

# **ESARBICA JOURNAL**

## **JOURNAL OF THE EASTERN AND SOUTHERN AFRICA REGIONAL BRANCH OF THE INTERNATIONAL COUNCIL ON ARCHIVES**

**Volume 42**

**2023**

ISSN 2221-6442 (Print), ISSN 2221-6450 (Online)

<https://dx.doi.org/10.4314/esarjo.v42i1.6>

# Archives as evidence for land restitution process in South Africa

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Received: 28 August 2023

Revised: 08 January 2024

Accepted: 09 April 2024

## Abstract

The responsibility of the government to redress the inequalities and injustices of historical land dispossessions by making use of archives has become a significant tool in that regard. Archival institutions in most countries prioritised collecting and preserving memories to serve as evidence for land claims. This study sought to explore the usage of archives as evidence in land restitution processes in South Africa, aiming to identify potential solutions for improving the effectiveness of utilising archives as evidence for land claims in the country. The study adopted a qualitative approach to collect data through interviews with project officers and archivists as well as oral testimony for restitution claimants. Snowball sampling was used to select restitution claimants, while purposeful sampling was used for archivists and project officers. The study found that factors inhibiting the use of archives at the National Archives and Records Service of South Africa (NARSSA) to settle land claims include language barriers, a lack of archives, a lack of public programming initiatives, geographic barriers and limited working hours. Ultimately, this paper concludes that if the NARSSA does not collect more undocumented memories of the marginalised communities through oral history and land records older than 20 years, the victims of land dispossessions will not get justice or land rights. It is recommended that the NARSSA should digitise land restitution collections and make them accessible to the public on their website to increase the use of archives to shape the outcome of the restitution process.

Keywords: archives, land rights, justice, land dispossession, land restitution, and land claims

## Introduction and background to the study

Preserving history and social memory plays a crucial role in promoting social cohesion, social justice, human rights and good governance, and providing public access to national documentary heritage on a wide range of subjects. Land reform focused on restoring land rights of vulnerable communities whose lands were dispossessed during the apartheid regime, often overlooking the use of archives (Mudau, Mukonza & Ntshangase 2019:83). The White Paper on South African Land Policy, 1997, was a tool to reaffirm the policy and procedures on land claims committed under the Constitution and the Restitution of Land Rights Act (No. 22 of 1994) to address the inequalities and injustices of land dispossessions that took place after 19 June 1913. This law provided for the Commission on Restitution of Land Rights (CRLR) and Land Claims Court (LCC) to collaborate, with the goal to address the issue of historical land dispossession. The CRLR is mandated to receive and investigate submitted land claims and to propose restitution for authentic and valid land claims. This includes returning the land or

original land rights to the rightful owners who have been victims of historical land dispossessions and offering reasonable financial compensation if restitution is not viable. Meanwhile, the LCC is responsible for making a formal judgment regarding land claims cases or disputes referred to by the CRLR and settling disputes between land claimants and the government. Mabapa and Ngoepe (2023) note that most marginalised communities, such as land claimants, have moved to using oral history for land dispossessions that were never documented and tangible evidence such as graves to prove land claims.

Collecting and preserving historical and cultural information sources for use by the public is a priority for archival institutions worldwide (Onyeneke 2016). In this context, memories of land dispossession or history should be preserved in archival institutions where they can be used by the public to meet their current needs and shed light on the forceful removals of marginalised communities which transpired in the past. Hedstrom (2010:176) states that archives are “sources for the potential discovery or recovery of memories that have been lost”. The safeguarding of archives is necessary because these historical documents are unique, vulnerable and irreplaceable. Preserving archives and making them available and accessible for use by the public remain a key function of most archival institutions to facilitate transparency, accountability and democracy. Archives reflect the historical stories of marginalised communities through manuscripts, photographs, maps, rock art paintings and oral evidence. In view of this, it is the mandate of the public sector to ensure that archives become a valuable tool in the era of democracy and economic growth for better democratic accountability in the area of land restitution. This presents an enormous task of providing access to archives for public use by the National Archives and Records Service of South Africa (NARSSA). The NARSSA has a collection of archives that are essential to land restitution, which were collected, protected and listed on an inventory. Therefore, the NARSSA Act (No. 43 of 1996) provides for archives relating to land restitution to be made available for use. Records older than 20 years are a gold mine for researchers and historians and, more importantly, can provide vital sources of evidence, for instance in land claims investigations.

