# Land reform and agrarian change in southern Africa

An occasional paper series


Land reform and biodiversity conservation in South Africa: Complementary or in conflict?

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SCHOOL of GOVERNMENT
UNIVERSITY OF THE WESTERN CAPE

# No. 25

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Published by the Programme for Land and Agrarian Studies, School of Government,
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E-mail: plaas@uwc.ac.za
Website: www.uwc.ac.za/plaas/

ISBN: 1-86808-545-7

First published March 2003
Cover illustration: Colleen Crawford Cousins
Layout: Designs for Development
Copy editing: Stephen Heyns
Reproduction: House of Colours
Printing: Hansa Reproprint

# Land reform and biodiversity conservation in South Africa: Complementary or in conflict?

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2003

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## Acknowledgements

This paper was presented at the 9th Biannual Conference of the International Association for the Study of Common Property, Victoria Falls, Zimbabwe, June 2002. The authors are grateful to IUCN (The World Conservation Union) and NORAD (Norwegian Agency for Development Cooperation) for their financial support.

# 1. Introduction

Following the official end of apartheid in 1994, the South African government embarked on several policy-driven programmes aiming to reduce social inequality and improve the quality of life of millions of people who were marginalised by apartheid. Land inequalities, which were central to the struggle against apartheid, were addressed through the land reform programme, and were also enshrined in the country's Bill of Rights.[1] South Africa's Constitution not only provides for a right to land reform and equitable redress, but also to environmental protection. The Bill of Rights states that everyone has the right to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that, amongst other things, promote conservation.

A major challenge for government is to reconcile land reform and biodiversity conservation policies in contested geographical areas. Since 1994 a large number of land reform projects have been initiated which affect conservation areas. Many of these are concerned with the restitution of land rights, this in instances where people were dispossessed of their land to further the goals of apartheid. This has resulted in the conservation and land reform sectors (including government departments and non-government organisations (NGOs)) often

coming into conflict. Overcoming mistrust and poor understanding between the historically disparate land and conservation sectors is a matter which requires urgent attention. However, the most important issue is ensuring that people, whose land rights were violated by apartheid policies and sometimes by the creation of conservation areas, do not become victims of ideological battles.

This paper aims to improve understanding of the conflicts that have arisen between land reform and conservation, and to encourage better comprehension between the land and conservation sectors. It does this by analysing current experiences in South Africa with regard to land reform in conservation areas, and, through the use of case studies, exploring synergies and tensions which currently exist between these two seemingly disparate objectives.

The paper draws heavily on the experiences of those who have been actively involved in the debates, analyses and negotiations concerning land reform in protected areas. This has been done through literature review, an analysis of case studies, and interviews. A major source of information was workshops held by the Department of Land Affairs (DLA), the Department of Environmental Affairs and Tourism (DEAT), and IUCN (The World Conservation Union)-South Africa, to discuss the matter. The first workshop was held in November 1997 and brought together key people from the land and conservation sectors. Its outcome was to catalyse further workshops and the development of a research project on which earlier drafts of this paper were based. Two further workshops were held in July and August 1998 for the land and conservation sectors respectively, and the fourth in September 1998 for both the land and conservation sectors. Information relating to the #Khomani and Mkambati case studies is based on long-term field research within the claimant communities by two of the authors (Ellis and Kepe respectively).

The next section of this paper provides a contextual analysis of land reform in conservation areas by reviewing international experiences of land reform and conservation, by providing an overview of the land reform programme in South Africa, and by analysing the shifts in paradigms with regard to biodiversity conservation that have taken place over the past decade, both at global and local levels. This is followed by a description of three case studies of land reform in conservation areas in South Africa: Mkambati in the Eastern Cape, where attempts to resolve the claim have thus far failed due to local conflict and questionable strategies by government and conservation

agencies; the Makuleke in Limpopo province, who have successfully claimed their land in the Kruger National Park; and the #Khomani/Mier claim in the Kalahari Gemsbok National Park (KGNP), whose claim was based on aboriginality. The three case studies have been selected to enable a coherent analysis as to the nature and source of conflicts between land reform and conservation, and the different approaches taken to resolve these conflicts. The final section of the paper synthesises the commonalities and differences across each case study, and provides an analysis as to the difficulties of reconciling land reform and biodiversity conservation in the context of extreme poverty.

# 2. Background and context

## 2.1 International experience of land reform and conservation

South Africa is by no means unique in having to negotiate the often conflicting goals of biodiversity conservation and land rights. Yet, although many countries have dealt with this issue, experiences vary and there is no clear formula for success. In some areas, the relationship is antagonistic, whilst in others it is more amicable. Attempts to create a favourable interaction between people, their land-use practices and conservation differ from country to country, depending on socio-economic conditions and political dynamics. Efforts to reconcile the land rights of indigenous local peoples with conservation objectives have ranged from cash compensation for non-utilisation of natural resources (Hughes 1998) and devolution of authority regarding land-use management in protected areas (Suchet 1998), to comprehensive land reform, which includes the restitution of land rights to indigenous rights holders, land tenure reform and increasing access to land (Notzke 1995; De Villiers 1999; Steenkamp 2000). Stræde and Helles (2000) have noted that the practice of allowing local people limited access to natural resources inside protected areas as a strategy for resolving park-people conflicts, popularly known as 'grass cutting programmes', has largely failed to achieve its intended goal. Variations in approaches and the success of strategies in dealing with these conflicts are closely related to the types of groups that they have been applied to. These range from agriculturalists, fishing communities and pastoralists to urbanised people.

