



**Exploring the Benefits and Challenges of Land Restitution at Qhubekani-Mnqobokazi
Community land**

By

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DECLARATION

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I, **Thembisile Rejoice Mabaso** declare that,

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7 July 2022

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DEDICATION

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Table of Contents

DECLARATION	ii
ACKNOWLEDGEMENTS	iii
DEDICATION	iv
List of Tables and Figures.....	ix
ABSTRACT.....	x
CHAPTER 1: INTRODUCTION AND BACKGROUND	1
1.1 Introduction.....	1
1.2 Background of the study	2
1.3 Problem statement.....	4
1.4 Aim, objectives and research questions	5
1.4.1 Aim of the study.....	5
1.4.2 Objectives of the research	5
1.4.3 Research questions.....	6
1.5 Significance of the study	6
1.6 Outline of the dissertation	7
1.8 Conclusion	7
CHAPTER 2: LITERATURE REVIEW	9
2.1 Introduction.....	9
2.2 Understanding conceptual issues relating to land reform and restitution	9
2.3 International aspects of land restitution	12
2.3.1 Columbia land restitution legislation	13
2.4 African perspectives of land restitution	15
2.4.1 Land restitution legislation in Kenya	17
2.5 The history of land reform in South Africa.....	19
2.5.1 Land reform – restitution during the colonial era	19
2.5.2 Land reform-restitution during the apartheid era	22
2.5.3 Land reform-restitution in post-apartheid South Africa.....	22
2.6 Legislative framework for land reform –restitution.....	23
2.6.1 Policy shifts and capacity to the implement.....	23
2.6.2 Land redistribution.....	25
2.6.3 Land tenure reform	25
2.6.4 Land restitution	25
2.7 Assessment of land reform – restitution	31
2.7.1 Characterisations of performance of the land reform programme	32
2.7.2 Challenges of land restitution	33
2.7.3 Participation, beneficiary challenges	39

2.7.4 External factors	39
2.7.4.1 Changes in demographics	40
2.7.4.2 Climatic conditions	40
2.7.4.3 Economic conditions.....	40
2.7.4.4 Lifestyle factors.....	42
2.7.4.5 The impacts of Human Immunodeficiency Virus and Acquired Immunodeficiency Syndrome (HIV/AIDS) on agricultural productivity	43
2.7.5 Land redistribution challenges	43
2.7.6 Land restitution challenges	44
2.7.7 Land tenure reform challenges.....	45
2.8 Land restitution in Qhubekani Mnqobokazi	45
2.8.1 Mnqobokazi landscape.....	45
2.8.2 Claimed properties	46
2.8.3 History and dispossession of land rights.....	46
2.8.4 Mnqobokazi land at the time of dispossession.....	47
2.8.5 Mnqobokazi land at the time of restoration	47
2.8.6 Restoration of land rights	49
2.9.1 Phinda and Mnqobokazi sustainable livelihood.....	51
2.9.2 Other community benefits.....	52
(i) Direct employment.....	52
(ii) Indirect employment	53
(iii) Settlement of land claims	53
(iv) Conservation lessons.....	53
2.9.3 Phinda & Beyond Conservation Model for Sustainability.....	53
2.9.4 Achievements since 2007	54
2.9.5 Challenges affecting sustainable livelihoods in the Mnqobokazi settled land at Phinda.....	54
2.9.6 Why has land restitution for Mnqobokazi worked?.....	55
2.10 Factors that seem to prevent sustainable livelihood of beneficiaries	55
2.10.1 Recommendations made by the Sustainable Development Consortium:-	56
2.11 Theoretical framework.....	56
2.12 Conclusion	57
CHAPTER 3: METHODOLOGY	58
3.1 Introduction.....	58
3.2 Research site	58
3.3 Location of the study	61
3.4 Entry to the research site.....	63
3.5 Research paradigm.....	63
3.6 Research design	64
3.7 Research approach	64

3.8 Selection of participants.....	66
3.8.1 Purposive sampling.....	66
3.8.1.1 Inclusion criteria	68
3.8.1.2 Exclusion criteria	68
3.8.2 Snowball sampling.....	69
3.9 Data collection method	69
3.10 Data collection instrument	71
3.10.1 The researcher as an instrument.....	71
3.10.2 The interview guide	71
3.11 Pilot study	72
3.12 Data collection procedure	72
3.12.1 Interviews during the pilot phase.....	72
3.12.2 Interviews for the main study.....	73
3.13 Data analysis	73
3.14 Trustworthiness.....	75
3.15 Positionality in the study.....	76
3.16 Ethical considerations	77
3.16.1 Ensuring that participants have given informed consent	77
3.16.2 <i>Primum non nocere</i> : At first do no harm	78
3.16.3 Ensuring anonymity and confidentiality.....	79
3.16.4 Ensuring that ethical clearance is obtained.....	80
3.17 Limitations of the study	80
3.18 Conclusion	80
CHAPTER 4: FINDINGS AND DISCUSSION	82
4.1 Introduction.....	82
4.2 Participants profile.....	82
4.3 Discussion of the findings.....	86
4.3.1 Benefits for land restitution stakeholders.....	86
4.3.1.1 Benefits for land restitution beneficiaries	86
4.3.1.2 Benefits of Qhubekani-Mnqobokazi committee	92
4.3.1.3 Benefits to traditional leaders or municipal leader	96
4.3.1.4 Benefits to the community in general	99
4.3.1.5 Benefits to Phinda (& Beyond) Game Reserve.....	103
4.3.1.6 Benefits to the Land Claims Commission.....	106
4.3.1.7 Implementation of the Land Restitution Programme	106
4.3.1.8 Equitable access to land	106
4.3.1.9 Integrated rural development	107
4.3.1.10 Sustainable agricultural and food security for all	107

4.3.2 Challenges faced by Qhubekani-Mnqobokazi Community and Commission on Land Restitution	108
4.3.2.1 Challenges faced by beneficiaries in Qhubekani-Mnqobokazi Community	108
4.3.2.3 Challenges faced by Qhubekani-Mnqobokazi committee	112
4.3.2.4 Challenges faced by Mnqobokazi traditional leaders or municipal leader	113
4.3.2.5 Challenges faced by Mnqobokazi general community	114
4.3.2.6 Challenges faced by Phinda Game Reserve	114
4.3.2.7 Challenges in the land restitution process	116
(i) Finance and procurement	116
(ii) Staffing issues	116
(iii) Investigation of claims challenges lead to fraud	117
(iv) Untraceable claimants	117
(v) Disputes	117
(vi) Lack of systems	118
(vii) Stakeholder management	118
(viii) Lack of safety	119
(ix) Unconducive working conditions	119
4.4 Conclusion	120
CHAPTER 5: CONCLUSION AND RECOMMENDATIONS	122
5.1 Conclusion and Recommendations	122
5.2 Findings from the literature	123
5.3 Findings from primary research	125
5.4 Reflections on objectives	126
5.5 Recommendations	128
5.6 Recommendations for further research	129
REFERENCES	131
Appendix 1 : Request for a permission to conduct research	141
Appendix 2: Interview guide	143
Appendix 3: Informed Consent	147
Appendix 4: Ethical Clearance Letter	149
Appendix 5: Turnitin Report	150

List of Tables and Figures

Table 2.1: Pre-1994 selected legislation for land dispossession and onset of land reform	28
Table 2.2: land reform legislation from 1994	29
Table 3.1: The deal between Phinda and Mngobokazi regarding sustainable livelihood.....	52
Table 5.1: Participants' profile	82
Figure 2.1: The map of Mngobokazi	46
Figure 2.2: Mngobokazi at the time of Dispossession	47
Figure 2.3: Mngobokazi Land at the time of restoration (RSA Tourism, 2015)	48
Figure 2.4: Part of Phinda Game Reserve.....	48
Figure 2.5: Phinda Game Reserve Lodge	49
Figure 2.6: Phinda Game Reserve Mountain Lodge.....	49
Table 2.1: The deal between Phinda and Mngobokazi regarding sustainable livelihood.....	52
Figure 2.7: Phinda & Beyond Conservation Model for sustainability	53
Figure 3.1: Province of KwaZulu-Natal	59
Figure 4.1: Presentation of gender representation in the study.....	Error! Bookmark not defined.
Figure 4.2(a): Age group shows the age of participants	85
Figure 4.2(b): Years of Service and Years they have lived in the area	85
Figure 4.3(a): The Gate of the Phinda Game Reserve & Beyond	91
Figure 4.3(b): Land Restored to Qhubekani- Mngobokazi Community Land Claim.....	91

ABSTRACT

In 1994, the democratic government of South Africa introduced the Land Reform Programme, which aimed to redress the historical imbalances. The Land Reform Programme is designed to provide equitable redress to persons and communities involuntarily dispossessed of their rights to land after June 1913 due to racially discriminatory laws and practices. Of the three pillars of the land reform programme, land restitution, land tenure reform, and redistribution, the former is seldom a matter of empirical inquiry. The people who lost their rights were allowed to lodge claims with the Regional Land Claims Commission office for equitable redress. Mngobokazi community, was dispossessed of their rights to land, and out of the three types of land reform awards, the Mngobokazi community opted for restoration of the land used as a game reserve owned by Phinda, and Beyond. This research explores the benefits and challenges of land restitution in the Qhubekani-Mngobokazi community. Mngobokazi community is a poor community in a remote rural area under UMkhanyakude District Municipality, KwaZulu-Natal. This study further investigated the challenges that the Qhubekani-Mngobokazi community and land Restitution faced in making land claimed to benefit the people of the Qhubekani-Mngobokazi community and made recommendations on how the land claimed through restitution could be used to address socio-economic challenges in the Qhubekani-Mngobokazi community. This researcher used a qualitative research approach, and the philosophical grounding is a social constructivist paradigm. Data was collected through semi-structured in-depth interviews. Semi-structured interviews are the most common technique in qualitative research. Eighteen (n=18) participants participated in the study. Among these, three of them were from the Office of the Land Claims Commission, six were Qhubekani-Mngobokazi Committee members, four were ordinary community members who are also referred to as beneficiaries of the land restitution, and two were from the community leadership which is the Municipality and the tribal authority. One participant was from the management of Phinda Game Reserve. This study analysed data using themes, and literature was used to support or refute the empirical findings. The findings show that the community of Mngobokazi benefited from their land restitution claim. Access to education improved through schools that were built. Further, the health and well-being of the community improved through increased access to potable water, and sanitation. The community also benefited from access to electricity, health care services, business development, and increased job opportunities. However, there is still room for improvement regarding skills transfer, the balance of power, community involvement, and participation in decision-making. The researcher recommends that Phinda Game Reserve should train community members on conservation and land restitution to bring back post-settlement support and ensure that they improve their processes to ensure that land claims do not take long to settle. Further, efforts to empower community members particularly the youth must be prioritised to enable efficient skills transfer. Most community members in Mngobokazi are satisfied with what they have accomplished as a community through land restitution.

CHAPTER 1: INTRODUCTION AND BACKGROUND

1.1 Introduction

The land question is a serious matter in the politics of South Africa. Dispossession of land through colonial conquest and forced removals that were effected during the apartheid era have left deep-seated imprints on the country's social and physical landscapes (Cousins and Walker, 2015). Land dispossession had, and still has devastating effects, especially on the economic prospects and the quality of life for Black South Africans above many generations (Cousins and Walker, 2015; Du Toit, 2018; Neves, 2017). The impact of land confiscation on the livelihoods of millions of South Africans has been repeatedly highlighted during the anti-apartheid fight, and it continues to be a cause of resentment for most South Africans today (Du Toit, 2018). Land restitution is part of the broader reform programme in South Africa, alongside land tenure and land redistribution (Walker, 2015). Land restitution, in particular, has failed to return land rights to the original owners within the time frame set (Xaba, 2016). This chapter provides the background of the study, problem statement, aim, objectives and research questions. In this chapter, the presents the profile of the study location and its significance.

In the past 16 years, land reform has shown little or no evidence that it contributes to improved livelihoods, job creation, economic growth and improved efficiency (Lahif and Li, 2012). Between 1994 and 2009, interventions by land reform were mainly on redistribution of commercial agricultural land. Very little attention was paid to the qualitative aspect of land reform, including developing and maintaining productive forces and manufacturing institutional conditions for changing power relations in the agricultural industry (Nkwinti, 2015). Nkwinti (2015) further states that the settlement of land claims has been running very slow due to capacity and disputes within the Communities, families, and the Commission on Restitution of Land Rights. The minister of Rural Development and Land Reform (Honourable Gugile Nkwinti) may not be correct in saying that land reform through land restitution has benefitted more than 1.8 million people by 2015 in many provinces across the country. Research has shown that half of all projects have not benefited the land claimants, and those who benefited have not received the necessary support and lacked proper planning (Cousins, 2013).

The Government has not reached the actual target set in 1994, which was 30% of agricultural land in the hands of Black people of South Africa; from 1999 to 2014, the target has been changed (Pringle, 2013). The Government agreed to the fact that the 90% land reform projects that have failed in 2014 were proven by the shifting of the target of 30% set in 1994, and the racially unequal ways in the ownership of land and political calls to “reclaim the stolen land” has shown an urgent need for the development of policies to address the long term legacies of the dispossessions that occurred (Cousins, 2013).

1.2 Background of the study

The National Development Plan Vision 2030 (2013) indicates that land reform is a programme introduced in 1994 by government of the Republic of South Africa after the first democratic elections. The land reform programme aimed to redress the injustices of the past through three pillars, which are land redistribution, land restitution, and land tenure reform (South African Government, 2016). South Africa had just emerged from the notorious apartheid regime for undermining and disregarding Black people’s rights. Black people’s land had been taken away from their ownership by colonial and apartheid regimes (Xaba, 2016). Land redistribution is a programme responsible for acquiring land and distribution to overcome racial imbalances (Cousins and Walker, 2015). Thus, the land is acquired from the minority for redistribution to the majority who were previously disadvantaged for purposes of production and settlement (Tombindo and Chirau, 2017).

Land tenure reform is responsible for securing the land rights of those who already occupy the land with insecure occupation rights (Tombindo and Chirau, 2017). Land restitution is a programme that returns previously owned land in exchange for alternative land or monetary compensation to people whose land was taken away using racially discriminatory laws and practices (Clark, 2019). The Restitution of Land Rights Act No 22 of 1994, as modified, governs the settlement of land restitution claims and offers settlement assistance to recipients. Land restitution’s strategic goal is to restore claimants’ land rights or provide alternative kinds of equitable restitution (Xaba, 2016). Land reform remains a key and most sensitive issue globally and South Africa is not an exception (Clark, 2019). According to the Land Audit (2017:7), Whites still own 72% of the country’s arable land, despite them constituting less than 10% of the entire population. Despite the commitment by the ANC-led government to deal with the land issue, the efforts and achievements of land restitution have been barely a quarter (AgriSA, 2018).

The country's slow progress in resolving land issues highlights the current poor economic growth and unemployment in South Africa and the broader difficulty of finding solutions to redress historical injustices (Clark, 2019). Dawood and Ghallieb (2016) argued that as of the year 2016, the Government of the Republic of South African had contributed above R60 billion to projects under the land reform programme since it began in 1994. Despite this huge investment, the programme of land reform has not developed the rural areas as targeted (Dawood and Ghallieb, 2016). The Fiscal and Financial Commission of the Government of the Republic of South African (2016) demonstrate that land reform has failed as a strategy for agricultural development and job creation.

The Financial and Fiscal Commission of the Government survey in KwaZulu-Natal, Eastern Cape, and Limpopo provinces found that most land reform farms had none or little agricultural activity (Government Financial and Fiscal Commission, 2016). Sadly, the beneficiaries of land reform are earning little to zero income and alternately. Most of those beneficiaries resorted to seeking job opportunities from the nearby commercial farms instead of farming their own land (AgriSA, 2018). For example, land reform farms failed to produce enough to ensure food security (Dawood, 2016). Crop productivity has dropped by 79% on average since the switch to land reform. Job losses averaged 84% across three regions examined, with KwaZulu-Natal suffering a 94% job loss (National Land Reform Programme and Rural Development, 2016).

In State of the Nation address in 2019, President of the Republic of South Africa, Cyril Ramaphosa stated that besides all the challenges facing land reform, there are land restitution beneficiaries who roar with pride. He highlighted that land beneficiaries whose claims were settled around 2007 were making positive progress and benefiting as individuals and as communities. Mnqobokazi in UMkhanyakude, KwaZulu-Natal benefitted from land restitution (SONA, 2019). Qhubekani Mnqobokazi community has exercised its right to lodge the land claim as claimants, courtesy of Section 2 of the Restitution Act of 1994. Unfortunately, the land claimed by the Qhubekani-Mnqobokazi community was already transferred to a game reserve, and there was an overlap in terms of boundaries with a neighbouring community known as Makhasa (Government Gazette Notice No 26 of 2006).

Against this background, this study explores the benefits and challenges of land restitution in the Qhubekani-Mnqobokazi community land claim. This study explores the land reform policy as a community development project to resolve past injustices involving land ownership.

1.3 Problem statement

In South Africa, most land reform projects have been characterised by inefficiency. Many farms that were distributed through land restitution have experienced a decline in agricultural production. While claimants may report being “consoled”, development prospects for restored land are still uncertain (Walker, 2016:209). Production levels on transferred land are generally disappointing, and many land reform projects are mired in leadership and community disputes (Cousins and Walker, 2015). The Department of Rural Development and Land Reform’s annual report for the 2013/2014 financial year revealed that there were projects between R1 277 993 142 that were between 1-3 years and some that were older than three years at about R2 086 682 004 that were not settled due to the changes that occurred in the restitution settlement options due to tribal, community and family conflict, disputes and untraceable claimants. The figures underline the capital expenditure towards restitution approved but not yet contracted. Interest might be charged in some of these claims in Section 80 of the Public Financial Management Act as prescribed by the Minister of Finance (Department of Rural Development and Land Reform).

The South African Government admitted that 90% of land restitution projects had failed (Pringle, 2013: 41-42). However, the government may have been inaccurate in stating that 90% of land restitution projects have failed, as research reveals that half of all projects have not benefited the affected people due to poor planning and lack of necessary support from the landowner or the Government itself (Binswanger-Mkhize, 2015: 256). Furthermore, there have been several media reports. For example, “South Africa’s Land Restitution effort lacks a focus on struggling farmer” (Xaba, 2016:2). The pace of settling land claims is slow to finalise claims, coupled with failure of the CRLC in meeting targets and deadlines (HRC, 2015:1).

Land restitution is a complicated land reform programme; however, it has been successful regarding the number of beneficiaries and the amount of land (hectares) that has been transferred (Binswanger-Mkhize, 2014). The problem is that land restitution focuses mainly on restituted agricultural land in mechanised farms closer to urban areas, forgetting about the restituted conservation land in poor areas where the success of land restitution can be measured against sustainable rural livelihoods. UMkhanyakude is a municipal district in KwaZulu-Natal, which is poor when measured by its socio-economic standards (Simpson, 2011). Phinda Game Reserve is one of the world’s most ecologically richest game reserves, with rich biodiversity in seven distinct ecosystems (&Beyond, 2015).

At the Malobolo Land Handover Ceremony, President Cyril Ramaposa (2019) quoted Mnqobokazi Land Claim as one of the successful land restitution claims. This is based on the success of Phinda Game Reserve being a well-known World's Tourism winner for its Big Five and top hotel resorts attracting international tourists (Department of Agriculture, Land Reform and Rural Development, 2019). A settlement agreement between Phinda Game Reserve, the government and Mnqobokazi community indicated that Phinda Game Reserve would lease the property from the Qhubekani Mnqobokazi for 36 years. During this period, Phinda Game Reserve would employ staff from the Mnqobokazi community and other employees from the community will form part of the management. Further, Phinda Game Reserve undertook to facilitate skills transfer to the community (S42D, 2007).

At the time of land restitution, 85% of the Mnqobokazi community was unemployed, the community being the poorest in the rural area of UMkhanyakude District. Children in Mnqobokazi were walking more than 10 kilometres to and from school. They were drawing water from the river, about 5 kilometres away (Department of Land Affairs, 2007). The land restitution office has never been to the area of Mnqobokazi to check on the fulfilment of the promises made by the Phinda Game Reserve since there is no post-settlement support. The study explores the benefits and challenges of land restitution in the Qhubekani-Mnqobokazi community. Currently, the problem is that despite the efforts made through land restitution in the area in question, the benefits and challenges faced by this community and stakeholders are not documented. Illuminating the benefits and challenges of land restitution in this context will help to identify areas that require attention, which will help to inform future activities seeking to ensure that the best comes out such initiatives.

1.4 Aim, objectives and research questions

1.4.1 Aim of the study

The study explores the benefits and challenges of land restitution in the Qhubekani-Mnqobokazi community.

1.4.2 Objectives of the research

The following objectives guided the research:

1. To explore the benefits of land restitution in the Qhubekani-Mnqobokazi community.

2. To identify the challenges faced by Qhubekani-Mnqobokazi in ensuring that the land claimed benefit the people of the Qhubekani-Mnqobokazi community.
3. To make recommendations on how the claim through restitution could be used to address socio-economic challenges in the Qhubekani-Mnqobokazi community.

1.4.3 Research questions

The study was guided by the following questions:

1. What are the benefits of land restitution in the Qhubekani-Mnqobokazi community?
2. What challenges did the Qhubekani-Mnqobokazi community face in making land claimed to benefit the people?
3. What recommendations can be made to improve land use claimed by the Qhubekani - Mnqobokazi community?

1.5 Significance of the study

Many research studies have been conducted on land restitution (Walker, 2011; Cousins, 2015; Binswager-Mkhize, 2014; Kepe, 2019). This research was chosen because of what the researcher observed in settled land restitution projects. Most researchers focused on the failed agricultural restitution projects but leave out the most important part: looking at the beneficiation of the poor communities whose claim is on conservation areas. The literature is mainly on the failed land restitution projects, yet there are other successful restitution projects where communities have benefited, yet there is a dearth of research on such projects.

This study focused on the Mnqobokazi community land claim. Mnqobokazi community members were disposed of their rights to land that was later converted into a protected area, a game reserve owned by Phinda Game Reserve. The study explored the benefits and challenges of the Mnqobokazi Community land claim, documents lessons learned, and make informed decisions based on evidence. More work still needs to be done in South Africa to ensure land restored through land restitution positively benefits the rightful owners. Although land restitution has failed in meeting its target and agricultural land restored being distressed, there are claims on successful conservation properties. Through this research it will be discovered whether the management of the game reserve do justice when it comes to the beneficiation of the communities who are landowners and those neighbouring the game reserve. This research focuses on the Qhubekani-Mnqobokazi land restitution claim where Phinda Game Reserve, a

world tourism award winner reserve, was restored to this community. The research explored the benefits of the Qhubekani-Mnqobokazi community in this land claim. The Mnqobokazi community was deprived of their land rights, and out of the three types of land reform awards, they chose to restore the property that had been used as a game reserve and was owned by Phinda and Beyond. The purpose of this study is to examine the advantages and difficulties of land restitution in the Qhubekani-Mnqobokazi community.

1.6 Outline of the dissertation

This dissertation comprises five chapters.

Chapter One: In this chapter, the researcher provides the background of the study, problem statement, aim, objectives and question, the profile of the study site, and the study's significance.

Chapter Two: Chapter Two is a presentation of the review of relevant literature on land approach.

Chapter Three: In this chapter, the researcher presents the research methodology and design adopted to collect and analyse empirical data.

Chapter Four: Data presentation, interpretation and discussions of the study results revealed through the engagement with the interviewees are presented in this chapter. In this chapter, a breakdown and discussion of the data regarding the benefits and challenges of land restitution at Qhubekani-Mnqobokazi community land claim collected from 25 interviewees. The chapter also reflects on the challenges in the Qhubekani-Mnqobokazi community in relation with the literature review expanded in Chapter 2.

Chapter Five: This chapter provides the conclusion, summaries of both literature and primary findings, and the study's recommendations.

1.8 Conclusion

Chapter One furnished the reader with a detailed description of the study area, which is Qhubekani-Mnqobokazi community. Community development is a multifaceted global occurrence, and with the changing times and countries getting independent, the demand for revising policies enacted under the apartheid regime is growing. Land reform is a critical part of community development and can render unsolicited threats if not correctly administered.

The reader can anticipate reading an extensive literature review of the important supporting concepts connected to the research. The ensuing chapter covers policies, programmes and debates related to successful community development and the approach to sustainable livelihoods considering its practicality in the setting of land restitution land claims as a development programme in South Africa. It also explores issues and debates about land reform. Literature also involves other international and local experiences regarding land restitution subjects.

In the next chapter, the literature review and theoretical frameworks of the study are discussed in detail.

CHAPTER 2: LITERATURE REVIEW

2.1 Introduction

The previous chapter provided the introductory background of the study. In this chapter, the researcher presents the literature on land reform and land restitution. The dynamics of land restitution are broadly presented and debated from an international and local (African) perspective, with special reference to land reform in South Africa. In particular, the chapter pays special attention to the benefits and challenges of land restitution in the Qhubekani-Mnqobokazi community, KwaZulu-Natal. The primary goal of the literature review is to inform readers about previous research, as well as providing the information and ideas that have already been formed on a specific research topic (Polit and Beck, 2017). The literature review is a laborious task, yet it is essential and critical if the research process is to be successful (Barad, 2013). Further, conducting the literature review is important because it helps to locate the study within the relevant context.

The chapter is organised into five sections. The first section deals with conceptual issues relating to the theme of land restitution, which is located within the broad land reform programme. The second section focused on the legislative framework of South Africa's land reform, while the third section assesses the challenges and benefits of land reform. The fourth section focuses on land restitution in the Qhubekani-Mnqobokazi community. Finally, then the researcher presents the fifth section, which dwells on the sustainable livelihoods approach as the theoretical framework, and the conclusion.

2.2 Understanding conceptual issues relating to land reform and restitution

This section focuses on the conceptualisation of land reform in general, and land restitution in particular. The indigenous conception is that land is not only a natural asset, but also a determinant resource for economic growth and wealth (The Presidency, 2019). According to Mishra (2021), land is a good asset that acts as a stimulus for indigenous people to act and respond within their natural limits. In most indigenous societies, land determines the existence of humankind, their living, breathing, and thinking. Essentially, land plays a central role in the lives of indigenous communities, socially, culturally, and economically. It is the source of food and a promise of eternal security to a household. Land is a memoir, a legacy, a record of past generations' sorrows and joys, as well as tradition and change (Mishra, 2021). As such,

communities are often attached to their ancestral land. Based on that, they do not take issues of land dispossession lightly.

Extant literature shows that land is a key and important productive asset for the poor who, without land, cannot secure income, farming entrepreneurship, and employment (Hall, 2008; Lipton, 2009). Thus, traditionally, land has a bearing on social tenure based on access and land usage (Sithole, 2010), while in the modern era, land has implications for residential and service delivery (Hagg and Kanyane, 2013). As a resource and asset, all humans are affiliated with land, hence their connections to it (Cooke, 2012). Essentially, people cannot survive without land. As Hall (2008) argues, land is an essential asset for sustaining livelihoods. Land is a determining factor in any country's political and social power relations and affects livelihoods and food security (Camay and Gordan, 2000).

In most developing countries, land dispossession from indigenous people during the colonial and apartheid period led to land reform programmes (Mishra, 2021; Tshishonga, 2020). These programmes were initiated primarily to redress the injustices of the past (Glaser, 2016). In developing countries, land reform is based on laws to reduce poverty and further increase socio-economic opportunities such as income, power, and status for the poor (Lipton, 2009). Land reform can reduce land inequalities, thereby increasing the distribution of private land rights from large landowners to the small and landless agriculturalists (Lipton, 2009). In South Africa, the challenging and necessary responsibility of ensuring that land reform is speedily addressed is upon the National Department of Rural Development and land reform (Makhodo, 2012).

Land reform can restore land rights, create new rights, or redistribute existing rights (Hartvigsen, 2015). According to the National Development Plan Vision 2030 (2013), land reform is a programme introduced in 1994 by the South African government. The programme aimed to redress the injustices of the past through three pillars of land reform, namely redistribution, land restitution, and land tenure reform (South African Government, 2016). Land Redistribution is a programme responsible for purchasing land by the Government. In this case, the land is purchased through the Department of Rural Development and land reform to give it back to those who have no land or who have limit access to land.

The above is further highlighted in Section 25(5) of the Constitution of the Republic of South Africa, which states that the state has a responsibility to make and take reasonable legislative measures to foster conditions that enable citizens to gain access to land because they are

equitable and constitutionally adequate (Davison, 2019). As Tombindo and Chirau (2017) also explains, the aim of land redistribution is to correct racial imbalances and the land is acquired from the minority (White) to the majority (Black), who were previously disadvantaged, for settlement and production purposes.

As another pillar of land reform, the land tenure reform programme is responsible for securing the land rights of those who already occupy the land with insecure occupation rights (Tombindo and Chirau, 2017). The Extension of Security of Tenure Act 62 of 1997 (ESTA) was introduced by the government to intervene by establishing a balance between the opposing interests of farmers and the farm workers and dwellers. The legislation was not aimed at stopping evictions but merely at regulating them, ensuring that all evictions were conducted legally, with a court hearing considering all relevant factors. Section 4 of ESTA provided options for land and housing of their own (RSA Government: Rural Development and Land Reform, 2011). According to Sibanda (2001), this programme is the most difficult to implement and the slowest land reform programme.

Furthermore, Sibanda (2001) notes, the Department of Land Affairs strongly believes that there are more cases of illegal evictions versus the legal ones, and the reason is that the Department of Land Affairs does not have enough resources, as well as skilled personnel responsible for ensuring the effective communication and enforcement of legal claims. Land restitution is a programme responsible for giving back previously owned land, providing alternative land or financial compensation to individuals whose land was taken away through racially discriminatory laws and practices. As amended, the settlement of land restitution claims falls under the Restitution of Land Rights Act, No. 22 of 1994 and provides settlement support to beneficiaries. The strategic objective of land restitution is to restore land rights or provide alternative forms of equitable redress to claimants (Tombindo and Chirau, 2017).

According to Mafukata (2020, citing Zenker, 2015), the responsibility of land restitution lies in the restoration of land or provision of another kind of compensation to individuals or communities previously dispossessed of their land through racially discriminatory legislation of apartheid government (Mafukata, 2020). Department of Rural Development and Land reform annual report (2013/2014) also stressed that through racially discriminatory practices, native citizens of South Africa were robbed of their land and essentially livelihoods and dignity by the 1913 Native Land Act (Louw, 2013). Mafukata (2020) further referred to this Act as a

“DRACONIAN” piece of legislation that resulted in Black people owning a paltry seven per cent of arable land despite being the majority population.

Colonial conquest resulted in serious land ownership disparities as people of European descent occupied an average 1 600 hectares of land per capita to 1.3 hectares per Black ownership (Louw, 2013). Although there were legislative changes before the advent of independence in 1994, these were more cosmetic than substantial corrections to racial land imbalances. At independence in 1994, the new democratic government was cognisant that land was the bedrock upon which the protracted struggle has waged, initiated the land reform programme to right one of the many historical wrongs of the unpleasant past. The land reform programme was initiated by the African National Congress, and it has social, economic, and political objectives. The programme has been under implementation for the past two decades. It follows, therefore, that if not addressed urgently and adequately, land can be a social, economic and political time bomb (Netshipale et al., 2017).

Franco et al. (2015) agree that the Land Reform Programme should be executed to favour our reconciliation and development process whilst considering the fairness and justice for individuals, communities, and the rest of the stakeholders affected in the country. Hence, the government is held accountable to only compensate successful claimants in an equitable and fair method where land restoration is not feasible for restitution. Bearing in mind that the landowners whose land is being transferred to previous owners who are so-called successful claimants would also be compensated in a just and equitable manner for their land (Mafukata, 2020). Hence, the guiding principles include fairness and sustainability.

