

**Impotence and Omnipotence:
Problematizing the Articulation of Anthropological Perspectives
within the Land Restitution Process**

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ABSTRACT

This dissertation attempts to illustrate to what extent applied anthropologists operating within institutional contexts can effectively articulate their anthropological perspectives in order to contribute towards effecting positive social change. In order to explore the above thesis, I have reflected upon and analysed my role as an applied anthropologist in an effort to inform and advance an understanding of the strengths and limitations of this role. Accordingly, I have reflected upon my experiences during a three month research internship which I served at the Commission on Restitution of Land Rights (Western and Northern Cape), working on the Ndabeni Land Restitution Claim.

Through reflecting upon my own inability to appropriately incorporate anthropological perspectives within the Ndabeni Land Restitution process, I was able to identify two constraints within the institutional context of the Commission on Restitution of Land Rights (Western and Northern Cape) which served to paralyse these perspectives. I concluded that applied anthropologists are simultaneously rendered impotent and omnipotent to articulate their perspectives. This can be attributed firstly to the role applied anthropologists play within the institutional context, and secondly, to the type of knowledge that the institutional context requires applied anthropologists to produce.

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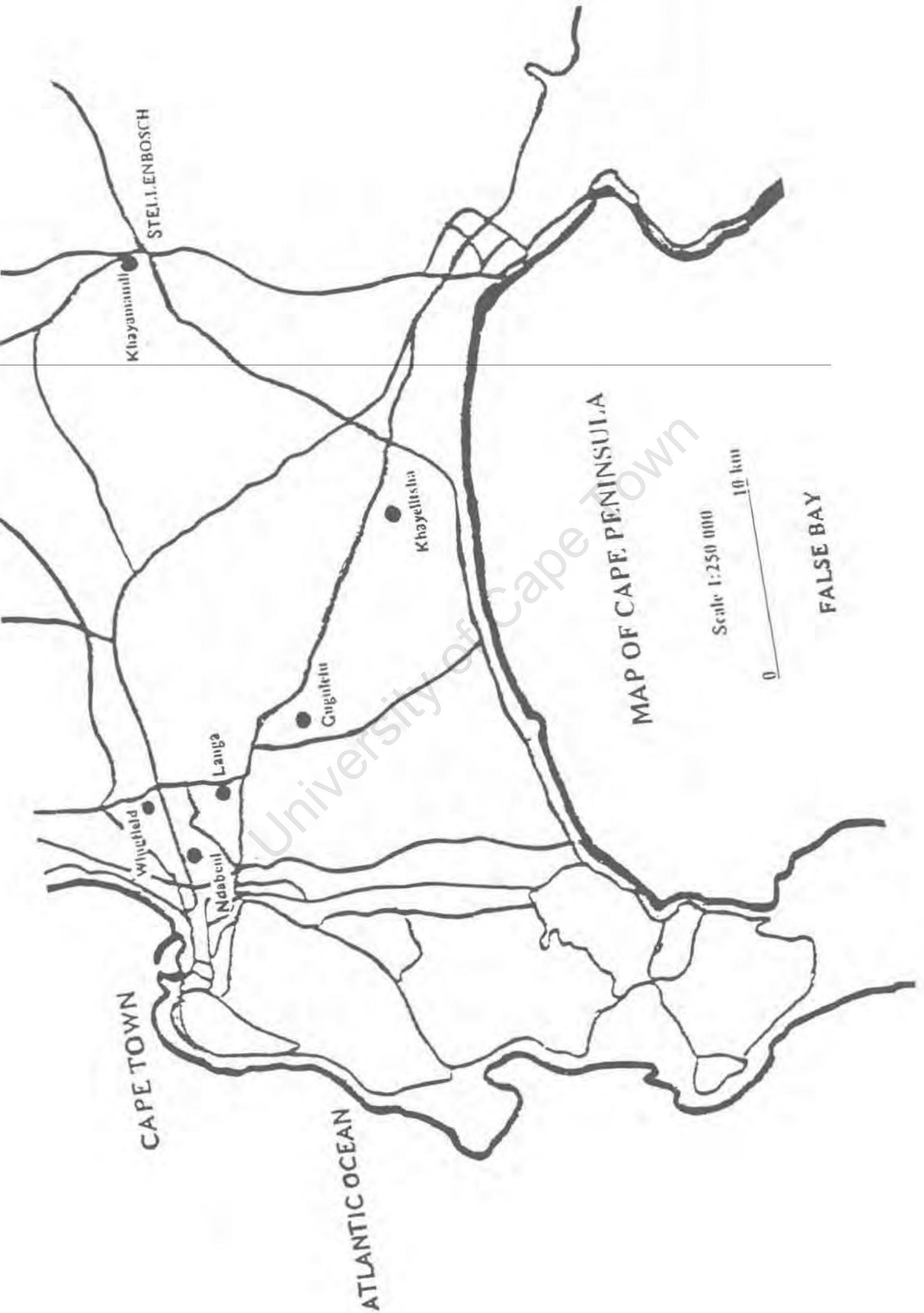
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CAPE TOWN

ATLANTIC OCEAN

Khayamathi
STELLENBOSCH

Wynfield

Ndabeni

Langa

Guguletu

Khayeltsha

MAP OF CAPE PENINSULA

Scale 1:250 000



FALSE BAY

University of Cape Town

INTRODUCTION

The consolidation of a truly democratic post-apartheid South African society lies not only in the dismantling of the apartheid state apparatus, but in the active redress of the injustices of the past and a broad-based socio-economic development programme for the future. Land restitution falls neatly within the ambit of this consolidatory process, as it is intended to reconcile the past inequities of racially-based land dispossessions, and through this act, to foster appropriate reconstruction and development for those individuals and/or communities affected by such past legislation.

The *White Paper on South African Land Policy* (1997) estimates that more than three and a half million people and their descendants have been victims of racially based dispossession and forced removals, thus prompting a great need for a land restitution process in post-apartheid South Africa. To facilitate the process of land restitution, the *Restitution of Land Rights Act, 22 of 1994* was enacted, and a national Commission on Restitution of Land Rights was established in 1995. This dissertation reflects upon my research internship experience at the regional Commission on Restitution of Land Rights (Western and Northern Cape) during 1996, where I was employed to research the Ndabeni Land Restitution Claim.

Land Restitution and Anthropology

As an anthropologist, I recognised that my perspective could play a positive role within the land restitution process, specifically with regard to the two primary objectives of the process: developing the future and reconciling the past¹. With respect to the former, it is widely acknowledged (Nolan, 1984; Porter et al, 1991) that an anthropological perspective can facilitate the planning and implementation of a sustainable development programme on two levels. Firstly, through its emphasis on

¹ "Anthropologists share a common perspective - a set of inter-related attitudes, orientations, and skills - which although not unique to our discipline as individual elements, does form a distinctive approach when taken as a whole" (Nolan, 1984: 363).

the heterogeneous nature of communities, and the subsequent diversity of needs of the 'intended beneficiaries', the anthropological perspective can result in a development programme which is appropriate to the varied needs of people in the targeted community. Secondly, anthropologists encourage a participatory development framework within which the intended beneficiaries are empowered sufficiently to direct the development process. Through this empowerment, the intended beneficiaries can assume ownership and responsibility for the success of the development programme. Coupled together, an anthropological emphasis on diversity and participation can positively enhance processes such as land restitution through the facilitation of sustainable development.

The second objective of the South African land restitution process pertains to its ability to redress the injustices of the past. Given the judicial-legal nature of the land restitution process, a thorough knowledge of the past is required for the purposes of establishing the validity of land restitution claims. An anthropological perspective is beneficial to processes for uncovering the history of these injustices, as it acknowledges the importance of giving audience to those voices previously muted within mainstream historical accounts, and of accepting these accounts as 'valid' (Seymour-Smith, 1986; Tonkin, 1992). This perspective locates the recording and documenting of history within the locus of personal 'truths' and lived experiences, thereby emphasising the primacy of a 'people's own' representation of history. Within the ethos of truth and reconciliation, it is essential that the voices of the victims of the injustices (i.e. forced removals) are acknowledged and recorded.

Armed with these three perspectives - uncovering diversity within 'communities'², encouraging participatory development, and representing the voice and experience of local people within a construction of their history - I felt that I would be able to make a positive contribution to the land restitution process, given anthropology's potential for "understanding, defining, bringing people together, and creating some harmony in a world riven with conflict and hatred" (Ahmed and Shore, 1995:33).

² I shall refer to the term 'community' as such in recognition that a 'community' is not a homogeneous or co-operating entity. See chapter two for a full discussion concerning the nature of 'community'.

Anthropology and Self-Reflexivity

This thesis questions whether I was able to make this positive contribution, or whether my perspective was paralysed by both the institutional context in which the land restitution process operates, and the nature of applied anthropological knowledge produced within this context? Gardner and Lewis concur with this thesis's approach, stating that it is extremely important to unravel and deconstruct the role of the applied anthropologist if we are to make politically meaningful contributions to the worlds in which we work so that we may continue to reflect upon the vital connection between knowledge and action (1996:153). It is thus important for us as *applied* anthropologists to reflect upon our contribution and not to be indifferent or uncritical about what it is we do. Given the real consequences of our contributions, we are ethically bound to reflect upon and discuss these issues. Political reflexivity is therefore central to improving our own knowledge production processes, or at the very least, to understanding their limitations and the challenges we face. Applied anthropologists are continually attempting positive social change and they need constantly to reflect on its successes and failures.

Chapter Outline

As I have stated above, this thesis questions the ability of the applied anthropologist to adequately apply his/her perspective in an attempt to effect positive social change. It is based upon my personal experience at the Commission on Restitution of Land Rights (Western and Northern Cape). In order to arrive at an answer, I examine my role within the institutional context, and the type of knowledge that I produced within this context.

Chapter one provides a brief descriptive sketch of my involvement in the land restitution process, tracing my association with the Commission on Restitution of Land Rights (Western and Northern Cape) from my initial voluntary engagement until

the conclusion of my research internship. The chapter also presents a general overview of the process of land restitution in South Africa and the Ndabeni Land Restitution Claim in particular.

In chapter two, I explore the positive role that applied anthropologists can play within the land restitution process, with specific reference to their ability to contribute towards a sustainable 'bottom-up' development programme within an *institutional context*. This chapter focuses on the anthropological perspectives of uncovering diversity and encouraging democratic participation, and our ability to articulate these perspectives within the land restitution process. Each of these two perspectives are dealt with separately. I firstly discuss how the uncovering of diversity is able to contribute to a sustainable resettlement and development programme (Gardner and Lewis,1996), before examining how such an anthropological approach may be hindered. I initially consider the impact of the dominant development discourse in this regard (Escobar,1992; Spiegel et al,1995; Gardner and Lewis,1996). I then reflect upon my role or position as an applied anthropologist within an institutional context. Whilst an applied anthropologist may be able to articulate their perspective of uncovering diversity, the institutional empowerment of the applied anthropologist determines the extent to which this articulation will inform decision-makers (Nolan,1984; Grillo and Rew,1985). I argue that due to my role as a mere researcher, I was not empowered to close the gap between the production of knowledge and its application.

Secondly, I discuss the ability of applied anthropologists working within an *institutional context* to promote the democratic participation of 'communities' within development programmes (Nelson and Wright,1995). I highlight the positive contribution that such a perspective can have for a sustainable resettlement and development programme, before reflecting upon my research internship at the Commission. I discuss, in this reflection, the undemocratic nature of participation and how, despite the democratic participatory nature of the rhetoric and legislation pertaining to the land restitution process, and my articulation for the need for such participation, that undemocratic participation was neither recognised nor addressed

by the Commission (Wright,1995; Gardner and Lewis,1996). Again, as was my experience above, the contribution of an anthropological perspective was curtailed within the institutional context. As such, I conclude that the applied anthropologist when in the role of researcher can be viewed as impotent to effectively challenge the dominant development discourse of 'top-down' development.

The third chapter examines the *nature of applied anthropological knowledge* with specific reference to its utility. For applied anthropological knowledge to be of value, it must be useful. The chapter addresses the impact that the utility requirement had on the type of knowledge that we ultimately produced (Chambers,1985). Reflecting upon the type of knowledge that was produced concerning the history of forced removals from Ndabeni, the chapter discusses how an anthropological-ethnohistorical perspective (Seymour-Smith,1986; Tonkin 1992) was given secondary importance behind a traditional mainstream historical approach in order to provide the end-users of our research with knowledge which had a high utility value (Pitt,1972; Clifford,1988). I conclude that the 'utility' nature of knowledge production inherent in the demands placed on the applied anthropological enterprise constrained our ethnohistorical perspective. Consequently, rather than representing a history of the Ndabeni through the voices of victims, I helped to write an authoritative, dominant historical account of their experience, thereby presenting myself as omnipotent (Henriksen,1985; Maybury- Lewis,1985; Van Esterik,1985).

I conclude that, whereas the anthropological perspective has the potential to positively inform the land restitution process, the perspective suffers a paralysis due firstly to the role applied anthropologists play within the institutional context (Escobar,1995); and secondly due to the very nature of applied anthropological knowledge (Chambers,1985). We therefore need to assess our simultaneous impotence and omnipotence within applied anthropology in order to understand the political implications of what it is that we do. If we find ourselves in a position where we either have limited power to effect positive change or where we have so much power that we ultimately perpetuate the very systems and ideologies of domination that we wish to redress, then our role as applied anthropologists should be reassessed. Through such

an exercise, it is hoped that we can arrive at a synthesis between impotence and omnipotence, thereby allowing the applied anthropologist to realise the full potential of his/her perspective.

University of Cape Town

CHAPTER ONE

THE LAND RESTITUTION PROCESS

Involvement in the Land Restitution Process

Whilst studying towards a Masters degree in Practical Anthropology at the University of Cape Town in 1996, I became involved in a voluntary capacity at the Commission on the Restitution of Land Rights (Western and Northern Cape)³. The initial two-week volunteer period evolved into a three month research post, which served to satisfy the internship component of the Masters degree.

In fulfilment of the Masters degree in Practical Anthropology, we were required to attend a course on Advocacy in Anthropology, which involved a practical component. Acting on a suggestion from our professor, we elected to complete our practical requirement at the Commission in October, 1996⁴. We were assigned to the claimant registration office for the Ndabeni Land Restitution Claim in Langa, Cape Town, for a period of two weeks⁵. The Ndabeni Land Restitution Claim is a communal claim made by former Ndabeni residents and their descendants. The claim was lodged with the Commission in June of 1995, and accepted as legitimate by the Commission on the grounds that the residents of Ndabeni had been forcibly removed under the racially motivated *Amendment No. 25 of 1930 to the Natives (Urban Areas) Act No. 21 of 1923*, which legalised the forced evictions of residents from Ndabeni on health grounds⁶.

³ The Commission on the Restitution of Land Rights (Western and Northern Cape) shall hereafter be referred to as the 'Commission'.

⁴ 'We' refers to a colleague from the Masters programme and myself.

⁵ Langa is a 'township' on the outskirts of Cape Town. It is the area that was built by the City Council to replace Ndabeni. As such many of the former Ndabeni residents and their descendants live there.

⁶ See appendix "Final Report" for a full description of the history of the forced removals from Ndabeni.

Our primary task was to administer a structured questionnaire to potential claimants. This questionnaire was divided into three sections. The first section sought to establish the claimants eligibility for land restitution and centred on biographical information regarding the claimants connection to Ndabeni. The second section focused upon the claimants present socio-economic conditions in order to inform a potential resettlement and development programme. Finally, the third section posed a series of open-ended questions which facilitated the accessing of oral testimonies from claimants regarding life in Ndabeni, and the impact that the forced removals had on their, or their families lives. In addition, we were asked to give feedback to the Commission regarding our progress with the claimant registration process. Thus we began to foster a working relationship with several key permanent staff members of the Commission.

During the two-week period we registered approximately two hundred potential claimants. In the interim, we recognised that the above mentioned questionnaire was both inadequate and inappropriate in several key areas. In particular, the questionnaire did not reconcile the nature of several euro-centric categories with locally appropriate understandings of relevant variables. For example, a euro-centric legal approach to kinship and descent would not acknowledge informal adoption as a valid or legitimate relationship. We raised these concerns during a report-back meeting at the Commission, and were encouraged by a staff member to submit a list of recommendations on how the utility of the questionnaire could be enhanced. Consequently, we produced a report (Broadbridge and Gordon, "Concerns Report", November 1996) which detailed problematic areas within the questionnaire and recommendations for their rectification.

At the end of the two-week period we were approached by a Commission staff member who offered us internship positions as researchers on the Ndabeni Land Restitution Claim. Three overlapping factors precipitated the offer, namely: time constraints and pressures upon the Ndabeni Land Restitution claim; an inadequate

number of potential Ndabeni claimants⁷; and an acknowledged value in the anthropological perspective we could shed on the Ndabeni Land Restitution process. In addition, we brought fresh enthusiasm and determination to an otherwise stagnant land claim.

TIME CONSTRAINTS AND PRESSURES

The Ndabeni Land Restitution claim had been lodged with the Commission and verified by the Commissioner (Eastern and Western Cape) almost fifteen months prior to our involvement. The restitution process had since appeared to have lost momentum and all the major role players in the restitution claim, namely: Commission staff members; the mediator appointed to the Ndabeni Land Restitution claim; members of the Interim Ndabeni Land Restitution Committee; as well as Ndabeni Land Restitution claimants; were becoming frustrated with the lack of progress. The perceived inertia was attributed to the lack of a comprehensive list of all former Ndabeni residents and/or their descendants, without which the claim could not proceed effectively. It became apparent that in order for the claim to proceed timeously, two full-time researchers would be required⁸.

INADEQUATE CLAIMANT NUMBERS

Commission staff members and the appointed Ndabeni Land Restitution mediator had expressed a concern that the number of Ndabeni Land Restitution claimants who had registered in the initial registration period did not constitute an adequate representation of the postulated claimant population consisting of former Ndabeni residents and their descendants. Historical records state that, at the time of the forced removals, between 1927 and 1936, the Ndabeni population stood at approximately six thousand inhabitants. In contrast, only three hundred claimant forms were registered during the fortnight in which the claimant registration office for the Ndabeni Land Restitution claim was open, in Langa. There was concern that should the registered claimant population be unrepresentative, the Ndabeni Land Restitution Claim would

⁷ Based on calculations on the number of people who were forcibly removed from Ndabeni, the initial number of registered claims were felt to be unrepresentative of this former Ndabeni population and their descendants.

⁸ See page ?? for a full discussion on the land restitution process.

be in danger of being rejected by the Land Claims Court. In order to satisfy the court, the Commission would have to show that sufficient time and resources had been allocated to have gained access to as large a claimant population as possible, thereby to have facilitated an adequate representation of former Ndabeni residents and/or their descendants within the Ndabeni Land Restitution Claim. The Commission decided that two full-time researchers were required to re-open the Langa claimant registration office, as well as open additional claimant registration offices in Guguletu and Khayelitsha in Cape Town and Kayamandi in Stellenbosch⁹. The researchers were also required to organise a publicity campaign, at local and national level, in an attempt to access potential claimants. My colleague and I were offered research internships in this regard.

AN ANTHROPOLOGICAL PERSPECTIVE

Certain Commission staff members had recognised that as anthropologists, we could bring a social element and understanding to the Ndabeni Land Restitution claim, as was evident in the report that we had previously submitted (Broadbridge and Gordon, "Concerns Report", November 1996). The report illustrated how our anthropological perspective could enable us to gain an understanding of several key issues and assumptions. For instance, we were able to reconcile the Eurocentric nature of the legal categories of eligible claimants with locally appropriate understandings of relevant variables (Research Proposal, November 1996).

Funding

At the time that we were offered internships as researchers for the Ndabeni Land Restitution claim, we were told that funding would be made available by the Commission. However at a subsequent meeting a week later, we were informed that, due to a lack of funding for research positions, the Commission would not be able to

⁹ Guguletu, Khayelitsha and Kayamandi are 'townships' within the greater Western Cape area were former Ndabeni residents and their descendants currently live (See map: page vi).

provide funds for our internship positions¹⁰. It was suggested by Commission staff members that we write up a research proposal requesting funds from the Cape Town Olympic Bid Committee given a joint interest in the Wingfield Estate by both the Interim Ndabeni Restitution Committee and the Olympic Bid Committee.

Whilst the Olympic Bid Committee had earmarked Wingfield Estate as the site to be developed for the main Olympic Stadium and Olympic Village should the Cape Town bid for the 2004 Olympic games be successful, the Interim Ndabeni Restitution Committee had also chosen a portion of Wingfield Estate as their preferred alternative land for resettlement. The claimants cannot be resettled in Ndabeni as, following the forced removals, the land was developed as an industrial site. The two parties had previously discussed their differing objectives for Wingfield Estate and had concluded that there was no conflict of interest between them. Given the joint interest in Wingfield Estate, we contended in our proposal that it would be mutually beneficial to all parties concerned for the Ndabeni Land Restitution claim to proceed in a manner which was rapid and comprehensive (Research proposal, November 1996).

It was decided by the chief regional land claims Commissioner (Western and Northern Cape) that the research proposal for the Cape Town Olympic Bid Committee would be sent from the offices of the Commission. In the interim, the Commission was able to secure extra funding and took our research proposal itself. The result was that the Cape Town Olympic Bid Committee was never formally approached.

Research Brief

The research brief that we received from the Commission was a verbal one, based exclusively on the discussions held between ourselves and the Commission's staff during our initial two-week volunteer period and the subsequent meetings which centred around our prospective internships and the funding thereof. From these

¹⁰ Whereas internships served as a component of the Masters degree in Practical Anthropology are usually undertaken on a voluntary basis, Commission staff members and our professor felt that due to the nature of our particular internship, we should be remunerated financially.

exchanges, we inferred that our research undertaking would involve the location and registration of a credible list of Ndabeni Land claimants, compiling a socio-economic profile of the Ndabeni claimants and their kin to be resettled for development purposes, and undertaking investigative research to establish the historical circumstances under which the former residents of Ndabeni were forcibly removed.

We utilised the verbal brief as the basis for the research proposal intended for the Cape Town Olympic Bid Committee. The research proposal afforded us the opportunity to strengthen the Commission's brief in the following ways: firstly, we were able to concretise and capture the discussions between ourselves and the Commission in a written document; secondly, we were able to map out the processes and procedures necessary to prepare the Ndabeni Land Restitution Claim for the Land Claims court; and thirdly, we were able to inject an anthropological perspective into the Ndabeni Land Restitution claim, thereby introducing a sociological perspective into the legal-centred land restitution process. This research proposal was subsequently accepted by the Commission as our working brief.

CREDIBLE LIST OF CLAIMANTS

The successful completion of the restitution process requires a credible and comprehensive list of legitimate claimants which is presented to the Land Claims Court. The claimant list establishes who is eligible for land restitution. The credibility of the claimant list therefore forms the legal basis of the restitution process in accordance with the Restitution of Land Rights Act 1994. Whilst the Act stipulates the legal criteria governing eligibility, we employed broader socially-appropriate criteria of kinship and descent (e.g. informal adoption) in order for the claimant list to be acceptable to both the Land Claims Court and the Ndabeni 'community' (whether the Land Claims Court will accept locally-defined criteria for eligibility remains to be seen). The Ndabeni Land Restitution claim has proved to be a special case for the Commission due to the fact that the claimants registered thus far include descendants of second and third generation former Ndabeni residents which makes the compilation of the Ndabeni claimant list increasingly complex.