In Canada and Australia, for example, the two goals of restoring rights and ensuring biodiversity conservation have been linked to the notion of aboriginal rights. Land claims in these countries have roots in land dispossession that took place during colonisation of these nations by Europeans. In Canada for example, proclamations and treaties recognise aboriginal rights in principle, and the right to utilise natural resources (Morrison 1997). According to Suchet (1998), however, economic, political and social processes led to the Canadian state disregarding recognised rights from the late 1800s onwards. For instance, up until the early-mid 1970s, following the repeal of the National Parks Act, Canadian government legislation did not allow indigenous use of natural resources within protected areas (Johnston 1996). Currently, many parts of Canada are subject to aboriginal land claims of one sort or another, many of which are based on Treaty entitlements. Many of these claims involve land that either has protected area status, or conservation potential. According to Morrison (1997), tensions between aboriginal groups and environmentalists are rising, as each side pursues its own goals. On the one hand, conservationists do not accept that treaty and aboriginal rights should be an end in themselves. On the other hand, aboriginal people emphasise their rights and their need for natural resource-based subsistence. In many cases, the settlement of aboriginal claims in protected areas has included agreements to safeguard biodiversity conservation through respecting the current status quo or even increasing the extent of the protected area (Morrison 1997).

In Australia, the Kakadu and Uluru national parks are widely cited as good examples of cases where land rights and biodiversity conservation were successfully reconciled. In these two national parks there is joint management of the protected areas and tourism enterprises by local indigenous people and conservation agencies (Roe et al. 2000). However, despite the praise that these two cases receive, De Villiers (1999) points out that numerous challenges still exist. First, despite the land title being in the hands of the original land owners, control and management of the parks has remained in the hands of the conservation authorities. Second, only a small number of people have permanent employment in the parks, leading to discontent among those community members who are not employed. Thirdly, De Villiers argues that the legal title given to the indigenous local people is weak, as they cannot sell or use the land in any way but for conservation purposes. Despite these challenges, Roe et al. (2000) argue that Australia's stable

political and economic situation, and scientific expertise, put it in a much better position to succeed in reconciling land rights, biodiversity conservation and economic development than many other countries.

As in Australia and Canada, many other claims to land and resources in protected areas have been framed within the aboriginality discourse. However, Shivji and Kapinga (1998) have argued in the case of the Maasai's land rights struggle in Ngorongoro Conservation Area, Tanzania, that emphasising the aboriginal aspects of their claim for rights is not necessarily beneficial to their cause. They argue that the Maasai's plight is not fundamentally different to that of the rest of Tanzanian non-elite society. Therefore, while highlighting their plight, they should aim to build alliances with other marginalised people in their country. In South Africa at least one claim (see the Kalahari case) has been framed using similar notions of indigenous rights, restitution, and indigenous capacity to manage natural resources. This is in the context of a disregard for aboriginal land claims in South Africa (DLA 1997:55).

There are claims affecting protected areas that do not involve the poor. For example, the majority of Estonia's land claims within protected areas were made by individuals who belonged to the middle class (Ahas 1999). Here it appears that land rights and biodiversity conservation were successfully reconciled. One has to wonder whether the attempt to reconcile land rights and conservation in Africa is not complicated by the fact that the struggle is between the powerful state and the rural poor. In South Africa this is likely to be the case, as most claims are against the state, by rural people who are poor (Wynberg & Kepe 1999). However, unlike many other examples mentioned in this paper, South Africa is in a somewhat unique position, in that land reform in protected areas is taking place in the context of a recently instituted comprehensive land reform programme. As the next section explains, land reform is one of the highlights of the policies brought in by the post-apartheid government. In that context, its success is of paramount political importance.

## 2.2 Land reform in South Africa

The main goal of land reform in South Africa is to provide redress for the racially-based land dispossessions of the apartheid era, and to reduce the highly inequitable distribution of land ownership that resulted. In addition, it seeks to create security of land tenure for all, and thus to provide a basis for

land-based economic development. The three main components of land reform are restitution, redistribution and tenure reform (DLA 1997).

*Restitution* policy aims to restore land or provide alternative forms of redress (alternative land, financial compensation or preferential access to state development projects) to people dispossessed of their rights to land by racially discriminatory legislation and practice after 1913. Policies and procedures for the resolution of land claims are based on Section 25 of the country's Constitution (Act 108 of 1996) and the Restitution of Land Rights Act (Act 22 of 1994) and its amendments. All land claims are against the state, rather than against people or organisations currently owning the land. A Commission for the Restitution of Land Rights investigates claims before they are submitted to the Land Claims Court[2] for adjudication (DLA 1997).

In 1997, the Restitution of Land Rights Act was amended, allowing claimants direct access to the Land Claims Court and giving the Minister of Land Affairs the power to settle undisputed claims administratively rather than having to put every claim through court adjudication. In 1998, a restitution review process initiated by the Minister of Land Affairs saw a closer integration of the Commission for the Restitution of Land Rights and the Department of Land Affairs. Both the legislative changes and the implementation of the recommendations from the restitution review process have contributed to a considerable acceleration in the settling of claims (Lahiff 2001). According to official statistics in January 2003, 36 279 land restitution claims had been settled since 1994 (DLA 2002). Of these, the majority are from urban areas, and are mostly individual family claims for losses sustained during removals under the Group Areas Act of 1950. Resolving rural land claims, which account for about 90% of all people claiming land, has proved to be more challenging, and very little has been achieved in relation to these (Lahiff 2001).

