



Deciphering Spaces *of* and *for* Participation

The Subversion of Community Participation and Rights in the Urban Land Restitution Process of District Six.

Dissertation presented as partial fulfilment of the degree of Masters of City and Regional Planning,
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Abstract

The Land Restitution Act 22 of 1994 affords historically dispossessed person to return areas from which they were forcibly removed. With a focus on urban restitution this dissertation looks at why the restitution of land in District Six has been slow and fraught with frustrations and delays. This dissertation assess the participatory planning processes in the restitution and redevelopment of land in order to gain nuanced and deeper understanding of why, the state's ideal of restorative justice has not been realised. Through a qualitative research approach, the study focuses on the case of District Six, studying the spaces of participation from 1994 -2013. Findings reveal that many want a stake in District Six, none more so than the community themselves. The findings reveal how state-led spaces of participation remain tokenistic in nature and on the other hand community led spaces of participation offers historically marginalised groups an opportunity to realise their rights. Recommendations are aimed at how planners can intervene to improve these spaces and contribute to making more inclusionary spaces.

Key Words : participation, inclusion, urban, land, restitution, redevelopment, rights, community

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List of Acronyms

ANC	African National Congress
CoCT	City of Cape Town
DRDLR	Department of Rural Development and Land Reform
HODS	Hands Off District Six
GEAR	Growth, Employment and Redistribution
LCC	Land Claims Court
RDP	Reconstruction and Development Programme
RLCC	Regional Land Claims Commissioner
RSA	Republic of South Africa

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Chapter 1: A study on participatory processes in Land Restitution in District Six

1.1 Introduction

The purpose of this chapter is to introduce the problem under investigation and to define the main research questions of the study. Before doing so, the problem under investigation is contextualised. Section 1.2 of this chapter provides this contextualisation, which in turn, sets up the overarching aim of the research. Thereafter, the main research questions and the research methods are presented.

1.2 Background to the Study

With the new democratically elected government in 1994, government conceded several laws designed to deal with historical dispossessions. According to Gibson (2009), the most important of which is the Restitution of Land rights Acts of 1994. This Act was the first law passed by the ANC government that set to redress the legacy of apartheid rule. The three main elements of the policy were land restitution, the rights to restoration or compensation for dispossessions as a result of racially discriminatory laws or practices; secondly land redistribution, an assistant programme through which the government aids the individuals seeking to purchase land, and thirdly land tenure reform, changes in the land legal basis of land ownership to private legal standing and security in land ownership (Gibson, 2009 Atuahene, 2007, 2009). The most important of these elements is restitution as pointed out by Atuahene “Providing remedies that address the legacy of dispossessions is fair and just, but it is also important for the political stability of South Africa” , (2011: 957). Moreover the restitution of land involves the return for those who were evicted from well-located land in the city, which has several benefits for restorative justice from, placing low income people in well located land in the city, achieving the city’s goal of integration and also symbolic meaning that affects healing and heritage (Beyers, 2013).

One of the main critiques of land restitution and urban land restitution in particular, is that it has been slow in returning original residents back to places they were forcibly removed from for a number of reasons. Some studies focus on the complex legal and political process of urban restitution (e.g. Beall and Todes, 2004; Parnell and Beavon, 1996; du Toit, 1999), and others focus on the institutional processes of restitution (e.g. Beyers, 2007, 2010; Mojapelo, 2009 Walker, 2008). Moreover, insofar as the land restitution programme was declared as a tool for redressing the wrongdoings of the apartheid regime, it is important to note that it is also a product of negotiation between the National Party and the newly elected democratic government (Beyers, 2007; Walker, 2012; Beyers, 2013). Beyers (2013) and Walker (2008) argue that restitution is inherently a 'centrally organised bureaucratic process' (Beyers, 2013: 979). To this end, this study is not to explore land restitution per se. Rather, the aim is to gain a deeper and more nuanced understanding of what past and current *spaces of participation* 'look like' in the process of land restitution and furthermore, why struggles for restorative justice remain in place despite the promulgation of the Land Restitution Act (RSA, 1994). This sets up the central problem under investigation in this study.

1.3 Identifying the problem under Study

Participatory approaches in post-apartheid policy making are regarded as indispensable tools for inclusionary governance and restorative justice (Harrison, et al. 2008; Winkler 2011). Thus, for example, the Land Restitution Act 22 of 1994 includes not only a legislated mandate for restoring land to communities and individuals who were forcibly removed from land under Apartheid rule, but, and importantly for the purpose of my research, the mechanisms employed to enable restorative justice necessitate participatory planning approaches. The Act established two institutions to drive the process of restitution through: a Commission on Restitution of Land Rights (CRLR) and the Land Claim Court (LCC) (Hall, 2010: 21). The CRLR established in 1995, was asked with driving the process: assisting claimants, investigating validity of claims and preparing them for settlement or adjudication. Post settlement support for claimants, who got their land back, was initially the responsibility of the Department of Land Affairs (DLA) (Hall, 2010). "The LCC was established in 1996 as a specialist court to approve claims, grant restitution and the adjudication disputes on the basis of the investigation presented to it" (Hall, 2010: 21).

Nonetheless, these processes are important because they are conceptualised as a means to redress past socio-economic and spatial injustices by, for example, enabling displaced residents to return to well located, in inner city neighbourhoods that would, ordinarily, be impossible to access given the current operations of liberalized urban land markets. District Six, in Cape Town, serves as an excellent example of inner city land restitution via the implementation of participatory initiatives. Yet, here we also find ongoing struggles in fulfilling the post-apartheid state's desires for restorative justice. In 2011, President Jacob Zuma set the deadline for more than 2 600 claimants to return to District Six by 2014. Yet, thus far only 139 units have been built.

One of many other possible reasons for these ongoing struggles might rest with how participatory planning approaches are conceived and implemented by all role players in the District Six case, including by the different tiers of government and the identified beneficiaries of the restorative process.

As such, this study aims to critically assess, the different types of participatory practices employed in District Six since 1994, including those processes that are conceptualized and implemented by the state, community members, and non-profit organisations that tend to adopt an intermediary role.

Winkler (2011) argues that there is a failure of planning to integrate participation in a meaningful way, since, as corroborated by Yiftachel (2006), real public decision making tends to be less transparent in cities of the global South. Furthermore, Cornwall (2002) puts forward strong critique against the effectiveness of state-led participatory processes, as well as some community-led process that become derailed by members of a community. It is thus important to understand how participatory processes might become more equitable in addressing issues of restorative justice; especially in spaces and amongst residence that have long histories and experiences of pain.

1.4 Establishing the aims of the Study

In accordance with the background of the study and the identified problem presented above, the overarching aim of this study is to critically assess the different types of participatory practices employed in District Six.

Hence, the aim is to gain a deeper and more nuanced understanding of what District Six's past and current *spaces of and for participation* 'look like', and why struggles for restorative justice remain in place despite the promulgation of the Land Restitution Act (RSA, 1994). When considering what spaces of and for participation look like, consider (1) how participatory processes are established, (2) who facilitates (3) who is included? Why and why not and (4) what are the outcomes. However, given the history and legacy of a displaced community, banished to live elsewhere several kilometres from places of work, worship, schools and one another, the findings presented in chapter 4 and analysis in Chapter 5, compel me to ask, (5) what role does memory and place play in participatory planning processes ?

Such an assessment will then allow for a deeper and more nuanced understanding of why past and current *spaces of and for participation* continue to fall short of achieving the state's understanding of restorative justice and why land restitution and redevelopment in the case of District Six, remains painfully slow.

1.5 Establishing the Main Research Question and the Research Methods

The main research question asks:

What are the participatory planning processes employed in District Six?

And what are the lessons, if any, to be learnt from such an assessment?

In order to answer the main research question I will be using critical discourse analysis to explore how the states demonstrates participatory planning in land restitution. I will also use the case study method as well as other methods and techniques to obtain and analyse other constituencies and agents have demonstrated participatory processes. This methods and techniques are explored in further detail in chapter 3.

Chapter 2: Literature Review

The purpose of this chapter is to establish the conceptual framework for a study on participatory processes in land restitution. This is done by reviewing the relevant literature on land restitution and its legislation, reviewing planning legislation, and reviewing the literature on participatory planning. Through exploring the existing literature on the topic under study, subsidiary research questions will be established for the purpose of guiding my fieldwork. As established in chapter 1, District Six is identified as the case through which the value and understanding of 'participation' in land restitution will be explored. The world over, public institutions have sought to include greater public involvement in decision making that have an impact on the everyday lives of citizens. Participatory discourses in planning and development theory have been flagged as a tool to deepen democracy and expand the inclusion of those ordinarily excluded from decision-making processes. What exactly these participatory processes entail in practice, and what their outcomes are, will be explored by means of my research. I will be looking at the following:

- (1) how participatory processes are established;
- (2) who facilitates them;
- (3) who is included, who is not, and why; and
- (4) and what the outcomes are.

Central to my research is the 'concept' of *participation* by claimants of the land restitution programme, looking closely at specific projects employed in District Six. The study is important because it looks at the state's view of restorative justice and establishes whether, in practice, this has been achieved, and how it may differ from claimants' understanding and their desires for restorative justice. Furthermore, the study tries to understand how claimants have been engaged in the land restitution programmes, and what this means for restitution programmes in the future.

The programme of land restitution is gravely important given the context of land dispossession in South Africa. Arguably, the concept of participation is equally important given that it includes the idea of expanding democratic governance. Some scholars, however, caution against the elusive nature of the institutions through which participation occurs, arguing that participatory practices remain bureaucratic and do little to influence truly transformative outcomes (Huxley, 2000; Yiftachel, 2000;

Cooke and Kothari 2001; Winkler, 2011). On the other hand, other scholars (Fung and Wright, 2003; Gaventa, 2004) focus on the potential for the empowerment of citizens if their political agency is accommodated via participatory practices. If land restitution is seen as an important tool to redress the wrongdoings of the past, the ability to negotiate terms of returning to said land should strengthen the citizenship and agency of once disempowered individuals.

This chapter starts with a brief discussion on the history and origins of land restitution followed by an in-depth review of the literature on restitution and participatory planning. Subsidiary research questions are, in turn, deduced from these discussions and reviews.

2. 2 Contextualising Land Restitution in South Africa – its history and evolution

Land dispossession in Southern Africa expanded over at least three-and-a-half centuries (Walker, 2008; Hall, 2010; Walker, 2011). Initially shaped by the Dutch settlement in the Cape in 1652, followed by the British invasion, and the Boer settlers, the dispossession of land in Southern Africa initially took place in the name of establishing a ‘refuelling station’ for passing ships of the Dutch East India Company, and later to prevent black dominance. The dispossession of land was documented as early as 1658 when the Khoi were no longer permitted to inhabit parts of the Salt and Liesbeek Rivers. In the 1800s the main reserves were proclaimed by the British and Boer regimes (Walker, 2008). Nonetheless, The Natives Land Act of 1913 was the most significant piece of legislation to deny black landownership in South Africa. This piece of legislation prohibited black South Africans from acquiring, leasing or transacting land outside of *native reserves*, which were later formalised as ethnic *homelands* or *Bantustans* and which were dispersed in the rural areas of the country (Hall, 2010).

By the 1980s, South Africa resembled a stark racial divide (in spatial and socio-economic terms) between the 13% of land reserved for blacks and 83% owned by whites (Walker et al, 2010). The divide had both a political and symbolic significance within the struggle for liberation, and it was this narrative of loss and restoration that was used as a tool to mobilise persistent resistance against the apartheid government during the 1970s and 1980s (Walker et al., 2008). A growing network of nongovernmental organisations (including faith-based groups), civic organisations and residents’ associations vowed to defend their land rights by mobilising against systemic injustices. As a result, the mass democratic movement of the United Democratic Front was established in support of the banned African National Congress (ANC) and the South African Communist Party (SACP), which were

both in exile. During the period of the transition from apartheid to democracy one of the chief demands from the resistance movements was that those removed from their land and homes be able to return (Walker, 2008; Hall, 2010).

Following the precarious times of the 1970s, 1980s and early 1990s, which were often met with violence, loss and bloodshed, the transition to a democratically elected government was met with seemingly peaceful negotiations on how to restore those affected by all that apartheid had sought to sever. After the unbanning of political parties in 1990, the ANC set out its exigencies for a dedicated land court to arbitrate claims, restore land and compensate those who were affected by forced removals (Hall, 2010; Atuahene, 2014). The issue of private property, however, was a deeply ambivalent point of the discussion given that the National Party sought to protect personal rights alongside a land claim process (Hall, 2010). The National Party—together with the mining, financial and farming corporates—lobbied for the protection of existing property rights in the negotiating of the constitution. Despite stating in their Land Manifesto of 1992 that claims be based on a “just set of criteria including productive use, traditional access, birth rights, title deeds, tenancy, usufruct rights historical dispossession, and need”, in 1993 the ANC ‘conceded’ concerns pertaining to already established property rights and corporate property rights from the constitution (ANC, 1992: 2). Consequently, the interim Constitution of 1993 confirmed the protection of private property (Hall, 2010). This compromise also included the constraint that restitution would be limited to dispossession *after* the promulgation of the 1913 Land Act. It is within these limits that the promulgation of the Land Claims Working Group outlined the details of the restitution programme.

Despite these limitations, the land restitution programme was envisioned to be the fundamental pillar to deracialise landownership. It was conceived by the newly democratically elected government as a form of restorative justice. However, given the constraints, from the outset the programme was a limited process and not entirely a radical restructuring of land rights (Hall, 2010). Hall (2010) argues that the restitution programme was always a constitutional compromise that divided land *claimants* from a larger *landless population* because it had to be processed and distributed through the market and it was limited to those who had been dispossessed only after the Native Land Act of 1913. Furthermore, urban land restitution was seen as a mechanism for restorative justice rather than a tool for socio-economic development and empowerment.

Nonetheless, the programme was seen as an opportunity to: (1) return those who had been forcibly removed from their homes in key urban locations; (2) restore social justice; and (3) expand social and political agency to displaced citizens (Beyers, 2013). It is with these three aims in mind that I am interested in discovering how and if, through participatory processes, District Six claimants were enabled to exercise restorative justice through their political and social agency. At the same time, I am also interested in discovering what lessons might be learnt from the District Six case for other Southern contexts dealing with legacies of forced removals. To these ends, I begin by exploring the original policy frameworks.

2.3 Original policy framework for restitution

Land restitution is intended to right the wrongs of the past: to redress unjust dispossession and to heal. In post-apartheid South Africa, it is expected to help reverse racially skewed patterns of landownership in the countryside as well as in urban areas. As part of a wider land reform process, it must help dismantle racialized privilege in property rights. At the same time, restitution performs symbolic work by acknowledging histories of injustice and their impacts on individuals, families and communities.

(Hall, 2010: 1)

The Land Restitution Act of 1994 is the original policy framework for restitution in South Africa. As mentioned in section 2.1, this Act is a product of negotiation between the demands of the ANC and the National Party who essentially sought to protect private property rights. As such, Walker (2011) and Beyers (2012) argue that the restitution process in South Africa is a highly compromised way in which to redress exclusion and dispossession of rights. Nonetheless, the Act promotes the principle of social justice by facilitating the right to restoration lost by displaced claimants. It also defines the process by which those who are eligible can lodge their claims (see section 10 [1]) (Hall, 2010).

In addition to the Land Restitution Act of 1994, the Constitution also confirms the right to restoration or compensation for property that was dispossessed due to the Native Land Rights Act and, in the case of District Six, the Group Areas Act of 1950 (Section 25 [7])(RSA, 1994). The Land Restitution Act established two institutions through which to drive the process of land restitution and engage claimants: a Commission on Land Restitution of Land Rights (CRLR) and a Land Claims Court (LCC).

In 1995 the CRLR was tasked with driving the restitution process, assisting claimants, investigating the validity of claims and preparing them for resettlement or adjudication. The Department of Land Affairs (DLA) was originally responsible for supporting the settlement of claimants and the LCC—which was established in 1996, and which arose due to intricate connections between individual experiences, group mobilisations, public debate and political discourse—was tasked with acting “as a specialist court to approve claims, grant restitution orders and adjudicate disputes on the basis of investigations presented to it” (Hall, 2010: 21). Furthermore, according to Hall (2010), the restitution process was initially highly centralised. Walker (2011) explains that demands were made by the government of national unity, but needed to be implemented by provincial government, thereby highlighting the initial top down approach to restitution. However, with the establishment of regional land claim commissioners (RLCC) in 2006, restitution processes are now devolved to provincial jurisdiction (Hall, 2010).

2.4 Interpreting a narrative of loss and restoration

Walker (2008) argues that the narrative of loss and restoration is often used by national government to motivate and justify present restitution frameworks and policies. However, this narrative tends to speak only of broader and more abstract issues with little reference to local realities and experiences. Of further concern, the national agenda of economic growth and development—which includes desires for promoting competitive urban space economies—seems to contradict and undermine abstract narratives of dispossession. As a result, municipalities are not adequately guided by national policies when it comes to issues of urban land restitution. This finding suggests asking, by means of a subsidiary research question, how has the national narrative of loss and restoration been interpreted by the City of Cape Town, and how have participatory processes assisted the municipality in interpreting this narrative in the case under study?

Interestingly, 80% of all land restitution claims are made up of urban claims (Beyers, 2013). However, Beyers warns that such figures are misleading because urban claims are generally individual claims that are burdened by administrative costs when compared to rural claims. Urban restitution claims tend to be more complex, and they take longer to process. Claims settled through the transfer of urban land, therefore, require 'on-going maintenance' via the formation of robust partnerships. Such partnerships, in turn, need to go beyond the individual concerns of claimants and co-claimants, since they also need to include other stakeholders upon whom the claimant is dependent for public services and housing. A key obstacle in the restitution of land is what happens after the land has been transferred (Fay and James, 2010). Another subsidiary research question that arises from Fay and James' argument for 'on-going maintenance' is: What partnerships have been established in the case of District Six, and how have other stakeholders been included in these partnerships for the purpose of ensuring the provision of public services and housing?

Fay and James' argument for 'on-going maintenance' also speaks to Beyers' (2013) concern regarding the lack of capacity found in the CRLR, provincial and municipal government to facilitate sound and more equitable spatial planning outcomes post land transfers. As a result of this lack of capacity, claimants have become cynical about land restitution processes, and opt, instead, for monetary compensation (Walker, 2008; Walker, 2011; Beyers, 2013).

2.5 Unpacking the role of various role players

Apartheid was a spatial system, as Christopher (1994) writes, which operated at the local level. Urban restitution in the South African city then challenges the role of the local state, the role of civil society, and the role of planning (Smith, 1992; Swilling et al, 1991; Parnell and Mabin, 1999; Sapire and Beall, 1995; Parnell, 1997), which my research seeks to unpack.

2.5.1 Representation

According to Beyers (2013), restitution processes have become highly fractured, as different stakeholders have different interests which have resulted in conflicts among claimants, and between claimants and the state. In addition, the legal-political demonstration of the entire restitution process raises concerns about who represents claimants and the wider community during restitution processes, post transfers, and during planning processes that seek spatial outcomes. Since the focus of this dissertation is on participatory planning processes, I ask: Who represented claimants and the wider community during planning processes that sought spatial outcomes for District Six, and how

were claimants' and the wider community's different interests represented and included in these planning processes and development proposals for District Six?

2. 5.2 Inclusion of diverse stakeholders

Answers to this subsidiary research question are important when we consider, in accordance with Beyers (2013), that well located urban land is an asset that serves to enhance claimants' livelihood strategies. It facilitates access to rights, which, in turn, enables citizens to meet the requirement of formal tenure and access to basic public services. It also provides inclusion for social networks and community organisations, as well as spaces for hosting cultural practices (USN, 20013: 10-11). Yet, restitution in South Africa only applies to those who owned property from 1913 onwards. Fay and James (2009) write that this is problematic because dispossession started in the Cape long before 1913. Regardless of this argument, former title deed holders are privileged in current restitution practices, as their deeds provide legal evidence in support of their claims. They have mobilized more effectively than tenants because they have greater material resources, and are able to afford the costs associated with claiming and resettling. Former title deed holders are, therefore, "ideologically more inclined towards asserting property rights; and they are better positioned to access systems of just administration" (Beyers, 2007: 275). I, therefore, need to ask, how were former tenants included in planning processes and development proposals for District Six?

2.5.3 Challenges to participation and creating inclusivity

Cornwall and Coelho (2007) suggest that there are? Pervasive inequalities in power and knowledge and that these are embedded in political cultures, posing substantial challenges for creating inclusive deliberative spaces of participation. This continues to affect the prospects of inclusive democracy because of the pervasiveness of the inequalities of power, knowledge and technocracy. A subsidiary research question thus asks: What are the challenges of participation and inclusivity in District Six? And, how can these challenges of inequalities be addressed? How can marginalised groups become more meaningfully involved?

Another key criterion which I have to unpack is then also how restitution processes in the city relates to the urban land market

2.6 The urban land market

When considering urban restitution, one cannot ignore the urban land market and how policy makers, investors and developers respond to or enables the urban land market to play out. Furthermore, one has to consider the fundamental concepts of economics and the market economy that underpin urban land markets around the world. It is those same fundamental concepts and practises by policy makers, the planning system and the private sector that continue to push the poor to periphery of the city.

2.6.1 Defining the urban land market in South African Cities

In terms of that neo-classical model, land is identified as a commodity that is to be traded, bought and sold, freely in the market. When it is identified as a highly valuable commodity it should be highlighted that this valuable commodity has to be owned, used, and developed freely in the market (De Soto, 2000). This is known as property rights, a legal system that governs urban land markets. The fact that land can be bought and sold freely by means of ownership or rights to ownership, is what makes urban land markets successful (Urban Landmark, 2010). For many poor people in South African cities, this is not the case. Firstly, the legacy of apartheid made it illegal for blacks to own land in urban areas and secondly, many poor people still do not own land in South African cities; nor do they have any rights to participate and benefit from the property market. Well located land in South African cities is a scarce and finite commodity, and due to the previous political ideology of separate development, this valuable land is out of reach to poor households.

