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KWAZULU-NATAL
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**PROJECT CO-ORDINATORS' PERCEPTIONS TO THE
IMPLEMENTATION OF LAND RESTITUTION IN KWAZULU-
NATAL**

by

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**COLLEGE OF LAW AND MANAGEMENT STUDIES
SUPERVISOR'S PERMISSION TO SUBMIT DISSERTATION FOR
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Date: 30/08/2017

DEDICATION

This work is dedicated to my mother, the late Nomthandazo (Thandi) Ndlovu, who devoted her life to providing for my seven siblings and me as a single parent. The struggles and pain you went through made me the strong woman that I am today. Ngiyabonga Gatsheni.

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To my siblings and family, I hope that you can be motivated to strive for your dreams - "It seems impossible until it is done". I love you all very much.

To my husband, my friend and my life partner, thank you for your unconditional love, support and motivation that you have given me all the years that I have known you. You are beautiful inside and out and you are such a hard worker; you have taught me to never give up on my dreams and you showed me all the possibilities: "The possibilities far outweigh the disappointments". Thank you for accepting me as I am. You are a loving father to our children and an amazing life partner; you inspire me to be a better version of myself and most importantly you allow me to fly. I love you dearly.

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ABSTRACT

In 1994 the South African democratic government introduced the Land Reform Programme (LRP), which was aimed at redressing the imbalances of the colonial and apartheid past. The LRP is designed to provide equitable redress to persons and communities that were involuntarily dispossessed of land rights after 19 June 1913, as a result of past racially discriminatory laws and practices. Of the four pillars of the LRP, land restitution is seldom a matter of empirical inquiry. The purpose of this research, *inter alia*, is to explore the implementation of land claims processing at the KwaZulu-Natal Regional Land Claims Commission (RLCC) from the perspective of project co-ordinators who are front-line researchers and preparers of claim settlement packages for review by the RLCC.

The study further inquired into the factors that facilitate or hinder these processes, how the RLCC can assist project co-ordinators to meet target dates, and explored the perceptions of project co-ordinators on the presidentially declared re-opening of the lodgement period for land claims. This qualitative research design entails a case study strategy, is theoretically driven by Lipsky's (1980) theory of street-level bureaucracy, and is underpinned by the philosophical worldview of social constructivism. Data were collected through semi-structured interviews and focus groups of project co-ordinators, along with documentary evidence. The findings show the complexity of land claims processing implementation, the challenges of meeting target dates, and the opportunities that the RLCC could use to assist project co-ordinators who are liaisons between constitutional imperatives and the citizenry. Whilst the re-opening of lodgement of claims advances land restitution, it also contributes to protracted land claim processing delays in light of budgetary constraints and an ineffective performance management system that demotivates project co-ordinators. Recommendations are made as to how implementation processes can be improved, including the reinstatement of the legally mandated autonomy of the National Commission on the Restitution of Land Rights.

GLOSSARY OF ACRONYMS

| | |
|---------|---|
| ANC | African National Congress |
| CLCC | Chief Land Claims Commission |
| CRLR | Commission on Restitution of Land Rights |
| DOA | Department of Agriculture |
| DLA | Department of Land Affairs |
| DRDLR | Department of Rural Development and Land Reform |
| ESTA | Extension of Security Of Tenure Act, No. 62 Of 1997 |
| FGA | Focus Group A |
| FGB | Focus Group B |
| KZN | Kwazulu-Natal |
| LAMOSA | Land Access Movement of South Africa |
| LCC | Land Claims Court |
| LR | Land Reform |
| LRA | Land Restitution Act |
| LTA | Labour Tenants Act |
| NARYSEC | National Rural Youth Service Corps |
| NLC | National Land Committee |
| PC | Project Co-ordinator |
| PO | Project Officer |
| RDP | Reconstruction and Development Plan |
| REID | Rural Enterprise and Industry Development |
| RID | Rural Infrastructure Development |
| RLCC | Regional Land Claims Commission |
| RSA | Republic of South Africa |
| SLB | Street Level Bureaucrats |
| SPO | Senior Project Officer |
| SP | Strategic Plan |
| UKZN | University of KwaZulu -Natal |

TABLE OF CONTENTS

| | |
|---|-----|
| TITLE PAGE | i |
| SUPERVISOR’S PERMISSION TO SUBMIT DISSERTATION FOR EXAMINATION | ii |
| DECLARATION | iii |
| DEDICATION | iv |
| ACKNOWLEDGMENTS | v |
| ABSTRACT..... | vi |
| GLOSSARY OF ACRONYMS | vii |
| LIST OF FIGURES | xi |
| LIST OF MATRICES | xii |
| LIST OF TABLES..... | xiv |
| CHAPTER ONE: INTRODUCTION TO AND BACKGROUND OF THE STUDY | 2 |
| 1.1 Introduction | 2 |
| 1.2 Broad Research Problem of Land Restitution | 2 |
| 1.3 Research Problem | 5 |
| 1.4 Research objectives and questions..... | 8 |
| 1.5 Significance of the study | 8 |
| 1.6 Research design and methods | 9 |
| 1.6.1 Research design | 9 |
| 1.6.2 Research strategy..... | 9 |
| 1.6.3 Sampling, size and selection | 9 |
| 1.6.4 Data collection methods | 10 |
| 1.6.5 Data analysis and interpretation..... | 11 |
| 1.6.6 Data quality control..... | 11 |
| 1.6.7 Ethical considerations | 11 |
| 1.7 Limitations to the study | 12 |
| 1.8 Definitions of key terms..... | 13 |
| 1.9 Outline of chapters | 14 |
| 1.10 Conclusion..... | 15 |
| CHAPTER TWO: SOUTH AFRICAN LAND REFORM AND LAND RESTITUTION IMPLEMENTATION | 16 |
| 2.1 Introduction..... | 16 |
| 2.2 Land dispossession and land reform in South Africa | 17 |

| | | |
|--|--|----|
| 2.2.1 | Pre-1994 legislation for land dispossession and land reform in South Africa | 17 |
| 2.2.2 | South African land reform post 1994..... | 18 |
| 2.3 | Land Restitution Programme | 24 |
| 2.3.1 | Business process of the RLCC..... | 24 |
| 2.3.2 | Research and settlement of land claims at the CRLR in line with targets | 27 |
| 2.4 | Contesting the re-opening of the lodgement of land claims | 28 |
| 2.5 | CRLR Performance Plan..... | 29 |
| Table 2.4: Tabular representation of the Annual..... | | 30 |
| 2.6 | Organisational theories for land restitution service delivery | 31 |
| 2.6.1 | Burton’s Human Needs Theory | 31 |
| 2.6.2 | McKinsey’s 7S Framework | 32 |
| 2.6.3 | Lipsky’s Street Level Bureaucracy | 32 |
| 2.7 | Practical components of the study | 36 |
| 2.8 | Conclusion..... | 38 |
| CHAPTER THREE: RESEARCH DESIGNS AND METHODS | | 39 |
| 3.1 | Introduction | 39 |
| 3.2 | Research design | 39 |
| 3.3 | Philosophical worldview | 40 |
| 3.4 | Research strategy: Case study | 42 |
| 3.5 | Case, site and participant selection | 43 |
| 3.5.1 | Case context selection | 43 |
| 3.5.2 | Site selection | 44 |
| 3.5.3 | Participant selection..... | 44 |
| 3.6 | Sampling..... | 45 |
| 3.6.1 | Sampling strategy..... | 45 |
| 3.6.2 | Sampling size..... | 45 |
| 3.7 | Data collection tools | 46 |
| 3.7.1 | Semi-structured interviews..... | 46 |
| 3.7.2 | Focus Groups..... | 47 |
| 3.7.3 | Documentary Evidence | 48 |
| 3.8 | Data analysis | 48 |
| 3.8.1 | Content analysis | 49 |
| 3.8.2 | Matrix analysis | 50 |

| | | |
|---|--|-----------|
| 3.8.3 | Thematic analysis | 50 |
| 3.9 | Data quality control..... | 51 |
| 3.9.1 | Credibility and dependability | 51 |
| 3.9.2 | Confirmability..... | 51 |
| 3.9.3 | Transferability | 52 |
| 3.9.4 | Triangulation (sources, methods and investigators)..... | 52 |
| 3.10 | Research reflexivity | 53 |
| 3.11 | Limitations of the study | 53 |
| 3.12 | Ethical considerations | 54 |
| 3.13 | Conclusion | 56 |
| CHAPTER FOUR: DATA PRESENTATION AND ANALYSIS..... | | 57 |
| 4.1 | Introduction | 57 |
| 4.2 | Context of the Commission on the Restitution of Land Rights in KwaZulu-Natal | 57 |
| 4.3 | Documentary evidence | 60 |
| 4.4 | Data analysis and findings..... | 60 |
| 4.4.1 | Theoretical framework and philosophical worldview..... | 60 |
| 4.4.2 | Presentation and analysis of data from the interviews | 66 |
| 4.4.3 | Presentation and analysis of focus group data | 71 |
| 4.5 | Cross case analysis for Focus Groups..... | 79 |
| 4.6 | Triangulation | 82 |
| 4.7 | Emerging themes from the study | 84 |
| 4.8 | Conclusion..... | 89 |
| CHAPTER FIVE: SUMMARY OF FINDINGS, CONCLUSIONS AND RECOMMENDATIONS | | 90 |
| 5.1 | Introduction | 90 |
| 5.2 | Research Objectives and Research Questions | 90 |
| 5.3 | Summary of chapters | 91 |
| 5.3.1 | Chapter One | 91 |
| 5.3.2 | Chapter Two | 91 |
| 5.3.3 | Chapter Three | 92 |
| 5.3.4 | Chapter Four | 92 |
| 5.3.5 | Chapter Five | 93 |
| 5.4 | Summary of findings and conclusions drawn from the study..... | 93 |
| 5.5 | Significance of findings to land restitution service delivery knowledge..... | 97 |

| | | |
|-----|--|-----|
| 5.6 | Recommendations | 98 |
| 5.7 | Recommendations for future research..... | 98 |
| 5.8 | Conclusion..... | 99 |
| | REFERENCES..... | 100 |

LIST OF FIGURES

| | |
|--|----|
| Figure 1.1: Forced removals: Kammaskraal, 1982. Women and children wait to board a government truck. | 3 |
| Figure 2.1: Diagrammatic Representation of the Literature Review | 16 |
| Figure 2.2: Detailed process flow for the Land Restitution Programme..... | 26 |
| Figure 2.3: McKinsey’s 7S Framework | 32 |
| Figure 2.4: Theoretical framework components of street level bureaucracy | 36 |
| Figure 2.4: Diagrammatic representation of important elements for this study..... | 37 |
| Figure 3.1: Diagrammatic representation of the constructivist worldview underpinning this study | 42 |
| Figure 4.1: Various districts and local municipalities..... | 58 |
| Figure 4.2: Organogram of the operations directorate in the Commission on Restitution of Land Rights in PMB, KZN | 59 |
| Figure 4.3: Representation of research participants in the study | 60 |

LIST OF MATRICES

| | |
|---|----|
| Matrix 4.1: Alignment of theoretical framework on historical and cultural setting with social constructivist worldview | 62 |
| Matrix 4.2: Alignment of theoretical framework and the social constructivist element of understanding the world in which one works..... | 62 |
| Matrix 4.3: Alignment of theoretical framework and the social constructivist element of understanding the world in which one works..... | 63 |
| Matrix 4.4: Alignment of theoretical framework, processes of interaction with social constructivist worldview | 63 |
| Matrix 4.5: Alignment of theoretical framework, historical and cultural settings with social constructivist worldview | 64 |
| Matrix 4.6: Alignment of theoretical framework, understanding the world one works in with social constructivist worldview..... | 64 |
| Matrix 4.7: Alignment of theoretical framework, subjective of meaning of experiences social constructivist worldview | 65 |
| Matrix 4.8: Alignment of theoretical framework, processes of interaction with social constructivist worldview | 65 |
| Matrix 4.9: Land restitution implementation process: interview responses..... | 66 |
| Matrix 4.10: Challenges of land restitution implementation process: Interview responses..... | 67 |
| Matrix 4.11: Facilitation of land restitution process: Interviews | 68 |
| Matrix 4.12: Hindrances of land restitution process: Interviews | 69 |
| Matrix 4.13: Views regarding reopening lodgement: Interviews | 70 |
| Matrix 4.14: Commission on Restitution of Land Rights | 71 |
| Assistance to PCs with researching and settling land claims: Interviews | 71 |
| Matrix 4.15: Implementation of Land Restitution processes (Focus Group A)..... | 72 |
| Matrix 4.16: Implementation of Land Restitution processes (Focus Group B) | 73 |
| Matrix 4.17: Factors which facilitated the land restitution process (Focus Group A) | 74 |
| Matrix 4.18: Factors which facilitated the land restitution process (Focus Group B) | 74 |
| Matrix 4.19: Hindrances of the land restitution process (Focus Group A) | 75 |
| Matrix 4.20: Hindrances of the land restitution process (Focus Group B) | 75 |
| Matrix 4.21: Views regarding reopening of lodgement (Focus Group A)..... | 76 |
| Matrix 4.22: Views regarding reopening of lodgement (Focus Group B) | 76 |
| Matrix 4.23: Focus Group A: Commission on Restitution of Land Rights | 77 |
| Assistance to PCs with researching and settling land claims..... | 77 |
| Matrix 4.24: Focus Group B: Commission on Restitution of Land Rights..... | 78 |
| Assistance to PCs with researching and settling land claims..... | 78 |
| Matrix 4.25: Analysis of actions and emotions of focus group members regarding performance management | 79 |
| Matrix 4.26: Question 1: PC work experiences in researching and settling land claims (Converging Views)..... | 80 |
| Matrix 4.27: Question 2: Assistance from the CRLR | 80 |
| Matrix 4.28: Question 3: Work setting that the PCs work under (Converging Views) | 81 |
| Matrix 4.29: Question 4: Use of discretion (Diverging Views)..... | 81 |
| Matrix 4.30: Question 5: Performance management (Diverging Views) | 81 |
| Matrix 4.31: Issue: Service Delivery backlogs in the CRLR..... | 83 |

| | |
|--|----|
| Matrix 4.32: Themes emerging through extracts from Focus Group responses | 85 |
| Matrix 4.33: Themes emerging through extracts from Focus Group responses | 87 |

LIST OF TABLES

| | |
|--|----|
| Table 1.1: Research questions and research objectives..... | 8 |
| Table 1.2: Key terms used in the study | 13 |
| Table 2.1: Pre-1994 selected legislation for land dispossession and onset of land reform | 18 |
| Table 2.2: Selected land reform legislation from 1994..... | 19 |
| Table 2.3: Pillars or strategic elements of land reform and their roles | 21 |
| Table 2.4: Tabular representation of the Annual Performance Plan 2015/2016: Commission on Restitution of Land Rights | 30 |
| Table 3.1: Philosophical Worldviews | 41 |
| Table 3.2: Roles of the PCs at RLCC-KZN | 45 |
| Table 3.3: Sampling Population..... | 46 |
| Table 4.1: Linkages between theoretical framework and themes from the study | 85 |
| Table 4.2: Themes emerging from data relative to research objectives | 88 |
| Table 5.1: Recapitulation of research objectives and research questions..... | 88 |
| Table 5.2: Divergence of focus groups..... | 93 |

CHAPTER ONE: INTRODUCTION TO AND BACKGROUND OF THE STUDY

1.1 Introduction

In line with the principles of effective and efficient service delivery of public administration and governance, it is important to ensure that rural and urban communities that lost land rights during the apartheid regime in South Africa receive their constitutional land right efficiently and effectively. Land claims are lodged against the state; therefore it is the government's responsibility to ensure that this constitutional obligation is carried out in line with the various national laws and policies. This study will explore the views of project co-ordinators regarding their experiences regarding the implementation of land claims in the Regional Land Claims Commission (RLCC) in Pietermaritzburg, Kwa-Zulu Natal. Land restitution has been viewed as a programme that has failed to return land rights to the rightful owners within the targeted or given period of time (Xaba 2016:9). For this reason, further knowledge is required pertaining to this process, the challenges and opportunities thereof.

This chapter first outlines the broad research problem of the study, which entails discussions regarding the Land restitution programme (LRP), its historical background and constitutional obligation. It also describes the research objectives, which are in line with the research questions. The significance of the study, research design and methods are then discussed, followed by an outline of all the chapters and a chapter summary.

1.2 Broad Research Problem of Land Restitution

Kepe (2012:394) explained that the dispossession of black people in South Africa occurred over several centuries. From the time the Dutch settlers arrived in 1652 and colonialism took place, the ownership of land by black South Africans was restricted to 7% of the entire country. The Natives Land Act of 1913 (RSA, 1913) instigated the legislation and policies of dispossession and created a divide based on racial lines (Kepe 2012:394). The forced removals that came with various legislations such as the Group Areas Act of 1950 (RSA 1950) continue to impact and shape South Africa today, and also contributed to rural impoverishment. Below is an image showing how dispossessions took place; communities were forced to leave their homes as well as cattle in some areas, and build new lives wherever they were relocated to.



Figure 1.1: Forced removals: Kammaskraal, 1982. Women and children wait to board a government truck.

Source: SA History (2016:1)

Leslie (2013:4, 7, 20) discussed the significance of the land issue from an emotional, historical and economic perspective, i.e. it is imbedded with identity and creates relationships between people and communities with a shared vision. However, land can also create conflict and disputes of entitlement amongst the people claiming it. After the new democratic dispensation in 1994, South Africa initiated the programme of land reform to address the imbalances and injustices of the past and to restore land rights to the rightful owners, through programmes such as land restitution. The Land Restitution Act 22 of 1994 (RSA 1994) is based primarily on justice and provides for the restitution of land rights to a person or community dispossessed of property after 19 June 1913 as a result of past racial discriminatory laws or practices. According to the Restitution Act 22 of 1994 (RSA 1994), a person or community is entitled to the restoration of such property or equitable redress.

Lahiff (2008:1), cited in Cousins and Scoones (2010:31), noted that two decades into democracy there was consensus across the social and political spheres in South Africa that the government's programme of land reform was in crisis due to various challenges. Moyo and Mine (2016: 7) argued that it is the policymakers who determine how land should be used and factors related to land restitution, therefore they should determine the need for participatory

buy-in from the farmers and farmworkers, i.e. the people who work on the land and live on it (Moyo and Mine 2016:8).

It was against this backdrop that Tummers (2014:3) raised an argument about the “street level bureaucrats” as the implementers of public policy, adding that enabling them to use discretion provides them with the enthusiasm to implement the policies. Scoones (2010:10) explained that various countries in other African states and globally have addressed land reform contrarily in line with differing legislation and policies. As deliberated by Moyo and Chambati (2013:10), various press and media have reported on the Zimbabwean land reform programme, highlighting the reality of violence, chaos, the unequal distribution of land for men and women, and issues of land grabs.

However, Moyo and Mine (2016:10) contended that successful stories have not been captured, which is the same issue that land reform role players in South Africa have argued, especially when it comes to land restitution. Land reform is a sensitive and complex phenomenon that requires proper policies, funding and support. It has been noted that in Zimbabwe there is an interrelation between politics and land, hence the major challenge of land distribution to Mugabe’s acquaintances which continues to occur (Moyo and Chambati 2013:12). As alluded to by Hall (2011: 193), there are various global challenges related to land reform such as land grabs, which are not exclusive to African countries. Countries in Southeast Asia and Latin America, as well as other large countries such as India, Russia and China, experience similar land grabbing issues (Edelman 2015: 5). It was suggested by Saturnino *et al.* (2012:855) that China’s land policy was transformed in order to be aligned to the country’s economic and social issues during the period of 1978-2013, however land invasions have remained a challenge in the past decade. In an attempt to eradicate these land grabs, local government in China has carried out forced removals, which have led to criticism from the public and the media.

This study aims to create a constructivist understanding of the research topic; therefore the philosophical worldview adopted for the purposes of this study is based on the constructivist world view. Wiggins (2013:5) explained that from a social context, it comes naturally for human beings to construct human processes because they are social by nature and to create an understanding of the world they work and live in. This will be tabled and discussed further in chapter two. It is important to base this study on a theoretical framework that will provide the foundation for the study and guide it. It is important that the relevant theoretical framework is used, therefore the theory of street level bureaucracy (SLB) by Michael Lipsky was identified as a suitable theoretical framework that will assist in providing a basis for this study. Lipsky (2010:5) has largely been identified as the founder of the bottom-up policy making perspective,

commonly known as street level bureaucracy. His theory is relevant in analysing scenarios where public servants work directly work with the public in their daily activities, and are expected to make important decisions in the execution of their daily work.

1.3 Research Problem

During centuries of colonialism and decades of apartheid, black South Africans were systematically dispossessed of their land (RSA 2015:5). The promulgation of the Native Land Act, No. 27 of 1913 (RSA 1913), cited in de Satge` (2013:5), was used to dispossess people of their land rights and compelled them to work for the new land owners in exchange for cultivation, grazing and residential rights on the land. This contributed to skewed ownership in land, whereby the white population in South Africa owned 87% of the land and blacks occupied the remaining 13% (de Satge` 2013:4).

In order to address the skewed ownership of land, the newly elected South African democratic government established the land reform programme in order to address the imbalances of the past created by the above mentioned legislation (Kloppers 2014:3). To date the government has not been able to meet the targets it initially set for more equal distribution, where it had expected to have given back 30% of agricultural land by 1995 (Cousins 2013:10). Over the years this target kept shifting; the government eventually admitted that 90% of its agrarian reform projects had failed (Pringle 2013:41-42). Cousins (2013:11) cited in Binswanger-Mkhize (2015:256) commented that Minister Gugile Nkwinti (2012) may have been inaccurate in stating that 90 percent of agrarian reform projects have failed, as research reveals that half of all the projects have not benefitted the affected people due to poor planning and lack of the necessary support required .

Furthermore, there have been countless media reports, such as an article published in the Mail and Guardian entitled “SA’s land reform effort lacks a focus on struggling farmer” by Xaba (2016:2), which speak to the slow pace at which land claims are being processed and finalised, and the failure of the CRLR to meet deadlines and targets (HRC, 2015:1). Of late, the print media has reported on the challenges relating to some politicians encouraging land grabs in South Africa. A Sowetan newspaper article (Xaba, 2016:1), entitled “Land grabs not what democracy means”, reported on the land grabs in RSA, hence the need for this study. The racially unequal patterns of land ownership and some of the political calls to “take back the stolen land” show the urgent need for developing policies that will address the long-term legacies of large dispossessions that took place (Cousins, 2013:11). Binswanger-Mkhize (2014:257) furthered this argument by stating that land restitution is a complicated sub program,

however it has shown significant success with regard to the number of beneficiaries and the amount of land (hectares) that has been transferred.

As noted in the preceding section, the literature has revealed the various challenges emanating from the land restitution programme; however this study aims to explore the Project Coordinators (PCs) experiences in order to establish their perceptions. The study is aimed at understanding the implementation of the restitution process, as well as the experiences and the challenges in relation to the investigation and settlement of land claims by the project coordinators. The (LRP) contributes to the fulfilment of the basic human needs of the poor masses, and it also has an obligation to reverse the legacy of the 1913 Natives Land Act (RSA 1913), as noted by Watchter (2010:80) in terms of the basic human needs theory by Burton (1990:115).

Zenker (2014:3) contended that the implementation of land restitution has been slow and faces numerous challenges throughout South Africa. Furthermore, it cannot be ignored that there have been various projects that have failed post-settlement, hence the requirement of understanding pre-settlement and its role in ensuring that land claims projects are settled and left in capable hands for the necessary support, i.e. the transfer of land alone is not enough and requires support from the various stakeholders. Without ongoing support and capacity building new land owners run the risk of failing, thus affecting the economy (Hall, 2010:23). As alluded to by the Minister of RDLR in a presentation on the 'Strategy to fast-track the implementation of land restitution' (Nkwinti, 2015:1-2), during the first two years of being established, LRP had achieved very little in terms of settling land claims. By December 1998 the land claims submitted numbered 40 000 but only 27 claims had been settled. The process had improved by November 2001, by which time 68 878 claims had been received and 12 863 had been settled, however most of these claims were settled in the Western Cape (Nkwinti, 2015:2). Moreover, in 2000 the Department of Land Affairs (DLA) indicated that the initial expected date for the settlement of outstanding claims would be 2005 (Cousins, 2011:11). This did not materialise and to date there are land claims outstanding from before the cut-off date of 31st December 1998. Figure 1.2 displays an example of a quarterly performance at the CRLR in KZN, highlighting the slow pace of land restitution in South Africa.