With regard to the land *redistribution* programme, the government aims to reallocate land to the landless poor for residential and productive purposes. The government is committed to providing settlement and land acquisition grants to eligible individuals and groups in order to purchase land from willing sellers, including the state. Since mid-1999, when a new Minister took over the land portfolio, there has been a policy rethink on redistribution. Priority is now being given to the needs of 'emerging' commercial farmers, arguably at the expense of the landless and poor (Cliffe 2000). But it is hoped

that the new focus will speed up the redistribution programme, which has not even come close to achieving its original goals of redistributing 30% of agricultural land within the five years from 1994. By the end of 2002, only 1.2% of commercial land had been transferred through the redistribution programme (Kepe & Cousins 2002).

The third aspect of land reform is *land tenure reform*. Tenure reform aims to address issues such as insecurity of tenure, and overlapping and disputed land rights resulting from apartheid-era policies. Rural areas in the former bantustans are the most affected by these problems, as they bore the brunt of land-related apartheid laws. In many of these areas the land is still nominally owned by the state and held in trust for the occupants. Most of the land is held 'communally' and, in many areas, is still under the jurisdiction of traditional authorities. A number of laws have been enacted to facilitate tenure reform. Those relevant to the former bantustans include the Interim Protection of Informal Land Rights Act, Act 31 of 1996, which protects people with insecure tenure from losing their rights and interests, pending future reforms, and the Communal Property Association Act, Act 28 of 1996, which enables groups to acquire, hold and manage land through a legal entity, with rules specified in a written constitution.

It has been argued that land tenure reform is the most neglected aspect of South Africa's land reform programme, yet it is likely to impact on more people than all other aspects of land reform combined (Lahiff 2001; Turner & Ibsen 2001). In many former bantustans, uncertainties, chaos and corruption reign around issues of land ownership and administration, including informal privatisation by powerful elite and corrupt traditional authorities (Claassens 2001). Land rights take the form of a 'permission to occupy' certificate (PTO), while in other places these instruments are no longer in use. The legality of PTOs is currently unclear. According to Ntsebeza (1999) functions of *ownership* (for example, sale and lease of land) and those of *governance* (administration and management of land) have remained blurred since the apartheid years. In an attempt to address these and many other areas of confusion and inefficiency, the Department of Land Affairs began drafting a Land Rights Bill in 1997. After several years of delay, the draft Bill was released for public comment in the middle of 2002. Already, however, several key groups, ranging from villagers and traditional authorities, through to academics, have argued that the Bill, as it currently stands, fails to resolve land tenure issues in the former bantustans (Seria 2003; Moore & Deane 2003).

## 2.3 Shifting paradigms: From pariah to partner

South Africa's Constitution not only provides for a right to land reform and equitable redress,[3] but also to environmental protection.[4] New policies and laws on environmental management, biodiversity, forestry and water also embrace the importance of environmental protection. Together they break decidedly from the past by incorporating social justice considerations and the country's economic and development needs within the environmental agenda. One of the most fundamental and difficult shifts in approach has undoubtedly been within the conservation sector. Traditionally the domain of natural scientists and wildlife enthusiasts, conservation has moved squarely into the socio-political arena concerned with human rights, access to natural resources, equity and environmental sustainability. Certainly this has not always been the case. Although South Africa has made impressive scientific achievements in conservation, these are inextricably tied to the country's turbulent past.

The first official protected areas in South Africa were proclaimed in the late 19th century, largely as a response to declining wildlife numbers and the extermination of game. At the same time a number of racially-discriminatory restrictions were introduced for hunting and fishing. After Union in 1910, and indeed up until recent times, influential lobbies continued to secure additional areas and stronger legislation for protected areas. In many parts of the country, the establishment of protected areas was accompanied by forced removals and resource dispossession among resident black people. The dominant approach prevailing during this period was that protected areas ought to be 'pristine', fenced-off areas (Wynberg & Kepe 1999). Once created, these areas serviced the recreational needs of whites, with restrictions being placed on their use by other race groups. This history has largely obscured the scientific rationale for establishing protected areas, and has created an extremely negative perception towards conservation and its adherents. Today, protected areas are still widely looked upon as playgrounds for a privileged elite, and hold little relevance for the majority of South Africa's people.

South Africa's history of resource alienation and forced removals in protected areas is stark in its calculation and legislative base, but certainly is not unique. Throughout the world, cases abound of protected areas having been established with little or no regard for communities living within or adjacent to such areas. This has affected the livelihoods, social cohesion,

and customary rights and practices of many people. In so doing, considerable conflicts have developed between local people and conservation agencies, often undermining the viability of the affected protected area. The last 20 years or so have thus witnessed a realisation by many conservation agencies that protected areas have little future without the support and involvement of local people. It is now apparent that the efficacy of protected areas is dependent upon the extent to which such areas are socially, economically and ecologically integrated into the surrounding region. The corollary of this is that local people are increasingly recognising protected areas as important catalysts for economic development. Thus conservation agencies are frequently being required to take on the dual and sometimes conflicting roles of being promoters both of biodiversity conservation and rural development.

