

Working Paper 3

Land Reform and Sugarcane Farming in the Mpumalanga Lowveld

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1. Introduction.

This paper focuses on the ways in which the Mpumalanga sugar industry has been transformed by land reform processes and discusses the impact that these processes have had on land reform beneficiaries and on the industry more broadly. Having emerged from apartheid under a dualistic agrarian structure, the sugar industry appears to have embraced land reform to the extent that it is considered a rare example of success against a backdrop of national underachievement. By 2013, 62 percent of all land used to grow sugarcane in Mpumalanga was owned by black South Africans. Land reform has occurred in two forms: land *restitution* in which people have been able to claim land from which they were historically dispossessed, and market-led land *redistribution* conducted on a willing buyer willing seller basis. Of these, land restitution is by far the most significant in terms of area transferred. The Greater Tenbosch Land Claim, a consolidated restitution claim by seven “community trusts” or community property associations (hereafter “trusts”), is one of the most valuable claims to have been settled in South Africa, amounting to 61,000 hectares.

Given the scope of the transfers of commercial farmland to black ownership, the paper examines the extent to which these processes have benefited the new owners of land. The paper argues that despite productivity being maintained at high levels, flows of benefits to restitution claimants and land redistribution beneficiaries have been limited, and/or have been captured by a narrow segment of the people involved. In monetary terms the largest flows of income from sugar farming have come in the form of lease payments made by farm operators to the various trusts. However, due to a number of factors, including poor governance and a lack of transparency, little of this money appears to have reached the wider membership of claimant communities. ‘Joint venture’ farm operators offer further opportunities for livelihood development through measures including preferential employment and preferential procurement of services under the auspices of “skills development” and “enterprise development”. As with the case of financial transfers, the benefits of these are available to a minority of claimants. Emerging problems of lack of transparency and accountability in the management of trusts prompted the South African Sugar Association (SASA) to fund a programme of support for trust governance, undertaken by an NGO, LIMA, though with no clear outcome as yet.

In comparison to restitution, market-led “willing buyer-willing seller” land redistribution has occurred on a much smaller area – barely one tenth of that transferred through restitution. One explanation for this is that restitution has transferred approximately half of all commercial sugarcane farmland to what is *de facto* ‘communal’ ownership, leaving comparatively little remaining available for sale (TSB, 2014). The paper identifies three land use arrangements resulting from land redistribution. These may be differentiated in terms of the scale of operation and the degree of autonomy of the beneficiaries: two communally-owned large scale commercial farms (LSCF); a ‘semi-communal’ medium scale farm project (MSCF); and an individually-owned medium scale farm. To date, although sugarcane production has remained high on most of these farms, most land reform ‘beneficiaries’ have benefitted little, if at all.

This paper reports on a three-year empirical study undertaken from 2012 to 2014 in Nkomazi District, Mpumalanga. It draws on the findings of interviews with a number of key informants (see appendix table A5) and a questionnaire survey of small-scale sugar growers reported in detail by Woodhouse and James (2015). It also makes use of secondary sources, including those in the academic literature, and statistical data provided by the sugar industry in Nkomazi (TSB, Mpumalanga Canegrowers, LIMA).

The rest of the paper is structured as follows. Section 2 gives a history of settlement and displacement in the Nkomazi area, which underpins the land reform that has occurred in the democratic era. The following section (3) discusses the structure of land reform in the sugar sector, focussing on the two branches of land reform (restitution and redistribution) and identifying three land use arrangements resulting from each process. Section 4 concerns the creation and the settlement of the Greater Tenbosch Land Claim. Section 5 discusses the outcomes of land restitution with a focus on three land use arrangements on restituted sugar farms: joint ventures, land leases and direct management operations. The impact of market-led land redistribution on rural livelihoods is discussed in Section 6. Finally, Section 7 argues that land reform has so far served more to consolidate farming operations and sugar cane supply for TSB than to deliver benefits for new land-owning communities.

2. A History of Settlement and Displacement on the Mpumalanga Lowveld.

2.1. Introduction.

The Mpumalanga Lowveld has been the location of changing human settlement for centuries, influenced predominantly by the northern expansion of the Swazi kingdom and the gradual encroachment of white settlers. Swazi conflicts with neighbouring African political entities including the Pedi and the Zulu resulted in the inward and outward migration of populations throughout the nineteenth century and into the early twentieth century. The Lowveld was also the route of the main road link and the Delagoa Bay Railway to Lourenco Marques (Maputo), the shortest route for exports from Johannesburg and for migrants from Portuguese East Africa (now Mozambique) seeking employment in the mines of the Rand. This section traces the history of settlement in the Mpumalanga Lowveld to establish the background for one of the most significant sites of land reform and restitution in South Africa.

2.2. Creation of the Kingdom of Swaziland.

To understand the historic settlement of the populations of the Mpumalanga Lowveld it is first necessary to sketch a history of the creation and expansion of the Swazi Kingdom. This is a history that has been dealt with in great detail by others (Bonner, 1983) so for the purposes of this chapter it is kept brief. The development of the Swazi Kingdom in the nineteenth century involved competing and overlapping relations with other regional powers including the Zulu, the Gaza Kingdom, Afrikaaners and the British, located within broader upheavals in Southern Africa at the time associated with the Zulu civil war, the *difaqane*¹ and the first Boer War. It is amongst these dynamics that the populations now involved in the Greater Tenbosch land claim came to be historically settled on the Lowveld.

The Swazi people were originally settled on the east coast of what is now South Africa before migrating inland under Ngwane II to a location in the south east of what is now Swaziland. In the face of competition with the Ndwandwe, another Nguni population, Sobhuza I migrated further north to the Zulwini Valley, again in present-day Swaziland. At this point the Swazi were composed of the central Dlamini clan and numerous other people including Mhlanga, Hlophe and Matsebula. These clans were known as *Bemdzabuko* (Fischer et al., 2010). Under the chieftainship of Sobhuza I a period of subjugation and expulsion of Sotho people ensued. The people who were subjugated to Dlamini authority were known as *Emakhandzambili* and included the Matsamo and Mahlalela. The

¹ Also known as the Mfecane (Zulu), the *difaqane* (Sesotho) was a period of upheaval in Southern Africa stemming from the increasing power of the Zulu Kingdom and the ensuing migrations and wars that resulted from this.

1830s witnessed significant northward expansion of the Swazi as they attacked the Ngomane and the Pedi who had newly reformed after prior defeats in battle. Throughout this period Swazi relations with the Boers were mediated by a mutual need to counter the influence on an increasingly strong and hostile Zulu kingdom (Fischer et al., 2010).

The reign of Mswati, Sobhuza I's heir, marked a period in which Swazi power, having initially collapsed, was consolidated under the Swazi Tributary State (Bonner, 1983). The early years of Mswati's reign were significant for the signing of the 1846 Treaty with the Orighstad Boers and a devastating Zulu invasion that was only halted by internal Zulu divisions. However, from 1852 Mswati embarked on a path of consolidation during which the area around the Lomati and Komati Rivers was settled. Mswati installed the Matsamo in an area of the Lowveld that straddles the present-day border of South Africa with Swaziland. The Ngomane and Mahlalela were again attacked and subjugated while the Mawewe, having split from the Gaza Kingdom were incorporated into the Swazi Kingdom and settled on the Lowveld. At the time of Mswati's death in 1865 a coherent Swazi Kingdom stretched from the Pongola River in the south to at least the Crocodile River in the north.

The period following Mswati's death witnessed a decline in the power of the Swazi relative to the Boers. Previously, the Boers had been reliant on Swazi support in confrontations with other African populations while unrest within the ZAR further limited Afrikaner influence. While the 1846 Treaty had limited the geographic jurisdiction of the Swazi to land south of the Komati River, in practical terms they had continued to settle to the north and west as the Boers failed to provide a settled buffer zone against the Zulu. In 1866 a boundary commission defined the western borders of the Swazi state. The southern borders remained reliant on relations between the Swazi and the Zulu while the north (the Lowveld) remained an area of contestation. Following the British occupation of the Transvaal during the First Boer War, the 1881 Convention of Pretoria and 1884 Convention of London defined the southern and northern borders of Swaziland.

At this point, people hitherto part of the Swazi tributary system became incorporated within the South African Republic. This subsequently contributed to a certain fluidity of identity (section 2.5, below). At the same time land surveys begun after the construction of the first road link in 1876 progressively demarcated the lowveld into surveyed 'farms' and (as yet) unsurveyed 'Crown land'. These divisions were subsequently modified to reflect racially segregated settlement policies: 'farms' were expected to be occupied by white settlers, whereas land allocated for black settlement was later designated as 'Trust land', whether surveyed or not. This had little immediate impact on occupation of the land, since European settlement was sparse: of 40 farms demarcated before 1907, title deeds had been issued to (white) settlers on only 12 by 1924 (Fischer et al. 2010, pp46-7). Nonetheless, the change in juridical status of land to that of surveyed 'farms', and its implicit alienation from 'traditional' and 'tribal' usage, had far-reaching consequences for legal contestation over land in the twentieth century.

2.3. *Settlement in Nkomazi.*

The Mawewe claim to be ancestors of Soshangane, founder of the Gaza Kingdom. Having originally lived in an area of KwaZulu Natal known as Magut, clashes with the Zulu drove Soshangane north to Portuguese East Africa (Myburgh, 1949). Upon Soshangane's death in 1859 a succession struggle between his sons Mzila and Mawewe commenced. Mawewe initially seized power forcing Mzila to seek refuge with the Ndebele to the north. In 1861 Mzila signed a treaty with the Portuguese who assisted him in defeating Mawewe forcing him and his followers to flee (Warhurst, 1966: 47-49). Mawewe had close ties to Mswati having given two daughters to him for marriage and was allowed to settle in Swazi territory, first at Piggs Peak in Swaziland and later in an area that covered the majority of the South African Lowveld to the Crocodile River in the north. The jurisdiction of the Mawewe was later reduced by the successive settlement of the Matsamo and the Mhlaba (who were originally a junior branch of the Mawewe). By 1949 the territory of the Mawewe had been

limited primarily to the area between the eastern bank of the Komati and the border with Portuguese East Africa, bordered by the Mahlalela to the south and the Ngomane Siboshwa to the north.

The Matsamo were historically an independent group who were settled on land around the mouth of the Pongola River in what is now KwaZulu Natal. They were driven north by the Zulu at which point they were integrated into the Swazi and settled within the territory of modern-day Swaziland. During the reign of Mswati, the Matsamo under the sixth chief Matsafeni, were placed on the Lowveld 'to guard against the Sotho in the north and the Zulu in the south' (Myburgh, 1949: 59). The Matsamo were involved in wars with the Sotho, particularly the Pedi, north of Bushbuckridge and Lydenburg and also fought alongside the Mawewe in Portuguese East Africa. Under the leadership of Matsamo, the seventh chief, the population was settled permanently in the Lowveld. At the time of Myburgh's (1949: 57) ethnographic survey of the district, the Matsamo were recorded as living on land 'consisting of Trust land, Crown farms, company farms and privately owned farms'. Farms including Driekoppies, Buffelspruit, Jeppes Reef and Schoemansdal are listed as being occupied by the Matsamo alongside white owned farms to the north.

The Mhlaba were, like the Mawewe, descendants of Soshangane. Ndlemane fought alongside Mawewe against his brother Mzila and followed him to Swaziland in defeat. At this point in history the Mhlaba were a junior branch of the Mawewe rather than a distinct political entity. A series of resettlements occurred between 1865 and 1886 during which the Mhlaba moved to Lomatidraai, to N'hlumi and finally to Tekort to the north of the Lomati River, all of which were in what was Barberton District (Myburgh, 1949). Once settled in the Lowveld, the Mhlaba were considered to be a subordinate tribe to the Matsamo and paid tribute to them. They remained in this area until their eviction during apartheid.

The Mahlalela migrated from eShiselweni on the Pongola River to Mbuzini plateau in the mid-nineteenth century. In approximately 1860 the Mahlalela moved first to Portuguese East Africa and then to Piggs Peak in Swaziland. The establishment of national boundaries between Portuguese East Africa, Swaziland and South Africa resulted in the division of the population. Junior branches of the Mahlalela remained in Swaziland and Portuguese East Africa while the senior branch was located on the Mbuzini plateau in South Africa. Despite having being subjugated twice by the Dlamini, both before and after the Zulu invasion of 1852, the Mahlalela have historically asserted their autonomy and view their king as the Dlamini's equal. A tradition that continues to the present day asserts that a meeting between the two kings would result in one of their deaths (Myburgh, 1949). As a consequence, the eighth Mahlalela king Mbudula has never met the Dlamini king.

The Ngomane identify three entities (Hoyi, Siboshwa and Luggedlane) with a shared ancestry, and, until 1800, a single leadership. In the seventeenth century the Ngomane lived amongst the Sotho (on land that would become the Nsikazi Reserve after the 1913 Natives Land Act) before migrating to uMlumati circa 1700 before moving successively to the Crocodile River, Middleburg and Nelspruit. While in what is now Middleburg, in about 1800, the Ngomane split into the three groups later recognised by South African government.

Having been defeated by the Swazi, the Ngomane Hoyi migrated to Portuguese East Africa circa 1845, where they were involved with conflicts with Soshangane and later his heir Mzila. Held captive while a child, Chief Hoyi was later released through the payment of a ransom and settled in the Sabie river valley in Portuguese East Africa before migrating upstream to Skukuza in what is now the Kruger National Park. Myburgh (1949) considered the Ngomane to have become Shangaan during this period and he notes intermarriage amongst Ngomane and other groups. The Hoyi remained at Skukuza until evicted in 1926 when they moved to a location near Komatipoort that would remain the centre of their population until 1954.

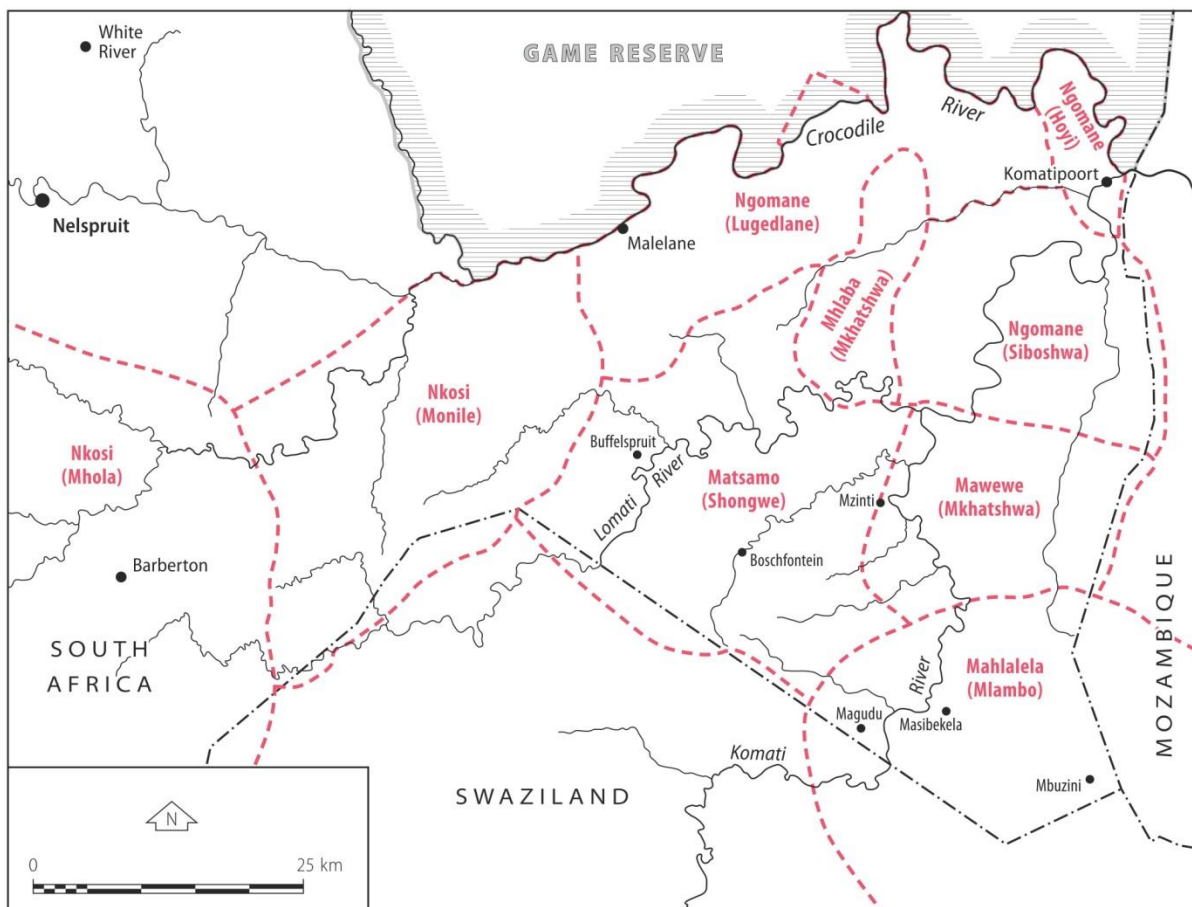
After the split from the Hoyi in 1800, the Ngomane Siboshwa settled in Coopersdal on the Lebombo Flats in about 1850. They remained there until 1947 when the leadership relocated to the farm

Avondstond on the border with Portuguese East Africa, although their area of jurisdiction appears to have remained unchanged in this time.