The three pillars of land reform and the acts that govern them would be further discussed under 2.6, which is the legislative framework for land reform (Glaser, 2016).

2.3 International aspects of land restitution

More than six million people in Columbia were forcefully displaced through the violent struggle to control territory for economic, military, and political reasons. The people dispossessed of their land were Columbians that relied on the land for their survival, especially indigenous, Afro-descendant and peasant farmer communities (Codhes, 2014). The forceful removals in Columbia date back to 1985. The land grabbers of different organisations illegally held almost 15 per cent of land in Columbia, and about six to seven million Columbians had no choice but to go and search for alternative dwellings. In 2011, this all began to change with

land restitution efforts (Codhes, 2014). The philosophy of restitution plays an important role in South Africa's land reform programme.

2.3.1 Columbia land restitution legislation

In 2011, Columbia came up with Law 1448, also known as Victims and Land Restitution Law. This law is aimed at returning land, which was not legally held to its rightful owners. Thus, the Government of Columbia established a land restitution unit (Amnesty International, 2014). This unit aids Columbian citizens in the court system to assist them in understanding how they can file land restitution. The law also provides a leeway for those who might no longer have the physical documents that prove they owned the land, which is usually the case (Amnesty International, 2014).

However, success of the land restitution process largely depends on whether the authorities, through Law 1448 can guarantee all land claimants the right to an effective remedy, a right which lies at the core of international human rights law (Amnesty International, 2014). Effective land restitution also means enabling those who wish to return to their lands to do so sustainably. According to Law 1448 shows that victims, witnesses and public officials involved in the land restitution process face security risks and that effective measures to protect them must be put in place (Law 1719 of 18 June 2014).

The 1998 guiding principles on international displacement, alternatively known as the Deng Principles, state that the "competent authorities have the primary duty and responsibility to establish conditions as well as provide means, which allow internally displaced persons to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country" (Principle 28.1 of Deng Principle 1998). Under Columbian Law, women victims, including those involved in the land restitution process, have the right to specific and individualised protection measures, such as women bodyguards for security assessments by female assessors from UNP (Law 1257 of 2008).

In 2013, Columbia also passed Resolution 181, a law that prevents future land grabbing. It helps new landowners obtain Title Deeds and registration documents to ensure that their land cannot be illegally taken or abused (Resolution 181 of 213). In June 2014, President Santos signed off a new law to address conflict-related sexual violence, an issue that particularly affects displaced women (Law 1719 of June 2019). Technology is helping Columbian efforts towards Land restitution since, in addition to these laws, the National University of Columbia

has designed a significantly safer system for storing land-related documents. Land title registration goes directly into a blockchain designed exclusively for property owners. Blockchain technology is highly regarded as the safest way to save information.

Although everything is decentralised, no single entity controls the data in a blockchain; every user can see any old activity and minor if something looks suspicious. Hacking blockchain is extremely difficult, and no one in known history has ever managed to do so (Codhes, 2014). According to Hill (2021), to make land restitution efforts as effective as possible, Law 1448 and Resolution 181 must be enforced far beyond 2021(Hill, 2021). Columbia is moving in the right direction and the proper framework is in place. Further, the Columbian government must remain active in helping its citizens to reclaim what is rightfully theirs. Law 1448 and Resolution 181, coupled with blockchain implementation, have been vital to land restitution efforts. Since 2011, rightful owners have reclaimed over 740 thousand acres of previously stolen land. While that number might sound like more than 5 million acres of land, it remains in limbo (Hill, 2021).

The challenge facing land restitution in Columbia is that of the internal armed conflict. Information received from land claimants from Meta Department in December 2013 states that land claimants have never lived in peace because of violence, anxiety and armed conflict (Amnesty International, 2014). According to a 2013 report, *Basta Ya! Memorias de Guerra Dignidad*, published by the government's National Centre of Historical Memory (Centro Nacional de Memoria Historica), between the years 1985 and 2021, there were almost 220 000 conflict related killings, of which 80 per cent of those were civilians and about 250 000 were enforced disappearances, mostly conducted by the security forces and parliamentary groups alone or in collusion with each other. Research has shown that between 1970 and 2010, 27 000 persons were kidnaped, usually by guerrilla organisations.

Furthermore, between 1985 and 2012, nearly 5 million people were forcibly displaced. The conflict has also been marked by child soldiers in both paramilitaries and guerrilla groups and widespread sexual violence, mostly against women and girls (Amnesty International , 2013). The government has officially recognised some 6.4 million victims of the conflict, almost half of whom are women. Forcibly displaced persons account for more than 85 per cent of conflict-related victims (Human Rights Ombudsman, 2014). By 2014, only five precautionary measures were in place, three for Afro-descendant communities and two for indigenous communities,

which had been presented by the Land Restitution Unit (Unidad de Restitucion de Tierras) and authorised by Restitution judges (Amnesty International, 2014).

According to the Human Rights Ombudsman, four of these date back to 2012 and none were issued in 2013, despite the commitment by the URT to present 16 precautionary measures that year. Only one was issued so far in 2014. According to the Office of the Human Rights Ombudsman, precautionary measures were being vetoed by the Defence Ministry because the Ministry claimed it did not have the resources to implement them (Human Rights Ombudsman, 2014).

2.4 African perspectives of land restitution

In Kenya, historical displacement involved many ethnic groups whose land was alienated for colonial settlement and farming, in what came to be known as the “White Highlands”. In the Coast province, local communities were displaced by Arabs in the “Ten Misle Strip”. Through several legislative, administrative and trickery tactics, the Africans in the White Highlands were forcibly pushed into overpopulated and congested native reserves or forced to move into colonial settlers’ farms as labourers and squatters (Kanyinga, 2000). Unfair distribution of land is unsustainable, and is a recipe for the development of underdevelopment since land is a means of production.

Land restitution in Kenya has always been made legally through administrative procedures or fighters such as the Mau war in the early 1950s. The motivation and ideology of the movement was to return the land that was stolen by the colonialist settlers to its African owners. Nevertheless, in the the post-independence era the fighters and the landless were marginalised and the land was allocated to African colonial loyalists (Hughes, 2006). In the early 1920s some Africans organised themselves and sued the colonial government for appropriating African land for colonial settlement and relegating African communities to Native Reserves. This approach was also used by the colonial administration where Africans were relegated to unproductive drought prone native resources such as Gwaai and Shangani in present day Matebeleland. In Kenya, the Supreme Court reaffirmed the language of the Ordinances and declared Africans as tenants at the Will of the Crown (Evolution of Agrarian Law and Institution in Kenya,1991).

The community of Maasai was one of the communities that consistently articulated their claim for restitution of their land appropriated by the colonial government (Hughes, 2006). They surrendered their land as a result of two agreements between them and the British colonial government in 1904 and 1911 (Kanyinga, 2000). Subsequently, in the 1913 Maasai court case, the Maasai unsuccessfully challenged the validity of the 1911 agreement and the authority of the Maasai leaders' signatories. They demanded restitution, which included the right to return to the northern highlands and compensation for loss of stock (Hughes, 2006).

As Hughes (2006: 209) observes,

“the Maasai’s sense of loss and betrayal has not gone away. Complaints about the land alienation and its consequences have been articulated publicly on four main occasions: before the Kenya Land Commission (KLC) in 1932; in 1962 at the second Kenya Constitutional Conference at Lancaster House, London; at talks in 2003-4 on the constitutional review, and most recently in threats by Maasai activists to sue Britain again, on the hundredth anniversary of the first agreement”.

On August 15, 2004, which was the 100th anniversary of the controversial agreement between the British Government and the Maasai, the Maasai demonstrated across the Rift Valley Province and in the Kenyan capital city, Nairobi, claiming that the agreement had expired. They also invaded privately owned ranches in Laikipia District. Similarly, land invasions were recorded in Zimbabwe during the beginning of the millennium (Scoones, 2016).

In Kenya, the Government, reacted by arresting several of the Maasai land invaders. One person was reportedly killed (Mwanza, 2006). Other communities that unsuccessfully brought restitution legal proceedings in court are the Ogiek and Endorois. Ogiek's land has been lost through government excision. Such land has sometimes been allocated to politically influential individuals under the pretext of resettling squatters or environmental conservation. Excisions have been ongoing since 1932, with 48 000 hectares of forestland converted to settlements under the Forests Act between 1963 and 1971.

In a ruling on 5 March 2000, two High Court judges found that the Ogiek had renounced their ancient traditions and forfeited their land rights (The High Court of Kenya at Nairobi Civil Case No. 238 of 1999). The Ogiek land right issue is still pending either in courts or in the hands of the government (Ogiek People Development Program, 2009). The Endorois community were evicted from their land for the creation of game reserves and ruby mining. This community has not received adequate compensation for this eviction, nor have they

benefited from the proceeds of the game reserve. Their eviction was first challenged in the High Court, which rejected the claim (The High Court of Kenya at Nairobi Civil Case No. 238 of 1999). The court refused to acknowledge the Endorois's land ownership and referred to the people of this community as individuals with no true identity (Kenya Land Alliance, 2004).

Importantly, the high court also did not believe that Kenyan law should uphold a people's ownership of land based on historical occupation and cultural rights. The Endorois community took its case to the African Commission on People's Human Rights (ACPHR) in 2003. In 2005, the ACHPR finally committed to monitoring urgent action measures to protect the community and its land from irreparable harm caused by mining. In 2006, local affairs tested Endorois' drinking water sources and discovered that they were poisonously contaminated due to mining. Mining had to be stopped until the case was resolved (Kenya Land Alliance, 2004). The sample of restitution claims presented above is a tinge of the problem. For a long time, government authorities have downplayed and corruptly handled restitution claims.

Consequently, frustration has led the victims of displacement to desperation and sometimes to breach the law in pursuit of justice (Aliber, 2015). Hopefully, the proposed transitional justice process would credibly deal with the problem. The task is enormous because different narratives of dispossession and entitlement would emerge. The transitional justice process would have to distinguish genuine and deserving cases from the bogus and unrealistic ones (UN Guiding principle on Internally Displaced Persons, Principle 28.1 of 2009). Land expropriation without compensation was never the first option for either Zimbabwe, Namibia or South Africa as 'the willing seller; the willing buyer' was the initial *modus operandi* resulting from protracted pre-independence negotiations. This 'willing seller; willing buyer' policy was later rejected at the 2005 Land Summit (Aliber, 2015).

In South Africa, the slow land delivery is attributed to 'the willing seller; willing buyer' policy (Aliber, 2015). The challenge is that those holding land are not willing to sell, and even if willing, the prices are astronomical, making it difficult for the government to afford the land offered (Challenges Confronting South African Land Reform, Strategic Analysis Paper 2015). This challenge has slowed the pace of land reform.

2.4.1 Land restitution legislation in Kenya

There is no specific law on restitution in Kenya (Wachira and Supra, 2006). However, the right to restitution exists as a general principle of law, which states that the breach of duty not to cause harm gives rise to a right to land restitution. Complaints can lodge claims for restitution

under relevant laws governing a particular dispute. For example under civil law, tort law, contract law, land law, and criminal law. Property restitution is, therefore a common-law remedy. The courts determine whether a claim for restitution has been proven and order the return of claimed property or compensation instead of property (Wachira and Supra, 2006). At independence, the Kenyan government retained the British property law that had evolved during colonialism. The independence constitution entrenched property protection in section 75 of the Constitution. The government cannot deprive a person of his or her property under compulsory acquisition powers without compliance with the established legal procedures and upon payment of prompt and full compensation (Section 75 of the Constitution of Kenya).

However, constitutional protection is limited because communal interests in land are not included in the protection. The property envisaged under the constitution is private. Consequently, the clause only protects persons with no title on the land. At independence, land formerly held under customary law was codified into the Registered Land Act (RLA) of 1963, Cap 300 of the Laws of Kenya (Wanjala and Smokin, 2000). The intention was to regulate all land under this Act, which continues to be held under public tenure and individualisation tenure (Section 115 (2) of the Constitution of Kenya). However, land continues to be held under public tenure and communal tenure as under the trust Land Act. Although communal or customary interests are recognised under the Trust Land constitutional clause and the Trust Land Act, statutory claims can defeat them. The constitution constrains the recognition of customary law through the requirement that such law must not be ‘repugnant to any written law’ (Section 115(2) of the Constitution of Kenya).

2.4.2 The land question in Zimbabwe

The question of land in Zimbabwe is yet another example of the dispossession of Black Africans. Similar to other countries in the developing world, unfair colonial legislation was crafted to legalise land expropriation from the Blacks (Moyo, 2013). However, post-independence, the Government of Zimbabwe (GoZ) crafted legislation to facilitate land reform and restitution. Redressing previous land dispossession by settler-colonial governments was the goal of land reform and restitution. By increasing access to land and encouraging peasant output, it aimed to change the ensuing social relations of production and reproduction (Moyo, 2013).

2.5 The history of land reform in South Africa

In South Africa, land redistribution and land restitution are related and relevant (Koopman, 2014). The land was taken away from its rightful owners in many illegal and inhuman ways. All the land laws including the Land Acts of 1913 and 1936, the Group Areas Act, and the Population registration Act, are among the Acts that also promoted past injustices (Koopman, 2014). There is a need for the land to be redistributed and restituted in light of the injustices and the severe violation of dignity and people's oppression. Every South African who dispossessed their land should be reconciled with their land. For some landless people, this reconciliation with the land means they do not return to their specific piece of land that was dispossessed. However, through the land reform programme, they get the land, and the opportunities and support to build a dignified life, where they have access to all primary basic needs such as water and sanitation, food security, shelter, primary health care, employment, education, safe and crime-free environment, leisure, participation in socio-economic, political, and cultural life.

Therefore, reconciliation with land is possible, which actually means the actualisation of dignity through the implementation and fulfilment of especially the second dimension of social and economical rights and the third dimension of ecological rights, as well as the rights to development (Koopman, 2014). The statistics show that of the 80 000 land claims received by the commission before the cut off date of 31 December 1998, only 5856 land restitution claimants preferred land as their compensation for the land that was taken from them through apartheid laws and policies. The statistics further show that monetary compensation spent on land reform since 1994 could have bought about 37 per cent of commercial farm land, which is 7 per cent more than government's aimed target (Koopman, 2014).

2.5.1 Land reform – restitution during the colonial era

In the Republic of South Africa, the history land reform is linked to racial discrimination and colonial decades of dispossession. Jacobs et al. (2003) argues that the dispossession of land in the colonial era and during the years of apartheid, produced highly unequal land distribution and ownership, which resulted in widespread poverty in South Africa (Mafukata and Tshikolomo, 2020). Ancient people were dependent on the land for their living, which gave rise to the need for rural development. Therefore, the history of land reform is linked to the protracted history of colonial conquest by the Europeans. The conflict over land began with

the arrival of Europeans, which alienated Africans from their land through different laws and policies promulgated by colonial and racial discriminatory regimes (Letsoalo, 1987, cited in Mafukata and Tshikolomo, 2020).

Consequently, socio-economic injustice and the landlessness of Black South African communities culminated land dispossession in the colonial era. The land issue brought extreme poverty to Black communities (Mafukata, Tshikolomo 2020). According to Archary (2012), through The Native Land Act of 1913, Africans were dispossessed of their land, which was done as a means of degrading Black South Africans. Further, the Native Administration Bill 1917 made recommendations for acquiring more land from Black South Africans on an even broader scale than the Native Land Act of 1913. The bill became law in 1927 as the Black Administration Act (Mafukata and Tshikolomo, 2020).

The Black Administration Act deprived lawfully registered owners of their ownership by stipulating that “only registered owner was a native” under the land claims court (LCC: 19). In 1936, another legislative piece called the Native Trust and Land Act was passed, which was renamed The Development Trust and Land Act. This Act was as cruel as the Native Land Act of 1913, since squatting or occupation of certain land by the Black South Africans was made illegal unless they were the owners of the land, employees or legal dependents of the owner of the land (Mafukata and Tshikolomo, 2020). In 1950, another Act was passed, which caused untold hardship and suffering to the Black South Africans. Further, the Group Areas Act gave the State rights to establish different residential areas, which were separated according to race, and the races were prohibited from buying a property or living in an area proclaimed for another race (Mafukata and Tshikolomo, 2020).

Later, The Native Resettlement Act was passed into law in 1954. This Act conferred on the State the power to dispossess land from the African landowners and rightful tenants from urban freehold areas. The Act gave the state more control over areas where Africans were settled irrespective of whether the areas were designated. The Act also gave the State the authority to prevent Africans from settling in areas close to cities by relocating them to far from areas such as townships. The land was zoned for Africans and managed as separate zones. This was done through the Act passed in 1984, the Bantu Authorities Act, which was geared towards the development of local government (Mafukata and Tshikolomo, 2020). In the colonial era, the ownership of land, land alienation, and settlements were determined by the Land Act of 1913, the Native Administration Act of 1927, and the Bantu Trust and the Land Act of 1936 (Letsoalo

1987, cited in Mufakata and Tshikolomo, 2020). The Native Land Act was the foundation for apartheid and territorial segregation and it formalised limitations on the ownership of land by Blacks for the first time. The arrival of Jan Van Riebeeck in South Africa was the beginning of colonisation and apartheid, which resulted in Black South Africa being forcibly removed from their land (Mbelu, 2014).

Several legislations advanced dispossession between 1913 and 1950. These include the Native Land Act 27 of 1913, constituted the main legislation that paved the way for all racial legislations and practices (RSA, 1950). Most Black people were uprooted from their original land, which belonged to their ancestors, a hatred process that was carried out without any compensation (Pepeteka, 2013). Hence, the term ‘native’ was defined in this Act (RSA, 1913) as any person or people of an aboriginal race or an African tribe, or, Black people. The Act (RSA, 1913) also restricted Black Africans from buying, selling and leasing the land in “scheduled areas” but instead compelled them to work for the new land owners in exchange for limited cultivation, grazing, and residential rights.

In light of the above, the Native Trust Land Act No. 18 of 1936 (RSA, 1936:2) provided for the establishment of the South African Native Trust, which was a Government Agency responsible for administrative work in trust land, “to administer the settlement, support, benefit, and material welfare of natives of the union”. This piece of legislation prevented Blacks from owning land, thus introducing trust tenure through the establishment of the South African Development Trust, a state agency, which would buy land in “released areas” within which Africans could settle (Kloppers, 2014). Apartheid and colonialisation legally permitted Black people to be relocated to undeveloped Bantustans or to “ethnic homelands” and peri-urban areas called Bantu locations. Group Areas Act No. 41 of 1950 (RSA, 1950) was also passed, allowing government authorities to remove Blacks forcefully and arbitrarily from urban areas, and involuntarily relocate them to ethnic homelands and Bantu locations (Kloppers, 2014).

Further, land reform was introduced during the period when the Native Land Act laid a foundation for apartheid and territorial segregation, and contributed to the displacement of Black people through the establishment of Bantustans or homelands as reserves mainly for the rural population. Bantustans became independent homelands and their ownership was an essential condition for rural development. Therefore, land ownership in the Republic of South Africa has long been a course for recurring conflict. The history of dispossession of land and a racially-based distribution of land resources has always resulted in a complex and difficult

legacy (Department of Land Affairs, 1997). The statistical estimate shows that about 3.5 million Black South African citizens based in urban and rural areas lost their land which was very productive, as well as the human rights of property ownership of their land, through forceful and racial discriminatory removals. All of this occurred during the colonial era.

Most Blacks were ruled very cruelly by the White settlers who were powerful and dominant during the colonial era. The apartheid government dispossessed the Black people who were South Africa citizens by descent of their farming land and forcibly relocated them in poor areas for farming, thus depriving them of their only source of livelihood (Mufakata and Tshikolomo, 2020). Thus, land dispossession is directly linked to the poverty, inequality, and joblessness that characterise present day South Africa. It is on the basis of this argument that access to land must be accelerated through legal frameworks as a strategy to mitigate the triple challenges of inequality, lack of employment, and inequality that largely pities the Black majority in South Africa.

2.5.2 Land reform-restitution during the apartheid era

The apartheid's original sin was the dispossession of land from Black Africans through the 1913 Natives Land Act of more than a century ago. The Act became law on 19 June 1913 when it limited African land ownership to 7 per cent and later to 13 per cent through the 1936 Native Trust Land Act of South Africa. The Act restricted Black people from buying or occupying the land (South African Government, 2016). The apartheid government began the mass relocation of Black people to poor homelands to pave way for them to occupy their land. Since the Blacks were no longer able to provide for themselves and their families, the Black people were forced to look for work in urban areas. This led to socio-economic challenges which the country is facing today, including landlessness, poverty, and inequality.

Finally, the Land Act was finally repealed as the Abolition of Racially Based Land Measures Act, 1991 (Act 108 of 1991) was enforced on 30 June 1991 (South African Government, 2016).

2.5.3 Land reform-restitution in post-apartheid South Africa

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). In 1996, the Constitution of the Republic of South Africa provided for land reform (1996). The land restitution programme is enshrined in Section 25(7) of the Constitution, which states that a person or community dispossessed of property after 19 June

1913 because of past racially discriminatory laws or practices is entitled to land restitution, to the extent provided by an Act of Parliament, either restitution of the same property if feasible, alternative land or financial compensation, or “equitable redress”. Section 25(5) of the Constitution of Republic of South Africa introduced the land redistribution programme's second pillar of land reform. In terms of this section, the Government has 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).

Further, Section 25(5) of the South African Constitution also recognises the exclusive land rights for citizens. Hence, even though 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 in the Bill of Rights by stating that

“the right in the Bill of right may be limited only in terms of law of general application to the extent that the limitation of reasonable and justified in an open and democratic society based on human dignity, equality and freedom taking into consideration the nature of rights, the importance of purposes of limitation, the nature and extent of the limitation, the relation between the limitation and its purpose and less restrictive means to achieve the purpose” (RSA, 1996:12).

In addition, the Land Reform (Labour Tenant) Act No. 3 (RSA, 1996) provides for the entitlement of land tenure, which is secure and for comparable redress. In contrast, on the other hand, Land Restitution Act (RSA, 1994) provides for the restitution of rights to persons or communities dispossessed of property after 19th June 1913 as a result of racially discriminatory laws or practices.

2.6 Legislative framework for land reform –restitution

2.6.1 Policy shifts and capacity to the implement

The State considered land reform as the machinery to bring about reconciliation. This State machinery was strained by the weight of the volume of land claims received. Policies were changed and realigned as the programme moved forward. More recently, in 2011, the Department of Rural Development and Land Reform introduced land policy proposals, which the Government did not appear to have enough capacity for their implementation. At the same

time, changes in approaches and policies have attempted to address the past challenges. These policy shifts have appeared to repeat the past mistakes and have new problems (Hall, 2015).

However, with the most recent policy change, in particular, the Government has intervened and taken a more proactive approach. The Proactive Land Acquisition Strategy (PLAS) of 2006 represented an early step in a proactive approach. It started to move away from the market-led approach to a more interventionist approach, although it is still a market-linked approach. As walker (2011) reminds us, expropriation became an option in addition to other means of securing land for redistribution. Critics of the ‘willing-buyer-willing-seller’ approach have been recommending a greater role for expropriation as a pro-active approach and a calling for more effective targeting of both land and beneficiaries (PLAAS, 2016). This debate flared up intensely in the past years.

The State machinery to implement land reform programmes has undergone several changes in vain. The initial 1995 arrangement of the Land Claims Court, Commission on Restitution and Department, was observed to be unwieldy since it could not function effectively. A review of the work of the CRLR was conducted in mid-1998 to address the legal, institutional, structural and procedural problems affecting the delivery of land restitution at the time, and several changes were recommended, including re-engineering the business process and integration of the CRLR and the DLA – with the CRLR retaining its separate identity as a statutory body (Ramutsindela et al., 2016).

The Department of Land Affairs eventually absorbed the Commission on Restitution of Land Rights in 1999. The Restitution Act was amended to allow the programme to move from a cumbersome, courts-driven process into one with more administrative latitude (PLAAS, 2016). A new Minister of the Department of Land Affairs, Thoko Didiza, was appointed in mid-1999, and during her time, in the year 2000, the land reform priorities were changed (Walker, 2011). The changes under Minister Thoko Didiza were characterised as having demonstrated a less overtly pro-poor set of priorities for the land reform programme (Walker, 2008). Inevitably, these changes derailed the land reform programme.

First, a brief description of each of the three pillars of land reform is presented in subsequent sections.

2.6.2 Land redistribution

Land redistribution aims to address the legacy of racial inequality in accessing land and creating development opportunities. It is also meant to provide land for residential and productive use to improve their livelihoods. This is constitutionally provided in Section 25(5). Under this programme, the government would acquire land for resettlement of poor and disadvantaged Black people. The government would help with a settlement/land acquisition grant (White paper on South African land policy April, 1997). However, this land reform approach has undergone several modifications in implementing the 2011 proactive land acquisition land strategy (PLAS) (Kepe, 2016). According to the White Paper on African Land Policy, the targeted beneficiaries are the marginalised labour tenants, women and farm workers, who are one of the most insecure sectors of the population (DLA, 1997).

2.6.3 Land tenure reform

The other arm of land reform in South Africa is land tenure reform. This approach seeks to secure the rights of those already in occupation of the land, but with insecure rights (DLA, 1997). This has resulted in the creation of statutory rights on land to different groups of Landholders who previously had insecure land tenure rights. The Extension of Security of Tenure Act (ESTA), 1997 (Act No. 62 of 1997), Land reform (Labour Tenants), and others provide security for people living on farmland belonging to others and regulates the eviction of such people.

2.6.4 Land restitution

Of the three pillars of land reform, the researcher would dwell more on land restitution as an exploration of the benefits and challenges of this aspect of land reform are investigated. This is important because land restitution constitutes the thrust of the current study.

Land restitution seeks to return land or compensate people who have been dispossessed of their land through discriminatory laws since 1913. The restitution informs this approach to land reform of the land rights act, 1994 (Act No. 22 of 1994). This Act is in full compliance with the constitutional provision of Section 25(7), which states that a person or community dispossessed of property after 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. The goals of the land restitution programme have been reconciliation

and redress on the one hand and reconstruction and development on the other, as stated by the first Minister of Land Affairs, Derek Henekom (Walker, 2011).

From this constitutional pronouncement, individuals and communities lodge their claims for restitution or redress. As Section 25(7) alludes, there is a choice of restitution or equitable redress. The Qhubekani-Mnqobokazi opted for restitution. Therefore, the investigation would try to explore what benefits have accrued to the Qhubekani community since the success of their land claim. Besides benefits, the research continues to acquire challenges encountered by the beneficiaries. An understanding of beneficiaries may work as an encouragement to other communities to opt for land instead of monetary compensation. On the other hand, an appreciation of challenges encountered would provide appropriate ways to mitigate them by identifying sources of the challenges.

Before a thorough look at land reform in South Africa with particular emphasis on one of the three pillars, which is land restitution, a brief discussion of land reform from an international perspective would aid in understanding the different forms of land reforms elsewhere, as well as highlight the fact that land reform is not a peculiar feature of South Africa or the African continent. The reasons why reformers might differ from country to country inform the routes of reforms. However, it would not be remiss to suggest that the intention in most cases is to address land ownership imbalances with new poverty alleviation, as stated in the land reform (Scotland) Bill (2015) Policy memorandum, which said: “in essence, all land reform measures follow a similar pattern of ensuring that public interest about rights and responsibilities around the land are balanced with private interests.”

Thus, land reform programmes envisage, in their different formats and applications, socio-economic improvement of the people’s livelihoods through a correction of land ownership imbalances of the past. The interim constitution of the country in terms of land restitution, provided that people, families, and communities were dispossessed of their land due to racially discriminatory laws and policies. These families were entitled to claim back their rights to land, with limitations that the act of dispossession should have happened after 19 June 1913. This date came about because it was the date when the Native Land Act was passed, and so it was certain that those individuals, families or communities dispossessed did not receive a just and equitable compensation for their land (Walker, 2011 citing Interim Constitution of 1993).

The initial cut off date for the lodgement of land claims was the 31st of December 1998. The cut off date was meant to avoid triggering intractable disputes between competing groups of

land restitution claimants (PLAAS, 2016). Having been chosen as a pragmatic compromise between two other alternative dates, 1652 and 1948, 1913 cut off dates have been contested by the Khoisan, but the Government resisted shifting the date to the period prior to 1913 (PLAAS, 2016). The former President of South Africa, Jacob Zuma, at some point, indicated his support for the shifting back of the 1913 cut off date for the land claims. Zuma was criticised for this support as critics argued that it was misleading the people and creating false hope (Lund, 2014). The support was also criticized as political grandstanding because one of the occasions on which he made the pronouncement was on his address to the National House of Traditional leaders annual's sitting in Parliament.

As part of the road map or architecture to champion this process and larger land reform programme of South Africa's government, a Land Claims Court and the Department of Land Affairs were formed. In respect of land restitution, the Department of Land Affairs was mandated, among its other functions, to manage the implementation of restitution pre-settlement of land claims and post-settlement support for all those who have received their land back (Walker, 2011). The land restitution programme was taken up eagerly. In April 2000, the Commission of restitution of land rights had between 63 000 to 64 000 land restitution claims lodged before the cut off date of 31 December 1998 (Walker, 2011). About 15 000 of the claims lodged were in KwaZulu-Natal alone (Walker, 2011).

The expectations created through this programme were great in that the land reform would contribute to the country's much-needed reconciliation by addressing the injustices and inequalities of the past oppressive land regime. However, there has always been caution that it would be difficult to envisage how the land reform programme could bring about distributive justice and reconciliation without the same time exacerbating inequality, competition and conflict that it sought to overcome in the first place. The programme has had negative spin-offs that persist over two decades later, confirming such concerns. While raising expectations of significant change for the landless majority, the process also rekindled and intensified social conflicts over land (Nustad, 2013).

Most of the settled land restitution claims nationally have involved financial compensation, which for Walker (2011) is largely attributable to the preponderance of urban restitution claims (Walker, 2011). In table 2.1, selected pre-1994 legislation is presented, which spans from 1913 to 1993. While the legislative and policy framework from 1913 to 1950 focused on dispossession, the one in 1993 was paving way for land reform. For

example, Interim Constitution of the Republic of South Africa of 1993 paved way for the Restitution of Land Rights Act No. 22 of 1994.

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

Year	Legislative or policy framework	Purpose or result
1913	Native 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	Native Trust and land Act No. 18 of 1936	“The establishment of the South African Native Trust, a state agency responsible for the administration of trust land. Moreover, “to administer the settlement, support, benefit, and material welfare of the native 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	“This gave way to the promulgation of the Restitution of Land Rights Act No. 22 of 1994, which was one of the first legislation to be passed after the democratic dispensation came into being 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)

Ethnic homeland areas have been, and continue to be, dominated by traditional governance or “patrimonial authority”, sustained by some subsistence economic activity (Nkwinti, 2015).

In table 2.2, the researcher presents land reform legislation since 1994 when democratic South Africa was born. The period covered is 1994 to 2014. Apart from the year when the legislation was introduced, the purpose or result of such is included on the third column.

Table 2.2: Land reform legislation from 1994

Year	Legislative or Policy framework	Purpose or result
1994a	Restitution of Land Rights Act No. 22	“Provides for restitution of land rights to the person or community dispossessed of property after 19 June 1913 due to past racially discriminatory laws or practices; the person or community is entitled to restoration of such property or equitable redress”.
1994b	Reconstruction and Development Program (RDP)	“The Reconstruction and Development Program (RDP) is a South African socio-economic policy framework implemented by the African National Congress (ANC) government under President Nelson Mandela in 1994”
1995a	Development Facilitation Act No. 67	“To introduce extraordinary extra measures to facilitate and speed up the implementation of reconstruction and development programs and projects about land”.
1995b	Land Administration Act No. 2	“To provide 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 provide for matters incidental to that”.

