



**LAND REFORM, RESTITUTION AND LOCAL DEVELOPMENT: AN ASSESSMENT OF
THE PROGRESS OF DUKUDUKU FOREST LAND CLAIMS IN SOUTH AFRICA'S
KWAZULU-NATAL PROVINCE**

**BY
MONWABISI TIBE**

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SUPERVISOR: PROFESSOR SULTAN KHAN

DECLARATION

I declare that this dissertation is my own unaided work. All citations, references and borrowed ideas have been duly acknowledged. The dissertation is being submitted for the degree of Master of Social Science in Public Policy, in the School of Social Science, in the College of Humanities, at the University of KwaZulu-Natal, Durban, South Africa. None of the present work has been submitted previously for any degree or examination in any other University.

Signature: 
Monwabisi Ntse

Date: 10/09/2021

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ACRONYMS

AU	African Union
ANC	African National Congress
APP	Annual Performance Plan
BSAC	British South African Company
CBNRM	Community Based Natural Resource Management
OFCs	Community Forest Organizations
CLRA	Communal Land Rights Act
CLTP	Communal Land Tenure Policy
CONTRALESA	Congress of Traditional Leaders of South Africa
CPAs	Community Property Associations
CRDP	Comprehensive Rural Development Programme
CRLR	Commission on Restitution of Land Rights
DLGTA	Department of Local Government and Traditional Affairs
DRDLR	Department of Rural Development and Land Reform
IFP	Inkatha Freedom Party
INCORA	Colombian Institute for Agrarian Reform
INCODER	Colombian Institute for Rural Development
IPILRA	Interim Protection of Informal Land Rights Act
ISWP	iSimangaliso Wetland Park
IPILRA	Interim Protection of Informal Land Rights Act
LAA	Land Apportionment Act
LRP	Land Reform Programme
ASLS	Local Social Associations
MEC	Minerals and Energy Complex
NDP	National Development Plan
NLA	Native Land Act
NLHA	Native Land Husbandry Act
NMF-CASAC	Nelson Mandela Foundation & Council for the Advancement of South Africa
NPA	Native Purchase Area

NP	National Party
SADC	Southern African Development Community
SAHO	South African History Online
SRRBDA	Sokoto Rima River Basin Development Authority
TCB	Traditional Courts Bill
TKLB	Traditional and Khoi-San Leadership Bill
TLGFA	Traditional Leadership and Governance Framework Act

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ABSTRACT

The problem of slow progress in land claims in the country has become a major drawback to the realization of rural socio-economic development and has further widened the gap between the urban rich and the rural poor. The slow progress in land reform has become a great flaw and a failure to the Land Rights Principle of our Constitution which stipulates that, *access to land or other living spaces is a birth right of all South Africans* (Constitution of the Republic of South Africa, 2009:12). Despite this constitutional mandate, after 26 years of democracy, there continues to be unresolved land contestations and land claim lodges that have not been processed.

The Land Reform Policy of the Republic of South Africa has proved to be a failure because of persistent challenges regarding land claims. Given the precarious protracted nature of land claims, it impacts negatively on the lives of the rural poor as they are denied access to land which can be used positively to resolve the food security issues in the country. The privatization of land access to serve the capitalist needs of big corporations and Multi-National Corporations (MNCs) has been of much contestations amongst the landless people in the country. Big Corporations occupy tribal land for extracting raw materials with little benefits accruing to the indigenous communities. Traditional leaders who are entrusted with responsibility of managing tribal land in rural areas are also complicit as they lease or sell their land for their own economic prestige instead of the majority of subjects that are under their tutelage. A systematic analysis of land reform performance in a micro setting of the Dukuduku forest community is presented in this study. It begins with a historical overview of land restitution before delving into post-apartheid South Africa's interventionist strategies to achieve justice and equity in the country's land sector through restitution. The study emphasizes the theoretical foundations upon which the idea was built, and data is gathered using both quantitative (surveys) and qualitative (interviews) research methods. The study draws on relevant literature to have a better understanding of the land debate. Indeed, the ANC-led government has been plagued by the unresolved land issue since 1994. Despite the government's efforts to democratize land access and use as a tool for local development and inclusion, there is enough evidence of policy failures. In this context, the study presents an intriguing discussion about land restitution performances in Dukuduku forest community in South Africa's KwaZulu-Natal province.

CHAPTER 1

NATURE, SCOPE AND METHOD OF STUDY

1.1 INTRODUCTION

Land like any other natural resource is a vital component in sustaining livelihoods of citizens of any country. Land affects the food security and livelihoods of millions of people, while also playing a major role in influencing the social and political power relations of a country (Camay and Gordon, 2007:1). However, because of the complexity of issues emanating from a country's history, the process of land reform and redistribution in South Africa has been very slow since the Restitution of Land Rights Act 22 of 1994 was promulgated (Camay and Gordon, 2007:1).

Camay and Gordon (2007:22), argue that the "state land is a national asset which should benefit all citizens in the country. Since land redistribution aims to provide opportunities to previously disadvantaged people to access land and secure their tenure rights, it is these people who should benefit most from state land" (Camay and Gordon, 2007: 22).

South Africa has a history since colonial times and later apartheid on land dispossession. The indigenous people of the country were denied access to land by confining them to thirteen percent of the surface area of the country, which came to be known as homelands, locations and native reserves. One of the notorious instruments that was used for land dispossession was the Natives Land Act of 1913. This Act prohibited the purchase and ownership of land other than those designated for Natives. These Native reserves served as a dormitory for the reproduction of cheap labour both in the urban areas and commercial farms to service the economic wants of White capitalists. In sum, the Land Act became a critical tool of the colonial and apartheid regime, racially and spatially dividing South Africa (Lahiff, 2001).

Post-apartheid in 1994, the newly constituted democratic government set out to undo the atrocities of land dispossession of the past. It came to realize that land ownership was both a means and mode of production, which was necessary to reconstruct South Africa. Land ownership and possession was viewed as a critical element in the reconstruction and development of the country. The democratic government set into motion a Land Restitution Programme enshrined in the 1997 White Paper on South African Land Policy.

Central to the White Paper is the land reform process, which focuses on restitution, land tenure reform and land redistribution (Lahiff, 2001).

Since the White Paper on South African Land Policy of 1997, enormous progress was made in so far as finalizing land claims in the urban areas of the country. However, rural land claims presented a serious dilemma to the land commission for land claims given the complexity of communal land ownership and occupation. At the centre of these land claim complexities is the ownership and custodianship of communal land under the tribal leadership. It is in this context that this study focuses on the status of land claims and restitution within the context of the Dukuduku forest community in KwaZulu-Natal. This study aims to assess the progress of land claims in this community, particularly focusing on the role and the influence of various stakeholders (traditional leaders, state and governmental institutions and conservation management authorities) and how this among other underlying complexities of land reform impact on sustainable rural socio-economic development.

1.2 PROBLEM IDENTIFICATION

The influence and involvement of numerous stakeholders participating in land claims and restitution processes has a long-term and detrimental effects on rural socioeconomic growth. The problem of slow progress in rural land claims settlements perpetuated by other contributing factors such as apartheid land policies and “capitalist land grabbing” actions continue to marginalize and impoverish previously disadvantaged rural communities in South Africa since this stagnation directly affects the primary mandate of land reform.

Restitution of land rights aims to provide opportunities to previously disadvantaged people to access land and secure their tenure rights. It is the previously disadvantaged people who should benefit most from state land, since land is a vital component in sustaining livelihoods of citizens of any country (Camay and Gordon, 2007: 22).

The Dukuduku forest community has been subjected to continuous land contestation between the local people and the iSimangaliso Wetland Park authorities who are charged with the responsibility of managing conservation efforts in the forest. Nustad and Sundnes (2011: 2) affirms that, the iSimangaliso Wetland Park like many other protected areas in South Africa is faced by issues of land restitution, as people who were forcibly

removed before and during apartheid have claimed 70% of the park. Land reform in protected land must stimulate strong and inclusive local development policies and legislation efforts to foster the success of land claims. Local development strategies such as the National Protected Area Expansion Strategy must be centered at the realisation of the legal status to land rights access and economic activities of women and the poor located in the borders of Isimangaliso Wetland Park.

1.3 AIM OF THE STUDY

This study assessed the progress of land claims in Dukuduku forest community focusing on the role and the influence of various stakeholders and how this impact on sustainable rural socio-economic development.

1.5 THE FIELD OF STUDY

The field of this study is located in the disciplines of sociology, public policy, anthropology, history, economics, law, and governance. This study although rooted in public policy, draws from these disciplines. Considering that the study overlaps different disciplines it influenced the study to understand the research locality using systematic research methods to interrogate diverse and changing aspects of social pattern and suggestions for appropriate and effective solutions to the land issue within the forest community.

1.6 GOALS OF THE STUDY

To meet the above aim, the study addresses the following objectives:

1. To assess the progress of land claims in the Dukuduku forest community.
2. To determine the extent to which women's voices on the issue of land claims are considered.
3. To examine the influence of traditional leadership on rural land tenure and distribution processes.
4. To understand the power struggle nexus between stakeholders involved in land claims and restitution.

5. To explore other factors that could bring improved and efficient rural land reform and development.

1.7 RESEARCH QUESTIONS

The study consists of the following research questions:

1. What is the nature and extent of land claims in Dukuduku forest?
2. To what extent are women's voices on the issues of land claims considered?
3. What is the influence of traditional leadership on rural land restitution and redistribution?
4. What is the power struggle nexus between stakeholders involved in land claims restitution and redistribution?
5. What are the factors that could bring improved and efficient rural land reform and development?

1.8 ASSUMPTIONS UPON WHICH THE PRESENT STUDY IS BASED

The study contends that the role and influence of various stakeholders in land reform and restitution and its impact on sustainable rural socio-economic development is contingent on the speed in which the land restitution and redistribution takes place so that it reaches finality. The stalemate over the finalisation on land claims and access to land is a setback for the forest community to engage with the most natural resource to sustain their livelihood. Land being the means of production is central to this assumption. It is anticipated that this study will assist in providing solutions to land tenure contestations and contribute towards the expedition of finalising land claims so that it would encourage claimants to take charge of their socio-economic development with the support of the different stakeholders in the forest community. However, it is not the intention of the study to generalize about the land restitution process in the country, but rather to provide insight into land reform and restitution dynamics specifically within the context of the Dukuduku forest community.

1.9 SCOPE OF THE STUDY

The study was conducted in the forest community of Dukuduku, Ward 3 in Mtubatuba, in the northern part of the province of KwaZulu-Natal. This is a rural community comprising 5329 households (Census, 2011) that has been involved in land claim contestations which has remained stagnant since the restitution process has been written into policy. The protracted delay in finalising land claims in the area has compromised the livelihoods of this community. The target population for this study will be a sample of 50 household claimants who await finalisation of their claim.

The community incorporates a diverse number of stakeholders who are engaged in the lands claim issue. These comprise traditional leadership, ward councillors, national and provincial government department such as the Department of Rural Development and Land Reform. Due to budgetary and time limitations for completing the study, the study did not exhaust all stakeholders but limited itself to those who had been identified as key during the snowball exercise.

1.10 BACKGROUND STUDIES ON LAND REFORM, RESTITUTION AND REDISTRIBUTION

The problem of slow progress in rural land claims is one of the major drawbacks in realizing the objective of rural socio-economic development through land reform and restitution to the previously disadvantaged black communities. As a result, this stagnation in land reform and restitution has furthered the gap between the rich and the poor. This has proved to be a failure to the land rights principle of the constitution - which assures access to land and all other living spaces to be a birth right of all South Africans especially black communities who were previously disadvantaged by both colonial and apartheid land policies.

After two decades of democracy in South Africa, there are unresolved land contestations and claim lodges that are still not processed. Rural Land Reform Policy as part of the Land Restitution Programme (LRP) has proved to be a failure because of continuing problems regarding land claims. This calls for a drastic transformation to the mandate of this policy to be genuinely structured towards bettering the lives of previously disadvantaged rural poor communities. According to a Land Reform Policy Discussion Document (2012: 3), Land Reform Policy as an autonomous service delivery programme

which ought to eradicate and challenge assumptions and stigmas associated with marginalization of the rural poor through land dispossession which results in land grabbing. Land grabbing is defined as the act of controlling or acquiring large-scale land for commercial and industrial agricultural production (Kachika, 2010: 15).

Thus, land grabbing in South Africa has become one of the major developmental drawbacks and this is strongly felt by previously disadvantaged black rural communities. The loopholes currently experienced with land restitution and redistribution in South Africa continue to marginalize and impoverish rural communities whose land claim lodges are still pending due to the slow pace of the land claims restitution process. Hence, land dispossession affects food security and livelihoods of people, while also playing a major role in influencing the social and political power relations of a country (Camay and Gordon, 2007: 1).

1.11 RESTRICTIONS ON THE PRESENT STUDY

The findings of the study may not translate or be applicable to other deep rural regions of other provinces in South Africa where rural land reform is similarly stagnant. This could be as a result of varying land reform complexities that each region experiences such as historical, political, socio-cultural and economic factors. Considering the research locality is both rural and within a forest community that is environmentally sensitive and within the jurisdiction of many private and public stakeholders, the focus of this study may be unique to this research locality. Hence, the study findings have limited generalisation.

1.12 STRUCTURE OF CHAPTERS

Chapter 1: Nature, Scope and Methods of the Study

In the first chapter, an introduction to the chapter; problem identification; aims and goals; research method; the field of study; goals of the study; assumptions upon which the study is based; scope of the study; background studies; restrictions on the study; and a conclusion are presented.

Chapter 2: Literature review

This chapter discusses pertinent literature that speaks to the progress of land reform and restitution claims and the impact this has on local development strategies. The chapter provides an overview of the nature and extent of land reform and restitution claims in a global context looking particularly at Bolivia, Brazil and Columbia in South America. These case studies complement the South African land restitution claims issues because as countries that were colonised by Spain, Portugal and France respectively – provide space for different perspectives and meaning of land restitution claims in a contemporary global society.

Thereafter, the chapter evaluates land reform and restitution claims on the African continent in countries such as Zimbabwe, Nigeria and Namibia. This is followed by a discussion on colonial and apartheid land reform in South Africa. Post-apartheid land reform is also discussed in this chapter. The nature and extent of rural land reform and restitution claims is looked into in this chapter. This chapter also presents post-apartheid mechanisms in place for land restitution.

The extent of the land owned by traditional authorities in Kwazulu-Natal is illustrated in this chapter. The Dukuduku forest land restitution claim is explained in this chapter. The status of restitution of land rights in South Africa by province is also presented in this chapter. The role of the Department of Rural Development and Land Reform in rural land claims restitution is expounded on in this chapter. Lastly the chapter discusses the challenges facing rural land restitution claims in South Africa.

Chapter 3: Theoretical Framework

This chapter, analyses and presents social theories, particularly the Power Elite Theory as advanced by C. Wright Mill (1956) and G. William Domhoff (1979) in exploring how dominant social structures (the upper class, corporate community and the policy planning network) impact on the operation and regulation of major institutions of modern society (the economy, government and military) and how this ultimately impacts on common and marginalised masses. Additionally, this study explores the Pluralist model and Marxist perspectives on power dynamics in society. These theories relate to this study because they best contextualise the enquiry into power struggles experienced in land restitution and redistribution claims. They inform the noticeable presence and influence of dominant power structures in land claim issues in the context of Dukuduku forest land claim. The study further expounds on the complex power

struggles involved in the clash between Traditional and Modern systems of governance and how these two forms of authority can co-exist.

Chapter 4: Research methodology and design

This chapter provides an in-depth discussion on the principles of research methods and how it has been operationalized to collect data for this study. It discusses the choice of research paradigm, the rationale for its selection and the research strategy utilized in the study. The sampling method, data collection techniques, limitations of the study, and ethical issues are provided. The interview schedule and its application on important stakeholders in the study and the way in which data from the study is analysed, is presented.

Chapter 5: Analysis and Presentation of data

This chapter analyses and presents the research findings obtained through thematic and content analysis relative with the literature review and theoretical framework themes of the study.

Chapter 6: Conclusion and Recommendations

The last chapter comprises a discussion of findings, conclusion and makes recommendations based on the analysis of results for further research.

1.13 CONCLUSION

Chapter 1 has provided an overview of the study illustrating how slow land claims are a major challenge because of ineffective land reform policies. This study seeks to investigate the impact of past land policies and how they still inform restitution legislation in the democratic South Africa and how these have been used to benefit an elite group of individuals at the expense of rural livelihoods. In addition, the failure with land restitution and redistribution in South Africa originates from the unclear direction of the land policy which is more based on the replication of old or past land policy objectives which has failed to redress the unjust history of land disposessions. The next chapter reviews the literature related to the study, as well as literature that relates to previous studies conducted on land reform and restitution claims.

CHAPTER 2

LITERATURE REVIEW

2.1 INTRODUCTION

This chapter reviews literature on land reform and restitution claims as well the impact this has on local development strategies. It consists of eight sections. The first section provides an overview of the extent and nature of land reform and restitution claims on a global context looking particularly at Bolivia, Brazil and Columbia in South America. Section two looks at land reform and restitution claim in Africa focusing on Zimbabwe, Nigeria and Namibia. Section three of this chapter looks at colonial and apartheid land reform in South Africa. Section four discusses post-apartheid land reform in South Africa. Section five looks into the nature and extent of rural land reform and restitution claims in South Africa.

Section six presents post-apartheid mechanisms in place for land restitution. Section seven of the chapter illustrates the extent of the land owned by traditional authorities in Kwazulu-Natal. Section eight explains the Dukuduku forest land claim. Section nine presents the status of restitution of land rights in South Africa by province. Section ten expounds on the role of the Department of Rural Development and Land Reform in rural land claims restitution. Lastly, section eleven discusses the challenges facing rural land restitution claims in South Africa.

2.2 LAND REFORM AND RESTITUTION CLAIMS IN THE GLOBE

According to Twomey, (2014:4) “land dispossession through land grabbing is understood as an act of transferring land use rights and control traditionally belonged and overseen by indigenous communities, to corporate investors for profit generation purposes – particularly notable within the agricultural sector.” These vast land transactions are often carried out through partnerships with influential domestic actors and justified as investments to stimulate local economic development (Twomey, 2014).

Land reform throughout the globe is characterized by restitution complexities accompanied by privatization processes and legislations, which play a key role in determining the use rights, access and control of land in a region. Restitution, redistribution and land tenure reform processes as the main aspects of land reform also inform the extent and nature of dispossession and the resulting socio-economic well-being of a region, hence land reform advocates for a just restitution especially to previously disadvantaged communities.

2.2.1 Land Reform and Restitution Claims in Bolivia

Bolivia's first land reform was implemented in 1953. However, like many other nations that have seen ambitious land reforms since the turn of the century, it has not been successful in ensuring equitable access to forest land rights or contributing to socioeconomic development on a long-term basis (Kay & Urioste 2007). Bolivia modified its land reform strategy in 1996 with the adoption of the Framework Law (Law 1700). (Pacheco et al., 2010a)

However, while the current land reform meets many of the requirements for effectively addressing agrarian development difficulties, it fails to solve many of the issues surrounding forest management. Rather, some components of the current land reform are in conflict with the goals of sustainable forest management. Despite the fact that a substantial portion of the land being titled is forest land, the Bolivian government's reform initiatives do not address the forest land claims issue (Pelegrini & Dagupta, 2011). For example, the community of Norte La Paz has been in constant forest land claims with conservation authorities. The local community in Norte La Paz complains about inequitable forest land reform and the government's inability to provide the conditions for a viable community-based forestry system. The community decries socioeconomic and spatial inequities in forest rights allocation, such as the granting of enormous areas to a small number of persons through Local Social Associations - ASLs (on average 20,000 ha for 20 people) and the monopoly of the most accessible forests to Community Forest Organizations - OFCs, ASLs, and private businesses (Gautreau & Brusle, 2019).

Bolivia's land reform actually includes many aspects of forest tenure reform, but is not coupled with tools to address the challenges and opportunities of

forest titles. Previous land reform measures have failed due to the lack of adequate conditions for the development of the rural economy (Pelegrini & Dasgupta (2011).

The experiences in the Bolivian context include the development of the forestry sector. The forest management framework is currently unable to meet its objectives and the land reform process is also halted without substantial forest reform. According to Pelegrini & Dasgupta (2011), the Bolivian forest reform should be the result of a participatory process involving stakeholders in the sector, mainly landowners who own forests, forest companies, government authorities and other actors providing capital and services to the sector, and members of the environmental movement.

Neglecting forestry and ignoring provisions of the land reform process that conflict with forest management could lead to land reform failure. This failure is not believed to be due to land reform per se, but to the omission of forestry issues from the debate and from policy measures related to land reform. It is difficult to escape analogies with past failures of land reform. Since agrarian reform of agricultural land cannot solve rural development problems without addressing agricultural issues, an equally successful agrarian reform of forest land cannot circumvent forestry problems (Gautreau & Brusle (2019).

2.2.2 Land Reform and Restitution Claims in Brazil

With the arrival of the Portuguese in 1500, Brazil, occupied for centuries by indigenous peoples, became part of the Portuguese Crown by right of conquest. The main land allocation institution during most of the colonial period was the sesmaria, which was a land grant from the Crown (Damasceno et al, 2017). The prolonged use of sesmaria ended up restricting access to land as land was only granted to wealthy people. The poorest citizens, without legal means of acquiring land, began to occupy plots on the edge of large estates and away from built-up areas. This resulted in a process of invasion and occupation of public lands that still occurs today (Damasceno et al, 2017).

Secure and well-defined rural property rights are an essential tool for effective management of natural resources as well as for economic growth (Property Rights Alliance, 2016). Today, however, Brazil lags much of the world in granting secure and well-defined property rights. Many of today's issues are rooted in concepts that were established in the land structure of Brazil during colonization. Land tenure in Brazil has

been disorderly, with limited government control and inadequate separation of public and private lands (Damasceno et al, 2017).

Despite Brazil's vast rural area and low population density, land disputes are common. In 2016, the disputed area amounted to approximately 21 million hectares. Brazil tops the global ranking of killings of land and environmental defenders, with 50 murders out of a global total of 185 deaths in 2015. Brazil is followed by the Philippines (33) and Colombia (26). Most of the killings took place in the Amazon states of Maranhão, Pará and Rondônia, which have seen a wave of violence linked to large ranches and plantations taking over land where rural communities have no rights (World Economic Forum, 2016).

In addition, the system responsible for governing these lands is unnecessarily complex. Multiple institutions at the federal, state and municipal levels share responsibilities in the governance of land rights. For example, at the federal government level alone, 11 institutional bodies share oversight of different aspects of land rights and management. They are responsible for carrying out a wide range of land management tasks and services, including agriculture and land reform, environmental monitoring and protection, the rights of indigenous communities and quilombolas, and the tax collection (Bernado, 2016).

The absence of a cadastre of unique and complete rural land related to the official land register has a big problem, which makes it impossible to accurately identify the owner for a large percentage of terrestrial parcels in Brazil. For example, a detailed mapping of the land organization in Pará revealed that it is impossible to know the legal status of the 38% state ownership (Property Rights Alliance, 2016). This lack of a unified form of registration means that there is no single source of data that classifies all territories and thus hinders the calculation of actual estimates for all legally designated and recognized categories. The lack of data is in itself an obstacle both to better land organization and to a more peaceful environment in rural areas in Brazil (Damasceno et al, 2017).

In addition to governance challenges, Brazil's size and geography make it difficult for landowners and officials to access and monitor many areas. This means that even property rights that have been recognized are often threatened. In large rural areas of Brazil, particularly in the north and northeast, the presence of authorities is weak due

to lack of funds and staff, leading to neglect of enforcement of existing rights. Corruption of public officials who control how and when rights are protected further exacerbates insecurity (Bernado, 2016). Historically marginalized groups, such as indigenous people, quilombolas or settlers, and protected areas continually face threats of land grabbing by large-scale farmers, miners and loggers (Damasceno, 2016).

The current pressure on the country to ensure the conservation of its natural resources has brought the issue of property rights to the fore. The success of the new forest management strategy depends on respect by the owner or the owner of the land (Damasceno et al, 2017). Secure property rights allow for better identification of environmental responsibility and therefore more effective implementation of forest management strategies (Chiavari & Lopes, 2015). The problem of unsecured property rights is so multi-faced and complex, and it is difficult for policymakers and interested parties to know where to start the improvement. It is clear that profound changes in the governance, enforcement, regulation and knowledge of Brazil will be required in order to establish secure property rights for all citizens (Bernado, 2016).

2.2.3 Land Reform and Restitution Claims in Colombia

The implications of historical settler colonialism on former colonial countries have directly impacted on the nature and context of land dispossessions experienced in those countries. In nowadays, this neo-imperialist form of dispossession is being carried out through neo-liberal policies driven by a capitalist form of production. Land as a contested natural resource has thus been often privatised primarily for economic production and often at the expense of the indigenous land owners.

Historically, competition for land and access to natural resources has helped fuel the armed conflict in Colombia. Access to land, in particular, was at the heart of the Colombian conflict. The most dramatic episodes of dispossession occurred in the 1990s and early 2000s, when right-wing paramilitaries, backed by their political allies, (by some estimates) evicted over a million people from their properties (Oxfam Research Report (2013).

The state, with its governance failures and inability to control rural areas, including its inability to monitor land ownership and use, bears much of the responsibility for the widespread looting. Only about 15% of the land in the whole country is registered in

the land register, or cadastre, according to updates reported in early 2021. But in practice, most arable land is occupied, sometimes illegally (Trujillo, 2020).

Due to gaps in the registry, establishing legitimate land ownership remains extremely difficult in many rural areas. Land stolen during the early 1990s and early 2000s during armed conflicts has often been donated or sold to corporations or large landowners, who in turn claim to have bought it in good faith without knowing that it was illegally seized. Victims of forced displacement who now attempt to reclaim their land face harassment, threats and violence; many were killed (Uribe & Fazio, 2010).

The distribution of land in Colombia is extremely uneven, with the concentration of land ownership among the highest in the world and the second in Latin America after Paraguay. Unequal access to land is closely linked to rural poverty and is both a cause and a consequence of the internal armed conflict that has ravaged the country for more than half a century. During this period, violence and forced displacement resulted in expropriations affecting up to 8 million hectares, more than the area currently devoted to agriculture across the country (Albertus, 2019).

Attempts to reverse the concentration of land ownership have so far been unsuccessful, as large estates have never been affected. The main tool for improving access to land and implementing land reform has been the allocation of state-owned land to smallholder farmers and agricultural workers - often land located in regions with low production potential and no infrastructure (Oxfam Research Report (2013). In 1994, Law 160 was approved, which has among its main objectives the regulation of these allocation processes. This law was inspired by a constitutional mandate ordering the state to provide access to land to the rural population with fewer resources Trujillo, 2020).

Colombian law imposes limits on the purchase of lands previously allocated by the state to beneficiaries of agrarian reform processes, in order to avoid the concentration of ownership and to preserve the social function of these lands (Oxfam Research Report (2013). However, between 2010 and 2012, Cargill, the world's largest agricultural commodities trader, acquired 52,576 hectares of this land in Colombia's Altillanura region through 36 shell companies created for this purpose (Albertus, 2019). As a result, Cargill may have been able to bypass the legal restriction through a fragmented

purchasing method, exceeding the maximum size allowed by law for a single owner by more than 30 times (Oxfam Research Report (2013)).

The resolution of this and similar cases Colombia contributes to rural unrest and test the policy coherence of the Colombian government, which has faced significant national protests over agrarian issues while engaging in talks on land issues and peace for a more democratic distribution of land and to strengthen the small-farm economy (Uribe & Fazio (2010)).

The concentration of large tracts of land in areas designated by law for small-scale agriculture exacerbates social inequalities and conflicts and exacerbates the country's current problem of concentration of land ownership (Albertus, 2019). The recent national agrarian strike that mobilized tens of thousands of small farmers, Afro-Colombians and indigenous people, as well as city dwellers, to call for structural reforms in rural areas illustrates the importance of this problem in Colombia (Oxfam Research Report (2013)). This situation is particularly worrying as the country tries to move forward in a peace process and to fully compensate the victims; including the legal and material restitution of land which they have been forced to abandon as a result of the violence, or which has been confiscated from them.

More than half of rural families in Colombia live in poverty, largely due to the extremely unequal distribution of productive resources, especially land. Rural poverty and unequal access to land helped trigger an internal armed conflict that has become the oldest conflict in Latin America and still continues (Trujillo, 2020). During more than half a century of violence in Colombia, 220,000 lives (8 out of 10 civilians) have been lost, more than 25,000 people have gone missing and 5.7 million people have been forcibly displaced, mostly small farmers and agricultural workers, indigenous people and Afro-descendants.

In the process, it is estimated that between 6.6 million and 8 million hectares were stolen from their owners, a phenomenon that has exacerbated the historic land grabbing by large landowners, drug traffickers, military forces. paramilitaries and big business (Oxfam Research Report (2013)).

Attempts to reverse the concentration of land ownership in Colombia have so far been ineffective. A milestone was the creation of the Colombian Institute for Agrarian Reform (INCORA) in 1961, which is now the Colombian Institute for Rural

Development (INCODER) (Trujillo, 2020). However, having had no effect on large estates, this institution has so far failed in its objective of changing the structure of the land. The Colombian Institute of Rural Development has not even been able to generate the information needed to resolve the problem; the last agricultural census in Colombia dates back to 1971, and there is no up-to-date land register or information system on allocated land. No doubt the ruling elites, with their considerable political influence, prefer reality to remain invisible lest society tries to change it (Oxfam Research Report (2013).

2.3 LAND REFORM AND RESTITUTION CLAIMS IN AFRICA

Relative to the global context of land reform and restitution claims, African countries persist to face crisis of land conflicts as a result of colonial regime's land reform policies. Poverty in African countries mostly south of the Sahara portray many facets particularly relating to land use, access and management. African countries also share similar traditional values and meaning to land.