The Ngomane Luggedlane, who also split from the Hoyi in 1800, migrated to what is now the Kruger National Park around 1840 and remained there until approximately 1915 when they resettled on the farm Tenbosch, near Komatipoort, with a jurisdiction along the Crocodile River valley towards Kaapmuiden.

The above brief history of the patterns of settlement and migration in what is now Nkomazi District highlights a number of issues that have remained of importance during the post-apartheid era and in the processes of land reform that have followed. First, it demonstrates the extent to which the claimants involved in the Greater Tenbosch Land Claim settled across the Mpumalanga Lowveld. The domains of the respective “leadership groups” are shown in Map 1, below. Second, it shows the extent to which the population of the Lowveld was interconnected and interrelated. While the existence of separate “tribal authorities” was defined and indeed entrenched during apartheid, the “tribal” communities were often overlapping. Many of the communities were not historically considered to be Swazi – the Mawewe and Mhlaba were at some point considered to be Tsonga or Shangaan while the Ngomane were variously Shangaan and Sotho – yet their legacy of subjugation to Swazi authority led to their reclassification under colonial and apartheid administration as Swazi.

Map 1. Distribution of Nkomazi Population C.1949.



2.4. *Population Displacement under Apartheid.*

Settlement of the black population of Nkomazi was radically altered during the apartheid era. From the basis of racist laws governing land ownership including the 1913 Native Land Act and the 1936 Natives Trust and Land Act black people were forcibly removed from much of the northern half of the district during the twentieth century. The displacement and resettlement of the black population from land allocated to white farmers had an impact on each of the groups discussed above; while some were displaced in their entirety, others experienced a shrinking of their territorial jurisdiction to accommodate the displaced populations. Details of the displacements that occurred in the twentieth century are discussed below.

The most significant dispossessions occurred during 1954 when the Ngomane were removed from their land surrounding Tenbosch Farm near Komatipoort. Tenbosch was the site of competing objectives and priorities of numerous groups including the Ngomane, the state (through which there were competing objectives) and a succession of private landowners. These objectives included not only access to the land itself at Tenbosch but also the ability to access (or sell) labour for the use in agriculture and mining.

Tenbosch was crown land until 1926 and had been considered by the Native Land Commission established following the 1913 Land Act as a possible site for a “native reserve” upon which the Ngomane could settle permanently (Mather, 1995). However, the land was traded by the state for land within the Kruger National Park that was owned by the Transvaal Consolidated Lands and Exploration Company (TLC). TLC sought to extract rents from the settled black population while developing plans for the creation of an irrigation scheme. However, significant resistance to the increased rents and the intervention of the Department of Lands encouraged TLC to lease the land in 1935 to the Transvaal Gold Mining and Exploration Company (TGME). TGME’s ownership provided a dual function; alongside extracting rents and fees it allowed the creation of a labour monopsony that limited the population to selling their labour to TGME owned mines. Limits on the ability of the black population to sell their labour freely increased resistance and the lease on the farm was not renewed in 1938. The farm was sold in 1942 to Griffin Engineering Company who began the development of an irrigation project and implemented a labour tenancy agreement that required the black population to provide 90 days of labour per working person. However, the failure of the contract system and unwillingness of the population to pay rents led to the state purchasing the farm for the South African Native Trust (SANT) in 1944 (Mather, 1995).

State ownership revealed conflicting priorities that would have a profound impact on the future settlement of the Ngomane. While the Native Affairs Department wished to see the Ngomane removed to avoid the prospect of a significant black population living amongst white farmers, the Department of Lands was cautious about their relocation as it was feared it would disrupt an irrigation scheme that was being developed on land to the south (Mather, 1995). These competing claims were resolved with a decision to move the irrigation scheme north to include Tenbosch farm (Mather, 1995). The resulting scheme was called Strydom Block and was the site of significant settlement of poor Afrikaner families, many of whom had supported the National Party in their election victory in 1948.² However, political problems in achieving the relocation of the Ngomane led to the Department of Lands advertising the sale of Tenbosch as twenty nine properties from which the eviction of the black population would be the responsibility of the new landowners (Mather, 1995).

The Ngomane resisted displacement both through direct action and legal challenges. However, the state utilised trespass laws to criminalise their settlement, and Makombo Ngomane, the chief who had most vociferously opposed the displacement, was arrested and exiled to the Cape. Then, in December 1954, approximately 7000 people were evicted from Tenbosch and resettled on the

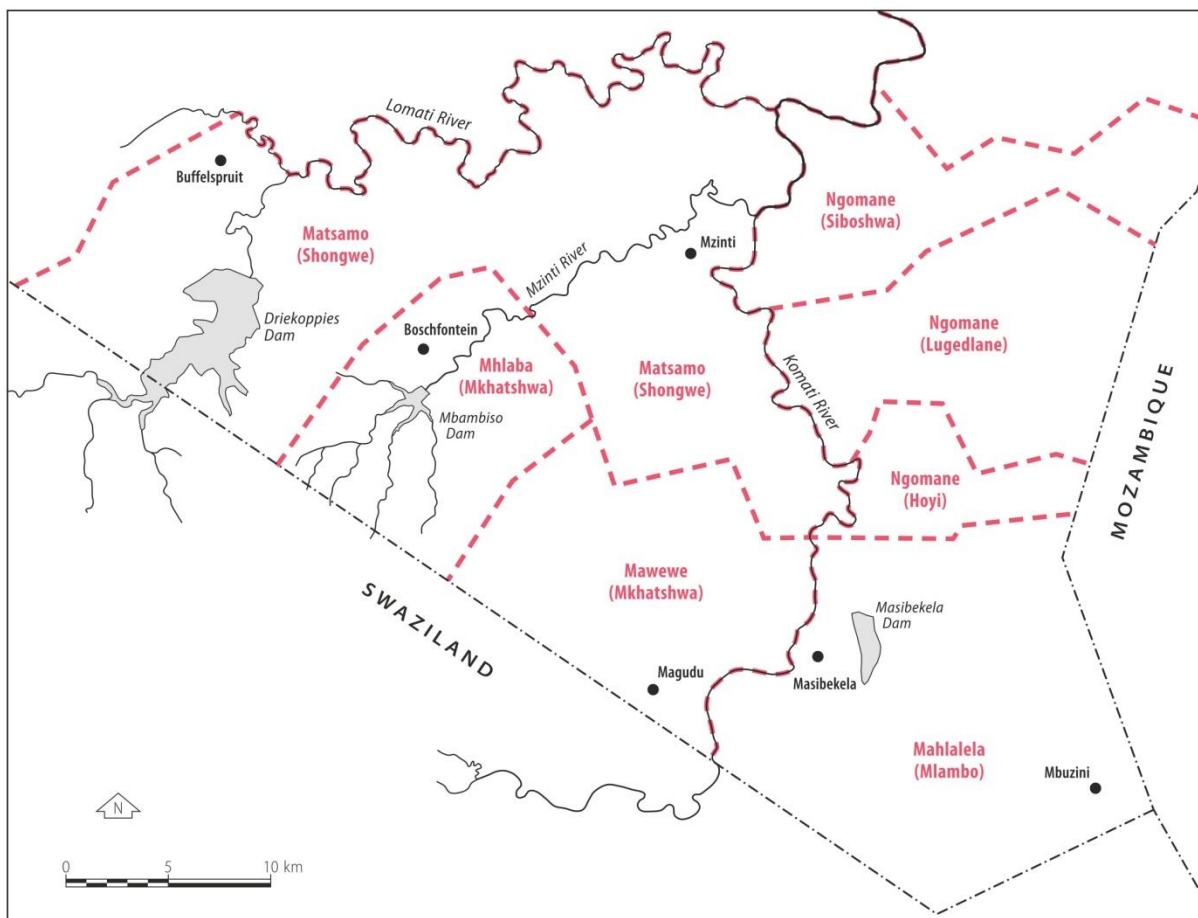
² Interview #1 (24/06/13)..

Lebombo flats to the south (Mather, 1995). The mass eviction of people from Tenbosch was accompanied by evictions from surrounding areas including Townlands and Coalmine (Fischer et al., 2010).

The 1936 Native Trust and Land Act defined an area of jurisdiction for the Matsamo that centred around twelve farms including Schoemansdal, Buffelspruit and Jeppes Reef, close to the Swazi border. However, the Matsamo claim this ignored the larger, earlier extent of Matsamo jurisdiction and disconnected the population from farms to the north from which they had been displaced in the 1930s (Fischer et al., 2010).

The forced removals of the 1950s had a major impact on the tribal authorities demarcated to the south on what was predominantly 'trust' (previously 'Crown') land. The displaced Ngomane from the north had been offered guarantees that they would not fall under the jurisdiction of other chiefs. The Mahlalela, Mawewe and Matsamo were thus all forced to surrender land to accommodate them. As such, the Mahlalela lost land to the north of their jurisdiction and the Mawewe were moved from the east bank of the Komati to land on the west bank adjoining the border with Swaziland. The Matsamo jurisdiction was reduced to make way for Ngomane settlement to the east. These movements radically redrew tribal authority jurisdictions on the Mpumalanga Lowveld (Map 2).

Map 2. Tribal Authority Jurisdiction Since 1954.



2.5. *Settlement and Displacement in the Creation of Claimant “Communities”.*

The settlement and displacement of the black population of the Mpumalanga Lowveld has been central to processes of land reform that have taken place since the end of apartheid. Section 4 of this paper details the restitution process that has sought to restore land ownership to people who were forced from their land during the twentieth century. Land restitution and its outcomes have displayed a tendency to rely on notions of “community”. In many instances, “community” has appeared to be tied directly to the presence of groups that were, during apartheid, classified as “tribal authorities” with a continuation of the role of chiefs and their offices in the administration of land claims. This may be argued to represent an entrenchment of the idea of “tribe” as “traditional community” in democratic South Africa.

The creation and reaffirming of “tribal” identities occurred within the historical context discussed above. Influence on these processes came from numerous directions: the Apartheid government who sought to delegate administration of the black population; individual chiefs who saw tribal recognition as a means to increased political power; and also the Swazi monarchy. Macmillan (1989) argues that sporadic attempts at gaining tribal recognition by Swazi chiefs living in the Transvaal were broadly rejected by the government of South Africa until the 1950s. Recognition of tribal authority was linked to the creation of “native reserves” with the corollary that those chiefs who were living on surveyed ‘farms’ were typically denied a ‘tribal’ status. However, the presence of unsurveyed ‘crown land’ (later ‘trust land’) on the Lowveld contributed to the recognition of some tribes in this region.

The notions of “tribe” and “community” gained new leverage in the years leading to the creation of KaNgwane (initially called the Swazi Territorial Authority) in 1976. The Nkomazi and Nsikazi Reserves were reformulated as Regional Authorities granting recognition to their constituent chiefs in 1959 and 1962 respectively as a first step to establishing a Swazi bantustan. Yet the creation of KaNgwane was a long process as the government of South Africa resisted the recognition of Swazi chiefs living on white-owned land on the Transvaal Highveld while the Swazi King Sobhuza II resisted recognition of the ethnically diverse Nsikazi. Further, the possibility that Swaziland would eventually be incorporated into South Africa weakened the rationale for the creation of a bantustan. In this period South African ‘Swazi’ chiefs were divided amongst those who supported the creation of a bantustan in which their authority would be recognised and those who supported unification with Swaziland. Eventually, the South African government purchased land on the western border of Swaziland and in 1975 established the Mswati and Mlondozi Regional Authorities establishing the territory alongside the two earlier Regional Authorities that became KaNgwane (Macmillan, 1989). The creation of KaNgwane entrenched the position of the various Swazi chiefs, a situation that has broadly continued to the present.

While the status of the chiefs has been largely maintained since the creation of KaNgwane, the status of the general population faced continued threats. The construction of a Swazi identity lent itself to the 1982 development of a plan under which South Africa intended to transfer KaNgwane and a portion of KwaZulu to Swaziland. The “Swazi Land Deal” had historical antecedents in proposals both by the government of South Africa to create a unified “black unit” of Swaziland and the Swazi reserves and requests by the Swazi Royal Family to be able to purchase sixteen surveyed farms in the Barberton area (Macmillan, 1989). The plan offered South Africa the opportunity to formally remove approximately one million Swazi South Africans from the country while for Sobhuza II it represented territorial expansion over lands that had for centuries been contested (Griffiths & Funnell, 1991). Predictably the plan foundered on opposition from the government of KaNgwane, many of the chiefs and the majority of the population. The plan threatened to subordinate the power of the chiefs to the Swazi royal family and dissolve the KaNgwane legislature. For the population of KaNgwane, largely reliant on migrant labour wages, there was little benefit. At the same time, divisions between chiefs who supported the deal and those that did not served to

harden distinct “tribal” and “community” identities separating supportive “true Swazi” chiefs from those chiefs opposed, who were identified as Sotho or Shangaan (Macmillan, 1989).

3. Structure of Land Reform in the Mpumalanga Sugar Sector.

Land reform has fundamentally altered the structure of the Mpumalanga sugar sector. At the end of Apartheid in 1994 the sector reflected the broader dualistic tendencies of South African agriculture, albeit with conditions and outcomes specific to the area. The majority of sugarcane was grown on white-owned large scale commercial farms (LSCFs) and TSB-owned plantations (MCP)³ while a minority of sugarcane was grown on small plots by small scale growers (SSGs) who farmed on land held under communal/customary tenure arrangements. The history of settlement and displacement outlined in Section 2 were central to the establishment of this agrarian structure.

Majority rule and the reincorporation of KaNgwane into South Africa in 1994 paved the way for land reform. In terms of total amounts of land transferred to black ownership progress has been dramatic and the Mpumalanga sugar sector is identified as a rare success within the national context. The two sugar mills in Mpumalanga were supplied by sugarcane grown on 51,054 hectares of land in 2014. TSB claim that 31,829 hectares or 62% of this land is “land reform area” (TSB, 2014), although this interprets “land reform area” as synonymous with “black-owned”, as it includes sugarcane grown by small-scale growers (SSGs) on ‘communal’ (ex-bantustan) areas. If the approximately 10,250 hectares of land on SSG projects is not included, “land reform” accounts for 21,579 hectares or 42% of all sugarcane land. Nonetheless, the sugarcane land transferred under land reform in Mpumalanga exceeds the national target of 30%.

