

Environment and Land in Bushbuckridge, South Africa

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Acknowledgements:

Research for this paper was partially supported by the Wenner Gren Foundation for Anthropological Research (New York), and by the Centre for Science Development, Human Sciences Research Council, Pretoria, South Africa.

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1. The Bushbuckridge environment and potentials for conflict

The Bushbuckridge area of South Africa, together with the Pilgrim's Rest and Graskop area that adjoins it at the top of the escarpment, is a complex and sensitive environment of human settlement, commercial agriculture and nature reserves. Bushbuckridge town, from which the region is named, is a small trading and administrative centre approximately midway on a north-south line between Nelspruit, the capital of Mpumalanga Province, and Tzaneen, a major centre of commerce and agriculture in the lowveld of Northern Province. Bushbuckridge is bounded on east by Kruger National Park, one of the world's largest game parks, and on the east by the sensitive watershed and forests of the Drakensberg Mountains, the southernmost extension of the great African rift valley and mountain system. The terrain is primarily a sandy plain interrupted by rocky ridges that extend from the escarpment eastwards into the South African lowland bush that grades continuously—except for the low Lebombo Mountains that run along the Kruger National Park's eastern border -- into the coastal plain of Mozambique. Bushbuck ridge is one such ridge, and is the feature from which the region takes its name. It is the southern natural boundary of a region. It is naturally bounded on the north by the Olifants river that flows through a spectacular gorge in the escarpment and across the plain into the Kruger Park. The escarpment is a sensitive watershed for much of the lowveld and the region hosts many wild-life conservation and restoration projects, such as the Kapama cheetah breeding station, and recovery facility for injured and damaged animals at Mariepieskop. Some of the most beautiful scenery within the Kruger National Park occurs along this river that almost bisects the park into northern and southern halves. Just south of the Olifants, the Blyde River flows through South Africa's oldest gold

¹ Research for this paper was supported in part by the Centre for Science Development, Human Sciences Research Council (Pretoria, South Africa), Wenner-Gren Foundation for Anthropological Research (New York, NY) and by Givens and Barbara Thornton, Sarasota, FL, USA.

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strike country with many old mines, such as those at Pilgrim's Rest, a restored nineteenth-century mining town. Evidence of mining goes back thousands of years. At 'Bourke's Luck' the river flows through deep swirling potholes in the Blyde River and near the village of Graskop, 'God's Window' provides a thrilling view of lowveld stretching towards the Kruger National Park. The Blyde's waterfalls pour through gorges clad in indigenous African vegetation along the walls and floors of the escarpment. At the top of the escarpment, and around the Blydepoort dam at the bottom, the Blyderivier Nature Reserve is situated. Here the previous National Party government built two government-owned tourist camps, The Blyderivier Aventura Resort, and the Swadini Aventura Resort. These resorts and the views they command and the natural land that surrounds them, are among the most sought after resources in the eco-tourism business. To build them, the government had commandeered land in the 1950s from the White farmers who owned it, and had removed Black labour-tenants and squatters who had formerly lived there to surrounding areas in Bushbuckridge in the lowveld, and around Graskop at the top of the escarpment. This set the scene for conflict after the African National Congress (ANC) led government passed legislation that made it possible to reclaim lands that had been removed under Apartheid. In this case, claims for restoration of lands had significant implications for all aspects of environmental conservation, with political involvement that went well beyond South Africa borders.

A complex political terrain overlies Environmental and ecology issues. The region is composed today of pieces of two old Apartheid Homelands, Gazankulu and Lebowa, as well a parts of what was then 'white South Africa' consisting of white-owned farms and state lands, including military reserves and a large airbase. The border of the Kruger Park with Mozambique was patrolled by the military to prevent infiltration of anti-Apartheid forces until the early 1990s and was controlled by an electric fence that gave lethal jolts until the early 1980s when it was turned down. After transition to the ANC-led government, the fence was turned off. While Kruger National Park and other nature, forestry and watershed reserves were controlled by the Transvaal Parks Board, homelands were divided into Tribal Trust Lands and ruled by Tribal Authorities (also 'Chiefs' —*Makgoshi* in Sotho, *Mahosi* in Tsonga). The remaining land—what was called 'common South Africa' or White South Africa, most white-owned farms and state land—was controlled from Pretoria by the central government. The entire region was divided after 1994 by the boundaries between two new provinces, Northern and Mpumalanga. Historically, boundaries and centres of power of pre-colonial African polities had always had force in people's imaginations, but these became

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suddenly real points of negotiation with land reform initiatives begun in 1992 with local land committees set up around the Tribal Authorities. Regional ecological issues necessarily spanned most of these boundaries, and jurisdiction is constantly disputed.

Claims for restoration of land that was taken from local people under Apartheid began to centre on the Aventura Resorts in 1996-97. This took place in a highly unstable and uncertain political environment. Political conflict over the relative powers of local, provincial and national government, demands of cultural and regional autonomy, and ongoing debate of the respective roles of the traditional authority of chiefs and the authority of a modernising central government have put everything at risk. This paper examines the dimensions of this complex conflict over environmental resources in Bushbuckridge, placing it in its local historical context and exploring ways in which conflicts might best be controlled and moderated.

1.1. *The political and legal context of conflict*

What is known as the 'Transition' in South Africa is a negotiated change of government that led to the National Party (NP) declaring a universal mandate general election and then peacefully handing over the control of government to the African National Congress (ANC) after their election victory in seven of the nine provinces. The NP and its policy of Apartheid had been entrenched in power longer than any democratically elected post-war government anywhere in the world. Several aspects of Apartheid policy had major impacts on environmental issues. In the region considered here, the policy mandated large-scale relocations of populations in order to separate black and white South Africans from each other, and to establish ethnic 'homelands' or 'Bantustans' in which black South Africans were expected to pursue 'separate development'. In the 1950s, roughly, black African farmers and herders that had lived along the escarpment and in the lowveld adjacent to it, were removed, some of them by force, onto 'Tribal Trust' properties farther from the escarpment. While it is still unclear what 'traditional authorities' (*Makgoshi*, or 'chiefs') people originally lived under, relocation distributed people under the authority of Chiefs Moletele, Mogane, Mohlala

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and Mashile of the Mapulana ‘tribe’² although there may also have been other people claiming other ethnic identities and political loyalties. They were all removed from bushy mountains and canyons of escarpment, however, and these areas were re-forested, declared nature reserves and protected watersheds, and removed from direct exploitation or control by local populations. In the lowveld, black people were settled in a strip of land more or less equidistant from these protected watershed, forest and natural lands on the west, and the Kruger National Park to the east. A buffer belt of White-owner game farms separated black residents from the boundaries of the vast Kruger Park. As a consequence of removals such as this, the new ANC-led government passed legislation that enabled people to re-claim land in 1994.

To most outside observers it appeared that the ANC was massively popular all over South Africa and land reform policies seemed to have broad support. Nevertheless, in the middle of 1997, people in Bushbuckridge rose in violent protest against ANC government policies and burnt the party’s local offices. Although protest was short-lived, it showed that the potential for violent conflict was not far from the surface. Its location on one of the main overland routes to the Kruger National Park threatened tourism, and the protest highlighted unhappiness over land and environment problems in particular.