RESTITUTION quarter 1 performance for 2015

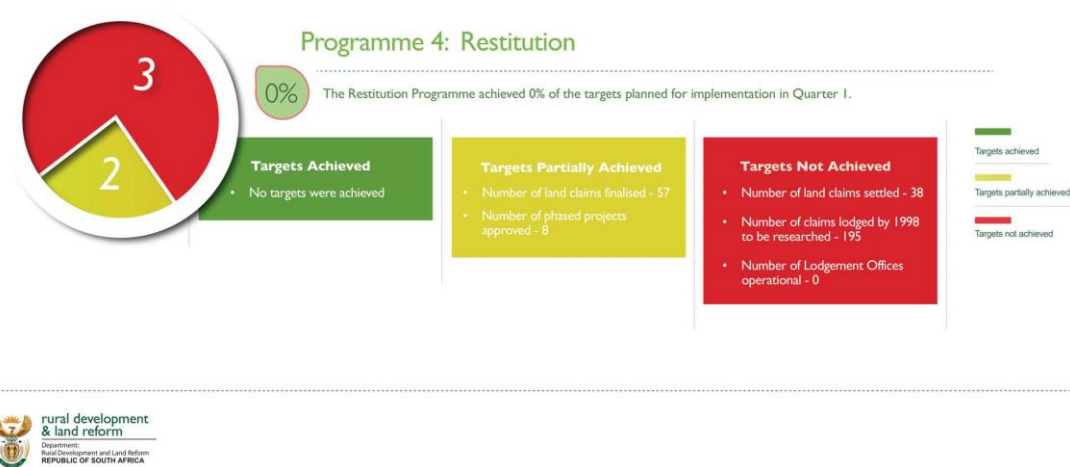


Figure 1.2: Performance for Quarter 1, 2015

Source: DRDLR (2015)

In the context of restoring land rights to previously dispossessed people, much criticism faces the LRP such as the failure to meet targets, a lack of proper systems and land grab issues linked to disputes. In light of this, the literature reviewed in this study is an attempt to identify the challenges and opportunities that either limit or assist the investigations and finalisation of land claims within reasonable timeframes. PCs at the RLCC-KZN are the front line workers as their tasks include the coordination and management of the land claims projects; however various challenges arise whereby the PCs are unable to fulfil their constitutional mandate due to issues such as budgetary constraints. Somerville (2015:2) described street level bureaucrats as front line workers, as they work with the public and in doing so build relationships and provide multi-service coordination. They are the link between government and the citizens (Somerville, 2015:2). According to Hall (2010:9) there are a wide range of issues in the RLCC; these issues range from a lack of community participation and cohesion to community leadership which is not accountable, management and administrative challenges, and capacity constraints, amongst others. Hall (2010:9) further argued that the unsatisfactory results from the LRP have an impact on the fight against poverty, social exclusion and inequality, which in turn has resulted in various demands by some political parties to expropriate white-owned farms without compensation. Based on the research problem, certain research objectives and questions were created. These are linked in the following segment in order to provide the intention of the study.

1.4 Research objectives and questions

This dissertation aims to address the below research objectives and research questions:

Table 1.1: Research questions and research objectives

| Research Objectives | Research Questions |
|---|---|
| Determine how project co-ordinators implement land restitution processes. | How do land restitution project co-ordinators implement the processes of land restitution? |
| Identify factors that facilitate or hinder the land restitution processes. | What are the factors that facilitate or hinder the processes of land restitution? |
| Understand project co-ordinators' perceptions regarding how the Regional Land Claims Commission can assist project co-ordinators in meeting designated targets. | How do project co-ordinators perceive the Regional Land Claims Commission with assisting project co-ordinators in meeting designated targets? |
| Discover project co-ordinators' perceptions regarding the re-opening of lodgement land claims. | What are the perceptions of project co-ordinators regarding the re-opening of the lodgement process? |

1.5 Significance of the study

This study is of great importance as its prerogative emanates from the constitutional obligation of South Africa to redress past injustices in land ownership. The study is aimed at understanding the major issues pertaining to the land restitution process, through the street level bureaucrats as they are the policy implementers. Similarly, the study will be able to assist the Regional Land Claims Commission (RLCC) to understand the challenges experienced by the project co-ordinators who are the street level bureaucrats, as well as their views on how to improve the manner in which the land claims process is conducted. It is important for a study to be based on a theoretical framework and a philosophical worldview that is relevant to the study in order to explore the various aspects of the study thoroughly and to achieve the research objectives.

The study will further contribute to the body of knowledge by providing new information and research in the field of public administration. The study requires a selection of the relevant

research designs and methods in order for the research objectives to be achieved and the research questions to be answered, which will be discussed below.

1.6 Research design and methods

1.6.1 Research design

According to Creswell (2014:4) there are a variety of commonly used research designs – qualitative, quantitative and mixed method. Qualitative research is an approach for exploring and understanding the meanings that individuals or groups ascribe to a social or human problem. The research design that is best suited for the purposes of this study is the qualitative research design. This will be explored in more depth in chapter three.

1.6.2 Research strategy

The study follows a case study strategy. According to Yin (2014:4), the case study strategy is essential to use when one is trying to understand a complex social phenomena, as it enables the researcher to preserve the meaning and comprehensive characteristics of actual life events, especially in relation to an organisation and its management processes, amongst others. Creswell (2014:147) described case study strategy as a qualitative research design whereby the researcher collects in-depth data through various data collection tools over a continuous period of time. As alluded to by Wedawatta, Ingirige and Amaratunga (2011:11), a research strategy speaks to the overall plan of the research, which entails various processes, to conduct research and address the research problem. The case study strategy is suitable for this study as the research problem can be interrogated from various angles. (Elo and Kyngas 2014:5) assert that a unit of analysis should be related to what the study aims to achieve, and must be in line with the research questions. The unit of analyses refers to what or who is being studied (Elo and Kyngas 2014:5). This study will use the land restitution implementation process as the unit of analysis, which will further be deliberated on in chapter three.

1.6.3 Sampling, size and selection

1.6.3.1 Selection strategy and technique

Etikan, Musa and Alkassin (2016:1) define a sample as a part of the population which is not limited to people only; it may include a quantity of cases that are a subject of the research such as organisations and processes, amongst others. Bless, Higson-Smith and Sithole (2013:179) described two types of sampling strategies known as probability and non-probability sampling, which are further elaborated on in Chapter three. For the purposes of this study, the non-probability sampling strategy is selected as it resonates with this qualitative study. The

technique used to select the participants is purposive in order to effectively address the research problem.

1.6.3.2 Sample size

Marshall, Cardon, Podder and Francis (2013:1) explain that qualitative research has no existing rules on how big a sample should be; it depends on what the researcher intends to explore, the purpose of the study, the research objective, and what best addresses the research questions in a credible manner. This study conducts ten interviews and facilitates two focus group sessions with a number of between 6 to 10 participants in each group. This will be further detailed in chapter three.

1.6.4 Data collection methods

Creswell (2014:4) noted that qualitative research assists the researcher to explore and understand how individuals or groups relate to a social or human problem. In order to gain in-depth knowledge from the information collected from the participants, the qualitative research design is most appropriate for this study. Primary and secondary data collection tools are used as described by Acaps (2012:3), who said that primary data is the raw data collected directly from the respondent and has not been analysed, while secondary data is information collected by the researcher that has undergone analysis at least once before it has been used. In terms of secondary data, Bowen (2009:27-29) cited in Bell (2014:6) asserted that documents provide a researcher with data on the context and historical background of the study, which assists the researcher to understand competing arguments underlying the research problem. Secondary data were collected through a review of strategic plan documents, laws and policies, as well as journal articles, books and various internet sources. Chapter three discusses the data collection tools in detail.

1.6.4.1 Documentary evidence

As per Mirriam and Tisdell (2015:162), researchers have the ability to contextualise data collected from primary sources using documents. Documents can assist a researcher to develop relevant research questions for their study, contribute to their knowledge base, and enable them to compare information. This study used various documentary evidence such as legislative frameworks, policies, journal articles, books, presentations and media statements. These will be elaborated on further in chapter three.

1.6.5 Data analysis and interpretation

The researcher will conduct semi-structured interviews and focus group sessions to collect the primary data, which are analysed through a combination of content analysis, matrix analysis and thematic analysis (Elo and Kyngas 2014:8). Sgier (2012:1) explains that thematic analysis is a common analysis used in qualitative research that entails coding and categorising in order to provide an understanding of the study. The researcher's aim was to collect converging or diverging views from the focus group participants who had different work experiences, hence two focus group sessions were held. The first focus group consisted of project co-ordinators with more than five years' work experience, and the second with PCs with five years and less. The study is thus an exploratory qualitative study. The researcher used colour coding to organise the data and provided the participants with individual codes for interviews and focus groups. The researcher then developed sub headings emanating from the research objectives which are aligned to the research questions. Categories were created from which matrices were organised in line with the theoretical framework elements and the philosophical world view aspects. Themes were developed from the categories in line with the sub headings, which led to the cross case analysis and lastly the triangulation of the data. This will be examined further in chapter three.

1.6.6 Data quality control

Moretti *et al.* (2011:420-428) state that qualitative research is advantageous because of its rich nature, therefore the collected data requires careful consideration when being interpreted and coded; it needs to be reliable and valid so as to maintain its rich nature. Satu (2014:5) noted that researchers should consider maintaining the credibility of their findings by providing data which are accurate and representative of the information gathered from the research participants. It is for this reason that Vaismoradi *et al.* (2013: 6) recommended that data should be analysed more than once by different people in order to produce a comprehensive yet sound interpretation of the data. For the purposes of this study, the researcher tried to ensure trustworthiness by using strategies geared toward dependability, confirmability and transferability (Marshall and Rossman 2016: 324). chapter three provides further insight in this regard.

1.6.7 Ethical considerations

According to Collis and Hussey (2014:30) ethical clearance is a requirement for any study, as it aims to protect both the researcher and the participants of the study by upholding the ethical principles and protocols provided by the ethics committee at the university. For a study to receive approval the researcher must have taken into account the nature of their study and at all

times adhere to the principles of the ethics unit. It is of utmost importance that the research participants are protected so that one's research is credible and trustworthy. For the purposes of this study, the researcher received ethical clearance from the University of KwaZulu-Natal Ethics Committee for social science and humanities research. Prior thereto, a gatekeeper's letter was signed by the senior government official within the department which provides permission to undertake the study and to gain access after working hours and on weekends. The research participants signed the consent form, which explained the nature and purpose of the study in detail, and their rights and anonymity was explained (Collis and Hussey 2014:32). Chapter three discusses the ethical considerations in detail.

1.7 Limitations to the study

Various limitations arise from the study, for example the researcher has to ensure that bias is overcome as an employee in the DRDLR. This was achieved through interviewing officials who are her seniors in terms of rank, which helped them open up without feeling they had to impress the researcher. The researcher also had a research assistant who was not familiar with land restitution, which helped with the probing of questions the researcher may have had a background on. The project co-ordinators are very busy as they are fieldworkers, so it was a challenge to get them together at once and there were time limitations. The study was solely funded by the researcher which had its own constraints, as the researcher had to organise lunch for the participants and transportation. The limitations are further elaborated on in chapter three.

Key terms used in this study are defined in Table 1.2 order to provide the reader with a better understanding of the terms

1.8 Descriptions of key terms in the context of land reform and land restitution

Table 1.2: Key terms used in the study

| Term | Definition |
|--|--|
| Commission on Restitution of Land Rights | CRLR includes the managers at national level, such as the Chief Land Claims Commissioner (CLCC) and the Deputy who is based in Pretoria at the national office. It also includes the RLCCs in all the provinces that report to the CLCC as outlined in the Restitution of Land Rights Act. |
| Consolidation | Consolidating claims for settlement purposes occurs when a number of claims are processed together and consolidated in one settlement. In this instance, claimants are artificially consolidated to form one legal entity to take transfer of the land. |
| Finalisation | The finalisation of a claim occurs after settlement once the transfer of the equitable redress has taken place, e.g. the payment of compensation and/or the transfer of land. |
| Gazetting | Gazetting refers to the publication of a notice of the land claim lodged in the Government Gazette as outlined in Section 11 of the Restitution Act (LRA, 1994). |
| Land Restitution | The Land Restitution Programme is responsible for the settlement of land restitution claims under the Restitution of Land Rights Act, No. 22 of 1994, as amended in 2014, and the provision of settlement support to beneficiaries (LRA, 1994). |
| Land Reform | The Land Reform programme consists of four pillars: land restitution, land tenure, land redistribution and development. It aims to address the land issues created by apartheid government to assist in development of land, security of tenure rights and land redistribution. Drawn from the Strategic plan document (DRDLR, 2015:19). |
| Project Co-ordinators | PCs are employees of RLCC, assistant managers who are responsible for processing, investigating and settling land claims, and fieldworkers. Drawn from Approved microstructure (RSA, 2014). |
| Project Officer | Employee of land restitution responsible for processing, investigation and settlement of land claims. Drawn from Approved microstructure (RSA, 2014). |
| Regional Land Claims Commission | The provincial office responsible for employing staff and for land claims in various districts in and around PMB, KZN. Drawn from the approved microstructure (RSA, 2014). |
| Rule 3 report | The report compiled by the CRLR to investigate the validity of a claim with respect to Sections 11(2) and Section 2 of the Restitution Act as described in more detail in the Rules regarding the procedures of the CRLR in terms of the Restitution Act. Drawn from (LRA, 1994). |
| Rule 5 report | The comprehensive research report drafted by the CRLR to further investigate the claim lodged with reference to the key items listed in Rule 5 of the Rules regarding the procedures of the Commission |

| | |
|--------------------------|--|
| | in terms of the Restitution Act. (LRA, 1994). |
| Settlement (S42D) | The settlement of a claim occurs when: a) the Section 42D report is approved and signed by the Minister in terms of Section 42D of the Restitution Act; or b) a settlement agreement is made an order of the Land Claims Court in terms of Section 14(3) of the Restitution Act; or c) the LCC has made an order in terms of Section 35 of the Restitution Act; or d) a High Court has made an order on the matter referred to it for adjudication. A claim is regarded as settled once the outcome of any of the above results in a financial commitment as recorded on the Commitment Register (LRA, 1994) |
| Street Level Bureaucrats | SLBs are policy implementers who use their discretion when making decisions; they are the fieldworkers and work directly with the public or communities (Lipsky 2010:9). |

1.9 Outline of chapters

Chapter one begins with an introduction that provides a background to the study. The philosophical worldview is also identified and the research methodology is discussed. The research problem is then outlined together with the research objectives and questions.

Chapter two is based on the Literature Review, which explores the land restitution programme in South Africa as entrenched by the Constitution of the Republic, pre and post-apartheid. The chapter further discusses the land reform programme which the land restitution programme emanated from. The chapter also presents the theory guiding this study and other theories considered.

Chapter three explains why the researcher selected the research design and the philosophical worldview. It also covers the research strategy which entails the study strategy, site selection and respondent selection. The sampling strategy is addressed including the sampling population, while the data collection tools and data analysis are explained. The chapter then examines the data quality control, the research reflexivity and the limitations of the study. The last section focuses on ethical considerations.

Chapter four discusses the background of the processes and perceptions of project coordinators employed at the Regional Land Claims Commission in Pietermaritzburg, KwaZulu-Natal. The chapter also addresses the procedures employed by the researcher to analyse data through a combination of content, themes and matrix analyses. The literature is then linked to the data in line with the research objectives and research questions.

Chapter Five summarises the findings and provides conclusions and recommendations for the RLCC-KZN and the CLCC in line with findings of the study.

1.10 Conclusion

It is noted by the researcher that there is an assumption regarding the slow pace of service delivery at the Regional Land Claims Commission (RLCC-KZN), drawn from literature and media reports related to the challenges facing land restitution. This informed the research undertaken at the RLCC, KZN. The qualitative research design is the most suitable for the study due to the nature of the study; it entails the collection of primary and secondary data through the use of interviews and focus groups for data collection. Finally, the chapter outlines all the chapters that will follow in this dissertation. The first chapter is then concluded.

CHAPTER TWO: SOUTH AFRICAN LAND REFORM AND LAND RESTITUTION IMPLEMENTATION

2.1 Introduction

This Chapter seeks to critique and discuss various literatures on the process and implementation of land restitution in Kwazulu-Natal (KZN), South Africa. The Chapter will also discuss the LRP, as it is made up of components or pillars which include land restitution. In order to narrow the study focus, the researcher is conducted the study at the Regional Land Claims Commission (RLCC) in Pietermaritzburg, KZN. Furthermore, project co-ordinators have been identified as suitable participants for the purposes of this study because they work with land claimants on a daily basis; they are the fieldworkers but they also play a supervisory role to their subordinates. This study is aimed at establishing the experiences and challenges facing officials in the implementation of land restitution projects in KZN.

Figure 2.1 illustrates the literature review within the study. It provides aspects of the literature review that will be addressed and the approach to the chapter.



Figure 2.1: Diagrammatic Representation of the Literature Review

Source: Adapted from Amerudin (2015:1)

In keeping with Figure 2.1, this chapter discusses the history of land reform, legislative and policy frameworks, service delivery backlogs, the implementation process, and global and African perspectives at the CRLR. Discussions on the re-opening of land claims and the implementation thereof will be presented, as will the theoretical framework adopted for the study and conceptual worldviews.

2.2 Land dispossession and land reform in South Africa

2.2.1 Pre-1994 legislation for land dispossession and land reform in South Africa

According to Mbedu (2014:7), the arrival of Jan van Riebeeck to South Africa was the beginning of centuries of colonialism and decades of apartheid, resulting in black South Africans being forcibly dispossessed of their land. Table 2.1 depicts relevant legislation that advanced dispossession, particularly between 1913 and 1950. The main legislation which paved the way for all other racial legislation and the practices that followed is the Natives Land Act 27 of 1913 (RSA 1913). The objective of the promulgation of this Act on 19 June 1913 was the dispossession of black people and the segregation of coloured and Indian people through the Group Areas Act (RSA 1950). Many black people were uprooted from their ancestral land, an operation that was carried out without adequate compensation if any, and with deliberate cruelty (Pepeteka 2013:1). Pepeteka maintained that the term ‘native’ was defined in this Act (RSA 1913) as any person or people who were of aboriginal race or an African tribe, in other words black people. This Act (RSA 1913) also restricted Africans from buying, selling and leasing land in “scheduled areas”. Rather, Africans were compelled to work for the new land owners in exchange for limited cultivation, grazing and residential rights on the land.

According to Kloppers (2014: 682), the Native Trust and Land Act No. 18 of 1936 (RSA 1936) provided for the establishment of the South African Native Trust, which was a state agency that was responsible for the administration of trust land, “to administer the settlement, support, benefit, and material welfare of the natives of the union”. This piece of legislation was a hindrance for any black person to have individual land ownership, thus introducing trust tenure through the establishment of the South African Development Trust, a government body which would purchase land in "released areas" within which black people could settle.

Colonialism and apartheid legally mandated that African people be relegated into undeveloped Bantustans, or to what were called “ethnic homelands”, and peri-urban areas called Bantu locations. Laws such as the Group Areas Act No 41 of 1950 (RSA 1950) were passed allowing government authorities to forcibly remove Africans from urban settings and arbitrarily and involuntarily relocate them into ethnic homelands and Bantu locations.

Table 2.1: Pre-1994 selected legislation for land dispossession and onset of land reform

| Year | Legislative or Policy Framework | Purpose or Result |
|------|--|--|
| 1913 | Natives Land Act No. 27 | Dispossession of black people and the segregation of coloured and Indian people through the Group Areas Act. |
| 1927 | Black Administration Act No. 38 (renamed Bantu Administration Act) | To provide for better control and management of Black Affairs. |
| 1936 | Natives Trust and land Act No. 18 of 1936 | The establishment of the South African Native Trust, which was a state agency that was responsible for the administration of trust land. Moreover, "to administer the settlement, support, benefit, and material welfare of the natives of the union". |
| 1950 | Group Areas Act No. 41 of 1950 | Urban areas were to be divided into racially segregated zones. |
| 1993 | Interim Constitution of the Republic of South Africa | Gave way to the promulgation of the Restitution of Land Rights Act No. 22 of 1994, which was one of the first legislations to be passed after the democratic dispensation came into being in order to redress the history of the past dispossessions. |
| 1993 | Distribution and Transfer of certain State land Act 119 of 1993 | To regulate the distribution and transfer of certain land belonging to the State and designated by the Minister. |

(Source: DRDLR: 2016)

These so-called ethnic homeland areas have been, and continue to be, dominated by traditional governance or "patrimonial authority", sustained by some subsistence economic activity Nkwinti (2015:2).

As apartheid drew to a close, relevant legislation was enacted to begin to overcome race-based inequities. Lubambo (2011:1) affirm that in order to address the skewed ownership of land, the newly elected democratic government established the land reform programme to address the imbalances of the past created by the abovementioned legislation. In 1994 and subsequently, relevant legislation was enacted as depicted in Table 2.2.

2.2.2 South African land reform post 1994

The interim Constitution of the Republic of South Africa, 1993, gave way to one of the first key pieces of land rights legislation - the Restitution of Land Rights Act No. 22 of 1994 (LRA) (RSA, 1994). Moreover, in 1996, the enactment of the Constitution of the Republic of South Africa provided for land reform (1996:10). The constitutional basis for the land restitution programme is found in section 25(7) of the Constitution, which states that: "A person or community dispossessed of property after 19 June 1913 as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to restitution of that property or to equitable redress". Similarly, section 25(5) of the

Constitution introduced the second pillar of land reform, which is commonly referred to as the land redistribution programme. In terms of this section, the state has a constitutional duty to take "reasonable legislative and other measures, within its available resources, to foster conditions which enable citizens to gain access to land on an equitable basis" (RSA 1996:10).

Moreover, Section 25(5) recognises this exclusive land right for "citizens", therefore although South Africa belongs to all who live in it who must be afforded basic rights, when it comes to land, citizens are prioritised. Section 36(1) limits the land rights in the Bill of Rights by stating that, "the right in the Bill of Rights may be limited only in terms of law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom taking into account (a) the nature of the right; (b) the importance of purposes of the limitation; (c) the nature and extent of the limitation; (d) the relation between the limitation and its purpose; and (e) less restrictive means to achieve the purpose" (RSA, 1996). The LRA (RSA, 1994) provides for the restitution of land rights to a person or community dispossessed of property after 19 June 1913 as a result of past racial discriminatory laws or practices, whereas the Land Reform (Labour Tenant) Act No. 3 (RSA, 1996) provides for the entitlement of land tenure which is secure and for comparable redress.

Table 2.2: Selected land reform legislation from 1994

| Year | Legislative or Policy Framework | Purpose or Result |
|-------|--|---|
| 1994a | Restitution of Land Rights Act No. 22 | Provides for the restitution of land rights to a person or community dispossessed of property after 19 June 1913 as a result of past racial discriminatory laws or practices; the person or community is entitled to the restoration of such property or equitable redress. |
| 1994b | Reconstruction and Development Programme (RDP) | The Reconstruction and Development Programme (RDP) is a South African socio-economic policy framework implemented by the African National Congress (ANC) government of Nelson Mandela in 1994. |
| 1995a | Development Facilitation Act No. 67 | To introduce extraordinary measures to facilitate and speed up the implementation of reconstruction and development programmes and projects in relation to land. |
| 1995b | Land Administration Act No. 2 | To provide for the delegation of powers and the assignment of the administration of laws regarding land matters to the provinces; to provide for the creation of uniform land legislation; and to provide for matters incidental thereto. |
| 1996a | Constitution of the Republic of South Africa (RSA 1996) | Provides, <i>inter alia</i> , for land reform, particularly sections 25, 26, 27 and 36. |
| 1996b | Land Reform (Labour Tenant) Act No. 3 of 1996 (RSA 1996) | To provide security of tenure for labour tenants and those persons occupying or using land as a result of their association with labour tenants; to provide for the acquisition of land and rights in land by labour tenants; and to provide for matters connected therewith. |
| 1997 | White Paper on Land Policy (RSA 1997) | The White Paper sets out the vision and implementation strategy for South Africa's land policy; a policy that is just, builds reconciliation and stability, contributes to economic growth, and bolsters household welfare. |

| | | |
|------|--|---|
| 2005 | Repeal of Black Administration Act and amendment of certain laws Act No. 28 (RSA 2005) | To repeal the provisions of the Black Administration Act, 192, incrementally, and to amend the Administration of Estates Act, 1965. |
| 2011 | Green Paper on Land Reform (RSA 2011) | Strategic policy document of the Department of Rural Development and Land Reform that intends to bring about drastic changes in the implementation of Land Reform and overhaul the rural communities into vibrant, equitable and sustainable rural communities. |
| 2013 | Recapitalisation and Development Policy (RSA 2013) | To provide black emerging farmers with social and economic infrastructure and the basic resources required to run successful agricultural businesses. |
| 2014 | Restitution of Land Rights Amendment Act No. 15 (RSA 2014) | Declared invalid by the Constitutional Court as at February 2016. |

The post-1994 democratic government designed a policy framework known as the Reconstruction and Development Programme (RDP) (RSA, 1994) to promote the transformation of the social, economic and moral foundation of South Africans (Kepe 2014:5). The RDP prioritised the issue of land reform in order to meet basic needs; a target of redistributing 30% of agricultural land within five years from 1994 was set, however the target was not met and since then the targets have kept moving. The mandate of land restitution is for restitution in the form of the original land returned to black South Africans who were forcefully removed; alternative land and any other form of equitable redress may be considered for the settlement of land claims (RSA 2015: 2). Lubambo (2011:5) noted that land reform also aims to improve livelihoods and to stimulate the economy through the various programmes within the four pillars of land reform. Each pillar has its own mandate, roles and responsibilities, which are entrenched in Section 25 of the Constitution of the Republic of South Africa (RSA, 1996). The land reform programme is divided into the following four pillars: land restitution, land redistribution, land tenure reform (and administration), and development. These strategic elements deal with both quantitative and qualitative factors in land reform, as shown in Table 2.3.