Hence, not only is access to land a problem for poor households, but access to property rights also eludes them. This is because this land is in high demand, and because it is in high demand, its value will continue to appreciate. A central concept of demand and supply, price elasticity, clarifies how people may react to changes of a price of something, in this case, land (Urban Landmark, 2010). Hence, regardless of how the price of land changes (increases), willing and able buyers will purchase it because of how valuable that land will be or already is. Demand for land is thus said to be inelastic because it is a basic necessity and it is scarce. Furthermore, the supply of land is also inelastic because the quantity of land that can be supplied, produced or what is physically available is constrained. This explains why land, specifically well located land, is expensive and fundamentally out of reach to poor households.

The Bid Rent Theory offers a sound explanation as to why poor people will continue to be exploited by urban land markets. Simply put, land use location is based on what can in turn offer the best and highest returns. According to the Bid Rent Theory, the land use that can offer the best and highest returns is in the position to outbid other users. The concept theorises that some users in the property market, such as retail and office are more sensitive to location than others, residential and industrial for example (Brueckner, 1979). The optimal location being closest to the CBD, is best for retail users because it ensures better infrastructural services and clientele that would ascertain greater success. Retail thus 'outbids' office use because office use is less sensitive to location. As distance from the CBD increases, the value users are willing to pay for land or property will decline (Brueckner, 1979). As highlighted by the Urban Landmark (2010), the Reconstruction and Development Programme housing stock delivery personifies the Bid Rent Theory because it elucidates that housing for low income people would not generate profits closer to the CBD and therefore was placed on the periphery on the city where land is considerably cheaper than closer to the CBD. This, as expected, creates a deeper injustice because the State had placed already poor people on the outskirts of the city where they would have to spend large amounts of money on transport costs to access places of work on opportunity in the CBD. Hence, it becomes increasingly evident that market-driven allocation of land is contentious because it fails to accommodate poor households because it makes living in better located areas more and more inaccessible and unaffordable to them.

2.6.2 The private and public sector and the urban land market

The private sector outbids other actors in expensive parcels of land because they have the means to realise value from said land. This in market economic terms is referred to as derived demand, where people desire land based on the potential use of that land. That potential use usually generates high profits when positioned in well located areas (Urban LandMark, 2010). The private sector in turn obtains approval from officials to develop high end establishments and even manage to get the City to pay for infrastructural and engineering services as was the case in the Century City Megaproject in Cape Town in the early 2000s (Marks and Bezzoli, 2001). This again highlights how public-private partnerships and even regulatory frameworks are used by the private sector to pursue their own agenda that have nothing to do with creating an equitable and just city (Daniels, 2004; Watson, 2009).

Further Watson (2009) argues that urban planning has persisted in excluding the poor. For starters, lack of political will from planners and officials alike, to change the status quo contributed to

entrenched spatial and social inequality and burdens of the poor. Secondly, planning systems that are used to engender the objectives of private property developers due to corruption and unprincipled endeavours and thirdly, the use of planning regulations such as zoning schemes and building regulations, tenure requirements and property registration processes that personify all kinds of restrictive conditions that does not relate to or is remotely familiar to poor households or inhabitants of informal settlements (Watson, 2009). Hence the planning system and the private sector align whether consciously or not to displace the poor in unfavourable circumstances in the city.

2.6.3 Gentrification

Another factor contributing to the exodus of poor households and enterprises out of well-located land onto the periphery of the city is the processes and outcomes of gentrification. Gentrification of suburbs such as Woodstock in Cape Town, for example, has threatened the removal of poor residents because rent has increased due to the regeneration of facilities in the neighbourhood (Ndifuna Ukwazi, 2016). This has meant that low income residents and small enterprises who are unable to keep up with rent and Council taxes have been forced out. As higher income residents and businesses move in, poor households and small enterprises are displaced. Moreover, as middle income groups in South Africa continue to rise, gentrification will continue to push poor households out of well-located suburbs where more activity nodes continue to be identified such as the Voortrekker corridor along the Northern corridors of Cape Town.

The City of Cape Town adopts policies for dealing with housing and land use in the City primarily in terms of neo-classical economies. If that is the case then I must ask : How has a notion, underpinned by neo-classical economics and urban land economics in terms of market driven allocation of land, affected the case of District Six to enable or hinder marginally poor people to return to well-located land in the city?

Before doing so via findings presented in Chapter 4, and recommendations established in Chapter 6, let us explore restitution criteria and the *idea* of 'community'.

2.7 Establishing a community in urban land restitution

Eligibility according to the Act

Criteria for eligibility are set out in the Restitution Act (section 2 [1]) as : “a person or community who was dispossessed of property from 1913 onwards as a result of racially discriminatory laws or practices, and those who were not adequately compensated; or the direct descendants or deceased estates of such people”. Those who decide to claim must be able to provide sufficient proof that the property was owned and subsequently lost through apartheid’s discriminatory laws. Fay and James (2010) highlight that this is often difficult. Furthermore, the legal system has tried to unpack the meaning of “community” and what exactly the word entails, and this too has been proven to be challenging.

2.7.1 The nature of community Identity

Restitution requires the establishment of new forms of imagined community (Anderson, 1983). At the same time, restitution requires the establishment of ‘authentic identity’ as defined by law. “Some grounds may prove more effective than others in securing land rights and mobilizing communities; other grounds may alienate potential claimants, who refuse to identify with previously stigmatised categories” (Fay and James, 2010:45).

The state and its agents have pushed the agenda of a communalist discourse (Fay and James, 2010). Similarly the state has imagined the community to be inclusive, and prefer to transfer ownership to a collective group. Claimants on the other hand like to think of the community as exclusive (James, 2000). And so, when land is transferred to a communal group, disputes arise because the onus is placed on the community for development; hence the rights and responsibility become an issue of contestation.

Negotiations may reveal communities’ weaknesses and vulnerability particularly when power and leadership is contested. . The need to fulfil the state-sanctioned definition of community might exclude valid claims. Proving entitlement is key especially when there is active opposition to the

claim. Social scientists view identity and community as fluid and contingent, but this view is ignored in the legal process.

2.7.2 Addressing conflicts

The main problem in the restitution process relates to the practical issues that arise after claims are awarded. Promises of (re)development which fail to materialise leave many claimants disappointed. As the memory of dispossession loses its salience as a rallying point for unity, and the imagined past is confronted with the practical realities of the present, conflicts start to arise. Claimants are confronted with the dilemma of what to do with the land. A key issue in post transfer studies is the degree to which claimants are able to control state and legal interventions. For Fay and James (2010) the “final phases of restitution”—namely, post transfer and post-restitution—are vitally important, since these final phases determine the overall success of the restitution process. Above all else, these final phases involve planning processes and spatial outcomes. Bureaucratic delays and extended negotiations between contesting parties serve to undermine planning processes and outcomes. Thus, additional subsidiary research questions ask: How have bureaucratic delays and extended negotiations between contesting parties undermined planning processes and outcomes in District Six? And, how did participatory planning processes aim to address points of conflict?

2.7.3 Expanded Citizenship

Beyers (2013: 978) maintains that “restitution provides a rare chance for social and spatial integration in the urban centre”. He goes on to say that it also has the potential to contribute to ‘expand citizenship’ via political agency. Fay and James (2010), on the other hand, caution against new forms of dependency on the state as a result of restitution. In light of these arguments, I ask, to what extent did participatory planning practices enable the concept of ‘expanded citizenship’ in District Six?

Fay and James (2009) argue that urban restitution is not only about material gains, but also about social justice—whereby marginalised groups negotiate their terms of inclusion in the city via participatory planning practices. This, in turn, suggests a deeper exploration of the relevant literature on participatory planning, which I will now discuss.

2.8 Planning and Land Restitution

Planning legislation does not make direct reference to land restitution per se. Nevertheless, the South African Spatial Planning and Land Use Management Act (SPLUMA) states that citizens must have access to land that is. The Land Restitution Act and the Constitution, in turn, give people the *power or right* to return to the land. The Constitution—at a broad level—gives rights to land and housing, and the Land Restitution Act provides guidance on how people should be returned to their land. Furthermore, the Municipal Systems Act (MSA) is the legislation that applies at a local level and obliges the City to do spatial planning.

There is has been increasing consensus that the restitution programme in South Africa has been “painfully slow” and has amounted to little transformation, reconstruction of space, justice or healing (Gibson, 2009 Atuahene, 2014). However, Maharaj (2004: 401) argues that “in order for land reform in an urban context to succeed, local government and civil society bodies have to play a central role in planning and implementation”. And so, the Draft Development Framework (SDF) for the first two phases of development in District Six cites “public participation” as an integral point of departure for the redevelopment of the district (District Six, 2011). The chapter now turns to debates on participation in relation to planning.

2.8.1 Participatory Governance

Winkler (2011) argues that there is a failure of planning to integrate participation in a meaningful way, since, as corroborated by Yiftachel (2006), public decision making tends to be less transparent in cities of the global South. Furthermore, Winkler argues that state-led participation lacks any transformative potential despite its presence in decision making settings, while community-led participation might not result in any real benefits either depending

And so the question bears, what are some of the meanings and practices associated with ‘participation’? According to Cornwall (2008), planners must pay closer attention to *who* is participating, in *what* ways and for *whose* benefit. Gaventa (2001) and Cornwall (2008) identify different types of participation based on those who initiate participatory processes. These are called the ‘typologies’ of participation.

Often, approaches to participation remain or become a technique for those who have power to perpetuate the upper hand over marginalised people. Gaventa suggests that we should pay attention to power inequalities in spaces of participation too.

2.8.2 Spaces of and for participation

Closed Spaces: these are spaces in which decisions are made by actors who hold hegemonic power and make decisions behind closed doors and on behalf of those affected (Gaventa, 2006). Decision makers do not feel the need to consult, open up or involve citizens in these spaces.

Invited Spaces: as attempts are made to broaden the spaces in which the citizens can engage, domesticated sites of induced participation are more evident. These spaces operate as spaces by which authorities invite citizens or communities to participate. These spaces are often ways in which authorities maintain hegemony (Cornwall, 2002). Simply creating new spaces might not be enough to bring about greater popular participation or equity in resource distribution or decision-making, by which citizens recognise, claim and expand their own spaces.

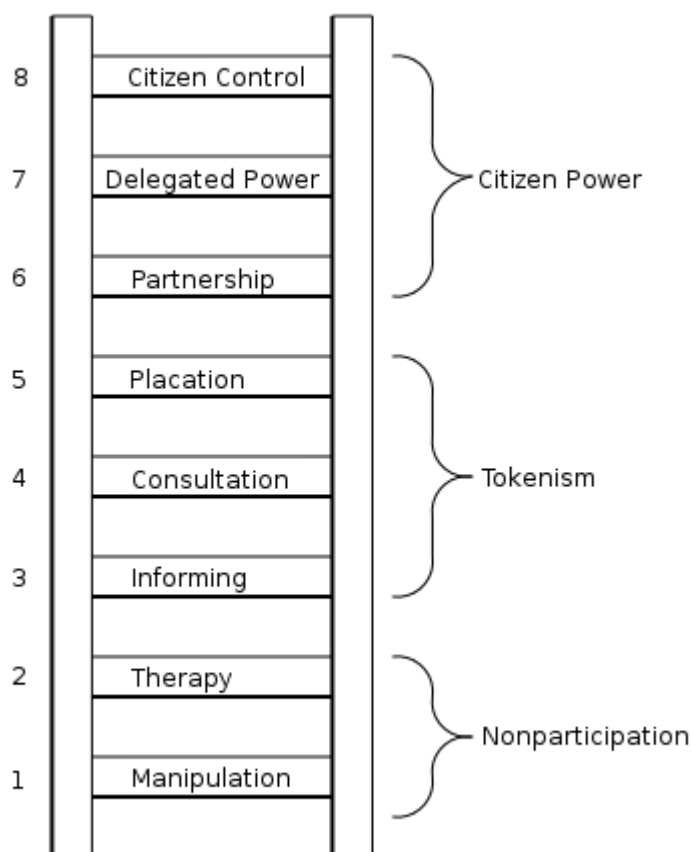
Claimed Spaces : these spaces are defined by those who wish to set their own agenda and are usually 'sites of radical possibility' (Cornwall, 2002: 3) because they are created and shaped by citizens themselves or by civil society to represent citizens based on a particular identity or issue based concerns. Cornwall goes on to argue that activism by social movements has enabled citizens to effectively demand their entitlements and plead for accountability, which goes beyond the more consultative practises of participation.

Winkler (2011) offers that decision makers may modify closed spaces as invited spaces to legitimise their decisions in policy making. Where claimed spaces might become exclusionary spaces when actors become too protective of that issue or identity which they've mobilised around. In any case, power is inherent within these spaces and that ultimately affects the outcomes of these spaces based on who creates them, in whose interest, and what the terms of engagement are. A question that arises for my research is: What types of participation took place in the restitution and redevelopment of District Six?

2.8.3 Types of Participation

The World Bank asserts that providing information is a form of empowerment and consultation is a form of legitimising planning decisions that have already taken place in other—often exclusionary— fora. However, in such a typology, “outcomes are open to being selectively read and used by those with the power to decide’ (Cornwall, 2008:270). There is thus almost no guarantee that what was voiced during a consultative process is heeded or included in the implementation of decisions. Such typologies then become mere forms of tokenism. For this reason, Arnstein (1969) assesses participation from the standpoint of those at the receiving end of a participatory process, and their power to influence planning decisions. Building on from Arnstein’s (1969) ‘ladder of participation’— where ‘manipulation’ and ‘tokenism’ represent the lowest rungs of the ladder, whereas ‘delegated power’ and ‘citizen control’ represent the highest rungs—Pretty’s (1995) typology of participation focuses on the user of the participatory process. His typology is also normative in nature: Moving from bad forms of participation (as such, manipulative and passive participation) to better forms of participation (as such, interactive participation and self-mobilisation).

Figure 2.1 Arnstein's (1969) Ladder of participation from those that receive the implications of decisions made



Source: Google Images, accessed 2017

Figure 2.2. Pretty's (1995) Typology of Participation based on those who use participatory processes

Pretty's Typology of Participation

Typology	Characteristics
Passive Participation	People are told what has been decided or has already happened
Participation by Consultation	People are consulted by answering questions. No share in decision-making
Bought Participation	People participate in return for food, cash or other incentives
Functional Participation	People participate by forming groups to meet pre-determined objectives
Interactive Participation	People participate in joint analysis, development of action plans, formation/strengthening of local groups
Self-mobilisation	People participate by taking initiatives independently of external agents, control over resources remains with locals

Source: Pretty 1995, in Mowforth & Munt (2009: 229)

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planning has traditionally excluded, and deliberately marginalised, the majority of people (Parnell, 1993; Parnell, 2014). Since 1994, participatory planning is a legislated requirement for the purpose of facilitating? transformation.

2.9.3 Participation as transformative

The conceptual idea of 'spaces of autonomy' in Buenos Aires, for example, reveals the transformative potential of participatory planning initiatives. In that city, civic engagements are purposefully designed to open up spaces *for* political agency and empowerment by reimagining participation "as an open-ended and on-going process of engagement with political struggles at a range of spatial scales" (Williams, 2004: 557, cited in Winkler, 2011: 3). This suggests asking, by means of a subsidiary

question, how were 'spaces for participation' conceptualised in the case of District Six, and did these 'spaces' allow for an open-ended and on-going process of engagement?

2.9.3.1 The role of the planner

The role of the planner in this transformative model is to support civil society in generating practical solutions which are not the monopoly of professional planners but are collectively articulated through a respectful process of "social/mutual learning" (Friedmann, 1998). Here, civil society, represents the change agent in an enduring struggle for a more just and socially inclusive public. Intrinsically, local agents are regarded as active planners for themselves and not as passive recipients of decisions made on their behalf. Planning for social transformation expands the traditional planning field from professional practitioners alone to include civic associations, activists, and citizens as "planners" (Winkler, 2009). As a result, planning is no longer "only that professional domain that constitutes the field of city-building, but [it is] also that form of collective action which we might call community-building" (Sandercock, 1998 :39, cited in Winkler, 2009). For Sandercock, socially transformative practices do not necessarily need to begin with large-scale interventions, but can instead be initiated through smaller actions or what she calls "a thousand tiny empowerments" (1998 : 157).

Sandercock sketches two different approaches to planning for social transformation: "insurgent" and "radical" planning (Sandercock, 1998). Insurgency suggests something oppositional: a mobilisation against the state, the market, or both. Its aim is to challenge and transform existing power relationships through mobilised community actions. On the other hand, "radical planning is not\ always, or necessarily, oppositional" (Sandercock, 1998, p. 41). Even so, neither radical nor insurgent planning are mainstream practices, but it is important to bear in mind that this type of planning can result in a change in mainstream cultures (Winkler, 2009).

2.10 Who comes to participate?

Who comes to participate is another important aspect of engagement, because it indicates whose voices are being represented, and how these voices are represented. Cornwall and Coelho (2007) highlight that tensions may arise from the legitimacy of those who represent marginalised groups. Those who have access to resources, those who can speak the language or know planning terminologies tend to be better resourced to access spaces *of* and *for* participation. They are able to understand the language of officials, they are able to negotiate and understand the outcomes of planning decisions. A question that follows from this argument is: Who participated in the restitution and redevelopment processes of District Six? Answers to this question are important if we consider

that in a democratic context, participation should be open to anyone who wants to participate. Yet, as we know, not everyone has the skills or confidence to engage in participatory processes. As such, elected representatives or mediators might fulfil participatory roles on behalf of others, since such representatives are capacitated to represent others. Cornwall and Coelho (2007) are thus interested in how representatives open doors for those who may struggle to enter participatory processes, and how marginalised actors gain the skills to participate effectively.

Cornwall and Coelho (2007) go on to identify this form of participation as ‘descriptive representation’ that is enabled via elected representatives or via mediators who advocate for the rights of others, and who aim to close the gap between those who are poorly represented and the state. For Cornwall and Coelho (2007), this type of representation is important if substantive attention is to be given to the group. Accordingly, I need to ask: Were representatives or mediators elected to enable restitution and development processes in District Six, and if so, how did they capacitate their constituencies?

2.10.1 Engaging the state

Mahmud’s case study of citizen mobilisation in the absence of engaged state actors shows critical limitations to achieving outcomes of service delivery if those who plan and deliver those services are not part of the discussion. The case study also demonstrated the significance of recognition and institutional support and a need for public official commitment as a factor in producing successful and inclusive participatory fora (Cornwall and Coelho, 2007).

But what makes these state officials willing to participate in the participatory sphere? What do they get out of participating in the participatory sphere?

This needs to be analysed as a backdrop of a complex conjunction of variables. Participation as a political project as Cornwall and Coelho (2007) describe, can be identified as a strategy by the state to foster allies, fortify networks and increase the number of votes. Nonetheless state involvement in the participatory arena is needed. In Cornwall and Coelho’s book: *Spaces for Change*, they highlight the complexities of state involvement and the involvement of all the various actors in the participatory sphere. Furthermore, they highlight that spaces of participation should not only be viewed from the lens of citizen involvement, but also from the state’s involvement. In some instances, engaging with the state may not yield any advancement for marginalised groups and may be a waste of energy, and

may result in a loss of 'spontaneity and creativity' because of bureaucratisation. Further, through the UK example, the significance of the creation and mobilisation of an 'oppositional consciousness' can bring diverse groups and interests together, but this requires the need for skills for creative conflict management obtained through multiple sites of engagement, as was the case on the Treatment Action Campaign in South Africa where the state engaged 'from the courts and the streets to the clinic'. This *intermediation*, according to Barnes cited in Cornwall and Coelho (2007), is required within and across all sites if participation is to produce better **mutual understanding** between *diversity of actors* within the participatory sphere.

State engagement and commitment to participation is legislated with the Municipal Systems Act (CoCT: Local Government, 2000: 2) which places onus on municipalities to develop "a culture of municipal governance that complements formal representative government with a system of participatory governance, and encouraging and creating conditions for the local community to participate in the affairs of the municipality. A municipality must establish appropriate mechanisms, processes and procedures to enable the local community to participate in the affairs of the municipality".

2.10.2 Politics of Presence

'Politics of presence', as Phillips (2005) argues, offers both the symbolic value of visibility and the possibility of more vigorous advocacy of the interests of otherwise excluded groups- which is precisely what is needed.

The marginalized may find greater opportunities for exercising their voices by creating their own spaces of participation, which Fraser (1990) through her critique of Habermas's notion of the public sphere, calls the 'subaltern counter publics'. They have a dual function by, on the one hand, operating as spaces of withdrawal and 'regroupment', and, on the other hand, they may function as bases for agitational activities directed towards wider politics. Such spaces can also be 'laboratories of self-interest' where they enable historically marginalised groups to build positions, construct politics of engagement, and gain greater legitimacy to voice their demands and concerns. I, therefore, ask: Are there aspects of 'subaltern counterpublics' in the case of District Six, and if so, why? What were the outcomes of this form of politics?

2.10.3 Community Participation

There has been a number of strands of community engagement in the built environment which gained prominence in the United Kingdom in the 1970s through 'community architecture' and the late 1960s through advocacy planning where professionals represented poor communities (Davidoff, 1965). An analysis of the efficacy of community participation was conceptualised by Arnstein (1969) (as discussed in section 2.5). Community participation strategies have widely been identified as means to promote and enhance community involvement in development and decision making in young, and even older democracies. Although there are underlying tensions and frustrations involving community participation, there exists potential within the wider framework for promotion of inclusion and participation in development and decision making by poor and marginalised people, typically excluded from decision making processes. Some of these tensions and frustrations have been conceptualised by Arnstein through her ladder of participation. Traditionally the view of community participation is perceived to have particular outcomes such as sharing the costs and the benefits of development projects particularly regarding development projects in the Global South (Paul, 1987). On the other hand, many civil society and community organisations have embraced the objective of community empowerment in their rhetoric, going beyond project level involvement and aiming to create a space that imbues the recognition and subsequent expression of rights by previously disempowered citizens. Mayo and Craig (1995) thus argue for the increasing importance of using democratic approaches to planning, through tracing the experiences of community participation to promote empowerment. My research is thus also interested in discovering what the opportunities and limitations are for community led participation. This is important particularly because community-based movements or organisations are grounded in everyday socio-economic life and space, yet at the same time, they are 'framed by and partake in the contestation of political decision-making and discourses operating at city and national scales' (Oldfield and Stokke, 2007). An investigation into the limitations and opportunities of community-led participation can thus reveal critical lessons for recommendations in the South African context.