Linked to this change of ethos is the understanding that protected areas form only a component, albeit an extremely important one, of broader strategies to conserve biodiversity. Biodiversity is absolutely fundamental to the survival of humankind. It is the natural resource base upon which people depend, it brings opportunities for commercial development, and it provides ecological services such as pollution control, crop pollination, and climate regulation which are essential for all forms of life. Measures to conserve biodiversity thus have implications for virtually all economic activities and all parts of the country. Protected areas have a critical role to play, among other things, in providing benchmarks against which environmental change can be measured; conserving unique, representative or otherwise important types of habitat; protecting watersheds; conserving species that are threatened or that have social, economic or scientific value; and improving our understanding about the complexities of nature. Their purpose certainly extends beyond being a recovery zone for well-heeled and over-worked urbanites.

The importance of protected areas is recognised by several international and regional agreements and policy statements. The most important and overarching of these is the United Nations Convention on Biological Diversity. Some 180 countries, including South Africa, are signatories to the treaty. South Africa's ratification of the Biodiversity Convention and other international agreements commits the country to carrying out certain actions with respect to protected areas. These are articulated in the White Paper on the Conservation and Sustainable Use of Biological Diversity, adopted by government

in July 1997 following a two-year consultation process with a wide range of organisations and individuals (DEAT 1997). The White Paper represents a new philosophy for conservation in South Africa and includes far-reaching social policies for protected areas, specifically the involvement of local communities in the planning and management of such areas; the building of capacity to enable effective participation by communities; and the development of appropriate partnerships to realise economic and other opportunities associated with protected areas. Importantly, the policy requires that land claims in or adjacent to protected areas take into account the intrinsic biodiversity value of the land, and seek outcomes which will combine the objectives of restitution with the conservation and sustainable use of biodiversity.

The new policy additionally requires that a representative and effective system of protected areas be established and managed. Although the existing system of protected areas protects many of the known plant and vertebrate species, this has arisen through a largely *ad hoc* process, rather than being part of a deliberate conservation strategy. Thus neither terrestrial nor marine protected areas in South Africa form part of a planned network and there are many gaps and anomalies. Furthermore, the management of such areas is poorly co-ordinated between the range of responsible authorities, resulting in variable and often conflicting policies being applied.

Recent developments since the Biodiversity White Paper include the 2003 release of a Protected Areas Bill, intended to bring management of protected areas within the policies and programmes of government. While this initiative represents a potential opportunity to integrate conservation and land reform, and to provide a framework for community-based conservation, it unfortunately provides little guidance on these issues. Moreover, the tone is one of general reluctance to devolve powers to lower-level institutions and to work in partnership with local resource users (Wynberg 2003). A further concern of relevance is that the Bill pays scant attention to the fact that the viability of these areas depends on the extent to which they are socially, economically and ecologically integrated into the surrounding region. Rather than using the opportunity to identify ecosystems that require protection, and then developing a conservation and development plan for these areas, the Bill instead perpetuates the unfortunate myth that protected areas are isolated islands of biodiversity, and playgrounds for the rich.

This is a crucial deficiency and one which does not bode well for reconciling the land reform and conservation agendas. Creating the legal and political space for innovative and flexible solutions to these often intractable issues is crucial, as we highlight in the case studies which follow.

# 3. Case studies

## 3.1 Mkambati, Eastern Cape

The 7 000ha Mkambati Nature Reserve is situated on the Wild Coast of the Eastern Cape. It supports over 2 000 wild herbivores and numerous endemic and ecologically important plant species. Its history of reservation began in 1920 when the area was dermacated and fenced off as a leper colony. In the process, many households who were resident on the land were forcibly removed. Additionally, because of the presence of rare plants, including the endemic Pondo coconut palm (*Jubaeopsis caffra*), the area was declared a national monument in 1936. In 1977, after the health institution had closed down, the Transkei bantustan government declared the area a nature reserve. In 1992, the neighbouring Khanyayo people, supported by villagers from the vicinity, staged a sit-in within the reserve, demanding that they be recognised as having legitimate rights to resources within the reserve. In a move to mollify the protesters, the provincial Department of Health decided to reopen a small section of the old hospital as a clinic for local communities in 1996.

It was only in July 1997 that the Khanyayo people formally lodged a land claim with the Land Claims Commission. After almost a year of preliminary investigation, the claim was gazetted (published in the *Government Gazette*) in June 1998. This was not before a web of social dynamics built up around the claim. Firstly, the Thaweni Tribal Authority strongly opposed the claim by the Khanyayo people, arguing that no single administrative area or village falling under its jurisdiction could lodge a claim for land that would belong to that community alone. Hence, in September 1998, a committee claiming to represent the interests of the Thaweni Tribal Authority, lodged a counter claim for the Mkambati Nature Reserve. This was a clear sign of community conflict over land and potential benefits