Land reform in Mpumalanga has occurred along two lines: *restitution* and market-led *redistribution*. The former is based upon claims of historic dispossession and represents the significant majority of all land transferred to black ownership in the sector. In contrast, market-led land redistribution accounts for less than 2000 hectares of land supplying sugarcane to TSB (including Pongola mill). The predominance of restitution over redistribution is a direct result of the extent of land that has been claimed under the Greater Tenbosch Land Claim (GTLC), an issue that is discussed in more depth in Section 5.

Three different land use arrangements were identified (Diagram 1) within each of the two forms of land reform present in the sector. Restitution has resulted in joint venture farming, lease agreements between restitution trusts and agribusiness, and the direct management of restituted land by the land-owning trust. Market-led land reform has led to the creation of communally-owned large-scale commercial farms (LSCFs), “semi-communal” medium scale commercial farms (MSCFs) and individually-owned MSCFs. Each of these land use arrangements are discussed in Sections 5 and 6. Table 1 outlines the key features of each of the land use arrangements.

³ Miller Cum Planter is the South African industry term for miller-owned plantations.

Figure1. Structure of Land Reform Sugar Cane Farming.

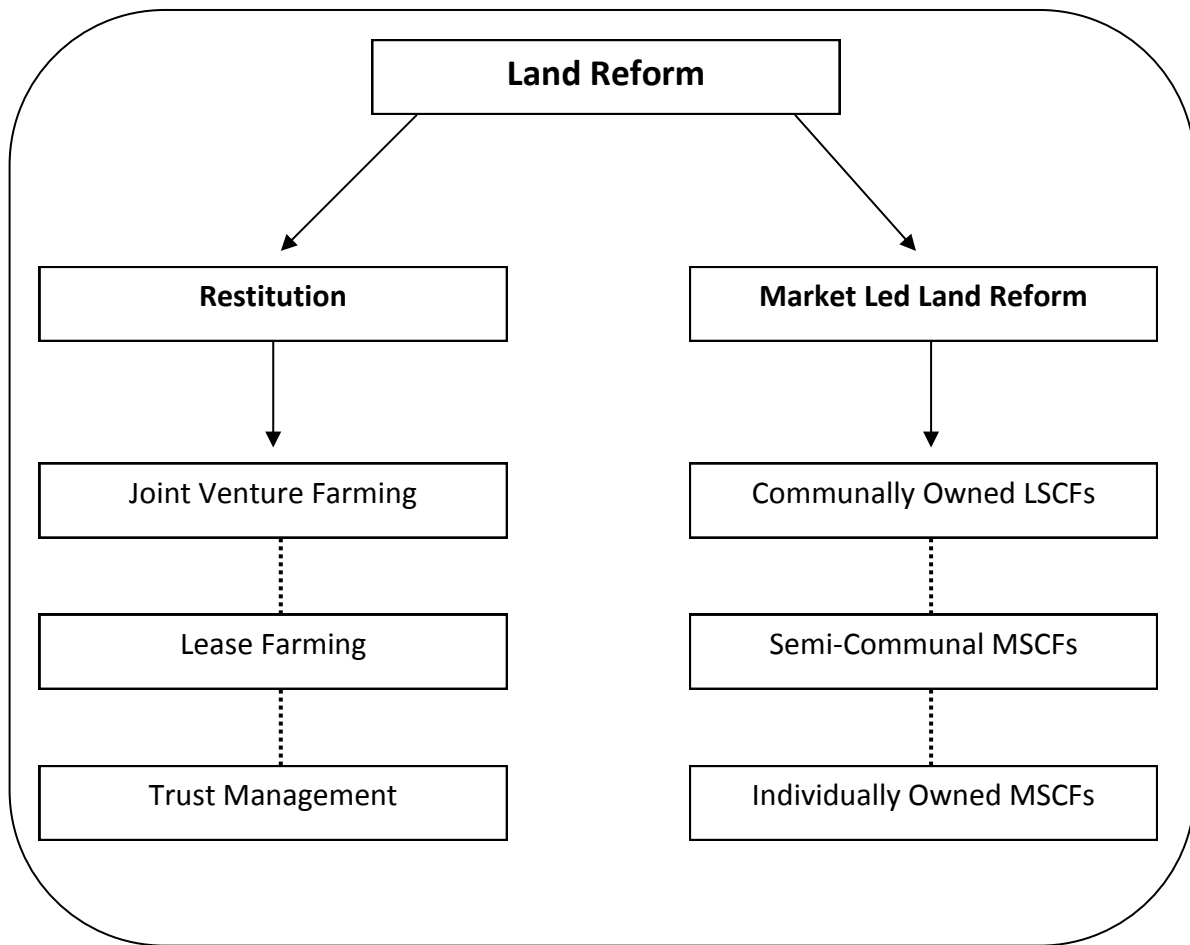


Table 1: Land Use Arrangement on Land Reform Sugar Farms.

Land Reform Type.	Land Use Arrangement.	Land Reform Beneficiary Involvement.	Strategic Partner and/or Miller Involvement	Income Streams for Land Reform Beneficiaries.
Restitution.	Joint venture.	<ul style="list-style-type: none"> • Intended to be fully involved in production and management. • Trust members elected to board of joint venture. • Preferential access to employment (skills development). • Preferential access to procurement of services and inputs (enterprise development). 	<ul style="list-style-type: none"> • Intended to be fully involved in production and management. • Strategic partner employees elected to board of joint venture. • TSB provides centralised administrative and procurement functions including HR and financial management. 	<ul style="list-style-type: none"> • Lease paid by joint venture to trust. • Variable income based on joint venture profit. • Access to employment. • Access to enterprise development.
Restitution.	Lease.	<ul style="list-style-type: none"> • No formal involvement in farming, employment or procurement. 	<ul style="list-style-type: none"> • Full control of farming activities. • Miller may provide extension services to private lessees. 	<ul style="list-style-type: none"> • Lease payment by lessee to trust. • Turnover or profit sharing in some instances.
Restitution.	Trust management.	<ul style="list-style-type: none"> • Full oversight of utilisation and management of land. • Preferential access to employment. 	<ul style="list-style-type: none"> • No direct role in farm management or production. • Miller may provide extension services to the trust. 	<ul style="list-style-type: none"> • Profit from farming operation. • Employment opportunities.
Market-led.	Communally owned LSCFs.	<ul style="list-style-type: none"> • Representation of beneficiaries in trust board. • Employment opportunities. 	<ul style="list-style-type: none"> • Full control of farming activities. 	<ul style="list-style-type: none"> • Lease income from strategic partner to trust. • Turnover or profit sharing in some instances. • Access to employment.
Market-led.	Semi-Communal MSCFs	<ul style="list-style-type: none"> • Direct involvement in day to day farm management. • Financial responsibility for individual farms. • Shareholders in share block scheme. 	<ul style="list-style-type: none"> • Close control over financial aspects of farm management on each individual farm. • Directors of share block scheme. • Financial control of communal share block. 	<ul style="list-style-type: none"> • Monthly income from farm management. • Future prospect of profit from individual farms within scheme. • Rental income from property ownership.
Market-led.	Individual MSCFs	<ul style="list-style-type: none"> • Full oversight of utilisation and management of land. 	<ul style="list-style-type: none"> • No direct role in farm management or production. • Miller may provide extension services to the trust. 	<ul style="list-style-type: none"> • Profit from farming operation.

4. Land Restitution Claims.

4.1 Introduction.

Democratisation in South Africa brought with it the opportunity to resolve the land question. The passing of the Restitution of Land Rights Act 1994 (Act 22 of 1994) created a mechanism under which people who had been removed from land on the basis of historic racial laws since 1913 could claim ownership of the land. Within the Mpumalanga Lowveld this paved the way for what would become the most valuable land restitution case in South Africa. In total, seven tribal authorities laid claim to land that covered almost the entirety of the Lowveld between Malelane and the border with Mozambique, bordered to the north by the Kruger National Park and the south by Swaziland. The Greater Tenbosch Land Claim encompassed a consolidated claim (the Tenbosch Land Claim) made by four tribal authorities – the Ngomane Hoyi, the Ngomane Siboshwa, the Ngomane Lugedlane and the Mhlaba – alongside other claims made by the Mahlalela, the Mawewe and Matsamo. Therefore the section uses these two terms – Tenbosch Land Claim and Greater Tenbosch Land Claim – to signify connected but different restitution cases.

It should be noted that land claims in Nkomazi have not been made on behalf of entire populations of the respective tribal authorities but, rather, on behalf of Trusts and Community Property Associations (CPA) consisting of households or individuals who were identified as having a verifiable claim to having lived on areas from which the relevant tribal authorities were historically settled. The people who make up a trust are typically denoted as “beneficiaries”. The seven trusts that have emerged from the restitution process in Nkomazi and the tribal authorities with which they are identified are given in Table 2.

Table 2. Tribal Authorities and Trusts Involved in the Greater Tenbosch Land Claim.

Tribal Authority	Trust	Members/beneficiaries*
Mahlalela	Bambani Mlambo Trust	2500
Matsamo	Matsamo CPA	5266
Mawewe	Mawewe CPA	1500
Mhlaba	Mhlaba Trust	1700
Ngomane Hoyi	Ingwenyama Simhulu Trust	6170
Ngomane Lugedlane	Mjejane Trust	n/a**
Ngomane Siboshwa	Siphumelele Tenbosch Trust	5000

* data from LIMA

** contested

4.2. *The Tenbosch Land Claim.*

The Tenbosch Land Claim originated in 1995. An interview with the chairperson of the Mhlaba Trust outlined the history of the claim.⁴ An “old man” called Solomon Siwela lodged the first claim on land in 1995. This claim developed so that the four tribal authorities came together to elect a committee of 62 members who would proceed with a claim to restore land historically owned by the Hoyi, Siboshwa, Luggedlane and Mhlaba. The committee that represented the four communities was known as the Tenbosch Task Team.⁵ Initially, the four chiefs of the tribal authorities sought to establish individual claims that would see all claimed land transferred to their personal ownership but this was blocked by the government. Upon the formation of the joint claim on behalf of the people, the ‘chiefs were furious, to the point that guns were pointed at certain people’.⁶ Ultimately however, the chiefs consented to communal claims and signed papers that allowed the formation of trusts. The consolidated Tenbosch Land Claim representing the Ngomane trusts and the Mhlaba trust claimed a total of forty two surveyed farms. Table A1 of the appendix details the farms claimed.

The land claim was met with opposition from the majority of white farmers although TSB were supportive of it from the start. Many farmers objected to the claim on the grounds that they were not the ones responsible for evictions and had purchased their land from other farmers at a later date. In the words of the Mhlaba chairperson, the claimants responded:

“They were told that ‘you know how people were evicted from the farms’; they were evicted using bulldozers and there was no time to save anything, live stock or your belongings; everything was left. In 1954 before they were evicted the boers killed our parents’ live stock and said they had diseases ... They dug a huge hole where they put the animals”.⁷

The claim was gazetted by the government in 2001. The Tenbosch land claim was settled in its entirety in January 2007. However, in some respects the granting of the claim was simply the second step in what would prove to be a protracted (and ongoing) process to transfer land to the claimants. Transfers of land from the government to the claimants began on June 19th 2007. The first owners to sell their land to the government were TSB and “Lawrence” who was the leader of the white farmers opposing the claim. Despite this early progress, resistance from white landowners and the need to settle competing claims (particularly between the central Tenbosch Land Claim and the Greater Tenbosch Land Claim) has delayed the transfer of land to claimants. Therefore, while the first significant transfers of land were made in 2007, the process is still incomplete. An example of the protracted nature of the restitution process may be found in the case of Dorma Farm that was purchased by the government in 2009 for 26 million rand but was only handed to IST in March 2013 as the previous owners had resisted leaving, citing the fact that they had signed a lease with the government in the period between its purchase and its transfer (SABC, 2013). Competing claims are discussed in more detail at the end of the following section about the Greater Tenbosch Land Claim. Table3 details land transferred to claimants by 2010.

⁴ Interview #2 (18/07/13).

⁵ Interview #3 (10/10/13).

⁶ Interview #2 (18/07/13).

⁷ Interview #2 (18/07/13). (18/07/13).

Table 3. Land Transferred Under the Tenbosch Land Claim by 2010.⁸

Land Transferred To	Property Size (hectares)	Price (rands)
Ingwenyama Simhulu Trust (IST)	5,074	R269,884,375
Matsamo CPA	875	R9,567,690
Mhlaba Trust	557	R20,273,195
Mjejane Trust	10,001	R177,635,000
Siphumelele Tenbosch Trust (STT)	8,038	R351,393,750
State*	19,367	R339,817,061
Total	43,912	R1,945,572,739
Approved For Transfer	17,290	R866,822,015
Total inc. Approved Transfers**	61202	R2,812,394,754

*Land transferred to state indicates land that the government has purchased for restitution purposes but not yet handed over to claimants. This land is not exclusively for the claimants of the Tenbosch Land Claim but includes land for the claimants of the Greater Tenbosch Land Claim.

**This total includes land for the Greater Tenbosch Land Claim.

4.3. *The Greater Tenbosch Land Claim.*

The Greater Tenbosch Land Claim denotes the combination of the Tenbosch Land Claim with the claims made by the other three trusts – the Bambani Mlambo Trust, the Matsamo CPA, and the Mawewe CPA – alongside eighteen smaller restitution claims made by individuals or families. As detailed in Section 2.4, each of these groups also experienced displacement during apartheid. However, in the case of the Mahlalela and the Mawewe, the majority of this displacement occurred within Trust Lands, as they were moved to accommodate the Ngomane populations evicted from their land to the north. As such, much of the claim made by these tribal authorities was over land allocated to the Ngomane under ‘communal tenure’ as designated by the Bantustan administration. The claims of these communities are discussed in more detail below.

4.3.1. The Bambani Mlambo Trust.

The Mahlalela lodged two identical claims in October 1996. The claim covered most of the land to the east of the Komati River to the border with Mozambique. A total of 42 farms were claimed. 15 farms were claimed based on the claims of dispossession in 1933 while the remaining 27 farms were based on dispossession predominantly as a result of the resettlement of the Ngomane in 1954. The farms identified as being under Mahlalela jurisdiction in 1933 were surveyed in 1928 and from the 1950s onwards had been leased and sold to white farmers (Fischer et al., 2010). The farms claimed by the Mahlalela are detailed in Table A2 in the appendix.

The 1954 farms are almost all located on communal land and were therefore outside the remit of the Restitution Act (Fischer et al., 2010). The claim, which was rejected by the courts, made clear that while the Mahlalela sought to restore the authority of the tribal authority over land now

⁸ Fischer et al., (2010).

occupied by the Ngomane, it did not seek the removal of the population. As such, rather than seeking direct access to farmland, it was a claim to extend the jurisdiction of the Mahlalela tribal authority (and all aspects of land governance such as rents) at the expense of other tribal authorities. This would have implied rents payable to the Mahlalela tribal authority by small scale sugar growers on projects on land currently administered by Mhlaba, Mawewe and the Ngomane Hoyi, Siboshwa and Luggedlane.

4.3.2. The Matsamo CPA.

The Matsamo CPA has lodged four restitution claims in Nkomazi; in August 1994, September 1996, November 1998 and one of an unspecified date. In total the claims covered over 50 properties that cover the area from the border with Swaziland in the south to the Crocodile River in the north and from the Kaalrug mountain range in the west to the Komati River in the east (Fischer et al., 2010). Alongside claims for specific properties the Matsamo CPA has claimed numerous areas based on historical settlement without specifying properties. A list of the properties identified in the four claims is provided in Table A3 in the appendix. The claims were gazetted in their entirety in 2008.

4.3.3. The Mawewe CPA.

The Mawewe CPA lodged two land claims, both in December of 1998. The first claim included only communal land. The second claim added a further four properties – Albertsnek 488 JU, Brink 431 JU, Lang Piet 435 JU and Amanxala 436 JU – of which the former two are on communal land while the latter two are private farms. There is confusion concerning the dates involved with the Mawewe claim. While the initial claims were lodged in the final month of the window for restitution claims, they were not backed up with research which was meant to be a requirement of the claims. Research was conducted in 2006 and 2007 and at this date another two properties – Squamans 568 JU and Biltong 434 JU were added to the claim. The claim was gazetted in 2007. However, further amendments have been made to the claim since to extend it to the fourteen farms listed in Table A4 of the appendix. These further properties were claimed in 2008, ten years after the closure of the window for the lodging of restitution claims.

