

# **Exploration of Contributing Factors Leading to a Decrease in Agricultural Productivity in Restituted Farms of Ehlanzeni District Mpumalanga Province**

By

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*Thesis presented in partial fulfilment of the requirements for the degree  
Masters in Public Administration at the University of Stellenbosch*



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December 2015

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## ABSTRACT

Access to land has been identified as a tool through which the poverty and hunger of historically disadvantaged individuals can be tackled. Agriculture is also known as a source of employment and of livelihood, such as through food security. Many countries use the land reform programme as a tool for access to land that can then be used for agricultural productivity. Land reform implementation takes the form of three major approaches: market-assisted, community-based, and state-led. All three approaches have recorded shortcomings that have led to stumbling blocks in the success of the land reform programme. Historically disadvantaged individuals are most affected by these failures. In this context, this study aims to explore contributing factors leading to a decrease in agricultural productivity in restituted farms in Ehlanzeni District, Mpumalanga province.

The methodology followed in this study is that of an empirical case study of a land reform programme in the form of both state-led and market-led approaches. The case is that of the Mapulana community situated in the Ehlanzeni District in Mpumalanga province. The case study is used as a unit of analysis of the land reform programme.

The objectives of the study are as follows: 1. To present a theoretical framework by discussing the main concepts of agricultural productivity in order to identify conditions under which agricultural productivity can be attained through land access. 2. To present a theoretical framework by discussing the main concepts of land reform in order to identify criteria for successful land reform, specifically restitution in developing countries and to explore contributing factors leading to a decrease in agricultural productivity. 3. To investigate and discuss contextual and legislative frameworks which guide land reform in South Africa, specifically the current land reform programme and its implementation in rural areas. 4. To assess the implementation of the land restitution programme in the Mapulana case study in Ehlanzeni District in Mpumalanga. 5. To make recommendations based on the above findings in order to improve the implementation of the land restitution programme in the Mapulana case study in the Ehlanzeni District in Mpumalanga.

The case study assesses identified gaps in policy formulation, land acquisition, as well as post-settlement support. Policy formulation in the Mapulana case shows signs of a top-down approach without beneficiaries. For example, it ignores the communal land tenure systems that govern black land ownership. Land acquisition in the Mapulana case study consists of the grouping together of competitive land claims into one community claim, despite the fact that the land claimants are not from the same community. Post-settlement support for land beneficiaries is lacking, and this lack of post-settlement support has led to a decrease in agricultural productivity on the restored farms. The literature review reveals that for the sustainability of agricultural productivity there must be enough inputs, including, but not limited to, land, labour, seeds, fertilisers and technology. This research offers recommendations to mitigate these obstacles:

1. It is recommended that the Restitution of Land Rights Act (1994) be amended to clearly address post-settlement support issues.
2. The Commission must make sure that all claimants are treated equally during the processing of land claims. Much must be done to dispel the notion that chiefs get preferential treatment when it comes to land claims. A chief is not supposed to benefit by virtue of being a chief even though he had lodged a claim on behalf of his community unless he too was personally affected or lost rights to land on the land in question.
3. Project planning and implementation need to be carefully handled, and the office of the Commission needs to ensure that the project is transferred to the office of the premier or any delegated member of the executive council, including the municipal council under which the land is situated as stated in the Act.
4. In addition, the department must be careful about making generalised assumptions regarding the capability of land beneficiaries to participate in agricultural production for the market; collective enterprises should be supported only where consensus has been reached between beneficiaries; and all stakeholders must agree on the

monitoring and evaluation tools to be used. Land beneficiaries need to be thoroughly trained before the actual land restoration occurs, and on a continuous basis.

## OPSOMMING

Toegang tot grond is geïdentifiseer as 'n instrument waardeur die armoede en die honger van histories benadeelde individue aangepak kan word. Landbou is ook bekend as 'n bron van indiensneming en van lewensmiddele, soos deur voedselsekuriteit. In baie lande word die grondhervormingsprogram as 'n instrument gebruik vir toegang tot grond wat dan deur landbou produktief gebruik kan word. Implementering van grondhervorming verkry vorm deur drie belangrike benaderings wat gekenmerk word deur ondersteuning deur die mark, gemeenskap-gebaseerdheid, en staatsbegeleiding. Tekortkominge wat as struikelblokke tot die sukses van die grondhervormingsprogram na vore gekom het, is vir al drie benaderings aangeteken. Histories benadeelde individue word die ergste deur hierdie mislukkinge geraak. Binne hierdie konteks, was die doel van hierdie studie om die bydraende faktore te ondersoek wat in die Ehlanzeni Distriksmunisipaliteit van die Mpumalanga Provinsie op plase wat deur restitusie verkry is, tot 'n afname in landbou-produktiwiteit gelei het.

'n Empiriese gevallestudie van 'n grondhervormingsprogram in die vorm van sowel die staatsbegeleide en die markgeleide benaderings is as metodologie vir hierdie studie gevolg. Die geval is dié van die Mapulana gemeenskap geleë in die Ehlanzenidistrik in Mpumalanga. Die gevallestudie is as 'n eenheid vir ontleding van die grondhervormingsprogram gebruik.

Die doelwitte van die studie was soos volg: 1. Om 'n teoretiese raamwerk te voorsien deur 'n bespreking van die belangrikste konsepte van landbou-produktiwiteit, ten einde toestande te identifiseer waaronder landbou-produktiwiteit deur toegang tot grond bereik kan word. 2. Om 'n teoretiese raamwerk te voorsien deur 'n bespreking van die belangrikste konsepte van grondhervorming ten einde kriteria vir suksesvolle grondhervorming te identifiseer, spesifiek met betrekking tot restitusie in ontwikkelende lande, en om bydraende faktore wat tot 'n afname in landbou-produktiwiteit lei, te verken. 3. Om kontekstuele en wetgewende raamwerke wat grondhervorming in Suid-Afrika begelei, veral die huidige grondhervormingsprogram

en die implementering daarvan in landelike gebiede, te ondersoek en te bespreek. 4. Om die implementering van die grondrestitusieprogram in die Mapulana gevallestudie in die Ehlanzeni-distrik in Mpumalanga te evalueer. 5. Om aanbevelings gebaseer op die bevindings van die ondersoek te maak ten einde die implementering van die grondrestitusieprogram in die Mapulana gevallestudie in die Ehlanzeni-distrik in Mpumalanga te verbeter.

Die gevallestudie evalueer geïdentifiseerde gapings in beleidsformulering, in die verkryging van grond, sowel as in ondersteuning ná vestiging. In die geval van Mapulana toon beleidsformulering tekens van 'n bo-na-onder benadering sonder om begunstigdes te betrek. Dit ignoreer byvoorbeeld die gemeenskaplike grondbesitstelsels waardeur swart grondeienaarskap beheer word. In die Mapulana gevallestudie blyk dit dat die verkryging van grond uit die samegroepering van kompeterende grondeise in een gemeenskapseis bestaan, ten spyte van die feit dat die grondeisers nie uit dieselfde gemeenskap kom nie. Ondersteuning vir grondbegunstigdes ná vestiging ontbreek, en die gebrek aan ondersteuning ná die vestiging het tot 'n afname in landbou-produktiwiteit op die terugbesorgde plase gelei. Die literatuuroorsig toon dat daar vir die volhoubaarheid van landbouproduktiwiteit genoeg insette, insluitend, maar nie beperk tot grond, arbeid, saad, kunsmis en tegnologie nie, moet wees. Hierdie navorsing bied aanbevelings om hierdie struikelblokke te verminder:

1. Dit word aanbeveel dat die Herstel van Grondregte Wet (1994) gewysig word om kwessies rondom ondersteuning ná vestiging duidelik aan te spreek.
2. Die Kommissie moet seker maak dat alle eisers tydens die prosessering van grondeise gelyk behandel word. Moeite moet gedoen word om die idee dat hoofmanne voorkeurbehandeling kry wanneer dit by grondeise kom, te verdryf. Tensy hy self persoonlik geraak word of regte op die grond wat ter sprake is, verloor het, is 'n hoofman nie veronderstel om voordeel te trek omdat hy 'n hoofman is nie, selfs al het hy 'n eis namens sy gemeenskap ingedien.

3. Soos vermeld in die Wet, moet projekbeplanning en -implementering versigtig hanteer word, en die kantoor van die Kommissie moet verseker dat die projek na die kantoor van die premier of enige gedelegeerde lid van die uitvoerende raad, insluitende die munisipale raad waaronder die grond val, oorgeplaas word.

4. Daarbenewens moet die departement versigtig te werk gaan met veralgemeende aannames oor die vermoë van grondbegunstigdes om aan landbouproduksie vir die mark deel te neem; kollektiewe ondernemings moet slegs ondersteun word waar eenstemmigheid tussen begunstigdes bereik is; en alle belanghebbendes moet saamstem oor die instrumente wat vir monitering en evaluering gebruik word. Grondbegunstigdes moet voor werklike grondrestitusie behoorlik opgelei word, en moet daarna deurlopend opleiding ontvang.



## ACKNOWLEDGEMENTS

I'd like to take this opportunity to extend my gratitude to my supervisor, Ms Deyana Isaacs, for her academic guidance, monitoring, evaluation, persistence, sharing of knowledge and for her patience from the beginning until the end of this project. Ms Adele Burger also assisted me in laying a good foundation of research methodologies and formulating a relevant research question. Although initially I felt she was being too strict with mark allocations, I realised I was wrong and this helped me a great deal with my project.

Again, my sincere thanks go to my mother, Zulase Lenah Ndlovu, who, despite her having never received any formal education herself, still believes in the liberation of mind that comes with education. In her words, "*mine kube ngafundza ngabe ngihlakaniphe kabi*", which, in siSwati language, means that if I was educated, I would be very smart. My mother always asks me whether I am still going to study further as she wants to return to Cape Town to see me wearing my graduation attire before she dies.

Thank you to my husband, Daniel Mahule, for believing in me and to my two wonderful daughters, Nomzamo and Tumelo, who encouraged me when my spirit was dampened. This is not to forget my wonderful last born son Moeketsi (who was ten years of age at the time of this project) who at times grew bored of me reading and insisted that I listen to his stories from school or play a game with him. My wonderful in-laws, including Esther Mahule, offered a huge amount of support, financially and otherwise, and I must thank my brother-in-law, Mr Pat Mashego and my sister-in-law, Eunice Mahule, for the crucial role they played in my education.

No words can articulate my gratitude to Mr Clement Ndaba Maseko, a man who played many roles when assisting me in the finalisation of this project. He was an advisor, a mentor, friend, confidant, a pastor, and even a parent at times. I remember one day asking him if I would be able to finish this thesis or if it was just a waste of time. Maseko smiled as he said, "What is going on now? Is the past trying to

undermine what you worked so hard for? Maybe you are not sure that you deserve this. Continue with your work, your supervisor is waiting for it.”

Special thanks go to my employer, the Department of Rural Development and Land Reform and, especially, the Regional Land Claims Commission (Mpumalanga province). The information used in my research was obtained from a number of reports from the department. Mr Martin Slabbert of Transvaalse Suiker Koperasie Beperk (TSB) also provided support in the form of the production statistics of sugar cane farms around the area of research.

I would also like to extend my gratitude to my junior degree lecturers from the University of the Western Cape (UWC). The foundation of my interest in land issues was laid by Professor Ben Cousin of UWC when doing my second degree. This is not to forget the members of the Student Representative Council who at times helped me when negotiating my registration, as I did not always have the adequate tuition fees. Funding from the Tertiary Education of South Africa (TEFSA) paid for my meals and tuition fees throughout the duration of my studies and today I have more than one degree because of their assistance.

## **DEDICATION**

I would like to dedicate my thesis to all women of the world, including women from poor backgrounds. I also wish to assure them that there is a way to escape many odds in life through education.

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## LIST OF ABBREVIATIONS AND ACRONYMS

|        |  |
|--------|--|
| AGM    | Annual General Meeting                           |
| AGRA   | Alliance for a Green Revolution in Africa        |
| AGRISA | Agricultural Union of South Africa               |
| ANC    | African National Congress                        |
| CASP   | Comprehensive Agriculture Support Programme      |
| CPA    | Communal Property Association                    |
| CTP    | Total Factor Productivity                        |
| DFID   | Department for International Development         |
| DLA    | Department of Land Affairs                       |
| DoA    | Department of Agriculture                        |
| DRDLR  | Department of Rural Development and Land Reform  |
| ESTA   | Extension of Security of Tenure Act              |
| GDP    | Gross Domestic Products                          |
| IDP    | Integrated Development Plan                      |
| LED    | Local Economic Development                       |
| LRAD   | Land Redistribution for Agricultural Development |
| MFP    | Multifactor productivity                         |
| RDG    | Restitution Discretionary Grant                  |
| RECAP  | Recapitalisation and Development Programme       |
| RLCC   | Regional Land Claims Commission                  |
| SED    | Socially and Economically Disadvantaged          |
| SIS    | Settlement and Implementation Support            |

|         |   |
|---------|---|
| SPG     | Settlement Planning Grant                     |
| SSDU    | Settlement Support and Development Unit       |
| STATSSA | Statistics South Africa                       |
| TAU     | Transvaalse Agricultural Union                |
| TSB     | Transvaalse Suiker Koperasie Beperk           |
| UN/CE   | United Nations, Economic Commission of Europe |

# CHAPTER ONE: INTRODUCTION AND RESEARCH PROBLEM

## 1.1 INTRODUCTION

Land ownership in South Africa was arranged along racial lines for decades before democracy was instituted in 1994. During this time black South Africans were not allowed to own or occupy land outside the reserves. The 1994 elections introduced a new dispensation and realised the South African land reform programme. This programme was aimed at, amongst other things, addressing racial disparities in land ownership, poverty alleviation and rural economic growth. A number of legislations and policies addressing land reform were promulgated, one of which is the Restitution of Land Rights Act (1994). There are three forms of compensation stipulated in the Act, namely *restoration*, whereby successful claimants are restored to their original land; *financial compensation*, which is offered when restoration of land is no longer feasible due to developments that have taken place; or the provision of *alternative land*. This study focuses on land restoration as one mode of compensation for lost land rights (<http://www.info.gov.za/acts/1994>).

The main objectives of land reform are the eradication of acute poverty and hunger the rate of which is alarming in rural areas – and rural economic development in the form of formal employment and formal participation in the agro-economy of the country. The realisation of these has unfortunately not been achieved due to the failure of land reform across the board. From as early as 1994, South Africans have witnessed tracks of land in high states of agricultural production being restored to successful land claimants a positive sign of land reform. Unfortunately, general observation and media reports reveal that formerly highly producing agricultural lands often lose their productivity shortly after being restored to these land claimants. According to Du Toit (2004), “Organised agriculture is extremely worried: it warns that an alarming 75% to 80% of all the government’s land reform agricultural projects for smallholders end up as failures” (Du Toit, 2004:85).

Information about the impact of land reform on the economy of the country and/or the

livelihoods of beneficiaries is limited. This is a result of the unavailability of empirical data on the socio-economic profile of land reform beneficiaries. There have been no attempted intensive studies that may lead to an understanding of this and, in addition, there is no formal monitoring and evaluation of the land reform programme that can lead to a conclusive judgment on the economic impact of the programme (Lahhiff, Maluleke, Manenzhe & Wegeriff, 2008).

This research report attempts to explore the factors contributing to a decrease in agricultural productivity in most restituted farms of the Ehlanzeni District in the province of Mpumalanga. The intention is to illustrate a decline in agricultural productivity on these farms after being restored to land reform beneficiaries. Field research was conducted whereby the researcher physically went to the field and held twelve focus groups meetings with representatives of the participants of the study and recorded all issues discussed during the group discussions. The information obtained from group discussions is further analysed in order to assess whether or not land reform succeeded on its mandate of improving the lives of victims of land dispossession. Further, the Mapulana case study was consolidated with an in-depth study of land reform projects and policy analyses. Findings of the study form a base for an assessment of the current policies on land reform. Based on the assessment, recommendations are made on certain aspects of land reform policy.

This study focuses on the Ehlanzeni District of Mpumalanga province. The Ehlanzeni District was selected for three reasons. Firstly, this area has an alarming rate of acute poverty amongst communities. Secondly, there is a large proportion of land that has been restored to these communities through the land reform programme and, lastly, the researcher is familiar with the area as an employee of the Commission on Land Rights stationed in the province.

The aim of this chapter is, firstly, to outline the research problem, question and objectives of the study; secondly, to describe the research design and methodology to be followed; and, lastly, to give a brief outline of the chapters of the thesis.

## 1.2 RESEARCH PROBLEM, QUESTION AND OBJECTIVES

### 1.2.1 Research Problem

The promulgation of the Restitution of Land Rights Act (1994) was an attempt by government to address the land question in South Africa. The Act aims towards redress for all victims of land dispossession, stating land restoration as one of three forms of redress. However, it seems as if the results as set out in the Act are not being achieved. Many of the new landowners are not reaping the benefits from land ownership as envisaged by the Act and, as stated in the previous section; agricultural productivity is decreasing in restituted farms. Former Minister of Land Affairs and Agriculture, Lulu Xingwane, confirmed land reform failure across the board in a media statement issued on the 22<sup>nd</sup> of November 2006, which reflects that land reform needs to be reassessed regarding agricultural productivity and the support required. Figure 1.1 reflects the decline in agricultural productivity on formerly high-producing farms shortly after restoration to land beneficiaries.

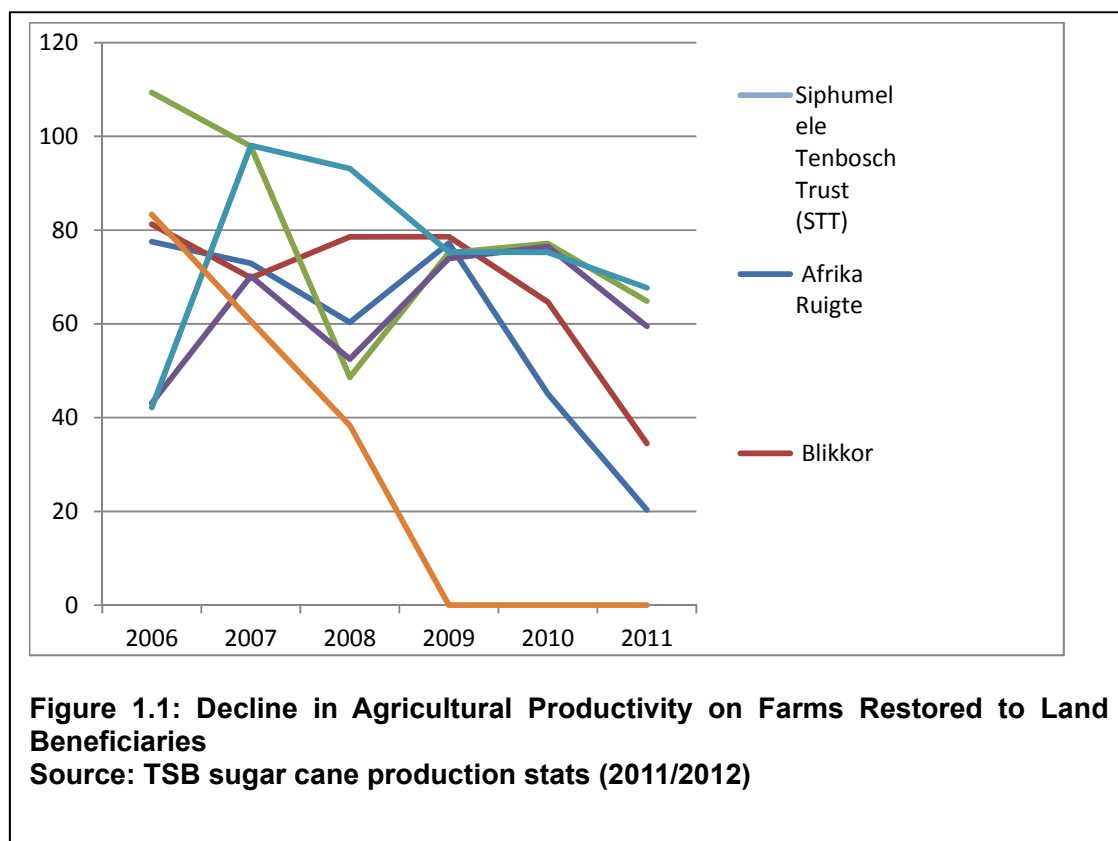


Figure 1.1 is a depiction of the sugar cane production on farms that were restored to land claimants through the land reform programme. The statistics were sourced from the TSB, a sugar milling company. The TSB keeps production statistics on all sugar cane farms under their custody. The above figure clearly indicates a decline in a sugar cane production on land restored to land claimants. The affected farms were transferred to the land claimants in 2006. These farms are showing a decline in sugar cane production in the hands of land claimants. The decline is as a result of a lack of post-settlement support of the land beneficiaries, who had no previous farming experience.

The decline of sugar cane production is confirmed in the Nedbank Capital report (2012:5) where it is written that, “A similar tale of steady decline can be told about the South African sugar sector, where the area planted to sugar cane has fallen virtually every year in the past decade ...” (Nedbank Capital, 2012:5). The report attributes the decline in agricultural productivity to the uncertainty of the land reform program, as well as to constantly changing weather patterns.