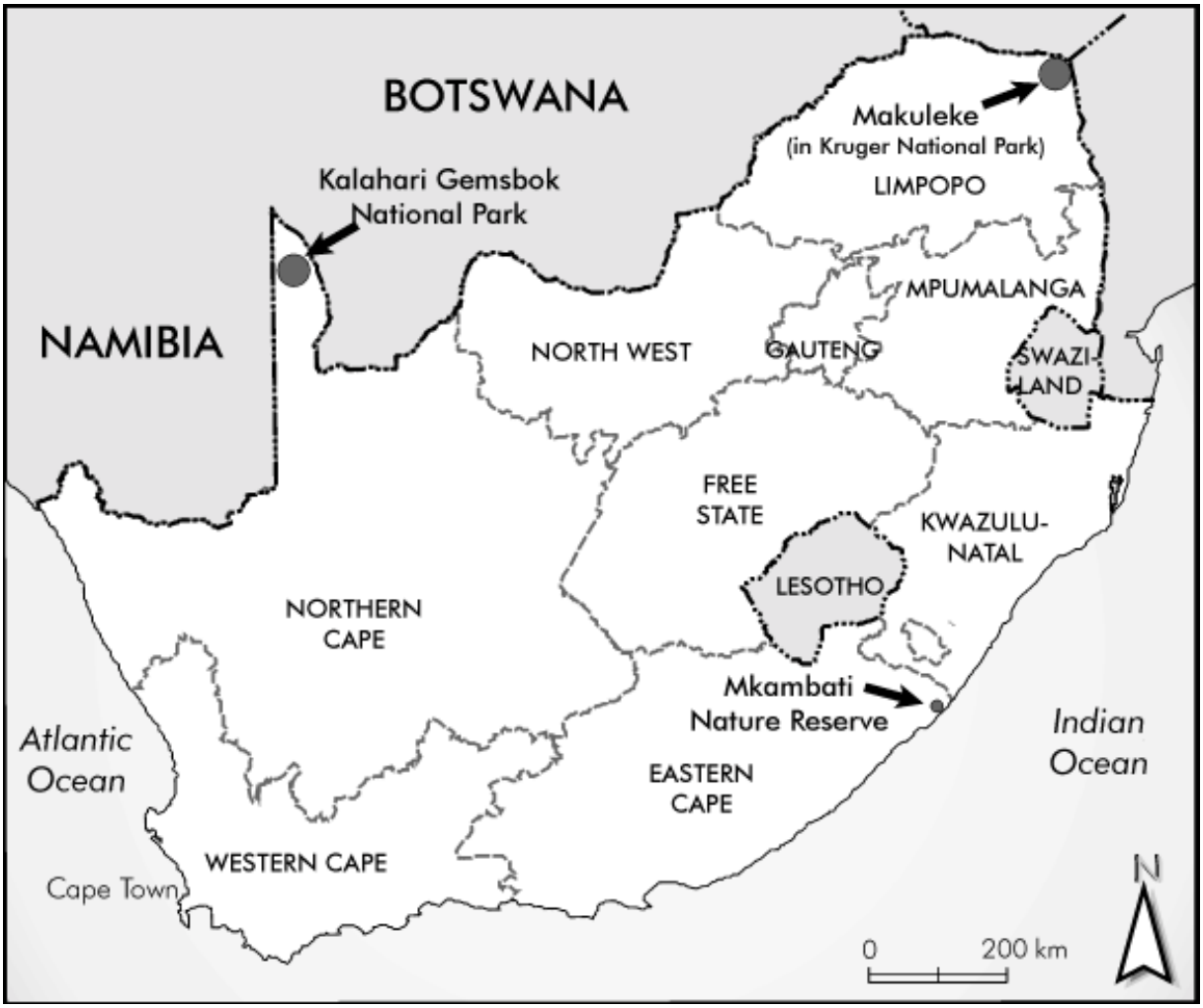


Figure 1: Location map of the case study areas

resulting from gaining land rights. Secondly, in 1996 the Wild Coast Spatial Development Initiative (SDI), a government development project targeting poverty-stricken areas, identified Mkambati as one of its focus areas. The SDI declared that landowners would become primary beneficiaries of local development and investment. This declaration by the SDI further complicated an already tense situation regarding land rights in the area. The work of the Land Claims Commission was also made difficult by the strategies used by the opposing claimants to assert their alleged land rights to the Mkambati Nature Reserve. On the one hand, supporters of the Thaweni Tribal Authority forcefully occupied and rented out buildings within the nature reserve, while on the other Khanyayo people dermacated farming land on the outskirts of the reserve, as well

as intensified their 'illegal' use of protected flora and fauna in the area. As a result of the counter land claim, and the strategies used by the two communities, conservation was greatly compromised.

Several agencies which wanted to see the land claim issue resolved – including the Department of Trade and Industry (which is the implementor of the SDI), the Land Claims Commission, the Department of Land Affairs and the provincial conservation authority – motivated for speedy implementation of economic development as a way of quelling local land-related tensions. Consequently, the SDI planning process went ahead of legal procedures to resolve the land claim. The conflicting communities were persuaded by SDI co-ordinators and DLA to withdraw their claim, and to accept SDI-led economic development of the area instead. It was also suggested that the two feuding sides would be treated as one community. As part of the deal with the SDI and DLA, it was proposed that Mkambati Nature Reserve would remain a protected area, with a unified community (Khanyayo and Thaweni Tribal Authority) as co-owners of the land. The Thaweni Tribal Authority was quick to agree to this compromise, while the Khanyayo agreed to this alternative form of redress, but refused to officially withdraw their land claim to the nature reserve.