Akinola and Wissink (2019:9) state that the land reform programme faces difficulties in settling 70% of the 80 000 claims lodged in 2005, although, in 2017, many of those land claims were still unresolved. Mudau et al. (2019:83) also identified the concerns of the CRLR for the backlog of land claims, namely untraceable claimants, disputes between landowners and claimants, unavailability of archival information regarding registered land and the prolonged land process itself. This results in archival information not being readily available for use as evidence in the restitution of land claims in South Africa. Archives remain crucial as legal and authentic documentary evidence and information about land ownership (Mabapa & Ngoepe 2023). Schellnack-Kelly (2017:274), however, supports this statement by stating that records were used to shed light on past injustices such as land claims because they were not destroyed deliberately. For instance, if archives are used to scrutinise archives such as maps, survey diagrams, title deeds and transfers, they can sometimes provide more clarity and circumstantial

evidence to substantiate the gaps, contradictions in the ownership of land and occupational history of a property.

Thus, the use of archives in land restitution is vital to verify historical events or actions to provide an understanding of the context to the racially discriminatory laws and practices for the people who were evicted from their land by the apartheid government. There are efforts by archival institutions and archivists to reveal violations of human rights and seek justice for marginalised communities, for instance, in connection with land restitution. This study sought to ascertain how archives are used as evidence in land restitution in South Africa. It was hoped that this study would provide ways in which archives can be preserved and used to strengthen South Africa's land restitution process. Regardless of the significance of archives in the land restitution programme, little research has been done in South Africa to confer in expediting the processing of land claims. As a result, this study explored the use of archives as evidence for land restitution process in South Africa.

### **Contextualising the problem**

This section examines the pursuit of justice by land restitution claimants, with a particular focus on marginalised communities in their efforts to reclaim their land. The dispossession of land was given effect by the 1913 Natives Land Act during the apartheid regime in South Africa, which gave full control over and access to land by white people. The "land issue" arose due to thousands of black families that became landless since they were forcefully removed from their land by their colonial masters. The apartheid government relocated the majority of black people to poor homelands and townships that were poorly planned and serviced. Since then, the indigenous communities have been confronted by socio-economic issues such as poverty, landlessness and inequality. The state under the apartheid regime forcefully removed millions of Africans from their rightful land to create space for white settlements. This prompted the development of the new Constitution, which provides the right to restitution for historical land claims that are resolved through the restitution programme (Ngcukaitobi 2021). Hence, Ngcukaitobi (2021) underscores the importance of the implementation of land restitution in South Africa to redress the injustices of land dispossession. Since the dawn of democracy in South Africa, section 25(5) of the Constitution was developed to provide the right to access to land on an equitable racial and gender basis. The Constitution recognises the three categories of land reform: land restitution, land redistribution to modify the distribution of land ownership and land tenure to address the longstanding inequalities and injustices of land.

