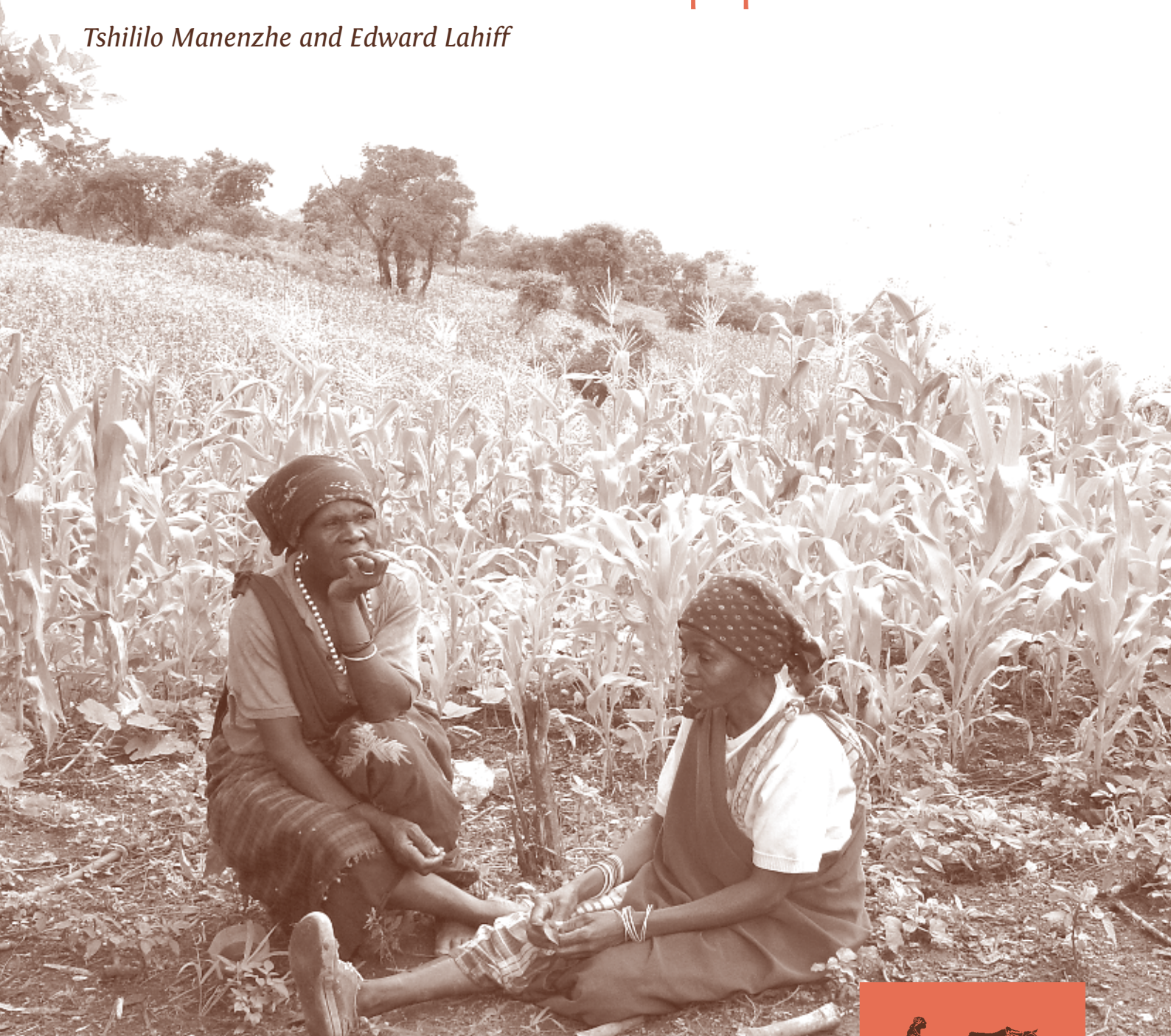


RESEARCH Report 30

Restitution and Post-Settlement Support: Three Case Studies from Limpopo

Tshililo Manenzhe and Edward Lahiff



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COMMISSION
ON RESTITUTION
OF LAND RIGHTS

DEPARTMENT OF
LAND AFFAIRS



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Restitution and Post-Settlement Support

Three Case studies from Limpopo

Tshililo Manenzhe and Edward Lahiff

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This document forms part of a series of reports researched and written by the Sustainable Development Consortium, led by Phuhlisani Solutions, on behalf of the Commission on Restitution of Land Rights and Belgian Technical Cooperation.

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Acronyms

CASP	Comprehensive Agricultural Support Programme
CPA	Communal Property Association
CRLR	Commission on Restitution of Land Rights
DLA	Department of Land Affairs
IDP	Integrated Development Plan
LDA	Limpopo Department of Agriculture
LUDP	Land Use and Development Plan
NGO	Non-governmental Organisation
PLRO	Provincial Land Reform Office
RLCC	Regional Land Claims Commission (Limpopo)
S 42D	Section 42D of the Restitution of Land Rights Act 22 of 1994
SADT	South African Development Trust
SLAG	Settlement and Land Acquisition Grant
ZSR	Zoutpansberg Skirmishes Routes

1. Introduction

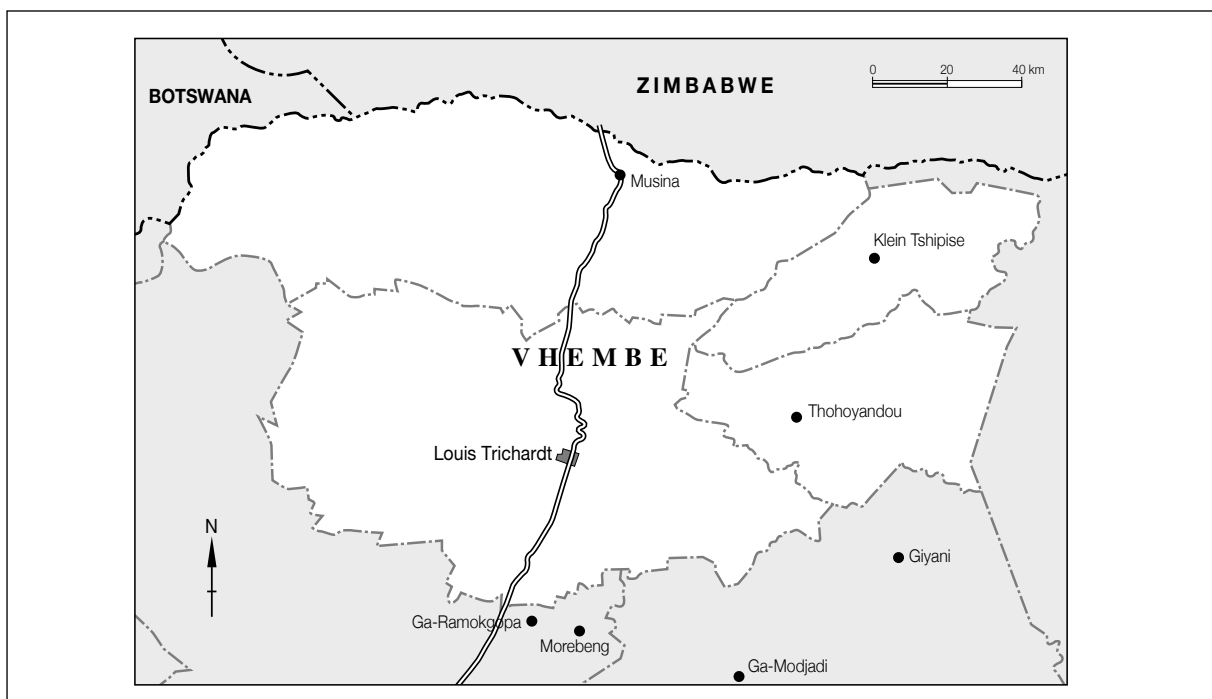
This study examines the experience of land reform beneficiaries after land acquisition in three communal property associations (CPAs) in Limpopo province, namely Munzhedzi, Ximange and Mavungeni CPAs. In all three cases, communities were awarded land through land restitution, but Mavungeni also includes a portion of land acquired under the Settlement and Land Acquisition Grant (SLAG) (redistribution) programme. The identified CPAs are located in the same geographical area, under Makhado Local Municipality and Vhembe District Municipality, in the north-eastern part of Limpopo (see Map 1). All three restitution claims were facilitated as a cluster that were officially settled in March 2002. These communities, or parts of them, have been on the land since then, using it for a range of initiatives such as residence, cattle farming, dry-land cropping, irrigation, poultry and pig farming. These communities are made up of two main ethnic groups, Tshivenda-speakers and Xitsonga-speakers. The majority of the people concerned are poor and unemployed.

Research methods used for this study included a desk-top study of relevant documents, such as minutes of meetings and correspondence with government departments, plus extensive fieldwork conducted between the years 2004 and 2006. During fieldwork, the researchers interacted with land

reform beneficiaries, government officials and workers from non-governmental organisations (NGOs) on a regular basis. The study made use of structured and semi-structured interviews with land reform beneficiaries and key informants, as well as regular observation of community activities and focus group discussions with beneficiaries. Interviews were also conducted with officials from the Limpopo Regional Land Claims Commission (RLCC), Limpopo Department of Agriculture, Makhado Local Municipality, the Provincial Land Reform Office (Department of Land Affairs (DLA)) and members of a local land rights NGO, Nkuzi Development Association.

The restored properties were all state land that was part of the former Venda homeland. As a strategy to fast-track the process the RLCC grouped the claims and negotiated settlement for all three distinct land claims. All three Settlement Agreements were signed by the Minister of Agriculture and Land Affairs in December 2001. By the time land was restored to the original owners it was mainly unused, and infrastructure, such as buildings, dams and fencing, was generally badly damaged and not functional, except for that on a portion of land that was purchased by members of the Mavungeni community through SLAG from a private owner.

Map 1. Vhembe District Municipality (Makhado, Musina and Thulamela municipalities)



2. Munzhedzi case study

Overview of the Munzhedzi community claim

Munzhedzi is the name of a community that originally resided in the former Venda homeland, in the area of Nthabalala. Nthabalala was one of the sons of Thovhele Rasithu Ravele Ramabulana, who was granted the area known as Nthabalala after his father's death in 1864 (Nemudzivhadi 1985:20). Munzhedzi is one of the sons of Nthabalala and was granted jurisdiction over land that was later registered as the farm Vleifontein 310 LS, and parts of the farms Syferfontein 85 LT and Diepgezit 390 LS (Nkuzi 1998).

In 1936, the South African government introduced the labour tenancy system in the Northern Transvaal which required that all African people should render labour on white farms in exchange for the permission to stay on farms. Black people on Vleifontein 310 LS and Diepgezit 390 LS who resisted serving under the labour tenancy system were gradually forced to vacate their land. In 1965/6, those people who remained on the land were given final notices to leave because those farms were meant for white occupation only. In the late 1970s, following a change in policy, the government bought these farms in order to expand the Venda homeland. While the land was acquired by the state's South African Development Trust (SADT), and the former white owners were compensated, the land was never formally incorporated into Venda and remained unused for many years. In 1982, part of Vleifontein 310 LS was proclaimed a township (Vleifontein), intended to accommodate Venda speakers who were forcibly removed from the old township of Tshikota, adjacent to the 'white' town of Louis Trichardt. The rest of Vleifontein 310 LS, along with Syferfontein 85 LT and Diepgezit 390 LS, remained in the hands of the state.

Following the passing of the Restitution of Land Rights Act 22 of 1994, the Munzhedzi community under the leadership of headman T.J. Munzhedzi, organised themselves to lodge a land claim. On 1 February 1998, they formed a land claims committee¹ and lodged a land claim with the Commission on Restitution of Land Rights (CRLR) on 22 July 1998.² Originally, the properties claimed by Munzhedzi were

(according to community members) Vleifontein 310 LS, Diepgezit 390 LS and Syferfontein 85 LT, but Syferfontein 85 LT was subsequently excluded from the claim (see below). The initial enthusiasm of the claimants for pursuing their claim through the legal route was frustrated by lengthy bureaucratic delays in the processing of the claim, and lack of communication from the office of the RLCC. Loss of confidence in the official process, and pressure from within the community to address land needs of the people, resulted in members of the community, led by their headman, occupying the land prior to the formal settlement of the claim [Nngobo, 22/11/2004].³

A new Munzhedzi settlement was thus established on the western portion of Vleifontein 310 LS and Diepgezit 390 LS in 1999, when a group of disgruntled members of Munzhedzi community and some landless people from outside the community, all under the leadership of headman T.J. Munzhedzi, moved onto the claimed land, demarcated their own residential stands and started constructing shacks. Reasons given by the occupiers for taking this action were the slow progress of their land claim and the belief that the Makhado Local Municipality was planning to proclaim land west of Vleifontein township (within the Munzhedzi's ancestral land) as an extension of the formal township. They alleged that the municipality had announced that new low-cost housing ('RDP houses') would be built on the land.⁴ The local municipality denied that they were going to proclaim the land for the extension of the township, saying they were aware of the land claim and supported land access by the previously disadvantaged communities [Muvhumbé, 03/04/2005].