Table 2.3: Pillars or strategic elements of land reform and their roles

| Land Restitution | Land Redistribution | Land Tenure Reform | Development |
|---|---|---|---|
| Carries the responsibility of restoring land or providing alternative redress for people who were dispossessed of their rights in land after 19 June 1913 (RSA 1994). | <p>Responds to various needs and aspirations of people for land, in both rural and urban areas, in an equitable and affordable manner, while at the same time contributing to poverty alleviation and national economic growth.</p> <p>It aims at ensuring that the landless poor, marginalised and disadvantaged people of South Africa gain access to land for residential and productive purposes on an equitable basis. This includes labour tenants and farm dwellers (RSA 2016a).</p> | <p>Is aimed at upgrading the different land tenure arrangements currently restricting tenure security for the previously disadvantaged, in both urban and rural areas.</p> <p>Also aims to protect people whose land tenure is legally insecure as a result of past racially discriminatory laws or practices (RSA, 2016a).</p> | <p>Is concerned with implementing a comprehensive rural development plan that strives to create vibrant equitable and sustainable rural communities.</p> <p>It comprises subprograms such as Rural Infrastructure Development (RID), Rural Enterprise and Industry Development (REID) and the (NARYSEC) National Rural Youth Service Corps (RSA, 2016a: 3).</p> |

Source: Adapted from DRDLR (RSA 2016a:3).

The strategic elements of land reform depicted in Table 2.3 were established to encourage sustainable development, whereby the government, stakeholders and beneficiaries would work together in utilising the available resources to accomplish the former (Rungasamy 2011:2). The National Development Plan (NDP) states that since 1994, the main challenge for rural development has been the marginalisation of the poor, with many rural areas and households trapped in a vicious cycle of poverty. Rural areas and communities thus require greater social, economic and political opportunities to overcome the legacy of marginalisation and poverty (de Sagne 2013: 10). Government stakeholders impacting on rural development will have to work in tandem to create an integrated and inclusive rural economy, starting with the mutual acknowledgement of problems, which include land reform not having translated into the establishment of sufficient numbers of sustainable new black farmers. Restitution, in particular, has been quite slow. Generally there is under-utilisation of productive and communal land and this might threaten food security, especially at the household level (NDP 2011:195).

According to the National Development Plan (2011:195), by 2030 rural areas should be spatially, socially and economically well integrated across municipal, district, provincial and regional boundaries, whereby residents have economic growth, food security and jobs as a result of agrarian transformation and infrastructure development programmes, and have improved access to basic services, health care and quality education. In 2011, the Green Paper on Land Reform allowed for a single land tenure framework which incorporated the current multiple forms of land ownership. These include communal, state, public and private, which were integrated into “a single 4-tier tenure system”, i.e. (a) “State and public land: Leasehold; (b) privately owned land: Freehold with limited extent; (c) Land owned by foreigners: Freehold but precarious tenure, with obligations and conditions to comply with; and (d) Communally owned land: Communal Tenure, with institutionalised use rights” (RSA 2015:9).

Challenges subsequently arose regarding what the legislation addresses and the rights of the traditional leaders where land reform issues are concerned. For this reason, intergovernmental relations are crucial, for example the Department of Rural Development and Land Reform has to work hand-in-hand with the Department of Co-operative Governance and Traditional Affairs and the Ingonyama Trust in order to address the disputes that arise in the land claims when traditional leaders are involved.

Kahn (2007:6), cited in Masoka (2014:2), commented that South African land reform is faced with the challenge of ensuring that the four strategic elements of land reform are achieved by alleviating poverty through land redistribution and better livelihoods for the recipients of land. As a result of these constitutional obligations, the government targeted settling all claims for redistribution (almost 80 000) by 2005. However, to date less than 10% of the redistribution target has been achieved, which excludes land acquired or bought by private transactions (Kloppers 2014:678). Furthermore, reports have noted that more than 90% of agricultural land given back to the rightful owners through these programmes is not used productively (Xaba 2016:2) cited in Mail and Guardian 2016). This reiterates the challenge of the slow pace at which service delivery takes place within these programmes, more notably in land restitution. The challenges mentioned not only contribute to poverty and unemployment amongst the beneficiaries of land reform, but food security is also threatened. Land reform farms that were once productive are struggling under new ownership due to lack of support and lack of skills (Xaba 2016:2). There have been countless appeals to the government from some political figures representing the landless South Africans to expropriate land or to illegally occupy land belonging to white farm owners (Xaba 2016:2), however this could fuel violence and tension, and as a result these various challenges facing land reform require urgent interventions (Kloppers 2014:678). According to Qalam and Lumel (2012:5), a lack of post-settlement

support, including financial support, training and services, contributes to the failure of very successful farms. Some farms that were involved in exporting and even game farming as tourist attractions have failed due to a lack of support, training and skills transfer for the new owners. There is also a lack of responsibility and corruption amongst some new owners, which contributes to the decline in the economy of South Africa. Further, landowners disputing the validity of claims take the state to the Land Claims Court, where it can take years to come to a resolution (Cousins 2012:4). Chile has also implemented land reform and land restitution which was slow and ineffective due to complex litigation procedures which utilised large amounts of limited money and resources to resolve these cases in court (Binswanger and Deininger 1996, p. 180, cited in Deninger 2012:10).

The objective of the public service is to deliver services to the public through policies of the government. Lahiff and Li (2012:1) affirmed that the past 16 years have shown little or no evidence that land reform has in any way contributed to the improvement of livelihoods, job creation, economic growth and improved efficiency. Nkwinti (2015:4) argued that between 1994 and 2009, land reform interventions focused largely on redistribution, mainly for commercial agricultural land; hence little attention was paid to the qualitative aspect of land reform, which includes the development of productive forces and the creation of institutional conditions for changing/balancing power relations in the sector. Furthermore, the pace of the settlement of claims has been slow due to issues relating to capacity and disputes within the CRLR and community (Nkwinti 2015:4). Advancing this argument further, Cousins (2013:11) argued that the Minister of Rural Development and Land Reform, Mr. Gugile Nkwinti, may be incorrect that land reform had benefitted more than 1.8 million people as at 2015 through land restitution in the various provinces. Rather, research has revealed that half of all projects have neither benefitted the affected people nor received the necessary support, and lacked proper planning (Cousins 2013:11). Pringle (2013:41) asserted that to date, government has not been able to meet the initial targets of more equal land distribution; the target in 1994 was 30% of agricultural land (24 million hectares) which has not been met. Pringle (2013:41) further noted that from 1999 to 2014 the years, this target has kept shifting. It was against this backdrop that the government eventually admitted to the failure of 90% of the land reform projects in 2014. Cousins (2013:11) added that racially unequal patterns of land ownership and political calls to “reclaim the stolen land” show the urgent need to develop policies that will address the long-term legacies of the dispossessions that took place.

As discussed, various challenges have been identified and discuss regarding land reform since its inception in terms of policy and process. Urgent attention is required for land reform to improve on the experiences and lessons learnt from the land reform program. The main aim for land reform in South Africa is to redress the imbalances of the past and to restore dignity to the black people who were forcibly removed. Programmes such as land restitution emanate from the land reform programme which is guided by the LRA (RSA 1994).

2.3 Land Restitution Programme

This section first discusses the business process of land restitution and then the targets associated with the research and settlement of land claims at the CRLR.

2.3.1 Business process of the RLCC

Land restitution is carried out by the Commission on Restitution of Land Rights (CRLR), as enacted by the LRA (RSA 1994). The Act was approved by President Nelson Mandela on 17 November 1994 and enacted on 2 December 1998; the land claims offices, Regional Land Claims (RLCC) offices in various provinces were opened in 1995 (Genesis 2014:6-7). The LRA (RSA, 1994) provides for the restitution of land rights to a person or community dispossessed of property after 19 June 1913 as a result of past racial discriminatory laws or practices. The person or community is entitled to the restoration of such property or equitable redress. The cut-off date for the lodgement and submission of claims was 31 December 1998 as stipulated in the LRA (RSA 1994). However, Pepeteka (2013:2) noted that the deadline of 31 December 1998 excluded potential claimants who were not aware of the deadline, as is evident in the fact that the number of claims lodged by the cut-off date were far below the number of people who were forcibly removed. This led to calls from the government to re-open the land claims lodgement process, which will be discussed in the following segment of this chapter. At the same time, the cut-off date also excluded many potential claimants who were dispossessed of land before 1913, such as the Khoisan (Pepeteka 2013:4).

The RLCCs rely greatly on the communities, individuals and families who have lodged land claims to provide historical information regarding the properties in question, the removals and the family history, thus there are possibilities that in some cases people may distort the truth to suit their interests. For this reason, other forms of investigations are also conducted in order to complete the inquiries and to comply with the requirements of the LRA (RSA 1994). The deeds office assists the project co-ordinators to search and establish the history of ownership, archival research for legislation is undertaken. Proclamations that are used for removals are examined

the project co-ordinator. Furthermore, investigations also include, mapping and homestead identification exercises that are conducted in the field with the claimants. Interviews for oral research and verification exercises amongst other investigations that are conducted in order to establish the history of removal and its compliance with the Land Restitution Act (LRA).

The detailed process flow of the restitution programme in Figure 2.2 illustrates the process of the land restitution programme as stipulated in the LRA. The process of land restitution does not include timeframes because the land claims differ in their nature and in terms of the area.

Figure 2.2 describes the detailed process flow of the restitution process and also illustrates the court process involved in resolving the land claims disputes.

The process flow entails seven steps which describe each milestone of land restitution and the processes involved within each step. The first step of the process of land restitution is the lodgement and the registration of a land claim, the second is the screening and categorising of land claims, the third determines the qualification of the claim, the fourth describes the negotiations and mediation stage, the fifth is the settlement of the land claim, the sixth finalises the settlement and the seventh speaks to the implementation of the post settlement support. This process flow illustrates how the various milestones feed into each other in compliance with the LRA. The next section discusses the achievements of the targets at the CRLR.

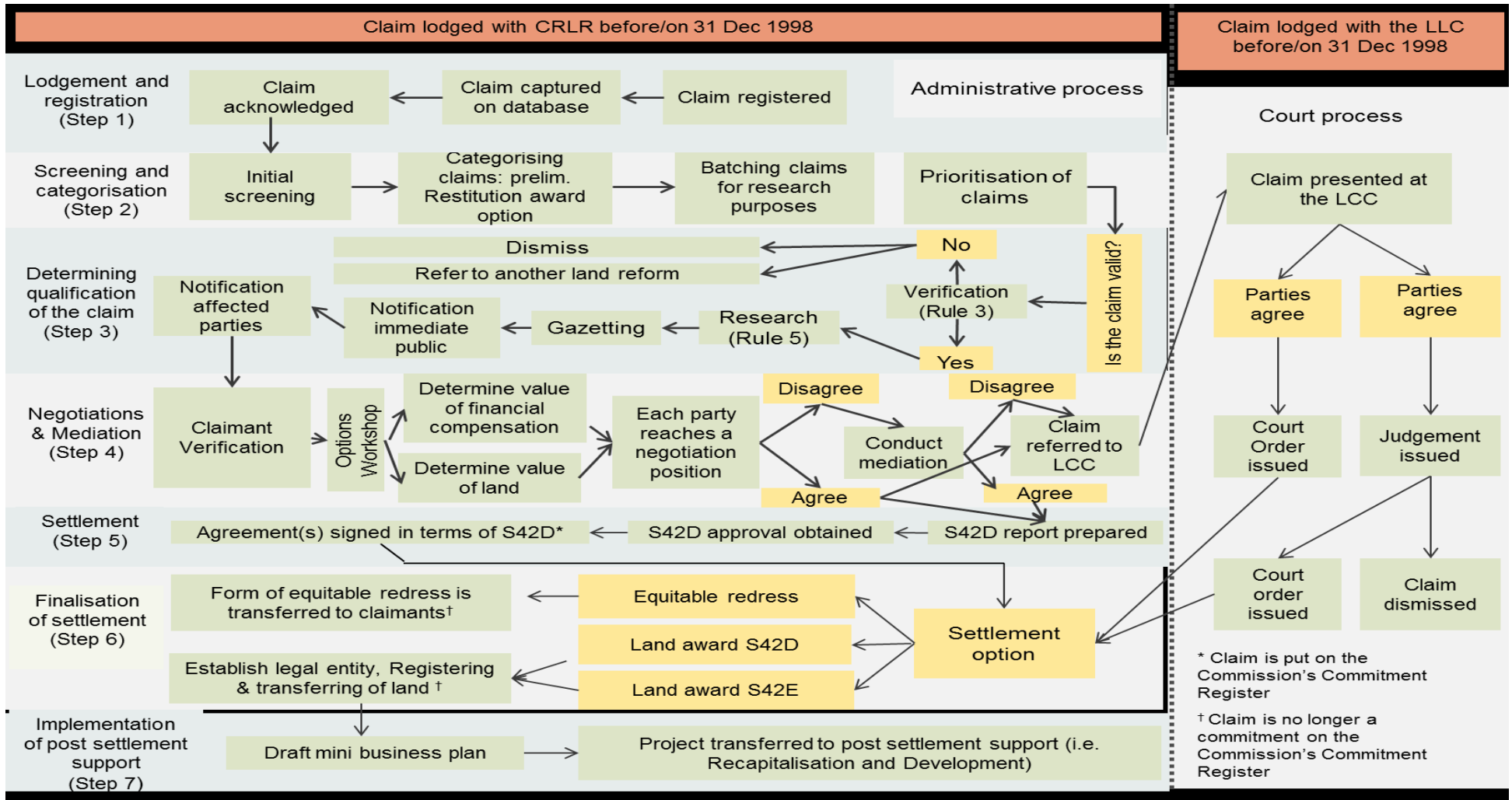


Figure 2.2: Detailed process flow for the Land Restitution Programme
 Source: Genesis Analytics (2014:6)

2.3.2 Research and settlement of land claims at the CRLR in line with targets

It was alluded to by Kepe (2012:391-409) that land restitution has various functions, including meeting the objectives of the economic, political and social goals of the beneficiaries to this programme. This can only be achieved by settling the land claims and meeting set targets. The importance of returning land rights to land claimants is not disputed. In line with the South African context, land restitution has a broader role to play in promoting justice and reconciliation between different races that were previously in conflict with each other (Hall 2004, cited in Walker 2012:20). The government estimates that more than 3.5 million people were the victims of racially-based land dispossessions and forced removals during the years of segregation and apartheid (Walker 2012:21).

As mentioned in Chapter one, various authors have argued that the settlement of land restitution has been slow and faces numerous challenges throughout South Africa in terms of meeting set targets. It is therefore imperative to understand how this programme is implemented and how it can be improved from the point of view of the people who actually encounter the complexity of the land claims processes. The fieldworkers who conduct research and work with the land claimants on a daily basis are the project co-ordinators who were selected for the purposes of this study. In the context of restoring land rights to claimants, much criticism has been reported that indicates a lack of commitment to meet the targets set for the CRLR. In light of this, the literature review attempted to identify the challenges that limit the successful settling of land claims within reasonable timeframes. The research problem that has been identified in the study emanates from these challenges and issues facing land restitution. The study is aimed at understanding the experiences and implementation of the restitution process.

According to Watcher (2010:80), it is critical for the Land Restitution Programme to be a success as it contributes to the fulfilment of a constitutional right, the protection of a basic human need of the poor masses in the country, and the reversal of the legacy of the 1913 Natives Land Act (RSA 1913). Binswanger-Mkhize (2014:267) state the failure the land reform programme would affect the economy and the many people working and living on the commercial farms. In terms of land restitution, redress of the imbalances in land ownership created by the past apartheid would not be addressed. For this programme to succeed there needs to be radical change in implementation within the current legal system and, intensive participation from officials and the land beneficiaries (Binswanger-Mkhize 2014:267).

2.4 Contesting the re-opening of the lodgement of land claims

Amongst others, one of the outcomes of 53rd ANC National Conference (31st January 2013) was the re-opening of lodgment for new land claims. The CRLR recommended the reopening of lodgment for a period of five years commencing in 2014, as well as exceptions to the cut-off date of 19 June 1913 so as to accommodate the Khoi and San descendants, heritage sites and historical landmarks (ANC, 2015:10). The original cut-off date for the lodgement of land claims was 31 December 1998; however the Act was amended in 2014 to change the cut-off date to 30 June 2019. On 1 July 2014 the Amendment Act came into effect, providing for the re-opening of lodgement of land claims until 30 June 2019 (RSA 1994). As at 27 August 2015, a total of 92 271 claims had been lodged with the Commission. Of those, 86 315 indicated financial compensation as their preferred option or the nature of the right or equitable redress being claimed (DRDLR 2015:6).

The DRDLR has noted that the re-opening process cannot be divorced from the challenges currently facing the CRLR in carrying out its existing mandate. In the past, claim forms have been lost, and there have been delays that have left the claimants frustrated. Some claimants have died waiting for restitution, which has contributed to the disputes within communities and other stakeholders involved in the process. According to (DRDLR, 2015:2) there were complaints from the public regarding the initial date for opening land claims in 1994, amongst the complaints was the lack of communication regarding the lodgement of land claims. Furthermore, most of the rural poor people had no access to media to see or hear about the lodgement dates which led to parliament passing the amendment of the LRA (2014). The LRA (2014) makes provision for the Minister to assist with alternative options for the people whose land claims are excluded in terms of the LRA (1994). It is suggested that this option could be used for claims that were unjustly excluded from the restitution process. Recommendations to the Minister can be made to include those claims in terms of Section 6(2) (b). Programmes such as land redistribution and housing and settlement upgrade programmes could also be included in terms of utilising this mechanism. Moreover, culturally and historically significant sites could also be recognised and accommodated through existing laws, policies and programmes. The Bill provides neither evidence nor arguments on the reasons for not using these mechanisms to provide alternative remedies.

Interestingly, and in line with the above, the LRA amendment was challenged in the Constitutional Court by the Land Access Movement of South Africa (LAMOSA), the Association for Rural Advancement (AFRA) and other communities (DRDLR 2016). The Land Access Movement of South Africa and Others vs. Chairperson of the National Council of Provinces case was heard by the Constitutional Court on 16 February 2016 (DRDLR 2016).

The amended LRA (RSA 2014) was challenged on the constitutional obligation of facilitating meaningful public participation, and that section 6(1) (g) is unconstitutionally vague. The court found that the CRLR must ensure that priority is given to claims that were lodged before the 1998 deadline that were not finalised when the lodgement was reopened. The court also found that the CRLR is not clear on how to deal with the new claims, and that the new claims will frustrate the 1998 claims. The court thus stipulated that the CRLR must ring-fence the old claims which must not be affected by the amendment. LAMOSA and others argued that although the NCOP held the consultations required in terms of the Constitution, they were superfluous. The amended LRA (RSA 2014) was thus found to be invalid on the basis that the NCOP failed to meet the constitutional standard for public consultation on a Bill of that nature. It gave Parliament two years to re-enact the law and said that all land claims lodged from 1 July 2014 until the date of the judgement are still valid, but will only be considered when Parliament passes a new LRA.

According to RSA (2015:12), the South African Human Rights Commission (SAHRC) conducted research on the CRLR which revealed that there are challenges related to the roles and mandate of the CRLR and the DRDLR, including that the link between the two takes away the independence of the CRLR. In addition, there is an unreliable filing system, poor communication in terms of enquiries and complaints, and a lack of a monitoring system. It also revealed that the reopening of land claims will contribute to further delays on the existing land claims. In relation to these findings, the department developed a strategic plan for the period 2015-2020 and presented a performance plan for 2015/2016. It further acknowledged the research findings and indicated that it is working toward improving the pace at which land claims are settled.

2.5 CRLR Performance Plan

Table 2.4 displays figures from the 2013/2014 financial year as shown in the Annual Performance Plan of 2015/2016. By the end of March 2013, 77 334 land claims were settled and 59 758 land claims were finalised. The report also indicates that the restitution programme had benefitted 1.8 million individuals.

Table 2.4: Tabular representation of the Annual Performance Plan 2015/2016: Commission on Restitution of Land Rights

| 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 | 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 | 16 394 | 15 161 | 764 358 | 339 925 | 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 | 79696 | 77 334 | 3 011 315 | 1 443 078 | 10 805 290 | 6 085 090 | 368 090 | 1 803 984 |

Source: RSA (2015:13)

The table presents the milestones achieved in terms of service delivery by the CRLR, however Hall (2011:21) argued that the unsatisfactory results from the land restitution programme has had an impact on the fight against poverty, social exclusion and inequality, which has resulted in various demands by some political parties to expropriate white owned farms without compensation. Moreover, state bureaucracy has been viewed as one of the issues that retarded

the restitution process considerably between 1995 and 2000. As noted by Walker, Hall, Bohlin and Kepe (2010:10), the challenges that are facing the restitution programme go beyond those merely related to the performance of the employees. Many disputes arise over land relating to boundaries and family disputes regarding who should benefit from the settlement of land. In general, land claims and land reform have a relationship in terms of their goals, which is essentially to restore land rights or other forms of restoration as stipulated in the Restitution Act to those dispossessed of land rights (Walker *et al.* 2010:10) cited in (Hall 2011:8).

2.6 Organisational theories for land restitution service delivery

Various scholars have provided different theories related to public administration, which allows researchers to explore these in relation to their studies. A theoretical framework provides the basis for the study and guides the researcher on how the research should be directed and the focus that it should have (Kumar 2011:52). This researcher considered a number of theories to guide this study. The main theories considered were Burton's Needs Theory (Burton 1995: 155) cited in (Ramsbothman *et al.* 2011:15). McKinsey's 7S (Ravanfar, 2015:7-9) and Lipsky's (2010) Street Level Bureaucracy Theory. Each is discussed in turn, with the latter being the theoretical framework of choice.

2.6.1 Burton's Human Needs Theory

John W. Burton's Human Needs Theory argues that when a basic human need is not met, especially on issues which are non-negotiable regarding basic human needs deprivation, disputes and conflicts will arise and are bound to cause a public outcry and rage (Rubenstein 2001:47). The Constitution of the Republic of South Africa of 1996 (RSA, 1996) provides for the right to access land, in particular with regard to land restitution to restore land and compensate those who lost their land ownership. Therefore, one can infer that land is a basic human need. The challenges experienced in particular with land restitution, as indicated in the literature, affects achieving that constitutional mandate and delivering services in the form of land restitution. This study captures the views of Project Co-ordinators at the RLCC who work directly with the public as fieldworkers, who also makes decisions regarding the investigations pertaining to the claimed land or land under investigation. PCs can thus be seen as facilitators of human needs through land restitution.

2.6.2 McKinsey's 7S Framework

Ravanfar (2015:7-9) described McKinsey's 7S framework, which is illustrated in the diagram below, as a theory that ensures the interrelations of the organisational processes. It was developed in the 1980s by McKinsey consultants Robert Waterman, Tom Peters and Julien Phillips. The theory posits that for an organisation to perform well, all the seven elements of this model must be aligned and it can be used as a strategic planning tool. The model focuses on internal elements interrelated to shared values such as strategy, systems, structure, style, skills and staff.

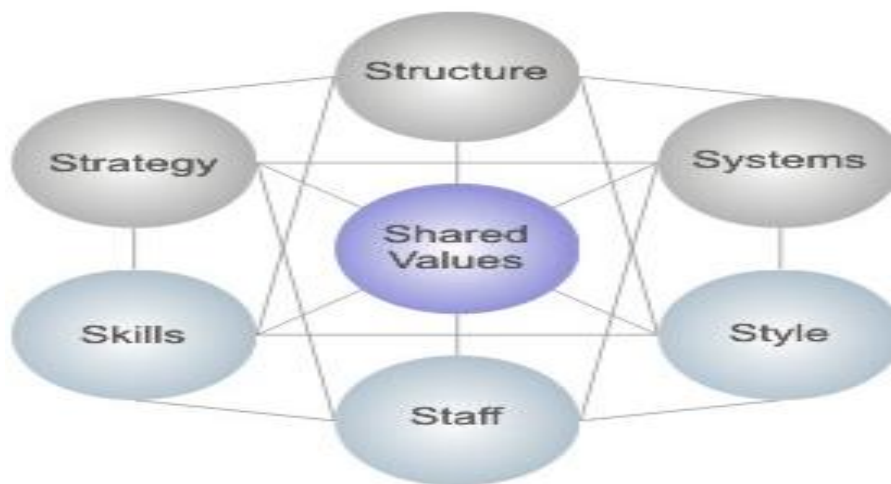


Figure 2.3: McKinsey's 7S Framework

Source: SAHRC (2015:7)

The elements of McKinsey's 7S framework must be aligned and interlinked within an organisation in order to address the issues of operational effectiveness. The CRLR should be able to improve the internal work processes and the interrelations thereof with the proposed management model.

