

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

*Thembela Kepe<sup>1</sup>, Rachel Wynberg<sup>2</sup> and William Ellis<sup>1</sup>*

<sup>1</sup>Programme for Land and Agrarian Studies, University of the Western Cape, South Africa

<sup>2</sup>Graduate School of Environmental Studies, University of Strathclyde, Scotland

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## SUMMARY

In South Africa, following decades of apartheid, which included racially-based land dispossessions, the post-apartheid government has implemented a land reform programme, which allows people to re-claim the land they were forcefully removed from. Many of these land claims are targeting conservation areas, and this has resulted in the conservation and land reform sectors often coming into conflict. The paper analyzes current experiences in South Africa with regard to land reform in conservation areas, and, through the use of case studies, explores synergies and tensions, which currently exist between these two seemingly disparate objectives. The paper concludes that South Africa has achieved minimal success in reconciling these objectives. First, the divergent goals of the land and conservation sectors result in conflicts, which often lead to delays in the process of resolving land issues. Second, the joint management model used in South Africa to resolve land claims in protected areas appears unsuitable given current power imbalances between conservation agencies and poor rural people. Third, with the retention of the conservation status of land in all cases, land and resource rights remain unclear. Stronger and more secure land rights for the local people are therefore needed. Also needed are flexible strategies for resolving this dilemma, which may include alternative land uses other than ecotourism, and broader bioregional strategies for conservation that look beyond protected areas in terms of planning, conservation and economic development.

## INTRODUCTION

The creation of many protected areas around the world has often resulted in the alienation of indigenous populations from their land and resources. Most recently, scholars, non-government organizations and governments are concerned with how to reconcile people's resource rights with biodiversity conservation (de Villiers 1999). Despite almost three decades of efforts at achieving this goal, more

lessons still need to be shared with regard to what works and what does not work in different social and environmental situations. One of the greatest needs is the improvement of understanding between those sectors dealing with biodiversity conservation and those dealing with human and land rights. South Africa, with the third highest level of biodiversity in the world, and having

recently emerged from decades of apartheid, which involved large-scale land dispossession of Africans, to make way for conservation, can offer lessons.

Following the official end of apartheid in 1994, the South African government embarked on several policy-driven programmes aiming to reduce social inequality and improve the quality of life of millions of people who were marginalized by apartheid. Land inequalities, which were central to the struggle against apartheid, were addressed through the land reform programme, and were also enshrined in the country's Bill of Rights (See section 25 of the Constitution of the Republic of South Africa, Act 108 of 1996). South Africa's Constitution not only provided for a right to land reform and equitable redress, but also to environmental protection. The Bill of Rights states that 'everyone has a right to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that, (i) prevent pollution and ecological degradation; (ii) promote conservation; and (iii) secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.'

A major challenge for government is to reconcile land reform and biodiversity conservation policies in contested geographical areas. Since 1994, a large number of land reform projects have been initiated which affect conservation areas. Many of these are concerned with the restitution of land rights, in instances where people were dispossessed of their land to further the goals of apartheid. This has resulted in the conservation and land reform sectors (including government departments and non-government organizations) often coming into conflict. Overcoming mistrust and poor understanding between the historically distinct land and conservation sectors is a matter requiring urgent attention. However, the most important issue is ensuring that people whose land rights were violated by apartheid policies – and sometimes by the creation of conservation areas – do not become victims of ideological battles.

This paper aims to improve understanding of the conflicts that have arisen between land reform and conservation, and to encourage better comprehension between the land and conservation sectors. In so doing, we hope to provide an analysis from South Africa's experiences that others can learn from when implementing land reform projects in

conservation areas elsewhere in the world. Although much has been written about the land reform programme, and about biodiversity conservation in South Africa (for example Turner and Ibsen 2000; Cliffe 2000; Steenkamp and Grossman 2001), there have to date been few attempts at a cogent analysis of both sectors. Most of these studies have not provided a detailed analysis of the sectors and conflict issues. We argue that if South African experiences on this issue are to offer useful lessons to other countries, an analysis of both sectors, highlighting tensions that emerge, is necessary. Our paper attempts to do this.

