohibit discrimination and protect minorities against domination, persecution or repression.

Mr Justice Olivier argued in favour of human rights as already defined worldwide, plus group values like cultural, religious and language interests, treating these as individual rights. He realised that even in a parliamentary system a majority party needs to be restrained by a bill of rights from unjustly promoting its own followers at the expense of the rest of the population (Olivier 1989a:6). It is imperative that the needs of all individuals as well as the state as government should be protected and brought into harmony. The state is also bound by human rights (Olivier 1998:5 & 6)

After the April 1994 general election, which was won by the ANC with over 60% of the voter support, a new regime came into existence in a country which did not possess an obvious common system of values or a mutually accepted arbitrator (Olivier 1998:7). John Rawls (1972) in his effort to establish justice brings the principle to the fore that the one party should divide the constitutional cake, whilst the other should make the vital choice. Rawls (1972:14) proposed a 'play-safe' model that boils down to the primary acquisition of

the assignment of basic rights and duties, while the second (principle) holds that social and economic inequalities, for example, inequalities of wealth and authority, are just only if they result in compensating benefits for everyone, and in particular for the least advantaged members of society.

The ANC believes that it represents the least advantaged members of society in South Africa, but there are constant reminders that it is not sufficiently committed to the genuine pluralistic Western European and North American democracy in which the individual is the primary political entity, the legal and executive carrier of basic human rights and duties. The ANC clings to power as if nobody else can be trusted with the rights and interests of the underprivileged or black people in general. It is self-righteous as a Leninist inspired liberating force in which the party leadership is assumed to know best, like Big Brother in George Orwell's *Animal Farm*. This is and remains disquieting, for in the words of Lord Acton: "*All power corrupts. Absolute power corrupts absolutely*".

The established courts were put in the wrong by the fact that the relevant judges "*had to apply discriminatory measures and also specifically, to the extent that they had to apply death sentences*

on what (the ANC) call their 'combatants'" which makes it necessary to strip South Africa's juridical system of discriminatory practices, "*without destroying the good in our juridical system and legal inheritance*" (Kruger 1989:18).

The ANC's commitment to the maintenance of fundamental human rights is contained in the Constitution of the Republic of South Africa Act 108 of 1996. It is in line with other Bills of Rights and convincing on paper. "*It enshrines the rights of all people in our country and affirms the democratic values of human dignity, equality and freedom*" (1996 Constitution, sect 76).

On paper the interpretation of the Bill of Rights is reassuring, stating that

a court, tribunal or forum

- must promote the values that underlie an open and democratic society based on human dignity, equality and freedom;
- must consider international law; and
- may consider foreign law (1996 Constitution, sect 39(1)).

But in practice in the maintenance of these standards almost everything depends on the experience, insight and objectivity of the ministers, jurists and civil servants concerned.

The socio-economic and political improvement of South Africa, which the ANC is allegedly aiming to achieve, is a very tall order economically, administratively, politically and philosophically. Firstly it is doubtful whether the ANC leadership has ever fathomed the historical background of apartheid as described in Chapters 4 and 5 in the present research thesis. Partisan ideologists should refrain from rushing where angels fear to tread. The ANC cannot possibly pay objective and informed attention to all the causes and implications of apartheid to a point where it can furnish quick and easy reform by merely being a pompous and over-ambitious one party regime. An ideal order requires genuine modesty, patience, realism and understanding.

The South African Bill of Rights leaves no doubt that "*the state must comply with the standards biding on the Republic under international humanitarian law in respect of the detention of (any) persons*" (1996 Constitution, sect 37(8)). Any declaration of a state of emergency by South Africa

is clearly intended to be "*consistent with the Republic's obligations under international law, applicable to states of emergency*" (1996 Constitution, sect 37(4)).

The limitation of rights is not intended to "*limit any right entrenched in the Bill of Rights*", but considered to be allowable

to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors (1996 Constitution, sect 36(1))

which exposes it to partisan interpretation, depending on the preferences of the relevant majority party. On the other hand, the access to courts is made very clear in paragraph 34, namely:

Everyone has the right to have any dispute that can be resolved by the application of law decided in a fair public hearing before a court or, where appropriate, another independent and impartial tribunal or forum (1996 Constitution, sect 34).

A threat to the freedom of the individual could however arise from paragraph 12a, namely: that an individual has the right "*not to be deprived of freedom arbitrarily or without just cause*" (1996 Constitution, sect 12(1)). The question arises with regard to Paragraph 9.1 whether it is possible for anybody to be sufficiently omniscient to fairly

promote the achievement of equality, (by) legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination (1996 Constitution, sect 9(2)).

There is always the danger of robbing Peter in order to pay Paul.

7.5 AFFORDABILITY AS THE KEY TO THE ACHIEVEMENT OF A TRULY SUCCESSFUL SOUTH AFRICA

In line with the expanding world-wide free market economy the leaders of the ANC have in relatively little time in office come to discover what this system can do for it. The fact that GEAR

has been accepted as the ANC's deliberate policy of upliftment at the 50th congress of the movement decisively carries it beyond its previous loose adherence to socialist views as reflected in the RDP Base Document. No country can any longer afford to ignore the internationalisation of its markets, as was amply illustrated when the financial imbalance of the South Asian countries recently drove away the international investors who fled to the safety of the dollar (Schoombie 1997c:18). As this affected the balance of payments, value of currency, interest rates and economic growth of other countries the South African Chamber of Business (SACOB) is relieved that South Africa came off lightly because of GEAR, a macro-economic policy which inspired international confidence (Schoombie 1997c:18).

In the conviction that in a world which is solidly capitalistic the challenge for South Africa is and remains to allow the free market system to work to its advantage, as a matter of affordability and ever clearer insight. Mr Mbeki at the 50th congress of the ANC left nobody in doubt that his government would not tolerate any criticism from its trade union allies to challenge its economic policy (Mbeki *duld geen kritiek teen GEAR* 1997:19). This is in line with Adam Smith's argument that the first principle of the economy should be for the state to stand back. For the network of English financial institutions and property laws, which had been achieved in the eighteenth century, was to increase the efficiency of the market, by removing obstacles – human, legal and institutional – thus leading to the maximisation of profits, which put England ahead of the rest of the world economically.

In the same way as Marxist communism has been found to be acceptable to people of virtually all cultures free enterprise economy has been universally distributed and is indeed ousting socialism increasingly. The only valid improvement of the free market economy was achieved by Keynes who built on Smith's classical approach as micro-economics, dealing with scarcity, value, choice, resource allocation and efficiency. On top of this Keynes erected macro-economics as the offset action of various states, as in and through monetary and fiscal policies, interfering in aggregate demand and "*national income*", as reflected in the relevant national budgets.

Intrinsically a free market economy is in contradiction with administrative and ideological interference. Enterprising people have a tendency to ignore the government and take their

economic fate into their own hands. A clear instance of this was the "silent revolution" which South Africa had undergone in the 15 to 20 years before 1990, when the country's urban blacks undramatically but purposefully not only broke down much of apartheid but also advanced their position through their own efforts of organisation, despite the relative absence of government intervention on their behalf and even government curbs (Kane-Berman 1990). What was true of the apartheid government is equally as true of the anti-apartheid ANC government.

Over-government is a tremendous handicap to the economic development of any state, including South Africa. Dealing with one party-domination and democracy Hermann Giliomee and Charles Simkins edited a world-wide study of this "*awkward embrace*", with the emphasis on Mexico, Taiwan, Malaysia and South Africa, which cover an extensive array of diversities (Giliomee & Simkins 1999:ix). A system in which one party is dominant, although functioning under a democratic constitution, is governed by one party which is so much stronger than the opposition that it can afford to ignore the latter.

In this context "*the ANC has increasingly abandoned its 1994 election appeal of non-racialism for an explicit call for African solidarity*". While mocking the "*Mickey Mouse white parties*" Mandela calls on all predominantly black parties to unite (Mischke, 1997:1). The superior pressure of the black middle class and labour aristocracy "*in this racial alliance ensures that their interests take precedence at the expense of the non-unionised and unemployed blacks*" (Giliomee & Simkins 1999:344).

This emphasis on the polarity between the black and white sections of the population might only last until after the 1999 general election, but the fact remains that it is not economically wise. For

such policies make it very difficult for the large army of unemployed to get into the labour market. Furthermore, with very little job creation in the economy the competition for employment between whites and blacks will increasingly take on a zero sum quality... Finally the South African economy is remarkably open, with exports and imports accounting for two-thirds of GDP. Any policy that interferes too much with the competitiveness of firms will negatively impact on the balance of payments (Giliomee & Simkins 1999:344)..

In spite of the present election excesses the fact remains that

the ANC's dominance of the political system is heavily qualified by forces outside the area of formal politics, which it does not control, like organised business, the international financial community, the courts whose benches are staffed by whites ... (Giliomee & Simkins 1999:344).

However hard Dullah Omar, the present minister of Justice, is trying to reduce the influence of the whites in the courts of South Africa the juridical community of the world is bound to notice any threats to the rule of law and bound to reject the view that it is merely due to the kindness of the ANC that the whites are at all entitled to be part of the constitutional set-up of this country (Doeltreffender Opposisie 1999:10). Curbs to the "*awkward embrace*" of one-party domination are and remain, namely: the present Constitution of South Africa, which is undoubtedly sound on paper, in addition to the impact of a free press, as well as international political and economic realities.

7.6 CONCLUSION

Up until the coming 1999 general election Mbeki will probably persist in his racialistic supposition for the purposes of electioneering, that there are two basic elements in the electorate: the one white and rich and the other black and poor. This throws an ominous shadow over the assurance of the Freedom Manifesto that South Africa is a "*non-racist*", "*non-sexist*" country which belongs to all its inhabitants. What is particularly disquieting is the stated purpose of the ANC with its Leninistic claim to infallibility to achieve a two-thirds majority in the election, which would enable it to circumvent the existing checks and balances in the constitution. A party which is inclined to promote a culture of appropriation and has far too many corrupt executives to be easily trusted does not seem to be able to be fair and honest in the realm of genuine racial equality.

Nevertheless, there can be little doubt about the world-wide confidence in the free press in South Africa and the universal anti-racialism of the United Nations Organisation which has painstakingly defined a broad range of internationally accepted rights – including economic, social and cultural, as well as political rights. The UNO has also established effective mechanisms with which to promote and protect these rights and to assist governments in carrying out their responsibilities. These include the Convention on the Prevention and Punishment of the Crime of Genocide

(1948), which defines genocide as the Commission of certain acts with the intent to destroy a national, ethnic, racial or religious group. Another is the International Convention on the Elimination of All Forms of Racial Discrimination (1966).

The Declaration of the Right to Development (1986) established an inalienable human right by virtue of which each person and all people are entitled to participate in, contribute to and enjoy economic, social, cultural and political development in which all human rights and fundamental freedoms can be fully realised, adding that equality of opportunity for development is a prerogative both of nations and of individuals.

A fourth is the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992). It proclaims the right of minorities to enjoy their own culture, to profess and practice their own religion, to use their own language, to establish and maintain contacts with other members of their groups, and to leave any country, including their own, and to return to their country. The Declaration calls for action by states to promote and protect these rights.

In 1993 the General Assembly of the United Nations proclaimed the Third Decade to Combat Racism and Racial Discrimination (1993-2003) and called on all states to take measures to combat new forms of racism, especially through laws, administrative measures, education and information. This goes beyond the great efforts in which the United Nations engaged to ensure the suppression of apartheid as a crime against humanity. Furthermore, this concern with the basic rights of the individual was augmented in 1993 when the World Conference on Human Rights in Vienna, reaffirming the right to development, reiterated that the human person is the central subject of development. This excludes the right to infringe on the primary rights of any individual, for while development facilitates the enjoyment of all human rights, the lack of development may not be invoked to justify the abridgement of internationally recognised human rights.

Note has already been taken of the fact that Mandela sees a necessary and inevitable linkage between human rights, the rule of law and economic prosperity (Mandela 1995b: 16 & 17). He asks

What good does it do a person to tell her that she has the right to vote or to speak as she likes when she does not have the energy to walk to the polling booth or to open her mouth. What

good is a right to education where there are no schools or employment opportunities?

Mandela's honest concern is well justified within the ambit of our overall theme, "*The relevance of human rights to the socio-economic and political development in South Africa*". The need remains to put an end to extreme poverty and social exclusion with due caution not to infringe on the human rights of some people in the attempt to compensate others.

We have taken note of the fact that the present constitution of South Africa contains a Bill of Rights within the most universal context, which in itself does not threaten the rights of any individual, whether rich or poor, but to purposefully promote the enjoyment of the fruits of social progress, as affirmed by the World Conference of Human Rights. Such a Bill of Rights undoubtedly forms a bridge away from any culture of authority to a culture of justification, in which it is recognised that extreme poverty and social exclusion constitute a violation of human dignity.

But although there should be no doubt that urgent steps are necessary to achieve better knowledge of extreme poverty and its causes, including those related to the problem of development, in order to promote the human rights of the poorest, moderation and the honest will to maintain equality is required in the application of affirmative action. People should not be promoted overduly and simply because they are black at the expense of others who simply happen to be white, as if any race is collectively responsible for apartheid. Some people are not more equal than others merely by virtue of their being white or black. Apart from making South Africa less investment friendly, the new Law on Equal Employment Opportunities, which has brought in racial criteria as employment qualifications, is more than likely to drive the races in South Africa equally as far apart as apartheid (Swart 1998:19).

The constitution and charter of human rights which have been adopted for South Africa are in line with what the liberals have always wanted for this country, but it is equally as true that only consistent tried out liberalism can save South Africa from becoming a one-party state (Capraro 1997b:17). Immoderate black power demands are a constant threat to the universal liberalism which is implied in the monotheistic belief in the equality of all people before God, the equality before the law of the peace of Rome, "*pax Romana*", the equality of opportunities which the free enterprise system promotes.

Subsequently in chapter 8 a recapitulation of findings and conclusions will be presented. Some substantiated recommendations pertaining to human rights and socio-economic and political development will be made, as well as further proposed fields of study.

CHAPTER 8

RECAPITULATION OF FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

8.1 RECAPITULATION OF FINDINGS

8.1.1 Chapter 1

It is generally accepted that human rights is an ingredient of the development process and that the human person should be the subject of development.

As a result of Hitler's lack of concern for people's lives and liberties the Allied governments asserted in 1942 that victory was essential to defend life, liberty, independence and religious freedom and to preserve human rights and justice. This concern culminated in the United Nations Organisation (UN) which played a key role in the development of the contemporary view of human rights, including the Universal Declaration of Human Rights of 10 December 1948, proclaiming a common standard of achievement for all peoples and all nations.

Lawyers and moralists have lost their monopoly over human rights and the idea of human rights has become part of the vocabulary of the general public. It was also symptomatic that as a result, the United Nations Commission of Human Rights increasingly turned into a political platform. Diplomats took over from experts and political alliances counted more than merits. In addition, the widening gap between the economically developed and developing countries impedes the realisation of human rights in the international community, making it difficult for the UN to try and serve as a bridge between human rights and development. It means that the primary responsibility for the development of human rights rests with the nations themselves.

The relevance of human rights to the socio-economic and political development in South Africa, emphasises the triplicity of the study. Although human rights is an old idea, which was first introduced by the United States Declaration of Independence in 1776, they became high-priority norms in the fight against the injustices of the totalitarians in the Second World War, which made them more egalitarian, less individualistic and gave them an international focus. Socio-economic

and political development is concerned with a process of adaptation and readaptation in the endeavour to bring relief to needy countries, including South Africa which is a peculiar combination of First and Third World ingredients. South Africa was internationally accused of the violation of human rights from 1948 onwards, but wealthy enough to defy world opinion as a state, until the mid-eighties when sanctions and disinvestment forced it to change its policies radically.