4.4. *Transfer of Land to Claimants.*

To date the restitution process has transferred almost 43000 hectares of land to seven trusts comprising approximately 24636 beneficiaries,⁹ at a cost to the government of over 2.8 billion rand for the purchase of land from the previous owners. The amount of land transferred to the three tribal authorities involved in the Greater Tenbosch Land Claim (alongside the four detailed above) is shown in Table 4 below. It should be noted that only a portion of the land transferred is used for sugar cane farming; the rest comprises land for other agricultural uses including citrus farming and game ranching, as well as land identified for eco-tourism. In terms of production, income and livelihood opportunities this chapter is limited to a discussion of the land that is used for sugar cane farming.

⁹ LIMA Data.

Table 4. Greater Tenbosch Land Claim Transfers.¹⁰

Trust	Farm Portions	Hectares	Beneficiaries
Bambani Mlambo Trust	8	5240	2500
Matsamo CPA	49	11743	5266
Mawewe CPA	10	4958	1500

4.5. Competing Land Claims.

As noted above, transfer of land to claimants has been delayed in many cases. One of the key reasons for such delays has been the existence of competing claims for land and the inability of the government to find resolutions. Of the claimed farms detailed above, twenty five had competing claims. This number does not include overlapping claim on communal land. Of the twenty five, five farms – Lang Piet, Biltong, Avonstond, Quagga and Seekoegat – were claimed by three trusts. It may be argued that the existence of these overlapping claims is a result of the reliance of the restitution process on identities attached to tribes and communities that were consolidated during the apartheid era. The tying of an individual’s identity to a particular tribal identity was embedded during apartheid as Trust Lands (and later Bantustans) remained the reserve of black African governance. As the power of tribal authorities was institutionalised in rural areas, so arguably was the connection between the individual and the tribe.

Interviews with representatives from two trusts that are part of a competing land provided insight into the delays involved in transferring land to the claimants.¹¹ The interviewees cited the case of Coopersdal Farm near Komatipoort as an example of where competing claims have delayed the transfer of land to claimants. Originally a TSB owned farm, it had been sold to the government in 2007. However, both the Mawewe CPA and the Bambani Mlambo Trust (Malhalela) had laid claim to the land, while STT (Ngomane Siboshwa) also made a claim on the land after their original claim. The land was held by the government until 2011 when it was transferred to the Bambani Mlambo Trust.¹² The contested nature of the claim had left the two communities “at loggerheads” despite the fact that many of the claimants in the two trusts are relatives.¹³ One of the current farm managers observed that although the overlapping claims are the root cause of the problem, lack of capacity and transparency at government level contributed to the delay in the transfer of land. Government promises to set up mediation to resolve land ownership issues since 2009 were not fulfilled and the Siboshwa were not notified of the decision to transfer the land to the Malhalela, fuelling claimants’ distrust of the government. In the time between the land purchase and the transfer to the Bambani Mlambo Trust, TSB were leasing the land from the government. Both sets of claimants believed that the lease payments had been going to the Treasury and would never be seen by the trust.

¹⁰ Data Provided by LIMA.

¹¹ Interview #3 (10/10/13).

¹² Interview #4 (11/11/13).

¹³ Interview #3 (10/10/13).

5. Post-Restitution Sugar Farming.

5.1. Introduction.

The ways in which land is used post land reform has been of key concern in South Africa. The transfer of large amounts of commercial agricultural land to a population who have been portrayed as inexperienced in agriculture has been viewed as a threat to the food security of the country. There is undoubtedly a gap between the management needs of large-scale commercial farming and the perceived capabilities and experience of most restitution claimants in Mpumalanga. Further, highly capital-intensive farming raises questions about the capacity of claimants to maintain production. This is the context of the Mpumalanga sugar sector transformation over the last decade. It is therefore necessary to consider the ways in which claimants have utilised land that has been transferred to them via land restitution and to assess both the impact that it has had on the sector, and the impact it has had on the formation of livelihoods amongst the claimants. It is important to note that not all land transferred by restitution has been used for sugarcane. TSB (2014) stated that restituted land accounted for 21,605 hectares of the 51,054 hectares growing sugarcane in Nkomazi. This represents about 35 percent of the 61,202 hectares total approved for transfer under the Greater Tenbosch claim. Significant areas, particularly in the Luggedlane (Mjejane Trust) property have been used as tourist (game park) enterprises. Moreover, the transfer of land approved for restitution was still incomplete in 2013, when this research was undertaken. However, it is fair to say that almost all the restituted land with allocated water rights has been used for sugarcane.

Three main models of land management on land used for sugar cane farming have emerged post restitution; joint ventures, leases and trust management. The key features of each of the land use arrangements are given in Table 1 in Section 3. Joint ventures are companies formed by trusts and strategic partners to farm restituted land. Alongside payments made by the joint ventures to trusts in the form of leases and profit sharing, they also offer skills development and enterprise development opportunities. The lease model involves a direct lease of land between trusts and agribusinesses. Farming on leased properties is the sole responsibility of the agribusiness involved. Finally, trust management is a land use arrangement in which the trust farms the land with no partner involvement. This may involve the employment of a farm manager from outside the trust beneficiary list or the use of a manager who is also a beneficiary.

Of the trusts listed above, IST, Matsamo CPA and STT (Table 2) have entered into joint venture agreements with the TSB farming enterprise, Shubumbo. Each of the trusts also has smaller amounts of land under lease agreements or trust management. The Mjejane and Mhlaba trusts initially entered into joint ventures with a different strategic (commercial) partner although in both instances the joint ventures have since ceased to operate and sugar farming operations are now managed under a series of interim arrangements (cf Coopersdal farm discussed in section 4.5, above). The Mjejane trust also started a joint venture with Keysha Investments in 2008 on a separate farm called Elsjan although the status of this is unclear (Fischer et al., 2010). The Bambani Mlambo Trust was allocated land on which TSB had already signed a lease with the government, which continues. Land was transferred to the Mawewe CPA after the fieldwork period and we have no data on whether it includes and sugar farms or under what model the land is being utilised. Land use arrangements identified in the fieldwork are detailed in Table 5 below.

Table 5 Land Use Arrangements on Restitution Farms.

Trust	Management arrangements for land under Sugar Cane Use
Bambani Mlambo Trust	Lease to TSB.
Ingwenyama Simhulu Trust (IST)	Joint Venture with TSB. Management by trust.
Matsamo CPA	Joint Venture with TSB. Lease to commercial farmers.
Mhlaba Trust	Joint Venture with Umlimi (collapsed). Lease to commercial farmer. Management by trust.
Mjejane Trust	Joint Venture with Umlimi (collapsed). Joint Venture with Keysha Investments. Management by trust.
Siphumelele Tenbosch Trust (STT)	Joint Venture with TSB.

5.2. *Joint Venture Sugar Cane Farming.*

5.2.1. Joint Venture Overview and Production.

The joint venture model is the largest and most significant outcome of land restitution within the Mpumalanga sugar sector. Six joint ventures have been created on restituted sugar cane farms although two (the Umlimi-Mjejane enterprises) have since ceased to function. Three of the remaining joint ventures are formed between communities involved in the Greater Tenbosch land claim and TSB-Shubumbo. A fourth joint venture exists between Crookes Brothers and the Libuyile Community (not connected to IST and Libuyile Farming Services) on land restituted to a community now residing outside Nkomazi. The currently existing joint ventures are detailed in Table 6.

The joint venture model involves a partnership between a trust that has claimed land through restitution and a “strategic partner”. The joint venture is a farming company created with 50/50 ownership by the trust and the strategic partner. Both the trust and the strategic partner appoint an equal number of board members to the joint venture. Strategic partners are agribusinesses that are recognised by the South African government as being capable of maintaining production on land that is transferred to trust ownership. This represents the preferred model of post-restitution land use as it ensures the involvement of a partner that is experienced in commercial farming and is seen as a method of protecting against the collapse of production on transferred land.

Table 6. Current Joint Ventures.

Date	Strategic Partner	Trust	Joint Venture
2007	TSB/Shubombo Farming	Ingwenyama Simhulu Trust	Libuyile Farming Services
2007	TSB/Shubombo Farming	Siphumelele Tenbosch Trust	Mgubho Farming Services
2008	Crookes Brothers	Libuyile Community Trust	Mthayiza Farming
2012	TSB/Shubombo Farming	Matsamo CPA	Sivunosetfu

In terms of productivity, the joint venture model has been a resounding success. Despite numerous farms being in poor condition when the joint ventures were created, cane production is amongst the highest in the region. Productivity in 2013 on the three joint ventures involving TSB ranged from 106.18 tons per hectare to 116.74 tons per hectare. Recoverable value (RV, the basis on which payments to sugarcane growers by the sugar mill are calculated) was also high, averaging 12.62%. This is reflective both of the high tech (and high cost) methods utilised including GPS guided fertiliser application and soil moisture monitors that regulate irrigation and of the extensive experience that TSB has in farming sugar cane. 2013 production data for the three joint ventures is given in Table Seven below. Turnover for the three TSB joint ventures totalled 344.57 million rand.

While the TSB joint ventures are clearly productive, costs are also high. Production costs average 81% of turnover across the three joint ventures, leaving an average cane gross margin 19%. Fixed costs are not included in production costs and average 29% of turnover. Therefore, if it were not for the calculation of a “fair value adjustment” the joint ventures would, individually and collectively, be making a loss. In the case of JV1 the fair value adjustment allows the operation to make a profit of 0.9 million rand while in the case of JV3 the adjustment equates to a profit after tax of 30.2 million rand. However, JV3 is shown to make a loss of 2.4 million rand. Fair value adjustment appears to relate to investments made on the farms that will give returns over the life of the sugarcane ratoon. As the planting of cane involves a significant initial investment future profits may be accounted for. The fixed costs data provides insight into flows of finance in the joint venture model. Leases represent the main income stream of the trusts involved and across the three joint ventures average 8% of turnover. There is significant expenditure on both administration (average 13%) and management fees (average 4%). This is of significance as it represents income that is not accessible to the claimants, and as noted in section 5.3 below.

Table 7. Production Data for Joint Venture (JV) Farming Companies (July 2012-June 2013) on Land Owned by Restitution Beneficiaries (TSB data).

	JV1	JV2	JV3	All JV
Ha harvested	2,918	2,402	2,278	7,598
Tons cane	340,613	277,009	241,865	859,487
Yield (t/ha)	116.74	115.32	106.18	113.12
RV%	12.77%	12.35%	12.73%	12.62%
Cane turnover (R million)	140.13	107.62	96.82	344.57
% of Turnover				
Production costs*	81	82	79	81
Cane gross margin	19	18	21	19
None-cane income**	2	1.0	0	1
Total fixed costs (of which):	26	33.5	29	29
<i>Administration</i>	<i>10</i>	<i>18.0</i>	<i>12</i>	<i>13</i>
<i>Management fees</i>	<i>2</i>	<i>3.2</i>	<i>7</i>	<i>4</i>
<i>Leases</i>	<i>11</i>	<i>8.1</i>	<i>4</i>	<i>8</i>
<i>Other***</i>	<i>3</i>	<i>4.2</i>	<i>6</i>	<i>4</i>
“fair value adjustment”	7.0	12.0	52.4	21.3
Earnings before interest and tax	2	0	45	13
Profit after tax	0.9	-2.4	30.2	7.9

*cultivation and replanting costs, harvesting, transport and levies.

**includes income from other crops including bananas and soya.

***includes depreciation, insurance and maintenance

The tables below provide production data from two joint ventures (in the case of the IST this data also includes land leased by the trust to TSB hence the higher figures than in Table Seven above). IST and STT formed joint ventures with TSB in April 2007. In both instances productivity when measured by yield has increased. In the case of IST the total area of land under cane has increased by almost 52%, total sugar cane harvested has increased by approximately 83% and yield has increased by 20.9% between March 2006 and March 2010. Total area under cane on land owned by STT actually decreased by almost 13% but sugar cane harvested remained almost the same and yields increased by nearly 15%. This indicates that the transfer of ownership to claimants in two of the most significant sugar cane farming enterprises resulted in increased productivity in a short space of time.

Table 8. Hoyi/IST Joint Venture and Lease (with TSB).¹⁴

Sugar Cane	March 2006	March 2007	March 2008	March 2009	March 2010
Harvested (ha)	2,305	2,184	2,280	2,783	3,497
Cane (tons)	209,501	224,570	249,658	301,662	384,311
Yield (tons/ha)	90.89	102.83	109.51	108.39	109.89

¹⁴ Fischer et al., 2010.

Table 9. Siboshwa/STT Joint Venture (with TSB).¹⁵

Sugar Cane	March 2006	March 2007	March 2008	March 2009	March 2010
Harvested (ha)	2,734.60	2,332	2,334	2,411	2,382
Cane (tons)	248,548	239,758	251,773	261,189	248,700
Yield (tons/ha)	90.89	102.83	107.88	108.33	104.41

Given the information thus far in the chapter, restitution and the joint venture model in particular appear to be a success with large transfers of land to black ownership and the maintenance of high levels of production in an important sector of South African agriculture. However, to understand the impact that joint venture farming has on the formation of rural livelihoods in Nkomazi it is necessary to look beyond land ownership and productivity to what types of benefits flow towards the trust beneficiaries and the impacts that these have. As partnerships between the trust and agribusiness, joint ventures are intended to empower the trust beneficiaries. It is around this point that the key difference between a joint venture operation and a direct lease arguably lies. In the case of the joint ventures involving TSB, three key sources of benefits were identified; direct financial payments to the trusts, increased employment opportunities, and enterprise development. Each of these is discussed below.

5.2.2. Joint Venture Payments to Trusts.

Joint Ventures have two streams of payment that are made to the trusts that own the land: leases of the land that is farmed and a share of profits from farming operations. In the case of the three joint ventures that involve TSB, the lease agreements contain a fixed and variable component. The latter is based on profit on the JV operations. For this reason, only 'lease' payments appear in accounts for JV. In 2013 the three joint ventures paid 27.088 million rand to the trusts in leases.¹⁶ To date a total of over 100million Rands (US\$9 million) has been paid to the three trusts in the form of lease payments, and TSB stated in 2014 that its three JV operations were making a total of R35.5 million (US\$3 million) lease payments per year (TSB, 2014). This represents significant levels of income for the trusts that are involved in joint ventures and provides evidence that productive joint venture farms are successful in generating income. However, there are number of issues to be considered when assessing the impact of lease incomes on the livelihoods of claimants. The first issue involves the need to disaggregate total payments made to the trust to understand how individual claimants may potentially benefit. The payments made by TSB in 2013 to the three trusts with whom they operate joint ventures with are given in Table 10 below. If all lease income was available to be paid in equal dividends to claimants then income per claimant from joint venture farming would remain low. For example JV1 paid its trust co-owner almost 15 million Rand (US\$1.25 million) in leases in 2013. IST has 6170 beneficiaries and if lease income was divided equally it would equate to an income of approximately 2410 rand (US\$200) per claimant annually. The figures for JV2 and JV3 are even lower, at 1742 and 666 rand respectively. These figures indicate that the per capita income of the communities from the joint ventures is in fact low. Furthermore, it is likely that these figures are unrealistically high as they have not taken in to consideration the need of trusts to pay tax on rental income. This has been an issue at STT who have in the past failed to pay income tax on rental payments despite seeking to disburse money in the form of dividends. This has resulted in an

¹⁵ Fischer et al., 2010.