This historical attachment of African countries to land manifests the nature in which land as a natural resource has been throughout history a fundamental resource in livelihood sustenance. African countries depend mostly on land for their elementary need for survival; for habitation; subsistence cropping; or for foreign exchange earnings and so on (Kwokwo, 2010).

2.3.1 Land Reform and Restitution Claims in Zimbabwe

As it has always been for many African countries, land struggles have also characterized the history of Zimbabwe since British colonization in 1890 (Nyandoro, 2012). The late twentieth century experienced intense contestation over land by several groups who were growing increasingly impatient over the slow pace at which land reform was being implemented after independence in 1980. "Much of the move towards land reform has been mobilized, but some of it has been spontaneous. From the 1950s to the 1990s there was more spontaneity than mobilization" (Nyandoro, 2012: 298).

However, from 2000 onwards, there was much increased consolidation towards a faster and cohesive land reform process in Zimbabwe because the ruling party's manifesto provided the mandate for land acquisition. In contrast, the opposition remained silent

on the land clause included in the proposed new constitution. Indeed, “the mobilization for “land grabs” became largely political and was perceived in many circles as disrupting law and order in the country” (Nyandoro, 2012:298).

Peace and reconstruction in Zimbabwe were founded upon a sustainable solution to the clamour for land use rights. “With the international community (led by the former colonial power, Britain, and the USA) advocating a Western-brokered solution to the land question, President Mugabe and other African leaders have pushed for a Zimbabwean-oriented or at least an African Union (AU) or Southern African Development Community (SADC)-led solution to the issue” (Nyandoro, 2012:298).

The control of land and water resources is also perceived as a key aspect of efforts to achieve a peaceful solution to the economic problems that have beset the country since the 1990s. Moreover, conflict over land and challenges posed by a malfunctioning economy continue to threaten stability in Zimbabwe (Cassim, 2021). Hence, from the late 1990s to 2000 and beyond, Zimbabwe has increasingly advocated for “African solutions to African problems” as part of attempts to prevent the West from meddling in what this southern African nation sees as its domestic affairs, including land, socio-economic and political development (Zimbabwe Human Rights Association, 2010).

Potentially, Zimbabwe’s deeply contested land reform process was intended to right the wrongs of the past. It was felt it could be settled collectively following the historic signing of the Unity Pact on 15 September 2008 whose rallying point was – “an African solution to an African problem” – therefore set the tone for future conflict resolution on the continent (Nyandoro, 2012:298).

The exploitation of land and other natural resources in Zimbabwe has gone through distinct epochs that have left a profound impact on land tenure and land rights. The quest for bigger farmlands reached its height with the passage of the Land Appointment Act (LAA) of 1930 and the Native Land Husbandry Act (NLHA) 25 of 1950/51, which culminated in the forced removal of African farmers from their original farmland (Dande & Mujere, 2019). These notorious pieces of legislation heightened farmland acquisition by white settlers in Zimbabwe and left in their wake a terrible legacy of land and resource conflicts arising from loss of control over land and natural resources such as water (Nyandoro, 2012).

Such laws set the tone for the unprecedented countrywide rush for farmland (“land grabs”) by many smallholder peasants and indigenous communities in the post-independence period. White farmland acquisitions, on the one hand, and the inability of the new national government to resolve the land shortage, on the other; have raised a litany of human rights-related concerns on the fate of millions of impoverished peasants in Zimbabwe. Rural populations have diminished access to land and water resources (largely because of evictions) and local food production has been seriously undermined (Nyandoro, 2012). For example, the villagers of Chilonga, like many in Zimbabwe, have lived on their ancestral lands for decades, but due to endless land disputes and the allegedly selective use of the law, land remains a major source of anxiety.

At least 12,000 villagers of Chilonga, Chiredzi, face imminent eviction from their 13,000 hectares (32,000 acres) of ancestral land to pave the way for a grazing project. Villagers living 433 kilometers (270 miles) southeast of the capital, Harare, were gripped by fear after receiving threats for challenging the government's decision through the High Court. According to the Zimbabwe Human Rights Association, villagers are in the dark and traumatized as the war on evictions is not yet over, despite the triumph of the High Court (Cassim, 2021).

Villagers in Chilonga received warnings to leave their ancestral land, but the government has remained silent on compensation, the right to land and the right to farmland because it was farming season. Instead of consulting the villagers, the government invented a law, a statutory instrument, SI 50/21, which reserved land for the Lucerne Grass project. Meanwhile, another law was also announced, SI 51/21. This attempted to repeal SI 50/21 but then changed the status of land from municipal land to state-owned land (Cassim, 2021).

Communal land is regulated by the president, although the traditional rulers are those who manage the land. Unfortunately, the land has no title deed. This had ramifications as it meant that the inhabitants of the Chilonga region lost their rights to their ancestral lands under municipal land rights (Bishi, 2015). Zimbabwe has several laws governing the use, ownership and purchase of land, but the supreme law, the Constitution, remains the governing factor. Most land laws, however, are outdated, some inherited from the colonial era. The uncertainty over land ownership in Zimbabwe is what plagues many

citizens who believe the land saga should have been the first to be addressed since independence. Zimbabwe has already seen a number of such evictions and the result is that the villagers are ultimately forced out of the country because the government will try to please individuals or businesses who have a vested interest in the land (Cassim, 2021).

Therefore, one thing Zimbabwe and South Africa have in common is that the land issues, dating back to colonial times and the domination of white settlers, are very moving, evoking difficult questions of history, race, politics, economic opportunities and international diplomacy. Successful defusing of tensions on land remains crucial to reducing the risk of conflict in both countries and improving their long-term economic prospects (International Crisis Group, 2004).

2.3.2 Land Reform and Restitution Claims in Nigeria

According to Ifeka (1996:140) “land is contested by people and groups mobilizing different levels of the political system (village, local government, state and federal government) in support of their rights. National and state elites mobilize to gain exclusive possession of blocks.” This entails that while the masses (communities and lobby groups) may hold land as a source of sustaining livelihood, the national and state elites consider land as an instrument to achieve economic development. This therefore articulates the complexity of land dispossession where land possessed by dispossession for greater economic development consequently deprives and further marginalise indigenous people through land privatisation (Odukayo (2020).

The modern form of land dispossession in Nigeria is influenced by an increased presence of transnational companies and other investors scrambling for land for the production of agro-fuels and food. Contrary to the background that Nigeria is the seventh leading oil-producing country in Africa, persistent food insecurity continues to be a concern (Attah, 2014: 213). Elites in sub-Saharan Africa enter into large scale land deals with multinational corporations who invest in the name of local economic development.

Individuals, particularly retired generals and multinational corporations, such as breweries, have been acquiring land grants from state governments and accumulating land for many years (Madumere, 2018). The state has, on some occasions, forcefully

ejected people from their land and reallocated it to multinational corporations (Attah, 2014: 214). In Nigeria this has materialised rapidly over the years where people have been forcefully evicted from their rightful land in order to make way for economically viable projects which, is exemplified in the case of the Bakolori Dam project.

The Bakolori Dam project was established by the Federal government of Nigeria under the Sokoto Rima River Basin Development Authority (SRRBDA) in order to eradicate persistent dry spells that resulted in too short rainy season in the area. But the fundamental reason for the discovery of this dam was to provide a sustainable irrigation water supply to an estimated population of about forty to fifty thousand farm families in the project area (Mohammed, 2002, cited from Oiganji et al, 2014:1).

Mohammed, (2002: 411) states that development as a multi-faceted and human centred concept determines the implication for sustainability and relevance to the people whose lives are affected upon a development process. In light of the Bakolori Dam project, a series of consequential events unfolded prior to and after its construction and this alluded more to the inclusivity and viable nature of this development project. On one hand, some of the consequences of the project include the dispossession of farmers of their productive land, fraudulent reallocation processes, inadequate compensation and destruction of economic trees and crops. While on the other hand many peasant farmers and people died in the protest over their loss of land and livelihood (Mohammed, 2002).

2.3.3 Land Reform and Restitution Claims in Namibia

Namibia like many post-colonial countries in sub-Saharan Africa is no stranger to both colonial and apartheid oppressive land regimes (Mufune, 2010). Land policies and land reform programmes in Namibia can be traced from a lineage of land tenure systems and subsequent titles that claim their legitimacy from the constructs of the colonial racist administrations that illegally dispossessed the indigenous people of Namibia of their ancestral rights to their land and, in the construction of new land tenure and land rights, deprived them of comprehensive titles to their land (Amoo and Haring, 2009).

The importance of land to the people of Namibia is self-evident in the sense that, about 90% of the population largely depends on it for subsistence, either as commercial or subsistence farmers, or as workers employed in agriculture (Werner, 1993). Conversely, due to the effects of colonial and apartheid land reform regimes which

consequently altered the structure of land ownership and tenure in this country, land as a source of livelihood sustenance has had little or no importance to those who solely depend on it for a living (Harring, 2000). The effects of both colonial and apartheid land reform regimes have since their existence deliberately forced African black communities into wage labour with the aim of expropriating land formerly owned by them (Werner, 1993).

The racially-oriented distribution of land in Namibia was an essential feature of the colonial expropriation of this country's resources which directly affected the profitability not only of the settler agriculture, but also of mining and the industrial sector. As it was in the pre-independence Zimbabwe, "the whole wage structure and labour supply system depended critically on the land divisions in the country" (Werner, 1993: 135). This meant that, access to land determined the supply and cost of African labour to the colonial economy. As a result, "the large-scale dispossession of black Namibians was as much intended to provide white settlers with land, as it was to deny black Namibians access to the very same land, thereby denying them access to commercial agricultural production and forcing them into wage labour" (Adam and Howell, 2001).

Land grabbing is also not foreign to the new Namibian government. It is not much different from the preceding oppressive land reform regimes. The continuing leasing of largescale rural land to local, regional and foreign investors without the consent of customary owners stagnates the process of efficient land reform programmes in Sub-Saharan Africa and continue to marginalise and further impoverish rural communities (Wily, 2011). This is exacerbated by the persistent failure of many domestic land legislations to particularly recognise customary interest as equivalent to rights of real property, and the inability of democratic decentralization to restore meaningful authority over land disposition of rural communities, and the insufficient rule of law to curtail the ability of state actors and associated elites to abuse principles of public interest for private gain (Adam, 2010).

2.4 COLONIAL AND APARTHEID LAND REFORM IN SOUTH AFRICA

The history of land reform and restitution claims in South Africa is no different to similar socio-political and economic dynamics in countries in Southern Africa. South Africa has

also been previously subjected to intense race-based minority rule characterized by extensive land expropriation that pushed indigenous black populations into unfertile reserves especially during colonial and apartheid governance (Mufune, 2010).

Historically, land in South Africa like in other countries of Sub-Saharan Africa, has been used as an instrument of black subjugation and a base or a symbol of white power and authority. According to Jacobs (1992), this manipulative use of land to subjugate African natives dates back from 1902 when white settlers expropriated about three-quarters of the African land.

In the case of South Africa as in other southern African countries including Namibia and Zimbabwe, the country was settled by considerable numbers of people of European descent - which ultimately paved the way for extreme forms of land expropriation (Lad Accountability Research Centre, 2013).

2.4.1 Land Reform in Colonial South Africa

The history of land dispossession in colonial South Africa can be traced from the 1600s when the first Dutch settlers made their way to the Cape of Good Hope. They penetrated the interior to secure better pasturing land. In pursuit of land acquisition, violent confrontations with the indigenous and white settlers was the order of the day (SAHO, 2013).

The year 1658 marked the first formal act of forced relocation in South Africa, which occurred when Jan van Riebeeck informed Khoi communities that they could no longer live west of the Salt and Liesbeek rivers. From then on, military conquest and colonial settlement became the standard methods of dispossession, although legislation and trickery always played a part (Levin, 1996 cited in Weideman, 2004).

This is illustrated by the aggressive annexation of the Eastern Cape in the 1800s. Legislation was increasingly used as a method of dispossession. As the white agricultural sector grew in the mid-1800s, so did the demand for African labour. Accordingly, a tax policy designed to force Africans into wage labour by heavily taxing independent African tenants on farmland was introduced in 1860 (Weideman, 2004). This was followed by the 1884 Native Location Act in the Cape Colony and the 1887 Squatter Laws in the Transvaal (SAHO, 2013).

2.4.2 Land Reform in Apartheid South Africa

With the formation of the Union of South Africa in 1910 marked the beginning of a long and oppressive era characterized by further squeezing of black people of their ancestral land. A series of brutal land reform legislations were enacted with the sole intention of uprooting people from their land or where they originally resided as tenants and share-croppers. This resulted in the deprivation of the indigenous from buying land within the prescribed areas (SAHO, 2016).

Spatial segregation through race was deeply entrenched into these draconian legislations – which laid a solid foundation for spatial and racial boundaries. In addition, the presence and the influence of foreign international land investors on land dispossession and demarcation had since the 1900s begun in South Africa (Beinart & Delius, 2013). For instance, during this time a fifth of the total land area in the South African Republic was already owned by foreign land companies or ‘absentee landlords. Wernher Beit & Co and H Eckstein & Co. were amongst the most influential companies in the process and they had already acquired and managed about a quarter of the land owned by the indigenous communities (SAHO, 2013).

Dispossession destroyed the emerging African peasantry. Others had their land taken and, compelled to pay taxes in cash, were forced to find wage labour in the mining sector (Callinicos, 1987). Unlike in numerous other colonial settings, Africans were dispossessed of land and thrust into wage labour in South Africa were largely prevented from settling permanently in the cities. Instead, the colonial state established an archipelago of ‘Native Reserves’ (later ‘Homelands’), totalling around 13 per cent of the land area by 1936, from which Africans migrated to the cities to work (Beinart 2001).

South Africa’s colonial past is an inescapable context for the contemporary land question. European settlers backed up by whites-only governments seized vast areas of land from Africans before and subsequent to the 1913 Natives’ Land Act landmark – which today is a historical cut-off point for claims for restitution of land rights (Fraser, 2007). Some of that land was farmed by an emerging African peasantry producing for new markets associated with mining (Bundy, 1979).

The Natives Land Act (1913), Urban Areas Act (1952), the Native Trust and Land Act (1936) and the Trading and Occupation of Land Restriction Act (1943) were amongst

other legislations passed to carry out land dispossession in South Africa during this period SAHO, 2016).

Following the election in 1948 of the Afrikaner nationalist party, the National Party, the apartheid-era South African polity then developed into a ‘bifurcated state ‘in which traditional leaders ‘decentralised despots’—in the homeland areas were formally allocated far-reaching powers with respect to land, labour, and gender relations. Apartheid policies pursued Africans’ subjection indirectly via traditional leaders Mamdani’s (1996). Thus, and as noted, when it has come to questions of maintaining “order” and dispensing coercion, traditional leaders have performed crucial roles, symbolic and practical: suppressing resistance while distributing scarce resources’. However, the decentralization of power to intermediaries in the homelands recognized only to a limited extent the sovereignty of traditional leaders within their invented domains; the whites-only nation-state was the supreme chief in the reserves (SAHO, 2016).

Nevertheless, ‘whether it was about attaining a plot of land, getting a work permit or an old-age pension, or obtaining access to justice, the chief had by legislation been made into the sole portal to government’ (Oomen, 2005: 20). Establishing the homeland areas entailed thousands of forced removals, through which as many as 3.5 million people were displaced and located in one homeland area or another (Platzky and Walker, 1985). Many claims for restitution in urban and rural areas refer to this period of dispossession. However, by no means all the 14 million or so people still living in what are now the former homeland areas, and therefore still living under the influence of traditional leaders and their allies, are in line for restitution. One final dimension of South Africa’s colonial past to consider here is the fact that the pre- and apartheid-era South African policy promoted a whites-only commercial agricultural sector, the advancement of which was a major reason for dispossession and forced removals (Fraser, 2007).

2.4.3 Apartheid Land Reform Policies and Forced Removals in South Africa

When the National Party (NP) assumed power in 1948, legislation that further alienated people from their land and property was passed. The passing of the Group Areas Act in

1950 and the work of the Tomlinson Commission became some of the guiding pillars of Apartheid's policy of racial and territorial segregation (SAHO, 2013).

Under the Group Areas Act, the government enforced massive forced removals of people from areas declared as belonging to another racial group. Homelands were established and given 'self-governance' and pseudo independence by the Apartheid government (Lahiff, 2016). Black African people were deported from South Africa under the pretext of 'influx control' to these areas when their labour was no longer needed, or they became a political threat. People residing in areas identified as 'black spots' in urban or rural areas were also forcibly removed to other areas often with nothing. Land dispossession also took place for other reasons such as the implementation of betterment policies and consolidation of homelands (Cousins & Scoones, 2010).

Most of forced removal victims were African – although 600 000 non-Africans were forcibly removed under the Group Areas Act. Black spot clearance, homelands consolidation, the abolition of labour tenancy, urban township relocation, influx control and betterment planning, were all Apartheid measures to forcibly remove people. Between 1960 and 1982, approximately 1 200 000 people were forcibly removed from farms, a further 600 000 through black spot and Bantustan consolidation policies, another 700 000 through urban relocation, some 900 000 under the Group Areas Act and 150 000 for other reasons (Weideman, 2006).

All these removals were forced: "the force was both structural – coercion was built into the web of discriminatory and oppressive laws and institutions restricting black freedom of movement and access to land – and specific to the particular instances of relocation. Sometimes the violence with which people are removed was direct – police and guns, bulldozers demolished houses and arrests. In other instances, violence was less overt – intimidation, rumour, co-option of community leaders, the pressure of shops and schools being closed and building restrictions imposed in areas due for removal" (SAHO, 2013).

Additionally, a series of related oppressive legislations gave the National Party government the power to continue with its policies of forceful removals. These included the Natives Resettlement Act of 1954, the Natives (Urban Areas) Amendment Act of 1955 and the Group Areas Amendment Act of 1956 (Land Accountability Research Centre, 2016).

2.5 LAND REFORM AND RESTITUTION CLAIMS IN POST LIBERATION SOUTH AFRICA

The Natives Land Act of 1913 also referred to as the Bantu Land Act, Act No. 27 of 1913 haunts post-liberation efforts to settle land claims. It was an Act of Parliament of South Africa during colonialism - which aimed at regulating the acquisition of land by the majority disfranchised Blacks (SAHO, 2016). The general conception of the Act is that, it was the source of land alienation and the destruction of a surplus-producing African peasantry and thus introduced impoverished labour reserves (Beinart and Delius, 2013).

Conversely, land alienation was never an intention and a result of the Act. Nonetheless, to a considerable extent land alienation and dispossession was in fact a result of the colonial influence dating from the 1800s (SAHO, 2013). Thus, the ruthless alienation of land from the indigenous continued into the apartheid National Party government following the downfall of colonialism. This was done for the continuation of a racially and spatially divided South Africa so that capitalist interests are promoted.

Consequentially, the influence and impact of both colonial and apartheid resulted in a skewed land ownership with the majority disenfranchised being landless. However, this imbalance has not been adequately addressed when the democratic dispensation was realised after 1994 (Beinart and Delius, 2013). Instead the new democratic government under the ANC evaded and increasingly moved away from the mandate of addressing injustices incurred from the colonial and apartheid land reform legislations under its Restitution of Land Rights Act 22 of 1994 (Restitution of Land Rights Act, 1994).

The foremost provisions of the Restitution of Land Rights Act of 1994 is “to provide for the restitution of rights in land to persons or communities dispossessed of such rights after June 1913 because of past racially discriminatory laws or practices; to establish a Commission on Restitution of Land Rights and a Land Claims Court; and to provide for matters connected there within” (Restitution of Land Rights Act, 1994: 1). This indeed acknowledges the provision of restitution of property or equitable redress to a person or community dispossessed of property after 19 June 1913.

In spite of the promulgation of the Restitution of Land Rights Act (1994) the reigning ANC government has failed to redress the unjust legacy of both colonial and apartheid regimes in the former Bantustan regions in the new democratic South Africa. Instead,

the government has moved away from, and increasingly sloped towards a more partial manner of addressing past injustices ((Modise and Mtshiselwa 2013).

The initial pace of land restitution was slow. It appeared the government did not want wholesome changes and maintained certain populist measures. This is evident through a series of subsequent customary laws and measures enacted to sustain governance and administration of services in these Bantustan regions.

The Traditional Leadership and Governance Framework Act (2003) and the Traditional Courts Bill [B15-2008] affirm the role and recognition of traditional leadership as an institution of maintaining social order and administrative services in the former Bantustans (Traditional Courts Bill, 2008). This form of rural governance through semi-functional and patriarchal chieftaincy is the same system, which was applied during the 1913 Natives Land Act. Thus, its ideologies and practices are still rooted within a traditional system of governance which perpetually impoverished black Africans, hence their displacement into agriculturally unproductive lands in the reserves that are still characterised by poverty and lack of infrastructure until this day (Beinart and Delius, 2013).

From the afore mentioned, it is clear that the dispossession of land ownership had far reaching consequences for the black South Africans. It forced them to seek wage labour on farms and the manufacturing sector. Working for white farmers implied that black South Africans ended up reliant and controlled by their managers. In addition, working for white farmers resulted in under payment. It is therefore clear that the white colonist farmers gained control and power over their black counterparts through the 1913 Natives Land Act. The colonist white farmers not only accomplished control over land and profitable assets, additionally destroyed the livelihood of blacks (Modise and Mtshiselwa 2013).

2.6 NATURE AND EXTENT OF LAND REFORM AND RESTITUTION CLAIMS IN RURAL SOUTH AFRICA

Land as a challenged asset has a profound recorded and political setting from which the nature and degree of land dispossession in rural South Africa could be followed.

The Natives Land Act (No. 27 of 1913) successfully denied black individuals from owning land in South Africa, constraining them to 13% of the land on reserves. The

impact was devastating for individuals whose jobs relied upon land for cultivating and owning cows, and whose culture and society were rooted to the land. The impacts of this dispossession can be felt today, unmistakable in the lives of the individuals who still battle with access to land and shelter in South Africa. By removing black individuals' entitlement to possess land, the Natives Land Act tore out the spirit of the country (Joseph et al, 2015). Hence, a change in motivation cannot be finished without recovering and re-establishing the pride, character and authenticity of black Africans, which is personally associated with the land agenda.

These and different reasons influence the land issue to be exceedingly emotive in South Africa, where it is tied up in the historical backdrop of dispossession and oppression (Joseph et al, 2015). The white minority class still proceeds to own land, even though the degree of this proprietorship is not clear. Government claims tremendous parts of land, which is regularly utilized inefficiently, regardless of the colossal need (and request) for land to be utilized for shelter, economic activity, infrastructure advancement and so on.

The nature and extent of land reform and restitution claims in rural South Africa is based on the question of whether customary land tenure system is effective enough to bring the desired outcomes in rural livelihood sustenance through land restitution and redistribution.

Communal land ownership under the supervision of tribal authorities (chiefs) and their role in rural land loss does not allow for individual land access and ownership (Wily, 2011). The nature of land ownership and tenure agreements with traditional authorities in relation to customary land management and distribution in South Africa to a considerable extent contributes to landlessness amongst powerless individuals such as women in rural communities.

Communal land ownership does not allow for secure land tenure access for those who use land for economic development especially women in rural areas. Communal land ownership is a vague and complex phenomenon which makes it difficult for those pursuing profits from agriculture and small business activity. The foremost contributing factor to this remains and emanates from people with land allocation and administration authority. In rural communal land allocations, men particularly chiefs are entrusted with this task thus making them the sole administrators of communal land as per the law of

the state. This therefore makes communal land susceptible to exploitation by unscrupulous land administrators such as the chiefs in the context of rural land administration where they sell occupational rights (Adams, 2001).

The breakdown and deterioration of customary land management is one of many issues that still need radical clarity about rural customary land arrangements with the state as the legal owner of communal land. This affects tenure security in communal land ownership for the rural poor especially women and does not allow for individual land ownership for economic development. This stagnates land-based livelihood strategies and the struggle over rural land dispossession.

According to Turner (1998), the complex and dysfunctional mixture of old and new institutions and processes of land administration including agreements between the state and customary land administrators confuse the nature and extent of communal land ownership, leaving those in authority to abuse their power of communal land administration. Further, matters are complicated by the fact that rural communities are often misinformed and confused about the real nature and extent of their rights or about what institutions and legislations affecting communal land ownership (Van de Walt, 2011). Matters are also made complicated by local and national political conflicts over land management rights in communal areas. As a result, this perverts land allocation and management, hence the corruption that has been noticed in rural land administration and its impact on land tenure security in communal areas.

Inadequate land administration and the vague nature of land ownership in communal areas allows for those in power to manipulate land tenure systems for their personal interests. This therefore disregards the wellbeing of the rural poor in communal areas wherein power and wealth are concentrated in the hands of a few elites which make it difficult to protect the interests of those without power (Adams, 2001).

2.7 POST- APARTHEID MECHANISMS IN PLACE FOR LAND RESTITUTION

Since the advent of South Africa's new democratic dispensation, quite a large body of legislation dealing with land (reform) issues has been enacted. These include the following: Abolition of Racially Based Land Measures Act 108 of 1991; Upgrading of Land Tenure Rights Act 112 of 1991 and the Less Formal Township Establishment Act 113 of 1991. Sections 8 and 120- 122 of the (interim) Constitution of the Republic of

South Africa 200 of 1993 dealt with issues relating to land, while Section 28 was criticised due to its specific lack of dealing with land reform matters. After 1993 the following acts followed: Distribution and Transfer of Certain Land Act 119 of 1993; State Land Disposal Act 48 of 1961; Provision of Certain Land for Settlement Act 126 of 1993; Land Titles Adjustment Act 111 of 1993; Restitution of Land Rights Act 22 of 1994; Land Administration Act 2 of 1995; Development Facilitation Act 67 of 1995; Land Reform (Labour Tenants) Act 2 of 1996; Deeds Registries Amendment Act 11 of 1996; Communal Properties Association Act 28 of 1996; and the Interim Protection of Land Rights Act 31 of 1996. In 1996, the Constitution of the Republic of South Africa, 1996 followed, where especially section 25 (the property clause) set out the rights and obligations of both private owners as well as the state for the protection of property on the one hand, and the procedure for land reform on the other. Therefore, a new land policy was issued after a consultative process (referred to as the White Paper on Land Reform, 1996). After 1996 new legislation enacted to ensure land reform, include inter alia the Extension of Security of Tenure Act 62 of 1997 (ESTA); Prevention of Illegal Eviction from and Unlawful Occupation of Land Act 19 of 1998 (PIE); Housing Act 107 of 1997; National Water Act 36 of 1998; Water Services Act 108 of 1997; and the Communal Land Rights Act 11 of 1994 (CLaRA – which has been found to be unconstitutional (Erlank, 2014).

2.7.1 Land Restitution Claims and Settlements in South Africa

Land compensation is one of the key issues since South Africa accomplished majority rule in 1994. The lawful reason for land compensation was provided for in the 1993 Interim Constitution, Section 25(7) of the 1996 Constitution and the Restitution of Land Rights Act (1994). The South African Constitution of 1993/1996 gave individuals and groups who had been victims of land dispossession after 19 June 1913 due to racially biased laws or practices, a privilege for compensation of that property or to reasonable pay (SAHO, 2015). For that reason, the Restitution of Land Rights Act 22 was declared in 1994 by the Interim Constitution of the Republic of South Africa Act 200 of 1993. The Act called for a Commission on Restitution of Land Rights to be established in 1995 under a Chief Land Claims Commissioner and seven Regional Land Claims Commissioners speaking to the nine regions helping claimants in presenting their property claim (SAHO, 2015).

It is broadly recognized that there are tremendous difficulties confronting land reform in South Africa. Land, including all its multiple meanings that encompass its importance as a natural resource, sense of identity, power and territory was central to colonial conquest and apartheid, as well as to the struggle against these forces (Fisher, 2016; Kepe, Hall, & Cousins, 2008; Li, 2014). Precisely because of these multiple meanings of land, in dealing with colonial and apartheid land injustices, the state has to go far beyond a simple restoration of property. It needs to work at restoring people's dignity, trust and the relationship with land and with each other (Andrews, 2006; Atuahene, 2007; Hendricks, Ntsebeza, & Helliker, 2013; Walker, Bohlin, Hall, & Kepe, 2010). Indeed, at least on paper, these were some of the principles guiding South Africa's post-apartheid land reform policy, the White Paper on South African Land Policy, which emphasized justice, reconciliation, economic growth and improved livelihoods as the intended outcomes of land reform (Department of Land Affairs, 1997).

As one of post-apartheid government's top five priorities since 1994, the land reform program was envisioned as one of several policies that would spark economic growth and promote equity through a combined agrarian and industrial strategy (Cousins, 2013). The three mechanisms used to fulfil these goals have been: land restitution, to restore land rights to victims of racially motivated dispossession that happened after 1913; the reform of land tenure, to secure and protect contemporary land rights that were left vulnerable by apartheid; and land redistribution, to promote more equitable access to land and address the needs of the landless, labour tenants, farm workers and emerging farmers (Department of Land Affairs, 1997).

Despite the widely acknowledged centrality of land in South Africa's post-apartheid project of redress and better life for all, the current state of land reform has failed to meet its goals that are embodied in the Constitution and the original land policy (Cousins, 2013; Gibson, 2009; Walker, Bohlin, Hall, & Kepe, 2010). In particular, land redistribution has been the most visible failure in the land reform mandate. Less than 10% of the land has been redistributed since 1994 (Umhlaba Wethu, 2009; Walker, 2013), despite the promise by the state to redistribute 30% of commercial agricultural land within the first five years of the post-apartheid dispensation (Department of Land Affairs, 1997). It is therefore not surprising that the vast majority of Black people in

South Africa believe that historical land injustice has not been adequately addressed by the post-apartheid government (Gibson, 2009).