1996a	Constitution of the Republic of South Africa (RSA 1996)	“Provides, among other things, 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 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 provision of the Black Administration Act, 192, incrementally, and to amend the Administration of Estates Act, 1965”.
2011	Green Paper on Land Reform (RSA 2011)	“The strategic policy document of the Department of Rural Development and Land Reform 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 of February 2016”

The post-1994 democratic Government of the Republic of South Africa crafted a policy called the Reconstructive and Development Programme (RSA, 1994). This policy was designed to promote the transformation of the social, economic and moral foundation of South Africans (Kepe, 2014).

2.7 Assessment of land reform – restitution

After promulgating the Restitution of Land Rights Act, more than 63 000 land claims were lodged before 31 December 1998. After some necessary division of land claims, the official total rose to more than 79 000 by 2007. About 88% of the claims were from individuals or families in urban areas. The rural claims were more of communities and even though their percentage is less in terms of claims lodged, their numbers are more than community claims (Walker, 2011).

Land restitution claims have taken a long time to finalise as only 41 claims were settled by March 1999 (Walker, 2008). The shift from a more court driven process to a more administrative one resulted in larger numbers being settled by June 2001, in which about 12 314 claims were settled. Land restitution speeded up dramatically in the reign of President Thabo Mbeki and Kgalema Motlanthe (PLAAS, 2016). In 2009, more than 75 000 claims were settled, of which the majority of those were urban claims. This was done through a standard settlement offer where about 1.5 million people benefited from land restitution, and about 2.64 million hectares were also reported to have been restored (PLAAS, 2016).

The process is still not concluded, and by the year 2015, more than 20 000 land restitution claims lodged before the cut of date of 31 December 1998 were still outstanding (Cousins and Walker, 2015). The cut-off date of 31 December 1998 was changed, and the filling process of land claims was restarted, with approximately 160 000 land claims filled in 2014 for those who had missed the deadline. The Monthlante High-level panel estimated that it might take another 35 years to settle and finalise the old Restitution claims lodged before 31 December 1998. They also estimated that the new land claims might take 143 years to settle and finalise, which amounts to about 178 years required to deal with restitution claims (Lepule, 2018, citing Hall, 2018). This makes the process an untenable situation requiring the State to devise alternative ways of addressing the issue (Hall, 2018).

Several land claims settled have not helped understand the success of the actual projects. The data indicate that the outcomes have fallen short of both political promises and popular expectations, suggesting that probing the actual settlements behind the numbers reveals the challenges of land redistribution and economic development. The original 30% target of redistributing agricultural land to Black South Africans has been shifted from the previous 2014 deadline to a new deadline of 2025. Kepe and Hall (2016:13) do not find the 30% target useful to make comparisons, arguing that this target seems too have been abandoned after it had been deferred to 2025 and “was in any case based on estimates of affordability rather than any inherent political, social and economic logic”.

It is clear that many land claims settled in the future would be financial compensation to urban claimants rather than land restoration. Acquisition of land has been expensive, politically complicated, and made more complex by many factors, including the fact that a significant amount of land remains locked up in protected areas (Walker, 2011).

2.7.1 Characterisations of performance of the land reform programme

Many analysts indicate that the land reform programme has achieved very little (Claassen and Cousins, 2008; Walker, 2011, citing Brown et al., 1998; Aliber et al., 2013).

The following has been the course for the poor performance of the land reform programme:

- (i) Only 10 % of arable land was redistributed and restituted by 2018.
- (ii) Land reform programme has benefited very few people, and those who have benefited have tended to benefit too modestly or have tended to be wrong people (Aliber et al., 2013). Cousins (2016) cites the Presidency’s commissioned mid-term evaluation of the Recapitalisation and Development Policy of 2014, which replaced all previous forms of funding for the land reform programme, including settlement support grants for land restitution beneficiaries. Cousins (2016) further illustrates how the land reform programme reveals an elite bias in land reform, with some mentors and partners benefiting enormously from land reform projects while paying little attention to the transfer of skills. Other people who have benefited wrongly and taken advantage of the land reform programme include Government Officials, politicians and well-connected business people (Cousins, 2016).
- (iii) The high number of farms acquired through the land reform programme, high decline in agricultural production, level of agriculture, and the standard of

agricultural production on the land transferred to claimants is very disappointing, and many land reform projects are mired in leadership and community conflicts (Cousins and Walker, 2015).

2.7.2 Challenges of land restitution

The South African land reform programme addresses a century of land injustice. As pointed out in this study, the promulgation of the Native Land Act 1913 was not the beginning of land dispossession (William Benart and Peter Devilius, 2015). Therefore, it is common that any effort targeted at a long-entrenched problem encounters a plethora of challenges. The researcher attempts to highlight the perceived challenges of land reform in South Africa. The Willing Seller/Willing Buyer approach has been problematic due to the reluctance of those who hold land to sell, and if willing to sell, the prices are not affordable to the buyer, who happens to be the government. This poses a huge challenge to the process of land reform, particularly if legality or constitutionality is an ideal that the government must uphold.

While the restoration of land to former owners is a step in the right direction for people deprived of land, there are challenges encountered along the process. One of the challenges is the resistance from White land owners and commercial agricultural lobby groups (SIS; 2007). This has led the CRLR to rely on a voluntary agreement with landowners. Inventory has led to slow land delivery, most notably in rural prime agricultural areas.

Rural Land claims are usually more complex as they involve large members of people or community claims, and these are time-consuming as no one individual can decide without consulting other community members. These complex claims represent the bulk of claims that are yet to be concluded. According to Land Divided, Land Restored report (2015), in a submission to parliament in February 2014, the Department of Rural Development and Land Reform Submission stated that of the eighty thousand Restitution claims before the cut off date of 31 December 1998, only an estimated 1.8 million individuals had benefited from the settled claims. Moreover, this figure only accounts for 22.7% of the 7.5 million who are supposed to benefit.

There is also the issue of relevant departments focusing on internal business processes and programmes, while ignoring understanding land reform as a national government priority programme. The need for such cooperation is pronounced in Section 41(7)(h) of the South African Constitution. One other challenge that land restitution has encountered is the lack of

meaningful benefits to most claimants. This was highlighted in Settlement and Implementation Support Strategy (2007), which explains that according to the Groenfontein case, only eight members of a claimant community of 3200 benefited by accessing their land and paying market-related rentals. A similar case obtains in Bjatladi, where most members have not benefited despite the commercial success of the farm business.

In *Land Divided, Land Restored* report (2007), a serious discussion of well-funded support programmes for Black farmers in the former reserves and land reform beneficiaries is prominently absent. Since 1994 agricultural policies at the national and provincial levels have been uncoupled from land reform (Bernet; 2015). According to SIS (2007), most beneficiaries of land end up producing or using land for non-commercial purposes. Hence, this may indicate lack of institutional support services and land use planning.

The sentiments are further buttressed by the Regional Land Claims Commission official's views in Settlement and Implementation Support Strategy (2007:78) that "The claimant has received no post-settlement support, No business plan has been done" by various government departments and parastatals involved in land reform. The official's perceptions are just but one of the many challenges to land reform (Settlement and Implementation Support Strategy, 2007). Such challenges translate into lack of productivity on farms, as well as land degradation and farm infrastructural decay (Settlement and Implementation Support Strategy, 2007). Thus, there is a widely held perception that beneficiaries of land reform (mostly Black people) end up running down once productive farms to the ground. However, the main challenge is the lack of pre- and post-settlement support plans to enable the claimants to utilise their reclaimed land. This lack of post-transfer support and failure to integrate land reform with a comprehensive rural development programme has put a severe limit on the contribution of land reform to people's livelihoods and the revival of the rural economy (SIS, 2007).

In the post 20 years of land reform, there has been a marginal change to the agrarian structure of South Africa. The programme had limited impact on the livelihoods of the majority to whom land was transferred because Bernetmuch attention was paid to growing dissatisfaction with the slow pace, poor political priority, and socio-economic disillusionment with land reform's consequences (Bernet, 2015). Thus, it is widely accepted that comprehensive land reform is a difficult task. It became evident in the early 2000s that completing land restitution claims submitted before the deadline of December 31, 1998, was a massive undertaking (Walker, 2011). However, land has new meanings and attachments today, and there are changes in terms

of its value, as the lives of communities claiming the land are influenced by a number of factors such as locality, class, gender and age, which in turn influence the changing status that they acquire as landowners (Walker, 2011).

Scholars argue that the State perpetuates social inequality through the marginalization of rural people as the elite alliance influences its policies (Hall, 2010; Claassens, 2015). Hence, some laws that govern the traditional authorities and courts are also making the problem worse (Hall, 2010). Consideration of ecology have also entered the debate, as Hoffman (2015) draws attention to the complex intersection of human and bio-physical factors, with the influence of climate change on the environment in general over the past decade, which need to be considered when mapping future directions on land reform and land use programmes.

Walker and Cousins (2015) argue that the contemporary solution to the problems associated with land in question is based on simplistic formulations that deny or overlook the complexity of the issues at stake (Cousins and Walker, 2015).

Another limitation regarding developing policies for operational purposes on land restitution is that the urbanisation thrust was underestimated (PIAAS, 2016). South Africa is no longer primarily an agrarian society, whilst restitution has been tasked to address rural issues. As Walker (2011) argues, this misplaced agrarianisation has dominated the policy debate on land restitution to the detriment of other considerations. Land reform has been understood and reviewed in different ways by different role players. As Walker (2011) highlights “Then as now, land reform for most urban-based commentators was a set of worthy-sounding conventions about justice and delivering indistinct rural communities from an essentially abstract poverty by giving them the opportunity for what was also, in effect, an abstraction: ‘working the land’. On the other hand, Hall (2015) argues that, at the present moment, whilst aiming to reduce poverty and reconfiguration of agrarian socio-relations and the economic structure, the process of land reform seems to focuss on resuscitating Black commercial farming destroyed by the 1913 Land Act.

According to Walker (2011), the relationship between redistribution of land, restoration of land, and social and economic reconstruction on the ground has become more elusive than was expected, although there are issues of inadequate commitment, incapability, and misguided policy on the government's side which have all contributed to the slow movement of progress made. Walker (2001) also claims that there has been a mismatch between the ANC government commitment to land reform as a government programme since 1994 and the “potent symbolic

value of land in national political discussion as an emblem of dispossession in the past and redress in the present”.

In Walker’s (2011) view, civil society advocates may have also held unrealistic expectations of the land reform programme, and translating lofty ideals into operational policy has been more difficult than initially thought. Hence, the mismatch between expectations surrounding the land question, on the one hand, and the actual transformative potential of land reform in addressing poverty and social alienation, on the other, would not be easily resolved (Walker, 2011). Expectations of land restitution are from how the land question has been built through the liberation struggle (Walker, 2011). The scholar demonstrates this by analysing the master narrative of forceful removals and restoration and illustrates that limitations are found within the master narrative of forceful removals, resulting in loss and restoration of land rights that has underpinned the land restitution programme (Walker, 2011). Hence, the narrative of the land restitution programme has driven it politically and put productive land in the hands of the people’s well-being. He also claims that this narrative “... has become increasingly inadequate as a guide to the Promised Land that politicians, officials, and land claimants were seeking after 1995” (Walker, 2011:16). As Walker (2011) claims, master story works effectively as a political tale.

Even though as the basis for a State programme, the easiest story of forceful removals has proven to be an ongoing and escalating problem. Besides these constituent elements being the truth of then matter, the narrative is too simple, isolating the history of forceful removals done during apartheid and before as a story by itself, instead of an important chapter in much larger and complex history of social transformation. The master narrative is not related to the national project of restitution to all social development programmes that the post-apartheid government has launched, including housing and environmental conversation. The master narrative does not attempt to mesh its own priorities with other communities' constitutional justice, socio-economic development and equality. Underpinning the master narrative is the naïve hope that the return of the land would solve the deep-rooted problem in the South African society (Walker, 2011).

In Walker's (2011) view, the structural constraints on land reform have been greatly disregarded by land restitution’s master narrative of forceful removal, resulting in the dispossession of land and restoration. It also underplays the importance of urban land reform issues and underestimates the contemporary challenges of not living on the land. It works

mostly at the level of generality and fails to acknowledge the specifics, both local and individual. It also places lots of responsibility on the Government, turning a blind eye to social change and the significant environmental and social difficulties of government re-engineering through land reform (Walker, 2011).

Apt to note is that land reform analysts have argued that there has been a marked wavering of political impetus about the land question, and this has resulted in land reform being impaired "...by political priorities of appeasing white landowners (in commercial farming areas) and traditional black leaders (in communal areas of the ex-Bantustan)" (Cousins and Hall, 2011). Political will has lagged behind both ruling party rhetoric and the official programme. This has relegated land reform to the margins of state policy without enough thrust to deal with the pressing issues confronting the programme at all levels. The share of the National budget directed to the programme was insufficient for the first decade after 1994 and remained at around one per cent of the national budget annually (Water, 2011).

Another problem faced by Department of land reform officials is that of elite capture of the process and a class basis. The Department of Rural Development and Land Reform officials have been given a directive to prioritise some land for Mkhonto-Wesizwe veterans willing to partner with agri-business (Hornby, 2014). As Cousins (2013:19) states

"...populist disclosure masks the reality that rural poor, and potentially highly productive, small-scale farmers are not intended to be the main beneficiaries of government's land redistribution policies, which, as in other sectors such as mining, are aimed at promoting the interests of an emergent black bourgeoisie".

The legislative attempts to redress the rights of traditional leaders where land reform issues are concerned are worthwhile. Intergovernmental relations are crucial, for example, the Department of Rural Development and Land Reform must work together with the Department of co-operative Governance and Traditional Affairs and the Ingonyama Trust to address the disputes from the land claims involving traditional leaders (RSA, 2015). This is important because traditional leadership play an important role in land affairs and traditional governance.

Commercial factors that negatively influence land reform include lack of linkages to input and output markets, inappropriate delivery mechanisms, and lack of access to credit (Aliber et al., 2013). Vink (2013) explained this point clearly when he referred to the historical suppression of Black farmers in the commercial farming industry and the impact that resonates with the

present well-being. Vink (2013) also brings attention to historical support that is given to commercial farmers, which indicates that this has never been neutral. Hence, above all, that historical support had the possibility of distorting the geography of farming areas resulting in South Africa being one of the few countries in the Universe where maize had been milled in the cities and abattoirs based in urban areas and cities. As Vink (2013) further points out, big commercial farmers remain favoured over small-scale procedures in respect of access to resources, which has left the countryside bereft of important opportunities such as food processing. He stresses the urgent need for integrated farmer support services, not through temporary programmes but rather through comprehensive approaches with fair access to markets and other natural resources facilitated through policies tailored to the circumstances of specific recipient requirements and geographical dynamics. Flexibility is most important in overcoming the high cost of entry in the market, such as innovative physical structure to reach markets and smart subsidies. Vink's (2013) concern is that there would be conflicts between the elements above, but they still have to be engaged with seriously.

South Africa's land reform programme is faced with the challenge of ensuring that all the four strategic elements of land reform are achieved by alleviating poverty through land redistribution, and improved livelihoods for all land reform beneficiaries (Masoka, 2014, citing Kahn, 2007). The Government's target was to settle all land redistribution claims by 2005. This target has not been achieved, resulting in less than 10 per cent of the redistribution target achieved to date, including even the land acquired privately (Kloppers, 2014). It has been observed that 90 per cent of agricultural land restored to the land beneficiaries is not productive (Xaba, 2016, cited in Mail and Guardian, 2016). This results from the land reform's slow pace in service delivery, mostly in the Commission of Restitution of Land Rights. This challenge threatens food security. Most land reform farms that have been running smoothly and productive are now distressed under new owners who do not have the skills required. Also, there is not enough support from the Department of Rural Development and Land Reform as the post-settlement role was taken away from the Land Claims Commission (Xaba, 2016). There have also been numerous appeals from politicians who represent the landless people of South Africa to expropriate land or illegally occupy land under the ownership of White farmers (Xaba, 2016). Kloppers (2014) saw this as something that could result in violence and tension, which accentuates the challenges that are facing land reform that already require urgent intervention.

The Land Claims Commission has been criticised for not being able to provide effective post-settlement support for beneficiaries for over a decade. The institutional inertia in many state institutions responsible for defending and realising rights has been the most constrained and has been evident in the weak post-settlement agricultural support systems for beneficiaries of land-based restitution awards (PLAAS, 2016). This is exacerbated by the fact that there is no post-settlement support, no financial support, no training, and no services, adds to the failure of successful farms before handing over to the land restitution claimants. Other game farms attracting tourists have also failed as they lack the relevant support, the workers have no training, and there is no skills transfer to new farm owners who are land claims beneficiaries (Qalam and Lumel, 2012).

2.7.3 Participation, beneficiary challenges

The beneficiaries of land reform have struggled to receive benefits from the land allocated to them. According to Walker (2011:229), “land reform beneficiaries' reception and involvement in the programme have been less orderly, more unpredictable than the architects of the programme originally conceived”. Local disputes and conflicts have played a significant role in hindering progress. There have been debilitating power struggles among the leadership and between claimants, resulting in threatened projects because of competing visions of what the land owners should do with the restored land and what they should be campaigning for (Walker, 2011). In some land that has been already restored, competing interests among new occupiers have led to tensions between the different categories of rightful owners [tenants versus land owners] and conflict around community development projects (Walker, 2011).

Lack of emphasis on inter-generational skills transfer and the related generational gaps regarding an understanding of land reform as a whole and commitment may negatively affect sustainability if not addressed. For example, other claimant communities currently have committed and qualified leaders, but a potential new generation of skilled and committed leaders has not emerged (Walker, 2015, citing CASE, 2006). Structural disadvantages such as access to legal representation have also played a role in hampering claimants.

2.7.4 External factors

In addition to the aforementioned internal roadblocks to land reform, there have also been several external constraints on the transformative potential of land redistribution, and these are critical when assessing the success of the land reform programme. These constraints have

limited land reform possibilities and need to be factored into any analysis or judgement (Walker, 2011). The major non-programmatic limits to land reform are considered in subsequent sections.

2.7.4.1 Changes in demographics

When the Native Land Act was passed in 1913, South Africa was a primarily agrarian society which now is not the case. In South Africa, urban or rural South Africans now purchase their food, which is not like our neighboring countries in the north of South Africa where agriculture is still the main source of livelihood for most of their people. In South Africa, a growing population is fed by a declining number of farmers (Cousins and Walker, 2015).

Further, wage labour patterns have become entrenched and there has been significant growth in population and an increase in urbanisation, both in patterns of settlement and livelihoods (Walker, 2015). Therefore, Walker (2015) observes that the biggest challenges to land reform and wealth redistribution lie in these urban areas. Since the sources of most people's livelihoods in rural areas now lie in wages, remittances, and increasingly social grants, agriculture is the primary source for only a small minority (Cousins and Walker, 2015).

2.7.4.2 Climatic conditions

Climate also affects the success of South Africa's land reform. South Africa is a semi-arid country, which is not well equipped agriculturally. Only 13.5 per cent of the country's land is arable land, and most of it is located along the densely settled eastern seaboard, including the former Transkei (Walker, 2008). There are really few areas remaining that are sustainable for agricultural expansion and, therefore, indirectly set ecological constraints on how much land can be redistributed and where. Climate change is likely to exacerbate these challenges in the future (Walker, 2008). The impact of climate change on South Africa's agricultural future, with increasingly severe pressure on water resources, indeed point to the need for important decisions that could see changes in crop selection and methods of irrigation and cultivation, all of which the land reform sector would have to adjust to (Spector, 2018).

2.7.4.3 Economic conditions

It is currently a very difficult time for farming. Emerging farmers are faced with unfavourable local economic conditions, coupled with strains emanating from global restructuring. Over the past decade, a major process of deregulation affected the commercial agricultural sector and made it particularly difficult for emergent farmers to establish footholds and thrive. Farming

turned out to be most difficult for the unemployed in particular, because of scarce resources and the need for cash inputs (James, 2007). As a result, many families hold land either acquired through land reform or communal areas but cannot use it productively because of lack of inputs, labour, operating capital, and access to the market.

Further, agricultural change processes are currently taking place in South Africa with commercial farm units falling down from 60 000 in the mid-1990s to 35 000 today (Hall, 2015). Hence, this is linked to a decline in production amounting to ten percent, as arable land and water have been diverted towards non-farming uses such as coal mining. The livelihoods supported by agriculture have declined. Over 300 000 farm jobs have been lost in twenty years and casual and seasonal employees have now outnumbered permanent employees as so many families were evicted from the farms (Hall, 2015).

The ANC, having been advised by the World Bank in the early 1990s to adopt a market-oriented approach to land acquisition, also agitated for the continuation of the deregulation and liberalisation of the agricultural sector was initiated by the apartheid government (Cousins, 2015). This resulted in the absence of any support programme for Black farmers in the reserves and land reform beneficiaries (Cousins, 2015). As Cousins (2015:2552, citing Cousins, 2013) states,

“This myopia has meant that from 1994 to the present, agricultural policies at both national and provincial level have been effectively uncoupled from land reform. This uncoupling has been that beneficiaries of land restitution and redistribution have received little in the way of appropriate farm planning, training and extension services, or access to credit and markets and other forms of practical support. These would have helped to level the playing field for smaller-scale producers, within a capitalist agricultural sector increasingly dominated by large producers and agribusiness”.

The above challenges may be mitigated through relevant legislative and policy frameworks that seek to empower the beneficiaries of land reform. This is important because the beneficiaries of land reform can not maximise the land if they are not supported through such initiatives as technical expertise, capital, and agricultural inputs and access to markets (Qalam and Lumel, 2012).

According to Bernstein (2015), during the post-apartheid period, production and accumulation in the agricultural industry have increased, accomplished in part through deregulation and

liberation, the concentration of farming and agribusiness, the search for new markets, and technical change. Important factors are regarded as key factors involving the large inward investments by international agribusiness. Hence, most importantly, these changes must be understood primarily in terms of the dynamics of contemporary capitalist agribusiness rather than as an attempt by White farmers to retain their apartheid-era predominance (Cousins and Walker, 2018, citing Bernstein, 2015).

Notably, there are changes in wealth development patterns in the agricultural industry. The development of wealth is not only in the farming itself but also in agribusiness corporations that have capitalised on the liberation of state policies. A limited number of these corporations now dominate agri-food value chains, from patented seed, fertiliser, and pesticides to milling, food manufacture and distribution. These circumstances have locked most farmers into the value chain controlled by a small handful of such companies (Bernstein, 2015). According to Hall (2015), in all settings like these, farm success becomes inhibited by cost-effectiveness, risks are redistributed to farmers, and profits disproportionately accrue to corporations that control input and output markets. As Hall (2015) also observes, in history, White farmers accumulated wealth over a few generations through subsidies and protection from the State and the cheap labour that they were getting through the exploitation of Black people.

The current land redistribution through the land reform programme does not hold the same advantages and prospects for prosperity for the emerging Black farmers. Regardless of these difficult conditions, there are still expectations that when land is redistributed to the Black farmers, it would open the same wealth opportunities as it has been with the White farmers in the previous agricultural sector. According to Hall (2015), if the South African land reform policy framework does not respond to these changes, South Africa would have a Land reform programme without an agricultural policy specifically designed to address rural realities. Instead, the country would have “an anti-agrarian reform process under way, a sharpening of the dualism between rural zones of wealth and poverty demarcated by the 1913 land Act” (Hall, 2015: 143). In order to address the situation, Hall (2015) advocates drawing on history to rethink a wider process of agrarian reform within which land reform can be lodged.

2.7.4.4 Lifestyle factors

Many people from poor rural communities have been so unwilling to move far from their established houses to acquire and work on new agricultural land. Currently, research on

restitution claims involving the restoration of land is starting to add considerably to our understanding of the different responses towards the opportunity of land household level, as well as the complexity of the calculations involved at this level in the decision to relocate in response to the availability of alternative land. There has been much information on the preference for multiple livelihoods strategies, even among land restitution beneficiaries, with many not feeling comfortable relinquishing attachments to other established ways of getting income. Walker (2011), writing about Cremin, indicates that many claimant households are returning with a powerful commitment to farming the land, mostly commonly wishing to do so on a part-time basis. This is problematic because farming must be considered as a fulltime job.

In light of the above, the South African Institute of Race Relations (SAIRR) posed a critical question about whether people want to farm. The SAIRR suggests that people instead want money. In most countries in the Southern part of Africa, the land was an important key factor for resources and the economy, and social relations were agrarian. The proportion of the population directly dependent on agriculture has shrunk slowly in South Africa, since the mining revolution of the late 19th century surpassed the contribution of agriculture to the country's Gross Domestic Product (Cousins and Walker, 2015; PLAAS, 2016).

2.7.4.5 The impacts of Human Immunodeficiency Virus and Acquired Immunodeficiency Syndrome (HIV/AIDS) on agricultural productivity

The HIV and AIDS pandemic harms agricultural production and food security. In Africa, women are not only the primary food producers but also the primary caretakers of the ill. Therefore, when a family member is not well, women's ability to engage in agriculture and other productive activities becomes reduced, and food security is compromised. The High cost of HIV/AIDS medication and care also imposes a major financial burden on families, frequently plunging them into debt. A study in Tanzania showed that women whose households had HIV are more economically disadvantaged, because their health care costs were higher while the work capacity of household members was reduced (Peterman, 2011, cited by USAID, 2013). Hence, in situations such as this, insecure land rights can undermine the ability to cope with the impacts of AIDS.

2.7.5 Land redistribution challenges

The main obstacle to land redistribution has been the 'willing seller, willing buyer' policy. As Aliber (2013) states, if there is one thing regarding land reform in South Africa, there is a near-

universal agreement. The ‘willing seller, willing buyer’ (WS/WB) approach is problematic. This approach has been problematic due to reluctance by the landholders to sell, and if willing to sell, the prices are not affordable to the buyer, who happens to be the government.

The South African Constitution Section 25(3) has as one of its stipulations “just and equitable compensation”. The vagueness of this clause has caused many legal contestations. Because of these contestations that are at times long and frustrating, acquiring land becomes slow. “Just and equitable compensation” becomes a subjective term that is open to different interpretations and applications depending on whether one is a seller or a buyer.

Coupled with the “just and equitable” clause is the ever-escalating price of land, which further strains the government land reform budget. The explanatory memorandum accompanying the property Valuation Bill of November 2013 stated, “A critical issue in land reform is escalating land prices” (Land Divided, Land Restored, 2015: 150). Therefore, budgetary constraints are another challenge to land reform in South Africa. The fact that land is brought on the market at open market value again slows the pace of land redistribution.

It is accepted that land delivery has been slow as the thirty percent (30 per cent) target of 1999 as proposed by the World Bank has not been achieved (Land Divided, Land Restored, 2015). However, there are challenges faced by beneficiaries as well—lack of government support and or adequate funding to the new or emerging farmers.

2.7.6 Land restitution challenges

As part of land reform programme, land restitution has its challenges. In a presentation made to the Portfolio Committee on Land Matters and Rural Development (2011), the Department of Rural Development and Land Reform indicated that there were 316 pending restitution cases. 85% of these cases were pending due to disputes regarding the validity of land claims, 10 % of land claims had issues with the sum of the amount payable and 5% on the form of restitution which should be available (Land Matters and Rural Development, 2011).

Hence, of the 457 land claims were settled in 2010, only 177 were finalised within the available budget. 714 land claims were already processed and among these, 127 were rural claims, and 330 were urban land claims. The total capital expenditure for the 2010-2011 financial year for the Land claims Commission was R3.34 billion. R2.56 billion was used to acquire land and payment of conveyancers for transferring the land, R707 million was spent on financial compensation, and the number of people who benefited from the services of the Commission

on Restitution of Land Rights across the country was 26 097 (Land Matters and Rural Development, 2011).

There is corruption and a lack of responsibility among new landowners contributing to the decline of the country's economy. Other land owners who dispute the validity of land claims take the state to land claims court. It takes long for the matter to be resolved (Cousins 2012). Slow and ineffective land reform and land restitution implemented by Chille utilised a huge amount of little money required for these cases to be resolved in court due to complex litigation procedures (Deninger, 2012, cited in Binswager and Deniger, 1996).

2.7.7 Land tenure reform challenges

Land tenure reform seeks to provide security of tenure to those on insecure land tenure regimes. The only challenge is that this pillar of land reform does not confer land ownership. It is simply a long term lease agreement. Tenure reform has also not been successful as farm-owners have found a way of evicting farm workers without breaking the Extension of Security of Tenure Act 1997 (Land Divided, Land Restored, 2015). This act by farm owners is a deliberate push-out of labour tenants without breaking the latter law.

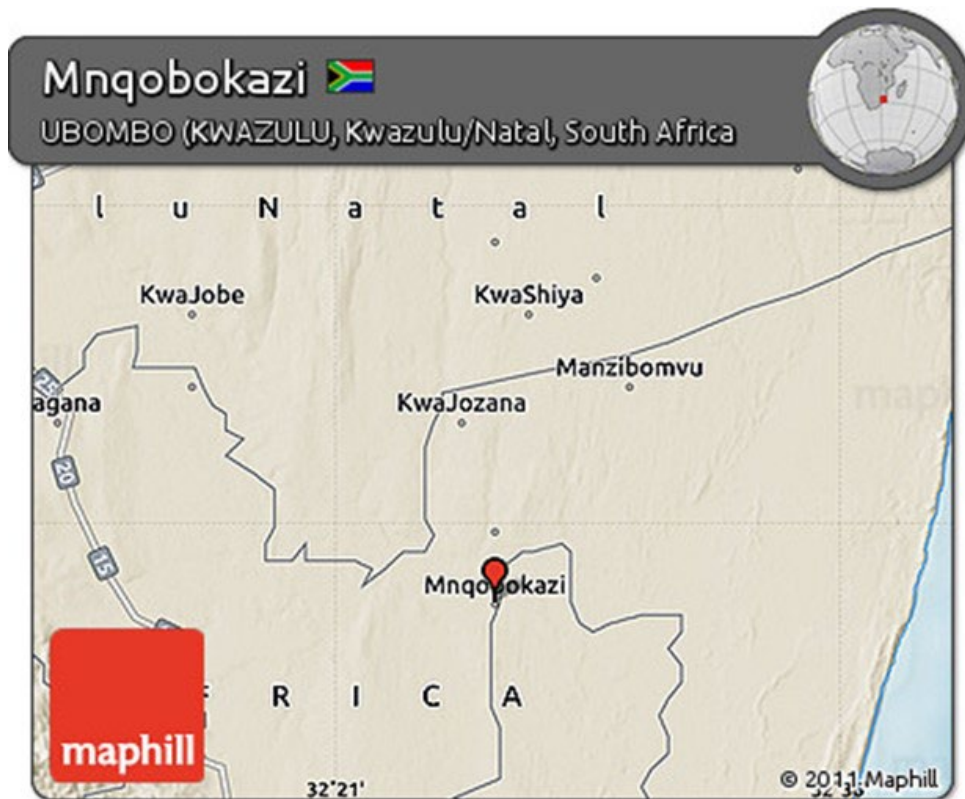
Some perceived challenges to land reform are a reality. However, some are simply perceptions and not based on reality. Again it is a part of what this study seeks to find out through empirical investigation using the case of Qhubekani-Mnqobokazi community of KwaZulu-Natal.

2.8 Land restitution in Qhubekani Mnqobokazi

2.8.1 Mnqobokazi landscape

A land restitution claim was lodged with the KwaZulu-Natal Regional Land Claims Commission by the late E. B Ngwane and Z. A Ngwane on the 25th of September 1995 and 15 June 1998 on behalf of Mnqobokazi community in respect of Mkuze. E.B Ngwane becomes the chairperson of the Mnqobokazi community land claim. Samuel Ngwane succeeded the late E.B Ngwane as the new chairperson of the Mnqobokazi Community Land Claim (Mnqobokazi S42D, 2007).