The paper draws heavily on the experiences of those who have been actively involved in the debates, analyses and negotiations about land reform in protected areas in South Africa. The main methods employed were an analysis of three case studies at Mkambati Nature Reserve, the Kruger National Park, and Kalahari Gemsbok National Park; interviews with key informants; and a review of published and 'grey' literature. A major source of information was from a series of workshops held by the Department of Land Affairs, Department of Environmental Affairs and Tourism, and the IUCN-South Africa in 1997 and 1998, where key stakeholders were brought together to discuss the resolution of land claims in protected areas. Case studies were selected on the basis of the different conflicts they presented; the different approaches taken to resolve these conflicts; the extent to which in-depth knowledge was available about each case; and the familiarity of cases to the authors. Information relating to the Kalahari and Mkambati case studies was based on long-term field research within the claimant communities by two of the authors, while the Makuleke case in Kruger National Park has been well documented and is also well known by the authors.

## **BACKGROUND AND CONTEXT**

### **International experience of land reform and conservation**

South Africa is by no means unique in having to negotiate the often conflicting goals of biodiversity conservation and land rights. Yet, although many countries have dealt with this issue, experiences vary and there is no clear formula for success. In some areas, the relationship is antagonistic, whilst

in others it is more amicable. Attempts to create a favourable interaction between people, their land-use practices and conservation differ from country to country, depending on socio-economic conditions and political dynamics. Efforts to reconcile the land rights of indigenous local peoples with conservation objectives have ranged from cash compensation for non-utilization of natural resources (Hughes 1998) and devolution of authority regarding land-use management in protected areas (Suchet 1998), to comprehensive land reform, which includes the restitution of land rights to indigenous rights holders, land tenure reform and increasing access to land (Notzke 1995; deVilliers 1999; Steenkamp 2000). Stræde and Helles (2000) have noted that the practice of allowing local people limited access to natural resources inside protected areas, popularly known as the 'grass cutting programme', as a strategy for resolving park-people conflicts has largely failed to achieve its intended goal. Variations in approaches and the success of strategies in dealing with these conflicts are closely related to the types of groups to which they have been applied. These range from agriculturalists, fishing communities, and pastoralists, to urbanized people.

In Canada and Australia, for example, the two goals of restoring rights and ensuring biodiversity conservation have been linked to the notion of aboriginal rights. Land claims in these countries have roots in land dispossession that took place during colonization of these nations by Europeans. In Canada for example, proclamations and treaties recognize aboriginal rights in principle, and the right to utilize natural resources (Morrison 1997). According to Suchet (1998), however, economic, political and social processes led to the Canadian state disregarding recognized rights from the late 1800s onwards. For instance, up until the early-mid-1970s, following the repeal of the National Parks Act, Canadian government legislation did not allow indigenous use of natural resources within protected areas (Johnston 1996). Currently, many parts of Canada are subject to aboriginal land claims, many of which are based on Treaty entitlements. Many of these claims involve land that either has protected area status, or conservation potential. According to Morrison (1997), tensions between aboriginal groups and environmentalists are rising, as each side pursues its own goals. On the one hand, conservationists do not accept that treaty

and aboriginal rights should be an end in themselves. On the other hand, aboriginal people emphasize their rights and their need for natural resource-based subsistence. In many cases, the settlement of aboriginal claims in protected areas has included agreements to safeguard biodiversity conservation through respecting the current status quo or even increasing the extent of the protected area (Morrison 1997).

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

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

in the context of a disregard for aboriginal land claims in South Africa (Department of Land Affairs 1997:55).

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

### Land reform in South Africa

The main goal of land reform in South Africa is to provide redress for the racially-based land dispossessions of the apartheid era, and to reduce the highly inequitable distribution of land ownership that resulted. In addition, it seeks to create security of land tenure for all, and thus to provide a basis for land-based economic development. The three main components of land reform are restitution, redistribution and tenure reform (Department of Land Affairs 1997).