The statement of the problem of our present concern highlights the main aspects of the project, which are interrelated. This carries us beyond the geographic setting in South Africa, the functional character of the relevant development strategies and the ethical implications of human rights towards the achievement of a meaningful whole.

The research procedures and methods (epistemological criteria and methodological orientation) do not exceed the relevant normative (axiological) reflection in the concern with human rights. It means remaining within the widest relevant field of evidence, gained from various articles and books which have been consulted, representing a descriptive explanatory study, moving from likely conclusions to even more likely conclusions.

The motivation for the present research project has a wide background narrowed down to the triplicity of the title, covering human rights, socio-economic and political development, and South Africa. Human rights are intimately linked with ethics as the science of morals in the context of "*development theory-practice*", rendering development decisions humane, in line with the Universal Declaration of Human Rights of 10 December 1948, implying the duties of all people towards all other people.

Some consensus has emerged towards the end of the 1970's, namely that development could not be measured and implemented in pure economic terms only. Socio-economic and political development is concerned with a process of adaptation and readaptation in the endeavour to bring relief to needy countries. It means ever more new programmes, philosophies and methods of assistance towards economic reconstruction and recovery in the concern with the conditions of public administration in developing countries, reinterpreting existing material.

The concern with and for development aid, which was conceived in the Atlantic West during the first two post-war decades, stimulated by the realistic political, economic and humanitarian intent of the Americans in Europe, covered an increasing number of countries whose economic condition is described as "*underdeveloped*", "*under-developed*", or "*less developed*".

It became an ever greater problem to determine in which direction poor societies in the interest of humanity should develop, that is, in which direction poor people ought to be helped to help themselves. This made it imperative to view the problems of developing countries on a macro level as following from integration into the international system (of financing and investment), as embodied in the General Agreement on Tariffs and Trade (GATT) and the International Monetary Fund (IMF) as well as on a micro level as problems of acculturation.

8.1.2 Chapter 2

In this chapter the focus is on the nature and extent of human rights, with the emphasis on the Universal Declaration of Human Rights of 10 December 1948, which is a common standard of achievement for all peoples and all nations. It put into dignified words what had been built up over a period of more than two thousand years.

The rights of humans refer to the concept that every member of the human race has a set of basic claims by virtue of his or her humanness. Rights are the means to secure the good life for the individual in society. Government organs have the task of adjusting conflict between the equal rights of the individuals. The main social function of human rights is to become essential ingredients in legal, political and social reality in each and every country.

Whilst the League of Nations went too far in respecting the territorial integrity and political independence of states, benefitting the haves at the expense of the have-nots, the Charter of the United Nations squarely placed the emphasis on the rights of all human individuals on earth. In the Judaeo-Christian tradition human beings are regarded as created in the image of God. Natural Law has stimulated the development of the theoretical base for the concept of human rights. Grotius maintained that a moral community should be upheld as an objective universal entity,

beyond a political community. Locke called the right of life, liberty and estate the inalienable rights of man. Rousseau had no doubt that any species of inequality which prevails in all civilised countries is plainly contrary to the law of nature. Paine advocated immediate self-determination for the dissatisfied North American colonists. Gradually the principles of humane government have been consolidated into what the Universal Declaration of Human Rights calls the common standard of achievement.

The present concept of human rights means the following:

- the right to physical and mental integrity
- freedom of conscience and action
- the right to legal justice
- privacy and family rights
- political rights
- social and economic rights
- equality and non-discrimination.

The nineteenth century brought the right to self-determination of a nation or people. Less recognised or still controversial are such as minority rights and the right to development.

The Preamble of the Charter of the United Nations sets out the philosophical ideas and historical factors that prompted the adoption of the Declaration. It stresses the recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family.

The 30 articles of the Declaration of Human Rights of 10 December 1948 cover the so-called first generation rights, which are concerned with civil and political rights, as well as the so-called second generation rights, which have added economic, social and cultural rights, as extended by the United Nations Covenant of 1966.

Concisely the United Nations regard that the states shall take steps to eliminate the massive and flagrant violations of the human rights of peoples and human beings affected by situations such

as those resulting from apartheid, all forms of racism and racial discrimination, colonialism, foreign domination and occupation, aggression, foreign interference and threats against national sovereignty, national unity and territorial integrity, threats of war and refusal to recognise the fundamental right of peoples to self-determination. It is expected that states should at the national level carry out policies of the United Nations towards universal development and ensure, inter alia, equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and the fair distribution of income.

Roman law already accepted Aristotle's concept of equity as fairness, in the ethical sense of being humane, as distinguished from Roman law as fundamentally and positively laid down in the strict sense of the word, where the law is the law as you find it. Medieval theory was unanimous that the power of the state stood below the rules of natural law and above the rules of positive law. Aristotle's classical clear definition of equity as practical wisdom, the human endeavour to be thoroughly good, cannot be over-estimated, as revealed in the codification of several important legal systems on the continent of Europe (starting with the Napoleonic Code).

The Universal Declaration of Human Rights of 10 December 1948 emphasised human rights so clearly and emphatically that no state can afford to ignore the enormous accent on the consideration which is due to all people from all people. The golden rule is to act according to the maxim which requires that what one does would be equally as acceptable if it should be made a general law. There should be differentiated between ethics and law without sacrificing their common moral basis. Law and jurisprudence are the outward acts which arise from ethics and are not reducible to ethics in the basic sense. In this regard moral principles may help to shape the law, but they cannot be assumed to do so more effectively than they do the rest of the law. Morality may require generosity and compassion, charity and mercy, but falls beyond the reach of legal requirements.

The importance that Americans attach to human rights is undisputed. But the wide acceptance of these rights has only occurred since the cataclytic effect of the Second World War when the reasoned resistance against Hitler's arbitrary racialistic dictatorship became formulated increasingly convincingly as the freedom of speech, of worship, and from want and from fear. An

emphatic example of a universal human right is the right to a fair trial. The individuality of human rights consists in the right of individuals to meet the needs and purposes of individuals as free beings. The paramountcy of human rights means that no one can be deprived of a human right without giving a grave affront to justice. The practicality of human rights is whether what ought to be done can be practically achieved. The enforceability of human rights is primarily a matter of domestic politics and juridical action in an enforceable practical setting, depending on individual states.

The most specialised arena of this ideological programme on the battlefield of history is the United Nations Organisation and its agencies. Human rights establish claims which are universally valid, irrespective of whether the individuals concerned are ethically speaking "*good*" or "*bad*" people. Rights and duties are two facets of the same picture. Whoever demands a right to liberty has to respect a similar right in others which circumscribes his right to personal liberty very considerably. Initially the emphasis was placed on duty, but however long it took the people concerned to fully realise it, it became increasingly evident that duties and rights are co-implicative.

Human rights are bound to be put into practice in the long run. Even the most powerful states, like the United States of America and the Soviet Union could not ignore them. The researcher is concerned with *The relevance of human rights to socio-economic and political development in South Africa* within the ambit of our general theme, but the focus is on the socio-economic and political implementation of human rights in the world setting in the next chapter.

8.1.3 Chapter 3

The triplicity of the overall theme covers **human rights, socio-economic and political development, and South Africa**. This third chapter is specifically concerned with the implementation of human rights in a world-wide setting in the realisation that neither development nor rights have relevance unrelated to each other. Although they do not create each other they are co-implicative.

It has become an ever greater problem to determine in which direction poor societies in the

interest of humanity, should develop globally, that is, in which direction poor people ought to be helped to help themselves. It is of great importance that the Universal Declaration of Human Rights of 10 December 1948 could only be fulfilled by the United States of America, Canada, Sweden, Switzerland and a few other states at the time, leaving the major part of Western Europe exposed to the Soviet Union. This led to the Marshall Plan to prevent the spread of communism by assisting free peoples to work out their own destiny in their own way. This included the countries which were occupied by Japan in the Second World War. As the economies of Britain, France and the Netherlands improved these erstwhile colonial powers provided economic aid to the Third World countries which they felt morally responsible for. The result was an expanding global capitalistic economy along with the implementation of human rights, which ultimately won the Cold War (1945-1990).

It did not help the communists much to blame the USA and her allies of new-colonialism, for the Soviet Union collapsed in 1991, whilst even China became increasingly capitalistic. The assumption that economic development was bound to occur through increased supplies of capital, technology and skills is not entirely true, for this does not take the unique circumstances of the recipient countries into account sufficiently. There have been cases where aid has been harmful to the poor. In addition, the collapse of the Soviet Union and its satellites robbed foreign aid of its Cold War incentive. The new emphasis is on self-reliance, the abolition of poverty through the reallocation of existing sources, the satisfaction of basic needs and the creation of an equitable society.

In order to reduce deficits in the balance of payments of developing countries, primarily in Latin America and Africa, Structural Adjustment Programmes (SAP's) were developed increasingly. Although the main emphasis in SAP's has remained in the agricultural sector, the adjustment goals of the World Bank and IMF persist that resources should be shifted from industry to agriculture, from public to private ownership, from import-substituting to export industries, from final goods production to raw material processing, intermediate and capital goods production, and away from import-intensive investment. This is in line with the accountability of the governments of the USA, Japan, West Germany, France and Britain to their multinational corporations which are dominant in trade and aid in African economies. In addition to the fact that commercial bank lending has

imposed an enormous burden on many developing countries, the money is often not used for development purposes and the rich countries have lost most of their interest in humane internationalism.

The World Bank has become less keen to lend money to Third World governments and prefers to deal with NGO's and to encourage the involvement of local citizens at grass roots level. The rural-urban imbalance in sub-Saharan Africa is mainly due to population growth, climatic factors, quality of soil and a variety of economic realities. General O Obasanjo blames the previous colonial powers for misplanning, mismanagement and misguidance, ignoring Africa's own mentality, resources, environment, needs, tradition and culture. In addition Western consumption patterns were transferred more effectively than Western production techniques. Africa essentially has an agricultural economy, which has been neglected as a result of overlooking the small-scale farmers, the largest and most efficient group. Africa has not been helped to help itself sufficiently and will have thirty percent of the world's poor at the turn of the century.

One has to look beyond the organised selfishness of unfettered capitalism and the anti-individualism of communism to do justice to human rights. The universal goal is the self-actualisation of all individual people through the universal implementation of their fundamental rights all the time, regardless of the level of development of the relevant society. There is growing concern for the less fortunate on the globe, a growing will to correct historically skewed patterns of the distribution of resources, wealth and power, although currently found to be too expensive in terms of the world's available resources.

However well intended enterprising capitalism and party dominated state socialism might be, they are increasingly being regarded as part of the problem. For they often prove to be stumbling blocks in the way of the people themselves who are assumed to be the target of development, but also required to be the instruments of development, supplying the relevant physical labour as well as the technical skills, which includes managerial and entrepreneurial abilities.

The ideal is to reach and put into operation a solution which will produce both equity and growth, which means changes in systems, processes, institutions and values. The cruel choice implies the

conquest of autonomy and the will to create a new future, thrusting debates over economic and social development into the arena of ethical values. Going beyond the waste economy of the market system, it is believed that the quality of life is not necessarily enhanced by the super-abundance of overproduction.

The educator or administrator from a developed country must somehow experience the other's underdevelopment as the source of his own vulnerability, see his struggle as part of his own survival. The importance of strengthening people's capacity for participation was underlined. Equity-led sustainable growth strategy was divided into six sequential stages:

- preparation for change
- asset reform and rural infra-structure
- agricultural intensification and diversification
- rural industrialisation
- urban industrialisation
- export promotion.

The greatest stumbling block to development aid is the capitalistic attitude of the First World, which is locked into a procedural and legislative straight jacket, ignoring the character of the Third World. The emphasis should be placed on the need for participatory development in a spirit of equity. The primary importance of human labour, the one factor in production which is abundantly available in the Third World is not made proper use of by investors. A realistic order beyond the hunger and deprivation which is historically associated with the market economy or the terror of totalitarian or other command economies is the ideal. This implies to give the peasants, who are professionals, the opportunity to operate from the bottom upwards controlling their own goals. Such empowerment would lead to successful production in a participatory workplace in agriculture, as well as the manufacturing of goods.

8.1.4 Chapter 4

Dealing with South Africa and its highly peculiar socio-economic and political diversity, the

fourth chapter discusses the historical setting of the ethnic diversity which affected the limitation of human rights, as well as the socio-economic and political development of this country. The historical course of events which was traced back to the arrival of the Dutch at the Cape of Good Hope in the middle of the seventeenth century are partly typical of sub-Saharan Africa with its tribal overtones, but also typical of what happens in a newly-colonised country like Canada with its dominant First World character.

Oversimplifying the South African multiplexity to suit ideological or party political ends is nothing less than the violation of reality in its uniqueness. Brutal, singleminded, badly informed superficiality cannot possibly do justice to the facts as they present themselves to the honest and patient, scientifically-minded, direct observer or historian.

The European victualling station at the Cape was also the home of the Khoi and the San who became detribalised and interbred with the Europeans and the slaves, adopting the language, religion and way of life of their masters. In due course more colonists moved even further inland in search of grazing for their stock. These pioneers (veeboerpioniere) clashed with the Bantu tribes on the borders of the Fish River in the last quarter of the eighteenth century, but very little miscegenation occurred between these two elements.

The British occupied the Cape Colony in 1806. They were already the leading world power and emphatically unilingual, whilst the Cape Dutch were well entrenched in their language and Calvinistic fundamentalism and not likely to forget their republican traditions. When the British administration failed to inspire confidence in them, they trekked into the interior in great numbers from 1836 onwards, calling themselves Voortrekkers. The independence of the Republics of the Orange Free State and Transvaal were recognised by Great Britain respectively in 1852 and 1854, but both were conquered as a result of the Anglo-Boer War in 1902. The National Convention which brought about the Union of South Africa in 1910 put the emphasis on the conciliation between the British and the Afrikaners (Boers). As agreed at the Peace of Vereeniging in 1902, the whites were able to restrict the franchise to themselves. To the African political leaders, Britain seemed to be selling out the interests of the blacks to the Boers.

When the Second World War broke out in September 1939, Hertzog refused to be drawn into Great Britain's wars. He was joined by Malan's Nationalists, but Smuts triumphed with the help of a dozen of Hertzog's followers. The majority of Afrikaner element was still under the enchantment of the Voortrekker centenary of December 1938. Many had pro-German leanings, which were similar to those of the Flemings in Belgium. The Ossewabrandwag was led by Hans van Rensburg, openly advocating an authoritarian one-party state. But when Hitler lost the Second World War in 1945 "*fascism*" became a swear word.

The National Party won the 1948 general election, partly because they played on the fears of the white electorate with slogans which emphasised the "*black peril*" (swart gevaar). Going further than Smut's traditional segregation policy, the Nationalists claimed that their policy was "*apartheid*" (separate development).

In the enormous tracts of land which were depopulated by the Difaqane and occupied by the Voortrekkers, ever more African peasants were brought in as servants. But deeprooted cultural and language barriers remained between the two rural elements. Until the twentieth century, the entire rural population beyond the South-Western Cape and Natal depended on stock-keeping, and sorghum and maize as staple crops. More than 90 percent, of the population was still rural when diamonds were discovered at Kimberley in 1866 and gold on the Witwatersrand in 1886. Black labourers on a migratory basis gave capitalists a work force without the full costs of supporting workers and their families in town.

