

The Neo-Liberalization of Nature: Contextualizing the Resolution of Land Claims in the Kruger National Park

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Declaration

This is to certify that the thesis *The Neoliberalisation of Nature: Contextualising the Resolution of Land Claims in the Kruger National Park*, submitted by me to the University of Cape Town for the award of the degree of Masters is a bonafide research work carried out by me under the supervision and guidance of Associate Professor Maano Ramutsindela. The contents of this thesis in full or in parts have not been submitted to any University or College for the award of any degree or diploma.

Medupi Shabangu

Date:

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Abstract

The history of the nature conservation in South Africa's protected areas is marked by the unfortunate reality of forced removals and land dispossession. Ultimately landlessness created an unequal society in terms of land holding, use and ownership. Nature conservation was also not spared. The land reform program in South Africa more especially the land restitution in the Kruger National Park re-defined the relationship between nature and society. However, such redefinition of nature and society takes place at the confluence of neoliberalisation of nature and neoliberal land reform. The thesis provides insight into variants of neo-liberalism which point to ways in which nature conservation is increasingly being incorporated into market conditions and ideals. In the case of South Africa, the neo-liberalisation of nature takes place through a market-based approach to land reform. This brings together two threads of neo-liberalism, namely, the neo-liberalisation of nature and neo-liberal land reform.

The study focuses on the land restoration debate which revolves around whether it is feasible to restore all land that was lost as a result of apartheid's discriminatory practices; the appropriate method for achieving an equitable land restitution; and the method by which such restitution can be achieved with due consideration to all other national imperatives and long term goals. It specifically engages the question of how land claimants in the Kruger National Park fit into that debate. It has two main objectives: (1) to account for forms of neo-liberalism in South Africa's national parks; (2) to analyse the consequences of particular forms of neo-liberalism on land claims in the Kruger National Park. The paper grapples with the following specific questions: (a) what informs the model for land claim resolution in South Africa's conservation areas? (b) Why is the Makuleke land claim resolution not replicated in the Kruger National Park and other conservation areas in the country? The thesis answers these questions through two detailed case studies of Makahane-Marithenga and Makuleke where land reform is implemented in conservation areas.

The findings of the study reveal an accelerated and comfortable alliance between nature and capital in South Africa. Such alliance is mediated by the State. The State encourages the penetration of capital in nature through favorable legislative and policy conditions that benefits capital at the cost of societal transformative agenda. This study argues that, neoliberal land reform and neoliberalisation of nature in South Africa have come at a cost of real reforms which were the bedrock of years of struggle against colonialism and apartheid.

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List of Acronyms

ANC:	African National Congress
APT:	Annual Percentage of Turnover
BOT:	Built Operate Transfer
CBNRM:	Community Based Natural Resources Management
CEO:	Chief Executive Officer
CPA:	Communal Property Association
CTF:	Concession Time Frame
DLA:	Department of Land Affairs
DEAT:	Department of Environmental Affairs and Tourism
GEAR:	Growth Employment and Redistribution
GTZ:	German Agency for Technical Cooperation
IUCN:	International Union for Conservation of Nature
KNP:	Kruger National Park
LPM:	Landless Peoples Movement
MERG:	Macro Economic Research Group
MLAR:	Market Led Agrarian Reform
MST:	Movimento dos Trabalhadores Rurais Sem Terra
PPP:	Public Private Partnership
RDP:	Reconstruction and Development Programme
RLCC:	Regional Land Claims Commission
SANP:	South African National Parks
WESSA:	Wildlife Environmental Society of South Africa

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Chapter 1

Nature conservation and land reform: the post-liberation project in South-Africa

1.1 Introduction

Much of the discussions on land reform and nature conservation areas can be situated within political ecology. This is so because political ecology's guiding objective is to understand the complex relations between nature and society by analysing the forms of access and control over resources (Watts 2000; Robbins 2004; Neumann 2005). According to Turner and Robbins (2008) political ecology is a research theme that addresses conceptual and substantive problems that are highly relevant to sustainability, land change and vulnerability. It addresses a range of human-environment beyond those of land change (such as air quality and marine habitat), although it utilises a common approach to tie local problems to global systems. It focuses on interests in the human-environment interactions of land use and raises difficult but important questions about politics, ethics, and social justice in relation to human activity and environmental change (Lipietz 1996). In this context, political ecology questions oversimplifying and often misleading conventional views of human-environment relations. Accordingly, Robbins (2002) argues for the examination of the contradictions between nature and society and those between development and environmental change across scale and distance. Such an exercise not only reveals the workings of power but also highlights process, structure and history. Political ecology allows for an analysis of the past and present relationships between policy, political economy and the environment. It introduces concepts of relative power across levels of environmental and ecological analysis.

Of relevance to this study are two major theses of political ecology; environmental conflict and the conservation and control. Robbins (2004) argues in the 'environmental conflict' thesis that resource acquisition or restriction by the state authorities, private firms, or social elites produce scarcities accelerating conflict between groups. More so, the conservation and control thesis, argues that attempts to maintain sustainability remove control of resources from local producers, with officialdom and global interest often stigmatizing local production systems as unsustainable

in their struggle to control resources (Robbins 2004). Problems arising over access to resources have been a key focus in many political ecology studies, especially those that have examined the often-destructive impact of Western-driven conservation policies in many parts of Africa (Duffy 2000; Brockington 2002; Neumann 1998, 2003).

It could be argued that land claims in protected areas constitute environmental conflict. In the case of South Africa, such conflict arises from land claims in protected areas where the control and use of resources is highly contested. The land claims have their roots on racially motivated forced removals under apartheid and the post-apartheid state's resolve to return land to its rightful owners. The Constitution of the Republic of South Africa provides that land restitution should take place within the bounds of the Bill of Rights which protects the right to property. The implication of these rights is that accessing land for purposes of restitution in a constitutional democracy demands recognition of market principles. Accordingly, the Mandela government that took office in 1994 developed and relied on the willing-buyer willing-seller principle. This principle means that land for restitution can mainly be accessed through market transactions.

Conceptually, the use of market transaction in land reform can be regarded as the introduction of neoliberalism in land reform. Neoliberalisation entails the protection of individual liberties and freedom through institutional systems of governance. It advocates for stronger private property rights, free market and free trade, a world where individual freedoms are protected. Consequently, the role of the state is minimised, essentially catering for the preservation and protection of property rights and the promotion of global interaction on market principles. In the case of South Africa the protection of private property found expression through constitutional guarantees hence land reform programmes endeavour to protect individual property rights.

Communities who acquired land through restitution are also required by government to engage in business activities. In fact, business plans have increasingly become a pre-condition for access to land by claimants. In this study land acquisition through the market and use of restituted land for commercial purposes constitute one element of neoliberalisation. The second element involves the introduction of the market into nature conservation. South Africa's national parks

operate on market principles and this became more evident with the introduction of commercialization strategy by the South African National Parks (SANParks) in 2000 (see Chapter 4).

This study explores both the theoretical and practical endeavours of reconciling conservation and the restoration of land rights to communities who were dispossessed of their rights in land in the Kruger National Park, South Africa. It specifically situates and analyses the interface between biodiversity conservation and land claims affecting the Kruger National Park and test the hypothesis of whether such claims for restitution of rights in land are a threat to bio-diversity conservation or vice versa.

The aim of this study is to examine environmental conflict under conditions of land restitution and neoliberalisation in South Africa's protected areas. To achieve this aim, the two objectives of this study are to:

- (a) investigate the tension between land restitution and the protection and management of biodiversity under neoliberal conditions; and
- (b) account for why the Makuleke model was not used in Makahane-Marithenga land claim.

Over the past two decades biodiversity conservation and land reform in South Africa opened a new platform on which the relationship between nature and society could be researched within the context of a state in transition. This is largely due to the introduction of co-management as a transformative approach to finalising land claims affecting protected areas. Literature on land claims and protected areas remain inconclusive hence the need to understand various ways in which these land claims have been handled.

1.2 Collaborative natural resource governance

McCarthy and Prudam (2004) argued that the growing popularity of collaborative governance as the appropriate solution to conflict shed light on environmental governance as an arena where neoliberal policies have been introduced and implemented. An expanded role of non-state actors is pivotal to neoliberal governance through partnerships and the active participation of public,

private, and civil actors (McCarthy 2006). According to De Angilis (2003) implicit in the concept of collaborative governance is that social groups with different interests can find mutually beneficial solutions, implying an ideological belief that their goals are not mutually exclusive. These ideas from political ecology are useful for contextualising and analysing the present polarisation of ideas and strategies pertaining to the control, ownership and sustainable use of the natural resources in protected areas. They are also crucial for understanding governance structures as such co-management.

Co-management in conservation areas has their longest history in Australia where the Aboriginal Land Rights (Northern Territory) Act of 1976 granted title to certain areas in the Northern Territory to traditional Aboriginal owners. The lease for Kakadu, the first contractual national park on Aboriginal land, was signed in 1978 (Hill and Press 1994). Co-management was adopted as an approach to promote the integration of biodiversity conservation and land rights; transform the skewed patterns of land ownership; contribute to poverty alleviation; empower rural communities; and protect the environment (Kepe 2008; Cundill et al 2013). It is argued that this approach is a key component for the empowerment and development of rural communities through access and ownership of high value natural resources and the development of nature-based enterprises that generate economic benefits for communities. In conservation areas co-management emerged as a win-win solution from highly contested political land claim processes that resulted in land reform and consequent changes in landownership. According to Kepe (2008) partnerships and co-management agreements both with the private sector tourism operators and conservation authorities to fight poverty are attempts to reconcile conservation and development. Thus, the recognition of the importance of collaborative governance of natural resources between public and private sector institutions inform most co-management agreements.

In theory, natural resources governance through co-management promises a rich array of benefits for local populations, from representative decision making to legitimately equal and open access to natural resources. The recent application of the co-management system of enforcement in the Zambian portion of the Mweru-Luapula fishery shows how well intentioned policy fails to produce expected results. Often this leads to spoils for some and reduced value for others (Annear 2009). In the context of South Africa, the development of co-management concept

presents new dynamics of an interface between land restitution claims and protected areas. Such land claims have the potential to transform ownership patterns of conservation land and create a substantive role for land claimants in conservation and tourism development. However, it is important that the challenges with regard to the implementation of co-management be understood and opportunities emanating from such initiatives explored. For example, the co-management agreement between the Gumbi community and the Wildlands Conservation Trust in Kwa-Zulu Natal was hailed as a groundbreaking initiative for reconciling conservation and land rights through the land restitution programme. These and other communities look to co-management as a strategy to fight poverty, socio-economic empowerment and maintain conservation of the land.

This study places co-management of natural resources within devolution and centralization theories in order to bring the intersection between co-management and ownership into sharp analytical focus. Devolution theory favours ownership, decentralization and co-management of natural resources while the centralization theory argues for a state-driven centralized ownership and management of such resources. As Chapters 5 and 6 will show, the debate on the manner in which land claims in the Kruger National Park should be resolved reflects conflict between devolution and centralization.

1.3 The legal context of land reform and conservation

Since majority rule in 1994, the post-apartheid government has instituted a process of land reform through which it aims to return large areas of land to the black population (Carnegie et al. 1998) through the Restitution of Land Rights, Act 108 of 1994 and the Reform Laws Amendment Bill of 1999. The Communal Property Association Act of 1996 is particularly important regarding the restitution of land to previously dispossessed communities. The CPA Act allows for the establishment and registration of communal property associations by successful land claimants to take ownership of restituted land on behalf of the community. In view of the transformation imperatives brought by the land restitution programme in conservation areas, SANParks was under pressure from the public to embrace a new trajectory of

transformation hence it sought to develop a mutual beneficial relationship between land reform and biodiversity conservation.

Section 25(7) of the Constitution of South Africa provides for the transformation in land rights affecting any type of land use. South Africa's Constitution provides for the resolution of land claims in the country but is also supportive to the goals of environmental protection (Republic of South Africa 1996a). It affirms the right of individuals to live in a healthy environment and calls for the protection of the environment for the benefit of present and future generations through reasonable legislative and other means. The Constitution seeks to promote conservation; and secure ecologically sustainable development through the use of natural resources within the parameters of justifiable economic and social development (Republic of South Africa 1996a). It not only provides the right to land reform and equitable redress but to environmental protection as well.

The South African land reform program intends to redress the injustices of apartheid and alleviates the impoverishment and suffering it has caused (Republic of South Africa 1997). The goals of the land policy include justice, reconciliation, and the alleviation of poverty, economic growth and stability, and sustainable use of the land (Republic of South Africa 1996a). Attempts to bring about reconciliation are made through restitution as one of the components of the land reform program. The rationales for restitution are expressed in Section 25(7) of the Constitution which states that “a person or community dispossessed of property after 19 June 1913 as a result of past racially discriminatory laws and practices is entitled, to the extent provided by the Act of Parliament, either to restitution of that property or to equitable redress” (Republic of South Africa 1996a: 3).

In pursuance of constitutional imperatives, co-management became the most popular approach to reconciling land claims and biodiversity conservation in South Africa (Kepe 2008). The most formidable challenge to conservation policies has been to reconcile human needs and conservation imperatives (Ramutsindela 2003). Therefore, it is essential to understand the tension between land reform and conservation and how these are resolved in ways that empower or disempower and serve the social and economic needs of communities and the protection of

national parks. Wynberg and Kepe (1999) argued that it is now apparent that the efficacy of protected areas is dependent upon the extent to which people are socially, economically and ecologically integrated into the surrounding region. However, central to reconciling land claims and conservation is how to properly integrate the possible ownership of national parks by communities in partnership with the conservation authorities without compromising the ecological integrity, conservation enterprise viability and the land rights of communities. This study highlights contrasting positions on how and why such reconciliation process should proceed on the ground.

1.4 Structure of the Thesis

Chapter 2 of this thesis provides a conceptual framework within which the study is located. It uses neoliberalism as the theoretical basis for the study and more so, outlines the influence of neoliberalism on South African transition politics in the early 1990s. It argues that the shifts and contestations of macro-economic policy from the Reconstruction and Development Programme (RDP) which was greatly a state driven policy to Growth, Employment and Redistribution (GEAR) which rolled back the state was a significant neoliberal moment that had huge implications to the settlement of land claims. The government relied on GEAR to set a legislative environment for private sector-driven development. This development, the chapter argues, help us to answer the question of what accounts for neoliberalism in South Africa's protected areas. The last part of the chapter discusses the settlement of Mala Mala land claim in detail to highlight an emerging trend in neoliberalism in private nature reserves. It points out that, the South African land reform programme has been shaped by a neoliberal policy which negatively affected the states' capacity to drive land reform effectively.

Chapter 3 presents the research methodology used in the collection of data on which the conclusions for this thesis are based. Research methods focused on interviews with key respondents from the two case studies identified, Makuleke and Makahane Marithenga. Data were collected on what the communities wanted to see happening with their land claims in the Kruger National Park and how state departments and conservation agencies responded to such

claims. Methodologies were often adapted to suit the environment while also exploring an opportunity to probe further the responses received.

Chapters 4 and 5 introduce the two case studies used in this study. Chapter 5 scrutinizes the Makuleke model to answer the following question: what does the Makuleke model mean to both conservation and land claims? What conditions led to the development of such a model? The chapter further probes the investment model to understand the beneficiation framework and its implication for the broader community of Makuleke. Chapter 5 takes the discussion on the Makuleke model further by probing why that model is not being used in resolving similar land claims in the same national park?

Chapter 6 reflects on the findings of the study and argues that the land restoration debates in the Kruger National Park is greatly affected by the politics of conservation and land reform, which represent the two strands of neoliberalism, namely, neoliberal land reform and neoliberal conservation. The study argues that conservation overrides the transformation imperative of land reform in conservation areas. It suggests that giving title to land claimants is a necessary step towards a meaningful land reform in South Africa's protected areas. The crucial broader point of the thesis is that the case of the restrictions on community ownership in the KNP surely shows the limits of neoliberalism: land in Kruger cannot simply be valued, bought and sold freely through market mechanisms. It is land which has special (and intrinsic) value, according to local, national and international agreements. Efficiency is not the only or even the primary goal in the KNP – as shown by the experience of the Makuleke.

Chapter 2

Neoliberalism, conservation and land reform: South Africa's experience

2.1 Introduction

Peck and Tickell (2002) suggest that neoliberalism has created an undertone for collaboration between the state and private capital and that the state provides the necessary environment for neoliberalism to thrive. Not only does the state support neoliberal strategies such as competition and commercialization, but it also actively partakes in them, and even disciplines itself accordingly. For instance, it substitutes traditionally public sector operating principles (like cross-subsidization or supply-driven service) by private sector operating principles (like managerial and financial ring fencing or demand-driven service) (McDonald and Ruiters 2005). In essence, the emergence of neoliberalism in governance shows its face in many ways and that include public-private partnerships, commercialization or privatization. This chapter uses literature on the neoliberalisation of nature as a background for understanding how neoliberalism unfolded in South Africa and diffused into the country's national parks where there are land claims. These land claims are discussed in detail in Chapters 4 and 5. The chapter is divided into four parts. The first part briefly discusses neoliberalism in general. This is followed by the second part that focuses on neoliberalism in South Africa. It specifically focuses on the move from the Reconstruction and Development Programme (RDP) which was a people centered approach to democratic reforms to a Growth, Employment and Redistribution (GEAR), a neoliberal driven policy reform and its influence on land reform and conservation. The chapter sets out to answer the following questions: how is nature neoliberalised and what facilitates the exploitation of nature? How does neoliberalism shape conservation policies, with what results? In the third part, the chapter brings together neoliberalisation of conservation and land reform in order to understand South Africa's approach towards land reform in national parks. The last part of the chapter refers to Mala Mala land claim to demonstrates how business models are packaged with land claims and also how political expediency gets on the way of settling land claims.

2.2 Notes on neoliberalism

Polanyi (1944) conceives of neoliberalism as a self-regulating market that rolls back direct state involvement in order to allow the open market to determine access to goods and services based on the market principles of demand and supply. Neoliberalism includes the rule of the market and liberating free enterprise or private enterprise from any bonds imposed by the state no matter how much social damage this causes. It encourages greater openness to international trade and investment and reduces wages by de-unionizing workers and eliminating workers' rights that had been won over many years of struggle. It removes price controls in order to achieve total freedom of movement of capital, goods and services. Its proponents argue that an unregulated market is the best way to increase economic growth, which will ultimately benefit everyone (Harvey 2005). Neoliberalism masks and reconfigures human relations through the market which acts as the final and only arbiter of global human freedoms. This has not worked since wealth remains in few hands. Neoliberalism results in reduction in public expenditure on social services like education and health care, laws compromising safety net for the poor.

Through deregulation, neoliberalism reduces governments abilities to regulate everything that could diminish profits, including protecting the environment. State owned enterprises, goods and services are sold to private investors – a process known as privatization. This includes banks, key industries, railroads, highways, electricity, schools, hospitals and even fresh water. Although usually done in the name of greater efficiency, which is often needed, privatization has mainly had the effect of concentrating wealth even more in a few hands and making the public pay even more for its needs (Harvey 2005). Larner (2000) argued that deregulation and privatization are means for transferring power away from democratically elected governments with a mandate to ensure universal service provision towards private capital concerned primarily with furthering opportunities for accumulation. This shift from public to private sector is understood to erode the foundations of both national economies and traditional social solidarities. Deacon (1997, 2001) argued that the US driven neoliberal globalisation also attempts to install itself as the only, the necessary and most desirable way. It attempts to ‘hegemonise’ supra-national institutions, and works through such institutions as the World Trade Organization, World Bank and International Monetary Fund to install its ‘truths’ on dependent nations around the Globe (with particular

effects on Eastern Europe, South America and Africa). It attempts to subordinate, dislocate, demobilise 'alternative modernities' where ever it encounters them.

Neoliberalism has challenged the conceptions of the public interest, striving to replace them by the rule of private interests, coordinated by markets. It has disintegrated conceptions of the public as a collective identity, attempting to substitute individualized and economized identities as taxpayers and consumers (Clarke 1997). It eliminates the concept of the public good or community and replaces it with individual responsibility. This leads to pressuring the poorest people in a society to find solutions to their lack of health care, education and social security all by themselves then blaming them, if they fail, as lazy.

McCarthy and Prudam (2003) have cautioned that, defining neoliberalism is no straightforward task, in part because the term neoliberalism stands for a complex assemblage of ideological commitments, discursive representations, and institutional practices all propagated by highly specified class alliances and organized at multiple geographical scales.

Mudge (2008: 704) pointed out that neoliberalism's intellectual face has three interconnected facets:

its Anglo-American anchored transnationality; its historical gestation within the institution of welfare capitalism and the Cold War divide; and an unadulterated emphasis on the (dis-embedded) market as the source and arbiter of human freedoms. Its bureaucratic face is expressed in state policy: liberalization, deregulation, privatization, de-politicization and monetarism. This family of reforms is targeted at promoting unfettered competition by getting the state out of the businesses of ownership and getting politicians out of the business of dirigisme-style economic management

Mudge (2008: 704) went on to say that "neoliberal policies also aim to make available institutions that had formerly been protected from the forces of private market competition, such as education and health care. The above strands of analysis strike a common chord: the emergence of a new landscape in which familiar political categories have shifting meanings and partisanship has unpredictable policy implications."

Alder and Webster (1994) argued that, a neoliberal theory of political transition has emerged which parallels the neo-classical economic strategies adopted by international financial institutions. According to this theory, orderly transitions need to be managed through a process of elite pacting (Bond 2000). It partially reflects the reality that apart from the major bourgeois revolutions and the socialist revolutions in the Soviet Union and China, few transitions to democracy have emerged out of a decisive rupture whereby an existing regime is overthrown through revolutionary insurrection. They occur rather through processes where the current power blocs are able to maintain a large degree of control over existing organs of social power, including state apparatus and private property. South Africa's transition to democracy through a negotiated settlement is a case in point. In his chapter on Market and Man in *The Great Transformation* Karl Polanyi went on to say this:

The principle of non-interference, as economic liberals were not to do, was merely the expression of an ingrained prejudice in favour of a definite kind of interference namely, such would destroy non-contractual relations between individuals and prevent the spontaneous reformation (Polanyi 1944: 163)

Commenting on the recent edition of the same book, Joseph Stiglitz said that Polanyi stresses a particular defect in the self-regulating economy that only recently has been brought back into discussion. It involves the relationship between the economy and society, with how economic systems or reforms can affect how individuals relate to one another (cited in Mbeki 2006: 1). The central point made by Polanyi is that the capitalist market destroys relations of "kinship, neighborhood, profession, and creed, replacing these with the pursuit of personal wealth by citizens who as he says, have become atomistic and individualistic" (cited in Mbeki 2006: 1).

In summary Polanyi's view is based on the actual influence of neoliberalism as a transnational political economic system that regulates access, use, ownership of resources and services beyond the geographical borders of countries. He recognizes the growing certainty that, neoliberalism has significant influence in contemporary forms of governance and transnational geopolitics. It is characterized by the market principles as the authority and final arbiter of human freedoms, and creates a marketised society in every aspect of human existence, i.e. water, forests, education, health care and the carbon market which is a new niche for capitalism.

2.3 Political transition and neoliberalism in South Africa

Peck and Tickell (2002) argued that contemporary neoliberalism has progressed from its 1980s roll-back to the roll out in the 1990s and 2000s. This means that,

neoliberalism not only implicates the transfer of the public to the private sector but also the actual neoliberalisation of the state. If the era of structural adjustment economic policies of the 1980s and earlier 1990s meant attempts to get the prices right and to hack away indiscriminately at the state, then we are now in the age of getting the state right to implement the same goals as before (Moore 1999: 61).

When the ANC came to power in 1994, the dominant global economic discourse was around globalisation. The essence of globalisation was to promote deregulation, free-trade, flexible labour market, free movement of capital, fiscal austerity, as well as incentives for foreign investment. More so, the ANC inherited an economy that was greatly crippled by the biting sanctions of the pre-liberation epoch. The ANC's pre-liberation ideals encapsulated in the freedom charter as well as represented through the RDP policy document did not resonate with global policy shifts at the time of political negotiation for a democratic South Africa. Within this context, it is not surprising that the new government which assumed office through a pact, and inherited a strong and sophisticated economy easily susceptible to world economic developments – adopted a macro-economic policy favourable to capitalism. Thabo Mbeki's ANC presented Growth, Employment and Redistribution (GEAR) and its subsequent variations in the budgets in the late 1990s and early 2000s as the only means by which to achieve an economy which could provide basic goods and services to the majority of the population.

The ANC Polokwane conference recognized that economic transformation is one of the key policy pillars of transformation. It highlighted the need to overcome spatial patterns of economic marginalization and fragmentation and to reverse the geography of apartheid in both urban and rural areas (ANC 2007), strong interventions in the private land market is suggested. It called for better use of state land for social and economic objectives in order to transform the patterns of land ownership and agrarian production with a comprehensive restructuring and deracialising agricultural production (ANC 2007). Moreover it provides a context for redefining macro-

economic policy so as to accelerate ownership and beneficiation of the economy to the majority of the population in growth sectors like conservation.

The consequences of the current economic policy on society cannot be attributed to the government's choice of economic instruments only. Shifts in global conditions rendered the ideals of pre-liberation epoch outdated and weighed heavily on the ANC. The reality is that the ANC had to make difficult and unpopular choices following the fall of the Soviet Union and the consequent shifts in geopolitical power. The analysis presented in this chapter questions the premise that the market-led land and agrarian reform in South-Africa is best for the country. For a decade or so, the proponents of market based solutions to land reform enthused faith in the market will solve the fundamental political problem of landlessness in South Africa. However, the cost of doing land reform and state driven social programmes, i.e. health care, education, infrastructural development all compete for limited state resources. These pose a challenge to reforming the skewed property relations in South Africa. The approach to land reform discussed above limits any meaningful land reform in South Africa. Questions that should be answered are: can the neoliberal agenda of the market alone solve the complex land question and help to realize social and economic justice for the majority of South Africans? Can South Africa achieve meaningful land reform through market driven reforms? Can the neoliberal market-grip on land reform policy be eased with a combination of private sector and stronger state driven land and agrarian reform policy to finding a sustainable solution in South Africa's land question? Will such approach be feasible given the transnational geo-political context South Africa is located? These questions are relevant to (re)define reforms in land in South Africa.