The 'development instead of land claim' strategy backfired when, after four years of planning, the implementation of the SDI project failed in the Mkambati area. Conflict flared up again and illegal use of protected flora and fauna increased. This prompted the Land Claims Commission, in 2000, to continue its plans to resolve the land claim through legal means. Even then, the Land Claims Commission was not free from outside influence, particularly from the conservation lobby and the SDI.[5] Consequently, they pursued a route which would see Mkambati Nature Reserve remaining a protected area, with 336 households from Khanyayo, whose descendants were removed from the land in 1920, receiving financial compensation. As part of the deal, the Commission concluded that all 2 348 households of Thaweni Tribal Authority, including the Khanyayo, were to be joint land rights holders of Mkambati Nature Reserve. The aim was to take the proposal to the Minister of Land Affairs for approval, in terms of Section 42(d) of the Restitution of Land Rights Act. However, by the end of 2002 the proposals had not yet been taken to the Minister of Land Affairs due to renewed local conflict.

To a large extent, the new conflict was brought about by the Department of Environmental Affairs and Tourism's hasty plans

to declare Mkambati Nature Reserve and a further 90 000ha around the area a national park, to be named the Pondoland National Park (DEAT 2001). The Khanyayo, who are likely to lose grazing land, as well as face other restrictions on the use of other natural resources, are not convinced that the national park would serve their interests. They are also unhappy that, instead of getting their land back, they are likely to lose more land to conservation. Further delays in the resolution of the claim, as well as slow progress in implementing economic development in the area, has made the Mkambati area hostile to outsiders, including government officials, consultants and researchers.

## 3.2 Makuleke community, Limpopo

One of the most publicised cases of a land claim in a conservation area occurs in Limpopo province, where the Makuleke community have successfully claimed a tract of 22 000ha between the Levuvhu and Limpopo Rivers, known as the Pafuri Triangle. The land, much of which falls within the northernmost section of the Kruger National Park (KNP), is of high conservation value, comprising a valuable wetland, important habitat types, high levels of endemism, and significant cultural and archaeological sites. In 1969, the Makuleke community were forcibly removed from this area by the National Party government. This concluded a long-standing and bitter land dispute between the Makuleke community and authorities, initiated by the proclamation of the KNP in 1926 and the continued marginalisation of this Tsonga-speaking group over the decades (Carruthers 1995). For the 3 000-strong Makuleke clan, removals were accompanied by the denial of a hitherto self-sufficient lifestyle, a break up of families, increased malnutrition, the substantial loss of infrastructure and livestock, and an increase in tribal conflict. As sole compensation, people were given land a quarter of the area they had previously occupied, in a barren area on the western border of KNP. Here they were relocated with two tents per family (Koch et al. 1995). The combined denial of their rights due to apartheid legislation, and the inadequate compensation received, made the Makuleke prime candidates for restitution.

In December 1995 the Makuleke lodged a land claim for Pafuri, and in 1998 a successful settlement was reached. The settlement restores land to the community whilst maintaining

its conservation status as a contractual national park, valid for 50 years. The title deeds prevent mining or prospecting in the area or its use for residential or agricultural purposes, and make the primary purpose of the land conservation and 'associated commercial activities'. Responsibility for management of the area lies with a Joint Management Board (JMB), comprised of three members of the Makuleke community and three staff of South African National Parks (SANParks). Community ownership of the land is vested in the Communal Property Association (CPA) which not only maintains active participation in the management of the land, but also its rights to conduct commercial activities on the land, and to determine what commercial activities may take place.

While the case has been heralded as a milestone in South Africa's conservation history and as a 'win-win' for conservation and land reform, it has not been without its difficulties. Critics point in particular to the continued dominance of the conservation ideology, sometimes with little justification, over that of community development, and to the unequal power relations which exist between the community and SANParks (Magome 2002; Steenkamp & Grossman 2001). Unsurprisingly, the somewhat conflicting interests of SANParks, which aims to limit resource use in the Pafuri area, and those of the Makuleke, who hope to realise economic benefits through exploitation of their commercial rights in the same area, have led to several tensions. The most significant of these has revolved around hunting where SANParks objected strongly to two proposed concessions for the trophy hunting of elephant, buffalo, eland and njala antelope. Together these hunting quotas have earned the community US$210 000 (Magome 2002).

While rights of the Makuleke to use wildlife have been challenged, there have been no similar contestations of access to resources for religious or cultural purposes. Yet adequately defining these terms remains a challenge. Is, for example, the collection of medicinal plants a conservation or a cultural issue? And what scenarios will unfold when tourism development in the area is eventually realised, and driven by a private partner? Almost certainly this will lead to new conflicts. Much, it seems, hinges on the negotiation powers of the different parties involved, the personalities involved, and the resources at hand to articulate contrasting viewpoints and command public opinion. Whether or not this will translate into the continued marginalisation of the Makuleke is the question that remains unanswered.

## 3.3 The #Khomani San and Mier Transitional Local Council, Kalahari Gemsbok National Park

The third case study is located along the south western tip of the Kalahari, the only section of this 'Thirstland' in South Africa. The southwestern section of the Kalahari is also the driest part of the region; rainfall averages about 150mm per annum and increases as one moves diagonally across the Kalahari to the northeast (Tyson & Crimps 2000). The vast expanses of grass that bloom after the summer rains support a large population of antelope species and other herbivores, including gemsbok, eland, and springbok.