In 1872 the first of the industrial pass laws to control movement of mine labour was enacted in the Cape. In 1895 a new pass law was drafted by the fledgling Chamber of Mines and enacted by the Transvaal Volksraad (legislature). Colonel Stallard enunciated in 1921 the policy according to which the native should not be allowed to enter the urban areas, which were essentially the white man's creation. The Natives Land Act of 1913 prevented further purchases of land by blacks in what were considered to be "*white areas*"

Smuts had no quarrel with the Nationalists about the maintenance of European paramountcy in South Africa, with the implication of social and residential separation, as well as the avoidance

of all racial mixture. He however complained that the Fagan Report was scarcely referred to by the governing National Party, ignoring the thorough convincingness of this investigation into the urbanisation of the Native population under conditions of increasing industrialisation. Malan persisted that natives who came from the reserves and go to urban areas because they are required there for labour, must not be regarded as permanent residents of European areas. Besides, the Malan government sabotaged Smuts's immigration policy which was intended to bring in more whites as immigrants to prevent the whites from becoming a dwindling minority. The Nationalists were equally as afraid of great numbers of German as of British immigrants.

8.1.5 Chapter 5

Nazism was an indirect, but decisive threat to the prevalent segregationist socio-economic and political order in South Africa to the extent that the reaction to Hitler's disrespect for human dignity and individual liberty caused a powerful world-wide reaction. It put the whites in South Africa and specifically the National Party from DF Malan to PW Botha in the wrong in world opinion.

The Universal Declaration of Human Rights of 10 December 1948 once and for all defined human rights as a "*common standard of achievement for all people and all nations...*". This in the long run made it futile to hide behind the sovereignty of any state. Not states, but all individuals who live on earth are of supreme importance in the light of this new insight and resolve.

South Africa has been put in the wrong at the United Nations from the first session of the General Assembly when Smuts was still a member thereof. India was the primary complainant. However, despite the General Assembly's regular appeal to the South African Government to reconsider its apartheid policies, this government persistently rejected such interference. On 2 December 1950 the General Assembly declared that a policy of racial segregation (apartheid) was necessarily based on doctrines of racial discrimination.

When the South African government arrested many people and exercised physical violence against this allegedly non-violent resistance, the situation threatened to become dangerous and explosive.

When dozens of people were killed by the police at Shapeville in 1960, the Second Conference of Independent African States met at Addis Ababa and called for sanctions against South Africa. A never abating trend against South Africa developed. Soon a Special Committee against Apartheid came into being. Ever more states broke diplomatic, economic and other relations with South Africa that was viewed as a threat to international peace. Soon an arms embargo was decided upon. Provision was made for large numbers of non-whites to be qualified outside South Africa for the professions, the civil service and teaching.

In resolution 190 the Security Council of the United Nations demanded that the South African government should renounce the execution of persons sentenced to death for acts resulting from their opposition to apartheid. Nelson Mandela and his co-accused had already been sentenced to life imprisonment when the Security Council made their demands in this regard more emphatic. South Africa was however helped to remain adamant by the attitude of her main trading partners, the United States, the United Kingdom and France.

The unrealistic overtones of apartheid were inspired by the Afrikaner's will to power after having suffered decisive setbacks in his history (politically, economically and linguistically). They were inspired by Malan's oratory, Strydom's slogan of white supremacy (baasskap) and Verwoerd's social engineering. Besides, when Churchill reassured the British that he would never preside over the dismemberment of the British Empire, he did not foresee the results of the Second World War.

Changes were brought about by the economic development of South Africa. Whilst 90 percent of the black population in Johannesburg as a result of the migratory system of the mines was male in 1911, industrialisation by degrees extended into the realm of manufactured goods, particularly since the Second World War. It became increasingly clear that the industrial growth of the South African economy would undermine or explode apartheid and result in a more open society. However, Verwoerd rejected the sense of urgency of the Tomlinson Commission in this regard, persisting that the Bantu should develop separately at their own pace.

Between 1960 and 1970 the number of blacks employed in the manufacturing sector virtually doubled, although very little was done to develop the black areas to reverse the trend. Whilst the

whites enjoyed one of the highest standards of living in the world, the majority of blacks were condemned to live a life of poverty. The least that would be required to make South Africa economically viable would be the encouragement of decentralised industries on the borders of the homelands. Verwoerd however remained unwilling to ask his white electorate to pay for such required development. There was a disquieting gap between the money spent on white and black education, which was condemned by educational institutions and many church bodies.

From 1967 to 1989 South Africa's trading partners were still reluctant to impose sanctions against this country, which persisted in its intransigence and aggression. The United Nations, through all her organs, accepted the liberation movements as the authentic representatives of the South African people. But BJ Vorster's state security was very effective. It was only in 1973 when the Durban strike movement occurred that significant black industrial political resistance re-emerged to become more emphatic during the Soweto revolt of 1976. Unlike Verwoerd's rigid sociological generalisations, Vorster's combination of security consciousness and open juridical approach with its emphasis on dialogue and detente, opened the way for ever more changes in policy.

Vorster accordingly did not try to prevent the private sector from taking its own initiative when a number of industrialists, in co-operation with the Urban Foundation, decided to improve the living conditions of black urban areas at their own expense. In 1974 Vorster decided to allow the inhabitants of South West Africa to decide on their own future themselves.

PW Botha accepted Vorster's intention to appoint the Erica Theron Commission and to consider the franchise of the Cape Coloureds. A three-chamber parliament was established. Bills dealing with own affairs were to be handled by three chambers, one for the whites, a second for coloureds and a third for the Indians, whilst bills which refer to general affairs were to be tabled in all three chambers. The Blacks wanted nothing less than a non-racial government for the whole country and rejected the three chamber constitution which left them out. On 3 September 1984, the same day on which the tricameral parliamentary system came into effect, the black population of the Vaal Triangle broke into rebellion. The unrest quickly spread throughout the country and lasted until about December 1986.

After the Wiehahn and Riekert Commission had investigated the labour legislation of South Africa the Labour Relations Amendment Act of 1981 deleted all references to race and allowed multiracial trade unions to be registered. Namibia became independent in 1990. This occurred after Botha's retirement in 1989 as the result of apoplexy at a stage when there were still a number of laws on the statute books which enforced apartheid.

The revolt between 1984-1986 sharply increased external pressure on South Africa. Soon France recalled its ambassador and forbade any further investment in South Africa. America's Chase Manhattan Bank announced that it would not "roll over" its loans to South Africa. Other foreign banks immediately followed the example of Chase Manhattan and demanded the immediate repayment of their loans. It became impossible for American President Ronald Reagan and British Prime Minister Margaret Thatcher to ward off sanctions any longer.

The man who most clearly saw the desperate need for radical change and also had the courage to do away with apartheid altogether was President FW de Klerk. His brother, Willem de Klerk had made an early distinction between narrow-minded ("*verkrampte*") and broad-minded or enlightened ("*verligte*") Afrikaners. The latter group includes church leaders, Afrikaans editors, political commentators, businessmen, Broederbond leaders, academics and about twenty National Party parliamentarians. Furthermore, via Vorster and Botha enlightenment was already accommodated step by step. Like the Jews, the reformers realised increasingly that it is indeed possible for a minority to maintain its cultural and religious identity, whilst living in harmony with a variety of majorities.

When the Soviet Union collapsed in 1991, FW de Klerk realised that a new situation arose which implied that the basis of the ANC's finances, their advice and moral support had caved in. The white electorate was led to believe that they could trust the National Party (NP) with safeguarding their wealth and power. The core principles of the ANC, nonracialism and universal franchise were adopted by the NP, but tied to minority party protection, veto rights, a consensus mechanism, and a collective rotating presidency. The ANC in the negotiations however over-emphasised the importance of centralised government. Federalistic motives kept Inkhata, the Ciskei and Bophuthatswana from signing the final intent.

It was because South Africa was in an impossible situation that De Klerk was able to move his party and the traditional onesided white electorate in this country to accept a black majority government in spite of the prevailing conviction that the blacks were not competent to run the country properly. The enormous interest shown in meaningful negotiations in South Africa by the United Nations was of great help to De Klerk to achieve a meaningful debate with Nelson Mandela who had great faith and confidence in this undisputed world body.

Small wonder that the final credit for the ultimate settlement was claimed by the United Nations. But this positive outcome of De Klerk's calculated risk depended very much on the conviction that the whites would continue to play a key role in the new South Africa, for they constitute a permanent force, irrespective of their numbers. Even as a small minority the whites had the economic and military power to ensure that their needs are accommodated and to guarantee a minimum of coercive stability in the country.

In the general election on 27 April 1994 the ANC won by a wide margin in six of the nine provinces and by a small majority in the Northern Cape, whilst the National Party won in the Western Cape and Inkhata received a convincing majority in KwaZulu-Natal. Although the National Party got a little more than 20 percent of the votes and their leader FW de Klerk, became one of two vice-presidents in a Government of National Unity the success of the new government, for all practical purposes, was primarily the responsibility of the ANC.

8.1.6 Chapter 6

The ANC's RDP is a deliberate attempt to emphasise human rights in the socio-economic and political development of the New South Africa. Its aim is to achieve economic growth and set realistic goals for improved living standards and economic security for all South Africans, especially the most disadvantaged. The question remains that it has to be made sustainable.

Full note would have to be taken of the RDP Base Document with all its high promises and ideological exaggerations, aiming at the final eradication of apartheid and the building of a democratic non-racial and non-sexist future. The basic needs which are stated as the first priority,

are jobs, land, housing, water, electricity, telecommunications, transport, a clean and healthy environment, nutrition, health care and social welfare.

It is realised that poverty is the single greatest burden of South Africa's people, not forgetting that women, as part of this country's human resources, are the majority of the poor in this country. But although trying to overcome the negative results of the traditional migratory labour system and other crippling effects of the apartheid system, privatisation was originally opposed under the influence of the Congress of the South African Trade Unions (COSATU). Great concern is expressed regarding the domination of business activities by white business and the exclusion of black people, as well as women from the mainstream of economic activity.

The intent to reform the financial sector is very strong in the RDP, in the belief that the apartheid system severely distorted the financial system of South Africa. Affirmative action measures are intended to bring an end to discrimination on the grounds of race and gender, and to address the disparity of power between workers and management, and between urban and rural areas. In the attempt to get away from minority domination and privilege as promoted under apartheid, the emphatic intent is to achieve the kind of public service that is truly reflective of society, especially at the level of management and senior employees.

Remaining in line with the United Nations Development Programme (UNDP), which is concerned with bringing the new South Africa into the world system for the promotion of human rights, the United Nations are particularly supportive of the ANC's RDP. Similarly Mandela sees a necessary and inevitable linkage between human rights, the rule of law and economic prosperity.

Putting the RDP into practice was far from easy. The ANC increasingly came to realise that the unrealistic trade unionism of COSATU was an enormous stumbling block to its efforts to make the RDP economically viable. Both the South African Communist Party (SACP) and COSATU were a constant threat to investment from abroad by implicitly criticising the government which was elected in 1994 for beginning to embrace a neo-liberal economic policy. From the other side there was increasing wide support for channelling the country's resources into constructive avenues, which primarily depends on business driven investment. Support for the RDP comes

from all political parties, and from the private sector and civil society.

At the time when the Wiehahn and Riekert Commissions recommended non-racial trade unionism, COSATU opposed the registration of black workers under the new circumstances and promoted its own brand of anti-capitalistic trade unionism. Conflict-ridden industrial relations were bound to follow from this radicalism at the expense of South Africa's economy. For unless the trade unions have sufficient clarity about the free market economy and work towards an employment oriented strategy, their radicalism is bound to work against job creation. For unrealistic trade unions are in competition with the entire economy, particularly the vast majority of poor people who are unable to fend for themselves against such thoroughly organised labour.

It is of key importance to realise that the ultimate success of the RDP lay in reciprocal obligations, which brought the director general of the South African Chamber of Business (SACOB), Mr Raymond Parsons, to say business must be RDP-friendly and the RDP must be business-friendly.

Productivity and affordability are and remain key factors in the aspiration towards the RDP. As early as September 1994 the issue of privatisation has become a relatively open issue. In the defiance of the ANC's supposition that privatisation would only enrich whites, the Anglo American chairman, Julian Ogilvie Thompson maintained that privatisation has succeeded in putting a share of the economy into the hands of the man in the street. Funds so raised could accrue entirely to the benefit of the poor to whom the RDP is addressed. Others explained that rising inflation could only be avoided by higher productivity, output and employment in privatised industries.

The Standard Bank Group's managing director made it clear that foreign investors are bound to invest according to expected profit. Compared to the Far East Tiger economies the South African workers are overpaid underproducers. Small wonder that market-oriented government economists soon triumphed over the more interventionist ANC ones. President Mandela, frustrated by his fifteen month old government's failure to deliver on election promises, instructed his cabinet to abandon its obsession with grand plans and make economic growth its top priority. In December 1995 it was sufficiently clear that the RDP office was adopting a more modest and pragmatic

approach towards implementation. Deputy-president Mbeki announced a national Growth and Development Strategy (GDS).

It became increasingly clear that industries and service need to be restructured to create employment and to compete in world markets. In mid-June 1996, Trevor Manuel, the new minister of finance, announced his macro-economic strategy for Growth, Employment and Redistribution (GEAR). Mandela expressed preferences for outward-oriented, export-led growth, or internal growth and infra-structural development. From the ANC to COSATU, SANCO and the SACP former socialists, to an increasing extent, quietly set up investment arms in order to make capitalism work for themselves.

When the RDP office was closed and the focus shifted increasingly to deputy finance minister, Gill Marcus, this move inspired a lot of confidence. It was agreed at the RDP Infrastructure Investment Conference in March 1996 on a partnership between government, labour, communities and the private sector towards raising the required money which is needed for economic infrastructure, thinking in terms of market-related returns and bringing in parastatals into the process.

Now that Mbeki has crossed the Rubicon and called COSATU's bluff by no longer tolerating unrealistic attacks on GEAR, there are better economic prospects for South Africa. After all, COSATU and the Communist Party cannot afford it politically to leave the alliance with the ANC. Above all, investors must know that their investments are safe and that productivity is at a high level. The British Prime Minister, Tony Blair, acknowledges the economic leading role which South Africa occupies in sub-Saharan Africa and praises GEAR as the workable policy for tackling the needs of the disadvantaged, while retaining the confidence of the markets.

8.1.7 Charter 7

The use and abuse of human rights in the new South Africa is a tricky issue. Although the Soviet Union was not a great upholder of human rights and it already collapsed in 1991, the communist wing of the ANC and others are strongly inclined to believe blindly that human rights, as

understood by the black majority towards their own advancement, is all that matters, not fully realising that universal human rights are colour blind. They do not do justice to the fact that human rights are individual rights in the fullest sense of the word.

Universally and specifically human rights are individual rights in the fullest sense of the word, beyond all collectivistic notions. They are in line with the equity of Aristotelian ethics and the enlightenment of Europe and North America in the eighteenth century. They emphasise the principles of the primacy of human dignity over the interests of states. They are the due of each and every individual.

Furthermore, the degree of free enterprise economy and liberal democracy which was already achieved in Great Britain and the USA at the end of the eighteenth century came by degrees to the rest of the world, and is still the prerequisite for the achievement of liberty of the individual in any state. The fact remains that the United Nations Organisation is pressurising all states towards a common standard of achievement for all peoples and nations, towards the achievement of the liberty of every individual in any state.

Human rights are rights, not merely aspirations or assertions of the good. They are universally valid, irrespective of whether the individuals are good or bad people, ethically or politically speaking. They are fundamental beyond the claims of any state. They are to be tested in the battlefield of history, where mistakes are bound to be made.

An emphatic example of human rights is the right to a fair trial. The problem is and remains that although there are certain deeds which should never be committed and certain freedoms which should never be violated, it is not always easy to provide a satisfactory concrete criterion of paramountcy. In this regard the poor of the Third World have the right to claim an adequate livelihood, not the right to live as well as the average German or North American.