2.6.3 Lipsky's Street Level Bureaucracy

Lipsky's (1980) theory of street-level bureaucracy was made popular in 1980 (Evans 2011:16). Street Level Bureaucracy (SLB) is defined by breaking down the two terms and explaining street level as the public employees who work directly with the public and bureaucracy as the public employees, who are also referred to as the front-line workers. SLB determines how a policy is implemented in practice, which has created a growing interest among scholars of public administration and public policy over the years (Lipsky 2010:5), cited in (Scott 2014:29). Evans (2011:32) defined street-level bureaucrats as government employed people or persons that: 1) are constantly called upon to interact with citizens in the regular course of their jobs; 2)

have significant independence in job decision-making; and 3) potentially have a significant impact on the lives of their clients (Evans 2011:32). As public officials, SLBs are subject to expectations that they will treat individuals fairly and impartially (Lipsky 2010:9). They are further subjected to expectations that individual cases will be treated on their unique merits (Lipsky 2010:9). Managers are expected to provide the necessary support in complex situations and where disputes arise.

In research conducted by Considine and Lewis (1999:472) cited in Bradby (2012:26), the findings discovered three categories of front line bureaucracy, which entailed network bureaucracy whereby networks of various organisations working interdependently in order to create a service system., market-corporate bureaucracy known as new public management which includes which allows managers to freely make decisions related to enhancing entrepreneurship within their scope of strategic planning. Lastly, Procedural bureaucracy also known as public administration is the classical Weberian type that entails standardised work procedures and procedures that should be followed (Du Gay 2000:7 cited in Evans 2011:6). Bovaird (2007:858), cited in Ryan (2012:8), asserts that front-line workers are responsible for the management of relationships with service users and other stakeholders in order to achieve the final product. Service users should be treated as active participants and as partners of service delivery (Ryan, 2012:8). As a result, PCs need people management skills, so that the negotiations and investigation processes are achieved through interactions and in order for front-line workers to achieve their objectives there should be relations with the clients who are the land claimants in this regard and with the various stakeholders who influence the outcome of the project hence the concept of co-production. In terms of co-production, Jung (2010:441) describe this concept as a process whereby the user of the service influences the service in a certain manner, i.e. the land claimants who are the receivers of the public service delivered by the PCs have to co-operate and provide the necessary information in order to settle a land claim. If this is not done they would be contributing to the lack of service delivery, disputes are a major blockage to service delivery (Jung 2010:144).

Hoppe (2011:178) argues that public participation is required for successful relationship management for the front- line workers. However, strategies that address the representation of citizens in democratic politics should include the front-line workers in order to ensure that they are involved in the “evolving community of practice” (Hoppe, 2011, p.178). In contrast, Dryzek (2000:129), cited in Sommerville (2015:10) argues that democracy enhancement should be applied in line with government itself. This is different in South Africa given the purpose of land reform law and policy. PCs as street- level bureaucrats or front-line workers contribute to the broader realm of democratic constitutionalism and not just democratic politics as the author

would have it, rather, within the democratic governance of land restitution. The role of PCs includes consulting and investigating land claims through the participation with land claimants and negotiation with the landowners and other stakeholders. Therefore, citizen participation in undoing the wrongs of land dispossession is an important aspect of settling and finalising land restitution projects.

Front-line workers are active contributors to policy making and interpreting policies, however the complexities within communities such as disputes, lack of information uncooperative individuals may influence the front-line workers to develop their own rules and disregard the policies. Maynard-Moody and Musheno's (2012:17) research revealed that front-line workers such as police officers and counsellors mostly do not refer to policy when using their discretion on public service delivery. However, PCs are obligated to implement policy when exercising discretion during the land claims process.

2.6.3.1 Street level bureaucrats as policy makers

According to Bovens and Zouridis (2001:2), cited in Ellis (2011:8), contact between public servants and citizens involves individual transactions, therefore, SLB's generally deal with large organisations that may handle thousands of individual cases on the basis of administrative routines. Public servants hold a very important position with regard to these interactions, and are required to apply regulations and administrative routines to concrete situations. For this reason, street-level bureaucrats use policy in conducting their everyday duties. The authors further noted that most public service workers are street level bureaucrats in the sense that they are public employees who interact with the public, "policy comes alive in the daily practice of street level bureaucracy" (Bovens and Zouridis 2001:4), cited in (Ellis, 2011:12). Furthermore, Bovens and Zouridis (2001:6), cited in Ellis (2011:14) note that, regardless of rules and regulations, street level workers have to comply with the reality of experiencing complexities and a wide range of challenges when conducting their daily duties. At the other end of the spectrum, Rothstein and Stolle (2001:11), cited in Jordan and Drakeford (2013:80), point to the importance of establishing a government that is credible and has a reputation of trustworthiness in order for other organisations to have faith in that government's officials - in particular that street level bureaucrats will honour their commitments. Evans (2011, p. 369) argues that policy implementation approaches can be divided into two categories, namely: bottom-up theorists, who view policy as being developed by front line workers in an environment with tensions and demands; and top-down policy theorists, who consider policy as a blueprint applied by organisational bureaucracy. Therefore, at the street level, discretion is core in public welfare bureaucracies which are required to implement policies (Evans 2011:369).

2.6.3.2 Discretionary power of street-level bureaucrats in constitutional states

Bovens and Zouridis (2001:3), cited in Ellis (2011:31), notes that from a European perspective, countries with a continental legal tradition such as the Netherlands, Germany and France introduced control over and restricted the power of street-level bureaucracies in various ways, such as ensuring that organisations conduct duties in line with the generally prevailing laws. Legal principles which govern actions undertaken by public authorities have curbed the discretionary power and restricted the activities of street level bureaucrats.

Evans and Harris (2010:21) contend that, a public servant has the ability to use their discretion whenever their power allows them to choose the best course of action or inaction. Discretionary decisions have to be made by the front line workers in implementing and interpreting policy, because they interact with the clients and are therefore familiar with their concerns and are able to decide on a course of action (Molander and Grimen 2010:272). SLB theory was used by Lipsky (1980) as the common denominator for public servants such as the police, schools, welfare departments and other organisations interacting with a with the public and have wide discretion over public services.

According to Nickels (2007:5) cited in Schulenberg (2015:11), the discretion of front-line workers can be viewed as freedom to conduct their work without constant guidance and rules which may become a barrier. Evans (2011:273) asserts that managers are required to trust in SLB's professional competence and to motivate them by allowing SLBs to use their discretion when appropriate and in compliance with law. Grimen (2010:272) alludes to this by stating that, professionals are capable of making reasonable decisions and have the capability to pass judgments. In line with the use of discretionary power, Lambley (2010:6-19) infers that social workers appreciate the confidence shown in them by local management so that they can use their discretion in situations which require that they give professional guidance and support to their clients, without following the traditional hierarchical control.

2.6.3.3 Theoretical framework for this study

In this study, street level bureaucracy has been identified as the most suitable theoretical framework. Lipsky's (1980) theory is relevant in analysing case scenarios where public servants work directly with the public in their daily activities and it relates to the duties of the PCs who are expected to make important discretionary decisions in the execution of their daily work. Therefore, one can reach a comparison on the work settings of PCs in line with the theory. The PCs can be seen as a constitutional liaison between the South African government and the citizenry to carry out land restitution service delivery to citizens as mandated by the Constitution (RSA 1996). Figure 2.4 displays the four elements of the theoretical framework.

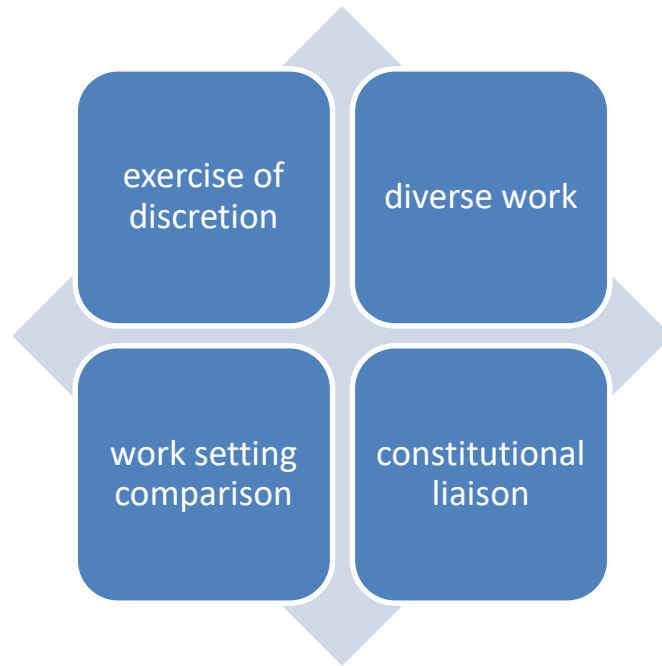


Figure 2.4: Theoretical framework components of street level bureaucracy

Source: Lipsky (2010:5)

Two fundamental aspects of street level bureaucrats' duties are a high level of discretion and relative autonomy from organisational authority. Lipsky (2010:14) argued that public policy is best understood through the eyes and daily experiences of SLBs; the strategies they devise deal with uncertainties and become public policies - the resolutions do not come from policy-makers seated in legislature or high office who have no contact with the grassroots. Therefore, the foundation of SLB theory complements this study, as the participants, their duties and the nature of their work are in line with the four elements of the theoretical framework.

2.7 Practical components of the study

The officials responsible for driving the process of land restitution include project officers, senior project officers, project co-ordinators and project managers, as indicated in the organogram of the CRLR in Pietermaritzburg in Chapter one. However, this study focuses on the project co-ordinators' perceptions and experiences of land restitution as they are exposed to fieldwork and middle management. Important elements for this study are shown in figure 2.4.

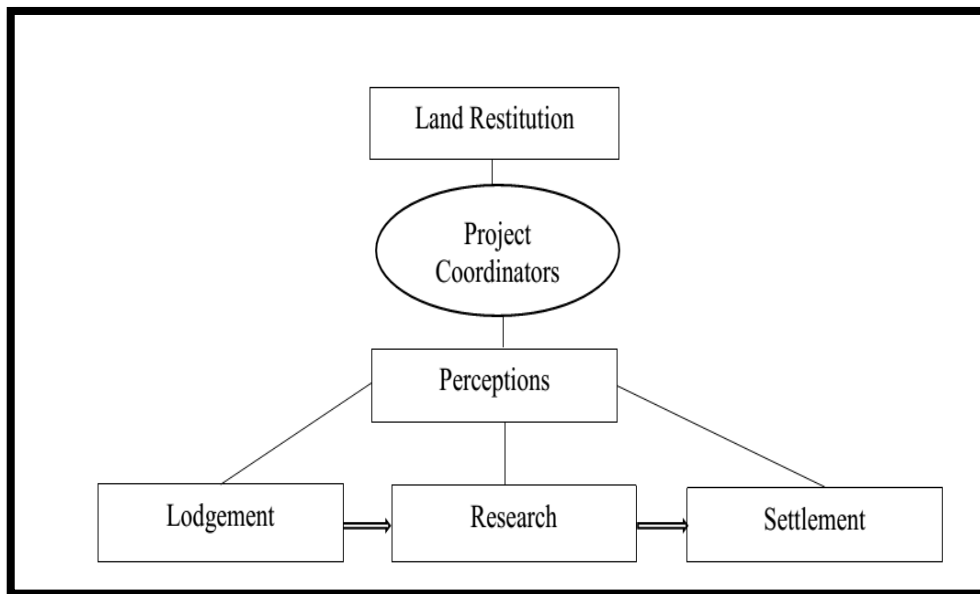


Figure 2.4: Diagrammatic representation of important elements for this study

Source: Adapted from the Restitution Act No. 22 of 1994

Rungasamy (2011:5) maintained that post-settlement support is crucial for development. Therefore when all the pre-settlement milestones have been finalised, government has an important mandate which is not only restricted to the redistribution of land or making land more accessible, but to support the projects going forward. The support depends on the project - whether it is agricultural support or support on other business projects. The recapitalisation unit is responsible for empowering beneficiaries of land to create an effective support strategy and model that can ensure that sustainable development takes place in the deep rural areas of the country (DRDLR, 2015).

Table 2.4 highlights of the performance plan of the CRLR per province for the 2015/2016 financial year, one can see that KZN has spent the largest amount on acquiring land even though the total number of claims and claims settled are not the highest.

2.8 Conclusion

Within this chapter, discussions were presented in line with the available literature on the research topic. The historical context of land reform was discussed, as was how the new democratic government introduced land reform and its programmes to address the imbalances of the past in terms of land ownership.

The Constitution of the Republic, being the supreme law of the country, provides the basis for adopting other relevant legislation to address the human right of access to land. Theories underpinning this study were reviewed and analysed, which resulted in identifying the relevant theoretical framework to guide this study.

Chapter three will discuss the research design, research methods and the research strategy that this study used in order to fulfil the research objectives and answer the research questions posed in this study.

CHAPTER THREE: RESEARCH DESIGNS AND METHODS

3.1 Introduction

This chapter presents the research methodology used in this study and discusses the philosophical worldview and theoretical framework underpinning the research. The research strategy used is examined and the case, site and participant selection is presented in line with the research problem. Sampling is an important element of research, thus it is discussed in detail within this chapter. The data collection tools, which ensured that the relevant data were collected, analysed and of high quality, are discussed in the chapter. The chapter then presents the research reflexivity, the limitations of the study and the ethical considerations.

3.2 Research design

According to Holloway (2010:4), research methodology can be defined as a guideline of theories and principles upon which research methods and research procedures are based. Kumar (2011:105) maintained that research methodology includes the design, setting, sample, methodological limitations, data collection and analysis techniques in a study. Furthermore, methodology speaks to the means of obtaining, organising and analysing data. Decisions relating to research methodology are determined by the nature of the research question. According to Creswell (2014:4), the commonly used research designs are qualitative, quantitative and mixed method.

May (2012:4) defines qualitative research as “an approach for exploring and understanding the meaning individuals or groups ascribe to a social or human problem”. This research adopted a qualitative research design in an attempt to answer the main question. May (2012:4) asserts that a quantitative research design is reliant upon measurement, counting and the use of various scales with very limited interaction with participants, thus due to the nature of the research problem it was unlikely that the quantitative research design would achieve the research objectives of this study. The use of numbers can be advantageous for some studies as numbers can be analysed using statistics, tables and graphs; however numbers do not provide the richness of data that qualitative research aims to achieve. Bless *et al.* (2013:58) asserted, meanwhile, that the mixed method approach combines the advantages of quantitative and qualitative research. It is not a simple process however, as it can occur at different points in the research.

The purpose of the study was to ascertain what challenges the project co-ordinators face in processing land claims. Qualitative research, in its broadest sense, refers to research that elicits participants' accounts of meaning, experience or perception (May 2012: 7). Creswell (2014:4)

alluded to the fact that qualitative research is a means for exploring and understanding the meanings that individuals or groups ascribe to a social or human problem. This study adopted a qualitative research design in order to gain an in-depth understanding of the social phenomenon relating to the land restitution process, the work experiences of the project co-ordinators, and the challenges thereof. Holloway (2005:4), cited in McLeod (2011:18), argued that researchers who use qualitative research adopt a person-centred and holistic perspective to understand the human experience, without focusing on specific concepts. Kumar (2011:32) was of the view that the original context of the human experience is unique, and that rich knowledge and insight can be generated in-depth to present a picture of the participants' reality and social context. These events and circumstances were important to the researcher. Kumar (2011:40) further noted that qualitative research requires the researcher to be a good listener, flexible, non-judgmental, honest and friendly. Qualitative research is a form of content analysis addressing a range of approaches. It includes various advantages such as allowing the researcher to have an in-depth understanding of human emotions, which could range from pain to rejection, anger and powerlessness, depending on the nature of the research question.

This study explored the realistic experiences of public servants through the qualitative research design, however it is noted that the study did not cover all nine land restitution offices. Nevertheless, the experiences of PCs in KZN may be used by the other land restitution offices due to the fact that the nature of the work is similar in all the provinces; they only differ in culture.

3.3 Philosophical worldview

Wiggins (2015:2) is of the view that the term "worldview" is often used to emphasise a personal and historical point of view, and that the two concepts "philosophy" and "worldview" are interrelated. Wiggins (2015:2) added that talking about a "philosophy" in its broadest sense refers in fact to a worldview. According to Creswell (2014:6) there are four proposed worldviews, which include the philosophical also known as the post-positivism world view, the transformative or pragmatic worldview and the constructivist also referred to as the social constructivism worldview.

Table 3.1: Philosophical Worldviews

| Post positivism worldview | Transformative also known as Participatory or Advocacy worldview | Pragmatic worldview |
|--|---|--|
| The post-positivism worldview is concerned with so-called objective findings, but acknowledges that such findings may not be absolute, unlike positivism. | The transformative worldview, also known as the participatory/advocacy worldview, believes that research inquiry needs to be intertwined with politics and political change in order to confront social oppression, and may contribute to changing lives. | The pragmatic worldview arises out of actions, situations, and consequences rather than antecedent conditions. This method can work for qualitative and quantitative research. |
| Constructivist worldview | | |
| The constructivist worldview, also known as social constructivism, is viewed as an approach to qualitative research. It is believed by social constructivists that people try to find meaning about the world they live and work in. Furthermore, individuals develop subjective meanings to their experiences, which are directed toward certain objects or things. | | |

Source: Adapted from Creswell (2014:8, 9, 10)

In line with Creswell (2014:8), the researcher adopted the constructivist worldview for this study as it links the philosophical, psychological, sociological, and physiological in order to create a better understanding of the phenomena under consideration. This study explored the issues that facilitate or hinder the delivery of land restitution, hence the suitability of the selected research method. The researcher was reliant on the participants' views with regard to their unique work experiences in order to address the research question, which was achieved through asking open ended questions during the interviews. Moreover, the researcher focused on specific settings in which the participants work, in order to understand the historical and cultural settings. Subsequently, the researcher's aim was to listen carefully during the interviews and focus group discussions, and for the participants to share their different views. Furthermore, interactions amongst the participants through the focus group discussions allowed for information sharing, while the interview questions allowed for in-depth discussions. The constructivist worldview as used in this study is shown in Figure 3.1.

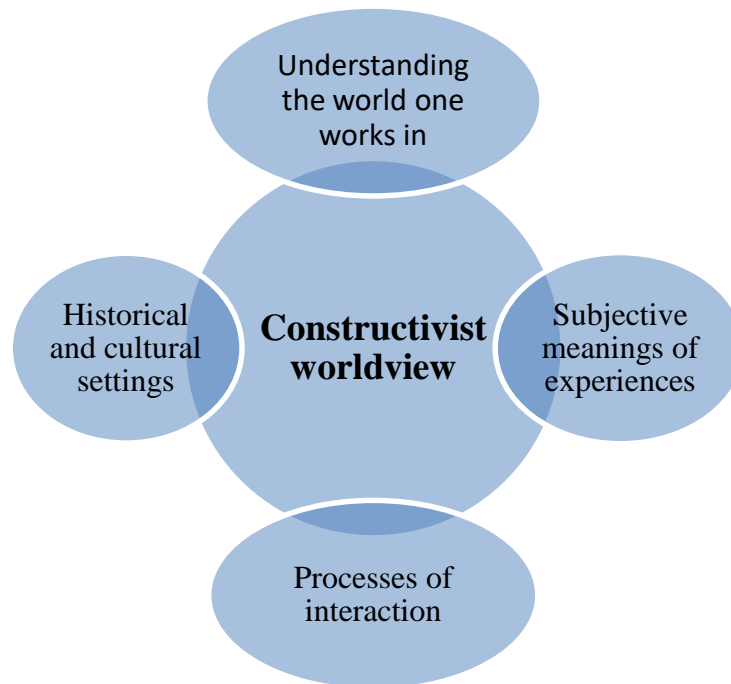


Figure 3.1: Diagrammatic representation of the constructivist worldview underpinning this study

Source: Adapted from Creswell (2014:8)

The qualitative research design and the constructivist worldview underpinning the study were executed through the case study strategy, which is discussed next.

3.4 Research strategy: Case study

Wedawatta, Ingirige and Amaratunga (2011:1) stated that a research strategy refers to an overall plan for a study that includes the processes through which the research is conducted. Some of the main research strategies include case-studies, experiments, surveys, action research, grounded theory and ethnography. For the purpose of addressing the research objective, this study took the form of a case study. Bless *et al.* (2013:130) concurred with the above, stating that a research strategy describes the milestones in which the study intends to follow; it is the overall plan and helps the researcher to address the research question. Furthermore, a research design relates directly to the answering of a research question, as research is a project that occurs over an extended period of time (Bless *et al.* 2013:130), therefore a clear plan or design is used as blueprint for the researcher. Several authors have advanced definitions for case studies which are consistent with the above. According to Yin (2014:4), a case-study is an exploration of a bounded system or a case over time through detailed, in-depth data collection,

involving multiple sources of information that is consistent with context. Yin (2014:4) further maintained that a case study critically aims to understand a complex socio phenomenon, and allows the researcher to gather a holistic and a meaningful account of real life experiences, which include behaviour and managerial processes. This study, therefore, explored the experiences of the project co-ordinators in the Regional Land Claims Commission in Pietermaritzburg through a qualitative case study strategy.

Merriam (1998: 9) cited in Synder (2012:1) said that a case study is an “examination of a specific phenomenon” such as an event, a process, a programme, an institution or a social group. However, Stake (2002:438) cited in Sinkovics (2012:15) argued that a case study is both a process of inquiry about the case and the product of that inquiry. By using the case study approach the researcher was able to conduct a qualitative inquiry; this approach assisted the researcher to deal with a variety of evidence, from interviews to documents and observations. Furthermore, one of the advantages of a case study is the ability to gain an in-depth understanding of the meaning and situation of those involved, the research interest being the process as opposed to the outcome, in context rather than specific variables, and in discovery compared to confirmation (Laws and McLeod. 2011:18).

The establishment of a unit of analysis is important for a case study strategy. According to Bless *et al.* (2013:133), the unit of analysis may be a person or an object from which the social researcher collects data, or even a project or a process; this may be at a micro, mezzo or macro level, meaning that it could be an individual, family, group, organisation, community, or nation. This study identified the land restitution implementation process as the unit of analysis. This included the settling of land claims for individuals, families and communities.

3.5 Case, site and participant selection

In this sub-section, the identification of the case context, site and participants is discussed, and the selection justified.

3.5.1 Case context selection

Seawright and Gerring (2008:294) cited in O’Leary (2014:194) maintain that case selection is the responsibility of the researcher, and by choosing a case the researcher can set the agenda for studying that case. There is a relationship between the unit of analysis, case analysis and the case selection in case study research, as opposed to in cross-case analysis. When the focus of the research is on a few instances of a broader phenomenon, case selection is rarely separated from analysing the case. This study aimed to investigate the experiences of PCs in the

implementation of land restitution projects. The RLCC-KZN office in Pietermaritzburg was selected as the case context because it has a variety of land claims that are unique and consist of various complexities. The land claims vary from urban to deep rural land claims, and there are many communities in the different district municipalities within KZN such as Vryheid, Amajuba and eThekweni, amongst others, who have lodged land claims in Pietermaritzburg. The selection of this case context will shed light on the implementation of the land claims process, which is the unit of analysis.

3.5.2 Site selection

The researcher had the responsibility of selecting the exact location for the purposes of the study, and the Pietermaritzburg (PMB) Land Restitution Office based at 200 Church Street was selected. There are 14 lodgement offices throughout the country, with two in KZN (in Pietermaritzburg and Vryheid), however the PMB office is the main office in terms of processing land restitution claims. The PCs who were the research participants for this study were based at the selected site. The participants were responsible for the research and settlement of both rural and urban claims in the various surrounding KZN districts and local municipalities.

3.5.3 Participant selection

The careful selection of study participants is informed by crucial factors that guide a study, such as place of residence, if it is a rural or urban setting, and the position that they hold in society. In this case the experience of the respondents was one of the key factors in participant selection, as well as their exposure as street-level bureaucrats working with the rural and urban communities to finalise their land restitution claims. The selected participants needed to know what is going on in their communities in terms of land claims, and were able to provide insights into the nature of the problems and give recommendations.

The researcher identified the research participants after various consultations regarding the research topic with some members of management within the organisation and at the national level. In order to recruit participants who would provide the research with rich and full information, it was decided that although RLCC-KZN consists of project officers, senior project officers and project co-ordinators, PCs should be selected on the basis of their experience within the restitution programme. PCs are exposed to supervision as middle managers, and at the same time they conduct the fieldwork at the grassroots level just like the other project officers. Table 3.2 provides the detailed roles and responsibilities of the research participants.