¹⁶ TSB JV data

outstanding tax bill that has been the source of deep conflict at the trust.¹⁷ The second issue relating to whether or not individual claimants will benefit from joint venture leases relates to the governance of the trusts. To date, none of the trusts have made regular dividend payments to their members. IST and STT have made dividend payments although these have not occurred on an annual basis. Information was not available for the Matsamo CPA (the trust partners in Sivunosefu) although this was to be expected as the joint venture had been operating for only a year at the time of the fieldwork. During the course of this study interviews with small-scale sugarcane growers identified a small number who were also members of claimant communities. Of these, only one in had ever received a dividend payment.

Table 10. 2013 Joint Venture Lease Payments.¹⁸

Joint Venture	2013 Lease Payments (rands).
JV1	14,868,000
JV2	8,711,000
JV3	3,509,000

5.2.3. Skills Development.

Joint Venture operations may be differentiated from leases due to other agreements that are included in their functioning that are designed to benefit the claimants. In particular, these include preferential access to employment (skills development) and to the provision of contracted services (enterprise development). Preferential access to employment has been implemented on each of the three joint ventures that TSB is involved with. An interview with the manager of one of the three joint ventures provided insight on the ways in which this worked and the extent to which it has benefitted the members of claimant (now land-owning) communities. The joint venture employed approximately 190 permanent employees of whom 70 were claimants.¹⁹ In six years of the joint venture being in operation a third of the workforce had been replaced with claimants. This is broadly in line with data from TSB concerning the three joint ventures: a total of 35% of the workforce is formed by claimants (TSB, 2014). Employees who were not claimants were not removed from their positions at any point but whenever a non-claimant left their position preferential access to the job was given to claimants. However, particularly in the early years, there appeared to be little interest from claimants in working on the farms. Wages remained the same and at market averages,²⁰ and the generally unattractive image of agricultural work among young black South Africans contributed to slow uptake of opportunities by the land restitution claimants. Furthermore, as most claimants were the heads of households they were, on the whole, elderly and therefore unsuited to farm labour.²¹ While some progress has been made in employing claimants on joint venture farms, this represents a benefit to a small minority of total claimants. In the case of STT, only 1.4% of claimants are employed through the joint venture. Even if every position was filled by a claimant the figure

¹⁷ Interview #5 (11/09/13)..

¹⁸ TSB Joint Venture Data.

¹⁹ Interview #6 (28/06/13)..

²⁰ Interview #6 (28/06/13).

²¹ Interview #3 (10/10/13).

would only be 3.8%. Therefore it may be said that joint venture employment will only ever benefit a narrow segment of the claimant population even if it is operating at full capacity.

Alongside general employment on joint venture farms, TSB has sought to identify and train individuals in farm management. One farm manager who was also a claimant worked with Mgubho Farming Services, the joint venture between STT and TSB/Shubombo. The Farm Manager had been involved with the restitution claim since its beginning having been recruited by the Siboshwa chief in 1996 to represent them in the claim. He was involved with the Tenbosch Task Team before being elected to the board of Mgubho in 2007. While on the board he was the chair of the audit committee. Upon the offer of employment with TSB in 2009 the farm manager resigned from the Mgubho board to avoid potential conflicts of interests. He worked as a trainee/junior farm manager on Coopersdal which was, at the time, being leased by TSB from the government. At this point TSB sent him for training courses through SASA at Mount Edgecombe in KwaZulu Natal. Since 2012 he has been the Farm Manager at Seekoegat and Corneels; both restitution farms farmed by Mgubho. The case of this farm manager is evidence of a pathway to skills development that has been developed through the joint ventures. However, given the relatively few management positions available – across the three joint ventures there are three production managers (general managers), ten farm managers and one junior farm manager – this pathway will always be limited to a small minority of claimants. Furthermore, the farm manager discussed above held close links both to the tribal authority and to the trust. This suggests that social connections are an important function of accessing the potential gains of the joint venture model.

5.2.4. Enterprise Development.

The third branch of benefits that are available to some claimants is through what TSB call enterprise development. This involves giving preferential access to contracting services for companies that are owned by claimants. As is the case in the small scale sector (see Woodhouse and James, 2015; James and Woodhouse, 2015), many functions on large scale commercial sugar cane farms are contracted out to external companies who provide labour and machinery. As of 2014, TSB had signed enterprise development contracts with claimants to a total value of 66.1 million rand (TSB, 2014).

The most commonly contracted service is that of cane cutting which is exclusively done through contracting. A claimant in IST started a contracting company with her sister in 2008. The sisters both left formal employment having completed degrees in IT and accounting respectively. They realised that the land restitution process had created new opportunities to enter the sugar industry as the new joint ventures had BEE requirements attached to them. Using experience they had gained from helping their father on a small scale sugar plot they applied for a tender on farms that were being leased by TSB (Shubombo) before transfer to claimants. At the point that they won the contract to provide cutting services to Shubombo they had no practical experience in contracting – they had to organise everything from scratch. This included organising registration for the cane cutters they would employ. As labour was being provided to large scale farming operations the requirements for migrant labour to be legally registered to work in South Africa was more strictly regulated than in the small scale projects where their father had produced sugarcane. The business also incurred significant costs in purchasing the necessary equipment for contract cutting and despite holding contracts for work they were unable to obtain financing from banks. The support of their family who had other investments in the sugar industry was crucial at this phase.

Having started as a cane cutting contractor for Shubombo the company expanded by providing contracting services to Libuyile and Mgubho joint ventures, IST's trust managed properties, farms that would later be part of Sivunosetfu (JV of Matsamo CPA and TSB) and to numerous white commercial farmers. This expansion was dramatic – in the eyes of the interviewee it was “unthinkable” that two black women would be employed to provide contracting services to white commercial farmers even a few years earlier. The company also expanded the services that they

offered. The development of a GPS guided contracting service allowed the company to become market leaders in cane cutting as they could estimate their quotes on the basis of precise measurements of the areas to be harvested. They also expanded into activities such as the removal of drip irrigation from fields before cane burning and the planting of seed cane. Their position in the market was recognised by TSB when they were employed to provide training to other contractors in the industry.

While the company expanded greatly in the early years of post-restitution sugar farming, it has more recently met political constraints. As people in claimant communities became aware that the cane-cutting company was profitable, they demanded that joint ventures should only employ service providers from within their own claimant community. As a consequence, the company has lost contracts at Mgubho and Sivunosefu. In one instance the company arrived at a farm operated by Mgubho to find that they had been locked out of the farm by “prominent individuals” from the STT trust who wanted to be given the contract for cutting. Thus, while the position of the sisters as the children of a claimant had initially facilitated the ability of their company to gain contracts, it had now become a barrier to expansion beyond that ‘community’ base. The interviewee likened this problem to an earlier phenomenon that had occurred during the expansion of the small scale sugarcane during the 1990s. While farming families had originally been compared unfavourably to those who had members working in industries such as mining, demand for sugarcane plots grew strongly once SSGs were seen to be able to spend money on housing and vehicles. She felt this was now occurring in provision of contract services for joint ventures:

“It’s not about the service delivery now. It’s about who you know and how you get in. People are coming from Mgubho now and are saying that they not only want to take over some of the work, they also want to be shown how to do the work.”²²

This entrepreneur came from a family with an extended history in sugar farming. Her father had farmed on one of the oldest projects, at Figtree A, with the largest sugarcane plots (20ha) in the SSG area. Since her father’s death the land had been managed for her mother by two of her brothers. One of the brothers is very heavily involved in the sugar industry: he manages a restituted farm for IST, owns shares in a fertiliser company that supplies the sugar industry and is a participant in numerous sugar industry bodies. The other brother was in the process of negotiating the purchase of a medium scale sugar cane farm near Malelane through market-based land redistribution procedures. This history of involvement in the sugar industry goes some way to explaining the extent of the success of the two sisters. Firstly, sugar farming had enabled the household to educate their children to University level while the two sisters also received a private high school education in Nelspruit as the local rural schools were of poor quality. Given the scale and complexity of their business it is likely that this education was critical both in making them successful and in differentiating them from the majority of claimants and hence allowing them to capture the benefits of the joint venture model. Second, the family have developed and extended their involvement in sugar farming alongside activity in other industries in the area, including ownership of a construction shop. This economic activity had generated sufficient capital to underwrite the investment in the contracting company. Thus the sisters were able to draw on financial support from their brothers during the first two years while the company wasn’t making a profit, giving them a big advantage relative to others setting up businesses. Finally, the ability of the sisters to win valuable contracts is assisted by the family’s prominent role in the agricultural community in Nkomazi. Two generations of the family had been chairmen at the Figtree A project, while a brother had been selected to be a member of the board of TSGro, a subsidiary of TSB set up in 2013 to provide technical and management support to SSGs, having been previously the chairperson of the Komati Mill Cane Committee and selected to become a BEE partner in the fertiliser company. These associations

²² Interview #7(05/11/13).

reinforce the perception that entrepreneurial opportunities arising from service provision to Joint Ventures tend to be captured by a small minority of well-placed individuals involved in restitution.

5.3. *The Lease Model.*

Direct leases to farming companies represent the second significant form of land use arrangement on restituted land in the Mpumalanga sugar sector. Direct leases differ from joint ventures as they typically do not include arrangements beyond a financial lease between the trust and the farming operation using the land. In 2013 Shubombo (TSB) was producing sugarcane on 2,340 hectares of land leased from trusts for 8.75 million rand per year. Many lease agreements result from the need to ensure farmland remains productive during the protracted process of transferring land to restitution claimants once it has been purchased by the government. It was under these circumstances that Coopersdal Farm – transferred to the Mahlalela (Bambani Mlambo Trust) in 2011 – was leased to TSB.

The farm had been purchased in 2007 following resolution of the Tenbosch Land Claim. However, as discussed in Section 4.5, the farm was claimed by two trusts initially – the Bambani Mlambo Trust and the Mawewe CPA – while the Siphumelele Tenbosch Trust has also since asserted a claim on the farm. This resulted in two court cases: first by the claimants against the white farm owners and then amongst the trusts. During the period between the purchase of the land by the government and the transfer to the Bambani Mlambo Trust a lease was signed between TSB and the state. Two portions of the farm have been transferred to the trust while a third portion is still owned by the state due to competing claims.

An interview with senior members of the Bambani Mlambo Trust, including the trust chairwoman and the head induna of the Mahlalela tribal authority, revealed the trust is dissatisfied with the lease arrangement and has been seeking to terminate it so that they can set up a joint venture with a local farmer called Robert Speer.²³ However, TSB have claimed that if the trust wishes to exit it they must compensate TSB for the costs associated with rehabilitating the farm. These costs have been estimated at 20 million Rand, a figure the trust disputes, arguing that it may include rehabilitation cost for other portions of the farm not transferred to them. More generally, the trust claims not to be bound by the contract signed between the state and TSB since the agreement makes no mention of the trust and therefore they cannot be held accountable for the investment costs: *“the community never asked TSB to come here, they signed an agreement with the state before the farm was awarded to us”*.

The operation of the lease in the meantime provides insight into this land use arrangement in comparison to joint ventures. Despite requests for employment, the trust claims that TSB are providing no mentoring on the farm and only discuss skills and expertise transfer as a long-term process. TSB have informed the trust that as it is a “natural lease” the owner (the trust) has no say in the management of the farm. Furthermore, TSB are not using service providers sourced from the claimants as they do in joint ventures (Section 5.2.4.) and there has been no discussion of the prospect of profit sharing. The aspects of a lease therefore limit the potential benefits of restitution to the money paid to a trust via land rental. In the case of Coopersdal the trust board members interviewed stated that they did not understand the terms of their lease; *“The calculation of our rental is very complicated and it is not clear what we will be paid. Why do they mystify knowledge instead of simplifying it?”*

The trust’s efforts to end the lease is largely informed by their perception that TSB farm at too high a cost and that this makes profit sharing unrealistic; *“TSB have a different idea about profit sharing. They don’t want to keep costs down because they keep 100% of the profit at the mill; production is*

²³ Interview #4 (11/11/13)

kept high but production without profit is meaningless". This concern that TSB exploits its position in the value chain to shift profit margins to the sugar mill at the cost of margins in sugarcane production was repeated in numerous interviews with government officials,²⁴ trustees, farm managers²⁵ and in private comments from Canegrowers²⁶. There is some evidence that overhead costs are high on leased land, amounting to 48 percent of turnover on TSB-operated farms in 2013. Compared to Joint Venture farms (see Table 7), productivity on 2340 hectares of leased land was higher (123.4 tons of cane per hectare) so that production costs were proportionately lower (70 percent of turnover). However, administration and management fees amounted to 25 and 14 percent of turnover respectively, compared to equivalent averages 13 and 4 percent on Joint Ventures. In contrast, lease payments amounted to 8 percent of turnover, as on the Joint Ventures. We do not have further details to explain the disparity in fixed costs between leasehold and Joint Venture farms, but these data suggest that Joint Ventures are supporting lower fixed costs than the operations on leased land.

The trustees interviewed wished to see claimants employed in administrative functions in the farm but doubted such an opportunity would arise as TSB's centralised structure (as discussed in section 5.2.1.) precluded local priorities in favour of a rigid and costly managerial system: *"They have a very large hierarchy, it feels like the farm is paying for employees all the way up, even to directors, perhaps in England"*. As a consequence, the trustees felt that they would be better off working alongside a private white farmer than with TSB. They have a longer history of relations with individual farmers than with larger companies and felt they would be able to exercise more power vis-à-vis an individual farm manager: *"Trying to deal with these guys is very tough, they are very big. Trying to get them to do something is like a rabbit trying to pull an elephant... the Boer wouldn't do this, they would just give us a simple number and work"*. Strained relations between TSB and black farmers and claimants were evident in our study at every level of farming from SSGs to medium scale land reform beneficiaries (discussed in section 6.3.) and to restitution trustees and claimants. On medium and large scale farms this may be a reflection of the contradiction between high levels of farm production, which benefit TSB by maximising capacity utilisation of processing plant, and narrow profit margins which translate into low levels of income for sugarcane producers. Farmers, trustees and claimants can see that farms are productive yet are generating few benefits.

5.4. Trust Management.

The final form of land use arrangement in the Mpumalanga sugar sector on restituted land is trust management. This may take the form of either a farm manager being selected from within the trust or the employment of a manager on an individual basis. This arrangement was identified in three places: on portions of land transferred to IST, Mjejane CPA and Mhlaba Trust. This section focuses on the last of these for a number of reasons. Trust-managed land represents only a small proportion of IST restitution land holdings and the impacts of the much larger joint ventures and commercial leases on IST land may mask the ways in which trust management operates and benefits claimants. Research with the Mjejane CPA proved problematic owing to severe governance problems at the trust that are discussed in Section 5.5. The trust management at Mhlaba Trust accounted for most of their overall land use and the trust was in a relatively stable position at the time of our fieldwork, so this case provided most information.

By 2013 the Mhlaba Trust had been transferred two properties. The first, in 2007, was a 557 hectare portion of Uitsig Farm known as Nyathi Farm on land north of the communal area near Richtershoek. A second 1300 hectare portion had also been allocated to the trust but still had two and a half years

²⁴ Interview #8 (06/11/13)

²⁵ Interview – #9 (24/06/13)

²⁶ Interview #10 (19/11/13)

left to run on a lease earlier signed between a commercial farmer and the state. The chairwoman of the Mhlaba Trust²⁷ and the farm manager employed to farm Nyathi Farm²⁸ were interviewed.

The government stipulated that the Mhlaba Trust should have a strategic partner when the land was transferred to them. The Trust created a joint venture called Makhosonke Farm Management with Umlimi, the same agribusiness involved in a joint venture partnership with the Mjejane CPA. The joint venture lasted for two years but then the Trust fired Umlimi for unsatisfactory farm performance, alleging Umlimi failed to apply fertiliser to the crops. The Trust then decided to farm the land themselves, forming a management company called Lidziwo Farming and Poultry and initially seeking a farm manager from within the Trust membership. They could not find anyone suitable and employed a farm manager who had previously worked on sugarcane for Makhombo Farming Company, the Umlimi joint venture with the Mjejane, and, prior to that, on papaya farming on Nieuws Estate.

