

**RELEVANT, IMPORTANT AND CREDIBLE:
REFLECTIONS ON APPLYING ANTHROPOLOGY IN
THE SOUTH AFRICAN LAND RESTITUTION PROCESS**

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ABSTRACT

After decades of institutionalised racism, South Africa has recently embarked upon a nation-building process of reconstruction, development and reconciliation. Central to the country's land reform is the Commission on Restitution of Land Rights, through which people may seek restitution for land rights lost under racially discriminatory legislation and practices of the past eight decades.

The dissertation explores the contribution which applied anthropology can make to the land restitution process. I argue that, through its particular knowledge and explanatory power, applied anthropology is able to expose and sensitise actors to the complexities and dynamics of power structures and social relations, as they manifest themselves in the process of lodging, researching and settling a land claim. An understanding of these issues is crucial to the timely and successful completion of claims and to realising the broader goals of the Commission on Restitution of Land Rights.

I illustrate my argument with an analysis of my experience as an applied anthropologist working for the Commission on Restitution of Land Rights in Cape Town. Between October 1996 and March 1997, I researched the land claim of the 'Ndabeni Community', Greater Cape Town, in preparation for its referral to the Land Claims Court for settlement. The people seek restitution for their forced removal from Ndabeni to Langa between 1927 and 1936.

The research applied anthropological, qualitative, research methods including participant observation of the land restitution process (as manifest in the meetings and activities of the Commission and the claimant population) and in-depth interviews (of key actors). My brief from the Commission required me to conduct structured and semi-structured interviews and extensive archival research (for the compilation of a historical overview of the dispossession), as well as limited quantitative research (for the compilation of a socio-economic profile of the claimant population).

The dissertation reflects critically upon how knowledge, participation and power was articulated in the tasks I was given, and in the relationships I established, during my research. The task of writing a historical overview of the dispossession made me an agent in instrumentalising a certain version of the past. I show how an understanding of the dynamics of memory can assist in overcoming the challenge of negotiating multiple memories and shaping them into a single representation.

My research demonstrates how the perspective and methods of applied anthropology can make a relevant, important, and credible contribution to achieving the objectives of the land restitution process. In so doing I also demonstrate the broader ability of applied anthropology to generate useful social knowledge.

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PART I INTRODUCTION

1. INTRODUCTION

Post-modern anthropology has problematised the distinction between representation and reality, word and world, text and context, to the extent that it appears impossible to examine a world beyond our own subjectivity. This provides a particular challenge to applied anthropology (and to advocacy anthropology especially), because it ultimately denies the possibility of transcendent values and principled positions to inform and direct intervention and planned social change. Post-modern anthropology has therefore cast doubt on any humanitarian, ethical concern to correct a particular social injustice through the application of anthropological knowledge.

Applied anthropologists have explored various avenues to find an appropriate response to the post-modern critique. Some appear to have retreated into experimenting with ethnographic texts to allow for the voice of the 'Other' (e.g. Marcus & Fischer, 1986; Clifford and Marcus, 1986; Hastrup & Elsass, 1990; Hastrup, 1992), although the collaboration remains limited as the anthropologist retains authority over inscription. The development of a 'post-modern applied anthropology' (Johannsen, 1992) is an attractive proposition in a time of anthropological introspection and self-doubt, but the fundamental contradictions between the two approaches cast doubt on the feasibility and value of such hybridisation (see Singer, 1994). Others seek to escape the paralysis of the post-modern condition by looking towards a "reassertion of value" (Squires, 1993), towards a moral basis for applied anthropology and development practice. They reject the post-modern worship of collaborative negotiated *text* and assert the need for collaborative negotiated *action* (Singer, 1994). They seek to reaffirm the value (and values) of applied anthropology by broadly advocating a revitalisation of praxis as a way of grounding knowledge in practical activity to discover its validity (Warry, 1992). It is a transformative approach (Schrijvers, 1995), involving community-based, value-explicit, critically conscious, dialogical partnerships in research and

intervention, where objects of research also become subjects, and where informed subjectivity replaces the search for an elusive objectivity (e.g. Esterik, 1985; Nencel & Pels, 1991; Gow, 1993; Singer, 1993 and 1994; Cornwall & Jewkes, 1995; Nelson & Wright, 1995; Chambers, 1997).

My dissertation is grounded in such a paradigm of praxis, informed subjectivity and critical but conscious dialogue with the subjects of research and development intervention. I argue that applied anthropology can make a relevant, significant, and credible contribution to bringing about transformative processes of social change. The particular perspective and methodology of applied anthropology are based on an ideology of self-determination by communities and individuals. The perspective seeks to enable and empower the people whom anthropologists work for and with (and on whose behalf they often speak) to undertake their own analysis, to take more command of their lives and resources, and to improve their well-being as they define it. Applied anthropologists are in a position to influence policy and its implementation, particularly through their ability to expose and sensitise actors to the complexities and dynamics of power structures and social relations. However, their effectiveness in doing so will depend on the particular professional skills the individual anthropologist brings, on the particular working conditions they are given, and on the particular image of anthropologists held in the agency setting. And perhaps more importantly, it will depend on their understanding of how the power relations encountered and perpetuated through their activities may engender or constrain social change.

My argument is illustrated and supported by descriptions of my experience of working as an applied anthropologist for the South African Commission on Restitution of Land Rights. As an intern I undertook contract research for the Commission. Furthermore, I conducted an ethnographic study of the Commission's Regional Office in Cape Town. Through a critical reflection on my relationship with my 'client', the Commission, I examine below the tasks I was given, the institutional environment in which I completed them, and the anthropological challenges they

presented me with. I conclude that, given the perspective and methods outlined above, applied anthropologists can provide valuable assistance in realising the tasks and goals of the Commission and of the national process in which the Commission situated.

After decades of institutionalised racism and human rights abuse, South Africa has recently embarked upon a national process of reconstruction, development, and reconciliation. Critical to the process is the notion that remembering and thus confronting the country's violent past may prevent its repeat and may help the nation to 'heal' itself. Several public fora have been established for the memories of victims, survivors and perpetrators to be presented and recorded, and for compensation to be given.

One such forum is the Commission on Restitution of Land Rights. Central to the design of country's land reform, the restitution programme allows people to seek restitution for their loss of land rights under racially discriminatory legislation and practices of the past eight decades.

As a researcher for the regional office of the Commission on Restitution of Land Rights in Cape Town, I researched the land claim of a group of people identifying themselves as the Ndabeni Community, Greater Cape Town, in preparation for its referral to the Land Claims Court for settlement. They are now seeking restitution for their forced removal from Ndabeni to Langa between 1927 and 1936.

I conducted most of the research with a colleague from the University of Cape Town, Jenni Gordon. Our tasks were to compile a comprehensive list of legitimate claimants and to write a report for the Land Claims Court presenting the historical and contemporary context of dispossession and restitution. Operationalising the tasks required us to perform multiple and sequential roles of brokerage, all of which raised the anthropological dilemmas and hazards of representation, participation and power. Although the distinction between the roles of facilitator, informant,

representative, and advocate blurred throughout the research, they each challenged me to reflect critically upon how knowledge, participation and power was articulated in the relationships I had established.

As researchers we facilitated activities aimed at advancing the process of a land claim and thus the relationship between the Commission and the claimants presenting themselves as the Ndabeni community. Despite the Commission's rhetoric of a 'claimant-driven' process, our activities were directed from the Commission, and thus the facilitation proved to be more 'top-down' than 'bottom-up'.

The hazards of representation involved both the Commission and the people who constituted the community. As researchers for the Commission we occasionally had to defend a decision of the Commission although we objected to the manner in which it had been reached. For example, after a confrontation between Commission staff and representatives of Ndabeni claimants at a meeting, the Commission took a unilateral decision to end negotiations with the claimants and refer the claim to the Land Claims Court for arbitration. However, the Commission did not explain the decision and its implications for the claim to the claimants present. It was left to my colleague and me to answer their questions and defend the decision. Moreover, since 'the community' was never a homogeneous entity but made up of several interest groups, it was necessary to negotiate our way around sectional agenda to ensure that both majority and minority interests were represented. Decisions had to be taken on how and with whom to share knowledge, and why. For example, by communicating directly with several (female) community members who had been marginalised by those trying to direct the process to benefit sectional interests, we were able to increase their participation in the process. My decision to do so was consistent with my advocacy efforts, both for the cause of land restitution as well as for the people disempowered by insufficient knowledge of the legal procedures and requirements of the claims process to participate fully.

Issues of knowledge, power and participation were perhaps most clearly revealed in the task of compiling a report for the Land Claims Court, presenting historical and contemporary contexts of dispossession and restitution. In writing it, my colleague and I became agents in instrumentalising a certain version of the past. The concept of memory, its application and negotiation in the land restitution process thus became a recurrent issue as we were confronted with different historical and contemporary representations. Implicit in the land restitution process is the condition that for claimants to effect their rights to apply for and receive compensation, there must be mnemonic consensus among stakeholders on the historical context and consequences of their dispossession. The memory must then be shaped into a narrative upon which the Land Claims Court can judge the validity of the claim. The authority of the narrative depends on the discourse and social context of its delivery, the integrity of the author and the institution endorsing it, and the authority of the written word.

Despite the importance and consequence of these issues for the land restitution process, they are (perhaps understandably) rarely articulated within the Commission. Operational difficulties abound which draw immediate attention away from such broader concerns. Their recognition is likely to depend upon the outcome of a current debate among Commission staff on the conceptualisation(s) of research within the Commission. One view maintains that the Commission conducts legal research. The other contends that it must conduct both legal and social research. The outcome of the debate will determine the Commission's research infrastructure, and thus whether anthropologists are considered as appropriately qualified and legitimate employees in the Commission. Their recognition as such will, in turn, depend on previous experiences of anthropological researchers in the Commission, their personality, their management of the research, and the results they produce. Applied anthropologists must therefore always be aware of their professional ethics, as the reputation of anthropology is at stake in all dealings and relationships between anthropologists, their 'clients' and 'subjects'.

My dissertation presents a perspective on the contribution which an anthropological approach can make when applied outside of academia. I argue that the contribution is both relevant, significant and credible. While identifying and discussing the particular and potential contribution of applied anthropology to the process of land restitution, I suggest its broader ability to generate useful social knowledge which can contribute to the solving of human problems and the facilitation of social change.

1.1 DISSERTATION STRUCTURE

To develop my argument, I have structured the dissertation in the following way:

Part II, which follows, concerns the background to my research. It is in two chapters. **Chapter Two** introduces the background to my research for the Commission on Restitution of Land Rights, the internship arrangement and funding that drew me into its undertakings, as well as my brief to work on the Ndabeni Land Restitution Claim. In so doing, I convey some of the difficulties commonly experienced by applied anthropologists in the course of negotiating their contract, funding and brief. In **Chapter Three** I explain how I operationalised the brief in terms of conceptualising the research topic and researching it. I define the theoretical framework which informed and guided my research design before discussing the issues of ethical responsibility and of conducting collaborative research.

Part III presents the national and local historical context of the Ndabeni Land Restitution Claim. **Chapter Four** summarises the land restitution process in South Africa, enabling me to place both the Ndabeni Land Restitution Claim and my research of the claim in a national context. In **Chapter Five** I outline the local historical context of forced removals from Ndabeni and the resistance from residents. The description will clarify the motivation behind a claim being lodged by former Ndabeni residents and descendants for reparation.

Part IV presents an ethnographic account of the passage of the Ndabeni Land Restitution Claim through the Commission on Restitution of Land Rights. I illustrate my particular involvement in the claim in terms of my brief, the roles I assumed to

accomplish the tasks of the brief, and the relationships formed and re-formed between the Commission, the Ndabeni claimants and myself during the research. **Chapter Six** describes the early stages of the claim, before discussing the complex notions of 'community' and 'participation' and their particular application in the Ndabeni Land Restitution Claim. In **Chapter Seven** I explain the task of compiling a list of eligible claimants and how I went about doing so. **Chapter Eight** explores the choices of compensation made by claimants and the factors which influenced that choice. **Chapter Nine** examines the events which led to a breakdown in negotiations which marked the end of the claim's passage through the Commission.

Part V examines my representations to the Commission. In **Chapter Ten** I discuss my presentations of concerns with the processing and research on the Ndabeni Land Restitution Claim, especially the vagueness of my brief and the Commission's predominantly legal/technical approach to restitution research. I also discuss the commitments reflected in my representations to the Commission. In **Chapter Eleven** I explore the challenge of representing the history of Ndabeni in a report for the Land Claims Court. I illustrate how an understanding of memory and its application in the land restitution process can assist in overcoming the challenge.

The **Conclusion** relates my experiences and findings to political and ideological debates which shape the discipline of anthropology today. The palpable hierarchy of status between so-called 'pure' and applied anthropology continues to burden the discipline and has contributed to a critical problem facing anthropology today, namely demonstrating its relevance to the world. From my discussion of my direct engagement in a particular problem facing contemporary society, that of land restitution, I conclude that anthropologists can convincingly demonstrate the relevance of anthropology to the world. The dissertation therefore reasserts the call for a more politically engaged anthropology which challenges social and political relations of injustice through the generation and application of anthropological insights.

PART II RESEARCH BACKGROUND

2. RESEARCH ARRANGEMENT

The dissertation arises out of my research for the Commission on Restitution of Land Rights (Western & Northern Cape) in Cape Town, South Africa, from October 1996 to March 1997. The completion of a Masters Degree in Practical Anthropology requires candidates to be interned with an external agency for several months in order to gain practical experience of applying anthropology in a particular field. This chapter introduces my internship arrangement as a researcher with the Commission, the negotiations surrounding research funding, and the development of my brief.

2.1 THE INTERNSHIP

My internship with the Commission grew out of preliminary research conducted for the Commission by a colleague, Jenni Gordon, and me as part of a coursework module called 'The Anthropology of Advocacy and Policy Research'. The arrangement was initiated by Professor John Sharp (then Head of the Department of Social Anthropology, University of Cape Town) and organised together with Elizabeth Davison. Special Advisor to the Regional Commissioner, Advocate Wallace Mgoqi. Ms Davison's anthropological training and her experience of the land reform process in New Zealand, had sensitised her to the need for anthropological engagement in a process as complex and controversial as that of land restitution. She expressed concern that the legalistic approach dominant in much of the Commission's work needed to be complemented by a holistic, flexible perspective able to deal, practically, with issues such as ethnicity, class and gender as they arise throughout the course of lodging and processing a land restitution claim.

The Ndabeni Land Restitution Claim was lodged in June 1995. By August 1996 the claim was still at an early stage of its investigation by the Commission. Given the particular circumstances of the claim (see Part IV) and the overburdening of

Commission staff, Elizabeth Davison asked the Department of Social Anthropology, UCT, for assistance in researching the claim and advancing its resolution.

The Department responded by arranging for my colleague and me to help out on a full-time, voluntary basis from early in October. The Commission soon expressed much enthusiasm for our work. Aware of the internship requirement of our degree, they invited us to spend our internships with them, as full-time researchers on the Ndabeni Land Restitution Claim. By now we had both developed a strong academic as well as personal interest and commitment to the cause of land restitution and the Ndabeni Land Restitution Claim in particular. We therefore accepted their invitation, and other internship arrangements were consequently cancelled.

2.2 RESEARCH FUNDING

Our preliminary research on the land restitution process contributed to a research project managed by Professor John Sharp entitled 'Land, Labour and Livelihood in the Western Cape' and funded by the Centre for Science Development. We were therefore able to obtain initial funding assistance from his project. However, in consultation with our academic advisors, we agreed that the ideal arrangement was for our work to be funded by the Commission, not only because the Restitution Act makes provision for such support, but also because it is in the interests of the discipline of applied anthropology to get policy planners and implementers, such as the Commission, to recognise the value and legitimacy of applied anthropological research by funding such research themselves.

The Commission agreed but said that financial pressures restrained them from appointing us as researchers. At a subsequent meeting between the Elizabeth Davison, Professor Sharp and ourselves, we decided to approach the Cape Town Olympic Bid Committee for funding, given its interest in the Ndabeni Land Restitution Claim (see Section 6.2). The next day we submitted a research proposal to the Olympic Bid Committee via the Commission (see Appendix 2). It explained the required research into the Ndabeni Land Restitution Claim, how our anthropological expertise could assist in the successful and timely resolution of the

claim, and how the Olympic Bid Committee could realise their goals of redressing historical discrimination and stimulating the socio-economic upliftment of the region by funding the Commission's research.