Moreover, research has shown that, partly due to geographical isolation, the landless poor who live on farms belonging to others (mostly white farmers) still continue to be in worse conditions than their counterparts in urban areas and rural villages (Naidoo, 1997; Ntsebeza, 2013; Webb, 2016; Wegerif, Russell, & Grundling, 2005). Farm workers continue to face the challenge of hostile farm owners who oppose labour union activities, as well as the limited attention paid by organized movements to the challenges facing farm workers. Those who are 'beneficiaries' of land reform are also isolated and face ongoing difficulties after settling on land acquired for redistribution (Kepe et al, 2017). As Kepe (2012) argues, many of these people depend on state support for livelihoods, legal and business advice. In turn, there is an element of paternalistic treatment by the state, making it difficult for land reform beneficiaries living on 'commercial' farms to oppose official advice (e.g. land use proposals) (Kepe et al, 2017).

2.7.2 White Paper on Land Policy 1997

The White Paper on South African Land Policy of 1997 favoured a market-based approach, in which the idea of 'willing purchaser, willing seller' which relied upon deliberate market exchanges, formed the foundation of the Land Reform Policy. Land dispossession under White minority government was accomplished through racially discriminative enactment and savagery. It was inevitable for the new government to strike a harmony between reconstructing the country and addressing the land issue (Department of Land Affairs, 1997).

There is a criterion which the claimants must fulfil. Capabilities to be a claimant are sketched out as follows:

- Must be a person dispossessed from land ownership after 19 June 1913.
- Is a deceased land owner whose land has been dispossessed after 19 June 1913.
- Must be an immediate relative of a person who died before lodging a claim and has no ascendant.

- A community or a group of people that lost their privilege in land ownership after 19 June 1913, (Department of Land Affairs, 1997: 4).

While the current land ownership and land development patterns still depict the political and economic conditions of the past apartheid regime, the Land Policy was intended to deal with the following in both urban and rural environments:

- The injustices of the racially based land dispossession;
- The inequitable distribution of land ownership;
- The need for security of tenure for all;
- The need for sustainable use of land;
- The need for rapid release of land for development;
- The need to record and register all rights in property; and
- The need to administer public land in an effective manner (Department of Land Affairs, 1997:6).

Conversely, inefficient land administration and land use amongst other constraints have thus far made the realisation of the provisions of the White Paper on Land Policy 1997 an impossible endeavour because issues of land tenure security, landlessness and poverty are still prevalent in rural black communities.

2.7.3 The Green Paper on Land Reform 2011

The last Green Paper on Land Reform was published on September 16, 2011, and is commonly referred to as the Green Paper on Land Reform, 2011. This Green Paper represents the latest development in a long history of land reform in South Africa. Unfortunately, despite all the developments and legislative development since 1991, the fragmented land tenure system resulting from apartheid has not been successfully corrected (Matlala, 2014).

The Green Paper makes the following proposals. It states that the vision of land reform consists of four aspects.

- The first is a new four-tier land ownership system (lease for public lands; ownership with limited extension for private lands, ownership with precarious

ownership and bonds for foreign-owned land, and communal ownership for communally owned land).

- The second is a clearly defined property right governed by a system of land administration.
- The third is to create secure forms of long-term land tenure for resident non-citizens who invest in food sovereignty and livelihood security.
- The fourth is to facilitate effective land use planning and regulatory systems.

With this point of view, the Green Paper states that there are three principles behind land reform.

These are the deradicalization of the rural economy, the democratic and equitable allocation of land and, finally, a sustained production discipline for food security. It is also suggested by the Green Paper that among others, a Commission for the management of land; a LandValuer General and a Land Rights Management Board with local management committees should be created as programs and institutions, where appropriate (W Erlank (2014).

Although the Green Paper contains some excellent proposals and ideas, it is also extremely vague, it contains a lot of flourishing political rhetoric and creates a lot of uncertainty as to the implementation and possible unconstitutionality of some of the proposals (Du Plessis (2014). Here are the main issues identified by stakeholders as problematic: First, any limitation on the size of commercial farmland is considered undesirable as it would imply that commercial products would be produced on properties rented. This would mean that the farmers could not get financing because they could not use the leased land as collateral (Mostert, 2014). Second, the proposition that the Land Management Commission would have the power to circumvent the jurisdiction of the courts is identified as a clearly unconstitutional suggestion. Third, the implementation of the LandValuer General as an institution that would determine the value of land for taxation; for the purposes of scoring and expropriating land, this seems problematic (W Erlank, 2014). This could be unconstitutional because article 25 of the Constitution stipulates that compensation in the event of expropriation must be determined by a court in the absence of an agreement between the parties concerned (Du Plessis, 2014). Fourth, the problem which seems to be of great concern is the fact that the land tenure does not seem to meet the needs and expectations of the population for land reform (W Erlank, 2014). It would appear that foreigners and wealthy

landowners may own the property while emerging black farmers will not get the property and will only get the lease of the property. It seems discriminatory. It also does not meet the needs of people living on communal land and wishing to eventually acquire ownership of the land (Matlala, 2014)

It should also be noted that South Africa must comply with constitutional and international obligations relating to the protection of property, land and ownership (Mostert, 2014).

The constant reference to both anti-colonial and anti-apartheid struggles confuses the issue by creating uncertainty as to the extent of the problems to be resolved. The current land reform program focuses on the effects and injustices created by apartheid after 1913 (Kloppers & Pienaar, 2014). However, the continued reference to “anti-colonial struggles” gives the impression that the Green Paper may want to address all changes in ownership and land control from the beginning of colonialism in South Africa – which could date back to 1652 when the colonization of South Africa began (W Erlank, 2014). As such, declaring that: “anti-colonial struggles are at the centre of two things: the recovery of lands lost by force or deception; and, the restoration of the centrality of indigenous culture”; then continuing to refer to colonialists in general and the effect of colonialism on culture, in particular, creates uncertainty about the direction of land reform rather than providing guidelines (Du Plessis, 2014). With reference to this problem, the following questions should be noted.

In the first place, has the objective of land reform now shifted towards resolving all the imbalances created by colonialism since 1652? Second, since the struggle to rectify such imbalances of colonialism focuses on "reclaiming land lost by force or deception ...", will this reference to "force" can also be used to rectify the change in government. land and land ownership between the same tribes / indigenous nations? Third, will it consider the concerns and demands of indigenous residents of southern Africa? These are not unique issues that concern South Africa exclusively and the struggle for access and ownership of land has been a key aspect throughout history (W Erlank, 2014). However, because of these evolving systems and models of land ownership and control, a line must be drawn somewhere to promote legal certainty and facilitate, rather than hinder, productive land reform (Pienaar, 2014). The rhetoric of continuing anti-colonial

struggles is useless if not tackled adequately and fairly in order to right all the wrongs caused by colonization, both inside and outside southern Africa (W Erlank, 2014).

The order in which the key parameters for measuring development are listed creates doubts about the vision and eventual success of the land reform program. It is classified as “social, political, administrative, cultural, institutional and economic”. It is deeply disturbing that the economic benchmark is placed at the bottom of the list because, without economic competitiveness, participation and development, South Africa faces the future of its neighbours who have chosen to ignore economic parameters in favour of overtly idealistic political ideals (W Erlank, 2014). Without economic development and stability, none of the other ideals will be sustainable. It is also a pity that the introduction of the substantial part of the Green Paper ends with an unnecessary reference to the capacity of those who are ready to forgive and the threat that “this goodwill must not be taken for granted” (Mostert, 2014). This benchmark does not consider the efforts and progress that all South Africans have made since 1994 to create a new Ubuntu among all members of the Rainbow Nation. Also, the Green Paper does not recognise that many white South Africans have an authentic strong history, legal and moral claims over the land they cultivate or consider that a substantial part of the farmland has turned from white to black since 1994 (W Erlank, 2014).

2.7.4 Traditional Authority on Land Restitution Claims and Redistribution

Chiefly power over communal land relative to the rights of families and individuals who have inherited residential sites, fields and access to grazing land over generations contribute to the delay and validation of traditional houses as custodians of communal land tenure further exacerbates the issue. Various lobbies of traditional leaders claim that title to the land in the former homelands should be transferred to them as the ‘custodians of custom’. Many rural people on the other hand, insist that they are the rightful owners of the land according to both history and customary law (Sundnes, 2013a).

One of the structural problems confronting the recognition of customary land rights is the nature of the deeds registration systems inherited from apartheid. It is designed to map exclusive ownership rights vesting in specified owners onto discrete and clearly defined parcels of land. Customary systems are more nuanced: they provide for relative

rights that prioritise claims based on belonging, participation and need, over those of absent individuals (Kepe et al, 2017).

The issue of traditional leaders has become an issue of political focus-hence there are often reports of significant roles and responsibilities of traditional leaders; but there seem to be no real consensus on the status and role of traditional leaders about customary laws and communal land tenure restitution and redistribution. Processes of transition have made very little progress in the institution of traditional leadership in South Africa. There are still no definite measures developed to ensure the transformation of the effective role of traditional leaders in nation-building through land reform (Classens, 2014). When the new government of South Africa came to power in 1994 their main task was to make corrections and adjustments to the traditional institutions in the country. The 1994 Constitution, Chapter 11 and 12 makes provisions that recognise the legitimacy of traditional leaders. However, the same constitution fails to clarify the role and functions of traditional leaders in land restitution, redistribution and development in their respective communities (Sundnes, 2013a).

An observation on the specific roles of traditional leaders in the development of the local community in which they preside over includes:

- Making recommendations on land allocation and settling land disputes.
- Lobby government and other stakeholders for the development of their constituency.
- Ensuring that the traditional constituency participates in decisions on development and contributes to development costs.
- Considering and making recommendations to authorities on trading licences (White Paper on Local Government, 1998: 96).

Moreover, traditional leaders do not have direct decision-making powers on land restitution, redistribution and development issues because some of their roles overlap with municipal functions. For example, in instances where there is an overlap, it is usually the municipality that has jurisdiction and not the traditional authority (Khan et al, 2006).

2.7.3.1 The Role of Tribal Authority in Rural Communal Land in South Africa

The role of Tribal Authorities (Chiefs and Headmen) in rural communal land tenure administration and maintenance of social order remains a vague matter which many are still questioning. For seven decades, the ANC protested the foundation of chieftaincy, promising its nullification when it took control in 1994. In 1998 in any case, the organisation's position changed when it lined up with the recently settled Congress of Traditional Leaders of South Africa (CONTRALESA), seeing an opportunity to expand its help in rustic territories (Classens, 2014).

In 2000, Zuma, at that point Deputy President, guaranteed to change Chapter 7 of the Constitution, to restore certain chronicled powers and elements of customary leadership. Even though this never happened, a 2015 ANC party paper presents traditional leaders) as "a key driver of advancement in rural areas" and includes that their "closeness to the general population" is commonly viewed as one of the key preferences for the existence of the institution of traditional leaders (Attah, 2014).

In provincial South Africa, civil government oversees administration conveyance. However traditional leaders keep on playing a vital part, for instance in strife determination. The authenticity of contemporary traditional administration is fervently debated. At the NMF-CASAC (Nelson Mandela Foundation and Council for the Advancement of South African Constitution) symposium, Jackie Dugard a lecturer at the University of the Witwatersrand, addressed whether South Africans understand that "traditional administration, as it is today, was solidified by pioneer control and the politically-sanctioned racial segregation administration" (Branson, 2016: 2).

Therefore, this is in fact evident in power battles that are partially the heritage of an arrangement the ANC made with the chiefs before the 2004 general election race. In what was generally translated as vote-purchasing, parliament passed the Traditional Leadership and Governance Framework Act (TLGFA) in November 2003, and the Communal Land Rights Act (CLRA) in February 2004. Traditional leaders in KwaZulu-Natal moved their political support from the Inkatha Freedom Party (IFP) to the ANC, empowering the ANC to win the elections in the region (SAHO, 2016).

Additionally, in 2016, the parliament deliberated the Traditional and Khoi-San Leadership Bill (TKLB), which is planned to supplant the TLGFA. The TKLB would engage Khoi-San traditional leaders to regulate the issues of their kin, wherever they are. Similarly, it does not provide protection for land tenure and rather locks provincial

residents into the tribal structures built under the 1951 Black Authorities Act. The TKLB displays a considerable number of indistinguishable weaknesses and potential to blend debate from CLRA, which the Constitutional Court rescinded in 2010 (Branson, 2016).

In what looks too many like further electioneering ploy, the ANC endeavoured to force the Traditional Courts Bill (TCB) through parliament, despite fizzled endeavours in 2008 and 2012-13. It was intended that the TCB would empower traditional courts to withdraw land rights from rural communities without regard to existing responsibility instruments, such as the requirement for a *pitso* (group meeting). Widowers for example would turn out to be especially defenceless against ejection from land, because the enactment would keep up current patriarchal practices that limit women from representing themselves in traditional courts (HSRC, 2019).

The TCB would set up "an isolated legitimate framework, subjecting rural communities to traditional leaders who, much of the time, were complicit in constrained expulsions to pick up power" (Branson, 2016:4). On 19 April 2016, Justice and Correctional Services Minister Michael Masutha declared that a re-drafted form of the TCB could be presented to parliament in June before the general elections on 3 August 2016.

While it might be politically convenient for the ANC to run as a substitute in the previous Bantustans and in the Khoi-San community in Northern Cape, the TKLB and TCB would further constrain basic land change and agrarian advancement. On the offside, the ANC needed to address country neediness as opposed to utilizing land, furthering its political good fortune to exercise its hegemony (Branson, 2016).

Moreover, the opposing forms of modern and traditional forms of governance have been an on-going source of political conflict since democracy especially in KwaZulu-Natal between traditional leaders and the state on the question of the exact roles and responsibilities of the latter in service delivery at a local government level. The expansion of the Durban metropolitan area which included 16 tribal areas before the 2000 local government elections also fuelled the uncertainty about the definite role of traditional leaders as opposed to that of democratically elected councillors at both institutional and political levels, since basic service delivery lies with local government (Khan et al, 2006).

The 1996 Constitution states, “*national legislation may provide for a role for traditional leadership as an institution at a local level on matters affecting local communities*” (Section 212(1)).

According to Khan et al, (2006: 179) “the full interpretation of this constitutional provision is problematic as it suggests that the exact interpretation of what should be the role and responsibility rests with the central government”. It is such political squabble that prompts ambiguity on the role and relevance of traditional leadership in modern forms of governance.

The struggles of conflicting ideas between modern systems and traditional forms of governance and the lack of synergy, co-operation and co-ordination between these key service delivery stakeholders impedes the implementation of effective developmental measures and growth, hence the institutionalisation of traditional authority is important in this regard (HSRC, 2019).

The reality of conflicting power relations between modern systems and traditional forms of government (especially in rural areas consisting of destitute majority of the victims of apartheid’s economic and political brutality) is evident in the failure of the White Paper on Local Government (1998) to clearly specify the new roles and responsibilities of traditional leaders in the new political dispensation of South Africa. The White Paper merely highlights what the roles and responsibilities of traditional leaders had been like in the old regime (Khan et al, 2006).

The White Paper on Local Government (1998) stipulates the roles of traditional leaders as:

- To act as head of the traditional authority, and as such exercising limited legislative powers and certain executive and administrative powers.
- To preside over customary law courts and maintaining law and order.
- Consulting with traditional communities through *imbizo* (meeting).
- Assisting members of the community in their transactions with the state.
- Advising government on traditional affairs through the Houses and Council of Traditional Leaders.
- Convening meetings to consult with communities on needs and priorities and providing information.

- Protecting cultural values and providing a sense of community in their areas through a communal social frame of reference.
- Being spokespersons generally of their communities.
- Symbolising unity in the community.
- Being custodians and protectors of the community's customs and general welfare (South Africa. Ministry for Provincial Affairs and Constitutional Development, 1998)

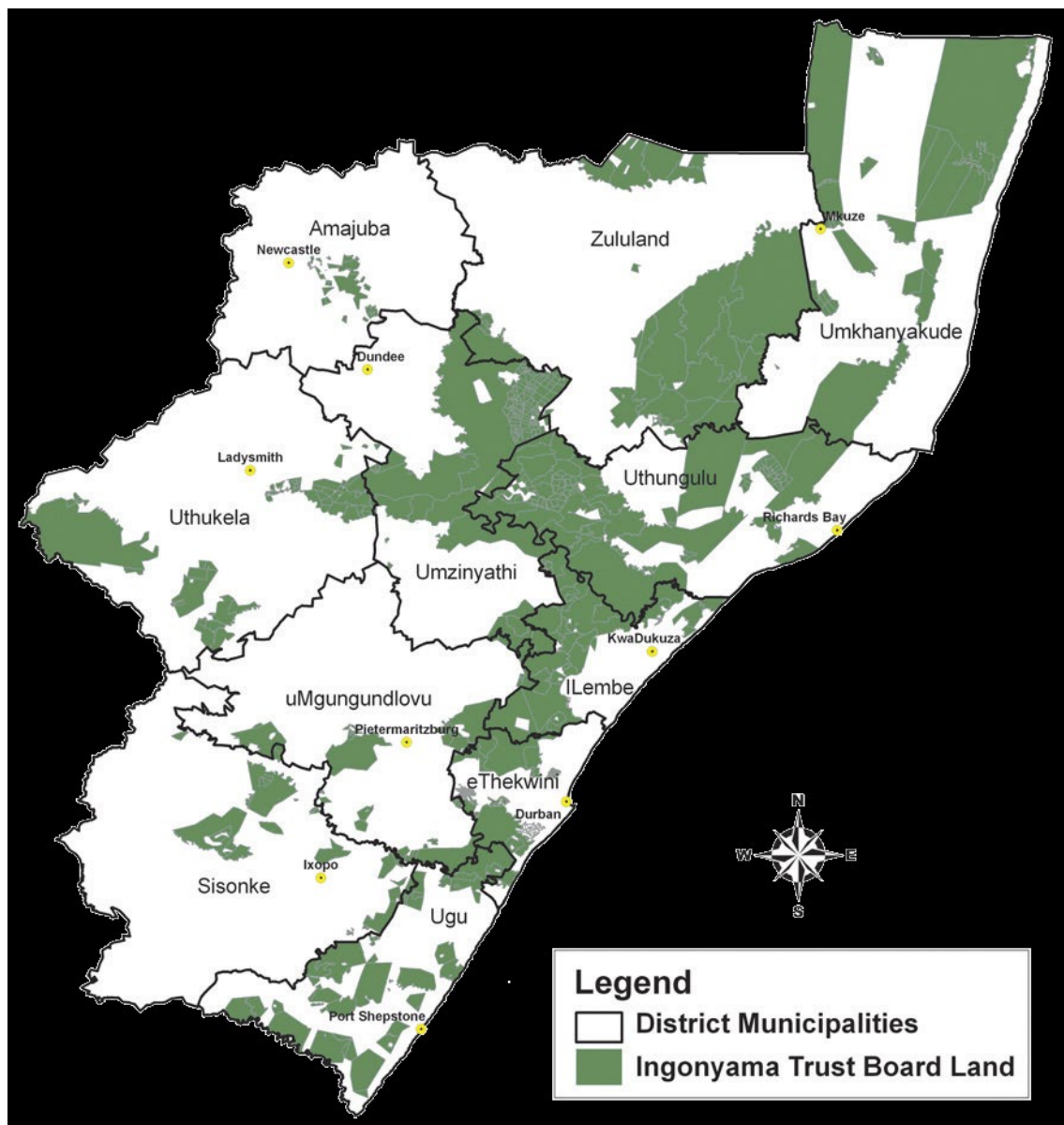
Consequently, “the absence of any new national policy on the definition of the roles and responsibilities of traditional leaders, except for those contained in the White Paper on Local Government (1998), is the only guide” (Khan et al, 2006:180).

Therefore, it is on these grounds that the capacity and relevance of traditional authority in communal land administration as one of rural development strategies by the ANC government remains a questionable issue. Moreover, its paralysing impact on the Land Restitution Programme needs to be considered.

2.8 THE EXTENT OF LAND OWNED BY TRADITIONAL AUTHORITIES IN KWAZULU-NATAL

The land under the jurisdiction of traditional authority in KwaZulu-Natal is managed by the Ingonyama Trust. The Ingonyama Trust was established in 1994 to manage land owned by the government of KwaZulu. The Trust was established by the KwaZulu-Natal Ingonyama Trust Act, which was enacted by the KwaZulu Legislative Assembly and came into effect on the 24 April 1994 (Ingonyama Trust Board Strategic Plan (2015 – 2020)). The custodian of trust land vests in the Ingonyama, whereat King Zwelithini serves as a trustee on behalf of members of communities defined in the Ingonyama Trust Act (1994). The Trust is currently responsible for managing about 2.8 million hectares of land in KwaZulu-Natal which is illustrated in Figure 2.1 below. Moreover, while the Trust enjoys wide powers to manage the land, the law also provides that the land rights of individuals and communities under the Trust be respected (Centre for Law and Society, 2015).

Figure 2. 1 Map of Land Owned by the Ingonyama Trust Board in KwaZulu-Natal



Source: Ingonyama Trust Board Strategic Plan (2015 – 2020:13)

2.9 THE DUKUDUKU FOREST LAND RESTITUTION CLAIM

According to Carruthers (2007: 293, as cited in Chellan et al, 2013:22), for many decades South Africa has been marketed as ‘the world in one country’ and this remains an accurate description of this multifaceted nation that has become a destination of choice for foreign tourists.

Ecotourism has become the government's flagship program in post-apartheid South Africa to attract foreign currency and promote local economic growth, especially among traditionally marginalized communities within tourist sites. This initiative was outlined

in a White Paper on Tourism (Department of Environmental Affairs and Tourism, 1996, as cited in Chellan et al, 2008: 270).

However, as parks as public spaces have become increasingly regulated and privatized over time, they have become commodified leisure spaces and a spectacle for the rich, much to the exclusion of the less fortunate who rely on natural resources for a living (Mitchell 1995, as cited in Chellan et al, 2008: 270).

The land restitution claims on the Dukuduku forest bordering the iSimangaliso Wetlands Park, South Africa's first World Heritage Site in northern KwaZulu-Natal, precisely illustrates the way in which the nature of the land itself becomes an issue of contestation. As with many other protected areas in South Africa, the iSimangaliso Wetland Park is beset by issues of land restitution, as people forcibly removed before and during apartheid have claimed most of the park (Nustad et al, 2013). Five out of 14 land claims to the park remain unresolved (Zaloumis 2010).

The legal claim to the forest is but one of many claims about what this piece of land is: a unique coastal forest with adjoining wetlands that must be protected for future generations; extremely productive land that can be exploited for agriculture; and a tourism destination that can bring socio-economic upliftment to the district. The actual land claim is thus part of a wider struggle to define the nature of the land in Dukuduku (Nustad et al, 2013).

According to early accounts, the British conquest of the iSimangaliso Wetland Park culminated in the plundering of many wild animals in search of adventure (Skelcher 2003, as cited in Chellan et al, 2013:22). The local Zulu kingdom was split into 13 separate chiefdoms and temporarily moved to the southern part of Lake St. Lucia soon after the Anglo-Zulu War in 1879. The first lots of the all-white holiday town of St Lucia were laid out in the 1920s and 1930s (CRLR 1999b in Walker 2005: 4-5, as cited in Chellan et al, 2013:22).

Indigenous households lost access to common lands and the estuary mouth for subsistence and other reasons as a result of this. Hence, this area has long been a source of contention. By 1904, British colonialists had expropriated 40% of the area's land and proclaimed it Crown land. Following the traumatic history of colonial relocation, the 1913 Land Act provided the final blow by prohibiting the indigenous people from acquiring any land beyond the confines of native reserves (Walker 2005: 4, as cited in Chellan et al, 2013:23).

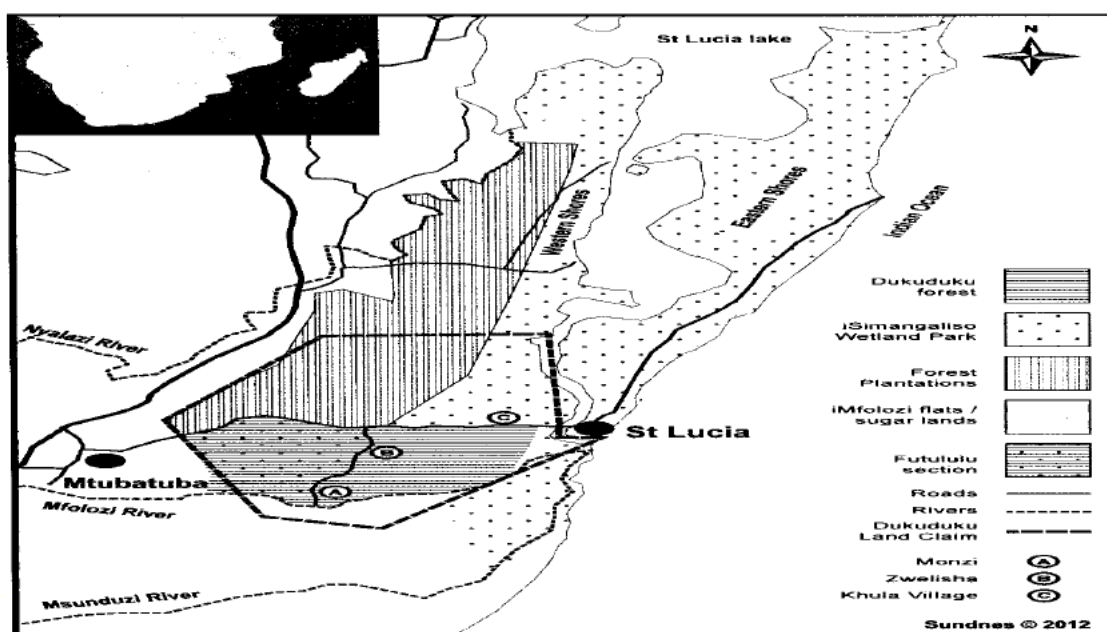
South African history documents both colonialists and the apartheid regime's systemic efforts ensured that black people's land was taken from them in order to ensure their survival (Ntsebeza 2000; Govender et al, 2005, as cited in Chellan et al, 2013:23). Between 1956 and 1974, further forced removals occurred in the Lake St. Lucia area, in keeping with this aim of self-preservation (Skelcher 2003; Ngalwa 2004, as cited in Chellan et al, 2013:23). To a large extent, indigenous peoples have been made unable to recover their land and natural resources for more than 50 years as a result of forced removals (Skelcher 2003).

The lower part of Mfolozi River and its associated floodplain (see Figure 2.2), an area finds itself at the centre of struggles over realities. The river associated swamps were instrumental in attracting sugar cane farmers in the early 20th century, and the course of the river has been changed to meet their economic needs. Commercial cultivation now takes up two-thirds of the flood plain of 19,000 ha, with the remaining third falling within the iSimangaliso Wetland Park, of which some parts are under extensive cultivation by small-scale subsistence farmers (Garden 2008).

The interests of large-scale commercial farmers, subsistence farming, tourism and conservation are thus intimately linked to the water resources of the Mfolozi River. To the north of the river, it gives way to the Dukuduku forest, one of the few coastal forests left in South Africa. However, large parts of the forest have been cleared and populated by what the authorities have described as squatters, who established themselves in the forest in increasing numbers from the late 1980s, a process described by authorities as an 'invasion' (DWAF 2000; DLGTA 2009).

These “invaders” constitute a mix; some claim ancestral ties to the land, whilst others have arrived in the last decades. Many of the residents claim that they have been dispossessed of their land by colonialist commercial farmers in the 1920s. It is in this context the forest residents have now claimed the forest and the river, as well as parts of the park and adjoining farms, under the South African land restitution and redistribution programme (Nustad et al, 2013).

Figure 2. 2 Map of the Greater St. Lucia known as the Isamangaliso Wetlands Park Illustrating Different Land uses and Claims in the Dukuduku Forest



2.10 STATUS OF RESTITUTION OF LAND RIGHTS CLAIMS IN SOUTH AFRICA BY PROVINCE 2015/16

Land restitution has been viewed as a programme that has failed to return land rights to rightful owners within the targeted or given period (Xaba, 2016:9). Associated with the concept of effective and efficient public service delivery through restitution of land rights, it is significant to ensure that rural and urban communities dispossessed of their land rights during apartheid regime in South Africa sustain their constitutional land right effectively and efficiently (LARC, 2016). In this respect, land claims are lodged against the state. Therefore, the responsibility is upon the government to ensure that this constitutional obligation is carried out in line with various national laws and policies. The following Table presents a milestone that has been reached in restitution of land rights as of 2015/16 in each province in South Africa.

**Table 2. 1 Tabular Representation of 2015/16 Status of Restitution of Land
Rights Claims by Province in South Africa**

Province	Total Claims	Total Claims Settled	Ha Awarded	Ha Transferred	Total Amount Spent in Acquiring Land ('000)	Financial Compensation Paid ('000)	Beneficiaries (Total HHS)	Individual Beneficiaries
Eastern Cape	16 716	16 444	136 753	5 475	8 536	1 253 739	65 139	244 514
Free State	2 682	2 628	55 747	5 178	97 038	213 648	7 614	49 100
Northern Cape	3 852	3 852	569 341	271 308 1	388 152	828 166	21 900	116 549
Gauteng	13 162	13 324	16 964	4 965	164 949	573 334	14 320	67 208
North West	3 902	3 737	399 407	241 348	861 064	168 575	44 268	216 668
KwaZulu-Natal	1 639	15 161	764 358	399 925	6 335 627	1 616 561	85 421	500 524
Limpopo	3 489	3 641	603 641	351 646	1 233 166	317 374	48 492	245 091
Mpumalanga	3 400	2 848	460 964	220 111	1 686 915	318 570	53 525	238 600
Western Cape	16 099	15 784	4 140	3 122	29 844	795 121	27 411	125 730
Total	79 696	77 334	3 011 315	1 443 078	10 805 290	6 085 090	368 090	1 803 984

Source: RSA (2015:13)

Given the complexities of land reform program, the progress of rural restitution has been similarly uncertain and difficult. Instances of “successfully operating” settled rural land claims have been mentioned but, these are the exception rather than the rule and the bulk of these claims are still in the process of being settled. Despite the fact that the pace of dealing with rural claims appears to be picking up in recent years, however the

long-term feasibility of these settlement methods has been challenged (Ramutsindela et al, 2016).