When Nyathi Farm was transferred to the Mhlaba Trust it was being used to farm citrus (oranges) and mangoes. Under current management the citrus trees were being replaced by a gradual planting of sugar cane because the Trust lacked the technical and financial resources to achieve export standards and selling citrus on the local market was uneconomic as prices were low and volatile. In contrast, the guaranteed market for sugar represented a lower risk investment. Thirteen hectares of mangoes were still being harvested although the manager was also considering removing them in the future, despite the fact that trader from Durban had purchased the whole of the farm's mango crop. The same buyer had indicated an interest to buy fresh vegetables, in particular chillies, and the manager was planning ten hectares of vegetables in the following season. These decisions stronger scope for diversification than on joint venture or lease contracts with TSB, in which crops such as bananas, lychees and citrus have often been replaced to increase the area under sugar cane.

While the trust management option is regarded within the industry as the highest risk of the three arrangements discussed in this section (TSB, 2014), due to the trusts' greater difficulty in raising capital to invest in the farm, it might also be argued that the greater scope for diversification under trust management also poses a threat to security of cane supply to the mills if it involves significant substitution of sugarcane by other crops. This is not remotely in prospect at present, but any extension of such a trend across the approximately 40% of sugarcane farmland in Mpumalanga transferred by restitution to trust ownership, could potentially make the whole industry unviable.

Development at Nyathi has been limited due to the early problems Mhlaba Trust encountered through its joint venture with Umlimi. After terminating the joint venture the Trust was served a bill from Umlimi for 13 million Rand due on a Land Bank loan of 7 million Rand. The Trust chairwoman denies the loan was ever signed for by the Trust and or that the Trust knows what account the loan was paid to. Nonetheless, although the Trust made a profit of 200,000 rand in the last season, it has not paid a dividend to the Trust members in order to first clear outstanding debts.

5.5. Governance of Land after Restitution.

A recurring issue that affects the ways in which restitution has impacted the formation of rural livelihoods in the Mpumalanga Lowveld is the ways in which the respective trusts are governed. There are numerous instances of poor management, a lack of transparency and financial irregularities that have limited the benefits experienced by the majority of land claimants. The following section presents information on some of the trusts that have been adversely affected by these problems. First, the case of the Mjejane CPA is discussed; the trust has perhaps the deepest conflicts of all the trusts in the district and is almost completely failing to operate due to legal battles. Then, information concerning the role of tribal authorities in trust management is discussed with

²⁷ Interview – #2 (18/07/13)

²⁸ Interview – #9 (24/06/13)

respect to the Bambani Mlambo Trust and the Mhlaba Trust. In the case of the former there are direct links between the tribal authority and the trust including payments to the authority. In the latter there exists a conflict between the trust and the chief with disagreements over who is responsible for land claimed through restitution.

The Mjejane Trust has been particularly affected by governance problems. After gaining 3200 hectares of land through the Tenbosch claim, the trust entered into a joint venture (Makhombo Farm Management) with Umlimi Agricultural Services, a BEE agribusiness. In three years approximately 3.5 million rand was paid in leases by Makhombo to the Mjejane Trust, but no dividends were paid to the Trust 'beneficiaries'. By 2009, conflict had emerged between the Trust and Umlimi and between the trustees and the beneficiaries over the failure of the farm to make a profit which the Trust members attributed to poor performance of the management company.

A "concerned group" among the Trust members began actions to remove the original trustees who they accused of stealing the 3.5 million rand in lease income. At the same time, Trust members occupied the farm demanding control be passed to them. The concerned group appointed a lawyer to challenge the trustees, resulting in a settlement being reached "on the steps of the court" in which a new board was created consisting of four trustees.²⁹ Two trustees were nominated by the old board of trustees and two were nominated by the lawyer on behalf of the concerned group. However, despite the creation of a new board, the original board continued to function and operate an office in Malalane. Efforts to close the office by the lawyer and the concerned group were met with violence.

The situation deteriorated further when another trust (IST) made its first dividend payment to beneficiaries. Awareness of the financial benefits of membership caused a renewed interest in being listed as a 'beneficiary'. The original trustees exploited this by selling "stands" (housing plots) on Trust land close to the town of Hectorspruit to people who thereby also bought membership of the trust. This allowed the old trustees to both raise cash and build a new membership support base outside the original list of beneficiaries. Many of the sales were made to individuals from Tonga, a village in Nkomazi that is predominantly populated by people from other tribal authorities. Meanwhile, the new board became weakened as one of the nominees of the concerned group began to support the old board and the other resigned as a result of intimidation.

As a result of litigation by the concerned group the courts ordered a verification of the beneficiary list by the author of the original land claim documents. However, the verification task was in fact handed over to the brother of the concerned group's remaining nominee on the Board of Trustees, a lawyer who was now supporting the original board. As such, the verification confirmed the many new beneficiaries arising from sales of housing stands and the original beneficiaries were outnumbered. At this point the government and new trustees negotiated for Umlimi to leave the farm in return for a court-ordered repayment of investment costs. The lawyer acting for the concerned group observed in 2013 that a situation had developed in which three factions were vying for control: the original board retained the support of most new beneficiaries; the new board was legally recognised but had lost support among the beneficiaries/member and had sought an alliance with members of the tribal authority; the original beneficiaries and concerned group were now largely unrepresented.

In terms of failure of livelihood benefits to flow from land restitution and joint venture farming, the case of the Mjejane is perhaps the most extreme. Most beneficiaries have never received a dividend payment or any other form of income from the Trust. These problems are not limited to sugar farming. The Trust also has a tourism joint venture with a property developer which is similarly troubled. Identifying the initial causes of the problems is not straightforward. Umlimi blamed a protracted government process in transferring land both for the collapse of the farm and

²⁹ Interview #5 (11/09/13).

beneficiaries' unrealistic expectations for the farm to generate a profit immediately. However, it is also clear that a failure of transparency and accountability on the part of the original board has contributed to a situation in which any benefits the restitution has created have been captured by a small group with influence within the Trust.

The situation also raises questions about the construction of the idea of "communities" within the context of land restitution. The original Tenbosch claim was made on behalf of households ostensibly belonging to four "tribal authorities" who had historic claims to the land. As discussed in Section 2, the recognition and empowerment of these "tribal" institutions is a relatively modern phenomenon predated by more fluid patterns of settlement within the area. The failure of verification of beneficiary lists and the willingness of the original board to sell membership to the "community" suggests that the notion of such distinct tribal or community boundaries is at best open to reinterpretation. The further linkage of contemporary property rights to such political entities that were embedded during the apartheid era is thus problematic.

The Bambani Mlambo Trust has particularly close ties to the Mahlalela tribal authority. The chairman of the trust is a relative of the Mahlalela royal family while the chief,³⁰ a prince from the family and the head induna of the tribal authority are also on the trust board. The trust chairman argued that it was important that the chief was a member of the committee as he had ultimate authority over his "subjects" and as such was best positioned to resolve arguments that arose. However, the chief rarely attended meetings of the board as it was considered to be inappropriate to fight in his presence.

The Mahlalela tribal authority benefits directly from the sugar farming activities in which the Trust is involved. The Trust pays a dividend directly to the royal family which is to be used at their own discretion. The Trust also finances "cultural activities" on an annual basis that celebrate the heritage of the tribal authority. These payments indicate that in the case of the Bambani Mlambo Trust, relatives of the royal family benefit disproportionately in comparison to other claimants. This is occurring despite the fact that all claimants are meant to have equal representation within the trust and are meant to benefit equally from it. The discrepancy was explained during interview as occurring because the Mahlalela "are different from others as we have a king rather than a chief". This difference appears to be relevant as a justification to the trust although it should make no difference in legal terms. The case of the Bambani Mlambo is one in which it can be clearly said that tribal authority has captured some of the gains of the restitution process in ways that were unintended and are almost certainly not legal.

The Mhlaba Trust offers a different perspective on the role of tribal authorities in the restitution process. Unlike in the case of the Bambani Mlambo, the Mhlaba Trust is in conflict with the Mhlaba tribal authority as it seeks to stop the chief claiming the farms transferred to the Trust as the property of the authority. Much of the conflict appears to have arisen at the time of the death of the previous Mhlaba chief in 2010. After a protracted succession dispute, a new chief named Henry Mkhatchwa was in the process of being inaugurated in 2013. In an interview about the role of the tribal authority in the Mhlaba Trust,³¹ it was apparent that the chief knew little about the restitution process that had occurred, to the point that he was unsure of how much land the Trust now owned or of the name of the farm that had been transferred to the Trust. The chief claimed that there was a breakdown of communication between the Trust and the tribal authority and that this was causing problems as claimants were approaching the chief demanding to know what was going on. The chief claimed that there was no relation between the tribal authority and the trust, and complained that there were no induna, family members or tribal authority committee members selected for the trust committee.

³⁰ In the case of the Mahlalela the chief is considered to be a king.

³¹ Interview #11 (20/05/13).

This view was reinforced by an induna within the Mhlaba tribal authority, Mr Mhlongo, who had been instrumental in ensuring that Henry Mkhatchwa had acceded to the position of Mhlaba chief. He confirmed that the tribal authority was seeking to assert ownership over the claimed farms and that they should be used as the personal property of the chief and income used to fund the activities of the tribal authority and the chief's family. He argued this was justified as chiefs were losing power in the country as a whole and needed a reliable source of income to *"support their people"*.³²

The chairwoman of the Mhlaba Trust, who is the aunt of the current chief and the sister of the late chief gave a contrasting perspective on the situation.³³ Her position immediately contradicts the chief's claim that there is no relation between the tribal authority and the Trust but she claimed that the current chief had failed to understand that in the eyes of the state, when it came to restitution, he was just another beneficiary and had the same status as all of the other beneficiaries: *"The chief does not have special treatment in the trust, he is a beneficiary like any other individual. On the letter it is indicated that you are not a chief if you are within the trust but you may be a chief outside the trust"*. She also claimed that the previous chief had read, understood and respected the letter of authority issued to the trust by the courts, and he was now being pressured by elders within the tribal authority to remove the Trust so that they could use the land to their own benefit: *"The way I see it, the people pushing the current chief are pushing him in a way that they want the Trust removed and the chief to take over. I think it's the elders. The tribal office went to land affairs to find out how much land was given to the Trust as they claim not to know how much was given. If they read the letter they would know what is expected from them."*

The conflict between the tribal authority and the Mhlaba Trust illustrates a problematic role of tribal authorities in the governance of land in rural South Africa. In terms of the impact it has on the ways in which land restitution may contribute to the formation of livelihoods, an important question is whether it exacerbates the capture of benefits of restitution by a narrow elite. This particular aspect of restitution appears to be unaffected by whether land is used via joint venture, lease or trust management.

5.6. Assessing Restitution.

Evaluating the impacts of restitution on the Mpumalanga sugar industry and on the beneficiaries of land claims is complex due to the variety of land use arrangements and governance patterns of the trusts involved. Although it is therefore difficult to draw generalised conclusions, a number of patterns allow tentative observations to be made.

If taken as a whole, land restitution has not adversely affected levels of sugarcane production. Total cane production increased from 3.8 million tons in 2010 to 4.1 million tons in 2014 (TSB, 2014). This is significant considering cane production within the small scale sector decreased marginally across the same period (James & Woodhouse, 2015). Increased production has not been uniform, however, and evidence suggests that joint ventures, particularly with TSB as a strategic partner, have performed better than trust management. Land leased to TSB and farmed by Shubombo has also been highly productive.

High levels of production have not equated to significant broad-based benefits for claimants, however. Income generated by trusts and leases are high in gross terms but low when considered in per-claimant terms. The flow of benefits to claimants has been further diminished by poor governance and a lack of transparency within the trusts. Dividends have not been paid on a regular basis and a number of the trusts have suffered internal conflict as a result. Joint ventures offer the opportunity of benefits for some claimants through skills development and enterprise development although these benefits are limited to a minority of claimants.

³² Interview #12 (12/04/13).

³³ Interview #2 (18/07/13).

6. Market-based Land Redistribution.

6.1. Introduction.

Restitution has largely dominated land reform processes within the Mpumalanga Lowveld. However, there exists a smaller, yet significant, segment of the industry that has been created through market-based land redistribution. This segment of the industry includes farms owned under three different organisational structures discussed in detail below. These structures vary in the extent to which the owners are involved in the farming model and in the scale of the farming operations. The three ownership models identified are 'communally owned' large-scale commercial farms (LSCFs), 'semi-communal' medium-scale commercial farms (MSCFs), and individually-owned MSCFs. The most significant difference occurs between the communally-owned LSCFs on the one hand, and the semi-communal and individually-owned MSCFs on the other. In the case of the former, farm management has been provided by external partners rather than by land reform beneficiaries. In each of the other two cases the land reform beneficiaries are personally responsible for farm management.

The differences between semi-communal MSCFs and individually-owned MSCFs are twofold. First, individually-owned MSCFs involve the control by the individual farm owner of every element of the production process whereas semi-communal MSCFs do not. Individual growers participating in a semi-communal MSCF scheme are less inter-dependent than small-scale growers on SSG irrigation projects, but are still tied together as shareholders in a corporate entity. Second, semi-communal MSCFs involve a greater degree of external intervention in farm management. In the case discussed below, TSB (or directors appointed by TSB) play a key role in the financial management of the farms.

6.2. Communally-Owned Large Scale Commercial Farms.

6.2.1. Blue Cloud Investments.

Blue Cloud Investments (BCI) is an example of a communally owned sugar cane farming operation that was formed through willing buyer willing seller land reform. The company is operated by a trust of 419 members and is farmed by TSB through a lease agreement. BCI has been described as an example of successful land reform in South Africa (De Villiers & Van Den Berg, 2006). However, as noted by Hall (2007), the parameters used for success do not include any measure of the flow of benefits to the land reform beneficiaries. This is an important omission in the evaluation of the project because, as demonstrated below, the flow of benefits to the beneficiaries of BCI has been limited and uneven due to governance problems within the 'communal' ownership framework.

BCI is a company created by the Vorem Shukela Trust, whose members include 'workers on the farm, some previous workers and members of the local community who are associated with the farm' (De Villiers & Van Den Berg, 2006: 420). Of the 419 members, 46 were labourers on the farm at the time of land reform (Property24, 2006). Trust membership was enlarged to include people living in the nearby township of Matsulu in order to increase the total LRAD funding, paid on a per capita basis, to meet the cost of purchasing 1,656 hectares of land across two surveyed farms (Vorem 655 and portion 6 of Koedoe) which form a property named Stentor Sugar Estate. The land purchase in 2002 was funded with LRAD grants of 21 million Rand and a Land Bank loan of 25 million Rand. TSB provided a further 12 million rand on a hire purchase agreement to increase the productivity of the farm (Property24, 2006).

The farm is operated by TSB under a fifteen year lease agreement with the Trust, designed to be sufficient to repay the TSB investment in the farm. The rental/lease charge is calculated as a percentage of turnover plus a minimum payment that covers the repayment of the Land Bank loan.

The lease also stipulates that TSB should provide training and employment for members of the trust, although there are no quotas for either of these elements (De Villiers & Van Den Berg, 2006).

The farm has approximately 900 hectares under sugar cane. In 2003, shortly after transfer, the farm averaged 60 tons per hectare of sugar cane (Property24, 2006), a particularly low level for commercial farm operations that suggests productivity fell during the land reform period as the previous owner ceased investment in production. In 2005 550 hectares of cane were harvested while other areas were still being replanted (de Villiers & van den Berg, 2006). By 2013 the estimated yield was 100.98 tons per hectare from 803.8 hectares harvested while the 2014 predicted harvest was 103.41 tons per hectare from 760.5 hectares harvested.³⁴ TSB expect the rapid increase in productivity to be sustained, reaching 118 tons per hectare (Property24, 2006), and, in terms of sugarcane productivity, it is clear why this project is seen as a land reform success story. However, as seen earlier for restitution cases, there appear to be barriers to the flow of benefits to the land reform beneficiaries.