There should be the minimum disturbance of existing rights and customary ways in the enforcement of human rights. Much depends on the ability and insight of the officials and politicians concerned. In South Africa a dilemma arises because of the wide racial and cultural

differences that exist in this country. On the other hand South Africa had a high reputation in legal practice in spite of apartheid. By degrees, leading lawyers in the country made a special effort to remove anomalies in the legal system which they were concerned with. It meant that all interested parties were given an opportunity to present their views to the relevant commission and to consult extensively with experts and interest groups.

The lawyers concerned included Mr Justice Olivier who argued in favour of human rights as already defined worldwide, plus group values like cultural, religious and language interests, treating these as individual rights. He realised that even in a parliamentary system a majority party needs to be restrained by a bill of rights from unjustly promoting its own followers at the expense of the population. One way of overcoming this impasse was suggested by John Rawls in his 'play safe' model in which the one party should divide the constitutional cake, whilst the other should make the vital choice. After the April 1994 general election South Africa did not possess an obvious common system of values or a mutually accepted arbitrator. The ANC clings to power like Big Brother in George Orwell's *Animal Farm*.

It is imperative that the juridical system in South Africa should be stripped of discriminatory practices, without destroying the good in our juridical system and legal inheritance. Promise exists in the ANC's commitment to the maintenance of fundamental human rights, and is contained in the South African constitution of 1996. In practice the maintenance of these standards depends on the experience, insight and objectivity of the ministers, jurists and civil servants concerned. An ideal order requires genuine modesty, patience, realism and understanding.

The question arises whether anybody can be sufficiently omniscient to fairly promote the achievement of equality by legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination. Besides, affordability remains the key to the achievement of a truly successful South Africa in a world which is solidly capitalistic.

Above all, the state must stand back and allow the free market system to work to the advantage of all. The ANC leaders have come to discover this realism and accepted GEAR as its policy of

upliftment, which in a time of currency crisis inspired international confidence in South Africa. A discordant note is the emphasis which the ANC is presently putting on the polarity between the black and white sections of the population for electioneering purposes, whilst the South African economy is remarkably open, with exports and imports accounting for two-thirds of GDP. The ANC's dominance of the political system of the country is heavily qualified by forces outside the area of formal politics, which it does not control, like organised business, the international financial community, the courts whose benches are mainly staffed by whites.

There can be little doubt about the world-wide confidence in the free press in South Africa and the universal anti-racialism in the United Nations Organisation, which has defined a broad range of internationally accepted rights (including economic, social, cultural, and political rights). Added to this is the Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities. In 1993 the World Conference on Human Rights in Vienna reaffirming the right to development, reiterated that the human person is the central subject of development. Besides, the lack of development, may not be invoked to justify the abridgement of internationally recognised human rights.

Some people are not more equal than others merely by virtue of their being white or black. In this regard, apart from making South Africa less investment friendly, the new Law on Equal Employment Opportunities, which has brought in racial criteria as employment qualifications, is more than likely to drive the races in South Africa equally as far apart as apartheid.

8.2 CONCLUSIONS

The following conclusions can be made:

- human rights are fundamental to the development process
- the primary responsibility for sustainable development and human rights rests with the nations themselves, never leaving any doubt that human rights are relevant to the socio-economic and political development of South Africa

- development should be understood as a process designed progressively to create conditions in which every person can enjoy, exercise and utilise under the Rule of Law all his human rights, whether social, economic, cultural or political.
- every person has the right to participate in and benefit from sustainable development in the sense of a progressive improvement in the standard and quality of life
- rights (human rights) come only into their own in and through practice – the interaction of socio-economic and political facts and values – never exceeding the differentiation between ethics and law
- a solution should be put into operation which will produce both socio-economic and political equity and growth
- the South African historical setting with respect to the ethnic diversity curtails human rights, as well as socio-economic and political development in South Africa
- human rights emphasise the primacy of human dignity over the socio-economic and political development interests of states
- the poor of the Third World have the right to claim an adequate livelihood, but not at the expense of the socio-economic and political well-being of the rest of the population. An ideal order requires genuine modesty, patience, realism and understanding

8.3 RECOMMENDATIONS

The following recommendations are proposed:

8.3.1 Recommendations pertaining to human rights and socio-economic and political development

8.3.1.1 Recommendation 1

Minimising the unrealistic socialistic modus operandi of the trade unions pertaining to sustainable socio-economic growth and development.

The poverty of the masses can only be overcome by the creation of ever more jobs, which means the implementation of GEAR, which has already received world-wide support as an economically viable policy. The new president of South Africa, Thabo Mbeki, is convinced that GEAR is the most effective way to empower the black majority once and for all. GEAR is Mbeki's special policy and part of his Africa Renaissance mission. He will not tolerate the undermining of his own position or GEAR as he announced to the ANC Congress in 1997.

Furthermore, the broad church of the ANC-COSATU-Communist Alliance, as a stumbling block in the implementation of GEAR, should be risked for the sake of making a success of the South African economy. The attempt which Mbeki made to keep the "*broad church*" together in the 1999 election should not blind one to the fact that a two-thirds majority victory of the ANC is required to strengthen Mbeki against his own allies in case of a show-down on the GEAR policy. He needs to be able to assert himself against any internal opposition, for he is an able and calculating politician and fully aware that he does not possess Mandela's charisma. With an overwhelming majority supporting Mbeki in parliament, both COSATU and the Communist Party will be at a greater disadvantage than ever before if they dare to oppose the president's well considered implementation of GEAR for the sake of the many poor in the country.

There is no alternative for the free market system as far as economic realities are concerned. Worse than the ideological fantasies of communism, which have failed decisively in Europe, is the unrealistic trade unionism of COSATU which is well organised and enjoys the support of many workers who are not sufficiently well informed about the economic realities of the country. A show-down of the Mbeki government with COSATU will be supported by almost the entire opposition in parliament. It will mean a new constellation of political powers in the country and probably a more plural and genuinely liberal parliamentary order in the country. Such a development should be strongly recommended by all who are interested in the rights of the

individual.

8.3.1.2 Recommendation 2

Promoting inward industrialisation as a generator of employment in South Africa.

Inward industrialisation is domestically generated growth, based upon supplying basic consumer products (clothing, shoes, furniture, basic foodstuffs, building materials, housing utensils, et cetera) and facilities (sites and services, low-cost housing, transport services and inputs in infrastructure, etcetera) to the rapidly urbanising Black population, with the increasing labour force coming from the rural areas simultaneously finding employment in these existing industries.

From a socio-economic development point of view, inward industrialisation is perceived to change potential demand into effective demand and thereby creating employment opportunities for the increasing labour force of the urban areas. The increased employment brings about increased purchasing power and the satisfaction of basic and other needs. In this process, inward industrialisation may stimulate other industries and thus multiply the employment-creating effort of a particular demographic area.

The government's envisaged development pattern does not see the process of inward industrialisation replacing export promotion and/or import substitution. On the contrary, it can only provide a supplementary stimulus for economic growth and development. The domestic demand structure arising from accelerated urbanisation may even create new opportunities for export and/or import substitution.

The objective underlying inward industrialisation can also be seen to reverse the current diminishing productivity of South Africa savings, as well as the decreasing potential for the creation of employment. The assumption underlying inward industrialisation in South Africa is that production creates its own demand. This means that production creates income and income creates demand and expenditure. Therefore, more people should be involved in the production process and secondly, new domestic savings should be used to increase the employment capacity

instead of replacing labour in the production process. These principles could be significantly strengthened by a concerted effort of the government to encourage domestic savings through positive interest rates, relieving pressure on the exchange rate, and bringing down the average tax and inflation rates. The realisation of such a growth philosophy could lead to the creation of more employment and an increase in the demand for standard locally produced consumer and durable capital goods. This will result in a lower propensity to import, while also strengthening the Black urban middle class.

Thus, inward industrialisation can not only be seen as a strategy to solve the socio-economic crisis by using the urbanisation process to address these problems, but can also realise the right of each human being in South Africa to have the opportunity to develop his or her full potential. This can influence the future of South Africa by unlocking the creative energies of household and private enterprise.

8.3.1.3 Recommendation 3

Incorporating human rights concerns into the difficult work of international development planning

The time has come to shift the attention from just any sort of link to the *proper* way to link human rights and development, that is, away from the right to development. The following principles are suggested to guide alternative thinking about human rights and development:

- where sacrifices of human rights to economic development are required, trade-offs should be recognised for what they are, namely distasteful accommodations to harsh and unattractive economic or political realities. They are not essential or desirable parts of any human rights policy.
- trade-offs between human rights and economic development cannot be unidirectional. If alleged trade-offs are genuine adjustments of costs and benefits, and if development and human rights are to be in practice genuinely complementary, the economic growth

and development must sometimes give way to human rights considerations. Just as the human rights costs of certain development policies must sometimes be borne, progress on human rights may have economic and political costs which are worth accepting.

- no class of rights is always antagonistic to economic development, and no particular human right is always justifiably sacrificed to the demand of development. Experience shows that even civil and political rights are often quite compatible with economic development. Defensible trade-offs must rest on an assessment of socio-economic, political and human rights conditions in a particular place at a particular time. Categorical prescriptions for trade-offs are as unjustifiable as categorical priorities between classes of human rights.
- in planning for human rights and development, both will best be served by an approach based on true complementarity. The technical imperatives of rapid development must be constrained by human rights while development planning must be consciously directed toward increasing the enjoyment of human rights by incorporating a concern for the internal distribution of the fruits of development.
- respect for human rights will necessarily bring about human development. However, economical development has little integral and necessary connection to the realisation of human rights. Not only is the enjoyment of human rights largely a contingent feature of particular socio-economic and political systems, but the widespread enjoyment of civil, political, social, economic and cultural human rights threatens the interests of ruling classes in South Africa, as well as in much of the world. The contribution of economic development to the enjoyment of human rights must be demonstrated rather than assumed.

8.3.1.4 Recommendation 4

Racialistic tribalism will have to be limited further to accommodate the more moderate elements in the ANC in the planned alliance with the major part of the present opposition.

It was the corruption and incompetence which prevailed in some of the Bantustans that brought the De Klerk government to comply with the anti-federalism of the ANC at the Kempton Park negotiations. On the other hand, the policies of the RDP Base Document which are intended to alleviate inequalities in incomes and wealth are inspired by Marxist centralistic anti-federalistic ideology and populism, promoting English as the lingua franca of South Africa. Although the ANC had no coherent ideology and glaringly lacked an economic policy, the brains trust of the movement was its communist segment.

The apartheid which was achieved by Verwoerd's extremist ideology with its emphasis on ethnicity created a united opposition as its antithesis under the leadership of the ANC as the only available, unopposed and inspired political instrument for the future political new order of South Africa, which the leaders of the oppressed blacks envisaged. Apartheid remains the excuse of the ANC's own mistakes, long after it had taken over the government of South Africa. Reference to apartheid keeps the ANC-Communist-COSATU alliance interesting, making it possible to exaggerate its ideological intent and pretence that it has discovered the all-inclusive panacea for all the country's problems.

It is only to the extent that the ANC government gets scared of the dissatisfaction of the many poor blacks because of its many unfulfilled promises that it goes against the grain of its stated policy of non-racialism and exploits racialistic feelings to its own ends. It then plays on anti-white feelings which are being harboured by some of its actual and potential followers. Even Mr Thabo Mbeki has called on whites specifically to make additional financial sacrifices "*for the sake of stability*", whilst giving in to the demands of COSATU and not expecting similar sacrifices from its black elite. Peter Mokaba's slogan "*Kill the farmer, kill the Boer*", is an extreme instance of stirring up anti-white sentiments. This happens in spite of the non-tribal policies of the ANC and Mandela's efforts to reconcile all South Africans irrespective of race.

It is clear that the ANC leadership is not sufficiently aware of the fact that the majority of the white middle class are not responsible for the dire poverty of many black South Africans in a process in which the free market economy was bound to be the result of the organised selfishness of the European entrepreneur. It takes time to appreciate the fact that this organised selfishness

is the only economy which works, and indeed to the advantage of white and black in the long run. Adam Smith himself wrote of the invisible hand which amalgamated the selfish individual pursuit of wealth into a collective benefice.

Above all, the increasing global free market enterprise is culturally and racially neutral. It is of pragmatic account and not fundamentally dependent on ethics in the Buddhist, Christian, secular Greek or any other tribalistic setting, whatever positive influences might come from any ethics towards inspiring a work ethos. The present corruption which has become a prominent feature of the contemporary South Africa is not typical of African tribalism as such. It is only partly evident in tribal society, and has been aggravated by urbanisation.

The above-mentioned corruption and crime was prompted by the European section of the South African population, the unrealistic injustices of apartheid, ever more poverty and the communistically inspired violence of the Cold War and the ANC's freedom struggle. It was also the fruit of the exaggerated appropriation cult which was stimulated by Franz Fanon under the influence of the philosophy promoted by Sartre, Camus and Maurice Merleau Ponty. For nobody went further than Fanon with his tremendous passion and superficial sociological jargon, instilling into the minds of the Third World leaders that the First World owed them a never ending debt for past injuries and exploitation.

Until the first quarter of the twentieth century few parts of sub-Saharan Africa were overpopulated and the relevant peasants were successful hunters, herdsman and subsistence farmers. This basic efficiency of the African peasants was impaired by uncontrolled population growth, climatic factors, poor quality of soil and a variety of economic realities. At the present stage, however, the rural-urban imbalance has attained frightening proportions.

Political independence which was recently achieved on a one man one vote basis in sub-Saharan Africa did not improve on the misplanning, mismanagement and misadvice of the colonial powers. At a later stage, under dollar imperialism the sub-Saharan African economies were blackmailed to implement structural adjustment programmes without taking account of Africa's own mentality, resources, environment, needs, tradition and culture. Agricultural development was still being

neglected, overlooking the largest and most efficient group, namely the small scale farmers. It was only realised by degrees that standards have to be found for the distribution of rights-related goods and services which can actually be met by the world's available resources without harming production incentives.

Participatory development in this sense envisages a development system which is run from the bottom upwards by citizens who are motivated by their own needs and designs to work under their own control towards goals in which they are specifically interested. Betting on the peasant as the professional is the practical long-term strategy for a more just world order. This has been illustrated abundantly in the case of the South African peasants, who look very well after themselves, depending on controlled population growth, climatic factors, quality of soil and the actions of the white population.

The socio-economic integration of white and black was a slow process until it was speeded up by industrialisation which decisively brought the blacks into the universal free-market system which cuts across cultural and social barriers to an overwhelming extent. Under these circumstances, which were most emphatic on the Witwatersrand, entrepreneurs were bound to realise that it was in their financial interest in an expanding market to train black people for a variety of jobs and to oppose policies which aspired to reserve certain jobs exclusively for whites. This linked up with world opinion at the United Nations and elsewhere, sealing the fate of South Africa as an integrated country in the industrialised free-market context of the First World. Accordingly this country was taken out of tribal sub-Saharan Africa socio-economically once and for all, away from Senghor's concept of "*nègritude*", a community of spirits in the context of black consciousness as a primary force of Africa which resists any melting pot policy, "*keeping the fervour of the black soul alive*".

8.3.1.5 Recommendation 5

Maximising governments' effectiveness by supporting organisations on local level to participate in the democratic decenstralisation process to promote standards of

management and administration, to provide a framework of control and to develop central/local relations.

Active participation as a basic human right is a precondition for social and economic development, and an essential component of the right to development. Since the individual should be the principal beneficiary of societal development, the rationale for participation is that the individual should have the opportunity to participate in the national and local development decision-making process and in the implementation and monitoring of such plans. The United Nations Economic and Social Council emphasised government's role in consciously promoting effective participation through active and meaningful involvement of the masses of people in determining societal goals and the allocation of resources to achieve them. Such a promotion has to take place with the full recognition of political, social, economical and cultural rights. Through innovative measures and strategies, structural and institutional changes, reform and development should take place and involve all segments of society.