### **1.2.2 Research Question**

With the above research problem in mind, the primary research question is as follows:

Which factors contribute to a decrease in agricultural productivity in restituted farms and what are the requirements to improve or address it, specifically in the Ehlanzeni District in the Mpumalanga province?

### **1.2.3 Research Objectives**

The research objectives for this study are as follows:

1. To present a theoretical framework by discussing the main concepts of agricultural productivity in order to identify conditions under which agricultural productivity can be attained through land access.
2. To present a theoretical framework by discussing the main concepts of land reform in order to identify criteria for successful land reform, specifically



restitution in developing countries and to explore contributing factors leading to a decrease in agricultural productivity.

3. To investigate and discuss the contextual and legislative framework guiding land reform in South Africa, specifically the current land reform programme and its implementation in rural areas.
4. To assess the implementation of the land restitution programme in the Mapulana case study in the Ehlanzeni District in Mpumalanga.
5. To make recommendations based on the above findings to improve the implementation of the land restitution programme in the Mapulana case study in the Ehlanzeni District in Mpumalanga.

### **1.3 RESEARCH DESIGN AND METHODOLOGY**

The study followed empirical research in the form of a case study. According to Mouton (2009:149), qualitative studies “aim to provide an in-depth description of a small number (less than 50)”. The study is qualitative and is focused on under fifty people. Empirical research is suitable, as supported by Mouton (2009).

The data collected is a combination of both primary and secondary data. As per the empirical approach, the researcher embarked on a literature review of relevant theories, interviews and group discussions in order to determine whether or not farms lose agricultural productivity after being restituted to claimants.

Once the textual data was gathered, a secondary data analysis was undertaken during which the sales figures of sugar cane farms were used to measure agricultural productivity. This secondary data was obtained from the local sugar cane mill, which possessed all the production statistics. The researcher has deemed this design as suitable due to the availability of the data.

Empirical data was obtained from the Office of the Regional Land Claims Commission. This included documents, such as annual reports, relevant acts, and proclamations. Secondary data was also obtained from the sugar mill but high ethical standards were observed. Information on each and every participating farm needs to be treated with confidentiality.

Interviews consist of exploratory and descriptive questions. The design used in this instance is suitable for the study as it focuses on the beneficiaries of the restitution programme situated at Ehlanzeni District Municipality in Mpumalanga province.

**Secondary data sources:** These were, firstly, literature reviews from books and journals. Secondly, sugar cane production and sales statistics were obtained from the local sugar mill known as Transvaalse Suiker Koperasie Beperk (TSB). Lastly, annual reports were reviewed and a legislative framework was presented.

**Primary data sources:** These consisted of focus group discussions with representatives of participating communities and one intensive interview with an official from the government side.

**Primary data instruments:** The instrument used in order to gather the primary data was face-to-face interviews with an official from the government side and focus group discussions with community representatives in the area of the study.

### 1.3.1 Research Methodology

A research method is “a way to systemise observation, describing ways of collecting evidence and indicating the type of tools and techniques to be used during data collection” (Cavaye, 1996). Research methods are divided into different types, such as case study, phenomenology, ethnography, and action research, to name but a few

Research could either be quantitative or qualitative in nature. Bricky and Green, (2002) argue that it is a nature of a specific phenomenon to be researched which determines whether a qualitative or quantitative methodology is employed. Quantitative uses numerical data to answer particular questions such as; how many

female students drop out of university as compared to their male counterparts. A qualitative research uses readily available data as a unit of analysis. According to Bricky and Green, (2002) qualitative research method could be used to explore attitudes and experiences of institutions, communities and patients. Meanwhile qualitative method is used as a vehicle to respond to what, how and why questions. The question on the drop out of female students from university could be phrased as follows: what is the contributing factors leading to university drop out of female students as compared to their male counterparts.

This study has taken the route of empirical qualitative research in the form of a case study. The study is further substantiated by secondary data in the form of sugar cane production statistics obtained from the TSB, a local sugar milling company. Quantitative data from the sugar milling company is aimed at extrapolating quantitative information obtained through group discussion, interviews and literature review, however this method has its limitations such as; “Moderate ability to infer causality, depending on complexity of phenomenon” (Morton, 2011:158).

### **1.3.2 A case study**

During a case study “The investigation involves experiment rather than a laboratory experiment [and] is carried out in the natural, everyday setting where the goldsmith apprentice receives their training.” (Welman, Kruger & Mitchell, 2010:87). The case study method combines more than one data-collection technique, including but not limited to face-to-face interviews, questionnaires, observations, literature reviews and secondary data analysis (Yin, 1994; Darke, Shanks, et al., 1998). Case studies can lead to the researcher establishing an in-depth understanding of the phenomena under research.

According to Bulmer and Warwick (1983), a case study method is a technique that includes a comprehensive study of a particular situation rather than a more widely drawn random sample of individuals. This research followed a case study method in order to gather information to be used as a unit of analysis. The researcher relied on

a range of methods to collect the data. Such methods included different techniques, such as analysis of text and documents, interviews, observation, recording and transcribing of data, and focus group discussions. These methods complement each other and at no point compete with one another.

A literature review of the case study was conducted, with primary sources including project reports and any documentation concerning the lodgement of the land claim up to the time of the study, and starting from the settlement of the claim. Key contributors to this study were community members who were organised into different focus groups (such as trustee members, women and youth), officials from the Department of Rural Development and Land Reform (formerly the Department of Land Affairs and Agriculture), the Regional Land Claims Commission, and the sugar milling company of Transvaalse Suiker Koperasie Beperk (TSB).

### **1.3.3 The Mapulana case study**

The Mapulana community serves as a good example of a field experiment where the community was set under a spotlight. The Mapulana community was used as an area of analysis to study the decreased agricultural productivity of land restored to land claimants through the land restitution process of the land reform programme. The reason for using the Mapulana community is because they benefited from the land reform programme. Instruments used to determine whether there is agricultural productivity decrease on restored lands take three basic areas into consideration. These are knowledge of land reform, attitudes towards land reform and, lastly, an assessment of the whole program in Ehlanzeni District, Mpumalanga province.

### **1.3.4 Data Analysis**

In order to back up the fusion of data that was gathered, the collected data was broken into controllable themes, patterns, trends and relationships, as suggested by Mouton (2009). Through these the researcher managed to uncover emerging trends and established themes in the data. The data analysis employed in this study is both

qualitative and quantitative in nature.

### **1.3.5 The reason for choosing a case study**

In order to establish and meet the objectives of this research, an in-depth assessment of land reform is needed that should cover the overall system of land reform and its impact on the agricultural productivity of the restored lands, as outlined in chapter two of this research. The Mapulana case is a land restitution project. The aim of land restitution is to improve land access, and utilisation of the acquired land for better productivity. Lastly, this case study sets a stage for an assessment of the land reform programme's improvement of the lives of the poor through growth in agricultural productivity.

### **1.3.6 Methodology and its shortcomings**

The Mapulana case study is an empirical field case study involving multiple techniques, such as field observation, analysis of text, interviews and group discussions. However, according to Welman, Kruger and Mitchel (2010:86) one of the shortcomings is that a field study situation is unpredictable and a researcher has no control over conditions that are subject to change.

## **1.4 CHAPTER OUTLINE**

### **Chapter One**

This chapter consists of the research topic, objectives, research problem, research design and methodology, and sampling methods.

### **Chapter Two**

This chapter reviews the available literature on land restoration to provide a literature review based on different theories relating to this topic.

### **Chapter Three**

This chapter provides a contextual framework and discusses the legislative and policy framework that guides restitution in the South African context. This will help in providing intensive analysis and a conceptual understanding of land restitution as a programme.

### **Chapter Four**

This chapter provides a background to the study area. The methodology followed by the research is also provided in this chapter.

### **Chapter Five**

In this chapter the researcher outlines and discusses research findings, research methodology, data analysis, and discusses the research results.

## **CHAPTER TWO: AGRICULTURAL PRODUCTIVITY AND LAND REFORM – A CONCEPTUAL FRAMEWORK**

### **2.1 INTRODUCTION**

Land reform has changed its face over the past two decades from just being redistributive, where land parcels were transferred from large landowners to smallholders. This kind of land reform is greatly criticised in countries such as Zimbabwe and Namibia. A different kind of land reform is being implemented by countries such as Brazil, Colombia, Philippines and South Africa and has grown to be known as 'market assisted'. This kind of approach allows all relevant stakeholders to embark on negotiations, which are guided by market trends when acquiring land for the purpose of land reform (Fraser, 2007).

According to the Alliance for a Green Revolution in Africa (AGRA) report (2013), land is important for agricultural production. Most people in Sub-Saharan Africa depend on agriculture for their livelihoods. Therefore, land is important in the fight against poverty and hunger. There is a strong relationship between the availability of land and agricultural productivity, which might lead to poverty and hunger alleviation.

This chapter firstly seeks to review theories on agricultural productivity in order to identify the conditions under which agricultural productivity can be attained. The concept of agricultural productivity, agricultural productivity inputs and agricultural productivity outputs are discussed. Upon conclusion of the discussion of concepts, a brief theoretical discussion is given on agricultural productivity as an attempt to draw a picture of the conditions under which agricultural productivity has increased.

Secondly, the chapter reviews land reform in an attempt to identify conditions under which land reform programmes have been successful. Thirdly, it seeks to put three concepts of land reform into context. These are the concepts of land redistribution, land tenure reform, and land restitution. Furthermore, it discusses how successful

land reform can lead to sustainability. Finally, the chapter attempts to outline a framework to be used to assess the case study.

According to Thirtle, (1993), agricultural productivity measures the performance and efficiency of the sector. The following section will discuss agricultural productivity as a means to fighting poverty and hunger. The importance of agricultural productivity as a phenomenon cannot be overemphasised as it gives insight into how a decrease in agricultural productivity can aggravate poverty and hunger.

## **2.2 DEFINING AND UNDERSTANDING AGRICULTURAL PRODUCTIVITY**

### **2.2.1 Agricultural Productivity**

According to Ramaila, Mahlangu and du Toit (2011:12), agricultural productivity is defined as the ratio of agricultural outputs as measured against agricultural inputs. Measures are further categorised into partial and multifactor, and then a total can be achieved. Only a single output in the ratio should be considered, such as the use of crop yields in order to determine the productivity of field crops.

Multifactor productivity (MFP) and total factor productivity (CTP) refer to a total agricultural output to a subset of agricultural inputs. More than one factor is utilised and their measures reflect these joint effects of multi-factors. These multi-factors can be technologies, economies of scale, management skills, and changes affecting the organisation of production (Ramaila, Mahlangu & du Toit, 2011).

According to the Austrian Agricultural Productivity Growth (2014:3), agricultural productivity can be determined through farm yields, which include but are not limited to, more outputs such as livestock and farm crops. Outputs are influenced by market inputs, for example land, labour, materials and services, to name but a few. Both inputs and outputs are important determinants of an increase or a decline in agricultural productivity.



### **2.2.2 Agricultural Productivity Inputs**

According to the Austrian Agricultural Productivity Growth report (2014), agricultural productivity inputs are key determinants of agricultural productivity. The report outlines factors such as the farmer's innovation and ability to adopt efficient technologies as crucial to attain growth in agricultural productivity. The farmer's ability to opt for lower cost inputs, management skills, education and training, access to financial resources, and risk taking are necessary ingredients for achieving agricultural growth. Without capital a farmer will not be able to obtain inputs of farming equipment, seeds, fertilisers, water and labour. However, access to capital must be reinforced by relevant skills and education if agricultural productivity is to be realised.

### **2.2.3 Agricultural Productivity Output**

According to AGRA (2013:20), agricultural output can be identified through the scale at which the farm produces goods such as crops and livestock. In order for the farm to yield agricultural output a number of issues must be considered. These include issues such as agricultural productivity, growth, and competitiveness, physical environment, technology, policy, and macro-economic factors affecting each country. External factors include world prices of inputs and outputs, and internal trade policies within countries in international markets also have a huge bearing on agricultural productivity output. Performance of the agricultural sector is influenced by these factors (AGRA, 2013:20). It is therefore important to take into account the physical environment in order to improve on agricultural output. Policies of a particular country play a major role in agricultural output. For example, there are fifteen countries affiliated with AGRA. These countries are assisted with inputs in order to produce cereals. Such initiatives have led to an increase in agricultural production output in these countries.

## **2.3 LITERATURE REVIEW ON AGRICULTURAL PRODUCTIVITY**

### **2.3.1 Agricultural Productivity: Review of International Studies**

Agriculture is regarded as the backbone for the survival of extremely poor populations in rural areas. This is according to the United Nations Development Programme report (UNDP, 2012). Furthermore, the report indicates that nearly two-thirds of the population that actively contribute to the economy are involved in agriculture. In Burkina Faso about 90% of the population are actively involved in agriculture.

According to Ramaila, Mahlangu and du Toit (2011), there is sufficient literature indicating factors that lead to a decrease in agricultural productivity and ways to improve agriculture. According to the literature review, agricultural productivity is increasing more in developed countries than developing. This is as a result of developed countries investing more in research, development, labour, land, capital and improvement of the use of inputs such as fertiliser and machinery than their developing counterparts. Developing countries will only achieve growth in agricultural productivity by adopting ways to improve technology and research, just like developed countries.

Grant (2002) supports the argument that the adoption of improved methods of farming can lead to improved agricultural productivity in developing countries. The report shares research results on the growth of agricultural productivity in twenty-one German regions. An agricultural productivity growth of 1880/4 and 1905/9 were registered after the adoption of new technologies and improved husbandry methods. This estimate reveals a rapid growth during this period in the East Elbian region. The agricultural productivity in the Southern region was not growing as rapidly as in the East. A strong convergence mechanism, together with the spread of advanced agricultural techniques, can lead to improved agricultural productivity irrespective of the extent of the property in terms of hectorage.

### **2.3.2 Agricultural Productivity: Developing Countries**

According to (AGRA) (2013:20), agricultural productivity in Sub-Saharan Africa depends on a number of issues, such as climate and efficient and effective use of agricultural production factors, for example farmland, water, labour, fertilisers, seeds capital, farming equipment's, and farmer skills, which can determine successful agricultural productivity.

The AGRA, (2013) report continues to highlight that agriculture is a major contributor to the Gross Domestic Products (GDP) of many countries in Sub-Saharan Africa. Available data for 12 of the 16 countries indicates, "... that agriculture accounts for 25%-40% of total GDP, though this share has been declining over the past decade. For example, the agriculture value added (0% of GDP) for few countries, including Kenya, Uganda, Zambia, and Nigeria, shows a declining trend." (AGRA 2013).

Recent reports show trends of a decrease in agricultural productivity in a number of Sub-Saharan African countries. According to the Africa Progress Panel (2010:6), Africa has experienced a decline in agricultural productivity over the last three decades. The following subsection attempts to analyse factors leading to the decline of agricultural productivity in Sub-Saharan Africa. Understanding the factors and their significance will enable policy makers to formulate informed policies that seek to improve this productivity.

### **2.3.3 Analysis of Factors Leading to a Decrease in Agricultural Productivity**

According to the Africa Progress Panel (2010:7), African farmers received limited support during the Green Revolution when compared to their Asian counterparts. Subsequently, agricultural productivity was negatively affected in Sub-Saharan Africa due to a lack of support for African farmers who are likely to be affected by international conditions, such as world market changes. Exports are drastically influenced by negative international market trends. Protectionism, which is practised

in developed countries, prioritises certain crops over others. Such an initiative distorts world market prices and leads to unfair competition (Africa Progress Panel, 2010).

According to the Nedbank Capital report (2012), Sub-Saharan farmers are likely to be affected by international conditions, such as price of corn, wheat, rice, cotton and cocoa. Climate has a major impact on productivity as outlined in the Austrian Agricultural Productivity Growth (2014). However, climate patterns are ever-changing and cause fluctuations in harvests. Farmers and agricultural production in general, rely on seasonal rainfall for crops and livestock growth, whereas droughts lead to a sharp decline in agricultural production.

Policy makers have a responsibility to craft and generate policies to support farmers in raising productivity and production levels. This includes; 1. Creation of a conducive environment for the economy. 2. Curing market-related failures. 3. Making public goods available for agriculture. These three pillars are important for improving agricultural productivity in Sub-Saharan countries.

Land reform is a tool through which poverty and hunger could be eliminated. As outlined in the Millennium Development Goals of the United Nations, land reform is an important tool through which goal number five namely reducing poverty and hunger by half by 2015, could be realised (World Bank, 2005). Discussion of land reform is significant because it illustrates what land reform entails.

## **2.4 DEFINING AND UNDERSTANDING LAND REFORM**

According to May (2000), access to land can improve livelihoods for victims of land dispossession. The subsection below discuss how access to land impact on the lives of the poor. The significance of this phenomenon will shed light on how land reform curbs poverty.

### **2.4.1 Access to Land**

Colonialism had a negative impact on Africa's development. It was colonialism which was responsible for skewed land policies. After independence many African states introduced land reform as an attempt to reverse colonialism and effects. Kenya is one example of an African country which embarked on repossession of land occupied by colonial settlers around the latter half of the 20<sup>th</sup> century. Land dispossession was referred to as the 'one million acre scheme' in Kenya. More than one thousand white-owned farms were transferred to blacks through the scheme between 1962 and 1966. Former landowners were compensated in accordance with their previous land values (Department for International Development (DFID), 2004:5).

Access to land is significant to historically land-dispossessed individuals. In communities where agro-industry is a major employer, access to land could lead to improved livelihoods. Agriculture has the potential to bring about a whole range of opportunities to enhance livelihoods which in turn could lead to incentives and capacity to access financial markets. According to Ghimire (2001), access to land aims for justice and addresses land disparities which exists between land-owning and landless masses while simultaneously addressing the prevalent poverty and hunger amongst poor communities (Ghimire, 2001).

According to the Department for International Development (DFID) (2004:5), access to land could be beneficial for many who have suffered the impact of landlessness. Landlessness affects different individuals differently. Dispossessed individuals from indigenous communities or other population groups previously dispossessed of their land rights such as black communities in Zimbabwe and South Africa can benefit from land reform. Through access to land space for settlement and agricultural production could be made available. This will enhance food security and livelihoods of historically dispossessed individuals and communities (DFID, 2004:5).

People in rural areas are the most affected by land rights dispossession (DFID, 2004:2). Competition for natural resources has become very fierce amongst rural dwellers and, as a result, "fertile land is becoming scarcer due to demographic and

economic growth and resource depletion, including climate change. Greater competition for land resources, increased mobility and the incorporation of rural areas into market economies through diversification and/or specialization are placing increasing pressure on governments to introduce policies that give the poor secure access to land” (DFID, 2004:2).

Ghimire (2008:1) argues that land reform is a mechanism for addressing inequalities between the rich and the poor. Promotion of land reform lies in its ability to correct the negative effects of unjust laws caused by skewed racial land ownership patterns in Southern Africa. The majority of the rural poor in developing countries are victims of poverty and hunger caused landlessness. Small-scale farmers, tenants and sharecroppers are most vulnerable to hunger and poverty because of inability to access land as a production tool (Ghimire, 2008:1).

Due to landlessness, the rural poor, women, children and the elderly become the most vulnerable in society. Women and children in particular are most affected as they remain in rural areas while men emigrate to economic centres in search of greener pastures (Hellum & Derman, 2004:1796). Effects of landlessness vary depending on the circumstances of victims, and rural inhabitants experience the lack of access to land differently to their urban counterparts. Historically, dispossession of arable land led to men immigrating to urban areas in search of wage employment. Unlike their male counterparts, women are unable to immigrate to urban areas in search of job opportunities because they are caregivers, responsible for children, the elderly and the sick.

States in Sub-Saharan Africa are patriarchal in nature and deny women the right to own land. This is despite women being the ones who work the land during the absence of men. Traditional leaders are responsible for the allocation of land in areas under their control and these chiefs allocate land ownership to men only. In the event that a husband dies, his piece of land is reallocated to his son or any of his male relatives and not to his surviving wife. Women are therefore excluded from access to land and this negatively impacts the socio-economic conditions of women. Women

are discriminated against on the basis of gender, race, ethnicity as well as political orientation (Hellum & Derman, 2004:1796).

The AGRA report (2013:35) confirms the notion of gender disparity when it states that, “In many parts of Africa, most women have limited land use rights and have no control over production and management decisions”. Women’s rights to land and property are very limited and dependent on their marital status. Studies show that, although women contribute more than 70% of agricultural labour, they own only between 1% and 2% of land in Africa, which is unfortunately accessed through male relatives (AGRA, 2013:35). Policy makers must tackle gender issues in relation to land ownership. Access to land by women can improve their socio-economic status and reduce their vulnerability.

Ghimire (2001:3) considers land as a necessity. Access to land could lead to great improvement in the livelihood of victims of land dispossession. In as much as reform contributes to poverty alleviation it must take into account the participation of rural communities, science and technology, capacity enhancement and institutional building. Households which have gained access to land are able to cultivate their own food which helps to improve their socio-economic status. Such households are able to use their produce for their household food security and for sale at markets (Ghimire, 2001:3).