An analysis of rural restitution was published in 2003 by the Programme for Land and Agrarian Studies (PLAAS), which highlighted a range of successes and challenges. The dramatic rise in claim settlements following reforms adopted after the 1998 Ministerial Review was one of the report's main accomplishments. The implementation of a more developmental approach to the settlement of rural claims, as well as efforts to recognize and resolve post-settlement support needs as part of pre-settlement planning, and the restoration of some large portions of land, are all listed in the review report as commendable achievements in terms of rural restitution outcomes (HSRC, 2019).

However, the report also identifies a range of obstacles that are threatening the program's effectiveness and long-term viability, including concerns about the slow speed of restitution implementation, uncertainty in the number of pending claims, and the low efficiency of newly resettled restitution beneficiaries. The report concludes that "good restitution cases" tend to be the exception rather than the rule, and that many restitution beneficiaries have been unable to put their land to productive use. In several ways, these issues are still relevant and current today (Rakape, 2018).

The problem with South Africa's land reform policies, according to the 2015 Transformation Audit performed by the social justice network, is their uncertainty. 'On the one hand, they aim to protect the vast farms inherited from apartheid; on the other hand, they seek to redistribute land and redress historical injustices in the agrarian structure,' according to the study. The unimpressive nature of these results is especially clear in relation to the South African land reform program's poverty reduction and equity goals. For land reform projects to achieve their desired aim of addressing rural poverty, there is a need for greater participation of beneficiaries in both policy formulation and implementation, which would engender a sense of ownership among beneficiaries that is currently lacking, according to the report. The report concludes that market-based land reforms in South Africa (including land restitution, tenure reform, and land redistribution) have largely failed to restructure agrarian ties more equitably, and that this failure is related to continued poverty (Ramutsindela et al, 2016: 46).

The Department of Rural Development and Land Reform's own viewpoint is much more telling. The Department of Rural Development and Land Reform identified key

problems impeding their implementation and operations in its November 2013 response to the South African Human Rights Commission's hearing. The challenge of ineffective use of restituted/restored land and insufficient State support is especially noteworthy among the main challenges mentioned (Walker et al, 2010).

The DRLR admitted at the hearing that: "The beneficiaries of the restitution program have no experience performing farming operations on farms returned to them, and the State has offered insufficient assistance, emphasizing the number of hectares transferred rather than the long-term viability of land awarded to the beneficiaries." Furthermore, the majority of settlements do not result in beneficiaries' economic empowerment (Ramutsindela et al, 2016: 46).

Further, conservationists, not land owners, are the primary proponents of land claims in protected areas. They reject property claims because they believe compensation will jeopardize national park management goals. The Parks Board stated in their report to the Land Claims Commissioner that it respects "the ethics of the land claims process." However, the land being claimed in national parks at the moment is critical to the parks' legitimacy, and is a national asset (Branson, 2016).).

Not all rural land restitution programs, however, have failed. Only a few successful land restitution projects have been completed (PLAAS Diagnostic Report 2016): The most visible ventures are often praised in the press. They include the Makuleke tribe, which runs a profitable tourism business in the Kruger National Park's northern region. Robins et al, 2010, discuss this well-known restitution case and demonstrate how the result tends to represent the official priorities of reconciliation, nation-building, and economic growth.

According to the writers, the Makuleke's decision to keep their land for conservation, as well as their apparent progress in reconciling traditional and democratic governance structures, makes them a model group. They argue that the Makuleke leadership's strategic deployment and innovative assimilation of various growth discourses is responsible for this claim's iconic status (PLAAS Diagnostic Report 2016). The Moletete claim in Hoedspruit, where the community is in strategic alliances with private sector companies growing citrus and other plantation crops, is another example of progress where decisive leadership and active engagement and involvement by community members have played a key role. In addition, Ravele CPA in the Levubu

valley in Limpopo, which operates export-oriented macadamia nut farms, and the Amangcolosi community in Kranskop in KwaZulu-Natal, which owns a successful company, Ithuba Agriculture, that grows sugar cane, maize, timber and other crops. Some apparent 'success stories', such as the joint ventures between TSB Sugar and communities in the Nkomati area in Mpumalanga, are problematic, especially in terms of how this widely benefits the community at large (Ramutsindela et al, 2016).

In addition, the South Kalahari Bushmen were gradually displaced between the 1930s and 1970s and, after apartheid, they were the first reinstated as landowners in 1999. This does not mean, however, that the historical injustice of land expropriation was resolved. This is explained by theoretically comparing a genealogical and relational approach (based on the so-called "construction" and "inhabitation" of worldviews / ontologies, respectively) on land as different ways of viewing the land claim (Buscher, 2019).

The genealogical model is often used by advocates (non-governmental organizations [NGOs], governments, some anthropologists and donors) of the rights of "indigenous" peoples and this generally overlooks a crucial element that becomes evident when examining the claim from a relational point of view, namely that the meaning of the reclaimed land has changed; it is not the same as the environment that was dispossessed. In addition, the people from whom the lands were stolen are not the same as to whom they were returned (Brody, 2012).

The overriding emphasis on 'restitution' of land to formerly dispossessed peoples in South Africa must consider the ways in which different worldviews affect the nature of land claims and subsequent developments on the land afterwards; this relates to ideal types of worldviews which, in practice, always merge with a more concrete and worldly politics, which in this case occurs mostly around ideas of "indigeneity" (Ellis, 2001).

Considering the historical background and contemporary political economy of marginalisation and subordination, it comes as no surprise that the newly established Communal Property Association (CPA) was not in a position to solve these problems either. CPAs were created in South Africa as structures for communities to reclaim land, and they have been criticised throughout South Africa because communities often lack the expertise and capacity to manage the land collectively (Channels, 2002). Also, in the Kalahari, this association was supposed to become the vehicle for development,

but this never materialised and they were accused of mismanagement and fraud. Moreover, the Bushmen's minimal formal education and lack of experience in land management, leadership or ownership mean that the CPA has not operated since 2006 (Walker et al, 2010). Therefore, such These struggles have pushed the government to start intervening since 2002, but this support, as well as the participation of NGOs, was generally considered inadequate (Buscher, 2019).

2.11 THE ROLE OF THE DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM IN LAND CLAIMS RESTITUTION

The Department of Rural Development and Land Reform (DRDLR) was established in 2009 succeeding the Department of Land Affairs (DLA). In its vision and mission statement, the DRDLR upholds the creation of vibrant, equitable and sustainable rural communities under its Comprehensive Rural Development Programme (CRDP), and to initiate, facilitate, co-ordinate, catalyse and implement an integrated rural development programme (DRDLR, 2017).

As one of its endeavours towards an effective rural land reform based on equitable restitution, tenure reform and redistribution, the DRDLR has intensified and ensured that post-settlement support was accessible to guarantee that land transferred to black South Africans adds to the battle against destitution, by guaranteeing nourishment security and supporting financial and social change in rural areas (Manenzeh, 2007). However, land reform stays basic to the far-reaching advancement of South Africa's rural areas and the administration's recapitalisation and improvement of land reform ventures, as of now in trouble, bears declaration to this.

Additionally, the Annual Performance Plan (APP) for 2016/17 is the primary APP submitted in parallel with the APP of the Division of Rural Development and Land Reform. This is done to guarantee that the self-governance of the Commission is reinforced, while the reliance with the Department is at the same time understood.

While the Commission has recognized the key expectations of land claim cases, researching and inquiring about them, and to settle them through arrangements and intercession where fundamental, the Commission has likewise left on a critical program of change. Considering the worries raised by partners, this change is vital to guaranteeing that DRDLR does not just meet their yearly targets, but however meet them in a

proficient, financially viable way that enhances the experience of the voting demography it serves (DRDLR, 2016/17).

2.11 CHALLENGES FACING RURAL LAND RESTITUTION CLAIMS IN SOUTH AFRICA

It is broadly recognized that there are tremendous difficulties confronting land reform restitution in South Africa. Among the difficulties is the accompanying moderate pace of land conveyance neglecting to meet the desires of the market-based land reform. In light of the willing seller-willing buyer approach and inability to acknowledge advancement profits emanating from post settlement support are some of the concerns (Manenzeh, 2007).

The first term of the majority rule has witnessed moderate claims to land reform. Amid the National Land Summit (2005) the prevailing issue was advanced for discussion and the idea that land reform ought not to be based exclusively on the willing seller-willing buyer approach, yet different methods for a Proactive Land Acquisition Strategy (PLAS) by the State were stressed. The proactive methods of obtaining land by the state were various forms of expropriation (Department of Land Affairs, 2007).

Expropriation entailed that the targeted expropriation option would be that the land market is not providing adequate opportunities to acquire the land that is considered necessary for redistribution. Expropriation or compulsory acquisition by the State has the advantage of enabling better planning:

- If the land market as a whole is not supplying enough land to meet overall national targets;
- If the land market is not supplying enough land in the particular areas that the government wants to develop as part of the land reform and rural development programs, which are: high-potential agricultural land; contiguous blocks of agricultural land suitable for resettlement, with possible infrastructure cost-savings because of economies of scale; and extension of farming by households' resident in communal areas—again cost-savings (due to economies of scale and possibly savings on residential infrastructure if households would not need to physically move) would be achieved if households can still use the existing social infrastructure in the communal area, but farm better land on neighbouring agricultural land (Department of Land Affairs, 2007:13).

Thinking about the global experience, it was apparent that markets on its own can't modify the pattern of proprietorship adequately in favour of equity for the targeted recipients of land reform. This is affirmed by the experience of South Africa in the past 26 years of land reform (MALA, 2005).

The achievement of land reform in South Africa ought to be tried against its capacity to address value in land appropriation and employment updating, diminishment of neediness, formation of rural employment and wage producing openings. Additionally, the post-settlement period, issues around sustainability, change of livelihoods of recipients, formation of rural business and so forth are basic. It is obvious that land access is only one factor; however, there must be complementation of the land access strategies with other proactive steps so that rural land reform can be achieved (PLAAS, 2019).

It is asserted that association and investment of recipients in the planning framework for services is a basic component in land reform and has furthermore raised a challenge around overlooking women and farm workers. Where land reform has been executed in ignorance of these marginal groups (farm tenant/workers and women), it has brought about loss of jobs and poverty (PLAAS, 2019).

The challenge for land reform also resides in planning of farming and rural advancement methodologies; and a plan of support services and credit programs, remains. The needs of farmers, marginal groups, for example, women and farm labourers ought to be organized when planning projects and undertakings. Inclusion of recipients in getting ready for their projects and livelihood security creation is basic to rural development and poverty alleviation (Rakape, 2014).

Recipients' capacity to make successful and profitable use of land obtained will depend on the creation of reciprocal foundation appropriate for smallholder agriculture and change in the pattern of how land is used. In numerous cases, absence of capital prevents recipients of land from essentially expanding the proficiency of agricultural production. In addition, labourers, now proprietors, are not used to making autonomous entrepreneurial choices because of absence from earlier exposure to such levels of decision making (HSRC, 2019). This is an imperative that is especially essential if understanding the advantages of rural land reform to be focussed on entrepreneurship (PLAAS, 2019).

Post-apartheid South Africa has acquired a heritage of monstrous imbalances in both income and access to services, with the most exceedingly terrible destitution being situated in the rural areas. Resources, especially natural from communal lands, are essential in the livelihood techniques of rural individuals. When dealing with aspects of rural livelihoods, such issues need to be adequately addressed (Classens, 2014).

Rural livelihoods are numerous, different and dynamic and are frequently aimed for overseeing hazard, lessening helplessness and upgrading security. Livelihood techniques hence include keeping up complex social and monetary relationship over various levels, both locally and globally. These systems connect people, relatives, social systems and community organizations, and some of the time include interest in an assortment of both neighbourhood and more removed markets (Bishi, 2015). As specified above, livelihood strategies are too institutionally intertwined and becomes complex where land tenure is communal in character and numerous resources are found amongst the commons (PLAAS, 2019).

Among the key complexities confronting rural land restitution claims attribute from a number of unresolved questions of who should benefit from rural land redistribution? The rural poor, the landless, women and youth? Small holder farmers? Black commercial famers? If a mix of all of these, in what proportions? Also, how should land for redistribution be identified, acquired and transferred? What are the respective roles of the state, citizens and the private sector? What kind of rights should beneficiaries hold on redistributed land? Should it be a private title or a collective ownership through communal property association or communal tenure or leases from the state? (HSRC, 2019).

Moreover, post settlement issues on redistributed land, and the concerns of what kind of support should be provided to beneficiaries, training, extension and advise, financial, marketing, access to water as well as who will provide this support still remain prominent challenges of rural land reform and restitution claims (Rakape 2018).

Considering the objective of restitution of land rights as a component of land reform, there is a challenge to achieve the desired outcomes of land redistribution, historical redress and enhanced dignity, distribution of productive assets to poor South Africans within an altered agrarian structure as well as opportunities to earn income (Branson, 2016).

Given climate change, security of long-term sustainability of food and farming systems; the lack of development and sustainability of government's capacity to implement land redistribution effectively; and how can the government and other programmes can be implemented in a less compartmentalised and fragmented manner, are also among the key challenges facing rural land reform and restitution claims programme in South Africa (PLAAS, 2019).

2.12 CONCLUSION

This chapter provided an overview of literature about how the historical context of land dispossession has subsequently influenced the nature of modern large-scale land acquisition (land grabbing) in the neo-liberal era. The new political dispensation has not introduced sufficient new land reform policies that would enhance the livelihood of the poor in both urban and rural areas. It is evident that, despite the endeavours of post-apartheid government to eradicate the injustices of past racial spatial divisions through land reform, the current land reform programmes fail to address issues of land access and ownership in both urban and rural areas.

The role and the influence of traditional leaders as key role players in the creation of spatial divisions under the past regimes as well as their vague relevance in present communal land tenure distribution can be attributed as one of the failures the current land reform policies has been unable to adequately address. Additionally, the complexities of land disputes between major nature conservation companies and communities located along their borders introduce further land restitution claims discrepancies, hence issues pertaining to land ownership and accesses are not clearly defined under the current land reform policies.

These among other flaws form a complex of issues that the current land reform programme as a development strategy of South Africa needs to review if the envisaged vision of a land reform that would eradicate the injustices of past regimes and improve the livelihoods of previously disadvantaged communities is to be achieved. Therefore, the literature substantiates the direct relation between the political economy of land reform and its influence on progress of land restitution claims, hence also the impact this has on livelihood sustenance of the previously disadvantaged rural communities.

CHAPTER 3

THEORETICAL FRAMEWORK

3.1 INTRODUCTION

The backlog of land claims is directly a consequence of complexities emerging from the stagnant Land Restitution Programme in South Africa. Colonial and Apartheid racial spatial divisions have created a legacy which has made it difficult for the South African government under the new political dispensation to formulate policies that are independent of this oppressive nature of historical burden. The hypothesis brought forward by this study contends that, the historical context of land reform legislations and their effect on the present-day land reform policies (which are meant to ease and eradicate the injustices inherited thereof) continue to paralyze present day land restitution and claims settlement endeavours in South Africa.

This study employs the Power Elite Theory to suggest that, the influence of power elite structures and the failure of the current government to formulate land reform policies that are designed specifically to meet the needs of previously disadvantaged communities (particularly Section 25 of the Constitution of the Republic of South Africa (1996), is particularly one of the policy flaws that need to be taken into consideration by concerned stakeholders and land reform policy makers in order to enact an effective land restitution programme that would eliminate present day socio-economic inequalities through equitable and efficient land reform and restitution.

The Power Elite Theory drawn from C. Wright Mills (1956) and G. William Domhoff's (1979) perspectives of power informs this study. They both best explain the paradoxical effects of dominant power structures (i.e. the social upper class, corporate community and the policy-planning network) that influence the functionality and regulation of three major institutions of modern society-which, are the economy; government; and the military and the ultimate impact this has on common and marginalized masses at the bottom of this power hierarchy (Elwell, 2005). To understand the influence of dominant power structures, it is also essential for this study to draw from a Pluralist and Marxist model that provide perspectives on power dynamics in society. In addition, the study further expounds on the complex power struggles involved in the clash between

Traditional and Modern systems of governance and how these two forms of authority can co-exist.

3.2 THE CONCEPT OF POWER

To understand the phenomenon of Power Elite, the concept of 'Power' according to Petress (2013) can be understood as the ability of those in higher structures of control to influence the behaviour and beliefs of the least powerful to effect and validate a desired outcome or values. It is described as a social force, which can be used by selected personnel in certain statuses to mobilize others; to organize others to act in concert; and to suppress resistance to leaders' authority.

Additionally, power can be defined as "the capacity or potential of individuals in certain statuses to set conditions, make decisions, and/ or take actions which are determinative for the existence of others within a given social system" (Dye, 1976:6).

3.3 PLURALIST MODEL

To the contrary, the pluralist display depends on how control is similarly conveyed among numerous gatherings in the public arena. The world-class power comprises alliances of similarly invested individuals, associations, proficient affiliations, and business lobbyists. These first-class groups make-up little in number but control and influence crucial socio-economic policy decisions. The, common masses (the public) at the bottom of the power hierarchy are mostly affected by the influence of power elites in policy decision making processes. Power elites and their influence in socio-economic policies manipulate developmental structures to favour their prestige needs. Thus, the common masses at the bottom of the social power structure suffer the effects of being marginalised and confined to the periphery in policy decision making processes (Hurst, 2018).

The pluralist model does not consider the position of the common masses in social power contest as they are considered less powerful bystanders in the policy making process. Pluralists trust that control is scattered and divided; groups give progressively compelling methods for representation; the bigger the gathering, the more impact it will have; and that strategies set up through compromise will in general be reasonable for all at last. Although, the pluralist theory centres on the belief that power among social groups is equally dispersed, it is arguable that this is not always the case in modern

society – where power is concentrated among the wealthy elite groups (Elwell, 2005). The concentration of power at the hands of elites is argued to prevent the public from having their voice heard in policy decision making processes.

3.4 MARXIST PERSPECTIVE OF POWER

The power elite theory can also be understood drawing from a Marxist perspective of power – which is premised on the idea that, power relations are a manifestation of a specific configuration of class domination. Jessop (2017:2), states that Marxists investigate the causal interconnections between the activity of social power and the generation and change of class control. This means that Marxists acknowledge other types of subject, identity, antagonism, and domination. However, Marxists consider these phenomena largely in terms of their relevance for, and the over determination by class domination (Elwell, 2005).

Moreover, Marxism is concerned about the connections – including discontinuities just as congruities between monetary, political, and ideological class mastery. Marxists note the impediments intrinsic in any activity of intensity that is established in some type of class mastery and clarifies this as far as auxiliary logical inconsistencies and oppositions engraved in that. Marxists expect that all types of social power connected to class mastery are naturally delicate, flimsy, temporary, and transient, and that proceeding with battles are important for the creation of conditions for class control, so as to defeat opposition, and to kill or perplex class control (Jessop, 2017).

Cohen (1981:5) poses a question of whether “the power mystique is the particularistic, sectional creation of the group that assumes it to serve its own interests, or essentially the universalistic creation of the social system as whole in the general interest. In a Marxist view of power, the power mystique is seen to be a subtle, particularistic ideology developed by the privileged elite to validate and perpetuate their domination and thereby to support their own material interests. The dominant mystique class uses various techniques of mastication to persuade the masses that it is only natural for these power elite to rule and that this is in the best interest of the society.

Moreover, Marx and Engels (1970: 640) add that “the ideas of the ruling class are, in every epoch, the ruling ideas.” This means that the class which is the dominant material force in society is at the same time its intellectual force. Also, the mystique of dominant power elite is argued to be conditioned and sustained by society. According to Cohen

(1981:6), “rulers are endowed with mystical powers which enhance their status and raise them to a higher level than that of ordinary people.” This for example, explains why in many tribal societies’ chiefs are still endowed by the society with such mystical powers.

3.5 POWER STRUGGLES INVOLVED IN THE CLASH BETWEEN TRADITIONAL AND MODERN SYSTEMS OF GOVERNANCE

Power is perceived as “the probability that one actor within a social relationship will be in a position to impose one’s will upon the behaviour of other persons, regardless of the basis on which this probability rests” (Talcott, and Henderson, (1965).

South Africa's post-apartheid constitution established a three-sphere form of government, with local government ranking on par with national and provincial government. The post-apartheid government set out to empower local communities and encourage them to engage in development issues at the local government level, in the spirit of the Reconstruction and Development Programme (RDP) of 1994.

The transformation of local government in many provinces, especially in KwaZulu-Natal, is being hampered by another type of institutional and political power in the form of traditional authorities. Since democracy, the opposition between modern structures and traditional forms of governance has been a source of political tension, especially in KwaZulu-Natal, between traditional leaders and the state over the latter's exact roles and responsibilities in service delivery at the local government level (Khan et al, 2006:174).

The continuing squabbles about what position traditional authorities can play in local government have more often resulted in ambiguity and, at times, confusion. Traditional leaders, according to Oomen (2005), are an open and respected part of people's lives in rural areas. In a similar vein, Butler and others have argued that traditional leaders ensure that the poorest of the poor have access to property (Khan et al, 2006: 175). Furthermore, traditional leaders are often the only formal authority available to administer land use and control the affairs of the societies they rule (Butler, 2002: 51-52; 54-56).

The central question in the uncertainty surrounding traditional leaders' specific roles and responsibilities in local government, as well as the fragmentation tension nexus

between traditional and modern modes of governance, is whether these two opposing forms of governing structures can co-exist in a cooperative administrative arrangement, especially on matters of service delivery (Khan et al, 2006:175).

Furthermore, not only on the African continent, but especially in South Africa, indigenous forms of governance and their incorporation into modern systems of government have proven to be difficult to achieve. While indigenous systems are listed in most African constitutions, they are largely ignored in practice, serving only as a symbol rather than a practical feature. More specifically, considering their existence long before colonial rule became a historical fact, these institutions are considered to be incompatible with democratic governance principles (Ismail et al, 1997: 117).

Before and after independence, indigenous local government in South Africa has been at the centre of political manipulation and conflict. Traditional leaders were largely underdeveloped, under-resourced, and regulated to the outskirts of prosperous white South Africa during the colonial and apartheid eras. Through the Black Administration Act of 1927 and the Black Authorities Act of 1951, the traditional institution was transformed into a manipulative instrument through which the cultural differences of black people were emphasized and used as a basis for spatial division in the country (Khan et al, 2006).

Considering one of the most observable ironies of the post-apartheid government in South Africa is how the ANC, as the dominant party in the current political dispensation, has found refuge in the governance structures of their former oppressors, and seem to have no idea what to do with the indigenous systems that have managed to survive both colonial and post-colonial marginalization. (Manezhe, 2007)).

Nonetheless, the post-apartheid government has attempted to streamline and smooth power ties between elected representation and traditional leverage of powers, especially in rural areas where the poorest of the poor and the majority of victims of apartheid's economic and political violence reside, but in the end, it appears to be fully undecided about the existence of proper and appropriate channels for resolving conflicts in local government between traditional and modern governance systems. This contradictory situation is exemplified by the White Paper on Local Government of 1998, which avoids taking a firm stand on what traditional leaders' new positions and duties should be in the new democratic order. The White Paper on Local Government (1998) merely

summarizes what traditional leaders' positions and duties were under the previous regimes (Khan et al, 2006: 180).

Given the uncertainty surrounding traditional authority's unique positions and obligations in local governance, the White Paper on Local Government states that traditional leaders do not have clear decision-making powers on development issues, despite the fact that some of their roles overlap with municipal functions (Mcbee, 2007). Traditional leaders are politically emasculated by current legislative processes in this regard, which is particularly true in KwaZulu-Natal, where the political rivalry between the Inkatha Freedom Party (IFP) and the African National Congress (ANC) has been well documented for many years, and indigenous forms of authority have been instrumental in providing support for the ANC (Khan et al, 2006:181).

Traditional leaders' importance in the fight for political influence and dominance between the two most powerful parties in KwaZulu-Natal is well known. Nonetheless, the most noticeable battleground is in the delivery of services to their constituents, which is characterized by confrontational antagonism between elected public officials and traditional authorities (Bank & Southhall 1996). These power struggles are more visible in areas where traditional authorities back the IFP and local governments are controlled by the ANC. As a result, this lack of synergy, cooperation, and coordination among these main service delivery stakeholders has become a serious development impediment to the implementation of steps toward local government development and growth (Khan et al, 2006).

3.6 THE POWER ELITE THEORY

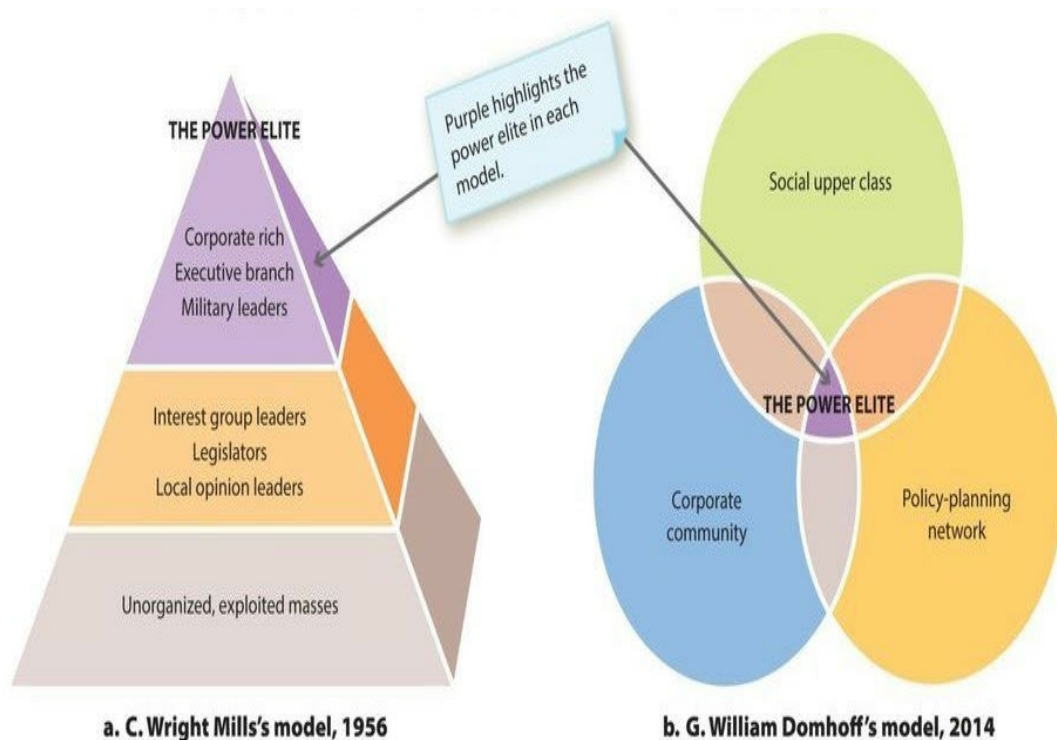
The Power Elite Theory entails how influential social structures have centralized the decision-making process and entrusted this authority in the hands of powerful individuals (Elwell et al, 2013). In the disciplines of political science and sociology, the elite theory refers to a theory of the state which seeks to describe and explain the power relations in contemporary society. This theory posits that a small minority, consisting of members of the economic elite and policy-planning networks, hold the most power and that this power is independent of state's democratic elections process. Through positions in corporations or on corporate boards, and influence over planning-networks through financial support of foundations or positions with think tanks or policy discussion groups,

members of the elite, exert significant power over the policy decision of corporations and governments.

On the contrary, elite theory opposes pluralism, a tradition that assumes that all individuals, or at least the multitude of social groups, have equal power and balance each other out in contributing to democratic political outcomes representing the emergent, aggregate will of society. Therefore, elite theory argues that democracy is an impractical ideology, for example, as it was viewed in the conservative apartheid regime in South Africa. Or that democracy is not realizable within capitalism, as is the view of the more Marxist-compatible contemporary elite theory permutation (Elwell et al, 2013).

In this regard, Figure 3.1 provides a diagrammatic representation of the hierarchy of elite theory by C. Wright Mills (1956) and William Domhoff's (2014) analogy of power elites and how they exercise their power in influencing public policy's effectiveness and efficiency. This will determine whether a negative or a positive change on the socio-economic conditions of the general masses at the bottom of the power hierarchy, will be met.

Figure 3. 1 Comparison of the Hierarchy of Power Elites



Sources: left, author-based Mills [1956] 2000b: right, Domhoff 2014: 116

3.6.1 C. Wright Mills's Perspective on Power Elites

As discussed in the literature chapter and depicted in Figure 3.1 on the power hierarchy, similar representations are evident in the case of large-scale land deals between local elites and major international land investors/corporations - which ultimately affect the economic aspect of society at large, especially the poor masses at the bottom of the power pyramid.

In his theory, Mills believes that, the elite are a dominant and very influential social structure that has centralized the decision-making process and entrusted this authority in the hands of powerful individuals of similar background/social class (Elwell et al, 2013). As discussed in the literature chapter, the involvement and entrusting of land tenure rights to certain local power elites such as traditional leaders and major conservation elites continues to impair the processes of achieving an effective land restitution and claims settlement endeavours thus affecting livelihood development strategies aimed at uplifting poor rural and urban communities.

3.6.2 G. William Domhoff's Perspective on Power Elite

Domhoff believes that there are three influential groups that hold power in modern society. These are the social upper class, the corporate community and the policy-planning network. Domhoff (1990) believes that wealthy business owners and not the common masses control the power of decision making to effect change in every sphere of modern society.