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

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

With regard to the land *redistribution* programme, the government aims to re-allocate land to the landless poor for residential and productive purposes. The government is committed to providing settlement and land acquisition grants to eligible individuals and groups in order to purchase land from willing sellers, including the state. Since mid-1999, when a new Minister took over the land portfolio, there has been a policy rethink on redistribution. Priority is now being given to the needs of 'emerging' commercial farmers, arguably at the expense of the landless and poor (Cliffe 2000). But it is hoped that the new focus will speed up the redistribution programme, which has not come close to achieving its original goals of redistributing 30% of agricultural land within five years (from 1994). By the end of 2002, only 1.2% of commercial land had been transferred through the redistribution programme (Kepe and Cousins 2002).

The third aspect of land reform is *land tenure reform*. Tenure reform aims to address issues such as insecurity of tenure, and overlapping and disputed land rights resulting from apartheid-era policies. Rural areas in the former Bantustans are the most affected by these problems, as they bore the brunt of land-related apartheid laws. In many of these areas the land is still nominally owned by the state

and held in trust for the occupants. Most of the land is held 'communally', and in many areas is still under the jurisdiction of traditional authorities. A number of laws have been enacted to facilitate tenure reform. Those relevant to the former Bantustans include the Interim Protection of Informal Land Rights Act 31 of 1996, which protects people with insecure tenure from losing their rights and interests, pending future reforms, and the Communal Property Association Act 28 of 1996, which enables groups to acquire, hold and manage land through a legal entity, with rules specified in a written constitution.

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

### **Shifting paradigms: from pariah to partner**

South Africa's Constitution not only provides for a right to land reform and equitable redress, but also to environmental protection (see Section 24 of the Constitution of the Republic of South Africa, Act 108 of 1996). New policies and laws on environmental management, biodiversity, forestry and water

also embrace the importance of environmental protection. Together they break decidedly from the past by incorporating social justice considerations and the country's economic and development needs within the environmental agenda. One of the most fundamental and difficult shifts in approach has undoubtedly been within the conservation sector. Traditionally the domain of natural scientists and wildlife enthusiasts, conservation has moved squarely into the socio-political arena concerned with human rights, access to natural resources, equity and environmental sustainability. Certainly this has not always been the case. Although South Africa has made impressive scientific achievements in conservation, these are inextricably tied to the country's turbulent past.

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

South Africa's history of resource alienation and forced removals in protected areas is stark in its calculation and legislative base, but certainly is not unique. Throughout the world cases abound of protected areas having been established with little or no regard for communities living within or adjacent to such areas. This has affected the livelihoods, social cohesion, and customary rights and practices of many people. In so doing, considerable conflicts have developed between local people and

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

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

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

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

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

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

development plan for these areas, the Bill instead perpetuates the unfortunate myth that protected areas are isolated islands of biodiversity. This is a crucial deficiency and one which does not bode well for reconciling the land reform and conservation agendas. Creating the legal and political space for innovative and flexible solutions to these often intractable issues is crucial.

## CASE STUDIES

### Mkambati Nature Reserve, Eastern Cape

The 7 000 ha Mkambati Nature Reserve is situated on the Wild Coast of the Eastern Cape Province. It supports over 2 000 wild herbivores and numerous endemic and ecologically important plant species. Its history of reservation began in 1920 when the area was demarcated and fenced off as a leper colony. In the process, many households who were resident on the land were forcibly removed.

Additionally, because of the presence of rare plants, including the endemic Pondo coconut palm (*Jubaeopsis caffra*), the area was declared a national monument in 1936. In 1977, after the health institution had closed down, the Transkei Bantustan government declared the area a nature reserve. In 1992, the neighbouring Khanyayo people, supported by villagers from the vicinity, staged a sit-in within the reserve, demanding to be recognized as having legitimate rights to resources within the reserve. In a move to mollify the protesters, the provincial Department of Health decided to re-open a small section of the old hospital as a clinic for local communities in 1996.

