

# The stories of the Manyeleti Land Claim

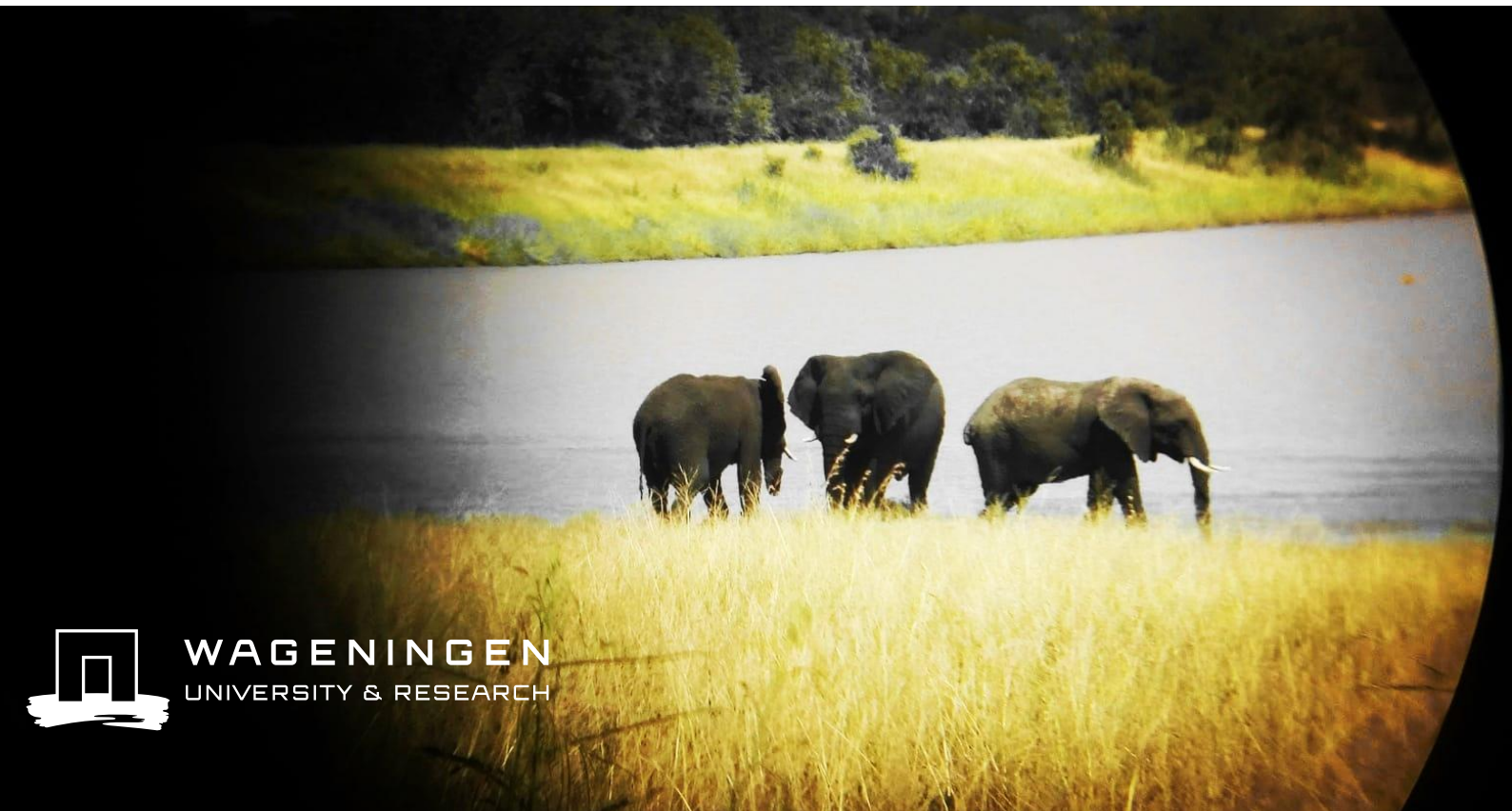
Claimants' perspectives on the  
history, present and future of a  
land restitution process in  
Mpumalanga, South Africa.

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# Abstract

The Manyeleti Game Reserve, located in the Mpumalanga Province, South Africa, has been subject to a land claim since the late 1990s. The longevity of the claim raised questions about the process of the claim and its claimants. This thesis investigates how the claimants perceive the process and the effects of the land claim on Manyeleti. The land claim process is characterized by a conflict between two groups of claimants, the Manyeleti Conservation Trust and the Concerned Group, about claimant representation. At the same time, there is general confusion about who exactly the claimants are. Multiple verification processes have had different outcomes, leading to different ideas of what makes somebody a claimant. The claimant identity is important, since claimants are entitled to the benefits of the land claim. Therefore, the research also explores people's expectations regarding the outcome of the land claim. The research shows that people's recollection of history strongly influences their perception on the land claim process, and, at the same time, these recollections are shaped by current events. Furthermore, the research remarks upon people's expectations for the future of Manyeleti and reflect how these are influenced by a long anticipated claim settlement.

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## List of Acronyms

AGM	Annual General Meeting
CBNRM	Community Based Natural Resource Management
CLCC	Chief Land Claim Commissioner
CPA	Community Property Association
DBA	Department of Bantu Affairs
DRDLR	Department of Rural Development and Land Reform
GLTP	Great Limpopo Transfrontier Park
IMP	Integrated Management Plan
KNP	Kruger National Park
LCC	Land Claim Commissioner
MALA	Minister for Agriculture and Land Affairs
MGR	Manyeleti Game Reserve
MRDLR	Minister for Rural Development and Land Reform
MTA	Mnisi Tribal Authority
MTC	Mnisi Tribal Council
NEMPA Act	National Environmental Management: Protected Areas Act
Nexus	Nexus Forensic Service
PA	Protected Area
RLCC	Regional Land Claim Commissioner
SA	Settlement Agreement
Trust	Manyeleti Conservation Trust

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# 1. Introduction

## 1.1. The Manyeleti Game Reserve

*The Orpen gate is a well-known route into the Kruger National Park. Less than an hour driving from Hoedspruit, a road bordering multiple private game reserves ends at the gates of the world famous park. Each morning at dawn, safari vehicles queue up waiting for the rangers to open the gate. As soon as you enter, the well-paved road continues straight on and continues for miles and miles, surrounded by impala, zebras, and wildebeest.*

*Next to the gate to Kruger National Park is a little dirt road to the right. It is easily overlooked, and most people do, but it leads to the entrance of the Manyeleti Game Reserve. The roads here are not paved at all: they twist and turn, have deep groves in them, are full of gravel and elephant droppings, and some of them are only accessible with a terrain vehicle. There is hardly any traffic here. For the hours it takes to get to one of the lodges, drivers are only surrounded by endless natural landscape, herds of impalas and beautiful birds, dry grass and red sand. (Personal notes, April 21<sup>st</sup>, 2019)*

The Manyeleti Game Reserve is located on the border between Limpopo and Mpumalanga in South Africa. The 23,000 hectare reserve lies between Kruger National Park, Sabi Sands and Timbavati Game Reserve (see figure 1). The borders to the Kruger Park are open and animals like rhinos and lions roam freely from Kruger Park to Manyeleti. This makes it a suitable reserve for tourism and for conservation of some endangered species (De Koning, 2010a).

Manyeleti is subject of a land claim. The reserve was opened in 1967, but before that it was inhabited by a number of families. Between 1963 and 1964, the people living in the area that is Manyeleti today, were forcefully removed from the land by the apartheid government of South Africa.

Land claims are part of the land restitution process of the South African Government to undo some of the effects of colonialism and apartheid. The land claim in Manyeleti started in 1996 and was still unsettled during the time of research (March and April 2019). The case is complicated for several reasons. The process is taking a long time due to a combination of unclarity about who is a claimant, and a conflict between two groups within the claimant community, the Manyeleti Conservation Trust and the Concerned Group. Multiple attempts have been done to solve those issues and to settle the claim. Additionally, Manyeleti is a protected area (PA) for conservation purposes. The restitution process, therefore, also concerns complex conservation issues. The

reserve has the potential to be an attractive tourist destination, since it is located in a tourism intensive area and it offers “Big 5” sighting (De Koning, 2010a).

Besides little background provided by De Koning (2010a) on the recent history of the land and the displacement under apartheid, little information is available about the claimants in the Manyeleti land claim. Questions like why the people opted for the land claim, how they perceive the prolonged process, or what they hoped to gain from the claim remain undiscussed. Their ideas and perceptions on the on the process of the land claim is missing from the general narrative. Collecting the experiences and perceptions of the Manyeleti claimants possibly puts the story of the land claim in a different perspective. Elizabeth Lunstrum (2010) explains for example how different perceptions of history can lead to different interpretations of present practices. She points out that selectively forgetting parts of history can have real consequences for the present. Discrepancy between the “official” story and the lived experiences of the people involved is worth considering, especially when different actors are supposed to work together towards common goals; undoing the injustice of the past and maintaining the land for future generations. This research concludes that the Manyeleti land claim is characterised by in-fighting between the Trust and the Concerned Group. People on both sides of the conflict have different recollections of the claim process, most importantly of the verification of the claimants. Being a claimant in the land claim means different things for different people. Finally, I explain how this ties into the expectations that people have of the claim and discuss the obstacles the claimants’ might face in the future.

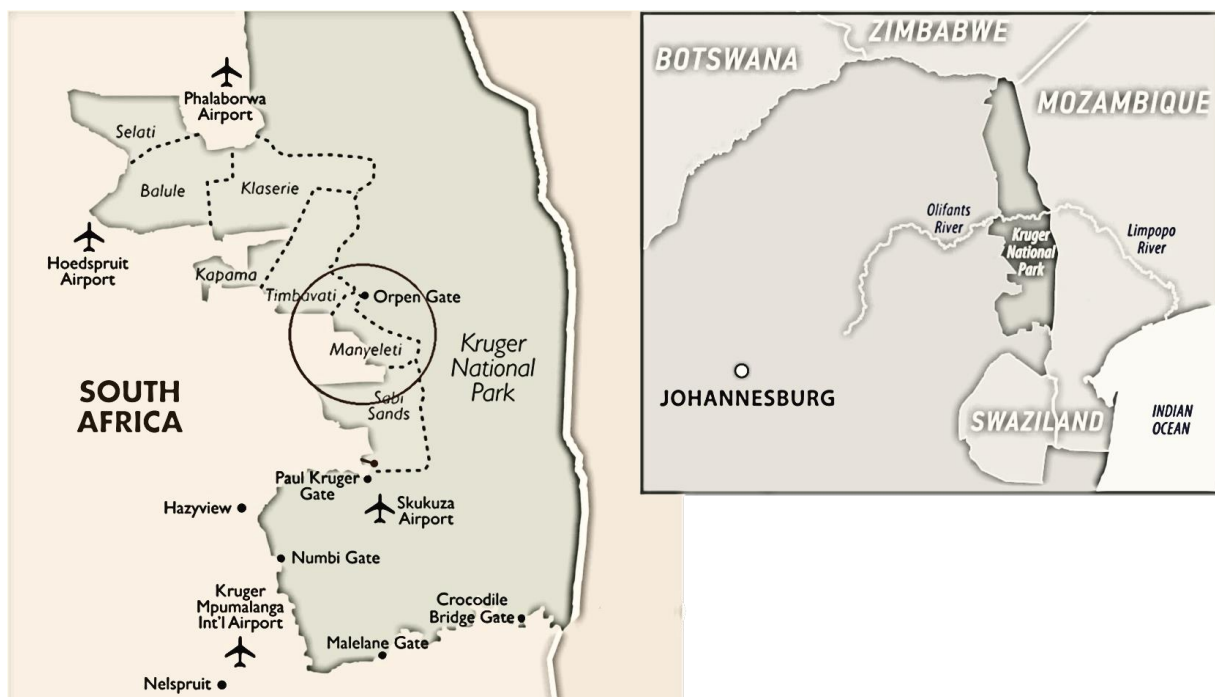


Figure 1. Manyeleti's location relative to the Kruger National Park

## 1.2. South Africa's history of dispossession, land rights, and land claims

Since the colonisation of South Africa in the 17<sup>th</sup> century by British and Dutch settlers, land ownership has been part of many of the problems with race and deprivation in the country. The Natives Land Act of 1913 prohibited black South Africans from acquiring, leasing, or transacting land. The only land they could possibly acquire was land within native reserves, later called "homelands" or "Bantustans" (Hall, 2010:18). These residents were scattered across the country, and black South Africans had to suffer forced removals from their lands (De Koning, 2010a). Oftentimes, indigenous people were also displaced to "make room" for conservation and the creation of protected areas (Hall, 2010:18). Estimated is that between 1960 and 1983 about 3,5 million South Africans were displaced, a number that exceeds that of any other colonial state in Africa (Ibid.).

After 1994, the political landscape in South Africa changed completely: the African National Congress won the general election, Nelson Mandela was sworn in as president, and apartheid formally ended (see e.g. Wilson, 2001; Liberation, 2011). The new government set multiple compensating initiatives in motion to undo some of the effects of apartheid. One of these was the Restitution of Land Rights Act 22, which was the first law to be passed by the new government (Hall, 2010). The act stated that:

*"A person shall be entitled to restitution of a right in land if he or she is a person [or is a direct descendant of a person] dispossessed of a right in land after 19 June 1913 as a result of past racially discriminatory laws or practices"* (Restitution of Land Rights Act 22, 1994(S2))

The act also states that *"the claim for such restitution is lodged not later than 31 December 1998"* (Ibid.). At that cut-off date, a total of 80,000 land claims were filed from all over the country. Processing claims was a much greater task than the commissioners were equipped for (Beinart et al., 2017:114). Due to the complexity of claims – many overlapping or conflicting – processing them went incredibly slow. Walker (2008:14-13) reports only 13 claims settled in KwaZulu-Natal between 1995 and 2000, a handful of the 15,000 claims that had been lodged in the province. After 2000, new policies were implemented to speed up the process. This did increase the number of claims being settled, but it did not get rid of the complexity of many of the claims (Beinart et al., 2017:117-118). Today, still many land claims have not been settled officially.



### 1.3. The issues with the Manyeleti Land Claim

The Manyeleti land claim is one of those complex cases. The land claim process has been going on since 1996 and was still not finalised in 2019. Multiple verifications of claimants, conflicts among claimants and other parties, and several court cases have complicated the claim settlement.

During the two decades that the claim has been going on, many different steps in the settlement process have been taken. First, in order to lodge a claim, aspiring claimants have to decide on an entity that represents them in the claim process: who signs the claim for them. The first claim attempt was lodged by the Mnisi chief on behalf of the Mnisi Community. The Mnisi chief is the leader of the Mnisi Tribal Authority and one of the four traditional leaders in the municipality next to Manyeleti. The chief claiming on behalf of his subjects sparked the discussion if the people who fall under this claim are the real claimants.

The next important stage in the restitution process was the verification of the claimants. Several attempts of verification of the real claimants have been done since the start of the claim. The most recent verification took place in 2011. This verification proved that most of the claims of the original 253 claimant households are invalid and presented a new list of 151 claimant households. There has also been discussion over the legitimacy of this new list. The different verifications and changing lists seemed to cause confusion among the interviewees about who is and who is not a claimant.

The issue with the claimant verification has been most prevalent in the occurrence of a conflict between two groups that claim to be representatives of the claimant community: the Manyeleti Conservation Trust and the Concerned Group. In order to understand the perceptions of the claimants on the restitution process as a whole, it is important to understand how and why these two groups came into existence, and how they have influenced the restitution process throughout the years. At the time of the research for this study, the two groups did officially not exist anymore. Instead, a general meeting to elect a CPA, a Community Property Association, was said to be organised. However, the disparity between the two groups did still exist and the community is still split between them.

To understand these processes and conflicts, one should understand how claimants have experienced dealing with these formal processes and how that shaped their perception of the current events. The study focuses on these processes – verification, lodging the claim, the court case, and the conflict between the Trust and the Concerned Group – since these were mostly mentioned among the interviewees. At the time of research, the Manyeleti claim was almost finished. Settlement of land claims comes with rights to the land and the title of ownership. One

of the issues at hand is that people cannot get the same land back as the land they or their ancestors were deprived from (Koot and Büscher, 2019). Manyeleti is no longer the place where people used to live, but a PA with conservation goals. Since Manyeleti is a PA, the claim can only be settled when there is an Integrated Management Plan (IMP) for the reserve (NEMPA Act, 2003). This includes the claimants – then the new official owners – but also their potential partners whose focus is on the tourism business and/or the conservation goals of the reserve. Being granted a form of ownership over land does not necessarily mean that people have access to as if they owned it (Fay, 2009; Sikor and Lund, 2013). To benefit from the claim, claimants would have to work together with these partners and express their desired outcomes of the restitution process. In order to understand the meaning of the land claim for the claimants for their future relationship to Manyeleti, the research examines the expectations of the claimants regarding the results of the claim.

In order to add something to the debate on co-operation between communities and institutions for conservation measurements or in a CBNRM context, it was necessary to ask people what they expected from the claim. The recollection of different peoples wants and needs might help establishing what should be on the table in the post-settlement negotiations.