Table 3.2: Roles of the PCs at RLCC-KZN

| Roles and responsibilities of PCs at the RLCC-KZN | |
|--|---|
| Milestones | Roles |
| Research | Investigations of land claims lodged with the RLCC through meetings with the claimants all around KZN as per district allocations. Conducting deeds and archival searches in order to establish the correct property description, and history of removals. PCs also conduct homestead identification and mapping of the land. |
| Verification | Verification of the claimants in order to establish the beneficiaries. |
| Valuations Settlement | Draft terms of reference to appoint professional valuers who determine the market value of the land in question, and put a value to the land Draft S42D memorandums for approval, settlement, and transfer the claim by means of land or other forms of compensation as stipulated in the Restitution Act of 1994. |
| Supervision | Supervision of operational staff levels 6-8, management of performance management. |

Source: DRDLR (2016)

3.6 Sampling

3.6.1 Sampling strategy

The recruitment of participants is a project-specific plan that assists in identifying the relevant people to participate in a study. This includes the number of people who will participate in the study, the location and the approach to be used. Sampling is the strategic process of selecting a smaller group of research participants from the larger similar group; the views of the selected portion can be accepted as the general views of the larger group Marshall, Cordon, Podder and Francis (2013:5). Elmusharaf (2012:5) stated that there is a general rule in qualitative research that says “you continue to sample until you cannot get any new information or are no longer gaining new insight”. Bless *et al* (2013:179) described two types of sampling strategies - probability sampling entails random selection which aims provides each member an equal opportunity to be selected in the representative sample, however, quantitative data has been criticised for removing the human experience. Non- Probability sampling was selected for the purposes of this study as it resonated with this qualitative study. Purposive sampling is a non-probability sampling method which entails selecting the sample using the researcher’s judgement (Marshall, *et al.* 2013:3).

3.6.2 Sampling size

The sampling population is drawn from the target population, who are those who hold knowledge about the subject matter. In this study, 36 project co-ordinators at the RLCC comprised the target population. The sampling population of 27 PCs is shown in Table 3.3.

Table 3.3: Sampling Population

| Target population of Project Co-ordinators | Actual sampling of Project Co-ordinators | Data collection tools |
|--|--|--|
| Total of 36 PCs at RLCC | 10 | Interviews |
| | 10 | Focus group 1 The first group included PCs who had long service in the Commission (5-10 years' work experience) |
| | 7 | Focus group 2 The second group included PCs who had been newly appointed (1-5 years' work experience) |
| Total sampling population: 27 study participants | | |

Source: RLCC-KZN (2016)

The actual sample for the interviews was 10 project co-ordinators, while the focus groups were divided into two groups; the first group included the PCs who had been involved with land restitution for more than five years, some of them since its inception, and the second focus group consisted of project co-ordinators who were appointed in the past five years.

3.7 Data collection tools

According to Acaps (2012:3), primary data collection is data gathered from an information source that has not been analysed before being used, i.e. it can be referred to as raw data. Moreover, it is collected directly from the respondents and is commonly collected through interviews, discussions and observations from the selected participants. Secondary data collection is described as information collected by the researcher which has undergone analysis at least once before it has been used. This may include, amongst others, journal articles published, material from the internet and media reports. Both primary and secondary data collection was used in this research. Data were collected for the literature review through published journal articles, books, media reports, and minutes of meetings, annual reports, and legislative frameworks.

3.7.1 Semi-structured interviews

There are three approaches to conducting interviews - structured, semi-structured and unstructured. This study employed the semi-structured approach due to the fact that the researcher was certain about what needed to be investigated. Semi-structured interviews incorporate carefully designed topics and questions that will prompt interviewees to provide

their views on the subject. The interviewer can also follow up on the questions with probes in order to fully address and explore the research topic. It is crucial for a researcher not to impose meaning when conducting a semi-structured interview, and to create a relaxed and comfortable conversation that will allow the interviewees to participate fully. In this case, the researcher used open-ended questions.

In-depth interviews are one of the most commonly used methods for data collection in qualitative research. Interviews were described by Kahn and Cannell (1957:149) cited in Rowley (2012:260) as “a conversation with a purpose”. In depth qualitative interviews are more like a conversation rather than a formal event of predetermined responses, interviews can be categorised as standardised open-ended interviews, and informal conversational interviews. Gubrium and Holstein (2012:20) assert that when conducting in-depth interviews, the researcher develops different topics which assists them to reveal the views of the participants on the said phenomenon. There is personal interaction involved when conducting interviews, therefore cooperation is necessary. The interviewer should also be a good listener with good personal interaction, and should be skilful in question framing and gentle probing for elaboration (Gubrium and Holstein 2012:20). Semi-structured interviews were conducted in this study, recordings were taken and the research assistant took handwritten notes. Transcripts of the interviews are attached as Appendix A.

3.7.2 Focus Groups

Botherson (1994:10) as cited in Friesem (2016:50) states that the concept of conducting focus groups originates from marketing research, however, they proliferated to various disciplines and have been widely adapted by social scientists and in applied research. Focus groups often consist of 4 to 12 participants, depending on the research and sampling. These participants are normally recruited due to commonality in the subject matter or research questions. It is the researcher’s responsibility to create a supportive environment, whereby focused questions are asked in order to create discussions to obtain differing views. Listening to one another is one of the keys to successful focus groups; it is important for the researcher to encourage the participants to express their views in a supportive environment.

Morgan (2012:173) notes that one of the advantages of a focus group is that the participants gather a greater understanding study through discussions and debates. There is also a social aspect as there are other participants to have discussions with, and they enable the researcher to explore issues as they arise in the discussions. A focus group is more reality based and the findings are more believable; moreover, the costs involved in focus groups are usually minimal and results are obtained faster. According to Morgan (2012:173) it is worth noting the

disadvantages of the focus group method, such as power dynamics which require the researcher to have the very important skill of facilitating the process smoothly. The researcher also has less control over a group as opposed to an individual, and time can also be an issue in a focus group as people tend to stray away at times in the process and lose focus on the questions being discussed (Morgan 2012:173). The focus group data transcripts are attached as Appendix D.

3.7.3 Documentary Evidence

Bowen (2009: 27-29) cited in Bell and Waters (2014:23) asserts that documents provide the researcher with data on the context and historical background of the study, which assists the researcher to understand the underlying pros and cons. Researchers have the ability to contextualise data collected from the primary sources using documents. Documents can also assist a researcher to develop relevant research questions for a study and contribute to the knowledge base of the researcher, enabling them to compare information. The documentary evidence used in this study included strategic plan documents, legislation such as the Constitution and Restitution Act, and various policies related to land. The researcher also managed to use internal documents such as presentations by the Minister. Journal articles and books provided the researcher with literature consisting of various arguments and theories.

The following section addresses and explains in detail the data analysis, which cannot be conducted without obtaining ethical clearance.

3.8 Data analysis

Creswell (2014:71) argues that data analysis is the intent of the researcher to make sense out of the text or image data, explaining it as: “It’s like peeling back the layers of an onion and then putting it back together”.

Patton (2002: 13–14) cited in Maxwell (2013:70) asserts that qualitative data analysis differs from quantitative data analysis, in that it is a qualitative data analyst’s intention to gather an in-depth, comprehensive understanding in which the analyst is an active participant, as opposed to the quantitative data analysts’ role as a dispassionate investigator of specific relations among discrete variables. Qualitative data analysis focuses mainly on meaning rather than a quantifiable phenomenon and it collects more data on a few cases, whereas quantitative data analysis collects less data based on many cases. The qualitative data analysis is much more detailed, containing rich descriptions of world experiences from the participants.

Maxwell (2013:78–81) maintains that successful qualitative data analysis requires researchers to begin analysing in the field, whilst interviewing or observing by reading notes or transcripts as part of the analytic process. A researcher has a responsibility to identify problems and

concepts that could assist them in understanding the situation. Researchers should constantly make notes in the process of collecting data in order to identify important statements and to propose ways of coding the data. Creswell (2014:99) stated that reading data to establish the overall meaning, ideas, and tones of the participants and the credibility of the information is important. Secondly, coding of all the data into segments, naming each category, using the coding process to generate a description of the setting or the people and the categories or themes for analysis, and also using the narrative passage to convey the findings of the analysis forms part of the process. Thirdly, interpretation of data (findings or results) in qualitative research is also crucial in the process of deriving meaning and understanding to the data collected.

There are three approaches which can be used in qualitative research data analysis; the summative analysis entails counting and comparisons, conventional analysis involves coding categories which are received directly from the data, and directed analysis is concerned with using theory or appropriate research findings as a guide for the initial code. These approaches assist in interpreting meaning from the data collected and follow the naturalistic approach. Silverman (2015:3) contends that qualitative research is important in understanding the participants' perceptions and social interactions and that the lack of qualitative analysis in certain studies may lead to skewed findings. Data analysis begins with the researcher reading the collected data over and over again with the intention of making sense of understanding the data, in order to develop codes and capture key concepts (Silverman 2015:3).

The process of data analysis further involves labelling for the codes, which emanates from the key thoughts or the text resulting in the initial coding scheme. The codes are then categorised depending on how they are interrelated. The categories are then used to group clusters which range from 10 to 15 (Patton 2002:1279) cited in (Maxwell 2013:104). For the purposes of this study, thematic analysis, content analysis and matrix analysis were used to analyse the data collected through the semi-structured interviews and focus groups, because of their ability to organise and give detail to the description of the data sets.

3.8.1 Content analysis

Content analysis was described by Hashemnezhad (2015:59) as one of many approaches to research, as it can be conducted in qualitative and quantitative research. It has in the past been used more in quantitative research than qualitative research, however this has changed in recent times. As noted by Hsieh and Shannon (2005:1278) cited in Hashemnezhad (2015:59), content analysis can be defined as “a research method for the subjective interpretation of the content of text through the systematic classification process of coding and identifying themes or patterns”.

Content analysis entails the systematic classification of text by analysing the form and substance of communication; ideas and meanings are discovered by analysing words and phrases within the text (Yang 2008:689). Furthermore, Scheyvens (2014:161) states that the researcher creates a coding system which enables him to observe the messages transferred which emanate from the coded text. Two important approaches make up content analysis - inductive and deductive. Deductive analysis is beneficial for a study which already has data available or has a theory to be proven or disproven, it relates more to testing or confirming hypotheses. The opposite goes for inductive content analysis, where there is lack of data for the study and it is more exploratory and open ended by its nature. For this study, inductive content analysis was used as it resonates more with the type of study undertaken.

3.8.2 Matrix analysis

Braun and Clarke (2013:159) notes that data matrix involves analysing data with diagrams which illustrates the relationship of the themes and patterns. The nature of qualitative data is disorganized, cluttered and uncontrollable. Data matrices assist with data reduction as it provides a linear ordering of data components through rows and columns that will be created, the matrices are able to assist the researcher in presenting and linking connections between specific parts of each component (Braun and Clarke 2013:159).

3.8.3 Thematic analysis

The researcher opted to use thematic, matrix and content analyses for this study. Data were collected through semi-structured interviews and focus groups, and a tape recorder was used in order to confirm that the data from the two tallied. Boyatzis (1998:vi-vii) cited in Silverman (2016:261) conceptualises thematic analysis as a qualitative process of coding underlying themes, indicators and qualities that have a mutual relationship. The themes can be described by using codes or matrices. Braun and Clarke (2006:6) cited in Willig (2013:57) contend that thematic analysis is a method used for identifying, analysing, and reporting themes within data; it minimally organises and describes datasets in detail. In addition, it interprets various aspects of the research topic.

Thematic analysis can be used to manage qualitative data more efficiently, which is crucial as a lack thereof may affect the data analysis. The themes should be able to present a holistic view of the research topic at hand and the data collected. Therefore, it is incumbent upon a researcher to ensure that they have read through the transcripts over and over again and are knowledgeable about the data collected in order to create themes which speak to the data collected from the field and from literature.

In order for the data to be trustworthy, the data analysis tools discussed above have to be utilised efficiently and effectively, therefore data quality control will be deliberated on in the subsequent section.

3.9 Data quality control

Loh (2013: 1) asserts that, when there are discussions relating to qualitative research studies, the issue of quality is one of the main concerns that arise in terms of conformability, validity, dependability, triangulation, and transferability, amongst others. Qualitative research differs from quantitative research, therefore the quality criteria of the two also differ. Qualitative research entails obtaining in-depth information and assists the researcher to gain insight from the information provided by the research participants. Research is considered credible if the research findings reflect what was collected during the semi-structured interviews and in the focus groups, and if the research question has been addressed (Whittemore *et al.* 2012:522-537). Different strategies may be used to determine the trustworthiness of qualitative research, and will be discussed below.

3.9.1 Credibility and dependability

Shenton and Dixon (2004:71-72) cited in Allison *et al.* (2012:7) state that reliability in qualitative research means that a researcher should be able to repeat the research in a similar context with the same methods and participants, and similar results or findings will be achieved. Marshall and Rossman (2016:157) argue that there will be challenges experienced by a qualitative researcher when conducting research, however, due to the changing nature of the phenomena.

3.9.2 Confirmability

According to Allison *et al.* (2012), objectivity in research depends on the use of research instruments which are not dependent on the perceptions and skills of humans. Yet he acknowledged that it is difficult to ensure that there is real objectivity, because research tools such as questionnaires are in fact designed by a researcher who is human and thus bias is inevitable. It is the researcher's responsibility to be objective about the findings of the study, which should reflect the interactions with the participants. Triangulation should promote confirmability by ensuring that the researcher acknowledges their bias. Various issues should be discussed in a research report in order to ensure confirmability, such as the decisions taken by a researcher when adopting a research method, the reasons for favouring one approach over another, and the disadvantages of the other theories.

This researcher reviewed other scholars' work in order to establish how their theories could create a baseline for the study, and found that the SLB theory by Lipsky (1980) complemented the study in terms of providing a foundation for the study. Furthermore, the researcher requested a research assistant who had no knowledge on the research topic to be part of the interviews and focus groups, and to ask questions where there was no clarity. The research assistant assisted in many instances as a person who had no knowledge about the unit of analyses. Probes and clarity were requested by the research assistant from the research participants on certain issues which provided information from a lay man's perspective.

3.9.3 Transferability

Lincoln (1995:12), cited in Zitomer and Goodwin (2014:2019), asserts that generalizability, which is usually associated with the external validity of a study, cannot be used in qualitative research. Qualitative researchers rely on rich, in-depth information, hence they require a strategy such as transferability, which can strengthen a study by enabling it to be useful in multiple cases, settings and research participants (Lincoln 1995:12), cited in (Zitomer and Goodwin 2014:2019). Scheyvens (2014:161) states that transferability is related to determining if the findings are connected to contexts of the same nature. The findings of a qualitative study are usually from a small sample, making it impossible to prove that the study findings are relevant to similar situations and populations. However, it is up to the researcher to produce rich data, descriptive and logical analysis, and interpretation (Scheyvens 2014:161). In an attempt to produce a rich data set, the researcher transcribed the data (open coding), provided each participant with a code before organising the data into categories and colour coding it. The researcher reduced the data by verifying, confirming and to qualifying the categories in line with the data and repeating the process in order identify more similar and overlapping categories. This enabled the researcher to reduce the data into further categories. Themes emerging from the study were then identified. Matrices for the interviews and two focus groups consisting of the data according to the categories will be presented in Chapter four including discussions supported by the literature and theory. One of the outcomes of the data collection was that the research participants gained an in-depth understanding of the research phenomenon through the engagements, which was a great knowledge sharing platform for them.

3.9.4 Triangulation (sources, methods and investigators)

Triangulation entails the collection of data from different sources through various data collection tools. Semi-structured interviews, focus groups and documentary evidence, amongst others, were used in this study. The main intention of triangulation is to ensure that information is cross-checked in order to confirm or disconfirm that the findings from different sources of

evidence are similar. Although findings from different data sources may converge or diverge, triangulation helps ensure that the phenomenon under study has been addressed fully (Pitney 2004: 26-28, cited in Zitomer and Goodwin 2014: 201). In this study, the researcher was able to triangulate the data collected from the two focus groups and from documented information. Similar and differing views emanated from the interview questions which provoked further discussions on the research questions.

3.10 Research reflexivity

Willig (2013:25) described research reflexivity as the ability of a researcher to provide an honest insight into their field experiences, the challenges encountered when interacting with participants, and how the researcher resolves these challenges, as this strengthens a reader's confidence in the findings of the study.

It is important for the researcher to report on their experiences collecting and conducting research and why they come to certain decisions, as this may assist and guide other researchers as to how their views influence their decisions and conclusions. The researcher has to be aware of the influence they have on the research and the research findings, which makes them aware of their biases. Reflexivity provides a researcher with the opportunity to be open-minded and learn from the phenomenon under study, without coming in with pre-determined ideas. An inquisitive and enquiring mind with the need to understand how others view the research question under study is key. According to Regoniel (2013:1), bias in research involves the researcher conducting the research in a manner that favours, leans or skews towards a certain direction. This researcher aimed to overcome any form of bias by employing a research assistant who was not employed by the office of the Land Claims Commission. The research assistant ensured that the research instruments went through a thorough review for verification. Furthermore, the researcher kept a research journal in which her experiences were recorded as they happened before, during and after the fieldwork, so as to have a source of reference that was readily available.

3.11 Limitations of the study

There are several limitations to this study. First, limited research has been conducted on land restitution, unlike the other pillars of land reform, therefore the researcher had to search for literature which discussed the broader aspect of land reform and find information from articles, books and other sources to establish connections to address the research problem, research questions and research objectives in this study. Second, there are nine Land Claims Offices in the country, however this study was only conducted in one, the Pietermaritzburg Land Claims Offices and is based on a minimal sample, therefore the representativeness of this study may not

relate to other offices. Moreover, the researcher was unable to establish if the complexities in land claims are the same in the different provinces. Third, the study was limited to the PCs who were government officials and did not hear the views of the rural communities in terms of their perceptions on land claims. Fourth, the research was funded solely by the researcher, the researcher had to provide refreshments for the participants during the period in which this study was conducted.

3.12 Ethical considerations

Ethical behaviour was defined by Babbie (2007:27), cited in Madikizela (2013:20-22), as “a set of moral principles, rules, or standards governing a person or profession“. Miller *et al.* (2012:14) commented that in social research, it is incumbent upon the researcher to uphold moral deliberation, accountability and choice throughout the research process. It is thus important for researchers to uphold the principles of ethics in employing any research, as stipulated by their institution, in order to protect the participants’ privacy. Informed consent must also be received from the participants (Neuman 2011:94).

According to DiCacco-Bloem (2012:125), there are four important ethical aspects to consider in the research process:

- Reducing the risk of unexpected harm.
- Protecting the respondents’ information.
- Effectively informing the participants about the nature of the study and what is expected from them.
- Reducing the risk of misuse of information.

According to Corti *et al.* (2000:7) cited in Leavy (2014:165), informed consent is the process whereby a researcher discloses appropriate information regarding a study to a potential participant in order for them to make a voluntary decision to participate in the study. Ethical considerations involved in the process include the researcher discussing the research topic with the identified potential participants, sharing information regarding the research question, addressing concerns, and making the participants aware of the ethical considerations that will be upheld.

This study was carried out in line with the ethics policy upheld by the University of KwaZulu-Natal. The researcher first had a meeting with the Director of Operations in the KZN RLCC office to explain to him the purpose of the study and how the researcher planned to collect the data from the employees in the organisation. The researcher then obtained a signed gatekeeper’s

letter from the Director of Operations providing access to the organisation for the purposes of the study, including access to the employees and the site (offices). The researcher completed an ethical clearance application, including the letter of permission from the RLCC, and received approval from the University of KwaZulu-Natal's Ethics Committee. During the study, the respondents signed a consent form before the beginning of every interview. This is attached as Appendix B-1 and Appendix B-2 for the focus group consent. The consent forms notified the respondents that their information would be held with the utmost confidentiality, and they were told for whom the research was being carried out and what it hoped to achieve. They were also made aware that their names would not be published with the outcome of the research. The information provided by the respondents will be stored pursuant to the UKZN research policy and guidelines.

Orb *et al.* (2001:94) asserted that qualitative research involves a relationship between the researcher and the participants. Furthermore, researchers depend a great deal on gathering data by interviewing people and making observations amongst other techniques, therefore the researcher should be able to interact with the people relevant to the study and communicate with people from different walks of life. The study was explained in English and clarity was provided where there were concerns. The main area of concern was regarding availability because of the nature of work of the participants which entails fieldwork, however, appointment times were suggested which were suitable to them.

Permission was requested by the researcher to tape record the sessions. This was welcomed by all, with only one interview participant requested further assurance of confidentiality, which was provided. The participants were willing to participate and welcomed the research topic, with some indicating that the findings of the study would assist the organisation and in turn be of benefit to them moving forward.

3.13 Conclusion

This chapter discussed the crucial points underpinning the study in order to address the research question. The philosophical worldview informing this study was the constructivist worldview, and Project Co-ordinators were selected as the participants for the study. Purposive sampling was used to select the research sample. The data were collected through semi-structured interviews and focus groups. The case study approach was used and the unit of analysis was identified as the land restitution process. The researcher discussed the various elements that were considered in order to ensure the trustworthiness of the study and the possible limitations thereof.

CHAPTER FOUR: DATA PRESENTATION AND ANALYSIS

4.1 Introduction

This chapter presents and analyses the data from the interviews, focus groups and literature review. The chapter begins by illustrating the context of the CRLR and provides an organogram for the operational unit as a brief overview of the structure within the organisation. Furthermore, the theoretical framework and philosophical worldviews guiding the study are presented. The chapter then tables the data into matrices. The matrices are an interrelation between the theoretical framework and the philosophical worldview that informed the research objectives and questions. Themes are developed emanating from the data collected, after which the data is triangulated in line with the documentary evidence and a case cross analysis follows.

4.2 Context of the Commission on the Restitution of Land Rights in KwaZulu-Natal

This study was conducted in the city of Pietermaritzburg in the UMgungundlovu district municipality in KZN. The Commission on Restitution of Land Rights offices were used for the interviews and focus groups. The province of KwaZulu-Natal is very rural, therefore the distances travelled by some of the officials to meet with communities are long and strenuous. The province consists of 11 district and metro municipalities which are serviced by the CRLR. All 11 municipalities - Amajuba, eThekweni, iLembe, Sisonke, Ugu, UMgungundlovu, UMkhanyakude, uMzinyathi, uThukela, uThungulu and Zululand - are allocated a team to work on all land claims in the districts. The officials of land restitution are based in the Pietermaritzburg (PMB) and Durban offices, however all officials working in the deep rural areas are based in PMB.

The various stakeholders involved in the restitution of land rights range from claimants to concerned parties such as legal representatives and consultants. Other stakeholders are the landowners, service providers, the private sector, other government departments, municipalities, and traditional leaders. These stakeholders are based in different districts and it is the CRLR's mandate to take the initiative to engage with the relevant stakeholders as required in certain projects because the nature of land claims may differ. The state and its officials, however, are the representatives of the land claimants, as the main objective of the department is to provide the claimants with their land rights. In terms of the land claims process there is thus no need for the claimants to appoint representatives. The Department of Rural Development and Land Reform works together with the various municipalities to achieve its objective. Figure 4.1 is a map illustrating the various district and local municipality boundaries in the KZN province.

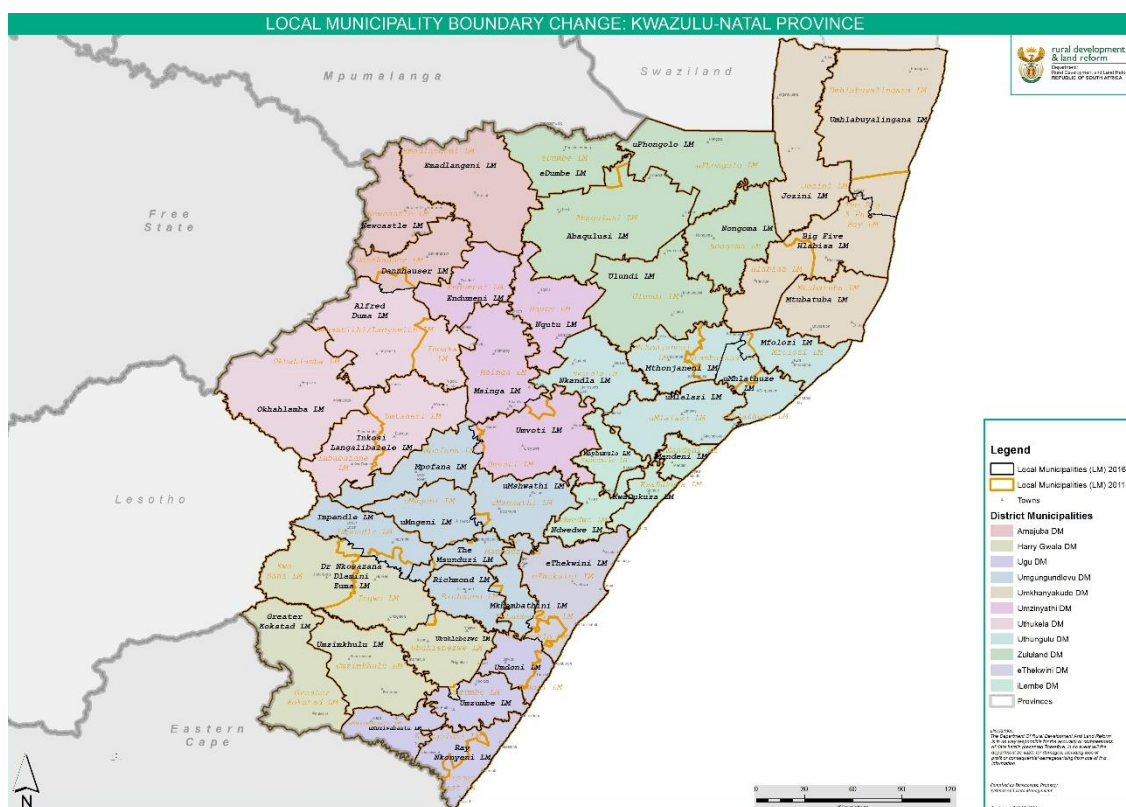


Figure 4.1: Various districts and local municipalities

Source: RSA (2016)

According to DRDLR (2016:4), the functions of the CRLR include soliciting land claims and investigating them in order to reach a resolution through the processes of negotiation and mediation. The officials responsible for these functions include the Project Co-ordinators, Senior Project Officers and Project Officers. Below is a diagrammatic representation of the operational staff organogram at the RLCC in KZN, which indicates the senior management of the office (also known as EXCO), as well as the operational staff who are the fieldworkers, and their district middle managers. The diagram is not representative of all the staff within the RLCC; it is limited to the operations directorate as the study participants were the officials known as PCs, i.e. the fieldworkers who deal directly with the public. The PCs also play a managerial role as middle managers. Figure 4.2 shows an organogram of the operations directorate in the Commission on Restitution of Land Rights in PMB.