Democratic decentralisation as a strategy focuses on broader segments of society and implies devolution of power, which implies freedom of choice to act, rather than on deconcentration of national government functions or delegation of national functions to agencies or authorities. Devolution or the transfer of functions and decision-making power to autonomous local authorities will result in the development of a diverse pattern of participatory decisions across a national/regional/community canvas. The consequence of local choices is likely to be that a variety of solutions are eventually adopted. However, the way national politicians can be assured that a system of devolution can be supported in a rapidly developing country such as South Africa without risking macroeconomic problems, or a breakdown in the pattern of community government, or in the provision of essential services are through certain types of organisations which will support local and central governments' democratic activities.

These organisations can support local and central government through the

- promotion of standards in management and administration

- provision of a framework of control
- development of central and local government relations.

These institutions (organisations) are categorised by the following groupings:

organisations which

- coordinate new development in the field of local government and provide the opportunity for representation, consultation and discussion on key issues (group 1)
- scrutinise the functions of local government and build public confidence in it (group 2)
- develop and promote standards of public management and administration (group 3).

These organisations can operate at local, national and international level, and have an integral role to play in the right to sustainable development and effective democracy based on the acknowledgement of the rights of all people of South Africa.

Suggested guidelines to broadly categorise these institutions according to their role and function, their structure, the scope of their activities and their lines of accountability are provided below in tabulated form (see Tabel 8.1, pp 187-189). The material briefly presented here is based on background research into relevant organisations in the international First World local government sphere and gives some indication of the most likely forms and arrangements which can effectively be applied in South Africa:

Tabel 8.1 Organisations which support local government**Group 1: Coordination, consultation and representation**

	Role	Structure	Accountability
Joint consultative committee	To provide a forum for local and central government officials to meet in equal proportions to discuss issues of mutual importance.	Comprises representatives of central and local government in planning meetings, subdivided into service working groups for individual sectors.	Dual accountability to local authority association and lead government department concerned with local government.
Lead central government department	To take the lead in and service all other government machinery in the field of local government.		Accountable to parliament through the political head of the department.
Local authority association	To coordinate links with government departments. To act as spokesperson on behalf of local authorities at a national/regional level. To support its members through mutual advice and assistance. To conduct independent research on local government issues of national importance.	Organised into sectoral committees (eg housing, environment, socio-economic development, et cetera). Comprises representatives of local authorities elected by local authority branches.	Accountable to member of local authorities.

Group 2: Scrutiny of local government functioning

	Role	Structure	Accountability
Parliamentary select committee	To examine government ministers and civil servants on the operation of local government and the impact of central government's policies on it. Empowered to summon witnesses to give evidence and to produce documents on any aspect of the functioning of local government.	Constituted on a party basis in approximate proportion to party strength in parliament. The committees choose their own chairperson.	Accountability to the public via parliament. Any member of the public or parliament is allowed to be present while evidence is given.
Independent audit commission	To monitor and compare local authority performance through national and local studies and through the specification of performance indicators on which local authorities are required to publish information. To advise local governments upon probity, stewardship and cost-effectiveness to local authorities. To appoint auditors to local authorities.	Typically organised sectoral and functional lines divided into eg health, education, audit support, purchasing. The in-house audit service is managed by its own management board, maintaining arms-length relationship with the commission.	Accountable to the political heads of key government departments who appoint the commission's directors.
Independent boundary commission	To review the administrative and electoral boundaries of local government and to examine local government structures.	Typically divided into regional teams to review boundaries and structures within these regions.	Accountable to the political head of the lead central government department for local government.
Independent ombudsman	To investigate on behalf of members of the public, complaints about the performance of individual local authorities in administrative and quasi-judicial matters. In some cases, ombudsmen also provide guidance on " <i>best administrative practice</i> " to local authorities.	Ombudsmen are generally appointed to regional areas, and are responsible for local authorities within the defined geographical remit.	Ombudsmen are accountable to the political head of the lead central government department responsible for local government.
Independent inspectorate	To monitor performance against national policies and standards for specific individual services, usually those which have national characteristics.	Organised on a sectoral basis so that each individual service is inspected by a specialised body. The inspectorates operate as independent bodies.	Accountable to the central government departments responsible for the service under inspection.

Group 3: Development and promotion of standards of public management and administration

	Role	Structure	Accountability
National training institution	To train and develop high level civil servants, deputies and local officials in the management and operation of national and local government.	Typically an executive agency operating at arms-length from the parent government department.	Accountable to the responsible central government department.
Local government management board	This is the employer's organisation which advises local authorities on staffing issues such as staffing structures, recruitment, employment law, training and personnel transfers. It also lead pay and conditions negotiations for groups of local government staff.	Typically structured on a regional basis, with regional offices serving local authorities within their regions.	Accountable to local authority associations.
Local government international bureau	To meet with overseas counterparts to exchange information, advice and ideas on the implementation and development of new initiatives. To provide information on local government overseas and First World legislation and funding. To lobby on behalf of the local authority associations in First World parliaments.	Typically divided into departments providing advisory and information services on First World legislation and funding, departments dealing with the development of international friendships and information exchanges, and departments dealing with issues relating to local government outside the First World countries.	Accountable to local authority associations.

With these guidelines in mind, the administrators should remain confident that the process of democratic desentralisation, which is so important for reform opportunities for individuals in local communities, is capable of implementation and can in the longer term be expected to yield benefits

which so many people hope and expect of it.

8.4 PROPOSED FIELDS OF STUDY

The following topics are proposed for further fields of study:

- the relationship between development policies and human rights observance in different countries, circumstances and periods
- the need for a free and independent judiciary and adequate legal services as an indispensable part of the development process
- the drawing up of a draft model code for legislation relating to social, economic, cultural and political development to distribute to parlement and courts
- the impact of selective activities of financial institutions, transnational corporations, banks and money-lenders against the enjoyment of human rights.

8.5 SYNTHESIS

There seems to be wide agreement that the right to development be considered a comprehensive right, which includes the material, as well as the moral and intellectual dimensions for individuals, societies and the international community. Similarly, notwithstanding different viewpoints on whether the right to development should be considered a synthesis of all human rights proclaimed in the Universal Declaration of 1948 and the Covenants or as a new human right, there seem to be a consensus that it has both quantative and qualitative aspects, and that the development process should be seen as a dynamic and continuous one, encompassing the realisation of all human rights and designed to benefit all members of society without discrimination. The right to development is therefore an inalienable human right by virtue of which every human being and all persons are entitled to participate in, contribute to, and enjoy social, economic and political

development. Development to be democratic and enhance the human rights of individuals, must be people-centred and must be shaped in such a way so as to avoid excessive centralisation of power, which has generally been the norm in Africa. Participation in the development process in South Africa should be supportive of the decentralisation of the development process, the active participation of the people and their organisations in the formulation of development strategies. This places a concomitant duty on the present government of South Africa to ensure for each individual the full and free right of participation and benefit from the development process. Further socio-economic reform programmes, open debates and consensus-building processes should contribute to the betterment and well-being of all South Africans. This will empower the people to participate effectively in the development of their own socio-economic and political future and consequently maximise their own degree of freedom and dignity.

APPENDIX 1**DIVERSE FIELDS OF IMPLEMENTATION OF THE RECONSTRUCTION AND DEVELOPMENT PROGRAMME (RDP)**

The RDP Monitor is a digest of some 304 publications with the endeavour to give as full, objective and informative an account of the RDP as possible. It is the most satisfactory wide-ranging summary and analysis of draft discussion documents, draft Green Papers, Green Papers, draft white Papers, and related statistical data which have a bearing on the RDP.

The account of the diverse fields of the RDP shall be kept as brief as possible, covering tourism, black business, national public works, local government, the provision of housing, the provision of water, the supply of electricity, Telkom, transport, land reform, social welfare, health, education and literacy, science and technology.

Tourism

As a vital source of income to the country, bringing in a lot of foreign exchange and contributing towards employment creation, tourism has been one of the most successful sectors of the South African economy, improving at an astonishing rate. But demand outpaces the existing infrastructure (Lewis 1996b:5). The main thrust was to replace the structure that excluded blacks from the main stream of the economy.

Black business

It was realised increasingly that the privatisation of parastatals, coupled with the deliberate involvement of black business could facilitate the speedy entry of blacks into the main stream of the economy, leading to the involvement of young entrepreneurs (Mphaki 1994:17). Among others, Pretoria Portland Cement investigated opportunities for black business in the RDP and examined ways of encouraging small black business involvement in construction. In the middle of 1996, after years of disunity, a Black Business Council was formed, comprising, amongst

others, National African Federated Chamber of Commerce and Industry (NAFCOC), Foundation of African Business and Consumer Services (FABCOS), the Black Management Forum, Black Lawyer's Association and the Black Accountants of South Africa (Lewis 1996e:3).

It was realised by September 1994 that small business development will have to be helped without creating dependence. It would have to be encouraged towards independence alongside strict accountability, promoted within communities without stifling individualism and kept in balance with due consideration of the risks which banks can realistically be expected to take. Even earlier the micro, small and medium category of enterprises had found spokesmen in the employees of development organisations, in the state or NGO's.

It became important for the Commission of Enquiry on taxation to assess whether a lower rate of taxation would stimulate growth which would create new fields of employment, ever more opportunities. The Government of National Unity, of which the National Party was a part until 1996, allocated almost seven hundred thousand rand to regional industrial development as well as the Small Business Development Corporation (SBDC) in 1994 (Malunga 1994:12). In this regard the SA Trade Promotion and Export Company is intended to provide small business with access to the manufacturing, technological and financial know-how. Similarly the National Informal Steel Designers Association planned to supply window frames for the RDP's housing programme.

By the middle of 1996 the Labour Market Commission had recommended that a social accord be reached between government, labour and business, to negotiate wage and price restraints in the interest of greater wage flexibility balanced by social redress. It was recommended that companies should publish their progress on reaching equity and the extent to which affirmative action had already been achieved in their annual reports.

This was followed by the Green Paper which poses a combination of incentives and voluntary co-operation towards affirmative action. With the Directorate of Equal Opportunities at the centre, the various relevant monitoring organisations are required to demand that bigger companies should submit equity plans to the Minister of Labour for his "*approval*", following negotiations

with employees after internal audits, with voluntary targets and timetables set. In the hope to achieve voluntary compliance a pragmatic compromise is intended. But

companies, large or small, who do not make progress towards racial equity will be precluded from government contracts and from government tax and training incentives (Lewis 1996e:3).

National public works

Speaking at a National Economic Forum (NEF) conference Japie Jacobs according to Lewis (1994a:14) announced that special projects were in the pipeline for a national public works programme that could be implemented immediately with an allocation from the R2,5 billion Reconstruction and Development Fund in the attempt to increase the labour component, cutting across different departments. It soon became clear however that although a total of 450 projects had been approved, representing state expenditure of R222 million, less than R8 million had been disbursed, in spite of prospects for a vibrant and growing economy.

The Public Works Minister, Jeff Radebe, announced an action by which at least 2,5 million jobs would be created over ten years as part of the RDP (Lewis 1994a:14). In addition to this Ben Turok of the PWV urged business to create a small industrial belt around every township in addition to small and medium enterprises between Johannesburg and the townships in order to minimise the distance that the black labourers had to travel daily. For the difficulties attached to the promotion of the required manufacturing base, to expand the economy, success depended all the more on partnership between the state, the private sector and the community (Gebhardt 1994:19).

The Johannesburg Stock Exchange (JSE) soon created a new sector on its main board allowing financial institutions to list vehicles which are intended to bolster black empowerment and the reconstruction and development process, focussing on raising "*capital to be lent to emerging black entrepreneurs or groups involved in the reconstruction of the country*" (Lewis 1994a:14-15). Prof Wiseman L Nkuhlu and Archibald S Nkonyeni were soon appointed members of the JSE Committee, as non-stockholding members and the R2 million threshold requirement has been lowered "*substantially*" (Galli 1994:1).

The Public Works Department (PWD) is in a key position with respect to property, construction and infrastructure. Its Green Paper opens the door wider to participation and ownership by the private sector and by civil society in general. Its key areas according to Lewis (1996i:3-4) are the following:

- the state's responsibility for 50-75 percent of all construction work, 15-25 percent of new non-residential buildings and 10-15 percent of new residential buildings in South Africa
- the RDP, macroeconomic strategy of the GEAR and the White Paper on the transformation of the public service
- the constraints of meeting the government's social as well as economic objectives
- the development of Small, Medium and Micro enterprises (SMMEs) and the encouragement of NGOs and community structures to manage delivery and provide training
- the alleviation of poverty, the creation of skills, the development of infrastructure, the promotion of labour intensive systems, the protection of women, youth and the disabled, the provision of public services to underdeveloped areas
- the provision of office and institutional accommodation for other departments involved in infrastructure, such as municipal housing, water, electricity, telecommunications, roads and transport
- the setting of national policy and norms whilst increasingly devolving decision-making to provincial and local authority levels.

Local government

It became increasingly clear that the RDP will have to be implemented by local authorities as the instrument of government which is closest to its beneficiaries. Being closest to the communities which they serve the local authorities will be the "*delivery mechanism*" for the RDP (Woodgate 1994:2) must create its own RDP, whilst the Civil Service maintains the central role, which calls for special efficiency. In this regard the local government elections which were due to be held as soon as possible were regarded to be of vital importance in the realisation that the RDP cannot work if effective local authorities are not in place to implement it. Furthermore,

it also cannot work if the people it serves who can afford to pay, or to pay something, do not do so because they regard local government as illegitimate (Lewis 1995a:3).

There is a lot of truth in Jay Naidoo's claim that local government was the arms and legs of the RDP. It was consequently very disappointing that the set dates for the local elections were delayed more than once, which did not reduce the importance of the Municipal Infrastructure Programme (MIP). In 1996 R751 million was set aside for the MIP and assistance to relevant sector co-financing deals, whilst the third relaunch of the Masakhane campaign towards encouraging people to pay for their own arrear local service charges of some R5,6 billion. The results of the October census were awaited with keen interest in the expectation that they would "*give the government an accurate statistical base for the first time*" (Lewis 1996h:2).

At the beginning of 1997 a two-year plan of action to revitalise the Masakhane campaign to end rent and service boycotts was due to start, focusing on local level leaders, with particular emphasis on devising participatory "*people's*" budgets in all local structures. It is expected that R170 billion will be needed for the implementation of the municipal infrastructure programme over the next five years. Furthermore, the Infrastructure Finance Corporation hopes to raise R1,2 billion in 1997 for loans to local authorities (Lewis 1997a:2).

Whilst delivery in the RDP takes place at the local level the link of local government with the provinces is of vital importance. For the provinces are the main agents of delivery, absorbing almost two-thirds of the national budget and employing the majority of the country's civil servants. The richer provinces (Free State, Gauteng, Western Cape) however face shrinking budgets to the extent that money is reallocated to the poorer provinces of which some lack the skills and general capacity to make use of the funds which they receive from the central government. Drudgery is caused by the delay of the long-awaited White Paper on local government, which makes it more difficult to speed up the visible delivery services while restraining costs (Lewis 1996g:5).

The provision of housing

It is not surprising that an able man like Joe Slovo was entrusted with the provision of housing

for as many people as possible as soon as possible. He set his sights very high, aiming at providing 1 million new houses by 1999 (Chalmers 1994:1), which meant "*setting a national framework for the building of houses*" in co-operation with business and the community (Chalmers 1994:1). It required the provision of a special role for the central government, for the regions, for the private sector, for community participation, in the attempt to provide formal housing for all (Latsky 1994:7). But there were early negative expectations, for among other things, given South Africa's relatively high population growth rate, even the target of 1 million houses by 2000 will only cope with new entrants into the housing market (240 000 per annum) and could not begin to eliminate the existing backlog until after 1999 (Chalmers 1994:1).