### Research Questions

In this thesis, I focus on the perceptions, experiences and expectations of the claimants in the Manyeleti land claim. Their story is not recorded, nor is there any recollecting of their role in the land claim on the Manyeleti Game Reserve. Therefore, I will examine how the claimants perceive the land claim and the restitution process, and what they expect to happen after the claimant settlement. I will focus on their telling of history and how that relates to their experiences with the present situation. A point of interest is the relation between ownership and access to resources. There is an element of justice in land restitution, which is why it is important to understand how claimants see their future relation to the reclaimed land. Therefore, the following research questions have been formulated:

#### **How do the claimants of Manyeleti perceive the process and the effects of the land claim of the Manyeleti Game Reserve?**

- How is the general history of Manyeleti and the land claim documented?
- How do the claimants perceive the formal processes of the land claim such as the verification and the establishment of the Trust and the Concerned Group?
- What are the claimants' expectations of the access to resources after the settlement of the land claim on the Manyeleti Game Reserve?

## 1.4. Scientific relevance

Memories of displacement can be mobilized as place-maintaining strategies (Lunstrum, 2010). It is therefore important to understand how different narratives about displacement are used to claim rights to land. Beinart et al. (2017:159) recommend that land claims should be fully researched before they are settled, to restore the original aims of the restitution – giving land back to the right people. Not only does the history of dispossession play into the question of to whom Manyeleti belongs, the claim itself has a history. In order to understand the local dynamics it is vital to understand how people have shaped their own histories. There has been recognition for the fact that communities are not homogeneous entities, but this perception still exists in practice (Pienaar, 2005). Agrawal and Gibson (1999) suggest to focus on the different interests of the various actors in communities, as well as the social-political dynamic in which they are created and maintained. Thornton (2002) sees a need to identify problem areas with regard to conservation and land rights in the Bushbuckridge area, stating that it is necessary to “*define the nature of the problem for the participants*” (Ibid.:238). This qualitative ethnographic analysis attempts to form a nuancing picture of the claimant community, thus adding to the scientific body on the different positions of claimants in South African land claims.

Additionally, the Manyeleti claim is convoluted by the fact that the claimants are on the verge of getting ownership rights of a game reserve that requires to be approached from different socio-political, technical and economic angles. The elephant in the room is the presence of rhinos in the reserve. Multiple authors have addressed the complicated matrix of rhino poaching, militarization of conservation, ecotourism, poverty, and ‘soft’ approaches like CBNRM (See e.g. Andersson et al., 2013; Büscher and Ramutsindela, 2016; Dressler and Büscher, 2007; Duffy et al., 2016; Koot et al., 2020; Lunstrum, 2014; Lunstrum, 2015). Kepe (2010:244) mentions that there are often tensions between local people and conservationists, and conservationist tend to have a certain distrust towards local people. On the other side, as shown by e.g. Lunstrum (2010) and Fay (2009), local people might have their own reasons to oppose conservation policies. Therefore, recollecting the experiences and perceptions of the Manyeleti claimants might help to understand how they relate to the Manyeleti Game Reserve today. For successful collaboration on conservation issues, there should be an indication of the dynamics within the community, how they relate to the land, and what they expect from the claim and from the reserve. Their side of the story might add to the understanding of complicated land claims on conservation areas in South Africa.

## 1.5. Outline of the Thesis

To understand the issues with the land claim on Manyeleti, one should understand certain aspects of a land claim first. In chapter 2, I explain how to lodge a land claim, how claimants can hold the title deed to reclaimed land communally, and what it means to verify claimants. The following chapter 3 forms the theoretical framework of the research. Three theoretical approaches are being highlighted. The first one is that of lived experiences and Walkers' master narrative (2008:16), to explain how perceptions of history can differ among individuals and groups. Secondly, the conceptualisation of the term community is discussed in the context of land claims in South Africa and some of the issues with this conceptualisation in both law and policy are explained. Finally, the discrepancy between access to and ownership over resources in land claims is explored. Some of the possible issues that the claimants in the Manyeleti case might face are addressed. Continuing with the methodology, chapter 4, I describe the ethnographic field, methods of interviewing and other data collection. In addition, here I reflect on the methods, my position in the field and the limitations of the research.

Chapter 5 describes the history of Manyeleti Game Reserve and the history of its land claim. The description is based on official documentation on the land claim, in order to establish a general understanding of the claim process and its background. In chapter 6, the results of the fieldwork are represented. There are many interpretations and perceptions about the history of the Manyeleti Game Reserve, and even more about the process of the land claim on the reserve. I present the perceptions of the interviewees on four core issues: the early verification initiatives, the conflict between the Trust and the Concerned Group, the verification of claimants, and the prospect of forming a CPA. I explain how the Trust and the Concerned Group were formed, how the conflict occurred, and why it is still relevant for the restitution process today. The history of Manyeleti land claim does not only revolve around the question who "wins" the claim. It is also about deprivation, justice, and the way people perceive their history and their land. To understand why the land claim is important to people, one has to ask the question what the land claim is about and what do people expect at the end of the restitution process. Chapter 7 explores the expectations of the interviewees on employment, collaboration with other stakeholders, and the future development of the game reserve. To put their expectations into perspective, I explore the social-economic position of the people living next to the reserve, and how this relates to the wildlife-tourism industry in the area around Manyeleti. In chapter 8 and 9, I discuss the results of the research and make suggestions for future research.

## 2. Claiming land: processes and institutions

### 2.1. How to lodge a land claim

The Land Rights Act 22 (1994) describes the process one has to follow in order to launch a claim on land. Any person or any community can lodge a claim if they were driven from that land due to a discriminatory law that came into effect after June 19<sup>th</sup> 1913, or if they are a direct descendant of someone who was. A community is expected to have a representative (Ibid.). The Act states that “the claim for such restitution is lodged not later than 31 December 1998” (Ibid.(S2.1)). At that cut-off date, a total of 80,000 land claims were filed from all over the country. In 2014, the land claim process in terms of the Restitution Act was reopened, to give those who did not manage to lodge a claim before 1999 another chance (DRDLR, 2019).

The claimant(s) should provide a description of the land, the sort of rights they enjoyed and the nature of the dispossession (Ibid.(S10)). If there is a dispute over who represents a community, the responsible RLCC should organise a meeting for the whole community, where everybody over 18 years old is allowed to vote for a representative (Ibid.). A claim is considered lodged once the formal documents are submitted to the RLCC.

Then, the RLCC ought to announce the claim in the Government Gazette, and makes sure that the district, the current land owner and potential other interested parties are informed about the claim (Ibid.(S11)). When the claim is announced, the land may not be sold, exchanged or rezoned. Obstructing the claim is illegal (Ibid.). A claim is considered settled when it is approved by the MRDLR (CLCC Office, 2009).

### 2.2. Verification of claimants

*“Actually finalizing their claims on the basis of informal rights, however, proved to be much more difficult. Given the lack of visible proof such as a title deed, there were greater possibilities for multiple claimants on any given piece of land. This placed more stringent demands on the officers charged with the bureaucratic process known as ‘claimant verification’, since this required extensive investigation into oral histories – notoriously inconsistent and subjective – alongside site visits to the lands in question to seek for visible proof”*

(James, 2009:239-240)

Verification is a process whereby the claim of a piece of land of a claimant or claimant community is confirmed to be legitimate through interviewing, studying documentation and cross-

referencing evidence. Verification can prove that an individual or community lived on the land that is under claim and that they were dispossessed in a matter that justifies their restitution of the land in question. It determines who is dispossessed of their land rights, who their descendants are, and what exact rights the claimants were dispossessed off. It also secures the nomination of the claimants' representative (Hall, 2004a<sup>1</sup>). Not much information could be obtained about verification processes. The process itself is hardly mentioned in the literature (except for Hall, 2004a; Hall, 2004b; James, 2009). A judge or land claim commissioner (LCC) can call for verification, for example in the Mala Mala case (Rose-Innes, 2020). In cases where verification has been conducted, it is only mentioned as such, without going into detail about how it was done (e.g. Mda v RLCC, 2017). Case specific verification reports are not available to the public.

### 2.3. Forms of land ownership: trusts and CPAs

Once a land claim gets settled, the claimants get the legal ownership of the land. They have two options for ownership structures: a Trust or a Community Property Association (CPA). Both structures are considered a form of private land ownership (Gildenhuys, 2018). Trusts and CPAs are often mentioned in the same breath in the literature (see e.g. Beinart et al., 2017:122-124; Beyers and Fay, 2015). However, in terms of legitimacy, they are slightly different.

A trust is *“a legal arrangement whereby control over property is transferred to a person or organisation (the trustee) for the benefit of someone else (the beneficiary)”* (Registration of Trusts, 2020). Trust property is regulated by the Trust Property Control Act 57 of 1988. Under the act, *“trust property”* is defined as movable or immovable property *“which are to be administered or disposed of by a trustee”* (Trust Property Control Act 57, 1988(S1)). The act defines two important actors: the Trustee and the Master, the latter meaning the Deputy Master or Assistant Master of the Supreme Court (Ibid.). In general, the act defines that the trustee has responsibility towards the Master. The Act does not define what sort of responsibilities a trustee has towards the beneficiaries or if the beneficiaries can hold the trustee accountable for liability. According to Beinart et al., a trust is *“a collective form of ownership”* (2017:24); members do not have shares or their own property. Individual members or families cannot buy or sell land if the land is under ownership of a Trust (Ibid.).

CPAs have been defined by the Communal Property Association Act 28 (1996). The Act was meant to make it possible for disadvantaged communities to establish appropriate legal institutions *“through which they may acquire, hold and manage property in common”* (Ibid.:2). It encourages

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<sup>1</sup> Halls description is comparable to the description interviewees gave of the process of verification, see chapter 6.3.

democratic decision making, as to protect its members from power abuse. A community can register a CPA if they comply with the regulations and principles as defined by this Act. This means e.g. that the decision-making processes of the association should include a majority of the members and uphold certain democratic principles (Ibid.(S8, S9)). Furthermore, the act includes sections that deal with monitoring and inspection of the CPA, finances and transactions, dealing with disputes, and access to the property (Ibid.(S9-S12)).

Despite their differences, trusts and CPAs have similar issues (Gwanya, 2010). Both have difficulties with setting up and maintaining a proper (legal) administration. General disorganisation or a poor administration system may lead to more disorganisation and people failing to uphold their responsible tasks. Both have liability issues: there are not enough instruments available to ensure that either trustees or CPA committees can be held accountable and there is the tendency of power concentrating with a few members. These liability issues can lead to abuse of power (Ibid.). In chapter 6.2, the perspectives of the Manyeleti claimants on trusts and CPAs are described.

## 3. Theoretical Framework

### 3.1. Perceived History

Little is known about the claimants of the Manyeleti claim and how they have experienced the land claim. The time between the start of the claim and the time of research has a history of its own. In order to understand how people look back at this period of time, it is important to understand how different interpretations of history are created and recreated. Local ideas of the past might differ from hegemonic narratives, as described by Lunstrum (2010). She poses “lived experiences” as a comparative to the official history of the Great Limpopo Transfrontier Park (GLTP). The official history of the park – a narrative carried by government officials and park promoters – imagines the park as a place without people, devoid of human activity. This does not resonate with the experiences of the people who live near the park today, who recall their ancestors living in the park. For them, human habitation is part of the history of the GLTP.

A peoples’ interpretation of the past shapes their relationship to the present and their approach to the future (Cabecinhas and Fejió, 2010). Lui and Hilton (2005) argue that the representation of history of a group has a crucial influence on the group’s sense of identity and the way it responds to current events. They call this the social representation of history. Representations of history are important to understand why and how the present is perceived, and where certain practices and perspectives come from. They come into being through stories of events and people that have been essential for the shared narrative of a group.

Lui and Hilton (2005) note that there is considerable disagreement over the relevance and meaning in current events. Every people has a history, but not all representation of a peoples’ history is equally agreed upon by everyone among the people. Social representations of history can be challenged by people who disagree with the representation of their own history. Thus, representations become pluralistic when a consensually shared representation is challenged by members of the inner group. Social representations of history may be hegemonic (consensual within society), emancipated (different representations yet interacting without conflict), or polemical (conflicting representations among different societal groups) (Moscovici, 1998). This has an effect on present relationships between minority groups and society: minority representations of history that are polemical with the representations of the majority can cause an antagonistic relationship between the minority’s identity and the national identity. Lui and Hilton (2005) mention that different perspectives of historical events can lead to different ideas of what lesson there is to be learned from history by various groups. Van Eeden (2012) states that



studying the history of land claims is valuable, but historical narratives could overshadow truth or reality. The making of history of land claims *“in itself creates facets of power and policies that simply repeat similar previous cycles”* (Ibid.:504). Exploring different historical narratives or representations of history in the Manyeleti land claim might help to break through these repeating cycles. Walker (2008) examines the power of narratives in land restitution and their influence on present practices. She describes how South Africa’s history with forced removals during apartheid has defined the debate on land restitution today. According to Walker (Ibid.:16) the national land restitution program is driven by a master narrative of loss and restoration. Walker argues that the dispossession narrative on a national level is an explanation of how the South African society is formed by its past. This narrative is not only a motivation for land reform, but may also be called upon for other societal issues. Yet, for actual land restitution cases, the master narrative is too simple and a weak foundation for restitution policies (ibid.). Whereas the master narrative urges to redistribute land and settle as many claims as possible on a national level, this urgency is met with a number of complexities on the local and practical level. Apart of the overreaching narrative of justice for dispossessed black people, the local domain is also concerned with extensive historical research, identifying beneficiaries, and integrating political processes that have no direct relation to land settlements, but may clash in practise. This requires time and attention for each land claim settlement. Walker (Ibid.:38) points out that attention to the process of settling a land claim is particularly important when disempowered claimants are involved. Marginalised claimant groups can be overlooked when the settlement process is done with the urgency required by the master narrative, thereby defeating its purpose. Walker goes as far as to say that this narrative of restitution could be dangerous (Ibid.:17).

Beyers and Fay describe the contrast between national and local discourse in the master narrative as the *“discrepancy between symbolically charged aspirations towards obtaining restorative justice and what was possible with restitution”* (2015:447). The focus on communities influences the local dynamic in (post-settlement) restitution processes. Beyers and Fey argue that between claimants and the state, the concept of community formed the basis for the acknowledgement of suffering and entitlement (Ibid.). Simultaneously, the community framework that persists in the context of land restitution overlooks the diversity among claimants.

### **3.2. The concept of community in land restitution.**

The first land claim initiative for Manyeleti was lodged by *“the claimants of the Mnisi community”* (Trustees v MRDLR, 2017:4). This sparked the discussion about who was legally allowed to claim. Were all claimants part of the Mnisi community? Was the whole community allowed to claim Manyeleti? And who all belonged to this community? What constitutes as a community in this case

is both a legal and an anthropological question, thus these two theoretical angles are explored here below.<sup>2</sup>

In the Land Rights Act, it is stated that communities, or parts of communities, are entitled to restitution under the same premisses as individual persons are (1994(S2)). In the definitions of the Act, the concept of community is described as *“any group of persons whose rights in land are derived from shared rules determining access to land held in common by such group, and includes part of any such group”* (Land Rights Act 22, 1994(S1)). Pienaar (2005) argues that there are two issues with the legal definitions of community. First, the definitions of community in the legislation do not always indicate if such a group is entitled to a legal personality, meaning that the community as an entity enjoys rights and duties within the legal system as would it be a legal person<sup>3</sup>. Secondly, it is not specified what the requirements are for a group of people to be considered a community. Pietnaar (2005) finds that the definition of community in South African legislation *“generally indicates a group of people living together on a specific piece of land and exercising communal land tenure rights<sup>4</sup> on that piece of land”* (Ibid.:75). South African law does not provide a definitive framework for the term community. Pietnaar’s (2005) findings indicate that, in general, a community is defined by its spatial distribution and its shared rules in regards to land tenure.

This links to the second issue, which is the conceptualisation of community in relation to policy implementations. According Agrawal and Gibson (1999) communities are generally presented in three ways in literature on natural resource conservation: as a spatial unit, as a social structure, and as set of shared norms (Ibid.:633). These conceptualizations of community form a rather weak foundation for policy development, since they do not *“explain the cause of these features”* (Ibid.). Instead, Agrawal and Gibson (1999) suggest to take the institutional approach to demystify *“the community”* and to focus *“on the ability of communities to create and to enforce rules”* (Ibid.:638). They argue for local level institutions having control over their own resources

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<sup>2</sup> A very important aspect that ties into this discussion is the legal position of the Mnisi Tribal Authority and the chief. To group people together under the name *“Mnisi community”* could be considered controversial in itself. However, this is beyond the scope of this research and will not be examined here further.

<sup>3</sup> Definition by Merriam Webster of *“legal personality”* (<https://www.merriam-webster.com/legal/legal%20personality>) and *“legal person”* (<https://www.merriam-webster.com/legal/legal%20person>). Accessed on 20-11-2020.

<sup>4</sup> Customary land tenure means that land is for example allocated by a chief or headman, thereby conforming to customary law (Budlender et al., 2011:8). In the case of the Manyeleti claimants, the Mnisi Tribal Authority (MTA) holds the title deeds to the land where their villages are located and where most of the research took place. This form of land tenure persists in former homelands (Beinart et al., 2011:9). There is currently no legislation that secures land tenure rights for people in these so-called *“communal areas”* (Hull & Wittall, 2018; Songa, 2018). Hence, 17 million South Africans are left under the rule of traditional authorities that control customary land (Songa, 2018).

and members having control over their representatives. In a way, this institutional approach is reflected in the creation of CPAs.

Even in institutions like Trusts and CPAs, there is a change that (unofficial) power imbalances are developed or maintained. In theory, a CPA has to comply with democratic principles. In practice, the institution is not as stable as it may seem. New legal entities like CPAs become the focus of disgruntle among claimant groups when frustrations about the restitution process arise. Beyers and Fay (2015) describe the shortcomings of local institution building based of a concept of community out of a group of would-be-claimants in South African land restitution. Instigators of land claims, often the government or an NGO, prefer to group together what they assume is a community in order to form a single legal entity, thereby reenforcing an artificial image of unity among people. This is where the gap *“between legal unity and social-political consensus”* appears (2015:433). Dissent appears, for example, when individual or subgroups’ interests intersect with the collective land claim project, or when there is discrepancy between expectations and the results of the restitution process. Claimants, then, focus their frustrations onto the new legal entities that ought to represent them, instead of challenging the state for enforcing those entities.