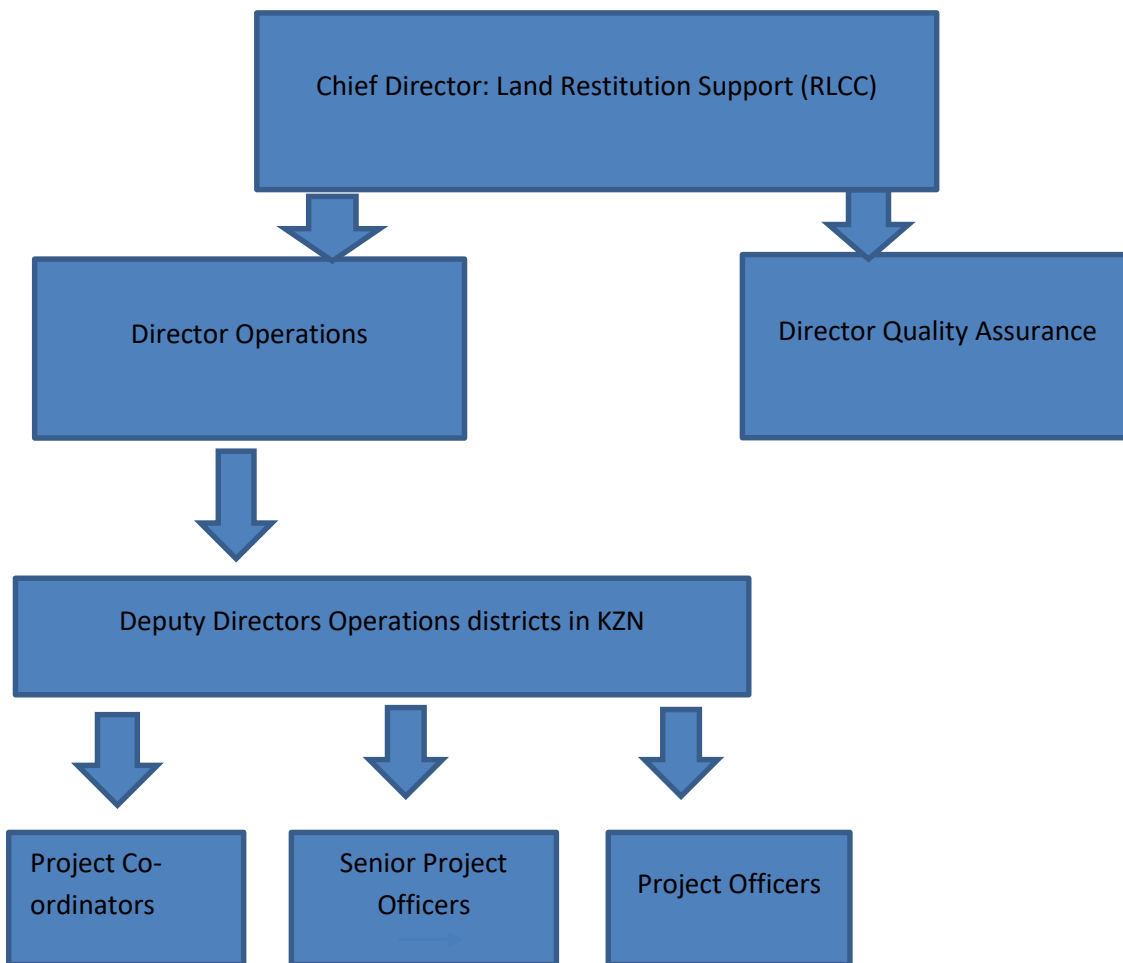


Figure 4.2: Organogram of the operations directorate in the Commission on Restitution of Land Rights in PMB, KZN

Source: Adapted from RSA (2016:1)

The study included both genders, however due to the structure of the office in terms of PCs, more males were selected than females by a small margin. The study was thus well represented in terms of gender.

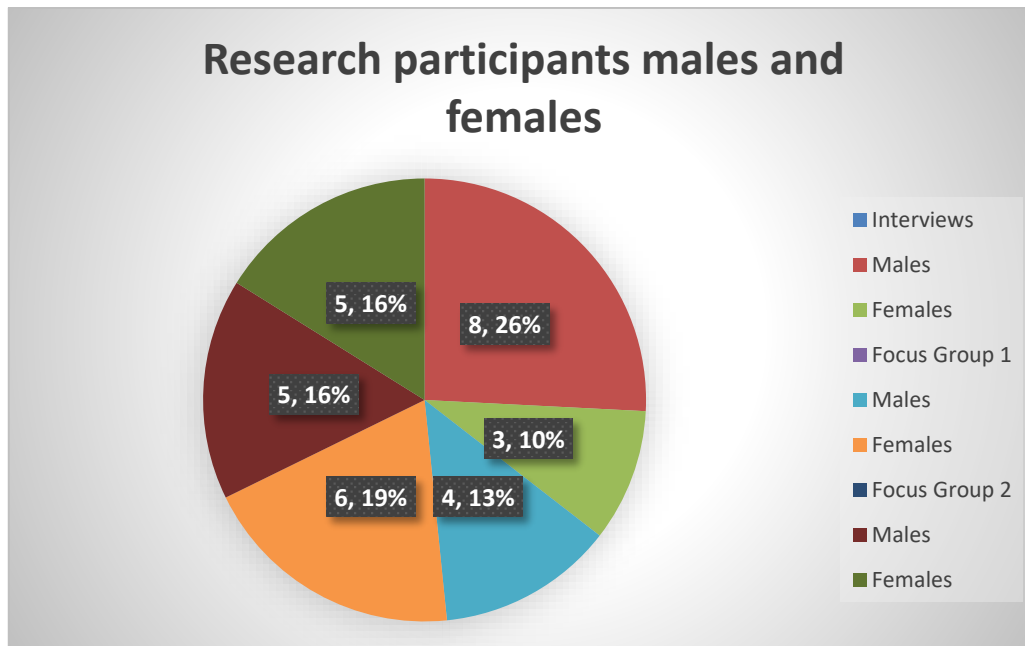


Figure 4.3: Representation of research participants in the study

Source: Researcher's Fieldwork

4.3 Documentary evidence

The primary data collected for the study demonstrate how certain systems and policies need to be reviewed for land restitution. This also resonated in the data collection, as many responses indicated a lack of proper systems and processes which hinder service delivery. The researcher analysed journal articles relating to the research question, which formed discussion topics and arguments. The CRLR's strategic plan indicated great progress in the settlement of land restitution claims, yet the data collected from the PCs show that there is room for improvement, as various challenges have been noted as hindering the process of land restitution. The Land Restitution Act No. 22 of 1994 provided the study with the legislative foundation of the CRLR and the entitlement to land restitution in terms of section 11, as well as information regarding the functions of the CRLR in section 6 which contributed to the background of the study as discussed in Chapter two.

4.4 Data analysis and findings

4.4.1 Theoretical framework and philosophical worldview

In Chapter three the street level bureaucracy framework was identified as the basis of this study. This philosophical worldview complements the theoretical framework, which revolves around the assumptions of individuals who seek an understanding of the world they live and work in, while the street level bureaucracy framework also addresses these issues by seeking the power

to exercise a degree of discretion over the services, benefits and sanctions received by recipients.

Matrix 4.1 illustrates the link between the theoretical framework supporting the study and the worldview which drives the study. Elements of the social constructivist worldview were integrated with the theoretical framework, which assisted the researcher to illustrate the alignment between the two features of the study. As Matrices 4.1 to 4.2 indicates, there are four components of the social constructivist philosophical worldview use of discretion, comparative work settings, diverse work responsibilities and constitution liaison. The data suggest that in some ways the CRLR is engineering the modification of the land reform initiative.

According to the interviewees, the CRLR acts as a representative that expedites the conversion of traditional land reform structures and building people's confidence in the government. It does this by facilitating a working relationship with the communities of claimants and the landowners. As indicated in one interview, they "consult with landowners as they have information regarding dispossessions and communities come up with the relevant information regarding the removals". This also helps the claimants and the landowners to be informed of the processes involved in their area and are updated on any amendments of laws or policies by the CRLR. Different views of individuals are an important element of both the bottom-up policy-making perspective from which the theoretical framework emanated, and the constructivist worldview driving this study. For Creswell (2014:8), the constructivist worldview, also known as social constructivism, is viewed as an approach to qualitative research in which people try to find meaning about the world they live and work in. Furthermore, individuals develop subjective meanings of their experiences which are directed toward certain objects or things. Matrices 4.1 to 4.2 display data that speak to the alignment of the theoretical framework with each of the elements of the constructivist worldview.

| Matrix 4.1: Alignment of theoretical framework on historical and cultural setting with social constructivist worldview | | | | |
|--|---|--|--|--|
| Element of worldview | Components of the theoretical framework | | | |
| | Use of discretion | Comparative work settings | Diverse work responsibilities | Constitutional liaison |
| Historical and cultural settings | “There is a level of discretion required as a PC when it comes to community issues and make minor decision in the claims I am executing.” PC2 | “The RLCC needs to provide equipment such as tape recorders because of the rural setup.” PC3 | “I would like some power to make decisions related to the claims” PC6, 8 | “Policies such as Batho Pele assist to be aware of community needs and rights and one uses their own discretion to uphold these in the processing of land restitution claims.” PC4 |
| | “All I do is to guide the communities according to my own discretion but it is not enough, needs power to make decisions.”PC5 | | “There is a level of decision making only when it comes to overlapping claims.” PC10 | |
| <p>Key to matrices FGA means the first focus group FGB means the second focus group PC means project co-ordinator The numbers following designations represent codes assigned to study participants.</p> | | | | |

Lipsky (2010:6), cited in Somerville (2015:2), noted that the importance of the SLBs or front-line workers is that they are grassroots officials who work in deep rural areas or with the public on a daily basis in order to reach the citizens who have no means to access to government services otherwise. As expected, the conditions may not be conducive as highlighted in the data collected from the interviews, however the officials are expected to improvise.

| Matrix 4.2: Alignment of theoretical framework and the social constructivist element of understanding the world in which one works | |
|--|---|
| Element of worldview | Comparative work settings component of the theoretical framework |
| Understanding the world in which one works in. | “The work setting at times are unsafe and the distances are long when one has to work in deep rural areas with angry communities and landowners.” PC1, 2, 3, 4, 9, 10 |
| | “The working conditions are not friendly and conflict between communities arise in terms of overlapping claims.” PC2 |
| | “The working conditions are not conducive because we walk on mountains without any safety gear or clothing.” PC1, 2, 8 |
| | “Government garage vehicles are not in good condition and are not serviced at times.”PC1, 2 |
| | “There is an issue of unavailability of venues to hold meetings.” PC4, 6, 7, 8 |

The other concerns raised were linked directly to the department’s responsibility to provide resources. According to Ravanfar (2015:7), McKinsey’s 7S model speaks to operational effectiveness internally in order to achieve good performance within an organisation. It highlights interrelations between skills, staff and strategy, amongst others, in order to achieve operational effectiveness. As part of this model, staff needs should be addressed and tools to conduct their work are the basic requirements needed to achieve this operational effectiveness and improve performance.

| Matrix 4.3: Alignment of theoretical framework and the social constructivist element of understanding the world in which one works | |
|--|--|
| Element of worldview | Diverse work responsibilities |
| Subjective meaning of experiences | “I deal with land claimants, communities, municipalities, Amakhosi and NGOs to research land claims and check the validity of the claims.” PC5 |
| | “Valuations are conducted to determine the market related value of the land and historical valuations for urban claims to determine if the claimants were paid enough at the time for some cases.” PC8, 7, 6 |
| | “I work in the Director Operations office whereby I coordinate valuations and assist with provincial quality assurance.” PC9 |
| | “Processing of land claims from the investigations part to negotiations and finalising the claims.” PC1, 2, 3, 4, 5, 6, 7, 8, 9, 10 |
| | “We do a S42D submission which is a document one would compile which informs the CLCC or minister for approval.” PC1, 2, 3, 4, 5, 6, 7, 8, 9, 10 |

In terms of a constitutional liaison being one of the elements of a SLB Lipsky, (2010:10), and in relation to the subjective meaning of experiences, PC8 indicated that communities assist the PCs with gathering information in the investigative stages; they assist with providing the history and the nature of rights lost, and also provide family trees and help with the mapping exercises on the property claimed.

| Matrix 4.4: Alignment of theoretical framework, processes of interaction with social constructivist worldview | | |
|---|--|---|
| Element of worldview | Components of the theoretical framework | |
| | Comparative work settings | Constitutional liaison |
| Processes of interaction | “The RLCC has provided some assistance like making resources available for the purpose of researching land claims.” PC 2, 4, 1 | “By organising people who are well grounded with the law specifically the Restitution Act come and assist and advise us and advise from National office.” PC3 |
| | | “The office has tried to have the vetting committee for the research reports whereby all the people on the route form meet to supports a report which is presented by the PCs and POs in order to fast track the approval.” PC6 |

Lipsky (2010:11) states that SLBs, also known as front-line workers (Sommerville, 2015:2), require the necessary resources in order to execute their duties successfully, therefore PCs, as the constitutional liaisons on behalf of the government, should be provided with the necessary and required resources in order to achieve service delivery and fulfil their constitutional mandate as public servants.

| Matrix 4.5: Alignment of theoretical framework, historical and cultural settings with social constructivist worldview | | | |
|---|---|--|---|
| Element of worldview | Components of the theoretical framework | | |
| | Use of discretion | Comparative work settings | Constitutional liaison |
| Historical and cultural settings | “Middle managers exercise powers, we use discretion to demand work from subordinates.” FGA, FGB | “The powers given to us are limited when it comes to making decisions.” FGA, FGB | “Land restitution is a very controversial topic in SA and as a PC one has to build trust when dealing with landowners, Amakhosi, communities and they are diverse.” FGA.3 |
| | As a PC I feel that I have used my discretion in my projects. “FGB | | |

According to Molander and Grimen (2010:272), discretionary decisions have to be made by the front line workers when implementing and interpreting policy, because they interact with the clients and are therefore familiar with their concerns and are able to decide on the best course of action. The data indicates that the participants in the focus groups have a challenge with regard to the extent to which they can use their discretion and make use of their decision making skills. There is also the element of developing working relations with the claimant communities and the relevant stakeholders. The FGB felt that they are already using their discretion in their projects, but their powers are limited to management.

| Matrix 4.6: Alignment of theoretical framework, understanding the world one works in with social constructivist worldview | |
|---|--|
| Element of worldview | Components of the theoretical framework |
| | Comparative work settings |
| Understanding the world one works in | “The work settings at times are unsafe and the distances are long when one has to work in deep rural areas with angry communities and landowners.” FGB |
| | “Claimants are very vocal and they confront the PCs when there are delays.” FGA |
| | “PC rely on a limited budget.” FGA |

| Matrix 4.7: Alignment of theoretical framework, subjective of meaning of experiences social constructivist worldview | |
|--|--|
| Element of worldview | Components of the theoretical framework |
| | Diverse work responsibilities |
| Subjective of meaning of experiences | “I had to equip myself on how to apply the law with no legal background because the work is very legal in its nature.” FGA |
| | “Land restitution is a very controversial topic in SA and as a PC one has to build trust when dealing with landowners, Amakhosi, Communities and they are all very diverse and the program is diverse.” FGA |
| | “One would have a view that PCs and POs do the same work whereas PCs are also public managers (middle managers) and therefore supposed to provide direction, make resources available and ensure that are distributed within the different districts accordingly.” FGA |

As alluded to by Bovaird (2007:858) cited in Ryan (2012:8), front-line workers who were the PCs in this study have to manage relationships with the service users. They also have to interact with stakeholders in order to co-produce the desired end result. Matrix 4.7 shows the diversity of work produced by the PCs, as the FGA indicated that PCs are required to interpret legislation in order to provide the service.

| Matrix 4.8: Alignment of theoretical framework, processes of interaction with social constructivist worldview | |
|---|---|
| Element of worldview | Components of the theoretical framework |
| | Constitutional liaison |
| Processes of interaction | “The Constitution puts obligation to the state for the restitution of land rights, the Restitution Act serves as a guideline as it has the rules on how PCs need to execute their duties.” FGA, 2 |
| | “The land restitution act provides us with a directive on how often we should communicate with our communities in line with the Batho Pele principles.” FGA, 2 |

In line with the theoretical framework, the Land Restitution Act No. 22 of 1994 (RSA, 1994) serves as a guideline for the processing of land claims and compliance, emanating from the Constitution of the Republic of SA 1994 (RSA, 1994). Therefore, the data speak to the processes of interaction in terms of implementing the land restitution processes and the guidance provided. The data presented to PCs are the tools they use to guide them as representatives of the department to the citizens.

4.4.2 Presentation and analysis of data from the interviews

4.4.2.1 Implementation of land restitution processes: Interviews

The process of implementing land restitution projects follows the seven stages discussed in Chapter two and illustrated in Figure 2.3.1; however the understanding of the implementation process may differ from one project co-ordinator to the next, depending on the area in which the PC is based. The urban land claims which consist of registered land rights such as title deeds and permits or shack numbers differs from the rural land claims with unregistered land rights, where the officials have to prove that people live in the area through their investigations. According to the data collected, various complexities arise from the land claims process.

| Matrix 4.9: Land restitution implementation process: interview responses | | |
|--|--|---------------------------------|
| Process of land claims | Investigate, research and settle land claims | PC1, 2, 3, 4, 5, 6, 7, 8, 9, 10 |
| | Draft Rule 3 and 5 reports, verification, valuations, negotiations and settle land claims | PC3, 4, 5, 6, 7, 8, 9, 10 |
| Consultations with stakeholders | No office strategy in place. | PC5 |
| | Various strategies to consult, telephone calls, meetings, posters, media, newspapers and radios | PC1, 2, 3, 4, 6, 7, 8, 9, 10 |
| | As a PC, one uses their own level of discretion on consultations as and when the need arises within the process of investigations. | PC-1,4,5,6,7, 10 |
| Researched and settled claims | It can take up to 10 years to research and settle on land claim depending on complexities | PC-4 PC1,2,4,5,6,7,8,9,10 |
| | Research and settlement of land claims depends on the complexities of individual claims and availability of funds | |
| | Differences between urban and rural claims in terms of timeframes | PC5, 7,9,10 |

As alluded to by Hall (2010:15), the CRLR faces a wide range of challenges, such as the timeframes in which land restitution projects are settled, amongst others. Furthermore, the Minister of Rural Development and Land Reform (DRDLR) has acknowledged that the department is learning from the past mistakes and this was a new programme in South Africa post 1994 (RSA, 2014). The literature provides a view of the challenges facing land restitution, however it is also important to hear the views of the fieldworkers who are known as the street-level bureaucrats. Data collected from the interviews regarding the challenges facing the PCs at the Pietermaritzburg office are tabled below.

| Matrix 4.10: Challenges of land restitution implementation process: Interview responses | | |
|---|---|---------------------|
| Finance and procurement | Scarce resources, especially budget or finance, and procurement challenges for valuers takes long time to appoint | PC1, 2, 4, 5, 8, 10 |
| Staffing issues | Lack of manpower for mapping services, legal and staff in general | PC5,10 |
| Investigations challenges lead to fraud | Investigations largely dependent on oral interviews which can be untrue at times. Lack of documented information. Can open up for fraudulent claims | PC1, 2, 7, 9 |
| Untraceable claimants | Untraceable claimants and despondent claimants | PC2 ,3, 7 |
| Lack of management support | No support from management and strategy documents not provided after strategic plans take places provincially | PC4, 5 ,8 |
| Disputes | Family disputes and landowners disputing validity | PC1 ,3, 4, 6,7, 9 |
| Lack of systems | Project management tools not used for projects and turnaround times. No proper records management and unable to track documents properly with some being lost. | PC5, 7, 9 |

The challenges that PCs are facing implementing their daily duties have been drawn from the data and reduced through the process of grouping similar challenges. As tabled in matrix 4.10, the challenges include overall issues such as administrative and operational challenges affecting PCs in terms of finalising land restitution projects. It was also crucial to establish the factors that hinder and facilitate the land restitution programme which will follow in the next section. These factors may differ from one individual to the next. This will enable the reader to see varying views as land claims differ in their nature.

It is important to understand the factors that either facilitate or hinder the land restitution process, as these factors provide insight into how the land claims process is implemented efficiently or not. In establishing the views of the front-line workers it may assist to determine the challenges and to improve on the efficient implementation of land claims projects. Sommerville (2015:6) reiterates that the roles of front line workers are not limited to implementing policy, but to contribute to developing policies which are suitable to factors which facilitate the processing of land claims. PCs are the ones who experience the challenges and achievements in the process of finalising their projects; hence it is important to establish personal relationships through their interviews.

4.4.2.2 Factors that facilitate and hinder land restitution processes

Matrix 4.11 presents the collected data from the interviews regarding the factors that facilitate the land restitution process, while in 4.12 the hindrances thereto are presented.

| Matrix 4.11: Facilitation of land restitution process: Interviews | | |
|---|--|------------------------|
| Strategies | Tracing claimants | PC1, 3, 4 |
| | Claimant engagement | PC2, 3 |
| | Establishing community needs | PC2 |
| | Valuation processes | PC3, 4, 6, 7, 8, 9, 10 |
| | Validity verification | PC4, 5, 7, 9, 10 |
| Stakeholder management | Monitor valuers | PC8 |
| | Clarify property description for valuers | PC8 |
| | Multi-stakeholder engagement | PC1, 4, 6 |

It is evident from the data that there are various factors that facilitate land restitution, which may contribute to the delay in the settlement of land claims. Cousins (2012:3) stated that due to the slow pace at which land reform was being implemented, land restitution was transformed from a cumbersome, courts-driven process into one with considerable administrative leeway, but still relatively few land claims were settled and the Land Claims Commission found it challenging to provide effective post-settlement support.

| Matrix 4.12: Hindrances of land restitution process: Interviews | | |
|---|--|---------------------|
| Lack of safety | Long travelling distances | PC1, 3, 4 |
| | Recalcitrant landowners and claimants | PC1, 3, 4 |
| Unconducive working conditions | Lack of working tools in the field | PC2,3,4, |
| | Lack of documentary evidence | PC2 |
| | Scarce resources | PC1, 4 |
| | Budgetary issues | PC2, 4, 5, 6, 8, 10 |
| Lack of infrastructure | Unavailability of venues | PC4 |
| | Insufficient parking | PC6, 8 |
| | Improper ventilation in city building | PC6 |
| | Inaccessible buildings to the disabled and elderly | PC6 |

4.4.2.3 Reopening of lodgement claims: Interviews

As detailed in Chapter two, the Restitution of Land Rights Amendment Act, 2014, which reopened the lodgement of land claims, was challenged in the Constitutional Court by the Land Access Movement of South Africa (LAMOSA), AFRA and other communities. The case was heard by the Constitutional Court on 16th February 2016. The Amendment Act was challenged on two grounds as discussed in chapter two.

Matrix 4.13 tables the views of the PCs with regard to the reopening of land claims, as the judgement indicated that no proper consultation was done. It is important to hear their views as they may have contributed to the process as frontline workers had they been consulted. The data reveal that there is clarity on the fact that old claims are prioritised, which concurs with the policy on prioritisation (DRDLR, 2015).

| Matrix 4.13: Views regarding reopening lodgement: Interviews | | |
|--|---|------------------|
| Priority for old claims | Old claims not affected by reopening | PC-1, |
| | Rest. Act prioritizes settlement of old claims | PC-1,PC3 |
| Risks and planning process on lodgement | Set timeframes | PC- 3 |
| | Fraudulent claims | PC-4,7, 8 |
| | Duplicate claims | PC-5, 7, 8 |
| | Politically motivated | PC-4, 5, 6, 8, 9 |
| Training on lodgement | We are not trained on how to handle the reopening | PC- 8 |
| Clarity on policy | Lack of policy guidelines clarity required | PC- 2, 10 |

Scholars such as Hall (2010:8), Cousins (2011:4) and the minister of RDLR Mr Nkwinti noted that the pace of settling land restitution projects has been slow. The following section discusses the assistance that the CRLR provides to the PCs in order to meet the set targets and deal with the backlogs.