#### **2.4.2 Types of Land Reform**

According to the World Bank report (2005), land reform can be divided into different categories. For purposes of this research only three types of land reform are entertained. These are land redistribution, land tenure reform and land restitution. The next subsection attempts to discuss the three legs of land reform. Discussion on each category will assist to shed light on how people are categorised (World Bank, 2005).

### **2.4.3 Land Redistribution**

According to the United Nations, Economic Commission of Europe (UN/ECE) (1996), land redistribution occurs when land reform programmes embark on reallocation of land rights which are transferred from one sector to another. This includes transferring of state land to the poor and landless, and or taking land from large holders and distributing it amongst the landless. Land redistribution has thus far been proven to be a significant state project in the fight against landlessness (UN/ECE, 1996).

In a Southern African context, land redistribution according to Adams and Howell (2005) refers to repossession and redistribution of agricultural land formerly occupied by white settlers to indigenous African communities. The transfer of land in Swaziland from white settlers to the Swazi nation marked the end of the Anglo-Boer War in 1902. Before land was redistributed of the Swazi only occupied one third of the land. However, redistribution led to two-thirds of land returning to the Swazi people. A similar experience happened in Malawi where large chunks of land owned by foreigners were targeted for resettlement of the landless poor. South Africa, Zimbabwe and Namibia also embarked on the redistribution of land inhabited by white settlers to black Africans (Adams & Howell, 2005:1).

### **2.4.4 Shortcomings of Land Reform**

According to Sikor and Muller (2009), implementation of land reform is sometimes controversial. There is no single approach without limitations and/or disadvantages. The state-led approach, in which land reform is state-driven, has its own shortcomings. The state takes the lead in the land reform programme and implementation. This approach is often accused of using the top-down approach. Such an approach is tailor-made along a bureaucratic model. Using the top-down approach it is highly possible to miss out on important development issues at grassroots level. This approach is notorious for leaving out key stakeholders. Nevertheless this approach has leverage over other approaches because the state has control of resources through which it is able to steamroll land reform programmes.



The second approach is referred to as the community approach (Sikor & Muller, 2009). Unlike in the state-led approach, the community approach is a land reform model initiated by communities themselves. Communities believe that they know and understand the challenges of landlessness best and, as such, they believe they are better placed to come up with solutions to their problems. One of the shortcomings of this approach is a lack of insight and capacity on the part of the community to implement land reform programmes. Most communities have little or no capacity to deal with complex property rights and management issues.

Deininger (1999) regards the market-assisted approach as relevant and appropriate when it comes to land reform. According to Deininger (1999), the market-assisted approach is a vehicle for reaching consensus by relevant stakeholders. Deininger continues by arguing that the model is less costly, which places fewer burdens on scarce government resources when it comes to the implementation of land reform programmes. Governments have limited resources at their disposal set aside to deal with land reform issues, and this lack of resources impacts negatively on their efforts to improve the lives of the poor. Inequity in access to land is unfortunately increasing rather than being reduced. It is important to conduct further research to establish which approach is effective and can be best adopted to benefit the poor.

According to AGRA (2013), land policies are vague when it comes to issues of access to land. This is as a result of the influence of customary tenure systems. Land under customary tenure is held collectively by lineages and families in which case it is marked by complex multiple and overlapping rights. The AGRA report (2013) argues that customary tenure systems are not egalitarian in nature. Some groups are favoured at the expense of others, and women are discriminated against in favour of males, the rich and the powerful. Ghana, Uganda, Liberia and South Africa are classic examples of countries where women are discriminated against on issues of land tenure. Another problem encountered when dealing with communal tenure is the issue of a lack of recognised ownership documentation by black communities. This poses a serious challenge in establishing the extent of land rights involved. Much

must be done to formulate and implement egalitarian land reform in communal areas. However, complexity of different rights within communities must be observed. National land policies are currently irrelevant in addressing access to land under the customary system.

Land reform critics such as Hellum and Derman (2004) acknowledge the ineffectiveness of a state-led approach in land reform implementation. The Zimbabwean land reform model is a case in point of the failure of a state-led approach. In Zimbabwe land reform suffered a major setback as a result of unclear and controversial land reform policies. In a public announcement the Zimbabwean Minister of Justice condemned laws governing property ownership as unjust. According to the Minister, unequal land distribution was the result of “unjust laws”. Subsequently a political solution was to be sought to correct the wrongs of the past. A foundation was laid for the adoption and fast tracking of a Zimbabwean resettlement programme. However, the resettlement programme was accompanied by human rights violations. According to a guiding document adopted in 2000, 30 000 families were to be resettled in 841 farms. Farms targeted for resettlement should meet the following criteria: “a) farms under multiple ownership; b) farms contiguous to communal areas; c) derelict farms, farm not being used; d) underused farms. There is no discussion as to how to determine what constitutes an underutilised farm” (Hellum & Derman, 2004:1794).

According to Murisa (2010), the lack of land reform criteria was a recipe for disaster. In terms of the criteria, women, war veterans, former detainees, ex-combatants and other landless Zimbabweans were eligible to benefit from the resettlement programme. Unfortunately, the issue of landlessness could not be clearly spelled out in the document. Military veterans were given first priority without assessing their economic, or land ownership status. Subsequently, in the absence of guidelines, farms ended up in the hands of high-ranking government officials, party members and soldiers. Some people lost their employment on farms as a result of the resettlement

programme. Chitsike (2003) outlines some of the downsides of the Zimbabwean land reform as:

- 1) Inability of different stakeholders to coordinate and reach consensus on common objectives of land reform;
- 2) Political interference with the implementation process; and
- 3) Inexperience and lack of skills on the part of government officials to implement the programme.

The report outlines lessons that can be drawn from the Zimbabwean experience. An emphasis is placed on the importance of land reform in tackling poverty and hunger. Implementation of land reform must be considered as a political process, and it is important to bring on board each and every stakeholder for this process to succeed.

#### **2.4.5 Land Tenure Reform**

The purpose of this segment of land reform is to target and improve land ownership amongst people who already occupy some pieces of land but do not have formal registered rights over such land. Land tenure reform is aimed at groups such as farmworkers, people under the jurisdiction of landlords and tribal chiefs. Such people could through land tenure reform be granted legal formal title deeds over pieces of land they are currently staying without recognised formal rights. Land tenure reform protects individuals against evictions (UN/ECE, 1996).

#### **2.4.6 Land Restitution**

Land restitution is government's attempt to redress communities or individuals who were dispossessed of their right to land as a result of racial and colonial laws. On regaining independence most developing countries adopted a constitution which was accompanied by land reform programmes. People who were discriminated against as a result of unjust land ownership laws are redressed through land restoration,

allocation of alternative land, and/or payment of financial compensation to victims of dispossession (UNE/CE, 1996).

During the colonial era some pieces of land were allocated for the displacement of locals into what became known as the 'reserves'. A range of discriminatory policies were promulgated to intensify the exploitation of land resources and agriculture. Such policies made it impossible for Africans to own land outside of the reserves. Customary laws were perceived as inferior compared to English laws and lacked juridical qualities to put land ownership into operation. Declaration of laws governing land ownership led to a dual system of land ownership. "A dual system of land law was therefore introduced in the colony to legitimize this unequal development. English land law would apply to the areas which had been set apart for white settlers. These areas, which in the case of Kenya came to be known as the 'white highlands', were more arable and inhabitable. Native law and custom were to apply in the African reserves" (Wanjala, 2004:14).

The state, community, current landowners, traditional authorities and beneficiaries are the major stakeholders in land reform. According to Groenendijk and Dophaide (2003) the different stakeholders have different roles and responsibilities in land reform. Discussion on the different stakeholders and how they are involved in land reform is important.

## **2.5 LAND REFORM STAKEHOLDERS**

### **2.5.1 State**

According to Borras (2001), the state is an important stakeholder at local, provincial and national level. It is the responsibility of the state to look and take care of the poor and their livelihoods. The main responsibility of the state in far as land reform is concerned is to formulate policies that seek to address issues of land affecting the wellbeing of the poor. The state is a custodian of resources nationwide, including a network of different organisations. A council of stakeholders comprising of local

government bodies and other organisations must be integrated to focus on land reform as a common course. It is the role of the state to build capacity amongst affected communities, which must include issues such as the establishment of legal entities, and the regulating and controlling of land markets.

### **2.5.2 Community**

A community can approach the state as a group, or as individuals representing the community in matters of land reform. According to Sikor and Muller (2009), community members are at grassroots level and directly affected by issues of livelihoods, social inequities, and much more. Based on its status, the community is in a position to organise itself and lobby from below to influence policy formulation. For example, a community could pressurise national government to implement a land reform program, provided it is organised. Borrás (2001) appreciates the role that can be played by the community pertaining to land reform programmes. Such roles include raising awareness, social mobilisation, land identification, land acquisition, beneficiary verification and training, conflict resolution and management.

### **2.5.3 Traditional Authorities**

According to AGRA (2013:34), traditional chiefs are important stakeholders when it comes to issues of land. However, customary land tenure in Sub-Saharan Africa differs from one country to the other. At the same time there are some similarities in the status of chiefs when it comes to land matters. This is in relation to their position in the allocation and adjudication over land matters. This raises the profile of chiefs as key stakeholders on issues of land reform. Each community has its own peculiar dynamics, which must be taken into account when it comes to land matters.

### **2.5.4 Current Landowners**

Lahiff (2007) argues that the importance of current landowners as a stakeholder cannot be wished away. South Africa adopted the 'willing buyer, willing seller' principle

in an attempt to obtain land for purposes of land distribution. Government must negotiate with current landowners in terms of the strategy to acquire land for the purposes of land reform. Both government and current landowners are guided in their negotiations on the price of land by current land market value.

Fraser (2007) confirms the importance of current landowners in obtaining land for land reform purposes. Government must facilitate and win the support and willingness of farmers in selling land. Reluctance on the part of farmers to support the process could sabotage land reform. Some farmers, such as in the Levubu farms in the Limpopo Province, organise themselves. These farmers organised themselves into two categories: 1. Those who agreed to negotiate to sell their farms based on the market price, and 2. Farmers who entered into negotiations with government, but preferred to remain on the farms as partners, mentors or tenants of restitution beneficiaries. The government seems eager to support a partnership arrangement between land beneficiaries and landowners. Current landowners are key stakeholders because they become directly involved in negotiation deals with the government over their land.

In Sub-Saharan Africa, the majority of poor people are found in rural areas. Scarcity of land causes food scarcity, overcrowding and other social, economic and political ills. As such, land reform implementation becomes necessary to address some, if not all, of these challenges. The following section will attempt to discuss land reform and development. It is important to discuss land reform in relation to development because the two are not mutually exclusive, and are essential in the fight against poverty.

## **2.6 LAND REFORM AND DEVELOPMENT**

Land reform and development cannot be divorced from each other, as development can only take place within the context of successful land reform framework (Besley & Burgess, 2000). Land reform aims to improve the livelihoods of the poor. According to Sikor and Muller (2009), land reform can serve as a political tool to be used to

garner support from the masses of poor people who are excluded from land ownership.

### **2.6.1 Land Reform and Development in Rural Areas**

Historically land in rural areas is customarily under custody of a traditional leader or landlords. Land is communal and held under the custody of a chief. Since land was communal, people did not have individual title over the piece of land they occupied. There were no clearly defined boundaries and as such people could be shifted from one area to another without notice. Lack of a right to land becomes a serious challenge because land is regarded as a producing tool, without which it is impossible to participate in the economy, let alone attain important livelihoods such as food security. Landless masses are regarded as poor or living in poverty because they are excluded from access to land as a productive tool. Land reform is perceived as a mechanism to fight this persistent landlessness (Mills, 2002).

Land reform as a programme has a way of dealing with security of tenure, which addresses the plight of the landless rural poor. According to the World Bank Report (2005), it is through land reform that people could have ownership rights over land and be title deed holders of such land. Armed with title deeds, landowners are able to access loans from banks using land as security. Loans could be used to further develop the land. Through investment in land, production increases beyond subsistence farming. People can sell their surplus produce to the market, which improves their socio-economic status and enables them to sustain livelihood in the form of food security (Sikor and Muller, (2009).

According to Ghimire (2001:3), access to land can improve the livelihoods of historically dispossessed individuals and communities where, “attempts to offer greater access to, and control over, land and productive resources, and improved support services to small farmers, rural workers, women and other marginalized agrarian social groups, mean reduction of the economic and political power of the landed classes, rich merchants, elites and agro-business interests. Simultaneously,

however, the process permits increased participation of rural poor in the decision making” (Ghimire, 2001:3).

### **2.6.2 Land Reform and Development in Urban Areas**

The importance of land reform in urban areas cannot be emphasised enough. According to the DFID Report (2004), land reform must benefit both the rich and the poor. The impact of landlessness was not only confined to rural areas, its impact was also felt in urban centers. The problem of the lack of access to land in rural areas drove people to move to cities in search of employment opportunities. In urban cities people did not have access to land so they invaded and squatted in private land in the urban periphery. This illegal occupation of land interfered with the use of this land by its rightful owners. Land reform could assist in such cases to resettle people, thus making it possible for landowners to get back their land and at the same time for squatters to have a planned settlement with access to serviced sites (DFID Report (2004).

It is further argued by Attfield, Hattingh and Matshabaphala (2004:407) that there is a link between land reform and development. They argue that people must not fall into the trap of dealing with land reform as one form of addressing one specific type of land dispossession. They note that land reform is divided into land restitution, tenure reform and land redistribution and emphasise that, “Some diversity of the meaning of ‘land reform’ should be acknowledged” (Attfield, et al., 2004:407).

Accord to Sikor and Muller (2008), land reform has evolved since the 20th century to date. In the 20<sup>th</sup> century, land reform mainly focused on social transformation. Land reform was seen as a vehicle for breaking the power of feudal classes and a way of gaining the followership of the peasantry masses. The era of land reform was marked by distribution of land from large landowners to the landless people, such as tenants and smallholders. However, the land reform agenda has since changed its face and become diverse. The process is no longer restricted to a retributive reform. The new approach pays attention to a variety of legal and administrative ways in order to



improve lives of the poor as well as of the privileged. Countries in Sub-Saharan Africa have switched to land registration and land titling forms of land reform. Governments have also established specialised state agencies responsible for the registration of land rights. It could be argued that the land reform programme is aimed at improving the lives of every citizen, notwithstanding their social status, in order to realise a state of equilibrium. The landless people benefit through access to land that improves their livelihoods. This takes into account issues of food security, improved housing, cleanliness and sanitation. Meanwhile, landowners also benefit through the resettlement programme, which discourages squatting. The new approach in land reform could be seen as a win-win situation in which all affected parties have something to gain.

## **2.7 SUCCESSFUL LAND REFORM: CRITERIA AND ASSESSMENT**

According to Ghimire (2001:1), rural poverty and hunger in developing countries can be tackled through land reform. She writes, “There is a wide consensus about the need for reforming land tenure systems and relations in order to reduce rural poverty and hunger in developing countries”. However, as much as there is consensus on the need for land reform by non-governmental organisations, the academic community, government organs, and scores of other role players, there is no panacea for land reform (Ghimire, 2001:1).

Some groups argue for a radical approach in land reform, including expropriation of large holdings that could benefit landless masses. Meanwhile, other groups advocate for the restitution of land rights to address the problem of land dispossession caused by powerful groups such as land colonisers (Ghimire, 2001:1).

According to Deininger (2003), successful land reform needs to be incorporated into broader rural development policy, a high level of policy transparency, and capacity development of beneficiaries. An inclusive implementation strategy can be a determining factor of a successful land reform. However, along with implementation

there are also factors to be taken into consideration in order to attain successful land reform. These objectives of the programme are vital to its success (Deininger, 2003).

### **2.7.1 Objectives of Successful Land Reform**

**Land reform for the reduction of poverty and inequality:** Inequality refers to the huge gap between the wealthy and the poor. This is supported by May (2000:6) when she writes, “the term ‘equality’ can be regarded as referring to a state or social organization that enables or gives equal access to resources and opportunities to all its members. However, there are a number of possible objectives for a policy that aims at reducing inequality”. May (2000:6) continue to expose the gap between the rich and poor, or black and white, by stating that land dispossession is a major cause of this divide. Additionally, the previous exclusion of blacks from access to land excluded them from participating in the economy (May, 2000:6). Land reform implementation could serve as a remedy to cure the ills of the past that resulted from inequity in land ownership.

**Land reform as a means for protecting the environment:** Land reform can play a major role in the improvement and protection of the environment, according to Swilling (2012:43). The successful implementation of a land reform programme can lead to a sound environment. The alarming rate of population growth in Sub-Saharan Africa puts the environment under massive strain. People living in developing countries often experience a lack of basic sanitation, inadequate housing and very little access to healthcare. A lack of sanitation can lead to serious danger to water resources as people living in areas with no basic sanitary facilities are forced to relieve themselves outdoors and subsequently cause contamination of water sources. Problems of environmental degradation are linked to issues of land reform. Land reform, if correctly implemented, could assist in dealing with overcrowding in the former reserves and informal settlements, and access to land ownership could consciously instill pride of ownership and the sustainable use of the land and its resources.

Continuous support of the beneficiaries of land reform can lead to sustainable development (Swilling, 2012:43).

**Land as a means of production:** Land is central to the production of goods (Swilling 2012:43). The global economy relies heavily on raw material extracted from the earth for the production of finished goods for human consumption, with biomass, fossil fuels, ores, industrial minerals and construction minerals being the most extracted minerals. In this production process waste material is generated, which contributes to environmental pollution. Material flow is important because it determines the 'metabolic rate' of the global economy, which is measured in tons per capita or per unit of the GDP (Swilling, 2012:43).

**Improved food security:** According to Ghimire (2001:109), access to food security depends on the extent to which people have access to land, which should then be developed into viable agriculture. However, "if the goal of land reform programmes should be to provide greater access to land, one must ask about the other possibilities of bringing more land under cultivation and developing other activities supportive of rural livelihoods" (Ghimire, 2001:109).

### **2.7.2 Key Factors of Successful Land Reform**

According to Deininger (2003:11), there are four elements for land reform implementation that can yield positive results:

1. Make land reform a program that is 'owned' by local government, thus achieving better integration of land reform with existing municipal development priorities or investments and, at the same time, greatly reducing transaction costs;
2. Require productive projects that provide the basis for a more programmatic approach to beneficiary training, negotiations of land prices, and economic evaluation of the expected benefits and costs of land reform;

3. Establish a decentralised and 'hands-on' program of beneficiary training that will act as a means of pre-selecting beneficiaries (based on their willingness to participate), help them to overcome their structural difficulties, and ensure greater 'ownership' and ultimately economic sustainability of projects; and
4. Insist on transparent and public processes of project approval and link the required mechanisms of accountability directly to a process of monitoring and evaluation that connects to the municipal land reform plan, aims to quickly detect deviations from targets and the reasons for them, and forms the basis for an in-depth impact assessment of the land reform process at a later stage (Deininger, 2003:11).

### 2.7.3 Land Reform Assessment Criteria

According to the World Bank Report (2008:3), specific mechanisms must be introduced to deal with poverty. According to the World Bank Report (2005), land reform is one tool through which poverty and hunger can be tackled. It is thus very important to have assessment criteria in order to measure whether land reform is succeeding in improving the lives of landless individuals. Land reform's objectives clearly state what it aims to achieve, but in order to determine its success Bhatta (2010) identifies three important criteria. According to Bhatta (2010), the following are important elements that determine the successful impact of land reform:

- **Improvement in socio-economic conditions of socially and economically disadvantaged (SED) people:** The assessment of the impact of land reform in improving socio-economic conditions of SED people can be performed based on the improvement in their access to land, income, and household well-being.
- **Equality in land access:** Equality in land access is the measure of proper and effective implementation of land reform programmes. In principle, every beneficiary should be treated equally and women should receive the same

treatment as men. The assessment of de facto situations can result in important inputs for future land access implementation in the programs. The situation of conflict due to inequality can also reflect the situation of equality in land access.

- **Beneficiary satisfaction:** Implementation of land reform programmes makes sense if they successfully satisfy the beneficiaries' expectations. Therefore, it is essential to assess the level of beneficiaries' satisfaction, though it is quite subjective (Bhatta, 2010:34).

**Table 2.1: The assessment framework developed by Bhatta (2010)**

| Elements   | Questions to be addressed in assessment  |
|--|--|
| Improved socio-economic conditions of SED people | <ul style="list-style-type: none"> <li>• What is the impact of the land reform programme on the income level of SED people?</li> <li>• How is the impact of land reform improving the productivity of land?</li> <li>• How is the impact of the land reform programme improving social status and household well-being of the SED people?</li> </ul> |
| Equality in land access                          | <ul style="list-style-type: none"> <li>• Is there any improvement in SED people's access to land?</li> <li>• Is there equality in terms of access to land?</li> <li>• Do women have equal rights to men?</li> </ul>  |
| Beneficiaries equal rights                       | <ul style="list-style-type: none"> <li>• Are the beneficiaries satisfied with the approach?</li> <li>• Did the program meet the beneficiaries' expectations?</li> <li>• How is the condition of conflict due to inequality in land access?</li> </ul>  |

Source: Assessment criteria developed by Bhatta, (2010)

The above table identifies the vital elements and the questions to be answered in

order to plan and assess successful land reform.