According to Robins and Van der Waal (2010), the cohesiveness of the community is overstated: they reveal some of the tensions within the community and between tribal authorities. They describe how community leaders of the Makuleke use the image of unity to their advantage, and how the idea of a people *“belonging to a coherent and bounded community”* (Ibid.:172) is reinforced by development agencies and donors. Robins and Van der Waal (Ibid.) contest this image of unity by revealing some of the tensions between tribal authorities within the community. King and Peralvo (2010) go as far as to suggest that the concept of *“community”* might be meaningless in cases where local people are involved in conservation projects.

Theory on conceptualization of community reveals that there is an issue when using the general concept of community as a basis for a legal and institutional entity. Pienaar (2005) attributes this to existing *“romanticised and sentimental ideas regarding a unitary and harmonious community”* (Ibid.:65). It has, however, severe implications for how the nature of power and access to property within communities is perceived. One should cautiously consider the underling

relationships and inequities among individual people when assessing a “community claim”<sup>5</sup> such as the one in Manyeleti.

### 3.3. What to expect from restitution

After the claim settlement, the title deeds of the land in Manyeleti are turned over to the claimants. It is not possible for the claimants to settle on the land since it is a PA. Therefore, it is necessary to look at the concept of property and how it relates to access to resources.

Ribot and Peluso (2003) argue that access to property when one owns the rights to said property is not self-evident. In order to understand property claims, one should understand how people have or gain access to natural resources, and how they benefit from those resources. Property is often described as “*the right to benefit from things*” and “*bundle of rights*” (Ibid.:173). Ribot and Peluso suggest to define access as “*the ability to derive benefits from things*”, such as institutions, symbols, and material objects (Ibid.:153). People’s abilities to benefit from resources are affected by social relations, thus by their position of power and individual capabilities. Being granted formal property rights is not a guarantee for anything, but those who are already a bit more capable than others, in terms of capital, status, or other resources, are more likely to benefit from the granted rights. Some people have access to resources only *through* those who have control over these resources. These access relations are changing over time and depend on the power dynamics between individuals or groups (Ibid.). Sikor and Lund (2009) explain how issues of access and property relate to questions of power and authority. In some (post-colonial) settings, multiple institutions are competing over validation for their property claims, which makes property regimes negotiable and fluid (Ibid.). Often, this opens possibilities for those who are already in power to become even more powerful. Consideration of power relations between actors, Sikor and Lund (2009) argue, is therefore necessary when discussing property and access.

At the time of research, Manyeleti was on the verge of being turned over to the claimants, thus entering the post-settlement stage. In this phase, Van Leyenseele and Hebinck argue, other stakeholders come in and bring “*a shifting articulation, from land seen as a means of reconciliation towards land as an economic asset to be commoditized or safeguarded from exhaustive usage*” (2009:165). During this stage, the master narrative – of restitution and reconciliation – becomes less important, and contemporary (neo-liberal) “*standards of efficient management and commoditization*” take over (ibid:179). Robins and Van der Waal (2010) note that after the

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<sup>5</sup> For example, an assessment by the Judge in the 2017 court case stating: “*the term [‘verified claimants’], in my view, could be confusing given that the claim is a community claim*” (Trustees v MRDLR, 2017:18). He does not explain his reasoning for calling the Manyeleti land claim a community claim.

settlement of their land claim, some Makuleke leaders thought that they were not treated as true land lords, but instead had been put aside by the management of the GLTP.

Property rights over natural resources could translate into profitable practices, but it is not uncommon that people effectively have no means of benefitting from those resources (Sikor and Lund, 2009). Buthelezi (2018) argues that modern populist ideas of land reform overshadow the initial objectives of land reform in South Africa. Although land reform was initially meant to provide access to land and ownership rights for the rural poor, reality proves that property rights alone do not eliminate poverty. However, within the popular rhetoric, the perception that land redistribution will alleviate poverty remains strong. This results in a discrepancy of expectations between the state and the people. To some extent, this is also visible in the Manyeleti case and will be further explored in chapter 7.

Natural protected areas such as Manyeleti are required to have an Integrated Management Plan (IMP), according to the National Environmental Management: Protected Areas Act 57 (2003). PAs under land claims are required to have a management framework for conservation before the claim can be settled (De Koning, 2010a). In cases like this, the IMP therefore usually includes a co-management framework in line with Section 42 of this Act (Isimangaliso Wetland Park, n.d.:45). Kepe argues that the current co-management model “*emphasises conservation interest over the land rights of claimants*” (2008:250). His research shows that conservation authorities tend to take the lead when negotiating with communities. At the same time, issues like a lack of appropriate institutions and the disregard for the economic incentives for the poorest people in the community are not addressed. He argues that the model of co-management, as it is applied in South Africa, lacks the capability to simultaneously deal with conservation issues and land rights. Congruent, De Koning (2010a) argues that restoration of the land title to claimants is not always the most suitable option for PAs. In these cases, co-management “*can provide only limited tangible benefits for the land claimants*” (Ibid:45).

## 4. Methodology

### 4.1. Ethnographic field & research area.

#### Research site

Most of the research took place in Manyeleti Game Reserve or in the nearby villages in the north-eastern corner of the Bushbuckridge Municipal Area, Mpumalanga. This research site was chosen, because the claimants are mostly situated in this area (De Koning, 2010a; Berrian et al., 2016).

Between March 6<sup>th</sup> and April 26<sup>th</sup>, 2019, I conducted 26 semi-structured interviews with claimants, community members, concessioners and some other relevant participants, such as experts on different aspects on land claims and people involved in the tourism industry in the area. These have been supplemented with field notes, recordings of informal discussions and conversations with people in the field, photos and videos, and secondary data such as reports and flyers that were collected during field work. Interviews were conducted in the MGR, Hoedspruit, Acornhoek, Hluvukani, Welverdiend, Sabi Sands, Gottenburg, Khokhovela, Athol, Utha and Hlavekisa (see Figure 2). Most interviews were conducted in English. Three interviews were assisted by a local translator. Interviewees were mostly found through snowball sampling (Bernard, 2011:147). During April, I was helped by a local research assistant. He lived in one of the villages, but was not related to the land claim.

#### Interviewees

Nineteen interviews related directly to the Manyeleti claim. Two people were interviewed twice for more clarification: I had interviewed them early on when much of the land claim process was unclear to me. I interviewed them for a second time at the end of my stay, when I had learned more and could ask more specific questions. Of the seventeen interviewees, thirteen were claimants, two were members of the community, and two were concessioners. Quickly, it became clear that there were conflicting ideas about the claim among two groups in the community. Therefore, I purposely sought for people who were on either “side” of the conflict. This proved to be easier for supporters of the Concerned Group than for supporters of the Trust. Of the seventeen interviewees, eight were in favour of the Concerned Group and four in favour of the Manyeleti Conservation Trust.

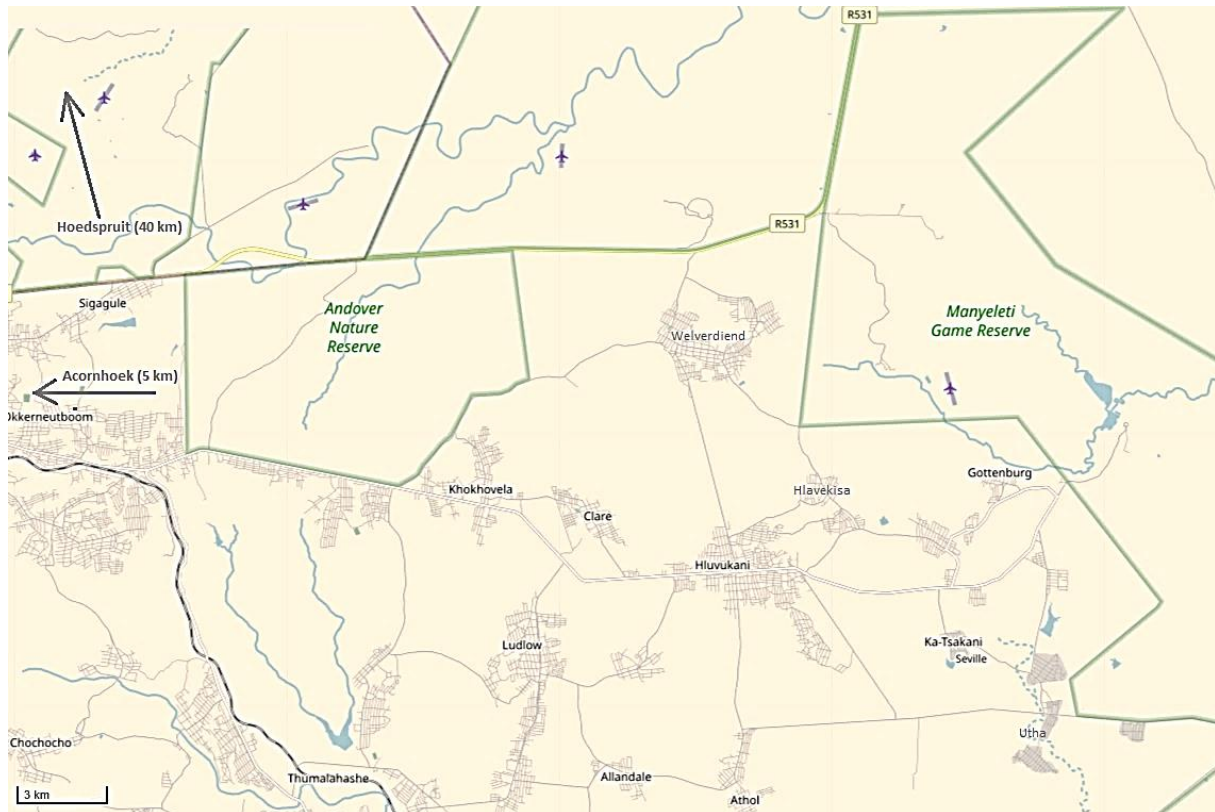


Figure 2. Map of the research area

Both the title “claimant” and “community member” have to be defined for the context of this research. I have discussed the difficulties of defining “the community”. When interviewees referred to the community, they broadly meant the people in the villages near the reserve. In this research, the people who are referred to as “a community member” live in the villages near Manyeleti, but they are not claimants. As shown in chapter 6.3 and discussed in 8.2, is it not always clear who is and who is not a claimant. I asked people before the interviews if they were a claimant in the Manyeleti land claim. For the purpose of this research, I regarded them as claimants if they answered positively. All the claimants are also community members.

## 4.2. Data collection and processing

### Interviews

The average duration of an interview was approximate one hour. Most interviews were recorded on a digital recording device. Interviewees were asked for permission before using it and were aware of the device being present at all times during the interviews. I also clarified that the recording device could be turned off whenever the interviewee wanted (this happened during several interviews). I always declared before the interview that the recording would be for my own personal use and that no third party would hear the recording. Not all interviews were recorded; sometimes it seemed inappropriate to use the recorder and sometimes conversations

were too informal to be put on record. I took extra notes during those interviews and wrote them out as soon as possible after the interview.

Interviews were transcribed in a schematic manner, where the discussed themes and lines of thought were written down and linked to the time stamp in the recording. This was done in order to be able to have written data that could be organised and coded, while at the same time giving the researcher a tool to structure the primary data. Transcripts of recorded interviews were not meant to be the definitive versions of interviews, but as references to the original recordings. The original recordings were used for analysing the data. Coding was done as well, but only used to structure the data systematically and to find connection between primary data and theory. It was not used to quantify the data or in preparation of statistical analysis.

### Fieldnotes, participation and observation

Field notes were taken daily, written or recorded. This research did not allow for much participation or participant observation as described by e.g. Creswell (2013:172) and Madden (2010:84). At best, I was a nonparticipant observer at one informal meeting of claimants that I was able to attend (Creswell, 2013:167). Field notes and observations functioned mostly as additional data to the interviews.

### Secondary data

I used formal documentation on the Manyeleti Land Claim to describe the general history of the reserve, the displacement of its inhabitants and the process of the land claim. The formal documentation I had access to formed the main sources for chapter 5. These were the 2011 verification report of Nexus Forensic Service, the Trustees v MRDLR court case of 2017 and the Tongoane v MALA court case, complemented by several Government Gazettes and the anthropological research of Fischer (1987), Hardtman et al. (1993) and Teversham (2013). Except for the Nexus report, all these documents were available online. I got in contact with Nexus Forensic Service to inquire about the verification report on the Manyeleti case. I received answer that the report is in the possession of the DRDLR and I would need written permission from the DRDLR to receive the document from Nexus (personal communication, March 19<sup>th</sup> 2019). I did not inquire further with them. During the interviews, the Nexus report came up several times. I asked some of the interviewees if they had seen the report or if they had it in their possession. A number of interviewees responded positively and one showed me the report. With his permission I made photocopies of the report, which is how I got access to the information.



### 4.3. Research limitations

Early on during field work, I purposely sought out members of the task team (who are tasked with organising a AGM for a CPA election, see chapter 5.2 and 6.4), as I had been told that they could clarify a lot about the claim process. These key informants were easy to find and to interview. Relatively soon, the thick description of the conflict between the Concerned Group and the Trust became clear. I relied on a snowball method to find claimants. The downside to this method was that the people who I got recommended to were mostly acquaintances of the people I had already interviewed, of whom most were involved in the conflict. I was also recommended to talk to the people who knew a lot about the claim. All of these people happened to be involved with either the Trust or the Concerned Group. They were mostly elderly men who had been involved in the process for at least some years. Most of them had an education and were fluent in English. They also were fairly rich, involved in businesses, or had jobs that put them in leading positions in the community (e.g. school principals, preachers, shop owners, etc.). It was significantly harder to find claimants who were not involved in the conflict between those groups. The only database for claimants known to me was the official claimant list, which I had access to very late in the research and which only included names and no contact information. For these reasons, I ended up mostly speaking with people who were actively involved in the land claim process. Non-active claimants are underrepresented in this research. Would I have had a different point of reference from the start for finding interviewees, the outcome of the research might have been very different. For example, women are incredibly underrepresented in the research, and none of the claimants for Manyeleti that I interviewed was female. The position of women in land reform requires particular interest, something I was not able to do, but has been researched by e.g. Budlender et al (2011), Luwaya (2018), and Songca (2018).

I differentiated between proponents of the Trust and proponents of the Concerned Group, since most of the interviewees sympathised with one of these two groups. This is a deliberate choice I made for the purpose of this research, in order to put emphasis on the tensions within the claim process. It is important to remember that the daily realities of the people involved in the research are much more complex than this binary. Officially, the two groups do not exist anymore, but interviewees often referred to them as if they do, which is why I have chosen to conjugate in the present tense when mentioning them.

Since the claim was still being processed during my time in the field, I might not have had information that would be available to the public when the claim was settled. I happened to be present at point in the process where a lot of information was kept behind closed doors.

Therefore, I was not able to talk to officials overseeing the claim. Interviewees involved in the settlement process might not have been entirely thorough answering my questions in order to be discreet.

Time was also a limiting factor: I only had 7 weeks in the field. A lot of time was spent driving to and from interviews. Since I was not staying in the villages, I missed out on a lot of daily observation. Had I had more time, I would have tried to find lodging in one of the villages. By coincidence, I left the field one week before an important meeting took place (see chapter 7.1). During this meeting, the majority of the claimants were expected to attend. This would have been an excellent opportunity for observation and arranging interviews, but unfortunately I was not able to attend or to obtain minutes of the meeting.

Finally, I have to acknowledge my position as a researcher in the field. During my stay, I have been very conscious of the fact that I was a young white woman working with mostly Black people. As stated, many of the interviewees were older adults, and most of them remember the apartheid period very well. This might have caused detachment between the interviewees and myself, and added to my position as an outsider (May, 2014). Additionally, I was not staying in the villages, but in Manyeleti (for the practical reason that I could not find affordable lodging elsewhere). I had daily access to the reserve, in contrast to the people I was interviewing and who had been fighting for it for years. I was very aware of these privileges. I made conscious effort to engage with the community, by going to the local church and shops, offering lifts, etc. These efforts conform to Smith's basic guidelines for "decolonizing" ethnography (1999:120). However, there was unquestionably distance between the interviewees and myself. My inability to speak Tsonga also limited my options for interviewees, as there was not always somebody to translate for me. The person who assisted me was a local Black man. He joined me for most of the interviews in April. Although he was not related to the land claim, his presence might have had influence on the interviews as well.

## 5. History of the Manyeleti Land Claim

### 5.1. History of Manyeleti

The Manyeleti Game Reserve exists since October 31<sup>st</sup> 1967. It was established by then acting State President Naudé under the Botha administration (Republic of South Africa, 1967:6).

The land in Manyeleti had been privately owned by white people since 1869 (Nexus, 2011:5). A map dated 1883 shows the distribution of farms in the current Manyeleti reserve and their owners at that time (See Appendix). The first ancestors of today's claimants emigrated willingly from KNP to the land that is Manyeleti today in 1992 (Nexus, 2011:4). When these people arrived there, they found that the land was empty. There is not much documentation on these Manyeleti tenants; no registers were kept as to who lived and worked there, and there is little documentation about their removal from Manyeleti (Ibid.).