It was only in July 1997 that the Khanyayo people formally lodged a land claim with the Land Claims Commission. After almost a year of preliminary investigation, the claim was gazetted in June 1998. This was not before a web of social dynamics built up around the claim. First, the Thaweni Tribal Authority strongly opposed the claim by the

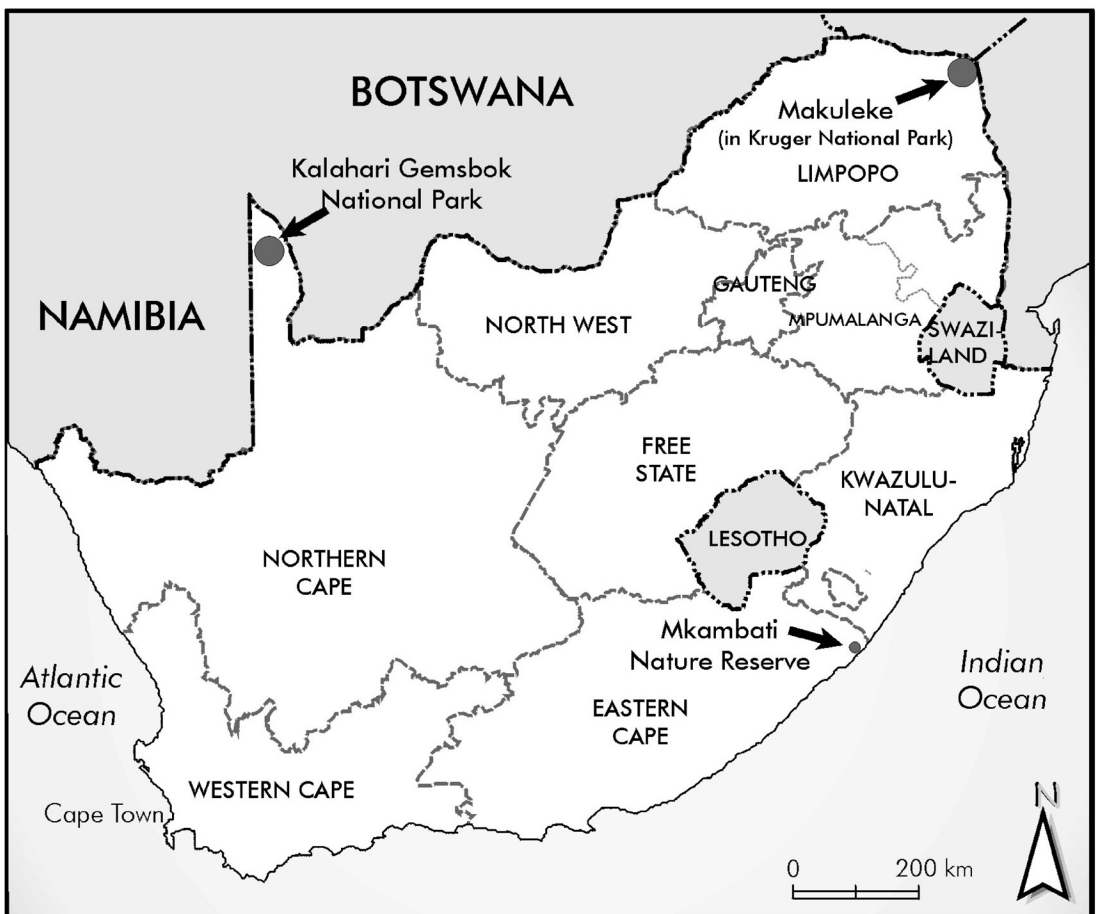


Figure 1 Map of South Africa showing the case study areas

Khanyayo people, arguing that no single administrative area or village falling under its jurisdiction could lodge a claim for land that would belong to that community alone. Hence, in September 1998, a committee claiming to represent the interests of the Thaweni Tribal Authority lodged a counter claim for the Mkambati Nature Reserve. This was a clear sign of community conflict over land and potential benefits resulting from gaining land rights. Second, in 1996 the Wild Coast Spatial Development Initiative (SDI), a government development project targeting poverty-stricken areas, identified Mkambati as one of its focus areas. The SDI declared that landowners would become primary beneficiaries of local development and investment. This declaration by the SDI further complicated an already tense situation regarding land rights in the area. The work of the Land Claims Commission was also made difficult by the strategies used by the opposing claimants to assert their alleged land rights to the Mkambati Nature Reserve. On the one hand, supporters of the Thaweni Tribal Authority forcefully occupied and rented out buildings within the reserve, while on the other Khanyayo people demarcated farming land on the outskirts of the reserve, as well as intensified their 'illegal' use of protected flora and fauna in the area. As a result of the counter land claim and the strategies used by the two communities, conservation was greatly compromised.