The majority of the claimants did not go onto the land with headman Munzhedzi in the initial stage of land occupation, reportedly because they already had houses or were expecting assistance from the government to build them new houses on the claimed land. As a result, headman Munzhedzi allocated land to anyone who needed land, in order to gain supporters and to reduce the chances of removal [Nngobo, 22/11/2004]. In 2001, the office of the RLCC (Limpopo) responded by agreeing to the settlement of the land claim with the return of 1,204 ha of land to the

¹ Munzhedzi land claim form, 22 July 1998.

² Munzhedzi land claim form, 22 July 1998.

³ This style of reference indicates a personal interview, showing the surname of the informant and the date of interview, e.g. [Nngobo, 22/11/2004].

⁴ Report of the meeting between Nkuzi and the Munzhedzi Land Claims Committee, 15 October 2000.

Munzhedzi community, which now officially consisted of 486 named members and their dependents.⁵

The Settlement Agreement entered into between the Munzhedzi CPA and the Minister for Agriculture and Land Affairs on behalf of the state added Zwartfontein 392 LS to the restored land, as compensation for the loss of land on Vleifontein 310 LS on which the formal township of Vleifontein is built. Syferfontein 85 LT could not be restored to Munzhedzi because of a competing claim by the neighbouring Shimange community (see below).

The Settlement Agreement accepts the validity of the Munzhedzi community claim and agrees to the restoration of their land rights. A section on development assistance was included in the Settlement Agreement, which outlines the release of planning grants and the responsibility of the RLCC to negotiate with the Makhado Local Municipality, Limpopo Department of Agriculture (LDA) and Department of Local Government and Housing to support the CPA in accessing all necessary grants available in order to assist in land development.⁶

In addition, the Settlement Agreement provided that the DLA would release grant-in-aid funding (Restitution Discretionary Grants and Settlement Planning Grants) to assist the Munzhedzi CPA to develop their property. These grants were calculated as follows: the total number of claimants eligible for a Restitution Discretionary Grant was 486, according to the claimant verification list, each of whom qualified for a grant of R3,000, yielding a total of R1,458,000; the Settlement Planning Grant was calculated on the basis of R1,140 per claimant, yielding a total of R554,040 [Nkatingi, 22/11/2006]. These grants were to be paid to the CPA, and be used for planning the settlement as well as assist in the establishment development projects.

Since the signing of the Settlement Agreement, communication between the community and the RLCC has broken down: 'We write many letters to the RLCC and no response is received from the office' [Mushandana, 22/06/2006]. By October 2006, five years after the signing of the Settlement Agreement, no business plan has been developed, no grants have been released to the CPA and even the title to the land has not been transferred to the CPA. The RLCC holds the community responsible for the delay.

At Munzhedzi, the RLCC is not able to provide the necessary support because they [the community] have opted to built houses before the RLCC could assist them in the development of a formal settlement; the CPA is dysfunctional with the traditional leadership taking over the authority of the community [Shilote, 02/08/2006].

The RLCC argues that because the land is fully occupied, there is nothing left to plan for. What they are contemplating on doing, however, perhaps with the local municipality, is to work on formalisation of the existing settlement. However, internal disputes within the CPA hamper this and, until the CPA is better organised, no organisation seems willing to provide support services such as formal settlement planning or the provision of water or electricity.

Delays in the implementation of the Settlement Agreement resulted in an influx of people from Makhado town and elsewhere, who were allocated housing stands on the claimed land by Headman Munzhedzi. Most of the people did not have an understanding of the proposed development plan for the land, or the role of the CPA (of which they were not even members) [Kwinda, 06/06/2005]. While there were 486 members⁷ registered as 'claimants' during the process of verification, currently there are approximately 1,500 residential sites allocated in Munzhedzi and approximately 90% of these are occupied.

Needs and aspirations of claimants at Munzhedzi

The Munzhedzi community land claim was based on the desire to regain land that was wrongfully taken from them, but was also driven by a variety of current needs, such as land for settlement purposes. Those who were members of household that were victims of dispossession viewed Munzhedzi as their own land and felt that they were returning home. They wished to rebuild the Munzhedzi community which the apartheid dispossession destroyed when members of the community were scattered over the former Venda, Gazankulu and Lebowa homelands. Hence, the headman took the lead in re-establishing the settlement with the initial occupation of the land [Mushandana, 22/11/2005].

According to Mr Nngobo [22/11/2004], some of the places where claimants lived, in and around Nthalabala, are hilly, with poor soils and little rainfalls. Their former land at

⁵ Settlement Agreement entered into between Minister of Agriculture and Land Affairs (Ms A.T. Didiza) and the Munzhedzi CPA, signed on 2 March 2002.

⁶ Settlement Agreement entered into between Minister of Agriculture and Land Affairs (Ms A.T. Didiza) and the Munzhedzi CPA, signed on 2 March 2002.

⁷ Claimants' verification list compiled by claimants in 2001.

Munzhedzi is fertile and closer to the places where people from the community work:

In our previous resettlement area at Nthabalala, one could hardly get a piece of land for production purposes, we need this land in order to grow food, plough orchards have grazing for our livestock [Phaswana, 20/11/2004].

We needed our land so that we can feel as persons of worth, full of dignity and have sense of ownership [Nngobo, 22/11/2004].

At Nthabalala, Munzhedzi community members were always regarded as foreigners, and were granted little land for settlement or for farming. They aspired to develop a residential area, with multiple land uses such as backyard gardens, orchards, ploughing fields and group farming projects.⁸

Spiritual factors, including unrestricted access to places where their ancestors are buried, were also included among the reasons given by claimants for wanting to return to Munzhedzi. The need to conduct rituals on the land where their ancestors are buried is a critical aspect in the spirituality of the community. When headman T.J. Munzhedzi passed away in 2003, he was buried on the land at Munzhedzi where his forefathers were buried. According to the chairperson of the CPA committee, Mr Mushandana, this was one of the main reasons the headman fought for access to this land, because it was his wish that he should be buried there.

In addition, the people of Munzhedzi aspired to establishing income-generating projects, using grant funding from the DLA and other sources as proposed by the Settlement Agreement. Projects such as a poultry farm, a piggery and a vegetable garden were the most popular within the community, while other members needed land to plough maize and plant orchards. They also expected job opportunities for community members from such projects. However, the lack of financial resources, poor community organisation, and 'lack of interest from the government on this settlement' has dented their hope for development. Only a small poultry and piggery are running so far, and only a handful of people are participating.⁹

Generally, members of the Munzhedzi community aspire to building a community that has all the necessary

social amenities and is a safe place to stay. They wish to see development of infrastructure and services such as electricity, water, roads and streets, sports grounds, schools, clinics and shops [Malesa, 10/12/2004]. Such infrastructural development had not yet taken place at the time of this research and no plans were in place to ensure it would sometime in the future. People living on the land did not have access to water, and had to collect it from the nearby township. The CPA attributes the failure of development to the inability of the government agencies to provide services such as provision of water, housing or schools.

Institutions of ownership and administration

At Munzhedzi, administration of land is handled by a number of competing institutions, namely Headman Munzhedzi, Nthabalala Tribal Authority (under which the headman falls) and the CPA as the would-be legal owner of the land. The municipality may also play a role in approving applications to establish business premises (e.g. a shop) on the land. All these institutions have an undefined stake in the administration of land at Munzhedzi; often these roles are confused, resulting in a clash in terms of interests and approach.

In 2002, Munzhedzi community registered a CPA with the DLA.¹⁰ The CPA was intended to become the legal owner of the acquired land, holding it on behalf of its members. The institution of a CPA was chosen over a trust because it was seen as more participatory and democratic in nature and allowed all members to be involved in decisions relating to the land. To date, however, no formal transfer of land to the community has happened.

Munzhedzi undertook a process of drafting a constitution for its CPA with the assistance of Nkuzi Development Association (a local land rights NGO) and the Limpopo office of the RLCC. The main objective of the association, according to the constitution, is to hold and manage the land acquired in terms of the community's land claim. Secondary objectives of the association include the acquisition of further property, whether movable or immovable, for its members. The constitution emphasises the need for secure land tenure for all the members of the association. Ultimately, the CPA aims to address poverty, unemployment and other socio-economic needs of its members.¹¹

⁸ A resolution regarding land settlement options, document, dated 1 March 2001.

⁹ CPA focus group discussion report, dated 23 December 2005.

¹⁰ Munzhedzi CPA registration certificate.

¹¹ Munzhedzi CPA constitution, adopted and signed on 22 December 2001.

An elected committee is supposed to run the affairs of Munzhedzi CPA, and was initially made up of eight members. The CPA committee experienced lots of problems, especially from the headman and his supporters who contested their control of land. The headman did not recognise the CPA committee and often was in conflict with the chairperson and other members over the use of a tractor and other equipment donated to the CPA. Disputes between members were being referred to the local traditional council rather than to the CPA committee. As a result, the majority of the members resigned from the CPA committee, and the headman appointed his own people to replace them. Currently the 'CPA committee' comprises ten members, six men and four women. Some of the members also served on the previous committee, but some are new members residing at Munzhedzi. Two members of the committee are not on the verified list of 'claimants'.

In 2003, after the passing away of Headman T.J. Munzhedzi, who lodged the land claim, his son S. Munzhedzi informally took over as headman. Some members of the community regarded him as a self-imposed headman because no official ceremony was held to proclaim him as the leader of the community, and the Nthabalala tribal authority was not consulted. When he took over from his late father, S. Munzhedzi declared that he alone would decide on all land allocations at Munzhedzi, and not the CPA. Members of the CPA committee complained to the RLCC (Limpopo) about the behaviour of the new headman.¹² As a result of the headman actions, and the lack of response by state officials, the majority of the CPA committee members resigned [Mulaudzi, 23/12/2004].

Chief Nthabalala has authority over communal land to the west of Munzhedzi, in the village known as Ha-Maila. Since the return of land to the Munzhedzi people, residents of Ha-Maila, began to expand onto the Munzhedzi CPA land, leading to conflicts between the Munzhedzi community and the Nthabalala Tribal Authority. Both the CPA committee and the headman were unhappy with the actions of the Maila people. Interventions from the office of the RLCC did not resolve these tensions.¹³ A meeting was called by the RLCC that informed the Nthabalala people that Diepgezit has been awarded to Munzhedzi CPA and that the CPA is the legal owner of the land (even though no formal transfer of the land has yet been made), but no further steps were taken to prevent interference with their land.

Land acquisition and access

As described above, some members of the Munzhedzi community started occupying the claimed land prior to settlement of the land claim. After occupation of the land, the RLCC intervened and awarded restitution land to the Munzhedzi CPA through Section 42D of the Restitution of Land Rights Act. The land was already owned by the state, and therefore did not require a long process of negotiations and purchase as would be the case with a private owner. Formal title to the land has not yet been transferred to the CPA. According to Shilote [02/08/2006], the Munzhedzi community occupied the land before the RLCC could facilitate a proper planning process. As a result, it is no longer a priority for the RLCC.

Individual households have accessed residential stands and some have access to orchards and ploughing fields. During the initial stage of the settlement, the CPA secretary kept a list of applicants but later the secretary dropped out and the headman handled all the plot allocations himself. Most of the people who applied were landless people from Nthabalala, Vleifontein township, Mulima and Muila and those who needed access to land closer to towns and main roads.

After the formal return of the land, a person who needed land to build a house first applied to the headman who then allocated him/her a plot, regardless of gender but considering their marital status and whether they have dependants or not. Although there was a committee of three, Headman T.J. Munzhedzi and two other people, the committee did not have any role to play unless there were specific requests from the headman himself [Malesa, 10/12/2004; Tovhakale, 10/12/2004].

Headman T.J. Munzhedzi used to keep records of people who are resident at Munzhedzi, indicating who lived on the land, when and how much that person paid. Under S. Munzhedzi, the Munzhedzi community has a record of land transactions, for example, a receipt book that was used to record the names of people who became occupants and paid money.¹⁴ Because of inconsistencies in recording, conflicts over land are common. For example, in 2003, two women were allocated the same piece of land – one was the daughter of original land claimants and the other was a landless woman who had not been part of the Munzhedzi community but was in need of land for residential purposes [Shirhinda, 13/11/2006; Nngobo, 22/04/2004].

¹² Letter from the current chairperson to RLCC titled 'Invasion of our land Diepgezit by the chief', dated 10 April 2003.

¹³ Letter from the CPA chairperson to Nkuzi titled 'Problems encountered by Munzhedzi CPA', dated 10 January 2005.

¹⁴ Poultry and piggyery project members focus group report, dated 22 December 2004.

From the onset, people paid different amounts for access to land, depending on whether they were a descendant of a victim of removal from Munzhedzi or not. 'Beneficiaries' (i.e. members of the restitution claimant group) paid R120 and non-beneficiaries R150. The prices for land access later increased to R220 for 'beneficiaries' and R320 for 'non-beneficiaries'.¹⁵

The plots allocated differ in size, for a range of reasons. The majority of those allocated for residential purposes are either 30m x 50m or 45m x 45m, with the exceptions being those where the occupier extended the plot during the early days of the occupation, and where land was allocated for use other than for residence. In some cases, those who could afford to pay the headman more money were given a slightly larger plot. Some allocated plots are big enough to allow owners to build a house and plough a sizable garden. Some people also have access to separate arable fields.¹⁶

People at Munzhedzi use the land in between the residential stands to graze their livestock. Some land that is hilly and not suitable for ploughing or residential purposes is also used for grazing purposes. Access to this land is not controlled, and is open to livestock from surrounding areas such as Nthabalala, Vleifontein, Mpofu and Maila. Some members of the Munzhedzi community who have livestock are also renting grazing land from the neighbouring community of Mavungeni (also a land reform project); for example, Ms Mulaudzi owns 20 cattle and is grazing them on some of the camps at Mavungeni acquired under the land redistribution programme.