The proposal was, however, 'intercepted' at the Commission before reaching the Olympic Bid Committee. It appears that the Regional Commissioner, upon reading our proposal, was persuaded to find the funding for our appointment as *ad hoc* researchers to the Commission. We were consequently employed by the Commission for 12 weeks, beginning mid-November. As our services were still needed, we worked full-time, unpaid, for an additional 4 weeks. Since the end of March 1997 we have continued to attend all meetings concerning the Ndabeni Land Restitution Claim, both in the community and at the Commission, as well as other meetings at the Commission relating to land restitution research. We have furthermore undertaken, voluntarily, minor work since then for the Commission on issues relating to the claim.

2.3 THE BRIEF

A formal, written brief for the research was never given to us by the Commission and is thus not appended to this dissertation. The initial (verbal) brief required that we assist the Commission's own fieldworker with running a claimant registration office in Langa, Cape Town, and with compiling a list of legitimate claimants for the Land Claims Court. Neither task was straightforward. Nor was the brief adequate in terms of what was actually needed in order to focus and operationalise the Ndabeni Land Restitution Claim. My colleague and I thus expanded and moulded the verbal brief into the detailed research proposal referred to above (see Appendix 2). Though intended for the Olympic Bid Committee, it was embraced by the Commission and thus became our research brief. It contained two principal tasks:

1. To compile a comprehensive list of legitimate claimants;
2. To compile a report for the Land Claims Court which presents the historical and contemporary contexts of dispossession and restitution.

The completion of each task required a series of other tasks to be conceptualised and carried out. The theoretical framework which guided my research as well as my research design are presented and discussed in Chapter 3.

3. METHODOLOGY

The goal of applied anthropologists should not only be to “confront contentious social and political problems and to communicate their findings to those who frame policy” (Ahmed and Shore, 1995:35). They should also reflect critically on how to do so, on interpersonal relations of fieldwork and on the conditions of knowledge production.

My dissertation is reflexive in character. It analyses and reflects upon how I related to and interacted with my field of study, on the processes and conditions in which knowledge was produced. To undertake an introspective analysis I need to explicate the theoretical bases of my research, since my conceptualisations of the research topic (the land restitution process) and how I researched it were informed and guided by particular theoretical frameworks. Below, I present and discuss my theoretical framework and my research design before discussing the issues of ethical responsibility and of conducting research in close collaboration with my colleague.

3.1 THEORETICAL FRAMEWORK

The framework which informed the research was derived from the phenomenologically oriented paradigm characteristic of anthropological research as well as the actor-oriented paradigm (Long and van der Ploeg, 1994) which in recent years has gained prominence in social research. Both paradigms accept multiple realities and assist in establishing a nexus between macro-level historical events and the micro-level of the individual or household. This combined approach therefore proved useful to my research for the Commission on the impact of forced removal under racist legislation on families and individuals.

Anthropological conceptualisation and imagination encourage an exploration of both observable behaviours and unobservable meanings. This enables an understanding of micro-politics, social networks, and identity formation in terms that are contextual and multi-layered, neither simple nor static. The perspective recognises that communities and institutions are not homogeneous but internally differentiated and

that they encompass complex power structures and struggles. It enables access to the emic perspective on lives and livelihoods at the micro-level, to the historical consciousness and social memories of individuals who form themselves into communities, and is able to make explicit the basic assumptions which shape the world views and life strategies of the people concerned.

The actor-oriented paradigm contends that "all forms of external intervention necessarily enter the existing life-worlds of the individuals and social groups affected, and in this way are mediated and transformed by these same actors and local structures" (Long and van der Ploeg, 1994:64). This approach therefore avoids viewing local people as 'victims of circumstances', simply 'responding' to innovations imposed by others. Rather, it stresses the importance not only of interpreting specific patterns or paths of social change in relation to external interventions, but also of examining how individuals and groups can modify patterns of development and social change.

Both paradigms accord an active role for the researcher who, as an active agent, also influences events and the construction of both the social and ethnographic text (Fetterman, 1989; Long and van der Ploeg, 1994). Neither strives for 'scientific objectivity' as it is now broadly recognised that no anthropological fieldwork data is uncontaminated by the researcher. All research is conducted in the social world and the research process itself therefore becomes part of the social phenomena under study (Hammersley and Atkinson, 1983).

Many ideas underlying these paradigms appear to be inspired by Karl Marx's ideas on human nature and social change (Marx, 1973). By focusing on people's consciousness, their subjective understanding of objective reality, and their assertive participation in social change, Marx challenged materialist and idealist analyses of human nature and social change. The Materialism of e.g. Feuerbach and Lenin, in which subjective consciousness is determined by material reality alone, implies that people are passive victims of circumstances who only respond to external, objective,

material forces. The course of history is thus seen as inevitable. For Hegelians, by contrast, only people's ideas, their consciousness, can change the course of history. But again, the dynamic of social change is beyond people's control, so that Hegelian models regard people as passive in determining their own development and producing their own history (Cole and Yaxley, 1991).

Marx's dialectical approach sought to resolve these conflicting views on human nature by focusing on the interrelation and social interdependence of human nature and social organisation. People are creative social actors, unable to exist independently of society. His concept of praxis, the dialectic of theory and practice, implies that people are both "subject and object of history" (Albert and Hahnel, 1978:98). Within dynamic social relations, people interact in three dimensions: in the material environment through the process of labour; with other people for purposes of social organisation; and with themselves to establish their identity. But in these relations, people's creativity and potential is often frustrated by social conditions and constraints. People's awareness and thoughts thus reflect their experience of material conditions which in turn depends on their individual creativity and potential being realised or frustrated socially. They interpret and enact the present through memory, making memory both a site of and a means of social reproduction. (I return to this issue in more detail in the Chapter 11).

The framework for this dissertation thus incorporates ideas from social anthropology, development and Marxist theory on how individual choices are shaped by larger frames of meaning and action such as history, cultural dispositions, power and resources (Long and van der Ploeg, 1994). With this in mind, I set out to examine the complexity and diversity of understandings and responses to the land restitution process, its reasons, objectives and procedures.

3.2 RESEARCH DESIGN

Two processes of research took place for the completion of this dissertation. One process comprised that which was required to fulfil my brief from the Commission. This proceeded according to the model presented in the research proposal attached

as Appendix 2 page 4-5. In summary, my colleague and I conducted structured interviews using questionnaires, semi-structured in-depth interviews, and extensive primary archival and secondary historical research. These methods provided a range of qualitative information from which we constructed a historical overview of the dispossession and a picture of the social and economic impact on people and their livelihoods of the forced removal that followed. Our historical representation formed the basis for the report for the Land Claims Court (Appendix 1). The methods also provided the data necessary for a compilation of a list of claimants and their eligibility status. For the compilation of a socio-economic profile of the claimant population, we collected qualitative as well as quantitative information through the questionnaires and the interviews.

The other process of research was multi-sited, both 'studying up' (Nader, 1972) and 'studying inward' (Huizer, 1991). I wanted to study the land restitution process, and my internship with the Commission allowed me to do so from a particular vantage point. One of my field sites thus became the Commission on Restitution of Land Rights, Cape Town, where I observed and participated in the meetings and activities of the Commission (both before, during and after my employment as researcher) and interviewed several staff to ascertain how the institution conceptualised and operationalised the land restitution process. Another field site was that of the claimant 'community' as claimants came together in meetings and activities related to the processing of their land restitution claim. There I also observed and participated as well as interviewed people from the community, both key actors directly involved in 'managing' the claim as well as ordinary rank-and-file community members. I discuss the problematic notion of 'community' in Chapter 6.

Throughout the research I also studied 'inward', reflecting critically on the social context in which I was conducting my fieldwork, on the personal relationships I established, on the power relationships in which I moved, and on the 'applied' and 'academic' contexts in which knowledge was produced.

3.3 ETHICAL RESPONSIBILITY

The reputation of the discipline of anthropology is involved in every relationship and dealing between anthropologists, their 'clients' and 'subjects'. Therefore, applied anthropologists must always be aware of their professional ethics. Indeed, ethics pervade every stage of the research, from its conceptualisation to its finalisation (Chambers, 1985; Fetterman, 1989). When conducting the preliminary work for the Commission prior to my appointment, I became acquainted with the Commission and a number of Ndabeni claimants. I therefore had a reasonably clear idea of what I was letting myself in for, both professionally and ethically, when I agreed to undertake contract work for the Commission.

In my case, two areas of ethical responsibility warrant attention. The first concerns my ethical responsibility to my 'client'. The Commission invited me to work for them with a set of expectations which I was being paid to meet. The major expectation was that I provided them with a useful product: one that was relevant, important, and credible. To do so required of me an understanding of research methods and strategies as well as knowledge of the process of land restitution, which I have sought to demonstrate in this dissertation. It also required that I recognise the limits of my research: that I explained to the Commission when anthropological research into a particular topic would be an unproductive way of spending time and resources (for example, on particular details of the City Council's housing policy which were marginal to my purposes yet important for the Commission otherwise).

The second concern is my ethical responsibility to the 'subjects' of my research, the Ndabeni claimants. Given the detailed personal and financial data I was collecting - especially for the compilation of a socio-economic profile of the claimant population - it was imperative for me to ensure that such information remained as confidential as possible. However, after 'handing over' the data to the Commission, I no longer had control of the data or its (mis)use. Yet, losing control over the use of data made more or less publicly available is common to most anthropologists (Chambers, 1985).

3.4 COLLABORATIVE RESEARCH

Working both collaboratively *and* co-equally with a fellow anthropologist on the *same* research project appears to be a rare feature in anthropological research. However, for me it proved to be a very worthwhile and valuable experience. Before, during and after my internship with the Commission, I worked very closely with my colleague, Jenni Gordon, as we conducted almost all our research together, except for some archival research and a few interviews, and wrote up our findings together. Both our working and our personal relationships were amenable to conducting our research 'in tandem', and the benefits of this to our work and field experience were manifold.

Firstly, we were able to continually analyse, discuss and reflect upon a range of issues, as we searched for clarity and meaning in the complex processes we were observing and participating in. Remarks, attitudes, body language, action or inaction of key informants or role-players were all scrutinised for clues. Just when we thought we had 'deconstructed' and analysed the personalities or hidden agenda of role-players, our understanding would be challenged by the shifting, fluid contexts of the claims process.

Secondly, we were able to motivate each other out of exhaustion. For almost six months, we were completely immersed in the research for the Ndabeni Land Restitution Claim. We lived, breathed and dreamed land restitution. Given our brief and the 600+ Ndabeni applicants with whom we were dealing, the tasks would have been impossible to complete single-handedly within the limited time frame of the Commission and the conditions set by the Department of Social Anthropology, University of Cape Town, concerning our internships (conditions of which we stretched the limits considerably by undertaking such long internships).

Therefore, while collaborative, co-equal research relies fundamentally on similar dispositions, it offers substantial benefits and opportunities to reflect critically and dialectically on the production and communication of socially useful knowledge from applied anthropological research.

This chapter has addressed the issues which informed my methodological preoccupation and formed part of the background to my research. In Part III which follows, I turn to the background and composition of South Africa's land restitution programme and to the historical background of the Ndabeni Land Restitution Claim.

PART III HISTORICAL BACKGROUND

Before introducing the circumstances of the Ndabeni Land Restitution Claim which caused the Commission to seek anthropological research assistance, it is appropriate to review the process of land restitution in South Africa, its legal basis and procedures.

4. LAND RESTITUTION IN SOUTH AFRICA

Following the election in 1994 of the first democratic South African government, the Department of Land Affairs (hereafter 'the DLA') launched a comprehensive land reform programme as part of a national process of reconciliation, reconstruction and development. Land restitution forms a major component of the reform together with land redistribution, land tenure reform and settlement support.

The Commission on Restitution of Land Rights was established under the *Restitution of Land Rights Act No.22 of 1994*. Its staff took office on 1 March 1995. The Commission is set to end its proceedings in the year 2000, although operational difficulties within the Commission suggest that the process may have to continue long beyond this date before all claims are resolved.

The Commission's task is to provide for restitution for individuals who, and communities which, were dispossessed of their rights in land under racially based discriminatory legislation and practices by South African governments after the promulgation of the Native Land Act on 19 June 1913 and did not receive just and equitable compensation. Most claims for restitution arise from explicitly racially discriminatory legislation, but other seemingly race-neutral laws were also used to effect racial zoning, and claims arising from these may also qualify for investigation by the Commission (Department of Land Affairs, 1997).

Claims may be lodged until 30 April 1998 by individuals and by groups of people identifying themselves as 'communities'. Once a claim is lodged and accepted as

legitimate by the Commission, its staff will research the historical circumstances of the dispossession. They will also establish the expectations and positions of the interested parties to the claim (those directly affected by the dispossession and those directly affected by the restitution) in terms of the restitution sought. The Commission then attempts to facilitate a negotiated settlement which it can then refer to the Land Claims Court for ratification. In cases where no agreement can be reached, the Land Claims Court has the authority to arbitrate (Department of Land Affairs, 1997).

Reparations for loss of land rights, as determined by the Land Claims Court, may take several forms. If feasible, the Court may order restitution of original land rights (restoration). Alternatively, other land or monetary compensation may be provided, or a combination of any of these. Compensation may also take the form of priority access to government housing and land development programmes. In cases where land is expropriated for purposes of restitution or compensation, the land owners whose land is expropriated are entitled to "just and equitable" compensation (Government of South Africa, 1996(a): Section 25 (3)). The DLA is responsible for implementing and monitoring court orders and may assist claimants further with grants for settlement and development of land provided for their occupation (Department of Land Affairs, 1997).

Given the extent of dispossession during Apartheid, there could be over 3 million potential claims (Human Rights Committee, 1996). So far only a fraction of this number of claims has been lodged with the Commission, let alone settled. By August 1997, approximately 16 700 claims had been lodged nationwide (*Cape Argus*, 26 August 1997). Almost 80% of claims lodged concern urban areas while 20% are rural land claims (Department of Land Affairs, 1997). By April 1997, only eight claims had been submitted to the Land Claims Court for settlement (Commission on Restitution of Land Rights, 1997). Only two community claims have been settled, namely Elandskloof in December 1996 and Brandwacht, 1997. This suggests, among other things, that the purpose and procedures of the Commission have not yet been

effectively communicated to people who were dispossessed, especially in rural areas, who may consequently be unable to take part in the process.

Among the claims which have been lodged, the Commission may prioritise its processing of claims which affect a large number of people. Claims from urban communities such as Alexandra in Johannesburg, Cato Manor in Durban, District Six and Ndabeni in Cape Town, have been prioritised because the rulings by the Land Claims Court in these particular cases will set precedents for subsequent urban community claims. Also, their resolution is expected to contribute substantially to socio-economic upliftment among the claimant populations and to the national process towards reconciliation. According to the DLA, urban land restitution provides "the opportunity to initiate a process of healing, re-integrating and reconstructing the cities and towns that still bear the scars of racial zoning" (Department of Land Affairs, 1997:58).

Despite their rhetoric, the DLA, the Commission, local municipalities and other role-players have still only vaguely articulated their policies on urban land restitution. The four above-mentioned claims have proven that the land restitution process is particularly complex in urban areas. Land ownership and patterns of land use have almost everywhere changed since the time of forced removal and dispossession. Restitution of original properties may therefore not be possible. Another complicating factor in the resolution of urban claims is the need to balance demands for individual justice (the claims of the dispossessed) with broader needs for social justice (the urgent need for urban housing and development). Across South African cities, a process of urban development and upgrading of informal urban settlements is taking place simultaneously with the land restitution process. The integration of the two in their planning and implementation will prove crucial to the success of each process.

The Ndabeni Land Restitution Claim was the first urban community claim lodged in the Western Cape. According to the Commission, the Ndabeni restitution process is

as historically significant as that of District Six. Commission staff believe that it will serve as a reminder that the origins of Apartheid's racial segregation may be found in the urban policies of the authorities in the so-called 'liberal' Cape Colony many years before Apartheid. Perhaps more importantly, it will also confirm the historical existence of a permanent African population in Cape Town.