As noted above, the Trust was formed by a “core group” of farm workers alongside other individuals recruited to increase access to LRAD grant funding. This arrangement has become a source of conflict both within the Trust and at the farm as the “core group” have sought to exclude the other members from employment and from receiving financial benefits from the farm. Some have been told that they are not “real” members of the Trust and that their names were only enlisted for the first phase so that the trust could obtain adequate financing from LRAD to purchase the property. The larger group of members have not received income from the trust and have resorted to taking the “core group” and the board of the trust to court.³⁵ Mediation is being provided by LIMA, the NGO that is employed through funding from SASA to provide governance support to land restitution and land redistribution beneficiaries in the Mpumalanga sugar sector.

The experience of BCI suggests that land reform conducted on a communal basis displays the same contradictions between productivity and claimant benefits as many of the restitution projects in the area. As in the case of joint ventures TSB appear to have secured a reliable supply of sugar cane through their insertion in the production process and a 15 year lease on the property. Financing for the purchase of the farm has been provided through the government and a commercial loan that is repayable by the Trust while production funding provided by TSB is also repayable by the Trust. Therefore it may be argued that TSB have succeeded in gaining access to a significant portion of land (approximately 5% of the land that provides cane to Malelane sugar mill) through financing mechanisms that bear little or no risk to the company. Meanwhile, the new land owners who are the intended beneficiaries of land reform have received little but are responsible for the repayment of 37 million rand.

6.2.2. Inala Farm.

Inala Farm was one of the earliest examples of market-based land reform involving the Mpumalanga sugar sector. It is a 1300 hectare mixed farm located between Malelane and Jeppes Reef to the north of the communal area. The farm grew mangoes, lychees, bananas and 235 hectares of sugarcane. Land Affairs purchased 50% of the farm in 1996, transferring 25% of the ownership to 600 farm labourers who became beneficiaries. The state retained the remaining 25% stake (News24, 2005).

The farm struggled however and conflicts developed between the beneficiaries and the owner of the other half of the farm who was also the manager. Beneficiaries claimed they were not informed about the financial management of the farm and continued to be treated as labourers, receiving only 500 Rand per month in income and no dividends. Beneficiaries also complained that they were

³⁴ TSB Data.

³⁵ Interview #13 (19/06/13).

arbitrarily dismissed from employment. The matter deteriorated until the farm was placed in liquidation in 2005 (News24, 2005). The current status of the farm is unclear although in 2013 only 47.9 hectares of sugarcane were harvested at a yield of 54.1 tons per hectare. Estimated yields for 2014 were 41.2 tons per hectare from 50.7 hectares.³⁶ This suggests that while the farm has not collapsed completely it is still struggling and sugarcane production is below economically viable levels.

6.3. *“Semi-Communal” Medium Scale Commercial Farms.*

Another significant project generated by land redistribution is Siyathuthuka, situated on two surveyed farms west of Malelane near the town Kaapmuiden and the Crocodile River. The project includes seven medium-scale black commercial farmers. Siyathuthuka is unusual in terms of market based land redistribution in that the project has been funded through commercial lenders, rather than government funding. The project was intended to be the first phase of development of a medium-scale black-owned farming sector in the Mpumalanga sugar industry. Although successful in production terms, in the eight years that the project has functioned farmer incomes have been limited and tensions have grown between the seven farmers/shareholders and TSB over financial administration. The history and operation of Siyathuthuka is given below followed by a household case study of one of the farmers.

On the collapse of the previous commercial farm, TSB purchased the property comprising approximately 782 hectares across four portions of two surveyed farms; Dolton 213 and Kaapmuiden 212. TSB then sold the property on to Siyathuthuka at cost price, financing the purchase primarily through a fifteen year bond from ABSA and a long-term interest free loan from TSB. The Department of Land Affairs provided a grant of 3.3 million Rand through LRAD funding. The area was divided into seven farms of between 33 and 42 hectares, and a new sub-surface drip irrigation system was installed. A group of twenty SSGs were shortlisted on the basis of production performance on their small scale plots from which six small scale growers (SSGs) were selected after interviews. The seventh farmer selected was previously a farm supervisor working for TSB. The plots that had been created at the subdivided farm were allocated to individual farmers by drawing lots and production was begun in 2005.

Siyathuthuka is the central company through which the project has been financed and which holds the bonds on the property. The company structure has a board of directors drawn from TSB management and the seven farmers as shareholders. The original plan was for individual farmers to hold shares in a “share block”, a form of property ownership in which a central company owns a freehold on a property while the members own leaseholds with the company. It is a relatively common form of land ownership in game parks in South Africa (Cousins et al, 2010). However, the government refused the registration of the company as it was felt that the share block model was an unsuitable ownership structure for a sugarcane farm. This has had implications for the financial operation of the company that are discussed in more detail below.

Siyathuthuka and the seven individual farms on the project have three streams of funding. The first two are the 15- year bond from ABSA of 17 million Rand and long-term interest-free loans from TSB. These loans were used to purchase the land, establish the share block, and bring the farms into production. The third stream of finance comes in the form of individual production loans made by TSB to each of the farmers and intended to cover seasonal production costs and hence to be paid off and renewed annually. Priority in repayment is given to the ABSA bond and the production loan while any remaining income from the farm is used to repay the long-term interest-free loan. As of the end of the 2012 financial year, there remained 7,472,969 Rand outstanding on the ABSA bond repayable over 106 months at 7.5% APR. The individual long-term loans totalled 5,307,867 Rand in

³⁶ TSB Data.

2012, with outstanding loans on individual farms ranging from R487,890 to R896,081. These outstanding amounts were identical in 2011 and 2012, so there were no repayments on the long-term loans over that period.

Data from the seven farms that comprise Siyathuthuka indicate that production levels remain high on all but one farm (Table 11). “Farm 1” suffered a disease (smut) infestation requiring the crop to be destroyed (“plough out order”) and replanted. For the remaining six farms, average yield was 103.3 and 108.1 tons per hectare for 2013 and 2014 respectively. Productivity on Siyathuthuka compares favourably to that of commercial farmers supplying Malelane mill.³⁷ This suggests that farm management is of a good standard and should generate profits and incomes for the farmers involved. However, in practice the farmers have each gained an income of only 4000 Rands per month in the seven years since the project started.

Table 11. Estimated Production Figures for Siyathuthuka Farms.

Farm	2013		2014	
	Harvested (ha)	Yield (tons/ha)	Harvested (ha)	Yield (tons/ha)
Farm 1	26.0	69.1	0.0	0.0
Farm 2	37.2	108.3	37.2	80.0
Farm 3	N/A*	N/A*	34.3	113.6
Farm 4	41.2	139.2	41.2	125.0
Farm 5	17.7	98.1	36.9	140.0
Farm 6	35.4	82.4	35.4	86.8
Farm 7	33.6	105.1	33.6	100.0
Total	191.1	103.3	218.6	108.1

* No data as farm changed ownership.

Production on the Siyathuthuka farms had a high degree of centralised control. Expenditure had to be authorised by the company directors (i.e. TSB) including payments for labour and inputs on the farm. The company manages irrigation supply to the field edge of each individual farm from where it becomes the responsibility of the farmers. Farmers are responsible for the management of the farms including the application of fertilisers and the use of labour. Therefore, at the level of production there appears to be a degree of autonomy whereas the financial management of the farm and the company remain largely under the control of TSB.

Meetings with the Siyathuthuka farmers revealed discontent with the way the company was being run and the low income the farmers were receiving. This may be exemplified through the case of Farm 7, which has one of the lowest outstanding debts of the seven farms and has maintained production of above 100 tons per hectare. Income from cane on Farm 7 totalled approximately 1.47 million rand in 2011 and 1.62 million rand in 2012. However, as with the other farmers, the owner received only 4000 rand per month, amounting to 3.25% and 2.97% of total cane income in 2011 and 2012 respectively. The principal reasons for this lie in the debt burden that the company has. However, since financial management of the project is controlled by TSB, farmers feel excluded from financial decisions and there is a lack of clarity on where the income is spent. Cane delivery statements show deductions for various levies alongside contract costs for cane cutting, loading and transporting. Total deductions amount to approximately 25% of the gross cane income. The

³⁷ Siyathuthuka AGM.

remaining income (1.14 million in 2011 and 1.22 million in 2012) is then shown as deducted as either a “once-off” or a “once-off TSB acc” charge. Interviews with management at TSB indicated that this money is being used to repay the project debts, but farmers at Siyathuthuka felt they were unable to see what the money they had earned was being used for and, in the case of the ABSA bond, how much debt they had outstanding.

The sense of distrust between the farmers and TSB left many of the farmers believing that they would never actually own the land they were farming: *“Never, even after fifteen years we don’t think the land will belong to us... We are producing more and we are getting 4000 and if all that money was going towards the farm it would be ours before fifteen years. That fifteen years is too much and that is why we don’t think it will ever be ours”*.³⁸ The farmers interviewed uniformly compared their experiences at Siyathuthuka unfavourably with their experiences as SSGs and five of the farmers had continued to farm their plots on SSG projects. Of the other two, one had never owned a small scale farm while the other had managed to individually lease another medium-scale farm and was shifting her focus to that. One of the farmers who was still farming a small scale plot had also sought to purchase a separate commercial farm but had been unable to finance it as the banks did not consider Siyathuthuka to be viable collateral on a loan. During a group interview the farmers stated that their experience at Siyathuthuka had left them with the impression that they were actually employees of TSB rather than independent medium-scale farmers.

TSB management stated that the original project financial model had been undermined by government refusal to allow the registration of the share block, which had made some economic functions within the project impossible. South African tax laws allow capital expenditure on a farm to be written off and Siyathuthuka had elected to do that over the lifetime of the infrastructure that had been purchased. Therefore Siyathuthuka receives a tax rebate annually. However, as the share block has not been registered this money is frozen in the Siyathuthuka accounts and it is not possible to distribute it to the farmers. A TSB manager felt that if this money had been contributing to the repayment of farmer debts as intended then two of the farmers would already be debt free while the others could have expected to have achieved this within ten years from the project’s start. The manager cited inexperienced and risk-averse employees at government level for the failure to implement a share block arguing that it had been done successfully in other agricultural enterprises such as game farming. The fact that there were not examples of share blocks on irrigated land was enough to prevent government employees from even considering it as an option.

The strained relationship between the growers and the TSB directors was further soured by the directors’ allegations that farmers were not passing VAT rebates on to the company, and hence undermining its capacity to maintain farm investment. In essence, TSB/Siyathuthuka claims VAT rebates (based on VAT paid on farm expenditure) on behalf of the producers but the rebates were paid to the individual bank accounts of the seven farmers. The directors alleged the farmers had not passed on these rebates to the parent company and this amounted to a “second income” for growers of 14% of all farm expenditure annually. From the perspective of TSB this was a major barrier that prevented the income for the farmers from being increased.

Overall, the situation at Siyathuthuka appears rooted in complex financial arrangements. While there is no evidence to support wrongdoing either by the directors or the farmers, the situation has deteriorated to the extent that both parties appear suspicious about the behaviour of the other. What remains clear, however, is that after eight years of production the farms at Siyathuthuka largely continue to outperform the commercial sector yet generate only small incomes for the farmers. There is therefore a certain similarity with the large scale restitution farms where high levels of productivity have not translated into substantial incomes for the land reform beneficiaries involved. There remains the possibility that, once the legal situation of Siyathuthuka as a company is resolved and its outstanding debts have been paid off, its seven shareholder farmers will begin to

³⁸ Interview #14 (19/06/13).

benefit far more substantially. In the meantime, however, the structure of share block model appears to have contributed to problems that have fostered disillusionment with the scheme and could possibly undermine the situation further.

It is important to note that when Siyathuthuka was conceived it was intended to be the first phase in the creation of a larger group of “emerging” medium-scale black sugarcane farmers in the Mpumalanga Lowveld. The next phase envisaged the purchase of a farm known as Disa located near Kamhluhwa that would have created thirteen medium-scale farms on 520 hectares of land. Dawie van Rooy, an executive director of TSB, stated in an interview with a property website that *“The ultimate goal is to settle 50 growers of medium capacity on 2000 hectares of land. Unfortunately, very few farms are suitable for this type of development, and the fact that certain areas are subject to land claims, further complicates matters”* (Property24, 2006). Ultimately, the plan to purchase and redistribute Disa collapsed as it was successfully claimed under restitution by the Matsamo CPA. The farm is now operated by the Joint Venture Sivunosefu (TSB in partnership with Matsamo CPA). This illustrates that land restitution has created a barrier to “willing buyer willing seller” land redistribution in Nkomazi. The huge size of land restitution under the Greater Tenbosch Land Claim, together with the transfer of water rights associated with it, has severely limited the amount of land with access to water that is available to purchase. Land restitution has effectively curtailed the main mechanism for the emergence of medium-scale sugarcane farming.

6.4. *Individual Medium-Scale Commercial Farms.*

Alongside the larger communal land reform and medium scale projects identified so far in this section, there exist a number of black medium-scale commercial farmers (MSCFs) who gained land through market-based land redistribution and farm sugarcane independently. These cover a relatively small area, totalling less than 2000 hectares, of which approximately 70% is made up by the three projects discussed above (Blue Cloud, Inala and Siyathuthuka). The remaining 30% is made up of individually-owned medium-scale commercial farms. While this represents a small proportion of sugarcane land in Mpumalanga, it is nonetheless of interest as most closely associated with the class of “emerging” black farmers who have been the focus of much agricultural policy in South Africa (Hall, 2004). The medium-scale farms purchased by black farmers are in fact smaller than the total amount of land some SSGs have accumulated (see Woodhouse and James, 2015). However, they may be differentiated from SSGs as their farming is on a purely individual basis, on contiguous land, and not reliant on the group management of communal infrastructure (James and Woodhouse, 2015).

Meetings with the provincial Department for Agriculture, Rural Development and Land Affairs (DARDLA) identified a list of six medium-scale sugarcane farms in the Nkomazi area. Medium-scale farmers were reluctant to discuss their operations although information about the operation of one farm was gathered from one of the farm owners from Siyathuthuka who had also leased a separate farm (MSCF 1) with land reform financing. Production data for this, and a second medium-scale farm (MSCF 2) are given in Table 12 below. MSCF 2 has maintained a high level of productivity and officials at Mpumalanga Canegrowers confirmed that the operator of MSCF 2 was a “rare example of a successful medium scale grower”.³⁹

³⁹ Interview #15 (11/04/13).

Table 12. MSCF Production Data.⁴⁰

Farm	2013			2014		
	Harvested (ha)	Yield (tons/ha)	RV (%)	Harvested (ha)	Yield (tons/ha)	RV (%)
MSCF 1	20.7	51.30	11.58	14.6	46.28	12.15
MSCF 2	45.1	115.21	14.08	44.8	108.22	12.37

Mrs Mhlaba, who is leasing MSCF 1 is also the owner of Farm 1 at Siyathuthuka. Her life history demonstrates an important trajectory of transition from small-scale to medium-scale commercial farming. Indeed, Mrs Mhlaba progressed from working as a farm labourer through small-scale cash cropping of cotton, and subsequently sugarcane, to owning two medium-scale farms. This progression offers insight into the livelihood impacts of ‘scaling up’ from the small scale sector.

Mrs Mhlaba was born in 1957 in the village of Mbuzini in the Lebombo Mountains near the border with Mozambique⁴¹. She lived with her grandmother who was a subsistence farmer until 1980 and travelled daily to work on a farm at Komatidraai where she was an irrigator. In 1980 Mrs Mhlaba married her husband and moved to the village of Mangweni in what was at the time KaNgwane and has lived in the village since. With her husband she had seven children, one of whom died as a child. Three of the other children have moved out of the family home while the others continue to live there. Mrs Mhlaba’s husband used to work for the parastatal communications company Eskom but is now a pensioner who receives a state pension of approximately 1200 rand per month. However Mrs Mhlaba observes that, even while working, her husband contributed little to the household expenditure.