## 2.8 LAND REFORM FAILURE: OBSTACLES AND IMPEDIMENTS

According to the DFID (2004), land reform was introduced as means through which the poverty and hunger of victims of landlessness could be addressed. However, it has failed to produce the intended results. There are different factors contributing to the unsuccessfulness of land reform programs:

- **Sabotage from landlords/farm owners:** “Evidence suggests that opposition from those who can frustrate the process, particularly landlords, is the main reason for land redistribution failing to increase agricultural productivity and reduce poverty. Reform of landlord tenancies in India ... and the Middle East (e.g. Egypt, Iran and Iraq) followed a similar pattern to that of South Asia but, with the possible exception of Egypt under Nasser, they were less effective due to stiff opposition from influential landowners” (DFID, 2004).

It is crucial for landowners to be brought on board in order to gain their support for the ‘willing buyer, willing seller’ principle. In adopting this principle South Africa was trying to avoid the Zimbabwean style of land reform or land grab. Through the ‘willing buyer, willing seller’ approach farms are acquired through sale negotiations based on the current market value of the land in question (Lahiff, 2007).

- **Inadequate input capital:** Land reform projects are at times faced with a decrease in agricultural productivity after land is restored to beneficiaries. According to Datar, Carpio and Hoffmann (2009:12), the impact of agriculture is ambiguous in beneficiary households and productive assets. For example, land beneficiaries are often faced with inadequate grants, which make it difficult to obtain agricultural inputs such as seeds, fertiliser, hired labour, productive assets, and farming utensils (Datar, et al., 2009:12). The majority of land beneficiaries come from poor communities and have no experience in

commercial agriculture. A productive farm requires inputs in the form of equipment, seeds and fertilisers, farming experience and innovation in order to yield outputs. Capital is required to procure the necessary farming materials. Unfortunately, land beneficiaries are unable to qualify and access bank loans, without which they cannot buy inputs. Without the necessary inputs, skills, innovation and the technical knowledge required, agricultural productivity become unachievable.

- **Lack of implementation standards:** According to Deininger (2003:20), land reform is exposed to a number of challenges. One key challenge lies with the implementation of land reform by government officials. There is no clear-cut method of how a land reform programme is supposed to be implemented. Lack of monitoring and evaluation of land reform projects, if left unchecked poses another serious challenge caused by decentralisation. The case of Zimbabwe serves as a good example of a lack of implementation standards, such as a monitoring and evaluation tool. Hellum and Derman (2004) state that, “There are no guidelines for what constitutes “landlessness”. Overall the document is thin, devoid of details and in any event was ignored.” Without guidelines it becomes impossible to implement land reform successfully.
- **Lack of guidance in terms of customary land tenure systems:** According to AGRA (2013), the customary land tenure system is regarded as a system of land reform that satisfies the livelihoods and values of a broader community. In such a system, land is facilitated through group membership. The broader community therefore shares the risks between landowners and land tenants. However, the system is not without its shortcomings. It is often accused of discriminating against women in favour of men, the rich and the powerful, as is the case in Ghana, Uganda, Liberia and South Africa. Such a system of land reform has no legal grounds. Land distribution is unfair as in some instances farm sizes are smaller than in others. Lack of uniformity and binding legal documentation expose flaws in the system.

### **2.8.1 Lack of Post-Settlement Support**

According to Hall (2007:29), post-settlement support is very important in order for land reform beneficiaries to be able to successfully participate in commercial agriculture. According to the DFID Policy Division Report (2004:5), land reform is a positive gesture in order to address poverty and hunger amongst the previously landless masses. However, land reform beneficiaries in the commercial farming category are, in most cases, unsuccessful. Failure is as a result of lack of support for new owners on the part of government. Hall (2007) refers to the case study of Makana Communal Property Association, which acquired Gletwyn farm outside of Grahamstown in the Eastern Cape. The initial plan of the CPA was to establish piggery and poultry projects. Without outside help the CPA members ended up demarcating individual plots, built their houses, and cultivated vegetables for their families' consumption instead of for business purposes. This illustrates that in the absence of a post-settlement support land beneficiaries will not be able to produce (Hall, 2007).

According to Murisa (2010), non-support of new farm owners leads to the failure of agricultural production on most land reform farms. Without support, new farmers end up facing a whole range of problems. As Murisa writes, "The newly resettled households face farm production constraints that range from drought power shortages to unavailability and non-affordability of agricultural production inputs, such as seeds [and] fertiliser production" (Murisa, 2010:2). Lack of the abovementioned agro-inputs contribute to the collapse of formerly high-producing farms after being given to land beneficiaries. The Zimbabwean land reform programme is an illustration of a decrease in agricultural productivity on resettled farms. The decrease in agricultural productivity has a negative effect on livelihoods of the poor and the economy of the country (Murisa, 2010:2).

According to Hall (2007), land reform beneficiaries are expected to run their successfully acquired land unaided. It is through the use of land, for example the consumption and trade of its yield, that profit must be brought to beneficiaries. Hall



(2007) continues by asking, “how is land being used in land reform projects, how is production organised and having this affect?” (Hall (2007:27).

The land reform programme has been accused of failing to yield its intended results. According to Churchill (2003), there are a number of factors affecting successful land reform beneficiaries, which require post-settlement support and assistance, such as:

- Lack of farm management skills: Management skills are critical skills required for a successful farming enterprise. Farms in high production states require management skills for their smooth day-to-day operations. Crops must adhere to a specific routine in order to yield high agricultural productivity. Due to the non-availability of post-settlement support, it is difficult for beneficiaries to acquire such skills.
- Internal conflict between project members: As a result of no support being offered to land beneficiaries, members are left in the dark, unaware of each other’s role and functions in relation to the land. The rent-a-crowd phenomenon, which is a mere clustering of individuals of different backgrounds to reach the required number of applicants for the purpose of applying for the grants, has been a source of conflict amongst beneficiaries. A case study of Cairn Lemon Trust in Nelspruit, South Africa comprised of 78 members who are farming lemons on 30 hectares of land. The lemon project is facing challenges resulting from fighting amongst members. Members are accusing one another of laziness and corruption. This is a consequence of clubbing together individuals from different backgrounds without first providing them with proper training. Without farming knowledge there is bound to be serious problems. While project members are engaged in fighting, agricultural productivity declines and impacts badly on food security and the country’s economy (Churchill, De Kock & Pooe, 2003).

## 2.9 CONCLUSION

The Alliance for a Green Revolution in Africa (AGRA) report (2013) considers land as important for agricultural production. Most people in Sub-Saharan Africa depend on agriculture for their livelihoods. There is a strong relationship between the availability of land and agricultural productivity. Such a relationship, if not properly managed, could lead to poverty and hunger.

Through land reform a war against poverty and hunger can be won. Land reform is made up of different forms, with land tenure, land redistribution and land restitution being most common. Land restitution deals with the restoration of land rights to the victims of land dispossession. Land tenure reform concentrates on redressing those people who already occupy specific land parcels informally, without title deeds over the land. These people include farmworkers and communities who are staying on communal land with the chief as a custodian.

The key aim of land reform is to develop the livelihoods of the victims of land dispossession through improving their access to land as a production tool. The realisation of the ultimate goal of land reform relies upon whether the historically disadvantaged individuals are involved in the relevant processes. The main expectation of the victims of land dispossession is the improvement of their livelihoods, to which access to land serves as a cornerstone. However, it is important to note that access to land without post-settlement support for improving productivity may be futile. From the literature one can therefore identify the following success criteria as outlined in the framework below.

**Table 2.2: Success criteria/elements and questions asked in order to assess the case study**

| ELEMENTS | QUESTIONS TO BE ASKED |
|----------|-----------------------|
|----------|-----------------------|

|                                   |   |
|-----------------------------------|---|
| <b>1. Access to land</b>          | <ol style="list-style-type: none"> <li>1. When was the land restored to the beneficiaries?</li> <li>2. What were the expectations upon land restoration?</li> <li>3. What objectives were set out?</li> <li>4. What was actually achieved?</li> <li>5. How to account for the gap – promised vs. achieved?</li> <li>6. Any suggestions on how things could have been done differently?</li> </ol>   |
| <b>2. Post-settlement support</b> | <ol style="list-style-type: none"> <li>1. Is there any post-settlement support thus far?</li> <li>2. Is there a constitution in place?</li> <li>3. Were any exercises conducted to enhance members about the constitution?</li> <li>4. How do legal entity members ensure accountability?</li> <li>5. What is the level of community involvement?</li> <li>6. Are community members ever consulted for ideas/suggestions?</li> <li>7. Does the entity run in accordance with the constitution?</li> </ol>   |
| <b>3. Business</b>                | <ol style="list-style-type: none"> <li>1. What business was in place at the time of land hand over?</li> <li>2. Was the business continued?</li> <li>3. At what level – same as before or below standard?</li> <li>4. Over time has the operation been improving or falling back?</li> <li>5. Has any form of benefits been promised?</li> <li>6. Have any dividends/benefits been paid out to date?</li> <li>7. Any suggestions on improvements on the running of the business?</li> </ol>                 |
| <b>4. Stakeholder Involvement</b> | <ol style="list-style-type: none"> <li>1. What is the level of involvement by the Department of Rural Development and Land Reform?</li> <li>2. Are there other government departments involved in assisting?</li> <li>3. Is the municipal LED section aware of the project?</li> <li>4. Are local NGOs/CBOs lending support?</li> <li>5. Is there any support from private sector entities?</li> <li>6. Do you have any ideas on how outsiders of the business assist in getting better results?</li> </ol> |

## **CHAPTER THREE: THE CONTEXTUAL AND LEGISLATIVE FRAMEWORK**

### **3.1 INTRODUCTION**

This chapter attempts to review the policy and legislative framework, as well as the

strategic programme mandate, for land reform programs in South Africa. The purpose of this chapter is to provide a South African-specific 'mandate' for land reform programs. The discussion of these legislations can help shed a light on how the land reform programme attempts to address the land issue. The objectives of the land reform programme are explained to illustrate its intentions and challenges.

## **3.2 HISTORY OF LAND DISPOSSESSION IN SOUTH AFRICA**

Land dispossession contributed to the spread of acute poverty and hunger amongst black South Africans. The origins of land dispossession in South Africa can be traced back as early as 1488 and, according to Erasmus, Swanepoel, Schenk, van der Westhuizen and Wessels (2009:44), land dispossessions followed a certain path. The process of land dispossession was perpetrated by the arrival of settlers at the coastal areas of the Cape who established a refreshment station. This move marked land possession's first wave. The second wave was triggered by the discovery of diamonds in Kimberley in 1872 (Erasmus, et al., 2009:44).

It is stated in Southey (2006:16) that paleontological and archaeological records indicate that black people were the first to occupy the coastal areas in the Cape. Homo sapiens fossils as old as 115 000 and 125 000 years of age have been discovered in the area, which bears testimony that black people, were the first to occupy what is presently known as South Africa. Some of the factors that contributed, and led, to land dispossession include indigenous population growth, colonialism and forced labour, and apartheid laws. These will be discussed in the following sections. (Southey, 2006:16)

### **3.2.1 Population Growth Due to the Arrival of White Settlers**

The arrival of white settlers in 1652 at the Cape coast marked the beginning of land dispossessions, which deprived indigenous communities of land in and around the coastal areas. Prior to this indigenous people were subsistence farmers.

Land dispossession occurred in two phases. The arrival of Jan van Riebeeck unleashed the first phase as a result of the establishment of the refreshment station. Jan van Riebeeck, on behalf of the Dutch East India Company, came and established a refreshment station on land that was already in the hands of the indigenous people. Massive pieces of land were confiscated from blacks as a result (Southey, 2006:16). Despite earlier plans of keeping the station small, the company went ahead to establish a permanent base at Table Bay (Cape Town), triggering an influx of employees of the Dutch East India Company to the Cape. Growth in population escalated due to the influx, which fuelled a demand for more land to accommodate the company's ever-increasing work force. This signalled the beginning of colonisation. Indigenous communities were left with no choice but to move further interior in search of land (Southey, 2006:16).

### **3.2.2 Increased Labour Demand**

The establishment of the refreshment station created a demand for more labour. This increased demand triggered land dispossession in indigenous communities as indigenous people were compelled to work for the settlers at the station. In their quest for escape from forced labour, indigenous people fled into the interior. This led settlers to look for an alternative source of labour and they embarked on a slave trade as a solution. Slaves were brought from as far as Madagascar and Mozambique. The influx of more slaves to an area already facing overcrowding worsened the land problem (Erasmus, et al., 2005:44).

In 1867 an expedition of white settlers took a route to the interior in search of fortune. While there, the settlers claimed to have discovered diamonds. The second 'discovery' of gold occurred in 1872. It is important to note that indigenous people were the first to engage in mining at the interior. The settler's so-called discovery of minerals caused further demand for labour. The indigenous people, in an attempt to avoid providing cheap labour, moved from the mining fields further and further interior (Erasmus, et al., 2005:44).

Land dispossession was exasperated by the establishment of commercial agriculture, which created a need for more land and thus forced settlers to seize land from blacks in the interior. Land dispossession amongst black communities exposed them to poverty and hunger. The declaration of both colonial and apartheid laws was key to land dispossession. The promulgation of racially based land ownership laws was the reason for land dispossession in South Africa and was an attempt by government to formalise racial land ownership patterns (Aliber & Mokoena, 2003:330).

### **3.2.3 Land Dispossession and the 1913 Natives Land Act (1913)**

Land dispossession in South Africa was exasperated by the promulgation of the notorious Natives Land Act (1913), whereby only about 7.3% of land was reserved for black occupation. The act prohibited blacks from buying or owning land outside the reserve areas. Black people staying in the so-called white areas were regarded as black spots and targeted for removal. White people were also not allowed to acquire land in the reserves. The Natives Land Act (1913) is regarded as a foundation of territorial segregation. Black people were allowed to be in the white-only areas on condition they were employed, and an employee was expected to leave the white area as soon as he/she was no longer in employment. This act laid a strong foundation for land dispossession amongst black communities in South Africa. Without land as a production tool, blacks were excluded from participating in the socio-economic life of the country. The land reform programme was therefore an attempt to address the legacy of the Natives Land Act of 1913.

The next section outlines how land dispossession further unfolded under the apartheid government and its subsequent impact.

## **3.3 DISPOSSESSION THROUGH APARTHEID AND ITS CONSEQUENCES**

Apartheid legislation cemented the racial divide between black and white South Africans. Disparity in land ownership between the two stood at an estimated 84 per cent of non-public land in favour of whites prior to the 1994 elections. Blacks, on the

other hand, owned only 16 percent of land, mainly limited to homelands and coloured reserves, which experienced poor living conditions and overcrowding. The racial land policy was used as a control instrument to restrict urbanisation of black South Africans. Blacks were not allowed to be outside scheduled areas without proper permits. Under apartheid, police were given powers to arrest black people who were found outside the reserve without their necessary documentation (Aliber & Mokoena, 2003:330).

According to Aliber and Mokoena, in Daniel, Habib and Southall, (2003:330), the removal of black people from the fertile lands to the impoverished reserves caused social, political upheaval and racial divide amongst black and white South Africans. Land dispossession had a negative impact for both the economic and political well-being of blacks. They were economically excluded, as they did not have access to land as an important means of production. The non-participation of blacks in the economy of the country led to them being exposed to hunger and poverty (Daniel, et al., 2003:330).

### **3.3.1 Rural Poverty, Gender Disparity and Rural Brain Drain**

Despite the removal of these racially based laws after democratisation, the impact of land dispossession has led to major challenges in the process of redressing these injustices. These include issues around rural poverty and gender disparity, and the rural brain drain that accompanies this; urban migration and the increase of informal settlements; and unemployment and poverty. According to May (2000:241), land dispossession and its impact vary according to gender. Rural women were affected the worst by hunger and poverty as they remained in the rural areas to take responsibility of children and the elderly, while men migrated to urban areas in search of employment opportunities. South Africa is a patriarchal society within which land ownership in the rural areas is under the custodianship of male chiefs. When allocating land, the chiefs do so to husbands or male relatives. However, women are the ones who, in most cases, work the land rather than men (May, 2000:241). Policy

makers need to pay attention to issues affecting women when addressing access to land. Black women are facing double discrimination as a result of both their gender and race.

### **3.3.2 Urban Migration and Informal Settlements**

The apartheid legacy divided South Africans into homelands or Bantustans, commercial agricultural farms, small towns, major cities or urban areas. When apartheid ended, the South African economy suffered serious structural problems. Upon the lifting of the apartheid laws controlling the urbanisation of black people, migration came as a response and an attempt to explore economic opportunities in urban areas. The migration of the rural masses contributed to the overpopulation of towns and cities. Any attempt to address the impact of land dispossession must therefore include urban areas. The illegal squatters who erect shacks on their properties commonly affect private property owners. Government can play a major role by resettling those individuals (Cole, 1994:51). There are a handful of stakeholders involved in the resettlement of those who were historically dispossessed. These stakeholders involved during resettlement consist of, but are not limited to:

#### **a) Transvaal Agricultural Union (TAU)**

TAU is an agricultural union that represents commercial farmers who are likely to be affected by land redistribution for the purpose of land reform. This union came into being during the apartheid era. At the early stages of the enactment of the land reform programme TAU was a machinery used to try and block land restitution. A new union was later established known as the Mpumalanga Agricultural Union, though members of TAU refused to be part of this new union. TAU has now grown to accept the implementation of the land reform. Time and time again they participate in negotiations in cases where their clients' lands have been identified for the purpose of land reform. TAU is very important for the smooth passage of the land reform programme. Farm owners currently hold land, and the market system of acquiring



properties requires that government engage these landowners in order to negotiate prices when buying farms (Schönteich & Steibeberg, 2000).

#### **b) Agri-SA**

Agri-SA is another agricultural union that was initially against the implementation of land reform. However, it has recently turned in support of land reform, such as of land redistribution for the purpose of agricultural development. However, this union is still opposed to land tenure on commercial farms. It is very important that government try to win this stakeholder. This can be achieved through planning together and laying out the purpose of the program, as well as its importance to both farmers and beneficiaries. Farmers need to be assured that land reform is not intended to harm them, but to correct the wrongs of the past (Hall & Moyo, unpublished: 4).

#### **c) The Landless People's Movement**

This movement came into being in 2001 with the aim of tackling problems facing the landless masses found in farms, urban and peri-urban areas, and the unemployed. Members of this movement want to see land reform dealt with as soon as possible. The notion of 'willing buyer, willing seller' is criticised by this movement as biasedly in favour of whiter landowners at the expense of blacks. This movement is in favour of the expropriation of land from large holders to smallholders (Hall & Moyo, unpublished: 13)

The above arguments reveal competing interests amongst different stakeholders when dealing with the implementation of the land reform programme in the resettlement of those who are affected by land dispossession. Interaction or negotiations by different stakeholders need to be encouraged. Agreements need to be reached concerning land and agrarian policy in the implementation of the land reform programme.

#### **d) Government institutions**

The offices of the Surveyor-General, deeds registrar, and information from the spatial and geographic office can play a major role when resettling people. The Surveyor-General is responsible for carrying out surveys and producing sketches of each piece of land. The deeds office registers landowners and produces title deeds of all lands registered in this office. The spatial and geographic information is responsible for aerial photographs, and the production of maps and sketches of land. Having these three offices at one's disposal, it becomes easy to monitor land ownership. Illegal squatting can be controlled when all the above mentioned offices work together to address land issues (LANDNews volume 7 no 5, 2010:24).

When dealing with land reform in urban areas, other critical stakeholders are the district and local municipalities. The municipalities are critical when planning for any development, be it a new settlement or business site. Private developers submit their applications to the municipality who liaise with the office of the Surveyor-General. They, in turn, demarcate the area to be developed and produce sketches of the land to be developed. The spatial and geographic office produces topographic as well as aerial maps of the earmarked area. Upon selling those properties to prospective buyers, the deeds registrar registers title deeds to owners. In the case where the parties conflict on who must occupy what land, these records can be used in order to adjudicate the misunderstanding.

The democratic elections of 1994 led to the new government passing a number of acts in an attempt to redress the victims of dispossession. The next section discusses different legislation promulgated by the ANC, which governs the land reform programme. This section is meant to shed a light on all legislation governing the land reform programme.

### **3.4 LEGISLATION TO ADDRESS DISPOSESSION**

- Reconstruction and Development Programme (RDP) (1994)
- Restitution of Land Rights Act (1994)

- Constitution of the Republic of South Africa (1996)
- White Paper on Land Policy (1997)
- Extension of Security of Tenure Act (ESTA) (1997)
- Land Redistribution for Agricultural Development (LRAD) (1998)

#### **3.4.1 Policies to Guide Implementation of the Land Reform Programme**

- Recapitalisation and Development Programme (RECAP) (2007)
- Comprehensive Agriculture Support Programme (CASAP) (2004)

#### **3.4.2 Reconstruction and Development Programme (RDP) (1994)**

Shortly after the first South African democratic elections, the newly elected government committed itself to resuscitating the country from political riots by freedom fighters. The underlying goal of the RDP is to revive the social and economic well-being of all South Africans. Land reform is one other element regarded as a building block to the reconstruction and development of South Africa.