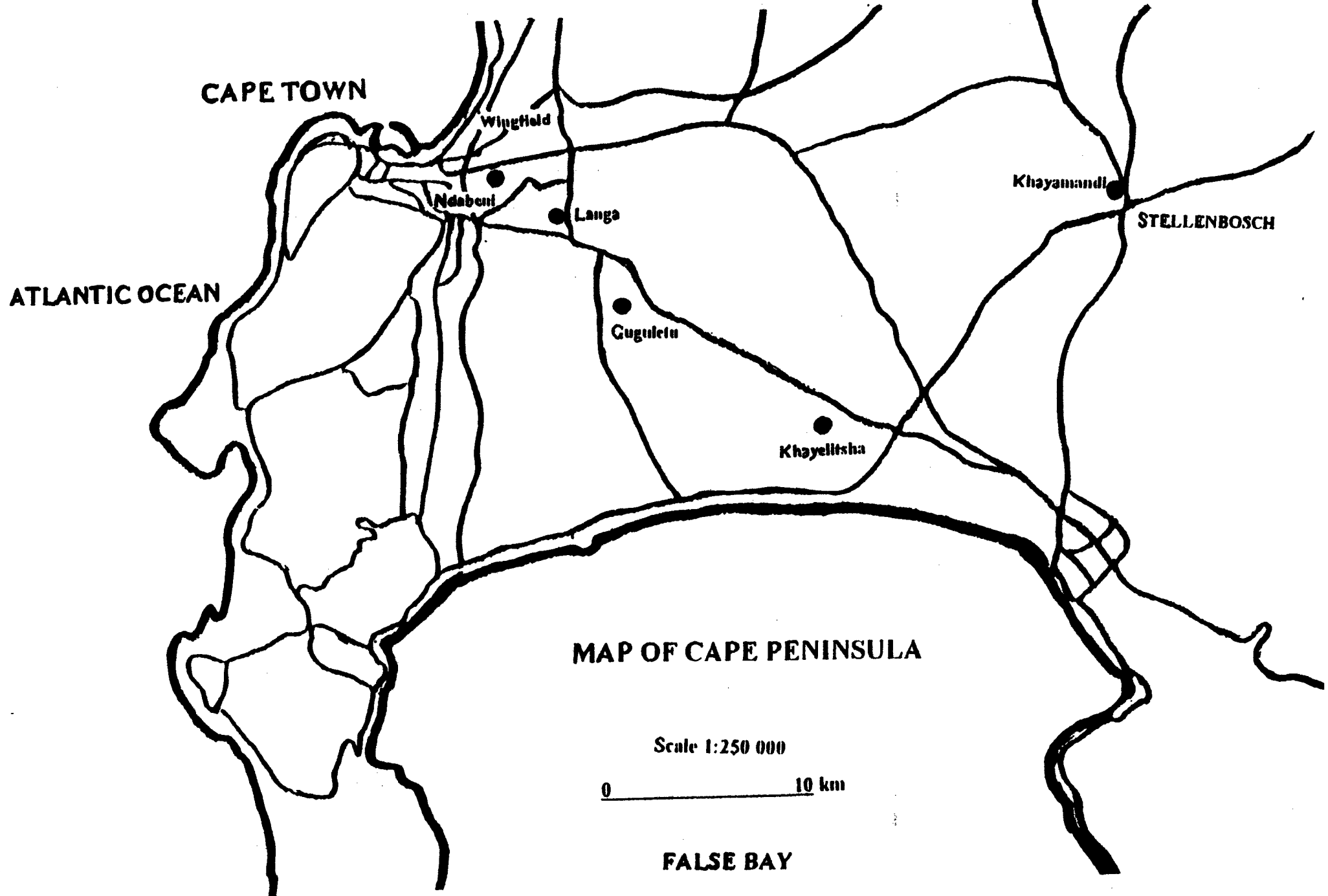
To illustrate the basis of the Commission's beliefs, I now turn to a brief exposition of the historical circumstances of the Ndabeni case.

5. HISTORICAL OVERVIEW OF NDABENI

The Ndabeni Land Restitution Claim is based upon the forced removal and dispossession of land rights suffered by the residents of Ndabeni in Cape Town between 1927 and 1936. The following overview of the historical context of the dispossession will clarify the motivation for the claim. It is based upon the detailed chronicle of events which my colleague and I compiled for the Commission on Restitution of Land Rights as part of our brief, and which is appended to this dissertation (Appendix 1). It is therefore based upon research in the archives of Cape Town and Pretoria, in the libraries of Cape Town, and upon the testimonies of claimants seeking reparations through the Ndabeni Land Restitution Claim.

5.1 THE ORIGINS OF NDABENI

After an outbreak of bubonic plague in 1901 among African workers at the Cape Town docks, the authorities used public (i.e. white/European) fears of epidemic disease and chaotic sanitary conditions to justify residential segregation according to race. Ndabeni was thus established on what were then the outskirts of the city (see map on next page). The settlement was controlled by the Cape Government in 1902 as a location in which all Africans in Cape Town (with few exceptions) were legally forced to reside. Job opportunities and regulations controlling the movement of Africans changed as the authorities sought to manage a newly industrialising society and maintain social control. The population of Ndabeni fluctuated accordingly. A floating population of migrant workers from rural areas raised the number of residents in the early years to 6000-7000, but economic recession in the Cape during the mid 1910s forced many men to travel to mines in the Transvaal for work, lowering the figure substantially (Davenport, 1971; Saunders, 1984(a); Swanson, 1995). Nonetheless, a number of permanent residents, identifying themselves as urban Africans, lived in Ndabeni for a period of 20-30 years. These residents (or their descendants) now comprise a core group of the claimants seeking restitution.



5.2 DIVERSITY AND UNITY

Heterogeneity was a defining feature of the Ndabeni population. According to official classifications, there were African as well as Coloured and Asian residents; they differed among themselves according to class, employment status, income, history of urban residence, and quality of accommodation. For many years, accommodation in some areas of Ndabeni was characterised by poverty, overcrowding and dilapidation. However, in 1919, the Acting Secretary for Native Affairs, Mr E Barrett, reported that residents areas of Ndabeni had “shown decided improvement in their homes.[...] Their houses in many cases are well kept, nicely furnished, have proper bedsteads, and are run very much along European lines” (*Cape Times*, 20 June 1919).

Historical records and testimonies from present claimants confirm that, despite the heterogeneity and poverty,

here was a strong sense of community, of unity of spirit, which was expressed in the social support networks and reciprocal, interdependent relationships between neighbours and friends. Despite...the unstable socio-economic and political context in which they lived, “the spirit of *ubuntu* flourished” (X.M. 63-year-old descendant of Ndabeni resident)” [...] Despite even leisure time being regulated by the authorities under the Ndabeni Location Regulations, the residents...were able to create a vibrant and dynamic community (Gordon and Broadbridge, 1997:3).

A low cost of living, especially in terms of rent, transport and food, and an active religious and political life are characteristics of Ndabeni which claimants today remember with much happiness. However, these very features contributed to the closure of Ndabeni and the forced removal of its residents.

5.3 TRANSFER OF AUTHORITY OVER NDABENI

The 1918 influenza epidemic killed 254 residents at Ndabeni and directed the attention of authorities to the inadequate housing facilities at Ndabeni (Saunders,

1984(b)). The Cape Town City Council blamed the neglect on the National Government which, as 'landlord', was too distant to effectively manage Ndabeni. The Government responded that, since Ndabeni was a reservoir of labour for the municipality, its administration should be undertaken by the municipality. This idea contributed to the formulation of the *Natives (Urban Areas) Act No.21 of 1923* and its application in 1926 to Ndabeni (Hellmann, 1949; Davenport, 1971; Saunders, 1984(b); Swanson, 1995).

The transfer of control and administration of Ndabeni from the National Government to the City Council took four years of negotiations and a series of Government Proclamations. By 1926, the City Council had the legal authority under the *Natives (Urban Areas) Act* to implement plans to change the urban landscape of Cape Town. Ndabeni was considered to be encroaching on both industrial development areas and on areas for European (white) residence. The City Council therefore set out to close Ndabeni over a two year period and move its residents to a new 'township' called Langa, located a further five kilometres from Cape Town. The land at Ndabeni would be sold to industry to recover the City Council's costs of closing Ndabeni and establishing Langa (Saunders, 1984(b)).

5.4 RESISTANCE TO FORCED REMOVAL

However, the City Council's plans were met with such ardent and continuous resistance from residents that it took over ten years for the Council to achieve its aims. The residents objected on economic grounds because rent, transport and other living expenses were substantially higher in Langa. They felt that the Council deliberately criminalised the residents by forcing them to live in Langa where the non-payment of the Council's unaffordably high rents was punishable by jail, and also criminalising those who stayed on in Ndabeni merely for doing so (*Cape Argus*, 19 August 1929 and 20 May 1930).

They also objected on social grounds because the removal meant the dispersal and dislocation of the established community. Accommodation in Langa was allocated at random by the authorities, in houses which were too small to accommodate

extended families. Single men were moved to Langa separately, and prior to families being moved: "If they want to send us to Langa, they must move us together and not the young men first, who are our children" (*Cape Times*, 11 May 1931). The practice caused a breakdown in both social and financial networks of support.

Finally, residents objected to the Council's underlying racial motives:

It would appear...that if some mysterious arrangement could be devised whereby only [African] hands could be daily brought to town for purposes of labour, and their persons and faces not seen at all, that would perhaps suit their white masters better. (*Cape Times*, 9 November 1919, quoted in Gordon and Broadbridge, 1997:9)

Overall, the residents objected to being forcibly uprooted, and they resented the City Council's disregard for the concerns of the people whose lives were directly, and negatively, affected by the Council's actions.

5.5 THE CLOSING OF NDABENI

Residents challenged the right of the City Council to forcibly remove people from Ndabeni to Langa, exposing weaknesses in the 1923 legislation and thereby maintaining their right to remain in Ndabeni. Not to be beaten, the City Council requested the Government to amend the *Natives (Urban Areas) Act of 1923* in a bill specifically designed to confer upon the City Council the power to remove people by force (Saunders, 1984(b)). The passing of *Amendment No.25 of 1930 to the Natives (Urban Areas) Act No.21 of 1923* reflected a hardening of the view among the majority of Europeans/whites that "the urban area is to be regarded as an enclave where the European interest is paramount and within which the Native may only be permitted more or less on sufferance" (Hellmann, 1949:233).

As the Cape Government had done thirty years earlier, the Cape Town City Council utilised public fears of epidemic disease to legitimise the forced removal, by evicting residents in Ndabeni on health grounds. By February 1936, Ndabeni had been cleared and its buildings demolished (Saunders, 1984).

PART IV

THE NDABENI LAND RESTITUTION CLAIM

In this part of my dissertation I present an ethnographic and reflexive account of the passage of the Ndabeni Land Restitution Claim through the Commission on Restitution of Land Rights, Cape Town. First I introduce details of the application itself and of the early negotiations which took place with the Commission (Chapter 6). Already then did the notions of 'community' and 'participation' reveal themselves as problematic in the processing of the claim and I therefore address these problems here. In Chapter 7 I proceed to discuss in detail the tasks necessary for the completion of the first component of my brief: compiling a comprehensive list of eligible claimants. Chapter 8 examines the choices of compensation and explains the different preferences expressed by applicants. Finally, in Chapter 9, I examine the reasons for a breakdown in negotiations which marked the last stage of the claim's passage through the Commission.

6. THE EARLY STAGES OF THE CLAIM

This chapter introduces the application for restitution which was lodged by a group of people identifying themselves as the Ndabeni Community. I describe the early research and negotiations which took place prior to my involvement with the claim. As mentioned above, the notions of 'community' and 'participation' are frequently problematic. Their application in the Ndabeni Land Restitution Claim is discussed through an exposé of an attempt by a particular interest group to steer the process in the direction of sectional interests.

6.1 THE APPLICATION FOR RESTITUTION

The Ndabeni Land Restitution Claim was lodged with the Commission on Restitution of Land Rights, Cape Town, in June 1995 by a group of former Ndabeni residents and their descendants. Their claim is for restitution of a right in land which they, as a community, lost under the *Natives (Urban Areas) Act of 1923* and its 1930 Amendment. The applicants did not ask for restitution in the form of

restoration, because they realised that Ndabeni is now an industrial estate. Instead, they asked for a piece of land in the same area, presently called Wingfield (see map page 24), where they can resettle and rebuild the community they lost in the forced removal.

The Ndabeni application was accompanied by a list of 106 people who, at the time, formed the 'Ndabeni community' in whose name the claim was lodged. A committee was elected by the 106 applicants to represent the community in negotiations with the Commission on Restitution of Land Rights, the DLA and other role-players. According to the Commission, the committee was *interim*. However, committee members did not regard it as such, and the committee's status became a major source of friction between the *interim* Committee and the Commission. I shall revisit this issue in Chapter 9.

6.2 INITIAL NEGOTIATIONS

The passage of the claim may be viewed as having undergone a series of phases. The first phase began in July 1995, when the claim was preliminarily investigated and declared valid by the Commission.

The claim moved into its second phase when, by the end of 1995, it became clear that the piece of land (Wingfield) identified by the applicants as their desired compensation was also earmarked for the Cape Town 2004 Olympic Bid as a venue for the Games, should Cape Town win the bid. A mediator was appointed jointly by the Commission and the *interim* Committee to moderate negotiations between the Commission, the Olympic Bid Committee, and the claimants. Successful mediation ensured that by the September 1996, there was no longer a "conflict of interest" between the parties since the claimants' interest in the land could be accommodated by the Olympic Bid.

At the same time, the Commission realised that its own researcher was unable to adequately research the claim further due to a heavy workload as well as problems in negotiating the complexities and sectional agendas of the claim (discussed further

below). Additional research assistance was sought, and my colleague and I were brought in by the Commission as *ad hoc* researchers (see Chapter 2 on Research Arrangement) for what became the third phase of the claim. I return to the activities of the third phase in Chapters 7 and 8.

6.3 DECONSTRUCTING 'COMMUNITY' AND 'PARTICIPATION'

Meanwhile, it is necessary to dwell briefly on the notions of 'community', 'sectional interests' and 'participation' in order to understand their manifestation in the passage of the Ndabeni Land Restitution Claim (see especially Chapter 7, 8 and 9).

6.3.1 'COMMUNITY'

For its purposes, the *Restitution of Land Rights Act of 1994* defines a 'community' as "any group of persons whose rights in land are derived from shared rules determining access to land held in common by such group" (Government of South Africa, 1994). A community is therefore only considered in terms of a shared relationship to a particular piece of land. Moreover, the relationship is presented as unproblematic. In reality, the vague notion of 'community' tends to mask local heterogeneity. A 'community' often comprises different groups whose interests, views, preferences, priorities and needs may vary substantially depending on, for example, age, gender, social group, poverty and wealth, education, livelihood strategy, types of assets, capability and disability. Different interest groups hold different kinds of power and some interest groups may be more 'visible' than others (Gardner and Lewis, 1996; Chambers 1997).

During my research, I spent a substantial period of time in the present residential neighbourhoods of various claimants (primarily in Langa, Guguletu and Khayelitsha), walking from house to house to inform people of the Ndabeni land restitution claim and advertising the registration offices, visiting over one hundred homes to obtain more information on claimants, working closely with the people who assisted in the claimant registration offices. I was able to observe the diverse living conditions and listen to how a sizeable number of claimants understood the processing of the Ndabeni Land Restitution Claim and what they expected to gain from it, both as individuals and as a 'community'. Through my observations of and

interactions with claimants, I was able to establish the type and extent of socio-economic diversity among claimants and clarify the variance in their expectations and responses to the Ndabeni Land Restitution Claim. The heterogeneity of claimants will be further illustrated below and again in Chapters 8 and 11.

Ndabeni claimants shared a common interest in terms of applying, and receiving compensation, for lost land rights. Those common interests guided their conceptualisation as a 'community', both by themselves and by the Commission on Restitution of Land Rights. Indeed, as I show below, the majority of claimants applied for the same type of compensation, namely resettlement as 'a new Ndabeni community' on land held by the community. However, as mentioned above, their different individual circumstances also led to different expectations of both the processing of the claim and its material outcome. Therefore, until the differences had been identified and analysed, the commonality or consensus implied in the notion of 'community' could not be assumed.

6.3.2 SECTIONAL INTERESTS

The Chairperson of the *interim* Ndabeni Land Restitution Committee was a prime driving force in building support for the idea that a claim must be lodged with the Commission on Restitution of Land Rights for compensation for lost land rights. He worked hard to organise the lodging of the Ndabeni Land Restitution Claim in June 1995, and he had a clear objective of what must be achieved, both for the 'community' and for himself. As time went by, his concern appeared to focus increasingly sharply on the benefits for himself and his equals. His sectional, and personal, agenda revealed themselves on a number of occasions during the claim's passage through the Commission.

Before describing these incidents, it is important to sketch the broader, historical context in which the Chairperson and his cohort found themselves. They were primarily first generation descendants of people who had been removed from Ndabeni to Langa. With many Ndabeni residents being educated, skilled and permanent residents of Cape Town, Langa became the home of 'respectable, middle-

class, urban Africans'. But the diversity of socio-economic circumstances in Ndabeni (see Section 5.2) continued in Langa. A study of Langa in the 1950s by Wilson and Mafeje (1973:7) found that,

many middle-class African families find themselves compelled to bring up children in a street in which their neighbours have totally different standards of hygiene, manners, and morals. This is a source of great anxiety and frustration.