This [Munzhedzi] land is now fully occupied with no provision for those of us who have pursued land claims in order to get land for cattle farming. I am now renting grazing land from the nearby community because Munzhedzi has become a residential area and it seems to be the priority of the chief to allocate residential land without considering other uses such as grazing [Mulaudzi, 29/12/2004].

Land use and livelihood activities

According to information put together by Nkuzi as an input to a business plan after the settlement of the land claim, the restored land was to be used mainly for residential purposes, with gardens for small-scale cultivation (Nkuzi 2002). No business plan was developed by the RLCC, and the RLCC argues that this was because most of the land had already been settled before planning could be done

[Shilote, 02/08/2006]. According to the CPA committee, delays in business planning and lack of information as to what the RLCC was intending to do has also contributed to the allocation of land for residential purposes.

With the support of Nkuzi Development Association, three agricultural projects have been established: a poultry project that is being run by seven women, a piggery project run by three men and a vegetable garden run by ten people (seven men and three women). These projects are run exclusively by the participants themselves with no involvement by the CPA committee. The piggery project was established with the support of Nkuzi, which bought materials to construct a basic pigsty. In 2004, they built cages and arranged training at Madzivhandila College of Agriculture for the members. The project has since grown to 16 pigs and the members are expecting to start selling locally by the end of 2006. The project continues to be hampered, however, by a lack of water and electricity.

The poultry project started with 17 people, but as it continued, with little or no return and no external support, many people withdrew from the project.

How can one spend much time on a project that does not pay him/her at the end of the month? Those who left felt that they needed some income at the end of the month and went to look for work somewhere else. But some left because they expected that money will just come without hard work. I am still involved because I have nowhere to go and I hope that someday someone will come to help us [Ramalivhana, 16/09/2005].

Nkuzi bought materials for the poultry project to begin with, including 300 chickens and some feed for the first batch. Money from the sale of chickens is mainly put back into the project. Members have continued to work on this project, in the hope that some day the CPA will function properly and be able to get them the much support they need, and the government will at some stage release grants that will ensure the improvement of the project [Kwinda, 06/06/2005; Mushandana, 06/12/2004].

Members of the community make extensive use of other natural resources they find on the land. Wild vegetables like *mushidzhi* (black jack) are used as a form of spinach. Other kinds of wild vegetable they gather are *thebe* (*vowa*), *delele*, *murudwe* and *nngu*. There are also wild fruits such as *matshili*, *nwevhe* and *thungulu*. These foods contribute significantly to the diets of poorer households [Mulaudzi, 2004]:

¹⁵ CPA focus group report, dated 23 December 2004.

¹⁶ CPA focus group report, dated 23 December 2004.

Here, I have land of my own and if I do not have money to buy meat or vegetables, I can go outside and get myself wild plants for vegetables. But the problem is that now the land is becoming fully occupied. It may not be easy to move around and get good vegetables [Mulaudzi, 2004].

For housing purposes, people at Munzhedzi made use of musengele (a local timber) for poles and walls, mud bricks and thatch grass.

This land is rich in everything you need. When I started living on this land I used mud bricks, poles from musengele and got thatch grass from elsewhere. This helped me a lot because I did not have money to buy materials for building. The problem we had is water for construction of the house [Tovhakale, 10/12/2004].

Community members reported that they now fear that veld fires may destroy these wild resources. In addition, uncoordinated occupation of land and overgrazing of land pose a threat to these natural resources.¹⁷

Many people at Munzhedzi work in Makhado and the nearby townships of Vleifontein and Waterval. Others work within the local area doing construction work or as hawkers in the surrounding villages and townships. There is considerable dependency on remittances from migrant workers, welfare grants (mainly old age pensions and child support grants), and small-scale farming (mainly in people's yards). In the rainy season most households (including those that have jobs in towns) hire the community tractor (see below) to plough their yards and they plant maize, beans, groundnuts, sweet potatoes and vegetables such as pumpkin and bean leaves. This is purely for household consumption [Tovhakale, 10/12/2004]. In fact, when one moves around in the rainy season, one observes that almost all the households are ploughing maize and vegetables in their yard. They say that they are able to obtain a sufficient harvest of three to four 80-kg bags of maize meal, which is enough to feed a typical household for approximately four months without having to buy from the shops.

Support institutions (government and non-government)

The state institution responsible for the Munzhedzi land claim and its settlement is the Commission for Restitution of Land Rights, under the direction of the RLCC (Limpopo). Apart from the transfer of land to the community, the Commission is also responsible for post-settlement support, as stipulated in the Settlement Agreement [Shilote,

02/08/2006]. The agreement states that the Commission is responsible for drawing in support for the Munzhedzi CPA from the local municipality and other government departments.

The Department of Land Affairs undertakes to release the planning grants and the restitution discretionary grants due to this claim. The RLCC undertakes to assist the claimant community to negotiate with the Makhado Local Municipality, Northern Province Departments of Agriculture; Local Government and Housing ... accessing all necessary development aid for the land.¹⁸

According to the Settlement Agreement, the government institutions responsible for support services at Munzhedzi are thus RLCC (Limpopo), DLA, Makhado Municipality, LDA and the Department of Local Government and Housing.

The LDA has provided what they term 'starter packs' to all the land restitution projects that were settled in the Makhado area in 2002. The starter packs include a tractor, a plough and a trailer. This equipment was intended for use by the CPA and its members. The Munzhedzi CPA tractor is used by community members to plough their gardens and backyard fields, and is also rented out to neighbouring communities during the rainy season [Khorommbi, 22/04/2005]. Some of the members complain that the tractor is not being used for the benefit of the community at large, but is used mostly by friends of the headman, and money charged for the use of the tractor does not serve the interest of the community, since it is being kept and used by the headman and the tractor driver.

The regional office of the Department of Agriculture in Makhado has also placed an extension officer in the area to provide support to the new projects. In addition, training has been provided for community members at the Madzivhandila College of Agriculture in Thohoyandou, where members are trained in horticulture, broiler production and pig production. The extension officer has tried to assist members to access grants under the Comprehensive Agricultural Support Programme (CASP) of the Department of Agriculture, but without success to date.

Nkuzi Development Association also plays a role in supporting land use initiatives at Munzhedzi, particularly in the vegetable garden, piggery and poultry projects. With finance obtained from the National Development Agency, Nkuzi bought pipes and other implements for the vegetable garden. A building for the piggery and poultry projects has

¹⁷ Poultry and piggery project members focus group report, dated 22 December 2004.

¹⁸ Settlement Agreement: Minister of Agriculture and Land Affairs (Ms A.T. Didiza) and the Munzhedzi CPA, signed on 2 March 2002.

been built, but is very basic. According to Nkuzi, they could not fund more sophisticated sheds with the grant funding they received, and so they decided to start at a basic level.

Munzhedzi, like many of the villages that surround it, is typical of rural areas in the former Bantustans. It is a spontaneous settlement where the leadership has responded to the land needs of people without following any plan or structure predetermined by the authorities. Although the settlement has responded to the needs of the people, poor internal organisation has weakened the landholding entity and it is failing badly in terms of administration of community affairs.

Development has been further affected by the absence of support from government. Faced with a divided community and a breakdown of communications, the office of the RLCC, the body formally responsible for post-settlement support at Munzhedzi, has effectively walked away from the community and left it to fend for itself. In summary, the failure of the state to support the CPA committee in dealing with other institutions, most notably the traditional leader, the Department of Agriculture and the local municipality, has weakened the status of the CPA, rendering it non-functional, with the result that the promised development assistance has not materialised.



3. Mavungeni case study

Overview of the Mavungeni community claim

In the late 1800s, the Mavungeni people came from Mozambique and settled the land around Mulambunjele,¹⁹ which they named Mavungeni. This equates roughly with the current property described as Vleifontein 310 LS. The land is located in the Makhado Local Municipality, under the Vhembe District Municipality of Limpopo province. It is situated 20 km south-east of Makhado town (also known as Louis Trichardt), along the Elim Road (R578) and is approximately 8 km west of Elim.

Agriconcept (Pty) Ltd (2000) defines the terrain of the land in question as flat to undulating. The western part is characterised by a low rocky outcrop with a minor depression serving as a natural water course, causing some wetlands in the centre of this land. The land is further characterised by soils derived from the granite parent materials which are dominantly deeper red soils and which, according to Agriconcept (Pty) Ltd (2000), are suitable for crop and tree production, including irrigation. Shortlands and Hutton soil forms dominate this area. The natural vegetation occurring in this area falls within Acocks Veld Type No. 19, Sourish Mixed bushveld to the west and Acocks Veld Type No. 9, Lowerveld Sour Bushveld to the east. It is an open veld with clumps of thorn trees and shrubs.

The climate for the area is mostly subtropical and minimum temperatures seldom drop below zero, hence there is high development potential for subtropical fruit and frost-sensitive crops during the winter months. Average rainfall varies between 400 and 700 mm because the farm lies on the escarpment where convection of the moist atmosphere results in rainfall somewhat higher than the surrounding areas above or below the monoclone. Rain starts in early summer and peaks in January (Agriconcept (Pty) Ltd 2000:3–6).

In the late 1800s both Shangaan and Venda speakers lived together in this area. The arrival of whites on this land from the 1880s dispossessed blacks without physically removing them from this land, as their status was reduced to that of squatters and later labour tenants (Nkuzi 1999). In 1896, the ZAR general, Cronje, and the leading Venda chief, Mphephu,

met at the farm of Cooksley (Lovedale Park) to mediate on a dispute between Mphephu and Chief Sinthumule over this land (Nemudzivhadi 1985). According to P.F. Menné, a neighbouring farm owner, Vleifontein belonged to his great grandfather, John Cooksley, and was at this time inhabited largely by Shangaan speakers, who had accepted white domination and served as labour tenants.²⁰

The inhabitants of this land, Shangaans and Vendas, continued to have land rights for ploughing and grazing their livestock without any obstruction from the new white owners until the 1913 Land Act was passed. Most of these people's rights were reduced to that of labour tenants or squatters on their land of birth. As a result some started to leave the farm as early as the 1930s. A major removal happened during 1968/9 when all people on the farms Vleifontein 310 LS were removed from the land and scattered in the former Gazankulu and Venda, including the areas of Riverplaats, Mbhokota, Chavani, Bungeni, Nthalabala and Vuwani. These areas were overpopulated and dry and most of the people who had been moved there did not have access to productive land because they were seen as foreigners.

The Mavungeni land was bought by the state and was never transferred to private hands but remained unused state land owned by SADT for a long time, except Lovedale Park which remained in private hands until Keith Johnson sold it to the SLAG beneficiaries in 2002. Lovedale Park had long been used as a cattle ranch with minimal crop farming. The state land remained largely unused, with some portions being leased to white farmers and others being used by people from Vleifontein township.

In 1994, the attainment of democracy provided an opportunity for the Mavungeni community to claim their lost land and heritage. According to Mr G. Chaucer, who served as the chairman of the land claims committee, 'we heard that people whose land was taken unlawfully under the apartheid government could claim it back, and as a result we reorganised ourselves and submitted our land claim to the office of the Land Claims Commissioner in Pretoria' [Chauke, 01/08/2006]. Two separate claims were lodged on behalf of the Mavungeni Tsonga community and the Mavungeni community, on 16 August 1995 and

¹⁹ Mulambunjele is a perennial river that runs across the farm Vleifontein 310 LS.

²⁰ Letter from P.F. Menné titled 'Support of the claim by Mavungeni community', dated 24 February 1996.

18 September, 1998 respectively. Both claimed rights to Vleifontein 310 LS as the traditional land of the Mavungeni people. These claims were later consolidated into one claim.²¹ The main objective for lodgement of the claim, according to Mr Maluleke [07/08/2006], was to acquire their ancestral land so that they could access their ancestral graves, farm cash crops and orchards and gain access to land for residence and employment opportunities.

Around the same time, community members learned of the land redistribution programme and applied for a SLAG for land purchase. The application was pioneered by the three families, Maluleke, Chauke and Baloyi (all being part of the Mavungeni land claim) who applied to the DLA in 1998. They proposed to purchase the farm Lovedale Park. Lovedale Park is a name of the farm comprising three distinct portions of Boschkopje and a portion of Vleifontein 310 LS. The portion of Vleifontein happened to fall outside the land claimed by Mavungeni; hence it was targeted for acquisition through SLAG. 'We heard that the government was buying farms for the previously disadvantaged communities in order to start farming, therefore our families started registering names of people interested in order to apply for the grant to buy land because it was not clear if we were going to get our claimed land soon' [Chauke, 01/08/2006]. By the end of 1998, the Mavungeni community was involved in two separate processes, a land claim handled by the office of the RLCC (Limpopo) and a SLAG application dealt with by the Provincial Land Reform Office of DLA.