Domhoff describes the **social upper class** as those people who do not only have immense power over every aspect of society, but also the ones who determine the standards to which people in their class should conform. These are people who share the same social circle, intermarry to keep the class intact, and have enough wealth to ensure the continuation of their lavish lifestyle and generally are born into this class (Domhoff, 1990).

The **corporate community** is a group of individuals who make up more than one board of directors of large companies to oversee the running of the business. These people consist of CEOs, lawyers, and other well-connected high-status people. According to Domhoff, these individuals generally have a seat on two or more large company boards (Domhoff, 1990).

The **policy-planning network** group consists of non-profits (such as think tanks and lobbying groups) that impact directly on governmental policies. This group can consist of people from either the upper class or the corporate community. However, they are experts in certain fields (i.e. lawyers, scientists, medical doctors) needed for additional knowledge (Domhoff, 1990). Therefore, the power elite then consists of individuals from these groups and they are the people who have a direct action on national government policies. However, according to Domhoff, the upper class holds true power to affect policy, but it is also influenced by both corporate group and the policy-planning network experts (Domhoff, 1990).

The Power Elite theory as expounded by both Mills and Domhoff best contextualizes the current problem of land restitution and redistribution backlog in South Africa. Notable, the centralization of power into the hands of local elites deprives the poor of their tenure rights and only concentrates the means of production to greedy officials whose only interest is to better their prestige needs by selling and leasing land to private landlords.

Therefore, The Power Elite theory based on the above perspectives on power, forms the foundation or a base of enquiry into the land claims backlog in South Africa. It best explains the power struggles and the influence exerted by local elites on land reform policy networks to best suit their interests. For example, in the past ten years, there has been a noteworthy move in the methodology of overseeing natural resources, land, and environment in South Africa (Kerley et al. 1999; Nauta 2001). Connected to this had been political requests for redistribution of land, riches and access to natural resources (ANC 1994; Cobbett 1987; Ramphele 1991; Sachs 1990).

The call for land redistribution led to a convergence of land guarantee applications from customary social orders (traditional societies), some of which undermined the very presence of well-known preservation areas, for example, the Kruger National Park, Isimangaliso Wetland Park and the Kgalagadi Transfrontier Park (Simelane et al, 2006). Hence, we ought to think about the power elite in South Africa as the individuals who possess the policy positions inside the commonwealth.

3.7 APPLICATION OF POWER ELITE THEORY IN MODERN DEMOCRACY

To start with, there is a vast assortment of 'world class hypothesis' which contends that 'the historical backdrop of governmental issues is the historical backdrop of elites' (Prewitt and Stone 1973: 4). Societal objectives are set up by the world class and achieved under their heading. This does not imply that social orders do not change, just that most change comes about due to changes in the synthesis of the world class. History illustrates the endless battle among elites to control society, bringing about a flow of elites, with built up elites offering an approach to new thoughts and interests.

The connection between elites and the majority consequently is one of control. Elites and counter-elites may activate support from the majority. At the end of the day the last are generally pawns utilized in world-class interests or eyewitnesses of first-class conduct. Unquestionably, in popular governments, under states of all-inclusive suffrage and focused decisions, the general population can have an opportunity to choose between elites.

Indeed, even in popularity based political groups, elites will ascend to the top. Elites will consequently hold their focal points despite advances in fair reasoning and methods. As opposed to this melancholic view, a progressively hopeful, 'pluralist custom', suggests that elites inside majority rule system are genuinely obliged (Southall, 2012).

Elites battle among themselves, conferring entire impressive capacity to the general population concerning who should take on political office. Political parties and 'pressure groups' encroach on the independence of elites to shape society, and as they contend among themselves, they are constrained to take mass wants and needs into consideration, realizing that if they don't their odds of being chosen or keeping force will be seriously restricted. Further, even though political parties and pressure groups will themselves build up their very own elites, they will themselves be liable to well-known imperatives inside their circle of activity. In this manner, instead of there being a basic division among elites and the mass, society is immersed into a progressive system of elites, obscuring qualifications among elites and individuals. At last, elites are compelled by constitutions. This demands that social orders are controlled by laws just as by men, and that elites remain responsible (Southall, 2012).

It must be noted that the first-class hypothesis isn't the select property of preservationist scholars. For example, it is integral to Leninist who feel that a political vanguard can make a political insurgency. Nor does world class hypothesis recommend that the forces of elites will be constant. As substantiated by C. Wright Mills (1956: 20), one of the premier first-class scholars of present-day times, any endeavour to demand that a decision class or tip top is transcendent over all generations of history and over all countries will result in redundancy, and practically speaking the degree to which rulers have control is liable to significant authentic variety. At the end of the day, the degree to which social orders are commanded by elites is liable for experimental confirmation. This ought to advise us that elite theory does not regularize the hypothesis revealing how society 'ought to be' administered. However, it raises colossally essential inquiries regarding the sort of society we need (Prewitt and Stone 1973: 227-237).

As an imperative it is important to take both elite theory and pluralism beyond the political, since present day vote works inside the setting of private enterprises. Mills (1956:23) contended that the improvement of free enterprise had seen a dynamic extension and centralization of the methods for abuse and misuse, of viciousness and demolition, just as the methods for creation and proliferation. This had prompted the ascent in power in the US in the 1950s which not only comprised corporate elites, directing generally unrivalled gainful power, but additionally of military elites, who used more damaging force than their partners in any past time. Together, the 'corporate chieftains' and 'warlords' had combined with a 'political directorate', which was progressively disengaged from the formal limitations of majority rule government. This alliance was used to frame a power-first class whose control of the 'order posts' of society empowered them to make (or not make) choices which influenced the regular day to day existences of normal people. This did not imply that the first-class power comprised a decision class in the Marxian sense, for the political and military-holders had impressive self-governance from the financial sphere. In any case, it meant "the power elite today includes the uneasy occurrence of monetary, military and political power" (Mills 1956: 276).

Mills contended that the use of pluralist theory in US society portrayed just a 'centre dimension of power' highlighting a universe of Congressional and state governmental issues and of little firms which romanticized agreeable ideas of how control had been conveyed in the past. Undue thoughtfulness regarding centre dimensions of power

clouded the new structures of power achieved by the procedures of centralization and bureaucratization married to expanded innovative limit.

The pertinence of these different contemplations to contemporary South Africa is that, for some eyewitnesses, the nation's turn from politically-sanctioned racial segregation to vote was a 'first class change', realized by a trade-off arrangement between the built-up white elites (capitalist and NP) with an approaching ANC liberation elite. For Terreblanche, among others, the result was a 'democratic capitalism' that will benefit the vast and larger part of black South Africans who were excluded from participation in political institutions of the country. Politically sanctioned racial segregation is now a matter of the past. However, the new equitable political structures comprise a set of elites (Southall, 2012).

The present South Africa might be far off in reality from 1950's America. However, this does not bring down the significance of soliciting the sort of inquiries presented by Mills of the US during his time. Is it important to depict South Africa as having a power elite? Assuming this is the case, what is its shape, and what are the bases of its capacity? What are its interests and shared characteristics, and does it establish a sound 'administering class'? Lastly, what does its reality and method of standard suggest for South African majority rule system? (Southall, 2012).

The entry of majority rule system presented a flow of the political first class, with the ANC expecting the predominant position in the underlying post-1994 political alliance, empowering it to broaden its command over the switches of political power at various dimensions (national, provincial and local). In the meantime, despite imperative endeavours by extensive companies to ensure their interests, by illustration key people from the ANC joined the corporate elite. The democratic settlement was at the same time dependent on the affirmation of the industrialist principle of amassing wealth and the union of corporate power.

Despite noteworthy endeavours by the ANC governments to handle destitution and disparity through the augmentation of a battery of social grants and pensions, the economy today stays significantly unequal. Undoubtedly, there has been some much-needed development. Given the humble development since political change, there has been a modest improvement in the monetary status of the public, and a move in pay designs from whites to blacks. For example, while white normal per capita wages

expanded by 61 percent somewhere between 1993 and 2008, African normal wages expanded by 93 percent over the equivalent period (Southall, 2012). Yet while such gross insights demonstrate a deracialisation of pay designs, the primary recipients of this have been a developing (although still little) black working class and those among the black labour force who have held or gotten formal work.

3.8 CONCLUSION

The relevance of the power elite theory drawn from Mills and Domhoff perspectives serves as guide for this study. The centralization of power structures in land reform policy only serves the invisible hand of the powerful upper social classes. It is important in order to allow for policy planning networks to enact inclusive land reform policies that would effectively promote sustainable rural livelihood strategies and equip land claim beneficiaries with necessary skills to develop themselves through land reform and restitution. This framework outlines how theories guide a research and serve as a support for employing a research methodology, which also plays an important role in conducting a study. Therefore, the following chapter discusses in detail the research methods employed in this study.

CHAPTER 4

RESEARCH METHODOLOGY AND DESIGN

4.1 INTRODUCTION

According to Marais et al (1990: 16) “research methodology is defined as the logic of scientific methods to the investigation of phenomenon”. This definition refers to the logic of decision making in scientific research. The research methods provide a clear explanation of the approach that one uses to gather information. It states in clear terms what approach the researcher used and why and further presents a description of the procedure followed by the researcher. Research methodology thus makes it easier for the scholar who wants to replicate this research (Blanche et al., 2006).

This chapter provides an in-depth discussion on the principles of research methods and how it has been operationalized to collect data for the study. The discussion commences with an overview of the choice of research paradigm, the rationale for its selection and the research strategy utilized in the study. Thereafter the sampling method, data collection techniques, limitations of the study, ethical issues are elaborated upon. Finally, the interview schedule and its application on important stakeholders in the study and the way in which data from the study is analysed, is presented.

4.2 RESEARCH PARADIGM

Generally, there are two widely recognized research approaches, and they are, qualitative and quantitative research designs. In this study both qualitative and quantitative methodologies were utilized. Structured questionnaires were used for quantitative data collection. The responses were analysed using descriptive statistics. The questionnaire is known to be able to collect data from large, diverse, varied and scattered social groups. In addition, structured close ended questionnaires are known to be a reasonably reliable primary data collection strategy. Shajahan, (2004:86) described a structured close ended questionnaire as consisting of a list of questions handed to several respondents for their answers which produces results that can be tabulated and tested statistically. In addition, a quantitative research design ensures the achievement of the research objectives as efficiently as possible producing maximum information with minimal time and financial costs (McBurney, 2001:96).

The study also carried out focus group discussions with selected participants and key informant interviews on selected individuals for qualitative data collection. Observations in the study area were also recorded.

A documentary analysis of land dispossession and restoration provided insights on the extent and nature of land dispossession at a global level looking particularly at Estonia, Germany and New Zealand. Similarly, land dispossession in Africa focusing on Zimbabwe, Nigeria and Namibia was undertaken. Land dispossession and restitution in the South African context before colonialism, during colonialism and in the apartheid, era was analysed. In this respect, the impact of the Natives Land Act 1913 on South African land reform policy; the nature and extent of land dispossession in South African urban and rural contexts was further elaborated upon. Additionally, the structure of rural communal land in South Africa, particularly the role of tribal authority in Land Restitution Claims and Settlement in South Africa was looked into together with the provisions of the White Paper on Land Policy 1997; the role of the Department of Rural Development in Land Claim Restitution; and lastly an outline of the challenges facing rural land restitution claims in South Africa was focussed upon.

This study was consolidated with qualitative data that aimed at studying human behaviour from the insider's perspective within the community sphere. Hence an in-depth assessment of the progress of land Claims in Dukuduku forest Community particularly the role and influence of stakeholders involved in the land restitution process and reasons for the prolonged land claims contestation in this community, is made. The quantitative data was supplemented by qualitative data during the analysis and interpretation section of this dissertation.

4.3 RESEARCH DESIGN

The arrangement of the conditions for the collection and analysis of data in such a way that seeks to combine relevance to the purposes of the study constitutes a research design. The research design needs to align the pursuit of the research goal with the practical considerations and limitations of the project.

Since the main objective of the study was to assess the progress of land claims phenomenon in the community of Dukuduku forest focusing on the influence and the impact of various stakeholders on land restitution issues, it became imperative therefore to utilize a case study research design to ascertain the required information. According

to Yin (2009) the case study method “allows investigators to retain the holistic and meaningful characteristics of real-life event such as individual life cycle, small group behaviour, organizational and managerial processes, neighbourhood change, school performances, international relations and the maturation of industries” (Yin, 2009: 4). Case studies are typically qualitative in nature, resulting in a narrative description of behaviour or experience. Hence, the utilization of the case study method was relevant in this regard.

4.4 SAMPLING FRAME

For a research to be successful there is a need to find participants who are informed and people who will provide the study with key information that will help answer the research questions. Hence this study employed the snowball sampling method to reach out to participants who have lodged a land claims and still awaiting a response from the Department of Land Affairs and Rural Development. The advantage of snowball sampling is the use of networks whereby a few people in a group or organization are selected and the needed information required for the study is collected. The process requires a referral system where one participant in the study refers the researcher to another until the required information is sought through saturation.

Given the sensitive nature of land claims in the study locality and the reluctancy of participants to participate. A sample of forty-five participants was conducted from the community of Dukuduku forest for both quantitative and qualitative data collection. A total of thirty-one questionnaires were administered to a selected group of participants. For the qualitative side of the study, four in-depth interviews were prepared. Two of these in-depth interviews were successfully held with a traditional leader and the ward councillor for the forest community. Stakeholders such as the Rural Land Claims Commission and the Isimangaliso Wetland Parks authority were approached to participate in the other two in-depth interviews of the study, but these were unsuccessful. Although these two stakeholders indicated they were willing to participate, they could not participate in the study on the agreed date due to logistical reasons beyond the researcher's control. A focus group interview of 10 participants was also held to supplement the qualitative part of the study.

4.5 DATA COLLECTION TECHNIQUES

4.5.1 Research Strategy

The research strategy used in this study was guided by the nature of the research locality. The Dukuduku community is distributed throughout the forest, with low population densities. There are no roads within the forest and access to members of the community presented a major challenge as respondents who have been identified for the study were not easily accessible. This caused constraints on time and financial resources. To gain trust of the participants, the researcher took advantage of the already existing working relationship with a local facilitator in the study area. The interviews and questionnaire were conducted in isiZulu language and translated to English

4.5.3 Secondary Data Collection

According to Hussey and Collis (2007:198), secondary data, is data collected by the researcher in the field of study. Secondary data analysis saves time that would otherwise be spent collecting data from the field. A clear benefit of using secondary data is that much of the background work needed has already been carried out, for example: newspapers, reports, literature reviews, case studies, published texts, the internet and accredited journals have been utilized in conducting this study. Secondary data is the data that is already available from other sources. Such data are cheaper and more quickly obtainable than primary data (Sekaran, 2003:75). In this study a wide range of data sources was consulted to inform the study.

4.5.4 Questionnaire Construction

Data was collected using a structured close ended questionnaire. Questionnaires are data collection instruments that enable the researcher to pose questions to subjects in his/her search for answers to the research questions. Saunders, *et al.* (2003:75), maintains that it is generally good practice not to rely solely on questionnaire data but to use the questionnaire in conjunction with at least one other data collection instrument, hence the undertaking of interviews with participants in the study. The questionnaire structure commences with the demographic data of respondents (age, gender, education, income and occupation), followed by questions that address the background and context of their stay in the forest. Thereafter the questionnaire addresses the perception of respondents on the land claims and restitution process in the research locality, their experiences and the way forward. All questions in the questionnaire were closed ended and a clear

majority of the questions was based on a rating scale. The questionnaire was translated in isiZulu so that the respondents could respond with ease in their native language.

4.6 LIMITATIONS OF THE STUDY

The study premised on the assessment of the progress on land claims in the community of Dukuduku - focusing on the influence and the impact of various stakeholders involved in land restitution issues in the community. The literature review reveals that land restitution at Dukuduku involves the restoration of lost rights to land and resources and the formalization of these rights. Overlapping and differently founded claims and, drawing differently on the past and the present, forms a complexity that defies such straightforward processes of land restitution. On one hand, the limitation of the study resonates with what Sundnes (2013) asserts, that different interpretation of what constitutes authority and community and that the land claim process feeds into existing struggles and creates new ones. In this way, the larger cause of the land claimants – to obtain recognition of property claims and land belonging to them – is infused by conflicts external and internal to the community of claimants. The Dukuduku forest community appears to be caught up in the battle of what constitutes institutional authority over communities that exists in the socio-political and economic structures of the community.

Additionally, it is not the intention of this study to generalize about land claims and restitution process for the entire of South Africa but aims to find through this case study insights into the dynamics and processes prevalent within it particularly in the context of the Dukuduku forest community.

On the other hand, the limitations of the study also relate to the constraints of a mixed method applied in this study. According to Wisdom and Creswell (2013), the term "mixed methods" refers to a newly developed research methodology that promotes the systematic integration, or "mixing," of quantitative and qualitative data within a single investigation or long-term research program. The underlying idea of this methodology is that integrating quantitative and qualitative data gathering and analysis allows for a more full and synergistic use of data than separate quantitative and qualitative data collection and analysis.

Indeed, the application of a mixed research method in this study aimed at collecting rich and comprehensive data by comparing quantitative and qualitative data; reflecting participants' point of view; fostering scholarly interactions; and providing

methodological flexibility. Firstly, the mixed method nature increased the complexity of evaluation into the study. The study was too complex to plan and conduct; required careful planning to describe all aspects of research including the study sample; timing the sequence of qualitative and quantitative data; and planning for integrating both qualitative and quantitative data during analysis.

Secondly, the mixed method nature of the study relied on a multidisciplinary approach to which the researcher was compelled to be open to methods that were outside his area of expertise. Finding qualitative experts who were comfortable discussing qualitative analysis and vice versa proved to be very challenging for this study. According to (Wisdom et al, 2011), in a mixed method research, each method must adhere to its own standards to ensure appropriate quality of each component of the methods. This was also a challenging aspect for the study.

Thirdly, the mixed method required increased resources, hence it was labour intensive to conduct the study. Greater resources and time were applied than those required to conduct a single method study.

4.7 GATE KEEPER'S PERMISSION, INFORMED CONSENT AND ETHICAL CLEARANCE

The Dukuduku forest community is politically contested and sensitive historically. In the apartheid era, the community was forcibly removed from the locality because human habitation in the area was considered detrimental to the ecological wellbeing of the wetlands. In the post-apartheid era, the displaced community returned to the area and forcibly occupied the area in the belief that it belongs to their ancestors. This met with resistance from the Isimangaliso Wetland Authority. Despite this, the community continued to occupy the land. Given the political contestation over the area, it was important to seek permission from the local councillor to conduct the study. Gatekeeper permission was sought from relevant authorities. A verbal permission was obtained from the Induna of the area and the ward councillor issued a written permission. Study methodologies and objectives were also explained to the participants and informed consent obtained before administering the questionnaire and interviews. Both documents were translated in isiZulu, which is the local language that the community is accustomed to. Apart from the gatekeeper's letter and the informed consent letter, the study was guided by the University of KwaZulu-Natal's ethical protocol which sanctioned the study

and provided protection for the respondents to participate in the study. The respondents were informed of information confidentiality.

4.8 METHODS OF ANALYSIS

The key research questions were answered through the inductive qualitative approach where interviews were conducted with forty-five informative participants, including the ward councillor and a traditional authority. The findings were analysed through both thematic and content analysis in line with the literature review themes of the study. Secondary data were analysed in this study using content analysis as indicated in the Table below.

Table 4.1 Data collection process

Research Questions	Approach	Data Collection Tools	Sources of information	Data Analysis
Q1. How does the South African political history dynamics affect the current land reform and restitution policies?	Inductive Approach	Primary and Secondary Data	Informed local participants, ward councilor and a traditional Authority Newspapers, reports, literature review and published texts	Thematic Analysis Content Analysis
Q2. How does the poor capacity of the state and other related governmental institutions affect an effective application of land reform policy implementation?	Inductive Approach	Primary and Secondary Data	Informed local participants, ward councilor and a traditional Authority Newspapers, reports, literature review and published texts	Thematic Analysis Content Analysis
Q3. How does slow land restitution and redistribution impact on vulnerable rural livelihoods?	Inductive Approach	Primary Data and Secondary Data	Informed local participants, ward councilor and a traditional Authority	Thematic Analysis

			Newspapers, reports, literature review and published texts	Content Analysis
Q4. What is the extent of gender inequalities in land rights claims and access?	Inductive Approach	Primary and Secondary Data	Informed local participants, ward councilor and a traditional Authority Newspapers, reports, literature review and published texts	Thematic Analysis Content Analysis
Q5. What is the influence of traditional leaders in the process of land claims and redistribution?	Inductive Approach	Primary and Secondary Data	Informed local participants, ward councilor and a traditional Authority Newspapers, reports, literature review and published texts	Thematic Analysis Content Analysis

Source: Author's interpretation, 2019

4.9 SUMMARY OF THE METHODS ALIGNED TO RESEARCH QUESTIONS

De Vos, *et al.* (2007:169) describes data analyses as the process of bringing order, structure and meaning to the mass of collected information. In this study the completed questionnaires were given a respondent ID number and were captured on Microsoft Excel 2019. Thereafter the data was cleaned for any errors that may have arisen due to the capturing process. The finalized data was analysed using descriptive statistics. The processed data was presented using graphs and tables.

The research methods employed in this study are aligned with the key research questions mentioned in their order of importance as follows: How does the South African political history dynamics affect the current land reform and restitution policies? How does the poor capacity of the state and other related governmental institutions affect an effective application of land reform policy implementation? How does slow land restitution and

redistribution impact on vulnerable rural livelihoods? What is the extent of gender inequalities in land rights claims and access? What is the influence of traditional leaders in the process of land claims and redistribution?

4.10. CONCLUSION

This chapter highlights the research process that has been used in the study. It elaborates on the various steps taken to formulate the research process, the different considerations noted for the study, the tools used and its construction. It also outlines the rationale for the sample selection and some of its limitations. Ensuring access to the community given the sensitivity of the research locality and the way in which this was considered when planning the fieldwork was discussed.

CHAPTER 5

ANALYSIS AND PRESENTATION OF DATA

5.1 INTRODUCTION

This chapter seeks to analyse the field data and interpret it to ascertain the assumptions upon which this study is based upon to test the research assumptions and ascertain whether the influence and the role of various stakeholders involved in land claims and restitution processes amongst other overlapping issues, impacts on stagnation of these processes and sustainable rural socio-economic development.

This chapter comprises the analysis and interpretation of data resulting from this study. An analysis of both quantitative and qualitative data is made.

STRUCTURE OF THE CHAPTER

The chapter is arranged in broad thematic themes:

- Participants demographic Information
- Progress of land claims in Dukuduku forest community relative to the effects of land reform and restitution.
- Women's voices on the issue of land claims.
- The influence of traditional leadership on rural land tenure and distribution processes.
- Cohesion/ transparency between stakeholders involved in land claims and restitution.
- Factors that could bring improved and efficient rural land reform and restitution.

The information discussed in this Chapter are derived from forty-five participants who voluntarily engaged with the study. Given the sensitive nature of land claims in the study locality, participants were assigned fictitious names to protect their confidentiality and anonymity.

5.2 HISTORICAL BACKGROUND ON THE DUKUDUKU FOREST

Situated between the N2 highway and commercial forestry to the west, the Indian Ocean and the former tourist town of St Lucia to the east, the sugar-cane farms at Monzi to the south and the Ndlozi peninsula to the north, Dukuduku is part of a thoroughly commodified landscape in northern KZN characterised by a diverse range of land uses and opportunities for resource extraction and conservation.

In the 1990s, Khula Village and later the nearby Ezwenelisha, were established in the area outside the iSimangaliso Wetland Park (iSWP) (then the Greater St Lucia Wetland Park) to provide settlement and basic services to dwellers in the Dukuduku forest. The forest was to be cleared of inhabitants for inclusion in the yet to be established iSimangaliso world heritage site, with the two sites providing the necessary settlement and development alternatives for the people living there. However, many people did not want to leave. Their resistance eventually resulted in the decision in 2008, that 1,200 households could stay since they are rightful claimants of Dukuduku forest (Aardenburg et al, 2019). Nevertheless, the land in the Dukuduku Forest, as in most of the Dukuduku area, falls within spheres of influence of the iSWPA and the Mtubatuba municipality.

Most inhabitants of Dukuduku forest are mainly African, black and/or Zulu, their cultures, histories and traditions are very different. Some people, or their descendants can claim ancestral connection to the land in Dukuduku. Others fled to the area in the context of the political violence that erupted between the supporters of the ANC and the Zulu nationalist Inkatha Freedom Party in northern KZN in the 1990s. Yet others migrated from elsewhere in search of a better life given the area's mining, agriculture, forestry and tourism potential (Aardenburg et al, 2019).

The history of those who can today claim ancestral connection to the land in Dukuduku can be traced back some 200 years, while the oldest South African Iron Age sites and some Late Iron Age sites are located there too. It could be argued that these, along with the natural and ecological value of the land, should be preserved for people all around the world. Historically, the land in Dukuduku has been the subject of much contestation. As already mentioned, many Dukuduku forest dwellers did not want to move to Khula Village when the forest needed to be cleared for its planned inclusion in the iSWP. Some did not want to leave because they viewed it as 'their land', and others wanted to maintain a certain traditional lifestyle in relation to the land (Aardenburg et al, 2019).

Land claimants had been squeezed by geographic displacements (particularly in case of those who had first been removed from the Eastern Shores or elsewhere), limited access

to land and natural resources (due to the regional focus on nature conservation) and rapid socio-economic transformations. An old sangoma (traditional healer) and farmer living in the Dukuduku forest remarked that *‘God created this land and he said: this is yours. Yet, everything now belongs to the government. Why would we be happy with this government? Where does this government come from? Who is refusing us with all these things?’* (Gobela, Male, aged 52, Resident of Khula Village, Interviewed 25/10/2019).

The contemporary politics of identity and belonging in Dukuduku can, to some extent, be understood through the history of the Eastern Shores land claim and the competition over land and resources between the Bhangazi people and the Mpukonyoni Traditional Authority. The latter came to exert authority over the area during the colonial period, where 13 chiefs, including Chief Somkhele of Mpukonyoni, were allocated jurisdiction of the land north of the Natal colony after the destruction of the Zulu kingdom. While the Bhangazi people mostly wanted to return to the Eastern Shores, from where they had been gradually removed during apartheid, the interest of Mpukonyoni leaders was triggered by titanium, which was found in the dunes of the Eastern Shores (Aardenburg et al, 2019).

The specific dynamics of these tensions and the interests of the stakeholders are illustrative of the Bhangazi claimants or their descendants from the eastern shores, the Zulu Mpukonyoni Traditional Authority from the land to the west of the eastern shores, and the people in Khula Village and the Dukuduku Forest outside the iSWP. The role of ancestral land –beliefs and notions of ancestry as part of culture informs the importance of land as a form of identity. The Bhangazi people’s narrative of identity in the context of the claim that describes the people as an independent clan that had been living self-sufficiently on the Eastern Shores until they were removed by forestry and conservation authorities in the mid-20th century.

Despite the attempts of the ANC government, through the Land Claims Commission, to ease tensions between the ‘original’ residents of Dukuduku and other groups that also wanted a stake in the future development of the region, the people of Dukuduku do not tend to live in harmony with one another. The contemporary context of unemployment, underdevelopment and mistrust gives rise to fatalist and dissenting tendencies on the part of many Dukuduku residents, which sit on a scale between complete political inaction (fatalism) to strong political activism (dissent) (Aardenburg et al, 2019).

5.3 PARTICIPANTS DEMOGRAPHIC INFORMATION

The profile presents the gender, age, educational level, employment and the duration of stay in the Dukuduku forest.

From the data collected, it will be observed that 67% of participants were male with the remaining 33% being female. Most of the participants specifically 20%, fell under the 41-45 age group, followed by the 46-50 age group which makes up 16% of the sample. The remaining participants fell under the 10th percentile. When it comes to level of education, 31% of the participants obtained their matric certificate and 20% obtained their tertiary education. 13% of the participants only have primary school level of education with 16% continuing to high school education without completing their matric. Of all the participants, 20% obtained no formal education.

Table 5. 1 Demographic profile of respondents

Characteristics	Frequency (N=45)	Percentage
Gender		
Male	30	67%
Female	15	33%
Age Groups		
18-24	1	2%
25-30	3	7%
31-35	4	9%
36-40	4	9%
41-45	9	20%
46-50	7	16%
51-55	4	9%
56-60	3	7%
61-65	2	4%

66-70	4	9%
71+	4	9%
Highest Education Qualification		
Primary School	6	13%
High School but no Matric	7	16%
Matric Certificate Obtained	14	31%
Tertiary Education	9	20%
None	9	20%
Employment Status		
Employed Fulltime	15	33%
Self-Employed	10	22%
Employed on a Contractual Basis	3	7%
Temporarily Employed	2	4%
Unemployed	5	11%
Retired	4	9%
Social Grant	5	11%
University/Technical College Student	1	2%
High School Learner	0	0%
Number of Years Participants have been Residents		
0-5	1	2%
6-10	5	11%
11-15	1	2%
16-20	8	18%
21-25	8	18%
26-30	4	9%

31-35	2	4%
36-40	3	7%
41-45	3	7%
46-50	6	13%
51-55	1	2%
56-60	0	0%
61-65+	3	7%

Source: Researcher's Compilation, 2019

In as far as the occupation status of respondents was concerned, 33% were employed fulltime followed by self-employed participants accounting for 22%. Data showed that there were no high school learners who participated in the study and the rest of the categories that included retired, unemployed and university students each made up less than 20% of the total participants of the study.