The aspirations of many present Ndabeni claimants, including the majority of *interim* Committee members, remained middle-class. Most of them were primarily white-collar workers (or had been so prior to becoming pensioners), who appeared to have broken away from poorer neighbourhoods to reside in better-off areas of the townships or had moved to suburban housing estates. The Chairperson of the *interim* Committee several times expressed his belief that, had it not been for the segregationist and discriminatory laws of Apartheid, middle-class people from Ndabeni could now have been residing in the high-income neighbourhoods of Bishopscourt, Constantia and Kirstenbosch.

Bearing this in mind, it is perhaps not surprising that the economically better-off sections of the Ndabeni claimant population asserted particular interests during the claims process which appeared to prejudice the poorer sections. On several occasions, he and a fellow *interim* Committee member spoke to us of their resentment that certain people had registered under the Ndabeni Land Restitution Claim. Even though these applicants qualified for compensation under the Ndabeni claim, the Chairperson and his committee colleague said that the applicants were rural people who now lived in shacks in the townships and who did not belong in the Ndabeni community: "We do not drink from the same cup as these rural people", they said and expressed their desire to ensure that each person who applied for resettlement with the 'new Ndabeni community' was "one of us". While the viewpoint was articulated in such oppositional terms, it may in fact merely reflect a broader uncertainty about a frequently assumed commonality between urban and rural Africans. In this respect the *interim* Committee members may have been acting

against essentialist assumptions which conflate such diversity, and which they saw reinforced - to their detriment - in the processing of the Ndabeni Land Restitution Claim.

Another occasion at which sectional interests were powerfully expressed by the Chairperson took place during the first week of opening the registration office in Langa. The Chairperson came up to the desks where my colleague and I were taking down the personal details, testimony and request for compensation of two claimants. At the end of the forms, we had to complete with applicants, they were asked to express their wish for particular services and facilities which they would like to see in the new Ndabeni 'community'. The Chairperson peered over our shoulders and was very upset to see that the people had not asked for a frail care centre. He shouted at us that we must tell the applicants to request a frail care centre. He then walked out. While the incident confounded my colleague and me, it clearly intimidated several of the applicants present. As a man approaching retirement age himself, he was evidently seeking to lead the interests of others towards securing particular services of interest to himself and his age-peers.

The event which most clearly illustrated the Chairperson's personal agenda was his unilateral decision to establish a Trust to hold the land which the Land Claims Court was expected to grant the community in compensation. He hired a lawyer to draw up a constitution for a Trust which placed him in a very powerful position, effectively in control of the land and its development (the constitution had yet to be finalised by the end of my research). Until that point, all role-players in the claim, including other members of the *interim* Committee, had shared an explicit understanding that the land would be held by a representative and democratically elected Communal Property Association. The Chairperson's decision eventually caused a breakdown in negotiations between the *interim* Committee and the Commission. I revisit the incident in Chapter 9.

These examples led us to conclude that the Chairperson was not the appropriate person to represent the interests of the broader, poorer section of the 'community' but rather the interests of a narrower, better-off group of people.

The complexities inherent in the notion of 'community', and the manifestation of sectional interests described above, have particular implications for the notion of 'participation'.

6.3.3 'PARTICIPATION'

Staff of the Commission on Restitution of Land Rights regularly speak of 'community participation' in the processing and resolution of claims, and even that the process must be 'claimant-driven'. However, for participation to be effective, a number of actions are required. Firstly, the opposing interests within the 'community' must be disentangled. Secondly, the rhetoric of participation must be substantiated by a practical "coming together around common interests, recognising and supporting diversity, complexity and multiple realities to empower those who are weaker and excluded" (Chambers, 1997:187). This implies that participatory rhetoric does not simply legitimise a 'project' such as the Ndabeni Land Restitution Claim by obtaining the approval of key people in the community without ensuring that the interests and needs of the less powerful sections of the community have been heard, addressed and incorporated. Nor should participatory rhetoric simply provide an opportunity for particular interest groups within the community to control the processing of the claim or its resolution, when their agenda might skew benefits towards particular sections of the claimant 'community', as described above.

While my colleague and I set out to work as closely as possible with the Chairperson, we experienced difficulty in establishing a relationship of trust and co-operation between him and ourselves. We arranged a series of meetings with him to discuss the claim and how we could assist each other in the process. He regularly cancelled the meetings, turned up very late with no apology, or did not turn up at all.

We found it necessary, therefore, to seek ways of negotiating around the Chairperson and interact directly with those claimants with whom we had continuous and close contact throughout our research. We worked particularly closely with three women, two in their early 70s and one in her late 50s, and two men in their early 60s. The three women were members of the *interim* Committee. To begin with they were very quiet and passive at the meetings where the Chairperson was also present. However, by sharing information and resources directly with them, we were able to encourage their increased participation in the process. The Chairperson was clearly perturbed by our interaction with the women, as he would regularly telephone us to enquire about our liaison with them.

Indeed, we struggled to deal with the Chairperson's arrogance and male chauvinism. He frequently patronised both us and the female members of the *interim* Committee. On one occasion, a female committee member expressed her disappointment at not being informed of an important meeting. The Chairperson replied, "Believe in me, ---, and you will never be thirsty again. God will help you through me", and he continued that she must not worry about attending meetings on the Ndabeni Land Restitution Claim. Again, we regarded his palpable disrespect for gender equality as a demonstration of his inappropriate positioning as representative of the interests of the broader section of the claimant 'community' of which women comprised the majority (see Appendix 1, page 27).

Given the hazards referred to above, the practical implications for both the 'community' and the Commission of 'community participation' in the land restitution process are notable. While some staff at the Commission on Restitution of Land Rights tried to put rhetoric into practice, others appeared more apprehensive. Indeed, effective 'community participation' is both time-consuming and troublesome. It involves lengthy discussions and transparency, and it requires institutional deadlines and agenda to be flexible and inclusive. The discourse of 'community participation' may bring ideological legitimacy to the land restitution process. Yet the practical implications referred to above suggest that participation

may easily feed back into existing practices of top-down management and “become neutralised by the dominant discourse” (Gardner and Lewis, 1996:113). These issues will be re-visited in my reflections below on later aspects of the claims process. I begin by discussing the first challenge of compiling a list of eligible claimants.

7. COMPILING A LIST OF ELIGIBLE CLAIMANTS

The claim entered its third phase as we set about completing our tasks in preparation for the claim's referral to the Land Claims Court. One such task was to compile a list of people who were eligible to claim restitution. The list must be accepted by the Land Claims Court as sufficiently representative of the number of survivors of the removal from Ndabeni or their descendants. In this chapter I discuss the challenges of locating and registering these people as well as establishing whether or not they were eligible for compensation.

During October 1996, a fieldworker from the Commission, my colleague and I opened and staffed a small, cold office in Langa for a week. The purpose was to allow the 106 people listed on the application to register formally as well as to solicit further applicants to come forward. We used a questionnaire devised by the fieldworker to record personal details and testimony of the circumstances of dispossession as well as their request for compensation. The questionnaire proved to be technically inadequate, as it did not allow us to ascertain the eligibility status of the applicant. I will explain why and how my colleague and I re-designed the questionnaire in Section 7.2. Meanwhile, it is necessary to examine the criteria for being an eligible claimant.

7.1 ESTABLISHING THE ELIGIBILITY OF CLAIMANTS

A major challenge in establishing the eligibility of claimants was caused by the fact that a substantial proportion of claimants were second or third generation descendants of the person who originally lost the land right in Ndabeni (see Chapter 5's Historical Overview of Ndabeni). It was therefore necessary to establish the genealogies of all claimants to ascertain their eligibility status. But according to what criteria would applicants qualify?

Firstly, it must be established who lost the right in land. According to the *Restitution of Land Rights Act, 1994*, a

“right in land” means any right in land whether registered or unregistered, and may include the interest of a labour tenant and sharecropper, a customary law interest, the interest of a beneficiary under a trust arrangement and beneficial occupation (Government of South Africa, 1994:Section 1).

We therefore asked people, ‘who rented the house in Ndabeni?’ as this was likely to elicit the name of the person who lost the primary right in land.

Secondly, the relationship of descent between the person who lost the land right and the person applying for compensation must be established. The *Restitution of Land Rights Act, 1994* offers no definition other than “‘direct descendant’ of a person includes the spouse or partner in a customary union of such person whether or not such customary union has been registered” (*ibid*). The majority of claimants stated that the person renting the house in Ndabeni was their father or mother. If the parent and his/her spouse were deceased, the applicant would therefore be eligible for compensation, because the forced removal effectively disinherited the applicant of a land right. The applicant’s siblings (i.e. same generation descendants) would also be eligible. The applicant’s children would not qualify as legitimate claimants because they had not yet been disinherited of a land right. However, they would be classified as ‘beneficiaries’, referring to members of a legitimate claimant’s household who were not eligible in their own right but who might ‘benefit’ from the restitution granted to the legitimate claimant.

Thirdly, it must be established when the right in land was lost. According to the *Restitution of Land Rights Act, 1994*, the right in land must have been held “for a continuous period of not less than 10 years prior to the dispossession in question” (*ibid*).

However, already on the first day of registering claimants it became clear to us that neither criterion was as straightforward as the Act made it out to be. In terms of the third criterion, claimants who stated that they or their antecedents had lived in Ndabeni for less than 10 years were technically not eligible for compensation. However, few people could remember the exact number of years. My colleague and I searched in vain for complete official or unofficial lists of residents in Ndabeni for any given year which would assist us in verifying the length of residence in question. After discussions with Commission staff, we concluded that official verification of the number of years would be near impossible to ascertain. We suggested that an approximation might be reached with the help of former Ndabeni residents who are still alive. In the few cases where we doubted an applicant's answer, we left it to the Land Claims Court to judge the eligibility.

The second criterion presented the biggest challenge. Who is a 'direct descendant'? Although making allowances for partners of unregistered customary unions, the *Restitution of Land Rights Act* appears to derive its understandings from Roman-Dutch law where consanguineal relations define direct descendants. It does not provide any guidance as to whether and how different conceptualisations of kinship/descent relations might be accepted as qualifying for restitution. For example, a number of applicants had been informally adopted by the person who lost the land right. These applicants would not qualify unless the criteria were expanded to include locally-appropriate understandings of descent which were sensitive to the socio-cultural experiences of the applicants.

The Commission itself could not provide us with clear guidelines on the issue and suggested that we devise a series of permutations of kinship scenarios to assist in clarifying the matter (see Appendix 9). After presenting our examples to Commission staff we established the following criteria of eligibility:

Criteria of Eligibility

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

The above criteria of eligibility seemed operable in the context of the Ndabeni Land Restitution Claim as we were able to establish the status of almost every applicant. Ultimately, the Land Claims Court must rule on the eligibility of claimants. However, official verification must rely heavily on 'community verification'. This refers to the process whereby the names of all applicants are made public and objections to the presence of a person are made to the Commission. A meeting is then held by the Commission where the person objecting must explain his/her reasons for doing so, while the person objected to has an opportunity to defend his/her right to apply for compensation under the Ndabeni Land Restitution Claim.

7.2 THE QUESTIONNAIRE

Given our clarification of the criteria for eligibility, we could no longer justify using a questionnaire which was technically unable to establish the necessary genealogical information. The questionnaire was also inadequate on other grounds. This section explores the task of re-designing the questionnaire to be more effective in obtaining the information we were seeking.

As stated above, the initial questionnaire (Appendix 7) had been compiled by a staff member of the Commission and was ready for use when my colleague and I began our initial research in the claimant registration office. However, the defective structure of the questionnaire forced us to make numerous *ad hoc* adaptations to the

extent that we were recording important information in the margins of the questionnaire. Apart from the shortcomings in terms of genealogical information, we were also unable to record the data necessary for us to compile a socio-economic profile of the claimant population. To do so we needed to ask far more detailed questions, especially about applicants' present accommodation, employment status, household members, and income, and to provide more space on the form for the information to be recorded.

We immediately expressed our concerns on the matter to the Commission (see Appendix 3) and offered to re-design the questionnaire to elicit the necessary information (see Appendix 8). We structured our questionnaire so that some sections contained closed or fixed-alternative questions, allowing us to record particular data which could be entered onto a data base. Other sections contained open-ended questions which encouraged the applicants to supply information about the personal or familial circumstances and experiences of forced removal from Ndabeni. They were able to do so in their own words and according to what they considered important to relate. The questionnaire was translated into Xhosa, and presented to the Commission by early November 1996, to replace the original questionnaire.

While we sought advice on the formulation of the questionnaire from members of the Ndabeni Land Restitution Committee, and while we pilot-tested the more difficult sections of the questionnaire, it remained flawed. Our initial aim was to make a 'mobile' questionnaire, one which would not require us or our trained assistants (see Section 7.6 on Research Assistants) to be present for its correct completion. However, the challenge of explaining the complex criteria of eligibility (see above) in order for applicants to trace their relationship with their Ndabeni ancestor proved unwieldy. It caused us to revise our aim and settle for a less than ideal questionnaire which may be 'mobile' among people with more than a basic education while others may still require guidance with its completion.

7.3 THE SEARCH FOR MORE CLAIMANTS

By the end of our first week of work, we had registered approximately 200 applicants, some of which were among the original 106 applicants. Given the number of people estimated to have been forcibly removed from Ndabeni, the Commission expected a higher number of claimants to register. We identified several reasons for the disappointing response: Firstly, we recognised a lack of publicity from the Commission (little media coverage and few posters or flyers distributed). Secondly, the registration in Langa involved substantial travel expenses for some people (potential applicants were scattered across the Cape Flats and in areas as far as Stellenbosch). Thirdly, a misunderstanding existed among some of the 106 original applicants that their original signatures were sufficient registration, and that they were not required to visit the office and provide more information.

At the end of October, we submitted a report to the Commission with our concerns about how the registration of applicants was being managed (Appendix 3). We held several discussions with the Commission and with a number of applicants on how to address the issues we had raised. The problems included how to locate, inform and register more people, including those whom other applicants had identified as eligible for compensation. A week later we submitted a formal proposal of a set of tasks which we believed would take the claims process forward to a successful and timely resolution (see Appendix 2). This was the same time as our submission of the re-designed questionnaire discussed above.

At a meeting with the Commission in November 1996, my colleague and I therefore presented our proposal to the *interim* Committee. The plan was to implement a broad publicity campaign and then to re-open the office in Langa and to open new offices in Guguletu, Khayelitsha and Khayamandi (Stellenbosch) for three weeks during December 1996, January and February 1997 (see map on page 24). With the approval of all parties, we embarked on an intense period of publicity, organising office space, finding and training assistants to staff the offices, and preparing a questionnaire in English and Xhosa.

7.4 ORGANISING CLAIMANT REGISTRATION OFFICES

The first priority was to organise office space for three weeks. Since the Commission was unable to fund the hiring of such space, we had to find free, temporary office spaces which were nevertheless located fairly centrally for people. Again in consultation with claimants residing in the above-mentioned localities, we found facilities which suited our purpose (see Appendix 6). Once we had explained our cause, the owners were more than willing to help. We then ensured that the offices were made as welcoming as possible. This included providing sufficient seating for applicants queuing, and hanging up enormous banners announcing the presence of the Commission on Restitution of Land Rights.

7.5 PUBLICISING THE CLAIM

Having organised the offices, we could now proceed with our second task which was to increase publicity around the Ndabeni Land Restitution Claim and the opening of the offices. We were concerned that previous publicity - however limited - had been overly formal and sometimes contained misleading or even incorrect information, for example, about the office venue and about criteria of eligibility. We therefore sought the advice of several Ndabeni claimants on how to communicate the necessary details effectively.

Firstly, we established the most effective channels through which to notify people and invite them to register at an office, and secondly, we composed a press release in a language and style which we considered clear and encouraging. The information was issued to a range of newspapers, radio and TV stations, most of whom communicated the information to the public in either English, Xhosa or Afrikaans. We also printed hundreds of flyers and posters, which we subsequently distributed by hand to churches, schools, shops, clinics, community centres etc. in Langa, Guguletu, Khayelitsha and Khayamandi (see a full list in Appendix 1, page 34, and a copy of the flyer in Appendix 6). Covering letters asked that the information be made as public as possible. In some areas we delivered flyers to rows of houses by 'knock-and-drop'. Finally, we also liaised with the Commission's office in East London to reach potential claimants outside the Western Cape through national

Radio Xhosa, based in the Eastern Cape. From applications received, as well as from studies of Ndabeni and Langa (e.g. Wilson and Mafeje, 1973; Saunders, 1984(a)), we discovered that former Ndabeni residents had their strongest links with the Eastern Cape. We therefore concentrated our efforts on the Eastern Cape, reaching applicants in e.g. Umtata and Queenstown. Through other claimants we located potential applicants in places as far as Pretoria, Johannesburg, Pinetown, Pietermaritzburg and Fort Gale, who subsequently registered under the Ndabeni Land Restitution Claim.