The SLAG application was approved on 31 March 1999 [Chauke, 01/08/2006]. The processes unfolded with members of the community identifying the properties, negotiating purchase prices with the landowner, compiling a beneficiary list and registering a CPA for the SLAG farm. The same CPA was used for ownership of the restitution award that followed.²² A total of 98 beneficiaries were registered under the SLAG project while under restitution another 200 members were added to the membership list. After some investigation, the Boschkopje portions were dropped from the application because of land claims lodged against those properties by other communities such as the Nthabalala Royal Council.²³

A group of 98 people from Mavungeni community eventually acquired Portion 1 of Vleifontein 310 LS,

Table 1. Mavungeni SLAG profile

Beneficiaries	98 Households
Hectares	561.3880
Women	38
Youth	40

measuring 561.388 ha in extent through SLAG. The deed of transfer indicates that it was bought on 16 November 2001, and was transferred in full title to the Mavungeni CPA on 26 April 2002.²⁴ With the land came a fully equipped dairy, which consisted of four automatic 'Milk Right' machines with a cooling tank and a large cool room. The dairy has an office, feed room, workers' toilet, change room and engine room. There are also holding pens, a crush pen, outbuildings, sheds and feed troughs. At the time of the purchase of the dairy it was fully operational. The land was already planted with 49 ha of kikuyu and 'green gold' pastures under irrigation to be utilised by the dairy herd, 12 ha of eucalyptus plantation as well as 491 ha of natural grazing. There is also good water supply for the camp (Agriconcept (Pty) Ltd 2000:31).

In 1999, the RLCC: Northern Province and Mpumalanga, which was then based in Pretoria, started with the investigation of the Mavungeni land claim, which included validation, gazetting, valuation, settlement options workshops and the drafting of a Settlement Agreement, which was concluded on 2 March 2001 when the Minister for Agriculture and Land Affairs signed the Settlement Agreement in full and final settlement of the Mavungeni Community Land Claim. The settlement of the Mavungeni land claim was achieved administratively whereby the Minister approved the settlement in terms of Section 42D of the Restitution of Land Rights Act. The value of the farm was not established because it was state land and so no purchase or compensation was required. However, conservative estimates of the value of the property are in the region of R3.9 million.

The Settlement Agreement stipulates that the community must form a legal entity to hold the property on its behalf. It further ordered restoration of the remaining extent of the Vleifontein 310 LS, measuring 744.5 ha in extent, and that the land be transferred to the legal entity on behalf of the Mavungeni community. It further makes provision

²¹ Original land claim forms, dated 16 August 1995 and 18 September 1998, submitted to the CRLR.

²² Only one CPA was registered for both restitution and SLAG projects, meaning that SLAG beneficiaries have benefits from both SLAG-awarded land and the restitution award. The SLAG beneficiaries can therefore be considered a sub-group of the restitution claimant community.

²³ Resolution signed by Munzhedzi community and the Nthabalala Royal Family on 1 February 1999; Inspection in loco report: Vleifontein 310 LS, 27 July 1999, compiled by Shirhami Shirinda (Nkuzi).

²⁴ Deed of Transfer executed at the Registrar of Deeds at Pretoria on 26 April 2002.

for financial compensation for the land on which the Vleifontein cemetery is situated, and which was excluded from the settlement. It further provides for an undertaking from government to assist the new owners of the land with development support, in terms of planning grants, and for the RLCC to negotiate with Makhado Local Municipality, the LDA and the Department of Local Government and Housing in order to ensure that the CPA can access all available grants to assist in land development (Mavungeni Settlement Agreement 2001).

The land acquired was to be registered in the name of the Mavungeni CPA, registered in 2002 as Mavungeni CPA/01/0323.²⁵

The Mavungeni community elected a committee of nine people in terms of the provisions of the Mavungeni CPA constitution [Maluleke, 07/08/2006]. This committee meets every quarter unless special meetings are called. The committee is currently divided on issues relating to the use of resources belonging of the CPA, especially questions of land use and access. For example, some members of the committee want a township to be established next to the road, while the other group wants it next to the existing township, because of the costs of putting in bulk infrastructure and electricity if the township is located too far from the existing township.

The restored land was previously used mainly for dry land cultivation, with mango, avocados and macadamia orchards, operated by a commercial farmer who had leased the land from government. Before the settlement of the land claim, farmers resident in Vleifontein township had access to grazing and dry land cultivation on some parts of this land. These people used the land without permission or secure rights to the land, but they still have a feeling of entitlement to this land and some are antagonistic to the Mavungeni people who now occupy it.

The land has four earthen dams and three equipped boreholes that could provide irrigation for the orchards and food plots. Fencing on the land was old and it needed a lot of renovation. The community has started with some farming enterprises such as poultry farming, dry land cultivation and livestock farming at a small scale, and plan to establish a township and improve the orchards (Focus Group Discussion 08/08/2006).

The LDA provided a 'starter pack' for the community to help them begin farming. The starter pack included a

tractor, trailer, mould board plough, planter, disc plough and tiller. This equipment is now owned by the CPA. Nkuzi Development Association also assisted with purchasing equipment, such as an irrigation system for a 10 ha food plot, materials for construction of a pigsty and poultry house, and training. The RLCC appointed a group of consultants called Wohimu Rural Development, based in Polokwane, to draw up a business plan for the community. The business plan proposes a residential development and different kinds of farming enterprises such as broiler production, mango and macadamia orchards, food lots, livestock farming and dairy production [Maluleke, 07/08/2006].

Land acquisition and access

The Mavungeni people have acquired different portions of Vleifontein 310 LS: part of the remaining extent of Vleifontein 310 LS through restitution and Portion 1 through SLAG. Only Portion 1, which was acquired from a private owner under SLAG, has been transferred in title to the Mavungeni CPA (Van Zyl Conveyancers 2002). Despite the restitution award, all of the restored land is still officially held by the SADT. The RLCC has indicated frustrations with regard to the transfer of land because of difficulties in terms of contestations of the boundaries, the long process of planning and survey, and responsibility for development projects [Shilote, 02/08/2006].

Without full legal ownership of the property the community feels that they are vulnerable, particularly to those people that object to their occupation of the land. They currently face a challenge from neighbouring communities such as Vleifontein and Nthabalala:

We know that the government has given this land to us, but we do not have legal ownership. We need title so that we can have full and legal ownership of this land [Maluleke, 07/08/2006].

On Portion 1 (acquired under SLAG), the CPA has agreed on cattle farming, dairy and broiler production. This land is owned by the CPA on behalf of the SLAG beneficiaries, and is not available to all members of the Mavungeni community who will benefit under restitution. On the restored land they plan to develop a residential development where individuals would have exclusive access to residential land. In addition, food plots will be allocated for individual households for use under a lease arrangement agreed upon by CPA members. Some parts of the farm which have orchards would be worked as a collective.

²⁵ Mavungeni CPA registration certificate in terms of CPA Act, 1996, dated 30 July 2001.

Irrespective of the plans for land allocation mentioned above, their settlement is facing disputes around who has access to which piece of land, both from members of the CPA and outsiders who graze their livestock on the land without permission. On Portion 1, the Mavungeni people cannot use the land because farmers from the neighbouring Maila and Munzhedzi area have pushed their livestock onto the western part of the farm, and farmers from Maila are cultivating portions of the land close to their village. This problem is exacerbated by poor fencing around the farm and lack of confidence on the part of the CPA in asserting themselves as owners of the land. On the eastern side of the remaining extent of Vleifontein 310 LS, farmers from Vleifontein township have been ploughing and grazing their livestock, claiming that the municipality had previously given them permission to use the land.²⁶ Even after restitution of the land they continued to farm on that land claiming that they had not been consulted and that they had a right to use the land.

For the remaining extent, the CPA constitution makes provision for every member to have exclusive access to residential land. However, the business plan has proposed getting a developer to develop the area as a township, and sell developed and serviced housing sites to the members. The options put forward are that the CPA sells the land to the developer, or that the CPA and developer share the income from sales of the houses. This will not cater only for the restitution beneficiaries but also for non-members interested in coming to live in the area (Wohimu 2005:38). It is difficult to see how the poor will benefit from the proposed housing project, and how the rights of members will differ from those of non-members.

In terms of farming, members of the CPA will have access to communal grazing land and individual ploughing fields. The CPA committee would oversee the allocation of such land to members of the Mavungeni community that appear on the beneficiaries list. If a person's name does not appear on the list, that person has to prove that he or she was part of the community at the time of removals or that his or her parents or grandparents were victims of forced removals (Mavungeni CPA constitution 18/03/2002).

The business plan has proposed leasing the productive land as food plots to the members, without granting them full ownership. It stipulates that all members should apply to the CPA for access to the production plots, and rent them from the CPA for R100 per month. Production will be for

the tenants' own account. At this stage, however, no rent is being paid by the occupiers of the plots.

Separate from the CPA constitution and the business plan, the committee has allocated land to some members of the CPA based on their interest in farming. This allocation affected the remaining extent only (i.e the restored land). These members were verified as members of the Mavungeni community during the land claim claimants verification process. In 2002/3, the committee allocated plots of between two and three hectares to approximately 40 households from the claimant group. The chairperson is in possession of a list of people and what pieces of land they were allowed to use [G. Chauke, 01/08/2006].

A group of people who are disgruntled with the lack of consultation by the CPA committee on the allocation of land and with the general use of CPA resources, have moved onto the remaining extent of Vleifontein 310 LS to begin ploughing on plots that they demarcated themselves. The monthly rental is also not acceptable to the group, as they expect free access to the land. These people have allegedly moved onto the land after they heard that the land is going to be leased to the neighbouring white farmer. 'I could not just wait and see my land being used by another person who is not even part of our community, while I do not have land to produce food for my family' [Shirinda, 06/08/2006].

People who are unhappy with the CPA committee's decisions asserted their position by moving onto the land, erecting shacks and ploughing some of the areas in opposition to the proposals endorsed by the CPA committee. Access to this land has now become difficult for the CPA committee but they are still working to bring the situation under control. Some of the actions taken are to report those people to the RLCC and the municipality. The CPA committee, the local municipality and the RLCC have also sought a court interdict to remove these occupiers. Some of the occupiers feel insecure because of the threatened interdict, but so far they have not been removed and they continue to work the land.

In 2005, a residential development plan was developed by Wohimu, a group of consultants appointed by the RLCC. The layout has sites for approximately 200 residential stands, school facilities, two church sites, business sites and social amenities. The committee has provided a copy of the plan to the local municipality for inclusion in its Integrated Development Plan (IDP) for 2006/2007. So far no formal

²⁶ A letter to the Makhado Municipal Manager titled 'Destabilisation of the Mavungeni Area', dated 28 October 2003.

resettlement has been started but the number of shacks is growing in areas other than the one earmarked for the township.

Land ownership and institutional/organisational arrangement

The Mavungeni CPA was registered on 30 July 2001. It is run by a committee of nine which meets on a quarterly basis as provided for by its constitution. This committee is responsible for both properties, i.e. SLAG and restitution awarded land. The committee calls annual general meetings where the committee gives a report about the affairs of the CPA. Such meetings have proved difficult because the majority of the members do not attend such meetings. Some of the people argue that they are not informed of such meetings, yet the committee publicises such meeting over the radio and sends written invitations to all the village councils in the area. In July 2005, the committee was reshuffled and a new chairperson and deputy took over [Chauke, 01/08/2006]. However, since the new committee took over, the CPA has experienced serious problems in terms of the cohesion of the committee and the CPA in general, including non-attendance of office-holders at meetings. This is attributed to the fact that some members of the committee dominate the decision making and do not provide space for other members of the CPA to have a say.

A critical issue raised by the CPA chairperson is the functionality of the CPA and the capacity within the CPA committee to administer the institution. The CPA as an institution is neglected by government because it is not clear who should be providing institutional support to this institution. 'We are expected to ensure that the project is viable and sustainable but nobody comes to support us in resolving conflicts within the group or to provide advice on how these could be dealt with' [Maluleke 07/08/2006]. In terms of Section 11(1) of the Communal Property Association Act 28 of 1996, any registered CPA must, at prescribed times, furnish prescribed documents and information to the Director-General of DLA in order to enable them to monitor compliance with the provisions of the relevant constitution and the Act. The CPA committee has, since its establishment, not given any reports to the department despite being requested to prepare such documents.

The CPA committee is supposed to deal with the allocation of rights and benefits to the members of the CPA. This committee is also responsible for development of the land, both the SLAG and restitution properties. The Mavungeni CPA committee is also involved in the management of funds accrued from rentals and other grants received. Yet the committee members feel that they lack the financial

skills required for this work, and are keen to receive further training in areas such as land rights administration and the development of rules and procedures for resource allocation. Members believe that such support should be provided by the RLCC or DLA in order for the CPA to be able to administer the newly acquired resources [Maluleke, 07/08/2006]. An assessment by the RLCC in 2001 identified areas of support required for the CPA committee as book-keeping, financial management and conflict resolution, but five years on these needs have not yet been addressed (RLCC 2001). The CPA thus remains weak and unable to deal with conflicts within the community. This is a critical area of skills development, seeing that land has been given to a group of people who have different aspirations, come from different backgrounds and have not been living as a community for a long time – since the dispossession of the land [Baloyi, 08/08/2006].

Land use and livelihoods activities

Members of the Mavungeni community express divergent views about how the land should be used. Some members, particularly the members of the leadership who have livestock on the farm and have been involved in meetings with the neighbouring farmers and government, are keen to run the farm as a single entity on a commercial basis except for the residential development. This group is in favour of a small group of community members running the farm and employing members of the community. On the other hand, there are people who prefer allocation of plots to individual households for small-scale production (Focus Group Discussion 08/08/2006).