Three factors are involved. First of all, legislation passed in 1994 made it possible to re-claim land that had been removed by the state on the basis of race under Apartheid where people could prove that they had been removed by reason of race, and where they could prove ownership or ‘beneficial occupation’. In Bushbuckridge, a number of chiefs moved quickly to claim land for their tribes. While their claims were initially ‘gazetted’, or formally recognised by government, the new constitution that was ratified in April, 1997, no longer recognised ‘traditional leaders’ or chiefs as having any special legal or political powers. Moreover, the ‘tribe’, previously entrenched in Apartheid legislation as a cornerstone of ‘Separate Development’ no longer existed as political entities under the new legal regime. Consequently, all claims were formally withdrawn in October, 1997, but the Commission on Land Rights and Restitution. Moreover, since many people had not held formal rights to land

² Research that will establish who lived on the escarpment lands, and under which chief’s political authority, is currently under way (March, 1998), but the history of residence and political jurisdiction, especially over land allocations, is still unclear. Research is being co-ordinated and conducted by the Commission on Land Restitution for Mpumalanga and Northern Provinces.

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before removals, and because many were removed for ‘race-neutral’ reasons such as watershed protection, nature conservation and re-forestation, it was unclear whether any claims would be successful. Among many people, however, there was a clear and strong belief that these areas belonged to them. Expressing his community’s disgust with the process, one old Pulana man, a member of a local land committee of the Moletele chiefdom said, “This government [the ANC government] treats us like Blacks!”³

Second, the provincial governments of Northern Province and Mpumalanga Province, both newly created out of the old Transvaal Province in 1994, came into conflict over who should claim and who should administer the Bushbuckridge region. People in the region at first believed that they were to be governed by Mpumalanga province. Due largely to the administrative structures and geographies of the defunct ‘Homelands’ of Gazankulu and Lebowa, the loyalties of most Bushbuckridge residents seemed to lie with the new province of Mpumalanga rather than Northern Province. Few people in the area were able to give clear reasons for these loyalties, but feelings were strong. When it was finally decided that they would be part of the much poorer Northern Province, activists mounted angry protests against the central government decision. While provincial ANC party people came into line and supported the decision, great resentment continued to exist at the local level. This was reflected as well in the struggle over jurisdiction over the environment, and control over eco-tourism development and adjudication of rights to land, especially rights to return of land from which people had been forcibly removed in the past.

Third, the struggle over jurisdiction was brought into full relief by the ‘Dolphin Deal’, a business contract entered into by the Mpumalanga provincial government and The Dolphin Group, a trans-national tourism development company based in Dubai. People’s legally-mandated rights to land restitution under the new legislation soon came into conflict with the Dubai company’s plans, since some of the land they claimed was also the prime eco-tourism site that the Dolphin Group had contracted to develop. After angry conflict between the provincial and national government, and within the ANC party structures as well, the land restitution Commission intervened to temporarily halt the ‘Dolphin Deal’. In a search for a solution, a broad-based consultative process was begun by the Commission for Land Rights and Restitution of Mpumalanga and Northern Provinces. This was co-ordinated by the

³ Interview 25/3/97, Buffelshoek, Bushbuckridge North, Northern Province.

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Commissioner in charge together with the National Land Reform Mediation Panel that had been set up by the Department of Land Affairs. In the context of what had already become limited violent revolt, the process of consultation was risky and led to unexpected outcomes.

1.2. *The role of human rights in environmental conflict.*

The primary issues at stake were questions involving the *nature* of rights to land, that is, whether land rights and rights to restitution guaranteed in the Act were based on universal human rights, specific legal enactment, precedent, or concepts of usufruct in traditional or common law. The Land Restitution Act of 1994 left these questions open, and by 1998 only 4 cases of approximately 20,000 claims had been successfully resolved. Potential resolution of these issues in on-going court procedures still left open the questions of what land and whose rights. Limits and boundaries of land claims often had to be established anew because of faulty or absent records. Patterns of land use had to be determined since the Act made it possible for claims to be rejected if the Commissioner determined (under section 12(4) of the Act) that a greater common good was served by not restoring land. Jurisdiction were often overlapping, since both the provincial and the national governments claimed the right to direct the economic development of the region, especially that of eco-tourism. Such conflicts of jurisdiction were instrumental in the ‘Dolphin Deal’ and Aventura Resorts since both national (central) and provincial governments had declared interests in development initiatives and privatisation of government property. Further development of natural reserves, protected watershed and forestry lands had the potential to nullify the rights of people to reclaim land. The implications of this legal fact were not lost on those who had claims to make, of course, but considerably uncertainty existed over how these rights could be asserted.

Finally, The historical scope of the legislation that enabled people to make claims based on these rights was extremely broad. It allowed claims to be made on removals conducted over most of the twentieth century, from the Land Act of 1913 until the ANC took power in 1994, spanning three major changes of international sovereignty (as colony, dominion and finally republic) and major changes of internal boundaries. With poor record-keeping in many rural areas, the legal status, survey status, boundaries, and even putative ownership was very often in question of unknown. Earlier administrative structures of the old Transvaal and the homelands of Lebowa and Gazankulu had ceased to function with the redrawing of borders and the creation of new provinces with new administration. These factors often made it extremely difficult to establish whether records existed, and if so, where.

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Thus, what seemed at first, with the passing of the Land Restitution Act, a rather elementary exercise of compensation for damages sustained by people under Apartheid, soon became an almost intractable legal and political morass. The government worried about meeting voter's legitimate expectations for delivery on land reform, while international agreements on nature conservation and environmental action organisations such as the World Wildlife Fund, who had established a training facility in the area near the KNP boundary, looked after the interest of the natural environment. Mediation and limitation of threatened conflict between these interests motivated all parties, but none of the problems appeared to be easily solved.

If the land rights were to be fully granted, for instance, damage to the watershed might well result from erosion due to grazing and agriculture, as well as poor sanitation and waste disposal practices. Since the escarpment watershed is essential to a vast area, including the Kruger Park and even southern Mozambique, this would have regional, trans-national consequences. Many of the removals had been done to protect this watershed, and to make the ecological balance of the Kruger Park and other nature reserves more stable. By limiting human occupation of the delicate Drakensberg escarpment mountains—albeit by means of racist legislation and administration-- and by clearing large area of human habitation for game, especially within and adjacent to the Kruger National Park, the unique ecological resources of the region had been created. The attempt to roll back the damages of Apartheid might destroy what had been accomplished in nature conservation. A large part of the working population of the lowveld also relies on income from these natural resources from employment in forestry, hotels, resorts and allied businesses, or on employment on plantations and farms (still largely white-owned). Restoration of some elements to the population to the lands they had previously inhabited, therefore, stood to disadvantage many workers in these industries. The fact that some of the employed were the descendants of claimants did not mean that they wished to lose their jobs in order to secure the rather more tenuous rights to land. The rights of some to land that had now long since been put to other uses stood to exacerbate conflict in the region since not everyone had access to such rights under the new law. In the background loomed threats of witchcraft accusations and even death as a consequence of jealousy. Witchcraft accusations are a sufficiently significant problem in the region to have led to many recent deaths, and to a recent Northern Provincial commission of investigation. Forced re-locations and removal of rights to land, together with apartheid policy of 'separate development' of black South Africans in 'homelands' have

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exacerbated these problems through crowding, social dislocations, and failure of administrative and judicial structures.