4.4.2.4 CRLR assistance to project co-ordinators in meeting targets: Interviews

Matrix 4.14 presents the data which emanated from the interviews regarding the various forms of assistance provided by the CRLR.

According to the “policy on prioritisation of land claims” (2015:15-16), prioritisation was given to the poorest districts that are most underdeveloped. The land claims lodged before the cut-off data of 1998 will be given priority over the claims lodged as at July 2014. Hall (2012: 10) stated that one of the contributing factors to the RLCC’s slow pace of settling land claims were issues of capacity and budgetary constraints.

| Matrix 4.14: Commission on Restitution of Land Rights Assistance to PCs with researching and settling land claims: Interviews | | |
|--|---|---------------------------|
| Guidelines and legal support | Lack of guidelines on how the claim should be researched and Settled. Require more legal support. | PC1, PC4 PC7 PC8 |
| | National office (CRLR) assists with guidelines. | PC3 |
| | Provides legal advisors to support. | PC3 |
| Availability of resources | CRLR provides assistance with cars and accommodation etc. | PC2 |
| | Make use of limited resources challenge | PC4 |
| Provincial vetting and turnaround times | Vetting committee for the research reports established. Improves turnaround times | PC3, PC6, PC5 |
| | Strategies always fail | PC8 |
| Communication | Not informed of legal judgments, policies and new working procedures | PC4, PC8, PC7 |
| Inter-governmental relations | Provided relationships with other government departments | PC5 PC2 |

PC2 and PC5 also reveal that the CRLR has assisted them with enhancing intergovernmental relations with other government departments, who assist in locating untraceable claimants such as the department of Home Affairs.

The next section provides the data from the focus groups, beginning with the implementation processes of LR as presented in Matrix 4.15.

4.4.3 Presentation and analysis of focus group data

The focus groups were divided into two groups - the first group was comprised of the PCs who had been employed for longer than five years, and the second focus group consisted of those who had been employed for a period of five years or less. There could have been differences depending on their work experience. Land claims differ in their nature depending on the area of dispossessions, therefore it was important to hear the diverging or converging views of the PCs on this matter.

4.4.3.1 Implementation of land restitution processes: Focus groups

The strategy to fast track the implementation of land restitution projects, as presented by the Minister (DRDLR, 2015), acknowledges that minimal attention was provided to the qualitative aspect of LR. He further stated that the pace at which land restitution has been processed was

slow due to issues of capacity. There was consensus around the challenge related to a lack of capacity, as shown in Matrix 4.15 which is tabled with data from the FGA.

| Matrix 4.15: Implementation of Land Restitution processes (Focus Group A) | | |
|---|---|---|
| Complexity of land claims | Land claims are unique and the challenges differ, urban different from rural | FGA1, 2, 3, 4, 5, 6, 7, 8, 9, 10 |
| Financial constraints | CRLR experiencing challenges with the budget. Cannot finalise land claims | FGA1, 2, 3, 4, 5, 6, 7, 8, 9, 10 |
| EPMS not conducive | It is subjective and we require a new revamped system Lack of management support on coaching and training subordinates. Management require training on the EPMS system | FGA7, 9 FGA4, 5, 6, 8 |
| Challenges | Untraceable claimants, we cannot locate claimants Lack of management support with project dynamics Disputes between families, claimants, landowners etc. Staffing, we require more surveyors and there are district with no managers | FGA5, 7, 9, 10 FGA1, 3, 5,7, 9, 10 FGA1, 2,3 ,4, 5, 6 FGA1, 2, 3, 4, 5, 6, 7, 8, 9, 10 |

Matrix 4.16 contains FGB data that revealed the various challenges, including financial constraints, which hinder the performance of the PCs. The FGB participants 1, 2, 3, 6 and 7 revealed that priority is being given to financial compensation claims (urban claims) because they use a standardised settlement offer, as opposed to what the policy on prioritisation states, i.e. priority must be given to the poorest rural areas.

| Matrix 4.16: Implementation of Land Restitution processes (Focus Group B) | | |
|---|---|--|
| Complexities of land claims | Land claims differ in their nature and have various challenges. Management assists in resolving issues and providing guidance We cannot make major decisions and are unable to use own discretion in our projects | FGB 1, 2, 4, 6, 7 FGB 1, 2, 5 FGB 3, 5, 6, 7 |
| Financial constraints | There is no money to help us settle land claims only some urban claims (financial compensation) are prioritized | FGB 1, 2, 3, 6, 7 |
| EPMS | We receive performance bonuses that are cut due to budget constraints but it's better than nothing | FGB 1, 2, 6, 7 |
| Challenges | Disputes Arise when claimants fight each other over boundaries, family issues with financial compensation, landowners dispute validity of case leads to court cases which drag on Tracing claimants Untraceable claimants we have to use our own strategies to locate claimants through other government departments such as IEC, SASSA and home affairs | FGB-2, 5, 6, 7 FGB1, 2, 3, 4, 5, 6, 7 |

4.4.3.2 Factors that facilitate or hinder land restitution processes: Focus groups

According to the 'Strategy to fast track Land Reform' (DRDLR 2015:4), the minister of RDLR has admitted to past failures and has assured the public that the department is improving and has learnt from its past experiences. There has also been an outcry from the CRLR that media reports concentrate more on the failures and the progress made is not acknowledged. An example of a very successful project post settlement in KZN is the Amangcolosi land claim situated in Kranskop in the Umzinyathi district municipality. In 2004, 376 claimants from the Amangcolosi community in Kranskop were successful in claiming the restoration of land rights over 12 independent white-owned farms in terms of the Restitution of Land Rights Act 1994 (Act No 22 of 1994) (RSA, 1994). In July 2005, the claimants officially received part of their land which was approximately 8 000 hectares (DRDLR, 2016). Matrices 4.17 and 4.18 show

the factors that facilitated the process, while Matrices 4.19 and 4.20 reveal the factors that hinder the implementation of the land restitution process.

| | | |
|---|------------------------------|-------------|
| Matrix 4.17: Factors which facilitated the land restitution process (Focus Group A) | | |
| Guidelines | Restitution Act as guideline | FGA 1, 2, 3 |
| Policy | Batho Pele principles | FGA 2,4,5,6 |

The success of the Amangcolosi project resulted in the payment of cash dividends valued at R3, 020 each to the claimants by the Ithuba Trust. At the end of 2009, a bursary scheme called Ithuba Agriculture Bursary Scheme was established and students living in the Amangcolosi community who had recently matriculated and qualified for university entrance were encouraged to apply (DRDLR, 2016). Numerous bursary applications were received and assessed, and five applicants in various fields were awarded full bursaries for their entire tertiary education (RSA 2016:2-5).

| | | |
|---|--|-------------|
| Matrix 4.18: Factors which facilitated the land restitution process (Focus Group B) | | |
| Guidelines | Implementation of law and policy | FGB 1, 2, 3 |
| Legislation | Correct application of legislation, legal assistance, and only 6 legal advisors at RLCC-KZN. | FGB 1, 3 |

Data addressing the factors which hinder the land restitution processes will be discussed and presented in matrix 4.19

In line with the data focussing on the factors that hinder the land restitution processes, Pringle (2013: 41-42) asserts that land restitution has not been consistent with achieving the targets set, which resulted in them shifting year on year. The data revealed various factors that hinder the successful processing of the PCs daily mandate which is processing land claims and settling them. The two focus groups are of the same view regarding the lack of financial independence in the CRLR and the need for additional budget to settle land claims. Further concerns related to the autonomy of the CRLR and RLCC's, it is a requirement in the LRA of 1994. Matrices 4.19 and 4.20 show hindrances of the land restitution process according to participants in FGA and FGB respectively.

| Matrix 4.19: Hindrances of the land restitution process (Focus Group A) | | |
|---|--|-------------------|
| Restitution Act limitations | Dispossession of land and denial of rights | FGA 1, 3, 4 |
| | Limitation of 1913 inception date of eligibility | FGA 3 |
| Autonomy | Lack of CRLR autonomy which does not allow financial freedom | FGA 1, 2 FGA 3 |
| Management | Lack of leadership in the Recapitalisation Unit and in other district teams. | FGA 4 |

The factors which hinder the successful implementation of land claims projects are further presented in Matrix 4.20.

| Matrix 4.20: Hindrances of the land restitution process (Focus Group B) | | |
|---|--|----------|
| External evidence collection | Contradictory archival evidence and oral interviews | FGB 2 |
| Finance | Budgetary constraints for development grants for claimants | FGB 1, 2 |
| | Financial incapacity for government to settle claims | FGB 4 |
| Human Resources | Unavailability of funds to hire CLRL staff | |
| | Short-staffing | FGB 1 |
| | Lack of PC training | FGB 3 |
| | Lack of dispute resolution training | FGB 3 |
| Management Culture | Top-down management structures | FGB 4 |
| | Lack of inclusivity in management decisions | FGB 4 |
| | Lack of notification on changes | FGB 4 |

The next section highlights focus group respondent perspectives on the reopening of lodgement of claims.

4.4.3.3 Reopening of lodgement of claims: Focus groups

The point of reopening the land claims was to allow the public to lodge land claims on properties and land that they were dispossessed of during the apartheid regime, hence the amendment of the Land Restitution Act No. 22 of 1994 to allow for this. The data revealed that the PCs had concerns regarding the manner in which the reopening process was done, yet as indicated by Focus Group B below, there was a genuine outcry from the public to reopen land claims for those who missed the 31st December 1998 deadline. Focus Group B outlined issues related to the lack of consultation - even among the officials working on the land claims - and

many challenges such as duplicate land claims had not been addressed, which may reoccur in the process of reopening the land claims lodgement process.

Matrix 4.21 reflects perceptions from FGA while matrix 4.22 presents views from FGB.

| Matrix 4.21: Views regarding reopening of lodgement (Focus Group A) | | |
|---|---|---------------|
| Risks and planning process on lodgement | Unplanned re opening | FGA 1,3,6,7,9 |
| | Fraudulent claims | FGA 2,4 |
| | Duplicate claims | FGA 2,4 |
| | Politically motivated | FGA 1,3,6,7,9 |
| Backlog old claims and IMU challenges | Needed to address backlog of old claims first | FGA 3,5,10 |
| | IMU no proper system in place needed to be sorted first so stats are accurate | FGA 5,6,9 |
| Creates expectation | Re-opening of land claims creates expectation old claims will be finalised | FGA 6,8,9 |

The LAMOSAs judgement has ruled that the Amendment Act is invalid due to various issues such as a lack of consultation. As a result, the reopening process has been deferred until the land claims lodged before 31st December 1998 are finalised (RSA 2016), as per Chapter two.

| Matrix 4.22: Views regarding reopening of lodgement (Focus Group B) | | |
|---|---|----------------|
| Risks and planning process on lodgement | Is a good idea | FGB 1,2,3,6 |
| | Proper planning required | FGB 2,3,4 |
| | Consultation with PCs required | FGB 4,6 |
| | Duplicate claims | FGB 4,6 |
| | Politically motivated | FGB 7 |
| Genuine outcry | Good idea to reopen Opportunity for those who missed deadline of 1998 | FGB 1, 2, 3, 6 |
| Backlog of old claims | It was too soon to open considering backlog of old claims | FGB 4, 5 |

The views expressed by the PCs regarding the reopening of the land claims process revealed a lack of communication from the national office of CRLR to management and the officials, hence their views regarding the process being politically motivated. If proper internal consultations and inputs were done then the national office and parliament would have had buy-in from the PCs and the staff at the CRLR. The PCs should have been consulted as they are the people who work directly with the communities and the public, therefore they are aware of the requests from the public and other stakeholders. The PCs could contribute to the strategic documents and with developing policies and legislation such as this. The PCs also revealed challenges relating to the lack of communication in the preceding Matrix 4.22, which is reflected in the LAMOSAs judgement.

4.4.3.4 CRLR assistance to project co-ordinators in meeting targets: Focus groups

Matrices 4.23 and 2.24, representing data from FGA and FGB respectively, table data which address whether or not the PCs are receiving assistance from the CRLR in terms of meeting their targets and the kinds of assistance they are receiving. The data revealed overlapping responses between focus group A and focus group B pertaining to the budgetary constraints experienced by the CRLR. However differing views were noted when it comes to the CRLR providing the PCs with working tools such as accommodation, vehicles and protective gear for their field work.

| Matrix 4.23: Focus Group A: Commission on Restitution of Land Rights Assistance to PCs with researching and settling land claims | | |
|---|---|-------------------|
| Require more budget | Increase budget for CRLR Fast track autonomy for CRLR | FGA 8, 9 |
| Lack of decision making powers | CRLR not provided decision making powers to PCs | FGA 1, 5 |
| Poor communication | No proper induction conducted Lack of communication with staff | FGA 2 FGA 2, 7 |
| Lack of work tools | No protective gear, 3Gs, GG vehicles are not in good conditions as they are not serviced. | FGA 5, 10 |
| Poor records management systems | No proper system in place | FGA 3, 4 |

It appears that the PCs who have been employed for longer (focus group A) have various concerns regarding the condition of the government garage vehicles in terms of safety, as well as not receiving protective gear for the fieldwork. The PCs employed for five years or less

(focus group B) were of the impression that the CRLR does provide the protective gear if requested in the form of a memorandum.

| Matrix 4.24: Focus Group B: Commission on Restitution of Land Rights Assistance to PCs with researching and settling land claims | | |
|---|--|-------------------------|
| Good accommodation and vehicles | Provided with good accommodation and vehicle hire | FGB 1, 2, 3 ,6, 7 |
| Provide bursaries and training | CRLR assists with providing bursary opportunities and training on new policies | FGB 2, 3 |
| Legal assistance | We have a legal unit within Assist with legal advice but advisors are limited. | FGB 4, 5 |
| Tools | CRLR has provided me with protective gear, I had to write a memorandum for it | FGB 7 |
| Higher budget required | More budget required to finalise projects | FGB 1, 2, 3, 4, 5, 6, 7 |
| Decision making | CRLR needs to assist by giving more decision making powers | FGB 3, 6, 7 |

It is evident from both focus group responses that there are a lack of proper communication channels in the CRLR; if there was proper communication about the memorandum to request protective gear as an available option, then focus group A would have been aware of it. Budgetary issues and constraints are an office challenge, if not a department challenge, as both groups agreed that the budget constraints are a major contributor to the delay in settling their land claims projects, and it also affects human resources amongst other units in terms of restricting recruitment. The data also revealed other areas in which the CRLR is assisting staff such as bursaries and training, and it provides legal advice through the internal legal unit provided for the PCs and for complex legal matters.

The final subsection of 4.4.3 considers the outcome of focus group interaction analysis about performance management pertaining to the land claims process. This approach is highlighted in reference to performance management because of the heightened reaction the subject engendered during focus groups.

4.4.3.5 Focus group interaction analysis on performance management

Focus group interaction analysis was defined by Sarah (2013:69) as a procedure for observation conducted by the researcher in the focus group discussions. Interaction analysis requires the researcher to identifying the different emotions and reactions of the participants to the phenomena under study. The interaction analysis emanated from the reactions of the participants in terms of the actions and emotions that the researcher noted during the focus

group sessions. Some of the discussions that came up in the focus groups that addressed the performance management system raised various emotions from the research participants because it really affected them. The interaction analyses presented in the following matrix includes the responses regarding the performance management system at the RLCC in KZN.

| Matrix 4.25: Analysis of actions and emotions of focus group members regarding performance management | |
|--|----------------------|
| Question: Is the performance management system in your office conducive? How does it affect or contribute to your performance? | |
| Narrative | Actions and Emotions |
| It is very subjective, panel members personalise it instead of looking at the performance FGA 7, 9 | Criticism |
| Lack of training for panel members FGA 4, 6, 8 Management requires training on the system and it should be a bottom up approach FGB 1, 5, 6, 7 The performance management system needs to be revamped, we need a new system to accommodate the nature of work FGA 2,10 | Agreement |
| We are just demotivated and do not go the extra mile, we just meet our targets then relax. I don't even care for it anymore, because when you work hard you are not recognised and there is no differentiation between urban claims and rural claims or how complex a claim is, it is all about the numbers FGA3, 4, 5, 9, 10 We have no standardised targets as an office, everyone has their own targets and this is causing problems; people who do not perform get performance bonuses FGB 1, 2, 4, 6 | Indifference |

The results shown in matrix 4.25 suggest that further inquiry is needed into the influence of performance management strategies on land claim processing conducted by the PCs as SLBs.

The next segment provides the cross case analysis between the two focus groups. The purpose of this section is to establish the converging and diverging views between the two. During data collection this could not be established as the two focus groups were held separately, however when the transcripts were done and the data were organised in accordance with the various data codes, the researcher was able to pick up these views.

4.5 Cross case analysis for Focus Groups

The RLCC is guided by the Land Restitution Act, which informs the PCs on the legalities of processing land claims. Following legislation and policy is what is expected by the department, however SLBs, as explained by Lipsky (2010:15), are not just policy implementers - they are the policy makers because they understand the challenges much more in-depth and experience them first hand. It is against this backdrop that SLBs feel that they should be provided with

more flexibility to make decisions. As reflected in Matrix 4.26, the data reveal that the settling of land claims is not an easy process, as there are various complexities involved which require discretion.

| Matrix 4.26: Question 1: PC work experiences in researching and settling land claims (Converging Views) | |
|--|--|
| Focus Group A | Focus Group B |
| Land claims are not the same, they are complex in their nature as one would find individual, family, and group and community claims all differ. The dynamism is centred on the number of people especially in rural claims, urban less complicated FGA 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 | Land claims differ in their nature and are unique, they have various challenges. Urban claims are different from rural claims, the process of settling an urban claim is faster than a rural claim because urban has registered land rights. FGB 1, 2, 4, 6, 7 |

The SLBs work at various tasks; as constitutional liaisons they have to represent government and also work with the communities in order to achieve service delivery. They develop relationships with the communities because of the constant interaction with them. The nature of their work can become complex, as stated by FGA and alluded to by FGB, due to the fact that communities differ and so do challenges, hence the need for the flexibility to make decisions and use their own discretion. As alluded to by Sommerville (2015:2), the SLBs can also be referred to as frontline workers, as they provide multiple services to the citizens. The nature of their work requires coordination, innovation and management skills.

| Matrix 4.27: Question 2: Assistance from the CRLR | |
|--|--|
| Diverging views | |
| Focus group A | Focus group B |
| Operational staff requires proper protective gear for fieldwork, it is not provided for us. We need proper venues to hold meetings in rural areas. We also require improved communication bottom up and top down. Decision making powers are limited. FGA 2 ,3, 5, 7, 8, 9, 10 | Receive good accommodation and vehicle hire, bursaries to study. We also receive laptops and other levels do not, we get legal assistance. If we write a memorandum requesting protective gear, we receive it. FGB 1, 2, 3, 4, 5, 6, 7 |
| Converging views | |
| Focus group A | Focus group B |
| We required increased budget and this can be achieved if autonomy of the CRLR is fast tracked. The office has no money, vacancies cannot be filled. FGA 1, 5, 8, 9 | The office requires more budget to settle land claims, land is an expensive commodity. PCs require more decision making powers. FGB 1, 2 ,3, 4, 5, 6, 7 |

As revealed through the data in Matrix 4.26, due to the complexities and unique nature of the land claims, PCs have to constantly find new ways and strategies to resolve these in order for a land claim to be settled and finalised. In order for the SLBs to achieve the required objectives in terms of service delivery, they need support from management.

| Matrix 4.28: Question 3: Work setting that the PCs work under (Converging Views) | |
|--|---|
| Focus Group 1 | Focus Group 2 |
| <p>Claimants are very vocal and they confront the PCs when there are delays because when there is no money the claimants can attack you. FGA 3</p> <p>PCs rely on a limited budget there must be a plan to increase the resources, settling land claims is expensive. FGA 1, 2</p> | <p>The work setting at times are unsafe and the distances are long when one has to work in deep rural areas when one has to work with angry communities and landowners it can become unsafe and one does not always prepare for a dispute. FGB 2</p> <p>The deep rural areas in Zululand and other districts can be tiring and long, most of these environments have no resources, meeting halls, and the GG vehicles are not serviced at times and sometimes are not very safe or comfortable. FGB 3</p> |

As stated by Jung (2010:114), SLBs may also contribute to co-production, whereby the person using the service has an influence on the service, therefore the claimants may influence the land claims. Aden (2015:72) further stated that SLBs (frontline workers) are also represented as citizen agents and they have the ability to provide positive service delivery or give a negative response to their clients, which can cause clients to view the organisation or government as a “bureaucratic lottery”.

| Matrix 4.29: Question 4: Use of discretion (Diverging Views) | |
|--|--|
| Focus Group 1 | Focus Group 2 |
| <p>“Middle managers exercise powers, we use discretion to demand work from subordinates. FGA 1 The powers given to us are limited when it comes to making decisions. RLCC should give PCs more power to make decisions”. FGA 2, 4</p> <p>“Due to the nature of our work one cannot make decisions independently as a PC we can only recommend to CRLR”. FGA 3, 4</p> | <p>“I think I do have a certain level of discretion when researching and settling land claims but it is only on the small matters or issues. FGB 3</p> <p>I feel that I have used my discretion in my projects whereby I experienced critical situations where there is no time to call your manager”. FGB 7</p> |

| Matrix 4.30: Question 5: Performance management (Diverging Views) | |
|---|---|
| Focus Group A | Focus Group B |
| <p>EPMS is very subjective. Require a revamped system that considers the nature of work. FGA 1,7,9</p> <p>We are not trained as per the performance development plan. We are demotivated and don't care about it anymore. FGA 2</p> <p>Committee end up personalising the PMS - instead of looking at your work, they look at the person. FGA 7</p> | <p>We receive performance bonuses that are cut due to budget constraints but it's better than nothing, we would like certificates and recognition awards. FGB 1,2,6,7</p> |

Triangulation provides quality in terms of the data collected for the study, as it is a baseline for confirming reliability.

4.6 Triangulation

Triangulation as an aspect of confirmability, enhances the establishment of trustworthiness in qualitative research. Triangulation entails the collection of data from different sources through various data collection tools such as semi-structured interviews and focus groups, as used in this study. The main intention of triangulation is to ensure that a crosscheck of information is conducted in order to confirm that the findings of the study are accurate and the phenomenon under study has been addressed fully (Pitney 2004: 26-28). In a qualitative study, triangulation can occur where more than one case, investigator, paradigm, theory and method of data gathering and analysis are used in a single study. Data matrix analysis allowed for triangulation in this study as the data analysis progressed from one section of this chapter to another. In most situations, data from the interviews and focus groups converged.

As provided for in Section 25 of the Constitution of the Republic of South Africa, the right to land in the form of land restitution is a prerogative for the democratic government; in addressing the skewed ownership of land, the new dispensation put target in place. Following decades of improper land allocations and land dispossession, many black South Africans lost their land rights, however the state has failed to meet the targets set for itself. This means that land restitution has come to be viewed as a programme that is failing to fulfil its constitutional mandate, as guided by the Land Restitution Act. The PCs, as officials in the CRLR, service rural communities and urban families in order to process and finalise their land claims. In line with the principles of public administration, it is important to meet the public's needs through constant contact with them, hence the critical role of the PCs who contribute to changing the legacies of the past regarding land ownership.