When Slovo died the achievements of his pragmatic White Paper on Housing was evident. It was committed to the securing of the consent of provincial leaders, rather than to full-scale formal housing provision. It gave open acknowledgement of the centrality of economic growth and of the role of the private sector and NGOs. It raised the target for the share of housing in the budget from 1 percent to, ultimately 5 percent. It took note of the interests of hostel-dwellers, squatters and rural people. It accepted formal commitment that government would withhold mortgage indemnity cover for areas with poor repayment records as part of the attempt to restore a culture for bonds, rents and services. It combined an awareness of fiscal and economic realities with a sensitivity to the housing needs of people (Lewis 1995a:2-3).

The provision of water

The energetic Minister of Water Affairs, Kader Asmal, soon had considerable water supply projects going at great cost, providing communal water taps, but also drawing user charges into the process. The Department of Water Affairs and Forestry by August 1996 had cleared 33 000 hectares of alien vegetation along water courses and created spin-off jobs in charcoal production, crafts and furniture work, with important benefits also for conservation and indigenous plants. In addition to employing many people, over half of whom are women, this department has provided improved water run-off on a grand scale, at a much lower cost than the building of dams (Lewis 1996f:6).

The supply of electricity

In spite of non-payment threats which hit Escom hard, increasingly endangering its ability to meet RDP goals, raise money abroad, or attract strategic equity partners, this supply commission has been one of the RDP's star performers, which by July 1996 succeeded in connecting 1,5 million homes since 1991 (Lewis 1996e:6). Escom is investigating the possibility of writing off debt in return for part-payment and a guarantee of future payment, but the fact remains that if people who receive service do not pay for them, those who are less fortunate will not be supplied.

Telkom

There is such a wide and primary demand for postal and telecommunications services that it became increasingly clear by July 1994 that Telkom, of all the government owned companies, *"has always been the most desirable state asset to have a share in, from the investor point of view"* (Lewis 1996g:4). But without an injection of capital and technology Telkom could not hope to become the flagship which it is required to be within the RDP strategy. Small wonder that foreign companies like France Telecom, Deutsche Telekom, British Telecom, Italy's Stet Spa, the USA's Bell Atlantic and Southwestern Bell, as well as Dutch and Swedish companies revealed that they were interested to consider investing in the South African company.

Minister Naidoo believed that a five to seven year period of exclusivity for Telkom is necessary to accomplish the RDP goals of universal service. It means that the partial sale of Telkom would be necessary to provide the required technology, transfer of skills and management training, which even COSATU finds acceptable, as long as the state remains the controlling share holder (Lewis 1996g:4).

The Telkom White Paper, which was published early in 1996, envisages, in essence, a transition of seven years, retaining its monopoly for the first four years. Beyond this the Minister intended a network of multi-purpose communications services to give everyone access to telephones and to the Internet, intending to pay a large part of this from the proceeds of partial privatisation. But the view was expressed that Telkom Malaysia, Deutsche Telekom and France Telecom were

sufficiently interested and more privatisation would produce quicker results as was proven in the case of Chile (Lewis 1997a:3).

Transport

Minister Maharaj has a pragmatic approach to rail and road transport, but he is saddled with the badly disciplined mini-bus industry which requires sterner attitudes. The White Paper on transport encourages competition in the transport business. Opposition from organised labour has been overcome, allowing private sector involvement to achieve RDP goals. Success has been achieved with cross-departmental corridor projects, linking industrial, agricultural, tourism and transport development with rural upgrading as in the case of the Maputo Corridor, upgrading the Witbank-Maputo road. Other similar corridors are envisaged, like links between Northwest Province and the Maputo corridor, as well as between Northwest's and Botswana's Trans-Kalahari highway, the Richards Bay to Maputo corridor, via Swaziland, an Eastern Cape corridor, and a west coast corridor in the Western Cape.

Beyond this other corridors as well as several road contracts for toll roads are in sight, like linking up Johannesburg and Durban. Bureaucracies are being reduced and replaced by establishing autonomous road, air safety and shipping safety agencies or councils. Subsidy controls are being devolved to the provinces. A fully integrated transport and information system is being set up for South Africa. In addition the Department of Transport is investigating pilot projects for the role of the private sector in commuter rail services (Lewis 1996g:4-5).

Land reform

The first legislation which was intended to overcome the effects of grand apartheid was passed in November 1994. This restitution of Land Bill meant that South Africans who were forcibly removed from their land since 1913 could lodge claims with the commission concerned for the return of the land. Guidelines and considerable financial support towards this were provided by Minister Hanekom (Lewis 1994d:5). It is not surprising that the envisaged Land Claims Court and other measures in this context have stirred up established farmers in no small measure. But by

February the Green Paper on Land Policy seemed to be a reasonably pragmatic compromise between the rights of property owners and the demands of the landless (Lewis 1996b:1).

By October 1996 the Strauss Commission envisaged the Land Bank and the Post Office to play a key role in improving access to credit facilities in rural areas. It means that whilst the Land Bank is intended to provide wholesale finance at commercial banking rates the Post Office is to extend its banking services to agencies in rural areas (Lewis 1996h:1).

Social welfare

The White Paper on Welfare towards July 1995 reveals that some 7 percent of the social aid from which South Africans receive benefits at least 60 percent consists of state pensions, leaving much less for social workers, abused women and children, old age homes and other purposes. Fraud robs the state pension system of a considerable amount of money. The whites who have been favoured in the past are the ones who will have to make sacrifices in terms of the RDP. In addition, an even heavier burden will be placed upon the national budget in future as the population of the country ages. By October 1996 the pendulum of the RDP was beginning to swing back to poverty alleviation as well as growth, raising the profile of social goals, away from the social welfare systems (Lewis 1996i:8).

Science and technology

The White Paper on Science and Technology, which was published towards the end of 1996, is an action plan towards improving South Africa's educational standards in the fields of science and mathematics. This concern for science and technology is also in evidence in the Civil Engineering Industry Training Scheme, which is intended to fit in with the RDP (Lewis 1996i:2). Economically successful societies, particularly in the Far East, have been found to have derived their strength, not so much from natural resources as from the development of human resources, which includes investment in research. Such awareness led to the funding of research in South Africa, which according to the relevant White Paper would be coordinated by a National Research Foundation (Lewis 1996i:5).

Health and education

Health and education are delicate themes which we shall return to when we deal with human rights in sufficient detail in the last quarter of the present chapter in the realisation that much more than affordability is at stake.

APPENDIX 2**INFORMATION ON GOVERNMENT'S BUDGET (1997)****The present minister of finance, Mr Trevor Manuel's first budget****The general impact of the 1997 budget**

After the decision of the National Party to leave the Government of National Unity in the middle of 1996 and Mr de Klerk's consequent resignation as Vice-President, Mr Thabo Mbeki remained the only Vice-President of the New South Africa. Furthermore the ANC-Cosatu-Communist Alliance had the only say in the appointment of a new Minister of Finance. Whilst Mr Derek Keys and Mr Chris Liebenberg, the first two Ministers of Finance of the New South Africa, were experienced and well known business men, who had the confidence of the business world in this country and abroad, the President's new appointee, Mr Trevor Manuel, who had no business background, at first did not inspire confidence. He had been Minister of Trade and Industry previously and seemed to have been reasonably successful in this capacity, with the help of very able advisors but however much he tried to show confidence in the economy of the country he was found to be unconvincing, particularly because the rand had dropped to disquieting low levels. It was under these circumstances that he delivered his first budget speech in March 1997 and made an unexpected positive impression on all concerned in the free market economy in this country and abroad. *"Die rand en die lang koerse het weliswaar al hul eerste reaksies getoon terwyl hy besig was om te praat"* (Schoombee 1997a:9).

Manuel succeeded in combining redistribution with the required fiscal discipline. Aiming at alleviating poverty he nevertheless tried to remain within a deficit of 4 percent, "maintaining a balance between economic and political correctness" in the minister's words. Having loaded the dice against the rich and middle income group in favour of the poor he did not fail in maintaining the discipline which the markets demand. Nevertheless, a slower growth rate is expected to ensue, accompanied by inflation, thus creating few more jobs outside agriculture and mining. Whilst the Gross National Product (GNP) will be boosted to some extent as a result of more exports, partly stimulated by a weaker rand and lower local demand Manuel will not be able to escape the

pressure of the market, according to Pieter Schoombee (1997a:9). The ANC government is bound to be judged by the standards which it has set itself. Having had the courage to fully accept and promote the growth, employment and redistribution strategy, going against the outdated trade union expectations of COSATU, Mr Manuel faces a formidable task. It will not be easy to limit state expenditure to 6,1 percent (and 5,3 percent before paying interest on public debt) in the new financial year, with inflation already close to 10 percent. After all, the affordability of what the ANC demands for the poor remains a serious challenge, particularly on account of the contradictions in the ANC-COSATU-Communist Alliance and the undermining results of overkeen affirmative actions which have crippled the "*inefficient and incompetent*" civil service without which the lofty plans of the RDP are bound to be a pipe dream (Esterhuyse 1997:19). The retirement of able and experienced civil servants simply because they are white and for the purpose of appointing inexperienced successors primarily because they are black does not inspire confidence in the economy (Mittner 1997a:14).

Lip service to the RDP and GEAR

After a year of comparative silence about the RDP in government circles, partly as a result of the shift of responsibilities, Mr Manuel, the Minister of Finance, proved to be aware of the importance of the RDP in his 1997 budget. He gave the assurance that "*The support provided by the Reconstruction and Development Programme (RDP) remains firm*" clearly "*to ensure that our hard-won democracy is translated into tangible and significant improvements in the lives of all South Africans*" (Manuel 1997:3). It is a matter of "*poverty relief*", investing in people "*through a significant reprioritisation of expenditure in favour of social development*". It includes "*the freeing of exchange controls*", the provision of "*tax relief for those on incomes up to R60 000*" (Manuel 1997:3), improving "*the competitiveness of our financial markets by reducing the marketable securities tax*", by ensuring "*the stability and integrity of macroeconomic policy by delivering on (the government's) commitment to a 4 percent deficit*" (Manuel 1997:3).

Manuel (1997:3) has no doubt that a better life for all depends on the success of the RDP in conjunction with successful implementation of the GEAR. The two are co-implicative to the extent that it means the elimination of poverty in a rapidly growing economy. It strictly implies

policies striving towards "*the provision of basic needs, the development of human resources, and a growing economy capable of creating sustainable jobs*". It is a matter of the country's "*ability to generate (the required) developmental and redistributive thrust within a sound fiscal and macroeconomic framework*" (Manuel 1997:3).

It is admitted that the RDP will have to be affordable in the context of a rapidly globalising and highly competitive international economic environment. It is realised that this requires significant change in the path of economic growth and development but not to the extent that the money for this purpose will have to come from the rich which Manuel decided to overtax, discouraging vital incentives towards the highly needed investments. Whatever political motives he might have had to remain politically popular with his supporters in this regard he admits in his words about words that

the challenge to the government is to align economic policy in a way that will ensure an acceleration of economic growth and a substantial improvement in job creation by the turn of the century (Manuel 1997:3).

Without providing the relevant details of how the ANC would concretely achieve the required growth in the economy without getting rid of the clumsy shackles of the trade unionism of COSATU, Manuel maintains that GEAR will make miracles possible. Manuel (1997:3) speaks of an economic reform programme directed towards the following:

- a competitive fast growing economy which creates sufficient jobs for all jobseekers
- a redistribution of income and opportunities in favour of the poor
- a society capable of ensuring that sound health, education and other services are available to all
- an environment in which homes are safe and places of work are productive.

This is in stark contrast with the realities of the present South Africa.

It is one thing to admit that "*investment is important*", that "*sustainable job creation requires a steady stream of capital investment*", that it is necessary "*to compete to attract savings from*

elsewhere in the world" and that it is imperative to "*take stock of the disciplines of the global economy*". But the fact remains that South Africa is in competition with very attractive and probably more realistic investment prospects in other parts of the world. Nobody owes this country anything beyond the realities of favourable investment taking note of "*the array of information from which to make investment decisions*" (Manuel 1997:4). It is a free for all within the context of quality, transparency and availability of information which Mr Manuel wisely takes note of in the assurance that South Africa now subscribes to the Standard Data Dissemination Service of the International Monetary Fund.

Positive signs in the 1997 budget towards the RDP aspiration for "*a better life for all*"

It must be born in mind that provincial legislatures now draw up their own budgets to divide up funds which are transferred to them by the central government and the R4,4 billion which are specifically allocated for existing RDP projects are not included in the budget figures. But this does not detract from the fact that the 1997-1998 budget reveals a strong commitment to social expenditure, allocating more funds to housing, education and social welfare. The Department of Housing spent almost 75 percent of its budget of R3,3 billion in the 1996-1997 financial year, which proves that the government's low cost housing programme has got into its stride (Muller 1997:16). Mr Manuel has gone further by allocating R4 milliard to housing in the 1997-1998 financial year, of which R1,8 billion is a roll-over from 1996, plus R350 million for housing-related infrastructure, with the aim of building 190 000 houses this year within the subsidy bond sector (Manuel 1997:8).

Allocation does not necessarily mean expenditure, but the fact remains that the money which is due to be spent on the RDP has been incorporated into the budgets of departments, which cover almost every aspect of the budget. More specifically R4,4 billion has been spent on free health care, the primary school nutrition programme, the community water supply and sanitation programme, bulk infrastructure for housing, land redistribution, urban renewal, the Maputo corridor and other special development initiatives, peace initiatives in KwaZulu-Natal and the Municipal Infrastructure Programme.

The fact remains that *the two clearest beneficiaries as regards the RDP within the budget are education and housing*" (Lewis 1997b:3). The R5,6 billion spent on education goes mostly to universities and technicons. Beyond this overall education now accounts for 21 percent of government expenditure, namely R40 billion or 6,5 percent of GDP which is high by international standards (Lewis 1997b:3). After having set aside R39 billion for interest on government debt, R40 billion is spent on education, compared to R20 billion on the health services, R18 billion on social security and welfare (Manuel 1997:10).

Criticism from opposition parties include doubts about the lack of a detailed assessment of what has happened to RDP funds allocated to date and a lack of monitoring mechanisms over RDP projects generally, since the closure of the RDP office in March 1996 when Mr Naidoo got a different portfolio.

Departments have cross-cutting responsibilities, local authorities have their own additional sources of revenue, anticipated foreign aid is factored in (for instance student grants), some responsibilities are exercised by the provinces (eg. Health), others by central government (eg. Defence). Some decreases reflect the savings of departments, rather than actual cuts (eg. Land Affairs) or transfers of responsibilities (eg. Health) (Lewis 1997b:3).

Given the GEAR strategy's ambitious job-creating targets and the discouraging phenomenon of *"jobless growth"*, which makes the profitability of large companies dependent on the employment of ever less workers, the government's public works programme will assume greater importance in 1997 if it aims at selling its economic policies to its supporters (Lewis 1997b:1). Now that there is more clarity about the properties owned by the state the Public Works Department has plans to become more economically viable through privatisation and efficiency and seems poised to join the ranks of the front runners in the RDP (Lewis 1997b:4). An encouraging fact is the singular success of Escom and the consequent intention to restructure the electricity industry of the country as part of the RDP (Van der Kooy 1997:16).

The Government's macroeconomic strategy which aims to strengthen growth to the year 2000 is in keeping with its commitment to sound fiscal and financial policies as a primary factor in the implementation of the RDP. It intends a broadening of employment and the redistribution of economic opportunities, as set out in a macroeconomic framework which was published by the

Minister of Finance in June 1996 and called Growth, Employment and Redistribution (GEAR), as we explained previously. This aims at the following:

- a competitive fast growing economy which creates sufficient jobs for all workseekers
- a redistribution of income and opportunities in favour of the poor
- a society on which sound health, education and other services are available to all
- an environment in which homes are secure and places of work are productive.