Land reform is regarded as a key aspect of rural development. The policy framework advocates the government introduce land reform in South Africa. This is supposed to be a guide through which access to improved security of tenure and rural development will be addressed. The framework spells out inequalities faced by women in relation to land ownership, where it is written that “The land redistribution programme must therefore target women [and] institutions, practices and laws that discriminate against women’s access to land must be reviewed and brought in line with national policy” (RDP, 1994:21). The adoption of the RDP paved the way for the White Paper on Land Policy (1997).

#### **3.4.3 Constitution of the Republic of South Africa (1996)**

One of the aims of the Constitution is to reverse all the wrongs of South Africa's past. The Constitution is the supreme law of the country and all other legislation must be in line with it. Any law that contravenes the Constitution is deemed unlawful. The following sections of the Constitution are relevant when dealing with land matters.

According to section 25 of the Constitution of the Republic of South Africa, no one can be denied a right to property, thus expropriation of private property is discouraged at all costs. Expropriation can only be allowed in the event where it will benefit scores of people, for example when a few families can be resettled in favour of erecting a development project, be it a water reservoir, hospital, school or railway line that will benefit the broader community. In these instances the families can be resettled through the correct channels of resettlement.

The Constitution states that all individuals are equal in the eyes of the law and all forms of discrimination based on race, religion, gender or creed are deemed unlawful. In terms of section 2 of the Constitution, all forms of inequality amongst citizens are discouraged.

Through section 2 of the Constitution, all South Africans have equal rights to access property in South Africa, irrespective of their race, gender, religion and creed. This section entrenches democracy, the elimination of all forms of discrimination, and encourages equal socio-economic rights for all. Black people can now acquire properties from areas that were historically for whites only. There are processes that need to be followed when acquiring a property as guided by the Sectional Titles Act (1986), which governs all forms of property ownership in South Africa (South Africa Government Online, 2014).

#### **3.4.4 White Paper on Land Policy (1997)**

South Africa's land policy is based on the foundation laid by the White Paper on Land Policy (1997). This white paper outlines how the land reform programme is to be carried out and spells out three legs of land reform necessary for implementation. Each leg deals with a specific type of land right for differently affected individuals.

The White Paper on Land Policy (1997) is an attempt by government to address imbalances of the past in terms of land ownership in South Africa. The paper proposes that the Land Act must pay special attention to dealing with the following issues in both rural and urban areas:

- “The injustices of racially-based land dispossession;
- the inequitable land distribution of land ownership;
- the need for security of tenure for all;
- the need for sustainable use of land;
- the rapid of rapid release of land development;
- the need to record and register all rights in property; and
- the need to administer public land in an effective manner”

(White Paper on Land Policy, 1997)

The White Paper on Land Policy aims to deal with injustices of the past in terms of land ownership patterns. The three legs of land reform are instrumental in dealing with different segments of those affected by land dispossession and are discussed later in this paper. The discussion of the legs of land reform will shed a light on the different segments of land reform, as well as on land reform’s importance in affecting the lives of those affected by the imbalances of the past regarding issues of land ownership, which has exposed masses of people to hunger and poverty.

#### **3.4.5 Extension of Security of Tenure Act (ESTA) (1997)**

ESTA is designed specifically for people staying on farms and in rural areas. The Act gives guidance on how to deal with people if they are evicted from farms. Through this Act an attempt is made to formalise land rights for these individuals to avoid

further removals.

For example, this piece of legislation mostly benefits farm labourers who are assisted to secure their tenure on the farms where they work. There are instances where farm owners have been assisted in obtaining these farms and become owners rather than workers. Another segment of those who are covered by ESTA are those staying on tribal lands, for example people who reside under tribal authorities and are occupying land communally rather than individually. The communal ownership renders the rural dwellers vulnerable as they cannot, for example, obtain loans from banks and use their properties as surety. The coming into effect of ESTA (1997) was a remedy for this situation. Individuals who had no rights to land in the past are now reaping the benefits. This act helps them to have their rights formalised (Extension of Security of Tenure Act, 1997).

Through ESTA, previously disadvantaged individuals are assisted to acquire land. The assistance includes, but is not limited to, grants, land acquisition, fertilisers, seeds, equipment, labour, and markets, to name but a few. The above-mentioned help is an attempt by government to address an economic gap caused by the inequity in land ownership.

#### **3.4.6 Land Redistribution for Agricultural Development (LRAD) (1997)**

This segment of land reform is intended to assist the creation of black commercial farmers. The programme assists blacks to become active in creating employment opportunities through being actively involved in commercial agriculture.

This piece of legislation intends to create black commercial farmers. The Department of Rural Development and Land Reform is very instrumental in assisting the smallholders in order to establish them as commercial farmers. There are few programmes established as a result, such as Asibuyele emasimini, asibuyele esibayeni (Let us go back to agriculture). Through these programmes the Department of Rural Development and Land Reform gives agricultural inputs, inclusive of seeds,

fertilisers, tractors, lands, financial assistance, livestock, arranged markets, irrigation systems and also appoints mentors in order to assist them in becoming fully fledged commercial farmers.

This leg of land reform encourages people to organise themselves into cooperatives and to compile an application for submission to the offices of land reform in order to assist them in gaining a common property for agricultural purposes. Upon approval of the application the department obtains the property, hands it over to the applicant and registers it in the name of the cooperative or CPA. The acquired property is for agricultural purposes only. All those who get land through LRAD are discouraged to utilise this land for any other purpose other than agriculture. The move by government to help black smallholders is expected to yield results by transforming ordinary people into commercial farmers. This could push back the frontiers of poverty and hunger amongst historically disadvantaged individuals. This move by government implies that access to land is important in fighting poverty resulting from land dispossession amongst black communities (<http://www.ruraldevelopment.gov.za>).

#### **3.4.7 Restitution of Land Rights Act (1994)**

The aim of the Restitution of Land Rights Act (1994) is to redress those who were affected by the implementation of discriminatory laws, such as the Natives Land Act, (1913). In order to implement the Restitution of Land Rights Act (1994), a commission was established to process land claims lodged prior to the cut-off date of 1998. According to the guidelines provided in the Act, the following qualify for restitution:

- Those who lost land after the declaration of the 1913 Land Act;
- Those who are a direct descendent of the original dispossessed;
- Community or part of the community which lost land;
- A representative of the victims of dispossession.

#### **3.4.8 Comprehensive Agriculture Support Programme (CASP)**

Most of the lands acquired for the purpose of the settlement of land claims are likely to be in full production. The department must then embark on the formulation of policies to govern implementation of the above-mentioned legislation, in order to ensure sustainability and agricultural productivity on the restored farms.

The CASP scope is to help four different levels of clients:

- “The hungry and vulnerable – Though this group is primarily the responsibility of the department of Social Development, [they will be helped] through advice and during food emergencies and crises through the agricultural food packs and for those families who are ready, the introduction of the agriculture starter pack.
- Subsistence and household food producers – Supported through food production and include the beneficiaries of the special programme on food security (SPFS) and the Integrated Food and Nutrition Programme (IFSNP) where the provision of the agriculture starter pack is made.
- Farmers – Supported through farm level support and include the beneficiaries of the LRAD and other strategic programmes, e.g. SLAG, Restitution, Redistribution, and Tenure Reform.
- Agricultural macro-system within the consumer environment – This category includes the commercial farmers to ensure that business and the regulatory environment is conducive to support agricultural development and food safety.”

(Department of Agriculture, 2004:8)

CASP is the Department of Agriculture’s (DOA) brainchild, which benefits both the Department of Social Services and the Department of Rural Development and Land Reform (DRDLR). The DRDLR is no champion when it comes to agricultural productivity. In the event where there is an agricultural land acquired by the DRDLR, such land is transferred to the DOA to ensure sustainability of agricultural productivity. DoA is the custodian of this funding. They provide training, soil sampling, business



planning, and infrastructural development, provision of inputs and securing of markets.

#### **3.4.9 Recapitalisation and Development Programme (RECAP)**

Recap is the second policy that came into being in 2007. RECAP was introduced as a mechanism to be used in ensuring agricultural productivity of the restored lands. This policy capitalises on the use of other stakeholders, such as mentors, strategic partners, co-management, and share equity schemes, to name but a few. The DRDLR, as mentioned above, depends on DoA for the agricultural productivity of the land acquired for any of the three legs of the land reform programme. The DRDLR controls the RECAP funding, while DoA is responsible for the services. For example, the DoA helps the beneficiaries by dispatching extension officers to the agricultural projects. This funding is also utilised to pay for the services of farm managers, mentors, farming implements, seed fertiliser and livestock. DoA, in essence, is the implementer of this policy.

The promulgation of all of the above-mentioned legislation and policies led to the institution of the land reform programme. However, despite the availability of the legislations and policies there is still a reported decrease in the agricultural productivity of the restored farms of Ehlanzeni District, Mpumalanga province. This report is an attempt to explore factors leading to the decrease in agricultural productivity in most of the restored lands of Ehlanzeni District. These legislations and policies are used as a yardstick to gauge how the availability of the above legislations impact on the success or failure of land reform programmes. The assessment is based on the Mapulana community case study. Finally, the findings are tabled in chapter five where recommendations are made for the attention of the policy makers so that they can improve policy making in the future.

The South African land reform is discussed in the following section. It is important to discuss this phenomenon as it is regarded as an aspect that can lead to the elimination of hunger and poverty for victims of land dispossession. The South African

land reform programme is discussed by examining all three legs of land reform, strengths, as well as weaknesses of the programme. This will help illustrate the way in which land reform is supposed to happen.

### **3.5 SOUTH AFRICAN LAND REFORM**

According to Cliffe (2000), shortly after the collapse of the apartheid regime in 1994 the African National Congress- (ANC-) led government introduced and adopted a land reform programme. This programme is divided into three sub-programmes known as:

- Land redistribution;
- Land restitution; and
- Land tenure reform.

Following is table 3.1, which depicts all the sub-programmes of land reform.

**Table 3.1: Three forms of land reform**

| <b>LAND REFORM LEG/PROGRAMME</b> | <b>TARGET GROUP</b>  | <b>CRITERIA</b>  | <b>PROCESS</b>  |
|----------------------------------|--|--|---|
| <b>Land Tenure Reform</b>        | Tenure reform was meant to protect those who are residing on private owned farms as tenants and/or those staying under tribal authorities. Tenure reform was meant to formalise the rights of the abovementioned individuals.  | To qualify for land tenure reform a person must:<br><br>Be a South African citizen with green barcoded ID.<br><br>Have a right to occupy (PTO) permit or be a farm dweller that has occupied the land in question for a period of more than ten years.   | Affected individuals submit an application.<br><br>The relevant land reform office processes the application.<br><br>The applicant is notified of the outcomes of the application.<br><br>PTO holders and farm dwellers are entitled to have their rights formalised.   |
| <b>Land Restitution</b>          | The restitution of land rights was founded and the Restitution of Land Rights Act (1994) was promulgated as a result. The Restitution Act was meant to see to it that victims of land dispossession as a result of the implementation of the Natives Land Act of 1913 are redressed accordingly. | South African citizens with green-barcoded IDs.<br><br>Those who lost land rights as a result of the Natives Land Rights Act (1913).<br><br>Original dispossessed individuals.<br><br>Direct descendants of the original deposed community or part of the community dispossessed of land rights. | Must have lodged a land claim on or before the 31 <sup>st</sup> of December 1998 (cut-off date).<br><br>Office of the Commission accepts or rejects the claim based on research.<br><br>If accepted, a Gazette notice is published accordingly.<br><br>After the gazzeting negotiations start, the claim is then settled in terms of section 42D of the Act and land is bought and transferred in the name of land claimants. |

|                            |  |   |  |
|----------------------------|--|---|--|
| <b>Land Redistribution</b> | Redistribution assists those who never lodged land claims with the Commission on Restitution of Land Rights in order for them to have access to the privately owned lands.<br><br>In order to implement the redistribution programme, a programme known as “Land Redistribution for Agriculture Development Programme” (LRAD) is followed. This programme is aimed at creating an emergence of black commercial farmers. | Must be a South African citizen with green-barcoded ID.<br><br>Blacks who wish to venture into small-scale agriculture. | Affected individuals submit an application. The relevant land reform office processes the application. The applicant is notified of the outcome of the application. If the application is successful, the department acquires the farm on behalf of the beneficiaries. |
|----------------------------|--|---|--|

**Source: South Africa Government Online, 2014**

### 3.5.1 Objectives of Land Reform

Land reform was founded under the following objectives:

- To redress the injustices of apartheid;
- To foster national reconciliation and stability;
- To underpin economic growth; and
- To improve household welfare and alleviate poverty.

For the purpose of the study at hand, special attention is granted to land restitution as governed by the Restitution of Land Rights Act (1994). The next section discusses the land restitution programme. It is important to discuss land restitution as it serves as a foundation for the case study analysis of land restitution in Chapter Five.

### **3.6 LAND RESTITUTION PROGRAMME**

The purpose of the land reform programme is to address land ownership disparities in South Africa. The government's programme has three components, namely restitution (returning, or providing compensation, to those who were dispossessed under apartheid); redistribution (increasing black ownership of rural land); and tenure reform (improving the security of tenure of dwellers on rural and peri-urban land). The failure of land reform to yield the desired results has sparked fierce debate on the objectives of the Restitution Act, which was seen as an attempt to address challenges facing victims of the land reform programme.

#### **3.6.1 Land Restitution Objectives**

The objectives of this Act or programme are as follows:

1. To promote equity for victims of dispossession by the state, particularly the landless and rural poor.
2. To facilitate development initiatives by bringing together all stakeholders relevant to land claims.
3. To promote reconciliation through the restitution process.
4. To contribute towards an equitable redistribution of land rights.

(South Africa Government Online, 2014)

#### **3.6.2 Entitlement to Land Restitution**

According to the Restitution of Land Rights Act, beneficiaries of land reform should meet the following stipulated criteria:

- a) He or she is a person dispossessed of a right in land after 19 June 1913 as a result of past racially discriminatory laws or practices; or

- b) He or she is the executor of a deceased estate dispossessed of a right in land after 19 June 1913 as a result of past racially discriminatory laws or practices; or
- c) He or she is the direct descendant of a person referred to in paragraph (a) who has died without lodging a claim and has no ascendant [...]
- d) Has lodged a claim for the restitution of a right in land after 19 June 1913 as a result of past racially discriminatory laws or practices; and
- e) The claim for such restitution is lodged not later than 31 December 1998.

### **3.6.3 Land Restitution Implementation Process**

There is a specific procedure that is followed when settling land claims lodged with the Commission on Restitution of Land Rights. The following subsection discusses this process adhered to by officials of the commission when processing the land claims. The land claim processing procedure unfolds in the form of phases. These are illustrated in table 3.2 below.

### **3.6.4 Procedure after Lodgement of a Claim**

There is a specific procedure that is followed when settling land claims lodged with the Commission on Restitution of Land Rights. The following subsection discusses this process adhered to by officials of the commission when processing the land claims. The land claim processing procedure unfolds in the form of phases. These are illustrated in table 3.2 below.

**Table 3.2:** Rules regarding the procedure of the **Commission on Restitution of Land Rights** in terms of the Act

|  |
|--|
| <p><b>Phase 1: Lodgement and registrations (closing date of 31/12/1998)</b></p> <p>The land claims during this phase were registered on the electronic base and physical hard copies of files were opened. Any land claims that were submitted after the abovementioned date should not be entertained as per the Act in question.</p>   |
| <p><b>Phase 2: Screening and categorisation</b></p> <p>During this phase, different regional offices deal with all land claims received. The screening entails further processing of all those files that were opened in phase 1. Among other things, the screening involves batching of all the lodged land claims. For example, claims are examined in order to establish whether they are community, individual, or representative land claims. Claims are checked against each other for competing claims, i.e. more than one claim lodged for one property. Furthermore, claims are checked in terms of their complexity or noncompliance with section 2(a) of the Act.</p> <p>A preliminary investigation is obtained on the claim's background from the elders of the claimant family or community in the form of an oral account. Preliminary field research is conducted, where the claimed area is physically visited in order for the claimant to point out historical sites that can link them to this area. This is the stage where a documentary research is undertaken. Public institutions, such as the national library, national archives, magistrates' offices and museum are visited in order to validate the land claim at hand.</p> <p>Upon conclusion of all the above activities, an acceptance report is prepared for signature by the Regional Land Claims Commissioner, as per rule 3 of the Restitution of Land Rights Act (1994).</p> |
| <p><b>Phase 3: Determination of qualification in terms of section 2 of the Restitution Act</b></p> <p>The land claim is now accepted as valid. Acceptance of the validity of the claim is published in the Gazette. Through the publication of the Gazette notice, interested parties are invited to comment on the claim. Even those who are opposed to the land claim are encouraged to lodge their</p>  |

objection publicly. A first stakeholders meeting is held where objections to and/or support of the land claim is expressed to the Commission on Restitution of Land Rights.

**Phase 4: Preparation for negotiations**

This stakeholder consultation will indicate whether the land claim will face challenges or not. In the event where parties agree on the settlement of the land claim, a submission is prepared for ministerial approval. The claimants are work shopped on the available settlement options: land restoration, financial compensation, or alternative land. Farm owners also play a critical role in this stage. This is the stage where their willingness to sell towards the settlement of the land claim is checked as it is a requirement of the Act. Where a farm owner indicates willingness to sell, the office of the Commission sources the services of an independent property valuator in order to determine the value of the property in question. The claimant verification goes hand-in-hand with the valuations of the property.

**Phase 5 Negotiations**

The conclusion of the valuation signals the beginning of negotiations between the office of the Commission and the landowner in question. The findings of the valuation are used as a guide to what the property might cost. If the parties reach an agreement in terms of the settlement, the Regional Land Claims Office prepares a memorandum for ministerial approval. This is in line with section 42(d) of the Act, which grants power to the minister to make funds available in order to obtain the property for the settlement of the land claim.

According to section 42(c) the Minister makes available financial aid in the form of grants aimed at development of land acquired through the Restitution Act. Both the land purchase and the developmental grants are approved simultaneously in the same memorandum. It is worth noting that the settlement agreement only includes land and fixed improvement assets, whereas a movable asset does not form part of the deal.

**Phase 6: Implementation, settlement support and development planning**

Upon approval of the settlement of the land claim by the Minister, the acquired land is registered



in the name of the claimant as required by section 42(a) of the Act where it is stated that, 'where in terms of this Act, land is acquired or expropriated in order to restore or award the land to a claimant, such land vests in the state which must transfer it to claimant'.

According to section 42(c) the Minister may make the development funding available in the form of grants aimed at the development and management of the acquired property. The Minister may delegate powers to either the premier of the province or any member of the executive council in that specific province, together with the relevant municipal council. The power delegation must be made in writing. The Minister shall make funds available to the state organ to which the delegation was made for the purpose of development of the said land (South Africa Government Online, 2014).

**Source; Settlement and implementation Support (SIS) report, (2007:67)**

Table 3.2 is a depiction of the roadmap to be followed in the business of settling land claims, from lodgement to resettlement. Phase 1 is very important because it is where the land claim is born. For example, this is where claimant particulars as well as the subject property under claim are recorded. If incorrect information is captured this may lead to difficulty in processing the lodged claim.

Phase 2 is equally important, as it is a stage where preliminary investigation is done. It is during this stage that one can look at what is being claimed as well as how and when dispossession happens. Here the officer concerned will be guided by section 2(1) of the act, where criterion of beneficiation is outlined. Upon completion of the screening process, one will know whether to further investigate the claim or to dismiss it with immediate effect. For example, the land claim must have been lodged before 31<sup>st</sup> of December 1998, and the land dispossession must be as a result of racial laws after the declaration of the Natives Land Rights Act of 1913. These two dates are very important to guide whether or not to pursue the claim further.

Phase 3 is where the claim is declared valid and accepted in terms of both rules 3 and 5 of the act. An acceptance of the land claim report is prepared for the approval

of the Regional Land Claims Commissioner. These reports declare the claim valid or dismiss it as being non-compliant.

During phase 4, the accepted land claim is published in the Government Gazette. This stage is also very important as it opens a platform for every interested stakeholder to declare whatever interests they might have in the claimed land. In most cases this is the stage where farm owners come forward and lodge disputes or support of the land claim. It is likely that those who are not disputing the validity of the land claim will come forward as willing sellers. Those in dispute are likely to approach a court of law for opinion on the matter. This stage is important as it can pave the way to the settlement of the land claim or a long legal battle with farm owners. The South African land reform has adopted the 'willing buyer, willing seller' method in an attempt to avoid land grabs, as they happened in Zimbabwe. Where the involved parties agree, the service of an independent evaluator is sourced in order to determine the price of the property in question.

In phase 5 negotiations occur. The South African land reform follows the route of market land reform (MLR). Through MLR the government pays a current market value in order to acquire land. In the event where both government and the affected landowner agree on the price established through the valuation process, the government buys the land from the farmer.