Land restitution remains the most contentious and most significant element of land reform programme to unlock historical claims that would be resolved through the land restitution process as envisaged by White Paper on South African Land Policy, 1997, which provided guidance to the victims of injustice, but not just any injustice – the injustice of black people who lost their land through forceful removal by the apartheid government. To deal with the challenges of poverty, unemployment and inequality, in 1994, Parliament passed the Restitution of Land Rights Act (No. 22 of 1994) to make provision for the restitution of rights in land. The CRLR and the LCC were established to administer the settlement of land claims. For the land claims to be processed, admissible evidence such as photographs of graves, documents such as title deeds, maps indicating the location of the land or witnesses to provide oral testimony was required to serve as proof in land disputes. As an alternative, the CRLR settled land claims and ensured that the LCC intervened where there was a contest for financial compensation. The South African Constitution anticipated advancing reconciliation on land

dispossession without foreseeing the lack of evidence to increase the pace of land restitution. This is supported by Sebina (2004) who emphasises that archives are unavailable and inaccessible to be used as evidence to support the restitution claimants who struggle to reclaim their land due to loss, theft and restrictions.

### **Problem statement**

South African archival institutions are trying their best to preserve the primary historical sources such as title deeds, farm registers, maps and any information regarding land dispossessions, to name just a few. Moreover, researchers such as Mabapa and Ngoepe (2023) and Ngulube (2019) agree that these efforts by archival institutions have not significantly encouraged more South Africans, including restitution claimants, project officers and archivists, to use archives to meet their current needs, such as supporting land claims. As such, there seems to be low usage of archives, especially on documentary evidence that may be used to support land restitution in South Africa. Thus, the success of processing land claims cannot be assured. The lack of public awareness was indicated as the main contributing factor. This is supported by Archival Platform (2015) and Mojapelo, Mnkeni-Saurombe and Modiba (2021), who suggest that South African public archives continue to struggle to increase public awareness due to a lack of funding, skills, policies, visibility, relevant content to users and obsolete technology. In addition, the importance of archives is not well understood by the public, making it difficult to use them as evidence to support the restitution of land, especially in the court of law (Ngoepe & Makhubela 2015).

There is compelling evidence that archives containing information about a particular piece of land in the public sector are subject to theft or inexplicable disappearance from archives repositories. For instance, action officers at the Department of Corporate Services in Botswana had direct access to file retrieval, which allowed them to tamper with and steal valuable information because there was not enough staff for records management. Therefore, the settlement of land claims in the land reform programme becomes impossible because of the lack of archival evidence (Mampe & Kalusopa 2012). Buthelezi (2015), for example, states that the vanishing of the title deeds and land records leads people wanting to strengthen their cases where there is an overlap or prevent the claims from being lodged if some of the original claimants pass away before the claims are finalised. As a result, without archives, the land grabbers will be set free, while the victims of land dispossessions are delayed or denied justice. Mabapa and Ngoepe (2023) suggest that archives are hindered from being used as documentary evidence to empower marginalised communities affected by historical land dispossession, address inequality, verify land claims and facilitate land restitution due to issues such as loss, theft and restrictions. It is against the outlined problem that this study intends to explore the usage of archives as evidence in land restitution in South Africa.

### **Purpose and objectives**

The study explored the usage of archives as evidence in land restitution in South Africa. The specific objective was to:

- ascertain how archives are used as evidence in land restitution in South Africa.

## Literature review

In South Africa, “a community commands no respect without land because the land has a unique influence on identity and status. It is through the ownership of land that self-respect and human dignity are actualised” (Tarimo 2014:11). The land issue is in line with the findings of Sebina (2004) who states that land can be returned to its rightful owners if archives preserved at archival institutions are used as evidence for land claims. Tembe and Nsibirwa (2022:141) argue that oral history records can be used as a primary source to substantiate historical events because oral history gives the people who were voiceless during the colonialism and apartheid era a voice. Moats (2018) posits that archives are records with enduring value that contain archival evidence, which were transferred to archives repositories by governmental bodies and which are no longer required for business for preservation and use by the researchers and the public. According to Fay and James (2010), cited in Josias (2020), the Eastern Cape communities at Dwesa-Cwebe solely relied on state officials to conduct research on accessible archival evidence pertaining to their claim, which creates the assumption that their claim would not be successful when presented in a court of law. Therefore, if governmental bodies do not transfer records older than 20 years to the NARSSA, the researchers and land claimants would be denied the right to use archives for their land claims to give an account of what transpired in the past. As a result, the communities would not trust the land restitution process. The study reviewed the literature based on the objective of the study: the use of archives as evidence in land restitution and factors inhibiting or stimulating the usage of archives as evidence in land restitution.