From 1956, the Government made a special effort to buy land in the Lowveld – roughly the area between the Blyde River Canyon and the KNP – for the people of the Bushbuckridge area. By 1963 most of the land in the area belonged to the Native Trust, on behalf of the government (Fischer, 1987:507-508). In 1962 one land owner refused to sell his land to the Trust, unless it would be used for conservation. This demand gave the Department of Bantu Administration and Development the idea of a wildlife sanctuary for “the African market” (Teversham, 2013:1880). The government brought a couple farms and created a reserve that would be the “Bantu alternative” to the (white) KNP. The farms that were transformed into a game reserve were: Middle, Hermitage, Sarabank, Buffelshoek, and portions of Jeukpeukhoek, Thorndale, and Dixie (Republic of South Africa, 1967:7). A limited number of families were affected; a total of 41 families from five farms, namely Hermitage, Albatross, Jeukpeulhoek, Buffelshoek, and Dixie (Nexus, 2011:5).

Dispossession took place between 1963 and 1965 (Ibid.). The dispossessed people had all claimed to be removed around the same time from the farms, during the harvest time of 1963. They could not take their crops with them and were relocated to other areas as part of the settlement planning. Black people removed from the Manyeleti land did not receive compensation for their dispossession.

In 1978, new farms or portions of farms were added to the Manyeleti Game Reserve. These included Middle Inn and Albatross, and more portions of Jeukpeulhoek, Thorndale, and Dixie (Republic of South Africa, 1978:1). The Regional Land Claim Commissioner (RLCC) of Limpopo declared that between 1982 and 1983 the “*remaining families were evicted, possibly by former*

*Gazankulu officials, and told that their farms were to be converted into nature reserves, and; the majority of the people received no compensation” (Nexus, 2011:4).*

Manyeleti was one of the very few holiday destinations for Black people during the apartheid. In addition to being a leisure area, Manyeleti was meant to educate the Black population in conservatist ideals and particular “white” attitudes towards nature (Teversham, 2013). The Main Camp had a small museum, a cinema, a study hall and a reptile park. Dormitories provided for multiple school classes. Families could stay in the bungalows or camp on the grassland. There was a restaurant, a small shop, a pool and a petrol station. It was purposely not as luxurious as the lodges for white people in the KNP (Teversham, 2013).

Between 1967 and 1980, Manyeleti was under the jurisdiction of the Department of Bantu Affairs (DBA). During this time, the management of the park was divided on the question whether the park should focus on nature conservation or tourism. Touristic attributes, like a pool, were discouraged in order to emphasise the educational element of the reserve. About 20,000 visitors came to Manyeleti annually, most of them school children on educational trips. The visitor numbers were too low for the park to be profitable under the DBA. This was not a problem, since the reserve was non-profit, but it became an issue when it was handed over to the Gazankulu government in 1980. In order to make the reserve more profitable, management more focus was given to attractions for tourists. Manyeleti got a soccer field, an on-side butchery and liquor store that sold alcohol and even game meat, something that was not regularly available to Black people during apartheid. This attracted the locals from Gazankulu as well; people with access to cars were often day visitors (Ibid.).

A product analysis at Manyeleti concluded that most of the visitors were not particularly interested in game viewing, but rather used the space for recreational purposes (Ibid.). Interviewees remembered Manyeleti as their place to escape to, where you could forget about the daily troubles. Whereas in Kruger, Black visitors were now and again harassed by rangers, in Manyeleti people were free to go and did not have to deal with the stress and anxiety of white suppression. A game guide remembers:

*“[...] you’re get in and no one is going to follow you with a gun or harassing you. No you could sit anywhere, playing your own music. You could sit [here] and play any music you’d like, dance, drink, party, do as you want.”<sup>6</sup>*

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<sup>6</sup> Interview community member, MGR, 06-03-2019.

The Gazankulu government struggled to profit of the reserve. In 1994, the reserve was handed over to the Northern Province Government – the former name of today's Limpopo (Mahony and Van Zyl, 2001). The focus of the reserve changed when a concession came in, meaning that somebody rented a piece of the land start a lodge. Manyeleti became more like the private game reserves surrounding it (Teversham, 2013). By 2001 the park had three concessions, all focussing on a mid-luxury market. Between 60% and 70% percent of their guests were foreign, mostly European, tourists (Mahony and Van Zyl, 2001).

## 5.2. History of the land claim

### 1996 – 2008

The land claim on the Manyeleti Game Reserve was launched by the Mnisi Community in August 1996. It was re-submitted by the then acting Mnisi chief on behalf of the claimant community in November 1998 (Trustees v MRDLR, 2017:4). According to the claim form, the claim appears to be a community claim *“on the basis that land belonged to the Mnisi forefathers and they were forcefully removed and the fact that there are graves of their forefathers in the area”* (Nexus, 2011:6). The claim forms then refer to a list with claimants, but this list was not available to Nexus. The RLCC Mpumalanga provided them with a list of 222<sup>7</sup> claimants dated December 16<sup>th</sup> 2002, but this list was *“barely eligible”* (Ibid.).

Another list appeared later in the verification process of Nexus. This list was allegedly written up by Nkuzi Developers between February and June 2001, and provided to Nexus by the chairman of the Concerned group (Ibid.). Nkuzi Development Association, an activist group working in Limpopo (Beinart et al., 2017:111), worked for the Mnisi Tribal Authority (MTA) on land claims such as the Manyeleti claim.<sup>8</sup> At some point, the Mnisi Royal Council (MRC) announced that all claimants had signed the claimant list at the MTA (Nexus, 2011:7). Hereafter, the Nkuzi Developers were fired for unclear reasons and replaced by a private investor who *“assisted the Mnisi Tribal Authority with the claim”* (Ibid.). It is not very clear what the nature of the assistance was the private investor provided, only that one of the agreements between him and the chairperson of the Manyeleti Land Claim Committee is dated April 4<sup>th</sup> 2003 (Ibid.:8). The claim was officially announced by the RLCC of Limpopo in the Government Gazette of December 5<sup>th</sup> 2003 (Department of Land Affairs, 2003:21).

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<sup>7</sup> Only once in the data is a claimant total of 222 mentioned and it seems rather arbitrary. This might be a reason to suspect that this particular number is incorrect.

<sup>8</sup> Nkuzi Developers also worked with the Mnisi Tribal Authority on the Andover claim. Andover is a private game reserve near Manyeleti. Initially, Andover and Manyeleti were conjoined in one claim, but separated later due to bureaucratic issues (Interview claimant and Concerned Group supporter, MGR 11-04-2019).

In May 2006, the Manyeleti Conservation Trust was established by the claimant community to manage and hold the reserve on their behalf (Trustees v MRDLR, 2017:4-5). According to multiple interviewees, the Trust came forth from the MTA, and therefore had strong ties with the traditional council<sup>9</sup> (see chapter 6.1). The RLCC of Limpopo submitted an application for restitution of the Manyeleti claimants to the Minister of DRDLR on September 21<sup>st</sup> 2006, stating that 253 claimants had been verified (Nexus, 2011:i). The RLCC Limpopo had concluded that the Mnisi community “was dispossessed of its land rights in 1964 as a result of Section 25(1) of the Bantu Administration Act [...]” (Ibid.:4)<sup>10</sup>. The RLCC could not provide any evidence that they conducted verification (Ibid.:8).

The private investor took the Trust to court, because they did not follow up on agreements they had made.<sup>11</sup> The High Court rejected his application on November 15<sup>th</sup> 2007. In exchange for his assistance to the Manyeleti Trust with the land claim, the private investor would receive financial benefits. The court considered these agreements *contra bonos mores* (against good morals); he would receive the benefits before the claim was resolved and before the claimants themselves would receive any benefits. The court thought his involvement in the claim was not in the interest of the claimants (Ibid.:8).

At this point, there were several issues surrounding the Manyeleti Land Claim. Not only did the private investor case cause discontent over the way the Trust handled the claim, but it also brought up a new issue regarding one of the farms within the claim: Dixie 240KU.

During the court case with the private investor, contracts were discovered that showed that “the land at Dixie is to be disposed of in its entirety to a company called Manyeleti Property Holdings Limited, in which the Dixie community has no shareholding” (Tongoane v MALA, 2010a:35). These contracts were entered into by the current chairman of the Trust on behalf of the MTC. The Dixie community went to court in on this issue (not related to the Manyeleti land claim).

‘Dixie’ caused a dispute among the claimants “as to whether some of them were in fact legitimate members of the community [...]” (Trustees v MRDLR, 2017:5). The growing discontent with the

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<sup>9</sup>Interview Task team member and Concerned Group supporter, Welverdiend, 16-03-2019; Interview Task team member and Concerned Group supporter, Welverdiend, 16-03-2019; Interview concessioner and sympathizer of the Concerned Group, MGR, 31-03-2019.<sup>10</sup>The submission seems not to be signed off by the Minister, but by other officials (Nexus, 2011:7). The minister was told that all the claims were verified.

<sup>10</sup>The submission seems not to be signed off by the Minister, but by other officials (Nexus, 2011:7). The minister was told that all the claims were verified.

<sup>11</sup> Interview claimant and Concerned Group supporter, Hluvukani 16-03-2019; Interview Task team member and Trust supporter, Hluvukani 19-04-2019

Trust led to the formation of the so-called Concerned Group, in a meeting on June 14<sup>th</sup> 2008 (Nexus, 2011: 8).

### 2009 – 2011

New provincial borders switched the administrative responsibility over the Manyeleti claim from Limpopo to Mpumalanga during May 2009 (Ibid.:7). This meant that the RLCC of Mpumalanga took over the claim. With the intent to finalise the claim, the RLCC Mpumalanga submitted a draft for a Settlement Agreement (SA) during December 2009 (Trustees v MRDLR, 2017:5). On December 15<sup>th</sup> 2009, all parties involved decided that the board of trustees of the Trust should be complemented by four members of the Concerned Group (Nexus, 2011:8). A report dated January 23<sup>rd</sup> 2010 presented the results of a sort of verification, requested by the RLCC Mpumalanga (Ibid.:7). Results of this report could not be obtained, but the list of the RLCC Mpumalanga as presented to Nexus totalled 281 claimants. This list was a duplication of the list of the RLCC Limpopo, plus 28 new claimants. According to Nexus, the RLCC Mpumalanga did not re-verify the original 253 households (Ibid.:ii).

A meeting was held on February 24<sup>th</sup> 2010, in which the Manyeleti Conservation Trust “was authorised to finalise and conclude the Agreement” (Trustees v MRDLR, 2017:5). Allegedly, the Concerned Group did not attend this meeting. The SA, signed on February 27<sup>th</sup> 2010, is signed by the Manyeleti Conservation Trust (Nexus, 2011:9). It is unclear if the four members of the Concerned Group that are part of the Trust were present that day.

The central issue in the Trustees v MRDLR court case was that of the suspensive conditions in the SA. These conditions were that the claimants on the list included in the SA are verified and legitimate claimants<sup>12</sup>, that concerns regarding this were adequately addressed by the RLCC within six weeks after signing the document, and that the SA would come into full force and effect once the RLCC was satisfied (Trustees v MRDLR, 2017:6).

During March 2010, the Dixie dispute came up again. According to the Dixie community, the Dixie area is not included in the official area of the jurisdiction of the MTA (Tongoane v MALA, 2010a:33-35). According to the Mnisi chief, this is a mistake and Dixie should be under his jurisdiction, which is why he included Dixie in the claim (Ibid.:35). The Dixie case was withdrawn on April 8<sup>th</sup> 2010 (Ibid)<sup>13</sup>. On April 9<sup>th</sup> 2010, after several meetings addressing the claimants’ issues and the

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<sup>12</sup> There is no further clarification as to what “verified and legitimate” means.

<sup>13</sup> It is not clear why and what it meant to have the Dixie case “withdrawn”. Supposedly, the Dixie 240KU farm was taken from the claim, because the outcome of the court case was still unknown at this point in April 2010. The decision of the Constitutional Court on the Communal Land Rights Bill of 2004 could possibly influence the rest of the claim. The Constitutional Court decided on the matter on May 11<sup>th</sup> 2010 (Tongoane v MALA (2010b)).

verification report of January 23<sup>rd</sup>, the RLCC confirmed that all the suspensive conditions were fulfilled. She stated that that the claimants listed in the SA were verified claimants, that the concerns raised by the claimants were dealt with to her satisfaction, and that all suspensive conditions in the SA *“have been fulfilled and complied with [...]”* (Trustees v MRDLR, 2017:7).

The Concerned Group questioned the verification process that had confirmed the claimants in the SA.<sup>14</sup> In meetings that followed after the Concerned Group’s complaints, the RLCC decided that she would withdraw from the SA. She found it necessary to verify the entire claimant community and other possible beneficiaries in the land claim, because she had reason to doubt the legitimacy of the members of the Trust as representatives of the claimant community. This also meant that the suspensive conditions of the SA were not fulfilled, therefore she declared that *“the Settlement Agreement is invalid and unenforceable”* (ibid.:8). On November 17<sup>th</sup> 2010, she revoked the SA and informed the chairperson of the Manyeleti Conservation Trust about her decision (Ibid.). The chairman of the Trust opposed this. The Trust and the RLCC negotiated that the SA would be in effect, on the condition that an independent service provider (Nexus Forensic Service) would conduct a complete verification (Ibid.).

The Nexus rapport was the result of the verification process demanded by the RLCC. It was supposed to be due no later than March 31<sup>st</sup> 2011, but results were only issued on August 12<sup>th</sup> 2011. Frustrated about the delay of the Nexus verification, the Trust and the Mnisi community<sup>15</sup> decided to launch proceedings to go to court on July 21<sup>st</sup> 2011. In response, the Concerned Group filled their counter application on October 14<sup>th</sup> 2011.

### 2011 – 2017

The application of the Trust was the request that the court decides *“whether the suspensive conditions contained in a settlement agreement entered into between the [Trustees of the Manyeleti Conservation Trust] and the Commission on Restitution of Land Rights, [the MRDLR], fourth, and fifth respondents on 27 February 2010 (“the Agreement”) were fulfilled.”* (Trustees v MRDLR, 2017:2).

In the counter application, the Concerned Group states that the interested parties have not reached an agreement about the finalisation of the land claim, that the suspensive conditions

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<sup>14</sup> They also took issue with the grant of concessions *“to certain entities”* in the reserve (Trustees v MRDLR, 2017:7). Why they had issues with the concession grants and who or what these entities were, remains unclear.

<sup>15</sup> The first and second applicants on the court documents are *“the trustees of the Manyeleti Conservation Trust”* and the *“Mnisi community”* respectively (Trustees v. MRDLR, 2017:1). In South Africa, a community can be considered a jurist person eligible to apply to court as decided in the Communal Property Associations Act 28 of 1996 (Pienaar, 2005).



have not been fulfilled and therefore the SA has not come into force and effect, and, finally, that the RLCC should call a meeting of all verified claimants.

The Nexus report is referenced multiple times in the court documents. It presented a different list of claimants: some had been added, some had been removed even though they were already verified before. Nexus recognised that these changes might cause problems as the new claimants might not agree with the previously made agreements. Therefore, they recommend that the RLCC addresses this (Nexus, 2011:v). A community meeting should be held to determine the (new) leadership of the Trust and to determine whether all the concerns of the claimants have been properly addressed. Nexus concludes that therefore the SA is not (yet) effective (Ibid.:10).

On November 11<sup>th</sup> 2017, the court rejected the application of the Trust based on flaws in the verification process prior to the Nexus investigation, and the fact that, according to Nexus, only two members of the Trust's list are legitimate claimants (Trustees v MRDLR, 2017:17). The court agreed with two of the points raised by the Concerned Group, namely that not all interested parties decided on how to finalise the claim and that the suspensive conditions have not been fulfilled. Therefore, the SA had not come into effect (Trustees v MRDLR, 2017:19). The court decided that both the Trust and the Concerned Group should be annulled. Instead, the RLCC was charged with putting together a task team, consisting of member of both groups. The task teams objective is to organise an Annual General Meeting (AGM) in which the verified claimants should be voting for a new representing body: a Community Property Association (CPA). At the time of research, sixteen months after the court ruling, this AGM was still to be announced.

## 6. Perceptions

### 6.1. Early claim initiatives

When asked when the land claim started, there were several different answers. Many of the interviewees mention 1998, which was the second attempt of the Mnisi Tribal Authority to submit a claim. Some people who are part of the Trust, stated 1996 as the starting point of the process, when the first claim initiative was lodged. They remember the initiative of the claim coming from the government and the Mnisi Tribal Authority.<sup>16</sup> A proponent of the Trust mentioned that the communication about the claim was done through the tribal authorities:

*“So the government went to the tribal authorities [...]. So, the tribal authority went out to villages, that people who had been evicted from the Manyeleti Nature Reserve should come and claim, to write their names. And then, they submitted to the Land Claims Commission.”<sup>17</sup>*

During the first claim initiative, the claimants were under the impression that they had to claim as a community. Another member of the Trust explained: *“The Mnisi Tribal Authority came to us and said, no we must not claim individually so. We must claim as an authority, a tribal authority. Because while we were at Manyeleti, we were under the leadership of the Mnisi Tribal Authority”.*<sup>18</sup> This first claim initiative was turned down by the Land Claim Commissioner (LCC) of Limpopo, Mpumalanga, and the North West, on the account that she did not believe that *“a tribe can apply or lodge a claim for the community. She then said, she believed in a claim for individuals”*, according to one of the interviewees.<sup>19</sup> He questions this individual approach, because *“to lodge a claim is [a] challenge. Because you have to travel from here to Pretoria. And you must get a legal person to do that for you.”*<sup>20</sup> This is an understandable complain: not every potential claimant has the financial capacity to arrange individual legal advice.