The benefits derived from participation depend on the political interests involved. For the state, the objectives of community participation are more about maintaining existing power dynamics and ensuring the silence of marginalised people, rather than improving the conditions for the community or recasting decision making processes. Community participation is often used by the state to legitimise the political system in which? The level of commitment by government officials is often superficial. Formal channels of community participation have not necessarily generated

transformative benefits to local communities (Botes and Van Rensburg, 2000). Gilbert (1987) warns planners and policy makers not to downplay the political dimension of community participation because weaker groups often remain left behind. Participation at the state level is constrained by the resistance of local and national bureaucrats and the state's inability to respond effectively to the needs of the community. Government bureaucrats continue to operate in a hierarchical fashion which inhibits participatory development.

2.11 Memory and place in participatory planning

Place is important when discussing issues of planning because planning is also about "the interconnection of people and places, activities and territories (Healey, 2005: 5). However, Beauregard (2013) argues that little attention has been given to how *place* enters into planning practice and questions its locus in planning theory. Moreover, Fenster and Misgav (2014) argue that participatory planning aids in understanding the kind of place residents want to live in.

Participatory planning strives to transmute power and social relation by shifting the focus away from the planner's dominant professional knowledge to include local individual and community knowledge (Sandercock, 1998, 2003). Participatory planning theory, methods and practices denote a variety of approaches to the interactions between community and planner. Laclau and Mouffe (1958, 2004) suggest that perceiving social relations through notions such as radical democracy, pluralist thinking and activism includes local knowledge and enhances the sense of community identity and empowers its members.

Fenster and Misgav (2014) investigated the extent to which memory led to individual and community empowerment in community regeneration in Meo' not Yam Neighbourhood in Bat Yam municipality in Israel. The team of scholars from the planning with Environment with Communities Laboratory at Tel Aviv University's Department of Human Environment (PECLAB) was invited by Bat Yam municipality to initiate a participatory process with residents to formulate a consensus around the proposed renewal plan. Fenster and Misgav (2014) argue that exploring individual and collective spatial memory is critical to community based planning, specifically when significant spatial changes

are proposed. The authors highlighted that personal memory has transformative potential for empowering and mobilising residents individually or collectively. Interestingly, citizen empowerment and capacity building were not initially part of the municipality's initial objectives of the participatory process. Despite this, the authors argue that through using memory, the complexity of the nexus between memory, place and planning became evident. For the purposes of my research, an important aspect to explore in the case of District Six, is the role of memory in participatory processes in the restitution of land.

2.12 Conclusion

In conclusion, if land restitution is understood to encompass individuals' connections to institutions that give substance to their status as citizens, then successful urban restitution can serve as a facilitator for broader, on-going change in the city. The opportunity of land restitution- particularly development –orientated urban restitution - then not only lies in the material opportunities of retuning to well-located land in the city, but also in connecting citizenship and property in distinctly visible ways that engage a broader public in on-going deliberation about social justice in the city. These are the debates with which this study tries to deal, understanding urban restitution claims, development after the claim has been granted, and the interactions of the stakeholders involved in order to redress dispossession and disempowerment.

Table 2.1 Assessment criteria for participatory processes in Land Restitution

Subsidiary research Questions derived from an in-depth literature review
1. How were spaces for participation conceptualised in the case of District Six and did these spaces allow for an open-ended and ongoing process of engagement?
2. What types of participation took place in the restitution and redevelopment of District Six?
3. Were representatives or mediators elected to enable restitution and development processes and if so, how did they capacitate their constituencies?
4. How were former tenants included in the restitution and redevelopment process of District Six?
5. Who represented claimants and the wider community during the planning process that

sought spatial outcomes for District Six, and how were claimants' and the wider community's different interests represented and included in these planning processes and development proposals for District Six?
6. How have planners engaged with the needs of claimants in District Six?
7. How have bureaucratic delays and extended negotiations between contesting parties undermined planning processes and outcomes in District Six. And how did participatory planning processes aim to address points of conflict?
8. What partnerships have been established in the case of District Six, and how have other stakeholders been included in these partnerships for the purpose of ensuring the provision of public services and housing?
9. How has the City of Cape Town interpreted the narrative of loss and restoration ? And how have participatory processes assisted the municipality in interpreting the narrative of loss and restoration?
10. Are there aspects of 'subaltern counter politics' in the case of District Six, and if so, what were the outcomes of this form of politics?
11. To what extent did participatory planning practices enable the concept of 'expanded citizenship'?
12. What are the challenges of participation and inclusivity in District Six? And, how can these challenges of inequalities be addressed? How can marginalised groups become more meaningfully involved?
13. What is the role of memory in participatory planning processes?

Chapter 3 Research Methods

3.1 Introduction

This chapter outlines the research methods and techniques employed in order to answer the main and subsidiary research questions established for this study (outlined in. chapters 1 and 2). The first section of this chapter entails a description of the research methods applied, namely the case study method and discourse analysis. This is followed by a discussion on the research techniques, such as in-depth interviews, that are used to collect the data. The advantages and limitations of the research methods and research techniques employed in this research are discussed in the respective sections. The chapter then turns to a discussion on how the research participants were sampled. This is followed by a discussion of the ethical considerations that are of concern to this study. The chapter concludes with a discussion on how the data was analysed.

3.2 Research Methods

In this section, the research methods are outlined. The choice of research methods and the subsequent research techniques employed in this study is informed by the main and subsidiary research questions as well as the nature of the problem under investigation. It is to a discussion of the case study method that the section now turns.

3.2.1 Case Study

Given the main research aims, questions and subsidiary research questions , I used the case study method, which is a type of qualitative research.

A case study is a “detailed examination” of the evolution of a phenomenon within a specific context (Flyvberg, 2001; Yin,2014). Baxter and Jack (2008) assert that case studies help the researcher to understand complex social phenomena that are multifaceted. Similarly, Yin (2004) also notes that the case study method is useful when trying to unpack complex social phenomena. Furthermore, the case study method is valuable when trying to contribute to knowledge about the “individual, group, organisational, social, political and related phenomena (Yin, 2014:4; Duminy, Watson & Odendaal, 2014). This is what makes the case study valuable because it is “intensive” and comprises more “detail, richness, completeness and variance” (Flyvbjerg, 2011:301). The complexities of reality on the ground are revealed because the case study method allows the complex phenomena to be explored for exactly what it is and nothing more (Flyvbjerg,2011). This in turn helps the researcher to answer

questions of “how” and “why” because there exists no inherent intention of manipulation of participants (Yin,2014). The aim is merely to understand the case for what it is. The case study method is also useful to the researcher who wants to test how theories and models are applied in practice. For this study, the restitution and redevelopment of District Six is the unit of analysis. The decision to use District Six as the case study area as opposed to other cases of restitution in Cape Town is because I was interested in why, despite great national and international media coverage and its identification as a symbol of hope to combat the harsh realities of the apartheid regime, restitution and redevelopment have remained painfully slow. Furthermore, because proponents of participatory planning advocate for the transformative potential of these practises ,and given the media coverage surrounding the community organisations representing the claimants, the case warrants an investigation into what the lessons may be for participatory planning practises in similar contexts. Flyvbjerg (2011) argues that it is naïve to conclude that the case study method is unable to provide reliable information from the larger population group.

This study will deepen the knowledge on participatory planning practises (See Chapter 5) and how to navigate the restitution and redevelopment process with a lens that is sensitive to the issues that arise when working with marginalised citizens. The reason for using the case study method is to *learn* from the participatory planning practises employed in District Six restitution and redevelopment rather than to prove that the fault lies in a specific thing (Flyvbjerg, 2011).

Strengths of the case study method pertaining to my research

One of the four applications of the case study method, as described by Yin (2004), is to outline an intervention against the wider context in which it occurs. The case study method thus allows me to assess the relationship between restitution and participation along a temporal backdrop in the case of District Six. Furthermore, Duminy, Watson and Odendaal (2014) discuss that the case study method is suitable for developing planning approaches relevant to the Global South. This is particularly significant in my research given the specific contextual realities and thus being able to generate appropriate planning policies, which respond to those realities.

Case studies present real life examples against which theories can be tested. This helps to reveal the underlying dynamics of that theory. District Six has been identified as the case study area because of the inherent local dynamics. The demarcation of the unit’s boundaries is what defines the case (Flyvbjerg, 2011).

Limitations of the case study pertaining to my research

Some scholars are sceptical of the case study method because it does not result in hard “scientific” theories (Babbie and Mouton, 2001). Flyvbjerg (2006) acknowledges this but asserts that the nature of social science research does not always involve hard theories. This means that use of the case study method in some studies offers new learning opportunities. The complexity of human activities and certainly the complexity of urban realities in the emergence of a new social order, such as post-apartheid South African cities, necessitate the use of a method that does not require universal theories to be applied or deduced from. Rather, the contextually based parameters of the case study method yield findings that can contribute to the literature nonetheless (Flyvbjerg, 2006).

Flyvbjerg identified five misconceptions of the case study method that are ultimately concerned with theory, reliability and validity. The issue of theory can then be dealt with in the following instance George and Bennet (2005: 6) highlight that through ‘process tracing’ the investigation of data through various sources can determine whether the:

“[C]ausal process a theory hypothesises or implies is in fact evident in the sequence and values of the intervening variables in that case”.

What this means is that new variables or hypotheses can be generated and thus, new theories that are less universal (particular) can be generated (George and Bennet, 2005). For the District Six case, this implies that more universal theories of participation may not be applicable, because of the specific context of the stakeholders, their socioeconomic status and histories (to mention a few factors). Hence, it would be inappropriate to apply a blanket approach of participation in District Six. However, there are some lessons that can be learned from the District Six case to improve the process of developmental projects after restitution elsewhere as well.

Flyvbjerg (2011) also challenges the perceived non-reliability of the case study method. Flyvbjerg (2006) argues that by using the case study method, researchers have often rebutted their initial preconceived ideas after being in the field. Researchers may come across findings that nullify or question their initial gut feelings (Flyvbjerg, 2006). Therefore, verification bias is minimal. Verification bias is the tendency for researchers to look for information that verifies their preconceived ideas. I navigated this limitation through consulting various texts, literature and archival newspapers before interviewing, and focussed on allowing the interviewees to tell me their versions of the removal and displacement process, by asking key questions. In each interview, I tried at all cost to let the

conversation flow, and only probed when I needed clarity on an issue. Another challenging aspect of case study data collection, as Flyvbjerg (2011) acknowledges, is trying to condense rich narratives when presenting the findings. This issue I found particularly difficult, because I wanted to remain thoughtful to the sensitive issues that consistently surfaced – which were the issues of displacement (in both a material and symbolic expression), the issue of othering and division among former residents (and thus claimants), and the trauma that still exists in these narratives.

3.2.2 Discourse Analysis

Discourse Analysis involves the use of critically analysing text, literature, policy and legislation, amongst others, to try to understand the underlying, hidden meanings embedded within those discourses (Jørgensen and Phillips, 2002). Critical discourse analysis tells us that all social practises have meaning. Through discourse, we give the social practises meaning and it is this meaning, which shapes and constitute it.

Discourse analysis is employed in this study to analyse the language used in policies and frameworks concerned with land restitution (and urban land restitution in particular) and participatory planning. This helped to define what legislation was used to give effect to the Restitution of Land Rights Act and also the circumstances under which the Act was conceived (chapter 2.2). Furthermore through discourse analysis I was able to derive subsidiary research questions and assessment criteria from the relevant literature. Jacobs (2006), notes that researchers use discourse analysis when trying to understand urban policy implementation processes. It is useful to unpack how language has been used in policy formation and implementation. From the narrative expressed in Chapter 4, discourse analysis helped to answer my subsidiary research questions from the data collected. When revealing the underlying meanings embedded in the information available I was able to make conclusions from the lessons to take forward from what is represented in District Six.

3.2.3 Archival analysis

I also relied heavily on archival data, particularly for the initial stages of restitution and redevelopment dating back to 1980 to at least 2005. This allowed me to explore the underlying reasons why certain decisions were made, whether they were done by the Minister, the City of Cape Town or Community organisations and representatives. This also helped me to explore why values, meanings and discourses were changed, which in turn affected the participatory objectives and outcomes. The issue I experience with using this type of research was that it was sometimes difficult to get access to certain government publications either because of bureaucratic procedures that

would cause time delays, or because the documents no longer existed. Hence, I had to rely on secondary sources.

3.3 Research Techniques

3.3.1 In-depth, semi-structured interviews

In-depth, semi-structured interviews consist of open-ended questions (as opposed to close-ended questions), which allow the respondent to say as much (or as little) as they want on a particular topic. The interviews can be conducted in a conversational style (Babbie and Mouton, 2001; Mason, 2002), and instead of using a set of rigid, pre-determined questions (as with a questionnaire), the interviewer merely has an interview guide. This ensures that the interviewer and the respondent do not go off topic or go about in a circumlocutory fashion. The interview guide also helps the interviewer to stay in sequence with what must be asked, and can provide guidance on what should be followed up on. Furthermore, and of great significance to my research, is that if a stimulating theme is touched upon in the interview, the participant is free to explore this view in confidence (Babbie and Mouton, 2001).

During semi-structured interviews, the interviewer primarily listens to what the respondent is saying. The interviewer can probe, pause and offer prompts at appropriate times (Babbie and Mouton, 2001). Probing is asking the interviewee to elaborate on something that was said to explore deeper meanings behind it (ibid). It allows for a more nuanced understanding of what is being alluded to when the participant is telling their story. I used this technique because it allowed me to gain subjective perspectives on restitution and spaces of participation from research participants. The interviews were conducted on a one-on-one basis with individuals who participated in the restitution and redevelopment of District Six in direct ways. As Hill Collins (1991) argues, individual interviews not only reveal the participant's subjectivity but also provide key insights for the research. I conducted semi structured interviews with a planner appointed by the Department of Land Affairs involved in the subsequent redevelopment phases of district Six (phase 2). Another interview was conducted with a roleplayer from the District Six Museum. I've also collected transcripts from the District Six Museum with interviews that were conducted in 2000 and 2003 describing the politics of the restitution and redevelopment between 1995-1999 up until 2003. I also collected an interview with the new representative organisation, the District Six Reference Group (Reference Group), from an interview with the Voice of the Cape.

Oral history interviews were also used in my research, given the stories and knowledges possessed by two of the research participants who have been activists in the struggle for rights of a dispossessed community since the 1980s.

All research participants asked to remain anonymous excluding the District Six Beneficiary Trust chairman, Dr Anwah Nagia.

All interviews were recorded and transcribed, excluding the informant who holds a dual identity of activist and architect/urban designer, who did not wish to be recorded and wished to remain anonymous.

3.3.3 Non-participant observation - Hanging out at various participatory spaces

During the course of the research, I spent a considerable amount of time at the District Six museum to understand its role in creating memory, what this memorialisation means for a community, and further what it means for participatory planning practises. Observation entails the systematic noting and recording of events including detailed and non-judgemental descriptions of what is being observed. The method assumes that behaviour is purposeful and has deeper values and beliefs (Marshall and Rossman, 1999). In qualitative research, the researcher typically enters the field without predetermined categories or strict observational checklists (Marshall and Rossman, 1999). The value of observation thus lies in the informality of data collection Yin (2003). It also lies in the fact that the researcher is able to discover recurring patterns of behaviour and relationships (Marshall and Rossman, 1999).

During the fieldwork processes I attended many seminars, talks, exhibitions and film and documentary screenings as part of the non-participation observation to understand the history and story of District Six as a place, in memory and a home to form residents. There was and continues to be a lot of trauma associated with the District Six case and many times I had to take a step back as to not become engulfed by what I was learning. Nonetheless, I had to persist in finding out the truth about District Six and the many truths engulfed in its narrative. I found that many wanted a stake in District Six and so wanted the voices heard, nonemore so than the community themselves (Chapter 4 and 5).

3.4 Data Analysis

The data was collected in an iterative process and using multiple data sources. This allowed for triangulation of the findings, which means comparing and contrasting the same subject using multiple data sources. I obtained comparable findings from the interviews by asking interviewees the same questions. At times I would get similar responses; other times I would get a different version. This highlighted the concern for bias and trustworthiness of interviewees. However; I tried to navigate this by also using multiple data sources of documents, media archives, books and other literatures. As mentioned, all interviews were recorded and transcribed excluding one, where I supplemented taking vigorous notes. I analysed the data against the subsidiary research questions established in chapter 2 and rendered the findings against the theoretical framework in chapter 2.

3.5 Ethical considerations

As a consequence of asking human subjects to participate in the research, I had to complete the necessary ethics application form for the Engineering and Built Environment (EBE) Faculty at the University of Cape Town. Research participants were not coerced to participate in the research and thus informed consent needed to be signed by all research participants. This is an important prerequisite (Halse and Honey, 2005).

All respondents need to know exactly what the research study entailed before agreeing to participate in the research. All the respondents had to be willing and able to participate in the research. Upon agreeing to participate in the research, I met with participants at a venue of their choice.

Each interview was handled with sensitivity and sincerity and the information collected was not disclosed to other participants, despite the fact that the participants formed a close network. I did not sensationalise the information nor pursue my own interest or curiosities outside of the research aims or questions. I also needed to get consent from all the respondents involved and thus all respondents needed to sign a consent form. Respondents needed to understand that the information they shared would be done so under anonymity and their identity would be treated with confidentiality. Hence, in writing up the findings, I used pseudonyms to ensure respondents' anonymity. Participants gave their permission to be recorded for voice recording and later transcription. An example of the consent form is attached in the appendix.

3.6 Limitations of the research

The research is biased towards the voices of the community representatives, rather than individual community members, because when, in designing the research methods and techniques, the question was raised: 'how were the claimants engaged in the restitution and redevelopment process?' The data revealed that the claimants generally engaged via their community representatives. Later on, claimants were also represented officially through the District Six Beneficiary and Redevelopment Trust, who represented the claimants and held in the land in a trust. Owing to time constraints and the evolution of the story of District Six, the voice of the City is not apparent in the interviews. However, the City's voice was explored through policy analysis and analysis of practice in the earlier years of restitution, as this was highly publicised. In addition, the research needed to engage with a planning issue and be defined within geographical and temporal context.

A difficulty experienced in the research was to remain sensitive, and try to convey the story of District Six as honestly as possible as the case itself is highly politicised and publicised. As mentioned, the case is important because it contains multiple, valuable lessons for planning theory and practice and it is these lessons, that I sought to convey.

3.7 Conclusion

This chapter discussed the research methods and techniques used to conduct the research study on spaces of participation in the restitution of land in District Six. The case study method, discourse analysis, in-depth semi structured interviews and observations were the research methods and techniques used in this research study. The limitations and advantages of each of these were discussed. The chapter also discussed how participants were engaged and how the data will be analysed. It concluded with a discussion on the ethical considerations of concern to this study and the limitations of such as study. The dissertation now turns to a discussion of the research findings.

Chapter 4: Research Findings. A narrative of District Six - the struggle for social justice, citizenship and equitable restitution

4.1 Introduction

The contemporary spaces *of* and *for* participation in the struggle for urban restitution in District six, cannot be discussed without paying attention to the history of a long struggle of a mobilized community against state and private agents which sought interest in their land. The purpose of this chapter is thus to outline the narrative, or many narratives that illustrate a long struggle to materialize a community and it's rights in absentia. This struggle takes the form of mobilization and popular resistance to the apartheid government and commercial interests who sought to develop in District Six. This struggle continues in the post-apartheid years against the new, democratically elected government that to sought to redevelop District Six without consultation and meaningful engagement with a displaced community. The case illustrates the power to overcome political, social, economic and spatial injustices through a united front by a 'people's movement' who harnessed symbolic, discursive ideas of restitution for a 'community' and the struggles imbued within the process. To this end, this chapter focuses on, the different participatory processes that have taken place between 1994-2013 in the restitution and redevelopment of land in District Six.

The chapter commences with the history of the formation of what came to be known as District Six. It quickly moves on to discuss the politics of a community dislocated to the various locations on the Cape Flats due to fears of miscegenation and an obsession with separation by the apartheid government. Today, a few kilometres from the slopes of Devil's Peak, a vast scar still remains etched into the landscape, a physical testimony of the heinous crimes of the apartheid regime and the use of urban policy to ensure racial privilege. However, the residents of District Six shared a sense of community and belonging that provided for mechanisms to endure their sub economic circumstances. It is this sense of camaraderie that kept the community mobilised in the past. Conversely, the chapter reveals how that can be deterred by tactics that persist to deny former residents their place in District Six.

In essence, the chapter serves to trace the histories of District Six, placing emphases on the consequences of planning principles and political ideologies without meaningful engagement with the

community. In turn how the community, in coercive and conciliatory ways interact with the state to exert influence. The chapter illustrates that although District Six offers prime real estate and is a critical component of an inner city development for the poor, it remains largely undeveloped. The chapter also illustrates that through collective memory, District Six has been reconstituted and perhaps through using this collective memory at all spaces of and for participation in the planning procedures, can the restitution and redevelopment of District Six become a reality.

The chapter outlines the participatory processes embarked upon in relation to the redevelopment proposals of District Six developed between 1994 and 2013. These redevelopment proposals are mandated by a 1996 Land Claims Court order. The chapter commences with a discussion of the case. This discussion centres on the area's history and evolution of a commission led process of claimant participation. This is followed by a discussion of the Section 34 case made by the City which led to the formation of a grassroots activist group representing the claimants. This group has been the driver of negotiations with other stakeholders on behalf of the claimant community but only up until 2012, when a new representative group was mandated by the National Minister of Land Reform and Rural Development.