The last stage is phase 6. This signals the final stage of the land claim resettlement. Upon this stage the state registers the acquired property through the services of independent conveyances. The minister is supposed to delegate by writing either a municipal manager of the relevant local municipality where the land is situated or a member of the executive council to ensure the sustainability of the acquired land. In the absence of the delegation it can be confusing as to who is responsible for the post-settlement of the land claim, which might lead to the acquired land decreasing in agricultural productivity.

All the stages are connected to each other in the form of a chain design. Where one stage ends the next stage begins. For example, without phase 1 there would be no following stages. Officials of the commission are supposed to be well trained on the land resettlement process to ensure smooth sailing. Effective execution of the process can limit comebacks and ensure growth in agricultural productivity.

### **3.7 CONCLUSION**

For decades prior to 1994, land ownership in South Africa was based along racial lines. Africans were not allowed to own or occupy land in areas designated for whites. The first democratic elections ushered in a democratic dispensation. Consequently, the Restitution of Land Rights Act (1994) and a host of other new legislation were passed in an attempt to reverse disparities in land ownership. According to the Restitution of Land Rights Act, beneficiaries of land reform should meet the following stipulated criteria:

- a) He or she is a person dispossessed of a right in land after 19 June 1913 as a result of past racially discriminatory laws or practices; or
- b) He or she is the executor of a deceased estate dispossessed of a right in land after 19 June 1913 as a result of past racially discriminatory laws or practices; or,
- c) He or she is the direct descendant of a person referred to in paragraph (a) that has died without lodging a claim and has no ascendant [...]
- d) Has lodged a claim for the restitution of a right in land after 19 June 1913 as a result of past racially discriminatory laws or practices; and
- e) The claim for such restitution is lodged not later than 31 December 1998.

This means that for a land claim to be processed it must meet and satisfy a set of stipulated criteria. Table 3.2 illustrates process to be followed in settling land claim. The process has different phases. Phase two is critical because claims are

categorised during this phase. Furthermore claims are assessed to establish whether they are community, individual or representative land claims. Claims are further checked whether they compete against each other i.e. more than one claims have been lodged into one property. In addition, claims are checked in terms of their complexity or noncompliance with section 2(a) of the Act. Precaution must be exercised during this stage to avoid the unnecessary consolidation of individual land claims with bigger community claims, as this may lead to internal conflicts.

Land reform is important in order to reverse the injustices of the past and improve the livelihoods of the victims of land dispossession. As much as land reform is no sufficient guarantee for economic development, land reform is still a necessary condition for a more secure and balanced society. Governments in post-colonial states are implementing land reform in an attempt to redress the victims of land dispossession. Access to land by historically dispossessed individuals can improve their ability to make effective use of land while reducing poverty and empowering them and their communities. In the Southern African region, land is regarded as an even more valuable asset as a result of the history of land dispossession and liberation struggles.

## CHAPTER FOUR: OVERVIEW OF LAND AND LAND REFORM IN MPUMALANGA PROVINCE

### 4.1 INTRODUCTION

The area under study is Ehlanzeni District in Mpumalanga province. Ehlanzeni District like other areas in South Africa experienced land dispossession by non-white communities. The Natives Land Act (1913) and various other laws were promulgated to guard against blacks from occupying or owning land outside areas established for their occupation. The introduction of commercial agriculture and other factors are attributable to land dispossession at Ehlanzeni District in Mpumalanga province.

This chapter provides an introduction to the case study by briefly describing its geographical location and history. The chapter serves as a component of analysis of the case study by attempting to paint a picture of land reform programme in South Africa. A spot light will be focused on the Restitution of Land Rights Act (1994). The chapter will also outline methodology of the study.

### 4.2 BACKGROUND TO THE STUDY AREA

Ehlanzeni District Municipality (EDM) the area under investigation is located in the Lowveld region of Mpumalanga province formerly known as the Eastern Transvaal. The district municipality has five local municipalities under its jurisdiction consisting of Thaba Chweu, Mbombela, Umjindi, Nkomazi and Bushbuckridge.

**Thaba Chweu** Local Municipality has a total extent of 5 719.06 km<sup>2</sup> which is comprised of towns like of Graskop, Sabie, Mashishing, Matibidi and Pilgrim's Rest.

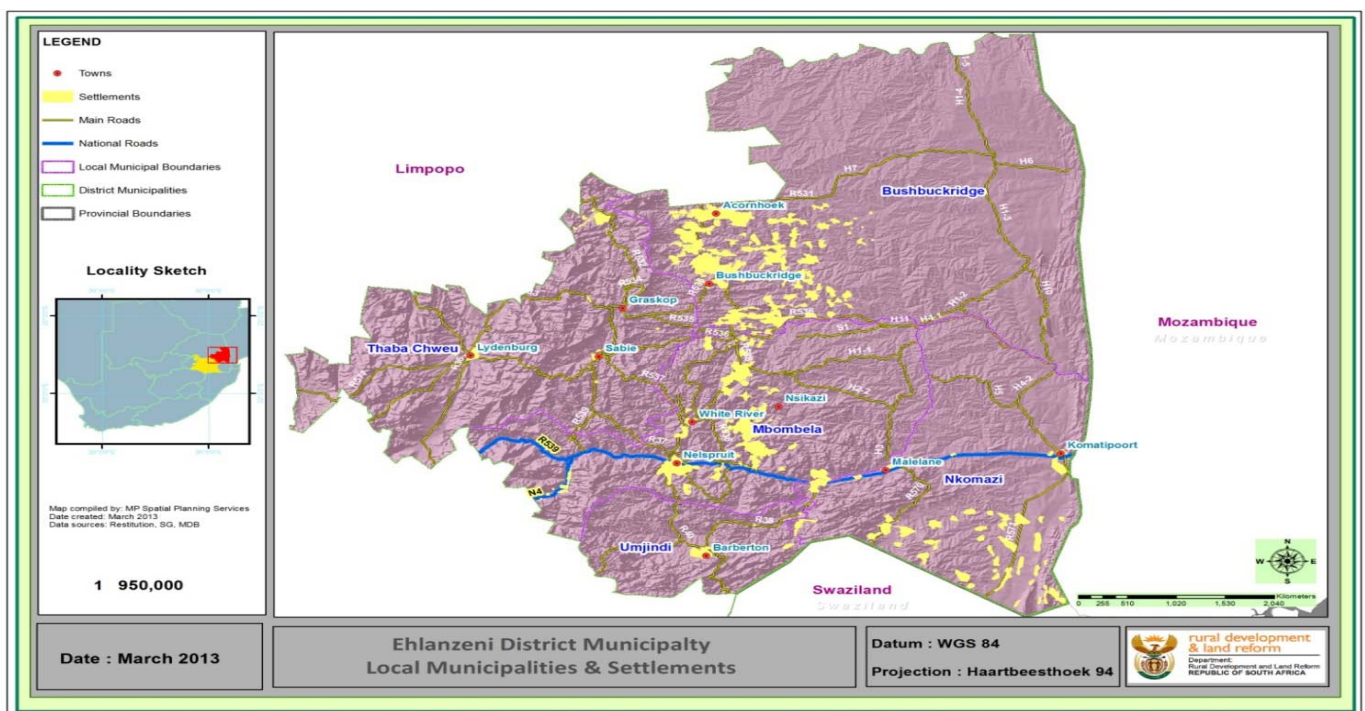
**Mbombela** Local Municipality is comprised of an area of 3 411.75 km<sup>2</sup>. The Municipality consists of Hazyview, Nelspruit, White River, Rocky's Drift, Nsikazi Area, Karino and Plaston. Mbombela is the capital city of Mpumalanga.

**Umjindi** Local Municipality covers a total area of 1 745.38 km<sup>2</sup>. It includes areas such

as Avoca, Barberton, Jambila, Joe’s Luck, Low’s Creek, Noordkaap, Bonus, Gold Mine, Emjindini, Fairview Mine, Mataffin Industrial, Sheba Mine and Verulam.

**Nkomazi** Local Municipality is 3 240.37 km<sup>2</sup> in size. Nkomazi borders both Swaziland and Mozambique. The area is rich in commercial farming activities such as sugar cane and fruit which include bananas, mangoes, citrus and papaya. The size of Bushbuckridge Municipality is 2 589.59 km<sup>2</sup> and consists of 37 wards. The area is well known for its agricultural and tourist attractions. The municipality borders Mpumalanga province and Limpopo. It comprises of Thulamahashe, Bushbuckridge CBD, Mkhuhlu, Ximungwe, Marite, and Acornhoek. Below is a map of Ehlanzeni District with the five local municipalities, (Statistics South Africa, 2003)

**4.1: Map of Ehlanzeni District Municipality Depicting Five Local Municipalities**



Source: Compiled by Mpumalanga Spatial Service (2013)

#### 4.2.1 Socio-Economic Background

Ehlanzeni District consists of five local municipalities as depicted in Figure 4.1. In the

previous dispensation before 1994; fertile and the more desirable part of the district was under white ownership. This district is characterised by a subtropical climate that is ideal for the cultivation of subtropical citrus and deciduous fruits, such as mangoes, litchis, papaws, bananas, avocados, guavas, granadillas and tomatoes. Nuts, tobacco, wood and vegetables are other crops that are grown in the Ehlanzeni area (DRDLR, 2013:40). According to a report by Statistics South Africa (2005), agriculture is a major employer in the province. The province's formal employment rate is 11% with agriculture estimated to grow to 1% of this between March 2004 and March 2005 (STATSSA Census, 2011).

#### 4.2.2 Population Size

According to STATSSA, (2003) Ehlanzeni District Municipality has a population of 1 688 616, approximately 42% of the total provincial (Mpumalanga) population of 3.6 million Table 4.1 shows the population per local municipality within Ehlanzeni District Municipality.

**Table 4.1: Population per municipality**

| <b>Municipality</b>                    | <b>Population</b> |
|--|-------------------|
| <b>Thaba Chweu</b>                     | 98 387            |
| <b>Mbombela</b>                        | 588 794           |
| <b>Umjindi</b>                         | 69 577            |
| <b>Nkomazi</b>                         | 390 610           |
| <b>Bushbuckridge</b>                   | 541 248           |
| <b>Ehlanzeni District Municipality</b> | <b>1 688 616</b>  |

**Source: STATSSA Census (2003)**

The office of the commission received and registered nine land claims on the farm Sanford 291 KU. The following section discusses experiences during resettlement of the land claim. This will explain how the Mapulana claim unfolded going forward. Furthermore, such information could be used to determine whether the implementation of the land claim succeeded, or failed to yield the intended results of

improving the lives of the poor through land reform.

## **4.3 EXPERIENCES WITH RESETTLEMENT OF CLAIMS**

### **4.3.1 Mapulana Case Study: A History of Dispossession**

The Mapulana is a rural community under the leadership of Chief M.L. Mogane. The community is known as *Mapulana Akgarudi*, which is the clan name. Chief Mogane lodged the land claim on behalf of the Mapulana community on the farm Sanford 291 KU.

The Mapulana community occupied the farm Sanford 291 KU and the adjacent farms from 1690 until 1980. Like many other rural black communities, occupation of the farm by Mapulana was based communal tenure without any legal documentation against the land they occupied. It was established during the group discussion that the first white person arrived shortly after the end of World War I. The white man settled 'peacefully' amongst the community. With the help of the locals, the white man later established farming operations. The declaration of the Natives Land Act (1913) became the basis of land dispossession. In terms of the act black people were not allowed to own a piece of land outside the reserves.

In 1935, the white man announced ownership of the farm. He ordered people on the farm to work for him in exchange for the right to stay there. An employment condition included, but was not limited to, working on the farm for a period of six months without remuneration (labour tenancy). Individuals who agreed to the offer entered into the six-month labour tenancy contract. On completion of the six-month contract each person was expected to relocate to the rural reserves established for black occupation. People who were not prepared to enter into the labour tenancy contract had to relocate to the reserves with immediate effect.

The declaration of the Native Trust and Land Act (1936) formalised the practice of labour tenancy. The purpose of the act was to control the movement of people on farms. Anyone caught staying on a farm without a valid contract was regarded as a



'squatter' and immediately removed to the reserve areas. Under such conditions members of the Mapulana community were left without any choice but to relocate to the reserves in Bushbuckridge and the surrounding areas between 1960 and 1980.

The Mapulana were taken to a barren land characterised by high population density, lack of basic infrastructure, and high levels of unemployment, hunger and poverty. They were not compensated for their dispossession, as their rights to land were not regarded as legitimate. On all accounts, indications are that the Mapulana people were dispossessed by the implementation of Chapter IV of the Native Trust and Land Act (1936). This became a basis for the Mapulana land claim (<http://www.info.gov.za>).

#### **4.3.2 Lodgement of the Land Claim by Chief Mogane**

The Sandford Community Trust is a group of people from the Mapulana tribal area, situated in the former Kangwane homeland under the leadership of Chief Mogane. Chief Mogane lodged a restitution claim for the farm Sandford 291 KU on behalf of the Mapulana community as per section 10 of the Restitution of Land Rights Act (1994). In terms of section 10 of the Act, anyone can lodge a land claim as a representative of individuals who were dispossessed of their right to land. The Mapulana community was removed from Sandford 291 KU upon the arrival of white farmers. Community members are now scattered in different villages in and around Bushbuckridge Local Municipality.

In terms of the amended Traditional Leadership and Government Framework Act (2003), chiefs are legally recognised as leaders of their own communities. Chiefs are regarded as custodians of land on behalf of the community. Members of communities consult with the chief on issues pertaining to land. A chief will then approve or disapprove occupation of any piece of land under his or her jurisdiction. Chiefs lodge some land claims on behalf of communities in their capacity as the leaders of those communities. In the Mapulana case the chief lodged a land claim as a chief and a custodian of land on behalf of the Mapulana community (<http://www.info.gov.za>).

### **4.3.3 Competing Land Claims**

There are eight individuals who lodged land claims on behalf of their respective families on the same property as the one by Chief Mogane. The eight land claimants represented people who originally came to the farm as labourers. Black people's movements on farms were previously restricted by the Labour Tenancy Act (1936). An employee would enter into an agreement with a white farm owner. This gave the employee the right to remain on the farm as long he or she was in employment. Families or individuals who did not enter into these agreements were pushed to the reserves, as per requirement of the act. Inability to work due to ill health, old age or other reasons nullified the employment agreement. The eight different families who lodged claims came to the farm as wage tenants for a period of over ten years, but they were retrenched when the farm was sold to a new owner. When the new owner took over the farm the families lost their employment and their right to stay on the farm. They were subsequently moved to the reserves. It was on this basis that the eight families lodged their land claims. In terms of section 2(1) of the Restitution of Land Rights Act (1994), the eight families qualify for restitution.

On receipt of all nine land claims, the Regional Land Claims Commission opened nine different individual files for processing. The following section briefly discusses how the office of the Regional Land Claims Commission processes land claims. A discussion of the process is important because it will allow the process to be used as a yardstick with which to assess the case study.

## **4.4. PROCESSING OF THE LAND CLAIMS**

Based on rule 3(1) of the Restitution of Land Rights Act (1994) the office of the Land Claims Commission opened nine different electronic and hard copy files on receipt of the nine separate land claims. The processing of land claims follows a specific road map, which goes through phases as follows.

### **Phase 1: Lodgement and registration**

Phase one took place during lodgement just shortly after the promulgation of the Restitution of Land Rights Act (1994) and lasted until 31 December 1998.

### **Phase 2: Screening and categorisation**

Phase two of land claim processing is known as file screening. At this stage the claim is allocated to an official for processing. An official is expected to draw the file and check the contents, which consist of a land claim form with particulars of the claimant. It is the responsibility of the official to determine whether the claim is valid or not through ensuring that all supporting documents are in place. This includes ascertaining, amongst other things, that: 1. The claim form bears a date stamp of 31 of December or earlier, and 2. That there is a brief overview of how dispossession happened and whether it was for furtherance of racial laws such as the Natives Land Act (1913), taking into account the questions of who, where and how.

A preliminary investigation is obtained on the claim's background from the elders of the claimant family or community in the form of an oral account. Preliminary field research is conducted, where the claimed area is physically visited in order for the claimant to point out historical sites that can link them to this area. This is the stage where a documentary research is undertaken. Public institutions, such as the national library, national archives, magistrates' offices and museum are visited in order to validate the land claim at hand. Upon conclusion of all the above activities, an acceptance report is prepared for signature by the Regional Land Claims Commissioner, as per rule 3 of the Restitution of Land Rights Act (1994).

The above is checked in relation to section 2(1) of the act. It is important to establish the nature of the claim in terms of whether it is a community, individual, family, or group claim. At this stage it is crucial to determine whether the claim is competing with any others or not. Furthermore, the complexity of the claims must be assessed.

Once all of the above has been established, the responsible officer will proceed with the claim to phase 3, or dismiss it as invalid.

### **Phase 3: Determination of qualification in terms of section 2 of the Restitution Act**

The land claim is now accepted as valid. Acceptance of the validity of the claim is published in the Gazette. Through the publication of the Gazette notice, interested parties are invited to comment on the claim. Even those who are opposed to the land claim are encouraged to lodge their objection publicly. A first stakeholders meeting is held where objections to and/or support of the land claim is expressed to the Commission on Restitution of Land Rights.

### **Phase 4: Preparation for negotiations**

This stakeholder consultation will indicate whether the land claim will face challenges or not. In the event where parties agree on the settlement of the land claim, a submission is prepared for ministerial approval. The claimants are work shopped on the available settlement options: land restoration, financial compensation, or alternative land. Farm owners also play a critical role in this stage. This is the stage where the farm owners willingness to sell towards the settlement of the land claim is established. In the event where a farm owner indicates willingness to sell, the office of the Commission sources the services of an independent property valuator in order to determine the market value of the property in question. Claimant verification is also undertaken in this stage.

### **Phase 6: Implementation, settlement support and development planning**

Upon approval of the settlement of the land claim by the Minister, the acquired land is registered in the name of the claimant as required by section 42(a) of the Act where it is stated that, 'where in terms of this Act, land is acquired or expropriated in order to restore or award the land to a claimant, such land vests in the state which must

transfer it to claimant.

According to section 42(c) the Minister may make the development funding available in the form of grants aimed at the development and management of the acquired property. The Minister may delegate powers to either the premier of the province or any member of the executive council in that specific province, together with the relevant municipal council. The power delegation must be made in writing. The Minister shall make funds available to the state organ to which the delegation was made for the purpose of development of the said land (South Africa Government Online, 2014). (<http://www.info.gov.za>).

The process by which officials dealt with the settlement of the nine land claims as mentioned in 4.3.2 and 4.3.3 was riddled with flaws. The eight family land claims were clubbed together and consolidated with that of the chief. It became a consolidated claim known as the Mapulana community land claim. A land holding entity, the Sanford Community Trust, was established.

An official must be able to establish the nature of the claim in phase 2 of the process, including whether it is a competing, individual, community or complex claim. Qualification criteria are outlined during this phase. Although competition was identified, the commission short-circuited the process by opting to consolidate unrelated land claims into one.

George Mathedimosa, a district manager responsible for Ehlanzeni land claims, outlines some of the factors leading to the consolidation of these claims:

### **1. Land reform policy: complex land claim**

According to Section 13 of the Act, when a community competes with other groups, which leads to difficulty in resolution as a result of complexity or any other challenge, mediation is then proposed. However, the act is quiet on what is supposed to be done when dealing with individuals or a family competing with a community or larger groups.

The land claims mentioned above fall under complex land claims. The complexity of land claims emanates from, for example, that black people historically held land communally and not individually. Under communal ownership, the chief is the custodian of land on behalf of the community. Unfortunately, those communal rights were never registered, which means that there are no records of who used to occupy which piece or extent of land before dispossession. It is then difficult to quantify individual land rights. In order to process the land claim, the department officials rely only on oral accounts and inspections of the locality where evidence in the form of ruins or graves are collected in order to determine the validity of the claim. This validation method is problematic. For example, different groups of people may have occupied the same area at different intervals. There are also those who occupied the farms before the introduction of the Natives Land Act (1913) who were dispossessed upon the promulgation of this act. Not everyone went to the reserves as soon as the 1913 Land Act was declared, but instead remained on the farms as wage tenants. Both categories mentioned above lost land rights to these farms. However, there is no guidance in the Restitution Act of how one quantifies their rights. The criteria to be employed in order to distribute the land equally are a problem. In the absence of guidance in the act, officials of the department end up using their own discretion to consolidate the individuals into the bigger community claim.

## **2. Land reform policy: land acquisition**

Land acquisition in order to settle the land claim depends on the availability of land on the market. South African land reform follows the market-led approach. Therefore, there must be a current owner willing to sell his land for the settlement of the land claim. The office of the commission depends on the willingness of the farm owner to sell. This implies that there are instances where the land acquired and restored is not the same piece that was originally lost. In most cases, the landowner releases some parts of the farm and retains others. Unfortunately, officers are not very sure of whether the farmer is going to release other pieces as time goes by or not. It is then hard to decide how the offered land is to be distributed amongst the competing land

claims. In order to strike a balance, officials of the commission consolidate all land claims lodged to the same property. However, the consolidation does not solve the problem of resettlement as it is supposed to, but instead leads to land beneficiaries fighting with each other.