The Kalahari Gemsbok National Park (KGNP) was established in 1931 to replace the Gordonia Game Reserve and, most importantly, to prevent what was seen as the imminent extinction of the gemsbok (Pringle 1982; Kloppers 1970). Several groups of people used the area identified for the new park, including the San who historically hunted on the land. There was also a group of white farmers living within the boundaries of the proposed park. Yet with the proclamation of the park and their subsequent relocation these white farmers were provided with alternative farms along the Kuruman riverbed (Kloppers 1970; Van der Merwe 1941), while other groups such as the San were forcibly removed between 1936 and 1974 with no compensation.

In 1995, a San group resident at a private game farm in the Western Cape, where they worked as the living part of a tourist attraction, indicated to their lawyer that they longed to return to the Kalahari. At this time, the land reform programme was in place and the lawyer assisted them in the lodging of their claim for land within the park, as well as for a large portion of land located in an area under the jurisdiction of the Mier Transitional Local Council (TLC) adjacent to the park. The targeting of the Mier land led to conflict between the San and Mier TLC. Consequently, the Mier community lodged their own claim for land inside the park, resulting in an overlap with the claim of the #Khomani San. Due to the much-publicised discourses on aboriginality and campaigns internationally for recognising aboriginal rights, the San claim was highly publicised and had a high political profile.

The settlement of the two claims in March 1999 amounted to the receipt by the two groups of 50 000ha of land in the southern section of the park. The #Khomani San also received an additional 36 000ha of farmland outside of the park, while the Mier community received four farms for redistribution

purposes. Both groups also received cash compensation to be used for the purchase of additional land for grazing. No limitations were placed on the land uses for the farms, but land use inside the park was limited to conservation.

After the settlement of the land claim, Botswana and South Africa signed an agreement for the first official trans-frontier park: the Kgalagadi Transfrontier Park. The San and the Mier communities are now part-owners of the park, but are excluded from management of the transfrontier park since their portion of the park, it is argued, lies geographically outside of the cross-border resource management area.

The two groups have sharply different views on what the land inside the park could offer them. The San feel that the main importance of the land lies in what it can offer them in terms of heritage conservation and preservation of their culture. The Mier community is more concerned with the economic benefits their ownership of the land can bring. The activities and land uses that the San have proposed are linked to transmission of their culture to the younger generation. The Mier community desire nothing more than job creation and economic development for the Mier municipal area. The Mier group are interested in both non-consumptive and consumptive uses for the land inside the park. They have built a small clientele of regular hunters that visit their game camps every year. The #Khomani San, on the other hand, are planning to establish a non-residential tourist cultural village in the park. They are hoping, with encouragement from various NGOs and government agencies, that their identity and culture could be a major drawcard for tourists to the region. However, in the two years since the successful resolution of their claim, this expectation has not been realised.

While the restitution cases appear resolved, many other issues remain unsettled. Boundaries and resource rights are unclear, and resource management issues raised through the transfrontier park are an indication that unresolved matters are likely to continue to raise questions about community involvement in decision making and unequal power relations. However, what appears the most serious threat to stability following resolution of the claims is the non-negotiable constraint relating to land use within the park. Already, there are signs that many of the claimants were never satisfied with all elements of the deal. This is revealed by the words of one community member: '*ons kan maar net so wel die grond teruggee!*' (We might as well give the land back).

# 4. Discussion and conclusion: Commonalities, differences and approaches to reconciling different agendas

With less than a decade since the post-apartheid government introduced new, non-racial, policies that aim to redress imbalances of the past, it is perhaps too early to pass judgement about their success or failure. At the same time, however, this may be the ideal time to examine areas of concern before it is too late. While South Africa currently boasts a number of 'successes' in reconciling land reform and conservation goals, some issues of concern need further discussion, in particular the assumptions and approaches which have underpinned these initiatives.

## 4.1 Joint management

Joint management, which can widely be interpreted to mean different things in different situations, is becoming increasingly popular in South Africa as an approach to reconciling land reform, economic development and conservation goals (Reid 2001). Thus far, all land reform projects involving conservation areas in South Africa have adopted a joint management approach to ensure the continuation of biodiversity conservation (see, for example, the Makuleke and Kalahari case studies). While joint management has been practised with different degrees of success around the world in forest management, fisheries and conservation, South Africa's version evolved from an apartheid-era strategy of entering into legal agreements with white private land owners to expand national parks (Magome 2002). The National Parks Act (Act 57 of 1976) was amended to allow joining of national parks and private farms to the advantage of both private landowners and conservation bodies. Several critics have argued that this model was not meant for poor, powerless black people, many of whom live in rural areas (Isaacs & Mohamed 2000; Magome 2002).

Studies that have analysed experiences in the Richtersveld National Park, considered the first conservation joint management venture involving black rural people in South Africa, reveal numerous problems with joint management arrangements, including the divergent agendas of different actors, unequal power relations between parties, and the extreme poverty and lack of capacity of local communities

(Boonzaier 1996; Isaacs & Mohamed 2000). These lessons point towards the need to review joint management as a strategy for rural empowerment, a sentiment captured well by the former Director of the Social Ecology Unit of SANParks:

> *Equal partnerships between local communities and National Parks becomes an elusive concept, because the relationship is at best unequal as the control of resources rests with National Parks officials. Those involved in programme development and implementation exercise considerable power over communities. The nature of the relationship between the community and park needs to change fundamentally* (Dladla 1998:7).