Thus, while the existence of the Kruger National Park and the reserves along the escarpment limited the newly mandated rights to restitution, the employment created by the new ecology extended rights to a better livelihood to many others, and provided many new resources whose usefulness to local communities was only beginning to be explored by 1998.

1.3. *The political ecology*

In sum, there are multiple and overlapping conflicts in the region, but it is clear that they are all related to the delicate balance of political ecology in a highly sensitive part of Africa. The region is home to the largest game parks in the world, and is an increasingly popular tourist destination. The government of South Africa is desperate to encourage foreign investment, but, at the same time, is extremely distrustful of foreign control. In some cases this amounts to xenophobia.

The natural savannah landscape that exists in protected reserves today, harboured tsetse fly and malaria until the early twentieth century, and thus resisted European settlement as well as denser settlement by indigenous African people. Settlement of groups Europeans did not occur until the end of the nineteenth century, and dense or stable African settlement was largely precluded until the same time by wars and raiding in the area. Today the physical landscape is a patchwork of dense human settlements into which many people were forcibly removed during Apartheid, nature and forest reserves, bushveld pasture, game farms and tourist resorts, towns, resorts, trading stores, commercial fruit plantations and some privately-owned farms.

One of the chief areas of conflict in the area involves land claims made by people who wish to return to, or receive compensation for, land from which they were forcibly removed during the Apartheid years (1948-1994) or even before. One of the most sensitive instance of this is the area around the Blyde river that flows over the escarpment and into the lowveld from the east, eventually joining the Olifants river on the way to the Indian Ocean. Just before it falls into the lowveld past layered pink cliffs of ancient sedimentary rocks with patches of lime-green lichen, it has been dammed to form a large reservoir. The Blyde River Nature Reserve is situated around the dam. At the top and bottom of this of the escarpment over which the river flows, the old Apartheid government developed two government-owned tourist camps, the Blyde River Aventura camp at the top near the falls and canyons, and the

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Swadini Aventura at the bottom near the dam. These camps were aimed at internal tourism and offered cheap holiday accommodation primarily to White civil servants from Pretoria and Johannesburg. Today they are run as para-statal and are open to anyone as required under current South African legislation. They are still owned by the government which sub-contracts their management, but progress is being made today on privatising them despite uncertainty over their future.

There were other separate recreation sites and nature conservation areas built for black civil servants such as Manyaleti Nature Reserve that bordered KNP, especially for those who worked in the old Homeland governments. Within the Bushbuckridge area Manyaleti Game Park is one such development to the south-east of the Aventura camps and adjacent to the Kruger National Park. Manyaleti Game Park is now effectively integrated into the Kruger National Park, and is not part of the conflict concerning land restitution, concessions to development companies, and the maintenance of the ecology. The World Wildlife Fund maintains a training college near it. Other internationally-funded initiatives in the area are aimed at arresting poaching and developing community participation and awareness. Adjacent to Kruger Park, other private game parks are owned by international interests or by businesses located in Johannesburg. There is likely to be increasing conflict between these concerns and the local communities as increasing efforts to stop poaching begin to impact more severely on the people in Bushbuckridge, as investment in tourist development is made, and as flow of tourists external to the area, especially international tourists, begins to increase. The NKP's 'social ecology' programme aims to resolve these conflicts, but it is handicapped by shortage of funds, personnel and resources.

Both Aventura resorts are among the most sought after resources in the eco-tourism business in the region. To build them, the old government had to commandeer land from the farmers, tenants, squatters, and others who had formerly lived there. Today, the land is invaluable as a source of water for the dry land below the escarpment and as the site of many wild-life related developments and projects. Nevertheless, it falls under the land claims of the people who once lived there. The basis for land claims is not straight-forward, nor easily decided. All of the factors that have been discussed have an impact on the resolution process, and hard decisions have to be made about how the land is to be used, owned, managed and governed after resolution of the claims themselves. It is mandatory under the legislation that adequate 'development plans' for restitution land be submitted before efforts to resolve the claims can begin, and these plans can be then made orders of the court once the claims are

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resolved. Thus, future plans have to be integrated with historical details of the claims in order to make any progress at all.

2. The politics of land claims and the environment

The claims for restitution of this sensitive land are but one dimension of the current more general conflict in Bushbuckridge area. The 1994 Restitution of Land Act was one of the first pieces of legislation aimed at ‘un-doing the harm’ of Apartheid. While the old Apartheid legislation was scrapped, other new legislation affecting development in most sectors of the South Africa economy were enacted by a new ANC-dominated parliament eager to act for the common good, and for the creation of a New South Africa. The intention of the Land Restitution Act was to restore to its original residents and owners as much as possible of the land that was forcibly removed from black people under Apartheid, but also including land that was alienated well before the institution of Apartheid. Famously, the first Land Act of the Union of South Africa government, in 1913, allocated 13% of the total land for black ownership and freehold tenure. The drafters of the 1994 land restitution legislation held, correctly, that the 1913 Act on which vast inequalities of land holding was based, had made Apartheid possible, and had provided a model for further removal of rights to land under Apartheid. While this was historically correct, and consistent with the new policy of universal human rights under the new constitution, the long time period made the restitution legislation virtually unworkable. This was primarily because of the length of time involved, but secondarily because the nature of land holding, land tenure regimes and the boundaries of the land-units themselves had changed radically over this time period.

People were allowed to make claims for land that they had lost over a period of eighty-four years. This amounts to several generations, and land claims were rarely registered formally in the first place. People moved-- and were forcibly removed-- for many reasons over this time. In fact, actual ‘beneficial occupation’ of the land (the legal term for making a living from the land or improving it in some way while being resident on it) has been held to be one of the most significant tests of rights to the land. But this must be proved in court for claims to be successful. There are archival records relating to collection of some taxes, registration of farm labourers, registration of work-seekers and of persons seeking employment on the mines of the Witwatersrand (the ridge of ore-rich mountains roughly centred on Johannesburg to the west), and records of disputes. These records, however, are widely distributed, many are lost, and their interpretation is often difficult. There are aerial photographs made since the 1950s

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by the government land survey department, but these are often difficult to correlate with maps and with the registered boundaries of farms in the region. A great deal of meticulous research is involved in recovering information on actual claims in order to make them actually stand up before a court, but research skills are extremely limited, and the Commission in charge of processing the claims has been severely under-funded from the start.

The restitution legislation also stipulates that it must be shown that removals from land were made not simply for practical reasons (such development of necessary infrastructure or natural resources) but were also made for racist reasons or on the basis of ethnic or racial identity. This introduces a significant complication in the Bushbuckridge area, and in particular with respect to the Blyde River claims, since many people were moved during the post-1913 period in order to develop forestry, game parks, watersheds, and nature reserves. While these changes in land use were managed by the government officials of the Union (1910-1962) and Republic (post 1963) of South Africa, and were prejudicial primarily to black residents in the region, the reasons for removal were not always strictly 'racist' but were usually both racist and practical. The establishment of the KNP, the largest reserve by far, was motivated by a desire to control the access to and from Mozambique, to provide an international buffer zone. The KNP also secured what the Boer government saw as its own national heritage in 1898 when it was declared by Paul Kruger, President of the Transvaal Republic, on the eve of the attack by British Imperial forces. In short, political and ecological motivations were complex—and sometimes racist or nationalistic-- but these processes led to the creation of protected watersheds along the Drakensberg escarpment, to the creation of the Kruger National Park and other game reserves, and to the development of water resources such as the Blyde River Dam. It is not immediately apparent then that the claims made on this land are actionable under the Land Restitution legislation since actionable motives for removal were limited to those that were demonstrably racist.⁴ In addition, the granting of the concession by the Mpumalanga Provincial government to the Dubai-based development

⁴ The case of the Makuleke tribe's land claim on the extreme northern corner of the KNP, imminent in March of 1998 as this paper was being completed, may help to establish a precedent in these cases. The Makuleke were the last people to be removed from what is now KNP land, and have remained a relatively coherent tribal group in the extreme north east of the Northern Province. The case appears much simpler than any other case in the two provinces since only one ethnic group and one chiefdom is involved in a well-supported claim on a single piece of uninhabited land with clearly demarcated borders and well-documented history.