Some portions of the farm Sandford 291 KU were released towards settlement of the Mapulana land claim, in accordance with the section 42D submission signed by the Minister on the 9<sup>th</sup> of March 2003. The Mapulana community claim form identified the claimed land only as Sandford 291 KU, without mentioning specific affected portions. The land parcels restored to the Mapulana Community to date is in an extent of 2322.9401 total hectares. However, agricultural productivity on the restored lands is not in a good state.

The next section is going to discuss agricultural productivity of the Mapulana farms, discussion of the Mapulana farms agricultural productivity is going to be used as a unity of analysis in order to be able to determine what causes the decline.

#### **4.5 LAND REFORM POLICY: AGRICULTURAL PRODUCTIVITY**

There is another omission in terms of phase six of the processing of the land claims, as the act does not give guidance on the following points.

##### **a) Agricultural productivity: Post-settlement support**

Phase 6 is the phase wherein a land claim is supposed to be transferred to the name of the community. By Section 42(c) of the act the Minister is supposed to make development and management grants available in order to ensure sustainability of the restored lands. In addition, the Minister is expected to delegate powers to the premier of the province or any member of the executive\_council who is supposed to ensure productivity on the restored land. In the Mapulana case study an amount of R2 400 000 (two million, four hundred thousand rands) worth of grants were approved in the same memorandum that approved the land restoration.

The grants were supposed to be transferred to the land claimants' account for the purpose of developing the farm. Both the delegation and transfer of the developmental grants was never done. Land claimants are in the dark on what has kept the government from releasing their grants for all these years. In an interview with Clement Maseko an official responsible for the Post Settlement Support Unit (SSDU) it was established that; the Restitution Act does not make provision for sustaining agricultural production on restored farms. The commission focused solely on land acquisition, which went ahead full steam without a post-settlement support programme in place. However, by 2005 serious concerns were raised by the media and agricultural unions on the apparent failure of land reform on some of the restituted farms. This prompted the department to introduce the post-settlement unit in an attempt to respond to critics of its policies. In 2007, the commissioners debated about whom was to carry out post-settlement, as it seemed to not be within the mandate of the commission. This resulted in the post-settlement unit being abolished. When the department changed its mandate to rural development and land reform, a new unit known as the Recapitalization and Development Programme (RECAP) was established in attempt to remedy the situation on the ground. Unfortunately, there is now a great backlog of farms in distress and it will take many years and much money to recapitalise them. Another challenge facing government regarding the restored farms is the minimal budget available for the recapitalisation of farms. As the backlog of farms waiting for funding is long, working within the limited funding is not helping the situation at hand.

The non-release of the grants has led to a decrease in agricultural productivity of the restored lands. The unavailability of the developmental grants means that the land beneficiaries do not have capital in order to obtain seeds, fertilisers, farming implements, and labour.

#### **b) Agricultural productivity: Poor governance relation to the restored lands**

An interview with Clement Maseko further establish that, poor governance is one of the main contributing factors to the failure of agricultural productivity on restored



farms. Property trusts and communal property associations were introduced as landholding entities and, after conveyance and the transfer of land has been finalised, they are expected to hit the ground running regarding business on the acquired properties. Unfortunately the department has not been able to assist the beneficiaries of Mapulana community and other communities with skills on how to manage and run the day-to-day operations of a farming enterprise.

After settlement of the land claim, the Mapulana community, with the assistance of the Regional Land Claims Commission, established the Sandford Community Trust to take care of the restored farm. The main objective of the trust, according to the deed of trust, is: "To acquire rights in land and immovable property, hold, develop or improve, and manage such land or property in common, for the benefit of/and on behalf of its members subject to the terms and conditions of this Trust and Restitution Settlement Agreement".

Chief Mogane, as a traditional leader and the head of the community, has a prerogative to adjudicate on land (tribal lands) issued amongst the Mapulana community. The chief was given the position of founder of the Sanford Community Trust. This entrusted the chief with two leadership responsibilities. First and foremost, as a traditional leader he has the responsibility to preside over community matters, including land issues (tribal lands). The second responsibility is as a founder of the Sanford Community Trust.

There is an ambiguity in the chief's duties as the founder of the trust, as the trust deed does not clearly spell out the responsibilities and duties of the founder. The dual role of the chief is as a result of a lack of a guidance pertaining to the role of the chief in relation to the claimed land as per the Restitution Act. In the absence of guidance, officials treated the chief the traditional way, whereby chiefs are regarded as head of the community and custodians of land. This is confirmed by the way in which the chief was elected to be the founder of the trust. In terms of the Property Trust Act (1998), a founder is someone who establishes the trust. In the Mapulana case study the trust was established with the help of the office of the commission.

In the interview with a legal officer in the office of the commission known as Thulile Mthethwa, it was argued that a property trust does not work well for larger groups or a community. Instead, it works well with private entities or, more specifically, families. She continued by indicating that the establishment of the community trusts was the brainchild of Minister Thoko Didiza during her tenure in the department. Another challenge that comes with a trust as a land holding entity is that the trusts are registered with the Master of High Court, which means that, in the event of conflict within the trust, it needs to be dealt with via the courts. Currently there are a handful of court orders that are gathering dust as no one is implementing them because of the on-going fight amongst the trustees. Although the eight competing land claims were consolidated into the Mapulana community land claim, none of the eight individual family land claimants were elected into the Sandford Community Trust. Unfortunately, the trust deed document did not cater for the interests of those families. The absence of their interests being considered is as a result of a grey area when dealing with complex land rights in the Restitution Act. The Restitution Act does not indicate a form of land ownership but instead says that land needs to be registered in the name of the community. The relationship between the trust and the chief can become blurred. There is no guidance on how the chief and the newly established entities are supposed to work together.

### **c) Agricultural productivity: Lack of input capital**

Upon approval of a memorandum to settle the Mapulana land claim an amount of R2 400 000.00 (two million, four hundred thousand rands) worth of developmental grants was approved. The grant was for the purpose of acquiring agricultural inputs such as fertilisers, seeds, equipment, and labour, amongst others. The grants were approved in 2003; however by 2014 no grants had been released for the development of the acquired pieces of land in order to facilitate development of the restituted land. The non-release of the funding has led to the Mapulana broader community accusing the Sandford Community Trust of theft as they allege that, they might have used the

money in their personal capacity behind their backs. This has led to the mushrooming of a 'concern group', which is claiming to salvage the situation. The trustees are also confused as to why it has taken so long for the input capital to be released to them. When the trustees approached the office of the commission, they found the reason for the delay of the release of the input capital, as the office of the commission argued that the money cannot be released to the community because persistent in-fighting.

#### **4.6 AGRICULTURAL PRODUCTIVITY AND ITS IMPACT ON AGRICULTURAL OUTPUTS**

Sandford, like many other farms in Ehlanzeni District in the Lowveld, has a subtropical climate, which is vital for the cultivation of subtropical citrus and deciduous fruits. These include mangoes, litchis, papaws, bananas, avocados, guavas, granadillas and tomatoes. Other crops include nuts, tobacco, wood and vegetables. The post-settlement support offered to the land beneficiaries had an adverse effect on farming and other activities. Production on the farm came to a halt.

It was further established during the interview with Clement Maseko, an official attached to the Settlement Support Development Unit (SSDU) of the Department of Rural Development and Land Reform, outlined in an interview how a lack of post-settlement support impacts on the sustainability of restored farms. According to Maseko, between 80% and 90% of farms restored from as early as 1995 are no longer in a positive state of agricultural production.

Currently the farm is in a poor state and is being vandalised. Fruit trees are producing low-quality fruits because they are withering and dying as a result of neglect. Before restitution the farm was exporting its produce internationally. Internal conflict ensues between members of the trust and beneficiaries on one hand, and amongst beneficiaries themselves on the other. The non-availability of input capital led to poor agricultural outputs, such as crops in the Mapulana case. The Sanford farm is also known for its bountiful orchards. Fruit trees must adhere to a specific routine in order

to yield growth in agricultural productivity. There is a specific period for the application of fertiliser, insecticides, irrigation and labour. In the absence of all these inputs agricultural growth in agricultural productivity cannot be realised.

The next section is an attempt to discuss the methodology followed by this study. This is important, as it sheds a light on the road followed by the study.

## **4.7 METHODS USED FOR DATA COLLECTION**

### **4.7.1 Research Methodology**

A research method is ‘...a way to systemise observation, describing ways of collecting evidence and indicating the type of tools and techniques to be used during data collection’ (Cavaye, 1996). Research methods are divided into different types, such as the case study, phenomenology, ethnography, and action research, to name but a few. This study has taken the route of empirical qualitative research in the form of a case study. The study is further substantiated by secondary data in the form of sugar cane production statistics obtained from the TSB, a local sugar milling company.

#### **Case study**

In a case study, “The investigation involves experiment rather than a laboratory experiment [that] is carried out in the natural, everyday setting where the goldsmith apprentice receives their training” (Welman, Kruger & Mitchell, 2010:87). The case study method combines more than one data-collection technique, including but not limited to face-to-face interviews, questionnaires, observations, literature review and secondary data analysis (Yin, 1994; Darke, Shanks, et al., 1998). Case studies can lead the researcher to establish an in-depth understanding of the phenomena under research.

According to Bulmer and Warwick (1983), a case study method is a technique that includes a comprehensive study of a particular situation rather than a more widely

drawn random sample of individuals. This research followed a case study method in order to gather information to be used as a unit of analysis. The researcher relied on a range of methods to collect the data. Such methods included different techniques, such as analysis of text and documents, interviews, observation, recording and transcribing of data, and focus group discussions. These methods complement each other and at no point compete with one another.

A literature review of the case study was conducted, with primary sources including project reports and any documentation concerning the lodgement of the land claim up to the time of the study, since the settlement of the claim. Key contributors to this study were community members who were organised into different focus groups (such as trustee members, women and the youth), officials from the Department of Rural Development and Land Reform (former Department of Land Affairs and Agriculture), the Regional Land Claims Commission, and the sugar milling company, Transvaalse Suiker Koperasie Beperk (TSB).

#### **4.7.2 Methodology and its shortcomings**

The Mapulana case study is an empirical field case study involving multiple techniques, such as field observation, analysis of text, interviews and group discussions. However, according to Welman, Kruger and Mitchel (2010:86) one of the shortcomings is that a field study situation is unpredictable and a researcher has no control over conditions that are subject to change.

#### **4.7.3 Rationale for the Methodology**

This study is qualitative in nature and looks at factors leading to the decrease in agricultural productivity on farms after being restored to land claimants. Qualitative methods are used, inclusive of interviews, and primary and secondary literature reviews. Steudler (2004) explains that qualitative methodology allows a researcher to produce findings without using statistical techniques. Some of the data may be quantified, but the greater part of the analysis is explanatory. For example, some

information was obtained through interviews and observations, which are both techniques associated with qualitative methods. However, information was coded in a method that allows it to be analysed statistically. Following is the rationale for the methodology used in the study:

- The nature of the research problem requires the researcher to interact with the unit of analysis through the abovementioned techniques and methodology, so that first-hand information is obtained;
- Observation of how and where events happened offers an external person's perspective, with the opportunity to collect information about unsaid things regarding a particular group. It is difficult to learn feelings, emotions and thoughts through conventional research techniques;
- There is, however, not much information written about the case study. Much of the information used in the case study was obtained from interviews with government officials and group discussions with community members. Therefore qualitative methods are effective in an exploratory study where there is not much written about the issue at hand.

#### **4.7.4 Analysis and Data Interpretation**

In order to back up the fusion of data gathered, the collected data was broken into controllable themes, patterns, trends and relationships, as suggested in Mouton (1996). Through these the researcher managed to uncover emerging trends and established themes in the data. The data analysis employed in this study is both qualitative and quantitative in nature.

#### **4.7.5 Research Results and Deductions**

The Mapulana case study attempts to highlight factors contributing to the decline of agricultural productivity on most of the restituted farms of Ehlanzeni District,

Mpumalanga province. The factors are juxtaposed against the very objectives the land reform programme seeks to achieve. A wide range of literature, including research reports and settlement agreements from the office of the Regional Land Claims Commission, were consulted in order to gain a comprehensive background to the case study.

The case study exposes some ambiguities in the objectives of the land reform programme. This programme consists of three sub-programmes, namely land redistribution, tenure reform, and land restitution. Each sub-programme is aimed at addressing a specific segment of people dispossessed of their land rights. Section 2(1) of the Restitution of Land Rights Act (1994) outlines the criteria for people entitled to restitution. These people must be originally dispossessed individuals, direct descendants of originally dispossessed individuals, and/or representatives of communities or groups of people dispossessed of their rights to land. The criteria are vague and, as such, people lodge land claims that are complex and competing in nature (Restitution of Land Rights Act, 1994).

The Act does not take into account the fact that different people occupied land at different times of their lives. Some people occupied a piece of land even before some of the portions could be subdivided into agriculture. There is also the segment of people who occupied land as labour tenants and/or employees on farms. It is important to note that forced removals occurred in different intervals. The first group of people to be removed were people who were not working but lived on the farm. In terms of the Natives Land Act of 1913, such a group was regarded as consisting of 'squatters'. Labour tenants were second to suffer the consequences of removals. In most cases labour tenants entered into an arrangement with landowners to remain on the farms. In terms of the arrangement, individuals were allowed to stay on the farm on condition they worked without remuneration. Labour tenants were not allowed to remain on farms unless at least one member of the household was employed. People who were too old to work were instantly removed to the reserves.

Wage tenants were last to be removed, as their staying on the farm was dependent on their employment. The relationship between farm owners and wage tenants was based on an employer/employee relationship. If mistrust arose between the two parties, the latter was removed from the farm and forced to stay in the reserves.

In the case of Mapulana, individuals lodged land claims in their personal capacity on behalf of their families. Meanwhile, the chief lodged a claim on behalf of the community in his capacity. The chief himself had never personally lost land rights to the farm. The eight individual families who lodged claims were wage tenants who remained on the farm long after the 'squatters' had been evicted. However, the eight families were later removed and forced to join others in the reserves. The eight families were not under the jurisdiction of the Mapulana chief

The lack of clear guidelines poses serious challenges to officials of the commission in their endeavour to implement the Act. The eight individual family claims were consolidated into one bigger Mapulana community claim with that of the chief. One of the shortcomings of consolidation is that it tends to ignore the fact that claimants do not belong together. Furthermore, consolidation causes misunderstandings and infighting amongst claimants.

In terms of section 42(c) of the Restitution Act, it becomes the responsibility of the commission to ensure that developmental grants are available to claimants. Grants are meant to assist claimants to establish farming operations. The Minister approved developmental grants in 2003. However, by 2014 no grants had been released to the Sandford Trust.

According to phase 6 of the restitution process, the Minister is required to approve the settlement of land claims. Acquired land gets registered under beneficiaries. The Minister may delegate powers to either a premier of a province, or a member of the executive council and/or a municipal council for purposes of ensuring post-settlement sustainability on restored land. This delegation must be in writing. The Minister must



also make funds available to the relevant state organ for the purpose of land development (<http://www.info.gov.za>).

However, officials of the Regional Land Claims Commission tend to deviate from the process as defined in the Act. The Mapulana land claim was settled in 2003, but by 2014 still no post-settlement support had been offered to the community. Officials of the commission deviated from the procedure as defined in the Act. Reports obtained from the office of the Commission support this and reveal that, in the Mapulana case study, the land claim was settled in 2003 with no post-settlement even up until 2014. Lack of post-settlement support led to a decrease in agricultural production. Sugar cane production statistics obtained from the TSB show a trend indicating a decrease in agricultural production on farms restored to land beneficiaries.

#### **4.8 CONCLUSION**

Upon settlement of the land claim, the Minister of the Department of Land Affairs and the trust signed a settlement agreement in which the Minister promised to release developmental grants towards the development of the acquired pieces of land. A total of R2 400 000 (two million four hundred thousand rand) of developmental grants was approved together with the land purchase for the settlement of the Mapulana land claim. The grant has not been released since the land claim was settled in 2003, to date.

The importance of the office of the premier or the designated member of the executive pertaining to the development of restored pieces of land is outlined in the settlement agreement. The office of the premier has a responsibility to assist land claimants with production on the restored farms and with the general development of the land. On the contrary, terms of the settlement agreement were not implemented. Some properties were handed over to the Sandford Trust after receiving approval from the Minister of the Department of Land Affairs. Day-to-day management of the land was placed in the hands of the trustees, despite the fact that there are no funds or training

offered to this effect. Agricultural production on the land is decreasing drastically. On the restored lands there are five lodges that have been acquired by the community. All five lodges have been leased out to third parties who in return pay rent to the trust account. The non-consultative nature of the trust has led to internal conflicts as members accuse the trustees of corruption. Fixed improvements such as houses are being vandalised.

The eight individual families whose land claims were consolidated into the one of the Mapulana community are also aggrieved, as they argue that the office of the Commission mishandled their land claims. There are a number of issues leading to this disgruntlement. Despite the fact that they were incorporated into the Mapulana land claim without proper consultation, they are not included as trustees. The non-consultative nature of the trust means that they remain uninformed of the progress or development of their land claims. In addition, trustees have been leasing out some of the properties and collecting rent, but do not account to the community. No one knows how much is being paid by those who rent the lodges and how any money is being used. This leads the individual families to feel cheated. They are now calling for the deconsolidation of their individual family claims from that of the Mapulana community. Their plea has fallen on deaf ears as the trust was registered with the High Court; and thus it is the duty of the High Court to deregister accordingly. The 'concern group' approached the court of law in an attempt to get the trust to account to the broader community. They lodged their application with the Master of the High Court, who attempted to put out the fire by including some members from the concern group as trustees. Unfortunately, the original trustees did not comply with the order as they repelled the added members. Upon this rejection, the repelled members approached the court of law for a remedy. The court attempted to appoint an interim trust, but did not succeed, as there was no cooperation by the trustees in the implementation of the court case.

The lack of post-settlement support has been identified as a key problem facing the Mapulana community. There is a lack of a clear guide or comprehensive plan on:

- How agricultural production is supposed to be sustained on the restored properties.
- How these large communities are to run their affairs without any form of capital.
- Expected support from the premiers and the SSDU, which does not materialise.
- No thorough plans are provided for obtaining capital or embarking on productive activities.
- The trust is expected to sustain the farm production without any involvement of a professional adviser from either the state or private sector.
- The Mapulana community was awarded land in full production, without farming skills and capital transfer.
- The commission only obtains the land fixed structures, without any implements in order to be able to work the land.
- The RLCC office has failed to deliver according to their settlement agreements and to ensure that the land claimants are assisted to understand the roles and responsibilities of their positions in terms of the Property Trust Act (1998).
- There is a communication breakdown between the office of the Commission and other state organs. This has made them unable to hand over responsibilities in an organised fashion.

## **CHAPTER FIVE: KEY FINDINGS AND POLICY RECOMMENDATIONS**

### **5.1 INTRODUCTION**

Chapter Four presents an analysis of data collected through a combination of different methods, as outlined in Chapter One, through which one empirical land reform case study was assessed. An assessment of the case study identified three shortcomings associated with the policy formulation approach, namely acquisition of land, post-settlement support, and governance of the restored land. Chapter Five contains a brief overview of the thesis. Section 5.2 in particular reminds the reader of issues discussed earlier in the paper, without returning to the previous chapters to verify the issues. The section attempts to further discuss gaps and recommendations for addressing those gaps. Discussion on the assessment can be found in section 5.3 and its subsections through evaluation of each and every objectives of the study. Section 5.4 recommendations of the study. Concluding remarks are being discussed in 5.5 of the study.

The following section is an attempt to discuss summary of chapters. It is important to discuss the summaries as it serves as a guide to the reader on the content of each chapter without going back to the text which is convenient as it saves time.

## **5.2 SUMMARY OF CHAPTERS**

**Chapter One:** In Chapter One the study outlines the problem facing the land reform projects in South Africa. This chapter indicates that some of the lands restored to land claimants through land reform are likely to lose agricultural productivity after being restored. The study took a closer look at projects situated at the Ehlanzeni District Municipality (Mpumalanga province).

An empirical research design in the form of a case study was chosen in order to arrive at a unit of analysis. Chapter one also provides a road map of each and every chapter discussed in the study in order to direct and/or guide the reader.

**Chapter Two:** This chapter firstly seeks to review theories on agricultural productivity in order to identify the conditions under which agricultural productivity can be attained. The concept of agricultural productivity, agricultural productivity inputs and agricultural productivity outputs are discussed. Upon conclusion of the discussion of concepts, a brief theoretical discussion is given on agricultural productivity as an attempt to draw a picture of the conditions under which agricultural productivity has increased.

Secondly, the chapter reviews land reform in an attempt to identify conditions under which land reform programmes have been successful. Thirdly, it seeks to put three concepts of land reform into context. These are the concepts of land redistribution, land tenure reform, and land restitution. Furthermore, it discusses how successful land reform can lead to sustainability. Finally, the chapter attempts to outline a framework to be used to assess the case study.