Having advertised the opening of registration offices, we then had to organise for the offices to be staffed. My colleague and I were obviously unable to run all four offices at once, and the task of registering applicants provided an opportunity to directly involve a number of people from the Ndabeni community in the processing of their claim. We therefore set about finding and training a team of research assistants.

7.6 RESEARCH ASSISTANTS

Doing so provided our biggest headache, as we were told that the Commission was unable to provide finances for such assistance. It was near impossible to find people who would volunteer their time and service, especially in December. In realising that people would not work 'for nothing', we approached the Commission again to convince them of the need for funds to cover at least the travel and lunch expenses of assistants. The Commission finally agreed in December to provide such funds.

Offering people a financial incentive proved successful. We soon found six people who, in pairs, would share the hours of opening. They had been selected according to several criteria. We were aware of a measure of gate-keeping on the part of some members of the *interim* Committee and were concerned that they might somehow be induced to 'screen' applicants and 'reject' those whom they did not desire to be part of the claim (see Section 6.3.2 on Sectional Interests). We attempted to avoid this scenario by bringing in non-committee members as assistants. As our contacts were primarily with members of the *interim* Committee, we established a list of people from completed application forms who appeared to have tertiary educational

qualifications. Using the telephone directory, we contacted them and found our research assistants.

However, the office in Khayelitsha caused problems. None of our assistants was from Khayelitsha and no one was keen to staff the office for fear of crime. Their fears were confirmed when one of the volunteers was mugged in the street after the first day at the office and subsequently withdrew from the work. My colleague and I then manned the office on the second day before moving a male assistant from the office in Guguletu as a temporary measure. We immediately set about looking for local assistants. With the help of a contact in the Department of Housing in Khayelitsha we located four young and highly competent people who diligently ran the office.

Prior to commencing their duties, all volunteers attended a small workshop held by my colleague and me. During the meeting, we discussed the issue of land restitution and the contents and procedures of the questionnaire. We also spoke about how to provide the most welcoming atmosphere which would encourage claimants to give their testimony. These workshops were very helpful in establishing relationships of trust and responsibility as well as gauging the need for our supervision.

7.7 RUNNING CLAIMANT REGISTRATION OFFICES

The offices were open for 18 days except in Khayamandi (one day only, as we did not expect many applicants there). We visited each office on most days to assess the response from applicants as well as advise the research assistants where necessary.

The initial response was rather low. However, it improved after the SABC's *Cape at Six* programme broadcast our press release. We established a number of reasons for the slow response, the main one being the proximity to the Christmas vacation. Several of the research assistants expressed their frustration as they knew of eligible claimants who had not yet registered due to apathy or ignorance. My colleague and I attempted to address the problem by compiling a list of names and addresses of people whom we and the research assistants had identified as eligible. We then

encouraged the assistants to remind the people listed. Several of the research assistants offered to assist people who came to their house with the completion of questionnaires. The initiative ensured that the registration process could continue throughout the December vacation.

The offices closed on 1 February 1997. Between December 1996 and February 1997, the number of applicants almost trebled from approximately 200 to 587 (applications may be submitted until 31 March 1998 and were still coming in at the end of my research in March 1997. The figures given below are based upon 587 applications).

We determined the eligibility status of the 587 applicants, based on the criteria defined above (see Section 7.1):

Table 1 Status of Eligibility

Applicant status	Number	Percentage
Legitimate claimant	415	71%
Beneficiary	159	27%
Status unknown	13	2%
Total	587	100%

Having established the eligibility status of each applicant, we proceeded to code and enter the data onto a data base. With almost 600 application forms, this proved to be an arduous chore. However, much of the quantitative data was meaningless if not supported by descriptive information. We therefore set about contextualising our quantitative data, as I demonstrate in the next chapter.

In order to gain a better understanding of the claimants' responses and views, we conducted in-depth interviews with a number of claimants. We selected them primarily on the basis of their responses on questionnaires which had revealed to us detailed memories and depths of perception which we believed would enhance our analysis and improve our representation to the Land Claims Court. The interviews took place at the registration offices, if time permitted, or during later visits to their homes.

Drawing upon the questionnaires and the interviews, we found that a combination of factors influenced the choice of restitution. They included present socio-economic circumstances, position in life-cycle, and the level of identification with the past and present Ndabeni 'community'. The following section explains these variables in more detail and how they influenced the choice of restitution.

8.1 REASONS FOR THE CHOICE OF RESTITUTION

A longing for improved housing conditions was manifest in almost all questionnaires and interviews. Most applicants regularly shared accommodation with over ten people, sometimes as high as 23. Domestic arrangements were often 'fluid', as members entered and left for long periods of time, often due to work or education commitments elsewhere in South Africa.

Having to share scarce financial resources with a variety of people was a common concern expressed by elderly applicants especially. They felt that the burden of sharing fell heavily on them and that they longed for more autonomy in managing their finances. A significant proportion of female pensioners said that their pension of R430 per month supported not only themselves but also children, grandchildren and great-grandchildren. During the latter half of a month, these people regularly went without food.

The majority of applicants stated that they lived in overcrowded accommodation, often with both sexes and several generations having to share sleeping quarters. Sometimes as many as eleven people shared sleeping accommodation. Many

applicants expressed a desire for privacy, more space and improved facilities (cf. Ramphela, 1993). While 98% of applicants have electricity and 72% have running water in their present house, only 45% have inside toilets. Indeed, many elderly claimants complained about having to use an outside toilet, especially after dark (Gordon and Broadbridge, 1997:29).

The choice of compensation was in some cases quite explicitly based upon where applicants placed themselves in their life-cycle. For example, of the legitimate claimants expressing a preference for monetary compensation almost 70% were 60 years or older, while of the legitimate claimants preferring resettlement only 50% were in that age bracket. The difference confirms the explanation given by many elderly claimants for their choice of compensation: that they did not expect to live to see the day when they can resettle in a new Ndabeni community; that they expected financial compensation to materialise faster than a new Ndabeni community; and that they would therefore rather improve their living conditions *now* with the help of financial compensation. A number of them also said that, with financial compensation, they did not feel as obliged to share it with other members of their family or household, as they would with accommodation provided in a new Ndabeni settlement. (However, it must be emphasised that mere acceptance of a right to accommodation in a new settlement does not imply that the 'recipient' will in fact reside there, nor dispose of his/her present accommodation).

Identification with the 'Ndabeni Community' also appeared to influence choices of compensation. The majority of claimants wished to resettle in a new home surrounded by people who shared the same history of dispossession and restitution. However, a number of the applicants who expressed preferences for other form of compensation said that they were "not really in touch with the other people from Ndabeni". Some even said that they would prefer to begin a "better life" in a new housing development away from Langa, its crime and unemployment. The issue of identification with the Ndabeni Community will be discussed further in Chapter 11.

The applicants' choices of compensation were presented to the Commission and the *interim* Committee in February 1997, an event which marked the beginning of the fourth phase of the Ndabeni Land Restitution Claim's passage through the Commission. We now turn our attention to this final stage of the claim.

9. THE FINAL STAGE OF THE CLAIM

The claim entered its fourth phase, as we presented the findings described above to the Commission and *interim* Ndabeni Restitution Committee. In this chapter I examine the main issues emerging from our presentation which ultimately caused the breakdown in negotiations which marked the final stage of the claim's passage through the Commission.

The Commission staff were pleased with our findings, particularly the increase from the original 106 to the present approximately 600 applicants. They regarded the latter figure as more representative of the number of the former Ndabeni residents or descendants and asserted that the findings would strengthen the claim in the Land Claims Court. However, it caused concern among some applicants. Would more people mean less compensation for all? This issue remains unresolved as the Land Claims Court has established little precedence on how it will determine the size and tenure of land granted as compensation.

9.1 THE NEED FOR A REPRESENTATIVE COMMITTEE

The increase in numbers of applicants brought up another issue: that of establishing a democratically-elected committee to represent all applicants in the process of the claim. As stated earlier, a committee had been elected in June 1995 by the initial 106 applicants to act on their behalf. The committee was *interim* and, given the present number of applicants, it no longer had a mandate from the entire 'claimant community' to take the process forward. The Commission repeatedly articulated the need for another election, with our final list of legitimate claimants forming the electoral roll. However, some *interim* Committee members did not realise the gravity of their predicament because they were not aware of the legal, procedural requirements. They expressed concern that an election of a new committee would prolong the already drawn-out process. Others were very reluctant to recognise the legal and political necessity of holding a democratic election of a committee to represent all claimants. They appeared to have developed a measure of ownership of

the process which they were averse to relinquish (see Appendix 5). Hence, they held onto their powerful position by stalling the election of a new committee.

Phase four was therefore characterised by apprehension of the impasse looming dangerously ahead. The Chairperson's behaviour suggested that his *interim* Committee could no longer be seen to act as interface between the claimant population and the Commission. On several occasions throughout phase four, tensions ran high as conflicting expectations and personalities were contested at the Commission's negotiating table. The issue which finally caused a breakdown in negotiations and the claim's referral to the Land Claims Court concerns ownership of the land which the applicants seek as restitution. I shall now examine the events which led to the breakdown in the beginning of June 1997.

9.2 THE BREAKDOWN IN NEGOTIATIONS

If a community claiming reparation for lost land rights is granted restoration (i.e. the original land) or alternative land as compensation, the Land Claims Court may determine how rights to this land is to be held (Government of South Africa, 1994). It can order that the community forms a legal land-holding entity called a *Communal Property Association* (Government of South Africa, 1996(b)). Such a body allows a community or group to acquire, hold and manage property under a written constitution. Through a series of workshops, the DLA and a community-elected committee draft a constitution which ensures transparency, accountability, representivity and democratic decision-making.

Until June 1997, negotiations between Commission staff, the mediator and the *interim* Ndabeni Restitution Committee had taken place with the explicit understanding that the Ndabeni claimant, as 'a community', would establish a Communal Property Association to which land could be transferred. Indeed, several DLA-led workshops had already taken place to develop the idea.

However, a meeting in early June 1997 between Commission staff, the mediator, the *interim* Ndabeni Restitution Committee, my colleague and me turned out to be the

showdown. The Committee Chairperson arrived with a lawyer whom he had hired to draw up a constitution for a Trust in which he, the Chairperson, would occupy a very powerful position, effectively in control of the land and its development. He had done so without consulting all his fellow committee members. Nor had he consulted the mediator or the Commission. The mediator voiced her strong objection to the Chairperson's blatant attempt at directing the process towards sectional interests (as described in Section 6.3.2) and left the meeting to consult the Regional Land Claims Commissioner on how to respond to the situation. She returned to the meeting with the Commissioner's instruction to cease mediation and to inform those present that the claim would shortly be referred to the Land Claims Court for adjudication. The Chairperson and his lawyer walked out, followed by the mediator and one of the Commission staff.

The majority of *interim* Committee members were left bewildered, struggling to understand what was going on. The Commission staff clearly sided with the mediator, but the remaining staff member failed to explain the Commissioner's decision, and the implications for the claim, to the claimants present. It was left to my colleague and me to answer their questions and defend the decision both after the meeting and over several telephone calls during the following weeks. Since we were no longer employed by the Commission, we were concerned about continuing to represent the Commission, particularly because we had to defend a decision reached in a manner of which we disagreed.

These events marked the end of the claim's fourth phase. While the breakdown in negotiations persuaded the *interim* Ndabeni Restitution Committee of the need for the democratic election of a committee, it cost them their mediator and perhaps also the trust of the Commission. Two months later, elections remain outstanding and the Commission awaits the mediator's report before the claim can be finalised for referral to the Land Claims Court. However, the Commission expects to present the claim to the Court shortly.

PART V

REPRESENTATIONS TO THE COMMISSION

Part V examines the representations which I made to the Commission during my research. Firstly, in Chapter 10, I discuss my representations to the Commission of my concerns about the processing and research of the Ndabeni Land Restitution Claim by the Commission, especially the vagueness of my brief and the Commission's predominantly legal/technical approach to restitution research. I argue that restitution research must be conceptualised as *both* legal and social research, because the legal/technical approach on its own fails to deal with the socio-economic and political circumstances from which land claims emerge. Finally, I consider the commitments reflected in my representations to the Commission. In Chapter 11, I explore my representation of the history of Ndabeni in a report for the Land Claims Court. In writing the report, I became an agent in instrumentalising the past. The concept of memory, its application and negotiation in the processing of the Ndabeni Land Restitution Claim thus became a recurrent issue as I was confronted with different historical and contemporary representations. I show how an understanding of the dynamics of memory can assist in overcoming the challenge of negotiating multiple memories and shaping them into a single representation.

10. REPRESENTING CONCERNS AND RECOMMENDATIONS

Before, during and after our internships my colleague and I presented, both verbally and in written reports, our observations and concerns together with our recommendations of how to better the management of the claim (see Appendices, 2, 3, 4 and 5).

Our concerns arose from two observations: the problem of communication - exemplified below in the vagueness of our brief - and the legal/technical bent apparent in much of the Commission's research. Working under those conditions was both awkward and perplexing for us.

As described in Section 2.3, we received no formal, written brief from the Commission. We were forced to take an unspecified, verbal brief and develop it into a series of focused and workable tasks which we believed would facilitate a timely settlement of the Ndabeni Land Restitution Claim. Our progress reports reflect our uncertainty of the appropriate procedure - assuming there was one. The Commission did not direct us towards any precedent research briefs, nor guide us closely on the research requirements of the legislation. In our progress reports we raised basic questions crucial to our research, yet most responses from overburdened Commission staff were only as constructive as the legislation was clear - and, in fact, the legislation was very vague on research requirements. We therefore found ourselves producing the procedure as we were following it, so to speak.

In presenting our observations and analyses to the Commission, we were concerned not merely to alert the Commission to problems but to provide immediate, practical steps which could be taken to address the issues raised. For example, in our memorandum of June 1997 (Appendix 5) we set out our analysis of the main reasons for the breakdown in negotiations (explained in Chapter 9), in terms of the delays in compiling a list of claimants, establishing a democratically-elected committee, and in appointing researchers. We presented our understanding of the different 'sides of the story', summarised the lessons which we would draw from the passage of the Ndabeni Land Restitution Claim through the Commission, suggested that some of the issues were not peculiar to the Ndabeni claim but had a general application to all community claims being processed by the Commission, and ended with a series of recommendations to encourage the timeous and successful processing of such claims.

In so doing, we not only attempted to influence Commission staff's perceptions of what formed the key issues and problems in the processing of the Ndabeni Land Restitution Claim. We also sought to supply them with reasons and approaches which would enable them to introduce changes in the research and processing of claims and thus begin to tackle the particular difficulties identified in our research as

therefore, memory is a subjective process; “it selects and distorts in the service of present interests” (Schudson, 1995:351).

As “the locus of interaction between the reality of the individual and the reality outside the individual” (Teski and Climo, 1995:2), memory is co-determined by what we remember and how we remember. Our interaction with memory is a pre-requisite for our identity. In discussing my theoretical framework in Chapter 3, I raised the point that memory is both a site, and a means, of social reproduction. Or as Tonkin (1995:117) writes, “representations of history are praxis. [T]he principle that memory makes us is also the principle that we make memory”. I also argued that people are actors in society, or social agents. As key mediating terms between the individual actor and society, memory and representations of the past are important areas of research for anthropologists. In studying the relationship between history and memory, I have been able to explore how the two concepts shape our individual selves. I discovered that the writing of a historical overview, such as our report for the Land Claims Court, was most usefully conceptualised as a process of negotiating multiple memories.

Implicit in the land restitution process is the condition that for claimants to effect their rights to apply for and receive compensation, there must be mnemonic consensus among the claimants and beneficiaries on the particular historical context and consequences of their dispossession. My concerns with writing the history of Ndabeni centred around the question of constructing a representation which would be hegemonic and (at least temporarily) silence other interpretations. My version of the past had to be shaped into a narrative upon which the Land Claims Court could judge the validity of the Ndabeni Land Restitution Claim.