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company made these lands part of an economic package that promised significant economic benefits to the entire region. This 1997 agreement stood directly in the way of settlement of the land claims. Under law, the Land Restitution Claims Commission could pre-empt any further development of the land on which claims were outstanding. The Commission's power to halt all other moves was paramount, and was exercised in July, 1997, in order to begin a mediation process between all parties concerned.

2.1. The cultural context of land rights

In addition, the nature of land and its population has changed. The region has long been the cross-roads of conflict between roughly three broad cultural regions and their associated political regimes. The Tsonga-speakers to the east began to migrate into the area probably in the late eighteenth century, a movement driven by the establishment and growth of the Portuguese colony of Mozambique, centred on Lourenço Marques (now Maputo), and by the Zulu Empire in the South, centred on Shaka's capitals around Ulundi in what is now KwaZulu-Natal Province of South Africa. The Tsonga crossed what is now the Kruger National Park, and began to settle throughout the lowveld. The early Tsonga-speakers in the lowveld were generally held to be part of a broad Tsonga 'nation' especially by the Swiss Romande (Protestant) missionaries and were thus a marginal part of the Gaza state once located in southern Mozambique. The Gaza state of the late eighteenth century and early nineteenth claimed a hegemony over the lowveld region. This was contested by Swazi speaking peoples to the south, Pedi-speaking peoples to the west and, and the Venda to the north. Their settlement in what is now South Africa concentrated in the lowveld below the escarpment. In South Africa today, these people are broadly referred to as the 'Shangaans', or the 'Tsongas'. There is a continuous flow of people back and forth over the South African and Mozambique border which is today driven by decades of war of in Mozambique during the 1970s and 1980s, but the contemporary population flow has deep historical continuities with the past. Under the policies of Grand Apartheid the Tsonga/Shangaans were allocated a 'Homeland' called Gazankulu ('Greater Gaza') that acknowledged—or, some would say, 'created'—a distinct ethnic identity. Under the Apartheid legislation, especially the Tribal Trust Acts and the Bantu Traditional Authorities Act, the institution of chiefship (*Nkosi*) and headman-ship (*nhuna*) was established under South Africa and Gazankulu statutes, given resources, and allocated power under the State President of the Republic of South Africa. The traditional fragmented and mobile polities of the Tsonga speaking peoples in South Africa

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became a formally constituted 'tribe' under a 'Chief minister' designated by the Apartheid government.

2.1.1. Cultural complexity

In the early part of the nineteenth century, the incipient state of Sekhukhuneland to the west and the Swazi state to the south, also had claims on the Bushbuckridge area. By this time, settlement, driving of herds, grazing across the region, and hunting was already probably well established by these distinct African political and cultural groups. People from the escarpment and the highveld generally spoke a Northern Sotho language, and people from the south spoke *SiSwati* ('Swazi'), a language closely related to Zulu. The expansion of the Zulu State from 1818 when the warrior-king, Shaka-Zulu, rose to ascendancy in northern KwaZulu-Natal, to 1823, when Shaka was assassinated by his brother Dingane, and for some considerable period around these dates the entire region was in social and cultural chaos. People speaking many different languages dispersed in all directions across the Bushbuckridge region where they met sometimes clashed or sometimes settled peacefully amongst one another. The Pulana people and the Tsonga people settled the region in a complex interplay of agreements and arrangements between people and chiefs, creating an ethnically heterogeneous society. In the early 1850s a battle was fought in the neighbourhood of the Blyde River between Swazi raiders and the Pedi (Sotho) speaking people living in the lowveld, who by then called themselves 'Pulana'. According to their oral traditions, the Pulana won the conflict, and the Swazi retreated, leaving many Swazi people behind to settle amongst the Pulana. Today, the region is perhaps the most culturally diverse region in South Africa, with people speaking Pedi (the Northern Sotho of the highveld), Pulana (the mixture of Pedi, Swazi and Tsonga), Tsonga and Swazi—with small groups speaking many other languages—all living together. Many people also speak some English, Afrikaans or Portuguese (among recent Mozambique migrants or 'refugees') as well. Almost no one speaks only one language (except perhaps recent Tsonga-speaking refugees from Mozambique), and virtually all people mix these languages or at least passively understand other language. All these languages are more or less closely related (as, for instance, Dutch, Flemish, French and English are related (for similar reasons of centuries of trade and conflict), but they are not simply mutually intelligible.

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2.1.2. Ethnicity in the political ecology

In addition to the diversity of language and origins, and to the different histories of raiding parties, the raided, the autochthons and the new-comers, there are also political differences amongst the various forms of traditional leadership. Throughout the nineteenth century, and well into the twentieth, Swazi groups followed the Zulu patterns of chiefship under the King. Pedi (North Sotho) chiefships were much less centralised, with independent chiefs (*kgosi*) vying for access to land and for followers. Tsonga peoples were similarly decentralised and lacked overall authority in the form of a paramount chief or king. In all cases, the chief or ‘headman’ lacked direct political power and had few administrative functions. He (in a very few cases, she⁵) is said to embody the essence and identity of the people he leads, and determines calendrical events—for instance, the first planting, times for initiation of boys and girls, the first harvest—but does not command a hereditary following. Accordingly, the ‘tribe’, strictly defined as a set of related kin-groups who follow a hereditary leader from a central lineage, does not exist in southern Africa. Rather, as the oft-quoted Sotho proverb says, ‘a chief is a chief by the people’, that is, the traditional chief had to attract and to maintain a following of clients whom he represented, and to whom he distributed access to land, and, in the past, organised for warfare and for the distribution of its spoils. Under the Union government and continuing under the Apartheid government, chiefships were established as local-level government functionaries. Their visible collaboration with apartheid policies compromised their authority severely, but after weathering the political storms of the 1980s and early 1990s that led to the political transition, they had recouped much of their prestige by 1998. This was in spite of the fact that the new constitution failed to recognise them at all as legitimate political actors.

2.1.3. Traditional and modern authority in a dual landscape

Traditional chiefs, holding position as a consequence of warfare, conquest, or election by a group of followers, were co-opted and incorporated into the administrative structures of government during the 1920s and 1930s. The land was surveyed, divided into farms, and sold

⁵ Almost universally in southern Africa, the chief or king is male. There is only one instance in which a paramount chief is traditionally female, and that is the so-called ‘rain-queen’ of the Lovedu, a North Sotho-speaking people of the lowveld, some 200 kms north from the Bushbuckridge North area in the hills of the escarpment. There are instances of female chiefs inheriting the chiefship in default of any appropriate male heirs, but this is rare. I shall accordingly refer to the chiefs (traditional authorities) as ‘he’.