The number of years participants have been residents in the Dukuduku forest community is significantly important in lodging land claims with the longest residents who settled 61-65+ years ago making up 7% of the sample. Participants that lived in the community for 16-20 and 21-25 years both made up 18% in the data collected. 7% of participants lived there for 36-40 and 41-45 years. 11% lived in the community for 6-10 years while participants resided in the community for the least amount of years (0-5 years) made up only 2%. It must be noted that the young claimants, who form the bulk of the claimants are the descendants of the original people that lived on the land and have a right to lodge claims for their ancestral land.

Table 5. 2 Duration of Stay and the Number of Years Since Claims were Lodged in Dukuduku Forest

	Mean	Mode
Duration of stay in the area	26 years	21 – 25 years
Number of years since claim was lodged	13 years	20 years

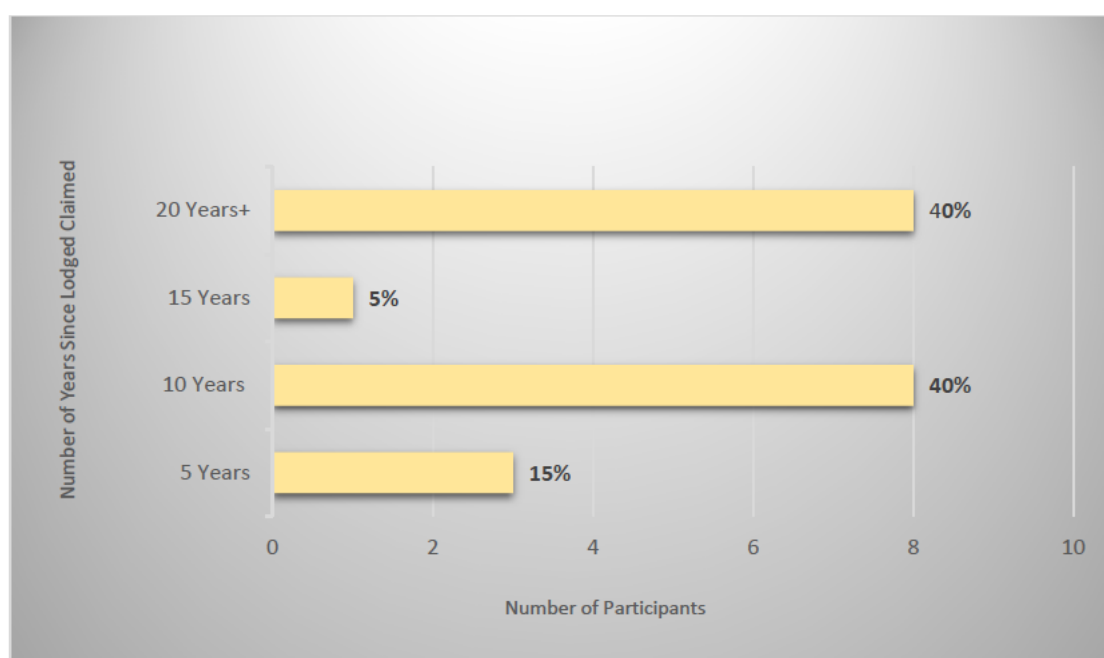
Source: Researcher's Compilation, 2019

The mean years that respondents' have resided in Dukuduku forest was 26 years with most residents falling between 21 – 25 years period. It has been 13 years on average since land claims have been lodged. In this respect as it is illustrated in table 5.2, the duration of stay provides some insight on the nature and credibility of the land claims in area. One of the major determinant factors in claim credibility is duration of stay on the land since ancestral times. All the participants in this study are claimants. They are descendants of the original land owners.

5.3 PROGRESS OF LAND CLAIMS IN DUKUDUKU FOREST COMMUNITY RELATIVE TO THE EFFECTS OF LAND REFORM AND RESTITUTION.

The difficulties confronting finalisation of land reform claims in South Africa is no different to that encountered amongst original inhabitants of Dukuduku forest with 85% that have lodged land claims between 10 and 20+ years ago is depicted in Graph 5.1. Fifteen percent of the participants lodged their claims 5 years ago.

Figure 5. 1 Number of Years Since Participants Lodged Land Claims in Dukuduku



Source: Researcher's Compilation, 2019

Even with continuous efforts implemented by the Land Claims Commission to bring sustainable relief on land claims in protected areas such as Isimangaliso Wetland Park in Dukuduku forest, the slow process of finalising claims further complicates issues of land tenure access and ownership. This participant had this to say:

“community members situated along the borders of the reserve (Isimangaliso Wetland Park) have been in constant contestation over land right use and access to natural resources which we believe rightfully belong to us since this protected land also belonged to our ancestors.” (Makhosonke, Male, aged 48, Resident of Zwelisha, Interviewed 25/10/2019).

To further reiterate that the slow pace of finalisation of land claims and reform process complicates issues of land tenure access and ownership in protected areas. This participant had this to say:

“Our forefathers lived this land with no control measures or stipulations of any kind preventing them to harvest resources from the forest. Most of our community members are unemployed, the forest is our main source of firewood to sell in winter and be able to provide food for our families.” (Mdali, Male, aged 42, Resident of Zwelisha, Interviewed 25/11/2019).

We can't even get access to harvest trees to make sculptures from and sell to tourist who visit this conservation park. Some of us in this community don't work or earn much to buy every building material, the forest used to provide us with sustainable resources (water and trees). In some parts of the forest we have home gardens which sustain our lives with produce to sell and feed our families and we don't have sustainable water resources for irrigation because some parts along which sustainable water sources are found, are within protected areas.” (Mkhonto, Male, aged 35, Resident of Zwelisha, Interviewed 25/11/2019).

The above responses need to be viewed from the complexities that exists in land reform and restitution which constitutes among other overlapping issues such as competing claims; conflict between claimants or legal entities and traditional leadership institutions. This participant added that:

“At the center of land reform and restitution is also the problem of un-surveyed, unregistered state land; and the absence of benefits from the co-management

agreements.” (Mageba-1, Male, aged 38, Resident of Zwelisha, Interviewed 26/11/2019).

Private sector management agencies have argued that they cannot afford the cost of co-management without clear funding commitments to support the four pillars of co-management (Tangible Benefits, Transformation, Transparency and Accountability and Risk Mitigation), as a result claimants object to entering into co-management agreements to which they have no guarantee of post settlement support (Mdontswa, 2013). This participant believed:

“Associated to land reform and restitution complications on protected land is the concept of Biodiversity Conservation. Protected areas have been recognised globally as the most effective means of conserving biodiversity and the associated cultural assets. Therefore, the primary objective of setting aside protected areas is conservation of biodiversity.” (Mageba-2, Male, aged 32, Resident of Zwelisha, Interviewed 26/11/2019).

“Protected land management authorities are mostly statutory bodies, whose annual income balances and annual expenditures are limited for disbursements to land claimants. Only a limited number have surplus income, and this is used to cross-subsidise the management of the other protected areas. This is a critical part of government’s strategy to ensure the sustainability of conservation areas in an environment of strict fiscal discipline.” (Mageba-2, Male, aged 32, Resident of Zwelisha, Interviewed 26/11/2019).

South Africa is rated third as one of the mega diverse countries globally. All conservation efforts of the country are geared towards maintaining this status but not at the expense of other developmental goals of government (Mdontswa, 2013). This participant opined about land claims on protected areas:

“The community should be able to define itself—whether it be a whole village or a group of resource users—and its members should agree to cooperate to manage resources. Community-Based Natural Resource Management (CBNRM) encompasses natural resources. Natural resources—the resources people depend upon for their livelihoods—generally mean renewable natural resources, including water, forests, fisheries, rangeland, and wildlife. CBNRM involves management. This implies that there should be rules or regulations governing how, when, or in what quantity the resource can be used. These rules must be understood and agreed

to by community members and recognized and respected beyond the community. CBNRM aims to create the right incentives and conditions for an identified group of resource users within defined areas to use natural resources sustainably. This means enabling the resource users to benefit (economically) from resource management and providing strong rights and tenure over land and the resources.” (Zwelethu, Male, aged 48, Resident of Zwelisha, Interviewed 25/11/2019).

Another participant added by stating the following about co-management on protected areas:

CBNRM also supports the development of accountable decision-making bodies that can represent community members and act in their interests. CBNRM promotes conservation through the sustainable use of natural resources, enables communities to generate income that can be used for rural development, and promotes democracy and good governance in local institutions. This means enabling the resource users to benefit (economically) from resource management and providing strong rights and tenure over land and the resources. However, the principles of CBNRM are too good on paper but on the contrary our people are suffering and have no time to be following proper structures to sustain their livelihoods. They feel betrayed by the democratic government of South Africa and they are claiming what is rightfully theirs.” (Ndabezitha, Male, aged 30, Resident of Zwelisha, Interviewed 25/11/2019).

Remedial actions however have been put into place by the Land Claims Commission since 2013 in which they collaborated with the Human Science Research Council and University of South Africa (UNISA) to provide research support in land claims on protected areas. In September 2014 they developed a Communal Land Tenure Policy (CLTP) - for communal land tenure to be transferred into the hands of traditional councils. In addition, a state land audit was conducted including the surveying of un-surveyed land; exploration of alternative co-management concepts and approaches such as the adaptive management approach, pluralism, governance, patrimony, management of conflicts, and social communication is underway; and the feasibility of teaching communities about the importance of sustainable use of natural resources is still a lesson in progress.

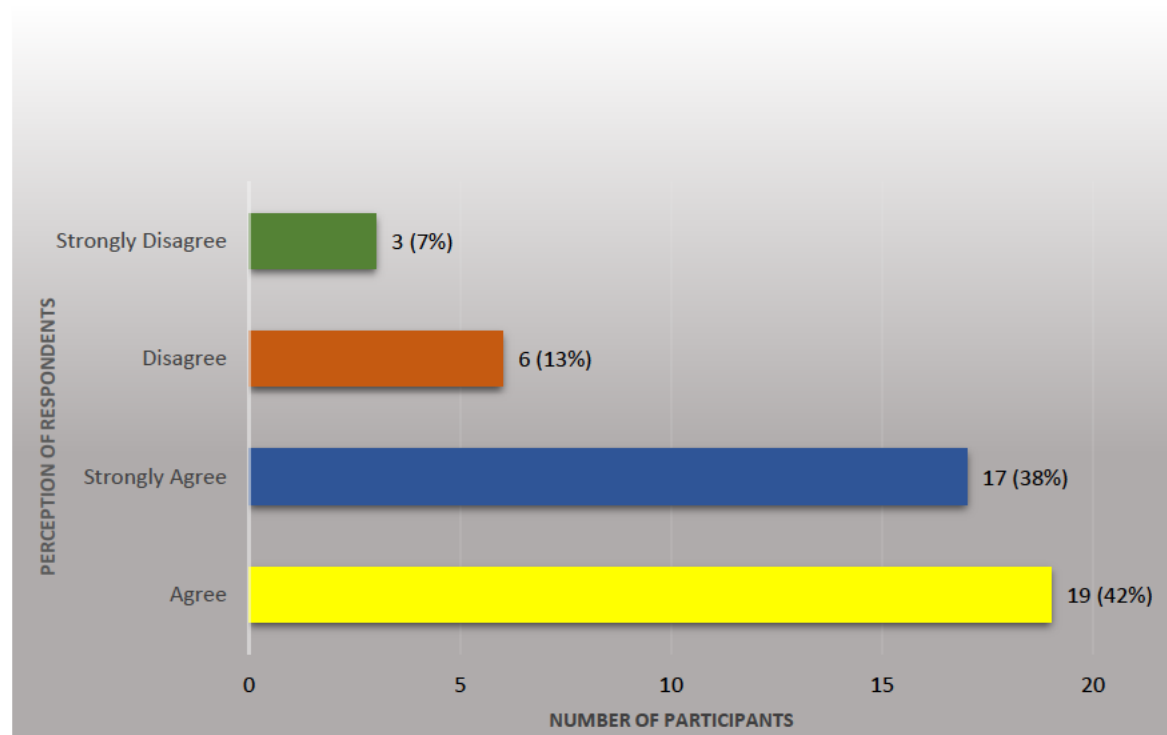
This participant also highlighted the importance of educating communities about the importance of sustainable use from natural resources and biodiversity conservation:

“The people in this community have since history lived in harmony with nature and biodiversity. We are aware of our ecological footprint in this natural habitat and we have always had our “primitive methods” of conserving nature. People were promised tangible benefits from eco-tourism activities in this area and till to date our people live in poverty. We have been patiently waiting and given the government ample time to respond and correct the injustices of past land reform policies to benefit our people, and yes we do acknowledge that the process of land tenure and restitution in protected areas is one of the complications of land reform and restitution in South Africa - hence the moderate progress of the claims process, but how much more longer can our people continue to be subjected to a different form of socio-political economic segregation at a time when we are supposed to be all equal benefits of the riches of this land?” (Mabutho, Male, aged 28, Resident of Zwelisha, Interviewed 25/11/2019).

The Constitution and the Interim Protection of Informal Land Rights Act (IPILRA) advocate for and recognise the protection of land rights of people living in rural areas particularly in protected and contested land. However, more than 20 years after the new political dispensation, people in their areas continue to be uncertain about their land rights and access.

Even with the said “newly all-inclusive democratic government”, poor capabilities of the state that is blatantly defined by lacklustre co-ordination, limited and misaligned allocation of resources is further complicated by corruption which is an impediment to land restitution and redistribution in the community. This can further be attributed amongst other overlapping issues, to the lack of “formal” documentation and certification by the government to protect land rights of people in both urban and rural areas. The case of the community of Dukuduku forest is no different to any rural land contestation as a result of the failure of the government to establish formal and sustainable rural land laws and policies that would protect and strengthen people’s security over commercial land. In this study 42% of participants agreed and 38% were in strong agreement that other factors attributing to the delay are corruption and abuse of power by leaders for their personal interests.

Figure 5. 2 Perception of Respondents as to whether Delays in Finalising Land Claims is Due to Corruption and Abuse of Power



Source: Researcher's Compilation, 2019

In support of the above-mentioned finding, a participant had this to say:

“People have secure tenure when they are legally and practically able to defend their ownership, occupation, use and access to land against interference from other people and institutions. People in rural protected and contested land are not always able to protect themselves against other people and institutions from taking over land that they live on and use. Most of the land particularly in conservation areas will continue to be contested for until governmental policies and strategies to ensure the sustainability of conservation areas are not carried out at the expense of the masses living within these protected areas.” (Mapholoba, aged 30, Resident of Monzi, Interviewed 25/11/2019).

Conversely, South Africa is globally known as one of the mega diverse countries. Therefore, all conservation efforts of the country are geared towards maintaining this status but not at the expense of other developmental goals of government.

Therefore 13% of the respondents disagreed that the moderate progress of land claims and restitution on protected areas is only a result of corruption and abuse of power.

This participant for example, expressed that:

“Land claims and restitution on protected areas in both urban and rural areas should be at the centre of any sustainable urban and rural land reform policy endeavours, and notwithstanding: constant emerging contestations and the call for land expropriation without compensation – which has influenced communities in most urban and rural areas to become increasingly impatient towards the government.” (Azania, Female, age 29, Resident of Khula Village, Interviewed 25/11/2019).

5.4 WOMEN’S VOICES ON THE ISSUE OF LAND CLAIMS

An extensive body of literature indicates that there is an increasing marginalisation of women’s access to land. The existing gender inequality in access to and control over land and natural resources stagnates endeavours to sustainable management of natural resources and socio-economic development. As discussed in chapter 2, land as one of the cornerstones of economic development on which farmers, pastoralists and other communities base their livelihoods, is a significant source of security against poverty (Odeny, 2013).

Therefore, unequal rights to land put women at a disadvantage, thus perpetuating poverty and further entrenching gender inequality. This participant believed:

“Gender inequality is a critical issue in women’s land rights because there is a direct relationship between accessing land resources, having secured land rights, achieving food security and overcoming poverty.” (Ndlovukazi, Female, aged 33, Resident of Monzi, Interviewed 25/11/2019).

The increasing marginalisation of women’s land rights dates back from apartheid – where women were subjected to both race and gender struggles as far as access to and ownership of land was concerned. There is still an increasing need to challenge the patrilineal system through which land is passed on via men in a household. This participant added that:

“Women still benefit through land passed on to their sons in most African societies and not themselves in cases of the absence of their husbands” (MaZulu, Female, aged 55, Resident of Monzi, Interviewed 26/11/2019).

More of the problems facing women in their struggle for land access and ownership could be attributed to the Black Administration Act of 1927 (Section 3B). According to this Act, a black woman in a customary union and living with her husband was in no position to own land, and her spouse was eligible. Effects of such marginalisation of women were clearly illustrated by a Department of Rural Development and Land Reform (DRDLR) land audit report of 2017. This report showed that women still owned less than 30% of agricultural land equivalent to 815 hectares, compared to the 2,425 hectares owned by men (HSRC, 2019).

“Due to persistent patrilineal systems, women continue to be subjected to a cycle of poverty compared to men despite legislative measures to address inequality and the future of women’s position on access to and rights to land.” (Ndlovukazi, Female, aged 33, Resident of Monzi, Interviewed 25/11/2019).

Another participant added that:

“If women had the same access to and rights to land as men, they could play a central role to sustainable food security. Therefore, it is imperative for government to develop adequate policies and programmes that will ensure support of women and their recognition to food security.” (Makwenzeke, Male, aged 40, Resident of Zwelisha, Interviewed 25/11/2019).

In this regard, another participant expressed as follows:

“Land policies are adopted and laws passed, but there are still no effective efforts by government policy makers to sensitize the general public on what those documents entail about people’s land rights in general, particularly women’s status on access to and rights to land ownership... and allocation is still dominated by men within their clan or community.” (Ntokozo, Female, aged 33, Resident of Zwelisha, Interviewed 25/11/2019).

It is without any doubt that constitutional provisions in South Africa advocate for inclusive and progressive practices, including those enshrined by customary law. However, how these translate in practice is questionable. This participant suggested that:

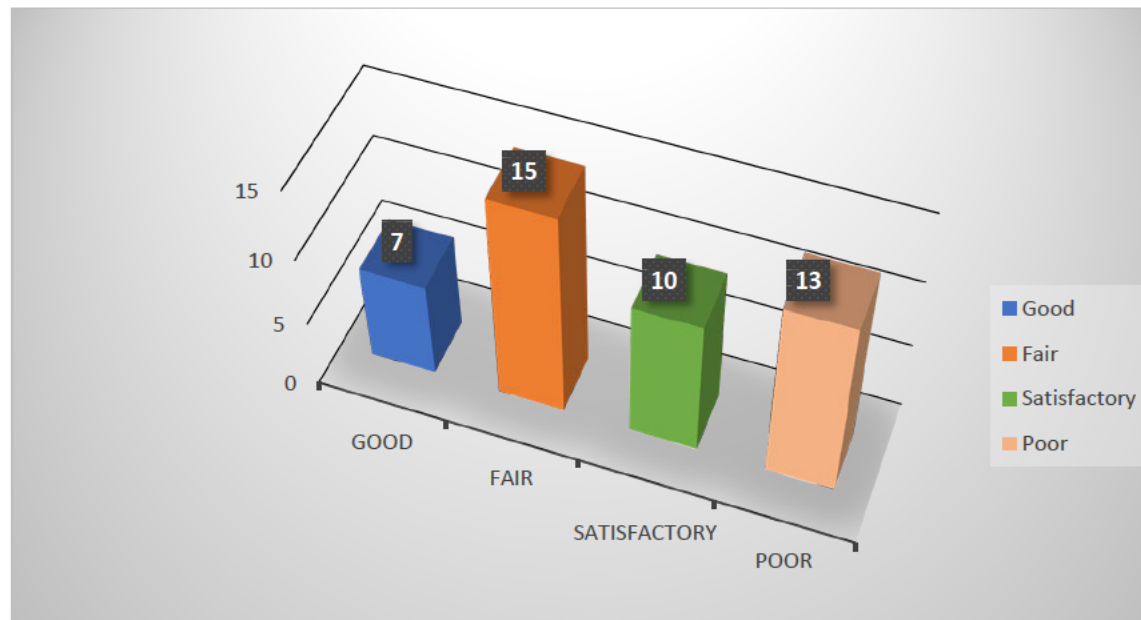
“The government needs to formulate comprehensive and inclusive land tenure systems that would involve traditional authorities and all other concerned stakeholders in land reform and restitution to allow for a non-

discriminating allocation of land to women.” (MaNcwane, Female, aged 48, Resident of Monzi, Interviewed 25/11/2019).

5.5 INFLUENCE OF TRADITIONAL LEADERSHIP ON RURAL LAND TENURE AND DISTRIBUTION PROCESSES

African historical dynamics, including the period of colonialism and subsequently apartheid in South Africa, introduced strategies that tactically were aimed at dismantling traditional institutions all over the sub-continent. Failing to recognise their shameful goal, the apartheid government adopted a conciliatory position that at the same time served its government’s interest. The homeland policy was introduced whereby most traditional leaders were assigned to be part of the establishment of independent states only recognised by the South African government. This was done under the pretence that they were accordingly recognised as rulers of their people (Bizana-Tutu, 2008).

Figure 5. 3 Opinion of Participants on the Relationship between Dukuduku Forest Community Members and Traditional Leaders



Source: Researcher’s Compilation, 2019

With the popular belief that traditional leaders as custodians of land are not executing their mandate to uplift the communities through land reform but instead are misusing

their powers to acquire more land for their personal interest, 33% of participants believed that the leaders have established a fair relationship with the community on land issues. 16% think traditional leader's involvement with community members is good and 22% perceive this as satisfactory. However, 29% of the participants don't believe traditional leaders concern themselves with grievances from the community on land related issues.

The role of Tribal Authorities (Chiefs and Headmen) in rural communal land tenure administration and maintenance of social order remains a vague matter, which many are still questioning concerning the political ecology of land reform and restitution. For example, this participant elaborated that:

“Chiefly power over communal land relative to the rights of families and individuals who have inherited residential sites, fields and access to grazing land over generations constitute to the delay and validation of traditional houses as custodians of communal land tenure.” (Nomathemba, Fema, aged 36, Resident of Monzi, Interviewed 25/11/2019).

Tribal structures in South Africa consists a few thousand of individual members who assent to power through kinship and common ancestry ties.

“People are doubting the credibility of the structure of amakhosi on this basis, hence the questionable role they play in ensuring equitable rural land reform and redistribution. Traditional authorities and management structures on protected areas are conflicted into formulating effective co-management strategies that would ensure equitable benefits for both parties, thus carrying out sustainable rural livelihoods’ development is at a slow pace. Communities on contested tribal land believe, tribal authorities only peruse their prestige needs and have forgotten of their people.” (Nomathemba, Female, aged 36, Resident of Monzi, Interviewed 25/11/2019).

State support for ‘tribal control’ and denial of independent land rights for rural Africans is intimately bound up with our colonial and apartheid past, and presently traditional leaders remain subject to legal restraints in relation to how they treat the rights of beneficiaries, both in terms of fiduciary duties placed upon them as trustees of rural land tenure, and in terms of customary law. This participant was of the following

opinion on the relevance and viability of traditional leadership on rural land tenure and distribution processes:

“One of the structural problems confronting the recognition of customary land rights is the nature of the deeds registration systems inherited from apartheid. It is designed to map exclusive ownership rights vesting in specified owners onto discrete and clearly defined parcels of land. Customary systems are more nuanced: they provide for relative rights that prioritise claims based on belonging, participation and need, over those of absent individuals.”

(Nomandla, Female, aged 33, Resident of Zwelisha, Interviewed 25/11/2019).

The empowering process will thus involve an incorporation of western and African managerial concept and challenges. This will therefore call for the creation of new structures, placing the focus on interdependence and not on either independence or domination (i.e. power dominations – as discussed in the theoretical framework chapter) by either statutory or traditional authority structures. The power elite theory as a key analytical tool used in this study to understand the processes of land reform in relation to local development in rural contested land, explains how powerful societal systems have centralized decision-making and placed power in the hands of a few powerful people. Fundamentally, the elite theory is a state theory that attempts to describe and explain power relationships in modern society. According to this view, the majority of power is held by a small group of people who are members of the economic elite and policy-making networks.

As discussed in the literature chapter, traditional leaders are influential and have a significant role to play in the future development and related processes in South Africa through land restitution. In this regard, it is also inevitable to deny that the role and responsibility of traditional institutions as defined under colonial and apartheid regimes is under significant threat as a result of clashes between modern and traditional systems of governance. This participant elaborated that:

“... the issue of traditional leaders has become an issue of political focus-hence there are often reports of significant roles and responsibilities of traditional leaders; but there seem to be no real consensus on the status and role of traditional leaders with regard to Customary laws.” (Nkosiyo, Male, aged 55, Resident of Zwelisha, Interviewed 25/11/2019).

Processes of transition have made very little progress in land reform policy and the institution of traditional leadership in South Africa. There are still no definite measures developed to ensure the transformation of the effective role of traditional leaders in nation-building through land reform and restitution. Indeed, the unsolved land question has faced the ANC-led government since 1994. Despite the government's efforts to democratize land access and use as a tool for local development and inclusion, policy failures are abundant.

“When the new government of South Africa came to power in 1994 their main task was to make corrections and adjustments to the traditional institutions in the country. The 1994 Constitution, Chapter 11 and 12 makes provisions that recognise the legitimacy of traditional leaders. However, the same constitution fails to clarify the role and functions of traditional leaders in their respective communities.” (Zakhele, Male, aged 26, Resident of Monzi, Interviewed 25/11/2019).

Another participant also had this to add:

“Customary law and matters relevant to traditional leaders and customary law procedures are subject to the constitution, there will always be a traditional leader suffering from severe blows of unconstitutionality and invalidity from time to time until there is absolutely nothing left of them that is legally valid.” (Khabazela, Male, aged 45, Resident of Zwelisha, Interviewed 26/11/2019).

Table 5. 3 Traditional leaders' role and influence in fair land redistribution

	Yes (n=45)	Percentage (Yes)	No (n=45)	Percentage (No)
Do you think political affiliation plays a role in obtaining a piece of land from traditional leaders in this area?	43	96%	2	4%
Are women in this area given any attention when requesting a piece of land from a traditional leader?	15	33%	30	67%
Do you trust the influence of local traditional council as custodians of land redistribution in the area?	26	58%	19	42%

Source: Researcher's Compilation, 2019

Even with 58% of participants trusting the local traditional council as custodians of land redistribution in the area, traditional leaders will always be subjected to the constitution. That is why 96% of the study participants strongly think that political affiliation favours traditional leaders in terms of jurisdiction of land in the community. It is therefore necessary to emphasise the need to create collective developmental opportunities in traditional communities since 67% of participants have observed that women were overlooked when it came to land claims and redistribution. This participant stressed that:

“Ancient norms in the area always placed women inferior to the man and that they were not fit to own or have rights to any land. So, in order to address problems and tackle present and future challenges, a prerequisite for achieving this goal of collective developmental opportunities in traditional communities is a suitable and an appropriate contextualized development management model for traditional leadership in South Africa.” Ndlovukazi, Female, aged 33, Resident of Monzi, Interviewed 25/11/2019).

It is inevitable that the required cultural values can be incorporated appropriately in any development management model with traditional leadership as a point of focus. The

development process of present-day South Africa requires for many facets to be managed in accordance with a clearly defined policy and development framework.

“The failure or success of this rural development management process will largely depend on the degree to which communities concerned are prepared to take up ownership and the degree to which traditional leadership is capable and empowered to add value to the whole process as leaders in the African and modern meaning of development management and development leadership.”

(Ntsizwazonke, Male, aged 30, Resident of Khula Village, Interviewed 26/11/2019).

Traditional communities must be empowered to play a specific role in the development management process.

“Basis of empowerment must entail a positive organisational climate within which enabling structures are created accommodating and caring for community values such as collective solidarity of the traditional communities.”

(Nqobizitha, Male, aged 33, Resident of Zwelisha, Interviewed 26/11/2019).

This participant believed:

“There is also a need for the understanding of the situational realities of communities functioning under traditional authority and leadership, and to use these realities and circumstances as a basis for a proactive and challenging community-based planning structures and strategies.” (Bhekokwakhe, Male, aged 40, Resident of Zwelisha, Interviewed 26/11/2019).

There is a real need for an appropriate institutional framework to be developed by the South African government to ensure and assert the relevance and role of traditional leadership in rural land administration. This participant stressed that:

“Solutions should be designed to suit and remedy local problems about land issues in South Africa. Applying solutions adopted from land issues from foreign countries contradicts the very mandate of South African land reform policy – which is to remedy injustices of past land reform policies and bring relief to previously disadvantaged black communities through equitable land restitution. Land tenure rights of urban and rural communities is also of greater importance to ascertain their livelihood sustainability. Traditional institutions in South Africa could play a vital role in channelling such mandate in rural areas with

a clear and inclusive developmental framework by the government to ensure land tenure security for the present and future generation.” (Ngwane, Male, aged 48, Resident of Zwelisha, Interviewed 26/11/2019).

5.6 COHESION/ TRANSPARENCY BETWEEN STAKEHOLDERS INVOLVED IN LAND CLAIMS AND RESTITUTION.

There seems to be no clear-cut roles or understanding who owns the land and who has the legal authority to use it making the issue of rural land tenure rights complicated. A case in point is the recent claims by the traditional leadership in KwaZulu-Natal, that they are the rightful owners of communal land within their jurisdiction (LARC,2016). This participant alluded that:

“... this confusion of who owns the land between the government, traditional leaders and communities constitutes to more complex difficulties confronting land claims and redistribution in both rural and semi-urban areas and further worsens livelihood sustainability strategies for the poor.” (MaZungu, Female, aged 46, Resident of Zwelisha, Interviewed 26/11/2019).

Figure 5. 4 Opinion of Participants on the Nature of Land Rights Use and Control in Dukuduku Forest



Source: Researcher's Compilation

Racially based systems of land rights introduced by previous land reform regimes in South Africa have inevitably caused overlapping rights and boundary disputes which need to be resolved before land rights could be confirmed.