Figure 2.1: The map of Mnqobokazi



Source: Da(Dalhberg, 2009)

2.8.2 Claimed properties

Out of a total of twenty properties amounting to 10 742 4036 hectares, six of these properties were privately owned. The other 14 properties were state-owned. Four properties out of the 14 properties owned by the State were unregistered state-land (Government Gazette Notice No. 29352: 10 November 2006). One of the properties was claimed by the other three communities, Mnqobokazi, KwaJobe and Makhasa communities (Government Gazette Notice No. 29352:10 November 2006).

2.8.3 History and dispossession of land rights

The Mnqobokazi community land was dispossessed by the previous apartheid government. They robbed the community of their beneficial occupational rights, which they had enjoyed since time immemorial. The apartheid government robbed the Mnqobokazi community of their dignity as people and the right to land ownership, which affected such important aspects as farming and food production. The apartheid government forcibly took the land from the Mnqobokazi community to develop game reserves. This resulted in the Mnqobokazi community losing their source of livelihood. The Mnqobokazi community was left destitute

without compensation for everything they lost including land, livestock, crops and more (South African Government, 2007).

2.8.4 Mnqobokazi land at the time of dispossession

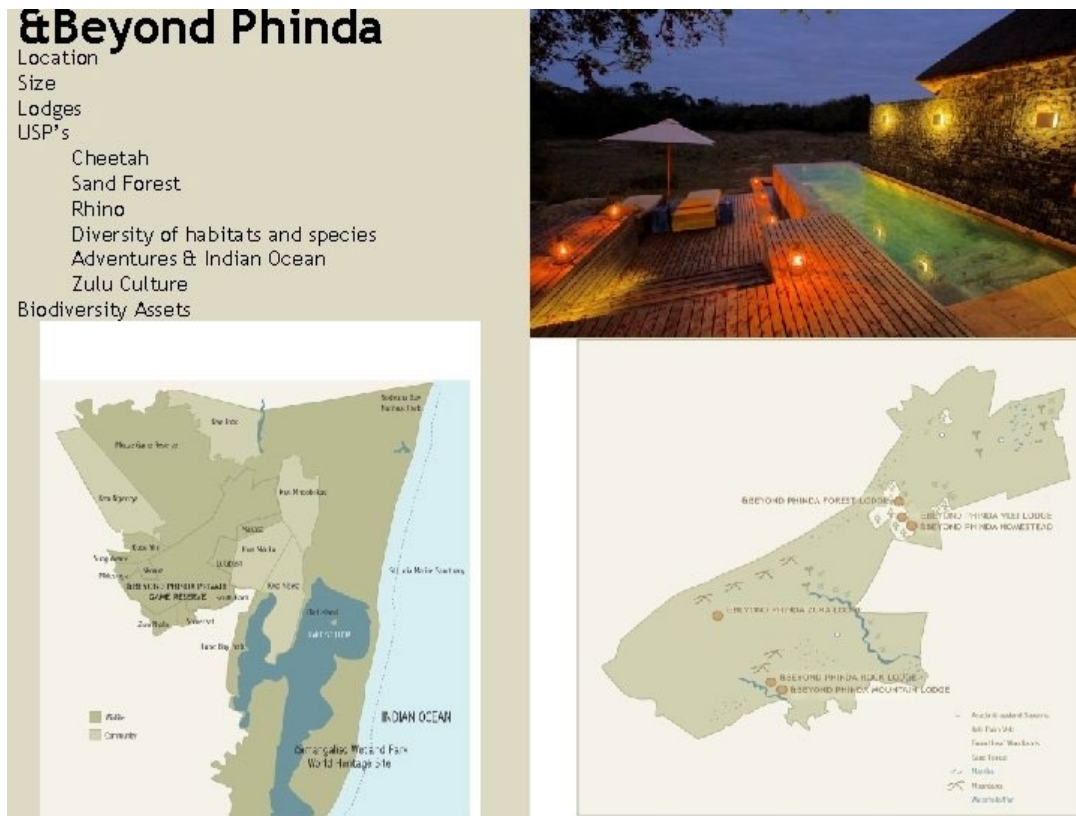
Figure 2.2: Mnqobokazi at the time of dispossession



Source: (<https://www.andbeyond.com/impact/history/our-phinda-story> -1 July 2021)

2.8.5 Mnqobokazi land at the time of restoration

Figure 2.3: Mnqobokazi land at the time of restoration (RSA Tourism, 2015)



Source: (<https://www.andbeyond.com/impact/history/our-phinda-story-1> July 2021)

Figure 2.4: Part of Phinda Game Reserve



Source: Mnqobokazi restituted land (<https://www.andbeyond.com> 1 July 2021)

Figure 2.5: Phinda Game Reserve Lodge



Source: Mngobokazi land restored (www.andbeyond.com, 2 July 2021)

Figure 2.6: Phinda Game Reserve Mountain Lodge



Source: Mngobokazi community land restored (<https://www.andbeyond.com> 2 July 2021)

2.8.6 Restoration of land rights

Four thousand nine hundred sixty-six hectares of land, which incorporates the game reserve, was restored to the community of Mngobokazi in July 2007. The land includes the popular Phinda Game Reserve and is home to the famous Big Five. There are rhinos, elephants, hippos,

onkonkoni, and nengonyama. All the animals that motivate tourism in the Phinda game reserve always attract and host tourists from all over the world (Government of South Africa, 2007). For the restoration of land, the Government paid R126 000 000. The Mnqobokazi community entered into a lease agreement with Phinda game reserve, where whilst leasing the property, they would still give the community of Mnqobokazi skills to operate in the game reserve in some years to come (Mnqobokazi S42D, 2007). The agreement was signed with the Qhubekani Mnqobokazi Community Trust, Conservation Corporation Africa, the Department of Land Affairs, and the provincial Department of Agriculture and Environmental Affairs. In terms of the agreement signed, the claimed land ownership was transferred to the Qhubekani Mnqobokazi Trust on behalf of the Mnqobokazi claimant community. The claimed land had to remain a conservation area and be used for unproclaimed private nature and game reserve. The claimants, through trust, shall not sell or dispose of the claimed land or a portion of the claimed land thereof to a person or institution, mortgage or encumber the title in any way without consent (South African Government, 2007).

The claimed land shall be used as an unproclaimed private nature and game reserve and associated commercial activities. &Beyond formerly known as Conservation Corporate Africa or CCAfrica shall manage it following the owners of the claimed land, and Conservation Corporate Africa has an interest in the economic benefits accruing from the current and future economic developments in the claimed land (South African Government, 2007). The claimant community trusts had to establish a memorial structure or museum that shall depict the name of those removed. This would be done in an appropriate place, adding value to tourist attractions and preserving cultural heritage (South African Government, 2007). Conservation Corporate Africa and the claimant community were to negotiate the future possibility of converting some of the claimant community interests in the claimed land into an equity stake in the commercial lodge operations of Conservation Corporate Africa (South African Government, 2007).

The South African democratic government of people by the people respects the right to the land of every South African citizen, irrespective of race or group. The Minister of the Department of Land Affairs, representing the government in a handover celebration for Makhasa and Mnqobokazi communities, passed her sympathy to the community. Hence, “We are deeply sorry for the lose you have suffered. Through this compensation, we encourage you to work hard to rebuild your lives disrupted when you were unceremoniously removed from your homes”. Minister Lulu Xingwane further ensured the community that the new South

African constitution includes that right in land and protects the rights of all South African citizens. The communities would never suffer racial discriminatory land dispossession in this new dispensation (South African Government, 2007).

The Qhubekani Mnqobokazi land claim was respectively lodged on the 28th of September 1995 with the Commission on Restitution of Land Rights, in the manner prescribed by Section 11(1) and 2(1) of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994) (as amended). The partial restoration of the land used as a conversation, including the Isimangaliso World Heritage Site, was restored in 2007. Another land was restored in 2020 (Rural Development and Land Reform, 2020).

About 4528.8900 hectares of land were transferred to the Qhubekani Mnqobokazi community Trust for 237 households with 3504 beneficiaries and 23 female-headed households. The land is currently used for nature conversation under the management of the Isimangaliso Wetland Park Authority. There are grants amounting to an estimated R12.7 million that have not been transferred. The community is still working on the business plan with the Isimangaliso Wetland Park Authority to unlock grants transfer (Department of Rural Development and Land Reform, 2020).

2.9.1 Phinda and Mnqobokazi sustainable livelihood

Table 2.1 below illustrates the deal between Phinda and Mnqobokazi regarding sustainable livelihood as per the model of communication beneficiaries and job creations of 31 March 2015.

Table 2.1: The deal between Phinda and Mngqobokazi regarding sustainable livelihood

Phinda & Beyond	Mngqobokazi
Transfer of Title Deeds and ownership	Claimed and settled with the previous owner
Non-occupation	Community request to include Munyawana/Phinda
& Beyond 36-year lease – the first right of refusal for another 36 years	Lease of 36 years agreed
Excludes games	Game equalised – (R500 000) paid with Development Fund R 9 000 000
Over 200 beneficiaries each but for the entire community	Conservation benefits <ul style="list-style-type: none"> - Cheetah - Allowed Black Rhino - % share under Phinda Conservancy
Monthly rental paid -Based on what business -+/- R150 000 per month - Close to R2 000 000 per year -Projected over R75 000 000 in 36 years	Lease <ul style="list-style-type: none"> - 2008 - R150/ha per year - 1139.52 ha X R150 = R170 928/year - Up with CPI - Projected + R 7 000 000 over 36 years
Responsible for all maintenance of roads and infrastructure and improvements	Fence Upgrade (R250 000) paid with Development Funds
Veld management	
Preferential Employment	
Skills Development	

Source: RSA, Tourism (2015:10-12).

2.9.2 Other community benefits

(i) Direct employment

About 308 staff were employed by &Beyond while Phinda employed approximately 200 workers from local communities. R20 000 000 budgeted for Phinda payroll. Approximately R13 000 000 will go into local communities (RSA, Tourism, 2015:13).

(ii) Indirect employment

Over 60 contract staff employed in different fields such as security, canteen, catering staff transport, refuse removal, alien plant control R500 000, entertainment, fencing R3.5 000 000 Security – 85% of staff from communities (RSA Tourism, 2015:14).

(iii) Settlement of land claims

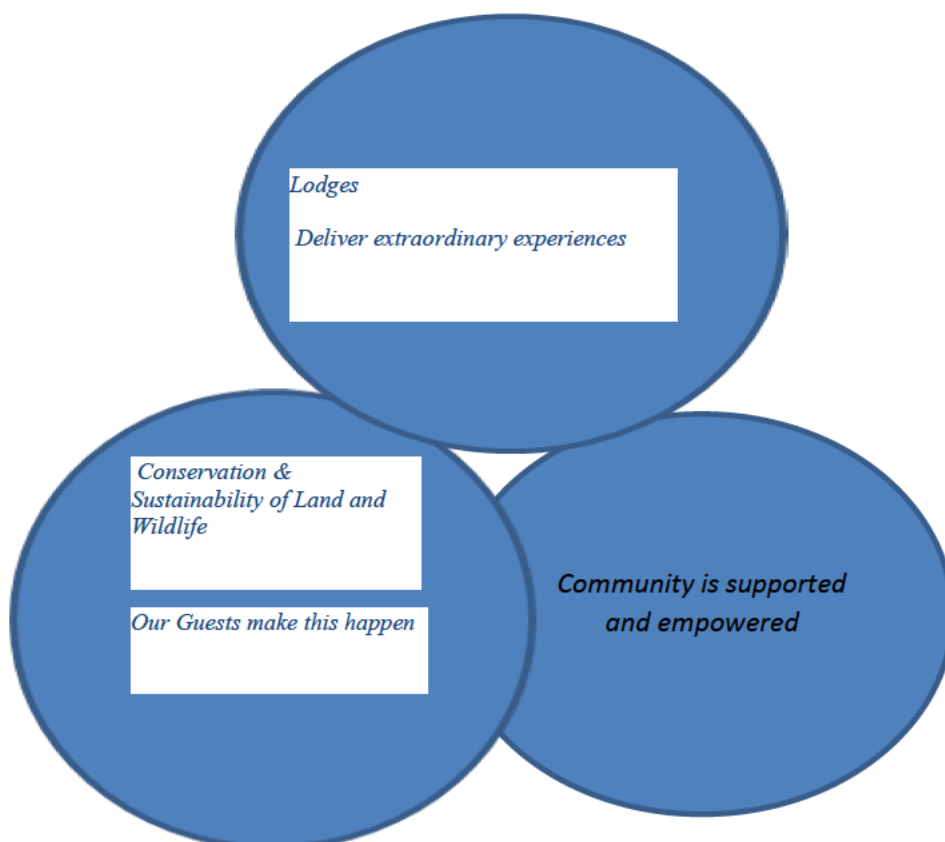
Mnqobokazi Community Trust's land claim was settled, and an amount of R10 901 292 and a Development Fund of R9 000 000 was paid to the Mnqobokazi Community Trust by the Land Restitution (RSA Tourism, 2015: 14).

(iv) Conservation lessons

The community is given lessons on conservation (RSA Tourism, 2015:14).

2.9.3 Phinda & Beyond Conservation Model for Sustainability

Figure 2.7: Phinda & Beyond Conservation Model for sustainability



Source: RSA Tourism (2015)

This model is made up of three factors: conversation, communities and world-class lodges and wildlife experiences (RSA Tourism, 2015:6). The goal of Phinda and beyond is to “give more and take less in everything that we do” and “Care of the land, care of the wildlife, care of the people” (RSA Tourism, 2015:16). It is the responsibility of each &Beyond staff member at every lodge to find ways to positively contribute to the earth (RSA Tourism, 2015:16).

2.9.4 Achievements since 2007

Since 2007, R15 290 339 were donated to Phinda communities, about 166 Bursaries were given to qualifying community members, 24 classrooms were built for community schools, two Orphans Vulnerable Children centres were built to support orphans and vulnerable children, a communal water fountain was set up, nine water pumps and irrigation systems for community gardens were provided, seven boreholes and water tanks were provided at schools, 78 conversation lessons were conducted reaching 644 children as well as 78 teachers, 21 schools received reticulation to link them to the municipal main water line, one bakery was provided, three subsistence gardens upscaled to small commercial farms were set up, 12 cottages for teachers accommodation were constructed, two Administration blocks were built (RSA Tourism, 2015).

Education is one of the core focus areas for the Africa foundation's drive to support socio-economic development in communities, thus contributing to sustainable rural livelihoods. It takes a community to raise a child. Africa foundations and & Beyond Phinda constructed over 200 classrooms building Nkomo school in Mngobokazi near the & Beyond Phinda Private Game reserve. The school now enrolls about 800 children, and additional support has been identified and offered for children from vulnerable families and those affected by HIV/AIDS epidemic. A centre for Orphans and Vulnerable Children was added, where over 450 children are served by this facility that provides aftercare and hot meals (& Beyond Phinda, <https://www.andbeyond.com>, 1 July 2021).

2.9.5 Challenges affecting sustainable livelihoods in the Mngobokazi settled land at Phinda

It attracts guests and offers the best wildlife experience (RSA tourism, 2015). Fickle tourism market – fluctuating rand and perception of South African international market changing, high and guests (RSA Tourism, 2015). There is the ability to pay high fixed cost rentals if the business is down (RSA Tourism, 2015). Tourism wildlife business recession, spiralling fixed

costs for labour, power, water, security, food, and fuel. Revenue is flat, rhino poaching, and high competition in eco-tourism markets saturated (RSA Tourism, 2015).

There is a relationship between the Mngobokazi community and the trust, communication and politics arising within the community and new community structures (RSA Tourism, 2015). The growing community affects limited employment, pressure on resources, dilution of benefits from reserve community members, changing perception of reserve in terms of positivity and negativity, and expectations (RSA Tourism, 2015).

2.9.6 Why has land restitution for Mngobokazi worked?

There is a trusting relationship between Phinda and the Mngobokazi community built up over many years and a win/win situation in terms of the agreement entered into (RSA Tourism, 2015). There were financial benefits as Mngobokazi has already received R10 901 292 (RSA Tourism, 2015). A development fund of R9 000 000 was also received (RSA Tourism, 2015). Mngobokazi community Trust is always available and the Trust chairperson is always available for the execution of his duties (RSA Tourism, 2015). The Community Trust's financial planning accountability and responsibility (RSA Tourism, 2015). Continuous communication and understanding between the parties involved (RSA Tourism, 2015).

2.10 Factors that seem to prevent sustainable livelihood of beneficiaries

(i) unavailability of post-settlement support after the land has been restituted to claimants. As a result of a lack of post-settlement support, claimants tend to engage in a strategy of “straddling” in two households separately and continue to maintain their households' livelihoods to operate to and from newly acquired land and existing houses (Hall, 2007).

(ii) Legal entities that are dysfunctional, like Trusts, Communal Property Associations. some of these structures are not transparent in the way they function in terms of income and expenditure. This challenge was recognised during the early years of restitution in 1998. The Department of Land Affairs discovered that communal property institutions created after 1994 to take ownership of farms were not fulfilling expectations as they were dishonest in their actions and only care about their well-being (Hornby et al., 2017).

(iii) Business plans that focus on the potentiality of agricultural farming and little on the production environment, in terms of the range of accessible markets, skills available, assets and capital of beneficiaries.

(iv) What seem to be common in this case is that socio-economic differences within claimant communities regarding livestock ownership and access to off-farm sources of income have been reinforced.

2.10.1 Recommendations made by the Sustainable Development Consortium:-

- (i) There is an important need to find the fit between project design and participants' profiles; there should be new ways of planning sustainable livelihoods.
- (ii) When planning for livelihoods, it must consider the potential for agriculture and environmental production.
- (iii) Beneficiaries to be profiled for resource base and socio-economic status.
- (iv) Pre-settlement to prioritise land use and settlement plan.
- (v) An agency to implement a settlement agreement to be identified.
- (vi) To differentiate between ownership and management use.
- (vii) A need to be more vigilant about strategic partnerships entered into.
- (viii) Options for different access to land and livelihood purposes to be prioritised.

2.11 Theoretical framework

Sustainable Livelihoods Approach is the theoretical framework that has been used to frame this study. The Sustainable Livelihoods Approach originated in the mid-1980s to the 2000s, and it was widely used as a guiding principle for rural development practice (Mago, 2014). According to Serrat (2017), Sustainable Livelihoods Approach is an approach that helps to formulate development activities that are people-centred as community members bring their suggestions and aspirations in creating practical objectives based on their interests (Serrat, 2017).

This approach seeks to identify challenges, constraints, and favourable factors within a vulnerable community to find solutions that would create opportunities and maximise community benefits, thus improving livelihoods (Mago, 2014). According to Serrat (2017), such an approach needs to have six components to be successful; it should be people-centred, responsive and participatory, and multi-level. Hence, it should embrace people of all ages and levels of leadership and grassroots community members. It should also be conducted in partnership with the public and private sectors, and this sector component can provide institutional guidance and fiscal support. Of major importance is that the approach must be

dynamic and sustainable. A dynamic approach is not a stagnant of ideas but one that evolves with time and can be relevant and continue to benefit the community with minimal damage to the natural environment (Serrat, 2017).

A livelihood is considered sustainable because of its ability to cope with stresses and recover from stresses and shocks, and maintain or enhance its capability and all its belongings, without undermining the natural resource base (Tombindo and Chirau, 2017, citing Chambers and Cornway, 1992). Livelihood has the capacity, material and social resources as assets and activities needed for living (Tombindo and Chirau, 2017). The conclusion drawn from sustainable development consortium diagnostic cases was that most restitution beneficiaries in restitution projects have no material benefit from restitution projects, in the form of income or access to land. The beneficiaries who have benefited tend to be those who are educated and male.

Finally, the Sustainable Livelihoods Approach seeks to harness the different skills, social networks, access to physical and financial resources, and be able to influence core institutions, whose productivity may be degraded or improved by human management (Nyammwena-Mukonza, 2013). Thus, the Sustainable Livelihoods Approach needs community resources, human and otherwise, and corporate and government sectors to improve the living standards of a poor community.

2.12 Conclusion

In this chapter, the researcher presented discussions in line with the available literature on the research topic “Exploration of the benefits and challenges of land restitution at Qhubekani-Mnqobokazi land Claim”. The context of land reform was discussed, ranging from land reform before and after the apartheid era in South Africa. The researcher discussed how South Africa’s democratic government introduced land reform, the three pillars of land reform, with emphasis on land restitution and land reform aim to address the imbalances of the past through ownership of land. Mnqobokazi land restitution was also discussed, its challenges and successes, and sustainability of livelihood as the model that guides this research. The next chapter deals with the research methods and design used to collect empirical data.

CHAPTER 3: METHODOLOGY

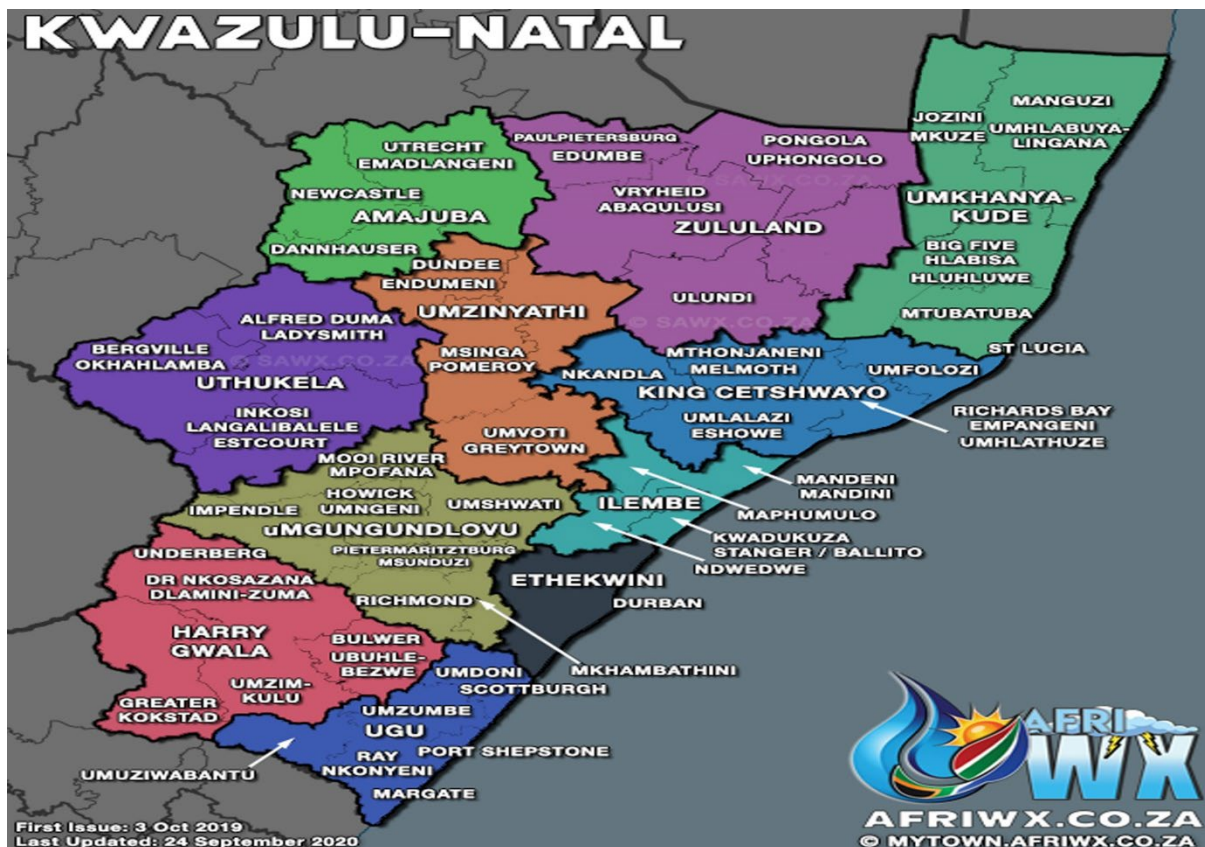
3.1 Introduction

In this chapter, the researcher describes the research methodology used in conducting this research study. The main aspects that are covered in this chapter include the research site, entry into the research site, paradigm, design, and approach. The chapter also reflects on the selection of participants, data collection method and instruments, pilot study, data collection procedure, and data analysis. Further, the researcher provides details on the various aspects that constitute trustworthiness, which are confirmability, credibility, dependability, and transferability. Before concluding the chapter, the researcher delves on ethical considerations that informed the study, limitations, and conclusion.

3.2 Research site

A claim for restoration of land rights was lodged with the Commission on Restitution of Land Rights for KwaZulu-Natal by Inkosi E.B Ngwane in the prescribed manner on 15 June 1995 (S42D Memorandum, Mmqobokazi Community Land Claim, 1999). The claim was lodged on behalf of the Mmqobokazi community, which was dispossessed of rights land after 19 June 1913 through racially discriminatory laws (S42D Memorandum, Mmqobokazi Community Land Claim, 1999). During the processing of the land claim, the community of Mmqobokazi selected their committee and registered a trust. They also elected committee members to be trustees and named their land claim project as Qhubekani-Mmqobokazi Land Restitution Project (Minutes of the Mmqobokazi community meeting, 1998). Below is a map of the area in question.

Figure 3.1: Province of KwaZulu-Natal



Source: mytown.afriwx.co.za

Mnqobokazi is a rural area in Mhlabuyalingana local municipality under UMkhanyakude District Municipality in the north of KwaZulu-Natal, South Africa (Municipality of South Africa, 2018). Mnqobokazi is under tribal authority. The area extends into Mkuze wetlands, including the Isimangaliso Wetland Park, South Africa's first World Heritage Site (Nustad, 2011; KZN Administrative Boundaries, 2016). People have lived in the area for over a hundred years, and according to available census data, the community had more than 614 046 people (Statistics South Africa, 2016). The area under review is approximately 900 000 hectares and it covers about 20 farms (Gazette Notice No. 26 of 2006).

The community is separated into wards, each led by an Induna (a tribal councillor), reporting to the tribal chief, Inkosi. Since the first democratic elections in 1994, powers and responsibilities have been shared between the traditional leadership and an elected councillor. Many households have access to the fertile land delta of the Mkuze river, and they rely on it for both subsistence and small scale commercial agriculture (Municipality of South Africa, 2018). Livestock, especially cattle are grazed on communal land and in the various protected areas, with the latter being especially important during drought years (Anorl, Gosnell, Benson

and Craig , 2017). People rely heavily on resources from the wetland, and these include poles, firewood, reeds used for roofing and mats, *ilala* palm for blankets and beer, fish, and small game. The produce is mainly used within households or sold locally, although reeds, palm leaves, and craft are also sold to intermediaries or tourist markets. This has become an important source of income, especially for the poor, female-headed households growing in number due to migration in search of work (Anorld, Gosnell, Benson and Craig, 2017). Sandy soils dominate the coastal plain of KwaZulu-Natal, and the scattered wetlands provide pockets of productive soil, which is important for local agriculture. The UMkuze wetland includes the floodplain of the Mkuze river, streams, pans, and swamps. The area has a drought, and flood events are also common (Robinson, Oldham, Cuckson, Brunson and Hardman, 2016). The area constitutes a high mosaic of different habitats and vegetation types, where abiotic, biotic, and human influences have contributed to a rich plant and animal diversity.

The demarcation of state land and commercial farms for White farmers during the 20th century reduced the area available to local Black communities (KZN Administrative Boundaries, 2016). Currently, Mngqobokazi is surrounded by protected areas on three sides. These are Mkuze Game Reserve, established in 1912, Phinda Game Reserve, a commercial wildlife reserve developed in the 1980s, and the Isimangaliso Wetland Park (Singarum, 2013). The community of Mngqobokazi formally accessed these protected areas for settlements, fields, and grazing (Anorld, Gosnell, Benson and Craig, 2017). The Wetland Park covering more than 300 000 hacters along the coast of KwaZulu-Natal, was proclaimed the World Natural Heritage site in 1999 (KZN Administrative Boundaries, 2016).

The part that borders Mngqobokazi was earlier demarcated as a forest reserve, and in the 1970s it was taken over by the military, who forcibly evicted the residents of Mngqobokazi. Later, the area was declared conservation land, and resource use was further restricted. Cattle grazing and harvesting of reeds were allowed, but the collection of firewood and medicinal plants, setting fires, fishing, and hunting classified as illegal activities (Anorld, Gosnell, Benson and Craig, 2017). This restricted access to resources had negative consequences for local food security and it was perceived as unjust by the local people. Hunting was the most contentious issue, where custom and need clashed with official views on poaching. Local hunters entered protected areas at night while game guards patrolled the area searching for poachers, and people from both sides were injured and even killed. Conservation field staff had a mammoth task, with orders to enforce regulations while maintaining good relations with local communities (Statistics South Africa, 2016). In 2007 Mngqobokazi gained land title to about 5 000 hectares

of land inside Phinda Game Reserve, but land use continued as conservation. Another title deed for 3000 hectares was handed over in March 2020 leaving the remainder of 1000 hectares which is still to be settled by the land claims Commission (Mnqobokazi Destination Guide, 2021).

3.3 Location of the study

The study location covers the Mnqobokazi community, a demarcation of UMkhanyakude District Municipality in the north of KwaZulu-Natal in South Africa. Mnqobokazi is under tribal authority in UMkhanyakude District Municipality and extends into Mkuze wetlands, including the Isimangaliso Wetland Park (UMkhanyakude District Municipality, 2015). People have lived in the area for over a hundred years, and according to available census data, the community has more than 614 046 people (Statistics South Africa, 2011). The area under review is approximately 900 000 hectares and covers about twenty farms (Gazette Notice No. 26 of 2006). In 2007 Mnqobokazi gained land title to about 5 000 hectares of land inside Phinda Game Reserve, but land use continued as conservation. Another title deed for 3000 hectares was handed over in March 2020 leaving the remainder of 1000 hectares which is still to be settled by the land claims Commission (Mnqobokazi Destination Guide, 2021).

The tribal authority of Mnqobokazi goes up to Mkuze wetland, part of which includes Wetland Park. Mnqobokazi community ancestors have lived in the area for several hundred years, and the community has more than 8 000 people (Big Five False Bay Municipality IDP, 2007/2008). The community is separated into wards, each ward led by Induna, reporting to the tribal chief, Inkosi. After the 1994 elections, power and responsibilities were shared between the traditional leadership and an elected councillor (Currie, 2011). Many households have access to the fertile land on the Mkuze river delta for subsistence and small scale commercial agriculture. Cattle grazing occurs on communal land and in the protected areas, with the latter being especially important in drought years. People rely heavily on resources from the wetland, such as poles, firewood, reeds used for roofs and mats, ilala palm for blankets and beer, fish, and small game.

The produce from Mnqobokazi community small vegetable, plants and fruits growers is mainly used within the household or sold locally, although reeds, palm leaves, and crafts are also sold to intermediaries or tourist markets (SA Tourism, 2012). This has become an important source of income, especially for poor, female-headed households growing in number due to migration in search of work. Sandy soils dominate the coastal plain of KwaZulu-Natal, and the scattered

wetlands provide pockets of productive soil important to local agriculture (SA Agriculture, 2013). The Mkuze wetland includes the floodplain of the Mkuze river, streams, pans, and swamps (South African National Parks, 2014). The area has both drought and flood events that are also common. The area constitutes a high mosaic of different habitats and vegetation types, where abiotic, biotic, and human influences have contributed to a high plant and animal diversity.

The demarcation of state land and commercial farms for White farmers during the 20th century reduced the area available to local Black communities (Big Five False Bay Municipality, 2011). Today, Mngqobokazi is surrounded by protected areas on three sides: Mkuze Game Reserve, established in 1912, Phinda Game Reserve, a commercial wildlife reserve developed in the 1980s, and the Isimangaliso Wetland Park. The Mngqobokazi community formally accessed these protected areas for settlements, fields, grazing, and hunting (South African National Parks, 2014). The wetland park covered more than 300 000 hectares along the coast of KwaZulu-Natal and was proclaimed a World Natural Heritage site in 1999.