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by government to citizens of the Transvaal, the so-called *Boers* (Afrikaans, lit. ‘farmers’). A ‘farm’ consisted of a large, often very large, surveyed piece of land that was awarded to a single white male owner irrespective of settlements of people, other patterns of land use, land tenure, or political authority. Deeds were granted to these pieces of land under free-hold tenure, enabling non-resident land speculators to buy and sell farms. While some farms were owned by resident farmers and operated as active farms, others were owned by non-resident businessmen or by interests such as mines, holding companies, or speculators and brokers. Many non-working farms with non-resident owners and some abandoned farms were purchased by the state to create the homelands. Other farms remained within so-called ‘White South Africa’, and efforts began in the 1950s to remove black residents from some of these farms. The farms that constituted the region of the Blyde River Nature Reserve, were acquired in this way and incorporated, like parts of Kruger Park, to the east, into the nature reserve and park system. When farms were first surveyed by the government of the South African Republic in the period 1852-1902, white farmers took ownership of the land including all of the settled and resident African population. As farms changed hands, or failed, or labour and tenancy arrangements changed, whites generally moved off the land to cities and towns, while black African residents were moved to other farms, migrated voluntarily to seek work elsewhere, or were forcibly removed. Those who were forcibly removed during Apartheid were resettled, for the most part, on the lowveld ‘farms’—that is, surveyed parcels of land originally deeded to white owners and named by them—which soon became dense settlements more like towns and rural areas. Examples include Dwarsloop, Cottendale, Greenvalley, Acornhoek, Buffelshoek, Rooiboklaagte. All of these were ultimately incorporated into the Homelands of Lebowa and Gazankulu.

Farm boundaries were determined by cadastral survey methods, and imposed a rigid new pattern of rhomboid-shaped farms marked by surveyed straight lines on maps, and registered in deeds offices. This pattern overlaid the organic boundaries of chiefships and tribes in dispersed settlements that characterised the region’s pre-colonial landscape. Both patterns of land demarcation continued to exist in the minds of the people who lived there, creating in effect two distinctly different landscapes. Traditional boundaries were associated, often vaguely, with historical events such as battles (the battle of Moholoholo Mountain near Graskop, for instance, in which the local Mapulana defeated the Swazi invaders in mid-nineteenth century), or river valleys or hills. Which landscape was actually ‘seen’ or considered relevant depended on the nature of dispute and the political authority— whether

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traditional or State-bureaucratic— involved. With the dual landscapes, two distinctive geographical systems of land tenure and political authority came to exist as overlays of each other. Which system—which geographical or politico-ecological ‘overlay’— was ‘on top’, or salient, depended on the point of view of the observer and on the purpose with which he surveyed the landscape. The two systems gradually came to accommodate to each other as the followings of different chiefs gradually began to identify with often whimsically-named farms and as chiefs began to consider different farms as lying within their domain, if not always within their control. This is still true today, with the boundaries of the Homelands and the new Provinces now adding a further imagined ‘layer’ to the already complex landscape. The old political domains of chiefs became rather theoretical, but are nonetheless historically real for virtually all residents.

With the introduction of the Land Restitution Act, the alternative geography of chiefly domains suddenly became relevant again. While under Apartheid, it was as ‘tribes’ or ethnic groups that people were removed the the new South African Constitution of 1996, tribes and ethnic groups had no legal reality. With the new legislation that aimed to reverse Apartheid it seemed apparent to the chiefs and their followers that they would be able to re-claim their naturally subsistent rights to the pre-cadastral survey lands of the (now largely mythical) old chiefships. Under the new regime of universal human rights, only individual’s rights were accorded recognition. While land and natural resources remained the primary good, the nature of claims to it had changed radically. The change in legal rules was symptomatic of underlying cultural differences, however, and conflict over ways in which to deal with conflict –that is, the legal, political and constitutional structures themselves—were as important as conflicts directly over resources.

2.2. Conflict management at the political margins

The lowveld region in general, and the area of Bushbuckridge in particular was only incorporated into the South African state near the end of the nineteenth century, when it came under the control of the government of the old Transvaal Republic, just before it was attacked and eventually defeated by the British Imperial army during the Anglo-Boer War of 1899-1902. The area became a British Colony only from the end of the Anglo-Boer War until the beginning of the Union Government in 1910. After this, and especially after the 1913 Land Act chiefs were effectively incorporated into the larger South African polity. Under the new laws, land belonging to black Africans was to be held ‘in trust’ by the South African state,

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and administered by the chiefs. Accordingly, the region has been on the margins of the South African state, and wedged between the independent state of Swaziland to the south, and the Portuguese Colony of Mozambique until the revolution there in 1975. Most of the land today known as Bushbuckridge North became Crown Land in 1902 and continued as such through the period of Union while South Africa was a Dominion of Britain. Under Apartheid, these lands became ‘Tribal Trust’ land, with chiefs granted more or less absolute authority directly under the titular State President. As such, they remained out of the normal political structures of the South African state which was governed by parliament under a Prime Minister. The chiefs then, held their power in a parallel system for black administration which permitted no political activity, while all other South Africans were governed by parliament. Only in the largely symbolic office of the State President did these political systems come together. Politically, then, the region has always been entirely marginal to the forms of central governmental authority, and only recognised them insofar as power was granted in terms of these structures, and for the purposes of paying taxes and sending labour to the mines and industry of the Witwatersrand.

A considerable diversity of political forms had only just begun to be consolidated under a common governmental authority—for instance through establishment of magistrates courts--when the National Party came to power in 1949 and began the reforms that later came to be known as Apartheid. Under Apartheid, the chiefs were further regulated and used to control labour, political activity of all kinds, and to collect taxes. Along with this, the chiefs and their courts were given complete control over distribution of land. From the 1960s, the region was broken up into three different administrative regimes. Some areas continued to belong to white farmers who conducted large-scale agriculture, usually fruit farming, and employed labour from the region. Other areas were incorporated into one of two new ‘homelands’ designated for black occupation under their ‘traditional’ leaders.

2.2.1. The legacy of ethnic homelands and chiefs

The homelands of Gazankulu (‘Greater Gaza’), under Chief Hudson Ntsanwisi, and Lebowa (Northern) under Chief Ramodike, were created for the Tsonga/Shangaans and the Pedi/Mapulana. Both homelands remained within the South African state instead of taking

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optional 'independence' as several other homelands elected to do⁶. Both the chiefships, the political structures of chiefs and headmen under them, and the 'states' they ruled were all administrative creations of Apartheid. The chiefs, however, continued to exercise local political control, including control over land and export of labour, and to carry out all functions of local government until the homelands were dissolved in 1994 immediately after the elections that brought the ANC government to power.

From 1994 until the ratification of the new constitution two years later, political authority was undefined, practically and legally. In practice, however, the chiefs continued to maintain their local authority while the old homeland governments continued in place. Informal organisation of young men, often loosely affiliated to the ANC or the PAC liberation movements, formed 'Civics', and these constituted another layer for informal government (or of 'ungovernability' from the point of view of the old regime).