South Africa embraced the neoliberal agenda in the form of outright privatisation and the more predominant public private partnerships. The National Treasury remains the custodian of regulations around the state involvement in the public private partnerships (PPP). It thus defines a public private partnership (PPP) as “a commercial transaction between the state institution and the private party in terms of which the private party performs an institutional function on behalf of the institution, acquires the use of state property for its own commercial purposes, receives a benefit for performing the institutional function from utilizing the state property” (Republic of South Africa 1999: 2).

The African National Congress (ANC) committed itself, as part of the Reconstruction and Development Programme (RDP), to redistribute 30% of agricultural land to the poor and landless over a period of five years (i.e 1994-1999) (Hall 2004). The first principle of the Reconstruction and Development Programme included the statement that, “all levels of government must pay attention to affordability given our commitment to fiscal discipline and to achieve the Reconstruction and Development objectives” (ANC 1994: 4). In essence, fiscal discipline resonates with key elements of neoliberalism. The politically motivated attempts to keep the left within the democratic movement happy resulted in highly incoherent and largely fragmented strategy for economic development that will not satisfy progressives (Adelzadeh and Padayachee 1994).

Davis (2003) argued that, the post-liberation ANC that took power in 1994 was never committed to maintaining a socialist democracy within South Africa. It successfully absorbed the advocates of that form of radical alternative, being the rump of the trade union movement which emerged in the 1970s. But the nationalist project was already dominant when negotiations were initiated with the apartheid government in the early 1990s. That the economic policy documents prepared by the ANC from the late 1980's onwards could be reconciled albeit rhetorically with the Freedom Charter, was more attributable to the ANC's almost unique ability to absorb competing constituencies within its ranks than to any linguistic difficulties encountered by the interpreters of the later documents (Davis 2003). Social democratic rhetoric was the cement which bound the left to the ANC. But if the rhetoric of the Freedom Charter, the 1990 discussion document, the macro-economic research group (MERG) report and even the Reconstruction and Development Program (RDP) could be sourced in social democracy, the real politics of the ANC was based on a nationalist view of the world with the attainment of a nationalist democracy being the critical objective. Internal ANC politics must also be placed in the global economic context. When the ANC assumed power it was confronted by a new world order.

The Iron Curtain had collapsed; a free enterprise form of globalisation had taken hold; and small economies such as South Africa were at the mercy of the free flow of capital and the prescriptions of international economic agencies such as the World Bank and the International Monetary Fund (Davis 2003). The increased integration of the world economy reduced the

policy options open to governments of relatively small nation-states. That the South African government would have seen Growth Employment and Redistribution (GEAR) as its only option was not only due to the politics of the ANC, but was meant to foster productivity and competitiveness of the country's economies. A similar trend was evident in most emerging democracies in the world, such states allied themselves closely with global economic interests and abide by global rules favourable to capital flows, while their societies are being asked to wait patiently for the trickle-down benefits of corporate ingenuity (Davis 2003).

The South African government's growth, employment and redistribution (GEAR) macro-economic strategy adopted in 1996 is principally defined by its aim of reducing government spending below revenue in order to address debt (Republic of South Africa 1996b). Within the context of a market driven economy of South Africa, the state became responsible to fund or subsidize the purchase of land and related infrastructure; an enormous task which later proved difficult for the state. However, while adopting ambitious policy and targets, we have a shrinking state with inadequate institutional and financial resources (Hall 2004).

2.4 Intersections of nature conservation and neoliberalisation

Neoliberalisation of nature can briefly be defined as a process where non-human phenomena are increasingly subject to market based system of management and development (Castree 2003, 2007). One of the ways in which neoliberalism express itself in nature is through eco-tourism development in protected areas. Duffy (2008: 327) argued that one of the core justifications for eco-tourism is that "nature can be conserved precisely because of its market value to tourists willing to pay to see and experience specific landscapes". Reid (2003: 2-3) observed that tourism is "a product of the hegemony of the West and it clearly highlights the developmental gap between the world's richest and poorest nations". The private sector, global environmental non-governmental organizations and governments continually argue that eco-tourism will ensure the much needed development in less industrialised countries while at the same time conserving threatened landscapes and species. However, while it is clear that there are benefits for conservation and for some stakeholders, the focus on and promotion of these positive outcomes

can mask the complexity of power relations produced by a commitment to eco-tourism (Duffy 2008).

Neoliberalisation of nature consistently involves redefining property rights regimes and in some cases, the proliferation of community-public-private partnership and the creation of a regulatory role for the state. Neoliberalism continually finds its way and sources of self-renewal in nature, where it has progressively expanded. Nature conservation has become an avenue for the advancement of neoliberal policy agenda in the twenty first century.

2.4.1. Neoliberalism and land reform in South Africa

The liberation struggle heralded the emergence of new political forces in South African politics. At the same time, with the collapse of existing socialism in Eastern Europe, and the emergence of pro-democracy movements elsewhere in Africa, it became clear to the apartheid regime that it could no longer continue ruling in the old way. A key question about the political conditions which would favour or retard possibilities of significant land reform concerns the character of the transition to democracy (Levin and Weiner 1991).

The whole process of neoliberalisation in South Africa's land reform should be understood within the broader experiences of countries in the Global South. Take the case of Brazil, which has undergone major economic reforms the working class leadership. Wolford (2007) stated that, even as these so-called neoliberal reforms have been implemented around the world, a very different sort of land reform has also been pursued as part of growing grassroots demand for social and economic justice. In countries like Brazil, Philippines to South Africa the demand for changes by peasants and the landless led to the establishment of the Movimento dos Trabalhadores Sin Terra popularly known as MST (Brazil), the Landless People's Movement or LPM (South Africa) the Kilusang Magbubukidng Pilipinas or KMP (Philippines). This network of movements declared in 2002 at the International Seminar on the Negative Impacts of World Bank Market-Based Land Reform Policy, titled, *Land For Those Who Work It, Not just for Those Who Can Buy It:*

We are the members of peasant, research, environmental, religious and human rights organizations that have met in Washington D.C. We share the struggle for a world and a society in which the guiding principle will be the human being and the full enjoyment of all human rights for all the people and communities; in which the right to land of rural communities is recognized; the food sovereignty of all countries is guaranteed; the environmental sustainability of the planet is preserved and the cultural integrity of all people is assured.

The network singled out the neoliberal policies which encourage structural adjustment programmes because of its negative impact on the rural poor, peasants and effects on their indigenous rights to land and their freedoms. These social movements presented a ‘sentimental populist’ demand for a just, equitable and fair distribution of land to ensure food and livelihoods security. In the context of South Africa, the sentiment squarely defines the call of the freedom charter which expressed the land tiller sentiments as fundamental to land ownership.

It is common knowledge that colonialism and apartheid dispossessed Africans of land on a large scale and confined them to overcrowded reserves. Policy makers took an interest in arguments that land reform could play a significant role in boosting economic growth and alleviating poverty (Wegeriff 2004). Land dispossession of indigenous populations in South Africa by the Dutch and British settlers was central to pre-and post-apartheid struggles for liberation. European settlers began around the Cape of Good Hope in the 1650s and progressed northwards and eastwards over a period of 300 years (Thompson 1985). By the mid-20th century most of the country, including most of the agricultural land, was reserved for the white minority settler population, with the African majority confined to just 13% of the territory, the ‘native reserves’, later known as African Homelands or Bantustans (Thompson 1985).

At the end of apartheid roughly 82 million hectares of commercial farmland (86% of total agricultural land, 68% of the total surface area) were in the hands of white people who constituted 10.9% of the population, and concentrated in the hands of some 60 000 owners (Levin and Weiner 1991). Over 13 million black people, the majority of them poverty stricken remained crowded into the former homelands, where rights to land were generally unclear or contested and the system of land administration was in disarray. The native reserves were a sanctuary of poverty, shortage of fertile agricultural land and continued conflicts within and

amongst African people over the installation of illegitimate Chiefs appointed under the Bantu Authorities Act 1957 (Ntsebeza 2005).

Wolford (2007) stated that the dominant approaches to land reform can be imperfectly labeled neoliberal and populist. Neoliberal land reforms attempt to create or restore private rights to property for the purpose of improving the smooth functioning of rural markets (usually markets in land, credit and agricultural inputs) and increasing efficiency and production through security of title (Borrajias jr et al 2003). Lahiff (2007: 1577) propagates the same view that, “since its transition to democracy in 1994 South Africa has adopted a strongly pro-market approach to land reform, influenced by conservative forces within the country and international backing for market-assisted agrarian reform (MLAR), particularly from the World Bank”. The influence of neoliberalism on land reform has seen the experimentation with such policies in most developing countries.

Borrajias Jr (2003) argued that, in countries across Latin America, Asia and Africa, international monetary and lending agencies have entered into the debate over distribution and attempted to influence the path that distribution will take. The World Bank, particularly, has advocated with vigour for the establishment of secure tenure rights and distribution of land, usually through a market mechanism referred to as willing buyer-willing seller or MLAR to contrast it to the state-led reforms of both an earlier period and those demanded by increasingly visible peasant organizations such as the Landless Peoples Movement.

At the dawn of democracy the transformation agenda of South Africa was at the confluence of evolving global debates between western neoliberalist and populist struggle beliefs of the pre-liberation epoch. Hard and ‘unpopular’ choices had to be made. Ramutsindela (2002) observed that, land reform in South Africa is a product of negotiated settlement of 1992/1993. In essence, the construct of land reform as a transformative discourse was purely based on neoliberal policies hence the willing-buyer willing-seller approach. Mngxitama and Eleveth (2003) argued that since 1994 a racially skewed legacy of land distribution had not changed and less than 7% of South Africa’s land had been redistributed, while millions of South Africans remain landless. Fiscal restraint is one reason why the redistribution of land has been so limited. A total of only

2.9% of agricultural land was transferred in the first decade of democracy, and during this period, the budget for land reform remained at or below 0.5% of the national budget (Republic of South Africa 2004; National Treasury 2004). Weideman (2004) posits that, the debate over how best to redistribute land and restore land rights was dominated by technically superior and excellent lobbyists from the World Bank. Bank officials pushed for a market-based approach to reform that focused on individual property rights (van Zyl et al 1996) and the ANC subsequently “adopted an even more narrow approach on willing sellers and willing buyers” (Lahiff 2005: 1).

Hendricks and Ntsebeza (2000) argued that, the status of existing property rights (including agricultural land) was a central factor in the negotiations that led to political transition. White farmers and industrialists successfully lobbied politicians to ensure that commitments to transformation in the 1993 interim constitution and the final 1996 constitution were tempered by a property clause that recognized and protected existing property rights. Land reform could happen but would be constrained; leading the National Land Committee (NLC) to observe that in effect, colonial land theft is now preserved by constitutional sanction.

Essentially, the land reform debate intersected with and was influenced by shifting politics of post-apartheid South Africa. The debate centered around the key question of “how a movement, which for more than three decades remained committed to the economic principles set out in the Freedom Charter, came, within so short a period of time (no more than three years), to embrace neoliberalism the very antithesis of what has been its policy for so long?” (Davis 2003: 40). The response to this question was that, to develop an investor friendly country the state is required to free up resources to attract private investment to scale up economic growth to the desired 6 percent as espoused by Growth Employment and Redistribution (GEAR). Twenty years into democracy land redistribution, restitution, and tenure reform meant to benefit the rural poor and the peasants who work the land of their white masters has yet to make a dent on resolving the land question which is more than three-hundred years old. These classes of landless people are expected to find meaningful reforms within the broader spectrum of neoliberal agenda which has created unequal power relations in the country. The consequences of a neoliberal policy agenda in South Africa are such that, reforms must be seen to be done but with less ‘populist’ approach of the pre-liberation era as such an approach has potential to create class conflict in the country.

The Restitution of Land Rights Act 1994 allows communities to lodge land claims in the country's national parks. The nature of the restitution is informed by three broad categories of the effects of land dispossession, namely, dispossession leading to landlessness, inadequate compensation, and hardships that cannot be measured in financial and material terms (Republic of South Africa 1997). Restitution of the rights in land could be in the form of restoration of the land in title, financial compensation or equitable redress (Republic of South Africa 1994). Section 123(1) of the Interim Constitution provided that restoration of a right in land could only be granted, in the case of state land, if the state certified that restoration of the land was feasible and in the case of private land, if the state certified that the acquisition of the right in land was feasible (Republic of South Africa 1993). This constitutional requirement of a certificate of feasibility was given effect by Section 15 which required that, before a land claim for restoration is referred to the Court, the Chief Land Claims Commissioner should obtain a certificate of feasibility from the Minister of Land Affairs. Section 15(6) reads:

In considering whether restoration or acquisition by the state is feasible . . . the Minister shall, in addition to any other factor, take into account –

- (a) whether the zoning of the land in question has since the dispossession been altered and whether the land has been transformed to such an extent that it is not practicable to restore the right in question;
- (b) any relevant urban development plan;
- (c) any other matter which makes the restoration or acquisition of the right in question unfeasible; and
- (d) any physical or inherent defect in the land which may cause it to be hazardous for human habitation (Land claim Court 138/99).

In 1994, SANPark's policy on land claims in national parks was that land restitution and land redistribution need not jeopardize conservation (SANParks 2007). In order to reconcile community land rights and conservation, the idea of contractual parks managed through a co-

management agreement between communities and SANParks became a way of meeting both conservation needs and the settlement of land claims. This was called a win-win situation.

The pre-liberation approach on land reform in South Africa took a populist discourse that resonates with the Freedom Charter adopted during the Congress of the People in Kliptown on 26 June 1955. The Congress resolved that, the land shall be shared among those who work it, and that restriction of land ownership on a racial basis shall be ended, and all the land re-divided among those who work it to banish famine and land hunger (ANC 1955). The land tiller sentiment of the Freedom Charter did not find expression in the post-liberation politics; from the interim constitution of 1993 to the final constitution of South Africa of 1996. A theoretically solid explanation is that, neoliberalism has enormous grip on the South African macro-economic policy which in turn has an adverse effect on land reform. The continued reliance on the willing-buyer willing-seller (commonly referred to as market led agrarian reform) without the state taking a central role through state led redistributive, restitution and land tenure improvement for the majority of landless and poor South Africans demonstrates the extent to which reforms are driven by market principles. The macro-economic imperatives of GEAR, a neoliberal policy framework consistently overlooked a people centered transformative agenda which is imperative for a country with high levels of inequality, landlessness and poverty. However, the contestations play themselves out and with the ultimate adoption and implementation of GEAR as a macro-economic policy a greater historical shift to market driven reforms took shape in the African National Congress (ANC). The pre-liberation political outlook of land reform and subsequently conservation landscape takes a different shape by relying on the greater role of private sector and moving away from a people driven reconstruction and development programme which had greater state visibility in reforms.

2.4.2. Shaping conservation policies in South Africa

Pre-and post-apartheid South Africa's conservation landscape is characterized by national, provincial and local statutory structures with multiple conservation organizations found in them. The statutory mandates at national level were conceptualised in terms of the National Parks Act 1976 which was later amended by the South African National Parks Act 70 of 1997 (Republic of

South Africa 1997). The South African National Parks (SANParks) has the mandate to manage a system of national parks in the country. The provincial conservation mandate is exercised by the nine provinces. In Mpumalanga, the Mpumalanga Parks Board (MPB) was established in 1995 to manage natural resources in terms of Mpumalanga Conservation Act 10 of 1998 (MPB 1998). Like all provincial conservation entities in the country the MPB is a parastatal, meaning that it receives non-guaranteed funding from the provincial government and is free to look for outside revenue and investment from other sources (King 2009). However, most of these parastatals are a sink for state resources because they are not commercially sustainable (Pers Comm Matibe Limpopo Tourism and Parks Board 18 September 2011).

These parastatals are encouraged to be innovative, i.e. attracting private sector capital investment through a process of commercialization. In Mpumalanga, government officials emphasized that conservation was not a priority issue in light of other social needs. In 1998 Fish Mahlalela, then Mpumalanga MEC for Environmental Affairs and Tourism stated that nature conservation was not an essential area for the provincial government and that commercial development was needed to support these initiatives. As he explained, there must be commercial development on our reserves to generate money to fund provincial conservation, in addition to providing resources to support neighboring communities (MPB 1998). King (2009) argued that the shifting priorities of government resulted in an emergent commercialization discourse within the MPB, which framed conservation in economic terms that would have meaningful benefit for communities and organizations managing the projects.

The emergence of the Dolphin Agreement negotiated between the Dolphin Group and the MPB provided enormous potential for a R1 billion investment in provincial reserves. This deal was announced on 27 November 1996 and licenced the foreign group to utilise key attractions within the province, including the Blyde River Canyon, Bourke's Luck Potholes, and Pilgrim's Rest. According to news reports, the agreement enabled the Dolphin Group to exercise their commercial rights, and maximize development opportunities and maximize financial returns (Arenstein 1997). The then Premier of the province, Matthews Phosa, hailed the deal as an African Dream, a unique partnership between the private sector, communities and conservation (Gray 1998).

In essence, commercialization in conservation areas reflected shifts in national policy from the RDP to GEAR. It took place alongside the macro-economic strategy of the Mbeki government. It is not a coincidence that in 1998 the Mpumalanga Parks Board advanced commercialization of natural resources management. Such a move accompanied the evolving policy of the government.

The Limpopo Tourism and Parks were not to be outdone in commercialization of the reserves under its management. Manyeleti Game reserve was one of the provincial reserves earmarked for commercialization, however, it emerged later that it was subject of a land claim by the Mnisi Community. With the realignment of provincial borders Manyeleti game reserve was transferred from Limpopo Tourism and Parks Board to Mpumalanga Parks Board. Subsequent to the transfer of land to the successful land claimants, commercialization was adopted and implemented by the beneficiaries of the land claims process in conjunction with the provincial tourism authority and technical assistance from the GIZ in order to generate economic benefits from conservation (de Koning 2009).

The IUCN states that, global conventions and programmes alone are not enough to ensure the continued existence of, and sufficient funding for, protected areas. In times of fiscal austerity and tightening government budgets – especially in developing countries which are home to much of the world’ s bio-diversity – traditional funding sources are increasingly under threat. As such “innovative alternatives to these traditional sources are needed in order to secure the long-term viability of protected areas” (Vorhies and Vorhies 1993: 2). The approval of the establishment of a task team by the South African Cabinet in 1997 to explore how public-private partnerships (PPPs) could improve infrastructure and service delivery efficiency and ensure efficient use of under-utilised state assets marked the accelerated shift to neoliberalism as a central pillar of macro-economic policy.

In September 1998, the Department of Environmental Affairs and Tourism (DEAT) argued that nature conservation and tourism which are key economic growth sector must also pursue such policy shifts. The strategy articulated the need for SANParks to prepare for less dependence on

state funding, which would increasingly be aimed at funding the essential conservation requirements (Varghese 2008). This formed the basis of the conception and development of the Commercialization Strategy 2000 of SANParks. The rationales for this strategy were that, competing social needs put a strain on the public revenue and nature conservation should leverage private sector investment through tourism development to partly fund its existence. The strategy led to eleven concessions sites, seven of which are in the Kruger National Park, two in Addo Elephant National Park, and two in Table Mountain National Park. All were awarded to private operators.

The strategic value of the Commercialization Strategy 2000 ensured that SANParks captures a greater market segment, increased economic activity, and new five-star market facilities built by the private investors on a Built Operate and Transfer (BOT) system. According to the monetary value figures since 2002, this strategy has yielded a reasonable net income to SANParks as indicated in Table 3.1

Table 2.1 Income from commercialization to SANParks

Product	Total Income	US\$ Equivalent (R7.50 = US\$1)
Concessions	R54,954,278	\$7,327,237
Other	R30,299,941	\$4,039,992
Restaurant and retail facilities rental	R37,002,267	\$4,933,636
Total	R122,256,506	\$2,967,534
Commercial expenses	- R15,254,346	\$2,033,913
Net income from commercialization	R110,002,160	\$14,666,955

Note: Figures as at 31 March 2007

Source: Adapted from SANParks' Annual Reports 2006-7

The figures above indicate that commercialization has earned substantial revenue for conservation hardly ten years in operation. The motivation to find alternative sources of funding for conservation begs the question whether land restoration will be an acceptable mode of

settlement of outstanding land claims in national parks given the reality that a new revenue sharing agreement would be required by land claimants as the owners of the land.

2.5. Market environmentalism and Mala Mala land claim

The trend of neoliberalism in nature has also come to light with the recent settlement of Mala Mala land claim. Multiple land claims were lodged in the case of Mala Mala as a game reserve, Mr. Zonke Loward Mhlongo lodged a land claim on the 19th June 1997 on behalf of the Mhlanganisweni community (Land Claims Court 1997), Mr. Spok Phineas Sithole also lodged a land claim on farm Mala Mala 359 KU on the 25th October 1996 (Land Claims Court 1996). Flockfield 361 KU was claimed by Mr. Temdeni Frans Khoza on the 28th October 1996 (Land Claims Court 1996). This land claim was published in the government gazette No. 1848 of 2002 and 2778 of 2002 in the Mpumalanga province. It affects properties which comprise the Mala Mala Game Reserve, the farms Eyerfield (PTY) LTD, Charleston (PTY) LTD and Charleston Farm (PTY) LTD. The property values of the farms involved in the land claim are as shown in Table 2X

Table 2.2 Mala Mala Property Values

Farm	Valuer	Land Value per hectar	Value of fixed Improvements	Total
Remaining Extent and Portion 1 of Eyerfield 343 KU	Dijalo Property Valutions	R 65 000/ha		R 194,000,000
Portion 7 of Toulon 383 KU	Dijalo Property Valutions	R 65 000/ha		R 27, 000, 000
Mala Mala 341 KU	Dijalo Property Valutions	R 65 000/ha	R 33, 528,850	R 153,000,000
Mala Mala 359 KU	Dijalo Property Valutions	R 65 000/ha	R 9,354,642	R 92 000,000
RE Charleston 378 and Portion 1 Charleston 375 KU	Bristow, Phenyane and Associates	R 66,627 /ha	R 1,253,000	R 241,253,000
Flockfield 414 and 361 KU	Fincon (J A van Rensburg)	R 30,000 /ha	R 22,033,000	R 105,000,000
			R 66,169,492	R 812,253,000

Source: Land Claims Court 2010

On the 21st May 2008 the office of the Regional Land Claims Commissioner in Mpumalanga made an offer at R52, 500.00 per hectare (see Table 2x) plus improvements to the value of R66, 169,492.00. However, the said offer was subject to approval by the Minister of Agriculture and Land Affairs in terms of Section 42D and the signing of the sale agreement was to take place between the parties by the 31st August 2008 (Land Claims Court 2008).

Subsequent to this valuation the office of the Regional Land Claims Commissioner made an offer to purchase, which was rejected by Mala Mala on the grounds of low value per hectare (Land Claims Court 2008). The protracted negotiations ensued, which ideally should have pushed the Land Claims Commission to expropriate the land. Section 25 (2) (a) of the Constitution of the Republic of South Africa states that, property may be expropriated only in terms of law of general application for a public purpose. Subsection 4(a) further states that, the nation's commitment to land reform is in the public purpose (Republic of South Africa 1994). This was not done in part because South Africa wants to distance itself from the Zimbabwe-style land reform. Instead, the state made an offer of R1.1 billion.

The buoyant public relations on the settlement by government have largely obscured critical, justifiable grievances and legal objection at the Land Claims Court which was later referred to the Constitutional Court (Jansen 2014). Essentially, the unresolved matter in dispute underpins much of the substantive debates on the interpretation of what constitutes just and equitable compensation and the aversion of the State to institute reforms of the willing buyer willing seller (a resolution taken at the 52ND ANC National Conference in Polokwane, Limpopo Province in December 2007 (ANC 2007). For the purpose of this thesis, at least two insights can be gained from this land claim. First, it shows that business models are integral to the settlement of land claims. Second, it demonstrates that political expediency gets on the way of settling land claims.

2.5.1. Business models for Mala Mala

The negotiation between the state and Mala Mala shows the complex and subjective interpretation of property values by the market in case of land restitution. Land restitution has seen countless challenges on what constitutes just and equitable compensation during the

negotiations for settlement of land claims. The contention by Mala Mala in this negotiations was that the market value of the Mala Mala properties would not be less than R989, 057,000,00 which would constitute just and equitable compensation for the land and immovable improvements (Land Claims Court 2010). In essence the calculation for compensation by Mala Mala is as follows:

Table 2.3 Mala Mala final valuation offer

Total Extent of Mala Mala land	Price per hectar	Amount
13 184.1082	R 70 000,00	R 922, 887,574
Cost of Improvements		R 66,169,492
		R 989, 057,000

Source: Land Claims Court (2008)

The concept of just and equitable compensation involves the determination of standards to arrive at an amount expressed in monetary terms or equivalent value for settlement of a land claim (Jansen 2014). However, the protracted negotiations for Mala Mala points to a contestation on what constitutes just and equitable compensation. The State and the RLCC: Mpumalanga instructed its attorneys to oppose restoration of land to the claimants of Mhlanganisweni unless the compensation to the land owners does not exceed R30 000 per ha and the community satisfies the Commission or the Court that it will be in a position to utilize the land sustainably (Land Claim Court 2010).