It seems that an attempt was made to prepare people for a land claim. According to the interviewees, the government was putting effort in organising workshops to learn how to lodge a claim.<sup>21</sup> The government worked with the MTA on the claim. Nkuzi Development Association was also involved (see footnote 8). It is not clear what the role of the MTA was supposed to be. They could not lodge a claim on behalf of the community, according to the LCC, but they seemed to be

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<sup>16</sup> Interview Task team member and Trust supporter, Hluvukani 19-04-2019, Interview claimant and Trust supporter, Hlavekisa 10-04-2019.

<sup>17</sup> Interview claimant and Trust supporter, Hlavekisa 10-04-2019.

<sup>18</sup> Interview Task team member and Trust supporter, Athol 10-04-2019.

<sup>19</sup> Interview Task team member and Trust supporter, Hluvukani 19-04-2019.

<sup>20</sup> Ibid.

<sup>21</sup> Ibid.

involved in the process of organising people for the claim. The MTA also employed the Nkuzi Development Association and the interviewees mention them as one of the initiators of the claim.<sup>22</sup> So even if the first claim initiative was turned down, the MTA was actively involved in the process.

The first claim initiative made members of the MTA aware of the land claim. One of the interviewees, who was a concessioner in the Manyeleti Game Reserve at that time, heard about the claim from one of the Indunas<sup>23</sup>. This concessioner figured that he could assist with the claim:

*“When we put in the claim, people didn’t even know which forms to fill in. They had no idea what to do. So, hence, I got involved because, I thought, what they did to the Black people was wrong. It was totally, immorally wrong. [...] So, I then helped them, and I got them rely together [...]. And we struggled, we really, really struggled...”*<sup>24</sup>

The concessioner urged to put in the claim before December 31<sup>st</sup> of 1998, because that was the cut-off date: they would not have a claim if they did not put in the claim before that. Eventually, the claim that was lodged on November 22<sup>nd</sup> 1998 was submitted by the Mnisi chief on behalf of the claimant community and published in the Government Gazette on December 5<sup>th</sup> 2003. This is remarkable, due to the fact that the first claim was turned down because of the chief claiming on behalf of his people. In the Government Gazette, it is stated that the members of the Mnisi community agreed to authorise the MTA to lodge a claim *“on behalf of all the people or their direct descendants who were dispossessed of their rights to land on the Manyeleti Game Reserve”* (Department of Land Affairs, 2003:21). However, according to some of the interviewees, the chief was signing the papers even though he himself did not have a claim. A member of the Concerned Group states:

*“In short, we registered it in this way. The chief first was claiming the land on his behalf, to be his claim, but that was rejected because only people who were residing in those protected areas have the right to claim, not the chief. If a chief also was residing there, he will be taken as a claimant, but not his status as a chief [...] We submitted [the claim documents] to the Land Claim Commissioner. But there was a bit of a mistake that we made. Because we said, we honoured the chief and let him sign the land claim.”*<sup>25</sup>

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<sup>22</sup> See chapter 5, Interview Task team member and Trust supporter, Athol 10-04-2019.

<sup>23</sup> An Induna is a representative of the chief. Each of the villages that fall under the chieftaincy has their own Induna. The Induna functions as a communication channel from the chief to the villagers and the other way around. They also offer counselling with issues that can be solved among the villagers themselves. The Indunas sit on the Tribal Council and advise the chief. (fieldnotes, March 18<sup>th</sup> 2019)

<sup>24</sup> Interview concessioner and sympathizer of the Concerned Group, MGR 31-03-2019.

<sup>25</sup> Interview Task team member and Concerned Group supporter, Welverdiend 16-03-2019.

The assisting concessioner had a different explanation: “[The chief] signed all the papers, because he thought, this was tribal land. Which it wasn’t. It was never tribal land.”<sup>26</sup>

Documentation about the early stages of the claim is very scarce. The Nexus report mentions that the general documentation on the claim is of very low quality.<sup>27</sup> What remains are the accounts of the people who were involved in the late 1990’s and early 2000’s. These accounts vary and not all of it can be verified. Some interviewees mention having difficulty remembering the events exactly, due to the fact that it took place almost twenty years ago.

## 6.2. The Manyeleti Conservation Trust and the Concerned Group

The Manyeleti Conservation Trust was established by the claimant community to manage and hold the reserve on their behalf in May 2006 (Trustees v MRDLR, 2017:4-5). This is several years after the claim was lodged.<sup>28</sup> According to the interviewees, the Trust came forth from the MTA.<sup>29</sup> The chairman of the Trust worked on the MTC and was working together with the acting Mnisi chief at the time.<sup>30</sup> In a letter from 2010, the chief is listed as one of the founders of the Manyeleti Conservation Trust.<sup>31</sup>

Among some of the interviewees, multiple issues with the Trust were noted. One issue had to do with the legitimacy of claimants of one of the farms in Manyeleti, Dixie 240 KU (Trustees v MRDLR, 2017: 5).<sup>32</sup> On June 14<sup>th</sup> 2008, a group of sceptical claimants assembled to challenge the Trust and the way they dealt with the land claim: the Concerned Group (Nexus, 2011:8). They were concerned about the way the claim process was handled so far. They accused the Trust of corruption, of “stealing” from the claimants and their chairman of misusing his position for his personal gain. Two of the most noticeable issues the Concerned Group identified are discussed here.

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<sup>26</sup> Interview concessioner and sympathizer of the Concerned Group, MGR 31-03-2019.

<sup>27</sup> I had access to some Gazettes in addition to the documentation of the court case. Then there is, allegedly, the documentation in the Pretoria National Archives (which I was not able to visit) e.g. the Snijder report. The concessioner who assisted the claim, claimed to have done a lot of research, inter alia in those archives and said that he used to be in possession of a lot of documentation. Used to be, because a lot of his documents got lost during the court cases: he lend them out to claimants to support their cases, and he never got them back (Interview concessioner and sympathizer of the Concerned Group, MGR 31-03-2019). It is unknown who could be in possession of these documents today, if they still exist.

<sup>28</sup> Supposedly, the claim process was handled under the Mnisi Tribal Authority, since the claim was published in the name of the Mnisi Chief in 2003 (Department of Land Affairs, 2003).

<sup>29</sup> Interview Task team member and Concerned Group supporter, Welverdiend 16-03-2019, Interview member of the Mnisi Tribal Authority, Khokhovela 27-03-2019, Interview claimant and Concerned Group supporter, MGR 11-04-2019

<sup>30</sup> This is the chief who passed away in 2013. The current Mnisi chief is his son (Mpumalanga Cooperative Governance and Traditional Affairs, 2015).

<sup>31</sup> Fieldnotes, 21-04-2019.

<sup>32</sup> The Dixie case is a fairly complicated topic on its own and goes beyond the scope of this research. I was not able to collect sufficient data on the topic from the interviewees, hence, it is not discussed further here. For further information on the Dixie case, see e.g. *Tongoane v MALA* (2010a) and *Tongoane v MALA* (2010b).

The first issue the Concerned Group had with the Trust was the involvement of the private investor. This person was supposed to assist with the land claim and would receive financial benefits from Manyeleti in return. This investor took the Trust to the court in 2007, because they were not able to meet the terms in the contract they made (See chapter 5). The chairman of the Trust had his own reason to engage with the private investor. He had recognised that the claimants needed legal advisors to settle the claim and investors for Manyeleti after the claim was settled. So he reached out to the private company, where he sought legal advice and potential investors. However, they pressured him to give them money even before settling the claim. Eventually, they ended up in court over the matter.<sup>33</sup> Regardless of the intentions of the Trust chairman, the incident caused a lot of distrust towards the Trust from some parts of the community. People were under the impression that the chairman of the Trust would sell Manyeleti to the private investor without consulting the claimants, that he tried to make deals with concessioners behind the backs of the claimants<sup>34</sup> and that he was only doing this for his own personal gain<sup>35</sup>. This would have resulted in the claimants hardly getting any benefits from the claim settlement if it was not for the court ruling in favour of the claimants.<sup>36</sup>

The second issue that came up was the relation between the Trust and the Mnisi Tribal Council. The chief is said to have lodged the claim to become the owner of the land instead of the individual claimants. The formation of the Trust has been an attempt to hijack the claim for the chief.<sup>37</sup> A claimant and supporter of the CPA explained:

*“The Trust is the same as the [tribal] councillors: it belongs to the chief. The main aim for the Concerned Group is to object the way the chief and the Trust wanted the process [of the land claim] to be handled. Because they want the benefits to go straight to the chief. Then we started to say ‘no, no, the benefits must go directly to the affected people’. That is where the conflict started.”*<sup>38</sup>

It is understood by the Concerned Group that if people are registered in the claim that was lodged by the chief, they must claim under his authority. That means that all the benefits will go to the chief first, and then be redirected to the rest of the community. This, according to the Concerned

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<sup>33</sup> Fieldnotes, 21-04-2019.

<sup>34</sup> Interview Task team member and Concerned Group supporter, Welverdiend 16-03-2019, Interview claimant and Concerned Group supporter, MGR 11-04-2019.

<sup>35</sup> Interview Task team member and Concerned Group supporter, Welverdiend 16-03-2019, Interview Task team member and Concerned Group supporter, Welverdiend 16-03-2019, Interview claimant and Concerned Group supporter, Hluvukani 16-03-2019.

<sup>36</sup> Interview Task team member and Concerned Group supporter, Welverdiend 16-03-2019.

<sup>37</sup> Ibid.

<sup>38</sup> Interview claimant and Concerned Group supporter, MGR 11-04-2019.

Group, is not how the land claim was intended to proceed. And because the Trust is a structure coming from the MTA, they allegedly function as the right hand of the MTA.<sup>39</sup> This raised concerns among some members of the community.

The Trust did not react enthusiastically to the establishment of the Concerned Group. Most Trust members blamed the rise of the Concerned Group on the involvement of the RLCC Mpumalanga.<sup>40,41</sup> In the recollection of two prominent Trust members, the arrival of the new RLCC and the establishment of the Concerned Group overlap. Interviewees from the Trust believe that the new RLCC and the Concerned Group worked together against the Trust.<sup>42</sup> This all led to the Trust applying to the Land Claim Court in 2011. The Concerned

Group had an issue with the RLCC Mpumalanga as well. The central issue in the court case was the question whether or not the suspensive clauses in the SA were fulfilled (see chapter 5). According to the Concerned Group, the RLCC was too quick to sign the SA with the Trust in February 2010; they should have called out a meeting with the claimants first (Trustees v MRDLR, 2017:3). This issue started when the Trust and the RLCC signed the SA on February 27<sup>th</sup> 2010. According to an interviewee, the Concerned Group was not allowed to be there when the Trust signed the documents.<sup>43</sup> A member of the Concerned Group explained this as a mistake from the RLCC: *“the Trust and the [Regional Land Claim] Commissioner, they signed an agreement. They signed a settlement agreement, behind the back of the claimants”*<sup>44</sup>.

In June 2011, Nexus Forensic Service conducted verification of the claimants. They published their results on August 12<sup>th</sup> 2011. The original claimant list had undergone severe changes: from the 253 original claimants, only 151 were still on the list. The Nexus report advised the RLCC to communicate this to the claimants and to proceed carefully with the rapid changes that were made (Nexus 2011:vi).

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<sup>39</sup> Ibid.

<sup>40</sup> The interviewees of the Trust expressed several complaints about the RLCC Mpumalanga. According to them, he does not deal with the claims properly and does not inform the claimants well enough. The exact relationship of the claimants with the RLCC could not be researched thoroughly, nor did I have the opportunity to speak to the RLCC. Therefore, this is not included further into the research.

<sup>41</sup> In the court case Trustees v MRDLR, the third respondent is the Regional Land Claims Commissioner for Mpumalanga Province, under the name Ms. Seboka. However, the interviewees do not name her one single time. They only refer to an individual known as George Matheda Musha as the Commissioner. It seems that they have mainly interacted with this person. He seems to be the project manager of the Manyeleti case, not the Regional Land Claim Commissioner (Interview claimant and Trust supporter, Gottenburg 24-03-2019, fieldnotes 03-04-2019). Further information about Ms. Seboka or Mr. Matheda Musha could not be obtained. Their official functions in this case remain unclear.

<sup>42</sup> Interview claimant and Trust supporter, Hlavekisa 10-04-2019, Interview Task team member and Trust supporter, Hluvukani 19-04-2019.

<sup>43</sup> Interview claimant and Concerned Group supporter, MGR 11-04-2019.

<sup>44</sup> Interview Task team member and Concerned Group supporter, Welverdiend 16-03-2019.

After signing the SA, the finalisation of the claim and the official transfer of Manyeleti should have followed soon. This last step took too long, according to the Trust, which is why they applied to go to court in July 2011.<sup>45</sup> The Concerned Group applied a counter application to the court application of the Trust on October 14<sup>th</sup> 2011 (Trustees v MRDLR, 2017:7). According to the Concerned Group, the suspensive clauses were not administered adequately by the RLCC (see chapter 5): they disagreed that the suspensive conditions were “*fulfilled and complied with*” as the RLCC had confirmed. The SA was signed in February 2010, because the RLCC had declared the suspensive clauses as fulfilled. However, fulfilment would have implied that all the claimants were verified. According to the Concerned Group, this was not the case, since the list of claimants that was submitted with the claim was not legitimate according to them (Trustees v MRDLR, 2017:3; *Ibid.*:7). They based this on the findings of Nexus: there now was an entirely new claimant list. At this point the process of the claim slowed down. Both groups had to wait a long time for their case to be heard.<sup>46</sup> In the time that they waited for the court case, between 2011 and 2017, the interviewees do not mention much happening regarding the claim. There were several court meetings where some of the claimants were present, but they do not have detailed accounts on what happened during these hearings.<sup>47</sup> Business as usual continued in Manyeleti. In 2013 the chief passed away. One of his sons got inaugurated as the new chief in 2015.<sup>48</sup> Some older claimants passed away: one of the interviewees took over the claim of his parents when his father died in 2016.<sup>49</sup>

Two interviewees who were not involved with either group shared a complaint about the process; the lack of communication towards the claimants.<sup>50</sup> It is unclear to them how the land claim process is going, because they have not received recent information from the Concerned Group. According to one of these interviewees, the chairman of the Trust does communicate more with the claimants and is willing to share documentation.<sup>51</sup> Both the Concerned Group and the Trust were asked about their communication with the claimants.<sup>52</sup> Currently, only the Trust has direct meetings with claimants (see figure 3).

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<sup>45</sup> Interview claimant and Trust supporter, Hlavekisa 10-04-2019.

<sup>46</sup> Interview claimant and Concerned Group supporter, MGR 11-04-2019.

<sup>47</sup> *Ibid.*; Interview claimant and Trust supporter, Hlavekisa 10-04-2019.

<sup>48</sup> Mpumalanga Cooperative Governance and Traditional Affairs. (2015, July 6).

<sup>49</sup> Interview claimant and Concerned Group supporter, Hluvukani 16-03-2019.

<sup>50</sup> Interview claimant and Trust supporter, Gottenburg 24-03-2019; Interview claimant, Gottenburg 26-03-2019.

<sup>51</sup> Interview claimant and Trust supporter, Gottenburg 24-03-2019.

<sup>52</sup> Interview Task team member and Concerned Group supporter, Welverdiend 16-03-2019; Interview Task team member and Concerned Group supporter, Welverdiend 16-04-2019.



Figure 3. Claimant meeting in Hlavekisa, organised by the Trust. April 10<sup>th</sup>, 2019. Early April 2019, an important meeting with the RLCC, the chief, and both chairmen took place. In the week following this meeting, Trust members went to the villages where they would meet with some of the claimants and explained the outcome of the meeting.<sup>53</sup>

One result of the conflict between the Concerned Group and the Trust that is mentioned by most interviewees, is the delay of the claim. Generally, most people agree that the elderly generation should at least be compensated for what happened to them, since they suffered the displacement directly. They have waited their whole lives for justice on their part, and now they are at risk of passing away before they can be compensated.<sup>54</sup> The Trust and the Concerned blame each other for the delays.<sup>55</sup> The non-active claimants blame both groups for the delays. According to one of them, both are just trying to make money of the claim, while in the meanwhile the elderly people that were dispossessed pass away one by one. When asked what the problem was with Manyeleti, he answered: “it’s us, the claimants”<sup>56</sup>.

### 6.3. Verifications

In order to be confirmed as a claimant, one should have some form of proof that one actually lived in the area, and that one got evicted from their living place as “the result of a racially based

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<sup>53</sup> The meetings were in Tsonga. I was able to attend one, but I could not understand what was said. A translation of my recording could not be obtained. This was the only observed form of communication with the claimants during the research.

<sup>54</sup> Interview Task team member and Concerned Group supporter, Welverdiend 16-04-2019; Interview Task team member and Trust supporter, Hluvukani 19-04-2019; Interview claimant and Trust supporter, Gottenburg 24-03-2019; Interview Task team member and Concerned Group supporter, Welverdiend 16-03-2019; Interview claimant, Gottenburg 26-03-2019.

<sup>55</sup> Interview Task team member and Concerned Group supporter, Welverdiend 16-03-2019, Interview claimant and Trust supporter, Gottenburg 24-03-2019.

<sup>56</sup> Interview claimant, Gottenburg 26-03-2019.



law.”<sup>57</sup> Proving that someone is a claimant is done by verification (see also chapter 2.2).