“Tenure reforms need to constitute and grapple with overlapping land rights as well as cases of exploitation of affected rural communities. Resources for establishing and revitalising a sustainable reform and administration need to be produced from hard-pressed government budgets and adequate policy measures put in place for achieving a cohesive and inclusive land reform and redistribution.” (Cele, Male, aged 51, Resident of Zwelisha, Interviewed 26/11/2019).

In the light that 58% of respondents in Graph 4 believed that the nature of land rights uses and control in the context of Dukuduku forest is still segregatory rather than inclusive, illustrates that more adequate and inclusive policy measures are needed to achieve sustainable land tenure reforms and subsequent co-management processes. This participant for example, expressed that:

“Policy measures on land reform and tenure management systems need to be inclusive and built on a thorough understanding of the livelihood strategies of those intended to benefit, hence it should not be assumed that inadequacies of tenure laws and administrative support constrain livelihood strategies of those affected communities.” (Nomagugu, Female 31, Resident of Monzi, Interviewed 26/11/2019).

Tenure reform measures for communal land should underpin the adaptability and the responsiveness of existing customary systems and not constrain local development strategies.

“Land tenure reform policy strategies should be designed to be flexible and accommodative to the role of traditional authorities to foster and encourage the attention to the legal status and economic activities of women and the poor, who are disproportionately dependent on communal land rights access.” (Maphikelela, Male, aged 51, Resident of Zwelisha, Interviewed 26/11/2019).

Despite the confusion, the Interim Protection of Informal Land Rights Act, 1996 (IPILRA) was implemented even though it was meant to be a temporal law to protect people whose land rights are insecure as a result of past discriminatory regimes until a more and detailed law could be passed. Hence, the 1999 Land Rights Bill was meant to

be a replacement to the IPILRA. However, it was never introduced in parliament and the Communal Land Rights of 2004 (CLRA) could have also replaced the IPILRA. In 2010 it was declared unconstitutional because it did not allow for effective public participation in its development in the different provinces (LARC, 2016).

“However, the IPILRA, even though it provides crucial protection to rural people’s land rights use and access as a law it is unknown and often misunderstood by government officials – which means that its either never applied or implemented in cases of rural land contestation. Nonetheless, this law under the status quo remains relevant in the fact that it is the only law that still protects informal land rights for people in contested rural land.”
(Ndukuzakhe, Male, aged 40, Khula Village, Interviewed 26/11/2019).

5.7 FACTORS THAT PROMOTE SUSTAINABLE RURAL LAND REFORM AND RESTITUTION

Despite the current debate on whether the constitution provides an adequate doorway to land expropriation without compensation, and whether this could have achievable effects to domestic stability and agricultural output there is still confusion on its implementation. The complexities of land reform are often misleading due to the sensible and delicate issues involved with land reform in South Africa.

“This constitutes to the practicability of land expropriation without compensation and how its effectiveness could bring a meaningful benefit to economically marginalised rural communities in the agricultural economy and stimulate an effective rural market also while improving access to urban land.”
(Vusumuzi, Male, aged 35, Resident of Zwelisha, Interviewed 26/11/2019).

In addition, the participant below was of the opinion about amendment to Section 25 of the Constitution to allow land expropriation without compensation:

“An amendment to section 25 to allow for land expropriation without compensation should involve a careful insight of whether land expropriation and redistribution is fair and just, also not withstanding how beneficiaries will be identified and how security of land tenure as well as selection and allocation criteria will constitute. This could be done to potentially remedy adverse coalitions between politicians, wealthy elites and multi-class tensions amongst beneficiaries.” (Cebekhulu, Male, aged 50, Resident of Zwelisha, Interviewed 26/11/2019).

Table 5. 4 Factors that could bring sustainable rural land reform and restitution

What do you think should be done to solve the current land contestation in the area?	Number of Participant s	Percentage
1. Rectification of the flaws of the initial restitution of land rights in the country.	20	44%
2. Restore accountability of community leaders to the community.	4	9%
3. Encourage strong and transparent relationship between stakeholders involved in land restitution and land redistribution.	7	16%
4. Implement sustainable development strategies through land restitution that are inclusive of people's interests.	5	11%
5. Prioritize effective community consultation and participation in any rural land reform and development strategies affecting their livelihoods.	9	20%

Source: Researcher's Compilation, 2019

Despite determining compensation endeavours that could notify both the public and commercial interests, 11% of participants believed that politicians and policy makers alike need to investigate new developmental prospects that would solve current land contestations and yield sustainable land reform that could encourage beneficiaries to hold on to restored land for future generations while also maintaining productivity.

“Land reform beneficiaries are mostly known to prefer restitution over compensation. This puts the national redistribution goals in jeopardy and could yield to amending inter-generational demands, considering that the land reform programme is constantly faced with poor pre-settlement education and no post-settlement support in the light that many communities opt for restitution or post settlement sole owner of land, usually back to previous owners. In this case the government should establish an efficient co-management structure for farm communities. In the case of a sale, the government should reserve the right of purchase to reallocate the land to land seeking emerging black farmers.”
(Thandisizwe, Male, aged 51, Resident of Zwelisha, Interviewed 26/11/2019).

In addition, in the efforts of rectifying the backlog of the land reform programme, 44% of the participants believed that, restitution of land rights initiatives should stimulate

active rural land markets by converting communal tenure into private or tradeable tenure.

“This is because, rural communities are trapped by dead capital resulting to constant implications for rural property and overall development. Private rights would bring value to communal land, therefore allowing for trading and unlocking development. However, the government needs to provide sustainable legal tenure security for previously disadvantaged communities.” (Phindangene, Male, aged 30, Resident of Monzi, Interviewed 26/11/2019).

On the fact that communal land is mostly associated with political and cultural sensitivities, 9 % - 16% of the respondents respectively expressed that the government could work closely with traditional leaders and the concerned communities. This would involve stimulating rural land markets to extend land use and spatial development planning policies in rural areas to guide the current and future distribution of land use. For example, this participant suggested that:

“A starting point for the government in this could be the use of site and serviced stand programme within the broader housing programme for rural land redistribution and based on secure tenure. This approach would require that, local chiefs be allowed to allocate sites while the government closely oversees its fairness (accountability).” (Mphephethwa, Male, aged 45, Resident of Zwelisha, Interviewed 26/11/2019).

Accessibility to urban land markets is another crucial aspect of land reform considering that South Africa is amongst the fast urbanising countries in the world. Townships are the entry points of many job seeking rural migrants and since urban land markets are predominated by private property developers, who can afford land closer to opportunities which excludes the urban poor and land hungry.

“The government should enhance more sustainable opportunities through government subsidy housing programmes on the urban outskirts. Urban land reform needs to be channelled by the government at the centre of development. A starting point could involve active acquisition of land on the urban outskirts and designate that land for low value use, thus promoting compact and mixed-use developments. This would of course require: a holistic developmental approach to land reform which will require a national consensus for the orderly

release of land and a governmental commitment to quality and consistent execution of such an approach.” (Ndosi, Male, aged 50, Resident of Monzi, Interviewed 26/11/2019).

Capacity of the government to effectively and efficiently draft, co-ordinate and implement policies and legislation that deal with the constitutional imperatives regarding redress of past injustices through land reform is also of utmost importance in this regard.

“Tenure security establishes strong roles for women in communities governed by traditional authorities and is crucial at the centre of inclusive rural land tenure reform. Of course, this will require strong political and social interventions by the government.” (Nontethelelo, Female, aged 34, Resident of Zwelisha, Interviewed 26/11/2019).

It is inevitable to avoid that both colonial and apartheid history in relation to land reform and restitution consequently resulted in the present-day socio-economic disparities particularly in the former Bantu areas.

“The primary objective of restitution of land rights in South Africa was to correct and bring sustainable relief to unjust land reform legislations as a result of colonial and apartheid regimes. Previously disadvantaged communities have not equally benefited from land reform. Lack of tenure security attributes to redundant policy endeavours by government towards redressing socio-economic issues through land reform.” (Mntungwa, Male, aged 40, Resident of Monzi, Interviewed 26/11/2019).

Persistent land contestation and stagnant progress to land claims put more emphasis on how ineffective restitution of land rights in South Africa has come to be. This participant elaborated that:

“The enactment of the restitution of Land Rights Amendment Act in 2014 in this context, also poses a question of whether it will be effective as envisioned or not? In this regard, restitution of land rights (including lessons from previous and current Land Rights Acts) must be co-ordinated within the context of other laws and policies.” (Nqobizizwe, Male, aged 35, Resident of Khula Village, Interviewed 26/11/2019).

Considering the current status of land rights and reform particularly in rural areas where land tenure reform is persistently stagnant this participant believed:

“An inclusive and sustainable reform will need to redress past injustices through a strong and effective co-management structures. This will be possible when policy measures are adequately incorporated in future inclusive reform endeavours, notwithstanding the crucial role of traditional authorities in rural land reform. In this context, restitution of land rights would likely achieve the socio-economic needs of rural people while not undermining their land rights as stipulated in Section 25(6) of the constitution.” (Shazi, Male, aged 51, Resident of Zwelisha, Interviewed 26/11/2019).

It is also important to realise that at the centre of stagnant restitution of land rights are other underlying issues of poverty, unemployment and inequality which can also be aligned with the history of colonial and apartheid land reform policies. In this respect, this participant believed that:

“National Development Programmes (NDPs) in line with the Recapitalization and Development Programme in transforming rural economy, should redress inequities inherited as a result of past unjust land reform legislations through the incorporation of these developmental policy endeavours with the Fourth Industrial Revolution age. Policy restructuring efforts could be an effective way to redress colonial and apartheid history that is intertwined with land reform and restitution and possibly alleviate poverty, unemployment and inequality in both urban and rural areas – while strengthening accountability and transparency to public service and tenure security.” (Ntozakhe, Male, aged 40, Resident of Khula village, Interviewed 26/11/2019).

5.8 CONCLUSION

Recognition of the failures of both urban and rural land reform and restitution as a characteristic of a fragmented and deficient state land administration is inevitable. It is imperative to focus on government’s capacity to develop, coordinate and implement effective policies and legislations that will deal with the constitutional imperatives regarding redress. This chapter analysed and presented the research findings obtained through thematic and content analysis relative to the literature reviewed and the theoretical framework of the study.

Six relevant themes in the assessment of the progress of land claims in Dukuduku forest community were identified and discussed. These were: 1) Participants demographic Information, 2) Progress of land claims in Dukuduku forest community, 3) Women's voices on the issue of land claims, 4) The influence of traditional leadership on rural land tenure and distribution processes, 5) Cohesion/ transparency between stakeholders involved in land claims and restitution, and 6) Factors that could bring improved and efficient rural land reform and restitution. Thus, this chapter has highlighted issues relating to the problem of slow progress in rural land claims settlements perpetuated by other underlying factors identified as the following: 1) African historical dynamics (i.e. both the period of colonialism and subsequent apartheid land reform legislations) and its effect on current land reform policies, 2) Poor capabilities of the state and governmental institutions in effective land reform policy implementation, 3) Gender inequalities on land rights and access (i.e. patrilineal systems), 4) Lack of tenure security and sustenance of rural livelihoods, 5) Biodiversity conservation issues on protected land, 6) The role and influence of traditional institutions in rural land reform and restitution. Evidence from the analysed data show that, policy restructuring efforts could be an effective way to redress colonial and apartheid history that is intertwined with land reform and restitution and possibly alleviate poverty, unemployment and inequality in both urban and rural areas – while strengthening transparency to public service and tenure security.

CHAPTER 6

DISCUSSION OF FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

6.1 INTRODUCTION

This chapter discusses the findings of the study that were presented in Chapter 5. In this chapter, the discussion of the findings is integrated with the theoretical framework discussed in chapter 3 and is also aligned to the research questions as outlined in Chapter 1. Thereafter, this chapter provides conclusions and recommendations arising from the study.

6.2 KEY FINDINGS

As discussed in literature review and the analysis of findings presented in chapter five, the majority rule Government in South Africa has witnessed moderate claims to land reform. This study found that, (1) South African political history dynamics (i.e. both the period of colonialism and subsequent apartheid land reform legislations) continues to have a bearing on the current land reform policies; (2) Poor capacity of the state and other related governmental institutions and ineffective application of land reform policy implementation; (3) Gender inequalities were highlighted as an impediment in land rights claims and access; (4) The impact of slow land restitution and redistribution on vulnerable rural livelihoods; and (5) the role and influence of traditional institutions in rural land reform and restitution in local government, are identified as the prominent causes of setbacks to land claims process in South Africa.

Based on the interviews and questionnaire it was shown that the racially based systems of land rights introduced by previous land reform regimes in South Africa have inevitably caused overlapping rights and boundary disputes, which need to be resolved before land rights could be dealt with. This has had an impact on the pace and outcomes of the land restitution program. As it is illustrated in the analysis chapter, one of the participants suggested that, “*the reforms need to consider the overlapping land rights as well as cases of exploitation of affected rural communities.*” Drawing from analysis of findings, lack of resources was cited as one of the reasons for the slow pace of restitution. The claimants want the government to avail resources for establishing and

revitalising a sustainable reform and put adequate policy measures in place for achieving a cohesive and inclusive land reform. It was also highlighted from the interviews that, claimants want policy measures on land reform and tenure management systems to be inclusive and built on a thorough understanding of the livelihood strategies of those intended to benefit.

The study also showed that the claimants were of the view that land tenure reform policy strategies should be designed to be flexible and accommodative to the role of traditional authorities to foster and encourage the legal status and economic activities of women and the poor, who are disproportionately dependent on communal land rights access. Tenure security establishes strong roles for women in communities governed by traditional authorities and is crucial for inclusive rural land tenure reform. In this study, it was also shown that it is inevitable to avoid the colonial and apartheid history in relation to land reform and restitution. In respect of the five key findings, this study does not intend to generalize about the land restitution process in the country, but rather seeks to provide insight into land reform and restitution dynamics specifically within the context of Dukuduku forest community.

Finding 1: South African Political History Dynamics and its Effect on Current Land Reform Restitution Policies

The problem of slow progress in rural land claims is one of the major drawbacks in realizing the objective of rural socio-economic development through land reform and restitution to the previously disadvantaged black communities. As a result, this stagnation in land reform and restitution has further widened the gap between the rich and the poor. This has proved to be a failure to the land rights principle of the constitution - which assures access to land and all other living spaces to be a birth right of all South Africans especially black communities who were previously disadvantaged by both colonial and apartheid land policies.

As discussed in the literature review chapter, after two decades of democracy in South Africa, there are unresolved land contestations and claim lodges that are still not processed. Drawing from the findings in Chapter 5, Rural Land Reform Policy (RLRP) as part of the Land Restitution Programme (LRP) of the Republic of South Africa has proved to be a failure because of continuing problems regarding land claims. This is evident from the 27 land claims that were settled out of 40 000 claims lodge since the

initial lodgement cut-off date of December 1998. However, by comparison in November 2001 there were 12 863 land claims settled out of 68 878 claims lodged - which illustrated a moderate but yet inadequate improvement to the pace of rural land claims settlement. In addition, by 2015/16 there were 77 334 land claims settled out of 79 696 claims lodged (Nkwinti, 2015:2). Thus, this can be deduced to 64 471 claims settled between November 2001 and 2015/2016 out of 148 574 claims lodged in the same time frame.

The rise of the ANC government into power in 1994 changed the political structure through which the order of rule was to be adopted in line with the policies and laws of a ruling party. As discussed in chapter 3, a dominant party to fulfil its own interests or that of the citizens' interests can manipulate technologies of power. In the case of the apartheid regime, the governmental structure was designed to serve the interests of minority – while the ANC led government's agenda adopted a pro-poor approach which encouraged public participation in policy decision making processes. Therefore, the ANC government assumed authority in government with the intention of making decisions that it believed to be for the best interest of the masses.

Finding 2: Capacity of the State and Governmental Institutions in Effective Land Reform Policy Implementation

The influence and impact of both colonial and apartheid racially skewed land divisions were not adequately addressed when the democratic dispensation was realised after 1994 (Beinart and Delius, 2013). Instead the new democratic government under the ANC evaded and increasingly moved away from the mandate of addressing injustices incurred from the colonial and apartheid land reform legislations under its Restitution of Land Rights Act 22 of 1994 (Restitution of Land Rights Act, 1994).

The foremost provisions of the Restitution of Land Rights Act of 1994 is “to provide for the restitution of rights in land to persons or communities dispossessed of such rights after June 1913 because of past racially discriminatory laws or practices; to establish a Commission on Restitution of Land Rights and a Land Claims Court; and to provide for matters connected there within” (Restitution of Land Rights Act, 1994: 1). This indeed acknowledges the provision of restitution of property or equitable redress to a person or community dispossessed of property after 19 June 1913 because of past racially discriminatory laws or practices as it is documented in the Constitution of the Republic of South Africa.

The Constitution and the Interim Protection of Informal Land Rights Act, 1996 (IPILRA) advocate for and recognise the protection of land rights of people living in rural areas particularly in protected and contested land. However, more than 26 years after the new political dispensation, people in their areas are still uncertain about their land rights and access. As discussed in chapter 3, inadequate land administration and the vague nature of land ownership and the power struggles between traditional and modern forms of authority in communal areas, allows for those in power to manipulate land tenure systems for their personal interests. This therefore disregards the wellbeing of the rural poor in communal areas if power and wealth are concentrated in the hands of a few elite which make it difficult to protect the interests of those without power (Adams, 2001).

The Land Claims Commission however has put remedial actions into place since 2013 in which they partnered with the Human Science Research Council and University of South Africa (UNISA) to provide research support in land claims on protected areas. In September 2014 they developed a Communal Land Tenure Policy (CLTP) - for communal land tenure to be transferred into the hands of traditional councils. In addition, a state land audit was conducted including the surveying of un-surveyed land; exploration of alternative co-management concepts and approaches such as: the adaptive management approach, pluralism, governance, patrimony, management of conflicts, and social communication is underway; and the feasibility of teaching communities about the importance of sustainable use of natural resources is still a lesson in progress.

Poor capacity of the state that is blatantly defined by lacklustre co-ordination, limited and misaligned allocation of resources to both private and public sectors is further complicated by corruption that militates against land reform and restitution. This can further be attributed amongst other overlapping issues such as the lack of “formal” documentation and certification by the government to protect land rights of people in both urban and rural areas.

As stated in the analysis chapter, the IPILRA, even though it provides crucial protection to rural people’s land rights use and access, as a law it is unknown and often misunderstood by government officials – which means that it’s either never applied or implemented in cases of rural land contestation. Nonetheless, this law remains relevant in the fact that it is the only law that still protects informal land rights for people in contested rural land.

The inefficiency of the state and governmental institutions to draft, co-ordinate and implement policies and legislation that deal with the constitutional imperatives regarding redress of past injustices through land reform is illustrative of poor, fragmented and deficient state land administration.

Finding 3: The Extent of Gender Inequalities in Land Rights Claims and Access

Gender inequality is a critical issue in women's land rights as there is a direct relationship between accessing land resources, having secured land rights, achieving food security and overcoming poverty. The increasing land insecurity of women's land rights dates back from apartheid – where women were subjected to both race and gender struggles as far as access to and ownership of land was concerned.

As discussed in the literature review and illustrated in the analysis chapter, there is still an increasing need to challenge the patrilineal system through which land is passed on via men in a household. This study highlighted the gaps that still exist in terms of gender and land issues. Sixty seven percent of the respondents were of the view that a woman would be denied land if she asked for a piece of land from traditional leaders. In fact, one participant suggested that ancient norms in the area always placed women inferior to men and that they are not worthy of owning or having rights to any land. It is evident then that such stereotypes may make it difficult for a woman to decide to lodge a claim or may result in the claim not being taken seriously. It was however important to note that most of the participants themselves believed that women needed to be treated equally and that if women were left behind the community would not have meaningful development. Women still benefit through land passed on to their sons in most African societies and not themselves in cases of the absence of their husbands.

More of the problems facing women in their struggle for land access and ownership could be attributed to the Black Administration Act of 1927 (Section 3B). According to this act, a black woman in a customary union and living with her husband was in no position to own land, and her spouse was eligible. Effects of such women marginalisation were clearly illustrated by a Department of Rural Development and Land Reform (DRDLR) land audit report of 2017 – which showed that women still owned less than 30% of agricultural land equivalent to 815 hectares, compared to the 2,425 hectares owned by men (HSRC, 2019). The persistent nature of patrilineal systems in African society, continue to subject women to a cycle of poverty compared

to men despite legislative measures to address inequality and the future of women's position on access to and rights to land.

Finding 4: The Impact of Slow Land Restitution and Redistribution on Vulnerable Rural Livelihoods

Rural land tenure rights are further complicated by varying understanding of who owns the land and who has the legal authority to use it. For example, recent land claims made by traditional leadership in KwaZulu-Natal, claimed to be the rightful owners of communal land within their jurisdiction (LARC, 2016). This confusion of who owns the land between the government, traditional leaders and communities constitutes to more complex difficulties confronting land claims and redistribution in both rural and semi-urban areas which further worsens livelihood sustainability strategies for the poor. The participants were of the view that delays in settling claims were resulting in unemployment and poverty in the community. To address this poverty, unemployment and inequality the participants believed the process should be speeded up. One participant suggested wholesome changes and said.

“Policy restructuring efforts could be an effective way to redress colonial and apartheid history that is intertwined with land reform and restitution and possibly alleviate poverty, unemployment and inequality in both urban and rural areas” (Zwelinzima, Male, aged 46, Resident of Zwelisha, Interviewed 26/10/2019).

Lack of tenure was cited as one of the reasons impeding productivity in Dukuduku resulting in some of the young people migrating to urban areas.

At the centre of stagnant restitution of land rights are other underlying issues of poverty, unemployment and inequality which can also be aligned with the history of colonial and apartheid land reform policies. In this respect, National Development Plan (NDPs) legislations should be in line with the recapitalization and Development Programme in transforming rural economy. This should redress inequities inherited as a result of past unjust land reform legislations through the incorporation of these developmental policy endeavours with the Fourth Industrial Revolution age. The nature and extent of land dispossession in rural South Africa is based on the question of whether customary land tenure system is effective enough to bring the desired outcomes in rural livelihood sustenance through land redistribution. Communal land ownership under the supervision of traditional authorities and their role in rural land loss does not allow for

individual land access and ownership (Wily, 2011). The nature of land ownership and tenure agreements with traditional authorities in relation to customary land management and distribution in South Africa to a considerable extent constitutes to landlessness to those powerless individuals such as women in rural communities.

Communal land ownership does not allow for those who use land for economic development especially women in rural areas. Communal land ownership is a vague and complex phenomenon which makes it difficult for those pursuing profit making from agriculture and small business activity. The most contributing factor to this remains and emanates from people with allocation and administration authority. In rural communal land allocations, men particularly chiefs are entrusted with this task thus making them the sole administrators of communal land as per the law by the state.

This therefore makes communal land susceptible to exploitation by unscrupulous land administrators such as the chiefs in the context of rural land administration where they sell occupational rights (Adams, 2001). The breakdown and deterioration of customary land management is one of many issues that still need radical clarity about rural customary land arrangements with the state as the legal owner of communal land. This affects tenure security in communal land ownership for the rural poor especially women and does not allow for individual land ownership for economic development. It also stagnates land-based livelihood strategies and the struggle over rural land dispossession.

According to (Turner, 1998, cited in Adams, 2001: 5), the complex and dysfunctional mixture of old and new institutions and processes of land administration including agreements between the state and customary land administrators confuse the nature and extent of communal land ownership, leaving those in authority to abuse their power of communal land administration.

Finding 5: The Influence of Traditional Leaders in the Process of Land Claims and Restitution

The role of Tribal Authorities (Chiefs and Headmen) in rural communal land tenure administration and maintenance of social order remains a vague matter which many are still questioning, given the ambiguity of the specific roles and responsibilities of traditional form of authority in service delivery and development matters at a local government level. As illustrated in the analysis chapter, the community in Dukuduku forest views traditional leaders with varying opinions (Figure 5.3). This relates to

political affiliation, corruption, gender issues and as custodians of culture. This study showed that they are no clear-cut definition of roles and that although the traditional leaders are referred to as gatekeepers of the cultural roles, they at times act as collaborators of the state or ruling party. This compromises their ability to act impartially or as an autonomous entity.

The engagements in this study showed that traditional leaders have come to claim the title to the land in the former homelands and that it should be transferred to them as the ‘custodians of custom’ a scenario that is not shared by some of the community members in the Dukuduku forest. The community considers that the land belongs to them according to both history and customary law. However, as it is illustrated in the analysis chapter, some members of the Dukuduku community believed that land claims were affected by political and cultural sensitivities, and 16% of the participants opined that the government should work closely with traditional leaders and the concerned communities.

The importance of resolving the grey area of who controls what in terms of authority over land was topical in the Dukuduku community as shown by the participants’ responses to the questionnaire and interviews. This was summed up by one participant who echoed that, *“the confusion of who owns the land between the government, traditional leaders and communities constitutes to more complex difficulties confronting land claims and redistribution.”* (Kumnkani, Male, aged 36, Resident of Monzi, Interviewed 26/10/2019).

It is important to note that while the Constitution of South Africa recognises the institution, status and role of traditional leadership in line with customary law, the relevance and sovereignty of traditional authorities have slowly been eroded as a result of modernity and increased rural–urban migration (Kanyane, 2017:212). However, traditional leaders continue to push for autonomy. In KwaZulu-Natal, which the Dukuduku forest is situated, traditional leaders have asserted that they are the rightful owners of communal land within their jurisdiction (LARC,2016). This study therefore highlighted the grey area in authority showing a mosaic pattern where traditional leaders act as gatekeepers on behalf of the community and at times as the owners of the land. This has largely continued to lack a clear-cut policy by the government especially at a local level.

6.3 CONCLUSIONS

The ruthless heredity of colonial land acquisition policies was continued into the National Party government following the downfall of colonialism. This was done for the continuation of a racially and spatially divided South Africa.

The influence and impact of both colonial and apartheid racially skewed land divisions were not adequately addressed when the democratic dispensation was realized after 1994. Over the past 26 years, the ANC government evaded and increasingly moved away from the mandate of addressing injustices incurred from the colonial and apartheid land reform legislations. Land redistribution is a constitutionally mandated function of government.

The Restitution of Land Rights Act of 1994 aimed at providing for the restitution of rights in land to persons or communities dispossessed of such rights after June 1913 because of past racially discriminatory laws or practices has failed to redress the unjust legacy of both colonial and apartheid regimes in the new democratic South Africa. The government has moved away from, and increasingly tilted towards a more partial manner of addressing past injustices incurred from the 1913 Land Act in terms of improving livelihoods and quality of life for the previously disadvantaged communities.

The policy implementation process of the restitution of land rights programme has lacked the fundamental bases of constitutional democratic principles, which is citizen participation and stakeholder participation in the decision-making process of public policies. The Government as an executive structure to carry out public policies and activities, has proved to be a legitimate and authoritative structure that is strategically used to influence the desired political interests of the ruling party that are inconsistent with the pro-poor principles of the restitution of land rights programme. As a result, the lack of coherence of the ANC government in land reform policy implementation process has perpetuated a cycle of ineffective policies and legislation into the assessment of land reform and restitution programme at a local level.

The role and influence of various stakeholders in land reform and restitution policies and legislations and its impact on sustainable rural socio-economic development, is a setback to sustainable legislative efforts of resolving the problem of land claims contestations in protected land. The stagnant nature of land claims progress in rural protected areas needs viable policy restructuring strategies and legislations that are practically consistent

with the principles of the land reform programme to foster effective and inclusive local development in areas of biodiversity conservation.

Biodiversity conservation strategies like the National Protected Area Expansion Strategy and the co-management approach must allow for a more practical, inclusive, and cohesive land reform in protected areas as a way to effectively consider the legal status and economic activities of women and the poor, who are disproportionately reliant on communal land rights access to sustain their livelihood. It is hoped that this study will assist in resolving land tenure contestations and contribute towards the making of recommendations for future rural land reform policy implementation processes, which would encourage strong and sustainable rural development through a transparent and equitable land reform policy in areas of biodiversity conservation.

6.4 RECOMMENDATIONS

1. The study recommends that, an emphasis on policy restructuring endeavours aimed at redressing past unjust land reform history, must strongly encourage and incorporate local development legislations such as the Land Rights Amendment Act 2014, Communal Land Tenure Policy 2013, and the Recapitalization and Development Policy 2013 to tackle land claims disputes in biodiversity conservation areas and these should also consider the challenges of the Green Paper on Land Reform of 2011.
2. A strong capacity of the state and governmental institutions to effectively and efficiently draft, co-ordinate and implement policies and legislation that deal with the constitutional imperatives regarding redress of past land reform injustices is commended in this study, as means to create and foster socio-economic development in rural areas located in protected land.
3. The study also proposes that, a focused regulation of opposing forms of governance at a local level should be encouraged to determine the exact roles and responsibilities of traditional leaders in rural land restitution, redistribution and tenure reform processes.
4. The study recommends that, more research is needed to monitor and evaluate the effectiveness of post-apartheid South Africa's interventionist policies and legislation of rural land reform in biodiversity conservation areas.
5. The study recommends that, biodiversity conservation strategies such as the National Protected Area Expansion Strategy and the co-management approach must allow for a more practical, inclusive and cohesive land reform in protected areas, as means to effectively consider the legal status and economic activities of women and the poor who are disproportionately reliant on communal land rights access to sustain their livelihood.

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Appendix A: Gatekeeper Consent Letter







This is to confirm that we the community of Dukuduku Forest, Mtubatuba support the study
[redacted] i.e. An Assessment of the Progress of Land Claims in Dukuduku Forest
[redacted]

[redacted] siyakweseka futhi sikunikeza imvume yokuthi wenze ucwaningo lwakho lwesihloko esithi
Ukuhlolwa kwenqubekela phambile kokufakwa kwezicelo zokubuyiselwa [redacted]
kumphakathi wase Dukuduku eMtubatuba, KwaZulu-Natal.