Opposing the market value by the state opened up possibilities for alternative methods of settlement, possibly monetary compensation which was to exclude restoration (Land Claims Court 2012). It is not clear whether the proposition by the state was based on any scientific valuation methodology which at the time of writing this thesis none of the respondents could substantiate it. The standing condition for feasibility land restoration in the Mala Mala land claim had to take into account the ability of the community to utilize the land sustainably and sufficient detail of the identity of any party to be brought into the transaction and the nature of the

proposed transaction will serve as the basis for determining feasibility (Land Claims Court 2012). In light of recent land claims court judgment, restoration of land will be made contingent on the cost of the land transfer (Land Claims Court 2012). The state bought land and immovable improvements to the value of R1.1 billion (*Business Day* 15 November 2013). All the movable assets essential for tourism operation as well as the use of the Mala Mala brand are exclusively vested in the ownership of the Michael Rattary family. Mala Mala demonstrates an extreme case of a strong alliance between nature and market compounded by the market based land reform wherein the state paid the highest price for land.

Three conclusions can be drawn from Mala Mala land claim. This land claim points *firstly*; that the problematic cynicism of lack of policy, consistency and coherence when dealing with land claims in protected areas expose land reform and in particular land restitution to the vagaries of the market. *Secondly*; the nuanced interpretation of what constitute just and equitable compensation in the settlement of the Mala Mala land claim. *Finally*; the wider significance of the Mala Mala decision on similar land claims in Timbavati, Klaserie land claims will surely cost the state a fortune to settle if claimants so choose land restoration and this has allowed market environmentalism to take effect in land restitution.

2.5.2 Proposals on Mala Mala business model: a game of chess

The property owner, Mala Mala PTY (Ltd) responded to the land claim by Mhlanganisweni community in two main ways: a price tag on its land and business model as part of the package for the settlement of the land claim in 2010. The model involves creating a separate management company that would continue with the operations. The operating company would provide movable assets which were not part of the R1.1 billion land purchase settlement deal. It further proposed the use of Mala Mala brand which will be made available by the current owners of the Mala Mala Pty (Ltd) upon the terms and conditions agreed with the new land owners. Mala Mala argues that, keeping and continuation of trading under the Mala Mala brand under the revised arrangement with Mhlanganisweni community will sustain the confidence of the international tourism market which has historically been the lifeline of the Mala Mala game reserve for over

47 year and also leverage on the already existing market linkages that existed under the previous land owners (Jansen and du Plessis 2014).

Table 2.4 Business Model Proposal by Mala Mala Pty (Ltd)

Years	Mala Mala Management Shareholding	Claimants Shareholding
20	70	30
10	60	40
10	50	50
10	40	60
Ongoing	30	70

Source: Land Claims Court (2010)

In doing so, it would protect the community from the exposure of risks associated with the tourism market in case of poor performance by the tourism operator. One critical risk factor is that, in cases where fixed base rental is the basis of determining revenue, it denies maximum benefit in case of high business turnover. The proposal by the community was presented as an alternative to the proposal made by Mala Mala which was regarded as unfavourable (Jansen and du Plessis 2014). It is important to note that the land claim settlement was made in lieu of land and fixed improvements and not on the business, this meant that the brand Mala Mala remained with the previous owner. Getting back to the business model,

Table 2.4 above represents a proposal made by Mala Mala Pty (Ltd) on post restitution of the claim that constitutes a 50-year business partnership model between the claimants and Mala Mala. This will allow claimants to acquire additional 10% of shareholding to the initial 20 % to make it 30% shareholding on the thirtieth year of the implementation of the operating agreement. On the fiftieth year the claimants will be having a 70% shareholding with Mala Mala keeping the 30%. Technically it means that, claimants will have the capacity to have an equal shareholding

on the fortieth year of operation. Translating in monetary terms, it means that, the percentage of revenue earned from this type of business model by the claimants will be based on the performance of the enterprise which greatly depends on an unstable international market trends. This point is substantiated by Mala Mala PTY (Ltd) when stating that, under these partnership model dividends will be declared annually and will comprise of not less than 25% of operating profit after tax (Land Claims Court 2010).

In theory this model is viable and represents a win-win solution with everything right with it, however, taking the tourism market dynamics into consideration, this exposes the claimants to potential risks of underperformance in terms of revenue earnings and subsequent declaring of benefits by the management company. This goes for the two concession agreements in Makuleke as discussed in Chapter 4. In essence, the proposal does not have performance guarantees; more so, it does not spell out exit clauses for claimants to be able to extract themselves from an unprofitable partnership. However, I note that the negotiations around this proposal have not been concluded. A preliminary analysis could be made on the basis of information provided by Mala Mala to the Land Claims Court pending the finalization of a long term deal of which the details of the negotiations were not yet public at the time of writing this thesis. At the moment a lease agreement that will lapse in 2015 has been signed between Mala Mala PTY Ltd and Mhlanganisweni community. The agreement earns the community R700 000 per month and allows a smooth transition to a longer term agreement still under negotiation with the hope of protecting the investment made in purchasing the land (Nkwinti 2014).

A closer look at the proposals by Mala Mala and the Mhlanganisweni reveals contradictions in every respect. The model favored by the claimants and presented to the Land Claims Court is a hands-off approach. It proposes a base rental to be paid as well as a small percentage of turnover irrespective of performance of the management company. This in essence protects the claimants in case low dividends are declared and the enterprise cannot honour its financial obligations. On the contrary, the proposal by Mala Mala is based on 25 % of operating profit. This model does not have performance guarantees in it; due to the nature of the open market conservation tourism is operating in a risk market and there are no guarantees for reasonable revenue returns to the claimants. The suggested 25% of operating profit after tax present a critical risk factor due to the

unpredictable tourism market and the size of the beneficiaries expected to benefit from this deal (Mulaudzi 2014).

2.5.3 Land settlement as political expediency?

The above three factors demonstrate an increasingly incoherent, weakened and potentially powerful ANC led government only if it looks seriously on matters political to achieve meaningful land reform in South Africa. One would argue that, protracted Mala Mala land claim negotiations demonstrated an increasingly fearful state whose land reform programme suffered a strain on its credibility despite the fact that the state could look at expropriation of the land for public purpose. In essence the recommendation to forego the Constitutional Court case by Minister Gugile Nkwinti unintentionally allowed the land market not only to dictate exorbitant market prices but potentially to make land reform costly for the state where in Mala Mala will be used in comparable sales.

In addition it set a terrible precedent, and by withdrawing from the legal challenge the move denied the country an opportunity to cap and rule on the highly contested issue of what constitute just and equitable compensation in land reform cases. It is worth noting that the stagnation of negotiations came after a few years of negotiations marked by contestations regarding the market value of the properties to be purchased by the state (Jansen 2014). The South African government is one of the major buyers in the land market for purposes of land reform hence the notion that the willing-buyer willing-seller frustrates land reform and distorts the market. In recognition of this, the 52ND ANC Conference in Polokwane resolved that, market driven land reform should be discarded and there must be an immediate review of the willing-buyer willing-seller principle to accelerate equitable distribution of land (ANC 2007).

Though the talk on land reform was tough, the ANC resolution on land reform taken almost seven years ago did not find expression in the form of legislation or policy, and consequently the status quo remained in the Mala Mala restitution case. This begs the question, what delays the ANC government to institute the decision of establishing or appointing the valuer general to advice or review valuations for land reform purposes? A widely held contrary view is the

reluctance of the ANC led government to temper with the property clause and invoke the expropriation clause in the Constitution (Jansen 2014). Inversely, the Draft Green Paper favored the creation of the office of the Valuer-General to determine the value of financial compensation in cases of settling land claims. The constitution explicitly provides that this role is to be provided by the judiciary and appointing non-independent institutions to determine just and equitable compensation will not pass the constitutional test unless an amendment to the constitutional provision on the judiciary's role takes effect. Jansen (2014) states that, the valuer general's role will be more administrative and decisions of his office will be taken on review by the Courts and complex and highly sensitive cases like Mala Mala will obviously take the Court route.

The constitutional court challenge had the Legal Resources Centre as *amicus curiae*. This legal challenge was to request the court to rule on the question of just and equitable compensation (du Plessis 2014). However, Minister Gugile Nkwinti favored the ultimate withdrawal of the government from the constitutional court challenge to settle the claim at the cost of R1.1 billion. This withdrawal raises interesting fundamental issues; the timing of the settlement of Mala Mala coincided with the year of the publication of the Restitution Amendment Bill tabled in Parliament in October 2013 which ensures the re-opening of lodgment of land claim.

My assertion is that, *firstly*, the ANC government had to use this land claim to demonstrate commitment to land reform and rural development as definitive priorities for the incoming administration. *Secondly*, the official handing over of the land by President Jacob Zuma coincided with the launch of the ANC national elections manifesto which took place few days earlier in Mbombela, Mpumalanga Province. *Thirdly*, concerns regarding overcompensation of the claimants were overlooked, as raised in the land claims court judgement and this has set a difficult precedent to maintain. Sources closer to the negotiations stated that, Michael Rattray, owner of Mala Mala has been a long standing benefactor of the ANC and a personal acquaintance of Deputy President Cyril Ramaphosa. At the time of the price negotiations Ramaphosa was not a government official but admitted on public television that he assisted in the final negotiations of the Mala Mala land claim, and that could be one of the reasons why the state opted for a negotiated settlement.

2.6 Conclusion

This chapter used the lens of neoliberalism to answer the questions regarding the neoliberalisation of nature and how such a process might have the consequences on land reform. South Africa experienced a move from the RDP which was a people-centered approach to GEAR. The chapter highlighted that neoliberalism is a transnational agenda that had greater influence on the shift from the RDP and its transformation agenda towards the neoliberalisation of the economy. It further argued that the constitution simultaneously opens up and constrains land restitution especially in protected areas (see Chapters 4 and 5). A balancing act of both political and economic interest of local and international interest had to be achieved. With regard to Mala Mala the negotiations were complex and difficult, though land restoration remains a necessary condition for transforming land ownership patterns in South Africa. The settlement of Mala Mala was intended to instill confidence in the state of land restitution program in South Africa, in addition to serving as a strategy for the upcoming national elections of 7 May 2014. It also gave credibility to the reopening of land claims. The high cost of settling Mala Mala demonstrates the vicious grip of market driven land reform and the marketization of nature and the reluctance of a neoliberal state to challenge the dictates of the market.

Chapter 3

Research Methodology

3.1 Introduction

This chapter discusses research tools, methods and instruments used in the study to assist to find answers to key research questions at hand. More so, the chapter introduces the two case studies, Makuleke and Makahane-Marithenga community land claims. As we noted in chapter 1, the main goal of the study is to understand and account for why there is no land restoration in South Africa's premier national park, Kruger National Park. In essence, the research attempted to locate the land restoration narrative through the analysis of data collected through interviews, print, electronic media sources as well as academic publications. This chapter is divided into eleven sections. The first section provides an introduction to the research methodology used. The second part deals with the methods and approach, the third section deals with the research design. In the fourth part takes a closer look at the case study areas. Field visits and interviews are also, documentary research, data capturing and instruments. Data analysis and ethics are looked at in the last part of the chapter.

3.2 Methods and approach

The land question remains one of the key challenges for post-apartheid South Africa. It is a historical problem with difficult and complex political, social and economic challenges in the age of neoliberalism. It is one of the defining elements of the post liberation reconciliation agenda. The history of colonization and apartheid, and the dispossession of black people from the land that is central to this history are well documented (Sparks 1991; Thompson 1995; Koch et al 2001; Greenberg 2003). The White Paper on South African Land Policy sets out a wide range of objectives ranging from dealing with the injustices of racially based land dispossession, to promoting economic growth and providing secure tenure for all (DLA 1997). It is against this background that this study seeks to understand how land reform unfolds in South Africa's protected areas. Such an understanding could be achieved by adopting research methodologies that are open to various sources.

This study has adopted a qualitative research approach. Qualitative work is theoretical in its aims rather than descriptive this is especially so with the case studies that uses qualitative methods it is the testing of theory that is important rather than the issue of inference or generalizability (Platt 1988; Yin 1989). The qualitative approach is useful to this research because it provides an opportunity to the researcher to understand the actions behind the case study.

3.3 Research Design

The first phase of this research involved extensive literature review on the land question in pre-liberation and post liberation contexts and the narratives that informed land reform in conservation in South Africa. Literature on international experiences in land reform and conservation in Latin America and Africa was also consulted. This assisted the researcher to develop a contextual understanding of the topic of land reform and conservation and develop a conceptual framework informed by issues at hand.

In the second phase of research the researcher conducted a total of 150 (hundred and fifty) interviews. The data collection method focused on obtaining information about the respondents' views on land claims in the Kruger National Park on what the preferred solutions are and why? A qualitative research method was adopted in order to gain more understanding about the phenomenon of land claims and how the two land claims were settled in the Kruger National Park. A quantitative research design would have limited the researcher to quantifiable data that would have not fully exposed the various interpretations and discourses of land claim settlement in the Kruger National Park. Lincoln and Guba (1985) argued that the ability of qualitative data to more fully describe a phenomenon is an important consideration not only from the researchers' perspective but also from the readers' perspective. Qualitative research is rich with details and insights into participants' experiences of the world; it reflects the real experiences of the participants and gives the reader the detailed knowledge of the variables that are researched.

The quantitative methodology was not adopted due to the fact that the objectives of the research do not require interpretations in numeric form. Instead, it requires analysis and interpretation of

the reasons for behavioral patterns with regard to decision in the two case studies. In essence, the data provided by quantitative methodology would have been more descriptive than analytical.

In collecting data the researcher used the disaggregation model where in the respondents were identified in-terms of the organizations and institutions that they represent. This technique assists in understanding the views of respondents representing different organizations. The respondents were identified by looking at the key resource persons who partake in decision making around land claims in the Kruger National Park and policy implementation. All the primary and secondary data was collected between February 2011 and March 2012 in the following areas, Makuleke village, Mabiligwe village, Kruger National Park – Pafuri and Skukuza, Thohoyandou, Ka-Josepha, Punda Maria, Johannesburg, Nelspruit, Pretoria, Cape Town and Polokwane. Tables 3.1 to 3.4. below show informants interviewed and their affiliation.

Table 3.1 Government officials

Institution	Number of respondents	Unit/section
South African National Parks	8	Conservation
Land Claims Commission: Limpopo	7	Land claims research
Land Claims Commission: Mpumalanga	1	Land claims research
Mpumalanga Tourism and Parks Authority	1	Conservation
Parliamentary Portfolio Committee on Land	1	National government

Table 3.2 Makuleke case study area respondents

Makuleke Community	Number of Respondents
Chief Makuleke	1
Makuleke community	69

Table 3.3 Makahane Marithenga case study area respondents

Makahane Marithenga community	Number of Respondents
Makahane Marithenga community	60

Table 3.4 Makuleke concessionaire respondents

Makuleke concesionaires	Respondents	
Wilderness safaris: Pafuri camp, kruger national park	01	Concession manager
The outpost: Pafuri camp, kruger national park	01	Deputy concession manager

The use of secondary data focused on journal articles, official government memoranda, books, and newspapers. More so, data analysis demonstrated some gaps and the need for clarification. To fill these gaps follow up interviews were conducted with the identified respondents.

3.4 Classification of research methodologies: case study research.

Benbasat et al. (1987: 370) argued that case study research is viable for the following reasons: “it is necessary to study a phenomenon in its natural setting; the researcher can ask how and ‘why’ questions, so as to understand the nature and complexity of the processes taking place”. This research methodology allows an opportunity to capture and analyse data on site. Furthermore, it provides an opportunity to the researcher to analyse variables than is typical in experimental and survey research methodology.

Two case studies were used for this research, Makuleke and Makahane-Marithenga communities. The two case studies were deemed necessary for this research due to the fact that they have similar historical land dispossession circumstances and are all situated in the Kruger National Park. Their land claims were validated through the restitution process. In addition, the two case studies were selected in order to understand the state’s conception of the two land claims with similar historical dynamics but different outcomes regarding the settlement of the land claims. Mala Mala land claim was used to understand the inherent nature of settlement models the state pursues and to analyse the opportunities and limitations such models impose on communities claiming land. Such models, the thesis argues, have wider ramifications to land claims and the governance of protected areas. Moreover, the negotiations for the finalisation of these claims happened in two different times. This assisted the researcher to follow the narratives around the land restitution debate in the Kruger National Park, identify points of convergence and divergence in the restitution narratives on these claims. More so, the case study provided the researcher with an opportunity to closely follow the current narrative regarding the negotiations for settlement of Makahane-Marithenga land claim. Yin (1989) cited in Blaikie (2000: 217) stated that, “a case study is an empirical inquiry that investigates a contemporary phenomenon within its real life context; when boundaries between context and phenomenon are not clearly evident and multiple source of evidence is used.”

The two cases presented similarities as well as differences in the attempt to reconcile land rights and conservation in the Kruger National Park. The case studies were also selected on the basis

that they all claimed land in a national park. Moreover, they share similar historical context of land dispossession to make way for conservation. The details of these case studies are discussed in Chapter 4 and 5 of this thesis.

Policy positions of government departments, conservation organizations and land claimants were followed over time to identify initial policy positions, track changes, identify and analyse the causes of such changes, (see Chapters 4 and 5). This research used multiple data collection methods whose results were assessed to determine points of convergence in order to conduct discourse analysis and determine validity. This included the use of interviews, structured and unstructured, direct observations of activities and phenomena and their environment as well as documentation, such as written, printed or electronic information, newspaper cuttings and information about the land claims affecting the Kruger National Park.

3.5 Case study areas location: Kruger National Park: Limpopo Province

The Kruger National Park cannot be discounted from the politics of land dispossession in South Africa. Significant moments in the history of conservation in South Africa can be traced as early as 1846 and 1926. The reality of the establishment of the Kruger National Park is that rural communities were forcefully removed to make way for conservation. As a result, the first spark between nature conservation and rural communities was ignited. Land struggles in South Africa were not exclusively for in the agricultural sector but also affected the nature conservation environment. The exclusion of black communities from the Kruger National Park reinforced the belief amongst communities living in close proximity of the Kruger National Park and beyond that nature conservation is for exclusive use of whites. This stood to be true in the Kruger National Park because the Park formed part of what became white South Africa. The Kruger National Park represented a living memorial of President Paul Kruger and reinforced Afrikaner nationalist identity. The Kruger National Park located in the two provinces of Limpopo and Mpumalanga. It measures 33,948 km square kilometers. It is home to a variety of species, fauna and flora.

The two case studies are located in Limpopo Province in the Vhembe District Municipality. Makuleke is a successful land restitution case of which the land is located in the northern section of the Kruger National Park referred to as the Pafuri area. The Makahane-Marithenga community lodged a land claim affecting part of the Kruger National Park which was found to be valid in terms of the Restitution of Land Rights Act, 1994 as amended. The researcher picked an emerging phenomenon that demonstrates competing and contradictory state policy implementation with regard to the settlement of land claims affecting the Kruger National Park. In addition, the researcher was directly involved in researching land claims with the Land Claims Commission: Limpopo and was also involved with the Makahane-Marithenga community land claimants through the African Wildlife Foundation. The Foundation wanted to support the Makahane-Marithenga community through capacity building and also sought to understand the value of natural resources management prior to restitution of their rights in land in the Kruger National Park.

In essence the researcher observed firsthand the institutions of government, South African National Parks, Department of Environmental Affairs and Tourism, Department of Land Affairs and the Land Claims Commission: Limpopo as well as the Cabinet of the Republic of South Africa. The successful Makuleke land claim served as case law on how restitution of land rights and conservation can be reconciled in South Africa. The researcher also used story lines to follow discussions by the Cabinet of the Republic of South Africa. For example, Cabinet, SANParks, DEAT and DLA, were all involved in resolutions that guided restitution of rights in land in national parks, including the Kruger National Park. This had implications on the case of Makuleke and Makahane-Marithenga community. Others who have unfinished land claims in the Kruger National Park were encouraged to consider financial compensation and other developmental package which excluded owning rights in land in the park. Both two cases are affected by zonation in the KNP (Tables 3.5 and 3.6).

Table 3.5 Zonation of Makuleke region of the Kruger National Park

ZONATION		
MAKULEKE REGION OF THE KRUGER NATIONAL PARK		
ZONE	PERCENTAGE	HECTARES
High intensity leisure	9%	1,868.45
Low intensity leisure	2%	346.21
Primitive	26%	15,298.28
Remote	13%	2,539.73
Wilderness	0%	0.14%
	Total	20,052.82

Table 3.6 Zonation of Makahane Marithenga region of the Kruger National Park

ZONATION		
MAKAHANE MARITHENGA REGION OF THE KRUGER NATIONAL PARK		
ZONE	PERCENTAGE	HECTARES
High intensity leisure	6%	5,669.64
Low intensity leisure	5%	4,283.71
Medium	0%	105.23
Remote	25%	22,310.62
Primitive	23%	21,039.55
Wilderness	41%	36,367.15
		89,775.90

Table 3.7 Representation of the case study areas

Name of the Land Claim	Makuleke	Makahane
Province	Limpopo	Limpopo
District Municipality	Vhembe	Vhembe
Local Municipality	Mutale Local Municipality	Mutale Local Municipality
Location of the Land	209km northeast of Polokwane	207 northeast of Polokwane
Number of claimants		
Type of Legal Entity	Communal Property Association	Not yet registered
Date of Lodgement of the Land Claim	1994	1994
Date of Settlement of the Land Claim	Settled	Negotiation Stage
Total Hectares	20052.82	89775.90
Total Cost		Not yet determined
Current Land Use	Protected Area (Nature Conservation).	Protected Area(Nature Conservation)

3.6 Field visits and interviews

Kahn and Cannell (1957: 149) describe interviewing as a conversation with a purpose. Patton (2002) puts interviews into three categories: the informal, conversational interview; the general interview guide approach; and the standardized, open ended interview. The strength of interviews is that they yield data in quantity quickly and immediate follow up and clarifications

are possible. In both case study areas the researcher did not use questionnaires. The fear was that it denies the researcher an opportunity to follow up on some key issues that may come out of the interaction with the respondents. Only one question was formulated and follow-up questions emanated from the answers provided by the respondents in order to probe further. No enumerators were used for this research; only the services of a research assistant were used for purposes of translating questions in the native language of the respondents.

A total of six field trips were undertaken to the research sites as well as to meet with key respondents. The trips were undertaken over the period February 2011 to March 2012. The first field trip was undertaken from the 21 February to 25th February 2011 to meet key informants and land claimants representatives of Makahane-Marithenga and Makuleke community land claim at Thohoyandou in order to inform them about the intended research. Approximately two executive members of the communal property association of Makahane-Marithenga and two ordinary members were interviewed separately. The executive committee of Makuleke community was also met in March 2011 to formally discuss the purpose of the research as well as to map the research programme. The process was more participatory and suggestions from both the two case studies were sourced on the best possible dates of meeting key respondents. Follow up interviews with the respondents from the two case studies were also conducted between February 2011 and March 2012.

The second field trip from 09th May 2011 to the 13th May 2011 consisted of a meeting with the senior official of the Land Claims Commission in Limpopo and Mpumalanga who are responsible for the land claims of the two land claims, Makahane-Marithenga and Makuleke which affect the Kruger National Park. Two meetings were held 26th April 2011 first with the Director of Operations in Limpopo Province's land claims commission and the second meeting was held in Nelspruit with the Director of Operations in Mpumalanga province's Land claims commission.

The two key informants were met and interviewed separately in their capacity as land claims officials. Land Claims commission officials directly dealing with the claims of the Kruger were also interviewed. On the same visit to Mpumalanga, an interview with the co-management

adviser for the Mpumalanga Tourism and Parks Agency was held. The purpose was to understand how the tourism agency is resolving land claims affecting provincial reserves. On the basis of these interviews the researcher was able to understand and draw parallels on how land claims in National Parks and Provincial parks are being resolved.

The third phase 15th September to the 19th September 2011 was held with the chairperson of the portfolio committee on land affairs in parliament. The focus of the questions was the need to understand what the government would like to see happening with the land claims that are affecting the Kruger National Park? More so, a parliamentary content adviser for land was also interviewed in order to get an understanding of the current parliamentary land affairs portfolio debates from various political parties about the land claims affecting the Kruger National Park.

The two respondents represent land affairs matters in parliament, they were selected because they play more of an oversight role than direct policy implementation. During the third interview from the 15th September to 19th September 2012 the respondent, Chairperson of parliamentary portfolio committee on land advised that the researcher should interview the previous Minister of Land Affairs, Mr. Derek Hanekom under whose leadership as the Minister of Land Affairs the Makuleke land claim in the Kruger National Park was approved in favour of the community. In addition the former Minister of Environmental Affairs and Tourism, Mr. Mohammed Valli Moosa also approved the transfer of Pafuri to Makuleke. Minister Hanekom approved the transfer of the Makuleke land claim in the Kruger National Park during this era and Minister Moosa was the Chair of the World Conservation Union. It proved difficult to interview these ministers.

The fourth phase 26th October 2011 to 28th October 2011 involved interview with the South African National Parks, executive director Dr. Hector Magome, SANParks land claims manager, Ms. Lena Lukhele as well as the Department of Environmental Affairs and Tourism departments' officer Sibongile Mampe responsible for land claims in protected areas. The officials selected and interviewed are all dealing with the land claims affecting the Kruger National Park. The question posed was, what would the conservation agency, SANParks, and DEAT like to see happening with land claims affecting the Kruger National Park? The researcher made follow up to the various responses given by the respondents.

The fifth phase was held on the 12th November 2011 to 14th November 2011 with the Legal Resources Centre. The question posed was, what is the legal position regarding restoration of land in South Africa's protected areas? The respondents were interviewed on the basis that they successfully assisted Makuleke community to be restituted their land in the Kruger National Park. More so, the respondent was also involved in the successful Richtersveld case which also involved the protected area as well as the mining area of Alexkor.