Verification, as explained by the interviewees, is a process whereby people who were evicted show where they used to live, explain who their neighbours were and other notable features, like where the cattle grazed and where schools or shops were. Investigators will put together a picture by comparing stories of different claimants, confirming whether or not people tell the truth. This will determine if claims of individual claimants are legitimate.

The verification conducted by Nexus Forensic Services in 2011 is the most recent verification and the most spoken off among the interviewees. This is the verification that was ordered by the RLCC Mpumalanga and that the court judgements of 2017 are based on (see chapter 5). There have been other verifications<sup>58</sup> and verification attempts in the past, very early in the land claim process. The early verifications are referenced by some of the older interviewees who have been involved in the claim since the beginning. One of the interviewees said that the first one was done as early as 1995 and a second one in 2003.<sup>59</sup>

The earliest available verification result is a list with 222 claimants from December 16<sup>th</sup> 2002. (Nexus, 2011:90). The chairman of the Trust confirms that there had been a verification around 2000-2001.<sup>60</sup> Several interviewees suspected this list to be fraudulent, because on it all the signatures were perfectly written. Many of the older people in the community are illiterate.<sup>61</sup> According to one interviewee, when the elderly sign a paper, they just put down a “X”. Since it would have been impossible for the elderly to have written these signatures, there was reason enough to believe that they were forged.<sup>62</sup> According to the chairman of the Concerned Group, this was not a list of legitimate claimants, but just a registration of people who lodged their claims.<sup>63</sup> Nexus was requested to look into possible fraudulent activities during this initial verification, which they found “*not possible to do so as there is simply no paperwork to investigate*” (Nexus, 2011:90).

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<sup>57</sup> Interview concessioner and sympathizer of the Concerned Group, MGR 31-03-2019.

<sup>58</sup> I call these endeavours verifications, because that is how some of the interviewees refer to them, even though other interviewees doubt their legitimacy. There is no proof that the early verifications have been conducted as they should have in order to be legitimate, which is why Nexus does not recognise them as valid verifications (2011:10, Ibid.:90). However, since the interviewees referred to them as verifications, regardless of their legal value, I have chosen to refer to these initiatives as verifications as well. Furthermore, it is not very clear what defines the legitimacy of a verification process (see chapter 2.3).

<sup>59</sup> Interview claimant and Trust supporter, Hlavekisa 10-04-2019.

<sup>60</sup> Interview Task team member and Trust supporter, Hluvukani 19-04-2019.

<sup>61</sup> Interview Task team member and Concerned Group supporter, Welverdiend 16-03-2019, Interview concessioner and sympathizer of the Concerned Group, MGR 31-03-2019, Interview Task team member and Concerned Group supporter, Welverdiend 16-03-2019, Interview claimant and Concerned Group supporter, MGR 11-04-2019.

<sup>62</sup> Interview Task team member and Concerned Group supporter, Welverdiend 16-03-2019, Interview concessioner and sympathizer of the Concerned Group, MGR 31-03-2019.

<sup>63</sup> Interview Task team member and Concerned Group supporter, Welverdiend 16-04-2019.

The basis for the Nexus verification were the list of 253 claimants from the RLCC Limpopo and a list with 281 claimants from the RLCC Mpumalanga. Nexus could not find evidence that verification was conducted in either case, and therefore, both lists did not have evidential value according to them (Nexus 2011:7, *ibid.*:90). However, for several of the interviewees, this was the first time they felt like they were going through verification.<sup>64</sup> Nexus disregarded the verification initiatives of the early 2000's, but some people who were involved considered them relevant for the claim. The interviewees who expressed this all belonged to the Trust or were sympathisers to the Trust. For others, mostly people who were part of the Concerned Group, the Nexus verification was the only true verification<sup>65</sup>. According to them, the people that were not verified by the Nexus verification, but by the "unofficial" verifications, had no right to the status of "claimant".

The aim of the Nexus verification was to "*ascertain the rightful beneficiaries under the Manyeleti Land Claim [...]*" (2011:12). Fieldwork with the claimants was conducted within two weeks, starting on June 6<sup>th</sup> 2011. The verification was done per farm: interviews were conducted, family trees were drafted, claimants pointed out the site where they were evicted from. The concessioner who assisted with the claim said to have gone into the field with the elderly people so they could show where they used to live. They remembered this very clearly, and had no trouble pointing out the places and name the people who lived next to them. They even found pots and other small artefacts of the time that the people were evicted: they had to leave so quickly that they had to leave everything behind.<sup>66</sup> Cross-referencing was done by combining the statements of the (elderly) claimants, documentation, and by checking if the indicated sites from claimants corresponded with the proximity to their neighbours. Furthermore, Nexus collected statements from people reporting false claims, and searched for people who "*did not pitch up for verification*" (Nexus, 2011:13).

Members of the Concerned Group were positive about the way the verification research was conducted. They considered it professional and called it a "true verification".<sup>67</sup> Two of the

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<sup>64</sup> Interview claimant, Gottenburg 26-03-2019, Interview claimant and Trust supporter, Hlavekisa 10-04-2019, Interview Task team member and Trust supporter, Athol 10-04-2019, Interview Task team member and Trust supporter, Hluvukani 19-04-2019.

<sup>65</sup> Interview concessioner and sympathizer of the Concerned Group, MGR 14-03-2019, Interview Task team member and Concerned Group supporter, Welverdiend 16-03-2019, Interview concessioner and sympathizer of the Concerned Group, MGR 31-03-2019, Interview Task team member and Concerned Group supporter, Welverdiend 16-04-2019.

<sup>66</sup> Interview concessioner and sympathizer of the Concerned Group, MGR 31-03-2019.

<sup>67</sup> Interview Task team member and Concerned Group supporter, Welverdiend 16-03-2019, Interview claimant and Concerned Group supporter, Hluvukani 16-03-2019.

concessioners that were interviewed shared these views on the Nexus verification.<sup>68</sup> According to one member of the Concerned Group, it was a truly deeply forensic investigation, because:

*“ [...] , they would interview you alone for your claim. Because it was eight farms, so they were dealing with it farm by farm. So they would ask you on the interview for instance, ‘how many families where in that farm as your neighbours?’ So you would have to mention all those names, and then, ‘where were you attending school, shops, clinic, traditional leaders?’, and all that. All that information. And then they would ask the next person as well, and compare the information. His information, your information, my information, and all the other information.”*<sup>69</sup>

However, on the side of the Trust, there is distrust towards the Nexus investigation. According to some, people from the original list were taken out, *“even though they were real claimants”*<sup>70</sup>.

There were suspicions that some people were taken off the list deliberately, because *“they were trouble makers”* or *“they knew too much”*<sup>71</sup>. It was also said that people were added to the Nexus list even though they were not valid claimants. Some interviewees suspected that the investigators from Nexus collaborated with the Concerned Group for this.<sup>72</sup> These suspicions grew due to the fact that the investigators stayed in the village where the chairman of the Concerned Group lives. Some members and supporters of the Trust rejected the list of claimants that Nexus produced on the basis of their suspicions.<sup>73</sup> Another complain was the lack of transparency from Nexus: they never reported back to the claimants. This evoked even more suspicions, especially since the list from Nexus was considerably different than the original list.<sup>74</sup>

The process of the land claim has been going on for 23 years, and there still seems to be unclarity about who officially is a claimant. Overall, it proved to be very difficult to find *“official claimants”*. Among the interviewees, there was a tendency to state that, because they or their parents had been evicted, they were claimants. Oftentimes, it was not clear if they had been through a verification process, and if they had, through which one. It did not become apparent how the community was informed about the process one has to go through to become an official

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<sup>68</sup> Interview concessioner and sympathizer of the Concerned Group, MGR 31-03-2019, Interview concessioner and sympathizer of the Concerned Group, MGR 15-04-2019.

<sup>69</sup> Interview Task team member and Concerned Group supporter, Welverdiend 16-04-2019.

<sup>70</sup> Interview claimant and Trust supporter, Gottenburg 24-03-2019, Interview claimant and Trust supporter, Hlavekisa 10-04-2019, Interview Task team member and Trust supporter, Athol 10-04-2019.

<sup>71</sup> Interview claimant and Trust supporter, Gottenburg 24-03-2019, Interview Task team member and Trust supporter, Hluvukani 19-04-2019.

<sup>72</sup> Ibid

<sup>73</sup> Interview claimant and Trust supporter, Hlavekisa 10-04-2019, Interview claimant and Trust supporter, Gottenburg 24-03-2019.

<sup>74</sup> Interview claimant and Trust supporter, Hlavekisa 10-04-2019, Interview claimant and Trust supporter, Gottenburg 24-03-2019.

claimant. Hence, it seemed that people had different ideas about what would make them a claimant. Some of them were claiming on behalf of their parents, because their parents had passed away and they took over their claims<sup>75,76</sup>. Some people claimed to be on the Nexus list. This could not be checked, since the list was not widely available. One elderly person explained in detail how he and his family had been living in Manyeleti before the eviction. This person said to have signed as a claimant in the time that the Trust was conducting their verification. He also said that he was not able to write or read. He had a claimant number in his passport, which according to him proved that he was an official claimant.<sup>77</sup> Nobody else mentioned having a claimant number in their passport.

A long time has passed between the first lodging of the claim and the outcome of the Nexus report. For some people, there was almost 15 years of building up anticipation for the claim settlement and receiving some form of compensation, only to get taken off the list again. Since the Nexus list is not widely available, it is also unclear if people realised that they were taken off the claimants list.

#### 6.4. The current situation; forming a CPA

The court case of 2017 was the official end of the Trust and the Concerned Group. The judge decided that instead of the two groups, the RLCC should make an effort to form a Community Property Association. The RLCC set up a task team that was charged with organising an Annual General Meeting (AGM) for all the claimants. In this AGM, the claimants should vote for who they wanted to be in the CPA. The task force for the Manyeleti CPA exists of: the chairman of the Trust, the chairman of the Concerned Group, one proponent of the Trust, one proponent of the Concerned Group and two unknown persons.<sup>78</sup>

Although officially the two groups do not exist anymore, the majority of the interviewees still refers to the Trust and the Concerned Group in the present tense. The chairman of the Trust still identifies himself as a member of the Trust, and introduces himself as a member of the Manyeleti

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<sup>75</sup> Interview claimant and Trust supporter, Gottenburg 24-03-2019, Interview claimant, Gottenburg 26-03-2019

<sup>76</sup> This is allowed and makes the people in question legitimate claimants (Restitution of Land Rights Act 22, 1994(S2)), but it should be noted that the local custom of polygamy was not known to me until a couple weeks into the fieldwork. Men often have multiple wives, and children refer to both of them as their mother and to their half-siblings as siblings. I did not realise that the terms like "parents", "brothers", and "sisters" could refer to non-direct family as well during these first weeks, therefore, this might not have been specified during the interviews. However, it does complicate the succession of a land claim in case a parent dies.

<sup>77</sup> Interview claimant, Gottenburg 02-04-2019.

<sup>78</sup> The two other persons are two ladies. There are very few women involved in the Manyeleti land claim, so it was interesting to hear that two were on the task team. Unfortunately, I was not able to meet with them. They are not mentioned by the interviewees, except when summoning up the task team members. It is unclear what their contribution to the task team is.

Trust.<sup>79</sup> In contrast, none of the interviewees identified themselves as task team member. Little is known about the exact collaboration of the Trust and the Concerned Group in the task team. At the time of interviewing, there were no public meetings with the task team taking place.

Manyeleti is state-owned by the Mpumalanga Government. When the land settlement takes effect, the government will turn over the land in Manyeleti to a form of private ownership. As discussed in chapter 2.2, the two options for private ownership for claimants are either a trust or a CPA. Most likely, the Manyeleti claimants will get a CPA to represent them, because the court ordered that the RLCC prepares a CPA-formation process (*Trustees v MRDLR*, 2017). Since CPAs are tailored solutions for land claim settlements, it seems to be the better option for the claimants. However, some claimants on the Trust's side resent the idea of a CPA and would rather see the Trust as representative. Their reasoning is that a trust is a more independent way of owning land, since CPAs would come with too much government involvement. According to one Trust proponent, the government is able to instruct CPA leaders to their advantage and, therefore, they are more prone to corruption. He states that *"a Trust can sue even the government, but a CPA will not sue a government"*<sup>80</sup>. The Concerned Group's side is more in favour of a CPA, since this is a legitimate democratic structure.<sup>81</sup> For the Concerned Group, an important factor is the fact that a CPA will be completely independent from the chief and the MTA. The title deeds of the land in Manyeleti will be in the name of the CPA. This is important, because the people living next to Manyeleti do not have the title deeds to the land they are currently living on.<sup>82</sup> A CPA as a formal entity with the title deeds is for some people the only option they might have on owning a title to land.

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<sup>79</sup> Interview Task team member and Concerned Group supporter, Welverdiend 16-03-2019.

<sup>80</sup> Interview claimant and Trust supporter, Hlavekisa 10-04-2019.

<sup>81</sup> Interview Task team member and Concerned Group supporter, Welverdiend 16-04-2019.

<sup>82</sup> See footnote 3 and 5.

## 7. Expectations

### 7.1. Anticipating the end of the claim

*“The commercialisation of MGR presents a unique opportunity for investors, government and communities to collaborate in achieving key policy objectives concerning tourism, job creation, economic empowerment and land reform. The challenge is to design such partnerships in a manner that is commercially attractive, fair and sustainable”.*

(Mahoy and Van Zyl, 2001:9)

Wildlife tourism is a business that is worth millions. According to a report of the World and Travel Council, four out of five tourists visit sub-Sahara Africa for wildlife viewing. The tourism sector in Africa is growing faster than anywhere else in the world, and the report expected this number to increase (TimesLive, 2019).<sup>83</sup> Many South African game reserves are world famous and thrive under their commercial success, such as the Kruger National Park and the Sabi Sands. As popular as those two are, not many tourists find their way to Manyeleti.

Manyeleti oddly stands out as a nature reserve, between its famous neighbours. Those who are visiting Manyeleti come for one of the privately owned lodges, each a long drive from the entrance gate through unoccupied wilderness and over swaying gravel roads. It offers a very exclusive experience for those who visit, with a matching price. The lodges attract mostly wealthy Western tourists (fieldnotes, Mahoy and Van Zyl, 2001). Manyeleti seems a blind spot, not only to tourists, but also to the current management. The uncertainty surrounding the outcome of the land claim has seemed to stop any motivation to invest in further development of the park. Most of the buildings in the Main Camp seem not to have changed much since the sixties and seventies. Bungalows are renovated in a very slow pace. The concessioners run their own lodges and vehicles, and offer private safaris for their guests. External operators bring in safari vehicles and generate revenue in the form of entrance fees. The park offers safaris on request twice a day for a reasonable fee. Entry fees for day visitors are quite low: R40 to R50, depending on the season.

One cannot fail to see that the reserve has a lot more potential than it currently utilizes. The reserve has been at an impasse for some 20 years and the claimants could be benefiting from it more than they currently do.<sup>84</sup> An interviewee assured me, that there is going to be more business

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<sup>83</sup>These data and predictions predate the global Corona crisis.

<sup>84</sup> Interview concessioner and sympathizer of the Concerned Group, MGR 15-04-2019.

in the park after the claim, but now their situation is too unsure for investment.<sup>85</sup> At the time of research, interviewees said to wait on the Commissioner to finalise the claim.<sup>86</sup> The claim should have finished in December 2018 – some four months before this interview took place – so it could be done any time now.<sup>87</sup> During my stay, the long awaited meeting was called for by the RLCC, planned for early May 2019.

The anticipation of the end of the claim rose in my last weeks in the field. Interviewees had different expectations about this particular meeting. Most interviewees expected this to be the long awaited AGM that the task team had been preparing, where they could vote for a CPA.<sup>88</sup> Others expected this to be the moment where the verified claimants officially got the land handed over to them.<sup>89</sup> The chairman of the Trust argued that this would be the right moment for the claimants to choose between a Trust or a CPA.<sup>90,91</sup>

## 7.2. Access to resources: jobs, investment, education, and compensation

After the claim is settled, the claimants are likely to enter into a form of co-management. Co-management entails, among other things, collaboration with conservation management and commercial concessioners. In post-settlement, the benefits the claimants are going to get from the claim ought to be arranged. The exact nature of these benefits were not yet clarified during the time of research. Therefore, claimants were asked what they think the benefits will be and what they expect to happen after the claim.

Almost all interviewees mention job opportunities as one of the most important outcomes of a successful claim. There is a significant need for employment for the people living near the reserve.<sup>92</sup> In the Bushbuckridge municipality, the unemployment rate was 52,1% in 2011 (Census, 2011) compared to 29,8% in the rest of the country in the same year (Statistics South Africa, 2012:51). The Bushbuckridge Development Plan for 2018 – 2022 states:

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<sup>85</sup> Interview community member, MGR 06-03-2019.

<sup>86</sup> Interview community member and sympathizer of the Concerned Group, MGR 07-03-2019, Interview claimant and Concerned Group supporter, Hlulukani 16-03-2019, Interview claimant and Trust supporter, Hlavekisa 10-04-2019.

<sup>87</sup> Interview community member, MGR 06-03-2019.

<sup>88</sup> Interview concessioner and sympathizer of the Concerned Group, MGR 14-03-2019, Interview Task team member and Concerned Group supporter, Welverdiend 16-04-2019.

<sup>89</sup> Interview claimant and Concerned Group supporter, MGR 11-04-2019.

<sup>90</sup> Interview Task team member and Trust supporter, Hlulukani 19-04-2019.

<sup>91</sup> A couple days after I left the field, this much anticipated meeting took place (see figure 3.). I was not able to get a report on this meeting, so the outcome of it was unknown to me.