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

to this compromise, while the Khanyayo agreed to this alternative form of redress, but refused to officially withdraw their land claim to the reserve.

The development-for-claimed land strategy backfired when, after four years of planning, the SDI project failed to be implemented in the Mkambati area. Conflict flared up again and illegal use of protected flora and fauna increased. This prompted the Land Claims Commission, in 2000, to continue its plans to resolve the land claim through legal means. Even then, the Land Claims Commission was not free from outside influence, particularly from the conservation lobby and the SDI. It is important to note that the SDI favoured a protected environment for the sake of eco-tourism (Kepe 2001). Consequently, the Land Claims Commission pursued a route which would see Mkambati Nature Reserve remaining a protected area, with 336 households from Khanyayo, whose descendants were removed from the land in 1920, receiving financial compensation. As part of the deal, the Commission concluded that all 2 348 households of Thaweni Tribal Authority, including the Khanyayo, were to be joint land rights holders of Mkambati Nature Reserve. The aim was to take the proposal to the Minister of Land Affairs for approval, in terms of Section 42 (d) of the Restitution of Land Rights Act, 22 of 1994 and its amendments. However, by the end of 2002 the proposals had not yet been taken to the Minister of Land Affairs due to renewed local conflict.

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



## **Makuleke community, Kruger National Park, Limpopo Province**

One of the most publicized cases of a land claim in a conservation area occurs in the Limpopo Province, where the Makuleke community have successfully claimed a tract of 22 000 ha between the Levuvhu and Limpopo Rivers, known as the Pafuri Triangle. The land, much of which falls within the northernmost section of the Kruger National Park (KNP), is of high conservation value, comprising a valuable wetland, important habitat types, high levels of endemism, and significant cultural and archaeological sites. In 1969, the Makuleke community were forcibly removed from this area by the Nationalist government. This concluded a long-standing and bitter dispute for land between the Makuleke community and authorities, initiated by the proclamation of the KNP in 1926 and the continued marginalization of this Tsonga-speaking group over the decades (Carruthers 1995). For the 3000-strong Makuleke clan, removals were accompanied by the denial of a hitherto self-sufficient lifestyle, a break up of families, increased malnutrition, the substantial loss of infrastructure and livestock, and an increase in tribal conflict. As sole compensation, people were given land a quarter of the area they had previously occupied, in a barren area on the western border of the Park. Here, they were relocated with two tents per family (Koch *et al.* 1995). The combined denial of their rights due to apartheid legislation, and the inadequate compensation received, made the Makuleke prime candidates for restitution.

In December 1995 the Makuleke lodged a land claim for Pafuri, and in 1998 a successful settlement was reached. The settlement restores land to the community whilst maintaining its conservation status as a contractual national park, valid for 50 years. Title deeds prevent mining or prospecting in the area and its use for residential or agricultural purposes, the primary purpose of the land to be for conservation and 'associated commercial activities'. Responsibility for management of the area lies with a Joint Management Board (JMB), comprised of three members of the Makuleke community and three staff of the South African National Parks (SANP). Community ownership of the land is vested in a Common Property Association (CPA) which not only maintains active participation in the management of the land, but also its rights to

conduct commercial activities on the land, and to determine what commercial activities may take place.

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

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

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

The third case study is located along the southwestern tip of the Kalahari, the only section of this 'Thirstland' in South Africa. The southwestern section of the Kalahari is also the driest part of the

region; rainfall averages about 150 mm per annum and increases as one moves diagonally across the Kalahari to the northeast (Tyson and Crimps 2000). The vast expanses of grass that bloom after the summer rains support a large population of antelope species and other herbivores, including gemsbok, eland, and springbok.