The sixth phase 26th November 2011 to 28th November 2011 was held with former members of GTZ Transform. An open ended question was posed to them about their views regarding the outstanding settlement of land claims affecting the Kruger National Park. In addition, the Makuleke region of the Kruger National Park has two concessionaires, Wilderness Safaris concession and the Outpost. The concession manager for the two concessions was also interviewed separately on the same day for this research.

Questions varied according to the respondents but were all focusing on land claims affecting the park. In the first phase of the interview with the government respondents the key question was: what would the Conservation agency/government institutions like to see happening with land claims in protected areas? With regard to the second phase of the interviews the question asked was, what was the claimants' expectation out of the land restitution program in the Kruger National Park? Finally, the third group of respondents was asked a question, what is the essence of land restitutions in South Africa? These questions gave the respondents the latitude to respond and the researcher was able to follow up on relevant aspects of those responses which were useful for the purpose of the research objectives. Interestingly, these questions made the respondents feel at ease at the beginning of the interview and finally when the interview progressed much difficult but necessary question were accepted and the interview was not viewed as an interrogation.

3.7 Documentary research

Documentary research tell us a great deal about the way in which events were constructed at the time, the reasons employed, as well as providing materials upon which to base further research

investigations (May 1993). Documents inform the practical and political decisions which people make on a daily and longer basis and may even construct a particular reading of past social or political events. The selection of available documents (both published and unpublished) on the topic, which contain information, ideas, data and evidence written from a particular standpoint to fulfill certain aims or express certain views on the nature of the topic and it is to be investigated, and the effective evaluation of these documents in relation to the research being proposed (Hart 1998).

For purposes of this research a review of literature dealing with neoliberalism, co-management, political ecology, and relevant laws and policies relation to land reform was conducted (Chapter 2) . More so, various print and electronic media publications dealing with land claims in the Kruger National Park were also consulted in order to follow the origins and logic around land claims and conservation in South Africa and beyond. Much of this collected data also provided detail around the establishment of the Kruger National Park as a conservation haven and the consequence of such establishment on the majority of indigenous communities. Documentary information on the Makuleke and Makahane-Marithenga case studies focused on the history of dispossession from the period predating the establishment of the Kruger National Park. Furthermore, documents on the evolving political and academic debates around land reform, protected areas and social justice in pre-and-post 1994 South Africa were used.

Other important information that was used are the maps from the South African National Parks, copies of the Cape Vidal memorandum drafted by the communities protesting against the non-restoration of land in protected areas. More so, the resolution by the World Parks Congress on commercialization as a solution for lack of funding for conservation entrenched business principles in the management and commercial viability of protected areas. Other documents included the Land Policy of 1997, the Constitution of the Republic of South Africa, publications on the Reconstruction and Development Program Policy, Growth Employment and Redistribution and the Freedom Charter.

3.8 Data Capturing and Instruments

Data was acquired using conventional methods like audio recorder. However, it soon became clear that some of the respondents showed signs of discomfort when they realize that the interview is being recorded. The researcher informed each and every respondent before the start of the interview that if they feel comfortable with being recorded the researcher will use the audio recorder. Some respondents did not have a problem with being recorded. The researcher relied extensively on written notes. It proved difficult and tiresome to pose questions to the respondents while writing, concentrating and identifying issues to probe further.

3.9 Data Analysis

A two pronged data analysis method was used. Data was collected and analysed and gaps were identified and follow up interviews were arranged the subsequent day of the interview. The secondary phase involved analysis where in the gaps have been filled after follow up interviews were conducted. Data collected was prepared in the form of summary write ups for each and every respondent interviewed. The underlying purpose is to follow up and get clarity on unclear aspects during the analysis of the data. In order to understand how the narrative around the settlement of land claims was formed, the conceptual framework of the thesis was used to support and isolate the facts and identify who and what influenced the narrative. Key themes of the findings of this research informed the conclusions made in this research.

The whole process was done through the isolation and grouping of similar and different responses from various participating organizations in the settlement of land claims in the Kruger National Park. It is worth noting that; the researcher identified points of interest that are linked to the research but not directly part and relevant to the research topic. As part of ongoing research interest those important aspects were noted and documented for research interest in the field of human geography. Finally, this was complemented by a visit to the two case study areas inside the Kruger National Park where both communities were historically removed and a second visit to the area where the two communities are currently located. This allowed the researcher to read

and follow up on some issues that had to be probed further. It also assisted in refining the questions and provided an opportunity on how to refine the line of questioning.

3.10 Ethics

All the respondents and participants of the study provided informed consent. A single stage witnessed oral consent process was used – the first for the interviews and the second for access to privileged information in the form of documents. Permission to do the study was also sought from the land claimants of the two case study areas, specifically from the executive committees representing the two land claiming communities. More so, a feedback mechanism to communicate the findings of the research was established wherein the executive committees of the community representative structures were informed about the findings of the research after the interviews were completed with the two case study respondents. More so, the researcher informed the respondents protection of the identity of the respondents will be maintained and that the findings of the research will be shared with various academic, government and NGO's both nationally and internationally and will be published to contribute to the greater discourse around land reform in protected areas.

Having worked at the land claims commission in Limpopo and acquired experience in the nature conservation, the familiarity with the two sets of environment made it possible to use contacts during the study. To ensure the objectivity of the study, personal stereotypes were not catered for in the interviews, data analysis, research design and finally the interpretation of the data collected. This allowed the objectivity of the findings which represented the views of the interviewees in both case studies and private and public institutions that participated in the study. In addition, the participants were informed of that the research is voluntary, and that confidentiality will be maintained.

3.11 Limitations of the study

Research for this study commenced at a time when the debate around settlement between the government and Makahane Marithenga land claimants in the Kruger National Park had reached a

stalemate. On returning from the meeting with the Makahane-Marithenga community it was clear that they were considering an option of taking the government to the Land Claims Court in order to fight for the return of land title to the community. This position was influenced by their observation that Makuleke community was restituted part of the same land, Kruger National Park. The question the Makahane-Marithenga community raised is: why was the government renegeing on the constitutional guarantee of land restitution and moving away from the precedent set through Makuleke?

When the initial contact with the chairpersons of the Makuleke Communal Property Association and the land claims committee of Makahane-Marithenga community was made people were skeptical and unwilling to participate. In the case of Makuleke, some respondents felt they have been interviewed many times and find no value in repeating the same stories again. However, the assistance from the Makuleke CPA made it possible for members of the community to participate in the study. The challenge was that, the Makuleke CPA had lined up a list of individuals whom they felt will be useful for the research and this had potential to distort the objectivity of the respondents. Engaging with the respondents as provided by the Makuleke CPA demonstrated that a greater number of the respondents, more often than not were said to be aligned to the local elite. The researcher requested the Communal Property Association that in addition to the list provided, a sampling method would be used from the list and some those who were not included on the list will be asked to by the researcher to be interviewed if they so choose.

In the case of Makahane-Marithenga the challenge was that the land claims committee had internal divisions and squabbles that almost frustrated the research. The bigger issue was around the classification of the land claims committee leadership around ethnic lines, Venda and Tsonga. The Tsonga felt that the land claims has been hijacked by the Vendas because the top three positions of chairperson, deputy chairperson and treasury were only Vendas and the Xitsonga speakers were only given a secretarial position. In addition, the negotiations regarding settlement of the Makahane-Marithenga land claim was at a crucial stage, there was no consensus between the SANParks, DEAT, and DLA. Under these conditions interviewees were afraid to open up during the interviews because the matter was considered very sensitive.

The sensitivity of this matter made it difficult in some cases for the researcher to access crucial information from DEAT, SANParks and the Land Claims Commission regarding the internal discussions around the way this matter was handled. It is possible that at the time of writing up the thesis the government or the land claimants may have changed their position with regard to the type of settlement. However, the focus of this thesis is to capture the contestations and contradictions up to December 2012. The difficulty of reaching to the wider claimant community of Makahane-Marithenga was a drawback to the research as it was impossible to get the opinions of the wider claimants. The underlying reason for not reaching out to the greater population was that, at the time of their forced removal the Makahane-Marithenga was scattered into two different homelands and they were not given their own land as in the case of Makuleke.

Although the study aimed to interview key informants such as Minister of Land Reform and Rural Development, Mr. Gugile Nkwinti, and the former and first Minister of Land Affairs, Mr Derek Hanekom – under whose administration the approval for transfer of the Pafuri section of the Kruger National Park was made – this did not happen due to their unavailability. The same can be said about the former Minister of Environment Affairs and Tourism of Mr Mohammed Valli Moosa who was at the helm representing DEAT at the time of settlement of the land claim.

3.12 Conclusion

This study has used a qualitative research method, which allowed the researcher to unlock the respondents' views, attitudes and critical perspectives and institutional positions with regard to the research question pursued. Greater emphasis of qualitative research on narratives and textual analysis assisted the researcher to understand the influence of macro-economic policies on land reform and nature conservation. This thesis took an approach of organizing data in a structured format, by grouping the respondents and asking specific questions and further probing in order to locate and develop a more coherent analysis based on the responses received. Tables, map, texts and figures were used to communicate the data and develop an argument and arrive at scientific conclusions.

Chapter 4

The Makuleke model: what it shows and hides

4.1 Introduction

The South African Native Commission report of 1905 laid bare the segregationist thinking of the Union of South Africa. In pursuance of racially defined land ownership patterns the first Union government enacted the Natives Land Act in 1913 with the intention to divide South Africa's land into two parts: land that can be occupied by blacks and land reserved for white ownership (Republic of South Africa 2011). What became to be known as the native reserves (later bantustans) constituted 13% of the land. In this, the cornerstone of what became apartheid was officially laid through successive governments culminating with the establishment of the Republic of South Africa on the 31st May 1961.

This chapter provides an account of the history of the land dispossession of the Makuleke community. In addition it follows the community's successful bid in reclaiming their land rights in the Kruger National Park. It further draws a critical picture of how the Makuleke land claim was resolved through what became to be known as a win-win situation. This is followed by an inquiry at the parties involved and assesses their stakes both from a historical context under apartheid prior to the forced removal of the Makuleke community in 1969 and after the democratic dispensation. The purpose is to provide a factual account of what accounted for the contestations regarding the preferred method of settlement of the Makuleke land claim lodged in the Kruger National Park. Furthermore, through following the contestations as indicated earlier it intends to answer the question whether the interests of all the parties involved in the Kruger National Park have changed or not. In addition critique the model itself looking at some of the key aspects using the arguments which supported the brokering of the Makuleke deal. The Makuleke settlement agreement analysed and critiqued as well as the key aspects of the deal brokered between the private tourism operators and the Makuleke community.

The above are assessed, by using the interviews with key respondents on Makuleke who were major protagonists in the negotiations for settlement of the land claim. The chapter further investigates the tension between land restitution and the protection and management of

biodiversity in the Kruger National Park. More so, it provides a critical perspective of who has the final say in the discourse around transformation of the conservation arena in the Kruger National Park. Finally, using the accounts of both the historical narrative and the post-liberation narrative regarding Makuleke community the chapter concludes by drawing up a picture of how conservation created space as a hegemonic narrative on how nature and society can co-exist. In addition, outline how twenty first century solutions to environmental problems have been shaped in neoliberal terms in the Kruger National Park, in addition, develop an understanding on the influence of neoliberalism on land restitution in the Kruger National Park, which is one of the primary objectives of the thesis.

4.2 Our Ancestral Land: We have been here before

The 1948 general elections in South Africa ushered in a victory of the National Party. Apartheid which meant separate development divided people along racial and ethnic lines. Racial classifications in South Africa legally entrenched, created and classed people in as Whites, Indians, Coloureds and Blacks. Access and entitlement to State resources was purely on a racial basis as defined by set laws. Blacks were the lowest in the ranking compared to the previously mentioned classes. In the result the Group Areas, Act No.41 of 1950 continued to create separate residential and business areas on the basis of racial groupings. Racial groups found to be in the area they were legally not classified were forcefully removed by the State. Forced removals from white areas affected some 3.5 million people and vast rural slums were created in the homelands, which were used as dumping grounds (Wegeriff 2004).

In later years, the Bantu Homelands Constitution Act No.21 of 1971 was promulgated. This piece of legislations empowered the government to grant independence to any Homeland (Thompson 1990: 109). Bantustans are separate land areas in which ownership, occupation and use are based on racial and ethnic factors, and are primarily decided by white minority group (Nash 1980). A total of ten Bantustans were created within South Africa, of which four were granted 'independence' by the Republic, meaning that they were not recognized by any other country in the world (Oakes 1992). The four independent States were Transkei, Bophuthatswana, Venda and Ciskei, were allocated independence in 1976, 1977, 1978 and 1981 (Egero 1991).

Granting independence to the four States did not exclude the perils of racial classifications within the new territories.

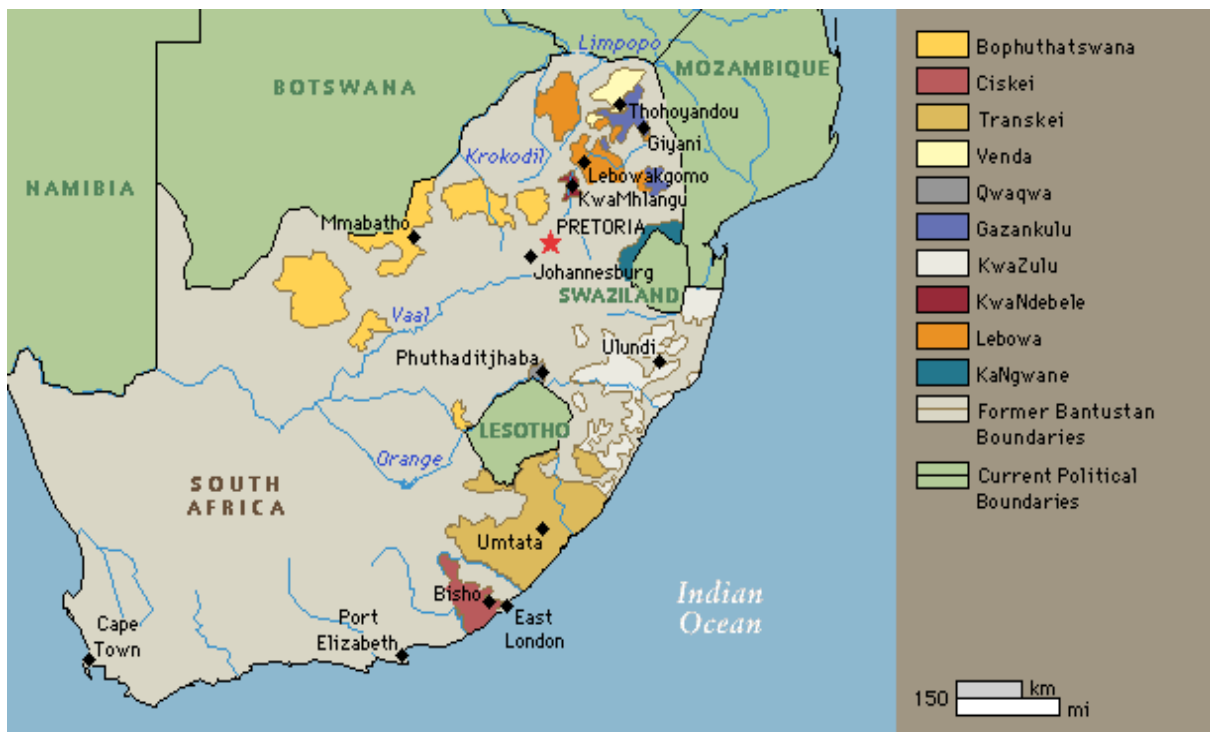
Their independence was merely on paper but the influence of the Republic of South Africa was supreme. This legally meant that the application of the Group Areas Act No.41 of 1950 was embraced by the said States. The Constitution of the Republic of South Africa remained the supreme law of the land and any act from the four independent States with the provisions of the said Constitution was declared invalid to the extent of its inconsistency. Essentially, white supremacy was secured in the four territories. The remaining Bantustans were declared self-governing territories and that were, Lebowa, Gazankulu, Kwa Ndebele, KaNgwane, QwaQwa and KwaZulu. The social engineering of these self-governing territories was to parcel people in line with their ethnic identities. The passing of the Bantu Self Governing Act of 1959 led to the declaration of Gazankulu as a self-governing territory with its own legislative assembly established in 1973 in terms of the Bantu Homelands Constitution Act 21 of 1971. The Act stated that the Bantu people of the Union do not constitute a homogeneous people but form separate national units on the basis of language and culture (Harries 1984).

In pursuance of the objectives of the Bantu Self Governing Act, 1959, the Makuleke community was forcefully removed from the Kruger National Park to Nthlaveni and area located in the Gazankulu area under the traditional leadership of Chief Mhinga (Interview, Chief Joas Phahlela Makuleke, 13 February 2012). The forced removal of the Makuleke community was primarily to achieve two objectives, *firstly*, to make way for extension of the Kruger National Park and *secondly*, to resettle the Makuleke community in area falling under Gazankulu with the Xitsonga speaking community. The second objective squarely fitted the grand apartheid legal classification of people under ethnic identities in the countryside.

The apartheid government implemented this project and the Makuleke community who lived in the Pafuri Triangle since the 1830s was forcefully removed in 1969. Looking closer at the two objectives leading to forced removal of Makuleke community, it can be argued that the community suffered great injustice under the apartheid system. As a sequel to the forced removals from the Pafuri area the Bantu Authorities Act No. 68 of 1951 was promulgated into

law. This piece of legislation further consolidated the Bantu Self-Governing Act of 1959 by pushing for the establishment of tribal, regional and territorial authorities. These tribal authorities were system of traditional governance which rightly or wrongly cooperated with the apartheid government to secure their continued legitimacy. A publicly held view in some communities is that they were an extension of apartheid authority on rural communities, though some radical traditional rulers continually defied the system.

Figure 4.1 Homelands and their location



Source: www.sahistory.org.za 18, Date Sourced 18 June 2013

Developments in South African political landscape affected the Makuleke community extensively. As outlined earlier their history can be traced from their location at the confluence of Limpopo and Olifants River in present day Mozambique from where they were pushed to the northern corner of the Transvaal (South Africa) by a dissident Zulu army under the leadership of Soshangane (Harries 1987; Dicke 1926). They ultimately settled at Pafuri in the 1830's. In terms of social and economic relations, Pafuri has been a confluence of trade and supply of labour to the mines in the Reef after the discovery of gold and diamond in South Africa. There is no record of restrictions on hunting prior to the recorded history about the Makuleke community in the

1830s'. "Pafuri lies at the confluence of Limpopo and Levubu rivers which had been used as a trade route for ivory, and as a route through which labour was recruited from the present day Zimbabwe and Mozambique to South Africa after the Witwatersrand gold discoveries of the 1880s" (Harries 1987; Murray 1995). The passing into law of the Natives Land Act, 1913 which became the principal act with the colonial legal force to dispose land from people of African origin in South Africa put into motion plans for the forced removal.

Prior to the 1969 forced removal the Makuleke tenure rights were consistently threatened by competing interests in favour of conservation, agriculture and for residential purposes. White farmers wanted the reserve to be opened for grazing, the Department of Mines raised the question over valuable minerals in the reserve, land owners wanted to control hunting in their private farms, and the Department of Lands wanted the land for white settlement while the Department of Native Affairs wanted the land for the relocation of Africans (Carruthers 1995). Ramutsindela (2002); argued, Makuleke were not only a target of conservationists but were also caught up in the apartheid ambitions. The National Party government's system of tribal authorities and "homelandisation" required the grouping of tribal areas into Bantustans. The Makuleke were required to fit into the tribal jigsaw puzzle.

A complex history of the Makuleke community regarding threats to their security of tenure locates them at the powerful confluence of nature conservation, reconfiguration of identity through grand apartheid tribal policy, human rights and competing land use regimes in the Kruger National Park. As early as the 1920s' the Makuleke community was already declared poachers', their continued existence in a conservation area threaten wildlife conservation in the area.

Pafuri has been the ancestral lands of the Makuleke community for generations, however the Nationalist Party government continued to proclaim the land for extension of the Kruger National Park (Interview, Chief Joas Phahlela Makuleke, 13 February 2012). It was proclaimed a game reserve in 1933; the Department of Agriculture did not support the extension of the Kruger National Park into Pafuri because it feared that incorporation would lead to the spread of foot and mouth disease/rinderpest (Mouton 1996). Contestation around the preferred land use method

in the Pafuri area have characterized the nature of the discourse prior the forced removals of 1969.

The contestations around the preferred land use option between state institutions in conservation and agriculture prior to the 1969 removals have been captured earlier in this chapter which were issues of resource use, ownership and contestation of decisions around the preferred land use. However, this contestation regarding resource use and ownership seems to have replayed itself out in post-liberation South Africa as a result of the successful lodgment and settlement of the land claim in favour of the Makuleke community. The sources of the contestation are examined in this thesis in the post 1994 era. The purpose is to establish the narrative behind the current contestations and draw up conclusion and analytical pointers to achieve the objective of this thesis. The contestation between DEAT, SANParks, DLA, WESSA, LRC and the Makuleke community regarding the restoration or non-restoration of the Pafuri area set the stage for what became a replay of the pre-liberation contestations regarding Makuleke community land rights and nature conservation in the Kruger National Park.

4.3 Rewriting the Makuleke Story

The democratic dispensation in South Africa heralded the drawing up of an inclusive constitutional democracy with the Bill of Rights. The African National Congress considered restitution as “a way to redress the suffering caused by the policy of forced removals” (ANC, 1994: 10). The Land Restitution program was aimed at restoring land or provision of alternative forms of redress (financial compensation, alternative land, preferential state development projects) in full and final settlement of land claims lodged by those who were dispossessed as a result of racially discriminatory legislations or practices as from 19 June 1913. The legislative expression of this program was given impetus by Section 25 of the Constitution of the Republic of South Africa (Act 108. 1996, Section 25) and the Restitution of Land Rights Act)Act 22 of 1994) as amended (Department of Land Affairs 1997).Section 25; (5),(6),(7) in the Bill of Rights outlined the legislative requirements as follows:

The state must take reasonable legislative and other measures, within its available resources, to foster conditions which enable citizens to gain access to land on an equitable basis.

A person or community whose tenure of land is legally insecure as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to tenure which is legally secure or to comparable redress; and

A person or community dispossessed of property after 19 June 1913 as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to restitution of that property or to equitable redress (Republic of South Africa 1996a).

The Land Restitution Act 22 of 1994 as amended did not consider historical land dispossession which took place prior June 1913, more so, Section 2(1) of the Act provided that claim for restitution must be lodged by no later than the 31st December 1998. As a result, June 1913 became the cut-off date for lodgment of all land restitution claims in South Africa and the closing date of December 1998 was contested by communities and individuals who did not lodge claims within the cut-off date. Drafters of the legislation argued that, the passing into law of the Natives Land Act, 1913 represented the principal legislative period of land dispossession, however there was a consensus that land dispossession in South Africa dates back as far as the Glen Grey Act and the Crown lands Disposal Ordinance Act. However, with discontent from the land reform sector nongovernmental organizations and the communities were ignored and the land restitution act was passed into law in 1994. This became a legislative solution to a historical political problem of land dispossession.

Communities, activists, academics and nongovernmental organizations persistently called for the amendment of the Restitution Act. A relief came in the form of the Draft Restitution Amendment Bill, 2013. The explanatory memorandum of the amendment outlined that the review of the program indicated that the restitution program has been thwarted by the exclusion of the following categories of people i.e. those who could not lodge claims by the cut-off date of 31st December 1998, those dispossessed by betterment planning and not allowed to lodge claims by the CRLR. However, the category of land dispossession prior to passing of the Natives Land Act, 1913 was excluded by Section 25 (7) which prescribed that redress is only for the dispossession as from June 1913. At the time of writing this thesis State was engaged in research to determine the scope and quantity of the category people dispossessed as a result of State actions before

1913 (Republic of South Africa 2013). However, it remains to be seen whether there is political will to deal with such land claims.

The South Africa land restitution program was born as a result of the constitutional imperative of the property clause. With the promulgation of the Restitution Act, 22 of 1994 as amended the stage was set for redress for historical acts of land dispossession in South Africa. Section 25 (7), of the Constitution made it possible for the Makuleke community to lodge a claim for restitution on Pafuri section of the Kruger National Park. A total of less than 80 000 (eight-thousand land claims were lodged by the cut-off date of the 31st December 1998 and this total number was made of both urban land claims and land claims affecting rural areas with multiple land use (Interview, Mashile Mokono, 12 February 2012). However, those that were excluded from the process of lodgment found reprieve through the Draft Restitution Amendment Bill, 2013. It proposes the reopening of lodgment of land claims with a cut-off date of the 31st December 2018 (Republic of South Africa 2013).

In our minds we lodged this land claim primarily to resettle at the Makuleke settlement inside the Kruger National Park, we knew Pafuri to be our ancestral lands and this was also the view that was shared by many community members, especially the elders who were born in old Makuleke and were very nostalgic about their ancestral home (Interview, Eric Tibane, 18 February 2012).

The intention by the Makuleke to re-establish their settlement in the Kruger National Park through a land claim went against this belief, which is fundamental to the practice of conservation. Beyond securing the conservation status of the Kruger National Park, the conservation lobby saw the land claim as a threat to the bigger plan: the establishment of the Great Limpopo Transfrontier Park (GLTP). The plan for creating the GLTP predates the land claim and reflects a much wider political history of conservation in Southern Africa, and also general trends in conservation thinking (Ramutsindela 2007). The land claims lodged by Makuleke on the Pafuri section of the Kruger National Park added more controversy to the volatile situation in the Kruger National Park (Interview, Hector Magome, 18 October 2011). The volatility of the Kruger National Park debacle threatened a worldwide wildlife estate which is the beacon of South African conservation in the world. However, it can also be argued that, to

some it represented Afrikaner nationalist identity as a monument and legacy to the pioneer and father of the Afrikaner nation.