As time passes, one may forget details of an event and one may lose the original intensity of emotion experienced. However, numerous examples within South Africa and world-wide demonstrate that some grievances endure across generations. The forced removal and loss of rights in land experienced by the Ndabeni claimants are

no exception as they become a driving force behind the struggle for justice and restitution. During my research, it became clear that the construction of memory involves the notions of time, agency and description. I found that these concepts corresponded well to the dynamics of instrumentalisation and narrativisation employed by Schudson (1995) in his study of memory. Below I examine these dynamics in turn to demonstrate how the concept of memory was applied and negotiated in the processing of the Ndabeni Land Restitution Claim.

11.1.1 INSTRUMENTALISING THE PAST

Memory is recalled, manipulated and moulded for purposes. The purposes may be broadly defined as attempts to understand the present world, or more narrowly as asserting a claim to something more specific. Either way, memory, or the representation of history, is a purposeful social action.

As researcher for the Commission, I became an agent in instrumentalising the past - and a certain version of it at that. My brief involved reconstructing the past in a format appropriate to the land restitution process to further the objective and processing of a particular claim. I had to establish an account of the events and implications of the forced removal of people from Ndabeni, and since I was not present at the time I had to consult those who were, either directly by interviewing the living survivors or indirectly through archival records and interviews with descendants of the original Ndabeni residents. From these representations I constructed another representation, another memory, another narrative.

To establish what would be regarded as a balanced and 'objective' account of the dispossession, I compared the different representations presented in archival records by e.g. white, male, conservative government officials and civil servants, by the media (both conservative and liberal), by white, liberal (even radical) supporters of the Ndabeni residents' cause, and by the Ndabeni residents themselves, and attempted to place these different memories within their historical context. I did so through applying "constant skepticism and a willingness to read imaginatively, "against" the sources, to divine what is not represented in the accumulated section of

the archive”, and through conducting ethnographic research which was “based on present - oral, experiential, observational - evidence” (Clifford, 1988:340).

As discussed above, the relationship between representations of the past and social practices, between remembering and material conditions, is both subtle and complex (Tonkin, 1995). Since Ndabeni for many years was the only location for Africans (as well as so-called Coloureds and Indians), irrespective of backgrounds, the Ndabeni residents were clearly not homogeneous. The present ‘Ndabeni community’ is also made up of different socio-economic backgrounds as I have demonstrated in previous chapters (6 and 8). It can be expected that their experiences, and thus memories, of life in Ndabeni and the ensuing hardship in Langa (or wherever they moved to) might vary somewhat.

Different meanings are given to those events today. Some descendants are now living in poor conditions in the rural Eastern Cape. Other descendants have managed to establish or re-establish themselves in e.g. Langa and Guguletu as relatively well-off. They may remember how they or their family managed to achieve what they did and they suppress the memory of humiliations endured under Apartheid. They are frustrated with the high level of rural-urban migration and the number of shacks being erected close to their homes. In them, the suffering under Apartheid appears to have provoked a response based on suburban middle-class discourse, invoking contrasts between them, the urban, educated Africans, and other descendants regarded as rural, illiterate and poor (see Section 6.3.2). Restitution is likely to mean something different to them than to other Ndabeni survivors or descendants, both as a means and an end.

Changes in social conditions and opportunity structures appear to change present consciousness (Tonkin, 1995). The land restitution process is offering the possibility of compensation in the form of resettlement in a new Ndabeni community. People’s identification with ‘the Ndabeni community’ and themselves as ‘Ndabenites’ is likely to depend on their memories and representations of the past. Their identification

appears to have been heightened by the community-building process under way which works to convince individuals of a social identity, even if it has not been important to them until now. Such a legitimisation process is historically oriented, based upon and expressed in considerable symbolic evocation and deliberate rhetoric. As Brow (1990:2-3) says, "the sense of belonging together is nourished by being cultivated in the fertile soil of the past".

Events during one particular Ndabeni community meeting, at which I was present, demonstrated how a shared history became an instrument, a resource, which the people mobilised to achieve the political, social and material objectives of the Ndabeni Land Restitution Claim. The meeting was held in February 1997, shortly after a critical meeting at the Commission when tensions had run very high over the issue of replacing the *interim* Ndabeni Restitution Committee (see Chapter 9). Between report-backs from the committee and from my colleague and me, several committee members and individual community members embarked on emotional and gesticulative political speeches and song, recalling the community spirit of Ndabeni rather than the individualism and crime of township life today; the quality and success of Ndabeni football teams which they hope to recreate in the new Ndabeni community; the strength shown by one claimant's mother in Ndabeni when facing removal; confirming that they as Xhosa-speakers do not have their home in the Transkei but in Cape Town; and appealing to the people to use Xhosa rather than English names. People responded with applause and song to these representations of belonging, hope, and happiness. In so doing they affirmed their identification with the historical and present Ndabeni community.

11.1.2 NARRATING THE PAST

"Truth, that elusive historical goal, can...lie in the intersection of narrator and discourse where we have to see how accounts are authorised" (Tonkin, 1995:8). Discourse asserts the authority of certain kinds of knowledge and truth; it is "an agreed way of registering reality" (Kernode, cited in Tonkin, 1995:137). Each authoring of an account is itself a claim to authority which thus may or may not be accepted within the hegemonic discourse. In writing the historical section of the

report for the Land Claims Court, I was conveying a version of the past which was expressed and embodied in the form of a narrative. I decided at which points in history to begin and to end the account, according to what set of events I considered related and relevant to the Ndabeni land restitution claim. Thus, I did not present the whole picture, but rather an account which reflects my "way of looking", the "reality of [my] specific interest and field of vision" (Clifford, 1988:289-290). My interest was partly defined by what I assumed were the expectations of the Commission and the Land Claims Court, and partly by my anthropological perspective and emphasis on the ordinary people whose voices were rarely heard in public fora. Nor do I pretend to have presented all the complexities of individual positions, whether of both *interim* Committee members, other Ndabeni claimants, or the Commission. Conducting longer fieldwork would have enabled me to produce a more coherent, in-depth, representative account.

Whether the representation I made is accepted as authentic may depend on several kinds of authority (cf. Kernode, in Tonkin, 1995:137): Firstly, the context and discourse in which it is delivered in terms of an accepted way of recording and presenting reality; my report for the Commission forms part of a broader process and narrative of post-Apartheid reconstruction, reconciliation and restitution as well as discourse of sustainable and participatory development. The content and language of the report thus differs markedly from previous perspectives presented by e.g. the elite, white males of past regimes. Secondly, the authority which I, as a person, have researching and writing the report and claiming its truthfulness; I believe my academic background as well as the establishment of an ongoing relationship with claimants and the Commission contributed to this. Thirdly, the Commission, as an institution mandated to carry out the Restitution of Land Rights Act, carries an integrity which is (at least in principle) largely unquestioned. Finally, the written word is often, rightly or wrongly, regarded as inherently authoritative.

It has commonly been argued that Africans are people for whom oral history holds more value than written history. For example, archival sources show that the

European authorities in the late 1920s believed that designing the Quarters for Single People in Langa with fireplaces would attract people to move from Ndabeni to Langa because they could sit around the fireplace at night and tell stories, passing down detailed history from generation to generation. However, in urban areas newspapers and radios increasingly became important channels of spreading and sharing information. Moreover, when listening to the testimony of the second and third generation descendants of the original residents of Ndabeni, the image of 'storytelling around a fireplace' appears to be an overgeneralisation or at least a thing of the past. Many of these claimants could not relate much about Ndabeni and the forced removal because, they said, "we were never told". Several factors may account for this. Firstly, younger generations are generally less interested in the past and more in the present and the future. Secondly, some survivors of the forced removal appeared to have wanted to suppress their memories of a traumatic period in their life; to retain a sense of dignity, the older generation may not have wanted to tell their grandchildren about the disempowerment and humiliation faced during the time.

Either way, as Hart (1990:123) writes,

Personal evidence adds credence to the philosophy that it is people who create places, endowing them with social and cultural expression. Particularly in the South African context, personal lives are in turn intimately molded [sic] by places the people have known, lost, or been forced to know and by those they have been prevented from knowing.

Both in the historical context of resistance to the forced removal from Ndabeni and in the present context of effecting restitution, the links between memory, action, place and identity are manifest. Even though the descendants' memories of the forced removals are vicarious through their parents' or grandparents' experience (i.e. part of reality for those who heard the memories but did not experience the events to which the memories refer (Teski and Climo, 1995)), their emotional involvement in the collective memory of the 'Ndabeni Community' has led to an

injustice of the past being recognised and redressed. In this regard, memory is indeed “paradoxical because it maps the future while it claims that it is describing the past” (Teski and Climo, 1995:3). Moreover, “when the future is open, so is the meaning of the past” (Clifford 1988:343). The significance of my narrativisation and representation of Ndabeni’s past in the Court report was in its description of the past which might map the future of the people from Ndabeni.

The above analysis and illustration of how memories were negotiated in the land restitution process suggest that the processing of a land claim, whether by an individual or a ‘community’, is neither simple nor straightforward. Memories, histories and identities are complex concepts, and their manifestations in the land restitution process warrant more attention than the Commission presently gives them. Without their identification and contextualisation, the Commission will disregard powerful socio-economic and political conditions from which land claims emerge.

PART VI CONCLUSION

12. CONCLUSION

My dissertation has attempted to demonstrate the relevant, important and credible contribution which applied anthropology can make to the land restitution process in South Africa. My position as researcher for the Commission on Restitution of Land Rights allowed me to interact closely with a group of people identifying themselves as the 'Ndabeni Community' as well as staff of the Commission's regional office in Cape Town. In undertaking a series of tasks required to fulfil my brief, I faced a number of challenges which included the dilemmas and hazards of representation, participation and power. I have illustrated above how my anthropological training and approach assisted me in identifying and tackling those challenges. I have also detailed the ways in which I communicated my findings to the Commission in an attempt to expose and sensitise its staff to the complexities and dynamics of power structures and social relations transpiring in the land restitution process. In so doing, I have suggested the broader ability of applied anthropology to generate useful social knowledge which can contribute to the solving of human problems and the facilitation on social change.

I conclude my dissertation by briefly relating my experiences and findings to two particular political and ideological debates which continue to shape to discipline of anthropology and which, I believe, have contributed to the critical problem facing anthropology today, that of demonstrating its relevance to the world. The first debate concerns the hierarchy of status between so-called 'pure' and applied anthropology. The second is a related debate around political and ethical impartiality. The issues raised in these debates have particular implications for the criteria by which we measure the relevance, importance and credibility of applied anthropology in the land restitution process.

The origins of the debates lie in the historical development of applied anthropology. Since its foundation, the discipline of anthropology has had a practical aspect.

However, after World War II anthropologists became increasingly involved in development administration, policy and intervention, especially in the so-called Third World. Applied anthropology soon became recognised as a branch of anthropology “explicitly devoted to practical, problem-solving research” (Pelto and Pelto, 1978:233). The last few decades have seen a resurgence in applied anthropology. The renaissance accompanied an expansion of the range of roles for applied anthropologists from merely monitoring and predicting change to becoming more directly involved in implementation and intervention. This was partly internally generated, as “socially concerned anthropologists began to reject the confines of a purely academic job and sought to apply anthropological knowledge to the important social issues of the day” (Gardner and Lewis, 1996:39). But external factors also contributed, especially as reduced government funding of higher education and social science research caused unemployed academics to seek employment outside academic contexts (van Willigen, 1986; Gardner and Lewis, 1996).

Applied anthropologists have long battled to have their strengths and achievements recognised by so-called ‘academic’ anthropologists (Grillo, 1985; van Willigen, 1986; Chambers, 1989; Wright, 1995; Lewis, 1995; Gardner and Lewis, 1996). The influence of applied anthropology on theoretical anthropology is often overlooked if not deliberately ignored. An enduring sense of hierarchy exists between “research which is applied, practical or engaged and that which is pure, abstract and theoretical” (Grillo, 1985:8). While ‘pure’ implies “pure theory, pure intellect, and (a spurious) moral and political purity”, ‘applied’ is “assumed to be not only less demanding but tainted” (Wright, 1995:72). The Department of Social Anthropology, University of Cape Town, is no stranger to the hierarchy of status, as several staff members have spoken derogatively of the Masters Degree in Applied/Practical Anthropology. Moreover, the two approaches are often wrongly regarded to be mutually exclusive.

Anthropological work in policy and practice often relates directly to theoretical issues at the heart of the discipline, thus stimulating interest in new research topics and influencing the academic agenda. Theoretical issues arise from practical work which in turn is influenced by theoretical work, as applied anthropologists seek to be more critically aware of how they participate in policy-making and practice (Lewis, 1995; Wright, 1995). For example, my applied anthropological work described above, and its intended development into broader research on urban development and land struggles, both raise and apply a range of theoretical concepts which are central in the discipline, e.g. discourse, knowledge, power, cultural identity formation and memory. These issues also form legitimate subjects of further research.

Accompanying the resurgence in applied anthropology have been methodological and ethical debates on the appropriate unit of research, the location of the researcher and the politics of knowledge production. As Wright (1995) has traced, such debates re-focused the unit of research from 'a people' (studying down) to 'policy' (studying up), in order to analyse "the colonizers rather than the colonized, the culture of power rather than the culture of the powerless" (Nader, 1972:289). Cultural critique has come to include turning the anthropological gaze towards the discourse and culture of policy professionals, and indeed towards ourselves. My study of how the Commission on Restitution of Land Rights conceptualises its research suggests that to define its research solely in legal and technical - and thus politically neutral - terms is to ignore the socio-economic and political conditions from which claims for restitution emerge. Moreover, as Ferguson (1990) demonstrated in his study of development discourse and intervention in Lesotho, the legal/technical discourse of state institutions tends to ignore the 'unintended outcomes' of their intervention which may serve to extend the power of the state. It is therefore important for anthropologists to 'study up', to engage in research which seeks to uncover the complexities and dynamics of power structures and the discourses through which such power is articulated.

The debates in anthropology have also confronted the “traditional subject-object dualism of anthropology’s positivistic legacy” (Ahmed and Shore, 1995:27). Anthropology has historically treated the ‘objects’ of their study as exactly that: objects, rather than active, creative subjects who both mediate and transform external interventions (Long and van der Ploeg, 1994). In seeking to transcend the dualism, anthropologists have looked towards developing a dialectical approach which necessitates dialogue between subject and object (Schrijvers, 1995; Grimshaw and Hart, 1995) and have developed a variety of participatory, dialogical research methods to do so (Cornwall and Jewkes, 1995; Chambers, 1997). However, participation is itself a difficult concept, especially when the people - with whom the researcher intended to engage in participatory research - assert a sectional agenda, act as gate-keepers and refuse to cooperate, as I described in Chapter 6.

Finally, the debates have exposed the fallacy of ‘scientific objectivity’ in the anthropological approach (Okely and Callaway, 1992). The intellectual authority of the anthropologist, based on the ‘objective’ presentation of findings in a monograph, has been profoundly questioned, and it is now broadly recognised that no anthropological fieldwork data is uncontaminated by the researcher. Indeed, “all research is located within systems of domination, and no knowledge is ‘pure’ in the sense of ‘free of power’” (Wright, 1995:78).

This recognition compels us to question the political and ethical impartiality assumed to characterise the discipline of anthropology (Ahmed and Shore, 1995). Firstly, the anthropological approach was never value-free but rather value-implicit (van Willigen, 1986). As demonstrated above, the movement is now towards making the values explicit, whether those of the anthropologist, the policy professionals, the intended beneficiaries, or any other actor involved in the production of knowledge in a particular setting. It is increasingly recognised that to maintain a detached yet sympathetic position in anthropological research in fact requires technical competence, self-awareness and moral integrity. Ethical considerations are thus inescapable (Lewis, 1995).

Secondly, political and ethical impartiality has been guarded as a scientific canon essential to the survival of anthropology as a discipline. We may ask whether this has not in fact contributed to the anthropological disengagement from contemporary global and local issues which today threatens to marginalise the discipline. Ahmed and Shore (1995:15) argue that anthropology is not endangered by a “crisis of representation” but by “a problem of relevance”. Anthropology must demonstrate its relevance, not only economically to governments and funding bodies, but also politically and ethically to the world. Anthropology must show that it is able, as a discipline, to serve and benefit society through its particular knowledge and explanatory power.

Many anthropologists, and indeed increasingly governments and funding bodies, find the relevance confirmed in their applied work. Applied anthropologists who constructively confront, relate to, and engage in the problems of society, and who effectively communicate their findings to those in positions of power (whether institutional or at the grassroots level), convincingly demonstrate the relevance of anthropology to the contemporary world.