SOCIO-ECONOMIC PROFILE

The land restitution process is seen as providing an opportunity to initiate a process of re-integration, reconstruction and development of urban areas; sustainable development should be the hallmark of successful land restitution (White Paper on South African Policy, 1997). Resettlement and development projects have often failed, due, *inter alia*, to the reluctance of development agencies to appreciate the significance of diversity, power structures and conflicts, historical circumstances, life experiences and skills of the people in the community. Given this, both the Commission staff members and ourselves as researchers stressed the need for a thorough socio-economic profile of the Ndabeni claimants and their descendants who are to be resettled.

The data for the socio-economic profile was gathered from the Ndabeni claimants through the structured questionnaire administered initially by ourselves, and later by research assistants¹¹. The socio-economic profile will inform the formulation of a socially and economically viable resettlement and development programme, sensitive to the diverse needs and multifarious expectations of the Ndabeni 'community'. This socio-economic profile will comprise an integral component of the Ndabeni Land Restitution referral document to be submitted to the Land Claims Court. In addition, the socio-economic profile shall be made available to the Department of Land Affairs who are charged with the task of resettlement and development of land restitution claims.

HISTORICAL OVERVIEW

The land restitution process seeks to redress the injustices of past land policy and legislation. The Land Claims Court demands detailed evidence regarding the historical circumstances of the forced removal and its social and economic impacts on individuals and 'communities', in order to satisfy the legal nature of the land restitution process. Furthermore, the Ndabeni Land Restitution claim was being

¹¹ Research assistants were recruited primarily from the Ndabeni claimant 'community' in order to assist in the administering of the questionnaire. We were able to foster limited 'community participation' and capacity building in this regard.

queried as a legitimate land restitution case by independent parties external to the Commission. It was therefore crucial for us to establish the historical circumstances under which the former Ndabeni residents had been forcibly removed.

Our research uncovered the historical details surrounding the establishment of Ndabeni in 1902, the way of life of the residents of Ndabeni, and the forced removals from Ndabeni in the late 1920s and early 1930s. This historical evidence was accessed through both archival research and oral testimony from former Ndabeni residents and their descendants during the administration of the structured questionnaire. The historical research forms an essential component of the Ndabeni Land Restitution referral document to be submitted to the Land Claims Court.

The above section serves to inform the reader as to how I became involved in the Ndabeni land restitution claim. The following section provides a general overview of current South African land reform policy, before focusing specifically on land restitution.

Land Reform Policy

The importance of land reform in South Africa arises from the extent of land dispossession experienced by black people under white colonial and apartheid rule. Accordingly, the White Paper on South African Land Policy (April 1997:11) asserts that the primary motivation for the government's land reform measures is therefore to *redress* the *injustice* of land dispossession and *alleviate* the *impoverishment* and *suffering* that colonial and apartheid rule caused.

There are four main objectives to the government's land reform policy: firstly, to *redress* the *injustices* of apartheid; secondly, to foster national reconciliation and stability; thirdly, to underpin economic growth; and finally, to improve household welfare and alleviate poverty (White Paper on South African Land Policy, 1997:v). It is anticipated that meeting these objectives will help facilitate conditions of stability, both at a national and household level. It is further anticipated within the Land Reform Policy that this stability factor will be an essential component for the advancement of *sustainable* growth and development in South Africa (White Paper on South African Land Policy, 1997).

The White Paper on South African Land Policy (1997) is the culmination of a lengthy consultative process. Initially, the ANC's Reconstruction and Development Programme (RDP) (1994) provided a set of working guidelines and principles for the formulation of a land reform policy and programme. Following the RDP's directive, a series of land reform policy debates were held which included input from ordinary citizens as well as other interested parties. Consequently, views expressed within these debates were incorporated into the Green Paper on Land Policy. The Green Paper was forwarded for public review and comment, thereby promoting transparency and public participation as envisaged by the RDP. Finally, the Department of Land Affairs published the White Paper on Land Policy in April 1997 (White Paper on South African Land Policy, 1997:1).

There are three sub-programmes that fall under the government's land reform policy, namely: land restitution, land redistribution and land tenure reform. This dissertation however will concern itself exclusively with land restitution, given that this is the arena in which we conducted our research internship.

Land Restitution

This section focuses on the following four key components of the land restitution process, namely: the motivational context for land restitution; the acts and structures which serve to facilitate the restitution process; the claimant qualification criteria; and finally, the different forms that restitution can take.

RESPONSIBILITY TO RESTORE LAND RIGHTS

According to the White Paper on South African Land Policy (1997:29), "forced removals in support of racial segregation have caused enormous suffering and hardship in South Africa and no settlement of land issues can be reached without addressing such historical injustices". The White Paper estimates that more than 3,5 million people and their descendants have been victims of racially based dispossession and forced removals, thereby prompting a great need for land restitution¹². It is the goal of the land restitution policy, where possible, to restore land or provide other restitutionary remedies to those people dispossessed by racially discriminatory laws. In turn, land restitution will lend support to the process of reconciliation, reconstruction and development within South Africa (White Paper on South African Land Policy, 1997:52).

¹² Since the establishment of the Commission on the Restitution of Land Rights in 1995, 14 898 cases have been lodged, of which 12 130 are urban claims (White Paper on South African Land Policy, April 1997:10).

ACTS AND STRUCTURES

This sub-section addresses the legislative acts and structures designed to facilitate the process of land restitution. The *Restitution of Land Rights Act, 22 of 1994*, provides for the “restitution in rights of land in respect of which persons or communities who were dispossessed under or for the purpose of furthering the objects of any racially based discriminatory law” (Human Rights Report, 1996:17). The legislation details the procedures and manner in which claims must be made and how they should be dealt with by the Commission.

Furthermore, two structures have been established to facilitate the process of restitution. The first, the Commission on Restitution of Land Rights was established in 1995, charged with the task of receiving, investigating and taking claims forward to the second structure, the Land Claims Court. The Court is responsible for ratifying agreements which have been mediated by the Commission as well as arbitrating in cases where no agreement can be reached between interested parties (e.g. between divergent factions within a communal land claim). The power of the Land Claims Court lies in its ability to determine restitution, compensation, and rightful ownership (Human Rights Report, June 1996:17).

QUALIFICATION CRITERIA

According to section 2 of the *Restitution of Land Rights Act*, a claim will be accepted for investigation if it fulfils the following criteria: if an individual or ‘community’ has been dispossessed of a right in land after 19 June 1913¹³ as a result of racially discriminatory laws or practices.

The above act acknowledges that racial laws may have prohibited certain claimants from maintaining legal rights to land ownership. As such, a potential claimant may

¹³ June 19, 1913, is the date when the *Native Land Act* was promulgated. It heralded the formal adoption of territorial segregation as the leading principle of post-Union land policy. The 1913 cut-off date recognises that systematic dispossession predated the post-1948 grand apartheid era of legally sanctioned forced removals (White Paper on South African Land Policy, April 1997: 55). It fails, however, to recognise earlier processes of land dispossession during the colonial period before the establishment of the Union of South Africa in 1910.

have a land right which is either registered or unregistered. Therefore, land restitution is not limited to ownership rights solely recognised by law, and may include certain long-term tenancy rights and other occupational rights (White Paper on South African Land Policy, April 1997:54).

FORMS OF RESTITUTION

Restitution can take the following forms:

- restoration of the land from which claimants were dispossessed;
- provision of alternative land;
- monetary compensation;
- alternative relief comprising a combination of the above; or
- priority access to government and land development programmes
(White Paper on South African Land Policy, April 1997: xi).

Critiques of the Commission on Restitution of Land Rights

The Human Rights Report (1996) outlines difficulties experienced by the Commission on the Restitution of Land Rights on two levels: intellectual and operational.

INTELLECTUAL DIFFICULTIES

The *Restitution of Land Rights Act 22 of 1994* appears to be lacking in clarity. For instance, the intended meaning of a 'right in land' has not been made explicit (Human Rights Report, June 1996: 18). Moreover, there is lack of clarity regarding who is entitled to speak on behalf of the dispossessed 'communities' when communal, rather than individual, claims are being lodged¹⁴. The representation of a land restitution claim may therefore perpetuate existing power relations such as class and gender relations, thereby undermining democratic practises (Human Rights Report, June 1996). The Human Rights Report also criticised the lack of scope given in the legislation to the restitution of land being a participatory process (see chapter 2) (Human Rights Report, June 1996: 19)

¹⁴ See chapter two for a detailed description and analysis of this issue.

OPERATIONAL DIFFICULTIES

The Human Rights Report (1996) identifies a number of operational difficulties stemming from a lack of capacity and autonomy within the Commission on the Restitution of Land Rights. For instance, the report states that the lack of capacity will act as a constraint on the amount of archival research necessary. Archival research is central to assessing the veracity of a claim. Furthermore, the proximity of the Commission on the Restitution of Land Rights to other government departments (e.g. the Department of Land Affairs) jeopardises the ability of the Commission to operate independently of supra-departmental guidelines and legislation.

Conclusion

This dissertation intends to reflect upon my experience within land restitution in order to assess the ability of anthropological perspectives to inform this process in a positive manner. I felt it imperative to precede such an analysis with an overview of the nature of my involvement within this process, as well as a description of land restitution policy, its acts and structures. With this descriptive framework in place, I now proceed to my analysis.

CHAPTER TWO

THE POLITICS OF KNOWLEDGE PRODUCTION

Restitution, Resettlement and Development

The *Restitution of Land Rights Act No. 22 of 1994*, provides for restitution to people dispossessed of land rights, after 19 June 1913, as a result of a racially discriminatory law or practice. The Ndabeni Land Restitution Claim has been accepted in this regard by the Commission as qualifying for restitution under the above criteria. Although restitution may take several forms¹⁵, the majority of Ndabeni land restitution claimants have chosen resettlement as their preferred choice of compensation.

A positive outcome of the Ndabeni Land Restitution Claim will both redress discriminatory practices of the past, and act as a catalyst for the socio-economic upliftment of the Ndabeni 'community', in line with the objectives of the Reconstruction and Development Programme. Therefore, land restitution in the form of resettlement can serve as a major catalyst for development. As such, whilst the Commission is concerned primarily with land restitution, its objectives fall within the greater ambit of development.

It is widely acknowledged by anthropologists (e.g. Nolan,1984; Porter et al,1991; Gardner and Lewis,1996) that the anthropological perspective can facilitate the planning and implementation of a sustainable development programme on two *inter-related* levels. Firstly, through its emphasis on the heterogeneous nature of communities, and the subsequent diversity of needs of the 'intended beneficiaries', the anthropological perspective can result in a development programme which is appropriate to the varied needs of the 'community'. Secondly, anthropologists encourage a participatory development framework within which the 'intended

¹⁵ See page 18, "Forms of Restitution".

beneficiaries' are empowered sufficiently to direct the development process. Through this empowerment, the 'intended beneficiaries' can assume ownership and responsibility for the success of the development programme.

Coupled together, this anthropological emphasis on diversity and participation can positively enhance the land restitution process through the facilitation of sustainable development. This chapter explores whether it was possible for these two anthropological perspectives to be articulated within the restitution process, or whether they were constrained by the context of the development enterprise.

Diversity

As mentioned above, an anthropological emphasis on the heterogeneous nature of communities has the potential to contribute to a sustainable development programme as it is able to illuminate the diverse needs and requirements of the intended beneficiaries. This anthropological perspective places a premium on diversity and the primacy of localised experience, emphasising that intended beneficiaries of the development enterprise are internally differentiated and thus do not necessarily hold shared needs and interests. For example, in the case of the Ndabeni claimant 'community' electing resettlement, we found that,

like all communities, the Ndabeni community is fundamentally heterogeneous and internally differentiated. In so far as *differential* opportunities will be afforded by the development process, and in so far as a *differential* impact of the development process on the residents is to be expected, the following variables deserve consideration: gender; age; occupation; economic wealth; social values; education/training; politics; religion; and finally future aspirations and the meaning attributed to settlement in a new Ndabeni community (Broadbridge and Gordon, "Final Report, 1997a).

During the time we spent visiting and conducting informal discussions with potential Ndabeni land restitution claimants, and participating in and observing their respective 'community' environments, we were able to gain an insight into how the above variables influenced their expectations of resettlement. Through our participant observation and informal interactions, we became aware of claimants' social and economic concerns with regard to both their present and future living conditions. Whilst they may have a shared history, they have a dissimilar present, and more than likely, different needs and interests for the future.

For example, one man spoke to us of his anxiety that he and his wife, both of whom are pensioners, would not be able to afford the trappings of a house in the new Ndabeni settlement, whilst another man remarked that if it had not been for the forced removals from Ndabeni, he would be living in Constantia¹⁶ today, and as such, saw the restitution process as a means to this end. The second man, who owned several successful businesses, foresaw his restitution in the form of a 'riverside mansion' in Wingfield Estate. Whilst the first man needed affordable housing, the second had the financial capacity to build his 'dream home'. A second example concerns the meaning given to the restitution process. Many of the older claimants who had themselves lived in Ndabeni expressed a desire to rebuild and recreate their past Ndabeni lifestyle and sense of community within the new settlement. However, younger claimants, who had only been indirectly affected by the forced removals from Ndabeni, viewed restitution as a catalyst for their social mobility. These two examples illustrate the diversity in both needs (e.g. housing) and interests (e.g. social mobility) amongst the Ndabeni claimant 'community'.

It is therefore apparent that an anthropological perspective which uncovers diversity can have a very significant effect on sustainable development as it is able to debunk any perception of a common homogeneous 'community' and 'people in need of development'. In contrast, the dominant development discourse is lacking in such an approach, and anthropologists working within an applied context routinely find their perspective paralysed by this discourse. I therefore find it useful to begin my

¹⁶ Constantia is a predominantly 'upper middle class' area in Cape Town.

discussion concerning my ability to articulate my anthropological perspective within the above polemic.

Development Discourse

According to Foucault there is a distinct relationship between discourse and power (cited in Gardner and Lewis, 1996:21). Discourse has been defined as the “idea that the terms in which we speak, write and think about the world are a reflection of wider relations of power and, since they are also linked to practise, are themselves important to maintaining that power structure” (Gardner and Lewis, 1996:xii). Discourses of power are often presented as objective and ‘natural’ when in essence they serve to construct subjects or populations in particular ways, thereby enabling those with authority to exercise power and control over these constructed populations. Hence, Foucault argues, the production of knowledge is embedded in relations of power and as such will always be intrinsically political: “the criteria of what constitutes knowledge, what is to be excluded, and who is qualified to know involves acts of power” (Foucault cited in Gardner and Lewis, 1996:71).

From within this Foucaultian framework Escobar (1992) has formulated a critique of development (social planning). Central to his critique is the perspective that the nature of development is essentially an exercise in social engineering, which is realised through the use of the development discourse. This discourse, is fundamentally rational in nature as it requires categorisations which group people and/or experiences together. These rational categorisations neutralise diversity by normalising and standardising social realities. It is this act that casts political suspicion upon the development enterprise (Spiegel et al, 1995; Wright, 1995; Gardner and Lewis, 1996).

Escobar (1995) argues that the politicised context of the development enterprise described above places limitations on anthropologists and the knowledge that they are able to produce whilst working within it. He claims that although anthropologists are able to access local perceptions, their interactions from within the context of

development institutions effectively constrain them from doing nothing more than “describ[ing] these local perceptions in terms of the professional categories of rationality thereby neutralising the diversity of social reality” (Escobar cited in Gardner and Lewis, 1996:157). Accordingly, Escobar argues that anthropologists working within the development enterprise are unable to accurately portray the social realities of ‘intended beneficiaries’ as they are categorised according to specific criteria: “people’s lives at the local level are transcended and objectified when they are translated into the professional categories used by institutions. In short, local realities come to be greatly determined by these non-local institutional practises, which thus have to be seen as inherently political” (Escobar, 1992:140).

Development Discourse and the Land Restitution Process

Contrary to Escobar’s (1995) conception of the rationalisation and ‘bureaucratisation of knowledge’ within the development discourse, the Commission was open to our anthropological perspective regarding the need to highlight the diverse nature of the Ndabeni ‘community’ to be resettled. Representation of diversity was able to find voice through the writing up of a socio-economic profile¹⁷. The reasons were two-fold.

Firstly, as Walzer argues in his critique of Foucault, a distinction is not articulated by Foucault between democratic and authoritarian states, as the democratic state is capable of ‘good’ or at least ‘better’ government (i.e. just or fair rule) (cited in Spiegel et al, 1995:10). Democratic states may differ from authoritarian states regarding their acceptance of qualitatively different kinds of information. With the new dispensation within South Africa, racially exclusive apartheid rule has been replaced with non-racial democracy. Moreover, land restitution, which is encompassed under a broader land reform policy, falls under the rubric of healing, reconstructing and developing a nation devastated by years of apartheid injustices. The ‘cause’ of restitution is

¹⁷ There are obvious limitations to the accurate representation of diversity within the written form, as the very act of writing forces the construction of information in a rational form. For a further discussion see Spiegel et al (1996) *Speaking Truth to Power* (unpublished paper).

therefore premised to positively benefit and uplift those previously faced with undue hardship, and the Commission, as an agent of restitution, is open to information that will facilitate positive results to reach its restitutive ends. The Commission may thus be viewed in this positive 'democratic' image.

Secondly, as Gardner and Lewis (1996) contend, discourses are not homogenous and static. They argue that within the development enterprise there are several countervailing perspectives and practises as well as a multiplicity of voices. Development policy decision-making is an often a dynamic, complex and heterogeneous process. Anthropologists can therefore find spaces within which to debunk oppressive representations and practices and place alternative questions on development agendas, thereby internally transforming development discourses (1996:78). These spaces were readily apparent within the Commission as the structure, policy, and process (especially with regard to research focus and procedure) of land restitution is in its infancy. As such, whilst legislation appears to contain a blueprint for land restitution, it is ultimately little more than a guideline.

For instance, the Commission staff member with whom we were primarily liaising had herself studied anthropology and was therefore receptive to our ideas, recognising the benefit that our perspective could bring to the restitution process. She identified with our need to represent the Ndabeni 'community' as a diverse collective, and continuously encouraged us to pursue our research accordingly. Due to a lack of defining legislation pertaining to the content of a socio-economic community profile (i.e. quantitative or qualitative data), we found sufficient flexibility to define, collect and represent the type of knowledge which we felt was appropriate in order to effect the sustainable resettlement and development of the Ndabeni 'community'.

The dominant discourse can therefore be, as our experience showed, dynamic and open-ended. As the land restitution process was still in its infancy, it had not yet developed rigid procedural practices or rules, and we were fortunate to find a

'sympathetic ear' within the institution¹⁸. For these reasons, we were able to represent the diversity of the Ndabeni 'community' in the socio-economic community profile.

Representing Diversity

The data required to inform a Ndabeni socio-economic 'community' profile was gathered using a structured questionnaire which was administered by the research assistants at the various Ndabeni claimant registration offices to potential Ndabeni land restitution claimants..

According to Gardner and Lewis (1996:43), applied anthropologists are influenced by anthropology's holistic approach to social and economic life which stresses an interrelatedness that is often missed by other practitioners. Such a holistic anthropological perspective reveals hidden and complex realities and diversities which have a bearing on sustainable resettlement and development-based work. Chambers concurs, arguing that "human events should be viewed in the larger contexts in which they naturally occur" (1985:3). Furthermore, he states that much of the meaning which people attribute to their lives is specific to their cultural surroundings, and that therefore almost any collection of *quantitative* data generated from an interview, questionnaire, census or other source requires a "strong supporting mass of contextual, descriptive information" (Chambers,1985:3).

Consequently, the Ndabeni socio-economic data was analysed using both quantitative and qualitative research methodologies. Using the multiple variables (i.e. gender; age; occupation; economic wealth; social values; education/training; politics; religion; and finally future aspirations and the meaning attributed to settlement in a new Ndabeni community), and placing them within particular social, political and economic contexts in which they were both structured and experienced, we attempted in our

¹⁸ Recognising this lack of research direction within the land restitution process, the Commission on Restitution of Land Rights is currently compiling a set of standard operating procedures for future research.

final report to the Commission, to integrate what is important to know (i.e. contextually) with what is known (e.g. statistically):

Economic Indicators

When analysing economic indicators, it is appropriate to think in terms of reliability of income, as this can shed light on what different people can afford at different times, given the social and economic context in which they participate.

Social Context

Giving an actual income per household has little meaning unless it is accompanied by an understanding of the domestic situation in which this income is operationalised, for example in the complex and dynamic context of 'household'. The present household size of the claimants ranges from 1-23 people with the average being 4.77 people per household. The size varies throughout the year as members enter and leave for longer periods of time, for example, due to work or education commitments elsewhere in South Africa. The monthly household income may in some instances represent the gross earnings of several members which are pooled to different degrees. It may also be a monthly household income of one pensioner who supports several dependants. A significant proportion of female pensioners testified that their pension of R430 per month supports not only themselves but also grandchildren and great-grandchildren and that they regularly went without food, especially in the latter half of the month.

Thus, income in a domestic context is situational and relative to the dependency ratio which is the number of dependants (children and un-/underemployed) to the number of income earners (salaries or grants), as well as to the intra-household dynamics, especially in terms of control over resources and decision-making.

Economic Context

The present context of instability of employment and income also has implications for planning for the Ndabeni resettlement and development project. Underemployment, i.e. when people have given up seeking regular work because of high unemployment but who undertake part-time work or jobs with inadequate pay, is prevalent among the claimant population, especially the women. It is characterised by seasonality as well as economic forces beyond the control of the worker and has very real implications for long-term savings and planning.

Thus, especially when planning the housing types and sizes in the new Ndabeni community it is imperative that allowances are made for the differing financial capabilities of the employed, unemployed and underemployed members of the claimant community.

Employment

The adult population (19 years and up) is 1215. Information is available for 847 of these (= 70%). They may be disaggregated into the following categories:

	Number	Percent
Employed	409	48 %
Unemployed	141	17 %
Grant recipient (pension/disability)	173	20 %
In tertiary education	124	15 %
Total	847	100 %

The available data also shows that the community includes 30 artisans (plumbers, builders, bricklayers, painters etc.); 25 people with administrative training, 28 teachers, and 43 health workers (medical and psychiatric nurses, traditional healers, social workers etc.). The socio-economic, political and symbolic value of employing members of the

community to re-build the Ndabeni community should not be underestimated.

Income

Out of 408 households, information is available for 269 (= 66%).

Monthly income bracket	Number of households	Percentage
Up to R900	93	35 %
R901 - R1500	55	21 %
R1501 - R2000	85	31 %
R2001 - R3000	21	8 %
R3001 - R6000	15	5 %
Total	269	100 %

It can be seen that 56% of households earn less than R1500 p.m. Given the dependency ratio discussed above and the rising costs of living, this figure suggests that many families are battling financially. Thus, while people may have expectations about obtaining better housing and services in the resettled Ndabeni community, it is likely that many of them will continue to struggle unless their circumstances are taken into account and provisions are made to alleviate and accommodate for this.

As explored above, the community is internally differentiated. Therefore, it must be ensured that the housing and services provided are affordable to all members of the new community. It must also be recognised that people have different aspirations for the future; these should be given voice in a legitimate forum where the more powerful can not manipulate projects to their benefit at the expense of others (Broadbridge and Gordon, "Final Report", 1997a).

As the report shows, a normalising and standardising picture of social reality, within the dominant discourse of development, would not have effectively portrayed the diverse needs and interests of the Ndabeni claimant 'community'. The anthropological perspective was able to deliver and interpret a 'truer' reflection of this 'community'.