(SA Department of Finance 1997a:2).

The 1997 Budget has profound implications for growth, employment and redistribution. There can be no doubt that expenditure on social needs promotes job creation, which all depends on the competitiveness of the entire South African economy. Consequently bureaucracy and local level capacity, such as labour intensiveness, black economic empowerment and small business development are bound to be of decisive importance. For the key problem for the RDP is not commitment but delivery (Lewis 1997b:1), which makes it of imperative importance that a study of poverty and inequality has been initiated under the auspices of the Office of the Deputy President, with assistance from both the World Bank and the United Nations Development Programme (SA Department of Finance 1997a:1. 6). This is due to be published by the end of 1997.

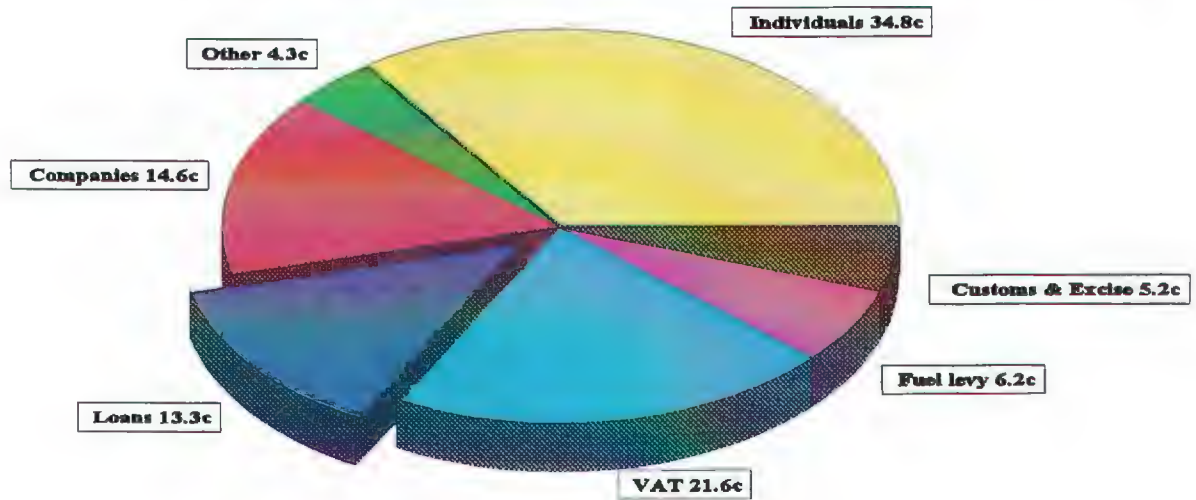
As the RDP Fund is now used only for channelling international financial assistance to earmarked projects and programmes, RDP project allocations are now provided for through the normal budgetary process (SA Department of Finance 1997a:8. 19), whilst the RDP as such concentrates on the regulatory functions (Lewis 1997b:4).

In view of the scope for advantageous cooperative arrangements with international donors and multilateral development agencies, the Government is "*exploring ways of streamlining the interaction between international partners and South African government entities and non-governmental organisations*" (SA Department of Finance 1997a:8. 21). The 1996/97 Budget includes several RDP projects for which foreign donor funding has been obtained. These come to R138,730 million in total and are listed below in table 1.

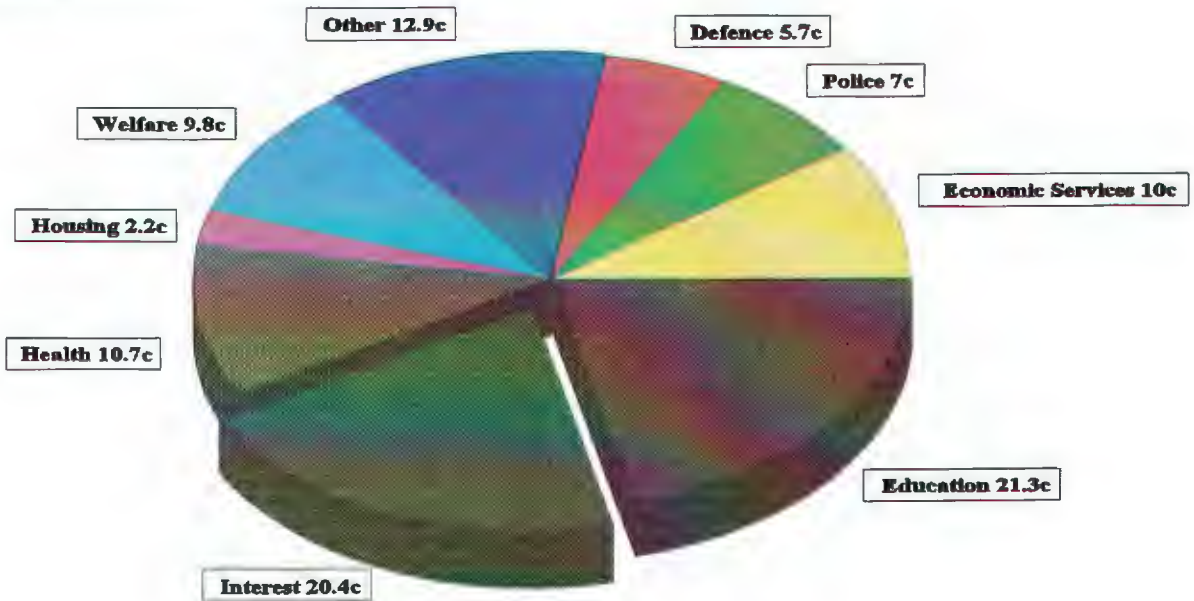
Table 1: Allocation of RDP donor funding per vote for 1996/1997

National budget vote	1996/1997 R 000
National Departments	138 730
Executive Deputy President	
Poverty report	701
Parliament	
Constitutional Assembly	29 654
Agriculture	
Boskop training project	2 000
Finance	
Community radio broadcasting	3 139
Health	
Target health care	8 404
Prevention of blindness	2 654
Justice	
Transformation of justice	5 677
Truth and Reconciliation Commission	2 535
Land Affairs	
Land reforms	34 028
Mineral and Energy Affairs	
Electrification of schools	14 999
State Expenditure	
Procurement reform	1 068
Water Affairs & Forestry	
Water law review project	3 163
Rural community water programme	5 993
Community forestry project	4 497
Welfare	
Youth at risk and secure care	20 218

Figure 1: Where does government's income come from for 1997/1998?



How does government spend its money



BUDGET TOTALS	1996/97	1997/98
TOTAL EXPENDITURE	176 070,1	186 746,8
TOTAL REVENUE	145 808,3	161 976,0
BUDGET DEFICIT	30 261,8	24 770,8

FINANCED BY:	1996/97	1997/98
DOMESTIC LOANS	20 644,0	19 073,7
FOREIGN LOANS	1 948,2	2 549,9
OTHER REVENUE	6 737,5	3 147,2

(S.A. Department of Finance 1997b:4)

APPENDIX 3

THE AFRICAN NATIONAL CONGRESS' QUANDARY

Much more than Mandela's impatience with First World expectations and attitudes is required to subdue the dissatisfaction which the ANC's inability to deliver on its promises has stirred up in many poor people. Destabilising inequality remains where 10 percent of households receive fully 50 percent of national income, while the bottom 20 percent capture a mere 1,5 percent (Adam, Slabbert & Moodley 1997:205). However, Thabo Mbeki still believes that "*there is an enormous amount of patience among the people in the shacks*" to the extent that there is a lack of "*any kind of explosive sentiment in reaction to the perceived lack of delivery of houses*" (Adam, Slabbert & Moodley 1997:203).

Nothing less than First World non-racial economic and moral standards would satisfy the stirred up expectations of the many poor people who voted for the ANC in 1994.

Job creation has come to a standstill and the crime rate is soaring. Not half of the million houses which have been promised have been built (Nog swart teen wit 1997:12).

It is easy but impractical to try and escape from the quandary when spokesmen of the ANC threaten the already overtaxed middle class with even higher taxation, whilst COSATU is allowed an unaffordable maximum work week of 45 hours and other unrealistic advantages (Nog swart teen wit 1997:12). COSATU is undermining the entire economy of South Africa precisely because it has succeeded singularly in promoting its unrealistic trade unionism at the expense of the poorest of the poor, whilst it was only benefitting its own members at the expense of the entire economy. Economic realism requires that the private sector, on whom enterprise depends, should believe that the government is doing its part in genuinely promoting the economy. COSATU should be shown up as the stumbling block which is robbing the poorest of the poor by making investment unduly difficult. Mandela should already have done what Mbeki has brought about courageously. He should have "*shifted the main focus to the implementation of GEAR, (thus achieving) adaptation and renewal, by simply becoming Mr. GROWTH*" (Mandela se rol 1997:7).

Now that Mbeki has crossed the Rubicon and called COSATU's bluff, by no longer tolerating unrealistic attacks on GEAR by COSATU, even for the sake of maintaining the triple political alliance, there are better economic prospects for the country (Schoombee 1997c:18). This is the best way of further promoting the precious image of the ANC as the Uhuru movement par excellence.

Beyond this, illustrative examples of the unaffordability of some of the RDP's expectations are in evidence in the Departments of Health and Education and Literacy, where the incompetent administration of funds and professional services cannot be denied.

Health

Health Minister Nkosazana Zuma soon found herself exposed to serious criticism when the report on her intended scheme, although not officially released, was leaked. The apparent secrecy in which it was drafted stirred up suspicion. It was feared that it intended the nationalisation of all health services with the exclusion of the private sector. It seemed to imply "*a tragic misconception of basic economics and deep condescension towards the consumer*" (Het Zuma miskien geheime agenda? 1997:14). It seemed to be a betrayal of the ANC's election promise to strengthen the public health sector (Lewis 1995a:2).

The suspicions against Dr Zuma are aggravated by the fact that she refuses to admit her mistakes (Help nie om te eis dat Zuma bedank nie 1997:12), which does not mean that she is always wrong. In July 1997, she had already succeeded in building many clinics in rural areas and she intends to build many more, but the perception remains that the services rendered are inferior. Criticism is levelled against the low productivity and waste which is associated with these clinics, resulting in people preferring to visit state hospitals which cost R112 per visit, whilst the state has to pay R80 per visit, which the patient receives gratis (Slabbert 1997:11). Among other points of criticism, to keep costs down free patients at clinics are due to be treated by nurses rather than trained doctors.

Dr Zuma complained to the Presidential Review Commission that the aids epidemic was already

beyond her control. She reiterated her support for Virodene, a questionable antidote, which many medical practitioners had already rejected, as well as for Sarafina 2, the highly criticised comedy which was intended to raise funds for her campaign against aids (Zuma staan vas oor "Sarafina" en "SA siek land" hoor kommissie 1997:1). Subsequently all three bills which Dr Zuma obstinately proposed in the attempt to make medicine cheaper, were adopted by parliament, with a few amendments (Ferreira 1997:2). A source in PhRMA, covering America's pharmaceutical giants maintained that Dr Zuma and her advisers showed a lack of sound judgement in various respects, including breach of contract to a point where patent rights were violated to the detriment of the international image of South Africa (Holtzapfel 1997:1).

The deans of the medical faculties of the Universities of Cape town and Stellenbosch denied Dr Zuma's accusation that it was due to apartheid, that most of the first year medical students in the country are white. They also made it clear that a great deal is being done to help non-white students to be brought up to the required academic standard (Rooi 1997a:7). It was denied that it was mainly the white medical faculties which opposed the community services which Dr Zuma demanded from medical students, but the question was raised why such community service was not demanded from other professions (Rooi 1997a:7). Previous commentators feared that the pressure which was put on medical practitioners would encourage them to emigrate, reminding one of all the disadvantages of the original National Health Service of the United Kingdom, in addition to which there is the central role of a clumsy state, with far too little transparency (Lewis 1995b:8).

The Economist Intelligence Unit established in tests which were conducted in 27 countries, in the first quarter of 1997, that the health status of South Africans is the lowest (Slabbert 1997:11). This is very discouraging in a country with a growing population and a very high unemployment rate.

Education and literacy

Sibusiso Bengu, the present minister of education, puts himself in the wrong with many Afrikaans speaking people when he warned the University of Stellenbosh to urgently review its language

policy and identity (Taalimperialisme 1997:16). The truth is that 20 percent of the students at this university are black and 30 percent are not Afrikaans speaking but provided for to the extent that they are allowed to write their tests and examinations in English (Taalimperialisme 1997:16), a positive state of affairs, which gives rise to suspicions about Bengu's motives.

The question arises again and again whether Bengu is objective enough to deal with the fulfilment of the RDP promise of providing free education to all South Africa's children. It implies new educational structures, revised levels of education, curriculum changes, democratisation, affirmative action, equity and affordability (Lewis 1994c:3). Such a re-orientation has enormous implications for existing state aided schools, particularly with respect to the aspiration towards effective schooling. As the confusion developed the press became ever less favourable. By July 1996 it was quite clear that the attempt to reach equity in pupil-teacher ratios through redeployment threatened increasingly to demoralise educationists and result in the costly retrenchment of good teachers (Lewis 1996e:6).

The South African Schools Bill provided for school governing bodies made up of parents, teachers and community representatives. Student Representative Councils are a prominent feature in secondary schools. Corporal punishment is outlawed. Pupil entry is not hampered by racial barriers or affordability. Two categories of schools are allowed, private and public (Lewis 1996e:6). The set pupil-teacher ratio is 1:40 at primary schools and 1:35 at secondary schools. Blindly set targets run the risk of driving out experienced, qualified and already demoralised teachers. The relocation of "*surplus*" teachers to neglected rural or former township schools, with the offer of voluntary redundancy packages often leads to serious resentment. Gauteng and the Western Cape are penalised because of inadequate statistics. Under these circumstances the private education sector is booming (Lewis 1965e:6).

A serious stumbling block is that Minister Trevor Manuel indicated in his budget that there were funds available for educational purposes over which he still does not dispose, and will somehow have to try and find outside South Africa (Losleisel-begroting 1997:10). This aggravates a state of affairs in which there is a frightening shortage of books and lack of competent teaching, management and organisation, which demoralises teachers to the point of resignation. Small

wonder that there are too few pupils who excel and enable South Africa to be competitive educationally.

For the scholarly qualifications which are required to be achieved to provide the South African economy with the potential which is required for substantial growth and development at least 10 to 20 percent of the pupils will have to be brought up to the level of the leading countries (Van der Kooy 1996:14).

After all, "education and the economy no more function in isolation to one another than they do from the rest of society" (Chisholm & Fine 1994:248).

Although a great deal has been done towards nonracial education, much more could have been achieved if the old dispensation had not been rejected overhastily. There is no point in trying to re-invent the wheel when it would have been wiser to leave well alone and build on what was already available. The quality of education is bound to suffer if there is too little culture of learning and too much lawlessness and vandalism, coupled with an ad hoc approach without end, which robs good teachers of their motivation and allows politicians too much say (Beukman 1997:19).

Things came to a head when the Grove Primary School in Claremont won a court case against the Department of Education on the issue whether Minister Bengu was entitled to violate his own laid down policy and prevent the relevant school committee from appointing teachers according to its own discretion on the basis of merit (Regering blameer slagoffers van krisis 1997:12). The minister was then given excessive powers in a new law, which implies that wealthy communities will lose their confidence in the state run educational system even further (Onderwys afgebreek 1997:10). After Prof Njabulo Ndebele, speaking on behalf of the Society of SA University Vice Chancellors, had warned against the abuse which could be made of the minister's additional powers (Onderwysminister "kry te veel mag" 1997:10), Mr Mike Ellis of the Democratic Party objected to the government's tendency to change the law every time that a court verdict puts them in the wrong.