<sup>92</sup> Interview claimant and Concerned Group supporter, MGR 15-03-2019, Interview Task team member and Concerned Group supporter, Welverdiend 16-03-2019, Interview claimant in the Andover land claim, Acornhoek 26-03-2019.

*“Bushbuckridge Local Municipality is the second highest municipality with high unemployment rate [in its district]” (Ibid.:35);*

*“It is a worrying factor that community services (government) is the leading industry with employment with 42.2% and trade (20.6%). There is a huge concern that the industries with potential which is Agriculture and Tourism are not contributing as much as expected [...]” (Ibid:91).*

Tourism in Bushbuckridge is an industry with potential and the interviewees understand that the Manyeleti could be a great source of employment. Claimants and commissioners were of the opinion that the reserve could house considerably more lodges.<sup>93</sup> The number of lodges, only four, is very low of the size of the reserve (Manyeleti Nature Reserve, 2019). The lodges have only a couple beds. More and larger lodges would increase the number of service jobs that the community has access to, in areas like gastronomy, housekeeping, security, logistics etc. A commissioner mentioned that it is essential for the reserve to work with the local communities and to employ locals in the lodges.<sup>94</sup>

Claimants are eager to invest in the park as well. Most agree that investment is absolutely necessary for developing a successful nature reserve, and that having the land claim settled opens up great investment possibilities.<sup>95</sup> Likewise, investment is necessary to increase employment in the reserve. One interviewee expressed his desire to open a restaurant business in the reserve.<sup>96</sup> He also recognised that they would need to attract investment partners to exploit the potential of the park and to take care of it: *“when the claim is finished, we need a sponsor or maybe the government to give us support to [make] Manyeleti a happy, nice place”*<sup>97</sup>.

Most interviewed claimants mentioned some sort of outside investor or government support necessary and investors have showed interest in a partnership with the reserve.<sup>98</sup> Claimants also mentioned possible collaboration with the KNP.<sup>99</sup> There are many investment options in the reserve, such as game drives done by community members and reopening the petrol station in the Main Camp. Commissioners would be willing to sponsor the training of locals to tour

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<sup>93</sup> Interview external entrepreneur, not related to the claim, Sabi Sands 23-03-2019, Interview claimant and Trust supporter, Gottenburg 24-03-2019, Interview claimant, Gottenburg 26-03-2019, Interview concessioner and sympathizer of the Concerned Group, MGR 15-04-2019.

<sup>94</sup> Interview concessioner and sympathizer of the Concerned Group, MGR 15-04-2019.

<sup>95</sup> Interview claimant and Concerned Group supporter, MGR 15-03-2019, Interview claimant and Trust supporter, Gottenburg 24-03-2019, Interview Task team member and Concerned Group supporter, Welverdiend 16-04-2019.

<sup>96</sup> Interview claimant and Concerned Group supporter, MGR 15-03-2019.

<sup>97</sup> Ibid.

<sup>98</sup> Interview external entrepreneur, not related to the claim, Sabi Sands 23-03-2019.

<sup>99</sup> Interview Task team member and Concerned Group supporter, Welverdiend 16-04-2019.



guides.<sup>100</sup> Despite all of these ideas, investments are postponed because the outcome of the land claim is still unsure.

Currently, there is a framework that necessitates employers in the reserve to hire local people. This framework is the only direct result of the claim that I observed. It ought to continue after the claim settlement. The framework requires that 60% of the employed people should be land claimants. The other 40% should be members of the rest of the community next to the reserve.<sup>101</sup> If a job position cannot be filled, the employer may hire someone from outside of the community. Theoretically, this is only for the highly specialised jobs when it is hard to find somebody with the right credentials within the community. People working in the park on such positions mentioned they did not live near the reserve, but came from other regions or towns further away.<sup>102</sup> Most interviewees seem to be in favour of this system and find it reasonable.<sup>103,104</sup>

In practice, this system lays bare the issue within the employment of local people: the general lack of education. In 2011, only 1,1 % of the people in the Bushbuckridge municipality had completed secondary education (Bushbuckridge, 2011). The municipality reports too many young people depending on government grants, meaning that the education level for youth is low and causes them to be unemployable (Development Plan, 2018). A social worker explained that her main objective was to keep young girls in school, but lamented that: *“these girls, they just keep getting pregnant.”*<sup>105</sup>

Jobs that do not require much formal education are available to the claimants and the rest of the community, but those jobs generally do not pay very well. Jobs that require training and education are much more difficult for community members to obtain. Furthermore, these are jobs in higher positions, for example management. One interviewee explained:

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<sup>100</sup> Interview concessioner and sympathizer of the Concerned Group, MGR 15-04-2019.

<sup>101</sup> Interview community member, MGR 06-03-2019, Interview reserve employee, MGR 07-03-2019, Interview external expert on land claims, not related to the claim, Acornhoek 26-03-2019, Interview concessioner and sympathizer of the Concerned Group, MGR 15-04-2019, Interview Task team member and Concerned Group supporter, Welverdiend 16-04-2019.

<sup>102</sup> Fieldnotes, 07-03-2019; Interview external expert on land claim finance, MGR 07-03-2019, Interview reserve employee, MGR 07-03-2019.

<sup>103</sup> Interview community member, MGR 06-03-2019.

<sup>104</sup> This system is also misused: according to some interviewees, even low level service jobs go to people “from outside” because employers claim not to be able to find people within the community (Interview Task team member and Concerned Group supporter, Welverdiend 16-03-2019 and Interview claimant and Trust supporter, Gottenburg 24-03-2019).

<sup>105</sup> Fieldnotes 27-03-2019.

*“All the high posts are occupied by people from outside. [...] if a claimant has an employment now, for instance, it’s a housekeeper, a chef, just like that, a ranger, can you see? So they should be educated, so that they can occupy those higher posts.”<sup>106</sup>*

In general, the job potential for claimants or other community members is not very high in Manyeleti, except for some hospitality jobs. Additionally, there is a chance that not every claimant would like to work in the reserve, since the options are restricted.<sup>107</sup> Therefore, focussing on Manyeleti as the main job provider for the adjacent community might not be realistic, according to two entrepreneurs.<sup>108</sup>

Another important thing mentioned by the claimants was compensation. The people that were originally displaced from Manyeleti are all senior citizens now. Instead of employment, most interviewees agree that they should receive a form of financial compensation instead. This ought to be paid from by the income from the reserve and the rent of the concessioners. Currently, the concessioners in Manyeleti pay rent to the conservation agency of Mpumalanga.<sup>109</sup> It is not clear if this agency compensates the claimants. The reserve revenues are expected to go directly to the claimants after the claim settlement. More details about this process were not known among interviewees. Presumably, the CPA will receive the money in name of the claimants and will be responsible for distributing it.<sup>110</sup>

### 7.3. Future collaboration with stakeholders

Managing a nature reserve in South Africa requires a lot of specialised knowledge, manpower and financial resources.<sup>111</sup> Natural protected areas are required to have an Integrated Management Plan (IMP). Protected areas under land claims are required to have a management framework for conservation before the claim can be settled (De Koning, 2010a). In cases like this, the IMP therefore usually includes a co-management framework (see chapter 3.3).

The interviewed claimants recognise that they need a partner for conservation.<sup>112</sup> They are planning to collaborate with a yet to be determined institution – governmental, private, non-governmental or otherwise – to manage the reserve on their behalf. Many interviewees expressed dissatisfaction with the current management organisation, which is why some hope to

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<sup>106</sup> Interview Task team member and Concerned Group supporter, Welverdiend 16-03-2019.

<sup>107</sup> Interview external expert on land claim finance, MGR 07-03-2019, Interview external entrepreneur, not related to the claim, Sabi Sands 23-03-2019.

<sup>108</sup> Interview external entrepreneur, not related to the claim, Hoedspruit 11-03-2019; Interview external entrepreneur, not related to the claim, Sabi Sands 23-03-2019.

<sup>109</sup> One concessioner has chosen to pay the claimants directly.

<sup>110</sup> Interview Task team member and Concerned Group supporter, Welverdiend 16-03-2019.

<sup>111</sup> Interview external entrepreneur, not related to the claim, Sabi Sands 23-03-2019.

<sup>112</sup> Interview Task team member and Concerned Group supporter, Welverdiend 16-04-2019.

be able to collaborate with another stakeholder.<sup>113</sup> Allegedly, multiple parties have already shown interest in collaborating.<sup>114</sup>

Likely, the original co-management arrangement of 2010 will be replaced or changed to suit possible new requirements and to accommodate the claimants. The chairman of the Concerned Group was of the opinion that the original co-management arrangement was not sufficiently tailored to the claimants: they would not get a large enough share of the revenues under the original agreements.<sup>115</sup>

While the daily management of the reserve will be taken care off by a yet to determine conservation institution, the claimants – then the new land owners – will deal with the commercial side of the reserve.<sup>116</sup> This means e. g. that they will be dealing with the concessioners directly. They expect to be able to have more influence over the concessions, like being able to decide whether or not a concessioner is allowed to stay in the reserve.<sup>117</sup>

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<sup>113</sup> Interview external entrepreneur, not related to the claim, Sabi Sands 23-03-2019, Interview claimant and Trust supporter, Hlavekisa 10-04-2019, Interview Task team member and Concerned Group supporter, Welverdiend 16-04-2019

<sup>114</sup> Interview external entrepreneur, not related to the claim, Sabi Sands 23-03-2019, Interview Task team member and Concerned Group supporter, Welverdiend 16-04-2019.

<sup>115</sup> Interview Task team member and Concerned Group supporter, Welverdiend 16-04-2019.

<sup>116</sup> Ibid.

<sup>117</sup> Ibid., Interview Task team member and Trust supporter, Hluvukani 19-04-2019.

## 8. Discussion

### 8.1. History, perception, and memory

Walker argues that the sense of urgency that is created by the master narrative can be harmful; settling claims in a hurry makes the process prone to mistakes, which can mean that the benefits do not reach those for who they were intended (2008:17). In the case of Manyeleti, we can see the opposite side of this. Twenty-three years of claiming has caused issues due to the fact that people forgot about procedures and old people passing away.

The process itself has become more complex due to the involvement of more people, governmental changes, change in population, etc. The Concerned Group contesting the Trust about its initial verification of beneficiaries and the thorough forensic investigation to verify the real claimants was arguably a good thing to happen, since it proved that the initial verification attempts targeted the wrong people. However, the research presents some issues with verification. First of all, the procedure is not transparent: it is unclear what counts as a legal verification. The failure of the early verification attempts might have been a case of misinformation on the side of the Trust. It is not known if there was an official framework for them available to conduct verification, so it might have been a case of misunderstanding the procedure. Second, literature on land claims in South Africa has not addressed verification processes adequately (yet). Ethnographic analysis of verification seems to be missing from the literature. The results of this research might instigate further inter-disciplinary analysis of verification processes. The preferred method for the verification of the Manyeleti claimants was a forensic investigation, although one might argue that almost 50 years after people were displaced other disciplines should be considered as well. This would be research in the realm of historical ethnography, memory studies, archaeology and anthropology. Koot and Büscher (2019) argue that the genealogy model used in land claims overlooks the changing nature of the land: the time that passed since people's displacement has changed both land and people. This dynamic relationship between time and place ought to be considered in future research on claimant verification.

Interviewees mention having difficulty remembering exactly what happened early on in the claim, due to the fact that it took place almost two decades ago. Clouded memories, lack of factual documentation and the longevity of the process have caused an unstable basis for the claimants to look back upon today. It also leaves a lot of room for interpretation of the events that happened back then. Memory studies provide an interdisciplinary approach for dealing with

this issue that requires contemplation from fields of anthropology, history, sociology, and psychology. Assmann (2006:3) argues that it is almost impossible to distinguish “between an ‘individual’ and a ‘social’ memory”. Individual memories are formed in the intersubjective realm between people. Relationships and emotions form our memories, and remembering is always done through a filter of emotional force. This does not mean that memories are entirely unreliable. However, the subjective interpretation of historical events does add to the complexity of reconstructing the land claim process based on peoples’ memory. Recollections can also transform history. Lustrum (2010:129) investigates “how history and memory are deployed as strategic political resources to justify often competing claims to space”. She argues that people can use history for their political gain and that people can strategically remember or forget, thereby reinscribing history. I would like to argue that these claims can both be true. In the case of Manyeleti, it is not always clear how peoples’ perspective of the claim has been formed by events in the past, or how their retelling of past events is based on their current perspective of the process. To ask the question how do people perceive the process of the land claim is to ask how do people remember the process of the land claim. Remembering in this sense is not a neutral act, but a complex intersubjective phenomenon that is formed by the past and the present.

## 8.2. Claimants? Claiming identity

Throughout the research, interviewees spoke of the community and of the claimants. As described by Beyer and Fay (2015) and Agrawal and Gibson (1999), it is difficult to define a “community”. I have stated that when I refer to the community, this implies the people living in the villages near the reserve, as this seemed to be the general idea of what the community was among the interviewees. Interviewees referring to “the claimants” also proved to be challenging. In this research, it was difficult to define a “claimant”, as people had different ideas of what made them a claimant.

The official claimant list was not available to me until very late in the research. In interviews, I could only ask people if they were claimants, as I had no point of reference otherwise. Interviewees who said they were claimants could be on the official Nexus list, they could be under the impression that they were on the list, they could believe that they were a claimant based on other reasons, or they could just tell me they were a claimant when they were not. My incapability to find out whether the interviewees were “official claimants” (meaning they are on the official Nexus list) or not bothered me throughout the fieldwork, but it also made me question the importance of being an official claimant. In the context of this research, it might not be important if people were official claimants, but that they saw themselves as a claimant. Claimants in this

research might not be claimants in the legal sense, but in the way they identify themselves as claimants.

It proved to be very difficult to find a determining factor for who the claimants are. The individuals that make up the claimants of Manyeleti have changed over time. Different ways of verification have come up with lists of different people. The list of 253 claimants from the early verifications was relevant up to the point the new list appeared in 2011. Many of the people who were under the assumption that they were official claimants – and who had been under that assumption for about ten years – got scrapped from the list after the verification by Nexus. The claimant identity now belonged to somebody else. It is not clear if people knew they got scrapped from the list: there are complaints that researchers and the RLCC did not report back to the community. This lack of communication, the existence of multiple lists, and questions about the legitimacy of those lists (even the definitive Nexus one), might have caused confusion among the people in the community. It does not seem to be widely known who is an official claimant and who is not. What seems to matter instead, is that people identify themselves as claimants, and therefore with the claim process.

Identifying as a claimant while not having the legal status of a claimant might not have an impact on the (direct) results of the land claim. It might, however, ask people to position themselves as part of the claim, therefore including them in the claim. People who feel included might also feel entitled to results of the claim, without being legally part of it. This discrepancy should be addressed in future collaboration with the claimants, since it might cause conflict regarding the distribution of revenues of the claim in the future.

### 8.3. Expectations of access to resources

The promise of employment is an important element to the claimants in the Manyeleti land claim. As described in chapter 7.2, the jobs that will be available to the claimants and the rest of the community will mostly be low-paying jobs. That is not to say that claimants do not have the option to invest in a business or to occupy e.g. management positions within the reserve, but the current social-economic situation of the general community does not supply them with sufficient resources to obtain training and education to be able to apply for such positions. Additionally, the number of jobs available to land claimants might be overestimated. The claimants may own the title deeds to Manyeleti in the future, it does not guarantee them the level of employment that they hope to get. This corresponds with the findings of De Koning (2010b:172-173).

Furthermore, the claimants expect some sort of financial compensation, especially for those who cannot work. This might also become problematic in the future. In the Bushbuckridge area, CPAs

are known to have issues with paying out money.<sup>118</sup> Financial compensation, although argued for by e.g. Beinart et al. (2017), has not proven to be an ideal solution in settled land claims. A claimant from the Satara claim (an area in the KNP) explained that her land claim had been settled for some time, that there was a CPA, but she had not received compensation yet.<sup>119</sup> A claimant who was part of the Andover land claim (see footnote 8) explained that his community had chosen to receive financial compensation, instead of title deeds over the land. He had been waiting for three years after the claim settled, and had still not received compensation.<sup>120</sup>

In addition to ownership, one could argue that in order for the claimants to gain access to Manyeleti, they should be engaged in the management of the reserve itself, and not settle for (low-paying) jobs. Empirical evidence from e.g. Van Leynseele and Hebinck (2008), Kepe (2010) and Fay (2009) proves that it is incredibly difficult for claimants to secure their agency over resituated land in protected areas. This research confirms that the claimants are not in an advantageous position to obtain jobs which could grant them such agency. Even as the new land owners, claimants are obligated to co-operate with a management structure that will be responsible for the conservation in the reserve. The seriousness of conservation of nature in PAs around the KNP is not to be underestimated, as shown by Lunstrum (2014). In an area where conservation is becoming increasingly more technology driven and militarized, the Manyeleti claimants are tasked with securing their own benefits. In the post-settlement negotiation process, the claimants who have better established themselves in positions of power than the rest of the claimant community will probably benefit the most from this co-operation. As Ribot and Peluso (2003) describe, these people gain access to resources through their social relations. Sikor and Lund (2009) relate this to the power relations between actors. In the post-settlement negotiation, the claimants will be represented by their CPA. Besides from the CPA, claimants have little access to the decision making process that concerns their game reserve. It is obvious that the claimants on the CPA will have a better position to negotiate for (their own) access to Manyeleti's resources than the rest of the claimants. One could even go as far as to say that the conflict between the Trust and the Concerned Group, in essence, has more to do with who will be able to decide on the future of the reserve than with who has been right about the claimants. One of the interviewees, who is not directly related to the land claim, stated: *"it has very little to do with a land claim. [...] It's a resource claim."*<sup>121</sup>

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<sup>118</sup> Interview external expert on land claims, not related to the claim, Acornhoek 26-03-2019.