## The use of archives as evidence in land restitution

The use of archives plays an integral role in the post-apartheid initiatives that focus on the redress or settlement of land claims. Ngoepe (2019:154) opines that communities and the CRLR processes are solely dependent on archival institutions to give historical information or evidence to settle land claims. This is because archival institutions are places where the primary sources of information are retrieved and used by the public and researchers. Globally, archival institutions have paved the way for the public to use archives for scientific, research, cultural, educational, historical, publishing and journalistic purposes. In the past, chieftainship was responsible for resolving land disputes between communities (Landman 2013). Currently, archives are used as evidence in court proceedings because of their authenticity and reliability, and without such evidence, the determination of the rightful owners of the land cannot be certain. Mukwevho (2017:17) contends that the use of archives enhances land dispossessions to be visible to communities, helps to justify the existence of archival repositories and assists archivists in uncovering deficiencies in areas of archives management.

Maher (1998:262) indicates that archival institutions continue to manage the documentary evidence for use by the public so that they can make their own opinion or picture of the historical accounts. In some instances, in Botswana and Zimbabwe, documentary evidence was relied on rather than oral history (Bhebhe & Mosweu 2019:164). In essence, the more restitution claimants, project officers and archivists use archives to authenticate land claims, the more benefits they will get from them, and the underutilisation of archives may affect the restitution claimants. Schellnack-Kelly (2017:274) supports this statement, by stating that records were used to shed light on past injustices such as land claims because they were not destroyed.

Even though archival institutions in Southern Africa fill the gaps of archival holdings through oral history (Bhebhe & Mosweu 2019:164), South Africa is still lagging in reaching the communities to use archives. Ngoepe (2020) contends that marginalised communities are still facing oppression since their oral histories were never recorded or the recorded ones were incorrect to validate their land claims. Suarez and Suarez (2007:17) state that recorded and transcribed information from immigrants was preserved in the United States archival institution to be used by researchers. Similarly, in Canada, oral history was used as evidence for the land claim of Gitksan and Wet'suwet'en (Cameron 2001). Webster (2016) and Oldenburg (1990) are of the view that both oral and documentary evidence must be used to provide more accurate and reliable information on historical events in land disputes.

While archival institutions play a critical role in supporting claims for land restitution, a variety of challenges impede these institutions' effectiveness. According to Ngoepe and Ngulube (2011), there are challenges of increasing the number of South Africans who make use of archives. Ngoepe (2020:151) contends that failure to use archives effectively has consequences that extend beyond the archival holdings that do not trace the history of indigenous South African cultures but those with colonial power. Thobela (2011:30) indicates that South African land records are lost, and other documents are issued without the necessary legal processes due to poor record-keeping. Very often, the use of archives will not be possible until the public has access to the archives (Archival Platform 2015). Ngoepe (2020:155) adds that the use of archives is determined by the accessibility to fulfill citizens' needs for unresolved land claims. According to Olson (2010), the unavailability of archives might be due to deliberate theft of archives, damage caused by fluctuating temperature and humidity as well as corruption by political figures to attempt to alter or destroy information stored in archival institutions. Harris (2000:1) clarifies that during South Africa's apartheid regime, public records were routinely destroyed to conceal the process because it is difficult to remember and narrate all the incidents without evidence. Therefore, it is evident that archives can be used to solve the land issue, as archival institutions preserve oral history and documentary evidence for land claims.