Curriculum 2005 was announced by minister Bengu as a panacea for all South Africa's educational problems. He called it "*a system of lifelong learning*" (Address by Prof SME Bengu from the

steps of parliament on the occasion of the launch of Curriculum 2005 – 24 March 1997). The new curriculum (is expected to) effect a shift from (a system) which has been content-based to one which is based on outcomes, (producing) a thinking, competent citizen. It provides learning opportunities for learners regardless of age, circumstances, gender and level of education and training on an ongoing basis, from one learning situation to another.

Yunus Omar, a member of the Western Cape Parent-Teacher-Student Forum, believes that Curriculum 2005 is "*a good idea which is almost sure to be stillborn*", until "*we re-allocate resources to all our schools*" (Omar 1997:8). Dr William Spady, the leading authority on the ideas behind Curriculum 2005, found it necessary to extend a warning that the success of this enlightened curriculum depends on whether the teachers who have to put it into practice are thoroughly trained and prepared for the specialised task. He emphatically stated this as a precondition during his visit to South Africa and believed that the preconditions to the required end cannot be fulfilled in this country by the year 2005 (Rooi 1997b:4). This opinion is shared by Prof Alex Thembala, retired professor of education at the University of Zululand (Rooi 1997c:7).

APPENDIX 4

THE PROMINENCE OF THE RECONSTRUCTION AND DEVELOPMENT PROGRAMME (RDP) IN THE ANTI-POVERTY CAMPAIGN OF THE NATIONAL PARTY

The National Party, although it was the chief opposition party, became part of the Government of National Unity until it broke away, because the new constitution did not provide for a similar unitary arrangement after the next general election, probably in 1999. The NP was not prepared to be used and then dropped by the ANC. It decided to build its new profile as a post-apartheid party with an image which was very close to that of the Democratic Party, which means liberal capitalism in the Western European and North American First World tradition.

The National Party supports the GEAR version of the RDP in its emphatic anti-communist stance on the basis of workable free market economics, which it regards to be the only way in which the RDP could be made affordable. Besides, the NP promotes the realistic version of the RDP by way of an anti-poverty campaign, as part of "*a vote-winning exercise for 1999*" (Lewis 1996h:2), when the next general election is still expected to take place.

The NP reiterated its support for the RDP in recent meetings with the RDP Monitor editor. It has produced its own discussion document on an anti-poverty strategy which is being canvassed from inputs at provincial and national levels of the party (Lewis 1996h:2).

The National Party's evaluation of government performance for 1996 appeared in the February 1997 edition of its publication, called the "*Government Performance Monitor*". It is a comprehensive report, exposing the areas of government which have either succeeded or failed at realising effective governance. The main successes of the RDP are listed as

- the delivery achieved by the Department of Water Affairs and Forestry
- the probable delivery of 75 000 housing units during 1996, a great improvement on the 12 000 units during 1995
- electrification, which is more or less on schedule (National Party 1997:2).

The direct failures are found in the closing of the RDP office, leading to the following:

- the fact that core financing will be done through individual departments, which could affect the status of the RDP
- there being no clarity about what happened to the logistical infrastructure (equipment and staff) of the RDP office (National Party 1997:2).

The National Party policy towards promoting the RDP is the commitment to the following:

- the reconstruction and development of South Africa in order to empower disadvantaged communities
- eliminating poverty and improving the quality of life of all South Africans, as proven by the announcement of the NP's poverty strategy
- the promotion of optimum economic growth to create job opportunities
- the development of every citizen to his/her full potential
- the promotion of equal opportunities for all citizens
- instilling the realisation that all people who are able to do so should accept the primary responsibility to care for themselves and their families, and to promote the general welfare of society and of their communities by contributing to the economy and paying fair and just taxes (National Party 1997:3).

Generally the National Party intends to play a leading role in building a viable alternative to the ANC, fighting the ANC on crucial moral and political matters, ensuring that the ANC does not place the country on the road to a centralised, de facto one-party state. Having itself rejected apartheid the National Party hopes to create a new political home for the majority of the people in this country who identify with this party's set of core values. Unlike the ANC/SACP/Cosatu alliance, which continues to be obsessed by the problems of the past, the National Party intends to transform itself into a modern, democratic political party (National Party 1997:114).

In addition to its belief in family values as the building blocks of successful communities, the National Party unites divergent groups of people, religions and cultures. It rejects the trend which

the ANC pursued since the early nineteen eighties when it deliberately destroyed communities in order to make South Africa ungovernable, putting liberation before education. Furthermore,

under the auspices of the ANC, healthy community life is crumbling due to the influx of pornographic material, the abolition of the death penalty for murderers and rapists, and the legislation (which is) making abortion on demand possible (National Party 1997:114).

The National Party claims to be the party of mother tongue instruction. It believes that educational institutions should be based on communal values, language and religious convictions. It means that parents should have a meaningful say in how schools are administered. In order to keep South Africa internationally competitive it is imperative that high standards of academic excellence, especially at university level, are maintained. When thugs are allowed to attack the autonomy and the academic integrity of technikons and universities "*mediocrity becomes the norm, while excellence is played down as elitism*" (National Party 1997:114-115).

Because the National Party respects diverse cultural communities and supports their right to participatory decision making, it is committed to a multicultural South African nation and promotes the equal development of all official languages, in contrast to "*the fiasco of the SABC's programming schedule*" (National Party 1997:115). As a party which supports equal opportunities the National Party is in favour of a responsible and balanced approach to affirmative action but it is convinced that "*affirmative action should never infringe upon anyone's current career opportunities or make a mockery of skills and abilities*" (National Party 1997:115), to the extent of becoming "*a culture of entitlement*" or in any way "*a racist exercise based upon discrimination, aimed against minority groups and persons who are not ANC supporters*" (National Party 1997:115).

In the belief that the most successful countries in the world built on the free participation of all people in open markets and their right to own property the National Party has no doubt that it contributed to generating economic growth and employment opportunities along these lines when it was still part of the Government of National Unity. Linked up with this the National Party supports an even distribution of taxes, which puts more money in people's pockets. It regards "*the recent announcement of the ANC's macro-economic policy framework, which incorporates the*

various economic principles which the NP proposed as a positive development" (National Party 1997:115).

To avoid nervous investors, both locally and internationally, the low productivity and high labour costs which accompany frequent strikes have to be avoided. The NP believes that

prosperity will only be created if we have a stable political environment, a strong economy, high productivity and an investor-friendly climate. Development programmes, such as the RDP, must be effectively managed for the most needy to benefit and become self-reliant (National Party 1997:116).

Opposing all forms of corruption and maladministration, the NP claims that it fights for clean administration. It mentions the fact that

numerous cases of alleged corruption have surfaced under the ANC Government. Examples are the Alan Boesak case; allegations surrounding Peter Mokaba; and Winnie Madikizela-Mandela's improper use of government vehicles and cellular phones

as well as the abuse which was made of the school feeding scheme, leading to the Mail and Guardian's headline: "*Greed devours Mandela's food scheme*" (National Party 1997:116).

Emphasis is placed on the incidence of violence and crime in the country.

The crime rate has escalated at unprecedented rates since the ANC took over the reins of government. Foreign investors and tourists are scared off by the high levels of crime in South Africa (National Party 1997:116).

It is pointed out that "*neighbourhoods are being terrorised by criminals and political violence*". South Africa is described as "*the most violent country outside a war zone*" (Murder rate in South Africa nine times that of US 1996:7).

Although the NP programme does not mention poverty as one of the chief causes of crime and violence or dwell on violence as the continuation of Mandela's deliberate violent struggle for

political freedom, the National Party claims to be in favour of "*a well-trained, well-equipped and well-paid police service*". It maintains that "*the judicial system must be reformed as too many crimes are being committed by persons on parole or bail*". The NP wants the death penalty to be brought back "*for serious offences*" (National Party 1997:116).

Coming from a party which got more than twenty percent of the votes during the 1994 election, these intentions towards an affordable RDP are encouraging, but frustrated by the fact that the NP was responsible for apartheid during the previous government. Even the Democratic Party, which has not yet succeeded in drawing an impressive number of votes from the black voters, keeps on reminding the Nationalists of their political baggage from the past. Above all, the *Nasionale Pers* with its variety of growing newspapers, has distanced itself from the National Party.

The bitterest memories of the apartheid period are being kept alive by the fact that South Africa's politicians have not achieved total amnesty for the perpetrators of criminal acts with political objectives, which applies to both sides of the primary political dividing line. For the negotiations, which resulted in the establishment of a so-called Committee of Truth and Reconciliation, were bound to aggravate the bitter memories of apartheid and the liberation struggle, whatever catharsis might be achieved.

Mr Kobie Coetsee, who was Minister of Justice at the time of the Kempton Park negotiations, maintains that the ANC did not compromise itself, refusing to speak for anybody else than its own members, whilst the Nationalists, including the minister himself, did not want to give serious offenders, like McBride, who had murdered civilians, the advantages of total amnesty (Nieman 1997:17). Coetsee's own preference, beyond this, was that "*final reconciliation and peace (required) that there should not only be negotiations about amnesty – it should merely happen*" (Nieman 1997:17), beyond party differences.

General Johan van der Merwe, previous Police Chief, believes that the initial total amnesty offer of the ANC ought to have been accepted, which would have prevented the establishment of a so-called Truth and Reconciliation Committee (TRC) (Kobie behoort baie aan die biebteknik te kan

vertel 1997:13). In the end the scales were turned against the Nationalists under circumstances which favour the ANC, particularly because the members of the investigating committee (the TRC), are not completely detached. Only completely objective commissioners, who are neither for nor against the Nationalists, can guarantee the justice which has not only got to be done, but has to be seen done. Besides, justice requires that the prosecution, defence and judgement should be kept separate, as in a court of law.

Reconciliation with the past, which Mandela claims to be his objective in his address on the 9th of November 1995 (*"The Rule of Law: Cornerstone of economic progress"*, read on Mandela's behalf by Dullah Omar to the International Bar Association's South African Conference), is not easily achieved when the political tug of war is far from over and the parties concerned are not held equally accountable for their actions and conduct. The Truth and Reconciliation Commission *"does not and cannot offer a substitute for criminal trials"* (Mandela 1995b:13).

APPENDIX 5

MINISTER TREVOR MANUEL'S 1998 BUDGET

As in his first budget, presented in 1997, Trevor Manuel pays lip service to the RDP in his 1998 budget. Manuel has no doubt in his introduction that

the Reconstruction and Development Programme (RDP) is the policy framework within which the Government pursues its objectives. Our strategy for Growth, Employment and Redistribution (GEAR) is one of the principal instruments for realising these objectives (Manuel 1998:3).

Dick Downing, an economist in ABSA's economic department, is convinced that "*the Budget reflects consistency with regard to the fiscal objectives set out in GEAR, the government's growth, employment and redistribution strategy*" (Dowling 1998:24). Great emphasis is still placed on the social functions of the government and the budget does not deviate from the priorities of GEAR. Less attention was paid to economic services, which may pose a problem for the future infrastructure growing requirements of a growing economy. Current transfers to the private sector also declined by R2,4 billion, which further reflects changing priorities.

Our legacy

Manuel argued that

the RDP and GEAR are as much about addressing the need of our people today as they are about creating a strong country and economy – so that the legacy (which) we leave our children and grandchildren is one (which) we, and they, can be proud of (Manuel 1998:3).

He points out that the present government has increased the number of children (who are) going to school by 10 per cent since 1994, that schools, colleges, universities and technikons enrol 13 million learners – one third of the population.

We now provide a meal daily to 5 million primary school children – improving their ability

to learn and giving food to children who would otherwise go hungry. 500 new clinics have been built, bringing health services closer to 5 million people. We provide largely free health care to 32 million people without medical aid. Since 1994 a million women and children in rural areas have gained access to a clean water supply. 1,5 million homes have been connected to an electricity supply, creating new income-earning opportunities for over 4 million people. 385 000 houses have been built, 700 000 housing subsidies have been earmarked. 900 projects of the community-based public works programme have been implemented, creating about 40 000 job opportunities (Manuel 1998:3).

Facing economic realities

Manuel has no doubt that "*over the past year we have consolidated our economic strength and withstood the global economic storm*" (Manuel 1998:3). A radical departure from the past is the Medium Term and Expenditure Framework which reflects both short-term and long-term decisions. It allows the government to present to parliament spending plans for the next three years, as "*the operational plan by which we give substance to our reconstruction and development endeavours*" (Manuel 1998:4). A number of objectives are the following:

- to strengthen political decision making in the budget process
- to strengthen co-operative governance and decision making
- to make sure that every rand goes further
- to create an environment where public services can plan over the medium term, focusing more and more attention on reviewing the outputs of all spending programmes and activities
- making an important contribution to the transparency and openness of budget policy making (Manuel 1998:4).

A analytic view of the Budget reveals the following ups and downs:

VAT	unchanged
Sorghum beer	unchanged
Spirits	up
Fuel	up

	224
Cigarettes	up
Beer	up
Wine	up
State Expenditure	up by 6.4%
Cool drinks mineral water	unchanged
Personal Income Tax	down
Social welfare	R19 billion
Health	R23 billion
Housing	R3,5 billion
Education	R45 billion
Policing	R13,7 billion
Defence	R10 billion
Provinces	R90,44 billion
Fringe Benefit	
Tax on Housing	up
Social Pensions	up
Health, Education &	
Social Services	up
Job creation projects	up
Security Services	up
Currency Control	relaxed more

Manuel (1998:8) emphasised his commitment to RDP targets by indicating the following:

- meeting the basic needs of the people
- accelerating infrastructure development
- laying the basis for sustained economic growth and job creation
- developing our human resources
- ensuring safety and security of the citizen and the state
- transforming the organs of Government to reflect the developmental and people-centred nature of our democratic state.

Of the relevant R159 billion 60 percent will go to social services on account of inherited large backlogs, R19 billion to welfare and social grants, R23 billion to health, R45 billion on education, R3,5 billion a year on housing programmes and subsidies. Further RDP objectives are met through water schemes, land redistribution and land reform as well as poverty relief projects. Job creation is and remains a high priority. *"The Umsobomvu Fund is one instrument that Government is offering at the Presidential Jobs Summit later this year"* (Manuel 1998:14). Manuel believes that his budget is his only route to sustainable development. Die Burger admitted that *"Manuel presented the most balanced budget which was possible under the circumstances"* (Gebalanseerd 1998:12). The Cape Times appreciated adroit Manuel's balancing trick (Lamont 1998:24). Lamont regards the budget as a job well done, but concern remains on job creation and economic growth.

In an election year it is not surprising that Manuel refrained from increasing VAT, but he had to find additional money because his growth assumption of 3 percent for the next fiscal year was too high. The result is the following:

- a 2,3 percent levy will be slapped on free reserves of the insurance giants, Old Mutual and Sanlam at their planned demutualisation
- the tax rate on retirement funds will be increased from 17 to 25 percent
- a 10 percent ad valorem duty has been slapped on luxury goods
- an increase of 10 cents a litre in the fuel price was announced.

Dr Theo Alant, the spokesman for the National Party on finances, said what is required for economic growth is the deregulation of the labour market, greater relief of the tax burden, steps to reduce expenses and more privatisation in order to reduce the public debt. Mr Ken Andrew, financial spokesman for the Democratic Party, finds that economic growth has not been encouraged and the total tax load has been raised to the highest levels thus far, which makes economic growth and job creation impossible. Sam Shilowa, chief secretary of COSATU, said that the only regions where the objectives of GEAR have been reached is to suit big business and he repeated his demand that 55 percent super tax ought to be raised on people who earn R150 000 or more per annum. The tug of war between free enterprise thinkers and unrealistic trade unionists remains as the chief stumbling block to the RDP.

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