Already we had a greater unfolding conflict and a threat to the ecological integrity of the Kruger National Park through a prospecting license already issued by the Department of Minerals and Energy to the Madimbo Mining Co-operation and in addition what we consider to be a money spinner for conservation and a crown jewel of conservation in Africa and the world heritage site was not only under threat from potential mining but also from the land claims lodged against the State on the Kruger National Park (Interview, Hector Magome, 18 October 2011).

The narrative by the South African government regarding the Kruger National Park is that, it is a crown jewel of conservation and heritage for the world whose continued conservation is in the best interest of the world. However, the argument in the negative is that, framing the Kruger National Park as a global heritage resource inescapably; relocates it to become a resource of global significance whose management, control and ownership must represent the interest the world over. It further, etches in the psyche of the world an instinct to partake in its continued conservation. However, in the case of South Africa's Kruger National Park the global psyche was pitted against calls for transformation of conservation through the land restitution claim by the Makuleke community.

My Acre of Africa is a case in point of how organizations and individuals all around the world are encouraged to support conservation of wildlands and wildlife of Africa. This project recognizes Africa as a custodian which is a global resource and it purposed to raise \$200 000 000 towards education on conservation. Led by the Patron in Chief the late Dr. Nelson Mandela, the project was given a jerk up through the Mandela image represented as an international icon and statesman of impeccable character revered the world over. Five million bricks were made available for sponsorship to create an Endowment Fund and each sponsor received a personal, commemorative certificate from the Patron in Chief, Dr. Nelson Mandela (KNP 2002).

One can argue that, the restoration of Pafuri section of the Kruger National Park to Makuleke community with restrictive conditions of use represented the views of larger interests both local and abroad in terms of how the Kruger National Park should be structured. Consequently, the

outcome of the Makuleke settlement agreement of land use gave South Africa an ‘unofficial’ model through which land claims in protected areas are to be resolved to tie with global interests. It is essential to note that this resonates with the words that ‘as a symbolic gesture of reconciliation the Makuleke land claim was restored, however the outstanding land claims affecting the Kruger National Park will not be resolved in a similar manner as Makuleke (Interview, Stone Sizane, 29 October 2011).

Asked why the world renowned model is not replicated “this is a national asset and a heritage for all South Africans and the world, it has to be protected at all costs in order to save the financial lifeline of cross subsidizing other national parks which were not making a profit” (Interview, Hector Magome, 18 October 2012). Global interests in the land reform program in South Africa are not to be easily discounted due to the influence of neoliberalism on our land reform program. The political and economic shift in macro-economic policy which came through the adoption of Growth Employment and Redistribution (GEAR) in 1996 redefined the transformation narrative. Efficiency and self-financing of state companies through adoption of commercialization became fundamental to their survival. Neoliberalisation was finally embraced in South Africa as a result of external influences on the policy processes by the World Bank. Trade liberalization, deregulation and the removal of agricultural subsidies serve as a case in point to the policy shift. In the case of conservation the message was clear that they must start to look at alternative methods of financing within the new framework of the economy. The element of cross-subsidization of the national parks system could not be easily discounted due to fact that SANParks was advised to prepare itself for less funding from the State (Varghese 2008).

Ramutsindela and Shabangu (2013: 9) argued that, “at face value, this reasoning makes sense and also chimes with the general view held in conservation circles that African governments have both lack of funds for, and interest in, nature conservation”. The argument that the state is unable to fund national parks, because it has huge social responsibilities does not stand the test when held up against the privatisation of the very services the state is supposed to provide (see Bond 2000 on the privatisation of basic services and the consequent urban crisis). The argument of privatisation of basic services taken in context of this thesis shows the flaws in the position taken by the State. It demonstrates and exposes a comfortable consumptive relationship between

the post liberation State and market. The Makuleke case study illuminates the States' role in protecting the interests of capital in the context of conservation. However, mining as a contending land use option in Makuleke also bears the hallmarks of neoliberalism. In order for the decision to forego mining and pursue the conservation agenda the view of the Kruger National Park as an exclusive 'inverted common' was significant. With the commercial interests through concessions, Kruger National Park was to lose lifelong revenue due to the fact that mining has a lifespan with negative environmental consequences.

In retrospect, the emergence of a powerful pro-conservation alliance came in the form of provincial department of environment in Limpopo province, where the Kruger National Park is located and the South African National Parks. Mail and Guardian, (1995), recorded that, the national and provincial departments of Environmental Affairs and Tourism were of the view that conservation present a more sustainable land use option, it will create employment opportunities for the beneficiaries in comparison to mining due to its short term operation. A survey was undertaken by the Department of Environment and Tourism to determine the perception of the community and it was discovered that the community was in favour of mining because the feeling was that mining will generate more jobs than conservation, however, the findings of the study were downplayed by government. Despite the findings, the community was mobilized into anti mining lobby through supporting conservation (See Ramutsindela 2002).The victory of conservation lobby groups over mining in the Kruger National Park later demonstrated that the conservation lobby group was technically superior and spared no effort in winning against proposed mining (Interview, Mashile Mokono, 12 February 2012).

The Makuleke land claim in the Kruger National Park opened a space for dialogue between conservation authorities, the Department of Land Affairs and powerful conservation lobby groups as well as the Makuleke community. The dialogue resulted into a paradigm shift on issues of land ownership and a new governance structure with a redefined revenue sharing mechanism (Interview, Phineas Nobela, 13 September 2011).The National Parks Board viewed the resolution of land claims to the mutual benefit of all parties as essential for the management of the ecosystem (SANP 1998).This dialogue put on the frontline of attempts to reconcile the Makuleke community land rights and conservation in the Kruger National Park. It focused on the

problems of yesterday, land dispossession to make way for conservation and today's challenge of building a united and reconciliatory society through pragmatic policies of land reform and a perfect balance had to be attained in order to protect all legislative imperatives in the country (Interview, Richard Mulaudzi, 12 March 2012). However, the wider significance of the Makuleke deal were to emerge later with the acceptance and gazetting of other land claims affecting the Kruger National Park (cf Chapter 5).

4.4 Contestation and Contradictions: What were the Stakes in Settling Makuleke?

During the negotiations stage for settlement of Makuleke there was no policy guidelines from the Department of Land Affairs on how to finalize conservation land claims (Interview, Hector Magome, 18 October 2011 and (Interview, Mashile Mokono, 12 February 2012). However, the guideline was from Section 15 of the Restitution of Land Rights Act, 1994 prior to its amendment. The Act provided that a feasibility study was mandatory for each and every land claim in order to look at the following issues:

- financial capacity of the state to settle the land claim
- Physical condition of the land presently i.e. whether there are developments to impede restoration.
- In case of Makuleke the report looked at the biodiversity in the Kruger National Park vs. the intended use of the community. As it was State land used by the South African National Park purchasing the land was out of the question but the financial aspect of the report looked at the financial readiness of the State to provide post-transfer support in the form of Settlement Planning and Restitution Discretionary grants for proper land use planning, training and other financial support, the State was prepared to pay such costs (Interview, Mashile Mokono, 12 February 2012).

The process towards settling the land claim through transfer of the land title to Makuleke community was frustrated by competing views between the conservation lobbyists and the land rights activism of government which came in the form of the Department of Land Affairs: Limpopo Province (Interview, Mashile Mokono, 12 February 2012). The strength land rights activism was derived from the knowledge that land reform was political imperative and a

constitutional obligation which is in the public interest. However, for land reform to take place varied players both public and private landowners were directly affected and it became a minefield to negotiate through it as this chapter demonstrates. The discourse around transferring Makuleke to the community was dominated by powerful conservation lobbyists, WESSA and the South African National Parks who were opposed to the transfer of land title in preference for financial compensation in full and final settlement of the land claim (Interview, Steve Collins, 13 February 2011). Their view was that conservation cannot be managed effectively and sustainably by a community which does not have experience, the training and the adequate financial requirements to make it sustainable. They argued that this represents a threat to the survival of the Kruger National Park (Interview, Mashile Mokono, 12 February 2012).

Though high value agricultural farms, private game reserves and provincial nature reserves were restored to the successful communities the Kruger National Park was untouchable. It is important to note that this land claim came into the picture at the time of the development of the Transfrontier Conservation Areas in Southern Africa. The plans to establish a Transfrontier Conservation Area were hatched long before the land claims was lodged. The threat of the land claim in the Kruger National Park perceived by the SANParks masked the fears of possible failure of the idea of establishing the Transfrontier Conservation Area. A TFCA can be defined as a part or component of larger ecoregion that straddles the border between two or more countries, encompassing one or more protected areas as well as multiple-resource areas for the use of communities and private landholders, managed for sustainable use of natural resources (Singh 1998), the main ecological reasons for establishing TFCAs are to: (i) protect internationally shared ecosystems, such as watersheds and biodiversity assets; (ii) increase the area available for wildlife and plant populations thereby reducing the extinction risk due to stochastic events; and (iii) re-establish seasonal migration routes. Besides ecological reasons, the TFCA concept is being accepted as a means of increasing economic opportunities, decreasing cultural isolation, as well as fostering cooperation in a bilateral and regional framework. The TFCA covers the ecological region of South Africa, Zimbabwe and Mozambique.

This concept integrated eco-systems and socio-economic development at transboundary landscape scale (Munthali 2007). A possible reason why the Makuleke restitution settlement was

received so positively was that the government desperately needed a land reform success story. In addition, the GLTP was implemented at the time of the Makuleke agreement, and a 'co-operative community' exemplified the win-win relationship that was needed by the advocates of CBNRM and the social ecology approach (Friedman 2005: 51-52).

Governments and (international) conservation organizations supporting TFCAs believe that TFCAs will generate significant economic growth. This growth is to come mainly from tourism development and public private partnerships are seen as the main vehicle for this growth (Ramutsindela 2004 a, b). Drawing on the work of David Harvey, Castree (2008) ascribed this alliance to a strong belief in the private sector's ability to fix environmental problems. These environmental fixes manifest in the promotion of the free market as a vehicle for ecological stewardship (free market environmentalism): opening up protected aspects of nature to the market; intensifying neoliberal measures by extending the rights of the private sector to include the right to exploit nature and by off-loading the state's responsibility to manage the contradictions of capitalism (Castree 2008). Thus, free market environmentalism presents capitalism as the key to our ecological future that will in turn help end our current financial crisis (Igoe et al 2010).

The effect of TFCA on Makuleke was the introduction of neoliberal strategies of eco-tourism as a livelihood option. This ties closely with South African National Parks commercialization strategy of 2000. Private sector involvement in the TFCAs' is pronounced through public private partnerships, the participation of local communities in the free market enterprise in support of regional conservation and development which result in transfrontier community based natural resources management (Keterere et al. 2001; Banda 2002 and Dzingirai 2004). McCarthy (2005) calls it hybrid neoliberalism. This has created a relationship between neoliberalism and devolved environmental governance where faith in the flexibility of markets and civil society is mutually supportive in meeting supplies and demands of financial matters, conservation and local responses (McCarthy 2005). The brokering of the Makuleke community public private partnership model was to attract meaningful private sector investment, bring capacity and efficiency of private sector management and guarantee sustainable utilization of natural resources and spread beneficiation (Interview, Steve Collins, 13 February 2011). A critical

perspective to the Makuleke deal is that, the deal was between nature and capital. It only assumed a human face through the involvement of the Makuleke community as new land owners however; they were not the force that determined how capital and nature should relate in the Kruger National Park.

The idea of having Makuleke Contractual Park at the centre of the proposed TFCA provided a viable business logic for the community, however, benefits from the concepts have not been flowing to the community to date (Interview, Bongani Maluleke, 14 February 2012). The idea of a Great Limpopo Transfrontier Park as an exemplary process of partnerships between governments and the private sector (SANParks, 2006a). TFCAs' concept brought the a regional and international spotlight upon the Kruger National Park and Makuleke community. It meant that the only acceptable land use option in the area was conservation and its related ecotourism usage. The condition in the settlement agreement prior to transfer of the land to Makuleke CPA came enforced the idea of conservation and nothing else. However, the question is to what extent did the Makuleke community have a say in the conceptualization of the concept? The evidence in this thesis points that the framing of the settlement agreement had in mind restrictive conditions of use and therefore no alternative was acceptable to the TFCA concept.

TFCAs' feature prominently in the plans and policy documents of conservation-oriented organizations such as the Peace Parks Foundation (PPF), donors, big business and governments. Yet, at the village level there is little direct evidence of the benefits of these grandiose plans (see Hughes 2005; Spierenburg et al. 2006). Magome (interview 18 October 2011) argued that, it will be wrong to expect conservation benefits in Makuleke to become a panacea to the many developmental challenges that beset Makuleke community and the Kruger National Park is not a development agency, it is in the business of conserving the landscape and species. In this case, conservation did not make any significant dent in solving the problem of unemployment as one of the challenges that plague the Makuleke community. Ramutsindela and Shabangu (2013: 9) argued that, business interests cannot be discounted from conservation efforts, especially when solutions to environmental problems are couched in market-related terms.

Such environmental problems take different forms, including the threat that locals are seen to pose to conservation efforts. In the case of the Kruger National Park, one of the perceived threats came in the form of Makuleke land claim and the solution to the threat was designed to have commercial undertones. To a greater extent, the solution through a public private partnership gave the Makuleke community some benefit from nature conservation that they longed to have. In the greater scheme, the opportunity created by the settlement and business concession model of Makuleke one argues that, the Makuleke community could have secured more benefits had the two business concession models of The Outpost and Wilderness Safaris been properly and fairly structured.

The wider significance of the views detailed above *firstly*, points to two aspects, a naturalized fractured relationship between capital and society in the context of the Makuleke business concession model and *secondly*, an alliance of two camps SANP and WESSA, pitted against the Department of Land Affairs, LRC and the Makuleke community at the settlement of the land claims. When looked from a legal perspective bestowed by constitutional imperatives, the perspectives of the two camps were legally sound, the need to protect the environment and the interests of the state to do land reform. In an attempt to outweigh each other, each camp sought solutions from systems that will secure their supposedly competing individual interests.

The turn of events in Makuleke exposes how neoliberalism is presented as a viable alternative to challenges facing nature and society. The logical conclusion to the alliance formed by DEAT, SANP, and WESSA to convince the Makuleke community to support conservation rather than mining proved that the objective was to protect the Kruger National Park at all costs. The relationship between Makuleke and the SANParks has remained fractured after the forced removals of 1969. Though seen as an important partner with valuable expertise regarding the ecological management of the Kruger National Park and the Makuleke Contractual Park, but on the other hand it is purported to be contradicting the Makuleke Contract Park model. For example, some Makuleke leaders and villagers believe that SANParks influences commercial decisions concerning the Makuleke Contract Park in order to promote its own interests and understandings of proper conservation. These suspicions were reinforced by SANParks' apparent

opposition to Makuleke plans to hunt elephants for commercial purposes (Steenkamp and Grossman 2001).

However, the department of land affairs was of the view that at any given cost transformation must happen, “we viewed ourselves as executing the mandate of the constitution and thought that conservationists are protecting a racial motivated interest. Remember that the Kruger National Park was before then forming part of white South Africa (Interview, Mashile Mokono, 12 February 2012). Through the Department of Land Affairs the Makuleke community had found an ally whose legislative mandate was to ensure that restitution takes place by expressing the intention to transfer land to the Makuleke community. The position of the Department of Land Affairs escalated the contestations of two legislative mandates, the need for restitution to take place and the certainty to protect and manage the biodiversity in protected areas effectively. The historical narrative of nature conservation and societal contestations were unmasked by the land claim and fractures within the institutions of the post liberation government were evident. These contestations were not new at all to Makulele. Prior to the forced removals of 1969 a contestation over various land use options of Pafuri emerged through the National Parks Board, a predecessor of SANParks and the Department of Agriculture.

With the Kruger National Park as the biggest money earner for the SANP sharp contradictions over revenue between conservation and land reform emerged. Conservation in the twenty first century is big business. The conservation and business logic was under threat from the new owners in the form of the Makuleke community. The logic and understanding by the Department of Land Affairs of conservation as a complex and difficult business environment was not understood by us let alone taken into serious consideration (Interview, Mashile Mokono, 12 February 2012). “Conservationists were better resourced and mostly knowledgeable on aspects of beneficiation from conservation enterprises and related tourism operations in the Kruger National Park” (Interview, Hector Magome, 18 October 2011).

Essentially, the Department of Land Affairs did not have an idea of how the beneficiation as well as the sustainability of such enterprises and their potential to exist and compete with similar enterprise elsewhere in South Africa can be done. Radical suggestions were made that the Pafuri

section of the Kruger National Park must be deproclaimed as a protected area to allow for the preferred land use option by the community of resettling in old Makuleke. It can be argued that, the threats for a move to deproclaim Pafuri and the proposed mining operation pushed SANP to court Makuleke and the Department of Land Affairs. The solution to settle for a contractual park points to the idea that the Makuleke community was a manageable partner to deal with than the horrors of mining inside the Kruger National Park.

In pursuance of a settlement of the Makuleke land claim the Legal Resources Centre filed an application to the Land Claims Court compelling the Department of Land Affairs and the South African National Parks to transfer the land in title to the Makuleke community. Prior to the matter being heard by the Land Claims court the parties to the matter settled outside Court and the agreement was made an order of Court. The settlement agreement favoured the Makuleke community, the Department of Land Affairs will establish the Makuleke CPA, land was to be transferred to the MCPA and the land will be kept under conservation in perpetuity. Pafuri section of the Kruger National Park will become a contractual park managed by SANP for 50 (fifty) years and it was approved but the condition was that it must be given back to be managed as an economic unit with the rest of the Kruger National Park. “For us restitution to Makuleke represented a political moral high ground than the depth of economic logic put forth by conservation lobbyists. Issues of equity, transformation including black economic empowerment were becoming very real to us” (Interview, Mashile Mokono, 12 February 2012).

The contestation that the land must not be transferred in title enforced the belief to the Department of Rural Development that the Kruger National Park and South African National Parks were not towing the line of transforming land ownership patterns in South Africa. The approach by the Department of Land Affairs was based on the view that land reform was in the public interest, and the nation’s commitment to land reform was in the public interest (Interview, Mashile Mokono, 12 February 2012). The view by Department of Land Affairs resonated with the Constitution. The debate took the public interest dimension of having a collective property (Kruger National Park) and community land rights pitted against each other hence the matter was referred to Land Claims Court and the settlement agreement was made an order of court (Interview, Mashile Mokono, 12 February 2012).

The Kruger National Parks' Land Reform Desk Manager at the time who later became its CEO, Dr Mabunda, stated that beneficiation in the Kruger National Park is overrated. Not every part of the park will offer opportunities for tourism development. Some parts are conserved for their pristine nature and having communities restored such land no tourism development will be allowed due to the zonation and land use plan of the park. More so, he argued that the Kruger National Park is cross subsidizing other national parks not making a profit and having new owners and a new revenue sharing mechanism will negatively affect the national parks system from a financial point of view (Interview, Hector Magome, 18 October 2011).

The settlement agreement between SANP and Makuleke community became the basis upon which an ecotourism deals were brokered. Access to land and full right for commercial development given to Makuleke signaled that the community was ready to do business. Through the guidance of a collaboration of organization called the Friends of Makuleke, two major concessions were brokered with tourism operators, The Outpost and Wilderness Safaris in 2005 and 2006; the details are captured in this chapter. The deals saw intensive capital investment in the Makuleke region of the Kruger National Park. The link between conservation and economic logic SANP and conservation NGOs' advised about were becoming real. The details of sustainable ecotourism became real to the Makuleke which SANP. The Makuleke deal was touted as an innovative solution to reconciling land claims and conservation. However, misgivings surfaced later when more land claims were gazetted in the Kruger National Park is discussed in details in Chapter 5.

Essentially, the learnings from the Makuleke restitution case brought a new way of doing things (Interview, Mashile Mokono, 12 February 2012). The Department of Environmental Affairs and Tourism as well as the Department of Land Affairs developed an inter-ministerial memorandum framework in 2006 guiding the settlement of land claims in protected areas. The details of are of the memorandum are discussed in chapter 6. In essence the memorandum kept the fundamental principle of giving back land to the communities. This approach brought an opportunity for proper working relations in finalizing land claims in conservation areas.

The settlement agreement between the Makuleke Communal Property Association and the Department of Land Affairs as well as the South African National Parks was the first in South Africa. It stated that, the 22 000 hectares of land constituting the Pafuri section of the Kruger National Park would be owned by the CPA but remain part of the Kruger National Park for 50 years as a contractual park. The CPA and the SANParks to form a Joint Management Board which will draft the Development and Conservation Management plan to guide the decision of the JMB. The CPA has full commercial rights to the land excluding agriculture and mining. The long-term envisaged land use is conservation and tourism however, sustainable use of natural resources included hunting.

The foundation upon which the South African National Parks, Department of Environmental Affairs and Tourism and powerful conservation lobby group Wildlife Environmental Society of Southern Africa persuaded and intelligently dominated the settlement agreement of the Makuleke land claim to use the land successfully reclaimed exclusively for conservation and eco-tourism development was achieved” (Interview, Bongani Maluleke, 14 February 2012). This settlement agreement entered with the Department of Land Affairs and South African National Parks presented eco-tourism investment as an opportunity to add value to the natural assets base of the Makuleke community. Adding value to our land came through the development of a community public private partnership with the private sector (Interview, Lamson Maluleke, 7 March 2011).

The model hinged on the building operating and transfer (BOT) method of tourism operations. The commercialization strategy of 2000 of public assets had a greater influence of how the Makuleke deal was brokered. It is not a coincident that the first concession to be granted by the Makuleke community was in 2000 it was in the same year in which the commercialization Strategy was approved (Ramutsindela and Shabangu 2013). “We became the new owners under the different regime of land use in addition the settlement agreement had restrictions of land use biased towards conservation and eco-tourism development at a pre-determined scale and unfortunately we were caught up in the excitement of our new found treasure and did not understand some of the key contractual complexities that made up the agreement” (Interview, Lamson Maluleke, 7 March 2011).

4.5 Concessions: investment model

Contractually the business model is in the form of a concession, which gives rights to the concessionaire to use a defined area of land over a specific time in return for payment of an annual concession rental fee based on the percentage of annual turnover as agreed between the MCPA and the concessionaire (Interview, Landi Burns, 21 February 2012) and (Interview, Bongani Maluleke, 14 February 2012). The Makuleke Communal Property Association went for a concession due to demonstration of high infrastructural investment and potential high return on investment in the medium and long term. The opportunity cost were attractive to the MCPA, however, the two concessions performed below projections, this is discussed elsewhere in the thesis. Looking at the concession agreement of Makuleke, the pillars of the business agreement hinges on the period payments by the two concessions for payment of utilizing the Pafuri area. Such payments are periodic, once a year at an agreed percentage. The duration of these concessions are clearly defined in the agreement and more so, critiqued on the basis of their unfavourable lack of protection (see Table 4.1). The first concession to be granted by the Makuleke community to a private operator was in the year 2000. The Outpost lodge was build wherein an investment of R14 million was made available through building the facility (Interview, The Outpost Concession Deputy Manager, 21 February 2012).

Wilderness Safaris' Pafuri Camp became the second concession for the Makuleke community and started operating in 2005. This was as a result of a 45 years contractual agreement between the Makuleke Communal Property Association and the Wilderness Safaris who were successful bidders for the Pafuri concession. Public private partnership investment model was developed together with Wilderness Safaris within an area of land that has been and still is the ancestral lands of the Makuleke people. According to clause 7, paragraph 3 of the signed agreement that was made an order of Court a R 25 million infrastructural investments was made by Wilderness Safaris in building the tented camp facility was made in the Makuleke section of the Kruger National Park (Interview, Landi Burns, 21 February 2012). This facility is situated on the northern bank of Luvuvhu river. The camp is divided into two areas, Pafuri East with 7 tents and Pafuri West with 13 tents. The camp employs 44 members of the Makuleke community and 6 employees from the Wilderness Safaris who are mostly in management and finance.

The concession articulates a groundbreaking model of Build Operate and Transfer (BOT) after each period of the two concession agreement. A total of R 39 million tourism investments in the Makuleke Contractual Park will revert back to the ownership of the community. This will take place after the lapse total of 70 years contractual agreement for the two concessions. It will be upon the Makuleke CPA to decide to run the facilities themselves or open the bidding for private operators (Interview, Lamson Maluleke, 7 March 2011). This model was rolled out in various provincial nature reserves and national parks in the country. In the case of Limpopo, a commercialization strategy was developed to attract private investment in reserves like Lekgalameetse which were not making profit. In 2010, the SANParks in line with their strategic plan for commercialization invited prospective investors and operators to bid for commercial use of Rhodes Memorial Tea Room and Restaurant in the Groote Schuur Estate within the Table Mountain National Park. The obligations put upon the successful operator were the payment of the public private partnership fee for the duration of the agreement, manage the resource according to prescribe environmental and developmental objectives of the South African National Parks.

This is modeled around the Public Private Partnership model under the commercialization strategy of 2000 of the South African National Parks. The model allows state institutions to lease assets to the private sector for a period of time, after which the assets revert back to the state. Borrowing this model allowed the Makuleke community to attract private capital and also leverage private sector business skills, transfer a greater percentage of business risks to the private sector, create employment and put the community resource to good use. The Makuleke agreement put on the frontline an innovative way of reconciling land rights and conservation in post-apartheid South Africa (Interview, Lamson Maluleke, 7 March 2011). Parallel characteristics of this model were applicable in the case of the Makuleke. The foremost distinction with Makuleke in the case of the Kruger National Park is that the revenue is earned by the community directly and not the SANParks. The answer to the enquiry is that SANParks sees itself as the only authority to benefit from the commercialization model inside the Kruger National Park. More so, given that the Kruger National Park earns significant revenue from this strategy.