However, the reporting of diversity does not guarantee that it will be recognised during the planning and implementation phases of a resettlement and development programme. If the knowledge generated concerning the diversity of the Ndabeni 'community' is not utilised in the 'final analysis', we, as anthropologists, still fall victim to a paralysis of our perspective. The proceeding section discusses the potential factors which act to limit the inclusion of our anthropological perspective within the latter stages of the Ndabeni Land Restitution process.

Constraints Upon Diversity

At the time of writing, the Ndabeni Land Restitution claim has not progressed beyond the research analysis we undertook. Therefore, I am only able to speculate as to how/if our report will be utilised in the planning and implementation phases. However, considering my close involvement with both the Commission in general and the Ndabeni claim in particular, a relationship which has lasted almost a year, I feel that my speculations are grounded in experience.

Whereas we were 'allowed' to conduct our research utilising our anthropological perspectives, there are no guarantees that our perspective will find voice in our absence. This absence occurs on two levels: an absence of 'power' and a physical absence. Firstly, the *role* that we played within the Commission - that of researcher - is a position of "generally low status and only peripheral input" (Nolan, 1984:366). We are thus unable to participate in the decision-making process of planning and implementing the resettlement and development stages. We were thereby rendered ineffective in ensuring that the knowledge we have produced has bearing on the resettlement and development process. As Grillo and Rew (1985) state, the customer-contractor relationship is one in which the customer (e.g. the Commission) has the *power* to define what is and is not. Therefore although we were able to *inform* the development process we are *powerless* to *form* it. Applied anthropological work, even when it is of a very high standard, is only as good as its ability to influence, directly or indirectly, those who hold or seek to hold power (Gardner and Lewis, 1996:133).

Furthermore, our physical absence acts to amplify our impotence. This absence is twofold. Firstly, due to the contractual nature of our employment (i.e. three months), we are able to give voice to our research for only a limited time within the Commission. Secondly, the socio-economic profile of the Ndabeni claimant 'community' leaves the Commission once the claim has been settled in the Land Claims Court. The Department of Land Affairs (DLA) then takes possession of the socio-economic profile as it is the agency mandated to devise the resettlement and development strategy. Without active lobbying, it is possible that the profile may never be incorporated into the resettlement and development programme for the following two reasons. Firstly, it was often my experience at Commission meetings that an issue would be raised and revisited which had been adequately addressed in the Final Report, leaving me with the distinct impression that the Report had not been read or internalised by those closest to the Ndabeni Land Restitution Claim. To quote the popular idiom: "You can lead a horse to water but you cannot make it drink".

Secondly, whereas the Commission staff were open to our anthropological perspective regarding the heterogeneity of the Ndabeni 'community', and its subsequent impact on a sustainable resettlement and development programme, it is possible that the DLA may not take a similar approach as that department is ultimately responsible for planning and implementing the above programme. As the Commission does not share this responsibility, it does not need to actualise the implications of diversity, whilst the DLA needs to factor pragmatism into the resettlement and development programme.

If our perspective is to be paralysed by our impotence, that is, our inability or powerlessness to give voice and actively lobby for our anthropological perspective to be recognised and incorporated into the planning and implementation stages of the resettlement and development programme, one feels compelled to ask what the ethical implications of involvement are if the social categorisations of 'intended beneficiaries' which serve to perpetuate relations of domination between the 'developers' and those being 'developed' persist. This ethical dilemma, argue Spiegel et al, places anthropologists on a double-edged sword: "damned if we do - the sin of

commission, of acting effectively as agents of the state - and damned if we don't - the sin of omission, of failing to act at all" (1995:9).

Participation

Pretty and Scoons assert that for development to be sustainable, "planning will have to begin with the people who know most about their own livelihood systems. It will have to value and develop their knowledge and skills, and put into their hands the means to achieve self-reliant development" (1995:157). This anthropological perspective or orientation relocates judgements about risks, uncertainty and options into the hands of the 'intended beneficiaries' most likely to bear the consequences of resettlement and development decisions, thereby reducing potential uncertainties whilst increasing sustainability (Porter et al, 1991:202).

Accordingly, anthropologists working within the development context should be facilitating ways for the 'intended beneficiaries' to have a voice in the development process, as opposed to predicting what is 'best' for them (Gardner and Lewis, 1996:78). Contrary to the above 'bottom-up' perspective, the 'rational' knowledge favoured by the development discourse "constructs foreign 'experts' as agents, and local people as passive and ignorant" (Gardner and Lewis, 1996:73). An anthropological perspective can therefore serve to challenge the common perception within development discourse concerning knowledge - what constitutes knowledge and who is qualified to know it - by affording the 'intended beneficiaries' the opportunity to represent their own social realities. However, as Gledhill asserts

ultimately one has to ask the question of where the power lies and who holds it, and against that yardstick, the kinds of arguments anthropologists might advance do not seem likely to have a great impact. There may be talk of fostering local initiatives and self-help these days, and even of trying to aid democratisation, but it would be possible to write another book about the continuing limitations of such formal policy shifts in terms of dismantling top-down power (1994:215).

Unfortunately, the story of my experience at the commission is one such tale. Therefore the rest of this section on participation assesses the extent to which we as researchers had any power to ensure that the rhetoric of a participatory 'claimant' driven process was achieved, and to what extent our lack of power paralysed our perspective.

Land Restitution and Communal Participation

The *Restitution of Land Rights Act, 22 of 1994* legislates that land restitution be a 'claimant driven' process. With regard to communal land restitution claims where the claimants opt for resettlement, such as the Ndabeni Land Restitution claim, the *Communal Property Associations Act 28 of 1996* serves as the catalyst through which the entire 'community' to be resettled can participate in the resettlement and development process:

This [Communal Property Associations] Act establishes a new form of legal body through which members of disadvantaged and poor communities may collectively acquire, hold and manage property in terms of a written constitution. It provides a relatively simple and accessible mechanism through which such group ownership systems may be recognised. In the context of the land reform programme where many of the beneficiaries are accessing land as a group, the establishment of such a mechanism is essential...The Act requires a land holding group to draft a constitution which sets out the rules governing access to and management of the jointly owned land. This constitution or set of rules is then attached to the title deed of the property. *The intention is that groups should develop rules which are appropriate to their values and circumstances.* It would be inappropriate for the law to prescribe and impose internal rules on landowning groups (White Paper on South African Land Policy, 1997:37) (emphasis added).

Following a successful Ndabeni Land Restitution Claim, the ownership of the land allocated for resettlement will be passed to a communal property association (CPA)

by the Land Claims Court in accordance with the Communal Property Associations Act. The Communal Property Associations Act demands that a claimant 'community' draw up a constitution to govern and monitor the initial resettlement and development phases. Such a constitution should serve to endorse the rules governing access to and management of the jointly owned land. According to the Communal Property Associations Act, the constitution-writing process is required to follow a series of workshops within which the needs and rights of the members of the 'community' are voiced and finally incorporated into the CPA constitution. Through participating in drawing up a representative constitution, the Ndabeni 'community' members would thus be empowered to decide and have input regarding the type of community they would like to belong to, and how such a community should be governed.

Furthermore, the Ndabeni 'community' democratically elects a committee to represent the 'community' and its members' wishes¹⁹. This committee is mandated with the task of liaising with the Commission throughout the land restitution process, compiling the CPA constitution, and administering the CPA once ownership of the land has passed to the Ndabeni 'community'.

The CPA and the democratically elected committee processes are both entrenched within the land restitution legislation to ensure that the intended beneficiaries to be resettled are able to participate in their resettlement and development process. Therefore, the extent to which these legislative processes are followed will determine the extent to which the 'voices' of the majority of the intended beneficiaries are heard, and their needs and wishes taken into account.

¹⁹ As majority rule is an inherent component of the democratic process, minority needs and interests may be marginalised. Therefore, it becomes neither possible (nor practical) to cater for the needs and interests of each claimant. As such, the rationalisation component of the dominant development discourse serves to limit the range of needs and interests of the intended beneficiaries through its imposition of majoritarianism.

Legislated with Good Intentions: The Institutional Experience

The anthropological orientation towards participation, as mentioned above, attempts to facilitate ways for the intended beneficiaries to have a voice in their development process, as opposed to having what is 'best' for them predicted by 'external experts'. However, participation in itself is problematic as there are diverse socio-economic needs and interests even within the Ndabeni 'community' of intended beneficiaries:

one of the reasons for this is the continued use of the term 'community' as if it covered a homogenous, idyllic, unified population with which researchers and developers can interact unproblematically. Too often homogeneity of interests is assumed, whereas an intervention, however 'participatory', will benefit some people while others lose out (Nelson and Wright, 1995:14-15).

As such, participation needs to be *democratic* in order to cater for the needs and interests of the socio-economic majority. However, 'democratic participation' is itself problematic as the democratic process acts to marginalise the needs and interests of the socio-economic minority against those of the majority. Revisiting the housing example mentioned above, why should the wealthy second man not live in a 'mansion' reflective of his financial means? (See page ??). As such, the respective needs and interests of the minority are as valid as those of the majority. However, in order to effect a sustainable resettlement and development programme, the programme needs to be congruent with the needs and interests of the 'poorer' majority, as the first man will not be able to afford the trappings of the above 'mansion'. Thus, democratic participation is central to a sustainable resettlement and development programme.

Although the 'ideology', agenda and rhetoric pertaining to communal claims incorporates democratic participatory elements, normative rules are not always reflected in pragmatic actions. Thus, it is imperative to assess whether these normative guidelines are adhered to; whether 'intended beneficiaries' are able to define their own social needs and interests, and influence the design of the resettlement and development intervention and its outcomes or, as is more often the

case, how despite the good intentions of institutional rhetoric (e.g. democracy and participation), *certain voices* (i.e. those with superior financial means²⁰) have access to institutional power to make their needs and interests of the situation authoritative (Wright,1995:79).

My experience of the Ndabeni Land Restitution claim was that, despite the rhetoric and ‘good intentions’, the *democratic* participatory objective was unable to reach its full potential as it was subsumed and distorted within bureaucratic structures and processes. The committee which represents the Ndabeni claimant ‘community’ are not democratically elected, and as such, do not have a communal mandate to act on behalf of all the claimants. The Interim Ndabeni Restitution Committee, which has been steering the Ndabeni Land Restitution process for the last two years, was only elected by an initial one hundred and six Ndabeni claimants. Following our research internships, we registered a further four hundred and seventy four Ndabeni claimants. These additional claimants do not enjoy democratic representation, despite the fact that their existence has been recorded for at least six months.

The Interim Ndabeni Restitution Committee is comprised of relatively affluent members of the Ndabeni claimant ‘community’ and as such, could represent particular elite class and political interests²¹. Most of the Committee members are employed as skilled workers (e.g teachers, nurses and administrators), whilst others own businesses. Furthermore, the majority of the Committee members no longer reside in the original housing provided by the Cape City Council, having relocated to ‘improved’ housing either in new housing developments within Langa or in other more affluent neighbourhoods. In contrast, the wider Ndabeni ‘community’ are employed as blue-collar workers (unskilled or semi-skilled), unemployed, active in the informal economic sector, or receiving their pension. This latter socio-economic grouping live in either the originally allocated Council houses, or in informal housing.

²⁰ There is often a direct correlation between levels of income, education and positions of leadership.

²¹ The Interim Ndabeni Land Restitution Committee is made up of approximately twenty members. However, during my almost year long association with the Ndabeni Land Restitution Claim, I have only met seven of these members. It is these members that appear to be ‘driving the process’.

A class interest has been articulated by several members of the Interim Ndabeni Land Restitution Committee. For instance, a leading member of the Committee initially intended to open eligibility for the Ndabeni Land Restitution Claim to his neighbours who had no connection to Ndabeni, but who “shared a similar lifestyle”. On another occasion, whilst standing outside her ‘middle-class’ house, a Committee member expressed contempt at having to live in the immediate vicinity of houses of an inferior and less ‘aesthetically pleasing’ nature. Thus, as Gardner and Lewis point out, without ‘democratic participation’, opportunities may arise for particular interest groups to manipulate the project design and implementation of the resettlement and development programme, thereby skewing benefits towards those able to participate (1996:113).

This concern has also been raised in a Human Rights Report (1997) which offers a critique of the delay in progress with regard to the restitution process. The Report states that, in rural areas, the restitution of land is a political issue through which traditional leaders can re-assert their power as the recognised spokesmen of rural communities. Hence, the issue of land restitution is being used by rural chiefs to bolster their positions and perpetuate rural class and gender divisions. The Report contends that whilst urban land restitution claims are highly complex areas to investigate, it remains unclear as to who can speak on behalf of the dispossessed communities.

Having been given the opportunity to research and observe an urban land restitution claim, I would assert that political power relations are as evident as in urban claims as they are in rural claims. The chairperson of the Interim Ndabeni Land Restitution Committee has adopted a unilateralist approach to both the Ndabeni ‘community’ as well as his fellow Committee members. Upon discovering that she had not been informed about a Committee meeting, a Committee member approached the chairperson to voice her grievance, to which he replied: “Believe in me and you will never be thirsty again; God will help you through me”. He added that since he was in control of the entire Ndabeni Land Restitution Claim, she need not bother to attend future Committee meetings. Furthermore, he has in his personal capacity hired a

lawyer to investigate the creation of a land-holding trust instead of a CPA, in direct contravention of the *White Paper on Land Policy* objection to this form of land ownership in that “property is held by the trust on behalf of others, whereas the need is [for] communities to hold and manage property themselves” (1997:63). Indeed, the CPA was devised specifically to counter the undemocratic and unparticipatory nature of a land-holding trust. Moreover, the Committee itself has ‘failed’ to recognise the need for a democratic election to be held as legislated, thereby effectively freezing the Ndabeni Land Restitution process as they are not mandated to drive the process. A deadlock has been declared by the Commissioner in this regard.

The *undemocratic* nature of the Interim Ndabeni Land Restitution Committee’s participation within the Ndabeni Land Restitution process leads to a false sense of communal participation. As Gardner and Lewis (1996:12) observe, the rhetoric of participation can easily be misused while power remains in the hands of a specific constituency of the claimants ‘community’. Participation, if handled correctly, creates an opening for more vulnerable sections of the community to determine the form and outcome of development initiatives which are being undertaken in their name. Accordingly, effective participation involves disentangling conflicting interests within local communities; building support for the interests of particular, identifiable groupings of people; and reconsidering simple democratic majoritarianism.

Constraining Democratic Participation

There are several factors which have contributed to the current status quo of undemocratic representation within the Interim Ndabeni Land Restitution Committee, stemming from both the Committee and the Commission. These factors were reported by us in a memorandum written for the Commission as follows:

The Delay in Establishing a Democratically-Elected Committee

An interrelated and primary contributing factor to the present situation [of deadlock] is the problem of establishing a legitimate and representative Ndabeni Land Restitution Committee. The interim Committee was elected by the initial 106 claimants. Given the current claimant population of ca. 600, it can no longer be legitimately considered as having a mandate from the entire claimant community to take the process forward in a particular direction. We have identified the following possible reasons for the problems faced in this regard:

Firstly, a component of the interim Committee has been reluctant to recognise the legal and political necessity of holding a democratic election of a committee representing all registered and legitimate claimants. This, we suggest, is due to the following:

1. There have been a series of miscommunications and misunderstandings because details of the claim process have not been clearly set out by the Commission and/or the Department of Land Affairs nor communicated to the interim Committee.
2. This includes a lack of clarity and assistance, both in terms of personnel and funding, with the actual election procedure.
3. Given the amount of energy and commitment invested in the claim process by current members of the interim Committee, a measure of ownership of the process has developed which they may understandably be reluctant to relinquish.
4. The community at large recognises the long-standing effort of the interim Committee and is in fact likely to re-elect the present committee. Holding an election may thus seem to be a waste of precious time and resources to members of the interim Committee as well as to some members of the community. The Commission must recognise that as the process and hard work of committee members is prolonged, the 'interim' may become established in the minds of people as 'permanent'.
5. Some members of the interim Committee did not consider it necessary to register themselves as claimants through the correct

procedure, because they felt that their commitment and lengthy involvement in the claim was sufficient to qualify.

The Commission has faced a series of internal and external constraints in this regard:

1. The funding process has proven highly difficult, as there is little clarity of where and when funding for e.g. elections is available.
2. There has been a marked uncertainty as to the procedures of the claim in terms of its uni-linear and parallel processes. These include the structures in, timing of and representation at e.g. the election of a representative committee, CPA workshops, and negotiations with various authorities.
3. The Commission itself has had little contact with the larger Ndabeni community. It has not been invited to attend a number of community meetings and has thus had little opportunity to explain and discuss the claim process with the community at large.
4. Conflicting expectations and personalities at the negotiating table have caused tensions to rise on several occasions and complicated the process, especially the conveyance of the importance of holding elections for a representative Committee.
5. As researchers appointed by the Commission, we also encountered difficulties in establishing and maintaining an effective working relationship with part of the interim Committee, although we worked closely and fruitfully with other members.
6. The lack of consistency in Committee representation at meetings with the Commission has made it difficult for it to establish and maintain a working relationship with the committee.
7. These issues have contributed to the apparent lack of a sense of working together with the interim Committee.
8. The appointment of qualified researchers to undertake the compilation of a claimant list which forms the electoral roll for elections of a representative Committee was unnecessarily delayed. This will be further discussed below” (Broadbridge and Gordon, 1997b)

Whilst blame for the deadlock can be apportioned to the Interim Ndabeni Land Restitution Committee's apparent unwillingness to relinquish their unmandated power, one can also implicate the Commission for not recognising and addressing this blatant misrepresentation. As Nyoni contends:

Most development agencies are centres of power which try to help others change. But they do not themselves change. They aim at creating awareness among people yet they are not themselves aware of their negative impact on those they claim to serve. They claim to help people to change their situation through participation, democracy and self-help and yet they themselves are non-participatory, non-democratic and dependent on outside help for their survival (cited in Hussein, 1995:170).

Alternative Approaches

Given my status as an anthropological researcher, the failure to achieve democratic representation and full participation of the Ndabeni claimant 'community' left me feeling ethically compromised as the value orientation of applied anthropology is both pragmatic and democratic. According to Van Willigen, applied anthropology is,

pragmatic in that it stresses practices which work to achieve people's goals. It is democratic in that all the approaches, whether they are for research or intervention, have at their core the commitment to discover and communicate the community's perspective. A function of the democratic orientation is a consistent regard for the interests of the local community (1986:xiii).

Our inability to facilitate the empowerment of the least powerful members of the Ndabeni 'community' was a direct result of our own impotence. As mere researchers, we were powerless to enforce our perspective of democratic participation and 'speak to the process' to affect change in this regard when it became apparent that the power relations involved were maintained. The needs and interests of the socio-economic minority of the Ndabeni claimant 'community' were being articulated through their

representation in the unmandated Interim Ndabeni Land Restitution Committee, and the Commission appeared unwilling/unable to force a democratic election. Our anthropological perspective towards 'democratic participation' was effectively paralysed, and I could do little more than witness, and through my silence perpetuate, the very systems which make people powerless and "cause their voices to carry no weight" (Wright,1995:74). Indeed, as Escobar (1992,1995) predicted, the moderate critics of development who argue that the new rhetoric and policies related to community participation reflect a new emerging development paradigm are mistaken, as the concept of 'participation' is vulnerable to cooption. With our anthropological perspective and actions constrained, we were rendered impotent and passively co-opted.

My analysis of my experience within the land restitution process consistently returns to the same conclusion: that in order to articulate an anthropological perspective, it is imperative for the anthropologist to be empowered within decision-making structures in order to apply the anthropological perspective in practice. The role of researcher therefore constrains the effect that the anthropologist has on the land restitution process, rendering him/her impotent. However, as Firth comments:

[whilst] we need to focus our work more on social problems, and on communication with those already engaged on such problems, as well as with the general public ... the very nature of anthropology as an inquisitive, challenging, uncomfortable discipline, questioning established positions and proclaimed values, peering into underlying interests, and if not destroying fictions and empty phrases ... at least exposing them ... this poses difficulty for its application to practical problems (cited in Wright,1995:65).

Although Firth agreed with Malinowski that anthropologists have the right and duty to formulate their conclusions in a way in which they can be seriously considered by those who frame policy and carry it out, he argued that anthropologists should not become involved in framing and implementing solutions, as making decisions and

handling practical affairs are outside our competence. He concluded that the ability to analyse, describe and trace out possibly unpalatable findings relies on distance (Firth cited in Wright, 1995:65).

Thus, applied anthropologists are caught in a web of compromise: they have the perspective to deliver positive social change but lack the power needed to realise this potential. As Firth observed, it is an uncomfortable discipline!

An alternative to applied anthropologists becoming more involved in decision-making processes, is to recognise the possibility for anthropologists to utilise their perspectives and tools in development within the contexts and spaces that exist outside of the hegemonic discourse of the development enterprise. For example, Ferguson (1990) states that there is often opposition by so called 'clients' to development, and it is in their acts of resisting development that anthropologists can play a more progressive role by researching and aiding these grassroots social movements. Escobar (1995) suggests that anthropologists should play a role in what Nader calls 'studying-up'. This approach would entail anthropologists compiling ethnographies of the development institutions themselves, and would act to highlight the decisive role of the discourses and practices of institutions in producing the worlds in which we live. In many respects this reflexive analysis of my experience at the Commission is at least partly an exercise 'studying up', because of my consideration of the workings of the Commission itself.

Conclusion

The anthropological perspectives of diversity and full democratic participation can contribute significantly to a sustainable resettlement and development programme, through representing the heterogeneous nature of 'community' and empowering the 'intended beneficiaries' to have control over their resettlement and development programmes. However, my experience at the Commission proved that within the institutional context, these perspectives are unable to find their full expression. This

can be attributed to the fact that we played the role of researcher and not the role of decision-maker within the restitution process. Whilst we were able to inform policy through our anthropological perspective, we were powerless to form it: “We only remained a small part of a much larger machinery” (Gardner and Lewis, 1996:131). Thus, due to this paralysis of perspective, we were rendered impotent to present any real challenge to the development discourse.

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CHAPTER THREE

‘UTILITY’ AND APPLIED ANTHROPOLOGICAL KNOWLEDGE

History, Reconciliation and Restitution

As has been discussed earlier, the land restitution process seeks to redress the racially-exclusive land policies and legislation's of previous dispensations in an effort to reconcile the injustices of the past. In this regard, an 'accurate' account of history is central to the land restitution process in order to satisfy the legal requirements of a land restitution claim. When assessing such claims, the Land Claims Court demands detailed evidence pertaining to the historical circumstances of the forced removal and its social and economic impacts upon individuals and/or 'communities'. It was therefore crucial for us as researchers to establish the historical circumstances under which the former Ndabeni residents had been forcibly removed.

Our historical research uncovered details surrounding the establishment of Ndabeni in 1902; the way of life of its residents; and the forced removals from Ndabeni in the late 1920s and early 1930s. This historical evidence was accessed through both archival research and from the oral testimonies of former Ndabeni residents and their descendants during and alongside the administration of the structured questionnaire. The structured questionnaire made provision for the recording of oral testimonies through a series of broad open-ended questions. In addition informal interviews were conducted with several Ndabeni Land Restitution claimants. This historical documentation forms an essential component of the Ndabeni Land Restitution Claim Final Report, which will become the Ndabeni Land Restitution Referral Document to be submitted to the Land Claims Court.

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As anthropologists, how should we establish history?