And we will assist and support you with whatever we can regarding the study.

[redacted] kweseka ngokusemandleni ethuthu kucwaningo lwakho.

[redacted]
[redacted]
[redacted]
[redacted]
[redacted]

Appendix B: Informed Consent Letter for Participants
Informed Consent Document

Ifomu lokuvuma ulwazi nokuhlanganyela kucwaningo

Dear Participant,

Mhlanganyeli Othandekayo,

My name is Monwabisi Tibe (student number: 210534936). I am a Masters candidate studying at the University of KwaZulu-Natal, Howard College Campus.

Igama lami nguMonwabisi Tibe (inombolo yomfundi: 210534936). Ngingumfundi we-Masters ufunda eNyuvesi yaKwaZulu-Natali, i-Howard College Campus

The title of my research is: *An Assessment of the Progress of Land Claims in Dukuduku Forest Community in Mtubatuba KwaZulu-Natal.*

Isihloko socwaningo lwami: *UkuHlola kweNtuthuko yezimangalo zomhlaba kumphakathi wase Dukuduku Forest EMtubatuba KwaZulu-Natali.*

The study aims to assess the current progress in land restitution in Dukuduku and identify the flaws and stumbling blocks of the process in the area. In addition, the study particularly examines the role and influence of all involved stakeholders (i.e.: the tribal authorities; the land claimants; the Department of Rural Development and Land Reform; as well as the role of the nature conservation authority) involved in the land restitution and claims process. This will contribute to the identification of existing gaps on this issue and perhaps give clarity and possible resolutions to the whole process of land claims and contestation in the area. This study also aims to contribute greatly to the bridging of divisions between the involved stakeholders including the community and the conservation company and build a sense of loyalty towards government's rural development and land reform policies. Most importantly, this study will contribute towards future research on the issue of land restitution and claims elsewhere in the country. However, it is not the intention of this study to generalize about land claims and restitution process for the entire of South Africa but aims to find through this case study insights into the dynamics and processes prevalent within it particularly in the context of the Dukuduku forest community.

Lolu cwaningo luhlose ukuhlola inqubekela phambili yamanje ekubuyiselweni kwemhlaba eDukuduku futhi ukukhomba amaphutha kanye nezikhubekiso zenqubo kule ndawo. Ukwengeza, lolu cwaningo lubheka ikakhulukazi indima kanye nethonya labo ababandakanyekayo (okusho: iziphathimandla zezizwe, abafakizicelo bomhlaba, uMnyango Wezokuthuthukiswa Kwezindawo Zasezindaweni Zomhlaba kanye Nokuguqulwa Kwezomhlaba; kanye nendima yabe zokulondolozwa kwemvelo) ehilelekile ezweni ukubuyisela kanye nenqubo yesicelo. Lokhu kuzofaka isandla ekwakhekeni kwezikhala ezikhona kulokhu kukhishwa futhi mhlawumbe sinikeze izinqumo ezicacile kanye nezindlela ezikhona kuzo zonke izinqubo zokufaka izicelo zomhlaba kanye nokuphikiswa endaweni. Lolu cwaningo luhlose ukufaka isandla kakhulu ekubambeni ukuhlukana phakathi

kwabathintekayo ababandakanya umphakathi kanye nenkampani yokulondolozwa kanye nokwakha umuzwa wokuthembeka ekuthuthukiseni izindawo zasemakhaya kanye nezinqubomgomo zokuguqula umhlaba. Okubaluleke kakhulu, lolu cwaningo luzofaka isandla ekucwaningeni esikhathini esizayo mayelana nokubuyiselwa komhlaba kanye nokunye okunye ezweni. Kodwa-ke, akuyona inhloso yalolu cwaningo ukukhiqiza izimangalo zomhlaba kanye nenqubo yokubuyisela yonke iNingizimu Afrika, kodwa ihlose ukuthola ngalolu cwaningo lokucwaninga kwamacala ezinkambinkimbi nezinqubo ezivame ngaphakathi kulo ikakhulukazi kumongo wehlathi lomphakathi waseDukuduku.

With your permission, it would be my great honour to interview you to share your opinion, experiences and observations on the subject matter.

Ngemvume yakho, kungaba ukuhlonipha kwami ukuxoxisana nawe ukuze wabelane ngemibono yakho, okuhlangenwe nakho nokubheka ngale ndaba.

Please note that:

- The information that you provide will be used for scholarly research only.
- Your participation is entirely voluntary. You have a choice to participate, not to participate or stop participating at any point. You will not be penalized for taking such action.
- Your views in this interview will be presented anonymously if you so request.
- The interview will take approximately thirty to forty-five minutes.
- The record as well as other items associated with the interview will be held in a password-protected file accessible only to myself and my supervisors. After a period of 5 years, in line with the rules of the university, the information that you provide will be disposed by shredding and burning or retained for further studies either by myself or other candidates.
- If you agree to participate, please sign the declaration attached to this statement (**a separate sheet will be provided for signatures**)

Ngicela wazi ukuthi:

- Ulwazi olunikezayo luzosetshenziselwa ucwaningo lwabafundi kuphela.
- Ukubamba iqhaza kwakho kuphelele ngokuzithandela. Unelungelo lokubamba iqhaza, hhayi ukubamba iqhaza noma ukuyeka ukubamba iqhaza nganoma isiphi isikhathi. Ngeke ujeziswe ngokuthatha isenzo esinjalo.
- Imibono yakho kule ngxoxo izonikezwa ngokungaziwa uma ucela.
- I-interview izothatha cishe imizuzu engamashumi amathathu namashumi amane nanhlanu.
- Irekhodi kanye nezinye izinto ezihlotshaniswa nalolu daba kuzobanjwa efayeleni elivikelwe iphasiwedi elifinyeleleka kuphela kimi nakubamenenja bami. Ngemuva kweminyaka engama-5, ngokuhambisana nemithetho ye yunivesithi, ulwazi olunikezayo luzolahlwa ngokushisa nokushisa noma kugcinwe ukuze kuqhutshekwe izifundo ezengeziwe noma mina noma abanye abazokhethwa.
- Uma uvuma ukubamba iqhaza, sicela usayine isimemezelo esixhunywe kulesi sitatimende (**ishidi elihlukile lizohlinzekwa ngamasignesha**)

I can be contacted at:

School of Social Sciences, University of KwaZulu-Natal, Howard College Campus, Durban.

Email: monwabisig6@gmail.com or 210534936@stu.ukzn.ac.za

Cell: 082 5852624

My supervisors is Professor Sultan Khan who is based at the School of Social Sciences, Sociology Discipline; University of KwaZulu-Natal, Howard College Campus, Contact details: Email: khanS@ukzn.ac.za

Phone: 0312607240

The Faculty of Humanities and Social Sciences Research Ethics Committee contact details are as follows: Ms Phumelele Ximba, University of KwaZulu-Natal Research Office.

Email: ximbap@ukzn.ac.za

Phone: 0312603587

I thank you for your contribution to this research.

Ungaxhumana nami kule mininingwane elandelayo:

ISikole Sosayensi Yezenhlalakahle, iNyuvesi yaKwaZulu-Natal, Howard College Campus, eThekwini.

Imeyili: monwabisig6@gmail.com noma 210534936@stu.ukzn.ac.za

Iseli: 082 5852624

Abaphathi bami nguProfesa Sultan Khan osekulwe eSikoleni Sosayensi Yezenhlalakahle, e-Sociology Discipline; iNyuvesi yaKwaZulu-Natal, Howard College Campus. Imininingwane yokuxhumana:

Imeyili: khanS@ukzn.ac.za

Ifoni: 0312607240

I-Faculty of Humanities kanye ne-Social Sciences Research Ethics Imininingwane yilezi zilandelayo: Nks. Phumelele Ximba, University of KwaZulu-Natal, Ihhovisi Lokucwaninga,

I-imeyili: ximbap@ukzn.ac.za

Ifoni: 0312603587

Ngiyabonga ngomnikelo wakho kulolu cwaningo.

DECLARATION

I..... (*full names of participant*) hereby confirm that I understand the contents of this document and the nature of the research project, and I consent to participating in the research project.

I understand that I am at liberty to withdraw from the project at any time, should I so desire. I understand the intention of the research. I hereby agree to participate.

I consent / do not consent to have this interview recorded (if applicable)

.....
SIGNATURE OF PARTICIPANT

.....
DATE

ISIMEMEZELO

Mina..... (*amagama agcwele womhlanganyeli*) ngalokhu ngiyaqinisekisa ukuthi ngiyaqonda okuqukethwe kwale dokhumenti kanye nemvelo iphrojekthi yokucwaninga, futhi ngiyavuma ukuthi ngihlanganyele kuphrojekthi yocwaningo. Ngiyaqonda ukuthi nginelungelo lokukhipha iphrojekthi nganoma yisiphi isikhathi, uma ngifisa. Ngiyaqonda inhloso yocwaningo. Ngiyavuma ukuhlanganyela. Ngiyavuma / angivumi ukuba le ngxoxo iqoshwe (uma ikhona)

Appendix C: Interview Schedule

Interview Questions

ENGLISH: This interview form sets out several thematic headings and gives examples of the types of questions asked when conducting a semi-structure survey for this study.

ISIZULU: Leli fomu le-interview libeka izinhlobonhlobo zezihlokwana eziphathekayo futhi linikeza izibonelo zemibuzo yemibuto eceliwe ngenkathi iqhuba ucwaningo lwesigatshana salolu cwaningo.

Research Topic: An Assessment of the Progress of land Claims in Dukuduku Forest Community in Mtubatuba KwaZulu-Natal.

Isihloko Sokucwaninga: Ukuhlola Kwentuthuko Yezimangalo Zomhlaba kumphakathi wase Dukuduku Forest EMtubatuba KwaZulu-Natali.

The scope of land claims in the area

1. How many successful and unsuccessful land claim lodges recorded for the entire community of Dukuduku Forest?

Answer:

Ububanzi bezimangalo zomhlaba endaweni

Zingaki izikhalazo zokufaka izicelo zomhlaba eziphumelele futhi ezingaphumelelanga ezirekhodelwe wonke umphakathi weDukuduku Forest?

Impendulo:

2. How would you describe the nature of land contestation in this area?

Answer:

Ungayichaza kanjani uhlobo lokuncintisana komhlaba kule ndawo?

Impendulo:

3. How long has it been since land claims were lodged in the area?

Answer:

Sekuyisikhathi esingakanani kusukela izimangalo zomhlaba zifakiwe endaweni?

Impendulo:

4. What is the procedure that the community has to follow when lodging a land claim?

Answer:

Iyiphi inqubo umphakathi okufanele ilandelwe uma ufaka isicelo semhlaba?

Impendulo:

5. Who represents the community legally throughout the whole process of a land claim?

Answer:

Ubani omelela umphakathi ngokusemthethweni kuyo yonke inqubo yesikhala somhlaba?

Ipendulo:

Current and prominent issues contributing to slow land claims in Dukuduku.

Izinkinga zamanje nezivelele ezifaka isandla nobunzima ekutheni izicelo zokubuyiselwa komhlaba ngokushesha eDukuduku zifezeke.

1. What cause the process of land claims to be very slow in the area?

Answer:

Yisiphi isizathu esivelele sokuthi inqubo yomhlaba ithi ihambe kancane kule ndawo?

Ipendulo:

2. What do you think causes these problems?

Answer:

Ucabanga ukuthi kubangelwa yini lezi zinkinga?

Ipendulo:

3. How do you think these problems could be solved?

Answer:

Uma ucabanga, lezi zinkinga zingasombululwa kanjani?

Ipendulo:

4. Do you think involving the community in attempts to resolve the slowness of the process of land claims could be an ideal solution to the problem?

Answer:

Ucabanga ukuthi ukubandakanya umphakathi emzamweni wokuxazulula ukuhamba kwezimangalo zomhlaba kungaba yisisombululo esihle kulenkinga?

Ipendulo:

The nature of land contestation in the area

Isimo sokuphikisana ngokwabiwa komhlaba endaweni

1. Are there any intense land contestation cases reported in the area?

Answer:

Kungabe ngawaphi amacala okuncintisana komhlaba awaziwayo endaweni?

Ipendulo:

2. Who are the parties involved in these contestations?

Answer:

Kungabe bobani ababambe iqhaza kulezi zimpikiswano?

Ipendulo:

3. What perpetuates the contestation for land in the area?

Answer:

Ngombono wakho yini eqhubekayo nedala izimpikiswano nokuncintisana komhlaba endaweni?

Ipendulo:

4. What is the view of local authorities such as tribal leaders and the department of rural development and land reform on land contestation cases in the area?

Answer:

Ngumuphi umbono weziphathimandla zendawo ezifana nabaholi bezizwe kanye nomnyango wezokuthuthukiswa kwendawo yasemakhaya kanye nokuguqulwa komhlaba ezindabeni zokuphikisana ngomhlaba endaweni?

Ipendulo:

5. What is the view of communities affected by land contestation in the area?

Answer:

Yimuphi umbono wamalungu omphakathi athintekile ukuphikiswa komhlaba endaweni?

Ipendulo:

The role of the Department of Rural Development and Land Reform in land claims applications and restitution.

1. Do you think the Department of Rural Development and Land Reform is doing enough to solve the problem of slow land claims in the area?

Answer:

Ucabanga ukuthi uMnyango wezokuThuthukiswa kwasendaweni kanye nokuHlelwa kweMhlaba wenza ngokwanele ukuxazulula inkinga yezicelo zomhlaba ezisheshayo endaweni?

Ipendulo:

2. Are there any current strategies put in place by the Department of Rural Development and Land Reform to ensure an effective and efficient land restitution process in the area?

Answer:

Zikhona yini izindlela zamanje ezibekiwe nguMnyango Wezokuthuthukiswa Kwezindawo Zasemakhaya kanye nokuHlelwa KweMhlaba ukuqinisekisa ukuthi inqubo yokubuyisela umhlaba ephumelelayo futhi neyenza umahluko endaweni yase Dukuduku?

Ipendulo:

3. How is the Department ensuring rural development through land restitution and redistribution in the area?

Answer:

UMnyango uqinisekisa kanjani ukuthuthukiswa kwezindawo zasemakhaya ngokubuyisela umhlaba kanye nokwabiwa kabusha endaweni?

Ipendulo:

4. How is the community incorporated into rural development strategies through land restitution and redistribution?

Answer:

Umphakathi uhlanganiswe kanjani kumasu okuthuthukiswa kwamaphandleni ngokubuyisela nokwabiwa kabusha komhlaba kulendawo yase Dukuduku?

Ipendulo:

5. In what way do these rural development strategies ensure:
 - Adequate human settlement
 - Social equity and development?

Answer:

Ngaziphi izindlela lezi zindlela zokuthuthukiswa zasemakhaya eziqinisekisa ukuthi:

- Ukuhlala kahle kwabantu
- Ukulingana nokuthuthukiswa komphakathi?

Ipendulo:

6. How does the department support the community in cases of land contestation?

Answer:

UMnyango usekela kanjani umphakathi emibangweni yokuphikiswa komhlaba?

Ipendulo:

The role of traditional leaders and delected ward councillors in assisting the community with land contestation in the area

Indima yabaholi bendabuko namakhansela ezigceme ezikhethiwe ekusizeni umphakathi ngokuphikisana komhlaba endaweni.

1. What is the role of both the traditional leaders and elected ward councillors in assisting the community with land claims and redistribution?

Answer:

Iyini indima yabaholi bendabuko kanye namakhansela ezigceme akhethiwe ekusizeni umphakathi ngokufaka izicelo zomhlaba nokubuyiswa kabusha?

Ipendulo:

2. What do traditional leaders think are the main obstacles to the process of land restitution and redistribution in the area?

Answer:

Abaholi bendabuko bacabanga ukuthi yiziphi izithiyo ezinkulu zokubuyisela umhlaba nokubuyiswa endaweni?

Ipendulo:

3. What is the view of the ward councilor about slow land restitution and redistribution in the area?

Answer:

Yimuphi umbono wekhansela lesigceme mayelana nokubuyiselwa kwemhlaba kancane futhi nokwabiwa kabusha endaweni?

Ipendulo:

4. What is the procedure followed by traditional leaders of the area in land allocation process?

Answer:

Iyiphi inqubo elandelwa abaholi bendabuko bendawo endaweni yokwabiwa komhlaba?

Impendulo:

5. Who monitors the actions of traditional leaders as trusted custodians of rural land administration?

Answer:

Ubani oqaphela izenzo zabaholi bendabuko njengabagcini bokuthenjwa bezindawo zasemakhaya?

Impendulo:

6. How is the integrity of traditional leaders in land allocation assured in the area?

Answer:

Ukuthembeka kwabaholi bendabuko ekunikezelweni komhlaba kuqinisekiswa kanjani endaweni?

Impendulo:

Evaluation of how the community, elected ward councilors, traditional leaders as well as concerned stakeholders' interface with each other on matters regarding land reform in the area.

Ukuhlola indlela umphakathi, amakhansela ezigceme ezikhethiwe, abaholi bendabuko kanye nabathintekayo abanobudlelwane nabasebenzisana ngayo ezindabeni eziphathelele nokuguqulwa komhlaba endaweni.

1. How would you describe the relationship between the community, ward councilors, traditional leaders, and concerned stakeholders on the issue of land claims and restitution?

Answer:

Ungayichaza kanjani ubuhlobo phakathi komphakathi, amakhansela esigceme, abaholi bendabuko, kanye nabathintekayo abathintekayo mayelana nokukhishwa kwezimangalo zomhlaba nokubuyiselwa?

Impendulo:

2. What are the proper communication structures between the above-mentioned stakeholders?

Answer:

Yiziphi izindlela noma izakhiwo zokuxhumana ezifanele phakathi kwabathintekayo abakhulunywe ngenhla?

Impendulo:

3. How are these communication structures inclusive of public participation in land reform decision making processes in the area?

Answer:

Lezindlela noma izakhiwo zokuxhumana zibandakanya kanjani ukubamba iqhaza komphakathi ekusebenzeni kwezinqumo zokubuyiswa nokwabiwa kabusha komhlaba endaweni?

Impendulo:

4. Briefly, what are some of the disagreements amongst the involved stakeholders?

Answer:

Ngamafuphi, yiziphi ezinye zezingxabano phakathi kwabathintekayo?

Impendulo:

5. How are these disagreements resolved to maintain a cohesive relationship amongst the involved stakeholders?

Answer:

Lokhu kungavumelani kuxazululwe kanjani ukugcina ubudlelwane obumbene phakathi kwabathintekayo?

Impendulo:

6. Would you agree that, the slow progress of land claims is a resultant of lack of effective communication between the involved stakeholders on issues of land restitution and redistribution in the area?

Answer:

Uyavuma yini ukuthi intuthuko encane yezimangalo zomhlaba ingenxa yokungabi nokuxhumana okuphumelelayo phakathi kwabathintekayo ezindabeni zokubuyiselwa komhlaba kanye nokwabiwa kabusha endaweni?

Impendulo:

7. What do you think should be done to encourage an effective communication between the involved stakeholders?

Answer:

Ucabanga ukuthi kufanele kwenziwe ukwenzani ukuxhumana okuphumelelayo phakathi kwabathintekayo abathintekayo?

Impendulo:

*Thank you for your participation in this interview!
Ngiyabonga ngokuhlanganyela kwakho kule ngxoxo!*

Appendix D: Questionnaire Form

SURVEY QUESTIONS / IMIBUZO YO NHLOLOVO

Research Topic: An Assessment of the Progress of Land Claims in Dukuduku Forest Community in Mtubatuba KwaZulu-Natal

Isihloko Socwaningo: UkuHlola kweNtuthuko yezimangalo zomhlaba kumphakathi wase Dukuduku Forest EMtubatuba KwaZulu-Natali.

Instructions / Imiyalo

ENGLISH: If you have ever engaged in or got affected by the process of land claim contestations, would you please participate in this survey? Your participation in this survey is anonymous to protect your identity and the information you provide will solely be used for this current study and further research purposes by the University.

ISIZULU: Uma ngabe uke wabamba iqhaza noma wathinteka ngenqubo yokuphikisana kwezinkampani zomhlaba, sicela ubambe iqhaza kule nhlobo. Ukubamba iqhaza kwakho kulolu cwaningo kungaziwa ukuvikela ubunikazi bakho nolwazi olunikezayo luzosetshenziswa kuphela kulolu cwaningo lwamanje kanye nezinhloso zokucwaninga ezengeziwe zeYunivesithi.

ENGLISH: Please answer by making a tick next to the answer that best represents your opinion or response to the questions provided in this survey.

ISIZULU: Nikeza impendulo ejabulisayo ngokwenza umaki eceleni kwempendulo ebonisa kahle umbono wakho noma impendulo kwimibandela enikezwe kulolu cwaningo.

ENGLISH: Please also note that people under the age of 18 are not eligible to participate in this survey.

ISIZULU: Sicela futhi uqaphele ukuthi abantu abangaphansi kweminyaka engu-18 abafanelekile ukuhlanganyela kulolu cwaningo.

1. **Gender:** ☐ Male / Female ☐
2. **Race:** Black ☐ White ☐ Indian ☐ Colored ☐ Other ☐
3. **Age:** 18-22 ☐ 23-27 ☐ 28-32 ☐ 33-37 ☐ 38-42 ☐ 43-47 ☐ 48-52 ☐
53-57 ☐ 58-62 ☐ 63-67 ☐ 68-72+ ☐
4. **Home Language:** English ☐ Afrikaans ☐ isiZulu ☐ isiXhosa ☐ Other ☐
5. **Are you a permanent resident of Dukuduku Forest Community?**
Yes ☐ No ☐
6. **How long have you been a resident in this community?**
0-5 yrs ☐ 6-10 yrs ☐ 11-15 yrs ☐ 16-20 yrs ☐ 21-25 yrs ☐ 26-30 yrs ☐
31-35 yrs ☐ 36-40 yrs ☐ 41-45 yrs ☐ 46-50 yrs ☐ 51-55 yrs ☐
56-60 yrs ☐ 61-65 yrs + ☐
7. **Highest Education Qualification**
Primary School ☐
High School but no matric ☐
Matric certificate obtained ☐
Tertiary education ☐
None ☐
8. **Which of the following categories best describes your current employment status?**
Employed fulltime ☐
Self employed ☐
Employed on a contract basis ☐
Temporary employed ☐
Unemployed ☐
Retired/ pensioner ☐
Social grant ☐
University/ technical college student ☐
High school learner ☐
9. **How many people are a financial source in the household?**
0 ☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5+ ☐
10. **Are you one of the first settlers in the area?**
Yes ☐ No ☐
- ☐ 11. **When did you settle in area?** 1990 ☐ 1991 ☐ 1992 ☐ 1993 ☐ 1994 ☐
1995 ☐ 1996 ☐ 1997 ☐ 1998 ☐ 1999 ☐ 2000 ☐ 2001 ☐ 2002 ☐
2003 ☐ 2004 ☐ 2005 ☐ 2006 ☐ 2007 ☐ 2008 ☐ 2009 ☐ 2010 ☐
2011 ☐ 2012 ☐ 2013 ☐ 2014+ ☐
12. **Do you think that land in the area is distribute evenly and fairly?**

- Yes ☐ No ☐
13. Do you have a land claim lodged that is still awaiting approval?
Yes ☐ No ☐
14. How long has it been since you lodged your land claim?
5yrs ☐ 10yrs ☐ 15yrs ☐ 20yrs + ☐
15. What is your opinion on the amendment to the Restitution of Land Rights Act in June 2014?
Is an amicable solution to land restitution problems in the area? ☐
Caused more problems on the already existing land restitution backlogs? ☐
Was made to favour a few people? ☐
Was a political strategy by the ruling party to gain people's votes towards 2014 national elections? ☐
16. Do you think the amendment to the Restitution of Land Rights Act in 2014 has brought relief to the issue of land contestations in this area? Yes ☐ No ☐
17. How would you describe the nature of land rights use and control in this community? Inclusive ☐ Segregatory ☐
18. How would you describe the relationship between the community and the traditional leader on issues concerning land distribution?
Good ☐ Fair ☐ Satisfactory ☐ Poor ☐
19. Have there been any recent cases of forceful removal of people from their rightful land in the area? Yes ☐ No ☐
20. As a rightful resident of this area, are you aware of any community development strategies through land distribution where some community members subsequently lost their right of access and use to their land?
Yes ☐ No ☐
21. Do you think in such cases community members are ever fully compensated and equitable benefit from these development strategies? Yes ☐ No ☐
22. Do you think rural development through land redistribution has the best interest of the people in this area? Yes ☐ No ☐
23. How easy is the process for one to get a piece of land allocated to them through the channels of traditional leadership in the area?
Very easy ☐ Very Difficult ☐ Impossible ☐
24. Do you think political affiliation plays a role in obtaining a piece of land from traditional leaders in this area? Yes ☐ No ☐
25. Are women in this area given any attention when requesting a piece of land from a traditional leader? Yes ☐ No ☐
26. Do you find solutions by locally elected ward councilors to issues of land contestation in this area helpful? Yes ☐ No ☐
27. Is there any form of help that the community receives from the Department of Land Affairs and Rural Development to facilitate their land claims settlement?
Yes ☐ No ☐
28. Do you trust the influence of local traditional council as custodians of land redistribution in the area? Yes ☐ No ☐
29. Would you agree that the most prevalent drawbacks among other things preventing the success of the process of land restitution and redistribution in the area are: corruption and abuse of power by leaders for their personal interests?
Agree ☐ Strongly agree ☐ Disagree ☐ Strongly disagree ☐
30. What do you think should be done to solve the current land contestations in the area?
(a) Rectification of the flaws of initial restitution of land rights act in the country ☐

- (b) Restore encourage accountability of community leaders to community leader ☐
- (c) Encourage strong and transparent relationship between all stakeholders involved in land restitution and redistribution ☐
- (d) Implement sustainable development strategies through land restitution that are inclusive of people's interests ☐
- (e) Prioritize effective community consultation and participation in any rural land reform and development strategies affecting their livelihood ☐

Thank you very much for your participation in this survey!

Ngiyabonga kakhulu ngokuhlanganyela kwakho kule nhlolovo

Appendix E: Ethical Clearance Certificate



05 June 2019

Mr Monwabisi Tibe (210534936)
School of Social Sciences
Howard College Campus

Dear Mr Tibe,

Protocol reference number: HSS/0622/016M

Project title: An assessment of the Progress of Land Claims in Dukuduku Forest Community in Mtubatuba KwaZulu-Natal

Approval Notification – Recertification Application

Your request for Recertification dated 26 May 2019 was received.

This letter confirms that you have been granted Recertification Approval for a period of one year from the date of this letter. This approval is based strictly on the research protocol submitted and approved in 2016.

Any alteration s to the approved research protocol i.e. Questionnaire/Interview Schedule, Informed Consent Form, Title of the Project, Location of the Study must be reviewed and approved through the amendment /modification prior to its implementation. Please quote the above reference number for all queries relating to this study.

PLEASE NOTE: Research data should be securely stored in the school/department for a period of 5 years

Yours faithfully



Dr Shamima Naidoo (Deputy Chair)

/ms

Cc Supervisor: Professor Sultan Khan
Cc Academic Leader Research: Professor Maheshvari Naidu
Cc School Administrator: Ms Nonhlanhla Radebe

Humanities & Social Sciences Research Ethics Committee

Dr Rosemary Sibanda (Chair)

Westville Campus, Govan Mbeki Building

Postal Address: Private Bag X54001, Durban 4000

Telephone: +27 (0) 31 260 3587/8350/4557 Facsimile: +27 (0) 31 260 4600 Email: ximbac@ukzn.ac.za / smmanm@ukzn.ac.za / mohunp@ukzn.ac.za

Website: www.ukzn.ac.za



100 YEARS OF ACADEMIC EXCELLENCE

Founding Campuses: Edgewood Howard College Medical School Pietermaritzburg Westville



20 September 2016

Mr Monwabisi Tibe 210534936
School of Social Sciences
Howard College Campus

Dear Mr Tibe

Protocol reference number: HSS/0622/016M

Project title: An assessment of the Progress of Land Claims in Dukuduku Forest Community in Mtubatuba KwaZulu-Natal

Full Approval – Expedited Application

In response to your application received 27 May 2016, the Humanities & Social Sciences Research Ethics Committee has considered the abovementioned application and the protocol has been granted **FULL APPROVAL**.

Any alteration/s to the approved research protocol i.e. Questionnaire/Interview Schedule, Informed Consent Form, Title of the Project, Location of the Study, Research Approach and Methods must be reviewed and approved through the amendment/modification prior to its implementation. In case you have further queries, please quote the above reference number.

PLEASE NOTE: Research data should be securely stored in the discipline/department for a period of 5 years.

The ethical clearance certificate is only valid for a period of 3 years from the date of issue. Thereafter Recertification must be applied for on an annual basis.

I take this opportunity of wishing you everything of the best with your study.

Yours faithfully

Dr Shamila Naidoo (Deputy Chair)
Humanities & Social Sciences Research Ethics Committee

/pm

Cc Supervisor: Professor Sultan Khan
Cc Academic Leader Research: Professor Maheshvari Naidu
Cc School Administrator: Ms N Radebe & Mr E Stanley

Humanities & Social Sciences Research Ethics Committee

Dr Shenuka Singh (Chair)

Westville Campus, Govan Mbeki Building

Postal Address: Private Bag X64001, Durban 4000

Telephone: +27 (0) 31 260 3587/8350/4557 Facsimile: +27 (0) 31 260 4809 Email: ximbap@ukzn.ac.za / snymnm@ukzn.ac.za / mohung@ukzn.ac.za

Website: www.ukzn.ac.za



Founding Campuses: Edgewood Howard College Medical School Pietermaritzburg Westville