The part that borders Mngqobokazi was earlier demarcated as a forest reserve, and in the 1970s it was taken over by the military, who forcibly evicted the residents of Mngqobokazi. Later, the area was declared conservation land, and resource use was further restricted. Cattle grazing and reeds were allowed, but the collection of firewood and medicinal plants, setting fires, fishing and hunting became illegal (Ezemvelo KZN Wildlife, 2013). This land had negative consequences for local food security and was perceived as unjust by the local people. Hunting was the most contentious issue, where custom and need clashed with official views on poaching. Local hunters entered the protected area at night while game guards patrolled the area searching for poachers, and men and women on both sides were injured and some were even killed.

Conservation field staff faced an impossible task, with orders to enforce regulations while maintaining good relations with local communities (Ezemvelo KZN Wildlife, 2013). In 2007, Mngqobokazi gained land title to about 5 000 hectares of land inside Phinda Game Reserve, but land use continued as conservation. Another title deed was handed over in March 2020 (geonames.org).

3.4 Entry to the research site

The researcher worked for the Land Claims Commission under the National Department of Agriculture, Land Reform and Rural Development and Land Reform. Therefore, the Project Manager for the Qhubekani-Mnqobokazi Land Restitution project and the Director of Operations for the Department of Land Reform and Rural Development and Land Reform were contacted to seek permission to conduct research with the Qhubekani-Mnqobokazi Land Claim beneficiaries and officials from the Land Claims Commission. The researcher was granted gatekeeper permission to conduct the research study for academic purposes by the Head of Land Claims Commission in KwaZulu-Natal (Appendix 1). After permission was granted, an email was sent to the management of Qhubekani-Mnqobokazi Land Restitution project seeking permission to interview officials. Subsequently, a follow-up meeting was set to present the proposal, scope of questions, and to identify staff members who would participate in the study, the proposed venue and meeting dates. The researcher was granted permission to conduct the research.

3.5 Research paradigm

There are three different approaches to research philosophy or paradigm (Rehman and Alharthi, 2016). These are positivist, interpretivism/constructivist and critical theory. Positivists claim that a social world can be understood objectively and that research is grounded in what is known (Kivunja and Kuyimi, 2017). The constructivist paradigm acknowledges two processes through which knowledge is constructed. The first one is through the process of assimilation, and accommodating that new knowledge is constructed from individuals' experiences. The second one is where individuals construct knowledge by incorporating the current information from experience (Adom, Yeboah and Ankrah, 2016). According to Fulford and Hodgson (2016), critical theory is explained as a foundational perspective that analyses social science, social action, social politics, and other human endeavours. Research based on critical theory critically assesses the present state and the requirements to reach the desired outcome (Fulford and Hodgson, 2016).

The philosophical grounding of this study is a social constructivist paradigm. Using the qualitative research approach located within the constructivist paradigm ensures not that no generalisation and deeper human experiences are discovered, and knowledge is constructed through interaction with others (Creswell, 2018). Knowledge will be derived from human

experiences with much interest in people's feelings, hence, multiple realities will be achieved in the end (Creswell, 2018). The constructivist paradigm is used in this study as the researcher seeks a deeper understanding of the participants' feelings, views, and experiences.

3.6 Research design

Research design is a set of approaches and directives to be followed when addressing a research problem in context. Pierre (2012) defines a research design as the set of methods that guide the researcher in the path of corroborating a particular hypothesis and overlooking all other likely explanations or theories. Yin (2018) contends that the research design is an alternative made by the researcher, and such a choice is premised on the kind and elements of the research problem that the main inquiry is on.

There are four research designs are exploratory, descriptive, explanatory, and experimental research (Akhtar, 2016). Exploratory research is the primary stage of research aimed at gaining new insight and it is mostly used where little research is available on a subject matter (Clarke and Braun, 2013). Descriptive research portrays the characteristics of a certain situation or group. For example, a study may be concerned with the people's views. Akhtar (2016) submits that the explanatory research design explores a new universe and it is normally concerned with the why and the causes of change. Finally, the experimental research design is used to test a research design of a causal relationship and seeks to control a condition within which persons are observed (Akhtar, 2016).

In line with the qualitative research approach, this study adopted an exploratory design. The researcher aimed to deliberate on the experiences of the claimants of the Qhubekani-Mnqobokazi community relating to the benefits and challenges of this land reform project. Exploratory research illustrates the specific details of a situation, connection, or social setting. The researcher notes that this was the case in this study since the participants gave accounts of their own experiences regarding the land claim, which is part of the community development that is new to the researcher.

3.7 Research approach

Research is an organised and designed effort to scrutinise a specific drawback that necessitates a solution (Gounder, 2012). Research donates to the overall body of facts, and thorough research comes from modifying human knowledge. It is a systematic and impartial inquiry and

recording of coordinated observations that may perchance end in the development of generalisation, beliefs or theories causing likelihood and perhaps ultimate control of what happens in society. The research attempts to respond to or resolve social problems (Silverman, 2010:14). Importantly, research must assume a specific approach.

There are three research approaches in social research. These are qualitative, quantitative, and mixed methods (Streefkerk, 2019). Quantitative research is expressed in numbers and graphs and it is usually used to test or confirm theories and assumptions (Streefkerk, 2019). Silverman (2010) states that a qualitative research design must be adopted to answer a research question. According to Streefkerk (2019), a mixed-method design is where you conducts interviews to determine how people are satisfied with a certain product and may start with a survey. A mixed-methods approach encompasses the use of two approaches in a single study. For this research, the qualitative research approach was considered the best fit. Since the qualitative research design is subjective, different views of residents from the Qhubekani-Mnqobokazi community were solicited. The benefits and challenges of land restitution in the context of the Qhubekani-Mnqobokazi community land claim were explored.

For purposes of this inquiry, qualitative research methodology was considered an appropriate. Qualitative research is a type of social science research that compiles and operates with non-numerical data that strives to infer meanings that help us to understand social life through the analysis of targeted people or locations (Punch, 2013). It is the expressions and explorations of people's discernment of different incidents, and it considers the portrayal of the people's understanding of a natural locale (Gentles et al., 2015). Qualitative research reviews native knowledge and interpretation of a stated programme, the public's habits, connotations, interactions, social advances and circumstantial issues that ignore a group of persons.

Further, qualitative research is less controlled in terms of interpretation as it formulates and profiles new-found ideas. Thus, the qualitative research method is inductive (Watkins, 2015; Levitt et al., 2017). It allows the researcher to gather descriptive data, also known as rich and thick data. Through a qualitative research review, the researcher typically uncovers meanings and understandings in a particular context. Likewise, Gopaldas (2016) maintains that qualitative research uses a string of data collection and assessment methods that include purposive sampling and semi-structured and open-ended interviews.

The qualitative research approach was inspired by the problem statement that and key the research questions. Viswambharan and Priya (2016) state that the raised questions influence

the choice of methodology. Creswell and Poth (2018) aver that the general sense around the qualitative research method is that it is not numerical, and it denotes people's voices, also understood as narratives. Qualitative research can refer to the inquiry interested in people's lives and lived experiences, including human behaviours, thoughts, outlooks, and the organisational operation, social engagements, cultural phenomena, and affairs between nations. It is defined as an operative model that transpires in an ordinary locale and qualifies the researcher to cultivate a level of detail from high participation in the tangible experiences (Gopaldas, 2016). This is a method or technique characterised by an in-depth and extensive comprehending of the issues of interest through their textual interpretation (Creswell and Poth, 2018).

The researcher used the qualitative research approach because the study focused on the experiences of the participants, which they were required to share, and express in their own words. This research approach was selected since the study focused on the participants' experiences with the benefits and challenges of the land restitution at the Qhubekani-Mnqobokazi community land claim. Therefore, the involved consideration of feelings and participants' narratives on the felt experience regarding service delivery was worth being recorded.

3.8 Selection of participants

Considering the nature of the study, the researcher noted that using a single sampling approach to choose participants would be difficult. Purposive sampling and snowball sampling were used as a result. The two are discussed in depth below.

3.8.1 Purposive sampling

This study had a total of 18 participants. Originally, 20 participants were scheduled to be interviewed, based on concept of data saturation (Guest, Bunce and Johnson, 2006). However, the other interviews were canceled after 18 participants were interviewed due to data saturation, which occurred during the 17th interview. The researcher went on to the 18th person to ensure that no new points of view had formed and was certain that data saturation had occurred.

The sample for the study was chosen using the purposive sampling technique. This is a non-probability sampling strategy that allows the researcher to choose a sample based on

demographic characteristics that are representative of the issue being studied (Laher and Botha, 2012). Purposive sampling is a sampling strategy in which the researcher picks study participants based on their prior experience with the subject under investigation (Akhtar, 2016). The subjects are purposefully chosen to meet the study's goal and purpose. According to Carter and Little (2007), qualitative research samples purposively. The potential volunteers were unknown to the researcher, who approached them to engage in accordance with ethical norms.

The researcher obtained ethical clearance from the University of KwaZulu- Natal's Humanities and Social Sciences Research Ethics Committee, as well as consent from the study's gatekeepers. Following the acquisition of authorisation, the researcher was required to seek informed consent from the residents of Qhubekani-Mnqobokazi community land claim. Individuals' informed consent was improved by furnishing them with relevant information about the research before they could decide whether they wanted to participate (Gravetter and Forzano, 2009). Informed consent is a technique that allows participants to agree or decline to participate in a research project after fully comprehending the research process and its potential repercussions (Ogletree and Kawulich, 2012).

In this study, the researcher opted for the purposive sampling method. The causative influence for selecting this sampling technique had to do with the prior professional experience in the study area. For example, "In non-probability sampling, there is no way of forecasting, estimating or guaranteeing that each element in the population will be represented in the sample" (Patton, 2015:85). The researcher will cease to generalise the findings as those of residents of different areas but with perhaps the same problem as the one studied in this context. Yin (2011) states that purposive sampling is "the selection of participants or sources of data to be used in a study, based on their anticipated richness and relevance of information concerning the study's research questions". This statement relates to the understanding by Lawrence, Palinkas, Sarah and Howitz (2016) that purposive sampling can be used in qualitative research to identify and select rich information related to the phenomenon of interest.

According to Bertram and Christianseb (2013), purposive sampling is more efficient when used appropriately in practical field circumstances. Purposive sampling concerns itself with those participants who have the required knowledge and understanding of the matter being studied and who will particularly disclose their experiences. In this case, the locals of the Qhubekani-Mnqobokazi Community were the main participants. According to Mohan (2012), non-probability sampling techniques are used in qualitative studies since non-probability sampling

requires the subjective judgements of the researcher while referring both to the theory as academic literature and practice, which is the researcher's experience, as is the case with this study.

In the selection of subjects for qualitative investigations, purposeful sampling is praised. This is because qualitative research employs a smaller sample size than quantitative studies, which use larger samples (Neuman, 2014). Neuman (2014) argued in favour of the use of purposive sampling that because the selection of participants in a qualitative study must be a well-thought-out process that cannot be left to chance, a characteristic that renders convenience samples undesirable. Similarly, Carter and Little (2007) asserted that qualitative research samples are chosen on purpose. The criteria for both inclusion and exclusion are listed below.

3.8.1.1 Inclusion criteria

A participant was expected to have the following criteria in order to be eligible to participate in the study:

- Willingness to take part in the study voluntarily and without expecting to be compensated.
- Mngobokazi community leaders
- Qhubekani-Mngobokazi Land Claim committee members
- Mngobokazi community members
- KZN Land Claims Commission staff
- Phinda Game Reserve management

3.8.1.2 Exclusion criteria

While conceding that exclusion criteria cannot be exhaustive, the researcher evaluated the following demographic details when barring residents from participating in this study:

- If they were not from community in question
- Had expressed a desire not to participate in the study.
- If they were not Mngobokazi community leaders
- If they were not Qhubekani-Mngobokazi Land Claim committee members
- If they were not Mngobokazi community members
- If they were not KZN Land Claims Commission staff
- If they were not members of Phinda Game Reserve management

3.8.2 Snowball sampling

The process of snowball sampling involves people in the research sample assisting the researcher by recruiting additional participants for the study, resulting in a referral process (Akhtar, 2016). This sampling strategy is utilised when it is difficult to find participants or when participants are difficult to access. As a metaphor, the process is referred to as a snowball. Once the researcher has one subject, it becomes much easier to recruit more. Participants are chosen based on the researcher's discretion (Kabir, 2016). The researcher's role is to discover potential participants and then ask those participants to refer or attract additional participants. The technique is repeated until the sample size is reached. Snowball sampling involves ethical hazards because participants' names may be shared unknowingly or persons may feel called out for being chosen for a study (Klopper, 2008). It is critical to guarantee that all ethical measures have been followed during the sample process. Snowball sampling has the advantage of increasing sample size due to the participant referral procedure. During the referral process, sample characteristics may also be identified. The downside of snowball sampling is that it is difficult to determine whether a sampling error occurred. Snowball sampling's ethical implications pose a risk to the study (Langkos, 2014).

Among the 18 participants, the researcher used snowballing to recruit the beneficiaries of land restitution. The researcher would not have gained access to information rich participants without the assistance of participants that knew others who had similar characteristics to those that they wanted to recruit. Similarly, two of the Land Claims Commission were recruited courtesy of a Land Claims Commission that referred the researcher to the relevant participants. Further, the researcher used snowball sampling because they are from outside Mngobokazi community.

3.9 Data collection method

Data is information received or found in the environment providing different kinds of meaning (Sharan and Tsidell, 2016). There are three fundamental types of research interviews in qualitative research: structured, semi-structured, and unstructured (Clarke and Braun, 2013). Structured interviews are essentially verbally administered questionnaires in which all the list of predetermined questions are asked, with little or no variation and with no scope for follow-up questions to responses that warrant further elaboration (Sharan and Tisdell, 2016). Consequently, they are relatively quick and easy to administer and may be of particular use if

clarification of certain questions is required or if there are likely literacy or numeracy problems with the respondents (Brinkmann, 2013). However, they only allow for limited participant responses and are, therefore, of little use if 'depth' knowledge is required (Bechman and Schutt 2011:258).

For this study, semi-structured interviews were chosen as the best suitable method (Appendix 2). Semi-structured interviews are the most common data collection technique in qualitative research. Yin (2014) submits that interviewing within the qualitative study is a form of the framework in which the practices and guidelines are not just recorded but further completed, tested, and strengthened. Charmaz (2014) suggests that no research interview is deficient in structure, and as such, several interviews in the qualitative research method are semi-structured. Corbin and Strauss (2015) posit that semi-structured interviews are those that largely permit the respondents to articulate themselves in their ways and at a pace befitting to them. This is done with little interjection on the answers by the interviewer. The qualitative method allowed the researcher to interact with the land claimants of the study area and get to ask them questions. The semi-structured interviews were be open-ended so that the interviewees could be offered a chance to share their personal experiences and the knowledge they had regarding the benefits and challenges of this land claim. This was mostly done to allow a flow of communication and allow the land claimants to voice their experiences and feelings towards the land claim.

Data collection is a critical phase in the research process. The researcher gets to meet with the people aimed for the study. The sampled population becomes authors of information, hoping that their narratives will facilitate change in their lives. Data collection was conducted at the Qhubekani-Mnqobokazi demarcation. The data that is analysed under the data analysis chapter will outline the experiences of the study community, and the findings will not be simplified to other geographical boundaries. Flick (2014) emphasizes that semi-structured interviews are mainly suitable when the issue is controversial and personal. In this regard, land reform is both controversial and personal in that impacts vary from one individual to the other if not appropriately managed. Although data collection took place during the era of COVID-19, all infection prevention and control measures were observed.

3.10 Data collection instrument

The major research instruments were (i) the researcher and (ii) the interview guide. The two sections that follow examine these research instruments in connection to the supporting literature and the accomplishment of the current study's aims.

3.10.1 The researcher as an instrument

The researcher is crucial to the study process because he or she has perspectives that can be critical in translating field data into useful data (Barrett, 2007). Pezalla, Pettigrew and Miller-Day (2012) emphasized the importance of the researcher's qualities in data gathering. According to the two authorities mentioned above, the researcher is central to capturing field notes, reconstructing field notes, data transcription, creating a conducive environment for open participation, selecting salient aspects to establish patterns to build themes, assigning meaning to data, and including relevant and appropriate data (Barrett, 2007; Pezalla et al., 2012). As an instrument, the researcher is intended to create contact and connection with the participants and the data (Patton, 1994). All data were collected by the researcher, who was well-versed in the study's aims. The researcher possessed suitable interviewing skills, including methodical and logical questioning and probing, ensuring the collection of excellent data to answer the study's key research questions. These skills were improved during the pilot phase.

3.10.2 The interview guide

An interview guide or interview schedule is a list of subjects that the researcher wishes to cover, together with questions regarding each topic (Wilson, 2014). It explains the key stages of the interview, from the introduction to the interview's purpose to the topics to be discussed. It serves as a guide for the interviewer throughout the and a memory aid (Wilson, 2014). The guide's primary purpose is to focus the interview process and reduce the possibility of deviation. However, the interview guide is adaptable because the researcher is free to ask follow-up questions as needed. The interview interview, guide also impacts the direction of thought during the interviewer-interviewee interaction, as well as the pace of the interview. In essence, the interview guide guarantees that the interviewer and interviewee communicate in a methodical and comprehensive manner (Cohen et al., 2007). The interview guide (Appendix 2) was utilised to interview the participants in this study. The guide included open-ended questions about the topic under consideration.

3.11 Pilot study

A pilot study is a small amount of data collected prior to the main study (In, 2017). The pilot research's primary goal is to ensure that the study can be completed efficiently on a wider scale (In, 2017). As a result, it is also known as a feasibility study because it is used to determine whether or not the proposed study is feasible. The primary advantages of a pilot study are improved data quality and research process efficiency (In, 2017). A pilot study is also carried out to increase the researcher's expertise with the data collection process and interventions, as well as to inform the estimation of sample size and data collection time allocation in order to improve efficiency (Mouton et al., 2015). Improving the researcher's skills is critical because the researcher is the most significant instrument in qualitative research (Kvale, 1996; Pezalla et al., 2012).

In the current study, a pilot study was done with a small sample size ($n= 5$ participants) that was identical to the sample size for the main study (Hennink, Hutter and Bailey, 2011). As a result, the researcher selected volunteers for the main study using the same inclusion and exclusion criteria (Thabane et al., 2010). It is worth noting that participants in the pilot study were excluded from the main research study because they had already been exposed to the questions on the interview guide. The major goal was to see if the questions were clear and easy to grasp, as well as to estimate how long participants would take to complete the interviews. This was required for both planning and ethical concerns. The researcher believed that participants needed to understand what they were signing up for before deciding whether or not to join.

3.12 Data collection procedure

Data were gathered through qualitative, in-depth interviews. Each of the two data collection phases (pilot phase and main study) is described in detail in the subsections that follow.

3.12.1 Interviews during the pilot phase

The interviews lasted between 60 and 90 minutes each. The interviews were conducted with each participant in the sample for the pilot phase of the study. Quiet areas were selected and these were crucial in encouraging people to volunteer information in a comfortable setting. Prior to each interview, the researcher planned appointments with each person who volunteered

to engage in the study. Thus, each participant was able to select any day and time within a two-month timeframe.

The researcher had the opportunity to visit each participant before each interview appointment. The research aim, objectives, any associated hazards to participation, confidentiality and anonymity issues, data retention, and reporting procedures were all explicitly described to the participants during this meeting. In order to protect anonymity, the researcher additionally reminded participants that their participation in the study was optional and that their names would not be associated with their responses.

The researcher also informed participants that they might withdraw at any time during the trial. The researcher formed good working ties with all participants as a result of this contact. This was required for participants to develop trust in the researcher and feel comfortable to provide extensive information. The data collection instrument was improved during the pilot phase. Further, the researcher developed their interviewing skills, which enrich the data collected during the main phase.

3.12.2 Interviews for the main study

Interviews were conducted in the same way as described in the pilot phase above. Given that the world is now dealing with the COVID-19 pandemic, the researcher observed all the infection prevention and control measures. These included maintaining safe distance, use of a face mask and sanitising hands and spaces such as chairs and tables.

3.13 Data analysis

Data analysis is a concerted exercise where data is carefully assessed and analysed to generate an informative narrative. Robshaw and Smith (2012) assert that data analysis is a procedure that is iterative or recurring, crucial to the imagination of the analysis, development of ideas, informative meaning and the adaptation of concepts as new insights ‘emerge’ or are formed in the data. According to Miles, Huberman, and Saldana (2014), there are three types of data analysis in qualitative research. Firstly, the researcher applies interpretivism, where human activity is seen as text and a collection of symbols expressing layers of meaning. Interpretation then comes through the understanding of the group action and interaction. Secondly, the researcher must display data in an organised, compressed assembly of information that permits conclusion drawing and action. Lastly, the researcher should do conclusion verification. From the start to the end, the analyst will decide on the meaning of things noting regularities, patterns,

explanations, casual flows and propositions while holding the conclusions lightly, maintaining openness and scepticism (Miles et al., 2014).

The semi-structured interviews yielded data in the form of transcripts. The transcripts were repeatedly read to achieve familiarisation with the data. The data were analysed using thematic analysis. The purpose of thematic analysis is to identify patterns of meaning across a data set that provide an answer to the research question being addressed. Patterns are identified through a rigorous process of data familiarisation, data coding, and theme development and revision (Braun and Clarke, 2013). Thematic analysis can be approached inductively, where the data is directly coded and themes are developed, or deductively where coding and theme development are directed by existing concepts or ideas (Braun and Clarke, 2013).

Following Braun and Clarke (2008), the approach to thematic analysis taken in the study involved the following processes:

Coding: This phase involved the process of generating codes that embodied important data features relevant to answering the research questions. The data were coded manually. Keywords and concepts were highlighted and assigned codes using either words or short phrases. These were reconfigured in subsequent cycles, checked for consistency, illustrated with relevant data extracts, and collated in preparation for thematic analysis.

Determining themes: This phase involved examining the codes and collated data to identify patterns of meaning, after which data relevant to each emerging theme were collated. Themes and sub-themes were then decided upon, their scope and focus determined, and they were named appropriately. Once described, the themes were illustrated with questions from the original text and their relevance to answering the research question was assessed. Themes were refined as necessary, and the result formed the basis for the writing up of the results. The flow of the research questions guided the organising principles.

Analysis: The analysis phase sought to explain what the findings meant conceptually. The research findings were analysed in the context of research questions, extant literature, and theoretical framework. The narrative was checked for contradictions, over-interpretation, and prejudices (Greenstein et al., 2003, cited in Mahajan and Haradhan, 2018). The analysis also sought to develop converging lines of enquiry as espoused by Yin (2003, cited in Braun and Clarke, 2013).

3.14 Trustworthiness

Research that is characterised by a deficit of rigour befits fiction and reverses its worthiness. The consistency can be merited merely by the validity and credibility of all research methods. The word ‘reliability’ is a frequently used concept for testing or evaluating all types of research. According to Stenbacka (2016), in the qualitative paradigm, the notion of testing is deemed as fact elicitation. Thus, the quality of a qualitative inquiry is the topmost imperative analysis. Essentially, reliability aims to generate an understanding in qualitative research since meanings and concepts are provided by the rparticipants when they share their encounters. Stenbacka (2016: 26) contends that “the concept of reliability is even misleading in qualitative research if a qualitative study is discussed with reliability as a criterion; the consequence is rather that the study is no good”.

Furthermore, Stenbacka (2016) submits that since the reliability subject concerns itself with amounts, it lacks importance in qualitative research. This qualitative study deals with concepts in texts instead of figures. Patton (2020) then asserts that concerning the researcher's competence and aptitude, reliability is a product of the validity of a qualitative study.

The reliability and trustworthiness of a study can be assessed using four criteria, i.e., credible, transferable, dependable, and confirmable (Cuba, 2011). Credibility can be established through several strategies to tell the story through rich, thick, and truthful information whilst recognising that this creates the sense of the phenomenon using constant comparison and building a chain of evidence. Through various logic processes such as taking notes, memorandum, member checking, prolonged engagements, persistence observation, typologies, a chain is created in research, and develops credibility. The researcher used all these strategies in the current study. According to Yin (2016), this assures the care taken during the data collection or information, ensuring that the findings reflect the world under which the study took place.

On the other hand, transferability refers to the potential or capability for extrapolation. Lincoln and Guba (2011) assert that transferability relies on the reasoning that truths can be generalised or transferred to other settings. Again, dependability refers to data stability over a long period and under different types of conditions (Lincoln and Guba, 2011). Finally, confirmability is an extent of neutrality in which the truth of the study is shaped by the respondents and not research bias, motivation or interest (Lincoln and Guba, 2011).

3.15 Positionality in the study

Sultana, Marks and Shaik (2020:11) submit that “it is critical to pay attention to positionality, reflexivity, the production of knowledge, and the power relations inherent in research processes to undertake ethical research”. The term ‘positionality’ describes an individual’s apprehension of a principle and the stance they have favoured to embrace with a certain research task (Foote and Bartell, 2011; Baden and Major, 2013). According to Sikes (2010), an individual’s worldview or ‘where the researcher is coming from’ links with ontological assumptions that suggest the essence of social actuality, epistemological assumptions that refer to the essence of facts, and the researcher’s suppositions about human nature and activity.

Positionality maintains that researchers are themselves inseparable from the social realm they scrutinise or investigate. Cohen, Manion and Morrison (2011:12) indicate that this realm is “an already interpreted world by the actors, undermining the notion of objective reality”. This implies that the researcher’s social or historical location influences their preferences, i.e. the researcher probes a problem, which they also face. Therefore, it is critical for the researcher to declare their position in the research conducted so the reader can know where the researcher stands before engaging with the data presented. Consequently, the subsequent subsections form the basis for the positionality statement of the researcher.

The complexities bedevilling the land restitution community development are vast. One major impediment to the land reform policy is the slow progress of resolving land issues (Dawood and Ghallieb, 2016). The stagnant progress in the land reform policy indicates that the provincial governments face a funds deficit and are short of the effective development and the necessary leadership that can boost project implementation to fully accomplish the stipulated objectives of the land reform policy.

Embarking on this research, the researcher realised that biases could stimulate jumping to immaterial conclusions since the researcher is an employee of the Department in charge of this project. The researcher’s office frequently experiences the burden of stagnant and unsuccessful community land claims. The test the researcher encountered is the capacity to assess, determine, and behave as a student and a researcher of academic work over the professional capacity and be mindful that an opinionated researcher can merely yield limited findings (Machi and McEvoy, 2016).

The researcher is female, employed by the Department of Rural Development and Land Reform, working under Directorate Land Restitution as a Project Coordinator in EThekweni Municipality. The researcher is responsible for the settlement of Land Restitution Claims. The researcher has once dealt with the settlement of Land Restitution claims on State Land under Umkhanyakude District, Mngobokazi is also under Umkhanyakude District with Land Restitution claims on stateland. The researcher is familiar with the area of Umkhanyakude District Municipality.

3.16 Ethical considerations

Ethical considerations in the research context is important. It ensures that rules are followed, and behavioural expectations are met regarding the proper conduct towards experimental subjects, respondents, and others associated with the research process (Munro, 2011, citing De Vos et al., 2005). Research ethics is based on the philosophical principles of autonomy and the respect for the dignity of persons; non-maleficence, beneficence and justice (Munro 2011, citing Wassenaar, 2006). The following ethical principles are presented in this section: ensuring that participants provide informed consent, avoiding harm to participants, ensuring anonymity and confidentiality, and ensuring that ethical clearance is obtained before the study is conducted.

3.16.1 Ensuring that participants have given informed consent

According to Denzin and Lincoln (2011), the cornerstone of ethical research is informed consent, which can be considered as a contract between the researcher and the participant. Furthermore, it is the process in which research participants are willing, active and not coerced to participate in the research study. Obtaining consent consists of the following: consent should be given freely (voluntary), subjects should understand what is being asked of them, and involved persons must be competent to consent (Conelly, 2005). This includes informing participants of their right to participate and withdrawing participation without repercussions. To protect the identity and dignity of the key informants, research participants were required to provide written consent for participation in the study. It is supported by Grinnell and Unrau (2008), who stated that respect for persons requires that subjects be allowed to choose what shall or shall not happen to them.

All the participants were issued with a letter of information providing explanations of all the details of the study. This form also provided information disclosing the researcher's identity and the University's contact details to endorse the study. Together with the letter of information, participants were also required to sign informed consent, evidencing their awareness of research participants' rights and voluntary participation.

An informed consent form (Appendix 1) was signed with individual participants, including a written participant information sheet in both isiZulu and English, which provided information about the project and conveyed details about principles of confidentiality and anonymity. The informed consent process also provided participants with the opportunity to formally indicate understanding and willingness to participate through an informed consent document that the participants signed. The above processes were conducted in isiZulu.

3.16.2 *Primum non nocere*: At first do no harm

Everything we do in life can harm someone, and therefore, researchers should weigh the risks against the importance of the possible benefits of the specific research project (Babbie 2007). According to McMillan and Schumacher (2010), research ethics focus on what is morally proper or improper when engaging with the research participants or accessing data. Babbie (2013) further states that research ethics involves protecting the rights of the participants and the institutions in which the research is conducted and ensuring the study's scientific integrity. Ethical standards, rules, and regulations need to be upheld by ensuring high levels of confidentiality and protecting the research participants' identity and ensuring that they are informed about every aspect of the study to which they then consent. More specifically, Ariffin (2018) states that, in a qualitative study, ethical considerations have a particular resonance due to the in-depth nature of the study process.

According to Bryman and Bell (2007), the following ten points represent the most important principles related to ethical considerations:

1. Research participants should not be subjected to harm in any way whatsoever.
2. Respect for the dignity of research participants should be prioritised.
3. Full consent should be obtained from the participants prior to the study.
4. The protection of the privacy of research participants has to be ensured.

5. An adequate level of confidentiality of the research data should be ensured.
6. The anonymity of individuals and organisations participating in the research has to be ensured.
7. Any deception or exaggeration about the aims and objectives of the research must be avoided.
8. Affiliations in any form, sources of funding, and any possible conflicts of interest must be declared.
9. Any type of communication concerning the research should be honest and transparent.
10. Any misleading information and representation of primary data findings in a biased way must be avoided.

In the interview process, respect for participants was maintained in the manner in which participants were approached, addressed, and engaged. The participants' comfort with the process was confirmed in the report writing through participant codes rather than the use of participants' names. The consent form also stated that the participants might withdraw or terminate participation in the interview if they felt uncomfortable at any point.

3.16.3 Ensuring anonymity and confidentiality

On the one hand, anonymity exists if the participant's identity cannot be linked with his or her responses, even by the researcher (Burns and Groove, 2009). On the other hand, confidentiality refers to no one having access either to individual data or to the names of participants except the researcher and may be assured by making certain that it is not possible to link the data to individual participants by name (Kadhila, 2012). Where required, anonymity was ensured, and the responses were treated with a high level of confidentiality (Groenwald, 2004). Anonymity and confidentiality are important because they protect the privacy of those who voluntarily agree to participate in research (Coffelt, 2018). In this way, participants may be more comfortable completing a survey or participating in an experiment or interview if they have some assurance that the researcher will not reveal the information provided.

Participants' identifying details have not been revealed within the research study, or their names reflected in any department. When data were collected, participants were assigned code names (e.g., participant 1) in order for their names to remain private. Furthermore, plans to protect

participants' privacy, anonymity, and confidentiality need to be projected for both the short term (i.e. during the study) and over the long term (up to five years). This procedure is supported by Creswell (2018), stating that, once analysed, data needs to be kept for a reasonable period (e.g., Sieber, 1998, recommends 5 to 10 years; the APA, five years). After this period, investigators should discard the data so that it does not fall into the hands of other researchers who might misappropriate it. In line with these regulations, interview transcripts will be kept under lock and safe and then deleted and shredded after five years.