The anthropological perspective locates the recording and documenting of history within the locus of personal 'truths' and lived experiences, thereby emphasising the primacy of a 'people's own' representation of history. This perspective acknowledges the importance of giving audience to those voices previously muted within mainstream historical accounts, and of accepting these accounts as 'valid'. Seymour-Smith uses the term 'ethnohistory' to describe this localised anthropological-historical perspective, and distinguishes it from the 'traditional' discipline of history which focuses on the thoughts and actions of elite's and decision-makers (1986:99). The former approach is often realised through accessing oral testimony, whilst the latter frequently focuses on archival documentation. Within the Ndabeni Land Restitution Claim, an 'ethnohistorical' approach would be actualised through the representation of the history of the forced removals from Ndabeni as experienced and articulated by the victims themselves. However, despite the best anthropological intentions of my colleague and I to effect an ethnohistory of the forced removals, this perspective was not reflected within the Final Report as we gave primacy to documentary archival or 'traditional' historical evidence. This chapter poses the question: "why?"

The Nature of Applied Anthropology

In order to understand why we produced a 'traditional' representation of Ndabeni's history instead of an ethnohistorical account, I need to locate our knowledge production within an applied anthropological framework and to reflect upon our function within that context. Preceding this understanding however, it is necessary to operationalise a definition of the applied anthropological enterprise.

For Foster (1969), writing nearly three decades ago, the essence of applied anthropology lies in its ability to facilitate positive social change within a socio-economic context. He defines applied anthropology as "the phrase commonly used by anthropologists to describe their professional activities in programs that have as

primary goals changes in human behaviour believed to ameliorate contemporary social, economic and technical problems" (1969:54). Similarly, recent anthropologists such as Gardner and Lewis (1996) stress the relationship between anthropological research methods and its ability to inform practical problem solving in an applied context. Both of these definitions are useful in that they address the role that applied anthropology can play in effecting positive social change. However, the two overlapping definitions do not adequately describe the manner in which the knowledge required for such social change is constructed and utilised.

The anthropologist operating within an academic context faces a radically different set of constraints and opportunities with regard to processes of knowledge production than does the anthropologist involved in an applied arena. According to Chambers (1985), academic anthropology as a discipline subscribes to an intellectual tradition which places a premium on independent inquiry and the accumulation of knowledge for its own sake. Consequently, anthropologists are accustomed to deciding for themselves (or within the boundaries set by the discipline) what is worth knowing, how best to accumulate such knowledge, and by what criteria their colleagues' contributions should be judged. He argues that whilst this sense of professional evaluation is evident within applied anthropology, it is significantly modified by the public context in which most applied anthropologists operate. By electing to work within the applied anthropology enterprise, the anthropologist acknowledges that he or she has entered an arena where interests of a strictly disciplinary nature play alongside concerns of a more diffuse and public nature. Thus, whilst all knowledge can be useful, Chambers asserts that the knowledge sought by applied anthropologists is much more deliberately so, as it is typically driven by a need to make a decision concerning some aspects of human behaviour rather than for its own sake (Chamber,1985:11).

This is not to imply that academic anthropology has no utility. Academic anthropologists use their theoretical ideas to inform applied work on a practical level. Whilst many academic anthropologists do not have any direct involvement in applied anthropological issues, they may nevertheless contribute theoretical ideas which

inform the ways in which applied anthropologists think. Anthropological research does not need to be undertaken with a specific purpose in mind for it to be objectively useful. Even if the original intention behind a piece of research may not be an applied one, it can subsequently be drawn upon by applied anthropologists. Gardner and Lewis thus conclude that non-commissioned research can have a practical value beyond academia (1996:132).

Nevertheless, Chambers's (1985) descriptive framework provides a new and vital dimension, that of utility, to the link between applied anthropology and its ability to effect positive social change. He defines applied anthropology as "a field of inquiry which is concerned with the relationships between anthropological knowledge and the *uses* of that knowledge in the world beyond anthropology" (1985:x). For Chambers, the actualisation of the relationship between applied anthropology and problem-solving is not a given one; that the knowledge of applied anthropology is not an end in itself but a means to an end; and that in order to achieve this end (i.e. positive social change), the knowledge has to be actively mediated by the applied anthropologist in question. Thus, the key to an advanced understanding of the nature of applied anthropology rests upon the development of a clear conception of what transpires when the knowledge of applied anthropology is deliberately mediated in an attempt to be *useful* to others.

It is within Chambers's (1985) explanatory framework, specifically his emphasis on the utility of knowledge production, that an analysis of my experience as an applied anthropologist finds expression. In terms of my experience within the applied anthropological context it is Chambers's definition that illuminates the reason why we chose the 'traditional' history over the ethnohistory because essentially we were attempting to write a history that had a high utility value.

'Utility' in Action

In keeping with his definition of applied anthropology, Chambers states that it is not sufficient to accept that the knowledge and perceptions of applied anthropologists will automatically be useful: "knowledge [therefore] has to be deliberately shaped and moulded to particular needs through a continual process of search and interpretation" (Chambers,1985:205). As Chambers notes, the particular or case-specific nature of knowledge production within the applied anthropological context precludes a single blanket evaluation of the utility value of this knowledge. He does however suggest a set of inter-related criteria which serve as a guideline by which the utility of knowledge can be assessed.

Although we were not aware of Chambers's (1985) list of utility factors during our research internships, a similar set of factors did influence our choices and actions with regard to the type of Ndabeni history (i.e. traditional or ethnohistorical) we compiled for the Referral Report for the Land Claims Court. Thus, upon reflection, I concur with Chambers that the notion of utility inherent in the applied anthropological enterprise has a definitive influence on the type of knowledge we produced. I shall now address each of Chambers's utility factors, namely credibility, relevance, significance, and prospects, in terms of the role it played in deciding the type of knowledge that we constructed.

CREDIBILITY

The first utility factor to be addressed is that of credibility. Credible knowledge is cognisant of and responsive to the social and cultural context in which the knowledge will be utilised. In other words, it is knowledge which is believable and employable to those who will ultimately use it. For the applied anthropologist, credible knowledge is achieved through mediation that is "deliberately sensitive to the milieu in which it will be used" (Chambers, 1985:207).

Prior to the writing of our Final Report, we had gathered two sets of primary material from which to compile a history of the forced removals from Ndabeni, namely documentary evidence and oral testimonies. By integrating these two resources, we would have been able to provide a richly descriptive and complementary account of the history of Ndabeni, the forced removals from there, and its subsequent closure as a residential area. Given that the history of the forced removals from Ndabeni was being written for the Land Claims Court, and that land restitution is essentially a socio-legal process, we were acutely aware that our audience would come from a judicial-legal context, and that their dominant discourse dealt with terms such as 'facts', 'truth' and 'validity'. With this in mind, we had to consider how best to report the history; whether we would present a balanced view of the history, present the oral testimony given by former Ndabeni residents and their descendants, or use the documentary evidence that we had obtained from the archives.

In light of our need to produce 'credible knowledge' to the benefit of the Ndabeni Land Restitution Claim, I shall now explore why we imbued the documentary evidence with more utility value than the oral testimony.

Documentary Evidence

The documentary evidence that was used was accessed from the National State Archives (Cape Town and Pretoria) and the South African Library (Cape Town) and consisted of national and provincial governmental archival material and print media reports.

As anthropological researchers we were fully cognisant of the limits of the kind of 'evidence' that can be extracted from the written historical record. As no facts are indisputable, it is impossible to present a completely accurate account of past events. As such, what is necessary is not as simple as asking whether or not a given statement about a fact is true or false but rather an assessment of the degree of bias in any statement (Pitt,1972:46). Pitt (1972:50) identifies two categories of bias present within documentary evidence: 'observer bias' and 'interpretational bias'. The former category refers to the context or 'lens' through which the event was observed,

interpreted and recorded. As Pitt argues, the subjectivity in historical documents often results in “an undue concentration on certain features of the social structure, omission of facts which do not support the case being presented, or a wilful distortion of facts” (1972:49). He lists expediency as another factor which is likely to increase observer bias. As most observers live or work within a specific institution, there are also institutional demands and pressures for particular kinds of attitudes in reporting (Pitt,1972:51). Reflecting on the Mashpee Indian Land claim, Clifford suggests that such an institutional bias exists even within documents addressed to the institution which represented the ‘voice’ of the oppressed, such as petitions, deeds and letters of complaint. He explains that as the above type of documents are often aimed at addressing the authorities and legal structures, they have to adapt their voices to suit the imposed context (1988:340).

An observer bias was easily identified within the state documentation and media coverage surrounding the forced removals from Ndabeni, as any institution-specific account of a highly political and racially charged event would be. This bias was noted at both a national and local government level, as well as within the documents which conveyed the views of the Ndabeni population themselves, as Clifford noted above. Official documents of the state, in complying with the strict formalities associated with institutional or report writing, offered dry, dispassionate accounts of the forced removals. These reports were consistent with the dominant political discourse of the time, portraying the African population in a paternalistic manner. In turn, the Ndabeni population reinforced this discourse by having to represent themselves as submissive in their written exchanges with the state, in order to be heard.

The second category of bias, that of ‘interpretational bias’, is to be found in the researcher’s selection and interpretation of the document itself, as the selection of documents and methods of interpretation will inevitably influence the ultimate analysis (Pitt,1972:52). For example, when we went to access documentary resources from the National State Archives, we typed the word ‘Ndabeni’ into their database, and selected certain files of documents which we thought would be of importance from the list generated from the Archives’ catalogue. As we repeated our selection

process, we continually narrowed our resource base, filtering out those documents whose titles seemed to indicate they would not serve our interests - to prove that people were forcibly removed from Ndabeni under racially-based legislation. Once we had identified what we regarded as the relevant documentation, we began to assemble a chronological history of Ndabeni. In doing so, we were forced to infer a causality between the 'facts' and events which shaped the forced removal, based upon our interpretational bias and our specific agenda.

Therefore given both the observer and interpretational biases prevalent within the documentary evidence used in the reconstruction of the history of Ndabeni, it would appear that we could not present a completely factual, truthful and valid account of the forced removals in this manner. What we did produce was an account of the history of Ndabeni that was replete with facts, all of which were validated by cross referencing and therefore assumed to be factually correct. But it was not, and could not, be a full unmediated reconstruction.

Oral Testimony

Through recording the oral testimonies of former Ndabeni residents and their descendants through the structured questionnaires administered by the research assistants at the various Ndabeni claimant registration offices, we were able to gain insight into personal accounts of the forced removals from Ndabeni and its impact upon their lives. In addition, whenever possible, we conducted informal in-depth interviews with members of the Ndabeni claimant population and members of the Interim Ndabeni Restitution Committee. In total these amounted to four complete interviews of varying lengths and depths of detail. These interviews took place both in the Ndabeni claimant registration offices and claimants' homes. These interviews served to enhance our understanding of life in Ndabeni and the impact of the forced removals from the perspective of those who experienced it.

Pitt alleges that local historical sources do not provide an accurate representation of past events, due to the fact that representations of the past are located in the present, and can therefore be ex post facto explanations or reflections of past events

(Pitt,1972:7). However, according to Tonkin (1992:114) oral history is not intrinsically more or less likely to be accurate than a written document. She explains that no historical accounts, whether oral or written, exist without being influenced by the point of view or bias of the narrator or listener. She argues that both oral and written accounts provide a forum for comment and reflection (Tonkin, 1992:130). Indeed, I found that oral testimonies could be factually impaired on the following bases.

Firstly, history can be reconstructed and used instrumentally as a political resource. In these instances people may use historical accounts to construct social identities which support and legitimate their claims to resources and land. These constructions become self-perpetuating as individuals begin to internalise social identities and thus assume membership of the asserted social group. Identity is not a single uniform entity as it is common for people to identify with several often overlapping groups. Therefore, evoking a specific social identity requires innovative, active and repetitive work as it is not an immediate consequence of people sharing lived experiences (Tonkin, 1992:130).

The evocation of a Ndabeni social identity was clearly evident during their public meetings, when members of the Interim Ndabeni Land Restitution Committee spoke about the strong sense of communal life that was enjoyed in Ndabeni. References were often made as to how the Ndabeni 'community' lived as a family, always looking out for one another, and memories of the Ndabeni soccer teams were often retold. Moreover, speakers assured Ndabeni Land Restitution claimants that the idyllic lifestyle of Ndabeni would be duplicated through their resettlement in Wingfield. This newly conscientised Ndabeni social identity, which is linked to the past and reinforced in the present through romanticised rhetorical devices, had obvious effects on the oral testimonies of both the former residents of Ndabeni and their descendants.

The second manner in which oral testimonies may lose veracity is when past experiences are represented in terms of present or future requirements in order to realise specific gains. To this end, people may give a version of history "that

accommodates itself only to the details that comfort it" (Tonkin,1992:119). For example, at a meeting in Guguletu for individuals who had been forcibly removed from other Western Cape areas, a lawyer from outside the Commission instructed potential land restitution claimants:

you must paint a picture of Athlone, paint a picture of all the shops. You want to create a contrast that in the end you show how you were thrown into a desert, with no infrastructure. Distance from town. Lack of local amenities. Breakdown of extended family. This was the aim of the removals. And you need to paint that picture on your claim form.

Tonkin recognises that, as history may be reconstructed in order to realise specific gains, oral testimonies should not be treated as either true or false. Rather, she asserts that the canons of judgement have to include factors of likelihood, reasonableness and plausibility when assessing such testimonies (1992:114). For instance, it came to our attention that one of our research assistants, who was a descendant of a former Ndabeni resident, had been using his poetic licence in constructing oral testimonies for Ndabeni land restitution claimants, many of whom had little or no *personal* recollection of life in Ndabeni. In some instances this research assistant extrapolated upon existing testimony; in other cases he 'invented' colourful personal histories of claimants without their permission or knowledge. Whilst these invented oral testimonies cannot be judged as valid, factual truths, they do contain elements of likelihood, reasonableness and plausibility, as they are born out of a collected experience of forced removals.

As both oral testimony and documentary evidence do not meet the perceived legal-judiciary requirements of validity, fact, and truth, due to their respective elements of constructions and bias, it would appear that neither type of resource would provide the basis for credible knowledge. However, in the end we did decide to base our construction of history primarily on the documentary evidence, contrary to our anthropological ethnohistorical perspective.

In searching for an answer to explain our choice, I find myself agreeing with Clifford's (1988) reflection on the Mashpee Indian Land claim. According to Clifford, literate knowledge (past-documentary, archival-selection of texts) was prized over the oral modes of knowledge (present-oral, experiential, observational-evidence) in the Mashpee Indian Land claim. He suggests that the prominence of literate knowledge over oral knowledge is derived from an established dichotomy between oral and literate worlds, a dichotomy which is more complex than a mere disciplinary division of labour between historian and ethnohistorian. This complexity resides within the pervasive Western habit to sharply distinguish between synchronic and diachronic models of knowledge, and to accord validity correspondingly (Clifford,1988:340-341).

In our pursuit of a successful land restitution claim, we yielded to this pervasive metaphysical mindset in an effort to provide the Land Claims Court with credible knowledge. Whilst the credibility factor was not the sole criteria by which we determined the type of knowledge we would produce, it did play a major role in the process.

RELEVANCE

Secondly, knowledge must be relevant, that is, it must address the goals and prescribed activities of decision makers, in order to have a utility value. Whilst Chambers (1985) refers to this utility factor as 'relevance', I feel that 'pragmatic' is a more apt description. For knowledge to be relevant (pragmatic), it must comply with the means or resources of those requesting the knowledge. In particular, the applied anthropologist must produce knowledge which is consistent with the financial resources of the client, as well as the timeframe within which such knowledge is needed. Chambers notes that anthropologists have on occasion described these considerations as arbitrary or, at worst, as placing negative limits on effective research. However, he explains that such limits are inherent within the applied anthropological enterprise (1985:205).

As Pelto and Pelto report, applied anthropologists are constantly faced with requests for knowledge that must be made available timeously (1978:243). Thus, a research project which could take up to two years will have a low utility value for a decision-maker who needs sufficient knowledge to inform a decision within six months. This time constraint on knowledge production raises a question as to the quality of knowledge which can be produced in a limited timeframe. As such, anthropologists tend to view applied work as being of a second rate quality (Gardner and Lewis, 1996:135). Indeed, the constraints placed on the work of the applied anthropologist, such as a short time-scale or the need for a clear set of user friendly conclusions, has tended to lead to methodological or theoretical short-cuts being taken, what Pelto and Pelto refer to as “quick and dirty” research (1978:243).

This need for relevant knowledge was a definite motivator of the type of knowledge we produced. The choice between compiling a chronological history, which Pitt characterises as the “simplest conjunction” of facts and events (1972:60), and that of sampling over six hundred oral testimonies, drawing out themes, and accurately weaving a tapestry of facts and events, was certainly shaped by the timeframe in which we operated. The latter choice, which represented a lengthy and complex task, would not have been plausible to effect within our three month internship period, and as such, in order to produce relevant knowledge, we had little choice but to pursue a traditional historical approach.

SIGNIFICANCE

The third factor of utility is that knowledge must be significant, that is, the knowledge produced must be meaningful within the context in which it is to be assessed. The context in which we were operating was a judicial-legal one, and our knowledge needed to be significant for the actors operating within this arena, specifically the judges who sit on the Land Claims Court.

According to Chambers, actors will determine the significance of knowledge from differing perspectives, often with considerable self-interest. Therefore, the ‘significance’ utility value of knowledge is located within the political, commercial,

bureaucratic and/or social considerations of worthiness (Chambers, 1985:205). Whilst knowledge is often produced solely from the frame of reference and sense of significance of those who produce it, it loses its utility value if that frame of reference is not carried forward to those who use it. Thus, the knowledge which may be significant for the anthropologist may not necessarily be significant for the purposes of the Land Claims Court.

In preparing the Referral Report, we were initially unsure as to what constituted significant knowledge within the Land Claims Court; whether to portray the forced removals in terms of the documentary evidence, or to present the personal accounts of these forced removals using oral testimonies. As there was no precedent for urban land restitution claims, and as there had only been one rural land restitution claim, the Elandskloof claim, it was difficult to determine how to proceed. The Commission were unable to furnish us with guidelines, as they themselves were not enlightened as to what should go into a report. Although the Commission had previously held discussions with the Land Claims Court judges in an attempt to achieve some clarity on this issue, these attempts had proven to be fruitless as the judges themselves indicated that no precedent had been set for them as yet. Due to the infancy of the land restitution process, all those associated with the process were located within the same unchartered territory.

Therefore, in the absence of formal guidance and guidelines from the Commission, we decided to emulate the legal precedent of the successful Elandskloof claim as far as possible. The Elandskloof claim had been prepared by legal professionals, and whilst it was successful, it would not have been possible to reproduce it within the Ndabeni Land Restitution claim, given our anthropological training. This was achieved through concentrating on the documentary evidence, which we had come to regard, as Clifford explained above, as more 'valid' and thus, more significant within the judicial-legal context of the Land Claims Court.

PROSPECT

The fourth utility factor mentioned by Chambers is that of prospect or expectation. For knowledge to be useful, it must be able to effect an intentional change. Chambers explains that knowledge has prospect when it is responsive to the goal of reforming what 'is' into what we want it to be (1985:206). In other words, it is knowledge which is able to deliver.

The need to produce knowledge with a prospect utility value provided a major impetus for us, as not only was our research internship my first foray as an anthropologist in the 'real world', but also as the Ndabeni Land Restitution claim was the first urban land restitution claim, we were under pressure to deliver a favourable outcome, so as to set the precedent for future urban land restitution claims. In addition, we came to realise that the result of the Ndabeni Land Restitution claim would have significant repercussions for the Ndabeni claimant 'community'. We were effectively contributing to the future of these people and as such were responsible to them - we felt we had the hopes of the community on our heads.

Moreover, the ability of social scientists within the land restitution process to produce knowledge with a prospect utility was being scrutinised, given the judicial-legal context in which land restitution operates. This debate stems from a proposal written by a local professor of social anthropology, who suggested to the Commission that the restitution process could be accelerated through the creation of an external social science research unit which would undertake the research necessary to validate potential land claims and consequently prepare them, with legal assistance, for court referral. His proposal was subsequently rejected during a meeting of the regional land claims commissioners, on two grounds. Firstly, they felt that research should be conducted internally. Secondly, certain commissioners voiced misgivings that social scientists could contribute to the more legal aspects of the land restitution process, such as the uncovering of evidence surrounding forced removals.

In this regard, meetings were held at the various regional land claims commissions regarding the role of social science researchers within the restitution process.

Discussions held during the meeting at the Western Cape commission revealed a strong bias by certain commissioners and commission staff towards the recruitment of legal professionals as a means of accelerating the restitution process, an opinion which was refuted by the researchers present. Whilst all those present at the meeting recognised the legal-judicial basis for the restitution process, and agreed with the commissioners that results of claim investigations had to be represented in a manner acceptable to the Land Claims court, the researchers asserted that ultimately the restitution process was a socio-legal process and what was required was a synthesis of both social and legal research methods. They contended that to create an arbitrary division between the social sciences approach and the legal-judicial process would be to deny a long history of interaction between the two (Minutes from a Meeting on Research Infrastructure and Systems, 23 May 1997). The fact that our Research Report for the Ndabeni Land Restitution Claim was discussed and approved by attorneys at the Legal Resources Centre, who declared it as being able to satisfy the requirements of the Land Claims Court, is clearly indicative of the potential of anthropologists and social scientists in general to produce knowledge with a prospect utility.

Reflections

As an applied anthropologist, it is assumed that the knowledge that I produce will be reflective of the anthropological perspective. However, as my experience at the Commission indicates, this assumption is not always borne out in practise. The first half of this chapter explored the reason why this discord arose; why we were unable to remain true to our perspective whilst constructing the history of the forced removals from Ndabeni.

The reason behind this paralysis of perspective, I believe, is to be found within the nature of applied anthropological knowledge, which places a premium on the utility of knowledge for the sake of effecting a positive social outcome in a public setting. Faced with a choice of either constructing the history of the forced removals using

'traditional' historical methods of documentary evidence, or effecting an ethnohistorical study, that is representing the history of the forced removals from Ndabeni as experienced and articulated by the victims themselves, we decided to effect the former approach in order to produce knowledge with a high utility value. As the public setting in which we operated was the judicial-legal framework of the Land Claims Court, it was felt that a traditional historical approach would best serve the interests of the Court (i.e. 'valid', 'truthful' and 'factual' knowledge). Whereas anthropology acknowledges the importance of giving audience to those voices previously muted within mainstream historical accounts, and of accepting these accounts as 'valid', the pressure of producing knowledge with a utility factor for the end-users of this knowledge, such as the judges who sit on the Land Claims Court, proved too strong, and thus served to constrain our anthropological perspective.

Thus, our presence within the applied anthropology enterprise, and the utility requirement that this placed on the knowledge we produced, led to a degree paralysis of our perspective. The following section discusses the implications of this paralysis, that of representing a history of the forced removals of the Ndabeni without the input of their voices.

'Powerful' Implications

As we strove towards producing knowledge which had a high utility value within the judicial-legal context of the land restitution process and the Land Claims Court, we elected to construct a history of the forced removals from Ndabeni using the 'traditional' historical methods of documentary evidence. By creating a textual record of the forced removals, our reconstruction of this history has become the dominant document, silencing all other voices. Our voices, as the agents and authors involved in the instrumentalisation of this history, have become authoritative and omnipotent. We have become what Gledhill refers to as "the privileged interpreter" (1994: 222).