Under the new constitution the chiefs ceased to exist as political authorities with administrative functions and were given purely ceremonial functions. New Transitional Local Councils (TLCs) were mandated and elected in 1995, but until the present (end of 1997) these had still not begun to function. Chiefs retained the loyalty of most people, if not as political leaders, at least as cultural leaders. Indeed, they seem to have gained more loyalty following the elections as the ANC-affiliated political structures and politicians were either co-opted into central government, or lost out in the local power struggles. At the beginning of 1997, the region had effectively fallen out of the state, after less than a century under central-state control under the changing administrations of the Transvaal Republic, the British Colony, as British Dominion and as Republic of South Africa-- and had begun to assert a strong local or regional identity against the central powers located in the highveld in Johannesburg and Pretoria.

2.2.2. Conflict between levels of government

In June, 1997, this manifested itself as open revolt against the central ANC government, and against even the Provincial governments which still had failed to take responsibility for

⁶ These were Transkei, Bophutatswana, Venda and Ciskei, the so-called TBVC states. Their 'independence' was only recognised by South Africa who created and maintained 'embassies' and 'consulates' in order to deal with them. These states received virtually all of their funding from the South African government since none were sufficiently efficient, or had sufficient authority, to collect taxes from their own 'citizens'.

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the area. Roads were blocked and vehicles attacked on the main north-south arterial road, the local ANC office was burnt, schools destroyed in protest, and strikes called. While there was some effort to intervene politically, no police or troops were sent to quell the local rebellion. It seemed that it just did not matter, and officials at the national and provincial level ignored the conflict and hoped that it would disappear. Resentments, however remained high, and residents of the Bushbuckridge region felt abused and exploited by both the Nelspruit-based government of Mpumalanga Province, and the Pietersburg-based government of Northern Province.

One of the reasons for neglect, and thus a cause of the violence, was the disputed jurisdiction between the two new provinces, Northern and Mpumalanga, that had been created in 1995 out of this part of the old Transvaal Province, itself the remnant of the independent Boer republic. The new Provincial boundaries in many parts of the country, actually followed the boundaries of the homelands created by Apartheid. Although this might seem anomalous in the light of the ANC's antipathy to the homeland governments and the 'traditional authority' of the chiefs, in practice the old homelands had large bureaucracies that could not be dismissed, and it made some sense to transfer often reluctant bureaucrats to the new Provincial administrations. (In other cases, the old homeland bureaucracies simply went home, but continued to be paid, while others were given generous 'golden handshakes' to get rid of them.) The boundaries of the new Provinces were largely arbitrary and based on the old boundaries of the now-defunct homelands. But Nelson Mandela, President of South Africa, declared that the boundaries were final. In support, he cited the international precedent of the Organisation of African Unity whose members agreed that the arbitrary boundaries of the colonial states must be defended at all cost by their inheritors. As it turned out, the Bushbuckridge area was permanently ceded to Northern Province in negotiations, but received what services it had from the Mpumalanga Province to the south.

The local people were clearly and overwhelmingly in favour of joining the much wealthier Mpumalanga Province which had most of the tourism infrastructure and most of the active farms on which people worked, as well as most of the mines. Northern Province was poorer, its capital farther away, and is associated in most people's minds with the corrupt administration of the old Lebowa homeland (partly since *lebowa*, the name of the old homeland in Northern Sotho, means 'Northern' in English). Worse, most of the people who had been forcibly removed, and whose claims were in question, were located in Northern Province while the lands they were claiming were controlled by the Mpumalanga Parks

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Board. Thus, the land claims were made by people lying across the disputed boundary and between Provincial administrations that seemed primarily concerned with defence of their turf no more than two years after their creation.

This diversity has considerable impact on the land-claims issue, and on the nature of the conflict over land and the preservation of ecological and natural resources. The chiefs were mistaken in their initial assumption that they would be able to re-claim land under the legislation that seemed to permit precisely this. The new constitution did not recognise any significant subsistent power in the persons or institutions of the chiefship, and it did not mandate any significant new powers for them. Confusingly, the new government did grant ‘chiefs’ a salary, but refused to recognise or pay any of their administrative personnel. Only empty symbolic, even derisory, functions were allocated to the chiefs such as ‘cleaning of graveyards’ and ‘control of noise pollution’. Several chiefs—Sethlare, Mashilane and Moletele, and Mogane-- filed claims over a large number of farms in the nature reserve area, and over large areas of adjacent land owned by many other interests. Largely because of the lack of fit between the two overlapping landscapes, the traditional and the state-mandated surveyed one — it turned out that their claims were in conflict with each other. These claims were filed before the final ratification of the constitution, and were accepted by the then-Commissioner for Land Restitution Claims, and ‘gazetted’, that is, registered as official claims under the act. In the light of the newly ratified constitution, however, it became obvious that chiefs now had no right to claim land on behalf of tribes since neither chiefs for tribes existed under the new constitution based on liberal principles and a code of universal human rights. The claims were nullified by a new Commissioner in the middle of 1997.

2.2.3. Re-assertions of local identity

In practice and in default of any other functioning government body, the chiefs continued to allocate land and to adjudicate local disputes as they had ‘always’ done—or at least as they had done through most of the twentieth century. While people in 1997 refused to pay local taxes on which some form of local government under the Transitional Local Councils could sustain themselves, they willingly paid the ‘chief’s levy’, collected annually for each household that chose to pay, and fines at chief’s courts. This was true even though under the new constitution and legal system none of these fees or institutions existed in South African law and payment could not be enforced nor its use accounted for or audited. As the young chief Sethlare said to me, ‘politics comes and goes, but the chiefs remain’. In the experience

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of the century now drawing to a close, he was certainly right. People seemed to regard the chiefs not as a part of politics, but as a refuge from it. Politics seemed to mean to them a more or less involuntary inclusion in organisations for which they saw no use, and from which they received little benefit. But the historical durability of chiefship still gave chiefs no power against constitutional authority of the Land Claims Commission. Claims made by the chiefs were no longer valid. New claims would have to be made by individuals (possibly on behalf of others, so long as the chief was not involved). In the meantime, the Dubai-based group of investors moved closer to effective foreclosure on the land.

In effect, the area had ceased to be administered by the institutions of the state; no tax was paid, few services were delivered. Local government remains almost entirely undeveloped, meeting occasionally at the Chicken Licken' fast food shop before moving into empty rooms in a disused post office in Acornhoek. Jurisdiction at the provincial level remained undecided. Crime rates soared while roads and schools declined rapidly. While chiefs still ran courts that adjudicated domestic disputes, local magistrates offices were swamped with cases of murder, theft and rape. At the end of 1997, there was, in short, almost no mechanism for mediation of any disputes. Only those in which all parties voluntarily submitted themselves for mediation and judgement at public chief's courts received some version of justice.

Conflict between the two provinces continued, while Mpumalanga, in particular, took up a strong independent stand against the ANC central authorities based in Pretoria and Johannesburg in central Gauteng⁷ which adjoins both Northern and Mpumalanga Provinces. Practically, many people seemed to regard the distant metropolitan centre of the Witwatersrand and Pretoria as a threat to their independence. No longer labour-hungry, and the centre of crime in South Africa, Johannesburg offered very little of its former allure when it used to attract large numbers of labourers from the lowveld, and send back relatively large amounts of cash and goods. Feuding within the ANC, and expectations for larger amounts of Provincial government autonomy drove a wedge between the Provincial and the National governments. Outstanding constitutional questions of degrees of political autonomy, extent

⁷ For geographic reference, Johannesburg is the mining and industrial centre of the old Transvaal, while Pretoria was the capital. After the partition of the Transvaal into Gauteng, Northern, Northwest and Mpumalanga Provinces, Johannesburg at the centre of Gauteng remains the overwhelmingly dominant city. Pretoria, located 50kms north of Johannesburg, is the centre of national government.