4.2 The Case: District Six

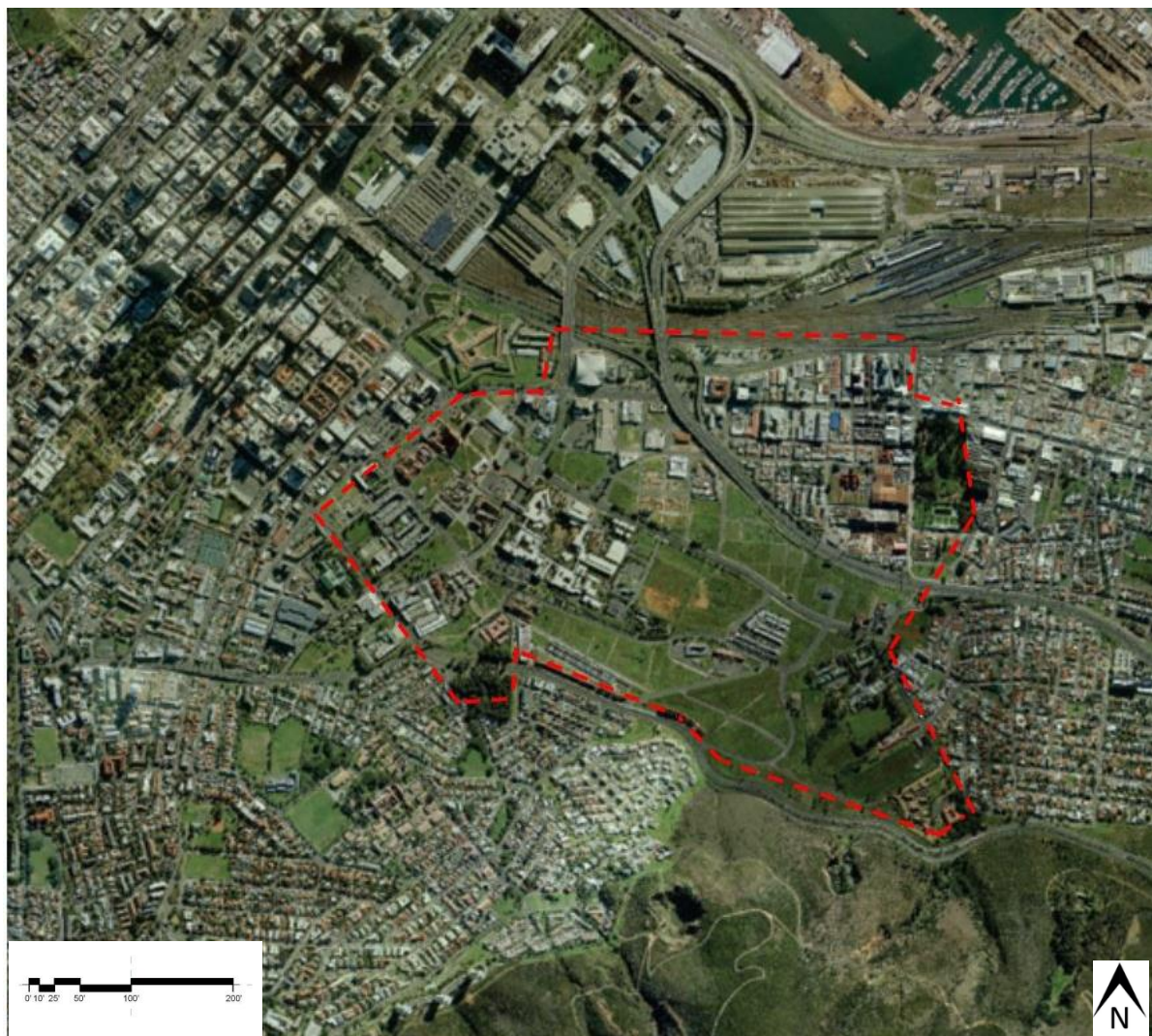
Towards the end of the 1700s the Dutch East India Company sought to expand the core of Cape Town. This was the beginning of the establishment of what was later known as District Six. By 1833, the area was occupied by the freed slaves and consequently expanded. By 1867, under British rule, the Sixth Municipal District of Cape Town was officially established. In 1901, however, District Six's African residents were forcibly removed. Large slums in District Six were burnt to the ground because the area was linked to the outbreak of the Plague¹. Later, District Six was reconstructed as a densely populated mixed-use, multi-cultural residential area. The reconstruction and subsequent expansion of District Six occurred with less centralised planning than under the Dutch. The British allowed for more piecemeal and laissez-faire development of District Six by private landowners, investors, immigrants, emancipated slaves and locals who wished to meet their housing and livelihoods needs in the inner-

¹ Black residents of District Six were the first victims of forced removals as they were cited as the source of the Bubonic Plague (Mabin, 1991).

city neighbourhood (Todeschini, 2008). Figure 4.1 illustrates District Six in relation to its surrounding suburbs.

By 1894 District Six had developed into a mature and compact urban quarter premised on a logical pattern of streets and blocks of fluctuating sizes and proportions. By the 1960s the inner city precinct consisted of 16 churches, 4 community centres, 17 schools and training centres and was home to approximately 60,000 people. According to Todeschini (2008) at the time, District Six's fine grained physical texture resembled other working class urban settlement in the rest of the world.

Figure 4.1 Aerial view of District Six



District Six was a mixed use urban space which was complemented with an equally multi-ethnic community² (Pistorius et. al 2002). District Six featured all ethnic communities living in South Africa (Bickford-Smith, 1990, Todeschini 2008; Pistorius et al 2002). Todeschini (2008: 3) states that District Six was arguably “the most cosmopolitan urban quarter in South Africa; full of traditions, myths and legends”. Rive (1990: 112) goes on to say that:

“District Six had a mind and soul of its own. It had a homogeneity that created a sense of belonging. It became more than a geographically defined area. It developed a separate and unique attitude. It cultivated a sharp, urban inclusivity, the type which cockneys have in the East End of London and black Americans in Harlem”.

The vibrancy and multi-ethnic life in District Six must not be romanticised (Rive, 1990). The government and some, more affluent residents viewed District Six as dangerous, filled with anti-social behaviour such as, prostitution, drinking, crime, gangsters, gambling and overcrowding (ibid.). This, though, is not entirely untrue. Absentee landlords, some of whom were city councillors, owned most of the buildings in the area. Their main objectives were to keep the rent and taxes low. This is why buildings were rarely renovated despite its dilapidated state and the inadequate provision of infrastructural services (Bickford-Smith, 1990).

The location of District Six on the edge of the CBD gave its working class residents immediate access to employment opportunities. Figure (4.2)

With the passing of the Slums Act in 1934 District Six was declared a slums area. It was to be demolished and reconstructed. This did not occur at the time.

After 1945, little was done to maintain or improve the area. It was only with the passing of the *Group Areas Act* (Act No.41 of 1956) that forced removals became a reality for communities in District Six.

² The community was made up of Cape Malays, descendants of slaves brought from Malaysia, Indians, and Africans. There was also smaller groups of Afrikaners, people from British descent and Jews.

4.2.2 Destruction of District Six: “crimes against urbanity”

Essentially the first forced removals of District Six was commenced in 1964 with the construction of the Eastern Boulevard, now renamed the Nelson Mandela Boulevard freeway. This boulevard cut through the housing fabric and occupying the southern edge of Trafalgar Park. In the process of such large-scale road engineering works, the old fine-grained urban fabric of the area was tarnished by the dominance of freeways.

“On 11 February 1966, the apartheid government declared Cape Town's District Six a whites-only area under the Group Areas Act of 1956. From 1968, over 60,000 of its inhabitants were forcibly removed to the Cape Flats, over twenty five kilometres away. Except for the local houses of worship, the buildings were systematically bulldozed throughout the 1970s, and by 1982, almost all evidence of the district had been destroyed” (SAHA, 2010).

This proclamation was met with great disbelief and widespread resistance. The City Council made two separate appeals to the Minister of Planning, both of which were rejected (Dewar, 2011). Interviews with District Six residents exhibited on walls at the entrance of the District Six Museum highlight that people were “totally unprepared” (Davis, 1997). Another ex-resident (interview, 1999) says that people were in “disbelief. I don’t believe it because government can never move all of us” (Schaffers, 1999). Yet, the removal of people of colour from District Six was sealed as Davis (1997) highlights: “[we were] powerless, [and could not] fight back, [so we] just succumbed”. Popular resistance against state brutality was met with fear and the tangible reality that communities, ties and connections would be severed under the proclamation of District Six’s redevelopment as a white group area.

With official commencement in 1968 the demolition and forced removals expanded over a period of 15 years. Only places of worship remained erect as a result of South African law that prohibited the demolition of churches and mosques. Figure 6 illustrates the areas where families were moved to. Staying true to the ideology of separation, Coloured families were moved to Retreat, Belhar, Hanover Park, and other dormitory townships such as Mitchells Plain³, while Indian families were moved to

³ Many of those removed from District Six had been relocated to what was called the ‘dumping ground of apartheid’ in flat, sandy, harsh environments several kilometres South East of Cape Town. Some ex-residents

Rylands, Africans to Langa and Gugulethu. Anwah Nagia, the Chairman of the District Six Beneficiary and Redevelopment Trust, recalls how even people of colour of different races were obliged to be in possession of a pass to enter other areas which were proclaimed African or Coloured. This was to indoctrinate the notion of 'othering' amongst different races (Personal Interview, October, 2017), which would prove to be a challenge in shedding those belief systems in the new South Africa.



Figure 4.1 District Six demolition due to the proclamation of a White Area under the Group Areas Act of 1950 (Source : Cape Archives)

At the time of displacement, the area measured between 114 and 150ha. Since the Hands off District Six Campaign in the 1980s (discussed below), community organisations were instrumental in ensuring that the District Six would not be developed outside of the community's interests. However, due to the selling of publicly owned land for private interests (figure 5), approximately 45ha remains available for restitution of the former community (figure 6).

managed to secure housing in the adjacent Walmer Estate, which was declared a Coloured group Area in 1975 in an attempt to appease the Coloured population after rampant protests broke out. Even so, it did little to undo the wrongdoings or diminish the resentment of National Government's decision.

Figure 4.2: Location of all the areas families were relocated to.



4. 3 Decision making behind closed doors - and mobilisation to challenge it

4.3.1 1980

By 1980 South Africa was under precarious political conditions coupled with increasing internal pressure to abolish the apartheid regime. Popular resistance to the apartheid state were often restrained but never subdued. When resistance would reach volatile levels, the state would often respond with varying strategies of coercion, cooptation and compromise as in the earlier case of

Walmer Estate being proclaimed a Coloured group area due to ongoing protests (Davies 1986 cited in Dewar, 2011). In the midst of political conflict British Petroleum Southern Africa (BPSA) sought to establish a tripartite agreement with major companies⁴. BPSA on the other hand were subject to sanctions and the only way to legitimize their stay in South Africa was to work in the public realm⁵. In a report titled : New Futures and Partnerships for Cape Town's District Six: Potential for Private Sector Participation, Crane advised that new partnerships be formed between the then tiers of government, private sector buy in and community participation, as opposed to community opposition which was playing out in the form of protests. BPSA heeded Cranes advice and sought to involve the City Council and the 'community'. To this end, BPSA created a non-profit company called Headstart to commence with investigations, suggestions with regards to plans, design, costs and financing (Dewar, 2001).

Hence, mobilization for restitution began in the late 1980s with the 'Hands Off District Six' Campaign, comprised of 21 organizations working to prevent the proposed redevelopment of an 'open residential area'. HODS maintained that Headstart should have communicated the community first before consulting with local authorities. They felt that by trying to develop a non-racialised open area in District Six, Headstart was endorsing the Group Areas Act and ignoring what was happening in the rest of Cape Town and South Africa for that matter. The HODS committee could thus not give Headstart their blessing and their plans to redevelop were halted.

Despite an apparent commonality of view that "few places have better credentials as a healing symbol for a new and reconciled South Africa" (Jeppie and Soudien 1990, 13). The HODS denied the invitation by BPSA and city officials because they had not been included from the onset. This was non-negotiable to the umbrella organisation because their preamble was adamant that any redevelopment in District Six had to embrace the community's desires from inception and the community had to be at the forefront of any discussions, proposals, drawings. Furthermore

⁴ including Anglo-American, Southern Life, Foschini, Volkswagen, Pick n Pay, Unilever, Standard Bank, First National Bank, Reckitt and Colman, Seardel, ISM, Liberty Life, W and A Gilbey, Seardel, Wooltru Group, Board of Executors, Johannesburg Consolidated Investments) in 1985. BPSA sought expert professional urban planning advice from international consultant, David Crane of the U.S.A who had worked on a student project in 1965 by invitation from Roelof Uytenbogaardt at the University of Cape Town (Dewar, 2011; Todeschini, 2008).

⁵ BPSA sought expert professional urban planning advice from international consultant, David Crane of the U.S.A who had worked on a student project in 1965 by invitation from Roelof Uytenbogaardt at the University of Cape Town (Dewar, 2001; Todeschini, 2008).

redevelopment of District Six could not occur without the emancipation of the rest of South Africa or at least Cape Town (personal interview, 2017).

To this end, the HODS campaign and its constituent organisations demonstrated resistance by not conceding to private or state interests.

4.3.2 1990-1994

Following the defeat of the BPSA and Headstart redevelopment 'seed plan', the United Democratic Front (UDF) launched a national campaign in 1990 highlighting the national urban housing crisis. The UDF and ex-District Six residents aligned and threatened to not only occupy state land but also to occupy private land in District Six. In an attempt to avert the crisis, this forced the Cabinet to request the Administrator of the Cape to coordinate negotiations between all parties having with an interest in District Six. In 1990 the following ANC and UDF demands were made and consequently agreed to :

- no development was to take place under the Group Areas Act or the Free Settlement Act;
- all current development was to be halted;
- District Six was to be redeveloped to provide affordable working class housing including a substantial amount of rental accommodation;
- the State was to take responsibility for the rebuilding of District Six, and;
- all development was to take place in consultation with the community.

(District Six Steering Committee, 1993, 1)

The Administrator of the Cape accordingly announced that given the context of the anticipated repeal of the Group Areas Act, the Cape Town City Council was to establish a working committee for the planning of District Six (District Six Steering Committee, 1993). The City established the District Six Steering Committee and several technical and other structures. The Steering Committee had policy intentions, which provided for participatory processes in the planning and redevelopment of an integrated development plan for District Six⁶. Table 1 depicts the organisational structure of the Steering Committee established by the Cape Town City Council. The structure however highlights that

⁶ In June 1993 the Steering Committee prepared a document of the development process and planning intentions for the District Six Area.

there were no District Six representatives present and the establishment of the District Six Steering Committee occurred behind closed doors without any input from the public or representative of the community. This resembles what Cornwall (2002) and Gaventa (2001) terms closed spaces where a set of actors make policy decisions without the pretence of inclusion.

The Steering Committee later established a development organisation, the Cape Town Community Land Trust (CTLCT). The CTLCT, however was primarily created by the Cape Town City Council to hold land and drive development yet at the same time they were intended in their mandate and rhetoric to represent the interests of the claimants. The Cape Town Community Land Trust was culminated through four years of “hard work and planning” by the Steering Committee in partnership with the Department of Land Affairs and Cape Town City Council. The Steering Committee's chief executive Mr Clive Keegan, was also the former mayor of Cape Town under the National Party. The National Party also won electorate vote in Cape Town after the first democratic elections in 1994. The CTLCT was officially established on 29th September 1994 and there exists a strong rhetoric by the Steering Committee that the body was conceived through a partnership between the State, Council, the Community⁷ and the private sector. However, representative and organisations of any grassroots groups of District Six ex-residents did not occupy any space on the CTLCT.

Even though, The Steering Committee had pledged that participatory planning processes would be the paradigm through which the redevelopment of District Six would occur. In actuality the CTLCT was still conceived in closed spaces because it had been negotiated between the authorities prior to the democratization of National Government. “Oh it was a committee that was appointed in a very, very formal way by the City Council along with the corroboration of involvements of the ... City council and province [Who] own most of the land in this area. And therefore they ensured that they were well represented on this particular committee.” (Museum representative, 2000).

As explained by the Museum Representative, the CTLCT was established without the consultation of the community or those former residents, traders and owners who had interest in the restitution process.

⁷ The ‘community’ trustees were however conceived to be Mr Seraj Desai from the South African National Civic Organisation, Mr Joseph Marks from the Cape Areas Housing Committee and the Mr Enoch Madywabe from Western Cape United Squatters Association. None of the ex-resident community organisations were present on the board of the Cape Town Community Land Trust organisation, who would be the body to determine the planning, design and development of District Six.

However, adhering to the theoretical framework on participatory planning discussed in Chapter 2, when South Africa transitioned into a democratic society in 1994, only then did attempts to broaden participation become relevant. The CTCLT did not have a mandate from land claimants or the broader group of ex residents to speak or act on their behalf. However, as a means to gain access into the 'community' and leverage the trust of the 'community', the CTCLT established the District Six Development Forum on the 7th December 1995 who consisted broadly of present and former residents; religious groups, schools, and other institutions with direct interest in District Six (Beyers, 2007). Basil Davidson, Chief Executive Officer of the CTCLT, view of the establishment of the Forum was that, "we have moved quite a number of steps forward (Isaacs, 1995). The Forum, intended to provide the 'community' with a direct vehicle, to participate in the planning and redevelopment of District Six. The Forum were open to the idea of 'integrated development' and were prepared to take the interests of the 'broader community' to heart (interview, 2017). However, as time passed it became evident that the 'community' was reduced to one of several competing interests. "Because the feeling was very strong that the only reason for involving the community now are stakeholders now whereas in the past they could not get their act going. And they needed now the collaboration of the community". (Museum Representative, 2002)

Further, the community was consulted and presented with plans but had little power to control outcomes of the decisions made. As the Museum Representative recalls in an interview in 2000 :

" But to come back to those days very quickly, it was felt there was always hidden agendas. And I felt that it was again a question of them planning for us".

This finding prompts asking the follow up subsidiary research question: *How have participatory processes assisted the municipality in interpreting the narrative of loss and restoration?* (The answer to this question is discussed in chapter 5).

4.3.3 Land Restitution and Redevelopment Proposals

Nonetheless, the City Council and Provincial Government sought to gain a stake in District Six in the form of an integrated development plan to preclude individual claims. The two state agents were to achieve these ends through the Section 34 Application to the Land Claims Court. Section 34 of the Act specifies that:

The Court's approval of the application would disqualify the rights of legitimate claimants to lodge individual claims in support of the City and the Province, on behalf of the Cape Town Community Land Trust (CTCLT)⁸. However, The CTCLT made its application to the LCC before the constitution of the Forum was finalised and thus reduced the community's participation to mere onlookers of the authorities' decision. The Museum representative gives an account:

This resulted eventually in a breakdown. And it resulted in the community organisations withdrawing and the demanding that the true representatives of the people be given the responsibility for redevelopment

(Museum Representative, 2003)

To this end, the application to the LCC flawed as it was lodged primarily by the City and Provincial Government under the guise of the CTCLT, yet the rhetoric of the CTCLT was to represent the Community. Furthermore, by way of the City lodging the application to the LCC, the community's trust in the CTCLT was demolished because *de facto* their actions represented the interest of the City and Province as opposed to the interests of the community of which they tried to submerge. Furthermore, these actions represent Fraser's subaltern counter publics, where marginalised groups find greater opportunities for exercising their voices by creating their own spaces for participation (discussed further in Chapter 5).

The Museum Representative recalls,

And when that surfaced then from the group there of community organisations it would just mobilise itself and the various organisations were asked to get together and discuss this.

(Museum Representative, 2002)

⁸ The application for the integrated development of District Six, includes all potential low income beneficiaries, even those not directly affiliated to District Six. The application seeks to address not only restitution but the national housing crisis as well. The integrated development plan envisions commercial property development, subsidized low-income housing, and restitution for former owners.

All interested and affected parties were notified with regards to the application and were subsequently given until 22 July 1996 to oppose the application. An account of the outrage by several community representatives. An investigation into the meetings held and from my interviews, the benefits the claimants would receive from the application was not clear. Additionally, who would be able to return and at what cost was a divisive matter which was not adequately addressed. It became evident to community representatives that there would be no real benefits for former residents, particularly tenants who made up a greater proportion of the potential claimant community. At this point the meaning of community became a divisive matter because tenants were perceived to have less power to demonstrate their interests. Furthermore, tenants were not aware that they could in fact lodge any claims, because they were embarrassed and some owners would remind them that in fact they did not own they were merely tenants (Interview, Nagia, October, 2017)

The City maintained that the only way for restitution and development to be done appropriately is through the Section 34 Application (Dennehy, 1996). However, another issue is that the tenants and subtenants did not have the resources to dispute the issue in court. This corroborates the literature that asserts that some claimants are able to navigate the restitution process more efficiently than others because they have access to resources (Walker,2008 ; Bohlin,2009 Gibson, 2009; Beyers,2013, Athuene,2014).

Claimants were up against the three spheres of government and were to be represented by their community organisations. Nagia recalls “All of these (spheres of government) took the community to court to say that there is a “sunset clause” in the Land restitution Act. “it is better in the public interest, to take away the land because there is no community (Personal Interview,2017).

Nagia responded: “what?! You want to tell me that people are not yearning to come back for justice?” (ibid).

There were several community groups opposing the Section 34 Application but in order to defeat the application claimants and co-claimants had to demonstrate a united front. The assimilation of various civic organisations into one united front were taking place throughout the Cape Flats during 1995 already. This was the only way they could be legitimised and able to negotiate with the CTCLT and the Land Claims Court on official terms.