I first become aware of the implications of our perceived omnipotence following a meeting at the commission where our Final Report was distributed to members of the Interim Ndabeni Land Restitution Committee. During a break in the meeting, one of the Committee members took the time to read the Historical section of the Report. She then turned to us and exclaimed: "This is wonderful, you are telling us things about life in Ndabeni that we did not even know". My heart sank as I thought to myself: "They are onto us". Surely it was not appropriate to tell a woman who had grown up in Ndabeni what her life had been like? According to Gardner and Lewis (1996:23), anthropological representations are not neutral, but embedded in power relations. The above illustration clearly shows the asymmetrical power relations between us and the Ndabeni 'community'. In 'speaking for' them, we had essentially taken on the role as advocate. I shall now discuss the ramifications of our *role* as advocate within an *institutional context*.

The Role of Advocate

Simply stated, an advocate is one who pleads the cause of another. Anthropologists working within the participatory paradigm of applied anthropology recognise the problematic nature of the role of advocate, as it immediately imposes an asymmetrical power relation between advocate and client. As action anthropologists have pointed out, there is a measure of paternalism in assuming that one can represent the special interests of another group of people better than the members of that group are able to, and as such, this role has become inappropriate (Chambers, 1985:26). The act of 'speaking for' has also been criticised by Henriksen who claims that advocacy creates "clients" who play a passive role. As such he charges advocates with furthering "the colonial processes still at work by stealing crucial decisions and political initiatives from indigenous peoples" (1985:121). As such, applied anthropologists attempt to address this problem by assuming the role of facilitator, thereby helping communities find their voice instead of speaking on their behalf (Gardner and Lewis, 1996:47).

However, there are certain instances in which the role of an advocate may be beneficial. Van Esterick observes that: "within the experience of anthropologists, there are a number of ways to 'do' advocacy and a number of roles for anthropologists who 'do' it" (1985:60). One such instance reported by Maybury-Lewis (1985), can be found when the involvement of the anthropologist as advocate is initiated by the potential clients of the advocacy. In such a circumstance, the advocate is given a mandate to act as spokesperson; to 'speak on behalf' of the client rather than 'speaking for'. Van Esterick (1985) asserts that advocates who support a cause rather than a client, for example advocating against the use of Nestle infant formula in 'developing' states, can also be viewed as legitimately benefiting positive change. In both of these examples, the *problematic* power relations of advocacy do not come into play.

Moreover, Hastrup and Elsass (1990), Van Esterick (1985) and Maybury-Lewis (1985) contend that the decision to take on the role of advocate involves a personal choice and moral commitment. Implicit in this definition is the notion that the anthropologist makes a conscious personal choice when presented with certain instances of advocacy as to whether he or she becomes an advocate or not. For example, Maybury-Lewis, who works for an advocacy organisation called Cultural Survival "which defends the rights of tribal societies and ethnic groups to maintain their own cultures" (1985:135), claims that he is able to refuse a request for advocacy when he feels that his involvement would not benefit an entire grouping equally, that his presence would serve the interests of those within the specific population who requests his services, and would simultaneously work to the detriment of others in that population.

However, reflecting upon my experience at the Commission, I would contend that my role as advocate did not stem from a conscious personal choice, but was instead a by-product of our need to produce knowledge with a high utility value. I would therefore argue that the luxury of 'choice' - of whether or not to assume the role of advocate - and more specifically, the type of advocacy undertaken, is located within the context in which one is operating.

Advocacy within an Institutional Context

Within the operating context, applied anthropologists have a distinct relationship towards both their employers and the subjects of their interventions. These relationships have bearing upon the styles or models of applied work, depending on the way individual anthropologists recognise their obligations toward and their dependency upon these actors. Although applied anthropologists rarely consider their work as decidedly favouring the interests of either their employers or subjects; the recognition that the demands of employers and subjects may differ has led to the development of two additional models for applied work. These models are based on orientations toward the needs of employers and subjects, and can be identified as the *administrative* and *advocacy-action* models (Chambers,1985:19).

Chambers states the within the administrative model, the applied anthropologist's endeavours are directed toward assisting in the administration of programmes of planned change which have developed out of either a government or a private initiative. There is generally a clear distinction between the employer or sponsor of the effort and the subject population to which policy issues are directed. Conversely, the advocacy-action model is derived from the realisation that an 'administrative' view of policy issues often favours the value orientations of middle-class planners and managers. Consequently, the views of the people whose lives might be changed by the intervention of a new policy are often misrepresented. Advocacy anthropology therefore seeks to redress this imbalance by giving voice to the perspectives of the less powerful (Chambers,1985:20). However, my experience was such that I was commissioned to do research by the commission -itself an advocacy institution- rather than by the people of the Ndabeni 'community'.

Conclusion

Despite the alignment of my anthropological perspective with the advocacy model, which found expression in my initial intentions for my research internship - as conceptualised in the Research Proposal (see appendix) - I found myself operating within the confines of an administrative model. I was ultimately accountable to my employers, for whom I had to produce knowledge which served their purposes (i.e. the land restitution process). Whilst this process obviously also benefited the subjects (the Ndabeni 'community'), I was not able to assume the role of facilitator which would have allowed me to put forward my ethnohistorical perspective, thereby representing the history of the Ndabeni as they themselves experienced and recollected it²².

Instead, I became an advocate, but not on behalf of them (as Maybury-Lewis enacts from within the advocacy action model). I assumed an authoritative, paternalistic and omnipotent position as co-author of the Ndabeni history. This account is deemed to be so authoritative that members of the Interim Ndabeni Land Restitution Committee have proposed that excerpts of the report be translated into Xhosa, and sold back to the Ndabeni land restitution claimants, essentially allowing them to buy a copy of their history. In addition, we were assured that as authors of the Ndabeni history we would get a percentage of profits made. The authoritative representation of the forced removals from Ndabeni represented the Ndabeni people as being monolithic, having a single historical experience. We were guilty of ignoring the multi-vocality and diversity present in all cultural settings and historical experiences. In assuming this position of omnipotence, we served to perpetuate the power relations prevalent in society, thereby exposing "the intellectual authority of the anthropologist" (Gardner and Lewis, 1996:23). As such, our ethnohistorical perspective was paralysed, firstly,

²² One should take into account "the difficulty that texts can only give the subjects of ethnographic study 'their own voices' in a manner determined by the person co-ordinating the text as a whole and that some possible voices are likely to be excluded in the process, there is little prospect that the full range of power relations involved in the genesis of the dialogue will be laid out in its textual representation" (Gledhill, 1994:223).

due to the 'utility' value inherent in the production of applied anthropological knowledge and secondly due to the administrative model within which this knowledge was produced.

CONCLUSION

As my experience as a researcher with the Commission on Restitution of Land Rights (Western and Northern Cape) illustrates, whilst applied anthropology as a profession is capable of effecting positive social change, this potential can only be realised if the perspectives articulated by the applied anthropologist are able to find expression within the institutional context in which they are being applied.

Reflecting upon my experience at the Commission, I argue that anthropological perspectives can play a positive role within the land restitution process, specifically with regard to the processes two primary objectives: developing the future and reconciling the past. With regard to the former, the application of various anthropological perspectives can contribute towards a sustainable resettlement and development programme.

With regard to the former, an emphasis on the heterogeneous nature of communities and the subsequent illumination of the diversity of communal needs affords decision-makers the opportunity to plan and implement a resettlement and development programme. Such an enlightened programme would therefore be in accordance with the diverse needs of the 'community' in question, resulting in a resettlement and development programme which is socially, culturally and economically appropriate (Pillsbury; 1986; Porter et al ,1991; Gardner and Lewis, 1996).

In addition, an emphasis on democratic participation can also contribute to the above objective. This anthropological perspective acknowledges that the intended beneficiaries of resettlement and development programmes should be recognised as experts with regard to their own respective livelihood systems. Decision-makers should therefore include localised knowledge and insights into the planning and implementation phases of resettlement and development programmes. As such, this perspective relocates judgements about risks, uncertainty and options into the hands of the intended beneficiaries most likely to bear the consequences of resettlement and

development decisions, thereby reducing potential uncertainties whilst increasing the potential for a self-reliant and sustainable resettlement and development programme (Porter et al,1991; Nelson and Wright, 1995; Pretty and Scoons, 1995; Gardner and Lewis,1996).

With regard to the second objective of land restitution, that of reconciling the past, an anthropological-ethnohistorical perspective would be able to greatly contribute to the general ethos of truth and reconciliation. This anthropological perspective acknowledges the importance of giving audience to those voices previously muted within mainstream historical accounts and of accepting these accounts as 'valid'. Such a perspective is therefore beneficial to the truth and reconciliation process as it is able to uncover a balanced and representative history of the past. In the instance of the forced removals from Ndabeni, the ethnohistorical perspective would be actualised through the representation of the above historical event as experienced and articulated by the victims themselves (Seymour-Smith,1986; Tonkin,1992).

Despite the good intentions of both myself and my applied anthropological perspectives, we were unable to sufficiently influence the Ndabeni Land Restitution process in the above manner. My colleague and I were able to impart some measure of our perspectives upon the process through the compilation of a socio-economic profile which outlined the diversity inherent in the Ndabeni claimant 'community', and record the oral testimonies pertaining to the forced removals from Ndabeni from the victims themselves and/or their descendants.

However, our perspectives were doubly paralysed. This paralysis can be attributed to two factors. Firstly, our role as mere researchers and not decision-makers within the institutional context in which we worked (i.e. the Commission) rendered us *impotent*:- whilst we could inform policy we could not form policy. Thus, whilst we were able to articulate within our research the diversity of the Ndabeni 'community', and stress the need for their democratic participation within their resettlement and development programme, we were unable to ensure the inclusion of these two perspectives within

the planning and implementation phases of the above programme (Nolan, 1984; Grillo and Rew, 1985; Escobar, 1992; Gardner and Lewis, 1996).

Secondly, our ethnohistorical perspective was paralysed due to the necessity to produce applied anthropological knowledge which could be useful to decision-makers within this context (e.g. Land Claims Court judges). In this regard, we authored a history of the forced removals from Ndabeni which we perceived would best suit the purposes of the end-users of this history. In doing so, we became the expert voices on the history of the forced removals from Ndabeni through our subversion of the voices of the very people who had themselves experienced those forced removals. Through disempowering and muting their voices, we became the *omnipotent* authors of their history, in stark contrast to our anthropological-ethnohistorical perspective (Chambers, 1985; Henriksen, 1985; Maybury-Lewis, 1985; Van Esterick, 1985).

The philosopher Soren Kierkegaard wrote: "We can only know and understand backwards, but we must do our living forwards" (Chambers, 1985:13). It is with this thought in mind that I have attempted to reflect upon and analyse my role as an applied anthropologist in an effort to inform and advance an understanding the strengths and limitations of this role. It is only with reference to the specific context of the individual case that insight into the power involved in any particular process becomes apparent.

By problematising my experience within the land restitution process as both an impotent researcher and an omnipotent historian, I hope to have contributed to a debate concerning the practical value of applied anthropology as "a field of inquiry which is concerned with the relationships between anthropological knowledge and the uses of that knowledge in the world beyond anthropology" (Chambers, 1985:x).

What is now required, I assert, is a creative synthesis which transcends the role of the researcher as both impotent and omnipotent within an applied anthropological context in order to allow the perspectives of applied anthropology to effectively contribute towards positive social change. Without such a synthesis, applied anthropologists can

only act to perpetuate the very systems of domination they themselves seek to transcend, despite their intentions to the contrary.

University of Cape Town

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APPENDICES

University of Cape Town

Final Report
Submitted to The Commission on Restitution
of Land Rights
(Western and Northern Cape)

Broadbridge and Gordon, (1997a)

*Omitted from the Final Report
List of Claimants
Appendices

REPORT TO
THE COMMISSION ON
RESTITUTION OF LAND RIGHTS

NDABENI
CASE WC 6/3/A/13/1/42

COMPILED BY
J. GORDON AND H. BROADBRIDGE

18 MARCH 1997

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Part 1

HISTORICAL OVERVIEW
OF
NDABENI

1. THE ORIGINS OF NDABENI

This section explains the original establishment of Ndabeni and the beginnings of urban segregation in Cape Town through the implementation of Public Health legislation.

1.1 The Establishment of a Location

Cape Town's first 'Location', Ndabeni, was initially an area of isolation for African¹ victims of bubonic plague which broke out among workers of the Cape Town docks in 1901. The Cape Town Council urged the Cape Government to provide for an encampment area where Africans could be inspected, inoculated and housed under sanitary conditions.

Using its powers under Section 15 of the Public Health Amendment Act of 1897, the government stepped in to curb the spread of infectious disease by establishing a Native Location at Uitvlugt Forest Reserve near Maitland (Government Notice no. 231 of 11 March 1901). Subsequently, Ndabeni was constituted and administered as a Native Reserve Location under Section 5 of The Native Reserve Locations Act No. 40 of 1902 and amended by Act No. 8 of 1905. These acts declared it illegal for Africans within the Cape Town area to live anywhere other than within Ndabeni. Exceptions to this rule were made in the case of "servants housed on their masters' premises, the owners of property and native registered voters".² From that time, the vast majority of Africans living in Cape Town as well as Africans coming to Cape Town from other parts of South Africa were legally bound to reside in Ndabeni Location and were subject to the Native Reserve Location Regulations. Responsibility for both the housing of Africans and the control of the Location lay with the Cape Government rather than the Municipality.

1.2 The Beginnings of Urban Segregation

The use of The Public Health Amendment Act of 1897 to create a Native Location marked the beginnings of urban segregation in Cape Town. "It was a racist response... designed to control the urban [African] population by defining where it might live and subjecting it to a network of restrictions".³ Despite the authorities of the time thus being predisposed to the idea of establishing a Native Location, action was hampered by indecision and lack of legal authority allowing them to compel Africans to live in a location. The plague provided them with ample opportunity to bring about such legislation and its enforcement: "[Cape Town] almost needs a plague visitation to apply the needed broom [to sweep away the slums]".⁴ This development was fuelled and legitimised by the fear among European residents that 'raw', 'uncivilised' Africans and the overcrowded conditions in which they lived would precipitate the spreading of disease in the area.

Three decades later, the authorities once again looked to health legislation to legitimise the forced removal of residents of Ndabeni to Langa.

¹ This report uses the terms "African" and "European" to distinguish between the racial categories of "Black" and "White" because such distinction historically formed the basis of the racist policies which directed the forced removal of residents of Ndabeni.

² Cape Times. 20 June 1919

³ Saunders. 1984:174

⁴ Cape Times. 3 July 1897

2. LIFE IN NDABENI

“Ndabeni was our home that we treasure very much, something we will always remember” (H.M, 75-year-old former resident)

This section gives an overview of people and life in the community of Ndabeni from its early to its final years.

2.1 Population

The population of Ndabeni varied in number with residents coming and going as job opportunities and general regulations controlling the movement of Africans in the Cape area changed. The residents could be divided into a core group of permanent residents (calling themselves urban Africans) as well as a floating population of migrants. In the early years there were about 6-7000 residents but this figure subsequently declined due to economic recession in the Cape, forcing many men to travel to the mines elsewhere for work.⁵ By 1918 Ndabeni had approximately 3300 residents. This figure had again grown to 6000 by 1921. From then on the number declined from 5700 in 1927 to 3100 in 1931. In general, 50% of the residents would be male, 20% female and 30% children.

Despite all efforts on the part of the authorities to keep complete records of all Africans in the Cape Town area, it became necessary for them to rely on police estimates. In 1923, three years before the application to Ndabeni of the Natives (Urban Areas) Act No. 21 of 1923 and four years prior to the opening of Langa, it was estimated that there were still 5-6000 Africans living in Cape Town itself, some of whom were legally exempted from living in a location under the Native Reserve Locations Act No. 40 of 1902. However, by 1930 the demography had shifted; only 6000 Africans remained in Cape Town, with an estimated 3000 living at Ndabeni, 2000 at Langa and 1000 on the Flats.⁶ Many of the present restitution claimants lived in Ndabeni for over twenty years, some for even thirty years.⁷

2.2 Housing Conditions

Ndabeni was divided up into several areas including Kasalam, Vokwana (Four Corner) and Ndokwenza. These were further subdivided according to married and single quarters. Several types of housing existed in these parts including:

- Class A: Raised Lean-to Huts
 - Class B: Better Class Huts
 - Class C: Specimen Cottages
 - Class D: Block of buildings (6 houses in each)
- as well as barracks/dormitories and tents.

⁵ Saunders. 1984:175

⁶ Cape Argus. 18 September 1930

⁷ Despite intensive research, no official or unofficial records have been located which reflect the number of years of residence in Ndabeni of claimants or their antecedents. Thus, it has not been possible to verify claimant testimony on this. It is unlikely that second and third generation claimants can correctly remember such dates.

Location Regulations restricted the number of residents in each house but overcrowding in some areas of Ndabeni was alleviated in the early years by allowing huts in other areas to be shared by two families. By 1919, the Acting Secretary for Native Affairs, Mr E Barrett, reported that:-

“a large percentage of the inhabitants have shown decided improvement in their homes, their person, and general methods. Their houses in many cases are well kept, nicely furnished, have proper bedsteads, and are run very much on European lines”.⁸

2.3 Employment

Male Ndabeni residents were primarily employed for all local requirements, both municipal and private, such as the railway, docks, Cape and Simon’s Town merchants, military and road building. Many female residents were domestic workers, - the demand for which was forever greater than the supply.⁹ Cape Town regarded itself as unique in that it was comprised of so-called White, Black and Coloured labour, with Coloured labour being preferred by many because there was less legal requirements and restrictions on their employment. Employment opportunities for African residents were irregular leading to economic instability and insecurity.

2.4 Cost of Living

Historical as well as present testimony emphasises the overall cheaper living conditions in Ndabeni, especially in terms of rent, transport, and food. Rent was low at 4s per month for barracks, 5s per month for single quarters and 10s per month for married quarters, a rate which remained unchanged for almost 30 years.¹⁰ Ndabeni was only 3 miles away from Cape Town and on the main railway line, allowing easy transport to and from work in town. The nearby abattoir meant that meat was cheap and residents also had easy access to food whether from several trading stores and stalls at Ndabeni or from the markets in Salt River and Woodstock.

2.5 Community Spirit

The Ndabeni community was made up of several diverse groupings: Its residents included a minority so-called Coloured and Asian population; residents had different levels of employment status and income; they had different histories of residence in the urban area of Cape Town; and they lived in different accommodation in different areas of Ndabeni as laid down by the Location Regulations.

Despite the heterogeneity of Ndabeni residents, there was a strong sense of community, of unity of spirit, which was expressed in the social support networks and reciprocal, interdependent relationships between neighbours and friends. For example, unemployed single men were often supported by other families in Ndabeni with a steady income who would offer food. Despite, or, indeed, because of, the unstable socio-economic and political context in which they lived, “the spirit of *ubuntu* flourished” (X.M. 63-year-old descendant of Ndabeni resident).

⁸ Cape Times. 20 June 1919

⁹ *ibid*

¹⁰ Cape Argus. 18 September 1930

2.6 Education

Ndabeni had two schools, one being St Cyprian's School (under the English Church), the other being Uityvlucht School (interdenominational but a United Mission school).

2.7 Health

There were contradictory opinions as to the health status of Ndabeni and its residents, often depending on who was commissioning the medical reports and for what purposes. However, the Acting Secretary for Native Affairs, Mr E Bennet, reported in 1919 that "the normal health of this location has always been regarded by medical opinion as most satisfactory".¹¹ Ndabeni had its own hospital called the Ndabeni Native Location Hospital, Maitland.

2.8 Religion

Religion played an important part in the lives of the Ndabeni residents. By 1924 the churches in Ndabeni included the Wesleyan Church, The Baptist Church, The Presbyterian Church of South Africa, the Dutch Reformed Church, the English Church, the Ethiopian Church of South Africa, the Church of Christ and Saint of God, and the 7th Day Adventist Baptist Church of God.

2.9 Politics

Most political organisations among Africans, including their women's branches, were represented in Ndabeni with several of them being active in the opposition to the forced removals from Ndabeni. Between 1924 and 1926, the internal conflicts in the Cape Town branch of the African National Congress were felt in the community and were instrumental in bringing about a Commission of Enquiry into prejudiced management of the location.

2.10 Leisure

"Ndabeni was a lively community with lots of sports and music, especially on weekends. People were relaxed and friendly and we were very happy there" (M.M., 80-year-old former resident)

Despite even leisure time being regulated by the authorities under the Ndabeni Location Regulations, the residents showed remarkable spirit under often harsh socio-economic and political circumstances and were able to create a vibrant and dynamic community in which they maintained the human right to happiness and enjoyment. Sport was very popular, and well-established cricket, rugby and soccer teams played at the sports grounds. Music flourished with several locally famous musicians residing at the location and entertaining the residents. Many children were members of the local scouts and guides called Wayfarers and Sunbeams.

¹¹ Cape Times. 20 June 1919

2.11 Management Structure of Ndabeni

A Superintendent was in charge of Ndabeni. These were appointed by the Government until 1925 when the City Council took over Ndabeni and appointed Mr G P Cook, an officer of the Native Affairs Department with police powers. Under his supervision were several wardsmen, who were residents of Ndabeni and assisted with the general management tasks including rent collections.

Before the application of the Natives (Urban Areas) Act no. 21 of 1923 to Ndabeni in 1926, some residents, selected by the Superintendent as his advisors, formed an unofficial Vigilance Committee. A Native Advisory Board was appointed and elected under the Natives (Urban Areas) Act with the required European chairman while the remaining six members were Ndabeni residents. Although the Board had to be consulted on matters relating to Ndabeni, their capacity remained advisory only.

The Cape Peninsula Joint Council of Europeans and Bantu also advised on developments in Ndabeni and prided itself on its members having equal rights. However, the Council consisted of six Europeans and three Africans and were of little support to the Ndabeni residents in their struggle against their forced removal.¹²

2.12 Crime

Reporting in 1919, the Acting Secretary for Native Affairs, Mr E Barrett, stated that serious crime was minimal at Ndabeni. The illegal production, possession and trading of liquor accounted for about half the convictions since 1913.¹³ During the present research, the vast majority of restitution applicants have testified that Ndabeni was “a peaceful and safe community”.

¹² Cape Times. 3 December 1931

¹³ Cape Times. 20 June 1919

3. TRANSFER OF AUTHORITY OVER NDABENI

This section deals with the negotiations and final transfer of authority over Ndabeni from the Government to the Cape Town City Council. This laid the foundation for the closing of Ndabeni and the establishment of a new Location at Langa.

3.1. Background to the Transfer of Authority of Ndabeni

The 1918 influenza epidemic killed 254 residents at Ndabeni. This directed the attention of authorities and wider society to the inadequate housing facilities for urban Africans at Ndabeni. The Council blamed this state of neglect was upon the Government who, as 'landlord', was seen to be too far away from Ndabeni to be effective in its management. Throughout 1919, negotiations ensued between the City Council and the Government for the transfer of control and administration of Ndabeni from the Government to the Council.

Since the location was a reservoir of labour for the municipality, the Government felt that the administration of it was more properly a municipal matter than one for central government. The idea that the Council was better placed to administer Ndabeni was to be the principle underlying the Natives (Urban Areas) Act No.21 of 1923. In June 1919, the Government passed a Bill to amend the Native Reserve Locations Act No. 40 of 1902, enabling the transfer of authority.

3.2 Transfer Negotiations

Initially the Council was open to the idea of assuming authority over Ndabeni. Yet after some investigation, several concerns were raised.