The former group wants the farm to boost the local economy, with the dairy supplying schools and Elim hospital with milk as it used to do before the land was sold to the Mavungeni community. They also would like to see money coming into the account of the CPA, through leasing land to the neighbouring white farmer. They believe that there is enough land to lease out and also graze their own dairy cattle. They also wish to enter into some kind of joint venture, or strategic partnership, with an external investor. However, the community is divided on the issue of bringing in strategic partners because their land is not highly developed. Some of the members of Mavungeni CPA aspire to residing on the land, with access to ploughing fields of equal size and every one producing for the benefit of his or her own household, and sharing the natural resources on that land.

The business plan developed for the Mavungeni SLAG projects outlines the development objectives as follows:

To improve the quality of life and household income of beneficiaries through the profitable utilisation of agricultural resources earmarked for this purpose. This could be done by means of entrepreneurial activities, job creation and profit sharing enterprises²⁷ (Agriconcept (Pty) Ltd 2000:1).

The second business plan, for the restitution award, has the following aims:

To create a sustainable project which creates job opportunities and wealth for its beneficiaries; the secondary aim is to provide resettlement opportunities for those beneficiaries who are able to afford relocation (Wohimu Rural Development 2005:6).

The objectives of the SLAG project emphasise that land will be used for agricultural purposes. The second business plan captures ideas of sustainability, job creation and provision of settlement opportunities.

In 2002, the Mavungeni CPA bought eight dairy cows using money from the SLAG grant that was left over after they had purchased land and some equipment. Unfortunately most of the cows died before the project could start any production of milk. By the end of 2006 only three dairy cows remained. The dairy has not begun running due to absence of an electricity connection, the death of dairy cows and the lack of dairy skills within the CPA. SLAG beneficiaries also attempted broiler production on the SLAG farm. In 2003, they constructed poultry houses and an office using some of the money that remained after they had bought the dairy cows. With additional grant funding from the National Development Agency, obtained via Nkuzi Development Association, they bought 300 chicks and feed, in order to start a broiler production. This project has been running to date with a staff complement of five.

Attempts to start a piggery and vegetable garden have stalled due to the absence of equipment and infrastructure such as irrigation, electricity for pumping water, cages and fencing. Those members interested in the piggery project could not start building cages for the pigs because they were advised that a piggery next to the poultry project could be detrimental to the chicks. On the other hand, the vegetable garden has come to a halt because the infrastructure bought was of poor quality; the diesel pump supplied was small and could not pump water to the reservoir. However, the pumps that are there and which were used by the previous owners require electricity. They cannot be used without an electricity connection [Kwinda, 12/10/2005].

Some of the CPA members have brought livestock onto the farm for grazing, with one member having approximately 100 cattle on the land. The CPA committee has also leased some grazing land to a farmer from the nearby township of Vleifontein. This has proven difficult to control, however, because numerous livestock from the Vleifontein township, Munzhedzi and Maila push fences down and graze on the same land.

On the remaining extent of Vleifontein 310 LS, land use has been dominated by the demand for individualised access and use of land for the benefit of individual farmers and households. In 2002/3, some people started production on the plots that had been allocated to people from the claimant group: 'I was allocated three hectares of land. I planted maize in the initial year and was able to produce 30 x 80 kg bags of maize meal' [Chauke, 01/08/2006]. According to the chairperson of the CPA most of the people had a similar kind of harvest. 'What I harvested was used at home for consumption and a few bags were sold in the villages and surrounding areas' [Chauke, 01/08/2006]. Mealies are sent to a small grinding mill in the nearby village of Chavani, and some were exchanged at the large commercial millers in Makhado for bags of maize meal. In 2004/5, some of the farmers planted maize again, but experienced severe problems from livestock on the land, which destroyed the crop. As a result, in 2005/6, very few people ploughed. Cattle come mainly from neighbouring villages, but one member of the CPA was also grazing livestock on the fields where people were cultivating. One of the neighbouring farmers has even built a cattle kraal on the land. Such grazing appears to be uncontrolled, and undermines the stated intention of the CPA to use this land exclusively for cultivation, and to allow grazing only on Portion 1 [Chauke, 01/08/2006].

The macadamia and avocado orchards which were already established on the land prior to its transfer to the community have not been maintained and as a result have yielded a very poor harvest. A neighbouring white farmer helped by shelling the macadamia nuts, packing them and transporting them to market, but the nuts were found to be of poor quality and could not be sold. They were sold instead at a local informal market and made R18,000. Some of this income was used to subsidise the poultry project. In the following years the CPA leased the orchard to a member of the community who paid R3,000 per month to the CPA in rent. The returns from the orchards have been used to run the CPA affairs and also to support the broiler production on Portion 1 of Vleifontein 310 LS [Maluleke, 07/08/2006].

²⁷ Mavungeni business plan, First draft, February 2000. Drawn up by Agriconcept (Pty) Ltd.

Activities on the land include efforts to start tourism development. This initiative has not really taken off, yet the people speak of it as a potential project that could assist craftsmen and bead-making women in the village. The committee has established contacts with an entity called the Zoutpansberg Skirmishes Routes (ZSR), which organises tours of battle sites of the Anglo-Boer War (1899–1902). ZSR is particularly interested in the war memorial that exists on the land awarded to the community. In May 2006, the ZSR had a function to unveil the monument in honour of civilians who were killed during the military operations during the Anglo-Boer War. Members of the community feel that this provides an opportunity for the development of tourism initiatives which in turn could generate income for the community.

Provision of support services, by governmental and non-governmental organisations

The state institution responsible for the Mavungeni land claim and its settlement (e.g. the remaining extent of Vleifontein 310 LS) is the Commission for Restitution of Land Rights, under the direction of the RLCC (Limpopo). For Portion 1 of Vleifontein 310 LS, the Provincial Land Reform Office of the DLA has the leading role. However, the PLRO does not extend its responsibilities to post-settlement support (even on land acquired under its redistribution programme), leaving this aspect to the Provincial Department of Agriculture. The RLCC for Limpopo has formed a Settlement Support and Development Unit to ensure that beneficiaries of restitution are supported to use their restored land effectively [Shilote, 02/08/2006]. The Settlement Agreement obligates the DLA (through the RLCC) to support the Mavungeni CPA in terms of accessing grants and obtaining help from the local municipality or any other departments that might have grants or other forms of support to offer:

The Department of Land Affairs undertakes to release the planning grants and the restitution discretionary grants due to this claim. The RLCC undertakes to assist the claimant community to negotiate with the Makhado Municipality, Northern Province Departments of Agriculture; Local Government and Housing ... accessing all necessary development aid for the land.²⁸

As at Munzhedzi and Ximange (below), the LDA has awarded what they term 'starter packs' to Mavungeni CPA, including a tractor, a plough and a trailer. These were intended for

use by the CPA and its members in order to start farming operations on those farms acquired. The tractor is used to plough the dry lands for individual households who have access to the field, and to carry firewood for the poultry project which has no electricity and depends on firewood for heating. The tractor is also rented out to neighbouring communities such as Munzhedzi and Ximange when they need it, and the income is deposited in the CPA account to assist in running the affairs of the CPA [Khorommbi, 22/04/2005].

The regional office of the Department of Agriculture in Makhado has also placed an extension officer in the area to provide support to the new projects. In addition, training has been provided for community members at the Madzivhandila College of Agriculture in Thohoyandou, where members are trained in horticulture, broiler production and pig production. The extension officer has tried to assist members to access grants under CASP of the Department of Agriculture, but without success to date [Khorommbi, 22/04/2005].

Nkuzi Development Association has assisted the community during the lodgement of the land claim and has continued to play a support role in farming initiatives at Mavungeni. However, most of its efforts have failed due to problems with the supply of materials and infrastructure [Kwinda, 12/10/2005].

Members of the community feel that support they receive from state institutions in particular is far from adequate. For example, there is inadequate extension support, infrastructural development has not been carried out and the CPA does not have financial resources to acquire such infrastructure. Capacity building for the CPA has been neglected, even by the department that helped formed the CPA [Maluleke, 07/08/2006].

In summary, the Mavungeni community has obtained a substantial portion of reasonable quality land through a combination of restitution and redistribution, which should be providing numerous livelihood opportunities for its members. A lack of planning, however, together with weak organisational skills on the part of the CPA committee and a lack of coordination among state agencies means that little productive use is yet being made of the land. Support is required for building the capacity of the CPA committee and to provide the technical skills and other resources necessary to develop the housing and various productive activities that the community has identified.

²⁸ Settlement Agreement: Minister of Agriculture and Land Affairs (Ms A.T. Didiza) and the Mavungeni CPA, signed on 2 March 2002.

4. Ximange case study

The Ximange clan originated in Mozambique, where a chief called Nkukwana left Xihaheni district and trekked with his people to the area which they called Vudyodyodyo and was later registered as Syferfontein 85 LT and Uitschot 84 LT. In 1850, a son was born to Nkukwana and was named Ximange, who eventually took over the leadership of the clan. In the 1890s, Syferfontein was obtained by its first white owner, Veldkornet Tom Kelly. The land remained in Kelly's family until 1916 when it was sold to Rev. N. Jacques; in 1969 the Jacques family sold the farm to a certain Mr Henning. The farm was used for cattle and maize production and a mission school was also operated from this farm. The mission was known as Ephrata, and even today most people know the land as Ephrata rather than Vudyodyodyo. This land is situated 20 km south-east of Makhado town (formerly Louis Trichardt) and 13 km south-west of Elim and south of the Vleifontein township.

Topography of the area can be described as broken foothills and undulating. It lies between an altitude of 805 m and 1074 m (Northplan 2004). The farms contain numerous springs and an area of natural sponge, part of the Letaba Catchments area. The area is frost-free, with average minimum temperatures of 8°C and maximums of 31°C. It is a summer rainfall area (October– March) with mean annual precipitation of 612 mm. Geology is largely Goudplaats Gneiss; soils in parts are deep and fertile:

The soils in the majority of the farm are soils with minimal development, usually shallow on hard weathered rock, with or without intermittent diverse soils. Lime is rare or absent in the landscape. Depths are between 450 and 750 mm on average. In the valley the deeper soils are found (Northplan 2004:9–12).

The Ximange people were not immediately removed from their land when the whites arrived on the land, but continued living on the land with unrestricted access to ploughing fields, grazing, water and other natural resources. From 1936, the residents of the farm were subjected to forced labour of three to nine months in exchange for permission to live on the farm, in line with the then government's policy of labour tenancy. Those who refused to work were ordered to leave those farms. Between 1957 (when the first trek passes were issued) to 1972 the Ximange community was forcibly removed from Syferfontein and Uitschot,

without any form of compensation. The majority, who were Shangaan speakers, scattered all over the newly established Gazankulu. Some Venda speakers went to nearby areas such as Nthabalala in the former Venda homeland. Subsequent to the removals, in 1976, the farm was purchased by the SADT to add to Venda homeland, but it remained unused for a long time (Nkuzi 1999).

As early as the 1980s, under the leadership of Chief Xitlhangoma Baloyi, the Ximange clan formed the Ximange Reconstruction and Development Committee in order to reclaim their lost land. The dawn of the new democratic government and the enactment of the Restitution of Land Rights Act of 1994, provided an opportunity for the Ximange people and other victims of land dispossession to register a land claim. On 27 December 1995, Mr Risenga Freddy Baloyi, on behalf of the clan, lodged a land claim. Members of the committee insist that their intention was to claim the entire Vudyodyodyo, i.e. Syferfontein 85 LT and Uitschot 84 LT, and some members of the community also say they should have claimed the neighbouring land of Zwartfontien 392 LS. However, the land claim form recognised by the office of the RLCC (Limpopo) indicates that a claim was lodged on Syferfontein 85 LT only.²⁹

Between 1995 and 2000, the office of the RLCC for Mpumalanga and Northern Province, and later the restructured RLCC for Limpopo, investigated the claim and found it *prima facie* valid. A lengthy process followed, including gathering of histories, proving lost land rights, researching validation, negotiations and settlement options, forming of a CPA, and finally signing of a Settlement Agreement. The CPA was formed by a meeting of beneficiaries with assistance of a local land rights NGO, Nkuzi. The committee comprised five executive members and four additional members, all from the Ximange community. On 2 March 2001, at the first 'interested party' meeting, the Ximange community presented a proposal in which they indicated that only the restoration of their lost land rights would satisfy them.³⁰

As the land belonged to the state, and was not contested by any party, this claim was settled through an administrative process whereby by the Minister approved the settlement according to Section 42D of the Act, restoring the farm Syferfontein 85 LT, measuring 718,87 hectares in extent,

²⁹ Letter from RLCC, Ms Gilfillan, dated 22 July 99; Original land claim form, dated 27 December 1995.

³⁰ Signed settlement options resolution, 1 March 2001.

to the Ximange clan, as represented by the Ximange CPA. However, the settlement left out the farms Uitschot and Zwartfontein, which remains a matter of dispute between the community and the RLCC [Baloyi, 2/11/2005]. The settlement of the claim was marked by a celebration held at the Vleifontein Stadium on 2 March 2002, which also involved the communities of Mavungeni and Munzhedzi, who also had their land restored to them at this time (see above). The ceremony officially marked the final settlement of the claim, despite the ongoing dispute over Uitschot and Zwartfontein.