Post-modern anthropology has challenged applied anthropology to reconsider its *raison d'être*, intervention, on the basis that there are no transcendent values and principled positions to inform and direct intervention towards rectifying a particular social injustice through the application of anthropological knowledge. The motivation for my response, illustrated in the dissertation, is articulated by Corbridge (1994:112):

A commitment to change the world need not take the form of a presumption to act for others on the grounds that we know what is best. The post-modern dilemma is avoided as and when we accept that certain human needs and rights, at least, can be taken to be ‘universal’, and when we learn that in attending to these needs and rights we are not so much dictating to others as dictating to ourselves.

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**REPORT TO
THE COMMISSION ON
RESTITUTION OF LAND RIGHTS**

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

**COMPILED BY
J. GORDON AND H. BROADBRIDGE**

MARCH 1997

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Part 1

**HISTORICAL OVERVIEW
OF
NDABENI**

1. THE ORIGINS OF NDABENI

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

1.1 The Establishment of a Location

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

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

1.2 The Beginnings of Urban Segregation

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

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

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

² Cape Times, 20 June 1919

³ Saunders, 1984:174

⁴ Cape Times, 3 July 1897

2. LIFE IN NDABENI

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

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

2.1 Population

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

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

2.2 Housing Conditions

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

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

⁵ Saunders, 1984:175

⁶ Cape Argus, 18 September 1930

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

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

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

2.3 Employment

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

2.4 Cost of Living

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

2.5 Community Spirit

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

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

⁸ Cape Times, 20 June 1919

⁹ *ibid*

¹⁰ Cape Argus, 18 September 1930

2.6 Education

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

2.7 Health

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

2.8 Religion

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

2.9 Politics

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

2.10 Leisure

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

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

¹¹ Cape Times, 20 June 1919

2.11 Management Structure of Ndabeni

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

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

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

2.12 Crime

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

¹² Cape Times, 3 December 1931

¹³ Cape Times, 20 June 1919

3. TRANSFER OF AUTHORITY OVER NDABENI

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

3.1. Background to the Transfer of Authority of Ndabeni

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

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

3.2 Transfer Negotiations

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

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

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

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

3.3 The Final Transfer Agreement

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

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

¹⁴ Between 1943-45, Ndabeni was sold off in small lots by the City Council at £1200 pr acre. The sale itself came under fire as normal procedure of advertising for tenders was not followed; the council was thus accused of favouring certain tenders by giving out privileged information.
KAB / PAS vol. 2/1445 ref. 619/C/637

4. THE TIGHTENING OF AUTHORITY OVER NDABENI

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

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

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

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

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

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

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

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

¹⁵ Saunders, 1984:203-4

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

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

4.3 African Protest

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

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

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

¹⁷ Cape Times, 9 November 1919

5. THE OPENING OF LANGA

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

5.1 The Council's Reasons for the Establishment of Langa

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

5.2 Removal Strategies of the Council

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

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

5.3 Revised Strategy of the Council

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

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

¹⁹ *ibid.*

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

²¹ Cape Argus, 19 August 1929

certain provisions conferring upon it increased powers which it is hoped will enable it to secure the occupation of Langa to the extent of the accommodation available".²²

The difficulty was settled by a new bill which was specifically designed to confer upon the Council the power of forced removal.

²² SAB / NTS vol. 2437 ref. 23/290

6. THE OBTAINING OF POWERS FOR FORCED REMOVAL

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

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

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

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

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

6.2 Section 18 of the 1930 Amendment Act

Section 18 states that if a Medical Officer of Health:

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

²³ Hellmann, 1949:233

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

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

6.3 The Application of the Amendment Act to Ndabeni

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

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

²⁴ 3/CT vol. 4/1/5/1253 ref. N96/5

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

²⁶ Cape Times, 20 October 1931

²⁷ Cape Times, 21 October 1931

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

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

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

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

²⁹ Cape Times, 21 May 1930

7. RESISTANCE TO FORCED REMOVAL

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

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

7.1 Sustained Struggle

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

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

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

7.2 The Economic Grounds for Resistance

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

7.2.1 Rent

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

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

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

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

³² Cape Times, 21 May 1930

³³ Cape Times, 1 August 1930

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

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

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

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

7.2.2 Rail

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

7.2.3 Livelihood

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

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

³⁵ Cape Argus, 20 May 1930

³⁶ Cape Times, 22 May 1930

³⁷ Cape Argus, 20 May 1930

7.3 Social Grounds for Resistance

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

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

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

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

7.4 Challenging the Legal Powers of the Authorities

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

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

³⁸ Cape Times, 11 May 1931

³⁹ Cape Times, 10 March 1931

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

⁴⁰ Cape Times, 20 October 1931

8. THE CLOSING OF NDABENI

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

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

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

⁴¹ SAB / NTS vol. 2437 ref. 23/290

9. CONCLUSION

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

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

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

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

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

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

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

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

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

⁴² Wernich, 1996:2 - present authors’ emphasis

⁴³ Hart, 1990:128

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

Part 2

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

1. RESTITUTION

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

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

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

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

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

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

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

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

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

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

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

2. RESETTLEMENT OF A NEW NDABENI COMMUNITY

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

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

2.1 The Community

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

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

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

2.2 Sustainable Development

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

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

2.3 Eligibility

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

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

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

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

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

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

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

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

3. SOCIO-ECONOMIC PROFILE

3.1 Gender

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

3.2 Age

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

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

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

3.3 Economic Indicators

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

3.3.1 Social Context

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

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

3.3.2 Economic Context

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

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

3.3.3 Employment

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

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

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

3.3.4 Income

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

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

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

3.4 Housing

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

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

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

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

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

3.5 Education

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

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

3.6 Wish List for the New Ndabeni Community

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

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

Other services asked for include

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

4. CONCLUSION: REBUILDING THE NEW NDABENI COMMUNITY

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

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

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

Part 3

RESEARCH PROCESS

1. RESEARCH PROCEDURE

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

1.1 Research Design and Focus

The primary focus of this research process has been to:

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

The secondary focus of this research process has been to:

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

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

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

1.2 Questionnaire

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

1.3 Accessing Ndabeni Claimants

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

1.3.1 Opening of Offices

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

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

1.3.2 Publicity

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

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

Media

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

Churches

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

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

Schools

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

Others

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

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

1.3.3 Community Participation

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

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

1.3.4 Fieldwork

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

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

1.4 Conclusion

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

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

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RESEARCH PROPOSAL
FOR THE
NDABENI LAND RESTITUTION CLAIM

SUBMITTED TO

THE OLYMPIC BID COMMITTEE
CAPE TOWN

BY

JENNI GORDON AND HELENA BROADBRIDGE

DEPARTMENT OF SOCIAL ANTHROPOLOGY
UNIVERSITY OF CAPE TOWN

NOVEMBER 5, 1996

TO THE OLYMPIC BID COMMITTEE

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

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

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

Yours sincerely,

Jenni Gordon and Helena Broadbridge

Cape Town
November 5, 1996

1. AIM

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

2. JUSTIFICATION

2.1 BACKGROUND TO NDABENI

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

2.2 THE PRESENT CONTEXT

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

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

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

3. The Final Phase involving:

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

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

4. RESEARCH PROCESS

4.1 TIME FRAME

The overall time frame for the research is 8 weeks:

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

4.2 RESEARCH LOCATION

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

4.3 RESEARCH PERSONNEL

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

5. ETHICAL CONSIDERATIONS

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

6. BUDGET

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

7. PUBLICATION OF FINDINGS

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



Ndabeni Land Restitution Claim

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

October 1996

By

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

1. QUESTIONNAIRE

1.1 LAYOUT

1.11 Space

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

1.12 Ordering

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

1.2 CLARITY

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

1.3 ASSUMPTIONS

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

1.31 Household

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

1.32 Family Relations

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

1.33 Community

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

1.4 ETHICAL CONSIDERATIONS

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

2. PRACTICALITIES

2.1 COMMUNICATION

2.11 Between Commission and Community

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

2.12. Between Commission and Committee and Research Consultants

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

2.13 Between Commission and Research Consultants

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

2.2 THE OFFICE IN LANGA

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

3. PROCESS OF RESTITUTION

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

Cape Town
28/10/96

**PROGRESS REPORT
FOR THE COMMISSION ON RESTITUTION OF LAND RIGHTS
CAPE TOWN**

BY

**JENNI GORDON AND HELENA BROADBRIDGE
DEPARTMENT OF SOCIAL ANTHROPOLOGY
UNIVERSITY OF CAPE TOWN**

DECEMBER 18 1996

This report covers the work undertaken for the Commission on the Ndabeni land claim from October to December 1996.

1. Office in Langa

From October 7-12 and 22-26 we worked at the office in Langa which was open Mondays to Fridays from 9am-6pm and Saturdays 9am-4pm, assisting claimants with their application. The turnout started slowly but improved towards the end. Reasons for this may include a lack of awareness among potential claimants as to when and where the office would be open in Langa, resulting in people arriving at the wrong venue (the Administration building rather than the Ikapa Workshops on Bhunga Avenue). Valuable time was wasted as the interim Ndabeni Restitution Committee who had apparently agreed to manage the office for the week from October 14-19 failed to do so. We subsequently reopened the office for the following week.

2. Questionnaire

The initial questionnaire proved to be problematic in terms of accessing the accurate information needed for the compilation of a list of eligible claimants for restitution and for resettlement. (See attached Report of Concerns of October 1996). It was decided that it should be redesigned and make explicit the criteria upon which claimants' eligibility is assessed. However, prior to this it was necessary to uncover the reality of family relations and household organisation of the applicants in order to reconcile the euro-centric nature of the legal categories of eligible claimants with locally appropriate understandings of relevant variables (e.g. kinship/descent, household, community, identity, socio-economic status). To aid us in this regard we devised a series of permutations of kinship-scenarios which served to formulate explicit criteria for eligibility and to inform the re-designing of a culturally appropriate and inclusive questionnaire based on a re-conceptualisation, deconstruction and operationalisation of these variables.

The questionnaire was translated into Xhosa by Tessa Dowling of UCT.

3. Publicity

The initial response of applicants was not considered large enough by the Commission and the mediator, Mary Simons, so arrangements were made for offices to re-open for 3 weeks. Because some applicants were travelling from Khayelitsha, Guguletu and even Kayamandi (Stellenbosch), it was decided that offices should also open there to

alleviate some of the travel expenses incurred. (See attached flyer for details of opening).

Following enquiries into what would be the most effective channels through which to notify and invite people to the offices, we issued press releases to a number of print, broadcasting and TV media. We also distributed posters and flyers to churches, schools, shops and community centres etc. in Khayelitsha, Guguletu, Langa and Kayamandi. Churches and schools were given a cover letter as well asking them to notify people of the reopening. (See attached list of publicity).

4. Re-opening of Offices

Offices reopened for the first of three weeks from December 9-14. The response was very slow initially but picked up a little after the SABC Cape at Six TV programme broadcast the office details. Suspected reasons for this include the fact that some people have already left for Christmas vacation, that people are busy with Christmas preparations and celebrations as well as circumcision ceremonies. The volunteers manning the offices have also expressed frustration because they know of eligible claimants who have not yet filled in forms due to apathy or ignorance. To address this problem they have been given a list of names and addresses of people who we have identified as eligible for application and encouraged them to please remind these people of the office opening times. On their own initiative, volunteers have offered to allow applicants to fill in forms at the homes of the volunteers as well as announce the office times in their churches and other institutions, thereby ensuring that the informal application/registration process is ongoing even during the holidays.

5. Volunteers for the Offices

We encountered initial problems in getting volunteers to help out with the offices from December 9-14. We are very aware of gate-keepers on the interim Ndabeni Restitution Committee and we initially tried to bring them into the process alongside non-committee members in order to counteract their potential screening of applicants for eligibility. We were partially successful at this by finding application forms which stated that member(s) of the household were at a tertiary educational institution, establishing their phone numbers from a phone book and contacting them.

Another problem was that of asking volunteers to give up a week so close to Christmas to work in the offices. This was addressed after Elizabeth Davison raised some money to reimburse them for their expenses and time.

One volunteer was sadly mugged on her way home from the office in Khayelitsha after the first day and was understandably unwilling to continue. This left us in the difficult position of being short of a volunteer. It was unfortunately necessary therefore to move one male volunteer from the Guguletu office to the office in Khayelitsha, leaving these two offices to be manned by one person only. This is unsatisfactory as it places a burden on one individual's commitment, but in the end it worked out. This scenario is not ideal and should not repeat itself in January when we will have more volunteers to share the work.

Prior to the opening of each office, we conducted a small workshop for the volunteers on the issue of Land Restitution and on the contents and procedure involved in the

questionnaire. Volunteers were also given informative reading material on the process of applying for restitution. (See attached information pages)

6. Compilation of Data Collected

The data from the questionnaires completed so far has been entered onto a database from which lists have been compiled under the following headings:

- List of all Applications Received
- List of Claimants Eligible for Restitution
- List of Potentially Eligible Claimants Still to be Checked
- List of Potentially Eligible Claimants Extracted from Forms
- List of Claimants Who Themselves Lived in Ndabeni

We will compile a final list of eligible claimants, according to the applications received by then, for February 12 1997 (= date set for next meeting between the Commission, Ndabeni Restitution Committee and the mediator).

We have compiled a list of people who we believe are eligible to apply for restitution. This list has been distributed to volunteers and others in Langa and Guguletu, who will ask these people to apply at the offices in January.

7. Other Data Collection

Besides doing a literary search at UCT and on the Internet, we have identified a number of documents housed at the South African Archives in Cape Town, Pretoria and Natal which will be made available to us in January. Mary Simons has given us generous access to her father's research notebooks from 1930s which have provided us with invaluable and detailed background information regarding socio-economic life in both Ndabeni and Langa.

8. Death Certificates

Unfortunately, it has recently come to our attention that the law requires certified copies of death certificates of applicants' parents or grandparents or spouse to accompany their application. At present this means that no applications received so far have these documents attached. We realise this to be quite serious. We have tried to overcome this problem with future applications by stating on the publicity material that these documents must accompany the application (if applicable and available). Despite asking volunteers to ensure that this happens, there is little evidence of progress. From the applications received, we are trying to extract the names of the deceased relatives and compile a list to be submitted as a group application to Home Affairs. However, this has already proven quite difficult as many applications do not contain the full names (English and Xhosa) which would appear on official records. But we will continue to extract those we can and possibly try and contact the applicant for more details, although this in itself has also already proven difficult.

9. Interaction with interim Ndabeni Restitution Committee

Due to our late involvement in the Ndabeni restitution process, we felt it was important for everyone concerned to build a constructive working relationship at the outset. Unfortunately there has been no community meeting held since September and many attempts to liaise and work with the Chairperson of the committee, Gilbert Fesi,

have failed. However, we will persist on this important issue, especially in order to establish and discuss the (different) visions and expectations of the community and ways in which to realise these.

We also expect a community meeting to be held in January which we will attend and hopefully actively participate in. In November we went to such a meeting in Guguletu for the Athlone restitution process to get 'a feel' for such meetings.

10. Funding of Research

As Masters Students at UCT we originally became involved in the process on a voluntary basis. The Commission subsequently asked us to undertake our internship with the Commission, possibly with funding. However, this funding was initially not available from the Commission and it was agreed by all that The Cape Town Olympic Bid Company should be approached to assist in this regard and a research proposal was prepared. In the mean time, funding became available from the Commission, and the process of this payment has begun. The terms and duration of this employment must still be clarified and negotiated, but we believe this will happen at the earliest opportunity in January.

11. Tasks for January and February

The following tasks will be undertaken in January and February:

- Reopen offices in Langa, Guguletu and Khayelitsha for 2 weeks
- Organise volunteers for these offices
- Broaden the publicity to include Mitchells Plain, Elsie's Rivier and Paarl
- Ask for publicity in Drum, Bona and Pace magazines
- Liaising with the regional Commission office as well as other contacts in the Eastern Cape to encourage potential claimants there to apply
- Compilation of a list as comprehensive as possible of eligible claimants by 12th February
- In-depth interviews with members of the community and the committee
- Archival research
- Ensuring that the final list of eligible applicants is credible in the eyes of the law and as acceptable as possible to the community by consulting with various people including committee members and non-committee members
- The writing up of a report for the Commission containing historical and contemporary socio-economic data

Jenni Gordon and Helena Broadbridge

MEMORANDUM

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

FROM: JENNI GORDON AND HELENA BROADBRIDGE, RESEARCHERS

DATE: 26 JUNE 1997

RE: THE NDABENI LAND RESTITUTION CLAIM PROCESS

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

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

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

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

THE DELAY IN COMPILING A LIST OF CLAIMANTS

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

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

THE DELAY IN ESTABLISHING A DEMOCRATICALLY-ELECTED COMMITTEE

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

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

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

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

1. The funding process has proven highly difficult, as there is little clarity of where and when funding for e.g. elections is available.
2. There has been a marked uncertainty as to the procedures of the claim in terms of its uni-linear and parallel processes. These include the structures in, timing of and representation at e.g. the election of a representative committee, CPA workshops, and negotiations with various authorities.
3. The Commission itself has had little contact with the larger Ndabeni community. It has not been invited to attend a number of community meetings and has thus had

little opportunity to explain and discuss the claim process with the community at large.