The performance plan for 2015/2016 indicates the total outstanding number of land claims in KZN to be 1,233, which indicates that the CRLR has made great progress in settling the 16 394 total claims in KZN. However, the data collected indicate that the statistics of the office are a key challenge, as the records management is inaccurate and changes all the time. It is evident that issues of service delivery in the public service such as the CRLR is paramount. Throughout the study the research participants and the literature indicated that service delivery is a constitutional mandate and that land is one of the oldest commodities. Black South Africans should be able to take pride in their ancestral land where their forefathers are laid to rest, and in the rich history which they can draw from to teach future generations about their roots. Matrix 4.31 illustrates the triangulation of the data with the overarching issue of service delivery backlog.

| Matrix 4.31: Issue: Service Delivery backlogs in the CRLR | | |
|--|---|---|
| Interviewees | Focus Groups A and B | Documentary evidence |
| <p>It can take up to 10 years to research and settle on land claim depending on complexities PC1</p> <p>Research and settlement of land claims depends on the complexities of individual claims and availability of funds PC 2, 4 ,5, 6, 7, 8, 9, 10</p> <p>Differences between urban and rural claims in terms of timeframes PC 5, 7, 9,10</p> <p>Some claimants die waiting for their land as the process can take very long. It is also sad that some claimants end up in disputes then get murdered. PC3</p> | <p>Land claims are unique and the challenges differ, urban different from rural FGA 1, 2, 3, 4, 5, 6, 7, 8, 9</p> <p>CRLR experiencing challenges with the budget. Cannot finalise land claims FGA 1, 2, 3, 4, 5, 6, 7, 8, 9,10</p> <p>It is subjective and we require a new, revamped system FGA 7, 9</p> <p>Lack of management support on coaching and training subordinates. Management require training on the EPMS system FGA 4, 5, 6, 8</p> <p>Untraceable claimants, we cannot locate claimants FGA-5, 7, 9, 10</p> <p>Lack of management support with project dynamics FGA-1, 3, 5, 7, 9, 10</p> <p>Disputes between families, claimants, landowners etc. FGA-1, 2, 3, 4, 5, 6</p> <p>Staffing, we require more Surveyors and there are district with no managers FGA-1, 2, 3, 4, 5, 6, 7, 8, 9, 10</p> | <p>Strategic document of the CRLR, performance plan 2015/2016</p> |
| | | <p>Q1 performance of the CRLR 2015</p> |
| | <p>Land claims differ in their nature and have various challenges FGB 1, 2, 4, 6, 7</p> <p>Management assists in resolving issues and providing guidance FGB 1, 2, 5</p> <p>We cannot make major decisions and are unable to use own discretion in our projects FGB 3, 5, 6, 7</p> | |

| | | |
|--|--|--|
| | <p>There is no money to help us settle land claims only some urban claims are prioritised FGB 1, 2, 3, 6, 7</p> <p>We receive performance bonuses that are cut due to budget constraints but it's better than nothing FGB 1, 2, 6, 7</p> | |
|--|--|--|

The PCs at the CRLR are the link between the communities that they service and the government with the services which are required to be delivered. The PCs service the rural communities in the various deep rural areas with the ultimate goal of restoring their dignity. As PC3 indicated in the interviews, some of the claimants die waiting for the settlement of their land or over disputes and it is sad when this happens because you feel like you have failed them, however, certain delays are beyond your control as a PC, as it is legal is giving me the run around with one of my land claims project.

4.7 Emerging themes from the study

Interaction between the theoretical framework and the worldview underlying the study helped the researcher to identify themes. The overarching themes that emerged from the focus groups and interview data were:

Theme 1:

Power in decision making

Theme 2:

Complexities in settling land claims

Theme 3:

Working conditions

Theme 4:

Performance Management System

Theme 5:

Land restitution challenges

In order to arrive at these five themes, the researcher first matched questions from the data collection tools (interview questions and the focus group) with the research objectives and research questions. Through thematic analysis, the researcher designed a number of matrices which display actual excerpts from the PCs, giving voice to the participants in accordance with the constructivist worldview. The theoretical framework likewise assisted with the emergence of themes. Further to this, the themes were integrated with the ideals of the theoretical framework to establish if there was consistence and alignment between these components of the study. The researcher observed that in much the same way as with other aspects of the analysis, the themes relate across all ideals of the theoretical framework.

| Table 4.1: Linkages between theoretical framework and themes from the study | | | | |
|---|---|--|---|--|
| Theme 3: Working conditions | | | | |
| Work setting comparison | Diverse work | Constitutional liaison | Level of discretion of discretion | |
| PCs prefer a safe and conducive work environment through RLCC rather than dealing with conflict and unavailability of meeting venues. | The nature of work in the CRLR office for PCs includes supervision of staff, researching land claims, valuation and settlement of land claims which is diverse in its nature. | Restitution Act plays a vital role in providing access to constitutional rights for the communities and forming a link between the government and the claimants. | Level of discretion and autonomy in decision making by PCs is highly relevant when dealing with information about dispossessions and land claims. | |

As indicated, the themes linked with the theoretical framework in Table 4.1 emerged from the focus group discussions and interviews. The researcher aligned a few extracts from the focus group data to demonstrate how the themes emerged as data were gathered.

| Matrix 4.32: Themes emerging through extracts from Focus Group responses | | |
|--|---|---|
| Themes 1 – 3 | Focus Group A | Focus Group B |
| Theme 1: Lack of power in decision making | “Middle managers exercise power, we use discretion to demand work from subordinates.” FGAb1 | “I think I have a certain level of discretion when researching and settling land claims.” FGB 3 |

| | | |
|---|--|--|
| <p>Theme 2: Complexities in settling land claims</p> | <p>“One has to deal with Human Relations as a PC and manage state resources accordingly.” FGA1</p> <p>“One has to have good communication skills therefore, the work is very diverse. One has to be accustomed to the tradition and religion because working with Amakhosi.” FGA 2</p> <p>“As a PC one has to build trust when dealing with landowners, Amakhosi, Communities and they are all very diverse and the program is diverse.” FGA 3</p> | <p>“PCs and POs do the same work whereas PCs are also public managers (middle managers) and therefore are supposed to provide direction, make resources available.” FGB1</p> |
| <p>Theme 3: Non conducive working conditions</p> | <p>“The Director Operations gives instructions on the amount of claims to be settled (targets) but what informs these targets because they are not aligned to the availability of resources.” FGA 2</p> <p>“Claimants are very vocal and they confront the PCs when there are delays, because when there is no money one has to keep on updating them on the same progress.” FGA.3</p> | <p>“The work setting at times are unsafe and the distances are long when one has to work in deep rural areas when one has to work with angry communities and landowners it can become unsafe and one does not always prepare for a dispute.” FGB.2</p> <p>“The deep rural areas in Zululand and other districts can be tiring and long, most of these environments have no resources meeting halls, and the GG vehicles are not serviced at times and sometimes are not very safe or comfortable.” FGB.3</p> |

| Matrix 4.33: Themes emerging through extracts from Focus Group responses | | |
|--|--|---|
| Themes 4 – 5 | Focus Group A | Focus Group B |
| <p>Theme 4: Lack of a proper Performance Management System</p> | <p>“It is very subjective.” FGA1</p> <p>“The main issue is that people end up personalising the PMS instead of looking at your work.” FGA 7</p> <p>“We are not trained as per PDP.” FGA 2</p> <p>“We lack proactive HRM in the whole institution.” FGA 5</p> | <p>“We need research training, writing skills training which is not provided, there is no constituency.” FGB 1</p> <p>“Senior managers and managers must be trained.” FGB 2</p> <p>“Training must be top down.” FGB 3</p> <p>“The system should have a provision to amend the performance agreement when there are challenges.” FGB5</p> |
| <p>Theme 5: Challenges arising from re-opening lodgement of land claims</p> | <p>“The Restitution Act states that dispossession must have taken place after 19 June 1913 what about communities dispossessed before that time.” FGA 3</p> | <p>“Human capacity development is a major concern as PCs are not trained to resolve disputes which is an important part of processing the land claims.” FB 2,3</p> <p>“Section 2 C addresses the development grants which should be paid to the communities concerned however; there is an institutional challenges related financial constraints.” FGB 1</p> <p>“Disputes arise amongst landowners, claimants and other concerned groups or stakeholders.” FGB 3</p> |

Making use of thematic analysis enabled the researcher to establish links between the research objectives and the themes emerging from the study. As part of the data analysis procedure, the researcher then aligned the focus group questions and interview questions that were targeted to

address each research objective. In this study, Tables are used to display the data analysis processes and procedures, while matrices are used to depict the raw data gathered in the field.

| Table 4.2: Themes emerging from data relative to research objectives | | | |
|---|---|--|---|
| Objective 1 | Objective 2 | Objective 3 | Objective 4 |
| Determine how project co-ordinators implement land restitution processes. | Identify factors that facilitate or hinder the land restitution processes | Understand project co-ordinators' perceptions of how the Regional Land Claims Commission can assist project co-ordinators to meet their designated targets | Discover project co-ordinators' perceptions regarding the re-opening of lodgement land claims |
| Theme 1 Lack of power in decision making | Theme 2 Complexities in settling land claims | Theme 3 Non conducive working conditions | Theme 5 Challenges arising from re-opening lodgement of land claims |
| Theme 4 Lack of proper Performance Management System | Theme 3 Non conducive working conditions | Theme 1 Lack of power in decision making | Theme 4 Lack of proper Performance Management System |
| Theme 5 Challenges arising from re-opening of lodgement land claims | | | |

The preceding section provided matrices that indicated how the theoretical framework assisted to identify the themes that emerged from the study. The matrices presented the focus groups' data by providing extracts, which led to the development of the emerging themes.

4.8 Conclusion

The researcher presented an analysis of the data gathered using focus groups and interview sessions, which were aligned with the research objectives and research questions to establish the extent to which the data responded to these two elements of the study, as well as to determine which interview questions and focus group questions related to which objectives and research questions. The researcher also used the data gathered to establish an alignment between the worldview underpinning the study and the theoretical framework of the study. This was illustrated using tables and matrices. In addition, this chapter engaged in data analysis using the method of data analysis identified in Chapter Three. The data were also used to establish how they responded to the theoretical framework of the study. Each table or matrix used was preceded by a narrative that explained what the table or matrix set out to achieve and establish.

CHAPTER FIVE: SUMMARY OF FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

5.1 Introduction

In this chapter, a discussion on how the research questions and objectives originating from the study contributed to addressing the research objectives and questions is presented. The chapter further outlines the summary of findings and conclusions drawn from this study, which then leads to recommendations for the government and future research.

5.2 Research Objectives and Research Questions

The research objectives and research questions enabled the researcher to provide a structure on how to approach data collection through the literature review, interviews and focus groups. There is an alignment between the research objectives and the research questions, the research objectives form the actions to be taken in order to help answer the questions. Research objectives and questions are a road map that assists in identifying the gap and providing the study with a focus; the objectives in particular indicate what the researcher is trying to obtain from the study. Moreover, both the research objectives and questions appear in all the chapters as the baseline for the study, however they can change depending on the study and if they are not assisting to address the research problem. If the research objectives are good, the research questions take a shape and form which makes the study flow and ensures that the purpose is achieved effectively. Therefore, it is important that the research objectives inform the research questions.

Table 5.1: Recapitulation of research objectives and research questions

| Research Objectives | Research Questions |
|---|---|
| Determine how project co-ordinators implement land restitution processes. | How do land restitution project co-ordinators implement the processes of land restitution? |
| Identify factors that facilitate or hinder the land restitution processes. | What are the factors that facilitate or hinder the processes of land restitution? |
| Understand project co-ordinators' perceptions regarding how the Regional Land Claims Commission can assist project co-ordinators in meeting designated targets. | How do project co-ordinators perceive the Regional Land Claims Commission with assisting project co-ordinators in meeting designated targets? |
| Discover project co-ordinators' perceptions regarding the re-opening of lodgement land claims. | What are the perceptions of project co-ordinators regarding the re-opening of the lodgement process? |

The next section briefly summarises the role of the respective chapters in achieving the research objectives and answering the research questions.

5.3 Summary of chapters

5.3.1 Chapter One

The first chapter provided the reader with the background to the study in relation to the main research problem and the basis of the study as provided by literature on land restitution which emanates from the land reform programme in South Africa. The chapter also assisted the researcher to identify the research questions which had to be linked with the research objectives in order to address the broad research problem. The global and African context of land restitution provided the researcher with a point of contrast with the various countries in order to have arguable points with which to have a base line. Chapter one also presented the inventory of chapters which addressed the chapters to follow in the dissertation. This is interrelated with chapter five which describes each chapter's contribution towards the study.

5.3.2 Chapter Two

Chapter Two provided the literature related to the main research question and sub questions, while critiques, discussions and arguments were presented on various topics including land reform as the broader programme and land restitution as one of the components emanating from land reform. The scholars provided valuable inputs in terms of literature, which gave the study a strong narrative. Information regarding the history and present frameworks was drawn from the relevant legislation which informed the land issue in South Africa that resulted in the democratic government introducing better working documents and Acts to guide this critical process. A philosophical worldview was identified and the nature of the study fitted into the social constructivist worldview which worked hand-in-hand with the theoretical framework. This chapter also presented various theoretical frameworks and models which the study could be based on; the street level bureaucracy theory was viewed as a suitable basis for the study. The theoretical framework assisted the researcher with developing the research objectives in order to address the research problem. It did this by providing the key elements of the theory which could be used as a base line; these included exercise of discretion, constitutional liaison, comparative work settings and diverse work. Hence, this chapter laid the legislative, policy, and theoretical frameworks for addressing the research objectives and questions.

5.3.3 Chapter Three

Chapter Three presented the research design and methodology suitable for the study; the various methods were used to select the sample in order to address the research questions and objectives. The PCs were selected as the research participants in this study as they are the field workers who deal with the land claimants directly. The CRLR also has other project officials dealing with the land claimants such as the SPO and POs, however the PCs are the middle managers and field workers, therefore they are exposed to both the fieldwork and supervision. The data were collected using semi-structured interviews and focus groups which helped the researcher to gather in-depth information from the participants. The interviews also allowed for probing in order to get rich information pertaining to the research problem. Conducting two focus groups allowed the researcher to gather the converging and diverging views; as one group had more work experience than the other, their views and experiences on land restitution was not exactly the same. Therefore, this chapter provided the research methodological foundation for achieving the research objectives and answering the research questions.

5.3.4 Chapter Four

Data collected from the interviews and focus groups were discussed in relation to the literature and it was then presented. The process of reducing data before presenting it entailed colour coding data, i.e. providing unique codes to the respondents in order to identify the relevant data and reducing it further by creating categories. Matrices emanating from the various categories were then developed in order to link the research objectives to the theoretical framework and philosophical worldview. The data were then presented with the literature supporting it. This process assisted the researcher with organising and reducing the data collected from the interviews and focus groups. Once the organisation was achieved the data fell into place. The data helped to show that there were challenges experienced by the PCs in the CLCC which contributes to the backlog in meeting the targets. This was shown by the various challenges they experience, however there also appeared to be issues with management responsibilities and a lack of communication, thus the top down approach evident in management needs to be reviewed to enhance functionality of PCs and SLBs. Taken as a whole, this chapter was organised by sub-headings drawn directly from the research objectives and research questions. As a result this chapter largely contributed to addressing all the research objectives and questions as borne out by the summary of findings and conclusions subsequently highlighted in this chapter.

5.3.5 Chapter Five

The final chapter is a build-up of the previous chapters; it provides a summary of the research findings emanating from the preceding chapters which presented the literature and the data collected. Conclusions are drawn from the research findings and this chapter also provides recommendations for the CRLR. As a result of the research objectives the research questions were addressed and in doing so provided the research findings.

5.4 Summary of findings and conclusions drawn from the study

This section of the study identifies the researcher's findings, which were used to come to conclusions. Further to this, both the findings and conclusions are matched with the objectives of the study, which demonstrates how the study achieved its objectives.

Finding 1: Implementation of land restitution processes

There are various challenges in implementing the land restitution processes, making it difficult for the PCs to investigate and finalise the land claims projects allocated to them. According to social constructions of the PCs, land claims are complex by nature, thus PCs require management support - from the CLCC at the national level down to provincial management - in order to make decisions on certain issues. However, some PCs do not view themselves as possessing decision-making power which suggests that they may not be exercising discretion available to them in implementing land restitution policy. Nevertheless, as frontline workers, PCs need decision making powers so that their land claims projects can be settled faster. The research revealed that the CRLR is in the process of becoming autonomous, however this needs to be fast tracked so that the regional offices can have more decision making power and a bigger budget. The CRLR is experiencing major financial constraints, as their budget deficit is preventing PCs from finalising their land claims projects. It is a known fact that land is an expensive commodity in South Africa.

Conclusion: Based on this finding, it can be concluded that there are challenges pertaining to the implementation processes of land restitution projects. It is evident from the first finding that land claims are complex and entail long processes; investigations may take longer depending on the availability of information and cooperation of stakeholders such as the claimants and the landowners. Most importantly, as SLBs, PCs see the need to be able to exercise a higher level of discretion in decision making so that their projects are fast tracked and finalised on time. It is further concluded that understanding the prospects of SLBs can enable PCs to improve land restitution service delivery

Finding 2: Factors that facilitate or hinder land restitution processes

Factors that facilitate land restitution processes.

The data reveals that there are a few limited factors which facilitate the land restitution processes, the PC's rely on legislation and policy as their guidelines on how to conduct the processes of land restitution. The PC's also reveal that the correct application of the LRA and the policies guiding land restitution assists them to follow the required procedure to research and finalise land claims in compliance with the LRA. The PC's get assistance from the legal unit within the RLCC-KZN to interpret the LRA and other policies however, legal is not always available to assist due to the fact that the legal officers are limited to one legal officer per district.

Conclusions regarding facilitating factors in land restitution processes.

In line with finding 2, the CRLR has provided the PC's with legislation such as the LRA and policies to use as guidelines when conducting the processes of land restitution, however, the interpretation of legislation may differ from one individual to another hence the PC's consult the legal unit for assistance with the LRA. Furthermore, it is clear that the RLCC requires more legal staff to assist all 11 district and metro municipalities, currently there are only has 6 legal officers.

Factors that hinder land restitution processes.

PC's raise various concerns which are a major contributor to the implementation of land restitution processes. The nature of the PCs' work is field based and various resources need to be provided to them so that they can conduct their duties successfully; protective gear is a priority when conducting homestead identifications and mapping in deep rural areas. The offices should also be conducive in terms of proper building structures that are well kept, the current building is in a bad state. PC's have raised concerns about the state vehicles which are not serviced and are in a bad state which puts their safety at risk. There are safety issues when meeting with stakeholders such as landowners, angry claimants and families in dispute.

Conclusions regarding hindering factors in land restitution processes

It is clear that the working conditions of the PCs are not conducive to them performing their duties; a lack of infrastructure and resources are hindering the land restitution processes. Furthermore, working under duress also has a negative impact on the fulfilment of the mandate for land claims.

Finding 3: Project co-ordinators' perceptions on how the Regional Land Claims Commission can assist them in meeting designated targets

The RLCC-KZN needs to establish a proper records management system in order to address the statistical challenges currently experienced. The inaccurate statistics affects the reports made by management on the number of outstanding land claims, there needs to be a proper records management system. The performance management system within the RLCC-KZN is not conducive in accordance to the nature of work and it does not complement the PCs' work. It was established from the PCs that the system is used incorrectly due to a lack of knowledge and training, as well as improper monitoring and implementation of the system. The system is also very subjective and needs to be reviewed. In line with ensuring that the EPMS system is used correctly, there need to be standardisation of targets within the office and a differentiation between rural and urban claims. Complex land claims should also be provided for in the assessment of performance. The RLCC-KZN requires more financial support in order to settle the outstanding land claims, there is no money to buy land and farms. PC's believe that the autonomy of the CRLR will ensure that there is a sufficient budget. The PC's from FG-B are of the view that the CRLR has provided the necessary guidelines in order to assist them with meeting their targets such as the LRA. Furthermore, FGB states that "CRLR also provides us with good accommodation and hired vehicles. We are also provided with laptops and bursary opportunities to study further."

Conclusions: The findings revealed that the RLCC needs to develop a new records management system that will update the records in the office and establish afresh a recording system that will work. In order to address the EPMS' challenges, internal issues require attention such as setting targets that are standardised, considering the complexities and unique nature of land claims, and appointing capable panel members to assess the performance of staff in line with the EPMS policy. The RLCC offices have to fast-track the plans on becoming autonomous as per requirement in the LRA, this may assist with budget allocation. The office has to develop a proper planning document on how much budget is required in line with the outstanding land claims and government as a whole needs to address this challenge. It can be concluded that PC's in FGB acknowledge the assistance provided by the CRLR such as the FGB and the assistance provided assist them in meeting their targets.

Table 5.2: Divergence of focus groups

| | |
|--|---|
| Finding: Divergence of Focus Group A and Focus Group B | |
| Question: How has the CRLR assisted you in meeting your targets? | |
| Focus Group A | Focus Group B |
| The first group consisting of PCs employed for more than five years were of the view that the CRLR has not assisted them much with meeting their targets, i.e. they have to find their own way to manage the land claims projects. The records management is a mess which results in incorrect statistics of land claims every year. The state vehicles are not serviced and they are old and uncomfortable. | The majority of the second focus group of PCs who are employed in the CRLR for five years or less agreed that the CRLR has provided them with guidelines for how to carry out the projects through the Land Restitution Act No. 22 of 1994. It is clear that FGB which consists of fairly new employees as opposed to FGA view the benefits for them to explore such as studying. They are satisfied with the tools provided to them for carrying out their duties. |

Finding 4: Project co-ordinators’ perceptions regarding the re-opening of lodgement of land claims.

The reopening of land claims was motivated by various factors such as insufficient planning and a lack of consultation about the strategy; it was a decision taken at the top that was cascaded down to the officials. The amended LRA did state that old land claims will be finalised before investigating new land claims, the LAMOSAs court judgement ruled on this matter as well. Furthermore, media reports have since revealed that the court has pronounced the process as invalid until the old land claims are finalised due to lack of consultation.

Conclusion: The reopening of the land claims process was not properly planned and requires amendments if it is to achieve the main objective of providing the public with a second chance to lodge land claims, especially for the communities that were unaware of the closing date which resulted in them being left out of the process.

5.5 Significance of findings to land restitution service delivery knowledge

The findings have revealed that there is a broader and more holistic challenge of service delivery within the CRLR. Namely, findings suggest that the lack of autonomy of the CRLR, even though such autonomy is legislatively authorised, impedes land restitution service delivery. The main aim for the public service is to provide services to the public, which is a constitutional mandate. The Department of Rural Development and Land Reform is a government department and has to fulfil its constitutional obligation of providing redress in terms of land rights under the land restitution programme. Yet the CRLR seems monetarily bound to the DRDLR in a way that inhibits service delivery. Another way that this study has contributed to the land restitution service delivery knowledge is through the treatment of PCs as SLBs. Although SLB theory has been in existence for decades, it does seem to have been used before in terms of recognising PCs as SLBs and acquiring a better understanding of their role from that frame of reference. The PCs are the link between the government and the public who lodge land claims in the CRLR offices in KZN, in other words they are the constitutional liaison between the government and the public as discussed in the theoretical framework. Service delivery challenges have been expressed through the various responses of the PCs, which were interrelated and had in common an outcry related to service delivery challenges and limited awareness of their empowerment as frontline workers in land restitution service delivery.

5.6 Recommendations

The above findings and conclusions provide the basis for the recommendations for the CRLR.

- The role of PCs should be acknowledged by assessing the level of power that can be given to them to achieve efficient service delivery. Managers should be actively involved in supporting PCs, and government should fast track the CRLR becoming autonomous as stipulated in the Restitution Act No. 22 of 1994 in order to address its financial problems.
- The CRLR should conduct a needs assessment for all its officials in term of work tools, in order to provide for all fieldworkers without having to write individual memorandums for tools that are essential for carrying out their duties.
- Standard operating procedures should be developed to address the targets of each salary level, and the complexities of the land claims projects must be considered when assessments are done. There further needs to be a differentiation between urban land claims and rural land claims because the processes differ. The EPMS policy should be reviewed and panel members must be trained before being appointed to assess the officials.
- Proper planning of the reopening of the land claims process must be done by creating operational plans with officials, instituting communication campaigns, and holding consultations with the communities. The Land Restitution Amendment Act should only be enacted once these processes have been completed as ordered by the court.

5.7 Recommendations for future research

Further research is recommended due to the fact that this study did not reach out to the rural communities that are on the receiving end in terms of poor service delivery of land rights. It would be of great importance to hear the views of the land claimants regarding the process of land restitution and how it affects or assists them. Moreover, further research is required in order to address the challenges within the RLCC in KZN concerning the performance management system, as this has turned out to be a major contributor to demotivating staff, which affects meeting targets in line with the annual performance plans of the office.

5.8 Conclusion

The final chapter of this dissertation has provided the results emanating from the data collected through the literature review, interviews and focus groups. The research objectives provided the study with direction in terms of the data that were collected, with the aim of addressing the research problem. Findings arising from the data collected from the previously mentioned sources are then presented and discussed; each finding may be able to assist the CRLR in KZN to address these challenges, which would not have been known if this study had not been conducted. It is imperative for the CRLR to analyse the research findings and to discuss them in EXCO meetings so as to come up with an inclusive strategy which is bottom up in its approach. This study can be used as a starting point to improve where there is progress and to revisit the office working documents with the aim of addressing the challenges raised in more detail. This section concludes the dissertation.

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14 July 2016

Ms Pinkie Colleen Ndlovu 209511431
School of Management, IT and Governance
Westville Campus

Dear Ms Ndlovu

Protocol reference number: HSS/1047/016M

Project Title: Implementing of Land Restitution in KwaZulu-Natal: Perceptions of Project Coordinators in Pietermaritzburg, South Africa

Full Approval – Expedited Application

In response to your application received 12 July 2016, the Humanities & Social Sciences Research Ethics Committee has considered the abovementioned application and the protocol has been granted **FULL APPROVAL**.

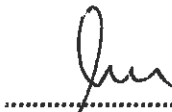
Any alteration/s to the approved research protocol i.e. Questionnaire/Interview Schedule, Informed Consent Form, Title of the Project, Location of the Study, Research Approach and Methods must be reviewed and approved through the amendment /modification prior to its implementation. In case you have further 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 Shenuka Singh (Chair)
Humanities & Social Sciences Research Ethics Committee

/pm

Cc Supervisor: Dr FA Ruffin
Cc. Academic Leader: Professor Brian McArthur
Cc School Administrator: Ms Angela Pearce

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