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of legal jurisdiction, and competencies of provincial versus national government created a battleground.

2.3. Politics of 'Development'

As if to emphasise its political and economic independence from the centre, the government of Mpumalanga entered into a major 'deal' with the Dolphin Group. The 'Dolphin Deal', as it came to be called, was worth 410 million Rand (approximately 90 million US dollars). It was announced by the Mpumalanga government as a *fait accompli* late in 1995. As originally set out, the agreement gave the Dolphin Group exclusive rights to develop the Province's very large tourism potential. The announcement was greeted by the press as a major success in attracting foreign investment to the country, but also cast suspicion on the Provincial government that had not put the 'deal' out to tender in the normal government channels. In practice—so soon after the 'transition' from the previous government—these 'channels' were in any case ambiguous. The Premier (the elected provincial political leader), Matthews Phosa, was adamant that the deal was done fairly, and that it stood to benefit the province as a whole. His administration quickly fell into line behind him, while the central offices of the party and government challenged him from Pretoria.

Located within the province are all the principle gates to the southern (and most used) part of the Kruger National Park, the most dramatic views of the red and lime-green coloured mountains of the escarpment, waterfalls, rivers, and the largest most expensive private game farms and resorts (Sabi Sands and Mhlahlala, for instance). Large fruit farms and mines add to the wealth of the Province, and thus to its development potential. The same economic activities also dramatically increase the danger to the eco-systems of the lowveld, and to the environment in general for people, animals and vegetation. Since the province wanted to develop its eco-tourism potential in particular, this was both a threat and an opportunity. Ever-mindful of the international pressure to maintain wildlife and ecology from the 'Green' interest groups, and of the need to attract investment, both the national government and the Mpumalanga government were very cautious. It was clear, however, with so much at stake, the conflict was political rather than merely administrative, and that it had immense potential impact on the political ecology of the region as a whole. The national Deputy Minister of Tourism and Environmental Affairs, Peter Mokaba, asserted that the provinces must conform with policy and be 'transparent' to the political process. Provincial Premier Phosa, in reply,

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pointed out that there was no national policy with any bearing on the issue. Political ‘transparency’ is more honoured in the breach in contemporary politics in South Africa, but Mokaba’s demand for political transparency—that is, access by the public to the policy mechanisms and administrative procedures—did carry weight since this is a major ANC policy tenet. Premier Phosa again countered by claiming that the ‘deal’ was simply administrative efficiency: the best way to get the most out of the province’s resources.

In April, 1997, The Deputy Minister Peter Mokaba, instructed David Mkhwanazi who was in charge of environmental affairs at the provincial level to withdraw the agreement with the Dolphin Group and to begin the process again under the control of central governmental tendering procedures. Mokaba stated that a *political* decision

... must be taken now and at once to avoid obvious embarrassments. ... The deal was conceived in conditions of secrecy and indeed included clauses that sought to keep its development and implementation secret.’⁸

Mokaba also implied that the provincial government’s administration would be ‘investigated’ if they did not obey orders from Pretoria. In his view, ‘political’ evidently meant adherence to hierarchy and what amounted to a party line—a kind of gentleman’s agreement—that provincial government would cut central government in on such deals, especially the large ones. The principle concerns expressed by Mokaba in a note to the ANC Secretariat-General were the fear that ‘foreigners’ would be ‘given control over the country’s natural resources,’ and that the provincial actions were setting a precedent. Phosa countered this by claiming, evidently correctly, that

Constitutionally speaking (in terms of Schedule 4 of the constitution), nature conservation as well as the environment are concurrent legislative competencies of the national and provincial legislatures.

In other words, jurisdiction in this as in most other areas we have considered here, was unclear. Phosa hoped that the ambiguity would work to his advantage, but well into 1998, the issue was far from being resolved.

⁸ *The Sunday Independent* 18/5/97, p.15.

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2.3.1. Provincial, national and trans-national conflict

While this was true, it did not solve the political conflict between the national and provincial interests, since legislative competency (ability to pass laws) does not actually pertain to administrative procedures, party policy, or issues of central control versus a degree of provincial or local autonomy in political matters. The concept of ‘concurrent’ competencies between provincial and national (central) government was the result of compromise between the ANC, which desired strong central government control, and the National Party (NP) and the Inkatha Freedom Party during constitutional negotiations. Much as the US Constitution left ambiguous certain competencies and rights between the state (provincial) governments and the federal (central) government, the South African constitution was similarly flawed, and for similar reasons. All of these issues were effectively engaged in the conflict as it played itself out, and civil war was a plausible threat, if only locally.

Ignoring the Ministry’s instructions from Mokaba and the implied threat, Premier Phosa and Mkhwanazi re-negotiated the deal with the Dolphin Group. Under the new contract, the Dolphin Group will be given a 25 year lease to develop and administer resorts and game parks in the province. According to Premier Phosa, the secrecy clause—which did indeed exist—was removed and replaced with ‘a normal confidentiality clause giving effect to the protection of the commercial trade secrets of Dolphin’.⁹ In particular, Phosa acknowledged that the outstanding land claims on the province’s nature reserves had not been taken into account, but agreed that this would be done. It is likely that the struggle between Mokaba, former leader of the ANC Youth League, were rooted in much bigger political issues. As long as the struggle remained ‘political’, that is, largely between leaders of the ANC party, it would not be accessible to the people who were most intimately concerned with the outcome, namely those who wanted land, and those who wanted to protect the environment and nature reserves.

At the end of June, then, the Regional Land Claims Commissioner for Mpumalanga and Northern Provinces, Ms Durkje Gilfilan, announced a new initiative to resolve these disputes. This would take the form of a ‘consultative process’ that would be ‘facilitated’ by professional mediators from the National Land Reform Mediation Panel. It would seek to

⁹ *The Sunday Independent* 18/5/97, p.15. The words are contained in a memo to Cheryl Corolus, the action secretary-general of the ANC, in response to a letter of accusation from Deputy Minister Peter Mokaba, to Matthews Phosa, Premier of Mpumalanga.