Claimants were thus lead by the veteran Anwah Nagia, who had been at the forefront of the resistance movement since the 1980s. The District Six Civic Association, which represented mainly former tenants, became the hegemonic status of oppositional groups. The Civic gained the support of the District Six Residence and Traders Action Committee a major organization representing former owners. The Civic would spearhead community building efforts through the leadership of Nagia, by not only channelling symbolic ideas of restitution of community in popular, official and media discourse, as argued by (Beyers, 2007) but also through consistently holding all spheres of the newly elected democratic government accountable for their actions. He would also question the lack of transparency and seemingly with holding clarification on the rights of tenants and African residents who were not allowed to own land, Nagia explains:

There was an opportunity for tenants to claim but they did not know that. So there was a *conspiracy of silence* in terms of the Act and there was a *conspiracy of silence* in terms of bringing the community in a full sense to understand their rights. And therefore the birth of political movements such as ourselves. People's movements such as District Six Action Committee, District Six Civic Associations which culminated into the District Six Beneficiary and Redevelopment Trust. And I've been involved for almost 40 years. As a student of Trafalgar High school.

Nagia goes on the critique the Restitution of Land Rights Act in itself. He also critiques the governments failed attempts at broadening inclusion and access to CRLR and the RLCC. Nagia clarifies, it was ultimately up to community representatives to push for a public campaign on the rights of all those who were able to claim because the state's (DLA, RLCC) and the CTCLT efforts on public education was weak.

This is demonstrated by the poor representation of African claimants early on the in restitution process. It was only until late in 1996 that the issue of African residents in District Six came to the fore through concerted efforts by a community representative in Langa and Gugulethu (Nagia, Interview, October 2017. This was because the CTCLT did not extend their public meetings to areas in the Cape Flats let alone, African townships in the in the Cape Flats (Makapula, 2002, cited in Beyers 2007; Nagia, interview, October, 2017). And so, the Civic operated to bring marginalized African ex-residents into the claims process as well.

On trial at a preliminary court hearing Nagia, addressing the CTCLT, the DLA, The Provincial Government and City Council:

this is supposed to be such a sensitive issue of land and land restitution, both the agrarian question, rural, poor and the urban land and it's the only opportunity that the poor will ever have to have a sense of justice is through restitution. There is no other way because of willing buyer willing seller. And the courts are not accessible and the poor does not have capital. Which other way? Show me in this Constitution where the poor can have restitution or reparations other than through this process? You guys have not considered to enter into a constructive engagement with the community and then just take them to court as a pre-trial and round table discussion.

(Personal Interview, 2017)

However, the City Council and the CTCLT maintain that there is no other way restitution can occur besides in the public interest and therefore by lodging the section 34 Application (Basil Davidson, Chief Executive Officer for the CTCL, cited in Denney, 1996). Furthermore the City maintains that 'from a town planning and land market point of view, the land needs to be maximised in terms of its development opportunities'. Accordingly, 'economics of scale will be essential' to 'realise the potential of the site and to ensure the maximum use of the existing facilities -especially the underlying infrastructure' (Interview with Basil Davidson, cited in Beyers, 2002).

It is evident from the above account that thus far there was no real attempt by the authorities to engage with the claimant community or the broader District Six community at large. From the claimants' point of view, the land restitution process was seen as burden to the state. Nagia points out: "there was never a sincere attempt by the powers to look at the restitution process correctly. It was an inconvenience." (Personal Interview, October 2017)

However, the community organisations and their representatives were adamant about moving their rights to the forefront of the restitution and redevelopment discussion. After launching District Six Restitution Front⁹, community representatives put their demands forward to firstly order the City to engage in a constructive discussion with the prospective claimants before making decisions on their behalf. Secondly, demanding the appointment of mediators Neville Alexander and Elaine Clarke to arbitrate the facilitation process. It is to this process that the discussion now turns.

4.4 The facilitation process: invited spaces yielding transformative potential

⁹ A community based organization that would help claimant communities throughout Cape Town to realize their rights.

During October 1996, the Minister of the Department of Land affairs called for extensive meetings between representatives of the community and Wallace Ngoqi, the Regional Commissioner, the court appointed Neville Alexander and Elaine Clark as facilitators of the process¹⁰. The facilitators would mediate and negotiate amongst key role players¹¹ with the aim of reconciling the differences between the claimants and the authorities. The facilitators engaged all the key role players in a process of finding the most amicable way of resolving the District Six restitution claims process. The facilitators conducted widely publicised meetings. The City and Province, as applicants of the section 34 Application, sought to restrict the facilitation process to allow only the community representatives to debate in the process so as to curtail the participation and engagement of the claimants themselves. Their strategies to restrict claimants however, were unsuccessful given that the purpose of the facilitation process was to expand participation (Beyers, 2007), this highlights the agenda of the state to remain in power and use participation only in their interest (Botes and Van Rensburg, 2000). Several meetings were held throughout the Cape Flats to engage former residents and tenants who did not know that they had a right to claim or how to go about in verifying their claims. The views of all interested and affected parties were canvassed and parties could object to preliminary outcomes at any step within the process. The outcome of these sessions which took the form of debates, consultation and public meetings, was a final report to the LCC widely acclaimed by the judges of the court as well as the Chief Land Claims Commissioner, the Regional Land Claims Commissioner as well as the broader claimant community. Representatives of the minister were present at all or most meetings and demonstrated their support. The Community representatives, assured that all roleplayers were involved in the process but those such as the Cape Technikon and the owners of Bloemhof Flats could not bear the same weight as the claimant community (particularly the tenants) because they were the ones most disenfranchised and hence their views should hold more weight, while the views of the Cape technikon cannot be held in the same regard because they had benefited from the apartheid regime and should therefore not benefit from the restitution and redevelopment. “This would make a mockery of land restitution’ Nagia claimed. (underhill, 1997).

¹⁰ Dr Neville Alexander and Dr Elaine Clarke were both key figures in Cape Town’s anti-apartheid, non-racial movement and had a particular passion for community work.

¹¹ The key role players included the City of Cape Town; the CTCLT; representatives of several community based organisations; the Cape Technikon and also, as a way of legitimising the process, the DLA became a stakeholder as representing the State.

The outcomes of this process led to the emergence of a newly articulated vision of restitution and project of redevelopment. A vision articulated by the claimants themselves, as this grew in numbers since tenants were encouraged to claim and opt for to claim for land as opposed to monetary compensation. In a final report to the Minister¹², the facilitators recommended that the community be at the forefront of the restitution and redevelopment process. They also described that as a natural outcome of the process, as a product of these workshops, the proceedings led to the decision to form a trust to drive the restitution and redevelopment process of District Six.

The CTCLT was officially disbanded and subsequently the local and provincial governments withdrew the section 34 Application. The LCC ratified the decision by inviting all role players to a session at the District Six Museum. This symbolised and materialised a victory for the claimants through the facilitation process. Fundamental to the outcomes of this movement was the expanded inclusion of former tenants, who now outnumbered former owners as claimants. Hence, their claims would be prioritized over the owners (Beyers and Fay, 2015). It is a crucial point to stress however, that African, Coloureds and Indians seldom owned land and so the inclusion of tenants in the process is important otherwise restitution in itself would do little to redress apartheid planning. Nonetheless, the Beneficiary Trust and District Six Museum resolved potential dissents between owners and tenants through their symbolic work memorializing a shared past as the basis for an imagined common future (Rasool and Prosendalis, 2000).

It was considered a victory *by the people for the people*. However this victory seemed to be short lived due to bureaucratic delays by the Department of Land Affairs Minister, Derek Hanekom who declared the facilitation process invalid because according to his advisors all parties' interests were not taken into account.

4.4.1 Denying the progress of the facilitation process – delay tactics by government officials

To the dismay of the claimant community, just as progress was being made, the minister declared that new facilitators be appointed accusing facilitators, Dr Neville Alexander and Elaine Clarke of acting outside of their ambit (Beyers, 2007). Conflicts in the facilitators' reports of 1997/1998 Minister alleged: "the need for the appointment of new facilitators, who would have facilitated the creation of a record of understanding, will be discussed in the process" "I would not have interfered

¹² The facilitation report to the Minister Derek Hanekom on the way forward in the restitution of District Six, after the 9 months of facilitation with the stakeholders.

if there had not been a real problem. Besides which, my intervention was requested by various people”

” we cannot dismiss the views of the residents and duly elected representatives in the council and province” . However, the Cape Town City council expressed that the council did not object or oppose the process nor did they request new facilitators. “Our status was one of an observer and we did not need full participation”.

Former residents could not understand why the Minister was ignoring the views of the community despite the facilitator’s recommendation to push their rights to the foreground. Abdul Gaffoor, chairman of the District Six Residence and Traders Action Committee contends: “The minister must have a hidden agenda. Maybe he wants to put in place facilitators who will steamroll the District Six process in his favour. Why is he interfering now?” (Denehy, 1997).

4.6 The District Six Beneficiary and Redevelopment Trust

The District Six Beneficiary Trust was then formed as the official representative of the District Six claimant community and on the 14th of September 1998 historic Record of Understanding was signed by the City of Cape Town, the District Six Beneficiary Trust and the Department of Land Affairs. The partnerships between the three stakeholders would ensure that restitution would take place and District would be restored to its former residents. More participatory spaces were created where the terms and conditions of the trust deed¹³ was debated and subsequently agreed to by all key roleplayers.

In terms of redevelopment, the Beneficiary Trust would oversee the planning and development of District Six by appointing professional planners and contractors to complete the development procedure. They would have to ensure the “maximum input and participation of the Beneficiary community and taking into consideration their directives and requirements insofar as such directives and requirement can reasonably be achieved” (districtsix.za.org).

From its inception in 1998 to 2005 the fundamental concern of the Trust was to negotiate the Settlement Agreement and related arrangements, and formal plans for redevelopment. However, in 2000 the Democratic

¹³ Copies of the deed was circulated to obtain the maximum input to ensure inclusive decision making on the constitution of the trust. At another public meeting 15 trustees were elected and it was agreed that the province and the city would have ex-officio status on the trust.

Alliance had won the local elections and a new mayor was instituted in local government. Due to the political differences between the Mayor and Trust, The City appeared to have held up planning and implementation so that fewer claimants would eventually return.

In fact, the Steering Committee did not have a single meeting throughout the year of 2001. And that meant that the work, the restitution process and the work of the Steering Committee became stagnant. In fact, it became dormant.

(Museum Representative, 2002)

These delays caused frustration among claimants as they could not understand why and how the natural proceedings of correcting a wrong could be so time-consuming and inefficient (Beyer's and Fay, 2015). As the museum representative points out in an interview conducted in 2003, "there was this expectation that now we got our land, now the houses will be built."

As the process shifted from the restitution process to the settlement the nature of the community project began to be dominated by expertise driven planning and regulatory process such as the Draft Development Framework (2003) and the Heritage Impact Assessment (2003). On the other hand, the Trust embarked upon a Pilot Project without the involvement of the City. Through collaborating with professional expertise who also had close ties to District Slx The manner and form of consulting with the Beneficiary community for the Pilot Project took the form presenting of various sketch drawings and models to show beneficiaries. During workshops the community will then offer feedback in terms of the design, the materials used, and how the space is used (Personal Interview, September, 2017). When asked about how the first residents were selected to return, there was a clear directive that the elderly would be the beneficiaries of the first homes. The rationale was that elderly people were of the most vulnerable among the claimant community and because many elderly people were dying they should be the first to return. When I enquired how the other claimants felt about returning claimants first, Nagia offered, the claimants simply understood (Personal Interview, 2017).



Figure 4.3: Pilot Project, houses on Aspeling Street

(Source Lucien Le Grange Architects and Urban Designers)

Tensions amongst claimants

A group of former District Six landowners, meanwhile, has launched an application in the Land Claims Court to stop the trust from acting as the representative of all claimants.

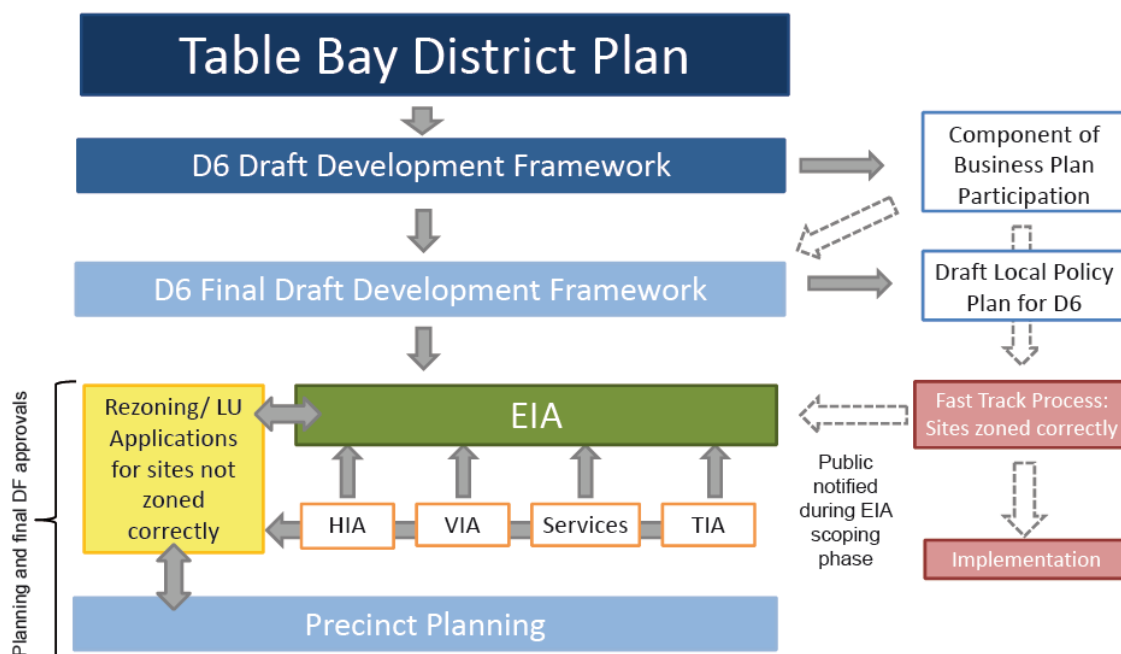
The State jumped on this bandwagon and declared that the Trust could not represent everyone as this was not a transparent process and they would hold monopoly of ideas and would compromise transparency and inclusion. Political accusations were also made towards the Trust. After considerable acrimony between the City and the Trust – which saw this as a continuation of the City’s attempt to wrest control from claimants – the Chief Land Claims Commissioner assumed direct responsibility for the case in 2006. Responsibility for the project was transferred from local to national government, and a steering committee was established with equal representation from all key stakeholders.

4.5 Participating Regulatory Frameworks (2005- 2012)

The Development Framework was commissioned by the Department of Rural Development and Land Reform. These regulatory frameworks were drafted by private consultants but were participated at various cycles internally within the City of Cape Town and presented to the claimant community during meetings in 2005, 2006 and 2011. The Table Bay District Plan informed the Draft Development

Framework which was subjected to participation first by steering Committee, the Task Team as well as the internally in the City of Cape Town. Secondly the framework was participated to the claimant community and the general public for comment at 3month long public participation workshop which lasted from December 2011 until February 2012. After approval by the City of Cape Town internal planning team The precinct planning occurred with more detailed design where the claimant community was actively involved through workshopping with private planners commissioned through the DRDLR.

4.4 Regulatory Frameworks for redevelopment of District Six



4.5.1 The Business Plan and the Special Purpose Vehicle

Anwah Nagia, of the District Six Beneficiary and Redevelopment Trust, said this would be a company formed in line with the New Company's Act, and said various legal teams would now also debate the structure of the corporate that would drive the development of District Six. This company would be responsible for leasing land to commercial and residential tenants. According to the Private Planner and the Chairman of the Trust, The Business Plan (BP)and the Special Purpose Vehicle (SPV) would

become the vehicle through which the community would have accepted the role of the site in relation to broader Cape Town and the urban land market (Interview, Planner, 2017).

Claimants were invited to participate in Focus Groups Sessions, which deliberated the content of the Business plan. The BP proposed that claimants make a financial contribution to their new homes, and to be a part of the SPV. The focus groups sessions were aimed at helping understand why they were asked to contribute to their homes in District Six. Given the land value of surrounding sites in the inner city, the RDP or Breaking New Ground Model would not make financial sense or be economically sustainable for the redevelopment of District Six in the long run. The problem was that the cost of providing dignified housing, as opposed to RDP and BNG housing which entrenched apartheid spatial planning and which was not successful in the property market, was greater than the total funding provided by National Government's grant. The removal of waste demolition alone would cost R40 000 per unit to establish foundations. This alone, effectively wipes out the restitution subsidy. Hence there was a shortfall in the money available for the redevelopment of District Six using a sustainable model which would empower beneficiaries of the project. Furthermore, the BP would allow both owners and tenants to own the commercial land in the area and obtain profits from the development in perpetuity. Without the claimant contribution the development would not be sustainable; claimants would not be profit from commercial land that would indelibly transform the ownership in the inner city and contribute to spatial, economic and social integration as the City imperatives in SDFs. Furthermore, commercial land would have to be sold to private developers that would make District Six vulnerable to gentrification

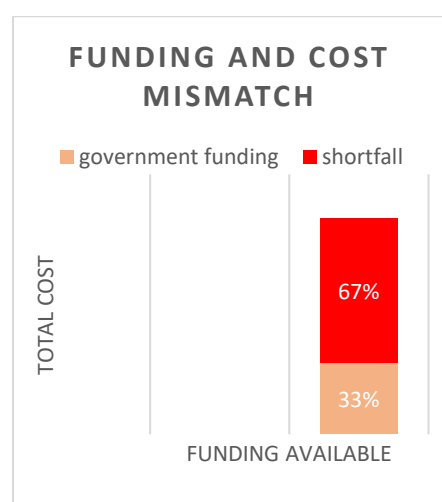


Figure illustrating the mismatch between funding available and cost of development

Source: Adapted from Business Plan, Target Projects, 2012

The Development framework proposes a range of different housing types recognising a range of needs, varying claimant affordability. Claimants are entitled to larger units with an average size of 90m² - a three bedroom unit. Alternative residential units may be smaller

Average			
Mix of units	Total	Average Size Sq.m. (net int)	no.
FLATS			
1 bed flats	14.0%	34	700
2 bed flats	36.0%	57	1 800
3 bed flats	31.0%	90	1 550
Total Flats	81.0%		4 050
HOUSES			
2 bed house	1.0%	75	50
3 bed house	9.5%	80	475
4 bed house	6.0%	115	300
5 bed house	2.5%	135	125
Total Houses	19.0%		950
Total	100.0%		5 000
Average net unit size			71.8

District Six Claimants	no.	Sq.m.	NFA (Sq.m)
0.0%	0	48	0
30.0%	450	70	31 500
40.0%	600	100	60 000
70.0%	1 050		91 500
2.0%	30	75	2 250
15.0%	225	80	18 000
10.0%	150	115	17 250
3.0%	45	125	5 625
30.0%	450		40 875
100.0%	1 500		132 375
1500		Average Size	89.75

Source: Draft Development Framework, 2011

Nagia explains :

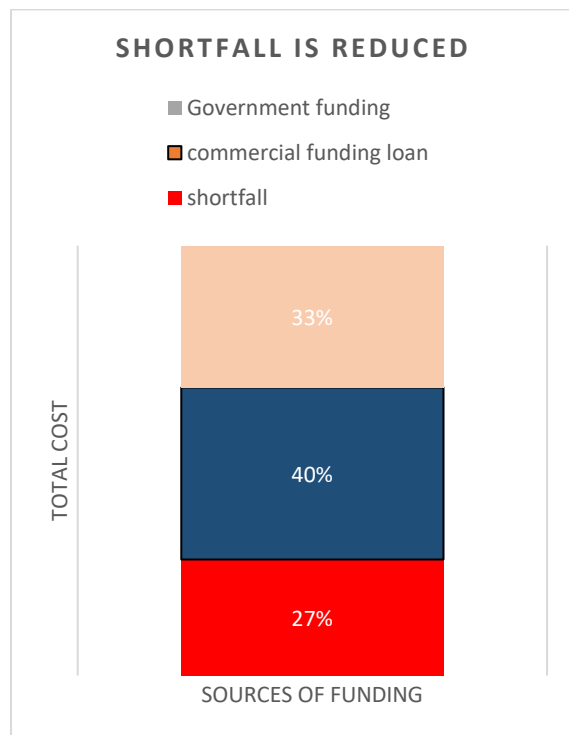
Forty years of dismemberment cannot be resolved in just the brick and water. And even if the brick and water was there, we said, a dignified home for dignified people. You can't build 2 bedroom homes for families with an average of 6 people. You're creating a glorified postmodern glorified slum in the city. So we said no. three bedrooms are not better but it's the lesser evil of the two.

The private planner I interviewed shared these views :

Well, it was a dignified house that claimants were coming back to. Also, one must be mindful of the cause of restoring dignity. Ex claimants are currently occupying a house of 100 square meters for example, in places like Retreat. Now there's nothing wrong with Retreat but why must claimants return to a place that is 11 square meters just because you can't afford it. Its restitution it's not buying a house on the market. There's a huge difference.

(Interview, Private Planner, 2017)

Hence, to make up for the shortfall claimant's contribution, which was earmarked to cover building costs and develop excess land commercially – offices, retail, shops, apartments for letting. After the Special Purpose Vehicle is established, each claimant becomes a shareholder. Rental income funds the rest of the development.



Claimant benefits:

- Buy-in from claimants would translate to moving into a house in 3 years,
- ownership of a house worth R 1 million,
- have a share in the SPV and will be able to pay off the R225 000 from dividend within 2-5 years,
- own a share in the SPV that would have a value in 10 years exceeding the value of the house.