Reverting back to the Makuleke case study, the irony is that the settlement agreement provided a conservation and business logic to the Makuleke and the South African National Parks. SANParks touted the model as an innovative approach in reconciling land claims both nature conservation goals and land claims. Theoretically, the land will remain and conservation area managed by the SANParks and benefits will flow to the community through an innovative public private partnership model. In essence, tourism was made to pay for conservation and the CPA will benefit if they conserve (Interview, Steve Collins, 13 February 2011). Tapela and Omara-Ojungu (1999: 148) noted that, “SANParks had apparently moved from a protectionist position towards a ‘social ecology’ approach which claims to integrate the concerns of wildlife conservation with the socio-economic needs of communities.”

The revenue earnings for Makuleke based on a 10% of the Wilderness Safaris annual turnover. The financial year ending March 2012 earned the community an amount of R800 000.00 as a percentage of turnover from the Pafuri Camp concession (Landi Burns interview 21 February 2012). The term of the agreement is 15 years concession agreement renewable for another 15 years. The concession rental model developed is as follows: 8% of turnover is paid out as concession rental and an additional 2% of the turnover paid out by the Outpost to the Makuleke Trust formed for development and welfare of the community (Interview, Bongani Maluleke, 14 February 2012).

The negotiations and subsequent agreements of Makuleke deal did not represent the initial interests and aspirations of the community as pointed earlier in this chapter that some of the community members of Makuleke preferred the actual resettlement at old Makuleke. Compromises had to be reached by all the parties; resettlement which was the priority was not feasible given the order of the Land Claims Court that the land must be used as a conservation area (Interview, Lamson Maluleke, 7 March 2011). The views expressed by the community were the need for total control of the Pafuri area, with full rights to harvest wildlife (Interview, Mavis Hatlane, 9 February 2012).

Table 4.1 Concession time frames

MAKULEKE CONCESSIONS			
NAME	DATE OF OPERATION	CONCESSION TIME FRAME	BASIS OF CONCESSION RENTAL FEES
The Outpost	2005	30 YEARS	10% ANNUAL TURNOVER
Wilderness Safaris	2006	45 YEARS	10% ANNUAL TURNOVER

Source: Unpublished Makuleke Data, Makuleke

The sticking point regarding the Wilderness Safaris concession has been its length and its exclusivity. Spierenburg et al. (2008) argued that, the Makuleke signed a surprisingly unfavorable deal with the safari operator, Wilderness Safaris. The authors qualify their views that:

The duration of this concession is 45 years, a very long period, considering that the contract does little to hold the private sector partner to a certain level of performance and does not contain clear exit clauses that would allow the Makuleke to extract themselves from an unprofitable relationship (Spierenburg et al. 2008: 92).

This suggests that the Makuleke deal is fraught with loopholes. The transaction advisers and the Makuleke Communal Property Association as an oversight authority, land holding entity and as part of the settlement agreement could not secure base rental from the concession and they agreed to the material terms of the contract irrespective of the absence of performance guarantees of Wilderness Safaris (Interview, Jeff de Beer, 12 August 2011). Excluding base rental from the

deal meant that, the Makuleke Communal Property Association and the private operators were equally exposed to the unpredictable market forces that beset the tourism industry which performed lower than the expectations (see Table 5.1). Less turnover, meant less rental paid to the Makuleke CPA. The impact of recession on the two concessions though not quantified in this thesis also affected tourists numbers in Pafuri section of the Kruger National Park. More so, The Outpost has been unable to attract visitors to the Lodge and has consistently not performed as expected and as a result not much revenue was paid to the Makuleke community and as a result the Communal Property Association had no foothold to push the Outpost to perform (Interview, Bongani Maluleke, 14 February 2012). Reasons such as its exclusivity, remoteness to the greater part of the Kruger National Park were sighted as some of the contributing factors.

Prior to the signing of the Wilderness Safaris deal the community was involved in commercial trophy hunting. Massyn (2006), expressed misgivings regarding the prohibition of hunting on Makuleke land. According to him, Wilderness Safaris considers hunting to be incompatible with photographic tourism and insisted that the CPA stop commercial trophy hunting on their land as a pre-condition for the deal between to the two parties. This meant that the CPA has foregone the future hunting revenue in favour of lodge development. However, the signing of this concession led to a complete stop of any commercial trophy hunting activities in the Makuleke part of the Kruger National Park. Hunting generated quick revenue for the community (Interview, Chief Joas Phahlela Makuleke, 13 February 2012). SANParks was opposed to hunting and without revenue from hunting the two tourism operations are not generating considerable revenue for the community (Interview, Mavis Hatlane, 9 February 2012).

To argue a point in favour of hunting in the case of Makuleke community, the revenue streams of Makuleke were reasonably diversified given the limited business opportunities the two concessions could offer over a long term. Had hunting continued, the revenue earned would have compensated for the low revenue inflow from the two ecotourism concessions due to poor performance cited earlier in this chapter. However, the structuring of the Makuleke business concession demonstrated the hegemony of capital in brokering the ecotourism deal. It pressed for a move away from hunting; it considerably demonstrated the dictates of capital, of how resource owners could easily be swayed in the interest of responsible tourism investments. It

should be noted that, the thesis does not argue for or against hunting, but on this point it demonstrate the importance of multiple revenue streams for Makuleke community given the size of the beneficiaries households and the need to demonstrate and sustain the argument against mining that ecotourism was the best option to unlock beneficiation. It also shows the weight capital and nature displayed in securing its interests in the Kruger National Park.

Again it remains to be seen whether the long term gains for the Makuleke from the Wilderness deal outweigh the opportunity costs associated with the closure of the hunting option. The feasibility study that was carried out in the Makuleke region of the Kruger National Park had indicated that the area was marginal to ecotourism (Magome and Murombedzi 2003), suggesting the high possibilities for the commercial enterprise in that region to face obstacles long before tourism was affected by the current global economic crisis. In essence the expectations of the community from the land claim was dealt a heavy blow by restrictive conditions that came with Wilderness Safaris deal. In the result much needed revenue flow for development projects in the Makuleke community dried up (Interviews, Eric Tibane, 23 February 2011; Mavis Hatlane, 9 February 2012).

4.6 Beneficiation.

This section asks the whether the Makuleke CPA and its community are deriving benefits from the concession business model. One of the tenets of land reform is to enhance social and economic justice through opportunities for employment and beneficiation. It further looked at the tourism income generated from the three concessions, Wilderness Safaris concession; The Outpost as well as Eco-Training Camp.

The greatest discomfort among the community members is that there are no benefits trickling down to the broader beneficiaries. This a classical case of animal farm, some people benefit more than the others and the perception is that Chief Makuleke as well as the executive committee of the CPA are the only people enjoying the benefits (Interview, Mavis Hatlane, 9 February 2012). It should re recorder that beneficiation can be defined in multiple ways by multiple actors in this case. Looking at land reform from the perspective of land rights activism,

restoration of the land the Makuleke community represents a great benefit from land reform. More so, revenue earnings from the two business concessions to the Makuleke community represent an economic benefit. However, the structure and substantive content of the settlement agreement for land transfer as well as the business concession models in the Kruger National Park opens up the avenue to ask the following question; what is the quality of the deals in the face of what is available? Summarily, the financial 2012 financial year report about to be mentioned will provide context to the question raised above.

The 2012 financial year income from the Wilderness Safaris was well below projections. The CPA was of the view that the Pafuri camp Wilderness Safaris concession was not providing any reasonable returns. The perception that there is low turnover is based on comparing Wilderness Safaris' initial projected forecast of R3.1 million as 9% turnover in the fourth year of operation (Koch 2003) with the actual amount of R540,451 that materialized as income paid to the Makuleke CPA as lease fees for 2009. Held up against the initial projections by Wilderness Safaris the argument of non-performance makes sense. However, the critical factor remains that, the concession agreement between Makuleke CPA and Wilderness Safaris cannot be reviewed on the basis on non-performance of the tourism operator. Taken from a legal perspective the Makuleke CPA will have to compensate Wilderness Safaris for projected losses for the remaining years of the agreement the Makuleke CPA chooses to extract themselves from the signed agreement. The Outpost Lodge and Wilderness Safaris pride themselves as catering for an exclusive international tourism clientele. The economic recession also had a significant impact on the target market for Wilderness Safaris and The Outpost. With commercial trophy hunting pushed to the sidelines the only source of income for the Makuleke CPA is the two concessions.

Table 4. 2 Income to the Makuleke CPA: Wilderness Safaris

	2005	2006	2007	2008	2009	Total
Wilderness Safaris - Projected lease fees to Makuleke CPA (2003)	-	R1,523,241	R2,100,150	R2,689,748	R3,166,555	R6,629,794
Wilderness Safaris - Actual lease to Makuleke CPA		R 230 633	R496,836	R1,077,532	540,451	R2,345,453

Note: Figures as at 2009

Source: Adapted from unpublished Makuleke Data (2012)

The South African National Parks is of the conviction that the Makuleke model is not a success that was touted to be, the contractual agreement benefits certain individuals who through the proceeds from conservation purchase luxury vehicles using the coffers of the CPA to the exclusive use of local elites. This, according SANParks is a model not worthy to be replicated in any national Parks land claims scenario (Interview, Hector Magome, 18 October 2011). Taken from the business concession agreement, the model is not a ‘win-win’ as it was touted to be. A business industry norm requires an investment that yields benefits above capital investments and operational budgets to justify the investment. A clear indication is that the Makuleke CPA is running at a direct loss of revenue. The projected economic value of income lost would have made a difference in social investments programme of the community.

Table 4.3 Income to the Makuleke CPA: The Outpost Lodge

	2005	2006	2007	2008	2009	Total
The Outpost – Actual Lease Fees Paid to Makuleke CPA	R91,007	R108,443	R210,472	R241,458	R 151,574	R802,946
Eco-Training –lease fees to Makuleke CPA		R 21,890	R160,655	R172,270	R180,000	R534,815
Total Amounts paid by the three Concessions		R91,007	R360,957	R867,964	R1,491,261	R3,683,215

Note: Figures as at 2009

Source: Adapted from unpublished Makuleke Data (2012).

Another central tension in the Makuleke area is the conflict between democratic principles governing the legal entity in control of the land (i.e., the Communal Property Association), and traditionalist patriarchal principles of the Tribal Authority (Stevens and van der Waal 2008). However, Wilderness Safaris argue that the only real commercial value of the Makuleke Contractual Park would be tourism other commercial trophy hunting. Tourism is a long term investment and the realization of substantial benefits in the case of Makuleke, given the size, dynamics of the tourism market and operations at the Pafuri Camp will take two to three generations to make an impact at the community level (Interview, Landi Burns, 21 February 2012).

With tourism facilities as the single and primary generator of economic benefits to the Makuleke and the challenge of poverty in the Makuleke area the question is will conservation do much to assist? The recent proposed development of a third concession in the Makuleke Contractual Park is a demonstration of the fact that ‘the interests of the community are not conservation but generating revenue whereas, SANParks interest is to conserve the environment. This creates friction between the CPA of Makuleke and the South African National Parks’ (Interview,

Bongani Maluleke, 14 February 2012). The relationship between conservation authorities and the community is fraught with contradictions as a result of diverse interest. The greatest threat is that the community is currently engaging in the process of developing a third concession and that represent a threat to the pristine wilderness and ecological integrity of the Pafuri area and Kruger National Park will soon be turned into a tourism development zone (Interview, Hector Magome, 18 October 2011). SANParks and DEAT are still adamant that Makuleke is not a successful model of reconciling land rights and conservation and if it had to be done again financial payouts will be a viable solution in full and final settlement of the land claim.

4.7 What the Makuleke Settlement Model Shows?

Clause 24.3, of the main agreement for settlement of the Makuleke land claim states that, the Makuleke Region shall endure for a period of (50) fifty years as a contractual park from the date of declaration thereof in terms of clause 23.1.1; provided that after a period of twenty (25) years either party may request the Minister to exclude the Makuleke region from the Kruger National Park in terms of clause 23.1.2, on (five) 5 years written notice to the other party and to the Minister (Makuleke Original Agreement 1998). This represents an escape clause for the Makuleke halfway into the 50 years contractual agreement. The challenge with this clause is that the next generations of the Makuleke may challenge this agreement and opt for a different land use option than conservation and that poses a critical threat to the existence of the Kruger National Park over a longer period of time. Replicating the model – the scale of considering multiple land claims affecting the Kruger National Park precipitates a crisis wherein a new revenue sharing mechanism with other communities will undermine the ability of SANParks to cross subsidize other national parks which are not making a profit (Interview, Hector Magome, 18 October 2011).

4.8 First Right of Refusal

The insertion of section 43 of the Deeds Registries Act, 1936; in the Makuleke agreement states that, the Minister of Land Affairs has the first right of refusal regarding sale of the said land by the Makuleke community, to a greater extent the Makuleke model demonstrated that the cardinal

right of ownership of the land by the Makuleke community is violated and unconstitutional (Interview, Richard Mulaudzi, 4 March 2012). This created a “safety valve” for the conservation authorities to have a “toe-hold” in the Kruger National Park as a representative of the interests of the State. This purports that the concept of “*restitutio in integrum*” meaning the restoration of an injured person he/she was before the tortfeasor’s conduct (Tort and Personal Injury Law Dictionary) is greatly undermined by not conferring the full right of ownership in title and control. To date the State has not issued a title deed to the Makuleke community as proof ownership of the Pafuri section of the Kruger National Park (Interview, Richard Mulaudzi, 4 March 2012), this demonstrate the violation of the principle of ownership and undermines attempts to change the fundamental patterns of ownership and it resonates with the attempts to nationalize land by the state and keep the Kruger National Park as a global common. In essence, the Makuleke community did not only lose rights in land but also the right to decide on how to utilize their land, which has also been restricted through the limitations of the agreement.

4.9 A Model Worth Replicating?

The South African National Parks learned from its blunders with the Makuleke model. The model barred the SANParks to have greater and significant control on decision making regarding resource use in the Makuleke region of the Kruger National Park (Interview, Richard Mulaudzi, 4 March 2012). The Makuleke’s plan to hunt two elephant bulls in 1999 was opposed by the South African National Parks (Ramutsindela 2003). Harvesting of wildlife became an immediate strategy to generate revenue; however it proved to be a hotly contested terrain between the Kruger National Park and the Makuleke Communal Property Association (Interview, Mashile Mokono, 17 February 2012). The first hunt of two elephants and two buffaloes took place in 2000. The Makuleke CPA members were invited to visit Nevada, USA, in order to invite professional hunting outfit to attract the highest bidders for the wildlife to be harvested on their lands. There was condemnation of the Makuleke move by the South African National Parks and several organizations since elephant culling has stopped in South African at the time. However, the hunt was allowed to proceed after careful reassessment of the Makuleke agreement (Interview, Steve Collins, 13 February 2011), Commercial trophy hunting generated significant amount of money for the Makuleke CPA in 2003 it generated R1.5 million. An interview with

Chief Makuleke indicated that R70 000 was given to N'wanati High School and each of the four primary schools were allocated R50 000 for renovations and additional classrooms. Makahlule Primary School was given R 500 000 to build four classrooms and an administration block (Interview, Chief Joas Phahlela Makuleke, 13 February 2012). SANParks has also, in recent years, argued that the Makuleke model of public-private eco-tourism is not financially sustainable (*Mail and Guardian* 2005). Though the model was highly regarded as an innovative way to reconcile conservation and land claims in post-liberation South Africa, SANParks has increasingly demonstrated deep reservations about the replication of this model elsewhere.

4.10 Conclusion

The Makuleke settlement agreement and concession model was held up as an effective model of reconciling land claims. This relevance of Makuleke to this thesis is two-fold, it takes place in similar circumstances as the Makahane-Marithenga community land claim and more so, the intended land use by the Makahane-Marithenga community is influenced by that of Makuleke. In addition, it assisted in isolating and analyzing and understanding the narrative from conservation, community and other players and identifies the sources that influence that narrative and determine the consequences. Through this leans outline the wider significance of this study to the debate around nature conservation and land claims in South Africa's protected area. The TFCA concept affecting the Kruger National Park heightened regional conservation and securing of livelihoods through eco-tourism on a regional scale. In the context of South Africa land claims and the penetration of neoliberal moment in macro-economic policy provided an alternative the socio economic ills of the region through conservation. Using the Makuleke land claim the thesis outlined how international imperatives had a bearing on the resolution of other land claims in the Kruger National Park. Such imperatives came through the penetration and adoption of neoliberalism in South Africa.

This chapter provided a closer look at the history of the land dispossession of the Makuleke community and their successful bid in reclaiming their land rights in the Kruger National Park. It outlined the contestation between various state institutions in reconciling land rights and conservation in South Africa. Moreover, it also sought to account for what the real issues were

driving the contestation. It further assessed their stakes both from a historical context under apartheid prior to the forced removal of the Makuleke community in 1969. Furthermore, this chapter followed the contestations between various parties in the post-apartheid South Africa and give an account of their interest, and answer the question whether the interests have changed or not. Using fresh data from the interviews conducted with key respondents a conclusion arrived at is that the Makuleke win-win agreement as it was presented to the world years earlier it does not entirely represent the wishes and aspirations of the Makuleke people. The statement of varied interests within and the Makuleke community is qualified by the fact that, some of the members of Makuleke community preferred financial compensation in full and final settlement of the land claim. Finally, using the accounts of both the historical narrative and the post-liberation narrative regarding Makuleke community the chapter concludes by drawing up a picture of what consequences await the Makahane- Marithenga and other remaining land claims at various stages of settlement that are affecting the Kruger National Park.

To the world the model represented a new dimension in community based natural resources management with a clear conservation and business logic. However, it masked the reality of a community that acquired user rights to the land without major significant authority. Put in context, it was also seen as a move towards reconciliation where in, land reform and conservation as national imperatives could co-exist. Business modeling and transaction advising of the deal short-changed the community and lacked performance guarantees for the duration of the two concessions. In essence, financials from Wilderness Safaris and The Outpost concessions demonstrate that the community has not been able to reap significant revenue from the contractual agreements.

Chapter 5

Makahane-Marithenga: a tale of broken promises?

5.1 Introduction

This chapter refers to the history of Makahane-Marithenga community, who, like the Makuleke case discussed in the preceding chapter, claimed land in the Kruger National Park. It specifically focuses on the decision not to restore land rights to the Makahane-Marithenga community, which is a departure from initial attempts to reconcile land rights and conservation in South Africa. The chapter argues that while the Makuleke case presented an opportunity to learn important lessons from the public-private partnership model in conservation, those lessons were not even considered in the Makahane-Marithenga case because of the neoliberal conditions we noted in Chapter 2 of this thesis. The chapter demonstrates that the goals of land restitution are compromised when the interests of the private sector and those of the state collide. It confirms that the ANC government lacks the political commitment to land restoration.

5.2 A brief history of Makahane-Marithenga

According to the documents submitted to the Limpopo Regional Land Claims Commission by the Makahane-Marithenga community is the descendent of the people who lived on the land under claim since 1200 AD (Land Claims Commission 2003). The roots of the community stretch to as far as Mozambique and Zimbabwe, and the community is said to have links with the Munhumutapa kingdom. The original members of the community settled at Makahane Hill between 900 AD and 1200 AD, later moved to Thulamela during 1200 AD to 1500 AD, moved back to Makahane Hill during 1600 AD (Land Claims Commission 2003). At about 1800 AD to 1890 AD Madadzhe Augustus settled at Tshigomelo Hill and between 1890 and 1946 Mmpwe David Makahane ruled under the guidance of his aunt, Makhadzi Mukonde. The Xitsonga speaking people settled around Xitangeni area during the early 1900 before their removals to Marithenga and Tshikokololo. According to a preliminary report on the early history of Thulamela archaeological site by Prof. N.V Ralushai, Thulamela was built by the Nyai of

Makahane who is the Venda clan. More so, the ruins on Thulamela are commonly known as the Makahane ruins (Land Claims Commission 2003).

In 1898 President Paul Kruger signed a proclamation for a game reserve, which later became the Kruger National Park (Carruthers 1995). Subsequently, the state began to resettle people from the area earmarked for the creation of Kruger National Park around 1902. Such a resettlement plan gained momentum following the passage of the Natives Land Act of 1913 in which race was the main criteria for land dispossession. According to Minute No. 56/707/120, of the 5th of August 1920, the government sought to remove Headman Shikokololo to Mhingas' location, and to alter the boundaries of the Shingwedzi Game Reserve. Several proposals for the name of the park (i.e. Kruger National Park) first appeared on the 14th December 1925 in "*Die Burger*" (Land Claims Commission 2003). It should be noted that the Makahane-Marithenga community was removed in phases: from Makahane Hill to Magovhani in 1926 and 1946; and later resettled at Makuya, Mutele, Tshakhuma, Maphophe, Matiyani, KaJosepha and HaLambani. Makahane-Marithenga land claimants come from these areas (Land Claims Commission 2003). Like the Makuleke land claimants discussed in Chapter 4, the community of Makahane-Marithenga used the constitutional provision to claim back their land from the KNP. The section below discusses this land claim and the protracted struggle for land restoration.

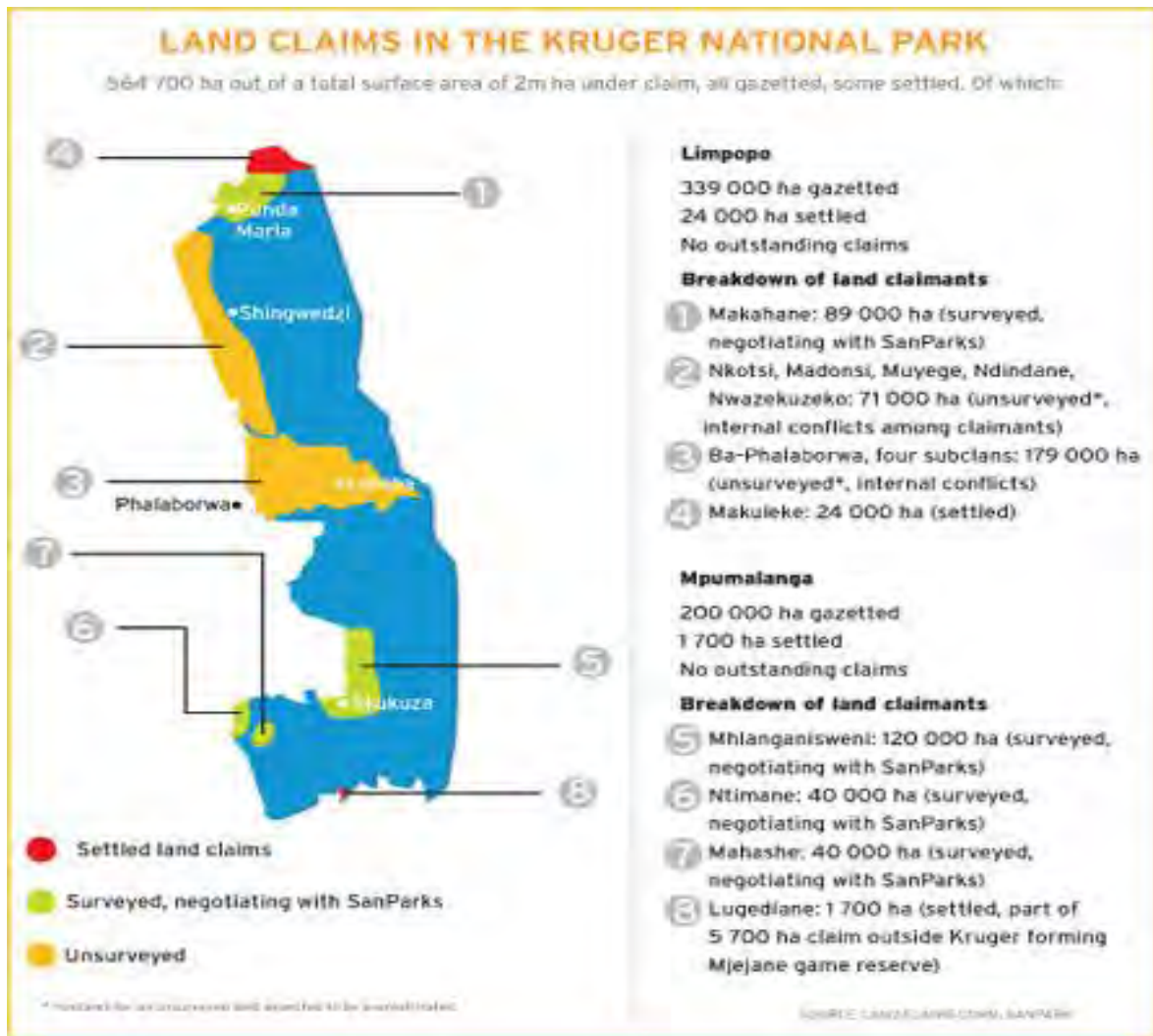
5.3 Makahane-Marithenga land claim in the KNP

On the 28th September 1996, Samuel Tshinakaho Mammphwe Makahane lodged a land claim which was later named Makahane-Marithenga Land Claim. A total of 167 households were registered on this land claim. Figure 5.1 below shows the scale of the land claims lodged and gazetted in the Kruger National Park. The Makahane-Marithenga community land claim is represented as number 2 on the map. Their land claim covers a total surface area of 89 000 ha of the Kruger National Park, and includes the area of Punda Maria. It is twice more than the size of Makuleke land claim which is 24 000 ha (cf Chapter 4).