1. The Council was worried about the future influx of Africans and the resultant housing problem, given the remaining size of Ndabeni (after the Railway Administration had alienated part of the land for its use). A second location may have to be opened later.
2. The Medical Officer of Health had found Ndabeni to be in state of abject neglect. The Council denied responsibility for this as Ndabeni fell beyond city limits and was a Government institution.
3. The Council considered that the position of Ndabeni would potentially encroach on both industrial development and the burgeoning development of the Maitland Ward as well as other areas which the Council wished to expand for European residence only, and they would prefer to see Ndabeni closed and sold in lots for industry.
4. Thus, the Council appealed to the Government for a new site on which to build a bigger and better 'model location' which the Council could then present to the rate payers and Provincial Council for approval.

Negotiations were protracted. Later that year, the Government, frustrated by the delays and desiring imminent closure of the transfer, threatened to withdraw the 1905 proclamation compelling urban Africans to reside in a location. This was intended as a means of relieving overcrowding in Ndabeni which they expressed as a major cause for concern. The Council, however, feared the consequences of such 'freedom of movement' but stood firm on their decision not to take over Ndabeni at its present site.

After further negotiations, the Government withdrew its threat and commissions were subsequently set up to investigate potential sites for a new location. The commissions reported on the matter in both 1920 and 1921. Eventually in 1922, the Government agreed to give the Council an area approximately 400 morgen in size for establishment of a new location. A conflict ensued, however, over who was responsible for financing its development. The Government declared that the onus was on the Council to do this through loans which could be repaid through rents collected from the location residents as well as from the income derived from industrial rates paid to the Council upon the development of Ndabeni as an industrial site. In 1923, city ratepayers authorised the loan of £250 000 for the development of a new Location at Vijke Kraal Estate, which became Langa.

3.3 The Final Transfer Agreement

With agreement on the clearing of Ndabeni and the establishment of Langa, the transfer of authority was accepted by both parties. The final agreement included the following points:

1. Ndabeni was to be handed over to the Council with buildings, sanitary appliances administered under The Native Reserve Locations Act No. 40 of 1902 (amended by Act No. 8 of 1905);
2. Ndabeni was to be vacated within two years and subsequently sold for industrial development other than noxious trades, any profit arising from the sale of lots after deducting all expenses, to be shared equally between the Government and the Council;¹⁴
3. The immediate payment of £20 000 from the Government to the City Council for provision of temporary accommodation at Ndabeni;
4. The Council would take out a loan of £130 000 under the Local Works Act;
5. The Government would provide incentives for the Council to spend a certain amount of money on drainage and roads in Langa;
6. That all profits made in respect of Langa were to be spent on the development of Langa.

¹⁴ Between 1943–45. Ndabeni was sold off in small lots by the City Council at £1200 pr acre. The sale itself came under fire as normal procedure of advertising for tenders was not followed: the council was thus accused of favouring certain tenders by giving out privileged information.

4. THE TIGHTENING OF AUTHORITY OVER NDABENI

This section explores the Native (Urban Areas) Act and its implications for the urban African population of Cape Town.

4.1 The Natives (Urban Areas) Act No. 21 of 1923

On 1 January 1924, the Natives (Urban Areas) Act No. 21 of 1923 came into operation. Cloaked under the intention of uplifting the African population, the Act served the local authorities with the necessary powers to control and regulate almost all parts of life for Africans residing in urban areas. It provided powers to bring about the residential segregation of Europeans and Africans through the establishment of urban locations, within which it was compulsory for Africans to reside, as well as for Native Revenue Accounts, Native Advisory Boards, and the powers to remove 'surplus' people not employed in the area. The section on registration of Africans virtually introduced a pass system deliberately designed to provide cheap African labour.¹⁵

Since the turn of the century, the Cape Town authorities had been slow in facing up to the fact that an urban African population was a permanent rather than a transitory phenomenon. By the early 1920s, the authorities were deeply concerned with the so-called "influx of natives", the "swarms of wandering natives who are putting up shacks of all descriptions in the bush, [who] come into the southern suburbs during the night, steal whatever they can lay their hands on and are back in the bush in the morning". It was hoped that, if rigidly enforced, the Natives (Urban Areas) Act might "drive a considerable number of them back to their kraals". The influx was understood as "being caused by:-

- The high rate of wages offered to natives in Cape Town compared with elsewhere.
- The fact that there are more facilities for obtaining strong drink here.
- The drought and bad times generally in the natives territories." ¹⁶

4.2 The Application of the Native (Urban Areas) Act to Ndabeni

Despite this concern. Section 26 (h) of the Act stated that the Act could not immediately apply to Ndabeni as certain changes to the status of Ndabeni were still required:

1. Municipal boundaries had to be extended to include Ndabeni - this was done by Administrators Proclamation 23 January 1925 No. 16 of 1925.
2. The control, administration and maintenance of Ndabeni had to be transferred from the Government to the City Council - this was proclaimed in the Government Gazette on 1 May 1925.
3. All Africans living in Cape Town had to live in a Location which, at the time, was Ndabeni - this was proclaimed by the Governor-General 12 March 1926 No. 60 of 1926.

¹⁵ Saunders. 1984:203-4

¹⁶ Letter from Deputy Commissioner of Police. Western Cape. to Secretary for Justice. 27 August 1924. SAB / NTS vol. 2437 ref. 23/290

Finally, three days later, the Natives (Urban Areas) Act No. 21 of 1923 was proclaimed by the Governor-General 15 March 1926 No. 136 of 1926 to apply to Ndabeni Location. As far as the Council was concerned, they now possessed the legal authority to close Ndabeni and force its residents to move to Langa. The Council intended for this to happen within the two year period specified in the transfer agreement. However, they did not anticipate the resistance of the Ndabeni residents to such plans.

4.3 African Protest

As far back as 1919, a deputation of Ndabeni residents went to the Minister of Native Affairs, Mr Malan, with the following message:

“[We] resent that the Government is carrying on negotiations for the transfer of control of the location and neglecting to take the people concerned into their confidence by consulting their wishes and feelings, from time to time, in regard to this matter of vital importance to them. [...] The meeting emphatically protests against the proposed removal of the location from its present site as an unjust and unfair proposition. [We do] not object to Council taking over because that would lead to better administration of the location because the Council is more easily accessible nearby to hear the views of residents. [We object] to the proposed removal of the Location from its present site because the native people were shifted from the town area about twenty years ago, and the commission appointed at the time selected Ndabeni as the most suitable locality for a Location, and now it was proposed to make a further removal. This proposal will have the effect of creating on the mind of the native people a state of permanent uncertainty as to the ultimate destiny of the Location, as well as suspicion as to the real motives prompting the white inhabitants in making these incessant shiftings of the Location. [...] It would appear that the people were wanted, that only their hands were needed at work, and that if some mysterious arrangement could be devised whereby only their hands could be daily brought to town for purposes of labour, and their persons and faces not seen at all, that would perhaps suit their white masters better.”¹⁷

The residents suggested that the Council should improve Ndabeni rather than remove people to Langa, but the Council was already set on building a new location to house the Africans in Cape Town.

¹⁷ Cape Times. 9 November 1919

5. THE OPENING OF LANGA

This section outlines the opening of Langa on September 10, 1927 as a 'model native village' with accommodation for 5 000 Africans.

5.1 The Council's Reasons for the Establishment of Langa

The council presented several reasons for the establishment of Langa. On the one hand they wanted to build a model location for "contented, healthy natives, living under the best conditions, hygienically, morally and socially".¹⁸ Prime Minister J Smuts in 1923 expressed the hope that the City of Cape Town would set a good example to the Union in the methods of dealing with the housing and administration of Africans within urban areas and confidently anticipated that Africans would eagerly accept the opportunities given to them at Langa.¹⁹ On the other hand, there was growing concern among Europeans that Ndabeni was an 'eyesore' and that its location was a hindrance to the desirable expansion of European residential and business areas.

5.2 Removal Strategies of the Council

But people did not move voluntarily from Ndabeni to Langa as the authorities expected. In an attempt to force them, the cash-strapped Council in 1929 applied and received ministerial authority under section 2 (2) of the Natives (Urban Areas) Act to demolish 100 "A" type huts for married Africans and 92 Nissen huts for single Africans at Ndabeni.²⁰ But still residents resisted because the clause did not authorise the Council to compel residents to move to Langa.

Other strategies adopted by the Council were to double the rent at Ndabeni to force people to Langa²¹; or to compel any Ndabeni residents wishing to reunite with their families arriving from elsewhere to do so in Langa only since Ndabeni was closed in 1928 for further admissions; or to only issue work seeking permits to people if they went to Langa; or to refuse further trading permissions at Ndabeni. Several of these attempts at both so-called voluntary as well as forced removal were challenged on legal grounds by the residents who exposed the weaknesses of the 1923 legislation and maintained their right to remain in Ndabeni. A test case was brought before the court by an Ndabeni resident in early 1930 which found that the Superintendent had no authority under the 1923 Act to move people from Ndabeni to Langa.

5.3 Revised Strategy of the Council

On 4 March 1930, the Secretary for Native Affairs wrote to the Secretary for Lands expressing "the difficulty experienced by the Cape Town Municipality in transferring natives from Ndabeni Location to Langa Township [...] and while Langa Township is designed for 5000 natives, its present population is only 1000. The municipality has suggested the inclusion in a Bill to amend the Natives (Urban Areas) Act of 1923 of

¹⁸ Letter from Deputy Town Clerk to the Secretary. Cape Peninsula Joint Council of Europeans and Bantu. 30 August 1930. 3/CT vol. 4/1/5/1264 ref. N194/5

¹⁹ *ibid.*

²⁰ Letter from Town Clerk to Medical Officer of Health. 6 June 1930. 3/CT vol. 4/1/5/1253 ref. N96/5

²¹ Cape Argus. 19 August 1929

certain provisions conferring upon it increased powers which it is hoped will enable it to secure the occupation of Langa to the extent of the accommodation available".²² The difficulty was settled by a new bill which was specifically designed to confer upon the Council the power of forced removal.

²² SAB / NTS vol. 2437 ref. 23/290

6. THE OBTAINING OF POWERS FOR FORCED REMOVAL

This section explores the legislation which empowered the authorities to remove people by force from Ndabeni to Langa, once again using the fear of spread of disease to legitimise the moving of Africans from one part of Cape Town to another.

6.1 Amendment No.25 of 1930 to the Natives (Urban Areas) Act No. 21 of 1923

The 1930 Amendment to the Natives (Urban Areas) Act thus provided power to promulgate regulations *requiring the forced removal of Africans to a location determined by the Council*, or if unemployed to remove from the entire area, as well as gave the authorities the power to extend curfew regulations by proclamation to any urban area. It reflected a hardening of the view among the authorities and European population that “the urban area is to be regarded as an enclave where the European interest is paramount and within which the Native may only be permitted more or less on sufferance”.²³

Thus, the Amendment legalised the forced eviction of residents from Ndabeni on health grounds under Section 18 and the Council immediately served fresh notices upon hundreds of tenants.

The Council granted no monetary compensation to residents, shop keepers or churches who were forced to remove from Ndabeni. High legal costs were incurred by many who appealed against this policy.

6.2 Section 18 of the 1930 Amendment Act

Section 18 states that if a Medical Officer of Health:

- (1) certifies in writing that a dwelling in any location or native village under its control is so dilapidated, defectively constructed, dirty or verminous as to be injurious or dangerous to health or liable to favour the spread of infectious disease, require every occupant of such dwelling to remove therefrom on one month's notice and such dwelling on its vacation shall be demolished by the local authority: Provided that when giving such notice the local authority shall offer to every such occupant who is entitled to reside in such location or native village either-
 - (a) other adequate housing accommodation at the rent and on the conditions prescribed in respect thereof in the same or any other location or native village under its control, or
 - (b) subject to the payment by such local authority of reasonable compensation to such occupant for the loss, if any, sustained by him as a result of such removal or demolition, a site at the rent and on the conditions prescribed in respect thereof, in the same or any other location or native village under its control, for the purpose of erecting a dwelling thereon.

²³ Hellmann. 1949:233

(2) Any person who fails to comply with such notice shall be guilty of an offence and upon conviction the court may in addition to inflicting any penalty prescribed under section 25 of the principal Act order that he be forcibly removed from such dwelling.

The Council expressed their disappointment that the wording in clause 18 (1) (b) could be understood as allowing evicted residents in Ndabeni to claim alternative accommodation in Ndabeni rather than in Langa. Given that the Council intended to use this Amendment to force people out of Ndabeni to Langa, which had been established at great expense to the Council, they decided to authorise that the eviction notices served by the Medical Officer of Health would specify that the only alternative accommodation on offer was Langa.

6.3 The Application of the Amendment Act to Ndabeni

Since the Council no longer needed ministerial authority to demolish houses at Ndabeni and remove its residents to Langa, the Council set about exercising its powers to do so. By 17 November 1930, the Native Affairs Committee recommended that the Council take the necessary steps according to the provisions of Section 18 (1) of Act 25 of 1930 and removed single Africans from Ndabeni to Langa. Three days later the Town Clerk requested the Medical Officer of Health to issue "fresh certificates dealing with the whole of the accommodation at Ndabeni occupied by single natives, which can be condemned under Section 18 of the Act".²⁴ These were delivered after midnight to ensure that the recipient would be at home. People were moved by either horse and cart or lorries supplied by the Council.

Yet by October 1931, resistance to the removal ensured that many people had remained in Ndabeni. Of the present claimant population, the vast majority still resided in Ndabeni.²⁵ In the same year, there were still 1072 single men occupying dormitories and huts at Ndabeni, while 2213 vacancies existed for single men in the barracks at Langa. By this stage, 91 huts had been demolished at Ndabeni.²⁶ About 800 single Africans had moved into Langa but most of them came from elsewhere in South Africa and knew nothing of Ndabeni. The remainder were originally from Ndabeni, but, having been back to the rural areas, they were compelled to go to Langa upon their return as their accommodation at Ndabeni had been demolished.²⁷ The vast majority of the present claimant population moved directly from Ndabeni to Langa, yet some refused to accept the accommodation there and relocated to other areas, include. Salt River, Woodstock, Maitland, Cape Town, Windermere, Retreat, Athlone, as well as the Transkei.

²⁴ 3/CT vol. 4/1/5/1253 ref. N96/5

²⁵ Of the total claimant population to date (=588). 84% moved to Langa after the 1930 Amendment. 1% moved before the 1930 Amendment. and 15% were unsure of the date of removal and the time of their application.

²⁶ Cape Times. 20 October 1931

²⁷ Cape Times. 21 October 1931

By June 1932, the Council was under such pressure to speed up the removals that the Town Clerk ordered the Medical Officer of Health to “select sixty of the *most dilapidated* houses at Ndabeni in order that the question of serving notices upon the occupants under Section 18 of Act 25 of 1930 may be submitted for consideration”.²⁸

An editorial in the Cape Times summarised the Council’s actions as follows:

“The council, in short, [has] made a consummate muddle of the whole business. In their original plans they lacked foresight: when they were confronted with their mistakes they had neither the acumen nor the courage to rectify them. They tried force and failed. What do they propose to do now? Anyone who has had experience of the City Council can supply the unintelligent answer without hesitation, namely: try more force. They are relying, according to a statement by the chairman of the Municipal Native Affairs Committee, on certain provisions in the amended Natives (Urban Areas) Act to enable them to force the inhabitant of Ndabeni to become an inhabitant of Langa. What that will mean to the native does not seem to have been considered. But what it may mean to Cape Town may, perhaps, be gathered from the further reported statement of the chairman of the Municipal Native Affairs Committee that, ‘government’s co-operation may be necessary in the event of any symptoms of passive resistance on the part of the native to be moved’. Could folly - even City Hall folly - further go?”²⁹

²⁸ 3/CT vol. 4/1/5/1253 ref. N96/5 - authors’ emphasis

²⁹ Cape Times. 21 May 1930

7. RESISTANCE TO FORCED REMOVAL

“The natives have every reason to think that the buildings are being destroyed simply with the object of ejecting them from Ndabeni and so forcing them to Langa” (Mr Burton, attorney for Ndabeni residents).³⁰

This section uncovers the economic, social and legal reasons for the sustained protest by the Ndabeni residents to the forced removal to Langa.

7.1 Sustained Struggle

While a Commission of Enquiry reported in 1920 that “there were no obstacles to the removal of the location, in the shape either of pledges or vested interests”,³¹ it took over ten years for the Council to achieve its aim of clearing and closing Ndabeni.

Over these years, the residents engaged in both covert and overt resistance to the forced removal. Under the principle of fighting fire with fire, they challenged the Council in court on its legal authority to force Africans to Langa. They established a common law fund with contributions from Ndabeni residents to fund their legal expenses.³² No violent protests was ever reported.

The residents’ objections to their forced removal from Ndabeni to Langa were many and varied.

7.2 The Economic Grounds for Resistance

Most arguments against the forced removal centered upon the economic hardship which would ensue. The higher rent, transport and living costs would further cripple the poorer sectors of the Ndabeni community.

7.2.1 Rent

It was strongly felt among the Ndabeni residents that the Council was deliberately criminalising Africans by forcing them to live in Langa Location where the non-payment of the unaffordably high rent charged by the Council was punishable by jail or by criminalising them for staying at Ndabeni.

Not only was the rent higher in Langa but the Ndabeni residents felt that the married quarters in Langa were too small and thus not adequate compensation for what they would lose in Ndabeni, nor worth the high rent. A whole family was expected to live in two rooms, 12 feet by 10 feet, and for this they were expected to pay 24s a month. In Ndabeni a house of the same size, though not so well built, could be rented for 10s a month. A dormitory for 24 men in Langa was 22 feet by 26 feet and the rent was 10s a month per person, whereas at Ndabeni a single man could find sleeping room at 4s a month. The Special Quarters for single men in Langa at 15s a month were also too small, being 10 feet by 8 feet.³³ The accommodation was criticised as being too small for furniture or for the housing of large families as well as having communal water supplies, with several blocks of houses sharing a single tap.

³⁰ Letter to Medical Officer of Health, 1 April 1930, 3/CT vol. 4/1/5/1253 ref. N96/5

³¹ Commission report, 26 January 1920, SAB / NTS vol. 2437 ref. 23/290

³² Cape Times, 21 May 1930

³³ Cape Times, 1 August 1930

In May 1930, Reverend Father Savage, a minister to a Ndabeni congregation, explained the resentment and resistance:

“Cape Town had spent money like water in the preliminary work on Langa. The roads and drains had been made by European labour at top wages. The same with the houses. Interest on this was included in the rent demanded of natives, who earned only low wages. It was quite impossible that they could pay it. They keenly resented being expected to do so. They knew that if unskilled labour had been employed the preliminary cost would have been far less.³⁴ They keenly resented also the attempt at compulsion. They were to be forced to inhabit and pay for model cottages (yet so small that it was impossible to move in them) built by highly skilled European labour, while the City Council was helping unskilled Coloured people and Europeans to put up their own houses at various sites”.³⁵

The Council argued that it was forced to charge the high rent because Langa had cost them £250 000 and was accumulating an average deficit of £15 000 pr year and they were under substantial pressure from ratepayers who had been promised that the cost of Langa would be recovered through rent charges. The Council anticipated that if they kept up the firm attitude, the financial loss from Langa would be eliminated by 1932.³⁶

However by October 1930, the Council, bowing to pressure, and reduced the rents for Langa by 30-35%. These revised tariffs were promulgated in Provincial Gazette No. 1297 of 21 November 1930 under Notice no. 591. Yet these lowered rents were still beyond the reach of the majority of Ndabeni residents.

7.2.2 Rail

Resistance also centred upon the fact that a move to Langa meant moving a further 3 miles away from town. This meant longer train journeys to and from work and higher fares. The fares to Langa were at least double those to Ndabeni. People also complained that the train service to Langa was infrequent.³⁷ After many complaints from the Ndabeni and Langa residents, the Council approached the Railway Administration for a reduction in fares, but the latter refused.

7.2.3 Livelihood

These higher costs of living would be amplified in a move to Langa by the generally higher prices there, for example, for food; In Ndabeni the nearby abattoir ensured low prices and the residents also had easy access to food whether from several trading stores and stalls at Ndabeni or from the markets in Salt River and Woodstock. Upon removal, some shop keepers in Ndabeni would lose not only their businesses but also their right to a trading license in Langa.

³⁴ The employment of Africans in this regard was not allowed according to a Council letter 17 February 1928. SAB / NTS vol. 2437 ref. 23/290

³⁵ Cape Argus, 20 May 1930

³⁶ Cape Times, 22 May 1930

³⁷ Cape Argus, 20 May 1930

7.3 Social Grounds for Resistance

The residents did not only regard Ndabeni as a site for accommodation but also their neighbourhood and their community. Therefore, the residents objected to the forced removal to Langa because it would mean the dispersal and resulting dislocation of the community, as the new accommodation in Langa was allocated at random. Also, the small houses in Langa did not allow for the accommodation of the extended family as was the case in Ndabeni.

Ndabeni residents rejected the Council's practice of moving single men to Langa separately and before families were moved: "If they want to send us to Langa, they should remove us together and not the young men first, who are our children"³⁸ This was causing a breakdown in both social and financial networks of support, especially the interdependent relationship between married couples and single residents at Ndabeni.

Residents took exception to the fact that Langa did not appear to be ready for occupation. For example, the building of schools and churches in Langa was hampered by protracted negotiations regarding the rights and responsibilities of both the Council and the institutions being relocated from Ndabeni.

Finally, residents objected to being uprooted again and they resented being disempowered by the authorities who did not take their wishes and concerns into consideration when planning developments directly impacting upon their lives.

7.4 Challenging the Legal Powers of the Authorities

In February 1931 the Council took 18 Ndabeni residents to court over their failure to comply with the Council's eviction notice. One of them, Mr Mancengeza, was taken as a test case. He argued that the Council could not forcibly evict him from Ndabeni because the offer of accommodation in Langa was not at the same rent as that in Ndabeni, as stated under Section 18 (1) (b) of the 1930 Amendment to the Natives (Urban Areas) Act, which reads that the local authority must provide "a site at the rent and on the conditions prescribed in respect thereof, in the same or any other location or native village under its control". The judge, however, found him guilty, ruling that the Council was not restricted to charging the rent which the accused was currently paying at Ndabeni.³⁹ Mr Mancengeza appealed to both the Supreme Court and the Appellate Division but both appeals were dismissed. He intended to appeal to the Privy Council in England but abandoned the idea in November 1931 due to a lack of funds.

Thus, after the ruling of the Appellate Division in October it became clear to the residents that they could no longer fight the Council over the difference in rent between Ndabeni and Langa. As the Cape Times described it, the Council was now "able to proceed with its plans for sweeping away one of the worst eyesores of the Peninsula - the Ndabeni Location. [...] In the mean time the old black elephant,

³⁸ Cape Times. 11 May 1931

³⁹ Cape Times. 10 March 1931

Ndabeni, tottering with old age and suffering from all the diseases to which elephants are subject, will be humanely killed and buried where its appearance cannot offend and its breath cannot infect".⁴⁰

⁴⁰ Cape Times, 20 October 1931

8. THE CLOSING OF NDABENI

By February 1936, a letter was sent from the Secretary for Native Affairs to the Department of Lands informing them that the Ndabeni Location had been evacuated and all buildings demolished.⁴¹ On May 15 of that year, the following was published in the Government Gazette No. 2353:

**MUNICIPALITY OF CAPETOWN - ABOLITION OF
NDABENI LOCATION**

It is hereby notified for general information that the Minister of Native Affairs has approved, in terms of subsection (2) of section two of the Natives (Urban Areas) Act 1923 (No. 21 of 1923), of the abolition of Ndabeni Location at Capetown, as defined in the Schedule to Government Notice No. 237 of 1901 (Cape of Good Hope) and to which location the provisions of the said Act were applied by Proclamation No. 136 of 1926.