3.16.4 Ensuring that ethical clearance is obtained

Following the submission of a research proposal, the study was conducted using the University of KwaZulu-Natal's Research Ethics Policy and Guidelines to ensure that ethical issues were identified and addressed appropriately. Ethical clearance was granted by the University of KwaZulu-Natal's Humanities and Social Sciences Research Ethics Committee. Gatekeepers' letter was also received from the Department of Rural Development and Land Reform, allowing the researcher to conduct research on a land restitution project in Qhubekani-Mnqobokazi.

3.17 Limitations of the study

The main limitation is that the study focused on a single community. While this might be considered as a strength, given that the case can be studied in-depth, the findings are difficult to generalise. Secondly, the use of a single approach, which is qualitative is a possible limitation because a mixed methods approach could have produced more nuanced findings. However, to mitigate this limitation, the researcher used different samples to explore the topic in-depth. The different participants such as those from the Land Claims Commission, beneficiaries of land restitution, community leadership, Qhubekani-Mnqobokazi community members, and the management of Phinda Game Reserve helped to mitigate this limitation.

3.18 Conclusion

The conclusions of the study must be well-grounded, convincing, and valuable. Consequently, the researcher had to use different methods (like the contribution of the government department through gatekeeping and the input of first-hand experiencers of land restitution) to achieve the objectives of this study (Evans, 2013). The data elicited from the participants were ethically handled. The participants had an opportunity to understand the importance of the research and how the issue impacts their daily lives. The practice of data collection is about sharing intuition

instead of enforcing ideas onto the public. The researcher aimed not to unsettle the participants but to contribute to the existing knowledge. During the data collection stage, the researcher was cognisant of the limitations and partialities due to the lack of resources. The researcher recognized and welcomed the cultural stances of the Qhubekani-Mnqobokazi community. The researcher was further able to discuss issues concerning the economic status of the residents within Mnqobokazi community after land restitution. participants increased clarity and addressed the challenges associated with the stagnant community development. All these issues and concerns form part of the succeeding chapter, where the findings are presented.

The next chapter presents the findings, discussions and interpretation of presentation of the collected data.

CHAPTER 4: FINDINGS AND DISCUSSION

4.1 Introduction

This chapter presents the findings, discussion and interpretations of the findings. Thematic analysis was adopted to analyse empirical data. The study addressed the following objectives: (a) to explore the benefits of land restitution in the Qhubekani-Mnqobokazi community; (b) to investigate challenges faced by the Qhubekani-Mnqobokazi Community and the Commission on Restitution of Land Rights in making land claimed to benefit the people of the Qhubekani-Mnqobokazi community; (c) to make recommendations on how the claim, through restitution, could be used to address socio-economic challenges facing the Qhubekani-Mnqobokazi community.

In this chapter, literature was used to either support or refute the empirical findings.

4.2 Participants profile

Table 5.1 below summarises participants' demographic information and the information on the organisations the participants represented and the participants' roles.

Table 5.1: Participants' profile

Participant	Organisation	Position in the organisation	Years in the area or years of service	Gender	Age
1	Land Claims Commission	Assistant Project Officer	14	Female	38
2	Land Claims Commission	Project Officer	10	Female	44
3	Land Claims Commission	Project Coordinator	15	Female	50
4	Qhubekani-Mnqobokazi	Committee member	77	Male	77
5	Qhubekani-Mnqobokazi	Committee member	63	Male	63
6	Qhubekani-Mnqobokazi	Committee member	65	Male	65

7	Qhubekani-Mnqobokazi	Committee member	48	Male	48
8	Qhubekani-Mnqobokazi	Committee member	44	Male	44
9	Qhubekani-Mnqobokazi	Committee member	61	Male	61
10	Qhubekani-Mnqobokazi	Ordinary community member	41	Female	41
11	Qhubekani-Mnqobokazi	Ordinary community member	43	Female	43
12	Mnqobokazi Community	Beneficiary	81	Male	81
13	Mnqobokazi Community	Beneficiary	79	Female	79
14	Mnqobokazi Community	Beneficiary	94	Female	94
15	Mnqobokazi Community	Beneficiary	71	Male	71
16	Mnqobokazi Community	Community leader	50	Male	50
17	Mnqobokazi Community	Community leader	70	Male	70
18	Phinda Game Reserve	Management	23	Male	23

In Table 5.1, Participants 1-3 were officials from the office of the Land Claims Commission in KwaZulu-Natal; Participants 4-9 were committee members, and Participants 10 and 11 were the Mnqobokazi community in general. These people were not dispossessed of their land; they either purchased the land or accumulated rights through other means. However, they were not part of those that were removed; Participants 12-15 were land restitution beneficiaries, and Participants 16 and 17 were community leaders (municipality and traditional leadership) and

they were also beneficiaries while Participant 18 belonged to the Management of Phinda Game Reserve.

It is important to note that out of 18 participants, three were from the office of the Land Claims Commission, six were Qhubekani-Mnqobokazi Committee members, and four were ordinary community members also referred to as beneficiaries of the land restitution programme. Furthermore, two participants were from the community leadership, the Municipality and the tribal authority, and one was from the Management of Phinda Game Reserve. The officials from the Land Claims Commission were categorised according to their experience: their years of service in the Land Claims Commission (from 10 to 15). The community members, including the beneficiaries, the committee, and community leaders, were classified according to their years in the Mnqobokazi Community (from 3 to 94 years). The management of Phinda Game Reserve was also identified by the years of service at Phinda Game Reserve (23).

Some participants provided relevant information because they had adequate knowledge on the subject and had acquired experience. Some even gave one-word answers because they did not have adequate knowledge on the subject. The responses would be presented in line with the study objectives and key themes. There was a possibility that some responses would overlap due to the nature of the interviewees. For example, the interviewees responded to questions addressing a different objective when responding to a different question.

There were diverse views concerning the participants' knowledge of the land restitution process in South Africa. The older participants seemed to have some knowledge about the area's historical background, which included forced removals, denial of access to their ancestral land and the establishment of Phinda Private Game Reserve. Some of the participants aged below fifty years demonstrated a lack of knowledge about the whole land restitution process and agreements with Phinda. Therefore, the responses were a mixed bag cutting across the three themes constituting the study.

A further analysis shows that one male participant was in the 30s age range; five in the 40-49 years; one in the 50s; four in the 60s; five were the 70s; one in the 80s and one in the 90s. As shown in Figure 4.2 (a), this analysis indicates that most of the participants were in adulthood, thus indicating that they were aware of the effects of land restitution in the Qhubekani-Mnqobokazi Land Claim Project. Figure 4.2(b) shows that adult participants were mainly knowledgeable about the history of land and removals in Qhubekani-Mnqobokazi. Figure 4.2 (b) shows the years of service for the participants employed in the Land Claims Commission

and the management of Phinda and it also shows the number of years participants have lived in Mngobokazi Community. It is worth noting that 75% of the participants were adult community members who have been living in the area for over 40 years and 13% were the leadership of the community that has also been living in the area for more than 40 years. Furthermore, 8% of the participants were employees of the Land Claims Commission and their service spanned above ten years for all of them; lastly, 4% comprised the management of Phinda who have worked in the Phinda Game Reserve for more than 20 years.

Figure 4.2(a): Age group shows the age of participants

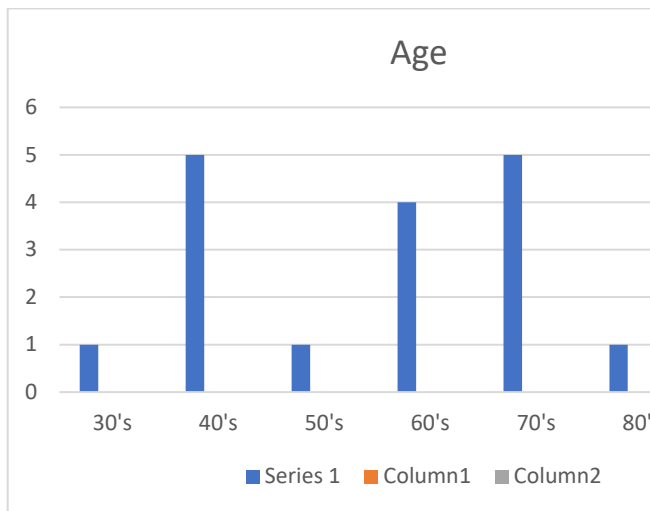
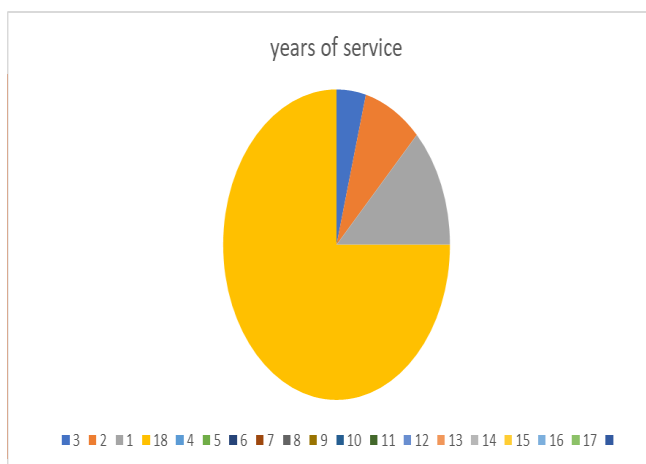


Figure 4.2(b): Years of Service and Years they have lived in the area



Source: Author

4.3 Discussion of the findings

In this section, data were analysed in line with the themes derived from the study's objectives. The analysis was based on the following themes: (1) benefits for stakeholders in the Land Restitution Claim; (2) challenges faced by Qhubekani-Mnqobokazi Community and Commission on Land Restitution; (3) recommendations on how the land claimed through restitution may be used to address socio-economic challenges at Qhubekani-Mnqobokazi. Along with the main themes, sub-themes were developed. For example, Theme 1 encompassed the following sub-themes: Sub-theme 1 - benefits for land restitution beneficiaries; Sub-theme 2 - benefits of Qhubekani-Mnqobokazi Committee (Trustees); Sub-theme 3 - benefits for Mnqobokazi Community Leadership Traditional Authority and Municipal leadership; Sub-theme 4 - benefits for Mnqobokazi Community in General; Sub-theme 5 - Benefits for Phinda Game Reserve; and Sub-theme 6 - benefits for Land Claims Commission.

The discussion of findings is informed by the theoretical framework, which is the Sustainable Livelihoods Approach. The Sustainable Livelihoods Approach aims to utilise the many skills, social networks, access to material resources, and ability to have an impact on key institutions, whose productivity may be harmed or enhanced by human management.

4.3.1 Benefits for land restitution stakeholders

This theme is based on the benefits for the primary stakeholders of land restitution. The primary stakeholders are land restitution beneficiaries and are categorised into three groups of beneficiaries (i) Qhubekani-Mnqobokazi beneficiaries, (ii) Qhubekani-Mnqobokazi Committee, and (iii) community leadership (Tribal Authority and Municipality). It also looks at the benefits for secondary stakeholders who are (iv) Mnqobokazi Community in general also referred to as ordinary community members, (v) Phinda Game Reserve, and lastly, (vi) the Land Claims Commission.

4.3.1.1 Benefits for land restitution beneficiaries

Under this sub-theme, participants were asked to share the benefits accrued due to the land restitution programme. Various responses were solicited from direct land claim beneficiaries. The benefits shared by this category of participants ranged from financial, the actual return of the land to its rightful beneficiaries, sponsoring of school maintenance projects by Phinda

Game Reserve, to the electrification of the community and the offering of bursaries to tertiary students. The following quotations testify the benefits for the beneficiaries of land restitution.

Black South Africans believe that their right to the land was stolen away from them by Europeans who occupied the land. The participants indicated that they were of the belief that the Whites would at some point return their land, but that was not the case as most Black people ended up renting land portions from the Whites to conduct business. One participant said:

“We expected the Whites to return our land, but it was not the case. They began to rent the land for their business (Phinda Game Reserve) and offered to pay us monthly rentals. We are getting R280 000 (Two hundred and twenty thousand Rands) for rent every month” (Participant 4).

Despite the disappointment that most Black South Africans encountered regarding the issue of the return of land from the White community, some indicated that renting out these land portions was a better option than owning the land as it generated income that most families would rely on. One participant said:

At least by renting out the land, there would be a constant flow of income which the Trust can use to educate children and finance other social development jobs” (Participant 10).

The land restitution programme in Mngobokazi has extended its benefits not only to beneficiaries of the programme but also the community. This was seen by most participants as an exercise that would improve Mngobokazi Community. A participant averred that:

“Phinda Game Reserve has also sponsored the maintenance of schools around Mngobokazi community. It does not benefit the Qhubekani-Mngobokazi beneficiaries only but the community at large” (Participant 6).

Mngobokazi community received another portion of land which was used for agricultural purposes prior to the community agreeing to have the land portion used for wildlife purposes. One participant said:

“We received another 1140 hectares of land through restitution; this land was once used for agricultural purposes but not making a lot of money. We as the Mngobokazi

Community agreed to use this land for wildlife conservation. We negotiated with Phinda Game Reserve to also incorporate this piece of land. Phinda Game Reserve has seven distinct habitats and seven world-class lodges. We would like to thank Phinda Game Reserve for the donations given to the community. We now have our own game reserve” (Participant 7).

The findings reveal that Mnqobokazi community's standard of living has improved through the installation of electricity, improvement in education, and skills received through the land restitution project. One participant said:

“For many years, the place did not have electricity at all; people were using candles for lighting because the Municipality electricity was so expensive for the poor Mnqobokazi Community. Residents were required to pay about R6000 for connection in addition to R900 they were supposed to pay every month because the meter system of distributing electricity was unaffordable to the unemployed” (Participant 7).

Some participants indicated that they faced problems during the rainy season because firewood would be wet and difficult to use. The area has since been electrified and the community is grateful to the Trust for making the electrification process a possibility. One participant said:

“Cooking has been miserable in times of heavy rains as firewood would be wet and we couldn't make fire for cooking. Hence, the place is not much of a densely wooded environment as it consists of fan plants (Ilala in IsiZulu). We now have electricity, thanks to Qhubekani-Mnqobokazi for making our lives easy” (Participant 8).

“The electricity project has resulted in electricity being installed in many houses in the community, and Qhubekani-Mnqobokazi Trust is continuing with the process of giving card system electricity to the community (Participant 6).

The electrification that took place in Mnqobokazi community has been appreciated by community members who are happy that they now have access to news and information. The area is situated in remote areas where access to information is a problem. One participant indicated that:

“It has also been difficult for the residents of Mngobokazi community to be aware of what is happening around the world since we could not even watch news on television. Hluhluwe Town is about 47 kilometres away and it is difficult for us to have a regular supply of newspapers” (Participant 9).

The land restitution programme has benefited many people in Mngobokazi community. Through land restitution, the area has now been electrified and community members have benefited from the electrification of the area. One participant said:

“Qhubekani-Mngobokazi Trust is paying for our electricity card system application. Despite being a land claim beneficiary or not, one can still benefit from the electricity project. Although we did not benefit in terms of electricity because we already had it, we benefited in that we had job opportunities in the project. For example, my son, who is a qualified electrician, got employed in the electricity project” (Participant 5).

Rural electrification has traditionally been aimed at raising living standards, improving the quality of education and healthcare, increasing economic production, and lowering firewood usage (Kumar and Rauniyar, 2018). Participants in this study indicated that the electrification project widely benefited the community and they witnessed positive changes in their lives now and in the near future. One participant articulated that:

“Whilst negotiations were taking place, I was not part of it. However, I got feedback and what I liked was that both parties agreed, and they met halfway by renting out the land instead of getting a lump sum of money that could only last for two years or so. Now, we are seeing lot of projects taking place in our village” (Participant 6).

The land restitution programme has created a sense of belonging among the inhabitants of the Mngobokazi Community. The community was grateful that they owned their land and had no problem letting it out to those who could use it. For them, it is the sense of belonging through land that makes them whole again. A participant said:

“We are feeling a sense of ownership, and have decided not to interfere with conservation and tourism ventures at Phinda Game Reserve, as long as we are receiving our rentals and some other benefits”(Participant 8).

From the findings, it is pertinent to note that the land restitution programme has funded students at tertiary level and some of the money has been used to purchase uniforms for learners at primary and secondary schools. Through this programme, Mngobokazi community has been elevated through a number of initiatives that the Trust has brought to the community. One participant said:

“The Qhubekani-Mngobokazi land claim project has paid bursaries for qualifying students at tertiary level. These are beneficiaries of Qhubekani-Mngobokazi land restitution claim. The Qhubekani-Mngobokazi land claim project has also funded 23 beneficiaries to obtain drivers’ licences and purchased school uniforms for over 70 children of the beneficiaries” (Participant 9).

Participants in the study indicated that the beneficiaries of the land restitution received dividends from the Trust. The findings indicate that a lot of programmes have been initiated in a bid to change people’s lives in the community. This is in tandem with the Sustainable Livelihoods Approach, which serves as the theoretical foundation for the explanation of the findings. The Sustainable Livelihoods Approach seeks to make use of the various talents, social connections, material resources, and power to influence significant institutions. One participant averred that:

“Even our beneficiaries are happy. We make them happy by giving them dividends and this has been done ever since we received our land back and we assist the youth to improve their lives through skills”(Participant 10).

The land belonging to Qhubekani-Mngobokazi consists of the game resort shared amongst other communities. The reserve is leased by Phinda and beyond, including the lodges. Figures 11(a) and 11(b) show the pictures of these game reserves. However, the individual participants are not happy with sharing the land.

Figure 4.3(a): The Gate of the Phinda Game Reserve & Beyond



(Picture taken by the researcher on the 8th of October 2021).

Figure 4.3(b): Land Restored to Qhubekani- Mngobokazi Community Land Claim



(Picture taken by the researcher on the 8th of October 2021).

"I feel liberated now that Phinda is mine. However, their policies discriminate against persons who are not members of the committees but are community members, as you can see" (Participant 14).

While some participants have showed gratitude at what they received from the land restitution programme, others have expressed disappointment at Phinda, who seemingly benefits more than the new owners of the land. One participant said,

"Yes, justice was served; we have received the land, but it does not seem to belong to us. We battled for the land, but we are getting very little from what it is producing. We get very little while Phinda reaps huge benefits from the land" (Participant 11).

Findings indicate that most participants expressed their appreciation for the accomplishments made possible by the cooperation between Phinda and the Mngobokazi Community. The achievements in healthcare and education, which include the bursary support system and water and sanitation, are noteworthy. From a business standpoint, dividing emphasis between conservation and tourism on the one hand and community responsibilities on the other would jeopardise the outcome for all the stakeholders. As a result, a separate, full-time social development organisation was required. In collaboration with Phinda and in consultation with land claims recipients, Africa Foundation assists the socio-economic development of rural

communities in Africa, following land restitution surrounding protected zones (Africa Foundation, 2016).

Findings indicate that participants expressed their appreciation for the accomplishments made possible by the cooperation between Phinda and the Mngqobokazi community. Previous studies have indicated that the land restitution programme in South Africa lacked the involvement of the community beneficiaries from the inception of the land reform programme (Tshidzumba, 2019). This entirely alienates the input of the community beneficiaries in the process of the development. Apt to note is that for a successful land reform programme in South Africa it is important to consider an approach that embraces active involvement of the local people (Mafunisa, 2004). It is clear that the involvement of the community in land restitution creates a sense of belonging, ownership and responsibility amongst the beneficiaries (Kamuiru, 2014).

According to Anseeuw and Mathebula (2018), the goal of land restitution can only be achieved if development occurs on the farms owned by Black people. Land secured through the land restitution programme has either ceased to produce or is not effectively managed to benefit the targeted recipients, which is a difficult issue (Sebola and Tsheola, 2014). Accepting renting out the property has been a good idea for Qhubekani-Mngqobokazi land restitution, as this has made them to benefit, otherwise their land would have ceased to be productive.

4.3.1.2 Benefits of Qhubekani-Mngqobokazi committee

This section reflects on the benefits of the Qhubekani-Mngqobokazi committee. The land was returned to its original owners through the restitution of the land rights, and the agreements made with Phinda were appreciated.

The participants acknowledged the existence of Phinda Private Game Reserve. Because they lacked the skills and experience to handle the conservation and tourism businesses, the beneficiaries agreed that it was best not to meddle in the operations of the business entity. One participant said:

“Initially, we considered forcibly reclaiming our ancestral land, but we were encouraged to lease it out to Phinda to maintain the environment and promote the tourism business. We believe justice was served because we were given our land back and agreed to rent it out and manage the tourism company with Phinda” (Participant 5).

There was unanimous agreement among the older generation and the committee elected by the beneficiaries that Phinda Game Reserve should continue running conservation and tourism projects as long as the beneficiaries continue to receive their benefits as agreed.

“We maintained a cordial relationship with Phinda during the talks and had several consultations and trainings with her because we actively participated in the reparation process. We even had the opportunity to attend a land restitution options workshop, where we agreed that leasing the land was a viable option” (Participant 5).

The findings suggest that the cooperation featured community training in the conservation and tourism industry management and talent transfers. This was part of the agreement that the committee and Phinda entered into. One participant said:

“As committee members, we also have the privilege to attend ‘People in Parks’ monthly meetings, which are hosted by the Department of Environmental Affairs and Tourism in the province and once a quarter at the national level, where we meet with beneficiaries from other successful and well-known private game reserves such as Kruger National Park and others. ‘People and Parks’ hold large conferences every three years, alternating provinces, and a world conference for ‘People in Parks’ is held every five years. The government will cover our airfare, lodging, and meals as we transition from an impoverished rural town to a well-known developing community” (Participant 7).

Despite the positive benefits for the committees, some participants shared some challenges faced in handling the compensation. One participant averred that:

“Being a part of ‘People in Parks’ is different from being in other land restitution committees, where there have been reports of cash being misappropriated. Qhubekani-Mngobokazi is a well-known initiative that has to account for grassroots developments in People and Parks” (Participant 4).

Findings suggest that the land restitution programme was good for the community, although some members were reported to be benefiting more than the others. One participant said:

“We cannot ignore the fact that friends, family members, relatives of Trust members, traditional leaders, and councillors profit more at the expense of others. Precisely, some people benefit while others do not. They have the advantage of learning about

fresh opportunities. Their children will be the first to receive financial assistance to attend school. Some of them receive perks, while others do not” (Participant 11).

Some participants indicated that the programme brought with it a lot of training programmes and employment opportunities, which benefited most people. Some participants said,

“We were trained on the field of brick laying and given skills, the school, clinic and other market places build for the community were built by us” (Participant 10).

Findings show that the programme has been a success; thus the community gained skills which they have applied to better their community. These skills have been put to use to build schools in the area thereby creating employment. One other participant said:

“At Nkomo Primary School, 60 children used to gather in four makeshift classrooms, sitting on the grass beneath four large trees until the Qhubekani-Mnqobokazi Trust, in collaboration with Phinda, built ten classrooms and other facilities. On the construction committee, some of the committee members were project leaders during construction and gained employment. A committee member, who is a teacher by profession, gained the motivation to become the Principal of a school” (Participant 10).

“At Khulani Special School, only special needs school was built and it catered for 167 children living with disabilities ranging from paralysis to hearing and visual impairments” (Participant 6).

Findings also suggest that through this programme, the community’s healthcare system has significantly improved since there is now a clinic in the community. One participant said:

“The clinic, which is a dedicated 24-hour healthcare centre, serves the Phinda Private Game Reserve's surrounding settlements and beyond. The chairwoman was later hired by the Clinic for HIV and AIDS Testing and Counselling, and committee members were also involved in the project's development and operations” (Participant 9).

The community members were happy that they were more involved hands on in the development that was taking place in their community. Through the programme and the training received, the community was able to market their talent to local companies. Maximising on locally available resources, networks and infrastructure is an important aspect of the Sustainable Livelihoods Approach. One participant said:

“We were involved in the construction project from its beginning to its end, and the craftsmen pay a minimal rent to the Qhubekani-Mnqobokazi Trust. The Craft Market empowers local artisans to promote and sell their creations in order to support their families” (Participant 8).

Another participant had the following to say:

“We inspired the construction and establishment of Nkomo Ark, a safe sanctuary for 500 orphaned children living with HIV and AIDS” (Participant 7).

Findings reflect that the claimant community benefited in terms of skills and the infrastructure built for their community, as they are also receiving healthcare services, education, and a market place for their produce. The land restitution programme has seen women being empowered and getting employed. The Trust has funded women who provide services to the lodge and schools in the community. One of the participants said:

“We also have the Ikusalethu Sewing Club, which consists of 15 women who sew school uniforms and church uniforms for schools in our community and the nearby communities. They have also sewed linen for the lodge. The women have also benefited from sewing machines, which they are repaying through a minimal rental in the backside of the hall that they use. The hall was built for the community” (Participant 5).

With respect to educational benefits, a participant had this to say:

“The Community Leaders Education Fund’s (CLEF) bursary programme supports prospective youth leaders with tertiary education subsidies” (Participant 4).

Commenting on community representation, one participant expressed the following sentiments:

“Yes, the community was prepared because those who represented us had been taught to represent the entire community. We benefited in the long run as the trustees represented the community” (Participant 8).

Findings indicate that participants lauded their accomplishments in the growth of small companies. Previously, some women would leave their families to sell their products in far-flung locations like Durban. In their garden, Phinda built a curio shop. The craft shop attracts

visitors from Phinda and other tourists travelling along the R22 Road to Sodwana Bay. Because parents may work from home, their families become more stable. Participants also cited developments in terms of water reticulation and harvesting facilities, as well as market gardening, poultry, and brick production as other social development projects. These findings are in line with the Sustainable Livelihoods Approach, given that it seeks to utilise the networks that are available, and local resources to improve the quality of lives for local people.

4.3.1.3 Benefits to traditional leaders or municipal leader

Traditional community leaders and municipal leaders were asked to share their benefits accruing from the land claimed. Only traditional leaders expressed positive feedback regarding their benefits and even shared their contribution to the success of the land claim. One participant said:

“The claim was lodged by Inkosi Ngwane. We identify with the history of land in Mngobokazi, and without us these land claims wouldn’t even have existed. The land belongs to us and we need to benefit from it” (Participant 16).

Some participants indicated that traditional leaders played a significant role in representing them as a community. Their duties included ensuring that they reported on the progress and successes that the community has witnessed since the land restitution programme took off. One participant said:

“Traditional leaders speak for their communities; we are the ones who represent the community. These are our people. Traditional leaders (and the State-affiliated ward councillors) are expected to share information on new policies and business involving their communities” (Participant 15).

Findings suggest that traditional leaders benefited significantly from the programme since they were paid to be part of the meetings that were being conducted. This had a negative impact on the community as the traditional leaders believed their service to the community was biased because of the payments made to them to attend. One of the participants said:

“Traditional offices provide a common, public location where community members can gather, paying rentals to the traditional leader. The traditional leader is also paid for attending each meeting. In certain circumstances, community members do not feel safe

addressing issues there, which would reflect badly on traditional leaders” (Participant 16).

Findings indicate that traditional and municipal leaders initiated the land claim. These were community representatives and were expected to share information on policies that need to be implemented. The use of traditional leaders was premised on the fact that they were benefiting from the rentals being paid, despite the direct benefits that were being received by these people in the community.

Some participants indicated that the presence of traditional leaders ensured control over the land distribution process in the community. Thus, these leaders play a watchdog role in ensuring that land is distributed under fair terms and that rentals are paid on time to ensure the smooth running of the project. One participant said:

“We maintain effective control over land distribution and management in the area. We also assist in the formulation of restitution claims. The land development project that began following the land restoration programme, among other things, was the creation of a market for people who can create and sell crafts. We assigned land for crafts and we control the property, and the land rentals being paid directly to the traditional authority. We manage and administer the land, ensuring that everyone in the community benefits fairly” (Participant 16).

Findings further suggest that despite the land now belonging to the people, traditional leaders benefit more than the others. They claim that a certain part of the land still belongs to them. They collect rent for the land where a small market was built. Traditional leaders enjoy the advantage of learning about opportunities first because they closely relate with authorities managing the land restitution programme. One participant said:

“Friends, family members, and relations of the trustees, as well as traditional leaders, and councillors get more benefits at the expense of others. Precisely, some people benefit while others do not. They enjoy the advantage of being the first to learn about new opportunities. Their children are also the first to receive financial assistance to attend school. Some people receive perks, but I do not. Two of my children were amongst the first to receive bursary as well as obtaining drivers’ licences through the trust” (Participant 17).

Participants indicated that the land restitution programme brought a lot of positive changes to their community and enhanced the recognition of rural communities in the region. Through the programme, the community has access to safe water and other essential services. The construction of the crafts market gave the region a facelift, while also providing a stable source of income for many families. All these benefits that communities enjoyed are located within the Sustainable Livelihoods Approach. The Mngobokazi community actively contributed through the local talents, labour, and supplies. One participant said:

“We shine as a municipality because of the cooperation between Qhubekani-Mngobokazi and Phinda. While other rural communities are struggling, we are gaining in our hamlet. Through the water reticulation, over 16 000 children now have access to safe water, thanks to the Foundation that connected 21 schools to the municipal main water network. This has also benefited the schools in the surrounding towns” (Participant 17).

Findings also suggest that the community benefited from other developments that took place in Mngobokazi due to land restitution. Findings further reflected that those who have a close relationship with the traditional and municipal leaders have received first-hand benefits. One participant indicated that:

“I never imagined seeing a rhino in the wild; much less than touching one before I die. This is one of the most joyful experiences of my life. Phinda helped us to learn about conservation. All of the participants have an emotional stake in the success of the rhino conservation efforts facilitated by Phinda. I would like to thank the visitors of Phinda & Beyond for their generous support, which enabled us to provide this essential community education” (Participant 17).

Participants indicated that despite claims having been lodged by the King, findings show that he was not a member of the Trust but a founder, instead. One participant said:

“The claim was lodged by Nkosi uNgwane. During negotiations, Inkosi was excluded from being a member of the trust but referred to as a founder of the Qhubekani-Mngobokazi Trust” (Participant 17).

Findings indicate that every year, the King received tokens of appreciation from Phinda Game Reserve. The tokens would be in the form of cows. One participant said:

“Every year, Inkosi receives a cow from Phinda Game Reserve as a token of appreciation” (Participant 16).

The traditional leaders in the Mngqobokazi community lost some influence over land use because this land was privately held and returned to Qhubekani-Mngqobokazi. Unlike other traditional authorities, Mngqobokazi's traditional authority did not protest against ownership, despite its limited territorial jurisdiction. Most traditional leaders have repeatedly opposed legislation that transfers land to people or other legal organisations by requesting that the land be retransferred to traditional or tribal authority. This implies that the management of the Phinda Game Reserve has recognised traditional leadership and constantly updates the traditional authority on decisions and progress. The founders of the Qhubekani-Mngqobokazi Trust and the traditional authority have received a share of the monthly rentals and a cow from Phinda.

4.3.1.4 Benefits to the community in general

Findings indicate that the community of uMngqobokazi benefited substantially from the programme. Participants indicated that some infrastructural developments were initiated through this programme. Some participants said:

“Phinda helped us with infrastructural development. It constructed our clinic, classroom blocks, and upgraded schools in our area” (Participant 13).

Another participant added that:

“Qhubekani-Mngqobokazi erected water pumps for the village. So, we no longer have to rely on river water. We have adequate water for the population, and diseases like cholera and tuberculosis have been reduced” (Participant 12).

One other participant said:

The school has a bio-digester, toilet block and a communal water project. The construction of more classrooms has guaranteed a conducive teaching and learning environment, which has the potential to boost performance. In addition, this has decreased the stress of a high teacher-to-pupil ratio” (Participant 15).