The land claim was gazetted in terms of Notice No.2391 dated 26 September 2003. Subsequent to the gazette, a joint meeting was held with the Department of Environment and Tourism,

Department of Land Affairs, Limpopo Regional Land Claims Commission, Kruger National Park, as well as the Makahane-Marithenga community to discuss the finalisation of the land claim.

Figure 5.1 Location of land claims in the Kruger National Park



Source: South African National Parks 2011

The community opted for the settlement of the land claim in the form of a public-private partnership model similar to that of Makuleke. The community argued that Limpopo pioneered a joint-management model with SANParks that gave the Makuleke community title to the Pafuri corner in the northern section of the park. The Makahane- Marithenga reasoned that they will use

their land to generate income through lodges, and that there will be no settlement or cattle farming inside the park (Pers. Comm., Matodzi Makahane, 19 October 2007). She emphasised that:

It's our land - it must be returned to us, says Matodzi Makahane, leader of the Makahane claimants, whose father's cattle were poisoned and huts burned down during removals from 1926-1946. My people are getting very angry. The same view is propagated by the Ba-Phalaborwa leader Steve Ramalepe. First we want title to the land, and then we can talk about development in collaboration with SANParks (Pers. Comm., Matodzi Makahane, 19 October 2007).

Though the Makahane-Marithenga land claimants opted for the settlement of their claim the Makuleke way, the government and SANParks responded differently. It is this unwillingness to replicate the Makuleke model that this thesis has grappled with. The thesis argues that one of the reasons for not replicating the Makuleke model in Makahane-Marithenga has to do with revenue from the KNP and the whole approach for financing national parks in South Africa. Adopting the Makuleke model for this claim would mean that the Makahane-Marithenga community would take some of the revenue from the KNP. This would in turn undermine the ability of SANParks to cross-subsidise other national parks that are not making a profit (Interviews, Hector Magome 28 October 2011; David Mabunda, 28 October 2011). According to Mabunda the Kruger constitutes 80% of the total business of SANParks and cross-subsidises 17 other national parks, and "any revenue diversion might precipitate a crisis" (Interview, David Mabunda, 28 October 2011) SANParks has learnt lessons from its blunders with the Makuleke model. That model barred SANParks from having greater and significant control on decision-making regarding resource use in the Makuleke region of the Kruger National Park (Interview, Richard Mulaudzi 4 March 2012).

SANParks opposed the community's preferred option for land claim settlement, and was unwilling to support the deproclamation of the Punda Maria to become a contractual park similar to that of Makuleke. It argued that the community proposal does not take into account the financial viability and ecological integrity of Punda Maria. In SANParks' view, Punda Maria is predominantly a wilderness area, is not profitable, and is subsidised by other camps in the park. It viewed communities as being misled by unscrupulous private investors who make them to

believe that they could realise profits from Punda Maria (Wanda Mkhutshulwa, interviewed by *Mail and Guardian*, 19 October 2007).

The approach to Makahane-Marithenga was also taken in an entirely new context in which Cabinet had pronounced on land reform in protected areas. While Cabinet Resolution of 2007 is sympathetic to land claims in the country's protected areas, it also seeks to impose conditions on the settlement of land claims in order to protect the country's national parks. It emphasises that national parks must strive to be financially self-sufficient and that restitution grants could be invested in new tourism developments. Any agreement must recognise land claim in national parks will remain protected in perpetuity (Republic of South Africa 2007). The implication of this government stance is that land claims should be settled in ways that do not interfere with conservation goals.

SANParks' contention that a public-private partnership model between the KNP and Makahane-Marithenga community is not feasible is the clearest demonstration that the interest of conservation far outweighs the need for transforming landownership patterns in post-apartheid South Africa. It could be argued that the agenda for political transformation agenda is more of rhetoric and cosmetic change than a reality. Take the view of the Chairperson of the Portfolio Committee on land, when asked about the fate of land claims in the Kruger, stated that, "Kruger National Park is our collective heritage as South Africans and therefore having it sliced up and ownership vesting in individual communities will not be in the public interest". This view was echoed by Lena Lukhele, who maintained that SANParks is not financially and structurally ready to deal with multiple ownership of the Kruger National Park administratively (Interview, Lena Lukhele 23 February 2012). She also pointed out that group dynamics leading to internal differences in land claims within and amongst communities will be cumbersome to deal with.

Moreover, the government and SANParks are concerned that land claims in the KNP will cause significant damage to the crown jewel of tourism in South Africa. These views ignore the historical fact that for some the KNP represents a painful history of forced removals to make way for animals. After all, the name Paul Kruger represents colonial land conquest and defacing the African identity. It only represents Afrikaner nationalist identity than anything else.

When put in the context of land reform as a transformation imperative, SANParks' argument against land restoration as supported by Cabinet resolution referred to above tilts the balance of forces against the Makahane-Marithenga, and also closes up an opportunity for land restoration in the KNP. Against this background, the only avenue left for the community is a court action against SANParks, Cabinet, Department of Land Affairs and DEAT is a possibility; something the claimants of Makahane-Marithenga have not ruled out – the community is in fact exploring this option.

It would be wrong to assume that the government had a unified approach to the Makahane-Marithenga land claim. Government's approach should be understood in the context of the organisational and power structure of the Land Claims Commission at the national and provincial levels. Administratively, regional land claims commission in Limpopo and Mpumalanga report to the Chief Land Claims commissioner, who is administrative head of all land claims commissions in the country. Regional land claims commissioners hold different views on land claim matters, and are not always in agreement with the office of the national land claims commission. This is precisely what happened with regard to their answers to the question on why land claims in the KNP are settled differently.

Prior to the Cabinet resolution of non-restoration of land in the KNP, the office of the Land Claims Commission in Limpopo and its counterpart in Mpumalanga provided contradictory positions regarding the preferred model of settlement of these land claims. Much of these differences could be ascribed to government's commitment to land restitution and replicability of the Makuleke model. Mulimisi Mathelemusa, the official handling the Mpumalanga side of the Kruger claims, insisted that only 2-3% of the 200 000 ha of land gazetted in his province would need to be deproclaimed, most of which forms a continuous strip along the park border. The process of deproclamation would be handled by a management board consisting of representatives from the Departments of Land Affairs, Environmental Affairs, SANParks and claimants. In Limpopo Semakaleng Mabeba, presented a different position: "We have reached a stalemate with SANParks, he says. They want to release only 10% of the claimed land. We are saying restore it all, with certain restrictions on some areas" (*Financial Mail* 23 May 2008: 8). At

the heart of the dispute lies SANParks' preference for compensating communities with cash or alternative land - something they have rejected (*Financial Mail* 23 May 2008: 8).

5.5 A Change of Heart?

In 2008 the Chief Land Claims Commissioner, Mr. Tozi Gwanya, accompanied by the Director-General of DEAT; Dr Hector Magome from SANParks; SANParks CEO Dr David Mabunda; and Limpopo Regional Land Claims Commission officials met communities claiming land in the KNP at Giyani Hall. The communities represented at this were Muyexe, Makahane-Marithenga, Phalaborwa, Ndindani, Nkotsi, Modonsi, and Nwadzekudzeku. Chief Muyexe, whose community claimed a total of 71 000 ha together with other communities said that the community of Muyexe has agreed that “we need our land back in order to utilize it for conservation purposes, same way as the Makuleke, we do not need money, in essence the advice we are being given by government officials in this meeting is that we must sell our ancestral land. Money to be given to us is too small and will be finished but land will remain our children’s’ inheritance” (Interview, Hosi Muyexe 22 August 2009).

The meeting was intended to inform the communities that Cabinet has revoked the 2007 resolution to transfer land in title to the community (Shabangu 2008). However, initially SANParks CEO David Mabunda called the changes grossly misleading and malicious. We have always co-operated with the land claims commission as per cabinet's instructions. The DLA took this position before Cabinet confirmed that the KNP will not be restored, arguing that “our people have been waiting for decades for this moment, we want title to the land, and then we can talk about development in collaboration with SANParks” (Interview, Matodzi Makahane, 17 October 2007). The current Cabinet’s position is contrary to what government canvassed as a successful model (win-win) for reconciling the land rights of the black communities and conservation in South Africa. As we noted in Chapter 4, the Pafuri section of the KNP was restored in title to the community of Makuleke through a co-management agreement which is the results of a successful land restitution claim. The KNP was created as part of the grand apartheid conservation geography – it was a part of white South Africa created through forced removals

and the denial of access to blacks. Having it restored in title without changing the land use will be a symbolic gesture of reconciliation.

In 2009 SANParks lobbied government to exempt the KNP from a new Cabinet decision on land restoration in protected areas. This was an attempt to prevent communities from getting title to land inside the park because of the risk this poses to the park (Interview, Hector Magome, 28 October 2011). The park's authorities conceded that the system of financing national parks in South Africa will be greatly affected if the KNP were restored in title to multiple owners who laid land claims. To be sure, the survival of national parks in South Africa is dependent on cross-subsidisation from the KNP. Having a new revenue sharing mechanism with the new owners as communities will cripple the system of cross subsidization completely.

The reasoning advanced by all the state departments involved is that the KNP is an international icon of conservation, and that it would not be in the public interest to give ownership of pieces of land inside the park to a few communities who successfully claim their land (Interview, Miyelani Nkatingi, 16 March 2011). In particular, Cabinet was advised by the two state departments to exempt KNP from land transfers through land claims (Interview, Sibongile Mampe, 27 May 2011). When pressed for comment on why only the KNP, the Executive Director of Conservation in SANParks responded that,

it is about money and also the threat to conservation in the Kruger National Park if it's transferred in title to the communities. The current Cabinet position not to restore land is to the Makahane-Marithenga community unlawful and if it is to stand it means there must be an amendment to Section 25 of the Constitution. Our main argument is that it is in the national interest not to give Kruger National Park to any community.

The said Executive Director went on to say that private ownership means privatization, and this means that the park is no longer under state ownership. Other factors include South Africa's international obligation to conservation. For example, it has signed international conservation protocols with IUCN and many other international conservation organizations and societies hence a park such as KNP cannot be left in the hands of a community.

Stone Sizani, who was Chairperson of the Portfolio Committee on Land in Parliament at the time (Interview, 19 September 2011), argued that, Cabinet took a position not to give back title to the community of Makahane-Marithenga and many others who lodged land claims in the Kruger National Park. Richard Mulaudzi (Interview, 4 March 2011) argued that the position expressed by SANParks as well as the Department of Land Affairs and the Cabinet not to restore title to Makahane-Marithenga lacks any legal basis. For him Makuleke is a precedent that was set by the Land Claims Court in 1998 in order to honour the provisions of the Constitution of the Republic of South Africa, Act 108 of 1996. His view was that the need to finalise the Makahane-Marithenga land claim affecting the KNP must strike a balance between conservation, indigenous community land rights (land claimants) as well as the interest of powerful conservation lobby groups but this proves to be very difficult due to the stakes involved. The discourse on KNP land claims is that it is in the public interest not to reconstitute rights in land to communities that were dispossessed. In reality, though, few people get to see the benefits from conservation.

The new proposal by government is that the land claimants in protected areas be given financial compensation – which has not yet been worked out – or preferential treatment when it comes to procurement opportunities, especially the supply of goods and services and employment opportunities from the KNP. Furthermore, a special levy was to be introduced on entrance fees to the KNP and a community development trust fund would be established to cater for the social, economic and developmental needs of the communities who claimed land inside the KNP (Interview, Hector Magome, 28 October 2011). Some community members requested a written document detailing the proposed offer. It is worth noting that at the time of writing this dissertation (i.e. November 2014) no formal written offer was provided to the land claimants.

Lucas Mufamadi argued that the wider significance of the Makahane-Marithenga land claim in the KNP is a clear demonstration that there is no political will to restore land inside the KNP (Interview, Lucas Mufamadi 8 March 2011). In his words:

our initial idea was to declare a dispute with SANParks and refer the matter to the Land Claims Court. That was the position we had taken with the then Chief Land Claims Commissioner, Mr. Mphela. However, when the Portfolio Committee on land was provided

with feedback by the Chief Land Claims Commissioner we were instructed the decision is political and as functional administrative officers we are not in a position to take political decision.

Subsequent to this development Mr Mphela was relieved of his duties. It cannot however be proven whether Mr Mphela was ‘fired’ due to his views on land claims in the KNP.

SANParks has been leading the pack in advocating for a new settlement model for Kruger land claim. It convinced politicians about its new proposal which were to appear as a directive from the Cabinet (Interview, Lucas Mufamadi, 8 March 2011). The Limpopo Regional Land Claims Commission was opposed to the exemption of the KNP from land restoration. When asked about the impartiality and independence of the Department of Land Affairs in dealing with the Kruger debacle, Mufamadi 2011 stated that “theoretically we are supposed to be impartial and process land claims as a neutral institution, however, on the Kruger matter we are compelled to side with the South African National Parks and the Department of Environmental Affairs as a result of the new Cabinet resolution.”

The way in which Makahane-Marithenga land claim was handled reveals that the Makuleke land claim was simply symbolic and a political statement on transformation and land reform made by the Department of Land Affairs under former Minister Derek Hanekom. ”. During his time, Minister Hanekom wrote a paper infamously titled “Put Cattle in the Kruger National Park.” SANParks was irritated by these kinds of statements though it supports CBNRM initiatives that bring conservation and people together. When asked about Madikwe as a successful CBNRM he developed and Makuleke touted as a model touted by SANParks in its early years, Dr Hector Magome stated that, “Makuleke follows right on the heels of CBNRM, community based natural resources management like the case of Madikwe of which CBNRM as a model has failed (Interview, Hector Magome 28 October 2011).

However, contrary to the public interest argument for non-restoration of land; Section 25(4) of the Constitution of the Republic of South Africa goes on to say that public interest includes the nations’ commitment to land reform (Republic of South Africa 1996a). This in essence holds that it is equally important to see land reform taking place to advance social justice, democracy,

transformation, and reconciliation. The litmus test of the public interest argument is used as a convenience to advance the conservation agenda. It remains to be seen what the Court's interpretation of the public interest in the face of conservation and land restitution debate in the KNP would be, more especially because the Makahane-Marithenga land claim and the community's land use option mirrors the Makuleke restitution case which was made an order of the Land Claims Court.

The perception by SANParks that the interest of land claimants is massive tourism development inside the Kruger National Park and that communities have no clue about sustainable conservation is unfounded. If SANParks, Land Affairs and DEAT had an interest of the land claimants at heart they should move towards capacity building in communities claiming land in the park to ensure that they would be competent to handle both conservation and business imperatives in park. Members of claimant communities could, for example, have access to scholarships and bursaries. Communal Property Associations involved could be supported to perform at their maximum level (Interview, Richard Mulaudzi, 4 March 2012).

The Makahane-Marithenga community seems to have one option left: the legal route. This option is based on the experiences of Makuleke who battled their land claim with SANParks and state departments in court with the support of civil society such as the Friends of Makuleke and the Legal Resources Centre (Ramutsindela and Shabangu 2013). The court process led to the government and SANParks losing the Court bid to have Makuleke given alternative forms of redress which is alternative, financial compensation and a combination of the two. The same contestation between land restitution and the Kruger National Park regarding resource ownership and use is playing itself out in the case of Makahane Marithenga. To date all indications are that government regrets the Makuleke model; they were only coerced by the Court. This current 2009 Cabinet resolution goes against the Court precedent and indications are that the Makahane-Marithenga community will only get a fair hearing through the Land Claims Court to enforce their rights (Interview, Richard Mulaudzi, 4 March 2012).

Initially, the proposed model by Minister Xingwana regarding the Kruger National Park is to give community members R10 000.00 which is based on a similar case in the KZN on a land

claim affecting a Protected area. This figure is questionable as there was no scientific basis of arriving at R10 000.00 as a settlement amount. Cash payment cannot be regarded as restitution: legally restitution means, *restitutio in integrum* – meaning returning to the original position. “In the case of Kruger National Park we pushed for valuation of the area under claim for land claims in the Kruger National Park and it went up to R23 billion, using valuation as the basis for financial compensation for Kruger National Park land claims was found too expensive and the State could not afford” (Interview, Richard Mulaudzi, 4 March 2012).

5.6 Conclusion

South Africa is grappling with difficult and complex issues of transformation in a globalised era. Transformation and redress require a delicate balance between maintaining the status of protected areas such as national parks and carrying and realizing the hopes of a better life for some fifty five million South Africans. Of course, all these cannot be achieved without a successful process of reconciliation. Land reform presents both an opportunity and a challenge for transforming the South African landscape while also solving the problem of landlessness and poverty. However, the case study above demonstrates a lack of political will to develop innovative solutions for resolving land claims in the KNP. It is also unclear how the government thinks of transformation in the context of land reform. A close reading of Makahane-Marithenga land claim suggests that the ANC government has adopted a centricist, narrow and outlook on transforming landownership patterns in post-apartheid South Africa.

The Makahane Marithenga land claimants conceded that it is impractical to contemplate turning such a successful nature-based tourism paradise into a residential developmental area. The claimants were prepared to get title in land with restrictions limited to keeping the land under conservation in perpetuity. Such restoration of land rights, however, was made impossible through the Cabinet Memorandum of 2007, which imposed co-management as the only viable alternative to reconciling land rights and conservation in the KNP. The community of Makahane-Marithenga went a step further to accept the Makuleke-style of land claim settlement through co-management, provided they have title to land. The practical realities of Makuleke owning high value natural resource in the KNP reinforced the community’s positive attitudes

towards co-management as a viable option. Unfortunately for the Makahane-Marithenga community, SANParks had developed misgivings with the Makuleke model. The Makuleke model was found to be a very bad model for reconciling land rights and conservation in the KNP, though it was expected that it would be replicated in other national and provincial parks. It is on this ground that Richard Mulaudzi contends that current conservation decisions and practices serve the interests of monopoly capital, and that a clear disaggregation of interests in conservation reveals that the interests of the private sector are highly protected than the common good of mankind (Interview, Richard Mulaudzi 4 March 2012). The agenda of conservation is about making money at all costs rather than benefitting communities.

The Land Claims Commission concedes that SANParks faces a dilemma but insists that, if done properly, joint-management of the Kruger could leverage substantial state and private investment. The idea that the Kruger see reduction in profits as a result of giving land rights to communities such as Makahane-Marithenga has not been tested, and therefore cannot be assumed to be true (Blessing Mphela, interviewed by Financial Mail 2008). A counterpoint to SANParks' view that land claims in the KNP will lead to the balkanisation of the park is that these claims could lead to unbundling the park – thereby unlocking value. Dr David Mabunda believes this is wishful thinking as individual land claims represent a small scale that is unviable for ecotourism (David Mabunda, interview by Financial Mail 2008).

Limpopo pioneered a joint-management model with SANParks that gave the Makuleke community title to the Pafuri corner in the northern section of the park. In return for preserving its conservation status, the Makuleke receive revenue and jobs from lodges built there, which have paid for schools, books and electrifying villages. Other claimants such as Makahane-Marithenga want to follow this example but they are being denied such possibilities (Interview, Dan Maluleke, 16 April 2012).

The experience of Makahane-Marithenga land claim raises the questions of whether and how we might be witnessing a secondary dispossession of land in a constitutional democracy. The Jury is still out on this one. The views expressed by conservation reverts back to the old conviction of the exclusive nature of conservation, which goes against the grain of a transformative agenda

laid down through the Makuleke model as a Court precedent. By investigating the Makahane-Marithenga land claim, this thesis begs the questions: what objective substance exists to prevent restoration of land in the KNP? Are such limitations constitutional? Do they advance the interest of justice, fairness, equity and transformation? The land claimants argue that non-restoration does not answer these questions sufficiently.

Chapter 6

Conclusion: who takes all in win-win solutions?

6.1 Introduction

Our understanding of the relationship between nature and neoliberalism in the context of land claims in South Africa is empirically and theoretically inadequate at the moment. Most studies regarding land claims and conservation in South Africa examined familiar topics such as the relationship between people and parks, how conservation benefits communities, and so on. Such studies are yet to account for various forms of neoliberalism in nature conservation and to account for various forms of neoliberalism expressed through land claims. A neoliberal conceptual framework for this study allows for an inquiry into how neoliberalism influenced both conservation and land reform policies, and their consequences on the settlement of land claims in the Kruger National Park. This research attempts to contribute to the body of knowledge on neoliberal conservation and land claims by using the Kruger National Park as a case study. It gives some empirical evidence of how neoliberalism permeated the macro-economic policy environment in South Africa and consequently influenced how land reform in protected areas, in particular the Kruger National Park, unfolded. Such evidence is useful for understanding the relationship between nature and society, and how it is framed in neoliberal terms by which the ideals of reconciling conservation and land claims are subjected to private sector interest. The purpose of this concluding chapter reflects on the ongoing tension between land restitution and the protection and management of biodiversity in the Kruger National Park in light of the findings of the study. The chapter further accounts for various forms of neoliberalism in South Africa's national parks. It outlines the consequential effects of the two strands of neoliberalism, neoliberal land reform and the neoliberalisation of nature in the negotiations and settlement of land claims in the Kruger National Park.

6.2 Neoliberalism and Neoliberal Conservation: Selling the Kruger National Park?

The neoliberalisation of Africa's natural resources goes hand in hand with the framing of those same resources as a special type of commons that belongs to the whole globe but for which only

Africans pay the real price in terms of their own conservation (Buscher 2011). Putting this in the context of the Kruger National Park and the land claims restoration debate, one would argue that the KNP is classified as a common of a special type, a heritage for the world. The framing of its identity as a heritage of the world gave credence to the notion that restoration of land in title to the community cannot be considered given a global sense of ownership to it (Interview, Stone Sizani, 19 September 2011). The commercial value the Kruger National Park cushions the unprofitable national parks system in South Africa through cross-subsidisation. The findings of this research highlight that the reasons behind the decision to forego the restoration of land to the Makahane-Marithenga community are complex.

One would argue that, the settlement of Makuleke set a precedent for how land claims and the protection and management of biodiversity are to be reconciled. The contradictory modes of settlement presented in this thesis suggest that the settlement of Makuleke land claim was an event to suit specific conditions at the time (cf. chapter 4). In the context of South Africa, the neoliberalisation of nature and neoliberal conservation jointly creates an opportunity for the conservation enterprise to take effect. This is greatly facilitated by the regulatory role of the state through public private partnerships which allow for development of shared interests between the private sector and the state.

The move from Reconstruction and Development Program (RDP) to Growth Employment and Redistribution (GEAR) in South Africa tilted towards a macro-economic approach which favours the market. In consequence, the protection of private property rights found constitutional guarantee through Section 25. In essence, it guaranteed the protection of private property rights, a call contrary to the nationalization mantra of the Freedom Charter adopted in 1955. The use of a neoliberal lens in this study is useful for understanding the bases on which views regarding nature conservation and land claims are contested.

With the demand by the Makahane-Marithenga community to have land restored in title and to pursue opportunities for commercial exploitation of the resource, the state denied them access to ownership of productive resources. This in turn limits the livelihoods opportunities for the community. Though the states' position to deny restoration in title on the basis of inclusive

ownership and commercial viability, it should be noted that not only does the community view restoration of land in title in consumptive commercial terms but it also represent the broader historical quest for justice and democracy in post-apartheid South Africa. Essentially, one would argue that the revenue earning opportunities are being promoted under the pretext of inclusive ownership of the resource by the state in order to privilege private sector investment and commercial exploitation of the Kruger National. This leads to the conclusion that reconciling land claims and conservation has not moved beyond rhetoric and as such the community perceives land restoration as a guarantor of a sense of freedom.

Using neoliberalism as a theoretical lens, the thesis argues that a shift in macroeconomic policy from the Reconstruction and Development Programme (RDP) and the subsequent adoption of the Growth Employment and Redistribution (GEAR) policy redefined the relationship between nature and society. Such relationship between nature and society was defined in consumptive terms. GEAR advanced the idea that the state is burdened by competing social programmes which needed state funding. More so, it argued that the neoliberalisation of the state will bring much needed efficiency to the state. It further argued that, giving the private sector a role in society is the best way to ensure the efficient supply of goods and services. In pursuance of this new policy framework, an unambiguous message was sent to the South African National Parks to prepare itself for lesser funding from the state.

In essence, the survival strategy for conservation came through the development and adoption of a commercialization strategy in the year 2000. As it was indicated earlier in Chapter 5, ecotourism development and management of concession operation in the South African National Parks was devolved to the private sector. As a result eleven concessions were issued by the South African National Parks in a number of national parks in South Africa; Kruger National Park led the pack. This denotes that contemporary neoliberalism has progressed from its 1980s roll-back to the roll out in the 1990s and 2000s. This means that neoliberalism not only implicates the transfer of the public to the private sector but also the actual neoliberalization of the state (Peck and Tickell 2002). The case of the Kruger National Park demonstrates that environmental problems and conflict over natural resources can be resolved through market mechanisms.

The neoliberalisation of nature meant that a new relationship between nature conservation and capital was established in South Africa. The old relationship meant that neoliberalism was hacking away indiscriminately at the state; however the current relationship sees the state getting ready to implement neoliberalism (Harvey 2005). Looking at the arguments by the South African National Parks from a financial perspective, the research findings demonstrate that the strategy made economic sense to the SANParks. The revenue earned allowed the Kruger National Park to cross-subsidise other national parks that were not making a profit. However, the research shows that enjoying nature and ecotourism facilities inside the Kruger National Park came with the opportunity costs. Such opportunity costs was the opening up of nature to market alternatives which has the propensity to exclude those who cannot afford to consume products and services offered through conservation tourism. South Africa is a country of high levels of inequality and the majority of the poor are black people who were also victims of forced removals from the Kruger National Park.