⁴¹ SAB / NTS vol. 2437 ref. 23/290

9. CONCLUSION

The Ndabeni community was dispossessed of its right in land under the Natives (Urban Areas) Act of 1923 and its 1930 Amendment. This racially discriminatory legislation empowered the City Council to forcibly remove Africans from Ndabeni to Langa.

In 1961, the World Health Organisation defined the concept of housing as

“the physical structure which man [*sic*] uses as shelter and the scope of that structure including all the necessary services, facilities, equipment and means required for the *physical, spiritual and social well-being* of the family and the individual”.⁴²

Thus, while Ndabeni may have been an impoverished, dilapidated and overcrowded site for accommodation, it was also a neighbourhood and a community. The scars of its tragic destruction still need to be healed. And whilst the “elephant” may have been long buried, its memory lives on among those applying for restitution. Their testimony confirms that the residents of Ndabeni had a deep sense of place and belonging, and that their lives were intimately moulded by the diversity and community spirit suffusing Ndabeni.

The forced removal resulted in the dispersal and resulting social dislocation of the community. Such “fragmentation of the community identity and heritage [...] had profound implications for its social, political and cultural expression”.⁴³ Therefore, while the economic and social costs of forced removal may be determined, its emotional and spiritual effects are immeasurable. The Ndabeni community was splintered and the bonds between individuals and their environments were severed. One applicant explains how his family refused to move to Langa, complaining that it was “a disease infected area”, and subsequently found a room in Kensington where “we lost our identity, having to be raise as coloureds by our family in order to attend the local schools and in fear of forced removal again” (M.A., 27-year-old descendant).

As accommodation in Langa was inadequate and randomly allocated, families were torn apart, as one restitution applicant has testified:

“When we moved to Langa my family was divided. My grandparents were sent to live in another house and there was not enough room in my parents’ house for all of us children, so my brother was sent to live with my grandparents and my mother missed him badly” (T.D., 75-year-old former Ndabeni resident).

The noticeable decline in the health and well-being, even premature death, of some former Ndabeni residents was attributed to the stress, anguish and dislocation brought about by this assault on human rights and human dignity.

The legacy of the closing of Ndabeni continues to live in the hearts and minds of those directly and indirectly affected and is mirrored in the urban landscape of Cape Town

⁴² Wernich. 1996:2 - present authors’ emphasis

⁴³ Hart. 1990:128

even today. The claim seeks to effect restitution for the survivors and descendants of the original Ndabeni community.

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Part 2

SOCIO-ECONOMIC PROFILE
OF THE PRESENT
NDABENI COMMUNITY
FOR RESETTLEMENT
PURPOSES

1. RESTITUTION

According to the Restitution of Land Rights Act No. 22 of 1994, people who were dispossessed of a right in land which took place under or for the object of furthering purposes of racially discriminatory laws or practices and after 19 June 1913, have a right to restitution. The Ndabeni Land Claim has been accepted by the Commission on Restitution of Land Rights (Western & Northern Cape) as qualifying for restitution under the above criteria.

This restitution may take several forms. The Ndabeni claimants have been offered a choice of three which are:

1. To be resettled in a new Ndabeni community
2. To be priority listed in an alternative housing development scheme
3. To receive monetary compensation.

The total number of application forms received by the Commission to date is 587.⁴⁴ The table below shows the distribution of claimants according to choice of restitution:

Choice of Restitution	Number	Percent
Resettlement in new Ndabeni community	408	69 %
Alternative resettlement	58	10 %
Monetary compensation	105	18 %
No choice expressed	16	3 %
Total	587⁴⁵	100 %

A combination of several factors influence the choice of restitution. These may include present economic and social circumstances, the level of identification with the past and present Ndabeni community, and stage of one's life cycle.

The following section of the report deals with those who have expressed a preference for being resettled in a new Ndabeni community. Given the history of the Ndabeni community, it is imperative that the envisaged resettlement and development project ensures that the community is rebuilt for, with, and by the people. Its sustainability will depend upon several factors to be discussed below.

A substantial proportion of the claimants applying for resettlement currently reside in Guguletu while others live in Khayelitsha, Belhar, Athlone, Mitchells Plain, Atlantis, Thornton, Johannesburg and the Transkei. However, the majority of claimants live in Langa. The impact of resettling people in a new community will thus be hardest felt in

⁴⁴ This list is not closed as applications may be submitted until 31 March 1997.

⁴⁵ Despite an intensive search, no complete official or unofficial list of residents in Ndabeni for any year has been discovered. Therefore, official verification of the validity of each claimant must rely heavily on community confirmation. The Commission on Restitution of Land Rights may also have to obtain the necessary verification through sworn affidavits. At the time of writing, this process has yet to be undertaken and the figures are thus subject to change. However, for the purposes of this report, the figures used are as above.

Langa. Both the economic and social vacuum left behind will need attention by the local authorities.

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2. RESETTLEMENT OF A NEW NDABENI COMMUNITY

The new Ndabeni community envisages that land ownership will be passed by the Court to a communal property association (under the Communal Property Associations Act 28 of 1996) which is a community representative and land holding entity.

The subsequent development of this land would thus be held under one entity and represent a community whose membership is diverse.

2.1 The Community

Like all communities, the Ndabeni community is fundamentally heterogeneous and internally differentiated. In so far as *differential* opportunities will be afforded by the development process, and in so far as a *differential* impact of the development process on the residents is to be expected, the following variables deserve consideration:

- gender
- age
- occupation
- economic wealth
- social values
- education/training
- politics
- religion
- future aspirations and the meaning attributed to settlement in a new Ndabeni community.

The recognition and incorporation of this into planning and implementation is central for holistic and sustainable development. Attention must be given to the social infrastructure of the community, especially the problems which may arise at the point at which the historical and contemporary micro-political and socio-relational dynamics interface. Micro-politics, social relations and human and organisational resources are contextual and multi-layered - neither static nor simple.

2.2 Sustainable Development

Numerous development projects world-wide have failed to achieve sustainable development. Many governments, development agencies and practitioners are culturally and institutionally separated from the intended beneficiaries; they regard development as a-political and suggest technical solutions to poverty; they commonly manage the projects in a control-oriented, top-down manner which does not sufficiently consider the historical, socio-economic, political and cultural context in which intervention takes place. the diversity of knowledge, skills, life-experiences and wishes of the intended beneficiaries, as well as criticism voiced both from within and outside the project. Intervention frequently has unintended outcomes as development projects and strategies both rely on and unleash socio-economic and cultural processes that go well beyond their intended scope and rationality.

Thus for a development programme to be successfully implemented and sustained, it must be conceptualised and realised as a people-centred and participatory development *process* which enables and empowers the people to do more of their own analysis, to take more command of their lives and resources, and to improve their well-being as they define it. It must be ensured that the decision-making and control of resources does not remain beyond the reach of the community, thus rendering their participation and their insights insignificant.

2.3 Eligibility

The criteria for eligibility employed in the research are as follows:⁴⁶

1. Any person (=A) who lived in Ndabeni and is still alive.
2. If this person (=A) is deceased, then the wife/husband/partner (=B) of this person (=A) is eligible, if still alive.
3. If either person (A) or (B) is deceased, then the living children (=C) (= son/daughter, stepchild, formally/informally adopted child) of either (A) or (B) are eligible.
4. If (C) is deceased, then his/her living children (=D) are eligible.
5. If (D) is deceased, then his/her living children (=E) (= son/daughter, stepchild, formally/informally adopted child) are eligible.
6. A spouse of (C), (D) or (E) is eligible, if (C), (D), or (E) are deceased and their children (= son/daughter, stepchild, formally/informally adopted child) are under 18 years of age. The wife/husband/partner can then apply on behalf of his/her children. If the children of (C), (D), or (E) are over 18 years old, the spouse and children may apply together. These are called Family Claims.

The following table shows the eligibility status of the 408 claimants expressing preference for resettlement in a new Ndabeni community:

Eligibility status of claimant	Number	Percent
Claimants eligible in their own right and qualify for restitution	255	62.5%
Claimants not eligible in their own right according to above criteria but may be eligible for resettlement in a new Ndabeni community under the terms of the CPA Constitution	122	30%
Claimants qualifying as Family Claims and eligible for restitution	25	6%
Eligibility status of claimants unknown	6	1.5%
Total	408	100%

⁴⁶ Given that Ndabeni was cleared over 60 years ago, a substantial proportion of the claimants are second or third generation. This makes the eligibility criteria complex and sometimes fuzzy, but the researchers found the above criteria to be appropriately inclusive and workable.

The following socio-economic profile will be based upon all 408 claimants expressing a wish to resettle in a new Ndabeni community, irrespective of their eligibility status as it is anticipated that the CPA Constitution will allow for resettlement of both the person eligible in their own right and their families/dependants as well as provide for a growing community.

These 408 claimants represent a further 1537 people to be resettled. Thus, the new Ndabeni community will initially count in excess of 1945 residents.⁴⁷

⁴⁷ Due to a lack of answers given on some questionnaires, there is a discrepancy between the figure of 1945 people and the detailed information available on them.

3. SOCIO-ECONOMIC PROFILE

3.1 Gender

Out of a resettled population of 1945, this information is available for 1863. Of these 1863 people, 856 are males (= 46%) and 1007 are females (= 54%). These figures appear to correspond to the sex ratio of the general population of South Africa. However, development planners as well as the community itself must be aware of gender implications in terms of roles and needs, control over resources and decision-making within households and the community.

3.2 Age

For the resettled population of 1945, information is available for 1835 who have the following age distribution:

Age cohort	Number	Percentage
0-5	141	7.7%
6-11	206	11.3%
12-18	273	14.8%
19-25	224	12.2%
26-60	839	45.7%
61+	152	8.3%
Total	1835	100 %

This distribution shows that a third of the population is below 18 years of age; that over half form an age group of potential and actual income earners; and only 8% are pensioners. Therefore, the resettled population appears to present a viable community in terms of income earners and dependants.

3.3 Economic Indicators

When analysing economic indicators, it is appropriate to think in terms of reliability of income, as this can shed light on what different people can afford at different times, given the social and economic context in which they participate.

3.3.1 Social Context

Giving an actual income per household has little meaning unless it is accompanied by an understanding of the domestic situation in which this income is operationalised, for example in the complex and dynamic context of 'household'. The present household size of the claimants ranges from 1-23 people with the average being 4.77 people per household. The size varies throughout the year as members enter and leave for longer periods of time, for example, due to work or education commitments elsewhere in South Africa. The monthly household income may in some instances represent the gross earnings of several members which are pooled to different degrees. It may also be a monthly household income of one pensioner who supports several dependants. A significant proportion of female pensioners testified that their pension of R430 per month supports not only themselves but also grandchildren and great-grandchildren and that they regularly went without food, especially in the latter half of the month.

Thus, income in a domestic context is situational and relative to the dependency ratio which is the number of dependants (children and un-/underemployed) to the number of income earners (salaries or grants), as well as to the intra-household dynamics, especially in terms of control over resources and decision-making.

3.3.2 Economic Context

The present context of instability of employment and income also has implications for planning for the Ndabeni resettlement and development project. Underemployment, i.e. when people have given up seeking regular work because of high unemployment but who undertake part-time work or jobs with inadequate pay, is prevalent among the claimant population, especially the women. It is characterised by seasonality as well as economic forces beyond the control of the worker and has very real implications for long-term savings and planning.

Thus, especially when planning the housing types and sizes in the new Ndabeni community it is imperative that allowances are made for the differing financial capabilities of the employed, unemployed and underemployed members of the claimant community.

3.3.3 Employment

The adult population (19 years and up) is 1215. Information is available for 847 of these (= 70%). They may be disaggregated into the following categories:

	Number	Percent
Employed	409	48 %
Unemployed	141	17 %
Grant recipient (pension/disability)	173	20 %
In tertiary education	124	15 %
Total	847	100 %

The available data also shows that the community includes 30 artisans (plumbers, builders, bricklayers, painters etc.); 25 people with administrative training, 28 teachers, and 43 health workers (medical and psychiatric nurses, traditional healers, social workers etc.). The socio-economic, political and symbolic value of employing members of the community to re-build the Ndabeni community should not be underestimated.

3.3.4 Income

Out of 408 households, information is available for 269 (= 66%).

Monthly income bracket	Number of households	Percentage
Up to R900	93	35 %
R901 - R1500	55	21 %
R1501 - R2000	85	31 %
R2001 - R3000	21	8 %
R3001 - R6000	15	5 %
Total	269	100 %

It can be seen that 56% of households earn less than R1500 p.m. Given the dependency ratio discussed above and the rising costs of living, this figure suggests that many families are battling financially. Thus, while people may have expectations about obtaining better housing and services in the resettled Ndabeni community, it is likely that many of them will continue to struggle unless their circumstances are taken into account and provisions are made to alleviate and accommodate for this.

3.4 Housing

Out of 408 claimants, information on housing is available for 294 (= 72%).

Of the 294 claimants, 213 (= 72%) own their present accommodation while 81 (= 28%) are renting. The recent practice of the City Council transferring ownership to a number of residents in Langa has meant that the onus of maintenance is now on the residents, many of whom can barely afford it.

Many have testified that their housing conditions are overcrowded, often with both sexes and several generations having to share sleeping quarters. The ratio per bedroom is 3.83 people and the range is from 1 to 11 in a single sleeping quarter.

Many claimants expressed a desire for privacy, more space and for improved facilities. While 98% of claimants have electricity and 72% have running water in the house, only 45% have inside toilets. Many elderly claimants complained about having to use an outside toilet, especially after dark.

The overcrowding presently experienced by many claimants warrants special attention by development planners. The condition may be due to either economic or social necessity or both. Provision must be made for different types of homes for extended and nuclear households as well as single people.

3.5 Education

The number of children/youth currently in education is represented in the table below:

Place of Education	Total
Pre-school	114
Primary school	271
Secondary School	271
Tertiary	124
Total	780

3.6 Wish List for the New Ndabeni Community

The claimants have expressed their wishes for the following facilities and services to be part of the new Ndabeni community.

Wishes Expressed	Number of votes as percentage of population
Educational facilities including crèche	74 %
Recreational facilities including sports centre, community hall, library, youth centre, cinema, and park	67.5 %
Health Care facilities	60 %
Places of Worship	56 %
Shops	54 %
Police Station and Fire Brigade	25 %
Infrastructure including good transport, roads and pavements	20%
Frail Care Home	11%

Other services asked for include

- electricity
- post office
- bank
- reliable sewerage, drainage, and rubbish removal
- street lighting
- cemetery
- farming space for poultry

4. CONCLUSION: REBUILDING THE NEW NDABENI COMMUNITY

The resettlement of a new Ndabeni community will mark the end of a long struggle for redress for the unjust and forced removal from Ndabeni. At the same time it will mark the beginning of a process of healing and community-building.

As explored above, the community is internally differentiated. Therefore, it must be ensured that the housing and services provided are affordable to all members of the new community. It must also be recognised that people have different aspirations for the future; these should be given voice in a legitimate forum where the more powerful can not manipulate projects to their benefit at the expense of others.

It is imperative that the development process lying ahead is carried out with the participation of the community itself. Langa was built without the consent and participation of those forced to move there. They resisted the inadequate provision for accommodation, education and community life and the hardships resulting from the top-down approach of the authorities. For too long, their living environment has been designed, regulated and managed by forces beyond their control. The resettlement and development project thus offers a remarkable opportunity for the community to come together and successfully rebuild a sustainable and viable community, based on their own definition of well-being.

Part 3

RESEARCH PROCESS

1. RESEARCH PROCEDURE

This section of the report covers the research process undertaken for the Commission on Restitution of Land Rights (Western & Northern Cape) on the Ndabeni Land Claim from October 1996-March 1997.

1.1 Research Design and Focus

The primary focus of this research process has been to:

- Locate and interview potential applicants for the Ndabeni Land Claim using a structured questionnaire.
- Access historical memories and records relating to Ndabeni's past. The former has been achieved through the compilation of testimonies from former Ndabeni residents and their descendants (primary sources), and the latter through accessing archival material e.g. official government and provincial documents and newspaper articles at the South African Libraries and the State Archives in Cape Town and Pretoria (secondary sources).
- Compile a socio-economic profile of the claimant community for use in the development of a new Ndabeni community.

The secondary focus of this research process has been to:

- Establish a data base for the collected information regarding Ndabeni restitution claimants.
- Establish a data base for the collected information regarding the history of Ndabeni, the forced removals and its subsequent closure.

The final stage has involved the compilation of a report that includes:

- A comprehensive list of Ndabeni restitution claimants.
- An overview of the historical events that resulted in the forced removal, under racially discriminatory legislation, of Ndabeni residents. This was achieved through using both historical records and claimants' testimonies.
- A contemporary socio-economic profile of the claimant community with recommendations to ensure the participatory and sustainable development of a new Ndabeni community.

1.2 Questionnaire

A questionnaire was designed to allow the researchers to access accurate information as well as make explicit the criteria upon which claimants' eligibility is assessed. Prior to this it was necessary to uncover the reality of family relations and household organisation of the applicants in order to reconcile the euro-centric nature of legal categories of eligible claimants with locally appropriate understandings of relevant variables (e.g. kinship/descent, household, community, identity, socio-economic status). To aid this understanding a series of permutations of kinship-scenarios were devised which served to formulate explicit criteria for eligibility and to inform the re-designing of a culturally appropriate and inclusive questionnaire based on a re-conceptualisation, deconstruction and operationalisation of these variables.

1.3 Accessing Ndabeni Claimants

In order for the final list of restitution applicants to be as representative and credible as possible, energy and resources were channelled into locating, informing and assisting claimants with registration and with taking their testimony.

1.3.1 Opening of Offices

Registration offices were open at the following venues, dates and times:

Venue	Dates	Times
Langa Ikapa Workshops Bhunga Avenue	7-12 October 1996 22-26 October 1996 9-14 December 1996 20-25 January 1997 27 January - 1 February 1997	Mondays to Fridays 11am-7pm Saturdays 11am-4pm
Guguletu Ikwezi Centre NY2	9-14 December 1996 20-25 January 1997 27 January - 1 February 1997	Mondays to Fridays 11am-7pm Saturdays 11am-4pm
Khayelitsha Dept. Of Housing Stocks Bldg Lingelethu	9-14 December 1996 20-25 January 1997 27 January - 1 February 1997	Mondays to Fridays 11am-7pm Saturdays 11am-4pm
Kayamandi Community Hall	14 December 1996	Saturday 11am-4pm

1.3.2 Publicity

Following enquiries into what would be the most effective channels through which to notify and invite people to the offices, the Commission issued press releases to a number of print, broadcasting and TV media. The Commission also distributed posters, flyers and letters to churches, schools, shops and community centres etc. in Khayelitsha, Guguletu, Langa and Kayamandi. Efforts were also made to contact people outside the Western Cape through broadcasting media. This was done in co-operation with the Commission office in East London.

Below is a list of publicity undertaken during October 1996 - January 1997:

Media

1. Cape Times
2. Argus
3. Northern Echo
4. Plainsman
5. Paarl Post
6. Khayelitsha News
7. Citivision
8. SABC Radio News Desk
9. SABC Cape at Six
10. Radio Xhosa
11. Radio Zibonele
12. Radio C-Flat
13. Radio Voice of the Cape
14. Bush Radio
15. Radio 786
16. Radio Transkei
17. Radio Ciskei

Churches

1. United Congregational Church, Langa
2. Moravian Church, Langa
3. Two Presbyterian Churches, Langa
4. A.M.E Church, Langa
5. St. Francis Catholic Church, Langa
6. Baptist Church, Langa
7. Old Apostolic Church, Langa
8. Two Presbyterian Churches, Guguletu
9. Methodist Church, Guguletu
10. Baptist Church, Guguletu
11. Chapel Methodist Church, Guguletu
12. St. Columbus Church, Guguletu

13. Pentecostal Church, Guguletu
14. Independent Church, Guguletu
15. United Presbyterian Church, Khayelitsha
16. St. Peter's Anglican Church, Khayelitsha
17. Andrew Lobasa Methodist Church, Khayelitsha

Schools

1. Langa High School
2. Masiyele High School, Khayelitsha
3. Joe Slovo High School, Khayelitsha
4. Luhlaza High School, Khayelitsha

Others

1. St Francis Centre, Langa
2. Langa Hospital
3. Ayanda Spaza, Langa
4. Tsoga Community Project, Langa
5. Langa Post Offices
6. Langa Police Station
7. Langa Administration Offices
8. Ikwezi Centre, Guguletu
9. Ekupumleni Old Age Home, Guguletu
10. Uluntu Centre, Guguletu
11. Guguletu Police Station
12. Bakery Store, Guguletu
13. Public Library, Khayelitsha

14. Rent and Pensions Offices at Khayelitsha Educational Resource Centre
15. Khayelitsha Day Hospital
16. Khayelitsha Maternity Hospital Ward
17. Khayelitsha Police Station
18. Mfesane Community Centre, Khayelitsha
19. Baphumelele Educare and Community Centre, Khayelitsha
20. Post Office, Khayelitsha
21. E-Market, Khayelitsha
22. SHAWCO Health Centre, Khayelitsha
23. Department of Housing, Lingeletu
24. Vodacom Community Phone Shop, Kayamandi
25. Khangelani Games and Drinks, Kayamandi
26. Raboroko Cash Store, Kayamandi
27. Kaya Ice Cream Store
28. Kayamandi Hall
29. Kayamandi Barber Shop
30. Kayamandi Corner Shop
31. Masokhanye and Sons Cash Store, Kayamandi
32. Binta's Tavern, Kayamandi

1.3.3 Community Participation

Research assistants were recruited and paid for their work. Except in Khayelitsha, the research assistants came from the Ndabeni community. Prior to the opening of each office, the researchers conducted a workshop for the research assistants on the issue of Land Restitution and on the contents and procedures involved in completing the questionnaire with the claimant. They were also given informative reading material on the process of applying for restitution.

The research assistants voluntarily made themselves available to claimants outside the registration office opening dates and hours. They also undertook to personally locate and inform potential claimants throughout the research process.

1.3.4 Fieldwork

The researchers conducted in-depth interviews with members of the community and the Ndabeni Restitution Committee in order to enhance their understanding of life in Ndabeni and the impact of the removal on their lives.

Throughout the research process, potential claimants were extracted from questionnaires received. These people were subsequently visited by the researchers who informed them of the claim and invited them to apply.

1.4 Conclusion

These research efforts and the good response of claimants has satisfied the Commission that:-

1. adequate measures have been taken to inform the public about the claim;
2. registration venues have been sufficiently open and accessible.

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Part 4

APPENDICES

Research Proposal
Submitted to The Commission on Restitution
of Land Rights
(Western and Northern Cape)

Broadbridge and Gordon, (1996b)

TO THE OLYMPIC BID COMMITTEE

The Ndabeni community have applied for restitution for loss of rights to land under the Native (Urban Areas) Act of 1923. This process has now reached a crucial stage. This research proposal explores how the process should continue in ways which will facilitate and ensure fairness, credibility and sustainability in accordance with the aim of the Restitution of Land Rights Act 1994. The findings will form the basis of a key document to be presented to the Land Claims Court in early 1997.