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

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

The settlement of the two claims in March 1999 amounted to the receipt by the two groups of 50 000 ha of land in the southern section of the park. The Khomani San also received an additional 36 000 ha of farmland outside of the park, while the Mier community received four farms for redistribution purposes. Both groups also received cash compensation to be used for the purchase of additional land for grazing. No limitations were placed on the land uses for the farms, but the

land inside the park was limited to conservation only.

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

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

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

## **DISCUSSION: COMMONALITIES, DIFFERENCES AND APPROACHES TO RECONCILING DIFFERENT AGENDAS**

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

### **Joint management**

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

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

local communities (Boonzaier 1996; Isaacs and Mohamed 2000). These lessons point towards the need to review joint management as a strategy for rural empowerment, a sentiment captured well by the former Director of the Social Ecology Unit of the South African National Parks: Equal partnerships between local communities and National Parks become an elusive concept, because the relationship is at best unequal as the control of resources rests with National Parks officials. Those involved in programme development and implementation exercise considerable power over communities. The nature of the relationship between the community and park needs to change fundamentally (Dladla 1998:7).

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

### **Ecotourism to the rescue?**

Closely linked to the joint management strategy to reconcile biodiversity conservation, land reform and development is the increasingly popular belief that ecotourism can be a solution to these problems. In all cases of land reform in protected areas

in South Africa, ecotourism is touted as one – and often the only – strategy for ensuring that local people will benefit from a protected area over which they gained rights. In such cases, it is often emphasized that biodiversity conservation and ecotourism go hand in hand (Gössling 1999). Thus communities are encouraged (or forced) to agree that other forms of land use are inappropriate for the jointly managed protected area, if benefits from ecotourism are to be maximized. However, as happened with the Makuleke community, ‘land owner’ communities soon learn that attracting investors and tourists to their ventures is more challenging than they were made to believe (Magome 2002). Institutional capacity at both state and community levels often appears as one of the key constraints in such nature-based tourism projects (Wynberg 2002).

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

### **Intra-community conflict**

Intra-community conflict is a third area of concern that is common when attempting to reconcile land reform and conservation. As the cases of Mkambati and the Kalahari illustrate, perceived future benefits, representation and issues of identity trigger numerous conflicts. While conflict is common in most situations involving people, what is of concern is the fact that it is often treated lightly or ignored by those in power (Kepe 2001). Poorly understood is that the joint decision-making that has become a

norm in resolving land and park conflicts plays itself out to conflict, often due to unequal power relations between local people and government and conservation agencies. While it is desirable that local people find their own ways of resolving conflicts, it is also necessary for government and conservation agencies to provide all the support they can. The Mkambati case shows clearly that when this support is absent, the reconciliation of land reform and conservation becomes a major challenge. On the other hand, as illustrated by the Makuleke case, support from outsiders (e.g. Friends of Makuleke, government), combined with strong institutional structures within the community, increases the chances of success.

### **CONCLUSIONS**

Drawing from this discussion, we conclude that South Africa has achieved minimal success in reconciling land reform, conservation and economic development. First, the divergent goals of the land and conservation sectors result in conflicts which often lead to delays in the process of resolving land issues. Second, the joint management or contractual parks model used in South Africa to resolve land claims in protected areas appears unsuitable, given current power imbalances between conservation agencies and poor rural people. While rural people sign agreements with the hope of enjoying future benefits from the deals, they are often frustrated by their inability to influence management decisions that have an impact on their livelihoods. Third, with the retention of the conservation status of land in all cases, land and resource rights remain unclear, with some rural people questioning if they have achieved any victory. This, perhaps, points to a need for stronger and more secure land rights for the people who were dispossessed of their land in the past. Additionally, what is needed is a serious rethink of approaches to reconciling land reform and conservation, including flexible policies which may include alternative land uses other than ecotourism, and broader bioregional strategies for conservation that look beyond protected areas in terms of planning, conservation and economic development. The reality is that South Africa is faced with spiralling levels of poverty and unemployment, high levels of inequality – especially in land ownership and distribution, and increased

reliance by the rural poor on natural resources. Addressing the immediate and long-term needs of the poor, whilst simultaneously conserving the country's biodiversity is no easy task, requiring both the creativity and above all commitment of all players to compromise where necessary and get it right. Whether this is possible is anyone's guess.

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