The Settlement Agreement describes how much land was being restored to the Ximange community, how the land will be owned and the development support that the government and its agents will provide. This agreement was signed between the Ximange CPA and the Minister for Agriculture and Land Affairs, on behalf of the state. With regard to development assistance, the agreement promises the release of planning grants to the CPA, and that the RLCC will negotiate with Makhado Local Municipality, the LDA and the Department of Local Government and Housing to support the CPA in accessing all necessary grants available in order to assist in land development.³¹ The agreement provides that DLA will release Restitution Discretionary Grants and Settlement Planning Grants to assist the Ximange community to develop their property, but the total value of such grants is not specified. It was only later when the RLCC commissioned consultants for the development of the land use and development plan (LUDP) that the grants were estimated. The LUDP report stated that there are 250 households and 700 beneficiaries for Ximange and therefore estimated that Ximange is entitled to R1,008,000 in Settlement Planning Grants and R875,000 in Restitution Discretionary Grants.

Land acquisition and access

The RLCC officially returned Syferfontein to the Ximange CPA. But members of the community whose rights were attached to Uitschot also returned to their land because they thought that their land was returned as well. To them Ephrata has always been one land and was not divided [Mdhuli, 02/11/2005]. Therefore Ximange has categories of beneficiaries of land reform: those who officially were awarded the land by government and those who have returned to what they knew was part of Ephrata regardless of the dispute regarding the settlement of the land claim.

The land that was restored was state land, and had not been in use. Features on the land restored are a graveyard,

various outbuildings and the remnants of a cattle dip, holding pens, a dam, a small plantation and a pump room. All of the above are old and some cannot be used at this stage. They need more investment in terms of renovations and putting up new infrastructure. There is also a fence-cut line from the north to the south and a gravel entrance road to the old houses. Seven streams flow through the area, from natural springs, which are tributaries of the Klein Letaba River. The original farmhouse, dating from the 1880s, was supplemented by a second adjacent house built in the 1930s, both of which remain in reasonable condition but cannot be used without further renovations (Northplan 2004:25). Following its purchase by the SADT, the farm fell into disuse and the area became greatly overgrown. The land was reportedly used by people from Vleifontein township to graze their cattle and for ploughing. Prior to the return of the land, the Department of Water Affairs also used the house as a depot for their staff and equipment to service the area [Marimi, 28/04/2005].

Although the formal processes for settlement of the claim to Syferfontein were finalised in 2002, the Ximange CPA has not received title deeds for that property. The land is still registered in the name of the SADT. The RLCC has emphasised that there is a need to get all the planning work finished to ensure that beneficiaries use the land accordingly prior to the release of title deeds. However, planning work is currently at a halt because of internal problems in the CPA. Officials from the RLCC claim that they are frustrated by the CPA committee – largely based in Gauteng – because it is difficult to work at a distance on a daily basis. The distant leadership of the CPA has a tense relationship with the community members, who are currently involved in farming on the land on a daily basis (see below).

There is much confusion around the adjoining farm, Uitschot. Members of the CPA insist that their claim was for the whole property, which they knew as Vudyodyodyo or Ephrata. When owned by white people, these properties were owned and operated as one. Members of Ximange community reported that they were unaware that, in terms of the deeds registry, these were in fact two separate properties [Vukeya, 02/11/2005]. This matter was raised by the Ximange Land Claims Committee in 2001 when they became aware of the problem during the settlement of the claim. Some committee members interviewed claim that the RLCC ignored their complaint and proceeded to settle a claim on Syferfontein only on the basis that this was the only property mentioned on the official claim form submitted to the RLCC, and the RLCC could not amend a claim.

³¹ Settlement Agreement entered into between the Ximange CPA and the Minister of Agriculture and Land Affairs (Ms A.T. Didiza), signed on 2 March 2002.

Following the handover ceremony in March 2002, a sub-group of the Ximange CPA, comprising a group of closely-related families, the Vukeya, Mdhuli and Baloyi families moved on to the farm Uitschot, on the basis that this was the area originally occupied by these particular families. Although this has not been formally approved by the Ximange CPA, the move appears to have their tacit agreement, as other members have not opposed it and, in practice, seem interested only in Syferfontein. The tenure status of the people residing and farming on Uitschot is far from clear. Officially, this is state-owned land, on which there is no official restitution claim, and the occupiers are present on the land without any official approval. It would appear, however, that the state has little knowledge of, or interest in, this property. The CPA committee has tried liaising with the RLCC in order to get the land transferred to the CPA but, as no claim has been lodged for that land, the RLCC argues that it lies outside its area of responsibility.

In the initial stages, immediately after the settlement of the land claim, the local committee allocated some residential land to people who wanted to live on the farm. From these, three shacks were constructed on the allocated residential land. However, these shacks have not been occupied. In 2003, the members demarcated 22 cultivation fields of approximately one hectare each around the main farmhouse at Syferfontein for access by individual households. This initiative did not involve the local municipality or any other government authority, but was a spontaneous action by members of the CPA. This initiative was done contrary to the official position adopted with the main committee, whose position is in line with the land use and development plan which advocates for a unitary farm plan. Individual households who were allocated plots tried to plough in the first year but a poor harvest and destruction of crops by livestock from adjoining villages discouraged most of the farmers from ploughing again. Most of these people are no longer involved in farming and have moved back to their original homes (Focus Group Discussion 16/10/2006).

Currently 13 households are involved in some form of activity at Syferfontein, in the absence of any clear plan for the CPA as a whole. Some of these people have occupied the old farmhouses and some have constructed shacks dwellings. This group can be described as follows (Focus Group Discussion 16/10/2006):

- Five households who live and work full-time on the farm. This includes those cultivating crops on a small scale and those farming poultry in the sheds adjoining the main house.
- Five households who live on the farm but do not work the land. This category includes pensioners who, for

reasons of attachment to the land, have come to stay on the land, and some people who are unemployed and for lack of financial resources are not ploughing any fields.

- Three households who commute to the farm for work and/or employ others to work on the farm. This category comprises people who have other formal employment and do not reside full-time on the farm but have ploughing fields on which they have employed people to work, and may occasionally come and stay on the farm.

The question of land access by individuals is a critical issue because the LUDP calls for a unitary farm, managed along commercial lines, and this is supported by the official CPA committee. However, those currently living and working on the farm have continued to farm on an individual basis and not collectively through the CPA. They de-bushed approximately 10 ha and allocated fields of between 0.5 ha to 4 ha to eight households for crop farming [Marimi, 24/05/2006]. The eight farmers, or their employees, work on the farm on an almost daily basis. Most of them have resources to enable them to get the necessary inputs for their plots. For example, some of the people are teachers or retired workers with pensions.

The adjoining farm of Uitschot was not restored to the Ximange CPA, but has been occupied by members of the community. By October 2005 there were eight farmers involved in farming. These farmers are all related; they are members of the extended Vukeya family. Mr Vukeya, as the elder of the family, apparently assumed responsibility for coordinating access to this piece of land. Allocation of individual fields has been linked to the reconstruction of the previous settlement of the Vukeya family at Ximange. Most of the plots allocated to members of this group of the clan are around the areas where they used to live before land dispossession. 'We are returning to our ancestors' ruins, this is the rebuilding of the Vukeya settlement at Ximange' [Vukela, 02/11/2005]. The occupation of this land by the extended Vukeya family does not appear to be opposed by the members of Ximange community who have taken occupation of Syferfontein, or by the state, which still officially owns this land.

On Uitschot, access to land is determined by how much an individual can clear and work. Mr Vukeya oversees the allocation of land, and it is up to the person to de-bush as much of it as they can. Most of the people on this land employ other people from the local area, as well as some Zimbabwean immigrants, to assist in the de-bushing of the land. So far no disputes have been reported over land

allocation, and the set boundaries seem to be respected by all. 'In this land all people know each other and where they are supposed to work' [Mdhuli, 02/11/2005].

Claimants' land needs and aspirations

The main interest of the Ximange community in claiming their land was to rebuild the sense of community that was destroyed through the implementation of the apartheid policies and to return to their ancestral land. They hoped that the return of the land would lead to job opportunities and boost the local economy.

A closer look at Ximange reveals that there the community is divided around their vision for the land. On one hand is a desire to engage in commercial farming, held by professionals and business people who have full-time employment. These people, who effectively control the CPA committee, support the running of the farm as a single entity, under a central management, and oppose allocation of land to individuals for either productive or residential purposes. Another view is held by the poor and locally-based unemployed people who are able to visit the farm daily or stay there. These people need access to land on an individual basis in order to produce crops for their households and possibly a small surplus for sale on the local market. These people reported that they were not willing to wait indefinitely for the government to release grants and put in infrastructure. They took it upon themselves to start using the land with the minimal support they received from Nkuzi Development Association and other inputs from remittances and pensions (Focus Group Discussion 16/10/2006).

A needs assessment exercise by Nkuzi in 2002 revealed a demand for the creation of a residential area of approximately 70 ha, a business area of about 10 ha, and provision of land for different forms of farming, i.e. livestock, game, horticulture and crop farming, for both growing food and generating a cash income (Nkuzi 2002). This exercise revealed that the intention of this community was to live on the land as they used to do before the land was taken from them. They aspired to farm and secure food from their fields to supply their families with food, to ensure creation of job opportunities through farming and also to grow food commercially when possible.

In 2004, the RLCC appointed consultants, Northplan, to prepare an LUDP for the Ximange community. The plan,

which is dealt with in detail below, is a long list of options for land use, but is lacking in concrete proposals and clearly does not constitute a business plan. In fact, it suggests that the community must develop more specific business plans for the farm. The LUDP emphasises that the farm cannot be used as a township but must rather be used purely as a commercial farm: 'No urban settlement is going to take place and the farm will be operated as a commercial farm' (Northplan 2004:9). No effort has been made to implement the vision contained in the LUDP and the interview with community members reveals little or no support for the commercial farming model it proposes. This raises serious questions about the nature of the consultation process and the relevance of this plan to the needs and aspirations of community members.

Institutions of land ownership and administration

After a series of meetings to discuss which legal entity was most suitable for the community, the Ximange community chose a CPA over a Trust because it was easier to set up and requires democratic processes, accountability, transparency and equality of membership. Supported by the RLCC and local land rights NGO, Nkuzi, the community undertook a process of drafting a constitution for the CPA. As a result, a Ximange CPA was registered on 10 May 2002 (registration number: CPA/02/0427/A). While one constitution was developed by this consultative processes involving the RLCC, community members and an NGO, and used for the registration of the CPA, a second version was developed at a later stage by the 'main' committee in the months that followed (i.e. April 2002). The second constitution differs from the original one in the sense that it makes provision for traditional leadership to play a role in the affairs of the CPA. It specifically mentions that the traditional head of the community, the 'President-Chief Designate', will be the 'president' of the committee.³²

The CPA has 414 members in terms of a list of verified members drawn up by the RLCC. These members are victims of land dispossession at Ephrata and/or their direct descendants who were over the age of 18 years at the time of verification. The constitution also provides that anyone who in the future can prove that they too have land rights may be added as a member (Ximange CPA Constitution 2001). In the initial stage, the CPA committee comprised twelve members, with five portfolio-holders. Of the executive, only two are based in Limpopo, the remaining three are based in

³² Two CPA constitutions, dated 22 December 2001 and 27 April 2002.

Gauteng and other provinces of South Africa. Of the ones in Limpopo, one is based in Giyani, about 70 km from the farm, and sometimes stays on the farm. The committee comprises mainly urban-based professionals and full-time business people. As a result, the daily running of the CPA affairs has suffered neglect because members have other business that keeps them away from Ximange.

In response to the desire for some development on the farm, a sub-committee, known as the 'local committee', was constituted in 2004 in order to assist in the management of day-to-day responsibilities of the CPA on the farm, but this committee does not have the power to take decisions. The committee comprised five CPA members resident on the farm and in the surrounding areas, e.g. Elim. The relationship between this subcommittee and the main CPA committee (the so-called 'Jo'burg committee') remains unclear, and is sometimes tense. Members reported that they feel they do not have powers to take decisions without the agreement of the main CPA committee. This committee seldom meets. Although the CPA committee deputy chairperson resides in Giyani, he also reported that he feels powerless and is not in a position to take decisions about the running of the projects, including meeting the RLCC to request the release of development support grants or the allocation of further residential sites.

Initiatives to allocate fields and allow more people to farm with livestock and have orchards have been discouraged by the main committee, because of its vision to run the farm commercially as a single entity. The subcommittee (local committee) has recently not been meeting regularly because:

When we try to organise meetings to discuss how we can access services to ensure that the farm is fully operational, the main committee instructs the local committee to wait for the main committee whose majority are in Gauteng, that they will contact the RLCC and the Department of Land Affairs. So we are always waiting for the committee to contact the RLCC but they have not made any progress' (Focus Group Discussion 16/10/2006).

In terms of the constitution, the CPA is supposed to meet regularly, hold AGMs and carry out other activities, but none of this has happened in five years. The Communal Property Association Act does provide for monitoring of CPAs, and for interventions by the Director-General of Land Affairs where necessary, but no action of this sort has been initiated so far. Most importantly, the RLCC has made no effort to date to intervene to revive the CPA, to protect the interests of the members, or to compel it to meet its obligations in terms of the law.