As anthropologists at the University of Cape Town, we were approached by the Land Claims Commission in Cape Town to be part of the process, from data gathering to data analysis to report compilation, on a voluntary basis. Our perspective and research methods have directed this restitution process away from being unclear and uncoordinated to being focused and operative. Through the research carried out for the past four weeks, we have become deeply involved in and committed to the Ndabeni claim, yet we are unable to proceed without funding. Despite the Land Claims Commission recognising the local as well as national importance of the Ndabeni restitution claim, there are unfortunately no funds available from the Commission for this crucial research to be continued.

The successful and timely completion of this claim will lend credibility to the work of all interested agencies. Given the Olympic Bid Committee's stake in this regard, we hereby approach you for financial assistance which will enable us to undertake the research proposed below.

Yours sincerely,

Jenni Gordon and Helena Broadbridge

Cape Town
November 5, 1996

1. AIM

Our aim is to facilitate the continuation of the process whereby the community of Ndabeni may be granted restitution for loss of rights to land under the Native (Urban Areas) Act of 1923. This will include compiling a comprehensive list of legitimate claimants to be presented to the Land Claims Court. The credibility of this list forms the legal basis of the restitution process, in accordance with the Restitution of Land Rights Act 1994. It also forms the basis for the resettlement process whereby the Ndabeni claimants form a Communal Property Association which is the legal entity receiving the restitution. Our research will also establish the historical details surrounding the forced removal from Ndabeni in the late 1920s and early 1930s, the impact of this removal on the Ndabeni residents and their direct descendants, and the present socio-economic demographics of the claimant community. This will be presented in a key document to the Land Claims Court in early 1997 as well as to all parties involved, including potential housing and land developers, government institutions and the Olympic Bid Committee.

2. JUSTIFICATION

2.1 BACKGROUND TO NDABENI

Ndabeni was Cape Town's first official African location, established in 1901 under the Public Health Amendment Act of 1897 to control an outbreak of bubonic plague as well as, more generally, to carry out a policy of racial segregation and labour control. By 1922, at least 500 married couples lived there as well as several thousand single workers. Under the Native (Urban Areas) Act of 1923, Ndabeni residents were forced to move to the new 'model location' of Langa, 3 miles further away from Cape Town and with a higher cost of living. The move would eventually allow making Ndabeni an industrial estate under the Cape Town Council which it remains today. Langa was opened in 1927, but because Ndabeni residents strongly condemned and resisted the removal, it took until January 1936 for the Council to clear Ndabeni of its residents. Most of them went to Langa, but some settled elsewhere, particularly in Kensington Estate, Crawford and other parts of the Cape Flats. At present, the overcrowded and harsh living conditions in Langa warrant immediate intervention. The completion of the Ndabeni restitution claim will bring much-needed relief and upliftment to those directly affected by its outcome.

2.2 THE PRESENT CONTEXT

The timely and successful outcome of the Ndabeni land claim will not only redress discriminatory practices of the past; it will act as a catalyst for the socio-economic upliftment of the Western Cape region as part of the Reconstruction and Development Programme, as well as for the national reconciliation process. Finally, it will improve the status of South Africa within the global community.

These goals correlate with those presented by the Olympic Bid Committee. Given the joint interest in the Wingfield Estate by the Ndabeni Community and the Olympic Bid Committee, it is of mutual benefit to all parties involved for the land restitution process to proceed in a manner which is expeditious and comprehensive. This process is currently

being held back by a lack of state funds earmarked for the implementation of the Restitution of Land Rights Act 1994.

2.3 ANTHROPOLOGICAL CONTRIBUTION

As anthropologists, our perspective and research methods have directed this restitution process away from being unclear and uncoordinated to being focused and operative. This has been achieved through the following: We have reconciled the euro-centric nature of the legal categories of eligible claimants with locally appropriate understandings of relevant variables (e.g. kinship/descent, household, community, identity, socio-economic status). This has informed the re-designing of a culturally appropriate and inclusive questionnaire based on a re-conceptualisation, deconstruction and operationalisation of these variables. We have liaised with ex-Ndabeni residents and their descendants and opened an office in Langa through which we have administered the questionnaire. We have also gathered relevant secondary information of both historical and contemporary nature. Through the research carried out thus far, the following issues have been identified as warranting further anthropological research.

2.3.1 Restitution

The successful completion of the restitution process requires a list of legitimate claimants. For this to be credible in the eyes of the law as well as the eyes of the Ndabeni community, it must be compiled according to kinship/descent criteria which are acceptable to both. The cultural expertise of the anthropologist is crucial to facilitate this mutual understanding. The Ndabeni claim has proven to be a special case for the Land Claims Commission, due to the fact that the claimants presently coming forth include descendants of second and third generation. This makes the compilation of the list increasingly complex.

The Land Claims Court also requires detailed information regarding the historical circumstances of the forced removal, its social and economic impact on the people and their livelihoods. The paucity of such written documentation can be redressed through the qualitative research methods of anthropology, including accessing historical memories through the gathering of oral histories and the use of participatory research methods.

2.3.2 Resettlement

Numerous resettlement projects in South Africa and world-wide have failed due to a reluctance on the part of development agencies to appreciate the significance of a historical, micro-political and socio-relational understanding of the community to be resettled. Resettlement programmes often show little regard for the diversity, power structures and conflicts, historical circumstances, life experiences and skills of the people in the community.

Anthropological methods focus on identifying, deconstructing and reconciling such dynamics and their interactions in the community. This understanding must precede and inform the Ndabeni resettlement programme in order to facilitate its immediate success and long-term sustainability. Anthropological methods also facilitate a process of

empowerment whereby the Ndabeni community may take more command of their lives and resources and improve their well-being as they define it. This is central to a successful resettlement programme, where the land is collectively held by the community under the Communal Property Associations Act of 1996.

The socio-economic data gathered from the claimants' present households will be compiled and analysed contextually with the aim of informing developers and other interested agents as to the economic, employment, and educational range and status of the Ndabeni community. The identification of these factors as well as other skills which the community has to offer will aid the formulation of a people-centred, participatory and economically viable resettlement programme, sensitive to the diverse needs and multi-layered expectations of the community.

Anthropological research will thus facilitate both a credible restitution process and a sustainable resettlement programme, worthy of the attention and resources of the Olympic Bid Committee.

3. RESEARCH DESIGN

The research encompasses the following three phases:

1. The preliminary phase involves:

- Defining the scope of enquiry;
- Re-conceptualising, deconstructing and operationalising the relevant variables (e.g. kinship/descent, household, community, identity, socio-economic status);
- This informed the re-designing of a culturally appropriate and inclusive questionnaire for claimants;
- Establishing criteria for legal claimants;
- Gathering relevant secondary historical and contemporary sources through archival records, articles, books, policy documents, visual materials, CD-ROM and the Internet;
- Identifying and accessing key informants both from the Ndabeni community and the Land Claims Commission;
- Organising for an office to open in Langa for ex-Ndabeni residents and their descendants to lodge their claims

2. The principal phase involves:

- Administering the questionnaire;
- Conducting in-depth interviews with key informants;
- Participant observation of the Ndabeni restitution process;
- Establishing a data base (incl. a list of credible claimants, historical and present socio-economic indices);
- Initiating and overseeing a high profile, local and nation-wide publicity campaign, raising awareness of the Ndabeni land restitution claim;

- Facilitating community meetings and focus group discussions;
- Facilitating workshops to empower community members to undertake the further administration of the questionnaire in the Western Cape. To ensure that all potential credible claimants are reached, extensive liaising with the Land Claims Commission offices in the Eastern Cape and Gauteng will take place;
- Facilitating participatory research involving diagramming, mapping and analysis of the historical Ndabeni and of the future resettlement site.

3. The Final Phase involving:

- Data analysis and validation;
- Compiling a comprehensive report to the Land Claims Court which will include the crucial list of legitimate claimants as well as a socio-economic profile of the community seeking resettlement;
- Presentation of this to all interested parties.

The preliminary phase of the research has been completed. The principal and final phases are unable to proceed without funding.

4. RESEARCH PROCESS

4.1 TIME FRAME

The overall time frame for the research is 8 weeks:

Weeks	1-6	7-8
Principal phase of research	+	
Final phase of research		+

4.2 RESEARCH LOCATION

The research will predominately take place in the Western Cape region. However, eligible claimants are spread throughout the country. In order to make the claim process as inclusive and just as possible, eligible claimants will also be accessed in other provinces, especially the Eastern Cape and Gauteng, through extensive liaising with the local Land Claims Commission offices.

4.3 RESEARCH PERSONNEL

The preparation, field research, analysis and presentation of findings will continue to be undertaken by two full-time research consultants who have extensive experience in conducting social research of this nature. A Xhosa translator will be employed for ten days during the principal phase of research. When needed, other research assistants will be sought on a voluntary basis and given training in the research methods to be applied.

5. ETHICAL CONSIDERATIONS

The research will be undertaken within the ethical guidelines set out by the Anthropological Association. All informants will have the purpose of the questionnaire and claims process explained to them so that informed consent may be sought from them prior to commencing the research. All participants will be assured of confidentiality and that their participation in the research will have no consequences for their restitution application other than those purposes specified in the Restitution of Land Rights Act of 1994. A tape-recorder will only be used with the informants' written consent.

6. BUDGET

Budget Item		Rands
Transport	40 days x 30 km @ R0.92 x 2	R 2 208
Researchers' Fees	40 days of R200 per day per person	R16 000
Translator's Fees	10 days of R120 per day	R 1 200
Recording Equipment	15 tapes @ R8,50	R 127, 50
Transcription of Tapes	30 hours @ R15	R 450
Sundry Expenses		R 1 300
Total		R 21 285,50

7. PUBLICATION OF FINDINGS

The findings will initially be presented in a key document to the Land Claims Court in early 1997 as well as to all parties involved, including potential housing and land developers, government institutions and the Olympic Bid Committee. The outcome will also be of interest to the local, national, and international print and electronic media. Articles arising from the research will also be submitted for publication in relevant journals pertaining to land reform, urban development, The Olympic Games, and social anthropological research.

Concerns Report
Submitted to The Commission on Restitution
of Land Rights
(Western and Northern Cape)

Broadbridge and Gordon, (1996a)

University of Cape Town

Ndabeni Land Restitution Claim

Concerns and Recommendations based on fieldwork in Langa for the Commission on Restitution of Land Rights

October 1996

By

Jenni Gordon and Helena Broadbridge
Department of Social Anthropology
University of Cape Town

1. QUESTIONNAIRE

1.1 LAYOUT

1.11 Space

- An inadequate amount of rows has been allocated for claimants to account for all the members of past and present households. Eight more rows on each list should be added.
- The column size must be adjusted in the sections that record past and present household members, by increasing the width of the name and address columns, and decreasing those relating to age and gender.
- An inadequate amount of spacing has been allocated to incorporate the employment and income variables of all present household members onto the claimants form. Five columns should be included as follows: one for name of people no longer at school/tertiary education, one for current formal/informal employment if any, one for geographical location of workplace, one for type of employment, one for other skills, and one for disposable income per household member (wages/grants/remittances /maintenance).

1.12 Ordering

- Ask who was the antecedant in Ndabeni (in relationship terms) and what was their name, before asking the address of them in Ndabeni.
- Ask what year people were removed from Ndabeni before asking how long their respective families lived in Ndabeni.
- Ask whether present accomodation is owned or rented before compensation section.

1.2 CLARITY

- A brief description of how the information they impart will benefit the claimant, should be at the top of the questionnaire.
- Surname and first names must be given in two separate blocks.
- ID number must be given.
- The relationship columns must specify that relationship to applicant is required
- The age columns must specify current age.
- The section on members of household in Ndabeni must re-emphasise that it is concerned with the household in Ndabeni. Similarly with the present household section.
- Emphasis that descriptions of life etc. may be from personal experience or through stories passed down.
- Ask where they moved to from Ndabeni.
- Ask whether they were paid any monetary compensation.
- Ask whether they were given a house to live in.
- Instead of 'what impact did the removal have on your life', ask 'how was life different in Langa from life in Ndabeni?'
- The categories Pre-school and Secondary must be changed to creche/pre-school/pre-primary and high school respectively. Tertiary must specify college, technikon or university.
- More clarity is needed as to what the compensation options realistically consist of.
- The 'wish list' should only be completed by people who have selected compensation option number 1 or 2.

1.3 ASSUMPTIONS

The following concepts warrant awareness and sensitivity in the gathering, analysing and evaluation of the data:

1.31 Household

- In terms of physical space, one property is often divided into smaller 'satellite' households'. This means that at the same postal address, several individual households co-exist both in terms of physical space and in terms of social organisation and responsibilities.
- Households are not homogenous units but often made up of people with different interests and financial circumstances. The diverse voices get submerged in the 'one application per household'-criteria, with potential repercussions in later phases of the restitution claim. The person completing the questionnaire may not have immediate access to the required information for other household members. Finally, it must not be assumed that extended households pool their incomes.

1.32 Family Relations

- Sensitivity must be expressed to the issue of relationships; these may or may not be blood relations.

1.33 Community

- The Restitution of Land Rights Act 1994 suggests a rather neutral definition of the concept of 'community'. It disregards the historical and contemporary micro-political and socio-relational dynamics which may challenge community coherence. While the restitution process may heighten the identity of 'Ndabenerites', this consciousness may not continue in later phases, when different and competing interests begin to emerge.

1.4 ETHICAL CONSIDERATIONS

- The office environment was not supportive of accessing private and/or sensitive information, e.g. of income and compensation.
- No claimants were given assurance of confidentiality of the information given, nor that the information would not be used for any other purpose than that specified in the Restitution of Land Rights Act 1994. This problem could be avoided by giving verbal and/or written guarantees thereof.

2. PRACTICALITIES

2.1 COMMUNICATION

2.11 Between Commission and Community

- There seemed to be a lack of awareness among potential claimants as to when and where the office would be open in Langa. This resulted in people arriving at the wrong venue in Langa to lodge their claim. It also resulted in very few applicants coming forward in the first few days. The information campaign seems to have been restricted to Cape Town and environs thus not reaching potential claimants elsewhere in the country.
- We suggest that several channels of communication be used in future, e.g. local newspapers and freebie-newspapers nationwide, local TV-programmes (e.g. Cape at Six), local radio stations nationwide, churches and other organisations with grassroots networks, big posters in public places (bus stations, taxi ranks, clinics, shops etc).

2.12. Between Commission and Committee and Research Consultants

- We encountered several incidents where there was a lot of confusion regarding the whereabouts of completed questionnaires. Questionnaires were moved between the Commission, the Committee and the research consultants with no clear guidelines as to who should be responsible for them. This is unacceptable given the implications of a questionnaire falling into the wrong hands.

2.13 Between Commission and Research Consultants

- There were very few guidelines as to what was expected from us besides taking down claims on the questionnaires provided. A result of this was a week wherein valuable time was wasted as the Committee who had apparently agreed to manage the office for the week, failed to open the office at the agreed times.
- More importantly, the fact that questionnaires were completed by several people who had not been privy to the *ad hoc* adaptations made to the questionnaires may result in the compatibility and validity of the data being compromised. Had we known this we would have made ourselves available to the Commission to extend our fieldwork in Langa.

2.2 THE OFFICE IN LANGA

- When the office was crowded there was insufficient seating for many elderly claimants.

3. PROCESS OF RESTITUTION

We recognise that Ndabeni is among the first land restitution cases involving second and third generation claimants and the problems arising from this. Yet more clarity is needed as to the legal and practical implications of this. For instance, will claimants be prioritised on the basis of being directly or indirectly affected by the forced removal? If so, what are the implications of enforcing the rule that says one claim per present household be lodged, irrespective of whether the claimant was directly or indirectly affected?

Cape Town
28/10/96

Memorandum
Submitted to The Commission on Restitution
of Land Rights
(Western and Northern Cape)

Broadbridge and Gordon, (1997b)

University of Cape Town

MEMORANDUM

**TO: THE COMMISSION ON RESTITUTION OF LAND RIGHTS (NORTHERN AND WESTERN CAPE),
MARY SIMONS, MEDIATOR OF THE NDABENI LAND RESTITUTION CLAIM,
THE LAND CLAIMS COURT,
THE INTERIM NDABENI LAND RESTITUTION COMMITTEE**

FROM: JENNI GORDON AND HELENA BROADBRIDGE, RESEARCHERS

DATE: 26 JUNE 1997

RE: THE NDABENI LAND RESTITUTION CLAIM PROCESS

Following the breakdown in negotiations and mediation declared at a meeting between interested parties in the Ndabeni Land Restitution Claim on 4 June 1997, the claim will shortly be referred to the Land Claims Court by the Regional Land Claims Commissioner, Adv. W.A. Mgoqi.

From our position as researchers on the Ndabeni claim, we wish to make the following comments on the process in the hope that the experience gained with this particular claim may inform the processing of other community claims.

We began conducting research on the Ndabeni claim in October 1996. Since then, we have been afforded the privilege of having continuous and close contact with a number of members of the Ndabeni community, some of which are on the interim Ndabeni Land Restitution Committee and some of which are not. We have participated in a number of meetings at the Commission and have also established a good working relationship with the Commission. These relationships have given us insights into the workings of the parties involved and of their positions. Our research has produced a comprehensive list of legitimate claimants, a history of the circumstances of forced removal from Ndabeni based on archival research and oral testimonies, as well as a socio-economic profile of the claimant community.

As noted by the Commission in the memorandum of 5 June 1997, the processing of the Ndabeni community claim has been a rather long and drawn-out process. In our view, several interrelated, and avoidable, matters have contributed to this situation and warrant urgent consideration.

THE DELAY IN COMPILING A LIST OF CLAIMANTS

The process appears partly to have been held back by the delay in compiling the crucial and comprehensive list of legitimate claimants. This list must be accepted by the Land Claims Court as sufficiently representative of the number of survivors of the removal from Ndabeni or their descendants. A list of 106 claimants was initially submitted to the Commission. During October 1996, an application/registration office was opened to allow the 106 people to register as well as invite further claimants to come forward. However, it was felt by the Commission that the response did not sufficiently reflect

the number of former Ndabeni residents and their descendents, and that reasonable steps within a reasonable time frame had not yet been taken to reach potential claimants. This analysis and the suggestions from the Commission of extended publicity and re-opening of offices (including three more offices) were initially met with unwillingness by part of the interim Committee, due to the subsequent prolonging of the claim process as well as apprehension that more claimants might mean less compensation for all. However, with the agreement reached at a meeting on 3 December 1996 by all interested parties, the above steps were undertaken between December 1996 and February 1997. Claimants registered to date number around 600.

THE DELAY IN ESTABLISHING A DEMOCRATICALLY-ELECTED COMMITTEE

An interrelated and primary contributing factor to the present situation is the problem of establishing a legitimate and representative Ndabeni Land Restitution Committee. The interim Committee was elected by the initial 106 claimants. Given the current claimant population of ca. 600, it can no longer be legitimately considered as having a mandate from the entire claimant community to take the process forward in a particular direction. We have identified the following possible reasons for the problems faced in this regard:

Firstly, a component of the interim Committee has been reluctant to recognise the legal and political necessity of holding a democratic election of a committee representing all registered and legitimate claimants. This, we suggest, is due to the following:

1. There have been a series of miscommunications and misunderstandings because details of the claim process have not been clearly set out by the Commission and/or the Department of Land Affairs nor communicated to the interim Committee.
2. This includes a lack of clarity and assistance, both in terms of personnel and funding, with the actual election procedure.
3. Given the amount of energy and commitment invested in the claim process by current members of the interim Committee, a measure of ownership of the process has developed which they may understandably be reluctant to relinquish.
4. The community at large recognises the long-standing effort of the interim Committee and is in fact likely to re-elect the present committee. Holding an election may thus seem to be a waste of precious time and resources to members of the interim Committee as well as to some members of the community. The Commission must recognise that as the process and hard work of committee members is prolonged, the 'interim' may become established in the minds of people as 'permanent'.
5. Some members of the interim Committee did not consider it necessary to register themselves as claimants through the correct procedure, because they felt that their commitment and lengthy involvement in the claim was sufficient to qualify.

The Commission has faced a series of internal and external constraints in this regard:

1. The funding process has proven highly difficult, as there is little clarity of where and when funding for e.g. elections is available.
2. There has been a marked uncertainty as to the procedures of the claim in terms of its uni-linear and parallel processes. These include the structures in, timing of and representation at e.g. the election of a representative committee, CPA workshops, and negotiations with various authorities.

3. The Commission itself has had little contact with the larger Ndabeni community. It has not been invited to attend a number of community meetings and has thus had little opportunity to explain and discuss the claim process with the community at large.
4. Conflicting expectations and personalities at the negotiating table have caused tensions to rise on several occasions and complicated the process, especially the conveyance of the importance of holding elections for a representative Committee.
5. As researchers appointed by the Commission, we also encountered difficulties in establishing and maintaining an effective working relationship with part of the interim Committee, although we worked closely and fruitfully with other members.
6. The lack of consistency in Committee representation at meetings with the Commission has made it difficult for it to establish and maintain a working relationship with the committee.
7. These issues have contributed to the apparent lack of a sense of working together with the interim Committee.
8. The appointment of qualified researchers to undertake the compilation of a claimant list which forms the electoral roll for elections of a representative Committee was unnecessarily delayed. This will be further discussed below.

THE DELAY IN APPOINTING RESEARCHERS

Central to the Commission's work must be valid, timely, and thorough research upon which all parties to a claim can base their representations and draw up an appropriate 'plan of action' which will take the process to the court referral stage.

This implies that researchers should be appointed as early as possible in the process. They must be suitably qualified, most importantly through appropriate practical experience but preferably also academically to guarantee a standard of research which is worthy of the restitution process. Efficient and thorough research will contribute immensely to the timely and successful processing and outcome of any claim.

We suggest that if qualified researchers had been appointed very early on in the processing of the Ndabeni Land Restitution Claim, a comprehensive list of claimants could have been gathered within two months. If several of the other issues raised above were resolved, the community could have proceeded with the election of a representative body, based on the list of claimants, with whom the Commission, the Department of Land Affairs and other parties could have interacted with, confident that the committee had the mandate of the people which they represent. This could possibly have resulted in a negotiated settlement being reached before the claim was referred to the Land Claims Court. The list is thus not only crucial to the establishment of legitimate representation but also to the negotiations about possible compensation.

CONCLUSIONS AND RECOMMENDATIONS

Given the lack of precedent, the processing of the Ndabeni community claim has encountered obstacles which have clearly demonstrated the need for several important issues to be addressed by the Commission, the Department of Land Affairs and the Ndabeni community. While some of the issues appear to be peculiar to this particular claim, others have a general application which warrant urgent attention by the Commission and the Department of Land Affairs to ensure that they are acted upon and any mistakes are rectified before they become entrenched in practice. The holistic

process of restitution has in the Ndabeni case been jeopardised by a combination of the issues discussed above.

We therefore recommend the following motions for the timeous and successful processing of community claims:

1. Clear procedures must be articulated and implemented expeditiously in order to comply with the Restitution Act and to fulfill its objectives.
2. Qualified researchers must be appointed as soon as possible.
3. The necessary funding structures must be implemented in such a way that they support rather than prolong and hinder the process.
4. Channels of communication between all parties must be improved to facilitate trusting and constructive working relationships.
5. The pivotal role of a democratically elected committee which represents the community must be recognised and supported by all interested parties. Community participation and representation are central to the spirit of restitution and reconciliation.