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involve all of the ‘stake-holders’ who were already involved, or who might be involved in the conflict. (‘Stake-holder’ in current South African political jargon, is any person or body that is affected, or might be affected, by some particular issue.) Issues like this one are considered to ‘belong’ to their ‘stake-holders’ all of whom must be ‘consulted’. In theory this is an excellent idea, but in practice it means that virtually all public initiatives become mired in on-going ‘consultative processes’ that are designed to reach consensus, or, failing that, to coerce consensus by public pressure. The Land Restitution Claims Commission in setting up such a process hoped to publicise the issues, and thereby make them ‘transparent’ as well as to seize some of the initiative from the personal struggle that had been waged between the Deputy Minister Peter Mokaba and the Provincial Premier Matthews Phosa. In a press release dated 28 July, 1997, the Regional Land Commission announced that the formal, supervised consultation process, known as ‘Facilitation’ in South Africa government parlance, would

... bring land claimants head-to-head with the Aventura eco-tourism group and the Mpumalanga Parks Board. The agreement between the Mpumalanga Parks Board and the Dubai-based Dolphin Group, as well as the privatisation of the state-managed Aventura resorts, will become a focus of the discussions which will involve state bodies and community groups.¹⁰

This is likely to be a risky process. In pursuit of its goals, and within its powers as a government appointed commission, the LRCC intended to ‘ask the national and provincial governments to give it clarity on the status of the so-called Dolphin Deal, as well as of the land managed by the Mpumalanga Parks Board.’¹¹ Since Phosa had seemingly won the battle between his province and the national government over the Dolphin Deal, at the cost of considerable personal political capital within his party, both national and provincial levels of government risked embarrassment. It was evident that there was much yet that had not been revealed to public scrutiny.

¹⁰ Media Statement by the Regional Land Claims Commissioner for the Northern Province and Mpumalanga on the Start of a Consultation Process around Land Claims in the Blyde River Canyon Nature Reserve, Mpumalanga, 28 July, 1997. Received by email, from Tony Harding of the LRCC, awharding@sghq.pwv.gov.za.

¹¹ Media Statement, LRCC, 28/7/97.

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2.3.2. Attempts at resolution of land and environment issues

The Land Restitution Commission for Mpumalanga and Northern Province (LRC) stepped in to set up a mediation process that would seek resolution through the broadest possible involvement of stake-holders and through detailed and transparent research into the complex history of land settlement, usufruct, rights and deeded ownership. In the mediation process, the LRC envisioned the inclusion of government departments and agencies such as Forestry, Tourism, Environment, Water Affairs, Public Works, Public Enterprises (as owner and administrator of Aventura Resorts), and Security. The latter was included since there was acknowledged potential for violent conflict as well as the hoped-for achievement of consensus and education of the concerned public. In addition, interested Non-governmental Organisations (NGOs) would be brought into the process since many of these were the only effective administrators of resources in the provinces. Any people who had legitimate interest in the land claims process were to be included, such as members of the elected TLCs, the various local 'land committees' that had been set up all over the lowveld when the possibility of land claims was mooted in 1992. Since chiefs did not exist as such under the constitution, they were not to be invited even though they were welcome to attend as private interested parties.

At the first meeting of all stakeholders, things did not go as planned. Originally conceived as primarily an information sharing exercise, the entire meeting was dominated by representatives of the chiefs and the 'tribes' who demanded immediate action on restitution of land. The meeting was opened, as is customary in South Africa, with a prayer. The 'prayer' offered, however, drew heavily if rather loosely on the Babylonian captivity of the biblical Hebrews, and ended with an indirect political challenge: end our oppression by restoring our land to us. Who 'us' was and precisely what land remained an open question. But the openness of the question, and the fact that everyone lacked the information to resolve the question merely added fuel to the unmet expectations that land would be restored.

It was obvious to the chiefs that they no longer had a direct say in matters. Several spokesmen closely associated with the chiefs under whose names the original claims had been made, however, asserted very strongly a unity of purpose based on a claimed ethnic unity as Pulas. Historically, there was no official recognition of this ethnic label. A new ethnic identity focused around the land restitution issue, and challenging the continued existence of the resort, nature reserves, forestry and watershed land, seemed to be emerging.

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At the end of 1997, the outcome of all of this was still entirely uncertain. Research efforts were hampered by inadequate funding, but were proceeding with all the determination that the small commission could muster. Meetings and mediation forums were continuing and more were planned, but a great deal remained at stake for the future of the environment, tourism, economic development of the region, and the sustainability of its natural and human resources. Great potential for further conflict remained.

3. Conclusions

In the current situation, there is significant likelihood of both losses and gains.. The potential for conflict is likely to depend on economic factors such as whether the changes take place within a growing economy, or whether the economy fails to perform up to expectations. *Expectation* rather than absolute performance is the key factor.

The complex and overlapping cases discussed here—land claims on the Aventura resorts, violent protest over boundaries and service delivery, the political ecology of nature reserves and protected areas, the negotiation with a trans-national development company, and the emergence of a militant localism, all problems of ambiguous jurisdiction and political uncertainty. There is, on the one hand a political-legal context in which these conflict must be decided in terms of the South African national constitution and legal frameworks, while, on the other, there is an environmental context in with global issues of environmental sustainability are paramount. Complex local histories of ethnic conflict, disputed landscapes, changing boundaries, and cultural diversity set limits on any accommodation, settlement or solution to these problems. The region must seek a path of economic development –with or without international involvement—but this will introduce another layer of complexity in problem solving and conflict management. Two scenarios for the future are possible.

Under a zero-sum game scenario, conflict can only increase. This would occur if—as at present—the economy is relatively stable with low growth, high interest rates and high unemployment. African politics is often conducted as if it were a zero sum game—winner take all, and what one gains the other must lose—and this is true of politics at the local level, as well as between the centre and the provincial government. These limits would have to be overcome, and people led to expect that a growing economy free of conflict would benefit all, rather than reward only some, of whom the rest would be jealous. Under this scenario, however, needs of ongoing mediation and ‘facilitation’ of dialogue and information dissemination would be critical. Although some elements of government and of the ANC

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have shown strong dislike of external, international intervention of any kind, international agencies, NGOs, businessmen, and tourists are already heavily involved in the past and the future of the region. They are likely to come into conflict with local interests, and an ombudsperson function could be extremely useful in shifting the conflict away from destructive government embargoes and limitations, or points of resistance, and towards development of international partnerships that can significantly benefit the region at all levels. Under such circumstances, local governments might become more secretive, more resistant to intervention both from the South African 'centre' and from the international agencies. Pressures to maintain the natural resources for eco-tourism that international Green interest groups would exert, could be resented and lead to a further decline of the relatively good tourism and investment environment that currently exists—in spite of all the conflict!

Under a scenario of an expanding economy with expectations being met in even a limited way, the environment's conflicts and potential for development could follow a different trajectory. Expanding economic success will inevitably lead to demands for further development. This would threaten the environment in a different way, with the well-known scourges of the more-industrialised countries becoming evident. Problems of water provision in the dry lowveld, waste water management, fertiliser run-off, poaching of game, over exploitation of resources, and other problems could emerge. Again, a process focusing on identification of developing problem areas, and the institution of appropriate control and mediation structures, would be essential. Open political conflict, and economic resentments would be much less likely, but economic inequalities that would emerge would create a different set of social problems.

At present, there is a low level of participation in virtually all development and government processes—that is, in politics in general. With this, there is a low level of provision of government services. People know how to protest violently—as the past has taught them to do—but peaceful mediation of disputes is only known at the very local level of the chiefs' courts. Although this is being introduced widely as the principle democratic mechanism of South African politics, it often brings limited participation in practice, and leads to slowing of administrative functions as all the 'stake-holders' are consulted. While there are permanent mediation structures set up by the South African government, these are seriously overworked, and cannot handle disputes that raise serious constitutional issues, or that involve international parties and trans-national issues. Here there is a clear need for

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NGOs that can at least identify these problem areas, define the nature of the problem for the participants, and possibly make useful suggestions that would lead to resolution.

Number of words: 11547