### **Research methodology**

This study relied on qualitative data collected through interviews with project officers from the CRLR and archivists from the NARSSA while restitution claimants' data were collected through oral testimony. The non-probability sampling method employed in this study was snowball sampling to select restitution claimants because of the small sample being studied, and it was difficult to reach them in South Africa (Creswell 2009). However, it is important to note that this sampling method has potential risks such as potential biases and lack of generalisability. Hence, document analysis was also used to avoid the biases emanating from one data collection tool.

This study was limited to land redistribution and land tenure reform which include security for farm dwellers and farm owners, as they were part of land reform in South Africa. This limitation was implemented because the scope of this study would be unmanageable if all possible claimants were included. The assumption was that one restitution claimant had an existing network of other claimants who had expertise and knowledge of land restitution processes, and getting hold of one restitution claimant would eventually pave the way to recruiting more restitution claimants. Purposive sampling was used to select participants who were listed as follows: four project officers from the CRLR who had expertise in the

investigation and processing of land claims in South Africa and five archivists from the NARSSA who preserve archives in the archives repository and make them accessible and available for use by the restitution claimants and project officers. The researcher used a voice recorder and note-taking for the interviews and the data were transcribed from audio to text in English. Data collected through interviews were augmented through acts, operational plans, policies and procedures. The researcher used thematic content analysis to analyse data. The presentation of data was done through text and themes. The researcher grouped data according to themes emanating from the objectives of the study. In essence, all the responses provided by the participants were grouped according to a specific objective and validated the information captured. Participants' anonymity, trustworthiness and confidentiality were maintained throughout the study. As part of ethical clearance, participants were asked to sign an informed consent form. Participants participated voluntarily and were permitted to withdraw at any time. For anonymity and confidentiality, participants were assigned codes individually such as 1A-D for CRLR project officers, 2A-D for restitution claimants and 3A-E for NARSSA archivists to avoid personal or identifiable information. This study also ensured that data were collected from credible restitution claimants who lodged their land claims with land restitution.

### **Presentation and discussion of the results**

The findings of this study have been organised in accordance with themes extracted from the objective of this study. This section provides a discussion of the results.

### **The use of archives as evidence in land restitution**

This research objective intended to investigate whether restitution claimants in South Africa lodged land claims with the CRLR. Participants agreed that the CRLR opened its doors to people who had been victims of land dispossession in the past. The findings of the study revealed that restitution claimants lodged their land claims with the CRLR. However, the common theme suggested that the land claimants faced frustration as a result of undue delays from the CRLR for the submitted land claims. For instance, Participant 2A submitted a land claim in 1998 and after more than 16 years, the claim remained unsettled. Participant 2B lodged a claim in 1999, that took three years to complete; poor interaction between claimants and government officials was cited as a contributing factor. Participant 2C, who lodged a claim in 1997, detailed a lengthy process involving verification, informing current landowners, property evaluation and potential litigation, leading to a 6 to 10-year timeline for completion. Similarly, Participant 2D, who lodged a claim in 2009, faced challenges with the Promotion of Access to Information Act (PAIA), experiencing delays due to a lack of service delivery or capacity from the department. As a result, this participant was still awaiting the transfer of ownership and did not possess a title deed. These accounts collectively highlighted systemic issues contributing to the delays in the land restitution process, including bureaucratic hurdles, legal complexities and communication gaps. Despite the fact that the CRLR accepted their land claims, some participants felt that it was a difficult and painful process because it took many years to settle land claims. For example, Participant 2A explained that:

*“In 1998, I completed a land claim form and submitted it to the commission for further processing. I also made a follow-up to check the status of my claim. It is more than 16 years now, but my land claim is not yet settled.”*



Participant 2B also indicated that:

*“I visited the land claim offices and lodged a claim in 1999. It took three years for my land claim to be completed. It takes a long time to complete the land claim process because there is poor interaction between claimants and government officials.”*

It was confirmed by Participant 2C, who stated that:

*“I lodged a claim in 1997 at the Department of Rural Development and Land Reform. It is a long process. You have to go through verification whether you are rightfully allowed to claim the land, go through the form completed, which then they verify if it is a valid claim. They inform the current landowners that there is land restitution on the property that is claimed. Then they will evaluate the property and make an offer to purchase the land on behalf of the claimant. The offer can either be accepted or declined by the current owner. The process may take 6-10 years because of litigation that may arise from the claim.”*

Similarly, Participant 2D stated that:

*“I lodged a claim in 2009. I followed the PAIA Act to request information from the department. It was a terrible process due to a lack of service delivery or capacity to furnish us with the relevant information. I am still waiting for the transfer of ownership. I still do not have a title deed.”*

The participants were asked what evidence they would use for a land claim. Participants 1A and 1C stated that archives, oral evidence and physical evidence, such as a sworn verbal declaration, were used to validate a land claim because project officers received lodged land claims from 1995 and processed them in 2012, in response to past racially discriminatory laws and practices that made the majority of citizens ashamed of their past. The following comment indicates Participant 1A’s point of view on knowing who the rightful owner of the land is:

*“Archival evidence such as declaration can identify the owner, i.e. community by name or their Chief, deeds report can attest registered owner in terms of ownership rights or permission to occupy, during verbal search with the claimant, the claimant also provides information about the person who lost land rights. However, not only ownership rights are recognised by the Restitution Act, but a few, i.e. tenancy rights, beneficial occupation rights and others to name but a few.”*

According to participant 1B, *“most blacks were the rightful owners, but they were not permitted to have land registered in their names during the apartheid regime. Some of the lands were given to them by the chiefs, where they stayed until the whites arrived, took over their land, and claimed it as theirs.”* Participant 1C also stated that the project officers conducted oral interviews with the claimants or families to determine who owned the land at the time of dispossession. To confirm the information provided, the farm register from the Deeds Office, kraals or graves were also used.

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Participant 1B stated that “*the first phase of the land claim process began in 1994 until 31 December 1998. The second phase started on 1 July 2014 until August 2016 because of the Lamosa Judgement wherein the Land Claims Commission was ordered by the court to stop with lodgement process until further notice.*” Participant 1B further indicated that the land claim was triggered by the following:

- 1993 Interim Constitution section 25(7) of 1996.
- Promulgation of Restitution Act.
- Green on the South African land policy.

The processing of land claims varied, and some were still being investigated.

Participants 1A, 1C and 1D stated that as evidence for land claims, the CRLR had original land claim forms, a land claims database, acknowledgment letters, maps, deeds registration, survey diagrams and tribal history. “*Oral interviews (claimant or family), deeds information (farm book, title deeds, Aktex reports), Surveyor-General office (maps-aerial, layout plans and topographical), and site (claimed area) inspection reports,*” according to Participant 1B.

Participants 3A, 3B, 3C and 3D also mentioned the following:

- Name of area or farm from which they had been removed.
- Approximate date of the removal.
- Names of the persons removed.
- The name of the chief or headman of the community who had been removed.

As a result, archives were used to supplement the CRLR's data collection. Even though Participant 1A argued that archival information was important in some cases, it was not the only pillar of the land claim investigation. In addition, the researcher consulted a newspaper article about the evidence used in land claim investigations. Graves were the only tangible evidence to support a long-running dispute between people who were evicted from their land in the 1970s and 1980s (Mji 2018). Mji (2018), for example, adds that graves dating back to the 1800s were the only tangible evidence for the land claims. Participants 1A, 1B, 1C and 1D identified additional reasons for using archives as the most reliable source of information in land restitution, such as assisting with the historical background of the land being claimed and being used in certain complex claims.