Indefinitely, some claimants simply did not have the financial capital to contribute even if they wanted to¹⁴. Others “did not want to make a contribution to the home. They said: “ but Anwah, why must we pay?” (Nagia, interview, 2017)

Others were willing to pay (Personal Interview, 2017). This created deeper divisions amongst claimants. Claimants did not receive the BP or SPV well. The State (National, Provincial and City) did

¹⁴ The Planner suggested that there was a vehicle through which claimants who wanted to contribute but couldn't. they would have to wait until SPV is formalised or make a loan from a bank. See Distict Six Business Plan, 2012

not accept the vehicle either (Personal Interview, Planner, 2017; Interview, Nagia, 2017) Moreover, it was these divisions that the State capitalised to delay the process

In September 2012 Minister Gugile Nkwinti facilitated a meeting amongst the beneficiary community at the Cape Town International Convention Centre to listen to grievances of the community. Tensions were at an ultimate high and claimants had lost all confidence in the Trust. Minister Nkwinti disbanded the Trust and precluded their status as legitimate representative of the community. A new representative, the Reference Group, was elected at the meeting instantaneously. With the support of the Provincial and Local Government, as well as the claimant community. The Reference group managed to change the physical plan of the Development Framework as well as the Business Plan demanding that claimants do not wage any contributions to the redevelopment of District Six and that claimants no longer have to sign the Social Compact.

The Planner regards this as a delaying tactic by the Government because they do not have the intension of instituting the restitution or redevelopment of land in District Six in a way that would translate to an equitable and just spaces in the city. This following account offers an idea why:

But the government did not accept that. And the reason why they did not accept that is because their intentions were to privatise most of the land and get money back than to cross subsidize. Instead of giving the claimants a stake in the land that was to be developed for other purposes (Commercial). They are saying but we need that stake in the land, we being the government. They bring the private sector in, they take it and develop it and own it. And then the government gets rates income for the City over time. People's friends get access to the site in the government. That did not work for us because we (planners) had a different view that the claimants had to have a stake in the land. Because it's about land restitution, it's not about getting a land and then off you go...If people are returning and there's a vehicle that prevents [The City] from having rates for 10 years to come then obviously they won't support it. Therefore, there were a lot of mechanisms that they did not like. Because the claimants would've been more advantaged in the process over time. And that should have been the case because a lot of them lost a lot of money and lost other things and therefore they should be the highest beneficiary.

(Personal Interview, 2017)

These perceptions are further demonstrated by the State exercising their hegemony in disbanding the Trust at the meeting and appointing a new representative group at the same meeting. Furthermore allowing the new Reference Group to change the physical plan of a development framework that was already endorsed by *all* stakeholders and roleplayers across the spheres of government.

4.6 Main Findings

Community leaders have successfully pronounced the desires of claimants into a collective project, such as uniting against the local and provincial hegemonic powers in 1996 and ultimately defeating the section 24 application through the successful facilitation process. Such as in the pilot phase, and has incorporated the rights of tenants, which was a monumental achievement in the land restitution project in South Africa and other Global South contexts, in and of itself, also managed to give commercial rights to claimants in perpetuity. They have given practical expression to the Land Restitution Act (Act 22 of 1994) on their own terms and redefined the question of urban land restitution in terms of community. However, the advances made by this collective action are met with ongoing challenges instead of ongoing maintenance. The divided community between those that were willing and able to pay the R225 000 and those that could not, was exploited by the state.

4.7 Conclusion

The findings represent that post 1994, post section 34 victory by the people and post pilot phase. Represent changing interests from the side of the claimant community as well as the wider representatives. The findings up until the pilot phase 1 of the process indicate a mobilized community. Through visionary leaders and united front the community transformed the issue of land restitution and redevelopment in the history of a young democratic South Africa. This mobilisation led to the outcome of unifying claimants and the formation of a legal body to represent claimants in the restitution process as well as the redevelopment negotiation with officials. The arduous process of transferring the land through legal, bureaucratic, and regulatory planning processes leaves claimants frustrated, discouraged and angry. In addition to that, the post transfer phase involves equally tenuous processes that demand open spaces of communication, respect and mutual learning. Redeveloping the land often entails institutional arrangement and tools that largely deviates from the expectations of claimants from both the technical aspects of land-use planning and in the entrepreneurial expectations that the state and consultants place upon the representatives.

Latent tensions emerged as the post settlement phase was dragged out and furthermore as new negotiations arose such as the Special Purpose Vehicle and the extension of the claim process. There is however a disjuncture between symbolic desires towards achieving restorative justice and what is possible within restitution.

Chapter 5: Deciphering the spaces of and for participation in the Land Restitution process in District Six

5.1 Introduction

The purpose of this chapter is to outline and analyse the research findings (See Chapter 4). To this end, this chapter focuses on the different participatory processes that have and are still taking place in the restitution and redevelopment of land in District Six.

A lot of trauma still exists in the case of District Six. Many times during the research process I had to take a conscious 'step back' from the fieldwork, so as not to become too engulfed or disheartened by what I was learning. Nonetheless, I had to persist in finding out 'the truth' about District Six, or, more correctly stated, the many truths that comprise its equally many narratives. Many diverse actors and agencies want a stake in District Six. None more so than the community itself. In an attempt to claim their stake, former District Six residents have formed alliances amongst themselves to fortify their grievances into collective organisational bodies. Such an approach to participatory planning echoes some of the discussions presented in Chapter 2. Accordingly, in the case of District Six this type of collectivism has contributed, in some instances, to expanded citizenship and autonomy in decision making processes, while in other instances this has prolonged the planning processes and outcomes of the redevelopment of District Six. Research findings presented and analysed in this chapter (via the use of assessment criteria established in Chapter 2) will reveal exactly what participatory planning processes have taken place in the case under study, and how these processes have led to different outcomes.

Because the research dissertation involves a case study methods which evolves over time. As the findings would reveal changing values, meanings and thus discourse that plays out in the case of District Six. It is to this end that the assessment criteria and subsidiary research questions are unpacked against these time lapses that reflect changing discourses.

The discussions presented below answer the main research questions : what are the participatory processes that

(1) how participatory processes are established, (2) who facilitates (3) who is included? Why and why not and (4) what are the outcomes.

5.2 Conceptualising spaces for participation /Typologies of Participation

In this section, I discuss the various spaces of and for participation that were either state led or community led. The state led spaces coincide with invited spaces that are mainly tokenistic and have no real transformation. On the other hand the community led spaces are claimed and exemplify ordinary citizens finding their voices.

5.2.1 Closed Spaces 1990-1994

The control and power to control the redevelopment of District Six was debated behind closed doors *before* the promulgation of the Land Restitution and also, *before* the official abolishment of apartheid. Through the District Six Steering Committee, at the dawn of democracy in the country, plans for the redevelopment were already extensively discussed by state representatives and planners in the city of Cape Town (Chapter 4, also see District Six Steering Committee,1993). These spaces reflect no intention of involving any former residents in the decision to redevelop District Six, despite that the Group Areas Act was in the process of being abolished and negotiations for restitution were underway between the ANC and the National Party (see chapter 2). Furthermore, although the ANC government had approved the CTCLT, this body was created prior to the Restitution Act. Of further suspicion is the fact that the CTCLT was created as a direct outgrowth of the District Six Steering Committee- established completely behind closed doors. In addition to that, the CTCLT used precedents set by Headstart, whom community organisations repudiated in the Hands off District Six Campaign in the late 1980s. Stemming from that, even though the CTLT had established the District Six Forum to deal with the issue of community participation. The Forum lacked the power to exert any real influence over the restitution or redevelopment processes. The community participation, through the creation of the Forum, resembles what Mayo and Craig (1995) argue, where community participation by the state is about maintaining existing power dynamics, rather than improving their conditions. By lodging the Section 34 application in spite of the Forum's disapproval, the official's assurance of community participation remained superficial (Botes and Van Rensburg, 2000).

5.2.2 Invited spaces : State led participation 1994

From the research findings it is evident that the community organisations representing the claimant were not engaged in a meaningful way. The community representatives, those who were invited to attend through the Forum, expressed that the CTCLT did not “try to engage the various community organisations.” (Museum Representative, 2002). The unhappiness stems from the way in which the CTCLT chose to engage with community organisations “none of the community organisations were very comfortable about the way in which those meetings were being run.”

The representative asserts:

“And also a lot of the suggestions would come from them (The CTCLT) and be placed on the table and then it would require reaction from the various committee organisations rather than to sit down and have ... group of persons come up with ideas.”

These findings substantiate what Arnstein (1967) terms “tokenism”, where beneficiaries are consulted and informed on plans that already exist prior to the knowledge of the beneficiaries. The Museum Representative recalls the meetings the CTCLT had with the claimant community:

Because the feeling was very strong that the only reason for involving the community now are stakeholders now whereas in the past they could not get their act going. And they needed now the collaboration of a community. (Museum Representative, 2002)

Furthermore, Cornwall and Coehlo (2007) argue that the state must ultimately be the agent that delivers services but only when there is a commitment to expand participatory fora. However, in this instance, there was no commitment to establish appropriate mechanisms to enable the community to participate effectively. These findings corroborate findings in similar contexts that “conventional approaches to public participation have not made planning more democratic” (Alfasi, 2003: 185 cited in Winkler, 2009). However, when agents with a *passion* for *social transformation* facilitate invited spaces as was the case in the nine-month mediation and facilitation process from December 1997 to September 1998 and by -the professional planners in 2010-2012, who draw on planning theory and

practise relating to advocacy planning and social transformation, the invited spaces can have fruitful outcomes. This will further be unpacked in section 5.2 where the criteria for representation are discussed.

5.2.3 claimed – invited: Collaborative spaces 1997-1998

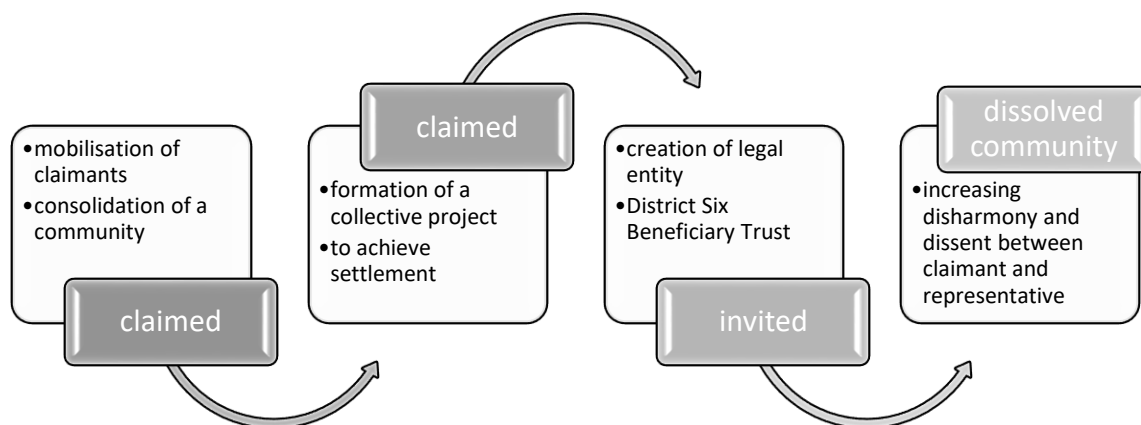
The facilitation process in District Six, marks a significant point in the history of the restitution process. It symbolises the concerted efforts of community leaders for social justice and also highlights the importance of dedicated champions in the fight against a non-racialized society and giving tpeople the space to exercise their democratic right. This space was conceptualised with wider constituents involved as well as prospective claimants throughout the Cape Flats. Although the CTCLT only wanted to engage with community representatives, the shift in power dynamics resulting from the inclusion of diverse stakeholders no longer allowed the CTCLT to make demands on how participation was to be facilitated. Furthermore, this proves that the CTCLT had no real intensions of expanding participation and having the District Six community contribute to the necessary dialogue on restitution, reparations, and their return.

communities need collaborative processes that :

- empower individuals by getting them directly and actively involved in addressing problems that affect their lives
- create bridging social ties that bring people together across society's dividing lines, build trust and a sense of community, and enable people to provide each other with various kinds of support
- create synergy—the breakthroughs in thinking and
- action that are produced when a collaborative process successfully combines the knowledge, skills, and resources of a group of diverse participants

Figure 5. the aims of collaborative processes that to help in community problem solving

Here, I argue, that the District Six community achieved all of the outcomes of collaborative spaces to help in community problem solving (figure 5). these kinds of unconventional spaces allowed for the community to be heard through oral histories, storytelling and mobilisation. Against the background of the processes between 1994 and 2013 this example can be seen as what Sandercock identifies as a “thousand tiny empowerments” because (1998:157)



Lessons learnt

The difference in the claimant community coming on board with this plan as opposed to the plan formulated by the CTCLT may be attributed to the way in which the claimant community was engaged. Even though the community were engaged through invited spaces, the way in which those invited spaces were conceptualised allowed for an ongoing and open ended process. The planners were available to answer questions community members had. The participatory initiatives consisted of workshops with the claimant community where points of misunderstanding and disagreements were discussed and engaged. Planners would work together with the Beneficiary Trust as well as engage the community members who began to find their own voices. In finding their voices the planners and in turn the City and National Government had the trust of the community.

5.3 Representation

5.3.1 Descriptive Representation

The pre-trial hearing acts as the first real opportunity for the voices of the community to be heard by the Land Claims Court. It also acts as the opportunity where the community representatives could change the way in which CoCT officials were engaging with the claimants (see section 4.5). The facilitation process had two distinct outcomes. Firstly, to reconcile the views of disparate stakeholders and secondly to increase the number of claimants. Through working closely with community organisations throughout the Cape Flats and engaging all former residents, including tenants through giving them a platform to tell their stories. Due to the ongoing and open-ended discussions, the process also had the effect of helping former residents to realise their rights (Nagia, Interview, October 2017).

Although the facilitation process was in invited space it transformed into a claimed space where the community's rights shifted to the forefront of the restitution process. Getting voices heard, realising rights and deepening democracy, a group claim, community at the forefront of the restitution and redevelopment processes. Increase in number of claimants people began to realise their rights, African claimants came forward. The establishment of the District Six Beneficiary Trust. Essentially the process allowed for shifting the claimant's capacity and effectively challenging the representative rhetoric of the CTCLT. A community became evident to falsify the claims of the City Council and the Provincial Government that a community did not exist. Ironically the community was constituted in the process of opposing the Section 34 application.

In an collaborative effort the issue of claimants were who had been neglected from the restitution process completely.

The influence of the facilitation process resulted in the emergence of new forms of collective agency. Due to the collaborative nature of the space it acted as a catalyst to unify the voices of the different groups of claimants into a collective project.

5.3.2 Representation through legitimate community organisations

Several organisations represented the equally diverse former residents of District Six. Organisations ranged from owners to tenants to traders. African claimants were represented separately and there were also organisations that represented the interests of claimants based on the areas they relocated to. In the fight to restore the claims process to individual claims a community was constructed. Given that the District Six Association Committee demonstrated unwavering determination to fight for the inclusion of tenants, they also gained the trust of African residents to Act on their behalf, which, in turn, empowered The Committee's rights-based approach. Furthermore, as discussed, these organisations culminated into formation of The Trust.

The process of claimants necessitated the creation of legal structures in order to expedite landownership, represented by the formal induction of the benefits trust in 2000.

The representation of claimants by the Beneficiary Trust denotes the legal entity required to not only act on behalf of the claimants but also to achieve spatial outcomes through development planning (Beyers and Fay, 2015). However, given the delays inherent in the post settlement phases, claimants channel their frustration towards the entities that sought to represent them. Nagia admits:

People are so tired; they say they've been waiting twenty years. We've been waiting for sixty years.

(Interview, 2017)

Another participant corroborates:

People lost a lot of confidence in the Beneficiary Trust

(Interview, Museum representative, 2017)

Further Nagia highlights:

The Trust felt that even the community was vilifying us.

(Interview, 2017)

Frustrations caused by delayed and prolonged waiting periods are directed towards the community representative. Furthermore, adding fuel to fire, is the issue of paying R225 000 which some claimants did not understand why they had to make this costly wage. According to the Reference Group (VoC, 2012) claimants also did not want to sign the Social Compact¹⁵, which was seemingly imposed onto the claimants which, in turn, increased dissidents amongst claimants.

Through time, claimants grew more distinct and the hope of returning to District Six seem to be unachievable. Latent tensions emerged as the post settlement phase was dragged out and furthermore as new negotiations arose such as the Special Purpose Vehicle. In 2008 the legitimacy of the Trust was questioned by a subgroup called the District Six Advocacy Committee (D6AC), consisting of former land owners dissatisfied with the value of their settlement and disgruntled that former tenants were entitled to similar settlement agreements (Beyers and Fay, 2015). The D6AC disputed the legitimacy of The Trust in court. This remains disconcerting, as these underlying disputes were masked with the enchantment of a District Six community hoping to return to their home. In the case study, a disjuncture between symbolic desires towards achieving restorative justice and what is possible within restitution becomes salient. Later on in the process the Trust seem unable to resolve the conflicts among claimants and the anger directed towards them. According to Beyers and Fay (2015), subgroups of claimants may resort to legal action in order to gain leverage in relation to other stakeholders and other subgroups, as was the case in District Six, when as claimants have different interests. In addition, some claimants will be able to access the courts whereas others

¹⁵ The Social Compact stipulates that a claimant or landowner may not sell or rent his or her property within the first 15 years from the transfer. No transfer is permitted to absentee claimant/landowner. The claimant/landowner may not operate a shebeen, sell drugs or operate gambling facilities on the property. No exploitation of high rentals is allowed. The claimant/landowner may not use property as collateral for anything else. No one is to discriminate against one another's religion or race. The argument was to protect the claimant/landowner from gentrification and to create a safe, sustainable neighbourhood model.

cannot given their economic status. Hence, claimants point fingers at one another and place blame on their representatives rather than turn their attention to the state. In a sense, claimant show their dissatisfaction with the restitution but to ends that yield no material or symbolic outcomes.

Nonetheless, the Beneficiary Trust denotes how social movements act as an intermediary between citizens and the state. They anticipate addressing a variety of grievances the state is responsible for such as provision of housing beyond what the restitution process initially intended for. Representative organisations illustrate a variety of complex issues it seeks to confront on behalf of claimants. This also indicates the significance of civic organisations that emerge from grassroots struggles because they hold government accountable. as well as to establish formal ties through which marginalised groups in society could employ formal channels of communication with local government .(Mottier, 2013). This therefore serves to highlight how local agency of marginalised groups can indeed make headway in terms of restoring theright to the city to those who have long been excluded from shaping the urban social, political and economic landscape. (Oldfied and Stokke, 2008; Ballard, 2005).

The ability of the Trust to influence local planning policy however demonstrates an attempt made with the proposed BP and SPV. However this remained unsuccessful because the Trust did not have the support of their constituents. When community lost faith in the Trust and and a new representative body was formed the claimant community and organisations bodies that represented them, lost power to influence planning decisions in local planning policies and decision making. These findings echoe conclusions found in similar contexts (Winkler, 2009).

Perhaps the issue lies in the way the BP and the SPV was presented to claimants. Although this warrants further research.

5.4 Who participates and why

5.4.1 *Engaging the state*

The state is a key role player in the restitution process, often 'both playing the game and making the rules' (Verdery 2003: 83 cited in Fay and James, 2009). From the onset the state sought to control the returning as well as the redevelopment process of District Six. The state through all spheres of government did little to engender participation by firstly using slim channels of communication on *how* to lodge claims and who were eligible to lodge claims particularly for tenants and subtenants and even for African residents to claim. This stunted the inclusion of more vulnerable members of claimant groups. Cornwall and Coelho (2007) offer that it is important for the state to actively participate as well to ensure the success of developmental schemes. With regards to the redevelopment project of District Six, when power was transferred from the local government to the Trust, the City merely intervened when attempting to reestablish responsibility and power over the project. Furthermore, National Government exerted its power by disbanding the Trust and electing the Reference Group on the claimants behalf. Once a dissenting challenge is established from amongst the claimants external parties often seek to take advantage of the situation. In this instance, the Government took advantage of the class differences among claimants and exploited the community's fractures. Furthermore, the state used the rhetoric of a rights based return, proclaiming that the Private Planners and the Trust was asking claimants to pay when restitution was free. These instances highlight how the state withholds information, and deliberately cause delays to satisfy their own interests (Cornwall and Coelho 2007).

5.4.2 *Role of the planner*

Here the planner has 3 main objectives to fulfil in terms of participation. Firstly to engage meaningfully with the clients who were the verified claimants, the Trust and the Department of Rural Development and Land Reform on the behalf of the claimants. Planners worked closely with the Trust, but also had several engagement with the claimants themselves. Secondly, the Planners had to engage with the City on two levels, (i) to make sure that infrastructural services were available to

implement the plan within the time frame and (ii) to ensure that planners were working within the framework of the law so that plans could be approved. The third objective was to advise the broader claimant community and the broader public of the plan. Furthermore other key stakeholders such as the Steering Committee, and the City's Task Team were engaged in an interdepartmental manner so that plans could be endorsed.

In addition to that planners have the responsibility to facilitate restitution of a displaced community but also to act in the interest of the site. Planners have to also ensure that claimants understand that District Six is a "very key site in the city" (Personal Interview, 2017).

The planner I interviewed explained that negotiating the role of the site in terms of its location and land value was difficult:

The one thing that they did not understand very well, was the role of the site in the City, so in order for that understanding to take place, we had to create a vehicle whereby they could have a stake in District Six as people who came back; but at the same time others could have a stake as well.

The planner goes on to reflect:

On paper that vehicle was very successful but it was never implemented. And that was not our fault.
(Personal Interview, 2017)

From these findings expressed here and in chapter 4, the planner assumes planning theory of advocacy planning also actively engages in aspects of the Just City, where "the concept of justice [is] situated, and theorising about the just city actually means theorising about justice within [a] particular urban milieu" (Fainstein, 2005 :126). The private planners tried to push for outcomes of the Just City such as a mixed use development and pushing for development of dignified homes instead of uninspiring RDP or BNG homes.

5.4.3 Inclusion of Diverse Stakeholders /inclusion of tenants

Several scholars argue that the inclusion of diverse stakeholders is an important criterion for effective participation. However, findings from this study reveal that the outcomes of this can be positive or negative. For example, when the outcome of the Facilitation Process was denied by Minister

Hanekom in January 1998, it was referenced that the facilitators did not take into account the view of other stakeholders such as the Cape Technicon and further that the facilitators were being ‘too emotional’ and choosing the side of District Six community¹⁶, which, in turn, sought to delay not only the progress made in terms of restitution but also deterred the incredibly democratic process that was taking place in a young democratic South Africa.