<sup>119</sup> Interview claimant in the Satara land claim, Acornhoek 26-04-2019.

<sup>120</sup> Interview claimant in the Andover land claim, Acornhoek 26-03-2019.

<sup>121</sup> Interview external entrepreneur, not related to the claim, Sabi Sands 23-03-2019.

## 9. Conclusion

In this thesis, I have reconstructed a history of the land claim on the Manyeleti Game Reserve. Manyeleti was peoples' home, it was a place for leisure during apartheid, and it is now mostly a place for conservation and tourism. For the claimants, it has been the centre for conflict since the late 1990s.

During the early years of the claim, it became clear that the claimants needed an official body to represent them. The tribal authority stepped in and helped setting up the Manyeleti Conservation Trust. The Trust then organised the claimants for a verification and made agreements with an investor. However, the way they were handling the claim did not sit well with some claimants, who started a Concerned Group. Today, the Trust and the Concerned Group have established themselves as representatives of the claimants. At the same time, there is general confusion about who these claimants are. The Nexus report proved that the wrong people were declared claimants, and the court ruled that the suspensive clauses for the Settlement Agreement were not met. Thus, the RLCC was tasked with organising a new structure: a Community Property Association. This would be done by a task team consisting of members of the former Trust and former Concerned Group. At the time of researching, the AGM for a CPA was about to be called for. Tension remains within the community. The conflict between the two groups that had been build up over the last two decades was not resolved by the decision of the court. People on both sides of the conflict have different recollections of the past events. The research shows that people's perception of past events strongly influences their perception on the land claim process today. Additionally, I have argued that peoples' recollections of the past are also formed by current events.

Verification of claimants has been an important element in the Manyeleti land claim. A legal framework for verification seems not to be available, nor is verification in land claims extensively discussed in the literature. This makes it difficult to analyse the multiple verifications and different claimant lists in the Manyeleti land claim and makes it more difficult for claimants to know if they are "official claimants". Adding to this is a lack of communication to the claimants about the results of the 2011 verification process. This has caused different ideas within the community who is a claimant and people have different perceptions of their claimant identities. I have argued that the identification as claimant might be as important as being an official claimant, since this seems to be what binds people to the claim. The implications of this is that more people might feel entitled to potential benefits of the claim settlement, which should be acknowledged in order to



understand and adequately address potential tension among the claimants – either official or self-identified – when the benefits of the claim are to be distributed.

Finally, I addressed peoples' expectations regarding the claim. The interviewees were very aware of the potential of Manyeleti and were eager to get involved. Most claimants hoped to get jobs or some form of financial compensation from the claim settlement. However, as I have discussed, the employment opportunities are limited for the claimants and community, and financial compensation after settlement is notoriously hard to obtain for claimants and their families. On top of that, stakeholders who will come in during post-settlement negotiation might be more interested in conservation or business development than in supporting the local communities. Based on empirical evidence (Van Leynseele and Hebinck, 2008; Kepe, 2010; Fay, 2009), it is likely that the results of the Manyeleti land claim will not meet the claimants' expectations.

The Manyeleti land claim is characterised by in-fighting between the two interest groups, which originated in a discussion on who would be considered a claimant and who would not. A official verification process should have settled this question, but instead, the issue continues up till today. Issues with verification might be more common than assumed, but due to a lack on literature, this would be a topic for future research. I also hinted at the importance of power distribution among claimants in the (post) settlement process. This research did not allow for evaluation among a great diversity of claimants or their potential stakeholders, but this might be a suitable topic for future analysis. From a perspective of social justice, such analysis should pay extra attention to the more vulnerable claimants, such as women, non-English speakers, illiterate people and/or unemployed young people. Furthermore, claimants might need more support to establish themselves as an important actor in land claim settlement cases involving a PA. It should be understood that they, as the title owners of the land, are a serious party to be considered in nature conservation issues. Doing justice by settling land claims is difficult and often disputed. If one of its goals is to better the lives of the people who were displaced under apartheid, there is room for improvement and a path to a better future.

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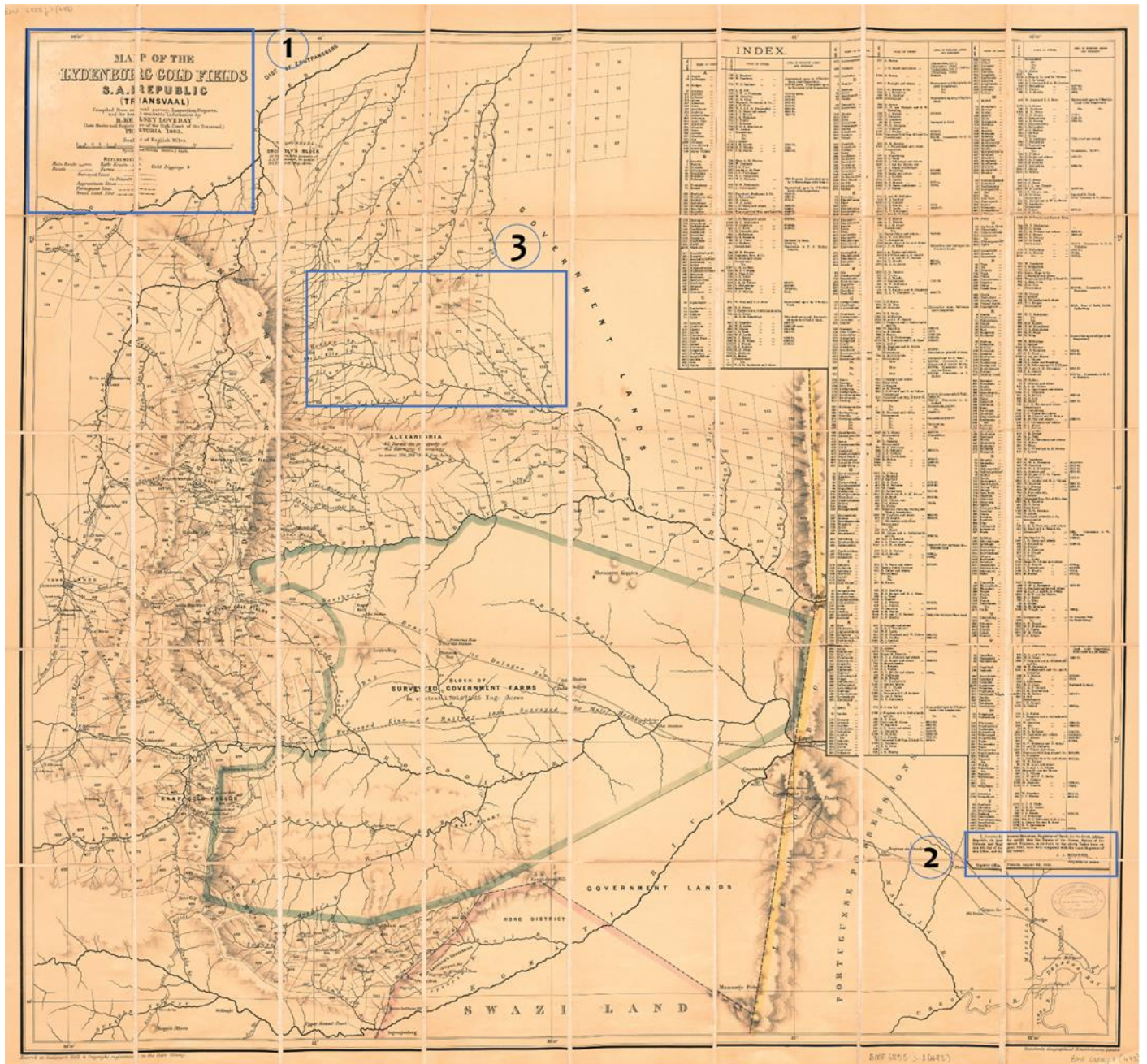
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## References for images

<p>Figure 1. Map Manyeleti location</p>	<p>Original maps from:</p> <p><b>Dulini Private Game Reserve</b> (n.d.). <i>Goway – Destinations</i>. Retrieved November 30<sup>th</sup>, 2020 from: <a href="https://www.goway.com/trip/africa-and-middle-east/dulini-game-lodge/">https://www.goway.com/trip/africa-and-middle-east/dulini-game-lodge/</a></p> <p><b>South African Safari – Sabi Sands</b> (n.d.). <i>ROAM. Rivers, Oceans &amp; Mountains</i>. Retrieved November 30<sup>th</sup> 2020 from: <a href="https://iroamtheworld.com/adventure/south-african-safari-sabi-sands/">https://iroamtheworld.com/adventure/south-african-safari-sabi-sands/</a></p>
<p>Figure 2. Map of the research area</p>	<p>Original map from:</p> <p><b>Bushbuckridge</b> (n.d.). <i>OpenStreetMap</i>. Retrieved October 11<sup>th</sup>, 2020 from: <a href="https://www.openstreetmap.org/">https://www.openstreetmap.org/</a></p>
<p>Figure 3. Claimant meeting</p>	<p>Photo taken by Nienke Tesselaar, April 10<sup>th</sup>, 2019</p>
<p>Figure 4. Map of the Lydenburg Gold Fields, 1883</p>	<p><b>Loveday, R.K.</b> (1883) <i>Map of the Lydenburg gold fields, S.A. Republic (Transvaal)</i>. Published by University of Cape Town Libraries, South Africa. Retrieved October 11<sup>th</sup>, 2020 from: <a href="https://digitalcollections.lib.uct.ac.za/collection/islandora-19541">https://digitalcollections.lib.uct.ac.za/collection/islandora-19541</a></p>

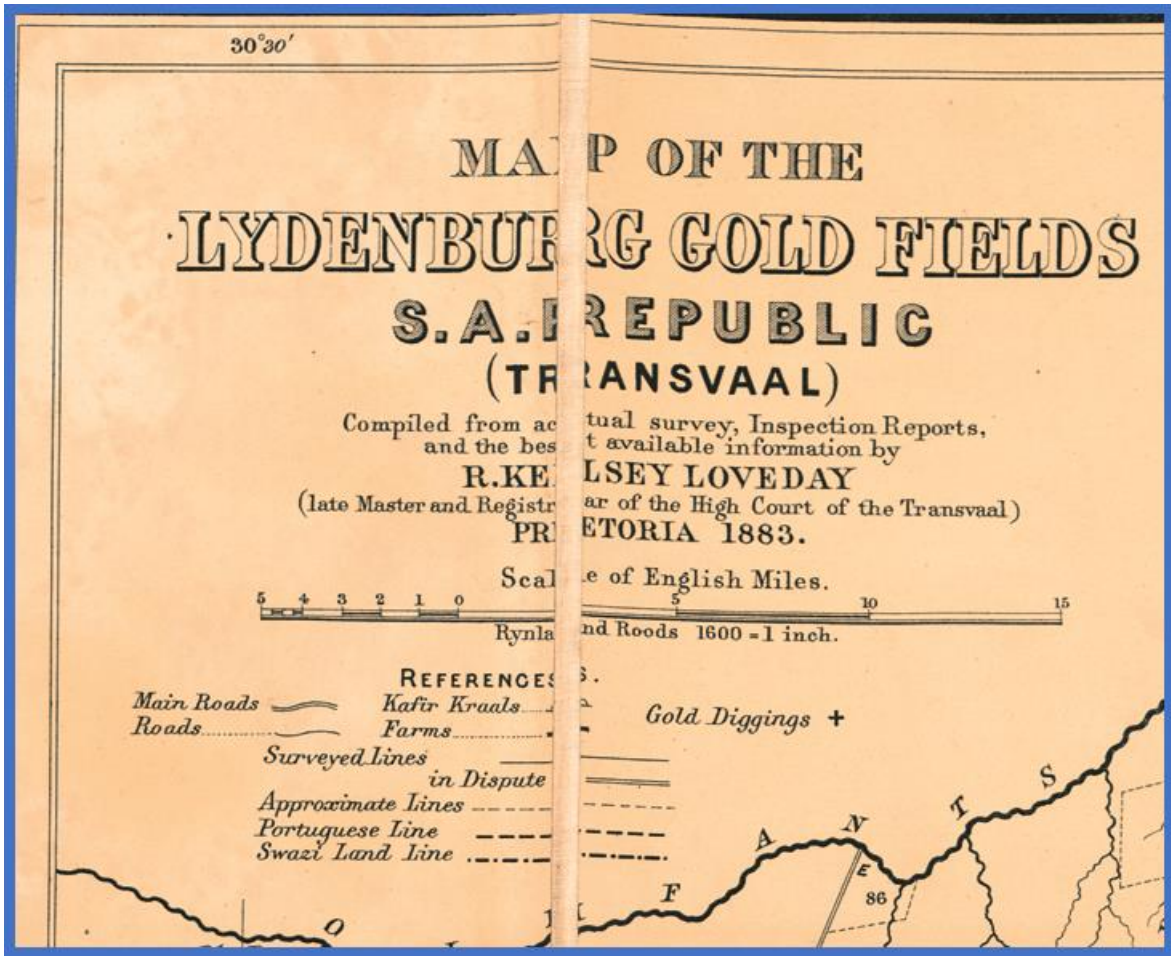
# Appendix

## Map of the Lydenburg Gold Fields (1883)



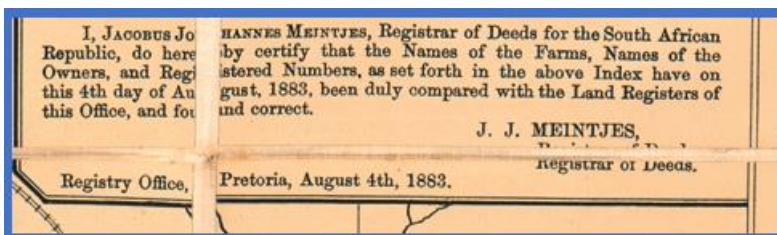
Loveday, R.K. (1883) *Map of the Lydenburg gold fields, S.A. Republic (Transvaal)*.  
Published by University of Cape Town Libraries, South Africa.  
For more details and better quality of this map, see the original digitalised version.

Outtake 1.



Heading and references.

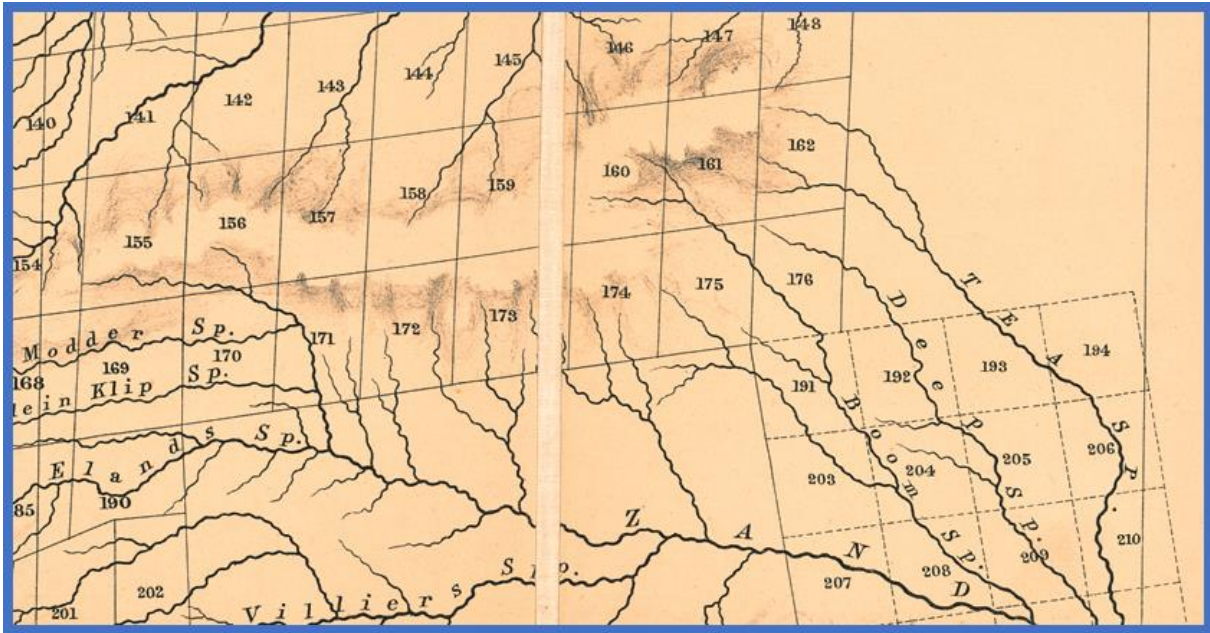
Outtake 2.



Declaration of the Registry Office, from August 4<sup>th</sup>, 1883.



### Outtake 3.



Farms where the Manyeleti Game Reserve and the northern side of the Bushbuckridge area are located nowadays.

Farms according to the index:

#	Farm name	#	Farm name
147	Albatros	190	Casteel
148		191	Thorndale
		192	Sarabank
156	Acornhoek	193	Helena
157	Okkernootboom	194	
158	Andover		
159	Leamington	203	Dixie
160	Morgenzon	204	Buffelhoek
161	Wilverdiend	205	Arathusa
162	Heritage	206	Annie Side
		207	
171	Buffelshoek	208	Gowie
172	Burlington	209	Kelvin
173	Islington	210	Gladstone
174	Clare		
175	Gotenburg		
176	Yoekpilhoek		

Some of the farms' names have changed. Other farms, like Utah and Antol, were registered later and do not appear on this map.