Findings suggest that the Trust has helped schools with the feeding programme, which has since extended to secondary schools. One other participant said:

“The Qhubekani-Mnqobokazi Trust also helped the schools with the feeding programme and has extended it to secondary schools” (Participant 15).

Some participants indicated that they had gained a lot of knowledge about animals found in their area because of Phinda. One participant said:

“Teachers teach conservation classes because we live near animals, and it is crucial for us to understand and learn about conservation. Teachers and students participate in interpretive game drives with Phinda rangers to learn about the importance of conservation. Debates on conservation have been held at the community high school” (Participant 14).

The community benefited, especially in the education and housing sectors, through training and infrastructural development. Some participants indicated that the development has created employment for some members residing in UMnqobokazi community. Some participants had this to say:

“Qhubekani Crèche was founded by a volunteer with the help of Phinda in response to the challenges experienced by young women. Three volunteers are now caring for 86 children in the crèche. More funds are still necessary for expansion and the recruitment of more qualified and skilled personnel” (Participant 12).

Another participant added:

“Houses were also created for the orphans living in the community” (Participant 14).

One other participant said:

“We had no venue for meetings and Qhubekani-Mnqobokazi built a hall and a youth sports centre for the community” (Participant 14).

Two elderly participants shared experiences regarding the struggles they went through to get treatment when they became ill prior to the construction of the clinic. That attests to the benefits the community accrued from the healthcare initiative, which was only possible because of land restitution. A participant had this to say:

“Our health care has improved because a clinic was established for us” (Participant 12).

Another participant affirmed that:

“The Qhubekani-Mnqobokazi came up with a scholarship scheme to inspire our youth who are doing well at school. The Qhubekani-Mnqobokazi Trust offers a bursary to students who are thriving in their Matric studies despite all the challenges. Due to the high level of competition, measures were put in place to ensure that only deserving learners were funded. Graduates are urged to give back to the community through the Buyisela Project (Giving Back) so that more poor youngsters might be helped” (Participant 14).

Participants indicated that the community has access to ICT services and this was a result of the development that came with the *Mnqobokazi-UMnqobokazi* Trust development programmes. Some participants said:

“Information technology and telecommunication services were made available to the community through collaboration between Phinda and the community” (Participant 12).

Another participant felt that:

“The creation of DevCenter, a Digital Eco-Village, has given this rural community a new lease on life. The DevCenter has evolved into a knowledge and skills centre where members of the community can get services, learn computer skills, access technology, conduct research, and get into contact with families. The Skills and Health Centre is a satellite facility that provides health and lifestyle counselling” (Participant 13).

A participant added:

“DevCenter is used by community members and school leavers for academic research, tertiary education applications, accessing IT services, computer literacy, career assistance, and counselling. It also assists community members to assume leadership positions and influences the youth to be a productive and healthy future generation. The Africa Foundation meets up to 50% of the cost of the centre's computer literacy classes, which encourages participants to invest more time and effort in their personal growth” (Participant 14).

In addition to the safeguards taken, regular community members expressed unhappiness with the selection process, method and criteria. Some respondents claimed the process was opaque

and instead proposed a quota system for the villages. There was a strong feeling that the children of Mngqobokazi beneficiaries were better off than others, especially because they attended better-equipped schools and had greater access to information (Africa Foundation, 2016). In terms of community projects, participants advocated transparency and good governance. Some respondents even challenged Phinda to help and support community governance training and education. One participant had the following to say:

“Around 120 community members received formal computer literacy training, and many more have gained informal skills through technological engagement, which has helped them find work in the administration and hospitality areas, some were employed at Phinda Game Reserve” (Participant 12).

A participant further noted that:

“A crafts market was also established in the community, allowing all crafters to come together under one roof. We used to travel to Durban to sell our wares, leaving our vulnerable families alone. Our group comprises roughly 15 crafters with a wide range of skills and abilities. We thank Qhubekani-Mngqobokazi Trust for always remembering us” (Participant 14).

Participants also lauded the progress made in the growth of small businesses. Previously, some women would abandon their families to sell their products in Durban. Phinda or Qhubekani-Mngqobokazi and Africa Foundation built a curio shop in their garden. Phinda's operations directly impact community activities, such as wildlife conservation and ecotourism (Snyman, 2014).

The land restitution and Phinda agreements raised hopes among the local communities. Community people benefited through active participation in wildlife conversations, improved relationships with Phinda, improved community infrastructure and social development, contribution to their children's education, financial benefits, employment, business opportunities, and participation in management and decision-making on issues that affect them.

Another Participant stated that :

“I am permanently employed as a Tracker and have worked for Phinda Game reserve more than 20 years my first job was repairing fence damaged by pouchers and became responsible for anti poaching after being trained. Some have worked for more than 15 years but are not permanent and are on the same position”.

In terms of job opportunities, the following was said:

Youth of Mngqobokazi community were being trained for such positions at Phinda Game Reserve. The tourism sector, including lodges, has employed the largest number of Mngqobokazi community members. Most of the Mngqobokazi community members occupy jobs, such as waiters, maintenance workers, housekeepers, and trackers. The participants indicated that some of the jobs done by local residents were not permanent. One participant indicated that he has worked for Phinda game Reserve for over 20 years, beginning as a fence repairman in the maintenance area, then moving on to the anti-poaching exercise, and finally to his current position as a tracker. Another participant stated that he waited for more than 15 years and was still working in the same position.

The community of Phinda enjoyed a plethora of benefits from Phinda Game Reserve. An amount of R15 290 339 was donated to Phinda communities since 2007, 166 bursaries to qualifying community members, 24 classrooms built were built in community schools by the community members, one communal water fountain, seven boreholes and water tanks at schools, nine water pumps and irrigation systems for community gardens, 21 schools received reticulation to link them to municipal main water line, one bakery, 78 conversation lessons conducted reaching 644 children as well as 78 teachers, three subsistence gardens were upscaled to small commercial farms, 12 cottages for teachers' accommodation were constructed, two administration blocks were built, as well as two Orphans Vulnerable Children centres to support orphans and vulnerable children (RSA Tourism, 2015:15).

4.3.1.5 Benefits to Phinda (& Beyond) Game Reserve

Findings suggest that the land restitution programme marked a moment in history where the community was reunited with its ancestors. Participants indicated that the agreement between Phinda and the community was in favour of the community. One participant said:

"&Beyond 'Phinda' pioneered successful land restitution settlements with local communities, restoring land to its ancestral owners. Mngqobokazi community leaders and &Beyond inked a ground-breaking, mutually beneficial land claim settlement in the community's favour for a number of hectares of land within the Phinda Private Game Reserve" (Participant 18).

The land restitution programme was a historic moment for most community dwellers and this was witnessed by a number of people who came to witness the event. The restitution process was done in a way that benefited the community and the company as well. One participant said:

“On August 11th, 2007, local communities from across Phinda came into Mduke to witness the historic signing of legal documents granting the Mngobokazi Community reparation for land taken from them during the Apartheid era. Steve Fitzgerald, the former CEO of &Beyond, was a key figure in the land claim process because he applied the notion that it was important to own the business, and not necessarily the land. It has always been our desire to restore Phinda's land to the community, but that eventually benefited the firm as well. We realised that the best course of action was to assist with the land claim process and then lease the land back to the communities to ensure long-term viability” (Participant 3).

After robust negotiations with the community and traditional leaders, Phinda agreed that a certain amount of money be paid towards them. The company also signed a lease that would allow them to continue with their operations although at a monthly charge. After lengthy discussions with traditional leaders and the Land Claims Commission, residents accepted an offer of R268 million. A 72-year lease agreement was also signed to protect the &Beyond's occupation rights and guarantee the community's ability to review its annual rental incomes. Another participant said:

The community indicated that they had a good relationship with Phinda and this had been developed over the years. This relationship has been beneficial to both parties. One participant said:

“Over the years, we created a trustworthy connection with Phinda and the Mngobokazi Community. Over the years, we've developed the relationship with Phinda, and we've come to an understanding that benefits both of us” (Participant 8).

Some members of the Mngobokazi committee highlighted that the government was very helpful as it provided funds to develop the community and expand business in the area. One participant said:

“Aside from purchasing the site, the government also provided us with a R9 million development fund for the expansion of our business” (Participant 9).

The community indicated that they had a good working relationship with the uMnqobokazi Trust. Participants indicated that the Trust was transparent in the manner it conducted business with the community. One participant said:

“We have a fantastic, trustworthy, and responsible Trust. Our Trust chairperson was always available and accountable for carrying out his responsibilities” (Participant 8).

The community entered into an agreement with Phinda to lease some of the land which was claimed on some farms in the area for continued wildlife use. Some participants indicated that the community received an advance payment that would assist in projects that would empower the community. Some participants said:

“The community received an advance payment of R18 million to foster future joint ventures and community empowerment projects. Another piece of property was returned to the community in 2009 as a consequence of unrelated claims on the farms in the region, which was also included on &Beyond Phinda’s 36-year lease at the community’s request. In exchange for these agreements, &Beyond was able to solicit the community to retain the area as a wildlife habitat rather than a farming entity” (Participant 3).

Another participant stated:

“Both the community and conservation benefit from the arrangement, confirming once again the commitment of &Beyond Phinda to the care of the land, care of the wildlife, and care of the people” (Participant 18).

Findings suggest that the foundation-community partnership has yielded positive results on the tourism that has been fostered by Phinda. Participants indicated that the support of the community has led to the development of the community. One participant said:

“On the one hand, the success of the partnership between Africa Foundation and the Mnqobokazi Community has a positive impact on Phinda’s conservation and tourism efforts, and on the other hand, it has a positive impact on social development and the enhancement of the standard of living in general. Phinda’s conservation and tourism ventures due to community support” (Participant 18).

Some participants indicated that the community was willing to help the game reserve in the preservation of wild animals such as the rhino. They indicated that the community understood

that animals needed land as well and hence they donated part of their land. The participants said:

“We were able to establish good relationships with our neighbouring community and as a result of land restitution they got on board to promote survival of rhinos. They were not only caring for the park in their neighbourhood, but they were also donating all of it for their own land” (Participant 18).

4.3.1.6 Benefits to the Land Claims Commission

Following the Restitution of Land Rights Act of 1994, the restitution programme was implemented to deliver equitable reparation to the victims of racially motivated land confiscation. The most important benefit of the land restitution programme under the land restitution claim would be the achievement of its mandate.

4.3.1.7 Implementation of the Land Restitution Programme

The land restitution programme was initiated in 1995 and to date uMnqobokazi Community is happy with the achievements that have been made in conjunction with Phinda Game Reserve. One participant said:

“The Mnqobokazi Land Claim was lodged on the 28th of September 1995, before the cut-off date, which was 31 December 1998. Like all the other claims, it met the criteria for it to be investigated and be treated as a valid land claim. Just like all the other claims, it went through all the stages until its approval, which was awarded in phases; the first phase was in 2007, the second in 2020 and the other phases would follow. The land restitution project succeeded because it was been able to fulfill its mandate of transforming landownership patterns within the context of agrarian reform, implementation of land administration system and sustainable livelihoods. The Mnqobokazi Land Restitution Project has been able to achieve its mandate through the fulfilment of an agreement that was signed with Phinda Game Reserve” (Participant 3).

4.3.1.8 Equitable access to land

The distribution of land in Mnqobokazi community benefited the community in different phases. Participants indicated that some of the land has been used for a community market to sell their craft. One participant said,

“Land was restored to Mnqobokazi Community through land restitution, which was conducted in different phases. There was another piece of land that was made available to Mnqobokazi Community for Market, where the people of Mnqobokazi sell their craft” (Participant 3).

4.3.1.9 Integrated rural development

Findings suggest that the land restitution programme brought with it development in the community. Participants indicated that electricity was initiated through Eskom and the toilet system project was done through the municipality. One participant said.

In Mnqobokazi area, the Department of Rural Development and Land Reform, through the Land Claims Commission, restored the land to Mnqobokazi Community and signed a settlement agreement with Phinda Game Reserve, as intended. The government departments came on board resulting in the school being renovated and for the community, thanks to the Phinda project & Beyond Phinda Game Reserve, the houses that were erected for the orphans who were victims of HIV and AIDS were built by the Department of Education in collaboration with &Beyond Phinda Game Reserve. The Department of Rural Development and Land Reform, in collaboration with the Department of Social Welfare, participated in the project. The Department of Social Welfare conducted household profiling and other community needs assessments. The community built houses for orphans; however, the Department of Human Settlements came and fast-tracked the building of houses for other community members who were in need but not prioritised by the Qhubekani-Mnqobokazi Trust as they were not categorised as orphans. Electricity was installed in the houses and water and sanitation facilities as well as a clinic were established. After Qhubekani-Mnqobokazi Trust paid for electricity and the card system, Eskom and the Municipality came on board to provide the service. The same happened with the water tank and toilet systems project. Phinda Game Reserve trained Qhubekani-Mnqobokazi Committee and the community’s traditional leaders (Participant 2).

4.3.1.10 Sustainable agricultural and food security for all

Findings suggests that the community of uMnqobokazi has been highly appreciated through this programme because the youth are getting employment and vulnerable groups in society are being relieved of their burdens. One participant said,

“Qhubekani-Mnqobokazi Trust and Phinda are facilitating change in Mnqobokazi Community. They are hugely contributing to the maintenance of infrastructure as the basis of the community’s livelihood. Opportunities are identified and are worked on. There is evidence of people being made less poor. Poverty is being discouraged by not allowing people to feel comfortable in poverty. Unemployed people are offered jobs and youths are benefiting from skills development as well. Vulnerable groups are getting assistance to relieve them of the burdens of poverty” (Participant 2).

The findings indicate that the Qhubekani-Mnqobokazi project dovetailed with the Department's vision on the following basis: even though they were unable to occupy the land physically, their benefits were far greater than they would have received if they had occupied the land. They appear to have reaped significant benefits, as it has always been the goal of the Phinda Game Reserves to develop the communities surrounding their reserve. The Integrated Development Plan relates to the development priorities and objectives of the area under Mnqobokazi Municipality and how various development strategies were coordinated. Phinda Game Reserve and Africa Foundation have played a significant role in coordinating most development strategies in this community (Big Five Municipality IDP, 2016).

4.3.2 Challenges faced by Qhubekani-Mnqobokazi Community and Commission on Land Restitution

This theme focuses on the challenges faced by Qhubekani-Mnqobokazi Community and its stakeholders. The land restitution process in KwaZulu-Natal has been affected by various challenges and inconsistencies. These challenges are criminal, and if they are allowed to continue, may jeopardise the land restitution process. As a precaution, this study explored these difficult aspects within the context of KZN. Land restitution should be seen as a spiritual procedure because it is not just about redressing historical politico-socio-economic injustices and problems affecting Black people, but also about representing the country's current constitutional and democratic values. It should be mentioned that illegal actions have jeopardised the land restitution process (Corruption Watch, 2013).

4.3.2.1 Challenges faced by beneficiaries in Qhubekani-Mnqobokazi Community

Participants indicated that there were challenges with regard to the period in which the land restitution programme was approved. They further averred that despite this challenge, there

were still some portions of land that have not been returned to its rightful owners. One participant said:

“The claim was lodged in 1995, but it took 12 years for us to see the first title deed, that was in 2007; another title deed was received in 2020” (Participant 11).

Findings further suggest that the acquirement of land by the community was a positive move that sought to benefit the land owners. However, the community indicated that despite being beneficiaries of the land restitution, the laws passed by Phinda were discriminatory of the other. One participant said:

“I feel liberated now that I know Phinda is mine. Our forefathers were dispossessed of this land and endured all of these hardships in their homeland. However, the laws in Phinda ostracise (possibly discriminate against) those who are not in the committee even though they are members of the community. This is against the fact that we are all beneficiaries Of the programme” (Participant 13).

Findings reflect that the land claim has taken too long to be finalised. Most of the people who were dispossessed of their land did not benefit from this land restitution. The supposed beneficiaries of land restitution suffer discrimination from Phinda.

4.3.2.2 Gazetting: A challenge in the restoration of the land in Mnqobokazi

Findings indicate that there were challenges characterising the gazetting of property or land in uMnqobokazi Community. Some participants reported that some land overlapped to neighbouring areas and it took time for this issue to be resolved. Some participants said:

“The gazetting of property contributed to the prolonged finalisation of the claim; there were overlaps in terms of boundaries (Mnqobokazi properties overlapped with KwaMakhasa and Kwa Jobe) it took very long to resolve this issue. Some overlaps are still hanging even today” (Participant 1).

“Gazetting of wrong properties and taking long to give gazette notice to the land owner created problems” (Participant 5).

Further, the misappropriation of land in uMnqobokazi had detrimental effects because this was the main part of the land claim. Participants indicated that it caused delays in the land claims to be settled and also caused financial strains on the department. Some participants said:

“In the case of Mnqobokazi land claims, some of the properties were wrongly gazetted and had to be degazetted, which was a waste of time and money, causing unnecessary delays in the settlement of the land claim” (Participant 1).

Another participant said: “Changes in policies resulted in major delays in terms of settling land claims. For instance, Minister Nkwinti came and took away the function of post-settlement from the Land Claims Commission. Let alone that the unavailability of post-settlement will result in farms collapsing after land restoration. The other land that has been claimed belongs to the government and one of the major requirements for land disposal from the Government Department of Land Affairs’ future land use plan. This causes delays in that the Land Claims Commission will have to get a service provider to draw up business plans as officials on the Commission are not skilled in that field. Getting a service provider takes time and causes unnecessary delays and waste of money than it was when post-settlement function was still available in the Commission” (Participant 3).

Findings indicate that political factors also contribute to the challenges faced by land restitution in expediting the land claims. Some participants indicated that:

“Other community members want to be part of the claim even though they were not forcefully removed from the land; even their ancestors were not dispossessed of land, but they want to benefit fraudulently” (Participant 2).

“Landowners collide with property valuers and hike the price of the farms” (Participant 3).

Another point to note is that the new land owners in uMnqobokazi were not familiar with laws governing wildlife and as such, some community members used to poach animals. Findings indicate that there is a need for the community to be educated on the need to preserve wildlife in the area. One participant said:

“While we understood that we owned the property, we were not educated on how to care for the animals. As a result of their lack of understanding and sense of ownership, some community members ended up poaching. The community has not been effectively educated on the value of wildlife. The community was unfamiliar with the regulations governing wildlife conservation. We want Phinda to help educate communities about

nature conservation and train community members on essential skills. We aren't even asked to participate in the decision-making process” (Participant 14).

Findings reflect that community members who were not forcefully removed from land want to be part of the land claim through fraudulent means. They demand to be incorporated into the land claim. Again, it was noted that the landowners want the valuer to hike the price of the land so that they benefit more when the Government purchases the land for the claimants. Community members also raised the challenge of not being educated on wildlife conservation, which leads to poaching of the rhino.

Participants also mentioned that another challenge was that officials who worked on the land claims project kept on changing and the community members who were trustees did not want to leave when their term of office had expired. Some participants said:

“Project officers keep on changing without following proper hand-over and take-over procedures. A new project officer will require information from the committee; in our case, about eight different officials have worked with us on this land claim” (Participant 11).

“The Trustees are supposed to change every five years, according to our Trust's constitution. However, this does not happen. While there has been much progress and development, other community members require opportunities to serve in the community. There is now violence and quarrels, as people fight over positions in the Trust. At the end of 2020, the Chairperson of the Qhubekani-Mngobokazi Trust was killed at gunpoint” (Participant 15).

Data reflect that land claim officials change every time and again, and this causes delays in the settlement of the land claim, as each official has to start the process afresh. No proper handover process is done, let alone the introduction of new officials. Trustees also do not want to leave their positions once elected. They end up fighting, and as a result, the Trust's chairperson was killed.

The Land Claims Commission took a very long time to settle the land claim such that the originally dispossessed people did not receive anything from the claim as most of them have already died and those who are still alive are very old. Most of the participants felt strongly that the education and training on the negotiation process regarding restitution of land rights was a community issue. The whole community was entitled to the knowledge and skills, not

only the Trust representatives. They argued that the feedback from the meetings and workshops was inconsistent. According to some participants, part of the community feels excluded from the affairs of and relationship with Phinda.

4.3.2.3 Challenges faced by Qhubekani-Mnqobokazi committee

Findings indicate that there is a general belief that the government has betrayed the Qhubekani-Mnqobokazi committee as they did not fulfil their promises to the people of uMnqobokazi community. Participants indicated that the government enticed them with promises that would not follow through after the agreements were reached. Some participants said:

“The government did not do anything to honour its promises. The money it promised never reached our hands; instead, they promised to develop the area by building more schools, hospitals, etcetera, but they are no longer visible” (Participant 15).

“The Minister of Lands Affairs pledged to put money in our pockets, but the government is yet to do so, and we are only making money on our own as a Trust” (Participant 13).

“The government is not concerned about our well-being. It doesn't even show up to see if Phinda is following through on its promises. As a result, Phinda is free to do whatever it wants with us” (Participant 17).

Findings are indicative of how the community's expectations regarding the government's unmet promises. Participants were expecting financial compensation, which did not happen, and participants were a little disappointed by the government's lack of commitment. Some participants said:

“Being a member of QhubekaniMnqobokazi Trust has been stressful for office bearers. Another risk is that I'm the Treasurer and people look at me as if I've got money or I am stealing or misappropriating their money. So, it makes me always feel untrustworthy in front of people. Sometimes, it is even hard to renovate one's house as there will be talks of about misusing or misappropriating people's money” (Participant 10).

“We have another land that is under the management of Isimangaliso Wetland. This land is bigger than the one under Phinda Game Reserve, and Isimangaliso is making a lot of money on this land as it also attracts tourists. From this land we only receive R20 000 annually as opposed to the R288 000 that we receive monthly from Phinda. Negotiations are still in progress with Isimangaliso to bring our land back so that we

incorporate it to the Phinda Game Reserve. However, they are taking long and the government is letting us down on this aspect” (Participant 9).

The trustees of the Qhubekani-Mnqobokazi community revealed an unknown truth that internally, there are issues; their lives are at risk and even the chairperson, who has served the community for a long time, ended up losing his life.

4.3.2.4 Challenges faced by Mnqobokazi traditional leaders or municipal leader

When community members lack the resources to start businesses as a way of supporting economic growth, balancing local community development with guardianship of common land entrusted to traditional leaders is particularly difficult. Traditional authority areas face numerous barriers to attracting foreign investment, including geographical isolation, low profitability, and discrimination against outsiders.

Findings indicate that there were some challenges involving neighbouring communities in land gazettement. Participants indicated that the issue of land gazettement was a challenge and had to be solved by both traditional leaders and municipal officials. One participant said:

“The main challenge is that of dispute resolution amongst the neighbouring communities where Jobe, Mnqobokazi and Makhasa Land claims overlap” (Participant 17).

Some participants averred that families fought over Christmas hampers that were given to families in uMnqobokazi community. These disputes were solved in the community’s tribal courts. A participant said:

“There was a dispute among family members fighting over Christmas money. Some are not willing to share the money. We have to resolve those disputes in the tribal court” (Participant 17).

The municipality indicated that they were left out in most developmental meetings by the community and Phinda Game Reserve. This made the municipality doubt their importance in the whole land restitution programme. One participant said:

“The main challenge facing land restitution is that we are not acknowledged or recognised as community leaders. Community members will only talk about Inkosi, the Land Claims Commission and the Phinda Game Reserve. Even when there are

meetings, we just see people coming together. It is as if we do not exist. No one has ever told us about our role as the municipality” (Participant 16).

Data analysed reflect that community and municipal leaders are not recognised on land restitution matters; their role is only to solve community problems. When everything is fine, they are treated as if they do not exist.

4.3.2.5 Challenges faced by Mngobokazi general community

While the community appreciated the development efforts, most participants believed their involvement in decision-making and project administration was low. Participants indicated that community leadership appears to have less influence, let alone the ability to choose the route of growth from residents’ perspective. One participant said:

“We aren't a part of the decision-making process. We simply observe events as Phinda does not respond to our priorities” (Participant 14).

Some participants compared the relationship between Phinda and the community to that of a donor and a beneficiary or recipient. The community should be actively involved in project planning, decision-making, and management as part of the partnership relationship. One participant said:

We are not represented on the Board as a community. Thus, our interests, goals, and concerns are not taken into account; only beneficiaries are represented” (Participant 13).

Findings indicate that the government failed to provide community members with resources that enable them to partake in the land restitution process. The community was unprepared for the process since they did not receive appropriate education and training to properly comprehend the process, requirements, and legality of the land restitution project. One participant said:

“The government failed to adequately prepare community members for the restitution negotiations by providing them with education and training to familiarise them with the language, legislation, and conditions involved in the process” (Participant 16).

4.3.2.6 Challenges faced by Phinda Game Reserve

Skills development and transfer posed a challenge to Phinda Game Reserve. Although this was part of the agreement during the land restitution process, there was no fixed timeframe for the

process to occur. This prompted people to be impatient and start demanding positions in higher ranks from Phinda. One participant said:

“Although skills and development transfer formed part of our settlement agreement, there was no set timeframe for it, and the people are impatient, land claim beneficiaries and the community are demanding that they be elevated to higher management positions in Phinda Game Reserve. This is not yet impossible because they are not well-trained. Although skills and development transfer constituted part of our settlement agreement, there was no fixed timeframe for it, and the people are impatient” (Participant 18).

Participants indicated that Phinda Game Reserve faced poaching problems caused by the community. The problem, though not common, Phinda Game Reserve indicated sometimes occurred. One participant said:

“Although rhino poaching is not common, it does occur” (Participant 18).

Some participants stated that it was their first time to be part of the restitution of land rights processes. No one had ever heard of land claims or had any experience with the phenomenon and as such, the processes around the land issue have not been settled to date, for some. One participant said:

“The Land Claims Commission's empty promises regarding development grants that were intended to be delivered to the community following land restitution have not been fulfilled till today; instead, they offered people R10,000 to apologise for taking so long to settle their property claims. We considered that action bribery” (Participant 18).

About 67 percent of the participants said that education and training on the restitution of land rights negotiation process was a communal issue and that the entire community, not just the Trust representatives, was entitled to the information and skills development. They said that feedback from meetings and workshops was uneven as they were not all represented. Participants indicated that a segment of the population felt excluded from Phinda's affairs. In her speech during land title deed handover ceremony, the former Minister of the Department of Land Affairs, Lulu Xingwane, said, “We the Department of Land Affairs are restoring land with a total area of 11 500 hectares to you, including the game on it. The prominent Phinda Game Reserve is located on the property, which is home to the famous Big Five. This game

reserve attracts international tourists because of its rhinos, elephants, hippos, oNkonkone Ngonyama, and lodges” (Department of Land Affairs, 2007).

4.3.2.7 Challenges in the land restitution process

The challenges hampering the land restitution process include financial constraints and procurement problems, staff issues, claim investigation, untraceable claimants, disputes, lack of established systems, poor stakeholder management, and lack of conducive working conditions.

(i) Finance and procurement

The land gazetting issue took long to be resolved because of lack of funds to appoint a land surveyor who would accordingly help subdivide the land. One participant said:

“I worked in Makhasa Land Claim, which was overlapping with Mngobokazi in terms of boundaries, and it took a long time to appoint a service provider (land surveyor) to subdivide the farm due to a lack of resources, especially budgetary or financial constraints, and the procurement challenge was exacerbated by the long time it takes to appoint valuers. We say nothing of the appointment of property valuers” (Participant 1).

(ii) Staffing issues

The findings suggest that the lack of manpower delayed the completion of the land claims in the community. Thus, the lack of people who are employed to map the land, survey and legal staff to complete the processes, which took longer than anticipated and this had a bearing on the exercise being completed on time. One participant said:

“Manpower shortages resulted in mapping, legal processes, and general staffing experiencing hurdles. Traditional and community elders are the custodians of the history of the land claim as well as the borders during the mapping exercise, in the case of rural claims. There is only one in-house surveyor who assists the officials with the mapping of land claims. It could take up to six months for the in-house surveyor to be available for a mapping exercise in the field. Legal staff is, likewise, in short supply, and when communities disagree about boundaries, hence it takes a long time to resolve the conflict” (Participant 3).

(iii) Investigation of claims challenges lead to fraud

Findings suggest that the investigations done by families on land claims done in the community sometimes lead to fraudulent acts. Thus, most people did not produce documentation to prove their claims and this has often led to land appropriation based on verbal communication. One participant said:

“Oral interviews are heavily reliant on the investigation, which can be unreliable at times. There is scarcity of documentation. Claimants often claimed that their land stretched from this river to that river, and they even tell you how many families they have, with no evidence, no records, but only word of mouth is used to back them up. Unfortunately, even if they lie, you cannot complain because you weren't there. As a result, persons who were not affected by the removals become beneficiaries as well”
(Participant 2).

(iv) Untraceable claimants

Participants indicated that the land restitution process had a lot of untraceable claims. Findings indicate that the exercise wasted resources as the claimant would not be found. One participant said:

“There are claimants who cannot be located. You discover that the claim was filed in 1995 and that the claimant was from a rural location with no physical address. Even before they begin working on the claim, officials spend extra time trying to locate the claimant. Starting work on a claim before locating the claimant has happened before, and some claims end up being a waste of money when authorities work on the claim made by an untraceable claimant, despite the fact that money would already have been spent on the claim” (Participant 1).

(v) Disputes

The findings indicate that there were disputes in land claims where the original claimant would have passed on and some family members make claims without informing fellow members. Participants indicated that this created disputes and double allocations of land portions in some areas. One participant said:

“Family disputes, community and amakhosi disputes, and landowners disputing the validity of claims, sometimes arose when officials allocate the same claim because there were two claims for the same property, some of which would be lodged by different individuals. This happened mostly in land claims where the originally dispossessed person is deceased, and brothers who are direct descendants lodge the restitution claim without informing other family members”(Participant 1).

(vi) Lack of systems

Findings suggest that the lack of management tools in the restitution programme resulted in inefficiency that impeded the completion of the programme. This deficiency posed a problem in the tracking of documents, with some documents getting lost. One participant said:

“For projects and turnaround times, project management tools are not used. There is a lack of competent records management, as well as an inability to track papers properly, resulting in some documents being lost” (Participant 2).

(vii) Stakeholder management

Findings indicate that the lack of stakeholder management in the land restitution process had negative consequences on the land claims in uMnqobokazi Community. These ranged from the missing of deadlines, the inability to locate the property to be valued, and inaccurate property descriptions. Some participants said:

“Property valuers are not monitored, there are no clear rules and conditions to be adhered to, and they occasionally miss deadlines without experiencing adverse consequences” (Participant 1).

“Because there are no precise property descriptions, property valuers may have difficulty locating the property to be valued” (Participant 1).

“As a result of inaccurate descriptions of property, incorrect properties are gazetted, leading to landowners being misled” (Participant 2).

(viii) Lack of safety

“Officials travel lengthy distances, sometimes alone. This raises safety concerns. Traveling alone can be dangerous” (Participant 3).

(ix) Unconducive working conditions

“Lack of tools to use in the field is a challenge, and sometimes the relevant resources are either inadequate or scarce (Participant 2).

“Due to a lack of meeting places in remote areas, meetings are occasionally held outside in hot weather or in the home of one of the committee members. If there are no cases, the tribal authority will offer his tribal court” (Participant 3).

Analysed data shows that the limited financial and human resources are also major challenges causing delays in the settling of land claims. Fraud, untraceable claimants, lack of knowledgeable persons in dispute resolution, lack of stakeholder management skills, and lack of a safety and conducive working environment were noted as the challenges faced by the office of the Land Claims Commission during the processing of land claims. Sommerville (2015) reiterates that the roles of officials working directly with projects are not limited to implementing policy, but continue to develop policies that are suitable to the factors that facilitate the processing of land claims. Officials 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.

There seemed to be good cooperation between the Trust and Phinda’s management authorities, which suggests good implementation of a co-management agreement. Given that the community is not fully aware of tourism activities being undertaken inside the game reserve means there is a lack of cooperation between the community and the Phinda’s management authority.