Inclusion of tenants and African residents

In terms of the beneficiary community, diverse stakeholders are non-negotiable because everybody affected should be able to participate if they choose to (Laburn-Peart, 1998). Participation was expanded when former residents of District Six living throughout the Cape Flats was offered ‘a seat at the table’ (Cornwall, 2008:282) where these spaces allowed for ongoing and open-ended discussions, which, in turn, resulted in positive outcomes (as discussed). Furthermore, a monumental achievement here is the inclusion of tenants in being able to lodge claims but furthermore to be able to own property alongside former owners in the redevelopment of District Six. This speaks to the commitment of the civic organisations who lobbied for the inclusion of tenants and African residents in the process because according to Nagia, (1) African residents were never going to own land in South Africa in 131 years and (2) people of colour were forced to be tenants, they did not choose to be. ‘It was only through a miracle like the one in 1994 that African residents would be able to own land in this country” (Personal Interview, 2017). Thus community led participatory spaces used the law to open up the spaces for tenants and African residents to participate in the process. These practises are important because they demonstrate spaces of expanded political and social agency (Beyers, 2013). And also yield the potential expansion of democratic governance which, in turn can influence public policy (Fung and Wright, 2004).

In terms of redevelopment more recently, the focus has shifted to the racial make-up of the new District Six. Although District Six largely housed Coloured people (Rasool and Prosalendis, 2001), Nagia asserts that its reconstruction should not favour Coloured people over other races; and no one religion should be favoured over another (Personal Interview, 2017). This is one of the reasons why The Trust established the Social Compact.

Challenges to participation and inclusion

¹⁶ See Dr Neville Alexander and Dr Elaine Clarke’s letter to The Cape Times attached in Appendix.

As presented, there were many discursive challenges to participation and sometimes overt and covert exclusionary strategies such as, lack of transparency, because of bureaucracy and little to no communication by the local, provincial and national state. State led participatory spaces have been proven to be difficult to enter.

There are also physical barriers to participation and inclusion in the process where many residents could not prove where they stayed because the entire built footprint was destroyed during the demolition. People could not locate where they stayed because everything was destroyed even the roads (Activist, Interview, 2017). With the help of community leaders, African people traced medical documents to prove that they indeed stayed in District Six. Often many different families lived in one house so it was difficult to prove eligibility to claim in the first place (Personal Interview, 2017). These findings corroborate the difficulty of proving edibility (Fay and James, 2010), but also how this inhibits participation. It also indicates how important it is for the state to participate meaningfully as well as it is difficult to navigate these constraint without support from the state (Cornwall and Coelho, 2007).

The following sections of the chapter unpacks the fourth aspect of deciphering the spaces of and for participation in District Six. These subsequent sections shed light on the *outcomes* of these participatory planning processes.

5.5 Establishing Partnerships

In order for the restitution process to be successful what happens after the land has been transferred to claimants, and in the case of District Six, the Beneficiary Trust, is of particular importance given its value in the urban context (Fay and James, 2009). The transition from restitution to (re)development substantially broadens the process of because this 'post transfer' phase deals precisely with planning processes and outcomes and furthermore on the provision of public services and housing on which the claimant group usually is dependent on (See Chapter 2). Here I consider the subsidiary research question, what partnerships have been established in the case of District Six for the purpose of ensuring the provision of public services and housing?

Following the defeat of the Section 34 battle and the facilitation process a Record of understanding was signed between the three main stakeholders, The DLA however, takes on a role of monitoring relations between the two key stakeholders.

The success of the redevelopment of District Six was thus dependant on the cooperation between the City of Cape Town and the Trust. However, it was identified

When asked about the partnerships between The City and the Beneficiary Trust an activist who also practises as an architect and urban designer I interviewed, replied that there was a partnership between the two because the City provided the infrastructural services but beyond that, the relationship was rather discordant (Interview, Activist/Architect, October 2017). Nagia declared, “they hated us, they hated the fact that low income people were coming back to the city” (Personal Interview, October, 2017). This ideation was perhaps cemented when the Trust had built the first homes ‘semi-illegally’ with insurgent style of planning discourse and practice (Interview, Activist/Architect, October 2017). This further demonstrates how the community reclaimed their space since the partnership with the City did not yield the provision of housing as a material outcome of the contractual agreement between the City and the Community. The community however, asserted direct collective action ‘from below’ (Friedmann 1987) by collaborating with the Cape of Good Hope Bank and Boschard and Construction to deliver the first phase of 24 houses albeit in 2005. Furthermore, in terms of physical planning of the pilot phase and selecting the criteria of returning residents, this was done without the involvement or approval from of The City. This demonstrates to a certain extent what Sandercock (1998) calls social transformation through grass root mobilization because of the disjuncture between formal inclusion and real, substantive inclusion. However, in the case of District Six, this does not dismiss the explanation offered by Friedman (2002) that insurgent planning practises occur through communicative acts and aim to address a number of different problems simultaneously. This in turn highlights how situated contexts in the Global South demand nuanced understandings (Watson, 2013).

5.5 Interpretation the narrative of loss and restoration

This section seeks to unpack the two-pronged subsidiary research question 9. How has the City of Cape Town interpreted the narrative of loss and restoration? And how have participatory processes assisted the municipality in interpreting the narrative of loss and restoration?

This question has to be unpacked against the backdrop of the political situation of South Africa as a whole and Cape Town as microcosm within this whole. The architects of the 1993 Constitution envisioned land restitution as a nationally legislated and centrally administered program (see Chapter 2). As a consequence, was not included in Schedule 6 meaning that land restitution was not defined for local government and hence not integrated into local spatial planning and development processes

(Roodt, 2003). Furthermore, the protection of private property in the Constitution would prove to be contentious and challenging in interpreting a national narrative of healing and dignity restoration for the victims of forced removals. On the other hand, the City Council is interested in adhering to classical economics which is premised on land as an asset and a highly valuable commodity that is to be owned, bought and sold freely in the market (Mammon, 2011). It is to this end that the first interpretation of restitution by the Cape Town City Council was in the form of a Section 34 application to the Land Claims Court.

The Museum Representative comments:

Well, I think that the City Council along with the Province had always had plan to redevelop this area in the way that they wanted to. Rather than to develop it with the involvement of the people for whom it would be developed. [The City wants to] develop it in such a way that we the people if not all of them would find it very difficult to buy into it. So it's the cost.

The case demonstrates that the urban land market operates against the concept of social justice. Further corroborating that there are inherent tensions between the fundamentals of the Act and the *modus operandi* of the urban land market, particularly in South African cities (Mammon, 2011). The urban land market operates to exclude the poor, push them to the periphery of the city and ensures that they remain there.

It is important to appreciate that through collective action the community was able to recast the state's interpretation through the defeat of the section 34 application. Hence the community, as a collective body, was instrumental in phrasing their *own* question with regards not only to urban land restitution but also, with regards to exercising their democratic rights enshrined in the Constitution. Thus ultimately exerting influence in the participatory sphere in decision making. In all sincerity this was a David versus Goliath Battle in which the united front of the community was victorious. However, when the community started to disagree on the basis of the Special Purpose Vehicle, the concerted efforts made by the united claimant community, the Beneficiary Trust and the professional planners, they not only severely limited their influence in the restitution and redevelopment of District Six, they also took several steps back in addressing the new question of how a working class claimant community fits into competitive urban land market and beneficiaries of restitution. A question which is also asked by Mammon (2011).

5.6 Addressing conflicts and Bureaucratic delays

Addressing conflicts through the facilitation process

Just as the progress was made, Derek Hanekom ordered the restitution process back to the drawing board. The minister wanted to discard the progress made by the facilitators and the entire facilitation process by appointing new facilitators. The Trust as well as the facilitators objected against this because it was perceived that the minister was not happy with the result and wanted to start the process over again to end up with results that were more suitable to his agenda. The Chairperson of the trust and the facilitators warned that this was an attempt to delay the ongoing process and an attempt to defeat the democratic process that was gained. Wanting to change the outcomes of the facilitation processes to ones, which the officials find more acceptable. The facilitators warned that this would only cause further divisions in the and ultimately deter any progress made, not only in the in the sense of restitution but also with regards to expanding democracy and struggles for citizenship in the new South Africa.

This point of contestation represents in the literature, what Fay and James (2010) identify as the vulnerability of the community. Additionally, this reveals the power inherent in participatory spaces particularly commissioned by the state where the community is dependent on state resources. Gaventa (2001) warns that planners have to pay close attention to the power dynamics intrinsic in these participatory spaces.

As a result of the ongoing negotiations residents began to lose hope in the restitution and meetings because it seemed as if the competing stakeholders could not come to consensus as a result most residents would opt for financial compensation. This finding corroborates fay and James' argument that as a unifying rally point loses considerable impact, the energy in the community to mobilise also diminishes. As echoed in the case by a representative of the Museum, the process was "a product of its time, there was energy; they were enthusiastic, people were coming to the museum to find out about how they could claim. People were vocal about their needs." (Personal Interview, September, 2017

Conflicts amongst claimants were exacerbated and participatory spaces did not yield results of understanding amongst claimants, claimants and The Trust, and the Trust and the state. As a result

conflicts seem to remain. An interview with one of the staff members at the Museum highlights that newly elected Reference Group is no better or worse than the Trust. Claimants complain that they still don't know what is happening and why everything is always delayed. The participant reveals that the biggest issue is communication. The Reference Group has meetings once in a few months where the meetings resembles lower rungs of the Arnstein's ladder of participation where representative merely offer updates on the process. There is no indication as to how concerns from the claimants will be filtered upward to contractors (Participant Interview, 2017).

5.7 Expanded citizenship

The contradictory nature of the post-apartheid South African experience, where political emancipation coincided with the proliferation of cost recovery policies. As the new constitution enshrined democratic participation (RSA, 1996), the newly elected ANC simultaneously adopted macroeconomic policies such as the Growth Employment and Redistribution (GEAR), which would strip citizens of citizenship rights. This demonstrates how citizens can be symbolically be included in governance and decision making yet in practise be materially excluded. (Mirfatab,2009). Regarding restitution, constitutionally citizens have the rights to claim and the right to participate yet As Nagia acknowledges, 'every state apparatus did not encourage' this to be realised (cited in Rasool and Prosalendis, 2000).

Between 1995 and 1996 the Metro Spatial Development Framework for Cape Town was redrafted to emphasise the importance of economic growth and foreign investment and incorporate the objectives outlined in GEAR alongside the need to achieve redistribution and restitution. This is the background in which a marginalised community of District Six had to demonstrate their right to the city. Beyers contends, "restitution provides a rare chance for social and spatial integration in the urban centre" (2013: 978). In Addition, Fay and James (2009) argue that restitution is an opportunity for marginalised groups to negotiate their terms of inclusion.

In terms of addressing restitution, a new question in the mindset and politics of South Africa was constructed because of the nature and political loadedness of that preoccupied people's mind in the case of District Six (Personal Interview, October, 2017).

“(Physical) Planning became secondary” (Interview, Activist, October, 2017) because of the politics surrounding the restitution.

The community representatives are exemplary because of how they have drawn claimants from across the city in a bid to transform it. Thus contributing unique models of urban development based on grassroots projects that are aimed at securing justice and redress through development. In the ‘redevelopment’ of District Six, emphasis is on symbolic aspects of restoring community and reclaiming a home in the city.

5.8. Subaltern counter publics

After the District Residents and Traders Action Committee and the District Six Civic Association withdrew their participation from The Forum, these and other groups were forced to create their own spaces to mobilise since local state mechanisms were exclusionary. These and other examples in the District Six case demonstrates how excluded groups mobilised for visibility by government and also how groups gained legitimacy by incorporating the interests of other groups, in what Phillips calls ‘politics of presence’ (2005). Furthermore the District Six case is embedded in what Fraser terms ‘subaltern counter publics, where this type of politics stems from regroupment and symbolic visibility (Phillips, 2005). This regrouping is also directed towards wider politics where historically marginalised groups construct their own positions, politics of engagement and gain legitimacy to vocalise their demands, circulate counter discourses and in turn interpret their own identities. Later on in the process, this type of politics has not been as pronounced in the decade of 1990s although some groups have attempted to create their own spaces because of being denied at others such as the District Six Working Committee.

5.9 Memory, Place and Participatory Planning in District Six

For former District six residents belonging to a physical or symbolic community that no longer exists that means that such a community has to be reconstituted through memory. During apartheid, the notion of community was destroyed by a traumatic history: “These have come to be experienced... as

places to which one has belonged, from which one has been excluded, or to which one has been forced to belong” (Bohlin 1998: 168). In District Six, this is exemplified through the building a community, being forcibly removed through various legislation and forced to live in areas across the Cape Flats and to call that home, to be socialised into us and them, white and black and to develop inferior complexes in the minds of those subjected to cruel laws. The work of District Six Museum demonstrates an attempt to reconstruct a community in absentia. It also provides victims of forced removals a platform to tell their stories, and give meaning to what it meant to live, work and play in District Six. An important story that would have been lost if community activists and leaders did not mobilise to keep it in tact. Furthermore, this memorialisation gives meaning and expression to storytelling in the absence of a material basis (Angelini, 2003). This memorialisation also provides people with an opportunity to tell their own truth and give their own meanings and in the decade of 1990 allowed a dislocated to unite despite class, race socio-economic state, whether a person was tenant, owner or a trader. Leaders had emerged through remembering place and wanting to preserve that space not only in their minds but also in reality in the hopes and struggles of one day returning. This in turn offers merit to Fenster and Misgav study work on the transformative potential of using memory and place in participatory planning (2014). The planner I interviewed attests to the use of memory and place in participatory planning processes when the new District Six Community Healthcare centre was constructed. Through a participatory planning process that involved planners engaging with The Museum. Community members were asked to draw what they remember from living in District Six and sketches are exhibited on the walls in the Healthcare centre. Though the extensive exercise that took place on the weekends, planners recognised the need for people to develop their own understanding of place. Through the democratic process of involving old and new community, members people began to take ownership of the community and the public facilities in it. People’s artistic side also emerged through the process and they took ownership of their drawings, which in turn helps to engender citizens that feel like they belong (Planner, Interview, 2017). Similarly, it is not about recreating the old District Six. Rather, it’s about retaining those timeless qualities and producing a contemporary plan that remembers the past but also responds to the conditions of the present. Here I argue, an engagement with memory and place can thus offer such a perspective.

5.10 Conclusion

The aim of this chapter has been to analyse the research findings presented in chapter 2 against the subsidiary research questions and assessment criteria established in chapter 2. The analysis discussed in the chapter offers what participatory process look like in the restitution and redevelopment of

District Six. In other words, the subsidiary research questions and assessment criteria answered here gives an account of (1) How are participatory planning processes established (2) who facilitates (3) who is included ? why and why not ? and (4) what are the outcomes. In answering these four questions, memory and place became relevant and so in addition these questions, I asked (5) what role does memory and place play in participatory planning processes. The first section described how participatory spaces are conceptualised. With this, I also discussed state-led spaces that are either invited and closed and do very little to expand participation that makes meaningful contributions to change citizens lives. Secondly, I discussed invited spaces that can offer potential for transformation when participants feel like they have been given a platform to voice their grievances, wants, desires and interests. Thirdly, I discussed claimed spaces that claimants have created for themselves. These are community led spaces of participation that are defined by the community themselves. Through visionary community leaders these spaces were successful and contrary to Cornwall's claim that these spaces sometimes become exclusionary, the claimed spaces in this case engaged and expanded the participation of other smaller groups such as African residents whose prominence in restitution in District Six was denied. I then moved on to discuss criteria on who is included, why and why not and also who represents claimants and how representatives fight for their constituents. I also discussed the outcomes of all the participatory spaces which were, interpreting the narrative of loss and restoration; establishing partnerships; and addressing conflicts and bureaucratic delays; expanded citizenship, outcomes of subaltern counter publics and very importantly; the role of memory and place in District Six.

Urban land restitution in District Six, the main arguments for worthiness of support from the state are giving meaning to the terms integration, urban sustainability, participatory democracy and community. It's not about the bricks and water, offering District Six residents a space in well located land in the City would fundamentally recast stubborn spatial and socio-economic realities that the local state promises, they are trying to overcome. However, in practise and through this study, it is evident that the state maintains hegemonic power in the process. In this particular case, the state even align across spheres to deny citizens access to rights in the form of restitution and redevelopment in District Six. Even though in principle, they open up spaces for beneficiaries to air out their grievances, little is done to incorporate grievances into policy. Furthermore, these kind of bureaucratic delays and extended negotiations have severely stunted planning objectives and participatory planning process could do little to achieve positive outcomes.

In the same vein, an assessment of District Six's participatory processes in the past, sheds some light on the value of participation in restitution and redevelopment. It also begins to unpack the unique principles of urbanity and community, in contrast to a market-oriented urban development which reproduces spaces of social fragmentation, exclusion and inequality (Angelini, 2003). Indeed, the vision for a new District Six involves long-term urban sustainability, an investment in a city of fluid spaces, a city of difference and meaning.

Subsidiary research Questions derived from an in-depth literature review	Research findings
How were spaces for participation conceptualised in the case of District Six and did these spaces allow for an open-ended and ongoing process of engagement?	<ul style="list-style-type: none"> • 1990-1994 : <i>closed</i> - did not allow for inclusion and participation • 1994-1996: <i>invited</i>, in these spaces planners and officials only listened to grievances not incorporate them. Once divisive matters were discussed the meeting would turn acrimonious. ugly but did not take them into account. Community was onlookers of their decisions. • 1996-1998: <i>claimed, invited, collaborated</i>, spaces allowed for open ended and ongoing process of engagement in the claims process. • 2000- <i>invited</i>, conciliation amongst key stakeholder: City of Cape Town, Department of Land Affairs and the Trust • 2005- <i>claimed space</i> – building houses insurgent style
What types of participation took place in the restitution and redevelopment of District Six?	<ul style="list-style-type: none"> • 1990-1994 : <i>Closed</i> – no participation • 1994-1996 : <i>invited</i>, plans were presented to community and, tokenistic,

	<p>informing and placating</p> <ul style="list-style-type: none"> • 1996-1998 : claimed spaces, invited and collaborative • 2000- invited, partnership amongst key stakeholder: City of Cape Town, Department of Land Affairs and the Trust
<p>Were representatives or mediators elected to enable restitution and development processes and if so, how did they capacitate their constituencies?</p>	<p>Dr Neville Alexander and Elaine Clarke were elected as mediators – going out to the Cape Flats; story telling allowed for the narrative of a community to be constructed in absentia. The rights of the community was realised. A United Front was established and facilitators recommended the establishment of the Trust. Facilitators pushed for rights of the community to be at the forefront of the restitution and redevelopment discussion and project.</p>
<p>How were former tenants included in the restitution and redevelopment process of District Six?</p>	<p>Tenants were lobbied through the District Six Civic Association. Through mobilisation tenants outnumbered owners and their presence was forced to be taken into account. Tenants are allowed to own alongside owners in the redevelopment of District Six.</p>
<p>Who represented claimants and the wider community during the planning process that sought spatial outcomes for District Six, and how were claimants' and the wider community's different interests represented and included in these planning processes and</p>	<ul style="list-style-type: none"> • Private planners appointed by Department of Rural Development and Land Reform worked closely with The Trust. The planners and urban designers also had various workshops, exhibits and public meetings throughout 2011 and

development proposals for District Six?	<p>2012 with claimants and the wider community.</p> <ul style="list-style-type: none"> • The planners represented the interests of the claimants as well as advocating for the role of the site in the wider Cape Town Community. The difference here as opposed to the previous participatory initiative by the CTCLT is that the community was offered a space to voice their objections and be involved in the planning process.
How have planners engaged with the needs of claimants in District Six?	<p>They answered residents questions, engaged with them on a higher rungs of Arnstein's Ladder of Participation. Planners tries to incorporate everyone's grievances into account example, every house would have a garage and parking space. Lower floors would be reserved for older residents concerned about walking up higher floors</p>
How have bureaucratic delays and extended negotiations between contesting parties undermined planning processes and outcomes in District Six. And how did participatory planning processes aim to address points of conflict?	<p>1998- Minister Hanekom tried to delay the process by appointing new facilitators and not take into account the recommendations of Dr Neville Alexander and Dr Elaine Clarke</p> <p>2012 –Minister Gugile Nkwinti appointed a new reference Group, on behalf of the claimants following grievances among claimants towards The Trust. The physical plan was changed by the Reference Group, they also managed to stop the Business Plan</p>

	<p>and Special Purpose Vehicle and claimants no longer have to sign the Social Compact before receiving a house in District Six. Participatory planning had little effect on addressing the point of conflict.</p> <ul style="list-style-type: none"> • Furthermore, it results in the prolonged delay on planning processes and outcomes. <p>It has also resulted in land claimants not realising the full capacity of their rights, and changing the physical plan of the Development Framework.</p>
What partnerships have been established in the case of District Six, and how have other stakeholders been included in these partnerships for the purpose of ensuring the provision of public services and housing?	City of Cape Town partnership with The Trust although this did not yield a prolonged material outcomes. The partnership lacked vigour. There was always inherent mistrust between the two.
How has the City of Cape Town interpreted the narrative of loss and restoration ? And how have participatory processes assisted the municipality in interpreting the narrative of loss and restoration?	<p>1994 the City interpreted the narrative of dispossession through an integrated development in the 'public interest' using a utilitarian approach.</p> <p>Participatory processes have not assisted the City in interpreting a narrative nonetheless.</p>
Are there aspects of 'subaltern counter politics' in the case of District Six, and if so, what were the outcomes of this form of politics?	Yes. Through the help of passionate leaders, marginalised people were able to recast the process of restitution and were directly involved in the process

To what extent did participatory planning practises enable the concept of 'expanded citizenship?	Expanded citizenship was enabled through being a part of the redevelopment process from the establishment of the Trust and in partnering with the City of Cape Town
What are the challenges of participation and inclusivity in District Six? And, how can these challenges of inequalities be addressed? How can marginalised groups become more meaningfully involved?	There were many discursive challenges to participation and sometimes overt and covert exclusionary strategies such as, lack of transparency, because of bureaucracy and little to no communication by the local, provincial and national state. State led participatory spaces have been proven difficult to enter.
What is the role of memory in participatory planning processes?	Planners get insights into what District Six was like through resident themselves instead of trying to imagine and plan <i>for</i> residents as opposed to <i>with</i> .