Members of the Ximange CPA are frustrated because their leadership structure is not functional and is not in the area to meet people and explain to them the delays in the release of grants and other promised developments such as water and electricity. They are also frustrated because the government is not communicating with them either. The office of the RLCC also says they are frustrated by the divisions within the community. The people on Uitschot feel that their need for secure land access has not been met because they do not have any formal agreement to use the land. However, they keep working the land in the hope that it will ultimately be transferred to them.

Land use and livelihoods activities

At the time that the community moved onto Syferfontein and Uitschot, these farms were unused state land which had been neglected for a long time. On acquisition, the Ximange people started to resettle a few households in the two existing farmhouses to look after the property and guard against theft and vandalism. Those people who moved onto the land to look after the property and some who were interested in farming started cultivating arable land around the farmhouses. Fencing is in a poor state and, as a result, their crops were destroyed by stray livestock from the neighbouring settlements of Vleifontein and Nthabalala. Fences were also allegedly cut by people from the nearby township because they are now restricted from grazing and ploughing land that they have been using without permission for many years. The cutting of the fence was regarded as a sign that people in the neighbouring communities are not happy with the resettlement of the Ximange community on this land (Focus Group Discussion 16/10/2006). At the same time, some people moved onto Uitschot to start building houses and de-bushing in preparation for ploughing fields and establishing of orchards.

Most of the members of the community that had started farming on dry land were discouraged by the livestock damage. They say that they will plough again only when proper fencing is in place [Marimi, 24/05/2006]. They expect that the government to grant them funding to erect such fencing. Another limitation that they face was that the tractor belonging to the CPA (provided by the Department of Agriculture) broke down and nobody could afford to repair it. Most of the people who came to live or work on the land at the beginning have now given up and some are no longer involved in the farm. Only a few continued to develop small irrigated plots. However, the farmers on Uitschot are continuing to farm regardless of the absence of support from government and insecurity of tenure on the land they are working on. They have constructed four substantial

houses, and cleared and fenced an area of approximately 20 ha which is being used for cultivation of rain-fed crops such as maize, sweet potatoes and groundnuts.

As part of the Settlement Agreement signed between the community and the state, the community is required to prepare a business plan, for which the state will provide funding. An outline business plan prepared in March 2002 included plans for resettlement and agricultural development, including the following elements: construction of access roads, water reticulation, fencing, electrification, agricultural projects – tropical fruit production, vines, cattle ranching, dairy, chicken rearing, piggery – refurbishment of farm buildings, de-bushing, latrines. The plan estimated that a budget of R9.35 million was needed to get the farm running again.³³ No steps have yet been taken to implement this plan.

In 2004, the RLCC appointed Northplan, a town and regional planning consultant, to develop an LUDP for the Ximange community.³⁴ The LUDP report consists of a status quo report on the land acquired by the community and lists possible projects that could be initiated. According to the plan documents, it was adopted by the community on 24 November 2004, although the accompanying attendance list shows that only eight members of the community were in attendance. This plan proposes a unitary commercial farm model, and discourages human settlement on the land: 'No urban settlement is going to take place and the farm will be operated as a commercial farm' (Northplan 2004:9). It is based on the assumption that all Ximange people want to run the farm as a commercial agricultural enterprise without accommodating the need to resettle and rebuild the community. The LUDP makes no reference to the existing skills or resources of the Ximange community, how the farm will be managed (or by whom), nor how a single commercial farming operation can meet the needs of over 250 households.

The LUDP only focused on the restored property of Syferfontein, which it divides into three sections, as follows:

- Area A of approximately 150 ha which could be used for biodiversity and water preservation.
- Area B of approximately 459 ha which could be used for grazing. It further states that both A & B can be used for cattle and/or game farming and could support 100 cattle at 5 ha/LSU [Large Stock Unit] on Area B.
- Area C of approximately 110 ha, which is regarded

as good arable land. Area C was further divided into 49 ha of crops, 11 ha of intensive livestock, 25 ha of horticulture and 25 ha of mixed use.

The report concludes that the farm is suitable mainly for dry land farming, deciduous fruit and cattle and game farming. It proposes that the Ximange CPA must 'prepare a business plan for the renovation and use of the existing building structures on the farm; apply to the municipality for the provision of electricity; and prepare an agricultural business plan for each of the proposed agricultural activities ...' (Northplan 2004:10). No such business plan has been developed as yet, although members of the community and officials of the RLCC refer to the LUDP as a business plan.

Productive activities on Syferfontein to date have been influenced by the immediate needs and very limited resources of local people who can access the land, rather than by the elaborate, yet vague, proposals of the LUDP. With the support of Nkuzi Development Association, one household (husband and wife) is producing broilers in a new purpose-built shed; eight households are cultivating small irrigated vegetable plots and one household has brought in livestock for grazing. Nkuzi also provided the occupiers with 100 macadamia trees which later died because of lack of water.

Sipho Baloyi and his wife run the poultry business for their own benefit, without the involvement of other members of the CPA. Sipho was trained in broiler production by consultants hired by Nkuzi as part of its livelihood support work. He was also trained in crop production at the Madzivhandila College of Agriculture, with funding from the Department of Agriculture.

Poultry production was started as a group activity for the CPA, with 300 chickens, a poultry house and other provisions provided by Nkuzi. Members received training from a consultant appointed by Nkuzi. However, the people who were to be employed did not continue with the project because they discovered they would not be paid for the time spent on the project, and would only be entitled to a share of the profits. The CPA then allowed Sipho to control the business because he was trained in poultry and in the hope that he would grow it and employ more people from the Ximange community. The operation is still very basic as there is neither electricity nor water supply to the poultry house. Water has to be purchased in Vleifontein township for R1.00 per 25 litre container and transported to the farm by bakkie.

³³ This is a version of a draft business plan that was prepared by a member of the CPA committee, Dr O.S.B. Baloyi (President: Ximange/Baloyi CPA). Note that the registered CPA is called Ximange CPA but Dr Baloyi refers to it as 'Ximange/Baloyi CPA'.

³⁴ Note that LUDP is now for the Ximange tribal community and not for the Ximange CPA.

Now the project has 500 chickens, which are sold at six weeks old for R23 each. If all the chickens survive and are sold, they will generate an income of R9,200. The costs of production include the purchase of four boxes of chicks at a cost of R420 per box (R1,680 in total). The cost of feeds (for starters, growers and finishers) is estimated at R3,152 per batch of 400. The cost of vaccines and other medicines such as chlonex 30, hebevex, gumboravex and lasotta are estimated at R110. The total costs for a single batch of 400 chicks are thus estimated at R4,942. The net return to Siphon and his wife is thus approximately R4,250, which is their salary for the six to eight weeks required per batch of chicks. They are not making enough money to employ extra people at this stage.

Individual producers have also started de-bushing a 10-ha field for cash crop cultivation. This field has been allocated to eight producers who each have plots of between 0.5 and 5 ha. When it was started, they used their own hand tools to de-bush the fields, and at a later stage the Department of Agriculture provided a bulldozer which greatly assisted them. Nkuzi Development Association provided diesel for the bulldozer and it was driven by an official from the Department of Agriculture. People involved on this project are producing vegetables such as spinach, beans, peas, beetroot, tomatoes, cabbages and pumpkin leaves, and some have produced maize. Production is mainly for household consumption and any surplus is sold on the local informal market.

I feel happy here because I have my own piece of land that I can grow food for my family [Marimi, 24/05/2006].

The irrigated fields were cultivated for the first time in May 2004. In 2004, Siphon and his wife planted a hectare of cabbages, beetroot and onions. In 2005, they planted tomatoes, spinach, beetroot and onions. From these they had a good harvest. Seven crates of tomatoes, two crates of beetroot, and a crate of onions were sold to the local markets in the township. 'From this produce, I am able to feed my family and still sell what we are not able to use at home,' says Siphon. He does not spend a lot in transport because people come to the farm to buy vegetables. In terms of marketing, information is spread through community networks when vegetables are available at a particular plot. In the first year there were not a lot of inputs made to the field, because the seedlings used were from a starter given from the training he attended but he bought '323' fertilisers from NTK in Makhado with money he got from his parents. In the seasons that followed he bought seeds from NTK Makhado and from a shop in Vleifontein. Production from this field support the family at home and also consumption

at the farm:

Last time when we had a funeral for my brother, we were able to get tomatoes, onions and cabbages from this plot. We saved a lot of money because vegetables are expensive in the village [Baloyi, 24/05/2006].

Other people who have good sources of off-farm income are able to cultivate bigger portions. One member, the secretary of the CPA, has cleared approximately 5 ha of land, which he is irrigating; he uses the land on a more commercial basis. However, some other farmers complain that he has taken more land than he should and monopolised the irrigation pipes that were donated to the community. 'These pipes are not for individuals; he could have shared with the rest of us who do not have' [Marimi, 24/05/2006]. The household using 5 ha comprises professionals (teachers) who earn salaries and are thus able to farm on a bigger scale than others. They use their salaries to purchase inputs for their plot. They produce spinach, chillies and green peas. They have used Landman Vervoer in Levubu to transport produce to and market it in Johannesburg, but feel that this was a waste of money. A lot of money was spent on intermediaries and transportation, but some of the produce rotted before it reached Johannesburg and other produce remained unsold, with the result that they lost money. They now prefer to sell locally, including to shops in Makhado. 'Transporting the produce to the local shops costs me only R30, increasing my chances of making a profit' [Baloyi, 2/11/2005]. The Baloyis also employ someone on a full-time basis, who is paid R700 a month. They also employ seasonal workers for weeding and harvesting, paying R25 per day. Their sons occasionally assist the parents on the plot. Mr Baloyi estimated total costs for inputs for 2004 at R600 – for seeds, fertilisers, repairing irrigation pipes and cultivation, excluding labour and transport [Baloyi, 2/11/2005]. The Baloyi family reported that this cultivation is making an important contribution to the household diet and income.

My life has changed now because I can make extra income from the fields to supplement our household income. Some of the produce such as spinach, cabbage and onions have been used for household consumption [Baloyi, 2/11/2005].

Another member of the community, Mr Khosa, keeps his son's cattle on the farm. Currently they have six head of cattle, including a calf.

I have problems with farming cattle on this farm because there are no camps, and other crop producers complain that my cattle interfere with crop farming. In addition, there is no water for drinking, as a result I use my van to fetch water from Elim, approximately 13 km from the farm [Khosa, 16/11/2006].

This has been the major cost for Mr Khosa so far. According to Khosa, there have not been any sales or benefit for his household, as they are spending a lot in maintaining cattle on the farm and building up a herd [Khosa, 16/11/2006].

On Uitschot, production is mainly on an individual basis. Rain-fed maize, groundnuts, peanuts, pumpkin leaves, beans and sweet potatoes are produced. Some of the producers also intend to establish orchards with trees such as mango, avocados, macadamia and pawpaw. Small patches of vegetable gardens have been established next to streams where producers carry water from springs in buckets to irrigate their vegetables. One producer also uses a generator to pump water from a small pond to a tank for irrigation purposes. There are a few houses (some temporary, but also permanent mud-brick and cement-brick houses) built on the land where some of the farmers are staying while they are on the farm, because their homes are far from Uitschot.

One of the producers on Uitschot is Mr Vukela, who moved onto the land in 2002 around the time the land claim was settled. He is a retired policeman and works the land himself without employing anyone. He has cleared approximately 12 ha. Five hectares are for his sister while he works on seven hectares. The cost of clearing and fencing this area amounted to R20,000 in 2002 which he received from his retirement annuity. In the initial harvest in 2003, he obtained 80 x 80 kg bag of maize, excluding green mealies which were consumed at home and given to friends and relatives before the main harvest. The harvest has been an important contribution to the Vukela household's food and income because most of the maize was sold in informal markets in villages. 'This harvest has encouraged me to work hard because I realised that there is a potential to get returns for what I have invested when using all my pension money' [Vukela, 02/11/2005]. On another plot, Ms Mihloti Annah Mdhuli (63) and her husband (66), both of whom are pensioners, are using pension and other savings to purchase inputs for their plot. They planted maize, groundnuts, sugar beans, sweet potatoes and peanuts. They earned a cash income in their first year of R3,180. In the years that followed, their cash income was as high as R6,000, with the exception of 2006, when they harvested very little because of drought [Mdhuli, 02/11/2005].

Support institutions (government and non-government)

The RLCC (Limpopo) facilitated the acquisition of Syferfontein under the Restitution of Land Rights Act. The Settlement Agreement signed by the parties stipulates that the RLCC will coordinate the involvement of other parties in this settlement. These organisations include the Makhado

Local Municipality, the Department of Local Government and Housing, and the Department of Agriculture:

The Department of Land Affairs undertakes to release planning grants and restitution discretionary grants due to this claim. The Regional Land Claims Commission undertakes to assist the claimant community to negotiate with the Makhado Local Municipality, the Limpopo Department of Agriculture and the Department of Local Government and Housing in accessing all the necessary development grants available for the development of their land (Settlement Agreement entered into between the Minister of Agriculture and Land Affairs and Ximange CPA 2002).