Participants were also asked if the archival institution(s) helped with the success of a land claim. All the participants emphasised the importance of using historical evidence as a reference in land claims. Participant 2C, for example, stated that he used one of the most important sources, Mr Van Warmelo's archives originating from the Bantu Commissioner under the Natives Act of people who had been removed from their property. In addition, Participant 2D also stated that “*I used copies of the Government Gazette of the time the land was advertised and the title deed from the Department of Land Affairs (DLA).*”

Participants were asked how they knew the land belonged to them. Participants 2A, 2B, 2C and 2D explained that the department usually investigated land claims. However, there were

gravesites or graveyards where their relatives were buried, as well as affidavits stating that they lived on the property and used it for their benefit. Participant 2A, for example, stated that there was clear evidence emanating from their forefathers' graves as well as relevant documents from the NARSSA. Participant 2D added that *"the land was purchased through the Government Gazette and it was allocated in 1960 to 1922."*

Participants were asked what archives they had used to prove their land ownership in order to better understand the use of archives. The consensus was based on maps, historical NARSSA documents indicating that their families had been staying there and deed registration documents indicating that the land had previously been owned by their families. Participant 2B, on the other hand, emphasised that most claimants only had a few to no records because they came from an improvised background and/or were illiterate. Participant 2B went further to explain that *"further research is mandatory either by me as a claimant and the department. The only sources of records are at the NARSSA, the National Library of South Africa (NLSA), or the National Surveyors office."*

Participants stated that the NARSSA had worked very closely with the DLA and the Land Claims Commission to ensure the success of land claims. To speed up the process of accessing information, projects on the processing of land-related records were undertaken. The NARSSA had also aided researchers in their land claims by granting access to archives that had been critical in the successful verdicts of land claims by disseminating pertinent information to the right people.

Participant 3A explained that:

- *"In 1997 the then DLA, the Land Claims Commissioner and the NARSSA signed an agreement to make archives for land restitution more accessible. A project was started that had two main aims:*
  - *The first aim was to identify all records dealing with land restitution in the NARSSA repository and to update the NAAIRS database with this information.*
  - *The second aim was to identify all records dealing with land restitution still in the creating offices throughout South Africa and to compile a list of these records.*
- *After the project, the NAAIRS database was updated and lists of all records that are still in the creating offices were compiled. The complete lists were provided to the then DLA. This project was successful in providing finding aids to be used by the Land Claims Commissioner and general researchers in researching land claims."*

Participants 3B and 3C also mentioned that archivists were available in the reading room to assist each researcher to find archives. In the reading room, both manual and electronic finding aids were available to help researchers with their inquiries. It was the archivist's responsibility to provide the correct information objectively and without interpretation. As a result, the archivist only provided the evidence requested by the researcher and did not reach a conclusion about who was the rightful owner of the land. The NARSSA and the CRLR had an existing agreement for restitution staff to use all information in the NARSSA's holdings that may be

required immediately. When asked about the archival group they provided for land claims, participants agreed on the following: The Department of Native Affairs (this department has evidence of all interactions between the apartheid government and black people in South Africa). The Departments of Native Affairs, Bantu Affairs, Cooperation and Development were all the same department with different names and were the most-used sources of evidence for land restitution. There were certain file series in this collection that dealt with the removal of persons on an individual basis.

- The Department of Community Development (which also dealt with the removal of black people from certain areas).
- Office of the State Secretary (background research because this group ended before the starting date for land claims).
- Local authorities (for land claims in urban areas).
- Farm registers (contained information about all the farms in the old Transvaal Province).

When asked where the archives provided to project officers and restitution claimants were located, Participants 3A, 3B, 3C, 3D and 3E stated that the NARSSA had a reading room where all South African citizens can conduct free research. Every weekday from 08h00 to 16h00 and every Saturday from 08h00 to 12h00, the reading room was open for research. Under the supervision of archivists, researchers had access to original archives in the reading room. There was also internet access in the reading room, as well as a searchable database of land restitution archives.