4. Conflicting expectations and personalities at the negotiating table have caused tensions to rise on several occasions and complicated the process, especially the conveyance of the importance of holding elections for a representative Committee.
5. As researchers appointed by the Commission, we also encountered difficulties in establishing and maintaining an effective working relationship with part of the interim Committee, although we worked closely and fruitfully with other members.
6. The lack of consistency in Committee representation at meetings with the Commission has made it difficult for it to establish and maintain a working relationship with the committee.
7. These issues have contributed to the apparent lack of a sense of working together with the interim Committee.
8. The appointment of qualified researchers to undertake the compilation of a claimant list which forms the electoral roll for elections of a representative Committee was unnecessarily delayed. This will be further discussed below.

THE DELAY IN APPOINTING RESEARCHERS

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

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

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

CONCLUSIONS AND RECOMMENDATIONS

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

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

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



Commission on Restitution of Land Rights

NDABENI

ISAZISO

Ikhomishana yokubuyiselwa Kwamalungelo omhlaba yeNtshona-Koloni yazisa bonke ababengabahlali nabo babehlawula inkonzo zebhunga eNdabeni kwanezihlobo zabo, ngokuvulwa kweeNqila zexeshana zokubhalisa e Guguletu, Khayelitsha, Langa nase Khayamandi.

Ukuba wena nosapho lwakho okanye izizalwane nanisondula mhlala eNdabeni naze nasuswa ngokungekho mthethweni ngenxa yemithetho yocacu-calulo ka Rhulumente, nimenyelwa ukuza ngamabali yenu ngalo-mbandela nize nifake izicelo zokubanga intlawulo kwezi Nqila zibandakanywe ngaphantsi. Incwadi ezibalulekileyo kule nkqubo zezi: Incwadi yesazisi salowo ubanga amalungelo; Ukuba ngabazali okanye umfazi okanye indoda yakho eyahluthwa amalungelo omhlaba kwaye abasekho yiza neziqinisekiso sasemthethweni esichaza oko. Qaphela ukuba akukho ntlawulo yenziwayo ekubangeni intlawulo.

NOTICE

The Regional Commissioner of Land Rights (Western & Northern Cape) notifies all former residents or tenants of Ndabeni and/or their direct descendants of the opening of temporary registration centres in Guguletu, Khayelitsha, Langa and Khayamandi.

If you or your family lived in Ndabeni and were forcibly removed because of the government's racist policy, you are invited to tell your story and apply for compensation at the offices below. Please bring your ID book. If your parents, your grandparents, or your husband, wife or partner are deceased, please bring a certified copy of their death certificates if available. Please note there is no cost involved in completing claim forms.

	VENUE	DATES	TIME
Guguletu	Ikwezi Centre, Corner NY 2 and NY 26	9-14 December 1996 20-25 January 1997 27 January-1 February 1997	Mondays-Fridays 11:00am-7:00pm Saturdays 11:00am-4:00pm
Khayelitsha	Department of Housing Stocks & Stocks Building Ngcwalezi Street, Lingeletu	9-14 December 1996 20-25 January 1997 27 January-1 February 1997	Mondays-Fridays 11:00am-7:00pm Saturdays 11:00am-4:00pm
Langa	Rent Office Bhunga Avenue	9-14 December 1996 20-25 January 1997 27 January-1 February 1997	Mondays-Fridays 11:00am-7:00pm Saturdays 11:00am-4:00pm
Khayamandi	Municipal Building, opposite Police Station	14 December 1996 only	Saturday 11:00am-4:00pm

Chaza intlalo kwa-Ndabeni phambi kwemfuduko. Describe life in Ndabeni before removal

3. INKCUKACHA ZEMFUDUKO/ DETAILS OF REMOVAL

Nafuduswa nini kulo ndawo? What date were you removed from the area?

Ingaba wahlawulwa imbuyekezo Were you paid any compensation	ewe/ yes	hayi/ no
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Ukuba kunjalo, wahlawulwa malini/ if so, how much. _____

Ingaba wanikwa indlu okanye indawo yokuhlala ngoko Were you allocated any housing or accommodation at time	ewe/ yes	hayi/ no
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Ukuba kunjalo, cacisa/ If so, please describe.

Chaza intlalo ngexesha nasemveni kwemfuduko. Describe life during and after the removal.

Ukufuduswa kwenu kwabanagalelo lini na ebomini benu ? What impact did the removal have in your lives?

5. IMBUYEKEZO/ COMPENSATION

Yeyiphi intlobo yembuyekezo enokukuxolisa. What form of compensation would you be happy with.

* Ukuya kuhlala e-Wingfield unikwe nendlu Resettlement on Wingfield providing housing	
*Ukunikwa indlu - Ukubekwa kuluhlu lwezindlu ezizakwaxhiwa Alternative housing - priority listing in other housing projects	
*Imali-mbuyekezo/Monetary compensation	

6. ULUHLU LWEMINQWENO /WISH LIST

Phawula ngohlobo lokubaluleka kwazo izinto ezi-5 onokuthanda ukuthi zibekhona ekihlaleni e-Wingfield.

Indicate in order of priority 5 things you would most like to have in the new Ndabeni Community.

1	2	3	4	5



**QUESTIONNAIRE FOR EX-NDABENI RESIDENTS AND DESCENDANTS
IMIBUZO YABANTU ABABEHLALA eNDABENI NEYEENZALA ZABO**

1. YOUR DETAILS - IINKCUKACHA ZAKHO

Surname
Ifani

First names
Amagama okuqala

ID number
Inombolo ye-ID

Female/Male
Umfazi/Indoda

Full address
Idilesi yakho ngokupheleleyo

2. NDABENI DETAILS - IINKCUKACHA MALUNGA NOKUHLALA eNDABENI

Please provide the following details regarding your connection with Ndabeni, whether or not you lived there yourself or your connection is through a family member.

Khawusinike iinkcukacha malunga nonxulamano lwakho neNdabeni, wawungumhlali na okanye wawuhlala nezihlobo zakho.

2.1 Did you live in Ndabeni? Wakhe wahlala eNdabeni?

YES
EWE

NO
HAYI

2.2 Who rented the house in Ndabeni? Yayingubani owayehlawulela ukuhlala?

Surname
Ifani

First names
Amagama okuqala

2.3 Please give the address of the house in Ndabeni. This may be the exact address or a description of where it was situated:

Kwawusinike idilesi yale ndlu eNdabeni. Ukuba akuyazi chaza indawo eyayikuyo:

- If (D) is deceased, then his/her living children (=E) (= son/daughter, stepchild, formally/informally adopted child) are eligible.
- A spouse of (C), (D) or (E) is only eligible, if (C), (D), or (E) are deceased and their children (= son/daughter, stepchild, formally/informally adopted child) are under 18 years of age. The wife/husband/partner can then only apply on behalf of his/her children.

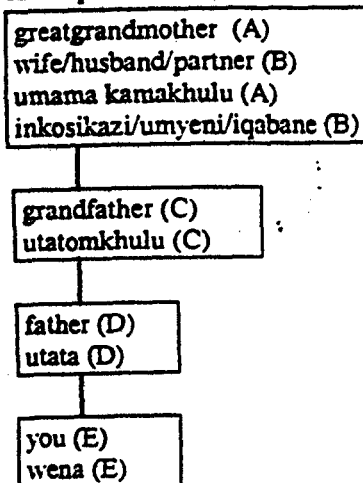
Below are four examples of people who qualify for application according to these criteria. The people in the boxes above "you" are all deceased.

Aba bantu balandelayo banelungelo lokubuyiselwa kuba basuswa ngenkani eNdabeni:

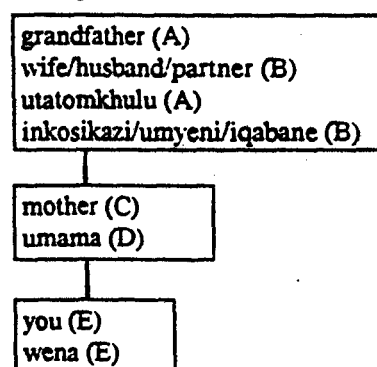
- Umntu (=u-A) owayehlala eNdabeni osaphilayo.
- Ukuba lo mntu (=u-A) wasweleka, inkosikazi/umyeni/iqabane (=B) lalo mntu (=u-A) ufanelekile, ukuba uyaphila.
- Ukuba omnye waba bantu (u-A) okanye (u-B) wasweleka, abantwana abaphilayo (=C) (=unyana/intombi, umntwana womtshato wokuqala, okanye umntwana ofunyanelwe ekhaya) nabo banelungelo.
- Ukuba (u-C) uswelekile, abantwana bakhe (=u-D) banelungelo.
- Ukuba (u-D) uswelekile, abantwana bakhe banelungelo (=u-E) (=unyana/intombi, umntwana womtshato wokuqala, umntwana ofunyanelwe ekhaya) banelungelo.
- Iqabane lika (C), (D) okanye (E) linelungelo, xa (u-C), (u-D) okanye (u-E) abasekho nabantwana babo (=unyana/intombi/umntwana womtshato wokuqala, umntwana ofunyanelwe ekhaya) bangaphantsi kweminyaka elishumi elinesibhozo (18).

Ngezantsi unikwe imizekelo emine yabantu abanelungelo lokufaka izicelo. Abantu kwezibhokosi ezingasentla ko "wena" bonke baswelekile.

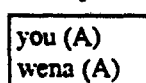
Example 1



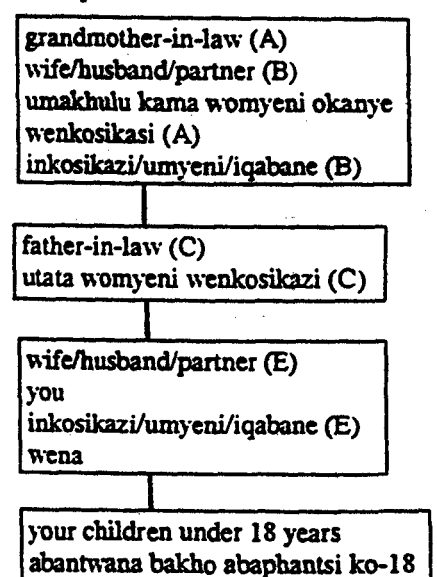
Example 2



Example 3



Example 4



If your relationship to your closest relative in Ndabeni fulfils the criteria given above, please trace your relationship in a similar way to these examples.

Ukuba unomntu onobuhlobo naye eNdabeni kwaba bantu sebexeliwe, cacisa ubuhlobo bakho ngolu hlobo lwale mizekelo.

2.6.1 If your relationship to your closest relative in Ndabeni does not fit the above criteria, then please describe your relationship:

Ukuba ubuhlobo bakho asibubo obu sebuxeliwe, chaza indlela ohlobene ngayo:

If possible, please provide us with the following information:

Ukuba unako, khawusinike ezi nkcukacha zilandelayo:

2.7 What year were you/your family removed from Ndabeni? Nasuswa ngawuphi unyaka eNdabeni? _____

2.8 Where did you/your family move to from Ndabeni? Nasuswa nabhekiswa phi? _____

2.9 For how many years did your family live in Ndabeni? Nanineminyaka emingaphi nihlala eNdabeni? _____

2.10 Please describe what life was like in Ndabeni before your family was removed, either from your own experience or from stories you have heard:

Khawusichazele imo-ntlalo yenu eNdabeni phambi kokuba niruswe, ngokokwakho okanye ngokubaliselwa:

3. DETAILS OF REMOVAL - IINKCUKACHA ZOKUSUSWA

3.1 When you/your family was removed from Ndabeni, were you/they paid any monetary compensation by the State? Ukususwa kwenu nanihlawuliwe na nguRhulumente?

**YES
EWE**

**NO
HAYI**

3.2 If yes, how much? _____

3.3 Did the City Council allocate any housing to you/your family in the area you moved to? UMasipala wanakhela izindlu kule ndawo nabhekwa kuyo?

**YES
EWE**

**NO
HAYI**

**3.4 If yes, please describe the house, its location and rent arrangements:
Ukuba yakhiwa indlu, chaza uhlobo lwale ndlu, nendawo eyayikuyo, nendlela yentlawulo:**

3.5 Please describe the day when you/your family were removed from Ndabeni, either from your own experience or from stories you have heard. Please include details of how you were moved, what form of transport was used, whether neighbours were moved with you etc. Khawusichazele indlela enafuduswa ngayo eNdabeni, ngokokwakho okanye ngendlela owabaliselwa ngayo. Nathuthwa ngantoni iokanye nasuswa nonke nje, njalo njalo.

3.6 How was life different after the removal from Ndabeni? Please describe either from your own experiences or from stories you have heard. Waba yintoni umahluko wentlalo yenu emva kokuba nesuswe eNdabeni? Khawusichazele ngokokwakho okanye ngendlela owabaliselwa ngayo.

5. COMPENSATION - IMBUYEKEZO

5.1 What form of compensation would you be happy with? Please prioritise your choice, numbering the blocks 1 to 3, with 1 being your first choice, 2 being your second choice and 3 being your third choice.

Loluphi uhlobo lwembuyekezo olunokukuyolisa? Dwelisa indlela onokubuyezwa ngayo, ngokokushiyana nokubaluleka kwazo.

1. To be resettled in a new Ndabeni community with housing assistance Ukubuyiselwe kwiNdabeni entsha noncedo lwezindlu	
2. To be put on a priority list for resettlement in another housing development scheme Ukubekwa phambili kuluhlu lwabantu abaza kuya kwenye indawo enezindlu	
3. To receive monetary compensation Ukufumana imbuyekezo yemali	

5.2 If you were to be resettled, please suggest five facilities and services you would most like to have in the new Ndabeni community:

Nika izinto zibe ntlanu onokuthanda zibe kho xa unokuthi ubuyiselwe kwiNdabeni entsha:

1	2	3	4	5

5.3 If you were to be resettled, please state whether you wish to share a house with the people in your present household after resettlement:

Ukuba ungabuyiselwa ungathanda na ukuhlala naba bantu uhlala nabo ngoku:

Today's date / Umhla _____ 19 _____

Thank you very much for your cooperation.
Enkosi kakhulu ngentsebenziswano yakho.

DESCENDANT SCENARIOS

1) Your father's brother marries a woman who was born in Ndabeni. She is therefore your aunt by marriage. She and your uncle pass away, they do not have any children of their own: a) are you eligible? b) Is your father/mother eligible if still alive? c) If your aunt and uncle did have children and they passed away would you have the same rights to eligibility as your cousins?

2) Your grandfather's brother lived in Ndabeni. Your grandfather did not. a) Are you therefor eligible for restitution if your great uncle has passed away without leaving any offspring or spouse, and you are next in generational line on your father's side? b) Are you eligible for restitution if your great uncle did have children? What if it is your greatgrandfather's brother?

3) A man lives in Ndabeni, is moved to Langa where he marries a woman who already has a child. He does not legally adopt the child but he brings the child up as if it were his own. The husband and wife die. A) is the child eligible to claim restitution as a "step child"? b) if yes, would this still apply if the couple had produced more children from their union and as such the father had biological offspring of his own?

4) A mother and a daughter lived in Ndabeni. The daughter was born there. The mother is still alive. a) is the daughter who was removed from Ndabeni in her youth, eligible to claim on her own behalf i.e. is a child regarded as being directly affected by the removals? Or must she wait until her mother's death to be eligible to claim? That is, are they eligible to claim for the same plot of land in Ndabeni?

5) A child is born in Transkei. The mother dies when the child is young. The child is sent to stay with the mother's old friend who has recently been removed from Ndabeni to Langa. She brings up the child as her own (although she already has four of her own). The child thinks of her as its mother. The surrogate mother dies. Is the child eligible to claim compensation on a par with the biological children?

6) A child is born in Transkei, but is sent to live in Ndabeni with mother's friend. The child died in Langa leaving no descendants. Is the child's biological mother eligible to claim? Is the child's siblings able to claim?