The RLCC has not fulfilled this obligation to date. For example, when the beneficiaries visited the local municipality requesting a water connection, they were told that the municipality does not deal with land reform beneficiaries and that they should go to Water Affairs. Other departments such as Agriculture do not appear to have a specific strategy for dealing with settlements. In terms of the Settlement Agreement (2002):

The state shall take all the necessary steps to transfer the said land to the communal property association ... The department reserves the right to delay transfer until the Ximange Communal Property Association has ratified the terms and conditions of this agreement and has an approved business plan.

To date, the RLCC has failed to transfer land to the Ximange CPA, and has not been able to facilitate the completion of a business plan, other than a LUDP, which is basically a wish list of all the things that the community can do with the farm.

Since the drawing up of the LUDP, communication between the CPA and the RLCC has broken down because of the unavailability of the 'main committee, the lack of progress in the release of grants and the unwillingness of the official committee to delegate powers to other, locally based, members [Baloyi, 14/10/2005]. The RLCC has argued that the problem is within the main CPA committee who want the money to be deposited directly into the account of the CPA. This is contrary to the practice of the RLCC, which is that grants are paid directly to service providers following quotations [Shilote, 02/08/2006].

The LDA purchased for the Ximange CPA a machinery 'starter pack' consisting of a tractor, disc plough, trailer, planter and rake. The LDA also made available a bulldozer for the community to use in establishing access roads and fire belts, and for de-bushing where necessary. The department also provided a driver for the grader for a number of months,

but the farmers themselves had to pay for diesel. Some members of the community were able to de-bush an area of approximately 20 ha for rain-fed crop production.

In addition to the equipment for this settlement, the Department of Agriculture has also placed an extension officer to support producers on Ximange and nearby restitution projects. This officer is responsible for provision of extension support in livestock and crop farming, but rarely visits the farm. In October 2006, the farmers recorded that the last extension visit was six months ago. Farmers active on the land, particularly in crop production, are not happy about the extension support which the LDA claims to provide. Producers also wish they could be helped to access grants from the department, e.g. Comprehensive Agricultural Support (CASAP) grants. With CASAP they believe that they could establish fencing for the field and grazing camps, and they could also drill water for irrigation, for livestock and for domestic use. Since 2004, producers have requested the LDA to help them access CASAP but to date they have not been any reply to their request.

The Department of Agriculture through its education and training arm, Madzivhandila Agricultural College, has trained some of the farmers at Ximange in vegetable production, broiler production and soil analysis. Two members of the community were trained in these areas. This training has helped producers with crop production and broiler production. Although people were trained, some of the trainees feel that a lack of financial resources has prevented them from putting their knowledge into practice.

Further support for farmers at Ximange has been provided by a local land rights NGO, Nkuzi Development Association.

Nkuzi was involved with the facilitation of the land claim up to the point of settlement and assisted with the formation of the CPA. Upon the settlement of the claim, Nkuzi assisted some of the farmers who lived in the local area with poultry production, a macadamia orchard, and a vegetable garden. Nkuzi helped secure grant funding for training in game farming, crop farming, tree management and broiler production. Nkuzi also helped with the purchase of implements such as spades and wheel barrows, as well as bricks and cement for building cages for poultry and pigs. This NGO has also continued to provide advice to the farmers and has worked hard to bring on board the local municipality regarding the incorporation of this and other restitution settlements in the municipal IDP and LED plans. However, the municipality has not been able to put this CPA in the IDP, except for a small budget for the training of claimants in Makhado [Kwinda, 06/08/2006].

The other potential role player is Makhado Local Municipality, as they are a sphere of government responsible for service delivery. However, the local municipality has not yet taken any position on how they support beneficiaries of land reform. On numerous occasions, the Ximange community representatives have requested the municipality to provide water and electricity supply to the farm. These efforts have proved unsuccessful to date because the local municipality claims that it is not their mandate to deal with land claims, failing to understand that this is not just a land claim but a settlement that needs services. The municipality has not connected water and electricity, arguing that they cannot because the area is not proclaimed as a township (Focus Group Discussion 16/10/2006).



5. Conclusion

This study has identified that challenges for restoration projects under restitution lie in two broad areas, namely project design and implementation, and the provision of post settlement support. The three case studies presented here suggest that restitution is not encouraging a range of settlement options, such as small family farms, and instead promotes more commercially oriented single-entity farms which address the needs of small minorities within the claimant communities. Complementary support services for land reform are not being adequately planned or implemented, and no clear role has been allocated to municipalities. There is a pressing need to augment the current land reform efforts with services such as affordable credit, extension support, affordable inputs and agricultural training relevant to new entrants to the farming industry.

- **Secure access to land and provision of complementary support services is a critical aspect in securing improved standard of living for poor people.**

Access to land is an important step in redressing the injustices of apartheid in South Africa. However, if land is to contribute to improving people's lives, especially those of the very poor, complementary support services are a critical intervention. Such services are widely expected to come from the state because the majority of land reform beneficiaries are poor people who were impoverished through the land dispossession of the previous apartheid government.

In all the three case studies presented here, land reform beneficiaries who are using the restored land reported that their greatest satisfaction to date was regaining land that they could call their own.³⁵ Degrees of satisfaction vary from site to site. In the case of Mavungeni and Ximange, where the majority have not returned to the land, the emphasis was more on the symbolic return of the land. At Munzhedzi, where people had resettled on their land, the highest degree of satisfaction was found. This is because the people have material benefits in the form of land for housing and ploughing, which has been accessed by the majority of community members. 'I have my piece of land, so that I am able to produce vegetables and mealies which I can feed to my children. Where I

used to stay, I did not have enough yard to be able to cultivate vegetables like here at Munzhedzi' [Malesa, 10/12/2004]. In Mavungeni and Ximange, the minority of members who have gained access to the land to date similarly expressed happiness that they are back on their ancestral land and using it for grazing their livestock and for ploughing, and some are returning to stay, particularly at Mavungeni. However, the majority of the people have not yet returned to the land because of lack of resources to make use of the land and the distances between the farm and their places of residence. Many of the people have expressed disappointment because they expected government to help them relocate to their new land, and so far no progress has been made

Community members at Ximange were found to be producing at a small scale and could not expand due to lack of access to credit and affordable inputs. This situation is made worse by the fact that the development support grants owed to the community by the CRLR have not yet been released to them. Nonetheless, food production, even at a small scale, does make a significant contribution to household well-being. Food security of some households at Ximange and Munzhedzi has certainly been improved through access to productive land, which is of much better quality than the land they had access to in their previous places of residence.

Unlike Munzhedzi, where benefits from the use of land are enjoyed by most members, in Mavungeni and Ximange it is limited to a few households who have been willing to move onto the land without waiting for direction from the wider community. However, limited numbers of people, those that have worked the farm, have found satisfaction with production from those fields. Both of these communities have been tied up for lengthy periods in debates about how to use the farms as collective entities, but the example from other such farms in the area suggests that these are unlikely to ever get off the ground. In the absence of any clear decision or direction, a minority of individual households are producing for themselves without reference to the wider community. There is little doubt

³⁵ Interestingly, none of the communities in question is yet in possession of title deeds to their land, but the members feel that they own the land because the Minister of Agriculture and Land Affairs came and awarded them the land in settlement of their land claims.

that many more members of these communities would benefit if the land was sub-divided and individual production was more widely encouraged. Munzhedzi stands out as one of the few land reform projects in the country where the idea of group production was discounted at an early stage, resulting in clear benefits for its members.

This study suggests that many rural people, especially the poor and unemployed, are able and willing to farm on a small scale if they are given the opportunity. For them farming is largely driven by food needs and lack of alternative employment possibilities. Production of food crops can make a significant contribution to household food needs, even without cash sales.

- **Local coordination for service delivery is a critical gap in post settlement support.**

In South Africa, land reform is the core responsibility of the DLA (including the CRLR and the Provincial Land Reform Offices) whereas the provincial departments of agriculture deal with matters of agricultural support. Local government, which is legally responsible for coordination of local development, typically does not see land reform as part of its mandate and appears to be reluctant to include support to land reform in their IDPs. Local municipalities, where land reform is implemented, could play an important role if they understood their role properly and were given the necessary resources.

The three land reform projects discussed here are the responsibility of the RLCC for Limpopo. In addition, the Mavungeni case includes a component of SLAG, which is supposed to become the responsibility of the Department of Agriculture once DLA has finalised the land transfer. In Limpopo, the RLCC and the Department of Agriculture have recently started a closer working relationship to provide support for land reform. This relationship has yet to be firmed up at a local level, however, through the inclusion of local municipalities. The experience of Ximange illustrates the problematic relationship with local government.

On the other hand, the role of DLA's Provincial Land Reform Office in land restitution has also not been well defined. Clear needs exist in many areas, including institutional support to communal property institutions and ongoing monitoring and evaluation of project performance, but these are not being carried out by any of the existing government bodies.

None of the cases under investigation here have access to electricity or safe drinking water, despite numerous

efforts to get the local municipality to provide such services. In most cases land reform beneficiaries were told that land reform is not the competency of the local municipality. Likewise, the higher level district municipality has not yet established what role, if any, it might play in providing support to land reform. Land reform beneficiaries are, as a result, effectively left without support from any direction.

- **Absence of support services limits productivity of farms acquired by large groups through the land reform programme.**

The three case studies were all community-based initiatives that were, in the minds of officials, intended to lead to large-scale collective forms of production. In practice, the only land uses that have emerged have been based on individuals and households, largely against the wishes of official planners. These cases are thus characterised by smallholders producing on a very small scale, largely for household food purposes.

The examples of Mavungeni and Ximange reveal major difficulties with regard to farm inputs, extension support and credit. Smallholders have struggled to expand their production on these farms because of lack of irrigation and fencing to ward off stray livestock. Individuals have applied for assistance under the Department of Agriculture's CASP and MAFISA programmes, but have had no response from the extension officer or the department since. Considering what they have been able to produce so far without support and with only the most rudimentary forms of irrigation, it is likely that they could greatly expand production if appropriate support could be provided. Without it, they are likely to remain stuck at the most basic level.

- **Irrelevant and poor planning is among the causes of failures and collapse of land reform projects.**

For the case studies presented here, the RLCC has been the lead organisation regarding planning for the land use and development of the acquired land with the partial exception of Mavungeni where the Provincial Land Reform Office took the lead in planning for the SLAG portion.

Both DLA and the RLCC require beneficiaries to compile land use and development plans culminating in business plans. This phase in the project cycle allows the state to release grants to the community and beneficiaries are thus compelled to draw such plans that conform to official thinking. These formal plans are in most cases dictated by private consultants hired

by the state to assist communities and tend to focus narrowly on agricultural production, with neglect of alternative land uses, including housing. For example, the LUDP for Ximange completely rules out the possibility of resettlement of the community on the farm, despite the fact that the majority of the members currently reside between 20 and 70 kilometres away from the farm. It is difficult to understand how they will farm the land under these conditions. Munzhedzi demonstrates the popular demand for resettlement on claimed land, and it is significant that this community refused to accept the state-imposed planning process and resettled themselves in defiance of official wishes. This has in turn meant that they could not access any grants because no formal planning has been done so far, or looks likely to be done at this stage. The priority for members of this community was housing in a location that provided access to transport routes, and land for small-scale farming. This has now been achieved in an egalitarian way, which has provided direct benefits to most members of the community.

Planning for land reform needs to be more participatory, more flexible and more realistic, and be properly linked to post-planning implementation. The evidence of these three case studies suggests that plans lack clarity in terms of who will provide what support to the land reform beneficiaries. In instances such as Ximange and Mavungeni, there are dissenting views within the communities about how such plans were actually developed and approved, as most members appear not to have been consulted. In the case of Ximange, none of the farmers currently on the land supports the idea of running a single commercial farming entity. They believe they should have access to individual plots for own production rather than a collective enterprise within which they would have to compete for limited employment opportunities. Technically, these business plans are also unrealistic in that they rely on huge loans and high levels of expertise in farm management and marketing. This raises important questions around the nature of the planning process, including the imposition of inappropriate models of commercial farming, the lack of popular participation in the process, and around whose needs are being met.

To be successful, projects require the support of various government departments, with a key role for the local municipality. In most cases, municipalities are bought in to the process at the end of the planning cycle and are only then asked to budget for support to the project. Hence, none of these projects appear in the IDP or LED plans of the local municipality.

- **Institutional development and support forms a critical base for sustainable settlements.**

Common property institutions such as CPAs and Trusts require extensive external support in the short term while they endeavour to establish themselves. This is partly because in most cases they are foreign to the land reform beneficiaries and it takes time for people to learn new ways of administration of land which is completely different from the customary ways in which decisions are made about land allocation and use in tribal areas. The three CPAs under study have not, to date, received any external guidance or training in how to interpret and manage their affairs, including financial matters, dispute resolution or even the specific rights of members to the land they have been allocated. This has led to particular problems at Mavungeni, for example, where there is now a dispute around how the benefits arising from group activities should be divided among the community members.

Clear systems need to be in place for distribution of opportunities and benefits among members. It is often not clear what the rights of individuals are within these large groups. Within CPAs, the rights of individuals is a critical issue that needs to be attended to without compromise, because without clearly spelling out rights of individuals, only a few people in the leadership will benefit from land reform. Such rights include rights to share in the wealth of the Association, including dividends (if there are any) and access to land.

Productive activities clearly need to be decentralised to individuals and small groups of members, and not all run through the main CPA committee, which has effectively collapsed in all three case studies.

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