When Mrs Mhlaba’s husband’s relatives died in 1986 she took over a small cotton farm near Mangweni village on a farm called Mbunu B. There were already a lot of people growing cotton in the area and she was taught to grow it by the elders. She was originally farming on two hectares but expanded it to 3.1 hectares by clearing the surrounding bush. The cotton farmers were approached by TSB with a proposal to redevelop the farm as a small-scale sugarcane project. The farmers agreed and were reorganised into larger plots. Mrs Mhlaba received a 6.2 hectare plot and began growing sugar cane in 1994. Small scale sugarcane farming made a big impact on the lives of Mrs Mhlaba’s household: of her six surviving children, five have been educated to university level. It also allowed her to improve the material circumstances of the family; *“I have built a very big house... I sent my children to school and I bought stands (residential plots of land) for them. I also bought a car”*.

Mrs Mhlaba was selected to purchase a share of Siyathuthuka in 2005. Her experiences at Siyathuthuka do not differ greatly from those of the other farmers (see section 6.3, above), except that the whole of her farm at Siyathuthuka received a ‘plough out order’ due to a smut infestation. This has made it necessary to replant the sugarcane and has resulted in a full season with no harvest. As this occurred in the year of the fieldwork, the effects of this on the operation of the farm at Siyathuthuka are not known. She received an income of 4000 rand per month at Siyathuthuka since the start of the project. The experience of farming a MSCF, alongside the limited benefits that it was bringing, convinced Mrs Mhlaba that she should try to purchase another MSCF where she had full control of the operation. With assistance from an extension officer from TSB she approached the government for funding to purchase a farm called Shiba that was available for sale;

“I have leased it from government when I realized that there was a lot of confusion with Siyathuthuka and that there was a chance we could lose that farm. I was told that since I won ‘Famer of the Year’ in 2005, 2006 and 2007 I could buy another one. I went to Land Bank to ask

⁴⁰ TSB Data.

⁴¹ Interview #16 (20/06/13).

for the money and they said the amount was too large for them. They referred me to government so that I could get a grant. The government asked me what do I know about farming and I gave them my certificates. They bought the farm for me and told me I can lease it and buy it after 5 years. The farm cost 3.5 million; the initial price was 7 million but the government managed to get the owners to lower the price.”

Shiba is a 100.1 hectare farm located near Kaapmuiden with an allocation of 68 hectares of irrigation. The farm was originally a mixed farm producing bananas, oranges and mangoes. It was sold shortly before by the government to a farmer who replaced the crops with sugarcane but failed to make a success of the farm. It was in poor condition when Mrs Mhlaba took it over and she replanted approximately 20 hectares initially with a further 22 planned for 2014. Production data for the farm (MSCF1 in Table 12, above) show low yields and suggests that newly planted sections have not yet been harvested. Moreover, the farm has not generated any profit as Mrs Mhlaba is repaying a loan from Akwandze for replanting the farm. She has requested that Akwandze take all profit from the farm so that outstanding debts may be paid off at the earliest possible time.

Given the problems that Mrs Mhlaba has faced at Siyathuthuka it is perhaps surprising that she has decided to produce sugarcane at Shiba. However, she noted that *“Sugar is not a problem, it has a lot of money I even make a million here (at Siyathuthuka) it is just that now I am not getting it”*. She intends focussing primarily on sugarcane although she also wants to plant three hectares of maize, butternut squash and green peppers. This effort to diversify production away from sugarcane may have been more difficult at Siyathuthuka as the financing of production remains controlled by TSB. The greater scope for diversification on such ‘independent’ medium-scale farms may be seen as a risk to TSB’s security of cane supply that is less present in the other land reform arrangements in which they are involved.

6.5. *Assessing Market-based Land Redistribution.*

Market-based land redistribution has played a secondary role to restitution in the reallocation of sugar farms in Mpumalanga, representing less than 5% of the total area of land supplying TSB in the region. Despite its comparatively small scope, it provides a valuable insight about alternative land reform land use arrangements to those found on restitution land. This is of importance as land reform beneficiaries seek to maximise the extent to which they benefit from the use of land. Competing land use arrangements may also have implications for TSB and other strategic partners in the future as restitution claimants evaluate the current systems of production.

Both of the communally-owned large scale commercial farms considered here had suffered significant setbacks. Some of these issues may be seen as having parallels to the problems of governance and inclusion that exist within trusts that have claimed land through restitution. This is particularly the case at Blue Cloud Investments where contestation over notions of community and the legitimacy of membership within the trust have undermined the potential benefits of a productive sugarcane farm. There is no evidence from these cases of market-based land redistribution that suggests communal ownership of large sugarcane farms is beneficial to the majority of the land reform beneficiaries.

The case of Siyathuthuka raises a number of issues. First, the project was intended to be the first phase of a larger programme by TSB to foster the development of a class of “emerging” black medium-scale sugarcane farmers. This seems to have been the South African sugar industry’s initial model of production post land reform, one consistent with the market-based redistribution emphasis of land reform funding by the South African government. The central barrier to the expansion of this farming model appears to have been a lack of available land to purchase as a result of restitution. This is of significance not only in terms of existing land reform beneficiaries but also for the approximately 1,200 SSGs in Nkomazi a significant minority of whom are already taking steps to purchase land to increase the scale of their sugarcane production (Woodhouse and James, 2015).

7. Conclusion.

There can be little doubt that when measured against a particular set of criteria, namely the amount of land transferred to black ownership and the continuing productivity the transferred land, land reform in the Mpumalanga sugar sector has been a remarkable success. Located within a national context of repeatedly delayed transfer targets and a re-opened restitution process, it is perhaps unsurprising that the experience in the Mpumalanga Lowveld has been treated relatively uncritically. However, adopting this approach tends to distract from the central objective of land reform in South Africa: to redress the imbalances and inequalities within the agricultural economy that developed across almost a century of racialised dispossession of land from black South Africans. Focusing on large land transfers and continuing productivity fails to account for whether or not there have been positive impacts for the intended beneficiaries of land reform processes. This paper has attempted to broaden the scope of the evaluation of land reform in the Mpumalanga sugarcane sector. While recognising the achievements of the last two decades, the paper asks who has benefitted from land reform, and how.

Land restitution represents the principal type of land reform that has occurred in Nkomazi. The historical dispossession of land from the black population took place across the twentieth century culminating in the creation of the KaNgwane bantustan. The Greater Tenbosch Land Claim is based upon these claims and has resulted in the purchase by government of over 60,000 hectares of land, of which the transfer of 43,000 hectares to the previously dispossessed black population has been completed so far, including approximately 20,000 hectares currently producing sugarcane. Three land use arrangements have emerged on restituted sugarcane farms: joint ventures, lease agreements, and trust management. Evidence from restitution farms leads to a number of conclusions. First, in general, restitution has not had a negative effect on the productivity of farms. Areas under cane have remained high as have yields and recoverable value. Second, both joint venture farming and lease agreements have generated significant incomes for the trusts involved. TSB has to date paid over 100 million rand in leases and profit sharing to three claimant trusts. Third, the benefits of restitution appear to be experienced unevenly and narrowly. A combination of poor trust management and the inherently narrow scope of potential benefits (income, employment and contract tenders) relative to the number of claimants involved have limited those who have benefitted significantly to a tiny minority of the 24,000 or so claimants estimated by LIMA to qualify as 'beneficiaries' of restitution. The evidence suggests that the opportunity to benefit from restitution farms is mediated by pre-existing formal and informal connections either within the sugar industry or to the "tribal authorities" associated with the relevant trusts.

Market-based land redistribution has played a comparatively small role in the Mpumalanga sugar sector. The development of a class of "emerging" black commercial farmers was blocked early on by the prevalence of land restitution claims. As with restitution, three land use arrangements were identified on market led land reform projects; communally-owned LSCFs, 'semi-communal' MSCFs and individual MSCFs. Communally-owned projects suffered similar problems to those encountered within some of the restitution trusts. This suggests that the communal ownership of valuable commercial sugar farms is problematic. Evidence from MSCFs was mixed. While the majority of MSCFs identified were productive, there were few identifiable benefits for many of the farmers involved.

When assessing who has benefitted from land reform in the Mpumalanga sugar sector, the most compelling answer seems to be that TSB has been one of the main beneficiaries. Despite selling the majority of the land that it owned to the state in restitution deals, the miller has gained access to more land than it was farming before land reform and often on long term leases or joint venture agreements. It appears that TSB has successfully negotiated the land reform environment in South Africa, simultaneously satisfying political demands to support the redistribution of land and the need to maintain a steady and reliable supply of sugarcane for its mills. Clearly TSB are not the sole beneficiaries. Other commercial farmers and agribusinesses have found similar solutions to the

situation. Some claimants have also benefitted; jobs have been created and over 65 million Rand has been paid in contracts to service providers from the claimant population (TSB, 2014). However, as noted above, for the vast majority of land restitution claimants and land reform beneficiaries, there has been little to show as a result of their recent ownership of sugarcane farms.

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Appendix.

Table A1: Farms Claimed in Tenbosch Land Claim. ⁴²

Trust	Property
Mjejane Trust	Tenbosch 162 JU (¼)
	Hectorspruit
	Lodwichlust 163 JU
	Marlothi 524 JU
	Thornhill Farm
	Riverside 173 JU
	Mhlathi 170 JU
	Impala Boerdery 231 JU (½)
	Masgobe 397 JU
	Symington 167 JU
	Leeuspruit 385 JU
	Vyeboom 414 JU
	Malelane 389 JU
	Fred 525 JU
Mhlaba Trust	Uitisig 441 JU (½)
	Lekkerdraai 464 JU
	Alfa 446 JU
	Dadelspruit 452 JU
	Hoescht Research Farm
	Richtershoek 453 JU
	One Tree Hill
	Leeuspruit 385 JU
	Schornbrunn 462 JU
	Te Kort 395 JU
	Lowhills 394 JU
	Dadelvlak 508 JU
	Ingwenyama Simhulu Trust
Pholane 174 JU	
Lilly Pond	
Komatipoort Townlands 182 JU	
Tenbosch 661 JU	
Vyeboom 414 JU	
Siphumelele Tenbosch Trust	Castilopolis 425 JU
	Avondstond 427 JU
	Umkaya 428 JU
	Quagga 428 JU
	Lang Piet 435 JU
	Biltong 434 JU
	Squamans 416 JU
	Seekoeigat 417 JU
	Merribeek 424 JU
Corneels 522 JU	

⁴² Data Provided by Mhlaba Trust (18/07/13).

Table A2: Land Claimed by the Bambani Mlambo Trust.⁴³

Properties Claimed Based On 1933 Dispossession		
Quagga 432 JU	Merribeek 424 JU	Castilopolis 425 JU
Coopersdal 423 JU	Avondstond 427 JU	The Harp 422 JU
Inyoni 420 JU	Nico's Camp 421 JU	Nil Desperandum 419 JU
Goodluck 418 JU	Seekoegat 417 JU	Squamans 416 JU
Biltong 434 JU	Langpiet 435 JU	Amanxala 436 JU
Properties Claimed Based on 1954 Dispossession		
Koedoe 492 Ju	Konkoni 490 JU	Oasis 491 JU
Albertsnek 488 JU	Brink 431 JU	Duikerhoek 489 JU
Umkhaya 428 JU	Naas 472 JU	Impala 486 JU
Nagel 487 JU	Steenbok 493 JU	Madadeni State Land
Mgobode State Land	Sibange State Land	Magudu State Land
Magogeni 469 JU	Boschfontein 470 JU	Verdwaal 499 JU
Figtree 504 JU	Murray 50 JU	Bonnievalle 497 JU
Excelsior 498 JU	Beginsel 504 JU	Verlore 501 JU
Sweethome 496 JU	Rhebok 500 JU	Gemsbok 505 JU

Table A3: Farms and other developed land claimed by the Matsamo CPA.⁴⁴

Sterkspruit 5	Vlakplaats 111	Vygeboom 6
Vlakkult 106	Keerom 104	Lomati 473
Ringgatlaagte	Lomatidraai 7	Phiva*
Langeloo*	Schoemansdal*	Mzinti*
Driekoppies*	Jeppes Reef*	Ntunda*
Middleplaas*	Boschfontein*	Skikhwahlana*
Schulzendal*	Jeppes Rust*	Vlakkult*
Buffelspruit*	Herculina 155 JU	Moreson 442 JU
Letubi 457 JU	Vygeboom 414 JU	Simonsvlei 384 JU
Coulter 391 JU	Masgobe 397 JU	Ingwenya 409 JU
Spargo 460 JU	Savanas 396 JU	Schoemansdaal 333 JU
Sherlock 461 JU	Tekort 396 JU	Jeppesreef 334 JU
Richtershoek 453 JU	Helena 300 JU	Fred 525 JU
Mhlathi 170 JU	Houware 300 JU	Dip 408 JU
Malelane 389 JU	Lekkerdraai 464 JU	Sommerreg 406 JU
Singerton 260 JU	Alfa 446 JU & 505 JU	Coalmine 405 JU
Fourieskraal 267 JU	Vlakkult 450 JU	Oompie 433 JU
Koedoe 218 JU	Sandspruit 447 JU	Leeuspruit 385 JU
Jamtin Creek and Rockvale	Lomatimond 523 JU	Mauricedale 392 JU
Dadelspruit 3	Vergelegen	One Tree Hill
Lowhills 302	Elsana 440 JU	N'Hlumi 456 JU
Wilsonskop 303 JU	Adpan 433 JU	Weltevrede 454 JU
Kamp 438 JU	Jacobs 418 JU	De Kamp 463 JU
Sterksruit 454 JU	Ruigte 484 JU	Kaalrug 465 JU
Riverside 173 JU	Ivura Estates	Thornhill Farm 171 JU
Mhlathi 170 JU	Matibetibe Farm**	

* Communal land already under Matsamo jurisdiction.

** Matibetibe Farm includes Tekort 396 JU, Lowhills 302 JU, Wilsonskop 303 JU, and Dadelspruit 3 already listed.

⁴³ Fischer et al., (2010).

⁴⁴ Fischer et al., (2010).

Table A4: Land Claimed by the Mawewe CPA under Amendment.⁴⁵

Properties Claimed Under 2008 Amendment of the Mawewe CPA Land Claim		
Annecke 415 JU	Avondstond 427 JU	Castilhopolis 425 JU
Coopersdaal 423 JU	Corneels 522 JU	Nil Desperandum 419 JU
Goodluck 418 JU	Inyoni 420 JU	Nico's Kamp 421 JU
Quagga 432 JU	Seekoegat 417 JU	Shalom 483 JU
Steve 555 JU	Vergesig 521 JU	

Table A5: Interviews cited.

Interview #	Interviewee Description	Date
#1	Manager/Employee at Canegrowers	24/06/13
#2	Chairwoman of Mhlaba Trust	18/07/13
#3	Joint Venture Farm Manager and Restitution Claimant	10/10/13
#4	Chairman of Bambani Mlambo Trust & Head Induna/Committee Member	11/11/13
#5	Lawyer and Legal Trustee of Two Trusts	11/09/13
#6	Joint Venture Production Manager	28/06/13
#7	Owner of Contracting Company	05/11/13
#8	Government Employee (DARDLA) and ex-employee at TSB	06/11/13
#9	Farm Manager Directly Employed by Trust	24/06/13
#10	Manager/Employee at Canegrowers	19/11/13
#11	Chief of Traditional Authority	20/05/13
#12	SSG at Boschfontein II and Induna to Traditional Authority	12/04/13
#13	Employee/Manager at Industry NGO	19/06/13
#14	Joint Interview with Siyathuthuka Farmers	19/06/13
#15	Two Employees at Canegrowers	11/04/13
#16	Land Reform Beneficiary at Siyathuthuka and Individual MSCF	20/06/13

⁴⁵ Fischer et al., (2010).