Land restitution of the Makahane-Marithenga was dealt a blow by the state in opting to pay monetary compensation in full and final settlement of the land claims to allow unfettered market environmentalism to sustain conservation. The SANParks began to earn rewards from the investments made by the private sector in national parks, particularly the Kruger National Park. 'Innovative solutions involving renting out of restaurant facilities and concessions on ecotourism lodges were sought to sustain conservation and those solutions came in the form of public private investment in the our national parks, the same strategy was implemented to sustain the Makuleke Contractual Park' (Interview, Hector Magome, 18 October 2011). The solution to perceived conflict between nature conservation and land claims in the Kruger National Park led to the formation of an alliance with the market and the Makuleke community an approach which the Makahane-Marithenga community was ready to explore.

6.3 Public Interest: contradictions of social justice and economic efficiency

The two case studies used in this thesis points to the contradiction between the goals of reconciling land claims, conservation and economic efficiency in the Kruger National Park. Neoliberalism took root through the commercialization of ecotourism facilities in the Kruger

National Park. As a market based solution to perceived problems of efficiency in the Kruger National Park it was chosen primarily to address sustainability of conservation as its primary objective and not poverty alleviation. On the contrary, land restitution intends to uphold equity as its primary objective and the unlocking of equity value created through land restitution to the Makahane-Marithenga and Makuleke community in the Kruger National Park. To the community, land restoration will unlock opportunities, if contractual agreements are favourable to land claimants for beneficiation. Public private partnership wherein investment will be enticed from interested tourism operators on a built operate and transfer model after the lapse of the contractual agreement. The broader land claimants' communities will benefit through revenue earned from annual lease rentals paid by the private sector tourism operator from which to fight poverty. However, reasonable revenue flows will only be realized only if the favourable contractual agreement between the community and the private tourism operators the Makuleke model detailed in Chapter 5 is a case in point on this aspect Though the two objectives are seen as complimentary, they mask contradictions that were inherent in nature and society. The contradictions between the South African National Parks, Department of Rural Development and Land Reform and the Makahane-Marithenga community regarding settlement of land claims in the Kruger National Park mirrors the inherent contradictory relationship between the theory of neoliberalism and society.

Having the state as an active neoliberal agent a relationship with neoliberalism and the state in South Africa has been created. Through this relationship the state is to encourage or coerce the Makahane-Marithenga community to opt for alternative solutions (financial compensation) in full and final settlement of the land claim whereas a few years earlier state institutions opted for a different outcome in the case of settlement of the Makuleke community land claim. In this context, the thesis argues that, the conceptual separation of social justice from neoliberalism in the natural environment, Kruger National Park, is primarily to allow the commodification and exclusive beneficiation of the capital and the state from nature conservation. The need for maximization of profit by the private sector operators and the serious capital constraints that beset the South African National Parks forged a strong alliance motivated by common interests of beneficiation by excluding the community. The influence of sentimental attachment to the land for the Makahane-Marithenga land claimants and cultural influences would only play a

significant role when social justice was equally taken into consideration on settlement negotiations. However, the recognition is that, giving social justice equal value to the profit motives the South African National Parks and private sector operators regarding the settlement of land claims in the Kruger National Park will be economically inefficient for neoliberalism to thrive.

The arguments presented in this chapter and the thesis as a whole are that economic efficiency and neoliberal theory cannot enhance the principle of equity in the context of land restitution and conservation in the Kruger National Park. Neoliberalism expands efficiency but in reality it intentionally entrenches inequalities in resource ownership and creates a relationship characterized by dominance. This dominance is exercised by utilizing the state through its' politicized decision making authority and ultimately creating a fractured relationship between nature and society through the assertion that restoration in the Kruger National Park will inhabit a principle of cross subsidization of unprofitable national parks in South Africa. The argument of cross subsidization in the case of the Kruger National Park is championed by South African National Parks as an organ of state over the goals of reconciling land claims and conservation in the Kruger National Park. This in turn, creates a soft landing for neoliberalism to easily take root in the Kruger National Park.

It is essential to note that, the case study of Makuleke has demonstrated that neoliberalism can accommodate the goals of equity in the context of land restitution and conservation in the Kruger National Park but not without conflict. This conflict is embodied in the contending views between the state and the Makahane-Marithenga land claimants on how land claims in the Kruger National Park must be resolved. However, in the case of Makuleke this took place under the instances where the community was well organized, able to articulate their desired option and supported technically by the Friends of Makuleke. This assisted to sustain the momentum for transfer of land to the Makuleke community. In the case of Makahane-Marithenga, the call for social justice takes place under slightly different conditions. The resource base, technical and financial is not readily available to resolve the current challenges facing the community regarding their preferred model of settlement of their land claim.

With the realization by the South African National Parks that the Makahane-Marithenga community land claim on the Kruger National Park has been gazetted, as well as the expressed intention by the community to replicate the Makuleke model the more it created resistance by the conservation authority (Pers. Comm. Land Claims Directors 2011). Transfer of the land in title to the Makuleke Communal Property Association was in line with the goals of equity in the context of land restitution and conservation in the Kruger National Park. However, the unintended outcomes of linking up of conservation goals to market solutions have proved the assertion that conservation is a market to be exploited for commercial gains. The settlement model favoured by the Makahane-Marithenga community was the transfers land in title to the Makahane-Marithenga CPA and the business concession model favoured involved the build operate and transfer (BOT) model, that meant they would likely end up in the same situation as Makuleke (Pers. Comm. Land Claims Directors 2011 and Makahane 2011).

6.4 Land Restitution and Nature Conservation: Two national imperatives.

In the context of the case of the Kruger National Park, the two national imperatives of land reform and protection and management appear to be in conflict with one another. The conflict was mediated through alternatives that are couched in neoliberal terms, which was the introduction of a public private partnership model in conservation. The Makuleke community was the first to successfully claim land inside the Kruger National Park. The widely publicized land claim settlement agreement and business concession model attracted both local and international attention. The models presented a new way in reconciling land rights and conservation in South Africa's protected areas. More so, it offered valuable lessons for the world over that nature conservation and land reform can coexist. Finally, reconciliation was seen to be taking place in South Africa. However, a closer look at the settlement models revealed interesting yet disturbing observations. What was celebrated as an innovative model of reconciling nature conservation and land claims in the case of Makuleke restitution land claim in the Kruger National Park was being vilified by the same people who helped to broker (Ramutsindela and Shabangu 2013).

Findings of the thesis show that irrespective of the changes in the social, political and economic order in South Africa neoliberalism appears to determine and perpetuate a consumptive relationship between nature and society though historically the relationship was antagonistic. In the context of South Africa this antagonism was well visible under apartheid and in the early years of democracy in the conservation and management of wildlife.

6.5 Inconsistent government position

The refusal by South African National Parks and confirmation by Cabinet not to transfer the land in title represents the lack of political will in government to allow land claimants to participate in ownership and decision making on the Kruger National Park. Kruger National Park is in favour of settlement of the Makahane Marithenga land claim through financial compensation (Interview, Hector Magome, 2011). This is an option the community totally rejects and that on its own goes against the cardinal right of land reform and empowerment of the landless and the dispossessed (Interview, Richard Mulaudzi, 4 March 2012). The argument by Kruger National Park and Cabinet that the Kruger National Park is a collective heritage for all South Africans and cannot be restored to the Makahane-Marithenga (Interviews, Lucas Mufamadi, 8 March 2011; Miyelani Nkatingi 16 March 2011; and Stone Sizani 19 September 2011). This assertion represents a distorted version of history, the historical truth is that Makahane-Marithenga community and many others inhabited parts of the Kruger National Park. Restoration of the land in title will allow the rewriting of a historical committed by colonialism and apartheid (Interviews, Matodzi Makahane, 17 October 2007). In the thoughts of the dispossessed community transfer of land in title will represent a symbolic reconciliation for the suffering they endured under the consolidation of supremacist white nationalist identity perpetuated through conservation in the Kruger National Park.

6.6 Business Concession Modeling: A win-win solution?

Effective conservation requires multiple efforts, from community, government agencies and the business sector. Neoliberalisation of nature has allowed business to design various tourism experiences for commercial gain. This in turn is argued as an opportunity through which nature

can be sold to finance its own existence. The influence of commercialization and revenue earnings by the Makuleke community encouraged the Makahane-Marithenga community to opt for land restoration in order to participate in public private partnership in conservation together with the private sector tourism operators and the Kruger National Park. International conservation organizations perceived public private partnership as an effective strategy to improve community conservation (Faikir 2001).

Despite weaknesses identified in the business concessions contracts and beneficiation of the Makuleke community, the two concessions in their current form at Makuleke contractual park, The Outpost and Wilderness Safaris are defended by the private partners as an innovative and viable way of utilizing the land (Interview, Landi Burns, 21 February 2011). Faikir (2004) argued that these public private partnership models are being used by multinational corporations to appropriate natural resources on a large scale especially in developing countries. The warning with regard to accumulation by multinationals corporations resonates with the experience in the case of Makuleke business concession model concerning the Wilderness Safaris and The Outpost business concession agreements. A closer look at the Makuleke business concession model has revealed that compared to the average concession of 20 (twenty-years) in a number of concessions in the Kruger National Park the Makuleke concessions is much longer by twenty-five years. The longer the contract the longer the Makuleke community will have to wait to decide on whether to continue with the current private sector tourism operator, especially given the current poor performance of this concessionaires compared to the projections made at the time of bidding and successful brokering of the concession agreement. In addition, the business concessions agreements at Makuleke do not have performance guarantees as well as exit clauses to protect the community against non-performance or under performance by the two concessions.

Moreover, the concessions annual rental fee to be paid to the Makuleke Communal Property Association is based on a percentage of turn over only. This means that there is no base rental paid out to the Makuleke CPA. The critical risk factor about payment based on percentage of turnover is that, in case the two concessionaires generate low turnover less rental will be paid out to the community which is the case with the Makuleke concession agreements (Interview, Jeff de Beer, 2011). This point is proven as a result of the lower rental fees paid to the Makuleke CPA

due to performance below projections of the ecotourism product when bidding for the two contracts which were agreed and sealed with the business concession model with the two concessionaires. At this point, the Makuleke CPA is holed up in an unprofitable contract from which they cannot recuse themselves from due to non-existent exit clauses in the business concession agreement. The Makuleke Communal Property Association has surprisingly signed an unfavourable deal, which they will be stuck with for the entire 45 years of the business concession agreement. This demonstrates that the technical superiority and bargaining power of the private sector operators was significantly stronger than that of the Makuleke CPA even though the land as a critical resource base brokering the deal was held by the Makuleke CPA. Accordingly, this is against the current best practices eco-tourism industry norms, especially in the case of the South African National Parks' business concession models in the national parks of South Africa. Business concession agreements terms are shorter than in the case of Makuleke CPA.

6.7 GLTFCA: A Primary Regional Agenda in the Kruger National Park

The Kruger National Park is viewed as part of the global commons. Land claims in the Kruger National Park were perceived as opportunities by Makahane-Marithenga land claimants but shunned as threats to conservation evoked worldwide interests from conservation lobby groups. The media headline perceived the Makahane-Marithenga land claim and others as a threat to the Kruger National Park (*Mail and Guardian* 19 October 2007). Given the strategic location of the Kruger National Park to Zimbabwe and Mozambique, South Africa became the launch pad for the Transfrontier Conservation Areas project. In Southern Africa the Great Limpopo Transfrontier Conservation Areas is the flagship of this concept. GLTFCA used the lure of the Kruger National Park as a key ecological landscape, it leveraged on Gonarezhou in Zimbabwe and the Limpopo National Park in Mozambique to create a working interconnected landscape. Taking an ecological perspective for creation of the GLTFCA, the logic of opening up corridors for wildlife movements made ecological sense and the lure of benefits flow to the communities across the three countries was an attractive land use option to most local people in the three countries. However, the motivation for many rural communities to participate in the GLTFCA was primarily the lure of benefits associated with ecotourism as presented by governments and

non-governmental organizations. However, this concept masked the complexities associated with the commodification of nature. The case of Makuleke is authoritative in this aspect as discussed hereunder.

The land claims settlement agreement as well as the business concession model of the Makuleke land claim took into consideration the greater regional plan of the GLTFCA program. It is essential to note that plans for establishment of the Great Limpopo Transfrontier Conservation Area precede the settlement of the Makuleke land claim. The South African National Park pushed for a settlement agreement that favoured conservation as and ecotourism as the only land use option. This was conceptualized through the settlement agreement for transfer of land to the Makuleke community endorsed restrictive conditions of use biased to conservation and related eco-tourism development in line with the Kruger National Parks' management plan. South Africa as a member of the World Conservation Union has an obligation to implement the resolution of the World Parks Congress held in Durban in 2003. This placed an obligation upon South Africa to observe international protocols, primary amongst them was, and outcome 9 of the 5th World Parks Congress stated the need to secure financial resources for conservation.

The argument the thesis present here is that, the GLTFCA is classified as part of global commons. As a result the international protocols and interests of conserving the landscape outweighed the national imperative of allowing significant autonomy of the Makuleke community to decide what viable land use option for their land. Participation of the Makuleke was on the basis of predefined objectives of what the area represented in global context. The hegemony of the international narrative of conservation in the GLTCA laid a solid foundation of how land claims and conservation in the Kruger National Park could be resolved. The interest of land reform in the Kruger National Park were secondary to conservation, hence the proposal by SANP, DEAT and Department of Land Affairs to encourage the Makahane-Marithenga community to opt for financial compensation and fore go the idea of land restoration. The findings from this study further demonstrated that, nature conservation and neoliberalism has struck a relationship couched on consumptive terms. Though having promised a rich array of benefits to the Makuleke community for opting for conservation, the evidence from the brokered business concession model repudiates the widely held view.

The push for settlement of land claims in protected areas in line with the cabinet memorandum of 2007 propagates the idea that the relationship between parks and people can be founded on harmony using co management as a tool. Taken from a nature conservation practice context, the idea seems feasible to reconfigure relationships between nature and society. However, in the case of the Kruger National Park the public private partnership model mask the disharmony of interests between the South Africa National Park from the land use settlement point of view and the Makuleke Communal Property Association and in addition from a business development point of view between the two concessionaires in the Makuleke Contractual Park.

In essence, the lessons learnt from the two case studies is that, the power relations in conservation were altered to allow for participation of the land claimants in nature conservation from a perspective of being the land owners. However, it can be argued that the alterations to power relations were not significant in anyway. The alterations were more significant at a policy level rather than on the transfer of total authority and control of the resource. This is confirmed by SANParks to have secured the condition for retention of Pafuri area of the Kruger National Park to remain a conservation area. Clause 7 of the agreement put restrictive conditions of title aimed at ensuring that the land is maintained as a conservation area on which development may not take place except if it is compatible with the use of the land as a conservation area. The above clause demonstrates that the settlement agreement was preconceived with the interest of the SANParks to keep the land under conservation; hence the SANParks did not have to own the land but secure the conservation objectives over Pafuri perpetually. This settlement agreement for transfer of the land with restrictive conditions of use created a clear power relations structure within which the relationship between conservation and land claims settlement is to be made.

The question of feasibility constrains land restitution. In the example of Mala Mala, the court held that feasibility was constrained by cost, possible over compensation of the claimants and the whether the claimants will be able to utilise the land in a sustainable manner? (Land Claims Court 156/09). The feasibility of the community's plans for re-settlement or community development after restoration is not expressly included in the formulation of paragraph (cA). This aspect remains out of the question both in the case of Mala Mala and Makahane-Marithenga (see Chapter 5) due to the fact that the community intended to have title to land with restrictions

of use in favour of nature conservation, a proposed land use option in congruent with the ongoing land use in Mala Mala and the KNP.

All the aspects referred to in the repealed section 15(6) require that an assessment of intended land use planning by the claimants be conducted to determine the potential impact of changing the land use patterns. Essentially, land restoration will not be feasible if the claimant's land use plan is out of touch with the actual developments of the land in question. However, the context and reality of future land use in the national parks land claims was set through the zonation plan and cabinet memorandum of settlement of land claim in protected areas which most of the claimants communities had accepted. Though the claimants' intended use of the land was in sync with the provision of repealed section 15(16) the arguments by the state and conservation authorities in the case of Makahane-Marithenga not to restore land, had more had to do with revenue sharing other than to any perceived threats to conservation.

6.8 Conclusion

The Kruger National Park is undeniably a commercially viable conservation model of the world, both from an ecological and commercial perspective. It represent a historical legacy that was read and written in black and white, *firstly*, race and *secondly* class. The successful settlement of Makuleke land claim re-wrote a picture of inclusive and collaborative relationship between nature and society. However, with contemporary conservation couched in neoliberal terms, the exclusion is more on the basis of a consumptive relationship rather than race. The findings of this study, having used the two case studies, demonstrate a new relationship seen through the neoliberal lens.

More so, that relationship has struck and strengthened historical structural inequalities that are at the centre of the South African economy. Neoliberalism as a class theory is perpetuating these structural inequalities. Calls for reforms in the land reform sector and nature conservation are highly contested by the state which has become an agent of neoliberalism. The contradictory nature of relationship created by neoliberalism and the resolution of land claims sacrificed the goals of social justice through land reform in favour of imperatives of capital accumulation and

conservation. It outlines the unequal power relations between capital, nature and society regarding decisions on resource ownership and disposal in Kruger National Park land claims. In consequence, it struck a comfortable relationship between capital and nature that can best be described in two ways, as consumptive and hegemonic, purposefully limit the capacity of the community to bargain equally with capital and nature.

The thesis has shown that variant strands of neoliberalism are not an isolated South African agenda. There are widely informed by global shifting ideals of the international political economy which South Africa is part of. In South Africa, neoliberalism has also reconfigured the relationship between the state and its citizenry that is made clearer in the conflict between land reform and nature conservation. It has also demonstrated that the intersection between the private sector and politics is expressed in consumptive terms that are at odds against ordinary citizens. However, the reality of such a comfortable relationship between the private sector and the state is framed into a consensus logic of having the Kruger National Park as an asset for collective ownership by society. The thesis posits that the economic and political correctness of neoliberalism trumps over the right to restoration in the land claim of the Makahane-Marithenga community.

The thesis set out to achieve two objectives outlined in Chapter 1. The first objective was to investigate the tension between land restitution and the protection and management of biodiversity in the Kruger National Park under neoliberal conditions. The findings of the study indicate that the root cause of the tension between land restitution and conservation is the framing of solutions to environmental solutions in neoliberal terms. Essentially, the refusal by the state to have land restored to the Makahane-Marithenga community emanates from the fact that revenue sharing is the basis upon which the decision to restore land is based. One would argue that, the Makuleke land claim was settled under conditions wherein the conservation agencies were not yet aware of the wider significance and implications of a new revenue sharing mechanism and its negative impact on cross subsidization of unprofitable national parks. This thesis has demonstrated that the debacle regarding settlement of the Makahane-Marithenga community land claim in the Kruger National Park land is borne out of two strands on neoliberalism. That is neoliberal land reform and the neoliberalisation of nature in South Africa.

The two strands of neoliberalism emanate from the move from Reconstruction and Development Program (RDP) to Growth Employment and Redistribution (GEAR). The two strands of neoliberalism required recognition of fiscal prudence and less reliance on the state for funding hence the introduction of public private partnerships (PPP) through concessions in the South African National Park and the reliance on the market assisted land reform.

The second objective was to analyse why the Makuleke model has not been replicated in other land claims in the Kruger. In answering the research question, it argued that, the greatest fear about replicating this model is threat of the reduction of revenue flows to the SANP. Essentially, replicating this model means that SANParks will have to share revenue with the new beneficiaries from the Makahane-Marithenga community. With limited financial support dedicated to conservation from the government, the financial lifeline of the national parks system in South Africa will face a crisis. However, the perceived threat and crisis of revenue collection by the SANParks presented an opportunity for the Makahane-Marithenga community to unlock value through similar settlement agreement and concession business model by Makulele. This thesis proves that the dominance of neoliberalism and more specifically the commodification of nature and the influence of neoliberal land reform in South Africa became central to the approach of resolving the Makuleke land claim and created a foundation for the resolution of the Makahane-Marithenga land claim. It further places the assertion that, South Africa is beset with local and international influence contestations on how land reform in the conservation, particularly in the Kruger National Park must be implemented.

Neoliberalism has profound implications on the relations between humans and nature. It has brought with it business interests that close up opportunities for communities to benefit from land reform. The shift in the country's macro-economic policy to GEAR necessitated a reduction of public spending in conservation. In consequence the funding of conservation solutions had to be tied to viable income generation mechanism and thus capital managed to couch environmental problems through market solutions.

Neoliberalism in the Kruger National Park takes two important forms: commercialization and semi-privatisation. The most common method is the Built Operate and Transfer (BOT) model.

The strategy allows the private investor to build a tourism facility inside the Kruger National Park, operate it for an agreed number of years and later transfer the infrastructure to the land owner. A case in point is the Makuleke concessions which have been discussed at length elsewhere (Robins and Waal 2008; Spierenburg et al 2008; Ramutsindela and Shabangu 2013).

Buscher (2011: 84) argued that the “neoliberalisation of Africa’s natural resources goes hand in hand with the framing of those resources as ‘inverted commons’: a special type of commons that belong to the whole globe but for which only Africans pay the real price in terms of their conservation”. In the case of the Makahane-Marithenga community both the settlement models of Makuleke community was a viable option for settling their land claim. How economic value is perceived by the Makahane-Marithenga community with regard to the preferred settlement agreement and concessions business model of their land in the Kruger National Park represent the dominant view of the greater economic value of nature held by the same community, though some members preferred financial compensation in full and final settlement of the land claim. Harvey (2005) states that neoliberalism has become hegemonic as a mode of discourse. It has pervasive effects on ways of thought to the point where it has become incorporated into the common-sense way many of us interpret, live in, and understand the world. It is essential to note that neoliberalism has penetrated multiple sections of governance in society and rationalized decision making through a neoliberal lens. On the contrary, the three issues, highlighted in the introduction of this chapter informed the refusal to replicate the same model in the case of Makahane-Marithenga community land claim.

The two case studies used in this thesis, explain a point of how neoliberalism is used by the state to advantage some and disadvantage other communities in similar circumstances regarding the settlement of land claims in South Africa’s’ protected areas. The Kruger National Park belongs to the state; the argument the researcher present is that the mandate for the conservation of species should be governed by similar legislative prescripts and consistency with that of settlement of land claims in the Kruger National Park. This has however been compromised for reasons that have to do with revenue. The narrative around the two case studies affecting the Kruger National Park in this thesis demonstrate that the hegemony of the conservation narrative both in historical and contemporary terms was and is still shaped by the same actors. The age of

neoliberalism in nature has found an ally through macro-economic policies of the state to advance and benefit market environmentalism. Historically, nature was defined through the fortress conservation narrative where contact with humans, especially blacks presented a threat to its existence. However, the contemporary conservation narrative is defined in neoliberal terms; it attaches economic value and expresses nature as a class narrative and establishes relationships with society through consumptive tendencies of nature based products. This involves, ecotourism, hunting and photographing tourism to mention a few. In the result it creates patterns of inclusion and exclusion, security and insecurity, which reinforce rather than break with historical process of alienation – physical, economic, political and psychological – of marginalized people at the periphery (Barret 2013).

The Makahane-Marithenga land claim tells us that the state is using the monopoly of power against land claimants to implement and protect private sector interests in conservation. Benefits for the state and conservation authorities are through revenue collected from lease agreement paid by the concessionaires. This is pursued to fund conservation and to emphasise the sustainability of nature conservation as a legitimate interest and obligation protected by the constitution of the Republic of South Africa.

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List of Interviews

Interview with Ms.Landi Burns, Wilderness Safaris Concession Manager: 21 February 2012.

Interview with Mr. Jeff de Beer, A transaction Advisor re-looking at Makuleke land deal: 12 August 2011.

Interview with Steve Collins, Former employee of GTZ Transform: 13 February 2011.

Interview with Mavis Hatlane, Representative of the Makuleke CPA on the JMB: 09 February 2012.

Interview with Adv. Jansen, acting on behalf of the Mhlanganisweni community: 04 March 2014.

Interview with Ms. Lena Lukhele, Land Claims Officer for SANParks: 23 February 2012.

Interview with Mashile Mokono, Former Land Claims Commissioner for Limpopo: 12 February 2012.

Interview with David Mabunda, Former Chief Executive Officer: Kruger National Park: 28 October 2011.

Interview with Dr. Hector Magome, Executive Director for Conservation, South African National Parks 18 October 2011 & 28 October 2012.

Interview with Matodzi Makahane, Chairperson of the Makahane-Marithenga Land Claims Committee: 19 October 2007.

Interview with Dan Maluleke, Secretary of Makahane-Marithenga Land Claims Committee: 16 April 2012.

Interview with Chief Phahlela Makuleke, Chief of Makuleke community: 13 February 2012.

Interview with Bongani Maluleke, Makuleke CPA Implementation Officer: 14 February 2012.

Interview with Lamson Maluleke, JMB Implementation Officer: 07 March 2011.

Interview with Khorrombi Matibe, Director at Limpopo Tourism and Parks Board: 18 September 2011.

Interview with Richard Mulaudzi, Legal Officer in the Limpopo Land Claims Commission: 04 March 2012.

Interview with Lucas Mufamadi, Director: Operations, Land Claims Commission: Mpumalanga: 08 March 2011.

Interview with Hosi Muyexe, Hosi of Muyexe village: 22 August 2009.

Interview with Miyelani Nkatingi, Director: Operations, Land Claims Commission: Limpopo: 16 March 2011.

Interview with Phineas Nobela, Kruger National Park: 13 September 2011.

Interview with Louise du Plessis, Lawyers for Human Rights, acting on instructions from Legal Resources Centre: 04 March 2014.

Interview with Hon. S.P Sizani, Chairperson of Portfolio Committee on Rural Development, National Parliament of South Africa: 19 September 2011.

Interview with Eric Tivane, Member of the Makuleke Royal Council: 18 February 2012.

Interview with Deputy Manager, The Outpost Lodge: 21 February 2012.