Participant 3B also added that:

*“Archives for land claims are stored in the National Archives Repository; they are made available for use in the National Archive’s reading room. Metadata on State Secretary is available on the National Automated Archival Information Retrieval System (NAAIRS) which is available on the NARSSA’s website.”*

The use of archives enables restitution claimants to obtain justice in the form of land restoration or monetary compensation. Josias (2020:80) notes that archives sources from archival institutions have been used as supporting documentation by restitution claimants and other relevant participants to prove the validity of a land claim.

The use of archives was the primary reason for the existence of archival institutions, particularly the NARSSA. According to the current study, the majority of participants used archives as evidence for their land claims. Several restitution claimants, however, were unaware that the NARSSA preserves land restitution collections and, as a result, did not use archives. Others relied on the CRLR to conduct archival research on their behalf because they lived in remote areas or lacked the necessary education to use archives. However, if archives are not used, the CRLR may be missing out on a wealth of archival evidence that could help with land claims settlement.

According to the findings, the participants also visited the NARSSA to conduct archival research. Others visited archival institutions such as the NLSA, the University of the Witwatersrand, the Union of South Africans and the Office of the Surveyor-General to access land restitution archives. This finding is supported by Josias (2020:79-80), who notes that in South Africa, restitution claimants use supporting documentary evidence from both national

and provincial archives, the Registrar of Deeds, the Surveyor-General on property descriptions and courts to accelerate the restitution of land claims. The participants believed that archives are the most credible source of information to understand the historical context of the land and provide greater clarity on the most difficult land claims. The NARSSA is supposed to assist the CRLR in reaching its goal and allowing it to transfer more land restitution collections. This supported the findings of Suarez and Suarez (2007), who revealed that the majority of users use archives preserved at archival institutions for research purposes. This means that NARSSA is mandated to feature in the success of the land restitution process by ensuring that the CRLR's land restitution process guideline incorporates NARSSA's research services as well as the prioritisation to transfer more land restitution to the archives repository.

The participants looked through archives from the Departments of Community Development, the Department of Native Affairs, the Office of the State Secretary, the local authority, as well as a farm register. Another finding revealed that project officers and restitution claimants preferred archives such as declarations, maps, official letters and tribal history. Furthermore, oral evidence from the community or a claimant, physical evidence such as graves or a wrecked homestead, and other archives such as title deeds in the hands of the restitution claimants themselves were used to verify a land claim.

Land restitution archives preserved at the NARSSA have not been digitised to prevent further damage or deterioration. All the participants opined that the South African citizens' land rights can be protected through archives. The respondents confirmed the findings of Ngoepe and Ngulube (2011) when they said that some of the barriers to underutilisation of archives are a lack of awareness, illiteracy, inadequate skills and training for translation services, missing information and a lack of staff.

### **Conclusion and recommendations**

In summary, the study highlighted the critical role of the NARSSA to assist the CRLR in investigating and settling land claims using archival evidence collected and preserved in their custody. This is seen as archives are made available to restitution and project officers for use in locating required evidence to validate or verify a land claim. According to the findings of this study, the majority of project officers and restitution claimants made extensive use of archives as evidence in their claims. The NARSSA archivists reported that project officers and land restitution claimants preferred to use archival groups such as the Department of Community Development, the Department of Native Affairs, the Office of the State Secretary, the local authority and a farm register to assist with land restitution processes.

The current study reached the following recommendations based on the completed investigation. The collection of land restitution should be expanded to cover users who are dissatisfied with the archival services provided by the NARSSA. Archives that have missing or destroyed pages should be revisited and an alternative should be implemented to ensure that users have enough archival evidence to use for land claims. The study recommends that archives in strongrooms should be verified on a regular basis to identify lost pages and write down archives that require repair.

This study further suggests that the land restitution collection, which is preserved at the NARSSA in a physical form should be digitised and published online to increase their use by

restitution from disadvantaged communities and project officers who are unable to visit the NARSSA physically. As a result, the land restitution programme can use the required supporting documentation in court at anytime from anywhere in the world to accelerate the restoration of land rights and ownership of land to the rightful owners.

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