**Chapter Three:** This chapter presents a legislative framework of the South African land reform. This includes the Reconstruction and Development Framework (1994),

Constitution of the Republic of South Africa (1996), White Paper on Land Policy (1997), Extension of Security of Tenure Act (1994), Land Redistribution for Agricultural Development (1994) and Restitution of Land Rights (1994). All the above-mentioned legislations are an attempt to address inequality in land ownership in South Africa, through the land reform programme.

**Chapter Four:** This chapter introduces a case study. The introduction of the study highlights a brief overview of the scanning of the environment of the area under review. A case study of the Mapulana community who was successfully restored to the farm Sanford 291 KU is briefly discussed in this chapter. At the end the methodology followed in the study is outlined.

**Chapter Five:** Findings of the study are discussed. Chapter Five further indicates that the study is qualitative in nature. Group discussions, interviews, and a literature review from books, journals, newspapers and Internet articles form the primary data employed in the study. Secondary data is obtained from sugarcane production statistics from the TSB. Data analysis and research results are systematically discussed in order to arrive at results.

## 5.3 DISCUSSION

### 5.3.1 Findings from the assessment

The study focuses on a set of objectives which are outlined below:

***1 To present a theoretical framework by discussing the main concepts of agricultural productivity in order to identify conditions under which agricultural productivity can be attained through land access.***

Literature review outlines what agricultural productivity entails and its effect in the fight against poverty and hunger. The phenomenon of agricultural productivity has been discussed in chapter two under sections 2.2.1 to 2.3.3. In essence agricultural productivity according to Ramaila, Mahlangu and du Toit, (2011) is; the Multi Factor

Productivity and Total Factor productivity refer to a total agricultural output to a subset of agricultural inputs. It is more than one factor which plays a major role on agricultural productivity growth or decline. (Ramaila, Mahlangu and du Toit, 2011)

**Agricultural productivity inputs** are key determinants of agricultural productivity. Factors such as the farmer's innovation and ability to adopt efficient technologies are crucial to attain growth in agricultural productivity. The farmer's ability to opt for lower cost inputs, management skills, education and training, access to financial resources, and risk taking are necessary ingredients for achieving agricultural growth. Without capital a farmer will not be able to obtain inputs of farming equipment, seeds, fertilisers, water and labour. However, access to capital must be reinforced by relevant skills and education if agricultural productivity is to be realised. (AGRA, 2013)

**Agricultural Productivity Output**, according to AGRA (2013), agricultural output can be identified through the scale at which the farm produces goods such as crops and livestock. In order for a farm to yield agricultural output there are a number of issues which must be considered. These include issues such as agricultural productivity, growth, and competitiveness, physical environment, technology, policy, and macro-economic factors affecting each country. External factors include world prices of inputs and outputs, and internal trade policies within countries in international markets also have a huge bearing on agricultural productivity output. Performance of the agricultural sector is influenced by such factors (AGRA, 2013:20). It is therefore important to take into account the physical environment in order to improve on agricultural output. Policies of a particular country play a major role in agricultural output of the other.

The above is an indication that agricultural productivity depends on a number of factors. Policy makers have a responsibility to come up with policies that support farmers in raising agricultural productivity. These include but not limited to creating a conducive environment for the economy, cure market-related failures and making public goods available for agriculture. (Agricultural Productivity Growth 2014)

***2. To present a theoretical framework by discussing the main concepts of land reform in order to identify criteria for successful land reform, specifically restitution in developing countries and to explore contributing factors leading to a decrease in agricultural productivity:***

Objective two has been largely discussed in Chapter Two and Three of the research, where it was revealed that land dispossession contributed to the spread of acute poverty and hunger amongst the black rural poor. Land reform programme was aimed at bringing about change in economic status of previously disadvantaged people through helping them to access land; 2.4.1 to 2.8.1.

Chapter two sections 2.8 to 2.8 indicates that in spite of legislation governing land reform, the decrease in agricultural productivity is attributed to factors such as firstly; lack of post settlement support to the new land owners. An increase in agricultural productivity cannot be realised without farmers receiving the necessary support. According to Datar, Carpio and Hoffmann, (2009) land reform program is failing to yield intended results because land beneficiaries are not receiving support to acquire production factors such as labour, capital, advanced technologies, training and education. Delays in the provision of funding for purposes of agricultural development of restored farms could lead to a decline in agricultural productivity.

According to Du Toit (2004:79), management skills are crucial for sustaining productivity in farms. Crops must adhere to a specific routine in order to yield high agricultural productivity. Any delay or non-availability of post-settlement support will lead to a decrease or complete halt of agricultural production (Du Toit, 2004:79).

Secondly the Restitution of Land Right Act, (1994) has grey areas when it comes to communal rights ownership as per the communal tenure systems. According to AGRA, (2013) land ownership amongst black communities was communal rather than individual ownership. There was no paperwork to prove such ownership. The Act is not clear on how to deal with complex communal rights. As a result officials tend to take short cuts and consolidate competing land claims into a community claim.



Consolidations often lead to in-fighting over individual land rights. When beneficiaries are fighting amongst themselves production on the farm becomes neglected leading to a decrease in agricultural productivity of restored lands.

Thirdly according to Deininger (2003) lack of implementation standards is one other factor contributing to a decrease in agricultural productivity. There is no clear cut method for implementing land reform programme. Lack of monitoring and evaluation tool to track and monitor growth in agricultural production poses another serious challenge

According to Fraser, (2007) the Zimbabwean case serves as a classic example for lack of implementation standards to guide agricultural productivity for land reform projects. Without guidelines it is difficult to implement land reform successfully. Subsequently agricultural productivity becomes negatively affected leading to poverty and hunger.

Fourthly according to (DFID, 2004) sometimes land reform gets a stiff resistance from some sectors of the population such as landlords whose conduct could frustrate the process. Ultimately land redistribution becomes a failure and a serious threat to agricultural productivity and the fight against poverty.

It is important to bring landowners on board to support the 'willing buyer, willing seller' principle. South Africa was trying to avoid the Zimbabwean style land reform style of land grab. Through the 'willing buyer, willing seller' approach farms are acquired through sale negotiations based on the current market value of the land in question (Lahiff, 2007).

***3. To investigate and discuss the contextual and legislative framework guiding land reform in South Africa specifically the current land reform programme and its implementation in rural areas:***

Objective three is discussed at length on the third chapter of this report from subsection 3.2 to 3.7. The roots of land dispossession could be traced from as early

as 1488 up until 1994. Before 1994, access to land was based on skin colour. Only 7, 3% of land was made available for black occupation in terms of the Native Land Act, (1913). In terms of the Act blacks were not allowed to buy or own land outside the reserve area. Black residential areas outside the reserves within the so-called white areas were regarded as black spots and were targets for force removals. Meanwhile white people were also not allowed to own land in the reserves. The Native Land Act, (1913) is seen as a foundation for territorial segregation. Black people were left with no land regarded as a production tool. Land reform came into being as an attempt to address the legacy of the Native Land Act, (1913).

Land ownership in South Africa took a turning point in 1994. A series of legislation governing land reform were passed. These include the Reconstruction and Development Programme (1994), the Restitution of Land Rights Act (1994), the Constitution of the Republic of South Africa (1996), the White Paper on Land Policy (1997), the Extension of Security of Tenure Act (1997) and Land Redistribution for Agricultural Development (1998).

Land is important for agricultural production According, AGRA report (2013). Most people in Sub-Saharan Africa depend on agriculture for livelihoods. There is a strong relationship between the availability of land and agricultural productivity. Such a relationship if not properly managed could lead to poverty and hunger. However there are challenges associated with the implementation of land reform programs. The following challenges have been identified by this research:

**a) Policy formulation gaps**

In terms of good practice assessment policy formulation must follow a bottom-up approach with the participation of landowners and beneficiaries. Furthermore land reform researchers such as Deininger (2003), argue that land reform must be incorporated into a broader rural development policy. This calls for a high level of policy transparency and capacity development of beneficiaries. A successful land reform is dependent on an inclusive implementation strategy.

#### **b) Restitution of Land Right Act and its ambiguity in land acquisition**

There are serious legislative gaps pertaining land acquisition. In terms of the Restitution Act each land claim is entitled to be treated on its own merit. Practically there are instances where there are more than one claim lodged on the same property. Subsequently the claims end up being consolidated into one community claim during land claims processing by the officials.

Consolidations of claims according to the AGRA report (2013) are as a result of a grey area in the Restitution Act with regard to complex communal land rights. There are cases whereby different individuals or groups occupied the same pieces of land in different intervals. However it is difficult to verify individual land rights due to lack of documentation as proof of land ownership. This makes it difficult to implement land acquisition equitably without disadvantaging one group over the other. These gaps and challenges are bound to cause community strife. Government officials find themselves facing a dilemma as they accused of mishandling some land claims in favour of those who are powerful such as traditional chiefs in expense of the poor women in particular. It is important that policy makers in future take into consideration the issue of overlapping land rights existing amongst black communities.

#### **c) Unclear role of Chiefs in terms of restituted lands**

In rural communities chiefs are held in high esteem as heads of their communities. In terms of the Traditional Leadership and Government Framework Act (2003), traditional leaders are legally recognised. Chiefs are, according to custom, custodians of land on behalf of communities within their jurisdiction. They are responsible for adjudicating on issues of traditional land ownership. It is the chief who must grant permission to use or occupy land to individuals or groups. The existence of the framework coupled with the absence of clarity of the Restitution Act on the role of chiefs concerning restituted land result in officials assuming that chiefs are custodians of land on behalf of the broader community and subsequently consolidate individual land claims onto that of a chief.

It is therefore important for policy formulators to take into account issues of addressing gaps in policy which seek to address rural development, communal land tenure and land holding institutions. Improvement in policy formulation could lead to a success in land reform implementation which could help reduce poverty and hunger.

#### ***4. To assess implementation of the land restitution programme in the Mapulana case study in the Ehlanzeni District, Mpumalanga:***

One of the objectives of land reform is to “*contribute towards an equitable redistribution of land rights*”. An assessment of the implementation of the Restitution of Land Rights Act, as per the Mapulana case study, indicates that approximately 2322.9401 hectares of land were restored. This in itself was positive development pertaining land restitution.

Through the Mapulana case study it is established that, despite the availability of a legislative framework on land reform, there are gaps in the manner in which policies are being implemented at project level. Beneficiaries are given huge tracts of prime agricultural land without skills, operational capital and farming implements. As initially discussed growth agricultural productivity depends on a number of issues including farmer assistance and support. Without assistance farmers are unable to obtain inputs such as labour, capital, technologies training, seeds, fertilizers and irrigation system. In the absence of such important inputs a farm is unlikely to succeed in agricultural productivity. Decrease in agricultural productivity on restored farms defeats the mandate of land reform: eradication of poverty and hunger. This aspect was intensively discussed in 3.2 to 3.7. Policy makers need to pay attention to giving beneficiaries of land reform some form of post settlement support to ensure that agricultural productivity of restored farms is sustained.

Another serious shortcoming in land reform implementation is illustrated in the manner in which officials of the Regional Land Claim Commission (Mpumalanga) dealt with the Mapulana community land claim.

##### **1. Processing of the land claim**

Gaps in implementation of land reform programme in South Africa have identified and outlined hereunder:

**(i) Land reform policy: Complex land claims**

The Mapulana case exposes policy formulation that is top-down in its approach. Such an approach indicates lack of beneficiary participation in the process. It was established from the literature review in section 2.4.4 that land reform has shortcomings when it comes to issues of customary tenure system. The issue of the nine competing land claims that were unduly consolidated into one community land claim without proper consultation with the affected families' causes' community strife.

According to the AGRA report (2013), consolidation of competing land claims is as a result of the Restitution Act being ambiguous when addressing issues of customary tenure. In such a case land is held collectively by lineages and families and is marked by complex multiple and overlapping rights. Customary tenure systems are not egalitarian in nature. Some groups are favoured at the expense of others. Women are discriminated against in favour of men, the rich and the powerful. Ghana, Uganda, Liberia and South Africa are classic examples of countries where women are discriminated against when it comes to land tenure. Black communities' lack of a recognised ownership documentation as proof for land ownership is a serious challenge.

This proves to be a serious challenge in establishing the extent of land rights. A lot must be done to formulate and implement egalitarian land reform in communal areas. However complexity of different rights within communities must be observed and respected. National land policies are currently irrelevant in addressing access to land under the customary system.

**(ii) Land reform: Land acquisition**

The Mapulana case study exposes another policy gap pertaining land acquisition. As stated in section 4.4, settlement of a land claim depends on the acquisition of land

which in turn relies on the availability of land in the market. The South African land reform follows a market-led approach. In order for such a transaction to succeed there must be a current land owner who is willing to sell his / her land. The Land Claim Commission therefore depends on the willingness of a farm owner to sell his/her to the state in order to settle a land claim. In most cases a landowner releases parts of a farm and retains others. Unfortunately officials are not sure whether a farmer will release other pieces of land in the near future. It becomes difficult to decide how the offered pieces of land are to be distributed amongst competing land claimants. Officials of the commission would then resort to consolidation of all land claims lodged on the same property to try and strike a balance. Consolidation of claims does not resolve the resettlement problem as it should and instead it leads to in-fighting of beneficiaries.

## **2. Agricultural Productivity: lack of post settlement-support**

According to Ramaila, Mahlangu and Du Toit (2011), agricultural productivity is a ratio of agricultural outputs such as crops or livestock, compared to the inputs such as labour, fertilisers, seeds, farming equipment and land. Enough inputs can lead to an increase in outputs, which mean there is a growth in agricultural productivity. When there are not enough inputs, this automatically leads to no growth in outputs and this can be interpreted to no growth or decrease in agricultural productivity.

Literature review in a form of secondary data in a form of sugarcane production statistics reveal that there is a decline in agricultural productivity in most of the farms restored to land reform beneficiaries. Figure 1.1 outlines a decline in agricultural productivity on farms restored to land beneficiaries. This is illustrated through secondary data on sugar cane production statistics obtained from the TSB. The data depicts that high producing farms are likely to experience a certain degree of decline in agricultural productivity after restoration to land beneficiaries. This decline is as a result of a lack of post-settlement support.

According to Hall (2007:29), post-settlement support is very important in order for land reform beneficiaries to be able to successfully participate in commercial

agriculture. Beneficiaries were restored to farms with full production as an on-going concern. The Mapulana community like many other black communities has a poor socio-economic background with little or no education. They never participated in commercial agriculture at any stage of their lives before their land restoration. The farms were transferred to the Mapulana without inputs such as management skills, labour, fertiliser, seeds or farming equipment. These inputs are crucial for farms in production to sustain their productivity. Crops adhere to a specific routine to yield high agricultural productivity. Any delay or non-availability of post-settlement support leads to a decrease or complete halt in production.

An interview with Clement Maseko in section 4.5 of the study exposes challenges imposed by lack of post-settlements support in farms acquired through the restitution programme. According to Maseko, about 80% of farms restored to land beneficiaries are non-productive. In the Mapulana case the land was restored to the community in 2003, and to date there has been no input capital released for the development of the restored lands. Production on the farm has decreased, the trees are producing less quality fruits and other trees are drying out. The Mapulana case study confirms that there is a decrease in agricultural productivity on farms restored to land reform beneficiaries.

### **3. Agricultural productivity: Poor governance on the restored land**

An interview with Clement Maseko in 4.5 illustrates poor governance as a main contributing factor of a failure of agricultural productivity on restored farms. Property trusts and communal property associations were introduced as landholding entities. After conveyance and transfer of land has been finalised land holding entities are expected to hit the ground running regarding business on acquired properties. Unfortunately the department has not been able to assist the beneficiaries of Mapulana community and other communities with skills on how to manage and run day-to-day operations of a farming enterprise.

As a traditional leader and the head of the community it is Chief Mogane's prerogative to adjudicate on land issues amongst the Mapulana community. The chief was

appointed as a founder of the Sanford Community Trust. The Chief was entrusted with two leadership responsibilities. First and foremost as a traditional leader he has the responsibility to preside over community matters, including land issues (tribal land). The second responsibility as a founder of the Sanford Community Trust is not clearly defined in the Trust Deed document.

The dual role of the chief is as a result of the lack of a guidance pertaining to the role of the chief in relation to the claimed land as per the Restitution Act. In the absence of guidance officials tend to “give” chiefs more powers whereby chiefs are regarded as head of the community and custodians of land. In terms of the Property Trust Act (1998) a founder is someone who establishes a trust. In the Mapulana case study the trust was established with the help of the office of the commission.

In an interview with a legal officer in the office of the commission, Thulile Mthethwa, it was argued that the property trust work well in private entities such as families as opposed to larger groups or communities. She indicated that establishment of community trusts was a political decision imposed by Minister Thoko Didiza. Agricultural Productivity and Lack of Input Capital

In section 4.5 of the research indicates that on approval of a memorandum to settle the Mapulana land claim an amount of R2 400 000.00 (two million, four hundred thousand rands) worth of developmental grants were approved. The grant was for purposes of acquiring agricultural inputs. Grants were approved in 2003. However by 2014 nothing was released for the development of the acquired pieces of land. Non-release of funding led to the Mapulana broader community accusing the Sanford Community Trust of theft. Subsequently a ‘concern group’ emerged within the beneficiaries. The trustees did not understand why it took so long for input capital to be released. The Trust approached the office of the commission which responded that funding could not be released to the community due to persistent in-fighting amongst beneficiaries.



## **5. Decrease in agricultural productivity and its impact on beneficiary livelihoods**

Like many farms in Ehlanzeni District Stanford in the Lowveld has a subtropical climate vital for cultivation of subtropical citrus and deciduous fruits such as mangoes, litchis, papaws, bananas, avocados, guavas, granadillas and tomatoes. Other crops include nuts, tobacco, wood and vegetables. The post-settlement support offered to the land beneficiaries had an adverse effect on farming and other activities. Production on the farm came to a halt.

It was further established during the interview with Clement Maseko, an official attached to the Settlement Support Development Unit (SSDU) of the Department of Rural Development and Land Reform, outlined in an interview how a lack of post-settlement support impacts on the sustainability of restored farms. According to Maseko, between 80% and 90% of farms restored from as early as 1995 are no longer in a positive state of agricultural production.

Currently the farm is in a poor state and is being vandalised. Fruit trees are producing low-quality fruits because they are withering and dying as a result of neglect. Before restitution the farm was exporting its produce internationally. Internal conflict ensues between members of the trust and beneficiaries on one hand, and amongst beneficiaries themselves on the other. The non-availability of the input capital led to poor agricultural output such as crops in the Mapulana case. The Sanford farm is known for its orchards, wherein fruit trees must adhere to a specific routine in order to yield growth in agricultural productivity. There is a specific period for the application of fertiliser, insecticides, irrigation and labour. In the absence of all of these inputs, agricultural growth in agricultural productivity cannot be effective.

Policy makers must be able to use such an assessment in order to strengthen policy formulation on land reform implementation.

***5. Recommendations based on the above findings to improve the implementation of the land restitution programme and to contribute to increased productivity:***

**5.4 RECOMMENDATIONS**

The following recommendations are proposed following this research:

1. It is recommended that the Restitution of Land Rights Act (1994) be amended to clearly reflect post-settlement support issues.
2. The Commission must make sure that all claimants are treated equally during the processing of land claims. Much must be done to dispel the notion that chiefs get preferential treatment when it comes to land claims. A chief is not supposed to benefit by virtue of being a chief even though he had lodged a claim on behalf of his community unless he too was personally affected or lost rights to land on the land in question.
3. Project planning and implementation need to be carefully handled, and the office of the Commission needs to ensure that the project is transferred to the office of the premier or any delegated member of the executive council, including the municipal council under which the land is situated, as stated in the Act.
4. In addition, the department should avoid generalised assumptions regarding the capability of land beneficiaries when participating in agricultural production for the market, and collective enterprises should only be supported where consensus has been reached between beneficiaries. In addition, all stakeholders must agree on the monitoring and evaluation tools to be used. Land beneficiaries need to be thoroughly trained before the actual land restoration and on a continuous basis.

## **5.5 CONCLUSION**

This study set the tone of, and made an input to, the on-going debate on land reform in South Africa. It reviewed existing land reform theory in order to identify conditions under which land reform programmes are successful. Secondly, it reviewed the policy and legislative framework as well as the strategic programme mandate for land reform programmes in South Africa. By including the Mapulana case study, the research tries to find a straight definition of how the success or failure of the land reform programme impacts on the lives of the poor. The Mapulana community is an attempt to tell the tale of how the loopholes of the land reform policy lead to shortcomings in implementation by the officials of the commission.

Land reform alone cannot act as a panacea to the intensely rooted problems of poverty and hunger faced by the rural poor in areas such as Mpumalanga province. The findings offered in the study are an indication that agricultural production is likely to be very low for the land reform beneficiaries, more so because of their lack of skills in terms of human resources, lack of capital in the form of agricultural inputs, and lack of support by state organs. However, agriculture still stands out as a best option for employment creation based on the situations faced by the rural poor. A number of people found in rural areas have slim chances of getting formal employment in other sectors due to age, family responsibilities, or lack of necessary skills. Land reform is thus very important for the advancement of the lives of the poor.

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