The community is also unhappy that there is a lack of support from government departments. This is a challenge in that communities do not have the skills to participate in the economic activities occurring in the settled land, as reported by some participants. Therefore, the lack of post-settlement support packages can result in conflict, which may eventually affect tourism activities.

The persistence of tourism activities prior to the land claim settlement gives an impression of the sustainability of tourism. The infrastructural development targeting schools and clinics, development of water and sanitation facilities, the construction of a marketplace and other developments, and creation of employment opportunities also evince the sustainability of tourism in the Qhubekani-Mnqobokazi Community Land Claim. Participants noted all the developments occurring in Mnqobokazi. Nevertheless, the brewing discontent emanating from the alleged lack of consultation with the community and skewed benefits has the potential to create instability in future. Like in the other settled lands, there appears to be a need for continuously supporting beneficiaries after settlement. This gap was identified by beneficiaries who saw the need for capacitation so that they could properly manage resources bequeathed to them.

Primary data collected for this study demonstrate how land claimed through restitution could be used to address the socio-economic challenges confronting the Qhubekani-Mnqobokazi Community. This also resonates with collected data, as many responses indicate positive beneficiation for the beneficiaries of Mnqobokazi Land Claim. The CRLR's strategic plan indicates great progress in the settlement of land claims, and the collected data showed that, indeed, there is progress, and there is still room for improvement on the utilisation of land restitution to address socio-economic challenges facing Qhubekani-Mnqobokazi community. Participants noted various challenges that the Qhubekani-Mnqobokazi community and the Land Claims Commission face on the restitution of land rights in making the claimed land to benefit the people at Qhubekani-Mnqobokazi community. The Land Restitution Act No. 22 of 1994 provided the study of the legislative foundation of the CRLR and the people's entitlement to land restitution in terms of Section 11, as well as information regarding the functions of CRLR as provided for in Section 6, which contributed to the background of the study as discussed in Chapter Two, which constitutes the study's literature review section.

4.4 Conclusion

This chapter captured the nuances of the challenges and benefits of land restitution in Mnqobokazi community. The researcher made use of books and journal articles relating to the research question, which assisted in formulating the discussion topics and arguments. The results demonstrate that the Mnqobokazi community's land restitution suit was successful. The construction of schools increased access to education. Additionally, the community's health and well-being were enhanced by the increased availability of potable water and sanitary

facilities. Access to electricity, medical services, business growth, and more job options all benefited the community in question. However, there is still room for improvement in terms of the sharing of skills, the distribution of power, community involvement, and decision-making. The researcher advises Phinda Game Reserve to enhance its procedures to ensure that land claims are resolved quickly and to train local residents on conservation and land restitution in order to bring back post-settlement support. In order to facilitate effective talent transfer, measures to empower community members, particularly the youth, must be prioritised. Most of the Mngobokazi community members are happy with what they have achieved collectively through land restitution.

CHAPTER 5: CONCLUSION AND RECOMMENDATIONS

5.1 Conclusion and Recommendations

This chapter provides recommendations on how the land claimed through restitution could be used to address socio-economical challenges in Qhubekani Mngobokazi community. In this chapter, the researcher concludes on the benefits of land Restitution in Qhubekani-Mngobokazi community. The chapter also reflects on the challenges faced by the Qhubekani-Mngobokazi community and the Commission on Restitution of Land Rights in ensuring that claimed land benefits the people of Qhubekani-Mngobokazi. The researcher reflects on research findings from the literature and findings from the primary research.

The chapters discussed in this research are highlighted below:

Chapter One: Introduced the research study, provides the foundation to the dissertation and reflected on the general challenges in South Africa and particularly KwaZulu-Natal regarding community development in the context of land restitution. It also zooms into the benefits and challenges stemming specifically from Qhubekani-Mngobokazi community under the UMkhanyakude District Municipality. Further, the researcher presented a synopsis of the problem statement, the rationale that guides this research study, and the research objectives.

Chapter Two: In this chapter, the researcher explored the related theoretical frameworks and reflected on the literature around land restitution as a community development project. A pertinent approach, which is the sustainable livelihoods approach was reviewed, and the literature is guided by it. The literature review featured in this chapter provides the pilot findings on the benefits, and existing challenges to the land reform policy as a community project, i.e., land the benefits and challenges of land restitution at national, provincial, and local levels.

Chapter Three: The third chapter offered insight into the study's research methodology. In other words, the key discussion of the executed method of data collection in this inquiry will be carried out by demonstrating the nature of the study. Lastly, this chapter features ethical considerations that guided the study.

Chapter Four: In this chapter the researcher provides a thorough presentation of the collected data or the study results revealed through the engagement with the interviewees. The reflects on a breakdown and discussion of the data regarding the benefits and challenges of

land restitution in the Qhubekani-Mnqobokazi community land claim based on data collected from 25 qualitative interviews. This chapter also reflects on the challenges encountered in Qhubekani-Mnqobokazi community in relation to the relevant literature.

Chapter Five: This is the final chapter. The researcher provides the inclusive interpretations relating to the benefits and the contests of land restitution involving the Qhubekani-Mnqobokazi community land claim. Additionally, the researcher provides a summary of the findings of this study on the benefits and challenges of land restitution in the case of Qhubekani-Mnqobokazi community as having been conferred in the literature review of this inquiry, drawing a close consideration of the aim and objectives of this research. Fundamentally, delivery of a summary of the outcomes was obtained, and meanings of findings in tackling the aim and the objectives of the research inquiry. Furthermore, this was achieved by connecting the results to the rest of the research study.

5.2 Findings from the literature

The findings of this study show that the subject of land restitution in South Africa is still unresolved. According to Ostrom (2012), in the early years of restitution, land beneficiaries and communities in the Phinda area only had operational level access and withdrawal rights to their land. On the other hand, the younger generation is beginning to question the status quo.

This study confirms the need for active community participation for long-term sustainability (Kamphort et al., 2018). Several scholars focused on the implications of preventing land restitution beneficiaries from participating in land restitution schemes that provide sustainable livelihoods (Campbell-Vaino and Mattila, 2021; Ngubane and Diab, 2017; Jusoh, 2012). This research also demonstrated unbalanced beneficiation favouring land restitution, consistent with findings from conservation and tourist authorities such as Cheong and Miller (2016).

Mnqobokazi community advocated for more active participation in the decision-making and management. Strictland-Munro and Moore (2014) dealt with governance issues related to power differences and conflict over resources. On that basis, the findings revealed the Mnqobokazi community's lack of trust in local governance. As a result, education and training of the local community in the protected area will help to address the socio-economic challenges in the Qhubekani-Mnqobokazi community. Nielsen (2013) and Giampicoli et al.(2015) stated that the importance of capacity development in community-based tourism. Qhubekani-Mnqobokazi community perception of Phinda in conservation, tourism, and social growth

ranged from extremely positive to extremely poor. The findings of this investigation are consistent with those reported in extant literature (Balint, 2016; Hottola, 2019; Simpson, 2019; Jusoh, 2012; Somarriba-Chang and Gunnarsdotter, 2012; Snyman, 2014).

Land restitution recipients' favourable and negative perceptions of conservation and tourist authorities were explored. For more sustainable livelihoods and effective community projects and tourism, this study highlights the importance of strong and effective communication strategies and consideration of community voices at the grassroots level. Discrepancies in cost- and benefit-sharing were identified as some of the sources of conflict between the Mngobokazi community and Phinda Game Reserve. For both, the community and the game reserve owners, Balint (2016) underlined significant costs associated with living surrounding and being a beneficiary in protected areas. Taylor (2018) and Spenceley (2020) looked at cost-benefit sharing concerns and came up with similar conclusions.

The findings of this study demonstrated that, while the Mngobokazi community was pleased with the benefits they received from Phinda Game Reserve's development, they were dissatisfied with their participation in conservation and tourism at the game reserve, and that this could lead to future conflict. Much work must be done on the challenges of community engagement in protected area management. However, more issues must be pursued to gain a clear understanding of the benefits enjoyed by Mngobokazi land restitution claimants. This investigation involved the members of Mngobokazi community to elicit their views and opinions. As a result, valuable input was attained, including criticism of management, governance, and the communication strategies used. Further, suggestions for improving the land restitution process were made. This method of engaging the community (land restitution beneficiaries) at Phinda Game Reserve is vital for private sector tourism companies and private game reserves to ensure sustainable livelihoods and balance in terms of benefit for the land restored in the future.

Further research may be conducted to gain a nuanced understanding of the benefits enjoyed by Mngobokazi land restitution claimants. Cousins (2016) acknowledges that re-energised and well-targeted land restitution programmes, combined with the creation of new irrigation schemes, could make a significant difference in many households, potentially creating a million new jobs, as the National Development Plan suggests. Furthermore, the resurgence of post-settlement land restitution is critical to poverty alleviation, and can lead to sustainable livelihoods.

5.3 Findings from primary research

After signing the settlement agreement with Phinda Game Reserve and receiving their title deeds proving their land ownership, one of the Mngqobokazi community's expectations was that Phinda Game Reserve would train their youth. Participants expected Phinda Game Reserve was expected to send the youth to universities, and integrate them into the tourism management industry. Further, the participants believed that there were few, if any, persons from Mngqobokazi community that were in management positions or decision-making roles or who were being trained for such positions at Phinda Game Reserve.

The tourism sector, including lodges, has employed the largest number of Mngqobokazi community members. While the participants expressed gratitude for the job opportunities generated by Phinda game Reserve, most of the occupations available for locals were at the lowest levels, such as waiters, maintenance workers, housekeepers, and trackers. The participants indicated that some of the jobs done by local residents were not permanent. One participant indicated that he has worked for Phinda Game Reserve for over 20 years, beginning as a fence repairman in the maintenance area, then moving on to the anti-poaching exercise, and finally to his current position as a tracker. Another participant stated that he waited for more than 15 years and was still working in the same position.

Some participants claimed that people from outside the area, mostly Whites were given preferential treatment and were placed in key decision-making and management positions. Many elderly persons averred that youngsters from Mngqobokazi could be future leaders, some have even studied tourism and other relevant courses, but they are not being given preference. The management at Phinda Game Reserve were whites only. According to the participants, the community was not involved in the management and decision-making processes at Phinda Game Reserve.

The community of Phinda enjoyed a plethora of benefits from Phinda Game Reserve. An amount of R15 290 339 was donated to Phinda communities since 2007, 166 bursaries to qualifying community members, 24 classrooms built were built in community schools, one communal water fountain, seven boreholes and water tanks at schools, nine water pumps and irrigation systems for community gardens, 21 schools received reticulation to link them to municipal main water line, one bakery, 78 conversation lessons conducted reaching 644 children as well as 78 teachers, three subsistence gardens were upscaled to small commercial farms, 12 cottages for teachers' accommodation were constructed, two administration blocks

were built, as well as two Orphans Vulnerable Children centres to support orphans and vulnerable children (RSA Tourism, 2015:15).

Education is one of the core focus areas for Africa Foundation's drive to support socio-economic development in communities, thereby contributing to sustainable rural livelihoods. It takes a community to raise a child, Africa Foundations and Phinda Game Reserve constructed over 200 classrooms building school in Mnqobokazi The school now enrolls about 800 children; additional support has been identified and offered for children from vulnerable families and those affected by the HIV/AIDS epidemic; a centre for Orphans Vulnerable Children was added where over 450 children are served by this facility that provides aftercare and hot meals (<https://www.andbeyond.com> , 1 July 2021).

The placement of a disproportionate number of Whites in administrative jobs, whether intentional or not, reinforces White privilege and promotes a subtle kind of racism, especially when the advancement of indigenous people from the community is regarded as insignificant.

5.4 Reflections on objectives

The following primary research findings are generated from the main objectives of the research:

The findings show that participants agreed on the importance of achieving community expectations for the purpose of infrastructure development.

In terms of health care, school infrastructure development, employment, education, skills development, and small business development, Phinda and Qhubekani-Mnqobokazi positively impacted the land restitution beneficiaries and the Mnqobokazi community at large. According to the participants, job possibilities and company development directly benefited the livelihoods of local communities. The perspectives and attitudes of land restitution beneficiaries and the Mnqobokazi community are positively influenced by success in local community entrepreneurial activities owing to conservation and tourism. Qhubekani-Mnqobokazi's and Phinda's connection was also scrutinised.

Prior to the restitution of the land rights agreement, there was a donor relationship. As the Mnqobokazi community transitioned from recipients to partners and landowners, we anticipated a paradigm shift.

Community members who are not trustees or land restitution beneficiaries were dissatisfied with their level of participation in decision-making and management of social development projects because they were only involved in the final stages of execution. Conservationists and tourism operators appear to favour what is known as an "arm's length" connection. The connection is judged good as long as the local people keep their distance, do not interfere with conservation and tourism management, and do not participate in decision-making processes. As a result, the benefits continue to flow to the community.

The study also reflects on the problems highlighted by participants, such as a lack of openness, justice, and good governance. The happiness and respect of the Mngobokazi community for their relationship with Phinda and its role during the restitution of land rights negotiations were age-related. The older generation expressed satisfaction with the current connection with the game reserve. However, the youth's viewpoints were not represented at all; no participant in the study were under 38. There were declining numbers of older people who were well-versed in the area's history and the recovery of land rights. Concerns about the discussions and connecting with Phinda and the growing population of young people with completely different goals were valid. This scenario must be carefully managed in the interest of long-term conservation and tourism, with a realignment of community engagement to include youth in decision-making processes.

According to the findings, the Mngobokazi community values Phinda's contributions, including wildlife preservation, jobs, infrastructure development, health care, water and sanitation, power, and business development. According to the Mngobokazi community, tourism and wildlife management generated jobs, which helped them alleviate poverty. Most workers in Phinda's northern region lodge part, for example, are from the Mngobokazi group. In this study, it was also discovered that breadwinners were able to support their families and send their children to school. Tourism was a source of economic advantage to the community. Small businesses such as a curatorial market, gardening, poultry, and horticulture were sustaining households. Some members of the community, namely the Trust members continued to receive direct financial benefits accruing from restitution arrangements.

The expansion of school infrastructure, combined with the Qhubekani Mngobokazi Trust's bursary scheme ensured that children receive a decent and excellent education, improving living standards. Some of the children had already completed their secondary school and were working. Health care services improved the health of community members and their lives in

general due to the building and funding of health centres such as the clinic. The more the community valued Phinda's efforts, the stronger the game reserve's connection with the community became.

5.5 Recommendations

The study provides a turnaround approach to address issues that may have a detrimental impact on land restitution, conservation, tourism, and social development. It suggests specific, practical solutions that might be applied not just by Phinda Game Reserve but also by other game reserves. For example, Phinda, Qhubekani-Mnqobokazi, and Africa Foundation facilitate a bursary programme without utilising the graduates' capacity to contribute to conservation and social development sustainability. In light of the sustainable livelihood approach, this research suggests that Phinda identify critical and relevant areas pursued by bursary recipients and develop a management internship programme for graduates in which they would be exposed to various aspects of management relevant to their qualifications for a set period. Perhaps 12 months, depending on what they agree on, this programme could take the form of social responsibility programmes with stipends for graduates. Phinda would accomplish the following objectives: (1) Bringing graduating recipients closer to nature to participate directly in its sustainability and social development while also developing a sense of responsibility and ownership. An extra hand would be beneficial to the Phinda and Mnqobokazi communities, and it might also inspire some of the graduates to pursue conservation and tourist employment. (2) Phinda's creation of this platform will aid in capacity-building and encourage educated youth to stay in their areas rather than migrate to big cities.

Further, it is also feasible for Phinda, in collaboration with Mnqobokazi leadership, to design and manage a bursary beneficiary bonding scheme in which graduates are linked (for a limited time) to Phinda and community, based on their qualifications, before deciding where they want to work. Concerns, obstacles, expectations, and criticism highlighted by research participants should be addressed by designing an instructional programme aimed at all stakeholders, including Phinda Mnqobokazi management and the Africa Foundation. Given the relevance of local government and leadership educational programmes in the sustainability discourse, they must be prioritised and implemented. Most difficulties with stakeholder relationships and long-term sustainability would be addressed more collaboratively.

Understanding local community perceptions and roles in land restitution, conservation, tourism, social development, and their interrelationships allows stakeholders to create crucial sustainability-based values (Hoisch et al., 2014). To properly implement an open door communication approach, Phinda Game Reserve may consider strengthening and prioritising its community liaison department rather than relying solely on community leadership. In the aim of true partnerships, the community liaison department would be responsible for increasing Phinda and Africa Foundation's awareness inside the Mngobokazi community while also raising community status. The communication gaps caused by possible gatekeepers would be closed. Regular Phinda Private game reserve management-community forums, guided by community leadership, may be organised to develop relationships and create a shared understanding among stakeholders as part of the sustainable livelihood approach to change negatives into positives. It is also important for land restitution, conservation, and ecotourism to identify critical issues and prioritise them. Hence, it necessitates better communication techniques that allow them to reach out to stakeholders from all major community segments and include their perspectives and opinions in the larger picture of the planning and management of these institutions.

The Qhubekani-Mngobokazi benefited from the land restitution project, evidenced by the incentives received by the Qhubekani-Mngobokazi beneficiaries. It is also clear that &Beyond and Phinda Game Reserve are always striving to ensure that the community of Mngobokazi is well developed, which is in line with the Sustainable Livelihoods Approach. However, there is still a lot to be done in light of skills transfer to the youth of Mngobokazi, training them to become managers and employ people from the community in their management positions and promote community involvement in participation and decision-making processes.

Further, in line with the Sustainable Livelihoods Approach, which is suggested by the findings, Phinda Game Reserve can engage in social responsibility programmes with stipends for graduates. This will culminate in the development of human capital. In addition, the findings suggested that Phinda Game Reserve should invest in bursary schemes and management internship programme to empower the youth and facilitate their transition to management positions.

5.6 Recommendations for further research

Based on the findings, the researcher recommends that future studies should consider exploring the dynamics and implications of youth training, and empowerment. Further, there is need to

evaluate the various community participation initiatives that Phinda Game Reserve implemented as part of social responsibility.

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Appendix 1 : Request for a permission to conduct research



UNIVERSITY OF
KWAZULU-NATAL

COLLEGE OF HUMAN AND SOCIAL SCIENCES

School Of Built Environment and Developmental Studies

Howard College Durban 2388 Mazisi Kunene Rd, Glenwood, Durban, 40441

27 May 2020

The Director Operations

Commission on Restitution of Land Rights

200 Church Steet

Pietermaritzburg

3201

Dear Mr Silaule

RE: REQUEST FOR PERMISSION TO UNDERTAKE RESEARCH

I am a Masters student doing Master of Community Development at the University of KwaZuluNatal, School of Built Environment and Developmental Studies.

As part of the requirements for the award of a Masters in Community Development, I am required to undertake a research on the proposed Exploring the Benefits and Challenges of Land Resfitution at Qhubekani-Mnqobokazi Community land Claim. I am required to collect data from KZNRLCC officials, Qhubekani Mnqobokazi Beneficiaries through interviews. The outcome of the study would provide relevant information that would be useful in ensuring that the land restored to Mnqobokazi community as one of the South Africa's rural communities is able to fully participate in the economic, social and political life of the country. They enjoy good-quality education, health care, fransport and other basic services. Successful land reform, job creation and rising agicultural production have created an inclusive rural economy.

The objectives of the study are:

To explore the benefits of land restitution in Qhubekani-Mnqobokazi community.

To investigate challenges faced by Qhubekani-Mnqobokazi community and Commission on Restitution of Land Rights in making land claimed benefit the people at Qhubekani-Mnqobokazi community.

To make recommendations on how the land claimed through restitution could be used to address socio-economic challenges at Qhubekani -Mnqobokazi community.

The basis for the study emanates from the statements that Land Restitution is contributing towards creating Vibrant, equitable and sustainable rural communities contributing to food security for all. Although there are lots of challenges facing Land Restitution but not all Land Restitution Projects have failed without reliable information there will be less accountability and transparency to the civil society in terms of Land Restitution projects.

I am therefore request for your permission to carry out the research at the KZNRLCC on Qhubekani-Mnqobokazi Community Land Claim from July 2020 to August 2020. Kindly note that due to COVID-19, I shall be conducting some of the interviews telephonically where I can meet with an official face to face social distancing will be observed and we will be wearing face masks and hand sanitization will be done.

I shall be very grateful for your assistance and I appreciate your cooperation in advance.

Yours



Faithfully Signature:

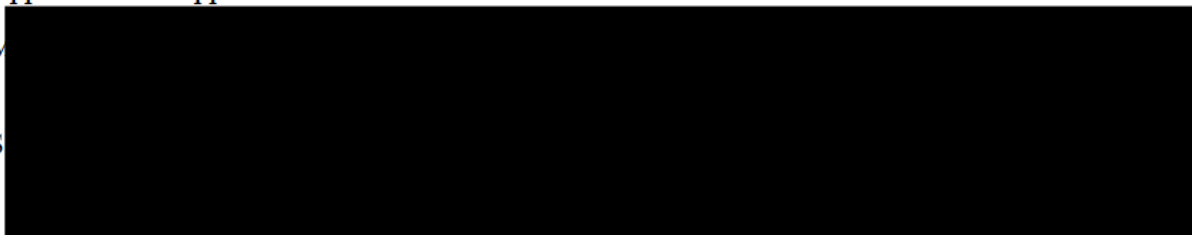
Thembisile Mabaso

Telephone: 082 577 5726 Email: 219087936@stu.ukzn.ac

Approved/ Not Approved

M

S



Appendix 2: Interview guide

Welcoming remarks (Researcher)

The participant will be greeted by myself followed by an introduction of myself. The participant will be requested to do the same.

Purpose of the interview

I will inform the participant that all matters discussed are of significance investigation on, Exploring the Benefits and Challenges of Land Restitution at Qhubekani-Mnqobokazi community land Claim in Hluhluwe, KwaZulu-Natal.

Participants will be encouraged to respond freely, expressing their own views and opinions in terms of the topic under study. They will be reminded that all answers are valid and that there are no incorrect answers or statements. The purpose of the study would be explained in terms of seeking in-depth information regarding, the benefits of land restitution at Qhubekani-Mnqobokazi community as well as the challenges faced by Qhubekani-Mnqobokazi community and Commission on Restitution of Land Rights in making land claimed benefit the people at Qhubekani-Mnqobokazi community. To make recommendations on how the claimed through restitution could be used to address socio-economic challenges at Qhubekani - Mnqobokazi community. Confidentiality will be reinforced through reminders that all information will be treated confidentially. Participants will be informed of the time frame for the interview and that the interview will be recorded and be written as we proceed. Interview questions will be in English and IsiZulu.

Interview schedule

Exploring the Benefits and Challenges of Land Restitution at Qhubekani-Mnqobokazi Community land Claim. In Hluhluwe, KwaZulu-Natal

Questions for the Qhubekani-Mnqobokazi Community beneficiaries, Councillor, Inkosi or Induna/ Isibonda

1. How long have you stayed in Mnqobokazi?
2. Are you one of the Land Restitution Beneficiaries? If no, what position do you hold in the Community? E.g Induna or Councillor
3. How many members are in your household?
4. what are their ages?
5. How many school going children?
6. When was your Land Claim lodged?
7. When was your land claim finalized?
8. What challenges did you face during the processing of your land claim?
9. Were you fairly compensated for the land that you lost?
9. How many people are working in your household?
9. What is the average income for the household per month?
10. What is the average expenditure per month?
11. What is your household/ community benefiting from the land that was restituted to the community of Mnqobokazi?
12. How has your life improved based on the time before Restitution award and after Restitution award?
13. Where is the land that you have received back?
14. What is the land use currently?
15. Are there any of your household who are directly involved in the current land use?
16. Is there profit that is accumulated from the land? If yes, how are the community members given feedback on profit earned and other activities pertaining to the land?
17. Is there transparency and are the Qhubekani-Mnqobokazi beneficiaries benefiting equally from the Land that they received?
18. Is the Office of the Land Claims Commission or The Department of Rural Development and Land Reform still visible to you as the community after your land Claim was finalized?
19. Do you feel as partners or co-workers of the conservation at the Phinda?

17. Do you think there is any improvement that can be done by the Land Claims Commission?
If yes. What do you think can be done?

Questions For the KwaZulu-Natal Land Claims Commission

1. Do you know anything about the Mngobokazi Community Land Claim and the land restitution benefits?
2. What is the Process of land restitution in your understanding as a land claims official?
3. Did the land restitution fulfil its mandate on the settlement of the Mngobokazi Community land Claim?
4. When was the Land Claim lodged? and who lodged it?
5. When was the Mngobokazi Land Claim finalised?
6. What was the value of Mngobokazi Community land claim?
7. What challenges were faced by the Land Claims Commission when processing the Land Claim for Mngobokazi community?
8. Was there a post settlement support plan that was designed by the Land Claims Commission for the Qhubekani-Mngobokazi Land Claim?
9. Did the post settlement plan succeed in terms of sustainable livelihoods? If yes, why do you say so? If no, what do you think is the reason for failure?
10. Is the Land Claims Commission still in contact with the Qhubekani-Mngobokazi community about the progress on the Land that was given to them.
11. What do you think can be done by the Land Claims Commission to improve the way land claims are processed in future?

Questions for the Phinda Management

1. How long have you worked for Phinda and what is your position?

2. What was the settlement agreement have you entered into with the Government and Mngobokazi Land Restitution beneficiaries?
3. Can you explain the conditions of employment and process of recruitment pertaining to the Mngobokazi land restitution beneficiaries?
4. What are the plans for staff development and community initiative programmes
5. What were the expectations of Mngobokazi Community as well as its traditional leadership and the Government in the negotiation process of Phinda business and land restitution.
6. Do you feel Phinda is meeting the expectations? Highlight measures which have been taken and challenges which still exist?.
7. Do you feel the community, trust and beneficiaries are participating as equal partners in decision making and management.?
8. Do you feel Phinda is meeting expectations of the Government, the land restitution beneficiaries and the Mngobokazi community in general?
9. What can be done to improve benefits of community in the Phinda business?
10. What is the Phinda staff compliment in all sections?
11. How many of your staff at each level of organogram are from Mngobokazi community?
12. What are your staff and community capacity-building programs since land restoration?
13. What challenges have you came across since land restoration and what are your recommendations for improvement.

Appendix 3: Informed Consent

Informed Consent Letter

University of KwaZulu-Natal: School of Built Environment and Developmental Studies

Sawubona Ophendulayo: Masters Research Project

Umcwaningi: Mrs Thembisile Rejoice Mabaso (Cell: 083 4801521 / 082 577 5726)

(email:Thembisile.mabaso@dalrrd.gov.za)

Supervisor: Mr N Tshishonga (Contact No. 031 260 2287)

Igama lami ngingu Thembisile Mabaso uMfundi weziqu ze Mastazi kwe Zekuthuthukiswa Komphakathi e School of Built Environment and Developmental Studies e Nyuvesi yaKwaZulu-Natal.

Uyamenywa ukuba ubambe iqhaza kucwaningo olumalungana nokuhlomula komphakathi oyingxenywe yabasuswa emhlabeni wabo ngesikhathi sobandlululo, Kanye nezingqinamba ezibhekene neKhomishana yamalungelo ezemihlaba kwisicelo sokubuyiselwa komhlaba somphakathi wakwa Qhubekani Mnqobokazi. Kwamhlaba uyalingana eHluhluwe, KwaZulu-Natal.

Ngokubamba kwakho iqhaza siyethemba siyothola lemiphumela elandelayo, Ukuqinisekisa ukuthi umhlaba obuyiselwekumphakathi wakwa Mnqobokazi community njenomunye wemiphakathi yasemakhaya ase South Africa.uyakwazi ukuthi ubambe iqhaza ngokuphelele kwezomnotho, ezenhlaloni Kanye nempilo kwezepolitiki ezweni Ionkana Kanye nokuthi bayathokoza ngempilo esezingeni, imfudo engcono, ezempilo ezibhekelekile, ezokuthutha Kanye nazozonke izinto eziyizidingo ngqangi zempilo. Impumelelo yomnyango wezomhlaba izobonakala ngokwakheka kwamathuba omsebenzi, ukwanda komkhinqizo wezitshalo nemfuyo, ukwakhekha komnotho ohlanganisile.

Ukuzimbandakanya kwakho kulolucwaningo akuphoqelekile. Unganqaba ukuzimbandakanya noma wephule ekubeni yingxenywe noma yinini ngeke ibe khona imiphumela emibi engakwehlela. Noma yinini uma usufisa ukungabi yingxenywe yophenyo ungazisa uMcvaningi ukuthi ufisa ukuphuma umnike izizathu zokufisa kwakho ukuphuma ekubeni yingxenywe yohlu lwabazophenywa noma uhlu lwababambe iqhaza kodwa futhi unalo nelungelo lokungazibeki izizathu zakho zokuphuma ocwaningweni. Ayikho imali ezotholakala ngokubamba iqhaza ocwaningweni. Siziqinisekisa ukuthi asidaluli imininingwane ngawe nangezimpendulo zakho kulolucwaningo. Amarikhodi anemininingwane yakho yalolucwaningo azogcinwa ngokuphephile inyuvesi yaKwaZulu-Natal kwa School of Built Environment and Developmental studies. Amalunga anganekho okudingekayo nokubekiwe

okungumgomo wokuthi uthathwe ube yingxenye yocwaningo, kanye nalabo abangathandi ukuba basayine ifomu eliyimvume yokubamba iqhaza kucwaningo bazosulwa ekubeni yingxenye yocwaningo.

Uma unemibuzo mayelana nocwaningo noma mayelana nokugcwalisa ifomu lemibuzo yocwaningo noma yini ofisa ukuyibuza mayelana nocwaninga ungaxhumana nami noma uSupervisor wami kulezinumba ezibhaliwe ngenhla.

Inhlolovo kuyoba isikhathi esiyimizuzu engama 35 kuya ku 45. Ngiyethemba uzokwazi ukuthola isikhathi sokubamba iqhaza. Ihora elilodwa.

Ozithobayo

Umcwaningi sayina _____ Usuku _____

Appendix 4: Ethical Clearance Letter



18 October 2022

Thembisile Rejoice Mabaso (219087936)
School of Built Env & Dev Stud
Howard College

Dear TR Mabaso,

Protocol reference number: HSSREC/00002476/2021

Project title: Exploration of the benefits and challenges of land restitution at Qhubekani-Mnqobokazi Community land claim

Degree: Masters

Approval Notification – Expedited Application

This letter serves to notify you that your application received on 12 January 2021 in connection with the above, was reviewed by the Humanities and Social Sciences Research Ethics Committee (HSSREC) 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.

This approval is valid until 18 October 2023.

To ensure uninterrupted approval of this study beyond the approval expiry date, a progress report must be submitted to the Research Office on the appropriate form 2 - 3 months before the expiry date. A close-out report to be submitted when study is finished.

HSSREC is registered with the South African National Research Ethics Council (REC-040414-040).

Yours sincerely,

Professor Dipane Hlalele (Chair)

/dd

Humanities and Social Sciences Research Ethics Committee

Postal Address: Private Bag X54001, Durban, 4000, South Africa

Telephone: +27 (0)31 260 8350/4557/3587 Email: hssrec@ukzn.ac.za Website: <http://research.ukzn.ac.za/Research-Ethics>

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Appendix 5: Turnitin Report

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Thembisile Mabaso ...
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1.1 Introduction

The Land Question is a s through colonial conquest left deep-seated imprints (2015). Land dispossession prospects and the quality and Walker, 2015, Swane of land confiscation on highlighted during the an majority of South African programme in South African restitution, in particular, frame set. (Xaba 2016:9).

This Chapter provides th research questions. This c

1.2 Background of

The National Developm programme introduced in election under leadership the injustices of the past tenure reform (South African Apartheid regime notorious people's land had been t (Xaba, 2016:10). Land distribution to overcome

Page: 1 of 129
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