Chapter 6: Recommendations and Conclusions

“Someone said memories are weapons. Let’s think of them as tools”

(Jonhnson Family, ex residents, 2001)

6.1 Introduction

The main research questions asks: what are the participatory planning processes in the land restitution process in District six and what are the lessons, if any, to be learnt from such an assessment?

Through an in depth literature review I set up subsidiary research questions and assessment criteria which helped me to answer the four questions

- (1) How are participatory planning processes established;
- (2) Who facilitates
- (3) who is included ? why and why not ? and
- (4) what are the outcomes. Due to the history entrenched in the narrative I also ask
- (5) what role does memory and place play in participatory planning processes ?

In order to unpack these within this particular study I asked several subsidiary research questions.

Ultimately, answers to these research questions will assist us in gaining a deeper and more nuanced understanding of why land restitution in what past and current *spaces of participation* 'look like' in the process of land restitution and furthermore, why struggles for restorative justice remain in place despite the promulgation of the Land Restitution Act (RSA, 1994). In response, the findings suggest that state-led participation remains void of transformative potential because they mainly operate in their own interests. However, that state has power to intervene when participatory outcomes are positive. The state will try to delay planning processes because it has its own agenda, which is to sell commercial land to private owners rather than afford the community a stake in the land. Community-led participation on the other hand can afford many previously marginalised groups an opportunity to participate, engage and have their hardships and desires heard. Although, given the size of the beneficiary community, inherent tensions are borne to arise

because of frustrations, arduous delays, lack of transparency, financial delays and failure to communicate this effectively to the claimant community. Furthermore, frustrations have been directed towards representatives rather than towards the state. Latent divisions amongst claimants such as owners and tenants, verified claimants and late comers all have different interests and desires. Moreover, asking the claimant community to contribute R225 000 caused tensions to boil over and the eventual collapse of the redevelopment process of 2012. The Minister once again intervenes, disbands The Trust and groups have to start from scratch. Claimants are left angry and feel left in the dark; especially those with fewer resources than others. The case thus demonstrates a missed opportunity to bring working class people to well-located land in the inner city. And failure of the state to realise the rights of a displaced community.

The findings led me to ask many questions about how best to engage sensitive issues that deal with trauma, healing and memory. The complexity that involves living in contemporary South African cities, marred by colonialism, apartheid, and post-apartheid policies that further entrench separation of people, place and space. The research findings demonstrate that the concept of participation warrants a deep restructuring, whether they are claimed or 'invited' but particularly when they are state-led. The community of District Six demonstrate a diversity of values and needs. The narrative of community is fraught with its own set of intersecting complexities and desires. Moreover, it is up to the planner to be sensitive to all of these.

The recommendations presented below are directed to civic organisations, people's movements, Non-governmental organisations and Non-profit organisations. Other recommendations are directed towards planners in both private and public sector but especially those working with marginalised groups. Other recommendations are directed towards the City of Cape Town or other municipalities working with historically marginalised communities.

6.2 Recommendations for local government

6.2.1 Passionate Mediators and facilitators

Local Government must appoint facilitators with comprehensive experience in working with marginalised groups. These individuals must have and be able to demonstrate a passion for advocating for and protecting the rights of disadvantaged communities.

6.2.2 Establishing policies for transformation

As Robinson (2002) offers, to accept and endorse neoliberal capitalist frameworks expresses the inadequacies in the way we understand cities and how they are constantly evolving. Now is the time for the state to be more proactive in tackling spatial and social inequalities and not be passive onlookers of their adopted neoliberal policies. Local governments should also look to curtailing the impacts of gentrification on the poor if they are serious about creating cities that are integrated and inclusive and not have these words as empty signifiers of a new South Africa. There is thus a need to draw on new relations with the private sector and civil society. Brown-Luthango (2011) offers a look into betterment taxes where this is charged to accrue the increases in land value owing to economic infrastructure investment, rezoning and so forth and where these accrued funds can be used to fund social infrastructure initiatives. This can be achieved through a more enhanced public- private partnership agreement. All of this however can only be possible if governments have the political will to improve the lives of all who inhabit the city.

6.2.2 Recommendation for civic organisations

The District Six case personifies the absolute significance of a unified front. Although there may be inherent divisions among community members based on interest and desires. However, civic organisations must work to unpack these difference amongst members rather than ignore it. These differences must not remain latent and unresolved because other, more powerful role players may seek to exploit these differences and nullify all progress made. Hence, civic organisations and representatives must remind groups and subgroups of the wider goal for participating in the first place. Leaders of organisations have to be visionary. Leaders have to be champions to their causes and must believe in their causes so others can believe in it too and this must be demonstrated at all costs to hold government accountable and take their power back.

6.3 Recommendations for planners

6.3.1 Recommendation for inclusion of diverse stakeholders

As a planner working in community development or working towards particular outcomes of a project, one has to gauge the level of engagement required for the project, which will be determined

by who the most vulnerable members of the stakeholders are. In other words, who will be most affected by the decisions made and who is the least able to exert influence. The planner has to advocate for those groups first and other stakeholders who hold more power and influence should hold advisory roles as opposed to having their interests protected over the interests of the affected groups. Hence, inclusion of diverse stakeholders are important in participatory spaces but planners must not only pay attention to the power dynamics inherent in these spaces as Gaventa (2008) offers, planners must also play an advocacy role of holding the vulnerable group's interest over other groups and subgroups and stakeholders who come to participate. Furthermore, planners must be cognisant of the differences amongst community members who have different social and economic interests. No community members living in a neighbourhood are the same. Tenants should not be discriminated against in other redevelopment projects as they have been in the past. And so, the lesson in District Six must be carried through where tenants must form part of local organisations to ensure their rights are protected against other agents that might want compromise their rights.

6.3.2 Recommendations for memory place and participatory planning

This also speaks to what Walker (2008:327) defines as 'good enough reparations' which necessitates a wide-ranging vision of development than on purely centered around land. This involves linking the memory of dispossession to claimant's current circumstances. Walker argues that in addition to restitution claimants want an opportunity to be heard. The District Six case exemplifies this notion. Participatory planning processes have the promise of affording these spaces if they are done in absolute collaboration with the community. A good place to start is with the work of the District Six Museum and the District Six Home Coming Centre. The City of Cape Town as well as other civic groups such as the Reference Group and the District Six Working Group should work more closely with the District Six Museum. This, in turn offers insights into how members of a community, neighbourhood or any locale, see that space for themselves, as opposed to planners imagining what would work best or what the community needs. One of the challenges facing planners in our cities is working communities with limited resources. However, people in these communities have learnt to navigate their spaces and thus planners need to trust and learn from these networks and strategies that people have created for themselves. Granting people the space to demonstrate their ability to overcome their circumstances demonstrates an opportunity to plan with communities rather than plan for.

6.3.3 Recommendation for Participation and engendering democratic outcomes

If democracy means ‘power to the people’ and participation means negotiating or involves processes of balancing power, then the two discourses are not mutually exclusive, and in my opinion, must exist together or not at all. In other words, when meaningful engagement by ordinary citizens occurs particularly in the pursuit of restructuring the daily lives or decisions that have an impact on the lives of ordinary (in most cases marginalised) citizens, then power begins to be transferred from the state to citizens. In this way, democracy is expanding. Social mobilisation by marginalised groups needs to be encouraged inside and outside of the participatory sphere this will create or develop champions of a cause, enhance the political agency of citizens, and broaden representation. Factors that hinder inclusion within the institutional structure, such as inequality of power and knowledge needs to be actively addressed and lastly, the participatory sphere institutions need to be more resourcefully pronounced with other governance institutions. According to Cornwall and Coelho (2007), the future participatory governance lies in addressing these challenges – in theory and practice.

6.3.4 Recommendation for expanding citizenship

Focus needs to be placed on deepening democracy through new forms of its expression (Fung and Wright, 2004). However, we need both an active and engaged citizenship that can influence and change public policy and a more responsive and effective state that can deliver citizen-informed policies (Gaventa, 2004).

Winkler (2011) discusses the new, reconceptualization of participation, which recognises participation as a right, which encourages the “transformative promise of participation”, a reconceptualization that recognises the need for citizens to mobilise and decision making and the need for a responsive and effective state. Thus, for the purposes of my research I wish to understand how claimants have engaged in participation in cross-sectoral urban politics. Pieterse (2006:268) states that a “lack of city wide politics prevents broad based progressive policies of urban transformation from getting on the public agenda”. However, Beyers (2013), contends point in case, progressive or not, urban restitution reproduces “a distinctive modality of citizenship struggle” and therefore, any new citizenship participation that restitution gives rise to depends on establishing new institutionalised spaces for on-going forms of agency. To this end, the case of District Six, demands particular attention.

6.3.6 Mobilisation and Participation

Recognition for mobilisation is acknowledged and in some places encouraged where it is said to create a shared language but also creates opportunities for political apprenticeship and conditions under which new leaders can emerge. Nonetheless, the state has a crucial role to play in redressing societal discrimination and actively supporting inclusion of marginalized groups in political arenas of all kinds. Heller (20001) argues, closer attention need to be paid to the synergies between social movements and state supported political projects in fostering substantive participation.

6.3 Limitations to the study

Time was the main limitation to the study. If I had more time, I would increase the number of research participants to include a greater number of voices. This would offer a more detailed discussion and richer analysis can be drawn from such a study. Many officials from the City did not reply to my emails so I had to navigate how I was going to tell the story without a voice from the City. Although I have explained how I navigated this issue in Chapter 3 (Research Methods). While undertaking the research I realised I tried to tackle a big beast, however, I had to pursue the challenge at hand. I would urge researchers who want to undertake a study on participatory planning to identify all stakeholders involved and ensure that enough voices are heard in the research. I also urge researcher to remain unbiased in their pursuit of unpacking and (un) learning from participatory spaces.

6.5 Reflections

A study on participatory planning can be extremely fruitful especially if one is passionate about engaging with historically marginalized groups. On the other hand, a study on participatory planning coupled with urban land restitution can make one question planning to begin with. As a planner, one

is confronted with nested and competing ideas. In addition to that, it was sometimes frustrating to learn that if only that state didn't do 'x' or if only the community member didn't do 'y', then justice would have been accomplished. The narrative of District Six is fraught with tensions, delays, frustrations, and a community wants to return. However, with misdirected agenda from both local and national government and community representatives that don't engage with their constituents it seems a great opportunity for integration of low income people into well located land Cape Town is lost.

6.6 Conclusions

What is the point of participating when there will be no real, transformative outcomes? What is the point on writing policy on how to better participate and achieve mutual respect when the status quo will not be changed? When the same mechanisms that keep the poor on the periphery of the city, that keep so -called beneficiaries of land restitution from returning to land that is rightfully theirs? What is the point of participating when there has been no healing and bureaucratic tactics persist in derailing efforts for transformative spatial and discursive outcomes? We might as well pack up our bags and go home. Then planning has failed in this wave as it as failed in the previous! And we cannot allow that be the case!

District Six was demolished under apartheid racial urban policy and hence I argue that it is post-apartheid, democratic urban policy that should reconstruct a new space. Only if we are serious about tackling stubborn inequalities

Table 6.1 Summary of recommendations

Subsidiary research Questions derived from an in-depth literature review	Summary of Research findings	Summary of Recommendations
How were spaces for participation conceptualised in the case of District Six and did these spaces allow for an open-ended and ongoing process of engagement?	<ul style="list-style-type: none"> • 1990-1994 : <i>closed</i> - did not allow for inclusion and participation • 1994-1996: <i>invited</i>, in these spaces planners and officials only listened to grievances not incorporate them. Once divisive matters were discussed the meeting would turn acrimonious. Community was onlookers of their decisions. • 1996-1998: <i>claimed, invited, collaborated</i>, spaces allowed for open ended and ongoing process of engagement in the claims process. • 2000- <i>invited</i>, conciliation amongst key stakeholder: City of Cape Town, Department of Land Affairs and the Trust • 2005- <i>claimed space</i> – building houses insurgent style 	Spaces of participation must at all times offer open ended and ongoing process of engagement by giving people an opportunity to voice their grievances, hurt, interests, desires. Planners can gauge from there what level of engagement is required.
What types of participation took place in the restitution and redevelopment of	<ul style="list-style-type: none"> • 1990-1994 : <i>Closed</i> – no participation • 1994-1996 : <i>invited</i>, plans were presented 	Participation must allow for citizen power, at higher rungs

District Six?	<p>to community and, tokenistic, informing and placating</p> <ul style="list-style-type: none"> • 1996-1998 : claimed spaces, invited and collaborative • 2000- invited, partnership amongst key stakeholder: City of Cape Town, Department of Land Affairs and the Trust 	of Arnstein's ladder of participation through more unconventional ways of engaging with communities.
Were representatives or mediators elected to enable restitution and development processes and if so, how did they capacitate their constituencies?	Dr Neville Alexander and Elaine Clarke were elected as mediators – going out to the Cape Flats; story telling allowed for the narrative of a community to be constructed in absentia. The rights of the community was realised. A United Front was established and facilitators recommended the establishment of the Trust. Facilitators pushed for rights of the community to be at the forefront of the restitution and redevelopment discussion and project.	Local Government must appoint facilitators with comprehensive experience in working with marginalised groups. These individuals must have and be able to demonstrate a passion for advocating for and protecting the rights of disadvantaged communities.
How were former tenants included in the restitution and redevelopment process of District Six?	Tenants were lobbied through the District Six Civic Association. Through mobilisation tenants outnumbered owners and their presence was forced to be taken into account. Tenants are allowed to own alongside owners in the redevelopment of District Six.	Tenants should not be discriminated against in other redevelopment projects as they have been in the past. And so, the lesson in District Six must be carried through where tenants must form part of local organisations to ensure their rights are protected against other agents that might want compromise their rights.

<p>Who represented claimants and the wider community during the planning process that sought spatial outcomes for District Six, and how were claimants' and the wider community's different interests represented and included in these planning processes and development proposals for District Six?</p>	<ul style="list-style-type: none"> • Private planners appointed by Department of Rural Development and Land Reform worked closely with The Trust. The planners and urban designers also had various workshops, exhibits and public meetings throughout 2011 and 2012 with claimants and the wider community. • The planners represented the interests of the claimants as well as advocating for the role of the site in the wider Cape Town Community. The difference here as opposed to the previous participatory initiative by the CTCLT is that the community was offered a space to voice their objections and be involved in the planning process. 	<ul style="list-style-type: none"> • Planners must work closely with community representatives and engage all stakeholders. Planner must advocate for the role of a site as well advocate for the most vulnerable groups in society.
<p>How have planners engaged with the needs of claimants in District Six?</p>	<p>They answered residents questions, engaged with them on a higher rungs of Arnstein's Ladder of Participation. Planners tries to incorporate everyone's grievances into account example, every house would have a garage and parking space. Lower floors would be reserved for older residents concerned about walking up higher floors</p>	<p>Planners need to trust and learn from theses networks and strategies that people have created for themselves. Granting people the space to demonstrate their ability to overcome their circumstances demonstrates an opportunity to plan with communities rather than plan for.</p> <p>Planners must let go of</p>

		preconceived ideas about the communities they work with.
<p>How have bureaucratic delays and extended negotiations between contesting parties undermined planning processes and outcomes in District Six.</p> <p>And how did participatory planning processes aim to address points of conflict?</p>	<p>1998- Minister Hanekom tried to delay the process by appointing new facilitators and not take into account the recommendations of Dr Neville Alexander and Dr Elaine Clarke</p> <p>2012 –Minister Gugile Nkwinti appointed a new reference Group, on behalf of the claimants following grievances among claimants towards The Trust. The physical plan was changed by the Reference Group, they also managed to stop the Business Plan and Special Purpose Vehicle and claimants no longer have to sign the Social Compact before receiving a house in District Six. Participatory planning had little effect on addressing the point of conflict.</p> <ul style="list-style-type: none"> • Furthermore, it results in the prolonged delay on planning processes and outcomes. <p>It has also resulted in land claimants not realising the full capacity of their rights, and changing the physical plan of the Development Framework.</p>	<p>Civic organisations and planners must call out officials who deliberately cause bureaucratic delays. Civic organisations must at all times convey the reasons for delay to their constituents so as to avoid unnecessary frustrations directed towards them, which in turn, further breaks down progress.</p>
<p>What partnerships have been established in the case of District Six, and how have other stakeholders been included in these partnerships for the purpose of ensuring the provision of public services</p>	<p>City of Cape Town partnership with The Trust although this did not yield a prolonged material outcomes. The partnership lacked vigour. There was always inherent mistrust between the two.</p>	<p>Partnerships have to premise on a mutual understanding of the goals ahead and not just for the sake of silencing the</p>

and housing?		masses.
<p>How has the City of Cape Town interpreted the narrative of loss and restoration</p> <p>? And how have participatory processes assisted the municipality in interpreting the narrative of loss and restoration?</p>	<p>1994 the City interpreted the narrative of dispossession through an integrated development in the 'public interest' using a utilitarian approach. Participatory processes have not assisted the City in interpreting a narrative nonetheless.</p>	<p>To accept and endorse neoliberal capitalist frameworks expresses the inadequacies in the way we understand cities and how they are constantly evolving. Now is the time for the state to be more proactive in tackling spatial and social inequalities and not be passive onlookers of their adopted neoliberal policies. Local governments should also look to curtailing the impacts of gentrification on the poor if they are serious about creating cities that are integrated and inclusive and not have these words as empty signifiers of a new South Africa. Participatory spaces must ensure the inclusion of diverse stakeholders. Local actors must attend public meetings to learn from the beneficiary community not</p>

		impose plans.
Are there aspects of ‘subaltern counter politics’ in the case of District Six, and if so, what were the outcomes of this form of politics?	Yes. Through the help of passionate leaders, marginalised people were able to recast the process of restitution and were directly involved in the process	Recognition for mobilisation is acknowledged and in some places encouraged where it is said to create a shared language but also creates opportunities for political apprenticeship and conditions under which new leaders can emerge.
To what extent did participatory planning practises enable the concept of ‘expanded citizenship’?	Expanded citizenship was enabled through being a part of the redevelopment process from the establishment of the Trust and in partnering with the City of Cape Town	Focus needs to be placed on deepening democracy through new forms of its expression. However, we need both an active and engaged citizenship that can influence and change public policy and a more responsive and effective state that can deliver citizen-informed policies.
What are the challenges of participation and inclusivity in District Six? And, how can these challenges of inequalities be addressed? How can marginalised groups become more meaningfully involved?	There were many discursive challenges to participation and sometimes overt and covert exclusionary strategies such as, lack of transparency, because of bureaucracy and little to no communication by the local, provincial and national state. State led participatory spaces have been proven difficult to enter.	inclusion of diverse stakeholders are important in participatory spaces but planners must not only pay attention to the power dynamics inherent in these spaces, planners must also play an advocacy role of holding the vulnerable group’s interest over other groups and subgroups and stakeholders who come to participate. Furthermore, planners must be cognisant of the differences amongst community members

		who have different social and economic interests. No community members living in a neighbourhood are the same.
What is the role of memory in participatory planning processes?	Planners get insights into what District Six was like through resident themselves instead of trying to imagine and plan <i>for</i> residents as opposed to <i>with</i> .	This involves linking the memory of dispossession to claimant's current circumstances. Claimants want an opportunity to be heard. The District Six case exemplifies this notion. Participatory planning processes have the promise of affording these spaces if they are done in absolute collaboration with the community. A good place to start is with the work of the District Six Museum and the District Six Home Coming Centre.

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Application for Approval of Ethics in Research (EIR) Projects
Faculty of Engineering and the Built Environment, University of Cape Town

APPLICATION FORM

Please Note:

Any person planning to undertake research in the Faculty of Engineering and the Built Environment (EBE) at the University of Cape Town is required to complete this form **before** collecting or analysing data. The objective of submitting this application prior to embarking on research is to ensure that the highest ethical standards in research, conducted under the auspices of the EBE Faculty, are met. Please ensure that you have read, and understood the **EBE Ethics in Research Handbook** (available from the UCT EBE, Research Ethics website) prior to completing this application form: <http://www.ebe.uct.ac.za/uc/ebere/research/ethics.pdf>

APPLICANT'S DETAILS		
Name of principal researcher, student or external applicant		Alicia Fortuin
Department		School of Architecture, Planning and Geomatics
Preferred email address of applicant:		ffa1002@myuct.ac.za
If a Student	Your Degree: e.g., MSc, PhD, etc.,	MCRP
	Name of Supervisor (if supervised):	Associate Professor Tanja Winkler
If this is a research contract, indicate the source of funding/sponsorship		n/a
Project Title		Deciphering Spaces of and for Participation: the subversion of Community Participation and rights in the Urban Land Restitution of District

I hereby undertake to carry out my research in such a way that:

- there is no apparent legal objection to the nature or the method of research; and
- the research will not compromise staff or students or the other responsibilities of the University;
- the stated objective will be achieved, and the findings will have a high degree of validity;
- limitations and alternative interpretations will be considered;
- the findings could be subject to peer review and publicly available; and
- I will comply with the conventions of copyright and avoid any practice that would constitute plagiarism.

SIGNED BY	Full name	Signature	Date
Principal Researcher/ Student/External applicant	Alicia Fortuin		22 Jun 2017

APPLICATION APPROVED BY	Full name	Signature	Date
Supervisor (where applicable)	Tanja Winkler		24 May 2017
HOD (or delegated nominee) Final authority for all applicants who have answered NO to all questions in Section1; and for all Undergraduate research (including Honours).	PROP T. BERLANDA Click here to enter text.		21/08/17 Click here to enter a date.
Chair: Faculty EIR Committee For applicants other than undergraduate students who have answered YES to any of the above questions.	Click here to enter text.		Click here to enter a date.