While joint management between poor rural communities and state conservation agencies has achieved very limited success in many other parts of Africa (see Songorwa et al. 2000), it is a model which has seen wholesale support in South Africa's land reform programme. Of concern is the apparent dependency on joint management as a sole strategy to reconcile land reform, economic development and biodiversity conservation. As the case studies in this paper show, land and resource rights remain poorly defined despite 'successful' signing of joint management deals. While they may have won their land rights on paper, in practice local communities are often at the mercy of conservation agencies who tend to pursue conservation goals and the prevention of the consumptive use of natural resources at all costs. Hence some commentators have argued that current joint management arrangements involving the poor and conservation agencies are often nothing more than co-option (Isaacs & Mohamed 2000). Magome (2002) argues that if new joint ventures which involve rural communities claiming land in protected areas could be given the same status as that between private and state land, this would be a huge step forward. In the meantime, we have yet to hear a convincing success story of a joint venture following conflicts between people and parks.

## 4.2 Ecotourism to the rescue?

Closely linked to the joint management strategy to reconcile biodiversity conservation, land reform and development is the increasingly popular belief that ecotourism can be a solution to these problems. In all cases of land reform in protected areas in South Africa, ecotourism is touted as one – and often the only – strategy for ensuring that local people will benefit from a protected area over which they gained rights. In such cases, it is often emphasised that biodiversity conservation and ecotourism go hand in hand (Gössling 1999). Thus communities are

encouraged (or forced) to agree that other forms of land use are inappropriate for the jointly managed protected area, if benefits from ecotourism are to maximised. However, as happened with the Makuleke community, 'land owner' communities soon learn that attracting investors and tourists to their ventures is more challenging that they were made to believe (Magome 2002). Institutional capacity at both state and community levels often appears as one of the key constraints in such nature-based tourism projects (Wynberg 2002).

Stories of successful of ecotourism ventures that involve poor rural people are scarce in southern Africa and beyond (Songorwa 1999; Fabricius & De Wet 1999; Magome 2002). Yet the state and conservation agencies continue to make local people believe that it is worth compromising their land and resource rights for potential benefits from ecotourism. Often, ill-founded assumptions are made that favourable institutional arrangements to implement successful ventures are already in place in these areas. What is not generally recognised is that ecotourism has potential as only one livelihood strategy among many. Ecotourism should not seek to replace the complex and diverse portfolio of livelihoods available to rural people. Rather, government and conservation agencies should seek to provide support that can enhance such multiple livelihoods (Fabricius & De Wet 1999; Kepe 2001).

## 4.3 Intra-community conflict

Intra-community conflict is a third area of concern that is common when attempting to reconcile land reform conservation. As the cases of Mkambati and the Kalahari illustrate, perceived future benefits, representation and issues of identity trigger numerous conflicts. While conflict is common in almost any situation involving relationships between people, what is of concern is the fact that it is often treated lightly or ignored by those in power (Kepe 2001). Joint decision making has become a norm in dealing with land and park conflicts, but it is poorly understood. Conflict often arises due to the inherently unequal power relations between local people and government and conservation agencies engaged in joint decision making. While it is desirable that local people find their own ways of resolving conflicts, it is also necessary for government and conservation agencies to provide all the support they can. The Mkambati case shows clearly that, when this support is absent, the reconciliation of land reform and conservation becomes a major challenge. On the other hand, as illustrated by the Makuleke case,

support from outsiders (for example the Friends of Makuleke and the government), combined with strong institutional structures within the community, increases the chances of success.

### 4.4 Conclusion

Drawing from this discussion we conclude that South Africa has achieved minimal success in reconciling land reform, conservation and economic development. First, the divergent goals of the land and conservation sectors result in conflicts which often lead to delays in the process of resolving land issues. Second, the joint management or contractual parks model used in South Africa to resolve land claims in protected areas appears to be unsuitable, given current power imbalances between conservation agencies and poor rural people. Rural people sign agreements in the hope of enjoying future benefits from the deals, but they are often frustrated by their inability to influence management decisions that have an impact on their livelihoods. Third, with the retention of the conservation status of land in all cases, land and resource rights remain unclear, with some rural people questioning if they have achieved any victory. What is needed is a serious rethink of approaches to reconciling land reform and conservation, including flexible policies which may include alternative land uses other than ecotourism, and broader bioregional strategies for conservation that look beyond protected areas in terms of planning, conservation and economic development. The reality is that South Africa is faced with spiraling levels of poverty and unemployment, high levels of inequality – especially in land ownership and distribution – and increased reliance among the rural poor on natural resources. Addressing the immediate and long-term needs of the poor, whilst simultaneously conserving the country's biodiversity, is no easy task, needing both the creativity and commitment of all players to compromise where necessary, and to get it right. Whether this is possible is anyone's guess.

## Endnotes

1. Section 25 of the Constitution of the Republic of South Africa (Act 108 of 1996).
2. The government's apparent plan to close down the specialised Land Claims Court and transfer its functions to the High Court could severely limit access to justice for claimants (Lahiff 2001).

3. Section 25.
4. Section 24.
5. The SDI favoured a protected environment for the sake of eco-tourism (Kepe 2001).

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